

**IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

MEGAN M. GIAMPIETRO AND	:	CIVIL ACTION -- LAW
SAMUEL GIAMPIETRO	:	
	:	
vs.	:	NO.
	:	
	:	JURY TRIAL DEMANDED
VIATOR, INC. t/a VIATOR;	:	
and	:	
TRIPADVISOR LLC, d/b/a VIATOR	:	

DEFENDANTS' NOTICE OF REMOVAL

Defendants Viator Inc. ("Viator") and TripAdvisor LLC ("TripAdvisor") (collectively "Defendants"), by and through their undersigned counsel, hereby submit this Notice of Removal pursuant to 28 U.S.C § 1441(a),(b),(c)(2) and aver as follows:

1. On June 11, 2015, Plaintiffs filed a Complaint in the Court of Common Pleas for Montgomery County ("County Action"). *See* Complaint attached hereto as Exhibit A. Defendants were served with the Complaint on or about June 15, 2015. This Notice of Removal is filed within thirty (30) days of service of the Complaint.
2. The Court of Common Pleas for Montgomery County is within the jurisdiction of the United States District Court for the Eastern District of Pennsylvania.
3. Plaintiffs Megan Giampietro and Samuel Giampietro allege that they are husband and wife and are adult individuals who reside at 612 Rowland Avenue, Cheltenham, Montgomery Country, PA 19012. *See* Exhibit A ¶ 1.

4. Defendant Viator is a corporation organized and existing under the laws of Delaware with principal business offices located at 657 Mission Street, San Francisco, CA 94103.

5. Defendant TripAdvisor is a limited liability company organized and existing under the laws of Delaware with principal business offices located at 400 First Avenue, Needham, MA 02494.

6. Plaintiffs allege that on June 30, 2013, while on a Vespa Tour in Florence, Italy the Vespa Plaintiff Megan Giampietro was driving stalled purportedly causing Ms. Giampietro to lose control, fall, and sustain personal injuries. *Id.* ¶ 25.

7. Plaintiffs allege that as a result of the alleged accident Ms. Giampietro sustained severe physical and emotional damages specifically “severe, full thickness, third degree burn of her right calf, ankle and foot requiring several surgeries and skin grafts . . . loss of consciousness, injuries to her lips and eyes, concussion, severe bodily pain and mental anguish together with a severe shock to her nerves and nervous system.” *Id.* ¶ 28.

8. Plaintiffs allege that Ms. Giampietro “has suffered and will continue to suffer for an indefinite period of time in the future.” *Id.*

9. Plaintiffs alleges that Ms. Giampietro “was prevented from and unable to attend to her usual business and affairs, and loss further sums of money which she would otherwise have received as wages and earnings.” *Id.* ¶ 32.

10. Plaintiffs allege that Ms. Giampietro “has become obligated to receive and undergo medical attention and care and to expend various sums of money or to incur various

medical expenses and may be obligated to continue to expend such sums or incur such expenditures for an indefinite time in the future.” *Id.* ¶ 36.

11. Plaintiff Samuel Giampietro alleges that “he has been obligated to expend various sums of money for medicines and medical attention in and about attempting to effect a cure for the injuries to his wife, and will be obligated to make similar expenditures for an indefinite time in the future.” *Id.* ¶ 43.

12. Plaintiffs alleges that Mr. Giampietro has been “deprived of the comfort, companionship, services, assistance and consortium of his wife, and will be deprived for an indefinite time in the future.” *Id.* ¶ 44.

13. Plaintiffs’ *ad damnum clause* seeks damages above the statutory arbitration limit which in this matter is Fifty Thousand (\$50,000) Dollars. *Id.* p. 1.

14. Plaintiff’s *ad damnum* clause seeks damages against Defendants “jointly and severally, a sum in excess of Fifty Thousand (\$50,000) Dollars each, exclusive of interest and costs, demands for delay and attorneys’ fees” *Id.*

15. Plaintiffs’ Complaint includes a damages demand of more than Fifty Thousand (\$50,000) Dollars per claim, which in total exceeds One Hundred Thousand (\$100,000) Dollars at issue. *Id.*

16. Plaintiff’s settlement demand in this matter far exceeds \$75,000.

17. Removal from the Montgomery County Court of Common Pleas is proper under 28 U.S.C § 1441(a) and (b), which authorizes the removal of any civil action of which the District Courts of the United States has original jurisdiction and if none of the parties in interest

properly joined and served as a defendant is a citizen of the state in which such action is brought.

18. Also, removal is proper under 28 U.S.C § 1446 (c)(2), which allows a defendant to assert an amount in controversy in its notice removal if the initial pleading seeks a money judgment when the state practice either precludes a plaintiff from demanding a specific sum or permits a plaintiff to recover damages in excess of the amount demanded.

19. Neither Defendant Viator, nor Defendant TripAdvisor is a citizen or resident of Pennsylvania, the state in which the action was brought; all parties in this action are diverse.

20. Defendants submit that the matter in controversy exceeds the value of Seventy-Five Thousand (\$75,000) Dollars, exclusive of interest and costs because of the severity of the injuries claimed, and Plaintiffs' *ad damnum* clause which includes a damages demand exceeding One Hundred Thousand (\$100,000) Dollars as well as Plaintiff's settlement demand.

21. This Court has original jurisdiction over the subject matter as the parties are citizens of different states and the matter in controversy exceeds \$75,000 as set forth above.

22. Based on the foregoing, the requirements of 28 U.S.C. § 1441(a); 1441(b), 1446(c)(2) and 1332 have been satisfied and the matter is properly removable.

WHEREFORE, Defendants Viator and TripAdvisor respectfully request that the County Action be removed from the Court of Common Pleas for Montgomery County to the United States District Court for the Eastern District of Pennsylvania.

Respectfully Submitted,

GRIESING LAW, LLC

Dated: July 15, 2015

By:



Alva C. Mather, Esq.
PA Identification Number: 93881
1717 Arch Street, Suite 3630
Philadelphia, PA 19103
amather@griesinglaw.com
(215) 618-3720
(215) 814-9049 [fax]
www.griesinglaw.com

Attorneys for Defendants

CERTIFICATE OF SERVICE

I, Alva C. Mather, hereby certify that on July 15, 2015, I caused a true and correct copy of the foregoing Defendants' Notice of Removal to be served via electronic and U.S. First Class mail upon the following counsel of record:

Anthony J. Giosa, Esq.
Giosa & Hetznecker, P.C.
1900 Spruce Street
Philadelphia, PA 19103-6697
215-735-6464



Alva C. Mather, Esq.

EXHIBIT A

GIOSA & HETZNECKER, P.C.

ATTORNEYS AT LAW
1900 SPRUCE STREET
PHILADELPHIA, PA 19103-6697

ANTHONY J. GIOSA*
agiosa@giosahetznecker.com

(215) 735-6464

DANIEL J. HETZNECKER*†
dhetznecker@giosahetznecker.com

FAX (215) 546-4233

NEW JERSEY OFFICE
ONE GREENTREE CENTRE
10,000 LINCOLN DRIVE EAST - SUITE 201
MARLTON, NJ 08053
(856) 783-7840
FAX (856) 231-5386

OF COUNSEL:
JOHN F. HILFERTY*

*ALSO MEMBER OF NJ BAR
†LL.M. TRIAL ADVOCACY

June 11, 2015

Brad Young, Esquire
Tripadvisor LLC
141 Needham Street
Newton, MA 02464

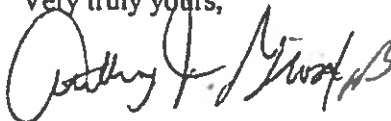
RE: Megan M. Giampietro, et ux v. Viator, Inc. and Tripadvisor LLC
Court of Common Pleas of Montgomery County, Pennsylvania
Docket No.: 15-13097
Date of Accident: June 30, 2013

Dear Mr. Young:

Since I have not received a response to my client's settlement demand, I have filed the enclosed Complaint against Viator, Inc. and Tripadvisor LLC, in the Court of Common Pleas of Montgomery County, Pennsylvania. Pennsylvania Rules of Civil Procedure allow us to serve out-of-state defendants by certified mail. You will note that the Complaint contains a Notice to Defend which requires that the defendants must take action within 20 days after receiving the Complaint and Notice to Defend.

If you have any questions or if you are interested in attempting to settle this matter, do not hesitate to contact me.

Very truly yours,



Anthony J. Giosa, Esquire

AJG/pmb
enc.
SENT BY CERTIFIED MAIL-RRR

GIOSA & HETZNECKER, P.C.

ATTORNEYS AT LAW
1900 SPRUCE STREET
PHILADELPHIA, PA 19103-6697

ANTHONY J. GIOSA*
agiosa@giosahetznecker.com

DANIEL J. HETZNECKER*†
dhetznecker@giosahetznecker.com

OF COUNSEL:
JOHN F. HILFERTY*

*ALSO MEMBER OF NJ BAR
†LL.M TRIAL ADVOCACY

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MARLTON, NJ 08053
(856) 783-7840
FAX (856) 231-5386

June 11, 2015

Scott Halstead, CFO
Viator Inc.
657 Mission Street
San Francisco, CA 94103

RE: Megan M. Giampietro, et ux v. Viator, Inc.
Court of Common Pleas of Montgomery County, Pennsylvania
Docket No.: 15-13097
Date of Accident: June 30, 2013

Dear Mr. Halstead:

Since we have not been able to resolve the above matter, I have filed a Complaint against your company in the Court of Common Pleas of Montgomery County, Pennsylvania. Pennsylvania Rules of Civil Procedure allow us to serve out-of-state defendants by certified mail. Accordingly, enclosed for service upon your company you will find the Complaint and Notice to Defend. As set forth in the Notice to Defend, action must be taken within 20 days after service of this Complaint and notice.

If you are interested in trying to resolve this matter, do not hesitate to contact me.

Very truly yours,

AJG/pmb
enc.

cc: Brad Young, Esquire
SENT BY CERTIFIED MAIL-RRR

Anthony J. Giosa, Esquire

IN THE COURT OF COMMON PLEAS OF MONTGOMERY COUNTY, PENNSYLVANIA

MEGAN M GIAMPIETRO

vs.

VIATOR INC

NO. 2015-13097

NOTICE TO DEFEND - CIVIL

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

**LAWYER REFERENCE SERVICE
MONTGOMERY BAR ASSOCIATION
100 West Airy Street (REAR)
NORRISTOWN, PA 19404-0268**

(610) 279-9660, EXTENSION 201

**PRIF0034
R 10/11**

Case# 2015-13097-0 Docketed at Montgomery County Prothonotary on 06/11/2015 11:30 AM, Fee = \$270.00

IN THE COURT OF COMMON PLEAS OF MONTGOMERY COUNTY, PENNSYLVANIA

MEGAN M GIAMPIETRO

vs.

VIATOR INC

NO. 2015-13097

CIVIL COVER SHEET

State Rule 205.5 requires this form be attached to any document commencing an action in the Montgomery County Court of Common Pleas. The information provided herein is used solely as an aid in tracking cases in the court system. This form does not supplement or replace the filing and service of pleadings or other papers as required by law or rules of court.

Name of Plaintiff/Appellant's Attorney: MEGAN M GIAMPIETRO, Pro Se

Self-Represented (Pro Se) Litigant

Class Action Suit Yes No

MDJ Appeal Yes No

Money Damages Requested

Commencement of Action:

Amount in Controversy:

Complaint

More than \$50,000

Case Type and Code

Tort: _____

Other _____

Other: PERSONAL INJURY

Case# 2015-13097-0 Docketed at Montgomery County Prothonotary on 06/11/2015 11:30 AM, Fee = \$270.00

Supreme Court of Pennsylvania

Court of Common Pleas
Civil Cover Sheet

MONTGOMERY County



For Prothonotary Use Only:	
Docket No:	

The information collected on this form is used solely for court administration purposes. This form does not supplement or replace the filing and service of pleadings or other papers as required by law or rules of court.

SECTION A

Commencement of Action:			
<input checked="" type="checkbox"/> Complaint	<input type="checkbox"/> Writ of Summons	<input type="checkbox"/> Petition	<input type="checkbox"/> Notice of Appeal
<input type="checkbox"/> Transfer from Another Jurisdiction		<input type="checkbox"/> Declaration of Taking	
Lead Plaintiff's Name: MEGAN M. GIAMPIETRO & SAMUEL GIAMPIETRO		Lead Defendant's Name: VIATOR, INC. t/a VIATOR, ET AL	
<input type="checkbox"/> Check here if you are a Self-Represented (Pro Se) Litigant			
Name of Plaintiff/Appellant's Attorney: ANTHONY J. GIOSA, ESQUIRE			
Are money damages requested? : <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		Dollar Amount Requested: <input type="checkbox"/> within arbitration limits <input checked="" type="checkbox"/> outside arbitration limits (Check one)	
Is this a Class Action Suit? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			

SECTION B

Nature of the Case: Place an "X" to the left of the ONE case category that most accurately describes your **PRIMARY CASE**. If you are making more than one type of claim, check the one that you consider most important.

<p>TORT (do not include Mass Tort)</p> <input type="checkbox"/> Intentional <input type="checkbox"/> Malicious Prosecution <input type="checkbox"/> Motor Vehicle <input type="checkbox"/> Nuisance <input type="checkbox"/> Premises Liability <input type="checkbox"/> Product Liability (does not include mass tort) <input type="checkbox"/> Slander/Label/ Defamation <input checked="" type="checkbox"/> Other: <u>PERSONAL INJURY</u>	<p>CONTRACT (do not include Judgments)</p> <input type="checkbox"/> Buyer Plaintiff <input type="checkbox"/> Debt Collection: Credit Card <input type="checkbox"/> Debt Collection: Other <hr/> <input type="checkbox"/> Employment Dispute: Discrimination <input type="checkbox"/> Employment Dispute: Other <hr/> <input type="checkbox"/> Other: <hr/>	<p>CIVIL APPEALS</p> <p>Administrative Agencies</p> <input type="checkbox"/> Board of Assessment <input type="checkbox"/> Board of Elections <input type="checkbox"/> Dept. of Transportation <input type="checkbox"/> Zoning Board <input type="checkbox"/> Statutory Appeal: Other <hr/> <p>Judicial Appeals</p> <input type="checkbox"/> MDJ - Landlord/Tenant <input type="checkbox"/> MDJ - Money Judgment <input type="checkbox"/> Other: <hr/>
<p>MASS TORT</p> <input type="checkbox"/> Asbestos <input type="checkbox"/> Tobacco <input type="checkbox"/> Toxic Tort - DES <input type="checkbox"/> Toxic Tort - Implant <input type="checkbox"/> Toxic Waste <input type="checkbox"/> Other: <hr/>	<p>REAL PROPERTY</p> <input type="checkbox"/> Ejectment <input type="checkbox"/> Eminent Domain/Condemnation <input type="checkbox"/> Ground Rent <input type="checkbox"/> Landlord/Tenant Dispute <input type="checkbox"/> Mortgage Foreclosure <input type="checkbox"/> Partition <input type="checkbox"/> Quiet Title <hr/> <input type="checkbox"/> Other: <hr/>	<p>MISCELLANEOUS</p> <input type="checkbox"/> Common Law/Statutory Arbitration <input type="checkbox"/> Declaratory Judgment <input type="checkbox"/> Mandamus <input type="checkbox"/> Non-Domestic Relations <input type="checkbox"/> Restraining Order <input type="checkbox"/> Quo Warranto <input type="checkbox"/> Replevin <hr/> <input type="checkbox"/> Other: <hr/>
<p>PROFESSIONAL LIABILITY</p> <input type="checkbox"/> Dental <input type="checkbox"/> Legal <input type="checkbox"/> Medical <input type="checkbox"/> Other Professional: <hr/>		

Case# 2015-13097-0 Docketed at Montgomery County Prothonotary on 06/11/2015 11:30 AM, Fee = \$270.00 Pa. R.C.P. 205.5

GIOSA & HETZNECKER, P.C.
BY: ANTHONY J. GIOSA, ESQUIRE
Identification No. 37014
1900 SPRUCE STREET
PHILADELPHIA, PA 19103-6697
(215) 735-6464

JURY TRIAL DEMANDED.

ATTORNEY FOR PLAINTIFFS

MEGAN M. GIAMPIETRO AND :
SAMUEL GIAMPIETRO, W/H, :
612 Rowland Avenue :
Cheltenham, PA 19012 :

MONTGOMERY COUNTY

PLAINTIFFS

COURT OF COMMON PLEAS

vs.

NO.:

VIATOR, INC. t/a VIATOR :
657 Mission Street :
San Francisco, CA 94103 :
and :
TRIPADVISOR LLC d/b/a VIATOR :
141 Needham Street :
Newton, MA 02464 :

CIVIL ACTION - LAW

DEFENDANTS

NOTICE TO DEFEND

YOU HAVE BEEN SUED IN COURT, if you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this Complaint and Notice are served, by entering a written appearance personally or by an attorney and filing in writing with the Court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the Court without further notice for any money claimed in the Complaint or for any other claim or relief requested by the Plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

LAWYER REFERENCE SERVICE
MONTGOMERY COUNTY BAR ASSOCIATION
100 West Airy Street (REAR)
Norristown, PA 19401
(610) 279-9660, EXTENSION 201

Case# 2015-13097-0 Docketed at Montgomery County Prothonotary on 06/11/2015 11:30 AM, Fee = \$270.00

GIOSA & HETZNECKER, P.C.
 BY: ANTHONY J. GIOSA, ESQUIRE
 Identification No. 37014
 1900 SPRUCE STREET
 PHILADELPHIA, PA 19103-6697
 (215) 735-6464

ATTORNEY FOR PLAINTIFFS

MEGAN M. GIAMPIETRO AND :
 SAMUEL GIAMPIETRO, W/H, :
 612 Rowland Avenue :
 Cheltenham, PA 19012 :

MONTGOMERY COUNTY

PLAINTIFFS

COURT OF COMMON PLEAS

vs.

NO.:

VIATOR, INC. t/a VIATOR :
 657 Mission Street :
 San Francisco, CA 94103 :
 and :
 TRIPADVISOR LLC d/b/a VIATOR :
 141 Needham Street :
 Newton, MA 02464 :

CIVIL ACTION - LAW

DEFENDANTS

COMPLAINT - CIVIL ACTION

Plaintiffs, Megan M. Giampietro and Samuel Giampietro, wife and husband, by and through their attorneys, Anthony J. Giosa, Esquire of Giosa & Hetznecker, P.C., claims of Defendants, Viator, Inc. and Tripadvisor LLC, jointly and severally, a sum in excess of Fifty Thousand (\$50,000.00) Dollars each, exclusive of interest and costs, demands for delay and attorneys' fees, and in support thereof aver as follows:

1. Plaintiffs, Megan M. Giampietro and Samuel Giampietro, are wife and husband and are adult individuals who reside at 612 Rowland Avenue, Cheltenham, Montgomery County, PA 19012.

Case# 2015-13097-0 Docketed at Montgomery County Prothonotary on 06/11/2015 11:30 AM, Fee = \$270.00

2. Defendant, Viator, Inc. t/a Viator, is a corporation that regularly conducts business in the County of Montgomery, Commonwealth of Pennsylvania, and can be served at 657 Mission Street, San Francisco, CA 94103.

3. Defendant, Tripadvisor, LLC t/a Viator, is a corporation that regularly conducts business in the County of Montgomery, Commonwealth of Pennsylvania, and can be served at the address of 141 Needham Street, Newton, MA 02464.

4. Subsequent to the date of this incident, June 30, 2013, Defendant, Tripadvisor, LLC, purchased the interests of Viator, Inc. and Viator and, consequently, Defendant, Tripadvisor, LLC, is liable to Plaintiffs based upon successor liability.

5. Defendants are corporations engaged in the business of providing travel related services and tours through their websites which also include reviews of travel related destinations and tours.

6. Defendants do business over the internet. Defendants enter into contracts with residents of foreign jurisdictions that involve the knowing and repeated transmission of computer files over the internet. Defendants target customers via transmission of knowledge of computer data, including files over the internet into jurisdictions throughout the country including Montgomery County, Pennsylvania.

7. Defendants repeatedly and consciously choose to process Plaintiffs' applications when Defendants knew that the same would result in transmissions of electronic messages into Montgomery County, PA. Defendants choose to sell their services to Montgomery County, PA residents in order to profit from those transactions.

8. At all times material hereto, Defendants acted by and through their duly

authorized agents, servants, workmen and/or employees acting on their master's business and within the course and scope of their employment.

9. At all times material hereto, Defendants owned and operated a travel and tour service. Defendants' business model is an internet based travel services company whose services are sold to customers wherein the point of sale is at the customer's location.

10. As part of their services, for which Plaintiffs paid Defendants a fee, Defendants, by and through their duly authorized agents, provided side tours in various locations throughout the world, including the placement of its customers with tour operators.

11. Defendants were under a duty to supervise its agents and subcontractors and ensure that its customers would be free from harm.

12. Defendants owed a duty of service and care to Plaintiffs. Defendants had a duty to use reasonable care, under all circumstances, not to cause reasonably foreseeable harm to Plaintiffs.

13. Defendants owed a duty to Plaintiffs to select reasonable and safe tour operators.

14. In offering side tours to Plaintiffs, through their duly authorized agents, Defendants warrant that any additional side tours would be safe and free from harm.

15. On or about June 30, 2013, Plaintiff, Megan Giampietro, was a paying customer of Defendants on a tour in Florence, Italy.

16. At the suggestion/recommendation of Defendants, Plaintiff, Megan Giampietro, and her family, booked a side tour known as Chianti Small Group Vespa Tour.

17. On June 30, 2013, Plaintiffs disembarked in Florence, Italy, and the Plaintiffs purchased a side tour from Defendants, i.e. the Chianti Small Group Vespa Tour, operated by

Florencetown Vespas. While on the tour, Plaintiff, Megan Giampietro's Vespa stalled twice. Plaintiff was informed by individuals conducting the Vespa tour that Plaintiff's Vespa would be okay and that she should continue to utilize the same.

18. As Plaintiff, Megan Giampietro, was continuing on the tour, her Vespa stalled again, a third time, causing Plaintiff to fall and sustain serious injuries as further set forth below.

19. While on the tour, Plaintiff repeatedly advised the tour operator, agents of the Defendants herein, of problems with her Vespa.

20. The Defendants advertised that the Chianti Small Group Vespa Tour would have a maximum of 10 people and travel on quiet and scenic country roads. According to the Viator advertisement, there were only to be a maximum of 10 people, thus, "ensuring you will receive personalized attention from your guide."

21. Defendants also represented to Plaintiffs that they would receive instruction on how to safely ride the Vespas. Viator advertised a 30 minute orientation session.

22. When Plaintiffs arrived for the tour, the tour had approximately 20 people rather than the advertised 10 people.

23. As a result of the large number of riders, there was no individual attention/safety training, and, rather than a 30 minute orientation session, the orientation lasted only 10 minutes.

24. Moreover, although the Viator advertisement guaranteed a ride "along quiet and scenic country roads", Plaintiffs were taken mainly on busy heavily traveled roads with two way motor vehicle traffic and no shoulders.

25. As Plaintiffs' group began the second part of their tour and after Plaintiff informed the tour operators that her Vespa stalled twice, Plaintiff, Megan Giampietro's Vespa

stalled out again and lost all power. The Vespa began to wobble causing Plaintiff to lose control. Consequently, Plaintiff's Vespa spilled over the side of the road causing Plaintiff to violently tumble and roll sideways down a hill until she landed against a row of trees with the Vespa landing on top of her causing serious injuries and burns as stated below.

26. As a result of the stalled Vespa, Plaintiff sustained various burns, injuries and damages as set forth below. Plaintiff's burns, injuries and damages were the direct and proximate result of Defendants' negligence.

27. Defendants owed a non-delegable duty of care to Plaintiff that operators of side tours would provide a safe experience. Defendants breached said duty of care. The non-delegable duty of care owed to Plaintiffs from Defendants cannot be waived by contract.

28. As a direct and proximate result of the Defendants' negligence, Plaintiff, Megan Giampietro, sustained a severe, full thickness third degree burn of her right calf, ankle and foot requiring several surgeries and skin grafts. Plaintiff also sustained a loss of consciousness, injuries to her lips and eyes, concussion, severe bodily pain and mental anguish, together with a severe shock to her nerves and nervous system, by reason of which she was rendered sick, sore, lame and disorder and was made to undergo extreme mental anguish and physical pain as a result of which she has suffered and will continue to suffer for an indefinite period of time in the future.

29. Defendants were in breach of their duty and standard of care to Plaintiffs in selecting the tour operators.

30. Plaintiff avers that the Defendants had actual knowledge of the existence of the aforesaid dangerous and hazardous condition of the Vespa tour or should have had such knowledge in the exercise of reasonable diligence and care prior to the occurrence of this action.

31. The negligence and/or carelessness of the Defendants which caused Plaintiff's injuries and damages consisted of the following:

- a) failing to use reasonable care in the selection of local tour providers;
- b) failing to warn Plaintiff of the unsafe conditions and dangers of the Vespa Tour at issue;
- c) failure to select a competent provider for the Vespa Tour at issue;
- d) negligent misrepresentation;
- e) failing to provide proper control and supervision of the Vespa Tour at issue;
- f) failing to exercise reasonable care under the circumstances;
- g) negligently selecting Florencetown Vespas as Defendants' tour provider;
- h) failing to investigate the operations and conduct of the local Vespa tour provider; and
- i) upon information and belief continuing to place its customers with Florencetown Vespa operators after learning of problems with the operations, performance and functioning of its Vespas and learning that its tours were conducted on heavily traveled roads.

32. As a further result of the Defendants' negligence, Plaintiff was prevented from and unable to attend to her usual business and affairs, and loss further sums of money which she would otherwise have received as wages and earnings.

33. As a further result of the Defendants' negligence, Plaintiffs were totally unable to obtain the enjoyment and relaxation and other benefits of their trip, for which Plaintiffs had paid a large sum of money.

34. All of the aforementioned injuries of Plaintiff, Megan Giampietro, are serious and/or permanent in nature.

35. Plaintiff, Megan Giampietro, further avers that as a result of the aforementioned occurrence, she was caused and continues to be caused to sustain loss of life's everyday enjoyment and pleasures to her great mental distress and overall discomfort.

36. As a further result of the negligence of the Defendants herein, Plaintiff, Megan Giampietro, has become obligated to receive and undergo medical attention and care and to expend various sums of money or to incur various medical expenses and may be obligated to continue to expend such sums or incur such expenditures for an indefinite time in the future.

37. As a result of this accident, Plaintiff, Megan Giampietro, has or may suffer a loss of earnings and an impairment of her earning capacity and power.

38. As a further result of this accident, Plaintiff, Megan Giampietro, has suffered injuries which are permanent, irreparable and severe and which will result in the loss of life's pleasures to the Plaintiff, to her great detriment and loss.

39. As a result of this accident, Plaintiff, Megan Giampietro, has suffered physical and/or mental impairments which have prevented her from performing all or substantially all of her material acts and duties of her customary and usual daily activities, and have or may suffer a loss because of expenses which have been or may be reasonably incurred in obtaining ordinary and necessary services in lieu of those which Plaintiff would have performed, to her great detriment and loss.

40. As a further result of the negligence of the Defendants, Plaintiff, Megan Giampietro, has undergone and endured great physical pain, suffering and mental anguish and

she will continue to endure great physical pain, suffering and mental anguish for an indefinite time in the future, to her great detriment and loss.

41. As a further result of the negligence of the Defendants, Plaintiff, Megan Giampietro, has suffered severe and permanent scarring.

WHEREFORE, Plaintiff, Megan M. Giampietro, demands damages against the Defendants, jointly and severally, for an amount in excess of the arbitration limits, a jury trial is hereby demanded.

**COUNT II - LOSS OF CONSORTIUM
PLAINTIFF, SAMUEL GIAMPIETRO v. ALL DEFENDANTS**

42. Plaintiff, Samuel Giampietro, husband of Plaintiff, Megan Giampietro, incorporates by reference the allegations contained in paragraphs 1 through 41, inclusive, as fully as though the same were set forth at length.

43. Solely because of the negligence of the Defendants, Plaintiff, Samuel Giampietro, has been obligated to expend various sums of money for medicines and medical attention in and about attempting to effect a cure for the injuries to his wife, and will be obligated to make similar expenditures for an indefinite time in the future.

44. Further, by reason of the aforesaid, Plaintiff, Samuel Giampietro, has been deprived of the comfort, companionship, services, assistance and consortium of his wife, and will be deprived for an indefinite time in the future.

WHEREFORE, Plaintiff, Samuel Giampietro, demands damages against the Defendants, jointly and severally, for an amount in excess of the arbitration limits, a jury trial is hereby demanded.



ANTHONY J. GIOSA, ESQUIRE
Attorney for Plaintiffs

VERIFICATION

I, Megan M. Giampietro, hereby state:

1. I am the Plaintiff in this action;
2. I verify that the statements made in the foregoing Complaint are true and correct to the best of my knowledge, information and belief; and

3. I understand that this Verification is made subject to the penalties of 18 Pa.

C.S. Section 4904 relating to unsworn falsification to authorities.


MEGAN M. GIAMPIETRO

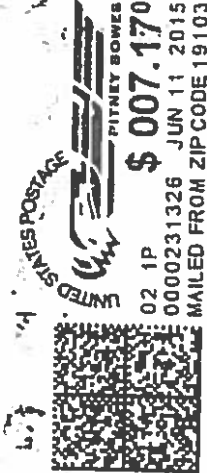
Date: 5/4/15

CERTIFIED MAIL™



705 8850 0000 2630 8746

GIOSA & HETZNECKER,
ATTORNEYS AT LAW
1900 SPRUCE STREET
PHILADELPHIA, PA 19103-6697



Brad Young, Esquire
Tripadvisor LLC
141 Needham Street
Newton, MA 02464

RETURN RECEIPT REQUESTED

024-054
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