

Court File No.: CV-15-22104-CP

**ONTARIO
SUPERIOR COURT OF JUSTICE**

DONAL D'HAENE and KEITH SANFORD

Plaintiffs

- and -

TAKATA CORPORATION, TK HOLDINGS INC., BMW CANADA INC./ BMW GROUP CANADA, BMW NORTH AMERICA, LLC, BMW MANUFACTURING CO. LLC, BMW AG, FORD MOTOR COMPANY AND FORD MOTOR COMPANY OF CANADA LIMITED, GENERAL MOTORS COMPANY AND GENERAL MOTORS OF CANADA LIMITED, MAZDA MOTOR CORPORATION AND MAZDA CANADA INC., FUJI HEAVY INDUSTRIES, LTD., and SUBARU CANADA INC.

Defendants

Proceeding under the *Class Proceedings Act, 1992*

STATEMENT OF CLAIM

TO THE DEFENDANTS

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the plaintiffs. The claim made against you is set out in the following pages.

IF YOU WISH TO DEFEND THIS PROCEEDING, you or an Ontario lawyer acting for you must prepare a statement of defence in Form 18A prescribed by the Rules of Civil Procedure, serve it on the plaintiffs' lawyer, or where the plaintiffs do not have a lawyer, serve it on the plaintiffs, and file it, with proof of service, in this court office, WITHIN TWENTY DAYS after this statement of claim is served on you, if you are served in Ontario.

If you are served in another province or territory of Canada or in the United States of America, the period for serving and filing your statement of defence is forty days. If you are served outside Canada and the United States of America, the period is sixty days.

Instead of serving and filing a statement of defence, you may serve and file a notice of intent to defend in Form 18B prescribed by the Rules of Civil Procedure. This will entitle you to ten more days within which to serve and file your statement of defence.

IF YOU FAIL TO DEFEND THIS PROCEEDING, JUDGMENT MAY BE GIVEN AGAINST YOU IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO DEFEND THIS PROCEEDING BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

TAKE NOTICE: THIS ACTION WILL AUTOMATICALLY BE DISMISSED if it has not been set down for trial or terminated by any means within five years after the action was commenced unless otherwise ordered by the court.

Date: April 10, 2015

Issued by:


Local Registrar

Address of Court Office Windsor Court House

TO: TAKATA CORPORATION
ARK Hills South Tower
4-5 Roppongi 1-Chome
Minato-ku, Tokyo, 106-8488 Japan

AND TO: TK HOLDINGS INC.
601 Abbot Rd.
East Lansing, MI 48823

AND TO: BMW CANADA INC./ BMW
GROUP CANADA
50 Ultimate Drive
Richmond Hill, Ontario L4S 0C8

AND TO: GENERAL MOTORS OF
CANADA LIMITED
1908 Colonel Sam Drive
Oshawa, Ontario L1H 8P7

AND TO: BMW NORTH AMERICA, LLC,
300 Chestnut Ridge Road
Woodcliff Lake, New Jersey
07677
USA

AND TO: GENERAL MOTORS
COMPANY
Jefferson Avenue,
100 Renaissance Center
Detroit, Michigan 48243

AND TO: BMW MANUFACTURING CO. LLC 2 Office Park Court Suite 103 Columbia, South Carolina 29223 USA	AND TO: FORD MOTOR COMPANY 30600 Telegraph Road Suite 2345 Bingham Farms, Michigan 48025 USA
AND TO: BMW AG Petuelring 130 80788 Munchen Germany	AND TO: FORD MOTOR COMPANY OF CANADA LIMITED 1 Canadian Road Oakville, Ontario L6J 5E4
AND TO: MAZDA MOTOR CORPORATION 3-1 Shinchu, Fuchu-cho Aki-gun, Hiroshima, 730-8670 Japan	AND TO: MAZDA CANADA INC., 55 Vogell Road Richmond Hill, Ontario L4B 3K5
AND TO: FUJI HEAVY INDUSTRIES, LTD., Ebisu, Subaru Bldg. 1-20-8, Ebisu Shibuya-ku, Tokyo 150-8554 Japan	AND TO: SUBARU CANADA INC. 2800 Park Place 666 Burrard Street Vancouver, British Columbia V6C 2Z7

DEFINED TERMS

1. In this 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) **“BMW”** means BMW Canada, BMW USA, BMW Manufacturing, and BMW AG;
- (d) **“BMW Canada”** means BMW Canada Inc./ BMW Group Canada;
- (e) **“BMW USA”** means BMW North America, LLC;
- (f) **“BMW Manufacturing”** means BMW Manufacturing Co. LLC;
- (g) **“BMW AG”** means a German corporation with its head office in Munich. Parent company of BMW North America, LLC and BMW Manufacturing Co. LLC;
- (h) **“BMW Vehicles”** means those vehicles subject to Transport Canada Recalls #2014587, #2013148 and #2014299, as described in paragraphs 3 and 14;
- (i) **“CJA”** means the Ontario *Courts of Justice Act*, RSO 1990, c.C-43, as amended;
- (j) **“Class”** or **“Class Members”** means all persons in Canada who, as of the respective recall dates, owned one of vehicles subject to Transport Canada Recalls: #2014285, #2013116, #2014301, #2013112, #2014245, #2014570, #2013148, #2014299, #2014587, #2015052 and #2015054;

- (k) “**CPA**” means the *Class Proceedings Act, 1992*, SO 1992, c.6, as amended;
- (l) “**Excluded Persons**” means the **Defendants** and their officers, directors and their respective heirs, successors and assigns;
- (m) “**Ford**” means Ford Motor Company and Ford Motor Company of Canada Limited;
- (n) “**Ford Canada**” means Ford Motor Company of Canada Limited;
- (o) “**Ford USA**” means Ford Motor Company;
- (p) “**Ford Vehicles**” means those vehicles subject to Transport Canada Recalls #2015052 and #2015054, as described in paragraphs 3 and 17;
- (q) “**Fuji**” means Fuji Heavy Industries, Ltd., parent company of Subaru Canada Inc.;
- (r) “**General Motors**” means collectively, General Motors Company and General Motors of Canada Limited;
- (s) “**GM USA**” means General Motors Company;
- (t) “**GM Canada**” means General Motors of Canada Limited;
- (u) “**GM Vehicles**” means those vehicles subject to Transport Canada Recalls #2013116 and #2014301, as described in paragraphs 3 and 26;
- (v) “**Mazda**” means collectively, Mazda Motor Corporation and Mazda Canada Inc.;
- (w) “**Mazda Canada**” means Mazda Canada Inc.;
- (x) “**Mazda Japan**” means Mazda Motor Corporation;

(y) “**Mazda Vehicles**” means those vehicles subject to Transport Canada Recalls #2013112, #2014245 and #2014570, as described in paragraphs 3 and 23;

(z) “**Motor Vehicle Safety Act**” means the *Motor Vehicle Safety Act*, SC 1993, c.16, as amended;

(aa) “**NHTSA**” means the U.S. National Highway Traffic Safety Administration;

(bb) “**Plaintiffs**” mean Donald D’Haene and Keith Sanford;

(cc) “**Subaru**” means collectively Fuji Heavy Industries, Ltd. and Subaru Canada Inc.;

(dd) “**Subaru Canada**” means Subaru Canada Inc.;

(ee) “**Subaru Vehicles**” means those vehicles subject to Transport Canada Recall #2014285, as described in paragraphs 3 and 20;

(ff) “**Takata**” means Takata Corporation;

(gg) “**Takata Defendants**” means collectively, **Takata** and **TK**; and

(hh) “**TK**” means TK Holdings Inc.

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 them as the representative plaintiffs;

(b) general damages and special damages in the amount of \$500,000,000;

(c) punitive and/or exemplary damages 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 post-judgment interest pursuant to the *CJA*;
- (f) the costs of this action pursuant to the *CPA*, alternatively, on a 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 to this Honourable Court seems just.

NATURE OF THIS ACTION

3. This class action concerns the life threatening, negligent and dangerous design, manufacture and installation of defective Airbag Inflators in vehicles subject to Transport Canada Recalls #2014285, #2013116, #2014301, #2013112, #2014245, #2014570, #2013148, #2014299, #2014587, #2015052 and #2015054, as specified below:

MAKE	MODEL	MODEL YEARS: INCLUSIVE
SUBARU	BAJA	2003
	IMPENZA	2004
	IMPENZA WRX/STI	2004
	LEGACY	2003 2004
	OUTBACK	2003 2004

MAKE	MODEL	MODEL YEARS: INCLUSIVE
PONTIAC	VIBE	2003 2004

MAKE	MODEL	MODEL YEARS: INCLUSIVE
MAZDA	MAZDA6	2004 2005 2006 2007 2008
	MAZDASPEED6	2004 2005 2006 2007 2008
	RX-8	2004 2005 2006 2007 2008

MAKE	MODEL	MODEL YEARS: INCLUSIVE
BMW	3 SERIES	2000 2001 2002 2003 2004 2005 2006

MAKE	MODEL	MODEL YEARS: INCLUSIVE
FORD	GT	2004 2005 2006
	MUSTANG	2005 2006 2007 2008
	RANGER	2003 2004

4. More than 25 million vehicles worldwide, containing Takata-made Airbags, have been recalled. At least five, possibly seven deaths and dozens of injuries have been linked to injuries caused by over-explosive Airbag Inflator propellant causing metal components within the device to break and project through the airbag cushion material at vehicle occupants.

5. 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

6. Donald D'Haene is a personal support worker residing in the City of London, in the Province of Ontario. He is the current owner of a 2004 Pontiac Vibe.

7. On or about March 31, 2015, Donald contacted Pontiac to confirm whether or not there was an airbag recall concerning his vehicle. He was advised that no recall was open in respect of his vehicle but that a recall may apply in future.

8. Keith Sanford is a City of Windsor labourer with the Parks and Recreation department, who resides in the City of Windsor, in the Province of Ontario. In or about February 2006 he purchased a 2005 Ford Mustang. He currently owns this Vehicle.

9. On or about March 31, 2015, Keith contacted Ford to confirm whether or not there was an airbag recall concerning his vehicle. It was confirmed that such a recall did apply and that a recall notice would be sent to him soon. To the date of the filing of this statement of claim, no such recall notice has yet been received by Keith.

PARTICULARS OF THE CLASS

10. The Class is comprised of all persons in Canada who, as of the respective recall dates, owned one of vehicles subject to various Transport Canada Recalls (set out at paragraph 3 above). The members of the Class are known to the Defendants.

THE DEFENDANTS AND THEIR RELATIONSHIP

Takata

11. Takata is a corporation organized and existing under the laws of Japan. Takata describes itself as a vertically-integrated company involved in automotive safety

systems. Takata was responsible for the engineering, design, development, research and manufacture of the Airbag Inflator.

12. 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.

BMW

13. BMW AG is a German corporation with its head office in Munich. It is the parent company of BMW North America, LLC and BMW Manufacturing Co. LLC. BMW AG manufactures and sells automobiles through independent retailers, outlets and authorized dealerships in North America and throughout the world.
14. BMW North America, LLC (“BMW NA”) is an American corporation with its head office in New Jersey, New York. It is a subsidiary of BMW AG.
15. BMW Manufacturing Co. LLC (“BMW Manufacturing”) is an American corporation with its head office in South Carolina. It is a subsidiary of BMW AG and it is part of its global manufacturing network.
16. BMW Canada Inc./ BMW Group Canada (hereinafter collectively “BMW Canada”) is a corporation organized and existing under the laws of Canada, with its head office in Richmond Hill, Ontario.

17. The 52,046 BMW Vehicles sold in Canada containing airbags manufactured by the Takata Defendants, subject to recall in Canada, are as follows:

MODEL	MODEL YEARS: INCLUSIVE
3-SERIES	2000-2006

Ford

18. Ford Motor Company (hereinafter "Ford USA") is an American corporation with its head office in Dearborn, Michigan. It is the parent company of Ford Canada. It develops, manufactures, distributes and services vehicles, parts and accessories worldwide, including Canada.

19. Ford Motor Company of Canada Limited (hereinafter "Ford Canada") is a Canadian corporation with its head office in Oakville, Ontario. It is a wholly owned subsidiary of Ford Motor Company, that does business throughout Canada, including Ontario.

20. The 27,523 Ford vehicles sold in Canada containing airbags manufactured by the Takata Defendants, subject to recall, are as follows:

MODEL	MODEL YEARS: INCLUSIVE
GT	2004-2006
MUSTANG	2005-2008
RANGER	2003-2004

Fuji/Subaru

21. Fuji Heavy Industries, Ltd. (“Fuji”) is a Japanese corporation with its head office in Tokyo, Japan. It is the parent company of the Defendant Subaru Canada. Fuji, among other things, develops, manufactures, distributes and services passenger cars and their components under the Subaru brand.

22. Subaru Canada Inc. (“Subaru Canada”) is a Canadian corporation with its head office in Mississauga, Ontario. It is a wholly-owned subsidiary of Defendant Fuji Heavy Industries, Ltd. Subaru Canada does business throughout Canada, including within the province of Ontario.

23. The 1,112 Subaru Vehicles sold in Canada containing airbags manufactured by the Takata Defendants, subject to recall in Canada, are as follows:

MODEL	MODEL YEARS: INCLUSIVE
BAJA	2003
IMPREZA	2004
IMPREZA WRX/STI	2004
LEGACY	2003-2004
OUTBACK	2003-2004

Mazda

24. Mazda Motor Corporation (“Mazda Japan”) is a Japanese corporation with its head office in Hiroshima. It is the parent company of Mazda Canada Inc. Mazda Japan manufactures and sells automobiles through independent retailers, outlets and authorized dealerships in North America, Europe and Asia.

25. Mazda Canada Inc. ("Mazda Canada") is a Canadian corporation with its head office in Richmond Hill, Ontario. It is a wholly-owned subsidiary of Mazda Motor Corporation that does business throughout Canada, including Ontario.

26. The 47,111 Mazda Vehicles sold in Canada containing airbags manufactured by the Takata Defendants, subject to recall in Canada, are as follows:

MODEL	MODEL YEARS: INCLUSIVE
MAZDA 6	2004-2008
MAZDA SPEED 6	2004-2008
RX-8	2004-2008

General Motors

27. General Motors Corporation ("GM") is an American corporation with its head office in Detroit, Michigan. It is the parent company of GMC. GM is responsible for the engineering, design, development, research and manufacture of the recalled GM Vehicles.

28. General Motors of Canada Limited ("GMC") is a Canadian corporation with its head office in Oshawa, Ontario. It is also involved with the engineering, design, development, research, manufacture and distribution of the recalled GM Vehicles in Canada. GMC is a wholly-owned subsidiary of GM.

29. The GM Vehicles sold in Canada containing airbags manufactured by the Takata Defendants, subject to recall in Canada, are as follows:

MODEL	MODEL YEARS: INCLUSIVE
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THE DANGEROUS DEFECT IN THE AIRBAG INFLATOR

30. 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 Inflator and cushion material in the steering wheel, dashboard, or elsewhere in the vehicle.

31. When the airbag is triggered to deploy, a chemical propellant, housed within the metal Airbag Inflator in the form of a solid wafer, is ignited. The heat from the ignition causes the propellant wafer to undergo a chemical reaction, which produces a gas. The 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 while 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.

32. 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.

33. 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 inflator's designed holes, the excessive pressure of the gas ruptures the inflator's metal housing. This metal can then puncture the airbag cushion, can break into fragments, and can come into contact with vehicle occupants.
34. In or about 1999, Takata and TK researchers in Michigan were pressured by Takata executives to develop a more cost-effective propellant for use in its Airbag Inflators. The Takata researchers proposed a propellant based on ammonium nitrate.
35. The Takata engineering team in the Moses Lake, Washington plant 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". The senior engineer at the propellant plant in Moses Lake, Washington, 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.
36. In or about 2000, Takata adopted ammonium nitrate as its propellant base due to its low cost, among other things, so as to remain competitive in the Airbag Inflator market.

37. Since 2000, other Airbag Inflator manufacturers in North America have refused to adopt ammonium nitrate based propellants due to safety concerns.

38. 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]."

39. The Takata Defendants provided the Airbag Inflators to all of the recalled Vehicles as further described below.

40. In or about 2000, the Takata Defendants 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.

41. Between 2000 and 2002, when the Takata Defendants manufactured the Airbag Inflators at its factories in La Grange, Georgia and in Monclova, Mexico, they did not handle or produce the ammonium nitrate wafers in accordance with their own guidelines and specifications.

42. 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 plant. Takata thus shipped Airbag Inflators for assembly into the Vehicles which were pressed with insufficient force.

43. Production of the Airbag Inflators at the Monclova, Mexico factory commenced on October 4, 2001. Between October 4, 2001 and October 31, 2002, the employees at this factory produced propellant wafers that were exposed to dangerous levels of humidity. Although the Takata Defendants 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. These propellant wafers absorbed moisture beyond the allowable limits.

44. At that time, the Takata Defendants knew that its 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 shipped to the Manufacturer Defendants from the Monclova, Mexico factory for assembly into the Vehicles.

45. The Takata Defendants’ propellant wafer lot production history records and its 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”.

46. The Takata Defendants thus 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.

47. The only way to ensure a vehicle does not contain a defective Airbag Inflator is to recall it and service it with an Airbag Inflator that is not defective.

48. In 2004, a vehicle was involved in an otherwise non-catastrophic collision that caused the Airbag Inflator to deploy. It deployed abnormally, having ruptured and killed the vehicle’s driver. Because of the nature of the 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.

49. A former TK lab employee described his review of the defective Airbag Inflator in 2004 in the Los Angeles Airbag Inflator rupture by saying that it “looked like it had exploded, and had a hole punched out of the side of the canister.”

50. 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 the defective Airbag Inflators manufactured at the Moses Lake, Washington or the Monclova, Mexico factories during the periods described above.

51. 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 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.

52. TK 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.

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

54. From May to August of 2007, TK received three 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.

55. 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.

56. As a result, between 2008 and 2011, other automobile manufacturers began reporting a series of safety recalls for cars equipped with defective driver Airbag Inflators, produced between 2000 and 2002. This included approximately 1.1 million vehicles in Canada and the U.S., model years ranging from 2001 to 2004.

57. None of the Defendants reported any safety recalls at this time.

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

59. 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.

60. By April 2013, the Takata Defendants confirmed the existence of this Airbag Inflator defect to NHTSA. This led to a second series of safety recalls for vehicles equipped with defective Airbag Inflators.

61. 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”.

62. In this letter, Mr. Higuchi also admits that it does not know how many of its defective Airbag Inflators were installed into vehicles because it 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" ("AR") 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.

63. On April 12, 2013, General Motors reported Road Safety Recall #2013116 to Transport Canada. A total of 10,923 Vehicles were recalled. This published Road Safety Recall reads as follows:

Road Safety Recalls Database

Transport Canada Recall # 2013116

Recall Date	2013/04/12
Notification Type	Safety Mfr
System	Airbag
Manufacturer Recall Number	13112
Units Affected 	10,923
Category	Car
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	

<p>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.</p>		
Make	Model	Model Year(s) Affected
PONTIAC	VIBE	2003 2004

64. On April 11, 2013, Mazda reported Road Safety Recall #2013112 to Transport Canada. A total of 26 Vehicles were recalled. This published Road Safety Recall reads as follows:

Road Safety Recalls Database

Transport Canada Recall # 2013112


Recall Date	2013/04/11	
Notification Type	Safety Mfr	
System	Airbag	
Manufacturer Recall Number	6913D	
Units Affected	26	
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 inspect and, if necessary, replace the passenger airbag inflator.</p>		
Make	Model	Model Year(s) Affected

MAZDA	MAZDA6	2004
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65. On May 13, 2013, BMW reported Road Safety Recall #2013148 to Transport Canada. A total of 3,574 Vehicles were recalled. This published Road Safety Recall reads as follows:

Road Safety Recalls Database


Transport Canada Recall # 2013148

Recall Date	2013/05/03	
Notification Type	Safety Mfr	
System	Airbag	
Manufacturer Recall Number		
Units Affected 	3,574	
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 during a crash where deployment is warranted, increasing the risk of personal injury to the seat occupant. The defect could also result in a fire causing personal injury and/or damage to property. Correction: Dealers will replace the passenger airbag.</p>		
Make	Model	Model Year(s) Affected
BMW	3 SERIES	2002 2003

66. On February 5, 2014, Ford Canada reported Road Safety Recalls #2015052 and #2015054 to Transport Canada. A total of 27,523 Vehicles were recalled. These published Road Safety Recalls read as follows:

Road Safety Recalls Database


Transport Canada Recall # 2015052

Recall Date	2015/02/05	
Notification Type	Service Campaign	
System	Airbag	
Manufacturer Recall Number	14B09	
Units Affected 	27,516	
Category	Car	
Recall Details		
Ford Canada is conducting a voluntary Safety Improvement Program concerning the driver's airbag inflator on certain vehicles equipped with Takata airbags. Ford 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
FORD	GT	2004 2005 2006
	MUSTANG	2005 2006 2007 2008

Road Safety Recalls Database

Transport Canada Recall # 2015054


Recall Date	2015/02/05	
Notification Type	Service Campaign	
System	Airbag	

Manufacturer Recall Number	14S28	
Units Affected 	7	
Category	Car	
Recall Details		
<p>Ford Canada is conducting a voluntary Safety Improvement Program involving driver and passenger airbag inflators certain vehicles that were originally sold or ever registered in certain high humidity areas of the United States equipped with Takata airbags. Ford will replace the driver or passenger inflator on affected vehicles, depending on the vehicle involved. Owners who believe their vehicles may have been originally purchased or registered in the states of Florida, Hawaii, Puerto Rico or the U.S. Virgin Islands should contact a Ford dealer. This action is not being conducted under the requirements of the Motor Vehicle Safety Act.</p>		
Make	Model	Model Year(s) Affected
FORD	GT	2004 2005 2006
	MUSTANG	2005 2006 2007 2008

67. On June 23, 2014, Mazda reported Road Safety Recall #2014245 to Transport Canada. A total of 1,111 Vehicles were recalled. This published Road Safety Recall reads as follows:

Road Safety Recalls Database

Transport Canada Recall # 2014245


Recall Date	2014/06/23
Notification Type	Service Campaign
System	Airbag
Manufacturer Recall Number	7714F
Units Affected 	1,111
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 the passenger airbag inflator. Note: This recall is an expansion of recall 2013112.</p>		
Make	Model	Model Year(s) Affected
MAZDA	MAZDA6	2004
	RX-8	2004

68. On July 4, 2014, Subaru reported Road Safety Recall #2014285 to Transport Canada. A total of 1,112 Vehicles were recalled. This published Road Safety Recall reads as follows:

Road Safety Recalls Database

Transport Canada Recall # 2014285


Recall Date	201/07/04
Notification Type	Safety Mfr
System	Airbag
Manufacturer Recall Number	WQL-48
Units Affected 	1,112
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 the passenger airbag inflator.</p>	

Make	Model	Model Year(s) Affected
SUBARU	BAJA	2003
	IMPREZA	2004
	IMPREZA WRX/ STI	2004
	LEGACY	2003 2004
	OUTBACK	2003 2004
Manufacturer Name	Toll Free Number	Web Site
SUBARU	1-800-894-4212	

69. On July 16, 2014, General Motors reported Road Safety Recall #2014301 to Transport Canada. A total of 10,923 Vehicles were recalled. This published Road Safety Recall reads as follows:

Road Safety Recalls Database

Transport Canada Recall # 2014301

Recall Date	2014/07/16
Notification Type	Safety Mfr
System	Airbag
Manufacturer Recall Number	13112/14491
Units Affected 	10,923
Category	Car

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 replace the passenger airbag inflator. Note: This recall supersedes recall 2013116. Vehicles that were inspected and/or repaired under the previous recalls will require re-inspection and repair.		
Make	Model	Model Year(s) Affected
PONTIAC	VIBE	2003

No explanation as to why 2004 model year vehicles were no longer subject to recall (pursuant to Transport Canada Recall # 2013116) was provided, and the exact number of vehicles affected in each of these recalls did not change.

70. On July 16, 2014 BMW reported Road Safety Recall #2014299 to Transport Canada. A total of 40,915 Vehicles were recalled. This published Road Safety Recall reads as follows:

Road Safety Recalls Database

Transport Canada Recall # 2014299

Recall Date	2014/07/16
Notification Type	Service Campaign Mfr
System	Airbag
Manufacturer Recall Number	
Units Affected 	40,915
Category	Car

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 during a crash where deployment is warranted, increasing the risk of personal injury to the seat occupant. Correction: Dealers will replace the passenger airbag. Note: This is an expansion of recall


2013148.		
Make	Model	Model Year(s) Affected
BMW	3 SERIES	200 2001 2002 2003 2004 2005 2006

71. On November 24, 2014, the Takata Defendants 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.

72. On December 17, 2014, Mazda Canada reported Road Safety Recall #2014570 to Transport Canada. A total of 46,000 Vehicles were recalled. This published Road Safety Recall reads as follows:

Road Safety Recalls Database

Transport Canada Recall # 2014570


Recall Date	2014/12/17
Notification Type	Service Campaign Mfr
System	Airbag
Manufacturer Recall Number	
Units Affected 	46,000
Category	Car
Recall Details	
Mazda Canada is conducting a voluntary Safety Improvement Campaign concerning the driver's airbag inflator on certain vehicles equipped with Takata airbags. Mazda 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
MAZDA	MAZDA6	2004 2005 2006 2007 2008
	MAZDASPEED6	2004 2005 2006 2007 2008
	RX-8	2004 2005 2006 2007 2008

73. On December 22, 2014, BMW Canada reported Road Safety Recall #2014587 to Transport Canada. A total of 11,131 Vehicles were recalled. This published Road Safety Recall reads as follows:

Road Safety Recalls Database

Transport Canada Recall # 2014587

Recall Date	2014/12/22	
Notification Type	Service Campaign Mfr	
System	Airbag	
Manufacturer Recall Number		
Units Affected 	11,131	
Category	Car	
Recall Details		
<p>BMW Canada is conducting a voluntary Safety Improvement Campaign concerning the driver's airbag inflator on certain vehicles equipped with Takata airbags. BMW will replace the driver's inflator on affected vehicles. This action is not being conducted under the requirements of the Motor Vehicle Safety Act.</p>		
Make	Model	Model Year(s) Affected
BMW	3 SERIES	2004 2005 2006

74. The reasoning offered for the recalls and the explanation of the airbag defect differs between manufacturers, however all relate to unsafe, defective Takata airbags.

NEGLIGENCE

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

- (a) the Defendants 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, the Defendants failed to eliminate or correct the Airbag Inflator defect in a timely manner, or at all;
- (c) the Airbag Inflator defect was known by the Takata Defendants in 2000, but the Takata Defendants did not advise Transport Canada or the public in a timely manner or at all;
- (d) the Airbag Inflator defect was known or ought to have been known to the Manufacturer Defendants as early as 2008 (when other vehicle manufactures began recalling their vehicles for safety issues relating to airbags) but they did not come forward to Transport Canada and initiate recalls until 2013-2014 in the case of Transport Canada Recalls #2014285, #2013116, #2014301, #2013112, #2014245, #2014570, #2013148, #2014299, #2014587, #2015052 and #2015054;
- (e) the Defendants knew or ought to have known about the Airbag Inflator defect and should have announced it to the public;
- (f) the Defendants designed, developed, tested, manufactured, assembled, distributed and sold a defective Airbag Inflator;

(g) the Defendants failed to warn the drivers, passengers and the public about the defective Airbag Inflators until 2013-2014 in the case of Transport Canada Recalls #2014285, #2013116, #2014301, #2013112, #2014245, #2014570, #2013148, #2014299, #2014587, #2015052 and #2015054;

(h) the Takata Defendants failed to change the design, manufacture and assembly of the Airbag Inflator in a reasonable and timely manner;

(i) the Defendants failed to properly test the Airbag Inflator;

(j) the Takata Defendants failed to establish any, or any adequate, procedures to ensure that the design of the Airbag Inflator was appropriate;

(k) the Defendants failed to establish any, or any adequate, procedures for evaluating the design defects of the Airbag Inflator;

(l) the Defendants failed to properly instruct their employees to evaluate the injuries, deaths and accidents involving the Airbag Inflator and its excessive internal pressure during deployment;

(m) the Defendants failed to review and evaluate the accidents and complaints about the Airbag Inflator and excessive internal pressure during deployment;

(n) the Defendants 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;

(o) the Takata Defendants knew or ought to have known about the defect in the Airbag Inflator in 2000 but they kept this defect a secret;

(p) the Takata Defendants 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;

(q) the Defendants failed to implement a safety recall until 2013-2014 in the case of Transport Canada Recalls #2014285, #2013116, #2014301, #2013112, #2014245, #2014570, #2013148, #2014299, #2014587, #2015052 and #2015054;

- (r) the Defendants 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;
- (s) the Defendants knew or ought have known that the Vehicles suffered from this design defect in the Airbag Inflator;
- (t) the Defendants failed to conform with good manufacturing practices;
- (u) the Defendants hired incompetent personnel;
- (v) the Defendants failed to properly supervise their employees;
- (w) the Defendants failed to train their employees in proper documentation process;
- (x) the Defendants failed to encourage discussion of safety issues, including discussion of defects and safety consequences of defects;
- (y) the Defendants knew or ought to have known from reports to them, that there was an excessive internal pressure and risk of safety to the drivers, passengers and the public;
- (z) the Defendants failed to report this dangerous Airbag Inflator defect to the owners and drivers of the Vehicles and to the public;
- (aa) the Defendants failed to protect the Class Members and the public;
- (bb) the Defendants failed to make full, frank and complete disclosure to the regulators, the public, their customers and the Class Members;
- (cc) the Defendants failed to institute a proper risk/management system;
- (dd) the Defendants failed to advise the owners and drivers of the Vehicles, until 2013-2014, in the case of Transport Canada Recalls #2014285, #2013116, #2014301, #2013112, #2014245, #2014570, #2013148, #2014299, #2014587, #2015052 and #2015054, that they should have their vehicles inspected to replace the Airbag Inflator;

(ee) the Defendants failed, until 2013-2014 in the case of Transport Canada Recalls #2014285, #2013116, #2014301, #2013112, #2014245, #2014570, #2013148, #2014299, #2014587, #2015052 and #2015054, to adequately warn owners and drivers of the Vehicles that there was a serious risk of injury associated with the Vehicles; and

(ff) the Defendants failed to exercise reasonable care and judgment.

REGULATORY INVESTIGATION

76. On November 7 2014, U.S. lawmakers asked the U.S. Justice Department to open a criminal investigation into the Takata Defendants' destruction of the test results of the 50 defective Airbag Inflators in 2004, as previously described.

77. On November 13, 2014, a U.S. federal grand jury commenced the criminal investigation by subpoenaing the Takata Defendants for documents relating to the destruction of the test results of the 50 Airbag Inflators in 2004. The U.S. Justice Department's criminal investigation is ongoing.

78. 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.

79. 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.

ADMISSIONS BY TAKATA CEO

80. Shigehisa Takata is Takata Japan's Chairman and CEO. On November 13, 2014, Mr. Takata apologized to the U.S. and Canadian 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."

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

82. Mr. Takata's statements are an admission that the Takata Defendants 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

83. As a result of the dangerous defects in the Airbag Inflators in the Vehicles, and the failure by the Defendants to disclose this safety issue until 2013-2014, the Class has suffered damages and will continue to suffer damages. The value of each of the

vehicles is reduced. Each Class Member must expend the time to have his/her vehicle repaired and be without their motor vehicle. The Defendants should compensate each Class Member for their child care costs, income and other losses and inconvenience. Some Class Members have incurred out of pocket expenses for, among other things, alternative transportation and prior repairs to the front passenger Airbag Inflator.

84. 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 the Defendants fix the Airbag Inflator at no cost to the Class Members as a matter of course, and not only at the request and effort of the Class Members

85. The Class Members have driven their vehicles less than they otherwise would due to fear of being in a collision. Some of the Class Members have taken taxis and used public transportation. The Class Members have incurred these and other expenses.

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

PUNITIVE DAMAGES

87. 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

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

PLACE OF TRIAL

89. The Plaintiffs propose that this action be tried in the City of Windsor, Province of Ontario.

SERVICE

90. 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)).

April 10, 2015

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Court File No. *CU-15-22104-CP*

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