

TABLE AC-1  
PERMISSIBLE EXPOSURE LIMITS FOR CHEMICAL CONTAMINANTS

30	58
40	54.5
50	52.2
100	50

(t) Glutaraldehyde can cause occupational asthma and skin sensitization responses such as contact dermatitis. Exposure related symptoms may include one or more of the following: shortness of breath, chest tightness, wheeze, cough, skin rash, hives, and irritation of the nose, throat, skin or eye. Hazard communication training required by sections 5191 or 5194 shall address these health hazards and symptoms along with the measures taken by the employer to evaluate and control exposures that can include medical evaluations, exposure monitoring, ventilation systems, work practices, and personal protective equipment. The communication system required by section 3203 shall inform employees where to report possible health symptoms and where to ask questions, report concerns, and receive information about the employer's evaluation and control measures.

(n) This PEL applies to the sum of the exposures to the substance in the vapor state and from the particulate fraction specified in footnote (s) in this table.

Note: Authority cited: Section 142.3, Labor Code. Reference: Sections 142.3 and 144.6, Labor Code.

Attachment 5



USEPA TO-15

External Chain of Custody/ Field Test Data Sheet

LA Testing  
11662 Knott Ave., Unit F5  
Garden Grove, CA 92641  
Ph. (800) 755-1734  
Fax (714) [redacted]

LA Testing Order Number (Lab Use Only): [redacted]

Report To Contact Name: Anthony De Arcos Bill To Company: NoA.L. Sampled By (Signature): [redacted]  
 Company Name: NoA.L. Attention To: Paula Lee Sampled By (Name): [redacted]  
 Address 1: 2201 Felicillo Dr. Ste 140-261 Address 1: same Total # of Samples: 3  
 Address 2: El Dorado Hills, CA 95762 Address 2: Date Shipped: 12-22-15  
 Phone No.: 916-225-8669 Fax: Phone No.: 916-361-0550 Fax: 916-341-0549 Sample Collection Zip Code: 95605  
 Email Results To: [redacted] Project Name: CHP Operations Section Purchase Order:

Turnaround Time (in Business Days):  10 Day Standard  5 Day  4 Day  3 Day  2 Day  1 Day  Other  
 Reporting Format:  Results Only (Standard Lab Report)  Full Deliverables (Surcharge may apply)  Other

Client Field Sample	Field Use - All Information Required								Lab Use Only				Analysis		Matrix								
	Sampling Start Information				Sampling Stop Information				Canister Information				Flow Controller		USEPA TO-15	NIDEPL TO-15	LIBRARY SEARCH	Other (Specify)	Indoor/ Ambient Air	Soil Gas	Landfill/ Vent	Other	
	Start Date	Time (24 Hr)	Canister Pressure (Hg)	Interior Temp. (F)	Stop Date	Time (24 Hr)	Canister Pressure (Hg)	Interior Temp. (F)	Canister ID	Size (L)	Can Cert Match ID	Outgoing Pressure (Psi)	Incoming Pressure (Psi)	Reg. ID									Cal Flow (mL/min)
[redacted]	12-22-15	1458	68	71	12-22-15	1408	70	E0371	6				3597	2HR				X	X				
[redacted]	12-22-15	1402	28	68	12-22-15	1408	70	E0483	6				3583	4HR				X	X				
[redacted]	12-22-15	0958	66	66	12-22-15	1002	68	E0643	6				GRAB					X	X				
		1458		71		1408																	
		1402		68		1408																	
		0958		66		1002																	

Comments: E85 vehicle Lab Canister Certification Analyst Signature (TO-15):

Relinquished by:	Date/ Time	Received by:	Date/ Time	Affixed Seal #	Reason for Exchange (circle appropriate)
[redacted]	12/18/15	Anthony M. De Arcos	12/22/15/0930		Shipping Courier Receiving Sampling Other:
Anthony M. De Arcos	12/22/15/1600	[redacted]	12-23-15 12:50p		Shipping Courier Receiving Sampling Other:
					Shipping Courier Receiving Sampling Other:
					Shipping Courier Receiving Sampling Other:
					Shipping Courier Receiving Sampling Other:













December 28, 2015

Darren Law  
Program Manager Field Operations  
California Highway Patrol  
Fleet Operations Section (074)  
3300 Reed Avenue  
West Sacramento, CA 95605

RE: **Carbon Monoxide/Dioxide Testing**  
California Highway Patrol  
Automobile License No: [REDACTED]  
Automobile License No: [REDACTED]

Dear Mr. Law,

This report is in regards to the Carbon Monoxide and Carbon Dioxide sampling performed on December 14, 2015 and December 22, 2015. The sampling was performed in the California Highway Patrol Automobile license numbers noted above. The investigation was performed to document indoor air quality levels in the Vehicles with regards to Carbon Monoxide and Carbon Dioxide. Anthony M. De Arcos, Registered Environmental Property Assessor, for National Analytical Laboratories, Inc. (N.A.L.), conducted the sampling.

**SAMPLING METHODS AND DATA READINGS -**

The investigation and sampling procedures are general and designed or intended to identify the ambient levels of Carbon Monoxide and Carbon Dioxide at the time of sample collection. Representative samples were collected utilizing the following methodology; a grab sample three to five (3-5) minutes on the initial startup of each Vehicle, a two (2) hour sample was collected as both Vehicles were in the idle position, a four (4) hour sample was collected simulating a normal officer patrol workday to include short abrupt starts and stops, extreme high speeds, stops on the freeway with the Vehicle doors open, and stops on the freeway with Vehicle idling.

Prior to sample collection, the meter was properly calibrated in accordance to industry and manufacturer specifications. Evacuated Summa passivated stainless steel canisters were utilized to collect each sample. The canisters, flow controller, and vacuum gauge were provided by EMSL Analytical, Inc. Each flow controller was pre-calibrated, by the Laboratory, for the desired flow rate or duration of the sample collection (3-5 min., 2 hours, and 4 hours). Samples were collected from the breathing zone, within the Vehicle, so that the sample vacuum gage inlet was in the proper location.

The canisters were sealed and shipped via FedEx to LA Testing, located at 11652 Knott Street, Unit F5, in Garden Grove, California, where the samples were analyzed, utilizing the Draeger CMS method. LA Testing is AIHA accredited, #101650.

Carbon Monoxide/Dioxide Testing  
 California Highway Patrol  
 Automobile License No. [REDACTED]  
 Automobile License No. [REDACTED]  
 December 28, 2015

The sample data readings are as follows:

Date	Sample ID #	Area	CO ppm	Reporting Limit	CO <sup>2</sup> ppm	Reporting Limit
Dec. 14, 2015	3300-1	inside Automobile license no.: 1448277	9 ppm	25 ppm	<1,000 ppm	5,000 ppm
Dec. 14, 2015	3300-2-E2	inside Automobile license no.: 1448277	<5 ppm	25 ppm	<1,000 ppm	5,000 ppm
Dec. 14, 2015	3300-3-E4	inside Automobile license no.: 1448277	<5 ppm	25 ppm	1,300 ppm	5,000 ppm
Dec. 22, 2015	3300-4	inside Automobile license no.: 1453211	<5 ppm	25 ppm	<1,000 ppm	5,000 ppm
Dec. 22, 2015	3300-5	inside Automobile license no.: 1453211	<5 ppm	25 ppm	<1,000 ppm	5,000 ppm
Dec. 22, 2015	3300-6	inside Automobile license no.: 1453211	<5 ppm	25 ppm	<1,000 ppm	5,000 ppm

**RESULTS AND OBSERVATIONS -**

The current Occupational Safety and Health Administration (OSHA) permissible exposure limit (PEL) for Carbon Monoxide is 25 parts per million (ppm). The current Occupational Safety and Health Administration (OSHA) permissible exposure limit (PEL) for Carbon Dioxide is 5,000 ppm.

*In review of the Carbon Monoxide readings from samples collected from Automobile license no.: 1448277 and Automobile license no.: 1453211, one sample was found to register at 9 ppm and the remainder of the samples were found to be <5 ppm, which is less than the PEL. It is our opinion that there is no concern with Carbon Monoxide levels in the Automobiles tested.*

*In review of the Carbon Dioxide readings from the samples collected from Automobile no.: 1448277 and Automobile no.: 1453211, one sample was found to register at 1,300 ppm and the remainder of the samples were found to be <5,000 ppm, which is also less than the PEL. It is our opinion that there is no concern with Carbon Dioxide levels in the Automobiles tested.*

Included at the end of this report are the laboratory analytical results and chain of custody forms. If you have any questions regarding this report or if we can be of further assistance, please contact our office.

Reviewed and submitted by:

*Anthony M. De Arcos*

Anthony M. De Arcos  
 Registered Environmental Property Assessor,  
 REPA # 938322039



STATE OF CALIFORNIA  
DEPARTMENT OF CALIFORNIA HIGHWAY PATROL

**VEHICLE INSPECTION CHECKLIST**  
CHP 33E (Rev. 9-05) OPI 074

AREA	LOCATION CODE
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DATE	VEHICLE NO.	MILEAGE	YEAR	MAKE	MODEL
------	-------------	---------	------	------	-------

**UNDER HOOD (Check if satisfactory)**      **TRUNK (Check if satisfactory)**

- |   |   |  |   |
|---|---|--|---|
| <input type="checkbox"/> General cleanliness                    | <input type="checkbox"/> Water level in windshield washer   | <input type="checkbox"/> General cleanliness       | <input type="checkbox"/> Fuses, safety cones      |
| <input type="checkbox"/> Battery water level/vent indicator eye | <input type="checkbox"/> Drive belts                        | <input type="checkbox"/> Condition of tire chains  | <input type="checkbox"/> Plastic blanket          |
| <input type="checkbox"/> Coolant level in recovery tank         | <input type="checkbox"/> Radiator hoses                     | <input type="checkbox"/> Jumper cables             | <input type="checkbox"/> Jack and lug wrench      |
| <input type="checkbox"/> Engine oil level                       | <input type="checkbox"/> Excessive bug deposits in radiator | <input type="checkbox"/> Prybar                    | <input type="checkbox"/> Hand cleaner/towels      |
| <input type="checkbox"/> Power steering fluid level             | <input type="checkbox"/> Air filter element                 | <input type="checkbox"/> Contents of first aid kit | <input type="checkbox"/> Trunk Pack or wooden box |
| <input type="checkbox"/> Transmission fluid level               | <input type="checkbox"/> Under hood light                   | <input type="checkbox"/> Fire extinguisher         | <input type="checkbox"/> Water jug(s)             |
| <input type="checkbox"/> Brake fluid level                      | <input type="checkbox"/> Other discrepancies                | <input type="checkbox"/> Spare tire condition      | <input type="checkbox"/> Animal snare             |
| <input type="checkbox"/> Battery cables and hold down           |   | <input type="checkbox"/> Trunk light               | <input type="checkbox"/> Spare tire mounting      |

**INTERIOR (Check if satisfactory)**      **EXTERIOR (Check if satisfactory)**

- |  |  |  |   |
|--|--|--|---|
| <input type="checkbox"/> General cleanliness                   | <input type="checkbox"/> Upholstery          | <input type="checkbox"/> General cleanliness | <input type="checkbox"/> Turn signal  |
| <input type="checkbox"/> CHP 33 book                           | <input type="checkbox"/> Door panels         | <input type="checkbox"/> Condition of paint  | <input type="checkbox"/> Wipers   |
| <input type="checkbox"/> Credit card                           | <input type="checkbox"/> Seat belts          | <input type="checkbox"/> Decals              | <input type="checkbox"/> Mirrors  |
| <input type="checkbox"/> Glove compartment content, maps, etc. | <input type="checkbox"/> Glass               | <input type="checkbox"/> Evidence of damage  | <input type="checkbox"/> Siren/PA operation                                     |
| <input type="checkbox"/> Gun locks                             | <input type="checkbox"/> Condition of pedals | <input type="checkbox"/> Windows             | <input type="checkbox"/> Push bumper and pads                                   |
| <input type="checkbox"/> Floor mats                            | <input type="checkbox"/> Window operation    | <input type="checkbox"/> Headlamps           | <input type="checkbox"/> Condition of air deflector                             |
| <input type="checkbox"/> Map and dome light                    | <input type="checkbox"/> Door lock operation | <input type="checkbox"/> Taillights          | <input type="checkbox"/> Brake lights   |
|  |  | <input type="checkbox"/> Spotlights          | <input type="checkbox"/> Emergency lights/wig wag<br>(operation and visibility) |

*UNDERBODY*

**TEST DRIVE (Check if satisfactory)**      **TIRES**      **SUSPENSION (Check if satisfactory)**

- |   |   |  |                     |                                     |
|---|---|--|---------------------|-------------------------------------|
| <input type="checkbox"/> Starting                   | <input type="checkbox"/> Horn                     | <b>Tread Depth</b>                     | <b>Air Pressure</b> | <input type="checkbox"/> Suspension |
| <input type="checkbox"/> General handling qualities | <input type="checkbox"/> Engine response          | L/F _____ /32 _____ PSI                |                     | Components                          |
| <input type="checkbox"/> Body tightness             | <input type="checkbox"/> A/C Heater               | R/F _____ /32 _____ PSI                |                     | <input type="checkbox"/> Wheel      |
| <input type="checkbox"/> Shifting of transmission   | <input type="checkbox"/> Park brake operation     | R/R _____ /32 _____ PSI                |                     | Alignment                           |
| <input type="checkbox"/> Brakes                     | <input type="checkbox"/> Power seat operation     | L/R _____ /32 _____ PSI                |                     |                                     |
| <input type="checkbox"/> Engine idle                | <input type="checkbox"/> Operation of all mirrors | Spare _____ /32 _____ PSI              |                     |                                     |
| <input type="checkbox"/> Steering vibration         | <input type="checkbox"/> Speedometer operation    | <input type="checkbox"/> Matched brand |                     |                                     |

*EXHAUST SYSTEM AND COMPONENTS*

COMMENTS

RECOMMENDATIONS

INSPECTED BY	SIGNATURE	DATE
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STATE OF CALIFORNIA  
DEPARTMENT OF CALIFORNIA HIGHWAY PATROL  
MULTIDISCIPLINARY ACCIDENT INVESTIGATION TEAM NARRATIVE / DIAGRAM  
CHP 558 (REV. 9-08) OPI 065 (MAIT use only)

DATE OF COLLISION (MONTH-DAY-YEAR)	TIME (2400)	NCIO	OFFICER ID	NUMBER	MAIT CASE NUMBER	PAGE
[REDACTED]						1

Fleet Operations Section

### MAIT SUPPLEMENTAL

This investigation was conducted by the California Highway Patrol (CHP) Inland Division Multidisciplinary Accident Investigation Team (MAIT).



**MAIT PERSONNEL:**

Sergeant L. Berns, ID 15244, Inland Division MAIT Team Leader \*

**SUBPOENAS FOR MAIT PERSONNEL SHOULD BE DIRECTED TO:**

California Highway Patrol  
Inland Division MAIT  
847 East Brier Drive  
San Bernardino, California 92408

Attention: Sergeant L. Berns



Incident Review

Bishop Area - 825

## INTRODUCTION

### Notification

On November 15, at approximately 1343 hours, CHP Bishop Area [REDACTED], ID [REDACTED], was traveling south on United States Route (US) 395, just south of Keoughs Hot Springs Road, when he observed a tan sedan traveling north on US 395 at a radar confirmed speed of 99 miles per hour in a posted 65 mile per hour speed zone. [REDACTED] negotiated a U-turn through the median and conducted an enforcement stop on the sedan just north of Keoughs Hot Springs Road. During the course of the enforcement stop, Officer Sweet felt faint and fell to the ground. As a result, [REDACTED] was transported to Northern Inyo Hospital in Bishop, where he underwent treatment by the attending physician.

The patrol vehicle [REDACTED] was operating during his work shift was a 2014 Ford Police Interceptor Sport Utility Vehicle (1448277). Since a diagnosis was not immediately clear as to the cause of [REDACTED]'s condition, the patrol vehicle he was operating was transported to the CHP's Fleet Operations Section for testing of carbon monoxide emissions.

### Issues

Carbon monoxide (CO) is a poisonous, colorless, odorless, and tasteless gas. Although it has no detectable odor, CO is often mixed with other gases that do have an odor. Carbon monoxide is a common industrial hazard resulting from the incomplete burning of natural gas and any other material containing carbon such as gasoline, kerosene, oil, propane, coal, or wood. Forges, blast furnaces and coke ovens produce CO, but one of the most common sources of exposure in the workplace is the internal combustion engine.

Carbon monoxide is harmful when breathed because it displaces oxygen in the blood and deprives the heart, brain, and other vital organs of oxygen. Large amounts of CO can overcome a person in minutes without warning, causing loss of consciousness.

Besides tightness across the chest, initial symptoms of CO poisoning may include headache, fatigue, dizziness, drowsiness, or nausea. Sudden chest pain may occur in people with angina. During prolonged or high exposures, symptoms may worsen and include vomiting, confusion, and collapse, in addition to loss of consciousness and muscle weakness. Symptoms vary widely from person to person. Carbon monoxide poisoning may occur sooner in those most susceptible: young children, elderly people, people with lung or heart disease, people at high altitudes, or those who already have elevated CO blood levels, such as smokers.<sup>1</sup>

Due to the serious nature of this event, Inland Division MAIT was requested to conduct a profile on Officer Sweet's actions leading up to his collapse, with the primary focus on potential avenues for carbon monoxide exposure.

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DATE OF COLLISION (MONTH-DAY-YEAR)	TIME (2400)	NCIC	OFFICER ID	NUMBER	MAT CASE NUMBER	PAGE
[REDACTED]						4

PROFILE STATEMENT

[REDACTED]

Sergeant Berns contacted Officer [REDACTED] on December 1, 2015, at 1400 hours, to obtain his pre-incident profile. The following is a summary of the telephonic interview:

[REDACTED] grew up in the Sacramento area. In the ten years prior to him joining the CHP, [REDACTED] was employed in the construction field where he primarily dealt with underground pipe installation. He installed water main pipes, sewer drains, and storm drains. As a member of a labor union, he fell under the employ of various construction companies. Most of the construction jobs he worked were in or near Lincoln, California, but he did work some construction jobs in Bishop, California before the housing market crashed.

During those construction projects, [REDACTED] excavated or installed different lines, to include sewer lines and/or gravity feed water or storm lines that were up to 40 feet in depth. The lines consisted primarily of concrete pipe, plastic pipe, or clay sewer pipes. During those construction years he was issued "sniffers" when he had to complete underground projects that required him to descend down manhole covers. He described those "sniffers" as an apparatus that contained a hose extending from a monitoring device that detected what he believed to be gasses coming from sewers. Based upon his knowledge of the device, it was supposed to warn him if there were any fumes [hazardous gasses] in the work area.

The year previous [REDACTED] being employed by the CHP, he indicated he worked at a Caltrans yard in Marysville, California disposing of hazardous dirt contaminated with diesel fuel. While at that position, [REDACTED] related he went through a 24 hour "Hazmat Whopper Course" as part of his employment, presumably to understand workplace hazards while dealing with hazardous materials.

After his construction experiences, [REDACTED] entered the CHP Academy in April 2010 and successfully graduated in October of the same year. During his Emergency Vehicle Operation Course (EVOC) training, he operated the Ford Crown Victoria Police Interceptor and had no driving experience with the Ford Police Interceptor Sport Utility Vehicle.

His first duty assignment was in Mammoth Lakes, California, where he spent the first two and a half years of his career. He then transferred and spent the next 22 months (approximately) in the Oakland Area prior to being transferred to the Bishop Area on December 1, 2014. He has been assigned to the Bishop Area ever since.

The first exposure Officer Sweet had to the Ford Police Interceptor Sport Utility Vehicle was in the Oakland Area. Although he was not certified to drive that model patrol vehicle, his graveyard partner, Officer Brent Logar, ID 18712, was. During his experience as a passenger in the Ford Police Interceptor Sport Utility Vehicle, he did not experience any adverse reactions or felt ill.

STATE OF CALIFORNIA

DEPARTMENT OF CALIFORNIA HIGHWAY PATROL

MULTIDISCIPLINARY ACCIDENT INVESTIGATION TEAM NARRATIVE / DIAGRAM

CHP 55B (REV. 8-08) OPI 065 (MATT USE ONLY)

DATE OF COLLISION (MONTH-DAY-YEAR)	TIME (2400)	NCIC	OFFICER ID	NUMBER	MATT CASE NUMBER	PAGE
11-15-2015	1343	9074	15244	1448277	IL-041-15	5

PROFILE STATEMENT

Officer Michael Sweet

Since graduation from the CHP Academy, Officer Sweet worked the 12 hour Alternate Work Week (AWW) schedule at every office he had been assigned. After transferring to the Bishop Area, he primarily worked and preferred the graveyard shift; however, he was assigned dayshift duties on October 1, 2015. The dayshift work schedule commenced at 0600 hours and concluded at 1830 hours. He was working the dayshift schedule at the time of this incident.

On the date of the incident, Officer Sweet selected to drive a 2014 Ford Police Interceptor Sport Utility Vehicle (1448277), which was a fleet vehicle assigned to the Bishop Area. According to him, the Bishop Area did not have an assigned patrol vehicle program in place. Officer Sweet indicated that he preferred to check-out this particular patrol vehicle as it had the newest radar equipment, the latest installation of the California Automated Reporting System (CARS 6.0), and had no cage [for prisoner transport].

During his pre-shift inspection, Officer Sweet did not note any abnormalities. However, he did indicate that when he started the patrol vehicle in the morning to conduct his pre-shift inspection (only after it was pointed out by another co-worker) he got a quick "whiff" of an emission smell. When asked for clarification he stated that the smell was from another patrol vehicle. Officer Sweet surmised that it was from another Ford Police Interceptor Sport Utility Vehicle, which he identified as "1448283." According to him patrol vehicle "1448283" was always having problems, had numerous complaints of emission smells from fellow officers, and was constantly being taken out of service for that reason.

Regarding the 2014, Ford Police Interceptor Sport Utility Vehicle Officer Sweet checked out on the day of this incident, he had no previous experiences of detecting emission smells, nor had he heard of any complaints from his fellow officers. To his knowledge, the patrol vehicle was not involved in any prior collisions, but he did believe it had just returned from an automotive repair shop for transmission problems.

Officer Sweet did not have enough seniority to choose a regular (favorite) beat. On the day of the incident he was assigned to work beat 37-11, which includes unincorporated areas near and around Lake Sabrina and State Route 168. Due to this beat being a less travelled and traditionally lower activity area, and after checking his assigned beat, he decided to patrol an adjoining beat (37-3), which incorporates parts of US 395 south of Bishop. Since he was assigned to work beat 37-11, he would traditionally not travel any further south on US 395 than Big Pine, California.

PROFILE STATEMENT

Prior to traversing onto beat 37-3, and approximately 2-3 hours into his shift, [REDACTED] developed a headache, which he described as being normal. His headache subsided after he took three ibuprofen pills and rubbed "essential oil" on his head, which he administered while at the Bishop Area office taking his lunch break (at approximately 1310 hours). Officer [REDACTED] stated that he does not have a history of headaches, works out twice a day, and does not eat fast food.

[REDACTED] finished his lunch meal in the office breakroom approximately 20 minutes prior to his medical incident. His lunch consisted of a bean and cheese burrito and a diet Dr. Pepper, which he purchased on "office credit." (Presumably an office snack fund associated with the Bishop Area squad club).

The breakroom where he ate his meal contained a propane stove, but he did not use it to heat his burrito. He instead used the microwave. The propane stove was not on and he did not detect the smell of propane emissions. To his knowledge there were no previous complaints of propane leakage or stove malfunction within the breakroom.

While at the Bishop Area office, which he believed was heated via propane; he did not detect the smell of any gaseous emissions. He further indicated that he did not spend any time near the outside backup generator (which was not running) or automotive bay.

After completing his lunch break, Officer [REDACTED] drove to a scale facility just south of Bishop. The scale facility was closed and gated shut, so Officer [REDACTED] parked his patrol vehicle on a paved surface near the scale facility building that was elevated above the travel lanes of US 395. He sat in his patrol vehicle with the engine idling for a few minutes monitoring traffic. Although he was not completely sure, Officer [REDACTED] believed his patrol vehicle windows were up during this timeframe. After a few minutes of experiencing limited traffic, Officer [REDACTED] decided to travel south on US 395 toward Big Pine. His plan was to patrol a county road near Big Pine that was notorious for impaired driver activity.

While traveling south on US 395, just south of Keoughs Hot Springs Road, Officer [REDACTED] noticed a tan older model sedan traveling north at a radar confirmed speed of 99 miles per hour. He was unsure of the sedan's year, make or model, but thought it was either a Pontiac or Chevy that was in poor condition. In order to catch up to the sedan, Officer [REDACTED] had to negotiate a U-turn by traversing the median separating the northbound and southbound lanes of US 395. Due to the speed of the sedan, he accelerated his patrol vehicle aggressively to overtake it.

While overtaking the sedan, Officer [REDACTED] stated that his patrol vehicle's air condition was on and his windows were up. At no point during this portion of the enforcement action did he detect the odor of exhaust emissions or feel disoriented. Just north of Keoughs Hot Springs Road (approximately one mile north of his first observation of the sedan), Officer Sweet overtook the sedan and initiated the enforcement stop.

STATE OF CALIFORNIA  
DEPARTMENT OF CALIFORNIA HIGHWAY PATROL  
MULTIDISCIPLINARY ACCIDENT INVESTIGATION TEAM NARRATIVE / DIAGRAM  
CHP 558 (REV. 9-09) OP. 065 (MAIT Use only)

DATE OF COLLISION (MONTH-DAY-YEAR)	TIME (2400)	NGIC	OFFICER ID	NUMBER	MAIT CASE NUMBER	PAGE
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[REDACTED]

[REDACTED]

Officer [REDACTED] stopped his patrol vehicle approximately 10-14 feet straight behind the sedan. After exiting his patrol vehicle, he walked around the rear of the patrol vehicle and headed toward the passenger side of the sedan. Although both vehicles were idling, he did not detect exhaust emissions from either vehicle. Upon his approach, he got dizzy real quick, which he thought was weird. Officer [REDACTED] decided to continue with his enforcement efforts. When he started speaking to the occupants of the sedan, a white male driver in his mid-20's and a female passenger from a foreign country, Officer [REDACTED] got "real dizzy" and everything started spinning. He tried to walk back to his patrol vehicle, but couldn't make it and went to the ground.

After going to the ground, he attempted to contact dispatch, but he went out over the radio as unit 37-11, which he believed might have confused dispatch of his location because he was on beat 37-3. At some point the female passenger exited the sedan and tried to comfort him by placing her shirt under his head. Officer [REDACTED] had very little recollection of the enforcement stop beyond what he indicated.

Officer [REDACTED] was transported to Northern Inyo Hospital in Bishop for treatment. During treatment, the attending physician informed him that he had suffered a migraine headache and possibly needed a chiropractic adjustment. Although the physician discussed his carbon monoxide levels, he was not sure what they were. Regarding his carbon monoxide levels, the physician informed him that the typical smoker has three times the levels he had in his system.

The following day, his physician told him he was diagnosed as having a stroke that was brought on by a long term migraine. Officer [REDACTED] felt this diagnosis was odd as he did not have a history of severe headaches.

While discussing his previous medical history, Officer [REDACTED] stated that he had been diagnosed with asthma in 2010, while assigned to Mammoth Lakes. His doctor at the time indicated that his asthma was caused by an allergic reaction to pet dandruff (Officer [REDACTED] has three dogs and three cats). To alleviate the symptoms of asthma, he was prescribed Advair and an Albuterol inhaler. Neither of which were used by him after they were prescribed.

Approximately 10 days prior to this incident, Officer [REDACTED] and his family received flu shots. Although no one else in his family experienced any side effects, he thought that the flu shot could have contributed to his headache.

When asked about the environmental conditions, Officer [REDACTED] indicated it was cold in the morning so he wore his cold weather suit, which he regretted later in the day because it warmed up. The warming of the weather prompted him to activate his patrol vehicle's air conditioning most of the day. Since he was operating the air conditioning, he kept his windows up most of the time. Officer [REDACTED] set the air conditioning on maximum cold with the fan on low. The vent was set to receive outside air. The only time he sets the vent to recirculate the cabin air was when he drove down dirt roads. [REDACTED] did not know if the patrol vehicle he was operating had a rear vent for the second row passenger seat.

STATE OF CALIFORNIA  
DEPARTMENT OF CALIFORNIA HIGHWAY PATROL  
MULTIDISCIPLINARY ACCIDENT INVESTIGATION TEAM NARRATIVE / DIAGRAM  
CHP 558 (REV. 8-08) OPI 065 (MA/T use only)

DATE OF COLLISION (MONTH-DAY-YEAR)	TIME (2400)	NCIC	OFFICER ID	NUMBER	MAIT CASE NUMBER	PAGE
11-15-2015	1343	9074	15244	[REDACTED]	[REDACTED]	8

PROFILE STATEMENT

[REDACTED] had limited recollection of his prior enforcement activity. He indicated that he remembered issuing three citations, but made additional stops that did not result in the issuance of a citation. Of the vehicles he stopped, most were newer vehicles and he did not remember any of them emitting any exhaust fumes or being in a mechanical condition that he would have taken note of. [REDACTED] could not provide any further details regarding his enforcement activity.

On the night prior to the incident, [REDACTED] fell asleep on the couch with his clothes on while watching television with his son. He was sure he ate something for dinner that night, but couldn't remember what it was. The next morning he worked out in his garage prior to going to work. The garage was cold and did not have a heat source.

When asked about potential outside sources of carbon monoxide exposure, [REDACTED] indicated that he had not barbecued recently, but when he does, he conducts his cooking in the back yard utilizing a propane barbecue.

During the course of the interview, it was determined that [REDACTED] did not have a workshop, did not own any off-highway vehicles or boats, and had not worked on any vehicles within the last month. His main mode of transportation was a 1999 Toyota Camry, which he used to drive back and forth to work on a daily basis. [REDACTED] stated the Toyota Camry was smogged approximately 1-2 years ago. Although he knew it passed the smog test, he didn't know the results of the test. While operating the Toyota Camry, he did not recall ever detecting the odor of exhaust emissions.

[REDACTED] related his house was equipped with a propane heater, but propane was too expensive to operate so he utilized his wood stove. [REDACTED] did not build a fire the night prior to the incident, but did build one prior to going to work that day. His house was equipped with a carbon monoxide detector in his hallway close to the bedrooms, approximately 15 feet from the fireplace. He last changed the batteries in the detector approximately one year ago when he purchased the residence. [REDACTED] was confident the detector was in proper working condition.

For normal meal preparation, his family used an older model propane kitchen range. Although it was an older model range, [REDACTED] did not believe there was any leakage of propane, nor did he smell any propane emissions. Since purchasing his residence, he had not had the carbon monoxide levels checked, but believed the levels might have been checked during his home owners inspection.

DATE OF COLLISION (MONTH-DAY-YEAR)	TIME (2400)	NCIC	OFFICER ID	NUMBER	MAIT CASE NUMBER	PAGE
11-15-2015	1343	9074	15244			9

#### WITNESS STATEMENTS

The driver of the sedan [REDACTED] stopped just prior to collapsing was identified by Bishop Area personnel as [REDACTED] ([REDACTED]). [REDACTED] had a date of birth of [REDACTED]. He provided a telephone number of [REDACTED]. A Department of Motor Vehicles (DMV) inquiry revealed his residential address was [REDACTED]. Attempts to contact [REDACTED] met with negative results.

The passenger in the sedan was identified by Bishop Area personnel as [REDACTED]. She provided a date of birth of [REDACTED] and an [REDACTED] address as follows: [REDACTED]. No phone number was provided.

In an attempt to ascertain what type of vehicle [REDACTED] was driving, a review of the Mobile Video/Audio Recording System (MVARs) by Bishop Area Sergeant Edward Diffner, ID 17929, was conducted. The video was not clear enough to obtain the vehicle's license plate; however, he was able to conclude the vehicle was a late 1990 to early 2000 model, gray 4-door sedan, possibly a Toyota Avalon.

STATE OF CALIFORNIA

DEPARTMENT OF CALIFORNIA HIGHWAY PATROL

MULTIDISCIPLINARY ACCIDENT INVESTIGATION TEAM NARRATIVE / DIAGRAM

CHP 558 (REV. 9-08) OPI 065 (MAIT use only)

DATE OF COLLISION (MONTH-DAY-YEAR)	TIME (2400)	NCIC	OFFICER ID	NUMBER	MAIT CASE NUMBER	PAGE
11-15-2015	1343	9074	15244			10

DAILY FIELD RECORD / DRIVER'S EQUIPMENT CHECK

A review of [REDACTED] automated CHP 415 (Daily Field Record) for the date of the incident revealed that it had been completed by Sergeant Scott Howlett, ID 13464. The CHP 415 was coded as 12 hours of Admin time, beat 900. In the notes section Sergeant Howlett documented that he completed the CHP 415 for [REDACTED] who was in the hospital. He also indicated the purpose of completing the CHP 415 for Officer Sweet was to comply with FLSA requirements.

The CHP 415 completed [REDACTED] the day prior indicated he had drove 240 miles, issued one citation, gave four verbal warnings, provided five motorist services, and assisted a Nevada Highway Patrol officer with a non-injury collision (no details provided).

The CHP 415 dated November 13, 2015, indicated [REDACTED] drove 176 miles, issued one citation, gave one verbal warning, investigated a non-injury collision (vehicle vs. deer), and arrested an impaired driver.

Although [REDACTED] was on regular days off on November 11-12, 2015, the CHP 415 for November 11<sup>th</sup> indicated that he worked a movie detail from 0400 hours to 1900 hours. During the course of the movie detail (reimbursement number [REDACTED]) [REDACTED] drove 135 miles, likely responding to and from the event, and provided traffic control for 13 hours.

A CHP 33 (Driver's Equipment Check) for the 2014 Ford Police Interceptor Sport Utility Vehicle [REDACTED] drove the date of this incident indicated that he had checked the same vehicle out on November 13<sup>th</sup> and 14<sup>th</sup>. The miles driven were similar to the miles driven [REDACTED] documented on his CHP 415. The miles for the date of the incident had not been documented. The starting mileage was documented as being 61,874. When this vehicle was received by the Fleet Operations Section, the odometer reading was 62,057, which is a difference of 183 miles.

DATE OF COLLISION (MONTH-DAY-YEAR)	TIME (LOCAL)	NO. I/G	OFFICER ID NUMBER	MAIT CASE NUMBER	PAGE
11-15-2015	1343	9074	15244	IL [REDACTED]	11

#### CONCLUSIONS

[REDACTED] regularly drove the 2014 Ford Police Interceptor Sport Utility Vehicle. During his operation of that vehicle he never detected exhaust fumes or felt nauseated in any manner, nor had he heard any of his fellow officers complain about this particular vehicle.

The personal vehicle he drove, a 1999 Toyota Camry, passed a smog test within the previous two years and also did not emit any exhaust fumes.

During [REDACTED] enforcement encounters and public contacts on the day of the incident, he indicated that most of the vehicles he stopped were newer and did not have any recallable mechanical issues. During those encounters, O [REDACTED] indicated that he did not detect any exhaust odors.

While eating lunch at the Bishop Area office [REDACTED] did not detect any signs of propane leakage within the breakroom, was not near the emergency power generator, which was not running, and did not spend any time within the automotive bay.

[REDACTED] home was equipped with a propane heater, which he did not use, a fire place, a propane kitchen range and a working carbon monoxide detector. While inside his residence, he did not detect a gaseous odor emitting from any of the above appliances. Furthermore, none of his family members complained of feeling ill or nauseous.

There were no documented incidents on [REDACTED] CHP 415's to indicate he could have been exposed to hazardous gases.

The attending physician at Northern Inyo Hospital in Bishop, who treated [REDACTED] following the incident, diagnosed him as having a stroke brought on by a long term migraine.

Based upon the totality of the circumstances, and after a thorough review of [REDACTED] daily activities during his work shift and the few days preceding the incident, no avenues of exposure to carbon monoxide or other hazardous gasses could be identified.

### **Profile Questions**

#### **Bishop Area**

1. Give me a brief description of your background prior to entering the CHP. (i.e. – education level, City or Town where you grew up, previous employment, etc.)
2. When did you enter the CHP Academy, and when did you graduate?
3. While attending the CHP Academy, what type of vehicles were you trained to drive during the EVOC.
4. When were you assigned to the Bishop Area?
5. Did you have any previous duty assignments other than the Bishop Area? If so, explain.
6. For the month of November, what was your current shift schedule and work shift start times? (9/80 – 4/10 – 12 Hour Shift)
7. How long have you been on that current work schedule?
8. What is the typical beat you prefer to work? (explain beat boundaries)
9. Regarding the patrol vehicle you were operating on November 15, 2015, a 2014 Ford Police Interceptor Sport Utility Vehicle (1448277), was that your assigned vehicle, and/or how many times have you operated it previous to that date?
10. Do you know if that patrol vehicle had any major repairs recently or had it been involved in any previous collisions?
11. On the date of the incident, were there any abnormalities noted during your pre-shift inspection of the patrol vehicle? (What was listed on the CHP 33?)
12. From the beginning of your shift start time, please recount all your activity leading up to the final enforcement stop you made for the day. If you made enforcement or other contacts (ADV, MS, etc.) with other motorists, what types of vehicles were they?
13. During those contacts, what was the operational condition and of those vehicles? Mechanical condition? (Idling, smoking, leaking exhaust, etc.)

[REDACTED]

**Bishop Area**

14. Did you stop at any location(s) to take a break or eat a meal prior to that enforcement stop? (if so, where and how long)
15. What were the weather conditions like?
16. What were the venting/heating/air conditioning configurations set at in the patrol vehicle on the day in question and the moments leading up to the enforcement stop where you felt ill?
17. Was the vent pulling in air from the outside, or was it set to recirculate the cabin air?
18. Does the patrol vehicle you were operating that day have a rear vent, and if so, was it on? What about at time of stop?
19. What was the configuration of your windows throughout the day? (up/down)
20. How long had you been driving the patrol vehicle prior to making the enforcement stop where you began to feel ill?
21. What were those driving conditions? (Idling, accelerating, normal driving, monitoring traffic, etc.)
22. If idling monitoring traffic, where were you stopped/parked and for how long? (were windows up/down)
23. What was the purpose for the traffic stop and what type of vehicle was it that you stopped?
24. How much time elapsed between this stop and the previous traffic stop?
25. Were there any overt mechanical conditions with that vehicle? (Smoking, leaking exhaust, exhaust smell, etc.)
26. During the enforcement stop, what type of driving conditions did you experience? (Accelerating to catch a speeding motorist, etc.)
27. Go through the enforcement contact.
28. How far apart to the rear of the violator's vehicle were you stopped?

### Profile Questions

[REDACTED]  
Bishop Area

29. Were you offset to the left/right or straight behind the violator's vehicle?
30. Were both vehicles idling during the stop?
31. At what point during the enforcement stop did you begin to feel ill, and where were you standing/sitting? (Outside near violator's vehicle, near patrol vehicle, sitting in patrol vehicle, near exhaust ports for either vehicle, etc.)
32. Could have the external exhaust from either vehicle affected you?
33. What was the appearance of the violator? Did he/she appear ill or disorientated?
34. During your operational history driving this Ford Police Interceptor Sport Utility Vehicle, have you ever experienced any ill effects while driving it? (If so, explain, did you report it; etc.)
35. Are you aware of any other officers having any side-effects (headaches, nausea, fainting) while driving this particular patrol vehicle?
36. When was your first experience operating any of the Department's Ford Police Interceptor Sport Utility Vehicles (Ford Police Interceptor Sport Utility Vehicle)?
37. Have you experienced any issues while driving those Ford Police Interceptor Sport Utility Vehicles?
38. Have you ever heard of or discussed any issues with Ford Police Interceptor Sport Utility Vehicles emitting CO prior to the incident? (if so, elaborate)
39. If the Ford Police Interceptor Sport Utility Vehicle you were driving the day of the incident tests negative for CO emissions, can you think of any outside influences?
40. Are you willing to discuss the medical diagnosis regarding this incident?
41. What is your medical history, have you ever fainted or passed out prior to this incident?
42. Have you ever been diagnosed with having asthma or bronchitis?

**Profile Questions**

**Bishop Area**

43. Describe your activities the day prior?
44. What are your sleeping habits?
45. How much sleep did you receive the night before?
46. What are your eating habits?
47. Do you have any allergies, to include food allergies?
48. What type of shape are you in?
49. Are you physically active?
50. Were you recently sick or experienced flu like symptoms?
51. Do you smoke cigarettes or cigars? (how often)
52. If so, when did you last smoke prior to the incident?
53. What type of personal vehicle do you drive?
54. When is the last time you drove it?
55. When was the last time it was smogged (status of smog results), and has it ever been checked for CO levels/leaks?
56. Do you have any off-highway vehicles? (Motorcycles, quads, Razors, boats, etc.)
57. If so, when is the last time you drove/rode or worked on any of those vehicles?
58. What type of home heating system do you have?
59. Does your home have carbon monoxide detectors? (If so, when is the last time you checked the batteries?)

**Profile Questions**

**Bishop Area**

60. Has your home been checked for CO levels? (If so, when and what were the results?)

61. Have you recently BBQ'd or been near any natural gas or propane cooking/heating equipment?

62. Were any of those scenarios in closed spaces? (i.e. Using a propane heater in a workshop, etc.)

63. Has anyone in your immediate family experienced any similar symptoms? (If so, when and what were they, etc.?)

64. Drug/alcohol abuse?



1. ORIGINAL     2. SUPPLEMENTAL     3. DELETION

ID NUMBER 020183		AREA 825	LAST NAME, FIRST, INITIAL Sweet, Michael A	
NO DAY YEAR 11/14/2015		SHIFT 0600	REGULAR 240	SPECIAL 05
1. ACTIVITY TIME SUMMARY		REGULAR HRS MIN	OVERTIME HRS MIN	TOTAL HRS MIN
A. ADMIN				12   00
B. TRAINING				
C. COURT				
D. ENFORCE DOC.	20			
E. ACCIDENT INVEST. COMP.				
F. ACCIDENT REPORT COMP.	1   00			
G. DW ARRESTS	1   10			
H. FELONY ARR (NON DW)				
J. OTHER IN CUSTODY				
K. VERBAL WARNING	30			
L. PARTNER ARREST				
M. P.D. ARREST				
N. S.D. ARREST				
O. OTHER ASSETS	1   50			
P. RESPONSE TIME	2   20			
Q. NO DISABLED MOTORIST				
R. VEHICLE STORAGE				
S. VEHICLE THEFT				12   00
T. TRAFFIC CONTROL				
U. EMERGENCY SERVICES				
V. HAZ. MAT. INCIDENTS				
W. NO. CODE				
X. DIV. CODE				
Y. AREA CODE				
Z. MISC.	40			
BEAT HOURS SUMMARY		O.T. WORKED FROM TO		LUNCH PERIOD FROM TO
BEAT CODE	REGULAR HRS MIN	OVERTIME HRS MIN	SUPERVISOR'S APPROVAL (REQUIRED FOR O.T.)	
003	3	40	SUPERVISOR'S APPROVAL (BARGAINING UNIT ITEMS)	
909		30	ABS. CODE & PROJECTED ABSENCES	
TOTAL ACTIVITY	12	00		
I CERTIFY THIS INFORMATION IS CORRECT		SIGNATURE Michael Alan Sweet		CHECKED BY PSH

DEPARTMENT OF CALIFORNIA HIGHWAY PATROL  
DAILY FIELD RECORD

12/02/2015 0913

START TIME	ELAPSED TIME	BEAT	ACTIVITY/COMMENTS
0600	01:00	003	RT-RT 1182
0700	01:45	904	C. Assist-NHP 1182
0845	01:00	003	RT-RT TO BISHOP
0945	01:10	011	202 A T-DUI REPORT
1000	03:40	003	Patrol-
1055	01:00	001	555R T-1182 REPORT
1304	00:06	003	RT-RTH-1125 DOC
1315	00:10	003	Misc.-REFUEL 12.2 GALS
1329	00:06	901	RT-TICKET SIGN OFF
1335	00:10	901	MS-0914PT - NV -
1446	00:10	003	Verbal- - 22349 A VC
1457	00:10	003	Verbal- - 22349 A VC
1507	00:05	003	RTH-TIRE TREAD N/B #2 LANE
1514	00:19	003	215-Verbal-14600 A VC
1546	00:10	004	Verbal- - 22349 A VC
1602	00:05	004	MS- - PICKING UP ROCKS
1634	00:03	004	RTH-TUMBLEWEEDS
1800	00:30	909	

NOTES

1. ORIGINAL     2. SUPPLEMENTAL     3. DELETION

ID. NUMBER 020183		AREA 825	LAST NAME, FIRST, INITIAL Sweet, Michael		
MO 11/13/2015	DAY 0600	YEAR 176	REGULAR 05	SPECIAL	
1. ACTIVITY TIME SUMMARY		REGULAR HRS MIN	OVERTIME HRS MIN	EMPLOYMENT SERVICES COUNT	
A. ADMIN				A. CHP 215 REGULAR 1	
B. MISC. TRAINING				B. CHP 215 45253 ONLY	
C. COURT				C. CHP 215 COMBO	
D. ENFORCE DOC.	20			D. CHP 215	
E. ACCIDENT INVEST. COMP.				E. ACCIDENT INVEST. COMP.	
F. ACCIDENT REPORT COMP.	1	00		F. ACCIDENT REPORT COMP. 1	
G. DUI ARRESTS	2			G. DUI ARRESTS 1	
H. FELONY ARR (NON DUI)				H. FELONY ARR (NON DUI)	
I. OTHER IN CUSTODY				I. OTHER IN CUSTODY	
J. CHP 412 TRAINING				J. CHP 412 TRAINING	
K. VERBAL WARNING	1	10		K. VERBAL WARNING 1	
L. PARTNER ASSIST				L. PARTNER ASSIST	
M. P.D. ASSIST				M. P.D. ASSIST	
N. S.O. ASSIST				N. S.O. ASSIST	
O. OTHER ASSISTS				O. OTHER ASSISTS 1	
P. RESPONSE TIME	2			P. MOTORIST SERVICE	
Q. AD DISABLED MOTORIST				Q. AD DISABLED MOTORIST	
R. VEHICLE STORAGE				R. VEHICLE STORAGE	
S. VEHICLE THEFT				S. ABANDONED VEH. RECOV.	
T. TRAFFIC CONTROL				T. FULL STOLEN VEH. RECOV.	
U. EMERGENCY SERVICES				U. EMERGENCY SERVICES	
V. HAZ. MAT. INCIDENTS				V. HAZ. MAT. INCIDENTS	
W. HD. CODE				W. HD. CODE	
X. DV. CODE				X. DV. CODE	
Y. AREA CODE				Y. AREA CODE	
Z. RECD.	40			Z. COURT CANCEL DAY OFF FROM	
BEAT HOURS SUMMARY		FROM 0. T. WORKED TO		LUNCH PERIOD TO	
BEAT CODE	REGULAR HRS MIN	OVERTIME HRS MIN	SUPERVISOR'S APPROVAL (REQUIRED FOR C.T.)		
909	1	00	SUPERVISOR'S APPROVAL (BARGAINING UNIT ITEMS)		
001	4	50	SUPERVISOR'S APPROVAL (BARGAINING UNIT ITEMS)		
TOTAL ACTIVITY		12		HRS. CODE	
I CERTIFY THIS INFORMATION IS CORRECT		SIGNATURE Michael Sweet		CHECKED BY: PSH	

DEPARTMENT OF CALIFORNIA HIGHWAY PATROL  
DAILY FIELD RECORD

12/02/2015 0914

START TIME	ELAPSED TIME	BEAT	ACTIVITY/COMMENTS
0600	00:30	909	Brief/Debrief
0630	00:30	900	PV Svcs.~PV#1448277, ECD #8
0708	00:04	011	RT-23103 VC - [REDACTED]
0712	00:16	011	202 A--215-[REDACTED]-23152 A VC
0732	00:03	011	RT-NIH - CHEMICAL
0735	00:20	011	202 A T-CHEMICAL TEST
0755	00:40	011	RT-RT - ICI
0835	00:50	011	202 A T-BOOKING - [REDACTED]
0915	00:40	011	RT-RT BISHOP OFFICE
0945	00:30	009	202 D T-DRE - SUPPLEMENTAL
1000	04:50	001	Patrol--
1005	00:20	001	215 T-411'S INCORRECT COURT DATES
1304	00:10	001	Verbal-[REDACTED]-22349 A VC
1500	00:10	001	Misc.-REFUEL 11.2 GALS
1519	00:11	001	RT-O. Assist-23103 VC - NEG DUI
1531	00:12	001	RT-20001 VC - MAMMOTH AREA - 1022
1643	00:05	001	RT-11-82 VEH VS. DEER
1648	01:00	001	555R-11-82 VEH VS. DEER
1800	00:30	909	
4. OVERTIME			
E. PROJECTED ABSENCES			
NOTES			





STATE OF CALIFORNIA  
 DEPARTMENT OF CALIFORNIA HIGHWAY PATROL  
**DRIVER'S EQUIPMENT CHECK**  
 CHP 33 (Rev. 8-01) OPI 074

ENDING ODOMETER [REDACTED]  
 BEGINNING ODOMETER 60770

MONTH NOVEMBER YEAR 2015 MILES OPERATED THIS MONTH LOCATION 875

DRIVER NAME	DAY	TIME		ODDMETER		TOTAL MILES	GASOLINE ADDED (Gallons)		TOTAL CREDIT CARD PURCHASE (dollars)	OIL ADDED
		OUT	IN	OUT	IN					
[REDACTED]	5	0600		60270	60577	107	8.4		335 MILES	
[REDACTED]	9	1200	0800	60612	60854	242	11.1	10.0	3 MILES	
[REDACTED]	10	1800	0200	60854	60980	126	9.6			
[REDACTED]	11	0500	1630	60980	61081	101	6.5			
[REDACTED]	12	0800	1650	61081	61245	164	9.4			
[REDACTED]	12	1500	0600	61248	61256	7				
SWEET	13	0600	1700	61256	61432	176	11.2	2.9		
[REDACTED]	13	1800	0200	61432	61489	57	5.1			
SWEET	14	0600	1745	61484	61724	239	12.2	7.5		
[REDACTED]	14	1800	0700	61724	61874	149	11.3			
SWEET	15	0600		61874			8.7			

TURN OFF RADIO

CHECK FLUID LEVELS

2:30PM  
6-27-17

SUM-100

**SUMMONS  
(CITACION JUDICIAL)**

**NOTICE TO DEFENDANT: Ford Motor Company; Folsom Lake  
(AVISO AL DEMANDADO): Ford, Inc.; and Does 1-20**

FOR COURT USE ONLY  
(SOLO PARA USO DE LA CORTE)

**YOU ARE BEING SUED BY PLAINTIFF: [REDACTED]  
(LO ESTÁ DEMANDANDO EL DEMANDANTE):** individually; and  
[REDACTED] individually

**NOTICE!** You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.  
You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.  
There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), or by contacting your local court or county bar association. NOTE: The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. **¡AVISO!** Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información e continuación.  
Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted puede usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California ([www.sucorte.ca.gov](http://www.sucorte.ca.gov)), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, pueda perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.  
Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), en el Centro de Ayuda de las Cortes de California, ([www.sucorte.ca.gov](http://www.sucorte.ca.gov)) o poniéndose en contacto con la corte o el colegio de abogados locales. AVISO: Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:  
(El nombre y dirección de la corte es):  
Inyo County Superior Court  
168 North Edwards  
Same  
Independence, CA 93526

CASE NUMBER  
(Número de caso) [REDACTED]

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:  
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):  
Brian D. Chase 949.752.2777  
Bisnar Chase  
1301 Dove Street, Suite 120  
Newport Beach, Ca 92660  
DATE: JUN 19 2017  
(Fecha)

Clerk, by [Signature] Deputy  
(Secretario) (Adjunto)

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



- NOTICE TO THE PERSON SERVED: You are served**
1. as an individual defendant.
  2. as the person sued under the fictitious name of (specify):
  3.  on behalf of (specify): Ford Motor Company  
under: CCP 416.10 (corporation) CCP 416.60 (minor)  
CCP 416.20 (defunct corporation) CCP 416.70 (conservatee)  
CCP 416.40 (association or partnership) CCP 416.80 (authorized person)  
other (specify): W/Representation
  4. by personal delivery on (date):

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Brian D. Chase SBN: 164109 Scott A. Ritsema SBN: 138193 Bisnar Chase 1301 Dove Street, Suite 120 Newport Beach, Ca 92660 TELEPHONE NO.: 949.752.2999 FAX NO.: 949.752.2777 ATTORNEY FOR (Name): Plaintiffs		<b>FILED</b> JUN 19 2017 INYO CO. SUPERIOR COURT PAZELA M. FOSTER, CLERK BY <b>T. Fath</b> DEPUTY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF Inyo STREET ADDRESS: 168 North Edwards MAILING ADDRESS: Same CITY AND ZIP CODE: Independence, CA 93526 BRANCH NAME: Inyo Superior Court		
CASE NAME: [REDACTED] v. Ford Motor Company et al.		
<b>CIVIL CASE COVER SHEET</b> <input checked="" type="checkbox"/> Unlimited (Amount demanded exceeds \$25,000)	<input type="checkbox"/> Limited (Amount demanded is \$25,000 or less)	Complex Case Designation <input type="checkbox"/> Counter <input type="checkbox"/> Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:

<b>Auto Tort</b> <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (46) <b>Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort</b> <input type="checkbox"/> Asbestos (04) <input checked="" type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input type="checkbox"/> Other PI/PD/WD (23) <b>Non-PI/PD/WD (Other) Tort</b> <input type="checkbox"/> Business tort/unfair business practice (07) <input type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Other non-PI/PD/WD tort (35) <b>Employment</b> <input type="checkbox"/> Wrongful termination (36) <input type="checkbox"/> Other employment (15)	<b>Contract</b> <input type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Rule 3.740 collections (09) <input type="checkbox"/> Other collections (09) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37) <b>Real Property</b> <input type="checkbox"/> Eminent domain/inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (26) <b>Unlawful Detainer</b> <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38) <b>Judicial Review</b> <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39)	<b>Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403)</b> <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Environmental/Toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) <b>Enforcement of Judgment</b> <input type="checkbox"/> Enforcement of judgment (20) <b>Miscellaneous Civil Complaint</b> <input type="checkbox"/> RICO (27) <input type="checkbox"/> Other complaint (not specified above) (42) <b>Miscellaneous Civil Petition</b> <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43)
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2. This case is  is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:

a. <input type="checkbox"/> Large number of separately represented parties	d. <input type="checkbox"/> Large number of witnesses
b. <input type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve	e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court
c. <input type="checkbox"/> Substantial amount of documentary evidence	f. <input type="checkbox"/> Substantial postjudgment judicial supervision

3. Remedies sought (check all that apply): a.  monetary b.  nonmonetary; declaratory or injunctive relief c.  punitive

4. Number of causes of action (specify): 2

5. This case is  is not a class action suit.

6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)  
 Date: 6/16/17  
 Scott A. Ritsema SBN: 138193  
 (TYPE OR PRINT NAME) (SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

**NOTICE**

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

1 Brian D. Chase, Esq. (SBN 164109)  
2 bchase@bisnarchase.com  
3 Scott A. Ritsema, Esq. (SBN 138193)  
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6 1301 Dove Street, Suite 120  
7 Newport Beach, California 92660  
8 Telephone: (949) 752-2999  
9 Facsimile: (949) 752-2777

10 Attorneys for Plaintiffs

**FILED**

JUN 19 2017

INYO CO. SUPERIOR COURT  
PAMELA M. FOSTER, CLERK  
DEPUTY  
BY *[Signature]*

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**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF INYO**

██████████, individually;  
██████████, individually

Plaintiffs,

vs.

FORD MOTOR COMPANY; FOLSOM  
LAKE FORD, INC.; and DOES 1-20;

Defendants.

CASE NO. ██████████

**PLAINTIFFS' COMPLAINT**

Come now plaintiffs for causes of action against defendants, alleging as follows:

**COMMON ALLEGATIONS FOR ALL CAUSES OF ACTION**

1. Plaintiff ██████████ "██████████" is, and at all relevant times was, a resident of Bishop, California.
2. Plaintiff ██████████ (hereafter ██████████) is, and at all relevant times was, a resident of Bishop, California. At all relevant times, ██████████ was the lawfully wedded wife of ██████████
3. At all relevant times, defendant FORD MOTOR COMPANY ("FORD") was and is a corporation organized and existing under the laws of the State of Delaware, with a principal

1 place of business in Dearborn, Michigan, and was at all relevant times authorized and/or  
2 qualified to do business, and was and is doing business, in the State of California.

3 4. At all relevant times, defendant FOLSOM LAKE FORD, INC. ("FOLSOM  
4 FORD") was and is a corporation organized and existing under the laws of the State of  
5 California, with a principal place of business in Folsom, California, and was and is at all relevant  
6 times authorized and/or qualified to do business, and was and is doing business, in the State of  
7 California.

8 5. The true names and/or capacities, whether individual, corporate associate,  
9 governmental, or otherwise of defendant Does 1-20, inclusive and each of them, are unknown to  
10 plaintiffs, who therefore sue said defendants by such fictitious names. When the true names and  
11 or capacities of said defendants are ascertained, plaintiffs will seek leave of this Court to amend  
12 the Complaint accordingly.

13 6. Plaintiffs are informed and believe, and based thereon allege, that each defendant  
14 designated herein as a DOE was responsible, negligently or in some other actionable manner, for  
15 the events and happenings herein referred to that proximately caused the damages to plaintiffs as  
16 hereinafter alleged, either through said defendant's own negligence or through the conduct of its  
17 agents, servants, employees, or representatives in some other manner.

18 7. Plaintiffs are informed and believe and based thereupon allege that at all times  
19 mentioned herein the defendants and each of them were the agents, servants, employees,  
20 representatives and/or joint-venturers of their co-defendants and were, as such, acting within the  
21 course, scope, and authority of said agency, services, employment, representation and/or joint  
22 venture in that each and every defendant, as aforesaid when acting as principal, was negligent in  
23 the selection and hiring of each and every other defendant as an agent, servant, employee,  
24 representative, and/or joint-venturer.

25 8. Plaintiffs are informed and believe, and based thereupon allege, that at all times  
26 mentioned herein each of the defendants, including Defendant DOES 1-20, inclusive, and each of  
27 them, were the agents, servants, employees, representatives of each of the remaining defendants  
28 and were at all times material hereto acting within the authorized course and scope of said  
agency, service, employment and/or representation, and/or that all of said acts, conduct and  
omissions were subsequently ratified by their respective principals and the benefits thereof  
accepted by such principals.

1 9. At all relevant times, FORD, FOLSOM FORD, and DOES 1-20 were and are  
2 engaged in the business of manufacturing, fabricating, designing, assembling, distributing,  
3 selling, inspecting, servicing, repairing, marketing, warranting, modifying, aftermarket equipping  
4 and modifying, leasing, renting, retailing, wholesaling and advertising a certain subject 2014  
5 Ford Explorer Police Interceptor Utility Vehicle (as well as and/or aftermarket parts and/or  
6 installation guides) CHP Equipment Number 1448277, VIN number 1FM5K8AR7EG [REDACTED]  
7 (hereafter, "SUBJECT VEHICLE") and each and every component part thereof, which  
8 defendants knew, or in the exercise of reasonable care should have known, would be used  
9 without inspection for defects in its parts, mechanisms or design, for use in the State of California  
10 and elsewhere. At the time of the incident which gives rise to this action, the SUBJECT  
11 VEHICLE was owned by the California Highway Patrol and was used as a marked police  
12 vehicle.

13 10. On or about November 15, 2015, at approximately 1:43 p.m., on U.S. Route 395  
14 just south of Keough Hot Springs Rd. in Inyo County, California, OFFICER SWEET, while on  
15 duty as a California Highway Patrol Officer, was driving the SUBJECT VEHICLE. He  
16 observed a speeding vehicle and proceeded to make an enforcement stop. His air conditioner  
17 was on and his windows were up. To catch up to the speeding vehicle, he accelerated  
18 aggressively. After pulling over the vehicle, and during the course of the enforcement stop, he  
19 felt severe dizziness and fell to the ground. He was transported to the hospital. While in the  
20 Hospital, he suffered a stroke. This sequence is hereafter referred to as the "SUBJECT  
21 INCIDENT."

22 **FIRST CAUSE OF ACTION**

23 **Strict Product Liability**

24 **By All Plaintiffs against all Defendants**

25 11. Plaintiffs re-allege and incorporate by reference each of paragraphs 1 through 10  
26 above, as though fully set forth herein.

27 12. FORD, FOLSOM FORD, and DOES 1-20, and each of them, knew that the  
28 SUBJECT VEHICLE was to be purchased and used without inspection for defects by the users  
of that vehicle including but not limited to plaintiff.

13. The SUBJECT VEHICLE and each of its component parts and/or aftermarket  
parts and/or installation guides mentioned was manufactured, designed, assembled, packaged,  
tested, fabricated, analyzed, inspected, merchandised, marketed, distributed, labeled, advertised,

1 promoted, sold, supplied, leased, rented, repaired, modified, aftermarket modified, adjusted,  
2 selected and used with inherent vices and defects both in design and manufacturing and by  
3 failure to warn (hereinafter the "SUBJECT DEFECTS"), which made it dangerous, hazardous  
4 and unsafe both for its intended use or for reasonably foreseeable misuses.

5 14. These SUBJECT DEFECTS included, but were not limited to, the following:

- 6 a. Designing, manufacturing and assembling the SUBJECT VEHICLE in  
7 such a way that exhaust and other gasses, including poisonous carbon  
8 monoxide, is allowed to enter the passenger compartment of the vehicle.
- 9 b. Designing, manufacturing and assembling the bumpers and/or tailpipes of  
10 the SUBJECT VEHICLE such that exhaust and other gasses, including  
11 poisonous carbon monoxide, may accumulate behind the bumper and  
12 within the interior and exterior panels, allowing those gasses to permeate  
13 the passenger compartment of the vehicle.
- 14 c. Designing, manufacturing and assembling the SUBJECT VEHICLE using  
15 defective rear air extractors which permit exhaust and other gasses,  
16 including poisonous carbon monoxide, to enter the passenger compartment  
17 of the vehicle.
- 18 d. Designing, manufacturing and assembling the lift-gate in the rear of the  
19 SUBJECT VEHICLE using defective drain valves, which permit exhaust  
20 and other gasses, including poisonous carbon monoxide, to enter the  
21 passenger compartment of the vehicle.
- 22 e. Designing, manufacturing and assembling the SUBJECT VEHICLE with  
23 sheet metal panels and overlaps which permit exhaust and other gasses,  
24 including poisonous carbon monoxide, to enter the passenger compartment  
25 of the vehicle.
- 26 f. Designing, manufacturing and assembling the SUBJECT VEHICLE with  
27 joints and seams which permit exhaust and other gasses, including  
28 poisonous carbon monoxide, to enter the passenger compartment of the  
vehicle.
- g. Designing, manufacturing, and assembling the SUBJECT VEHICLE with  
rear auxiliary air conditioning system parts which are defectively designed  
and/or located too close in proximity to the driver side rear air extractor,

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such that exhaust and other gasses, including poisonous carbon monoxide, may enter the auxiliary air conditioning system and the passenger compartment of the vehicle

h. Failure to warn of the SUBJECT DEFECTS.

15. The SUBJECT VEHICLE and each of its component parts and/or aftermarket parts and/or installation guides was unsafe for its intended use and reasonably foreseeable misuses by reason of the defects in its design and/or manufacturing and/or failure to warn by said defendants, and each of them, in that when the SUBJECT VEHICLE was being properly driven, carbon monoxide came into the occupant space in such quantities so as to render OFFICER MCDOWELL to lose consciousness while driving the vehicle.

16. As a direct and legal result of the conduct of defendants, and each of them, and the defects inherent in the vehicle, [REDACTED] red severe and permanent injuries, in turn legally resulting in plaintiffs' special and general damages in a sum in excess of the minimum subject matter jurisdiction of this Court according to proof at trial. OFFICER SWEET's damages include past and future medical expenses, past and future lost earnings, and past and future pain, suffering, and emotional distress. JESSICA's damages are for the loss of consortium caused by the injuries to her husband, OFFICER SWEET.

**ALLEGATIONS SUPPORTING EXEMPLARY DAMAGES PRAYER**

**AGAINST FORD ONLY**

17. Plaintiffs are further informed and believe and thereon allege that FORD intentionally engaged in conduct which, with respect to the SUBJECT DEFECTS that plaintiffs allege above were a legal cause of their loss, damages, injuries and harm, exposed plaintiffs and other users of the SUBJECT VEHICLE to serious potential danger known to FORD in order to advance FORD's pecuniary interests and thus acted with a conscious disregard for the safety of the plaintiffs and other users of the SUBJECT VEHICLE, warranting an award of exemplary damages against FORD pursuant to Civil Code § 3294, and the rule enunciated in *Ford Motor Co. v. Home Ins. Co.* (1981) 116 Cal.App.3d 374, 381-382 and *PPG Industries, Inc v. Transamerica Ins. Co.* (1996) 49 Cal.App.4th 1120. The facts supporting FORD's intentional conduct which exposed plaintiffs and other users of the SUBJECT VEHICLE to serious potential danger known to the defendants in order to advance the defendants' pecuniary interests, are on information and belief, as follows.

1 18. The SUBJECT VEHICLE is a modified FORD Explorer, and was introduced with  
2 the 2012 model year.

3 19. The SUBJECT VEHICLE is part of the 5<sup>th</sup> generation FORD Explorer platform,  
4 which ran from the 2011 model year to the 2015 model year. Upon information and belief,  
5 FORD sold almost 900,000 FORD Explorers from 2011 through 2015, and over 65,000 Police  
6 Interceptor Utility vehicles from 2012 through 2015.

7 20. After the introduction of the 2011 FORD Explorer, FORD began receiving  
8 numerous customer complaints of exhaust odor in the passenger compartments of FORD  
9 Explorer vehicles.

10 21. In or about December 2012, FORD issued a Technical Service Bulletin (TSB 12-  
11 12-4) titled "Explorer Exhaust Odor in Vehicle" which acknowledged that "[s]ome 2011-2013  
12 Explorer vehicles may exhibit an exhaust odor in the vehicle with the auxiliary climate control  
13 system on. Customers may indicate the odor smells like sulfur." Subsequent to issuing TSB 12-  
14 12-14, FORD issued TSB 14-0130 which again acknowledged an exhaust odor in FORD  
15 Explorer vehicles, and added the 2014 and 2015 model year Explorer vehicles to the list of  
16 affected vehicles. FORD's TSB 12-12-4 and TSB 14-0130 were issued to authorized FORD  
17 dealers only, and did not notify non-FORD automotive facilities or the general public of the  
18 exhaust problem, and did not mention the fact that poisonous carbon monoxide gas could enter  
19 the passenger compartment and affect the driver.

20 22. FORD failed to notify the general public of the exhaust and carbon monoxide  
21 defect despite FORD's actual knowledge that the defect caused potentially life threatening  
22 consequences to occupants of the vehicles. FORD failed to recall FORD Explorer vehicles,  
23 including Police Interceptor Utility vehicles to remedy the potential life threatening defect.

24 23. FORD's TSB 12-12-4 and TSB 14-0130 did not remedy the defect.

25 24. One of the repairs prescribed by FORD's TSB 12-12-4 was to replace the original  
26 equipment driver's side rear air extractor with a dual rate air extractor. Upon information and  
27 belief, FORD suggested the replacement of the driver's side rear air extractor, but not the  
28 passenger side rear air extractor, because the air intake from the auxiliary air conditioning system  
is situated dangerously close to the driver's side rear air extractor, and this placement allows  
exhaust to enter the passenger compartment. The replacement part, i.e. the dual rate air extractor,  
is formed from polypropylene and over-molded with thermoplastic elastomer, and includes  
"living hinges" and plastic torsional springs which are meant to function as a one-way pneumatic

1 valve. However, FORD modified the dual rate extractors by adding a silicone-like substance to  
2 the upper most of the three "living hinges", a substance which was not, on information and  
3 belief, intended to be part of the product by its manufacturer. This silicone-like substance causes  
4 the "living hinges" to remain open, and allows exhaust fumes to enter the passenger  
5 compartment. Thus, the replacement dual rate auto extractors did not fix the problem, and still  
6 allows dangerous and deadly exhaust fumes to enter the passenger compartment.

7 25. A second repair proscribed by FORD's TSB 12-12-4 was to replace the valve  
8 assembly auto drains on the rear lift-gate of the vehicles. The original valve assembly auto  
9 drains were defective because they allowed exhaust fumes to enter the passenger compartment.  
10 The replacement valve assembly auto drains failed to fix the exhaust problem.

11 26. FORD failed to properly seal the horizontal sheet metal lap joints on both sides,  
12 and failed to properly seal the rear sheet metal overlap flange across the rear of the vehicle and  
13 the auxiliary air conditioning lines, on FORD Explorer vehicles. FORD's TSB 12-12-4  
14 suggested spraying "generous amounts" of rubberized undercoating and seam sealer on the  
15 foregoing joints, flanges, and lines. However, the suggested repair did not fix the exhaust  
16 problem.

17 27. In sum, FORD knew that its FORD Explorer vehicles and Police Interceptor  
18 Utility vehicles, including the SUBJECT VEHICLE, were defective in that the design of those  
19 vehicles allowed deadly exhaust fumes, including poisonous carbon monoxide, to enter the  
20 passenger compartment. FORD failed to notify the general public of this defect, and issued a  
21 FORD Technical Safety Bulletin to authorized dealers only, and the suggested repairs failed to  
22 fix the problem.

23 28. FORD's design of the 5<sup>th</sup> generation FORD Explorer platform, specifically related  
24 to the defects alleged herein, is the subject of multiple pending class action lawsuits, including  
25 but not limited to *Angela Sanchez-Knutson v Ford Motor Company*, case number 0:14-cv-61344-  
26 WPD pending in the United States District Court, Southern District of Florida, and *Michael*  
27 *Cunningham, et. al. v Ford Motor Company*, case number 3:15-CV-00124, pending in the United  
28 States District Court, Southern District of California. Those actions, which were filed prior to the  
SUBJECT INCIDENT, allege the same defects as alleged herein. Despite the pendency of those  
class action lawsuits, FORD still made no efforts to notify the general public of the defects in the  
FORD Explorer vehicles and Police Interceptor Utility vehicles, including the owner and users of  
the SUBJECT VEHICLE, despite actual knowledge of the defect and the potentially deadly

1 consequences which arise when the drivers of such vehicles are exposed to poisonous carbon  
2 monoxide while driving.

3 29. On January 2, 2015, months before the SUBJECT INCIDENT, Ford  
4 representative Bob Gray testified under penalty of perjury in an arbitration proceeding in Fort  
5 Lauderdale, FL entitled *James Cassidy v Ford Motor Company*. That arbitration concerned Mr.  
6 Cassidy's claim that his car was leaking exhaust into the passenger compartment. Ford, through  
7 Mr. Gray, testified that:

8 A. "It seems to be happening across the only – across the design line. They can't – so  
9 then it really is a design issue, not a problem with this particular vehicle." (Transcript  
10 at 50:2-6).

11 B. "There is another fine line there that, you know, this is happening across the – the  
12 Explorers over a number of years. It – it doesn't seem to be a problem with an  
13 individual part or an individual vehicle that was misbuilt. It does seem to be a design  
14 issue." (Transcript at 83:13-18).

15 C. "And then, in terms of – of repairs. As I said, we're working on it. I wish I had a  
16 better answer for that. I don't, and I can only apologize on behalf of Ford for that,  
17 because, you know, it's obviously taking longer than anybody wants, especially our  
18 customers who have the vehicle. (Transcript at 51:2-8).

19 D. "In terms of the request for repairs, as soon as we have a robust fix, something that's  
20 going to actually do the job, we would love to get it done. That should be very soon.  
21 I know that that's what the customer was told, you know, all those months ago; but  
22 we feel that we've taken steps along the way. We have come out with two technical  
23 service bulletins trying to address it, and we do want to get it fixed. So we are not  
24 saying no to a repair; we are just saying we have to have the fix first." (Transcript at  
25 84:25-85:12).

26 30. In July 2016, the National Highway Transportation Safety Administration opened  
27 an investigation into the defects alleged herein.

28 31. FORD's actions and inactions, as described above, were thus undertaken with a  
willful and conscious disregard for the rights and safety of consumers and users of FORD  
Explorer vehicles and Police Interceptor Utility vehicles, including the SUBJECT VEHICLE, to  
advance FORD's pecuniary interests, and such conduct was despicable because such aforesaid  
conduct would and could kill people. FORD failed to warn the public of the potentially deadly

1 nature of the defect, and failed to recall the involved vehicles, including the SUBJECT  
2 VEHICLE, thereby callously and needlessly risking public safety to its own pecuniary benefit.

3 32. Plaintiffs further allege that FORD's conduct was undertaken with the result that  
4 the SUBJECT VEHICLE's ultimate defects in its design and production were fully intended by  
5 FORD to reside therein such that they were and are the product of entire corporate management  
6 and corporate policy of FORD with respect to the conscious willful and disregard of public safety  
7 for defendants' pecuniary gain with regard to the design, manufacture, production and marketing  
8 of the SUBJECT VEHICLE.

9 33. As a direct and proximate result of FORD's conduct, an award of exemplary and  
10 punitive damages against FORD is proper and appropriate to punish FORD and to deter such  
11 conduct in the future.

12 **SECOND CAUSE OF ACTION**

13 **Negligence [Product Liability]**

14 **By all Plaintiffs against all Defendants**

15 34. Plaintiffs incorporate, repeat and re-allege each and every allegation in paragraphs  
16 1 through 33, above, and incorporate the same by reference as though set forth in detail herein.

17 35. At all times mentioned, defendants and each of them, had a duty to reasonably and  
18 properly manufacture, design, assemble, package, test, fabricate, analyze, inspect, merchandise,  
19 market, distribute, label, advertise, promote, sell, supply, lease, rent, warn, select, inspect and  
20 repair the SUBJECT VEHICLE and each of its component parts and/or aftermarket parts and/or  
21 installation guides.

22 36. At all times mentioned, defendants knew, or in the exercise of reasonable care  
23 should have known that the SUBJECT VEHICLE and each of its components parts and/or  
24 aftermarket parts and/or installation guides were not properly manufactured, designed,  
25 assembled, packaged, tested, fabricated, analyzed, inspected, merchandised, marketed,  
26 distributed, labeled, advertised, promoted, sold, supplied, leased, rented, repaired, selected and  
27 provided inadequate warnings for the use and purpose for which it was intended in it was likely  
28 to injure the person who used said products, each of theirs component parts and/or aftermarket  
29 parts and/or installation guides.

30 37. Defendants, and each of them, so negligently and carelessly, manufactured,  
31 designed, assembled, packaged, tested, fabricated, analyzed, inspected, merchandised, marketed,  
32 modified, distributed, labeled, advertised, promoted, sold, supplied, leased, rented, repaired,

1 selected and provided inadequate warnings and provided the SUBJECT VEHICLE and each of  
2 its component parts and/or aftermarket parts and/or installation guides so that the SUBJECT  
3 VEHICLE was a defective and dangerous product, unsafe for its intended uses and purposes  
4 when used and driven as recommended or for reasonably foreseeable misuse. In particular, the  
5 SUBJECT VEHICLE was designed in a manner which allowed poisonous carbon monoxide gas  
6 to enter the occupant driving space from the engine, thereby potentially rendering the driver of  
7 the vehicle unconscious while driving. FORD knew about this defect well before the date of the  
8 SUBJECT INCIDENT, but failed to adequately warn the public, including the owner and users  
9 of the SUBJECT VEHICLE, and failed to recall the defective FORD Explorer vehicles and  
Police Interceptor Utility vehicles to remedy the defect.

10 38. The negligence, carelessness, and unlawful conduct of the defendants, and each of  
11 them, and the defects inherent in the SUBJECT VEHICLE, legally caused the plaintiffs' injuries,  
12 legally resulting in plaintiffs' damages as set forth above in paragraph 16 of this complaint.

13 WHEREFORE, plaintiffs pray for judgment against defendants and each of them, as  
14 follows:

- 15 1. By [REDACTED] for past and future medical expenses, past and  
16 future lost earnings, and past and future non-economic damages for pain,  
suffering and emotional distress, according to proof;
- 17 2. By J [REDACTED] for past and future non-economic damages for loss of  
18 consortium;
- 19 3. For interest according to law;
- 20 4. For costs of suit incurred herein;
- 21 5. For exemplary damages against FORD only;
- 22 6. For such other relief as the court deems just and proper.

23 DATED: June 16, 2017

BISNAR CHASE

24  
25 By: 

SCOTT A. RITSEMA  
Attorneys for Plaintiffs

SUPERIOR COURT OF CALIFORNIA, COUNTY OF INYO INDEPENDENCE BRANCH 168 NORTH EDWARDS STREET P.O. DRAWER U INDEPENDENCE, CA 93526	FOR COURT USE ONLY  <b>FILED</b>  JUN 20 2017  INYO CO. SUPERIOR COURT PAMELA M. FOSTER, CLERK BY <i>[Signature]</i> DEPUTY
PETITIONER/ PLAINTIFF: <span style="background-color: black; color: black;">[REDACTED]</span> vs. RESPONDENT/DEFENDANT: FORD MOTOR COMPANY, et al	
NOTICE OF FILING COMPLAINT	CASE NUMBER: <span style="background-color: black; color: black;">[REDACTED]</span>

TO COUNSEL FOR PLAINTIFF: You are hereby notified that the complaint in the above entitled case was filed on 06/19/2017. The defendant(s) in this matter must be served and a Proof of Service filed within the Court within 60 days from the date the complaint was filed.

Date: 06/20/2017 PAMELA M. FOSTER, Clerk, by *[Signature]* Deputy

**CLERK'S CERTIFICATE OF SERVICE**

I certify that I am not a party to this cause and that copies of the foregoing notice were mailed (first class, postage prepaid) in sealed envelopes, addressed as shown below at Independence, CA, on 08/20/2017. (Statement of Time Requirements attached).

Janney & Janney  
 840 N. Birch Street  
 Santa Ana, CA 92701

I certify that I am not a party to this cause and that copies of the foregoing notice were hand-delivered at the time of filing complaint. (Statement of Time Requirements attached).

Date: 08/20/2017 PAMELA M. FOSTER, Clerk, by *[Signature]* Deputy

SUPERIOR COURT OF CALIFORNIA, COUNTY OF INYO INDEPENDENCE BRANCH 168 NORTH EDWARDS STREET P.O. DRAWER U INDEPENDENCE, CA 93526	FOR COURT USE ONLY  <b>FILED</b>  JUN 20 2017  INYO CO. SUPERIOR COURT PAMELA M. FOSTER, CLERK BY <i>[Signature]</i> DEPUTY
PETITIONER/ PLAINTIFF: <span style="background-color: black; color: black;">[REDACTED]</span>  vs.  RESPONDENT/DEFENDANT: FORD MOTOR COMPANY, et al	CASE NUMBER: <span style="background-color: black; color: black;">[REDACTED]</span>
<b>NOTICE OF FIRST CASE MANAGEMENT CONFERENCE</b>	

Notice is given that the First Case Management Conference has been scheduled as follows:

DATE: October 20, 2017                      TIME: 9:00 AM  
 DEPARTMENT: 1

Address of Court is 168 North Edwards Street, Independence, California

You must file and serve a completed Case Management Statement at least five (5) days before the case management conference. (Rule 6.9 of the Local Rules of Court for the Superior Court of Inyo County.)

You must be familiar with the case and be fully prepared to participate effectively in the case management conference. (Rule 6.10 (b) of the Local Rules of Court for the Superior Court of Inyo County.)

At the case management conference the court may make pretrial orders. (Rule 6.10 (b) of the Local Rules of Court for the Superior Court of Inyo County.)

Jury Fees due prior to 1<sup>st</sup> Case Management Conference (CCP 631, SB 1021)

Date: 06/20/2017                      PAMELA M. FOSTER, Clerk, by *[Signature]* Deputy

-SANCTIONS-

If you do not file the required Case Management Statement, or attend and participate effectively in the Case Management Conference, the Court may impose sanctions. (Rules 6.10 and 6.19 of the Local Rules of Court for the Superior Court of Inyo County.)

THE HONORABLE BRIAN J. LAMB IS ASSIGNED TO THIS CASE FOR ALL PURPOSES.

#### STATEMENT OF REQUIREMENTS

**Service of the Summons and Complaint and Filing of Proof of Service** – Summons and complaint must be served and a proof of service must be filed with the Court no later than 60 days after filing of the complaint. (Rule 6.6 of the Local Rules of Court for the Superior Court of Inyo County).

**Responsive Pleadings** – Responsive pleadings shall be filed and served within the time required by law. (Rule 6.7 of the Local Rules of Court for the Superior Court of Inyo County).

**Default** – If no responsive pleading is filed within the statutory time, the Plaintiff is required to request entry of default at which time the Court will set and notice a default hearing, or as otherwise provided in Rule 6.7 of the Local Rules of Court for the Superior Court of Inyo County.

**Case Management and Trial Setting Conference** – A Case Management and Trial Setting Conference will be held within 150 days of the filing date of the original Complaint. Personal appearances by counsel are mandatory unless arrangements have been made with the Court's Calendar Clerk at least 5 days prior to the conference to appear telephonically. (Rule 6.9 and 6.10 of the Local Rules of Court for the Superior Court of Inyo County)

**Mandatory Settlement Conference** – A Mandatory Settlement Conference shall be set approximately 6 weeks prior to the trial, or at such other date the Court determines to be appropriate. Personal appearances are required by all parties and all attorneys trying the case. Each party shall serve and file a settlement conference brief at least 5 days prior to the Settlement Conference. Failure to appear at, prepare for, or participate in good faith in a mandatory settlement conference without good cause, may result in sanctions. (Rule 6.11 of the Local Rules of Court for the Superior Court of Inyo County)

**Pretrial Conference** – A pretrial conference shall be set approximately 5 judicial days prior to the trial date. Personal appearances by all attorneys are mandatory. At least 5 judicial days prior to the pretrial conference, counsel shall have served, exchanged and filed with the Court all appropriate pleadings and documents as specified in Rule 6.15 of the Local Rules of Court for the Superior Court of Inyo County.

**Court Reporters** – Will not be provided by the Court for civil trials or civil hearings set for over 1 hour.

**Jury Fees** - Due prior to 1<sup>st</sup> Case Management Conference (CCP 631, SB 1021)

**DECLARATION OF SERVICE**

Case No. [REDACTED]

I, the undersigned, say: I am a citizen of the United States and a resident or employed in the County of Inyo, over the age of eighteen years, and not a party to the within action or proceeding; that my business address is: 168 N. Edwards Street, Independence, CA. that on 06/20/2017, I served a copy of the attached paper, to wit:

**NOTICE OF FIRST CASE MANAGEMENT CONFERENCE**

**CASE MANAGEMENT STATEMENT**

**STATEMENT OF TIME REQUIREMENTS**

**NOTICE OF FILING COMPLAINT**

**ALTERNATIVE DISPUTE RESOLUTION PACKET**

By depositing said copy enclosed in a sealed envelope with postage thereon fully prepaid, in the United States post office mail box in Independence, California, addressed as follows:

Janney & Janney  
840 N. Birch Street  
Santa Ana, CA 92701

By hand-delivering said copy at the time of filing complaint.

Date: 06/20/2017

PAMELA M. FOSTER, Clerk, by *[Signature]* Deputy

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):		FOR COURT USE ONLY	
TELEPHONE NO.:		FAX NO. (Optional):	
E-MAIL ADDRESS (Optional):			
ATTORNEY FOR (Name):			
SUPERIOR COURT OF CALIFORNIA, COUNTY OF INYO INDEPENDENCE BRANCH 168 NORTH EDWARDS STREET P.O. DRAWER U INDEPENDENCE, CA 93526			
PLAINTIFF/PETITIONER: [REDACTED]			
DEFENDANT/RESPONDENT: FORD MOTOR COMPANY, et al			
(Check one): <input type="checkbox"/> UNLIMITED CASE (Amount demanded exceeds \$25,000)		<input type="checkbox"/> LIMITED CASE (Amount demanded is \$25,000 or less)	
CASE MANAGEMENT STATEMENT		CASE NUMBER: [REDACTED]	
A CASE MANAGEMENT CONFERENCE is scheduled as follows:			
Date:	Time:	Dept.:	Div.:
			Room:
Address of court (if different from the address above):			
<input type="checkbox"/> Notice of Intent to Appear by Telephone, by (name):			

INSTRUCTIONS: All applicable boxes must be checked, and the specified information must be provided.

1. Party or parties (answer one):
  - a.  This statement is submitted by party (name):
  - b.  This statement is submitted jointly by parties (names):
2. Complaint and cross-complaint (to be answered by plaintiffs and cross-complainants only)
  - a. The complaint was filed on (date):
  - b.  The cross-complaint, if any, was filed on (date):
3. Service (to be answered by plaintiffs and cross-complainants only)
  - a.  All parties named in the complaint and cross-complaint have been served, have appeared, or have been dismissed.
  - b.  The following parties named in the complaint or cross-complaint
    - (1)  have not been served (specify names and explain why not):
    - (2)  have been served but have not appeared and have not been dismissed (specify names):
    - (3)  have had a default entered against them (specify names):
  - c.  The following additional parties may be added (specify names, nature of involvement in case, and date by which they may be served):
4. Description of case
  - a. Type of case in  complaint  cross-complaint (Describe, including causes of action):

PLAINTIFF/PETITIONER	[REDACTED]	CASE NUMBER	CM-110
DEFENDANT/RESPONDENT: FORD MOTOR COMPANY, et al		[REDACTED]	

4. b. Provide a brief statement of the case, including any damages. (If personal injury damages are sought, specify the injury and damages claimed, including medical expenses to date [indicate source and amount], estimated future medical expenses, lost earnings to date, and estimated future lost earnings. If equitable relief is sought, describe the nature of the relief.)
- (If more space is needed, check this box and attach a page designated as Attachment 4b.)
5. Jury or nonjury trial  
The party or parties request  a jury trial  a nonjury trial. (If more than one party, provide the name of each party requesting a jury trial):
6. Trial Date
- a.  The trial has been set for (date):
- b.  No trial date has been set. This case will be ready for trial within 12 months of the date of the filing of the complaint (if not, explain):
- c. Dates on which parties or attorneys will not be available for trial (specify dates and explain reasons for unavailability):
7. Estimated length of trial  
The party or parties estimate that the trial will take (check one):
- a.  days (specify number):
- b.  hours (short causes) (specify):
8. Trial representation (to be answered for each party)  
The party or parties will be represented at trial  by the attorney or party listed in the caption  by the following:
- a. Attorney:  
b. Firm:  
c. Address:  
d. Telephone number: f. Fax number:  
e. E-mail address: g. Party represented:  
 Additional representation is described in Attachment 8.
9. Preference  
 This case is entitled to preference (specify code section):
10. Alternative dispute resolution (ADR)
- a. ADR information package. Please note that different ADR processes are available in different courts and communities; read the ADR information package provided by the court under rule 3.221 for information about the processes available through the court and community programs in this case.
- (1) For parties represented by counsel: Counsel  has  has not provided the ADR information package identified in rule 3.221 to the client and reviewed ADR options with the client.
- (2) For self-represented parties: Party  has  has not reviewed the ADR information package identified in rule 3.221.
- b. Referral to judicial arbitration or civil action mediation (if available).
- (1)  This matter is subject to mandatory judicial arbitration under Code of Civil Procedure section 1141.11 mediation or to civil action mediation under Code of Civil Procedure section 1775.3 because the amount in controversy does not exceed the statutory limit.
- (2)  Plaintiff elects to refer this case to judicial arbitration and agrees to limit recovery to the amount specified in Code of Civil Procedure section 1141.11.
- (3)  This case is exempt from judicial arbitration under rule 3.811 of the California Rules of Court or from civil action mediation under Code of Civil Procedure section 1775 et seq. (specify exemption):

PLAINTIFF/PETITIONER: [REDACTED] DEFENDANT/RESPONDENT: FORD MOTOR COMPANY, et al	CASE NUMBER: [REDACTED]
---	-------------------------

**11. Insurance**

- a.  Insurance carrier, if any, for party filing this statement (*name*):
- b. Reservation of rights:  Yes  No
- c.  Coverage issues will significantly affect resolution of this case (*explain*):

**12. Jurisdiction**

Indicate any matters that may affect the court's jurisdiction or processing of this case and describe the status.  
 Bankruptcy  Other (*specify*):  
 Status:

**13. Related cases, consolidation, and coordination**

- a.  There are companion, underlying, or related cases.
  - (1) Name of case:
  - (2) Name of court:
  - (3) Case number:
  - (4) Status:

Additional cases are described in Attachment 13a.

- b.  A motion to  consolidate  coordinate will be filed by (*name party*):

**14. Bifurcation**

The party or parties intend to file a motion for an order bifurcating, severing, or coordinating the following issues or causes of action (*specify moving party, type of motion, and reasons*):

**15. Other motions**

The party or parties expect to file the following motions before trial (*specify moving party, type of motion, and issues*):

**16. Discovery**

- a.  The party or parties have completed all discovery.
- b.  The following discovery will be completed by the date specified (*describe all anticipated discovery*):

Party	Description	Date

- c.  The following discovery issues, including issues regarding the discovery of electronically stored information, are anticipated (*specify*):

PLAINTIFF/PETITIONER DEFENDANT/RESPONDENT: FORD MOTOR COMPANY, et al	CASE NUMBER: [REDACTED]
---	----------------------------

17. Economic litigation

- a.  This is a limited civil case (i.e., the amount demanded is \$25,000 or less) and the economic litigation procedures in Code of Civil Procedure sections 90-98 will apply to this case.
- b.  This is a limited civil case and a motion to withdraw the case from the economic litigation procedures or for additional discovery will be filed (if checked, explain specifically why economic litigation procedures relating to discovery or trial should not apply to this case):

18. Other issues

- The party or parties request that the following additional matters be considered or determined at the case management conference (specify):

19. Meet and confer

- a.  The party or parties have met and conferred with all parties on all subjects required by rule 3.724 of the California Rules of Court (if not, explain):
- b. After meeting and conferring as required by rule 3.724 of the California Rules of Court, the parties agree on the following (specify):

20. Total number of pages attached (if any):

I am completely familiar with this case and will be fully prepared to discuss the status of discovery and alternative dispute resolution, as well as other issues raised by this statement, and will possess the authority to enter into stipulations on these issues at the time of the case management conference, including the written authority of the party where required.

Date:

\_\_\_\_\_  
(TYPE OR PRINT NAME)

\_\_\_\_\_  
(SIGNATURE OF PARTY OR ATTORNEY)

\_\_\_\_\_  
(TYPE OR PRINT NAME)

\_\_\_\_\_  
(SIGNATURE OF PARTY OR ATTORNEY)

- Additional signatures are attached



Superior Court of California, County of Inyo  
Alternative Dispute Resolution (ADR)  
Program Information Packet

**Overview and History**

Alternative Dispute Resolution (ADR) is an increasingly popular option that allows people to resolve disputes in a cooperative manner outside of court or without going to a trial. ADR can be faster, cheaper, and less stressful than going to court. Most importantly, the use of ADR can provide greater satisfaction with the way disputes are resolved.

Since 2008, the Superior Court of California, County of Inyo has been in the process of developing its ADR program, with particular emphasis on mediation. The Court received a grant from the Administrative Office of the Court (AOC) to implement and develop a court-connected Civil Mediation and Settlement Program. The project includes the training of mediators and the development of a court approved panel of trained and experienced mediators to assist in the mediation and/or the settlement of cases pending before the court. The project also envisions establishment of a community based mediation program to assist in the settlement of disputes before they are filed in the judicial system. While ADR methods are generally most effective in a face-to-face setting, efforts will be made to provide ADR services to remote locations in Inyo County by Tele-conferencing equipment as available and to provide the services of ADR experts from other geographical locations by electronic methods.

Effective July 1, 2010, The Court has provided for participation in mandatory mediation by parties in most general civil cases by amendments to the Local Rules of Court, section 6.4.1 et. seq.

This ADR Information packet and a "Stipulation to Participate in Mediation" must be served with all applicable civil complaints (Local Rule 6.5 (d)).

The Court currently provides trained mediators at no cost to the parties through an AOC grant. The Court is also finalizing a "Fee-for-service" Court Approved Mediation Panel for use by parties in all general civil cases. Information about the Mediators on the Court Approved Mediation Panel will be provided by the Court and listed on the Courts Website. Forms for ADR participation and compliance reporting will be provided by the Court and available at the Court website.

Complaints about ADR neutrals in court programs are rare. If you have a complaint or a concern about a neutral who handled a case as part of the court's ADR program, please refer to Local Rules of Court section 6.4.2 et. seq.

### Arbitration

In arbitration, the arbitrator (a neutral) reviews evidence, hears arguments, and makes a decision (award) to resolve the dispute. This is different from mediation in which the mediator helps the parties reach their own resolution. Arbitration normally is more informal, quicker and less expensive than a trial. In a matter of hours, an arbitrator often can hear a case that otherwise may take days or weeks in court to litigate. This is because the evidence can be received by documents rather than by testimony (live witnesses).

1. **Binding arbitration:** Usually conducted by private arbitrator, this process takes place outside of the court. "Binding" means that the arbitrator's decision (award) is final and there will not be a trial or an opportunity to appeal the decision.
2. **Non-Binding arbitration:** May be ordered through the court (Judicial Arbitration) or conducted privately. In this process, the arbitrator's decision is "not binding." This means that if a party is not satisfied with the decision of the arbitrator, they can file a request for a trial with the court within a specified time. However (depending on the process) if that party does not receive a more favorable result at trial they may have to pay a penalty.

### Case Evaluation

In case evaluation, the evaluator (a neutral) usually an attorney or other professional in the subject area, gives an opinion on the strengths and weaknesses of each party's evidence and arguments. Each party gets a chance to present their case and hear the other side. This may lead to a settlement, or at least, help the parties prepare to resolve the dispute at a later time. Case evaluation, like mediation, can come early in the dispute and save time and money. The case evaluation process is most effective when parties have an unrealistic view of the dispute, need outside assistance in determining case value, and/or have technical or scientific questions to be worked out. This process is sometimes used in combination with mediation or arbitration.

### ADR Agreements

Agreements reached through ADR are normally written and can become binding contracts that can be enforced by the court, if the parties agree. Parties may choose to seek the advice of an attorney as to their legal rights and other matter relating to the dispute before finalizing any agreement.

### ADR Process Selection and Information

There are several other types of ADR. This other types of ADR include conciliation, settlement conference, fact finding, mini-trial, Victim Offender conferencing, and summary jury trials. Sometimes parties will try a combination of ADR types. The important thing is to find the type of ADR that is most likely to resolve the dispute. Contact the Court Arbitration Administrator or

**Neutral Selection**

The selection of a neutral is an important decision. Please note that currently there is no legal requirement that the neutral be licensed or hold any particular certificate. However, some programs and the Superior Court of California, County of Inyo have established qualification requirements for neutrals.

A list of trained and/or experienced mediators will be available to assist parties on a fee-for-service basis. These individuals have met the requirements to participate on the Court's panel and provide dispute services, including the requirements of the Dispute Resolution Program Act (DRPA). Panelists are not Court employees; therefore services, styles and expertise will vary by individual provider.

A list of Court approved mediators who provide mediation service on a voluntary basis will also be maintained for use in cases involving self-represented litigants or those unable to afford a private mediator. The Court Arbitration Administrator and the ADR Coordinator will assist parties in locating outside private mediation and other ADR services, including free or low cost community-based mediation services funded by the Dispute Resolution Program Act (DRPA), such as the Eastern Sierra Mediation Service.

**ADR Checklist:**

1. Plaintiffs and cross-complainants in all general civil cases must serve a copy of this ADR Program Information Packet and a copy of Local Form ADR-001 "Stipulation to Mediation" on all defendants and new cross-defendants. (Local Rule of Court, 6.5 (d), effective July, 1, 2010)
2. Attorneys must provide of the ADR Information Packet to, and review its contents with, their Clients.
3. Attorneys and/or self-represented parties must be prepared to discuss Mediation or ADR alternatives at the Case Management Conference (CMC).

For more information go to [www.inyocourt.ca.gov/adr](http://www.inyocourt.ca.gov/adr), or contact:

Virginia Bird, Arbitration Administrator      ADR Coordinator  
P.O. Drawer "U"      10 West Main Street  
Independence, CA 93526      Independence, CA 93526  
Tel. (760) 873-5217      Tel. (760) 873-5217      Fax (760) 872-4984

RULE 6.4.1 ALTERNATIVE DISPUTE RESOLUTION (ADR)

(a) Court ADR Policy

It is the policy of this Court to secure a fair, timely, and efficient disposition of every civil case before it (Cal. Rules of Court, rule 3.700); to achieve a just and effective resolution of each general civil case through active management and supervision of the pace of litigation (Cal. Rules of Court, rule 3.713(e)); and to develop and implement processes and procedures to improve court operations and responsiveness to the public. (Cal. Rules of Court, rule 10.601(b)(6).)

It has been well documented through numerous Judicial Council-sponsored pilot programs, Feasibility and Planning studies, and Implementation programs that the use of mediation is effective in meeting all of these objectives. Specifically, benefits included reductions in trial rates, case disposition time, and the courts' workload; increases in litigant satisfaction with the court's services; and decreases in litigant costs. (Jud. Council of Cal., Admin. Off. of Cts., Rep. on Evaluation of the Early Mediation Pilot Programs, p. xix.)

It is therefore the policy of this Court to apply mediation where appropriate, however any utilization of ADR services shall have the prior approval of the court.

(b) Mandatory Referrals

The Presiding Judge has elected to apply the provisions of Code of Civil Procedure section 1775, et seq., to eligible cases, and to refer to mediation all cases of unlimited jurisdiction in which the amount in controversy does not exceed \$50,000 for each plaintiff. In addition, any civil action in which a party to the action is a public agency or public entity, with the exception of child support cases, shall be referred to mediation. These referrals shall be mandatory, unless there is good cause to dispense with ADR.

(c) Case-by-Case Referrals

Further, this Court has elected to apply the provisions of Government Code section 68600, et seq., to identify all other civil cases that may be protracted or amenable to alternative dispute techniques, and to refer such cases to mediation after review at the Case Management and Trial Setting Conference, or any time thereafter. (See also Cal. Rules of Court, rule 3.722(a)); Cal. Rules of Court, rule 3.727(6).)

(d) Attendance at the Mediation Session.

(1) Parties. All named parties and their counsel are required to attend the mediation session unless excused under subsection 4 of this section. This requirement reflects the Court's view that the principal values of mediation include affording litigants the opportunity to articulate directly to other litigants and a neutral mediator their positions and arguments and to hear them first hand. Mediation also enables parties to collaborate in the search for mutually agreeable solutions.

- (2) "Court-program mediator" means a person subject to the rules of conduct under rule 3.851 of the California Rules of Court.
  - (3) "Inquiry" means an unwritten communication presented to the court's complaint coordinator indicating that a mediator may have violated a provision of the rules of conduct.
  - (4) "Complaint" means a written communication presented to the court's complaint coordinator indicating that a mediator may have violated a provision of the rules of conduct.
  - (5) "Complainant" means a person who makes or presents a complaint.
  - (6) "Complaint coordinator" means the person designated by the presiding judge under subsection (c)1 of this rule to receive complaints and inquiries about the conduct of mediators.
  - (7) "Complaint committee" means a committee designated or appointed to investigate and make recommendations concerning complaints under subsection (d)4:b of this rule.
  - (8) "Complaint procedure" means a procedure for presenting, receiving, reviewing, responding to, investigating, and acting on any inquiry or complaint.
  - (9) "Complaint proceeding" means all of the proceedings that take place as part of a complaint procedure concerning a specific inquiry or complaint.
  - (10) "Mediation communication" means any statement that is made or any writing that is prepared for the purpose of, in the course of, or pursuant to a mediation or a mediation consultation, as defined in Evidence Code section 1115, and includes any communications, negotiations, and settlement discussions between participants in the course of a mediation or a mediation consultation.
- (c) Complaint coordinator.
- (1) Designation of the complaint coordinator. The presiding judge shall designate a person who is knowledgeable about mediation to serve as the complaint coordinator.
  - (2) Identification of the complaint coordinator. The court shall make the complaint coordinator's identity and contact information readily accessible to litigants and the public.
- (d) General requirements for complaint procedures and complaint proceedings.
- (1) Submission and referral of inquiries and complaints to the complaint coordinator. All inquiries and complaints must be submitted or referred to the complaint coordinator.
  - (2) Acknowledgement of complaint. The complaint coordinator shall send the complainant a written acknowledgement that the court has received the complaint.
  - (3) Preliminary review and disposition of complaints. The complaint coordinator shall conduct a preliminary review of all complaints to determine whether the

(f) Confidentiality of complaint proceedings, information, and records

(1) Intent. This rule is intended to:

- a. Preserve the confidentiality of mediation communications as required by Evidence Code sections 1115-1128;
- b. Promote cooperation in the reporting, investigation, and resolution of complaints about court-program mediators; and
- c. Protect mediators against damage to their reputations that might result from the disclosure of unfounded complaints against them.

(2) Preserving the confidentiality of mediation communications. All complaint procedures and complaint proceedings shall be designed and conducted in a manner that preserves the confidentiality of mediation communications, including but not limited to the confidentiality of any communications between the mediator and individual mediation participants or subgroups of mediation participants.

(3) Confidentiality of complaint proceedings. All complaint proceedings shall occur in private and shall be kept confidential. No information or records concerning the receipt, investigation, or resolution of an inquiry or a complaint may be open to the public or disclosed outside the course of the complaint proceeding except as provided in subdivision 4 of this section, or as otherwise required by law.

(4) Authorized disclosures. After the decision on a complaint, the presiding judge, or a person whom the presiding judge designates to do so, may authorize the public disclosure of information or records concerning the complaint proceeding that do not reveal any mediation communications. The disclosures that may be authorized under this subdivision include the name of a mediator against whom action has been taken under this rule, the action taken, and the general basis on which the action was taken. In determining whether to authorize the disclosure of information or records under this subdivision, the presiding judge or the designee shall consider the purposes of the confidentiality of complaint proceedings stated in subdivisions (1)(b) and (1)(c) of this section.

(5) Disclosures required by law. In determining whether the disclosure of information or records concerning a complaint proceeding is required by law, the court shall consider the purposes of the confidentiality of complaint proceedings stated in subdivision (1) of this section. If it appears that the disclosure of information or records concerning a complaint proceeding that would reveal mediation communications is required by law, before the information or records are disclosed, notice shall be given to any person whose mediation communications may thereby be revealed.

(g) Disqualification from subsequently serving as an adjudicator. A person who has participated in a complaint proceeding or otherwise received information about the substance of a complaint, other than information that is publicly disclosed under subdivision (f)4 of this rule, must not subsequently hear or determine any contested issue of law, fact, or procedure concerning the dispute that was the subject of the underlying mediation or any other dispute that arises from the mediation as a judge, an arbitrator, a referee, or a juror, or in any other adjudicative capacity, in any court action or proceeding.

SUPERIOR COURT OF CALIFORNIA, COUNTY OF INYO	FOR COURT USE ONLY
PLAINTIFF/PETITIONER: DEFENDANT/RESPONDENT:	
STIPULATION TO PARTICIPATE IN MEDIATION	CASE NUMBER:

(DO NOT FILE WITH THE COURT; send to Virginia Bird, ADR Administrator, P.O. Drawer U, Independence, CA 93526)

Plaintiff(s) \_\_\_\_\_

and Defendant(s) \_\_\_\_\_

agree to participate in the Inyo County Superior Court Mediation Program.

Case Type: \_\_\_\_\_

The Mediation Party List is attached to this Stipulation.

We understand that there may be a charge for services provided by mediators. We understand that participating in the mediation process does not extend the time periods specified in California Rules of Court Rule 3.720 et seq.

PLAINTIFF(S)

\_\_\_\_\_  
(SIGNATURE OF PLAINTIFF'S ATTORNEY)      Date  
PRINT NAME:  
PHONE:  
FAX:

\_\_\_\_\_  
(SIGNATURE OF PLAINTIFF'S ATTORNEY)      Date  
PRINT NAME:  
PHONE:  
FAX:

DEFENDANT(S)

\_\_\_\_\_  
(SIGNATURE OF DEFENDANT'S ATTORNEY)      Date  
PRINT NAME:  
PHONE:  
FAX:

\_\_\_\_\_  
(SIGNATURE OF DEFENDANT'S ATTORNEY)      Date  
PRINT NAME:  
PHONE:  
FAX:

STIPULATION TO PARTICIPATE IN MEDIATION



**\*\*\*Note to Dealer\*\*\***

**\*\*\*DO NOT PUT THE VEHICLE IN STORAGE OR PROVIDE LOANERS WITHOUT THE APPROVAL OF THE OFFICE OF THE GENERAL COUNSEL\*\*\***

**\*\*\*NOTE: SEND AUTHORIZATION REQUEST TO [FORDCALP@FORD.COM](mailto:FORDCALP@FORD.COM)\*\*\***

**\*\*\*ONCE WE ARE IN RECEIPT OF ALL THE REQUESTED INFORMATION, IT WILL BE THOROUGHLY REVIEWED AND THE CUSTOMER WILL BE NOTIFIED OF OUR DECISION\*\*\***

**\*\*\*EVALUATIONS MAY TAKE UP TO 90 DAYS \*\*\***

---

**From:** DCPFORM, FMCDealer (-)  
**Sent:** Friday, April 15, 2016 3:55:10 PM (UTC-05:00) Eastern Time (US & Canada)  
**To:** Ordcalp, F (F.); Taylor, Alma (A.)  
**Cc:** [cpeterson@vanceford.com](mailto:cpeterson@vanceford.com)  
**Subject:** Dealer/Fleet Request for OGC Review

**Dealer/Fleet Request for OGC Review**

**Email Subject:** Dealer/Fleet Request for OGC Review

**DEALER INFORMATION:**

**Dealership Fleet Name:** Vance Ford Lincoln

**Requesting Dealer Fleet:** vance ford lincoln

**PA Code:** 05145

**Contact Person:** cindy peterson

**Title:** service manager

**Phone Number:** 918-542-3341

**Fax Number:** 918-542-4967

**Email:** [cpeterson@vanceford.com](mailto:cpeterson@vanceford.com)

**Region:** dallas

**Address:** 510n. main st.

**City:** miami

State: Oklahoma

Zip Code: 74354

**CUSTOMER VEHICLE INFORMATION:**

Warranty Start Date: 12/19/15

Vehicle Year: 2016

Vehicle Model: explorer

Vehicle VIN: 1FM5K8HT7GG [REDACTED]

Mileage: 4930

customer Fleet Name: [REDACTED]

Street Address: [REDACTED]

City : carthage

State : Missouri

Zip Code : [REDACTED]

Home Phone: [REDACTED]

Work Phone: [REDACTED]

Customer Region: kansas city

**DETAILS OF INCIDENT:**

Medical Attention Sought

Date of Incident: 2016-04-15

County incident occurred: jasper

Is customer alleging a component defect CAUSED the incident? YES

Details: respiratory injury from exhaust gasses coming in through hvac system

Was a police report filed? NO

**Details :**

Has the insurance company been contacted? NO

Insurance company advised:

Insurance company contact information:

Coach builder:

City :

State :

Zip Code :

Vehicle Location: vance ford Lincoln, Miami ok

Attorney information:

CVO Contact:

Resolution Customer is seeking: vehicle repair to correct safety concern.

Comments:

FROM Vance Ford

(WED) APR 20 2016 8:38/ST. 3:38/No. 7363845475 P 1

[REDACTED]  
CARTHAGE, MO  
[REDACTED]

WORKORDER  
PAGE 2

**VANCE**  
FORD LINCOLN  
510 N. Main - Miami, OK 74354  
(800) 725-4431 Toll Free - (918) 542-3341 Phone  
(918) 542-2585 Fax

SERVICE ADVISOR: 3009 OSBORN, MOLLIE

VIN	1FM5K8HT7GG	LICENSE	4930/	TAG	
DEL DATE	19DEC15	PROD DATE	DD23NOV15	PROMISED	17:00 15APR15
WARR EXP		READY		PO NO	
PAYMENT		INVT		RATE	

19DEC15 DD23NOV15 17:00 15APR15  
 R.O. OPENED READY OPTIONS: SOLD-STK  
 BNG:3.5L V6 ECOBOOST ENGINE  
 TRN:6-SPRD AUTO TRANSMISSION 112 FREE L. (More...)

15APR2016 11:41  
 LINE OP CODE TECH... TYPE DESCRIPTIONS/INSTRUCTIONS  
 # A M900 WP40 CUSTOMER STATES THAT AFTER DRIVING VEHICLE MORE THAN 15 MIN THERE IS A HEAVY EXHAUST SMELL COMING THROUGH VENTS, DOES SEEM TO COME AND GO, MORE NOTICEBLE WITH WARM OUTSIDE TEMP |CC:

# B WRKS CPBX THE WORKS GAS ENGINE OIL CHANGE TIRE ROTATION AND MULTI-POINT INSPECTION |CC:

# C 99P CPEX PERFORM MULTI POINT INSPECTION |CC:

COMPANY NAME PREMIER  
 COMPANY PHONE  
 POLICY NUMBER TBD  
 POLICY TERM 84  
 EFFECTIVE DATE 19 DEC 2015  
 DEDUCTIBLE 100.00  
 MILEAGE LIMIT  
 BEGIN MILES 9  
 END MILES 75000  
 COMPONENTS

Fax 888-683-9898

TECH SALES	PLATE	EXPIRATION OF WARRANTIES	FLASHED TIME	OFF
5		21268		4/19
		764		

PRELIMINARY ESTIMATE 0

THORIZED BY X	DATE	TIME	BY
REVISED ESTIMATE (1)			
REVISED ESTIMATE (1)			
REVISED ESTIMATE (1)			

I HEREBY ACKNOWLEDGE THAT I WAS NOTIFIED & GAVE ORAL APPROVAL OF THE ABOVE REVISED ESTIMATES:  
 X

DEFECTS...  
 AUTHORIZATION FOR REPAIRS  
 I hereby authorize the repair work herein set forth to be done along with the necessary material and agree that you are not responsible for loss or damage to vehicle or articles left in vehicle in case of fire, theft or any other cause beyond your control or for any delays caused by unavailability of parts or delays in parts shipments by the supplier or transporter. I hereby grant you and/or your employees permission to operate the vehicle herein described on streets, highways or elsewhere for the purpose of testing and/or inspection. An express mechanic's lien is hereby acknowledged on above vehicle to secure the amount of repairs thereto. The customer is not responsible for damages from freezing due to lack of anti-freeze.

**Report# :** [REDACTED] HL  
**CCRG/EPRC:** S **Reviewed Status:**  
**Vehicle:** 2016,EXPLORER 4X4 (U502),PLTNM,4 DOOR,MPV,1FM5K8HT7G [REDACTED]  
**Odometer :** 4,930 M **Engine:** 3.5L-GTDI **Calibration:** GUB1G10A  
**Transmission:** 6F55 **Axle:** **A/C:** YES  
**Dealer:** USA 05145 Vance Ford Lincoln **Phone#:** 918-542-3341  
**City:** Miami **State:** Oklahoma **Country :** USA  
**Originator:** chris eaton  
**Symptom:** 4 47 1 02 ST/RN/MV,ODOR,CHEMICAL,ALWAYS  
**Status:**  
**VFG:** V53 EXHAUST SYSTEM FUNCTION  
**Additional Symptom:** EXHAUST ODOR/FUMES IN CABIN  
**Fix:** **Causal Component :**  
**Condition Code:**  
**Hotliner:** MTOMLI27 **Phone:** --1 **Regn Cd:** C1 Dallas  
**Engineering:** **Phone:** **TAR:**  
**Dlr Contact:** chris eaton **Phone:** **Title Cde:** T

**KOEO:**  
**KOEC:**  
**KOER:**

**CONCER 04/15/2016 01:56PM MICHAEL TOMLINSON MSS - FCSD - TECH SVC HOTLINE**  
 Web Form Data ([REDACTED]) Description of Vehicle Concern: cc exhaust smell/fumes coming from hvac vents when driving and operating ac. made her sick enough to go to er. Please list any diagnostics already performed: checked oasis for messages, checked discussion boards for similar complaints. test drove under conditions stated by customer. (front and rear ac on, non recirc mode, highway speeds.) smelled "hair dryer" smell briefly, but only once. checked rear hatch seals, exhaust system, and underhood for abnormalities. drove other explorers to compare. similar results Parts Replaced: none Your Question: please advise on course of corrective action if possible. no corrective action was found in wsm or messages.

**RECOMM 04/15/2016 01:56PM MICHAEL TOMLINSON MSS - FCSD - TECH SVC HOTLINE**  
 Chris, When you have a concern alleging a fire, accident, injury, property damage and/or burn has occurred due to an alleged product defect, pursuant to the Warranty and Policy Manual, no repairs should be performed. See below:  
**-U.S. Dealerships** should complete a **Dealer/Fleet Request for OGC Review** found on FMCDdealer.com - Parts & Service Tab - Customer Satisfaction link.  
**NOTE:** The Technical Assistance Center will not be able to provide further

assistance with this issue until after the OGC review.

**CONCER 04/15/2016 02:14PM**  
only included what customer told me. no injury claim has formally been made. just want any service action available to correct the customer concern.

**RECOMM 04/15/2016 02:24PM ANDREW YOUNGBERG MSS - FCSD - TECH SVC HOTLINE**  
Chris, Because this request has been forwarded to OGC, no repairs should be made to the vehicle until it has been cleared to do so. With the customer stating that she had to go to the ER due to the fumes coming into the HVAC system, OGC will have to review this request due to the customers statement for possible safety concerns

**CONCER 04/15/2016 02:31PM**  
In order to proceed through hotline channels, If possible, please disregard statement given by owner. It was mentioned to service writer in passing. not printed on r.o. description.

**RECOMM 04/15/2016 02:42PM DAVID FARMER MSS - FCSD - TECH SVC HOTLINE**  
Chris, Until the request has been cleared by OGC no repairs should be made on this vehicle. You will be contacted after the case has been reviewed by OGC. With the customer stating she had to go the ER because of exhaust fumes in the vehicle this case must be reviewed for safety concerns.

**ADD-ON 04/15/2016 02:42PM DAVID FARMER MSS - FCSD - TECH SVC HOTLINE**  
Consulted Sean Witkowski is a response could be made. Advised that after the OGC case has been cleared the customer will be contacted.

**Requester:** ATAYLO29  
**Report Summary**  
**Server:** FCVWS962

**Ford Proprietary, Private**  
Copyright © 2013 Ford Motor Company | All rights reserved.

19-Apr-2016  
**Retention:** None



**Service of Process  
Transmittal**

09/27/2016

CT Log Number [REDACTED]

**TO:** Chris Dzbanski  
Ford Motor Company  
1 American Rd, Whq 421-E6  
Dearborn, MI 48126-2798

**RE: Process Served in Texas**

**FOR:** Ford Motor Company (Domestic State: DE)

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

**TITLE OF ACTION:** [REDACTED] Pltf. vs. Ford Motor Company and Jeff Smith Ford, Dfts.  
**DOCUMENT(S) SERVED:** Summons, Complaint, Information Form(s)  
**COURT/AGENCY:** Peach County - Superior Court, GA  
Case # [REDACTED]  
**NATURE OF ACTION:** Product Liability Litigation - Lemon Law - 2014 Ford Explorer - VIN:  
1FM5K7D85EG [REDACTED]  
**ON WHOM PROCESS WAS SERVED:** C T Corporation System, Dallas, TX  
**DATE AND HOUR OF SERVICE:** By Process Server on 09/27/2016 at 12:05  
**JURISDICTION SERVED :** Texas  
**APPEARANCE OR ANSWER DUE:** Within 30 days after service, exclusive of the day of service  
**ATTORNEY(S) / SENDER(S):** Sergei Lemberg  
Lemb erg Law, LLC  
43 Danbury Road  
3rd Floor  
Wilton, CT 06897  
203-653-2250  
**ACTION ITEMS:** CT has retained the current log, Retain Date: 09/27/2016, Expected Purge Date:  
10/02/2016  
Image SOP  
Email Notification, Chris Dzbanski cdzbansk@ford.com  
Email Notification, Mary Ann MacKinnon mmackin1@ford.com  
**SIGNED:** C T Corporation System  
**ADDRESS:** 1999 Bryan Street  
Suite 900  
Dallas, TX 75201  
**TELEPHONE:** 214-932-3601

AUG 23, 2016 04:05 PM

*J. Wilder*  
\_\_\_\_\_  
Joe Wilder, Clerk  
Peach County, Georgia

IN THE SUPERIOR COURT OF PEACH COUNTY  
STATE OF GEORGIA

CIVIL ACTION  
NUMBER \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

PLAINTIFF

VS.

Jeff Smith Ford, Ford Motor Company  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

*9/27/16*

DEFENDANT

SUMMONS

TO THE ABOVE NAMED DEFENDANT: Ford Motor Company

You are hereby summoned and required to file with the Clerk of said court and served upon the Plaintiff's attorney, whose name and address is:

Sergei Lemberg  
Lemberg Law, LLC  
43 Danbury Road  
3rd Floor  
Wilton, Connecticut 06897

an answer to the complaint which is herewith served upon you, 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.

This 23 day of August, 20 16.

Clerk of Superior Court

*J. Wilder*  
\_\_\_\_\_  
Joe Wilder, Clerk  
Peach County, Georgia

AUG 23, 2016 04:05 PM

*J. Wilder*  
Joe Wilder, Clerk  
Peach County, Georgia

IN THE SUPERIOR COURT OF PEACH COUNTY

STATE OF GEORGIA

CIVIL DIVISION

\_\_\_\_\_ X  
[REDACTED] :  
Plaintiff, : CIVIL ACTION FILE NO. :  
-against- : JURY TRIAL DEMANDED  
Ford Motor Company; and Jeff Smith :  
Ford, :  
Defendants. :  
\_\_\_\_\_ X

**COMPLAINT**

Now comes the named Plaintiff, [REDACTED] and states as follows:

**OVERVIEW**

1. This is an action by a purchaser of a defective 2014 Ford Explorer automobile for damages related to repeated and unremedied defects in the automobile and the Defendants' wrongful failure to honor the terms of the warranty.
2. Venue is proper in this Court in that the Plaintiff purchased the defective vehicle in Peach County, the vehicle has been subject to repairs in Peach County, and Defendant Jeff Smith Ford is located in Peach County.

**PARTIES**

3. The Plaintiff, [REDACTED] is an individual residing in Knoxville, Georgia.
4. Jeff Smith Ford (hereafter the "Dealership"), is a business entity with a principal place of business at 230 Highway 49 North, Byron, Georgia 31008. Jeff Smith Ford is an authorized dealership of Defendant Ford Motor Company and is engaged in the business of selling, leasing and servicing motor vehicles within the jurisdiction of this Court.

5. Defendant Ford Motor Company (hereafter the "Manufacturer," and together with the Dealership, the "Defendants") is a business entity with a principal place of business at One American Road, Dearborn, Michigan 48126. The Manufacturer is in the business of marketing, supplying, and selling motor vehicles accompanied by written warranties to the public at large through a system of authorized dealerships, including the Defendant Dealership.

#### **STATEMENT OF FACTS**

6. On or about June 30, 2014, the Plaintiff purchased a new 2014 Ford Explorer, Vehicle Identification Number (VIN) 1FM5K7D85EG [REDACTED] (hereafter, the "Vehicle") from the Dealership for private use.
7. The purchase price of the Vehicle was \$42,834.75 including options, fees, taxes, and finance charges.
8. In consideration for entering into the purchase agreement, the Plaintiff received written warranties.
9. At the time the Plaintiff purchased the Vehicle, the Dealership made representations as to the Vehicle's performance and quality and assured the Plaintiff that it was free from defects of workmanship.
10. Thereafter, continuing malfunctions, defects and problems have plagued the Vehicle.
11. Since the time of purchase to the present, the Vehicle has been subject to at least three (3) unsuccessful repair attempts because of persistent and dangerous irregularities with the Vehicle causing the exhaust fumes to enter into the passenger compartment.
12. On August 27, 2014, the Dealership accepted the Vehicle for repair.
13. At the time the Vehicle's odometer read 3,810 miles.
14. The Plaintiff complained of exhaust fumes entering into the cabin when driving the Vehicle.
15. The Dealership verified the complaint and attempted a repair by reprogramming HVAC system, replacing molding, sealing body vent, and installing drain valve.
16. The Vehicle was ready to be picked up on August 28, 2014.
17. On August 31, 2015, the Dealership accepted the Vehicle for repair.
18. At the time the Vehicle's odometer read 22,915 miles.
19. The Plaintiff complained of strong exhaust smell in the Vehicle's cabin when driving.

20. The Dealership verified the complaint and attempted a repair by installing a plug in a rear hatch.
21. The Vehicle was ready to be picked up on September 9, 2015.
22. On September 14, 2015, the Dealership accepted the Vehicle for repair.
23. At the time the Vehicle's odometer read 23,105 miles.
24. The Plaintiff complained for the third time of strong exhaust smell in the Vehicle's cabin when driving.
25. The Dealership inspected the vehicle but undertook no repairs.
26. The Vehicle was ready to be picked up on September 16, 2015.
27. On October 21, 2015, the Dealership accepted the Vehicle for repair.
28. At the time the Vehicle's odometer read 24,754 miles.
29. The Plaintiff complained for the fourth time of strong exhaust smell in the Vehicle's cabin when driving.
30. The Dealership inspected the vehicle but undertook no repairs.
31. The Vehicle was ready to be picked up on October 26, 2015.
32. On December 8, 2015, the Dealership accepted the Vehicle for repair.
33. At the time the Vehicle's odometer read 27,214 miles.
34. The Plaintiff complained for the fifth time of strong exhaust smell in the Vehicle's cabin when driving.
35. The Dealership verified the complaint and attempted a repair by resealing two seam leaks.
36. The Vehicle was ready to be picked up on December 15, 2015.
37. The defects experienced by the Plaintiff substantially impair the use, value and safety of the Vehicle.
38. The Plaintiff provided the Defendants, or one or more of their authorized or franchised dealers, with reasonable opportunities to repair the problems with the Vehicle.
39. The Defendants have neglected, failed, refused or otherwise been unable to repair the substantial impairments to the Vehicle within a reasonable amount of time or a reasonable number of attempts.

**FIRST COUNT - Breach of Warranty Pursuant to the Magnuson-Moss  
Warranty Act, 15 U.S.C. §2301, et seq.**

40. The Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein and incorporates them herein by reference.
41. The Plaintiff is a "consumer" as defined in 15 U.S.C. § 2301(3).
42. Each Defendant is a "supplier" and "warrantor" as those terms are defined in 15 U.S.C. § 2301(4) and (5), respectively.
43. The Vehicle is a "consumer product" as defined in 15 U.S.C. § 2301(6). 15 U.S.C. § 2310(d)(1) provides a cause of action for any consumer who is damaged by the failure of a warrantor to comply with a written or implied warranty.
44. 15 U.S.C. § 2301(a)(1) requires the Defendants, as suppliers and warrantors, to remedy any defect, malfunction or nonconformance of the Vehicle within a reasonable time and without charge to the Plaintiff.
45. Despite repeated demands, the Defendants have failed to remedy the defects within a reasonable time, and/or a reasonable number of attempts, thereby breaching the written and implied warranties applicable to the subject Vehicle.
46. As a result of the Defendants' breach of written and implied warranties, and the Defendants' failure to remedy the same within a reasonable time, the Plaintiff has suffered damages.

**SECOND COUNT - Breach of Implied Warranty of Merchantability Pursuant  
to the Magnuson-Moss Warranty Act, 15 U.S.C. §2301 et seq., and  
O.C.G.A. § 11-2-314**

47. The Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein and incorporates them herein by reference.
48. The Defendants are merchants with respect to motor vehicles.
49. The Vehicle was subject to implied warranties of merchantability, as defined in 15 U.S.C. § 2308 and O.C.G.A. § 11-2-314, running from the Defendants to the Plaintiff.
50. An implied warranty that the Vehicle was merchantable arose by operation of law as part of the sale of the Vehicle.

51. The Defendants breached the implied warranty of merchantability in that the Vehicle was not in merchantable condition when the Plaintiff purchased it, or at any time thereafter, and the Vehicle is unfit for the ordinary purposes for which such vehicles are used.
52. The Plaintiff notified the Defendants of the defects in the Vehicle, which was a reasonable time after the Plaintiff discovered the breach.
53. As a result of the Defendants' breaches of the implied warranty of merchantability, the Plaintiff has suffered damages, including but not limited to incidental and consequential damages.

**THIRD COUNT - Breach of Express Warranties**

54. The Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein and incorporates them herein by reference.
55. In connection with the sale of the Vehicle, the Defendants expressly warranted that, among other things:
  - (a) The Vehicle was fit for the purposes of safe, reliable and attractive transportation;
  - (b) The Vehicle was of good, sound and merchantable quality;
  - (c) The Vehicle was free from defective parts and workmanship;
  - (d) The Vehicle was so engineered and designed as to function without requiring unreasonable maintenance and repairs;
  - (e) In the event the Vehicle was not free from defective parts or workmanship as set forth above, the Defendants would repair or replace same without cost to the Plaintiff; and
  - (f) That any defects or non-conformities would be cured within a reasonable time.
56. The Defendants breached these express warranties in that the Vehicle is plagued by problems that substantially impair the Vehicle's use, safety and value to the Plaintiff.
57. The Plaintiff has given the Defendants a reasonable opportunity to cure said defects, but Defendants have been unable and/or refused to do so within a reasonable time.
58. As a result of said nonconformities, the Plaintiff cannot reasonably rely on the Vehicle for the ordinary purpose of safe, comfortable and efficient transportation.

59. As a result of breach of express warranties, the Plaintiff has been damaged.

**FOURTH COUNT - Breach of Unfair and Deceptive Practice Act,  
O.C.G.A. § 10-1-372**

60. The Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein and incorporates them herein by reference.

61. The sale of the Vehicle to the Plaintiff under the guise that it was free from defects that would substantially impair the use, safety, or value of the Vehicle represents and unlawful or deceptive trade practice under O.C.G.A. § 10-1-372.

62. The Defendants violated O.C.G.A. § 10-1-372 in one or more of the following ways:

- (a) representing the subject Vehicle to be of good, merchantable quality, free of defects, when in fact it was not;
- (b) representing that the repairs could be performed properly, within a reasonable time, when the Defendants knew, or in the exercise of reasonable care, should have known that this was not the case;
- (c) failing to offer a refund of the purchase price of the subject Vehicle in accordance with the applicable warranties.

63. The Defendants are in the business of selling motor vehicles and therefore the violations are likely to affect the general public, now and in the future.

64. The Defendants violated the law willfully and knowingly.

**WHEREFORE**, the Plaintiff requests the following relief:

- (a) An order approving revocation of acceptance of the Vehicle;
- (b) Money damages, in the form of a refund of the full contract price, including, trade-in allowance, taxes, fees, insurance premiums, interest, and costs, and a refund of all payments made by the Plaintiff on the subject contract;
- (c) Equitable relief including, but not limited to, replacement with a new vehicle, or repair of the defective Vehicle with an extension of the express and implied warranties, and service contracts which are or were applicable to the subject Vehicle, in the event that the Plaintiff is not found to be entitled to revocation;

- (d) Incidental and consequential damages;
- (e) Punitive damages;
- (f) Reasonable attorneys fees;
- (g) Such other and further relief as this Court deems just and proper.

**THE PLAINTIFF DEMANDS A TRIAL BY JURY ON ALL ISSUES**

Respectfully submitted,

BY PLAINTIFF'S ATTORNEY

By /s/ Sergei Lemberg  
Sergei Lemberg  
LEMBERG LAW, L.L.C.  
43 Danbury Road  
Wilton, CT 06897  
T: (203) 653-2250  
F: (203) 653-3424

Dated: August 23, 2016

# General Civil Case Filing Information Form (Non-Domestic)

FILED IN OFFICE  
CLERK OF SUPERIOR COURT  
PEACH COUNTY, GEORGIA

Court

Superior

State

County Peach

Date Filed 08-23-2016

MM-DD-YYYY AUG 23, 2016 04:05 PM

Docket # \_\_\_\_\_

*J. Wilder*

Joe Wilder, Clerk  
Peach County, Georgia

## Plaintiff(s)

Last First Middle I. Suffix Prefix Maiden

Last First Middle I. Suffix Prefix Maiden

Last First Middle I. Suffix Prefix Maiden

Last First Middle I. Suffix Prefix Maiden

No. of Plaintiffs 1

Plaintiff/Petitioner's Attorney  Pro Se

Lemberg, Sergei

Last First Middle I. Suffix

Bar # 598666

## Defendant(s)

Jeff Smith Ford

Last First Middle I. Suffix Prefix Maiden

Ford Motor Company

Last First Middle I. Suffix Prefix Maiden

Last First Middle I. Suffix Prefix Maiden

Last First Middle I. Suffix Prefix Maiden

No. of Defendants 2

## Related Case

Case # \_\_\_\_\_

Parties \_\_\_\_\_

Assigned Judge \_\_\_\_\_

### Check Primary Type (Check only ONE)

- Contract/Account
- Wills/Estate
- Real Property
- Dispossessory/Distress
- Personal Property
- Equity
- Habeas Corpus
- Appeals, Reviews
- Post Judgment Garnishment, Attachment, or Other Relief
- Non-Domestic Contempt
- Tort (If tort, fill in right column)
- Other General Civil Specify \_\_\_\_\_

### If Tort is Case Type: (Check no more than TWO)

- Auto Accident
- Premises Liability
- Medical Malpractice
- Other Professional Negligence
- Product Liability
- Other Specify \_\_\_\_\_

Are Punitive Damages Pleaded?  Yes  No

I hereby certify that the documents in this filing (including attachments and exhibits) satisfy the requirements for redaction of personal or confidential information in O.C.G.A. 9-11-7.1





**Service of Process Transmittal**

07/18/2016  
CT Log Number [REDACTED]

**TO:** Chris Dzbanski  
Ford Motor Company  
1 American Rd, Whq 421-E6  
Dearborn, MI 48126-2798

**RE:** **Process Served in North Carolina**

**FOR:** Ford Motor Company (Domestic State: DE)

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

**TITLE OF ACTION:** [REDACTED] on behalf of themselves and all others similarly situated, Ptlrs. vs. Ford Motor Company, Dft.

**DOCUMENT(S) SERVED:** Summons, Proof(s), Class Action Complaint, Exhibit(s), Disclosure(s), Notice(s), Certificate(s)

**COURT/AGENCY:** Western District of North Carolina - U.S. District Court - Asheville Division, NC  
Case # [REDACTED]

**NATURE OF ACTION:** Product Liability Litigation - Lemon Law - 2014 Ford Explorer, VIN: 1FM5K8F87E [REDACTED]

**ON WHOM PROCESS WAS SERVED:** C T Corporation System, Raleigh, NC

**DATE AND HOUR OF SERVICE:** By Certified Mail on 07/18/2016 postmarked on 07/15/2016

**JURISDICTION SERVED :** North Carolina

**APPEARANCE OR ANSWER DUE:** Within 21 days after service, not counting the day of receipt

**ATTORNEY(S) / SENDER(S):** H. Forest Home  
MARTIN & JONES, PLLC  
410 Glenwood Avenue, Suite 200  
Raleigh, NC 27603  
919-821-0005

**ACTION ITEMS:** CT has retained the current log, Retain Date: 07/19/2016, Expected Purge Date: 07/24/2016  
Image SOP  
Email Notification, Chris Dzbanski cdzbansk@ford.com  
Email Notification, Mary Ann MacKinnon mmackin1@ford.com

**SIGNED:** C T Corporation System  
**ADDRESS:** 150 Fayetteville St Ste 1011  
Raleigh, NC 27601-2957  
**TELEPHONE:** 919-821-7139

07/18/2016 08:23 AM

Information displayed on this transmittal is for CT Corporation's record keeping purposes only and is provided to the recipient for quick reference. This information does not constitute a legal opinion as to the nature of action, the amount of damages, the answer date, or any information contained in the documents themselves. Recipient is responsible for interpreting said documents and for taking appropriate action. Signatures on certified mail receipts confirm receipt of package only, not contents.



9171 9690 0935 0115 9156 92

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07/15/2016  
US POSTAGE \$012.00

PRIORITY MAIL



ZIP 27603  
041M112717

**First Class Mail**  
**First Class Mail**

**MARTIN & JONES**

*Attorneys at Law*

410 Glenwood Avenue, Suite 200, Raleigh, NC 27603

Ford Motor Company  
c/o CT Corporation, Registered Agent  
150 Fayetteville Street, Box 1011  
Raleigh, NC 27601-2957

UNITED STATES DISTRICT COURT  
for the  
Western District of North Carolina

[Redacted]  
on behalf of themselves and all others  
similarly situated,

Plaintiff  
v.  
Ford Motor Company  
  
Defendant

)  
)  
)  
)  
)  
)  
)

Civil Action No. [Redacted]

SUMMONS IN A CIVIL ACTION

TO: (Defendant's name and address)

Ford Motor Company  
c/o CT Corporation, Registered Agent  
150 Fayetteville Street, Box 1011  
Raleigh, NC 27601-2957

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) – or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12(a)(2) or (3) – or 60 days if you are named as a defendant within an asbestos litigation case - you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Martin & Jones, PLLC	Kelley/Uustal, PLC	Jordan Lewis, PA
H. Forest Home - hfh@m-j.com	John J. Uustal - jju@kulaw.com	Jordan M. Lewis
Huntington M. Willis - hmw@m-j.com	Michael A. Hersh - mah@kulaw.com	jordan@jml-lawfirm.com
410 Glenwood Ave., Ste. 200	700 S.E. 3d Ave., Ste. 3000	44473 NE 11th Ave.
Raleigh, NC 27603	Fort Lauderdale, FL 33316	Fort Lauderdale, FL 33334

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.



*Frank G. Johns*  
Frank G. Johns, Clerk  
United States District Court

Date 7/15/2016

Civil Action No. \_\_\_\_\_

**PROOF OF SERVICE**

*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4(1))*

This summon for *(name of individual and title, if any)* \_\_\_\_\_

was received by me on *(date)* \_\_\_\_\_.

- I personally served the summons on the defendant at *(place)* \_\_\_\_\_ on *(date)* \_\_\_\_\_; or
- I left the summons at the individual's residence or usual place of abode with *(name)* \_\_\_\_\_, a person of suitable age and discretion who resides there, on *(date)* \_\_\_\_\_, and mailed a copy to the individual's last known address; or
- I served the summons on *(name of individual)* \_\_\_\_\_, who is designated by law to accept service of process on behalf of *(name of organization)* \_\_\_\_\_ on *(date)* \_\_\_\_\_; or
- I returned the summons unexecuted because \_\_\_\_\_; or
- Other *(specify)*: \_\_\_\_\_

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ \_\_\_\_\_.

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_

\_\_\_\_\_  
Server's signature

\_\_\_\_\_  
Printed name and title



Explorer vehicles may exhibit an exhaust odor in the vehicle with the auxiliary climate control system on. Customers may indicate the odor smells like sulfur.” [REDACTED] 12-12-4 provides instructions which [REDACTED]s will correct the exhaust odor in 2011 through 2013 model year Ford Explorers.

5. Subsequent to TSB 12-12-4, Ford issued Technical Service Bulletin 14-0130 (“TSB 14-0130”) (Ex. C).

6. Titled “Exhaust Odor in Vehicle,” TSB 14-0130 also acknowledges an exhaust odor in Explorer vehicles, and adds the 2014 and 2015 model year Explorers to the list of affected vehicles. TSB 14-0130 includes the same or similar service procedures outlined in TSB 12-12-4, and adds certain procedures not included in TSB 12-12-4. Both TSBs provide that the repairs associated with the TSBs are covered by [REDACTED] warranty.

7. [REDACTED] TSBs 12-12-4 and 14-0130, however, do not correct the condition. Ford has serviced thousands of vehicles around the world under TSBs 12-12-4 and 14-0130, generally without success in eliminating the exhaust leak. [REDACTED] has bought back hundreds of vehicles around the world, mostly overseas, because it has been unable to fix the leak. Ford has attempted a variety of fixes, all without success.

8. [REDACTED] TSBs 12-12-4 and 14-0130 also fail to acknowledge that carbon monoxide may enter the passenger compartment of affected vehicles. [REDACTED] TSBs 12-12-4 and 14-0130 are provided to authorized dealerships, and do not directly notify non-Ford automotive repair facilities about the defects associated with TSBs 12-12-4 and 14-0130. Further, although Ford has received numerous complaints relating to exhaust entering the passenger compartments of 2011 through 2015 model year Ford Explorers, Ford has not provided any notice to plaintiffs or

the proposed class members about the defect and the potential exposure to dangerous carbon monoxide in the 2011 through 2015 model-year Ford Explorers.

9. The systemic nature of the exhaust leakage and the inability of [REDACTED] find a fix have been conceded by a Ford representative, under oath, at a non-binding arbitration concerning a claim made by a Ford Explorer owner that his car was leaking exhaust into the passenger cabin. In urging that the arbitrator rule against the vehicle owner, the Ford representative testified on January 2, 2015 (a true and correct copy of this transcript is appended as **Exhibit A** to this Class Action Complaint):

- A. "It seems to be happening across the only -- across the design line. They can't -- so then it really is a design issue, not a problem with this particular vehicle." Exhibit A at 50:2-6.**
- B. "There is another fine line there that, you know, this is happening across the -- the Explorers over a number of years. It -- it doesn't seem to be a problem with an individual part or an individual vehicle that was misbuilt. It does seem to be a design issue." Exhibit A at 83:13-18.**
- C. "And then, in terms of -- of repairs, as I said, we're working on it. I wish I had a better answer for that. I don't, and I can only apologize on behalf of [REDACTED] for that, because, you know, it's obviously taking longer than anybody wants, especially our customers who have the vehicle." Exhibit A at 51:2-8.**
- D. "In terms of the request for repairs, as soon as we can get it -- get them done, as soon as we have a robust fix, something that's going to actually do the job, we would love to get it done. That should be very soon. I know that that's what the customer was told, you know, all those months ago; but we do feel that we've taken steps along the way. We have come out with the two technical service bulletins trying to address it, and we do want to get it fixed. So we are not saying no to a repair; we are just saying we have to have the fix first." Exhibit A at 84:25-85:12.**

10. [REDACTED] sold or leased hundreds of thousands of defective vehicles nationwide. Each such vehicle was sold or leased in a dangerous and defective condition because each such vehicle contains design or manufacturing flaws, and/or an exhaust and/or HVAC system that permit(s)

exhaust and other gases, including toxic carbon monoxide, to enter the passenger compartment during the normal and customary use of such vehicles.

11. [REDACTED] designed, manufactured, sold and leased the 2011 through 2015 model year Ford Explorer when it knew or should have known of such defects, or [REDACTED] otherwise learned of such defects and failed to notify plaintiffs and the proposed class members of the defect in the 2011 through 2015 model year Ford Explorers that exposed plaintiffs, the proposed class members, and others, to a life safety hazard.

12. Plaintiff and the members of the proposed classes reasonably expect to have their [REDACTED] vehicles operate in a normal and customary manner free from exposure to potentially noxious and potentially deadly exhaust gases entering the vehicle's cabin during normal and expected use.

#### JURISDICTION AND VENUE

13. This Court has diversity jurisdiction over this action under 28 U.S.C. § 1332(d) because the amount in controversy for the Class exceeds \$5,000,000, exclusive of interest and costs, there are more than 100 class members, and more than two-thirds of the class is diverse from Ford.

14. The Court has personal jurisdiction over [REDACTED] because [REDACTED] conducts substantial business in this District, and some of the actions giving rise to this complaint took place in this District.

15. Venue is proper in this District under 28 U.S.C. § 1391 because, among other things, a substantial part of the events or omissions giving rise to the claims occurred in this District, and caused harm to class members residing in this District.

**PARTIES**

16. [REDACTED] are residents of Hartford, Tennessee.

17. Defendant Ford Motor Company is a Delaware corporation with its principal place of business in Michigan. In this Complaint, "Ford" refers to the named defendant and all related, successor, predecessor, parent, and subsidiary entities to which these allegations pertain.

**PLAINTIFF'S INDIVIDUAL ALLEGATIONS**

18. On or about February 6, 2014, plaintiffs bought a new 2014 Ford Explorer, VIN number 1FM5K8F87EG [REDACTED], from "Four Seasons Ford," an authorized Ford dealership in Hendersonville, North Carolina.

19. The 2014 Ford Explorer purchased by plaintiffs was dangerous and defective when purchased because its design and exhaust and/or HVAC systems permitted an exhaust odor, exhaust and other gases, including carbon monoxide, to enter the passenger compartment of the vehicle. The defect is latent in nature because it is not obvious or ascertainable upon reasonable examination or inspection.

20. At the time of the purchase, plaintiffs were not notified that the 2014 Ford Explorer they purchased was defective, nor were they notified that they and all occupants would be exposed to carbon monoxide and other potentially dangerous gases while driving in the 2014 Ford Explorer during its normal and customary use.

21. Plaintiffs brought their 2014 Ford Explorer in for service to authorized Ford dealerships on numerous occasions, with complaints of an exhaust odor present in the passenger compartment while the 2014 Ford Explorer was in use.

22. Plaintiffs experienced an exhaust odor inside the passenger cabin of their 2014 Ford Explorer within weeks of the vehicle's purchase.

23. On or about August 26, 2014, plaintiffs brought their 2014 Ford Explorer in for service to Ken Wilson Ford, an authorized Ford dealership in Canton, North Carolina and complained about an exhaust odor inside the passenger compartment of her vehicle while the vehicle was being driven. At that time, the subject vehicle had been driven 11,336 miles, and was well within the 3 year/36,000 mile warranty period. The authorized Ford dealership prescribed and performed TSB 14-0130, which was intended to correct the problem.

24. The work performed under the TSB did not eliminate the exhaust smell. Accordingly, on or about September 9, 2014, plaintiffs returned to Ken Wilson Ford to complain about the problem. The authorized Ford dealership requested that plaintiffs leave their vehicle with the dealership while the service department could address their concerns.

25. The following day, a representative from Ken Wilson Ford informed the plaintiffs that they had contacted defendant Ford Motor Company for guidance.

26. Plaintiffs picked up their Explorer on or about September 26, 2014. On or about September 30, 2014, plaintiffs again noticed an exhaust odor in the passenger cabin of the Ford Explorer.

27. On or about October 2, 2014, plaintiffs brought their Ford Explorer to a second authorized Ford dealership, Four Season's Ford in Hendersonville, North Carolina. An agent or representative from the dealership's service department told plaintiffs that Ford engineers were working on the problem and that they would contact plaintiffs once a solution had been found.

28. Four Season's Ford communicated directly with Defendant Ford Motor Co. about the plaintiffs' complaints through a dealership hotline. The dealership informed Ford that TSB

14-0130 had been performed. Ford advised the dealership that the exhaust issue was "currently under investigation." Four Season's Ford then explained to plaintiffs that they could not fix the problem.

29. On or about October 7, 2014, Plaintiffs contacted Defendant Ford Motor Co. directly, and spoke with a customer service representative named "Lucy." Lucy informed plaintiffs that there was no repair that could be made to their vehicle.

30. On or about November 13, 2014, plaintiffs again spoke directly with a Ford service representative named "Chris" who informed them that plaintiffs' Ford case inquiry had been closed.

31. In November 2014, plaintiffs again directly contacted Ford and spoke with "Lucy" concerning their inquiry about the exhaust odor. Following this conversation, Plaintiffs received a letter from Teresa Wesley, identified as a Ford customer service representative, concerning their inquiry with Ford about the exhaust odor. No fix or repair was offered by Defendant Ford Motor Co.'s service agents.

32. Neither Ford nor its authorized dealerships have been able to fix the vehicle. Plaintiffs continue to experience the exhaust odor when accelerating the vehicle. On multiple occasions, plaintiffs have plugged in a carbon monoxide detector inside the vehicle. More than once, the monitor's alarm has sounded while plaintiffs have been driving the car.

33. Carbon monoxide is an odorless, colorless, and tasteless gas that is toxic to humans.

34. On multiple occasions, plaintiffs and/or their passengers have become nauseated, dizzy, or sick from exposure to the gases inside the passenger compartment.

35. To date, Ford has not repaired plaintiffs' 2014 Ford Explorer, nor has Ford acknowledged to plaintiffs or the members of the proposed class that the 2011 through 2015 model year Ford Explorers contain design flaws and/or defective exhaust and/or HVAC systems permitting exhaust, carbon monoxide and other potentially dangerous gases into the passenger compartments of those vehicles.

#### **GENERAL ALLEGATIONS**

##### **1. Ford's Sale and Leasing of Defective and Dangerous Vehicles**

36. Ford began selling and leasing a new generation of Ford Explorers – considered the fifth generation of Explorer vehicles – with the 2011 model year Ford Explorer.

37. The subsequent model-year Ford explorers are not dramatically different in design from the 2011 Explorer. These Explorers, including those sold today, are all known as “fifth generation” Explorers.

38. The 2011 through 2015 model year Ford Explorers were designed, engineered, and manufactured by Ford with design flaws and/or defective exhaust and/or HVAC systems that permit carbon monoxide and exhaust to enter into the passenger compartments of those vehicles while they are driven in a normal and customary manner.

39. Ford designed, manufactured, assembled, inspected, distributed, sold, and leased the 2011 through 2015 model year Ford Explorers in a manner so as to render the subject vehicles defective and unsafe for their intended use and purpose by, among other things:

- (a) Designing the vehicles such that exhaust and other gases, including carbon monoxide, may enter the passenger compartments of the vehicles;
- (b) Designing the bumpers and/or tailpipes on the vehicles such that exhaust and other gases, including carbon monoxide, may accumulate behind the bumper and within the interior and exterior panels, allowing those gases to permeate the passenger compartments of the vehicles;

- (c) Designing, manufacturing and assembling the vehicles using defective rear air extractors which permit exhaust and other gases, including carbon monoxide, to enter the passenger compartments of the vehicles;
- (d) Designing, manufacturing and assembling the liftgates in the rear of the vehicles using defective drain valves, which permit exhaust and other gases, including carbon monoxide, to enter the passenger compartments of the vehicles;
- (e) Designing, manufacturing and assembling the vehicles with sheet metal panels and overlaps which permit exhaust and other gases, including carbon monoxide, to enter the passenger compartments of the vehicles;
- (f) Designing, manufacturing and assembling the vehicles with joints and seams which permit exhaust and other gases, including carbon monoxide, to enter the passenger compartments of the vehicles; and,
- (g) Designing, manufacturing and assembling the vehicles with rear auxiliary air conditioning system parts which are defectively designed and/or located too close in proximity to the driver side rear air extractor, such that exhaust and other gases, including carbon monoxide, may enter the auxiliary air conditioning system and the passenger compartments of the vehicles.

40. Ford knew or should have known that the 2011 through 2015 model year Explorers were dangerous and defective such that drivers and passengers of those vehicles may be exposed to carbon monoxide and other dangerous gases while the vehicles are in operation.

41. The defective vehicles were sold or leased pursuant to express and implied warranties. At the time the defective vehicles were sold or leased by Ford directly and through its authorized agents, the vehicles were in violation of express and implied warranties. All of the defective vehicles are still within the effective dates of the express warranties, or the time or mileage limits in the express warranties should be inapplicable given Ford's fraudulent conduct, among other factors.

42. In promoting, selling and repairing its defective vehicles, Ford acts through numerous authorized dealers who act, and represent themselves to the public, as exclusive Ford

representatives and agents. That the dealers act as Ford's agents is demonstrated by the fact that: (i) the warranties provided by Ford for the defective vehicles directs consumers to take their vehicles to authorized dealerships for repairs or services; (ii) Ford dictates the nature and terms of the purchase contracts entered into between its authorized dealers and consumers; (iii) Ford directs its authorized dealers as to the manner in which they can respond to complaints and inquiries concerning defective vehicles; and (iv) Ford has entered into agreements and understandings with its authorized dealers pursuant to which it authorizes and exercises substantial control over the operations of its dealers and the dealers' interaction with the public.

43. Ford's control over the actions of its dealers is also evidenced by its implementation of the company's express and implied warranties as they relate to the defects alleged herein. Authorized Ford dealerships are instructed by Ford to address complaints of an exhaust odor by prescribing and implementing TSBs 12-12-4 and 14-0130. Implementation of the TSBs is not triggered by complaints of carbon monoxide entering the passenger cabin.

**2. Ford Acknowledged the Subject Vehicles' Defective Condition in TSBs 12-12-4 and 14-0130**

44. In response to customer complaints of an exhaust odor in the passenger compartments of the subject vehicles, Ford issued TSB 12-12-4 in or about December 2012. TSB 12-12-4 was intended to provide instructions to authorized Ford dealerships to correct the presence of an exhaust odor in 2011 through 2013 model year Ford Explorers.

45. In or about July 2014, Ford issued TSB 14-0130, which added 2014 and 2015 model year Explorers to the list of affected vehicles. TSB 14-0130 was intended to provide instructions to authorized Ford dealerships to correct the presence of an exhaust odor in 2011 through 2015 model year Ford Explorers.

46. Even after issuing TSBs 12-12-4 and 14-0130, Ford did not inform plaintiff or the members of the proposed class of the defects in 2011 through 2015 model year Ford Explorers, despite the fact that those defects presented life safety issues to occupants of the vehicles.

47. Notably, TSBs 12-12-4 and 14-0130 fail to disclose that the exhaust odor acknowledged therein is accompanied in the passenger compartment by toxic and potentially lethal carbon monoxide and other gases.

48. At all material times, Ford has failed to inform customers who purchased and/or leased 2011 through 2015 model-year Ford Explorers that they are unsafe for operation or that they were designed, engineered, and manufactured such that exhaust and other gases, including carbon monoxide, may enter the passenger compartments of such vehicles.

**3. Ford's TSBs 12-12-4 and 14-0130 Fail to Repair the Defects**

49. Ford's TSBs 12-12-4 and 14-0130 fail to repair the exhaust odor problem, and vehicles which have received the repairs outlined in TSBs 12-12-4 and 14-0130 may continue to have exhaust and other gases, including carbon monoxide, enter the passenger compartment.

50. TSBs 12-12-4 and 14-0130 identify flaws in the initial design and manufacture of the 2011 through 2015 model-year Ford Explorers, and prescribe repairs and/or replacements which are inadequate and equally flawed and defective.

51. In TSBs 12-12-4 and 14-0130, Ford requires installation or use of the following replacement parts in the subject vehicles, among others: (i) a dual rate air extractor (part number BB5Z-61280B62-A under TSB 12-12-4 and part number BB5Z-61280B62-B under TSB 14-0130); (ii) valve assembly auto drains (part number 4M8Z-54280B62-A); and (iii) Motorcraft® Seam sealer (part number TA-2).

52. The replacement parts and service, however, fail to prevent exhaust and other gases, including carbon monoxide, from entering the passenger cabins of the subject vehicles.

53. The problem common to the Explorer models results from primarily three facts.

54. The first fact is that engine exhaust tends to splash against the rear outside liftgate of the car. This tends to worsen at higher speeds.

55. The second fact is the subject Ford models are not remotely airtight. Part of this is intentional. Drainholes are cut into the cars' rear liftgates; just as water can run down these holes, exhaust can float up through them. Moreover, part of this particular problem results from poor workmanship and inferior products: the rubber mounting that cushions the liftgate window against the liftgate itself is not airtight; gaps caused by poor placement and inconsistent use of adhesive leaves observable gaps. In addition, the cars at issue have air extractors built above the rear tires. These extractors are supposed to act like check valves and modulate the flow of air, and air pressure, in the passenger cab. But the flaps on the extractors are poorly made. They stiffen and curl and don't sit flat over the extractor's opening when they should.

56. The third fact is that at certain air conditioning settings – and especially when the air conditioning is set at maximum (which causes the air inside the cabin to recycle) – the air pressure inside the passenger cabin drops.

57. The result of these factors is that the vehicles' engine exhaust, which tends to build up against the rear liftgate at high speeds, is pulled into the passenger cabin through the many holes and gaps in the back end of the car because the pressure inside the cab is less than the pressure outside.

**4. Ford's Conduct and/or Inaction Has Damaged Plaintiffs and Members of the Proposed Class**

58. Plaintiffs and each member of the proposed class has sustained ascertainable losses and damages in connection with their lease or purchase of the vehicles.

59. Plaintiffs and each class member has not received what he or she paid for: a car that can be safely and comfortably driven without the presence of exhaust fumes in the cabin.

60. Plaintiffs and the class members have been damaged by Ford's conduct and/or inaction, as they have been exposed to harmful carbon monoxide and exhaust, they unknowingly leased or purchased defective vehicles that cannot be safely operated, they have been forced to pay, or will pay, substantial amounts of money to repair the vehicles, if a repair can be made, and the value of their affected vehicles has been diminished because of this defect.

61. A vehicle containing the defect described – that is, a defect that permits the entry of carbon monoxide and other gases into the passenger compartment of the vehicle – is worth less than a vehicle free from such defect. Given that the defect renders driving the subject vehicles a health hazard that is potentially deadly, the vehicles are valueless. At the time plaintiffs purchased and leased their vehicles, they paid a price based on the value of such a vehicle free of such defect.

62. Plaintiffs and the class have been damaged and are entitled to compensation because (a) they overpaid (whether through purchase price or lease cost) for the car and (b) their Explorers' value has diminished due to the defect.

#### **CLASS ACTION ALLEGATIONS**

63. Plaintiffs seek to bring this case as a class action, pursuant to Fed. R. Civ. P. 23(a)(1)-(4) and (b)(2) and/or (b)(3). The proposed class is as follows:

All persons who purchased or leased directly from a Ford authorized dealership in North Carolina at least one of the following vehicles: 2011 Ford Explorer, 2012 Ford Explorer, 2013 Ford Explorer, 2014 Ford Explorer or 2015 Ford Explorer.

64. **Numerosity.** Members of the class are so numerous that individual joinder of all members is impracticable. Based upon information and belief, Ford has sold or leased tens of thousands of 2011 through 2015 model year Ford Explorers in North Carolina. All of these vehicles are covered by TSBs 12-12-4 and 14-0130, and contain a defect that may cause carbon monoxide or exhaust to enter the passenger compartments of such vehicles.

65. **Existence of Common Questions of Law and Fact.** Common questions of law and fact exist as to all members of the class. These include, but are not limited to: whether the 2011 through 2015 model year Ford Explorers have been sold or leased subject to express and/or implied warranties; whether the 2011 through 2015 model year Ford Explorers are defective such that carbon monoxide and exhaust may enter the passenger compartments of such vehicles; whether the 2011 through 2015 model year Ford Explorers suffer from a design defect, are unreasonably dangerous and/or are unfit for their intended use; whether Ford has knowledge of such defect; when Ford learned of such defect; whether Ford failed to disclose the defect to plaintiffs and the class; whether Ford misrepresented that the affected vehicles were safe; whether Ford has a fix to the defect and, if so, how much the fix will cost; whether the defect reduces the value of the affected vehicles; whether Ford's express warranties cover the latent defects; whether Ford breached its warranties made to plaintiffs and the class; whether Ford negligently designed/engineered/manufactured the affected vehicles; whether Ford concealed the defect; and whether plaintiffs and the class have suffered damages as a result of the conduct alleged, and if so, the measure of such damage.

66. **Typicality.** The claims of plaintiffs are typical of the claims of the class, as plaintiff and the members of the class have purchased or leased defective vehicles and have been harmed in some manner by Ford's conduct.

67. **Adequacy.** Plaintiffs will fairly and adequately protect the interests of the class. Plaintiffs' interests do not conflict with the interests of the members of the class. Further, plaintiffs have retained counsel competent and experienced in complex class action litigation. Plaintiffs and her counsel are committed to vigorously prosecuting this action.

68. **Predominance and Superiority.** A class action is superior to other available methods for the fair and efficient adjudication of this controversy, since joinder of all the individual class members is impracticable. Questions of law and fact common to the members of the class predominate over any questions affecting only individual members. Likewise, because the damages suffered by each individual class member may be relatively small, the expense and burden of individual litigation would make it very difficult or impossible for individual Class members to redress the wrongs done to each of them individually, and the burden imposed on the judicial system would be enormous.

69. The prosecution of separate actions by the individual class members would also create a risk of inconsistent or varying adjudications for individual class members, which would establish incompatible standards of conduct for Ford. The conduct of this action as a class action presents far fewer management difficulties, conserves judicial resources and the parties' resources, and protects the rights of each Class member. Further, plaintiff anticipates no difficulty in the management of this litigation as a class action.

70. For all of the foregoing reasons, a class action is superior to other available methods for the fair and efficient adjudication of this controversy.

**COUNT I**  
**BREACH OF EXPRESS WARRANTY**

71. Plaintiff repeats and re-alleges the allegations in Paragraphs 1 through 70 as if fully set forth herein.

72. This count is brought on behalf of the class.

73. For each defective vehicle sold by Ford, an express written warranty was issued which covered the vehicle, warranting the vehicle to be free of defects in materials and workmanship at the time of delivery.

74. Ford's express warranties are intended to benefit the customer, including plaintiff and the members of the class.

75. When plaintiff and members of the class purchased and/or leased their 2011 through 2015 model year Ford Explorers, Ford expressly warranted that it would pay for all repairs and parts to replace defects introduced during the design and manufacturing process.

76. Plaintiffs, and the members of the class, relied upon Ford's express warranties, and the existence of such warranties, when purchasing or leasing the vehicles.

77. Ford breached its express warranties by offering for sale, and selling or leasing as safe, defective vehicles that were by design and construction unsafe, thereby subjecting occupants of the defective vehicles purchased or leased by plaintiffs and members of the class to the risk of injury or death.

78. The defect at issue in this litigation was present in the subject vehicles at the time of sale or lease to plaintiffs and the members of the class.

79. The defect at issue in this litigation must be corrected by Ford, and the expenses of such repairs must be borne by Ford, per Ford's express warranties.

80. Ford breached its express warranties (and continues to breach its express warranties) because it has not fixed the defect causing carbon monoxide and exhaust to enter the passenger compartment of the subject vehicles, nor has it covered the expenses associated with correcting the defect.

81. Plaintiffs and the members of the class have performed the duties required of them under the terms of the warranties, except as may have been excused or prevented by the conduct of Ford or by operation of law in light of Ford's conduct described throughout this Complaint.

82. Ford has received timely notice regarding the problems at issue in this litigation, and notwithstanding, Ford has failed and refused to offer an effective remedy.

83. Plaintiffs and the members of the class have suffered damages caused by Ford's breach of the express warranties and are entitled to recover compensatory damages, including but not limited to the cost of repairs and diminution in value.

## **COUNT II**

### **BREACH OF IMPLIED WARRANTY**

84. Plaintiffs repeat and re-allege the allegations in Paragraphs 1 through 83 as if fully set forth herein.

85. This Count is brought on behalf of the class.

86. Ford impliedly warranted that the subject vehicles, which Ford designed, manufactured, sold or leased, were merchantable, fit for the ordinary purposes for which they were intended to be used, and were not otherwise injurious to consumers. The ordinary purpose for which the subject vehicles are used is, among other things, to drive in a manner that does not unnecessarily and unreasonably expose occupants to needless harm or risk.

87. Ford breached its implied warranty of merchantability when it designed, manufactured, distributed, sold and leased the 2011 through 2015 model year Ford Explorers in an unsafe and un-merchantable condition. The subject vehicles threaten to expose occupants to carbon monoxide and other dangerous gases while the vehicles are being driven in a normal and customary manner. The subject vehicles were therefore unfit for their ordinary purpose.

88. Plaintiffs and each of the members of the class have had sufficient direct dealings with either Ford or its agent dealerships to establish privity of contract between Ford, on the one hand, and plaintiffs and each of the members of the class, on the other hand. Notwithstanding, privity is not required because plaintiffs and each of the members of the class are the intended beneficiaries of Ford's written warranties and its contractual relationships with Ford dealerships. The dealers were not intended to be the ultimate consumers of the subject vehicles, and have no rights under the warranty agreements provided by Ford. [REDACTED] express warranties were designed for and intended to benefit the consumers only. Plaintiffs and the members of the class were the intended consumers of the subject vehicles.

89. [REDACTED] has received timely notice regarding the problems at issue in this litigation, and notwithstanding, Ford has failed and refused to offer an effective remedy.

90. Plaintiffs and the members of the class have suffered damages caused by [REDACTED] breach of the implied warranty of merchantability and are entitled to recover compensatory damages, including but not limited to the cost of repairs and diminution in value.

**COUNT III**

**VIOLATION OF THE MAGNUSON-MOSS WARRANTY ACT  
(15 U.S.C. § 2301, *et seq.*)**