

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

KEITH EDWARD LAMBETH, )  
 )  
 Plaintiff, )  
 )  
 v. ) Civil Action No. \_\_\_\_\_  
 )  
 )  
 GENERAL MOTORS, LLC, a Delaware )  
 limited liability company, )  
 )  
 )  
 Defendant. )  
\_\_\_\_\_

**COMPLAINT**  
**(JURY TRIAL DEMANDED)**

Plaintiff Keith Edward Lambeth (“Plaintiff”), by and through his counsel, brings this Complaint against Defendant General Motors, LLC (“Defendant” or “GM”), and alleges, upon personal knowledge as to his own actions and his counsel’s investigations, and upon information and belief as to all other matters, as follows:

**PARTIES**

1. Plaintiff is a citizen of the State of North Carolina who resides in Randolph County.
2. Plaintiff is the purchaser and owner of 2008 Chevrolet Cobalt subject to a recall by GM for ignition switch defects. Plaintiff has suffered the ignition switch defects that cause the vehicle’s engine and electrical system to shut off, disabling the power steering and power brakes and causing non-deployment of the vehicle’s airbags in the event of an accident, all of which are consistent with, and Plaintiff is informed and believes, are associated with the defects described herein and in the recall issued by GM.

3. Plaintiff is informed and believes and therefore alleges that the following GM vehicles suffer from the defects alleged herein and have been subject to the recall in which Plaintiff's 2008 Cobalt was also affected: 2003-2010 Saturn Ion; 2005-2010 Chevrolet Cobalt; 2007-2010 Pontiac G5; 2006-2011 Chevrolet HHR; 2006-2010 Pontiac Solstice; and 2007-2010 Saturn Sky. These recalled GM vehicles shall be referred to herein collectively as "Defective Vehicles").

4. Defendant General Motors is a Delaware limited liability company with its principal place of business located at 300 Renaissance Center, Detroit, Michigan, 48265. Defendant was incorporated in 2009 and on July 10, 2009, acquired substantially all assets and assumed certain liabilities of General Motors Corporation ("Old GM") through a Section 363 sale under Chapter 11 of the US Bankruptcy Code. Defendant manufactures and distributes the Defective Vehicles (as that term is defined below) from its Michigan manufacturing plants to consumers in North Carolina and throughout the United States.

5. Among the liabilities and obligations expressly retained by Defendant after the bankruptcy are the following:

From and after the Closing, Purchaser [GM] shall comply with the certification, reporting and recall requirements of the National Traffic and Motor Vehicle Act, the Transportation Recall Enhancement, Accountability and Documentation Act, the Clean Air Act, the California Health and Safety Code, and similar laws, in each case, to the extent applicable in respect of vehicles and vehicle parts manufactured or distributed by [Old GM].

6. Defendant also expressly assumed:

all Liabilities arising under express written warranties of [Old GM] that are specifically identified as warranties and delivered in connection with the sale of new, certified used or pre-owned vehicles or new or remanufactured motor vehicle parts and equipment (including service parts, accessories, engines and

transmissions) manufactured or sold by [Old GM] or Purchaser prior to or after the Closing and (B) all obligations under Lemon Laws.

7. Because Defendant acquired and operated Old GM and ran it as a continuing business enterprise, and because Defendant was aware from its inception of the ignition switch defects in the Defective Vehicles, Defendant is liable independently and through successor liability for the improper acts and omissions of Old GM, as alleged in this Complaint.

### **JURISDICTION AND VENUE**

8. The Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1332(a)(1), because the parties are citizens of different states and the amount in controversy exceeds \$75,000, exclusive of interest and costs.

9. The Court has personal jurisdiction over Defendant because Defendant is authorized to, and conducts substantial business in North Carolina, generally, and this District, specifically. Defendant has marketed, promoted, distributed, and sold the Defective Vehicles in North Carolina.

10. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b)(2), because a substantial part of the events and omissions giving rise to this action occurred in this District as Plaintiff purchased the vehicle in this District, and the defects in Plaintiff's vehicle manifested itself within this District, the recall notice was issued to Plaintiff in this District, the recall service that occurred on Plaintiff's vehicle was performed in this District, and the subsequent wreck where Plaintiff was injured by reason of the defects in the vehicle occurred in this District.

### **NATURE OF THE CASE**

11. This case involves Defendant's conscious decision to overlook and conceal a deadly design defect in vehicle ignition switches in millions of GM vehicles placed on the road since 2003, including Plaintiff's vehicle.

12. In making the decision to cover up the ignition switch defect for at least a decade, Defendant consciously put millions of Americans' lives at risk, including Plaintiff. Defendant knowingly placed on public streets more than one million defective vehicles with the propensity to shut down during normal driving conditions, creating a certainty of accidents, bodily harm, and death.

13. An auto manufacturer should never make profits more important than safety and should never conceal defects that exist in its vehicles from consumers or the public. Defendant's Vehicle Safety Chief, Jeff Boyer has stated that: "Nothing is more important than the safety of our customers in the vehicles they drive." Yet, Defendant failed to live up to this commitment.

14. The first priority of an auto manufacturer should be to ensure that its vehicles are safe, and particularly that its vehicles have operable ignition systems, airbags, power-steering, power brakes, and other safety features that can prevent or minimize the threat of death or serious bodily harm in a collision. In addition, an auto manufacturer must take all reasonable steps to ensure that, once a vehicle is running, it operates safely, and its critical safety systems (such as engine control, braking, and airbag systems) work properly until such time as the driver shuts the vehicle down. Moreover, an auto manufacturer that is aware of dangerous design defects that cause its vehicles to shut down during operation, or the vehicles' airbags not to deploy, must promptly disclose and remedy such defects.

15. Since at least 2003, Defendant has sold millions of vehicles throughout the United States and worldwide that have a safety defect causing the vehicle's ignition switch to inadvertently move from the "run" position to the "accessory" or "off" position during ordinary driving conditions, resulting in a loss of power, vehicle speed control, and braking, as well as a

failure of the vehicle's airbags to deploy.

16. There are at least two main reasons why the GM ignition switch systems are defective. The first is that the ignition switch is simply weak and therefore does not hold the key in place in the "run position." On information and belief, the ignition switch weakness is due to a defective part known as a "detent plunger." The second reason that the ignition switch systems are defective is due to the low position of the switches in the defective vehicles. That causes the keys, and the fobs that hang off the keys, to hang so low in the defective vehicles that the drivers' knees can easily bump them and inadvertently shut down the vehicle.

17. Defendant installed these faulty ignition switch systems in models from at least 2003 through at least 2011. Defendant promised that these vehicles would operate safely and reliably. This promise turned out to be false in several material respects. In reality, Defendant concealed and did not fix a serious quality and safety problem plaguing its vehicles.

18. Worse yet, the ignition switch defects in Defendant's vehicles, including Plaintiff's 2008 Chevrolet Cobalt, could have been easily avoided.

19. From at least 2005 to the present, Defendant received reports of crashes and injuries that put Defendant on notice of the serious safety issues presented by its ignition switch system.

20. Yet, despite the dangerous nature of this defect and its effects on critical safety systems, Defendant concealed its existence and failed to remedy the problem.

21. Despite notice of the defect in its vehicles, Defendant did not disclose to consumers that its vehicles – which Defendant had advertised as "safe" and "reliable" for years – were in fact neither safe nor reliable.

22. Defendant's CEO, Mary Barra, has admitted in a video message that

“[s]omething went wrong with our process in this instance, and terrible things happened.”

23. This case arises from Defendant’s breach of its obligations and duties, including Defendant’s failure to disclose that, as a result of defective ignition switches, at least 2.59 million GM vehicles, including Plaintiff’s 2008 Chevrolet Cobalt, may have the propensity to shut down during normal driving conditions and create an extreme and unreasonable risk of accident, serious bodily harm, and death.

24. GM’s predecessor, General Motors Corporation (“Old GM”) (sometimes, together with GM, “the Companies”) violated its obligations and duties by designing and marketing vehicles with defective ignition switch systems, and then by failing to disclose that defect even after it became aware that the ignition switch defect was causing fatal accidents.

25. The defective ignition switches were manufactured by Delphi Automotive PLC (“Delphi”). Once a subsidiary of Old GM, Delphi spun off from Old GM in 1999, and became an independent publicly held corporation.

26. Plaintiff alleges, based on information and belief, that Delphi knew its ignition switches were defective. Nevertheless, Delphi continued to manufacture and sell the defective ignition switch systems, which it knew would be used in the vehicle of Plaintiff.

27. Plaintiff’s 2008 Chevrolet Cobalt has suffered the ignition switch defects that cause the vehicle’s engine and electrical system to shut off, disabling the power steering and power brakes and causing non-deployment of the vehicle’s airbags in the event of an accident, all of which are consistent with, and Plaintiff is informed and believes, are associated with the defects described herein. In addition, the 2008 Cobalt was included in GM’s ignition switch recall. Plaintiff therefore believes and alleges that his 2008 Cobalt is one of the Defective Vehicles.

28. The Defective Vehicles, including Plaintiff's 2008 Chevrolet Cobalt, are defective and dangerous for multiple reasons, including the following (collectively, the "ignition switch defects"):

a. Due to their weaknesses and their low placement, the ignition switches can inadvertently shut off the engine and vehicle electrical system during normal driving conditions;

b. When the engine and the electrical system shut down, the power steering and power brakes also shut down, creating a serious risk of accident; and

c. When the electrical system shuts down, the vehicle's airbags are disabled, creating a serious risk of serious bodily harm or death if an accident occurs.

29. The ignition switch defects make the Defective Vehicles unreasonably dangerous. Because of the defects, the Defective Vehicles are unreasonably prone to be involved in accidents, and those accidents are unreasonably likely to result in serious bodily harm or death to the drivers and passengers of the Defective Vehicles, as well as to other vehicle operators and pedestrians.

30. Defendant admits to at least 13 deaths as a result of the ignition switch defects, but the actual number is believed to be much higher.

31. The ignition switch defects present a significant and unreasonable safety risk exposing Defective Vehicle owners, their passengers and others in the vicinity to a risk of serious injury or death.

32. For many years, Defendant has known of the ignition switch defects that exist in millions of Defective Vehicles sold in the United States. However, to protect its profits and maximize sales, Defendant concealed the defects and their tragic consequences and allowed

unsuspecting vehicle owners to continue driving highly dangerous vehicles.

33. Under the Transportation Recall Enhancement, Accountability and Documentation Act (“TREAD Act”), 49 U.S.C. §§ 30101-30170, and its accompanying regulations, when a manufacturer learns that a vehicle contains a safety defect, the manufacturer must promptly disclose the defect. 49 U.S.C. §§ 30118(c)(1) & (2). If it is determined that the vehicle is defective, the manufacturer must notify vehicle owners, purchasers, and dealers of the defect and must remedy the defect. 49 U.S.C. §§ 30118(b)(2)(A) & (B). Defendant also violated the TREAD Act by failing to timely inform NHTSA of the ignition switch defects and allowed cars to remain on the road with these defects. These same acts and omissions also violated various state consumer protection laws.

**DEFENDANT KNEW OF THE IGNITION SWITCH DEFECTS  
FOR YEARS, BUT CONCEALED THE DEFECTS  
FROM CONSUMERS, INCLUDING PLAINTIFF**

34. Alarming, both Old GM and GM knew of the deadly ignition switch defects and their dangerous consequences for many years, but concealed their knowledge from Defective Vehicle owners, including Plaintiff.

35. For example, on July 29, 2005, Amber Marie Rose, age 16, died after her 2005 Chevrolet Cobalt crashed and the airbag failed to deploy. Ms. Rose’s death is the first known of the hundreds of deaths and injuries attributable to the ignition switch defects. Ms. Rose’s death was an early warning in what would become a decade-long failure by Old GM and GM to address the ignition switch problem.

36. Another incident involved 16-year old Megan Phillips. Ms. Phillips was driving a 2005 Chevrolet Cobalt that crashed in Wisconsin in 2006, killing two of her teenage friends

when the car left the road and hit a clump of trees. NHTSA investigators found that the key had moved from the “run” to the “accessory” position, turning off the engine and disabling the vehicle’s airbags before impact. According to Ms. Phillips, the families of her deceased friends blamed her and refused to speak with her; only after the recall was finally announced did they begin communicating. As he stated, “I don’t understand why [GM] would wait 10 years to say something. And I want to understand it but I never will.”<sup>1</sup>

37. Rather than publicly admitting the dangerous safety defects in the Defective Vehicles, the Companies attempted to attribute these and other incidents to “driver error.” Every year from 2005 to 2012, first Old GM and then GM received reports of deaths in Cobalts involving steering and/or airbag failures, including:

- 2005: 26 Cobalt Death and Injury Incidents, including 1 death citing Airbag as component involved.
- 2006: 69 Cobalt Death and Injury Incidents, including 2 deaths citing Airbag as component involved and 4 deaths citing Unknown component.
- 2007: 87 Cobalt Death and Injury Incidents, including 3 deaths citing Airbag as component involved.
- 2008: 106 Cobalt Death and Injury Incidents, including 1 death citing Airbag as component involved and 2 deaths citing Unknown component.
- 2009: 133 Cobalt Death and Injury Incidents, including 1 death citing Airbag as component involved, 1 death citing Service Brake as component involved, 1 death citing Steering as component involved, and 2 deaths citing Unknown component.
- 2010: 400 Cobalt Death and Injury Incidents, including 2 deaths citing Airbag as component involved, 12 deaths citing Steering as component involved, and 1 death citing Unknown component.
- 2011: 187 Cobalt Death and Injury Incidents, including 2 deaths citing Airbag as component involved, 2 deaths citing Steering as component involved, and 1 citing Unknown component.

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<sup>1</sup> “Owners of Recalled GM Cars Feel Angry, Vindicated,” REUTERS (Mar. 17, 2014).

- 2012: 157 Cobalt Death and Injury Incidents, including 5 deaths citing Airbag as component involved, and 4 deaths citing Steering as component involved.

38. GM now admits that Old GM learned of the ignition switch defects as early as 2001. During the pre-production development of the Saturn Ion, Old GM engineers learned that the ignition could inadvertently move from the “Run” position to the “Accessory” or “Off” position. Old GM claimed that a switch design change “had resolved the problem.”<sup>2</sup>

39. In 2003, an internal report documented an instance in which the service technician observed a stall while driving. The service technician noted that the weight of several keys on the key ring had worn out the ignition switch. The switch was replaced and the matter was closed.<sup>3</sup>

40. According to GM’s latest chronology submitted to NHTSA pursuant to 49 C.F.R. § 573.6, Old GM engineers encountered the problem again in 2004 during test drives of the Chevrolet Cobalt, before it went to market.

41. Old GM opened an engineering inquiry, known as a “Problem Resolution Tracking System inquiry” (“PRTS”), to investigate the issue. According to the chronology provided to NHTSA by GM, engineers pinpointed the problem and were “able to replicate this phenomenon during test drives.”

42. According to GM, the PRTS engineers “believed that low key cylinder torque effort was an issue and considered a number of potential solutions.” But after considering cost and the amount of time it would take to develop a fix, Old GM did nothing.

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<sup>2</sup> “G.M. Reveals It Was Told of Ignition Defect in ‘01,” D. Ivory, NEW YORK TIMES (Mar. 12, 2014).

<sup>3</sup> *Id.*

43. Gary Altman, program engineering manager for the 2005 Cobalt, admitted that Old GM's engineering managers knew about ignition-switch problems in the vehicle that could disable power steering, power brakes and airbags, but launched the vehicle anyway because they believed that the vehicles could be safely coasted off the road after a stall. Altman insisted that "the [Cobalt] was maneuverable and controllable" with the power steering and power brakes inoperable, though he did not attempt to explain why the vehicle would not require an operable airbag. Needless to say, hapless Cobalt purchasers, including Plaintiff, were not informed of Old GM's decision to release the vehicle notwithstanding its knowledge of the ignition switch defect.

44. As soon as the 2005 Cobalt hit the market, Old GM almost immediately started getting complaints about sudden loss of power incidents, "including instances in which the key moved out of the 'run' position when a driver inadvertently contacted the key or steering column."<sup>4</sup> Old GM opened additional PRTS inquires.

45. In another PRTS opened in May 2005, Old GM engineers again assessed the problem and proposed that GM re-design the key head from a "slotted" to a "hole" configuration, in order to make the key and key fob hang higher in the vehicle and therefore make it less likely that a driver's knee would inadvertently shut down the vehicle. After initially approving the proposed partial fix, Old GM reversed course and again declined to even attempt to implement a fix.<sup>5</sup>

46. Instead, in October 2005, Old GM simply issued a Technical Service Bulletin ("TSB") advising service technicians and GM dealers that the inadvertent turning of the key cylinder was causing the loss of power in the vehicles' electrical system.

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<sup>4</sup> March 11, 2014, Chronology Re: Recall of 2006 Chevron HHR and Pontiac Solstice, 2003-2007 Saturn Ion, and 2007 Saturn Sky Vehicles, at 1.

<sup>5</sup> *Id.*

47. Rather than disclosing the true nature of the defects and correcting them, under the TSB, Old GM gave customers who brought in their vehicle complaining about the issue “an insert for the key ring so that it goes from a ‘slot’ design to a hole design” to prevent the key and fob from moving up and down in the slot. “[T]he previous key ring” was “replaced with a smaller” one; this change was supposedly able to keep the keys from hanging as low as they had in the past.<sup>6</sup> According to GM’s records, Old GM dealers provided key inserts to 474 customers who brought their vehicles into dealers for service.<sup>7</sup>

48. Yet there was no recall. And, not surprisingly, Old GM continued to get complaints.

49. In 2006, Old GM approved a design change for the Cobalt’s ignition switch supplied by Delphi. The new design included “the use of a new detent plunger and spring that increased torque force in the ignition switch.” But the new design was not produced until the 2007 model year.<sup>8</sup>

50. In what a high-level engineer at Old GM now calls a “cardinal sin” and “an extraordinary violation of internal processes,” Old GM changed the part *design but kept the old part number*. That makes it impossible to determine from the part number alone which GM vehicles produced after 2007 contain the defective ignition switches.

51. In 2007, NHTSA investigators met with Old GM to discuss its airbags, and informed Old GM of the July 2005 frontal and fatal crash involving Amber Marie Rose.

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<sup>6</sup> *Id.* at 1-2.

<sup>7</sup> *Id.* at 3.

<sup>8</sup> *Id.* at 2.

52. As alleged above, the airbags in Ms. Rose's 2005 Cobalt did not deploy. Data retrieved from her vehicle's diagnostic system indicated that the ignition was in the "accessory" position. Old GM investigated and tracked similar incidents.

53. By the end of 2007, by GM's own admission, Old GM knew of 10 frontal collisions in which the airbag did not deploy.<sup>9</sup> Plaintiff believes that Old GM actually knew of many other similar incidents involving the ignition switch defects.

#### **PLAINTIFF'S PURCHASE OF A DEFECTIVE VEHICLE**

54. Plaintiff purchased a new 2008 Cobalt from Wayne Thomas Chevrolet in Asheboro, North Carolina. Plaintiff chose the 2008 Cobalt, in part, because he wanted a safely designed and manufactured vehicle. Plaintiff saw advertisements for Old GM vehicles before he purchased the 2008 Cobalt. Plaintiff does recall that safety and quality were consistent themes in the advertisements he saw. These representations about safety and quality influenced Plaintiff's decision to purchase the 2008 Cobalt.

55. Plaintiff received solicitation from the dealer when he purchased his 2008 Cobalt and agreed to obtain financing through GMAC, which, Plaintiff is now informed and believes is Ally Financial, Inc.

56. Shortly after the purchase, Plaintiff's 2008 Cobalt began experiencing episodes during which the ignition switch defects caused the vehicle's engine and electrical system to shut off, disabling the power steering and brakes.

57. Attempts by Wayne Thomas Chevrolet dealership to resolve the ignition switch defect problems with the Cobalt were unsuccessful.

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<sup>9</sup> Feb. 24, 2014, Attachment B-573.6(c)(6) at 2.

**DEFENDANT WAITED UNTIL 2014 TO FINALLY ORDER A RECALL  
OF THE DEFECTIVE VEHICLES**

58. At a May 15, 2009 meeting, GM engineers learned that data in the black boxes of Chevrolet Cobalt vehicles showed that the dangerous ignition switch defects existed in hundreds of thousands of Defective Vehicles. But still GM did not reveal the defect to NHTSA or its customers, including Plaintiff.

59. After the May 15, 2009 meeting, GM continued to get complaints of unintended shut down and continued to investigate frontal crashes in which the airbags did not deploy.

60. After the May 15, 2009 meeting, GM told the families of accident victims and Defective Vehicle owners that it did not have sufficient evidence to conclude that there was any defect in the Defective Vehicles. In one case involving the ignition switch defects, GM threatened to sue the family of an accident victim for reimbursement of its legal fees if the family did not dismiss its lawsuit. In another, GM sent the victim's family a terse letter, saying there was no basis for any claims against GM. These statements were part of GM's continuation of the campaign of deception begun by Old GM.

61. According to GM, it was not until 2011 and 2012 that GM's examinations of switches from vehicles that had experienced crashes revealed significant design differences in the torque performance of ignition switches from the 2005 Cobalt vehicles and those from the 2010 model year, the last year of the Cobalt's production.

62. GM responded by blaming the supplier for the switch design.<sup>10</sup>

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<sup>10</sup> *Id.* at 3-4.

63. In 2014, after numerous assessments and facing increasing scrutiny of its conduct and the defects in its vehicles, GM finally announced a recall for the 2003-2007 Chevrolet Cobalt and 2005-2007 Pontiac G5 vehicles.<sup>11</sup>

64. After analysis by GM's Field Performance Review Committee and the Executive Field Action Decision Committee ("EFADC"), the EFADC finally ordered a recall of some of the Defective Vehicles on January 31, 2014.

65. Initially, GM's EFADC ordered a recall of only the Chevrolet Cobalt and Pontiac G5 for model years 2005-2007.

66. After additional analysis, the EFADC expanded the recall on February 24, 2014, to include the Chevrolet HHR and Pontiac Solstice for model years 2006 and 2007, the Saturn Ion for model years 2003-2007, and the Saturn Sky for model year 2007.

67. On March 28, 2014, GM expanded the recall a third time, to include Chevrolet Cobalts, Pontiac G5s and Solstices, Saturn Ions and Skys from the 2008 through 2010 model years, and Chevrolet HHRs from the 2008 through 2011 model years.

68. GM provided dealers with notice of the recalls on February 26, 2014, March 4, 2014, and March 28, 2014, and mailed letters to some of the current owners of the Defective Vehicles on March 10 and March 11, 2014.

69. Interestingly, to date, GM has *not* pledged to remedy the fact that the key and fob in the Defective Vehicles hang dangerously low, leading to an unreasonable risk that the driver's knee will inadvertently shut down the Defective Vehicles during ordinary driving conditions.

70. In a video message addressed to GM employees on March 17, 2014, CEO Mary Barra admitted that the Company had made mistakes and needed to change its processes.

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<sup>11</sup> *Id.* at 4 – 5.

71. According to Ms. Barra, “Something went terribly wrong in our processes in this instance, and terrible things happened.” Barra went on to promise, “[w]e will be better because of this tragic situation if we seize this opportunity.”<sup>12</sup>

72. GM now faces an investigation by NHTSA, multiple hearings in both the U.S. House and Senate, and a probe by the Department of Justice.

73. While GM has now appointed a new Vehicle Safety Chief, on information and belief, at least 2.59 million potentially Defective Vehicles remain on the road to this day; and, on information and belief, other vehicles not yet acknowledged by GM also have the deadly ignition switch defects.

**DEFENDANT REPRESENTED THE DEFECTIVE VEHICLES AS SAFE AND  
RELIABLE**

74. On information and belief, in marketing and advertising materials, Old GM and GM consistently promoted all their vehicles, including the Defective Vehicles, as safe and reliable.

75. For example, under a section captured “safety,” Old GM’s website for its Chevrolet brand stated in 2005:

OUR COMMITMENT

Your family’s safety is important to us. Whether it’s a short errand around town or a cross-country road trip, Chevrolet is committed to keeping you and your family safe – from the start of your journey to your destination.

That’s why every Chevrolet is designed with a comprehensive list of safety and security features to help give you peace of mind....

76. One Cobalt ad promised, “Side curtain airbags coupled with OnStar makes every journey the safest possible to assure that you and your occupants will stay safe at all times.”

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<sup>12</sup> “*Something Went ‘Very Wrong’ at G.M., Chief Says.*” N.Y. TIMES (Mar. 18, 2014).

77. A 2003 television spot for the Saturn vehicle closed with the tagline “Specifically engineered for whatever is next.” Another 2003 spot closed with the tagline “Saturn. People first.”

78. A 2001 print ad touting the launch of the Saturn focused on safety: “Need is where you begin. In cars, it’s about things like reliability, durability and, of course, safety. That’s where we started when developing our new line of cars. And it wasn’t until we were satisfied that we added things....”

79. Once GM came into existence, it continued to stress the safety and reliability of all its vehicles, including the Defective Vehicles.

80. For example, GM’s Chevrolet brand ran television ads in 2010 showing parents bringing their newborn babies home from the hospital, with the tagline “As long as there are babies, there’ll be Chevys to bring them home.”

81. Another 2010 television ad informed consumers, “Chevrolet’s ingenuity and integrity remain strong, exploring new areas of design and power, while continuing to make some of the safest vehicles on earth.”

82. Old GM and GM made these representations to boost vehicle sales and maximize profits while knowing that the ignition switches in the Defective Vehicles were defective.

83. Throughout the relevant period, Old GM and GM possessed vastly superior knowledge and information to that of consumers – if not exclusive information – about the design and function of the ignition switches in the Defective Vehicles and the existence of the defects in those vehicles.

84. Old GM and GM never informed consumers about the ignition switch defects.

**PLAINTIFF HAS SUFFERED INJURIES AND DAMAGES AS A RESULT OF THE  
IGNITION SWITCH DEFECTS IN HIS CHEVROLET COBALT**

85. The ignition switch defects in Plaintiff's vehicle and all the Defective Vehicles has caused Plaintiff damage.

86. After receiving notice of the March 28, 2014 recall, Plaintiff returned the 2008 Cobalt to Wayne Thomas Chevrolet six times to be serviced. The multiple servicing efforts to repair the defects were unsuccessful. The 2008 Cobalt continued to experience incidents in which the car would cut off while Plaintiff was operating the vehicle, causing him to lose steering and braking ability. The Cobalt also experienced incidents in which the entire electronic warning panel and all of the lights in the car would come on inexplicably.

87. On March 14, 2014, Plaintiff, while driving the 2008 Cobalt, was involved in a wreck where an at-fault driver struck the 2008 Cobalt on the front of the vehicle, causing the 2008 Cobalt to spin and be struck on the side and once again in the rear of the vehicle. Neither the Cobalt's front nor side airbags deployed despite the force of the impacts. Plaintiff suffered severe and crippling bodily injuries, which have caused him to suffer, and continue to suffer, severe physical, mental and emotional pain and suffering, and will continue to incur medical expenses for his care and treatment.

88. As a result of the collision and the defects in the 2008 Cobalt, Plaintiff's vehicle is experiencing an electronic system malfunction, which Plaintiff is informed and believes that is related to the defects complained of herein. Plaintiff has been informed that the diagnostic work necessary to determine the reason for the electronic system malfunction will cost more than the 2008 Cobalt is presently worth.

89. Plaintiff's 2008 Cobalt currently will not pass the state mandated inspection because of the electronic system malfunction.

90. Thus, Plaintiff is informed and believes and therefore alleges that the ignition switch defects have rendered his 2008 Cobalt undriveable.

91. By reason of the defects in the 2008 Cobalt, Plaintiff now owes more on the vehicle than the vehicle is worth.

92. Plaintiff has been damaged by Defendant's misrepresentations, concealment, and non-disclosure of the ignition switch defects in the Defective Vehicles, as he has suffered physical injury and is now holding a highly dangerous vehicle, which cannot be driven and whose value has greatly diminished because of Defendant's failure to timely disclose the serious defect.

93. Plaintiff paid more for the Defective Vehicle than he would have had he known of the ignition switch defects, and further would not have purchased the Defective Vehicle at all had he known of the defects.

94. A vehicle purchased, leased, or retained with a serious safety defect is worth less than the equivalent vehicle leased, purchased, or retained without the defect.

95. Plaintiff paid more for his Defective Vehicle, than he would have had the ignition switch defects been disclosed. Because of the concealed ignition switch defects, Plaintiff did not receive the benefit of the bargain and the value of his vehicle suffers from its own defects as well as the defects in other vehicles and the untrustworthiness of Defendants and their handling of this crises.

96. Plaintiff is stuck with an unsafe vehicle that is among legends of others that are now worth less than they would have been but for the Companies' failure to disclose and remedy the ignition switch defects.

97. If Old GM or GM had timely disclosed the ignition switch defects as required by the MCPA, the TREAD Act, and the applicable State consumer protection laws set forth below, all purchasers' vehicles would now be worth more.

98. In addition to the decreased value of his 2008 Cobalt by reason of the defects set forth herein, the reduction in value of all purchasers' vehicles has also negatively affected Plaintiff because, on information and belief, the decreased values of these vehicles further diminishes the value of Plaintiff's vehicle over the time he has owned the same.

### **SUCCESSOR LIABILITY**

99. As discussed above, GM expressly assumed certain obligations under, *inter alia*, the TREAD Act, and is liable for its non-disclosure and concealment of the ignition switch defects from the date of its formation on July 10, 2009.

100. GM In addition to the liabilities of Old GM that Defendant expressly assumed and retained through the bankruptcy as detailed above, Defendant GM has successor liability for Old GM's acts and omissions in the marketing and sale of the Defective Vehicles because it has continued the business enterprise of Old GM, for the following reasons:

- GM admits that it knew of the ignition system defects from the very date of its formation;
- GM's current CEO, Mary Barra, began working at Old GM in 1980, and in February 2008 became Vice President of Global Manufacturing Engineering, in which position she knew or should have known of the ignition switch defects;
- GM's Rule 30(b)(6) deponent concerning complaints Old GM and GM received about ignition switch defects in the Cobalt, Victor Hakim, worked at Old GM

from 1971 until the end of Old GM, and now is a “Senior Manager/Consultant” in the “field performance assessment” department, further demonstrating GM’s longstanding knowledge of the ignition switch defects;

- GM has continued in the business of designing, manufacturing, and marketing vehicles, including at least some of the same vehicles as Old GM;
- GM retained the bulk of the employees of Old GM; GM acquired owned and leased real property of Old GM, including all machinery, equipment, tools, information technology, product inventory, and intellectual property;
- GM acquired the contracts, books, and records of Old GM; and
- GM acquired all goodwill and other intangible personal property of Old GM.

#### **TOLLING OF THE STATUTES OF LIMITATION**

101. All applicable statutes of limitation have been tolled by GM’s knowing and active fraudulent concealment and denial of the facts alleged herein. Plaintiff did not discover, and did not know of facts that would have caused a reasonable person to suspect, that Old GM and GM did not report information within their knowledge to federal authorities (NHTSA) or consumers, nor would a reasonable and diligent investigation have disclosed that Old GM and GM had information in their possession about the existence and dangerousness of the defect and opted to conceal that information.

102. Indeed, Old GM instructed its service shops to provide Defective Vehicle owners with a new key ring if they complained about unintended shut down, rather than admit what Old GM knew: that the ignition switches were dangerously defective and warranted replacement with a properly designed and built ignition system.

103. In April 2006, some eight years before the first recall of some Defective Vehicles, Old GM internally authorized a redesign of the defective ignition switch. Yet, as part of Old GM's concealment of the defect, GM redesigned the part but kept the old part number. According to one of the high-level Old GM engineers at the time, "Changing the fit, form or function of a part without making a part number change is a cardinal sin. It would have been an extraordinary violation of internal processes."<sup>13</sup>

104. Old GM and GM were, and GM remains, under a continuing duty to disclose to NHTSA, its consumers, and Plaintiff, the true character, quality, and nature of the Defective Vehicles; that this defect is based on dangerous, inadequate, and defective design and/or substandard materials; and that it will require repair, poses a severe safety concern, and diminishes the value of the Defective Vehicles, including Plaintiff's 2008 Cobalt.

105. Because of the active concealment by Old GM and GM, any and all limitations periods otherwise applicable to Plaintiff's claims have been tolled and GM is estopped from relying on any statutes of limitation in their defense of this action.

106. All conditions precedent, if any have been satisfied.

**FIRST CLAIM FOR RELIEF**  
**(Negligence-Design Defect)**

107. Plaintiff incorporates by reference and re-alleges the preceding paragraphs.

108. Defendant designed, engineered, developed, manufactured, fabricated, assembled, equipped, tested or failed to test, inspected or failed to inspect, repaired, retrofitted or failed to retrofit, failed to recall, advertised, promoted, marketed, supplied, distributed, wholesaled, and sold the Defective Vehicles and their component parts and constituents, which was intended by

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<sup>13</sup> "‘Cardinal sin’: Former GM engineers say quiet ‘06 redesign of faulty ignition switch was a major violation of protocol." Automotive News (Mar. 26, 2014).

Defendant to be used as passenger vehicles and for other related activities.

109. Defendant had a duty to design, manufacture and sell, distribute or otherwise place into commerce vehicles that are not unreasonably dangerous or defective. Defendant had a duty to test vehicles for ignition switch problems once Defendant was on notice that its vehicles had a propensity to have ignition switch issues leading to engine failure, which can cause bodily injury, death, and property damage.

110. Defendant knew that the Defective Vehicles, including Plaintiff's 2008 Cobalt, would be purchased and used without Plaintiff being able, through the exercise of reasonable care, to discover the defects.

111. The Defective Vehicles, including Plaintiff's 2008 Cobalt, were unsafe for their intended uses by reason of defects in their manufacture, design, testing, components, and constituents, so that they would not safely serve their purpose, but would instead expose the users of the vehicles to possible serious injuries.

112. As designed by Defendant, the Defective Vehicles, including Plaintiff's 2008 Cobalt, were defective and unreasonably dangerous, causing them to fail to perform as safely as an ordinary customer would expect when used in an intended or reasonably foreseeable manner.

113. The risks inherent in the design of the Defective Vehicles, including Plaintiff's 2008 Cobalt, significantly outweigh any benefits of the design.

114. Plaintiff was not aware of the Defect at any time prior to the recent revelations regarding problems with the Defective Vehicles, including the Cobalt.

115. Defendant breached the aforementioned duties and were negligent and reckless in the following acts and or omissions:

a. By failing to properly design, test and manufacture the Defective Vehicles, including Plaintiff's 2008 Cobalt, in a reasonably safe manner;

b. By manufacturing, promoting and servicing and selling the Defective Vehicles, including Plaintiff's 2008 Cobalt, which Defendant knew or in the exercise of reasonable care, should have known did not meet the standards or levels of scientific advancement or technology existing in the trade.

116. As direct and proximate causes of Defendant's breaches, negligence, gross negligence and willful and wanton behavior, Plaintiff has been damaged including, but not limited to, the cost of repairs required due to ignition switch problems, the financial loss of owning a Defective Vehicle that is unsafe, suffering severe and crippling bodily injuries, which have caused him to suffer, and continue to suffer, severe physical, mental and emotional pain and suffering, and will continue to incur medical expenses for his care and treatment. Plaintiff's damages exceed Seventy-Five Thousand and No/100 Dollars (\$75,000.00).

**SECOND CLAIM FOR RELIEF**  
**(Negligence-Failure of the Continuing Duty to Warn)**

117. Plaintiff incorporates by reference and re-alleges the preceding paragraphs.

118. Defendant designed, engineered, developed, manufactured, fabricated, assembled, equipped, tested or failed to test, inspected or failed to inspect, repaired, retrofitted or failed to retrofit, failed to recall, advertised, promoted, marketed, supplied, distributed, wholesaled, and sold the Defective Vehicles, including Plaintiff's 2008 Cobalt, and their component parts and constituents, which was intended by Defendant to be used as passenger vehicles and for other related activities.

119. Defendant had a continuing duty to warn Plaintiff of dangers Defendant knew or should have known existed through the exercise of reasonable care. Plaintiff was entitled to know that his 2008 Cobalt, in its ordinary operation, was not reasonably safe for its intended and normal purpose and use.

120. Defendant breached the aforementioned duties and were negligent and by its failure to warn Plaintiff of the unreasonably dangerous condition and defect, namely the ignition switch defects that cause the Defective Vehicles, including Plaintiff's 2008 Cobalt, to experience engine failure and lead to an unreasonable likelihood of accident, which could cause serious bodily harm or death to vehicle occupants, and, in fact did cause serious bodily injury to Plaintiff.

121. As direct and proximate causes of Defendant's breaches, negligence, gross negligence and willful and wanton behavior, Plaintiff has been damaged including, but not limited to, the cost of repairs required due to ignition switch problems, the financial loss of owning a Defective Vehicle that is unsafe, suffering severe and crippling bodily injuries, which have caused him to suffer, and continue to suffer, severe physical, mental and emotional pain and suffering, and will continue to incur medical expenses for his care and treatment. Plaintiff's damages exceed Seventy-Five Thousand and No/100 Dollars (\$75,000.00).

**THIRD CLAIM FOR RELIEF**  
**(Breach of Implied Warranties of Merchantability)**

122. Plaintiff repeats and realleges the preceding paragraphs and incorporates them herein by reference.

123. Plaintiff is a "buyer" within the meaning of N.C. Gen. Stat. § 25-2-103 (1)(a); and N.C. Gen. Stat. § 99B-2(b).

124. The Defective Vehicles, including Plaintiff's 2008 Cobalt, are "goods" within the

meaning of N.C. Gen. Stat. § 25-2-105.

125. The Defective Vehicles, including Plaintiff's 2008 Cobalt, are "products" within the meaning of N.C. Gen. Stat. § 99B-2(b).

126. Defendant is a "manufacturer" of the Defective Vehicles, including Plaintiff's 2008 Cobalt, within the meaning of N.C. Gen. Stat. § 99B-1 and a "seller" within the meaning of N.C. Gen. Stat. § 25-2-103.

127. Plaintiff purchased the 2008 Cobalt having a defective ignition switch.

128. Pursuant to N.C. Gen. Stat. §25-2-314 and other applicable law, including to N.C. Gen. Stat. § 99B-1 *et. seq.*, Defendant warranted that the Defective Vehicles, including Plaintiff's 2008 Cobalt, were suited for their normal and intended use and purpose and was merchantable.

129. Because of the ignition switch defects, the Defective Vehicles, including Plaintiff's 2008 Cobalt, are not safe to drive and thus were not fit for ordinary purposes at the time the Defective Vehicles left Defendant's control.

130. At the time the Defective Vehicles, including Plaintiff's 2008 Cobalt, left the Defendant's control, the Defendant became aware of or in the exercise of ordinary care should have known that the Defective Vehicles, including Plaintiff's 2008 Cobalt, posed a substantial risk of harm to a reasonably foreseeable user or consumer, including Plaintiff, and failed to take reasonable steps to give adequate warning or instruction or take other reasonable action under the circumstances.

131. The defects as alleged herein, were not an open and obvious risk or a risk that was a matter of common knowledge at the time Plaintiff's 2008 Cobalt was purchased.

132. At the time the Defective Vehicles, including Plaintiff's 2008 Cobalt, left the

Defendant's control, the Defendant unreasonably failed to adopt a safer, practical, feasible, and otherwise reasonable alternative design or formulation, of the Defective Vehicles (including Plaintiff's 2008 Cobalt) and their ignition switches, that could then have been reasonably adopted and that would have prevented or substantially reduced the risk of harm without substantially impairing the usefulness, practicality, or desirability of the Defective Vehicles, including Plaintiff's 2008 Cobalt.

133. At the time the Defective Vehicles, including Plaintiff's 2008 Cobalt, left the Defendant's control, the design or formulation of the Defective Vehicles (including Plaintiff's 2008 Cobalt) and their ignition switches was so unreasonable that a person, aware of relevant facts, would not use a product of this design.

134. The Defective Vehicles, including Plaintiff's 2008 Cobalt, are not merchantable or fit for their normal and intended purposes and would not pass without objection in the automotive trade because of the ignition switch defects that cause the Defective Vehicles, including Plaintiff's 2008 Cobalt, to experience engine failure lead to an unreasonable likelihood of accident and an unreasonable likelihood that such accidents would cause serious bodily harm or death to vehicle occupants.

135. No materials provided with Plaintiff's 2008 Cobalt adequately disclosed the ignition switch defects and its dangerous safety implications.

136. Defendant breached the implied warranty of merchantability by manufacturing and selling Defective Vehicle, including Plaintiff's 2008 Cobalt, containing the ignition switch defects.

137. Defendant breached the implied warranty of merchantability by selling Plaintiff's 2008 Cobalt without giving specific instructions or warning or other caution to Plaintiff in order

to notify him of the defects and danger.

138. The ignition switch defects have deprived Plaintiff of the benefit of his bargain and have caused the Plaintiff's 2008 Cobalt to depreciate in value.

139. As direct and proximate causes of Defendant's breaches of the implied warranty of merchantability, Plaintiff has been damaged including, but not limited to, the cost of repairs required due to ignition switch problems, the financial loss of owning a Defective Vehicle that is unsafe, suffering severe and crippling bodily injuries, which have caused him to suffer, and continue to suffer, severe physical, mental and emotional pain and suffering, and will continue to incur medical expenses for his care and treatment. Plaintiff's damages exceed Seventy-Five Thousand and No/100 Dollars (\$75,000.00).

**FOURTH CLAIM FOR RELIEF**  
**(Breach of Implied Warranties of Fitness for a Particular Purpose)**

140. Plaintiff repeats and realleges the preceding paragraphs and incorporates them herein by reference.

141. Plaintiff purchased a Defective Vehicle having a defective ignition switch, the 2008 Chevrolet Cobalt.

142. Pursuant to N.C. Gen. Stat. §25-2-315 and other applicable law, including to N.C. Gen. Stat. § 99B-1 *et. seq.*, Defendant warranted that Plaintiff's Defective Vehicle, including the defective ignition switches, was fit for the specific purpose of being a switch in the control system of an internal combustion engine motor vehicle that activates the main electrical systems for the vehicle. Besides providing power to the starter solenoid and the ignition system components (including the engine control unit and ignition coil) it also switches on power to many accessories including the steering, brakes, air bags and more.

143. Plaintiff's 2008 Cobalt with the defective ignition switch was not fit for this specific purpose for the reason that the ignition switch defects can cause the vehicle's engine and electrical system to shut off, disabling the power steering and power brakes and causing non-deployment of the vehicle's airbags in the event of an accident.

144. As direct and proximate causes of Defendant's breaches of the implied warranty of fitness for a particular purpose, Plaintiff has been damaged including, but not limited to, the cost of repairs required due to ignition switch problems, the financial loss of owning a Defective Vehicle that is unsafe, suffering severe and crippling bodily injuries, which have caused him to suffer, and continue to suffer, severe physical, mental and emotional pain and suffering, and will continue to incur medical expenses for his care and treatment. Plaintiff's damages exceed Seventy-Five Thousand and No/100 Dollars (\$75,000.00).

**FIFTH CLAIM FOR RELIEF**  
**(Breach of Express Warranties)**

145. Plaintiff repeats and realleges the preceding paragraphs and incorporates them herein by reference.

146. As is alleged in paragraphs 74-84 above, the Defendant expressly warranted that the Defective Vehicles were safe and reliable for years.

147. The above referenced statements by Defendant and others that will be shown at the trial of this matter were express warranties within the meaning of N.C. Gen. Stat. § 25-2-313.

148. As set forth above, Plaintiff's 2008 Cobalt is, in fact, defective and has failed. Therefore, Defendant has breached its express warranties to Plaintiff.

149. As a direct and proximate result of Defendant's breach of express warranties, Plaintiff has been damaged including, but not limited to, the cost of repairs required due to ignition switch problems, the financial loss of owning a Defective Vehicle that is unsafe,

suffering severe and crippling bodily injuries, which have caused him to suffer, and continue to suffer, severe physical, mental and emotional pain and suffering, and will continue to incur medical expenses for his care and treatment. Plaintiff's damages exceed Seventy-Five Thousand and No/100 Dollars (\$75,000.00).

**SIXTH CLAIM FOR RELIEF**  
**(Negligent Misrepresentation)**

150. Plaintiff repeats and realleges the preceding paragraphs and incorporates them herein by reference.

151. Defendant, in the course of its business and in the course of inducing Plaintiff and the Class to purchase the 2008 Cobalt, supplied false and misleading information and concealed and failed to supply material information of which it was aware.

152. Defendant owed a duty of care to Plaintiff because he was within the class of persons to whom Defendant intended to supply information in order influence their decision to purchase Defective Vehicles. At all times, Defendant was aware that the information that they supplied to Plaintiff and other consumers would be relied upon by them in making their decision to purchase the Defective Vehicles.

153. Defendant failed to exercise reasonable care or competence in obtaining or communicating said information relied upon by the Plaintiff in making his decision to purchase the 2008 Cobalt.

154. Plaintiff's reliance upon the information supplied by Defendants was justifiable and reasonable under the circumstances.

155. As direct and proximate causes of Defendant's negligent misrepresentations, Plaintiff has been damaged including, but not limited to, the cost of repairs required due to ignition switch problems, the financial loss of owning a Defective Vehicle that is unsafe,

suffering severe and crippling bodily injuries, which have caused him to suffer, and continue to suffer, severe physical, mental and emotional pain and suffering, and will continue to incur medical expenses for his care and treatment. Plaintiff's damages exceed Seventy-Five Thousand and No/100 Dollars (\$75,000.00).

**SEVENTH CLAIM FOR RELIEF**  
**(Fraudulent Concealment)**

156. Plaintiff incorporates by reference and re-alleges the preceding paragraphs.

157. Defendant concealed material facts concerning the ignition switch defects before, during, and after the sale of the 2008 Cobalt to Plaintiff.

158. Defendant had a duty to disclose information regarding the ignition switch defects because it was known only to Defendant, who had superior knowledge and access to the facts, and Defendant knew it was not known to or reasonably discoverable by Plaintiff and other purchasers. These concealed facts were material because they directly impact the safety of Plaintiff's 2008 Cobalt. Whether an ignition switch was designed and manufactured with appropriate safeguards is a material safety concern.

159. Defendant actively concealed these material facts, in whole or in part, to protect its profits and avoid a costly recall, and it did so at the expense of Plaintiff.

160. Plaintiff was unaware of these concealed material facts and would not have acted as he did if he had known of the concealed facts. Plaintiff's actions were justified. Defendant was in exclusive control of the material facts and the public and Plaintiffs did not know of these facts prior to Plaintiff's purchasing the 2008 Cobalt.

161. Because of the concealment of the facts, Plaintiff has been damaged including, but not limited to, the cost of repairs required due to ignition switch problems, the financial loss of owning a Defective Vehicle that is unsafe, suffering severe and crippling bodily injuries,

which have caused him to suffer, and continue to suffer, severe physical, mental and emotional pain and suffering, and will continue to incur medical expenses for his care and treatment.

162. Defendant's acts were done maliciously, oppressively, deliberately, with intent to defraud, in reckless disregard of Plaintiff's rights and well being, and to enrich Defendant. Defendant's conduct warrants an assessment of punitive damages in an amount sufficient to deter such conduct in the future, which amount is to be determined according to proof. Plaintiff's damages exceed Seventy-Five Thousand and No/100 Dollars (\$75,000.00).

**EIGHTH CLAIM FOR RELIEF**  
**(Violation of Magnuson-Moss Warranty Act, 15 U.S.C. § 2301, *et seq.*)**

163. Plaintiff incorporates by reference and re-allege the preceding paragraphs.

164. Plaintiff is a "consumer" within the meaning of the MMWA, 15 U.S.C. § 2301(3).

165. Defendant is a "supplier" and "warrantor" within the meaning of the MMWA, 15 U.S.C. § 2301(4)-(5).

166. The Defective Vehicles, including Plaintiff's 2008 Cobalt, are "consumer products" within the meaning of the MMWA, 15 U.S.C. § 2301(1).

167. By reason of Defendant's statements, affirmations and omissions, Plaintiff was justified in assuming that the Cobalt's ignition switch would meet a specified level of performance over a specified period of time, namely, that it would not require unreasonable maintenance and would last for a reasonable period of time. Defendant's written affirmations of fact, promises, or descriptions related to the nature of the ignition switch in the Defective Vehicles, including Plaintiff's 2008 Cobalt, and became part of the basis of the bargain between Plaintiff and Defendant. Defendant breached its written warranties because Plaintiff's 2008 Cobalt did not perform as represented by Defendant. Defendant's conduct thereby caused

damages to Plaintiff.

168. Resorting to any informal dispute resolution procedure and/or affording Defendant a reasonable opportunity to cure its breach of written warranties to Plaintiff is unnecessary and/or futile. At the time of sale to Plaintiff, Defendant knew, should have known, or was reckless in not knowing of its misrepresentations or omissions concerning the ignition switch defects, but nevertheless failed to rectify the situation and/or disclose it to Plaintiff. Moreover, the remedies available through any informal dispute resolution procedure would be wholly inadequate under the circumstances. Accordingly, any requirement under the MMWA or otherwise that Plaintiff resorts to any informal dispute resolution procedure and/or afford Defendant a reasonable opportunity to cure its breach of written warranties is excused and, thereby, deemed satisfied.

169. As a direct and proximate result of Defendant's breach of written warranties, Plaintiff has been damaged including, but not limited to, the cost of repairs required due to ignition switch problems, the financial loss of owning a Defective Vehicle that is unsafe, suffering severe and crippling bodily injuries, which have caused him to suffer, and continue to suffer, severe physical, mental and emotional pain and suffering, and will continue to incur medical expenses for his care and treatment and, accordingly, Plaintiff is entitled to recover damages in excess of Seventy-Five Thousand and No/100 Dollars (\$75,000.00), specific performance, diminution in value, costs, attorneys' fees, rescission, and/or other equitable relief as appropriate.

**NINTH CLAIM FOR RELIEF**  
**(Violation of North Carolina's Unfair and Defective Trade Practices Act )**

170. Plaintiff repeats and realleges the preceding paragraphs and incorporates them herein by reference.

171. N.C. Gen. Stat. § 75-1.1 *et. seq.* makes unlawful, "Unfair methods of competition in or affecting commerce, and unfair or deceptive acts or practices in or affecting commerce."

172. By selling Defective Vehicles, throughout the State of North Carolina and by undertaking the acts complained of herein, including the sale of the 2008 Cobalt to Plaintiff and making misleading representations to Plaintiff about the Defective Vehicles, including Plaintiff's 2008 Cobalt, Defendant has affected commerce within the meaning of N.C. Gen. Stat. §§75-1.1 *et. seq.*

173. Defendant engaged in unfair or deceptive acts or practices in violation of N.C. Gen. Stat. §75-1. 1 *et. seq.* by, among other things improperly:

a. Selling for value unreasonably dangerous vehicles to the general public and Plaintiff without giving notice of the dangerous and unsafe propensities inherent within the Defective Vehicles, including Plaintiff's 2008 Cobalt;

b. Failing to give Plaintiff adequate warnings and notices regarding the defects in the Defective Vehicles, including Plaintiff's 2008 Cobalt, despite the fact that Defendant knew or should have known of these defects, with the intent that Plaintiff would rely upon Defendant's failure to disclose the defects when purchasing the Defective Vehicle.

c. Making such sales of the Defective Vehicles, including Plaintiff's 2008 Cobalt, while using explicit statements indicating that the Defective Vehicles, including Plaintiff's 2008 Cobalt, were roadworthy and safe in order to induce the Plaintiff to purchase a Defective Vehicle;

d. Failing to adequately disclose the defect to NHTSA and Plaintiff and timely implement a remedy.

174. Defendant's conduct is unfair in that it offends established public policy and/or is immoral, unethical, oppressive, unscrupulous and/or substantially injurious to Plaintiff. The harm to Plaintiff arising from Defendant's conduct outweighs any legitimate benefit Defendant derived from the conduct.

175. Defendant's actions and practices constitute "unfair and deceptive" business practices in violation of N.C. Gen. Stat. §75-1. 1 *et.seq.* because, among other things, they are likely to deceive reasonable consumers such as Plaintiff.

176. As a direct and proximate result of these unfair, deceptive and unconscionable commercial practices, Plaintiff has been damaged including, but not limited to, the cost of repairs required due to ignition switch problems, the financial loss of owning a Defective Vehicle that is unsafe, suffering severe and crippling bodily injuries, which have caused him to suffer, and continue to suffer, severe physical, mental and emotional pain and suffering, and will continue to incur medical expenses for his care and treatment. Plaintiffs' damages, which are in excess of Seventy-Five Thousand and No/100 Dollars (\$75,000.00) are the result of GM's unfair, unlawful, and/or deceptive practices and, pursuant to N.C. Gen. Stat. § 75-16, are entitled to recover treble damages and, pursuant to N.C. Gen. Stat. § 75-16.1 are entitled to an award attorneys' fees and costs.

### **REQUEST FOR RELIEF**

WHEREFORE, Plaintiff respectfully requests that the Court enter judgment in his favor and against Defendant, as follows:

1. Ordering Defendant to pay actual and equitable monetary relief to Plaintiff in amounts in excess of \$75,000.00;
2. Ordering Defendant to pay punitive damages, as allowable by law, to Plaintiff;

3. Awarding injunctive relief as permitted by law or equity, including enjoining Defendant from continuing the unlawful practices as set forth herein, and ordering Defendant to engage in a corrective recall campaign;
4. Ordering the Defendant to pay treble damages pursuant to the provisions of N.C. Gen. Stat. § 75-16 and costs of this action, including reasonable attorneys' fees in accordance with N.C. Gen. Stat. § 75-16.1 and as otherwise is allowed by law;
5. Ordering Defendant to pay both pre- and post-judgment interest on any amounts awarded;
6. For a trial by jury on all issues and Claims for Relief so triable; and
7. Ordering such other and further relief as may be just and proper.

This the 1<sup>st</sup> day of July, 2014.

Respectfully submitted,

/s/ Joel R. Rhine  
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