Court File No.: CV-14-21481 CP

ONTARIO
SUPERIOR COURT OF JUSTICE

JOHN M. MCINTOSH

Plaintiff

- and -

TAKATA CORPORATION, TK HOLDINGS INC., TOYOTA MOTOR CORPORATION, TOYOTA MOTOR MANUFACTURING CANADA INC., and TOYOTA MOTOR MANUFACTURING, INDIANA, INC.

Defendants

Proceeding under the *Class Proceedings Act, 1992*

STATEMENT OF CLAIM

Notice of Action issued on November 7, 2014

DEFINED TERMS

1. In this Statement of Claim, in addition to the terms that are defined elsewhere herein:

(a) "**Airbag Inflator**" means a chamber that generates gas to inflate and deploy an airbag in order to protect a vehicle occupant;

(b) "**Body Control Module**" means an electronic control unit responsible for monitoring and controlling various electronic accessories in the vehicle's body, and which communicates with other onboard computers;

(c) "***CJA***" means the Ontario *Courts of Justice Act*, RSO 1990, c.C-43, as amended;

(d) "**Class**" or "**Class Members**" means all persons in Canada who, on April 11, 2013, owned one of the Vehicles subject to Transport Canada Recall #2013113, and all persons in Canada who, on June 12, 2014, owned one of the Vehicles subject to Transport Canada Recall #2014224;

(e) "***CPA***" means the *Class Proceedings Act, 1992,* SO 1992, c.6, as amended;

(f) "**Defendants**" means **Takata, TK, Toyota Motor, Toyota Canada** and **Toyota Indiana**;

(g) "**Excluded Persons**" means the **Defendants** and their officers, directors and their respective heirs, successors and assigns;

(h) "**McIntosh**" means John M. McIntosh;

(i) "***Motor Vehicle Safety Act***" means the *Motor Vehicle Safety Act,* SC 1993, c.16, as amended;

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

(k) "**Plaintiff**" means **McIntosh**;

(l) "**Takata**" means Takata Corporation;

(m) "**Takata Defendants**" means collectively, **Takata** and **TK**;

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

(o) "**Toyota Canada**" means Toyota Motor Manufacturing Canada Inc.;

(p) "**Toyota Defendants**" means collectively **Toyota Canada, Toyota Indiana**, and **Toyota Motor**;

(q) "**Toyota Indiana**" means Toyota Motor Manufacturing, Indiana, Inc.;

(r) "**Toyota Motor**" means Toyota Motor Corporation; and

(s) "**Vehicles**" means those vehicles subject to transport Canada Recall #2013113, and Transport Canada Recall #2014224 as described in paragraph 3.

2. The Plaintiff, on his own behalf and on behalf of all Class Members, seeks:

(a) an order certifying this action as a class proceeding and appointing him as the representative plaintiff;

(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 the Vehicles subject to Transport Canada Recalls #2013113 and #2014224 and as specified below:

MAKE	MODEL	MODEL YEARS: INCLUSIVE
LEXUS	SC-430	2002-2003
TOYOTA	COROLLA	2003-2004
	MATRIX	2003-2004
	SEQUOIA	2002-2003
	TUNDRA	2003-2004

4. More than 14 million vehicles worldwide, containing Takata-made Airbags, have been recalled. At least five, possibly six deaths and dozens of injuries have been linked to injuries caused by over-explosive Airbag Inflator propellant causing metal components within the device to break and project through the airbag cushion material at vehicle occupants.

5. Takata's CEO said: "[T]he moisture absorption control of the gas generating agent in some driver seat airbags had not been correctly implemented at the time of manufacture, as a result of which an inflator canister may rupture when the airbag deploys....We deeply regret that the problem in our airbags have caused problems."

THE PLAINTIFF

6. McIntosh is a 74 year-old retired University of Windsor professor residing in the City of Windsor, in the Province of Ontario. On March 4, 2002 he purchased a 2003 Toyota Corolla. He currently owns this Vehicle.

PARTICULARS OF THE CLASS

7. The Class is comprised of all persons in Canada who, on April 11, 2013 owned one of the approximately 75,000 Vehicles subject to Transport Canada Recall #2013113 and of all persons in Canada who, on June 12, 2014 owned one of the approximately 32,339 Vehicles subject to Transport Canada Recall #2014224. The members of the Class are known to the Toyota Canada.

THE DEFENDANTS AND THEIR RELATIONSHIP

8. 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.

9. 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.

10. Toyota Motor is a corporation organized and existing under the laws of Japan. Toyota Motor describes itself as a company involved in the automobile, finance, housing, and information and communication businesses. Its automobile division is engaged in the design, manufacture and sale of car products, including sedans, minivans,

2BOX cars, sport-utility vehicles, trucks and related parts and accessories. Toyota Motor was responsible for the engineering, design, development, research and manufacture of the Vehicles.

11. Toyota Canada is a federally incorporated Canadian company with its head office in Cambridge, Ontario. It was also involved in the engineering, design, development, research and manufacture of the Vehicles. Toyota Canada is and was at all material times a wholly-owned subsidiary of Toyota Motor.

12. Toyota Indiana is a corporation organized and existing under the laws of the State of Indiana. It was also involved in the engineering, design, development, research and manufacture of the Vehicles. Toyota Indiana is and was at all material times a wholly-owned subsidiary of Toyota Motor.

THE DANGEROUS DEFECT IN THE AIRBAG INFLATOR

13. 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.

14. 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.

15. 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.

16. 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.

17. 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.

18. 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.

19. 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.

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

21. In an interview on November 19, 2014 with the New York Times, Mr. Lillie described Takata' s adoption of the ammonium nitrate based propellant in its Airbag Inflators: "It's a basic design flaw that predisposes this propellant to break apart, and therefore risk catastrophic failure in an inflator [sic]."

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

23. In or about 2000, the Takata Defendants developed internal guidelines and specifications for the manufacturing of the new Airbag Inflators with ammonium nitrate propellant. Specifically, the ammonium nitrate propellant was to be stored in sealed containers to protect it from humidity prior to being pressed into propellant wafers. Each individual propellant wafer and propellant wafer stack was to be pressed at a specific

force to ensure combustion within the Airbag Inflator was controlled. Each Airbag Inflator was to contain a stack of seven propellant wafers.

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

25. 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.

26. Production of the Airbag Inflators at the Monclova, Mexico factory commenced on October 4, 2001. Between October 4, 2001 and October 31, 2002, the employees at this factory produced propellant wafers that were exposed to dangerous levels of humidity. Although the Takata Defendants had internal specifications on the handling of the ammonium nitrate containers, the ammonium nitrate was left sitting in unsealed containers and exposed to moisture from the factory floor. These propellant wafers absorbed moisture beyond the allowable limits.

27. At that time, the Takata Defendants knew that its Monclova, Mexico factory was manufacturing Airbag Inflators with a defect rate that was "six to eight times above acceptable limits, or roughly 60 to 80 defective parts for every one million Airbag Inflators shipped. Defective Airbag Inflators were shipped to the Toyota Defendants from the Monclova, Mexico factory for assembly into the Vehicles.

28. The Takata Defendants' 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".

29. The Defendants thus do not know which of the Vehicles assembled with Airbag Inflators manufactured at these factories during the time periods previously described are defective, and which are not defective.

30. 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.

31. 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.

32. 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."

33. 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.

34. 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.

35. 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.

36. 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.

37. 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.

38. 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.

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

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

41. 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.

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

43. On April 11, 2013 Toyota Canada reported Road Safety Recall #2013113 to Transport Canada. A total of 75,000 of the Vehicles were recalled. This published Road Safety Recall reads as follows:

Road Safety Recalls Database

Transport Canada Recall # 2013113

Recall Date	2013/04/11
Notification Type	Safety Mfr
System	Airbag
Manufacturer Recall Number	193-194

Units Affected	75,000
Category	Car, Light Truck & Van, Minivan

Recall Details

On certain vehicles, the passenger (frontal) airbag inflator could produce excessive internal pressure during airbag deployment. Increased pressure may cause the inflator to rupture, which could allow fragments to be propelled toward vehicle occupants, increasing the risk of injury. This could also damage the airbag module, which could prevent proper deployment. Failure of the passenger airbag to fully deploy during a crash (where deployment is warranted) could increase the risk of personal injury to the seat occupant. Correction: Dealers will inspect and, if necessary, replace the passenger airbag inflator.

Make	Model	Model Year(s) Affected
LEXUS	SC 430	2002 2003
TOYOTA	COROLLA	2003 2004
TOYOTA	MATRIX	2003 2004
TOYOTA	SEQUOIA	2002 2003
TOYOTA	TUNDRA	2003 2004

Manufacturer Name	Toll Free Number	Web Site
TOYOTA	1-888-869-6828	

44. 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".

45. 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.

46. On June 12, 2014 Toyota Canada expanded the vehicle population being recalled for the defective Airbag Inflator and Transport Canada Recall #2014224 was issued. This increased the total number of recalled Vehicles by 32,339 for a total of 107,339 recalled Vehicles.

Road Safety Recalls Database

Transport Canada Recall # 2014224

Recall Date	2014/06/12
Notification Type	Safety Mfr
System	Airbag
Manufacturer Recall Number	SSC 241/242
Units Affected	107,339
Category	Car, Light Truck & Van, Minivan

Recall Details

On certain vehicles, the passenger (frontal) airbag inflator could produce excessive internal pressure during airbag deployment. Increased pressure may cause the inflator to rupture, which could allow fragments to be propelled toward vehicle occupants, increasing the risk of injury. This could also damage the airbag module, which could prevent proper deployment. Failure of the passenger airbag to fully deploy during a crash (where deployment is warranted) could increase the risk of personal injury to the seat occupant. Note: This recall supersedes recall 2013113. As part of the previous recall, vehicles were inspected and only select airbag inflators were replaced. Correction: All vehicles having not received a replacement inflator as part of the previous recall will now have a replacement inflator installed by dealers.

Make	Model	Model Year(s) Affected
LEXUS	SC 430	2002 2003
TOYOTA	COROLLA	2003 2004
TOYOTA	MATRIX	2003 2004
TOYOTA	SEQUOIA	2002 2003
TOYOTA	TUNDRA	2003 2004

Manufacturer Name	Toll Free Number	Web Site
TOYOTA	1-888-869-6828	

47. In Transport Canada Recalls #2013113 and #2014224, Toyota explains that the reason for both recalls was that the 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

48. On October 20, 2014, Toyota recalled 247,000 vehicles in the U.S. in respect of the Takata airbag problem. This recall is in addition to the previous recalls of April 2013 and June 2014. No similar Transport Canada Recall has yet been issued in Canada.

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

50. On or about November 27, 2014, Toyota Motor announced it would also be recalling an additional approximately 57,000 worldwide, relating to concerns over defective Takata airbags. Specifically, Rav4 and Yaris models manufactured between 2002 and 2003, are affected. It is not clear how many of these newly recalled vehicles are from Canada, if any. To date, these makes and model years have not yet been subject to a Transport Canada Recall.

NEGLIGENCE

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

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

(b) notwithstanding that they foresaw personal injuries and the loss of life and property of the drivers and passengers in the Vehicles, they failed to eliminate or correct the Airbag Inflator defect;

(c) they knew about the Airbag Inflator defect in 2000 but they did not announce a recall until April 11, 2013 in the case of Transport Canada Recall #2013113 and June 12, 2014 in the case of Transport Canada Recall #2014224;

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

(e) they designed, developed, tested, manufactured, assembled, distributed and sold a defective Airbag Inflator;

(f) they failed to warn the drivers, passengers and the public about the defective Airbag Inflators until April 11, 2013 in the case of Transport Canada Recall #2013113 and June 12, 2014 in the case of Transport Canada Recall #2014224;

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

(h) they failed to properly test the Airbag Inflator;

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

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

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

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

(m) they failed to initiate timely review, evaluation and investigation of the Airbag Inflator and the excessive internal pressure following complaints, injuries and deaths if a malfunction occurred;

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

(o) they failed to review, evaluate, and maintain all records of written and oral complaints relative to the reliability, safety, effectiveness and performance of the Airbag Inflator;

(p) they failed to implement a safety recall until April 11, 2013 in the case of Transport Canada Recall #2013113 and June 12, 2014 in the case of Transport Canada Recall #2014224;

(q) they failed to disclose to the owners and drivers of the Vehicles and to the public that, in some crashes, airbags did not fully deploy because the Airbag Inflator could rupture;

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

(s) they failed to conform with good manufacturing practices;

(t) they hired incompetent personnel;

(u) they failed to properly supervise their employees;

(v) they failed to train their employees in proper documentation process;

(w) they failed to encourage discussion of safety issues, including discussion of defects and safety consequences of defects;

(x) they knew or ought to have known from reports to them, that there was an excessive internal pressure and risk of safety to the drivers, passengers and the public;

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

(z) they failed to protect the Class Members and the public;

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

(bb) they failed to institute a proper risk/management system;

(cc) they failed to advise the owners and drivers of the Vehicles, until April 11, 2013 in the case of Transport Canada Recall #2013113 and June 12, 2014 in the case of Transport Canada Recall #2014224, that they should have their vehicles inspected to replace the Airbag Inflator;

(dd) they failed, until April 11, 2013 in the case of Transport Canada Recall #2013113 and June 12, 2014 in the case of Transport Canada Recall #2014224, to adequately warn owners and drivers of the Vehicles that there was a serious risk of injury associated with the Vehicles; and

(ee) they failed to exercise reasonable care and judgment.

REGULATORY INVESTIGATION

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

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

54. 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.

ADMISSIONS BY TAKATA CEO

55. 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."

56. 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."

57. Mr. Takata's statements are an admission that the Takata Defendants were in breach of the standard of conduct (care) in manufacturing the Airbag Inflators. They are also an admission of a breach of the standard of conduct (care) in the safety aspects to the

drivers and passengers in the Vehicles to the public in Canada and the U.S. and to the regulators in Canada and the U.S.

GENERAL AND SPECIAL DAMAGES

58. As a result of the dangerous defects in the front passenger Airbag Inflator in the Vehicles, and the failure by the Defendants to disclose this safety issue until April 2013 and June 2014, the Class has suffered damages and will continue to suffer damages. The value of each of the Vehicles is reduced. Each Class Member must expend the time to have his/her Vehicle repaired and be without their motor vehicle. The Defendants should compensate each Class Member for their child care costs, income and other losses and inconvenience. Some Class Members have incurred out of pocket expenses for, among other things, alternative transportation and prior repairs to the front passenger Airbag Inflator.

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

60. The Class Members have driven their Vehicles less than they otherwise would due to fear of being in a collision. Some of the Class Members have taken taxis

and used public transportation. The Class Members have incurred these and other expenses.

61. The Plaintiff pleads that the Class Members' damages were sustained in Ontario and in the rest of Canada.

PUNITIVE DAMAGES

62. 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

63. The Plaintiff pleads and relies upon the provisions of the *CPA, CJA* and the *Motor Vehicle Safety Act.*

PLACE OF TRIAL

64. The Plaintiff proposes that this action be tried in the City of Windsor, Province of Ontario.

SERVICE

65. 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)).

December 5, 2014

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Court File No. CV-14-21481 CP

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SUPERIOR COURT OF JUSTICE

PROCEEDING COMMENCED AT
WINDSOR

STATEMENT OF CLAIM

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