IN THE DISTRICT COURT OF OKLAHOMA COUNTY
STATE OF OKLAHOMA

JEAN BOOKOUT; CHARLES SCHWARZ, individually and as Personal Representative of the Estate of Barbara Schwarz, deceased; RICHARD FORRESTER BRANDT as Personal Representative of the Estate of Barbara Schwarz, deceased,	)	FILED IN THE DISTRICT COURT OKLAHOMA COUNTY, OKLA. SEP 16 2009 PATRICIA PRESLEY, COURT CLERK by_____ DEPUTY
Plaintiffs,	)	
vs.	)	**CASE NO. CJ-2008-7969**
TOYOTA MOTOR CORPORATION; TOYOTA MOTOR SALES USA, INC.; TOYOTA MOTOR ENGINEERING AND MANUFACTURING NORTH AMERICA, INC.; DUB RICHARDSON TOYOTA and AISAN INDUSTRY CO., LTD.,	)	
Defendants.	)	

PLAINTIFFS' AMENDED PETITION

Plaintiffs amend their petition pursuant to 12 O.S. §2015 with written consent of the adverse party by adding Aisan Industry Co., Ltd., as a Party Defendant and by alleging the following:

Facts Common to All Counts

1. On or about September 20, 2007, Plaintiff Jean Bookout was a resident of Yukon, Oklahoma. At the aforesaid time and place, Plaintiff was injured during a vehicular accident while driving a 2005 Toyota Camry.

2. On or about September 20, 2007, the Plaintiff's decedent, Barbara Schwarz, was a resident of Yukon, Oklahoma. At the aforesaid time and place, Plaintiff's decedent was killed during a vehicular accident while riding as a front seat passenger in a 2005 Toyota Camry driven by Mrs. Bookout.

3. Charles Schwarz is the spouse and Personal Representative of the Estate of Barbara Schwarz and brings this action to recover for the benefit of the decedent's survivors and estate.

4. Richard Forrester Brandt is the Personal Representative of the Estate of Barbara Schwarz and brings this action to recover for the benefit of the decedent's survivors and estate.

5. At all times relevant herein, Toyota Motor Corporation (hereinafter "TMC"), was a foreign corporation doing business in Oklahoma.

6. At all times relevant herein, Toyota Motors Sales USA, Inc. (hereinafter "TMS"), was a foreign corporation doing business in Oklahoma.

7. At all times relevant herein, Toyota Motor Engineering and Manufacturing North America, Inc. (hereinafter "Toyota North America"), was a foreign corporation doing business in Oklahoma.

8. At all times relevant herein, Defendant Dub Richardson Toyota (hereinafter "Dub Richardson"), was an Oklahoma corporation with its principal place of business in Oklahoma City, Oklahoma.

9. At all times relevant herein, Defendant Aisan Industry Co., Ltd. (hereinafter "Aisan Industry") was a Japanese corporation with its principal place of business located

in Aichi, Japan but had sufficient contacts with the State of Oklahoma to give this Court jurisdiction over Defendant Aisan Industry. Aisan Industry is believed to have designed, engineered, tested, manufactured, distributed, and marketed certain component parts of the 2005 Toyota Camry.

COUNT ONE

(Products Liability/Failure to Warn)

10. At the aforesaid time and place, and for sometime prior thereto, TMC, TMS, Toyota North America, Dub Richardson Toyota and Aisan Industry, were engaged in the business of designing, manufacturing, distributing, marketing and/or selling Toyota Camrys and their component parts throughout the United States, including the State of Oklahoma, for use by the general public. During that period of time, the Defendants, for valuable consideration, designed, manufactured, distributed, marketed and/or sold the 2005 Toyota Camry and/or its component parts which injured the Plaintiff and the Plaintiffs' decedent. At the time the Plaintiff and the Plaintiffs' decedent were injured, the 2005 Toyota Camry was being used in a manner that was foreseeable, but said vehicle was defective and unreasonably dangerous to the human body. The defective condition of the Toyota Camry was known to the Defendants, but they failed to properly and/or adequately warn consumers of the risks/hazards associated with the use of its product.

11. The defective condition of the 2005 Toyota Camry and/or its component parts caused the vehicle to suddenly and unexpectedly accelerate as the driver was traveling down the interstate. The vehicle continued to accelerate despite the driver applying the brakes, including the emergency brake, and attempting to slow the vehicle

and proximately caused Mrs. Bookout's injuries and the decedent Mrs. Schwarz's injuries and death, and renders said Defendants liable to Plaintiff and Plaintiff's decedent pursuant to Oklahoma's manufacturer's product liability law.

12. At the time of the incident made the basis of this suit, the subject vehicle was unreasonably dangerous and/or defective in its design, manufacture, marketing, distribution and warnings. As a proximate result of the defective and/or unreasonably dangerous condition of the subject vehicle, the Plaintiff Mrs. Bookout suffered injuries as described herein and Plaintiff's decedent Mrs. Schwarz was caused to receive injuries that caused her death as herein described.

13. As a proximate result of the defective and/or unreasonably dangerous condition of the subject vehicle, the Plaintiff Mrs. Bookout suffered serious and permanent injuries which will affect her for the rest of her life, including but not limited to, multiple contusions and abrasions and she is unable to perform normal daily activities; she has undergone and will continue to undergo medical and other treatment for her condition; Mrs. Bookout has incurred and will continue to incur medical expenses relating to her injury. She has been permanently disfigured and disabled. She has suffered and will continue to suffer in the future severe pain and mental anguish and she has lost the enjoyment of life; and she has otherwise been injured and damaged.

14. As a proximate result of the defective and/or unreasonably dangerous condition of the subject vehicle, the Plaintiff's decedent was caused to suffer injuries that resulted in her death. As a result, the Plaintiff is entitled to recover damages including, but not limited to, the following:

a. the value of lost support and services;

b. medical and funeral expenses;

c. mental anguish and grief suffered by the Plaintiff and the surviving children of the decedent;

d. net accumulation of income of the Estate of Barbara Schwarz;

e. the mental pain and suffering by decedent;

f. the pecuniary loss of the decedent to the next of kin;

g. the grief and loss of companionship of the children of the decedent; and

h. exemplary damages.

WHEREFORE, Plaintiff demands judgment against each of the Defendants, for compensatory and punitive damages in an amount in excess of $10,000.00, to be assessed by a jury together with interest from the date of the filing of this petition, and the costs of this proceeding.

COUNT TWO

(Breach of Warranty)

15. The Plaintiffs hereby adopt by reference each and every allegation in paragraphs 1 through 14 as if fully set out herein.

16. The Defendants impliedly warranted that the Toyota Camry and/or its component parts involved in the occurrence made the basis of this Petition were reasonably fit and suitable for the purposes for which it was intended to be used. The Plaintiffs claim that the Defendants breached said implied warranties of merchantability

in that said 2005 Toyota Camry and/or its component parts were not reasonably fit and suitable for the purposes for which they were intended to be used, but to the contrary, said 2005 Toyota Camry and/or its component parts, particularly the fuel and throttle components of the vehicle, were unmerchantable and not of commercially appropriate quality. The Plaintiffs further claim that as a proximate result of the aforesaid breach of warranty by said Defendants, Plaintiff Mrs. Bookout was caused injuries as described herein and Plaintiff's decedent Mrs. Schwarz was caused to receive injuries that caused her death as herein described.

17. As a proximate result of the defective and/or unreasonably dangerous condition of the subject vehicle, the Plaintiff Mrs. Bookout suffered serious and permanent injuries which will affect her for the rest of her life, including but not limited to, multiple contusions and abrasions and she is unable to perform normal daily activities; she has undergone and will continue to undergo medical and other treatment for her condition; Mrs. Bookout has incurred and will continue to incur medical expenses relating to her injury. She has been permanently disfigured and disabled. She has suffered and will continue to suffer in the future severe pain and mental anguish and she has lost the enjoyment of life; and she has otherwise been injured and damaged.

18. As a proximate result of the aforesaid conduct of each of the Defendants, the Plaintiff's decedent was caused to suffer injuries that resulted in her death. As a result, the Plaintiff is entitled to recover damages including, but not limited to, the following:

a. the value of lost support and services;

b. medical and funeral expenses;

c. mental anguish and grief suffered by the Plaintiff and the surviving children of the decedent;

d. net accumulation of income of the Estate of Barbara Schwarz;

e. the mental pain and suffering by decedent;

f. the pecuniary loss of the decedent to the next of kin;

g. the grief and loss of companionship of the children of the decedent; and

h. exemplary damages.

WHEREFORE, Plaintiff demands judgment against each of the Defendants, for compensatory and punitive damages in an amount in excess of $10,000.00, to be assessed by a jury together with interest from the date of the filing of this petition, and the costs of this proceeding.

COUNT THREE

(Negligence and Wantonness)

19. The Plaintiffs hereby adopt by reference each and every allegation of paragraphs 1 through 18 as if fully set out herein.

20. At the aforesaid time and place, and for some time prior thereto, the Defendants undertook a duty to design, manufacture, distribute and/or sell the Toyota Camry and/or its component parts in a reasonably safe condition for its intended use by the Plaintiff Mrs. Bookout and the Plaintiff's decedent and the general public. The Defendants negligently, willfully and/or wantonly designed, manufactured, sold, tested,

repaired, warned and/or performed maintenance on the subject vehicle, as well as the Toyota Camry product line, in that the Camry was defective and unreasonably dangerous when used as intended despite Defendants' knowledge that the Camry was defective and unreasonably dangerous.

21. The defective condition of the Camry and/or its component parts was a proximate cause of the injuries of Plaintiff Mrs. Bookout and of the injuries and death of Plaintiff's decedent Mrs. Schwarz, and renders said Defendants liable to the Plaintiffs.

22. As a proximate result of the aforesaid wrongful, negligent, willful and/or wanton conduct of each of the Defendants, the Plaintiff Mrs. Bookout suffered serious and permanent injuries which will affect her for the rest of her life, including but not limited to, multiple contusions and abrasions and she is unable to perform normal daily activities; she has undergone and will continue to undergo medical and other treatment for her condition; Mrs. Bookout has incurred and will continue to incur medical expenses relating to her injury. She has been permanently disfigured and disabled. She has suffered and will continue to suffer in the future severe pain and mental anguish and she has lost the enjoyment of life; and she has otherwise been injured and damaged.

23. As a proximate result of the aforesaid wrongful, negligent, willful and/or wanton conduct of each of the Defendants, Mrs. Schwarz was caused to receive injuries that resulted in her death. As a result, the Plaintiffs are entitled to recover damages in excess of $10,000.00, including, but not limited to, the following:

a. the value of lost support and services;

b. medical and funeral expenses;

c. mental anguish and grief suffered by the Plaintiff and the surviving children of the decedent;

d. net accumulation of income of the Estate of Barbara Schwarz;

e. the mental pain and suffering by decedent;

f. the pecuniary loss of the decedent to the next of kin;

g. the grief and loss of companionship of the children of the decedent; and

h. exemplary damages.

WHEREFORE, Plaintiffs demand judgment against each of the Defendants, for compensatory and punitive damages in an amount in excess of $10,000.00, to be assessed by a jury together with interest from the date of the filing of this petition, and the costs of this proceeding.

COUNT FOUR

(Deceit)

24. The Plaintiffs hereby adopt by reference each and every allegation of paragraphs 1 through 23 as if fully set out herein.

25. The Defendants negligently, willfully, wantonly and/or intentionally deceived the general public, including the Plaintiff and the Plaintiff's decedent, regarding the safety and/or crashworthiness of the 2005 Toyota Camry. Defendants represented that the 2005 Toyota Camry was reasonably safe for its intended purpose when, in fact, the Defendants knew or should have known that the 2005 Toyota Camry was defective

and/or unreasonably dangerous when put to its intended use, or when subjected to foreseeable events.

26. Further, the Defendants suppressed the dangerous characteristics of the 2005 Toyota Camry's fuel and throttle system. The failure of the Defendants to disclose the lack of safety of the Camry's fuel and throttle system and the likelihood of severe injury or death when involved in a collision, misled the general public, the Plaintiff and the Plaintiff's decedent to purchase and use the 2005 Toyota Camry to their detriment.

27. As a proximate result of the Defendants' deceit and suppression of facts, the Plaintiff was induced to purchase and use the 2005 Toyota Camry and suffer damages, including but not limited to, multiple contusions and abrasions and she is unable to perform normal daily activities; she has undergone and will continue to undergo medical and other treatment for her condition; Mrs. Bookout has incurred and will continue to incur medical expenses relating to her injury. She has been permanently disfigured and disabled. She has suffered and will continue to suffer in the future severe pain and mental anguish and she has lost the enjoyment of life; and she has otherwise been injured and damaged.

28. As a proximate result of the Defendants' deceit and suppression of facts, the Plaintiff's decedent was induced to use the 2005 Toyota Camry and suffer damages, including injuries that caused the decedent's death, as a proximate result of said conduct by Defendants. As a result, the Plaintiff is entitled to recover damages in excess of $10,000.00, including, but not limited to, the following:

a. the value of lost support and services;

b. medical and funeral expenses;

c. mental anguish and grief suffered by the Plaintiff and the surviving children of the decedent;

d. net accumulation of income of the Estate of Barbara Schwarz;

e. the mental pain and suffering by decedent;

f. the pecuniary loss of the decedent to the next of kin;

g. the grief and loss of companionship of the children of the decedent; and

h. exemplary damages.

WHEREFORE, Plaintiff demands judgment against each of the Defendants, for compensatory and punitive damages in an amount in excess of $10,000.00, to be assessed by a jury together with interest from the date of the filing of this petition, and the costs of this proceeding.

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CERTIFICATE OF SERVICE

I hereby certify that I have filed the original of the foregoing document with the Court and served a copy of same upon all counsel of record as listed below by United States Mail, first class, postage prepaid on this the 15 day of September, 2009.

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