

March 31, 2016

AMENDED / MODIFIÉ
Pursuant to / Conformément à
RULE/LA RÈGLE 26.02 (A)
THE ORDER OF / L'ORDONNANCE DU
DATED / FAIT LE
REGISTRAR / GREFFIER
SUPERIOR COURT OF JUSTICE / COUR SUPÉRIEURE DE JUSTICE

Court File No.: CV-16-543767-00CP

**ONTARIO
SUPERIOR COURT OF JUSTICE**

BETWEEN

RICK A. DES-ROSIERS and STEPHEN KOMINAR
Plaintiffs

and

**TAKATA CORPORATION, TK HOLDINGS INC., HONDA MOTOR CO., LTD.,
HONDA OF AMERICA MANUFACTURING, INC.
and HONDA CANADA**
Defendants

Proceeding under the *Class Proceedings Act, 1992*

AMENDED FRESH AS AMENDED STATEMENT OF CLAIM

Notice of Action issued on November 7, 2014

DEFINED TERMS

- I. In this Amended Statement of Claim, in addition to the terms that are defined elsewhere herein:
 - (a) "Airbag Inflator" means a chamber that generates gas to inflate and deploy an airbag in order to protect a vehicle occupant;
 - (b) "Body Control Module" means an electronic control unit responsible for monitoring and controlling various electronic accessories in the vehicle's body, and which communicates with other onboard computers;
 - (c) "CJA" means the *Courts of Justice Act*, R.S.O. 1990, c.C-43, as amended;

- (d) “**Class**” or “**Class Members**” means all persons in Canada who owned or leased one of the subject **Vehicles** as of the date of the **Recalls**;
- (e) “**CPA**” means the *Class Proceedings Act, 1992*, S.O. 1992, c.6, as amended;
- (f) “**Defendants**” means **Takata, TK**, Honda America, Honda Japan, and Honda Canada;
- (g) “**Des-Rosiers**” means Rick A. Des-Rosiers;
- (h) “**Excluded Persons**” means the defendants and their officers, directors and their respective heirs, successors and assigns;
- (i) “**Honda**” means collectively Honda America, Honda Japan and Honda Canada;
- (j) “**Honda America**” means Honda of America Manufacturing, Inc. a corporation organized and existing under the laws of the State of Delaware, United States of America;
- (k) “**Honda Canada**” means Honda Canada Inc.;
- (l) “**Honda Japan**” means Honda Motor Co., Ltd., a corporation organized and existing under the laws of Japan;
- (m) “**Kominar**” means Stephen Kominar;
- (n) “**Motor Vehicle Safety Act**” means the *Motor Vehicle Safety*, S.C. 1993, c. 16, as amended;
- (o) “**NHTSA**” means the U.S. National Highway Traffic Safety Administration;
- (p) “**Plaintiffs**” means Des-Rosiers and Kominar;

- (q) **"Recalls"** means Transport Canada Recall #2013111 issued on April 10, 2013, Transport Canada Recall #2014242 issued on June 20, 2014, Transport Canada Recall #2014567 issued on December 15, 2014, Transport Canada Recall #2015225 issued on May 27, 2015 ~~and Transport Canada Recall #2015261 issued on June 15, 2015, Transport Canada Recall #2015261 issued on June 15, 2015, Transport Canada Recall #2015513 issued on October 29, 2015, Transport Canada Recall #2015602 issued on December 18, 2015 and Transport Canada Recall #2016046 issued on February 2, 2016;~~
- (r) **"Takata"** means Takata Corporation, a corporation organized and existing under the laws of Japan;
- (s) **"TK"** means TK Holdings Inc.; and
- (t) **"Vehicles"** means those vehicles subject to the **Recalls**, as described in paragraph 3.

2. The Plaintiffs, on their own behalf and on behalf of all Class Members, seek:
- (a) an order certifying this action as a class proceeding and appointing the Plaintiffs as the representative plaintiffs;
- (b) general damages and special damages assessed individually or in the aggregate in the amount of \$500,000,000;
- (c) punitive damages and/or exemplary damages in the amount of \$150,000,000;
- (d) a reference to decide any issues not decided at the trial of the common issues;
- (e) prejudgment interest compounded and postjudgment interest pursuant to the *CJA*;

- (f) costs of this action pursuant to the *CPA*, alternatively, on a full or substantial indemnity basis plus the cost of administration and notice pursuant to s.26(9) of the *CPA* plus applicable taxes; and
- (g) such further and other relief as to this Honourable Court seems just.

THE NATURE OF THIS ACTION

3. This class action concerns the life-threatening and dangerous Airbag Inflator that was negligently designed, manufactured and installed by the Defendants into the Vehicles subject to Transport Canada Recall #2013111, Transport Canada Recall #2014242, Transport Canada Recall #2014567, Transport Canada Recall #2015225, Transport Canada Recall #2015261, Transport Canada Recall #2015513, Transport Canada Recall #2015602 and Transport Canada Recall #2015264/2016046, named in the following chart:

Make	Model	Model Years
ACURA	CL	2003
	EL	2001-2005
	ILX	2013-2016
	MDX	2003-2006
	1.7EL	2001-2005
	RDX	2007-2015
	RL	2005-2012
	TL	2002-2003, 2009-2014
HONDA	ZDX	2010-2013
	ACCORD	2001-2007
	CIVIC	2001-2005
	CIVIC HYBRID	2004-2005
	CR-V	2002-2006/2011, 2016
	CR-Z	2011-2015
	ELEMENT	2003-2010
	FIT	2009-2014

Split Cells

Split Cells

Make	Model	Model Years
	INSIGHT	2010-2014
	ODYSSEY	2002-2004
	PILOT	2003-2008
	RIDGELINE	2006-2014

Split Cells

4. The Defendants have identified at least 2,873 frontal Airbag Inflator ruptures involving injury as a result of metal fragments being propelled into the Vehicles and Vehicles' occupants.
5. The Defendants have identified at least eight frontal Airbag Inflator ruptures causing death as a result of metal fragments being propelled into the Vehicles' occupants.
6. On November 13, 2014, Takata's CEO said: "[T]he moisture absorption control of the gas generating agent in some driver seat airbags had not been correctly implemented at the time of manufacture, as a result of which an inflator canister may rupture when the airbag deploys.... We deeply regret that the problem in our airbags have caused problems."

THE PLAINTIFFS

7. Des-Rosiers is a 55 year-old Canadian federal government employee residing in the City of Windsor, in the Province of Ontario. On August 18, 2005 he purchased a 2003 Honda Pilot. He currently owns this Vehicle.
8. Kominar is a 77 year-old retiree residing in the City of Windsor, in the Province of Ontario. On November 23, 2002, he purchased a 2002 Honda CR-V. He currently owns this Vehicle.

PARTICULARS OF THE CLASS

9. The Class is comprised of all persons in Canada who owned or leased one more than 700,000 Vehicles subject to Recalls. The identities of the members of the Class are known to Honda Canada.

THE DEFENDANTS AND THEIR RELATIONSHIP

10. TK is a corporation organized and existing under the laws of the State of Delaware. It was also responsible for the engineering, design, development, research and manufacture of the Airbag Inflator. TK is and was at all material times a wholly-owned subsidiary of Takata.
11. Honda Canada is a federally incorporated Canadian company with its head office in Markham, Ontario. It is involved in the engineering, design, development, research and manufacture of the Vehicles. Honda Canada is and was at all material times a wholly-owned subsidiary of Honda Japan.

THE DANGEROUS DEFECT IN THE AIRBAG INFLATOR

12. Airbags consist of three main component parts: (i) the Airbag Inflator, (ii) the airbag cushion material, and (iii) the airbag module that holds both the Airbag Inflator and cushion material in the steering wheel, dashboard or elsewhere in the vehicle.
13. When the airbag is triggered to deploy, a chemical propellant housed within the metal Airbag Inflator in the form of a stack of solid propellant wafers is ignited. The heat from the ignition causes the propellant wafers to undergo a chemical reaction which produces a gas. The Airbag Inflator has a number of holes that

allows the gas to exit and fill the Airbag. The holes initially are sealed, often with a thin layer of aluminum, and the force of the gas breaks the seal after the propellant is ignited, allowing for a properly timed inflation of the Airbag. Upon inflation, the Airbag is drawn out of the steering wheel or dashboard. When the vehicle occupant makes contact with the Airbag, the gas is dispersed through vents located along the sides and back of the bag causing it to deflate. This whole process happens within milliseconds of a crash.

14. The filled airbag's purpose is to cushion the vehicle's occupants during a crash and provide protection to their bodies when they strike interior vehicle components such as the steering wheel or a window.
15. An Airbag Inflator rupture occurs when there is too much pressure from the gas within the Airbag Inflator. This happens when the propellant density is too low, which causes it to burn faster and produce gas too quickly after it is ignited, or when the propellant wafers crumble or break. Instead of only exiting through the Airbag Inflator's designed holes, the excessive pressure of the gas ruptures the Airbag Inflator's metal housing. This metal can then puncture the airbag cushion, can break into fragments, and can come into contact with vehicle occupants.
16. In or about 1999, TK researchers in Michigan were pressured by Takata executives to develop a more cost-effective propellant for use in its Airbag Inflators. The TK researchers proposed a propellant based on ammonium nitrate.
17. But the Takata engineering team in the Moses Lake, Washington factory responsible for assembling the propellant wafers into the Airbag Inflators raised objections to using a propellant based on ammonium nitrate because they understood it to be a "risky compound".

18. The senior engineer at the Moses Lake, Washington factory, Mr. Mark Lillie, advised Takata executives that explosives manuals warned that the compound “tended to disintegrate on storage under widely varying temperature conditions” with “irregular ballistic” consequences.
19. In or about 2000, Takata adopted ammonium nitrate as its propellant base due to, among other things, its low cost so as to remain competitive in the Airbag Inflator market.
20. Since 2000, other Airbag Inflator manufacturers in North America have refused to adopt ammonium nitrate based propellants due to safety concerns.
21. In an interview on November 19, 2014 with the New York Times, Mr. Lillie described Takata’s adoption of the ammonium nitrate based propellant in its Airbag Inflators: “It’s a basic design flaw that predisposes this propellant to break apart, and therefore risk catastrophic failure in an inflator [sic].”
22. Takata and TK provided the Airbag Inflators used in the assembly of all of the recalled Vehicles as further described below.
23. In or about 2000, Takata and TK developed internal guidelines and specifications for the manufacturing of the new Airbag Inflators with ammonium nitrate propellant. Specifically, the ammonium nitrate propellant was to be stored in sealed containers to protect it from humidity prior to being pressed into propellant wafers. Each individual propellant wafer and propellant wafer stack was to be pressed at a specific force to ensure combustion within the Airbag Inflator was controlled. Each Airbag Inflator was to contain a stack of seven propellant wafers.

24. Honda America and Honda Canada, along with the Takata defendants, designed the testing specifications for the new design of airbag inflators. But neither of them considered the potential for the increase of porosity in the new Airbag Inflator to be within the scope of these testing specifications. Honda America and Honda Canada thus validated the Airbag Inflator design without any consideration for the porosity of the propellant wafer throughout the Airbag Inflator's lifetime. The propellant wafers must not be porous, otherwise moisture will enter them and change their chemical make-up, leading to over-aggressive combustion in the event of an Airbag Inflator deployment.
25. Between 2000 and 2002, when Takata and TK manufactured the Airbag Inflators at their factories in Moses Lake, Washington and in Monclova, Mexico, they did not manufacture or handle the ammonium nitrate propellant and wafers in accordance with their own internal guidelines and specifications.
26. Production of the Airbag Inflators at the Moses Lake, Washington factory commenced on April 13, 2000. Between April 13, 2000 and September 11, 2002, this factory produced propellant wafers with an inadequate compaction force. Although the Moses Lake factory had an "auto-reject" function that could detect and reject propellant wafers with inadequate compression by monitoring the compression load that had been applied, this function was turned off manually by the machine operator in this factory. Defective Airbag Inflators were thus shipped to Honda Canada and Honda America from the Moses Lake, Washington factory for assembly into the Vehicles.
27. Production of the Airbag Inflators at the Monclova, Mexico factory commenced on October 4, 2001. Between October 4, 2001 and October 31, 2002, this factory produced propellant wafers that were exposed to dangerous levels of humidity. Although Takata and TK had internal specifications on the handling of the ammonium nitrate containers, the ammonium nitrate was left sitting in unsealed containers and exposed to moisture from the factory floor contrary to these

specifications. These propellant wafers absorbed moisture beyond the allowable limits.

28. At that time, Takata and TK knew that the Monclova, Mexico factory was manufacturing Airbag Inflators with a defect rate that was "six to eight times above acceptable limits, or roughly 60 to 80 defective parts for every one million Airbag Inflators shipped." Defective Airbag Inflators were thus shipped to Honda Canada and Honda America from the Monclova, Mexico factory for assembly into the Vehicles.
29. Takata and TK's propellant wafer lot production history records and the Airbag Inflator production records do not permit the identification of whether all or some or which of the Airbag Inflators were manufactured with the previously described defects. Throughout this statement of claim, these Airbag Inflators are referred to as "defective Airbag Inflators."
30. The Defendants do not know which of the Vehicles assembled with Airbag Inflators manufactured at these factories during the time periods previously described are defective, and which are not defective.
31. The only way to ensure a Vehicle does not contain a defective Airbag Inflator is to recall the Vehicle and service it with an Airbag Inflator that is not defective.
32. The Defendants manipulated airbag test data so that the unacceptable defect rate was not discovered by the regulators or the Class Members until the Recalls.
33. In November 2000, TK employees prepared an internal report whereby they raised concerns about airbag defect rate manipulation. The report concludes that in several instances, "pressure vessel failures", or airbag ruptures, were reported to vehicle manufacturers as normal airbag deployments.

44-34. In 2004, a Vehicle was involved in an otherwise non-catastrophic collision that caused the Airbag Inflator to deploy. It deployed abnormally and ruptured and killed the Vehicle's driver. Because of the nature of the "stab-like" lacerations to the driver's face, the responding police initially treated the case as a homicide. But the Los Angeles County Coroner's report concluded that the deceased driver's lacerations came from "a metallic portion" of the defective Airbag Inflator that "hit the deceased on the face as it deployed". This incident is referred to as the 2004 Los Angeles Airbag Inflator rupture.

44-35. In or about 2004, TK was informed by Honda America of the 2004 Los Angeles Airbag Inflator rupture. A former TK lab employee described his review of this defective Airbag Inflator in 2004 saying that it "looked like it had exploded, and had a hole punched out of the side of the canister."

44-36. TK conducted a series of tests on 50 defective Airbag Inflators retrieved from inoperable Vehicles in junkyards to determine the cause of the 2004 Los Angeles Airbag Inflator rupture. Each of these Vehicles had been assembled with defective Airbag Inflators manufactured at the Moses Lake, Washington or the Monclova, Mexico factories during the time periods described above.

44-37. The tests were conducted outside of normal business hours during evenings and weekends at a site with restricted access. The tests revealed that two of these defective Airbag Inflators failed these tests and showed cracks and the start of "rapid disassembly" during the tests. "Rapid disassembly" was TK's preferred term for explosion. This is a very high failure rate in the Airbag Inflator manufacturing industry.

44-38. TK lab employees theorized that a problem with the welding of the Airbag Inflator's canister, intended to hold the airbag's explosives, made its structure vulnerable to splitting and rupturing. These employees were directed to design

prototypes for possible fixes and a second canister to strengthen the unit was designed.

37-39. In or around 2004, TK shared the results of this testing of the 50 defective Airbag Inflators with Honda America and Honda Canada. But they did not advise the regulators or the Class Members of this dangerous defect with the Airbag Inflators or announce a recall of the Vehicles.

38-40. After the design of the replacement second canister, TK directed that further testing be stopped, and all lab employees involved with this testing of the Airbag Inflators were instructed to destroy all related data including video and computer backups. The prototypes of the new non-defective Airbag Inflators were also ordered to be disassembled and disposed of in a scrap-metal dumpster.

41. In January 2005, TK employees continued to raise concerns about the Defendants' airbag defect rate manipulation. In an internal email, Bob Schubert, a TK airbag engineer, alerted other TK employees that he had been "repeatedly exposed to the Japanese practice of altering data presented to the customer," adding that such conduct was described by Takata and TK as "the way we do business in Japan." Mr. Schubert described this practice as having "gone beyond all reasonable bounds and now most likely constitutes fraud."

39-41. From May to August of 2007, TK received three more accident reports from Honda America involving ruptured defective Airbag Inflators. In response, TK began collecting defective Airbag Inflators for inspection from the field, investigating the root cause of the defect.

40-43. By September 2008 the investigation undertaken by TK after August 2007 confirmed what TK already knew during 2000 - 2002: that a defect existed in the Airbag Inflators because of the inadequate manufacturing processes involving

propellant wafers produced between 2000 and 2002 in its factories in Moses Lake, Washington and Monclova, Mexico. The results of this investigation were shared with Honda America and Honda Canada.

44. As a result, between 2008 and 2011, Honda Canada and Honda America reported a series of safety recalls for vehicles equipped with defective driver Airbag Inflators produced between 2000 and 2002. This included approximately 1.1 million vehicles in Canada and the U.S. with model years ranging from 2001 to 2004. But Honda Canada and Honda America did not recall all vehicles manufactured with the defective Airbag Inflators at this time, leaving these dangerous Vehicles on the road until they were recalled in 2013, 2014 and 2015, as described below.

45. Throughout this first set of recalls, Takata and TK did not know which of the Vehicles had been assembled with Airbag Inflators that were defective. During a meeting of high-level Takata and TK executives on July 22, 2009, Hidenobu Iwata, who at the time oversaw TK, pressed Takata's president, Shigehisa Takada, on the extent of the defect. The Minutes of this meeting indicated that Mr. Iwata asked Mr. Takada: "I am constantly worrying how far it spread out. I want you to stude [study] the reason quickly".

46. The Minutes of the July 22, 2009 meeting of high-level Takata and TK executives also identify an engineer known as "Otakaa" as also pressing Mr. Takada on the reasons for the defect: "Why does the propellant deteriorate with age? Why does it explode? I want to know the truth."

47. In 2011, Takata and TK were notified of Airbag Inflator ruptures occurring in scrapyards in Japan by salvage operations conducting "end of life" recycling processes for expired vehicles. Takata and TK launched an investigation and began testing defective Airbag Inflators taken from vehicles in the field.

- 44.48. By October 2012, the investigation undertaken by Takata in 2011 confirmed what it already knew in 2000 – 2002 and what TK already concluded from its investigation in September 2008: that inadequate compression of the propellant wafers and exposure to poor moisture conditions, in combination with aging of the propellant was causing the defective Airbag Inflators to rupture.
- 44.49. By April 2013, Takata and TK confirmed the existence of this Airbag Inflator defect in the vehicles which were not covered by the recalls that occurred between 2008 and 2011 to NHTSA. This led to a second series of safety recalls for vehicles equipped with defective Airbag Inflators as further described below.
- 45.50. Honda America conducted its own investigation into the Airbag Inflators, independently from the Takata defendants. On October 20, 2011, Honda America learned of the rupture of the Airbag Inflator in a vehicle driven in Puerto Rico causing the death of this vehicle's occupants.
- 46.51. On February 3, 2012, the Puerto Rican vehicle was received by Honda America for analysis and its investigation confirmed that this Vehicle's defective Airbag Inflator had ruptured.
- 47.52. In or about 2012, Takata, TK and Honda commissioned a study by the High Pressure Combustion Laboratory at Pennsylvania State University, to study the use of ammonium nitrate in the airbags. The study's conclusion cast doubt on the use of ammonium nitrate, suggesting it was sensitive to changes in pressure. The findings and methodology of the study were disputed by Takata. This test was not shared with NHTSA until two years later.
- 48.53. Separately from the Takata and TK's investigations into the Airbag Inflators, on March 14, 2012, Honda America informed NHTSA that it would investigate and collect Airbag Inflators manufactured during the 2000 – 2002 time period at the

Moses Lake, Washington and the Monclova, Mexico factories to determine why some Airbag Inflators were rupturing.

~~44-54~~ On November 21, 2012, Honda America's investigation of the Airbag Inflators indicated abnormal combustion of the Airbag Inflators was possible but Honda America advised NHTSA that it could not determine its cause.

~~50-55~~ On March 6, 2013, Honda America recreated the Airbag Inflator's production using the same methods as were used during 2000 – 2002 production periods previously described.

~~54-56~~ Between March 6, 2013 and April 10, 2013, the investigation undertaken by Honda America confirmed what it already knew in 2004 after TK advised it of its tests on the 50 defective Airbag Inflators: that the propellant used in the manufacturing of the Airbag Inflators during 2000 – 2002 could have been manufactured out of specification.

~~56-57~~ On April 10, 2013, Honda America issued a Recall Notification regarding the defective Airbag Inflators to NHTSA. In this letter Honda America explained the reason for the recall of some of the Vehicles assembled with the defective Airbag Inflators:

HONDA
American Honda Motor Co., Inc.
1919 Torrance Boulevard
Torrance, CA 90501-2746
Phone (310) 783-2000

April 10, 2013

Ms. Nancy Lewis
Associate Administrator for Enforcement
NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION
Attn: Re: Recall Management Division (NVS-215)
1200 New Jersey Avenue, SE

Washington, DC 20590

**RE: Recall Notification
Honda: 2001-2003 Civic, 2002-2003 CR-V and 2002 Odyssey
Passenger Airbag Inflator**

Dear Ms. Lewis:

On April 4, 2013 Honda Motor Co., Ltd. (HMC) determined that a potential defect relating to motor vehicle safety exists in the passenger airbag inflator of certain 2001-2003 model year Honda Civic, 2002-2003 model year Honda CR-V, and 2002 model year Honda Odyssey automobiles, and is providing notification to the National Highway Traffic Safety Administration in accordance with 49 CFR Part 573 Defect and Noncompliance Reports.

573.6(c)(1)

Name of manufacturer: Honda Motor Co., Ltd. (HMC)
Honda of America Mfg., Inc. (HAM)
Honda of Canada Mfg. (HCM)
Honda of the UK Mfg. Ltd (HUM)
Honda Mfg. of Alabama, LLC (HMA)

Manufacturer's agent: Jay Joseph
American Honda Motor Co., Inc. (AHM)
1919 Torrance Blvd.
Torrance, CA 90501-2746

573.6(c)(2)

Identification of potentially affected vehicles:
See ATTACHMENT I

Description of the basis for the determination of the recall population:

The recall population was determined based on manufacturing records. The VIN range reflects all possible vehicles that could potentially experience the problem.

573.6(c)(2)(iv)

Identification of affected component:
Component: Front Passenger Airbag Inflator
Country of Origin: U. S.A.
Manufacturer: T.K. Holdings, Inc.
Contact Name: Kazuo Higuchi
Address: 888 16th Street, NW, Suite 800
Washington, DC 20006
Telephone: (202) 729-6332

573.6(c)(3)

Total number of potentially affected vehicles:
561,422

573.6(c)(4)

Percentage of affected vehicles that contain the defect: Unknown

573.6(c)(5)

Defect description:

In certain vehicles, the passenger's (frontal) airbag inflator could produce excessive internal pressure. If an affected airbag deploys, the increased internal pressure may cause the inflator to rupture. In the event of an inflator rupture, metal fragments could be propelled upward toward the windshield, or downward toward the front passenger's foot well, potentially causing injury to a vehicle occupant.

54-58 Also on April 10, 2013, Honda Canada reported Road Safety Recall #2013111 to Transport Canada. A total of 107,786 of the Vehicles were recalled. This published Road Safety Recall reads as follows:

Road Safety Recalls Database**Transport Canada Recall #2013111**

Recall Date		2013/04/10
Notification Type		Safety Mfr
System		Airbag
Manufacturer Recall Number		H-2-13
Units affected		107,786
Category		Car, Minivan
Recall Details		
On certain vehicles the passenger (frontal) airbag inflator could produce excessive internal pressure during airbag deployment. Increased pressure may cause the inflator to rupture, which could allow fragments to be propelled toward vehicle occupants, increasing the risk of injury. This could also damage the airbag module, which could prevent proper deployment. Failure of the passenger airbag to fully deploy during a crash (where deployment is warranted) could increase the risk of personal injury to the seat occupant. Correction: Dealers will inspect and, if necessary, replace the passenger airbag inflator.		
Make	Model	Model Year(s) Affected
ACURA	EL	2001 2002 2003
HONDA	CIVIC	2001 2002 2003

HONDA	CR-V	2002 2003	
HONDA	ODYSSEY	2002	
Manufacturer Name		Toll Free Number	Web Site
HONDA		1-888-946-6329	

54.59. On April 11, 2013, Kazuo Higuchi, Senior Vice President of Takata wrote to NHTSA regarding "a potential defect relating to motor vehicle safety in certain air bag [sic] inflators" arising from manufacturing errors at the Moses Lake, Washington and Monclova, Mexico factories. Mr. Higuchi wrote that the reason for this defect was that the Airbag Inflator "could potentially deteriorate over time due to environmental factors, which could lead to over-aggressive combustion in the event of an air bag deployment. This could create excessive internal pressure within the inflator, and the body of the inflator could rupture".

55.00. In this letter, Mr. Higuchi also admitted that Takata does not know how many of the Airbag Inflators are defective, and how many of the defective Airbag Inflators were installed into vehicles because they did not have those records:

TAKATA
 288 16th Street, NW, Suite 800
 Washington, DC 20006 USA
 TEL: 202-729-6332
 FAX: 202-349-4034

April 11, 2013

Ms. Nancy Lewis:

Associate Administrator of Enforcement
 National Highway Traffic Safety Administration
 Attn: Re: Recall Management Division (NVS-215)
 Room W48-302
 1200 New Jersey Avenue, S.E.
 Washington, D.C. 20590

RE: Defect Information Report, Certain Air Bag Inflators Used as Original Equipment

Dear Ms. Lewis:

TK Holdings Inc. ("Takata") is submitting this Defect Information Report ("DIR") pursuant to 49 CFR 573.3(f) and 573.6(c). This DIR contains information about a potential defect relating to motor vehicle safety in certain air bag inflators used as original equipment in vehicles produced by several vehicle manufacturers.

If you have any questions about this DIR, please contact the undersigned at (202) 729-6332 or at kazuo.higuchi@takata.com.

Sincerely,

Kazuo Higuchi
Senior Vice President

Enclosure

DEFECT INFORMATION REPORT

1. **Manufacturer's name:**

TK Holdings Inc.

2. **Items of Equipment Potentially Containing the Defect:**

Certain air bag inflators installed in frontal passenger-side air bag modules equipped with propellant wafers manufactured at Takata's Moses Lake, Washington plant during the period from April 13, 2000 (start of production) through September 11, 2002 (an improved quality control process was confirmed to be in place no later than September 12, 2002), and certain air bag inflators manufactured at Takata's Monclova, Mexico plant during the period from October 4, 2001 (start of production) through October 31, 2002 (an improved quality control system for handling and storing of the propellant wafers was confirmed to be in place no later than November 1, 2002).

The inflators covered by this determination were installed as original equipment in vehicles manufactured by the following entities:

Toyota Motor Corporation
Contact: Bob Waltz, Group VP
Product Quality and Service Support
Toyota Motor Sales, Inc.
91001 South Western Ave.
Torrance CA 90501
(310) 468 9048

Honda Motor Co., Ltd.
Contact: Jay Joseph
American Honda Motor Co., Inc

1919 Torrance Boulevard
Torrance, CA 90501-2746
(310) 783-2000

Nissan Motor Co., Ltd.
Contact: Dale Weiss and James Hunter
Nissan North America, Inc.
610 Enon Spring Rd. E.
Smyrna, TN 37167-4410
(615) 223-3199

Mazda Motor Corporation
Contact: Max Yamashita, Manager, Part Quality Assurance
26900 Hall Road
Woodhaven, MI 48183
(734) 692-3681

BMW
Contact: Robert Janssen
Bayerische Motoren Werke AG
Knorrstr. 147
80788 Munchen Germany
+49 89 382-45277

General Motors
Contact: M. Carmen Benavides, Director Product
Investigations and Safety Regulations
30001 Van Dyke Rd.
Warren Mi 48090-9020

3. **Total Number of Items of Equipment Potentially Involved:**

Although Takata knows the number of subject air bag inflators it supplied to each vehicle manufacturer, Takata does not know how many of the subject inflators were installed in vehicles sold in the United States. That information is available from the vehicle manufacturers.

4. **Approximate Percentage of Items of Equipment Estimated to Actually Contain the Defect:**

Unknown. However, based on the very small number of field incidents that have occurred, it is extremely low.

5. **Description of the defect:**

Some propellant wafers produced at Takata's plant in Moses Lake, Washington between April 13, 2000 and September 11, 2002 may have been produced with an inadequate compaction force. (Beginning in September 2001, Takata utilized an " auto-reject" ("AR") function that can detect and reject propellant wafers with inadequate compression by monitoring the compression load that had been applied. However, for

the next year, that function could be turned on and off manually by the machine operator in the plant.

No later than September 12, 2002, the machine was modified by the addition of an interlock feature that precluded production of propellant wafers without the AR function in place.)

In addition, some propellant wafers used in inflators produced at Takata's plant in Monclova, Mexico between October 4, 2001 and October 31, 2002 may have been exposed to uncontrolled moisture conditions. Those wafers could have absorbed moisture beyond the allowable limits. (Production processes were revised no later than November 1, 2002 to assure proper handling and environmental protection of all in-process propellant.)

In both cases, the propellant could potentially deteriorate over time due to environmental factors, which could lead to over-aggressive combustion in the event of an air bag deployment. This could create excessive internal pressure within the inflator, and the body of the inflator could rupture.

6. **Chronological summary of events leading to this determination:**

October 2011 -Takata was first notified of an incident related to this issue, which involved the deployment of a passenger air bag in Japan. Takata promptly began an investigation, consisting of a fault tree analysis and an analysis of production records.

November 2011 -Takata was made aware of an incident in which an air bag inflator ruptured in a U.S vehicle (in Puerto Rico).

February -June 2012 -Takata conducted replication tests on inflators taken from vehicles in the field, but could not reproduce the problem.

September -November 2012 -Takata was informed of three additional incidents in the United States (two in Puerto Rico and one in Maryland (the Maryland vehicle had previously been operated in Florida for eight years)).

October 2012 -After considering a wide range of possible causes, Takata concluded that there was a possibility that the propellant in certain propellant wafers produced at the Moses Lake, Washington plant might not have been adequately compressed. Through replication tests, Takata confirmed that the combination of an inadequately compressed propellant wafer and exposure to certain environmental conditions for an extended period could create excessive internal pressure within the inflator during a deployment, and the body of the inflator could rupture. However, Takata also discovered at this time that, beginning in September 2001, the machine that molded the propellant into wafers was equipped with an "auto-reject" (CHAR") function that would identify and reject wafers with inadequate compression.

February -March 2013 -Takata discovered that, for approximately one year, the AR function could be turned on and off manually by the machine operator in the plant. Takata subsequently confirmed that an interlock feature was added no later than September 12, 2002, which precluded production of wafers unless the AR function was in place.

Takata also discovered that some propellant wafers that were used in inflators produced at its plant in Monclova, Mexico between October 4, 2001 and October 31, 2002 may have been exposed to uncontrolled moisture conditions, and that those wafers could have absorbed moisture beyond the allowable limits. Takata confirmed that the combination of excess moisture in a propellant wafer and exposure to certain environmental conditions for an extended period also could lead to an inflator rupture due to excessive internal pressure.

Takata is aware of only six such incidents involving the subject inflators in vehicles in the field (four in the United States and two in Japan). (In addition, there were six incidents that occurred in salvage yards in Japan.) Moreover, Takata is not aware of any injuries associated with the improper deployment of any air bags containing the suspect inflators. However, in view of the possibility that such a deployment could lead to an injury, on April 5, 2013, Takata decided that a defect related to motor vehicle safety exists.

7. **Description of the Remedy Program:**

Takata will work with the manufacturers of the vehicles in which the covered air bag inflators were installed to implement an appropriate field action.

On June 19, 2014, Honda America reported a recall to NHTSA regarding defective Airbag Inflators. In this letter Honda America explained the reason for the recall of the Vehicles assembled with the defective Airbag Inflators:

HONDA
 American Honda Motor Co., Inc.
 1919 Torrance Boulevard
 Torrance, CA 90501-2746
 Phone (310) 783-2000
 14V-353

June 19, 2014

Ms. Nancy Lewis

Associate Administrator for Enforcement
NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION
Attn: Re: Recall Management Division (NVS-215)
1200 New Jersey Avenue, SE
Washington, DC 20590

RE: Honda and Acura Passenger Airbag Inflator Safety Improvement Campaign

Honda Vehicles

**2003-2005 Model Year Accord, Civic, CR-V, Element, Pilot
2003-2004 Model Year Odyssey**

Acura Vehicles

**2003-2005 Model Year MDX
2005 Model Year RL**

Dear Ms. Lewis:

On June 19, 2014 Honda Motor Co., Ltd. (HMC) decided to conduct a safety improvement campaign for the passenger's airbag inflator in certain model year Honda and Acura vehicles listed above. Honda has not made a determination that a safety defect exists, however we are choosing to participate in the collection of parts in order to support ongoing investigation.

As discussed with NHTSA ODI staff, this safety improvement campaign is not being conducted under the Safety Act. We are submitting this letter in a format consistent with the requirements of 49 CFR, Part 573 for the sake of clear communication; however Honda does not have sufficient information to reach a defect determination at this time.

Name of manufacturer: Honda Motor Co., Ltd. (HMC)
Honda of America Mfg., Inc. (HAM)
Honda of Canada Mfg. (HCM)
Honda of the U.K. Mfg. (HUM)
Honda Mfg. of Alabama (HMA)
Honda de Mexico, S.A. de C.V. (HDM)

Manufacturer's agent: Jay Joseph
American Honda Motor Co., Inc. (AHM)
1919 Torrance Blvd.
Torrance, CA 90501-2746

Identification of vehicles:

Certain model year Honda and Acura vehicles that were originally sold in, or ever registered in, geographic locations known for high absolute humidity: Alabama, Florida, Georgia, Hawaii, Louisiana, Mississippi, South Carolina, Texas, Puerto Rico and the U.S. Virgin Islands.

See ATTACHMENT for VIN information.

Description of the basis for the determination of the vehicle population:

The vehicle population was based on manufacturing records and market occurrence of the involved symptom. The VIN range reflects all possible vehicles that could potentially experience the problem.

Identification of component:

Component: Front Passenger Airbag Inflator
 Country of Origin: USA
 Manufacturer: T.K. Holdings, Inc.
 Contact Name Kazuo Higuchi
 Address: 888 16th Street NW - Suite 800
 Washington, DC 20006
 Telephone No.: (202) 729-6332

Total number of vehicles: TBD

Condition:

Certain Honda and Acura vehicles operated in areas that are known for high absolute humidity may contain a passenger (frontal) airbag inflator that could produce excessive internal pressure. If an airbag deploys with excessive internal pressure, it may cause the inflator to rupture, possibly propelling metal fragments upward toward the windshield, or downward toward the front passenger's foot well and potentially causing injury to a vehicle occupant.

Timeline:

Jun 13, 2014 NHTSA contacted Honda to discuss the possibility of conducting a safety improvement campaign to support the ongoing investigation of the cause of energetic passenger airbag inflators, focusing on locations in the U.S. that experience high absolute humidity levels and high temperatures.

Campaign Plan:

The owners of all vehicles will be contacted by mail and asked to take their vehicle to a Honda or Acura automobile dealer. The dealer will replace the passenger's airbag inflator, free of charge. Owner notification letters will reference this being conducted as a safety recall.

The estimated date to e-mail preliminary notification to dealers: TBD

The estimated date to e-mail preliminary notification to dealers: TBD

The estimated date to provide service bulletin to dealers: TBD

The estimated date to begin sending notifications to owners: TBD

The estimated date of completion of the notification: TBD

Proposed owner notification letter submission: June 19, 2014

Manufacturer's campaign number: TBD

Sincerely,
AMERICAN HONDA MOTOR CO., INC.

Jay Joseph
Senior Manager
Product Regulatory Office
JWJ:cm

On June 20, 2014, Honda Canada expanded its vehicle population recalled for defective Airbag Inflators and reported Road Safety Recall #2014242 to Transport Canada. A further 168,968 of the Vehicles were recalled. This published Road Safety Recall reads as follows:

Road Safety Recalls Database

Transport Canada Recall #2014242

Recall Date	2014/06/20	
Notification Type	Safety Mfr	
System	Airbag	
Manufacturer Recall Number		
Units affected	168,968	
Category	Car, light Truck & Van	
Recall Details		
<p>On certain vehicles the passenger (frontal) airbag inflator could produce excessive internal pressure during airbag deployment. Increased pressure may cause the inflator to rupture, which could allow fragments to be propelled toward vehicle occupants, increasing the risk of injury. This could also damage the airbag module, which could prevent proper deployment. Failure of the passenger airbag to fully deploy during a crash (where deployment is warranted) could increase the risk of personal injury to the seat occupant. Correction: Dealers will inspect and, if necessary, replace the passenger airbag inflator. Note: This recall is an expansion of recall 2013111.</p>		
Make	Model	Model Year(s) Affected
ACURA	EL	2001 2002 2003
	MDX	2003

HONDA	ACCORD	2003	
	CIVIC	2002 2003	
	CR-V	2002 2003	
	ELEMENT	2003	
	ODYSSEY	2002 2003	
	PILOT	2003	
Manufacturer Name		Toll Free Number	Web Site
HONDA		1-888-946-6329	

3403. On November 24, 2014, Takata and TK announced that the chemical composition of the propellant which had been used in the Airbag Inflators manufactured at the Moses Lake, Washington and Monclova, Mexico factories was being changed for the production of the Airbag Inflators which would be used for servicing the recalled Vehicles.

3404. Also on November 24, 2014, Honda America admitted that it failed to report to NHTSA, as required by law, all claims involving its vehicles which caused deaths or injury over an eleven year period. It failed to report 1,729 incidents in which its vehicles caused death or injury due to the defective Airbag Inflators. In one of these unreported incidents the Airbag Inflator ruptured and caused the death of the vehicle's driver.

3405. Honda America blamed this failure on "inadvertent" data entry and computer programming errors in an independent audit of its records between 2003 and 2014.

3406. Rick Schostek is Honda America's executive vice president. On November 24, 2014, Mr. Schostek said that Honda America was slow to react when it discovered its reporting to NHTSA was flawed: "Honda acknowledges that it lacked the urgency needed to correct its problems on a timely basis."

On December 15, 2014, Honda Canada initiated a voluntary "Safety Improvement Campaign" and reported Road Safety Recall #2014567 to Transport Canada. A further 704,770 of the Vehicles were recalled so as to replace the driver's front airbag inflator. This published Road Safety Recall reads as follows:

Road Safety Recalls Database

Transport Canada Recall #2014567

Recall Date	2014/12/15	
Notification Type	Service Campaign Mfr	
System	Airbag	
Manufacturer Recall Number		
Units affected	704,770	
Category	Car, light Truck & Van, SUV	
Recall Details		
Honda Canada is conducting a voluntary Safety Improvement Campaign concerning the driver's airbag inflator on certain vehicles equipped with Takata airbags. Honda will replace the driver's inflator on affected vehicles. This action is not being conducted under the requirements of the Motor Vehicle Safety Act.		
Make	Model	Model Year(s) Affected
ACURA	I,7EL	2001 2002 2003 2004 2005
ACURA	CL	2003
ACURA	MDX	2003 2004 2005 2006
ACURA	TL	2002 2003
HONDA	ACCORD	2001 2002 2003 2004 2005 2006 2007
HONDA	CIVIC	2001 2002 2003 2004 2005
HONDA	CR-V	2002 2003 2004 2005 2006
HONDA	ELEMENT	2003 2004 2005 2006 2007 2008 2009 2010
HONDA	ODYSSEY	2002 2003 2004
HONDA	PILOT	2003 2004 2005 2006 2007 2008
HONDA	RIDGELINE	2006

Manufacturer Name	Toll Free Number	Web Site
HONDA	1-888-946-6329	

64.68 On December 18, 2014, Takata took out a full-page advertisement in various major nation U.S. newspapers, apologizing for the Airbag Defect and the resulting crisis. The "Open Letter from Takata Corporation", reads in part, as follows:

"Even one failure is unacceptable and we are truly and deeply saddened that five fatalities have been attributed to auto accidents where Takata air bags malfunctioned [...] We understand the public's concerns and we take them seriously."

64.69 On or about January 18, 2015, the driver of a 2002 Honda Accord became the fifth person in the United States thought to have been killed by an exploding airbag inflator.

65.70 In February 2015, NHTSA fined Takata \$14,000 per day for not cooperating fully with the agency's investigation into the airbag defect.

66.71 On May 18, 2015 TK for the first time admitted publicly that it had retained the Fraunhofer Institute for Chemical Technology in 2010 to provide it an independent research investigation of the root cause of the Airbag Inflator ruptures.

66.72 The Fraunhofer Institute's research investigation indicated that the design of the Airbag Inflator and the shape of the propellant wafers within it can increase the likelihood that the propellant wafer will undergo an increase in porosity. If the propellant wafer's porosity increases, moisture intrusion can occur in the Airbag Inflator over time. This alteration can potentially lead to over-aggressive combustion in the event of an Airbag Inflator deployment.

69.70. The Fraunhofer Institute's research investigation also indicated that the quality control of manufacturing of the Airbag Inflators varied across time and factory. For example, some Airbag Inflators had been manufactured with defective O-rings, the parts that keep airborne moisture separated from propellant wafers inside the Airbag Inflators.

69.71. The "voluntary safety recall campaign" of December 2014 became a Safety Recall on or about May 27, 2015 with Transport Canada Recall # 2015225. All of the vehicle makes and models, set out in paragraph 6+67 above, were included in said recall:

Transport Canada Recall # 2015225

Recall Date	2015/05/27	
Notification Type	Safety Mir	
System	Airbag	
Manufacturer Recall Number		
Units Affected	704,770	
Category	Car, Minivan, SUV	
Recall Details		
<p>On certain vehicles, the driver frontal airbag inflator could produce excessive internal pressure during airbag deployment. Increased pressure may cause the inflator to rupture, which could allow fragments to be propelled toward vehicle occupants, increasing the risk of injury. This could also damage the airbag module, which could prevent proper deployment. Failure of the airbag to fully deploy during a crash (where deployment is warranted) could increase the risk of personal injury to the seat occupant. Note: This recall supersedes special service campaign 2014567. Correction: Dealers will inspect/replace the driver's frontal airbag inflator. All vehicles having received a replacement inflator as part of any previous driver's inflator campaign will have a replacement inflator installed. Note: Honda Canada has created a special Airbag Inflator Hotline for immediate assistance. For more information, please contact: For Honda Owners: 1-877-445-7754 For Acura Owners: 1-877-445-9844</p>		
Make	Model	Model Year(s) Affected
ACURA	1.7EL	2001 2002 2003 2004 2005
	CL	2003
	MDX	2003 2004 2005 2006

	TL	2002 2003
HONDA	ACCORD	2001 2002 2003 2004 2005 2006 2007
	CIVIC	2001 2002 2003 2004 2005
	CR-V	2002 2003 2004 2005 2006
	ELEMENT	2003 2004 2005 2006 2007 2008 2009 2010
	ODYSSEY	2002 2003 2004
	PILOT	2003 2004 2005 2006 2007 2008
	RIDGELINE	2006
Manufacturer Name	Toll Free Number	Web Site
HONDA	1-888-946-6329	

2475. On or about June 4, 2015, there were reports that at least 400,000 replaced airbag inflators needed to be recalled and replaced again.

2476. A further Recall was issued June 15, 2015, Transport Canada Recall #2015261, involving passenger-side airbags not previously subject to either a recall or safety improvement campaign:

Transport Canada Recall # 2015261

Recall Date	2015/06/15
Notification Type	Safety Mfr
System	Airbag
Manufacturer Recall Number	
Units Affected	235,711
Category	Car
Recall Details	
<p>On certain vehicles, the passenger frontal airbag inflator could produce excessive internal pressure during airbag deployment. Increased pressure may cause the inflator to rupture, which could allow fragments to be propelled toward vehicle occupants, increasing the risk of injury. This could also damage the airbag module, which could prevent proper deployment. Failure of the passenger airbag to fully deploy during a crash (where deployment is warranted) could increase the risk of personal injury to the seat occupant. Correction: Dealers will replace airbag inflator. Note: Honda Canada has created a special Airbag Inflator Hotline for immediate assistance. For more information, please contact: For Honda Owners: 1-877-445-7754 For Acura Owners: 1-877-445-9844</p>	

Make	Model	Model Year(s) Affected
ACURA	EL	2001 2003 2004 2005
HONDA	ACCORD	2003 2004 2005 2006 2007
	CIVIC	2001 2003 2004 2005
	CIVIC HYBRID	2004 2005
Manufacturer Name	Toll Free Number	Web Site
HONDA	1-888-946-6329	

77. Also on June 15, 2015, NHTSA and Honda confirmed that a seventh death was attributable to a Takata airbag in April of 2015, in Louisiana.

78. On or about June 19, 2015, NHTSA and Honda confirmed that an eighth fatality was attributable to a Takata airbag rupture, which took place in Los Angeles in September of 2014.

79. A further Recall was issued October 29, 2015, Transport Canada Recall #2015513, involving driver-side airbags not previously subject to either a recall or safety improvement campaign:

Transport Canada Recall # 2015513

<u>Recall Date</u>	2015/10/29
<u>Notification Type</u>	Safety Mir
<u>System</u>	Airbag
<u>Manufacturer Recall Number</u>	
<u>Units Affected</u>	17
<u>Category</u>	SUV

Recall Details

On certain vehicles, the airbag inflator contained in the driver frontal airbag module may have been improperly stamped and/or contains a defect in the material used to manufacture the airbag inflator's metal housing, which, in the event of airbag deployment, may cause inflator components to separate. If the inflator components separate, this could allow fragments to be propelled toward vehicle occupants, increasing the risk of injury. This could also damage the airbag module, which could prevent proper deployment. Failure of the airbag to fully deploy during a crash (where

deployment is warranted) could increase the risk of personal injury to the seat occupant. Correction: Dealers will replace the driver frontal airbag module. Note: All affected units are still in the possession of dealers, and will be corrected before delivery.		
Make	Model	Model Year(s) Affected
HONDA	CR-V	2016
Manufacturer Name	Toll Free Number	Web Site
HONDA	1-888-946-6329	

80. On or about November, 2015, Honda America and Honda Canada requested that a third-party audit be completed about the Takata and TK test data that was provided by Takata and TK to Honda America and Honda Canada commencing in 2000 when it first adopted ammonium nitrate as the propellant in its airbag inflators.
81. A further Recall was issued December 18, 2015, Transport Canada Recall #2015602, involving passenger-side airbags not previously subject to either a recall or safety improvement campaign:

Transport Canada Recall # 2015602

<u>Recall Date</u>	2015/12/18
<u>Notification Type</u>	Safety Mfr
<u>System</u>	Airbag
<u>Manufacturer Recall Number</u>	11M62
<u>Units Affected</u>	17,990
<u>Category</u>	SUV
<u>Recall Details</u>	
On certain vehicles, the passenger frontal airbag inflator could produce excessive internal pressure during airbag deployment. Increased pressure may cause the inflator to rupture, which could allow fragments to be propelled toward vehicle occupants, increasing the risk of injury. This could also damage the airbag module, which could prevent proper deployment. Failure of the passenger airbag to fully deploy during a crash (where deployment is warranted) could increase the risk of personal injury to the seat occupant. Correction: Dealers will replace airbag inflator. Note: Note: This is an expansion of recall 2015-261. Honda Canada has created a special Airbag Inflator Hotline for immediate assistance. For more information, please contact: For Honda	

Owners: 1-877-445-7754 For Acura Owners: 1-877-445-9844		
Make	Model	Model Year(s) Affected
HONDA	CR-V	2003 2004
Manufacturer Name	Toll Free Number	Web Site
HONDA	1-888-946-6329	

82. A further Recall was issued February 1, 2016, Transport Canada Recall #2016046, involving driver-side airbags not previously subject to either a recall or safety improvement campaign:

Transport Canada Recall # 2016046

Recall Date	2016-02-01	
Notification Type	Safety Mfr	
System	Airbag	
Manufacturer Recall Number		
Units Affected	269,201	
Category	Car, Light Truck & Van, SUV	
<u>Recall Details</u>		
<p>On certain vehicles, the driver frontal airbag inflator could produce excessive internal pressure during airbag development. Increased pressure may cause the inflator to rupture, which could allow fragments to be propelled toward vehicle occupants, increasing the risk of injury. This could also damage the airbag module, which could prevent proper deployment. Failure of the airbag to fully deploy during a crash (where deployment is warranted) could increase the risk of personal injury to the seat occupant. Correction: Dealers will inspect/replace the driver's frontal airbag inflator. Note: Honda Canada has created a special Airbag Inflator Hotline for immediate assistance. For more information, please contact: For Honda Owners: 1-877-445-7754 For Acura Owners: 1-877-445-9844.</p>		
Make	Model	Model Year(s) Affected
ACURA	ILX	2013 2014 2015 2016
	RDX	2007 2008 2009 2010 2011 2012 2013 2014 2015
	RL	2005 2006 2007 2008 2009 2010 2011 2012
	TL	2009 2010 2011 2012 2013 2014
	ZDX	2010 2011 2012 2013
HONDA	CR-V	2007 2008 2009 2010 2011
	CR-Z	2011 2012 2013 2014 2015

	FIT	2009 2010 2011 2012 2013 2014
	INSIGHT	2010 2011 2012 2013 2014
	RIDGELINE	2007 2008 2009 2010 2011 2012 2013 2014
Manufacturer Name	Toll Free Number	Web Site
HONDA	1-888-946-6329	

NEGLIGENCE

74-83 The Defendants, at all material times, owned a duty of care to the Plaintiffs and Class Members to provide a product that did not have a design defect. The Vehicles pose a serious risk of injury and death to the Plaintiffs and Class Members on account of the Airbag Inflator Defect.

75-84 The Defendants, as the designers, engineers, manufactures, co-manufacturers, promoters, marketers and distributors of the Vehicles and their component parts, intended for use by ordinary consumers, owed a duty of care to the Plaintiffs and Class Members to ensure that the Vehicles and their component parts were reasonably safe for use.

76-85 Takata and TK's use of ammonium nitrate in its Airbags, when Takata and TK knew that ammonium nitrate was not in use by comparable airbag manufacturers and that it was subject to instability, was a design defect and constitutes a breach of the standard of care. Takata and TK knew that a safer and economically feasible alternative was available, and was in fact being used by other comparable manufacturers in their airbag inflator products, but Takata and TK chose not to use such an alternative.

77-86 At all material times, the Defendants owned a duty of care to the Plaintiffs and Class Members, and breached the standard of care expected in the circumstances.

Once aware of the Airbag defect, the Defendants had a duty to warn Class Members of the risks associated with use of the Vehicles.

79.87. The Defendants also owed the Plaintiffs and other Class Members a duty to carefully monitor the safety and post-market performance of the airbags in the Vehicles. The Defendants had a duty to warn the Plaintiffs and Class Members of danger associated with the use of the Vehicles. They failed in their duty to have those Vehicles recalled from the Canadian market upon discovering the defect which could cause serious personal injury and death, in conditions of ordinary use and which otherwise reduced the value of the Vehicles and resulted in costs associated with the loss of use of the Vehicles.

79.88. The circumstances of the Defendants being in the business of designing, manufacturing and placing the Vehicles and their component parts into the Canadian stream of commerce are such that all the Defendants were in a position of legal proximity to the Class Members, and therefore under an obligation to be fully aware of their safety when designing, manufacturing, assembling and selling a product such as the Airbags in the Vehicles.

80.89. It was reasonably foreseeable that a failure by the Defendants to design and manufacture reasonably safe airbags, and thereafter to monitor the performance of such airbags following market introduction (and to take corrective measures when required) would cause harm to the Plaintiffs and Class Members.

84.90. The Defendants through their employees, officers, directors and agents, failed to meet the reasonable standard of conduct (care) expected in the circumstances in that:

- (a) they wrongfully and intentionally accepted the foreseeable risk of injury and loss of life and property damage to the drivers, passengers and the public because of the Airbag Inflator defect;

- (b) notwithstanding that they foresaw personal injuries and the loss of life and property of the drivers and passengers in the Vehicles, they failed to eliminate or correct the Airbag Inflator defect;
- (c) Takata and TK knew about the Airbag Inflator defect during the 2000 – 2002 time period and Honda Canada knew about the Airbag Inflator defect since 2004 but they did not announce a recall until April 10, 2013 in the case of Transport Canada Recall #2013111, June 20, 2014 in the case of Transport Canada Recall #2014242, December 15, 2014 in the case of Transport Canada Recall #2014567, May 27, 2015 in the case of Transport Canada Recall #2015225 ~~and~~, June 15, 2015 in the case of Transport Canada Recall #2015261, October 29, 2015 in the case of Transport Canada Recall #2015513, December 18, 2015 in the case of Transport Canada Recall #2015602 and February 1, 2016 in the case of Transport Canada Recall #2016046;
- (d) they knew or ought to have known about the Airbag Inflator defect and should have announced it to the public;
- (e) they designed, developed, tested, manufactured, assembled, distributed and sold a defective Airbag Inflator;
- (f) they failed to warn the drivers, passengers and the public about the defective Airbag Inflators until April 10, 2013 in the case of Transport Canada Recall #2013111, June 20, 2014 in the case of Transport Canada Recall #2014242, December 15, 2014 in the case of Transport Canada Recall #2014567, May 27, 2015 in the case of Transport Canada Recall #2015225 ~~and~~, June 15, 2015 in the case of Transport Canada Recall #2015261, October 29, 2015 in the case of Transport Canada Recall #2015513, December 18, 2015 in the case of Transport Canada Recall #2015602 and February 1, 2016 in the case of Transport Canada Recall #2016046;
- (g) they failed to change the design, manufacture and assembly of the Airbag Inflator in a reasonable and timely manner;
- (h) they failed to properly test the Airbag Inflator;
- (i) they failed to establish any, or any adequate, procedures to ensure that the design of the Airbag Inflator was appropriate;

- (j) they failed to establish any, or any adequate, procedures for evaluating the design defects of the Airbag Inflator;
- (k) they failed to properly instruct their employees to evaluate the injuries, deaths and accidents involving the Airbag Inflator and its excessive internal pressure during deployment;
- (l) they failed to review and evaluate the accidents and complaints about the Airbag Inflator and excessive internal pressure during deployment;
- (m) they failed to initiate timely review, evaluation and investigation of the Airbag Inflator and the excessive internal pressure following complaints, injuries and deaths if a malfunction occurred;
- (n) they knew or ought to have known about the defect in the Airbag Inflator since during the 2000 - 2002 time period but they kept this defect a secret;
- (o) they failed to review, evaluate, and maintain all records of written and oral complaints relative to the reliability, safety, effectiveness and performance of the Airbag Inflator;
- (p) they failed to implement a safety recall until April 10, 2013 in the case of Transport Canada Recall #2013111, June 20, 2014 in the case of Transport Canada Recall #2014242, May 27, 2015 in the case of Transport Canada Recall #2015225 ~~and~~, June 15, 2015 in the case of Transport Canada Recall #2015261, October 29, 2015 in the case of Transport Canada Recall #2015513, December 18, 2015 in the case of Transport Canada Recall #2015602 and February 1, 2016 in the case of Transport Canada Recall #2016046;
- (q) they failed to disclose to the owners and drivers of the Vehicles and to the public that, in some crashes, airbags did not fully deploy because the Airbag Inflator could rupture;
- (r) they knew or ought have known that the Vehicles suffered from this design defect in the Airbag Inflator;
- (s) they failed to conform with good manufacturing practices;

- (t) they hired incompetent personnel;
- (u) they failed to properly supervise their employees;
- (v) they failed to train their employees in proper documentation process;
- (w) they failed to encourage discussion of safety issues, including discussion of defects and safety consequences of defects;
- (x) they knew or ought to have known from reports to them, that there was a chance of excessive internal pressure upon deployment of the Airbag Inflator and risk of safety to the drivers, passengers and the public;
- (y) they failed to report this dangerous Airbag Inflator defect to the owners and drivers of the Vehicles and to the public;
- (z) they failed to protect the Class Members and the public;
- (aa) they failed to make full, frank and complete disclosure to the regulators, the public, their customers and the Class Members;
- (bb) they failed to institute a proper risk/management system;
- (cc) they received preliminary conclusions as to the cause of the Airbag Inflator ruptures commencing in 2010 but did not share these conclusions with the regulators or the Class Members until 2015;
- (dd) they failed to advise the owners and drivers of the Vehicles, until April 10, 2013 in the case of Transport Canada Recall #2013111, June 20, 2014 in the case of Transport Canada Recall #2014242, December 15, 2014 in the case of Transport Canada Recall #2014567, May 27, 2015 in the case of Transport Canada Recall #2015225 and, June 15, 2015 in the case of Transport Canada Recall #2015261, October 29, 2015 in the case of Transport Canada Recall #2015513, December 18, 2015 in the case of Transport Canada Recall #2015602 and February 1, 2016 in the case of Transport Canada Recall #2016046, that they should have their vehicles inspected to replace the Airbag Inflator;

- (ee) they failed, until April 10, 2013 in the case of Transport Canada Recall #2013111, June 20, 2014 in the case of Transport Canada Recall #2014242, December 15, 2014 in the case of Transport Canada Recall #2014567, May 27, 2015 in the case of Transport Canada Recall #2015225 and June 15, 2015 in the case of Transport Canada Recall #2015261, October 29, 2015 in the case of Transport Canada Recall #2015513, December 18, 2015 in the case of Transport Canada Recall #2015602 and February 1, 2016 in the case of Transport Canada Recall #2016046 to adequately warn owners and drivers of the Vehicles that there was a serious risk of injury associated with the Vehicles; and
- (ff) they failed to exercise reasonable care and judgment.

REGULATORY INVESTIGATION INTO TAKATA

82.91 On November 7, 2014, U.S. lawmakers asked the U.S. Justice Department to open a criminal investigation into Takata and TK's destruction of the previously described test results of the 50 defective Airbag Inflators from 2004.

83.91 On November 13, 2014, a U.S. federal grand jury commenced the criminal investigation by subpoenaing Takata and TK for documents relating to the destruction of these test results. The U.S. Justice Department's criminal investigation is ongoing.

84.91 On November 21, 2014, the Japanese Transport Ministry ordered Takata to conduct an internal investigation into the defective Airbag Inflators and comprehensively explain their defect. Takata's internal investigation is ongoing.

85.91 On or about December 3, 2014, during a United States Congress subcommittee hearing in Washington, D.C., Takata Senior Vice President Hiroshi Shimizu rejected NHTSA's demand for a nationwide recall, claiming there was "not enough scientific evidence" to expand the recalls.

95. In May of 2015, NHTSA released a statement that Takata had acknowledged that the airbag inflators it produces are defective. The NHTSA statement also announced that NHTSA ~~had issued~~ was in the process of issuing a Consent Order to ~~Takata~~ TK, which requires, among other things, the company to cooperate in future regulatory actions.

96. On November 2, 2015, TK entered into two consent orders issued by NHTSA for a \$200 million civil penalty, the largest NHTSA has ever imposed. The consent orders also dealt with the following admissions by TK and findings by NHTSA:

- (a) TK in several instances provided NHTSA with selective, incomplete and inaccurate information relating to NHTSA's inflator investigation;
- (b) TK in several instances supplied its customers (vehicle manufacturers) with selective, incomplete and inaccurate data about its inflators;
- (c) TK used recalled inflators as interim replacement parts to other recalled inflators;
- (d) TK's initial root cause theories of production issues at its Monclova, Mexico and Moses Lake, Washington, even if correct, do not account for the ongoing issues with inflator rupture;
- (e) TK has been unable to determine the root cause of inflator ruptures despite its decade-long investigation; and
- (f) TK has agreed to phase out production of phase-stabilized ammonium nitrate-based propellants because NHTSA lacks "confidence in the long-term performance of such inflators";

97. In part to address and appease NHTSA, and because Transport Canada does not have the same ability as its American counterpart to investigate and fine a

vehicle or vehicle part manufacturer, Takata and TK have prioritized the manufacturing and distribution of replacement airbag inflators for affected vehicles in the United States, over the vehicles driven by the Class Members in Canada.

ADMISSIONS BY TAKATA'S CEO

86-28. Shigehisa Takata is Takata's Chairman and CEO. On November 13, 2014, Mr. Takata apologized to the Canadian and U.S. customers, the Class Members and the public for this dangerous Airbag Inflator safety defect. He admitted that: "[T]he moisture absorption control of the gas generating agent in some driver seat airbags had not been correctly implemented at the time of manufacture, as a result of which an inflator canister may rupture when the airbag deploys.... We deeply regret that the problem in our airbags have caused problems."

87-99. On December 1, 2014, Mr. Takata also apologized for the loss of life caused by the defective Airbag Inflators: "Takata deeply regrets the injuries and fatalities that have occurred in accidents involving ruptured airbag inflators."

88-100. Mr. Takata's statements are an admission that Takata and TK were in breach of the standard of conduct (care) in manufacturing the Airbag Inflators. They are also an admission of a breach of the standard of conduct (care) in the safety aspects to the drivers and passengers in the Vehicles to the public in Canada and the U.S. and to the regulators in Canada and the U.S.

GENERAL AND SPECIAL DAMAGES

¶ 101 As a result of the negligence of the Defendants, particularly the dangerous defects in the Airbag Inflator in the Vehicles, the failure of the Defendants to disclose this safety defect to the Plaintiffs and Class Members until the Recalls, the Class has suffered, damages. These damages include but are not limited to the following:

- (a) the value of each of the Vehicles is reduced;
- (b) the Class Members overpaid for the Vehicles and/or did not get what they bargained for;
- (c) each Class Member must expend the time to have his/her Vehicle repaired and be without their motor vehicle (from the time they drop their Vehicles off at authorized repair shops/dealers, to when they pick them up again). The Defendants should compensate each Class Member for their losses and inconvenience;
- (d) some Class Members have incurred out of pocket expenses for, among other things, alternative transportation and prior repairs to the Airbag Inflator; and
- (e) some Class Members have experienced personal injuries as a result of the Airbag Inflator Defect, and are entitled to recovery of damages relating thereto.

¶ 102 The Class Members are unable to have their Airbag Inflator repaired immediately because the Defendants do not have the parts and service capability to repair their Vehicles. The Class Members must drive a dangerous Vehicle. They are entitled to have the Defendants supply a replacement vehicle or a "courtesy car" until Honda Canada fixes the Airbag Inflators at no cost to the Class Members as a matter of course, and not only at the request and effort of the Class Members.

¶ 100 The Class Members have driven their Vehicles less than they otherwise would due to fear of personal injury. Some of the Class Members have taken taxis, used public transportation or imposed on friends, family and others. The Class Members have incurred expenses.

¶ 101 The Plaintiffs plead that the Class Members' damages were sustained in Ontario and in the rest of Canada.

PUNITIVE DAMAGES

¶ 102 The Defendants' conduct described above was arrogant, high-handed, outrageous, reckless, wanton, entirely without care, deliberate, secretive, callous, willful, disgraceful, in contemptuous disregard of the Class' rights and intentionally disregarded the interests of the Class Members and the public. For such abhorrent conduct and motivated by economic consideration, the Defendants are liable to pay punitive and aggravated damages.

THE RELEVANT STATUTES

¶ 103 The Plaintiffs plead and rely upon the provisions of the *CPA*, *CJA* and the *Motor Vehicle Safety Act*.

PLACE OF TRIAL

¶ 104 The Plaintiffs propose that this action be tried in the City of Toronto.

SERVICE

~~96-108~~ This originating process may be served without court order outside Ontario in that the claim is:

- (a) in respect of a tort committed in Ontario (rule 17.02(g)); and
- (b) against a person ordinarily resident or carrying on business in Ontario (rule 17.02(p)).

March 30, 2016

January 7, 2016

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Court File No. CV-16-543767-00CP

**ONTARIO
SUPERIOR COURT OF JUSTICE**

PROCEEDING COMMENCED AT
WINDSOR and TRANSFERRED TO TORONTO

FRESH AS AMENDED STATEMENT OF CLAIM

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