

PE08-035

FORD

7/30/2008

APPENDIX F

PART 2 OF 3



State Farm Insurance Companies



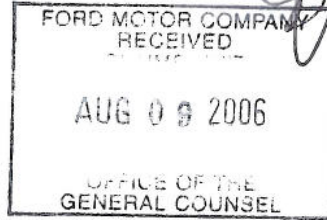
100 State Farm Parkway
P.O. Box 830852
Birmingham, AL 35283-0852

August 3, 2006

Ford Motor Company

P O Box 6248
Deerborn, WI 48126

AUG 09 2006



6 AUG -7 10 11
CONSUMER AFFAIRS

RE: Our Claim Number: [REDACTED]
 Our Insured: [REDACTED]
 Date of Loss: June 10, 2006
 Med Pay Coverage Amount: \$PENDING
 Material Damage Amount: \$PENDING
 Our Total Payment: \$PENDING
 Insured's Deductible: \$\$0.00
 Total Amount of Loss: \$PENDING

Your Insured: [REDACTED]
 Address: [REDACTED]
 Policy Number:

SUBROGATION CLAIM

Dear Sir or Madam:

We have been informed that you are the insurance carrier for the party designated as your insured in the caption of this letter. Your insured was involved in an accident with our insured on the above date.

Our investigation establishes that your insured is legally responsible for damages resulting from the accident, and is therefore responsible for any damages resulting from the accident. State Farm has paid for property damage incurred by our insured in the amounts stated above. **In addition, our insured has informed us that he/she intends to pursue collection of additional damages caused by the accident that were not covered by our policy.** We have provided our insured with your name and address to assist in collection of these damages.

Please consider this letter as notice of our subrogation claim for the amounts we have paid on behalf of our insured. Until such time as our insured has recovered the additional damages, we will not request payment from you for our subrogation amount. Once our insured has collected the additional damages, we should

Ford Motor Company
Page 2
August 3, 2006

be protected to the extent permitted by law in your settlement of claims against your insured.

Your acceptance of our request for your services and your performance of those services are expressly conditioned on and subject to your agreement that: (1) you will not use customer information provided for any purpose other than the specific services we are asking you to perform, and (2) you will disclose or share customer information we provide only to the extent necessary to accomplish services that we request.

I look forward to hearing your position in this matter.

Sincerely,

Mary Kinney
Claim Representative
(228) 385-3187

State Farm Mutual Automobile Insurance Company

sm

cc: Wren Harper
PO Box 435
Gulf Shores, AL 36547-0435



Attorneys and Counselors at Law
Specialists in Creditors' Rights

1-888-77SUBRO (7-8276)
Phone: 303-238-8832
Fax: 303-233-2210
www.sagevargo.com
FEIN 84-1157065

6464 West 14th Avenue
Lakewood CO 80214-1913

Gerald P Vargo
Todd A Myers

David W Sage
Of Counsel

Yosy V Janson
Eric A Sauer
James L. Foltmer

June 6, 2005

Ford Motor Company
Box 6248
Dearborn, MI 48126-2568



RE: 1996 Ford Windstar, VIN # 2FMDA514XTB [REDACTED]
Our Client: Farmers Insurance Our Insured: [REDACTED]
Client's Claim# [REDACTED] Date of Loss: December 14, 2004
Our File # : 48289 Amt of Claim: \$5,185.06 plus interest to date of \$197.74.

Dear Sir/Madam:

We represent Farmers Insurance Exchange regarding its subrogation claim for the damages to the referenced vehicle from a fire that originated in the upper left rear area of the engine compartment at the master cylinder.

According to Tonya Jordan, C.F.E.I, Investigator for Phoenix Investigations, Inc., the post fire patterns and directional heat patterns indicate "the fire was ignited by a failure in the cruise control pressure switch, which melted the plastic brake fluid reservoir, and ignited the brake fluid as it spilled from the melted reservoir." Enclosed please find the documentation regarding the above named account.

If you have any questions or need more information, please call the undersigned. If you concur with our investigation, please make your check payable to:

Sage & Vargo, P.C.
6464 W. 14th Avenue
Lakewood, CO 80214-1913

Thank you for your assistance in this matter.

Sincerely,
SAGE & VARGO

James L. Foltmer

Enclosures

5 JUN 13 AM 11:16
CONSUMER AFFAIRS SECTION

COUNTY COURT, DENVER COUNTY, COLORADO 1515 Cleveland Pl., 4th Floor Denver, CO 80202	
<hr/> Plaintiff(s): FARMERS INSURANCE EXCHANGE Defendant(s): FORD MOTOR COMPANY	▲ COURT USE ONLY ▲
<hr/> Sage & Vargo PC James L. Foltmer, #33364 6464 W 14 th Ave Lakewood CO 80214-1913 303 238-8832	<hr/> Case Number: _____ Div/Ctrm: _____
COMPLAINT	

COMES NOW, Plaintiff, FARMERS INSURANCE EXCHANGE, through counsel to complain against Defendant, FORD MOTOR COMPANY. As grounds, Plaintiff avers:

I. Venue and Jurisdiction

1. Jurisdiction is proper as Defendant transacted business in Colorado, leading to the damages of which are complained herein. C.R.S. §13-1-124.
2. Venue is proper in Denver County because the tortious conduct occurred in this County. C.R.C.P. 398.

II. General Allegations

3. Plaintiff is an insurance company authorized to conduct business in Colorado.
4. Defendant has its principal place of business in Michigan and is authorized to conduct business in Colorado.
5. The principal amount claimed is 5,185.06
6. Defendant manufactured a 1996 Ford Windstar, VIN # 2FMDA514XTBA13382 that was purchased by Plaintiffs' insureds, Herman and Kinda Heifets of 3490 S. Bellaire St., Denver, CO 80222; located in Denver County and was insured under an automobile owner's insurance policy which was in force at all times material hereto.

7. On December 14, 2004, Linda Heifets drove the vehicle to her Denver residence. She parked and turned off the vehicle. Approximately 10 minutes later she saw smoke coming from under the hood on the driver's side.

8. As a result of the damage, Plaintiff and its insured incurred damages in the amount of \$5,185.06 for the total loss of the vehicle.

9. The Product was examined and found to be defective. A failure of the cruise control pressure switch had melted the plastic brake fluid reservoir and ignited the break fluid. It was determined that the Product failed during normal use and was not subjected to any impact or were the parts in question ever replaced.

III. First Claim for Relief
(Strict Liability for Seller of Defective Product)

10. Plaintiff incorporates the above paragraphs as if expressly stated herein.

11. The automobile was defective when it was sold to the insured and the defect made it unreasonable dangerous to the consumers who would use it. The vehicle did reach the insured without substantial change in the condition in which it was sold.

12. The insureds were persons who would reasonably be expected to use, consume, or be affected by the vehicle.

13. The defect in the vehicle was the cause of Plaintiff's losses.

IV. Second Claim for Relief
Breach of Express and Implied Warranties

14. Plaintiff incorporates the above paragraphs as if expressly stated herein.

15. Defendant made express and implied warranties which it has breached with regards to the sale, use, and fitness for a particular purpose of the vehicle.

16. These breaches of warranty caused the insureds and Plaintiff damages.

V. Third Claim for Relief
(Negligence)

17. Plaintiff incorporates the above paragraphs as if expressly stated herein.

18. Defendant manufactured the vehicle;

19. Defendant was negligent by failing to exercise reasonable care to prevent the vehicle from creating an unreasonable risk of harm to the property of one who might reasonably be expected to use or be affected by the vehicle while it was being used in the manner Defendant might have reasonably expected;

20. Plaintiffs' insureds were persons who Defendant should reasonably have expected to use or be affected by the vehicle; and,

21. Plaintiff had damages that were caused by Defendant's negligence, while the vehicle was being used in a manner Defendant should reasonably have expected.

22. Plaintiff does NOT demand a jury trial.

WHEREFORE, Plaintiff requests that judgment enter in its favor and against Defendant in an amount to be determined by the trier of fact, together with proper interest, expert witness fees and court costs.

Respectfully submitted this 7 day of September, 2005.

Sage & Vargo PC



James L. Foltmer, #33364
Attorney for Plaintiff

Plaintiff's address:
PO Box 268992
Oklahoma City, OK 73126



ISSUE LIST

Last Handling Date/ Issue Status	Name/ Reason Desc	Vin/ Case No.	Model Year and Vehicle Line	Issue Type
9/7/2005 CLOSED	[REDACTED] AWA - CRC SUPPORTS FIELD'S DECISION	2FMDA5141VB 16343523	[REDACTED] 1997 WINDSTAR	02
9/1/2005 CLOSED	[REDACTED] LEGAL - CUSTOMER WAITING FOR ACKNOWLEDGEMENT	2FMDA5141VB 16343523	[REDACTED] 1997 WINDSTAR	02
9/1/2005 CLOSED	[REDACTED] LEGAL - ACCIDENT / FIRE	2FMDA5141VB 16343523	[REDACTED] 1997 WINDSTAR	07
8/22/2005 OPEN	[REDACTED] LEGAL - ACCIDENT / FIRE	2FMDA5141VB 1634352345	[REDACTED] 1997 WINDSTAR	07

Ford Confidential

All Action Details for Issue

Print

VIN: 2FMDA5141VB [REDACTED] **Year:** 1997 **Model:** WINDSTAR **Case:** 1634352345
Name: MRS [REDACTED] **Owner Status:** Subsequent **WSD:** 1996-11-29
Symptom Desc: GENERAL INQUIRIES REQUEST/NON-VEHICLE RELATED **Primary Phone:** [REDACTED]
Reason Desc: AWA - CRC SUPPORTS FIELD'S DECISION **Secondary Phone:**
Issue Type: 02 INFORMATION **Issue Status:** CLOSED

Action: CB-SUPPORT DEALERSHIP'S/REGION'S POSITION **Origin Desc:** US CONCERN CASE BASE
Dealer: 02444 JIM BASS FORD, INC.
Odometer: 138000 MI **Comm Type:** PHONE
Analyst Name: SIVA NISHA **Analyst:** NSIVA1
Action Date: 09/07/2005 **Action Time:** 17.20.13.694 **Action Data:** No

Comments CUSTOMER SAID: -VEH BURNED UP WHILE THE ENGINE WAS OFF IN THE PARKING LOT-DID NOT GET A CLAIM FROM INSURANCE AS SHE HAS LIABILITY-CALLED CRC WAS ADV SOMEONE WOULD CALL HER WITHIN 2 DAYS-DID NOT HAPPEN-HAS A SPECIAL NEEDS SON THAT NEEDS THE VEH -HEARD ABOUT CRUISE CONTROL RECALL VIA MEDIA-WOULD LIKE FORD TO COMPENSATE HER FOR THISCRC ADVISED: SUPPORT DEALERSHIP/FIELD/DRP/LEGAL DECISION. PROVIDE COMMENTS IF AVAILABLE THANK YOU FOR CONTACTING FORD MOTOR COMPANY IN REGARDS TO THIS ISSUE. OUR RECORDS INDICATE THAT A DECISION HAS BEEN MADE AND THE CRC CAN NOT OVERTURN THIS DECISION. HOWEVER, TO ENSURE OUR RECORDS ARE COMPLETE WE HAVE DOCUMENTED YOUR FEEDBACK. (NOTE TO CSR: SUPPORT DLR/REGION DECISION.)
 *****OBC TO LINK ON SEPT 7, 05 AT 5:13PM:-SPOKE TO GRAHAM-WAS ADV TO TELL HER VEH IS NOT INVOLVED IN A RECALL-DO NOT TELL CUST ABOUT THE DENIAL FROM LEGAL DEPT UNTIL CUST STATES THAT SHE RECEIVED A LETTER FROM FORD ABOUT THE OUTCOME, IF NOT TELL HER THAT SHE SHOULD BE GETTING A LETTER WITH AN OUTCOME-AS PER HISTORICS ON SEPT 1, 05 FROM LEGAL DEPT:-LPA WILL SEND DENIAL LETTER, VEHICLE BEYOND WARRANTY, NO OPEN RECALLS.**ADV CUST THAT I DO NOT KNOW WHAT THE CONTENTS OF THE LETTER IS BUT TO WAIT A FEW DAYS AND THEN CALL US IF ASST IS NEEDED

Ford Confidential

All Action Details for Issue

Print

VIN: 2FMDA5141VB [REDACTED] **Year:** 1997 **Model:** WINDSTAR **Case:** 1634352345
Name: MRS [REDACTED] **Owner Status:** Subsequent **WSD:** 1996-11-29
Symptom Desc: FIRE/SMOKE VISIBLE FLAME UNDERHOOD **Primary Phone:** [REDACTED]
Reason Desc: LEGAL - CUSTOMER WAITING FOR ACKNOWLEDGEMENT **Secondary Phone:**
Issue Type: 02 INFORMATION **Issue Status:** CLOSED

Action: CB-ADVISE CUST WE WILL NOTIFY THE DEPT SOMEBODY WILL BE IN TOUCH
Dealer: 02444 JIM BASS FORD, INC. **Origin Desc:** US CONCERN CASE BASE
Odometer: 138000 MI **Comm Type:** PHONE
Analyst Name: WORRELL CARSON **Analyst:** CWORREL1
Action Date: 09/01/2005 **Action Time:** 12.16.08.107 **Action Data:** No

Comments CUSTOMER SAID: SAYS THAT SHE CALLED TWICE IN TWO WEEKS AGO SAYS THAT SHE HAD A SMALL FIRE IN THE VEH THAT WAS PUT OUT AND SHE CALLED US ABOUT IT SEEKING ASSISTANCE BUT NEVER HEARD BACK FROM ANYONE SAYS THAT MORE RECENTLY HER VEH BURNT TO THE GROUND IN A SECOND FIRE INCEDENT SAYS THAT SHE WAS TOLD THAT CONSUMER AFFAIRS WOULD CALL HER BUT AGAIN NO ONE HAS CALLEDSAYS THAT SHE WANTS TO HEAR FROM SOMEONE OR SHE WILL CONTACT AN ATTORNEYCRC ADVISED: THANK YOU FOR PROVIDING US WITH THIS INFORMATION IN RELATION TO YOUR CASE. I WILL FORWARD THIS TO OUR CONSUMER AFFAIRS DEPARTMENT, AND I HAVE REQUESTED THAT THEY CONTACT YOU WITHIN TWO BUSINESS DAYS.ADVISED CUST THAT SHE MAY HEAR FROM CONSUMER AFFAIRS THROUGH THE MAIL

Ford Confidential

All Action Details for Issue

Print

VIN: 2FMDA5141VB [REDACTED] Year: 1997 Model: WINDSTAR Case: 1634352345
 Name: MRS [REDACTED] Owner Status: Subsequent WSD: 1996-11-29
 Symptom Desc: FIRE/SMOKE VISIBLE FLAME UNDERHOOD Primary Phone: [REDACTED]
 Reason Desc: LEGAL - ACCIDENT / FIRE Secondary Phone:
 Issue Type: 07 LEGAL Issue Status: CLOSED

Action: ADVISE CUST INFORMATION WILL BE SENT TO CONSUMER AFFAIRS - FIRE
 Dealer: 02444 JIM BASS FORD, INC. Origin Desc: US CONCERN CASE BASE
 Odometer: 138380 MI Comm Type: PHONE
 Analyst Name: ALICIA SIBBLIES Analyst: ASIBBLIE
 Action Date: 08/30/2005 Action Time: 13.23.00.737 Action Data: No

Comments CUSTOMER SAID: VEH CAUGHT FIRE AND SHE HAD CALLED IN TO CRC ABOUT IT AND SHE HAVE NOT YET HEARD BACK FROM THE LEGAL DEPT SHE SAW ON NEWS THAT CRUISE CONTROL CUST SAID THE VEH CAUGHT FIRE TODAY AGAIN AND THE VEH WAS TURNED OFF AND SHE WENT INTO THE SUPERMARKET 8/20/05 1ST FIRE OCCURED AT A & G AUTO GLASS. SHE WAS THERE FOR REPAIRS ON WINDOW MOTOR FIRE DEPT DID NOT COME OUT ...VEH WAS BEING WORKED ON 8/30/05 OCCURED AT WALMART PARKING LOT IN SAN ANGELO., TX THIS IS TOM GREEN COUNTY FIRE DEPT AND POLICE WAS NOTIFIED ..SHE DON'T HAVE A REPORT NUMBER CUST SAID SHE WAS NOT THERE ..WHEN SHE CAME OUT OF THE SUPERMARKET THE FIRE DEPT WAS ALREADY THERE AND THEY ALREADY HAD PUT OUT THE FIRE SHE HAVE NOT YET NOTIFY HER INSURANCE CO. BECAUSE SHE ONLY HAVE LIABILITY THE VEH IS NOW UNREPAIRABLE VEH WAS TOWED TO A JUNK YARD CUST WOULD LIKE TO KNOW WHAT IS FORD GOING TO DO TO COMPENSATE HER FOR THIS VEH DEALER SAID: JIM BASS FORD INC 4032 HOUSTON HARTE EXPRESSWAY SAN ANGELO, TX 76901 TEL: (325) 949-4621 CRC ADVISED: - I WILL FORWARD THIS INFORMATION TO OUR CONSUMER AFFAIRS GROUP. SOMEBODY FROM CONSUMER AFFAIRS WILL CONTACT YOU IN 2 BUSINESS DAYS. PLEASE NOTIFY YOUR INSURANCE CARRIER AND REPORT THIS INCIDENT.

Action: SEND ACKNOWLEDGEMENT LETTER TO CUSTOMER
 Dealer: 02444 JIM BASS FORD, INC. Origin Desc: CONSUMER AFFAIRS - LITIGATION PREVENTION
 Odometer: 138380 MI Comm Type: MAIL
 Analyst Name: FONSECA, LOURDES Analyst: LFONSECA
 NEARON (L.C.)
 Action Date: 09/01/2005 Action Time: 11.33.38.981 Action Data: No

Comments LPA WILL SEND DENIAL LETTER, VEHICLE BEYOND WARRANTY, NO OPEN RECALLS.

Action: DENY ASSISTANCE - BEYOND WARRANTY
 Dealer: 02444 JIM BASS FORD, INC. Origin Desc: CONSUMER AFFAIRS - LITIGATION PREVENTION
 Odometer: 138380 MI Comm Type: MAIL
 Analyst Name: FONSECA, LOURDES Analyst: LFONSECA
 NEARON (L.C.)
 Action Date: 09/01/2005 Action Time: 11.34.51.105 Action Data: No

Comments LPA WILL SEND DENIAL LETTER, VEHICLE BEYOND WARRANTY, NO OPEN RECALLS.

Ford Confidential

All Action Details for Issue

[Print](#)

VIN: 2FMDA5141VB [REDACTED] Year: 1997 Model: WINDSTAR Case: 1634352345
Name: MRS [REDACTED] Owner Status: Subsequent WSD: 1996-11-29
Symptom Desc: HRN/SPD CNTRL SPEED CONTROL Primary Phone: [REDACTED]
Reason Desc: LEGAL - ACCIDENT / FIRE Secondary Phone:
Issue Type: 07 LEGAL Issue Status: OPEN

Action: ADVISE CUST INFORMATION WILL BE SENT TO CONSUMER AFFAIRS - FIRE
Dealer: A1000 FORD MOTORCO OF CANADA LTD Origin Desc: US CONCERN CASE BASE
Odometer: 138380 MI Comm Type: PHONE
Analyst Name: RICHARDSON PAUL Analyst: PRICHA54
Action Date: 08/22/2005 Action Time: 17.37.14.828 Action Data: No

Comments CUSTOMER SAID: CUSTOMER VEHICLE CAUGHT ON FIRE IN THE CRUIS CONTROL AREA-CUSTOMER IS LOOKING FOR NEXT STEPS
CRC ADVISED: ADVISED THAT THE CUSTOMER WAIT FOR CUNSUMER AFFAIRS TO CONTACT HER.- I WILL FORWARD THIS INFORMATION TO OUR CONSUMER AFFAIRS GROUP. SOMEBODY FROM CONSUMER AFFAIRS WILL CONTACT YOU IN 2 BUSINESS DAYS. PLEASE NOTIFY YOUR INSURANCE CARRIER AND REPORT THIS INCIDENT.

Ford Confidential



LP-3

5

Webb Sanders & Williams PLLC

Dan W. Webb*
B. Wayne Williams
Rochele R. Morgan**
Kevin B. Smith
Paul N. Jenkins, Jr.
Reagan D. Wise***
Norma C. Ruff****

363 North Broadway St.
P. O. Box 496
Tupelo, Mississippi 38802-0496
(662) 844-2137
Facsimile (662) 842-3863
E-Mail: info@webbsanders.com

Amy S. Harris
Emily M. Parker
J. Wayne Doss, Jr.
Paige C. Bush*****
J. Douglas Foster
Jennifer S. Lee
Jennifer H. Hinds

-
- * Board Certified in Civil Trial Advocacy
 - ** Also Admitted in Oklahoma
 - *** Also Admitted in Alabama
 - **** Also Admitted in Florida
 - ***** Also Admitted in Illinois

Benjamin H. Sanders
(1942-1999)

February 6, 2007

Ford Motor Company
Post Office Box 1904
Dearborn, Michigan 481212

2
19
160.0214/EMP

RE: Claim No.:
Insured:



To Whom it May Concern:

This letter is to provide you with an initial notice of a claim involving damage caused by a Ford product. The pertinent information is as follows:

Date of Loss: December 20, 2006
Nature of Loss: Fire

Based on the information available to us, we believe Ford Motor Company may be responsible for causing the damage. If you have insurance to protect you against liability, please send this letter to your insurance company and advise us of their name, address, and your policy number. If you do not have insurance to protect you, please contact us within thirty (30) days of this letter to make arrangements to pay for the damage caused by the fire. Our insured may also have claims for other damages. Our insured must be fully compensated for his other damages before we can make any agreement with you regarding this claim. Any agreement you make with us regarding this claim will not affect any responsibility you may have for any claims of other parties to this fire.

Ford Motor Company
February 6, 2007
Page 2

Should you need to discuss this matter in further detail, please feel free to contact me or my legal assistant, Olivia Ward, at the above referenced number. We would prefer to resolve this matter amicably without further legal action.

Cordially,

WEBB, SANDERS & WILLIAMS, P.L.L.C.

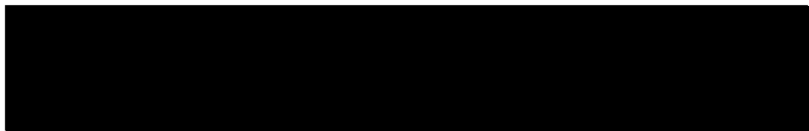


Emily M. Parker

For the Firm

Writer's Direct E-Mail Address: emp@webbsanders.com

EMP/odw





100 years OF SERVICE
Founded as a national organization in 1902.

February 3, 2003

The Auto Club Group
1 Auto Club Drive
Dearborn, Michigan 48126-2694

Ford Motor Company
Customer assistance Center
PO Box 1904
Dearborn Mi 48121



3 FEB 11 49:53
CONSUMER AFFAIRS SECTION

RE: OUR INSURED: [REDACTED]
OUR CLAIM NUMBER: [REDACTED]
DATE OF LOSS: 08-03-02
VEHICLE: 1996 Ford Windstar
VIN#: 2FMDA5143TB [REDACTED]
AMOUNT OWING: \$3951.35
RECALL#: [REDACTED]
NHTSA#: 02v101000

Dear Sirs:

Our investigation indicates you are legally responsible for the damages resulting from this accident due to a recall.

We have paid a total of \$3901.35 and our insured paid a \$50.00 deductible as the result of the accident. We are now looking to you for reimbursement of these damages.

Please give this matter your immediate attention and mail your reimbursement check payable to ACIA at the address below or let me hear from you soon at 313-336-2503 .

ACIA
1 Auto Club Drive / DOF 6431
Dearborn Mi 48126

Sincerely,

Nancy Hersey
Claim Representative
Recovery Unit



State Farm Insurance Companies®

RECEIVED

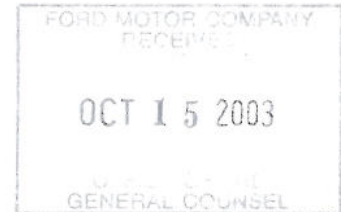
OCT 14 2003



October 9, 2003

Operations Center - DuPont
Auto Subrogation
1000 Wilmington Drive
PO Box 0458
DuPont, Washington 98327-0458

FORD MOTOR COMPANY
PARKLANE TOWERS WEST STE 400
THREE PARKLANE BLVD
DEARBORN MI 48126



RE: Claim Number: [REDACTED]
Our Insured: [REDACTED]
Date of Loss: August 26, 2003
Vehicle: 1997 Ford Windstar
VIN: 2FMDA5146VB [REDACTED]

Dear Ford Motor Company:

The above-mentioned vehicle insured by State Farm® was involved in a fire loss. We settled our policyholder's claim in the amount of \$2,135.71, which includes our policyholder's deductible.

Our investigation revealed the cause of loss was due to the failure of a wiring harness and brake switch under the brake fluid reservoir.

Enclosed is the documentation of State Farm's claim. State Farm® has retained the damaged parts for your inspection. The vehicle was repairable and State Farm had a duty to our policyholder to repair the vehicle in a timely manner so our policyholder could continue to use her vehicle. You may contact me to make arrangements to inspect the damaged parts.

Please consider this letter as our demand to Ford Motor Company for reimbursement in the amount of \$2,135.71.

Thank you for your attention to this matter.

Sincerely,

Sarah J. Bussell
Claim Representative
(888) 257-4179, Extension 6398
State Farm Mutual Automobile Insurance Company

SJB/043/1009004

Enclosure

- F-105
- 8/26/03
- '97 Wind
- VIN
- \$2135.71



THE TRAVELERS INDEMNITY COMPANY
 JAMES R WRIGHT
 P.O. BOX 1538
 PITTSBURGH PA 15230-1538
 (800) 238-6285 X 4207
 (412) 338-4207

August 19, 2004

INSURANCE AFFAIRS
 SECTION

4 AUG 24 49:37

FORD MOTOR COMPANY
 RECEIVED
 CLAIMS UNIT
 AUG 25 2004
 OFFICE OF THE
 GENERAL COUNSEL

Our Client: [REDACTED]
Claim/File #: [REDACTED]
Date of Loss: 07/31/2004
Reference: Subrogation Claim

Dear Ford Motor Company:

We are investigating a claim for [REDACTED] who sustained a loss on 07/31/2004.

Our investigation reveals that you may be responsible for this loss. If you have insurance, please complete the attached form and return it to me. Please refer this letter to your insurance carrier immediately, requesting that they contact our office. Should you not have insurance, please contact me to discuss this loss.

Please call me with any questions.

Please call fire investigator Jim Tskialis at (814)421-2072 to schedule an appointment. We will start final testing after the two week notification period ends on 09/02/04.

Sincerely,
 JAMES R WRIGHT
 Claim Analyst
 (412) 338-4207
Fax: (412)471-4351
Email: jwright6@travelers.com

Nothing in this letter is intended or should be construed as an admission or denial of coverage to our insured.

Enclosure: Insurance Questionnaire





NEW YORK CENTRAL MUTUAL

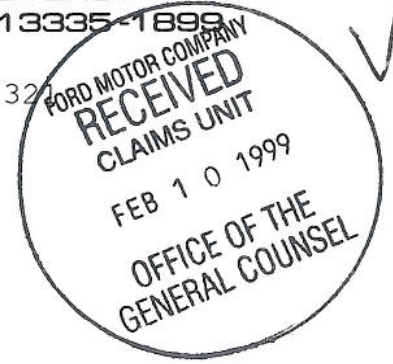
FIRE INSURANCE COMPANY
1899 CENTRAL PLAZA EAST
EDMESTON, NEW YORK 13335-1899

(607) 965-8327

01/27/1999

ATTN DON VYHNALEK
FORD MOTOR CORP
OFFICE OF GENERAL COUNCIL
PARK LANE TOWERS WEST
SUITE 300, 3 PARK LANE BLVD
DEARBORN MI 48126

414219
failure



Re: Policy No: [REDACTED]
D/L: 12/17/1998
Our File: 1998335614-0
Agent: 2N 118 Robert B Crowell Agy Inc
Insured: [REDACTED]

Dear MR VYHNALEK:

We are the insurance carrier for the above named insured who suffered damages as a result of A MOTOR VEHICLE BELEIVED TO BE CAUSED BY A DEFECT..

Since we paid our insured directly for the damages, we request you reimburse us \$18500.00 which includes our insured's deductible. The enclosed information supports our claim.

Please forward this letter to your insurance carrier. If you did not have insurance, please contact us.

Very truly yours,

Linda Tanney
(Mrs) Linda Tanney
Subrogation/Salvage Examiner

Telephone No: 1-800-234-6926, ext. 2584
LT:lt

Encs.

P.S. PLEASE CONTACT DAVID REDSICKER AT PETER VALLAS OFFICE 607-785-8250, HIS FILE# 990059 TO SETUP A DATE TO INSPECT THIS VEHICLE TOGETHER.

Dateline Salv. Pool in N.Y. My Stock# 3619

S1

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF OTSEGO

-----X
NEW YORK CENTRAL MUTUAL a/s/o NANCY M.
HOUY,

VERIFIED COMPLAINT

Plaintiff,

-against-

FORD MOTOR COMPANY,

Defendant.

-----X

Plaintiff, NEW YORK CENTRAL MUTUAL, by its attorneys, CARMAN,
CALLAHAN & INGHAM, LLP., complaining of the above-named Defendant, sets forth upon
information and belief the following:

1. That at all times hereinafter mentioned, Plaintiff, NEW YORK
CENTRAL MUTUAL, is a Corporation, with a business location in Ostego County, State of
New York.
2. Upon information and belief, Defendant, FORD MOTOR COMPANY
was and still has a place of business in the County of Wayne, State of Michigan.
3. That at all times hereinafter mentioned, NANCY M. HOUY, maintained
an insurance policy with NEW YORK CENTRAL MUTUAL, identified by number 7431930.
4. At all times hereinafter mentioned, Defendant, FORD MOTOR
COMPANY, its agents, servants, and/or employees were engaged in the business of
manufacturing, distributing and marketing a motor vehicle known as a 1997 Ford Windstar GL
mini-van.

13. The Defendant breached its duty by manufacturing a defective engine part which failed to perform as intended.

14. The foregoing incident and the resulting damages to Plaintiff were caused by reason of the carelessness and negligence on the part of the Defendant, without any negligence on the part of the Plaintiff, the Plaintiff's subrogor or any other person.

15. By reason of the foregoing negligence on the part of the Defendant, FORD MOTOR COMPANY, NANCY M. HOUY, sustained damage to her vehicle, for which she received payments from NEW YORK CENTRAL MUTUAL in the amount of **Eighteen Thousand Five Hundred (\$18,500.00) Dollars.**

AS AND FOR A SECOND CAUSE OF ACTION

16. Plaintiff, NEW YORK CENTRAL MUTUAL a/s/o NANCY M. HOUY, repeats and reiterates each and every allegation in Paragraphs "1" through "14" above with the same force and effect as though fully set forth herein.

17. Upon information and belief, on or about **December 17, 1998**, motor vehicle had been properly utilized for the purpose and in the manner for which it was normally intended to be used.

18. On December 17, 1998, the **engine compartment at or near the throttle body/single port injection failed causing a fire** in the Plaintiff's subrogor's vehicle, which thereafter caused damage to NANCY M. HOUY's property.

19. Upon information and belief neither Plaintiff's subrogor, NANCY M. HOUY, nor any other person discovered the defect with respect to the design and manufacture of the vehicle prior to this loss.

5. On December 17, 1998, Plaintiff, NANCY M. HOUY was operating her 1997 Ford Windstar motor vehicle upon the public streets and roadways at 899 Alger Road, Arkport, New York when the above-mentioned vehicle backfired began smoking and engine was engulfed in flames causing a total loss to vehicle.

6. Pursuant to the terms of the previously mentioned insurance policy, NANCY M. HOUY was paid insurance benefits by NEW YORK CENTRAL MUTUAL, for the damages sustained to insured's vehicle inclusive of the insured's deductible, if any.

AS AND FOR A FIRST CAUSE OF ACTION

7. Plaintiff, NEW YORK CENTRAL MUTUAL a/s/o NANCY M. HOUY, repeats and reiterates each and every allegation of Paragraphs "1" through "5" above with the same force and effect as though fully set forth herein.

8. On December 17, 1998, NANCY M. HOUY was the owner of a 1997 Ford Windstar GL mini-van.

9. On December 17, 1998, NANCY M. HOUY's vehicle was covered under the insurance policy maintained with NEW YORK CENTRAL MUTUAL.

10. On December 17, 1998, the vehicle fire was caused solely by the Defendant's defective part which had been manufactured with the subject vehicle.

11. As a direct and proximate result of said fire incident, NANCY M. HOUY's vehicle sustained damage.

12. The Defendant, FORD MOTOR COMPANY. had a duty to manufacture a product which would perform as intended.

20. Upon information and belief the vehicle had been in the exclusive control of the Plaintiff and there had been no change in its condition up to the time the engine compartment failed causing the fire which resulted in the damages sustained by Plaintiff.

21. The defective design and manufacturing of the 1997 Ford Windstar GL were substantial factors in bringing about the fire to the Plaintiff's vehicle.

22. By reason of the foregoing, NANCY M. HOUY sustained property damage to her vehicle, for which she received payments from NEW YORK CENTRAL MUTUAL in the amount of **Eighteen Thousand Five Hundred (\$18,500.00) Dollars** pursuant to her insurance policy.

23. That all of the foregoing was caused by the Defendant under the doctrine of *res ipsa loquitur* and resulted in NEW YORK CENTRAL MUTUAL a/s/o NANCY M. HOUY being damaged in the sum of **Eighteen Thousand Five Hundred (\$18,500.00) Dollars**.

AS AND FOR A THIRD CAUSE OF ACTION

24. Plaintiff, NEW YORK CENTRAL MUTUAL a/s/o NANCY M. HOUY, repeats and reiterates each and every allegation in Paragraphs "1" through "23" above with the same force and effect as though fully set forth herein.

25. On or about December 17, 1998, the subject vehicle was being properly operated for the purpose and in the manner for which it was normally intended to be used.

26. That at all times hereinafter mentioned, said 1997 Ford Windstar was defective in the manner it was manufactured and designed, and caused the fire to occur while Plaintiff's subrogor was operating said motor vehicle.

27. That hereinafter mentioned, said motor vehicle was defective and Defendant was aware of this defect.

28. Defendant has a duty to warn the general public, and Plaintiff's subrogor, specifically of the defective part of the 1997 Ford Windstar.

29. Defendant failed to supply adequate warnings of the defect of the above-mentioned vehicle.

30. The defective design and inadequate warnings of this defective design of the 1997 Ford Windstar motor vehicle were the substantial factors in bringing about the damage to Plaintiff's subrogor's vehicle.

31. By reason of the foregoing negligence on the part of the Defendant, FORD MOTOR COMPANY, NANCY M. HOUY sustained property damage to her vehicle for which she received payments from NEW YORK CENTRAL MUTUAL in the amount of **Eighteen Thousand Five Hundred (\$18,500.00) Dollars** pursuant to her insurance policy.

32. That all of the foregoing was caused by the Defendant under the doctrine of strict liability in torts, and Plaintiff, NEW YORK CENTRAL MUTUAL a/s/o NANCY M. HOUY, seeks reimbursement in the amount of **Eighteen Thousand Five Hundred (\$18,500.00) Dollars.**

AS AND FOR A FOURTH CAUSE OF ACTION

33. Plaintiff, NEW YORK CENTRAL MUTUAL a/s/o NANCY M. HOUY, repeats and reiterates each and every allegation in Paragraphs "1" through "32" above with the same force and effect as though fully set forth herein.

34. Plaintiff's have repeatedly requested that the Defendant recognized its obligations under the express warranty provided to the Plaintiff, but the Defendant has continued to refuse to acknowledge its obligations under the contract. Accordingly, Defendant is in breach of the express warranty.

35. Upon information and belief, the Defendant, their agents, servants and/or employees breached their warranty in that vehicle was not fit for the purpose for which it was intended, was not of merchantable quality and contained latent defects.

36. Upon information and belief, Plaintiff, NANCY M. HOUY, had no knowledge of the falsity of these warranties.

37. Plaintiff, NANCY M. HOUY, at all times relied upon the warranties and representations made by the Defendant and on December 17, 1998 sustained substantial property damage as a result of the fire which occurred at 899 Alger Road, Arkport, New York.

38. By reason of the foregoing breach of warranty on the part of the Defendant, FORD MOTOR COMPANY, NANCY M. HOUY sustained property, for which she received payments from NEW YORK CENTRAL MUTUAL in the amount of **Eighteen Thousand Five Hundred (\$18,500.00) Dollars** pursuant to her homeowner's policy. That all of the foregoing was caused by Defendant FORD MOTOR COMPANY's breach of warranty, and Plaintiff, NEW YORK CENTRAL MUTUAL a/s/o NANCY M. HOUY, seeks reimbursement in the amount of **Eighteen Thousand Five Hundred (\$18,500.00) Dollars**.

WHEREFORE, Plaintiff, respectfully demands a judgment against the Defendant FORD MOTOR COMPANY on the First Cause of Action in the amount of **Eighteen Thousand Five Hundred (\$18,500.00) Dollars**, on the Second Cause of Action in the amount of **Eighteen Thousand Five Hundred (\$18,500.00) Dollars**, on the Third Cause of Action in the amount of **Eighteen Thousand Five Hundred (\$18,500.00) Dollars**, on the Fourth Cause of Action in the amount of **Eighteen Thousand Five Hundred (\$18,500.00) Dollars**, together with such interest, costs and disbursements as permitted by law.

FCSD REGION: _____ MARKET: _____ ISSUE STATUS: _____
 P&A CODE: _____
 VIN: 2FMDA5146VB _____
 SALES REGION: _____ SALES ZONE: _____ CASE NUMBER: _____
 ISSUE TYPE: _____

A	LAST HND /	Customer Phone Number /	Reason /	Stat /
C	P&A	Trmt Customer Name	Year Model	Type
	02/12/99	[REDACTED]	LEGAL - FIRE&PERSONAL/PROPERTY	C
	00584	[REDACTED]	1997 WINDSTAR	07
	02/03/99	[REDACTED]	LEGAL - CUSTOMER WAITING FOR A	C
	00584	[REDACTED]	1997 WINDSTAR	02

F1=Help F2=AddAction F5=CustomerList F6=DealerInfo
 F7=Prev F8=Next F10=IssueDetail F11=Menu
 F12=Return
NO MORE RECORDS AVAILABLE OGD8079

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VIN: 2FMDA5146VE
 Owner Status: ORIGINAL
 Name: MS
 Trmt: VLC
 Symptom: FIRE/SMOKE VISIBLE FLAME UNDERHOOD
 Reason: LEGAL - FIRE&PERSONAL/PROPERTY DAMAGE CLAIM
 Dealer: WEST-HERR FLM OF DANVILLE INC
 Issue Type: 07 LEGAL
 Issue Status: C CLOSED
 Year: 1997
 WSD: 01/22/97
 Model: WINDSTAR
 Mileage: 30000
 Case: 577943528
 Hm Ph: [REDACTED]
 Day Ph: [REDACTED]
 CAN Court: CAN Award: MORSII Contact: N

A/C DATE Origin Description

 12/18/98 CAC NO ACTION REQUIRED; INFORMATION ONLY
 12/18/98 CACI38 ADVISE CUSTOMER INFORMATION FORWARDED TO CONSUMER AFFAIRS DE
 12/31/98 CALGL MAKE OUTBOUND CALL TO CUSTOMER
 01/06/99 CALGL RECEIVE INBOUND CALL FROM DEALER
 01/14/99 CALGL FINAL CASE DISPOSITION
 02/12/99 CALGL ADD MICRO NUMBER/DOC ID
 F1=Help F2=Addaction F4=ActionDetail F6=DealerInfo
 F7=Prev F8=Next F9=ViewMORSII F11=Menu
 F12=Return
 NO MORE RECORDS AVAILABLE
 OGD8079

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VIN: 2FMDA5146VB [REDACTED] Year: 1997 Model: WINDSTAR
 Owner Status: ORIGINAL WSD: 01/22/97
 Name: MS [REDACTED] Hm Ph: [REDACTED]
 Trmt: VLC Case: 577943528 Day Ph: [REDACTED]
 Symptom Desc: FIRE/SMOKE VISIBLE FLAME UNDERHOOD
 Reason Desc: LEGAL - FIRE&PERSONAL/PROPERTY DAMAGE CLAIM
 Dealer: WEST-HERR FILM OF DANVILLE INC
 Issue Type: 07 LEGAL Issue Status: C CLOSED
 Comm Type: PH PHONE Odometer Reading: 30000 MI
 Analyst: AWRIGH20 ANGELA WRIGHT Document Number:
 Action Date: 12/18/98 Action Data: Action Time: 16:00:45 EST
 Origin Desc: GENERAL CAC
 Action Desc: NO ACTION REQUIRED; INFORMATION ONLY
 Comments: CUSTOMER SAYS: DATE OF FIRE: DEC 17 CUST SAID THAT SHE TU
 RNEED ON THE VEH AND DRIVE ABOUT 50 YARDS WITH THE VEH AND TH
 E VEH BACK FIRED ONCE THEN BEGAN SMOKING; CUST THEN GOT OUT
 AND CALLED THE FIRE DEPARTMENT AND WITHIN 5 MIN THE VEH WAS
 TOTALLY DEMOLISHED FIRE COMPANY SAID THAT THE SOURE OF FIRE
 SEEMED TO BE AN ELECTRICAL PROBLEM THAT CAME FROM THE ENGINE

F1=Help F2=AddAction F4=PrevAction F5=NextAction F6=ActionData
 F9=PrevComments F10=NextComments F11=Menu F12=Return F13=ESP
MORE COMMENTS AVAILIABLE OGDDB079

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VIN: 2FMDA5146VB [REDACTED] Year: 1997 Model: WINDSTAR
 Owner Status: ORIGINAL
 Name: MS [REDACTED] WSD: 01/22/97
 Trmt: VLC Case: 577943528 Hm Ph: [REDACTED]
 Symptom Desc: FIRE/SMOKE VISIBLE FLAME UNDERHOOD Day Ph: [REDACTED]
 Reason Desc: LEGAL - FIRE&PERSONAL/PROPERTY DAMAGE CLAIM
 Dealer: WEST-HERR FLM OF DANVILLE INC
 Issue Type: 07 LEGAL Issue Status: C CLOSED
 Comm Type: PH PHONE Odometer Reading: 30000 MI
 Analyst: AWRIGH20 ANGELA WRIGHT Document Number:
 Action Date: 12/18/98 Action Data: Action Time: 16:00:45 EST
 Origin Desc: GENERAL CAC
 Action Desc: NO ACTION REQUIRED; INFORMATION ONLY

Comments: SEEMED TO BE AN ELECTRICAL PROBLEM THAT CAME FROM THE ENGINE; CUST SAID THAT ALSO THERE WAS A STRONG SMELL OF GAS IN THE VEH WHEN SHE WAS DRIVING IT CUST HAS FILED A CLAIM WITH HER INSURANCE COMPANY; VEH IS CURRENTLY AT HER PARENTS HOME AND IT IS NOT REPAIRABLE AT HER PARENTS HOME BECAUSE THAT IS WHERE SHE WAS GOING WHEN THE FIRE OCCURRED; NO ONE WAS INJURED
 F1=Help F2=AddAction F4=PrevAction F5=NextAction F6=ActionData
 F9=PrevComments F10=NextComments F11=Menu F12=Return F13=ESP
MORE COMMENTS AVAILABLE OGD8079

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VIN: 2FMDA5146VB [REDACTED] Year: 1997 Model: WINDSTAR
 Owner Status: ORIGINAL
 Name: MS [REDACTED] WSD: 01/22/97
 Trmt: VLC Hm Ph: [REDACTED]
 Day Ph: [REDACTED]
 Symptom Desc: FIRE/SMOKE VISIBLE FLAME UNDERHOOD Case: 577943528
 Reason Desc: LEGAL - FIRE&PERSONAL/PROPERTY DAMAGE CLAIM
 Dealer: WEST-HERR FLM OF DANVILLE INC
 Issue Type: 07 LEGAL Issue Status: C CLOSED
 Comm Type: PH PHONE Odometer Reading: 30000 MI
 Analyst: AWRIGH20 ANGELA WRIGHT Document Number:
 Action Date: 12/18/98 Action Data: Action Time: 16:00:45 EST
 Origin Desc: GENERAL CAC
 Action Desc: NO ACTION REQUIRED; INFORMATION ONLY
 Comments: WHERE SHE WAS GOING WHEN THE FIRE OCCURRED;NO ONE WAS INJURE
 D IN THE FIRE CUST AND 8 YEAR OLD SON GOT OUT JUST IN TIME
 PER CUSTOMER, DEALER SAYS: NONE CAC ADVISED: - THIS INFO
 RMATION HAS BEEN FORWARDED TO THE CONSUMER AFFAIRS DEPARTMEN
 T FOR REVIEW - A REPRESENTATIVE FROM CONSUMER AFFAIRS WILL
 FOLLOW UP ON YOUR CLAIM - NO TIME FRAME AVAILABLE - IF YOU

F1=Help F2=AddAction F4=PrevAction F5=NextAction F6=ActionData
 F9=PrevComments F10=NextComments F11=Menu F12=Return F13=ESP
MORE COMMENTS AVAILABLE OGD8079

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VIN: 2FMDA5146VB [REDACTED] Year: 1997 Model: WINDSTAR
 Owner Status: ORIGINAL
 Name: MS [REDACTED] WSD: 01/22/97
 Trmt: VLC [REDACTED] Case: 577943528 Hm Ph: [REDACTED]
 Symptom Desc: FIRE/SMOKE VISIBLE FLAME UNDERHOOD Day Ph: [REDACTED]
 Reason Desc: LEGAL - FIRE&PERSONAL/PROPERTY DAMAGE CLAIM
 Dealer: WEST-HERR FLM OF DANVILLE INC
 Issue Type: 07 LEGAL Issue Status: C CLOSED
 Comm Type: PH PHONE Odometer Reading: 30000 MI
 Analyst: AWRIGH20 ANGELA WRIGHT Document Number:
 Action Date: 12/18/98 Action Data: Action Time: 16:00:45 EST
 Origin Desc: GENERAL CAC
 Action Desc: NO ACTION REQUIRED; INFORMATION ONLY
 Comments: FOLLOW UP ON YOUR CLAIM - NO TIME FRAME AVAILABLE - IF YOU
 HAVE NOT ALREADY CONTACTED YOUR INSURANCE CARRIER TO REPORT
 THE CONCERN, PLEASE DO SO INFERENCE CASE ID: 76

F1=Help F2=AddAction F4=PrevAction F5=NextAction F6=ActionData
 F9=PrevComments F10=NextComments F11=Menu F12=Return F13=ESP
MORE COMMENTS AVAILABLE

OGDB079

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VIN: 2FMDA5146VE [REDACTED] Year: 1997 Model: WINDSTAR
 Owner Status: ORIGINAL
 Name: MS [REDACTED] WSD: 01/22/97
 Trmt: VLC Case: 577943528 Day Ph: [REDACTED]
 Symptom Desc: FIRE/SMOKE VISIBLE FLAME UNDERHOOD
 Reason Desc: LEGAL - FIRE&PERSONAL/PROPERTY DAMAGE CLAIM
 Dealer: WEST-HERR FLM OF DANVILLE INC
 Issue Type: 07 LEGAL Issue Status: C CLOSED
 Comm Type: PH PHONE Odometer Reading: 30000 MI
 Analyst: AWRIGH20 ANGELA WRIGHT Document Number:
 Action Date: 12/18/98 Action Data: Action Time: 16:00:45 EST
 Origin Desc: GENERAL CAC
 Action Desc: NO ACTION REQUIRED; INFORMATION ONLY
 Comments:

F1=Help F2=AddAction F4=PrevAction F5=NextAction F6=ActionData
 F9=PrevComments F10=NextComments F11=Menu F12=Return F13=ESP
MORE COMMENTS AVAILABLE
 OGDDB079

SFCHADMA

Action Detail

02/24/00 10:04:28

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VIN: 2FMDA5146VB [REDACTED] Year: 1997 Model: WINDSTAR

Owner Status: ORIGINAL WSD: 01/22/97

Name: MS [REDACTED] Hm Ph: [REDACTED]

Trmt: VLC Case: 577943528 Day Ph: [REDACTED]

Symptom Desc: FIRE/SMOKE VISIBLE FLAME UNDERHOOD

Reason Desc: LEGAL - FIRE&PERSONAL/PROPERTY DAMAGE CLAIM

Dealer: WEST-HERR FLM OF DANVILLE INC

Issue Type: 07 LEGAL Issue Status: C CLOSED

Comm Type: PH PHONE Odometer Reading: 30000 MI

Analyst: AWRIGH20 ANGELA WRIGHT Document Number: [REDACTED]

Action Date: 12/18/98 Action Data: Action Time: 16:00:45 EST

Origin Desc: US CONCERN CASE BASE

Action Desc: ADVISE CUSTOMER INFORMATION FORWARDED TO CONSUMER AFFAIRS DE

Comments: CUSTOMER SAYS: DATE OF FIRE: DEC 17 CUST SAID THAT SHE TU

RNEED ON THE VEH AND DRIVE ABOUT 50 YARDS WITH THE VEH AND TH

E VEH BACK FIRED ONCE THEN BEGAN SMOKING; CUST THEN GOT OUT

AND CALLED THE FIRE DEPARTMENT AND WITHIN 5 MIN THE VEH WAS

TOTALLY DEMOLISHED FIRE COMPANY SAID THAT THE SOURCE OF FIRE

SEEMED TO BE AN ELECTRICAL PROBLEM THAT CAME FROM THE ENGIN

F1=Help F2=AddAction F4=PrevAction F5=NextAction F6=ActionData

F9=PrevComments F10=NextComments F11=Menu F12=Return F13=ESP

MORE COMMENTS AVAILABLE

OGDB079

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VIN: 2FMDA5146VB Year: 1997 Model: WINDSTAR

Owner Status: ORIGINAL

Name: MS [REDACTED] WSD: 01/22/97

Trmt: VLC Case: 577943528 Hm Ph: [REDACTED]

Symptom Desc: FIRE/SMOKE VISIBLE FLAME UNDERHOOD Day Ph: [REDACTED]

Reason Desc: LEGAL - FIRE&PERSONAL/PROPERTY DAMAGE CLAIM

Dealer: WEST-HERR FLM OF DANVILLE INC

Issue Type: 07 LEGAL Issue Status: C CLOSED

Comm Type: PH PHONE Odometer Reading: 30000 MI

Analyst: AWRIGH20 ANGELA WRIGHT Document Number:

Action Date: 12/18/98 Action Data: Action Time: 16:00:45 EST

Origin Desc: US CONCERN CASE BASE

Action Desc: ADVISE CUSTOMER INFORMATION FORWARDED TO CONSUMER AFFAIRS DE

Comments: SEEMED TO BE AN ELECTRICAL PROBLEM THAT CAME FROM THE ENGIN

E; CUST SAID THAT ALSO THERE WAS A STRONG SMELL OF GAS IN TH

E VEH WHEN SHE WAS DRIVING IT CUST HAS FILED A CLAIM WITH H

ER INSURANCE COMPANY; VEH IS CURRENTLY AT HER PARENTS HOME A

ND IT IS NOT REPAIRABLE AT HER PARENTS HOME BECAUSE THAT IS

WHERE SHE WAS GOING WHEN THE FIRE OCCURRED;NO ONE WAS INJURE

F1=Help F2=AddAction F4=PrevAction F5=NextAction F6=ActionData

F9=PrevComments F10=NextComments F11=Menu F12=Return F13=ESP

MORE COMMENTS AVAILABLE

OGDB079

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VIN: 2FMDA5146VB Year: 1997 Model: WINDSTAR

Owner Status: ORIGINAL WSD: 01/22/97

Name: MS Hm Ph: [REDACTED]

Trmt: VILC Case: 577943528 Day Ph: [REDACTED]

Symptom Desc: FIRE/SMOKE VISIBLE FLAME UNDERHOOD

Reason Desc: LEGAL - FIRE&PERSONAL/PROPERTY DAMAGE CLAIM

Dealer: WEST-HERR FLM OF DANVILLE INC

Issue Type: 07 LEGAL

Comm Type: PH PHONE

Analyst: AWRIGH20 ANGELA WRIGHT

Action Date: 12/18/98 Action Data: Issue Status: C CLOSED

Origin Desc: US CONCERN CASE BASE Odometer Reading: 30000 MI

Action Desc: ADVISE CUSTOMER INFORMATION FORWARDED TO CONSUMER AFFAIRS DE

Comments: WHERE SHE WAS GOING WHEN THE FIRE OCCURRED;NO ONE WAS INJURE

D IN THE FIRE CUST AND 8 YEAR OLD SON GOT OUT JUST IN TIME

PER CUSTOMER, DEALER SAYS: NONE CAC ADVISED: - THIS INFO

RMATION HAS BEEN FORWARDED TO THE CONSUMER AFFAIRS DEPARTMEN

T FOR REVIEW - A REPRESENTATIVE FROM CONSUMER AFFAIRS WILL

FOLLOW UP ON YOUR CLAIM - NO TIME FRAME AVAILABLE - IF YOU

F1=Help F2=AddAction F4=PrevAction F5=NextAction F6=ActionData

F9=PrevComments F10=NextComments F11=Menu F12=Return F13=ESP

MORE COMMENTS AVAILABLE

OGDB079

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VIN: 2FMDA5146VB [REDACTED] Year: 1997 Model: WINDSTAR
 Owner Status: ORIGINAL WSD: 01/22/97
 Name: MS [REDACTED] Hm Ph: [REDACTED]
 Trmt: VILC Case: 577943528 Day Ph: [REDACTED]
 Symptom Desc: FIRE/SMOKE VISIBLE FLAME UNDERHOOD
 Reason Desc: LEGAL - FIRE&PERSONAL/PROPERTY DAMAGE CLAIM
 Dealer: WEST-HERR FLM OF DANVILLE INC
 Issue Type: 07 LEGAL Issue Status: C CLOSED
 Comm Type: PH PHONE Odometer Reading: 30000 MI
 Analyst: AWRIGH20 ANGELA WRIGHT Document Number:
 Action Date: 12/18/98 Action Data: Action Time: 16:00:45 EST
 Origin Desc: US CONCERN CASE BASE
 Action Desc: ADVISE CUSTOMER INFORMATION FORWARDED TO CONSUMER AFFAIRS DE
 Comments: FOLLOW UP ON YOUR CLAIM - NO TIME FRAME AVAILBLE - IF YOU
 HAVE NOT ALREADY CONTACTED YOUR INSURANCE CARRIER TO REPORT
 THE CONCERN, PLEASE DO SO INFERENCE CASE ID: 76

F1=Help F2=AddAction F4=PrevAction F5=NextAction F6=ActionData
 F9=PrevComments F10=NextComments F11=Menu F12=Return F13=ESP
NO MORE COMMENTS AVAILBLE OGD8079

SFCHADMA

Action Detail

02/24/00 10:04:43

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VIN: 2FMDA5146VE Year: 1997 Model: WINDSTAR
 Owner Status: ORIGINAL
 Name: MS
 Trmt: VLC Case: 577943528 Hm Ph: [REDACTED]
 Symptom Desc: FIRE/SMOKE VISIBLE FLAME UNDERHOOD Day Ph: [REDACTED]
 Reason Desc: LEGAL - FIRE&PERSONAL/PROPERTY DAMAGE CLAIM
 Dealer: WEST-HERR FILM OF DANVILLE INC
 Issue Type: 07 LEGAL Issue Status: C CLOSED
 Comm Type: PH PHONE Odometer Reading: 30000 MI
 Analyst: 5008TW TRACEY WOODS Document Number:
 Action Date: 12/31/98 Action Data: Y Action Time: 10:26:24 EST
 Origin Desc: CONSUMER AFFAIRS - LITIGATION PREVENTION
 Action Desc: MAKE OUTBOUND CALL TO CUSTOMER
 Comments: ***LPA COMMENTS***
 MESSAGE LEFT WITH "MAX" REQUESTING NANCY HOUY TO RECONTACT
 FMC. NAME AND PHONE NUMBER PROVIDED FOR RECONTACT.

F1=Help F2=AddAction F4=PrevAction F5=NextAction F6=ActionData
 F9=PrevComments F10=NextComments F11=Menu F12=Return F13=ESP
NO MORE COMMENTS AVAILABLE OGDDB079

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VIN: 2FMDA5146VB Year: 1997 Model: WINDSTAR

Owner Status: ORIGINAL WSD: 01/22/97

Name: MS Hm Ph:

Trmt: VLC Case: 577943528 Day Ph:

Symptom Desc: FIRE/SMOKE VISIBLE FLAME UNDERHOOD

Reason Desc: LEGAL - FIRE&PERSONAL/PROPERTY DAMAGE CLAIM

Dealer: WEST-HERR FLM OF DANVILLE INC

Issue Type: 07 LEGAL Issue Status: C CLOSED

Comm Type: PH PHONE Odometer Reading: 30000 MI

Analyst: 5008TW TRACEY WOODS Document Number:

Action Date: 01/06/99 Action Data: Y Action Time: 12:08:56 EST

Origin Desc: CONSUMER AFFAIRS - LITIGATION PREVENTION

Action Desc: RECEIVE INBOUND CALL FROM DEALER

Comments: ***LPA COMMENTS***

SALES MGR./PHIL CORNELL CONTACTED LPA AND REQUESTED THAT
FORD INSPECT THE BURNED VEHICLE. HE ALSO ADVISED THAT THE
CUSTOMER'S INSURANCE CO. HAD BEEN CONTACTED AND THEY HAVE
FILED AND PAID THE CLAIM ON THIS VEHICLE. THE CUSTOMER HAS
PICKED OUT A 98 WINDSTAR BUT WILL NOT TAKE IT UNLESS THEY

F1=Help F2=AddAction F4=PrevAction F5=NextAction F6=ActionData

F9=PrevComments F10=NextComments F11=Menu F12=Return F13=ESP

MORE COMMENTS AVAILABLE

OGDB079

SFCHADMA

Action Detail

02/24/00 10:04:52

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VIN: 2FMDA5146VB [REDACTED] Year: 1997 Model: WINDSTAR
 Owner Status: ORIGINAL
 Name: MS [REDACTED] WSD: 01/22/97
 Trmt: VLC Case: 577943528 Hm Ph: [REDACTED]
 Symptom Desc: FIRE/SMOKE VISIBLE FLAME UNDERHOOD Day Ph: [REDACTED]
 Reason Desc: LEGAL - FIRE&PERSONAL/PROPERTY DAMAGE CLAIM
 Dealer: WEST-HERR FLM OF DANVILLE INC
 Issue Type: 07 LEGAL Issue Status: C CLOSED
 Comm Type: PH PHONE Odometer Reading: 30000 MI
 Analyst: 5008TW TRACEY WOODS Document Number:
 Action Date: 01/06/99 Action Data: Y Action Time: 12:08:56 EST
 Origin Desc: CONSUMER AFFAIRS - LITIGATION PREVENTION
 Action Desc: RECEIVE INBOUND CALL FROM DEALER
 Comments: PICKED OUT A 98 WINDSTAR BUT WILL NOT TAKE IT UNLESS THEY
 KNOW WHAT CAUSED THE FIRE IN THEIR 97 WINDSTAR.
 *

PER SR. LPA/ANDREW CHABOT THE CUSTOMER'S INSURANCE CO. IS
 NOW THE OWNER OF THIS VEHICLE AND THEY WOULD NEED TO CONTACT
 THEM FOR THE CAUSE OF THE FIRE.

F1=Help F2=AddAction F4=PrevAction F5=NextAction F6=ActionData
 F9=PrevComments F10=NextComments F11=Menu F12=Return F13=ESP
NO MORE COMMENTS AVAILABLE

OGDB079

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VIN: 2FMDA5146VE Year: 1997 Model: WINDSTAR
 Owner Status: ORIGINAL
 Name: MS
 Trmt: Case: 577943528
 Symptom Desc: FIRE/SMOKE VISIBLE FLAME UNDERHOOD
 Reason Desc: LEGAL - FIRE&PERSONAL/PROPERTY DAMAGE CLAIM
 Dealer: WEST-HERR FLM OF DANVILLE INC
 Issue Type: 07 LEGAL
 Comm Type: PH PHONE
 Analyst: 5008TW TRACEY WOODS
 Action Date: 01/14/99 Action Data: N
 Origin Desc: CONSUMER AFFAIRS - LITIGATION PREVENTION
 Action Desc: FINAL CASE DISPOSITION
 Comments: ***LPA COMMENTS***
 CUSTOMER NO LONGER OWNS VEHICLE. NO FURTHER ACTION REQUIRED
 BY CONSUMER AFFAIRS.

WSD: 01/22/97
 Hm Ph:
 Day Ph:

Issue Status: C CLOSED
 Odometer Reading: 30000 MI
 Document Number:
 Action Time: 16:11:28 EST

F1=Help F2=AddAction F4=PrevAction F5=NextAction F6=ActionData
 F9=PrevComments F10=NextComments F11=Menu F12=Return F13=ESP
NO MORE COMMENTS AVAILABLE

OGDB079

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VIN: 2FMDA5146VB [REDACTED] Year: 1997 Model: WINDSTAR
 Owner Status: ORIGINAL WSD: 01/22/97
 Name: MS [REDACTED] Hm Ph: [REDACTED]
 Trmt: VLC Case: 577943528 Day Ph: [REDACTED]
 Symptom Desc: FIRE/SMOKE VISIBLE FLAME UNDERHOOD
 Reason Desc: LEGAL - FIRE&PERSONAL/PROPERTY DAMAGE CLAIM
 Dealer: WEST-HERR FLM OF DANVILLE INC
 Issue Type: 07 LEGAL Issue Status: C CLOSED
 Comm Type: PH PHONE Odometer Reading: 30000 MI
 Analyst: 5008TW TRACEY WOODS Document Number: 0567 2
 Action Date: 02/12/99 Action Data: N Action Time: 08:08:32 EST
 Origin Desc: CONSUMER AFFAIRS - LITIGATION PREVENTION
 Action Desc: ADD MICRO NUMBER/DOC ID

Comments:

F1=Help F2=AddAction F4=PrevAction F5=NextAction F6=ActionData
 F9=PrevComments F10=NextComments F11=Menu F12=Return F13=ESP
RECORD FOUND

OGDB079

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VIN: 2FMDA5146VB [REDACTED] Year: 1997 Model: WINDSTAR
 Owner Status: ORIGINAL MSD: 01/22/97 Mileage: 1
 Name: MS [REDACTED] Case: 577943528 Hm Ph: [REDACTED]
 Trmt: VLC Day Ph: [REDACTED]
 Symptom: FIRE/SMOKE VISIBLE FLAME UNDERHOOD
 Reason: LEGAL - CUSTOMER WAITING FOR ACKNOWLEDGEMENT
 Dealer: WEST-HERR FILM OF DANVILLE INC
 Issue Type: 02 INFORMATION CAN Court: Legal Issue Type:
 Issue Status: C CLOSED CAN Award: MORSII Contact: N

A/C DATE Origin Description

 12/30/98 CAC NO ACTION REQUIRED; INFORMATION ONLY
 12/30/98 CACI38 CB-ADVISE CUST WE WILL NOTIFY THE DEPT SOMEBODY WILL BE IN T
 02/03/99 DEALER WARRANTY REPAIR DENIED - INSURANCE ISSUE

F1=Help F2=AddAction F4=ActionDetail F6=DealerInfo F12=Return
 F7=Prev F8=Next F9=ViewMORSII F11=Menu OGD8079
NO MORE RECORDS AVAILABLE

SFCHADMA

Action Detail

02/24/00 10:09:06

==>

VIN: 2FMDA5146VB [REDACTED] Year: 1997 Model: WINDSTAR
 Owner Status: ORIGINAL
 Name: MS [REDACTED] WSD: 01/22/97
 Trmt: VLC Case: 577943528 Hm Ph: [REDACTED]
 Symptom Desc: FIRE/SMOKE VISIBLE FLAME UNDERHOOD Day Ph: [REDACTED]
 Reason Desc: LEGAL - CUSTOMER WAITING FOR ACKNOWLEDGEMENT
 Dealer: WEST-HERR FLM OF DANVILLE INC
 Issue Type: 02 INFORMATION Issue Status: C CLOSED
 Comm Type: PH PHONE Odometer Reading: 1 MI
 Analyst: LLEVANDE LECIA LEVANDE Document Number:
 Action Date: 12/30/98 Action Data: Action Time: 14:03:15 EST
 Origin Desc: GENERAL CAC
 Action Desc: NO ACTION REQUIRED; INFORMATION ONLY
 Comments: CUSTOMER SAYS: CUST IS CALLING BACK ON OPEN LEGAL. PER CU
 STOMER, DEALER SAYS: NONE CAC ADVISED: - FORWARDED THE A
 DDITIONAL INFORMATION TO CONSUMER AFFAIRS DEPARTMENT - REQU
 ESTED CONSUMER AFFAIRS TO CONTACT CUSTOMER WITHIN 2 BUSINESS
 DAYS INFERENCE CASE ID: 1571

F1=Help F2=AddAction F4=PrevAction F5=NextAction F6=ActionData
 F9=PrevComments F10=NextComments F11=Menu F12=Return F13=ESP
MORE COMMENTS AVAILABLE OGDDB079

SFCHADMA

Action Detail

02/24/00 10:09:11

==>

VIN: 2FMDA5146VB Year: 1997 Model: WINDSTAR
 Owner Status: ORIGINAL
 Name: MS
 Trmt: VIC Case: 577943528
 Symptom Desc: FIRE/SMOKE VISIBLE FLAME UNDERHOOD
 Reason Desc: LEGAL - CUSTOMER WAITING FOR ACKNOWLEDGEMENT
 Dealer: WEST-HERR FLM OF DANVILLE INC
 Issue Type: 02 INFORMATION Issue Status: C CLOSED
 Comm Type: PH PHONE Odometer Reading: 1 MI
 Analyst: LLEVANDE LECIA LEVANDE Document Number:
 Action Date: 12/30/98 Action Data: Action Time: 14:03:15 EST
 Origin Desc: GENERAL CAC
 Action Desc: NO ACTION REQUIRED; INFORMATION ONLY
 Comments:

F1=Help F2=AddAction F4=PrevAction F5=NextAction F6=ActionData
 F9=PrevComments F10=NextComments F11=Menu F12=Return F13=ESP
MORE COMMENTS AVAILABLE

OGDB079

==>

VIN: 2FMDA5146VB Year: 1997 Model: WINDSTAR

Owner Status: ORIGINAL WSD: 01/22/97

Name: MS Case: 577943528 Hm Ph: [REDACTED]

Trmt: VLC Day Ph: [REDACTED]

Symptom Desc: FIRE/SMOKE VISIBLE FLAME UNDERHOOD

Reason Desc: LEGAL - CUSTOMER WAITING FOR ACKNOWLEDGEMENT

Dealer: WEST-HERR FLM OF DANVILLE INC

Issue Type: 02 INFORMATION

Comm Type: PH PHONE Issue Status: C CLOSED

Analyst: LLEVANDE LECIA LEVANDE Odometer Reading: 1 MI

Action Date: 12/30/98 Action Data: Document Number: Action Time: 14:03:15 EST

Origin Desc: US CONCERN CASE BASE

Action Desc: CB-ADVISE CUST WE WILL NOTIFY THE DEPT SOMEBODY WILL BE IN T

Comments: CUSTOMER SAYS: CUST IS CALLING BACK ON OPEN LEGAL. PER CU

STOMER, DEALER SAYS: NONE CAC ADVISED: - FORWARDED THE A

DDITIONAL INFORMATION TO CONSUMER AFFAIRS DEPARTMENT - REQU

ESTED CONSUMER AFFAIRS TO CONTACT CUSTOMER WITHIN 2 BUSINESS

DAYS INFERENCE CASE ID: 1571

F1=Help F2=AddAction F4=PrevAction F5=NextAction F6=ActionData

F9=PrevComments F10=NextComments F11=Menu F12=Return F13=ESP

NO MORE COMMENTS AVAILABLE

OGDB079

SFCHADMA

Action Detail

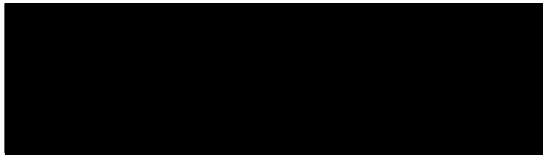
02/24/00 10:09:34

==>

VIN: 2FMDA5146VB Year: 1997 Model: WINDSTAR
 Owner Status: ORIGINAL
 Name: MS
 Trmt: VLC Case: 577943528
 Symptom Desc: FIRE/SMOKE VISIBLE FLAME UNDERHOOD
 Reason Desc: LEGAL - CUSTOMER WAITING FOR ACKNOWLEDGEMENT
 Dealer: WEST-HERR FLM OF DANVILLE INC
 Issue Type: 02 INFORMATION Issue Status: C CLOSED
 Comm Type: PH PHONE Odometer Reading: 1 MI
 Analyst: F44060 WEST-HERR FLM OF Document Number:
 Action Date: 02/03/99 Action Data: N Action Time: 14:20:52 EST
 Origin Desc: DEALER
 Action Desc: WARRANTY REPAIR DENIED - INSURANCE ISSUE
 Comments: CUSTOMER HAS BOUGHT ANOTHER VEHICLE FROM US AND WE WERE ADVI
 SED BY OUR REP LAURA THAT INSURANCE COMPANY WAS TAKING CARE
 OF ISSUE

F1=Help F2=AddAction F4=PrevAction F5=NextAction F6=ActionData
 F9=PrevComments F10=NextComments F11=Menu F12=Return F13=ESP
NO MORE COMMENTS AVAILABLE

OGDB079



State Farm Insurance Companies®



CERTIFIED MAIL - RETURN RECEIPT REQUESTED
November 15, 2002

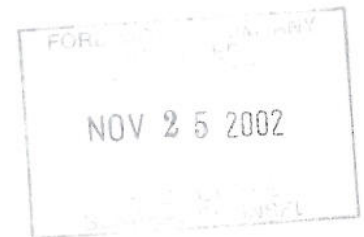
P. O. Box 9613
Winter Haven, FL 33883-9613
1-800-301-7350

CONSUMER AFFAIRS
SECTION

2 NOV 21 09:53

Attention: Consumer Affairs
Ford Motor Company
P.O. Box 6248 MD-3NE-B
Dearbourn, MI 48126

Claim Number: [REDACTED]
Our Insured: [REDACTED]
Date of Loss: November 5, 2002
Make, Model and Year of Product: 1995 Ford Windstar
VIN: 2FMDA5140SB [REDACTED]



Dear Ford:

The identified vehicle is insured by State Farm Fire and Casualty Company. This vehicle experienced a fire loss on the above-referenced date.

State Farm® would like to give you an opportunity to inspect the vehicle and give you advanced notice of our potential subrogation claim.

Please be advised that we have hired an engineer to inspect the vehicle on our insured's behalf to determine the cause of the fire. I request that you contact me at the number below to schedule a time for a joint inspection between your inspector and our engineer, should you decide to conduct an inspection.

We look forward to hearing from you soon.

Sincerely,

A handwritten signature in cursive script that reads "Jan Allen".

Jan Allen
Claim Representative
1-800-301-7350 ext. 8693
STATE FARM FIRE AND CASUALTY COMPANY

JA/022/1115032.122





Allstate

You're in good hands.

SUMMIT
P.O. BOX 337
HUDSON OH 44236-0337

Subrog
APR 18 2007
[Signature]

Ford Motor Company
PO Box 6248 MD-3NE-B
Dearborn MI 48121-6248



CONSUMER AFFAIRS
SECTION

7 APR 17 10:41

April 11, 2007

INSURED: [REDACTED]
DATE OF LOSS: March 09, 2007
CLAIM NUMBER: 1065911529 GMM
VEHICLE: 1997 Ford Windstar
VIN: 2FMDA5146VB [REDACTED]

PHONE NUMBER: 888-656-8005
FAX NUMBER: 330-655-4823
OFFICE HOURS: Mon - Fri 8:00am - 5:30pm

To Whom It May Concern:

The purpose of this letter is to put you on notice of our subrogation rights in regards to the above mentioned claim.

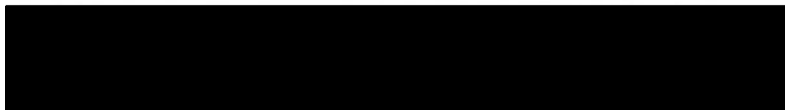
Based on our initial investigation we have determined that the loss to this vehicle may be related to a manufacturer defect. once we have completed our investigation, we will forward our subrogation papers to you. If you have additional questions, please contact me at the number listed below.

Sincerely,

MERIDETH STAUFFER

MERIDETH STAUFFER
888-656-8005 Ext.4901
Allstate Property and Casualty Insurance Company





08/20/2007 11:20 2018629400

LAW OFF OF JAN MEYER

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Law Offices of Jan Meyer & Associates, P.C.
1029 Teaneck Road
Second Floor
Teaneck, New Jersey 07666
(201) 862-9500
Attorney(s) for Plaintiff(s)

Progressive Insurance Company as
subrogee of Nazeema Husseln,

Plaintiff(s).

-against-

SF Ford Motor Company and Fette Ford
Dealership,

Defendant(s).

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: BERGEN COUNTY

Docket No.: BER L 6094 07

Civil Action

SUMMONS

From the State of New Jersey
To the Defendant(s) named above:

The plaintiff, named above, has filed a lawsuit against you in the Superior Court of New Jersey. The complaint attached to this summons states the basis for this lawsuit. If you dispute this complaint, you or your attorney must file a written answer or motion and proof of service with the deputy clerk of the Superior Court in the county listed within 35 days from the date you received this summons, not counting the date you received it. (The address of each deputy clerk of the Superior Court is provided.) If the complaint is one in foreclosure, then you must file your written answer or motion and proof of service with the Clerk of the Superior Court, Hughes Justice Complex, PO Box 971, Trenton, NJ 08625-0971. A filing fee payable to the Clerk of the Superior Court and a completed Case Information Statement (available from the deputy clerk of the Superior Court) must accompany your answer or motion when it is filed. You must also send a copy of your answer or motion to the plaintiff's attorney whose name and address appear above, or to plaintiff, if no attorney is named above. A telephone call will not protect your rights; you must file and serve a written answer or motion (with fee of \$135.00 and completed Case Information Statement) if you want the court to hear your defense.

If you do not file and serve a written answer or motion within 35 days, the court may enter a judgment against you for the relief demands, plus interest and costs of suit. If judgment is entered against you, the Sheriff may seize your money, wages or property to pay all or part of the judgment.

If you cannot afford an attorney, you may call the Legal Services office in the county where you live. A list of these offices is provided. If you do not have an attorney and are not eligible for free legal assistance, you may obtain a referral to an attorney by calling one of the Lawyer Referral Services. A list of these numbers is also provided.

August 20, 2007

DONALD F. PHELAN
Clerk of the Superior Court

Name of Defendant to be Served: **Ford Motor Company**
Address of the Defendant to be Served: **One American Road, Dearborn, Michigan 48126**

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ATLANTIC COUNTY:

Deputy Clerk of the Superior Court
Civil Division, Direct Filing
1201 Buchanan Blvd., First Fl.
Atlantic City, NJ 08401

LAWYER REFERRAL
(609) 345-3444
LEGAL SERVICES
(609) 348-4200

CUMBERLAND COUNTY:

Deputy Clerk of the Superior Court
Civil Case Management Office
Broad & Fayette Sts. P.O. Box 815
Bridgeton, NJ 08302

LAWYER REFERRAL
(609) 692-6207
LEGAL SERVICES
(609) 451-0003

MERCER COUNTY:

Deputy Clerk of the Superior Court
Local Filing Office, Courthouse
176 Broad St. P.O. Box 8088
Trenton, NJ 08650

LAWYER REFERRAL
(609) 685-6200
LEGAL SERVICES
(609) 695-6249

SALEM COUNTY:

Deputy Clerk of the Superior Court
82 Market Street
P.O. Box 18
Salem, NJ 08079

LAWYER REFERRAL
(609) 678-8363
LEGAL SERVICES
(609) 451-0003

BERGEN COUNTY:

Deputy Clerk of the Superior Court
Case Processing Section
Room 119
Justice Center, 10 Main St.
Hackensack, NJ 07601-0799

LAWYER REFERRAL
(201) 488-0044
LEGAL SERVICES
(201) 487-2166

ESSEX COUNTY:

Deputy Clerk of the Superior Court
237 Hall of Records
488 Dr. Martin Luther King, Jr. Blvd.
Newark, NJ 07102

LAWYER REFERRAL
(973) 622-6207
LEGAL SERVICES
(973) 624-4500

MIDDLESEX COUNTY:

Deputy Clerk of the Superior Court
Administration Building
Third Floor
1 Kennedy Square, P.O. Box 2633
New Brunswick, NJ 08903-2633

LAWYER REFERRAL
(908) 828-0053
LEGAL SERVICES
(908) 249-7600

SOMERSET COUNTY:

Deputy Clerk of the Superior Court
Civil Division Office
New Court House, 3rd Fl.
P.O. Box 3000
Somerville, NJ 08876

LAWYER REFERRAL
(908) 685-2323
LEGAL SERVICES
(908) 231-0840

BURLINGTON COUNTY:

Deputy Clerk of the Superior Court
Central Processing Office
Attn: Judicial Intake
First Fl. Courts Facility
49 Ramapoas Road
Mt. Holly, NJ 08060

LAWYER REFERRAL
(609) 261-4862
LEGAL SERVICES
(609) 261-1088

GLOUCESTER COUNTY:

Deputy Clerk of the Superior Court
Civil Case Management Office
Attn: Intake
Court House
1 North Broad Street, P.O. Box 129
Woodbury, NJ 08098

LAWYER REFERRAL
(609) 848-4589
LEGAL SERVICES
(609) 848-5360

MONMOUTH COUNTY:

Deputy Clerk of the Superior Court
71 Monument Park
P.O. Box 1262
Court House, West Wing
Freehold, NJ 07728-1282

LAWYER REFERRAL
(908) 431-5544
LEGAL SERVICES
(908) 868-0020

SUSSEX COUNTY:

Deputy Clerk of the Superior Court
Sussex County Judicial Center
43-47 High Street
Newton, NJ 07860

LAWYER REFERRAL
(973) 267-5882
LEGAL SERVICES
(973) 383-7400

CAMDEN COUNTY:

Deputy Clerk of the Superior Court
Civil Processing Office
1st Fl. Hall of Records
101 S. Fifth St.
Camden, NJ 08105-4001

LAWYER REFERRAL
(609) 964-4520
LEGAL SERVICES
(609) 964-2010

HUDSON COUNTY:

Deputy Clerk of the Superior Court
Superior Court, Civil Records Dept.
Brennan Court House- 1st Fl.
583 Newark Ave.
Jersey City, NJ 07306

LAWYER REFERRAL
(973) 798-2727
LEGAL SERVICES
(973) 798-8363

MORRIS COUNTY:

Deputy Clerk of the Superior Court
Civil Division- Hall of Records
P.O. Box 910
Montstown, NJ 07830-0810

LAWYER REFERRAL
(973) 267-5882
LEGAL SERVICES
(973) 285-8933

UNION COUNTY:

Deputy Clerk of the Superior Court
1st Fl. Court House
2 Broad Street
Elizabeth, NJ 07207-6073

LAWYER REFERRAL
(908) 353-4715
LEGAL SERVICES
(908) 354-4340

CAPE MAY COUNTY:

Deputy Clerk of the Superior Court
Central Processing Office
9 N. Main St.
Box DN-209
Cape May Court House, NJ 08210

LAWYER REFERRAL
(809) 463-0313
LEGAL SERVICES
(809) 465-3001

HUNTERDON COUNTY:

Deputy Clerk of the Superior Court
Civil Division
65 Park Avenue
Flemington, NJ 08822

LAWYER REFERRAL
(908) 735-2611
LEGAL SERVICES
(908) 782-7979

OCEAN COUNTY:

Deputy Clerk of the Superior Court
Court House, Room 119
118 Washington St.
Toms River, NJ 08754

LAWYER REFERRAL
(908) 240-3666
LEGAL SERVICES
(908) 341-2727

WARREN COUNTY:

Deputy Clerk of the Superior Court
Civil Division Office
Court House
413 Second Street
Belvidere, NJ 07823-1500

LAWYER REFERRAL
(908) 267-5882
LEGAL SERVICES
(908) 4745-2010

PASSAIC COUNTY:

Deputy Clerk of the Superior Court
Civil Division
Court House
77 Hamilton St.
Peterson, NJ 07505

LAWYER REFERRAL
(973) 278-9223
LEGAL SERVICES
(973) 345-7171

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SERGEN COUNTY COURTHOUSE
SUPERIOR COURT LAW DIV
SERGEN COUNTY JUSTICE CTR RM 413
HACKENSACK NJ 07401-7680

068894494
Pog/Husseris

TRACK ASSIGNMENT NOTICE

COURT TELEPHONE NO. (201) 527-2600
COURT HOURS

DATE: AUGUST 16, 2007
RE: PROGRESSIVE INSURANCE COMPANY VS FORD MOTOR CO
DOCKET: BER L -006094 07

THE ABOVE CASE HAS BEEN ASSIGNED TO: TRACK 2.

DISCOVERY IS 300 DAYS AND RUNS FROM THE FIRST ANSWER OR 90 DAYS FROM SERVICE ON THE FIRST DEFENDANT, WHICHEVER COMES FIRST.

THE PRETRIAL JUDGE ASSIGNED IS: HON BRIAN R. MARTINOTTI

IF YOU HAVE ANY QUESTIONS, CONTACT TEAM 003
AT: (201) 527-2600.

IF YOU BELIEVE THAT THE TRACK IS INAPPROPRIATE YOU MUST FILE A CERTIFICATION OF GOOD CAUSE WITHIN 30 DAYS OF THE FILING OF YOUR PLEADING. PLAINTIFF MUST SERVE COPIES OF THIS FORM ON ALL OTHER PARTIES IN ACCORDANCE WITH R.4:30-2.

ATTENTION:

ATT: STACY MAZA
MEYER JAN
LAW OFFICES OF JAN MEYER
1020 TEANECK ROAD SECOND FLOOR
TEANECK NJ 07666

JUBKAZO

08/20/2007 11:20 2018629400

LAW OFF OF JAN MEYER

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Law Offices of Jan Meyer & Associates, P.C.
1029 Teaneck Road
Second Floor
Teaneck, New Jersey 07666
(201) 862-9500
Attorney for Plaintiff(s)

SUPERIOR COURT BERGEN COUNTY
FILED

AUG 15 2007



Progressive Insurance Company as
subrogee of Nazeema Hussein,

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: BERGEN COUNTY

Plaintiff(s),

Docket No.: L-6094-07

-against-

Civil Action

Ford Motor Company and Fette Ford
Dealership,

COMPLAINT

Defendant(s).

Plaintiff, Progressive Insurance Company, located at 5920 Landerbrook Drive, Mayfield Heights, OH 44124 and doing business in Bergen County, as subrogee of Nazeema Hussein, residing at 45 Lotz Hill Road, Clifton, New Jersey 07013, by way of Complaint against Defendants, Ford Motor Company, located at One American Road, Dearborn, Michigan 48126 and Fette Ford Dealership doing business at 1137 Route 46, Clifton, New Jersey 07013 says:

FIRST COUNT

1. Plaintiff Progressive Insurance Company [hereinafter "Progressive"] is in the business of automobile insurance.
2. Nazeema Hussein, being the insured under a certain policy issued by Plaintiff Progressive.
3. At all times relevant hereto, Plaintiff's insured, Nazeema Hussein, owned a black 2003 Ford Windstar SEL, minivan, New Jersey license plate number PUF992,

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Vehicle Identification Number 2FMDA53453BA62132.

4. On or about June 3, 2006, Plaintiff's insured purchased the aforementioned vehicle from Defendant Fette Ford Dealership [hereinafter "Fette Ford"].
5. On or about June 29, 2006, the vehicle of Plaintiff's insured, Nazeema Hussein was serviced by Defendant Fette Ford.
6. On or about July 26, 2006, Plaintiff's insured, Nazeema Hussein, was operating the aforementioned vehicle when smoke began coming out of the engine of the vehicle, forcing the Plaintiff's insured, to pull over onto Rock Hill Road in Clifton, New Jersey.
7. As a result of said fire, the vehicle of Plaintiff's insured sustained property damage.
8. Upon information and belief, the cause of the fire was due to a factory defect.
9. Defendant Ford Motor Company [hereinafter "Ford Motor"] is the manufacturer of the vehicle of Plaintiff's insured.
10. As a result of Defendants' actions, Plaintiff Progressive Insurance Company as subrogee of Nazeema Hussein paid claims in the amount of \$18,765.13.

WHEREFORE, Plaintiff, Progressive Insurance Company as subrogee of Nazeema Hussein, demands judgment against Defendants, Ford Motor Company and Fette Ford Dealership, jointly, severally, and in the alternative, as follows:

- A. \$18,765.13;
- B. Interest;
- C. Costs of Suit;
- D. Attorney Fees;
- E. Indemnification;

- F. Contribution;
- G. Compelling arbitration of all matters to the extent required by any relevant statute or regulation;
- H. Other relief the Court may deem equitable and just.

SECOND COUNT

1. Plaintiff repeats and reiterates each and every paragraph of the First Count of the Complaint with the same force and effect as if set forth fully herein.
2. Defendant Ford Motor manufactured said vehicle in such an, including, but not limited to, reckless, careless, willful and wanton and/or negligent manner so as to result in a fire which damaged said vehicle.
3. On or about June 29, 2006, Defendant Fette Ford serviced said vehicle in such an, including, but not limited to, reckless, careless, willful and wanton and/or negligent manner so as to result in a fire which damaged said vehicle.
4. As a direct result of Defendants' actions, the vehicle of Plaintiff's insured, Nazeema Hussein, suffered property damage.
5. As a direct result of Defendants' actions, Plaintiff Progressive Insurance Company paid claims totaling \$18,765.13.
6. Demand for payment has been made, but nothing has been received by Plaintiff.

WHEREFORE, Plaintiff, Progressive Insurance Company as subrogee of Nazeema Hussein, demands judgment against Defendants, Ford Motor Company and Fette Ford Dealership, jointly, severally, and in the alternative, as follows:

- A. \$18,765.13;
- B. Interest;

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LAW OFF OF JAN MEYER

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- C. Costs of Suit;
- D. Attorney Fees;
- E. Indemnification;
- F. Contribution;
- G. Compelling arbitration of all matters to the extent required by any relevant statute or regulation;
- H. Other relief the Court may deem equitable and just.

THIRD COUNT

1. Plaintiff repeats and reiterates the First and Second Counts of the Complaint with the same force and effect as if set forth fully herein.
2. Defendants Ford Motor and Fette Ford owed a duty of reasonable care to Plaintiff's insured, Nazeema Hussein.
3. Defendants Ford Motor and Fette Ford breached said duty.
4. As a direct result of said breach, the vehicle of Plaintiff's insured, Nazeema Hussein, sustained property damage.
5. As a direct result of said breach, Plaintiff Progressive Insurance Company made payments of \$18,765.13.

WHEREFORE, Plaintiff, Progressive Insurance Company as subrogee of Nazeema Hussein demands judgment against Defendants, Ford Motor Company and Fette Ford Company, jointly, severally, and in the alternative, as follows:

- A. \$18,765.13;
- B. Interest;
- C. Costs of Suit;

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LAW OFF OF JAN MEYER

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- D. Attorney Fees;
- E. Indemnification;
- F. Contribution;
- G. Compelling arbitration of all matters to the extent required by any relevant statute or regulation;
- H. Other relief the Court may deem equitable and just.

FOURTH COUNT

1. Plaintiff repeats and reiterates the First through Third Counts of the Complaint with the same force and effect as if set forth fully herein.
2. Defendant Ford Motor was the manufacturer of the vehicle of Plaintiff's insured.
3. The damage to the vehicle of Plaintiff's insured was the result of a factory defect.
4. As a result of Defendant Ford Motor's manufacturing defect, Defendant Ford Motor should be held strictly liable for all damages arising from the manufacturing defect as well as all reasonably foreseeable consequences of said defect.
5. As a direct result of Defendants' actions, Plaintiff Progressive Insurance Company paid claims totaling \$18,765.13.

WHEREFORE, Plaintiff, Progressive Insurance Company as subrogee of Nazeema Husseln demands judgment against Defendants, Ford Motor Company and Fette Ford Dealership, jointly, severally, and in the alternative, as follows:

- A. \$18,765.13;
- B. Interest;
- C. Costs of Suit;
- D. Attorney Fees;

- E. Contribution;
- F. Indemnification;
- G. Compelling arbitration of all matters to the extent required by any relevant statute or regulation;
- H. Other relief the Court may deem equitable and just.

FIFTH COUNT

1. Plaintiff repeats and reiterates the First through Fourth Counts of the Complaint with the same force and effect as if set forth fully herein.
2. Plaintiff's insured, Nazeema Hussein, purchased a 2003 Ford Windstar from Defendant Fette Ford.
3. Said vehicle was manufactured by Defendant Ford Motor.
4. The vehicle of Plaintiff's insured, Nazeema Hussein, had a manufacturing defect which resulted in a car fire which destroyed the vehicle.
5. Defendant Ford Motor owed a duty to Plaintiff's insured, Nazeema Hussein, under a warranty of merchantability theory of liability.
6. Defendant Ford Motor breached said warranty of merchantability.
7. As a result of said breach, Plaintiff Progressive Insurance Company paid claims totaling \$18,765.13.

WHEREFORE, Plaintiff, Progressive Insurance Company as subrogee of Nazeema Hussein demands judgment against Defendants, Ford Motor Company and Fette Ford Dealership, jointly, severally, and in the alternative, as follows:

- A. \$18,765.13;
- B. Interest;

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LAW OFF OF JAN MEYER

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- C. Costs of Suit;
- D. Attorney Fees;
- E. Contribution;
- F. Indemnification;
- G. Compelling arbitration of all matters to the extent required by any relevant statute or regulation;
- H. Other relief the Court may deem equitable and just.

SIXTH COUNT

1. Plaintiff repeats and reiterates the First through Fifth Counts of the Complaint with the same force and effect as if set forth fully herein.
2. Defendants Ford Motor and Fette Ford owed contractual duties to the Plaintiff's insured, Nazeema Hussein.
3. Defendants Ford and Motor and Fette Ford breached said contract with Plaintiff's Insured, Nazeema Hussein.
4. As a result of said breach, Plaintiff Progressive Insurance Company paid claims totaling \$18,765.13.

WHEREFORE, Plaintiff, Progressive Insurance Company as subrogee of Nazeema Hussein demands judgment against Defendant, Ford Motor Company and Fette Ford Dealership, jointly, severally, and in the alternative, as follows:

- A. \$18,765.13;
- B. Interest;
- C. Costs of Suit;
- D. Attorney Fees;

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LAW OFF OF JAN MEYER

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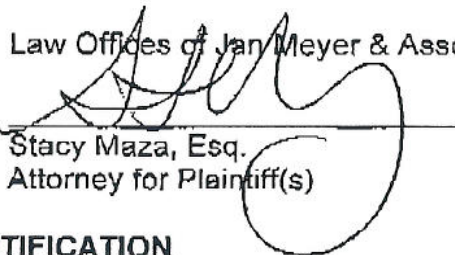
- E. Contribution;
- F. Indemnification;
- G. Compelling arbitration of all matters to the extent required by any relevant statute or regulation;
- H. Other relief the Court may deem equitable and just.

JURY DEMAND

Plaintiff hereby demands a trial by jury as to all triable issues herein contained.

Dated: July 23, 2007

Law Offices of Jan Meyer & Associates, P.C.



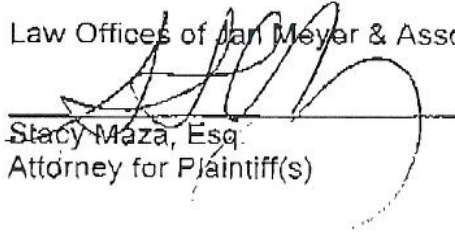
Stacy Maza, Esq.
Attorney for Plaintiff(s)

CERTIFICATION

Pursuant to Rule 4:5-1, it is hereby stated that the matter in controversy is not the subject of any other civil action pending in any court or of a pending arbitration proceeding to the best of our knowledge or belief also to the best of our belief, no other action or arbitration proceeding is contemplate. Further, other than the parties set forth in this pleading, we know of no other parties that should be joined in the above action. In addition, we recognize the continuing obligation of each party to file and serve on all parties and the court an amended certification if there is a change in the facts stated in this original certification.

Dated: July 23, 2007

Law Offices of Jan Meyer & Associates, P.C.



Stacy Maza, Esq.
Attorney for Plaintiff(s)

CIVIL CASE INFORMATION STATEMENT (CIS)		FOR USE BY CLERK'S OFFICE ONLY	
Use for initial Law Division - Civil Part pleadings (not motions) under Rule 4:5-1. Pleadings will be rejected for filing, under Rule 1:5-8(c), if information above the black bar is not completed or if attorney's signature is not affixed.			
		PAYMENT TYPE: CK CG CA	
		CHG / CK NO.	
		AMOUNT:	
		OVERPAYMENT:	
		BATCH NUMBER:	
ATTORNEY / PRO SE NAME Stacy Maza, Esq.		TELEPHONE NUMBER (201) 862-9500	COUNTY OF VENUE Bergen
FIRM NAME (IF APPLICABLE) Law Offices of Jan Meyer & Associates, P.C.		DOCKET NUMBER (When available) L-6094-07	
OFFICE ADDRESS 1029 Teaneck Road, 2nd Floor, Teaneck, NJ 07666		DOCUMENT TYPE Complaint	
		JURY DEMAND <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	
NAME OF PARTY (e.g. John Doe, Plaintiff) Progressive Insurance Company as subrogee of Nazeema Hussein, Plaintiff		CAPTION Progressive Insurance Company as subrogee of Nazeema Hussein v. Ford Motor Company and Fette Ford Dealership	
CASE TYPE NUMBER: (See reverse side for listing) 610	IS THIS A PROFESSIONAL MALPRACTICE CASE <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO IF YOU HAVE CHECKED "YES," SEE N.J.S.A. 2A:53A-27 AND APPLICABLE CASE LAW REGARDING YOUR OBLIGATION TO FILE AN AFFIDAVIT OF MERIT.		
RELATED CASES PENDING <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	IF YES, LIST DOCKET NUMBERS:		
DO YOU ANTICIPATE ADDING ANY PARTIES (arising out of same transaction or occurrence) <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	NAME OF DEFENDANT'S PRIMARY INSURANCE COMPANY, IF KNOWN <input type="checkbox"/> NONE <input type="checkbox"/> UNKNOWN Peerless Insurance		
THE INFORMATION PROVIDED ON THIS FORM CANNOT BE INTRODUCED INTO EVIDENCE.			
CASE CHARACTERISTICS FOR PURPOSES OF DETERMINING IF CASE IS APPROPRIATE FOR MEDIATION			
17. A. DO PARTIES HAVE A CURRENT, PAST OR RECURRENT RELATIONSHIP? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	IF YES, IS THIS RELATIONSHIP <input type="checkbox"/> EMPLOYER - EMPLOYEE <input type="checkbox"/> FRIEND / NEIGHBOR <input type="checkbox"/> FAMILIAL <input type="checkbox"/> BUSINESS <input type="checkbox"/> OTHER (explain):		
18. B. DOES THE STATUTE GOVERNING THIS CASE PROVIDE FOR PAYMENT OF FEES BY THE LOSING PARTY? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO			
19. USE THIS SPACE TO ALERT THE COURT TO ANY SPECIAL CASE CHARACTERISTICS THAT MAY WARRANT INDIVIDUAL MANAGEMENT OR ACCELERATED DISPOSITION:			
20. DO YOU OR YOUR CLIENT HAVE ANY NEEDS UNDER THE AMERICANS WITH DISABILITIES ACT? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO IF YES, PLEASE IDENTIFY THE REQUESTED ACCOMMODATION:			
21. WILL AN INTERPRETER BE NEEDED? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO IF YES, FOR WHAT LANGUAGE:			
22. ATTORNEY SIGNATURE			

SIDE 2

CIVIL CASE INFORMATION STATEMENT

(CIS)

Use for initial pleadings (not motions) under Rule 4:5-1

CASE TYPES (Choose one and enter number of case type in appropriate space on the reverse side.)

Track I - 150 days' discovery

- 151 NAME CHANGE
- 175 FORFEITURE
- 302 TENANCY
- 399 REAL PROPERTY (other than Tenancy, Contract, Condemnation, Complex Commercial or Construction)
- 502 BOOK ACCOUNT (debt collection matters only)
- 505 OTHER INSURANCE CLAIM (INCLUDING DECLARATORY JUDGMENT ACTIONS)
- 506 PIP COVERAGE
- 510 UM or UIM CLAIM
- 511 ACTION ON NEGOTIABLE INSTRUMENT
- 512 LEMON LAW
- 801 SUMMARY ACTION
- 802 OPEN PUBLIC RECORDS ACT (SUMMARY ACTION)
- 999 OTHER (Briefly describe nature of action)

Track II - 300 days' discovery

- 305 CONSTRUCTION
- 509 EMPLOYMENT (other than CEPA or LAD)
- 599 CONTRACT/COMMERCIAL TRANSACTION
- 603 AUTO NEGLIGENCE - PERSONAL INJURY
- 605 PERSONAL INJURY
- 610 AUTO NEGLIGENCE - PROPERTY DAMAGE
- 699 TORT - OTHER

Track III - 450 days' discovery

- 005 CIVIL RIGHTS
- 301 CONDEMNATION
- 602 ASSAULT AND BATTERY
- 604 MEDICAL MALPRACTICE
- 606 PRODUCT LIABILITY
- 607 PROFESSIONAL MALPRACTICE
- 608 TOXIC TORT
- 609 DEFAMATION
- 616 WHISTLEBLOWER/CONSCIENTIOUS EMPLOYEE PROTECTION ACT (CEPA) CASES
- 617 INVERSE CONDEMNATION
- 618 LAW AGAINST DISCRIMINATION (LAD) CASES

Track IV - Active Case Management by Individual Judge /450 days' discovery

- 156 ENVIRONMENTAL / ENVIRONMENTAL COVERAGE LITIGATION
- 303 MT. LAUREL
- 508 COMPLEX COMMERCIAL
- 513 COMPLEX CONSTRUCTION
- 514 INSURANCE FRAUD
- 701 ACTIONS IN LIEU OF PREROGATIVE WRIT

Mass Tort (Track IV)

- | | |
|---|--------------------------------|
| 240 REDUX / PHEN-FEN (formerly "DIET DRUG") | 271 ACCUTANE |
| 241 TOBACCO | 272 BEXTRA/CELEBREX |
| 248 CIBA GEIGY | 274 RISPERDAL/SEROQUEL/ZYPREXA |
| 264 PFA | 601 ASBESTOS |
| 266 HORMONE REPLACEMENT THERAPY (HRT) | 619 VIOXX |
| 268 MANUFACTURED GAS PLANT (MGP) | |
| 601 ASBESTOS | |
| 619 VIOXX | |

If you believe this case requires a track other than that provided above, please indicate the reason on Side 1, in the space under "Case Characteristics."

ISSUE LIST

Last Handling Date/ Issue Status	Name/ Reason Desc	Vin/ Case No.	Model Year and Vehicle Line	Issue Type
6/29/2006 CLOSED	[REDACTED] SALES ISSUE - NEGATIVE FEEDBACK	2FMDA53453B [REDACTED] 138451180	2003 WINDSTAR	03
6/29/2006 CLOSED	[REDACTED] SALES ISSUE - NEGATIVE FEEDBACK	2FMDA53453B [REDACTED] 138451180	2003 WINDSTAR	03
6/29/2006 CLOSED	[REDACTED] SALES ISSUE - NEGATIVE FEEDBACK	2FMDA53453B [REDACTED] 1384511806	2003 WINDSTAR	03

Ford Confidential

All Action Details for Issue

[Print](#)

VIN: 2FMDA53453B [REDACTED] Year: 2003 Model: WINDSTAR Case: 1384511806
 Name: MRS [REDACTED] Owner Status: Subsequent WSD: 2003-05-26
 Symptom Desc: HARD START TEMP COLD ENGINE Primary Phone: [REDACTED]
 Reason Desc: SALES ISSUE - NEGATIVE FEEDBACK Secondary Phone:
 Issue Type: 03 CONCERN Issue Status: CLOSED
 Initial Customer Contact:

Action: CLOSE - DOCUMENT MULTIPLE SYMPTOMS Origin Desc: US INQUIRY CASE BASE
 Dealer: 20546 FETTE FORD
 Odometer: 28000 MI Comm Type: PHONE
 Analyst Name: MARSHA BROWN (MBROW324) Analyst: MBROW324
 Action Date: 06/29/2006 Action Time: 10.42.52.212 Action Data: No

Comments CUSTOMER SAID: __BOUGHT CAR 3 WEEKS AGO. PRE-OWNED VEHICLE.__CAR IS HAVING PROBLEMS STARTING, NO POWER WHEN TRYING TO ACCELERATE__VEHICLE IS GOING THROUGH GAS VERY QUICKLY - VERY POOR MILEAGE.__ DLRSHIP IS BEING UNRESPONSIVE, WANT TO TRADE INTO A NEW VEHICLE.__DLRSHIP WILL TRADE VEHICLE AND ADD ON 4300 TO THE PRICE OF THE NEW VEHICLE. __DLRSHIP STATED TO CUSTOMER THAT IF SHE REPAIRED THE VEHICLE NOW SHE WOULD ONLY HAVE TO REPAIR IT AGAIN.DEALER SAID: DLRSHIP WILL TRADE VEHICLE AND ADD ON 4300 TO THE PRIOCE OF THE NEW VEHICLE. __DLRSHIP STATED TO CUSTOMER THAT IF SHE REPAIRED THE VEHICLE NOW SHE WOULD ONLY HAVE TO REPAIR IT AGAIN.CRC ADVISED: FORD WILL REVIEW THIS INFORMATION WITH THE DEALERSHIP AND TAKE APPROPRIATE ACTION AS NECESSARY. ONCE AGAIN, THANK YOU FOR TAKING THE TIME TO LET US KNOW HOW YOU FEEL ABOUT THE PRODUCTS AND SERVICES WE PROVIDE. _____ADVISED__CUSTOMER STATED SHE HAD BEEN WAITING FOR DLRSHIP TO CALL HER BACK, THEY HAVE NOT. SHE DID NOT TRUST DLRSHIP. STATED SHE WOULD LIKE TO WORK WITH ANOTHER DLRSHIP CLOSE TO HER. PREVIOUSLY OWNED A MERCURY, WOULD RATHER WORK WITH L/M DLR.__ADVISED THAT MAYBE THEY WOULD BE WILLING TO WORK WITH HER. LOOKED UP INFORMATION FOR CUSTOMER ON LIBERTY LINCOLN MERCURY, INC. (EXPLAINED FORD'S COMMITMENT TO REPAIRING THE VEHICLE)LIBERTY LINCOLN MERCURY, INC798 ROUTE 3 WEST CLIFTON, NJ 07012TEL: (973) 473-7800

Ford Confidential

All Action Details for Issue

[Print](#)

VIN: 2FMDA53453B [REDACTED] Year: 2003 Model: WINDSTAR Case: 1384511806
 Name: MRS [REDACTED] Owner Status: Subsequent WSD: 2003-05-26
 Symptom Desc: FUEL ECONOMY COMPLAINT MODE ALL CONDITIONS Primary Phone: [REDACTED]
 Reason Desc: SALES ISSUE - NEGATIVE FEEDBACK Secondary Phone:
 Issue Type: 03 CONCERN Issue Status: CLOSED
 Initial Customer Contact:

Action: CLOSE - DOCUMENT MULTIPLE SYMPTOMS Origin Desc: US INQUIRY CASE BASE
 Dealer: 20546 FETTE FORD
 Odometer: 28000 MI Comm Type: PHONE
 Analyst Name: MARSHA BROWN (MBROW324) Analyst: MBROW324
 Action Date: 06/29/2006 Action Time: 10.41.49.235 Action Data: No

Comments CUSTOMER SAID: __BOUGHT CAR 3 WEEKS AGO. PRE-OWNED VEHICLE.__CAR IS HAVING PROBLEMS STARTING, NO POWER WHEN TRYING TO ACCELERATE__VEHICLE IS GOING THROUGH GAS VERY QUICKLY - VERY POOR MILEAGE.__ DLRSHIP IS BEING UNRESPONSIVE, WANT TO TRADE INTO A NEW VEHICLE.__DLRSHIP WILL TRADE VEHICLE AND ADD ON 4300 TO THE PRICE OF THE NEW VEHICLE. __DLRSHIP STATED TO CUSTOMER THAT IF SHE REPAIRED THE VEHICLE NOW SHE WOULD ONLY HAVE TO REPAIR IT AGAIN.DEALER SAID: DLRSHIP WILL TRADE VEHICLE AND ADD ON 4300 TO THE PRIOCE OF THE NEW VEHICLE. __DLRSHIP STATED TO CUSTOMER THAT IF SHE REPAIRED THE VEHICLE NOW SHE WOULD ONLY HAVE TO REPAIR IT AGAIN.CRC ADVISED: FORD WILL REVIEW THIS INFORMATION WITH THE DEALERSHIP AND TAKE APPROPRIATE ACTION AS NECESSARY. ONCE AGAIN, THANK YOU FOR TAKING THE TIME TO LET US KNOW HOW YOU FEEL ABOUT THE PRODUCTS AND SERVICES WE PROVIDE.___ADVISED__CUSTOMER STATED SHE HAD BEEN WAITING FOR DLRSHIP TO CALL HER BACK, THEY HAVE NOT. SHE DID NOT TRUST DLRSHIP. STATED SHE WOULD LIKE TO WORK WITH ANOTHER DLRSHIP CLOSE TO HER. PREVIOUSLY OWNED A MERCURY, WOULD RATHER WORK WITH L/M DLR.__ADVISED THAT MAYBE THEY WOULD BE WILLING TO WORK WITH HER. LOOKED UP INFORMATION FOR CUSTOMER ON LIBERTY LINCOLN MERCURY, INC. (EXPLAINED FORD'S COMMITMENT TO REPAIRING THE VEHICLE)LIBERTY LINCOLN MERCURY, INC798 ROUTE 3 WEST CLIFTON, NJ 07012TEL: (973) 473-7800

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All Action Details for Issue

Print

VIN: 2FMDA53453B [REDACTED] Year: 2003 Model: WINDSTAR Case: 1384511806
 Name: MRS [REDACTED] Owner Status: Subsequent WSD: 2003-05-26
 Symptom Desc: LOSS OF POWER AT CRUISE COLD ENGINE Primary Phone: [REDACTED]
 Reason Desc: SALES ISSUE - NEGATIVE FEEDBACK Secondary Phone:
 Issue Type: 03 CONCERN Issue Status: CLOSED
 Initial Customer Contact:

Action: THANK CUST FOR THEIR FEEDBACK, INFO WILL BE FORWARDED TO DLR FO
 Dealer: 20546 FETTE FORD Origin Desc: US INQUIRY CASE BASE
 Odometer: 28000 MI Comm Type: PHONE
 Analyst Name: MARSHA BROWN (MBROW324) Analyst: MBROW324
 Action Date: 06/29/2006 Action Time: 10.40.50.459 Action Data: No

Comments CUSTOMER SAID: __BOUGHT CAR 3 WEEKS AGO. PRE-OWNED VEHICLE.__CAR IS HAVING PROBLEMS STARTING, NO POWER WHEN TRYING TO ACCELERATE__VEHICLE IS GOING THROUGH GAS VERY QUICKLY - VERY POOR MILEAGE.__ DLRSHIP IS BEING UNRESPONSIVE, WANT TO TRADE INTO A NEW VEHICLE.__DLRSHIP WILL TRADE VEHICLE AND ADD ON 4300 TO THE PRICE OF THE NEW VEHICLE. __DLRSHIP STATED TO CUSTOMER THAT IF SHE REPAIRED THE VEHICLE NOW SHE WOULD ONLY HAVE TO REPAIR IT AGAIN.DEALER SAID: DLRSHIP WILL TRADE VEHICLE AND ADD ON 4300 TO THE PRIOCE OF THE NEW VEHICLE. __DLRSHIP STATED TO CUSTOMER THAT IF SHE REPAIRED THE VEHICLE NOW SHE WOULD ONLY HAVE TO REPAIR IT AGAIN.CRC ADVISED: FORD WILL REVIEW THIS INFORMATION WITH THE DEALERSHIP AND TAKE APPROPRIATE ACTION AS NECESSARY. ONCE AGAIN, THANK YOU FOR TAKING THE TIME TO LET US KNOW HOW YOU FEEL ABOUT THE PRODUCTS AND SERVICES WE PROVIDE.___ADVISED__CUSTOMER STATED SHE HAD BEEN WAITING FOR DLRSHIP TO CALL HER BACK, THEY HAVE NOT. SHE DID NOT TRUST DLRSHIP. STATED SHE WOULD LIKE TO WORK WITH ANOTHER DLRSHIP CLOSE TO HER. PREVIOUSLY OWNED A MERCURY, WOULD RATHER WORK WITH L/M DLR.__ADVISED THAT MAYBE THEY WOULD BE WILLING TO WORK WITH HER. LOOKED UP INFORMATION FOR CUSTOMER ON LIBERTY LINCOLN MERCURY, INC. (EXPLAINED FORD'S COMMITMENT TO REPAIRING THE VEHICLE)LIBERTY LINCOLN MERCURY, INC798 ROUTE 3 WEST CLIFTON, NJ 07012TEL: (973) 473-7800

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CUSTOMER NAME/PHONE NUMBER	CUSTOMER LIST	ADDRESS	STATUS
[REDACTED]		[REDACTED] CLIFTON NJ [REDACTED]	No Open Issues

Ford Confidential

Customer Info

Customer: MRS [REDACTED] Secondary Phone:
Address [REDACTED] CLIFTON NJ [REDACTED]
Country: USA Language: EN
Cell Phone: [REDACTED] Pager:
Preferred Contact method: Fax:
Preferred Contact Time: Email:

Ford Confidential

7/25/21

PROGRESSIVE

Monday, August 07, 2006

FORD MOTOR COMPANY
3 PARKLANE BLVD PARKLANE TOWERS WEST #300
DEARBORN MI 48126-2568



Re: INSUREDS VEHICLE CAUGHT FIRE AND BURNED AS A RESULT OF A FACTORY DEFECT

VIN: 2FMDA53453B [REDACTED]
Year: 03
Make: FORD
Model: WINDSTAR SEES
Our Insured: [REDACTED]
Address: [REDACTED]
Phone No.: CLIFTON NJ [REDACTED]
Our Claim No: [REDACTED]
Date of Loss: JUL 24 06
Damages: \$ 18,765.13 0

NOTICE OF SUBROGATION CLAIM

Please accept this letter as formal notice of our subrogation rights in regard to the above-captioned claim. Demand is hereby made upon you for payment of Progressive's damages and those of Progressive's insured.

Our investigation indicates damages to our insured's vehicle was a direct result of a manufacturer's defect or negligence on your behalf. Enclosed please find all supporting documentation.

Please acknowledge receipt of my subrogation demand and forward your payment of \$18,765.13 0 to my attention, payable to "Progressive Freedom Insurance Company, as subrogee of [REDACTED]", and mail to my attention at PO Box 89440, Cleveland., OH 44101.

You can contact me at the number listed below should you need additional documentation or care to discuss this claim.

Thank you for your anticipated cooperation.

Progressive Freedom Insurance Company
Frank A. Stein II
Frank A. Stein II AIC
Subrogation Representative
(440) 603-73 19
Enclosures





USAA PROPERTY AND CASUALTY INSURANCE



Ford Motor Company
Customer Relationship Center
P O Box 6248
Dearborn MI 48126

CONSUMER AFFAIRS
SECTION

June 27, 2002

Policyholder [REDACTED]
Reference N [REDACTED]
Date Of Loss: May 16, 2002
Loss Location: Lexington Mass

2 JUL -2 P12:19

To Whom It May Concern:

Please be advised that our insured [REDACTED] Jr 2000 Ford Windstar LX was involved in a fire loss that resulted in the vehicle being deemed a total loss. The incident occurred on May 16, 2002 in Lexington Mass.

In order to determine the cause of the fire, including a determination as to whether any defect in the vehicle was in existence at the time of the incident, an inspection and testing of the vehicle will be conducted by North Eastern Technical Services, Inc., an authorized representative of USAA. The inspection will take place at:

Copart
55 High St
North Billerica MA 01862
978-667-6787
Reference number: 3991062

As you may have an interest in this matter, from both a safety precaution standpoint and as potential defendants in litigation, you are invited to have an expert attend and participate in the inspection and testing procedures.

To coordinate the inspection date and time, please contact North Eastern Technical Services, Inc. at 508-675-999. Should you have any questions pertaining to this matter, or wish to discuss the same in further detail, you may contact the undersigned. Failure to respond to this notification within ten business days from the date of this letter will be construed as forfeiture of your right to be present at this examination.

I would like to caution that should your expert fail to appear at the inspection, you will forfeit any right to subsequently claim prejudice/spoliation under Nally vs Volkswagen of America, Inc., 405 Mass 191 (1989).

Sincerely,

Percy Nichols
Auto Claims Representative
Total Loss/Total Theft
Phone: 800-531-8222 Ext. 2-2679
Fax Phone: 800-531-0490

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT COURT
OF MISSOURI

FILED

SEP - 1 2006

U. S. DISTRICT COURT
EASTERN DISTRICT OF MO

STEPHEN CHAMBERLAIN
Individually, and on Behalf of All
Others Similarly Situated

Plaintiff,

vs.

FORD MOTOR COMPANY

SERVE: THE CORPORATION COMPANY
120 South Central Avenue
Clayton, MO 63105

Defendant.

41

06CV01320FRB

Case No.

JURY TRIAL DEMANDED

CLASS ACTION COMPLAINT

COMES NOW Plaintiff, and for his complaint against Defendant, alleges:

I. PARTIES

A. Plaintiff

1 Plaintiff Stephen Chamberlain is a citizen of the state of Missouri and resides at 10 Bailiff Drive in Dexter, Missouri.

B. Defendant Ford

2 Defendant Ford Motor Company ("Ford") is a Delaware Corporation which conducts business, directly and through its subsidiaries and divisions, throughout the United States, including Missouri.

3 Ford is incorporated in Delaware with its principal place of business in Dearborn, Michigan.

4 Defendant Ford motor Company (hereinafter “Ford”) is a corporate entity authorized to conduct business in the State of Missouri and engaged in the business of manufacturing, assembling, distributing and selling motor vehicles.

5 At all relevant times, Ford transacted, solicited, and conducted business in the state of Missouri and is hence subject to the jurisdiction of this court.

II. JURISDICTION

6 For Federal Diversity jurisdiction purposes, Ford is a citizen of the states of Delaware and Michigan. This Court has jurisdiction pursuant to 28 U.S.C. §1332(d)(2)(A) of the Class Action Fairness Act because Plaintiff class members are citizens of Missouri and defendants are citizens of Michigan and Delaware and the amount in controversy exceeds \$5 million.

7 Venue is proper in this District because Plaintiff and Defendant reside within it and a substantial part of the events giving rise to the claims at issue arose in this District.

III. FACTUAL ALLEGATIONS

8 On March 02, 2003, Plaintiff Stephen Chamberlain purchased a 1996 Ford F-150, VIN#1FTEF14NXTLA31551.

9 On September 10, 2005, at approximately 2:27am, the Jonesboro Fire Department was alerted because of a fire involving a Toyota 4 Runner and Plaintiff Chamberlain’s Ford F-150.

10 The fire department arrived on the scene at 2:33am.

11 By the time the fire was extinguished, the 1996 Ford F-150 and the 2005 Toyota 4 Runner were left unsalvageable; a 2002 Chrysler PT Cruiser sustained fire damage; and an apartment building sustained heat damage.

12 Upon investigation, the Jonesboro Fire Department determined that the fire started in the Ford F-150 and subsequently spread to the two other vehicles.

13 Upon investigation, the Jonesboro Fire Department also determined that the fire originated in the engine compartment of the Ford F-150, because of equipment failure or a heat source.

14 Ford was notified of the fire and claimed that there was so much damage where the speed control was located that she could not determine the cause of the fire and, accordingly, could not be of any assistance.

IV. CLASS REPRESENTATION ALLEGATIONS

15 Ford is, and has been at all relevant times, engaged in the business of selling automobiles and trucks.

16 As a direct and proximate result of Ford placing these vehicles into the stream of commerce, Plaintiff and the Class Members have suffered and continue to suffer injuries, including mental and economic pain and suffering, and will continue to experience such injuries indefinitely.

17 On January 27, 2005, under pressure from the National Highway Traffic Safety Administration (“NHTSA”), Ford recalled over 700,000 vehicles, including 2000 Model Year F-150 Pickups, Expeditions and Lincoln Navigators, and 2001 Model Year F-series Super Crew Trucks (the “Ford Recalled Vehicles”). These vehicles were recalled because they suddenly, and without warning, caught fire due to a problem with the manufacture, design, and placement of the Speed Control Deactivation Switch involved in the operation of the cruise control (the “SCD Switch”). Because of the design, these fires can occur even when the car is turned off and not being operated.

18 As part of the recall, at one time the Ford Recalled Vehicle must be taken to a Ford dealership where the cruise control function will be disabled to avoid these fires. The Ford Recalled Vehicle are then without the cruise control function until Ford has a replacement part ready, at which time the Ford Recalled Vehicle must be brought back to the Ford dealership to be retrofitted with a redesigned SCD Switch.

19 On March 22, 2005, NHTSA announced that it would investigate more than 3.7 million additional Ford vehicles not covered by the January recall because the design, manufacture and placement of the SCD Switch in certain non-recalled vehicles was substantially similar to the design, manufacture and placement of the SCD Switch in the Ford Recalled Vehicles, and because NHTSA had received more than 200 complaints of engine fires in these non-recalled vehicles.

20 The vehicles that were being investigated by NHTSA included Ford F-150 and F-150LD vehicles (model years 1995-1999 and 2001-2002); and Ford Expeditions and Lincoln Navigators (model years 1997-1999 and 2001-2002).

21 On September 7, 2005, under pressure from the NHTSA, Ford Motor Company expanded its recall to include Ford F-150s (model years 1994-2002), Ford Expeditions (model years 1997-2002), Lincoln Navigators (model years 1998-2002), and Ford Broncos (model years 1994-1996) equipped with factory-installed speed controls.

22 The vehicles subject to either the January 27, 2005 or the September 7, 2005 recalls are hereinafter collectively known as "Ford Recalled Vehicles".

23 A Ford document shows the same or similar switch was installed in a total of 16 million vehicles. Those vehicles include the Lincoln Mark VII/VIII (model years 1994-1998), the Ford Taurus/Mercury Sable and Taurus SHO 2.3 L (model years 1993-1995), the Ford Econoline (model years 1992-2003), the Ford F-Series (model years 1993-2003), the Ford

Windstar (model years 1994-2003), the Ford Explorer without IVD (model years 1995-2003), the Ford Explorer Sport/Sport Trac (model years 2002-2003), the Ford Expedition (model years 1997-2003), and the Ford Ranger (model year 1995-2003). (Collectively, hereinafter, “Potentially Affected Ford Vehicles”).

24 Collectively, the Ford Recalled Vehicles and the Potentially Affected Ford Vehicles are referred to herein as the “Ford Vehicles.”

25 Ford designed, manufactured, marketed, distributed, warranted, and represented the safety of the Ford Vehicles sold to Plaintiff Chamberlain, and to other members of the Class (defined below).

26 The Ford Vehicles were designed and manufactured defectively by Ford. Specifically, the design of the Ford Vehicles was defective in that the SCD Switch is designed to always carry a live charge of electricity and can overheat and burst into flames even when the car is turned off. Because the Ford Vehicles are designed with the SCD Switch in close proximity to the plastic brake fluid receptacle, this overheating is particularly dangerous because an overheating SCD Switch will tend to melt the plastic brake fluid receptacle, causing the overheating SCD Switch to come into contact with the flammable brake fluid, which causes burning brake fluid to be spread throughout the engine compartment causing a quickly-spreading fire.

27 Because this fire can happen when the vehicle is not being operated, the Ford Vehicles are likely to begin burning in a garage, thus potentially causing a fire not only in the Ford Vehicles, but also in the garage and the house where the Ford Vehicles are parked, potentially leading to catastrophic results.

28 Prior to the manufacture of the Ford Vehicles, Ford knew that there were problems with the design, manufacture and placement of the SCD Switch used in the Ford

Vehicles. In 1999, Ford recalled over 250,000 1992 and 1993 Ford Crown Victorias, Lincoln Town Cars and Mercury Grand Marquise because of the same or similar problem.

29 Although Ford knew that there was a problem with the SCD Switch in the 1992 and 1993 vehicles, Ford used the same or similar design in the Ford Vehicles which are the subject of this lawsuit.

30 Despite being aware of the foregoing defects in and problems with the Ford Vehicles, Ford represented to Plaintiff and the Class Members (defined below) that the Ford Vehicles were safe through various forms of advertising. Ford made and continued to make these representations even though it knew that the Ford Vehicles could burst into flames at any time because of the design, manufacture and placement of the SCD Switch.

31 Ford engaged in a pattern of representations regarding the Ford Vehicles which were intended to, and did in fact, cause consumers to believe that the Ford Vehicles were safe vehicles with representations in print, radio, television, and internet advertising proclaiming that the Ford Vehicles were “Built Ford Tough,” stating that Ford is a family that cherishes the safety of its customers, and stating that Ford Motor Company is “committed to putting the safest vehicles on the road”.

32 To the contrary, Ford is not committed to putting the safest vehicles on the road, but instead intentionally put vehicles on the road (and in its customers’ garages) that have a known defect with the potential to cause a fire resulting in catastrophic damage to the vehicle and other property, and injury or death to its customers.

33 Accordingly Ford’s statements in its advertisements constituted misrepresentations.

34 Ford also concealed the defects in and problems with the Ford Vehicles from Plaintiff and Class Members (defined below), which could not reasonably be known by them.

35 The defects in and problems with the Ford Vehicles were material facts the concealment of which would tend to mislead or deceive consumers.

36 Ford's misrepresentations and concealment of material facts caused Plaintiff and the Class Members to suffer damages including, but not limited to, unfulfilled expectations, lost benefit of the bargain, loss of use of their cruise control function, diminished value, cost of repair and/or consequential damages.

37 As stated above, Ford has admitted to the fire hazard in the Ford Recalled Vehicles and agreed to disconnect the electrical connector from the speed control which will eliminate the fire hazard, but also disable the cruise control. Plaintiff and the Class Members will be without use of cruise control in their vehicles until Ford is able to replace the defective speed-control switches with properly designed switches which do not present a fire hazard.

38 Ford has not yet admitted to the existence of the fire hazard in the Potentially Affected Ford Vehicles.

39 The vehicles of Plaintiff Chamberlain and some of the other Class Members caught fire as a result of the faulty SCD Switch, rendering the vehicles a total loss.

40 As a consequence of the fire, additional property located in or around the premises of the vehicle sustained severe fire and/or smoke damage.

41 Plaintiff seeks for himself, and all Class Members, actual damages that were a proximate and producing result of Ford's acts and omissions alleged herein. They further seek punitive damages, statutory multiples of damages, all interest allowed by law, reasonable and necessary attorneys' fees, and court costs.

V. TOLLING OR NON-ACCRUAL OF APPLICABLE STATUTES OF LIMITATIONS

42 Any applicable statutes of limitations have been tolled or have not run because Defendant Ford knowingly and actively concealed and denied the defects in the Ford Recalled

Vehicles until NHTSA pressured Defendant Ford to recall them, and they are tolled due to the pendency of other class actions pursuant to the U.S. Supreme Court decision, American Pipe. Defendant Ford continues to knowingly and actively conceal and deny the defects in the Ford Investigated Vehicles.

43 Defendant Ford had actual or constructive knowledge of its wrongful conduct. Defendant Ford has kept Plaintiff and Class Members uninformed of information essential to the pursuit of their claims, without any fault or lack of diligence on behalf of Plaintiff and Class Members. In fact, Defendant Ford fraudulently and deceitfully concealed and misrepresented to the public material facts concerning the SCD Switch defect. Plaintiff, Class Members, and the general public did not discover the facts alleged herein until a date within the limitations period governing this action, and promptly exercised due diligence by filing this complaint.

44 Plaintiff, Class Members, and the general public were not at fault for failing to discover Defendant Ford's misconduct sooner, and had no actual or presumptive knowledge of the facts of Defendant Ford's misconduct to put them on inquiry notice. Plaintiff, Class Members and the general public could not reasonably have discovered Defendant Ford's misrepresentations and/or material omissions before the filing of this complaint and, therefore, their claims accrued on that date, and/or any statute of limitations was tolled until that date.

45 Defendant Ford was and is under a continuing duty to disclose the nature of the SCD Switch defect to Plaintiff, Class Members, and the general public. Because of Defendant Ford's concealment of the SCD Switch defect, Defendant Ford is estopped from relying on any statute of limitations defense.

VI. CLASS ACTION ALLEGATIONS

46 Pursuant to Fed. R. Civ. P. 23, Plaintiff brings this action for himself and on behalf of the Class of all entities and natural persons domiciled or residing in the state of

Missouri, who purchased a 2000 Model Year Ford F-Series Super Crew Truck, a Ford F-150 (model years 1994-2002), a Ford Expedition (model years 1997-2002), a Lincoln Navigators (model years 1998-2002), or a Ford Bronco (model years 1994-1996) equipped with factory-installed speed controls (a “Ford Recalled Vehicle”), or a Lincoln Mark VII/VIII (model years 1994-1998), a Ford Taurus/Mercury Sable and Taurus SHO 2.3 L (model years 1993-1995), a Ford Econoline (model years 1992-2003), a Ford F-Series (model years 1993-2003), a Ford Windstar (model years 1994-2003), a Ford Explorer without IVD (model years 1995-2003), a Ford Explorer Sport/Sport Trac (model years 2002-2003), a Ford Expedition (model years 1997-2003), or a Ford Ranger (model year 1995-2003) (a “Potentially Affected Ford Vehicle”) and who, according to motor vehicle registration records maintained by their respective states or districts of residence of domicile, can be identified as owning at some time at least one Ford Recalled Vehicle or a Potentially Affected Ford Vehicle (collectively referred to as “Ford Vehicle”).

47 Plaintiff’s claims are typical of the other Class Members’ claims.

48 Plaintiff will fairly and adequately protect the interests of the Class. Plaintiff Chamberlain is the current owner of a Ford Recalled Vehicle and is a member of the Class they seek to represent. Their interests coincide with, and are not antagonistic to, the other Class Members’ interests.

49 Plaintiff and the Class have retained counsel experienced and competent in complex, commercial, multi-party, mass tort, personal injury, products liability, consumer and class action litigation.

50 The Class Members are so numerous that joinder of all is impractical. Defendant Ford has estimated that more than 4.8 million Vehicles were subject to its three recalls. A Ford document indicates that there are over 12.2 million Potentially Affected Ford

Vehicles installed with similar SCD Switches. Accordingly, Plaintiff estimates that the members of the Class number in the millions.

51 A class action is superior to other methods for the fair and efficient adjudication of this controversy. The expense and burden of individual litigation may make it difficult, if not impossible, for all members of the class to address the wrongs done to them individually. There will be no unusual difficulty in the management of this action as a class action.

52 The claims of Plaintiff and the Class Members involve common questions of fact and law, including, but not limited to:

a. Whether the Ford Vehicles were defectively designed, manufactured, and/or marketed with respect to the SCD Switch;

b. Whether the defects in the Ford Vehicles constituted breaches of the implied warranty of merchantability by Ford;

c. Whether the defects in the Ford Vehicles constituted breaches of express warranties by Ford; and

d. Whether Ford violated the Missouri Merchandising Practices Act, by among other things, representing that the Ford Vehicles have characteristics that they do not have. (e.g., safety).

53 Questions of law and fact common to the Class Members predominate over questions affecting only individual Members, and a class action is superior to other available methods for fair and efficient adjudication of the controversy.

VII. DEFENDANT FORD'S LIABILITY FOR ITS EMPLOYEES' ACTS AND OMISSIONS

54 Whenever this Petition alleges that Ford committed any act or omission, it means that (a) Ford's officers, agents, servants, employees or representatives committed such act or omission in the normal and routine course and scope of their employment; or (b) the act or omission was committed with Ford's full authorization or ratification.

55 Ford had the right to control each of its employee's conduct and the details of their work.

VIII. CAUSES OF ACTION

COUNT I

Fraudulent Misrepresentation/Omission

56 Plaintiff incorporates all of the allegations and facts set forth in the preceding paragraphs as if fully set forth herein.

57 Ford made false, misleading and deceptive misrepresentations to its customers by neglecting to inform the customers of a danger resulting from the normal use of their products.

58 The fraudulent misrepresentations, omissions and concealments made by Ford were known and deliberate and were purposefully designed to induce the Plaintiff and the Class members into purchasing their products and to prevent expenditures on behalf of Ford to remedy a design or manufacturing defect in its product. In marketing and selling the Ford Vehicles, Ford made express and implied representations to the public at large, including Plaintiff and all members of the Class, that the vehicles were free from dangerous designed defects, did not contain unreasonably dangerous components, and were reasonably safe when operated in the manner in which they were designed and intended to be operated.

59 These representations were false, and were known by Ford to be false at the time they were made.

60 Plaintiff and members of the Class relied in good faith on the express and implied representations of Ford regarding the safety of the Ford Vehicles.

61 Because Ford had superior knowledge of the design and manufacture of the Ford Vehicles, it was reasonable for Plaintiff and Class Members to rely on Ford's express and implied representations.

62 Plaintiff and Class Members did in fact rely to their detriment on the express and implied representations of Ford regarding the safety of the Ford Vehicles.

63 Plaintiff and Class Members have been damaged as a direct and proximate result of Ford's fraudulent misrepresentations and their reasonable reliance on such representations.

64 Plaintiff and Class Members are entitled to recover the full amount of such damages, together with costs and attorney fees to the full extent permitted by law, as a result of Defendant Ford's fraudulent misrepresentations.

65 The misrepresentations, concealments and omissions by defendant were material in that the Plaintiff and other members of the Class reasonably relied upon such misrepresentations, concealments and omissions to their detriment.

66 As a direct and proximate result of Ford's fraudulent misrepresentations, concealments and omissions, the Plaintiff and Class members have been damaged in an amount to be determined at trial.

COUNT II

Negligence

67 Plaintiff incorporates all of the allegations and facts set forth in all preceding paragraphs as if fully set forth herein.

68 Defendant was negligent in the design and/or manufacture of cruise control deactivation switch in that the normal use of their products poses a serious risk of property damage or bodily injury. Defendant Ford failed to exercise ordinary care in designing, manufacturing, and selling of the vehicles in question, did that which a reasonably prudent automobile manufacturer would not have done in the same or similar circumstances, failed to do that which a reasonably prudent automobile manufacturer would not have done under the same or similar circumstances, and was negligent in one or more of the following ways:

- a. in designing the cruise control deactivation switch such that it received continual power;
- b. in designing the cruise control deactivation switch such that it received far more power than was necessary for such switch to properly function;
- c. in designing the cruise control deactivation switch so that it was in close proximity to the master cylinder brake fluid container;
- d. in designing the vehicle so that the master cylinder brake fluid container was made out of a substance that could not withstand the heat generated by the cruise control deactivation switch;
- e. in failing to design the vehicle so that the cruise control deactivation switch would deactivate if it reached a heat or resistance that could cause a fire, such as a fuse that would blow at such point, or some other method; and
- f. in failing to inform the Plaintiff and public of the aforesaid risk of fire.

69 Defendant Ford knew or should have known that the SCD Switch it designed and placed in the described vehicles, and manufactured, tested, marketed or sold, in their ordinary and foreseeable use, would overheat and ultimately ignite the Ford Vehicles in which the SCD Switches were installed.

70 Defendant Ford's negligence was a contributing cause of the harm suffered to Plaintiff and Class Members.

71 As a direct and proximate result of the Defendant Ford's negligence, Plaintiff and Class Members have suffered or will suffer damages, which include costs to inspect, repair or replace their speed control deactivation switches and systems, and to replace or repair other damaged property, in an amount to be determined at the trial of this cause.

72 The conduct of Defendant Ford was so willful, wanton, malicious, reckless, and in such disregard for the consequences as to reveal a conscious indifference to the clear risk of death or serious bodily injury, and merits the imposition of punitive damages.

73 Despite this known danger, the defendant did not otherwise take any action to inform the general public of the danger associated with specified uses of their defective doors.

74 As a direct and proximate result of the negligence of the defendant in the design and manufacture of its products, Plaintiff and Class members have incurred actual and compensatory damages in an amount to be proven at trial.

COUNT III

Breach of Express Warranty

75 Plaintiff incorporates by reference the allegations contained in the preceding paragraphs as though fully set forth herein:

76 Plaintiff and Class Members purchased a vehicle, manufactured by Defendant Ford.

77 Defendant Ford knew that the Plaintiff and the Class he represents were foreseeable users of their vehicles, and in fact marketed these vehicles to be sold to American consumers, spending millions of dollars in advertising on a national and local level to tout their vehicles to intended purchasers.

78 Defendant Ford made numerous claims and representations as to the quality of the vehicles they offered for sale, as well as to the fitness of the vehicles for use by Plaintiff and Class Members for their intended purposes.

79 Plaintiff and Class Members used their vehicles as intended, for transportation, and in other manners depicted by Defendant Ford in its advertising, and for other such uses of travel and transportation in which consumers use and are intended to use motor vehicles.

80 Plaintiff and Class Members made no changes or alterations to the engine and operational parts of the Cruise Control system or the SCD Switch.

81 The SCD Switch was defective as sold to Plaintiff and installed on his vehicle and vehicles of the Class Members.

82 The vehicles in question failed to comply with the foregoing representations in one or more of the following particulars, among others:

- a. in designing the cruise control deactivation switch such that it received continual power;
- b. in designing the cruise control deactivation switch such that it received far more power than was necessary for such switch to properly function;
- c. in designing the cruise control deactivation switch so that it was in close proximity to the master cylinder brake fluid container;
- d. in designing the vehicle so that the master cylinder brake fluid container was made out of a substance that could not withstand the heat generated by the cruise control deactivation switch;
- e. in failing to design the vehicle so that the cruise control deactivation switch would deactivate if it reached a heat or resistance that could cause a fire, such as a fuse that would blow at such point, or some other method; and
- f. in failing to inform the Plaintiff and public of the aforesaid risk of fire.

83 As a result, Plaintiff and Class Members have been damaged, including inconvenience and cost of replacement of the SCD Switch, and for some, complete destruction

of the vehicle because of fire, and destruction of other items of property adjacent to the fire or items of property that were within the vehicle when it burned.

COUNT IV

Breach of Implied Warranty of Merchantability

84 Plaintiff incorporates by reference all other paragraphs of this Petition as if fully set forth here and further alleges as follows:

85 Ford is in the business of selling Ford Vehicles and ultimately sold such goods to the Plaintiff and Class Members.

86 By placing the Ford Vehicles into the stream of commerce, Defendant Ford impliedly warranted that the Ford Vehicles were of merchantable quality, fit and safe for their intended use and fit for the particular purpose of transporting individuals and families and parking them when not in use.

87 The Ford Vehicles breached the implied warranty of merchantability in one or more of the following ways:

- a. in designing the cruise control deactivation switch such that it received continual power;
- b. in designing the cruise control deactivation switch such that it received far more power than was necessary for such switch to properly function;
- c. in designing the cruise control deactivation switch so that it was in close proximity to the master cylinder brake fluid container;
- d. in designing the vehicle so that the master cylinder brake fluid container was made out of a substance that could not withstand the heat generated by the cruise control deactivation switch;
- e. in failing to design the vehicle so that the cruise control deactivation switch would deactivate if it reached a heat or resistance that could cause a fire, such as a fuse that would blow at such point, or some other method;
- f. in failing to inform the Plaintiff and public of the aforesaid risk of fire; and

g. in designing the vehicles in such a way that the SCD Switches overheat, ultimately and unpredictably igniting the Ford Vehicles.

88 Plaintiff and Class Members were foreseeable users of the Ford Vehicles.

89 Plaintiff timely notified Defendant Ford of the foregoing breaches of the warranty of merchantability.

90 The injuries of Plaintiff and Class Members were a proximate result of Defendant Ford's breach of implied warranty as described herein.

91 As a direct and proximate result of the breach of implied warranty, Plaintiff suffered and will continue to suffer injury, harm and economic loss as alleged herein.

COUNT V

Negligent Misrepresentation and/or Omission

92 Plaintiff incorporates all of the allegations and facts set forth in all preceding paragraphs as if fully set forth herein.

93 As a result of the reckless and/or negligent misrepresentations and/or omissions by defendant, the Plaintiff and Class members were induced into purchasing defective vehicles manufactured by the defendant and using the products for their intended use.

94 The Defendant made these representations to the Plaintiff and other Class members intending that they rely on such representations.

95 The negligent misrepresentations and/or omissions were material in that they induced the Plaintiff and other Class members into purchasing defective vehicles manufactured by defendant and using such products for their intended purpose.

96 As a direct and proximate result of the negligent misrepresentations and/or omissions by Defendant, Plaintiff and Class members have incurred actual and compensatory damages in an amount to be proven at trial.

COUNT VI

Implied Merchantability under Magnuson Moss Warranty Act

97 Plaintiff incorporates all of the allegations and facts set forth in all preceding paragraphs as if fully set forth herein.

98 Defendant's conduct as described herein violated the Magnuson Moss Warranty Act ("Magnuson Moss Act"), 15 U.S.C. §§2304-2312.

99 Defendant expressly and impliedly represented and warranted that the vehicles being sold to the general public were free of defects, merchantable, and fit for their intended purpose. Defendant breached these implied warranties by selling the Ford vehicles described herein with the inherent defects described herein. Moreover, Defendant made and/or allowed these warranties to be made with the intent of inducing Plaintiff and the other members of the Class to purchase the Ford vehicles to Plaintiff and members of the class.

100 If Plaintiff and the members of the Class had known the true facts, they would not have purchased the Ford vehicles or paid as much as they did for the vehicles.

101 Plaintiff and the members of the Class are entitled to either repudiation of their agreements and repayment of the money they spent to purchase their vehicles in an amount to be determined at the trial of this action.

COUNT VII

Fraudulent Concealment

102 Defendant Ford's false representations concealed the cause of action from Plaintiff and Class Members. Therefore, neither Plaintiff nor other Class Members had any realistic means to detect Defendant Fords' misrepresentations. As a result, Plaintiff, even in the exercise of due diligence, was not aware of, and did not discover these matters until shortly before filing suit.

COUNT VIII

Violation of The Missouri Merchandising Practices Act

103 Plaintiff incorporates all of the allegations and facts set forth in all preceding paragraphs as if fully set forth herein.

104 Defendant's conduct as described herein violated the Missouri Merchandising Practices Act (the "Act"), V.A.M.S § 407.020 (2006).

105 The Act provides that "any person who purchases or leases merchandise primarily for personal, family, or household purposes and thereby suffers an ascertainable loss of money or property, real or personal, as a result of the use or employment by another person of a method, act or practice declared unlawful by section 407.020, may bring a private civil action... to recover actual damages."

106 Under section 407.020, "the act, use or employment by an person of any deception, fraud, false pretense, false promise, misrepresentation, unfair practice or the concealment, suppression, or omission of any material fact in connection with the sale or advertisement of any merchandise in trade or commerce... in or from the state of Missouri, is declared unlawful."

107 The conduct of Defendant Ford as alleged herein was at all times in connection with the sale or advertisement of any merchandise in trade or commerce in or from the state of Missouri and violated the provisions of the Missouri Merchandising Practices Act by (a) representing that the Ford Vehicles have characteristics, uses, and benefits that they do not have and (b) concealing, suppressing, and/or omitting the fact that the cruise control switch located in vehicles sold posed a fire risk.

108 By engaging in the conduct described above, Defendant Ford has violated and continues to violate the Missouri Merchandising Practices Act.

REQUEST FOR INJUNCTIVE RELIEF

109 As grounds for entering a permanent injunction, Plaintiff says:

110 Plaintiff incorporates by reference all other paragraphs of this Petition as if fully set forth here and further alleges as follows:

111 The granting of monetary and/or declaratory relief will not provide an adequate remedy to Plaintiff and Class Members; and no other adequate legal remedy is available. Defendant Ford's continued sale of vehicles with aforesaid defects will result in additional injuries and deaths. No award of damages provides an adequate remedy for the life of an individual.

112 Plaintiff and Class Members will suffer irreparable injury if permanent injunctive relief is not granted. Persons who die, or who sustain permanent disability, as a result of Defendant Ford's continued sale of vehicles with the aforesaid defects will suffer irreparable injury.

113 As more particularly set forth above, Defendant Ford has committed, and is continuing to commit, one or more wrongful acts. Defendant Ford continues to sell vehicles with the aforesaid defects.

114 Plaintiff and Class Members will suffer imminent harm if the injunction does not
issue. It is certain that additional individuals will die, and be injured if Defendant Ford
continues to sell vehicles with the aforesaid defects.

REQUEST FOR DECLARATORY JUDGMENT

115 As a basis for declaratory relief, Plaintiff says:

116 Plaintiff incorporates by reference all other paragraphs of this Petition as if fully
set forth here and further alleges as follows:

117 A real controversy exists between Plaintiff and Defendant Ford.

118 At least some of the issues involved in the case at bar would be resolved by the
granting of declaratory relief.

119 Plaintiff has a justiciable interest in the subject matter of the lawsuit.

PUNITIVE DAMAGES

120 Plaintiff incorporates by reference all other paragraphs of this Petition as if fully
set forth here and further alleges as follows:

121 Defendant Ford authorized and/or ratified the aforesaid conduct of its agents.

122 The aforesaid conduct was committed by Defendant Ford and/or its agents.

123 The aforesaid conduct of Defendant Ford, when viewed objectively from
Defendant Ford's viewpoint at the time of such conduct, involved an extreme degree of risk,
considering the probability and magnitude of the potential harm to others.

124 Furthermore, Defendant Ford had actual subjective awareness of the risk
involved, but nevertheless proceeded with conscious indifference to the rights, safety or welfare
of others.

DAMAGES APPLICABLE TO ALL COUNTS

125 Plaintiff incorporates by reference all other paragraphs of this Petition as if fully set forth here and further alleges as follows:

126 By reason of Defendant Ford's conduct, and the defects in the Ford Vehicles, Plaintiff and Class Members suffered, sustained and incurred, and in reasonable probability will continue to suffer, sustain and incur, the following injuries and damages, among others:

- a. Economic damages, including one or more of the following, among others:
- b. the loss of the benefit of the bargain (the difference in the value of the vehicle as represented and the value of the vehicle as received);
- c. out of pocket expenses (including, among other things, the difference between what was paid for the vehicle and the value of the of the vehicle as received, towing expenses, transportation costs, and rental fees);
- d. the difference in the market value of the vehicle immediately before and immediately after the fire at the place where the fire occurred;
- e. the value of the loss of use of the vehicle;
- f. the cost of repair to their respective vehicles;
- g. the difference in the market value of damaged or destroyed property other than the subject vehicle immediately before and immediately after the fire in question;
- h. the replacement cost of damaged or destroyed property other than the subject vehicle damaged by the fire in question; and
- i. reasonable and necessary attorney fees;

PRAYER FOR RELIEF

WHEREFORE, the Plaintiff and Class Members request that this Court enter judgment against Defendant Ford and in favor of Plaintiff and the Class Members and award the following relief:

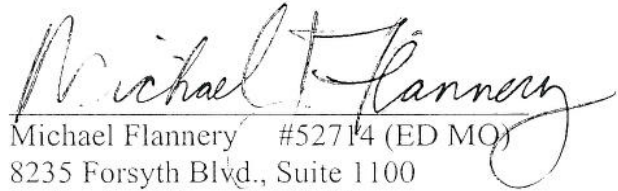
- A. Order certifying this action as a class action pursuant to Federal Rules of Civil Procedure 23(a) and 23(b);
- B. For compensatory damages in excess of the minimum jurisdictional limits of the Court;
- C. For punitive or exemplary damages in excess of the minimum jurisdictional limits of the Court.
- D. Prejudgment interest;
- E. Post judgment interest;
- F. Court Costs
- G. Reasonable and necessary attorneys fees;
- H. Treble damages;
- I. An injunction enjoining Defendant Ford from selling any other vehicles in question that Defendant Ford has not yet recalled;
- J. An injunction enjoining Defendant Ford from selling any other vehicles with the defective SCD Switch;
- K. Declaratory Judgment that:
 - i. Defendant Ford breached its express warranty;
 - ii. Defendant Ford breached the implied warranty of merchantability;
 - iii. Defendant Ford was negligent in the design, marketing and/or manufacturing of the Ford Vehicles;
 - iv. Defendant Ford committed a fraud upon Plaintiff and Class Members;
 - v. Defendant Ford fraudulently concealed the dangerous condition of the Ford Vehicles;
 - vi. Defendant Ford violated the Missouri Merchandising Practices Act.

JURY TRIAL DEMANDED

Plaintiff demands a trial by jury.

CAREY & DANIS, LLC

By:



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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

FILED
U.S. DISTRICT COURT
DISTRICT OF NEW MEXICO

GRANT CHANIN Individually, and
on behalf of all others similarly situated,

06 SEP -6 PM 2: 32

Plaintiff,

CLERK ALBUQUERQUE *MHA*

vs.

No.

FORD MOTOR COMPANY

CIV - 06 - 0828 JB ACT

Defendant.

**CLASS ACTION COMPLAINT FOR FRAUDULENT MISREPRESENTATION,
NEGLIGENCE, BREACH OF EXPRESS AND IMPLIED WARRANTIES, NEGLIGENT
MISREPRESENTATION, BREACH OF THE MAGNUSON MOSS WARRANTY ACT,
FRAUDULENT CONCEALMENT, AND VIOLATION OF THE NEW MEXICO
UNFAIR PRACTICES ACT**

COMES NOW Plaintiff, and for his Class Action Complaint against Defendant alleges as follows.

I. PARTIES

A. Plaintiff

1. Plaintiff Grant Chanin is a citizen of the state of New Mexico and resides at 2002 Lead S.E. in Albuquerque, New Mexico.

B. Defendant Ford

2. Defendant Ford Motor Company ("Ford") is a Delaware Corporation which conducts business, directly and through its subsidiaries and divisions, throughout the United States, including New Mexico.

3. Ford is incorporated in Delaware with its principal place of business in Dearborn, Michigan.

4. Ford is a corporate entity authorized to conduct business in the State of New Mexico and engaged in the business of manufacturing, assembling, distributing and selling motor vehicles.

5. At all relevant times, Ford transacted, solicited, and conducted business in the state of New Mexico and is hence subject to the jurisdiction of this Court.

II. JURISDICTION

6. For federal diversity jurisdiction purposes, Ford is a citizen of the states of Delaware and Michigan. This Court has jurisdiction pursuant to 28 U.S.C. §1332(d)(2)(A) of the Class Action Fairness Act because Plaintiff class members are citizens of New Mexico and Defendant is a citizen of Michigan and Delaware and the amount in controversy exceeds \$5 million.

7. Venue is proper in this District because a substantial part of the events giving rise to the claims at issue arose in this District.

III. FACTUAL ALLEGATIONS

8. In 2003, Plaintiff Chanin purchased a 1994 Ford F-150, VIN#1FETX15N6RKA74732 from Lomas Auto Mall, 7500 Lomas Boulevard N.E. in Albuquerque, New Mexico.

9. On or about July 21, 2005, Plaintiff Chanin's vehicle caught fire after being parked for eighteen hours.

10. The Fire and Rescue Department was summoned at approximately 6:34am and arrived at the scene at approximately 6:41am.

11. Although the fire department extinguished the fire, the vehicle was a total loss.

12. The fire department concluded that the fire originated in the engine compartment.

13. Plaintiff Chanin contacted Ford on numerous occasions regarding the fire incident.

14. On August 24, 2005, Ford's consumer affairs department informed Plaintiff Chanin that Ford would not compensate him because his vehicle was not subject to a recall.

15. Upon learning of the September 7, 2005 recall of his vehicle by means of the media, Plaintiff Chanin contacted Ford in a letter dated September 8, 2005.

16. Ford told him, however, that the change in recall status did not change Ford's position on refusing to compensate Plaintiff Chanin for the loss of his vehicle.

17. In April 2006, approximately nine months after the incineration of Plaintiff Chanin's Ford Recalled Vehicle, Ford sent a letter to Plaintiff Chanin informing him that he had not brought in his 1994 F-150 Ford truck to obtain the 05S28 – Speed Control Deactivation Switch “no charge recall” repair.

IV. CLASS REPRESENTATION ALLEGATIONS

18. Ford is, and has been at all relevant times, engaged in the business of selling automobiles.

19. As a direct and proximate result of Ford placing these vehicles into the stream of commerce, Plaintiff Chanin and the Class Members have suffered and continue to suffer injuries, including property damages, mental and economic pain and suffering, and will continue to experience such injuries indefinitely.

20. On January 27, 2005, under pressure from the National Highway Traffic Safety Administration (“NHTSA”), Ford recalled over 700,000 vehicles, including 2000 Model Year F-150 Pickups, Expeditions and Lincoln Navigators, and 2001 Model Year F-series Super Crew Trucks (the “Ford Recalled Vehicles”). These vehicles were recalled because they suddenly, and

without warning, caught fire due to a problem with the manufacture, design, and placement of the Speed Control Deactivation Switch involved in the operation of the cruise control (the "SCD Switch"). Because of the design, these fires can occur even when the car is turned off and not being operated.

21. As part of the recall, at one time the Ford Recalled Vehicles must be taken to a Ford dealership where the cruise control function will be disabled to avoid these fires. The Ford Recalled Vehicles are then without the cruise control function until Ford has a replacement part ready, at which time the Ford Recalled Vehicles must be brought back to the Ford dealership to be retrofitted with a redesigned SCD Switch.

22. On March 22, 2005, NHTSA announced that it would investigate more than 3.7 million additional Ford vehicles not covered by the January recall because the design, manufacture and placement of the SCD Switch in certain non-recalled vehicles was substantially similar to the design, manufacture and placement of the SCD Switch in the Ford Recalled Vehicles, and because NHTSA had received more than 200 complaints of engine fires in these non-recalled vehicles.

23. The vehicles that were being investigated by NHTSA included Ford F-150 and F-150LD vehicles (model years 1995-1999 and 2001-2002); and Ford Expeditions and Lincoln Navigators (model years 1997-1999 and 2001-2002).

24. On September 7, 2005, under pressure from the NHTSA, Ford expanded its recall to include Ford F-150s (model years 1994-2002), Ford Expeditions (model years 1997-2002), Lincoln Navigators (model years 1998-2002), and Ford Broncos (model years 1994-1996) equipped with factory-installed speed controls.

25. The vehicles subject to either the January 27, 2005 or the September 7, 2005 recalls are hereinafter collectively known as "Ford Recalled Vehicles."

26. A Ford document shows the same or similar switch was installed in a total of 16 million vehicles. Those vehicles include the Lincoln Mark VII/VIII (model years 1994-1998), the Ford Taurus/Mercury Sable and Taurus SHO 2.3 L (model years 1993-1995), the Ford Econoline (model years 1992-2003), the Ford F-Series (model years 1993-2003), the Ford Windstar (model years 1994-2003), the Ford Explorer without IVD (model years 1995-2003), the Ford Explorer Sport/Sport Trac (model years 2002-2003), the Ford Expedition (model years 1997-2003), and the Ford Ranger (model year 1995-2003) (Collectively, hereinafter, "Potentially Affected Ford Vehicles").

27. Collectively, the Ford Recalled Vehicles and the Potentially Affected Ford Vehicles are referred to herein as the "Ford Vehicles."

28. Ford designed, manufactured, marketed, distributed, warranted, and represented the safety of the Ford Vehicles sold to Plaintiff Chanin, and to other members of the Class (defined below).

29. The Ford Vehicles were designed and manufactured defectively by Ford. Specifically, the design of the Ford Vehicles was defective in that the SCD Switch is designed to always carry a live charge of electricity and can overheat and burst into flames even when the car is turned off. Because the Ford Vehicles are designed with the SCD Switch in close proximity to the plastic brake fluid receptacle, this overheating is particularly dangerous because an overheating SCD Switch will tend to melt the plastic brake fluid receptacle, causing the overheating SCD Switch to come into contact with the flammable brake fluid, which causes

burning brake fluid to be spread throughout the engine compartment causing a quickly-spreading fire.

30. Because this fire can happen when the vehicle is not being operated, the Ford Vehicles are likely to begin burning in a garage, thus potentially causing a fire not only in the Ford Vehicles, but also in the garage and the house where the Ford Vehicles are parked, potentially leading to catastrophic results.

31. Prior to the manufacture of the Ford Vehicles, Ford knew that there were problems with the design, manufacture and placement of the SCD Switch used in the Ford Vehicles. In 1999, Ford recalled over 250,000 1992 and 1993 Ford Crown Victorias, Lincoln Town Cars and Mercury Grand Marquise because of the same or similar problem.

32. Although Ford knew that there was a problem with the SCD Switch in the 1992 and 1993 vehicles, Ford used the same or similar design in the Ford Vehicles which are the subject of this lawsuit.

33. Despite being aware of the foregoing defects in and problems with the Ford Vehicles, Ford represented to Plaintiff and the Class Members (defined below) that the Ford Vehicles were safe through various forms of advertising. Ford made and continued to make these representations even though it knew that the Ford Vehicles could burst into flames at any time because of the design, manufacture and placement of the SCD Switch.

34. Ford engaged in a pattern of representations regarding the Ford Vehicles which were intended to, and did in fact, cause consumers to believe that the Ford Vehicles were safe vehicles with representations in print, radio, television, and internet advertising proclaiming that the Ford Vehicles were "Built Ford Tough," stating that Ford is a family that cherishes the safety of its customers, and stating that Ford is "committed to putting the safest vehicles on the road."

35. To the contrary, Ford is not committed to putting the safest vehicles on the road, but instead intentionally put vehicles on the road (and in its customers' garages) that have a known defect with the potential to cause a fire resulting in catastrophic damage to the vehicle and other property, and injury or death to its customers.

36. Accordingly Ford's statements in its advertisements constituted misrepresentations.

37. Ford also concealed the defects in and problems with the Ford Vehicles from Plaintiff Chanin and Class Members (defined below), which could not reasonably be known by them.

38. The defects in and problems with the Ford Vehicles were material facts the concealment of which would tend to mislead or deceive consumers.

39. Ford's misrepresentations and concealment of material facts caused Plaintiff Chanin and the Class Members to suffer damages including, but not limited to, unfulfilled expectations, lost benefit of the bargain, loss of use of their cruise control function, diminished value, cost of repair and/or consequential damages.

40. As stated above, Ford has admitted to the fire hazard in the Ford Recalled Vehicles and agreed to disconnect the electrical connector from the speed control which will eliminate the fire hazard, but also disable the cruise control. Plaintiff Chanin and the Class Members will be without use of cruise control in their vehicles until Ford is able to replace the defective speed-control switches with properly designed switches which do not present a fire hazard.

41. Ford has not yet issued any public statements admitting the existence of the fire hazard in the Potentially Affected Ford Vehicles.

42. The vehicles of Plaintiff Chanin and some of the other Class Members caught fire as a result of the faulty SCD Switch, rendering the vehicles a total loss.

43. As a consequence of the fire, additional property located in or around the premises of the vehicle sustained severe fire and/or smoke damage.

44. Plaintiff seeks for himself, and all Class Members, actual damages that were a proximate and producing result of Ford's acts and omissions alleged herein. They further seek punitive damages, statutory multiples of damages, all interest allowed by law, reasonable and necessary attorneys' fees, and court costs.

V. TOLLING OR NON-ACCRUAL OF APPLICABLE STATUTES OF LIMITATIONS

45. Any applicable statutes of limitations have been tolled or have not run because Ford knowingly and actively concealed and denied the defects in the Ford Recalled Vehicles until NHTSA pressured Ford to recall them, and they are tolled due to the pendency of other class actions pursuant to the U.S. Supreme Court decision, American Pipe. Ford continues to knowingly and actively conceal and deny the defects in the Ford Investigated Vehicles.

46. Ford had actual or constructive knowledge of its wrongful conduct. Ford has kept Plaintiff Chanin and Class Members uninformed of information essential to the pursuit of their claims, without any fault or lack of diligence on behalf of Plaintiff Chanin and Class Members. In fact, Ford fraudulently and deceitfully concealed and misrepresented to the public material facts concerning the SCD Switch defect. Plaintiff Chanin, Class Members, and the general public did not discover the facts alleged herein until a date within the limitations period governing this action, and promptly exercised due diligence by filing this Complaint.

47. Plaintiff Chanin, Class Members, and the general public were not at fault for failing to discover Ford's misconduct sooner, and had no actual or presumptive knowledge of the

facts of Ford's misconduct to put them on inquiry notice. Plaintiff Chanin, Class Members and the general public could not reasonably have discovered Ford's misrepresentations and/or material omissions before the filing of this Complaint and, therefore, their claims accrued on that date, and/or any statute of limitations was tolled until that date.

48. Ford was and is under a continuing duty to disclose the nature of the SCD Switch defect to Plaintiff Chanin, Class Members, and the general public. Because of Ford's concealment of the SCD Switch defect, Ford is estopped from relying on any statute of limitations defense.

VI. CLASS ACTION ALLEGATIONS

49. Pursuant to Fed. R. Civ. P. 23, Plaintiff Chanin brings this action for himself and on behalf of the Class of all entities and natural persons domiciled or residing in the state of New Mexico, who purchased a 2000 Model Year Ford F-Series Super Crew Truck, a Ford F-150 (model years 1994-2002), a Ford Expedition (model years 1997-2002), a Lincoln Navigator (model years 1998-2002), or a Ford Bronco (model years 1994-1996) equipped with factory-installed speed controls (a "Ford Recalled Vehicle"), or a Lincoln Mark VII/VIII (model years 1994-1998), a Ford Taurus/Mercury Sable and Taurus SHO 2.3 L (model years 1993-1995), a Ford Econoline (model years 1992-2003), a Ford F-Series (model years 1993-2003), a Ford Windstar (model years 1994-2003), a Ford Explorer without IVD (model years 1995-2003), a Ford Explorer Sport/Sport Trac (model years 2002-2003), a Ford Expedition (model years 1997-2003), or a Ford Ranger (model year 1995-2003) (a "Potentially Affected Ford Vehicle") and who, according to motor vehicle registration records maintained by their respective states or districts of residence of domicile, can be identified as owning at some time at least one Ford

Recalled Vehicle or a Potentially Affected Ford Vehicle (collectively referred to as "Ford Vehicle").

50. Plaintiff Chanin's claims are typical of the other Class Members' claims.

51. Plaintiff Chanin will fairly and adequately protect the interests of the Class. Plaintiff Chanin is the current owner of a Ford Recalled Vehicle and is a member of the Class he seeks to represent. His interests coincide with, and are not antagonistic to, the other Class Members' interests.

52. Plaintiff Chanin and the Class have retained counsel experienced and competent in complex, commercial, multi-party, mass tort, personal injury, products liability, consumer and class action litigation.

53. The Class Members are so numerous that joinder of all is impractical. Ford has estimated that more than 4.8 million Vehicles were subject to its three recalls. A Ford document indicates that there are over 12.2 million Potentially Affected Ford Vehicles installed with similar SCD Switches. Accordingly, Plaintiff estimates that the members of the Class number in the millions.

54. A class action is superior to other methods for the fair and efficient adjudication of this controversy. The expense and burden of individual litigation may make it difficult, if not impossible, for all members of the class to address the wrongs done to them individually. There will be no unusual difficulty in the management of this action as a class action.

55. The claims of Plaintiff Chanin and the Class Members involve common questions of fact and law, including, but not limited to:

- a. Whether the Ford Vehicles were defectively designed, manufactured, and/or marketed with respect to the SCD Switch;

b. Whether the defects in the Ford Vehicles constituted breaches of the implied warranty of merchantability by Ford;

c. Whether the defects in the Ford Vehicles constituted breaches of express warranties by Ford; and

d. Whether Ford violated the New Mexico Unfair Practices Act, by among other things, representing that the Ford Vehicles have characteristics that they do not have. (e.g., safety).

56. Questions of law and fact common to the Class Members predominate over questions affecting only individual Members, and a class action is superior to other available methods for fair and efficient adjudication of the controversy.

VII. DEFENDANT FORD'S LIABILITY FOR ITS EMPLOYEES' ACTS AND OMISSIONS

57. Whenever this Complaint alleges that Ford committed any act or omission, it means that (a) Ford's officers, agents, servants, employees or representatives committed such act or omission in the normal and routine course and scope of their employment; or (b) the act or omission was committed with Ford's full authorization or ratification.

58. Ford had the right to control each of its employee's conduct and the details of their work and Ford is vicariously liable for all acts of its officer, agents, servants or employees alleged herein.

VIII. CAUSES OF ACTION

Count 1: Fraudulent Misrepresentation/Omission

59. Plaintiff incorporates all of the allegations and facts set forth in the preceding paragraphs as if fully set forth herein.

60. Ford made false, misleading and deceptive misrepresentations to its customers by neglecting to inform the customers of a danger resulting from the normal use of their products.

61. The fraudulent misrepresentations, omissions and concealments made by Ford were known and deliberate and were purposefully designed to induce the Plaintiff and the Class members into purchasing their products and to prevent expenditures on behalf of Ford to remedy a design or manufacturing defect in its product. In marketing and selling the Ford Vehicles, Ford made express and implied representations to the public at large, including Plaintiff and all Members of the Class, that the vehicles were free from dangerous designed defects, did not contain unreasonably dangerous components, and were reasonably safe when operated in the manner in which they were designed and intended to be operated.

62. These representations were false, and were known by Ford to be false at the time they were made.

63. Plaintiff and members of the Class relied in good faith on the express and implied representations of Ford regarding the safety of the Ford Vehicles.

64. Because Ford had superior knowledge of the design and manufacture of the Ford Vehicles, it was reasonable for Plaintiff and Class Members to rely on Ford's express and implied representations.

65. Plaintiff and Class Members did in fact rely to their detriment on the express and implied representations of Ford regarding the safety of the Ford Vehicles.

66. Plaintiff and Class Members have been damaged as a direct and proximate result of Ford's fraudulent misrepresentations and their reasonable reliance on such representations.

67. Plaintiff and Class Members are entitled to recover the full amount of such damages, together with costs and attorney fees to the full extent permitted by law, as a result of Defendant Ford's fraudulent misrepresentations.

68. The misrepresentations, concealments and omissions by Ford were material in that the Plaintiff and other members of the Class reasonably relied upon such misrepresentations, concealments and omissions to their detriment.

69. As a direct and proximate result of Ford's fraudulent misrepresentations, concealments and omissions, the Plaintiff and Class Members have been damaged in an amount to be determined at trial.

Count 2: Negligence

70. Plaintiff incorporates all of the allegations and facts set forth in all preceding paragraphs as if fully set forth herein.

71. Ford was negligent in the design and/or manufacture of cruise control deactivation switch in that the normal use of its products poses a serious risk of property damage or bodily injury. Ford failed to exercise ordinary care in designing, manufacturing, and selling of the vehicles in question, did that which a reasonably prudent automobile manufacturer would not have done in the same or similar circumstances; failed to do that which a reasonably prudent automobile manufacturer would not have done under the same or similar circumstances, and was negligent in one or more of the following ways:

a. in designing the cruise control deactivation switch such that it received continual power;

b. in designing the cruise control deactivation switch such that it received far more power than was necessary for such switch to properly function;

c. in designing the cruise control deactivation switch so that it was in close proximity to the master cylinder brake fluid container;

d. in designing the vehicle so that the master cylinder brake fluid container was made out of a substance that could not withstand the heat generated by the cruise control deactivation switch;

e. in failing to design the vehicle so that the cruise control deactivation switch would deactivate if it reached a heat or resistance that could cause a fire, such as a fuse that would blow at such point, or some other method; and

f. in failing to inform the Plaintiff and public of the aforesaid risk of fire.

72. Ford knew or should have known that the SCD Switch it designed and placed in the described vehicles, and manufactured, tested, marketed or sold, in their ordinary and foreseeable use, would overheat and ultimately ignite the Ford Vehicles in which the SCD Switches were installed.

73. Ford's negligence was a contributing cause of the harm suffered to Plaintiff and Class Members.

74. As a direct and proximate result of the Ford's negligence, Plaintiff and Class Members have suffered or will suffer damages, which include costs to inspect, repair or replace their speed control deactivation switches and systems, and to replace or repair other damaged property, in an amount to be determined at the trial of this cause.

75. The conduct of Ford was willful, wanton, malicious, reckless, and in such disregard for the consequences as to reveal a conscious indifference to the clear risk of death or serious bodily injury, and merits the imposition of punitive damages.

76. Despite this known danger, the Ford did not otherwise take any action to inform the general public of the danger associated with specified uses of their defective products.

77. As a direct and proximate result of the negligence of Ford in the design and manufacture of its products, Plaintiff and Class Members have incurred actual and compensatory damages in an amount to be proven at trial.

Count 3: Breach of Express Warranty

78. Plaintiff incorporates by reference the allegations contained in the preceding paragraphs as though fully set forth herein.

79. Plaintiff and Class Members purchased a vehicle, manufactured by Ford.

80. Ford knew that the Plaintiff and the Class he represents were foreseeable users of their vehicles, and in fact marketed these vehicles to be sold to American consumers, spending millions of dollars in advertising on a national and local level to tout their vehicles to intended purchasers.

81. Ford made numerous claims and representations as to the quality of the vehicles they offered for sale, as well as to the fitness of the vehicles for use by Plaintiff and Class Members for their intended purposes.

82. Plaintiff and Class Members used their vehicles as intended, for transportation, and in other manners depicted by Ford in its advertising, and for other such uses of travel and transportation in which consumers use and are intended to use motor vehicles.

83. Plaintiff and Class Members made no changes or alterations to the engine and operational parts of the Cruise Control system or the SCD Switch.

84. The SCD Switch was defective as sold to Plaintiff and installed on his vehicle and vehicles of the Class Members.

85. Ford failed to comply with the foregoing representations in one or more of the following particulars, among others:

a. in designing the cruise control deactivation switch such that it received continual power;

b. in designing the cruise control deactivation switch such that it received far more power than was necessary for such switch to properly function;

c. in designing the cruise control deactivation switch so that it was in close proximity to the master cylinder brake fluid container;

d. in designing the vehicle so that the master cylinder brake fluid container was made out of a substance that could not withstand the heat generated by the cruise control deactivation switch;

e. in failing to design the vehicle so that the cruise control deactivation switch would deactivate if it reached a heat or resistance that could cause a fire, such as a fuse that would blow at such point, or some other method; and

f. in failing to inform the Plaintiff and public of the aforesaid risk of fire.

86. As a result, Plaintiff and Class Members have been damaged, including inconvenience and cost of replacement of the SCD Switch, and for some, complete destruction of the vehicle because of fire, and destruction of other items of property adjacent to the fire or items of property that were within the vehicle when it burned.

Count 4: Breach of Implied Warranty of Merchantability

87. Plaintiff incorporates by reference the allegations contained in the preceding paragraphs as though fully set forth herein.

88. Ford is in the business of selling Ford Vehicles and ultimately sold such goods to the Plaintiff and Class Members.

89. By placing the Ford Vehicles into the stream of commerce, Ford impliedly warranted that the Ford Vehicles were of merchantable quality, fit and safe for their intended use and fit for the particular purpose of transporting individuals and families and parking them when not in use.

90. Ford breached the implied warranty of merchantability in one or more of the following ways:

a. in designing the cruise control deactivation switch such that it received continual power;

b. in designing the cruise control deactivation switch such that it received far more power than was necessary for such switch to properly function;

c. in designing the cruise control deactivation switch so that it was in close proximity to the master cylinder brake fluid container;

d. in designing the vehicle so that the master cylinder brake fluid container was made out of a substance that could not withstand the heat generated by the cruise control deactivation switch;

e. in failing to design the vehicle so that the cruise control deactivation switch would deactivate if it reached a heat or resistance that could cause a fire, such as a fuse that would blow at such point, or some other method;

f. in failing to inform the Plaintiff and public of the aforesaid risk of fire; and

g. in designing the vehicles in such a way that the SCD Switches overheat, ultimately and unpredictably igniting the Ford Vehicles.

91. Plaintiff and Class Members were foreseeable users of the Ford Vehicles.

92. Plaintiff timely notified Ford of the foregoing breaches of the warranty of merchantability.

93. The injuries of Plaintiff and Class Members were a proximate result of Ford's breach of implied warranty as described herein.

94. As a direct and proximate result of the breach of implied warranty, Plaintiff suffered and will continue to suffer injury, harm and economic loss as alleged herein.

Count 5: Negligent Misrepresentation and/or Omission

95. Plaintiff incorporates all of the allegations and facts set forth in all preceding paragraphs as if fully set forth herein.

96. As a result of the reckless and/or negligent misrepresentations and/or omissions by Ford, the Plaintiff and Class Members were induced into purchasing defective vehicles manufactured by Ford and using the products for their intended use.

97. Ford made these representations to the Plaintiff and other Class Members intending that they rely on such representations.

98. The negligent misrepresentations and/or omissions were material in that they induced the Plaintiff and other Class Members into purchasing defective vehicles manufactured by Ford and using such products for their intended purpose.

99. As a direct and proximate result of the negligent misrepresentations and/or omissions by Ford, Plaintiff and Class members have incurred actual and compensatory damages in an amount to be proven at trial.

Count 6: Implied Merchantability under Magnuson Moss Warranty Act

100. Plaintiff incorporates all of the allegations and facts set forth in all preceding paragraphs as if fully set forth herein.

101. Ford's conduct as described herein violated the Magnuson Moss Warranty Act ("Magnuson Moss Act"), 15 U.S.C. §§2304-2312.

102. Ford expressly and impliedly represented and warranted that the vehicles being sold to the general public were free of defects, merchantable, and fit for their intended purpose. Ford breached these implied warranties by selling the Ford Vehicles described herein with the inherent defects described herein. Moreover, Ford made and/or allowed these warranties to be made with the intent of inducing Plaintiff and the other members of the Class to purchase the Ford vehicles.

103. If Plaintiff and the members of the Class had known the true facts, they would not have purchased the Ford vehicles or paid as much as they did for the vehicles.

104. Plaintiff and the members of the Class are entitled to either repudiation of their agreements and repayment of the money they spent to purchase their vehicles in an amount to be determined at the trial of this action.

Count 7: Fraudulent Concealment

105. Plaintiff incorporates all of the allegations and facts set forth in all preceding paragraphs as if fully set forth herein.

106. Ford's false representations concealed the cause of action from Plaintiff and Class Members. Therefore, neither Plaintiff nor other Class Members had any realistic means to detect Defendant Ford's misrepresentations. As a result, Plaintiff, even in the exercise of due diligence, was not aware of, and did not discover these matters until shortly before filing suit.

Count 8: Violation of the New Mexico Unfair Practices Act

107. Plaintiff incorporates all of the allegations and facts set forth in all preceding paragraphs as if fully set forth herein.

108. Ford made false or misleading oral or written statements knowingly made in connection with the sale, lease, rental or loan of Ford Vehicles in the regular course of trade or commerce, which may, tends to, or did deceive or mislead any person.

109. Specifically, Ford represented to Plaintiff and Class Members that the Ford Vehicles subject to this suit were of a particular standard, quality or grade when in fact they were that of another.

110. Additionally, Ford failed to deliver the quality of goods or services contracted for.

111. In so doing, Ford engaged in an unfair or deceptive trade practice in the conduct of any trade or commerce and consequently violated NMSA 1978, §§ 57-12-1 et seq.

112. Because Ford's conducted as alleged herein was willful, Plaintiff and the Members of the Class are also entitled to treble damages.

IX. REQUEST FOR INJUNCTIVE RELIEF

113. Plaintiff incorporates by reference all other paragraphs of this Complaint as if fully set forth herein.

114. The granting of monetary and/or declaratory relief will not provide an adequate remedy to Plaintiff and Class Members; and no other adequate legal remedy is available. Ford's continued sale of vehicles with aforesaid defects will result in additional injuries and deaths. No award of damages provides an adequate remedy for the life of an individual.

115. Plaintiff and Class Members will suffer irreparable injury if permanent injunctive relief is not granted. Persons who die, or who sustain permanent disability, as a result of Ford's continued sale of vehicles with the aforesaid defects will suffer irreparable injury.

116. As more particularly set forth above, Ford has committed, and is continuing to commit, one or more wrongful acts. Ford continues to sell vehicles with the aforesaid defects.

117. Plaintiff and Class Members will suffer imminent harm if the injunction does not issue. It is certain that additional individuals will die, and be injured if Ford continues to sell vehicles with the aforesaid defects.

X. REQUEST FOR DECLARATORY JUDGMENT

118. Plaintiff incorporates by reference all other paragraphs of this Complaint as if fully set forth herein.

119. A real controversy exists between Plaintiff and Ford.

120. At least some of the issues involved in the case at bar would be resolved by the granting of declaratory relief.

121. Plaintiff has a justiciable interest in the subject matter of the lawsuit.

XI. PUNITIVE AND TREBLE DAMAGES

122. Plaintiff incorporates by reference all other paragraphs of this Complaint as if fully set forth herein.

123. Ford authorized and/or ratified the aforesaid conduct of its agents.

124. The aforesaid conduct was committed by Ford and/or its agents.

125. The aforesaid conduct of Ford, when viewed objectively from Ford's viewpoint at the time of such conduct, involved an extreme degree of risk, considering the probability and magnitude of the potential harm to others.

126. Furthermore, Ford had actual subjective awareness of the risk involved, but nevertheless proceeded with conscious indifference to the rights, safety or welfare of others.

127. For these reasons, Plaintiff and the Class Members are entitled to an award of punitive and treble damages.

XII. COMPENSATORY DAMAGES

128. Plaintiff incorporates by reference all other paragraphs of this Complaint as if fully set forth herein.

129. By reason of Ford's conduct, and the defects in the Ford Vehicles, Plaintiff and Class Members suffered, sustained and incurred, and in reasonable probability will continue to suffer, sustain and incur, the following injuries and damages, among others:

- a. economic damages;

- b. the loss of the benefit of the bargain (the difference in the value of the vehicle as represented and the value of the vehicle as received);
- c. out of pocket expenses (including, among other things, the difference between what was paid for the vehicle and the value of the vehicle as received, towing expenses, transportation costs, and rental fees);
- d. the difference in the market value of the vehicle immediately before and immediately after the fire at the place where the fire occurred;
- e. the value of the loss of use of the vehicle;
- f. the cost of repair to their respective vehicles;
- g. the difference in the market value of damaged or destroyed property other than the subject vehicle immediately before and immediately after the fire in question; and
- h. the replacement cost of damaged or destroyed property other than the subject vehicle damaged by the fire in question.

XIII. ATTORNEYS' FEES AND COSTS

130. Under various causes of action alleged herein, Plaintiff and Class Members are entitled to an award of their costs and reasonable attorney's fees.

XIV. PRAYER FOR RELIEF

WHEREFORE, the Plaintiff and Class Members request that this Court enter judgment against Ford and in favor of Plaintiff and the Class Members and award the following relief:

- A. Certification of this action as a class action pursuant to Federal Rule of Civil Procedure 23(a) and 23(b);
- B. Compensatory damages;
- C. Punitive and treble damages;

- D. Prejudgment interest;
- E. Post judgment interest;
- F. Court costs;
- G. Reasonable attorneys' fees;
- H. An injunction enjoining Ford from selling any other vehicles in question that Ford has not yet recalled;
- I. An injunction enjoining Ford from selling any other vehicles with the defective SCD Switch;
- J. Declaratory Judgment that:
 - i. Ford breached its express warranty;
 - ii. Ford breached the implied warranty of merchantability;
 - iii. Ford was negligent in the design, marketing and/or manufacturing of the Ford Vehicles;
 - iv. Ford committed a fraud upon Plaintiff and Class Members;
 - v. Ford fraudulently concealed the dangerous condition of the Ford Vehicles;
 - vi. Ford violated the New Mexico Unfair Practices Act.

XV. JURY TRIAL DEMANDED

Plaintiff hereby demands a trial by jury.

By:



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New

APR 25 2005

BEGINNING OF CONTACT
04/23/2005

VOICE OF THE CUSTOMER TRACKING SYSTEM

08.00.04

REGION: 24 ORLANDO	OGC ISSUE	CASE NBR: 1330011125
VIN: 1FMRU17W11L [REDACTED]	ZONE: D2	OPENED: 04/22/2005
	ENGINE: W VEH TYPE: T	CLOSED: 04/22/2005

LAST NAME: [REDACTED]	FIRST NAME: [REDACTED]	STATUS: CLOSED
TITLE: [REDACTED]		MI: N
ADDRESS: [REDACTED]		
CITY: LUTZ	STATE: FL	ZIP: [REDACTED]
HOME PHONE: [REDACTED]		
MODEL YEAR: 2001	MODEL: EXPEDITION EDDIE BAUER 4X2 4DR	
MILEAGE: 63000		
DEALER NAME: BILL CURRIE FORD IN	SALES CODE: F24203	P & A: 04945
REASON CODE: 0792 LEGAL - ACCIDENT / FIRE		
SYMPTOMS: 704145 FIRE/SMOKE VISIBLE FLAME UNDERHOOD		

ORIGIN: CACI38 - US CONCERN CASE BASE COMMUNICATION: PHONE
 ACTION: 705 - CONTACT ADVANCED TO OGC
 DOCUMENT: ANALYST: SBOYCE2 BOYCE SHOULA

DATE: 04/22/2005 TIME: 09.10.00 :
ACTION DATA/COMMENTS:

CUSTOMER SAID: VEH CAUGHT ON FIRE AND BLEW UP ON WEDNESDAY W
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 THAT FIRE STARTED UNDER HOOD BECAUSE OF SOME MAL FUNCTIONS N
 O PRIOR SYMPTONSSEEKING TO HAVE FORD TAKE OWNER SHIP OF THIS
 CONCERNDEALER SAID: BILL CURRIE FORD INC.5815 NORTH DALE MA
 BRYTAMPA, FL 33614TEL: (888) 864-6691CRC ADVISED: I WILL F
 ORWARD THIS INFORMATION TO THE FORD OGC DEPARTMENT. YOU WILL
 BE CONTACTED WITHIN 3-5 BUSINESS DAYS.ADVISED OF THE ABOVE
 INFO

FORD MOTOR COMPANY
 RECEIVED
 APR 26 2005
 OFFICE OF THE
 GENERAL COUNSEL

IN THE CIRCUIT COURT OF THE THIRTEENTH JUDICIAL CIRCUIT OF THE
STATE OF FLORIDA IN AND FOR HILLSBOROUGH COUNTY FLORIDA
CIVIL DIVISION

ROBERT NICHOLAS DILL, SR.
and CATRINA A. ZAMBRANO-DILL

Plaintiffs,

v.

FORD MOTOR COMPANY,
and
BILL CURRIE FORD, INC.,

Defendants.

Case No.:

05-4303

DIVISION A

CLASS REPRESENTATION

RECEIPT OF FILING

MAY 23 2005

CLERK OF CIRCUIT COURT

CLASS ACTION COMPLAINT

Plaintiffs, ROBERT NICHOLAS DILL, SR. and CATRINA A. ZAMBRANO-DILL, ("Plaintiffs") through their attorneys, bring this Complaint in their individual capacities, and on behalf of the class of all others similarly situated, to obtain declaratory and injunctive relief, damages, costs of suit, and attorney's fees from the Defendants.

Plaintiffs' action is the result of a spontaneous fire in the engine compartment of their Ford Motor Company vehicle which erupted when the car was parked, with the ignition switch in an off position, and caused the total destruction of the vehicle, as well as damages to their home and surrounding property. Pursuant to their investigation and upon information and belief, Plaintiffs allege as follows:

OVERVIEW OF THE ACTION

1. This is an action for breach of implied warranties of merchantability, of fitness for a particular purpose, for strict liability in tort and negligence in connection with a defective cruise control deactivation switch and for violation of the Florida Deceptive

and Unfair Trade Practices Act.. This particular switch is installed in Ford F-150 Pick-up Trucks, in model years 1995 through 2002; and Ford Expeditions and Lincoln Navigators from model years 1997 through 2002. This may include as many as 3.7 million vehicles.

2. The Cruise Control Switch is mounted to the Brake Master Cylinder under the hoods of the described vehicles, and the speed control deactivation switch has the potential to overheat, smoke, and cause a fire under the hood of the vehicle. This potential to overheat can occur whether or not the cruise control is engaged, or whether or not the vehicle is even turned on, because the circuit feeding the switch is energized at all times, even when the vehicle is not running. Thus, a fire could occur at any time, regardless of whether the speed control system is being used or whether the engine is running.

3. On January 27, 2005, Ford recalled nearly 800,000 vehicles because of this problem. The vehicles recalled were limited to Ford F-150 pickups, Ford Expeditions and Lincoln Navigators from model year 2000 and 2001 F-150 Super Crew Vehicles. The Plaintiffs' vehicle was not within this subgroup of vehicles recalled by the Ford Motor Company.

4. Plaintiffs file this action (a) to seek monetary damages on behalf of the owners of the vehicles within the class as defined herein; (b) to seek damages for the owners of the subject vehicles that have been damaged by spontaneous fires to their vehicles, destroying the vehicles, the contents of the vehicles, property adjacent to the vehicles during such a fire, and other related costs and expenses caused by the fires in the vehicles; (c) to provide other equitable relief; (d) and to enjoin Ford Motor company from selling vehicles, with the same or similar construction of the Speed Control Deactivation Switch.

5. Plaintiffs ROBERT NICHOLAS DILL, SR. and CATRINA A. ZAMBRANO-DILL (“The Dills”) are residents of Lutz, Hillsborough County, Florida, who jointly purchased a used Model Year 2001, Ford Expedition in 2001. This vehicle was factory equipped with Cruise Control. Thereafter, the vehicle was at all times relevant to this complaint and the allegations herein, in the use and possession of The Dills.

6. Defendant FORD MOTOR COMPANY (“Ford”) is a corporation organized under the laws of the state of Delaware, and maintains its principal executive offices in Dearborn, Michigan. Ford is the world’s largest truck maker, and the second largest maker of cars and trucks. Ford is registered to do business in Florida, and does conduct business in Florida, with hundreds of retail sales franchises in this State. At all times relevant to this complaint and the allegations herein, Ford was in the business of designing, manufacturing, distributing, advertising, marketing and selling motor vehicles.

7. Defendant BILL CURRIE FORD, INC. (“Bill Currie”) is a Florida Corporation, with its principal place of business in Tampa, Florida. Bill Currie is in the business of distributing, selling and servicing new motor vehicles manufactured by Ford, and operates as a dealership for the sale of new Ford vehicles.

JURISDICTION AND VENUE

8. This Court has personal jurisdiction over Defendants who transact business in this county and who systematically, intentionally, and continuously do business in this State. The Court has personal jurisdiction over the Plaintiffs who are citizens of Florida and who reside in Pinellas County, Florida.

9. Venue is properly in this Court because this case arises out of transactions conducted and breaches occurring within this state. A substantial part of the facts giving

rise to this action occurred in Hillsborough County, Florida. Bill Currie is in the business of distributing Ford motor vehicles in Hillsborough County, Florida, and to purchasers from the surrounding area; as a result of the distribution, delivery and sales of Ford's products through Bill Currie and other dealers to purchasers within Hillsborough County, and throughout the State of Florida, including Plaintiffs and members of the proposed Class, Ford, directly or through subsidiaries, affiliates or agents, obtained the benefits of the laws of the State of Florida. Defendants have received substantial compensation and profits from the use of and sale of their products in this County and in the State of Florida.

10. The amount in controversy exceeds \$15,000.00.

FACTUAL ALLEGATIONS

11. The Dills purchased their 2001 Ford Expedition, VIN # 1FMRU17W11LB36774 from a car dealership, in Pinellas County, Florida, in 2001. The Dills resided in Hillsborough County, Florida, at the same home throughout the time they owned this vehicle.

12. On April 20, 2005, at approximately 9:00 P.M., the Dill's Expedition had been parked in front of their home. Later, they entered the vehicle looking for personal property but it remained parked with the ignition in the off position. At approximately 10:15 p.m. CATRINA A. ZAMBRANO-DILL heard an explosion and upon investigation found their vehicle was in flames in the driveway next to the house. The Ford Expedition had been parked in the driveway, with the ignition turned off and the keys removed for over an hour before the fire was discovered. CATRINA A. ZAMBRANO-DILL and her children safely evacuated the house.

13. The Ford Expedition had been parked in front of their house, out of the garage, on the driveway just outside of the garage door. The flames from the burning vehicle damaged the adjacent garage door and the eaves of the house, as well as the surrounding driveway and landscaping.

14. The local fire department was summoned and they arrived to extinguish the fire of the Ford Expedition and the house

15. Based upon information and belief, the origin of the fire was the speed control deactivation switch on the vehicle. The Expedition and its contents were a total loss. Additionally, there was damage to the house and property, caused by the fire in the Ford Expedition.

16. There have been many similar reported incidents of spontaneous fires in cold, non-running Ford vehicles. However, although there had been a recall of a sub-group of Ford vehicles because of the risk of fires caused by the speed control deactivation switch on January 27, 2005, there has not been a recall of the Plaintiff's vehicle although based upon information and belief, Ford was aware of the risk of fire in their vehicle.

17. The National Highway Traffic Safety Administration (NHTSA) reports indicate that approximately 218 similar events of fires from cruise control deactivation switches in Ford trucks and SUV's have been reported. In addition, the NHTSA has said it is investigating more than 3.7 million vehicles manufactured by Ford for a defect in the cruise control switch.

18. On April 8, 2005 the Defendants Ford and Bill Currie had sent a written notice to the Plaintiffs advising them that their vehicle was due for a maintenance visit. The notice advised that if the vehicle was serviced by Bill Currie that "you will have the

assurance that your vehicle is being serviced by the factory-trained technicians who know it best.” The notice further advised that with regard to their vehicle there were “no recalls at this time.”

19. On April 13, 2005 the Plaintiff’s vehicle was towed to the service department of the Defendant Bill Currie Ford because the vehicle would not shift out of park. The service receipt indicates “FOUND BRAKE PEDAL SWITCH SHORTED REPLACE SWITCH RETEST OKAY3.” After arriving to pick up the vehicle after it was allegedly repaired, the Plaintiff ROBERT NICHOLAS DILL, SR. was unable to shift the vehicle out of park. Craig Slusher, a service representative for Defendant Bill Currie checked the vehicle and found that the same fuse that had been found to be blown was blown again. He replaced the fuse again, provided additional fuses to the Plaintiff and noted the problem on the service receipt.

20. Based upon information and belief, the inability to shift a ford truck from park is one of the known warning signs of the defect in the speed control deactivation switch.

CLASS REPRESENTATION ALLEGATIONS

21. Plaintiffs bring this action pursuant to Fl.R.Civ.P. 1.220(B)(1) on behalf of a class of all persons and entities nationwide who purchased or who own Ford F-150 Pick-up trucks, model years 1995 through 2002; and Ford Expeditions and Lincoln Navigators, model years 1997 through 2002; with the manufacturer installed Cruise Control option. The class includes both persons who experienced or incurred damages to their vehicle or to other property caused by the defective speed control deactivation switch, as well all other persons who own vehicles within the described models.

22. The Class is composed of numerous persons and entities throughout the United States. The joinder of all class members individually in one action would be impracticable, and the disposition of their claims in one action will provide benefits to both the parties and the Court. The class is sufficiently numerous for class treatment, as Ford and NHTSA public information indicate there are close to 800,000 effected vehicles in a sub-group of the class alone, in the United States.

23. Plaintiffs are asserting claims typical of the claims of the class. Plaintiffs and all members of the proposed Class sustained damages that were directly caused by Ford's placement of the defective switch, and in the design of their vehicle's operation and in the design of the cruise control. Plaintiffs have no interests that are in conflict with or are antagonistic to the interests of class members and have retained counsel competent and experienced in class actions, including consumer product class actions.

24. Class representation is superior to other available methods for the fair and efficient adjudication of this controversy. Since the damages suffered by individual class members may be relatively small, the expense and burden of individual litigation makes it impracticable for the class members individually to seek redress for the wrongful conduct alleged herein.

25. There are numerous and substantial questions of law and fact common to the claims of Plaintiffs individually and all of the members of the Class, which will control this litigation and which will predominate over any individual issues. Included within the common questions of law and fact are:

a. Whether the speed control deactivation switches installed by Ford in F-150 Pick-up Trucks, Ford Expeditions and Lincoln Navigators are defective;

b. Whether the Plaintiffs and the members of the Class have sustained damages and the proper measure of those damages;

c. Whether the defendants breached any express or implied warranties in connection with its manufacture and sale of these vehicles with cruise control installed in the vehicles.

d. Whether Ford acted negligently;

e. Whether members of the Class are entitled to punitive damages and, if so, the extent of such damages.

26. The claims of the plaintiffs are typical of the claims of the Class, but not exclusive.

27. Plaintiffs have no interests adverse to the interests of other members of the Class.

COUNT I – BREACH OF IMPLIED WARRANTY

28. Plaintiffs incorporate paragraphs 1 through 27 as if fully restated herein.

29. Plaintiffs purchased a used vehicle, manufactured by Defendant Ford. Other members of the class described have purchased Ford vehicles, some distributed by Defendant Bill Currie, and others distributed by other similar dealers or distributors.

30. Defendants knew that Plaintiffs and the Class they represent were foreseeable users of their vehicles, and in fact marketed these vehicles to be sold to American consumers, spending millions of dollars in advertising on a national and local level to tout their vehicles to intended purchasers. Defendants made numerous claims and representations as to the quality of the vehicles they offered for sale, as well as to the fitness of the vehicles for use by Plaintiffs and Class Members for their intended purposes.

31. Plaintiffs and other members of the class used their vehicles as intended, for transportation, and in other manners depicted by Defendants in their advertising, and for other such uses of travel and transportation in which consumers use and are intended to use motor vehicles.

32. Plaintiffs made no changes or alterations to the engine and operational parts of the Cruise Control System or the speed control deactivation switch. The switch was defective as sold to Plaintiffs and installed on their vehicle and the vehicles of the class members. The defect in the switch is known to Defendant Ford to overheat, smoke and cause fires beneath the hoods of vehicles of the same or similar model as that of the Plaintiffs. In fact, Ford has issued a recall for a sub-group of vehicles because of this danger.

33. As a result, Plaintiffs and Class members have been damaged, including inconvenience and cost of replacement of the defective switch, and for some, destruction of the vehicle because of fire, and destruction of other items of property adjacent to the fire or items of property that were within the vehicle when it burned.

COUNT II – STRICT LIABILITY

34. Plaintiffs incorporate paragraphs 1 through 27 as if fully restated herein.

35. Defendant Ford is in the business of manufacturing motor vehicles and together with Dealers and distributors, like Defendant Bill Currie, is in the business of placing these vehicles on the market for sale to consumers.

36. Defendants placed the vehicles described in paragraph 21 of this complaint in to the stream of commerce.

37. These vehicles are in a defective condition, and are unreasonably dangerous, and were dangerous when they left Defendants' control. The vehicles were sold to Plaintiffs and class members in this dangerous condition, caused by the defective speed deactivation switch, and its placement and design in the engine compartment of these vehicles.

38. Under normal conditions, usage and applications, the vehicles should not spontaneously combust into flames, especially not when the vehicles are in the parked and off position.

39. The defect in the vehicles caused damages to Plaintiffs and class members, including but not limited to repair or replacement of the defective parts, total destruction and loss of the vehicle, its contents, and surrounding personal property or real property and fixtures and appurtenances.

COUNT III - NEGLIGENCE

40. Plaintiffs incorporate paragraphs 1 through 27 as if fully restated herein.

41. Defendants knew or should have known that the speed control deactivation switches it designed and placed in the described vehicles, and manufactured, tested, marketed or sold, in their ordinary and foreseeable use, would fail to perform as intended in motor vehicles.

42. Defendants have a duty to disclose to the public the defective nature of these switches and the resulting dangerous conditions that may occur because of these defective switches.

43. Defendants failed to use reasonable care with respect to the design, development, manufacture, production, testing, inspection, marketing or sale of the vehicles with cruise control and these speed control deactivation switches.

44. In addition, Defendants failed to use reasonable care with respect to the servicing and/or maintenance of the Plaintiff's vehicle and the vehicles of others with cruise control and these speed control deactivation switches.

45. Defendants' negligence directly and proximately caused the harm suffered by Plaintiffs and Class Members.

46. As a direct and proximate result of the Defendants' negligence, Plaintiffs and Class Members have suffered or will suffer damages, which include costs to inspect, repair or replace their speed control deactivation switches and systems, and to replace or repair other damaged property, in an amount to be determined at the trial of this cause.

**COUNT IV – VIOLATION OF THE FLORIDA DECEPTIVE
AND UNFAIR TRADE PRACTICES ACT**

41. Plaintiffs incorporate paragraphs 1 through 27 as if fully restated herein.

42. Plaintiffs and Class Members are "consumers" within the meaning of §501.201 Florida Statutes, the Florida Deceptive and Unfair Trade Practices Act ("FDUPTA").

43. Defendants designed, manufactured and marketed the Ford automobiles, as safe, durable, sturdy, reliable and trustworthy. Ford established for itself a reputation in American Commerce, which connotes that Ford products would offer protection and reliability to American families owning its products. Defendants failed to state in their marketing that there was a danger that, even when not operational, and turned off, the vehicles could spontaneously catch fire in the engine compartment because of defective

design, manufacture or placement of the speed deactivation control switch. These facts constitute unfair, unconscionable and deceptive trade practices.

44. Defendants intentionally misled Plaintiffs and Class Members by failing to warn them of this defect, and that such defect could lead to the loss of the vehicle and other items of property, or even personal injury.

45. Plaintiffs and Class Members have been damaged in the amount of the purchase price of the vehicles as a result of their reliance on Defendants' false and deceptive representations as to the reliability, safety and design of the vehicles. Plaintiffs and Class Members seek to be made whole and claim damages pursuant to §501.211, Florida Statutes, plus attorney's fees and court costs pursuant to the provisions of §501.2105, Florida Statutes.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs, on behalf of themselves and on behalf of the members of the Class defined herein, pray for judgment and relief as follows:

1. The Court adjudge and decree that the proposed class be certified pursuant to Rule 1.220, Fl.R.Civ.P.; Plaintiffs are adequate representatives of the class, as above defined, and that notice of this action be given to the class in the most effective and practicable manner;

2. The Court appoint and designate the undersigned counsel as Class Counsel;

3. The Court enter judgment for the Plaintiffs and the Class, and award compensatory damages, interest and costs; which include costs to inspect, repair or replace their speed control deactivation switches and systems, and to replace or repair other damaged property, in an amount to be determined at the trial of this cause.

4. The Court enter an injunction against Defendants, and order them to recall Ford F-150, Lincoln Navigator and Ford Expedition vehicles of the 2000 model year, wherever they were manufactured;

5. The Court find that Defendants violated the Florida Deceptive and Unfair Trade Practices Act, §§501.201, *et seq.*, Florida Statutes, and award them damages, attorney's fees and costs pursuant to those provisions;

6. The Court award Plaintiffs and the Class reasonable attorney's fees, costs, and expenses incurred in connection with this suit.

7. The Court award all other equitable relief as it deems appropriate.

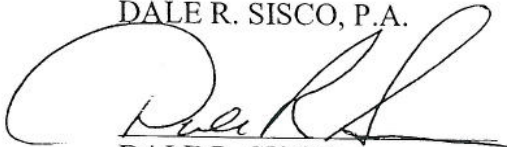
JURY DEMAND

PLAINTIFFS, on behalf of themselves and all others similarly situated, demand trial by jury on all issues triable at law.

May 23, 2005

Respectfully Submitted,

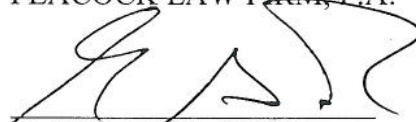
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IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN

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GOODMAN ACKER
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Professional Corporation

MARCUS EBOW,
AND THAT CLASS OF ALL PERSONS
WHO OWN 2000 MODEL YEARS
F-150 PICKUPS, EXPEDITIONS,
AND LINCOLN NAVIGATORS,
AND 2001 MODEL YEARS F-SERIES
SUPER CREW TRUCKS,

Plaintiffs,

v.

FORD MOTOR COMPANY,

Defendant.

JUDGE : Friedman, Bernard A.
DECK : S. Division Civil Deck
DATE : 03/01/2005 @ 16:06:36
CASE NUMBER : 2:05CV70781
CMP MARCUS EBOW, ET AL VS. FORD
MTR CO (SI) JMC

MAGISTRATE JUDGE R. STEVEN WHALEN

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COMPLAINT AND JURY DEMAND

NOW COMES Marcus Ebow ("Plaintiff"), on behalf of himself and all others similarly situated, respectfully files this Original Class Action Complaint against Ford Motor Company ("Ford") and allege on information and belief as follows:

I. JURISDICTION AND PARTIES

A. Plaintiff

1. Marcus Ebow is, and was at all relevant times, a resident of Harris County, Texas.

On October 17, 2001, he purchased one of the Ford Vehicles, a Model Year 2000 Ford

Expedition, VIN 1FMRU17L9YLB77119 from Russell & Smith Ford in Harris County, Houston, Texas.

B. Defendant

2. Defendant Ford Motor Company (hereinafter “Ford”) is a corporate entity authorized to conduct business in the State of Michigan and engaged in the business of manufacturing, assembling, distributing and selling motor vehicles.

3. Ford Motor Company is incorporated in Delaware. Its principal place of business is One American Road, Dearborn, MI 48126. It can be served through its registered agent for service, Peter J. Sherry, One American Road, Dearborn, MI 48126.

C. Jurisdiction

4. There is a basis for federal diversity jurisdiction under 28 U.S.C. 1332 because there is complete diversity of citizenship and the amount in controversy exceeds the jurisdictional limit of \$75,000.00.

II. FACTUAL BACKGROUND

5. Ford is, and has been at all relevant times, engaged in the business of selling automobiles and trucks, including the 2000 Model Year F-150 Pickups, Expeditions and Lincoln Navigators, and 2001 Model Year F-series Super Crew Trucks (the “Ford Vehicles”), which are the subject of this Class Action.

6. Ford designed, manufactured, marketed, distributed, warranted, and represented the safety of the Ford Vehicles sold to Plaintiff Marcus Ebow, and to other members of the Class (defined below).

7. The Ford Vehicles were designed and manufactured defectively by Ford. Specifically, the design of the Ford Vehicles was defective in the design and manufacture of the

speed-control switch involved in the operation of the cruise control (the "Speed Switch"). Because the Speed Switch is designed to always carry electricity, it is prone to overheat even when the car is turned off. Because the Ford Vehicles are designed with the Speed Switch in close proximity to the plastic brake fluid receptacle, this overheating is particularly dangerous because the overheating Speed Switch melts the plastic brake fluid receptacle, and comes into contact with the brake fluid, which is flammable, spreading the burning brake fluid throughout the engine compartment causing a quickly-spreading fire. Because this fire can happen when the car is off, the Ford Vehicles are likely to begin burning in a garage, thus potentially causing a fire not only in the Ford Vehicles, but in the garage and the house where the Ford Vehicles are parked, potentially leading to catastrophic results.

8. Starting long before the manufacture of the Ford Vehicles, Ford knew that there were problems with the design of the Speed Switch used in the Ford Vehicles. In 1999, Ford recalled over 250,000 1992 and 1993 Ford Crown Victorias, Lincoln Town Cars and Mercury Grand Marquises because of the same or similar problem.

9. Although Ford knew that there was a problem with the Speed Switch design from its 1999 recall, it used the same or similar design in the Ford Vehicles which are subject of this lawsuit.

10. Despite being aware of the foregoing defects in and problems with the Ford Vehicles, Ford represented to Plaintiff and the Class Members (defined below) that the Ford Vehicles were safe on a continuing basis through various forms of advertising. Ford made and continued to make these representations even though it knew that the Ford Vehicles could burst into flames at any time because of the design of the Speed Switch.

11. Ford engaged in a pattern of representations regarding the Ford Vehicles which were intended to, and did in fact cause consumers to believe that the Ford Vehicles were safe vehicles, both inside and out. To the contrary, Ford Vehicles were not safe. Accordingly, Ford's statements in its advertisements constituted misrepresentations.

12. Ford also concealed the defects in and problems with the Ford Vehicles from Plaintiff and the Class Members (defined below) which could not reasonably be known by Plaintiff and the Class Members (defined below).

13. The defects in and problems with the Ford Vehicles were material facts the concealment of which would tend to mislead or deceive consumers.

14. Ford's misrepresentations and concealment of material facts caused Plaintiff and the Class Members (defined below) to suffer damages including, but not limited to, unfulfilled expectations, lost benefit of the bargain, loss of use of their cruise control function, diminished value, and/or cost of repair.

15. Ford has admitted to the fire hazard in the Ford Vehicles and agreed to disconnect the electrical connector from the speed control which will eliminate the fire hazard, but also disable the cruise control. Plaintiff and the Class Members will be without the use of cruise control in their vehicles until Ford is able to replace the defective speed-control switches with properly designed switches which do not present a fire hazard. Ford admits that these replacement switches will not be present until late March or early April 2005, at the earliest.

16. Plaintiff seeks for himself, and all Class Members (defined below), actual damages which were a proximate and producing result of Ford's acts and omissions alleged herein. They further seek punitive damages, statutory multiples of damages, all interest allowed by law, reasonable and necessary attorneys' fees, and court costs.

III. STATE COURT JURISDICTION

(THERE IS NO BASIS FOR FEDERAL COURT JURISDICTION)

A. Subject Matter Jurisdiction

17. This Court has subject matter jurisdiction over the claims asserted by Plaintiff and each Class Member.

B. Personal Jurisdiction

18. The Court has personal jurisdiction over Ford. Ford has substantial, general contacts with the State of Michigan. Ford's contacts with this state warrant personal jurisdiction as to all claims against Ford whether or not they arise from its state contacts.

IV. VENUE

19. Pursuant to 28 U.S.C. 1391, venue is proper in this Court because there is only one Defendant and it does business in this District. Defendant is deemed to reside in this District because it is subject to personal jurisdiction here.

V. CLASS ACTION ALLEGATIONS

A. Plaintiff Class

20. **The Class.** Pursuant to Fed R. Civ. P. 23, Plaintiff brings this action for himself and on behalf of the Class of all entities and natural persons domiciled or residing in any of the fifty states of the United States of America or in the District of Columbia, who purchased a 2000 Model Year Ford F-150 Pickup, Expedition, Lincoln Navigator, or 2001 Model Year Ford F-series Super Crew Trucks (a "Ford Vehicle"), and who, according to motor vehicle registration records maintained by their respective states or districts of residence or domicile, can be identified as the current owner of at least one Ford Vehicle, but excluding (1) those whose Ford

Vehicle has actually caught fire as a result of the Speed Switch, and (2) all employees and affiliates of Ford (the "Class Members").

21. Plaintiff's claims are typical of the other Class Members' claims.

22. Plaintiff will fairly and adequately protect the interests of the Class. Plaintiff is a member of the Class he seeks to represent. His interests coincide with, and are not antagonistic to, the other Class Members' interests.

23. Plaintiff and the Class have retained counsel experienced and competent in complex, commercial, multi-party, mass tort, personal injury, products liability, consumer, and class action litigation.

24. The Class Members are so numerous that joinder of all is impractical. Defendant, in its recall of the Ford Vehicles, has estimated that there are 792,000 Ford Vehicles with this defect. Accordingly, Plaintiff estimates that the Class consists of several hundred thousand persons.

25. A class action is superior to other methods for the fair and efficient adjudication of this controversy. The expense and burden of individual litigation may make it difficult, if not impossible, for all members of the class to address the wrongs done to them individually. There will be no unusual difficulty in the management of this action as a class action.

26. The claims of Plaintiff and the Class Members involve common questions of fact and law, including, but not limited to:

- a. Whether the Ford Vehicles were defectively designed, manufactured, and/or marketed;
- b. Whether the defects in the Ford Vehicles constituted breaches of the implied warranty of merchantability by Ford;

- c. Whether the defects in the Ford Vehicles constituted breaches of express warranties by Ford;
- d. Whether Ford violated the following section of Michigan Consumer Protection Act:
 - i. Section 445.903(c): Representing that goods have characteristics that they do not have;
 - ii. Section 445.903(e): Representing that goods are of a particular quality, standard or grade if they are of another;
 - iii. Section 445.903(s): Failing to reveal a material fact, the omission of which tends to mislead or deceive the consumer, when the fact could not reasonably be known by the consumer;
 - iv. Section 445.903(z): Charging the consumer a price grossly in excess of a price at which similar property is sold; and
 - v. Section 445.903(cc): Failing to reveal facts which are material to the transaction in light of factual representations made in a positive manner;
- e. Whether Plaintiff and the Class Members are entitled to recover compensatory, exemplary damages, and statutory damage multiples; and
- f. Whether Plaintiff and the Class Members are entitled to reasonable and necessary attorney's fees, pre-judgment interest, post-judgment interest and costs of suit.

27. Questions of law and fact common to the Class Members predominate over questions affecting only individual Members, and a class action is superior to other available methods for fair and efficient adjudication of the controversy.

VI. DEFENDANT'S LIABILITY FOR ITS EMPLOYEES' ACTS AND OMISSIONS

28. Whenever this Petition alleges that Ford committed any act or omission, it means that (a) Ford's officers, agents, servants, employees or representatives committed such act or

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omission in the normal and routine course and scope of their employment; (b) the act or omission was committed with Ford's full authorization or ratification; or (c) Ford's vice principals committed the act or omission.

29. Ford had the right to control each of its employee's conduct and the details of their work.

VII. CAUSES OF ACTION

A. Breach of Warranties

30. Ford's acts and omissions described above breached its implied and express warranties under applicable law to Plaintiff and each Class Member.

31. Additionally, the defects in the Ford Vehicles breached Ford's implied warranty of merchantability under Michigan Compiled Law Annotated Section 440.2314 (Uniform Commercial Code). The defects rendered the Ford Vehicles unfit for the ordinary purposes for which they are used.

32. Further, the defects in the Ford Vehicles breached Ford's express warranties under Michigan Compiled Law Annotated Section 440.2313 (Uniform Commercial Code).

33. As a direct and proximate result of these breaches, Plaintiff and each of the Class Members suffered damages.

B. Michigan Consumer Protection Act

34. Ford's acts and omissions described above violated the following sections of the Michigan Consumer Protection Act:

- a. Section 445.903(c): Representing that goods or services have characteristics that they do not have;

- b. Section 445.903(e): Representing that goods are of a particular quality, standard or grade if they are of another;
- c. Section 445.903(s): Failing to reveal a material fact, the omission of which tends to mislead or deceive the consumer, when the fact could not reasonably be known by the consumer;
- d. Section 445.903(z): Charging the consumer a price grossly in excess of a price at which similar property is sold; and
- e. Section 445.903(cc): Failing to reveal facts which are material to the transaction in light of factual representations made in a positive manner.

35. As a direct and proximate result of these violations, Plaintiff and each of the Class Members suffered damages.

VIII. DAMAGES AND OTHER RELIEF

36. Ford's acts and omissions were a direct, proximate and producing cause of damages to Plaintiff and each Class Member

37. Specifically, Plaintiff and each Class Member suffered damages including, but not limited to, unfulfilled expectations, lost benefit of the bargain, diminished value, cost of repair, and/or out-of-pocket expenses.

38. Ford's acts and omissions were malicious, willful, reckless, wanton and in bad faith, entitling Plaintiff and each Class Member to punitive damages.

39. Ford willfully engaged in violations of the MCPA entitling Plaintiff and each Class Member to statutory multiple damages.

40. Plaintiff and the Class Members seek their reasonable and necessary attorney's fees and costs incurred in connection with this suit.

41. Plaintiff and the Class Members seek pre-judgment interest, at the highest rate allowed by law, on the damages awarded.

IX. CONDITIONS PRECEDENT

42. All conditions precedent to recovery herein have been performed or have occurred.

X. PRAYER FOR RELIEF

43. Plaintiff and the Class Members see judgment against Ford for:
- a. Actual damages, including, but not limited to, unfulfilled expectations, lost benefit of the bargain, diminished value, cost of repair, and/or out-of-pocket expenses;
 - b. Punitive and statutory multiple damages as permitted by law;
 - c. Reasonable and necessary attorneys' fees, as permitted by law, for trial and appeal;
 - d. Costs of suit for trial and appeal; and
 - e. Pre- and post-judgment interest as allowed by law.

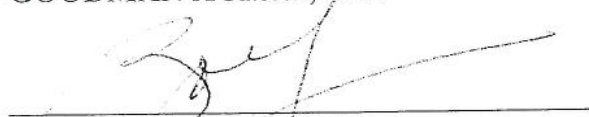
XI. JURY TRIAL

44. A jury trial is demanded.

Dated: February 28, 2005

Respectfully submitted

GOODMAN ACKER, P.C.



Barry J. Goodman (P29906)
Stanley J. Feldman (P52123)
Lead Counsel for Plaintiff and the Class

FILED
SIXTH JUDICIAL CIRCUIT

IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT
CHAMPAIGN COUNTY, ILLINOIS

SEP 15 2005

DANA C. GRAY,)
)
 Plaintiff,)
)
 vs.)
)
 FORD MOTOR COMPANY,)
)
 Defendant.)

Linda S. Ford
CLERK OF THE CIRCUIT COURT
CHAMPAIGN COUNTY, ILLINOIS

No. 05-217

COMPLAINT

Count 1

For Recall of Unreasonably Dangerous Vehicles and For Other Relief

COMES NOW Plaintiff Dana C. Gray by his attorneys, Phebus & Koester, and complaining of Defendant Ford Motor Company, a corporation, avers:

1. Defendant is the designer and manufacturer of Ford, Lincoln and Mercury cars and trucks.

2. Commencing in approximately 1994, Ford Motor Company commenced using a particular design of cruise control deactivation switch (hereinafter referred to as "the switch" or "the switch in question") in various models of its motor vehicles:

- A. Which switch always had electrical power supplied to it even when the vehicle ignition was off; and,
- B. Which switch was connected directly to the brake master cylinder so that hydraulic pressure from the brake cylinder would activate the switch; and,
- C. Which switch employed a film barrier to separate flammable brake fluid from the electrically charged wires in the switch.

3. Failure of the film barrier can result in brake fluid coming into contact with the electrically charged wires in the switch.

4. The electrically charged wires in the switch can cause brake fluid coming into contact with them to catch fire thereby starting a fire in the vehicle's engine compartment.

5. Ford has resisted recalling said vehicles and modifying them so as to correct the defect presented by the switch (hereinafter referred to as the "defect in question") and eliminate the danger presented by brake fluid coming into contact with electrically charged wires in the switch, however under pressure from the National Highway Traffic Safety Administration (NHTSA) it has made certain recalls, to-wit:

- A. In May of 1999, Ford Town Cars for model years 1992 and 1993;
- B. In January of 2005, Ford F-150 Crown Victorias, Mercury Grand Marquis and Lincoln Pick-Up Trucks, Ford Expeditions, and Lincoln Navigators for model year 2000;
- C. In January of 2005, Ford F-Series Supercrew trucks for model year 2001;
- D. In September of 2005, Ford F-150 Pick-Up Trucks for model years 1994 through 1999 and 2001 through 2002;
- E. In September of 2005, Ford Expeditions for model years 1997 through 1999 and 2001 through 2002;
- F. In September of 2005, Lincoln Navigators for model years 1998 to 1999 and 2001 through 2002;
- G. In September of 2005, Ford Broncos for model years 1994 through 1996.

6. To plaintiff's information and belief, the switch in question is utilized on numerous additional Ford vehicles, none of which have been recalled for correction of the defect, including:

- A. The Ford Explorer Sport Trac 4x4 for at least model years 2001 through 2003;
- B. The Ford Explorer without IVD for model years 1995 through 2003;
- C. The Ford Windstar for model years 1994 through 2003;
- D. The Ford F-Series for model years 1993 through 2003;
- E. The Ford Oconoline for model years 1992 through 2003;
- F. The Ford Taurus and Mercury Sable and Taurus SHO 2.3L for model years 1993 through 1995;
- G. the Lincoln Mark VII and VIII for model years from 1994 to 1998;
- H. The Ford Expedition for model years 1997 through 2003;
- I. The Ford Ranger for model years 1995 through 2003.

7. The plaintiff was at all relevant times the owner of a 2001 Ford Explorer Sport Trac 4x4, Vehicle No. 1FMZU77E81UB83532.

8. On June 26, 2005, shortly before 3:30 a.m., said vehicle caught fire after it had been setting for approximately ten hours immediately outside the garage attached to the plaintiff's home.

9. To the best of the plaintiff's knowledge, information and belief, said fire was the result of the defect in question.

10. The claim asserted herein is brought as a class action pursuant to 735 ILCS 2-801, *et seq.*, on behalf of the class defined as follows or as the court may otherwise define:

All owners and lessees of Ford Motor Company vehicles registered in the State of Illinois utilizing the switch in question which have not, prior to the date of filing of this complaint, been recalled.

- A. Excluded from the class are the following entities:

- i. Ford Motor Company officers and directors;
- ii. The individual owners of Ford vehicle dealerships;
- iii. The corporate owners of Ford vehicle dealerships and their officers and directors.

B. Excluded from the class are the following claims:

- i. Claims for personal injury and wrongful death unless the holder of the claim opts in to the class;
- ii. Claims for damages to Ford Motor Company vehicles to the extent covered by insurance;
- iii. Claims for damages to other personal or real property to the extent covered by insurance;
- iv. Subrogation claims unless the holder of the claim opts in to the class.

11. Certification of this matter as a class action is proper pursuant to

735 ILCS 5/2-801 of the Illinois Rules of Civil Procedure in that:

- A. The requirement of Section 2-801(1) is met in that the class is so numerous that joinder of all class members is impractical in that there are many thousands of vehicles equipped with the switch in question that are registered in the State of Illinois.
- B. The requirement of Section 2-801(2) is met in that there are questions of law and fact common to the class which predominate over any questions affecting only individual class members. Such common questions include, but are not limited to:
 - i. Whether the switch is unreasonably dangerous under the risk-benefit test;
 - ii. Whether the switch is dangerous to an extent beyond that which would be contemplated by the ordinary consumer with the ordinary knowledge common to the community;
 - iii. The amount of fair compensation to owners and lessors for the time, trouble and inconvenience they will suffer as a result of the recall;

- iv. Whether the Ford Motor Company vehicles equipped with the switch in question that have not previously been recalled should be recalled.
 - C. The requirements of Section 2-801(3) are met in that plaintiff will fairly and adequately protect the interests of the members of the class and has no interests antagonistic to those of the class members and plaintiff is committed to the vigorous prosecution of this action and have retained competent counsel experienced in the prosecution of class actions.
 - D. The requirements of Section 2-801(4) are met in that a class action is superior to other available methods for the fair and efficient adjudication of the controversy. Further, individualized litigation would present potential for inconsistent or contradictory judgments and would magnify the delay and expense to all parties and involve the court system in multiple trials of identical or complex factual issues. By contrast, conducting this action as a class action presents no management difficulties and conserves the resources of the parties and the court system and protects the rights of each class member.
12. The switch in question and Ford Motor Company vehicles equipped with the switch in question are unreasonably dangerous for intended or reasonably foreseeable uses in that:

- A. They are unreasonably dangerous under the risk-benefit test as a result of one or more or a combination of the following:
 - i. The switch is always electrically charged even when the ignition switch is turned off;
 - ii. The switch is connected to the brake master cylinder with the result that brake fluid, which is flammable, can enter into the portion of the switch that is always electrically charged if the switch thin film fails;
 - iii. The switch is not fused so that electricity to the switch will be interrupted in the event the thin film fails.
- B. They are dangerous to an extent beyond that which would be contemplated by the ordinary consumer with ordinary knowledge to the community in that:

- i. The ordinary user would not contemplate that the vehicle was designed in such a manner that if a film membrane failed it would allow a flammable fluid such as brake fluid to come into contact with a charged electrical component;
- ii. The ordinary user would not contemplate that even when the vehicle ignition was off there would be components that were under electrical charge that could ignite a fire in the event of failure of a part;
- iii. The ordinary user would not contemplate that a vehicle would be designed without a fuse or other safety device to prevent a fire in the event of a component failure.

13. When vehicles containing the switch in question are in a condition that is intended or reasonably foreseeable and are used in a manner that is intended or reasonably foreseeable, they can nevertheless catch fire as a result of a failure of the switch in question.

14. When the vehicles catch fire, they present a risk not only to the vehicle but to occupants thereof, buildings and people and property in buildings where the vehicles are parked, nearby buildings and people and property in such buildings, and to firefighters and other rescue personnel.

15. The risk of personal injuries and death and the destruction of irreplaceable property resulting from the vehicle fires is such that the court should grant relief as to individuals who lease or own vehicles that have not yet caught fire.

16. By virtue of the foregoing premises, a judgment should be entered requiring defendant to recall all heretofore not recalled Ford Motor Company vehicles that utilize the switch in question and correct the defect caused by or resulting from the switch in question.

17. The owners and lessees of vehicles will lose time, encounter trouble and be inconvenienced in bringing their vehicles to a dealer for the recall, the loss of use of the vehicle during the recall and inconvenience in obtaining the vehicle back from the dealer and accordingly should be compensated in the amount of \$200 for each owner and lessee or such other amount as the trier of fact may determine to be fair and appropriate.

18. Owners such as the plaintiff and lessees of vehicles that have caught fire have as a direct and proximate result of the unreasonably dangerous condition lost wages or other income and/or participation in the normal events of life and/or “priceless irreplaceable” property such as family photos and memorabilia and uninsured property, all to their damages.

19. To the extent there are opt-in class members, their damages will be specifically pled at the appropriate time.

WHEREFORE, plaintiff prays:

1. This matter be certified as a class action;
2. He be appointed class representative and his attorneys as class counsel;
3. Judgment be entered against the defendant and on behalf of the class requiring the defendant to recall and correct the defect resulting from the switch and compensate the class members for the lost time, trouble and inconvenience resulting from the recall;

4. Plaintiff and class members whose vehicles have caught fire be awarded further individual judgments after an individual trial on damages in such amount as will reasonably and fairly compensate them for their damages;

5. Personal injury and wrongful death opt-in class members be awarded individual judgments after individual trial on damages in such amounts as will reasonably and fairly compensate them for their damages.

6. Subrogation opt-in class members be awarded individual judgments after individual trial on the damages in such amounts as will reasonably and fairly compensate them for their damages.

7. The plaintiff be awarded his costs of suit and reasonable attorneys fees;

8. The court enter such other and further relief in the premises as may be proper;

9. The plaintiff demands a trial by jury.

Count 2

For Recall of Negligently Designed or Built Vehicles and For Other Relief

COMES NOW Plaintiff Dana C. Gray by his attorneys, Phebus & Koester, and complaining of Defendant Ford Motor Company, a corporation, avers:

1. Defendant is the designer and manufacturer of Ford, Lincoln and Mercury cars and trucks and as such is required by law to possess and apply the knowledge and use the skill that an expert in the design and manufacture of automobiles would utilize.

2. Commencing in approximately 1994, Ford Motor Company commenced using a particular design of cruise control deactivation switch (hereinafter

referred to as “the switch” or “the switch in question”) in various models of its motor vehicles:

- A. Which switch always had electrical power supplied to it even when the vehicle ignition was off;
 - B. Which switch was connected directly to the brake master cylinder so that hydraulic pressure from the brake cylinder would activate the switch; and,
 - C. Which switch employed a film barrier to separate flammable brake fluid from the electrically charged wires in the switch.
3. Failure of the film barrier can result in brake fluid coming into contact with the electrically charged wires in the switch.
 4. The electrically charged wires in the switch can cause brake fluid coming into contact with them to catch fire thereby starting a fire in the vehicle’s engine compartment.
 5. Ford has resisted recalling said vehicles and modifying them so as to correct the defect presented by the switch (hereinafter referred to as the “defect in question”) and eliminate the danger presented by brake fluid coming into contact with electrically charged wires in the switch, however under pressure from the National Highway Traffic Safety Administration (NHTSA) it has made certain recalls, to-wit:

- A. In May of 1999, Ford Town Cars for model years 1992 and 1993;
- B. In January of 2005, Ford F-150 Crown Victorias, Mercury Grand Marquis and Lincoln Pick-Up Trucks, Ford Expeditions, and Lincoln Navigators for model year 2000;
- C. In January of 2005, Ford F-Series Supercrew trucks for model year 2001;
- D. In September of 2005, Ford F-150 Pick-Up Trucks for model years 1994 through 1999 and 2001 through 2002;

- E. In September of 2005, Ford Expeditions for model years 1997 through 1999 and 2001 through 2002;
- F. In September of 2005, Lincoln Navigators for model years 1998 to 1999 and 2001 through 2002;
- G. In September of 2005, Ford Broncos for model years 1994 through 1996.

6. To plaintiff's information and belief, the switch in question is utilized on numerous additional Ford vehicles, none of which have been recalled for correction of the defect, including:

- A. The Ford Explorer Sport Trac 4x4 for at least model years 2001 through 2003;
- B. The Ford Explorer without IVD for model years 1995 through 2003;
- C. The Ford Windstar for model years 1994 through 2003;
- D. The Ford F-Series for model years 1993 through 2003;
- E. The Ford Oconoline for model years 1992 through 2003;
- F. The Ford Taurus and Mercury Sable and Taurus SHO 2.3L for model years 1993 through 1995;
- G. the Lincoln Mark VII and VIII for model years from 1994 to 1998;
- H. The Ford Expedition for model years 1997 through 2003;
- I. The Ford Ranger for model years 1995 through 2003.

7. The plaintiff was at all relevant times the owner of a 2001 Ford Explorer Sport Trac 4x4, Vehicle No. 1FMZU77E81UB83532.

8. On June 26, 2005, shortly before 3:30 a.m., said vehicle caught fire after it had been setting for approximately ten hours immediately outside the garage attached to the plaintiff's home.

9. To the best of the plaintiff's knowledge, information and belief, said fire was the result of the defect in question.

10. The claim asserted herein is brought as a class action pursuant to 735 ILCS 2-801, *et seq.*, on behalf of the class defined as follows or as the court may otherwise define:

All owners and lessees of Ford Motor Company vehicles registered in the State of Illinois utilizing the switch in question which have not, prior to the date of filing of this complaint, been recalled.

A. Excluded from the class are the following entities:

- i. Ford Motor Company officers and directors;
- ii. The individual owners of Ford vehicle dealerships;
- iii. The corporate owners of Ford vehicle dealerships and their officers and directors.

B. Excluded from the class are the following claims:

- i. Claims for personal injury and wrongful death unless the holder of the claim opts in to the class;
- ii. Claims for damages to Ford Motor Company vehicles to the extent covered by insurance;
- iii. Claims for damages to other personal or real property to the extent covered by insurance;
- iv. Subrogation claims unless the holder of the claim opts in to the class.

11. Certification of this matter as a class action is proper pursuant to 735 ILCS 5/2-801 of the Illinois Rules of Civil Procedure in that:

A. The requirement of Section 2-801(1) is met in that the class is so numerous that joinder of all class members is impractical in that there are many thousands of vehicles equipped with the switch in question that are registered in the State of Illinois.

- B. The requirement of Section 2-801(2) is met in that there are questions of law and fact common to the class which predominate over any questions affecting only individual class members. Such common questions include, but are not limited to:
- i. Whether the defendant was negligent in designing the vehicles without a safety fuse in the wiring supplying the electrical power to the switch in question;
 - ii. Whether the defendant was negligent in utilizing a thin film barrier to separate the wiring portion of the switch from brake fluid;
 - iii. Whether the defendant was negligent in failing to protect the switch in question from excessive heat and/or vibration;
 - iv. Whether the defendant was negligent in placing the switch in such a location that leaking brake fluid can work its way into the switch's circuitry;
 - v. Whether the Ford Motor Company vehicles equipped with the switch in question that have not previously been recalled should be recalled;
 - vi. The amount of fair compensation to owners and lessees for the time, trouble and inconvenience they will suffer as a result of the recall;
 - vii. Designed the vehicle so that there was electrical current to the switch in question even when the ignition was turned off.
- C. The requirements of Section 2-801(3) are met in that plaintiff will fairly and adequately protect the interests of the members of the class and has no interests antagonistic to those of the class members and plaintiff is committed to the vigorous prosecution of this action and have retained competent counsel experienced in the prosecution of class actions.
- D. The requirements of Section 2-801(4) are met in that a class action is superior to other available methods for the fair and efficient adjudication of the controversy. Further, individualized litigation would present potential for inconsistent or contradictory judgments and would magnify the delay and expense to all parties and involve the court system in multiple trials of identical or complex factual issues. By contrast, conducting this action as a class action

presents no management difficulties and conserves the resources of the parties and the court system and protects the rights of each class member.

12. In the design of the switch and/or the vehicle in which the switch is located, Defendant Ford negligently violated its aforesaid duty in one or more of the following acts or omissions or a combination thereof:

- A. Designed the vehicle without a safety fuse in the wiring supplying electrical current to the switch in question;
- B. Designed the vehicle so that there was electrical current to the switch in question even when the ignition was turned off;
- C. Utilized the switch in question even though it had only a thin film barrier that separated electrically charged wires from flammable brake fluid;
- D. Designed the vehicle without adequately protecting the switch from excessive heat and/or vibration;
- E. Designed the vehicle with the switch in a position where it could be subjected to leaking brake fluid.

13. As a direct and proximate result of one or more or a combination of the foregoing negligent acts or omissions, vehicles manufactured by Ford Motor Company, including the plaintiff's vehicle, utilizing the switch in question have caught fire.

14. When the vehicles catch fire, they present a risk not only to the vehicle but to occupants thereof, buildings and people and property in buildings where the vehicles are parked, nearby buildings and people and property in such buildings, and to firefighters and other rescue personnel.

15. The risk of personal injuries and death and the destruction of irreplaceable property resulting from the vehicle fires is such that the court should grant relief as to individuals who lease or own vehicles that have not yet caught fire.

16. By virtue of the foregoing premises, a judgment should be entered requiring defendant to recall all heretofore not recalled Ford Motor Company vehicles that utilize the switch in question and correct the defect caused by or resulting from the switch in question.

17. The owners and lessees of vehicles will lose time, encounter trouble and be inconvenienced in bringing their vehicles to a dealer for the recall, the loss of use of the vehicle during the recall and inconvenience in obtaining the vehicle back from the dealer and accordingly should be compensated in the amount of \$200 for each owner and lessee or such other amount as the trier of fact may determine to be fair and appropriate.

18. Owners such as the plaintiff and lessees of vehicles that have caught fire have as a direct and proximate result of the unreasonably dangerous condition lost wages or other income and/or participation in the normal events of life and/or “priceless irreplaceable” property such as family photos and memorabilia and uninsured property, all to their damages.

19. To the extent there are opt-in class members, their damages will be specifically pled at the appropriate time.

WHEREFORE, plaintiff prays:

1. This matter be certified as a class action;

2. He be appointed class representative and his attorneys as class counsel;
3. Judgment be entered against the defendant and on behalf of the class requiring the defendant to recall and correct the defect resulting from the switch and compensate the class members for the lost time, trouble and inconvenience resulting from the recall;
4. Plaintiff and class members whose vehicles have caught fire be awarded further individual judgments after an individual trial on damages in such amount as will reasonably and fairly compensate them for their damages;
5. Personal injury and wrongful death opt-in class members be awarded individual judgments after individual trial on damages in such amounts as will reasonably and fairly compensate them for their damages;
6. Subrogation opt-in class members be awarded individual judgments after individual trial on the damages in such amounts as will reasonably and fairly compensate them for their damages;
7. The plaintiff be awarded his costs of suit and reasonable attorneys fees;
8. The court enter such other and further relief in the premises as may be proper;
9. The plaintiff demands a trial by jury.

DANA C. GRAY, Plaintiff, by his attorneys,
PHEBUS & KOESTER

BY: _____


J. W. PHEBUS

IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT OF THE STATE OF
FLORIDA IN AND FOR PINELLAS COUNTY FLORIDA
CIVIL DIVISION

MICHAEL T. ILEY
and MARLA K. ILEY,

Plaintiffs,

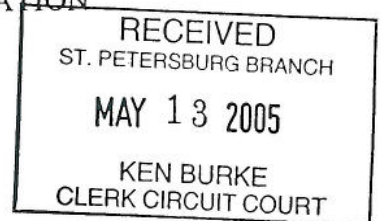
Case No.: 05-3311-CI-11

v.

FORD MOTOR COMPANY,
and
KARL FLAMMER FORD, INC.,

CLASS REPRESENTATION

Defendants.



CLASS ACTION COMPLAINT

Plaintiffs, Michael T. Iley and Marla K. Iley, through their attorneys, bring this Complaint in their individual capacities, and on behalf of the class of all others similarly situated, to obtain declaratory and injunctive relief, damages, costs of suit, and attorney's fees from the Defendants. Plaintiffs' action is the result of a spontaneous fire in the engine compartment of their Ford Motor Company vehicle which erupted when the car was parked, with the ignition switch in an off position, and caused the total destruction of the vehicle, as well as damages to their home and surrounding property. Pursuant to their investigation and upon information and belief, Plaintiffs allege as follows:

OVERVIEW OF THE ACTION

1. This is an action for breach of implied warranties of merchantability, of fitness for a particular purpose, for strict liability in tort and negligence in connection with a defective cruise control deactivation switch and for violation of the Florida Deceptive and Unfair Trade Practices Act.. This particular switch is installed in Ford F-150 Pick-up

Trucks, Ford Expeditions and Lincoln Navigators from model year 2000, and includes approximately 800,000 vehicles.

2. The Cruise Control Switch is mounted to the Brake Master Cylinder under the hoods of the described vehicles, and the speed control deactivation switch has the potential to overheat, smoke, and cause a fire under the hood of the vehicle. This potential to overheat can occur whether or not the cruise control is engaged, or whether or not the vehicle is even turned on, because the circuit feeding the switch is energized at all times, even when the vehicle is not running. Thus, a fire could occur at any time, regardless of whether the speed control system is being used or whether the engine is running.

3. In January, 2005, Ford recalled the nearly 800,000 of these vehicles because of this problem.

4. Plaintiffs file this action (a) to seek monetary damages on behalf of the owners of the vehicles subject to the recall; (b) to seek damages for the owners of subject vehicles that have been damaged by spontaneous fires to their vehicles, destroying the vehicles, the contents of the vehicles, property adjacent to the vehicles during such a fire, and other related costs and expenses caused by the fires in the vehicles; (c) to provide other equitable relief; (d) and to enjoin Ford Motor company from selling vehicles of this or any other model years, with the same or similar construction of the Speed Control Deactivation Switch.

PARTIES

5. Plaintiffs MICHAEL T. ILEY and MARLA K. ILEY (“The Ileys”) are residents of Largo, Pinellas County, Florida, who jointly purchased a Model Year 2000, Ford F-150 Supercab Pick-up truck in January 2000. This vehicle was equipped with

Cruise Control. The vehicle was purchased in Pinellas County, Florida, and was at all times relevant to this complaint and the allegations herein, in the use and possession of The Ileys.

6. Defendant FORD MOTOR COMPANY (“Ford”) is a corporation organized under the laws of the state of Delaware, and maintains its principal executive offices in Dearborn, Michigan. Ford is the world’s largest truck maker, and the second largest maker of cars and trucks. Ford is registered to do business in Florida, and does conduct business in Florida, with hundreds of retail sales franchises in this State. At all times relevant to this complaint and the allegations herein, Ford was in the business of designing, manufacturing, distributing, advertising, marketing and selling motor vehicles.

7. Defendant KARL FLAMMER FORD, INC. (“Flammer”) is a Florida Corporation, with its principal place of business in Tarpon Springs, Florida. Flammer is in the business of distributing, selling and servicing new motor vehicles manufactured by Ford, and operates as a dealership for the sale of new Ford vehicles.

JURISDICTION AND VENUE

8. This Court has personal jurisdiction over Defendants who transact business in this county and who systematically, intentionally, and continuously do business in this State. The Court has personal jurisdiction over the Plaintiffs who are citizens of Florida and who reside in Pinellas County, Florida.

9. Venue is properly in this Court because this case arises out of transactions conducted and breaches occurring within this state. A substantial part of the facts giving rise to this action occurred in Pinellas County, Florida. Flammer is in the business of distributing Ford motor vehicles in Pinellas County, Florida, and to purchasers from the

surrounding area; as a result of the distribution, delivery and sales of Ford's products through Flammer and other dealers to purchasers within Pinellas County, and throughout the State of Florida, including Plaintiffs and members of the proposed Class, Ford, directly or through subsidiaries, affiliates or agents, obtained the benefits of the laws of the State of Florida. Defendants have received substantial compensation and profits from the use of and sale of their products in this County and in the State of Florida.

FACTUAL ALLEGATIONS

10. The Ileys purchased their 2000 Ford F-150 Pick-up Truck, VIN # 1FTRX17L2YNA75886 from the Karl Flammer Ford, Inc., dealership, in Tarpon Springs, Florida, on January 4, 2000. The vehicle was financed through Ford Motor Credit Corporation. The Ileys resided in Pinellas County, Florida, at the same home throughout the time they owned this vehicle.

11. On January 22, 2003, at approximately 4:15 A.M., the Ileys received a call from a neighbor that their vehicle was in flames in the driveway next to the house. The Ford F-150 had been parked in the driveway, with the ignition turned off and the keys removed for approximately 12 hours before the fire was discovered. They observed that the Ford F-150 vehicle was engulfed in flames, and their other vehicle, a 1998 Pontiac Transport Minivan, parked next to the Ford was also being damaged by the flames from the Ford. The family safely evacuated the house.

12. The Ford truck had been parked out of the garage, on the driveway just outside of the garage door. The flames from the burning vehicle damaged the adjacent garage door, melted vinyl siding on the residence, and damaged the eaves of the house, and the surrounding driveway and landscaping.

13. The Ileys' neighbors had phoned the fire department as they phoned the Ileys to warn them of the fire, and soon, the fire department arrived to extinguish the fire of the Ford Pick-up truck and the house. Plaintiff, Michael T. Iley removed the mini-van from the driveway and was able to save it from being completely consumed by the fire in the Pick-up truck.

14. Investigation conducted by representatives for the Ileys' insurance companies determined that the origin of the fire in the Ford F-150 pick-up truck was the speed control deactivation switch. The truck and its contents were a total loss. Additionally, there was damage to the house and property, and to the other vehicle caused by the fire in the Ford F-150.

15. On January 23, 2003, the fire investigator working on the Ileys' insurance claims had determined that there were similar reported incidents of spontaneous fires in cold, non-running Ford vehicles. However, there was no recall issued by Ford because of this situation until January 27, 2005. NHTSA reports indicate that approximately 218 similar events of fires from cruise control switches in Ford trucks and SUV's have been reported.

CLASS REPRESENTATION ALLEGATIONS

16. Plaintiffs bring this action pursuant to Fl.R.Civ.P. 1.220(B)(1) on behalf of a class of all persons and entities nationwide who purchased Ford F-150 Pick-up trucks, Ford Expeditions and Lincoln Navigators, model year 2000, with the Cruise Control option. The class includes both persons who experienced or incurred damages to their vehicle or to other property caused by the defective speed control deactivation switch, as well all other persons who own vehicles within the described models.

17. The Class is composed of numerous persons and entities throughout the United States. The joinder of all class members individually in one action would be impracticable, and the disposition of their claims in one action will provide benefits to both the parties and the Court. The class is sufficiently numerous for class treatment, as Ford and NHTSA public information indicate there are close to 800,000 effected vehicles in the United States.

18. Plaintiffs are asserting claims typical of the claims of the class. Plaintiffs and all members of the proposed Class sustained damages that were directly caused by Ford's placement of the defective switch, and in the design of their vehicle's operation and in the design of the cruise control. Plaintiffs have no interests that are in conflict with or are antagonistic to the interests of class members and have retained counsel competent and experienced in class actions, including consumer product class actions.

19. Class representation is superior to other available methods for the fair and efficient adjudication of this controversy. Since the damages suffered by individual class members may be relatively small, the expense and burden of individual litigation makes it impracticable for the class members individually to seek redress for the wrongful conduct alleged herein.

20. There are numerous and substantial questions of law and fact common to the claims of Plaintiffs individually and all of the members of the Class, which will control this litigation and which will predominate over any individual issues. Included within the common questions of law and fact are:

a. Whether the speed control deactivation switches installed by Ford in F-150 Pick-up Trucks, Ford Expeditions and Lincoln Navigators are defective;

b. Whether the Plaintiffs and the members of the Class have sustained damages and the proper measure of those damages;

c. Whether the defendants breached any express or implied warranties in connection with its manufacture and sale of these vehicles with cruise control installed in the vehicles.

d. Whether Ford acted negligently;

e. Whether members of the Class are entitled to punitive damages and, if so, the extent of such damages.

21. The claims of the plaintiffs are typical of the claims of the Class, but not exclusive.

22. Plaintiffs have no interests adverse to the interests of other members of the Class.

COUNT I – BREACH OF IMPLIED WARRANTY

23. Plaintiffs incorporate paragraphs 1 through 22 as if fully restated herein.

24. Plaintiffs purchased a vehicle, manufactured by Defendant Ford, distributed by Defendant Flammer. Other members of the class described have purchased Ford vehicles, some distributed by Flammer, and others distributed by other similar dealers or distributors.

25. Defendants knew that Plaintiffs and the Class they represent were foreseeable users of their vehicles, and in fact marketed these vehicles to be sold to American Consumers, spending millions of dollars in advertising on a national and local level to tout their vehicles to intended purchasers. Defendants made numerous claims and

representations as to the quality of the vehicles they offered for sale, as well as to the fitness of the vehicles for use by Plaintiffs and Class Members for their intended purposes.

26. Plaintiffs and other members of the class used their vehicles as intended, for transportation, and in other manners depicted by Defendants in their advertising, and for other such uses of travel and transportation in which consumers use and are intended to use motor vehicles.

27. Plaintiffs made no changes or alterations to the engine and operational parts of the Cruise Control System or the speed control deactivation switch. The switch was defective as sold to Plaintiffs and installed on their vehicle and the vehicles of the class members. The defect in the switch is known to Defendant Ford to overheat, smoke and cause fires beneath the hoods of vehicles of the same or similar model as that of the Plaintiffs. In fact, Ford has issued a recall because of this danger.

28. As a result, Plaintiffs and Class members have been damaged, including inconvenience and cost of replacement of the defective switch, and for some, destruction of the vehicle because of fire, and destruction of other items of property adjacent to the fire or items of property that were within the vehicle when it burned.

COUNT II – STRICT LIABILITY

29. Plaintiffs incorporate paragraphs 1 through 22 as if fully restated herein.

30. Defendant Ford is in the business of manufacturing motor vehicles and together with Dealers and distributors, like Defendant Flammer, is in the business of placing these vehicles on the market for sale to consumers.

31. Defendants placed the vehicles described in paragraph 1 of this complaint in to the stream of commerce.

32. These vehicles are in a defective condition, and are unreasonably dangerous, and were dangerous when they left Defendants' control. The vehicles were sold to Plaintiffs and class members in this dangerous condition, caused by the defective speed deactivation switch, and its placement and design in the engine compartment of these vehicles.

33. Under normal conditions, usage and applications, the vehicles should not spontaneously combust into flames, especially not when the vehicles are in the parked and off position.

34. The defect in the vehicles caused damages to Plaintiffs and class members, including but not limited to repair or replacement of the defective parts, total destruction and loss of the vehicle, its contents, and surrounding personal property or real property and fixtures and appurtenances.

COUNT III - NEGLIGENCE

35. Plaintiffs incorporate paragraphs 1 through 22 as if fully restated herein.

36. Defendants knew or should have known that the speed control deactivation switches it designed and placed in the described vehicles, and manufactured, tested, marketed or sold, in their ordinary and foreseeable use, would fail to perform as intended in motor vehicles.

37. Defendants have a duty to disclose to the public the defective nature of these switches and the resulting dangerous conditions that may occur because of these defective switches.

38. Defendants failed to use reasonable care with respect to the design, development, manufacture, production, testing, inspection, marketing or sale of the vehicles with cruise control and these speed control deactivation switches.

39. Defendants' negligence directly and proximately caused the harm suffered by Plaintiffs and Class Members.

40. As a direct and proximate result of the Defendants' negligence, Plaintiffs and Class Members have suffered or will suffer damages, which include costs to inspect, repair or replace their speed control deactivation switches and systems, and to replace or repair other damaged property, in an amount to be determined at the trial of this cause.

**COUNT IV – VIOLATION OF THE FLORIDA DECEPTIVE
AND UNFAIR TRADE PRACTICES ACT**

41. Plaintiffs incorporate paragraphs 1 through 22 as if fully restated herein.

42. Plaintiffs and Class Members are "consumers" within the meaning of §501.201 Florida Statutes, the Florida Deceptive and Unfair Trade Practices Act ("FDUPTA").

43. Defendants designed, manufactured and marketed the Ford automobiles, as safe, durable, sturdy, reliable and trustworthy. Ford established for itself a reputation in American Commerce, which connotes that Ford products would offer protection and reliability to American families owning its products. Defendants failed to state in their marketing that there was a danger that, even when not operational in turned off, the vehicles could spontaneously catch fire in the engine compartment because of defective design, manufacture or placement of the speed deactivation control switch. These facts constitute unfair, unconscionable and deceptive trade practices.

44. Defendants intentionally misled Plaintiffs and Class Members by failing to warn them of this defect, and that such defect could lead to the loss of the vehicle and other items of property, or even personal injury.

45. Plaintiffs and Class Members have been damaged in the amount of the purchase price of the vehicles as a result of their reliance on Defendants' false and deceptive representations as to the reliability, safety and design of the vehicles. Plaintiffs and Class Members seek to be made whole and claim damages pursuant to §501.211, Florida Statutes, plus attorney's fees and court costs pursuant to the provisions of §501.2105, Florida Statutes.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs, on behalf of themselves and on behalf of the members of the Class defined herein, pray for judgment and relief as follows:

1. The Court adjudge and decree that the proposed class be certified pursuant to Rule 1.220, Fl.R.Civ.P.; Plaintiffs are adequate representatives of the class, as above defined, and that notice of this action be given to the class in the most effective and practicable manner;

2. The Court appoint and designate the undersigned counsel as Class Counsel;

3. The Court enter judgment for the Plaintiffs and the Class, and award compensatory damages, interest and costs; which include costs to inspect, repair or replace their speed control deactivation switches and systems, and to replace or repair other damaged property, in an amount to be determined at the trial of this cause.

4. The Court enter an injunction against Defendants, and order them to recall Ford F-150, Lincoln Navigator and Ford Expedition vehicles of the 2000 model year, wherever they were manufactured;

5. The Court find that Defendants violated the Florida Deceptive and Unfair Trade Practices Act, §§501.201, *et seq.*, Florida Statutes, and award them damages, attorney's fees and costs pursuant to those provisions;

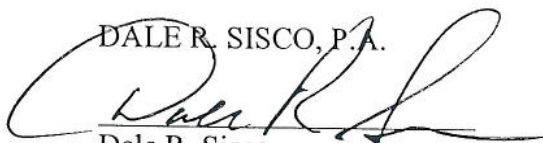
6. The Court award Plaintiffs and the Class reasonable attorney's fees, costs, and expenses incurred in connection with this suit.

7. The Court award all other equitable relief as it deems appropriate.

JURY DEMAND

PLAINTIFFS, on behalf of themselves and all others similarly situated, demand trial by jury on all issues triable at law.

Respectfully Submitted,

DALE R. SISCO, P.A.


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NO. 2005-55084

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ABEL SANCHEZ and CULEMA
SANCHEZ, Individually, and on behalf of
all others similarly situated

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IN THE DISTRICT COURT OF

v.

HARRIS COUNTY, TEXAS

FORD MOTOR COMPANY, a Delaware
corporation

215 JUDICIAL DISTRICT

PLAINTIFFS' ORIGINAL PETITION

COMES NOW ERIC MOORE, HARDY POLLARD, and ABEL SANCHEZ and
CULEMA SANCHEZ, Individually and on behalf of all others similarly situated, complaining of
FORD MOTOR COMPANY, a Delaware corporation, Defendant herein, and for cause of action
say:

Discovery Level

Plaintiffs intend to conduct discovery under Level 3 of Rule 190 of the Texas Rules of
Civil Procedure.

Jurisdiction

This Court has jurisdiction over the case at bar for at least the following reasons:

- (a) At all times material heretofore, Defendant Ford Motor Company was doing business in the State of Texas and maintained sufficient minimum contacts with Texas such that the exercise of in personam jurisdiction over said Defendant would not offend traditional notions of fair play and substantial justice.
 - (1) Defendant Ford Motor Company maintained sufficient minimum contacts with Texas to support the exercise of general jurisdiction over said Defendant.
 - (2) The controversy in the case at bar arose out of the business Defendant Ford was doing in Texas and Defendant Ford's contacts with Texas support the exercise of specific jurisdiction over said Defendant.

Venue

Venue over the case at bar lies in this county for at least the following reasons:

- (a) all or a substantial part of the events or omissions giving rise to Plaintiff Pollard's claims occurred in this county;
- (b) the case at bar includes a breach of warranty by a manufacturer of consumer goods and all or a substantial part of the events or omissions giving rise to Plaintiff Pollard's claims occurred in this county;
- (c) the case at bar includes a breach of warranty by a manufacturer of consumers goods and Plaintiff Hardy Pollard resided in this county at the time the cause of action accrued.

Venue Over the Claims of the Remaining Plaintiffs

1. All Plaintiffs are asserting claims arising out of the same series of transactions or occurrences. Further, questions of law, fact, or both, common to the claims of both Plaintiff Pollard and the remaining plaintiffs will arise in the case at bar. Common fact questions include facts regarding the method of manufacture of the vehicles in question, regarding knowledge of defects in such vehicles, the existence of defects in such vehicles, and other fact questions. Common questions of law include whether Defendant breached warranties, causation, and other questions of law. Thus, joinder of the claims of Plaintiff Pollard and the remaining plaintiffs is proper under the Texas Rules of Civil Procedure.

2. Maintaining venue in Harris County, Texas over the remaining plaintiffs' claims would not unfairly prejudice any other party to the case at bar. Plaintiff Pollard independently established venue of his claims. Thus, trial of Plaintiff Pollard's claims will occur in Harris County, Texas. Harris County, Texas encompasses Houston, Texas, the fourth largest city in the United States. Travel in and out of Houston, Texas is readily available, through two separate airports and other means. Vast resources are available to litigants in Houston, Texas. Thus, no

other party to the case at bar would be unfairly prejudiced in their ability to try their lawsuit in Harris County, Texas.

3. There is an essential need to have the remaining plaintiffs' claims in the case at bar tried in Harris County, Texas. Many of the fact and expert witnesses will be called to testify in Plaintiff Pollard's claims, which will be tried in Harris County, Texas. Requiring such witnesses to testify repeated times in other counties would substantially increase the expenses of both Plaintiffs and Defendants. The undersigned attorneys, located in Harris County, Texas, represent both Plaintiff Pollard and all remaining plaintiffs in the case at bar. Further, the expenses of suit would be greatly increased by having to try one case in Harris County, Texas, and other cases in other counties. In fact, the remaining Plaintiffs could not present the evidence necessary to prove their claims in any county other than Harris County, Texas.

4. For the reasons set forth in Paragraph 2 immediately above, as well as other reasons, Harris County, Texas is a fair and convenient venue for the remaining plaintiffs and Defendants.

5. For the foregoing reasons, venue over the claims of the remaining plaintiffs lays in Harris County, Texas. Tex. Civ. Prac. & Rem. Code Ann. § 15.003(a). For the same reason, venue over the claims of all members of the proposed class lays in Harris County, Texas.

Parties

1. PLAINTIFF ERIC MOORE (hereinafter "Plaintiff Moore") is an individual residing in Fort Worth, Tarrant County, Texas.

2. PLAINTIFF HARDY POLLARD (hereinafter "Plaintiff Pollard") is an individual residing in Houston, Harris County, Texas.

3. PLAINTIFFS ABEL SANCHEZ and CULEMA SANCHEZ (hereinafter “Plaintiffs Sanchez”) are individuals residing in Rosenberg, Fort Bend County, Texas.

4. Plaintiff Moore, Plaintiff Pollard and Plaintiffs Sanchez shall hereinafter, jointly and severally, be referred to as “Plaintiffs.” As used herein, the term “Plaintiffs” shall also include the Class Members, as defined below.

5. DEFENDANT FORD MOTOR COMPANY (hereinafter “Defendant” or “Defendant Ford”) is, and at all times material hereto was, a corporation organized under the laws of the State of Texas; and may be served with process by serving its registered agent for service, CT Corporation System, at 350 N. St. Paul Street, Dallas, Texas 75201.

Statement of Facts Applicable to All Counts

1. Defendant Ford installed a defective cruise control deactivation switch (hereinafter “cruise control deactivation switch,” or “speed control deactivation switch”) on various of its vehicles, including Ford F-150 Pickup Trucks(model years 1995 through 2002), Ford Expeditions and Lincoln Navigators(model years 1997 through 2002). This may include as many as 3.7 million vehicles. Ford mounted such cruise control deactivation switch to the Brake Master Cylinder under the hoods of the described vehicles. Because Defendant Ford designed and manufactured such vehicles so that the circuit feeding such cruise control deactivation switch is energized at all times, regardless of whether the driver engaged the cruise control or whether the vehicle is even running, such switch can overheat and cause a fire at any time. Additionally, even though said cruise control deactivation switch requires only ½ amp of power to operate, Defendant Ford designed the subject vehicles so that such switches continually received 15 amps of power. For either or both of these reasons, among others, such switch can overheat and cause a fire even when the driver parked and left the vehicle on the street or in his or her garage.

Further, because the cruise control deactivation switch is in close proximity to the plastic brake fluid receptacle, the overheating is particularly dangerous because such overheating will tend to melt the plastic brake fluid receptacle, causing the overheating switch to come into contact with the flammable brake fluid, in turn causing the brake fluid to spread throughout the engine compartment, resulting in a quickly spreading fire.

2. On or about January 27, 2005, because of the foregoing defect switch, Defendant Ford recalled approximately 800,000 vehicles. Defendant Ford limited its recall to Ford F-150 Pickups, Ford Expeditions and Lincoln Navigators (model year 2000); and Super Crew Vehicles (model years 2000 and 2001). As a part of such recall, the recalled vehicles must be taken to a Ford dealership, where the cruise control function will be disabled to avoid these fires. The vehicle will then be retrofitted with a redesigned cruise control deactivation switch.

3. There have been many reported incidents of spontaneous fires in cold, non-running Ford vehicles, including but not limited to those described above. The National Highway Traffic Safety Administration (NHTSA) reports indicate that at least 218 similar events of fires from cruise control deactivation switches in Ford Trucks and SUV's have been reported. In addition to the recalled vehicles, the NHTSA has reported that it is investigating more than 3.7 million vehicles manufactured by Ford for a defect in the cruise control deactivation switch, because the design of the cruise control deactivation switch in such vehicles are substantially similar to the design of the speed control deactivation switch in the recalled vehicles, and because of the reports of more than 200 engine fires in the non-recalled vehicles. The vehicles the NHTSA is investigating include Ford F-150 and F-150 LD vehicles (model years 1995-1999 and 2001-2002); and Ford Expeditions and Lincoln Navigators (model years 1997-1999 and 2001-2002). Plaintiffs believe that there are in excess of 16 million vehicles manufactured by

Defendant Ford with the aforesaid defective cruise control deactivation switch in use today. In addition to the aforesaid vehicles, Defendant Ford installed the same, or substantially similar, cruise control deactivation switches on at least the following vehicles: Mark VII/VIII (model years 1994-1998); Taurus/Sable and Taurus SHO 2.3 L (model years 1993-1995); Econoline (model years 1992-2003); F-Series (model years 1993-2003); Windstar (model years 1994-2003); Explorer without IVD (model years 1995-2003); Explorer Sport/Sport Trac (model years 2002-2003); Expedition (model years 1997-2003); and Ranger (model years 1995-2003).

4. In addition to the makes and models of vehicles Defendant Ford recalled, as described above, Defendant Ford used the same, or substantially the same, cruise control deactivation switch in other makes and models of vehicles said Defendant manufactured, including but not limited to those described in the class definition herein, all of which are at an increased risk of catching fire as a result of the use of such cruise control deactivation switch.

5. Starting long before the manufacture of the aforesaid vehicles, Defendant Ford knew that there were problems with the aforesaid cruise control deactivation switch. In 1999, Defendant Ford recalled over 250,000 1992 and 1993 Ford Crown Victorias, Lincoln Town Cars and Mercury Grand Marquises because of the same or a similar problem. Although Defendant Ford knew that there was a problem with the subject cruise control deactivation switch in the aforesaid 1992 and 1993 vehicles, it used the same or similar design in the Ford vehicles the subject of this lawsuit.

6. Despite its awareness of the foregoing defects in, and problems with, the subject Ford vehicles, Defendant Ford represented to Plaintiffs that the Ford vehicles were safe on a continuing basis through various forms of advertising. Defendant Ford made, and continued to

make, such representations even though it knew that the subject vehicles could burst into flames at any time because of the design of the subject cruise control deactivation switch.

7. Defendant Ford engaged in a pattern of representations regarding the subject vehicles which were intended to, and which did in fact, cause consumers to believe that such vehicles were safe, with representations in print, radio, television and internet advertising proclaiming that such vehicles were “Built Ford Tough,” stating that Ford is a family that cherishes the safety of its customers, and that Defendant Ford is “committed to putting the safest vehicles on the road.”

8. Defendant Ford, instead of being committed to putting the safest vehicles on the road, instead intentionally put vehicles on the road that had a known defect with a potential to cause fires that would damage not only the vehicle and other property, but that would injure or kill its customers.

9. Defendant Ford concealed the aforesaid defects in, and problems with, the aforesaid vehicles from the public, Plaintiffs and Class Members.

10. Defendant placed the vehicles in question into the stream of commerce.

11. Plaintiffs made no material alterations to their respective vehicles between the time they purchased them and the time of their respective fires. Their respective vehicles were in substantially the same condition at the time of their respective fires as they were in at the time they left the control of Defendant.

12. Plaintiffs used their respective vehicles for the use for which they were intended.

13. Plaintiffs purchased their respective vehicles in question.

Sub-Statement of Facts Applicable to Plaintiff Moore

1. In the early morning hours of September 11, 2004, Plaintiff Moore's 2000 Ford Expedition, parked and not running, caught fire. Plaintiff Moore, awakened by a neighbor, awoke to find such Ford Expedition engulfed in flames.

2. A 2000 Dodge Neon belonging to Plaintiff Moore's girlfriend was parked in front of his Expedition. At the time Plaintiff Moore first saw his Expedition engulfed in flames, the rear of his girlfriend's Neon had already suffered substantial damage. Plaintiff Moore moved said Neon to prevent further damage to it.

3. The cruise control on such vehicle had ceased functioning about one or two weeks prior to this fire.

4. Plaintiff Moore's Expedition was totally destroyed by the fire.

Sub-Statement of Facts Applicable to Plaintiff Pollard

1. On or about October 26, 2004, Plaintiff Pollard's 2000 Ford Expedition, parked in a parking lot, spontaneously caught fire. Such fire destroyed Plaintiff Pollard's Expedition, along with personal belongings he had in it.

2. Shortly before the aforesaid fire, the cruise control on Plaintiff Pollard's Expedition ceased to function properly. Additionally, the rear wiper also ceased functioning properly.

Sub-Statement of Facts Applicable to Plaintiffs Sanchez

1. On or about September 16, 2004, Plaintiffs Sanchez's 2001 Ford F150 Supercrew truck, parked in a parking lot, spontaneously caught fire. Such fire totally destroyed Plaintiffs Sanchez's F150.

Count One

For strict liability cause of action against Defendant Ford, Plaintiffs say:

1. Plaintiffs hereby adopt by reference each and every Paragraph of the Statement of Facts Applicable to All Counts of this Petition as if fully copied and set forth at length herein.

2. At all times material hereto, Defendant Ford was in the business of designing, manufacturing, marketing and/or selling vehicles.

3. The vehicles in question, including but not limited to those belonging to the named Plaintiffs, and to the Class Members, reached the consumers in substantially the same condition as when they left the control of Defendant Ford.

4. There were no mandatory safety standards or regulations adopted and promulgated by the federal government, or an agency of the federal government, that were applicable to the design cruise control deactivation switch, or the design of its incorporation into the vehicles in question, at the time of their respective manufacture and that governed the product risk that caused Plaintiffs' harm.

5. In the alternative, if there were applicable safety standards or regulations, Defendant's design failed to comply with same.

6. In the alternative, if there were such applicable safety standards or regulations that Defendant's design complied with:

- (a) such safety standards or regulations were inadequate to protect the public from unreasonable risks of injury or damage; or
- (b) Defendant, before or after marketing the vehicles in question, withheld or misrepresented information or material relevant to the federal government's or agency's determination of the adequacy of any such safety standards or regulations.

7. The vehicles in question, including but not limited to those belonging to the named Plaintiffs, and to the Class Members, were defective in one or more of the following particulars, among others:

- (a) in designing the cruise control deactivation switch such that it received continual power;
- (b) in designing the cruise control deactivation switch so that it received far more power than was necessary for such switch to properly function;
- (c) in designing the cruise control deactivation switch so that it was in close proximity to the master cylinder brake fluid container;
- (d) in designing the vehicle so that the master cylinder brake fluid container was made out of a substance that could not withstand the heat generated by the cruise control deactivation switch;
- (e) in failing to design the vehicle so that the cruise control deactivation switch would deactivate if it reached a heat or resistance that could cause a fire, such as a fuse that would blow at such point, or some other method;
- (f) failing to inform the Plaintiffs of the aforesaid risk of fire.

8. The aforesaid defects rendered the products in question unreasonably dangerous.

9. One or more safer alternative designs were available to Defendant Ford. Such safer alternative designs would have prevented or significantly reduced the risk the injuries suffered by Plaintiffs. Furthermore, one or more of such safer alternative designs were economically and technologically feasible at the time the products in question left the control of Defendant Ford by the application of existing, or reasonably achievable, scientific knowledge.

10. Defendant Ford knew, or should have known, of the aforesaid fire hazard.

11. The aforesaid conditions were not observable by Plaintiffs, or the Class Members, who, lacking the technical knowledge and skill required to disassemble and examine the vehicles in question, relied on the duty of Defendant Ford to deliver the vehicles in

question at the time of sale by it in a condition fit for use for the purpose intended; and Plaintiffs were not aware of such defective conditions.

12. The defects in the aforesaid products, more particularly described above, were a producing cause of Plaintiffs' injuries and damages, more particularly described below.

13. By reason of the above and foregoing circumstances, among others, Defendant Ford is strictly liable for the injuries and damages caused Plaintiffs, more particularly set forth below, by the defects in the vehicles in question, more particularly set forth above, under Section 402A of the Restatement (Second) of Torts as adopted by the Supreme Court of Texas.

Count Two

For negligence cause of action against Defendant Ford, Plaintiffs say:

1. Plaintiffs hereby adopt by reference each and every Paragraph of the Statement of Facts Applicable to All Counts of this Petition as if fully copied and set forth at length herein.

2. Plaintiffs hereby adopt by reference Paragraphs Four, Five and Six of Count One of this Petition as if fully copied and set forth at length herein.

3. Defendant Ford owed Plaintiffs a duty to exercise ordinary care in designing, manufacturing, marketing and selling the vehicles in question.

4. Defendant Ford failed to exercise ordinary care in designing, manufacturing, marketing, and selling of the vehicles in question, did that which a reasonably prudent automobile manufacturer would not have done in the same or similar circumstances, failed to do that which a reasonably prudent automobile manufacturer would not have done under the same or similar circumstances, and was negligent in one or more of the following particulars, among others:

- (a) in designing the cruise control deactivation switch such that it received continual power;
- (b) in designing the cruise control deactivation switch so that it received far more power than was necessary for such switch to properly function;
- (c) in designing the cruise control deactivation switch so that it was in close proximity to the master cylinder brake fluid container;
- (d) in designing the vehicle so that the master cylinder brake fluid container was made out of a substance that could not withstand the heat generated by the cruise control deactivation switch;
- (e) in failing to design the vehicle so that the cruise control deactivation switch would deactivate if it reached a heat or resistance that could cause a fire, such as a fuse that would blow at such point, or some other method;
- (f) failing to inform the Plaintiffs and public of the aforesaid risk of fire.

5. Each and every one of the foregoing acts, omissions, or both, taken singularly or in any combination, proximately caused Plaintiffs' injuries and damages, more particularly set forth below.

Count Three

For breach of the implied warranty of merchantability cause of action against Defendant Ford, Plaintiffs say:

1. Plaintiffs hereby adopt by reference each and every Paragraph of the Statement of Facts Applicable to All Counts of this Petition as if fully copied and set forth at length herein.
2. Plaintiffs hereby adopt by reference Paragraphs Two, Three, Four, Five and Six of Count One of this Petition as if fully copied and set forth at length herein.
3. Defendant Ford sold or leased the vehicles in question to Plaintiffs.
4. The products in question were unmerchantable in one or more of the following particulars, among others:

- (a) in designing the cruise control deactivation switch such that it received continual power;
- (b) in designing the cruise control deactivation switch so that it received far more power than was necessary for such switch to properly function;
- (c) in designing the cruise control deactivation switch so that it was in close proximity to the master cylinder brake fluid container;
- (d) in designing the vehicle so that the master cylinder brake fluid container was made out of a substance that could not withstand the heat generated by the cruise control deactivation switch;
- (e) in failing to design the vehicle so that the cruise control deactivation switch would deactivate if it reached a heat or resistance that could cause a fire, such as a fuse that would blow at such point, or some other method;
- (f) failing to inform the Plaintiffs and public of the aforesaid risk of fire.

5. Plaintiffs notified Defendant Ford of the foregoing breaches of the warrant of merchantability.

6. The foregoing breaches of the implied warranty of merchantability were a producing cause of Plaintiffs' injuries and damages, more particularly set forth below.

Count Four

For breach of express warranty cause of action against Defendant Ford, Plaintiffs say:

1. Plaintiffs hereby adopt by reference each and every Paragraph of the Statement of Facts Applicable to All Counts of this Petition as if fully copied and set forth at length herein.

2. Plaintiffs hereby adopt by reference Paragraphs Four, Five and Six of Count One of this Petition as if fully copied and set forth at length herein.

3. Among other things, Defendant Ford made an affirmation of fact or promise that the vehicles in question were "Ford Tough," and were among the safest vehicles on the road.

4. Such representations were part of the basis of the bargain for the sale of the vehicles in question.

5. The vehicles in question failed to comply with the foregoing representations in one or more of the following particulars, among others:

- (a) in designing the cruise control deactivation switch such that it received continual power;
- (b) in designing the cruise control deactivation switch so that it received far more power than was necessary for such switch to properly function;
- (c) in designing the cruise control deactivation switch so that it was in close proximity to the master cylinder brake fluid container;
- (d) in designing the vehicle so that the master cylinder brake fluid container was made out of a substance that could not withstand the heat generated by the cruise control deactivation switch;
- (e) in failing to design the vehicle so that the cruise control deactivation switch would deactivate if it reached a heat or resistance that could cause a fire, such as a fuse that would blow at such point, or some other method;
- (f) failing to inform the Plaintiffs and public of the aforesaid risk of fire.

6. Each and every one of the foregoing breaches, taken singularly or in any combination, were a producing cause of Plaintiffs' injuries and damages, more particularly set forth below.

Count Five

For breach of the implied warranty of fitness for a particular purpose cause of action against Defendant Ford, Plaintiffs say:

1. Plaintiffs hereby adopt by reference each and every Paragraph of the Statement of Facts Applicable to All Counts of this Petition as if fully copied and set forth at length herein.

2. Plaintiffs hereby adopt by reference Paragraphs Two, Three, Four, Five and Six of Count One of this Petition as if fully copied and set forth at length herein.

3. At the time of contracting, Defendant Ford had reason to know the particular purpose for which Plaintiffs required their vehicles.

4. Plaintiffs relied on Defendant Ford's skill judgment in selecting and furnishing a suitable product.

5. The vehicles in question breached the implied warranty of fitness for a particular purpose in one or more of the following particulars, among others:

- (a) in designing the cruise control deactivation switch such that it received continual power;
- (b) in designing the cruise control deactivation switch so that it received far more power than was necessary for such switch to properly function;
- (c) in designing the cruise control deactivation switch so that it was in close proximity to the master cylinder brake fluid container;
- (d) in designing the vehicle so that the master cylinder brake fluid container was made out of a substance that could not withstand the heat generated by the cruise control deactivation switch;
- (e) in failing to design the vehicle so that the cruise control deactivation switch would deactivate if it reached a heat or resistance that could cause a fire, such as a fuse that would blow at such point, or some other method;
- (f) failing to inform the Plaintiffs and public of the aforesaid risk of fire.

6. The aforesaid breaches of the implied warranty of fitness for a particular purpose were a producing cause of Plaintiffs' injuries and damages, more particularly set forth below.

Count Six

For fraud cause of action against Defendant Ford, Plaintiffs say:

1. Plaintiffs hereby adopt by reference each and every Paragraph of the Statement of Facts Applicable to All Counts of this Petition as if fully copied and set forth at length herein.

2. Plaintiffs hereby adopt by reference Paragraphs Four, Five and Six of Count One of this Petition as if fully copied and set forth at length herein.

3. Defendant Ford represented, among other things, that the vehicles in question were “Ford Tough,” or were among the safest on the road. Such representations were material.

4. The aforesaid representations were false.

5. At the time Defendant Ford made such representations, it either knew they were false, or made such representations recklessly without any knowledge as to whether they were true, and made them as positive assertions.

6. Defendant Ford made such representations with the intent that the public, including Plaintiffs, would act upon them.

7. Plaintiffs acted in reliance on such representations.

8. As a proximate result of the foregoing representations, Plaintiffs suffered injuries and damages, more particularly set forth below.

Count Seven

For negligent misrepresentation cause of action against Defendant Ford, Plaintiffs say:

1. Plaintiffs hereby adopt by reference each and every Paragraph of the Statement of Facts Applicable to All Counts of this Petition as if fully copied and set forth at length herein.

2. Plaintiffs hereby adopt by reference Count Six of this Petition as if fully copied and set forth at length herein.

3. Plaintiffs hereby adopt by reference Paragraphs Four, Five and Six of Count One of this Petition as if fully copied and set forth at length herein.

4. Defendant Ford made the foregoing representations in the course of its business.
5. Such representations were false.
6. Defendant Ford failed to exercise reasonable care or competence in obtaining and/or communicating such information.
7. Plaintiffs suffered pecuniary loss, more particularly described below, when they justifiably relied on such information.

Count Eight

For Texas Deceptive Trade Practices Act cause of action against Defendant Ford, Plaintiffs say:

1. Plaintiffs hereby adopt by reference each and every Paragraph of the Statement of Facts Applicable to All Counts of this Petition as if fully copied and set forth at length herein.
2. Plaintiffs hereby adopt by reference Paragraphs Four, Five and Six of Count One of this Petition as if fully copied and set forth at length herein.
3. Plaintiffs hereby adopt by reference Counts Three, Four, Five and Six of this Petition as if fully copied and set forth at length herein.
4. Defendant Ford engaged in at least the following false, misleading and/or deceptive acts or practices in the conduct of its trade or commerce, among others:
 - (a) represented that the vehicles in question had characteristics and/or benefits that they did not have;
 - (b) represented that the vehicles in question were of a particular standard, quality and/or grade, when they were of another;
 - (c) failed to disclose information concerning the vehicles in question which were known at the time of the sale of such vehicles with the intent to induce Plaintiffs, and the public, into transactions into which they would not have entered had the information been disclosed.

5. Plaintiffs were consumers within the meaning of the Texas Deceptive Trade Practices Act.

6. Plaintiffs relied upon the aforesaid representations, and failure to disclose, to their detriment.

7. As more particularly described above, Defendant breached implied and/or express warranties.

8. Defendant engaged in unconscionable action, and an unconscionable course of action.

9. Defendant engaged in the aforesaid conduct knowingly. At the time of the aforesaid acts and/or practices, Defendant knew of the falsity, deception and/or unfairness of such acts or practices. Defendant also knew of the acts, practices, conditions, defects and/or failures that constituted the breach of warranty.

10. Defendant engaged in the aforesaid conduct intentionally. In addition to being aware of the falsity, deception and/or unfairness of the aforesaid acts or practices and/or of the condition, defect and/or failure constituting the breach of warranty, Defendant specifically intended that Plaintiffs act in detrimental reliance on Defendant's falsity or deception, or in detrimental ignorance of the unfairness.

11. The vehicles in question constitute goods within the meaning of the Texas Deceptive Trade Practices Act.

12. As more particularly described above, Defendant engaged in one or more unconscionable actions and/or course of action. Such action or actions took advantage of the Plaintiffs', and Class Members, lack of knowledge, ability, experience and/or capacity to a grossly unfair degree.

13. The aforesaid violation or violations of the Texas Deceptive Trade Practices Act constituted a producing cause of Plaintiffs' injuries and damages, more particularly described below.

14. By reason of Defendant's breach of the Texas Deceptive Trade Practices Act, Plaintiffs are entitled to recover for:

- (a) their respective economic damages;
- (b) court costs;
- (c) reasonable and necessary attorney's fees.

15. Because Defendant engaged in the aforesaid conduct knowingly, Plaintiffs are also entitled to recover damages for:

- (a) mental anguish;
- (b) up to three times the amount of their economic damages.

16. Because Defendant engaged in the aforesaid conduct intentionally, Plaintiffs are also entitled to recover damages for:

- (a) mental anguish;
- (b) up to three times the amount of their economic damages;
- (c) up to three times the amount of damages for mental anguish.

Res Ipsa Loquitur

Plaintiffs cannot more specifically allege the acts of negligence on the part of Defendant, for the reason that the facts in that regard are peculiarly within the knowledge of Defendant, and, in the alternative, in the event Plaintiffs are unable to prove specific acts of negligent manufacture, marketing or design, Plaintiffs rely on the doctrine of *res ipsa loquitur*. In this connection, Plaintiffs will show that the manufacture and design of the the vehicles in

question were within the exclusive control of Defendant. Plaintiffs have no means of ascertaining the method or manner in which the vehicles in question were manufactured, marketed and designed, and they came into Plaintiff's possession in the same condition as they were in when they left the control of Defendant. The occurrences causing harm to Plaintiffs, as described above, were ones which, in the ordinary course of events, would not have occurred without negligence on the part of Defendant. Thus, Defendant was negligent in the manufacture, marketing and/or design of the vehicles in question, which negligence was a proximate cause of Plaintiffs'

Class Allegations

1. Plaintiffs adopt by reference each and every Paragraph of the Statement of Facts Applicable to All Counts of this Petition as if fully copied and set forth at length herein.
2. Plaintiffs adopt by reference each and Count of this Petition as if fully copied and set forth at length herein.
3. The prosecution of such individual claims will advance the claims of the class. For example, discovery conducted in such individual claims can be used to prosecute the claims of the class.
4. The Court can certify some issues as one type of class action, and certify other issues under a different type of class action. Thus, in the alternative, trying each class members damages issues separately, or in groups of class members making identical claims, allows multiple trials, like multiple trades in the market place, to determine the "price" of each type of claim. Consequently, in the alternative to seeking class certification of all issues and claims, Plaintiffs seek certification of as many issues and claims as are appropriate. Additionally, Plaintiffs seek class certification under each type of class in the alternatively.

5. The alternative to a class action is the trial of thousands of individual claims of the members of the proposed class. Such individual trials would result in substantial additional expense to individual members of the proposed class, as well as to the judicial system itself. Further, the trial of such individual claims would create inefficiencies in the judicial system. Finally, the amount of each claim would not support the costs necessary to prosecute each such claim individually.

Class Definition

1. Plaintiffs seek class treatment of a part of the claims brought in the case at bar.

Thus, Plaintiffs seek certification of the following or similar class:

Persons who purchased one of the following vehicles in Texas that suffered a fire in its engine compartment: Ford F-150 Pickup Trucks(model years 1995 through 2002), Ford Expeditions(model years 1995-2003), Lincoln Navigators(model years 1997 through 2002), Super Crew Vehicles (model years 2000 and 2001), F-150 LD vehicles (model years 1995-1999 and 2001-2002); Mark VII/VIII (model years 1994-1998); Taurus/Sable and Taurus SHO 2.3 L (model years 1993-1995); Econoline (model years 1992-2003); F-Series (model years 1993-2003); Windstar (model years 1994-2003); Explorer without IVD (model years 1995-2003); Explorer Sport/Sport Trac (model years 2002-2003); or Ranger (model years 1995-2003)(herein referred to as “the vehicles in question.”).

Plaintiffs, also, ask the Court to divide the class into the following subclasses:

- (a) Persons who purchased a Ford F-150 Pickup Truck(model years 1995 through 2002) in Texas that suffered a fire in its engine compartment;
- (b) Persons who purchased a Ford Expedition(model years 1995-2003) in Texas that suffered a fire in its engine compartment;
- (c) Persons who purchased a Lincoln Navigator(model years 1997 through 2002) in Texas that suffered a fire in its engine compartment;
- (d) Persons who purchased a Super Crew Vehicle (model years 2000 and 2001) in Texas that suffered a fire in its engine compartment;
- (e) Persons who purchased a F-150 LD vehicle (model years 1995-1999 and 2001-2002) in Texas that suffered a fire in its engine compartment;

- (f) Persons who purchased a Mark VII/VIII (model years 1994-1998) in Texas that suffered a fire in its engine compartment;
- (g) Persons who purchased a Taurus/Sable or Taurus SHO 2.3 L (model years 1993-1995) in Texas that suffered a fire in its engine compartment;
- (h) Persons who purchased an Econoline (model years 1992-2003) in Texas that suffered a fire in its engine compartment;
- (i) Persons who purchased an F-Series vehicle(model years 1993-2003) in Texas that suffered a fire in its engine compartment;
- (j) Persons who purchased a Windstar (model years 1994-2003) in Texas that suffered a fire in its engine compartment;
- (k) Persons who purchased an Explorer without IVD (model years 1995-2003) in Texas that suffered a fire in its engine compartment;
- (l) Persons who purchased an Explorer Sport/Sport Trac (model years 2002-2003) in Texas that suffered a fire in its engine compartment;
- (m) Persons who purchased a Ranger (model years 1995-2003) in Texas that suffered a fire in its engine compartment.

Numerosity

1. The Class is so numerous that joinder of all members is impracticable.
2. Plaintiffs believe that thousands of persons purchased the vehicles in question in Texas.
3. Considerations of judicial economy, geographic location of class members, and the inability of class members to prosecute their individual claims, also, make joinder of all class members impracticable.

Common Questions of Law and/or Fact

1. There are questions of law and/or fact that are common to the Class.
2. Common fact questions include facts regarding the method of manufacture of the vehicles in question, regarding knowledge of defects in such vehicles, the existence of defects in

such vehicles, whether Defendants made an affirmation of fact or promise relating to the vehicles, whether such affirmations of fact or promise became a part of the basis of the bargain, whether the class relied on such affirmations of fact or promise, whether the vehicles failed to comply with such affirmations of fact or promise, whether each class member was injured by such failure to comply with the affirmations of fact or promise, and other fact questions.

3. Common questions of law include whether Defendants breached warranties, causation, and other questions of law.

Typicality

1. The claims of the named Plaintiffs (the representative parties) are typical of the claims of all Class Members.

Fair and Adequate Representation

1. The named Plaintiffs (the representative parties) will fairly and adequately protect the interests of the Class.

2. If appointed class counsel, the undersigned attorneys would fairly and adequately represent the interests of the class.

3. The undersigned attorneys have done extensive work in identifying and investigating potential claims in the action.

4. The undersigned attorneys have extensive experience in handling complex litigation, and claims of the type asserted in this lawsuit.

5. The undersigned attorneys possess knowledge of the applicable law.

6. The undersigned attorneys possess, and will commit, sufficient resources to represent the class.

7. The named class members are familiar with the facts of the litigation.

Rule 42(b)(1)(A)

1. The prosecution of separate actions by individual members of the Class would create a risk of inconsistent or varying adjudications with respect to individual members of the Class which would establish incompatible standards of conduct for Defendant.

Rule 42(b)(1)(B)

1. The prosecution of separate actions by individual members of the Class would create a risk of adjudications with respect to individual members of the Class which would as a practical matter would be dispositive of the interests of the other members not parties to the adjudications, or would substantially impair or impede their ability to protect their interests.

Rule 42(b)(2)

1. Defendant has acted, or refused to act, on grounds generally applicable to the Class, thereby making appropriate final injunctive relief, or corresponding declaratory relief, with respect to the Class as a whole.

Rule 42(b)(3)

1. Questions of law or fact common to the members of the Class predominate over any questions affecting only individual members.

2. A class action is superior to other available methods for the fair and efficient adjudication of the controversy.

3. The members of the class have little interest in individually controlling the prosecution of a separate individual action.

4. Although numerous lawsuits, as well as separate class actions, have been filed against Defendant Ford seeking recovery for damages caused by the defects alleged in this lawsuit, to the best of Plaintiffs' knowledge and information, no class action has been

commenced involving the same class Plaintiffs seek certification of in this lawsuit.

5. It is desirable to concentrate the litigation of the claims of the Class Members in this forum.

6. Any difficulties likely to be encountered in the management of the proposed class action can be overcome.

7. Except as to the specific amount of damages suffered by each individual class member, Plaintiffs can prove all of the common issues by generalized proof applicable to the class as a whole.

Rule 42(d)

1. Plaintiffs seek to maintain this lawsuit as a class action as to particular issues.
2. Additionally, where appropriate, Plaintiffs seek to divide the class into subclasses, and to treat each subclass as a class.

Tolling of Applicable Statutes of Limitations

Plaintiffs' claims are not barred by any statute of limitations for one or more of the following reasons, among others:

Claims Not Barred by the Statute of Limitations

1. The applicable statute of limitations on the particular Plaintiff's claim has not expired.

Fraudulent Concealment

1. Defendant is estopped from relying on the statute of limitations as an affirmative defense to Plaintiffs' claims because Defendant fraudulently concealed their claims from them.
2. Plaintiffs' neither learned, nor should have learned through reasonable diligence, of their respective claims more than two years prior to the commencement of this lawsuit.

3. Each Plaintiff possesses an underlying claim against Defendant.
4. At all times material hereto, Defendant was aware of the Plaintiffs' underlying claims.
5. Defendant made affirmative representations to Plaintiffs that concealed their claims. In the alternative, Defendant either had a duty to disclose information to Plaintiffs, and withheld information from the Plaintiffs that resulted in the concealment of their claims from them.
6. Defendant had a fixed purpose to conceal its wrongs from Plaintiffs.
7. Plaintiffs reasonably relied on Defendant's concealment.

Discovery

1. Plaintiffs discovered the facts establishing the elements of their respective causes of action less than two years prior to the commencement of this lawsuit.
2. Plaintiffs should not have discovered through the exercise of reasonable care and diligence the facts establishing the elements of their respective causes of action more than two years prior to the commencement of this lawsuit.
3. Plaintiffs' respective causes of action for fraud and/or fraudulent concealment did not accrue until they discovered, or should have discovered, the fraud and/or fraudulent concealment.
4. The nature of Plaintiffs' injuries are inherently undiscoverable, and the evidence of their injuries are objectively verifiable.

Disability

1. Some Plaintiffs were minors at the time their cause of action accrued, and either remain minors or reached the age of majority less than two years prior to the commencement of this lawsuit.

2. Some Plaintiffs were of unsound mind at the time their cause of action accrued, and either are still of unsound mind or became of sound mind less than two years prior to the commencement of this lawsuit.

3. The statute of limitations on the claims of those Plaintiffs who are, or were, minors or of unsound mind are, or were, tolled by such disability.

Statute of Repose

Defendant sold each Plaintiffs' respective vehicle in question less than fifteen years prior to the commencement of this lawsuit.

Request for Injunctive Relief

As grounds for entering a permanent injunction, Plaintiffs say:

1. Plaintiffs hereby adopt by reference each and every Paragraph of the Statement of Facts of this Petition as if fully copied and set forth at length herein.

2. Plaintiffs hereby adopt by reference each and every Count of this Petition as if fully copied and set forth at length herein.

3. The granting of monetary and/or declaratory relief will not provide an adequate remedy to Plaintiffs; and no other adequate legal remedy is available. Defendants continued sale of vehicles with the aforesaid defects will result in additional injuries and deaths. No award of damages provides an adequate remedy for the life of an individual.

4. Plaintiffs will suffer irreparable injury if permanent injunctive relief is not granted. Persons who die, or who sustain permanent disability, as a result of Defendant's continued sale of vehicles with the aforesaid defects will suffer irreparable injury.

5. As more particularly set forth above, Defendant has committed, and is continuing to commit, one or more wrongful acts. Defendant continues to sell vehicles with the aforesaid defects.

6. Plaintiffs will suffer imminent harm if the injunction does not issue. It is certain that additional individuals will die, and be injured, if Defendant continues to sell vehicles with the aforesaid defects.

Request for Declaratory Judgment

As a basis for declaratory relief, Plaintiffs say:

1. Plaintiffs hereby adopt by reference each and every Paragraph of the Statement of Facts of this Petition as if fully copied and set forth at length herein.

2. Plaintiffs hereby adopt by reference each and every Count of this Petition as if fully copied and set forth at length herein.

3. A real controversy exists between Plaintiffs and Defendant.

4. At least some of the issues involved in the case at bar would be resolved by the granting of declaratory relief.

5. Plaintiffs each have a justiciable interest in the subject matter of this lawsuit.

Punitive or Exemplary Damages

As a basis for recovery of punitive or exemplary damages, Plaintiffs say:

1. Plaintiffs hereby adopt by reference each and every Paragraph of the Statement of Facts Applicable to All Counts of this Petition as if fully copied and set forth at length herein.

2. Plaintiffs hereby adopt by reference each and every Paragraph of Count Two of this Petition as if fully copied and set forth at length herein.

3. Defendant authorized and/or ratified the aforesaid conduct of its agents.

4. The aforesaid conduct was committed by one or more of Defendant's vice principals and/or managerial agents.

5. The aforesaid conduct of Defendant, when viewed objectively from Defendant's viewpoint at the time of such conduct, involved an extreme degree of risk, considering the probability and magnitude of the potential harm to others.

6. Furthermore, Defendant had actual subjective awareness of the risk involved, but nevertheless proceeded with conscious indifference to the rights, safety or welfare of others.

Damages Applicable to All Counts

1. Plaintiffs hereby adopt by reference each and every Paragraph of the Statement of Facts Applicable to All Counts as if fully copied and set for at length herein.

2. Plaintiffs hereby adopt by reference each and every Count of this Petition as if fully copied and set forth at length herein.

3. Plaintiffs hereby adopt by reference the Class Allegations of this Petition as if fully copied and set forth at length herein.

4. By reason of Defendant's conduct, and the defects in the vehicles in question, Plaintiffs suffered, sustained and incurred, and in reasonable probability will continue to suffer, sustain and incur, the following injuries and damages, among others:

(a) mental anguish;

- (b) economic damages, including one or more of the following, among others:
 - (1) the loss of the benefit of the bargain(the difference in the value of the vehicle as represented and the value of the vehicle as received);
 - (2) out of pocket expenses(the difference between what was paid for the vehicle and the value of the vehicle as received);
 - (3) the difference in the market value of the vehicle immediately before and immediately after the fire at the place where the fire occurred;
 - (4) the value of the loss of use of the vehicle;
 - (5) the cost of repair to their respective vehicles;
 - (6) the difference in the market value of damaged or destroyed property other than the subject vehicle immediately before and immediately after the fire in question.
- (c) reasonable and necessary attorneys' fees.

Request for Jury Trial

Plaintiffs hereby request a trial by jury.

Prayer

WHEREFORE, Plaintiffs pray that Defendant be cited to appear and answer herein, and that upon final trial, Plaintiffs have:

- (a) Judgment against Defendant for compensatory damages in excess of the minimum jurisdictional limits of the Court;
- (b) Judgment against Defendant for punitive or exemplary damages in excess of the minimum jurisdictional limits of the Court;
- (c) Prejudgment interest in accordance with Texas law;
- (d) Post judgment interest in accordance with Texas law;
- (e) Cost of court;

- (f) reasonable and necessary attorneys fees;
- (g) up to three times the amount of any recovery for economic damages;
- (h) up to three times the amount of any recovery for mental anguish;
- (i) class certification;
- (j) an injunction ordering Defendant to recall the vehicles in question that Defendant has not yet recalled;
- (k) an injunction enjoining Defendant from selling any other vehicles with the defective cruise control deactivation switch;
- (l) Declaratory Judgment that:
 - (1) Defendant is strictly liable for the defects in the vehicles in question;
 - (2) Defendant was negligent in the design, marketing and/or manufacturing of the vehicles in question;
 - (3) Defendant breached the implied warranty of merchantability;
 - (4) Defendant breached its express warranty;
 - (5) Defendant breached the implied warranty of fitness for a particular purpose;
 - (6) Defendant committed a fraud upon Plaintiffs;
 - (7) Defendant made negligent misrepresentations to Plaintiffs;
 - (8) Defendant violated the Texas Deceptive Trade Practices Act.

Respectfully submitted,

HOUSSIERE, DURANT & HOUSSIERE, LLP

By:  _____

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ATTORNEYS FOR PLAINTIFFS

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
BEAUFORT DIVISION

STEVEN ROUVET and JUNO KINAVY,)
Individually and On Behalf of All)
Others Similarly Situated,)

Plaintiffs,)

vs.)

Case No.)

FORD MOTOR COMPANY,)

JURY TRIAL DEMANDED

SERVE: C T CORP SYSTEM)

75 Beattie Place, Two Shelter Centre)
Greenville, South Carolina 29601)

Defendant.)

CLASS ACTION COMPLAINT

COME NOW Plaintiffs, and for their complaint against Defendant, allege:

I. PARTIES AND JURISDICTION

A. Plaintiffs

1 Plaintiff Juno Kinavy is a citizen of the state of South Carolina and resides at 15 Compass Point, Hilton Head Island, South Carolina.

2 Plaintiff Steven Rouvet is a citizen of the state of South Carolina and resides at 15 Compass Point, Hilton Head Island, South Carolina.

B. Defendant Ford

3 Defendant Ford Motor Company ("Ford") is a Delaware Corporation which conducts business, directly and through its subsidiaries and divisions, throughout the United States, including Beaufort County, South Carolina.

4 Defendant Ford motor Company (hereinafter "Ford") is a corporate entity authorized to conduct business in the State of South Carolina and engaged in the business of manufacturing, assembling, distributing and selling motor vehicles.

5 At all relevant times, Ford transacted, solicited, and conducted business in the state of South Carolina and is hence subject to the jurisdiction of this court.

6 Ford is incorporated in Delaware with its principal place of business in Dearborn, Michigan.

II. JURISDICTION

7 For Federal Diversity jurisdiction purposes, Ford is a citizen of the states of Delaware and Michigan. This Court has jurisdiction pursuant to 28 U.S.C. §1332(d)(2)(A) of the Class Action Fairness Act because Plaintiff class are citizens of South Carolina and defendants are citizens of Michigan and Delaware and the amount in controversy exceeds \$5 million.

8 Venue is proper in this District because Plaintiffs reside within it and a substantial part of the events giving rise to the claims at issue arose in this District.

III. FACTUAL ALLEGATIONS

9 Plaintiff Juno Kinavy purchased a new 1998 Ford Explorer, VIN#1FMZU34E2WZB26329 from Laird Noller Ford, Inc., dealership, in Topeka, Kansas.

10 Plaintiff Steven Rouvet purchased a 1994 Buick Centry, VIN#1G4AG55M1R6416587.

11 On January 26, 2006, at approximately 3a.m., Plaintiff Kinavy awakened her husband, Plaintiff Rouvet because she heard explosions outside. Plaintiffs looked outside and saw that the 1998 Ford Explorer was engulfed in flames, and the flames from the Ford Explorer were also consuming the 1994 Buick Centry.

12 For more than twenty-four hours before the fire was discovered, the vehicles had been parked with the ignitions turned in the off position.

13 The Ford Explorer and the Buick Centry had been parked with the front bumpers facing each other. The flames from the burning vehicles damaged the condominium and personal property of Plaintiffs' neighbor, Mr. Edward Tobergate of 16 Compass Pointe Road.

14 Plaintiffs called 911 at approximately 3:00am. The fire department and police office arrived on the scene at approximately 3:10a.m. to extinguish the fire of the Ford Explorer and the Buick Centry.

15 Investigation conducted by the Fire and Rescue Department determined that the fire appeared to have radiated from the Explorer and caused damage to the Buick. The right front area inside the engine compartment appeared to have sustained the most heat damage and the hood directly above this area showed the most thermal damage.

IV. CLASS REPRESENTATION ALLEGATIONS

16 Ford is, and has been at all relevant times, engaged in the business of selling automobiles and trucks.

17 As a direct and proximate result of Ford placing these vehicles into the stream of commerce, Plaintiffs and the Class Members have suffered and continue to suffer injuries, including mental and economic pain and suffering, and will continue to experience such injuries indefinitely.

18 On January 27, 2005, under pressure from the National Highway Traffic Safety Administration ("NHTSA"), Ford recalled over 700,000 vehicles, including 2000 Model Year F-150 Pickups, Expeditions and Lincoln Navigators, and 2001 Model Year F-series Super Crew Trucks (the "Ford Recalled Vehicles"). These vehicles were recalled because they suddenly, and

without warning, caught fire due to a problem with the manufacture, design, and placement of the Speed Control Deactivation Switch involved in the operation of the cruise control (the “SCD Switch”). Because of the design, these fires can occur even when the car is turned off and not being operated.

19 As part of the recall, at one time the Ford Recalled Vehicle must be taken to a Ford dealership where the cruise control function will be disabled to avoid these fires. The Ford Recalled Vehicle are then without the cruise control function until Ford has a replacement part ready, at which time the Ford Recalled Vehicle must be brought back to the Ford dealership to be retrofitted with a redesigned SCD Switch.

20 On March 22, 2005, NHTSA announced that it would investigate more than 3.7 million additional Ford vehicles not covered by the January recall because the design, manufacture and placement of the SCD Switch in certain non-recalled vehicles was substantially similar to the design, manufacture and placement of the SCD Switch in the Ford Recalled Vehicles, and because NHTSA had received more than 200 complaints of engine fires in these non-recalled vehicles.

21 The vehicles that were being investigated by NHTSA included Ford F-150 and F-150LD vehicles (model years 1995-1999 and 2001-2002); and Ford Expeditions and Lincoln Navigators (model years 1997-1999 and 2001-2002).

22 On September 7, 2005, under pressure from the NHTSA, Ford Motor Company expanded its recall to include Ford F-150s (model years 1994-2002), Ford Expeditions (model years 1997-2002), Lincoln Navigators (model years 1998-2002), and Ford Broncos (model years 1994-1996) equipped with factory-installed speed controls.

23 The vehicles subject to either the January 27, 2005 or the September 7, 2005 recalls are hereinafter collectively known as “Ford Recalled Vehicles”.

24 A Ford document shows the same or similar switch was installed in a total of 16 million vehicles. Those vehicles include the Lincoln Mark VII/VIII (model years 1994-1998), the Ford Taurus/Mercury Sable and Taurus SHO 2.3 L (model years 1993-1995), the Ford Econoline (model years 1992-2003), the Ford F-Series (model years 1993-2003), the Ford Windstar (model years 1994-2003), the Ford Explorer without IVD (model years 1995-2003), the Ford Explorer Sport/Sport Trac (model years 2002-2003), the Ford Expedition (model years 1997-2003), and the Ford Ranger (model year 1995-2003). (Collectively, hereinafter, “Potentially Affected Ford Vehicles”).

25 Collectively, the Ford Recalled Vehicles and the Potentially Affected Ford Vehicles are referred to herein as the “Ford Vehicles.”

26 Ford designed, manufactured, marketed, distributed, warranted, and represented the safety of the Ford Vehicles sold to Plaintiff Juno Kinavy, and to other members of the Class (defined below).

27 The Ford Vehicles were designed and manufactured defectively by Ford. Specifically, the design of the Ford Vehicles was defective in that the SCD Switch is designed to always carry a live charge of electricity and can overheat and burst into flames even when the car is turned off. Because the Ford Vehicles are designed with the SCD Switch in close proximity to the plastic brake fluid receptacle, this overheating is particularly dangerous because an overheating SCD Switch will tend to melt the plastic brake fluid receptacle, causing the overheating SCD Switch to come into contact with the flammable brake fluid, which causes

burning brake fluid to be spread throughout the engine compartment causing a quickly-spreading fire.

28 Because this fire can happen when the vehicle is not being operated, the Ford Vehicles are likely to begin burning in a garage, thus potentially causing a fire not only in the Ford Vehicles, but also in the garage and the house where the Ford Vehicles are parked, potentially leading to catastrophic results.

29 Prior to the manufacture of the Ford Vehicles, Ford knew that there were problems with the design, manufacture and placement of the SCD Switch used in the Ford Vehicles. In 1999, Ford recalled over 250,000 1992 and 1993 Ford Crown Victorias, Lincoln Town Cars and Mercury Grand Marquise because of the same or similar problem.

30 Although Ford knew that there was a problem with the SCD Switch in the 1992 and 1993 vehicles, Ford used the same or similar design in the Ford Vehicles which are the subject of this lawsuit.

31 Despite being aware of the foregoing defects in and problems with the Ford Vehicles, Ford represented to Plaintiffs and the Class Members (defined below) that the Ford Vehicles were safe through various forms of advertising. Ford made and continued to make these representations even though it knew that the Ford Vehicles could burst into flames at any time because of the design, manufacture and placement of the SCD Switch.

32 Ford engaged in a pattern of representations regarding the Ford Vehicles which were intended to, and did in fact, cause consumers to believe that the Ford Vehicles were safe vehicles with representations in print, radio, television, and internet advertising proclaiming that the Ford Vehicles were "Built Ford Tough," stating that Ford is a family that cherishes the safety

of its customers, and stating that Ford Motor Company is “committed to putting the safest vehicles on the road”.

33 To the contrary, Ford is not committed to putting the safest vehicles on the road, but instead intentionally put vehicles on the road (and in its customers’ garages) that have a known defect with the potential to cause a fire resulting in catastrophic damage to the vehicle and other property, and injury or death to its customers.

34 Accordingly Ford’s statements in its advertisements constituted misrepresentations.

35 Ford also concealed the defects in and problems with the Ford Vehicles from Plaintiffs and Class Members (defined below), which could not reasonably be known by them.

36 The defects in and problems with the Ford Vehicles were material facts the concealment of which would tend to mislead or deceive consumers.

37 Ford’s misrepresentations and concealment of material facts caused Plaintiffs and the Class Members to suffer damages including, but not limited to, unfulfilled expectations, lost benefit of the bargain, loss of use of their cruise control function, diminished value, cost of repair and/or consequential damages.

38 As stated above, Ford has admitted to the fire hazard in the Ford Recalled Vehicles and agreed to disconnect the electrical connector from the speed control which will eliminate the fire hazard, but also disable the cruise control. Plaintiff and the Class Members will be without use of cruise control in their vehicles until Ford is able to replace the defective speed-control switches with properly designed switches which do not present a fire hazard.

39 Ford has not yet admitted to the existence of the fire hazard in the Potentially Affected Ford Vehicles.

40 The vehicles of Plaintiffs Kinavy and Rouvet and some of the other Class Members caught fire as a result of the faulty SCD Switch, rendering the vehicles a total loss.

41 As a consequence of the fire, additional property located in or around the premises of the vehicle sustained severe fire and/or smoke damage.

42 Plaintiffs seek for themselves, and all Class Members, actual damages that were a proximate and producing result of Ford's acts and omissions alleged herein. They further seek punitive damages, statutory multiples of damages, all interest allowed by law, reasonable and necessary attorneys' fees, and court costs.

V. TOLLING OR NON-ACCRUAL OF APPLICABLE STATUTES OF LIMITATIONS

43 Any applicable statutes of limitations have been tolled or have not run because Defendant Ford knowingly and actively concealed and denied the defects in the Ford Recalled Vehicles until NHTSA pressured Defendant Ford to recall them. Defendant Ford continues to knowingly and actively conceal and deny the defects in the Ford Investigated Vehicles.

44 Defendant Ford had actual or constructive knowledge of its wrongful conduct. Defendant Ford has kept Plaintiffs and Class Members uninformed of information essential to the pursuit of their claims, without any fault or lack of diligence on behalf of Plaintiffs and Class Members. In fact, Defendant Ford fraudulently and deceitfully concealed and misrepresented to the public material facts concerning the SCD Switch defect. Plaintiffs, Class Members, and the general public did not discover the facts alleged herein until a date within the limitations period governing this action, and promptly exercised due diligence by filing this complaint.

45 Plaintiffs, Class Members, and the general public were not at fault for failing to discover Defendant Ford's misconduct sooner, and had no actual or presumptive knowledge of the facts of Defendant Ford's misconduct to put them on inquiry notice. Plaintiffs, Class

Members and the general public could not reasonably have discovered Defendant Ford's misrepresentations and/or material omissions before the filing of this complaint and, therefore, their claims accrued on that date, and/or any statute of limitations was tolled until that date.

46 Defendant Ford was and is under a continuing duty to disclose the nature of the SCD Switch defect to Plaintiffs, Class Members, and the general public. Because of Defendant Ford's concealment of the SCD Switch defect, Defendant Ford is estopped from relying on any statute of limitations defense.

VI. CLASS ACTION ALLEGATIONS

47 Pursuant to Fed. R. Civ. P. 23, Plaintiffs bring this action for themselves and on behalf of the Class of all entities and natural persons domiciled or residing in the state of South Carolina, who purchased a 2000 Model Year Ford F-Series Super Crew Truck, a Ford F-150 (model years 1994-2002), a Ford Expedition (model years 1997-2002), a Lincoln Navigators (model years 1998-2002), or a Ford Bronco (model years 1994-1996) equipped with factory-installed speed controls (a "Ford Recalled Vehicle"), or a Lincoln Mark VII/VIII (model years 1994-1998), a Ford Taurus/Mercury Sable and Taurus SHO 2.3 L (model years 1993-1995), a Ford Econoline (model years 1992-2003), a Ford F-Series (model years 1993-2003), a Ford Windstar (model years 1994-2003), a Ford Explorer without IVD (model years 1995-2003), a Ford Explorer Sport/Sport Trac (model years 2002-2003), a Ford Expedition (model years 1997-2003), or a Ford Ranger (model year 1995-2003) (a "Potentially Affected Ford Vehicle") and who, according to motor vehicle registration records maintained by their respective states or districts of residence of domicile, can be identified as owning at some time at least one Ford Recalled Vehicle or a Potentially Affected Ford Vehicle (collectively referred to as "Ford Vehicle").

48 Plaintiffs' claims are typical of the other Class Members' claims.

49 Plaintiffs will fairly and adequately protect the interests of the Class. Plaintiff Kinavy is the current owner of a Ford Vehicle and is a member of the Class she seeks to represent. Her interests coincide with, and are not antagonistic to, the other Class Members' interests.

50 Plaintiffs and the Class have retained counsel experienced and competent in complex, commercial, multi-party, mass tort, personal injury, products liability, consumer and class action litigation.

51 The Class Members are so numerous that joinder of all is impractical. Defendant Ford has estimated that more than 4.8 million Vehicles were subject to its three recalls. A Ford document indicates that there are over 12.2 million Potentially Affected Ford Vehicles installed with similar SCD Switches. Accordingly, Plaintiffs estimate that the members of the Class number in the millions.

52 A class action is superior to other methods for the fair and efficient adjudication of this controversy. The expense and burden of individual litigation may make it difficult, if not impossible, for all members of the class to address the wrongs done to them individually. There will be no unusual difficulty in the management of this action as a class action.

53 The claims of Plaintiffs and the Class Members involve common questions of fact and law, including, but not limited to:

- a. Whether the Ford Vehicles were defectively designed, manufactured, and/or marketed with respect to the SCD Switch;
- b. Whether the defects in the Ford Vehicles constituted breaches of the implied warranty of merchantability by Ford; and
- c. Whether the defects in the Ford Vehicles constituted breaches of express warranties by Ford.

54 Questions of law and fact common to the Class Members predominate over questions affecting only individual Members, and a class action is superior to other available methods for fair and efficient adjudication of the controversy.

VII. DEFENDANT FORD'S LIABILITY FOR ITS EMPLOYEES' ACTS AND OMISSIONS

55 Whenever this Petition alleges that Ford committed any act or omission, it means that (a) Ford's officers, agents, servants, employees or representatives committed such act or omission in the normal and routine course and scope of their employment; or (b) the act or omission was committed with Ford's full authorization or ratification.

56 Ford had the right to control each of its employee's conduct and the details of their work.

VIII. CAUSES OF ACTION

COUNT I

Fraudulent Misrepresentation/Omission

57 Plaintiffs incorporate all of the allegations and facts set forth in the preceding paragraphs as if fully set forth herein.

58 Ford made false, misleading and deceptive misrepresentations to its customers by neglecting to inform the customers of a danger resulting from the normal use of their products.

59 The fraudulent misrepresentations, omissions and concealments made by Ford were known and deliberate and were purposefully designed to induce the plaintiffs and the Class members into purchasing their products and to prevent expenditures on behalf of Ford to remedy a design or manufacturing defect in its product. In marketing and selling the Ford Vehicles, Ford

made express and implied representations to the public at large, including Plaintiffs and all members of the Class, that the vehicles were free from dangerous designed defects, did not contain unreasonably dangerous components, and were reasonably safe when operated in the manner in which they were designed and intended to be operated.

60 These representations were false, and were known by Ford to be false at the time they were made.

61 Plaintiffs and members of the Class relied in good faith on the express and implied representations of Ford regarding the safety of the Ford Vehicles.

62 Because Ford had superior knowledge of the design and manufacture of the Ford Vehicles, it was reasonable for Plaintiffs and Class Members to rely on Ford's express and implied representations.

63 Plaintiffs and Class Members did in fact rely to their detriment on the express and implied representations of Ford regarding the safety of the Ford Vehicles.

64 Plaintiffs and Class Members have been damaged as a direct and proximate result of Ford's fraudulent misrepresentations and their reasonable reliance on such representations.

65 Plaintiffs and Class Members are entitled to recover the full amount of such damages, together with costs and attorney fees to the full extent permitted by law, as a result of Defendant Ford's fraudulent misrepresentations.

66 The misrepresentations, concealments and omissions by defendant were material in that the plaintiffs and other members of the Class reasonably relied upon such misrepresentations, concealments and omissions to their detriment.

67 As a direct and proximate result of Ford's fraudulent misrepresentations, concealments and omissions, the plaintiffs and Class members have been damaged in an amount to be determined at trial.

COUNT II

Negligence

68 Plaintiffs Kinavy and Rouvet incorporate all of the allegations and facts set forth in all preceding paragraphs as if fully set forth herein.

69 Defendant was negligent in the design and/or manufacture of cruise control deactivation switch in that the normal use of their products poses a serious risk of property damage or bodily injury. Defendant Ford failed to exercise ordinary care in designing, manufacturing, and selling of the vehicles in question, did that which a reasonably prudent automobile manufacturer would not have done in the same or similar circumstances, failed to do that which a reasonably prudent automobile manufacturer would not have done under the same or similar circumstances, and was negligent in one or more of the following ways:

- a. in designing the cruise control deactivation switch such that it received continual power;
- b. in designing the cruise control deactivation switch such that it received far more power than was necessary for such switch to properly function;
- c. in designing the cruise control deactivation switch so that it was in close proximity to the master cylinder brake fluid container;
- d. in designing the vehicle so that the master cylinder brake fluid container was made out of a substance that could not withstand the heat generated by the cruise control deactivation switch;
- e. in failing to design the vehicle so that the cruise control deactivation switch would deactivate if it reached a heat or resistance that could cause a fire, such as a fuse that would blow at such point, or some other method;
- f. in failing to inform the Plaintiffs and public of the aforesaid risk of fire.

70 Defendant Ford knew or should have known that the SCD Switch it designed and placed in the described vehicles, and manufactured, tested, marketed or sold, in their ordinary and foreseeable use, would overheat and ultimately ignite the Ford Vehicles in which the SCD Switches were installed.

71 Defendant Ford's negligence was a contributing cause of the harm suffered to Plaintiffs and Class Members.

72 As a direct and proximate result of the Defendant Ford's negligence, Plaintiffs and Class Members have suffered or will suffer damages, which include costs to inspect, repair or replace their speed control deactivation switches and systems, and to replace or repair other damaged property, in an amount to be determined at the trial of this cause.

73 The conduct of Defendant Ford was so willful, wanton, malicious, reckless, and in such disregard for the consequences as to reveal a conscious indifference to the clear risk of death or serious bodily injury, and merits the imposition of punitive damages.

74 Despite this known danger, the defendant did not otherwise take any action to inform the general public of the danger associated with specified uses of their defective doors.

75 As a direct and proximate result of the negligence of the defendant in the design and manufacture of its products, plaintiffs and Class members have incurred actual and compensatory damages in an amount to be proven at trial.

COUNT III

Breach of Express Warranty

76 Plaintiff Kinavy incorporates by reference the allegations contained in the preceding paragraphs as though fully set forth herein:

77 Plaintiff Kinavy and Class Members purchased a vehicle, manufactured by Defendant Ford.

78 Defendant Ford knew that Plaintiff Kinavy and the Class they represent were foreseeable users of their vehicles, and in fact marketed these vehicles to be sold to American consumers, spending millions of dollars in advertising on a national and local level to tout their vehicles to intended purchasers.

79 Defendant Ford made numerous claims and representations as to the quality of the vehicles they offered for sale, as well as to the fitness of the vehicles for use by Plaintiff Kinavy and Class Members for their intended purposes.

80 Plaintiff Kinavy and Class Members used their vehicles as intended, for transportation, and in other manners depicted by Defendant Ford in its advertising, and for other such uses of travel and transportation in which consumers use and are intended to use motor vehicles.

81 Plaintiff Kinavy and Class Members made no changes or alterations to the engine and operational parts of the Cruise Control system or the SCD Switch.

82 The SCD Switch was defective as sold to Plaintiff Kinavy and installed on their vehicle and vehicles of the Class Members.

83 The vehicles in question failed to comply with the foregoing representations in one or more of the following particulars, among others:

- a. in designing the cruise control deactivation switch such that it received continual power;
- b. in designing the cruise control deactivation switch such that it received far more power than was necessary for such switch to properly function;
- c. in designing the cruise control deactivation switch so that it was in close proximity to the master cylinder brake fluid container;

d. in designing the vehicle so that the master cylinder brake fluid container was made out of a substance that could not withstand the heat generated by the cruise control deactivation switch;

e. in failing to design the vehicle so that the cruise control deactivation switch would deactivate if it reached a heat or resistance that could cause a fire, such as a fuse that would blow at such point, or some other method;

f. in failing to inform the Plaintiff and public of the aforesaid risk of fire.

84 As a result, Plaintiff Kinavy and Class Members have been damaged, including inconvenience and cost of replacement of the SCD Switch, and for some, complete destruction of the vehicle because of fire, and destruction of other items of property adjacent to the fire or items of property that were within the vehicle when it burned.

COUNT IV

Breach of Implied Warranty of Merchantability

85 Plaintiff Kinavy incorporates by reference all other paragraphs of this Petition as if fully set forth here and further alleges as follows:

86 Ford is in the business of selling Ford Vehicles and ultimately sold such goods to the Plaintiff and Class Members.

87 By placing the Ford Vehicles into the stream of commerce, Defendant Ford impliedly warranted that the Ford Vehicles were of merchantable quality, fit and safe for their intended use and fit for the particular purpose of transporting individuals and families and parking them when not in use.

88 The Ford Vehicles breached the implied warranty of merchantability in one or more of the following ways:

a. in designing the cruise control deactivation switch such that it received continual power;

b. in designing the cruise control deactivation switch such that it received far more power than was necessary for such switch to properly function;

c. in designing the cruise control deactivation switch so that it was in close proximity to the master cylinder brake fluid container;

d. in designing the vehicle so that the master cylinder brake fluid container was made out of a substance that could not withstand the heat generated by the cruise control deactivation switch;

e. in failing to design the vehicle so that the cruise control deactivation switch would deactivate if it reached a heat or resistance that could cause a fire, such as a fuse that would blow at such point, or some other method;

f. in failing to inform the Plaintiff and public of the aforesaid risk of fire;

g. in designing the vehicles in such a way that the SCD Switches overheat, ultimately and unpredictably igniting the Ford Vehicles.

89 Plaintiff Kinavy and Class Members were foreseeable users of the Ford Vehicles.

90 Plaintiff Kinavy timely notified Defendant Ford of the foregoing breaches of the warranty of merchantability.

91 The injuries of Plaintiff Kinavy and Class Members were a proximate result of Defendant Ford's breach of implied warranty as described herein.

92 As a direct and proximate result of the breach of implied warranty, Plaintiff Kinavy suffered and will continue to suffer injury, harm and economic loss as alleged herein.

COUNT V

Negligent Misrepresentation and/or Omission

93 Plaintiff Kinavy incorporates all of the allegations and facts set forth in all preceding paragraphs as if fully set forth herein.

94 As a result of the reckless and/or negligent misrepresentations and/or omissions by defendant, the plaintiff and Class members were induced into purchasing defective vehicles manufactured by the defendant and using the products for their intended use.

95 The defendant made these representations to the plaintiff and other Class members intending that they rely on such representations.

96 The negligent misrepresentations and/or omissions were material in that they induced the plaintiff and other Class members into purchasing defective vehicles manufactured by defendant and using such products for their intended purpose.

97 As a direct and proximate result of the negligent misrepresentations and/or omissions by defendant, plaintiff and Class members have incurred actual and compensatory damages in an amount to be proven at trial.

COUNT VI

Implied Merchantability under Magnuson Moss Warranty Act

98 Plaintiff Kinavy incorporates all of the allegations and facts set forth in all preceding paragraphs as if fully set forth herein.

99 Defendant's conduct as described herein violated the Magnuson Moss Warranty Act ("Magnuson Moss Act"), 15 U.S.C. §§2304-2312.

100 Defendant expressly and impliedly represented and warranted that the vehicles being sold to the general public were free of defects, merchantable, and fit for their intended purpose. Defendant breached these implied warranties by selling the Ford vehicles described herein with the inherent defects described herein. Moreover, defendant made and/or allowed these warranties to be made with the intent of inducing plaintiffs and the other members of the Class to purchase the Ford vehicles to plaintiff and members of the class.

101 If Plaintiff Kinavy and the members of the Class had known the true facts, they would not have purchased the Ford vehicles or paid as much as they did for the vehicles.

102 Plaintiff Kinavy and the members of the Class are entitled to either repudiation of their agreements and repayment of the money they spent to purchase their vehicles in an amount to be determined at the trial of this action.

REQUEST FOR INJUNCTIVE RELIEF

103 As grounds for entering a permanent injunction, Plaintiffs say:

104 Plaintiffs incorporates by reference all other paragraphs of this Petition as if fully set forth here and further alleges as follows:

105 The granting of monetary and/or declaratory relief will not provide an adequate remedy to Plaintiffs and Class Members; and no other adequate legal remedy is available. Defendant Ford's continued sale of vehicles with aforesaid defects will result in additional injuries and deaths. No award of damages provides an adequate remedy for the life of an individual.

106 Plaintiffs and Class Members will suffer irreparable injury if permanent injunctive relief is not granted. Persons who die, or who sustain permanent disability, as a result of Defendant Ford's continued sale of vehicles with the aforesaid defects will suffer irreparable injury.

107 As more particularly set forth above, Defendant Ford has committed, and is continuing to commit, one or more wrongful acts. Defendant Ford continues to sell vehicles with the aforesaid defects.

108 Plaintiffs and Class Members will suffer imminent harm if the injunction does not issue. It is certain that additional individuals will die, and be injured if Defendant Ford continues to sell vehicles with the aforesaid defects.

REQUEST FOR DECLARATORY JUDGMENT

109 As a basis for declaratory relief, Plaintiffs say:

110 Plaintiffs incorporate by reference all other paragraphs of this Petition as if fully set forth here and further alleges as follows:

111 A real controversy exists between Plaintiffs and Defendant Ford.

112 At least some of the issues involved in the case at bar would be resolved by the granting of declaratory relief.

113 Plaintiffs have a justiciable interest in the subject matter of the lawsuit.

PUNITIVE DAMAGES

114 Plaintiffs incorporate by reference all other paragraphs of this Petition as if fully set forth here and further alleges as follows:

115 Defendant Ford authorized and/or ratified the aforesaid conduct of its agents.

116 The aforesaid conduct was committed by Defendant Ford and/or its agents.

117 The aforesaid conduct of Defendant Ford, when viewed objectively from Defendant Ford's viewpoint at the time of such conduct, involved an extreme degree of risk, considering the probability and magnitude of the potential harm to others.

118 Furthermore, Defendant Ford had actual subjective awareness of the risk involved, but nevertheless proceeded with conscious indifference to the rights, safety or welfare of others.

DAMAGES APPLICABLE TO ALL COUNTS

119 Plaintiffs incorporate by reference all other paragraphs of this Petition as if fully set forth here and further alleges as follows:

120 By reason of Defendant Ford's conduct, and the defects in the Ford Vehicles, Plaintiffs and Class Members suffered, sustained and incurred, and in reasonable probability will continue to suffer, sustain and incur, the following injuries and damages, among others:

- a. economic damages, including one or more of the following, among others:
- b. the loss of the benefit of the bargain (the difference in the value of the vehicle as represented and the value of the vehicle as received);
- c. out of pocket expenses (including, among other things, the difference between what was paid for the vehicle and the value of the of the vehicle as received, towing expenses, transportation costs, and rental fees);
- d. the difference in the market value of the vehicle immediately before and immediately after the fire at the place where the fire occurred;
- e. the value of the loss of use of the vehicle;
- f. the cost of repair to their respective vehicles;
- g. the difference in the market value of damaged or destroyed property other than the subject vehicle immediately before and immediately after the fire in question;
- h. the replacement cost of damaged or destroyed property other than the subject vehicle damaged by the fire in question; and
- i. reasonable and necessary attorneys' fees.

PRAYER FOR RELIEF

WHEREFORE, the Plaintiffs and Class Members request that this Court enter judgment against Defendant Ford and in favor of Plaintiffs and the Class Members and award the following relief:

- A. An order certifying this action as a class action pursuant to Federal Rule of Civil Procedure 23;
- B. For compensatory damages in excess of the minimum jurisdictional limits of the Court;
- C. For punitive or exemplary damages in excess of the minimum jurisdictional limits of the Court.
- D. Prejudgment interest;
- E. Post judgment interest;
- F. Court costs;
- G. Reasonable and necessary attorneys' fees;
- H. An injunction enjoining Defendant Ford from selling any other vehicles in question that Defendant Ford has not yet recalled;
- I. An injunction enjoining Defendant Ford from selling any other vehicles with the defective SCD Switch;
- J. A declaratory Judgment that:
 - a. Defendant Ford breached its express warranty;
 - b. Defendant Ford breached the implied warranty of merchantability;
 - c. Defendant Ford was negligent in the design, marketing and/or manufacturing of the Ford Vehicles;
 - d. Defendant Ford committed a fraud upon Plaintiffs and Class Members; and
 - e. Defendant Ford fraudulently concealed the dangerous condition of the Ford Vehicles.

JURY TRIAL DEMANDED

Plaintiffs demand a trial by jury.

By: s/ T. Christopher Tuck
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T. Christopher Tuck (Fed. ID No. 9135)
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ATTORNEYS FOR PLAINTIFFS

ISSUE LIST

Last Handling Date/ Issue Status	Name/ Reason Desc	Vin/ Case No.	Model Year and Vehicle Line	Issue Type
3/29/2005 CLOSED	[REDACTED] LEGAL - CUSTOMER WAITING FOR ACKNOWLEDGEMENT	1FMNU40LX1E 55770048	[REDACTED] 2001 EXCURSION	02
3/7/2005 CLOSED	[REDACTED] CORRESPONDENCE - WORK IN PROGRESS	1FMNU40LX1E 55770048	[REDACTED] 2001 EXCURSION	02
2/24/2005 CLOSED	[REDACTED] MISC INQUIRY - FORD MOTOR COMPANY FEEDBACK	1FMNU40LX1E 55770048	[REDACTED] 2001 EXCURSION	02
2/18/2005 CLOSED	[REDACTED] LEGAL - ACCIDENT / FIRE	1FMNU40LX1E 55770048	[REDACTED] 2001 EXCURSION	10
2/17/2005 CLOSED	[REDACTED] RECALL/ONP - VEHICLE INVOLVEMENT	1FMNU40LX1E 557700485	[REDACTED] 2001 EXCURSION	02

All Action Details for Issue

[Print](#)

VIN: 1FMNU40LX1E [REDACTED] Year: 2001 Model: EXCURSION Case: 557700485
Name: MS [REDACTED] Owner Status: Original WSD: 2002-02-11
Symptom Desc: FIRE/SMOKE VISIBLE FLAME Primary Phone: [REDACTED]
Reason Desc: LEGAL - CUSTOMER WAITING FOR ACKNOWLEDGEMENT Secondary Phone:
Issue Type: 02 INFORMATION Issue Status: CLOSED

Action: CB-IT MAY TAKE UP TO 60 DAYS FOR OGC TO BEGIN AN INVESTIGATION
Dealer: 04908 SAWGRASS FORD Origin Desc: US CONCERN CASE BASE
Odometer: 114000 MI Comm Type: PHONE
Analyst Name: PAUL REHANA Analyst: PREHANA
Action Date: 03/29/2005 Action Time: 15.40.02.685 Action Data: No

Comments CUSTOMER SAID: - CUST HAD CALLED CRC PREVIOUSLY REG VEH CATCHING ON FIRE- CUST RECIEVED LETTER FROM OGC ADVISING OF NEXT STEPS BUT HAS NOT MAILED ANYTHING BACK TO THEM YET- CUST HAD CONTACTED INSURANCE WHO SETTLED CLAIM- SEEKING WHAT SHE SHOULD DODEALER SAID: NONECRC ADVISED: THE OFFICE OF GENERAL COUNSEL WILL CREATE A FILE FOR AN INVESTIGATION WHEN THEY RECEIVE YOUR WRITTEN RESPONSE. IF YOU WOULD LIKE TO PURSUE THIS CLAIM, YOU MUST SUBMIT YOUR RESPONSE TO THE LETTER YOU RECEIVED FROM OGC. ONCE THEY RECEIVE THE INFORMATION, OGC WILL THEN CONDUCT THEIR INVESTIGATION WHICH COULD TAKE SOME TIME. IF YOU HAVE ANY FUTURE QUESTIONS AFTER YOU MAIL THE INFORMATION, PLEASE CORRESPOND WITH THE REPRESENTATIVE WHO CONDUCTS THE INVESTIGATION.

All Action Details for Issue

[Print](#)

VIN: 1FMNU40LX1E [REDACTED] Year: 2001 Model: EXCURSION Case: 557700485
 Name: MS [REDACTED] Owner Status: Original WSD: 2002-02-11
 Symptom Desc: Primary Phone: [REDACTED]
 Reason Desc: CORRESPONDENCE - WORK IN PROGRESS Secondary Phone:
 Issue Type: 02 INFORMATION Issue Status: CLOSED

Action: EMAIL - WIP - SCHEDULED CALL BACK Origin Desc: MANUAL - EMAIL
 Dealer: 04908 SAWGRASS FORD
 Odometer: 1 MI Comm Type: EMAIL
 Analyst Name: LENNARD ,JOANNE Analyst: JLENNARD
 Action Date: 03/02/2005 Action Time: 14.36.53.830 Action Data: No

Comments CUSTOMER SAYS: -EMAIL: BRENLAR1@BELLSOUTH.NET ; 1372363 ; 3/01/2005 7:29:00 PM -ON 2/17/05 VEH CAUGHT ON FIRE -VEH WAS PARKED IN MY DRIVEWAY -WAS A TOTAL LOSS AND THE FRONT OF MY GARAGE WAS BURNED -AN INVESTIGATION WAS DONE AND THE CAUSE WAS DETERMINED TO BE THE CRUISE CONTROL -CALLED CRC TWICE, FORST ON 02/19 AND THEN ON 02/24 -HAS NOT HEARD ANYTHIG BACK FROM FORD YET -HOPES THAT FORD IS TAKING THE ISSUE SERIOUSLY AS THE CAUSE OF THE FIRE CLOSELY RESEMBLES ISSUES WITH ALREADY RECALLED VEHICLES -SEEKING A RESOLUTION AND CALL BACK PER CUSTOMER, DEALER SAYS: NONE CAC ADVISED: -EMAIL - WIP - SCHEDULED CALL BACK -PREPPING ONLY

Action: EMAIL - NO CONTACT REQUIRED/DECISION ALREADY RENDERED Origin Desc: MANUAL - EMAIL
 Dealer: 04908 SAWGRASS FORD
 Odometer: Comm Type: PHONE
 Analyst Name: DUANE SMITH Analyst: DSMIT407
 Action Date: 03/03/2005 Action Time: 14.56.49.846 Action Data: No

Comments CUSTOMER SAYS: ***EMAIL RECEIVED*** -ON 2/17/05 VEH CAUGHT ON FIRE -VEH WAS PARKED IN MY DRIVEWAY -WAS A TOTAL LOSS AND THE FRONT OF MY GARAGE WAS BURNED -AN INVESTIGATION WAS DONE AND THE CAUSE WAS DETERMINED TO BE THE CRUISE CONTROL -CALLED CRC TWICE, FORST ON 02/19 AND THEN ON 02/24 -HAS NOT HEARD ANYTHIG BACK FROM FORD YET -HOPES THAT FORD IS TAKING THE ISSUE SERIOUSLY AS THE CAUSE OF THE FIRE CLOSELY RESEMBLES ISSUES WITH ALREADY RECALLED VEHICLES -SEEKING A RESOLUTION AND CALL BACK PER CUSTOMER, DEALER SAYS: NONE CAC ADVISED: EMAIL - NO CONTACT REQUIRED/DECISION ALREADY RENDERED CUST CALLED PROVIDING THE SAME FEEDBACK AS DOCUMENTED IN EMAIL

Action: EMAIL - WIP - SCHEDULED CALL BACK Origin Desc: MANUAL - EMAIL
 Dealer: 04908 SAWGRASS FORD
 Odometer: Comm Type: EMAIL
 Analyst Name: THOMAS CHINNAPPAN Analyst: TCHINNA1
 Action Date: 03/05/2005 Action Time: 14.49.03.669 Action Data: No

Comments CUSTOMER SAYS: =====ISSUE BEING RE-PREPPED = CUST NEVER RECD A CONTACT FROM THE LEGAL DEPT===== -EMAIL: BRENLAR1@BELLSOUTH.NET ; 1372363 ; 3/01/2005 7:29:00 PM -ON 2/17/05 VEH CAUGHT ON FIRE -VEH WAS PARKED IN MY DRIVEWAY -WAS A TOTAL LOSS AND THE FRONT OF MY GARAGE WAS BURNED -AN INVESTIGATION WAS DONE AND THE CAUSE WAS DETERMINED TO BE THE CRUISE CONTROL -CALLED CRC TWICE, FORST ON 02/19 AND THEN ON 02/24 -HAS NOT HEARD ANYTHIG BACK FROM FORD YET -HOPES THAT FORD IS TAKING THE ISSUE SERIOUSLY AS THE CAUSE OF THE FIRE CLOSELY RESEMBLES ISSUES WITH ALREADY RECALLED VEHICLES -SEEKING A RESOLUTION AND CALL BACK PER CUSTOMER, DEALER SAYS: CAC ADVISED: EMAIL - WIP - SCHEDULED CALL BACK

Action: EMAIL - LEFT MESSAGE TO CALLBACK Origin Desc: MANUAL - EMAIL
 Dealer: 04908 SAWGRASS FORD
 Odometer: Comm Type: PHONE
 Analyst Name: BLAGROVE ,JACQUELINE Analyst: JBLAGROV

Action Date: 03/07/2005

Action Time: 10.18.01.967

Action Data: No

Comments CUSTOMER SAYS: - NONE PER CUSTOMER, DEALER SAYS: - NONE CAC ADVISED: EMAIL - LEFT MESSAGE TO CALLBACK

All Action Details for Issue

Print

VIN: 1FMNU40LX1E [REDACTED] Year: 2001 Model: EXCURSION Case: 557700485
 Name: MS [REDACTED] Owner Status: Original WSD: 2002-02-11
 Symptom Desc: GENERAL INQUIRIES REQUEST/NON-VEHICLE RELATED Primary Phone: [REDACTED]
 Reason Desc: MISC INQUIRY - FORD MOTOR COMPANY FEEDBACK Secondary Phone:
 Issue Type: 02 INFORMATION Issue Status: CLOSED

Action: ADVISE CUSTOMER THE FEEDBACK HAS BEEN DOCUMENTED

Dealer:

Origin Desc: US INQUIRY CASE BASE

Odometer: 110000 MI

Comm Type: PHONE

Analyst Name:

Analyst: DVALENC1

Action Date: 02/24/2005

Action Time: 16.18.08.977

Action Data: No

Comments CUSTOMER SAID: -I HAVE A 2001 FORD EXCURSION THAT CAUGHT FIRE , AND I SPOKE WITH CAROL LAST WEEK IN YOUR CENTER AND ALL ISSUE -MY INSURANCE COMPANY DID INSPECT THE VEH AND THEY DETERMINE THAT THE CRUISE CONTROL CAUSE THE FIRE-THIS CAR IS NOT UNDER THE RECALL FOR THE CRUISE CONTROL FIRES BUT I WANT FMC TO BE AWARE OF THIS ISSUE -IF THERE IS ANYTHING THAT COULD AVOID THIS FROM HAPPENING AGAIN TO ANYONE ELSE I WOULD APPRECIATE THAT-I JUST WANT TO PROVIDE THIS FEEDBACK TO FMCDEALER SAID: - SAWGRASS FORD 14501 WEST SUNRISE BLVD SUNRISE, FL-NONECRC ADVISED: THANK YOU FOR PROVIDING FORD MOTOR COMPANY WITH FEEDBACK; YOUR OPINIONS ARE VALUABLE TO US. I HAVE DOCUMENTED YOUR COMMENTS AND THE INFORMATION YOU PROVIDED REGARDING YOUR EXPERIENCE WITH OUR COMPANY. YOU WILL NOT BE CONTACTED UNLESS A SPECIFIC DEPARTMENT REQUIRES ADDITIONAL INFORMATION OR CLARIFICATION.-REVIEWED ISSUE WITH TL GINA

All Action Details for Issue

Print

VIN: 1FMNU40LX1E [REDACTED] Year: 2001 Model: EXCURSION Case: 557700485
 Name: MS [REDACTED] Owner Status: Original WSD: 2002-02-11
 Symptom Desc: FIRE/SMOKE VISIBLE FLAME UNDER VEHICLE Primary Phone: [REDACTED]
 Reason Desc: LEGAL - ACCIDENT / FIRE Secondary Phone:
 Issue Type: 10 OGC Issue Status: CLOSED

Action: CONTACT ADVANCED TO OGC Origin Desc: US CONCERN CASE BASE
 Dealer: 04908 SAWGRASS FORD
 Odometer: 110000 MI Comm Type: PHONE
 Analyst Name: CAROL DSOUZA Analyst: CDSOUZA1
 Action Date: 02/18/2005 Action Time: 12.15.19.475 Action Data: No

Comments CUSTOMER SAID: -THE VEHICLE CAUGHT FIRE ON 02/17/2005 AT 1:45 PM-THE LEFT FRONT TIRE CAUGHT ON FIRE -THE VEHICLE STARTED UNDER THE VEHICLE -CASE NUMBER W 305-02-1300-BROWARD SHERRIFS OFFICE - 950 765 4321-CONTACTED THE INSURANCE COMPANY -THIS CAUSED DAMAGE TO THE FRONT OF THE HOUSE AND THE NEIGHBORS VEHICLE -THIS DESTROYED THE PAINT OF THE NEIGHBORS VEHICLE-CUST WANTS THIS INVESTIGATEDDEALER SAID: -NONECRC ADVISED: I WILL FORWARD THIS INFORMATION TO THE FORD OGC DEPARTMENT. YOU WILL BE CONTACTED WITHIN 3-5 BUSINESS DAYS.-CUST WOULD LIKE TO BE CONTACTED ON HER CELL [REDACTED]

All Action Details for Issue

Print

VIN: 1FMNU40LX1E [REDACTED] Year: 2001 Model: EXCURSION Case: 557700485
 Name: MS [REDACTED] Owner Status: Original WSD: 2002-02-11
 Symptom Desc: GENERAL INQUIRIES REQUEST/NON-VEHICLE RELATED Primary Phone: [REDACTED]
 Reason Desc: RECALL/ONP - VEHICLE INVOLVEMENT Secondary Phone:
 Issue Type: 02 INFORMATION Issue Status: CLOSED

Action: ADVISE CUST NO FSA'S AT THIS TIME
 Dealer: 04908 SAWGRASS FORD Origin Desc: US INQUIRY CASE BASE
 Odometer: 100000 MI Comm Type: PHONE
 Analyst Name: DONALDS RICK Analyst: RDONAL13
 Action Date: 02/17/2005 Action Time: 15.29.29.819 Action Data: No

Comments CUSTOMER SAID: - THIS IS HIS MOTHERS VEH.- WANTS TO KNOW IF HIS VEH IS UNDER THE SPEED CONTROL
 RECALLDEALER SAID: - NONECRC ADVISED: VEHICLE IS NOT INVOLVED IN ANY RECALL/CSP AT THIS TIME.

SEP 08 2005

CLERK OF COURT

IN THE CIRCUIT COURT OF THE
17th JUDICIAL CIRCUIT IN AND
FOR BROWARD COUNTY, FLORIDA

CASE NO.: 0513518

BRENDA SHAVER,
individually and on behalf
of all others similarly situated,

Plaintiff,

05

vs.

FORD MOTOR COMPANY, a foreign
corporation, and SAWGRASS FORD, INC.,
a Florida corporation,

Defendants.

CLASS ACTION COMPLAINT

COMES NOW the Plaintiff, BRENDA SHAVER, individually and on behalf of all others similarly situated, by and through their undersigned attorneys, and file this their Class Action Complaint and allege as follows:

1. Plaintiff, BRENDA SHAVER, is and was at all relevant times, a resident of Broward County, Florida, is over the age of eighteen years, and is otherwise sui juris. Plaintiff purchased a 2001 Ford Excursion that caught fire on February 17, 2005 while parked in her driveway.

2. Defendant, FORD MOTOR COMPANY, is a Michigan corporation with its principal place of business One American Road, Dearborn, Michigan. At all times relevant hereto, FORD MOTOR COMPANY engaged in the business of manufacturing, promoting, marketing, distributing and selling motor vehicles, including but not limited to automobiles,

trucks and sport utility vehicles (hereinafter "SUV's), under the "Ford" brand name or label. FORD MOTOR COMPANY transacts business in Broward County, Florida, and throughout the state of Florida. Defendant has significant contacts with Broward County, Florida, and the activities complained of herein occurred, in whole or in part, in Broward County, Florida.

3. Defendant, SAWGRASS FORD, INC., is a Florida corporation with its principal place of business at 14501 W. Sunrise Blvd. Sunrise, Broward County, Florida. At all times relevant hereto, SAWGRASS FORD, INC. engaged in the business of promoting, marketing, distributing, and selling motor vehicles, including but not limited to automobiles, trucks and sport utility vehicles (hereinafter "SUV's), under the "Ford" brand name or label. FORD MOTOR COMPANY transacts business in Broward County, Florida, and throughout the state of Florida. Defendant has significant contacts with Broward County, Florida, and the activities complained of herein occurred, in whole or in part, in Broward County, Florida.

4. The claims of the named Plaintiffs are for damages in excess of \$15,000 per Plaintiff, and this court has jurisdiction over the subject matter and the parties hereto pursuant to Section 26.012, *Fla. Stat.*

5. Venue is proper in this court pursuant to Section 47.011, *Fla. Stat.*

6. FORD MOTOR COMPANY manufactures a series of trucks and sports utility vehicles (hereinafter "SUV's") that are part of the "F-series," including but not limited to Ford Expeditions, Ford Excursions, Lincoln Navigators, F-150 and F-250 trucks; previously, including from 1994 through 1996, FORD MOTOR COMPANY manufactured a line of vehicles under the Bronco product name. Beginning in model year 1994, and perhaps earlier, and continuing through to model year 2003, and perhaps beyond, the F-Series and

Bronco vehicles described above were manufactured and sold with a defective engine systems and/or other components that caused and continues to cause the engines of said motor vehicles to catch fire, even while not in operation or without the ignition having been engaged (these vehicles are hereinafter referred to as the "Subject Vehicles"). Plaintiff's Ford Excursion is one of the Subject Vehicles.

7. On September 7, 2005, FORD MOTOR COMPANY issued a recall that listed all of the Subject Vehicles. FORD MOTOR COMPANY admitted in its recall that it had designed and manufactured a defective system involving the Subject Vehicles' electrical components that causes overheating and fires.

8. SAWGRASS FORD promoted, marketed, distributed and sold Subject Vehicles to consumers from throughout Florida and South Florida. SAWGRASS FORD either had actual knowledge of the defective condition of the Subject Vehicles, or was recklessly unaware and should have known of the defective condition of the Subject Vehicles, when it sold the Subject Vehicles to unknowing consumers.

9. Defendants' failure to disclose the defective condition of the Subject Vehicles, and the fact that the Subject Vehicles were prone to and in fact did catch fire, even while not in operation, constitutes deceptive, unfair, unconscionable, misleading and fraudulent trade practices. Defendants have unfairly and unjustly profited from their conduct as described herein.

10. Defendants engaged in a common course of deceptive and unlawful conduct in connection with the manufacture, distribution, promotion, marketing and sale of the Subject Vehicles by:

- a. Failing to remedy the condition of the vehicles which caused them to

catch fire even while not in operation;

- b. Failing to disclose the material fact that the Subject Vehicles were dangerous & defective in that they were prone to catch fire even while not in operation;
- c. Failing to advise consumers that repair or replacement of defective parts or systems were available to remedy the defective condition which causes the Subject Vehicles to erupt into flames even while not in operation.

11. Through longstanding fraudulent conduct, Defendants wilfully concealed and misrepresented the condition of the Subject Vehicles and the defect which causes them to catch fire even when not in operation. Defendants have unfairly and unjustly profited from there failure to adequately disclose the defective nature of the subject vehicles.

Class Action Allegations

12. Plaintiff brings this action as a Class Action against Defendants pursuant to Rule 1.220, *Fla.R.Civ.P.*, individually and on behalf of a Class consisting of all residents of Florida who purchased one of the Subject Vehicles. The class period commences on the first date the Defendants placed the Subject Vehicles into the stream of commerce through the date that Court certifies this suit as a class action. Excluded from the Class are Defendants, any parent, subsidiary, affiliate, or controlled person of Defendants, as well as the officers, directors, agents, servants, or employees of Defendants, and the immediate family member of any such person. Also excluded is any trial judge who may preside over this cause.

13. Plaintiff is a member of the Class and will fairly and adequately assert and protect the interests of the Class. The interests of the Plaintiff is coincident with, and not antagonistic to, those of other members of the Class. Plaintiff has retained attorneys who

are experienced in Class action litigation.

14. The Class is composed of at least hundreds of thousands of persons, the joinder of whom is impracticable except by means of a class action. Upon information and belief, all members of the Class can be ascertained from the records and files of Defendants and from other sources. The disposition of their claims in a class action will benefit both the parties and the Court. Defendants sell and have sold hundreds of thousands of Subject Vehicles over the years and, thus, the Class is sufficiently numerous to make joinder impracticable, if not completely impossible.

15. There is a well-defined community of interest in the questions of law and fact involving and affecting the parties to be represented. Common questions of law or fact predominate over any questions affecting only individual members of the Class. Common questions include, but are not limited to, the following:

- a. Whether Defendants manufactured, advertised, sold or delivered for sale vehicles which were defective in that their electrical systems caused fires in the Subject Vehicles;
- b. Whether Defendants failed to remedy the condition of the Subject Vehicles which caused them to catch fire even while not in operation;
- c. Whether the Defendants violated the Florida Deceptive and Unfair Trade Practices Act through their course of deceptive, unfair, misleading and unconscionable conduct as alleged herein;
- d. Whether the Defendants failed to disclose the material fact that the Subject Vehicles were dangerous & defective in that they were prone to catch fire even while not in operation;
- e. Whether, prior to September 7, 2005, the Defendants failed to advise consumers that repair or replacement of defective parts or systems were available to remedy the defective condition which causes the Subject Vehicles to erupt into flames even while not in operation; and
- f. Whether the Class had been damaged and, if so, the extent of such

damages, and/or the nature of the equitable relief, statutory damages, or exemplary damages, which the Class is entitled to plead and prove.

16. The prosecution of separate actions by individual members of the Class would create a risk of:

- a. Inconsistent or varying adjudications concerning individual members of the Class which would establish incompatible standards of conduct for the party opposing the Class; and
- b. Adjudication with respect to individual members of the Class which would, as a practical matter, be dispositive of the interests of other members not parties to the adjudication, or substantially impair or impede the ability other members of the Class who are not parties to the adjudications to protect their interests.

17. The class action method is appropriate for the fair and efficient prosecution of this action.

18. Individual litigation of all claims which might be assessed by all Class Members would produce such a multiplicity of cases that the judicial system having jurisdiction of the claims would remain congested for years. Class treatment, by contrast, provides manageable judicial treatment calculated to bring a rapid conclusion to all litigation of all claims arising out of the conduct of Defendants.

19. The certification of a Class would allow litigation of claims that, in view of the expense of the litigation, may be insufficient an amount to support separate actions.

20. Accordingly, Plaintiff brings this action on behalf of herself and on behalf of all other members of the Class defined as follows:

All residents of Florida who purchased the Subject Vehicles (as defined herein) between the first date the Defendants manufactured, advertised, sold & delivered the Subject Vehicles or otherwise placed same into the stream of commerce through the date that Court certifies this suit as a class action.

Excluded from the Class are Defendants, any parent, subsidiary, affiliate, or controlled person of Defendants, as well as the officers, directors, agents, servants, or employees of Defendants, and the immediate family members of such persons. Also excluded is any trial judge who may preside over this cause.

COUNT I
Deceptive and Unfair Trade Practices

21. Plaintiff realleges the allegations contained in paragraphs 1 through 20 as if fully set out herein.

22. This Count is brought pursuant to the Florida Deceptive and Unfair Trade Practices Act ("DUTPA"), Section 501.201, *et seq.*, *Fla. Stat.*

23. At all times material hereto, Plaintiff and all members of the Class were consumers within the meaning of Section 501.203, *Fla. Stat.*, and are entitled to relief under the DUTPA in accordance with Section 501.211, *Fla. Stat.*.

24. At all times material hereto, Defendants FORD MOTOR COMPANY and SAWGRASS FORD conducted trade and commerce within the meaning of Section 501.203, *Fla. Stat.*

25. The DUTPA, Section 501.204, *Fla. Stat.*, provides in pertinent part:

Unfair methods of competition, unconscionable acts or practices, and unfair or deceptive acts or practices in conduct of any trade or commerce are hereby declared unlawful.

26. In Section 501.204, *Fla. Stat.*, the Florida Legislature has declared that the purpose of the DUTPA is to protect the consuming public and legitimate business enterprises from those who engage in unfair methods of competition, or unconscionable, deceptive, or unfair acts or practices in the conduct of any trade or commerce.

27. Beginning the first date the Defendants placed the Subject Vehicles into the stream of commerce and continuing through September 7, 2005, Defendants, individually and/or jointly, by and through their employees, agents and/or brokers, engaging in unlawful schemes and courses of conduct through one or more of the following unfair and/or deceptive and/or unconscionable acts and/or practices, as previously alleged herein.

28. The concealment and/or omission of material facts and/or misrepresentations and/or deception alleged in the preceding paragraphs occurred in connection with Defendants' conduct of trade and commerce in Florida.

29. Defendants' unfair and/or deceptive and/or unconscionable acts and/or practices violate the DUTPA, Section 501.204, *Fla. Stat.*

30. As a direct and proximate result of Defendants' violation of the DUTPA, Section 501.204, *Fla. Stat.*, Plaintiff and the class have suffered damages in an amount to be proven at trial (including but not limited to consequential damages such as property and automobile insurance deductibles, and the cost of repair to other property damaged by fires caused by the subject vehicles), in addition to attorneys' fees and costs.

WHEREFORE, Plaintiffs and the Class pray that the Court enter judgment in their favor and against Defendants FORD MOTOR COMPANY and SAWGRASS FORD, INC. as follows:

- A. Ordering that this action be maintained as a class action pursuant to Rule 1.220, *Fla.R.Civ.P.*, and the following class be certified:

All residents of Florida who purchased the Subject Vehicles (as defined herein) between the first date the Defendants manufactured, advertised, sold & delivered the Subject Vehicles or otherwise placed same into the stream of commerce through the date that Court certifies this suit as a class action.

Excluded from the Class are Defendants, any parent, subsidiary, affiliate, or controlled person of Defendants, as well as the officers, directors, agents, servants, or employees of Defendants, and the immediate family members of such persons. Also excluded is any trial judge who may preside over this cause; and

- B. Awarding Plaintiff and Class Members compensatory damages, costs of suit, and attorneys' fees.

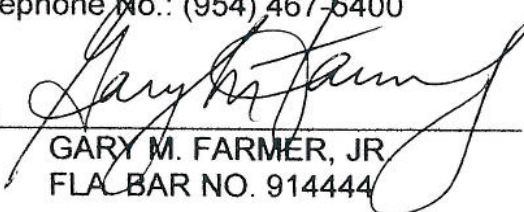
JURY DEMAND

31. Plaintiff demands a trial by jury of all issues so triable.

RESPECTFULLY SUBMITTED this 8th day of September, 2005.

Gary M. Farmer, Jr., Esq.
FREEDLAND, FARMER,
RUSSO & SELLER, PL
2665 Executive Park Dr., Suite 3
Weston, FL 33331
Telephone No.: (954) 467-6400

By: _____


GARY M. FARMER, JR.
FLA BAR NO. 914444

COPY

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DISTRICT

FILED IN CLERK'S OFFICE
U.S.D.C. Atlanta

SEP 06 2006

JAMES N. HATTEN, Clerk
Deputy Clerk

BOBBY K. SMITH and DAVID ADAMS)
Individually, and on Behalf of All)
Others Similarly Situated)

Plaintiffs,)

vs.)

FORD MOTOR COMPANY)

SERVE: CORPORATION PROCESS)
COMPANY)

180 Cherokee Street, N.E.)
Marietta, Georgia 30060)

Defendant.)

Case No. 1:06-CV-2126

JURY TRIAL
DEMANDED

CLASS ACTION COMPLAINT

COME NOW Plaintiffs, and for his complaint against Defendant, alleges:

I. PARTIES

A. Plaintiffs

1 Plaintiff Bobby K. Smith is a citizen of the state of Georgia and resides at 1503 Greenview Drive in Griffin, Georgia.

2 Plaintiff David Adams is a citizen of the state of Georgia and resides
at 129 Odyssey Turn in Conyers, Georgia.

B. Defendant Ford

3 Defendant Ford Motor Company (“Ford”) is a Delaware Corporation
which conducts business, directly and through its subsidiaries and divisions,
throughout the United States, including Georgia.

4 Ford is incorporated in Delaware with its principal place of business
in Dearborn, Michigan.

5 Defendant Ford motor Company (hereinafter “Ford”) is a corporate
entity authorized to conduct business in the State of Georgia and engaged in the
business of manufacturing, assembling, distributing and selling motor vehicles.

6 At all relevant times, Ford transacted, solicited, and conducted
business in the state of Georgia and is hence subject to the jurisdiction of this
court.

II. JURISDICTION

7 For Federal Diversity jurisdiction purposes, Ford is a citizen of the
states of Delaware and Michigan. This Court has jurisdiction pursuant to 28
U.S.C. §1332(d)(2)(A) of the Class Action Fairness Act because Plaintiff class

members are citizens of Georgia and defendants are citizens of Michigan and Delaware and the amount in controversy exceeds \$5 million.

8 Venue is proper in this District because Plaintiffs and Defendant reside within it and a substantial part of the events giving rise to the claims at issue arose in this District.

III. FACTUAL ALLEGATIONS

9 In 2002, Plaintiff Bobby K. Smith purchased a 2000 Expedition, VIN#1FMRU1567YLB39319, from Thomaston Ford, Lincoln, Mercy, Inc. of Thomaston, Georgia.

10 On March 16, 2005, Plaintiff Smith was sitting in his 2000 Ford Expedition with the engine in the off position for approximately thirty minutes when he noticed the smell of burning wires. He then pulled the hood release and noticed a flame.

11 At 3:47p.m., Plaintiff Smith alerted the fire department and moved the vehicle to an empty area of the parking lot and removed some items until the fire grew too large.

12 The fire department arrived on the scene at 3:53pm to extinguish the fire.

13 The 2000 Ford Expedition and compact disc player therein were left unsalvageable.

14 Investigation conducted by the Fire and Rescue Department determined that the fire was believed to have started on the driver's side of the engine compartment and that the hood had melted in this area and the front left tire had heavy fire damage.

15 On January 14, 2004, Plaintiff David Adams purchased a 2000 F-150, VIN# 2FTZX1721YCA08001.

16 On March 23, 2005, at approximately 6:49 p.m., the Fire and Rescue Department was alerted because Plaintiff Adams' vehicle was engulfed in flames.

17 The fire department arrived at the scene at approximately 6:52 p.m. to extinguish the fire.

18 The fire burned through the aluminum hood and had started through the windshield and partially burned the top of the dashboard above the steering wheel.

19 The investigation conducted by the Fire and Rescue Department indicated that the fire appeared to have started in the area of the fuse panel under the hood.

20 Plaintiff Adams' vehicle, cds, and digital camera were left unsalvageable.

21 The Ford Investigator indicated that the vehicle was too burnt to determine the cause of the fire and thus refused to help Plaintiff Adams' in any way.

IV. CLASS REPRESENTATION ALLEGATIONS

22 Ford is, and has been at all relevant times, engaged in the business of selling automobiles and trucks.

23 As a direct and proximate result of Ford placing these vehicles into the stream of commerce, Plaintiffs and the Class Members have suffered and continue to suffer injuries, including mental and economic pain and suffering, and will continue to experience such injuries indefinitely.

24 On January 27, 2005, under pressure from the National Highway Traffic Safety Administration ("NHTSA"), Ford recalled over 700,000 vehicles, including 2000 Model Year F-150 Pickups, Expeditions and Lincoln Navigators, and 2001 Model Year F-series Super Crew Trucks (the "Ford Recalled Vehicles"). These vehicles were recalled because they suddenly, and without warning, caught fire due to a problem with the manufacture, design, and placement of the Speed Control Deactivation Switch involved in the operation of the cruise control (the

“SCD Switch”). Because of the design, these fires can occur even when the car is turned off and not being operated.

25 As part of the recall, at one time the Ford Recalled Vehicle must be taken to a Ford dealership where the cruise control function will be disabled to avoid these fires. The Ford Recalled Vehicle are then without the cruise control function until Ford has a replacement part ready, at which time the Ford Recalled Vehicle must be brought back to the Ford dealership to be retrofitted with a redesigned SCD Switch.

26 On March 22, 2005, NHTSA announced that it would investigate more than 3.7 million additional Ford vehicles not covered by the January recall because the design, manufacture and placement of the SCD Switch in certain non-recalled vehicles was substantially similar to the design, manufacture and placement of the SCD Switch in the Ford Recalled Vehicles, and because NHTSA had received more than 200 complaints of engine fires in these non-recalled vehicles.

27 The vehicles that were being investigated by NHTSA included Ford F-150 and F-150LD vehicles (model years 1995-1999 and 2001-2002); and Ford Expeditions and Lincoln Navigators (model years 1997-1999 and 2001-2002).

28 On September 7, 2005, under pressure from the NHTSA, Ford Motor Company expanded its recall to include Ford F-150s (model years 1994-2002), Ford Expeditions (model years 1997-2002), Lincoln Navigators (model years 1998-2002), and Ford Broncos (model years 1994-1996) equipped with factory-installed speed controls.

29 The vehicles subject to either the January 27, 2005 or the September 7, 2005 recalls are hereinafter collectively known as “Ford Recalled Vehicles”.

30 A Ford document shows the same or similar switch was installed in a total of 16 million vehicles. Those vehicles include the Lincoln Mark VII/VIII (model years 1994-1998), the Ford Taurus/Mercury Sable and Taurus SHO 2.3 L (model years 1993-1995), the Ford Econoline (model years 1992-2003), the Ford F-Series (model years 1993-2003), the Ford Windstar (model years 1994-2003), the Ford Explorer without IVD (model years 1995-2003), the Ford Explorer Sport/Sport Trac (model years 2002-2003), the Ford Expedition (model years 1997-2003), and the Ford Ranger (model year 1995-2003). (Collectively, hereinafter, “Potentially Affected Ford Vehicles”).

31 Collectively, the Ford Recalled Vehicles and the Potentially Affected Ford Vehicles are referred to herein as the “Ford Vehicles.”

32 Ford designed, manufactured, marketed, distributed, warranted, and represented the safety of the Ford Vehicles sold to Plaintiff Bobby Smith and Plaintiff David Adams, and to other members of the Class (defined below).

33 The Ford Vehicles were designed and manufactured defectively by Ford. Specifically, the design of the Ford Vehicles was defective in that the SCD Switch is designed to always carry a live charge of electricity and can overheat and burst into flames even when the car is turned off. Because the Ford Vehicles are designed with the SCD Switch in close proximity to the plastic brake fluid receptacle, this overheating is particularly dangerous because an overheating SCD Switch will tend to melt the plastic brake fluid receptacle, causing the overheating SCD Switch to come into contact with the flammable brake fluid, which causes burning brake fluid to be spread throughout the engine compartment causing a quickly-spreading fire.

34 Because this fire can happen when the vehicle is not being operated, the Ford Vehicles are likely to begin burning in a garage, thus potentially causing a fire not only in the Ford Vehicles, but also in the garage and the house where the Ford Vehicles are parked, potentially leading to catastrophic results.

35 Prior to the manufacture of the Ford Vehicles, Ford knew that there were problems with the design, manufacture and placement of the SCD Switch

used in the Ford Vehicles. In 1999, Ford recalled over 250,000 1992 and 1993 Ford Crown Victorias, Lincoln Town Cars and Mercury Grand Marquise because of the same or similar problem.

36 Although Ford knew that there was a problem with the SCD Switch in the 1992 and 1993 vehicles, Ford used the same or similar design in the Ford Vehicles which are the subject of this lawsuit.

37 Despite being aware of the foregoing defects in and problems with the Ford Vehicles, Ford represented to Plaintiffs and the Class Members (defined below) that the Ford Vehicles were safe through various forms of advertising. Ford made and continued to make these representations even though it knew that the Ford Vehicles could burst into flames at any time because of the design, manufacture and placement of the SCD Switch.

38 Ford engaged in a pattern of representations regarding the Ford Vehicles which were intended to, and did in fact, cause consumers to believe that the Ford Vehicles were safe vehicles with representations in print, radio, television, and internet advertising proclaiming that the Ford Vehicles were “Built Ford Tough,” stating that Ford is a family that cherishes the safety of its customers, and stating that Ford Motor Company is “committed to putting the safest vehicles on the road”.

39 To the contrary, Ford is not committed to putting the safest vehicles on the road, but instead intentionally put vehicles on the road (and in its customers' garages) that have a known defect with the potential to cause a fire resulting in catastrophic damage to the vehicle and other property, and injury or death to its customers.

40 Accordingly, Ford's statements in its advertisements constituted misrepresentations.

41 Ford also concealed the defects in and problems with the Ford Vehicles from Plaintiffs and Class Members (defined below), which could not reasonably be known by them.

42 The defects in and problems with the Ford Vehicles were material facts the concealment of which would tend to mislead or deceive consumers.

43 Ford's misrepresentations and concealment of material facts caused Plaintiffs and the Class Members to suffer damages including, but not limited to, unfulfilled expectations, lost benefit of the bargain, loss of use of their cruise control function, diminished value, cost of repair and/or consequential damages.

44 As stated above, Ford has admitted to the fire hazard in the Ford Recalled Vehicles and agreed to disconnect the electrical connector from the speed control which will eliminate the fire hazard, but also disable the cruise control.

Plaintiffs and the Class Members will be without use of cruise control in their vehicles until Ford is able to replace the defective speed-control switches with properly designed switches which do not present a fire hazard.

45 Ford has not yet admitted to the existence of the fire hazard in the Potentially Affected Ford Vehicles.

46 The vehicles of Plaintiffs Smith and Adams and some of the other Class Members caught fire as a result of the faulty SCD Switch, rendering the vehicles a total loss.

47 As a consequence of the fire, additional property located in or around the premises of the vehicle sustained severe fire and/or smoke damage.

48 Plaintiffs seek for themselves, and all Class Members, actual damages that were a proximate and producing result of Ford's acts and omissions alleged herein. They further seek punitive damages, statutory multiples of damages, all interest allowed by law, reasonable and necessary attorneys' fees, and court costs.

V. TOLLING OR NON-ACCRUAL OF APPLICABLE STATUTES OF LIMITATIONS

49 Any applicable statutes of limitations have been tolled or have not run because Defendant Ford knowingly and actively concealed and denied the

defects in the Ford Recalled Vehicles until NHTSA pressured Defendant Ford to recall them, and they are tolled due to the pendency of other class actions pursuant to the U.S. Supreme Court decision, American Pipe. Defendant Ford continues to knowingly and actively conceal and deny the defects in the Ford Investigated Vehicles.

50 Defendant Ford had actual or constructive knowledge of its wrongful conduct. Defendant Ford has kept Plaintiffs and Class Members uninformed of information essential to the pursuit of their claims, without any fault or lack of diligence on behalf of Plaintiffs and Class Members. In fact, Defendant Ford fraudulently and deceitfully concealed and misrepresented to the public material facts concerning the SCD Switch defect. Plaintiffs, Class Members, and the general public did not discover the facts alleged herein until a date within the limitations period governing this action, and promptly exercised due diligence by filing this complaint.

51 Plaintiffs, Class Members, and the general public were not at fault for failing to discover Defendant Ford's misconduct sooner, and had no actual or presumptive knowledge of the facts of Defendant Ford's misconduct to put them on inquiry notice. Plaintiffs, Class Members and the general public could not reasonably have discovered Defendant Ford's misrepresentations and/or material

omissions before the filing of this complaint and, therefore, their claims accrued on that date, and/or any statute of limitations was tolled until that date.

52 Defendant Ford was and is under a continuing duty to disclose the nature of the SCD Switch defect to Plaintiffs, Class Members, and the general public. Because of Defendant Ford's concealment of the SCD Switch defect, Defendant Ford is estopped from relying on any statute of limitations defense.

VI. CLASS ACTION ALLEGATIONS

53 Pursuant to Fed. R. Civ. P. 23, Plaintiffs bring this action for themselves and on behalf of the Class of all entities and natural persons domiciled or residing in the state of Georgia, who purchased a 2000 Model Year Ford F-Series Super Crew Truck, a Ford F-150 (model years 1994-2002), a Ford Expedition (model years 1997-2002), a Lincoln Navigators (model years 1998-2002), or a Ford Bronco (model years 1994-1996) equipped with factory-installed speed controls (a "Ford Recalled Vehicle"), or a Lincoln Mark VII/VIII (model years 1994-1998), a Ford Taurus/Mercury Sable and Taurus SHO 2.3 L (model years 1993-1995), a Ford Econoline (model years 1992-2003), a Ford F-Series (model years 1993-2003), a Ford Windstar (model years 1994-2003), a Ford Explorer without IVD (model years 1995-2003), a Ford Explorer Sport/Sport Trac (model years 2002-2003), a Ford Expedition (model years 1997-2003), or a Ford

Ranger (model year 1995-2003) (a “Potentially Affected Ford Vehicle”) and who, according to motor vehicle registration records maintained by their respective states or districts of residence of domicile, can be identified as owning at some time at least one Ford Recalled Vehicle or a Potentially Affected Ford Vehicle (collectively referred to as “Ford Vehicle”).

54 Plaintiffs’ claims are typical of the other Class Members’ claims.

55 Plaintiffs will fairly and adequately protect the interests of the Class.

Plaintiffs Smith and Adams are the current owners of a Ford Recalled Vehicle and is a member of the Class they seek to represent. Their interests coincide with, and are not antagonistic to, the other Class Members’ interests.

56 Plaintiffs and the Class have retained counsel experienced and competent in complex, commercial, multi-party, mass tort, personal injury, products liability, consumer and class action litigation.

57 The Class Members are so numerous that joinder of all is impractical. Defendant Ford has estimated that more than 4.8 million Vehicles were subject to its three recalls. A Ford document indicates that there are over 12.2 million Potentially Affected Ford Vehicles installed with similar SCD Switches. Accordingly, Plaintiffs estimate that the members of the Class number in the millions.

58 A class action is superior to other methods for the fair and efficient adjudication of this controversy. The expense and burden of individual litigation may make it difficult, if not impossible, for all members of the class to address the wrongs done to them individually. There will be no unusual difficulty in the management of this action as a class action.

59 The claims of Plaintiffs and the Class Members involve common questions of fact and law, including, but not limited to:

- a. Whether the Ford Vehicles were defectively designed, manufactured, and/or marketed with respect to the SCD Switch;
- b. Whether the defects in the Ford Vehicles constituted breaches of the implied warranty of merchantability by Ford;
- c. Whether the defects in the Ford Vehicles constituted breaches of express warranties by Ford;
- d. Whether Ford violated the Georgia Fair Business Practices Act, by among other things, representing that the Ford Vehicles have characteristics that they do not have. (e.g., safety).

60 Questions of law and fact common to the Class Members predominate over questions affecting only individual Members, and a class action is superior to other available methods for fair and efficient adjudication of the controversy.

VII. DEFENDANT FORD'S LIABILITY FOR ITS EMPLOYEES' ACTS AND OMISSIONS

61 Whenever this Petition alleges that Ford committed any act or omission, it means that (a) Ford's officers, agents, servants, employees or representatives committed such act or omission in the normal and routine course and scope of their employment; or (b) the act or omission was committed with Ford's full authorization or ratification.

62 Ford had the right to control each of its employee's conduct and the details of their work.

VIII. CAUSES OF ACTION

COUNT I

Fraudulent Misrepresentation/Omission

63 Plaintiffs incorporate all of the allegations and facts set forth in the preceding paragraphs as if fully set forth herein.

64 Ford made false, misleading and deceptive misrepresentations to its customers by neglecting to inform the customers of a danger resulting from the normal use of their products.

65 The fraudulent misrepresentations, omissions and concealments made by Ford were known and deliberate and were purposefully designed to

induce the Plaintiffs and the Class members into purchasing their products and to prevent expenditures on behalf of Ford to remedy a design or manufacturing defect in its product. In marketing and selling the Ford Vehicles, Ford made express and implied representations to the public at large, including Plaintiffs and all members of the Class, that the vehicles were free from dangerous designed defects, did not contain unreasonably dangerous components, and were reasonably safe when operated in the manner in which they were designed and intended to be operated.

66 These representations were false, and were known by Ford to be false at the time they were made.

67 Plaintiffs and members of the Class relied in good faith on the express and implied representations of Ford regarding the safety of the Ford Vehicles.

68 Because Ford had superior knowledge of the design and manufacture of the Ford Vehicles, it was reasonable for Plaintiffs and Class Members to rely on Ford's express and implied representations.

69 Plaintiffs and Class Members did in fact rely to their detriment on the express and implied representations of Ford regarding the safety of the Ford Vehicles.

70 Plaintiffs and Class Members have been damaged as a direct and proximate result of Ford's fraudulent misrepresentations and their reasonable reliance on such representations.

71 Plaintiffs and Class Members are entitled to recover the full amount of such damages, together with costs and attorney fees to the full extent permitted by law, as a result of Defendant Ford's fraudulent misrepresentations.

72 The misrepresentations, concealments and omissions by defendant were material in that the Plaintiffs and other members of the Class reasonably relied upon such misrepresentations, concealments and omissions to their detriment.

73 As a direct and proximate result of Ford's fraudulent misrepresentations, concealments and omissions, the Plaintiffs and Class members have been damaged in an amount to be determined at trial.

COUNT II

Negligence

74 Plaintiffs incorporate all of the allegations and facts set forth in all preceding paragraphs as if fully set forth herein.

75 Defendant was negligent in the design and/or manufacture of cruise control deactivation switch in that the normal use of their products poses a serious

risk of property damage or bodily injury. Defendant Ford failed to exercise ordinary care in designing, manufacturing, and selling of the vehicles in question, did that which a reasonably prudent automobile manufacturer would not have done in the same or similar circumstances, failed to do that which a reasonably prudent automobile manufacturer would not have done under the same or similar circumstances, and was negligent in one or more of the following ways:

- a. in designing the cruise control deactivation switch such that it received continual power;
- b. in designing the cruise control deactivation switch such that it received far more power than was necessary for such switch to properly function;
- c. in designing the cruise control deactivation switch so that it was in close proximity to the master cylinder brake fluid container;
- d. in designing the vehicle so that the master cylinder brake fluid container was made out of a substance that could not withstand the heat generated by the cruise control deactivation switch;
- e. in failing to design the vehicle so that the cruise control deactivation switch would deactivate if it reached a heat or resistance that could cause a fire, such as a fuse that would blow at such point, or some other method; and
- f. in failing to inform the Plaintiffs and public of the aforesaid risk of fire.

76 Defendant Ford knew or should have known that the SCD Switch it designed and placed in the described vehicles, and manufactured, tested, marketed

or sold, in their ordinary and foreseeable use, would overheat and ultimately ignite the Ford Vehicles in which the SCD Switches were installed.

77 Defendant Ford's negligence was a contributing cause of the harm suffered to Plaintiffs and Class Members.

78 As a direct and proximate result of the Defendant Ford's negligence, Plaintiffs and Class Members have suffered or will suffer damages, which include costs to inspect, repair or replace their speed control deactivation switches and systems, and to replace or repair other damaged property, in an amount to be determined at the trial of this cause.

79 The conduct of Defendant Ford was so willful, wanton, malicious, reckless, and in such disregard for the consequences as to reveal a conscious indifference to the clear risk of death or serious bodily injury, and merits the imposition of punitive damages.

80 Despite this known danger, the defendant did not otherwise take any action to inform the general public of the danger associated with specified uses of their defective doors.

81 As a direct and proximate result of the negligence of the defendant in the design and manufacture of its products, Plaintiffs and Class members have incurred actual and compensatory damages in an amount to be proven at trial.

COUNT III

Breach of Express Warranty

82 Plaintiffs incorporate by reference the allegations contained in the preceding paragraphs as though fully set forth herein:

83 Plaintiffs and Class Members purchased a vehicle, manufactured by Defendant Ford.

84 Defendant Ford knew that the Plaintiffs and the Class he represents were foreseeable users of their vehicles, and in fact marketed these vehicles to be sold to American consumers, spending millions of dollars in advertising on a national and local level to tout their vehicles to intended purchasers.

85 Defendant Ford made numerous claims and representations as to the quality of the vehicles they offered for sale, as well as to the fitness of the vehicles for use by Plaintiffs and Class Members for their intended purposes.

86 Plaintiffs and Class Members used their vehicles as intended, for transportation, and in other manners depicted by Defendant Ford in its advertising, and for other such uses of travel and transportation in which consumers use and are intended to use motor vehicles.

87 Plaintiffs and Class Members made no changes or alterations to the engine and operational parts of the Cruise Control system or the SCD Switch.

88 The SCD Switch was defective as sold to Plaintiffs and installed on his vehicle and vehicles of the Class Members.

89 The vehicles in question failed to comply with the foregoing representations in one or more of the following particulars, among others:

a. in designing the cruise control deactivation switch such that it received continual power;

b. in designing the cruise control deactivation switch such that it received far more power than was necessary for such switch to properly function;

c. in designing the cruise control deactivation switch so that it was in close proximity to the master cylinder brake fluid container;

d. in designing the vehicle so that the master cylinder brake fluid container was made out of a substance that could not withstand the heat generated by the cruise control deactivation switch; and

e. in failing to design the vehicle so that the cruise control deactivation switch would deactivate if it reached a heat or resistance that could cause a fire, such as a fuse that would blow at such point, or some other method;

f. in failing to inform the Plaintiffs and public of the aforesaid risk of fire.

90 As a result, Plaintiffs and Class Members have been damaged, including inconvenience and cost of replacement of the SCD Switch, and for some, complete destruction of the vehicle because of fire, and destruction of other

items of property adjacent to the fire or items of property that were within the vehicle when it burned.

COUNT IV

Breach of Implied Warranty of Merchantability

91 Plaintiffs incorporate by reference all other paragraphs of this Petition as if fully set forth here and further alleges as follows:

92 Ford is in the business of selling Ford Vehicles and ultimately sold such goods to the Plaintiffs and Class Members.

93 By placing the Ford Vehicles into the stream of commerce, Defendant Ford impliedly warranted that the Ford Vehicles were of merchantable quality, fit and safe for their intended use and fit for the particular purpose of transporting individuals and families and parking them when not in use.

94 The Ford Vehicles breached the implied warranty of merchantability in one or more of the following ways:

a. in designing the cruise control deactivation switch such that it received continual power;

b. in designing the cruise control deactivation switch such that it received far more power than was necessary for such switch to properly function;

c. in designing the cruise control deactivation switch so that it was in close proximity to the master cylinder brake fluid container;

d. in designing the vehicle so that the master cylinder brake fluid container was made out of a substance that could not withstand the heat generated by the cruise control deactivation switch;

e. in failing to design the vehicle so that the cruise control deactivation switch would deactivate if it reached a heat or resistance that could cause a fire, such as a fuse that would blow at such point, or some other method; and

f. in failing to inform the Plaintiffs and public of the aforesaid risk of fire;

g. in designing the vehicles in such a way that the SCD Switches overheat, ultimately and unpredictably igniting the Ford Vehicles.

95 Plaintiffs and Class Members were foreseeable users of the Ford Vehicles.

96 Plaintiffs timely notified Defendant Ford of the foregoing breaches of the warranty of merchantability.

97 The injuries of Plaintiffs and Class Members were a proximate result of Defendant Ford's breach of implied warranty as described herein.

98 As a direct and proximate result of the breach of implied warranty, Plaintiffs suffered and will continue to suffer injury, harm and economic loss as alleged herein.

COUNT V

Negligent Misrepresentation and/or Omission

99 Plaintiffs incorporate all of the allegations and facts set forth in all preceding paragraphs as if fully set forth herein.

100 As a result of the reckless and/or negligent misrepresentations and/or omissions by defendant, the plaintiffs and Class members were induced into purchasing defective vehicles manufactured by the defendant and using the products for their intended use.

101 The Defendant made these representations to the Plaintiffs and other Class members intending that they rely on such representations.

102 The negligent misrepresentations and/or omissions were material in that they induced the Plaintiffs and other Class members into purchasing defective vehicles manufactured by defendant and using such products for their intended purpose.

103 As a direct and proximate result of the negligent misrepresentations and/or omissions by Defendant, Plaintiffs and Class members have incurred actual and compensatory damages in an amount to be proven at trial.

COUNT VI

Implied Merchantability under Magnuson Moss Warranty Act

104 Plaintiffs incorporates all of the allegations and facts set forth in all preceding paragraphs as if fully set forth herein.

105 Defendant's conduct as described herein violated the Magnuson Moss Warranty Act ("Magnuson Moss Act"), 15 U.S.C. §§2304-2312.

106 Defendant expressly and impliedly represented and warranted that the vehicles being sold to the general public were free of defects, merchantable, and fit for their intended purpose. Defendant breached these implied warranties by selling the Ford vehicles described herein with the inherent defects described herein. Moreover, Defendant made and/or allowed these warranties to be made with the intent of inducing Plaintiffs and the other members of the Class to purchase the Ford vehicles to Plaintiffs and members of the class.

107 If Plaintiffs and the members of the Class had known the true facts, they would not have purchased the Ford vehicles or paid as much as they did for the vehicles.

108 Plaintiffs and the members of the Class are entitled to either repudiation of their agreements and repayment of the money they spent to purchase their vehicles in an amount to be determined at the trial of this action.

COUNT VII

Fraudulent Concealment

109 Defendant Ford's false representations concealed the cause of action from Plaintiffs and Class Members. Therefore, neither Plaintiffs nor other Class

Members had any realistic means to detect Defendant Fords' misrepresentations. As a result, Plaintiffs, even in the exercise of due diligence, was not aware of, and did not discover these matters until shortly before filing suit.

COUNT VIII

Violation of The Georgia Fair Business Practices Act

110 Plaintiffs incorporate all of the allegations and facts set forth in all preceding paragraphs as if fully set forth herein.

111 Defendant's conduct as described herein violated the Georgia Fair Business Practices Act (the "Act"), Ga. Code Ann § 10-1-393 (2006).

112 The Act provides that "unfair or deceptive acts or practices in the conduct of consumer transactions and consumer acts or practices in trade or commerce are declared unlawful".

113 Among other acts or practices, "representing that goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits, or quantities that they do not have" falls within the meaning of "unfair or deceptive."

114 The conduct of Defendant Ford as alleged herein was at all times relevant in or affecting commerce and violated the provisions of the Georgia Fair Business Practices Act by representing that the Ford Vehicles have characteristics, uses, and benefits that they do not have.

115 By engaging in the conduct described above, Defendant Ford has violated and continues to violate the Georgia Fair Business Practices Act.

REQUEST FOR INJUNCTIVE RELIEF

116 As grounds for entering a permanent injunction, Plaintiffs say:

117 Plaintiffs incorporate by reference all other paragraphs of this Petition as if fully set forth here and further alleges as follows:

118 The granting of monetary and/or declaratory relief will not provide an adequate remedy to Plaintiffs and Class Members; and no other adequate legal remedy is available. Defendant Ford's continued sale of vehicles with aforesaid defects will result in additional injuries and deaths. No award of damages provides an adequate remedy for the life of an individual.

119 Plaintiffs and Class Members will suffer irreparable injury if permanent injunctive relief is not granted. Persons who die, or who sustain permanent disability, as a result of Defendant Ford's continued sale of vehicles with the aforesaid defects will suffer irreparable injury.

120 As more particularly set forth above, Defendant Ford has committed, and is continuing to commit, one or more wrongful acts. Defendant Ford continues to sell vehicles with the aforesaid defects.

121 Plaintiffs and Class Members will suffer imminent harm if the injunction does not issue. It is certain that additional individuals will die, and be injured if Defendant Ford continues to sell vehicles with the aforesaid defects.

REQUEST FOR DECLARATORY JUDGMENT

122 As a basis for declaratory relief, Plaintiffs says:

123 Plaintiffs incorporate by reference all other paragraphs of this Petition as if fully set forth here and further alleges as follows:

124 A real controversy exists between Plaintiffs and Defendant Ford.

125 At least some of the issues involved in the case at bar would be resolved by the granting of declaratory relief.

126 Plaintiffs have a justiciable interest in the subject matter of the lawsuit.

PUNITIVE DAMAGES

127 Plaintiffs incorporate by reference all other paragraphs of this Petition as if fully set forth here and further alleges as follows:

128 Defendant Ford authorized and/or ratified the aforesaid conduct of its agents.

129 The aforesaid conduct was committed by Defendant Ford and/or its agents.

130 The aforesaid conduct of Defendant Ford, when viewed objectively from Defendant Ford's viewpoint at the time of such conduct, involved an extreme degree of risk, considering the probability and magnitude of the potential harm to others.

131 Furthermore, Defendant Ford had actual subjective awareness of the risk involved, but nevertheless proceeded with conscious indifference to the rights, safety or welfare of others.

DAMAGES APPLICABLE TO ALL COUNTS

132 Plaintiffs incorporate by reference all other paragraphs of this Petition as if fully set forth here and further alleges as follows:

133 By reason of Defendant Ford's conduct, and the defects in the Ford Vehicles, Plaintiffs and Class Members suffered, sustained and incurred, and in reasonable probability will continue to suffer, sustain and incur, the following injuries and damages, among others:

- a. Economic damages, including one or more of the following, among others:
- b. the loss of the benefit of the bargain (the difference in the value of the vehicle as represented and the value of the vehicle as received);

- c. out of pocket expenses (including, among other things, the difference between what was paid for the vehicle and the value of the of the vehicle as received, towing expenses, transportation costs, and rental fees);
- d. the difference in the market value of the vehicle immediately before and immediately after the fire at the place where the fire occurred;
- e. the value of the loss of use of the vehicle;
- f. the cost of repair to their respective vehicles;
- g. the difference in the market value of damaged or destroyed property other than the subject vehicle immediately before and immediately after the fire in question;
- h. the replacement cost of damaged or destroyed property other than the subject vehicle damaged by the fire in question; and
- i. reasonable and necessary attorney fees;

PRAYER FOR RELIEF

WHEREFORE, the Plaintiffs and Class Members request that this Court enter judgment against Defendant Ford and in favor of Plaintiffs and the Class Members and award the following relief:

- A. Order certifying this action as a class action pursuant to Federal Rules of Civil Procedure 23(a) and 23(b);

B. For compensatory damages in excess of the minimum jurisdictional limits of the Court;

C. For punitive or exemplary damages in excess of the minimum jurisdictional limits of the Court.

D. Prejudgment interest;

E. Post judgment interest;

F. Court Costs

G. Reasonable and necessary attorneys' fees;

H. Treble damages;

I. An injunction enjoining Defendant Ford from selling any other vehicles in question that Defendant Ford has not yet recalled;

J. An injunction enjoining Defendant Ford from selling any other vehicles with the defective SCD Switch;

K. Declaratory Judgment that:

i. Defendant Ford breached its express warranty;

ii. Defendant Ford breached the implied warranty of merchantability;

iii. Defendant Ford was negligent in the design, marketing and/or manufacturing of the Ford Vehicles;

- iv. Defendant Ford committed a fraud upon Plaintiffs and Class Members;
- v. Defendant Ford fraudulently concealed the dangerous condition of the Ford Vehicles; and
- vi. Defendant Ford violated the Georgia Fair Business Practices Act.

JURY TRIAL DEMANDED

Plaintiffs demand a trial by jury.

CHITWOOD HARLEY HARNES LLP

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Plaintiffs' Counsel

RECEIVED
IN LAKE CHARLES, LA

JUN 21 2005 UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
LAKE CHARLES DIVISION
ROBERT H. SHERMANN, CLERK
WESTERN DISTRICT OF LOUISIANA

CV 05-1086

JOHN SMITH and DAVID GUILLORY, *
individually and on behalf of *
others similarly situated, *
Plaintiffs *

CIVIL ACTION NO. _____

JUDGE MINALDI
MAGISTRATE JUDGE WILSON
MAGISTRATE JUDGE

VERSUS

FORD MOTOR COMPANY, *
Defendant *

COMPLAINT - CLASS ACTION

Plaintiffs, individually and on behalf of those similarly situated, respectfully represent as follows:

JURISDICTION

I.

The jurisdiction of this court arises under 28 U.S.C. § 1332, based on the complete diversity of citizenship of the parties. The amount in controversy exceeds \$75,000.00, exclusive of interest and costs.

II.

Plaintiffs, John Smith and David Guillory, are major citizens of the State of Louisiana.

III.

Made defendant herein is **Ford Motor Company** ("Ford"), a foreign corporation domiciled in the state of Delaware and which has its principal place of business in the state of Michigan, that is registered to do and doing business in the state of Louisiana and within the jurisdiction of this court, having appointed C T Corporation System, 8550 United Plaza Blvd., Baton Rouge, LA 70809.

CLASS ALLEGATIONS

IV.

This action is brought as a class action under the provisions of Rules 23(a) and 23(b)(3) of the Federal Rules of Civil Procedure, pursuant to the redhibition laws of Louisiana, La. Civil Code articles 2520 *et seq.*, including costs and attorneys' fees.

V.

The class of plaintiffs in this action consists of all registered owners of vehicles purchased in the State of Louisiana and manufactured by Ford into which Ford installed speed control deactivation switches identified by Ford by part number F2vC-9F924-AB and all switches that are substantially the same as said part, including, without limitation, (a) model years 1995 through 2002, inclusive, Ford F-150 trucks, (b) model years 1997 through 2002, inclusive, Ford Expedition and Lincoln Navigator vehicles, (c) model years 1992 through 2002, inclusive, Ford Crown Victoria, Lincoln Town Car and Mercury Grand Marquis vehicles; except for any vehicle that was subject to Ford Recall No. 05S28 (January 27, 2005) and Ford Campaign Number 99S15 (May 13, 1999) and any vehicle purchased in the state of Louisiana by a citizen of the state of Michigan.

VI.

The exact number of members of the class identified above is not known, but it is estimated that there are hundreds of thousands of owners of such vehicles in the State of Louisiana. The class is so numerous that joinder of individual members in this action is impracticable.

VII.

There exist common questions of law and fact for all members of the above-defined class, as well as common relief sought by the entire class, namely:

- a. The design of the subject switch;
- b. The configuration of the subject switch within the electrical system of the vehicles;
- c. Whether the subject switch presents a risk of fire;
- c. Whether the utility of the subject switch outweighs the risk to life and property;
- d. Whether the speed deactivation control switch installed on the class member's vehicle constitutes a redhibitory defect;
- e. Whether the defective condition of the speed control deactivation switch existed at the time the class members' vehicle left the control of the defendant;
- f. What repairs, replacements or modifications are necessary to eliminate the redhibitory defect.

VIII.

The claims of plaintiffs are typical of the claims of the class, in that the claims of all members of the class, including plaintiffs, depend upon a showing of the acts of omissions of defendant giving rise to the right of plaintiffs to the relief sought. There is no conflict as between any individual named plaintiff and other members of the class with respect to this action, or with respect to the claims for relief set forth in this complaint.

IX.

The named plaintiffs are the representative parties for the class and are willing and able to fairly and adequately protect the interests of the class. The attorneys for plaintiffs are experienced and capable in class action and mass tort litigation of this nature.

X.

This action is properly maintained as a class action inasmuch as the questions of law and fact common to the members of the class predominate over any questions affecting only individual members, and a class action is superior to other available methods for the fair and efficient adjudication of the controversy. In support of the above allegations, plaintiffs show that the common issue as to whether the subject speed control deactivation switch presents a redhibitory defect, together with the determination of the remedy available to members of the class upon a finding of such a defect, predominates over any individual issue of fact, such as the age, extent of use and maintenance history of each class member's vehicle. Any effect that such individual issues may have can be addressed through a properly administered claims process.

XI.

Defendant, Ford, is liable to Plaintiffs, John Smith and David Guillory, for a reduction in the purchase price of the vehicle described herein based upon the cost to repair, replace, modify or otherwise eliminate the defective condition described below, for damages reasonable in the premises, reasonable attorney's fee and costs, to wit:

XII.

John Smith purchased a Ford Expedition, VIN #1FMRU1765XLC40547, on or about August 26, 1999, and David Guillory purchased a Ford Expedition, VIN# FMRN17L3WLB71927, in 2001.

XIII.

The vehicles purchased by Plaintiffs described above were manufactured by defendant Ford Motor Company.

XIV.

Plaintiffs are entitled to a reduction of the purchase price commensurate with the cost to make repairs, replacement or modifications necessary to eliminate the redhibitory defect present in the subject switch, in accordance with Louisiana Civil Code Article 2520.

XV.

The subject Ford vehicles purchased by Plaintiffs possess a redhibitory defect arising from the use of a speed control deactivation switch that is prone to overheat, smoke and/or ignite and burn when the vehicle is used as intended, and that defect presents a risk of destruction of the vehicle and/or personal injury and/or death to the owner or others.

XVI.

In addition to the make and model vehicles owned by Plaintiffs, Ford utilized the same, or substantially the same, speed control deactivation switch in other makes and models manufactured by Ford, including, without limitation, model years 1995 through 2002 F-150 trucks, model years 1997 through 2002 Ford Expedition and Lincoln Navigator vehicles; and model years 1992 through 2002 Ford Crown Victoria, Mercury Marquis and Lincoln Town Car vehicles, all of which are at an increased risk of catching fire as a result of the use of the subject speed control deactivation switch.

XVII.

Through January 2005, at least 63 fires caused by the failure of the subject speed control deactivation switch described herein were reported to the National Highway Traffic Safety Administration ("NHTSA") in vehicles manufactured and sold by Ford.

XVIII.

In January 2005, Ford announced that it was recalling certain model year 2000 F-150, Expedition, Lincoln Navigator and certain 2001 F-150 Super crew trucks due to an extremely high speed control deactivation failure/fire rate.

XIX.

Despite the recall of January 2005, a total of at least 218 complaints of fires in vehicles equipped with the subject speed control deactivation switch have been made to Ford and the Office of Defect Investigation of NHTSA, and many more such incidents have occurred without being reported to Ford or NHTSA.

XX.

NHTSA estimates that over 3,700,000 Ford F-150 trucks, Ford Expeditions and Lincoln Navigator vehicles equipped with the subject speed control deactivation switch are currently in use.

XXI.

Plaintiffs aver that their vehicles, and the vehicles owned by the members of the class defined above, suffered from the same defective condition as those vehicles subject to the above described recall.

XXII.

Plaintiffs demand a trial by jury.

XXIII.

Ford is deemed by law to know of the redhibitory defects in the vehicles subsequently purchased by Plaintiffs herein, and is therefore liable to Plaintiffs for a reduction in the purchase price commensurate with the cost to repair, replace or modify the subject switch in order to make

the vehicles safe for their intended use, and also for damages and reasonable attorney fees.

WHEREFORE, Plaintiffs, John Smith and David Guillory, pray that:

- I. The rights of the members of the class defined herein be adjudicated and declared;
- II. That Plaintiffs be awarded the damages and relief requested herein;
- III. That Plaintiff class members be awarded the damages and relief requested herein;
- IV. That Plaintiffs and Plaintiffs' class be awarded attorney fees in accordance with La. Civil Code article 2545 and Rule 23(h) of the Federal Rules of Civil Procedure.
- V. That Plaintiffs be granted a trial by jury.
- VI. That Plaintiffs and Plaintiffs' class be awarded all taxable costs of Court, legal interest on all amounts awarded from date of judicial demand until paid, and for all other general and equitable relief.

Respectfully submitted:



CLAYTON A.L. DAVIS (Bar No. 04723)
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UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT
OF LOUISIANA

2006
ORIGINAL FILED
USDC MDL

2006 SEP -7 AM 10:08

SIGN BY DEPUTY CLERK 

PAULA VANDUZEE and BRYAN
BOUDREAUX
Individually, and on Behalf of All
Others Similarly Situated

Plaintiffs,

vs.

FORD MOTOR COMPANY

SERVE: C T CORPORATION SYSTEM
8550 UNITED PLAZA BLVD.
BATON ROUGE, LA 70809

Defendant.

Case No. 06-657-JIB-CN

JURY TRIAL DEMANDED

Judge Brady
Magistrate Noland

CLASS ACTION COMPLAINT

COME NOW Plaintiffs, and for their complaint against Defendant, alleges:

I. PARTIES AND JURISDICTION

A. Plaintiffs

1 Plaintiff Paula VanDuzee is a citizen of the State of Louisiana and resides at 659 Maxine Drive in Baton Rouge, Louisiana.

2 Plaintiff Bryan Boudreaux is a citizen of the State of Louisiana and resides at 217 Robyn Street in Gray, Louisiana.

B. Defendant Ford

3 Defendant Ford Motor Company ("Ford") is a Delaware Corporation which conducts business, directly and through its subsidiaries and divisions, throughout the United States, including Louisiana.

4 Ford is incorporated in Delaware with its principal place of business in Dearborn, Michigan.

5 Ford is a corporate entity authorized to conduct business in the State of Louisiana and engaged in the business of manufacturing, assembling, distributing and selling motor vehicles.

6 At all relevant times, Ford transacted, solicited, and conducted business in the state of Louisiana and is hence subject to the jurisdiction of this court.

II. JURISDICTION

7 For federal diversity jurisdiction purposes, Ford is a citizen of the states of Delaware and Michigan. This Court has jurisdiction pursuant to 28 U.S.C. §1332(d)(2)(A) of the Class Action Fairness Act because Plaintiff class members are citizens of Louisiana and Defendants are citizens of Michigan and Delaware and the amount in controversy exceeds \$5 million.

8 Venue is proper in this District because Defendant resides within it and a substantial part of the events giving rise to the claims at issue arose in this District.

III. FACTUAL ALLEGATIONS

9 Plaintiff VanDuzee purchased a Model Year 1998 Ford Expedition XLT from a private owner.

10 On November 1, 2005, at approximately 5am, Plaintiff VanDuzee's 1998 Ford Expedition XLT caught fire.

11 The Fire and Rescue Department was summoned at 5:04am and arrived at the scene at approximately 5:15am.

12 By the time the fire was extinguished, the 1998 Ford Expedition and contents therein were left unsalvageable.

13 Plaintiff Boudreaux purchased a Model Year 2000 Ford Expedition from Terrebonne Ford in Houma, Louisiana.

14 On January 26, 2006, Plaintiff Boudreaux's 2000 Ford Expedition caught fire.

15 The Police Department and the Fire and Rescue Department were immediately summoned.

16 By the time the fire was extinguished by the Fire and Rescue Department, Plaintiff Boudreaux's 2000 Ford Expedition and the contents therein were left completely unsalvageable.

17 In addition, Plaintiff Boudreaux's motorcycle and his mother-in-law's home sustained fire damage.

IV. CLASS REPRESENTATION ALLEGATIONS

18 Ford is, and has been at all relevant times, engaged in the business of selling automobiles and trucks.

19 As a direct and proximate result of Ford placing these vehicles into the stream of commerce, Plaintiffs and the Class Members have suffered and continue to suffer injuries, including mental and economic pain and suffering, and will continue to experience such injuries indefinitely.

20 On January 27, 2005, under pressure from the National Highway Traffic Safety Administration ("NHTSA"), Ford recalled over 700,000 vehicles, including 2000 Model Year F-150 Pickups, Expeditions and Lincoln Navigators, and 2001 Model Year F-series Super Crew Trucks (the "Ford Recalled Vehicles"). These vehicles were recalled because they suddenly, and without warning, caught fire due to a problem with the manufacture, design, and placement of

the Speed Control Deactivation Switch involved in the operation of the cruise control (the "SCD Switch"). Because of the design, these fires can occur even when the car is turned off and not being operated.

21 As part of the recall, at one time the Ford Recalled Vehicle must be taken to a Ford dealership where the cruise control function will be disabled to avoid these fires. The Ford Recalled Vehicle are then without the cruise control function until Ford has a replacement part ready, at which time the Ford Recalled Vehicle must be brought back to the Ford dealership to be retrofitted with a redesigned SCD Switch.

22 On March 22, 2005, NHTSA announced that it would investigate more than 3.7 million additional Ford vehicles not covered by the January recall because the design, manufacture and placement of the SCD Switch in certain non-recalled vehicles was substantially similar to the design, manufacture and placement of the SCD Switch in the Ford Recalled Vehicles, and because NHTSA had received more than 200 complaints of engine fires in these non-recalled vehicles.

23 The vehicles that were being investigated by NHTSA included Ford F-150 and F-150LD vehicles (model years 1995-1999 and 2001-2002); and Ford Expeditions and Lincoln Navigators (model years 1997-1999 and 2001-2002).

24 On September 7, 2005, under pressure from the NHTSA, Ford Motor Company expanded its recall to include Ford F-150s (model years 1994-2002), Ford Expeditions (model years 1997-2002), Lincoln Navigators (model years 1998-2002), and Ford Broncos (model years 1994-1996) equipped with factory-installed speed controls.

16. On August 3, 2006, because of the aforesaid fire problems associated with the SCD Switch and/or associated circuitry, Ford voluntarily recalled approximately 1.2 million

additional Ford Vehicles. This recall consists of adding a fused wiring harness into the speed control system, and, as part of this recall, Ford is instructing owners to take their Ford Vehicles to a dealership where the fused wiring harness will be installed. The fused wiring harness cuts off the electrical current to the switch in case there is increase power due to the leaking switch. This recall affects the following vehicles:

- A. Model Years 1996 through 2002 Ford E-450s;
- B. Model Years 1994 through 1996 Ford Econolines;
- C. Model Years 2000 through 2002 Ford Excursions;
- D. Model Year 1998 Ford Explorers;
- E. Model Years 1994 through 2002 Ford F-250s;
- F. Model Years 1994 through 2002 Ford F-350s;
- G. Model Years 1994 through 2002 Ford F-450s;
- H. Model Years 1994 through 2002 Ford F-550s;
- I. Model Year 1998 Mercury Mountaineers.

25 The vehicles subject to the January 27, 2005 recall, the September 7, 2005 recall, or the August 3, 2006 recall are hereinafter collectively known as “Ford Recalled Vehicles”.

26 Ford designed, manufactured, marketed, distributed, warranted, and represented the safety of the Ford Vehicles sold to Plaintiff Chamberlain, and to other members of the Class (defined below).

27 The Ford Vehicles were designed and manufactured defectively by Ford. Specifically, the design of the Ford Vehicles was defective in that the SCD Switch is designed to always carry a live charge of electricity and can overheat and burst into flames even when the car is turned off. Because the Ford Vehicles are designed with the SCD Switch in close proximity to

the plastic brake fluid receptacle. this overheating is particularly dangerous because an overheating SCD Switch will tend to melt the plastic brake fluid receptacle. causing the overheating SCD Switch to come into contact with the flammable brake fluid, which causes burning brake fluid to be spread throughout the engine compartment causing a quickly-spreading fire.

28 Because this fire can happen when the vehicle is not being operated, the Ford Vehicles are likely to begin burning in a garage, thus potentially causing a fire not only in the Ford Vehicles, but also in the garage and the house where the Ford Vehicles are parked, potentially leading to catastrophic results.

29 Prior to the manufacture of the Ford Vehicles, Ford knew that there were problems with the design, manufacture and placement of the SCD Switch used in the Ford Vehicles. In 1999, Ford recalled over 250,000 1992 and 1993 Ford Crown Victorias, Lincoln Town Cars, and Mercury Grand Marquise because of the same or similar problem.

30 Although Ford knew that there was a problem with the SCD Switch in the 1992 and 1993 vehicles, Ford used the same or similar design in the Ford Vehicles which are the subject of this lawsuit.

31 Despite being aware of the foregoing defects in and problems with the Ford Vehicles, Ford represented to Plaintiff and the Class Members (defined below) that the Ford Vehicles were safe through various forms of advertising. Ford made and continued to make these representations even though it knew that the Ford Vehicles could burst into flames at any time because of the design, manufacture and placement of the SCD Switch.

32 Ford engaged in a pattern of representations regarding the Ford Vehicles which were intended to, and did in fact, cause consumers to believe that the Ford Vehicles were safe

vehicles with representations in print, radio, television, and internet advertising proclaiming that the Ford Vehicles were "Built Ford Tough," stating that Ford is a family that cherishes the safety of its customers, and stating that Ford Motor Company is "committed to putting the safest vehicles on the road".

33 To the contrary, Ford is not committed to putting the safest vehicles on the road, but instead intentionally put vehicles on the road (and in its customers' garages) that have a known defect with the potential to cause a fire resulting in catastrophic damage to the vehicle and other property, and injury or death to its customers.

34 Accordingly Ford's statements in its advertisements constituted misrepresentations.

35 Ford also concealed the defects in and problems with the Ford Vehicles from Plaintiff and Class Members (defined below), which could not reasonably be known by them.

36 The defects in and problems with the Ford Vehicles were material facts the concealment of which would tend to mislead or deceive consumers.

37 Ford's misrepresentations and concealment of material facts caused Plaintiffs and the Class Members to suffer damages including, but not limited to, unfulfilled expectations, lost benefit of the bargain, loss of use of their cruise control function, diminished value, cost of repair and/or consequential damages.

38 As stated above, Ford has admitted to the fire hazard in the Ford Recalled Vehicles and agreed to disconnect the electrical connector from the speed control which will eliminate the fire hazard, but also disable the cruise control. Plaintiffs and the Class Members will be without use of cruise control in their vehicles until Ford is able to replace the defective speed-control switches with properly designed switches which do not present a fire hazard.

39 Ford has not yet admitted to the existence of the fire hazard in the Potentially Affected Ford Vehicles.

40 The vehicles of Plaintiffs and Class Members caught fire as a result of the faulty SCD Switch, rendering the vehicles a total loss.

41 As a consequence of the fire, additional property located in or around the premises of the vehicle sustained severe fire and/or smoke damage.

42 Plaintiffs seeks for themselves, and all Class Members, actual damages that were a proximate and producing result of Ford's acts and omissions alleged herein. They further seek punitive damages, statutory multiples of damages, all interest allowed by law, reasonable and necessary attorneys' fees, and court costs.

V. TOLLING OR NON-ACCRUAL OF APPLICABLE STATUTES OF LIMITATIONS

43 Any applicable statutes of limitations have been tolled or have not run because Defendant Ford knowingly and actively concealed and denied the defects in the Ford Recalled Vehicles until NHTSA pressured Defendant Ford to recall them. Defendant Ford continues to knowingly and actively conceal and deny the defects in the Ford Investigated Vehicles.

44 Defendant Ford had actual or constructive knowledge of its wrongful conduct. Defendant Ford has kept Plaintiffs and Class Members uninformed of information essential to the pursuit of their claims, without any fault or lack of diligence on behalf of Plaintiffs and Class Members. In fact, Defendant Ford fraudulently and deceitfully concealed and misrepresented to the public material facts concerning the SCD Switch defect. Plaintiffs, Class Members, and the general public did not discover the facts alleged herein until a date within the limitations period governing this action, and promptly exercised due diligence by filing this complaint.

45 Plaintiffs, Class Members, and the general public were not at fault for failing to discover Defendant Ford's misconduct sooner, and had no actual or presumptive knowledge of the facts of Defendant Ford's misconduct to put them on inquiry notice. Plaintiffs, Class Members and the general public could not reasonably have discovered Defendant Ford's misrepresentations and/or material omissions before the filing of this complaint and, therefore, their claims accrued on that date, and/or any statute of limitations was tolled until that date.

46 Defendant Ford was and is under a continuing duty to disclose the nature of the SCD Switch defect to Plaintiffs, Class Members, and the general public. Because of Defendant Ford's concealment of the SCD Switch defect, Defendant Ford is estopped from relying on any statute of limitations defense.

VI. CLASS ACTION ALLEGATIONS

47 Pursuant to Fed. R. Civ. P. 23, Plaintiffs bring this action for themselves and on behalf of the Class of all entities and natural persons domiciled or residing in the state of Louisiana, who can be identified as owning at some time at least one of the following vehicles that suffered a fire in its engine compartment: a 2000 Model Year Ford F-Series Super Crew Truck, a Ford F-150 (model years 1994-2002), a Ford Expedition (model years 1997-2002), a Lincoln Navigators (model years 1998-2002), a Ford Bronco (model years 1994-1996), a Ford E-450 (model years 1996 - 2002), a Ford Econoline (model Years 1994 - 1996), a Ford Excursion (model years 2000 – 2002), a Ford Explorer (model year 1998), a Ford F-250 (model Years 1994 – 2002), a Ford F-350 (model years 1994 – 2002), a Ford F-450 (model years 1994 through 2002), a Ford F-550 (model years 1994 through 2002), and/or a Mercury Mountaineer (model year 1998).

48 Plaintiffs' claims are typical of the other Class Members' claims.

49 Plaintiffs will fairly and adequately protect the interests of the Class. Plaintiffs purchased a Ford Recalled Vehicle and are members of the Class they seek to represent. Their interests coincide with, and are not antagonistic to, the other Class Members' interests.

50 Plaintiffs and the Class have retained counsel experienced and competent in complex, commercial, multi-party, mass tort, personal injury, products liability, consumer and class action litigation.

51 The Class Members are so numerous that joinder of all is impractical. Defendant Ford has estimated that more than 6 million Vehicles were subject to its four recalls. Potentially more than a thousand

52 A class action is superior to other methods for the fair and efficient adjudication of this controversy. The expense and burden of individual litigation may make it difficult, if not impossible, for all members of the class to address the wrongs done to them individually. There will be no unusual difficulty in the management of this action as a class action.

53 The claims of Plaintiffs and the Class Members involve common questions of fact and law, including, but not limited to:

a. Whether the Ford Vehicles were defectively designed, manufactured, and/or marketed with respect to the SCD Switch;

b. Whether the defects in the Ford Vehicles constituted breaches of the implied warranty of merchantability by Ford;

c. Whether the defects in the Ford Vehicles constituted breaches of express warranties by Ford;

d. whether Class Plaintiffs and other members of the Class suffered damages and/or are entitled to equitable relief as a result of such violation;

e. the amount and extent of damages suffered by Class Plaintiffs and all other members of the Class; and

f. the nature of the appropriate remedies to be ordered and the nature of the injunctive relief related to Defendants' future conduct toward the Class members.

54 Questions of law and fact common to the Class Members predominate over questions affecting only individual Members, and a class action is superior to other available methods for fair and efficient adjudication of the controversy.

VII. DEFENDANT FORD'S LIABILITY FOR ITS EMPLOYEES' ACTS AND OMISSIONS

55 Whenever this Petition alleges that Ford committed any act or omission, it means that (a) Ford's officers, agents, servants, employees or representatives committed such act or omission in the normal and routine course and scope of their employment; or (b) the act or omission was committed with Ford's full authorization or ratification.

56 Ford had the right to control each of its employee's conduct and the details of their work.

VIII. CAUSES OF ACTION

COUNT I

Fraudulent Misrepresentation/Omission

57 Plaintiffs incorporate all of the allegations and facts set forth in the preceding paragraphs as if fully set forth herein.

58 Ford made false, misleading and deceptive misrepresentations to its customers by neglecting to inform the customers of a danger resulting from the normal use of their products.

59 The fraudulent misrepresentations, omissions and concealments made by Ford were known and deliberate and were purposefully designed to induce the Plaintiffs and the Class members into purchasing their products and to prevent expenditures on behalf of Ford to remedy a design or manufacturing defect in its product. In marketing and selling the Ford Vehicles, Ford

made express and implied representations to the public at large, including Plaintiffs and all members of the Class, that the vehicles were free from dangerous designed defects, did not contain unreasonably dangerous components, and were reasonably safe when operated in the manner in which they were designed and intended to be operated.

60 These representations were false, and were known by Ford to be false at the time they were made.

61 Plaintiffs and members of the Class relied in good faith on the express and implied representations of Ford regarding the safety of the Ford Vehicles.

62 Because Ford had superior knowledge of the design and manufacture of the Ford Vehicles, it was reasonable for Plaintiffs and Class Members to rely on Ford's express and implied representations.

63 Plaintiffs and Class Members did in fact rely to their detriment on the express and implied representations of Ford regarding the safety of the Ford Vehicles.

64 Plaintiffs and Class Members have been damaged as a direct and proximate result of Ford's fraudulent misrepresentations and their reasonable reliance on such representations.

65 Plaintiffs and Class Members are entitled to recover the full amount of such damages, together with costs and attorney fees to the full extent permitted by law, as a result of Defendant Ford's fraudulent misrepresentations.

66 The misrepresentations, concealments and omissions by defendant were material in that the Plaintiffs and other members of the Class reasonably relied upon such misrepresentations, concealments and omissions to their detriment.

67 As a direct and proximate result of Ford's fraudulent misrepresentations, concealments and omissions, the Plaintiffs and Class members have been damaged in an amount to be determined at trial.

COUNT II

Negligence

68 Plaintiffs incorporate all of the allegations and facts set forth in all preceding paragraphs as if fully set forth herein.

69 Defendant was negligent in the design and/or manufacture of cruise control deactivation switch in that the normal use of their products poses a serious risk of property damage or bodily injury. Defendant Ford failed to exercise ordinary care in designing, manufacturing, and selling of the vehicles in question, did that which a reasonably prudent automobile manufacturer would not have done in the same or similar circumstances, failed to do that which a reasonably prudent automobile manufacturer would not have done under the same or similar circumstances, and was negligent in one or more of the following ways:

- a. in designing the cruise control deactivation switch such that it received continual power;
- b. in designing the cruise control deactivation switch such that it received far more power than was necessary for such switch to properly function;
- c. in designing the cruise control deactivation switch so that it was in close proximity to the master cylinder brake fluid container;
- d. in designing the vehicle so that the master cylinder brake fluid container was made out of a substance that could not withstand the heat generated by the cruise control deactivation switch;
- e. in failing to design the vehicle so that the cruise control deactivation switch would deactivate if it reached a heat or resistance that could cause a fire, such as a fuse that would blow at such point, or some other method; and
- f. in failing to inform the Plaintiffs and public of the aforesaid risk of fire.

70 Defendant Ford knew or should have known that the SCD Switch it designed and placed in the described vehicles, and manufactured, tested, marketed or sold, in their ordinary and foreseeable use, would overheat and ultimately ignite the Ford Vehicles in which the SCD Switches were installed.

71 Defendant Ford's negligence was a contributing cause of the harm suffered to Plaintiffs and Class Members.

72 As a direct and proximate result of the Defendant Ford's negligence, Plaintiffs and Class Members have suffered or will suffer damages, which include costs to inspect their speed control deactivation switches and/or associated circuitry and to replace or repair other damaged property, in an amount to be determined at the trial of this cause.

73 The conduct of Defendant Ford was so willful, wanton, malicious, reckless, and in such disregard for the consequences as to reveal a conscious indifference to the clear risk of death or serious bodily injury, and merits the imposition of punitive damages.

74 Despite this known danger, the defendant did not otherwise take any action to inform the general public of the danger associated with specified uses of their defective doors.

75 As a direct and proximate result of the negligence of the defendant in the design and manufacture of its products, Plaintiffs and Class members have incurred actual and compensatory damages in an amount to be proven at trial.

COUNT III

Breach of Express Warranty

76 Plaintiffs incorporate by reference the allegations contained in the preceding paragraphs as though fully set forth herein:

77 Plaintiffs and Class Members purchased a vehicle, manufactured by Defendant Ford.

78 Defendant Ford knew that the Plaintiffs and the Class they represent were foreseeable users of their vehicles, and in fact marketed these vehicles to be sold to American consumers, spending millions of dollars in advertising on a national and local level to tout their vehicles to intended purchasers.

79 Defendant Ford made numerous claims and representations as to the quality of the vehicles they offered for sale, as well as to the fitness of the vehicles for use by Plaintiffs and Class Members for their intended purposes.

80 Plaintiffs and Class Members used their vehicles as intended, for transportation, and in other manners depicted by Defendant Ford in its advertising, and for other such uses of travel and transportation in which consumers use and are intended to use motor vehicles.

81 Plaintiffs and Class Members made no changes or alterations to the engine and operational parts of the Cruise Control system or the SCD Switch.

82 The SCD Switch was defective as sold to Plaintiffs and installed on her vehicle and vehicles of the Class Members.

83 The vehicles in question failed to comply with the foregoing representations in one or more of the following particulars, among others:

- a. in designing the cruise control deactivation switch such that it received continual power;
- b. in designing the cruise control deactivation switch such that it received far more power than was necessary for such switch to properly function;
- c. in designing the cruise control deactivation switch so that it was in close proximity to the master cylinder brake fluid container;

d. in designing the vehicle so that the master cylinder brake fluid container was made out of a substance that could not withstand the heat generated by the cruise control deactivation switch;

e. in failing to design the vehicle so that the cruise control deactivation switch would deactivate if it reached a heat or resistance that could cause a fire, such as a fuse that would blow at such point, or some other method; and

f. in failing to inform the Plaintiffs and public of the aforesaid risk of fire.

84 As a result, Plaintiffs and Class Members have been damaged, including inconvenience and cost of replacement of the SCD Switch, and for some, complete destruction of the vehicle because of fire, and destruction of other items of property adjacent to the fire or items of property that were within the vehicle when it burned.

COUNT IV

Breach of Implied Warranty of Merchantability

85 Plaintiffs incorporate by reference all other paragraphs of this Petition as if fully set forth here and further alleges as follows:

86 Ford is in the business of selling Ford Vehicles and ultimately sold such goods to the Plaintiffs and Class Members.

87 By placing the Ford Vehicles into the stream of commerce, Defendant Ford impliedly warranted that the Ford Vehicles were of merchantable quality, fit and safe for their intended use and fit for the particular purpose of transporting individuals and families and parking them when not in use.

88 The Ford Vehicles breached the implied warranty of merchantability in one or more of the following ways:

a. in designing the cruise control deactivation switch such that it received continual power;

b. in designing the cruise control deactivation switch such that it received far more power than was necessary for such switch to properly function;

c. in designing the cruise control deactivation switch so that it was in close proximity to the master cylinder brake fluid container;

d. in designing the vehicle so that the master cylinder brake fluid container was made out of a substance that could not withstand the heat generated by the cruise control deactivation switch;

e. in failing to design the vehicle so that the cruise control deactivation switch would deactivate if it reached a heat or resistance that could cause a fire, such as a fuse that would blow at such point, or some other method;

f. in failing to inform the Plaintiffs and public of the aforesaid risk of fire; and

g. in designing the vehicles in such a way that the SCD Switches overheat, ultimately and unpredictably igniting the Ford Vehicles.

89 Plaintiffs and Class Members were foreseeable users of the Ford Vehicles.

90 Plaintiffs timely notified Defendant Ford of the foregoing breaches of the warranty of merchantability.

91 The injuries of Plaintiffs and Class Members were a proximate result of Defendant Ford's breach of implied warranty as described herein.

92 As a direct and proximate result of the breach of implied warranty, Plaintiffs suffered and will continue to suffer injury, harm and economic loss as alleged herein.

COUNT V

Negligent Misrepresentation and/or Omission

93 Plaintiffs incorporate all of the allegations and facts set forth in all preceding paragraphs as if fully set forth herein.

94 As a result of the reckless and/or negligent misrepresentations and/or omissions by defendant, the Plaintiffs and Class Members were induced into purchasing defective vehicles manufactured by the defendant and using the products for their intended use.

95 The Defendant made these representations to the Plaintiffs and other Class members intending that they rely on such representations.

96 The negligent misrepresentations and/or omissions were material in that they induced the Plaintiffs and other Class members into purchasing defective vehicles manufactured by defendant and using such products for their intended purpose.

97 As a direct and proximate result of the negligent misrepresentations and/or omissions by Defendant, Plaintiffs and Class members have incurred actual and compensatory damages in an amount to be proven at trial.

COUNT VI

Implied Merchantability under Magnuson Moss Warranty Act

98 Plaintiffs incorporate all of the allegations and facts set forth in all preceding paragraphs as if fully set forth herein.

99 Defendant's conduct as described herein violated the Magnuson Moss Warranty Act ("Magnuson Moss Act"), 15 U.S.C. §§2304-2312.

100 Defendant expressly and impliedly represented and warranted that the vehicles being sold to the general public were free of defects, merchantable, and fit for their intended purpose. Defendant breached these implied warranties by selling the Ford vehicles described herein with the inherent defects described herein. Moreover, Defendant made and/or allowed these warranties to be made with the intent of inducing Plaintiffs and the other members of the Class to purchase the Ford vehicles to Plaintiffs and members of the class.

101 If Plaintiffs and the members of the Class had known the true facts, they would not have purchased the Ford vehicles or paid as much as they did for the vehicles.

102 Plaintiffs and the members of the Class are entitled to either repudiation of their agreements and repayment of the money they spent to purchase their vehicles in an amount to be determined at the trial of this action.

COUNT VII

Fraudulent Concealment

103 Defendant Ford's false representations concealed the cause of action from Plaintiffs and Class Members. Therefore, neither Plaintiffs nor other Class Members had any realistic means to detect Defendant Fords' misrepresentations. As a result, Plaintiffs, even in the exercise of due diligence, were not aware of, and did not discover these matters until shortly before filing suit.

PUNITIVE DAMAGES

104 Plaintiffs incorporate by reference all other paragraphs of this Petition as if fully set forth here and further alleges as follows:

105 Defendant Ford authorized and/or ratified the aforesaid conduct of its agents.

106 The aforesaid conduct was committed by Defendant Ford and/or its agents.

107 The aforesaid conduct of Defendant Ford, when viewed objectively from Defendant Ford's viewpoint at the time of such conduct, involved an extreme degree of risk, considering the probability and magnitude of the potential harm to others.

108 Furthermore, Defendant Ford had actual subjective awareness of the risk involved, but nevertheless proceeded with conscious indifference to the rights, safety or welfare of others.

DAMAGES APPLICABLE TO ALL COUNTS

109 Plaintiffs incorporate by reference all other paragraphs of this Petition as if fully set forth here and further alleges as follows:

110 By reason of Defendant Ford's conduct, and the defects in the Ford Vehicles, Plaintiffs and Class Members suffered, sustained and incurred, and in reasonable probability will continue to suffer, sustain and incur, the following injuries and damages, among others:

- a. Economic damages, including one or more of the following, among others:
- b. the loss of the benefit of the bargain (the difference in the value of the vehicle as represented and the value of the vehicle as received);
- c. out of pocket expenses (including, among other things, the difference between what was paid for the vehicle and the value of the of the vehicle as received, towing expenses, transportation costs, and rental fees);
- d. the difference in the market value of the vehicle immediately before and immediately after the fire at the place where the fire occurred;
- e. the value of the loss of use of the vehicle;
- f. the cost of repair to their respective vehicles;
- g. the difference in the market value of damaged or destroyed property other than the subject vehicle immediately before and immediately after the fire in question;
- h. the replacement cost of damaged or destroyed property other than the subject vehicle damaged by the fire in question; and
- i. reasonable and necessary attorney fees.

PRAYER FOR RELIEF

WHEREFORE, the Plaintiffs and Class Members request that this Court enter judgment against Defendant Ford and in favor of Plaintiffs and the Class Members and award the following relief:

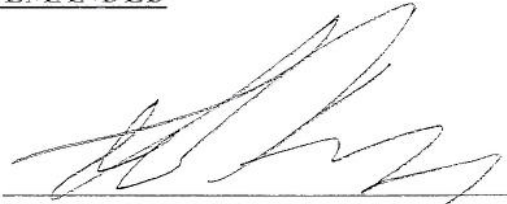
- A. Order certifying this action as a class action pursuant to Federal Rules of Civil Procedure 23(a) and 23(b);
- B. For compensatory damages in excess of the minimum jurisdictional limits of the Court;
- C. For punitive or exemplary damages in excess of the minimum jurisdictional limits of the Court.
- D. Prejudgment interest;
- E. Post judgment interest;
- F. Court Costs
- G. Reasonable and necessary attorneys fees;
- H. Treble damages;
- I. An injunction enjoining Defendant Ford from selling any other vehicles in question that Defendant Ford has not yet recalled;
- J. An injunction enjoining Defendant Ford from selling any other vehicles with the defective SCD Switch; and
- K. Declaratory Judgment that:
 - i. Defendant Ford breached its express warranty;
 - ii. Defendant Ford breached the implied warranty of merchantability;
 - iii. Defendant Ford was negligent in the design, marketing and/or manufacturing of the Ford Vehicles;
 - iv. Defendant Ford committed a fraud upon Plaintiffs and Class Members: and

v. Defendant Ford fraudulently concealed the dangerous condition of the Ford Vehicles.

JURY TRIAL DEMANDED

Plaintiffs demand a trial by jury.

By:



Lewis S. Kahn (LSBA# 23805)
Kevin Oufnac (LSBA# 23887)
Kahn Gauthier Swick, LLC
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New Orleans, Louisiana 70130
Telephone: (504) 455-1400

John J. Carey
Michael J. Flannery
8235 Forsyth Blvd., Suite 1100
St. Louis, Missouri 63105
Telephone: (314) 725-7700
Facsimile: (314) 725-0905

Jeffrey J. Lowe #10538 (ED MO)
JEFFREY J. LOWE, P.C.
8235 Forsyth Blvd., Suite 1100
St. Louis, Missouri 63105-3786
Telephone: (800) 678-3400
Facsimile: (314) 678-3401

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CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

JOSEPH T. WHITTINGTON,
individually and on behalf of
others similarly situated,
Plaintiff

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*
*
*
*

CIVIL ACTION NO. **05-2469**
JUDGE
MAGISTRATE JUDGE **SECT. K MAG. 2**
JURY TRIAL DEMANDED
COMPLAINT - CLASS ACTION

VERSUS

FORD MOTOR COMPANY,
Defendant

Plaintiff, for himself and all other members of the class described below, allege:

JURISDICTION AND PARTIES

I.

The jurisdiction of this court arises under each of the following:

(A) 28 U.S.C. § 1332(a), based on the complete diversity of citizenship of the parties of record where the amount in controversy exceeds \$75,000.00, exclusive of interest and costs; and,

(B) 28 U.S.C. § 1332(d), based on the designation of this matter as a class action in which members of the class of plaintiffs are citizens of a State different from the defendant where the amount in controversy exceeds the sum or value of \$5,000,000.00, exclusive of interests and costs.

II.

Plaintiff, Joseph T. Whittington, is an adult citizen of the State of Louisiana.

III.

Made defendant herein is **Ford Motor Company**, a foreign corporation domiciled in the state of Delaware and which has its principal place of business in the state of Michigan, hereinafter referred to as "Ford."

IV.

Defendant is a foreign corporation registered to do and doing business in the state of Louisiana and within the jurisdiction of this court, having designated 3529 I-10 Service Rd., Metairie, LA 70001 as its principal business establishment in this state and appointed C T Corporation System, 8550 United Plaza Blvd., Baton Rouge, LA 70809 as its agent for service of process.

CLASS ACTION ALLEGATIONS

V.

This action is brought by plaintiff as a class action, on his own behalf and on behalf of all others similarly situated within the State of Louisiana, under the provisions of Rules 23(a) and 23(b)(3) of the Federal Rules of Civil Procedure, for relief afforded plaintiff and the class pursuant to the redhibition laws of Louisiana, La. Civil Code articles 2520 *et seq.*, including costs and attorneys' fees.

VI.

The class so represented by plaintiffs in this action, and of which plaintiffs are themselves members, consists of all registered owners of vehicles purchased in the state of Louisiana and manufactured by Ford into which Ford installed speed control deactivation switches identified by Ford by base part number 9F924, and manufactured by Texas Instruments, and all switches that are substantially the same as said part, including, without limitation the following vehicles:

- Lincoln Mark VII/VIII from 1994-1998
- Ford Taurus/Sable and Taurus SHO 2.3 L 1993-1995
- Ford Econoline 1992-2003
- Ford F-Series 1993-2003
- Ford Windstar 1994-2003
- Ford Explorer without IVD 1995-2003
- Ford Explorer Sport/Sport Trac 2002-2003
- Ford Expedition 1997-2003
- Ford Ranger 1995-2003;

except for any vehicle that was subject to Ford Recall No. 05S28 (January 27, 2005) and any vehicle purchased in the state of Louisiana by a citizen of the state of Michigan or the state of Delaware.

VII.

The exact number of members of the class identified above is not known, but it is estimated that there are hundreds of thousands of owners of such vehicles in the State of Louisiana. The class is so numerous that joinder of individual members in this action is impracticable.

VIII.

There are common questions of law and fact involved in this action that affect the rights of each member of the class and the relief sought is common to the entire class, namely:

- a. The design of the subject switch;
- b. The configuration of the subject backup deactivation control circuit within the electrical system of the vehicles;
- c. Whether the subject backup deactivation control circuit presents a risk of fire and other safety hazards;
- c. Whether the utility of the subject backup deactivation control circuit outweighs the risk to life and property;
- d. Whether the backup deactivation control circuit installed on the class member's vehicle constitutes a redhibitory defect;
- e. Whether the defective condition of the backup deactivation control circuit existed at the time the class members' vehicle left the control of the defendant;
- f. What repairs, replacements or modifications are necessary to eliminate the redhibitory defect.

IX.

The claims of plaintiffs who are representatives of the class are typical of the claims of the class, in that the claims of all members of the class, including plaintiffs, depend upon a showing of the acts of omissions of defendant giving rise to the right of plaintiffs to the relief sought . There is no conflict as between any individual named plaintiff and other members of the class with respect to this action, or with respect to the claims for relief set forth in this complaint.

X.

The named plaintiffs are the representative parties for the class, and are able to, and will, fairly and adequately protect the interests of the class. The attorneys for plaintiffs are experienced

and capable in litigation of automobile defect claims and have successfully represented claimants in other litigation of this nature.

XI.

This action is properly maintained as a class action inasmuch as the questions of law and fact common to the members of the class predominate over any questions affecting only individual members, and a class action is superior to other available methods for the fair and efficient adjudication of the controversy. In support of the above allegations, plaintiff shows that the common issue as to whether the subject speed control deactivation switch presents a redhibitory defect, together with the determination of the remedy available to members of the class upon a finding of such a defect, predominates over any individual issue of fact, such as the age, extent of use and maintenance history of each class member's vehicle. Any effect that such individual issues may have can be addressed through a properly administered claims process.

XII.

Defendant, Ford, is liable to plaintiff Joseph L. Whittington for a reduction in the purchase price of the vehicle described herein based upon the cost to repair, replace, modify or otherwise eliminate the defective condition described below, for damages reasonable in the premises, reasonable attorney's fee and costs, to wit:

XIII.

Joseph L. Whittington purchased a Ford F-150 XLT Triton V8 Pickup, VIN #1FTZX17WOWNC42365, on or about January 22, 2002.

XIV.

The vehicle purchased by plaintiff described above was manufactured by defendant Ford Motor Company.

XV.

Plaintiff is entitled to a reduction of the purchase price commensurate with the cost to make repairs, replacement or modifications necessary to eliminate the redhibitory defect present in the subject switch, in accordance with Louisiana Civil Code Article 2520.

XVI.

The subject Ford vehicle purchased by plaintiff possesses a redhibitory defect arising from the use of a backup speed control deactivation switch and over-current protection that is subject to fail in a manner that ignites the vehicle and surrounding combustibles on fire when the vehicle is used as intended, and that defect presents a risk of destruction of the vehicle and/or personal injury and/or death to the owner or others.

XVII.

In addition to the make and model vehicle owned by plaintiff, Ford utilized the same, or substantially the same, speed control deactivation switch in other makes and models manufactured by Ford, including, without limitation, the vehicles identified in the class definition set forth above, all of which are at an increased risk of catching fire as a result of the use of the subject speed control deactivation switch.

XVIII.

Through January 2005, at least 63 fires caused by the failure of the subject speed control deactivation switch described herein were reported to the National Highway Traffic Safety Administration (“NHTSA”) in vehicles manufactured and sold by Ford.

XIX.

In January 2005, Ford announced that it was recalling certain model year 2000 F-150, Expedition, Lincoln Navigator and certain 2001 F-150 Super crew trucks due to an extremely high speed control deactivation failure/fire rate.

XX.

Despite the recall of January 2005, a total of at least 218 complaints of fires in non-recalled vehicles equipped with the subject speed control deactivation switch have been made to Ford and the Office of Defect Investigation of NHTSA, and many more such incidents have occurred without being reported to Ford or NHTSA.

XXI.

NHTSA estimates that over 3,700,000 Ford F-150, Ford Expedition and Lincoln Navigator vehicles equipped with the subject speed control deactivation switch are currently in use in the United States. Plaintiff is informed and believes that there are in excess of 16 million Ford manufactured vehicles in use today in which the subject speed control deactivation switch has been installed.

XXII.

Plaintiff avers that his vehicle, and the vehicles owned by the members of the class defined above, suffered from the same defective condition as those vehicles subject to the above described recall.

XXIII.

Ford is deemed by law to know of the redhibitory defects in the vehicle subsequently purchased by plaintiff herein, and is therefore liable to plaintiff for a reduction in the purchase price commensurate with the cost to repair, replace or modify the subject switch in order to make the vehicles safe for their intended use, and also for damages and reasonable attorney fees.

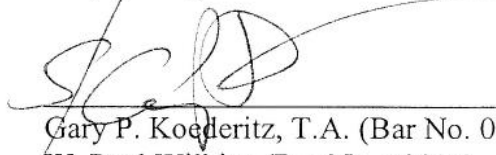
XXIV.

Plaintiff is entitled to and request a trial by jury.

WHEREFORE, plaintiff Joseph T. Whittington prays that:

- I. The rights of the members of the class defined herein be adjudicated and declared;
- II. That plaintiffs be awarded the damages and relief requested herein;
- III. That plaintiff class members be awarded the damages and relief requested herein;
- IV. That plaintiff and plaintiff class be awarded attorney fees in accordance with La. Civil Code article 2545 and Rule 23(h) of the Federal Rules of Civil Procedure.
- V. That plaintiff and plaintiff class be awarded all taxable costs of Court, legal interest on all amounts awarded from date of judicial demand until paid, and for all other general and equitable relief.

Respectfully submitted:



Gary P. Koedleritz, T.A. (Bar No. 07768)

W. Paul Wilkins (Bar No. 19830)

KOEDERITZ & WILKINS, L.L.C.

8702 Jefferson Highway

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and

W. Ransom Pipes (Bar No. 17748)

Hannah, Colvin & Pipes, LLP

Suite 260

2051 Silverside Dr.

Baton Rouge, LA 70808

Telephone: (225) 766-8240

Fax: (225) 766-5546



State Farm Mutual Automobile Insurance Company



Lakeland North Claims Office
1045 Wedgewood Estates Blvd.
Lakeland, FL 33809-4076
Phone: (863) 853-6400

November 17, 2000

Ford Motor Company
Park Lane
Towers West, Suite 400
3 Park Lane Boulevard
Dearborn, MI 48126-2568



Claim Number: [REDACTED]
Our Insured: [REDACTED]
Date of Loss: August 3, 2000
Vehicle: 1999 Ford Windstar LX
VIN: 2FMZA5141XB [REDACTED]

Dear Sir/Madam:

This State Farm insured vehicle was involved in an vehicle fire on August 3, 2000. We settled a claim with our insured in the amount of \$22,082.35, which includes our insured's deductible. Our investigation revealed the cause of the fire was a failure in the right side engine compartment electric cooling fan.

Enclosed is the documentation of State Farm's claim, per your request. The vehicle is being held for your inspection at the Greater Orlando Auto Auction. The physical evidence concerning the cooling fan is being held at W.B. Pomeroy & Associates Inc. located in Brandon, Florida. You may contact me at (863) 853-6423 to make arrangements to inspect both the vehicle and the product.

Please consider this letter as our demand to Ford Motor Company for reimbursement of \$22,082.35. please find enclosed accompanying this letter all the information which you have requested per your letter dated October 18, 2000. If you have any questions or concerns regarding this matter, please do not hesitate to call me at the number listed below.

Sincerely,

Ross Landreth
Senior Claim Representative
STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY
(863) 853-6423

RL/063/1116023.120.r

Enclosure

- F118
- 8-3-00
- 99 Wind.
- VIN
- \$22,082
- Lakeland, FL
- 9,803 (M)

IN THE CIRCUIT COURT IN AND FOR POLK COUNTY, FLORIDA

STATE FARM MUTUAL AUTOMOBILE INSURANCE
COMPANY a/s/o CLIFF JACKSON,

Plaintiff,

vs.

CASE NO. 2004 CA-003313

FORD MOTOR COMPANY and
JARRETT FORD OF PLANT CITY, INC.,

Defendants.
_____ /

PROPERTY DAMAGE SUBROGATION COMPLAINT

Plaintiff, STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY a/s/o CLIFF JACKSON, sues Defendants, FORD MOTOR COMPANY and JARRETT FORD OF PLANT CITY, INC., and alleges as follows:

ALLEGATIONS COMMON TO ALL COUNTS

1. This is an action for damages which exceeds \$15,000.00.
2. Plaintiff, STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY, is a corporation authorized to transact business in the State of Florida.
3. At all times material to this Complaint, Plaintiff's insured, CLIFF JACKSON, was the owner of a 1999 Ford Windstar motor vehicle. Said vehicle was insured by Plaintiff, STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY, under a policy of insurance which provided for, among other coverages, coverage for the damages alleged in this Complaint.
4. At all times material to this Complaint, Defendant, FORD MOTOR COMPANY, was a foreign corporation authorized to transact business in the State of Florida.

5. At all times material to this Complaint, Defendant, JARRETT FORD OF PLANT CITY, INC., was a corporation authorized to transact business in the State of Florida.

6. At all times material to this Complaint, Defendant, FORD MOTOR COMPANY, was in the business of designing and manufacturing motor vehicles and, more specifically, the motor vehicle owned by Plaintiff's insured.

7. At all times material herein, Plaintiff's insured purchased the above described motor vehicle from Defendant, JARRETT FORD OF PLANT CITY, INC.

8. On or about August 3, 2000, the above described motor was parked at or near the intersection of Old Dixie Highway and 92 East in Lakeland, Polk County, Florida, when suddenly and without warning, caught fire damaging the vehicle.

9. Following the fire, Plaintiff, STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY, pursuant to its applicable policy covering CLIFF JACKSON, paid for the damages to the motor vehicle owned by its insured, which included a \$250.00 deductible paid directly by its insured, CLIFF JACKSON, and rental expense incurred while the damaged vehicle was being repaired.

COUNT I - NEGLIGENCE AGAINST
FORD MOTOR COMPANY

Plaintiff realleges paragraphs one through nine above and further alleges:

10. Defendant, FORD MOTOR COMPANY, was negligent in the design and manufacture of the above described motor vehicle.

11. Defendant, FORD MOTOR COMPANY, knew or, in the exercise of

ordinary care should have known, that the motor vehicle described above was defective and in an unreasonably dangerous condition.

12. Defendant, FORD MOTOR COMPANY, as the designer and manufacturer of the motor vehicle described above, owed Plaintiff a duty of reasonable care in designing and manufacturing the motor vehicle.

13. Defendant violated its duty by designing and manufacturing a motor vehicle that was prone to catch fire.

14. As a direct and proximate result of the Defendant's negligence, the motor vehicle contained a defect that rendered it unsafe for ordinary use.

15. As a further direct and proximate result of the Defendant's negligence, Plaintiff suffered the damages described above.

WHEREFORE, Plaintiff demands judgment against the Defendant, FORD MOTOR COMPANY, for damages in the amount of \$22,328.35, plus prejudgment interest and the cost of bringing this action.

**COUNT II - STRICT PRODUCTS LIABILITY AGAINST
FORD MOTOR COMPANY**

Plaintiff realleges paragraphs one through nine above and further alleges:

16. Defendant placed into the stream of commerce the above described motor vehicle.

17. At the time the motor vehicle was placed in the stream of commerce, it contained a defect which rendered it unsafe and unreasonably dangerous for its intended use in that it was prone to catch fire suddenly and unexpectedly.

18. As a direct and proximate result of the defect described

above, Plaintiff suffered the damages described above.

WHEREFORE, Plaintiff demands judgment against the Defendant, FORD MOTOR COMPANY, for damages in the amount of \$22,328.35, plus prejudgment interest and the cost of bringing this action.

**COUNT III - BREACH OF EXPRESS WARRANTY BY
FORD MOTOR COMPANY**

Plaintiff realleges paragraphs one through nine above and further alleges:

19. Defendant expressly warranted that the motor vehicle described above was of commercial quality and reasonably fit for the specific purpose for which it was sold. Defendant had full knowledge that consumers, such as Plaintiff's insured, would use and operate the motor vehicle.

20. Plaintiff's insured was within the class of persons to whom the above described warranty extended.

21. Plaintiff's insured relied on Defendant's express warranty.

22. All written warranties would be in the possession of Defendant.

23. Plaintiff's insured and/or Plaintiff notified Defendant of the breach within a reasonable time after discovery of the defect or defects.

WHEREFORE, Plaintiff demands judgment against the Defendant, FORD MOTOR COMPANY, for damages in the amount of \$22,328.35, plus prejudgment interest and the cost of bringing this action.

**COUNT IV - BREACH OF IMPLIED WARRANTY OF MERCHANTABILITY
AGAINST FORD MOTOR COMPANY**

Plaintiff realleges paragraphs one through nine and further

alleges:

24. The Defendant impliedly warranted that the motor vehicle was of commercial quality and reasonably fit for the specific purpose for which it was sold. Defendant had full knowledge that consumers, such as Plaintiff's insured, would use and operate the motor vehicle.

25. Plaintiff's insured was within the class of persons to whom the above described warranty extended.

26. Plaintiff's insured relied on said implied warranty.

27. Defendant breached its implied warranty of merchantability in that the motor vehicle was unsafe and unfit for its obvious and intended purpose.

28. Plaintiff's insured and/or Plaintiff notified Defendant of the breach within a reasonable time after discovery of the defect or defects.

29. As a direct and proximate result of the Defendant's breach of its implied warranty of merchantability, Plaintiff suffered the damages as described above.

WHEREFORE, Plaintiff demands judgment against the Defendant, FORD MOTOR COMPANY, for damages in the amount of \$22,328.35, plus prejudgment interest and the cost of bringing this action.

COUNT V - BREACH OF IMPLIED WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE AGAINST FORD MOTOR COMPANY

Plaintiff realleges paragraphs one through nine and further alleges:

30. The Defendant impliedly warranted that the motor vehicle was of commercial quality and reasonably fit for the specific purpose for which it was sold. Defendant had full knowledge that consumers,

such as Plaintiff's insured, would use and operate the motor vehicle.

31. Plaintiff's insured was within the class of persons to whom the above described warranty extended.

32. Defendant held itself out to the public as possessing superior skill, knowledge and judgment in the design, engineering and manufacture of motor vehicle as described above and Plaintiff's insured relied upon such superior skills.

33. Plaintiff's insured was not in a position to reasonably discover the defects and dangers inherent in the motor vehicle which would cause the damages and destruction described above.

34. Defendant breached its implied warranty of fitness for a particular purpose in that the motor vehicle was unsafe and unfit for its obvious and intended purpose.

35. Plaintiff's insured and/or Plaintiff notified Defendant of the breach within a reasonable time after discovery of the defect or defects.

36. As a direct and proximate result of the Defendant's breach of its implied warranty of fitness for a particular purpose, Plaintiff suffered the damages as described above.

WHEREFORE, Plaintiff demands judgment against the Defendant, FORD MOTOR COMPANY, for damages in the amount of \$22,328.35, plus prejudgment interest and the cost of bringing this action.

COUNT VI - NEGLIGENCE AGAINST
FORD MOTOR COMPANY

Plaintiff realleges paragraphs one through nine above and further alleges:

37. Defendant, JARRETT FORD OF PLANT CITY, INC., was negligent

in selling the above described motor vehicle to Plaintiff's insured.

38. Defendant, JARRETT FORD OF PLANT CITY, INC., knew or, in the exercise of ordinary care should have known, that the motor vehicle described above was defective and in an unreasonably dangerous condition.

39. Defendant, JARRETT FORD OF PLANT CITY, INC., as the seller of the motor vehicle described above, owed Plaintiff a duty of reasonable care in selling the motor vehicle to Plaintiff's insured.

40. Defendant violated its duty by selling a motor vehicle that was prone to catch fire.

41. As a direct and proximate result of the Defendant's negligence, the motor vehicle contained a defect that rendered it unsafe for ordinary use.

42. As a further direct and proximate result of the Defendant's negligence, Plaintiff suffered the damages described above.

WHEREFORE, Plaintiff demands judgment against the Defendant, JARRETT FORD OF PLANT CITY, INC., for damages in the amount of \$22,328.35, plus prejudgment interest and the cost of bringing this action.

COUNT VII - STRICT PRODUCTS LIABILITY AGAINST
JARRETT FORD OF PLANT CITY, INC.

Plaintiff realleges paragraphs one through nine above and further alleges:

43. Defendant placed into the stream of commerce the above described motor vehicle.

44. At the time the motor vehicle was placed in the stream of commerce, it contained a defect which rendered it unsafe and

unreasonably dangerous for its intended use in that it was prone to catch fire suddenly and unexpectedly.

45. As a direct and proximate result of the defect described above, Plaintiff suffered the damages described above.

WHEREFORE, Plaintiff demands judgment against the Defendant, JARRETT FORD OF PLANT CITY, INC., for damages in the amount of \$22,328.35, plus prejudgment interest and the cost of bringing this action.

**COUNT VIII - BREACH OF EXPRESS WARRANTY BY
JARRETT FORD OF PLANT CITY, INC.**

Plaintiff realleges paragraphs one through nine above and further alleges:

46. Defendant expressly warranted that the motor vehicle described above was of commercial quality and reasonably fit for the specific purpose for which it was sold. Defendant had full knowledge that consumers, such as Plaintiff's insured, would use and operate the motor vehicle.

47. Plaintiff's insured was within the class of persons to whom the above described warranty extended.

48. Plaintiff's insured relied on Defendant's express warranty.

49. All written warranties would be in the possession of Defendant.

50. Plaintiff's insured and/or Plaintiff notified Defendant of the breach within a reasonable time after discovery of the defect or defects.

WHEREFORE, Plaintiff demands judgment against the Defendant, JARRETT FORD OF PLANT CITY, INC., for damages in the amount of

\$22,328.35, plus prejudgment interest and the cost of bringing this action.

COUNT IX - BREACH OF IMPLIED WARRANTY OF MERCHANTABILITY
AGAINST JARRETT FORD OF PLANT CITY, INC.

Plaintiff realleges paragraphs one through nine and further alleges:

51. The Defendant impliedly warranted that the motor vehicle was of commercial quality and reasonably fit for the specific purpose for which it was sold. Defendant had full knowledge that consumers, such as Plaintiff's insured, would use and operate the motor vehicle.

52. Plaintiff's insured was within the class of persons to whom the above described warranty extended.

53. Plaintiff's insured relied on said implied warranty.

54. Defendant breached its implied warranty of merchantability in that the motor vehicle was unsafe and unfit for its obvious and intended purpose.

55. Plaintiff's insured and/or Plaintiff notified Defendant of the breach within a reasonable time after discovery of the defect or defects.

56. As a direct and proximate result of the Defendant's breach of its implied warranty of merchantability, Plaintiff suffered the damages as described above.

WHEREFORE, Plaintiff demands judgment against the Defendant, JARRETT FORD OF PLANT CITY, INC., for damages in the amount of \$22,328.35, plus prejudgment interest and the cost of bringing this action.

COUNT X - BREACH OF IMPLIED WARRANTY OF FITNESS FOR A PARTICULAR
PURPOSE AGAINST JARRETT FORD OF PLANT CITY, INC.

Plaintiff realleges paragraphs one through nine and further alleges:

57. The Defendant impliedly warranted that the motor vehicle was of commercial quality and reasonably fit for the specific purpose for which it was sold. Defendant had full knowledge that consumers, such as Plaintiff's insured, would use and operate the motor vehicle.

58. Plaintiff's insured was within the class of persons to whom the above described warranty extended.

59. Defendant held itself out to the public as possessing superior skill, knowledge and judgment in the selection and sale of motor vehicle as described above and Plaintiff's insured relied upon such superior skills.

60. Plaintiff's insured was not in a position to reasonably discover the defects and dangers inherent in the motor vehicle which would cause the damages and destruction described above.

61. Defendant breached its implied warranty of fitness for a particular purpose in that the motor vehicle was unsafe and unfit for its obvious and intended purpose.

62. Plaintiff's insured and/or Plaintiff notified Defendant of the breach within a reasonable time after discovery of the defect or defects.

63. As a direct and proximate result of the Defendant's breach of its implied warranty of fitness for a particular purpose, Plaintiff suffered the damages as described above.

WHEREFORE, Plaintiff demands judgment against the Defendant,

JARRETT FORD OF PLANT CITY, INC., for damages in the amount of \$22,328.35, plus prejudgment interest and the cost of bringing this action.

/s/ Gary S. Rabin

Gary S. Rabin, Esquire
GrayRobinson, P.A.
Post Office Box 3
Lakeland, Florida 33802
(863) 284-2226
Florida Bar No. 261051
Attorneys for Plaintiff

4190002.915

156175 v1





Travelers Property Casualty Company Of America
P.O. Box 3022
Fall River, MA 02722
(800)925-7693

5 subro

10/08/2007

CONSUMER AFFAIRS
SECTION

Certified Mail # 70060100000172941974
Ford Motor Company - Consumer Affairs
P.O. Box 6248
MD-3NE-B
Dearborn, MI 48126

7 OCT 15 P2:25



OCT 16 2007

Our Client: [REDACTED]
Claim/File #: [REDACTED]
Date of Loss: 09/12/2007
Reference: Subrogation Claim

Ⓟ NT 10/19

Dear Consumer Affairs:

We are handling a claim for [REDACTED] who sustained a loss on 09/12/2007.

Our investigation reveals that you may be legally responsible for this loss, and we are seeking reimbursement from you. We are requesting reimbursement of the total amount of \$5,715.00. We have paid \$4,715.00 and our insured, [REDACTED] has a deductible of \$1,000.

OUR INSURED'S VEHICLE CAUGHT FIRE DUE TO A FAULTY MOTORCRAFT ALTERNATOR, PART # XF2Z-10346-BA, PURCHASED AND INSTALLED AT JOE RIZZA FORD IN ORLAND PARK, IL.

If you have insurance, please complete the attached form and return it to me. Please refer this letter to your insurance carrier immediately, requesting they contact our offices. Should you not have insurance, we expect payment from you directly. Please contact me to discuss repayment options.

Please call me with any questions.

Sincerely,
Jeanne T Tavares
CI Rep
(508)324-8341
Fax:
Email: JTAVARES@travelers.com
Enc. Insurance Questionnaire



All Action Details for Issue

Print

VIN: 2FMDA5143WE [REDACTED] Year: 1998 Model: WINDSTAR Case: 1356772625
 Name: MR [REDACTED] Owner Status: Subsequent WSD: 1997-06-23
 Symptom Desc: GENERAL INQUIRIES REQUEST/NON-VEHICLE RELATED Primary Phone: [REDACTED]
 Reason Desc: LEGAL - ACCIDENT / FIRE Secondary Phone: [REDACTED]
 Issue Type: 07 LEGAL Issue Status: CLOSED

Action: ADVISE CUST INFORMATION WILL BE SENT TO CONSUMER AFFAIRS - FIRE
 Dealer: 00487 JOHN BLEAKLEY FORD INC Origin Desc: US CONCERN CASE BASE
 Odometer: 1 MI Comm Type: PHONE
 Analyst Name: SALDEBA, MONIQUE Analyst: MSALDEBA
 Action Date: 09/19/2005 Action Time: 09.54.34.134 Action Data: No

Comments CUSTOMER SAID: - VEH CAUGHT FIRE- FIRE DEPT CAME IN - VEH IS A TOTAL LOSE- IM GOING TO THE
 FIRE DEPT TO PICK UP THE REPORT TODAY- NO ONE WAS HURT - NO DAMAGES TO THE HOME- VEH WAS IN THE
 DRIVEWAY DEALER SAID: JOHN BLEAKLEY FORD INC 870 THORNTON ROAD LITHIA SPRINGS, GA 30122 DISTANCE:
 3.65 MILES TEL: (770) 941-9000 CRC ADVISED: - I WILL FORWARD THIS INFORMATION TO OUR CONSUMER
 AFFAIRS GROUP. YOU WILL RECEIVE WRITTEN NOTIFICATION FROM CONSUMER AFFAIRS WITHIN 7-10
 BUSINESS DAYS. PLEASE NOTIFY YOUR INSURANCE CARRIER AND REPORT THE
 ACCIDENT. ===== ADVISED CUST OF THE ABOVE INFORMATION

Action: SEND ACKNOWLEDGEMENT LETTER TO CUSTOMER
 Dealer: 00487 JOHN BLEAKLEY FORD INC Origin Desc: CONSUMER AFFAIRS - LITIGATION
 PREVENTION
 Odometer: 1 MI Comm Type: MAIL
 Analyst Name: SANDERS Analyst: VSANDERS
 (VSANDERS), VALMA
 Action Date: 09/22/2005 Action Time: 12.57.59.457 Action Data: No

Comments LPA SENT CUSTOMER INSURANCE REFERRAL LETTER.

Action: DENY ASSISTANCE - REFER TO INSURANCE CARRIER
 Dealer: 00487 JOHN BLEAKLEY FORD INC Origin Desc: CONSUMER AFFAIRS - LITIGATION
 PREVENTION
 Odometer: 1 MI Comm Type: MAIL
 Analyst Name: SANDERS Analyst: VSANDERS
 (VSANDERS), VALMA
 Action Date: 09/22/2005 Action Time: 12.58.49.059 Action Data: No

Comments LPA SENT CUSTOMER INSURANCE REFERRAL LETTER.

Ford Confidential

IN THE MAGISTRATE COURT OF COBB COUNTY
STATE OF GEORGIA

Court Address: Public Safety Building,
32 Waddell Street
Marietta, Georgia 30090-9656


Case No.: 06-53687
Date Filed: 7/17/06

Plaintiffs: Warren F. Johnson
1490 Compton Drive, SW
Mableton, GA, 30126
Defendant: Ford Motor Company
Reg. Agent Corporation Process Co.
180 Cherokee St., N.E., Marietta, GA, 30060.

STATEMENT OF CLAIM

 Suit on a Note Suit on Account X Other (Explain): Tort

Plaintiff says the Defendant is indebted to the Plaintiff as follows: On or about September 15, 2005, Plaintiff's 1998 Ford Windstar Van was shut off, parked and unoccupied when, spontaneously and without external cause, a fire started in the vehicle's engine compartment. Immediately thereafter and again without external cause or control, the vehicle door locks and windshield wipers engaged as did the engine starter. The fire destroyed the vehicle. The fire, spontaneous and uncontrolled electrical faults causing locking of the doors, operation of windshield wipers and engagement of engine starter were the result of defects and/or negligence in material/material selection, design and/or workmanship by the Defendant manufacturer. That said claim is in the amount of \$6,350.00 plus \$54.00 costs to date, and all future costs of this suit.

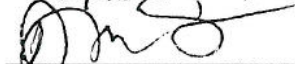

David M. Shippert, GA Bar #643106
4406 Marietta St., Powder Springs, GA 30127

COBB COUNTY, GA
FILED IN OFFICE
JUL 17 PM 1:12

STATE OF GEORGIA, COBB COUNTY:

Warren F. Johnson being duly sworn on oath, says the foregoing is a just and true statement of the Plaintiff and claim made by the Plaintiff against the Defendant, exclusive of all set-offs and just grounds of defense.

SWORN AND SUBSCRIBED before me
this 14th day of July, 2006



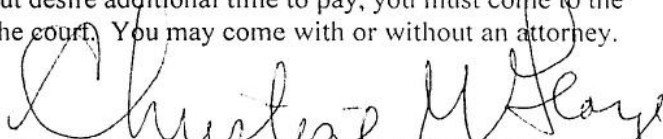

Warren F. Johnson,

Notary public
Notary Public, Cobb County, Georgia

My Commission Expires March 29, 2008 **NOTICE AND SUMMONS**
TO: Ford Motor Company

c/o Corporation Process Company, 180 Cherokee Street, N.E. Marietta, GA 30060

You are hereby notified that Warren F. Johnson has made and filed a claim and is asking for judgment against you in the sum of \$6,350.00 plus court costs and all future costs of this suit as shown by the foregoing statement. **YOU ARE REQUIRED TO FILE OR PRESENT AN ANSWER TO THIS CLAIM WITHIN 30 DAYS AFTER SERVICE OF THIS CLAIM UPON YOU. IF YOU DO NOT ANSWER, JUDGMENT BY DEFAULT WILL BE ENTERED AGAINST YOU. YOUR ANSWER MAY BE FILED IN WRITING OR MAY BE GIVEN ORALLY TO THE CHIEF OR PRESIDING MAGISTRATE DURING REGULAR COURT HOURS.** The court will hold a hearing upon this claim at a time to be set after your answer is filed. If you have witnesses, books, receipts, or other writings bearing on this claim, you should bring them with you at the time of the hearing. If you wish to have witnesses summoned, see the court at once for assistance. If you have any claim against the Plaintiff, you should notify the court at once. If you admit the claim, but desire additional time to pay, you must come to the hearing in person and state the circumstances to the court. You may come with or without an attorney.


Magistrate/Clerk/Deputy Clerk COBB Co.



VIN: 2FMDA5149SB [REDACTED] Year: 95 Model: WINDSTAR

To TRANSFER contact information: Type a "T" in the "A" column and Press ENTER
To VIEW contact information: Type a "X" in the "A" column and Press ENTER

Contact A Number	Form/ File Type	Open Date	Close Date	Last Hdlg Date	Status	O.R. Customer
x 105736367	LEGAL	07/11/1995	10/04/1995	10/04/1995	CLOSED	JORDAN

F1=HELP F3=EXIT F7=FIRST F8=NEXT
I020 FIRST VIN SUMMARY SCREEN DISPLAYED

OGDB191

MEMPHIS 23 Zn/Tr: B3 M/A: CONTACT NBR: 105736367 Opened: 07/11/1995
 VIN: 2FMDA5149SB [REDACTED] Closed: 10/04/1995
 Last Name: [REDACTED] Status: CLOSED
 Title: [REDACTED] First Name: [REDACTED] MI: D
 Address: [REDACTED]
 City: GREENVILLE ST/PV: MS Zip/PC: [REDACTED] CC: USA
 Home Phone: [REDACTED] Business Phone: 601 378-8608 Ext:
 Year: 95 Model: WINDSTAR
 Mileage/Km: 14355 WSD: 05/18/1994

Dealer Name: ENGLAND MOTOR CO Sales Code: 123506 P&A: 05881
 Causal Code: 02 Symptoms: 801000
 Serv Sales: 1 (1 or 2) Origin: GO Trans Date:
 Veh Repl:
 Case Type: 4B FIRES - EXHAUST-CAT. Means Code: A LGL INVEST-PROD LIABILITY
 Atty Name: Atty Memo:
 Claimed Amt: Award Amt:
 CANADA ONLY:
 Court Code: Award Code:

F1=HELP F3=EXIT F4=COMMENT F5=ADD F6=UPD F9=CLOSE F12=CANC
 I053 REQUESTED CONTACT DISPLAYED

OGDB191

Last Name: [REDACTED] VIN: 2FMDA5149SB [REDACTED]
Home Phone: [REDACTED] Ext:
Dealer: ENGLAND MOTOR CO Dist/Reg: 23

CONTACT NBR: 105736367 Date: 07/11/1995 Analyst Code: 3549NW
File Type: LEGAL Time: 18:38:15 Analyst Name: WALTER
Comm Type: P PHONE Micro: Letter Code:

Comments:

More?: Y

NAVIS STATUS: ORIGINAL *** FIRE *****

*

CUSTOMER SAYS:

- RECALL WAS PERFORMED (94S98 WIRE HARNESS REPAIR) ON THE VEHICLE.
- CUSTOMER THINKS THE CAUSE OF THE FIRE WAS DUE TO THE ELECTRICAL WORK PERFORMED ON THE VEHICLE

*

PER CUSTOMER DEALERSHIP SAYS:

- VEHICLE IS TOTALED

*

CUSTOMER SEEKS:

F1=HELP F3=EXIT F5=ADD F7=PREV F8=NEXT F11=CANC LTR F12=BASIC INFO

E196 FIRST COMMENTS FOR CONTACT

OGDB191

Last Name: [REDACTED] VIN: 2FMDA5149SB [REDACTED]
Home Phone: [REDACTED] Ext:
Dealer: ENGLAND MOTOR CO Dist/Reg: 23

CONTACT NBR: 105736367 Date: 10/03/1995 Analyst Code: 6231PD
File Type: LEGAL Time: 15:59:42 Analyst Name: DAVIS
Comm Type: M MAIL Micro: Letter Code:

Comments: More?: Y
CUSTOMER LETTER MAILED 7-25-95 ADVISING CUSTOMER CAUSE OF FIRE UNDETERMINABLE.
CUSTOMER ADVISED TO CONTACT INSURANCE COMPANY AND IF INSURANCE COMPANY FEELS
FMC IS RESPONSIBLE THEY WILL SUBROGATE.

F1=HELP F3=EXIT F5=ADD F7=PREV F8=NEXT F11=CANC LTR F12=BASIC INFO
I002 REQUESTED INFORMATION DISPLAYED OGDB191

Last Name: [REDACTED] VIN: 2FMDA5149SB [REDACTED]
Home Phone: [REDACTED] Ext:
Dealer: ENGLAND MOTOR CO Dist/Reg: 23

CONTACT NBR: 105736367 Date: 10/04/1995 Analyst Code: 0080EP
File Type: LEGAL Time: 09:50:59 Analyst Name: PAWELEK
Comm Type: U UPDATE Micro: Letter Code:

Comments:

THIS IS THE CLOSING COMMENT
SEE PREVIOUS COMMENTS.

More?: N

F1=HELP F3=EXIT F5=ADD F7=PREV F8=NEXT F11=CANC LTR F12=BASIC INFO
I002 REQUESTED INFORMATION DISPLAYED OGDB191

VIN: 2FMDA5149SB [REDACTED]
Year: 95 Model: WINDSTAR

Build Date: 04/07/1994
WSD: 05/18/1994

Campaign Number	Campaign Type	1864 Description	Campaign Status	Status Date	Dealer Code
94S98	S	WIRE HARNESS	COMPLETE	06/14/1995	05881
94S99	S	PWR DIST BOX	COMPLETE	05/12/1995	05881
95B73	O	SLIDING DOOR	CAMP/PROG EXPIRED	10/03/1996	

F3=EXIT

I002 REQUESTED INFORMATION DISPLAYED

OGDB191

VIN: 2FMDA5149SB [REDACTED] Year: 95 Model: WINDSTAR
 Name:

Calib: 462JR10 Build Date: 04/07/1994
 Axle: NOT AVAILABLE WSD: 05/18/1994
 Engine: 3.8L EFI
 Trans: AX4S (4 SPD AXODE SY ONP Count: 0

Recall Description

 NO RECALLS

Message:
 4 WHEEL ELECT ABS CONCERNS CALL 800-826-4694 AFTER DIAG BUT BEFORE REPAIR!

ESP INFORMATION:		Plan	Option	Expiration		Signature			
YR	Code	Date	Mi/Km	Date	Rent	Days	Tow	Ded	
--	---	-----	-----	-----	-----	-----	-----	-----	-----

COVERAGE DESCRIPTION: NO ESP DATA

F3=EXIT
 I002 REQUESTED INFORMATION DISPLAYED

OGDB191

VIN: 2FMDA5149SB [REDACTED] Year: 95 Model: WINDSTAR

Name:

Calib: 462JR10 Build Date: 04/07/1994
Axle: NOT AVAILABLE WSD: 05/18/1994
Engine: 3.8L EFI
Trans: AX4S (4 SPD AXODE SY ONP Count: 0

Recall Description

NO RECALLS

Message:

4 WHEEL ELECT ABS CONCERNS CALL 800-826-4694 AFTER DIAG BUT BEFORE REPAIR!

ESP INFORMATION:		Plan Option	Expiration	Signature				
YR	Code	Date	Mi/Km	Date	Rent	Days	Tow	Ded
--	---	-----	-----	-----	-----	-----	-----	-----

COVERAGE DESCRIPTION: NO ESP DATA

F3=EXIT

I002 REQUESTED INFORMATION DISPLAYED

OGDB191

Name: [REDACTED] P&A Code: 05881
Street: [REDACTED] Sales Code: 123506
City: GREENVILLE SRV/SLS ZN: B3 / E MA:
State: MS FCSD Region: 23
Zip/PC: [REDACTED] CC: USA MEMPHIS

Dealer Phone: 601 332 6341 Service Phone: 601 332 6341
Service Hours: 8 AM - 5:30 PM MONDAY THROUGH FRIDAY
Dealer Principal: FRANK ENGLAND, JR.
Dealer Principal (Co-Owner) .
General Manager: PERRY ENGLAND
Sales Manager: EDWARD PHILLIPS
F and I Manager: MIKE HAYES
Customer Relations Manager: PERRY ENGLAND
Parts and Service Manager: TIMOTHY EPTING BODYSHOP MANAGER:
Service Manager: TIMOTHY EPTING DANA GUESS
Parts Manager: DONNA BROOKS
Special Comments:
TOWING: 601-332-6347--FAX# 601-332-9618

F3=EXIT F6=UPDATE

I065 PRESS "ENTER" TO VERIFY DEALER SELECTION

OGDB191

IN THE COUNTY COURT OF WASHINGTON COUNTY, MISSISSIPPI

STATE FARM MUTUAL AUTOMOBILE
INSURANCE COMPANY, GERALD D. JORDAN
AND MARY L. JORDAN

RECEIVED
AND FILED

PLAINTIFFS

VS.

NOV 6 1996

CAUSE NO. CD96-0472

FORD MOTOR COMPANY

ESTELLE S. PRYOR, CIRCUIT CLERK

DEFENDANT

BOX 1211 GREENVILLE, MS

BY A Howard D.C.

COMPLAINT

COME NOW the Plaintiffs, STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY, GERALD D. JORDAN and MARY L. JORDAN and file this their Complaint against the Defendant, FORD MOTOR COMPANY, and state as follows:

1. Plaintiff, State Farm Mutual Automobile Insurance Company, is an insurance corporation authorized to do and presently doing business in the State of Mississippi. Plaintiffs, Gerald D. Jordan and Mary L. Jordan, are an adult resident citizens of Washington County, Mississippi, whose address is 24 Carol, Greenville, Mississippi 38701.

2. The Defendant, Ford Motor Company, is a Delaware corporation authorized to do and presenting doing business in Mississippi that can be served through its registered agent, CT Corporation System, 118 N. Congress, Jackson, Mississippi 39201.

3. This Court has subject matter and *in personam* jurisdiction over the parties and the cause of action.

4. State Farm Mutual Automobile Insurance Company brings this suit by virtue of its policy of insurance issued to its insured and Plaintiffs herein, Gerald D. Jordan and Mary L. Jordan, and its right of subrogation against any responsible third party for any claim it has been

required to pay under the terms of the policy. Plaintiffs, Gerald D. Jordan and Mary L. Jordan, bring this action for the amount of the deductible under said policy.

5. At all times relevant hereto, Defendant, by and through its duly authorized agents, servants and/or employees acting in the scope of their employment, was engaged in the business of designing, fabricating, manufacturing, delivering, supplying and/or selling automobiles, including a model known as a 1995 Windstar Van.

6. Plaintiffs state that on or about July 10, 1995, at approximately 4:45 o'clock p.m., Mary L. Jordan had parked her 1995 Ford Windstar in Bings Grocery Store parking lot in Greenville, Mississippi. Shortly thereafter, the vehicle caught fire and burned. After a review and inspection was performed on the vehicle, it is believed that the fire originated at a terminal where the cable from the alternator tied onto the terminal block and that the most probable cause for the fire was ignition of nearby combustibles by resistive heating at the loose terminal.

7. At the time of the fire, the 1995 Ford Windstar had 14,355 miles on it, and was covered under warranty by the Defendant, Ford Motor Company.

8. The damages caused by the fire were covered under Ford Motor Company's express warranty. Defendant is in breach of its express warranty as it has refused to honor the provisions of the warranty on said vehicle and pay for damages to the vehicle.

9. Plaintiffs state that Defendant designed, manufactured, supplied and placed the Windstar van in the stream of commerce in a defective condition and that the defective condition of the 1995 Ford Windstar caused the fire loss.

10. Plaintiffs state that Defendant acted negligently in its design, manufacture, fabrication and assembly of the subject automobile and that such negligent acts of the Defendant were the direct and proximate cause of the fire which destroyed the subject automobile.

11. As a result of the negligent acts of Defendant, and or its breaches of express and implied warranties, Plaintiffs have suffered damages in the amount of \$24,679.31.

WHEREFORE, PREMISES CONSIDERED, as a direct and proximate result of the negligent acts of the Defendant, Plaintiffs bring this suit and demand judgment of and from the Defendant in the sum of \$24,679.31, plus interest at the rate of 8% per annum from July 10, 1995 until paid, attorneys' fees and all costs and expenses incurred in this action.

Respectfully submitted, this the 5th day of November, 1996.

JACKS, ADAMS & WESTERFIELD, P.A.
Attorneys for Plaintiffs

By: 

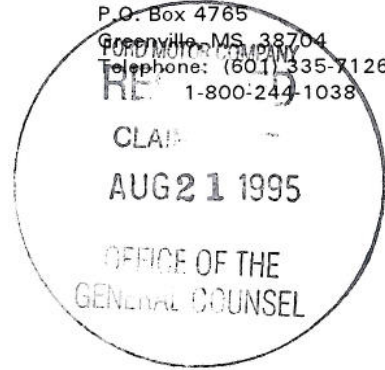
S. David Norquist
P. O. Box 1209
Cleveland, Mississippi 38732
Telephone: 601/843-6171
Mississippi Bar No. 9512

State Farm Insurance Companies



Greenville Claim Office
365 W. Reed Road
P.O. Box 4765
Greenville, MS 38704
Telephone: (601) 335-7126
1-800-244-1038

August 15, 1995



Ford Motor Company
Park Lane Tower West, Suite 300
3 Park Lane Boulevard
Dearborn, Michigan 48126

Attention: Mr. Don Vyhnalek, Manager
Product Claims Department

Re: Our Claim Number
Our Insured
Date of Loss
Vehicle Data
VIN

[Redacted]
07/10/95
1995 Ford Windstar Van
2FMDA5149SB [Redacted]

FI 00
AC
95-3875

Dear Don:

This State Farm insured vehicle was involved in a non-collision passenger compartment fire while parked and unoccupied. Damage to the vehicle resulted in a total loss of \$24,016.96.

Our investigation reveals the cause of the fire to be a loose terminal where the cable from the alternator tied onto the terminal block.

Enclosed is our documentation of our claim including expert reports and affidavit. We are holding the vehicle for 30 days in the event you wish to make an inspection. You may contact me at (601) 335-7126 to make arrangements.

Please consider this letter as our claim to Ford Motor Company to reimburse State Farm for its interest of \$24,016.96.

Sincerely,

Les Wright
Claim Representative
State Farm Mutual Automobile Insurance Company
Phone: (601) 335-7126

24/0815051