

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

Peter Romans, Individually and as :
Administrator of the Estates of Billi, Ami :
and Caleb Romans, :
: Plaintiff, :
: Case No. _____
vs. :
: Judge _____
Ford Motor Company, :
: Defendant. :

**COMPLAINT FOR COMPENSATORY AND PUNITIVE DAMAGES
AND DEMAND FOR JURY TRIAL**

This action is being brought for the recovery of compensatory damages arising from the tragic and senseless deaths of Billi, Ami and Caleb Romans, and the personal injuries of Peter Romans, all of which were caused by defects in a truck manufactured by Defendant Ford Motor Company (“Ford”). Additionally, this action seeks punitive damages to address Ford’s flagrant disregard for the safety of the public and egregious acts associated with the manufacture and half-hearted effort to recall an admittedly defective product. In support of the claims herein, Plaintiff Peter Romans states as follows:

THE PARTIES

1. At all times material hereto, Plaintiff Peter Romans (“Peter Romans”) was a resident and citizen of Madison County, Ohio.

2. At all times material hereto, Peter Romans was the husband of Billi Romans, who is now deceased.

3. At all times material hereto, Peter Romans was and is the father of Ami and Caleb Romans, both of whom were minor children, and both of whom are now deceased.

4. At all times material hereto, Billi, Ami and Caleb Romans were residents and citizens of Madison County, Ohio.

5. Peter Romans is acting as the duly authorized and appointed Administrator of the Estates of Billi, Ami and Caleb Romans, pursuant to the order of the Court of Common Pleas, Madison County, Ohio, Probate Division.

6. At all times material hereto, Ford was and is a corporation organized and existing under the laws of the State of Delaware, with its principle place of business in Dearborn, Michigan.

7. At all times material hereto, Ford was and is registered to do business, and doing business, in the State of Ohio, and is engaged in the business of designing, manufacturing, marketing and selling motor vehicles.

JURISDICTION AND VENUE

8. Peter Romans' damages exceed \$100,000.00.

9. This Court has jurisdiction over this action pursuant to 28 U.S.C. §1332.

10. Venue is proper in this District pursuant to 28 U.S.C. §1331(a)(2) and (a)(3), because a substantial part of the events giving rise to the claim occurred in this judicial district, and because this district has personal jurisdiction over Ford pursuant to Ohio's Revised Code § 2307.382(3) given that Ford caused a tortious injury by an act in Ohio in this District.

REFILING OF PREVIOUSLY ASSERTED CLAIMS

11. The claims asserted in this action were previously filed, in a timely fashion, in the Madison County, Ohio, Court of Common Pleas, under case number CVC20100126. They were voluntarily dismissed without prejudice, pursuant to Ohio R. Civ. P. 41(A), on January 30, 2015, and are being reasserted herein pursuant to Ohio R.C. 2305.19(A).

FACTS COMMON TO ALL CLAIMS

12. Ford learned in 1998 that underhood fires were occurring in its Town Car, Continental, and Grand Marquis vehicles (its “Panther” platform of vehicles) with cruise control systems that were nearly identical to, and which incorporated Speed Control Deactivation Switches (“SCDSs”) that were nearly identical to, those that were installed in its truck platform of vehicles, including, without limitation, the popular Expedition.

13. The SCDSs installed in Ford’s Panther and truck platform vehicles were manufactured by Texas Instruments Incorporated (“Texas Instruments”) pursuant to and in accordance with Ford’s specifications. The SCDSs for the Panther and truck platforms were designed and developed in parallel and were launched just three to six months apart, and had nearly identical construction and design features. In fact, the SCDSs for the Panther and truck platforms were so similar that Texas Instruments used different tab connectors on them to prevent confusion during installation. The SCDSs for the Panther and truck platforms worked in the same manner, and all contained Kapton seals, which were intended to prevent flammable brake fluid from migrating from the hydraulic or “wet” side of the devices into the electrical or “dry” side of the devices.

14. Ford participated in an investigation with Texas Instruments and the National Highway Safety Administration (“NHTSA”) in 1998 and/or 1999, after learning about the underhood fires, in an attempt to determine the cause and origin of the fires.

15. Ford determined, in early 1999, that the SCDSs were the cause and origin of the underhood fires. It subsequently issued a recall, in May 1999, for some, but not all, of its Panther platform of vehicles, produced in 1992 and 1993, that had cruise control systems that incorporated the SCDS (“the Panther recall”). That recall ultimately had a miserable consumer return/compliance rate that even Ford found unsatisfactory.

16. Texas Instruments maintained in early 1999, and continues to maintain today, that all of the SCDSs it produced for Ford met Ford's specifications. Further, as a result of its involvement in the aforesaid investigation, Texas Instruments learned, in early 1999, that Ford was installing the SCDSs into its various vehicles in a manner that was causing the SCDSs to fail and allow flammable brake fluid to leak from the hydraulic or "wet" side of the devices into the electrical or "dry" side of the devices and pose an unreasonable risk of fire. For instance, and without limitation, Texas Instruments learned that:

- a. Ford was installing the SCDSs into cruise control systems that created and allowed a negative brake vacuum pressure to act upon and prematurely wear the Kapton seals in the devices;
- b. Ford was installing the SCDSs into cruise control systems that caused excessive electrical current to flow through the SCDSs and prematurely wear the devices, including their Kapton seals; and
- c. Ford was installing the SCDSs into cruise control systems that were unnecessarily powered at all times, causing premature wear to the devices, including their Kapton seals, creating electrolytic cells, and posing a risk of fire even when the vehicle in which the SCDSs were off and sitting unattended.

17. Texas Instruments, after learning of the half-baked manner in which Ford was installing and using the SCDSs, warned Ford, by no later than February 1999, that

- a. the electrical system servicing the SCDSs should provide electrical current to the SCDSs only when the cruise control feature on the vehicles was in operation; and

b. a relay should be used in the circuit on which the SCDSs were installed, instead of a fuse, to prevent the occurrence of a high current situation inside the SCDSs.

18. Further, by mid-1999, Texas Instruments provided Ford with multiple suggestions to address and alleviate the unnecessary risk of fire that Ford was creating by the manner in which it was using the SCDSs in the cruise control systems in its Panther and truck platform of vehicles. Texas Instruments aggressively pursued Ford from May 1999 onward in an attempt to get Ford to modify the cruise control systems, including the electrical design of those systems, in its Panther and truck platform of vehicles to eliminate the fire hazard. Texas Instruments made it very clear that it believed the fire hazard was unreasonable, that the hazard was not limited to the vehicles that were the subject of the Panther recall, that the hazard existed across different model vehicles, including those in Ford's truck platform of vehicles, and that Ford needed to take appropriate steps to eliminate this substantial risk.

19. As a result, Ford was aware, by June of 1999, that the SCDSs it was installing in its Panther and truck platform of vehicles could leak and allow brake fluid to migrate from the hydraulic or "wet" side of the devices into the electrical or "dry" side of the devices; that that brake fluid was flammable; that many of its Panther and truck platform vehicles had SCDSs that were installed on circuits that were powered at all times; and that the commensurate unreasonable risk of fire in a vehicle that was turned off and sitting unattended was a significant problem. Further, Ford was keenly aware, by June of 1999, of several changes, modifications or "alternative designs" for the SCDSs and/or the cruise control systems on which they were installed that would have significantly reduced the risk of fire in its vehicles and eliminated the risk of a fire occurring in a vehicle that was turned off and unattended.

20. Despite that knowledge, Ford did nothing. It did not take any steps to eliminate the unnecessary and unreasonable risk of fire that it created by the manner in which it was using the SCDSs and incorporating them into the cruise control systems in its Panther and truck platform of vehicles. As a result, Texas Instruments ultimately made the difficult, but appropriate, business decision to cease supplying Ford with any additional SCDSs.

21. Ford produced Plaintiff's Expedition in November 2000. It did so without making any changes to the SCDS, and without making any technologically feasible changes to that vehicle's cruise control system, that would have eliminated the unreasonable risk of fire.

22. Ford and NHTSA eventually became involved in another investigation, beginning in late 2004 or early 2005, following excessive reports of underhood fires in Ford's truck platform of vehicles, including its 2001 model year Expedition, that had cruise control systems which incorporated the SCDS as a component part. That investigation, as reported by NHTSA, found that, among other things, the negative brake vacuum pressure in, and the constant supply of power to, the SCDS in those vehicles could cause, and in some cases had caused, the SCDS to leak brake fluid into the electrical side of the device and catch fire. This is precisely what Texas Instruments had warned Ford about in 1999, and precisely what Ford chose to ignore.

23. Ford began a recall program relative to its truck platform of vehicles, that had cruise control systems which incorporated the SCDS as a component part, on a rolling basis beginning in early 2005. Despite the fact that the Panther recall had terrible consumer return/compliance rates, Ford used even weaker and less informative language in the truck platform recall. Not surprisingly, consumer return/compliance rates were miserable.

24. Ford's failure and refusal to modify the SCDS, and the cruise control system in which it was installed, to eliminate the unreasonable risk of fire after it had been warned of and was aware of that risk, and its decision to employ language in its recall notices that did not fully and fairly inform its customers of the risks to which it was exposing them, constituted a flagrant disregard for the safety of others, including, but not limited to Peter Romans and his decedents, Billi, Ami and Caleb Romans. Furthermore, Ford's conduct demonstrates, clearly and convincingly, that it acted with malice towards the public, including, but not limited to, Peter Romans and his decedents Billi, Ami and Caleb Romans, or that it engaged in intentional, reckless, wanton or willful conduct sufficient to demonstrate malice towards the public, including, but not limited to Peter Romans and his decedents Billi, Ami and Caleb Romans.

25. On the night of April 5, 2008, Peter Romans and decedents Billi, Ami and Caleb Romans (collectively, "the Romans family"), were asleep in their home located at 4415 Lilly Chapel Opossum Road, London, Ohio ("the residence"). A 2001 Ford Expedition registered in Peter Romans' name, but belonging to Billi Romans ("the Expedition"), was sitting, with its ignition off, in a carport attached to the residence.

26. As the Romans family slept, a fire started in the Expedition, which Ford designed, manufactured, marketed and/or sold, and quickly spread to the carport and the residence.

27. Peter Romans woke during the fire and escaped from the residence. He sustained personal injuries while doing so, and while subsequently attempting to re-enter the residence to save his family.

28. Billi, Ami and Caleb Romans woke during the fire, but were unable to escape from the residence. They died of injuries sustained in, and as a direct result of, the fire. Their screams can be heard on the 911 call as they perished in the fire.

CLAIMS

Count I – Personal Injury and Property Loss Claim of Peter Romans – Product Defect Under Ohio R.C. §§2307.74, 2307.75, 2307.76 and R.C. 2307.77

29. Peter Romans hereby incorporates paragraphs one (1) through twenty-eight (28) as if fully set forth herein, and further avers and alleges as follows:

30. The Expedition, including, but not necessarily limited to, its cruise control system, was defective in manufacture under Ohio R.C. 2307.74 in that it deviated in a material way from Ford's design specifications and/or performance standards, or from otherwise identical units manufactured to the same design specifications and/or performance standards, when it left Ford's control.

31. The Expedition, including, but not limited to, its cruise control system, was defective in design under Ohio R.C. 2307.75 in that, at the time it left Ford's control, the foreseeable risks associated with its design exceeded the benefits associated with that design. The foreseeable risks associated with the Expedition's design included the risk of a fire emanating from the area of the Expedition's SCDS and/or cruise control system, even when the Expedition was stationary, even when the Expedition's cruise control system was not in use and not regularly used, and even when the Expedition's engine had been turned off for hours.

32. In violation of Ohio R.C. 2307.76, Ford knew or should have known, at the time the Expedition left its control, about the dangerous and unreasonable risks of fire associated with the Expedition and its cruise control system, yet failed to provide the warning or instruction that a manufacturer exercising reasonable care would have provided in light of the

likelihood and the seriousness of those risks. Moreover, Ford knew or should have known, after the Expedition left its control, about the dangerous and unreasonable risks of fire associated with the Expedition and its cruise control system, yet failed to provide the post-marketing warnings or instructions that a manufacturer exercising reasonable care would have provided in light of the likelihood and the seriousness of those risks.

33. In violation of Ohio R.C. 2307.77, the Expedition, including, but not limited to, its cruise control system, did not, at the time it left Ford's control, conform to the representations Ford made, explicitly or implicitly, to the effect that the Expedition was safe, of good and merchantable quality, and fit for its intended purpose.

34. The Expedition's manufacturing, construction and design defects, including, but not limited to, those associated with its cruise control system, Ford's failure to warn of those defects, and the Expedition's failure to conform to Ford's explicit or implicit representations, were not known or appreciated by the Romans family.

35. As a proximate result of the Expedition's manufacturing, construction and design defects, including, but not limited to, those associated with its cruise control system, Ford's failure to warn of those defects, and the Expedition's failure to conform to Ford's explicit or implicit representations, the Expedition and the residence caught fire, and Peter Romans sustained personal injuries and property loss, incurred medical expenses, and experienced pain and conscious mental suffering.

Count II – Survivorship Claims of Peter Romans, Administrator of the Estates of Billi, Ami and Caleb Romans – Product Defect Under Ohio R.C. §§2307.74, 2307.75, 2307.76 and R.C. 2307.77

36. Peter Romans hereby incorporates paragraphs one (1) through thirty-five (35) as if fully set forth herein, and further avers and alleges as follows:

37. The Expedition, including, but not necessarily limited to, its cruise control system, was defective in manufacture under Ohio R.C. 2307.74 in that it deviated in a material way from Ford's design specifications and/or performance standards, or from otherwise identical units manufactured to the same design specifications and/or performance standards, when it left Ford's control.

38. The Expedition, including, but not limited to, its cruise control system, was defective in design under Ohio R.C. 2307.75 in that, at the time it left Ford's control, the foreseeable risks associated with its design exceeded the benefits associated with that design. The foreseeable risks associated with the Expedition's design included the risk of a fire emanating from the area of the Expedition's SCDS and/or cruise control system, even when the Expedition was stationary, even when the Expedition's cruise control system was not in use and not regularly used, and even when the Expedition's engine had been turned off for hours.

39. In violation of Ohio R.C. 2307.76, Ford knew or should have known, at the time the Expedition left its control, about the dangerous and unreasonable risks of fire associated with the Expedition and its cruise control system, yet failed to provide the warning or instruction that a manufacturer exercising reasonable care would have provided in light of the likelihood and the seriousness of those risks. Moreover, Ford knew or should have known, after the Expedition left its control, about the dangerous and unreasonable risks of fire associated with the Expedition and its cruise control system, yet failed to provide the post-marketing warnings or instructions that a manufacturer exercising reasonable care would have provided in light of the likelihood and the seriousness of those risks.

40. In violation of Ohio R.C. 2307.77, the Expedition, including, but not limited to, its cruise control system, did not, at the time it left Ford's control, conform to the

representations Ford made, explicitly or implicitly, to the effect that the Expedition was safe, of good and merchantable quality, and fit for its intended purpose.

41. The Expedition's manufacturing, construction and design defects, including, but not limited to, those associated with its cruise control system, Ford's failure to warn of those defects, and the Expedition's failure to conform to Ford's explicit or implicit representations, were not known or appreciated by the Romans family.

42. As a proximate result of the Expedition's manufacturing, construction and design defects, including, but not limited to, those associated with its cruise control system, Ford's failure to warn of those defects, and the Expedition's failure to conform to Ford's explicit or implicit representations, the Expedition and the residence caught fire, and Billi, Ami and Caleb Romans sustained personal injuries and property loss, and experienced pain and conscious mental suffering.

Count III – Wrongful Death Claims of Peter Romans, Administrator of the Estates of Billi, Ami and Caleb Romans – Product Defect Under Ohio R.C. §§2307.74, 2307.75, 2307.76 and R.C. 2307.77

43. Peter Romans hereby incorporates paragraphs one (1) through forty-two (42) as if fully set forth herein, and further avers and alleges as follows:

44. The Expedition, including, but not necessarily limited to, its cruise control system, was defective in manufacture under Ohio R.C. 2307.74 in that it deviated in a material way from Ford's design specifications and/or performance standards, or from otherwise identical units manufactured to the same design specifications and/or performance standards, when it left Ford's control.

45. The Expedition, including, but not limited to, its cruise control system, was defective in design under Ohio R.C. 2307.75 in that, at the time it left Ford's control, the foreseeable risks associated with its design exceeded the benefits associated with that design.

The foreseeable risks associated with the Expedition's design included the risk of a fire emanating from the area of the Expedition's SCDS and/or cruise control system, even when the Expedition was stationary, even when the Expedition's cruise control system was not in use and not regularly used, and even when the Expedition's engine had been turned off for hours.

46. In violation of Ohio R.C. 2307.76, Ford knew or should have known, at the time the Expedition left its control, about the dangerous and unreasonable risks of fire associated with the Expedition and its cruise control system, yet failed to provide the warning or instruction that a manufacturer exercising reasonable care would have provided in light of the likelihood and the seriousness of those risks. Moreover, Ford knew or should have known, after the Expedition left its control, about the dangerous and unreasonable risks of fire associated with the Expedition and its cruise control system, yet failed to provide the post-marketing warnings or instructions that a manufacturer exercising reasonable care would have provided in light of the likelihood and the seriousness of those risks.

47. In violation of Ohio R.C. 2307.77, the Expedition, including, but not limited to, its cruise control system, did not, at the time it left Ford's control, conform to the representations Ford made, explicitly or implicitly, to the effect that the Expedition was safe, of good and merchantable quality, and fit for its intended purpose.

48. The Expedition's manufacturing, construction and design defects, including, but not limited to, those associated with its cruise control system, Ford's failure to warn of those defects, and the Expedition's failure to conform to Ford's explicit or implicit representations, were not known or appreciated by the Romans family.

49. As a proximate result of the Expedition's manufacturing, construction and design defects, including, but not limited to, those associated with its cruise control system,

Ford's failure to warn of those defects, and the Expedition's failure to conform to Ford's explicit or implicit representations, the Expedition and the residence caught fire; Billi, Ami and Caleb Romans died on April 6, 2008; Peter Romans, Administrator of the Estates Billi, Ami and Caleb Romans, incurred funeral and burial expenses and attorney and court fees associated with probate proceedings; and Peter Romans, Administrator of the Estates Billi, Ami and Caleb Romans, and on behalf of all persons designated as beneficiaries in Section 2125.02, Revised Code of Ohio, sustained the loss of financial support from the reasonable expected earning capacity of Billi Romans, the loss of the services, society and companionship of Billi, Ami and Caleb Romans, the loss of prospective inheritance from Billi Romans, and mental anguish and emotional and psychological damage.

PRAYER FOR RELIEF

WHEREFORE, Peter Romans, Individually and as Administrator of the Estates of Billi, Ami and Caleb Romans, demands judgment against Ford as follows:

- (a) On the personal injury and property loss claims of Peter Romans, judgment in favor of Peter Romans in an amount in excess of One Hundred Thousand Dollars (\$100,000.00) as compensatory damages, plus costs, interest and punitive damages;
- (b) On the survivorship claims of Billi, Ami and Caleb Romans, judgment in favor of Peter Romans, Administrator of the Estates Billi, Ami and Caleb Romans, in an amount in excess of One Hundred Thousand Dollars (\$100,000.00) as compensatory damages, plus costs, interest and punitive damages;
- (c) On the wrongful death claims filed on behalf of the beneficiaries of the Estates of Billi, Ami and Caleb Romans, judgment in favor of Peter Romans, Administrator of the

Estates Billi, Ami and Caleb Romans, in an amount in excess of One Hundred Thousand Dollars (\$100,000.00) as compensatory damages, plus costs, interest and punitive damages; and

(d) As to all claims, punitive damages in an amount in excess of One Hundred Thousand Dollars (\$100,000.00), plus costs, interest and attorneys' fees.

JURY DEMAND

Peter Romans, Individually and as Administrator of the Estates of Billi, Ami and Caleb Romans, demands a trial by jury on all issues of the within cause.

DATED: January 25, 2016

Respectfully submitted,

/s/ Perry W. Doran, II

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