

CV 14-20608 CP.
Court file no.:

**ONTARIO
SUPERIOR COURT OF JUSTICE**

BETWEEN

STACEY GREEN, LESLIE BAGLEY,
CATHERINE BELANGER, PHILLIP BISTANY,
WILLIAM BRADLEY, IVAN BRAJAK,
SHARON BRANCH, HEDY CADIEUX,
TYSON HARRIS, OWEN JONES,
CHARLENE LAMBIER, MARIE MAKUCH,
BRUCE MCLEAN, KAREN MELNIK
BERNICE MERNER and
1352130 ONTARIO LIMITED

Plaintiffs

and

GENERAL MOTORS OF CANADA LIMITED and
GENERAL MOTORS COMPANY

Defendants

Proceeding under the *Class Proceedings Act, 1992*

STATEMENT OF CLAIM

TO THE DEFENDANT

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' lawyers 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.

March 31, 2014

Issued by:


~~Local Registrar~~

Address of Court Office:

245 Windsor Avenue
Windsor ON N9A 1J2

TO:

**GENERAL MOTORS OF CANADA
LIMITED**

1908 Colonel Sam Drive
Oshawa Ontario L1H 8P7

AND TO:

GENERAL MOTORS COMPANY

Jefferson Avenue,
100 Renaissance Center
Detroit, Michigan 48243

CLAIM

DEFINED TERMS

1. In this statement of claim, in addition to the terms that are defined elsewhere herein, the following terms have the following meanings:

- (a) “**Bagley**” means Leslie Bagley;
- (b) “**Barra**” means Mary Barra;
- (c) “**Belanger**” means Catherine Belanger;
- (d) “**Bistany**” means Phillip Bistany;
- (e) “**Bradley**” means William Bradley;
- (f) “**Brajak**” means Ivan Brajak;
- (g) “**Branch**” means Sharon Branch;
- (h) “**Cadieux**” means Hedy Cadieux;
- (i) “**CJA**” means the Ontario *Courts of Justice Act*, R.S.O. 1990, c.C-43, as amended;
- (j) “**Class**” or “**Class Members**” means all persons in Canada who, on February 7, 2014, owned one of the **Vehicles**;
- (k) “**CPA**” means the *Class Proceedings Act, 1992*, S.O. 1992, c.6, as amended;
- (l) “**Excluded Persons**” means **GM, GMC** and their officers, directors and their heirs, successors and assigns;
- (m) “**GM**” means General Motors Company;
- (n) “**GMC**” means General Motors of Canada Limited;
- (o) “**Green**” means Stacey Green;
- (p) “**Harris**” means Tyson Harris;
- (q) “**Identification Number**” means Identification number 10392423 for the manufacturing designation of the ignition switch;

- (r) “**Jones**” means Owen Jones;
- (s) “**Lambier**” means Charlene Lambier;
- (t) “**Limited**” means 1352130 Ontario Limited;
- (u) “**Makuch**” means Marie Makuch;
- (v) “**McLean**” means Bruce McLean;
- (w) “**Melnik**” means Karen Melnik;
- (x) “**Merner**” means Bernice Merner;
- (y) “**Plaintiffs**” means **Bagley, Belanger, Bistany, Bradley, Brajak, Branch, Cadieux, Green, Harris, Jones , Lambier, Makuch, McLean, Melnik, Merner and Limited;**
- (z) “**NHTSA**” means the National Highway Traffic Safety Administration;
and
- (aa) “**Vehicles**” means the **Vehicles** described in paragraph 3.

2. The Plaintiffs, on their own behalf and on behalf of all Class Members,
claim:

- (a) an order certifying this action as a class proceeding and appointing the Plaintiffs as the representative plaintiffs;
- (b) general damages and special damages in the amount of \$500,000,000;
- (c) punitive damages and/or aggregated damages in the amount of \$150,000,000;
- (d) a reference to decide any issues not decided at the trial of the common issues;
- (e) prejudgment interest compounded and post-judgment interest pursuant to the *CJA*;

- (f) 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 as to this Honourable Court seems just.

THE NATURE OF THE ACTION

3. This class action concerns the negligent and dangerous design, manufacture and installation of the ignition switch in the Vehicles named in the following chart:

MAKE	MODEL	MODEL YEAR
Chevrolet	HHR	2006 - 2011
Chevrolet	Cobalt	2005 - 2010
Pontiac	Solstice	2006 - 2010
Pontiac	G5	2007 - 2010
Pontiac	Pursuit	2005 - 2006
Saturn	Ion	2003 - 2007
Saturn	Sky	2006 - 2010

4. Before April 2006, when GM changed the specification on the ignition switch, GM and GMC knew about the dangerous defect in the ignition switch.

5. GM and GMC failed to advise the owners of the Vehicles and the public about this ignition defect which they knew about. This failure by GM and GMC was life threatening. At least 13 deaths (including one death in Canada) were caused by this non-disclosure.

6. In February 2014, GM and GMC finally disclosed the dangerous defect and commenced a massive recall. GM's CEO Barra said: "Something went wrong with our [GM's] process ... and terrible things happened." The plaintiffs agree with Barra's statement.

THE PLAINTIFFS

7. Green is a 48 year old medical office administrator residing in the City of Windsor. On November 5, 2007, she purchased a 2007 Saturn Ion. She currently owns this motor vehicle.

8. Bagley is a 57 year old branch manager for a North American provider of customs brokerage services, residing in the Town of Amherstburg. On September 26, 2009, she purchased a 2007 Pontiac Solstice. She currently owns this motor vehicle.

9. Belanger is a 61 year old driver for an automotive company, residing in the City of Windsor. On November 17, 2003, she purchased a 2004 Saturn Ion. She currently owns this vehicle.

10. Bistany is 58 year old, unemployed, and resides in the City of Windsor. On November 3, 2008, Bistany inherited a 2005 Chevrolet Cobalt from the estate of his brother, Ian Bistany. He currently owns this vehicle.

11. Bradley is a 64 year old priest residing in the City of Windsor. On April 7, 2006, he purchased a 2006 Saturn Ion. He currently owns this vehicle.

12. Brajak is a 55 year old millwright residing in the City of Windsor. On September 27, 2005, he purchased a 2003 Saturn Ion. He currently owns this vehicle.

13. Branch is a 69 year old part-time clerk for a dry cleaning business, residing in the City of Windsor. On February 26, 2008, she purchased a 2007 Pontiac G5. She currently owns this motor vehicle.

14. Cadieux is a 63 year old employment case worker residing in the City of Windsor. On or about February 16, 2008, she purchased a 2006 Pontiac Solstice. She currently owns this motor vehicle.

15. Harris is a 29 year old delivery driver residing in the City of Windsor. On October 15, 2013, he purchased a 2006 Pontiac Pursuit. He currently owns this motor vehicle.

16. Jones is a 60 year old musician residing in the City of Windsor. On May 18, 2007, he purchased a 2006 Chevrolet HHR. He currently owns this motor vehicle.

17. Lambier is a 61 year old senior cardiovascular technologist residing in the Town of Tecumseh. On August 24, 2010, she purchased a 2006 Chevrolet Cobalt. She currently owns this motor vehicle.

18. Limited is an Ontario Corporation with its head office in the Town of Lakeshore. Its sole officer and director is John C. Bondy. On August 11, 2008, Limited purchased a 2007 Chevrolet Cobalt. It currently owns this motor vehicle.

19. Makuch is a 78 year old retiree residing in the City of Windsor. On or about July 2007, she purchased a 2006 Pontiac Pursuit G5. She currently owns this motor vehicle.

20. McLean is a 52 year old parts manager residing in the City of Windsor. On or about March 2010, he purchased a 2007 Saturn Sky. He currently owns this motor vehicle.

21. Melnik is a 54 year old administrative assistant with the Windsor-Essex Catholic District School Board, residing in the Town of Tecumseh. On September 12, 2009, she purchased a 2005 Saturn Ion. She currently owns this vehicle.

22. Merner is a 79 year old retiree, residing in the City of Windsor. On July 11, 2009, she purchased a 2005 Pontiac Pursuit. She currently owns this vehicle.

23. The plaintiffs, collectively, own at least one of every Vehicle model.

PARTICULARS OF THE CLASS

24. The Class is comprised of all persons in Canada who, on February 7, 2014, owned one of the approximate 367,824 Vehicles. The members of the Class are known to GMC and GM.

GMC'S RELATIONSHIP WITH GM

25. GMC is a corporation organized and existing under the laws of the State of Delaware. GM describes itself as an American corporation with its head office in Detroit, Michigan. GM is responsible for the engineering, design, development, research and manufacture of the Vehicles.

26. GMC is a Canadian federally incorporated company with its head office in Oshawa, Ontario. It was also involved with the engineering, design, development, research and manufacture of the Vehicles. GMC is and was a wholly-owned subsidiary of GM.

27. GMC has four production facilities and offices throughout Canada. At all material times, GMC was the sole distributor of the Vehicles in Canada. It sold the Vehicles through its dealer and retailer network.

28. On June 1, 2009, “old” GM went into bankruptcy in a pre-packaged Chapter 11 reorganization under the United States Code in the United States Bankruptcy Court for the Southern District of New York.

29. On July 10, 2009, “new” GM completed the purchase of the continuing operations, assets, trademarks, and the shares of GMC owned by “old” GM as part of a pre-packaged Chapter 11 reorganization.

30. In this Chapter 11 bankruptcy reorganization, “old” GM did not disclose the dangerous ignition switch defect in the Vehicles and the Class Members’ claims are not affected by the bankruptcy.

THE DANGEROUS DEFECTS IN THE VEHICLES

31. On February 7, 2014, GM reported a safety recall on some of its Vehicles to the NHTSA.

32. On February 10, 2014, there was a Road Safety Recall concerning some of the Vehicles by Transport Canada. This Road Safety Recall read as follows:

Road Safety Recalls Database

Transport Canada Recall #2014038

Recall Date	2014/02/10	
Notification Type	Safety Mfr	
System	Electrical	
Manufacturer Recall Number	13454	
Units affected	153,310	
Category	Car	
Recall Details		
On certain vehicles, a defect in the ignition switch could allow the switch to move out of the "run" position if the key ring is carrying added weight or the vehicle goes off-road or is subjected to some other jarring event. The timing of the key movement out of the "run" position, relative to the activation of the sensing algorithm of the crash event, may result in the airbags not deploying, increasing the risk of injury. Correction: Dealers will replace the ignition switch. Note: Until the correction is performed, all items should be removed from the key ring.		
Make	Model	Model Year(s) Affected
CHEVROLET	COBALT	2005 2006 2007
PONTIAC	G5	2007
PONTIAC	PURSUIT	2005 2006

33. On February 12, 2014, GM sent the following letter to all GM and GMC dealers about a "Safety Recall" for the defective ignition switch:

Date: February 12, 2014

Subject: Upcoming Safety Recall 13454
Ignition Switch Replacement

Models: 2005-2007 Chevrolet Cobalt
2005-2006 Pontiac Pursuit (Canada Only)
2007 Pontiac G5

To: All General Motors Dealers

Attention: General Manager, Service Advisor, Service Manager,
Parts and Service Director, Parts Manager, Used Vehicle
Sales Manager, and Warranty Administrator

UPCOMING SAFETY RECALL 13454

Based on information from the National Highway Traffic Safety Administration (NHTSA) website, the media may report that General Motors will be announcing a safety recall that involves certain 2005-2007 model year Chevrolet Cobalt, 2005-2006 model year Pontiac Pursuit and 2007 model year Pontiac G5 vehicles. The total number of involved U.S. vehicles is approximately 619,000.

The ignition switch torque performance may not meet General Motors' specification. If the torque performance is not to specification, and the key ring is carrying added weight or the vehicle goes off road or experiences some other jarring event, the ignition switch may inadvertently be moved out of the "run" position. The timing of the key movement out of the "run" position, relative to the activation of the sensing algorithm of the crash event, may result in the airbags not deploying, increasing the potential for occupant injury in certain kinds of crashes.

Until this correction is performed, customers should remove non-essential items from their key ring.

To correct this condition, dealers are to replace the ignition switch. We are working with our suppliers to obtain the required parts as quickly as possible. **We expect to have parts available beginning in April.** Dealers will be advised when the recall bulletin and customer notification letter are scheduled for release. The attached Question and Answer document is being provided to assist with any customer inquiries you may receive about this upcoming recall.

The Investigate Vehicle History screen in the Global Warranty Management system will not be updated until the recall bulletin is released.

Please do not call GM Technical Assistance.

34. On February 24, 2014, GM reported a further safety recall on some of their vehicles to the NHTSA.

35. On February 26, 2014, there was another Road Safety Recall by Transport Canada. GMC made this further disclosure to Transport Canada. This further Road Safety Recall read as follows:

Road Safety Recalls Database
Transport Canada Recall #2014060

Recall Date	2014/02/26	
Notification Type	Safety Mfr	
System	Electrical	
Manufacturer Recall Number	14063	
Units affected	82,514	
Category	Car	
Recall Details		
On certain vehicles, a defect in the ignition switch could allow the switch to move out of the "run" position if the key ring is carrying added weight or the vehicle goes off-road or is subjected to some other jarring event. The timing of the key movement out of the "run" position, relative to the activation of the sensing algorithm of the crash event, may result in the airbags not deploying, increasing the risk of injury. Correction: Dealers will replace the ignition switch. Note: Until the correction is performed, all items should be removed from the key ring. Note: This is an expansion of recall 2014-038.		
Make	Model	Model Year(s) Affected
CHEVROLET	HHR	2006 2007
PONTIAC	SOLSTICE	2006 2007
SATURN	ION	2003 2004 2005 2006 2007
SATURN	SKY	2007

36. On March 4, 2014, GM and GMC sent the following letter to each dealer about the anticipated "Safety Recall" for the defective ignition switch:

Date: March 4, 2014

Subject: Upcoming Safety Recalls 13454 and 14063
Ignition Switch Replacement
Customer Notification Letter Mailing

Models: 2005-2007 Chevrolet Cobalt
2006-2007 Chevrolet HHR
2005-2006 Pontiac Pursuit (Canada Only)
2006-2007 Pontiac Solstice
2007 Pontiac G5
2003-2007 Saturn Ion
2007 Saturn Sky

To: All General Motors Dealers

Attention: General Manager, Service Advisor, Service Manager,
Parts and Service Director, Parts Manager, Used Vehicle
Sales Manager, and Warranty Administrator

You were previously advised that General Motors will be implementing safety recalls that involve 2005-2007 model year (MY) Chevrolet Cobalt, 2006-2007 MY Chevrolet HHR, 2005-2006 MY Pontiac Pursuit, 2006-2007 MY Pontiac Solstice, 2007 MY Pontiac G5, 2003-2007 MY Saturn Ion, and 2007 MY Saturn Sky vehicles. There is a risk under certain conditions, that the ignition switch may move out of the "run" position, resulting in a partial loss of electrical power and turning off the engine. This risk increases if the key ring is carrying added weight (such as more keys or the key fob) or the vehicle experiences rough road conditions or other jarring or impact related events. If the ignition switch is not in the run position, the air bags may not deploy if the vehicle is involved in a crash, increasing the risk of injury or fatality.

Until the recall repairs have been performed, customers should be advised that it is very important that they remove all items from their key rings, leaving only the vehicle key. The key fob (if applicable), should also be removed from the key ring.

The GM recall numbers are 13454 and 14063. The total number of involved U.S. vehicles is approximately 1.3 million.

GM will begin notifying involved customers of their involvement in this safety recall beginning March 10, 2014 for 13454, and on March 14, 2014 for 14063. The notification letter will explain what the recall is about and what a customer should do until their vehicle is repaired. The letter will also inform customers that as parts become available, we will send them another letter asking them to contact their dealer to have this repair performed. A sample copy of the first notification letter is attached to this message. Actual owner letters will be owner and VIN specific.

Also attached is a Question & Answer document to assist you with any customer inquiries you may receive about this upcoming safety recall.

For situations where a customer may be concerned about operating their vehicle and is requesting alternate transportation, dealer service management is empowered to place the customer into a courtesy vehicle until parts are available to repair the vehicle. See bulletin 07-00-89-037 for courtesy transportation guidelines. Service management must document their approval for courtesy transportation by submitting their authorization via the Dealer Aftersales Empowerment Portal prior to the customer receiving the courtesy transportation vehicle. Utilize labor code 9100387 and provide a brief comment noting the customer's concern in the "additional comments" field, using 00 (unknown) for the estimated days of rental. Once the form is submitted, an email confirmation will be sent to your District Manager Aftersales. The Dealer Aftersales Empowerment Portal can be accessed under the Service Workbench on GlobalConnect. The first time you access the Dealer Aftersales Empowerment site, a registration page must be filled out with your first and last name and email address (it is recommended that you enter your dealership email addresses). The email address is very important as this is the address to which email notifications and confirmations will be sent.

For those customers who request that their vehicle be towed, dealer service management must contact Roadside Assistance to request towing on behalf of the customer under Safety Recall 13454 or 14063. Be certain to have the customer Vehicle Identification Number, contact information and vehicle pick up address to provide to Roadside Assistance.

Roadside Assistance can be contacted at 855-381-5826. This is a dedicated number which has been established just for this recall.

The GM Customer Assistance Center (CAC) may also contact your dealership regarding a customer who is concerned about operating their vehicle and is requesting alternate transportation or a tow. The CAC advisor will 'warm transfer' the customer to you for further handling. If the immediate transfer is not possible, the CAC advisor will provide you with all pertinent customer information and required that you follow-up with the customer as quickly as possible. In this situation, dealer service management is also empowered to place the customer into a courtesy vehicle or facilitate a tow through Roadside Service.

In addition, to assist dealers, in helping customers who are involved in this recall who request assistance, we are announcing a special cash allowance in the amount \$500 available when these customers purchase or lease a new 2013/2014/2015 model year Chevrolet, Buick, GMC or

Cadillac. This allowance must be passed on to the eligible customer at the time of the transaction and is in addition to other national and regional offers. The allowance is not transferable and is intended to assist those customers who may want to trade out of their affected vehicle or buy a new GM product. GM will not market or solicit owners using this allowance. We ask that you not market to or solicit these customers either. This allowance is not a sales tool; it is to be used to help customers in need of assistance. The allowance is effective today. Please reference Program Number 14-40AAQ for details.

We expect to have parts to begin repairing vehicles by approximately April 7, 2014, at which time the recall bulleting will be released. The Investigate Vehicle History screen in the Global Warranty Management system will be updated on March 10, 2014. Please do not call GM Technical Assistance.

37. On March 11, 2014, GM wrote a letter to the NHTSA. The letter stated that “[t]his letter supersedes GM’s letter dated February 25 [sic 24], 2014”. This letter included two attachments, including Attachment B. Attachment B stated as follows:

2013. In late April 2013, the FPAE learned that the torque performance of a GM service part ignition switch purchased after 2010 differed substantially from that of an ignition switch that was original equipment installed on a 2005 Cobalt. He also learned that others had observed and documented that the detent plunger and spring used on the service part switch differed from those used on the original equipment switch installed on the 2005 Cobalt. Shortly thereafter, GM retained outside engineering resources to conduct a comprehensive ignition switch survey and assessment. That investigation included torque performance testing, ignition switch teardowns, and x-ray analyses of ignition switches used in production vehicles both before and after the 2007 model year. The data gathered by GM’s outside technical expert showed that: the ignition switches that he tested that had been installed in early-model Cobalts did not meet GM’s torque specification; changes had been made to the ignition switch’s detent plunger and spring several years after that start of production; and those changes most likely explained the variation from GM’s specifications for torque performance observed in the original switches installed in 2007 and earlier model year vehicles...

38. On March 27, 2014, GM and GMC expanded its ignition switch recall to include Vehicles which may have had defective ignition switches used as replacement parts.

39. On March 31, 2014, GM and GMC issued a press release that stated they are “taking the extraordinary step of recalling 132,000 more vehicles in Canada.” In the press release GM and GMC state the reason for this expanded recall:

GM Moves to Secure Recalled Ignition Switches

2014-03-31

- **132,000 models sold in Canada from 2008-2011 will get new ignition switch**
- **Parts return sought from aftermarket distributors**

OSHAWA – General Motors today said it will replace the ignition switch in all model years of its Chevrolet Cobalt, HHR, Pontiac G5, Solstice and Saturn Ion and Sky in the U.S. since faulty switches may have been used to repair the vehicles.

The parts are at the center of the company’s recently announced ignition switch recall, which originally extended through the 2007 model year. About 95,000 faulty switches were sold to dealers and aftermarket wholesalers. Of those, about 90,000 were used to repair older vehicles that were repaired before they were recalled in February.

Because it is not feasible to track down all the parts, the company is taking the extraordinary step of recalling 132,000 more vehicles in Canada to ensure that every car has a current ignition switch. GM is unaware of any reports of fatalities with this group of vehicles where a frontal impact occurred, the front air bags did not deploy and the ignition is in the “accessory” or “off” position.

As with the earlier recalls, if the torque performance is not to GM specification, the ignition switch may unintentionally move from the “run” position to the “accessory” or “off” positions, leading to a loss of power. The risk may be increased if the key ring is carrying added

weight or if the vehicle goes off road or experiences some jarring event. The timing of the key movement out of the “run” position relative to when the sensing algorithm of a crash may result in the air bags not deploying, increasing the potential for occupant injury in certain kinds of crashes.

Until the recall has been performed, customers are urged to remove all items, including the key fob, from their key rings, leaving only the vehicle key.

“We are taking no chances with safety,” said GM CEO Mary Barra. “Trying to locate several thousand switches in a population of 2.2 million vehicles and distributed to thousands of retailers isn’t practical. Out of an abundance of caution, we are recalling the rest of the model years.....

40. Since July 10, 2009, when the “new” GM took over the “old” GM’s business, the “new” GM knew about the dangerous ignition safety defect. Since before April 2006, for about 10 years, GMC knew about the dangerous ignition switch safety defect in the Vehicles. GM and GMC knew that:

- (a) the ignition switch torque performance in the Vehicles did not meet GM’s and GMC’s specifications and industry standards;
- (b) in many cases reported to them, the engine turned off causing death, injuries and accidents to the drivers, passengers and to the public;
- (c) in many cases reported to them, in crash events, non-deployment of airbags occurred;
- (d) when the key or steering column was inadvertently contacted by the driver or when the key was weighted down, the ignition key moved from the “run” position to the “accessory” or “off” position and, as a result, the Vehicles’ engines lost power;

- (e) they had received numerous reports of sudden engine power loss and non-deployment of airbags related to the defective ignition switch but they hid this safety information from the regulators, from their customers, the Class Members, and from the public;
- (f) GM identified the Identified Number;
- (g) in April 2006, GM changed the specification for the ignition switch but did not change the Identification Number; and
- (h) the changes in the ignition switch design were profound. A tiny metal plunger was no longer in the ignition switch. The switch's spring was more compressed and greater force was needed to turn the ignition switch on and off.

41. GM and GMC, through their employees, officers, directors and agents, including Delphi Automotive LLP, the manufacturer of the ignition switch, failed to meet the reasonable standard of conduct (care) expected in the circumstances in that:

- (a) they wrongfully and intentionally accepted the foreseeable risk of injury and loss of life and property damage to the drivers, passengers and the public because of the ignition switch defect;
- (b) notwithstanding that they foresaw personal injuries and the loss of life and property of the drivers and passengers in the Vehicles, they failed to eliminate or correct the ignition switch defect;
- (c) they re-designed the ignition defect in 2006 but they did not announce a recall until February 2014;

- (d) they knew or ought to have known about the ignition switch defect and should have announced it to the public;
- (e) they designed, developed, tested, manufactured, assembled, distributed and sold a defective ignition;
- (f) they failed to warn the drivers, passengers and the public about the defective ignition switch until February 2014;
- (g) they failed to change the design, manufacture and assembly of the ignition switch in reasonable and timely manner;
- (h) they failed to properly test the ignition switch and its torque;
- (i) they failed to establish any, or any adequate, procedures to ensure that the design of the ignition was adequate;
- (j) they failed to establish any, or any adequate, procedures for evaluating the design defects of the ignition switch;
- (k) they failed to properly instruct their employees to evaluate the injuries, deaths and accidents involving the ignition and its torque;
- (l) they failed to review and evaluate the accidents and complaints about the ignition switch and lack of power;
- (m) they failed to initiate timely review, evaluation and investigation of the ignition switch and the failure of engine power following complaints, injuries and deaths if a malfunction occurred;
- (n) knew or ought to have known about the defect in the ignition switch in April 2006 but they kept this defect a secret;

- (o) they failed to have adequate quality control or quality assurance about the change in the design of the ignition switch known by the Identification Number;
- (p) they failed to review, evaluate, and maintain all records of written and oral complaints relative to the reliability, safety, effectiveness and performance of the ignition switch;
- (q) they failed to implement a safety recall until February 2014;
- (r) they failed to disclose to the owners and drivers of the Vehicles and to the public that, in some crashes, air-bags did not deploy because the engine was not in the “run” mode;
- (s) they knew about the change in design and manufacture of the ignition switch but they did not disclose this change and stonewalled the Class;
- (t) they failed to conform to industry standards by failing to renumber the ignition switch known by the Identification Number;
- (u) they knew or ought have known that the Vehicles suffered from this design defect in the ignition switch;
- (v) they failed to conform with good manufacturing practices;
- (w) they hired incompetent personnel;
- (x) they failed to properly supervise their employees;
- (y) they knew or ought to have known from reports to them, that there was a loss of power and risk of safety to the drivers, passengers and the public;
- (z) they failed to report this change in specifications for the ignition switch to Transport Canada and to the NHTSA;

- (aa) they failed to consider the consequences of not disclosing the change in design and continued this dangerous ignition switch defect;
- (bb) they failed to report this dangerous ignition switch defect to the owners and drivers of the Vehicles and to the public;
- (cc) they failed to protect the Class Members and the public;
- (dd) they failed to make full, frank and complete disclosure to the regulators, the public, their customers and the Class Members;
- (ee) they failed to institute a proper risk/management system;
- (ff) they failed to advise the owners and drivers of the Vehicles, until February 2014, that they should remove all items from the key ring leaving only the Vehicle key for the ignition;
- (gg) they failed, until February 2014, to adequately warn owners and drivers of the Vehicles that there was a serious risk of injury associated with the Vehicles;
- (hh) they failed to exercise reasonable care and judgment; and
- (ii) every day after April 2006 when they made the change in specification to the ignition switch, they failed to announce this change and kept it a secret from the customers, owners, drivers, passengers, the public and the Regulators.

ADMISSIONS BY GM'S CEO

42. Barra is GM's CEO. On March 17, 2014, Barra apologized to the US customers, the Class Members and the public for this dangerous ignition "safety issue". She admitted that "GM was aware for nearly 10 years of an ignition issue that affected 1.6 million cars and can interfere with air-bag deployment". She also said that "clearly the fact that it took over 10 years indicates that we have work to do to improve our process."

43. Barra has admitted that "Something went wrong with our process.....and terrible things happened." She has also apologized: "I am very sorry for the loss of life that occurred, and we will take every step to make sure this never happens again".

44. Barra's statement is an admission against the interest of "old" GM, "new" GM and GMC. It is an admission that GM and GMC were in breach of the standard of conduct (care) in manufacturing and maintaining the Vehicles. It is 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 US and to the regulators in Canada and the US.

GENERAL AND SPECIAL DAMAGES

45. As a result of the dangerous defects in the ignition switch in the Vehicles, and the failure by GM and GMC to disclose this safety issue until 2014, the Class has suffered 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 vehicles. GM and GMC should compensate each Class Member for their losses and inconvenience. Some Class Members have incurred out of pocket expenses for, among other things, alternative transportation and prior repairs to defective ignition switches.

46. The Class Members cannot get the ignition switch replaced immediately. The Class Members must drive a dangerous Vehicle. They are entitled to have GMC supply a replacement vehicle or a "courtesy car" until GMC replaces the ignition switch at no cost to the Class Members.

47. The Plaintiffs have driven their Vehicles less than they otherwise would due to fear of being in an accident. They have taken taxis and public transportation. They have incurred expenses.

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

PUNITIVE DAMAGES

49. GM's conduct and GMC's 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, intentionally disregarded the interests of the Class Members and the public, and indifferent to the consequences after April 2006 when they did not announce the change in Identification Number. For such abhorrent conduct and motivated by economic consideration, GM and GMC are liable to pay punitive and aggravated damages.

THE RELEVANT STATUTES

50. The Plaintiffs plead and rely upon the provisions of the *CPA* and *CJA*.

PLACE OF TRIAL

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

SERVICE

52. 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));
- (b) in respect of damages sustained in Ontario arising from a tort wherever committed (rule 17.02(g));
- (c) against a person outside Ontario who is a necessary and proper party to this proceeding properly brought against another person served in Ontario (rule 17.02(o)); and
- (d) against a person carrying on business in Ontario (rule 17.02(p)).

March 31, 2014

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CV 14-20608 C.P.
Court File No.

**ONTARIO
SUPERIOR COURT OF JUSTICE**

PROCEEDING COMMENCED AT
WINDSOR

STATEMENT OF CLAIM

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