AMENDED THIS April 11/2016 PURSUANT TO
MODIFIÉ CE CONFORMÉMENT À
RULE/LA RÈGLE 26.02 (_____)
THE ORDER OF Mr. J. Perell.
L'ORDONNANCE DU
DATED / FAIT LE April 4/2016
LOCAL REGISTRAR
SUPERIOR COURT OF JUSTICE
GREFFIER LOCAL
COUR SUPÉRIEURE DE JUSTICE

Court File No.: CV-16-543766-00CP

ONTARIO
SUPERIOR COURT OF JUSTICE

B E T W E E N:

DONALD 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 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., and
MITSUBISHI MOTOR SALES OF CANADA, INC.

Defendants

Proceeding under the *Class Proceedings Act, 1992*

AMENDED FRESH AS AMENDED 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.

Date: March 31, 2016

Issued by: F. Youssef Registrar

Local Registrar

issued in Windsor

Address of Court Office: Toronto Court House

SUPERIOR COURT OF JUSTICE
393 UNIVERSITY AVE.
10TH FLOOR
TORONTO, ONTARIO
M5G 1E6

COUR SUPÉRIEURE DE JUSTICE
393 AVE. UNIVERSITY
10E ÉTAGE
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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 Road
East Lansing, MI 48823
United States

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: **BMW AG**

Petuelring 130
80788 Munchen
Germany

AND TO: **MAZDA MOTOR CORPORATION**

3-1 Shinchi, Fuchu-cho
Aki-gun, Hiroshima,
730-8670
Japan

AND TO: **FUJI HEAVY INDUSTRIES, LTD.**

Ebisu, Subaru Bldg.
1-20-8, Ebisu
Shibuya-ku, Tokyo
150-8554
Japan

AND TO: **FORD MOTOR COMPANY OF CANADA LIMITED**

1 Canadian Road
Oakville, Ontario L6J 5E4

AND TO: **MAZDA CANADA INC.**

55 Vogell Road
Richmond Hill, Ontario
L4B 3K5

AND TO: **SUBARU CANADA INC.**

2800 Park Place
666 Burrard Street
Vancouver, British Columbia
V6C 2Z7

AND TO: **MITSUBISHI MOTOR SALES OF CANADA, INC.**

2090 Matheson Boulevard East
P.O. Box 41009
Mississauga, ON L4W 5C9

DEFINED TERMS

1. 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) "**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, an American corporation with its head office in New Jersey, New York, a subsidiary of **BMW AG**;

(f) "**BMW Manufacturing**" means BMW Manufacturing Co. LLC, an American corporation with its head office in South Carolina. It is a subsidiary of **BMW AG**;

(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 Transport Canada Recalls, #2013148, #2014299, #2014587, and #2015230 as described in paragraph 3;

(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 owned or leased one of the subject **Vehicles** as of the date of the **Recalls**;

(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 Canada**;

(n) "**Ford Canada**" means Ford Motor Company of Canada Limited;

(o) "**Ford Vehicles**" means those vehicles subject to Transport Canada Recalls #2015052, #2015054, #2015231, #2015232, and #2016033 as described in paragraph 3;

(p) "**Fuji**" means Fuji Heavy Industries, Ltd., a Japanese corporation with its head office in Tokyo, Japan. It is the parent company of the **Subaru Canada**;

(q) "**General Motors**" means collectively, **GM USA** and **GM Canada**;

(r) "**GM USA**" means General Motors Company, an American corporation with its head office in Detroit, Michigan. It is the parent company of **GM Canada**;

(s) "**GM Canada**" means General Motors of Canada Limited;

(t) "**GM Vehicles**" means those vehicles subject to Transport Canada Recalls #2013116, #2014301, #2015235, #2015237, #2015272, #2016052 and #2016106 as described in paragraph 3;

(u) "**Mazda**" means collectively, **Mazda Japan** and **Mazda Canada**;

(v) "**Mazda Canada**" means Mazda Canada Inc.;

(w) "**Mazda Japan**" means Mazda Motor Corporation, a Japanese corporation with its head office in Hiroshima. It is a the parent company of **Mazda Canada**;

(x) "**Mazda Vehicles**" means those vehicles subject to Transport Canada Recalls #2013112, #2014245, #2014570, #2015246, #2015247, #2015624 and #2016050 as described in paragraph 3;

(y) "**Mitsubishi Canada.**" means Mitsubishi Motors Sales of Canada, Inc.;

(z) "**Mitsubishi Vehicles**" means those vehicles subject to Transport Canada Recall #2015236 as described in paragraphs 3;

(aa) "***Motor Vehicle Safety Act***" means the *Motor Vehicle Safety Act*, S.C. 1993, c.16, as amended;

(bb) "**NHTSA**" means the U.S. National Highway Traffic Safety Administration;

(cc) "**Plaintiffs**" **mean** Donald D'Haene and Keith Sanford;

(dd) "**Recalls**" means Transport Canada Recall #2013112, issued April 11, 2013; Transport Canada Recall #2013116, issued April 12, 2013; Transport Canada Recall #2013148; issued May 3, 2013, Transport Canada Recall #2014245, issued June 23, 2014; Transport Canada Recall #2014285, issued July 4, 2014; Transport Canada Recall #2014299, issued July 16, 2014; Transport Canada Recall #2014301, issued July 16, 2014; Transport Canada Recall #2014570, issued December 17, 2014; Transport Canada Recall #2014587, issued December 22, 2014; Transport Canada Recall #2015052, issued February 5, 2015; Transport Canada Recall #2015054, issued February 5, 2015; Transport Canada Recall #2015230, issued May 27, 2015; Transport Canada Recall #2015231, issued May 28, 2015; Transport Canada Recall #2015232, issued May 28, 2015; Transport Canada Recall #2015234, issued May 28, 2015; Transport Canada Recall #2015235, issued May 28, 2015; Transport Canada Recall #2015236, issued May 28, 2015; Transport Canada Recall #2015237, issued May 28, 2015; Transport Canada Recall #2015246, issued June 4, 2015; Transport Canada Recall #2015247, issued June 4, 2015; Transport Canada Recall #2015272, issued June 18, 2015; Transport Canada Recall #2015624, issued December 31, 2015; Transport Canada Recall #2016033, issued January 25, 2016; Transport Canada Recall #2016050, issued February 1, 2016; Transport Canada Recall #2016052, issued February 3, 2016 and Transport Canada Recall #2016106, issued March 3, 2016;

(ee) "**Subaru**" means collectively **Fuji** and **Subaru Canada**;

(ff) "**Subaru Canada**" means Subaru Canada Inc.;

(gg) "**Subaru Vehicles**" means those vehicles subject to Transport Canada Recall #2014285 and #2015234, as described in paragraph 3;

(hh) "**Takata**" **means** Takata Corporation, a corporation organized and existing under the laws of Japan;

(ii) "**TK**" **means** TK Holdings Inc.;

(jj) "**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 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 Recalls, as specified below:

MAKE	MODEL	MODEL YEARS: INCLUSIVE
BMW	3 SERIES	2000 - 2006
	5 SERIES	2002 -2003
	X SERIES	2003-2004

MAKE	MODEL	MODEL YEARS: INCLUSIVE
FORD	GT	2004 -2006
	MUSTANG	2005 - 2014
	RANGER	2003 - 2006

MAKE	MODEL	MODEL YEARS: INCLUSIVE
CHEVY	SILVERADO	2007 2008
GMC	SIERRA	2007 – 2008
SAAB	9-2X	2005
SAAB	9-3	2003 2004 2005 2006 2007 2008 2009 2011
SAAB	9-5	2011
SATURN	ASTRA	2008 2009

MAKE	MODEL	MODEL YEARS: INCLUSIVE
MAZDA	MAZDA6	2003 - 2008
	MAZDASPEED6	2004 - 2008
	RX-8	2004 – 2008
	B SERIES	2004 - 2006

MAKE	MODEL	MODEL YEARS: INCLUSIVE
MITSUBISHI	LANCER	2004 - 2006

MAKE	MODEL	MODEL YEARS: INCLUSIVE
PONTIAC	VIBE	2003- 2008

MAKE	MODEL	MODEL YEARS: INCLUSIVE
SUBARU	BAJA	2003
	IMPREZA	2004 - 2005
	IMPREZA WRX/STI	2004 - 2005
	IMPREZA WRX	2004 - 2005
	LEGACY	2003 - 2004
	OUTBACK	2003 - 2004

4. More than 25 million vehicles worldwide, containing Takata-made Airbags, have been recalled.

5. 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.

6. At least eight 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.

7. 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

8. 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.

9. 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. Donald was sent a recall notice in July 2015 and on November 18, 2015, his airbag was replaced.

10. 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.

11. 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. He received said notice in or about June 2015. To the date of the filing of this amended statement of claim, his airbag has not yet been replaced.

PARTICULARS OF THE CLASS

12. The Class is comprised of all persons in Canada who owned or leased one of the Vehicles subject to Recalls. The members of the Class are known to the Defendants.

THE DEFENDANTS AND THEIR RELATIONSHIP

Takata

13. 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.

14. 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

15. 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.

16. 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.

17. 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.

18. 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. It is involved with the engineering, design, development, research, manufacture and distribution of the recalled BMW Vehicles in Canada.

Ford

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. It is involved with the engineering, design, development, research, manufacture and distribution of the recalled Ford Vehicles in Canada.

Fuji/Subaru

20. 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.

21. 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.

Mazda

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

23. 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. It is involved with the engineering, design, development, research, manufacture and distribution of the recalled Mazda Vehicles in Canada.

General Motors

24. 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.

25. General Motors of Canada Limited ("GMC") is a Canadian corporation with its head office in Oshawa, Ontario. It is 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.

Mitsubishi

26. Mitsubishi Motor Sales of Canada, Inc. ("Mitsubishi Canada"), is a Canadian corporation with its principal place of business in Mississauga, Ontario. It is a wholly-owned subsidiary of Mitsubishi International Corporation of New York. Mitsubishi Canada is involved with the engineering, design, development, research, manufacture and distribution of the recalled Mitsubishi Vehicles in Canada.

Subaru

27. 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. It is involved with the engineering, design, development, research, manufacture and distribution of the recalled Subaru Vehicles in Canada.

THE DANGEROUS DEFECT IN THE AIRBAG INFLATOR

28. 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.

29. 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.

30. 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.

31. 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.

32. 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.

33. 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.

34. 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.

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

36. 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]."

37. Takata and TK provided the Airbag Inflators to all of the recalled Vehicles as further described below.

38. 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.

39. Between 2000 and 2002, when Takata and TK 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.

40. 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.

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

42. At that time, Takata and TK 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 automobile manufacturer defendants from the Monclova, Mexico factory for assembly into the Vehicles.

43. Takata and TK's propellant wafer lot production history records and its Airbag Inflator production records do not permit it 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".

44. Takata and TK 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.

45. 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.

46. 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.

47. In November 2000, TK employees prepared an internal report whereby they raised concerns about airbag defect rate manipulations. The report concludes that in several instances, "pressure vessel failures", or airbag ruptures, were reported to vehicle manufacturers as normal airbag deployments.

48. In or about 2003 Takata and BMW were aware of an airbag failure in Switzerland, which they investigated together in one of Takata's Michigan facilities. They characterized the incident as an anomaly and did not alert safety regulators.

49. In or about November 2003, Subaru was aware of an airbag failure in Arizona, resulting in the death of the passenger in a 2004 Subaru Impreza.

50. 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.

51. 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."

52. 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.

53. 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.

54. 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.

55. 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.

56. 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."

57. 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.

58. 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.

59. 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.

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

61. 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 indicate that Mr. Iwata asked Mr. Takada: "I am constantly worrying how far it spread out. I want you to stude [study] the reason quickly."

62. The Minutes of the July 22, 2009 meeting of high-level Takata and TK executives also identify an engineer known as "Otakaa" as alos 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."

63. 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.

64. 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.

65. Also in 2012, Takata, TK and another automobile manufacturer 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.

66. By April 2013, Takata and TK 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.

67. 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".

68. 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" 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.

69. On April 11, 2013, Mazda report Road Safety Recall #2013112 to Transport Canada. A total of 26 Vehicles were identified for recall. 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

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
MAZDA	MAZDA6	2004

70. 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 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
PONTIAC	VIBE	2003 2004

71. 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

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.

Make	Model	Model Year(s) Affected
BMW	3 SERIES	2002 2003

72. 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		
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.		
Make	**Model**	**Model Year(s) Affected**
MAZDA	MAZDA6	2004
	RX-8	2004

73. 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	
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.		
Make	**Model**	**Model Year(s) Affected**
SUBARU	BAJA	2003
	IMPREZA	2004
	IMPREZA WRX/ STI	2004
	IMPREZA WRX	2004
	LEGACY	2003 2004
	OUTBACK	2003 2004
Manufacturer Name	**Toll Free Number**	**Web Site**
SUBARU	1-800-894-4212	

74. 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

75. 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. [...].

Make	Model	Model Year(s) Affected
PONTIAC	VIBE	2003

76. On November 24, 2014, the 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.

77. 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

78. 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."

79. On December 22, 2014, BMW Canada issued a "voluntary Safety Improvement Campaign" (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	
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. [...]	

Make	Model	Model Year(s) Affected
BMW	3 SERIES	2004 2005 2006

80. 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.

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

82. On February 5, 2015, Ford Canada issued two "voluntary Safety Improvement Campaigns" (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

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.

Make	Model	Model Year(s) Affected
FORD	GT	2004 2005 2006
	MUSTANG	2005 2006 2007 2008

83. On May 27, 2015, BMW issued a further recall including additional model years for makes previously recalled, as well as further vehicle series. A total of 30,838 Vehicles were recalled. This published Road Safety Recall reads as follows:

Road Safety Recalls Database

Transport Canada Recall # 2015230

Recall Date	2015/05/27
Notification Type	Safety Mfr
System	Airbag
Manufacturer Recall Number	
Units Affected	30,838
Category	Car, SUV
Recall Details	
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 2014-587. Correction: Dealers will replace the airbag module.	

Make	Model	Model Year(s) Affected
BMW	3 SERIES	2002 2003 2004 2005 2006
	5 SERIES	2002-2003
	X5	2003-2004

84. On May 28, 2015, Ford issued a further recall relating to passenger-side airbag modules, including additional model years for makes previously recalled. A total of 29, 458 Vehicles were recalled. This published Road Safety Recall reads as follows:

Road Safety Recalls Database

Transport Canada Recall # 2015231

Recall Date	2015/05/28
Notification Type	Safety TC
System	Airbag
Manufacturer Recall Number	15S22
Units Affected	29,458
Category	Light Truck & Van
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 airbag inflators.	

Make	Model	Model Year(s) Affected

FORD	RANGER	2004 2005 2006

85. On May 28, 2015, Ford issued a further recall relating to driver-side airbag modules, including additional model years for makes previously recalled. A total of 63,700 Vehicles were recalled. This published Road Safety Recall reads as follows:

Road Safety Recalls Database

Transport Canada Recall # 2015232

Recall Date	2015/05/28
Notification Type	Safety TC
System	Airbag
Manufacturer Recall Number	15S21
Units Affected	63,700
Category	Car

Recall Details

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 2015-052. Correction: Dealers will replace the airbag inflators. All vehicles having received a replacement inflator as part of a previous special service campaign will have a replacement inflator installed.

Make	Model	Model Year(s) Affected
FORD	GT	2006
	MUSTANG	2005 2006 2007 2008 2009 2010 2011 2012 2013 2014

86. On May 28, 2015, Subaru issued a recall including additional model years for makes previously recalled. A total of 12,400 Vehicles were affected. This published Road Safety Recall reads as follows:

Road Safety Recalls Database

Transport Canada Recall # 2015234

Recall Date	2015/05/28
Notification Type	Safety TC
System	Airbag
Manufacturer Recall Number	WQR-53
Units Affected	12,400
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 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 airbag inflators.	

Make	Model	Model Year(s) Affected
SUBARU	IMPREZA	2004 2005
	IMPREZA WRX/STI	2004 2005
	IMPREZA WRX	2004 2005

87. On May 28, 2015, General Motors issued a recall affecting 39,630 Vehicles. This published Road Safety Recall reads as follows:

Road Safety Recalls Database

Transport Canada Recall # 2015235

Recall Date	2015/05/28
Notification Type	Safety Mfr
System	Airbag
Manufacturer Recall Number	15438
Units Affected	39,630
Category	Light Truck & Van

Recall Details

On certain 2500HD and 3500HD series pickup trucks, 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 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 2015-052. Correction: Dealers will replace the airbag inflators.

Make	Model	Model Year(s) Affected
CHEVROLET	SILVERADO	2007 2008
GMC	SIERRA	2007 2008

88. On May 28, 2015, Mitsubishi issued a recall affecting 9,538 Vehicles. This published Road Safety Recall reads as follows:

Road Safety Recalls Database

Transport Canada Recall # 2015236

Recall Date	2015/05/28
Notification Type	Safety Mfr
System	Airbag
Manufacturer Recall Number	SR15-006
Units Affected	9,538
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 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 front passenger airbag inflators.

Make	Model	Model Year(s) Affected
MITSUBISHI	LANCER	2004 2005 2006

89. On May 28, 2015, General Motors (SAAB) issued a recall affecting 660 Vehicles. This published Road Safety Recall reads as follows:

Road Safety Recalls Database

Transport Canada Recall # 2015237

Recall Date	2015/05/28
Notification Type	Safety Mfr
System	Airbag

Manufacturer Recall Number	15442
Units Affected	660
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 airbag inflators.	

Make	Model	Model Year(s) Affected
SAAB	9-2X	2005

90. On June 4, 2015, Mazda issued a recall of 7,368 Vehicles. This published Road Safety Recall reads as follows:

Road Safety Recalls Database

Transport Canada Recall # 2015246

Recall Date	2015/06/04
Notification Type	Safety Mfr
System	Airbag
Manufacturer Recall Number	
Units Affected	7,368
Category	Light Truck & Van
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 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 airbag inflators.		
Make	**Model**	**Model Year(s) Affected**
MAZDA	B SERIES	2004 2005 2006

91. On June 4, 2015, Mazda issued another recall including additional model years for makes previously recalled. A total of 57,861 Vehicles were recalled. This published Road Safety Recall reads as follows:

Road Safety Recalls Database

Transport Canada Recall # 2015247

Recall Date	2015/06/04
Notification Type	Safety Mfr
System	Airbag
Manufacturer Recall Number	
Units Affected	57,861
Category	Car

Recall Details

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. Correction: Dealers will replace the airbag inflators.

Make	Model	Model Year(s) Affected
MAZDA	MAZDA6	2003 2004 2005 2006 2007 2008
	MAZDASPEED6	2006 2007
	RX-8	2004 2005 2006 2007 2008

92. On June 18, 2015, General Motors (Pontiac) issued a further recall including additional model years for makes previously recalled. A total of 55,595 Vehicles were recalled. This published Road Safety Recall reads as follows:

Road Safety Recalls Database

Transport Canada Recall # 2015272

Recall Date	2015/06/18
Notification Type	Safety Mfr
System	Airbag
Manufacturer Recall Number	14491
Units Affected	55,595
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 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 recalls 2013116 and 2014301. Correction: All vehicles having not received a replacement inflator as part of the previous recall will not have a replacement inflator installed by dealers

Make	Model	Model Year(s) Affected
PONTIAC	VIBE	2003 2004 2005 2006 2007

93. On December 31, 2015, Mazda report Road Safety Recall #2015624 to Transport Canada. A total of 50,587 Vehicles were identified for recall. This published Road Safety Recall reads as follows:

Road Safety Recalls Database

Transport Canada Recall # 2015624

Recall Date	2015/12/31
Notification Type	Safety Mfr
System	Airbag
Manufacturer Recall Number	
Units Affected	50,587
Category	Car

Recall Details

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. Correction: Dealers will replace the airbag module. Note: This is an expansion of recall 2015-247.

Make	Model	Model Year(s) Affected
MAZDA	MAZDA6	2004 2005 2006 2007 2008
MAZDA	MAZDASPEED6	2004 2005 2006 2007 2008

94. On January 25, 2016, Ford issued a further recall relating to driver side airbag modules. A total of 29,458 Vehicles were recalled. This published Road Safety Recall reads as follows:

Road Safety Recalls Database

Transport Canada Recall # 2016033

Recall Date	2016/01/25
Notification Type	Safety Mfr
System	Airbag
Manufacturer Recall Number	16S03
Units Affected	29,458
Category	Light Truck & Van

Recall Details

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 airbage 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. Corection: Dealers will replace the front driver airbag inflator.

Make	Model	Model Year(s) Affected
FORD	RANGER	2004 2005 2006

95. On February 1, 2016, Mazda report Road Safety Recall #2016050 to Transport Canada. A total of 7,368 Vehicles were identified for recall. This published Road Safety Recall reads as follows:

Road Safety Recalls Database

Transport Canada Recall # 2016050

Recall Date	2016/02/01
Notification Type	Safety Mfr
System	Airbag
Manufacturer Recall Number	9116A

Units Affected	7,368
Category	Light Truck & Van
Recall Details	
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. Correction: Dealers will replace the front driver airbag inflator.	

Make	Model	Model Year(s) Affected
MAZDA	B SERIES	2004 2005 2006

96. On February 3, 2016, General Motors (SAAB and Saturn) issued a recall affecting 20,553 Vehicles. This published Road Safety Recall reads as follows:

Road Safety Recalls Database

Transport Canada Recall # 2016052

Recall Date	2016/02/03
Notification Type	Safety Mfr
System	Airbag
Manufacturer Recall Number	28810
Units Affected	20,553
Category	Car
Recall Details	
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. Correction: Dealers will replace the driver airbag inflator on	

Saab 9-3 and 9-5 vehicles and replace the driver airbag module on Saturn Astra vehicles.		
Make	**Model**	**Model Year(s) Affected**
SAAB	9-3	2003 2004 2005 2006 2007 2008 2009 2011
SAAB	9-5	2011
SATURN	ASTRA	2008 2009

97. On March 3, 2016, General Motors (Pontiac) issued a further recall including additional model years for makes previously recalled. A total of 60,672 Vehicles were recalled. This published Road Safety Recall reads as follows:

Road Safety Recalls Database

Transport Canada Recall # 2016106

Recall Date	2016/03/03
Notification Type	Safety Mfr
System	Airbag
Manufacturer Recall Number	14491
Units Affected	60,672
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. Note: This recall supersedes recalls 2013-116, 201-301 and 2015-272.Correction: Dealers will replace the frontal passenger airbag assembly with one equipped with a newly specified inflator.

Make	Model	Model Year(s) Affected
PONTIAC	VIBE	2003 2004 2005 2006 2007

		2008

98. 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

99. 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.

100. 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.

101. Takata's use of ammonium nitrate in its Airbags, when Takata 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 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 chose not to use such an alternative.

102. 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.

103. 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.

104. 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.

105. 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.

106. 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) 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 Takata and TK in 2000, but the they 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 BMW and Subaru as early as 2003, when they were first notified of ruptures occurring in their vehicles, but they did not advise Transport Canada until, in the case of BMW, first in 2013 (Transport Canada Recalls: #2013148), then 2014 (Transport Canada Recalls #2014299 and #2014587) and again in 2015 (Transport Canada Recall #2015230), and in the case of Subaru, first in 2014 (Transport Canada Recall #2014285) and then 2015 (Transport Canada Recall #2015234;

(e) the Airbag Inflator defect was known or ought to have been known to the all automobile 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, in the case of Transport Canada Recalls #2013112, #2013116, #2013148 and in 2014 in the case of Transport Canada Recalls #2014245, #2014285, #2014299, #2014301, #2014570, #2014587; in 2015 in the case of Transport Canada Recalls #2015052, #2015054, #2015230, #2015231, #2015232, #2015234, #2015235, #2015236, #2015237, #2015246, #2015247, #2015272, 2015624 and in 2016 in the case of Transport Canada Recalls #2016033, #2016050, #2016052, #2016106;

(f) the Defendants knew or ought to have known about the Airbag Inflator defect and should have announced it to the public;

(g) the Defendants designed, developed, tested, manufactured, assembled, distributed and sold a defective Airbag Inflator;

(h) the Defendants failed to warn the drivers, passengers and the public about the defective Airbag Inflators until 2013, in the case of Transport Canada Recalls #2013112, #2013116, #2013148 and in 2014 in the case of Transport Canada Recalls #2014245, #2014285, #2014299, #2014301, #2014570, #2014587; in 2015 in the case of Transport Canada Recalls #2015052, #2015054, #2015230, #2015231, #2015232, #2015234, #2015235, #2015236, #2015237, #2015246, #2015247, #2015272, 2015624 and in 2016 in the case of Transport Canada Recalls #2016033, #2016050, #2016052, #2016106;

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

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

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

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

(m) 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;

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

(o) 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;

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

(q) Takata and TK 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;

(r) the Defendants failed to implement a safety recall until 2013, in the case of Transport Canada Recalls #2013112, #2013116, #2013148 and in 2014 in the

case of Transport Canada Recalls #2014245, #2014285, #2014299, #2014301, #2014570, #2014587; in 2015 in the case of Transport Canada Recalls #2015052, #2015054, #2015230, #2015231, #2015232, #2015234, #2015235, #2015236, #2015237, #2015246, #2015247, #2015272, 2015624 and in 2016 in the case of Transport Canada Recalls #2016033, #2016050, #2016052, #2016106;

(s) 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;

(t) the Defendants knew or ought have known that the Vehicles suffered from this design defect in the Airbag Inflator;

(u) the Defendants failed to conform with good manufacturing practices;

(v) the Defendants hired incompetent personnel;

(w) the Defendants failed to properly supervise their employees;

(x) the Defendants failed to train their employees in proper documentation process;

(y) the Defendants failed to encourage discussion of safety issues, including discussion of defects and safety consequences of defects;

(z) 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;

(aa) the Defendants failed to report this dangerous Airbag Inflator defect to the owners and drivers of the Vehicles and to the public;

(bb) the Defendants failed to protect the Class Members and the public;

(cc) the Defendants failed to make full, frank and complete disclosure to the regulators, the public, their customers and the Class Members;

(dd) the Defendants failed to institute a proper risk/management system;

(ee) the Defendants failed to advise the owners and drivers of the Vehicles, until 2013, in the case of Transport Canada Recalls #2013112, #2013116, #2013148 and in 2014 in the case of Transport Canada Recalls #2014245, #2014285, #2014299, #2014301, #2014570, #2014587; in 2015 in the case of Transport Canada Recalls #2015052, #2015054, #2015230, #2015231, #2015232, #2015234, #2015235, #2015236, #2015237, #2015246, #2015247, #2015272, 2015624 and in 2016 in the case of Transport Canada Recalls #2016033, #2016050, #2016052, #2016106, that they should have their vehicles inspected to replace the Airbag Inflator;

(ff) the Defendants failed, until 2013, in the case of Transport Canada Recalls #2013112, #2013116, #2013148 and in 2014 in the case of Transport Canada Recalls #2014245, #2014285, #2014299, #2014301, #2014570, #2014587; in 2015 in the case of Transport Canada Recalls #2015052, #2015054, #2015230, #2015231, #2015232, #2015234, #2015235, #2015236, #2015237, #2015246, #2015247, #2015272, 2015624 and in 2016 in the case of Transport Canada Recalls #2016033, #2016050, #2016052, #2016106, to adequately warn owners and drivers of the vehicles that there was a serious risk of injury associated with the Vehicles; and

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

REGULATORY INVESTIGATION

107. 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 test results of the 50 defective Airbag Inflators in 2004, as previously described.

108. 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 the test results of the 50 Airbag Inflators in 2004. The U.S. Justice Department's criminal investigation is ongoing.

109. 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.

110. 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.

111. 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 was in the process of issuing a Consent Order to TK, which requires, among other things, the company to cooperate in future regulatory actions.

112. 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 NTHSA 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 NTHSA lacks "confidence in the long-term performance of such inflators".

113. 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 CEO

114. 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."

115. 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."

116. 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

117. 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.

118. 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 Manufacturer Defendants fix 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.

119. 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.

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

PUNITIVE DAMAGES

121. 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

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

PLACE OF TRIAL

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

SERVICE

124. 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 31, 2016

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Court File No. CV-16-543766-00CP

ONTARIO
SUPERIOR COURT OF JUSTICE

PROCEEDING COMMENCED AT
WINDSOR and TRANSFERRED TO TORONTO

AMENDED
FRESH AS AMENDED STATEMENT OF CLAIM

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