

No. 108831-CV

SARA MAE MORGAN	§	IN THE DISTRICT COURT OF
<i>Plaintiff</i>	§	
	§	
v.	§	
	§	
FORD MOTOR COMPANY;	§	
YAKLIN FORD, INCORPORATED	§	BRAZORIA COUNTY, TEXAS
d/b/a YAKLIN BRAZOSPORT;	§	
and WAYNE KERRY GUICE	§	
<i>Defendants</i>	§	
	§	
v.	§	
	§	
BRANSON ROY	§	
<i>Third-Party Defendant</i>	§	239TH JUDICIAL DISTRICT

**PLAINTIFF'S SIXTH AMENDED PETITION
AND REQUESTS FOR DISCLOSURE**

TO THE HONORABLE JUDGE OF THIS COURT:

COMES NOW, Sara Mae Morgan, complaining of Ford Motor Company, Yaklin Ford, Incorporated d/b/a Yaklin Brazosport, and Wayne Kerry Guice, and for cause of action would respectfully show the Court the following:

We here deal primarily with the liability of an assembler-manufacturer for injuries caused by identifiable defects in a component part negligently produced by an independent supplier....Texas law holds the manufacturer-assembler liable for the negligence of its supplier of a component part.

Ford Motor Co. v. Mathis, 322 F.2d 267, 269, 276 (5th Cir. 1963)

DISCOVERY CONTROL PLAN

1. Pursuant to Rule 190.4 of the Texas Rules of Civil Procedure, Plaintiff will proceed with discovery under a Level 3 Discovery Control Plan.

PARTIES

2. Plaintiff Sara Mae Morgan is a U.S. citizen and a resident of the State of Texas.
3. Defendant Ford Motor Company is a Delaware for-profit corporation doing business in the State of Texas for the purpose of accumulating monetary profit and has filed its appearance in this matter through counsel of record.
4. Defendant Yaklin Ford, Incorporated, doing business as Yaklin Brazosport is a domestic for-profit corporation doing business in the State of Texas and has filed its appearance in this matter through counsel of record.
5. Defendant Wayne Kerry Guice is an individual and resident citizen of Texas and has filed his appearance in this matter through counsel of record.
6. Third-party defendant Branson Roy is an individual and resident citizen of Texas and has filed his appearance in this matter through counsel of record.

JURISDICTION AND VENUE

7. Venue is proper and maintainable in Brazoria County, Texas since all or a substantial part of the events or omissions giving rise to the claim occurred in in Brazoria County, Texas.
8. Jurisdiction is proper because the amount in controversy exceeds the minimal jurisdiction limits of this Court.

FACTUAL BACKGROUND

9. This is a negligence and products liability case in which Plaintiff seeks monetary relief over \$1,000,000.00 and a demand for judgment for all other relief to which Plaintiff is entitled.
10. In this case, the overly volatile explosion of the passenger side Phase Stabilized Ammonium Nitrate (PSAN) airbag inflator in a 2007 Ford Mustang bearing vehicle

identification number 1ZVFT84N375325290 caused a young lady to suffer serious, permanent, gruesome and life scarring personal injuries, including the loss of her left eye, loss of sight in her right eye, hearing damage, and associated physical and mental trauma.

11. The crash happened in Brazoria County, Texas on June 8, 2020. It was a completely foreseeable intersection collision in which no one should have been injured. But on impact the Ford Mustang's defective airbag inflator expelled metal shrapnel into the face of young Sara Morgan causing her traumatic injuries.



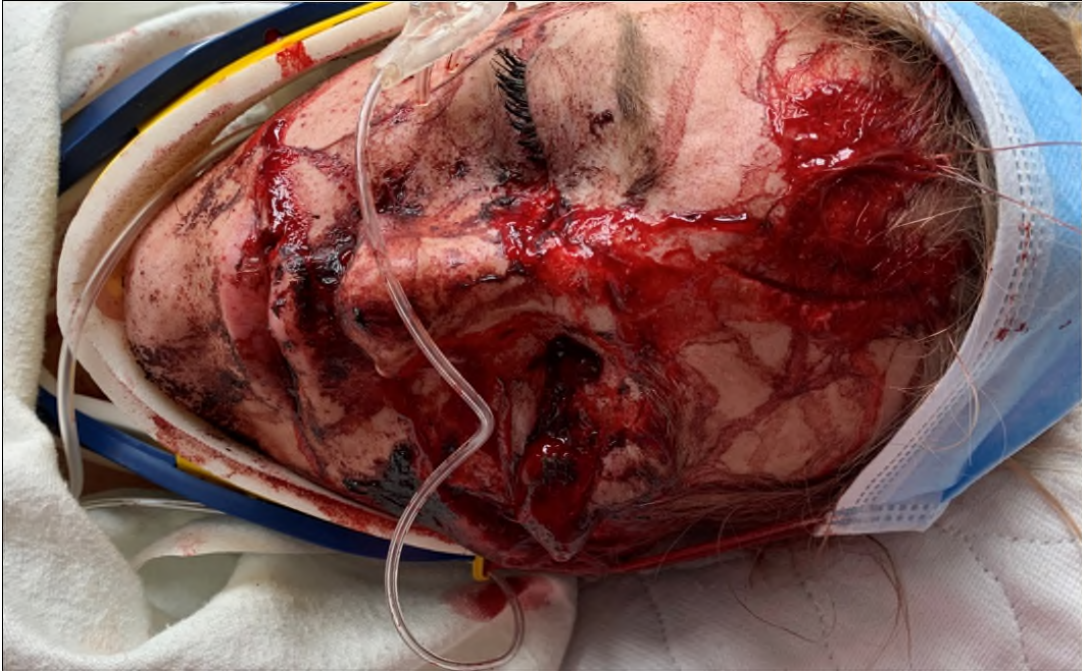
12. The crash happened in the daylight hours at around 4:00 p.m. Sara was riding in the Ford Mustang as a passenger. She was wearing her seatbelt. The Mustang was traveling north on North Loop 274 in Angleton, Brazoria County, Texas. At the same time, a 2008 Toyota

Tundra being driven by Mr. Guice was traveling south on North Loop 274 and a collision between the two vehicles occurred.

13. On impact the Ford Mustang's defective airbag inflator expelled metal shrapnel into Sara Morgan's face and body.



14. The metal shrapnel obliterated Sara's left eye and traumatized her face as seen in the photographs below.



The resulting deformity to Sara Morgan's face is evident in the photographs below:



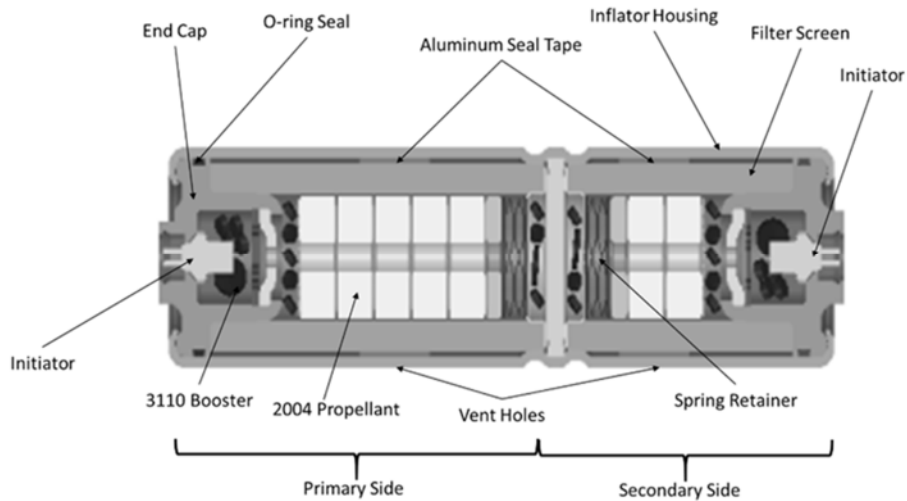
FACTUAL ALLEGATIONS

A. Background of Defective Airbag System

15. The function of the inflator in the airbag system is to convert the electrical signal from the sensor system to mechanical work which will inflate the airbag. A properly functioning airbag inflator generates gas and releases it into the bag in a controlled time period and it provides the structural containment of the gas generant and internal pressure that is required during the combustion of the gas generant material.
16. The inflators consist of the following major design sub-components:
 - a. An inflator housing that provides structural integrity for the inflator and contains vent holes that release gas into the bag.

- b. An igniter that receives an electrical signal from a crash sensor that ignites a small pyrotechnic charge to initiate the inflator combustion.
- c. Gas generant pellets, disks or wafers which is a mixture of chemicals that are pressed into pellets. The gas generant combustion and subsequent rate of gas generation will be affected by the physical shape of the pellet. This is because the physical shape will determine the surface area. The physical shape is also driven to optimize the inflator packaging. "Pellets" is used to describe the pressed gas generant in all forms, including wafers, pellets, or disks.
- d. Booster pellets are a mixture of chemicals that are placed between the igniter and the gas generant. They are easier to ignite than the main gas generant and create very high heat and provide pressure to cause ignition of the gas generant.
- e. Auto-ignition material, which is a mixture of chemicals that is placed in with the booster. This mixture auto-ignites if the external temperature at the inflator reaches a higher-than-normal temperature (for example, during a vehicle fire). This ignition would cause the inflator to activate without an electrical signal to the igniter. This serves to ignite the gas generant so that it burns off before the inflator housing loses structural integrity that could result in an inflator rupture.
- f. Seal closures that cover the vent holes in the housing to provide an environmental seal for the internal components of the inflator. The tape seals also serve to retain pressure inside the inflator during the ignition sequence to allow the internal pressure to reach the near equilibrium state.
- g. A filter screen that retains any solid materials inside the inflator and absorbs some of the heat from the reaction that cools the escaping gas slightly in order to reduce the risk damage of the airbag or risk of burns to the occupant.

A cross section of a passenger side inflator is depicted below:



17. Inside of the inflator there is a propellant, more commonly called gas generant. When combusted the propellant is intended to generate gas that will fill the airbag with pressure.
18. Ford Motor Company employees, including Marshall Quade, developed a specification to be used for airbags. Ford shared its specifications with suppliers including Takata Corporation, one of Ford’s suppliers. Ford required its suppliers, including non-party Takata Corporation, and its subsidiaries, including TK Holdings, Inc., (collectively, “Takata”), to design, manufacture, assemble, and supply airbags that conformed to Ford’s specifications. Ford provided specifications for the airbag inflators Takata was to supply.
19. Although Ford knew that Takata was supplying inflators that Ford knew did not comply with its specifications, Ford knowingly and intentionally chose to assume the risk of using Takata inflators in its 2007 Mustang,
20. Ford’s favored supplier, Takata, supplied a gas generant which used Phase Stabilized Ammonium Nitrate (AN). Ford was fully aware of this fact at all relevant times.
21. Ford knew that despite any phase stabilization, Ammonium Nitrate is very “hygroscopic.” That means that the AN readily absorbs moisture from the air and surrounding

- environment. Ford employees, including Marshall Quade, were aware of the properties of Ammonium Nitrate and also understood that AN was subject to thermal expansion.
22. Notably, before lawsuits were filed against Ford, Marshall Quade made it known that he never approved the Takata inflators.
 23. Ford knew that an airbag system in a car will experience the thermal cycle of daily temperature changes.
 24. Ford knew that, given its hygroscopic nature, the gas generant used in the inflators it was installing in the cars and trucks it was selling to American consumers would inevitably degrade due to thermal cycles and moisture/humidity.
 25. Ford knew or at least should have known that the process of physical degradation would be progressive and the degradation would be additive.
 26. Ford knew or, if it cared, should have known that degradation of the gas generant would be accompanied by faster ballistic performance over time as thermal cycling occurred and that with AN the presence of moisture would accelerate the degradation process.
 27. Ford knew or, if it cared, should have known that the principal effect of the degradation is that the gas generant will burn faster than it was designed to do, and this will lead to an airbag system that will progressively become more aggressive (when deployed).
 28. Ford knew that inflator ruptures could hurt and kill its customers.
 29. Despite its knowledge, Ford decided to use deviant components. Ford continually made special rules and exceptions so it could use the inflators with AN. The company made those special rules and exceptions so it could maintain vehicle development milestones and goals and increase its profits.

30. Rather than deploying properly and preventing injuries, the defective airbag inflators chosen by Ford blow up like hand-grenades, sending lethal metal and plastic shrapnel into the vehicle compartment and into the bodies of the drivers and passengers. In fact, in one otherwise non-catastrophic collision, responding police opened a homicide investigation because it appeared that the deceased driver had been stabbed multiple times in the head and neck immediately before crashing her car. After further investigation, it was revealed that the defective airbag in that vehicle exploded and killed that driver by sending metal and plastic fragments into her body.
31. Despite its knowledge of the extreme danger, Ford Motor Company chose to install and incorporate airbag components with AN into the 2007 Mustang at issue in this case and then sell the Ford Mustang to consumers in the United States of America.
32. Ford knew what was happening in the U.S. and around the world with these AN inflators. Time and again, first responders were baffled by the fact that victims of apparently minor accidents suffered injuries more consistent with being shot or stabbed repeatedly or had unexplained cervical fractures. As early as 2009, Ford knew that AN inflators were rupturing and killing people.
33. Ford knew, for example, that in July 2014 a Southern Florida resident was involved in a crash. While the woman survived the automobile accident, she was badly injured when a chunk of metal exploded from her car's airbag into her forehead. She survived, but now suffers from headaches, nausea, and loss of vision. In September 2014, a Florida resident died four days after her vehicle struck another car and the airbag exploded, sending shrapnel into her neck. The medical examiner stated that the shrapnel tore through the airbag, hitting the driver and causing "stab-type wounds" and cutting her trachea. Indeed,

her death was initially investigated as a homicide by detectives. A week after she died, a letter arrived at her house in the mail urging her to get her car fixed because of faulty airbags that could explode.

34. Over 100 million vehicles with inflators using the very same gas generant and components that Ford used were recalled worldwide, and there are reports that additional vehicles that have not yet been disclosed could join the list of recalls. The large majority of those recalls have come only recently despite the fact that many of the vehicles were manufactured with a potentially defective and dangerous airbag over a decade ago. Ford delayed its recalls to increase its profits.
35. Similar airbag ruptures have been linked to nineteen deaths in the U.S. and at least twenty-three worldwide, and hundreds more injuries. Of course, the death count continues to escalate.
36. Even after Ford had knowledge of the deaths and injuries, Ford dragged its corporate feet. While other manufacturers were recalling the inflators with AN, Ford chose to delay. Ford knew that delay worked in its financial favor. The longer Ford delayed, the greater the attrition. The less vehicles in the U.S. fleet, the less vehicles Ford had to pay to repair. The less vehicles repaired, the greater Ford's corporate profits.
37. This is a common theme at Ford. Ford delays recalls to reduce the number of vehicles it will have to pay to fix. Ford doesn't care that delay contributes to more human death and suffering as long as Ford is maximizing its profits. Although Ford's high compensated experts, stable of lawyers, and corporate representatives feign compassion, the company's actions betray the entirely self-serving claims of Ford's corporate sycophants.

38. Other examples of this same modus operandi date back decades and include similar known defects—like the Ford Pinto, the Ford Explorer tire debacle, and the Ford cruise control deactivation switch fiasco. Each of these past instances of component failures and undeniable defects in Ford products were met with the same response from Ford—delay, deceive, and deny.
39. Delay—Ford delays any affirmative action to fix defective components in the field until the problem is publicized in the media. Ford knows that because of vehicle attrition the longer it delays, the less costly the recall will untimely be for Ford.
40. Deceive—Ford deceives consumers and juries by claiming that it did not know about the problem and that the problem was really caused by its supplier. While Ford actually knows that its lax oversight of its suppliers is the cause.
41. Deny—Ford denies that the defect at issue in any case is similar to the same problem in its other models that suffer the same failure mode. Through its clever lawyers and highly paid consultants, Ford claims that the same problem in other Ford models is different because of meaningless distinctions between components or models. All the while, Ford knows that the underlying root cause of the defect is exactly the same throughout its model lines.
42. In this situation, Ford knew for years that there were numerous confirmed ruptures of inflators with 2004 PSAN used in its airbag inflators. But consistent with its past practices, Ford will try to persuade others to ignore the elephant in the room (i.e., inflators with AN that blow up like bombs) and claim that these past incidents are dissimilar because of meaningless distinctions between inflator designations.

43. All inflators using 2004 PSAN from Ford's supplier were evaluated and approved by Ford. All of these inflators share common defects and elements. The inflators from Ford's approved supplier share the following common defects and elements:
- a. Volumetric changes that cause the gas generant to physically degrade and consequentially, over time, to burn at much faster rates;
 - b. Hygroscopic AN, meaning AN absorbs water readily from the air around it. In the airbag inflators, this moisture comes from (1) the manufacturing environment and (2) through the tape or o-ring seals which cover the vent holes in the inflator body;
 - c. Lack of an air-tight seal due to the use of tape or o-ring seals;
 - d. An unusually high coefficient of thermal expansion, which contributes to the destructive nature of using PSAN in a gas generant;
 - e. PSAN pressed pellets expand and contract by almost 3% over the useful temperature range of a car, which results in significant structural damage. Degradation of the gas generant occurs through (1) pellets breaking down physically and (2) chemicals breaking down chemically, with the majority of the degradation occurring physically;
 - f. Thermal expansion differences between aluminum and steel resulting in the adhesive joint being degraded over time and allowing more moisture ingress through the seals over time; and
 - g. Faster ballistic performance due to degradation of the gas generant and an increased internal inflator pressure. The degradation ultimately reaches the point where it is great enough to cause the inflator to rupture.

B. The Inflator in the S197 Mustang.

44. Ford incorporated a Takata airbag inflator into the S197 Mustang which used PSAN (phase stabilized ammonium nitrate) as the main propellant. PSAN is known to be dangerous, and Ford knew of the dangers before the S197 Mustang was introduced into the marketplace and sold to consumers.
45. PSAN is hygroscopic and it has a history of degrading during thermal cycling. The degradation of the PSAN results in excessive pressure in the inflator especially over time

and in hot and humid climates. This degradation of the PSAN causes the inflator to rupture, expelling metal fragments into the occupant compartment of the vehicle. Information was available to Ford concerning the dangers of PSAN when it was incorporated into the airbag inflator into the 2007 Mustang.

46. Ford failed to insist on the addition of desiccant to the PSAN. Use of a desiccant would have mitigated PSAN's hygroscopic nature and mitigated degradation in high humidity environments.
47. Ford knew of the benefit of adding desiccant into the PSAN inflators as early as 2004, but Ford chose not to add desiccant into the inflator for the S197 Mustang. Instead, Ford turned a blind eye to the problem.
48. In fact, Ford questioned the use of desiccant to be utilized in the PSPI inflator to enhance performance and reduce variability as early as 2004, but Ford never thoroughly investigated the issue and never required that desiccant be incorporated into the PSPI inflator.
49. The PSPI inflator installed by Ford into the S197 Mustang did not meet Ford's inflator specifications either. It did not comply with variability requirements, and did not meet the requirements for sympathetic ignition, timing, gaseous effluents, flaming and ballistic variability. Ford had actual knowledge of these deficiencies but chose to install the PSPI inflator into the S197 Mustang anyway.
50. Ford recognized mistakes that had been made with the airbag inflators in the S197 Mustang as early as March 22, 2004. By August of 2004, Ford engineers expressed exasperation over repeating the same mistakes and not fixing them. Despite Ford engineers recognizing the integrity issues with Takata, Ford continued using PSPI inflators in S197 Mustang

modules so that it would not have to slow its production or impact Ford profits in a negative direction.

51. Moreover, Ford executives and high-level management failed to follow the recommendations and advice of Ford's own engineers, including but not limited to Ford's Marshall Quade. Marshall Quade was one of the authors of the USCAR specification. Marshall Quade had actual knowledge of the fact that overly aggressive inflator output could result from the degradation of PSAN propellant and that it could cause serious injuries or death. Marshall Quade never approved the use of the 2004 PSAN inflators made by Takata.
52. The inflator never would have been in the S197 Mustang had Ford not granted Takata repeated and numerous deviations from USCAR specifications. The PSPI inflator was installed in the S197 Mustang specifically because Ford continued to grant Takata more deviations than other suppliers. Had Ford not granted deviations, the inflator would not have been in the subject vehicle and could not have harmed Sarah Morgan. Ford is ultimately responsible for putting the defective inflator in the S197 Mustang with knowledge of the dangers inherent in PSAN-powered inflators.
53. Ford also knew of the implications of Takata's 2004 PSAN propellant without desiccant and knew that Autoliv and TRW were using inflators with alternate propellants that were USCAR compliant (or soon would be) and that were cheap. Yet Ford consciously and knowingly continued to use Takata's 2004 PSAN inflators in the Ford Mustang without desiccant while Ford was adding desiccant to other program's inflators that had 2004 PSAN propellant.

54. Ford failed to use safer alternative designs for the S197 Mustang in order to minimize the injury risk to passengers. If Ford's chosen supplier, Takata, could not make an inflator with a suitable propellant, Ford should have chosen another supplier.
55. Ford did not adequately vet Takata as a supplier either.
56. Ford should have been extremely careful in choosing its airbag supplier, given the dangers of overpowered airbags and the past history of Takata providing defective restraint components to other original equipment manufacturers.
57. Instead, Ford was so concerned that Honda was using a different technology that Ford's management just assumed that a Honda supplier must be providing a quality product. Manufacturers that really care about safety don't make such foolish and impetuous assumptions. Instead they investigate. By 2004 Ford engineers were already questioning the integrity of Takata, but management stifled those questions. Since inflator rupture lawsuits have been filed, the engineers that were previously raising those questions have changed their tune after meeting with persons coordinating Ford's defense to product liability actions arising out of inflator ruptures.
58. Ford simply did not take the proper care in choosing its component supplier and in overseeing the design of its airbag modules and this lack of proper oversight caused Ford to incorporate a dangerous and defective inflator into the 2007 Mustang. Ford should have been extremely careful in choosing its airbag supplier, given the main dangers of overpowered airbags and the past history of Takata providing defective restraint components to OE manufacturers.
59. At the end of the day, Ford engineers violated their obligation to hold the safety of the public paramount when they searched for and found "loopholes" to enable them to use

PSAN inflators. Instead, Ford engineers looked for loopholes so they could meet Job 1 deadlines and increase profits.

60. And given what Ford knew about the dangers of PSAN and the numerous red flags from Takata, Ford should have followed ethical practices that govern the conduct of engineers and manufacturers that do more than give mere lip service to consumer safety. This would involve taking action to protect the safety and health of the public. The hierarchy of hazard control requires eliminating a hazard when it is identified. Ford should have eliminated the hazard of inflator ruptures before lives were lost and people were seriously injured in S197 Mustangs.
61. Consumers buy a Ford Mustang, not a collection of component parts. Auto makers that care about customer safety do not blame others when millions of vehicles they have assemble and sell to consumers are defective and dangerous. Manufacturers that care about safety stand behind their product and answer for all of the components that they incorporate into their vehicle. In this case, Ford has failed to do so.
62. Ford knows that a recall is not a substitute for meeting its duty of providing a vehicle that is reasonably safe in all foreseeable crashes.

C. 2013 Recalls and Notices Relating to Defective Airbag Inflators

63. Despite the obvious danger, Ford has delayed reporting the full extent of the danger to drivers and passengers and failed to issue appropriate recalls.
64. In April of 2013, six major automakers issued recalls of **3.4 million** vehicles containing airbags that had inflators that used AN as their active ingredient. Notably, Ford did not issue any recalls for vehicles with AN inflators at this time.

65. In September 2013, a California driver was killed after the AN airbag inflator in his car ruptured.
66. On June 11, 2014, NHTSA's Office of Defects Investigation ("ODI") published an ODI Resume for a preliminary evaluation of Investigation No. PE 14-016. That document stated that NHTSA was opening an investigation "in order to collect all known facts from [Ford's chosen airbag inflator supplier] and the vehicle manufacturers that it believes may have manufactured vehicles equipped with inflators produced during the same period as those that have demonstrated rupture events in the field."
67. Also on June 11, 2014, NHTSA was informed that the inflators identified above were provided to the following vehicle manufacturers for use in vehicles sold in the United States: BMW, Chrysler, **Ford**, Honda, Mazda, Nissan, and Toyota.
68. On June 19, 2014, Ford Motor Company issued its first regional recall campaign, NHTSA No. 14V-343/Ford No. 14B04, which recalled approximately 58,669 vehicles. This was an improperly geographically limited recall campaign. This type of effort to minimize the problem and delay the inevitable recall to allow for vehicle attrition is classic for Ford. Delay. Delay. Delay.
69. Ford knows that every day of delay meant fewer vehicles that Ford had to pay to repair.
70. By the end of 2014, the number of vehicles that had been recalled due to defectively manufactured airbags had increased to over 6 million. However, Ford delayed. Ford did not recall all of the vehicles containing the defective airbag inflators. Instead, Ford waited. The longer it could wait, the less costly the recall for Ford Motor Co.

71. On October 22, 2014, NHTSA expanded the list of vehicles affected by the recall of inflators with ammonium nitrate propellant to cover ten automakers and numerous car models to include Ford.¹
72. On December 10, 2014, Ford expanded the regional recall, NHTSA No. 14V-787/Ford No. 14S28, to cover approximately 40,952 vehicles in high absolute humidity areas. But Ford denied the defect was present in other vehicles with the same problem.
73. On December 18, 2014, Ford expanded the recall from a regional campaign to a nationwide campaign, via recall NHTSA No. 14V-802/Ford No. 14B09, covering approximately 462,911 vehicles. Delay. Ford denies that other models with airbag inflators from the same supplier that use the same AN propellant are defective.
74. Delay. Ford delays recalling cars when it knew that it had installed silently ticking time bombs in the steering wheel hubs and passenger dashboard. At this point, it is not a question of “if” the inflators would rupture, it is only a question of “when” the inflators would rupture and which customers would be hurt or killed. Ford knew this. Ford did not care. Ford delayed the recall of the 2007 Ford Mustangs involving potentially defective passenger-side inflators until May of 2016.
75. The subject 2007 Ford Mustang was recalled as a part of campaign 16V-384 and initiated under 49 CFR § 573.
76. Ford failed to initiate the recall of the subject Ford Mustang in a timely manner and in compliance with 49 CFR § 573.

¹ Ben Klayman, “U.S. regulators expand number of vehicles affected by Takata recalls,” *Reuters* (Oct. 22, 2014).

77. When the consequences of Takata inflator ruptures were known — Ford should have acted quickly to alert its customers of the potential problem. Instead, Ford delayed, and customers died before Ford took meaningful action.

C. The Vehicles Containing Defective Airbag Inflator Were Sold as Safe and Reliable

78. Upon information and belief, defective vehicles continued to be marketed in advertisements and promotional materials as safe and reliable.

79. Purchasers of the defective Ford vehicles were thus led to believe their vehicles were safe and reliable vehicles despite the silently ticking time bombs under the dashboard and in front of the customer's face.

80. Vehicles with defective airbag systems are clearly not safe and reliable. Yet, Ford advertised and promoted their defective vehicles as safe and reliable.

NATURE OF CLAIM

81. Airbags are a critical component in the safety features of virtually every motor vehicle sold in the United States and throughout the world.

82. In order to prevent serious injury and death resulting from bodily impact with the hard-interior surfaces of automobiles, like windshields, steering columns, dashboards, and pillars, accelerometers and sensors in the vehicle frame trigger the vehicle airbags to deploy upon a vehicle experiencing a specified change in velocity in a collision. Because collisions can occur at rates of speed that can cause serious injury, airbags must deploy timely and at appropriate velocity to be effective, but not subject the occupant to additional unnecessary harm. To accomplish this, the airbag system contains highly conductive metals, such as gold, and uses a small explosive charge to immediately inflate the airbags upon being triggered.

83. When people operate a motor vehicle or ride in one as a passenger, they trust and rely on the manufacturers of those motor vehicles to make those vehicles safe.
84. An automotive manufacturer must take all necessary steps to ensure that the safety components of its vehicles—which can mean the difference between life and death in an accident—function as designed, specified, promised, and intended. Profits *must* take a back seat to safety for the airbag manufacturer and the automobile manufacturer in making its product sourcing decisions. Yet Ford put profits ahead of safety. Ford bought airbags from a that it knew did not meet its specifications from a Japanese supplier to save money. The result is that instead of saving lives, the faulty airbags in Ford automobiles are killing and maiming drivers and passengers involved in otherwise minor and survivable accidents.
85. The Ford Mustang contained airbags designed, specified, and installed by Ford that, instead of protecting vehicle occupants like Sara Morgan from bodily injury during accidents, violently exploded, with excessive force, causing her extensive injuries and damages.
86. Despite Ford’s prior knowledge of the propensity of the defective airbags to explode violently, injuring and killing occupants, Ford delayed issuing recalls and the subject Ford Mustang was not recalled until May of 2016, under NHTSA Recall No. 16V-384/Ford Recall No. 16S26.²
87. Once a vehicle and/or its parts are subject to an open recall, when a customer brings the vehicle into the dealership it is Ford and the dealership’s job to make sure that the vehicle gets repaired and any defective parts replaced.

² Manufacturer Recall Number 16S26 / NHTSA Campaign Number 16V-384, <https://static.nhtsa.gov/odi/rcl/2016/RCLRPT-16V384-4019.PDF> (last visited June 18, 2020) (issued May of 2016 and covering certain model year 2006-2011 Mercury Milan, 2007-2011 Ford Ranger, 2006-2011 Ford Fusion, 2005-2011 Ford Mustang, 2006-2011 Lincoln Zephyr/MKZ, 2007-2010 Ford Edge, 2007-2010 Lincoln MKX, 2005-2006 Ford GT vehicles).

88. Donald Thompson, Yaklin Ford's service manager, admitted as much in his deposition

Q: . . . [I]t's the owner's job to bring the vehicle in for a replacement, it's the dealer's job to make sure the replacement happens, isn't it?

A. Yes.

89. On October 31, 2018, the owner of the subject Ford Mustang took the vehicle to Defendant Yaklin Ford, Incorporated to have airbag inflator recalls performed and for a state inspection. The airbag inflators were subject to open recalls 16S26 (the passenger side inflator) and 15S21 (the driver side inflator) at that time. Instead of replacing both defective airbag inflators, Yaklin Ford only replaced the driver's side airbag inflator. Although Yaklin Ford knew of the open recalls on the airbag inflators in the Mustang, Yaklin Ford did not replace the defective passenger side airbag inflator that exploded and caused Sara's catastrophic injuries.

90. Ford has claimed that Yaklin Ford alone is responsible for the airbag inflator rupture since it did not replace the passenger airbag inflator. This claim ignores the fact that a recall is not an adequate substitute for a safe vehicle. Ford had an absolute obligation to provide consumers with a vehicle that was reasonably safe in crashes. Ford failed in its responsibility.

91. Upon information and belief, prior to designing, selecting, inspecting, testing, manufacturing, assembling, equipping, marketing, distributing, and/or selling the Ford Mustang, Ford was aware that there existed alternative passenger side frontal airbag system designs, which were safer, more practical and were both technologically and economically feasible for inclusion in the Ford Mustang. Upon information and belief, these alternative designs would eliminate the defective and unsafe characteristics of the Ford Mustang without impairing its usefulness or making it too expensive.

92. Ford knew or should have known that the airbag inflators installed in millions of vehicles, including the Ford Mustang, were defective. Upon information and belief, Ford concealed knowledge of the nature and extent of the defects from the public, delayed disclosure, and has shown a blatant disregard for public welfare and safety.
93. The Ford Mustang was designed, manufactured, assembled, inspected, tested, equipped, marketed, and distributed by Ford.
94. Upon information and belief, Ford substantially participated in the design, component part selection, and assembly of airbag modules. Ford selected its supplier, and required its supplier to design, manufacture, assemble, and supply airbags that conformed to Ford's specifications. Ford provided specifications for the airbag inflators its chosen supplier was to provide.
95. As originally designed, manufactured, assembled, inspected, tested, equipped, marketed and distributed, the Ford Mustang's passenger side airbag module contained an inflator that was in a defective condition and was unreasonably dangerous to foreseeable users and consumers of the Ford Mustang.
96. The Ford Mustang has been recalled as a result of defects in its passenger side frontal airbag system, which existed at the time the Ford Mustang was placed into the stream of commerce, and at the time of the Collision. Ford had prior knowledge of the defects before the date on which the Collision occurred.³
97. What would otherwise be a normal, safe, and expected airbag deployment in the Ford Mustang at the time of the Collision caused shrapnel to expel from the passenger side airbag onto Plaintiff Sara Morgan resulting in traumatic injuries including the loss of her

³ See NHTSA Recall Number 16V-384 (June 1, 2016).

left eye, potential loss of sight in her right eye, and extensive damage to her hearing. Moreover, had Ford and Yaklin Ford informed Sara of the defect known to them, Sara would not have been a passenger in the Ford Mustang containing the defect which caused the injuries complained of herein.

98. Accordingly, as a result of the defective and unreasonably dangerous condition of the Ford Mustang at the time of the Collision, Plaintiff Sara Morgan has suffered severe and permanent injuries for which she now brings suit.

99. Nothing Plaintiff did or failed to do at the time of the Collision caused or in any way contributed to cause her injuries. To the contrary, the Collision and injuries were proximately caused by the negligence, negligence *per se*, and gross negligence, as those terms are understood in law, on the part of Defendants.

CONDITIONS PRECEDENT

100. All conditions precedent to the bringing of this action and Plaintiff's rights to the relief sought herein have occurred, have been performed or have been excused.

FIRST CAUSE OF ACTION (STRICT PRODUCT LIABILITY – DEFENDANT FORD)

101. All preceding paragraphs are incorporated herein by reference.

102. At all times relevant, Ford designed, selected, inspected, tested, assembled, equipped, marketed, distributed, and sold the Ford Mustang and its components, including but not limited to, equipping it with its passenger side frontal airbag system.

103. At all times relevant, as designed, selected, inspected, tested, assembled, equipped, marketed, distributed, and sold by Ford, the Ford Mustang is and was uncrashworthy, defective, unreasonably dangerous, and unsafe for foreseeable users and occupants because its passenger side frontal airbag system is and was inadequately designed and constructed,

and failed to provide the degree of occupant protection, and safety a reasonable consumer would expect in foreseeable accidents occurring in the real world environment of its expected use.

104. The Ford Mustang and its passenger side frontal airbag system as designed by Ford was defective and unsafe for its intended purpose in that such system was unreasonably dangerous. The defective nature of the passenger side frontal airbag system was a proximate and producing cause of Plaintiff's enhanced injuries and the resulting damages to Plaintiff, thus rendering Ford strictly liable.
105. The Ford Mustang, as sold by Ford, was defectively designed, was in a defective condition and was unreasonably dangerous as designed, taking into consideration the utility of the system and the risk involved in its use.
106. At the time the Ford Mustang left the control of Ford, there were safer alternative designs for the passenger side frontal airbag system other than those that were used by Ford and caused Plaintiff's enhanced injuries and damages. The safer alternative designs would have either prevented or significantly reduced the risk of Plaintiff's injuries and damages without substantially impairing the Ford Mustang's airbag system's utility, and the safer alternative designs were economically and technologically feasible.
107. Plaintiff was not offered or afforded proper and adequate occupant protection in the Collision made the basis of this lawsuit.
108. The unreasonably dangerous nature of the defective frontal airbag system created a high probability that drivers and passengers in Ford Mustangs involved in collisions would likely sustain severe and permanent personal injuries as a result of ineffective occupant protection afforded by the passenger side frontal airbag system.

109. The defective nature of the Ford Mustang's passenger side frontal airbag system rendered such system unreasonably dangerous and was a proximate and producing cause of Plaintiff's injuries and damages as more specifically described herein.
110. The Ford Mustang as designed, selected, inspected, tested, assembled, equipped, marketed, distributed, and sold by Ford is and was uncrashworthy, defective, unreasonably dangerous, and unsafe for foreseeable users and occupants because its passenger side frontal airbag system is and was inadequately designed and constructed, and failed to provide the degree of occupant protection, and safety a reasonable consumer would expect in foreseeable accidents occurring in the real world environment of its expected use.
111. Further — and alternatively, to the extent necessary — Ford is liable for harm that the ruptured inflator caused Plaintiff under section 82.003 of the Texas Civil Practice and Remedies Code. Ford installed or had the inflator installed in the 2007 Mustang, and Plaintiff's injuries resulted from the inflator's installation into the assembled product. The inflator's manufacturer is also insolvent.

SECOND CAUSE OF ACTION
(NEGLIGENCE – DEFENDANT FORD)

112. All preceding paragraphs are incorporated herein by reference.
113. At all times relevant herein, Ford took part in and/or was responsible for the design, selection, inspection, testing, assemblage, equipment, marketing, distribution, and/or sale of the Ford Mustang and its component parts, including but not limited to its defective passenger side frontal airbag system, to Plaintiff at some point prior to the Collision.
114. At all times relevant herein, Ford manufactured the Ford Mustang with the passenger side frontal airbag system, and Ford owed Plaintiff a duty of reasonable care to design, select, inspect, test, assemble, equip, market, distribute, and sell the Ford Mustang and its

components, including the passenger side frontal airbag system, so that it would provide a reasonable degree of occupant protection and safety during foreseeable collisions occurring in the real world highway environment of its expected use.

115. At all times relevant herein, as manufactured, selected, inspected, tested, assembled, equipped, marketed, distributed, and sold by Ford, the Ford Mustang is and was uncrashworthy, defective, unreasonably dangerous, and unsafe for foreseeable users and occupants because its passenger side frontal airbag system is and was inadequately designed and constructed, and failed to provide the degree of occupant protection and safety a reasonable consumer would expect in foreseeable accidents occurring in the real world environment of its expected use.
116. At all times relevant herein, Ford, as manufacturer of the Ford Mustang and its passenger side frontal airbag system, owed duties to warn of foreseeable dangerous conditions of the Ford Mustang which would impair its safety.
117. At all times relevant herein, Ford knew or should have known that the Ford Mustang's passenger side frontal airbag system had an excessively energetic inflator and would deploy with excessive explosive force in foreseeable collisions, as well as expel shrapnel that could injure or kill occupants.
118. At all times relevant herein, Ford had no reason to believe that users would realize this potential danger.
119. At all times relevant herein, Ford affirmatively failed to exercise reasonable care to inform users of the Ford Mustang's dangerous condition created by the excessively energetic inflator in the passenger side frontal airbag system or explosive nature of the inflator that could expel shrapnel.

120. At all times relevant herein, Ford was negligent and breached its duties of care owed to Plaintiff by:

- a. choosing to disregard and ignore generally accepted principles of hazard control (“design, guard and warn”) and choosing to disregard and ignore its obligation to hold the safety of the public paramount;
- b. failing to design, manufacture, test, assemble, and/or install the passenger side airbag system so as to prevent it from having excessively energetic propellant, deploying with excessive force, and/or from expelling shrapnel in foreseeable collisions to kill or injure drivers or passengers upon air bag deployment during the same;
- c. failing to design, manufacture test, assemble, and/or install the passenger side airbag system so that it was properly vented and would adequately deflate under foreseeable impacts;
- d. failing to manufacture, test, assemble, and/or install the passenger side airbag system so that it was properly vented and would adequately deflate under foreseeable impacts;
- e. failing to ensure that the Ford Mustang was reasonably crashworthy;
- f. failing to exercise reasonable care in selecting and overseeing Takata as a component supplier, which led Ford to include a dangerous inflator in the 2007 Mustang;
- g. failing to exercise reasonable care in the design of the Ford Mustang and its passenger side frontal airbag system;
- h. failing to exercise reasonable care in the manufacture of the Ford Mustang and its passenger side frontal airbag system;
- i. failing to exercise reasonable care in the testing of the Ford Mustang and its passenger side frontal airbag system;
- j. failing to exercise reasonable care in the inspection of the Ford Mustang and its passenger side frontal airbag system;
- k. failing to adopt and implement adequate warnings regarding the Ford Mustang and its passenger side frontal airbag system;
- l. approving repeated exceptions and deviations for Takata from the USCAR specifications for AN inflators, despite knowing the danger inherent in airbag inflators powered by non-desiccated PSAN propellant;

- m. failing to exercise proper oversight over Takata, given the importance of the airbag module and the degree of risk associated with the use of inflators powered by PSAN propellant;
 - n. failing to require that Takata use a desiccant in the passenger-side inflators despite PSAN's hygroscopic water and widely known propensity for degrading during thermal cycling;
 - o. approving and implementing a non-desiccated PSAN-powered passenger-side inflator despite other inflators — manufactured by other manufacturers and Takata itself — utilizing desiccant;
 - p. approving and implementing a non-desiccated PSAN-powered passenger-side inflator when suppliers other than Takata were offering inflators powered by other propellants that more closely conformed to USCAR specifications and were cheaper;
 - q. ignoring the advice of its own inflator expert, Marshall Quade, who never approved the use of Takata's 2004 PSAN-powered inflators;
 - r. failing to issue appropriate recall notices;
 - s. failing to incorporate appropriate quality assurance procedures in design of the Ford Mustang and its passenger side frontal airbag system; and
 - t. Failure to have a system in place to adequately communicate to its dealers when vehicles with open recalls had been partially repaired.
121. At all times relevant, as a direct and proximate result of Ford's negligence and the breaches complained of herein, Plaintiff has suffered serious and permanent injuries including partial blindness, excruciating pain and suffering, mental anguish, and emotional distress.
122. Ford's negligent conduct was attributable to its employees and/or agents who, at all times relevant, were acting within the course, purpose and scope of their employment and/or agency, and with the authority, consent, approval and ratification of Ford.

THIRD CAUSE OF ACTION
(GROSS NEGLIGENCE – DEFENDANT FORD)

123. All preceding paragraphs are incorporated herein by reference.

124. Plaintiff would show that the conduct of Ford constitutes gross negligence as that term is defined and understood under Texas law.
125. Despite its knowledge of the extreme danger, Ford Motor Company chose to install and incorporate airbag components with AN into the 2007 Mustang at issue in this case and then sell the Ford Mustang to consumers in the United States of America.
126. Specifically, the acts or omissions of Ford when viewed objectively from the standpoint of such Defendant involved an extreme degree of risk, considering the probability and magnitude of the potential harm to others; and Ford had actual, subjective awareness of the risk involved, but nevertheless proceeded with conscious indifference to the rights, safety, or welfare of others.
127. Accordingly, Plaintiff seeks exemplary damages as supported by the evidence in addition to all other damages to which Plaintiff may be entitled.

FOURTH CAUSE OF ACTION
(NEGLIGENCE – DEFENDANT YAKLIN FORD)

128. All preceding paragraphs are incorporated herein by reference.
129. Defendant Yaklin Ford had a duty to its customers to act as a reasonably prudent automotive dealership and service provider.
130. The owner of the 2007 Mustang brought it into Yaklin Ford on October 31, 2018 to have airbag inflator recalls performed and for a state inspection. On October 31, 2018, a search of Ford's Automotive Service Information System (OASIS) for the 2007 Mustang should have showed an open recall for the passenger side airbag inflator.
131. When the 2007 Mustang was brought into Yaklin Ford for service, Yaklin Ford did not perform the open recall on the passenger side airbag inflator.
132. When a customer brings their vehicle into Yaklin Ford for service, it is Yaklin Ford's

responsibility to look at Ford's Automotive Service Information System (OASIS) and identify open recalls so they can make sure that safety recall work gets done while the vehicle is at the dealership for service.

133. At all times relevant herein, Yaklin Ford knew that the Ford Mustang's passenger side frontal airbag system had an excessively energetic inflator and would deploy with excessive explosive force in foreseeable collisions, as well as expel shrapnel that could injure or kill occupants. Yaklin Ford knew that when it came to the airbag inflator recall, a customer's life or death could depend on whether the service advisor at the dealership correctly identified open recalls and made sure that they were performed while the vehicle was at the dealership for service.
134. At all times relevant herein, Yaklin Ford had no reason to believe that users would realize this potential danger and affirmatively failed to exercise reasonable care to inform users of the Ford Mustang's dangerous condition created by the excessively energetic inflator in the passenger side frontal airbag system.
135. Yaklin Ford was negligent and breached its duties of care owed to Plaintiff in many ways, including:
 - a. Failing to exercise reasonable care in its repairs of the 2007 Ford Mustang;
 - b. Failing to exercise reasonable care to perform the open recall on the passenger side airbag inflator when the 2007 Mustang was brought into Yaklin Ford for service;
 - c. Failing to replace the passenger-side airbag inflator when the 2007 Mustang came in for recall work on October 2018, despite the fact that the vehicle's service appointment was made to have both inflators replaced, multiple Yaklin Ford employees saw the open passenger-side inflator recall open in OASIS, and Yaklin Ford had three replacement inflators sitting on the shelf;
 - d. Failing to exercise reasonable care to conduct a diligent search in Ford's Automotive Service Information System (OASIS) to identify open recalls and/or failing to conduct any search in Ford's Automotive Service Information System

(OASIS);

- e. Failing to properly train its service and parts staff in the procedures that must be followed whenever a vehicle is brought into a Ford dealership for recall work;
 - f. Alternatively, failing to order parts to perform the safety recalls when made available by Ford roughly four months before the owner brought the 2007 Mustang into Yaklin Ford for service;
 - g. Alternatively, in the event Yaklin Ford did not have the necessary parts to perform the safety recall work on the passenger side airbag inflator, failing to exercise reasonable care to provide alternative protections for users of the 2007 Mustang, such as the Takata Airbag Recall Rental Vehicle program;
 - h. Failing to exercise reasonable care to notify and warn users of the defective airbag inflator;
 - i. Failing to implement proper policies to verify that vehicles brought into the dealership for recall work were scheduled to have all open recalls replaced and that all open recalls were replaced before returning the vehicle to the dealer; and
 - j. Failing to notify and/or call Sharon Palmer to let her know that Yaklin had done only half the job when the vehicle was at the dealership for recall repairs on its airbags.
136. At all times relevant, as a direct and proximate result of Yaklin Ford's negligence and the breaches complained of herein, Plaintiff has suffered serious and permanent injuries including partial blindness, excruciating pain and suffering, mental anguish, and emotional distress.
137. Yaklin Ford's negligent conduct was attributable to its employees and/or agents who, at all times relevant, were acting within the course, purpose and scope of their employment and/or agency, and with the authority, consent, approval and ratification of Yaklin Ford.

FIFTH CAUSE OF ACTION
(GROSS NEGLIGENCE – DEFENDANT YAKLIN FORD)

138. All preceding paragraphs are incorporated herein by reference.
139. Customers that bring their vehicles to Yaklin Ford place their trust in the dealership to

perform necessary safety recall work.

140. Yaklin Ford knew of the problems with the defective airbag inflators. Yaklin Ford knew of the magnitude of the potential harm that could result from the defective airbag inflators. Yaklin Ford knew that failing to perform the defective airbag inflator recall work could result in death or serious harm. Yaklin Ford knew that allowing a vehicle like the 2007 Mustang to leave the dealership without making sure that all recall work on all airbag inflators was performed would be needlessly endangering customers.
141. Yaklin Ford did not perform all recall work on all airbag inflators. Yaklin Ford left the defective passenger side airbag inflator in the 2007 Mustang even after the owner brought the Mustang in for recall work.
142. Plaintiff would show that the conduct of Yaklin Ford constitutes gross negligence as that term is defined and understood under Texas law.
143. Specifically, the acts or omissions of Yaklin Ford when viewed objectively from the standpoint of Yaklin Ford involved an extreme degree of risk, considering the probability and magnitude of the potential harm to others; and Yaklin Ford had actual, subjective awareness of the risk involved, but nevertheless proceeded with conscious indifference to the rights, safety, or welfare of others.
144. Accordingly, Plaintiff seeks exemplary damages as supported by the evidence in addition to all other damages to which Plaintiff may be entitled.

SIXTH CAUSE OF ACTION
(NEGLIGENCE – DEFENDANT GUICE)

145. All preceding paragraphs are incorporated herein by reference.
146. Mr. Guice was negligent and his negligence was a proximate cause of the Collision and the occurrence made the basis of this lawsuit.

SEVENTH CAUSE OF ACTION
**(BREACH OF IMPLIED WARRANTY OF GOOD & WORKMANLIKE SERVICES –
DEFENDANT YAKLIN FORD)**

147. All preceding paragraphs are incorporated herein by reference.
148. Yaklin Ford, through its employees and agents, undertook to repair or modify the front and passenger airbag inflators of the 2007 Mustang.
149. As set out above, Yaklin Ford did not perform those services in a good and workmanlike manner. The quality of the work performed by Yaklin Ford was not that of a person who has the knowledge, training, or experience necessary for the successful practice of a trade or occupation, and Yaklin Ford did not perform in a manner generally considered proficient by those capable of judging the work.
150. Yaklin Ford’s failure to perform in a good and workmanlike manner breached the implied warranty of good and workmanlike services, and caused Plaintiff’s injuries.

DAMAGES



151. All preceding paragraphs are incorporated herein by reference.
152. Plaintiff seeks all elements of actual damages recoverable by law. Because of the nature

and severity of the damages sustained, Plaintiff has been damaged in the past and will, in reasonable probability, be damaged in the future and therefore seeks recovery for the following elements of damages:

- a. Physical pain and mental anguish suffered in the past and physical pain and mental anguish that will, in reasonable probability, be suffered in the future;
- b. Physical disfigurement suffered in the past and disfigurement that will, in reasonable probability, be suffered in the future;
- c. Physical impairment suffered in the past and physical impairment that will, in reasonable probability, be suffered in the future; and
- d. Medical care and treatment in the future that in reasonable probability will be required. Charges for such medical treatment that will in reasonable probability be made in the future will be reasonable charges made necessary by the occurrence in question.

153. Plaintiff pleads aggravation. The law states that you take your plaintiff as you find them. In this case, Sara Morgan was a young lady still finding her way in the world with her full life ahead of her. Sara does not claim to be perfect or free of all emotional conditions that affect young people in today's society and that is part of what makes her human. To the extent Sara Morgan had any preexisting condition at the time of the defective airbag rupture and such condition made her more susceptible to physical, mental and emotional trauma than a person without that condition, Plaintiff is entitled to damages resulting from any aggravation of the preexisting physical, mental and emotional condition and/or the combination of the preexisting condition and the scarring and trauma caused by the defective airbag inflator rupture, the traumatic obliteration of Sara's eye, the damage to the vision in her remaining eye, the scarring of her face. The physical and emotional impact of the combination of these injuries which are were caused by the defective airbag inflator rupture are now a permanent part of Sara Morgan's life for the next 60 – 65 years.

154. Plaintiff also seeks exemplary damages as a result of the gross negligence of Defendants Ford and Yaklin Ford as described above, and if the jury so finds, Plaintiff seeks an amount the jury deems to be fair and reasonable.

155. Plaintiff would additionally say and show that she is entitled to recovery of pre-judgment interest in accordance with law and equity as part of her damages herein, and Plaintiff here and now sues for recovery of pre-judgment interest as provided by law and equity, under the applicable provision of the laws of the State of Texas.

REQUESTS FOR DISCLOSURE

156. Pursuant to Texas Rule of Civil Procedure 194, each Defendant herein is requested to disclose within the time period set forth in Rule 194.3 the information or material described in Rule 194.2(a) – Rule 194.2(l).29

PRAYER

WHEREFORE, PREMISES CONSIDERED, Plaintiff prays that Defendants be cited to appear and answer and that, upon final trial hereof, Plaintiff have judgment against Defendants, jointly and severally; that she recovers her damages in accordance with the evidence; that she recover costs of Court herein expended; that she recover interest, both pre-judgment and post-judgment, to which she is entitled under the law; and for such other and further relief, both general and special, legal and equitable, to which she may be justly entitled.

Respectfully submitted,

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/s/ Robert E. Ammons

Robert E. Ammons

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