

Comments:**CONCER 02/18/2016 01:48PM PHIL JACOBS MSS - FCSD - TECH SVC HOTLINE**

Web Form Data Description of Vehicle Concern: CUST STATES ON HARD ACCELERATION BAD EXHAUST ODOR IN CAB. Please list any diagnostics already performed: CUSTOMERS CONCERN WAS VERIFIED AND TSB 14-0130 WAS PERFORMED. THE VEHICLE HAD CAME BACK MULTIPLE TIMES FOR THIS CONCERN. THE VEHICLE WAS RETESTED PER THE TSB. Parts Replaced: AS LISTED IN THE TSB 14-0130 Your Question: WE HAVE HAD OTHER VEHICLES WITH SIMILAR CONCERN, WE HAVE ADVISED THE CUSTOMER THAT UNDER CERTAIN CONDITIONS SOME EXHAUST SEMLL MAY SEEP INTO THE CABIN AREA. IS THERE ANY UPDATES TO THE CONCERN. THAT WOULD HELP ALLEVIATE THIS CONCERN OF EXHAUST SMELL IN THE CAB ?

RECOMM 02/18/2016 01:48PM PHIL JACOBS MSS - FCSD - TECH SVC HOTLINE

Randy, With the IDS at the latest software update, recommend to reprogram the HVAC module to the latest calibration. Also recommend to replace the muffler assembly with the updated part(EB52-5230-A) that was developed for this odor concern. We have escalated this concern to the Technical Assistance Center s Escalated Handling Team for additional review. A Service Engineer from this team will contact you by phone or through this Hotline Assistance Request within one (1) business day to provide additional information and/or recommendations to assist in the resolution of the customer s concern. Our team at the Hotline will continue to work with you and your Dealership to help get the concern resolved and the vehicle back to the customer in a timely manner. If the Escalated Handling Team is still unable to assist you in resolving the customer s concern through these additional steps, the Hotline will alert your Field Service Engineer by opening a Technical Assistance Request. Please be prepared to discuss all diagnostics performed and test results with the Technical Assistance Center Service Engineer in more detail. Thank you in advance.

ADD-ON 02/18/2016 01:48PM PHIL JACOBS MSS - FCSD - TECH SVC HOTLINE

Note to EH: This has been escalated due to an ongoing exhaust odor concern. There is also an active untitled FMC360 case and an earlier resolved case where the customer mentioned lemon law and contacting an attorney. The tech has been instructed to update the HVAC module calibration and to replace the muffler assembly per the ISM. Consulted Mike Robinson. Contact ID 109689274. Article ISM 1507013 SOME 2011-2016 EXPLORER VEHICLES MAY EXHIBIT A REPEAT CUSTOMER CONCERN OF EXHAUST ODOR INSIDE THE VEHICLE AFTER TSB 14-0130 HAS BEEN COMPLETED.

ADD-ON 02/18/2016 01:48PM PHIL JACOBS MSS - FCSD - TECH SVC HOTLINE

Reason For Escalation: Technical Progress

CONCER 02/22/2016 03:22PM T ECHHOT MSS - FCSD - TECH SVC HOTLINE

THE PART NUMBER EBSZ-5230-A WE ORDERED IS A SINGLE PIPE MUFFLER, THE OLD ONE IN A DUAL PIPE DESIGN MUFFLER. IS THERE A DIFFERENT PART NUMBER FOR THIS EXHAUST ?

CONCER 02/23/2016 09:03AM MATTHEW HILL MSS - FCSD - TECH SVC HOTLINE

Too early to call dealer.

RECOMM 02/23/2016 09:03AM MATTHEW HILL MSS - FCSD - TECH SVC HOTLINE

Randy, We are currently reviewing your request and will contact you later this morning to discuss further diagnostics for this vehicle. Thank you.

ADD-ON 02/23/2016 09:03AM MATTHEW HILL MSS - FCSD - TECH SVC HOTLINE

Too early to call dealer. Will call later this morning.

CONCER 02/23/2016 11:03AM MATTHEW HILL MSS - FCSD - TECH SVC HOTLINE

An outbound call was made to the dealership, Spoke with Service Advisor Mike. Mike stated that the odor has been confirmed by the technician. TSB 14-0130 has been performed twice. No leaks were found anywhere on the vehicle when the cabin was pressurized. The customer is not driving with the windows down. Mike is not sure if the customer is operating the HVAC system in fresh or recirculate mode.

RECOMM 02/23/2016 11:03AM MATTHEW HILL MSS - FCSD - TECH SVC HOTLINE

Mike, Thank you for the updated information and we apologize for the confusion. The updated muffler assembly is only for a naturally aspirated 3.5L (TIVCT) engine. There is no updated muffler available for a 3.5L GTDI engine. Since performing TSB 14-0130 did not resolve the concern and there is no updated exhaust system for this vehicle, your regional FSE will be dispatched to provide further assistance. Since your FSE will now working with the technician, this escalation will be closed. Thank you. We have referred this concern to the Field Service Engineer (FSE) in your market area. The FSE should contact you and/or the Dealership management (Service Manager or Service Director) within one (1) business day to discuss further recommendations. If the FSE does not contact you directly, please consult with your Dealership management to discuss further recommendations and steps to assist in the resolution of this vehicle concern.

ADD-ON 02/23/2016 11:03AM MATTHEW HILL MSS - FCSD - TECH SVC HOTLINE

Tech Assist Referral open, Escalation closed.

TAR 02/23/2016 11:14AM MATTHEW HILL MSS - FCSD - TECH SVC HOTLINE

NOTE TO FSE: THIS TECH ASSIST REFERRAL IS BEING OPENED DUE TO LACK OF

TECHNICAL PROGRESS. THE VEHICLE EXHIBITS AN EXHAUST ODOR. THE VEHICLE ORIGINALLY CAME IN FOR REPAIR IN JULY OF 2015. THE VEHICLE HAS NOT RETURNED SINCE THEN UNTIL NOW. THE TECHNICIAN HAS VERIFIED THAT THE ODOR IS ONLY PRESENT ON HEAVY ACCELERATION. THE CUSTOMER IS NOT DRIVING WITH THE WINDOWS CRACKED. TSB 14-0130 HAS BEEN PERFORMED TWICE. THE TECHNICIAN HAS ALSO PRESSURIZED THE CABIN AND PERFORMED THE LEAK TEST PER ISM 15-07-013 BUT COULD NOT FIND A LEAK. A SEAM SEAL IN THE REAR OF THE VEHICLE WAS THOUGHT TO BE LEAKING SO IT WAS SEALED BUT THE CONCERN REMAINS. THE REAR LIFT GATE WAS ALSO ADJUSTED BUT THIS DID NOT ELIMINATE THE ODOR. THE VEHICLE WAS CAREFULLY INSPECTED MULTIPLE TIMES BUT NO LEAK PATHS HAVE BEEN FOUND. THERE IS AN ACTIVE FMC360 CASE FOR THE VEHICLE BUT NO COMMENTS COULD BE READ, CASE # CAS-8299034-V1X4G8. ESTIMATED DOWN TIME: 5 DAYS (THIS VISIT). ESTIMATED REPAIR ATTEMPTS: 3.

AUDIT 02/23/2016 11:14AM MATTHEW HILL MSS - FCSD - TECH SVC HOTLINE
ODOMETER 21487 CHANGED TO 21487 M BY MHILL178

AUDIT 02/23/2016 11:14AM MATTHEW HILL MSS - FCSD - TECH SVC HOTLINE
TECH ASSIST REFERRAL HAS BEEN OPENED

ADD-ON 02/23/2016 03:15PM MITCH PICKENS (FSE) MSS - FCSD - REG PHOEN-DEN-SEA

FSE ON SITE ON 2/23 AND DROVE VEHICLE WITH THE SF RANDY. THE FSE DROVE VEHICLE AGGRESSIVELY AT FREEWAY SPEEDS IN AN ATTEMPT TO INDUCE AN EXHAUST ODOR IN THE VEHICLE. FSE PERFORMED MANY LOW SPEED TO FREEWAY SPEED AGGRESSIVE ACCELERATIONS WITH THE HVAC IN AUTO AND MANUAL MODES AND COULD NOT DETECT AN EXHAUST ODOR INSIDE THE VEHICLE. THE IDS VERIFIED THAT THE HVAC MODULE IS AT THE LATEST CALIBRATION USING IDS 99.01, AND IDS WAS USED TO VERIFY THAT THE RECIRC DOOR WAS FLIPPING TO FRESH AIR FOR 10 SECONDS ON HARD ACCELS. GIVEN THAT THE REAR OF THE VEHICLE HAS BEEN PREVIOUSLY SEALED USING TSB 14-0130, FSE ADVISED UTILIZING THE ULTRASONIC LEAK DETECTOR TO VERIFY THAT THERE ARE NO FURTHER LEAKS PRESENT - SEAL AS NEEDED. SINCE THE ODOR CANNOT BE DETECTED AT THIS TIME, NO ADDITIONAL REPAIRS WERE RECOMMENDED BY THE FSE.

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ADD-ON 02/26/2016 10:15AM MITCH PICKENS (FSE) MSS - FCSD - REG PHOEN-DEN-SEA

DEALER USED THE ULTRASONIC LEAK DETECTOR AND FOUND NO ADDITIONAL LEAKS. CLOSING TAR AS NO ODOR WAS DETECTED BY FSE OR SHOP FOREMAN.

AUDIT 02/26/2016 10:15AM MITCH PICKENS (FSE) MSS - FCSD - REG PHOEN-

9/12/2016

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DEN-SEA

TECH ASSIST REFERRAL HAS BEEN CLOSED

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Requester: DWASH149
Report Summary
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12-Sep-2016
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GCQIS Report Analysis

Report Summary

Report 3 of 3

Query Name: REPORT RETRIEVAL

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Report Detail Section : Attachments: 0

Report# :	G6TFM015 NHL	Received:	06/20/2016
CCRG/EPRC:	<input type="text" value="v"/>	Reviewed Status:	Date:
Vehicle:	2015,EXPLORER 4X4 (U502) ,SPORT ,4 DOOR ,MPV ,1FM5K8GT5FGA41945	Build Date:	07/22/2014
Odometer :	25,456 M	Engine:	3.5L-GTDI
Transmission:	6F55	Axle:	A/C: YES
Dealer:	USA 20301 Don Sanderson Ford	Phone#:	623-842-8685
City:	Glendale	State:	Arizona
Originator:	RANDY HANSEN	Country :	USA
Symptom:	4 48 2 39 ST/RN/MV,NOISE,MOVE/DRIVE,INTERMITTENT		
Status:			
VFG:	V49 POWERTRAIN GOOD SOUND AND NVH		
Additional Symptom:	DROAN NOISE		
Fix:	Causal Component :		
Condition Code:			
Hotliner:	RRICE65	Phone:	Regn Cd: W3 Phoenix
Engineering:		Phone:	TAR:
Dir Contact:	RANDY HANSEN	Phone:	Title Cde: SF

Comments:**CONCER 06/20/2016 03:21PM RAKI RICE MSS - FCSD - TECH SVC HOTLINE**

Web Form Data (110388858) Description of Vehicle Concern: CUST STATES THERE IS A DROAN SOUND FROM LEFT SIDE OF VEHICLE AFTER HAS BEEN DRIVEN ON HWY FOR APPROX 20+ MIN. Please list any diagnostics already performed: ROAD TESTED THE VEHICLE AND NOISE CAME IN BETWEEN 75-80 MPH. INSPECTED THE VEHICLE AND CHECKED FOR LOOSE SHIELDS. NOISE IN THE WHEEL BEARING. SWAP TIRES WITH LIKE UNIT. TAPED UP THE COWL PANEL WINDSHIELD. Parts Replaced: NONE Your Question: IS THERE ANY KNOWN ISSUE ON THIS CONCERN ?

RECOMM 06/20/2016 03:21PM RAKI RICE MSS - FCSD - TECH SVC HOTLINE

Randy, If the noise has been isolated to the wheel hub bearing, it is possible that it may have failed prematurely. However, if the noise was still present after swapping the tires with another like unit and there are no other obvious concerns present, proceed with wheel hub bearing replacement and reevaluate.

CONCER 07/26/2016 07:46PM T ECHHOT MSS - FCSD - TECH SVC HOTLINE

THE CUSTOMER SAID THEY CAN STILL HEAR THE NOISE. THE CUSTOMER IS REQUESTING TO HAVE A FSE FROM FORD. ROAD TEST THE VEHICLE WITH HIM. FOR THE NOISE CONCERN. CAN WE GET THIS SET UP FOR THE CUSTOMER.

RECOMM 07/27/2016 10:21AM LAWRENCE NEWSOM MSS - FCSD - TECH SVC HOTLINE

Randy, Thank you for updating with the customers and dealer request. As it is unclear if any repair attempts relating to this vehicles noise concern have been performed other than wheel/tire swap it is advised that if the customers complaint can be verified it is advised to use a chassis ear at the wheel knuckle to see if the noise can be detected. If the noise can be detected at the left front wheel knuckle a wheel bearing concern is suspected. In this case it is advised to proceed with wheel bearing and hub replacement following workshop manual 204-01 Front Suspension > Removal and Installation procedure if the wheel bearings has not been replaced yet. This concern is being directed to the Technical Assistance Center's Escalated Handling Team for additional review. An Escalated Handling Team Member will contact you by phone or through this Hotline Assistance Request within one (1) business day to provide additional information and/or recommendations to assist in the resolution of the customer's concern. We will continue to work with you and your Dealership's Service Management Team to help get the concern resolved and the vehicle back to the customer in a timely manner. Please have the results of all checks and repair

attempts performed on hand for review when contacted by the escalation member.

ADD-ON 07/27/2016 10:21AM LAWRENCE NEWSOM MSS - FCSD - TECH SVC HOTLINE

consulted derek sandifer advise to provide diag and escalate contact. note to EH request for escalation due to lack of progress. customer complaint droan noise head from left front wheel area while driving for 20 min at 75-80 MPH. tech has swapped wheels and tires to no avail. Advised to use a chassis ear at the knuckle to help isolate the noise. Replace hub bearing if noise is detected at knuckle. no open fmc360 contacts. Hotline Contact ID: 110388858 RO: 223203 RO Date: Jun 03 2016

ADD-ON 07/27/2016 10:21AM LAWRENCE NEWSOM MSS - FCSD - TECH SVC HOTLINE

Reason For Escalation: Technical Progress

CONCER 08/01/2016 12:20PM GARY WOODEN MSS - FCSD - TECH SVC HOTLINE

Placed an outbound call to the Dealership and left a voicemail with Service Manager Rex indicating him of my role and that I will continue to follow-up with the Dealership throughout the day to discuss the vehicle's down time and diagnostics/repairs that have been performed.

RECOMM 08/01/2016 12:20PM GARY WOODEN MSS - FCSD - TECH SVC HOTLINE

Rex, Sorry we missed you! A follow-up call will be placed this afternoon to discuss the current status of the vehicle, the vehicle's down time across any visits to the Dealer with this concern and the diagnostics and repairs that have been performed.

ADD-ON 08/01/2016 12:20PM GARY WOODEN MSS - FCSD - TECH SVC HOTLINE

No FMC
No TFOAMS

Rex (Service Manager)

A follow-up call will be placed this afternoon to discuss the vehicle.

CONCER 08/01/2016 01:48PM GARY WOODEN MSS - FCSD - TECH SVC HOTLINE

Placed an outbound call to the Dealership and spoke with Burt (Service Advisor) who indicated that Mike is the Service Advisor working with the vehicle. Burt then provided me Daniel Zeh's (Assistance Service Manager) direct line and transferred me to Daniel. I left a voicemail with Daniel indicating him of my role and that I will continue to follow-up with him to discuss the vehicle.

RECOMM 08/01/2016 01:48PM GARY WOODEN MSS - FCSD - TECH SVC HOTLINE

Daniel, Sorry I missed you! A follow-up call will be placed this afternoon to discuss

the vehicle's current status, the vehicle's down time, and any diagnostics and repairs that have been performed.

ADD-ON 08/01/2016 01:48PM GARY WOODEN MSS - FCSD - TECH SVC HOTLINE

No FMC
No TFOAMS

Daniel Zeh Assistant Service Manager: 623-842-8691
Mike (Service Advisor): On vacation until tomorrow,

OBC to Dealer and left a VM with Assistance Service Manager Daniel Zeh.

CONCER 08/01/2016 04:33PM GARY WOODEN MSS - FCSD - TECH SVC HOTLINE

Placed an outbound call to Dan to discuss the vehicle. Dan indicated that Randy is the individual working with the vehicle. Dan provided me with Randy's cell phone number and that he will be back from lunch in 20-30 minutes.

RECOMM 08/01/2016 04:33PM GARY WOODEN MSS - FCSD - TECH SVC HOTLINE

Dan and Randy, A follow-up call will be placed this afternoon to discuss the status of the vehicle, the time the vehicle has spent down and the diagnostics performed and components that have been replaced.

ADD-ON 08/01/2016 04:33PM GARY WOODEN MSS - FCSD - TECH SVC HOTLINE

No FMC
No TFOAMS

Randy (Service Manager) cell# 602-615-0526

OBC to Dan Zeh and he provided Randy (Service Manager) cell# and to call back in 30 minutes to discuss the vehicle.

CONCER 08/01/2016 05:37PM KENT WILLIAMS MSS - FCSD - TECH SVC HOTLINE

An outbound call was placed to service manager Randy. Could not reach Randy through the dealership or via cell phone at this time.

RECOMM 08/01/2016 05:37PM KENT WILLIAMS MSS - FCSD - TECH SVC HOTLINE

Randy, Another call will be placed on 8/2/16 to further discuss the status of this vehicle.

ADD-ON 08/01/2016 05:37PM KENT WILLIAMS MSS - FCSD - TECH SVC HOTLINE

No active CRC case. Multiple previously resolved cases. Previous TAR open through TFOAMS related to cabin odor. No TFOAMS or GCQIS notes related to this concern.

ADD-ON 08/01/2016 05:37PM KENT WILLIAMS MSS - FCSD - TECH SVC HOTLINE

Follow up call rescheduled. Multiple attempts made to reach the service manager. Cannot reach the service manager at this time.

CONCER 08/02/2016 02:22PM GARY WOODEN MSS - FCSD - TECH SVC HOTLINE

Placed an outbound to the Randy (Service Manager) who was not at the Dealership today due to personal reasons. Randy indicated the vehicle is not currently at the Dealership and that he will be returning to the Dealer tomorrow. I indicated that I would place a follow-up call tomorrow to discuss the vehicle with him.

RECOMM 08/02/2016 02:22PM GARY WOODEN MSS - FCSD - TECH SVC HOTLINE

Randy, A follow-up call will be placed tomorrow, August 3rd to discuss the vehicle in more detail. Thank you

ADD-ON 08/02/2016 02:22PM GARY WOODEN MSS - FCSD - TECH SVC HOTLINE

Randy indicate he was the only individual working with the vehicle.

ADD-ON 08/02/2016 02:22PM GARY WOODEN MSS - FCSD - TECH SVC HOTLINE

No FMC cases for this concern
No TFOAMS

Randy was not at the Dealership today but did indicate the vehicle is not there either.

A follow-up call is set for tomorrow, August 3rd to discuss the vehicle.

CONCER 08/03/2016 12:11PM GARY WOODEN MSS - FCSD - TECH SVC HOTLINE

Placed an outbound call to the Randy to discuss the status of the Explorer. Randy indicated he has not yet been able to verify the concern after the wheel bearing was replaced as the customer currently has the vehicle. He was informed of this concern by the Service Advisor and Service Manager who were contacted by the customer. Randy and I discussed that it will be necessary to bring the vehicle in so the concern can be verified as it is possible that the customer's current concern is different from the drone noise heard prior to wheel bearing replacement. We set a follow-up time for Monday, August 8th to discuss the status of the vehicle.

RECOMM 08/03/2016 12:11PM GARY WOODEN MSS - FCSD - TECH SVC HOTLINE

Randy, Thank you for taking the time to speak with the Ford Escalated Handling Team. As we discussed, it will be necessary to verify the customer's concern and continue with diagnostics to isolate the source of the customer's concern. It is possible that the noise heard by the customer is different from the initial noise that was present when the vehicle was first diagnosed. This is why it is important to consult with the customer to verify any specific conditions that are present when the concern is noticed. (speed the concern is present, turning left or right, driving over

bumps, etc...) Additional research of whistle/buzz type noises did identify TSB 15-0143 for this vehicle. If it is identified that the noise heard is coming from the cowl area, please perform this TSB and reevaluate the concern. A follow-up call has been set for Monday, August 8th to discuss the current status of the vehicle.

ADD-ON 08/03/2016 12:11PM GARY WOODEN MSS - FCSD - TECH SVC HOTLINE

Article TSB 15-0143 WHISTLE OR BUZZ-TYPE NOISE FROM FRONT COWL PANEL GRILLE COVER AT HIGHWAY SPEEDS

ADD-ON 08/03/2016 12:11PM GARY WOODEN MSS - FCSD - TECH SVC HOTLINE

No FMC for this concern
No TFOAMS

Randy (Service Manager) cell# 602-615-0526

The vehicle has been down for 2 days for this concern.

The left front wheel hub assembly was replaced.

Randy has not yet duplicated the concern and the vehicle is not at the Dealer currently. The concern will be verified and NVH diag will be performed when the vehicle returns.

A follow-up call is set for Monday, August 8th to discuss if the vehicle has returned.

CONCER 08/05/2016 08:10PM T ECHHOT MSS - FCSD - TECH SVC HOTLINE

AT THIS TIME WE ARE WORKING ON SCEDULING THE CUSTOMER BACK IN.
8/5/2016 THANKS

CONCER 08/09/2016 04:04PM ZACHARY SUTTON MSS - FCSD - TECH SVC HOTLINE

Outbound Call: A call was placed to the service manager Randy to determine if the vehicle has been scheduled in. Randy informed that the service advisor has not informed him that the customer has been scheduled to return.

RECOMM 08/09/2016 04:04PM ZACHARY SUTTON MSS - FCSD - TECH SVC HOTLINE

Randy, Thank you for the information that the customer has not yet been scheduled to return. Please update this form once further information is known.

ADD-ON 08/09/2016 04:04PM ZACHARY SUTTON MSS - FCSD - TECH SVC HOTLINE

- No open FMC360 - TFOAM activity - previous TAR for different concern.

ADD-ON 08/09/2016 04:04PM ZACHARY SUTTON MSS - FCSD - TECH SVC HOTLINE

Vehicle not at dealer.

CONCER 08/15/2016 02:46PM ZACHARY SUTTON MSS - FCSD - TECH SVC HOTLINE

Outbound Call: A call was placed to the service manager Randy. Randy informed that the customer has not been scheduled back in at this time.

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RECOMM 08/15/2016 02:46PM ZACHARY SUTTON MSS - FCSD - TECH SVC HOTLINE

Randy, Since the customer has not been scheduled to return to the dealership yet, this escalation is going to be closed. If the customer returns and additional assistance is needed update this form and the escalated handling team will continue to work with you to resolve the concern.

ADD-ON 08/15/2016 02:46PM ZACHARY SUTTON MSS - FCSD - TECH SVC HOTLINE

- No open FMC360 - TFOAM activity - previous TAR for different concern.

ADD-ON 08/15/2016 02:46PM ZACHARY SUTTON MSS - FCSD - TECH SVC HOTLINE

Closed 2 days down - customer has not re-scheduled at this time.

CONCER 09/08/2016 06:15PM T ECHHOT MSS - FCSD - TECH SVC HOTLINE

THE CUSTOMER RETURNED WITH THIS VEHICLE.

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Requester: DWASHI49

Report Summary

Server: ECCVWS962

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12-Sep-2016

Retention: None

Server: AWS Prod
 Claims loaded through: 09-SEP-2016

Vehicle Information Report

GENERAL VEHICLE INFORMATION: (Related Claims) (QLS Concerns) (Lincoln PDI)

VIN:	JFMSK8GT8FGA1945	Vehicle Line WERS:	F11B - EXPLORER (11-17)	Engine:	T1A-3.5L-4V DOHC TC V6 (16)
Model Year:	2015	Vehicle Line AWS:	12 - EXPLORER	Global Engine:	B0770 - CYC ONE GAS V6 (11)
Vehicle Type:	T	Vehicle Line Global:	12 - EXPLORER (NA-CAP)	Engine Plant:	EN07 - CLEVELAND 01
Inv. Dealer:	*	Drive Code:	F1 - 4 WHEEL FULL TIME DRIVE	Transmission:	TCC - 6 SPD AUTO TRANS 085
Vehicle Status Code:	800	Body Cab Style:	FWD - 4 DOOR WAGON	Global Trans:	A1104 - AT - 065055 - YD1*
Market Derived:	F - FORD	Version/Series:	TEF - FORD SERIES	Trans Plant:	AJ11 - A T VAN DYKE

BUILD INFORMATION: (Window Sticker) (MVP Info)

Region Built:	NA - NORTH AMERICA	Assembly Plant:	AD - CHICAGO PLANT BUILD	Vehicle Load Date:	24-JUL-2014
Country Built:	USA - UNITED STATES	Production Date:	25-JUL-2014	Vehicle Maintenance Date:	16-NOV-2014

SALE INFORMATION:

Region Sold:	NA - NORTH AMERICA	Arrival Date:	18-AUG-2014	Red Carpet Lease:	*
Country Sold:	USA - UNITED STATES	Sale Date:	01-SEP-2014	Fleet/Retail Co. Lease:	R
Vehicle Count Flag:	Y	Warranty Start Date:	01-SEP-2014	Modified Vehicle:	*
Selling Dealer St/Prov:	AZ	Original WSD:	01-SEP-2014	Warranty Status Ind:	*
Selling Dealer [code]:	DOON SANBERRSON (FORB1171171 - *)	Vehicle Export Flag:	N		

VOC:

8090A4194511338 1 R12 26P055 TR 82103E 2Y DW R 425 11 R 8237111711 2 08 1 10615 2 T1965 7 J 2 401A TGAZ 809240037

EOC:

INSTALLED OPTION INFORMATION:

Air Conditioning:	13 - DUAL ZONE AUTO TEMP CONTROL AC	Color/Trim:	000DW - CHARCOAL BLACK	Navis Engine Serial #:	14C19601031
Alternator Amp Rating:	40	Delivery Type:	0	Paint:	P536Q - TUXEDO BLACK MET
Audio Disk:		Driveshaft Code:	*	Power Antenna:	AV - SATELLITE ANTENNA (SL)

**MCDOWELL, BRIAN
LANG**

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

RE: Process Served in California

FOR: Ford Motor Company (Domestic State: DE)

copy

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

TITLE OF ACTION: Brian Lang McDowell, etc. and Jennifer McDowell, etc., Pltfs. vs. Ford Motor Company, et al., Dfts.

DOCUMENT(S) SERVED: Summons, Complaint, Notice, Attachment(s)

COURT/AGENCY: Orange County - Superior Court - Santa Ana, CA
Case # 30201600866952CUPLCXC

NATURE OF ACTION: Product Liability Litigation - Lemon Law - 2014 Ford Police Interceptor Utility, VIN: 1FMSK8AR6EG03B499

ON WHOM PROCESS WAS SERVED: C T Corporation System, Los Angeles, CA

DATE AND HOUR OF SERVICE: By Process Server on 09/09/2016 at 14:45

JURISDICTION SERVED: California

APPEARANCE OR ANSWER DUE: Within 30 days after service

ATTORNEY(S) / SENDER(S): Brian D. Chase
Bisnar Chase
1301 Dove Street
Suite 120
Newport Beach, CA 92660
949-752-2777

ACTION ITEMS: CT has retained the current log, Retain Date: 09/09/2016, Expected Purge Date: 09/14/2016

Image SOP

Email Notification, Chris Dzbanski cdzbanski@ford.com

Email Notification, Mary Ann MacKinnon mmackin1@ford.com

SIGNED: C T Corporation System
ADDRESS: 818 West Seventh Street
Los Angeles, CA 90017
TELEPHONE: 213-337-4615

9/9/16
2-45

**SUMMONS
(CITACION JUDICIAL)**

SUM-100

NOTICE TO DEFENDANT: **FORD MOTOR COMPANY**; and DOES 1
(AVISO AL DEMANDADO): through 20, inclusive,

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ELECTRONICALLY FILED
Superior Court of California,
County of Orange

08/11/2016 at 04:04:23 PM
Clerk of the Superior Court
By Georgina Ramirez, Deputy Clerk

YOU ARE BEING SUED BY PLAINTIFF: **BRIAN LANG MCDOWELL**,
(LO ESTÁ DEMANDANDO EL DEMANDANTE): individually;
JENNIFER MCDOWELL, 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), 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 non-profit legal services program. You can locate these non-profit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. NOTE: The court has a statutory lien for waived fees and costs or any settlement or arbitration award of \$10,000 or more in a civil case. The courts lien must be paid before the court will dismiss the case. AVISO: Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

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

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de refutación a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov) o localizando un contacto con la corte o el colegio de abogados locales. AVISO: Por ley, la corte tiene derecho a reclamar las costas y los costos eventuales por imponer un gravamen sobre cualquier recuperación de \$10,000 o 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 decretar el caso.

The name and address of the court is:
(El nombre y dirección de la corte es):
SUPERIOR COURT OF CALIFORNIA
751 W. Santa Ana Blvd
P.O. BOX 22018
SANTA ANA, CA 92702-2014

CASE # 30-2016-10866952-CU-PL-CXC

Judge Gail A. Andler

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 SBN: 164109 949.752.2777
BISNAR CHASE

1301 DOVE STREET, SUITE 120
NEWPORT BEACH, CA 92660

DATE: 08/01/2016

CLERK FOR THE COURT

Clerk, by

Georgina Ramirez

Georgina Ramirez

Deputy

(Fecha)

(Secretaria)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para probar de entrega de este 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 416.90 (authorized person) |

4. other (specify): *ABOFU*
by personal delivery on (date):

1 **BISNAR | CHASE**
ONE NEWPORT PLAZA
2 1301 Dove Street, Suite 120
Newport Beach, CA 92660
3 Phone: (949) 752-2999
Facsimile: (949) 752-2777
4 BRIAN D. CHASE, STATE BAR NO. 164109
SCOTT A. RITSEMA, STATE BAR NO. 138193

ELECTRONICALLY FILED
Superior Court of California,
County of Orange
08/01/2016 at 04:04:23 PM
Clerk of the Superior Court
By Georgina Ramirez, Deputy Clerk

5 Attorneys for Plaintiffs

6 SUPERIOR COURT OF STATE OF CALIFORNIA

7 COUNTY OF ORANGE

8
9 BRIAN LANG MCDOWELL, individually;) Case No.: 30-2016-00866952-CU-PL-CXC
JENNIFER MCDOWELL, individually) Judge Gail A. Andler
10) CX-101
11 Plaintiffs,) **COMPLAINT FOR PERSONAL**
vs.) **INJURIES**
12) **1. Strict Product Liability**
13 FORD MOTOR COMPANY; and DOES 1) **2. Negligent Product Liability**
through 20, inclusive,)
14 Defendants.) **AND DEMAND FOR JURY TRIAL**
15)

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

17 **COMMON ALLEGATIONS FOR ALL CAUSES OF ACTION**

- 18 1. Plaintiff BRIAN LANG MCDOWELL (hereafter "OFFICER MCDOWELL")
19 is, and at all relevant times was, a resident of Oceanside, California.
- 20 2. Plaintiff JENNIFER MCDOWELL (hereafter "JENNIFER") is, and at all
21 relevant times was, a resident of Oceanside, California. At all relevant times, JENNIFER was
22 the lawfully wedded wife of OFFICER MCDOWELL.
- 23 3. At all relevant times, defendant FORD MOTOR COMPANY ("FORD") was
24 and is a corporation organized and existing under the laws of the State of Delaware, with a
25 principal place of business in Dearborn, Michigan, and was at all relevant times authorized
26 and/or qualified to do business, and was and is doing business, in the State of California.

27
28

-1-

COMPLAINT FOR DAMAGES

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

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

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

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

26 8. At all relevant times, FORD and DOES 1 through 20, were and are engaged in
27 the business of manufacturing, fabricating, designing, assembling, distributing, selling,
28 inspecting, servicing, repairing, marketing, warranting, modifying, aftermarket equipping and

1 modifying, leasing, renting, retailing, wholesaling and advertising a certain subject 2014 Ford
2 Police Interceptor Utility Vehicle (as well as and/or aftermarket parts and/or installation
3 guides) California License No. 1439152, VIN number 1FM5K8AR6EGB38499 (hereafter,
4 "SUBJECT VEHICLE") and each and every component part thereof, which defendants knew,
5 or in the exercise of reasonable care should have known, would be used without inspection for
6 defects in its parts, mechanisms or design, for use in the State of California and elsewhere. At
7 the time of the incident which gives rise to this action, the SUBJECT VEHICLE was owned
8 by the City of Newport Beach and was used as a marked police vehicle. The SUBJECT
9 VEHICLE is a 2014 Ford Explorer modified for police use.

10 9. On or about September 6, 2015, at approximately 2:13 p.m., on southbound
11 Jamboree Rd., 1424 feet north of San Joaquin Rd. in Newport Beach, CA, OFFICER
12 MCDOWELL, while on duty as a Newport Beach Police Officer, was driving the SUBJECT
13 VEHICLE in route to respond to a traffic collision. OFFICER MCDOWELL was southbound
14 in the number 2 lane travelling at approximately 50-55 MPH. On duty Newport Beach Police
15 Officer Dan Mesri was driving a separate police vehicle, and was traveling southbound in the
16 number one lane slightly behind the SUBJECT VEHICLE. On duty Newport Beach Police
17 Officer Nathan Farris was driving a third police vehicle and was southbound in the number
18 one lane slightly ahead of the SUBJECT VEHICLE. Both Officer Mesri and Officer Farris,
19 among others, witnessed the subsequent accident sequence. OFFICER MCDOWELL
20 suddenly and unexpectedly lost consciousness within the SUBJECT VEHICLE. According to
21 witnesses, and as evidenced by the Dash-Cam video in Officer Mesri's police vehicle, the
22 SUBJECT VEHICLE began drifting to the left. It crossed the number one lane and then
23 crossed the center median. The SUBJECT VEHICLE continued drifting left across the
24 northbound lanes of Jamboree Rd., coming within inches of a head-on collision with a
25 northbound vehicle. The SUBJECT VEHICLE crossed all northbound lanes, went over the
26 curb, and struck a tree head-on. According to witnesses, the SUBJECT VEHICLE never
27 slowed down during the accident sequence. This accident sequence is hereafter referred to as
28 the "SUBJECT INCIDENT."

- 1 14. These SUBJECT DEFECTS included, but were not limited to, the following:
- 2 a. Designing, manufacturing and assembling the SUBJECT VEHICLE in
- 3 such a way that exhaust and other gasses, including poisonous carbon
- 4 monoxide, is allowed to enter the passenger compartment of the
- 5 vehicle.
- 6 b. Designing, manufacturing and assembling the bumpers and/or tailpipes
- 7 of the SUBJECT VEHICLE such that exhaust and other gasses,
- 8 including poisonous carbon monoxide, may accumulate behind the
- 9 bumper and within the interior and exterior panels, allowing those
- 10 gasses to permeate the passenger compartment of the vehicle.
- 11 c. Designing, manufacturing and assembling the SUBJECT VEHICLE
- 12 using defective rear air extractors which permit exhaust and other
- 13 gasses, including poisonous carbon monoxide, to enter the passenger
- 14 compartment of the vehicle.
- 15 d. Designing, manufacturing and assembling the lift-gate in the rear of the
- 16 SUBJECT VEHICLE using defective drain valves, which permit
- 17 exhaust and other gasses, including poisonous carbon monoxide, to
- 18 enter the passenger compartment of the vehicle.
- 19 e. Designing, manufacturing and assembling the SUBJECT VEHICLE
- 20 with sheet metal panels and overlaps which permit exhaust and other
- 21 gasses, including poisonous carbon monoxide, to enter the passenger
- 22 compartment of the vehicle.
- 23 f. Designing, manufacturing and assembling the SUBJECT VEHICLE
- 24 with joints and seams which permit exhaust and other gasses, including
- 25 poisonous carbon monoxide, to enter the passenger compartment of the
- 26 vehicle.
- 27 g. Designing, manufacturing, and assembling the SUBJECT VEHICLE
- 28 with rear auxiliary air conditioning system parts which are defectively

1 designed and/or located too close in proximity to the driver side rear air
2 extractor, such that exhaust and other gasses, including poisonous
3 carbon monoxide, may enter the auxiliary air conditioning system and
4 the passenger compartment of the vehicle

5 h. Failure to warn of the SUBJECT DEFECTS.

6 15. The SUBJECT VEHICLE and each of its component parts and/or aftermarket
7 parts and/or installation guides was unsafe for its intended use and reasonably foreseeable
8 misuses by reason of the defects in its design and/or manufacturing and/or failure to warn by
9 said defendants, and each of them, in that when the SUBJECT VEHICLE was being properly
10 driven, carbon monoxide came into the occupant space in such quantities so as to render
11 OFFICER MCDOWELL to lose consciousness while driving the vehicle at 50-55 MPH.

12 16. As a direct and legal result of the conduct of defendants, and each of them, and
13 the defects inherent in the vehicle, OFFICER MCDOWELL suffered severe and permanent
14 injuries, in turn legally resulting in plaintiffs' special and general damages in a sum in excess
15 of the minimum subject matter jurisdiction of this Superior Court according to proof at trial.
16 OFFICER MCDOWELL's damages include past and future medical expenses, past and future
17 lost earnings, and past and future pain, suffering, and emotional distress. JENNIFER's
18 damages are for the loss of consortium caused by the injuries to her husband, OFFICER
19 MCDOWELL.

20 **ALLEGATIONS SUPPORTING EXEMPLARY DAMAGES PRAYER**

21 **AGAINST FORD ONLY**

22 17. Plaintiffs are further informed and believe and thereon allege that FORD
23 intentionally engaged in conduct which, with respect to the SUBJECT DEFECTS that
24 plaintiffs allege above were a legal cause of their loss, damages, injuries and harm, exposed
25 plaintiffs and other users of the SUBJECT VEHICLE to serious potential danger known to
26 FORD in order to advance FORD's pecuniary interests and thus acted with a conscious
27 disregard for the safety of the plaintiffs and other users of the SUBJECT VEHICLE,
28 warranting an award of exemplary damages against FORD pursuant to *Civil Code* § 3254, and

1 the rule enunciated in *Ford Motor Co. v. Home Ins. Co.* (1981) 116 Cal.App.3d 374, 381-382
2 and *PPG Industries, Inc v. Transamerica Ins. Co.* (1996) 49 Cal.App.4th 1120. The facts
3 supporting FORD's intentional conduct which exposed plaintiffs and other users of the
4 SUBJECT VEHICLE to serious potential danger known to the defendants in order to advance
5 the defendants' pecuniary interests, are on information and belief, as follows.

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

8 19. The SUBJECT VEHICLE is part of the 5th generation FORD Explorer
9 platform, which ran from the 2011 model year to the 2015 model year. Upon information and
10 belief, FORD sold almost 900,000 FORD Explorers from 2011 through 2015, and over
11 65,000 Police Interceptor Utility vehicles from 2012 through 2015.

12 20. After the introduction of the 2011 FORD Explorer, FORD began receiving
13 numerous customer complaints of exhaust odor in the passenger compartments of FORD
14 Explorer vehicles.

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

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

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

2 24. One of the repairs proscribed by FORD's TSB 12-12-4 was to replace the
3 original equipment driver's side rear air extractor with a dual rate air extractor. Upon
4 information and belief, FORD suggested the replacement of the driver's side rear air
5 extractor, but not the passenger side rear air extractor, because the air intake from the
6 auxiliary air conditioning system is situated dangerously close to the driver's side rear air
7 extractor, and this placement allows exhaust to enter the passenger compartment. The
8 replacement part, i.e. the dual rate air extractor, is formed from polypropylene and over-
9 molded with thermoplastic elastomer, and includes "living hinges" and plastic torsional
10 springs which are meant to function as a one-way pneumatic valve. However, FORD
11 modified the dual rate extractors by adding a silicone-like substance to the upper most of the
12 three "living hinges", a substance which was not, on information and belief, intended to be
13 part of the product by its manufacturer. This silicone-like substance causes the "living
14 hinges" to remain open, and allows exhaust fumes to enter the passenger compartment. Thus,
15 the replacement dual rate auto extractors did not fix the problem, and still allows dangerous
16 and deadly exhaust fumes to enter the passenger compartment.

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

21 26. FORD failed to properly seal the horizontal sheet metal lap joints on both
22 sides, and failed to properly seal the rear sheet metal overlap flange across the rear of the
23 vehicle and the auxiliary air conditioning lines, on FORD Explorer vehicles. FORD's TSB
24 12-12-4 suggested spraying "generous amounts" of rubberized undercoating and seam sealer
25 on the foregoing joints, flanges, and lines. However, the suggested repair did not fix the
26 exhaust problem.

27 27. In sum, FORD knew that its FORD Explorer vehicles and Police Interceptor
28 Utility vehicles, including the SUBJECT VEHICLE, were defective in that the design of those

1 vehicles allowed deadly exhaust fumes, including poisonous carbon monoxide, to enter the
2 passenger compartment. FORD failed to notify the general public of this defect, and issued a
3 FORD Technical Safety Bulletin to authorized dealers only, and the suggested repairs failed
4 to fix the problem.

5 28. FORD's design of the 5th generation FORD Explorer platform, specifically
6 related to the defects alleged herein, is the subject of multiple pending class action lawsuits,
7 including but not limited to *Angela Sanchez-Knutson v Ford Motor Company*, case number
8 0:14-cv-61344-WPD pending in the United States District Court, Southern District of Florida,
9 and *Michael Cunningham, et. al. v Ford Motor Company*, case number 3:15-CV-00124,
10 pending in the United States District Court, Southern District of California. Those actions,
11 which were filed prior to the SUBJECT INCIDENT, allege the same defects as alleged
12 herein. Despite the pendency of those class action lawsuits, FORD still made no efforts to
13 notify the general public of the defects in the FORD Explorer vehicles and Police Interceptor
14 Utility vehicles, including the owner and users of the SUBJECT VEHICLE, despite actual
15 knowledge of the defect and the potentially deadly consequences which arise when the drivers
16 of such vehicles are exposed to poisonous carbon monoxide while driving.

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

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

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

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

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

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

14 31. FORD's actions and inactions, as described above, were thus undertaken with
15 a willful and conscious disregard for the rights and safety of consumers and users of FORD
16 Explorer vehicles and Police Interceptor Utility vehicles, including the SUBJECT VEHICLE,
17 in order to advance FORD's pecuniary interests, and such conduct was despicable because
18 such aforesaid conduct would and could kill people. FORD failed to warn the public of the
19 potentially deadly nature of the defect, and failed to recall the involved vehicles, including the
20 SUBJECT VEHICLE, thereby callously and needlessly risking public safety to its own
21 pecuniary benefit.

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

28

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

4 **SECOND CAUSE OF ACTION**

5 **Negligence [Product Liability]**

6 **By all Plaintiffs against all Defendants**

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

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

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

23 37. Defendants, and each of them, so negligently and carelessly, manufactured,
24 designed, assembled, packaged, tested, fabricated, analyzed, inspected, merchandised,
25 marketed, modified, distributed, labeled, advertised, promoted, sold, supplied, leased, rented,
26 repaired, selected and provided inadequate warnings and provided the SUBJECT VEHICLE
27 and each of its component parts and/or aftermarket parts and/or installation guides so that the
28 SUBJECT VEHICLE was a defective and dangerous product, unsafe for its intended uses and

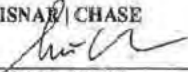
1 purposes when used and driven as recommended or for reasonably foreseeable misuse. In
2 particular, the SUBJECT VEHICLE was designed in a manner which allowed poisonous
3 carbon monoxide gas to enter the occupant driving space from the engine, thereby potentially
4 rendering the driver of the vehicle unconscious while driving. FORD knew about this defect
5 well before the date of the SUBJECT INCIDENT, but failed to adequately warn the public,
6 including the owner and users of the SUBJECT VEHICLE, and failed to recall the defective
7 FORD Explorer vehicles and Police Interceptor Utility vehicles to remedy the defect.

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

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

- 14 1. By OFFICER MCDOWELL, for past and future medical expenses,
15 past and future lost earnings, and past and future non-economic
16 damages for pain, suffering and emotional distress, according to proof;
- 17 2. By JENNIFER 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
24 DATED: July 28, 2016

25 By: 
26 BRIAN D. CHASE
27 SCOTT A. RITSEMA
28 Attorneys for Plaintiffs

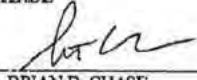
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DEMAND FOR JURY TRIAL

Plaintiffs hereby demand a trial by jury.

DATED: June 6, 2016

BISNAR | CHASE

By: 

BRIAN D. CHASE
SCOTT A. RITSEMA
Attorneys for Plaintiffs

SUPERIOR COURT OF CALIFORNIA, COUNTY OF ORANGE STREET ADDRESS: 751 W. Santa Ana Blvd MAILING ADDRESS: P.O. Box 22028 CITY AND ZIP CODE: Santa Ana CA 92702 BRANCH NAME: Civil Complex Center	FOR COURT USE ONLY
SHORT TITLE: McDowell vs. Ford Motor Company	
NOTICE OF CONFIRMATION OF ELECTRONIC FILING	CASE NUMBER: 30-2016-00866952-CU-PL-CXC

The Electronic Filing described by the below summary data was reviewed and accepted by the Superior Court of California, County of Orange Court. In order to process the filing, the fee shown was assessed.

Electronic Filing Summary Data

Electronically Submitted By: Brian McDowell
 On Behalf of: Jennifer McDowell; CCMS ID: 76063842, Brian McDowell; CCMS ID: 76063841
 Transaction Number: 2482312
 Court Received Date: 08/01/2016
 Court Received Time: 04:04:23 PM
 Filed Date: 08/01/2016
 Filed Time: 04:04 PM
 Fee Amount Assessed: \$1,435.00
 Case Number: 30-2016-00866952-CU-PL-CXC
 Case Title: McDowell vs. Ford Motor Company
 Location: Civil Complex Center
 Case Type: Product Liability
 Case Category: Civil - Unlimited
 Jurisdictional Amount: > 25000

<u>Documents Electronically Filed/Received</u>	<u>Status</u>
Complaint	Accepted
Civil Case Cover Sheet	Accepted
Summons Issued and Filed	Accepted

Court Generated Documents

Payment Receipt

Comments

Submitter's Comments:

Clerk's Comments: Complex Civil Cases
 ADR Packet - <http://www.occourts.org/forms/local/l1200.pdf>
 Court Schedule - <http://www.occourts.org/directory/civil/complex-civil/calendar-sche>

Electronic Filing Service Provider Information

Service Provider: LegalConnect
Email: support@legalconnect.com
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SUPERIOR COURT OF CALIFORNIA,
COUNTY OF ORANGE
CIVIL COMPLEX CENTER

MINUTE ORDER

DATE: 09/02/2016 TIME: 01:30:00 PM DEPT: CX101
JUDICIAL OFFICER PRESIDING: At the Direction of Gail Andler
CLERK: Mary White
REPORTER/VERM:
BAILIFF/COURT ATTENDANT:

CASE NO: 30-2016-00866952-CU-PL-CXC CASE INIT.DATE: 08/01/2016
CASE TITLE: McDowell vs. Ford Motor Company
CASE CATEGORY: Civil - Unlimited CASE TYPE: Product Liability

EVENT ID/DOCUMENT ID: 72439575
EVENT TYPE: Chambers Work

APPEARANCES

There are no appearances by any party.

Each party who has not paid the Complex fee of \$ 1000 as required by Government Code section 70616 shall pay the fee to the Clerk of the Court within 10 calendar days from date of this minute order. Failure to pay required fees may result in the dismissal of complaint/cross-complaint or the striking of responsive pleadings and entry of default.

The Court finds that this case is exempt from the case disposition time goals imposed by California Rule of Court, rule 3.714 due to exceptional circumstances and estimates that the maximum time required to dispose of this case will exceed twenty-four months due to the following case evaluation factors of California Rules of Court, rules 3.715 and 3.400: Case is Complex.

This case is subject to mandatory electronic filing pursuant to Superior Court Rules, County of Orange, Rule 352. Plaintiff shall give notice of the Status Conference and the electronic filing requirement to all parties of record or known to plaintiff, and shall attach a copy of this minute order.

The Case Management Conference is scheduled for 10/26/2016 at 09:00 AM in Department CX101.

Plaintiff shall, at least 5 court days before the hearing, file with the Court and serve on all parties of record or known to Plaintiff a brief, objective summary of the case, its procedural status, the contentions of the parties and any special considerations of which the Court should be aware. Other parties who think it necessary may also submit similar summaries three court days prior to the hearing. DO NOT use the CMC (Case management Statement) form used for non-complex cases (Judicial Council Form CM-110).

DATE: 09/02/2016
DEPT: CX101

MINUTE ORDER

Page 1
Calendar No.

Clerk to give notice to Plaintiff and Plaintiff to give notice to all other parties and serve a copy of attached Department CX101 CMC and Status Conference Procedures.

Department CX 101 CMC and Status Conference Procedures

Please refer to the Complex Civil Department Guidelines and the procedures specifically posted for Department CX 101. Counsel must comply with the Meet and Confer Requirements of CRC 3.724 and 3.727.

Wherever possible, parties should submit a Joint CMC Statement, but the Judicial Council form should not be used. Counsel should include in the Statement a discussion of the subjects set forth in CRC 3.727, including a summary of the status of the pleadings and parties, and advise the court of any issues which need to be addressed by the court. The Statement should also indicate that counsel have met and conferred regarding ADR, including Early Neutral Evaluation, Mediation and Arbitration. The Statement should not reveal the content of any settlement discussions but should advise the court if the parties are willing to utilize one or more forms of ADR to aid in the resolution of all or part of the case.

Pursuant to CRC 3.724(8), prior to the case management conference, counsel must meet and confer regarding any anticipated issues related to the discovery of electronically stored information (ESI). The Statement should confirm that this conference has taken place.

The initial CMC Statement should be submitted 5 days prior to the CMC unless otherwise ordered by the court. For subsequent case management conferences and status conferences, joint statements should be submitted at least 5 court days prior to the conference unless otherwise ordered by the court, and should provide an update on the subjects set forth in CRC 3.727 including the status of the attempts to identify and serve parties, anticipated amendments to the pleadings, anticipated law and motion, and progress toward resolution, without divulging the content of settlement discussions. Counsel should confirm that there has been a cooperative informal exchange of information, or that such is being discussed. If formal discovery is contemplated, counsel should confirm that they have met and conferred regarding a timeline for conducting and completing discovery, including a timeline for depositions.

Additional case management conferences or status conferences will be set as determined by the court. Additionally, counsel are encouraged to set up a web page for the case through a third party provider to host a bulletin board for communications about the case, and in order to effectuate e-service. However, all documents must still be filed electronically with the Orange County Superior Court as required by Orange County Superior Court policy.

Department CX 101 Ex Parte Procedures

Please refer to the procedures specifically posted for Department CX 101. Often, ex parte applications are used to bring issues before the court which do not present exigent circumstances, but nevertheless present issues which the parties view as important and time-sensitive. However, ex parte applications may impose an undue expense or burden on opposing parties due to the minimal time to respond and the disruption to the practice of opposing counsel. As an alternative, by agreement of all counsel, the parties may contact the courtroom clerk to arrange for an informal conference with the court, either

telephonic or in person, at which time Judge Andler will engage counsel in an interactive discussion designed to promote resolution of the specific dispute.

In cases which present true emergencies, not caused by the lack of diligence of counsel, parties may present an ex parte application which complies with all applicable rules including the procedures specifically posted for Department CX 101. Such rules require moving party to call and notify the courtroom clerk no later than 10:00 a.m. the day before the matter is to be heard, and, all moving papers must be filed no later than noon the day before the matter is to be heard. In addition to notifying all other parties as required by law, the moving party MUST provide notification that any opposition must be in writing. The court may, in its discretion, decide the matter in chambers based on the moving papers and any written opposition, without oral argument.

Department CX 101 Law and Motion Procedures

Please refer to the Complex Civil Department Guidelines and the procedures specifically posted for Department CX 101.

Argument should not be placed in footnotes or in a Notice of Motion or Declaration. Footnotes, if used, should only indicate the case cite (e.g., Doe v Roe (1999) 23 Cal.3d 53) or record cite (e.g., AR53-122 or RT 6/25/12 p5, ll 12-20). Page limits, font size, line spacing and the other procedural requirements set forth in the CRC, CCP and governing code sections are strictly enforced. Failure to comply with these procedures may result in the court, in its discretion, striking or declining to consider the entire document.

In addition, each motion must be supported by a **separate** notice and memorandum of points and authorities, and, where applicable, separate supporting evidence. Unless specifically authorized by Judge Andler, no combined or "omnibus" motions, oppositions, replies, joinders, Requests for Judicial Notice, or supporting declarations may be filed. Each set of moving, opposing, and reply papers must be complete without combining or incorporating by reference the arguments or evidence filed in connection with other motions. As examples, parties may not combine, in one motion, motions to compel responses to interrogatories and motions to compel document production, nor may a party who is subject to demurrers by more than one party file a combined opposition unless specifically authorized by Judge Andler.

Department CX 101 Trial Procedures

Please refer to the Complex Civil Department Guidelines and the procedures specifically posted for Department CX 101.

In addition, counsel must comply with all requirements set forth in Rule 317 of the Local Rules of the Orange County Superior Court, including but not limited to the timely exchange of exhibits, documents, motions in limine (and oppositions), trial briefs at least 10 days prior to trial.

Additionally, counsel are ordered to meet and confer in this same time frame regarding jury instructions and verdict form(s). The required documents *including* proposed jury instructions and verdict forms must be electronically filed with a courtesy copy submitted to the courtroom clerk in department CX 101 no later than noon of the Friday before trial. The jury instructions and verdict form(s) must be jointly submitted in two packets: one of all agreed upon instructions and verdict form(s), and one of all disputed instructions and verdict form(s). Counsel should not submit separately the instructions and verdict form requested by each party.

As set forth in Rule 317, failure to comply with such Rule may result in the imposition of sanctions pursuant to Rule 381. Additionally, in the discretion of the court, jury instructions and verdict forms not submitted by this deadline may be treated as untimely and may not be considered.

Wherever possible, at the outset of the litigation the parties should agree to use a series of numbers for exhibits during discovery which can be maintained through the litigation and trial so that deposition exhibits can have the same number as trial exhibits. All trial exhibits must have each page numbered; e.g., a 5 page contract marked as exhibit 12 should have each of its pages marked in sequence as 12.1 through 12.5. Counsel should avoid marking as exhibits documents which are duplicates to exhibits marked by other parties. Presentation of the exhibits in electronic form is encouraged.

Once trial has commenced, counsel should not file any briefs or motions unless expressly authorized by the court to do so. The purpose of this procedure is to prevent one party from interrupting the trial preparation of another party by serving non-statutory motions during trial. However, from time to time the court may invite pocket briefs or letter briefs on key issues, and will so advise counsel.

SUPERIOR COURT OF CALIFORNIA, COUNTY OF ORANGE Civil Complex Center 751 W. Santa Ana Blvd Santa Ana, CA 92701	
SHORT TITLE: McDowell vs. Ford Motor Company	
CLERK'S CERTIFICATE OF MAILING/ELECTRONIC SERVICE	CASE NUMBER: 30-2016-00866952-CU-PL-CXC

I certify that I am not a party to this cause. I certify that the following document(s), Minute Order dated 09/02/16, have been transmitted electronically by Orange County Superior Court at Santa Ana, CA. The transmission originated from email address on September 2, 2016, at 4:40:47 PM PDT. The electronically transmitted document(s) is in accordance with rule 2.251 of the California Rules of Court, addressed as shown above. The list of electronically served recipients are listed below:

BISNAR & CHASE
 RHERNANDEZ@BISNARCHASE.COM

Clerk of the Court, by: Mary X. White, Deputy

CLERK'S CERTIFICATE OF MAILING/ELECTRONIC SERVICE

D135850

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The Law Offices of
KOLAR & ASSOCIATES
A Law Corporation

12241 Newport Avenue
Santa Ana, California 92705
Telephone (714) 544-0041 Facsimile (714) 544-0051
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VIA E-MAIL ONLY

February 13, 2018

General Counsel
FORD MOTOR COMPANY
One American Road, Suite 402-A4
Dearborn, MI 48126
fordlap@ford.com

Re: **McDowell, Brian Lang, et al. v. Ford Motor Company, et al.**

Dear General Counsel:

Our firm represents AutoNation Ford Tustin in the above entitled case in which AutoNation Ford Tustin and Ford Motor Company have been named as Defendants. Please allow this letter to serve as a formal request on behalf of AutoNation Ford Tustin for Ford Motor Company to accept its tender of defense in this case.

Brian Lang McDowell and Jennifer McDowell's Second Amended Complaint, served on January 31, 2018 alleges the following causes of action:

- (1) **STRICT PRODUCT LIABILITY.**
- (2) **NEGLIGENCE [PRODUCT LIABILITY].**

The underlying complaints are those of an alleged defect in the vehicle concerning exhaust and gasses and other carbon monoxide entering the passenger compartment, the bumper, tailpipes, rear air extractors, the lift-gate, sheet metal panels which allow exhaust and gasses and other carbon monoxide into the vehicle, joints and seams which allow exhaust gasses and other carbon monoxide into the vehicle, and the rear auxiliary air conditioning system. Therefore, we tender this case to Ford Motor Company on behalf of AutoNation Ford Tustin.

As you are aware, the Dealer Agreement, along with statutory and common law, require that Ford Motor Company defend any suit against AutoNation Ford Tustin seeking damages for personal property or property damage arising out of a product defect or non-conformity. If Ford Motor Company fails to defend AutoNation Ford Tustin in this matter, it will be bound to AutoNation Ford Tustin for the amount of any liability which AutoNation Ford Tustin sustains as a result of any judgment, claim or award in the action

The Law Offices of
KOLAR & ASSOCIATES

Re: McDowell, Brian Lang, et al. v. Ford Motor Company, et al.
February 13, 2018
Page 2

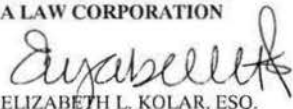
in addition to reasonable attorneys' fees and other reasonable and necessary costs incurred by AutoNation Ford Tustin in defending the action.

Please advise us as soon as possible regarding AutoNation Ford Tustin's Tender for Defense and Indemnification so that we may avoid the need for any unnecessary expenditures in fees and costs on behalf of our client. **Please also note that AutoNation Ford Tustin's response to the Complaint is 03/02/2018 so we would very much appreciate a response in advance of that date.**

Thank you for your anticipated prompt response.

Sincerely,

**KOLAR & ASSOCIATES,
A LAW CORPORATION**



ELIZABETH L. KOLAR, ESQ.
ELK:

Enclosure: Summons and Complaint

F:\AbacusLaw\Docs\ESI-18016-TC-2018_02_13.Initial Tender.docx

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2 *bchase@bismarchase.com*
3 Scott A. Ritsema, Esq. (SBN 138193)
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10 Attorneys for Plaintiffs

ELECTRONICALLY FILED
Superior Court of California,
County of Orange
04/17/2017 at 01:28:00 PM
Clerk of the Superior Court
By Sarah Loose, Deputy Clerk

11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
12 **COUNTY OF ORANGE**

13 **BRIAN LANG MCDOWELL, individually;**
14 **and JENNIFER MCDOWELL, individually**

15 **Plaintiffs,**

16 **vs.**

17 **FORD MOTOR COMPANY; BOB**
18 **WONDRIES FORD; and DOES 1-20;**

19 **Defendants.**

CASE NO. 30-2016-00866952-CU-PL-CXC

Assigned to: Hon. Glenda Sanders
Dept.: CX-101

**PLAINTIFFS' SECOND AMENDED
COMPLAINT**

20
21 Come now plaintiffs for causes of action against defendants, alleging as follows:

22 **COMMON ALLEGATIONS FOR ALL CAUSES OF ACTION**

- 23 1. Plaintiff BRIAN LANG MCDOWELL (hereafter "OFFICER MCDOWELL") is,
24 and at all relevant times was, a resident of Oceanside, California.
25 2. Plaintiff JENNIFER MCDOWELL (hereafter "JENNIFER") is, and at all relevant
26 times was, a resident of Oceanside, California. At all relevant times, JENNIFER was the
27 lawfully wedded wife of OFFICER MCDOWELL.
28 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 BOB WONDRIES FORD ("WONDRIES") was
4 and is a business, form unknown, with a principal place of business in Alhambra, California, and
5 was and is at all relevant times authorized and/or qualified to do business, and was and is doing
6 business, in the State of California.

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

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

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

24 8. Plaintiffs are informed and believe, and based thereupon allege, that at all times
25 mentioned herein each of the defendants, including Defendant DOES 1-20, inclusive, and each of
26 them, were the agents, servants, employees, representatives of each of the remaining defendants
27 and were at all times material hereto acting within the authorized course and scope of said
28 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.

9. At all relevant times, FORD, WONDRIES, and DOES 1-20 were and are engaged
in the business of manufacturing, fabricating, designing, assembling, distributing, selling,

1 inspecting, servicing, repairing, marketing, warranting, modifying, aftermarket equipping and
2 modifying, leasing, renting, retailing, wholesaling and advertising a certain subject 2014 Ford
3 Police Interceptor Utility Vehicle (as well as and/or aftermarket parts and/or installation guides)
4 California License No. 1439152, VIN number 1FM5K8AR6EGB38499 (hereafter, "SUBJECT
5 VEHICLE") and each and every component part thereof, which defendants knew, or in the
6 exercise of reasonable care should have known, would be used without inspection for defects in
7 its parts, mechanisms or design, for use in the State of California and elsewhere. At the time of
8 the incident which gives rise to this action, the SUBJECT VEHICLE was owned by the City of
9 Newport Beach and was used as a marked police vehicle. The SUBJECT VEHICLE is a 2014
10 Ford Explorer modified for police use.

11 10. On or about September 6, 2015, at approximately 2:13 p.m., on southbound
12 Jamboree Rd., 1424 feet north of San Joaquin Rd. in Newport Beach, CA, OFFICER
13 MCDOWELL, while on duty as a Newport Beach Police Officer, was driving the SUBJECT
14 VEHICLE in route to respond to a traffic collision. OFFICER MCDOWELL was southbound in
15 the number 2 lane. On duty Newport Beach Police Officer Dan Mesri was driving a separate
16 police vehicle, and was traveling southbound in the number one lane slightly behind the
17 SUBJECT VEHICLE. On duty Newport Beach Police Officer Nathan Farris was driving a third
18 police vehicle and was southbound in the number one lane slightly ahead of the SUBJECT
19 VEHICLE. Both Officer Mesri and Officer Farris, among others, witnessed the subsequent
20 accident sequence. OFFICER MCDOWELL suddenly and unexpectedly lost consciousness
21 within the SUBJECT VEHICLE. According to witnesses, and as evidenced by the Dash-Cam
22 video in Officer Mesri's police vehicle, the SUBJECT VEHICLE began drifting to the left. It
23 crossed the number one lane and then crossed the center median. The SUBJECT VEHICLE
24 continued drifting left across the northbound lanes of Jamboree Rd., coming within inches of a
25 head-on collision with a northbound vehicle. The SUBJECT VEHICLE crossed all northbound
26 lanes, went over the curb, and struck a tree head-on. According to witnesses, the SUBJECT
27 VEHICLE never slowed down during the accident sequence. This accident sequence is hereafter
28 referred to as the "SUBJECT INCIDENT."

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///

1 **FIRST CAUSE OF ACTION**

2 **Strict Product Liability**

3 **By All Plaintiffs against all Defendants**

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

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

9 13. The SUBJECT VEHICLE and each of its component parts and/or aftermarket
10 parts and/or installation guides mentioned was manufactured, designed, assembled, packaged,
11 tested, fabricated, analyzed, inspected, merchandised, marketed, distributed, labeled, advertised,
12 promoted, sold, supplied, leased, rented, repaired, modified, aftermarket modified, adjusted,
13 selected and used with inherent vices and defects both in design and manufacturing and by
14 failure to warn (hereinafter the "SUBJECT DEFECTS"), which made it dangerous, hazardous
15 and unsafe both for its intended use or for reasonably foreseeable misuses.

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

- 17 a. Designing, manufacturing and assembling the SUBJECT VEHICLE in
18 such a way that exhaust and other gasses, including poisonous carbon
19 monoxide, is allowed to enter the passenger compartment of the vehicle.
- 20 b. Designing, manufacturing and assembling the bumpers and/or tailpipes of
21 the SUBJECT VEHICLE such that exhaust and other gasses, including
22 poisonous carbon monoxide, may accumulate behind the bumper and
23 within the interior and exterior panels, allowing those gasses to permeate
24 the passenger compartment of the vehicle.
- 25 c. Designing, manufacturing and assembling the SUBJECT VEHICLE using
26 defective rear air extractors which permit exhaust and other gasses,
27 including poisonous carbon monoxide, to enter the passenger compartment
28 of the vehicle.
- d. Designing, manufacturing and assembling the lift-gate in the rear of the
SUBJECT VEHICLE using defective drain valves, which permit exhaust
and other gasses, including poisonous carbon monoxide, to enter the
passenger compartment of the vehicle.

- 1 e. Designing, manufacturing and assembling the SUBJECT VEHICLE with
2 sheet metal panels and overlaps which permit exhaust and other gasses,
3 including poisonous carbon monoxide, to enter the passenger compartment
4 of the vehicle.
5 f. Designing, manufacturing and assembling the SUBJECT VEHICLE with
6 joints and seams which permit exhaust and other gasses, including
7 poisonous carbon monoxide, to enter the passenger compartment of the
8 vehicle.
9 g. Designing, manufacturing, and assembling the SUBJECT VEHICLE with
10 rear auxiliary air conditioning system parts which are defectively designed
11 and/or located too close in proximity to the driver side rear air extractor,
12 such that exhaust and other gasses, including poisonous carbon monoxide,
13 may enter the auxiliary air conditioning system and the passenger
14 compartment of the vehicle
15 h. Failure to warn of the SUBJECT DEFECTS.

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

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

28 **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

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

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

13 19. The SUBJECT VEHICLE is part of the 5th generation FORD Explorer platform,
14 which ran from the 2011 model year to the 2015 model year. Upon information and belief,
15 FORD sold almost 900,000 FORD Explorers from 2011 through 2015, and over 65,000 Police
16 Interceptor Utility vehicles from 2012 through 2015.

17 20. After the introduction of the 2011 FORD Explorer, FORD began receiving
18 numerous customer complaints of exhaust odor in the passenger compartments of FORD
19 Explorer vehicles.

20 21. In or about December, 2012, FORD issued a Technical Service Bulletin (TSB 12-
21 12-4) titled "Explorer Exhaust Odor in Vehicle" which acknowledged that "[s]ome 2011-2013
22 Explorer vehicles may exhibit an exhaust odor in the vehicle with the auxiliary climate control
23 system on. Customers may indicate the odor smells like sulfur." Subsequent to issuing TSB 12-
24 12-14, FORD issued TSB 14-0130 which again acknowledged an exhaust odor in FORD
25 Explorer vehicles, and added the 2014 and 2015 model year Explorer vehicles to the list of
26 affected vehicles. FORD's TSB 12-12-4 and TSB 14-0130 were issued to authorized FORD
27 dealers only, and did not notify non-FORD automotive facilities or the general public of the
28 exhaust problem, and did not mention the fact that poisonous carbon monoxide gas could enter
the passenger compartment and affect the driver.

29 22. FORD failed to notify the general public of the exhaust and carbon monoxide
defect despite FORD's actual knowledge that the defect caused potentially life threatening

1 consequences to occupants of the vehicles. FORD failed to recall FORD Explorer vehicles,
2 including Police Interceptor Utility vehicles to remedy the potential life threatening defect.

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

4 24. One of the repairs proscribed by FORD's TSB 12-12-4 was to replace the original
5 equipment driver's side rear air extractor with a dual rate air extractor. Upon information and
6 belief, FORD suggested the replacement of the driver's side rear air extractor, but not the
7 passenger side rear air extractor, because the air intake from the auxiliary air conditioning system
8 is situated dangerously close to the driver's side rear air extractor, and this placement allows
9 exhaust to enter the passenger compartment. The replacement part, i.e. the dual rate air extractor,
10 is formed from polypropylene and over-molded with thermoplastic elastomer, and includes
11 "living hinges" and plastic torsional springs which are meant to function as a one-way pneumatic
12 valve. However, FORD modified the dual rate extractors by adding a silicone-like substance to
13 the upper most of the three "living hinges", a substance which was not, on information and
14 belief, intended to be part of the product by its manufacturer. This silicone-like substance causes
15 the "living hinges" to remain open, and allows exhaust fumes to enter the passenger
16 compartment. Thus, the replacement dual rate auto extractors did not fix the problem, and still
17 allows dangerous and deadly exhaust fumes to enter the passenger compartment.

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

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

28 27. In sum, FORD knew that its FORD Explorer vehicles and Police Interceptor
Utility vehicles, including the SUBJECT VEHICLE, were defective in that the design of those
vehicles allowed deadly exhaust fumes, including poisonous carbon monoxide, to enter the
passenger compartment. FORD failed to notify the general public of this defect, and issued a

1 FORD Technical Safety Bulletin to authorized dealers only, and the suggested repairs failed to
2 fix the problem.

3 28. FORD's design of the 5th generation FORD Explorer platform, specifically related
4 to the defects alleged herein, is the subject of multiple pending class action lawsuits, including
5 but not limited to *Angela Sanchez-Knutson v Ford Motor Company*, case number 0:14-cv-61344-
6 WPD pending in the United States District Court, Southern District of Florida, and *Michael*
7 *Cunningham, et. al. v Ford Motor Company*, case number 3:15-CV-00124, pending in the United
8 States District Court, Southern District of California. Those actions, which were filed prior to the
9 SUBJECT INCIDENT, allege the same defects as alleged herein. Despite the pendency of those
10 class action lawsuits, FORD still made no efforts to notify the general public of the defects in the
11 FORD Explorer vehicles and Police Interceptor Utility vehicles, including the owner and users of
12 the SUBJECT VEHICLE, despite actual knowledge of the defect and the potentially deadly
13 consequences which arise when the drivers of such vehicles are exposed to poisonous carbon
14 monoxide while driving.

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

- 20 A. "It seems to be happening across the only - across the design line. They can't - so
21 then it really is a design issue, not a problem with this particular vehicle." (Transcript
22 at 50:2-6).
- 23 B. "There is another fine line there that, you know, this is happening across the - the
24 Explorers over a number of years. It - it doesn't seem to be a problem with an
25 individual part or an individual vehicle that was misbuilt. It does seem to be a design
26 issue." (Transcript at 83:13-18).
- 27 C. "And then, in terms of - of repairs. As I said, we're working on it. I wish I had a
28 better answer for that. I don't, and I can only apologize on behalf of Ford for that,
because, you know, it's obviously taking longer than anybody wants, especially our
customers who have the vehicle. (Transcript at 51:2-8).
- D. "In terms of the request for repairs, 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.

1 I know that that's what the customer was told, you know, all those months ago; but
2 we feel that we've taken steps along the way. We have come out with two technical
3 service bulletins trying to address it, and we do want to get it fixed. So we are not
4 saying no to a repair; we are just saying we have to have the fix first." (Transcript at
5 84:25-85:12).

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

8 31. FORD's actions and inactions, as described above, were thus undertaken with a
9 willful and conscious disregard for the rights and safety of consumers and users of FORD
10 Explorer vehicles and Police Interceptor Utility vehicles, including the SUBJECT VEHICLE, to
11 advance FORD's pecuniary interests, and such conduct was despicable because such aforesaid
12 conduct would and could kill people. FORD failed to warn the public of the potentially deadly
13 nature of the defect, and failed to recall the involved vehicles, including the SUBJECT
14 VEHICLE, thereby callously and needlessly risking public safety to its own pecuniary benefit.

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

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

24 **SECOND CAUSE OF ACTION**

25 **Negligence [Product Liability]**

26 **By all Plaintiffs against all Defendants**

27 34. Plaintiffs incorporate, repeat and re-allege each and every allegation in paragraphs
28 1 through 33, above, and incorporate the same by reference as though set forth in detail herein.

35. At all times mentioned, defendants and each of them, had a duty to reasonably and
properly manufacture, design, assemble, package, test, fabricate, analyze, inspect, merchandise,
market, distribute, label, advertise, promote, sell, supply, lease, rent, warn, select, inspect and

1 repair the SUBJECT VEHICLE and each of its component parts and/or aftermarket parts and/or
2 installation guides.

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

11 37. Defendants, and each of them, so negligently and carelessly, manufactured,
12 designed, assembled, packaged, tested, fabricated, analyzed, inspected, merchandised, marketed,
13 modified, distributed, labeled, advertised, promoted, sold, supplied, leased, rented, repaired,
14 selected and provided inadequate warnings and provided the SUBJECT VEHICLE and each of
15 its component parts and/or aftermarket parts and/or installation guides so that the SUBJECT
16 VEHICLE was a defective and dangerous product, unsafe for its intended uses and purposes
17 when used and driven as recommended or for reasonably foreseeable misuse. In particular, the
18 SUBJECT VEHICLE was designed in a manner which allowed poisonous carbon monoxide gas
19 to enter the occupant driving space from the engine, thereby potentially rendering the driver of
20 the vehicle unconscious while driving. FORD knew about this defect well before the date of the
21 SUBJECT INCIDENT, but failed to adequately warn the public, including the owner and users
22 of the SUBJECT VEHICLE, and failed to recall the defective FORD Explorer vehicles and
23 Police Interceptor Utility vehicles to remedy the defect.

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

27 WHEREFORE, plaintiffs pray for judgment against defendants and each of them, as
28 follows:

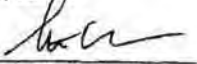
1. By OFFICER MCDOWELL, for past and future medical expenses, past and future lost earnings, and past and future non-economic damages for pain, suffering and emotional distress, according to proof;

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2. By JENNIFER for past and future non-economic damages for loss of consortium;
3. For interest according to law;
4. For costs of suit incurred herein;
5. For exemplary damages against FORD only;
6. For such other relief as the court deems just and proper.

DATED: February 28, 2016

BISNAR | CHASE

By: 
SCOTT A. RITSEMA
Attorneys for Plaintiffs

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McDowell, B v Ford 35577-02884
 DVR, KTR, DPH, KSW,
 LM, KS, AJ, YP
 OCMail *ETZ* KSW

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California Highway Patrol
 Santa Ana Area

MAIT SUPPLEMENTAL

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



MAIT PERSONNEL

Sergeant C. Buono, ID 17357, Border Division MAIT Team Leader
 Officer J. Isbister, ID 14748, Border Division MAIT Investigator
 Officer J. Snider, ID 15406, Border Division MAIT Investigator
 Officer S. Parent, ID 16159, Border Division MAIT Investigator*
 Motor Carrier Specialist-I T. Carlson, Border Division MAIT

*Denotes primary investigator

SUBPOENAS FOR MAIT PERSONNEL SHOULD BE DIRECTED TO:

California Highway Patrol
 Border Division Special Services Command - MAIT
 9330 Farnham Street
 San Diego, California 92123
 Attention: Sergeant C. Buono

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FACTS – INTRODUCTION

MAIT Notification

At 1540 hours, on Sunday, September 6, 2015, CHP Border Division Special Services Commander, Captain D. Schroder, ID 12838, advised Sergeant Buono of a request to assist the CHP Santa Ana Area with the investigation of a severe-injury collision involving an on-duty emergency vehicle. The collision had occurred earlier that day at 1413 hours. The scene was located on Jamboree Road, north of San Joaquin Hills Road, in the city of Newport Beach and county of Orange. The collision involved a Newport Beach Police Department (NBPD) 2014 Ford Police Interceptor Utility driven by NBPD Officer Brian McDowell, who sustained severe injuries.

Scope of Investigation

The scope of this MAIT investigation was limited to the following investigative responsibilities:

- Scene survey
- Physical evidence collection and analysis
- The imaging and analysis of data recorded on the airbag control module (ACM) installed in the Ford
- Video analysis
- Mechanical inspection and analysis
- Time position analysis

Throughout this report, unless otherwise indicated, all times, speeds, and measurements are approximate, and date references are for the year 2015. Vehicle-based direction references are oriented from the driver's seat looking forward.

Investigation Overview

Sunday, September 6

At 1651 hours, Sergeant Buono, Investigators Isbister, Snider, and Parent, along with Motor Carrier Specialist-I (MCS-I) Carlson, began arriving at the collision scene. While at the scene, the condition and location of the physical evidence and characteristics of the environment were documented in digital images and measurements.

At 1954 hours, Investigator Parent imaged the data recorded on the airbag control module installed in the Ford.

Tuesday, September 8

Investigator Isbister received, from NBPD Officer D. Darling, ID 1200, the following:

- A 9-page NBPD Communications Event Report related to the traffic collision.
- A two-page NBPD Patrol and Traffic schedule for September 6, 2015

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FACTS – INTRODUCTION

Investigation Overview

Wednesday, September 9

Investigator Isbister received, from NBPD Officer Darling, the following items:

- Optical discs containing 22 digital images taken by Huntington Beach Police Department (HBPD) personnel from HBPD helicopter HB1, 200 digital images of the scene taken by NBPD Crime Scene Investigator (CSI) C. Lawton, ID 1101, and 38 digital images of the Ford taken by NBPD CSI D. Gage, ID 1103.
- Optical disc containing 3-dimensional scan data of the Ford and a flash drive containing 3-dimensional scan data of the scene, scanned by CSI Lawton and Gage.
- Optical disc containing video recorded by the in-car video systems installed in the Ford and the Ford Police Interceptor Utility driven by NBPD Officer S. Mesri, ID 1391.

Thursday, September 10

At 0900 hours, MCS-I Carlson arrived at the impound facility of Greater Southern California Towing, Inc. [2202 West 5th Street, Santa Ana, California]. While there, a mechanical inspection of the Ford was conducted.

Friday, November 20

Investigator Isbister received, from NBPD Officer Darling, the following:

- A 31-page NBPD Vehicle History report for unit #2049, the Ford involved in this collision.

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FACTS – PHYSICAL EVIDENCE DESCRIPTION

Overview

On September 6, MAIT investigators surveyed characteristics of the environment and physical evidence. The survey was conducted utilizing a total station survey system (TSSS). The TSSS included a Trimble S6 total station surveying instrument (TSSI), Trimble TSC3 controller, and a 360-degree prism reflector. Investigator Parent operated the Trimble S6 remotely via the Trimble TSC3 controller.

A rectangular coordinate system was established at an arbitrary location within the raised grass median north of San Joaquin Hills Road. An inlet in the median 1,332 feet¹ (measured along the lane line separating the northbound #1 and #2 lanes of Jamboree Road) north of the north curb prolongation of San Joaquin Hills Road was used as a reference. The TSSI was located at the origin² and assigned northing, easting, and elevation coordinates of 0.000, 0.000, and 0.000 respectively. A backsight point located north (magnetic) of the TSSI was measured at an assigned azimuth of 0°00'00". The coordinates increased to the north and east. The TSSI was located 96.3 feet south of the above referenced inlet (measured along the east curb edge of the raised median) and 10.6 feet west of, and perpendicular to, the same curb edge. Refer to Annex A for the list of data points collected and their corresponding coordinates.

Physical Evidence Legend

The following table contains a list of the physical evidence surveyed by MAIT investigators on September 6.

Table 1
Physical Evidence Identified and Documented by MAIT Investigators

Item	Point(s)	Item Description and Width at Specific Data Points
1	304 – 309	A tire friction mark, 5.3 feet in length
	304	Begin, tapered point
	305	0.4 foot in width
	306	0.3 foot in width
	307	0.4 foot in width
	308	0.6 foot in width
	309	End, tapered point
2	310 – 311	A gouge, 0.4 foot in length
	310	Begin, less than 0.1 foot in width
	311	End, less than 0.1 foot in width
3	312 – 314	A tire friction mark, 4.4 feet in length
	312	Begin, tapered point
	313	0.8 foot in width
	314	End, 0.4 foot in width

(table continues)

¹ Distance was obtained utilizing Google Earth Pro

² The origin was located at the intersection of the letter "T" in the word "WATER" embossed on a water valve installed in the raised median

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FACTS – PHYSICAL EVIDENCE DESCRIPTION

Physical Evidence Legend

Item	Point(s)	Item Description and Width at Specific Data Points
4	315 – 317	A tire track, 35.6 feet in length
	315	Begin, 0.9 foot in width
	316	0.9 foot in width
	317	End, 0.9 foot in width
5	318 – 320	A tire track, 32.4 feet in length
	318	Begin, 0.9 foot in width
	319	0.9 foot in width
	320	End, 0.9 foot in width
6	321 – 323	A tire friction mark, 3.3 feet in length
	321	Begin, tapered point
	322	0.7 foot in width
	323	End, tapered point
7	326 – 329	A tire friction mark, 5.3 feet in length
	326	Begin, 0.4 foot in width
	327	0.4 foot in width
	328	0.4 foot in width
	329	End, tapered point
8	294 – 303	A tire friction mark, 91.6 feet in length
	294	Begin, 0.8 foot in width
	295	0.8 foot in width
	296	0.8 foot in width
	297	0.8 foot in width
	298	0.8 foot in width
	299	0.8 foot in width
	300	0.8 foot in width
	301	0.8 foot in width
	302	0.8 foot in width
	303	End, 0.8 foot in width
9	275 – 285	A tire friction mark, 105.2 feet in length
	275	Begin, 0.9 foot in width
	276	0.9 foot in width
	277	0.9 foot in width
	278	0.9 foot in width
	279	0.9 foot in width
	280	0.9 foot in width
	281	0.9 foot in width
	282	0.9 foot in width
	283	0.9 foot in width
	284	0.9 foot in width
285	End, 0.9 foot in width	

(table continues)

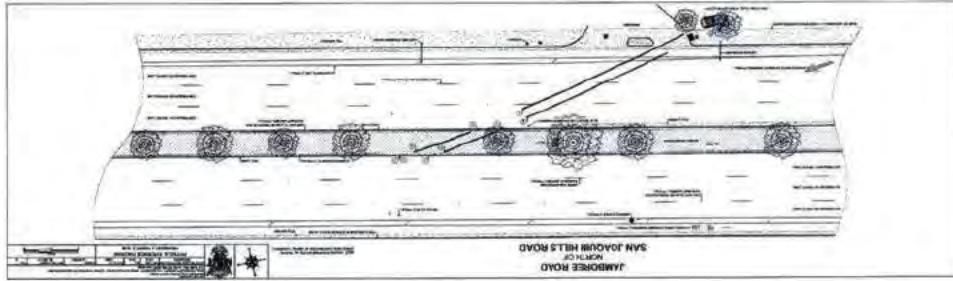
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FACTS - PHYSICAL EVIDENCE DESCRIPTION

Physical Evidence Legend

Item	Point(s)	Item Description and Width at Specific Data Points
10	333 - 334	Damage to 1.2-foot-diameter tree
	333	Point on circumference of tree
	334	Point on circumference of tree
N/A	331 - 332	Position of rest of the 2014 Ford Police Interceptor Utility
	331	Outboard edge of the right-rear tire
	332	Outboard edge of the right-front tire



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FACTS – PHYSICAL EVIDENCE LOG

Physical evidence collected during the course of this investigation is listed in Table 2. Requests regarding the items of evidence listed below should be made directly to:

Newport Beach Police Department
 870 Santa Barbara Drive
 Newport Beach, California 92660
 (949) 644-3681

Table 2
Physical Evidence Collected by MAIT Investigators and Booked Into Evidence at the Newport Beach Police Department

Item	Date	Time	Description
1	09/06/2015	1722	Recordable optical disc containing 220 images taken by Investigator Snider at the collision scene
2	09/06/2015	1711	Recordable optical disc containing 121 digital images taken by MCS-I Carlson at the collision scene
3	09/06/2015	1954	Recordable optical disc containing image of data retrieved by Investigator Parent from the airbag control module installed in the Ford
4	09/10/2015	0909	Recordable optical disc containing 325 digital images taken by MCS-I Carlson of the Ford at G.S. California Towing

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FACTS – MECHANICAL INSPECTION

2014 Ford Police Interceptor Utility

Pre-Inspection Condition

The pre-inspection condition of the Ford is depicted in the following images:



Figure 1. Pre-inspection condition of the front of the Ford.



Figure 2. Pre-inspection condition of the left side of the Ford.



Figure 3. Pre-inspection condition of the rear of the Ford.



Figure 4. Pre-inspection condition of the right side of the Ford.

Fluid Levels

Without the engine operating, the ambient temperature fluid levels were noted (Table 3).

Table 3
Ambient Temperature Fluid Levels of the Ford

Fluid	Level
Engine oil	At "MAX"
Automatic transmission	Sealed
Engine coolant	Void of fluid
Brake fluid	Below "MAX"

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FACTS – MECHANICAL INSPECTION

2014 Ford Police Interceptor Utility

Tires and Wheels

Tire and wheel data were recorded from the label on the left-front door frame (Table 4).

Table 4
Label Information Pertaining to the Tires and Wheels

Position	Tire size	Rim size	Pressure ^a
Front	245/55R18 103V	18	36
Rear	245/55R18 103V	18	36

Note: ^aMeasured in pounds per square inch (psi).

Data related to the tires were noted (Table 5).

Table 5
Tire Information Recorded From the Tires of the Ford

Data	Position			
	Left front	Right front	Left rear	Right rear
Brand	Firestone	Firestone	Goodyear	Goodyear
Series	Firehawk GT Z Pursuit	Firehawk GT Z Pursuit	Eagle RS-A	Eagle RS-A
Size	245/55R18	245/55R18	245/55R18	245/55R18
Load index	103	103	103	103
Speed symbol	V	V	V	V
DOT number ^a	W2DX FHV 1215	W2DX FHV 2315	W6DX JA2R 4813	M6DX JA2R 0114
Tread depth ^b	10, 10, 10, 10	10, 10, 10, 10	4, 5, 5, 4	4, 4, 5, 4
Pressure ^c	0	0	0	0

Note: ^aThe last four digits of the U.S. DOT identification number on tires manufactured after the year 2000 represent the week and year of tire manufacture (i.e. 1215 indicates a tire manufactured during the 12th week of 2015).

^bMeasured in thirty-seconds of an inch at various points around the tire from outboard to inboard positions.

^cMeasured in pounds per square inch (psi).

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FACTS – MECHANICAL INSPECTION**2014 Ford Police Interceptor Utility – Tires and Wheels**

The outboard side of the left-front tire and wheel assembly had two defined areas of damage (Figure 5). All clock positions are based on the valve stem location at the 12 o'clock position.

- Radial collapse of the outboard rim flange between the 10 o'clock position and 11 o'clock position (Figure 5: A).
- A tear in the tire sidewall at the 10 o'clock position (Figure 5: B).

The inboard side of the left-front tire and wheel was unremarkable.

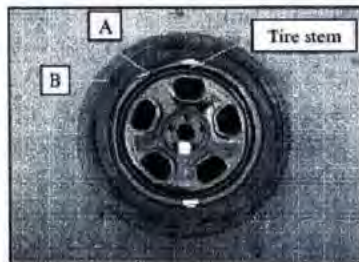


Figure 5. Outboard side of the left-front tire and wheel



Figure 6. Inboard side of the left-front tire and wheel

The right-front tire and wheel assembly had two defined areas of damage.

- Radial collapse of the outboard rim flange at the 6 o'clock position (Figure 7: A).
- Radial collapse of the inboard rim flange between the 8 o'clock and 12 o'clock positions (Figure 8: A).

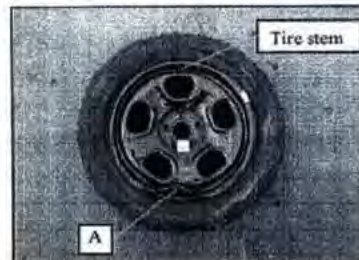


Figure 7. Outboard side of the right-front tire and wheel.

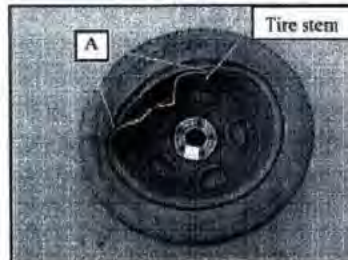


Figure 8. Inboard side of the right-front tire and wheel.

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FACTS – MECHANICAL INSPECTION

2014 Ford Police Interceptor Utility – Tires and Wheels

The right rear tire and wheel had one area of damage (Figure 10).

- Radial collapse of the inboard rim flange at the 10 o'clock position (Figure 10: A).

The outboard side of the right-rear tire and wheel was unremarkable (Figure 9).



Figure 9. Outboard side of the right-rear tire and wheel.

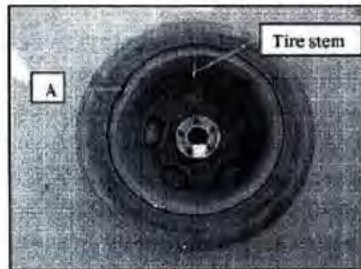


Figure 10. Inboard side of the right-rear tire and wheel.

The left rear tire and wheel had two areas of damage (Figure 10).

- Radial collapse of the outboard rim flange at the 4 o'clock position (Figure 11: A).
- A tear in the tire sidewall at the 4 o'clock position (Figure 11: B).

The inboard side of the left-rear tire and wheel was unremarkable (Figure 12).

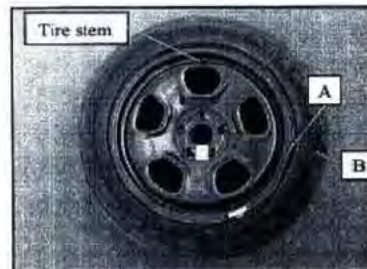


Figure 11. Outboard side of the left-rear tire and wheel.



Figure 12. Inboard side of the left-rear tire and wheel.

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FACTS – MECHANICAL INSPECTION

2014 Ford Police Interceptor Utility

Throttle System

The throttle system utilized an electronic accelerator pedal assembly. The accelerator pedal assembly was mounted to the bulkhead within the right side of the driver's foot well. The pedal (Figure 13) was manually operated throughout its range of motion with no deficiencies. The pedal assembly was still attached to the control module and return spring (Figure 14). The engine throttle valve utilized an electric motor mounted to the right-side of the throttle body (Figure 15).



Figure 13. Accelerator pedal.



Figure 14. Accelerator pedal control module.



Figure 15. Engine throttle electric motor.

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FACTS – MECHANICAL INSPECTION

2014 Ford Police Interceptor Utility – Throttle System

The throttle valve was observed in the closed (idle) position (Figure 16) and was manually operated throughout its range of motion with no deficiencies (Figure 17). The throttle valve return spring, located on the right-side of the throttle body, was intact and had sufficient tension to return.



Figure 16. Throttle body (idle position).



Figure 17. Throttle body (manually opened).

The individual settings of the electronic speed control system at the time of the traffic collision were indeterminate since the speed control was electronic.

Steering System

This vehicle was equipped with a rack-and-pinion gear with Ford's Electric Power Steering (EPS) assist system. The adjustable-tilt steering column, with its attached 15-inch diameter steering wheel, was attached to its dashboard mounts. The tilt lock lever was located on the right underside of the steering column and was in a locked position. The column was found in its uppermost position. The components enclosed within the steering column housing were not examined. There was no lateral movement of the steering shaft. The steering wheel and column were generally unremarkable.

The steering shaft passed through the bulkhead into the engine compartment, where the mid-shaft connected to the lower shaft by a u-joint. The lower shaft attached to the EPS unit on the rack and pinion assembly.

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FACTS – MECHANICAL INSPECTION

2014 Ford Police Interceptor Utility – Steering System

The left tie-rod assembly, consisting of a tie rod and threaded tie-rod end, was attached to the steering gear rack on one end and to the left steering knuckle on the other via a ball-socket joint (Figure 18).



Figure 18. Left side tie-rod.



Figure 19. Right side tie-rod.

The right tie-rod assembly (Figure 19: A), consisting of a tie rod and threaded tie-rod end, was attached to the steering gear rack on one end and was broken away from the right steering knuckle, at the ball-socket joint (Figure 19: B).



Figure 20. Right-side lower control arm.



Figure 21. Right-side lower control arm.

The right lower control arm assembly (Figure 20: A and Figure 21: A), was pulled out of the rear body mount bushing (Figure 20: B), and front body mount bushing (Figure 21: B). The right front axle shaft was detached from the transaxle side CV (constant velocity) joint (Figure 21: C).

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FACTS – MECHANICAL INSPECTION

2014 Ford Police Interceptor Utility

Service Brake System

This vehicle was equipped with a vacuum assisted, dual hydraulic circuit, four wheel disc power brake system. The base brake system was supplemented with a four-channel, four-sensor, non-integral antilock brake system (ABS). The pedal-actuated, split brake system actuated the left-front brake disc and the right-rear brake disc on one hydraulic circuit and the right-front brake disc and the left-rear brake disc on the other circuit. A dual-function brake warning lamp was used to monitor the brake fluid level and the parking brake application.

The brake pedal assembly was mounted to the firewall within the middle of the driver's foot well. A vacuum brake booster was mounted on the forward side of the bulkhead and was connected directly to the brake pedal by a push rod. The vacuum power brake booster was self-contained and utilized engine-produced vacuum and atmospheric pressure for its power. The check valve and attached flexible hose were attached to the front of the brake booster.

A two-port alloy master cylinder was mounted to the front of the brake booster. A translucent, dual-chamber reservoir, with an attached black plastic cap, was mounted atop the master cylinder and was clean and dry. The brake fluid reservoir contained an adequate amount of fluid. A low fluid level sensor, located on the outboard side of the reservoir, had no indication of fluid loss. The sensor wiring harness and connector were complete.

The ABS control module was mounted below the brake master cylinder. The rigid hydraulic fluid lines from the master cylinder to the ABS control module along with the electrical connector attached to the ABS module, and its associated wiring, were generally unremarkable.

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FACTS – MECHANICAL INSPECTION

2014 Ford Police Interceptor Utility – Service Brake System

Front Axle

Each brake assembly on this axle consisted of a steel brake caliper, brake pads, a brake rotor, and related hardware. Each sliding, dual-piston brake caliper was attached to its caliper mounting bracket with two sliding pins. Each brake caliper support bracket was attached to its respective steering knuckle with two bolts. The aluminum caliper pistons moved freely within their individual bores and their rubber piston dust boots were dry with no indication of fluid contamination. The disc brake hardware and sliding pins were intact. The right-front caliper casting was broken at the lower sliding pin threaded ear (Figure 24: A). The flexible hydraulic brake lines were attached to the rigid lines, and to their respective brake calipers. The right-side rigid brake line to flexible brake line bracket was pulled away from its body attachment position (Figure 24: B).



Figure 22. Left-front brake assembly.



Figure 23. Right-front brake assembly.



Figure 24. Right-front brake caliper

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FACTS – MECHANICAL INSPECTION

2014 Ford Police Interceptor Utility – Service Brake System

Front Axle

The swept areas on the friction surfaces of the ventilated, full-cast drilled and slotted brake rotors were lightly scored and discolored to a reddish-brown tint (Figure 25: A and Figure 26: A). There were minor discernible ridges about the inner and outer circumferences of the friction surfaces of the brake rotors. The brake rotors had overall minimum thicknesses above the manufacturer's minimum specification of 30 millimeters, which was indicated on the outer edge of each brake rotor. The left- and right-side hub assemblies rotated freely with no discernible end-play in either assembly. The left- and right-side ABS wheel speed sensors, exciter rings, and wiring were generally unremarkable.

The front brake pads were composed of a bonded semi-metallic friction material that had an overall thickness above the manufacturer's minimum recommended thickness of 2 millimeters.³ The friction surfaces of the brake pads were slightly glazed and had minor surface scoring (Figure 25: B and Figure 26: B).

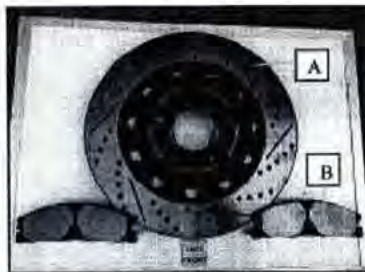


Figure 25. Left-front brake rotor and brake pads.



Figure 26. Right-front brake rotor and brake pads.

Table 6
Measured Minimum Brake Pad Friction Material and Rotor Thicknesses, Front Axle

Position	Thickness	
	Brake Pad ^a [millimeters]	Brake Rotor ^b [millimeters]
Left front – Inner	8.2	32.33
Left front – Outer	8.3	
Right front – Inner	7.8	32.20
Right front – Outer	7.3	

^a Represents the overall minimum material thickness of the friction surface on the brake pad.
^b Represents the overall minimum material thickness of the swept areas on the brake rotor.

³ Service Department, Kenny Pearson Ford, 7303 Clairemont Mesa Boulevard, San Diego, CA.

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FACTS – MECHANICAL INSPECTION

2014 Ford Police Interceptor Utility – Service Brake System

Rear Axle

Each brake assembly on this axle consisted of a steel brake caliper with an incorporated parking brake, brake pads, a brake rotor, and related hardware. Each sliding, single-piston brake caliper was attached to its caliper mounting bracket with two sliding pins. Each brake caliper support bracket was attached to its respective steering knuckle with two bolts. The steel caliper pistons turned freely into their parking brake threaded pin within their individual bores and their rubber piston dust boots were dry with no indication of fluid contamination. The disc brake hardware and sliding pins were intact. The flexible hydraulic brake lines were attached to the rigid lines, and to their respective brake calipers.



Figure 27. Left-rear brake assembly.



Figure 28. Right-rear brake assembly.

The swept areas on the friction surfaces of the ventilated full-cast brake rotors were lightly scored and discolored to a reddish-gray tint (Figure 29: A and Figure 30: A). There were minor discernible ridges about the inner and outer circumferences of the friction surfaces of the brake rotors. The brake rotors had overall minimum thicknesses above the manufacturer's minimum specification of 17.5 millimeters, which was indicated on the inside hat of each brake rotor. The left- and right-side hub assemblies rotated freely with no discernible end play in either assembly. The left- and right-side ABS wheel speed sensors, exciter rings, and wiring were generally unremarkable.

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FACTS – MECHANICAL INSPECTION

2014 Ford Police Interceptor Utility – Service Brake System

Rear Axle

The rear brake pads were composed of a bonded ceramic friction material that had overall thicknesses above the manufacturer’s minimum recommended thickness of 2 millimeters.* The friction surfaces of the brake pads were slightly glazed and had minor surface scoring (Figure 29: B and Figure 30: B).



Figure 29. Left-rear brake rotor and brake pads.

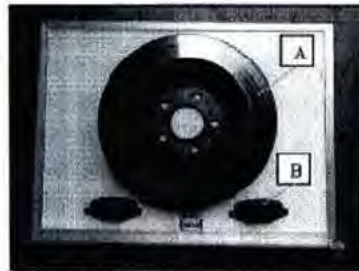


Figure 30. Right-rear brake rotor and brake pads.

Table 7
Measured Minimum Brake Pad Friction Material and Rotor Thicknesses, Rear Axle

Position	Thickness	
	Brake Pad ^a [millimeters]	Brake Rotor ^b [millimeters]
Left rear – Inner	5.4	18.74
Left rear – Outer	7.7	
Right rear – Inner	7.2	18.73
Right rear – Outer	7.0	

Note. ^aRepresents the overall minimum material thickness of the friction surface on the brake pad.
^bRepresents the overall minimum material thickness of the swept areas on the brake rotor.

^a Service Department, Kearny Pearson Ford, 7303 Clairemont Mesa Boulevard, San Diego, CA

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FACTS – MECHANICAL INSPECTION

2014 Ford Police Interceptor Utility

Vehicle Maintenance Records

A vehicle maintenance history report was obtained through NBPD from the time this vehicle entered service until the date of this collision. A total of 32 “BO slips” were entered related to maintenance issues with the Ford. On April 2, there was a complaint of “Smells like its leaking EGR gas into pass” entered into the computer by NBPD Officer W. Beverly, ID 1034. The term EGR is an initialism for exhaust gas recirculation. EGR works by recirculating a portion of an engine’s exhaust gas back to the engine cylinders. On April 2, the Ford was taken to AutoNation Ford [2 Auto Center Drive, Tustin] for a diagnosis of the EGR complaint. Technicians at AutoNation Ford corrected the issue by deodorizing the air conditioning system and replacing the cabin air filter. Between the time of the repair and the collision, there were no further complaints of EGR gas entering the cabin of the Ford.

A search of technical service bulletins (TSB) related to 2014 Ford Explorers was conducted through the National Highway Traffic Safety Administration (NHTSA) [1]. The search revealed one TSB (TSB-14-0130) related to exhaust odor. The repairs listed in the TSB had not been completed on the Ford. Due to the damage sustained by the Ford during the collision, MAIT investigators were unable to determine if the condition responsible for the April 2 complaint still existed.

Additional Information

A safety recall is defined as a recall by the manufacturer (or governmental agency) due to an immediate safety hazard with the involved vehicle. A recall is initiated when a motor vehicle or item of motor vehicle equipment (including tires) does not comply with a Federal Motor Vehicle Safety Standard (FMVSS), or when there is a safety-related defect in the vehicle or equipment.

A search of safety recalls by vehicle identification number was conducted through the National Highway Traffic Safety Administration (NHTSA) [2] and Ford Motor Company [3]. There were no safety recalls listed for the Ford.

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FACTS - DIGITAL IMAGE LOG

During the course of this investigation, MAIT investigators took a total of 666 digital images (Table 8). All digital images were transferred from the memory card of the camera to a recordable optical disc and booked into evidence.

Requests regarding the digital image files listed below should be made directly to:

Newport Beach Police Department
 870 Santa Barbara Drive
 Newport Beach, California 92660
 (949) 644-3681

Table 8
Digital Images Taken During the Course of this Investigation

Images	Date	Description
IMG_4446 to IMG_4665	09/06/2015	220 images taken by Investigator Snider at the collision scene between 1722 and 1949 hours
IMG_9298 to IMG_9418	09/06/2015	121 digital images taken by MCS-I Carlson at the collision scene between 1711 and 2000 hours
IMG_9419 to IMG_9743	09/10/2015	325 digital images taken by MCS-I Carlson of the Ford at G.S. California Towing between 0909 and 1522 hours

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ANALYSIS AND OPINION – MECHANICAL INSPECTION ANALYSIS

2014 Ford Police Interceptor Utility

To determine if conditions identified during the mechanical inspection of the Ford could have caused or contributed to this collision, the following analysis was conducted.

Tires and Wheels

Collision related conditions were identified during the inspection of the tire and wheel assemblies of the Ford.

- The radial collapse on the outboard and inboard side of the left-front tire rim flanges.
- A tear in the left-front tire outboard sidewall.
- The radial collapse on the outboard and inboard side of the right-front tire rim flanges.
- Radial collapse of the inboard rim flange of the right-rear wheel.
- Radial collapse of the outboard rim flange of the left-rear wheel.
- A tear in the left-rear tire outboard sidewall.

Throttle System

The mechanical inspection of the throttle system did not reveal any pre-existing mechanical deficiencies that would have affected the normal functional ability of the Ford upon the highway and/or caused or contributed to this collision.

Steering System

Collision related conditions were identified during the inspection of the steering system of the Ford.

- The ball-socket of the right-front tire-rod assembly was broken away from the steering knuckle.
- The separation of the right-front lower control arm from the body mounts.
- The right front axle shaft was pulled out of the transaxle.

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ANALYSIS AND OPINION – MECHANICAL INSPECTION ANALYSIS

2014 Ford Police Interceptor Utility

Service Brake System

Collision related conditions were identified during the inspection of the steering system of the Ford.

- The right-front caliper casting was broken at the lower sliding pin threaded ear.
- The right-side rigid brake line to flexible brake line bracket was pulled away from its body attachment position.

The following conditions identified during the inspection of the service brake system were determined to have been pre-existing conditions that would not have caused or have been a contributing factor in this collision:

- The lightly scored and discolored rotors with minor discernible ridges about the inner and outer circumferences of the friction surfaces
- The friction surfaces of the brake pads were slightly glazed and had minor surface scoring.

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ANALYSIS AND OPINION – VIDEO ANALYSIS

Overview

An L3 communications, Mobile-Vision, Inc., Flashback 3 digital in-car video system was installed in the Ford driven by NBPD Officer McDowell (DVR 2049) and a Ford Police Interceptor Utility driven by NBPD Officer Mesri (DVR 2045), whom was traveling behind Officer McDowell. The system in each vehicle consisted of two cameras mounted in the passenger compartment,⁵ microphone, digital video recorder, and a global positioning system (GPS) antenna and transceiver. The GPS-based vehicle position, heading, and speed were recorded at one second intervals.

DVR 2049

The video recorded by the in-car video system installed in the Ford driven by Officer McDowell began at 1413:06 hours and ended at 1413:09 hours and was recorded at 29.97 frames per second. The video began near where the left-front tire of the vehicle impacted the west curb of the median separating the northbound and southbound lanes of Jamboree Road. The video ended near where the right-front tire began entering the handicap ramp on the east sidewalk bordering the northbound lanes of Jamboree Road.



Figure 31. At time 1413:06 hours, the left-front tire of the Ford had mounted the west curb of the median separating the northbound and southbound lanes of Jamboree Road.

⁵ One camera was mounted behind the windshield, to the right of the rear view mirror facing forward. The second camera was mounted to the right of the driver position facing rearward.

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ANALYSIS AND OPINION – VIDEO ANALYSIS

DVR 2049

The event that triggered the recording was Auxiliary 1, which was the flashback sensor. The flashback sensor was a G-force sensor that activated the video recorder when an acceleration threshold was met. The threshold was met and the trigger activated when the left-front tire of the Ford dismounted the east curb of the median separating the northbound and southbound lanes of Jamboree Road.



Figure 32. At time 1413:07 hours, the left-front tire of the Ford had dismounted the east curb of the median

Although not inclusive of all data reported at the time of the trigger, the following information was noted:

- The GPS position was latitude 33.6287, longitude -117.8768, and heading of 192 degrees south by west.
- The reported speed was 43 miles per hour.
- The brake switch was off.

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ANALYSIS AND OPINION – VIDEO ANALYSIS

DVR 2049

The following image depicts the video captured at 1413:08 hours, one second after the trigger.



Figure 33. At time 1413:08 hours, the Ford narrowly missed colliding with the white sport utility vehicle depicted in Figure 32.

Although not inclusive of all data reported at time 1413:08 hours, the following information was noted:

- The GPS position was latitude 33.6285, longitude -117.8768, and heading of 184 degrees south.
- The reported speed was 41 miles per hour.
- The brake switch was off.

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ANALYSIS AND OPINION – VIDEO ANALYSIS

DVR 2049

The following image depicts the last frame captured before the writing of the recording was interrupted by the power failure.



Figure 35. At time 1413:09 hours, the Ford entered the handicap ramp on the south sidewalk. The tree that the Ford impacted can be seen.

Although not inclusive of all data reported at time 1413:09 hours, the following information was noted:

- The GPS position was latitude 33.6284, longitude -117.8768, and heading of 184 degrees south.
- The reported speed was 38 miles per hour.
- The brake switch was off.

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ANALYSIS AND OPINION – VIDEO ANALYSIS

DVR 2045

The video recorded by the in-car video system installed in the Ford driven by Officer Mesri began at 1413:09 hours and ended at 1435:51 hours and was recorded at 29.97 frames per second. At the start of the video, Officer Mesri's patrol vehicle was stopped for a red traffic signal in the southbound #1 traffic lane of Jamboree Road at Eastbluff Drive. The video ends with Officer Mesri's patrol vehicle stopped in a driveway providing access to a maintenance facility for Big Canyon Country Club, north of where the Ford driven by Officer McDowell came to rest. This video analysis was limited to the time period between 1413:09 and 1413:45 hours. It should be noted that the in-car video systems installed in each of the Fords were not set to the same current time. The system in the Ford driven by Officer Mesri had a current time that was 31 seconds faster than the current time reported by the system in Officer McDowell's Ford. The event that triggered the recording was the emergency lights.



Figure 36. At time 1413:09 hours, Officer Mesri is stopped for a red traffic signal on Jamboree Road at Eastbluff Drive. The Ford driven by Officer McDowell can be seen in the #2 lane ahead of Officer Mesri.

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ANALYSIS AND OPINION – VIDEO ANALYSIS

DVR 2045

The following image depicts the video captured at 1413:15 hours, the traffic signal light had turned green and Officer McDowell began to accelerate the Ford.



Figure 37. At time 1413:15 hours, Officer McDowell accelerated the Ford.

Although not inclusive of all data reported at time 1413:15 hours, the following information was noted:

- The GPS position was latitude 33.63 15, longitude -117.8742, and heading of 0 degrees north.
- The reported speed was 0 miles per hour.
- The brake switch was on.

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ANALYSIS AND OPINION – VIDEO ANALYSIS

DVR 2045

The following image depicts the video captured at 1413:35 hours, after drifting slightly to the right, the Ford driven by Officer McDowell began drifting to the left. Prior to the Ford drifting slightly to the right, Officer McDowell had maintained a position near the middle of the #2 lane since accelerating from a stop at Eastbluff Drive and had been traveling at a speed similar to that of Officer Mesri.



Figure 38. At time 1413:35 hours, Officer McDowell allowed the Ford to drift to the left after he had allowed the vehicle to drift slightly to the right.

Although not inclusive of all data reported at time 1413:35 hours, the following information was noted:

- The GPS position was latitude 33.6297, longitude -117.8762, and heading of 209 degrees southwest by south.
- The reported speed was 51 miles per hour.
- The brake switch was on.

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ANALYSIS AND OPINION – VIDEO ANALYSIS

DVR 2045

The following image depicts the video captured at 1413:37 hours; the left-front tire of the Ford driven by Officer McDowell impacted the west curb of the median separating the northbound and southbound lanes of Jamboree Road. Officer McDowell did not apply the brakes, nor did he attempt to steer the Ford to prevent the Ford from impacting the curb.



Figure 39. At time 1413:37 hours, the left-front tire of the Ford driven by Officer McDowell impacted the west curb of the median.

Although not inclusive of all data reported at time 1413:37 hours, the following information was noted.

- The GPS position was latitude 33.6296, longitude -117.8763, and heading of 206 degrees south-southwest.
- The reported speed was 48 miles per hour.
- The brake switch was on.

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ANALYSIS AND OPINION – VIDEO ANALYSIS

DVR 2045

The following image depicts the video captured at 1413:38 hours; the Ford driven by Officer McDowell had entered the northbound #1 lane of Jamboree Road and nearly collided with a white sport utility vehicle traveling north in the #2 lane. Between the location where the Ford impacted the curb and the location it nearly collided with the white sport utility vehicle there was no evasive steering or braking on the part of Officer McDowell.



Figure 40. At time 1413:38 hours, the Ford driven by Officer McDowell nearly collided with a white sport utility vehicle traveling north in the #2 lane of Jamboree Road.

Although not inclusive of all data reported at time 1413:38 hours, the following information was noted:

- The GPS position was latitude 33.6292, longitude -117.8765, and heading of 205 degrees south-southwest.
- The reported speed was 44 miles per hour.
- The brake switch was on.

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ANALYSIS AND OPINION – VIDEO ANALYSIS

DVR 2045

The following image depicts the video captured at 1413:40 hours; the Ford driven by Officer McDowell had entered the sidewalk east of Jamboree Road and began ascending the dirt slope east of the sidewalk. There had been no evasive steering or braking on the part of Officer McDowell despite the vehicle being on a collision course with a tree.



Figure 41. At time 1413:40 hours, the Ford driven by Officer McDowell had entered the sidewalk and began to ascend the dirt slope.

Although not inclusive of all data reported at time 1413:40 hours, the following information was noted:

- The GPS position was latitude 33.6289, longitude -117.8766, and heading of 205 degrees south-southwest.
- The reported speed was 40 miles per hour.
- The brake switch was on.

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ANALYSIS AND OPINION – VIDEO ANALYSIS

DVR 2045

The following image depicts the video captured at 1413:41 hours; the Ford driven by Officer McDowell impacted the tree located on the slope east of the sidewalk. At the moment of impact, the brake lamps and the overhead emergency lights of the Ford activated. The activation of the brake lamps and overhead emergency lamps was most likely the result of the impact and not an overt action on the part of Officer McDowell.



Figure 42. At time 1413:41 hours, the Ford driven by Officer McDowell had impacted a tree and the brake lamps and overhead emergency lights activated.

Although not inclusive of all data reported at time 1413:41 hours, the following information was noted:

- The GPS position was latitude 33.6289, longitude -117.8766, and heading of 205 degrees south-southwest.
- The reported speed was 40 miles per hour.
- The brake switch was on.

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ANALYSIS AND OPINION – VIDEO ANALYSIS

DVR 2045

The following image depicts the video captured at 1413:45 hours; the Ford driven by Officer McDowell had come to rest with the brake lamps and overhead emergency lights activated.



Figure 43. At time 1413:45 hours, the Ford driven by Officer McDowell had come to rest and the brake lamps and overhead emergency lights remain activated

Although not inclusive of all data reported at time 1413:45 hours, the following information was noted:

- The GPS position was latitude 33.6285, longitude -117.8769, and heading of 196 degrees south by west.
- The reported speed was 28 miles per hour.
- The brake switch was on.
- The overhead emergency lights were activated.

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ANALYSIS AND OPINION – AIRBAG CONTROL MODULE ANALYSIS

Overview

The Ford was equipped with an airbag control module⁶ (ACM) with event data recorder (EDR) capability. An ACM is responsible for performing diagnostic checks of the various occupant protection devices installed in the vehicle and collecting and analyzing vehicle acceleration data to predict collision severity. This information is used by the ACM to make decisions related to the deployment of supplemental restraints⁷ when necessary to protect the occupants of the vehicle in a collision. As a secondary function, the ACM may record data related to deployment and/or non-deployment events into non-volatile memory after a deployment decision has been made. Once recorded by the ACM, deployment data may not be overwritten; however, unlocked non-deployment data may be overwritten by subsequent events. The ACM was capable of recording two deployment events. Pre-crash values are asynchronous and can be gathered by the ACM through the vehicle's communication network at any time during the data sample period, which can account for differences in data sampling between events.

2014 Ford Police Interceptor Utility

At 1954 hours, while still at the collision scene on September 6, Investigator Parent conducted a consent search of the ACM installed in the Ford. Investigator Parent imaged the data contained in the ACM by connecting a Bosch Crash Data Retrieval (CDR) system interface module to the control module through the Diagnostic Link Connector (DLC) of the vehicle, in accordance with CDR system guidelines. Due to damage to the ignition, it was necessary to bypass the ignition by back powering the module through the restraints control module fuse, which closed the circuit for the supplemental restraint system (SRS) airbag system. Availability of a report (Annex B) in the CDR system software indicated a valid image was copied from the ACM. The ACM recorded one locked frontal event. The original data remained unaltered on the ACM, which remained installed in the vehicle. A copy of the imaged data was recorded to an optical disc and booked into evidence at Newport Beach Police Department.

System Status

Although not inclusive of all data reported during the system status, the following information was noted:

- The ACM had experienced 2,199 ignition cycles at the time of the imaging of the ACM, indicating 2,199 power cycles had been applied to the ACM between the first use of the ACM and the time the data was imaged.
- A complete file for the event was recorded by the ACM, indicating a state in which all recorded event data had been fully written into the non-volatile memory of the ACM.
- Lifetime operating time was reported as 24,148,335 seconds and key-on time was reported as 27,610 seconds (7 hours and 40 minutes) at time zero.
- The ACM recorded a vehicle voltage of 13.689 volts at time zero and entered energy reserve mode during the event. No faults were present at the start of the event.

⁶ Referred to by Ford Motor Company as a Restraints Control Module (RCM). The generic term ACM is used to describe the component throughout this report.

⁷ Airbags and/or seatbelt pretensioners (if equipped).

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ANALYSIS AND OPINION – AIRBAG CONTROL MODULE ANALYSIS

2014 Ford Police Interceptor Utility

Deployment Data

Although not inclusive of all deployment data, the following information was noted:

- During the event, the ACM commanded deployment of the following: a) right-front passenger pretensioner (retractor) 641.0 milliseconds (0.641 second) after time zero,⁸ b) right-front passenger pretensioner (anchor) 646.0 milliseconds (0.646 second) after time zero, c) driver frontal airbag (first stage), driver pretensioner (retractor), and adaptive steering column 666.0 milliseconds (0.666 second) after time zero, d) driver pretensioner (anchor), right side passenger side curtain airbag, and right-front passenger side (thorax) airbag 671.0 milliseconds (0.671 second) after time zero, and e) driver frontal airbag (second stage) 676.0 milliseconds (0.676 second) after time zero.
- A maximum longitudinal velocity change of 0.36 miles per hour (rear to front) was recorded 262 milliseconds (0.262 second) after time zero and maximum lateral velocity change of 1.54 miles per hour (left to right) was recorded 279 milliseconds (0.279 second) after time zero.⁹
- Time zero for the longitudinal and lateral velocity changes was offset 5.5 milliseconds (0.0055 second), and time zero for roll angle was offset 85.5 milliseconds (0.0855 second) from the beginning of the crash pulse.

Pre-Crash Data

Various pre-crash parameters were recorded one second before the start of the event. Although not inclusive of all pre-crash status data recorded one second before the event, the following information was noted:

- The ACM had experienced 2,198 ignition cycles, which was one ignition cycle less than at the time of imaging. The additional ignition cycle was induced when power was applied to the ACM during the imaging of the module by Investigator Parent.
- The frontal air bag warning lamp was OFF, which indicated no faults with the airbag system were being reported to the driver before this event.
- The brake, antilock brake system (ABS), powertrain wrench, and powertrain malfunction indicator lamp (MIL) telltales were all OFF, indicating the parking brake was not engaged and/or there was no malfunction detected with the brake system, there was no malfunction detected with the ABS, and no malfunction was detected with the powertrain before this event.
- The ESC/TC telltale was reported as FAST, indicating the AdvanceTrac®/Traction control was active at least one second before the start of the event.
- The ESC/TC Off telltale was reported as default, indicating the AdvanceTrac®/Traction control had not been disabled by the driver before the start of the event.

⁸ Time zero is the point where system "wake-up" within the air bag control module occurs. It is the time the ACM algorithm is activated. The threshold may be module and OEM dependent (NHTSA 49 CFR Part 563 definition).

⁹ Cumulative crash pulse data for 250 milliseconds (0.250 second) were also included in the report separately for each axis.

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ANALYSIS AND OPINION – AIRBAG CONTROL MODULE ANALYSIS

2014 Ford Police Interceptor Utility – Pre-Crash Data

- The safety belt status for the driver and passenger was reported as buckled, indicating a latch plate was inserted into the buckle of the respective seat belt restraint system. During an inspection of the interior of the Ford, Investigator Parent observed belt extenders inserted into both buckles and the webbing for both seat belt restraints was taut against the B-pillars. The webbing could not be unspooled from the retractor due to the deployment of the pretensioners (retractor). Although the safety belt status for the driver was reported as buckled, the driver was not wearing the seatbelt at the time of the collision.

Pre-crash data for multiple parameters were recorded every 0.5 second for 5.0 seconds before time zero (Figure 44).

Times (sec)	Speed, Vehicle Indicated (MPH) (km/h)	Accelerator Pedal, % Full	Service Brake, On/Off	Engine RPM	ABS Activity (Engaged, Non-Engaged)	Brake Powertrain Torque Request
-5.0	42 (67)	3.8	Off	1,398	non-engaged	No
-4.5	42 (66)	0.0	Off	1,404	non-engaged	No
-4.0	42 (66)	4.5	Off	1,410	non-engaged	No
-3.5	42 (66)	45.3	Off	1,418	non-engaged	No
-3.0	43 (69)	50.6	Off	2,748	non-engaged	No
-2.5	45 (73)	0.0	Off	3,836	non-engaged	Yes
-2.0	40 (65)	0.0	Off	2,796	non-engaged	Yes
-1.5	39 (62)	0.0	Off	1,822	non-engaged	Yes
-1.0	36 (58)	9.8	Off	1,566	non-engaged	Yes
-0.5	35 (57)	17.0	Off	1,614	non-engaged	Yes
0.0	35 (56)	20.5	Off	1,698	non-engaged	Yes

Figure 44. Pre-crash data recorded every 0.5 second for 5.0 seconds before time zero.

Although not inclusive of all pre-crash data recorded during the 5.0 seconds before time zero, the following information was noted:

- From time -5.0 to time -3.5 seconds, the indicated vehicle speed was 42 miles per hour. Between time -5.0 and -4.5 seconds, the accelerator pedal was moved from 3.8 to 0.0 percent of full, indicating force to the accelerator pedal was being reduced. Between time -4.5 and time -3.5, the accelerator pedal was moved from 0.0 to 45.3 percent of full; indicating force to the accelerator pedal was being increased.
- From time -3.5 to time -2.5 seconds, the indicated vehicle speed increased from 42 to 45 miles per hour. Between time -3.5 and -3.0 seconds, the accelerator pedal was moved from 45.3 to 50.6 percent of full; indicating force to the accelerator pedal was being increased. Between time -3.0 and -2.5 seconds, the accelerator pedal was moved from 50.6 to 0.0 percent of full; indicating force to the accelerator pedal was being decreased.
- From time -2.5 to time -1.5 seconds, the indicated vehicle speed decreased from 45 to 39 miles per hour. For this period, the accelerator pedal was at 0.0 percent of full; indicating no force was applied to the accelerator pedal.

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ANALYSIS AND OPINION – AIRBAG CONTROL MODULE ANALYSIS

2014 Ford Police Interceptor Utility – Pre-Crash Data

- Between time -1.5 and 0.0 seconds, the indicated vehicle speed decreased from 39 to 35 miles per hour. For this period, the accelerator pedal was moved from 0.0 to 20.5 percent of full; indicating force to the accelerator pedal was being increased.
- During the five second recording period, the service brake switch remained off, indicating insufficient force was applied to the brake pedal to activate the brake lamps.
- Between time -2.5 and 0.0 seconds, the brake powertrain torque request was reported as yes; indicating the AdvanceTrac®/Traction control electronically intervened and reduced the engine throttle to a value lower than the accelerator pedal alone would have produced.

Pre-crash data for steering wheel angle were recorded every 0.1 second for 5.0 seconds before time zero. Although not inclusive of all pre-crash steering data recorded during the 5.0 seconds before time zero, the following information was noted:

- From time -5.0 to time -3.0 seconds, the steering wheel angle moved from 16.3 to 49.1 degrees; indicating gradual left steering.
- From time -3.0 to time 0.0 seconds, the steering wheel angle became erratic; varying between 87.8 and -13.2 degrees. The data over this period suggested a back and forth movement between left and right steering.

Rollover Sensor Data

A rollover sensor measured roll angle data during the 1.0 second preceding and 5.0 seconds after time zero. Although not inclusive of all rollover sensor data recorded for this event, the following information was noted.

- Between time -1.0 and time 0.0 seconds, the measured roll angle changed from 3.9 to -0.37 degrees (right to left roll).
- Between time 0.0 and time 2.0 seconds, the measured roll angle rapidly increased from -0.37 to its peak of 34.62 degrees (left to right roll).
- At time 2.8 seconds, the roll angle settled at 33.96 degrees where it remained for the rest of the recording time.

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ANALYSIS AND OPINION – AIRBAG CONTROL MODULE ANALYSIS

Conclusions

Based on analysis of the CDR report from data stored in the ACM of the Ford, the following conclusions were reached:

- The data imaged from the ACM installed in the Ford were related to this collision being investigated and were consistent with the physical evidence, collision dynamics, and damage sustained by the vehicle based upon the following: a) the difference of one ignition cycle between ignition cycles recorded at the time of the event and the ignition cycles recorded at the time of the investigation; b) the buckled status of the driver and passenger safety belt restraints was consistent with the observed seat belt extenders inserted into the driver and passenger buckles; c) the reported airbag and pretensioner deployments were consistent with the observed conditions of the airbags and seatbelts; d) the reported vehicle roll angle was consistent with the terrain traversed by the Ford; and e) the pre-crash vehicle speeds, brake switch status, and steering wheel angles were consistent with the data recorded by the L3 communications, Mobile-Vision, Inc., Flashback 3 digital in-car video systems installed in the Ford driven by Officer McDowell and the Ford Police Interceptor Utility driven by Officer Mesri.
- As the Ford traveled south on Jamboree Road, the vehicle maintained a speed between 42 and 43 miles until there was a momentary increase in the percentage the accelerator was depressed (4.8 to 50.6 percent). The increase occurred between 4.0 and 3.0 seconds before the impact and resulted in a speed increase from 43 to 45 miles per hour. The percentage of the accelerator pedal changed to, and remained at, zero between 2.5 and 1.5 seconds before the impact. During this time period the speed decreased from 45 to 39 miles per hour. For the remaining second before the impact, the accelerator percentage increased from zero to 20.5; however, there was a reduction in speed from 39 to 35 miles per hour due to intervention by the AdvanceTrac®/Traction control.
- The maximum recorded cumulative longitudinal velocity change of 0.36 miles per hour recorded by the ACM was not consistent with the damage or last recorded pre-crash speed of 35 miles per hour. The maximum longitudinal velocity change should have been close to the last recorded pre-crash speed of 35 miles per hour. Other than slight rotation after the impact with the tree, the Ford did not possess a significant amount of post-impact energy. In other words, the majority of the energy possessed by the Ford in the milliseconds prior to the impact with the tree was converted to damage energy during the impact with the tree.
- The algorithm wake up of the ACM began 641 milliseconds (0.641 second) prior to the impact with the tree. Although the ACM was constantly monitoring acceleration data, it was only capable of recording 255.5 milliseconds (0.2555 second) of acceleration data. Although the ACM installed in the Ford "sensed" the impact with the tree, as evidenced by deployment of supplemental restraints, it did not write data related to the impact with the tree because the impact occurred 385.5 milliseconds (0.3855 second) beyond the recording capability of the ACM installed in the Ford.

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ANALYSIS AND OPINION – PHYSICAL EVIDENCE ANALYSIS

Physical Evidence Origin

The following conclusions as to the origin of each physical evidence item (Table 9) were based upon the following: a) an evaluation of the physical evidence, including the location and characteristics of each item, b) analysis of video recorded by digital in-car video systems, and c) analysis of the motion of both vehicles throughout the collision sequence.

Table 9

Conclusions Made Regarding the Physical Evidence Documented at the Collision Site

Item	Physical Evidence Origin
1	A tire friction mark deposited by the left-front tire of the Ford when the tire impacted and mounted the west curb of the median separating the northbound and southbound lanes of Jamboree Road
2	A gouge created by the left-front wheel of the Ford when the wheel impacted the west curb of the median separating the northbound and southbound lanes of Jamboree Road
3	A tire friction mark deposited by the right-front tire of the Ford when the tire impacted and mounted the west curb of the median separating the northbound and southbound lanes of Jamboree Road
4	A tire impression (track) created in the grass by the left-front and left-rear tires as the Ford traversed the median separating the northbound and southbound lanes of Jamboree Road
5	A tire impression (track) created in the grass by the right-front and right-rear tires as the Ford traversed the median separating the northbound and southbound lanes of Jamboree Road
6	A tire friction mark deposited by the left-front and/or left-rear tires of the Ford as the tires dismounted the east curb of the median separating the northbound and southbound lanes of Jamboree Road
7	A tire friction mark deposited by the right-front and/or right-rear tires of the Ford as the tires dismounted the east curb of the median separating the northbound and southbound lanes of Jamboree Road
8	A tire friction mark deposited by the deflated right-front tire of the Ford as the vehicle traversed the northbound lanes of Jamboree Road
9	A tire friction mark deposited by the deflated left-front tire of the Ford as the vehicle traversed the northbound lanes of Jamboree Road and driveway providing access to a maintenance facility for Big Canyon Country Club
10	A 1.2-foot-diameter tree damaged as a result of the impact from the front of the Ford