OBJECTION DEADLINE: July 8, 2016 at 4:00 p.m. (Eastern Time)
HEARING DATE AND TIME: July 18, 2016 at 10:00 a.m. (Eastern Time)

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Attorneys for General Motors LLC

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re:	:	Chapter 11
	:	
MOTORS LIQUIDATION COMPANY, *et al.*,	:	Case No.: 09-50026 (MG)
f/k/a General Motors Corp., *et al.*	:	
	:	(Jointly Administered)
Debtors.	:	

NOTICE OF MOTION BY GENERAL MOTORS LLC PURSUANT TO 11 U.S.C. §§ 105 AND 363 TO ENFORCE THE BANKRUPTCY COURT'S JULY 5, 2009 SALE ORDER AND INJUNCTION, AND THE RULINGS IN CONNECTION THEREWITH, WITH RESPECT TO PLAINTIFFS IDENTIFIED ON SCHEDULE "1" ATTACHED THERETO

PLEASE TAKE NOTICE that upon the annexed Motion, dated June 24, 2016 (the "**Motion**"),[1] of General Motors LLC ("**New GM**"), pursuant to Sections 105 and 363 of the Bankruptcy Code, seeking the entry of an order to enforce the Sale Order and Injunction, entered by

[1] Capitalized terms used and not otherwise defined herein shall have the meanings ascribed to such terms in the Motion.

the Bankruptcy Court on July 5, 2009, and the Bankruptcy Court's rulings in connection therewith, a hearing will be held before the Honorable Martin Glenn, United States Bankruptcy Judge, in Room 523 of the United States Bankruptcy Court for the Southern District of New York, One Bowling Green, New York, New York 10004, on **July 18, 2016 at 10:00 a.m. (Eastern Time),** or as soon thereafter as counsel may be heard.

PLEASE TAKE FURTHER NOTICE that any responses or objections to the Motion must be in writing, shall conform to the Federal Rules of Bankruptcy Procedure and the Local Rules of the Bankruptcy Court, and shall be filed with the Bankruptcy Court (a) electronically in accordance with General Order M-242 (which can be found at www.nysb.uscourts.gov) by registered users of the Bankruptcy Court's filing system, and (b) by all other parties in interest, on a 3.5 inch disk, preferably in Portable Document Format (PDF), WordPerfect, or any other Windows-based word processing format (with a hard copy delivered directly to Chambers), in accordance with General Order M-182 (which can be found at www.nysb.uscourts.gov), and served in accordance with General Order M-242, and on (i) King & Spalding LLP, 1185 Avenue of the Americas, New York, New York 10036 (Attn: Arthur Steinberg and Scott Davidson), and (ii), Kirkland & Ellis LLP, 300 North LaSalle, Chicago, IL 60654, (Attn: Richard C. Godfrey and Andrew B. Bloomer, P.C.) so as to be received no later than **July 8, 2016, at 4:00 p.m. (Eastern Time)** (the "**Objection Deadline**").

PLEASE TAKE FURTHER NOTICE that if no responses or objections are timely filed and served with respect to the Motion, New GM may, on or after the Objection Deadline, submit to the Bankruptcy Court an order substantially in the form of the proposed order annexed to the Motion, which order may be entered with no further notice or opportunity to be heard offered to any party.

Dated: New York, New York
June 24, 2016

Respectfully submitted,

/s/ Arthur Steinberg
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SOUTHERN DISTRICT OF NEW YORK

In re	:	**Chapter 11**
	:	
MOTORS LIQUIDATION COMPANY, *et al.*,	:	**Case No.: 09-50026 (MG)**
f/k/a General Motors Corp., *et al.*	:	
	:	
Debtors.	:	**(Jointly Administered)**
	:	

MOTION BY GENERAL MOTORS LLC PURSUANT TO 11 U.S.C. §§ 105 AND 363 TO ENFORCE THE BANKRUPTCY COURT'S JULY 5, 2009 SALE ORDER AND INJUNCTION, AND THE RULINGS IN CONNECTION THEREWITH, WITH RESPECT TO PLAINTIFFS IDENTIFIED ON SCHEDULE "1" ATTACHED HERETO

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General Motors LLC (**"New GM"**), by its undersigned counsel, submits this motion ("**Second June 2016 Motion to Enforce**") pursuant to 11 U.S.C. §§ 105 and 363, to enforce the Bankruptcy Court's Order entered on July 5, 2009 ("**Sale Order and Injunction**") approving the sale of assets from Motors Liquidation Company (f/k/a General Motors Corporation) ("**Old GM**") to New GM,[1] and the decisions and judgments entered by the United States Bankruptcy Court for the Southern District of New York ("**Bankruptcy Court**" or "**Court**") in connection therewith, by directing plaintiffs ("**PI Plaintiffs**") identified on **Schedule "1"** attached hereto (and their counsel) to amend their pleadings ("**PI Pleadings**") filed in personal injury lawsuits ("**PI Lawsuits**") commenced against New GM so that they comply with the Sale Order and Injunction and the other Bankruptcy Court rulings.

PRELIMINARY STATEMENT

1. The continued prosecution of the PI Lawsuits, in their present form, violate the Sale Order and Injunction, and the other applicable Bankruptcy Court rulings.[2] The PI Plaintiffs are Post-Closing Accident Plaintiffs without the Ignition Switch Defect.[3] To be clear, New GM is not seeking any relief in this Second June 2016 Motion to Enforce against PI Plaintiffs to the

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[1] The full title of the Sale Order and Injunction is *Order (i) Authorizing Sale of Assets Pursuant to Amended and Restated Master Sale and Purchase Agreement with NGMCO, Inc., a U.S. Treasury-Sponsored Purchaser; (ii) Authorizing Assumption and Assignment of Certain Executory Contracts and Unexpired Leases in Connection with the Sale; and (iii) Granting Related Relief*. A copy of the Sale Order and Injunction, and the accompanying Sale Agreement (as defined herein), is contained in the accompanying compendium of exhibits as **Exhibit "A."**

[2] After the entry of the December 2015 Judgment, New GM has filed other motions to enforce with this Court. *See* (i) *Motion of General Motors LLC Pursuant to 11 U.S.C. §§ 105 and 363 to Enforce the Bankruptcy Courts July 5, 2009 Sale Order and Injunction, and the Bankruptcy Courts Rulings in Connection Therewith (Pilgrim Putative Class Action)*, filed January 19, 2016 [Dkt. No. 13585], and (ii) *Motion By General Motors LLC Pursuant To 11 U.S.C. §§ 105 And 363 To Enforce The Bankruptcy Courts July 5, 2009 Sale Order And Injunction, and The Rulings in Connection Therewith (Veronica Alaine Fox, Claudia Lemus, Tammie Chapman and Constance Haynes-Tibbetts)*, filed June 1, 2016 [Dkt. No. 13634] ("**June 2016 Motion to Enforce**"). A copy of the June 2016 Motion to Enforce, without Exhibits, is contained in the compendium of exhibits as **Exhibit "B."**

[3] Capitalized terms not otherwise defined in this Preliminary Statement are defined in (i) later sections of this Second June 2016 Motion to Enforce, or (ii) in the "Background Facts" section of the June 2016 Motion to Enforce.

extent they are asserting assumed Product Liabilities (in the form of, *inter alia*, negligence, strict liability and/or breach of warranty claims predicated on Old GM's conduct) under state law based on post-363 Sale accidents involving Old GM vehicles.[4]

2. Significantly, however, the PI Plaintiffs are also asserting purported Independent Claims[5] against New GM, either as duty to warn claims, failure to recall and/or identify defect claims, fraud claims and/or consumer protection act claims.

3. The Bankruptcy Court held that PI Plaintiffs can seek compensatory damages, but not punitive damages, with respect to assumed Product Liabilities.[6] The Bankruptcy Court separately held that (a) Post-Closing Accident Plaintiffs without the Ignition Switch Defect cannot assert Independent Claims against New GM because they have not established a due process violation with respect to the Sale Order and Injunction, and, therefore, the unmodified Sale Order and Injunction applied to them, and (b) under the unmodified Sale Order and Injunction, New GM purchased assets free and clear of all claims held by Post-Closing Accident Plaintiffs without the Ignition Switch Defect, other than Assumed Liabilities.

4. This dispute is primarily about the PI Plaintiffs' attempts to carve out a path for punitive damages. The only way to obtain punitive damages against New GM is to circumvent the Bankruptcy Court's clear ruling prohibiting punitive damages for Assumed Liabilities by

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[4] New GM disputes that it is liable to any of the PI Plaintiffs for any claims asserted in the PI Pleadings.

[5] Independent Claims cannot be based on Assumed Liabilities, or Old GM conduct, or obligations/duties owed by Old GM to Old GM Vehicle owners. As such, when reviewing the merits of an Independent Claim, New GM's legal obligation/duty, if any, must be based on it being a non-manufacturer/non-seller of the Old GM vehicle, and a non-successor-in-interest to Old GM's obligations to the Old GM vehicle owner.

[6] *See* Judgment, dated December 4, 2015 ("**December 2015 Judgment**"), ¶ 6. A copy of the December 2015 Judgment is contained in the compendium of exhibits as **Exhibit "C."**

asserting the causes of action in dispute as Independent Claims. But the December 2015 Judgment is also explicit that the PI Plaintiffs may not assert Independent Claims.[7]

5. In addition, many of the PI Plaintiffs are asserting allegations in their PI Pleadings that are expressly prohibited by the Decision entered by the Bankruptcy Court on November 9, 2015 ("**November 2015 Decision**")[8] and/or the December 2015 Judgment.

6. New GM first notified each of the PI Plaintiffs, by letter, of their failure to comply with the Sale Order and Injunction and other Bankruptcy Court rulings in August/September 2015 ("**New GM 2015 Letters**"). Following the December 2015 Judgment, New GM again notified each of the PI Plaintiffs of their failure to comply with the controlling rulings of the Bankruptcy Court. The PI Plaintiffs have each refused to accept (either in whole or in part) the rulings set forth in the November 2015 Decision and December 2015 Judgment (and other Bankruptcy Court rulings) and have refused to appropriately amend the PI Pleadings.

7. The law is settled that a party subject to a Court's injunction does not have the option simply to proceed in another court as if the injunction does not exist. As the United States Supreme Court explained in *Celotex Corp. v. Edwards*, the rule is "well-established" that "'persons subject to an injunctive order issued by a court with jurisdiction are expected to obey that decree until it is modified or reversed, even if they have proper grounds to object to the order.'" 514 U.S. 300, 306 (1995). The PI Plaintiffs' decision to go forward in non-bankruptcy courts as if the Bankruptcy Court's rulings do not apply to them are clear violations of the Sale Order and Injunction and the other controlling Bankruptcy Court rulings.[9]

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[7] In reality, the so-called Independent Claims that PI Plaintiffs have asserted are not Independent Claims anyway instead, they are either Assumed Liabilities or Retained Liabilities.

[8] The November 2015 Decision is published as *In re Motors Liquidation Co.*, 541 B.R. 104 (Bankr. S.D.N.Y 2015).

[9] New GM reserves all of its rights in connection with improper actions taken by the PI Plaintiffs. *See In re Lehman Bros. Holdings, Inc.,* No. 15-149-BR, 2016 WL 1212079 (2d Cir. Mar. 29, 2016) (upholding a

8. To put this Second June 2016 Motion to Enforce in proper context, the PI Plaintiffs are violating the injunction contained in the Bankruptcy Court's Sale Order and Injunction. The PI Plaintiffs have ignored demand letters notifying them of their non-compliance with the Sale Order and Injunction. The PI Plaintiffs were notified, in advance, of the proceedings that resulted in the November 2015 Decision and the December 2015 Judgment; those rulings (which were never appealed by the PI Plaintiffs) definitively resolved the issues in dispute as discussed herein. Thus, this Second June 2016 Motion to Enforce is made not to re-litigate issues already resolved by the Bankruptcy Court, but to enforce, on collateral estoppel grounds, such final and non-appealable rulings against PI Plaintiffs. Simply put, the PI Plaintiffs are not entitled to have a "second bite of the apple," or to use their violation of the November 2015 Decision and the December 2015 Judgment as a back door opportunity to re-litigate issues, or to create new appeal opportunities, for matters that have already been finally determined by this Court.

9. Unlike the PI Plaintiffs, the clear majority of Post-Closing Accident Plaintiffs without the Ignition Switch Defect has complied with the Bankruptcy Court rulings, and are not flouting them in other courts.

10. As further explained below, this Court should direct the PI Plaintiffs to amend the PI Pleadings so that they are in full compliance with the controlling Bankruptcy Court rulings.[10]

BACKGROUND FACTS

11. Much of the relevant background facts for this Second June 2016 Motion to Enforce are contained in the June 2016 Motion to Enforce previously filed with this Court, and

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bankruptcy court order that imposed sanctions on a plaintiff who violated a bankruptcy sale order by commencing and continuing to prosecute a lawsuit against the purchaser of a debtor's assets where the purchaser bought the debtor's assets free and clear of claims and liens).

[10] Pending the hearing on this Second June 2016 Motion to Enforce, New GM will continue to work with counsel for the PI Plaintiffs to address and resolve as many bankruptcy-related issues as possible.

such background facts, where relevant, are incorporated herein by reference. Additional relevant background facts are set forth below.

A. Events Leading to the Entry of the November 2015 Decision and the December 2015 Judgment

12. On August 19, 2015, the Bankruptcy Court entered its Case Management Order [Dkt. No. 13383] ("**August 2015 CMO**"),[11] explicitly asking the parties to inform the Court if "any other matters . . . need to be addressed by this Court" in connection with the pleadings filed after the entry of the Bankruptcy Court's June 1, 2015 Judgment ("**June 2015 Judgment**").[12] August 2015 CMO, ¶ 1(g). Importantly, the Bankruptcy Court stated that it was "in particular need of information with respect to the ***Non-Ignition Switch Plaintiffs' claims (whether for injury or death or economic loss***[[13]]), and pending and future matters affecting them, but so long as such claims are satisfactorily covered in the letter(s) to come, they can be addressed in connection with other claims to the extent appropriate." *Id.* ¶ 2 (emphasis added). Thus, as part of the proceedings leading to the November 2015 Decision and the December 2015 Judgment, the Bankruptcy Court intended to resolve all bankruptcy-related issues associated with the lawsuits filed by Post-Closing Accident Plaintiffs (including Old GM Vehicle Owners without the Ignition Switch Defect such as the PI Plaintiffs).

13. In response to the August 2015 CMO, New GM filed a letter with the Bankruptcy Court, dated August 26, 2015 [Dkt. No. 13390] ("**New GM August 26 Letter**"),[14] which informed the Bankruptcy Court that it recently sent out demand letters to plaintiffs involved in

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[11] A copy of the August 2015 CMO is contained in the compendium of exhibits as **Exhibit "D."**

[12] A copy of the June 2015 Judgment is contained in the compendium of exhibits as **Exhibit "E."**

[13] In these August proceedings, the parties and the Bankruptcy Court used the term Non-Ignition Switch Plaintiffs as shorthand to include both Post-Closing Accident Plaintiffs without the Ignition Switch Defect, and Old GM Vehicle Owners without the Ignition Switch Defect asserting economic losses.

[14] A copy of the New GM August 26 Letter is contained in the compendium of exhibits as **Exhibit "F."**

other lawsuits pursuant to the procedures set forth in the June 2015 Judgment. Attached to the New GM August 26 Letter was an exhibit which listed the lawsuits where a demand letter was sent.

14. An issue identified by New GM to be addressed by the Bankruptcy Court was whether "requests for punitive/special damages against New GM based in any way on Old GM conduct, including but not limited to post-363 Sale accidents of Old GM vehicles" were barred by the Bankruptcy Court's rulings. *See* New GM August 26 Letter, at 4. The punitive damage issue specifically referred to post-363 Sale accidents and resulting lawsuits involving Old GM Vehicle Owners without the Ignition Switch Defect. In the end, the Bankruptcy Court resolved the punitive damage issue in the November 2015 Decision and the December 2015 Judgment on behalf of all plaintiffs, including the PI Plaintiffs.

15. Another issue identified in the New GM August 26 Letter to be addressed by the Bankruptcy Court was whether certain causes of action asserted by plaintiffs were assumed by New GM when it assumed Product Liability claims under the Sale Agreement. *See* New GM August 26 Letter, at 5. The Bankruptcy Court agreed with New GM's suggestion, and the November 2015 Decision and the December 2015 Judgment made numerous rulings in this regard.

16. Moreover, in the New GM August 26 Letter, New GM specifically stated that it

> believes that the issues raised by these lawsuits can be resolved at one time in the context of the procedures described herein. It should be noted that many of the demand letters were recently sent out by New GM so that affected parties would be bound by Your Honor's rulings on the issues to be determined as set forth in this letter. In other words, affected parties would be subject to principles of collateral estoppel for these issues and not simply stare decisis.

Id. at 2. New GM also reserved "the right to send out demand letters on any lawsuit (currently pending against New GM or that will be filed in the future) if it believes such lawsuit violates the Judgment, April 15 Decision (as herein defined) or the Sale Order and Injunction." *Id.* at 2 n. 2.

17. At the August 31, 2015 hearing held in connection with the August CMO, Edward Weisfelner from Brown Rudnick, Lead Bankruptcy Counsel, raised certain issues where there was not agreement among the parties, including those concerning Old GM Vehicle Owners without the Ignition Switch Defect. He stated:

> if a non-ignition switch defect claimant, whether would start an independent claim against New GM, would that non-ignition switch plaintiff be successful, vis-a-vis Your Honor as a gatekeeper. New GM's contention is that, aha, wait a second, the non-ignition switch plaintiff cannot assert an independent claim against New GM unless and until that non-ignition switch plaintiff demonstrates that back in '09, its due process rights were violated. Because Your Honor only determined that independent claims were permissible having first determined that the ignition switch plaintiffs' due process rights were violated with prejudice because they didn't have an opportunity to argue over breadth of the injunction.

Transcript of Hearing held August 31, 2015 ("**8/31/15 Hr'g Tr.**"), at 37:12-23.[15]

18. After raising this issue, the Bankruptcy Court asked if Mr. Weisfelner was "now going to be kind of designated counsel for non-ignition switch plaintiffs . . . ." *Id.*, at 38:9-10. The following colloquy then took place:

> MR. WEISFELNER: ". . . yes, we perceive ourselves as having taken the mantel of preserving and protecting the rights of non-ignition switch plaintiffs in this court."
>
> THE COURT: So I don't have to worry about them not having been heard if I listen to you.
>
> MR. WEISFELNER: I think that's a correct conclusion, especially in light of Your Honor's procedures in the judgment itself.

[15] A copy of the relevant portions of the August 31, 2015 Transcript is contained in the compendium of exhibits as **Exhibit "G."**

Id. at 38:17-24. Later on at the hearing, the Bankruptcy Court noted that "the non-ignition switch plaintiffs' inability or inaction to have yet established a due process violation to give them the benefits that the remainder of your constituency got is, in my view, a big issue." 8/31/15 Hr'g Tr., at 80:21-25. While the Bankruptcy Court noted that he had not decided this issue, it was nonetheless an issue that needed to be addressed with finality. Mr. Weisfelner responded, saying that "[t]o the extent that that remains an issue, then in term of triaging things, it seems to me that we need to get that issue teed up quickly because to the extent that people, either New GM or us, depending on who loses, needs to appeal that decision, they ought to get started." Id. at 81:22-82:2.[16]

19. The Bankruptcy Court entered the Scheduling Order on September 3, 2015 [Dkt. No. 13416] ("**September 3 Scheduling Order**"),[17] which set forth a briefing schedule to address, among other things, (i) whether plaintiffs may request punitive damages against New GM with respect to Old GM vehicles, and (ii) whether certain causes of action or allegations in complaints filed against New GM relating to Old GM vehicles were barred by the Sale Order and Injunction.

20. The September 3 Scheduling Order also provided that New GM could serve that Order on parties who previously received demand letters with the following Court-approved cover note:

> General Motors LLC ("New GM") previously served on you a demand letter ("Demand Letter") in connection with a lawsuit commenced by you against New GM which set forth certain deadlines for filings pleadings with the Bankruptcy Court (as defined in the Demand Letter). The attachment is a Scheduling Order entered by the Bankruptcy Court on September 3, 2015 ("Scheduling Order").

[16] The concern raised by Mr. Weisfelner about teeing up an appeal related to coordinating the already pending appeal of the April 2015 Decision and the June 2015 Judgment; briefs were yet to be filed in the Second Circuit when that statement was made.

[17] A copy of the September 3 Scheduling Order is contained in the compendium of exhibits as **Exhibit "H."**

> Please review the Scheduling Order as it modifies the time periods set forth in the Demand Letter for filing certain pleadings with the Bankruptcy Court, including without limitation, the 17 business days to respond to the Demand Letter. If you have any objection to the procedures set forth in the Scheduling Order, you must file such objection in writing with the Bankruptcy Court within three (3) business days of receipt of this notice ("Objection"). ***Otherwise, you will be bound by the terms of the Scheduling Order and the determinations made pursuant thereto***. If you believe there are issues that should be presented to the Court relating to your lawsuit that will not otherwise be briefed and argued in accordance with the Scheduling Order, you must set forth that position, with specificity in your Objection. The Court will decide whether a hearing is required with respect to any Objection timely filed and, if so, will, promptly notify the parties involved.

September 3 Scheduling Order, at 4 (emphasis added).

21. Moreover, the September 3 Scheduling Order provided:

> nothing in this Order is intended to nor shall preclude any other plaintiff's counsel (or pro se plaintiff), affected by the issues being resolved by this Court, from taking a position in connection with any such matters; provided, however, that such affected other plaintiffs' counsel who wishes to file a separate pleading with respect such matter(s) shall timely file a letter with the Court seeking permission to do so.

Id. at 5.

22. To facilitate the Bankruptcy Court's review of New GM's arguments that improper claims were being asserted against it by plaintiffs (including the Post-Closing Accident Plaintiffs without the Ignition Switch Defect), and that improper allegations were being made in complaints filed against it, New GM suggested that representative complaints be filed, and this approach was adopted by the Bankruptcy Court in the September 3 Scheduling Order. *See* September 3 Scheduling Order, at p.5.

B. <u>The November 2015 Decision and December 2015 Judgment</u>

23. On November 9, 2015, the Bankruptcy Court entered the November 2015 Decision with respect to the matters identified in the September 3 Scheduling Order. On December 4, 2015, the Bankruptcy Court entered the December 2015 Judgment, memorializing the rulings set forth in the November 2015 Decision.

24. For claims asserted by Post-Closing Accident Plaintiffs without the Ignition Switch Defect (like the PI Plaintiffs), the December 2015 Judgment conclusively held as follows:

> plaintiffs whose claims arise in connection with vehicles ***without*** the Ignition Switch Defect . . . ***are not entitled to assert Independent Claims*** against New GM with respect to vehicles manufactured and first sold by Old GM (an "Old GM Vehicle"). To the extent such Plaintiffs have attempted to assert an Independent Claim against New GM in a pre-existing lawsuit with respect to an Old GM Vehicle, ***such claims are proscribed by the Sale Order, April Decision and the Judgment dated June 1, 2015*** [Dkt. No. 13177].

December 2015 Judgment, ¶ 14 (emphasis added).

25. The December 2015 Judgment also specifically found that:

> New GM ***did not contractually assume liability for punitive damages*** from Old GM. Nor is New GM liable for punitive damages based on Old GM conduct under any other theories, such as by operation of law. Therefore, punitive damages may not be premised on Old GM knowledge or conduct, or anything else that took place at Old GM.
>
> A claim for punitive damages with respect to a post-Sale accident ***involving vehicles manufactured by Old GM with the Ignition Switch Defect may be asserted against New GM to the extent—but only to the extent—it relates to an otherwise viable Independent Claim and is based solely on New GM conduct or knowledge*** . . . .

December 2015 Judgment, ¶¶ 6-7 (emphasis added). Accordingly, Post-Closing Accident Plaintiffs without the Ignition Switch Defect cannot assert Independent Claims against New GM (with respect to an Old GM Vehicle), and thus cannot seek or obtain punitive damages for such Claims.

26. As discussed in the Argument section below, the November 2015 Decision and December 2015 Judgment also addressed plaintiffs' ability to assert various claims against New GM, and their ability to make certain allegations against New GM.

27. The December 2015 Judgment further provides that, except as modified by the June 2015 Judgment and April 2015 Decision, the Sale Order and Injunction remained "unmodified and in full force and effect, including, without limitation, paragraph AA of the Sale

Order, which states that, except with respect to Assumed Liabilities, New GM is not liable for the actions or inactions of Old GM." *Id.* ¶ 39.

28. The December 2015 Judgment was appealed but not with respect to the Bankruptcy Court's rulings (i) regarding the inability of Old GM Vehicle Owners without the Ignition Switch Defect to assert Independent Claims, (ii) limiting punitive damages requests, and (iii) regarding improper allegations.[18]

29. Unlike the PI Plaintiffs, as a result of the December 2015 Judgment, Lead Counsel for the plaintiffs in the Multidistrict Litigation ("**MDL**") (who litigated the issues resolved by the December 2015 Judgment in the Bankruptcy Court) amended their complaint in MDL-2543 pending before United States District Judge Furman to remove all Independent Claims relating to Old GM Vehicle Owners without the Ignition Switch Defect. Clearly, Lead Counsel understood the requirements of the December 2015 Judgment, and unlike the PI Plaintiffs, modified their complaint as mandated by the controlling Bankruptcy Court rulings.

C. The PI Lawsuits

30. Each of the PI Lawsuits concerns a post-363 Sale accident involving an Old GM Vehicle that is not subject to the first three ignition switch recalls issued in February/March 2014 by New GM ("**IS Recalls**"). As noted, each of the PI Plaintiffs can assert claims against New GM that fall within the definition of assumed Product Liabilities. However, each of the PI Pleadings also contain allegations, claims and/or punitive damages requests that are barred by the Bankruptcy Court's rulings. Schedule "1" attached hereto sets forth: (i) each PI Plaintiff's names; (ii) the subject vehicle at issue in the PI Lawsuit; (iii) whether the PI Pleading contains allegations that are barred by the Bankruptcy Court's rulings and, if so, which allegations in the

[18] Copies the three statement of issues on appeal with respect to the December 2015 Judgment are contained in the compendium of exhibits, collectively, as **Exhibit "I."**

PI Pleading are barred, with citations to paragraph number(s) in the PI Pleading; (iv) whether the PI Pleading contains claims that are barred by the Bankruptcy Court's rulings and, if so, which claims in the PI Pleading are barred, with citations to paragraph number(s) in the PI Pleading; and (v) whether the PI Plaintiff is seeking punitive damages against New GM.

31. As also noted, in the New GM 2015 Letters, each of the PI Plaintiffs were notified of the proceedings before the November 2015 Decision and the December 2015 Judgment. Certain PI Plaintiffs responded to the New GM 2015 Letters; others did not. Regardless of whether a response was received or not, each of the PI Plaintiffs were served with pleadings filed by New GM in connection with the issues set forth in the September 3 Scheduling Order.[19] Except for the Moore Plaintiffs, none of the PI Plaintiffs filed a pleading in response to the September 3 Scheduling Order or the issues raised therein. Moreover, none of the PI Plaintiffs appeared at the hearing or, as noted, appealed the December 2015 Judgment.

32. The PI Plaintiffs have not complied with the November 2015 Decision or the December 2015 Judgment. In May, 2016, New GM sent each of the PI Plaintiffs another letter ("**New GM 2016 Letters**"), explaining that the PI Pleadings contained certain allegations, claims and/or damage requests that violate the Bankruptcy Court rulings. Despite correspondence and conversations with many of the PI Plaintiffs, and efforts to resolve the issues raised in the New GM 2016 Letters, the PI Pleadings have not been amended to fully comply with the Bankruptcy Court rulings and continue to violate those rulings.

33. The PI Plaintiffs' refusal to comply with the controlling Bankruptcy Court rulings necessitated this Second June 2016 Motion to Enforce.

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[19] Copies of relevant affidavits of service are contained in the compendium of exhibits as **Exhibit "J."**

BASIS FOR RELIEF

34. The PI Plaintiffs do not have the choice of simply ignoring the Bankruptcy Court's Sale Order and Injunction and its multiple rulings addressing its effect on lawsuits filed against New GM. As the Supreme Court held in *Celotex*:

> If respondents believed the Section 105 Injunction was improper, they should have challenged it in the Bankruptcy Court, like other similarly situated bonded judgment creditors have done. . . . Respondents chose not to pursue this course of action, but instead to collaterally attack the Bankruptcy Court's Section 105 Injunction in the federal courts in Texas. This they cannot be permitted to do without seriously undercutting the orderly process of the law.

514 U.S. at 313; *see also In re Motors Liquidation Co*., 513 B.R. 467, 478 (Bankr. S.D.N.Y. 2014) (citing to *Celotex*). These settled principles bind the PI Plaintiffs. They are subject to the Sale Order and Injunction and the Bankruptcy Court's other rulings, and are required to comply with them.

A. The PI Plaintiffs Are Collaterally Estopped From Re-Litigating Issues Previously Decided by the Bankruptcy Court

35. New GM timely served counsel for the PI Plaintiffs with the September 3 Scheduling Order and the Court-approved note (as well as pleadings filed by New GM in connection therewith). The Court-approved note clearly provided that the PI Plaintiffs were required to file any objections to the procedures set forth in the September 3 Scheduling Order. "Otherwise, [they would] ***be bound by the terms of the Scheduling Order and the determinations made pursuant thereto***." September 3 Scheduling Order, at 4 (emphasis added). While the PI Plaintiffs were not ***required*** to participate in the proceedings leading up to the November 2015 Decision and the December 2015 Judgment, they were put on notice that if they did not, they would be bound by the Bankruptcy Court's rulings. *See* September 3 Scheduling Order, at 4.

36. Collateral estoppel applies when the following requirements are met: "(1) the identical issue was raised in a previous proceeding; (2) the issue was actually litigated and decided in the previous proceeding; (3) the part[ies] had a full and fair opportunity to litigate the issue; and (4) the resolution of the issue was necessary to support a valid and final judgment on the merits." *Marvel Characters, Inc. v. Simon*, 310 F.3d 280, 288–89 (2d Cir. 2002). Here, all of the collateral estoppel requirements are met to bind the PI Plaintiffs to the November 2015 Decision and the December 2015 Judgment.

B. <u>The PI Plaintiffs Cannot Assert Independent Claims Against New GM</u>

37. None of the PI Plaintiffs are "Ignition Switch Plaintiffs." The June 2015 Judgment defines the term "Ignition Switch Plaintiffs" as those plaintiffs who assert claims against New GM based on the IS Recalls. *See* June 2015 Judgment, at 1 n.1. Each of the PI Lawsuits relates to a vehicle that is not subject to the IS Recalls, and the alleged issue with the vehicle has nothing to do with the ignition switch identified in the IS Recalls.

38. Under the Bankruptcy Court's rulings, only Ignition Switch Plaintiffs can assert "Independent Claims" against New GM. The Bankruptcy Court defined the term "Independent Claims" as "claims or causes of action ***asserted by Ignition Switch Plaintiffs*** against New GM (whether or not involving Old GM Vehicles) that are based solely on New GM's own, independent, post-Closing acts or conduct." June 2015 Judgment, ¶ 4 (emphasis added).

39. The December 2015 Judgment also makes clear that Post-Closing Accident Plaintiffs without the Ignition Switch Defect—like the PI Plaintiffs—cannot assert Independent Claims against New GM. *See* December 2015 Judgment, ¶ 14. Accordingly, the PI Plaintiffs are prohibited from asserting (except for Assumed Liabilities) any claims against New GM, including Independent Claims.

C. "Duty to Warn" Claims Asserted As Independent Claims Are Barred By the December 2015 Judgment

40. The November 2015 Decision and December 2015 Judgment also addressed a plaintiff's ability to assert a "duty to warn" claim against New GM, finding that in a case brought by a Post-Closing Accident Plaintiff without the Ignition Switch Defect, a duty to warn claim could only be brought as an Assumed Liability (assuming such claim is viable under applicable non-bankruptcy law), but not as an Independent Claim, because Independent Claims can only be brought by Ignition Switch Plaintiffs. *See Motors Liquidation Co.*, 541 B.R. at 128-29; December 2015 Judgment, ¶ 20. The PI Plaintiffs that appear to assert duty to warn claims as Independent Claims are: (i) Barbot, (ii) Black, (iii) Boker, (iv) Minard, (v) J.W. Moore, (vi) J.R. Moore, and (vii) Pitterman. Their PI Pleadings should be amended accordingly to remove any such claims.

D. Fraud-Based Claims and Claims Based on Violations Of Consumer Protection Acts Are Not Assumed Liabilities

41. Paragraph 19 of the December 2015 Judgment holds as follows:

> Claims with respect to Old GM Vehicles that are based on fraud (including, but not limited to, actual fraud, constructive fraud, fraudulent concealment, fraudulent misrepresentation, or negligent misrepresentation) or consumer protection statutes are not included within the definition of Product Liabilities, and therefore do not constitute Assumed Liabilities, because (a) they are not for "death" or "personal injury", and their nexus to any death or personal injury that might thereafter follow is too tangential, and (b) they are not "caused by motor vehicles."

42. Accordingly, the Bankruptcy Court expressly ruled that fraud-based claims and consumer protection act claims are not included within assumed Product Liabilities, and therefore are not Assumed Liabilities that can be asserted against New GM; only Ignition Switch Plaintiffs can assert such claims against New GM as Independent Claims.

43. The Pope Plaintiffs have asserted a consumer protection act claim against New GM. Their PI Pleading should be amended accordingly.

E. Claims Based On A Failure To Recall Or Retrofit a Vehicle, Are Not Assumed Liabilities

44. The December 2015 Judgment also found that claims based on a failure to recall or retrofit an Old GM vehicle are not Assumed Liabilities. *See* December 2015 Judgment, ¶ 21 ("A duty to recall or retrofit is not an Assumed Liability, and New GM is not responsible for any failures of Old GM to do so."); *see also id.* ¶ 29 (same). The PI Plaintiffs asserting barred claims based on a failure to recall or retrofit an Old GM vehicle are: (i) Black, (ii) Boker, (iii) J.W. Moore, (iv) J.R. Moore, and (v) Pitterman. Their PI Pleadings should be amended accordingly.

45. With respect to the Moore Plaintiffs, the December 2015 Judgment referred to the Moore Lawsuit as an example of a failure to recall or retrofit a vehicle claim and proceeded to find that this claim was not an Assumed Liability, and that the only plaintiffs that could assert such a claim as an Independent Claim was Ignition Switch Plaintiffs. Paragraph 30 of the December 2015 Judgment holds as follows:

> The Court does not decide whether there is the requisite duty for New GM under nonbankruptcy law for such Old GM Vehicles, ***but allows this claim to be asserted by the Ignition Switch Plaintiffs and the Post-Closing Accident Plaintiffs (such as has been asserted by the plaintiff in Moore v. Ross) with the Ignition Switch Defect***, leaving determination of whether there is the requisite duty under nonbankruptcy law to the nonbankruptcy court hearing that action. [Emphasis added]

The language of paragraph 30 is clear that this ***type*** of claim (*i.e.*, a failure to recall or retrofit a vehicle) can only be asserted by "Ignition Switch Plaintiffs" or "Post-Closing Accident Plaintiffs . . . ***with the Ignition Switch Defect.***" (emphasis added). The Moore Plaintiffs are neither and, just like all other Old GM Vehicle Owners without the Ignition Switch Defect, are prohibited from asserting these types of claims against New GM.

F. Claims Based On A Failure to Identify Defects Are Not Assumed Liabilities

46. The December 2015 Judgment further found that "[o]bligations, if any, that New GM had to identify or respond to defects in previously sold Old GM Vehicles were not Assumed Liabilities, and New GM is not responsible for any failures of Old GM to do so." December 2015 Judgment, ¶ 31. The Boker Plaintiff and Pope Plaintiffs are asserting barred claims based on a failure to identify defects. Their PI Pleadings should be amended accordingly to remove any such claims.

G. The PI Plaintiffs Cannot Seek Punitive Damages Against New GM

1. As PI Plaintiffs Cannot Assert Independent Claims Against New GM, They Cannot Seek Punitive Damages Against New GM on Such Claims

47. Under the December 2015 Judgment, punitive damages against New GM arising from an Old GM vehicle can only be sought in connection with an Independent Claim, not an Assumed Liability. As demonstrated above, the PI Plaintiffs cannot assert Independent Claims against New GM, and thus any request for punitive damages necessarily fails.

48. Before entering the December 2015 Judgment, the Bankruptcy Court asked the parties to meet and confer on a proposed form of judgment, or, if one could not be agreed upon, to submit a proposed form of judgment with a letter brief. In New GM's letter brief [Dkt. No. 13559] ("**New GM Judgment Letter Brief**"),[20] New GM noted that plaintiffs had taken the position that assumed Product Liabilities could result in categories of damages other than compensatory damages, as long as they were not punitive damages. New GM pointed out that this was contrary to the November 2015 Decision. *See* New GM Judgment Letter Brief, at 3-4. Importantly, New GM also argued that

[20] A copy of the New GM Judgment Letter Brief is contained in the compendium of exhibits as **Exhibit "K."**

> Under the Sale Agreement, June Judgment, and November Decision, there are only three categories of claims that can be asserted with respect to Old GM Vehicles: (a) Assumed Liabilities; (b) Retained Liabilities; and (c) Independent Claims. The November Decision is clear that there can be no punitive damages imposed against New GM for either Assumed Liabilities (specifically, Product Liabilities) or, necessarily, Retained Liabilities. ***Thus, the only category of claim where punitive damages could be asserted against New GM for an Old GM Vehicle is an "Independent Claim." And, the only plaintiffs that can bring an Independent Claim against New GM with respect to an Old GM Vehicle based on the Sale Order, as modified by the June Judgment, are (i) owners of vehicles with the Ignition Switch Defect bringing economic loss claims (i.e., the Ignition Switch Plaintiffs) and (ii) Post-Closing Accident Plaintiffs who owned a vehicle with the Ignition Switch Defect.***

New GM Judgment Letter Brief, at 4 (emphasis added). The Bankruptcy Court agreed with New GM, and included paragraphs 6 and 7 in the December 2015 Judgment.[21] Accordingly, it is clear that, with respect to lawsuits based on accidents involving Old GM vehicles, only Ignition Switch Plaintiffs can assert Independent Claims, and punitive damages can only be sought against New GM in connection with Independent Claims. As a result, PI Plaintiffs cannot assert Independent Claims against New GM (with respect to an Old GM Vehicle), nor can they seek to obtain punitive damages for such Claims. *See* December 2015 Judgment, ¶¶ 7, 14.

2. PI Plaintiffs Cannot Seek Punitive Damages Against New GM In Connection With Assumed Liabilities

49. The PI Plaintiffs' claims that are Assumed Liabilities also cannot form the basis for punitive damages against New GM. The Bankruptcy Court conclusively ruled that New GM did not assume punitive damages relating to Product Liabilities (as defined in the Sale

[21] The November 2015 Decision, at times, did not always include precise language. For example, the November 2015 Decision stated that "[f]or the reasons just discussed, New GM did not assume Product Liabilities Claims." *Motors Liquidation Co.*, 541 B.R. at 122. New GM ***did*** assume Product Liabilities; it ***did not*** assume punitive damages sought in connection with assumed Product Liabilities. The imprecise language sometimes used in the November 2015 Judgment was pointed out by the parties in the letter briefs filed in connection with the proposed judgment. Hence, the December 2015 Judgment addresses these issues and contains the final rulings by the Bankruptcy Court and is controlling.

Agreement). *See* December 2015 Judgment, ¶ 6.[22] Moreover, paragraph 7 of the December 2015 Judgment provides that only Ignition Switch Plaintiffs can assert Independent Claims and thus, they are the only plaintiffs that can seek punitive damages against New GM due to Independent Claims.

50. Accordingly, based on the Bankruptcy Court's explicit rulings in the November 2015 Decision and December 2015 Judgment, New GM did not assume punitive damages in connection with Product Liabilities, and the PI Plaintiffs are prohibited from seeking punitive damages from New GM in connection with any of their claims.

H. The PI Pleadings Contain Allegations That <u>Are Expressly Barred by the December 2015 Judgment</u>

51. In the November 2015 Judgment, the Bankruptcy Court found that "New GM notes, properly, that th[e Recall Covenant contained in Section 6.15(a) of the Sale Agreement] was not an Assumed Liability, and that vehicle owners were not third party beneficiaries of the Sale Agreement." *Motors Liquidation Co.*, 541 B.R. at 130 n.67. Allegations (or claims) in PI Pleadings that assert New GM assumed liabilities to Old GM Vehicle Owners associated with the Recall Covenant are, thus, barred. As set forth in Schedule "1" attached hereto, this arises in connection with the Barbot Lawsuit.

52. Moreover, in the December 2015 Judgment, the Bankruptcy Court expressly set forth other types of allegations plaintiffs cannot assert against New GM. Specifically, plaintiffs

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[22] As more fully discussed in the November 2015 Decision:

> The Post–Closing Accident Plaintiffs first argue that New GM contractually assumed claims for punitive damages. The Court finds that contention unpersuasive. It can't agree with the Post–Closing Accident Plaintiffs' contention that the Sale Agreement unambiguously so provides. And once it looks at the totality of the contractual language, and extrinsic evidence, and employs common sense, it must agree with New GM's contention that New GM neither agreed to, nor did, contractually take on Old GM's punitive damages liability.

Id., 541 B.R. at 117.

are prohibited from making allegations: (i) that New GM is the successor to Old GM (no matter how phrased) (December 2015 Judgment, ¶ 16); (ii) that do not distinguish between Old GM and New GM (*see id.* ¶ 17); and (iii) that allege or suggest that New GM manufactured or designed an Old GM vehicle, or performed other conduct relating to an Old GM vehicle before the entry of the Sale Order and Injunction (*i.e.*, July 10, 2009) (*see id.* ¶ 18). As set forth on Schedule "1" attached hereto, most of the PI Pleadings contain allegations that directly violate these provisions of the December 2015 Judgment. These PI Pleadings must, therefore, be amended. Until appropriately amended, these PI Lawsuits should be stayed pursuant to the express rulings in the December 2015 Judgment. *See* December 2015 Judgment, ¶¶ 16, 17, 18.

NOTICE

53. Notice of this Second June 2016 Motion to Enforce has been provided to counsel for the PI Plaintiffs, and all entities that receive electronic notice from the Court's ECF system. New GM submits that such notice is sufficient and no other or further notice need be provided.

54. Except as noted in footnote 2 hereof, no prior request for the relief sought in this Second June 2016 Motion to Enforce has been made to this or any other Court.

WHEREFORE, New GM respectfully requests that this Court enter an order, substantially in the form contained in the compendium of exhibits as **Exhibit "L,"** granting the relief sought herein, and for such other and further relief as the Court may deem just and proper.

Dated: New York, New York
June 24, 2016

Respectfully submitted,

/s/ Arthur Steinberg

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Attorneys for General Motors LLC

SCHEDULE "1"

CHART OF PI LAWSUIT WITH ALLEGATIONS, CLAIMS AND/OR REQUESTS FOR PUNITIVE DAMAGES THAT VIOLATE THE BANKRUPTCY COURT'S RULINGS[1]

	Plaintiff	**Subject Vehicle**	**Prohibited Allegations[2]**	**Prohibited Claims**	**Prohibited Request for Punitive Damages**
1.	Atanaw[3]	2001 Chevrolet Monte Carlo	Conduct Allegations (*see* Complaint, Second Claim for Relief, ¶¶ II, IV, VIII)	None	Yes

[1] At the time of the filing of the Second June 2016 Motion to Enforce, New GM had reached agreement with various other plaintiffs in connection with the pleadings filed in their lawsuits and amendments to same to comply with the Bankruptcy Court rulings, but such amended pleadings have not yet been finalized and submitted and/or approved by the non-bankruptcy court where such lawsuits are pending. In addition, certain lawsuits were settled or were close to being settled, but settlement documents have not been finalized. New GM reserves the right to supplement this schedule prior to the hearing on the Second June 2016 Motion to Enforce to add those lawsuits where appropriate amendments still have not been filed with the non-bankruptcy courts or settlements have fallen through.

[2] Prohibited allegations that assert New GM is the successor to Old GM (no matter how phrased) are referred to herein as "**Successor Allegations**." Prohibited allegations that merely refer to "GM", "General Motors", "defendants" or similar phrases, and do not distinguish between Old GM and New GM, are referred to herein as "**Vague Entity Allegations**." Prohibited allegations that assert New GM designed, manufactured, tested, marketed and/or distributed a vehicle at issue in a complaint, or performed other conduct relating to that vehicle before the closing of the 363 Sale from Old GM to New GM are referred to herein as "**Conduct Allegations**."

[3] A copy of the Atanaw Complaint is annexed hereto as **Exhibit "A."**

	Plaintiff	Subject Vehicle	Prohibited Allegations[2]	Prohibited Claims	Prohibited Request for Punitive Damages
2.	Barbot[4]	2003 Chevrolet Malibu	Successor Allegations (*see* Petition, ¶¶ 34, 40, 47, 87); Vague Entity Allegations (*see generally* Petition); Conduct Allegations (*see* Petition, ¶¶ 13, 28-33, 38, 39, 48, 53, 54, 63, 88, 112, 115, 116, 119, 121-123, 125-131, 134-143, 145, 147, 150-152, 154-156, 159, 160, 204); Allegations that New GM assumed liabilities associated with the Recall Covenant contained in Section 6.15(a) of the Sale Agreement (*see* Petition, ¶ 11, 45).	Duty to Warn Claim, to the extent it is asserted as an Independent Claim (*see* Petition, ¶¶ 129, 153-169).	Yes
3.	Black[5]	2002 GMC Envoy	Vague Entity Allegations (*see* Complaint, ¶ 20); Conduct Allegations (*see* First Amended Petition, ¶¶ 18, 32, 34, 35, 36, 39, 44-46).	A claim based on an alleged failure to recall the subject vehicle (*see* Complaint, ¶ 45); Duty to Warn Claim, to the extent it is asserted as an Independent Claim (*see* Complaint, ¶ 45).	Yes

[4] A copy of the Barbot Petition is annexed hereto as **Exhibit "B."**

[5] A copy of the Black Complaint is annexed hereto as **Exhibit "C."**

	Plaintiff	**Subject Vehicle**	**Prohibited Allegations[2]**	**Prohibited Claims**	**Prohibited Request for Punitive Damages**
4.	Boker[6]	2002 Oldsmobile Bravada	Successor Allegations (*see* First Amended Petition, ¶ 3); Vague Entity Allegations (*see* First Amended Petition, ¶¶ 3, 5, 6, 9, 10); Conduct Allegations (*see* First Amended Petition, ¶¶ 3, 5, 9, 10, 14, 15, 17, 19-23, 25, 27, 28).	A claim based on an alleged failure to identify defects and/or recall the subject vehicle (*see* First Amended Petition, ¶¶ 19, 21, 27); Duty to Warn Claim, to the extent it is asserted as an Independent Claim (*see* First Amended Petition, ¶¶ 21, 28).	Yes
5.	Minard[7]	2001 Chevrolet Blazer	Vague Entity Allegations (*see* Exemplary Damages Attachment); Conduct Allegations (*see* Exemplary Damages Attachment).[8]	Duty to Warn Claim, to the extent it is asserted as an Independent Claim.[9]	Yes
6.	Minix[10]	2009 Chevrolet Impala	Vague Entity Allegations; Conduct Allegations.	Any claims against New GM other than assumed Product Liabilities.	Yes

[6] A copy of the Boker First Amended Petition is annexed hereto as **Exhibit "D."** While the Boker Plaintiff originally agreed to amend the First Amended Petition to comply with the Bankruptcy Court's rulings, a further amended petition has not been filed as of the filing of the Second June 2016 Motion to Enforce.

[7] A copy of the Minard Complaint is annexed hereto as **Exhibit "E."**

[8] While the Minard Plaintiff has indicated that she will amend the complaint to correct the prohibited allegations, as of the filing of the Second June 2016 Motion to Enforce, an amended complaint has not been received.

[9] While the Minard Complaint does not appear to assert a duty to warn claim based on New GM conduct, the Minard Plaintiff has stated that she intends to pursue such claim against New GM, and to seek punitive damages in connection therewith.

[10] A copy of the Minix Complaint is annexed hereto as **Exhibit "F."** New GM notes that the plaintiff in the Minix Lawsuit has appeared *pro* se. In this regard, New GM gave the Minix Plaintiff additional time to respond to the demand letter, and has subsequently tried to contact the Minix Plaintiff, but has been unsuccessful. New GM hopes to have made greater progress prior to the hearing on the Second June 2016 Motion to Enforce. New GM will provide an update to the Court prior to or at the hearing on the status of the Minx Lawsuit.

	Plaintiff	**Subject Vehicle**	**Prohibited Allegations**[2]	**Prohibited Claims**	**Prohibited Request for Punitive Damages**
7.	Moore, J.R.[11]	1996 GMC Pickup Truck	Conduct Allegations (*see* Fifth Amended Complaint, ¶ 11).	Duty to Warn Claim, to the extent it is asserted as an Independent Claim (*see* Fifth Amended Complaint, ¶ 11); Failure to recall or retrofit the subject vehicle (*see* Fifth Amended Complaint, ¶ 11).	No[12]
8.	Moore, J.W.[13]	1996 GMC Pickup Truck	Conduct Allegations (*see* Fifth Amended Complaint, ¶ 10).	Duty to Warn Claim, to the extent it is asserted as an Independent Claim (*see* Fifth Amended Complaint, ¶ 10). Failure to recall or retrofit the subject vehicle (*see* Fifth Amended Complaint, ¶ 10).	Yes
9.	Neal[14]	2002 Pontiac Grand Am	Conduct Allegations (*see* Complaint, ¶¶ 2, 12, 15, 19, 20, 22, 23, 28, 31).	Claim based on Wantonness (to the extent Plaintiff is seeking punitive damages against New GM).	No (unless Plaintiff is seeking punitive damages through its Wantonness Claim).

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[11] A copy of the J.R. Moore Complaint is annexed hereto as **Exhibit "G."**

[12] The J.R. Moore Fifth Amended Complaint does not presently seek punitive damages against New GM. To the extent the J.R. Moore Plaintiff intends to seek punitive Damages against New GM, she should be prohibited from doing for the reasons set forth in the Second June 2016 Motion to Enforce.

[13] A copy of the J.W. Moore proposed Fifth Amended Complaint is annexed hereto as **Exhibit "H."**

[14] A copy of the Neal Complaint is annexed hereto as **Exhibit "I."**

	Plaintiff	**Subject Vehicle**	**Prohibited Allegations**[2]	**Prohibited Claims**	**Prohibited Request for Punitive Damages**
10.	Pitterman[15]	2004 Chevrolet Suburban	None[16]	Duty to Warn Claim, to the extent it is asserted as an Independent Claim (*see* Amended Complaint, ¶ 26); Failure to recall or retrofit (*see* Amended Complaint, ¶¶ 27, 28)	No[17]
11.	Pope[18]	2001 Cadillac DeVille	Successor Allegations (*see* Petition, ¶ 2); Vague Entity Allegations (*see* Petition, ¶¶ 17-26); Conduct Allegations (*see* Petition, ¶¶ 18).	A claim based on an alleged failure to identify defects (*see* Petition, ¶ 19); A claim based on an alleged violation of a consumer protection statute (*see* Petition, Count II).	Yes

[15] A copy of the Pitterman Amended Complaint is annexed hereto as **Exhibit "J."**

[16] While the Pitterman Amended Complaint originally contained a Successor Allegation, the Pitterman Plaintiff has agreed to further amend the Amended Complaint to correct this allegation. New GM originally objected to a "reckless disregard" allegation in the Amended Complaint, but after discussing the allegation with counsel for the Pitterman Plaintiff, New GM has withdrawn the objection to the "reckless disregard" allegation because, as confirmed by counsel for the Pitterman Plaintiff, it is not being made in an effort to obtain punitive damages against New GM.

[17] The Pitterman Plaintiff has confirmed that he is not seeking punitive damages against New GM.

[18] A copy of the Pope Petition is annexed hereto as **Exhibit "K."**

Exhibit A

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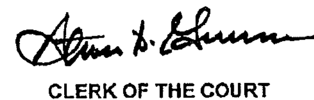

CLERK OF THE COURT

COMP
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844 East Sahara Avenue
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(702) 731-9222/FAX 731-9181
Attorneys for Plaintiff

DISTRICT COURT

CLARK COUNTY, NEVADA

AKLILU ATANAW,

Plaintiff,

vs.

GENERAL MOTORS, LLC d/b/a GENERAL MOTORS COMPANY, LLC; GARY LEE HOSEY, JR. and Does I through V, inclusive,

Defendants.

CASE NO.: A-14-706400-C
DEPT.: XXVII

COMPLAINT

Plaintiff AKLILU ATANAW, by and through his attorneys, Thomas & Springberg, hereby complains and alleges as follows:

FIRST CLAIM FOR RELIEF

I.

That the true names or capacities, whether individual, corporate, associate or otherwise, of the Defendants, DOES I through V, inclusive, are unknown to the Plaintiff who therefore sues said Defendants by such fictitious names. Plaintiff is informed and believes and therefore alleges that each of the Defendants designated herein as DOE is legally responsible in some manner for the events and happenings herein referred to, and legally and proximately caused injury and damages thereby to Plaintiff as herein alleged.

II.

At all times relevant herein, Defendant GENERAL MOTORS, LLC. is and was a limited-

Law Offices Of
THOMAS & SPRINGBERG
A Professional Corporation
844 E. Sahara Avenue
Las Vegas, Nevada 89104-3017

1 liability company organized and existing under the laws of the State of Delaware and is and was doing
2 business as GENERAL MOTORS, LLC and/or GENERAL MOTORS COMPANY, LLC in Clark
3 County, Nevada as the manufacturer, distributer and wholesaler of Chevrolet brand automobiles.
4 III.
5 At all times relevant herein, Defendant GARY LEE HOSEY, JR. is and was resident of Clark
6 County, Nevada.
7 IV.
8 On or about September 13, 2012, Plaintiff AKLILU ATANAW was a passenger in a 2001
9 Chevrolet Monte Carlo driven by Defendant GARY LEE HOSEY, JR. eastbound on Spring Mountain
10 Road in Clark County, Nevada. At said time and place, Defendant GARY LEE HOSEY, JR.
11 negligently failed to control said 2001 Chevrolet Monte Carlo and drove off the roadway striking a
12 number of objects including, but not limited to, a concrete retaining wall, a metal pole and a bus bench
13 structure, thereby causing Plaintiff AKLILU ATANAW to suffer the injuries and damages set forth
14 below.
15 V.
16 At the aforesaid time and place, and prior thereto, Defendant GARY LEE HOSEY, JR. willfully
17 consumed or used alcohol and/or other intoxicating substance, knowing that he would thereafter
18 operate a motor vehicle in violation of NRS 484.379. As a direct and proximate result of the foregoing,
19 Plaintiff has been caused to sustain the injuries and damages set forth below. Pursuant to NRS 42.010,
20 Plaintiff is entitled to recover punitive damages against said Defendant an amount in excess of Ten
21 Thousand Dollars ($10,000.00).
22 SECOND CLAIM FOR RELIEF
23 I.
24 Plaintiff AKLILU ATANAW repeats, re-alleges and incorporates by reference herein each and
25 every allegation set forth in the First Claim for Relief, as if set forth in full herein.
26 II.
27 Defendant Defendant GENERAL MOTORS, LLC. is and was doing business as GENERAL
28 MOTORS, LLC and/or GENERAL MOTORS COMPANY, LLC, and is and was engaged in the

1 business of the design, manufacture, distribution and wholesaling of Chevrolet brand automobiles
2 including the above-described 2001 Monte Carlo.

3 III.

4 The above-described 2001 Monte Carlo was dangerous and defective in that the front
5 passenger side air bag failed to deploy at the time of the above-described accident.

6 IV.

7 As a direct and proximate result of the dangerous defect in the 2001 Monte Carlo, Plaintiff
8 AKLILU ATANAW did not receive the protection said air bag would have afforded. Prior to the car
9 accident of September 13, 2012 at issue, Defendant GENERAL MOTORS, LLC knew and/or should
10 have known of said dangerous defect in the 2001 Chevrolet Monte Carlo, but took no action to correct
11 the dangerous defect.

12 V.

13 As a direct and proximate result of all the foregoing, Plaintiff AKLILU ATANAW has been
14 caused to suffer serious bodily injury and great pain of mind and body, some or all of which may
15 continue into the future, all to his general damage in excess of Ten Thousand Dollars ($10,000.00).

16 VI.

17 As a direct and proximate result of all the foregoing, Plaintiff AKLILU ATANAW has been
18 caused, and may in the future be caused, to incur medical bills and expend sums of money for medical
19 care and expenses incidental thereto in an amount to be determined at the time of trial.

20 VII.

21 As a direct and proximate result of all the foregoing, Plaintiff AKLILU ATANAW has been
22 caused to suffer a loss of income and/or earning capacity, in an amount to be determined at the time
23 of trial.

24 VIII.

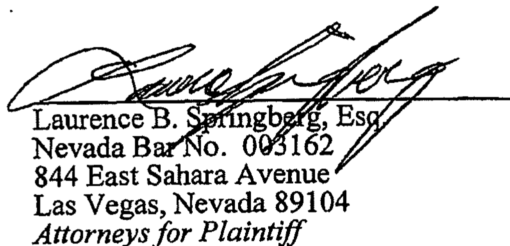
25 The acts and omissions of Defendant GENERAL MOTORS, LLC were reckless, outrageous,
26 oppressive, willful and/or malicious in that said Defendant's conduct was carried on with a conscious
27 disregard for Plaintiff's rights and safety, thereby warranting the assessment of exemplary and punitive
28 damages against said Defendant, in an amount in excess of Ten Thousand Dollars ($10,000.00).

WHEREFORE, Plaintiff AKLILU ATANAW prays for judgment against Defendants, and each of them, as follows:

1. General damages in excess of $10,000.00;
2. Special damages according to proof;
3. Attorneys' fees and costs of suit;
4. Punitive damages in an amount in excess of $10,000; and
5. For such other and further relief as this Court deems just and proper.

DATED this 2nd day of September, 2014.

THOMAS & SPRINGBERG



Laurence B. Springberg, Esq.
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Attorneys for Plaintiff

Exhibit B

FILED
2015 AUG -3 P 4: 29
CIVIL DISTRICT COURT

CIVIL DISTRICT COURT
PARISH OF ORLEANS
STATE OF LOUISIANA

JOSHUA BARBOT and FAITH CHOPP Plaintiffs	)
versus	)
GENERAL MOTORS LLC, And **TRW AUTOMOTIVE HOLDINGS CORP.;** And **TRW AUTOMOTIVE INC.;** And **TRW AUTOMOTIVE U.S. LLC.** And **TRW VEHICLE SAFETY SYSTEMS INC.;** And **DARNELL PETTIES** Defendants.	)

FILED: **CLERK:**

PLAINTIFFS' PETITION FOR DAMAGES

NOW INTO COURT, through undersigned counsel, come Plaintiffs, Joshua Barbot and Faith Chopp, both of whom are a resident and domiciliary of Slidell, St. Tammany Parish, State of Louisiana, who in support of this, their Petition for Damages, aver and state as follows:

PARTIES

1. Plaintiff Joshua Barbot is a Louisiana resident of the full age of majority who resides in Slidell, St. Tammany Parish, State of Louisiana.

2. Plaintiff Faith Chopp is a Louisiana resident of the full age of majority who resides in Slidell, St. Tammany Parish, State of Louisiana.

3. Defendant, General Motors LLC, is a citizen of Delaware and Michigan, and does business in all fifty states, including the State of Louisiana. General Motors LLC's principal place of business is in Detroit, Michigan.

4. Defendant General Motors LLC does business in the State of Louisiana with its principal business establishment in Louisiana being located at 320 Somerulos Street, Baton Rouge, Louisiana, 70802.

5. Defendant General Motors LLC is a limited liability corporation with one member: General Motors Holding, LLC. General Motors Holding, LLC is a citizen of Delaware and Michigan, and is a holding company and direct parent of General Motors LLC. General Motors Holding, LLC is a

limited liability corporation with one member: General Motors Company. General Motors Company is a citizen of Delaware and Michigan and is publicly traded.

6. General Motors Corporation was a Delaware corporation with its headquarters in Detroit, Michigan. General Motors Corporation, through its various entities, designed, manufactured, marketed, distributed, and sold Chevrolet, Pontiac, Impala, and other brand automobiles in Louisiana, elsewhere in the United States, and worldwide.

7. In June of 2009, General Motors Corporation ("Old GM") filed for bankruptcy. On July 9, 2009, the United States Bankruptcy Court approved the sale of substantially all of Old GM's assets pursuant to a Master Sales and Purchase Agreement ("Agreement"). The Agreement became effective on July 10, 2009. The Agreement approved the sale of Old GM to Defendant General Motors LLC (hereinafter "Defendant," "GM," or "New GM").

8. The Agreement defines Defendant's "Purchased Assets" as:

> (xiv) all books, records, ledgers, files, documents, correspondence, lists, plats, specifications, surveys, drawings, advertising and promotional materials (in whatever form or medium), including Tax books and records and Tax Returns used or held for use in connection with the ownership or operation of the Purchased Assets or Assumed Liabilities, including the Purchased Contracts, customer lists, customer information and account records, computer files, data processing records, employment and personnel records, advertising and marketing data and records, credit records, records relating to suppliers, legal records and information and other data;
>
> (xv) all goodwill and other intangible personal property arising in connection with the ownership, license, use or operation of the Purchased Assets or Assumed Liabilities; . . .

AMENDED AND RESTATED MASTER SALE AND PURCHASE AGREEMENT at Section 2.2.

9. Along with the Purchased Assets, GM also expressly took on a range of liabilities. "Liabilities" is defined in the Agreement as "any and all liabilities and obligations of every kind and description whatsoever, whether such liabilities or obligations are known or unknown, disclosed or undisclosed, matured or unmatured, accrued, fixed, absolute, contingent, determined or undeterminable, on or off-balance sheet or otherwise, or due or to become due, including Indebtedness and those arising under any Law, Claim, Order, Contract or otherwise."

10. Among many others, the Liabilities assumed by GM under the Agreement include:

> (vii) (A) all Liabilities arising under express written warranties of Sellers [i.e., old GM] that are specifically identified as warranties and delivered in connection with sale of new, certified used or pre-owned vehicles or new or remanufactured motor vehicle parts and equipment (including service parts, accessories, engines and transmissions) manufactured or sold by Sellers or Purchaser [i.e., new GM] prior to or after the Closing and (B) all obligations under Lemon Laws; . . .
>
> (ix) all Liabilities to third parties for death, personal injury, or other injury to Persons or damage to property caused by motor vehicles designed for operation on public roadways or by the component parts of such motor vehicles and, in each case, manufactured, sold or delivered by Sellers (collectively,

"Product Liabilities"), which arise directly out of accidents, incidents, or other distinct and discreet occurrences that happen on or after the Closing Date and arise from such motor vehicles' operation or performance; . . .[1]

(xi) all Liabilities arising out of, relating to, in respect of, or in connection with the use, ownership or sale of the Purchased Assets after the Closing; . . .

11. GM also assumed responsibility for compliance with a wide range of laws and other regulations, including:

(a) From and after the Closing, Purchaser [Defendant GM] shall comply with the certification, reporting, and recall requirements of the National Traffic and Motor Vehicle Safety Act, the Transportation Recall Enhancement, Accountability and Documentation Act, the Clean Air Act, the California Health and Safety Code and similar Laws, in each case, to the extent applicable in respect of vehicles and vehicle parts manufactured or distributed by Seller [Old GM].

(b) From and after the Closing, Purchaser [Defendant GM] shall be responsible for the administration, management and payment of all Liabilities arising under (i) express written warranties of Sellers [Old GM] . . . (ii) Lemon Laws.

12. Moreover, the Bankruptcy Court order approving the Agreement made clear that Defendant GM assumed "the warranty and recall obligations of both Old GM and [Defendant GM]."

13. Pursuant to the Agreement and other orders of the Bankruptcy Court, Defendant GM emerged out of bankruptcy and continued the business of Old GM with many, if not most, of Old GM's employees and, on information and belief, with most of the same senior-level management, officers, and directors.

14. The allegations pertaining to Old GM above are included for purposes of background and context, and to set forth the scope of Defendant GM's liabilities and responsibilities under the Agreement. This Complaint does not assert any causes of action against Old GM; all causes of action and attributions of liability are directed solely against Defendant General Motors LLC.

15. Defendant, General Motors LLC (herein "GM"), is a Michigan for-profit corporation duly licensed to and actively conducting business in the State of Louisiana at all times relevant to this Complaint. GM's registered agent for process in Louisiana is CORPORATION SERVICE COMPANY, 320 Somerulos Street, Baton Rouge, Louisiana, 70802.

16. Defendant, TRW Automotive Holdings Corp., is a Delaware corporation with its principal place of business at 12001 Tech Center Drive, Livonia, Michigan 48150. TRW Automotive Holdings Corp. is the parent corporation and wholly owns TRW Automotive Inc. and TRW Vehicle Safety Systems Inc. TRW Automotive Holdings Corp. is without a registered agent for service of process in Louisiana.

[1] Pursuant to an order of the bankruptcy court, this particular category of assumed liabilities is "regardless of when the product was purchased."

17. Defendant, TRW Automotive Inc., is a Delaware corporation with its principal place of business also at 12001 Tech Center Drive, Livonia, Michigan 48150. TRW Automotive Inc. is a wholly owned subsidiary of TRW Automotive Holdings Corp. TRW Automotive Inc. is without a registered agent for service of process in Louisiana.

18. Defendant, TRW Automotive U.S. LLC, is a Delaware corporation with its principal place of business at 12001 Tech Center Drive, #3N, Livonia, MI 48150. TRW Automotive U.S. LLC is a wholly owned subsidiary of TRW Automotive Holdings Corp. TRW Automotive U.S. LLC is without a registered agent for service of process in Louisiana.

19. Defendant, TRW Vehicle Safety Systems Inc., is a Delaware corporation with its principal place of business at 4505 West 26 Mile Road, Washington, MI 48094. TRW Vehicle Safety Systems Inc. is without a registered agent for service of process in Louisiana.

20. Hereafter the various TRW entities may be referred to collectively and/or individually as the "TRW Defendants."

21. Defendant Darnell Petties, is a resident of Orleans Parish, State of Louisiana, residing at 8241 Curran Boulevard, New Orleans, Louisiana, 70126.

TYPE OF ACTION

22. This action arises out of Plaintiff, Joshua Barbot suffering extensive and severe physical and mental injuries when the vehicle he was driving, namely a 2003 Chevrolet Malibu (VIN 1G1ND52J23M541375) (the "Malibu" or "Defective Vehicle"), owned by Plaintiff, Faith Chopp, was struck by Defendant Petties and also malfunctioned, on August 4, 2014, resulting in a six (6) vehicle collision, including.

a) Pain and suffering, both physical and mental/emotional: past, present and future;

b) Bodily disability: past, present and future;

c) Loss of use/function of parts of body: past, present and future;

d) Impairment of psychological functioning: past, present and future;

e) Loss of enjoyment of life: past, present and future;

f) Medical expenses: past, present and future;

g) Lost wages: past, present and future;

h) Disability from working to earn an income: past, present and future;

i) Destruction of earning capacity: past, present and future;

j) Disability from engaging in recreation: past, present and future;

k) All other damage which shall be proven at trial.

23. This action also arises out of Plaintiff, Faith Chopp's, damages resulting from the physical damage to, and malfunctioning of, the Malibu, which include:

a. Property damages;

b. Rental car expenses;

c. Deductible; and,

d. All other damage which shall be proven at trial.

Defective Seatbelts

24. The seat belt used for driver's seating position in the Malibu was defective and unreasonably dangerous because of the propensity and/or tendency for the buckle's components to separate or otherwise fail during a reasonably foreseeable crash.

25. As a result of the failure of the driver's seating position's seat belt buckle's components failing and/or separating during the incident, Plaintiff Joshua Barbot sustained permanent and severe injuries.

26. Plaintiff Joshua Barbot's damages and permanent injuries could have been prevented if a properly designed and manufactured seat belt had been utilized for the driver's seating position in the Malibu.

27. Plaintiff Faith Chopp's damages could have been prevented if a properly designed and manufactured seat belt had been utilized for the driver's seating position in the Malibu.

Ignition Switch Defects

28. Since 2003, GM has sold millions of vehicles throughout the United States and worldwide that have a safety defect in which the vehicle's ignition switch can unintentionally move from the "run" position to the "accessory" or "off" position, resulting in a loss of power, vehicle speed control, and braking, as well as a failure of the vehicle's airbags to deploy.

29. GM began installing these ignition switch systems in models from 2003 through at least 2011 and possibly later. GM promised that these new systems would operate safely and reliably. This promise turned out to be false in several material respects. In reality, GM concealed and did not fix a serious quality and safety problem plaguing its vehicles.

30. On information and belief, from 2003 to the present, GM received reports of crashes and injuries that put GM on notice of the serious safety issues presented by its ignition switch system.

31. Despite notice of the defect in its vehicles, GM did not disclose to consumers that its vehicle – which GM for years had advertised as "safe" and "reliable" – were in fact not as safe or reliable.

32. GM's CEO, Mary Barra has admitted in a video message that: "Something went wrong with our process in this instance, and terrible things happened."

33. This case arises, in part, from GM's breach of its obligations and duties, including GM's failure to disclose that, as a result of defective ignition switch design, at least 1.4 million GM vehicles had the propensity to shut down during normal driving conditions and created an extreme and unreasonable risk of accident, serious bodily harm, and death.

34. GM's predecessor, General Motors Corporation ("Old GM") also violated these rules by designing and marketing vehicles with defective ignition switches, and then by failing to disclose that defect even after it became aware that the ignition switch defect was causing fatal accidents. In addition to the liability arising out of the statutory obligations assumed by GM, GM also has successor liability for the deceptive and unfair acts and omissions of Old GM because GM has continued the business enterprise of Old GM with full knowledge of the ignition switch defects.

35. The Defective Vehicle, including the subject Malibu, are defective and dangerous for multiple reasons, including the following (collectively, the "ignition switch defects"):

a. The ignition switches can inadvertently shut off the engine and vehicle electrical system during normal driving conditions;

b. When the engine and the electrical system shut down, the power steering and power brakes also shut down, creating a serious risk of accident;

c. When the electrical system shuts down, the vehicle's airbags are disabled, creating a serious risk of serious bodily harm or death if an accident occurs.

36. The ignition switch defects make the Defective Vehicle, including the subject Malibu, unreasonably dangerous. Because of the defects, the Defective Vehicle, including the subject Malibu, are likely to be involved in accidents, and, if accidents occur, there is an unreasonable and extreme risk of serious bodily harm or death to the vehicle's occupants.

37. The ignition switch defects present a significant and unreasonable safety risk exposing Defective Vehicle owners and their passengers to a risk of serious injury or death.

38. For many years, GM has known of the ignition switch defects that exist in millions of Defective Vehicle, including the subject Malibu, sold in the United State. But, to protect its profits and maximize sales, GM concealed the defects and their tragic consequences and allowed unsuspecting

vehicle owners to continue driving highly dangerous vehicles.

39. Plaintiffs have been damaged by GM's misrepresentations, concealment and non-disclosure of the ignition switch defects in the Defective Vehicle, including the subject Malibu, which is now a highly dangerous vehicle whose value has greatly diminished because of GM's failure to timely disclose the serious defect.

40. Plaintiffs were also damaged by the acts and omissions of Old GM for which GM is liable through successor liability because the Defective Vehicle, including the subject Malibu purchased by Plaintiff Faith Chopp are worth less than they would have been without the ignition switch defects.

41. Plaintiff Faith Chopp also paid more for the Defective Vehicle than she would have had she known of the ignition defects or she would not have purchased theDefective Vehicle at all.

42. Plaintiff Joshua Barbot's damages and permanent injuries could have been prevented if a proper ignition switch had been utilized in the Malibu.

43. Plaintiff Faith Chopp's damages could have been prevented if a proper ignition switch had been utilized in the Malibu.

44. Defendant General Motors LLC ("GM") is a foreign limited liability company formed under the laws of Delaware and is a resident of the State of Michigan with its principal place of business located at 300 Renaissance Center, Detroit, Michigan. GM was incorporated in 2009 and on July 10, 2009 acquired substantially all assets and assumed certain liabilities of General Motors Corporation ("Old GM.") through a Section 363 sale under Chapter 11 of the U.S. Bankruptcy Code.

45. Among the liabilities and obligations expressly retained by GM after the bankruptcy are the following:

> From and after the Closing, Purchaser [GM] shall comply with the certification, reporting and recall requirements of the National Traffic and Motor Vehicle Act, the Transportation Recall Enhancement, Accountability and Documentation Act, the Clean Air Act, the California Health and Safety Code, and similar laws, in each case, to the extent applicable in respect of vehicles and vehicle parts manufactured or distributed by [Old GM].

46. GM also expressly assumed:

> All Liabilities arising under express written warranties of [Old GM] that are specifically identified as warranties and delivered in connection with the sale of new, certified used or pre-owned vehicles or new or remanufactured motor vehicle parts and equipment (including service parts, accessories, engines and transmissions) manufactured or sold by [Old GM] or Purchaser prior to or after the Closing and (B) all obligations under Lemon Laws.

47. Because GM Acquired and operated Old GM and ran it as a continuing business

enterprise, and because GM was aware from its inception of the ignition switch defects in the Defective Vehicle, GM is liable through successor liability for the deceptive and unfair acts and omissions of Old GM, as alleged in this Complaint.

48. Given the importance that a vehicle and its electrical operating systems remain operational during ordinary driving conditions, it is imperative that a vehicle manufacturer ensure that its vehicles remain operational from the time the driver starts the vehicle until the driver intentionally shuts down the vehicle. With respect to the Defective Vehicle, GM has failed to do so.

49. In the Defective Vehicle, the ignition switch defects can cause the car's engine and electrical system to shut off, disabling the power steering and power brakes and causing non-deployment of the vehicle's airbags in the event of a crash.

50. The Defective Vehicle are, therefore, unreasonably prone to be involved in accidents, and those accidents are unreasonably likely to result in serious bodily harm or death to the drivers and passengers of the Defective Vehicle, as well as other vehicle operators and pedestrians.

<u>GM Knew of the Ignition Switch Defects for Years, but Concealed the Defects</u>

51. Alarmingly, both Old GM and GM knew of the deadly ignition switch defectsand their dangerous consequences for many years, but concealed their knowledge from Defective Vehicle owners.

52. For example, on July 29, 2005, Amber Marie Rose, age 16, died after her 2005 Chevrolet Cobalt crashed and the airbag failed to deploy. Ms. Rose's death was the first of the hundreds deaths and injuries attributable to the ignition switch defects. Ms. Rose's death was an early warning in what would become a decade-long failure by Old GM and GM to address the ignition switch problems.

53. Another incident involved sixteen year-old Megan Phillips. Ms. Phillips was driving a 2005 Chevrolet Cobalt that crashed in Wisconsin in 2006, killing two of her teenage friends when the car left the road and hit a clump of trees. NHTSA investigators found that the key had moved from the "run" to the "accessory" position, turning off the engine and disabling the vehicle's airbags before impact. According to Ms. Phillips, the families of her deceased friends blamed her and refused to speak with her; only after the recall was finally announced did they began communicating. As she stated, "I don't understand why [GM] would wait 10 years to say something. And I want to understand it but I never will."

54. Rather than publicly admitting the dangerous safety defects in its vehicles, GM attempted

to attribute these and other incidents to "driver error." Every year from 2005 to 2012, first Old GM and then GM received reports of deaths in Cobalts involving steering and/or airbag failures, including:

2005: 26 Cobalt Death and Injury Incidents, including I death citing Airbag as component involved.

2006: 69 Cobalt Death and Injury Incidents, including 2 deaths citing Airbag as component involved and 4 deaths citing Unknown component.

2007: 87 Cobalt Death and Injury Incidents, including 3 deaths citing Airbag as component involved.

2008: 106 Cobalt Death and Injury Incidents, including 1 death citing Airbag as component involved and 2 deaths citing Unknown component.

2009: 133 Cobalt Death and Injury Incidents, including 1 death citing Airbag as component involved, 1 death citing Service Brake as component involved, 1 death citing Steering as component involved, and 2 deaths citing Unknown component.

2010: 400 Cobalt Death and Injury Incidents, including 2 deaths citing Airbag as component involved, 12 deaths citing steering as component involved, and 1 death citing Unknown component.

2011: 187 Cobalt Death and Injury Incidents, including 2 deaths citing Airbag as component involved, 2 deaths citing Steering as component involved, and 1 Unknown component.

2012: 157 Cobalt Death and Injury Incidents, including 5 deaths citing Airbag as component involved, and 4 deaths citing Steering as component involved.

55. GM now admits that Old GM learned of the ignition switch defects as early as 2001. During the pre-production development of the Saturn Ion, Old GM engineers learned that the ignition could inadvertently move from the "Run" position to the "Accessory" or "Off' position. Old GM claimed that a switch design change "had resolved the problem."

56. 2003, an internal report documented an instance in which the service technician observed a stall while driving. The service technician noted that the weight of several keys on the key ring had worn out the ignition switch. It was replaced and the matter was closed.

57. Old GM opened an engineering inquiry, known as a "Problem Resolution Tracking System inquiry" ("PRTS"), to investigate the issue. According to the chronology provided to NHTSA by GM, engineers pinpointed the problem and were "able to replicate this phenomenon during test drives."

58. According to GM, the PRTS engineers "believed that low key cylinder torque effort was an issue and considered a number of potential solutions." But after considering cost and the amount of time it would take to develop a fix, Old GM did nothing.

59. As soon the 2005 Cobalt hit the market, Old GM almost immediately started getting complaints about sudden loss of power incidents, "including instances in which the key moved out of the 'run' position when a driver inadvertently contacted the key or steering column."

60. Rather than disclosing the true nature of the defects and correcting them, Old GM gave customers who brought in their vehicle complaining about the issue "an insert for the key ring so that it goes from a 'slot' design to a hole design" to prevent the key ring from moving up and down in the slot. "[T]he previous key ring" was "replaced with a smaller" one; this change was supposedly able to keep the keys from hanging as low as they had in the past. According to GM's records, Old GM dealers provided key inserts to 474 customers who brought their vehicles into dealers for service. Yet there was no recall. And, not surprisingly, Old GM continued to get complaints.

61. In 2006, Old GM approved a design change for the Cobalt's ignition switch supplied by Delphi. The new design included "the use of a new detent plunger and spring that increased torque force in the ignition switch, but the new design was not produced until the 2007 model year.

62. As alleged above, the airbags in Ms. Rose's 2005 Cobalt did not deploy. Data retrieved from her vehicle's diagnostic system indicated that the ignition was in the "accessory" position. Old GM investigated and tracked similar incidents.

63. For the next six years, GM continued to get complaints and continued to investigate frontal crashes in which the airbags did not deploy.

64. In 2014, after numerous assessments and facing increasing scrutiny of its conduct and the defects in its vehicles, GM finally announced a recall for the Cobalt and GS vehicles.

65. After analysis by GM's Field Performance Review Committee and the Executive Action Decision Committee ("EFADC"), the EFADC finally ordered a recall of *some* of the Defective Vehicle on January 31, 2014.

66. According to GM, "the dealers are to replace the ignition switch," presumably with one with sufficient torque to prevent the inadvertent shut down of the ignition, power steering, power brakes, and airbags.

67. In a video message addressed to GM employees on March 17, 2014, C.E.O. Mary Barra admitted that the Company had made mistakes and needed to change its processes.

68. According to Ms. Barra, "Something went terribly wrong in our processes in this

instance, and terrible things happened." Barra continued to promise, "We will be better because of this tragic situation if we seize this opportunity."

69. GM now faces an investigation by NHTSA, hearings in both the U.S. House and Senate, and a probe by the Department of Justice.

70. On information and belief, in marketing and advertising materials, Old GM consistently promoted the Defective Vehicle as safe and reliable.

71. For example, one Cobalt ad promised that "Side curtain airbags coupled with OnStar makes every journey the safest possible to assure that you and your occupants will stay safe at all times."

72. An ad for the 2006 Solstice promises that the vehicle "[b]rings power and defines performance."

73. A 2003 television spot for the Saturn vehicle closed with the tagline "Specifically engineered for whatever is next." Another 2003 spot closed with the tagline "Saturn. People first."

74. A 2001 print ad touting the launch of the Saturn focused on safety:

> Need is where you begin. In cars, it's about things like reliability, durability and, of course, safety. That's where we started when developing our new line of cars. And it wasn't until we were satisfied that we added things....

75. Old GM made these representations to boost vehicle sales and maximize profits while knowing that the ignition switches in the Defective Vehicle were defective.

76. Throughout the relevant period, Old GM possessed vastly superior knowledge and information to that of consumers – if not exclusive information – about the design and :function of the ignition switches in the Defective Vehicle and the existence of the defects in those vehicles.

77. Old GM never informed consumers about the ignition switch defects.

78. The ignition switch defects have caused damage to Plaintiffs

79. A vehicle purchased, leased or retained with a serious safety defect is worth less than the equivalent vehicle leased, purchased or retained without the defect. Additionally as set forth herein Plaintiffs and their Decedents have sustained personal injury and death upon information and belief as a result of the allegations contained herein.

80. A vehicle purchased, leased or retained under the reasonable assumption that it is safe is worth more than a vehicle known to be subject to the unreasonable risk of catastrophic accident because of the ignition switch defects.

81. Purchasers and lessees paid more for the Defective Vehicle, through a higher purchase price or higher lease payments, than they would have had the ignition switch defects been disclosed. Plaintiffs overpaid for their Defective Vehicle because of the concealed ignition switch defects. Plaintiffs did not receive the benefit of the bargain.

82. Plaintiffs are stuck with unsafe vehicles that are now worth less than they would have been but for GM's failure to disclose the ignition switch defects.

83. GM admits to at least twelve deaths resulting from accidents linked to the ignition switch defects in the Defective Vehicle. However, Plaintiffs believethat the actual number is much higher, and that there may have been hundreds of deaths and injuries attributable to the ignitions switch defects.

84. IfOld GM or GM had timely disclosed the ignition switch defects vehicles would now be worth more.

Allegations of Successor Liability

85. As discussed above, GM is liable for its non-disclosure of the ignition switch defects from the date of its formation on July 10, 2009.

86. GM also expressly assumed liability for Lemon Law claims in the Master Sale and Purchase Agreement of June 26, 2009.

87. GM has successor liability for Old GM's acts and omissions in the marketing and sale of the Defective Vehicle because it has continued the business enterprise of Old GM, for the following reasons:

- GM admits that it knew of the ignition system defects from the very date of its formation;
- GM has continued in the business of designing, manufacturing, and marketing vehicles, including at least some of the same vehicles as Old GM;
- GM retained the bulk of the employees of Old GM;
- GM acquired owned and leased real property of Old GM, including all machinery, equipment, tools, information technology, product inventory, and intellectual property;
- GM acquired the contracts, books, and records of Old GM; and
- GM acquired all goodwill and other intangible personal property of Old DGM.

Tolling Of The Prescriptive Period

88. All applicable prescriptive periods and/or statutes of limitation have been tolled by GM's knowing and active fraudulent concealment and denial of the facts alleged herein. Plaintiffs did not discover, and did not know of facts that would have caused a reasonable person to suspect,

that Old GM and GM did not report information within their knowledge to federal authorities (NHTSA) or consumers, nor would a reasonable and diligent investigation have disclosed that Old GM and GM had information in their possession about the existence and dangerousness of the defect and opted to conceal that information.

89. Indeed, Old GM instructed its service shops to provide Defective Vehicle owners with a new key ring if they complained about unintended shut down, rather than admit what Old GM knew – that the ignition switches were dangerously defective and warranted replacement with a properly designed and built ignition system.

90. Old GM and GM were, and GM remains, under a continuing duty to disclose to NHTSA and Plaintiffs the true character, quality, and nature of the Defective Vehicle; that this defect is based on dangerous, inadequate, and defective design and/or substandard materials; and that it will require repair; poses a severe safety concern, and diminishes the value of the Defective Vehicle.

91. Because of the active concealment by Old GM and GM, any and all limitations periods otherwise applicable to Plaintiffs claims have been tolled.

92. The Defective Vehicle include at least the following models: Chevrolet Cobalts (2003-10 model years); Pontiac *GS* (2007-10 model years); Saturn Ions (2003-07 model years); Chevrolet HHR (2006-11 model years); Pontiac Solstice (2006-10 model years); and Saturn Sky (2007-10 model years).

93. The harm and defects foisted upon Plaintiffs include:

- the Defective Vehicle suffer from ignition switch defects;
- Old GM and GM concealed the defects;
- Old GM and GM misrepresented that the Defective Vehicle were safe;
- Old GM and GM engaged in fraudulent concealment;
- Old GM and GM engaged in unfair, deceptive, unlawful and/or fraudulent acts or practices in trade or commerce by failing to disclose that the Defective Vehicle were designed, manufactured, and sold with defective ignition switches;
- The alleged conduct by GM violated laws as Plaintiffs allege;
- Old GM's and GM's unlawful, unfair and/or deceptive practices harmed Plaintiffs;
- To what extent, GM has successor liability for the acts and omissions of Old GM.

JURISDICTION

94. This Court is alleged to have jurisdiction over General Motors LLC because its registered agent will be served with civil process within the State of Louisiana. Furthermore, GM has substantial and continuing contacts with the State of Louisiana sufficient for this Court to exercise general personal jurisdiction over GM, because, among other things, (a) GM regularly sells its vehicles in Louisiana, (b) GM has sales/leasing facilities in Louisiana, (c) GM maintains business relationships with automobile

dealers in Louisiana, (d) GM regularly advertises its products in Louisiana, (e) GM services its vehicles in Louisiana, (f) GM finances the purchase of its vehicles in Louisiana, (g) GM maintains business offices in Louisiana, (h) GM transports its vehicles on Louisiana highways, and (i) GM has a registered agent in Louisiana. Additionally, Plaintiffs' claims arise out of GM's contacts with the State of Louisiana. In particular, GM's commission of tortious acts in Louisiana, GM's making a contract in Louisiana, and its transaction of business in Louisiana gave rise to Plaintiffs' claims.

95. This Court is alleged to have jurisdiction over TRW Vehicle Safety Systems Inc. ("TRW VSSI") because, on information and belief, TRW VSSI has substantial and continuing contacts with the State of Louisiana sufficient for this Court to exercise general personal jurisdiction over it, because, among other things, (a) TRW VSSI regularly sells its seat belt products in Louisiana or to entities that sell products with TRW VSSI's seat belts in Louisiana, (b) TRW VSSI regularly advertises its seat belt products in Louisiana, and (c) TRW VSSI distributes its seat belt products in Louisiana. Additionally, Plaintiffs' claims arise out of TRW VSSI's contacts with the State of Louisiana. In particular, TRW VSSI's commission of tortious acts/omissions in Louisiana and its transaction of business in Louisiana gave rise to Plaintiffs' claims.

96. This Court is alleged to have Court has jurisdiction over TRW Automotive Inc., TRW Automotive U.S. LLC and TRW Automotive Holdings Corp. because each has substantial and continuing contacts with the State of Louisiana sufficient for this Court to exercise general personal jurisdiction over it, because, on information and belief, among other things, (a) they regularly sell products in Louisiana, (b) they regularly advertise their products in Louisiana, and (c) they distribute their products in Louisiana Additionally, Plaintiffs' claims arise out of their contacts with the State of Louisiana. In particular, the commission of tortious acts/omissions by TRW Automotive Inc., TRW Automotive U.S. LLC and TRW Automotive Holdings Corp. in Louisiana and their transaction of business in Louisiana gave rise to Plaintiffs' claims.

97. This Court is alleged to have jurisdiction over Darnell Petties because he is a resident of the State of Louisiana and he can be served with civil process within the State of Louisiana.

VENUE

98. Venue is alleged to be proper in this Court pursuant to La. C Civ. Proc. Arts. 74 and 76, because the occurrence that is the subject of this petition took place in Orleans Parish, Louisiana.

GENERAL ALLEGATIONS

99. On August 4, 2014, at approximately 10:45 p.m., Joshua Barbot was driving the Malibu

eastbound on Interstate 10 near mile-post 244 in Orleans Parish, Louisiana.

100. At the same time and in the same general vicinity, Darnell Petties was driving a 2011 Chevrolet Impala (VIN 2G1WG5EK5B1275439) (the "Impala").

101. Darnell Petties drove the Impala behind the Malibu and followed the Malibu too closely.

102. On information and belief, the Malibu was impacted by as many as three vehicles, including the Impala, after which it, the Malibu, came to rest on the right shoulder of I-10

103. Plaintiff Joshua Barbot was driving the Malibu at the time of the accident.

104. Plaintiff Joshua Barbot was wearing his seat belt before the Malibu left the roadway; however, the seat belt malfunctioned and its housing cracked.

105. Plaintiff Joshua Barbot was damage and injured because the seat belt he was wearing broke.

106. Plaintiff Joshua Barbot was also damage and injured because the ignition switch in the Malibu was defective.

107. Plaintiff Faith Chopp was also damaged because the seat belt Barbot was wearing broke and/or because the ignition switch was defective.

108. The Malibu's driver's side seat belt and its ignition switch were both defective and unreasonably dangerous at the time they left Defendant GM's control.

109. The Malibu's driver's side seat belt was defective and unreasonably dangerous at the time it left TRW's control.

110. The Malibu's driver's side seat belt was in the same or substantially the same condition as it was when it left Defendant GM's control.

111. The Malibu's driver's side seat belt was in the same or substantially the same condition as it was when it left the TRW Defendants' control.

112. GM selected and installed the ignition switch and also the seat belt system found in the driver's side seat of the Malibu.

113. The TRW Defendants manufactured the seat belt system found in the driver's side seat of the Malibu.

114. The Malibu's driver's side seat belt and also the ignition switch were defective and unreasonably dangerous at the time they left Defendant GM's control.

115. GM sold the Malibu in the course of its business.

116. When GM sold the Malibu with the faulty ignition switch and the seat belt system found

in the driver's side seat, GM knew or should have known the uses for which the ignition switch and seat belt system found in the driver's side seat of the Malibu were purchased.

117. The TRW Defendants sold the seat belt system found in the driver's side seat of the Malibu in the course of its business.

118. When the TRW Defendants sold the seat belt system found in the driver's side seat of the Malibu, the TRW Defendants knew or should have known the uses for which the Malibu and seat belt system found in the driver's side seat of the Malibu were purchased.

119. GM and the TRW Defendants failed to use ordinary care to provide Plaintiffs and the Malibu's other users with an adequate warning of the dangers associated with the faulty ignition switch and also the driver's side seat belt system in the Malibu, namely, that the ignition switch was defective and prone to turning off the vehicle and disabling its safety features without warning or proper justification, and also that seat belts buckle's components had the propensity to separate during a reasonably foreseeable crash sequence, thereby causing an occupant to become seriously and permanently injured.

COUNT I
STRICT LIABILITY
GENERAL MOTORS

COME NOW the Plaintiffs, by and through their attorneys, and for Count I of their cause of action against GM state as follows:

120. Plaintiffs hereby incorporate by reference paragraphs 1 through 119 above as if they were fully set forth herein.

121. At all times relevant hereto, GM was actively engaged in the business of designing, manufacturing, and selling automobiles such as the Malibu.

122. Defendant GM is strictly liable to Plaintiffs because it manufactured, sold, warranted and placed on the market and into the stream of commerce an unreasonably dangerous and defective product knowing that it would reach consumers without substantial change in the condition in which it was sold and that, at the time of the sale, the Malibu was defective and in an unreasonably dangerous condition.

123. Defendant GM sold the Malibu in the normal course of its business.

124. Plaintiffs allege that the Malibu was unreasonably dangerous in that the ignition switch and driver's side seat belt systems of the Malibu were defective. The Malibu was not reasonably operational nor crashworthy.

125. The ignition switch and the seat belt systems found in the driver's side seat of the Malibu

were defective and unreasonably dangerous when they left GM's control because the ignition switch had the propensity to fail without cause of warning, and the seat belt buckle's components had a propensity to separate during reasonably foreseeable crashes causing its occupant to receive enhanced injuries in the crash.

126. The ignition switch and the seat belt system found in the driver's side seat of the Malibu was defective and unreasonably dangerous when it left GM's control in that, among other things, there is an unreasonable likelihood that the car will stop functioning correctly, and that the occupant restraint system's buckle hardware will permit or allow the belt system to separate during foreseeable collisions occurring in the real world.

127. On August 4, 2014, the ignition switch and the seat belt system found in the driver's side seat of the Malibu were in the same or substantially the same condition as they were when they left GM's control.

128. Plaintiffs allege that GM knowingly failed to adequately test the Malibu model before and during the design, production and sale of the vehicles to the public and/or knowingly placed the dangerously designed vehicle model in the stream of commerce.

129. GM also rendered the Malibu unreasonably dangerous by failing to adequately warn consumers about the hazards of driving its vehicle equipped with a defective ignition switch and seat belt system.

130. As a direct and proximate result of GM's conduct, Plaintiff Joshua Barbot sustained damages and permanent injuries.

131. As a direct and proximate result of GM's conduct, Plaintiff Faith Chopp sustained damages.

132. Defendant GM's conduct showed complete indifference to or conscious disregard for the safety of others, justifying the imposition of punitive damages in an amount sufficient to punish Defendant GM and to deter Defendant GM and others from like conduct.

WHEREFORE, Plaintiffs pray for judgment against Defendant GM, joint and severally with other Defendants, under Count I in an amount which this Court deems fair and reasonable; for costs of this action to be assessed against the Defendant; for pre and post-judgment interest as may be allowed by law; for punitive damages in an amount sufficient to punish Defendant and to deter it and others from similar conduct; and for such further and proper relief as this Court deems just and proper.

COUNT II
NEGLIGENT MANUFACTURE, DESIGN AND FAILURE TO WARN
GENERAL MOTORS

COME NOW the Plaintiffs, by and through their attorneys, and for Count II of their cause of action against Defendant GM state as follows:

133. Plaintiffs hereby incorporate by reference paragraphs 1 through 132 above as if they were fully set forth herein.

134. At all times relevant to this Petition, GM owed to the general public, including the Plaintiffs, the duty to design, manufacture and sell vehicles that were not defective and/or unreasonably dangerous during a foreseeable crash.

135. GM breached this duty by manufacturing and marketing the Malibu in a defective and/or unreasonably dangerous condition, in that the ignition switch, Occupant Containment System, and the seat belt system, were defective and unreasonably dangerous, as more fully set forth in earlier paragraphs. Additionally, the Malibu was not safely operational nor was it crashworthy.

136. The Malibu was unreasonably dangerous and defective for normal, foreseeable and reasonably anticipated use by and in the presence of the general public because of its unsafe design, defective construction and lack of safety features as set forth in earlier paragraphs.

137. GM negligently, recklessly and willfully designed, manufactured and distributed the Malibu which was dangerous and defective as more fully described in earlier paragraphs.

138. Plaintiffs allege that GM knowingly failed to adequately test the Malibu model before and during the design, production and sale of the vehicles to the public and/or knowingly placed the unreasonably dangerous vehicles in the stream of commerce.

139. Plaintiffs allege that GM knowingly sold and continued to sell the Malibu model to the public when the testing it performed established that the vehicles were inherently weak and defectively designed.

140. As a direct and proximate result of the conduct of GM, Plaintiff Joshua Barbot sustained damages and severe and permanent injuries.

141. As a direct and proximate result of the conduct of GM, Plaintiff Faith Chopp sustained damages.

142. By reason of the above described negligence of Defendant GM, Defendant GM is liable to Plaintiffs for all damages.

143. Defendant GM's conduct showed complete indifference to or conscious disregard for the

safety of others, justifying the imposition of punitive damages in an amount sufficient to punish Defendant GM and to deter Defendant GM and others from like conduct.

WHEREFORE, Plaintiffs pray for judgment against Defendant GM, joint and severally with other Defendants, under Count II in an amount which this Court deems fair and reasonable; for costs of this action to be assessed against the Defendant; for pre and post-judgment interest as may be allowed by law; for punitive damages in an amount sufficient to punish Defendant and to deter it and others from similar conduct; and for such further and proper relief as this Court deems just and proper.

COUNT III
BREACH OF EXPRESS AND IMPLIED WARRANTIES
GENERAL MOTORS

COME NOW the Plaintiffs, by and through their attorneys, and for Count III of their Petition for Damages against Defendant GM state as follows:

144. Plaintiffs hereby incorporate by reference paragraphs 1 through 143 above as if they were fully set forth herein.

145. Defendant GM warranted, both expressly and impliedly through their advertisements and sales representatives, that the Malibu was of merchantable quality, fit for the ordinary purpose for which it was sold.

146. Plaintiffs were foreseeable users of the Malibu and the Malibu was being used in a reasonably anticipated and/or intended manner at the time of the accident.

147. Plaintiffs relied on Defendant GM to provide a merchantable and suitable vehicle fit for the purpose for which it was intended.

148. Because of the defective and unreasonably dangerous design and/or manufacture of the Malibu, more fully described above, it could be involved in a foreseeable crash sequence and fail to keep an occupant from suffering injuries in a foreseeable, reasonably anticipated crash, or otherwise sustaining damages. Additionally, because the Occupant Containment System was ineffective in retaining occupants, the Malibu was neither merchantable nor fit for ordinary purposes.

149. The Malibu was neither of merchantable quality nor reasonably fit to be used for the purpose for which it was intended, including the foreseeable accident alleged herein, and was unmerchantable.

150. The defective and/or unreasonably dangerous condition constituted a breach of Defendant GM's express and implied warranties.

151. As a direct and proximate result of Defendants GM's breach of the express and implied

warranties of the Malibu, Plaintiffs sustained injuries and damages as more particularly described herein.

152. Defendant GM is liable for breaching the express and implied warranties, the ensuing injuries to Plaintiffs and the damages sustained by Plaintiffs in an amount to be determined at trial.

WHEREFORE, Plaintiffs pray for judgment against Defendant GM, joint and severally with other Defendants, under Count III in an amount which this Court deems fair and reasonable; for costs of this action to be assessed against the Defendant; for pre and post-judgment interest as may be allowed by law; for punitive damages in an amount sufficient to punish Defendant and to deter it and others from similar conduct; and for such further and proper relief as this Court deems just and proper.

COUNT IV
FAILURE TO WARN
GENERAL MOTORS

COME NOW the Plaintiffs, by and through their attorneys, and for Count IV of their Petition for Damages against Defendant GM state as follows:

153. Plaintiffs hereby incorporate by reference paragraphs 1 through 152 above as if they were fully set forth herein.

154. As more fully described above, GM designed and/or manufactured a defective and unreasonably dangerous vehicle.

155. The Malibu was further rendered unreasonably dangerous because an adequate warning about the vehicle was not provided to consumers, including the Plaintiffs, either at or after the time that the Malibu left the control of GM.

156. The Malibu possessed characteristics, as more fully described above, which caused damage to Plaintiffs and GM failed to use reasonable care to provide an adequate warning of such characteristics and its danger to users and handlers of the Malibu.

157. At the time of the incident that is the subject of this petition, the Malibu was dangerous to an extent beyond that which would be contemplated by the ordinary user or handler of the product, with the ordinary knowledge common to the community as to the product's characteristics.

158. Users or handlers of the Malibu, including Plaintiffs, did not know and should not have been expected to know of the characteristics of the Malibu that had the potential to cause enhanced injuries in a foreseeable crash.

159. As a direct and proximate result of Defendant GM's failure to warn of the dangers of the

Malibu, as more fully described above, Plaintiff Joshua Barbot sustained injuries and damages as more particularly described herein.

160. As a direct and proximate result of Defendant GM's failure to warn of the dangers of the Malibu, as more fully described above, Plaintiff Faith Chopp sustained damages as more particularly described herein.

Defendant GM is liable for its failure to warn, the ensuing injuries to Plaintiffs and the damages sustained by Plaintiffs in an amount to be determined at trial.

WHEREFORE, Plaintiffs pray for judgment against Defendant GM, joint and severally with other Defendants, under Count IV in an amount which this Court deems fair and reasonable; for costs of this action to be assessed against the Defendant; for pre and post-judgment interest as may be allowed by law; for punitive damages in an amount sufficient to punish Defendant and to deter it and others from similar conduct; and for such further and proper relief as this Court deems just and proper.

COUNT V
STRICT LIABILITY
TRW DEFENDANTS

COME NOW the Plaintiffs, by and through their attorneys, and for Count V of their Petition for Damages against the TRW Defendants state as follows:

161. Plaintiffs hereby incorporate by reference paragraphs 1 through 160 above as if they were fully set forth herein.

162. TRW Defendants designed and/or co-designed, manufactured and sold as new the driver's side seat belt system installed in the Malibu.

163. The driver's side seat belt system of the Malibu was defective and unreasonably dangerous when sold as new.

164. The driver's side seat belt system of the Malibu was in the same or substantially the same condition on March 9, 2013 as it was when it was sold as new.

165. The driver's side seat belt system of the Malibu was defective and unreasonably dangerous in that the components of the buckle would separate under foreseeable circumstances such as those of the instant case.

166. TRW Defendants knew or should have known that the components of the driver's side seat belt system of the Malibu had a propensity to separate under foreseeable circumstances.

167. TRW Defendants knew or should have known that a seat belt system with components with a propensity to separate under foreseeable circumstances posed a grave danger to human lives.

168. TRW Defendants knew or should have known that a seat belt system which failed under foreseeable circumstances posed a grave danger to human lives.

169. The driver's side seat belt system of the Malibu was also defective and unreasonably dangerous because of TRW Defendants' failure to adequately inform purchasers and/or users of the belt system about the belt system's components' propensity to become separated during foreseeable circumstances such as those in the instant case.

170. The defects in the driver's side seat belt system of the Malibu were a proximate cause of Plaintiff Joshua Barbot's damages and severe injuries.

171. The defects in the driver's side seat belt system of the Malibu were a proximate cause of Plaintiff, Faith Chopp's damages.

172. TRW Defendants' conduct showed complete indifference to or conscious disregard for the safety of others, justifying the imposition of punitive damages in an amount sufficient to punish TRW Defendants and to deter TRW Defendants and others from like conduct.

WHEREFORE, Plaintiffs pray for judgment against TRW Defendants, joint and severally with other Defendants, under Count V in an amount which this Court deems fair and reasonable; for costs of this action to be assessed against the Defendant; for pre and post-judgment interest as may be allowed by law; for punitive damages in an amount sufficient to punish Defendant and to deter it and others from similar conduct; and for such further and proper relief as this Court deems just and proper.

COUNT VI
NEGLIGENT DESIGN/MANUFACTURE
TRW DEFENDANTS

COME NOW the Plaintiffs, by and through their attorneys, and for Count VI of their Petition for Damages against TRW Defendants state as follows:

173. Plaintiffs hereby incorporate by reference paragraphs 1 through 172 above as if they were fully set forth herein.

174. TRW Defendants designed and manufactured the driver's side seat belt system used in the Malibu.

175. TRW Defendants had a duty to make a seat belt system that was not defective and unreasonably dangerous.

176. The driver's side seat belt system in the Malibu was defective and unreasonably dangerous for all the reasons stated above.

177. TRW Defendants failed to use ordinary care to design, manufacture, properly test and/or adequately warn of the risk of harm from the defective and unreasonably dangerous driver's side seat belt system in the Malibu.

178. As a direct and proximate result of such negligent acts and omissions, Plaintiff Joshua Barbot sustained injuries and damages as more particularly described herein..

179. As a direct and proximate result of such negligent acts and omissions, Plaintiff Faith Chopp sustained damages.

180. TRW Defendants' conduct showed complete indifference to or conscious disregard for the safety of others, justifying the imposition of punitive damages in an amount sufficient to punish TRW Defendants and to deter TRW Defendants and others from like conduct.

WHEREFORE, Plaintiffs pray for judgment against TRW Defendants, joint and severally with other Defendants, under Count VI in an amount which this Court deems fair and reasonable; for costs of this action to be assessed against the Defendant; for pre and post-judgment interest as may be allowed by law; for punitive damages in an amount sufficient to punish Defendant and to deter it and others from similar conduct; and for such further and proper relief as this Court deems just and proper.

COUNT VII
STRICT LIABILITY AND NEGLIENT FAILURE TO WARN
TRW DEFENDANTS

COME NOW, the Plaintiffs, by and through their attorneys, and for Count VII of their Petition for Damages against TRW Defendants state as follows:

181. Plaintiffs hereby incorporate by reference paragraphs 1 through 180 above as if they were fully set forth herein.

182. As more fully described above, TRW Defendants designed and/or manufactured a defective and unreasonably dangerous driver's side seat belt system for the Malibu.

183. The driver's side seat belt system in the Malibu was further rendered unreasonably dangerous because an adequate warning about the driver's side seat belt system's dangerous propensities was not provided to consumers, including the Plaintiffs.

184. TRW Defendants failed to use reasonable care when they did not provide an adequate warning with respect to the dangerous propensities associated with the driver's side seat belt system used in the Malibu.

185. At the time of the incident that is the subject of this petition, the Malibu's driver's side seat belt system was dangerous to an extent beyond that which would be contemplated by the ordinary

user or handler of the product, with the ordinary knowledge common to the community as to the product's characteristics.

186. Users or handlers of the Malibu's driver's side seat belt system, including Plaintiffs, did not know and should not have been expected to know of the characteristics of the Malibu's driver's side seat belt system that had the potential to cause enhanced injuries in a foreseeable crash.

187. As a direct and proximate result of TRW Defendants' failure to warn of the dangers in the Malibu, as more fully described above, Plaintiff Joshua Barbot sustained injuries and damages.

188. As a direct and proximate result of TRW Defendants' failure to warn of the dangers in the Malibu, as more fully described above, Plaintiff, Faith Chopp, sustained damages.

189. TRW Defendants are liable for their failure to warn about the ensuing injuries and damages to both Plaintiffs in an amount to be determined at trial.

190. TRW Defendants' conduct showed complete indifference to or conscious disregard for the safety of others, justifying the imposition of punitive damages in an amount sufficient to punish TRW Defendants and to deter TRW Defendants and others from like conduct.

WHEREFORE, Plaintiffs pray for judgment against TRW Defendants, joint and severally with other Defendants, under Count VII in an amount which this Court deems fair and reasonable; for costs of this action to be assessed against the Defendant; for pre and post-judgment interest as may be allowed by law; for punitive damages in an amount sufficient to punish Defendant and to deter it and others from similar conduct; and for such further and proper relief as this Court deems just and proper.

COUNT VIII
BREACH OF EXPRESS AND IMPLIED WARRANTIES
TRW DEFENDANTS

COME NOW the Plaintiffs, by and through their attorneys, and for Count VIII of their Petition for Damages against TRW Defendants state as follows:

191. Plaintiffs hereby incorporate by reference paragraphs 1 through 190 above as if they were fully set forth herein.

192. The TRW Defendants warranted, both expressly and impliedly through their advertisements and sales representatives, that the Malibu's seat belt systems were of merchantable quality, fit for the ordinary purpose for which they were sold.

193. Plaintiffs were foreseeable users of the Malibu's seat belt systems and the Malibu's seat belt systems were being used in a reasonably anticipated and/or intended manner at the time of the

accident.

194. Plaintiffs relied on the TRW Defendants to provide merchantable and suitable seat belt systems fit for the purpose for which the seat belt systems were intended.

195. Because of the defective and unreasonably dangerous design and/or manufacture of the Malibu's seat belt systems, more fully described above, the seat belt systems could be involved in a foreseeable crash sequence and fail to keep an occupant safe in a foreseeable, reasonably anticipated crash, or otherwise sustaining injury. Additionally, because the seat belt systems were ineffective in retaining occupants, the seat belt systems were neither merchantable nor fit for ordinary purposes.

196. As a direct, proximate and foreseeable result of the defective and unreasonably dangerous design and/or manufacture of the Malibu's seat belt systems, the seat belt systems failed to prevent the damages and injuries sustained by Plaintiff Joshua Barbot and the damages sustained by Plaintiff, Faith Chopp.

197. The Malibu's seat belt systems were neither of merchantable quality nor reasonably fit to be used for the purpose for which they was intended, including the foreseeable accident alleged herein, and were unmerchantable.

198. The defective and/or unreasonably dangerous condition constituted a breach of the TRW Defendants' express and implied warranties.

199. As a direct and proximate result of the TRW Defendants' breach of the express and implied warranties of the Malibu, Plaintiffs sustained injuries and damages as more particularly described herein.

200. The TRW Defendants are liable for breaching the express and implied warranties, the ensuing injuries to Plaintiffs and the damages sustained by Plaintiffs in an amount to be determined at trial.

WHEREFORE, Plaintiffs pray for judgment against the TRW Defendants, joint and severally with other Defendants, under Count VIII in an amount which this Court deems fair and reasonable; for costs of this action to be assessed against the Defendants; for pre and post-judgment interest as may be allowed by law; for punitive damages in an amount sufficient to punish Defendants and to deter them and others from similar conduct; and for such further and proper relief as this Court deems just and proper.

COUNT IX
NEGLIGENCE
DARNELL PETTIES

201. Plaintiffs hereby incorporate by reference paragraphs 1 through 200 above as if they were fully set forth herein.

202. Defendant Darnell Petties is guilty of the following acts and/or omissions of common law negligence:

a. Negligently failing to use the degree of care and caution in the operation of the vehicle as was required of a reasonable and prudent person under the same or similar circumstances existing at the time and place of the aforementioned crash sequence;

b. Negligently failing to use reasonable care to avoid injury to others while operating a motor vehicle;

c. Negligently following too close to the Malibu;

d. Failure to stop;

e. Failure to pay attention to other vehicles;

f. Careless operation of a motor vehicle;

g. Failure to do what should have been done and failing to see what should have been seen in order to have avoided the occurrence of the accident made the basis of these proceedings;

g) Failure to maintain proper control of the vehicle; and,

h) Any and all other acts of negligence and liability which shall be shown at the time of trial.

WHEREFORE, Plaintiffs pray for judgment against Defendant Darnell Petties, joint and severally with other Defendants, under Count IX in an amount which this Court deems fair and reasonable; for costs of this action to be assessed against the Defendant; for pre and post-judgment interest as may be allowed by law; and for such further and proper relief as this Court deems just and proper.

COUNT X
PUNITIVE DAMAGES
GENERAL MOTORS and TRW DEFENDANTS

COME NOW the Plaintiffs, by and through their attorneys, and for Count X of their Petition for Damages against Defendant GM, TRW Defendants and Defendant Pilkington state as follows:

203. Plaintiffs hereby incorporate by reference paragraphs 1 through 202 above as if they were fully set forth herein.

204. Defendants GM's and TRW Defendants' conduct showed complete indifference to or conscious disregard for the safety of others, justifying the imposition of punitive damages in an amount sufficient to punish those Defendants and to deter those Defendants and others from like conduct.

WHEREFORE, Plaintiffs pray for punitive damages against Defendant GM and TRW Defendants under Count X in an amount sufficient to punish Defendants and to deter Defendants and others from like conduct.

Respectfully submitted,

REGAN LAW, PLC

Martin E. Regan, Jr. (LA Bar # 11153)
John O. Pieksen, Jr. (LA Bar # 21023)
2125 St.Charles Avenue
New Orleans, LA 70130
Work: (504) 522-7260; Fax: (504) 522-7507
Attorneys for PLAINTIFFS

SHERIFF PLEASE SERVE:

1) Defendant, General Motors LLC,
through its registered agent for process in Louisiana,
CORPORATION SERVICE COMPANY,
320 Somerulos Street, Baton Rouge, Louisiana, 70802;

And

2) Defendant Darnell Petties, personally at
8241 Curran Boulevard, New Orleans, Louisiana, 70126.

Plaintiffs will effect Long-Arm Service on the TRW Defendants

A TRUE COPY
DEPUTY CLERK, CIVIL DISTRICT COURT
PARISH OF ORLEANS
STATE OF LA.

Exhibit C

BLACK v. GENERAL MOTORS LLC, ET AL.,

ELECTRONICALLY FILED
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CIRCUIT COURT OF
LAUDERDALE COUNTY, ALABAMA
MISSY HOMAN HIBBETT, CLERK

IN THE CIRCUIT COURT
IN AND FOR LAUDERDALE COUNTY, ALABAMA

HANNAH LeSHAE BLACK,

Plaintiff,

vs.

GENERAL MOTORS, LLC; TAKATA CORPORATION; TK HOLDINGS, INC.; TAKATA SEAT BELTS, INC.; TK-TAITO, LLC; SUSKI'S AUTO SALES, INC., formerly doing business as SUSKI'S AUTO SALES; "A", that person, corporation or other legal entity who or which designed, manufactured, or supplied the 2002 GMC Envoy which is the subject matter of this lawsuit; "B", that person, corporation or other legal entity who or which designed, manufactured or supplied the component parts for the manufacturer of the subject 2002 GMC Envoy; "C", that person, corporation or other legal entity who designed, manufactured and sold the seatbelt or restraint system for the 2002 GMC Envoy which is the subject matter of this lawsuit; "D", those persons, corporations or other legal entities whose negligence or other wrongful conduct combined and concurred to cause the injuries and damages alleged herein; "E", those persons, corporations or other legal entities who sold, marketed, distributed, or supplied the 2002 GMC Envoy which is the subject matter of this lawsuit; all of said Fictitious Defendants are unknown to Plaintiffs at this time but will be substituted by amendment when ascertained,

Defendants.

§ §

CIVIL ACTION NO. CV-2014-________

PLAINTIFF HEREBY DEMANDS TRIAL BY JURY

COMPLAINT

Statement of the Parties

1. Plaintiff, HANNAH LeSHAE BLACK, is over the age of nineteen (19) years and is a resident citizen of Lauderdale County, Alabama.

2. Defendant, GENERAL MOTORS, LLC (hereinafter "GM"), is believed to be a foreign limited liability company and, at all times material hereto, doing business by agent in Lauderdale County, Alabama. Defendant GM is registered with the Secretary of State of Alabama and authorized to do business in the State of Alabama. Defendant GM may be served with process by serving its Registered Agent: CSC Lawyers Incorporating SVC, Inc., 150 South Perry Street, Montgomery, Alabama 36104.

3. Defendant, TAKATA CORPORATION (hereinafter "Takata"), is a foreign corporation doing business in the State of Alabama by designing, manufacturing, and distributing the subject seatbelt, retractor, and buckle restraints, believed to be Model # # 45 and TI-CN01 # A01, referred to hereinafter as "seatbelt/restraint system," through its wholly-owned and controlled subsidiaries and authorized dealers in the State of Alabama. Service of process can be accomplished by serving Defendant Takata through the Hague Convention at its home address: No. 25 Mori Building, 4-30, Roppongi 1-chrome, Minato-ku, Tokyo, Japan, 106-8510.

4. Defendant, TK HOLDINGS, INC. (hereinafter "TK Holdings"), is a corporation, organized and formed under the laws of the State of Delaware with its principal place of business in Greensboro, North Carolina. At all times material, Defendant TK Holdings did business in Alabama by designing, manufacturing, testing, marketing, distributing and selling the seatbelt/restraint system at issue in this case.

Defendant TK Holdings is registered with the Secretary of State of Alabama and authorized to do business in the State of Alabama. Defendant TK Holdings may be served with process by serving its Registered Agent: CSC Lawyers Incorporating SVC, Inc., 150 South Perry Street, Montgomery, Alabama 36104.

5. Defendant, TAKATA SEAT BELTS, INC. (hereinafter "Takata Seat Belts"), is believed to be a foreign corporation organized under the laws of the State of Delaware with its principal place of business in San Antonio, Texas. At all times material, Defendant Takata Seat Belts did business in Alabama by designing, manufacturing, testing, marketing, distributing and selling the seatbelt/restraint system at issue in this case. Service of process can be accomplished by and through its Registered Agent, The Prentice Hall Corporation, 2711 Centerville Road, Suite 400, Wilmington, Delaware 19808.

6. Defendant, TK-TAITO, LLC (hereinafter "TK-Taito"), is believed to be a foreign limited liability company organized under the laws of the State of Delaware with its principal place of business in San Antonio, Texas. At all times material, Defendant TK-Taito did business in Alabama by designing, manufacturing, testing, marketing, distributing and selling the seatbelt/restraint system at issue in this case. Service of process can be accomplished by and through its Registered Agent, The Prentice Hall Corporation, 2711 Centerville Road, Suite 400, Wilmington, Delaware 19808.

7. Defendant, SUSKI'S AUTO SALES, INC., formerly doing business as SUSKI'S AUTO SALES (hereinafter "Suski's"), is a domestic corporation incorporated under the laws of the state of Alabama. It is qualified to do business in the state of Alabama and its registered agent is Doug Suski, 24267 C Highway 72E, Athens,

Alabama 35613. Its principle place of business is 24267 C Highway 72E, Athens, Alabama 35613. Defendant Suski's is engaged in the business of distributing, marketing, and/or selling automobiles in Lauderdale County, Alabama, and sold the subject vehicle to the Plaintiff's parents.

8. Fictitious Defendant "A" is that person, corporation or other legal entity who or which designed, manufactured, or supplied the 2002 GMC Envoy which is the subject matter of this lawsuit.

9. Fictitious Defendant "B" is that person, corporation or other legal entity who or which designed, manufactured or supplied the component parts for the manufacturer of the subject 2002 GMC Envoy.

10. Fictitious Defendant "C" is that person, corporation or other legal entity who designed, manufactured and sold the seatbelt or restraint system for the 2002 GMC Envoy which is the subject matter of this lawsuit.

11. Fictitious Defendant "D" are those persons, corporations or other legal entities whose negligence or other wrongful conduct combined and concurred to cause the injuries and damages alleged herein.

12. Fictitious Defendant "E" are those persons, corporations or other legal entities who sold, marketed, distributed, or supplied the 2002 GMC Envoy which is the subject matter of this lawsuit.

Statement of the Facts

13. On or about March 23, 2012, Hannah LeShae Black was driving her 2002 GMC Envoy, VIN 1GKDS13S722130335, eastbound on County Road 55 in Lauderdale County, Alabama.

14. Hannah LeShae Black was operating her vehicle in a reasonable and customary manner and was using the available restraint system for the subject vehicle.

15. For reasons unknown, the vehicle went out of control and rolled over.

16. As a consequence of the rollover, Hannah LeShae Black was severely injured.

COUNT ONE

(Crashworthiness - Vehicle)

17. Plaintiff adopts and incorporates by reference all prior paragraphs of the Complaint as if set out here in full.

18. Plaintiff contends that the 2002 GMC Envoy was designed, manufactured, sold or otherwise placed into the stream of commerce by Defendants GM, Suski's, and Fictitious Defendants "A" through "E".

19. At the time the subject vehicle was placed into the stream of commerce, the vehicle was defective and not crashworthy in that the vehicle was unstable and the restraint system did not provide reasonable protection to its occupants in foreseeable crashes.

20. The GM restraint system failed to perform as expected by its consumers.

21. The 2002 GMC Envoy was defective in its design, manufacture and the warnings that accompanied it.

22. As a result of the lack of crashworthiness of the 2002 GMC Envoy, Hannah LeShae Black, although properly using the restraint system, suffered severe injuries when she was ejected from the vehicle during the rollover.

23. As a proximate consequence of the lack of crashworthiness of the GM vehicle, Hannah LeShae Black has suffered and will continue to suffer from her severe injuries, including brain injury, internal injuries, disfigurement, disability, loss of enjoyment of life, medical and other expenses and loss of the ability to earn a living. The injuries are permanent and severe.

WHEREFORE, Plaintiff demands judgment against Defendants, General Motors, LLC; Suski's; and Fictitious Defendants "A" through "E", in such amount to which they may be entitled under the laws of the State of Alabama, including punitive damages as well as the cost of this action.

COUNT TWO

(Crashworthiness - Seatbelt)

24. Plaintiff adopts and incorporates by reference all prior paragraphs of the Complaint as if set out here in full.

25. Plaintiff contends that the seatbelt/restraint system in the 2002 GMC Envoy was designed, manufactured, sold or otherwise placed into the stream of commerce by Defendants Takata; TK Holdings; Takata Seat Belts; TK-Taito; Suski's; and Fictitious Defendant "A" through "E".

26. At the time the subject seatbelt/restraint system was placed into the stream of commerce, the seatbelt/restraint system was defective and not crashworthy in that the vehicle restraint system did not provide reasonable protection to its occupants in foreseeable crashes.

27. The Takata seatbelt/restraint system failed to perform as expected by its consumers or users.

28. The Takata seatbelt/restraint system was defective in its design, manufacture, and the warnings that accompanied it.

29. As a result of the lack of crashworthiness of the Takata seatbelt/restraint system, Hannah LeShae Black, although properly using the restraint system, suffered severe injuries when she was ejected from the vehicle during the rollover.

30. As a proximate consequence of the lack of crashworthiness of the Takata restraint system, Hannah LeShae Black has suffered and will continue to suffer from her severe injuries, including brain injury, internal injuries, disfigurement, disability, loss of enjoyment of life, medical and other expenses and loss of the ability to earn a living. The injuries are permanent and severe.

WHEREFORE, Plaintiff demands judgment against Defendants Takata; TK Holdings; Takata Seat Belts; TK-Taito; Suski's; and Fictitious Defendants "A" through "E", in such amount to which she may be entitled under the laws of the State of Alabama, including punitive damages as well as the cost of this action.

COUNT THREE

(Alabama Extended Manufacturer's Liability Doctrine [AEMLD])

31. Plaintiff adopts and incorporates by reference all prior paragraphs of the Complaint as if set out here in full.

32. Defendants GM; Takata; TK Holdings; Takata Seat Belts; TK-Taito; Suski's; and Fictitious Defendants "A" through "E" designed, manufactured, sold or otherwise placed into the stream of commerce the 2002 GMC Envoy and component parts thereof which are the subject matter of this lawsuit.

33. At the time the vehicle was placed into the stream of commerce, the vehicle was defective and those defects rendered the vehicle unreasonably dangerous to foreseeable users and consumers.

34. At all times material, the vehicle was being used as expected and intended and in a manner reasonably foreseeable to Defendants.

35. The vehicle was unaltered and in the same design configuration as it was at the time Defendants GM; Takata; TK Holdings; Takata Seat Belts; TK-Taito; Suski's; and Fictitious Defendants "A" through "E" placed the vehicle into the stream of commerce.

36. It was foreseeable to Defendants GM; Takata; TK Holdings; Takata Seat Belts; TK-Taito; Suski's; and Fictitious Defendants "A" through "E", that user and consumers like Hannah LeShae Black would be involved in a collision and that the seatbelt/restraint system would be required to provide sufficient occupant protection.

37. As a proximate consequence of the defective nature of the vehicle and the component parts of the vehicle, Hannah LeShae Black was injured as stated above.

WHEREFORE, Plaintiff demands judgment against Defendants GM; Takata; TK Holdings; Takata Seat Belts; TK-Taito; Suski's; and Fictitious Defendants "A" through "E" in such amount to which she may be entitled under the laws of the State of Alabama, including compensatory and punitive damages as well as the cost of this action.

COUNT FOUR

(Alabama Extended Manufacturer's Liability Doctrine [AEMLD])

38. Plaintiff adopts and incorporates by reference all prior paragraphs of the Complaint as if set out here in full.

39. Defendants, GM; Suski's; and Fictitious Defendants "A" and "E" designed, manufactured and sold or otherwise placed into the stream of commerce the subject GMC Envoy.

40. The vehicle was unreasonably dangerous and defective in that it had a propensity to roll over on smooth dry pavement.

41. The vehicle at the time of the accident was in substantially similar design condition as it was originally sold.

42. As a result of the rollover propensity, the vehicle rolled over resulting in the injuries to Hannah LeShae Black as alleged above.

WHEREFORE, Plaintiff demands judgment against Defendants, General Motors, LLC; Suski's; and Fictitious Defendants "A" and "E", for such amount as a jury may determine plus punitive damages as well as the cost of this action.

COUNT FIVE
(Negligence/Wantonness)

43. Plaintiff adopts and incorporates by reference all prior paragraphs of the Complaint as if set out here in full.

44. Defendants GM; Takata; TK Holdings; Takata Seat Belts; TK-Taito; Suski's; and Fictitious Defendants "A" through "E", were responsible for the design, manufacture and instruction of the subject vehicle and component parts therein.

45. Said Defendants negligently or wantonly designed, tested, warned against or failed to recall the seatbelt/restraint system for the subject 2002 GMC Envoy.

46. Said Defendants negligently or wantonly failed to properly design and test as required to design a reasonably safe vehicle.

47. As a proximate consequence of the negligence or wantonness as alleged herein, Hannah LeShae Black was injured as alleged above.

WHEREFORE, Plaintiff demands judgment against Defendants GM; Takata; TK Holdings; Takata Seat Belts; TK-Taito; Suski's; and Fictitious Defendants "A" through "E", in such amount to which they may be entitled under the laws of the State of Alabama, including compensatory and punitive damages as well as the cost of this action.

COUNT SIX
(Negligence)

48. Plaintiff adopts and incorporates by reference all prior paragraphs of the Complaint as if set out here in full.

49. Defendant Suski's placed the subject 2002 GMC Envoy into the stream of commerce and negligently failed to inspect the subject vehicle for safety and negligently failed to prepare the subject vehicle for sale.

50. Defendant Suski's negligently failed to inspect so as to confirm and eliminate the dangerous seatbelt system in the subject vehicle and for safety prior to the sale of the 2002 GMC Envoy to Plaintiff's parents.

51. Defendant Suski's had a duty to inspect, prepare, and service the 2002 GMC Envoy prior to delivery of the subject vehicle.

52. Defendant Suski's was aware of the propensity of this model GMC vehicle's seatbelt to fail and, independently and separately, failed to warn Plaintiff.

53. Defendant Suski's breached their duty to use reasonable care in inspecting, preparing and servicing the subject vehicle.

54. As a result of said breach, Defendant Suski's failed to discover the defective condition of the subject vehicle and its seatbelt component parts at the time of delivery of the subject vehicle to Plaintiff's parents. Defendants negligently failed to correct or warn of the defective condition of the subject vehicle and its seatbelt components, after it became known, or reasonably should have been known, by the Defendant Suski's.

55. As a proximate consequence of the negligence as alleged herein, Hannah LeShae Black was injured as alleged above.

WHEREFORE, Plaintiff demands judgment against Defendants GM; Takata; TK Holdings; Takata Seat Belts; TK-Taito; and Fictitious Defendants "A" through "E", in such amount to which they may be entitled under the laws of the State of Alabama, including compensatory and punitive damages as well as the cost of this action.

//s// Richard D. Morrison
RICHARD D. MORRISON (MOR073)
ATTORNEYS FOR PLAINTIFF

OF COUNSEL:

BEASLEY, ALLEN, CROW, METHVIN, PORTIS & MILES, P.C.
218 Commerce Street
Montgomery, Alabama 36104
(334) 269-2343
(334) 954-7555 - Facsimile

JURY DEMAND

PLAINTIFF HEREBY DEMANDS TRIAL BY JURY ON ALL ISSUES OF THIS CAUSE.

//s// Richard D. Morrison
OF COUNSEL

Please serve the Defendants with the Summons and Complaint in this matter, via certified mail, at the addresses listed below:

General Motors, LLC
c/o of its agent for service of process
CSC Lawyers Incorporating SVC, Inc.
150 South Perry Street
Montgomery, Alabama 36104

TK HOLDINGS, INC.
c/o of its agent for service of process
CSC Lawyers Incorporating SVC, Inc.
150 South Perry Street
Montgomery, Alabama 36104

TAKATA SEAT BELTS, INC.
c/o of its agent for service of process
The Prentice Hall Corporation
2711 Centerville Road, Suite 400
Wilmington, Delaware 19808

TK-TAITO, LLC
c/o of its agent for service of process
The Prentice Hall Corporation
2711 Centerville Road, Suite 400
Wilmington, Delaware 19808

Suski's Auto Sales, Inc.
c/o of its agent for service of process
Doug Suski
24267 C Highway 72E
Athens, Alabama 35613

Plaintiff's counsel will serve the following Defendants with the Summons and Complaint in this matter at the addresses listed below pursuant to the Hague Convention by special process server:

TAKATA CORPORATION
No. 25 Mori Building, 4-30
Roppongi 1-chrome
Minato-ku
Tokyo, Japan, 106-8510

Exhibit D

IN THE IOWA DISTRICT COURT IN AND FOR POCAHONTAS COUNTY

KYRA C. BOKER, MARK BOKER, and KERRI BOKER, Plaintiffs, vs. GENERAL MOTORS LLC, TAKATA CORPORATION, TK HOLDINGS, A CORPORATION, AND UNKNOWN MANUFACTURER ONE, and UNKNOWN MANUFACTURER TWO Defendants.	NO. LACV 126490 **PLAINTIFFS FIRST AMENDED AND SUBSTITUTED PETITION AT LAW** **(Jury Trial Requested)**

COME NOW the plaintiffs, Kyra Boker, Mark Boker and Kerri Boker, by and through their attorney's, Crowley Bünger Schroeder and Prill and, before any responsive pleading has been filed to plaintiffs original petition at law, file this first amended and substituted petition at law against the defendants, and in support of their claims, state:

1) Kyra Boker was born on or about November 13, 1995, she is the natural daughter of plaintiffs, Kerri Boker and Mark Boker.

2) At all times material here to, the plaintiffs were residents and citizens of the State of Iowa, particularly, common city of Rolfe, Iowa.

3) Defendant General Motors Corporation LLC (hereinafter referred to as "GM") is a corporation organized and existing under the laws of the state of Michigan, with its principal place of business in the State of Michigan. GM is the successor and interest to the previous business entity known as General Motors Corporation which designed, tested, manufactured, assembled, marketed and sold the motor vehicle at issue in this case and, following the bankruptcy of the original General Motors Corporation, has liability for the claims made herein as if it were the original GM.

4) Takata Corporation (hereinafter referred to as "Takata") and TK Holdings (hereinafter referred to as "TK") are foreign corporations, organized and existing under the laws of the country of Japan, with its principal place of business in Japan, and with a principal office and manufacturing facilities in the United States. At all times material hereto, Takata and TK (hereinafter referred to collectively as Takata defendants) supplied component parts, including seat belts and retractor mechanisms for GM cars.

5) At all times material hereto, GM was engaged in the business of designing, testing, building, marketing and selling motor vehicles in the United States, including the State of Iowa.

6) At all times material hereto, the Takata defendants were engaged in the business of designing, testing, manufacturing and supplying component parts for motor vehicles to companies such as GM and including GM.

7) Unknown manufacturers one and two cannot be identified with reasonable certainty until further investigation through discovery and disclosure of the named defendants records and service history. However, it is likely that other unknown manufacturer contributed to the design, testing manufacturing sale of the vehicle and component parts at issue in this case. These currently unknown designers, testers, manufacturers, and assemblers are designated as defendants pursuant to Iowa Code Section 613.18, and will be named specifically when their identities are determined.

8) The damages claimed in this case exceed the maximum amount allowed for an expedited docket/ case so this matter is only eligible for the regular district court docket.

9) Before and since July 19, 2013, defendant GM was in the business of designing, testing, manufacturing, marketing and selling motor vehicles throughout the United States and in many other countries. Before and since July 19, 2013, the Takata defendants were in the business of designing, testing, manufacturing, marketing and selling motor vehicle components, including motor vehicle seat belts and related mechanisms to automobile assemblers and manufacturing companies such as GM. In May of 2001, defendant GM designed, tested, and manufactured for sale in the United States a 2002 model year Oldsmobile Bravada passenger vehicle (commonly known as a multi- purpose or sport utility vehicle) VIN #1GHDT13S322153789, (hereinafter referred to as "the accident vehicle"). The accident vehicle incorporated, at GMs request and specification, a seatbelt and related occupant restraint mechanisms/components for the driver's position which was designed, tested, manufactured and placed into the stream of commerce by the Takata defendants. Unknown manufacturer one and unknown manufacturer 2 designed, tested, manufactured, and provided component parts for the seat, seatbelt, and active safety system of the accident vehicle.

10) The defendants, GM, the Takata defendants, and unknown manufacturers one and two designed, tested, assembled, and manufactured the accident vehicle and its subject component parts and placed the completed vehicle into the stream of commerce to be sold to, and driven by, consumers in the United States.

11) Before July of 2013, plaintiff Kyra Boker purchased the accident vehicle for personal transportation. On or about July 19, 2013, at approximately 6:30 a.m., Kyra Boker was driving the accident vehicle on 270th Avenue, approximately 1.5 miles North

of County Road C26. Plaintiff Kyra Boker was alone in her vehicle and wearing her seatbelt as required by Iowa law.

12) As the plaintiff was traveling South on 270th Avenue, she encountered loose gravel, or other road condition which caused her to lose steering control. As the plaintiff attempted to slow the vehicle and regain steering control, the accident vehicle left the road and rolled over in the right hand ditch.

13) As the accident vehicle rolled over, the plaintiff's seat belt for the driver position failed to restrain plaintiff Kyra Boker and keep her safely in the vehicle. The restraint system failed to function as intended, and allowed plaintiff Kyra Boker to become ejected during the rollover accident. When the plaintiff was ejected, she sustained serious, permanent injuries to her body, including her spine.

14) As a direct and proximate result of the conduct of the defendants, complained of herein, and the defects complained of herein, Kyra Boker has been permanently injured and damaged. She has suffered harms and losses including, but not limited to the following:

a) She has incurred health care expenses.

b) She will continue to incur health care expenses in the future.

c) She has suffered permanent partial disability which will affect her life and function into the future.

d) She has lost a portion of her ability to earn income in the future, depending upon her final recovery and recuperation from these permanent injuries.

e) She has endured pain, suffering and partial loss of function of her body in the past and will continue to suffer the same into the future.

f) She has lost income in the past and will likely suffer a loss of earning capacity in the future.

15) As a direct and proximate result of the defendants conduct and the defects complained of herein, plaintiffs Mark Boker and Kerri Boker have been damaged and suffered harms and losses, including, but not limited to the following:

a) As Kyra's parents they have incurred transportation, health care, and related expenses in the past for their minor daughter.

b) They have been deprived of the love, support, assistance and companionship of a normal healthy daughter due to their daughter's injuries.

PRODUCT LIABILITY AND NEGLIGENCE

16) Plaintiffs Kyra Boker, Mark Boker and Kerri Boker have made reasonable investigation, by and through their attorneys, investigators and others into the events referred to in this petition, but reserve the right to amend, modify or expand their claims due to the fact that the defendants have superior knowledge of all of their actions in connection with this case, and said information is not accessible without extended discovery of the defendants, including deposition testimony and the production of commercial and technical information. Plaintiffs have pleaded alternative theories of recovery which are consistent with the facts known at this time, and reserve the right to modify or amend this petition as set forth herein.

17) At all times material hereto, the defendants were in the business of designing, testing, assembling, selling, servicing, and placing into the stream of commerce motor vehicles, which included seats, seatbelts, seatbelt components and other systems which were to provide reasonable occupant protection in the event of an accident such as the one referred to here, commonly known as a rollover accident.

18) On or about July 19, 2013, the occupant protection system of the accident vehicle, particularly the seatbelt, seat, and related system of the accident vehicle failed, under foreseeable circumstances to restrain the plaintiff and protect her from ejection and enhanced injury in the event of a rollover accident.

19) The defendants were negligent, including, but not limited to, the following acts of negligence:

a) Defendants designed, built, and installed a seat/seatbelt combination and related occupant restraint system which failed to provide reasonable protection in the event of a rollover accident such as experienced by the plaintiff, Kyra Boker.

b) Defendants incorporated occupant protection components (which included the seat belt, retractor, and other components) which were damaged, outside specifications for safety and performance parameters.

c) After learning that the occupant restraint and protection system was unreliable, defendants failed to notify the plaintiff and /or previous owner of the accident vehicle to have the components replaced or repaired.

20) The defendants knew, or should have known, before July 19, 2013, that the seat and incorporated seatbelt components or other occupant restraint components would fail to properly restrain an occupant such as Kyra Boker in a foreseeable rollover accident.

21) Defendants failed to act upon subsequently acquired knowledge concerning the potential defective or dangerous condition of the occupant restraint system in the accident vehicle and recall the substandard component, and/ or failed to warn the plaintiff that the occupant restraint in the vehicle would not provide reasonable

safety in certain foreseeable accidents such as the one the plaintiff experienced on July 19, 2013.

22) Defendants failed to test the subject seatbelt, seat and related components before or after the accident vehicle and its components were manufactured and placed into the stream of commerce, to determine whether or not they were reliable and effective in anticipated and foreseeable accidents such as occurred in this instance.

23) At the time the accident vehicle, including its component parts (seat, seatbelts, and occupant restraint system) left the control of the respective manufacturers, testers, assemblers and installers indentified herein, they were defective, and said defects rendered them unreasonably dangerous because they would fail to function as intended. They would fail to protect the occupant from ejection and or serious harm.

24) At the time the accident vehicle and its component parts were designed, tested, manufactured and placed into the stream of commerce, alternative designs existed which, if incorporated into the accident vehicle would have functioned properly and protected the plaintiff from ejection and serious injury.

25) The defects described herein, and the negligence of the defendants described herein were a legal, factual and proximate cause of the harms, losses and damages to the plaintiffs.

REQUEST FOR JURY TRIAL

26) Plaintiffs Kyra Boker, Mark Boker and Kerri Boker hereby request a jury trial of all issues which can be submitted to a jury in this action.

CLAIM FOR PUNITIVE/ EXEMPLARY DAMAGES/ IOWA CODE 668A.

27) Before July 19, 2013, defendants had actual knowledge that its vehicles/ components such as those installed in the accident vehicle would likely fail to provide reasonable occupant protection in the event of a rollover accident. Despite this knowledge, they failed to take any action to recall, repair, or notify the public, including persons such as the plaintiffs, of the risk of serious injury or death in the event of an accident.

28) Before July 19, 2013, the defendants had actual knowledge that the accident vehicle and its occupant restraint system (including the seat, seatbelt retractor, and other components) would likely fail to provide reasonable occupant protection, especially in rollover crashes, and failed to warn of subsequently acquired knowledge. Hence, defendants conduct qualifies as wanton and willful disregard for the rights and safety of the public, including the plaintiffs, entitling plaintiffs to exemplary damages against one or more of the defendants pursuant to Iowa Code section 668A.

WHEREFORE, plaintiffs Kyra Boker, Mark Boker and Kerri Boker, ask for individual judgments of compensatory damages against the defendants as will fully, fairly, and adequately compensate them for the injuries and damages they have sustained, and will sustain hereafter, and for judgments of exemplary damages against individual defendants pursuant to Iowa Code Chapter 668A, together with interest and costs as provided by law, and such other relief as the court deems fair and equitable in the circumstances.

Respectfully submitted,

Steven J. Crowley AT0001845
Edward J. Prill AT0012435
Darwin Bünger AT0001297
Scott E. Schroeder AT0006956
CROWLEY, BÜNGER, SCHROEDER & PRILL
3012 Division Street
Burlington, IA 52601
Telephone: (319) 753-1330
Facsimile: (319) 752-3934
scrowley@cbs-lawyers.com
eprill@cbs-lawyers.com
dbunger@cbs-lawyers.com
sschroeder@cbs-lawyers.com

ATTORNEYS FOR PLAINTIFFS

Exhibit E

SUMMONS
(CITACION JUDICIAL)

SUM-100

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)
FILED
[illegible]-STOCKTON
2013 JUN 20 PM 1:14
ROSA JUNQUEIRO, CLERK
BY RAFAELA GUTIERREZ
DEPUTY

NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO): Michelin North America, Inc.; General Motors, L.L.C.; Koepplin Wayne Lewis dba Lodi Small Car Sales; Chase Chevrolet Co., Inc.; and DOES 1 through 100

YOU ARE BEING SUED BY PLAINTIFF:
(LO ESTÁ DEMANDANDO EL DEMANDANTE): Brianna Minard

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (*www.courtinfo.ca.gov/selfhelp*), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (*www.lawhelpcalifornia.org*), the California Courts Online Self-Help Center (*www.courtinfo.ca.gov/selfhelp*), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of $10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case.

***¡AVISO!** Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.*

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. AVISO: Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de $10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

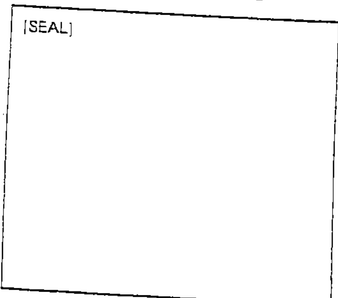
The name and address of the court is:
(El nombre y dirección de la corte es):
San Joaquin County Superior Court
222 East Weber Avenue
Stockton, CA 95202

CASE NUMBER:
(Número del Caso):
39-2013-00298477-CU-PL-STK

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):
Joseph W. Carcione, Jr., Esq. (SBN 56693)
Carcione, Cattermole, Dolinski,
Stucky, Markowitz & Carcione, L.L.P.
Redwood City, CA 94063
(650)367-6811 (650) 367-0367

DATE: ~~June 18, 2013~~ JUN 2 0 2013
(Fecha) ROSA JUNQUEIRO Clerk, by *(Secretario)* RAFAELA GUTIERREZ, Deputy *(Adjunto)*

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)
(Para prueba de entrega de esta citatión use el formulario Proof of Service of Summons, (POS-010)).



[SEAL]

NOTICE TO THE PERSON SERVED: You are served
1. ☐ as an individual defendant.
2. ☐ as the person sued under the fictitious name of *(specify)*:
3. ☐ on behalf of *(specify)*:

under: ☐ CCP 416.10 (corporation) ☐ CCP 416.60 (minor)
☐ CCP 416.20 (defunct corporation) ☐ CCP 416.70 (conservatee)
☐ CCP 416.40 (association or partnership) ☐ CCP 416.90 (authorized person)
☐ other *(specify)*:

4. ☐ by personal delivery on *(date)*:

PLD-PI-001

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):
Joseph W. Carcione, Jr., Esq. (SBN 56693)
Carcione, Cattermole, Dolinski,
Stucky, Markowitz & Carcione, L.L.P.
601 Brewster Avenue, P.O. Box 3389
Redwood City, CA 94063
TELEPHONE NO: (650)367-6811 FAX NO. (Optional): (650) 367-0367
E-MAIL ADDRESS (Optional):
ATTORNEY FOR (Name): Plaintiff

FOR COURT USE ONLY

FILED
[illegible]-STOCKTON
2013 JUN 20 PM 1:14
ROSA JUNQUEIRO, CLERK
RAFAELA GUTIERREZ
BY ____ DEPUTY

SUPERIOR COURT OF CALIFORNIA, COUNTY OF San Joaquin
STREET ADDRESS: 222 East Weber Avenue
MAILING ADDRESS:
CITY AND ZIP CODE: Stockton, 95202
BRANCH NAME:

PLAINTIFF: Brianna Minard

DEFENDANT: Michelin North America, Inc.; General Motors, L.L.C.; Koepplin Wayne Lewis dba Lodi Small Car Sales; Chase Chevrolet Co., Inc.; and
[X] DOES 1 TO 100

COMPLAINT—Personal Injury, Property Damage, Wrongful Death

[ ] AMENDED (Number):

Type (check all that apply):
[X] MOTOR VEHICLE
[X] Property Damage
[X] Personal Injury
[X] OTHER (specify): Product Liability
[ ] Wrongful Death
[X] Other Damages (specify): Exemplary

THIS CASE HAS BEEN ASSIGNED TO JUDGE CARTER P. HOLLY IN DEPARTMENT 41 FOR ALL PURPOSES, INCLUDING TRIAL

Jurisdiction (check all that apply):
[ ] ACTION IS A LIMITED CIVIL CASE
Amount demanded [ ] does not exceed $10,000
[ ] exceeds $10,000, but does not exceed $25,000
[X] ACTION IS AN UNLIMITED CIVIL CASE (exceeds $25,000)
[ ] ACTION IS RECLASSIFIED by this amended complaint
[ ] from limited to unlimited
[ ] from unlimited to limited

CASE NUMBER:
39-2013-00298477-CU-PL-STK

1. Plaintiff (name or names): Brianna Minard

alleges causes of action against defendant (name or names): Michelin North America, Inc.; General Motors, L.L.C.; Koepplin Wayne Lewis dba Lodi Small Car Sales; Chase Chevrolet Co., Inc.; and Does 1 through 100

2. This pleading, including attachments and exhibits, consists of the following number of pages: 5
3. Each plaintiff named above is a competent adult
   a. [ ] except plaintiff (name):
      (1) [ ] a corporation qualified to do business in California
      (2) [ ] an unincorporated entity (describe):
      (3) [ ] a public entity (describe):
      (4) [ ] a minor [ ] an adult
         (a) [ ] for whom a guardian or conservator of the estate or a guardian ad litem has been appointed
         (b) [ ] other (specify):
      (5) [ ] other (specify):

   b. [ ] except plaintiff (name):
      (1) [ ] a corporation qualified to do business in California
      (2) [ ] an unincorporated entity (describe):
      (3) [ ] a public entity (describe):
      (4) [ ] a minor [ ] an adult
         (a) [ ] for whom a guardian or conservator of the estate or a guardian ad litem has been appointed
         (b) [ ] other (specify):
      (5) [ ] other (specify):

[ ] Information about additional plaintiffs who are not competent adults is shown in Attachment 3.

SHORT TITLE: Minard vs. Michelin North America; et al.

PLD-PI-001

CASE NUMBER:

4. [ ] Plaintiff *(name)*:
is doing business under the fictitious name *(specify)*:

and has complied with the fictitious business name laws.

5. Each defendant named above is a natural person

a. [X] **except** defendant *(name)*: Michelin North America, Inc.
(1) [ ] a business organization, form unknown
(2) [X] a corporation
(3) [ ] an unincorporated entity *(describe)*:
(4) [ ] a public entity *(describe)*:
(5) [ ] other *(specify)*:

b. [X] **except** defendant *(name)*: General Motors, L.L.C.
(1) [ ] a business organization, form unknown
(2) [X] a corporation
(3) [ ] an unincorporated entity *(describe)*:
(4) [ ] a public entity *(describe)*:
(5) [ ] other *(specify)*:

c. [X] **except** defendant *(name)*: Koepplin Wayne Lewis dba Lodi Small Car Sales
(1) [X] a business organization, form unknown
(2) [ ] a corporation
(3) [ ] an unincorporated entity *(describe)*:
(4) [ ] a public entity *(describe)*:
(5) [ ] other *(specify)*:

d. [X] **except** defendant *(name)*: Chase Chevrolet Co., Inc.
(1) [ ] a business organization, form unknown
(2) [X] a corporation
(3) [ ] an unincorporated entity *(describe)*:
(4) [ ] a public entity *(describe)*:
(5) [ ] other *(specify)*:

[ ] Information about additional defendants who are not natural persons is contained in Attachment 5.

6. The true names of defendants sued as Does are unknown to plaintiff.
a. [X] Doe defendants *(specify Doe numbers)*: Does 1-100 were the agents or employees of other named defendants and acted within the scope of that agency or employment.
b. [X] Doe defendants *(specify Doe numbers)*: Does 1-100 are persons whose capacities are unknown to plaintiff.

7. [ ] Defendants who are joined under Code of Civil Procedure section 382 are *(names)*:

8. This court is the proper court because
a. [X] at least one defendant now resides in its jurisdictional area.
b. [X] the principal place of business of a defendant corporation or unincorporated association is in its jurisdictional area.
c. [X] injury to person or damage to personal property occurred in its jurisdictional area.
d. [ ] other *(specify)*:

9. [ ] Plaintiff is required to comply with a claims statute, and
a. [ ] has complied with applicable claims statutes, or
b. [ ] is excused from complying because *(specify)*:

SHORT TITLE: Minard vs. Michelin North America; et al. | CASE NUMBER: | PLD-PI-001

10. The following causes of action are attached and the statements above apply to each *(each complaint must have one or more causes of action attached)*:
    a. [ ] Motor Vehicle
    b. [ ] General Negligence
    c. [ ] Intentional Tort
    d. [X] Products Liability
    e. [ ] Premises Liability
    f. [ ] Other *(specify)*:

11. Plaintiff has suffered
    a. [X] wage loss
    b. [X] loss of use of property
    c. [X] hospital and medical expenses
    d. [X] general damage
    e. [X] property damage
    f. [X] loss of earning capacity
    g. [X] other damage *(specify)*: All personal injury economic and non-economic damages permitted by law.

12. [ ] The damages claimed for wrongful death and the relationships of plaintiff to the deceased are
    a. [ ] listed in Attachment 12.
    b. [ ] as follows:

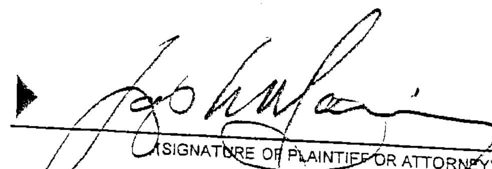
13. The relief sought in this complaint is within the jurisdiction of this court.

14. **Plaintiff prays** for judgment for costs of suit; for such relief as is fair, just, and equitable; and for
    a. (1) [X] compensatory damages
    (2) [X] punitive damages
    The amount of damages is *(in cases for personal injury or wrongful death, you must check (1))*:
    (1) [X] according to proof
    (2) [ ] in the amount of: $

15. [X] The paragraphs of this complaint alleged on information and belief are as follows *(specify paragraph numbers)*:
All

Date: June 19, 2013

Joseph W. Carione, Jr., Esq.
(TYPE OR PRINT NAME)


(SIGNATURE OF PLAINTIFF OR ATTORNEY)

SHORT TITLE: Minard vs. Michelin North America, Inc.; et al.

PLD-PI-001(5)

CASE NUMBER:

First (number) CAUSE OF ACTION—Products Liability

Page 4

ATTACHMENT TO [X] Complaint [ ] Cross-Complaint

(Use a separate cause of action form for each cause of action.)

Plaintiff *(name)*: Brianna Minard

Prod. L-1. On or about *(date)*: July 3, 2011 plaintiff was injured by the following product: 2001 Chevrolet Blazer and its component parts; and a Uniroyal Laredo Tire, and its components.

Prod. L-2. Each of the defendants knew the product would be purchased and used without inspection for defects. The product was defective when it left the control of each defendant. The product at the time of injury was being

[X] used in the manner intended by the defendants.

[X] used in a manner that was reasonably foreseeable by defendants as involving a substantial danger not readily apparent. Adequate warnings of the danger were not given.

Prod. L-3. Plaintiff was a

[X] purchaser of the product.

[ ] bystander to the use of the product.

[X] user of the product.

[ ] other *(specify)*:

PLAINTIFF'S INJURY WAS THE LEGAL (PROXIMATE) RESULT OF THE FOLLOWING:

Prod. L-4. [X] **Count One--Strict liability** of the following defendants who

a. [X] manufactured or assembled the product *(names)*: Michelin North America, Inc.; General Motors, L.L.C.; and

[X] Does 1 to 100

b. [X] designed and manufactured component parts supplied to the manufacturer *(names)*: Michelin North America, Inc.; General Motors, L.L.C.; and

[X] Does 1 to 100

c. [X] sold the product to the public *(names)*: Michelin North America, Inc.; General Motors, L.L.C.; Koepplin Wayne Lewis dba Lodi Small Car Sales; and

[X] Does 1 to 100

Prod. L-5. [X] **Count Two--Negligence** of the following defendants who owed a duty to plaintiff *(names)*: Michelin North America, Inc.; General Motors, L.L.C.; Koepplin Wayne Lewis dba Lodi Small Car Sales; Chase Chevrolet Co., Inc. and

[X] Does 1 to 100

Prod. L-6. [X] **Count Three--Breach of warranty** by the following defendants *(names)*: Michelin North America, Inc.; General Motors, L.L.C.; Koepplin Wayne Lewis dba Lodi Small Car Sales; Chase Chevrolet Co., Inc. and

[X] Does 1 to 100

a. [X] who breached an implied warranty

b. [X] who breached an express warranty which was

[X] written [X] oral

Prod. L-7. [ ] The defendants who are liable to plaintiffs for other reasons and the reasons for the liability are

[ ] listed in Attachment-Prod. L-7 [ ] as follows:

SHORT TITLE: Minard vs. Michelin North America, Inc.; et al.

PLD-PI-001(6)

CASE NUMBER

Exemplary Damages Attachment

ATTACHMENT TO [X] Complaint [ ] Cross-Complaint

Page 5

EX-1. As additional damages against defendant *(name)*: Michelin North America, Inc.; General Motors, L.L.C.; Koepplin Wayne Lewis dba Lodi Small Car Sales; and DOES 1 to 100

Plaintiff alleges defendant was guilty of

[X] malice

[ ] fraud

[ ] oppression

as defined in Civil Code section 3294, and plaintiff should recover, in addition to actual damages, damages to make an example of and to punish defendant.

EX-2. The facts supporting plaintiff's claim are as follows:

See Attachment

EX-3. The amount of exemplary damages sought is

a. [X] not shown, pursuant to Code of Civil Procedure section 425.10.

b. [ ] $

SHORT TITLE: Minard vs. Michelin North America, Inc.; et al.	CASE NO.:

EXEMPLARY DAMAGES ATTACHMENT
ATTACHMENT EX-2 TO COMPLAINT

1. Plaintiff is informed and believes and thereon alleges that the defendants, and each of them, designed, manufactured, assembled, inspected, sold, marketed and/or distributed the 2001 Chevrolet Blazer vehicle, which is a 2-wheel drive sport utility vehicle (SUV), and its component parts [the "Subject Vehicle"], including but not limited to the Uniroyal Laredo tire on the Subject Vehicle [the "Subject Tire"], which Plaintiff was driving on July 3, 2011, when she was severely injured in a rollover incident.

2. Plaintiff is informed and believes and thereon alleges that the defendants, and each of them, and their officers, directors and/or managing agents, knew at all relevant times before July 3, 2011, that the Subject Vehicle and the Subject Tire were defective.

(a) Plaintiff is informed and believes and thereon alleges that the defendants, and each of them, and their officers, directors and/or managing agents, knew that the Subject Vehicle and the Subject Tire were defective and dangerous for the vehicle's intended purpose and/or use by the Plaintiff and other members of the public, because defendants knew and/or had notice that the design of the Subject Tire rendered it prone to delamination or tread belt separation during ordinary driving, and the design of the Subject Vehicle rendered it unstable and prone to rollover, and further that the design of the Subject Vehicle and its safety components rendered the vehicle

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SHORT TITLE: Minard vs. Michelin North America, Inc.; et al.	CASE NO.:

uncrashworthy in the event of a rollover incident. Defendants knew and/or had notice that the technology was available since before the 1970s to produce tires with high resistance to delamination or tread belt separation, and vehicles with high resistance to rollover, and crashworthy vehicles in the event of a rollover. Despite that knowledge, and the existence of known technology, the defendants designed and manufactured and sold tires with low resistance to delamination and tread belt separation, and designed and manufactured and sold a class of vehicles known as "sport utility vehicles", including the Chevrolet Blazer, which were highly unstable and uncrashworthy.

(b) Plaintiff is informed and believes and thereon alleges that the defendants, and each of them, and their officers, directors and/or managing agents, knew that the Subject Tire and the Subject Vehicle were defective and dangerous for the vehicle's intended purpose and/or use by the Plaintiff and other members of the public, because defendants knew and/or had notice that other persons have been injured and/or killed in the same or similar vehicles using the same or similar tires, including but not limited to the Chevrolet Blazer and the Uniroyal Laredo tire, in circumstances similar to that which occurred in the Plaintiff's accident.

(c) Plaintiff is informed and believes and thereon alleges that the defendants, and each of them, and their officers, directors and/or managing agents, knew that the Subject Tire and the Subject Vehicle were defective and dangerous for the vehicle's intended purpose and/or use by the Plaintiff and other members of the public, because defendants knew and/or had notice that the same or similar vehicles and tires had failed to perform safely in tests, simulations,

;442/

SHORT TITLE: Minard vs. Michelin North America, Inc.; et al.	CASE NO.:

investigations, and/or studies conducted by or on behalf of said defendants, and each of them, which related to tire performance, vehicle stability and vehicle crashworthiness in the event of a rollover incident.

(d) Plaintiff is informed and believes and thereon alleges that the defendants, and each of them, and their officers, directors and/or managing agents, knew that the Subject Tire and the Subject Vehicle were defective and dangerous for the vehicle's intended purpose and/or use by the Plaintiff and other members of the public, because defendants knew and/or had notice that the same or similar vehicles and tires had failed to perform safely in tests, simulations, investigations, and/or studies conducted by others, including private and public entities and individuals, which related to tire performance, vehicle stability and vehicle crashworthiness in the event of a rollover incident.

(e) Plaintiff is informed and believes and thereon alleges that the defendants, and each of them, and their officers, directors and/or managing agents, knew that the Subject Tire and the Subject Vehicle were defective and dangerous for the vehicle's intended purpose and/or use by the Plaintiff and other members of the public, because defendants knew and/or had notice that the same or similar vehicles and tires had failed to perform safely in other similar situations and accidents, including but not limited to those circumstances where a vehicle sustained a rollover event.

(f) Plaintiff is informed and believes and thereon alleges that the defendants, and each of them, and their officers, directors and/or managing agents, knew that the Subject Tire and

SHORT TITLE: Minard vs. Michelin North America, Inc.; et al.	CASE NO.:

Subject Vehicle were defective and dangerous for the vehicle's intended purpose and/or use by the Plaintiff and other members of the public, because defendants had received prior complaints and notice from purchasers and users of same or similar vehicles and tires, which related to tire performance, vehicle stability and vehicle crashworthiness in the event of a rollover incident.

3. Plaintiff is informed and believes and thereon alleges that despite said knowledge on the part of the defendants, and each of them, and their officers, directors and/or managing agents, as alleged above, said defendants, and each of them, with conscious disregard for the rights, safety and well-being of the Plaintiff and other members of the public, designed, manufactured, assembled, sold, marketed and/or distributed the Subject Tire which was subject to delamination or tread belt separation, and the Subject Vehicle which was unstable and highly prone to rollover, and further was uncrashworthy in the event of a rollover event.

4. Plaintiff is informed and believes and thereon alleges that despite said knowledge on the part of the defendants, and each of them, and their officers, directors and/or managing agents, as alleged above, said defendants, and each of them, with conscious disregard for the rights, safety and well-being of the Plaintiff and other members of the public, sold, marketed, and/or distributed the Subject Tire and the Subject Vehicle without alerting, advising, warning or otherwise adequately informing purchasers and/or users of the vehicles of their defective and dangerous nature and/or character. Plaintiff is informed and believes and thereon alleges that the defendants further failed to alert, advise, warn or otherwise adequately inform purchasers and/or users of the Subject tire and the Subject Vehicle that safer, feasible alternatives were available

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SHORT TITLE: Minard vs. Michelin North America, Inc.; et al.	CASE NO.:

which would substantially decrease the risk of a tire delamination or tread belt separation, and the risk of a rollover incident, and which would substantially increase the survivability of a rollover incident, and which would substantially decrease the extent of any injury in a rollover incident, if it occurred. Plaintiff is informed and believes and thereon alleges that the defendants failed to alert, advise, warn or otherwise adequately inform purchasers and/or users of the Subject Tire and the Subject Vehicle's defective and dangerous nature and/or character knowing that the Subject Tire and the Subject Vehicle would not be and/or was not likely to be, examined or inspected for defects by their purchasers and/or users. By failing to so alert, advise, warn or adequately inform purchasers or users of the defective and dangerous nature and/or character of said products, the defendants, and each of them, warranted and represented that the Subject Tire and the Subject Vehicle were safe and suitable for the vehicle's intended purpose and use by Plaintiff and other members of the public. As a direct, proximate and legal result thereof, Plaintiff purchased and used the Subject Tire and the Subject Vehicle for its intended purpose and thereby suffered severe personal injury.

5. Plaintiff is informed and believes and thereon alleges that the defendants, and each of them, and their officers, directors and/or managing agents, acted in the manner described above and/or failed to take the actions mentioned above, for reasons of economic gain, and to save money and increase their business profits. If the defendants, and each of them, had taken actions to improve and/or make their vehicles safe or substantially safer, said acts would have cost them money. The corporate management of the defendants refused to adopt more of the

SHORT TITLE: Minard vs. Michelin North America, Inc.; et al.	CASE NO.:

engineering safety changes recommended by their automotive engineers because of cost. Hence, the defendants, and each of them, consciously, willfully and wantonly decided that their profits were more valuable and important than human suffering and life.

6. In doing the acts herein alleged, the defendants, and each of them, and their officers, directors, and/or managing agents, directly, and in authorizing and ratifying the conduct of each of them, acted with malice by engaging in the misconduct despicably and with a willful and conscious disregard of the rights and/or safety of others, and/or acted with oppression by engaging in the misconduct despicably and by subjecting others to cruel and unjust hardship in conscious disregard of the rights of other persons, and/or acted with fraud by engaging in the misconduct through intentional misrepresentation, deceit, and/or concealment of a material fact known to the defendants with the intention on the part of the defendants of thereby depriving a person or property or legal rights or otherwise causing injury, and are liable under Civil Code §3294 for exemplary and punitive damages. Plaintiff is therefore entitled to an award of exemplary and punitive damages against the defendants, and each of them, in an amount to be shown according to proof at trial.

5442/

SUPERIOR COURT OF CALIFORNIA

SAN JOAQUIN
222 E Weber Avenue
Stockton , CA 95202
(209) 468-2355

NOTICE OF CASE ASSIGNMENT AND SCHEDULING INFORMATION AND NOTICE OF HEARING

Case Number: 39-2013-00298477-CU-PL-STK

A Case Management Conference has been scheduled for your case as indicated below. A copy of this information must be provided with the complaint or petition, and with any cross-complaint that names a new party to the underlaying action. Disregard hearing date if that date has expired.

Hearing: Case Management Conference	Date: 11/18/2013	Time: 08:45:00 AM	
JUDGE	COURT LOCATION	DEPARTMENT/ROOM	PHONE
Hon. Carter P Holly	STOCKTON	41	(209) 468-2355

[x] ADR Information attached.

SCHEDULING INFORMATION

Judicial Scheduling Calendar Information

See attached ADR packet.

Ex Parte Matters

See attached ADR packet.

Noticed Motions

At least one party demanding a jury trial on each side must pay a nonrefundable fee of $150.00 on or before the initial case management conference or as otherwise provided by statute. CCP 631(b)

Other Information

See attached ADR packet.

Date: 06/20/2013

Rafaela Gutierrez, Deputy Clerk

Exhibit F

CAUSE NO. 15-04-77819-C

PAUL MINX Plaintiff	§	IN THE DISTRICT COURT
	§	267th JUDICIAL DISTRICT
VS.	§	
GM MOTORS, AND	§	VICTORIA COUNTY, TEXAS
KIA DEALERSHIP Defendant's	§	

FILED
2015 APR 20 AM 11:38
DISTRICT CLERK
VICTORIA COUNTY, TEXAS

PLAINTIFF'S ORIGINAL COMPLAINT

TO THE HONORABLE JUDGE OF SAID COURT:

Comes now, The Plaintiff PAUL MINX, in the above styled and numbered cause of action and respectfully moves this court and files his civil Rights complaint against The GM motors and KIA Dealership, both Automotive industries and/or Automotive Dealership sales companies. Plaintiff's complaint is brought due To his purchase of a 2009 chevy impala at the KIA Dealership on Rio Grande in Victoria, Texas mid 2013. At no time did KIA Salesman indicate To plaintiff or otherwise state in the contract that the vehicle Plaintiff was purchasing was defective of safety features, namely, No Safety air bags To protect Plaintiff and his family in the event of a serious auto accident. The vehicle is made of GM motors but, resold through KIA dealership. unfortunetly, as defective, thereby Jeopardizing his Life of which was almost Lost in a serious accident in the defective vehicle.

I.

Plaintiff's complaint is filed under the Texas civil Rights statute and/or § 1983 civil rights Laws, and/or pursuant To the Laws of "contracting" violations. Plaintiff files this Lawsuit Pro se and does not have access To a Law Library To research state statutes To properly cite this complaint as he is presently confined at Dewitt county Jail where no Law Library is available. and under 8th Amendment violation.

II.

Plaintiff reserves the right to amend and/or correct any statue or state law remedies due to him not able to research the laws for not having access once he is released from jail.

III.

PARTIES TO THE COMPlAINT

PlAINTiff: PAUL minx, 208 E. Live oak, Cuero, Texas 77954,

DEFENDANT'S: #1. Gm motors, Automotive industry, po Box 33170. Detroit, michigan. 48232-5170.

#2 KIA DeaLership, Automotive Sales, 714 E. Rio Grande ST. Victoria, Texas 77906

IV.

CAPACity of DEFENDANT'S

Defendant Gm motors and KIA Dealership are being sued in Their individual and official capacities as responsible parties for selling and placing on the showroom floor a automobile they Knew, or should have known being the vehicle was manufactored, Tested, and intentionally placed on the market to sell to U.S. citizens a automobile without any driver or passenger air bags To protect the owner(s) of the 2009 chevy impala placing plaintiff and his family in potential serious risk of serious injury or death.

V.

StAtEMENT of ClAim

On about mid 2013 (June - August), Plaintiff Purchased a 2009 chevy impala, dark Grey in color, with a retail price of $9,000 dollars with $1,000 cash as down payment, from the KIA automotive dealership off Rio Grande in Victoria, Texas. At no Time during plaintiff's test drive of the vehicle or signing of the contract with the salesmen was plaintiff informed the vehicle was defective

of the (All) safety air bags. Had Plaintiff been made aware of this, he would not have purchased the vehicle. yet, defendant KiA salesmen intentionally misled, deceived, and purposely sold plaintiff a vehicle with the knowledge that he and his family were not protected in the event of a accident. Defendant Kia willingly jeopardized plaintiff's life and just wanted to get rid of the vehicle - so they pushed it off on plaintiff and his family.

On July 10, 2014, approximately (1) year after plaintiff purchased the vehicle, an auto accident occured where plaintiff lost control of the vehicle and went through a Guardrail at approx. 50 mph and over the side going down 25-30 FT. to a concrete embankment. The vehicle was totaled. (Not one air bag deployed in this accident despite hitting the Guardrail head-on).

Plaintiff sustained shoulder and knee injuries as well as permanent scars on his arm and stomach. To this present day plaintiff suffers with shoulder pain (which wakes him up every night out of his sleep). His leg is not strong as it once was and has difficulty walking long distances, as well as difficulty exercising. To the extent that plaintiff's head slammed into the stering wheel (due to no air bag), he still suffers with periodic headaches and now has short term memory loss. His memory is not as it once was.

The most serious of all from the injuries is the trauma from the accident itself. Plaintiff suffers with what doctors call (PTSD) due to the nightmares of the accident that awaken me at night, as well as the unexplained paranoia I deal with on a regular basis. Most Notable of this accident is the life and death event itself. Plaintiff was even told by the sheriff's office that I should not have lived this this accident - even more so due to the fact that no air bag deployed. Plaintiff was even told that had there been a front passenger in the vehicle they would have most likely died, or sustained permanent bodily injury.

What might have happened if plaintiff's wife or child was with him that night? The possibilities are sure. The stakes are higher thanks to KiA and Gm motors. and from what has been shown on local and national news, Gm and dealership salesmen are still selling vehicles defective of similiar safety features. They dont care, it's all about making money.

VI.

PRAYER FOR RELIEF

Plaintiff respectfully seeks the following Damages for relief -

1. That defendant's be ordered To reimburse plaintiff with another Likewise vehicle equipped with all required safety features;

2. plaintiff seeks The Following damages -

$50,000.00 compensatory damages for violating my rights,

$100,000.00 punitive damages for intentionally causing plaintiff To suffer due To their bad acts and Gross disregard for my Life.

$50,000.00 due To the physical harm plaintiff was forced To deal with and the scars on his body and the emotional stress and psychological Trama due To the accident,

3. plaintiff further request that this court appoint counsel To represent him in this complex litigation where only a attorney will be able To obtain alot of the needed records in the accident and from the defendants. plaintiff's mental condition of PTSD will make pursuing this litigation difficult without proper Legal representation,

4. Plaintiff also proceeds as a pauper and is indigent at this Time. he will also submit a application To proceed Informa pamperis.

5. Plaintiff request the court serve defendant's with citation.

WHEREFORE, Plaintiff respectfully prays this court file this civil rights complaint against the defendants for selling him a vehicle defective of safety air bag resulting in plaintiff sustaining bodily injurys, emotional & psychological stress and a near death experience.

Excuted on this day of
April 3, 2015

Respectfully submitted

Paul Minix [signature]

PAul minix
Dewitt county Jail
208 E. Live oak
Cuero, TX 77954

Exhibit G

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	SEVENTH JUDICIAL CIRCUIT
COUNTY OF SPARTANBURG	)	
Jaimie Reda Moore,	)	
	)	C.A. No. 2011-CP-42-3627
Plaintiff,	)	
	)	
vs.	)	**FIFTH AMENDED COMPLAINT**
	)	(Jury Trial Demanded)
Anthony Wade Ross, General Motors, LLC Dura Automotive Systems, Inc., Dura Operating, LLC, Sparton Corporation, and Sparton Engineered Products – Flora Group,	)	
	)	
Defendants.	)	

2016 MAY 25 AM 9:34
M. HOPE BLACKLEY

Plaintiff would respectfully show unto this Court:

FOR A FIRST CAUSE OF ACTION

1. Plaintiff is a citizen and resident of Spartanburg County, South Carolina.

2. Plaintiff is informed and believes that the Defendant Anthony Wade Ross is a citizen and resident of Spartanburg County, South Carolina.

3. Plaintiff is informed and believes that Defendant General Motors, LLC is a Delaware corporation, doing business in Spartanburg County, South Carolina. Pursuant to the Sale Order by which it acquired certain assets and liabilities from General Motors Corporation (n/k/a Motors Liquidation Company), and is legally responsible for vehicles manufactured by General Motors Corporation (n/k/a Motors Liquidation Company).

4. Plaintiff is informed and believes that the Defendant Dura Automotive Systems, Inc., is a corporation organized and existing under and by virtue of the laws of the state of

Michigan or one of the other states of the United States of America, doing business throughout the United States.

5. Plaintiff is informed and believes that Dura Operating, LLC is a corporation organized and existing under and by virtue of the laws of the state of Delaware or one of the other states of the United States of America, doing business throughout the United States, and is a wholly-owned subsidiary of Defendant Dura Automotive Systems, Inc.

6. Plaintiff is informed and believes that the Defendant Sparton Corporation is a corporation organized and existing under and by virtue of the laws of the state of Ohio or one of the other states of the United States of America, doing business throughout the United States.

7. Plaintiff is informed and believes that Defendant Sparton Engineered Products, Inc. – Flora Group, is a corporation organized existing under and by virtue of the laws of the state of Illinois or one of the other states of the United States of America, doing business throughout the United States, and is a wholly-owned subsidiary of Defendant Sparton Corporation.

8. On or about August 8, 2011, the Plaintiff's husband was traveling in a northeasterly direction on Interstate Highway 85 when the spare tire of the Defendant Ross fell from the 1996 GMC pickup truck that the Defendant Ross was driving, into the path of the Plaintiff's husband. In attempting to avoid the tire, the vehicle in which the Plaintiff's husband was driving, struck a barrier and overturned. The truck being operated by the Defendant Ross was manufactured by General Motors Corporation (n/k/a Motors Liquidation Company), for whose acts the Defendant General Motors, LLC, is responsible. Upon information and belief, the spare wheel retaining device (device) on this vehicle was manufactured by one or more of the

Defendants: Dura Automotive Systems, Inc.; Dura Operating, LLC; Sparton Corporation; and Sparton Engineered Products, Inc. – Flora Group.

9. As a direct and proximate result, the Plaintiff's husband suffered severe disabling and incapacitating injuries.

10. As a further direct and proximate result, the Plaintiff has suffered as follows:

a) Experiencing shock, grief, and anguish from having seen her husband so injured, watching and assisting in his protracted recovery, and viewing the disability with which he now suffers;

b) Losing the care and companionship normally received from her husband;

c) Losing the services and assistance in household chores, repairs, maintenance, and other activities usually provided by her husband;

d) Having to care for and assist her husband during his recovery and after to a greater extent than before; and

e) Loss of wages as the result of having to stay at home, caring for her husband.

11. The injuries and damages suffered by the Plaintiff herein were the direct and proximate result of the following negligent, willful, wanton, careless, reckless, and grossly negligent acts on the part of the Defendants herein at the time and place above-mentioned:

AS TO THE DEFENDANT ANTHONY WADE ROSS

a) Failing to maintain his vehicle in a proper condition;

b) Failing to have his vehicle properly secured and serviced; and

c) Operating his vehicle in an unsafe manner.

2016 MAY 25 AM 9:44
M. HOPE BLACKLEY

All of which are in violation of the common statutory laws of the state of South Carolina as well as the rules and regulations of the South Carolina Department of Transportation.

**AS TO THE DEFENDANT
GENERAL MOTORS, LLC**

a) Failing to design the vehicle properly;

b) Failing to manufacture the vehicle properly;

c) Failing to inspect the vehicle properly;

d) Failing to test the vehicle properly;

e) Failing to warn owners and the public as to the dangerous defect in this vehicle;

f) Failing to recall vehicles with this dangerous condition; and

g) Failing to retrofit vehicles with this dangerous condition.

**AS TO THE DEFENDANTS
DURA AUTOMOTIVE SYSTEMS, INC.
DURA OPERATING, LLC, SPARTON CORPORATION, AND SPARTON
ENGINEERED PRODUCTS, INC. – FLORA GROUP**

a) Failing to design the device properly;

b) Failing to manufacture the device properly;

c) Failing to test the device properly;

d) Failing to warn owners of the vehicles and the public as to the dangerous defect in this device;

e) Failing to recall the device; and

f) Failing to retrofit vehicles using the device.

2016 MAY 25 AM 9:34
M. HOPE BLACKLEY

**FOR A SECOND CAUSE OF ACTION
AS TO DEFENDANTS GENERAL MOTORS, LLC,
DURA AUTOMOTIVE SYSTEMS, INC., DURA OPERATING, LLC, SPARTON
CORPORATION, AND SPARTON ENGINEERED
PRODUCTS, INC. – FLORA GROUP**

12. Plaintiff reiterates and realleges all of the allegations contained in Paragraphs One (1) through Eleven (11) of the First Cause of Action as fully as though set forth verbatim.

13. The 1996 pickup truck and the device were in defective condition and unreasonably dangerous to the consumer.

14. As a direct and proximate result, the Plaintiff's husband suffered severe disabling and incapacitating injuries.

15. Plaintiff is informed and believes that he is entitled to such actual damages from the Defendants General Motors, LLC, Dura Automotive Systems, Inc., Dura Operating, LLC, Sparton Corporation, and Sparton Engineered Products, Inc. – Flora Group, as the jury may determine.

WHEREFORE, Plaintiff prays judgment against the Defendants for such actual damages as the jury may determine, for the costs of this action and for such other and further relief as may seem just and proper.

THE ANTHONY LAW FIRM, P.A.

____

Kenneth C. Anthony, Jr., S.C. Bar No. 0404
K. Jay Anthony, S.C. Bar No. 77433
250 Magnolia Street (29306)
P.O. Box 3565 (29304)
Spartanburg, South Carolina
(864) 582-2355 p
(864) 583-9772 f

ATTORNEYS FOR THE PLAINTIFF

2016 MAY 25 AM 9:34
M. HOPE BLACKLEY

Spartanburg, South Carolina
May_______, 2016

Jury Trial Demanded:

____

Kenneth C. Anthony, Jr.
Attorney for Plaintiff

2016 MAY 25 AM 9: 34
M. HOPE BLACKLEY

STATE OF SOUTH CAROLINA)
) IN THE COURT OF COMMON PLEAS
COUNTY OF SPARTANBURG) SEVENTH JUDICIAL CIRCUIT

Jaimie Reda Moore,

Plaintiff,

vs.

Anthony Wade Ross, General Motors, LLC Dura Automotive Systems, Inc., Dura Operating, LLC, Sparton Corporation, and Sparton Engineered Products – Flora Group,

Defendants.

C.A. No. 2011-CP-42-3627

AFFIDAVIT OF SERVICE BY MAIL

PERSONALLY appeared before me, Cynthia M. Hogan, who being duly sworn, deposes and says that she is employed in the law firm of The Anthony Law Firm, P.A., 250 Magnolia Street, Spartanburg, South Carolina, and is a person of such age and discretion as to be competent to serve papers. That on May 25, 2016, she served a Motion to Amend Complaint on the Defendants by placing copies in a postpaid envelope addressed to their attorneys hereinafter named, at the place and address stated below, by deposition said envelope and contents in the United States mail at Spartanburg, South Carolina.

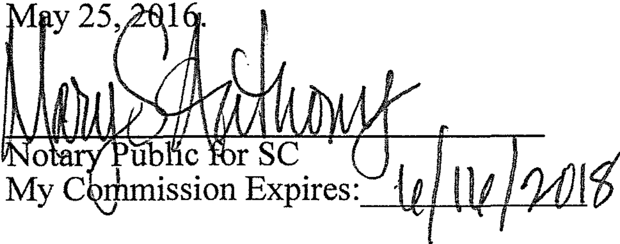
Mr. Thomas M. Kennaday
TURNER PADGET GRAHAM LANEY PA
1901 Main Street
Suite 1700
Columbia, SC 29201

Mr. Elbert S. Dorn, Sr.
Nexsen Pruet
1101 Johnson Avenue
Suite 300
Myrtle Beach, SC 29577

Mr. William L. Duncan
Butler Means Evins & Browne, PA
Post Office Drawer 451
Spartanburg, SC 29304

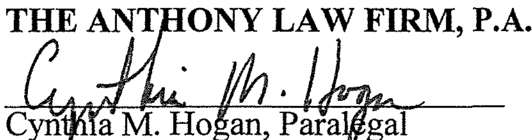
Mr. Christopher J. Daniels
Mr. David Dukes
Nelson, Mullins, Riley & Scarborough
P.O. Box 11070
Columbia, SC 29211-1070

SWORN to before me this
May 25, 2016.



Notary Public for SC
My Commission Expires: 6/16/2018

THE ANTHONY LAW FIRM, P.A.



Cynthia M. Hogan, Paralegal

Exhibit H

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS SEVENTH JUDICIAL CIRCUIT
COUNTY OF SPARTANBURG	)	
James Walter Moore, Plaintiff,	)	C.A. No. 2011-CP-42-3625
vs.	)	**FIFTH AMENDED COMPLAINT** (Jury Trial Demanded)
Anthony Wade Ross, General Motors, LLC Dura Automotive Systems, Inc., Dura Operating, LLC, Sparton Corporation, and Sparton Engineered Products – Flora Group, Defendants.	)	

CLERK OF SPARTANBURG COUNTY
2016 MAY 25 AM 9:36
M. HOPE BLACKLEY

Plaintiff would respectfully show unto this Court:

FOR A FIRST CAUSE OF ACTION

1. Plaintiff is a citizen and resident of Spartanburg County, South Carolina.

2. Plaintiff is informed and believes that the Defendant Anthony Wade Ross is a citizen and resident of Spartanburg County, South Carolina.

3. Plaintiff is informed and believes that Defendant General Motors, LLC is a Delaware corporation, doing business in Spartanburg County, South Carolina. Pursuant to the Sale Order by which it acquired certain assets and liabilities from General Motors Corporation (n/k/a Motors Liquidation Company), General Motors, LLC is legally responsible for vehicles manufactured by General Motors Corporation (n/k/a Motors Liquidation Company).

4. Plaintiff is informed and believes that the Defendant Dura Automotive Systems, Inc., is a corporation organized and existing under and by virtue of the laws of the state of

Michigan or one of the other states of the United States of America, doing business throughout the United States.

5. Plaintiff is informed and believes that Dura Operating, LLC is a corporation organized and existing under and by virtue of the laws of the state of Delaware or one of the other states of the United States of America, doing business throughout the United States, and is a wholly-owned subsidiary of Defendant Dura Automotive Systems, Inc.

6. Plaintiff is informed and believes that the Defendant Sparton Corporation is a corporation organized and existing under and by virtue of the laws of the state of Ohio or one of the other states of the United States of America, doing business throughout the United States.

7. Plaintiff is informed and believes that Defendant Sparton Engineered Products, Inc. – Flora Group, is a corporation organized existing under and by virtue of the laws of the state of Illinois or one of the other states of the United States of America, doing business throughout the United States, and is a wholly-owned subsidiary of Defendant Sparton Corporation.

8. On or about August 8, 2011, the Plaintiff was traveling in a northeasterly direction on Interstate Highway 85 when the spare tire of the Defendant Ross fell from the 1996 GMC pickup truck that the Defendant Ross was driving, into the path of the Plaintiff. In attempting to avoid the tire, the vehicle of the Plaintiff struck a barrier and overturned. The truck being operated by the Defendant Ross was manufactured by General Motors Corporation (n/k/a Motors Liquidation Company), for whose acts the Defendant General Motors, LLC, is responsible. Upon information and belief, the spare wheel retaining device (device) on this vehicle was manufactured by one or more of the Defendants: Dura Automotive Systems, Inc.;

Dura Operating, LLC; Sparton Corporation; and Sparton Engineered Products, Inc. – Flora Group.

9. As a direct and proximate result, the Plaintiff suffered severe disabling and incapacitating injuries, all of which have caused and will in the future cause the Plaintiff to endure great physical and mental pain and suffering, to require extensive medical treatment and care for the rest of his life, and will prevent him from working and earning an income.

10. The injuries and damages suffered by the Plaintiff herein were the direct and proximate result of the following negligent, wilful, wanton, careless, reckless, and grossly negligent acts of the Defendants herein at the time and place above mentioned:

AS TO THE DEFENDANT ANTHONY WADE ROSS

a) Failing to maintain his vehicle in a proper condition;

b) Failing to have his vehicle properly secured and serviced; and

c) Operating his vehicle in an unsafe manner.

All of which are in violation of the common statutory laws of the state of South Carolina as well as the rules and regulations of the South Carolina Department of Transportation.

2016 MAY 25 AM 9:37
M. HOPE BLACKLEY

AS TO THE DEFENDANT GENERAL MOTORS, LLC

a) Failing to design the vehicle properly;

b) Failing to manufacture the vehicle properly;

c) Failing to inspect the vehicle properly;

d) Failing to test the vehicle properly;

e) Failing to warn owners and the public as to the dangerous defect in this vehicle;

f) Failing to recall vehicles with this dangerous condition; and

g) Failing to retrofit vehicles with this dangerous condition.

AS TO THE DEFENDANTS
DURA AUTOMOTIVE SYSTEMS, INC.
DURA OPERATING, LLC, SPARTON CORPORATION, AND SPARTON ENGINEERED PRODUCTS, INC. – FLORA GROUP

a) Failing to design the device properly;

b) Failing to manufacture the device properly;

c) Failing to test the device properly;

d) Failing to warn owners of the vehicles and the public as to the dangerous defect in this device;

e) Failing to recall the device; and

f) Failing to retrofit vehicles using the device.

11. Plaintiff's claims for punitive damages against General Motors, LLC are based solely on the knowledge and/or conduct of General Motors, LLC, including the failure of General Motors, LLC, to inspect, test, warn, recall, or retrofit the vehicle, as set forth in Paragraph 10, above.

FOR A SECOND CAUSE OF ACTION
AS TO DEFENDANTS GENERAL MOTORS, LLC,
DURA AUTOMOTIVE SYSTEMS, INC., DURA OPERATING, LLC, SPARTON CORPORATION, AND SPARTON ENGINEERED PRODUCTS, INC. – FLORA GROUP

2016 MAY 25 AM 9:37
HOPE BLACKLEY

12. Plaintiff reiterates and realleges all of the allegations contained in Paragraphs One (1) through Ten (10) of the First Cause of Action as fully as though set forth verbatim.

13. The 1996 pickup truck and the device were in defective condition and unreasonably dangerous to the consumer.

14. As a direct and proximate result, the Plaintiff suffered severe disabling and incapacitating injuries, all of which have caused and will in the future cause the Plaintiff to

endure great physical and mental pain and suffering, to require extensive medical treatment and care for the rest of his life, and will prevent him from working and earning an income.

15. Plaintiff is informed and believes that he is entitled to such actual damages from the Defendants General Motors, LLC, Dura Automotive Systems, Inc., Dura Operating, LLC, Sparton Corporation, and Sparton Engineered Products, Inc. – Flora Group, as the jury may determine.

WHEREFORE, Plaintiff prays judgment against the Defendants for such actual and punitive damages as the jury may determine, for the costs of this action and for such other and further relief as may seem just and proper.

THE ANTHONY LAW FIRM, P.A.

____

Kenneth C. Anthony, Jr., S.C. Bar No. 0404
K. Jay Anthony, S.C. Bar No. 77433
250 Magnolia Street (29306)
P.O. Box 3565 (29304)
Spartanburg, South Carolina
(864) 582-2355 p
(864) 583-9772 f

ATTORNEYS FOR THE PLAINTIFF

2016 MAY 25 AM 9:37
M. HOPE BLACKLEY

Spartanburg, South Carolina
May _______, 2016

Jury Trial Demanded:

____

Kenneth C. Anthony, Jr.
Attorney for Plaintiff

STATE OF SOUTH CAROLINA COUNTY OF SPARTANBURG	)))	IN THE COURT OF COMMON PLEAS SEVENTH JUDICIAL CIRCUIT
James Walter Moore, Plaintiff, vs. Anthony Wade Ross, General Motors, LLC Dura Automotive Systems, Inc., Dura Operating, LLC, Sparton Corporation, and Sparton Engineered Products – Flora Group, Defendants.	))))))))))))	C.A. No. 2011-CP-42-3625 **AFFIDAVIT OF SERVICE BY MAIL**

PERSONALLY appeared before me, Cynthia M. Hogan, who being duly sworn, deposes and says that she is employed in the law firm of The Anthony Law Firm, P.A., 250 Magnolia Street, Spartanburg, South Carolina, and is a person of such age and discretion as to be competent to serve papers. That on May 25, 2016, she served a Motion to Amend Complaint on the Defendants by placing copies in a postpaid envelope addressed to their attorneys hereinafter named, at the place and address stated below, by deposition said envelope and contents in the United States mail at Spartanburg, South Carolina.

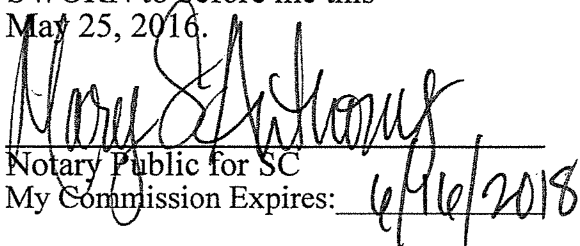
Mr. Thomas M. Kennaday
TURNER PADGET GRAHAM LANEY PA
1901 Main Street
Suite 1700
Columbia, SC 29201

Mr. Elbert S. Dorn, Sr.
Nexsen Pruet
1101 Johnson Avenue
Suite 300
Myrtle Beach, SC 29577

Mr. William L. Duncan
Butler Means Evins & Browne, PA
Post Office Drawer 451
Spartanburg, SC 29304

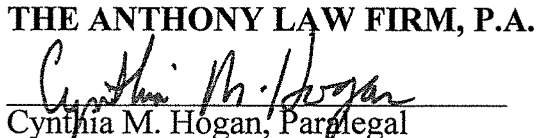
Mr. Christopher J. Daniels
Mr. David Dukes
Nelson, Mullins, Riley & Scarborough
P.O. Box 11070
Columbia, SC 29211-1070

SWORN to before me this
May 25, 2016.



Notary Public for SC
My Commission Expires: 6/16/2018

THE ANTHONY LAW FIRM, P.A.



Cynthia M. Hogan, Paralegal

Exhibit I

RECEIVED
2014 JUN 27 A 10: 14
DEBRA P. HACKETT, CLK
U.S. DISTRICT COURT
MIDDLE DISTRICT ALA

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

BRIDGETTE NICOLE NEAL, as Parent and Next Friend of Alexis Leslie Benton,

Plaintiffs,

vs.

GENERAL MOTORS, LLC; Fictitious Defendant "A", that person, corporation, or other legal entity who designed, engineered, manufactured, installed, or marketed the 2002 Pontiac Grand Am SE1 vehicle which is the subject matter of this lawsuit; Fictitious Defendant "B", that person, corporation, or other legal entity who designed, engineered, manufactured, installed, or marketed the rear seats, including but not limited to frames, backs, attachment structures and seat pan for the vehicle which is the subject matter of this lawsuit; Fictitious Defendant "C", that person, corporation or other legal entity who designed, engineered, manufactured, installed or marketed the seat belt restraint system for the subject vehicle; Fictitious Defendant "D", that person, corporation, or other legal entity who designed, engineered, manufactured, installed, or marketed any trunk cargo restraining structures for the subject vehicle; Fictitious Defendant "E", that person, corporation or other legal entity who sold or participated in the distribution of the subject vehicle into the stream of commerce; Fictitious Defendant "F", that person, corporation or other legal entity who's negligence or wantonness combined with the negligence or wantonness of others to cause the injuries to Alexis Leslie Benton, all of said Fictitious Defendants are unknown to

CIVIL ACTION NO. ~~CV-2014~~ 2:14-cv-633
DEMAND TRIAL BY JURY

Plaintiff at this time but will be substituted)
by amendment when ascertained,)

Defendants.

COMPLAINT

STATEMENT OF THE PARTIES

1. Plaintiff, Bridgette Nicole Neal is over the age of nineteen (19) years and is a resident citizen of Houston County, Alabama and is Parent and Next Friend of Alexis Leslie Benton, a minor.

2. Defendant General Motors, LLC (hereinafter "GM") is believed to be a foreign limited liability company with its principal place of business in Detroit, Michigan, and does business by agent in the State of Alabama. Said Defendant has sufficient contacts with the State of Alabama to invoke the jurisdiction of this Court. Defendant GM is believed to be the entity which was responsible for the design, engineering, manufacturing, and marketing of the 2002 Pontiac Grand Am SE1, VIN # 1G2NF52FX2C153767, which is the subject matter of this lawsuit. Defendant GM can be served by registered agent, CSC Lawyers Incorporating Service, Inc., 150 South Perry Street, Montgomery, Alabama 36104.

3. Fictitious Defendant "A" is that person, corporation, or other legal entity who designed, engineered, manufactured, installed, or marketed the 2002 Pontiac Grand Am SE1 vehicle which is the subject matter of this lawsuit.

4. Fictitious Defendant "B" is that person, corporation, or other legal entity who designed, engineered, manufactured, installed, or marketed the rear seats, including but not limited to frames, backs, attachment structures and seat pan for the vehicle which is the subject matter of this lawsuit.

5. Fictitious Defendant "C" is that person, corporation or other legal entity who designed, engineered, manufactured, installed, or marketed the seatbelt restraint system for the subject vehicle.

6. Fictitious Defendant "D" is that person, corporation, or other legal entity who designed, engineered, manufactured, installed, or marketed any trunk cargo restraining structures for the subject vehicle.

7. Fictitious Defendant "E" is that person, corporation or other legal entity who sold or participated in the distribution of the subject vehicle into the stream of commerce.

8. Fictitious Defendant "F" is that person, corporation or other legal entity whose negligence or wantonness combined with the negligence or wantonness of others to cause the injuries to Alexis Leslie Benton.

9. This Court has subject matter jurisdiction of this civil action on the basis that the amount in controversy exceeds $ 75,000, and is between citizens of different states. 28 U.S.C.S. § 1332.

Statement of the Facts

10. This cause of action arises out of an incident that occurred on May 22, 2013 in Houston County, Alabama.

11. On said date, Bridgette Nicole Neal was driving her 2002 Pontiac Grand Am SE1, with her daughters, eastbound on Murray Road when her car collided with another vehicle. . Alexis Leslie Benton was a back seat passenger in the vehicle and was properly belted.

12. At the time of the accident the 2002 Pontiac Grand Am SE1 was being used as intended and in a manner reasonable foreseeable to Defendants.

13. Although she was properly seat belted at the time of the crash, the 2002 Pontiac Grand Am SE1 failed to protect Plaintiff Alexis Leslie Benton from receiving serious and permanent bodily injuries.

14. As a direct and proximate result of the failure of the 2002 Pontiac Grand Am SE1 to protect her in a foreseeable collision, Alexis Leslie Benton received significant injuries to her body, was paralyzed and was rendered permanently disabled. She will require ongoing treatment.

15. The Defendants knew or should have known that this vehicle was equipped with defective rear seats and seatbelts that were not fit for occupant protection in a foreseeable crash, yet failed to take steps to prevent their failure and resulting catastrophic injuries to Alexis Leslie Benton.

16. As a direct and proximate result of the injuries to her daughter, Bridgette Nicole Neal has suffered mental anguish, emotional pain and suffering.

COUNT ONE
(Alabama Extended Manufacturer's Liability Doctrine)

17. Plaintiffs reallege and incorporate by reference all of the allegations contained in paragraphs 1 through 16 of the Complaint as if set out here in full.

18. This cause of action is brought pursuant to the Alabama Extended Manufacturer's Liability Doctrine (AEMLD).

19. Defendant GM and Fictitious Defendants "A" through "F" designed, manufactured, distributed and marketed the 2002 Pontiac Grand Am SE1 and/or its component parts.

20. Defendants expected that the subject vehicle would reach the user or consumer in the condition that it was at the time of incident.

21. The subject vehicle was in substantially the same mechanical and design condition on the date of the incident as on the date of the original manufacture and sale.

22. The subject vehicle was being used as it was intended to be used and in a manner reasonably foreseeable to Defendants.

23. The subject crash was reasonably foreseeable to Defendants.

24. The subject vehicle, including its component parts, was defective in its design, manufacture and/or the warnings that accompanied it.

25. The defective or unreasonably dangerous condition of the vehicle subjected Plaintiffs to an unreasonable risk of harm.

26. As a direct and proximate result of the defective condition of the vehicle as alleged herein, Plaintiff Alexis Leslie Benton, suffered severe permanent physical injuries.

WHEREFORE, Plaintiffs Bridgette Nicole Neal and Alexis Leslie Benton demand judgment against Defendants GM and Fictitious Defendants "A" through "F" in such amount as a jury may award, plus the cost of this action.

COUNT TWO
(Negligence)

27. Plaintiffs reallege and incorporate by reference all of the allegations contained in paragraphs 1 through 26 of the Complaint as if set out here in full.

28. Defendants GM and Fictitious Defendants "A" through "F" were negligent in the design, manufacture, testing, inspection, distribution and/or sale, maintenance or repair, and failure to recall of the 2002 Pontiac Grand Am SE1 vehicle which is the subject matter of this lawsuit.

29. As a proximate result of the negligence of Defendants, Alexis Leslie Benton was severely injured as described herein.

WHEREFORE, Plaintiffs Bridgette Nicole Neal and Alexis Leslie Benton demand such judgment against Defendants GM and Fictitious Defendants "A" through "F" in such amount as a jury may award, plus the cost of this action.

COUNT THREE
(Wantonness)

30. Plaintiffs reallege and incorporate by reference all of the allegations contained in paragraphs 1 through 29 of the Complaint as if set out here in full.

31. Defendants GM and Fictitious Defendants "A" through "F" were wanton in the design, manufacture, testing, inspection, distribution and/or sale, maintenance or repair, and failure to recall of the 2002 Pontiac Grand Am SE1 vehicle which is the subject matter of this lawsuit.

32. As a proximate result of the wantonness of Defendants, Alexis Leslie Benton was severely and permanently injured.

WHEREFORE, Plaintiffs Bridgette Nicole Neal and Alexis Leslie Benton demand such judgment against Defendants GM and Fictitious Defendants "A" through "F" in such amount as a jury may award, plus the cost of this action.

D. MICHAEL ANDREWS (ASB 9591-V85A)
Attorneys for Plaintiffs

OF COUNSEL:

BEASLEY, ALLEN, CROW, METHVIN,
PORTIS & MILES, P.C.
Post Office Box 4160
Montgomery, Alabama 36104

Exhibit J

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

BERNARD PITTERMAN, ADMINISTRATOR OF THE ESTATE OF M.R.O., ET. AL.	X	
Plaintiffs,	X	**CIVIL ACTION NO.**
V.	X	**3:14-CV-00967-JCH**
GENERAL MOTORS LLC	X	**JURY TRIAL DEMANDED**
Defendant.	X	**October 5, 2015**

Plaintiffs hereby file the following Amended Complaint in accordance with the Order of the Court (ECF #57):

AMENDED COMPLAINT

COUNT ONE (Estate of M.RO.)

1. On July 13, 2011, M.R.O died intestate a resident of the Town of Brookfield, Connecticut. The Probate Court for the Housatonic Probate District appointed Bernard Pitterman, Esq., as the Administrator of the Estate of M.R.O. who brings the cause of action alleged herein in his capacity as Administrator of the Estate of M.R.O. and on behalf of said Estate.

2. Defendant General Motors LLC ("GM") is a Delaware limited liability company.

3. GM is the successor corporation to General Motors Corporation ("GMC") which

underwent bankruptcy in 2009.

4. Through that bankruptcy and asset sale from GMC to GM, GM assumed the liabilities of GMC for cases such as this one.

5. At all times relevant herein, GMC was a corporation engaged in the business of designing, manufacturing and selling motor vehicles.

6. On Wednesday, July 13, 2011, at approximately 4 p.m., M.R.O., then 8 years old, was inside a 2004 Chevrolet Suburban ("the Suburban") that was parked in the driveway of the O'Connor home located at 8 Windwood Road, Brookfield, Connecticut.

7. The ignition of the Suburban was in the Accessory ("ACC") position and the transmission shifted from Park to Neutral.

8. As a result of the movement of the transmission from Park to Neutral, the Suburban began rolling backwards from its parked position. It rolled down the O'Connors' front lawn into a wooded area and crashed into trees.

9. During the time that the Suburban was rolling out of control into the trees, M.R.O. experienced extreme mental and emotional suffering, including fear and apprehension of death.

10. During the crash, M.R.O. sustained the following physical injuries:

a. lacerations to the face and head;

b. fractures of the skull and facial bones, including the mandible and maxilla, resulting in the loss and destruction of brain tissue;

c. contusions and abrasions around the left eye, the left lateral cheek/temporal area, and the left lower cheek;

d. abrasions on the front of the neck, the chest, both upper arms and the right dorsal forearm;

e. a five inch laceration on the right upper arm;

f. abrasions of the left and right upper thighs and abrasions of the left and right calves; and

g. fractures of the left and right femurs.

11. As a result of these injuries, M.R.O. experienced severe physical pain and suffering.

12. As a result of this crash, M.R.O. died.

13. As a result of this crash, M.R.O.'s ability to carry on and enjoy life's activities was destroyed.

14. As a result of this crash, M.R.O.'s earning capacity was destroyed.

15. The 2004 Chevrolet Suburban occupied by M.R.O. on July 13, 2011 was designed by GMC.

16. The 2004 Chevrolet Suburban occupied by M.R.O. on July 13, 2011 was manufactured by GMC.

17. The 2004 Chevrolet Suburban occupied by M.R.O. on July 13, 2011 was sold by GMC.

18. GMC was the product seller of the subject Suburban within the terms of Conn. Gen. Stat. § 52-572m(a).

19. This product liability action is brought pursuant to Conn. Gen. Stat. § 52-572m, *et. seq.*

20. The Suburban involved in the crash which gives rise to this action was in a defective condition in that:

a. the automatic transmission could be moved from Park to Neutral when the ignition switch was in the ACC position, without depressing the brake, thereby allowing the vehicle to roll from a parked position;

b. the brake transmission shift interlock device installed on the Suburban did not function when the ignition was in the ACC position,

c. there were insufficient and inadequate instructions or warnings that the brake transmission shift interlock installed on the Suburban did not function with the ignition in the ACC position. Conn. Gen. Stat. § 52-572q.

21. The design of the brake transmission shift interlock described above existed at the time the 2004 Suburban left GMC's possession.

22. The 2004 Suburban was expected to reach the user without substantial change in the condition of the brake transmission shift interlock.

23. The 2004 Suburban did reach the user without substantial change in condition of the

Case 3:14-cv-00617-JCH Document 88 Filed 10/02/15 Page 5 of 9

brake transmission shift interlock.

24. The defects described above caused the injuries and death described above.

25. On or about May 25, 2006, GMC issued a Technical Service Bulletin in which it acknowledged that the ordinary owner may expect the brake transmission shift interlock to function when the key is in the ACC position.

26. Despite this knowledge, and the knowledge of numerous "rollaway" incidents caused by the defects described herein in which numerous people, especially children, were catastrophically injured or killed, GMC and the Defendant took no steps to directly notify and/or warn owners or the public of these defects.

27. Despite this knowledge, and the knowledge of numerous "rollaway" incidents, caused by the defects described herein in which numerous people, especially children, were catastrophically injured or killed, GMC and the defendant took no steps to recall the Suburban.

28. The crash, and the resulting damages as alleged herein, were caused by GMC and the Defendant's reckless disregard for the safety of product users, consumers or others, in that GMC and the defendant knew or reasonably should have known that the Suburban was unreasonably dangerous, had caused and would cause numerous catastrophic injuries and deaths and failed to recall and/or retrofit the subject vehicle.

COUNT TWO (G.O.)

1. On June 13, 2012, the Probate Court for the Housatonic Probate District appointed Bernard Pitterman, Esq., Guardian of the Estate of G.O., a Minor. Bernard Pitterman, Esq. brings the cause of action alleged herein in his capacity a Guardian of the Estate of G.O. and on behalf of G.O..

2 - 28. Paragraphs 2 through 28 of the First Count are hereby realleged as Paragraphs 2 through 28 of the Second Count.

29. G.O., who was M.R.O.'s brother and then 7 years old, witnessed the Suburban, with his sister M.R.O. inside, roll into the wooded area and crash into the trees, saw his sister killed and saw her body immediately after the crash.

30. As a result of witnessing the crash and seeing his sister afterwards, G.O. sustained serious, severe and devastating mental and emotional injury and distress.

31. As a result of his injuries, G.O. has incurred and will incur medical bills.

32. As a result of his injuries, G.O.'s earning capacity has been diminished.

COUNT THREE (ROSE O'CONNOR)

1. Rose O'Connor is an individual who resides at 8 Windwood Road, Brookfield, Connecticut, and is the mother of M.R.O. and G.O..

2 - 28. Paragraphs 2 through 28 of the First Count are hereby realleged as Paragraphs 2 through 28 of the Third Count.

29. Rose O'Connor came upon the crash within minutes after it occurred. She saw the Suburban and her daughter's body lying in the wooded area before any material change had occurred

with respect to the location and condition of M.R.O.'s body.

30. As a result of witnessing the condition of M.R.O.'s body, and the surrounding area including the crushed Suburban, Rose O'Connor sustained serious, severe and devastating mental and emotional injury and distress.

31. As a result of her injuries, Rose O'Connor has incurred and will incur medical bills.

COUNT FOUR (Rose O'Connor - Parental Consortium)

1 - 31. Paragraphs 1 through 30 of the Third Count are hereby realleged as Paragraphs 1 through 30 of the Fourth Count.

32. As a result of the death of her daughter M.R.O., Rose O'Connor has suffered the loss of her society, affection, and companionship.

COUNT FIVE (James O'Connor - Parental Consortium)

1. - 28. Paragraphs 1 through 28 of the First Count are hereby realleged as Paragraphs 1 through 28 of the Fifth Count.

29. As a result of the death of his daughter M.R.O., James O'Connor has suffered the loss of her society, affection, and companionship.

COUNT SIX (James O'Connor - Spousal Consortium)

1 - 31. Paragraphs 1 through 31 of the Third Count are hereby realleged as Paragraphs 1 through 31 of the Sixth Count.

32. As a result of the injuries to his wife, Rose, James O'Connor has suffered the loss of

her society, affection, support, services, and companionship.

THE PLAINTIFFS,

BY:

Joram Hirsch, Esq.
Adelman Hirsch & Connors, LLP
1000 Lafayette Boulevard
Bridgeport, CT 06604
Federal Bar No. - ct06734
Tele: (203) 331-8888
Fax: (203) 333-4650
Email: jhirsch@ahctriallaw.com

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

BERNARD PITTERMAN, ADMINISTRATOR OF THE ESTATE OF M.R.O., ET. AL.	
Plaintiffs,	**CIVIL ACTION NO.**
V.	**3:14-CV-00967-JCH**
GENERAL MOTORS LLC	**JURY TRIAL DEMANDED**
Defendant.	**October 5, 2015**

STATEMENT RE AMOUNT IN DEMAND

WHEREFORE, the Plaintiffs claim:

1. Monetary damages;

THE PLAINTIFFS,

BY:

Joram Hirsch, Esq.
Adelman Hirsch & Connors, LLP
1000 Lafayette Boulevard
Bridgeport, CT 06604
Federal Bar No. - ct06734
Tele: (203) 331-8888
Fax: (203) 333-4650
Email: jhirsch@ahctriallaw.com

Exhibit K

STATE OF OKLAHOMA
COUNTY OF MUSKOGEE
FILED
2014 DEC 18 PM 3:31
PAULA SEXTON
COURT CLERK

IN THE DISTRICT COURT OF MUSKOGEE COUNTY
STATE OF OKLAHOMA

CHRISTOPHER POPE and GWENDOLYN POPE, individually and as co-personal representatives of the Estate of LESLEY CARYN TURAY,

Plaintiffs,

v.

GENERAL MOTORS COMPANY A/K/A GENERAL MOTORS LLC, a foreign limited liability company; REGAL CAR SALES AND CREDIT, LLC, an Oklahoma limited liability company; SABER ACCEPTANCE COMPANY, LLC, an Oklahoma limited liability company; ELCO CHEVROLET, INC., a foreign company; SPECIALTY LEASE INVESTMENTS, LLC, a foreign limited liability company; and SOTHEA RENORDO MCCONNELL, an individual,

Defendants.

Case No. CJ-2014-467

JURY TRIAL DEMANDED

PETITION

Plaintiffs, Christopher Pope and Gwendolyn Pope, for their cause of action against Defendants allege and state as follows:

PARTIES

1. Plaintiffs, Christopher Pope and Gwendolyn Pope, are the natural children and co-personal representatives of the Estate of Lesley Caryn Turay ("Ms. Turay").

2. Defendant, General Motors Company a/k/a General Motors LLC ("GM"), is a limited liability company formed under the laws of the state of Delaware with its principal place of business located in Detroit, Michigan. In 2009, GM acquired substantially all assets and assumed certain liabilities of its predecessor in interest, General Motors Corporation, in the course of a Chapter 11 bankruptcy. GM assumed liability for product defect claims which arose

out of accidents that occurred after the bankruptcy filing involving vehicles manufactured by General Motors Corporation prior to the bankruptcy.

3. Defendant, Regal Car Sales and Credit, LLC ("REGAL"), is an Oklahoma limited liability company.

4. Defendant, Saber Acceptance Company, LLC ("SABER"), is an Oklahoma limited liability company.

5. Defendant, Elco Chevrolet, Inc. ("ELCO"), is a Missouri corporation.

6. Defendant, Specialty Lease Investments, LLC ("SLI"), is a Missouri limited liability company.

7. Defendant, Sothea Renordo McConnell ("McConnell"), is an Oklahoma resident who resided in Muskogee County on the date of the motor vehicle collision on which this lawsuit is based.

FACTS OF COLLISION

8. On December 22, 2012, Ms. Turay was involved in a head-on collision with a vehicle operated by McConnell which occurred on State Highway 16 in Muskogee County, State of Oklahoma ("Collision").

9. At the time of the Collision, Ms. Turay was driving her 2001 Cadillac Deville (VIN #1G6KD54Y71U109398) ("Cadillac") which she had purchased from Regal and/or Saber on or about July 17, 2010.

10. The airbags in Ms. Turay's Cadillac failed to deploy in the Collision thereby causing Ms. Turay's fatal injuries.

COUNT I

PRODUCTS LIABILITY CLAIM AGAINST GM, REGAL, SABER, ELCO, AND SLI

11. The failure of the airbags in Ms. Turay's Cadillac to deploy in the Collision was the result of a product defect which rendered the Cadillac unreasonably dangerous to the user.

12. The Cadillac was offered for sale to members of the public in a defective condition.

13. Upon information and belief, REGAL and SABER owned, sold, repossessed, and re-sold the Cadillac at various times from late 2008 to early 2013 as commercial sellers of used automobiles.

14. Upon information and belief, ELCO purchased and sold the Cadillac in late 2008 as a commercial seller of used automobiles.

15. Upon information and belief, SLI purchased and sold the Cadillac in late 2008 as a commercial seller of used automobiles.

16. The defect in Ms. Turay's Cadillac caused Ms. Turay's fatal injuries.

17. GM, REGAL, SABER, ELCO, and/or SLI are strictly liable under a products liability theory of recovery for the wrongful death of Ms. Turay. These Defendants are liable for all damages recoverable pursuant to 12 O.S. § 1053.

18. Upon information and belief, the marketing, advertising, and sale of the defective Cadillac was reckless, willful, intentional, and/or malicious conduct which was life-threatening to humans thereby justifying an award of punitive damages against GM, REGAL, SABER, ELCO, and/or SLI pursuant to 23 O.S. § 9.1.

19. GM's failure to disclose the existence of the safety product defect to Ms. Turay or remedy the defect prior to the Collision was reckless, willful, intentional, and/or malicious

conduct which was life-threatening to humans thereby justifying an award of punitive damages against GM pursuant to 23 O.S. § 9.1.

COUNT II
VIOLATION OF OKLAHOMA CONSUMER PROTECTION ACT CLAIM AGAINST GM

20. Upon information and belief, GM was aware of the product defect in the supplemental restraint system for 2001 Cadillac Devilles and other GM vehicles utilizing the same supplemental restraint system prior to the Collision.

21. GM had an affirmative obligation to disclose the existence of the safety product defect to Ms. Turay and remedy the defect prior to the Collision.

22. GM failed to disclose the existence of the safety product defect to Ms. Turay or remedy the defect prior to the Collision.

23. As a result of GM's failure to disclose and failure to remedy the defect, Ms. Turay sustained fatal injuries in the Collision.

24. GM's actions and failures to act constitute deceptive trade practices and/or unfair trade practices in violation of the Oklahoma Consumer Protection Act, 15 O.S. § 751 *et seq.*

25. GM is liable the wrongful death of Ms. Turay which resulted from its violations of the Oklahoma Consumer Protection Act. GM is liable for all damages recoverable pursuant to 12 O.S. § 1053.

26. GM's violations of the Oklahoma Consumer Protection Act constitute reckless, willful, intentional, and/or malicious conduct which was life-threatening to humans thereby justifying an award of punitive damages against GM pursuant to 23 O.S. § 9.1.

COUNT III
NEGLIGENCE CLAIM AGAINST MCCONNELL

27. McConnell was negligent in causing the Collision.

28. As a result of Defendant's negligence, Ms. Turay sustained fatal injuries.

29. McConnell is liable for the wrongful death of Ms. Turay. McConnell is liable for all damages recoverable pursuant to 12 O.S. § 1053.

WHEREFORE, Plaintiffs demand judgment against Defendants in an amount which is in excess of the amount required for diversity jurisdiction pursuant to Section 1332 of Title 28 of the United States Code plus interest, attorney fees, costs, and all other relief which the Court deems just and proper.

Respectfully submitted,

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