

## **LETTER OF APPENDICES**

**Appendix I- JS-44** Federal District Cover Sheet filed 12/15/2020

**Appendix II-Pro-Se 4** Federal District Form Stamped 06/21/2021 Filed 12/15/21

**Appendix III -**Appeals Court Clerk mailed back appeals request -Evidences 4 pgs

**Appendix IV-**Evidence that District Court Kept case dormant. 1 page

**Appendix V-**District Court assignment of a judge andCase number. 1 page

**Appendix VI -**Appeals Submission Via Civil Intake Aug 01/2021. 1 page

**Appendix VII-**Appeals Court assigning Appeals Case Number-1 page

**Appendix VIII-** Appeals Court Order of September 17, 2021 -1 page

**Appendix IX-** Appeals Court Order of November 30, 2021- 1 page

**Appendix X -**Appeals Court Mandate of December 08, 2021- 1 page

**Appendix XI -**Riverside County Sheriff accident Report 06/21/2009-5 pgs

**Appendix XII-**Allstate Letters of 06/15/2018, May 14, 2018, Dec. 05, 2018-5pgs

**Appendix XIII-** Allstate uncashed check for petitioner in the amount of \$15.30 1 pg

**Appendix XIV-**Allstate Insurance Coverage Layout -2pages

**Appendix XV -** Complaint by petitioner to BBB on 06/06/2018 1 page

**Appendix XVI-** Letter to petitioner date: Oct, 05, 2021 from Allstate Counsel Homan, Stone, and Rossi. 1 page

**Appendix XVII** Letter of October 05, 2021 from petitioner to Allstate Counsel Mr. Gene Stone.

**Appendix XVIII** Letter of December 04, 2021 from petitioner to Allstate Counsel announcing the Petition to the United States Supreme Court. 1 page.

**Note:** The petitioner holds emails and letters sent to Allstate in sealed boxes at the end of storage that are at the moment inaccessible because of the petitioner's spine damages in April 2020. Is to notify that petitioner inquired often through the years in the status of the case allstate claimed under further investigation.

Case 5:21-cv-01046-JMS-SHK Document 1-1 Filed 05/12/21 Page 1 of 1 Page ID #:44  
 CIVIL COVER SHEET  
 The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)  
 (No answers)

**PL. INTIFFS**

BENSON, ADA MARIA.

(b) County of Residence of First Listed Plaintiff NI  
(EXCEPT IN U.S. PLAINTIFF CASES)

Attorneys (Firm Name, Address, and Telephone Number)

Persona Propria

**DEFENDANTS**

ALLSTATE INSURANCE CO

County of Residence of First Listed Defendant Riverside County  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

## II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question  
(U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity  
(Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff  
(For Diversity Cases Only) and One Box for Defendant)

- |   | PTF                                   | DEF                        |  | PTF                        | DEF                                   |
|---|---------------------------------------|----------------------------|--|----------------------------|---------------------------------------|
| Citizen of This State                   | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State            | <input type="checkbox"/> 4 | <input checked="" type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2            | <input type="checkbox"/> 2 | Incorporated <i>and</i> Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5            |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3            | <input type="checkbox"/> 3 | Foreign Nation   | <input type="checkbox"/> 6 | <input type="checkbox"/> 6            |

## IV. NATURE OF SUIT (Place an "X" in One Box Only)

[illegible]

**V. ORIGIN** (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding    ☐ 2 Removed from State Court    ☐ 3 Remanded from Appellate Court    ☐ 4 Reinstated or Reopened    ☐ 5 Transferred from Another District (specify)    ☐ 6 Multidistrict Litigation - Transfer    ☐ 8 Multidistrict Litigation - Direct File

## VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (do not cite jurisdictional statutes unless dispositive)

**VII. REQUESTED IN COMPLAINT:**

CHECK IF THIS IS A CLASS ACTION DEMAND ☒ Primitive, Prejudice CHECK YES only if demanded in complaint: JURY DEMAND: ☒ Yes ☐ No

RELATED CASE(S)  
IF ANY

N/A  
(See instructions):

41 USC. § 6503. 25 USC 316

2152020

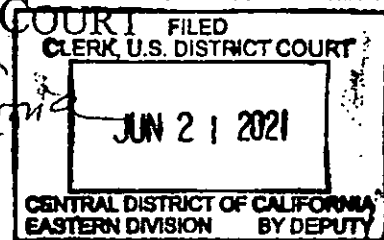
SIGNATURE OF ATTORNEY OF RECORD

**FOR OFFICE USE ONLY**

RECEIPT #	AMOUNT	APPLYING IFP	JUDGE	MAG. JUDGE
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Related DOJ

## UNITED STATES DISTRICT COURT

for the  
Central District of California4<sup>th</sup> Division

Case No.

ED21CV01046 DMG-SHK

(to be filled in by the Clerk's Office)

BENSON, ADA MARIA

Plaintiff(s)

(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

-v-

Allstate Insurance Co.

Defendant(s)

(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

Jury Trial: (check one)

☒ Yes ☐ No

COMPLAINT FOR A CIVIL CASE ALLEGING BREACH OF CONTRACT  
(28 U.S.C. § 1332; Diversity of Citizenship)

## I. The Parties to This Complaint

## A. The Plaintiff(s)

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name

Street Address

City and County

State and Zip Code

Telephone Number

E-mail Address

BENSON, ADA MARIA.  
324 South State St #3054  
Hemet, Riverside County  
California, 92546.  
(951) 480-9972.  
BENSONADAMARIA@GMAIL.COM

## B. The Defendant(s)

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. For an individual defendant, include the person's job or title (if known). Attach additional pages if needed.

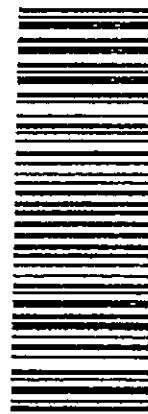
Appendix II

From

Benson, Ada Maria  
324 South state st  
# 3054  
Hemet, CA 92546.

Clerk  
mailed back  
appeals request  
Appendix III

7020 1610 0001 0907 6943



7020 1610 0001 0907 6943



1000



94119

U.S. POSTAGE PAID  
FOM LG ENVY  
HEMET, CA  
92543  
FEB 11, 21  
AMOUNT

\$6.20

R2304W119294-06

To:

Office Of The Clerk  
United States Court Of Appeal  
Ninth Circuit  
Post Office Box 193939  
San Francisco California  
94119-3939

Postmaster Please drop at

Page 1 of 4

02/12/2021

Page 1 of 3

United States Court Of Appeals  
For The Ninth Circuit

Motion For: Accept Original Jurisdiction  
On Case Refused By District  
Court

9th Cir. Case No

Case Name: Benson, Ada Maria V.  
Allstate Insurance

Plaintiff's Name: BENSON, ADA MARIA

What Do You Want The Court To Do?

To take jurisdiction over this case.  
Plaintiff filed Complaint in District Court  
Riverside, County. However the district  
Court did not assign a case number  
and has not answered to the Complaint.  
The district Court has closed various  
cases filed by plaintiff alleging "flagrant  
abuse of the judicial system" claiming  
the plaintiff is a vexatious litigant,  
In document Ordered by Judge Kewalramani  
On case N° 5:20-CV-02641-DMG-SHK.

Plaintiff is new filing in Courts. The first time  
plaintiff filed a Complaint was October 2020.  
In Wolfe V. George 385 F. Supp. 2d  
1004 (ND Cal 2005) "The person cannot  
be declared a vexatious litigant until

Appendix III Page 2 of 4

RECEIVED  
HOLLY G. DYER, CLERK  
U.S. COURT OF APPEALS  
FEB 16 2021  
FILED  
DOCKETED  
DATE

INITIAL  
Appendix III Page 2 of 4

after the court has conducted a hearing and given the plaintiff an opportunity to be heard." Grayned, 408 U.S. at 119. The decision is made in individualized basis given the particular fact situation.

The Supreme Court has established that due process requires at a minimum, that persons forced to settle their claims of right and duty through the judicial process must be given a meaningful opportunity to be heard.

Under the Code of Civil Procedure. § 391(b) Vexatious Litigant is defined as "a person who in the immediately preceding seven years period has prosecuted or maintained in persona propria at least five litigations other than in Small Claims Court."

Plaintiff first time filing in the District Court was October 2020.

None of the cases filed have been completed and are cases in which the plaintiff has been injured in the job place to point of bleeding, the last two employers have not paid wages and have refused to pay unemployment nor worker compensation, law enforcement abduction and injuries, hit in accident an insurance has refused to pay as it's this case.

Appendix III page 3 of 4

Appellant: Benson, Ada Maria  
Appellee: Allstate Insurance  
Case No

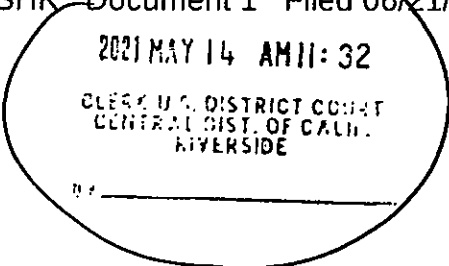
## Appellant's Informal Opening Brief.

This case was not appointed a Case Number. Complaint was sent to District Court. However, as explained in page 1-2 of this document, the court has erroneously called plaintiff a Vexatious litigant while plaintiff cases are new in court as of October 2020 and are meritorious cases on Civil Rights violations against the plaintiff.

Plaintiff respectfully requests the Appeal Court for the Ninth Circuit to please take jurisdiction over this case.

Plaintiff has attached the copy of Writ of Certiorari and Complaint that answers the questions to the informal Opening Brief, establishes the arguments, establishes the statements of the case, conclusions, parties to the proceeding, statutes and cases and authorities cited. Please refer to the attached 30 pages of Writ of Certiorari in *Terre Paubens*. Thank you.


Appendix III page 4 of 4



Benson, Maria Maria  
324. South State St  
# 30574  
Hemet, CA 92546

This is evidence the District Court came across all documents mailed to the court by plaintiff in case Benson, Ada Maria V. Allstate the attached documents are evidence the court copied all documents but did not assign a case number instead Rejected the documents and took long time to mail them back. Please file the case in Appeals Court &

Assign a case Number and a Docket Appeals Number.

 <p>USPS TRACKING® NUMBER</p> <p>9516 4066 9986 1131 4847 04</p>		<p>SHIP TO:</p> <p>United States District Court</p> <p>3470 12TH ST Riverside CA 92501-3801</p>		<p>Office of The Clerk</p> <p>5.50 oz</p>	<p>USPS FIRST-CLASS MAIL®</p> <p>U.S. POSTAGE \$4.30</p> <p>FCM LG ENV 92543</p> <p>Date of sale 05/11/21</p> <p>08 2505</p> <p>11487885</p>
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Appendix IV 1 page



UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

ADA MARIA BENSON

PLAINTIFF(S)

v.

ALLSTATE INSURANCE CO.

DEFENDANT(S).

CASE NUMBER:

5:21-cv-01046-DMG-SHK

NOTICE OF JUDGE ASSIGNMENT AND  
REFERENCE TO A UNITED STATES  
MAGISTRATE JUDGE

This case has been assigned to the calendar of the Honorable Judge Dolly M. Gee U. S. District Judge, and referred to U. S. Magistrate Judge Shashi H. Kewalramani, who is authorized to consider preliminary matters and conduct all further hearings as may be appropriate or necessary. Thereafter, unless the Magistrate Judge determines that a trial is required, the Magistrate Judge shall prepare and file a report and recommendation regarding the disposition of this case, which may include proposed findings of fact, conclusions of law, and proposed written order or judgment, which shall be served on all parties. If the Magistrate Judge concludes that a trial is required, the Magistrate Judge shall so report to the District Judge.

Pursuant to Local Rule 5-4.1, all subsequent documents in this case must be filed electronically, unless exempted by Local Rule 5-4.2. Documents exempt from electronic filing pursuant to Local Rule 5-4.2(b), or presented by filer exempt from electronic filing pursuant to Local Rule 5-4.2(a), must be filed with the Clerk in paper at the following location:

Eastern Division  
3470 Twelfth Street, Rm. 134  
Riverside, CA 92501

Please note that, pursuant to Local Rule 83-2.5, all matters must be called to the judge's attention by appropriate application or motion filed in compliance with the Court's Local Rules. Parties are not permitted to write letters to the judge.

Local Rule 83-2.4 requires that the Court must be notified within five (5) days of any address change. If mail directed by the clerk to your address of record is returned undelivered by the Post Office, and if the Court and opposing counsel are not notified in writing within five (5) days thereafter of your current address, the Court may dismiss the petition, with or without prejudice, for want of prosecution.

Clerk, U.S. District Court

June 24, 2021  
Date

By /s/ Carmen Lujan  
Deputy Clerk

*Appendix X 1 page.*  
NOTICE TO COUNSEL / PRO SE LITIGANT

*The party who filed the case-initiating document in this case must serve a copy of this Notice on all parties served with the case-initiating document.*



ADA MARIA BENSON &lt;bensonadamaria@gmail.com&gt;

**Submission Confirmation**

1 message

Civil Intake <do-not-reply@cacd.uscourts.gov>  
To: Bensonadamaria@gmail.com

Sun, Aug 1, 2021 at 6:34 PM

**Dear ADA MARIA BENSON:**

This email confirms that the document(s) listed below were received by the United States District Court for the Central District of California at the date and time indicated:

**Name:** ADA MARIA BENSON  
**Tracking Number:** EDS-210801-000-1420  
**Date:** 8/1/2021 6:34:40 PM

Uploaded files:

- **EXHIBITS CONCEALED CASE BY DISTRICTY COURT BENSON, ADA MARIA V ALLSTATE INSURANCE.pdf**  
*PLEASE FILE UNDER RULE 18 Rule of the District Court Central district Of California*
- **Form 1. Notice of Appeal from a Judgment or Order INFORMAL BRIEFS BENSON, ADA MARIA V ALLSTATE.pdf**  
*PLEASE FILE UNDER RULE 18 Rule of the District Court Central district Of California*
- **AO2 NOTICE OF APPEALS IN CASE BENSON ADA MARIA V. ALLSTATE INDEMNITY INSURANCE.pdf**  
*THE IS THE NEW AO FORM. PLEASE FILE IT*
- **Form 4. Motion and Affidavit for Permission to Proceed in Forma Pauperis BENSON, ADA MARIA V ALLSTATE INSURANCE .pdf**  
*PLEASE FILE UNDER RULE 18 Rule of the District Court Central district Of California*
- **FORMAL BRIEFS AND ARGUMENST CONCEALED BY DISTRICT COURT.pdf**  
*PLEASE FILE UNDER RULE 18 Rule of the District Court Central district Of California*
- **APPEALS COVER FILED IN DISTRICT COURT UNPROCESSED.pdf**  
*THIS IS THE ORIGINAL AO2 FORM CONCEALED COURT DID NOT FILE. PLEASE FILE*

The document(s) have not yet been filed. Just like documents received through the U.S. Mail, documents received through the Electronic Document Submission System ("EDSS") will not be considered filed until court staff have uploaded them into the Court's Case Management/Electronic Case Filing System ("CM/ECF"). Documents submitted using EDSS should be processed within 1-2 business days of receipt. However, the date of EDSS submission will be considered the filing date for any documents received through EDSS and later filed into CM/ECF.

If you are registered for electronic service of documents and receiving e-service in this case, you will receive a Notice of Electronic Filing ("NEF") from the CM/ECF System as soon as each document listed above has been filed. (Click here for information about registering for electronic service or to add e-service in this case.) If you are not registered for electronic service, you may check the status of your documents by checking the docket for your case on PACER (<https://pacer.uscourts.gov>). Please wait at least two business days after receiving this email and check the docket for your case on PACER before contacting the Court regarding the status of documents submitted through EDSS.

If you are trying to file a document in a case pending before the United States Bankruptcy Court, or in any case pending in any court other than the United States District Court for the Central District of California, your document will not be filed and you will not receive any response to your EDSS submission. Likewise, if you are an attorney required by the local rules to file your documents electronically using the Court's CM/ECF System, your document(s) will not be filed if submitted through EDSS, and you will not receive any further communication from the Court about your EDSS submission.

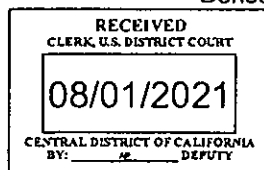
Please include the tracking number listed above as your reference on any communications with the Court about this submission. We recommend that you keep this email for your records.

Civil Intake  
United States District Court  
Central District of California  
Tel: (949) 884-2505

*Appendix VI 1 page-*

RECEIVED  
MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALSDISTRICT COURT CASE 5:20-CV-02642JWH-KKx  
Benson, Ada Maria V. Census 2020 (Department Of Commerce)

AUG 11 2021

UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUITFILED \_\_\_\_\_  
DOCKETED \_\_\_\_\_  
DATE \_\_\_\_\_ INI \_\_\_\_\_

## Form 4. Motion and Affidavit for Permission to Proceed in Forma Pauperis

Instructions for this form: <http://www.ca9.uscourts.gov/forms/form04instructions.pdf>

9th Cir. Case Number(s)

21-55833

Type your

Case Name

Benson, Ada Maria V. Allstate Indemnity Co (Insurance)  
Allstate Address: 2775 Sanders Road Northbrook, IL 60062 847-402-5000

**Affidavit in support of motion:** I swear under penalty of perjury that I am financially unable to pay the docket and filing fees for my appeal. I believe my appeal has merit. I swear under penalty of perjury under United States laws that my answers on this form are true and correct. 28 U.S.C. § 1746; 18 U.S.C. § 1621.

Signature

[Redacted Signature]

Date

08/01/2021

The court may grant a motion to proceed in forma pauperis if you show that you cannot pay the filing fees **and** you have a non-frivolous legal issue on appeal. Please state your issues on appeal. (*attach additional pages if necessary*)

I swear or affirm under penalty of perjury that because my last two employers have not paid my wages, because I was assaulted in the workplace in April 2020, and because former employers have refused to pay workers compensation, and IHSS has refused to pay unemployment, I am unable to afford the docket fees on my appeal or post a bond for them.

I swear under the laws of the United states that my answers are true and correct.

U.S. C §1746, U.S.C §18 U.S.C § 1621

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Appendix VII 1 page

UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

FILED

SEP 17 2021

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS

ADA MARIA BENSON, M.D.,

Plaintiff-Appellant,

v.

ALLSTATE INSURANCE CO.,

Defendant-Appellee.

No. 21-55833

D.C. No.

5:21-cv-01046-DMG-SHK

Central District of California,  
Riverside

ORDER

Before: HAWKINS, WATFORD, and LEE, Circuit Judges.

A review of the record demonstrates that this court lacks jurisdiction over this appeal because the district court has not issued any orders. *See* 28 U.S.C. § 1291. Consequently, this appeal is dismissed for lack of jurisdiction.

To the extent that appellant requests relief by way of a petition for writ of mandamus, the request is denied because appellant has not demonstrated that this case warrants the intervention of this court by means of the extraordinary remedy of mandamus. *See Bauman v. U.S. Dist. Court*, 557 F.2d 650 (9th Cir. 1977).

All pending motions are denied as moot.

**DISMISSED in part; DENIED in part.**

Appendix VIII 1 page

UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

FILED

NOV 30 2021

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS

ADA MARIA BENSON, M.D.,

Plaintiff-Appellant,

v.

ALLSTATE INSURANCE CO.,

Defendant-Appellee.

No. 21-55833

D.C. No.

5:21-cv-01046-DMG-SHK  
Central District of California,  
Riverside

ORDER

Before: HAWKINS, WATFORD, and LEE, Circuit Judges.

Appellant's motion for reconsideration (Docket Entry No. 4) is denied. *See*  
9th Cir. R. 27-10.

No further filings will be entertained in this closed case.

Appendix IX

UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

**FILED**

DEC 08 2021

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS

ADA MARIA BENSON, M.D.,

Plaintiff - Appellant,

v.

ALLSTATE INSURANCE CO.,

Defendant - Appellee.

No. 21-55833

D.C. No. 5:21-cv-01046-DMG-SHK  
U.S. District Court for Central  
California, Riverside

**MANDATE**

The judgment of this Court, entered September 17, 2021, takes effect this date.

This constitutes the formal mandate of this Court issued pursuant to Rule 41(a) of the Federal Rules of Appellate Procedure.

FOR THE COURT:

MOLLY C. DWYER  
CLERK OF COURT

By: David J. Vignol  
Deputy Clerk  
Ninth Circuit Rule 27-7

Appendix X

# INCIDENT REPORT

DATE PREPARED: 062109

RIVERSIDE COUNTY SHERIFF CA0330000

☒ INITIAL ☐ SUPPLEMENTAL

1. FILE NUMBER ME09172049	2. DATE / TIME REPORTED 062109/1537	3. DATE / TIME ASSIGNED 062109/1539	4. DATE / TIME INV. START 062109/1549	5. DATE / TIME INV. TERM 062109/1600	6. ASG ARR 0	7. JUV ARR 0
8. OFFENSES - CODE SECTION 70002 HIT-AND-RUN TRAFFIC COLLISION / PROPERTY		CRIME PRIVATE		COUNTS 01		9. EDP CODE 19E2M
10. OFFENSES - CODE SECTION (Add or Change to)		CRIME		COUNTS		11. EDP CODE
12. OFFENSES - CODE SECTION (Add or Change to)		CRIME		COUNTS		13. EDP CODE
14. LOCATION OF OCCURRENCE 26050 MENIFEE, MENIFEE		15. REP. DIST. 501A	16. OCCURRED ON - DATE / TIME 062109/1530		17. OR BETWEEN: DATE / TIME	
18. BUSINESS NAME		19. BUSINESS PHONE		20. CASE STATUS / CLEARANCE OPN-SUS.		

## VICTIM - REPORTING PARTY - WITNESS - OTHER:

☐ See Additional Persons Report

21. INV#	22. NAME (Last, First, Middle) VIC DEBENSON, ADA	23. SEX F	24. RACE H	25. DOB 041762	26. AGE	27. HT	28. WT	29. HAIR	30. EYES	31. SKN
32. RESIDENCE ADDRESS P.O. BOX 346 WINCHESTER, WINCHESTER		CITY		ZIP 92596		33. RES. PHONE 288-3306				
34. BUSINESS ADDRESS		CITY		ZIP		35. BUS. PHONE				

36. INV#	37. NAME (Last, First, Middle)	38. SEX	39. RACE	40. DOB	41. AGE	42. HT	43. WT	44. HAIR	45. EYES	46. SKN
47. RESIDENCE ADDRESS		CITY		ZIP		48. RES. PHONE				
49. BUSINESS ADDRESS		CITY		ZIP		50. BUS. PHONE				

## SUSPECT:

☐ Adult ☐ Juvenile

☐ Parole ☐ Probation

☐ See Additional Persons Report

☐ ARRESTED

51. SUS #	52. NAME (Last, First, Middle) SUS UNKNOWN	53. SEX M	54. RACE -	55. DOB -	56. AGE	57. HT	58. WT	59. HAIR	60. EYES	61. SKN
62. DRIVER'S LICENSE NUMBER / ID NUMBER		63. STATE	64. SOCIAL SECURITY NUMBER		65. MAR. NUMBER		66. CI. NUMBER			
67. RESIDENCE ADDRESS UNKNOWN		CITY		ZIP		68. RES. PHONE UNK				
69. BUSINESS ADDRESS		CITY		ZIP		70. BUS. PHONE				

71. JUVENILE DISPOSITION: ☐ Other Juris. ☐ Juv. Crt. Prob. ☐ Within Dept. ☐ Detained ☐ Not Detained

72. GANG DATA Gang Name(s): <input type="checkbox"/> Member <input type="checkbox"/> Associate <input type="checkbox"/> Self Admit <input type="checkbox"/> Prior Knowledge		73. TATTOOS / SCARS / MARKS / CLOTHING DESCRIPTION	
TATTOOS / SCARS / MARKS <input type="checkbox"/> Face <input type="checkbox"/> Neck <input type="checkbox"/> R.Arm <input type="checkbox"/> L.Arm <input type="checkbox"/> Hands <input type="checkbox"/> Torso <input type="checkbox"/> Back <input type="checkbox"/> Legs			

## VEHICLE:

☐ REFER TO CHP 180 FORM FOR STOLEN, RECOVERED, TOWED OR IMPOUNDED

74. INV#	75. LICENSE 4J63662	76. STATE CA	77. YEAR 91	78. MAKE DODGE	79. MODEL UNK	80. BODY STYLE PLUP	81. STN / RCV. AUTO VALUE A2: \$
82. COLOR/COLOR RED	83. VIN # JB7FL44W8MP017486	84. OTHER IDENTIFIERS		85. DISPOSITION OF VEHICLE FLED SCENE		86. PHONE UNK	
87. REGISTERED OWNER JOHNA ALMARAZ		87. ADDRESS 1681 EMERALD WY PERRIS		STATE CA	ZIP 92571	89. DAMAGED PROPERTY VALUE	

☐ PROPERTY REPORT ATTACHED FOR STOLEN, RECOVERED, OR DAMAGED PROPERTY

REPORTING OFFICER C. SMITH	OFF. ID N3130	REVIEWED BY / DATE EVAL 2393 / 062109	ENTERED BY / DATE	ENTERED BY / DATE
COPIES TO: CHP-STATS-PERRIS SP		APR SENT:	APR CANCELED:	DOJ-NOIC ENTERED:
				DOJ-NOIC CANCELED:

Form A .1rp rev 2/08

Appendix X1 page 1 of 5

## TRAFFIC COLLISION REPORT

CHP 555 CARS Page 1 (Rev 1-03) OPI 061

Page 1 of 4

SPECIAL CONDITIONS PRIVATE PROPERTY <b>HIT-AND-RUN</b>		NUMBER RAISED 0	MT & RUN FELONY <input type="checkbox"/>	CITY MENIFEE	JUDICIAL DISTRICT RIVERSIDE	LOCAL REPORT NUMBER ME091720049	
NUMBER KILLED 0		MT & RUN MEASUREMENT <input checked="" type="checkbox"/>	COUNTY RIVERSIDE	REPORTING DISTRICT 501A	BEAT 2ME392		
LOCATION	COLLISION OCCURRED ON: GAS STATION AT 26050 MENIFEE, MENIFEE				MO 6/21/2009	DAY 1530	YEAR TIME (2400)
	MILEPOST INFORMATION:				DAY OF WEEK SUNDAY	TOW AWAY <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	PHOTOGRAPHS BY <input checked="" type="checkbox"/> NONE
	AT INTERSECTION WITH:				STATE HWY REL <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		
	OR:						
PARTY 1	DRIVER'S LICENSE NUMBER	STATE	CLASS	AIR BAG	SAFETY EQUIP.	VEH. YEAR	MAKE / MODEL / COLOR
	1					1991	DODGE RED
DRIVER	NAME (FIRST, MIDDLE, LAST) <input checked="" type="checkbox"/> 20002(A) CVC						LICENSE NUMBER 4J63662
PEDESTRIAN	STREET ADDRESS JOHN A. ALMARAZ						STATE CA
PARKED VEHICLE	CITY / STATE / ZIP 1681 EMERALD WAY PERRIS CA 92571						
BICYCLIST	SEX	HAIR	EYES	HEIGHT	WEIGHT	Mo	BIRTHDATE Day Year
	M						
OTHER	HOME PHONE		BUSINESS PHONE		VEHICLE IDENTIFICATION NUMBER JB7FL44W8MP017486		
					VEHICLE TYPE 22		
INSURANCE CARRIER		POLICY NUMBER		DESCRIBE VEHICLE DAMAGE <input checked="" type="checkbox"/> UNK <input type="checkbox"/> NONE <input type="checkbox"/> MINOR			
DIR OF TRAVEL		ON STREET OR HIGHWAY		SHADE IN DAMAGED AREA ROLL-OVER			
N		GAS STN DRIVEWAY		CA _____ DOT _____			
CAL-T		TCR/PSC		MC/MX			
PARTY 2	DRIVER'S LICENSE NUMBER	STATE	CLASS	AIR BAG	SAFETY EQUIP.	VEH. YEAR	MAKE / MODEL / COLOR
	2	CA	C	M	G	2008	HONDA ELEMENT SL
DRIVER	NAME (FIRST, MIDDLE, LAST) <input checked="" type="checkbox"/> ADA PINEDA DE BENSON						LICENSE NUMBER 6HMR365
PEDESTRIAN	STREET ADDRESS PO BOX 346 WINCHESTER						STATE CA
PARKED VEHICLE	CITY / STATE / ZIP WINCHESTER CA 92596						
BICYCLIST	SEX	HAIR	EYES	HEIGHT	WEIGHT	Mo	BIRTHDATE Day Year
	F	BRN	BRN	5-03	108	4/17/1962	H
OTHER	HOME PHONE (951)288-3206		BUSINESS PHONE		VEHICLE IDENTIFICATION NUMBER 5J6YH17928L016551		
INSURANCE CARRIER		POLICY NUMBER		DESCRIBE VEHICLE DAMAGE <input type="checkbox"/> UNK <input type="checkbox"/> NONE <input checked="" type="checkbox"/> MINOR			
ALLSTATE		924786287		SHADE IN DAMAGED AREA ROLL-OVER			
DIR OF TRAVEL		ON STREET OR HIGHWAY		CA _____ DOT _____			
N		GAS STN DRIVEWAY		CAL-T _____ TCR/PSC _____ MC/MX			
PARTY 3	DRIVER'S LICENSE NUMBER	STATE	CLASS	AIR BAG	SAFETY EQUIP.	VEH. YEAR	MAKE / MODEL / COLOR
	3						
DRIVER	NAME (FIRST, MIDDLE, LAST)						LICENSE NUMBER
PEDESTRIAN	STREET ADDRESS						STATE
PARKED VEHICLE	CITY / STATE / ZIP						
BICYCLIST	SEX	HAIR	EYES	HEIGHT	WEIGHT	Mo	BIRTHDATE Day Year
OTHER	HOME PHONE		BUSINESS PHONE		VEHICLE IDENTIFICATION NUMBER		
INSURANCE CARRIER		POLICY NUMBER		DESCRIBE VEHICLE DAMAGE <input type="checkbox"/> UNK <input type="checkbox"/> NONE <input type="checkbox"/> MINOR			
DIR OF TRAVEL		ON STREET OR HIGHWAY		SHADE IN DAMAGED AREA ROLL-OVER			
				CA _____ DOT _____			
CAL-T		TCR/PSC		MC/MX			
PREPARED BY		DISPATCH NOTIFIED		REVIEWER'S NAME		DATE REVIEWED	
C. SMITH N3130		<input type="checkbox"/> YES <input type="checkbox"/> NO <input checked="" type="checkbox"/> N/A		EVANS 2393		062909	

Appendix X1 page 2 of 5

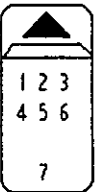


STATE OF CALIFORNIA  
**TRAFFIC COLLISION CODING**  
 CHP 555 CARS Page2 (Rev. 1-03) OPI 061

Page 2 of 4

DATE OF COLLISION (MO. DAY YEAR) 6/21/2009		TIME(2400) 1530	NCIC # 3300	OFFICER I.D. N3130	NUMBER ME091720049
PROPERTY DAMAGE		OWNER ADDRESS		NOTIFIED <input type="checkbox"/> YES <input type="checkbox"/> NO	
DESCRIPTION OF DAMAGE					

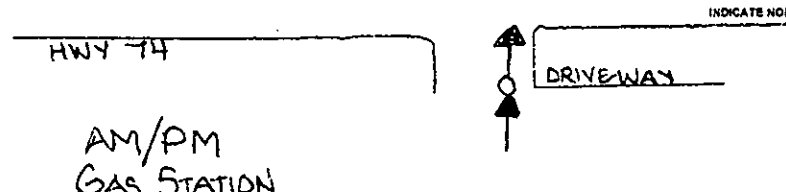
  

<b>SEATING POSITION</b>  <p>1 - DRIVER          2 TO 8 - PASSENGERS          7 - STA. WGN REAR          8 - RR. OCC TRK OR VAN          9 - POSITION UNKNOWN          0 - OTHER</p>	<b>OCCUPANTS</b> A - NONE IN VEHICLE B - UNKNOWN C - LAP BELT USED D - LAP BELT NOT USED E - SHOULDER HARNESS USED F - SHOULDER HARNESS NOT USED G - LAP/SOULDER HARNESS USED H - LAP/SOULDER HARNESS NOT USED J - PASSIVE RESTRAINT USED K - PASSIVE RESTRAINT NOT USED	<b>SAFETY EQUIPMENT</b> L - AIR BAG DEPLOYED M - AIR BAG NOT DEPLOYED N - OTHER P - NOT REQUIRED  <b>CHILD RESTRAINT</b> Q - IN VEHICLE USED R - IN VEHICLE NOT USED S - IN VEHICLE USE UNKNOWN T - IN VEHICLE IMPROPER USE U - NONE IN VEHICLE	<b>MVC BICYCLE - HELMET</b> DRIVER PASSENGER V - NO X - NO W - YES Y - YES  <b>EJECTED FROM VEHICLE</b> 0 - NOT EJECTED 1 - FULLY EJECTED 2 - PARTIALLY EJECTED 3 - UNKNOWN	<b>INATTENTION CODES</b> A - CELL PHONE HANDHELD B - CELL PHONE HANDSFREE C - ELECTRONIC EQUIPMENT D - RADIO / CD E - SMOKING F - EATING G - CHILDREN H - ANIMALS I - PERSONNEL HYGIENE J - READING K - OTHER
---	--	--	--	--

ITEMS MARKED BELOW FOLLOWED BY AN ASTERISK (\*) SHOULD BE EXPLAINED IN THE NARRATIVE.

PRIMARY COLLISION FACTOR LIST NUMBER (S) OF PARTY AT FAULT	TRAFFIC CONTROL DEVICES	1	2	3	SPECIAL INFORMATION	1	2	3	MOVEMENT PRECEDING COLLISION
A VC SECTION VIOLATED: CITED <input type="checkbox"/> YES <input type="checkbox"/> NO	A CONTROLS FUNCTIONING				A HAZARDOUS MATERIAL			X	A STOPPED
1 B OTHER IMPROPER DRIVING* UNSAFE SPEED	B CONTROLS NOT FUNCTIONING*				B CELL PHONE HANDHELD IN USE		X		B PROCEEDING STRAIGHT
C OTHER THAN DRIVER*	C CONTROLS OBSCURED				C CELL PHONE HANDSFREE IN USE				C RAN OFF ROAD
D UNKNOWN*	D NO CONTROLS PRESENT / FACTOR*		X		D CELL PHONE NOT IN USE				D MAKING RIGHT TURN
	TYPE OF COLLISION				E SCHOOL BUS RELATED				E MAKING LEFT TURN
	A HEAD - ON				F 75 FT MOTORTRUCK COMBO				F MAKING U TURN
	B SIDE SWIPE				G 32 FT TRAILER COMBO				G BACKING
	X C REAR END		X		H UNKNOWN				H SLOWING / STOPPING
WEATHER (MARK 1 TO 2 ITEMS)	D BROADSIDE				I				I PASSING OTHER VEHICLE
X A CLEAR	E HIT OBJECT				J				J CHANGING LANES
B CLOUDY	F OVERTURNED				K				K PARKING MANEUVER
C RAINING	G VEHICLE / PEDESTRIAN				L				L ENTERING TRAFFIC
D SNOWING	H OTHER*				M				M OTHER UNSAFE TURNING
E FOG / VISIBILITY FT.					N				N XING INTO OPPOSING LANE
F OTHER*	MOTOR VEHICLE INVOLVED WITH				O				O PARKED
G WIND	A NON - COLLISION				P				P MERGING
	B PEDESTRIAN				Q				Q TRAVELING WRONG WAY
X A DAYLIGHT	X C OTHER MOTOR VEHICLE				OTHER ASSOCIATED FACTORS (MARK 1 TO 2 ITEMS)				
B DUSK - DAWN	D MOTOR VEHICLE ON OTHER ROADWAY	1	2	3	A VC SECTION VIOLATED: CITED <input type="checkbox"/> YES <input type="checkbox"/> NO				
C DARK - STREET LIGHTS	E PARKED MOTOR VEHICLE				B VC SECTION VIOLATED: CITED <input type="checkbox"/> YES <input type="checkbox"/> NO				
D DARK - NO STREET LIGHTS	F TRAIN				C VC SECTION VIOLATED: CITED <input type="checkbox"/> YES <input type="checkbox"/> NO				
E DARK - STREET LIGHTS NOT FUNCTIONING*	G BICYCLE								
	H ANIMAL:								
ROADWAY SURFACE									
X A DRY	I FIXED OBJECT:				D			X	A HAD NOT BEEN DRINKING
B WET	J OTHER OBJECT:				E VISION OBSCUREMENT:				B HBD - UNDER INFLUENCE
C SNOWY - ICY					F INATTENTION*				C HBD - NOT UNDER INFLUENCE*
D SLIPPERY (MUDDY, OILY, ETC.)					G STOP & GO TRAFFIC				D HBD - IMPAIRMENT UNKNOWN*
ROADWAY CONDITION(S) (MARK 1 TO 2 ITEMS)					H ENTERING / LEAVING RAMP				E UNDER DRUG INFLUENCE*
A HOLES, DEEP RUT*	X A NO PEDESTRIANS INVOLVED				I PREVIOUS COLLISION				F IMPAIRMENT - PHYSICAL*
B LOOSE MATERIAL ON ROADWAY*	B CROSSING IN CROSSWALK AT INTERSECTION				J UNFAMILIAR WITH ROAD		X		G IMPAIRMENT NOT KNOWN
C OBSTRUCTION ON ROADWAY*	C CROSSING IN CROSSWALK - NOT AT INTERSECTION				X DEFECTIVE VEH. EQUIP.: CITED <input type="checkbox"/> YES <input type="checkbox"/> NO				H NOT APPLICABLE
D CONSTRUCTION - REPAIR ZONE									I SLEEPY / FATIGUED
E REDUCED ROADWAY WIDTH					L UNINVOLVED VEHICLE				
F FLOODED*	D CROSSING - NOT IN CROSSWALK				M OTHER*				
G OTHER*	E IN ROAD - INCLUDES SHOULDER				N NONE APPARENT				
X H NO UNUSUAL CONDITIONS	F NOT IN ROAD	X	X		O RUNAWAY VEHICLE				
	G APPROACHING / LEAVING SCHOOL BUS								

<b>SKETCH</b> 	<b>MISCELLANEOUS</b> SKETCH NOT TO SCALE
--	---

Appendix XI page 3 of 5

**NARRATIVE/SUPPLEMENTAL**

PAGE 3 OF 4

DATE OF INCIDENT	TIME	NCIC NUMBER	OFFICER I.D.	NUMBER
06/21/2009	1530	3300	N3130	ME091720049

1 **Notification:** I received this hit-and-run collision call on Sunday, 062109 at 1539 hours. I  
2 responded from McCall x Heritage Lake, Menifee, and arrived at 1549 hours. All times, speeds,  
3 and measurements are approximate.

4  
5 **Statements:** P-1 (Unknown) No statement given, fled scene without contacting P-2 or law  
6 enforcement.

7  
8 P-2 (DeBenson) stated that she was stopped, facing northbound, in the driveway of the AM/PM  
9 gas station located on the corner of Hwy 74 x Menifee, Menifee. P-2 stated that she was waiting  
10 for oncoming traffic to clear so that she could turn right onto eastbound Hwy 74. P-2 stated that as  
11 she waited to turn, P-1 suddenly hit her vehicle from behind. P-2 stated that P-1 then backed up  
12 and turned and cut through the gas station to flee the scene. P-2 stated that she was able to  
13 follow P-1 quickly enough and take a cell phone picture of his license plate. P-2 stated that V-1  
14 was a red pickup truck.

15  
16 **Summary:** P-2 (DeBenson) was northbound in the AM/PM gas station driveway, waiting to turn  
17 right onto Hwy 74, when she was rearended by P-1 (Unknown). P-1 then backed up and cut  
18 through the gas station before fleeing on southbound Menifee without contacting P-2.

19  
20 **Hit-and-Run Information:** P-2 was able to take a picture of P-1's license plate, which P-2 showed  
21 me at the scene. A DMV check of the vehicle shows the vehicle registered to John A. Almaraz,  
22 1681 Emerald Way, Perris. P-2 could only describe the driver of V-1 as a male with a hat on.  
23 There could possibly be minor damage and/or silver paint transfer on the driver's side of V-1's  
24 front bumper.

25  
26 **Area of Impact:** No measurements were taken as P-1 had fled the scene and P-2 had left the  
27 initial collision scene in order to take a picture of P-1's license plate.

28

PREPARED BY	I.D. NUMBER	DATE	REVIEWER'S NAME	DATE
C. SMITH	N3130	06/21/2009	EVAS 2393	062909

Appendix XI page 4 of 5

STATE OF CALIFORNIA

**NARRATIVE/SUPPLEMENTAL**

PAGE 4 OF 4

DATE OF INCIDENT	TIME	NCIC NUMBER	OFFICER I.D.	NUMBER
06/21/2009	1530	3300	N3130	ME091720049

- 1 **Cause:** P-1 caused this collision by being in violation of unsafe speed on private property.
- 2
- 3 **Recommendations:** This report to remain open pending contact with the R/O of V-1 to possibly
- 4 identify the driver of V-1 at the time of the collision.

PREPARED BY	I.D. NUMBER	DATE	REVIEWER'S NAME	DATE
C. SMITH	N3130	06/21/2009	EVANS 2393	062909

Appendix XI page 5 of 5



**Allstate.**  
You're in good hands.

**Inland Empire Casualty Market Claims Office**

P.O. Box 1800  
Corona, CA 92878

June 15, 2018

Ada Benson  
PO Box 346  
Winchester, CA 92596

BBB #:	12900026
Complainant:	Ada Benson
Insured:	Ada Pineda De Benson
Company:	Allstate Indemnity Company
Policy Number:	924786287
Claim #:	0141392068
Date of Loss:	6/21/2009
Type of Coverage:	Automobile
Legal Situs:	State of California

Dear Ms. Ada Benson,

I have received your letter of dispute set forth to us by the Better Business Bureau. Most of your concerns were addressed in our Department of Insurance complaint response letter. I have included it down below so that BBB can be informed of the specific issues that have been addressed.

In your letter, you state that your vehicle is a 2008 Honda element. In review of the information that we have on your Allstate Policy and written Estimates, we have your vehicle to be a 2006 Honda Element. I took it a step further and ran a CARFAX on your Vin#, and the report came that it indeed is of the year 2006. If you question the year of your vehicle, I would advise that you go to the Honda dealer and have them decode the VIN# for you.

You brought up two different concerns in this new letter. The concerns are reimbursement for GAP insurance that you paid for and injuries that you sustained because of the accident. Your GAP coverage is specific to our policy holder's vehicle being deemed a total loss in the event of a claim. In your case, your vehicle was repairable, therefore GAP coverage was never part of this claim. As for you claiming bodily injury, this is new information to me. I will ask that you please forward any medical bills resulting from injury of your accident directly to me for review.

Appendix XII pg 1 of 5

The remainder of this letter is my previous response to your last DOI complaint regarding your property damage. The facts remain the same and there is no change from Allstate position.

"Please be advised that we are in receipt of information/ repair estimate for your 2006 Honda Element regarding claim # 6935368065. Your inquiry has been forwarded to me for handling.

This letter is in response to your correspondence regarding the difference in the dollar amount of the estimates that we set forth.

I have had the opportunity to review your file which includes photographs of the damage to your Honda, Allstate's damage estimate and another estimate that you've included in your inquiry. There is no body shop or business name on the estimate that you submitted.

*Honeda Dealer at Hemet is estimate #1  
Thereafter were two other estimates all higher than Quiroz estimate.*

First, the Allstate estimate that was given to you upon inspection clearly states that "all supplements require prior approval", and to please call 951-278-5379." Instructions are given to all our customers to make sure to hand the estimate to your repair shop so that they can contact us if there is any discrepancy in the estimate.

In review of your estimate, there are some obvious differences that should have been discussed back in 2008."

The main differences are as follows:

Allstate's estimate

Your estimate

Fender repair 1 hour

Fender repair 5 hours

Frt Door out panel 246.77

Front door shell 731.72

Rr door panel 5 hrs repair

Rr door panel 7.5 hours repair

Qtr panel paint only

Qtr panel replace cladding 264.75.

*Appendix XII pg 2 of 5*

Your estimate includes replacement of fender cladding for \$46.65 and Quarter panel cladding for \$264.75. In review of the photos, your vehicle is not equipped with cladding on the fender or quarter panel. The other difference in the labor rate. Allstate's estimate is written at \$40 / hour and your estimate was written at \$44 / hour.

Allstate's estimate is \$2,359.61 and your estimate is \$3,501.98

The discrepancies in the estimates should have been addressed back in 2008 when you repaired your vehicle. And again, our estimate and instruction clearly indicate that we must be notified of all supplemental damage.

For these reasons, I must respectfully deny your request to have Allstate pay for the difference of the two estimates.

If you have any further questions, please feel free to contact me at 951-278-5334.

Sincerely,

Jorge Casillas  
Claim Service Leader

Allstate Indemnity Company  
Phone: (951)278-5334  
Fax: (951) 278-9110

CC: BBB

eo

Appendix XII pg 3 of 5

Duran, Lisa Ann <chfdm@allstate.com>

to Jorge, me ▾

Hello Ms. Benson,

I have forwarded your concern to the Claim Service Leader, Jorge Casillas.

...

From: ADA MARIA BENSON [mailto:[bensonadamaria@gmail.com](mailto:bensonadamaria@gmail.com)]

Sent: Monday, May 14, 2018 3:31 PM

To: Duran, Lisa Ann <chfdm@Allstate.com>

Subject: [External] Re: Fwd: CASE #: 6935368065-HONDA ELEMENT 2008- VIN: 5J6YH17928L016551 PLATES: 6HRM561

I LIKE TO PROCEED IN THIS CASE LEGALLY IN A COURT ROOM. I NEED TO BE PROVIDED WITH THE LEGAL INFORMATION ALLSTATE FOR REFUSAL TO REIMBURSE EXPENSES IN A CASE THAT WAS PREVIOUSLY APPROVED AND IS FURTHER COURT HAS TO REFER IN THIS CASE

On Mon, May 14, 2018 at 9:09 AM, Duran, Lisa Ann <chfdm@allstate.com> wrote:

Hello Ms. Benson,

You are going to have to contact the Manager, Jorge Casillas. He can be reached at 951-278-5334.

As far as the expenses, the letter that was mailed to you was a denial, no payment would be forthcoming.

Respectfully,

From: ADA MARIA BENSON [mailto:[bensonadamaria@gmail.com](mailto:bensonadamaria@gmail.com)]

Sent: Tuesday, May 08, 2018 10:08 AM

To: Casillas, Jorge <[JORGE.CASILLAS@Allstate.com](mailto:JORGE.CASILLAS@Allstate.com)>; Duran, Lisa Ann <chfdm@Allstate.com>

Subject: [External] Fwd: CASE #: 6935368065-HONDA ELEMENT 2008- VIN: 5J6YH17928L016551 PLATES: 6HRM565

Appendix XII pg 4 of 5



# Allstate.

You're in good hands.

**Inland Empire Casualty Market Claims Office**

P.O. Box 1800  
Corona, CA 92878

December 5, 2018

Ada Maria Benson  
324 S State St #3054  
Hemet CA 92546

DOI File #: CSB-8178662  
Complainant: Ada Maria Benson  
Insured: Ada Maria Benson  
Company: Allstate Northbrook Indemnity Company  
Policy Number: 924786287  
Claim #: 693538065  
Date of Loss: 5/2/2008  
Type of Coverage: Automobile  
Legal Situs: State of California

This is missing the  
2nd page where  
Casillas stated  
If you believe this  
claim has been  
wrongfully denied or  
rejected, you may  
have the matter  
reviewed by the  
Department of Insurance  
Customer Service at  
300 S. Spring Street,  
Los Angeles, CA 90013

Dear Ms. Ada Maria Benson,

Please be advised that we are in receipt of the recent Department of Insurance Inquiry dated November 28<sup>th</sup>, 2018. Your inquiry has been forwarded to me for handling.

This letter is in response to your correspondence regarding your request to be paid for your "medical sufferings" and vehicle repairs to your 2008 Honda Element.

I have had the opportunity to thoroughly review your file. And I have found a discrepancy with the claim number which this complaint is being filed under. The incorrect claim number has led to confusion on your previous inquiries.

You filed a claim # 6935368065 with the date of loss as 5/2/08 for your 2006 Honda Element.

A new claim was filed, 0141392068 with the date of loss of 6/21/09 for your 2008 Honda Element.

Your Department of Insurance complaint is filed under claim 6935368065. As I am reading your description of the loss facts of the accident, they do not match this claim #. You indicate the location of the loss as occurring on Hwy 74, which is consistent with claim # 0141392068 for your 2008 Honda Element. The 693 claim # location of loss occurred in a Cardenas Super market parking lot with your 2006 Honda. To clarify, the correct claim# for this complaint is 0141392068 with the date of loss 6/21/09 on the 2008 Honda Element.

App. XII pg 5 of 5



Appendix X

0141392068  
ADA PINEDA DE BENSON

Policy 924786287

Allstate

Bank of America  
Customer Connection  
Bank of America N.A.  
Atlanta, Dekalb County, Georgia

54-1278  
Q11

544412690

In payment for Collision for Date of Loss 6/21/2009.

Date 6/22/2009

Check 544412690  
Employee JOSE QUIROZ-  
LEON

PMCO 1300

Fifteen & 30/100 USD

15.30

TO THE  
ORDER  
OF

ADA PINEDA DE BENSON

Allstate Indemnity Company

Appendix XII

PO BOX 346, WINCHESTER, CA 92596 US

VOID IF NOT PRESENTED WITHIN THREE HUNDRED SIXTY-FIVE DAYS OF THE DATE OF ISSUE.

AUTHORIZED SIGNATURES

⑈ 544412690⑈ ⑈ 061112788⑈ 329 904 1279⑈

THE ORIGINAL DOCUMENT HAS REFLECTIVE WATERMARK ON THE BACK.

DO NOT CASH IF WATERMARK IS NOT VISIBLE.

SECURITY FEATURES  
INCLUDED  
SEE REVERSE FOR DETAILS

MP

For, Benson, Ada María Pineda de  
Test name Middle

ALLSTATE INDEMNITY COMPANY  
 CALIFORNIA

HOME OFFICE  
 NORTHBROOK, ILLINOIS

Application No.: 100080002927265

Agent No.: 032305 Loc: 749

Send Policy to Agent: N

Applicant's Name : ADA PINEDA DE BENSON

Address : PO BOX 346

City : WINCHESTER St: CA Zip: 92596

Telephone Num. : (951) 567-6631 County: 033 Terr.: 1600001

VEHICLES										Own/		
No	Yr	Make	Model	Vehicle ID	Number	Cy	Dr	CT	PGS	VSC	Cost	Lease
1	2008	HONDA	ELEMENT	5J6YH17928L016551	4	5	10	Q	S91			Y/N

USE RATE											
No	Odom (000)	Car Usage	Miles One Way	Date Purch	Est Ann Mi (000)	Incl Cmpr	Rare Rest	Rated Zip	Alt Yr	Grand Tier	Weeks Rented
1	9	WORK	4	05/2009	009	N	N	92596		00	

COVERAGES				2008 ELEMENT PREMIUMS
AA	Bodily Injury	Ea Per	LIMITS \$50,000	\$202.12
		Ea Occ	\$100,000	Included
BB	Property Damage	Ea Occ	\$100,000	\$152.71
SS	Uninsured Mot Bodily Injury	Ea Per	\$50,000	\$34.61
		Ea Acc	\$100,000	Included
PD	Uninsured Motorist Property Damage	Ea Occ	\$3,500	Included
CC	Medical Payments	Ea Per	\$5,000	\$43.80
Estimated Vehicle Premiums				\$433.24

Your Estimated Vehicle Premium Reflects the Silver Protection Package.

DISCOUNTS APPLIED

ITEM 1

Est. 6 mo. Policy Premium

: \$433.24

Premiums charged must be in accordance with the Company's manual rules & rates

Amount Paid: \$145.31 Check/MO

SR1830 -12

Page 1 of 6

Appendix XIV pg 1 of 2

ALLSTATE INDEMNITY COMPANY  
CALIFORNIA

HOME OFFICE  
NORTHBROOK, ILLINOIS

Application No.: 100080002927265  
Agent No.: 032305 Loc: 749

A Fraud Assessment fee of \$0.90 will be applied at each policy period.

ACCEPTANCE BY ALLSTATE OF A CHECK, DRAFT, OR ANY REMITTANCE OTHER THAN CASH IS NOT ACKNOWLEDGEMENT OF RECEIPT OF PREMIUM.

If your payment of the initial premium amount due is by check, draft, or any remittance other than cash, such payment is conditional upon the check, draft, or other remittance being honored upon presentation. If such check, draft or remittance is not honored upon presentation, the Binder below (and any policy delivered to you pursuant to this application) shall be deemed void from its inception. This means that Allstate will not be liable for any claims or damages which would otherwise be covered had the check, draft or remittance been honored upon presentation.

HOUSEHOLD SECTION (APPLIES TO APPLICANT ONLY)

Mo Yr at Present Residence: 01/2005 Residence Type: SF Own or Rent: RE  
Years at Present Employment: 3 Other Vehicles Owned in Household: N  
Is this the address where the vehicles are principally garaged? Y

INSURANCE RECORD (PRESENT OR MOST RECENT AUTO INSURANCE CARRIED)

Prior Co: Policy Number:  
Exp Date: Years/Months Insured: 00/00 PI Code: No  
Is the above policy JUA or Assigned Risk? N

BI LIMIT:

With respect to the Applicant and all members of the household:

A - Has any license or permit to drive any motor vehicle been revoked, suspended or refused? : Y

B - Is the applicant the registered owner of the autos to be insured? : Y

*Superior Court of Riverside Violated Rights of Petitioner Suspending  
License while that case was dismissed. Court failed to record evidences.*

OPERATOR INFORMATION ON ALL DRIVING MEMBERS OF HOUSEHOLD

Name: ADA PINEDA DE BENSON Sex: F DOB: 04/17/1962  
Relation to Ins: SA INSURED Occupation: EM SUBSTITUTE Mar St: SI  
TEACHER

Date Lic in US/Can: 10/1977 Drivers Lic No: A3977881  
State Lic: CA Foreign Date Licensed: ACC Rec Ver: Y  
Est % Use of Car 1: Car 2: Car 3: Car 4:  
Rated(R)/Secndry(S) 100 R

Accident/Violation History

DT	Desc	Chargeable	Concurnt
DT: 20090621	Desc: Misc. (Multiple car accident)	Chargeable: <u>N</u>	Concurnt: N
DT: 20080502	Desc: Misc. (Multiple car accident)	Chargeable: <u>N</u>	Concurnt: N
→ DT: 20070303	Desc: Speeding	Chargeable: Y	Concurnt: N - <i>False taken off</i>
→ DT: 20090110	Desc: Suspended (0 pt)	Chargeable: Y	Concurnt: N

GOOD DRIVER QUALIFICATION  
Operator's Name  
01 ADA PINEDA DE BENSON

Total Pts. Good Driver  
1 No YES -

SR1830 -12

Page 2 of 6

*Appendix  
XIV  
Page 2 of 2*

*Court Suspended without fault of  
Petitioner & Court failed to file  
evidences provided by petitioner,  
DMV Reinstated.*

# Complaint Activity Summary

**Complaint ID #:** 12900026

**Business Information:**

Allstate  
2775 Sanders Rd  
Northbrook, IL 60062  
8007338910

**Consumer Information:**

BENSON, ADA MARIA  
BOX 3054  
HEMET, CA 92546  
9513306308  
bensonadamaria@gmail.com

0

Mr. Nilutpal Pegu Director of Digital Marketing

---

## Complaint Details

**Date Filed:** 6/6/2018

**Nature of the Complaint:** Delivery Issues

**Date Opened:** 06/08/2018

**Date Closed:** 7/10/2018 6:13:53 AM

**Consumer's Original Complaint:**

ALLSTATE NEGLIGENCE IN REFUNDING FOR A CAR ACCIDENT IN WHICH I PAID ALL THE EXPENSES FOR REPAIRS WHILE I WAS PAYING THE GAP INSURANCE. NO MEDICAL EXPENSES WERE CONSIDERED. I CONTACTED ALLSTATE AND THE RESPONSE FROM LISA DURAN IS THAT THE CASE IS CLOSED WITHOUT COMPENSATION. SEE THE LETTER SENT, IN THE LETTER RESPONSE RECEIVED IN APRIL 2018, JORGE CASILLAS DEFINES THE ACCIDENT IN TERMS OF A 2006 ELEMENT TOTALLY DIFFERENT THAN THE VEHICLE THAT I OWNED AND THE VEHICLE FOR WHICH I PAID INSURANCE. I NEVER FILED ANY CLAIMS ON A 2006 VEHICLE. THE VEHICLE IN QUESTION IS 2008 SILVER HONDA ELEMENT THAT WAS REPAIRED AND FULLY SERVED AFTER I WAS HIT IN ACCIDENT AND WHILE PAYING GAP INSURANCE, ALLSTATE NEVER COMPENSATED. I WAS AT THE END OF A MASTER DEGREE PROGRAM AND WORKING SET ASIDE THE FACT THAT ALLSTATE HAD NOT REIMBURSED THE EXPENSES THAT I INCURRED PAYING FROM MY POCKETS TO FIX THE VEHICLE AND PAID THE MECHANIC. In 2008 I placed in the hemet, Ca allstate offices a package with all the documents detailing how my Honda vehicle was repaired. regardless of any efforts I have made to receive the compensation for the expenses, a turnaround of words and back and forth emails has been taking place between a person named Lisa Duran and Jorge Casillas. Mr. Casillas has twisted the case wanting to confuse the 2008 Honda with a later model while Ms. Duran speaks of a case closed without reimbursing. all correspondence sent and received is available in this case and I detailed the negligences but has obviously not received response neither compensation.

Product\_Or\_Service: HONDA ELEMENT 2008 VIN5j6yh187961012569 Account\_Number: ALLSTATE CASE #: 693

**Consumer's Desired Resolution:**

DesiredSettlementID: Refund please refund the GAP insurance was paid. I paid for all the damages and due to the extreme pressure of the last years of university and a master degree completion I set aside important facts as to see that that compensation could be completed. I contacted Allstate and has never been reimbursed in any way. There is no correspondence received. it seems an absolute case of negligence. Allstate Insurance Representative; My name is Benson, Ada Maria-P.O. Box 3054, Hem

**Complaint Timeline:**

**06/08/2018** Complaint Transfer: Complaint Transfer (0875)  
BBB

**06/08/2018** Automation: Auto Process  
Complaint Form

**06/08/2018** Pending initial Business response: Action Taken  
Threshold Application

Appendix XV 1 page

**HOMAN, STONE  
& ROSSI**

A PROFESSIONAL CORPORATION

**ATTORNEYS AT LAW**

1461 FORD STREET, SUITE 201  
REDLANDS, CALIFORNIA 92373  
TELEPHONE: (909) 307-9380  
FACSIMILE: (909) 793-0210

*Central Office*

**LOS ANGELES**

155 N. LAKE AVENUE, 8<sup>TH</sup> FLOOR  
PASADENA, CALIFORNIA 91101  
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**NORTHERN CALIFORNIA**

2121 N. CALIFORNIA BLVD., SUITE 290  
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**SAN DIEGO**

501 W. BROADWAY, SUITE 800  
SAN DIEGO, CALIFORNIA 92101  
TELEPHONE: (619) 400-4883  
FACSIMILE: (619) 684-2663

E-MAIL: [gstone@homan-stone.com](mailto:gstone@homan-stone.com)

October 5, 2021

*Via U.S. Mail and Email: [bensonadamaria@gmail.com](mailto:bensonadamaria@gmail.com)*

Ms. Ada Maria Benson  
324 South State St., #3054  
Hemet, CA 92546

RE: **BENSON VS. ALLSTATE**  
Claim No. : 0141392068.1  
Date of Loss : June 21, 2009  
Our File No. : 43000.170

Dear Ms. Benson:

As you may be aware, I have been retained to represent the interests of Allstate Insurance Company in the above referenced matter. A review of the district court record fails to disclose any appealable orders. As such, the Court of Appeal has dismissed your Appeal. Please see the attached Order. Should you have any comments or questions with respect to the Order, please let me know.

Very truly yours,

HOMAN, STONE & ROSSI  
A Professional Corporation

  
GENE S. STONE, ESQ.

GSS/ap

Enclosure: Order dated 9/17/2021

Appendix XVI 1 page

Sent: Tuesday, October 5, 2021 3:39 PM  
To: Alisha Perez <aperez@homan-stone.com>  
Subject: Re: BENSON VS. ALLSTATE

Benson, Ada Maria  
324 South State St #3054  
Hemet, CA 92546  
Bensonadamaria@gmail.com  
(951) 480-0378

HOMAN, STONE & ROSSI, ATTORNEYS AT LAW  
1461 FORD STREET, SUITE 201  
REDLANDS, CALIFORNIA 92373  
TELEPHONE: (909) 307-9380  
FACSIMILE: (909) 793-0210  
October 05, 2021

I am in receipt of your correspondence date; October 05, 2021.  
In your correspondence, Your bureau states that "A review of the district court record fails to disclose any appealable orders. As such, the Court of Appeal has dismissed your Appeal. Please see the attached Order."

I regret to inform you that the Court Order issued September 17, 2021, was answered and docketed as Case: 21-55833, 09/17/2021, ID: 12232324, DktEntry: 4, Page 1 of 2 in response of the court order stating the order is plain error of the court under the Federal Regulations Criminal Procedure Rule 52. This case is immune from dismissals under the 28 U.S. Code § 1292 - Interlocutory decisions.

As your office may be aware there is immunity in cases filed under the 28 U.S. Code § 1292 - Interlocutory decisions providing and warranting immediate jurisdiction to the Appeals Courts.

Attached you may find the document docketed and entered by the Appeals Court Ninth Circuit on September 17, 2021 Title: "THERE ARE NO DISMISSALS IN INTERLOCUTORY APPEALS STANDING UNDER THE 28 U.S. Code § 1292 - Interlocutory Decisions." See attached two page documents. Therefore this case remains under the full jurisdiction of the Appeals Court Ninth Circuit.

All communications between appellants and defendants have to be done as the California BAR association ethical standards demand, within the knowledge of the

*Appendix XVII Pg 1 of 1*

court. You can log in the pacer and post your communication to the appellant for future documents and communication.

Sincerely  
Benson, Ada Maria  
Appellant- Per Se.

*Page Blank; Below*

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APPEALS CASE BENSON V. ALLSTATE CASE No. 21-55833

1 message

---

ADA MARIA BENSON <bensonadamar@gmail.com>  
To: Gene Stone <gstone@homan-stone.com>

Sat, Dec 4, 2021 at 10:40 AM

Benson, Ada Maria  
324 South State St. #3054  
Hemet, Ca 92546  
[Bensonadamar@gmail.com](mailto:Bensonadamar@gmail.com)  
(951) 480-0378

MR. GENE S. STONE, ESQ.  
H O M A N, S T O N E  
& R O S S I  
A PROFESSIONAL CORPORATION

---

ATTORNEY AT LAW

---

1461 FORD STREET, SUITE 201  
REDLANDS, CALIFORNIA 92373  
TELEPHONE: (909) 307-9380  
FACSIMILE: (909) 793-0210

December 04, 2021

*Dear Mr. Stone;*

*As you may be aware of the case Benson, Ada Maria V Allstate Appeals No. 21-55833 the appellant's motion for reconsideration (Docket Entry No. [4]) was denied by the Appeals Court on November 30, 2021. I, the appellant, have decided to file this case in the United States Supreme Court no later than December 30, 2021. As you are also aware the United States Supreme Court has appellate jurisdiction and can hear the case on appeal on almost any other case that involves a point of constitutional and or federal law.*

*I deemed necessary to communicate to your bureau to notify your office that I am working on the case to submit it to the US Supreme Court. Meanwhile If your client (Allstate) has any intention to settle this claim before it is docketed in the US Supreme Court, I will be more than happy to hear from you at any time. As you know this case*

<https://mail.google.com/mail/u/0/?ik=6cd52a2ee6&view=pt&search=all&permthid=thread-a%3Ar-617543884721218770&simpl=msg-a%3Ar219148975...> 1/2

1/6/22, 12:20 PM

Gmail - APPEALS CASE BENSON V. ALLSTATE CASE No. 21-55833

*is a case of breach of contract by Allstate. I suffered an accident while full coverage was paid and Allstate failed to fulfill its obligations to this date.*

*Respectfully*

*Appendix XVIII. Page 1 of 1*

In this case the District Court kept the Complaint without assigning a case number. It was after months of mails, calls and emails to the district court clerk and appeals that finally petitioner got a case number on June 24, 2021. See Appendix X line 18 of this page is Untrue. Petitioner filed the Complaint Benson v. Allstate on December 15, 2020 see Appendix I it is JS-44 dated 12/15/2020 and Appendix II Pro-Se 4 dated 12/15/2020. The District Court slept on the complaint forms. Petitioner's evidences are also at Appendix IV stamped 05/14/21 and Appendix III. There were numerous correspondences prior to June 21 about this case.

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

ADA MARIA BENSON,

Plaintiff,

v.

ALLSTATE INSURANCE CO.,

Defendant.

Case No. ED CV 21-1046-DMG (SHK)

**ORDER DISMISSING COMPLAINT  
WITHOUT PREJUDICE AND  
DENYING REQUEST TO  
PROCEED IN FORMA PAUPERIS**

False → On June 21, 2021, the Court received pro se Plaintiff Ada Maria Benson's ("Plaintiff") Complaint ("Complaint" or "Compl.") that appears to allege various claims arising from a breach of contract, constitutional violations under 42 U.S.C. § 1983 ("§ 1983"), and violations of the Americans with Disabilities Act ("ADA") under 42 U.S.C. § 12101 et seq., against Allstate Insurance Company ("Allstate" or "Defendant"). Electronic Case Filing Number ("ECF No.") 1, Compl. at 2, 30. Simultaneously, Plaintiff filed an Application to Proceed In Forma Pauperis ("IFP Request"). ECF No. 2, IFP Request.

After careful review of the documents Plaintiff filed and consideration of the standards that apply, the Court finds that Plaintiff fails to state a claim for which

Appendix XIX Page 1 of 8



1 relief can be granted. Therefore, for the reasons discussed in this Order, the Court  
 2 **DENIES** Plaintiff's IFP Request and **DISMISSES** the case without prejudice.

### 3 I. BACKGROUND

4 In this Complaint, Plaintiff claims that Defendant breached its contract with  
 5 Plaintiff after Defendant "refused to pay [Plaintiff] the [guaranteed asset protection  
 6 ("GAP")] coverage" relating to a hit-and-run incident on June 21, 2009. ECF No.  
 7 1, Compl. at 19. Plaintiff alleges that a red pick-up vehicle hit her vehicle, and the  
 8 "driver must have been recorded by the ARCO station surveying cameras at the  
 9 parking lot." *Id.* at 19. Plaintiff reported the accident and provided related  
 10 documents to Defendant, but after "[y]ears of communication[.]" Plaintiff alleges  
 11 that "Allstate placed [Plaintiff's] accident case in a dormant stage[.]" *Id.* at 20.  
 12 Eventually, Defendant denied Plaintiff's claim and Plaintiff "was left with the  
 13 accident and the expenses having paid a full collision and liability with GAP  
 14 protection."<sup>1</sup> *Id.* at 20-21 (capitalization normalized).

15 As a result of this, Plaintiff states the following claims against Allstate:

- 16 • "Wanton willful negligence[;]"
- 17 • "Recklessness or wanton conduct[;]"
- 18 • "Intentional misconduct[;]"
- 19 • "Strict liability[;]"
- 20 • "Deprivation of civil rights [under] 42 U.S.C. § 1983[;]" and
- 21 • Violation of ADA under 42 U.S.C. § 12101 *et seq.*

22 *Id.* at 30 (capitalization normalized). Plaintiff seeks "punitive and compensatory  
 23 damages under 41 U.S.C. § 6503 and 25 U.S.C. § 3116.<sup>2</sup> *Id.* at 4.

25 <sup>1</sup> Plaintiff explains that GAP insurance is "insurance in which a person agrees to indemnify a  
 26 vehicle purchaser . . . for some or all of the amount owed on the vehicle at the time.

27 <sup>2</sup> The Court notes that neither of these statutes appear to be applicable—41 U.S.C. § 6503 is  
 28 related to public contracts, while 21 U.S.C. § 3116 is related to national Indian forest resources.  
 Thus, neither statute, when viewed with Plaintiff's allegations, presents a basis for jurisdiction  
 here.

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## II. LEGAL STANDARD

Because Plaintiff is seeking to proceed IFP, the Court must screen the Complaint and dismiss the case if it concludes the action is frivolous or malicious, fails to state a claim on which relief may be granted, or seeks monetary relief against a defendant who is immune from such relief. 28 U.S.C. § 1915(e)(2)(B).

Additionally, Federal Rule of Civil Procedure 12(h)(3) (“Rule 12(h)(3)”) requires that “[w]henver it appears . . . that the court lacks jurisdiction of the subject matter, the court shall dismiss the action.” See also Ruhrgas AG v. Marathon Oil Co., 526 U.S. 574, 583-84 (1999) (citing Steel Co. v. Citizens for Better Env’t, 523 U.S. 83, 94-95 (1998) (noting that “subject-matter delineations must be policed by the courts on their own initiative[.]”)).

In making these assessments, the Court applies the pleading standard from Federal Rule of Civil Procedure 8 (“Rule 8”). Under Rule 8, a complaint must “include a short and plain statement” of the claim and “give the defendant fair notice of what the claim is and the grounds upon which it rests.” Bell Atl. Corp. v. Twombly, 550 U.S. 544, 554, 562-63 (2007). The complaint must contain more than “naked assertions,” “labels and conclusions” or “a formulaic recitation of the elements of a cause of action” to state a claim for relief. Id. at 555-57. The Court must accept all of the plaintiff’s factual allegations as true in determining whether a plaintiff has stated a claim for which relief could be granted. Hishon v. King & Spalding, 467 U.S. 69, 73 (1984). Dismissal is appropriate based either on the lack of cognizable legal theories or the lack of pleading sufficient facts to support cognizable legal theories. Balistreri v. Pacifica Police Dep’t, 901 F.2d 696, 699 (9th Cir. 1990).

Finally, “[a] document filed pro se is to be liberally construed, and a pro se complaint, however inartfully pleaded, must be held to less stringent standards than formal pleadings drafted by lawyers.” Woods v. Carey, 525 F.3d 886, 889-90 (9th Cir. 2008) (citations and internal quotation marks omitted). The Court has “an

Appendix XIX<sub>3</sub> page 3 of 8

obligation where the petitioner is [pro se], particularly in civil rights cases, to construe the pleadings liberally and to afford the petitioner the benefit of any doubt.” Akhtar v. Mesa, 698 F.3d 1202, 1212 (9th Cir. 2012) (citation and internal quotation marks omitted). If, however, a court finds that a pro se complaint has failed to state a claim, dismissal may be with or without leave to amend. Lopez v. Smith, 203 F.3d 1122, 1126-30 (9th Cir. 2000).

### III. DISCUSSION

Plaintiff’s claims fail because Plaintiff has not demonstrated that diversity jurisdiction exists, is attempting to sue an entity that is not subject to suit under § 1983, and the Complaint fails to state a claim under the ADA. There also does not appear to be any other basis for subject matter jurisdiction to allow this case to go forward in federal court.

#### A. The Allegations Show That Diversity Jurisdiction Does Not Exist

Federal courts, like this one, are limited in the types of cases that they can hear and cannot hear any lawsuit that a party may want to file, unlike many state courts. United States v. Jacobo Castillo, 496 F.3d 947, 951 (9th Cir. 2007). Specifically, federal courts can only hear “those cases that (1) are within the judicial power of the United States, as defined in the Constitution, and (2) that have been entrusted to them by a jurisdictional grant by Congress.” Id. (internal quotation marks omitted). Without the authority to hear a case, either by the U.S. Constitution or the U.S. Congress, a federal court lacks subject matter jurisdiction over the matter. See Kontrick v. Ryan, 540 U.S. 443, 452 (2004) (“Only Congress may determine a lower federal court’s subject-matter jurisdiction.”). Also, neither the federal court nor the parties can waive this type of a defect, or problem. Castillo, 496 F.3d at 952.

///

///

Appendix XIX page 4 of 8

1 One such way that a federal court may hear a case, is called diversity  
2 jurisdiction and the requirements for this type of jurisdiction are set out in 28  
3 U.S.C. § 1332. Section 1332 provides:

4 (a) The district courts shall have original jurisdiction of all civil actions  
5 where the matter in controversy exceeds the sum or value of \$75,000,  
6 exclusive of interest and costs, and is between—

7 (1) citizens of different States;

8 (2) citizens of a State and citizens or subjects of a foreign state, except  
9 that the district courts shall not have original jurisdiction under this  
10 subsection of an action between citizens of a State and citizens or  
11 subjects of a foreign state who are lawfully admitted for permanent  
12 residence in the United States and are domiciled in the same State;

13 (3) citizens of different States and in which citizens or subjects of a  
14 foreign state are additional parties; and

15 (4) a foreign state, defined in section 1603(a) of this title, as plaintiff and  
16 citizens of a State or of different States.

17 “The natural person’s state citizenship is . . . determined by [his or] her state  
18 of domicile, not [his or] her state of residence. A person’s domicile is [his or] her  
19 permanent home, where [he or] she resides with the intention to remain or to which  
20 [he or] she intends to return.” Kanter v. Warner-Lambert Co., 265 F.3d 853, 857  
21 (9th Cir. 2001). Under 28 U.S.C. § 1332, a corporation is a citizen of both the state  
22 where it was incorporated and where it has its principal place of business. 28  
23 U.S.C. § 1332(c)(1).

24 Plaintiff’s allegations fail to show that diversity jurisdiction exists for  
25 several reasons. First, in the damages allegations, although Plaintiff states she is  
26 seeking punitive and compensatory damages, Plaintiff does not specify any  
27 amount. ECF No. 1, Compl. at 4. Absent allegations regarding a specific amount  
28 of damages, Plaintiff provides no basis for the Court to conclude that the damages  
would be greater than the required minimum of \$75,000.

Second, there is no indication that Defendant, a corporation, is a citizen of a  
different state than Plaintiff. As the party seeking to invoke diversity jurisdiction,

Appendix X<sup>5</sup> Page 5 of 8

1 Plaintiff has the burden to establish this on the record. See DaimlerChrysler Corp.  
2 v. Cuno, 547 U.S. 332, 342 n.3 (“[Courts] presume that federal courts lack  
3 jurisdiction unless the contrary appears affirmatively from the record[.]”). Here,  
4 Plaintiff merely includes an out-of-state address for Allstate, but does not state any  
5 allegations of the state Allstate is incorporated in or the state of Allstate’s principal  
6 place of business. See ECF No. 1, Compl. at 2-3. Without any allegations  
7 establishing the state in which Allstate is a citizen of, the Court cannot conclude  
8 that diversity exists among the parties.

9 As such, because the diversity and amount-in-controversy requirements are  
10 not met here, the Court concludes that it does not have subject matter jurisdiction  
11 over Plaintiff’s, potentially, state law claims. Because the Court lacks subject  
12 matter jurisdiction over Plaintiff’s, potentially, state law claims, it must dismiss  
13 this case without prejudice. See Rule 12(h)(3) (“If the court determines at any time  
14 that it lacks subject-matter jurisdiction, the court must dismiss the action.”);  
15 Ruhrgas AG, 526 U.S. at 583-84; Steel Co., 523 U.S. at 94-95. Furthermore,  
16 because this Court does not have subject matter jurisdiction, the Court also denies  
17 Plaintiff’s pending IFP Request.

18 **B. There Is No Federal Question Jurisdiction Because The Suit**  
19 **Cannot Be Brought Under § 1983.**

20 Plaintiff also appears to assert federal question jurisdiction under § 1983.  
21 See ECF No. 1, Compl. at 19, 30. To state a claim for relief under § 1983, a  
22 plaintiff must plead facts showing that a person acting under color of state law  
23 caused a violation of her rights. This “state-action” requirement requires that the  
24 deprivation “be caused by the exercise of some right or privilege created by the  
25 State . . . or by a person for whom the State is responsible,” and “the party charged  
26 with the deprivation must be a person who may fairly be said to be a state actor.”  
27 West v. Atkins, 487 U.S. 42, 49 (1988) (internal quotations omitted).

28  
Appendix XIX<sup>6</sup> page 6 of 8

1 Here, Defendant, Allstate, is a private corporation. As explained by the  
2 Ninth Circuit, “[b]ecause § 1983 . . . [is] directed at the states, the statute supports  
3 a claim only when the alleged injury is caused by ‘state action’ and not by a merely  
4 private actor, against whom tort remedies may be sought in state court.” Jensen v.  
5 Lane Cty., 222 F.3d 570, 574 (9th Cir. 2000). Moreover, Plaintiff has not made  
6 any allegations that Defendant acted under the color of state law when denying  
7 Plaintiff’s insurance claim. Without any indication that Defendant is a state actor,  
8 Plaintiff’s Complaint under § 1983 “fails to state a claim on which relief may be  
9 granted.” 28 U.S.C. § 1915(e)(2)(B)(ii); see Aguirre v. Cal-Western  
10 Reconveyance Corp., No. 2:11-cv-06259-ODW (JEMx), 2012 WL 13012448, at  
11 \*2 (C.D. Cal. July 12, 2012) (finding no jurisdiction even though the plaintiff  
12 alleges violations of federal statutes because the defendants are only private actors  
13 and “§ 1983 does not confer federal question jurisdiction over Plaintiff’s state-law  
14 claims asserted against private actors.”).

15 Because the allegations arising under § 1983 fail to state a claim on which  
16 relief may be granted, this also does not provide a basis for subject matter  
17 jurisdiction in this case.

18 **C. There Is No Federal Question Jurisdiction Because Plaintiff Fails**  
19 **To State A Claim Under The ADA.**

20 Finally, to the extent that Plaintiff is attempting to state federal question  
21 jurisdiction based on her claim under the ADA, that also fails. See ECF No. 1,  
22 Compl. at 19, 30. Title II of the ADA prohibits a public entity from discriminating  
23 against a qualified individual with a disability in the provision of a program,  
24 activity, or service. 42 U.S.C. § 12132 (“[N]o qualified individual with a disability  
25 shall, by reason of such disability, be excluded from participation in or be denied  
26 the benefits of the services, programs, or activities of a public entity, or be  
27 subjected to discrimination by any such entity.”).

1 Here, Plaintiff merely asserts that “[she] is a disable[d] senior” without any  
2 other factual allegations, see ECF No. 1, Compl. at 30, and has failed to provide  
3 any allegations that she was denied public accommodations by Defendant because  
4 of her unspecified disability.

5 Accordingly, because Plaintiff cannot seek redress under the ADA against  
6 Defendant and has failed to establish that she was denied public accommodations  
7 by Defendant because of her disability, Plaintiff’s ADA claim under § 12101 fails  
8 and does not provide a basis for subject matter jurisdiction in this case.

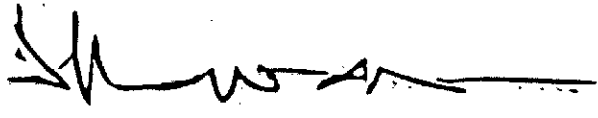
9 **IV. ORDER**

10 Accordingly, **IT IS HEREBY ORDERED** that Plaintiff’s IFP Request is  
11 **DENIED** and that this action is **DISMISSED WITHOUT PREJUDICE** for lack  
12 of subject matter jurisdiction.

13  
14  
15 DATED: December 1, 2021

  
DOLLY M. GEE  
United States District Judge

16  
17  
18  
19 Presented by:

20   
21  
22 HONORABLE SHASHI H. KEWALRAMANI  
23 United States Magistrate Judge

24  
25  
26  
27 Appendix XIX page 8 of 8  
28

**28 U.S. Code § 1746 - UNSWORN DECLARATIONS UNDER PENALTY OF PERJURY.**

**DECISIONS OF THE DISTRICT COURT**

I Benson, Ada Maria, Petitioner, Per-Se, in case No.21-55833 declare under penalty of perjury, **under the 28 U.S.C. 1746** that the Appeals Court Ninth Circuit filed case : Benson, Ada Maria V. Allstate Insurance was filed on December 15, 2020 in the Riverside County federal District court . **See Appendix I.** The Federal District Court of Riverside County refused to file the complaint and did not assign a case number, and returned all documents to the petitioner in January 2021 unfiled. That petitioner mailed back to the district court the complaint to be filed and a district court clerk called around the first days of February 2021 requesting the petitioner to directly mail the petition to the appeals court ninth circuit. The petitioner did mail the copies of the complaint as the clerk indicated and was returned requesting the petitioner to file the case in the district court. **See Appendix III page 1 of 4** The district court failed to assign a district case number. Months passed and the district court refused to answer the whereabouts of the Allstate case filed. It was until Petitioner again contacted the appeals court by email and requested any information about the case and mailed a letter to the district court with the email from the appeals court that the district court assigned a district case number on June 21, 2021. Seven days after the appeals court email. However, the district court clerk, again requested by phone that the petitioner filed the case in appeals. Clerk claimed lack of jurisdiction verbally. Because the district court in this case has returned many times the documents of complaint back to the petitioner, petitioner proceeded to file appeals through the Civil Intake process explaining that the district court wished to do nothing with this case. It is the reason why no District court opinions are present other than the evidences presented by petitioner in **Appendix I, Appendix III** page 1 of 4, **Appendix II** (marks the date that finally a district case was assigned), **Appendix III**- 4 pages (shows the appeals court received the direct appeal and marked received. However, it was returned for lack of district case number. **Appendix VI** -1 page shows the filing of appeals through the Civil Intake stating the district court had concealed the

*Appendix XX (page 1 of 2)*



case for months without processing and refused to assign a case number. Page 11 of the Petition for a Writ of Certiorari, subsection District Court Opinions, petitioner states the district court opinions in this case as the district has failed to proceed by the court rules. **Appendix XIX** is the District Court of the United States District Legal Opinion that was never received by petitioner. Petitioner acquired the petition after the United States Supreme Court Clerk notified there is a December 1, 2021 opinion just purchased by petitioner via Pace Monitor in Case 5:21-cv-01046-DMG-SHK Document 9 Filed 12/01/21 8 pages.

I, Benson, Ada Maria (Persona Propria) declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on January 24, 2022 \_\_\_\_\_

*Appendix XX Page 2 of 2.*



## Submission Confirmation

1 message

Civil Intake <do-not-reply@cacd.uscourts.gov>  
To: Bensonadamaria@gmail.com

Sun, Aug 1, 2021 at 6:34 PM

**Dear ADA MARIA BENSON:**

This email confirms that the document(s) listed below were received by the United States District Court for the Central District of California at the date and time indicated:

**Name:** ADA MARIA BENSON  
**Tracking Number:** EDS-210801-000-1420  
**Date:** 8/1/2021 6:34:40 PM

Uploaded files:

- **EXHIBITS CONCEALED CASE BY DISTRICTY COURT BENSON, ADA MARIA V ALLSTATE INSURANCE.pdf**  
*PLEASE FILE UNDER RULE 18 Rule of the District Court Central district Of California*
- **Form 1. Notice of Appeal from a Judgment or Order INFORMAL BRIEFS BENSON, ADA MARIA V ALLSTATE.pdf**  
*PLEASE FILE UNDER RULE 18 Rule of the District Court Central district Of California*
- **A02 NOTICE OF APPEALS IN CASE BENSON ADA MARIA V. ALLSTATE INDEMNITY INSURANCE.pdf**  
*THE IS THE NEW AO FORM. PLEASE FILE IT*
- **Form 4. Motion and Affidavit for Permission to Proceed in Forma Pauperis BENSON, ADA MARIA V ALLSTATE INSURANCE .pdf**  
*PLEASE FILE UNDER RULE 18 Rule of the District Court Central district Of California*
- **FORMAL BRIEFS AND ARGUMENST CONCEALED BY DISTRICT COURT.pdf**  
*PLEASE FILE UNDER RULE 18 Rule of the District Court Central district Of California*
- **APPEALS COVER FILED IN DISTRICT COURT UNPROCESSED.pdf**  
*THIS IS THE ORIGINAL A02 FORM CONCEALED COURT DID NOT FILE. PLEASE FILE*

The document(s) have not yet been filed. Just like documents received through the U.S. Mail, documents received through the Electronic Document Submission System ("EDSS") will not be considered filed until court staff have uploaded them into the Court's Case Management/Electronic Case Filing System ("CM/ECF"). Documents submitted using EDSS should be processed within 1-2 business days of receipt. However, the date of EDSS submission will be considered the filing date for any documents received through EDSS and later filed into CM/ECF.

If you are registered for electronic service of documents and receiving e-service in this case, you will receive a Notice of Electronic Filing ("NEF") from the CM/ECF System as soon as each document listed above has been filed. (Click here for information about registering for electronic service or to add e-service in this case.) If you are not registered for electronic service, you may check the status of your documents by checking the docket for your case on PACER (<https://pacer.uscourts.gov>). Please wait at least two business days after receiving this email and check the docket for your case on PACER before contacting the Court regarding the status of documents submitted through EDSS.

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United States District Court  
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