

DP14-004

CHRYSLER

9/15/2014

Legals and Cust Complaints

PUBLIC



State of West Virginia Uniform Traffic Crash Report

DOH Form: 17-c
Revised: 02/2007

Crash Data

Crash Record Number Reporting Agency's Record Number: Page of

of Vehicles Involved: # of Non-Motorists Involved: # of Fatal Injuries: # of A B or C Injuries:

Date / Time of Crash: / Date / Time Crash Reported: / Time of Arrival:

County: Municipality or Place of Crash: GPS Coordinates:
Latitude Longitude

Highway Class: Interstate US WV
 County/HARP City Street State Park / Forest Road
 Private Road Private Property/Off-Roadway Other

Supplemental Designation:
 Not Applicable Spur North East Truck Route Other
 Alternate Ramp South West Toll

Route: / Milepost: Ramp: Street:

Other Description of Location: Intersecting Street:

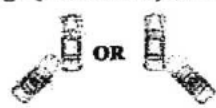
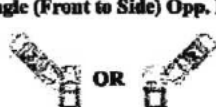

Relation to Junction / Junction Type:

- Non-Junction Junction, Non-Interchange Area
- Intersection
 - Intersection-Related
 - Interstate to Interstate
 - Railroad Grade Crossing #:
 - Median Crossover-Related
 - Business or Residential Driveway/Alley Access
 - Other Non-Interchange
- Junction, Interchange Area
- Thru Roadway
 - Merge/Diverge Area
 - Intersection
 - Intersection-Related
 - Entrance / Exit Ramp
 - Other Part of Interchange

Intersection Type:

- 4-Way Intersection
- T Intersection
- Y Intersection
- Intersection as Part of Interchange
- Traffic Circle / Roundabout
- S-Point or More

Manner of Collision:

- Single Vehicle Crash
 - Rear End
 - Head-On
 - Sideswipe, Same Direction
 - Sideswipe, Opposite Direction
 - Rear-to-Side
 - Rear-to-Rear
- Angle (Front to Side) Same Direction  OR 
- Right Angle 
- Angle - Direction Not Specified

Environmental Contributing Circumstances (Select Up to 3):

- None
 - Weather Conditions
 - Physical Obstruction(s)
 - Glare
 - Animal(s) in Roadway
- Type:
- Other:

Weather (Select Up to 2):

- Clear
- Rain
- Blowing Snow
- Other
- Cloudy
- Sleet, Hail, or Freezing Rain
- Severe Crosswinds
- Fog, Smog, Smoke
- Snow
- Blowing Sand, Soil, Dirt

Lighting:

- Daylight
- Dawn
- Dark - Lighted
- Dusk
- Dark - Not Lighted
- Other

Roadway Surface Condition:

- Dry
- Slush
- Mud, Dirt, Gravel, Sand
- Wet
- Ice / Frost
- Snow
- Water (Standing / Moving)

Location of First Harmful Event:

- On Roadway
- Roadside
- In Parking Lane or Zone
- Outside of Right-of-Way
- Shoulder
- Gore
- Off Roadway, Location Unknown
- Unknown
- Median
- Separator

Roadway Surface Type:

- Asphalt
- Concrete
- Gravel
- Dirt
- Brick
- Other:

First Harmful Event:

- Overturn / Rollover
 - Fire / Explosion
 - Immersion
 - Jackknife
 - Cargo / Equipment Loss or Shift
 - Fell / Jumped from Motor Veh
 - Thrown or Falling Object
 - Other Non-Collision
- COLLISION WITH:**
- Pedestrian
 - Pedalcycle
 - Railway Vehicle
 - Animal
 - Motor Vehicle in Transport
 - Parked Motor Vehicle
 - Work Zone / Maintenance Equip
 - Other Non-Fixed Object
 - Impact Attenuator / Crash Cushion
- Bridge Overhead Structure
 - Bridge Pier or Support
 - Bridge Rail
 - Culvert
 - Curb
 - Ditch
 - Embankment
 - Guardrail Face
 - Guardrail End
 - Cable Median Barrier
- Concrete Traffic Barrier
 - Other Traffic Barrier
 - Tree (Standing)
 - Utility Pole/Light Support
 - Traffic Sign Support
 - Traffic Signal Support
 - Other Post, Pole, or Support
 - Fence
 - Mailbox
 - Other Fixed Object

Road - Contributing Circumstances: (Select Up to 3)

<input checked="" type="checkbox"/> None	<input type="checkbox"/> Ruts, Holes, Bumps	<input type="checkbox"/> Shoulders	<input type="checkbox"/> Work Zone	<input type="checkbox"/> Utility
<input type="checkbox"/> Road Surface Condition (Wet, Icy, etc.)	<input type="checkbox"/> Worn, Travel Polished Surface	<input type="checkbox"/> None <input type="checkbox"/> Low <input type="checkbox"/> Soft <input type="checkbox"/> High	<input type="checkbox"/> Construction	
<input type="checkbox"/> Debris	<input type="checkbox"/> Obstruction in Roadway	<input type="checkbox"/> Problem w/ Traffic Control Device	<input type="checkbox"/> Maintenance	
	<input type="checkbox"/> Pavement Markings Not Visible	<input type="checkbox"/> Inoperative <input type="checkbox"/> Missing <input type="checkbox"/> Obscured	<input type="checkbox"/> Non-Highway Work	
			<input type="checkbox"/> Other <input type="text"/>	

School Bus Related: <input type="radio"/> No <input type="radio"/> Yes, School Bus Directly Involved <input type="radio"/> Yes, School Bus Indirectly Involved	School Zone Related: <input type="radio"/> No <input type="radio"/> Yes	Type of School Zone Sign: <input type="radio"/> When Present <input type="radio"/> None <input type="radio"/> When Flashing <input type="radio"/> Lists Specific Times	School Zone Flashers: <input type="radio"/> Present, Not Active <input type="radio"/> Present, Active <input type="radio"/> Not Present	School Zone Speed Limit: <input type="text"/>
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Work Zone Related: <input type="radio"/> No <input type="radio"/> Yes	Workers Present: <input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> Unknown	Work Zone Speed Limit: <input type="text"/>	Location of Crash in Work Zone: <input type="radio"/> Before 1st Warning Sign <input type="radio"/> Advance Warning Area <input type="radio"/> Transition (Merge) Area <input type="radio"/> Activity Area <input type="radio"/> Termination Area	Type of Work Zone: <input type="radio"/> Lane Closure <input type="radio"/> Lane Shift / Crossover <input type="radio"/> Work on Shoulder or in Median <input type="radio"/> Intermittent or Moving Work <input type="radio"/> Other
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NARRATIVE: Describe What Happened. Refer to Vehicles by Number Assigned on this Form.

ON 04-26-2012 I WAS WITH LT. WILLIAMS WHEN HE WAS NOTIFIED OF A CRASH IN THE AREA OF [REDACTED] THE CRASH WAS A SINGLE VEHICLE THAT LEFT THE ROADWAY AND ENTERED INTO THE WATER. THE VEHICLE WAS SUBMERGED AND NOT VISIBLE BY THE TIME EMERGENCY PERSONNEL ARRIVED.

WITNESSES ON SCENE STATED THEY OBSERVED THE VEHICLE TRAVELING NORTH ON ROUTE 119 AT A VERY HIGH RATE OF SPEED. THE VEHICLE THEN ENTERED INTO THE INTERSECTION [REDACTED] AND STRUCK THE GUARDRAIL FACE. THE VEHICLE THEN TRAVELED DOWN AN EMBANKMENT AND LANDED IN THE RIVER. SEVERAL OF THE WITNESSES WENT INTO THE RIVER BUT WAS UNABLE TO LOCATE THE VEHICLE OR ITS DRIVER. [REDACTED] (WITNESS), STATED HE WAS BEHIND VEHICLE ONE AT [REDACTED] MR. [REDACTED] NOTICED IT WAS A STATE VEHICLE AND REMEMBERED THE PLATE BEING 76-767. MR. DANLEY ALSO NOTICED THE VEHICLE WAS IN THE FAST LANE BUT THE PASSENGER SIDE WAS OVER THE LINE INTO THE SLOW LANE. ONCE THE LIGHT CHANGED MR. DANLEY PULLED AROUND VEHICLE ONE AND CONTINUED TO DRIVE NORTH ON RT. 119. [REDACTED] EXITED RT. 119 AND ENTERED ONTO THE RAMP FOR THE INTERSTATE. WHEN MR. DANLEY WAS CHANGING LANES HE NOTICED VEHICLE ONE STILL DRIVING IN BOTH LANES AT A LOW RATE OF SPEED. [REDACTED] THEN LOST SIGHT OF THE VEHICLE.

CHARLESTON FIRE DEPARTMENT DEPLOYED THEIR BOAT AND DIVERS AND WAS UNABLE TO LOCATE THE VEHICLE OR ITS DRIVER. DUE TO THE WATER CONDITIONS AND DARKNESS, THE FIRE DEPARTMENT SUSPENDED ITS SEARCH. THEY CONTINUED THE SEARCH ON 04-27-2012, 04-28-2012 AND 04-29-2012. THE VEHICLE WAS LOCATED ON 04-29-2012 AROUND 1400 HOURS. CHARLESTON AUTO ARRIVED ON SCENE AND RECOVERED THE VEHICLE FROM THE WATER. THE VEHICLE WAS PLACED BACK ON THE ROADWAY AROUND 1740 HOURS.

THE VEHICLE WAS OCCUPIED BY A WHITE MALE THAT WAS IDENTIFIED AS [REDACTED] BY HIS WORK SUPERVISOR [REDACTED] THE VEHICLE WAS PLACED ON A FLAT BED WRECKER, TARPED AND TRANSPORTED TO CHARLESTON AUTO. DAN NICHOLS (MEDICAL EXAMINER) WAS ON SCENE WHEN THE VEHICLE CAME OUT OF THE WATER AND FOLLOWED THE WRECKER TO CHARLESTON AUTO. MR. [REDACTED] PRONOUNCED THE BODY AT 1815 HOURS AND LOCATED A DRIVERS LICENSE AND IT WAS ISSUED TO [REDACTED] MR. [REDACTED] HAD A LOCAL FUNNERAL HOME TRANSPORT THE BODY. THE VEHICLE WAS PROCESSED AND RELEASED TO MR. [REDACTED] ON 04-30-2012.

A RECONSTRUCTION OF THIS CRASH WILL BE COMPLETED. NFI.

Reported By: <input type="radio"/> State Police <input type="radio"/> Sheriff's Dept <input checked="" type="radio"/> Municipal PD <input type="radio"/> Other	Photos Taken: <input type="radio"/> Yes <input type="radio"/> No	By Whom: CPL. MARK PETTY / CPL. OLDHAM
	Video Taped: <input type="radio"/> Yes <input checked="" type="radio"/> No	By Whom: <input type="text"/>

The information contained in this report reflects my best knowledge and judgment:

Investigating Officer's Name: CPL. MARK PETTY **Number:** 4104 **Signature:**

Phone: (304) 348-6470 **ORI Number:** WV0200200 **Agency:** CHARLESTON PD

Assisting Officer's Name(s): CPL. KEVIN OLDHAM

Reconstructed: Yes No **By Whom:** CPL. MARK PETTY **Date of Submission:** 08/23/2012

State of West Virginia Uniform Traffic Crash Report

DOH Form: 17-dgram
Revised: 02/2007

Diagram

Crash Record Number: [redacted]

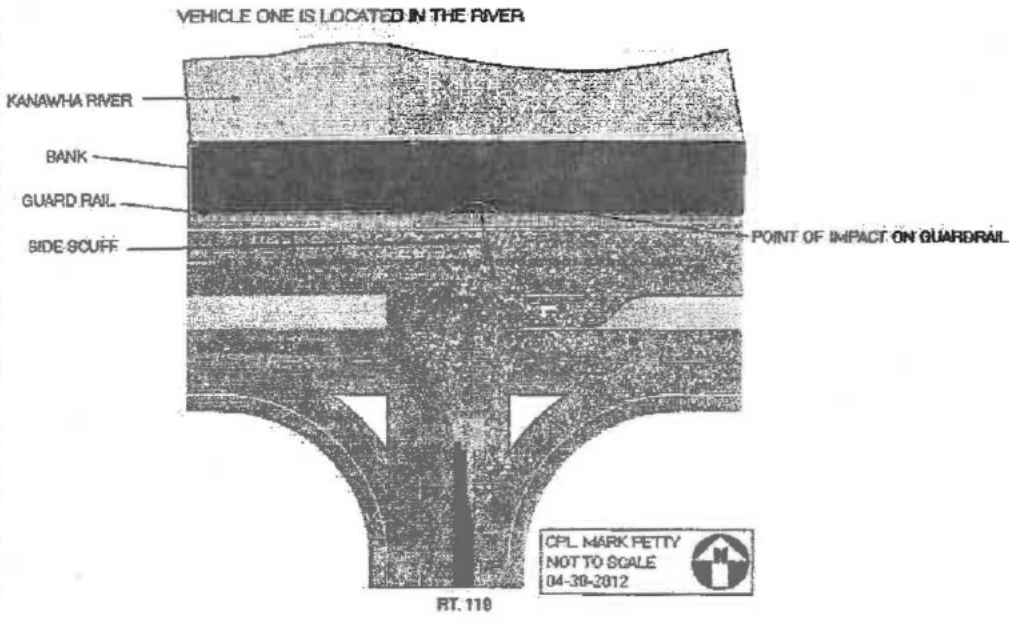
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Reporting Agency's Record Number: [redacted]

CRASH DIAGRAM:

(Draw Crash Scene - Including Roadway Layout, Vehicles, Individuals or Objects Struck, Traffic Controls, etc.)
IMPORTANT: Number Vehicles According to the Numbers Assigned on this Form.

From RP to:	N/S	E/W



State of West Virginia Uniform Traffic Crash Report

DOH Form: 17-veh
Revised: 02/2007

Vehicle Data

Crash Record Number: _____ Vehicle Number: 01 Reporting Agency's Record Number: _____ Page 4 of 8

Vehicle Type: Motor Veh In Transport Parked Motor Veh / Trailer Working Veh / Equipment
 Hit and Run: No, Did Not Leave Scene Yes, Driver Left Scene Yes, Car and Driver Left Scene
 Driver Presence at Time of Crash: Driver Operated Vehicle Driverless Vehicle

Owner's Name(s): _____
 Address: _____ CHARLESTON WV _____
City State Zip Code Home Phone Other Phone

Make: JEEP	Model: GRAND CHEROKEE	Model Year: 2007	Body Type: SUV	Color: WHITE	Registration Status: <input checked="" type="radio"/> Properly Registered <input type="radio"/> Improperly Registered <input type="radio"/> No Registration Required	Proof of Liability Insurance: <input type="radio"/> Yes <input type="radio"/> No <input checked="" type="radio"/> Not Req	Ins. Co: STATE FARM
VIN: 1J8GR48K97C	Plate Class: A	License Plate Number: _____	State: WV	Reg Year: 2012			Policy No: SELF INSURED
							Exp Date: 12/31/2012

Special Function of Motor Vehicle:
 None Police Courtesy Patrol
 Used as School Bus Ambulance Taxi
 Used as Other Bus Fire Truck Military

Used as an Emergency Vehicle:
 No Yes

Vehicle Used as a Bus:
 Public School Bus Commuter Bus Tour Bus
 Private School Bus Shuttle Bus Church Bus
 Scheduled Service Bus Modified for Personal/Private Use

Ins. Agent Name or Phone: _____
 Vehicle Impact Role:
 Striking Single Vehicle
 Struck Both

Direction of Travel Before Crash:
 Northbound Eastbound Not on Road
 Southbound Westbound Unknown

Applicable Speed Limit (MPH): 50

Roadway Description:
 Two-Way, Not Divided Two-Way, Divided, Unprotected Median
 Two-Way, Not Divided w/ Cont. Left Turn Lane Two-Way, Divided, with Median Barrier
 One-Way Roadway

Total Lanes in Roadway:
 For Undivided Highways: Count Total Lanes in Both Directions. (Excluding Designated Turn Lanes)
 For Divided Highways: Count Only Lanes in Direction Vehicle was Traveling Prior to Crash. 4

Traffic Control Device Type:
 None Yield Sign School Zone Signs
 Person (Flagger, etc.) Warning Signs
 Traffic Control Signal Railroad Crossing Device
 Flashing Overhead Signal Stop Sign Other _____

Horizontal Alignment:
 Straight Curve Right Curve Left

Vertical Alignment:
 Level Uphill Sag (Bottom)
 Hillcrest Downhill

Underride / Override:
 No Underride or Override Underride, Compartment Intrusion Unknown
 Underride, Compartment Intrusion Override, Motor Vehicle in Transport
 Underride, No Compartment Intrusion Override, Other Motor Vehicle

Traffic Control Functioning Properly: Yes No

Extent of Damage:
 No Damage Minor Damage Functional Damage Disabling Damage

Vehicle Maneuver / Action:
 Essentially Straight Ahead Making U-Turn
 Backing Slowing Stopped in Traffic
 Changing Lanes Leaving Traffic Lane
 Overtaking / Passing Entering Traffic Lane
 Parked Negotiating a Curve
 Turning Right Other _____
 Turning Left Other _____

Crash Avoidance Maneuver:
 None Evident or Reported
 Braking - Skidmarks Evident Braking - Driver Stated
 Braking - Other Evidence Steering - Evidence or Stated
 Steering and Braking Other _____

Contributing Circumstances, Motor Vehicle (Select up to 2):
 None Tires Brakes Wheels
 Wipers Lights (Head, Signal, Tail, etc.)
 Steering Windows Power Train Truck Coupling/Trailer Hitch/Safety Chains
 Mirrors Suspension Other _____

GVWR or GCWR:
 Less Than or Equal To 10,000lbs
 10,001 - 26,000 lbs
 More Than 26,000lbs

Number of Axles: 02
 Total / Max Occupants of Veh: 01 / 05

Displaying Hazardous Materials Placard: No Yes

Occurrence of Fire: No Fire Yes, Vehicle Caught Fire

Modified Vehicle: No Yes

Vehicle is Primarily Used to Transport Goods, Property, or People for Commerce: No Yes

Manner, in which Vehicle was Removed from Scene:
 Driven Towed Due to Damage Towed Due to Driver Condition Left at Scene

Towed to: CHARLESTON AUTO Towed by: CHARLESTON AUTO

Crash Events:

- 01 Overturn / Rollover
- 02 Fire / Explosion
- 03 Immersion
- 04 Jackknife
- 05 Cargo/Equipment Loss or Shift
- 06 Equipment Failure
- 07 Separation of Units
- 08 Ran Off Road Right
- 09 Ran Off Road Left

- 10 Cross Median / Centerline
- 11 Downhill Runaway
- 12 Fell / Jumped from Motor Vehicle
- 13 Thrown or Falling Object
- 14 Other Non-Collision
- COLLISION WITH:
- 15 Pedestrian
- 16 Pedalcycle
- 17 Railroad Vehicle
- 18 Animal

- 19 Motor Vehicle in Transport
- 20 Parked Motor Vehicle
- 21 Struck by Falling / Shifting Cargo or Anything Set in Motion by Veh
- 22 Work Zone / Maintenance Equip
- 23 Other Non-Fixed Object
- 24 Impact Attenuator / Crash Cushion
- 25 Bridge/Overhead Structure
- 26 Bridge Pier or Support
- 27 Bridge Rail
- 28 Culvert

- 29 Curb
- 30 Ditch
- 31 Embankment
- 32 Guardrail Face
- 33 Guardrail End
- 34 Cable Median Barrier
- 35 Concrete Barrier
- 36 Other Traffic Barrier
- 37 Tree (Standing)
- 38 Utility Pole / Light Support

- 39 Traffic Sign Support
- 40 Traffic Signal Support
- 41 Other Post, Pole, or Support
- 42 Fence
- 43 Mailbox
- 44 Other Fixed Object

Sequence of Events:

Most Harmful Event:

Select the ONE Diagram that best matches the involved vehicle and identify damaged areas:

<input checked="" type="radio"/> Single Unit Vehicle <input type="checkbox"/> 13 Top <input checked="" type="checkbox"/> 14 Undercarriage	<input type="radio"/> Motorcycle <input type="radio"/> ATV <input type="radio"/> Pass. Veh, Towing Unit <input type="checkbox"/> 13 Top <input checked="" type="checkbox"/> 14 Undercarriage	<input type="radio"/> Bus <input type="checkbox"/> 13 Top <input checked="" type="checkbox"/> 14 Undercarriage	<input type="radio"/> Tractor Trailer <input type="checkbox"/> 13 Top <input checked="" type="checkbox"/> 14 Undercarriage
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Using the Numbers from the Diagram Above, Identify the Following: Area of Initial Impact: Most Damaged Area:

Number of Trailing Units:

Trailing Unit #1: Same as Power Unit Carrier / Owner's Name: _____

Address: _____ Phone: _____

VIN	Plate Class	License Plate Number	State	Year	Make	Model	Model Year	Body Type

Trailing Unit #2: Same as Power Unit Carrier / Owner's Name: _____

Address: _____ Phone: _____

VIN	Plate Class	License Plate Number	State	Year	Make	Model	Model Year	Body Type

Trailing Unit #3: Same as Power Unit Carrier / Owner's Name: _____

Address: _____ Phone: _____

VIN	Plate Class	License Plate Number	State	Year	Make	Model	Model Year	Body Type

Property Damaged Other Than Vehicles:

- None
- Work Zone / Maintenance Equipment
- Impact Attenuator / Crash Cushion
- Bridge / Tunnel
- Culvert
- Guardrail
- Concrete Barrier
- Cable Median Barrier
- Other Traffic Barrier
- Utility Pole / Light Support #1:
- Traffic Sign Support
- Traffic Signal Support
- Other Post, Pole or Support
- Fence
- Mailbox
- Other Fixed Object

Damaged Property Owner(s):

- WVDOT Private
- City Utility Company
- Other: _____

Damaged Property Location:

- On Pavement
- Right Side of Road
- Left Side of Road

State of West Virginia Uniform Traffic Crash Report

DOH Form: 17-drv
Revised: 02/2007

Driver Data

Crash Record Number: Vehicle Number (from Vehicle Data Page) Page of

Reporting Agency's Record Number:

Driver's Name: Last First Middle Suffix

Address: Same as Veh Owner CHARLESTON WV City State Zip Code

Home Phone: Other Phone:

Driving License:

License Type:

<input type="radio"/> Not Licensed	<input type="radio"/> GDL Level 1	<input type="radio"/> CDL Instruction Permit	<input type="radio"/> CDL Class:
<input checked="" type="radio"/> Driving License	<input type="radio"/> GDL Level 2	<input type="radio"/> Motorcycle Instruction Permit	<input type="radio"/> A <input type="radio"/> B <input type="radio"/> C
<input type="radio"/> Instruction Permit	<input type="radio"/> GDL Level 3	<input type="radio"/> Motorcycle Only	

Issuing State: WV

Lic. Number: E941369

Date of Birth: 01/06/1982

License Restrictions: (Select All that Apply)

<input checked="" type="checkbox"/> None	<input type="checkbox"/> Limited - Other
<input type="checkbox"/> Corrective Lenses	<input type="checkbox"/> CDL Intrastate Only
<input type="checkbox"/> Mechanical Devices	<input type="checkbox"/> Motor Vehicles w/o Air Brakes
<input type="checkbox"/> Prosthetic Aid	<input type="checkbox"/> Military Vehicles Only
<input type="checkbox"/> Automatic Transmission	<input type="checkbox"/> Except Class A Bus
<input type="checkbox"/> Outside Mirror	<input type="checkbox"/> Except Class A and Class B Bus
<input type="checkbox"/> Limit to Daylight Only	<input type="checkbox"/> Except Tractor - Trailer
<input type="checkbox"/> Limit to Employment	<input type="checkbox"/> Farm Waiver
<input type="checkbox"/> Must Be Accompanied by Adult	<input type="checkbox"/> Other <input type="text"/>

Endorsements: (Select Up to 5)

<input checked="" type="checkbox"/> None
<input type="checkbox"/> T - Double/Triple Trailers
<input type="checkbox"/> P - Passenger Vehicle
<input type="checkbox"/> S - School Bus
<input type="checkbox"/> N - Tank Vehicle
<input type="checkbox"/> H - Hazardous Materials
<input type="checkbox"/> X - Combined Tank / Haz. Materials
<input type="checkbox"/> F - Motorcycle (WV Only)
<input type="checkbox"/> Other - Non-WV Licenses Only

Status:

<input checked="" type="radio"/> Valid
<input type="radio"/> Expired
<input type="radio"/> Suspended
<input type="radio"/> Revoked
<input type="radio"/> Probation
<input type="radio"/> Surrendered
<input type="radio"/> Valid/Interlock
<input type="radio"/> Fraudulent

Driver Condition at Time of Crash:

<input type="radio"/> Apparently Normal
<input type="radio"/> Emotional
<input type="radio"/> Ill
<input type="radio"/> Fell Asleep, Fainted, Fatigued
<input type="radio"/> Under the Influence of Medication/Alcohol/Drugs
<input checked="" type="radio"/> Other <input type="text" value="UNKNOWN"/>

Action(s) of Driver that Contributed to the Crash: (Select Up to 4)

<input type="checkbox"/> None	<input type="checkbox"/> Improper Turn	<input type="checkbox"/> Operated Veh in Aggressive Manner
<input type="checkbox"/> Ran Off Road	<input type="checkbox"/> Improper Backing	<input type="checkbox"/> Swerved or Avoided
<input type="checkbox"/> Failed to Yield Right of Way	<input type="checkbox"/> Improper Passing	<input type="checkbox"/> Over Correcting / Over Steering
<input type="checkbox"/> Disregarded Traffic Signs	<input type="checkbox"/> Wrong Side or Wrong Way	<input checked="" type="checkbox"/> Other Improper Action
<input type="checkbox"/> Ran Red Light	<input type="checkbox"/> Followed Too Closely	
<input type="checkbox"/> Disregarded Other Road Markings	<input type="checkbox"/> Failed to Keep in Proper Lane	
<input type="checkbox"/> Exceeded Posted Speed Limit	<input type="checkbox"/> Operated Veh in Erratic, Reckless, or Careless Manner	
<input type="checkbox"/> Drove Too Fast For Conditions		

Driver Use of Alcohol Suspected:

Alcohol Use Suspected: <input checked="" type="radio"/> No <input type="radio"/> Yes <input type="radio"/> Unknown	Alcohol Test Given: <input type="radio"/> Test Given <input type="radio"/> None Given <input type="radio"/> Test Refused	Type of Alcohol Test Given (Select Up to 2): <input type="checkbox"/> Blood <input type="checkbox"/> Breath <input type="checkbox"/> Urine <input type="checkbox"/> Serum <input type="checkbox"/> Field <input type="checkbox"/> Other: <input type="text"/>	PBT Results: <input type="radio"/> Pass <input type="radio"/> Fail	BAC Results: <input type="radio"/> <input type="text"/> <input type="radio"/> Pending <input type="radio"/> Unknown
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Driver Use of Drugs Suspected:

Drug Use Suspected: <input checked="" type="radio"/> No <input type="radio"/> Yes <input type="radio"/> Unknown	Drug Test Given: <input type="radio"/> Test Given <input type="radio"/> None Given <input type="radio"/> Test Refused <input type="radio"/> Unknown if Tested	Type of Drug Test Given: <input type="radio"/> Blood <input type="radio"/> DRE <input type="radio"/> Serum <input type="radio"/> Urine <input type="radio"/> Other: <input type="text"/>	Drug Test Results (Check All that Apply): <input type="checkbox"/> None <input type="checkbox"/> Amphetamine <input checked="" type="checkbox"/> Pending <input type="checkbox"/> Marijuana <input type="checkbox"/> PCP <input type="checkbox"/> Cocaine <input type="checkbox"/> Other Controlled Substance <input type="checkbox"/> Opiate <input type="checkbox"/> Other Drug
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Driver Distracted By: Not Distracted Electronic Communication Device Other Electronic Device Other Inside Vehicle Other Outside Vehicle

Reporting Agency's Record Number:

Known or Suspected Violation(s) by Driver:

- No Violations
- Reckless/Careless/Hit and Run Type Offenses**
- Negligent Homicide
- Reckless Driving; Driving to Endanger; Negligent Driving
- Inattentive, Careless, Improper Driving
- Fleeing or Eluding Law Enforcement
- Failure to Obey Law Enforcement, Fireman, Authorized Person Directing Traffic
- Hit and Run, Failure to Stop After Accident
- Serious Violation Resulting in Death
- Impairment Offenses**
- Driving While Intoxicated (Alcohol or Drugs) or BAC Above Limit
- Driving While Impaired
- Driving Under Influence of Controlled Substance
- Driving Under Influence of Non-Controlled Substance
- Drinking While Operating
- Illegal Possession of Alcohol or Drugs
- Driving with Detectable Alcohol (CDL or Under 21 Years of Age)
- Refusal to Submit to Chemical Test
- Speed Related Offenses**
- Failure to Maintain Control of Vehicle
- Racing
- Speeding (Above Speed Limit)
- Speed Greater than Reasonable and Prudent
- Exceeding Special Limit
- Driving too Slowly

- Rules of the Road - Traffic Signs and Signals**
- Failure to Stop for Red Signal
- Failure to Stop for Flashing Red Signal
- Violation of Turn on Red
- Failure to Obey Flashing Signal (Yellow or Red)
- Failure to Obey Signal, Generally
- Violation of RR Grade Crossing Device or Regulations
- Failure to Obey Stop Sign
- Failure to Obey Yield Sign
- Failure to Obey Traffic Control Device
- Rules of the Road - Lane Usage**
- Unsafe or Prohibited Lane Change
- Improper Use of Lane
- Certain Traffic to Use Right Lane
- Lane Violations, Generally
- Rules of the Road - Wrong Side, Passing and Following**
- Driving Wrong Way on One-Way Road
- Driving on Left, Wrong Side of Road, Generally
- Improper, Unsafe Passing
- Passing on Right (Drive Off of Pavement to Pass)
- Passed Stopped School Bus
- Failure to Give Way When Overtaken
- Following Too Closely
- Wrong Side, Passing, Following Violations, Generally

- Rules of the Road - Turning, Yielding, Signaling**
- Turn in Violation of Traffic Control
- Improper Method and Position of Turn
- Failure to Signal for Turn or Stop
- Failure to Yield to Emergency Vehicle
- Failure to Yield, Generally
- Enter Intersection when Space Insufficient
- Non-Moving License and Registration Violations**
- Driving While License Suspended or Revoked
- Other Driver License Restrictions
- Commercial Driver Violations
- Vehicle Registration Violations
- Failure to Carry Insurance Card
- Driving Uninsured Vehicle
- Non-Moving Violations, Generally
- Equipment**
- Lamp Violations
- Brake Violations
- Failure to Require Restraint Use
- Motorcycle Equipment Violations
- Violation of Hazardous Cargo Regulations
- Size, Weight, Load Violations
- Equipment Violations, Generally
- Other Violations**
- Parking
- Theft, Unauthorized Use of Motor Vehicle
- Driving Where Prohibited
- Other Moving Violation

Citation(s) Issued to Driver:

Charge	State Code / Municipal Ordinance	Citation Number	Warning
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="checkbox"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="checkbox"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="checkbox"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="checkbox"/>

STATEMENT OF DRIVER:



State of West Virginia Uniform Traffic Crash Report

DOH Form: 17-pas Revised: 02/2007

Driver and Vehicle Passenger Data

Crash Record Number: []

Reporting Agency's Record Number: []

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Table with columns: Name (Last, First, Middle Init., Suffix), Veh #, Occupant Type, Social Security #, Birthdate, Age, Gender, Injury, Seating Position (Row, Seat, Other), Occupant Protection (Type Used, Proper Use, App. Helmet). Row 1: 01, [redacted], [redacted], [redacted], 01, 01, [redacted], [redacted], [redacted], 030, M, K, 1, 1, 01, [redacted], [redacted].

Occupant Type Codes:

- 01 Driver
02 Passenger
03 Occupant of Motor Veh Not in Transport
04 Unknown Vehicle Passenger

Injury Status Codes:

- A Incapacitating Injury M Medical Condition
K Killed B Non-Incapacitating Injury Non-Crash Related Death or Injury
O No Injury C Possible Injury

Type of Occupant Protection System Used Codes:

- 01 None Used 07 Booster Seat
02 Shoulder and Lap Belt Used 08 Helmet Used
03 Shoulder Belt Only Used 09 Restraint Used - Type Unknown
04 Lap Belt Only Used 10 Other
05 Child Restraint System - Forward Facing 11 Unable to Determine - Due to Vehicle Damage
06 Child Restraint System - Rear Facing

Gender:

- M Male
F Female

Seating Position Codes:

- ROW SEAT OTHER
1 Front 1 Left 1 Sleeper Section of Cab
2 Second 2 Middle 2 Other Enclosed Cargo Area
3 Third 3 Right 3 Unenclosed Cargo Area
4 Fourth 4 Other 4 Trailing Unit
5 Other Row 5 Unknown 5 Riding on Motor Vehicle Exterior
6 Unknown 6 Unknown

Proper Use of Occupant Protection:

- 01 Used Properly 02 Used Improperly
03 Unknown

DOT Approved Helmet:

- 01 Yes 02 No 03 Unknown

Table with columns: Indiv # from Above, Air-bag, Trapped Extricated, Ejected, Ejection Path, Medical Transport By, Responding EMS Agency ID #, EMS Response Run Number, Receiving Facility Name, Notified Time, Scene Time, Hospital Time, Date of Death, Time of Death, Place of Death. Row 1: 01, 04, 03, 01, [redacted], 01, [redacted], [redacted], [redacted], [redacted], [redacted], 04/29/2012, 1815, 01.

Airbag Deployed Codes:

- DEPLOYED (This Seat): NOT DEPLOYED (This Seat):
01 Front 05 Available, Didn't Deploy
02 Side 06 Available, Turned Off
03 Other 07 None Installed
04 Multiple Directions (Front and Side) 08 Previously Deployed - Not Replaced
09 Disabled or Removed
10 Unable to Determine - Due to Vehicle Damage

Trapped / Extricated Codes:

- 01 Not Trapped
02 Trapped / Extricated
03 Unknown

Ejection Codes:

- 01 Not Ejected
02 Ejected, Partially
03 Ejected, Totally
04 Unknown

Ejection Path:

- 01 Thru Side Door Opening 05 Thru Back Door / Tailgate Opening 08 Other Path
02 Thru Side Window 09 Unknown Path
03 Thru Windshield 06 Thru Roof Opening
04 Thru Back Window 07 Thru Convertible (Top Up) Roof

Medically Transported By:

- 01 Not Transported 03 Law Enforcement 05 Other
02 EMS 04 Refused 06 Unknown

Place of Victim's Death:

- 01 At Scene 03 At Medical Facility 05 Other
02 En Route 04 Home

State of West Virginia Uniform Traffic Crash Report

DOH Form: 17-st
Revised: 02/2007

Statement

Kun
1983 2-3
on scene

Crash Record Number: [Redacted]

Page 1 of 1

Reporting Agency's Record Number: [Redacted]

4-26-12

Statement of: Involved Vehicle Passenger / Driver Involved Non-Motorist Uninvolved Witness

Vehicle Number: [Redacted]

Person Number: [Redacted]

Person Number: [Redacted]

Cell Home Phone: [Redacted]

Address: [Redacted] Last First Middle Suffix
[Redacted] Charleston WV [Redacted]

Between 17.00 HRS & [Redacted] State Zip Code

STATEMENT:

X WE WERE TRAVELING NORTH Bound US [Redacted] THE [Redacted] TRAFFIC Light THE WHITE JEEP CHEROKEE STATE Plate Number [Redacted] WAS IN THE FAST LANE STOPPED AT THE LIGHT WITH THE PASSENGER SIDE OF THE VEHICLE IN THE SLOW LANE. I WAS THE FIRST VEHICLE BEHIND HIM. I WAITED FOR HIM TO MOVE IT APPEARED THEY WERE WANTING IN THE SLOW LANE. THE TRAFFIC AHEAD OF US CRESTED THE HILL. I EASED AROUND THE VEHICLE AND CONTINUED NORTH Bound. I LOOKED IN MY SIDE MIRROR AND NOTICED THE WHITE JEEP EASTING North Bound STILL IN BOTH LANES. I TURNED ONTO THE INTERSTATE 64 ON RAMP AND NOTICED THE WHITE JEEP CONTINUE NORTH Bound. I LOST SIGHT AS I WAS PAYING ATTENTION TO TRAFFIC AHEAD OF ME

WHITE JEEP Cherokee white Strobe Light on Passenger Rear Roof License # [Redacted]

State of West Virginia Uniform Traffic Crash Report
Statement

DOH Form: 17-01
Revised: 02/2007

Crash Record Number: 12-0654

Page 1 of 1

Reporting Agency's Record Number: []

4-26-12

Statement of:

Involved Vehicle Passenger / Driver

Involved Non-Motorist

Uninvolved Witness

Vehicle Number: []

Person Number: []

Person Number: []



[] [] []
First Middle Suffix

Home Phone: []

Martinsville WV []
City State Zip Code

Other Phone: []

STATEMENT:

White Jeep Cherokee (State Car) going about 75+ MPH
Group so fast did not make turn

Went so fast we could not see jeep when we reached
the water

Three of us tried to find car, but either at shore said we
flashed down stream.

State of West Virginia Uniform Traffic Crash Report

DOH Form: 17-01
Revised: 02/2007

Statement

Crash Record Number: [REDACTED]

Page 1 of 1

Reporting Agency's Record Number: [REDACTED]

4-26-12

Statement of: Involved Vehicle Passenger / Driver Involved Non-Motorist Uninvolved Witness

Vehicle Number: [REDACTED] Person Number: [REDACTED]

Person Number: [REDACTED]

Name: [REDACTED] Home Phone: [REDACTED]

Address: [REDACTED] City: Plym State: WV Zip Code: [REDACTED] Other Phone: [REDACTED]

STATEMENT:

A white SUV ran me off the road then ran the light and into the river with County plates and light on top.

State of West Virginia Uniform Traffic Crash Report

DOH Form: 17-st
Revised: 02/2007

Statement

Crash Record Number: [Redacted]

Page [] of []

Reporting Agency's Record Number: [Redacted]

4-26-12

Statement of: Involved Vehicle Passenger / Driver Involved Non-Motorist Uninvolved Witness

Vehicle Number: [] Person Number: []

Person Number: []

Name: [Redacted] [Redacted] [Redacted] [Redacted]

Address: [Redacted] [Redacted] [Redacted] [Redacted] [Redacted] [Redacted] [Redacted] [Redacted] [Redacted] [Redacted]

City: [Redacted] State: [Redacted] Zip Code: [Redacted]

Other Phone: [Redacted]

STATEMENT:

I was driving on [Redacted] and saw a white jeep run straight through the light and into the river, I pulled over immediately and followed the jeep on foot from the road until it went under while on the phone with 911. I did not see the driver before or after the crash.

06/26/2014

CT Log Number 525221404

TO: Melissa Gravlin
Chrysler Group LLC
Office Of General Counsel, 1000 Chrysler Drive
CIMS: 485-13-62
Auburn Hills, MI 48326-2766

RE: Process Served in West Virginia

FOR: Chrysler Group LLC (Domestic State: DE)

ENCLOSED ARE COPIES OF LEGAL PROCESS RECEIVED BY THE STATUTORY AGENT OF THE ABOVE COMPANY AS FOLLOWS:

TITLE OF ACTION: [REDACTED] Individually and as Personal Representative of the Estate of [REDACTED] Deceased, Pltf. vs. Chrysler Group, LLC, etc., and Boone Motor Sales, Inc., etc., Dfts.
Name discrepancy noted.

DOCUMENT(S) SERVED: Letter, Summons, Complaint

COURT/AGENCY: Kanawha County Circuit Court, WV
Case # [REDACTED]

NATURE OF ACTION: Product Liability Litigation - Manufacturing Defect - Breach of Warranty - Wrongful Death - 2007 Jeep Grand Cherokee - IJ8GR48K9 [REDACTED]

ON WHOM PROCESS WAS SERVED: C T Corporation System, Charleston, WV

DATE AND HOUR OF SERVICE: By Certified Mail on 06/26/2014 postmarked on 06/24/2014

JURISDICTION SERVED : West Virginia

APPEARANCE OR ANSWER DUE: Within 30 days after service of this summons, exclusive of the day of service

ATTORNEY(S) / SENDER(S): Timothy C. Bailey
Bucci Bailey & Javins, LC
213 Hale St.
PO Box 3712
Charleston, WV 25337-3712
304-345-0346

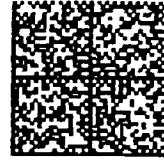
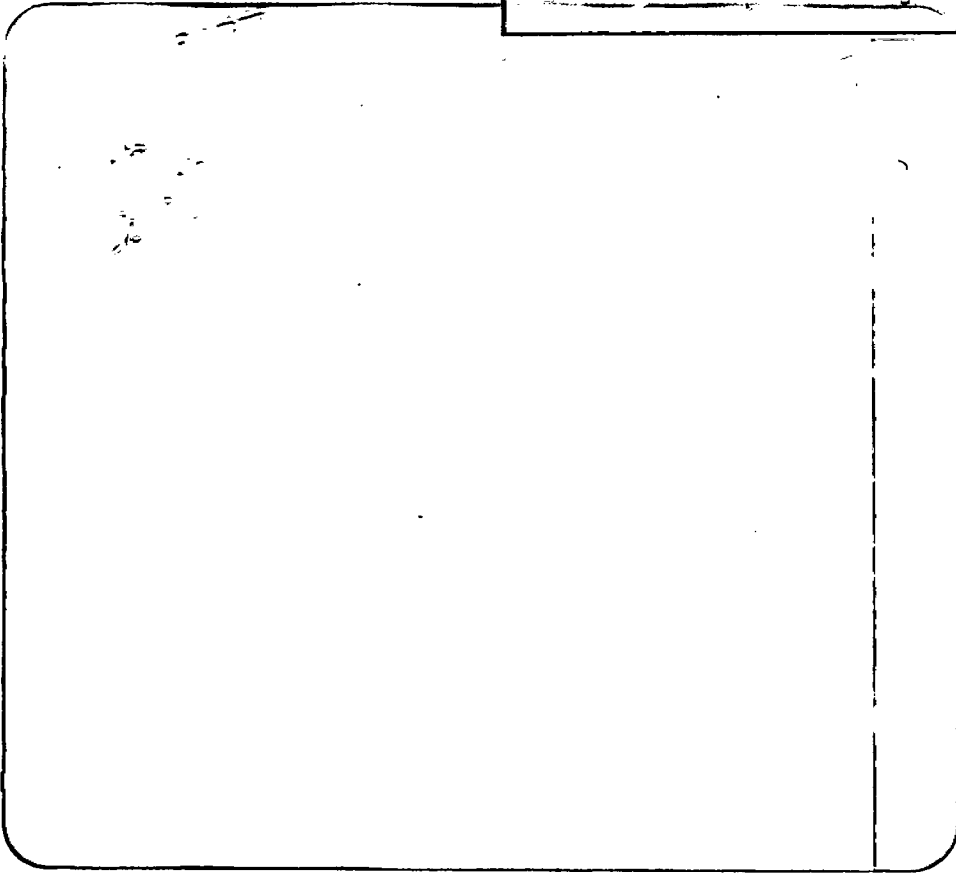
REMARKS: Documents were served upon the West Virginia Secretary of State on 06/19/2014 and forwarded to CT Corporation.

ACTION ITEMS: CT has retained the current log, Retain Date: 06/27/2014, Expected Purge Date: 07/02/2014
Image SOP

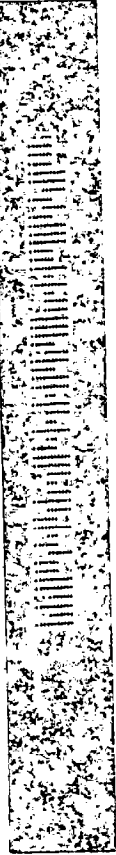
SIGNED: C T Corporation System
PER: Amy McLaren
ADDRESS: 5400 D Big Tyler Road
Charleston, WV 25313
TELEPHONE: 800-592-9023

6.26

CERTIFIED MAIL



02 1R \$06.26⁰
0002009608 JUN 24 2014
MAILED FROM ZIP CODE 25311



BUSINESS & LICENSING
1610-00

Office of the Secretary of State
Building 1 Suite 157-K
1900 Kanawha Blvd E.
Charleston, WV 25305



USPS CERTIFIED MAIL™



9214 8901 1251 3410 0000 2908 55

Natalie E. Tennant
Secretary Of State
State Of West Virginia
Phone: 304-558-6000
866-767-8683
Visit us online:
www.wvsos.com

CHRYSLER GROUP LLC
C. T. Corporation System
5400D BIG TYLER RD
CHARLESTON, WV 25313-1103

Control Number: 26283

Defendant: CHRYSLER GROUP LLC
5400D BIG TYLER RD
CHARLESTON, WV 25313-1103 US

Agent: C. T. Corporation System

County: Kanawha

Civil Action: [REDACTED]

Certified Number: [REDACTED]

Service Date: 6/19/2014

I am enclosing:

1 summons and complaint

which was served on the Secretary at the State Capitol as your statutory attorney-in-fact. According to law, I have accepted service of process in your name and on your behalf.

Please note that this office has no connection whatsoever with the enclosed documents other than to accept service of process in your name and on your behalf as your attorney-in-fact. Please address any questions about this document directly to the court or the plaintiff's attorney, shown in the enclosed paper, not to the Secretary of State's office.

Sincerely,

A handwritten signature in cursive script that reads "Natalie E. Tennant".

Natalie E. Tennant
Secretary of State

**SUMMONS
IN THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA**

**[REDACTED], Individually and
as Personal Representative of the Estate of
[REDACTED], Deceased,**

Plaintiff,

v.

CIVIL ACTION NO. [REDACTED]

Judge Kaufman

**CHRYSLER GROUP, LLC,
a Delaware Limited Liability Company, and
BOONE MOTOR SALES, INC. d/b/a
STEPHENS AUTO CENTER,
a West Virginia Corporation,**

Defendants.

To the above-named Defendant:

**Chrysler Group, LLC.
c/o The Corporation Trust Company
Corporation Trust Center
1209 Orange Street
Wilmington, DE 19801**

ACCEPTED FOR
SERVICE OF PROCESS
2014 JUN 19 AM 11:45
SECRETARY OF STATE
STATE OF WEST VIRGINIA

IN THE NAME OF THE STATE OF WEST VIRGINIA, you are hereby summoned and required to serve upon Bucci Bailey & Javins, L.C., plaintiff's attorney, whose address is Post Office Box 3712, Charleston, West Virginia, 25337, an answer, including any related counterclaim you may have, to the amended complaint filed against you in the above-styled civil action, a true copy of which is herewith delivered to you. You are required to serve your answer within 30 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint and you will be thereafter barred from asserting in another action any claim you may have which must be asserted by counterclaim in the above-styled civil action.

Dated: April 21, 2014

Cathy S. Gatson, Clerk
Clerk of the Court

by Stewart Deputy Clerk

FILED

IN THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA *mscopy*

2014 APR 21 PM 12:07

CATHY S. GAISSON, CLERK
KANAWHA CO. CIRCUIT COURT

██████████ Individually and
as Personal Representative of the Estate of
██████████, Deceased,

Plaintiff,

vs.

Case No. ██████████

Judge: Kaufman

CHRYSLER GROUP, LLC,
A Delaware Limited Liability Company, and
BOONE MOTOR SALES, INC. d/b/a
STEPHENS AUTO CENTER,
A West Virginia Corporation,

Defendants.

COMPLAINT

Comes now the Plaintiff, ██████████, individually and as Personal Representative of the Estate of ██████████ (herein "██████████"), and hereby files her Complaint and states her causes of action against the Defendants, CHRYSLER GROUP, LLC and BOONE MOTOR SALES, INC. d/b/a STEPHENS AUTO CENTER, as follows:

PARTIES, JURISDICTION AND VENUE

1. ██████████, as the Personal Representative of the Estate of ██████████
██████████ is a resident of the State of South Carolina living in the town of Mount Pleasant.
2. Defendant Chrysler Group, LLC (hereinafter referred to as "Chrysler") is a Delaware limited liability company with its primary office in Auburn Hills, Michigan. Chrysler is domiciled in a state other than West Virginia but is authorized to conduct business in West

Virginia, conducts business in West Virginia and derives substantial economic profits from West Virginia. Chrysler may be served through its registered agent for service of process, CT Corporation System, 5400 D Big Tyler Road, Charleston, West Virginia, 25313.

3. Defendant Boone Motor Sales, Inc., doing business as Stephens Auto Center (“Stephens Auto”), is a West Virginia corporation with its principal place of business in Danville, Boone County, West Virginia. Defendant Stephens Auto was in the business of marketing, distributing and selling into the stream of commerce motor vehicles, including their component parts, manufactured and designed by defendant Chrysler. Defendant Stephens Auto performed inspection, maintenance and repair services on the subject Jeep Grand Cherokee and its component parts that is the subject of this action.

4. This Court has personal jurisdiction over the defendants.

5. The jurisdiction of this Court is proper because the amount in controversy exceeds \$15,000, exclusive of fees and costs, no federal question is involved and diversity is not complete.

6. The accident giving rise to this lawsuit occurred in Kanawha County, West Virginia.

7. Venue is proper in Kanawha County, West Virginia pursuant to W. Va. Code §56-1-1, in that the events giving rise to this cause of action occurred in Kanawha County, West Virginia and defendant Stephens Auto is a West Virginia corporation with its principal place of business in West Virginia.

FACTS

8. At all times material hereto, Damron was the operator of a 2007 Jeep Grand Cherokee, vehicle identification number 1J8GR48K97C [REDACTED] (hereinafter "Cherokee"), owned by the West Virginia Department of Administrative Travel Management.

9. The Cherokee was designed, engineered, manufactured and marketed by Chrysler.

10. On April 26, 2012, at approximately 5:03 p.m. [REDACTED] was driving the Cherokee north on [REDACTED] in Kanawha County, West Virginia.

11. During all times material hereto, [REDACTED] was utilizing his seat belt while operating the Cherokee. As [REDACTED] was lawfully operating the Cherokee on Route 119, the Cherokee accelerated near the intersection of Highway [REDACTED] Avenue, crossed [REDACTED] and left the roadway, penetrating through the guardrail and plunging into the Kanawha River.

12. The Cherokee sank and became submerged in the Kanawha River. At some point following the time the Cherokee struck the guardrail and entered the river, [REDACTED] unlatched his seat belt. [REDACTED] became entrapped in the passenger compartment of the Cherokee and suffered an indescribably horrible death due to drowning.

13. Immediately prior to the accident on April 26, 2012, the Cherokee was in substantially the same condition as when it left the control of Chrysler and had not been materially altered, modified or damaged prior to the accident.

14. At the time of the accident on April 26, 2012, [REDACTED] was using the Cherokee as intended and in a manner reasonably foreseeable by Chrysler. It was foreseeable to Chrysler that the Cherokee would be involved in an accident in which it would become submerged underwater and that occupants would by necessity be required to exit the vehicle by any means possible, including but not limited to, the driver and passenger side door windows.

15. As a direct and proximate result of Chrysler's conduct, [REDACTED] sustained injuries and died. Plaintiff has additionally suffered substantial damages recoverable under West Virginia's Wrongful Death Act, *West Virginia Code*, §§'s 55-7-5 and 55-7-6, and for his personal injuries and pain and suffering prior to death, as permitted by *West Virginia Code*, §§55-7-8 and 55-7-8a.

COUNT I - STRICT LIABILITY - CHRYSLER

16. Plaintiffs incorporate by reference the allegations contained in the above paragraphs as if set forth fully herein.

17. Chrysler is a multi-national corporation engaged in the business of designing, developing, testing, manufacturing, distributing, marketing and selling motor vehicles, including the vehicle involved in this case. Chrysler manufactured, supplied, warranted, sold and placed on the market and into the stream of commerce a defective product not reasonably safe for its intended use, namely the 2007 Jeep Grand Cherokee, including the subject Cherokee, knowing that the Cherokee would reach consumers and operators such as [REDACTED] without substantial change in the condition in which it was sold and that, at the time the Cherokee left Chrysler's control, it was defective and not reasonably safe for its intended use.

18. The Cherokee was not reasonably crashworthy because, in the event of a foreseeable submersion accident, occupants of the Cherokee would be entrapped in the vehicle. The design of the Cherokee was defective and further was a factor in causing the injuries and death of [REDACTED].

19. At all relevant times, the Cherokee including its components, were in a defective condition, not reasonably safe for their intended use because they lacked the elements necessary to make it safe under reasonably foreseeable conditions, including submersion events.

20. Among other things, the Cherokee was not equipped with escape technology, including but not limited to the following:

- a. a waterproof power window switch;
- b. a remote power source to provide power to the windows;
- c. a motor for single or multiple operation (power window system, submersion detection power window apparatus), which includes but is not limited to automatic reversal of the windows upon submersion;
- d. a manual auxiliary window operation; and
- e. a single or multiple point device designed to break glass in the event of power window failure.

21. The door system of the vehicle was defectively designed, tested, manufactured, assembled and installed without a reasonable means to allow occupants' egress in the event of submersion or to prevent the occupants from drowning from such an event.

22. The design of the door system failed to integrate the various escape systems in a way that would reasonably protect occupants from being entrapped and drowning.

23. Because of the foregoing defects, Plaintiff's decedent was unable to escape the Cherokee and drowned, for which Plaintiff seeks recovery herein. The Cherokee was not reasonably safe for its intended use as determined by what a reasonably prudent manufacturer's standards should have been at the time the Cherokee was made.

24. As a direct and proximate result of Chrysler's conduct, [REDACTED] sustained injuries and died. Plaintiff has additionally suffered substantial damages recoverable under West Virginia's Wrongful Death Act, *West Virginia Code*, §§'s 55-7-5 and 55-7-6, and for his personal injuries and pain and suffering prior to death, as permitted by *West Virginia Code*, §§55-7-8 and 55-7-8a.

COUNT II – FAILURE TO WARN - CHRYSLER

25. Plaintiffs incorporate by reference the allegations contained in the above paragraphs as if set forth fully herein.

26. At all relevant times, Chrysler was engaged in the business of designing, developing, testing, manufacturing, distributing, marketing and selling motor vehicles, including the Cherokee involved in this case.

27. At the time of the manufacture, distribution and sale of the Cherokee and the operation of said Cherokee by [REDACTED], Chrysler knew or should have known:

- a. that over 400 people drown annually in submerged vehicles, not including those who drown in flash floods;
- b. that in a submersion event consumers cannot open the doors of the Cherokee and consumers are not aware of that fact;

- c. that in such an event occupants may instinctively attempt to open the doors without success, and that this will greatly increase the potential for panic and consequent entrapment and drowning;
- d. that the best way to exit a submerged or submerging vehicle is through the driver's and/or passenger's side door windows;
- e. that, having advertised and marketed the Grand Cherokee model for families with children, there is no practical means of exit in the rear of the vehicle should a submersion event occur;
- f. that, without an escape tool, an occupant cannot break the front, side or rear windows; and
- g. that it had provided no instruction or warning to consumers as to what should be done in a submerged or submerging vehicle, in the owner's manual or elsewhere.

28. Chrysler had the duty to use reasonable care in the inspection, testing, marketing and sale of its Grand Cherokee models, which it breached by failing to warn or instruct consumers that, in a submersion accident:

- a. an occupant cannot open a door until the water pressure equilibrates;
- b. an occupant cannot survive on trapped air; and
- c. windows are the best escape route in such an event.

29. The Cherokee possessed characteristics, as more fully described above, which caused damage, and Chrysler failed to use reasonable care to provide an adequate warning of such characteristics and their dangers to users and handlers of the vehicle such as [REDACTED]. It was reasonably foreseeable to a manufacturer such as Chrysler that the Cherokee would be unreasonably dangerous and required a warning to users and consumers of the vehicle, such as [REDACTED].

30. At the time of the incident that is the subject of this Complaint, the Cherokee was

dangerous to an extent beyond that which would be contemplated by the ordinary user or consumer of the vehicle, such as [REDACTED], with the ordinary knowledge common to the community as to the product's characteristics.

31. Because of Chrysler's failures to warn, [REDACTED] was unaware of the best course of action to take when the Cherokee became submerged.

32. As a direct and proximate result of Chrysler's negligence and failure to warn, Plaintiff's decedent became entrapped in the vehicle and died as a result of drowning, for which Plaintiff seeks recovery in this action.

33. As a direct and proximate result of Chrysler's conduct, [REDACTED] sustained injuries and died. Plaintiff has additionally suffered substantial damages recoverable under West Virginia's Wrongful Death Act, *West Virginia Code*, §§'s 55-7-5 and 55-7-6, and for his personal injuries and pain and suffering prior to death, as permitted by *West Virginia Code*, §§55-7-8 and 55-7-8a.

COUNT III – NEGLIGENCE – CHRYSLER

34. Plaintiff incorporates by reference the allegations contained in the above paragraphs as if set forth fully herein.

35. At all times relevant to the Complaint, Chrysler owed to the general public, including Damron, a duty to design, manufacture and market only such vehicles as were not defective and/or unreasonably dangerous to use and reasonably safe for its intended use.

36. Chrysler breached its duty to [REDACTED] by manufacturing and marketing the Cherokee in a defective and/or unreasonably dangerous condition, in that the Cherokee failed to have adequate escape technology and as a result, the Cherokee was defective and unreasonably

dangerous and not reasonably safe for its intended use. Additionally, the Cherokee was not crashworthy in a foreseeable submersion event and lacked the technologically feasible and available safety features.

37. The Cherokee was dangerously defective and unsafe for normal and foreseeable use by and in the presence of the public because of its unsafe design, defective manufacture and lack of adequate escape technology in a foreseeable submersion event.

38. Chrysler failed to exercise reasonable care in the manufacture and design of the Cherokee and its electrically controlled side window system.

39. Chrysler knowingly failed to adequately inspect and/or test the Cherokee before and during the design, production and sale of the vehicle to the public and/or knowingly placed the dangerously designed vehicle in the stream of commerce.

40. Chrysler recklessly and/or knowingly sold the Cherokee without technologically available safety features, despite being fully aware of the important safety benefits provided by such systems.

41. Chrysler recklessly and/or knowingly failed to warn of the potential dangers posed to users, consumers and the public by the use of the Cherokee.

42. As a direct and proximate result of Chrysler's conduct, Damron sustained injuries and died. Plaintiff has additionally suffered substantial damages recoverable under West Virginia's Wrongful Death Act, *West Virginia Code*, §§'s 55-7-5 and 55-7-6, and for his personal injuries and pain and suffering prior to death, as permitted by *West Virginia Code*, §§55-7-8 and 55-7-8a.

COUNT IV - BREACH OF WARRANTY - CHRYSLER

43. Plaintiffs incorporate by reference the allegations contained in the above paragraphs as if set forth fully herein.

44. Chrysler is aware that all motor vehicles sold in the United States must comply with the National Traffic and Motor Vehicle Safety Act, 49 U.S.C. §30101 *et seq.* and the Federal Motor Vehicle Safety Standards issued pursuant to said Act. By selling its products, Chrysler is required to and does represent that its vehicles comply with said Act and Safety Standards.

45. Chrysler is aware that users and consumers rely on its representations regarding vehicle safety when choosing to buy a Chrysler vehicle.

46. Chrysler warranted, both expressly and impliedly, through its advertisements and sales representatives, that the Cherokee was of merchantable quality, fit for the ordinary purpose for which it was sold and reasonably safe for its intended use.

47. Because of the defective and unreasonably dangerous lack of adequate escape technology, as more fully described above, the Cherokee failed to prevent occupant entrapment during a foreseeable submersion accident.

48. The Cherokee was neither of merchantable quality nor reasonably fit to be used for the purpose for which it was intended, including the foreseeable submersion accident giving rise to this lawsuit.

49. The defective and/or unreasonably dangerous condition of the Cherokee constituted a breach of Chrysler's express and implied warranties.

50. As a direct and proximate result of Chrysler's conduct, [REDACTED] sustained injuries and died. Plaintiff has additionally suffered substantial damages recoverable under West

Virginia's Wrongful Death Act, *West Virginia Code*, §§'s 55-7-5 and 55-7-6, and for his personal injuries and pain and suffering prior to death, as permitted by *West Virginia Code*, §§55-7-8 and 55-7-8a.

COUNT V – NEGLIGENCE – STEPHENS AUTO

51. Plaintiffs incorporate by reference the allegations contained in the above paragraphs as if set forth fully herein.

52. Defendant Stephens Auto performed inspection, maintenance and repair services on the subject Cherokee. As a result, at all times material hereto, defendant Stephens Auto had a non-delegable duty to provide users and consumers such as [REDACTED] with a reasonably safe vehicle and component parts; to provide for the exercise of ordinary care for the safety of all persons traveling in the Cherokee; to provide adequate warnings to users and consumers such as [REDACTED] regarding the lack of available escape technology in a submersion event; and to insure that the Cherokee and its component parts were safe for travel and use.

53. Despite its duty, defendant Stephens Auto failed to insure that the Cherokee and its component parts, including but not limited to, its escape technology, was safe for travel and use. By legal requirement and/or the exercise of reasonable diligence, defendant Stephens Auto knew or should have known of the defective and unsafe condition of the Cherokee and its component parts.

54. As a result of defendant Stephens Auto's breach of duties owed to [REDACTED], Mr. [REDACTED] was exposed to an unsafe Cherokee and its component parts.

55. As a direct and proximate result of Stephens Auto's conduct, [REDACTED] sustained injuries and died. Plaintiff has additionally suffered substantial damages recoverable under West

Virginia's Wrongful Death Act, *West Virginia Code*, §§'s 55-7-5 and 55-7-6, and for his personal injuries and pain and suffering prior to death, as permitted by *West Virginia Code*, §§55-7-8 and 55-7-8a.

DAMAGES

56. Plaintiffs incorporate by reference the allegations contained in the above paragraphs as if set forth fully herein.

57. As a direct and proximate result of Defendant's conduct, [REDACTED] sustained injuries and died. Plaintiff has additionally suffered substantial damages recoverable under West Virginia's Wrongful Death Act, *West Virginia Code*, §§'s 55-7-5 and 55-7-6, including but not limited to, sorrow, mental anguish and solace which may include society, companionship, comfort, guidance, kindly offices and advice of the decedent; compensation for reasonably expected loss of income of the decedent, and services, protection, care and assistance provided by the decedent; expenses for the care and treatment of the decedent and reasonable funeral expenses. Plaintiff's decedent, Mr [REDACTED], has also suffered damages for his personal injuries and pain and suffering prior to death, as permitted by *West Virginia Code*, §§55-7-8 and 55-7-8a. Plaintiff therefore seeks a judgment against Defendants in an amount be determined by the jury according to the laws of the State of West Virginia.

58. In addition, the Defendant Chrysler's acts and omissions as set forth above demonstrate intentional, fraudulent, malicious, recklessness or willful misconduct and/or an entire want of care so as to raise a presumption of conscious indifference to consequences and

thus warrant the imposition of punitive damages in this case, in an amount to be set by the jury, to deter such conduct in the future, to punish Chrysler and to make a public example of Chrysler.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray for relief as to all Counts as follows:

1. That a trial by jury be had on all issues;
2. That Plaintiff have and recover a judgment for compensatory damages against all defendants, jointly and severally;
3. That Plaintiff have and recover a judgment for punitive damages against defendant Chrysler;
4. That Plaintiff recover costs, including but not limited to court costs, of this cause and interest as allowed by law;

That Plaintiff have and receive any other and further relief to which they may show themselves justly entitled.

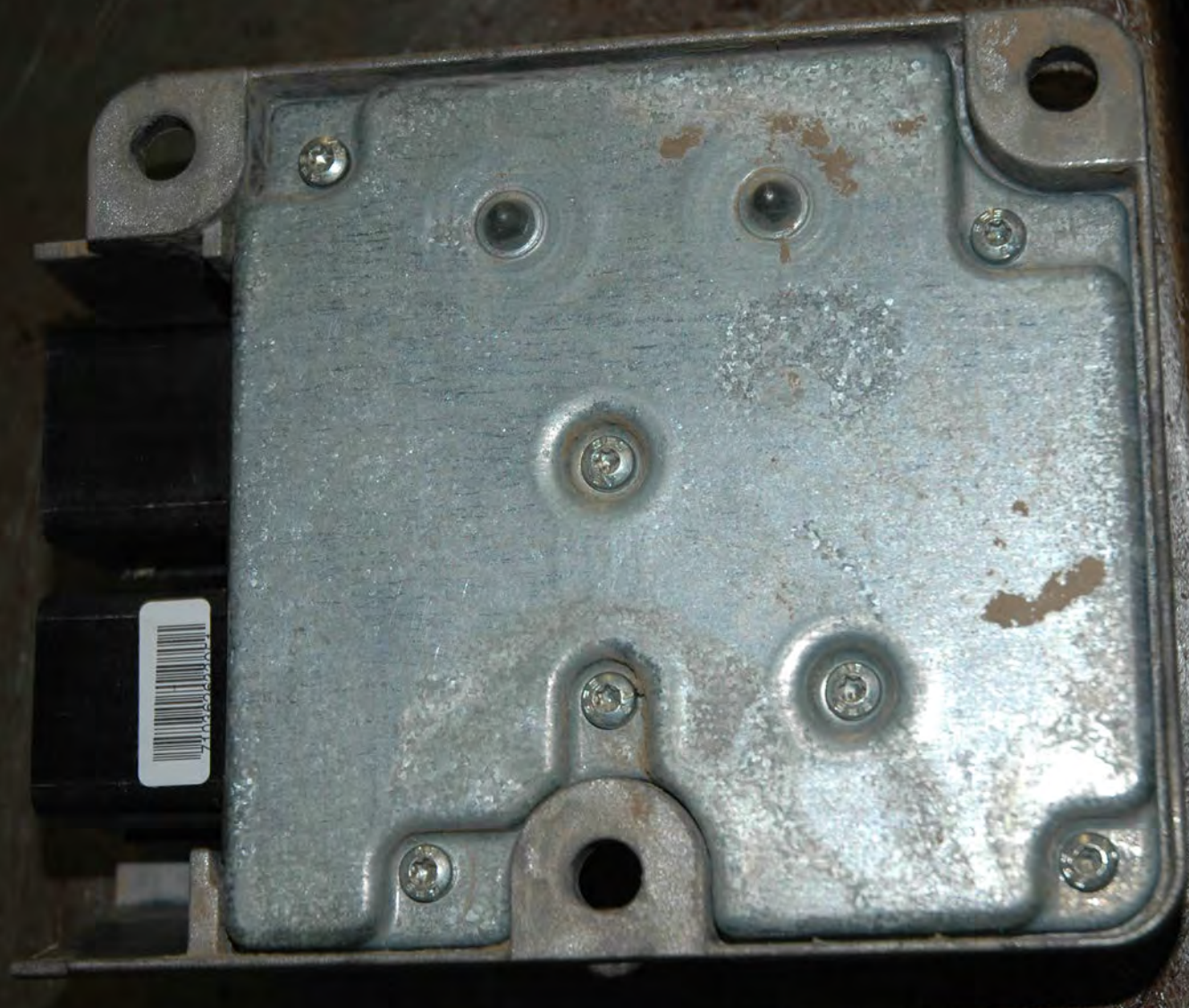
**SUSAN JOHNSON, Individually and
as Personal Representative of the Estate of
JOHN ROBERT DAMRON, Deceased,**



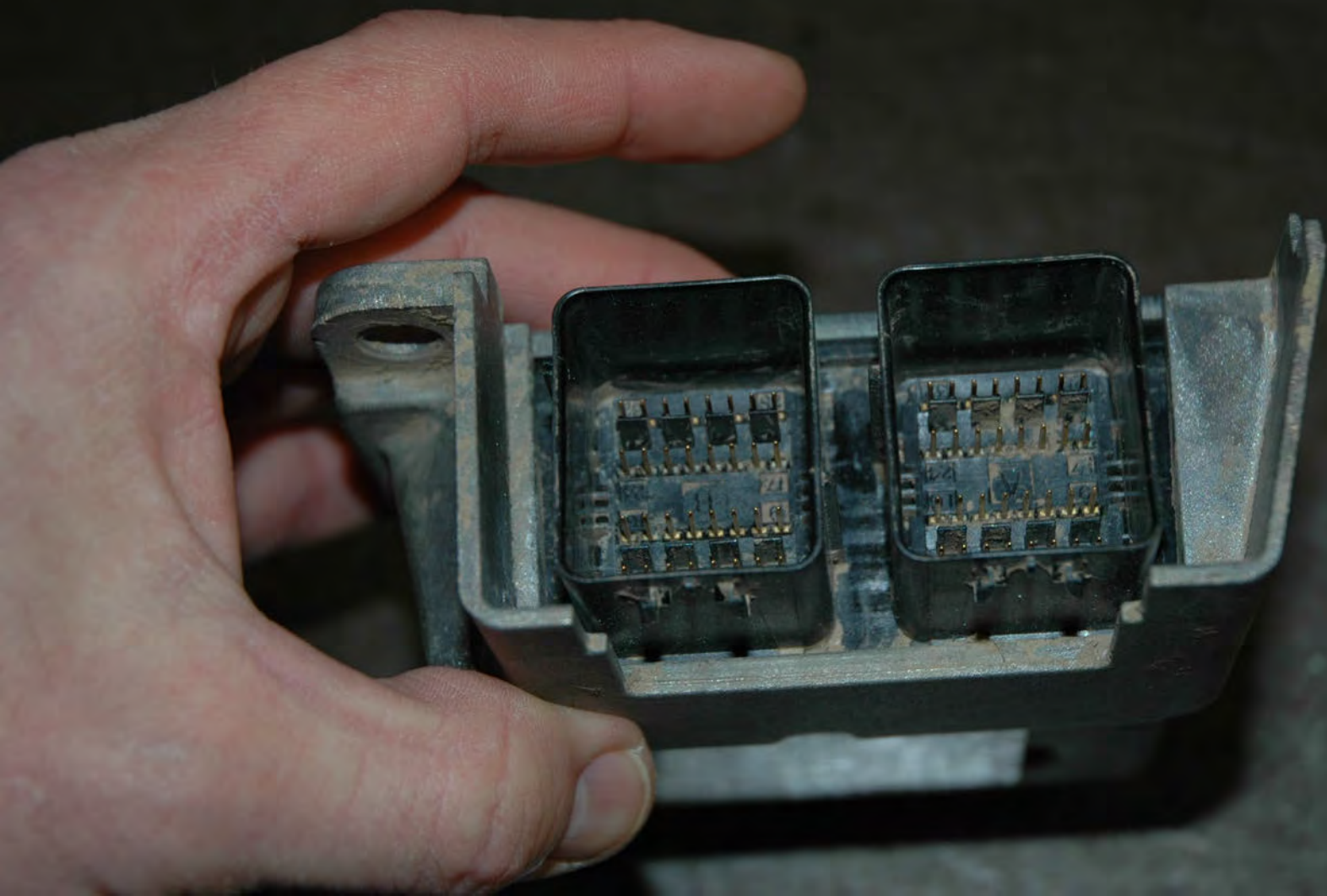
Timothy C. Bailey (WVSB #5839)
J. Ryan Stewart (WVSB # 10796)
BUCCI BAILEY & JAVINS, LC
213 Hale St.
P.O. Box 3712
Charleston, WV 25337-3712
Telephone: (304) 345-0346
Fax: (304) 345-0375
Timbailey@bbjlc.com

Patrick M. Ardis (*Pro Hac Vice* Admission Pending)
Geoffrey Gaia (*Pro Hac Vice* Admission Pending)
WOLFF ARDIS, P.C.
5810 Shelby Oaks Drive
Memphis, TN 38134
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04896901AE

864



WK

WARNING: THIS MODULE IS EQUIPPED WITH
ROLLOVER DETECTION. ENSURE MODULE IS
DISCONNECTED BEFORE SERVICING



BOSCH CHRYSLER S/N: TMD362633951



ASSEMBLED IN MEXICO SUPPLIER CODE: 19224AE 0 285 010 042

WARNING: REFER TO SERVICE MANUAL BEFORE SERVICING.
IMPROPER SERVICING CAN RESULT IN AIRBAG SYSTEM
FAILURE AND POSSIBLE DRIVER AND/OR PASSENGER INJURY.



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WK

WARNING: THIS MODULE IS EQUIPPED WITH ROLLOVER DETECTION. ENSURE MODULE IS DISCONNECTED BEFORE SERVICING

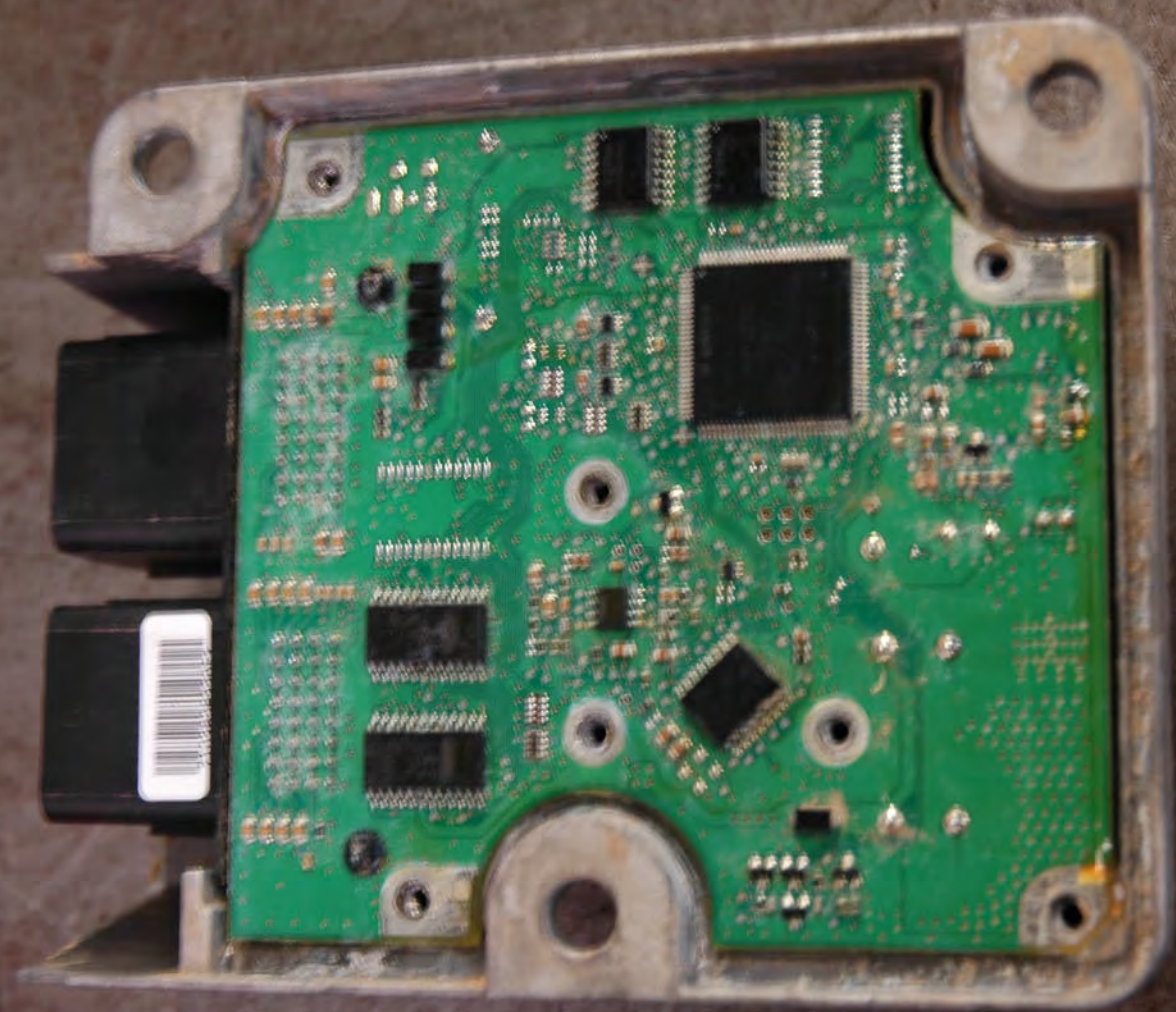


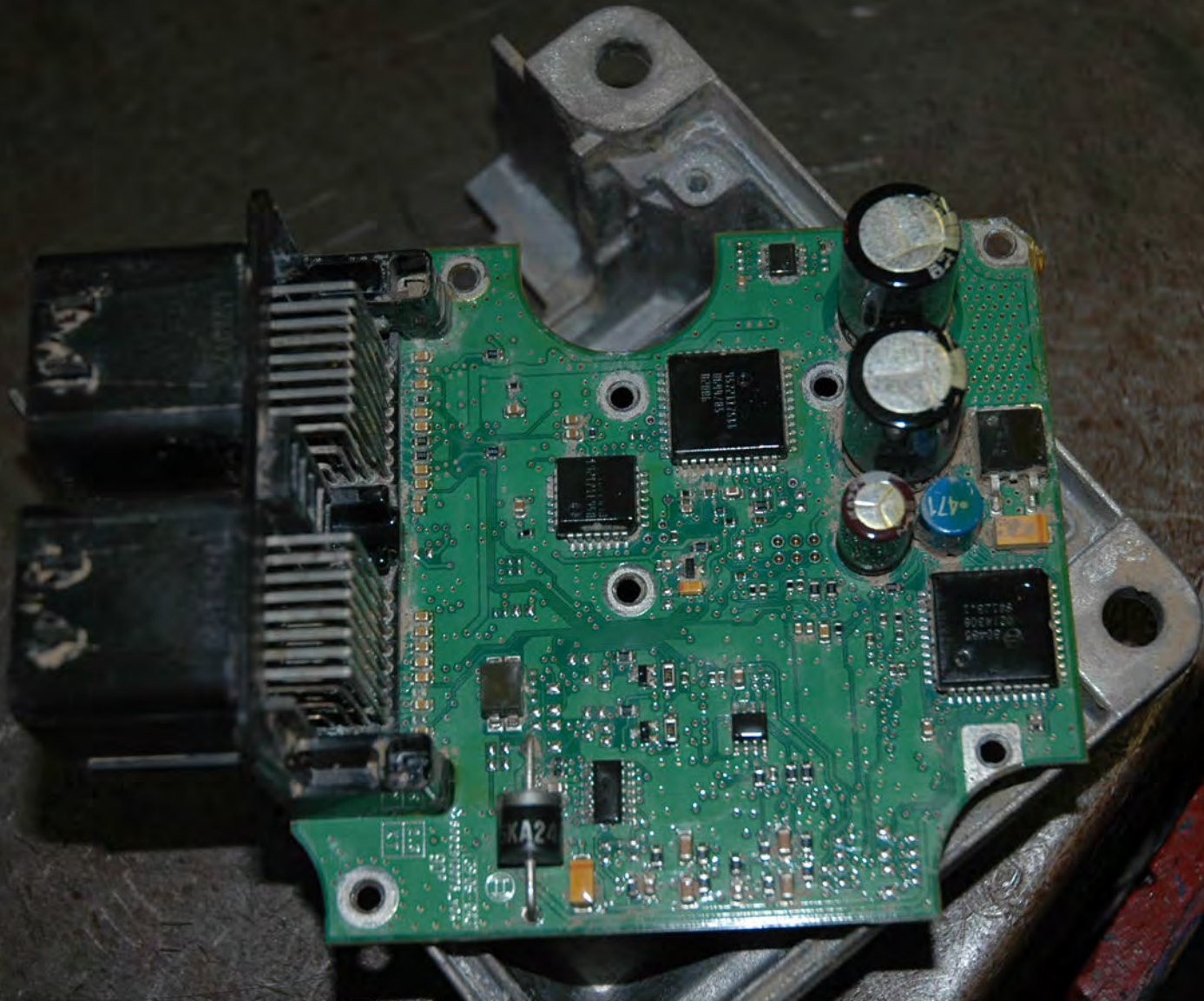
BOSCH CHRYSLER S/N: TMD362633951



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BOSCH
Bosch
Label 8.1.1

WK
WK
ACM/250

SAE 75W-140
SYNTHETIC OIL
& AXLE LUBRICANT

