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CAUSE NO. 2014CI08596

STEPHANIE ERDMAN	§	IN THE DISTRICT COURT OF
	§	
VS.	§	BEXAR COUNTY, T E X A S
	§	
AMERICAN HONDA MOTOR CO., INC., and GUNN GP, L.L.C.	§	438TH JUDICIAL DISTRICT

PLAINTIFF'S ORIGINAL PETITION AND RULE 194 REQUESTS FOR DISCLOSURE

TO THE HONORABLE COURT:

COMES NOW, Stephanie Erdman ("Plaintiff"), complaining of American Honda Motor Co., Inc. and Gunn GP, L.L.C. ("Defendants"), and for cause of action would show this Honorable Court the following:

I.

Discovery Plan

1. Plaintiff intends to conduct discovery in this matter under Level 3 of Rule 190.

II.

Parties

2. Plaintiff is an individual and resident of Bexar County, Texas.

3. Defendant American Honda Motor Co., Inc. is a foreign corporation doing business in the state of Texas and can be served with citation through its registered agent, CT Corporation System, 1999 Bryan St., Suite 900, Dallas, Texas 75201-3136.

4. Defendant Gunn GP, L.L.C. is a Texas limited liability company doing business in the state of Texas and having its principal place of business in San Antonio, Bexar County, Texas. Said Defendant can be served with citation through its registered agent, M. Kelly Collins,

227 Broadway, San Antonio, Texas 78205.

III.

Venue and Jurisdiction

5. Venue is proper and maintainable in Bexar County, Texas under the provisions of the TEX. CIV. PRAC. & REM. CODE because Defendant Gunn GP, L.L.C. has its principal place of business in said county where the product made the basis of Plaintiff's claims was purchased and where negligent acts giving rise to Plaintiff's injuries occurred.

6. Further, under Section 15.005 of the Texas Civil Practice and Remedies Code, when venue is established against one defendant, the Court has venue regarding all defendants in claims or actions arising out of the same transaction, occurrence, or series of transactions or occurrences.

7. The Court has jurisdiction in this matter since Plaintiff's damages are within its jurisdictional limits.

IV.

Nature of the Case

8. This is a negligence and strict products liability case in which Plaintiff seeks monetary relief over $1,000,000.00 and a demand for judgment for all the other relief to which Plaintiff deems herself entitled.

9. At issue in this lawsuit is a 2002 Honda Civic manufactured by American Honda Motor Co., Inc. ("Honda").

10. Stephanie Erdman purchased a 2002 Honda Civic bearing VIN 1HGEM22962L0062755 (also "the Civic") from a Honda dealership, Gunn Honda, owned and operated by Gunn GP,

L.L.C.

11. Subsequent to Plaintiff's purchase of the Civic, 2002 Honda Civics were among a number of Honda vehicles made the subject of NHTSA defect investigations involving air bags.

12. From 2008 to 2013, several recalls of air bags in 2002 Honda Civics were issued. Among the issues involved in the recalls of said vehicles was the production of excessive internal pressure by the inflator of a driver side front air bag, causing the inflator to rupture. One consequence of such a rupture is that metal fragments could pass through the air bag cushion material, causing serious and permanent injury to vehicle occupants.

13. On or about September 1, 2013, Stephanie Erdman was driving her 2002 Honda Civic when it collided with a second vehicle.

14. Stephanie Erdman was properly wearing her seat belt.

15. In a relatively mild collision, Plaintiff's front air bag deployed.

16. The photograph below shows the very limited extent of the property damage to the front of the Honda Civic.

17. During the air bag's deployment, shards of metal, like shrapnel, were propelled toward Stephanie Erdman, penetrating the air bag cushion material, striking Stephanie Erdman in the face and right eye.

18. The metal fragment lodged in Stephanie Erdman's eye and blood began to flow down her face.

19. The photograph below fairly and accurately depicts the metal fragment as it was lodged in Stephanie Erdman's eye.

20. Defects in the Honda Civic's driver side front air bag were a producing cause of injuries to Plaintiff Stephanie Erdman and resulting damages.

21. During Plaintiff's ownership of the Civic, Gunn GP, L.L.C. performed inspections, service and maintenance on the Civic on several occasions and did not inform or notify Plaintiff of any recall involving the vehicle's air bags or of any problems or safety issues associated with the air bags.

22. In servicing the Civic on several occasions, Gunn GP, L.L.C. did not perform any replacement, the prescribed remedy included in the subject recalls, of the driver side front air bag inflator.

23. The negligence of Honda was a proximate cause of injuries to Plaintiff Stephanie Erdman and resulting damages.

24. The negligence of Gunn GP, L.L.C. was a proximate cause of Plaintiff's injuries and resulting damages.

CAUSES OF ACTION

V.

Strict Liability and Negligence of Honda

25. This is, in part, a product defect case with respect to the Civic involved in the crash on the date in question.

26. Plaintiff would show that the Civic was defective, uncrashworthy and unreasonably dangerous as that term is understood in Texas law, and Plaintiff therefore brings this action under Sections 402(A) and 402(B) of the Restatement of Torts, Second.

27. Plaintiff would show that the Civic was defectively designed, manufactured, assembled, marketed, and sold by Defendant Honda, making the product unreasonably dangerous which was a producing cause of Plaintiff's injuries and damages as set forth herein, thus rendering Honda strictly liable.

28. The Civic with its driver side front air bag, as sold by Defendant Honda, was in a defective condition and was unreasonably dangerous as designed, manufactured and marketed, taking into consideration the utility of the vehicle and the risk involved in its use.

29. At the time the Civic left the control of Defendant Honda, there were safer alternative designs for the Civic other than those which caused Plaintiff's injuries and damages as set forth herein. The safer alternative designs would have either prevented or significantly reduced the risk of serious injury without substantially impairing the vehicle's utility, and the safer alternative designs were economically and technologically feasible at all times relevant.

30. The driver side front air bag in the Civic was defective and unreasonably dangerous because, in the event of its deployment, its inflator produces excessive internal pressure, causing it to rupture, resulting in the possibility of metal fragments passing through the air bag cushion material and injuring the driver.

31. The defective air bag unnecessarily exposes the Civic's driver to serious injury.

32. Defendant Honda was negligent with regard to the design, marketing and manufacturing of the Civic. The acts or omissions of Honda include the following:

a. Failing to properly test the driver side front air bag;

b. Designing the vehicle with a defective driver side front air bag;

c. Selling the vehicle without proper warnings;

d. Choosing to disregard and ignore generally accepted principles of hazard control ("design, guard and warn") as well as its obligation to hold the safety of the public paramount; and

e. Failing to take reasonable steps to inform the Plaintiff that the Honda vehicle was defective.

33. The negligence of Defendant Honda was a proximate cause of Plaintiff's injuries and damages as set forth herein.

VI.

Breach of Warranty of Honda

34. Defendant Honda, by and through the sale of the Civic, expressly and impliedly warranted that the vehicle was fit for the purposes for which it was intended. Contrary thereto, the Civic proved not to be fit for its intended use in the event of an air bag deployment, rendering the vehicle unreasonably dangerous.

35. Honda breached the express and implied warranties by the failure of the Civic's driver side front air bag to perform properly and safely in the collision in question and the improper marketing with regard to Honda's failure to warn subject to the known dangerous defects in the Civic as set forth herein.

36. Defendant Honda's breaches of warranty and the defects set forth herein rendered the product unreasonably dangerous and were a proximate cause and a producing cause of Plaintiff's injuries and damages as set forth herein.

37. Further, Honda's conduct was done knowingly.

VII.

Negligence of Gunn GP, L.L.C.

38. Defendant Gunn GP, L.L.C. undertook to perform service, maintenance and inspection services on the Civic.

39. Defendant Gunn GP, L.L.C. was independently negligent in the maintenance and inspection services it provided as performed on the Civic in that it failed to discover that the vehicle had the original and defective air bag and failed to perform the replacement of the driver side front air bag inflator pursuant to recalls issued by Honda.

40. Defendant Gunn GP, L.L.C. was negligent in failing to inform Plaintiff of the defect and of the fact that recalls had not been performed.

41. Defendant Gunn GP, L.L.C. undertook services to inspect the Civic before it sold the vehicle to Plaintiff and knew, or should have known, that such services were necessary to protect Stephanie Erdman. Defendant Gunn GP, L.L.C. failed to exercise reasonable care in performing such services. Plaintiff relied on Defendant Gunn GP, L.L.C.'s performance of the services it undertook prior to purchasing the Civic from Gunn GP, L.L.C. Defendant Gunn GP, L.L.C.'s negligent undertaking of such services was a proximate cause of Plaintiff's injuries and damages as set forth herein.

42. Defendant Gunn GP, L.L.C. undertook services to inspect, service and performance maintenance on the Civic when Plaintiff brought into the dealership on several occasions. Gunn GP, L.L.C. advertised the quality of its inspection and maintenance services and knew, or should have known, that reasonable performance of such services were necessary to protect Stephanie Erdman. Defendant Gunn GP, L.L.C. failed to exercise reasonable care in performing such services. Plaintiff relied on Defendant Gunn GP, L.L.C.'s performance of the services it undertook each time she brought the Civic in for inspection, service and maintenance. Defendant Gunn GP, L.L.C.'s negligent undertaking of such inspections, service and maintenance was a proximate cause of Plaintiff's injuries and damages as set forth herein.

43. Plaintiff's claims against Gunn GP, L.L.C. arise out of the negligent conduct of Gunn GP, L.L.C. as specifically claimed herein. Plaintiff's negligence pleading against Gunn GP, L.L.C., is not intended to invoke any strict liability, warranty or other similar claims for

which Gunn GP, L.L.C. could be held liable. Specifically, Plaintiff asserts these negligence claims arise out of Gunn GP, L.L.C.'s independent acts of negligence and the negligent conduct of its employees in negligently inspecting and servicing the Civic with its defective air bag. The claims Plaintiff asserts against Defendant Gunn GP, L.L.C. are solely for losses caused by Gunn GP, L.L.C.'s negligence. Plaintiff's claims against said Defendant are intended to expressly include only those claims for which Gunn GP, L.L.C. is independently liable.

44. The negligence of Defendant Gunn GP, L.L.C. was a proximate cause of Plaintiff's injuries and damages as set forth herein.

DAMAGES

VIII.

45. Because of the actions and conduct of Defendants as set forth above, Stephanie Erdman sustained serious injuries to her face and her right eye.

46. Because of the nature and severity of the injuries sustained, Plaintiff has suffered physical pain and mental anguish, disfigurement and loss of life's enjoyment and, in reasonable probability, will continue to suffer physical pain and mental anguish, disfigurement and loss of life's enjoyment in the future.

47. Additionally, Plaintiff Stephanie Erdman has required medical treatment and will, in reasonable probability, require medical treatment in the future.

48. As a direct and proximate result of the injuries Plaintiff Stephanie Erdman has suffered, she has diminished earning capacity in the past and in reasonable probability will continue to experience a loss of earning capacity in the future. To compensate for this loss, Plaintiff

seeks recovery of loss of past and future earning capacity.

IX.

Reservation of Rights

49. The allegations herein against Defendants American Honda Motor Co., Inc. and Gunn GP, L.L.C. are made acknowledging that this lawsuit is still in its early stages, and investigation and discovery, although undertaken, are continuing.

50. As further investigation and discovery are conducted, additional facts will surely be uncovered that may and probably will necessitate further, additional, and/or different allegations, including the potential of adding additional parties to the case or dismissing parties from the case. The right to do so, under Texas law, is expressly reserved.

X.

Gross Negligence and Malice

51. Plaintiff would show that the conduct of Defendants Honda and Gunn GP, L.L.C. was grossly negligent and constitutes malice as that term is defined in Texas law in that these Defendants' actions were carried out with a flagrant disregard for the rights of others and with actual awareness on Defendants' part that the actions would, and in reasonable probability did, result in great bodily harm. Accordingly, Plaintiff seeks exemplary damages in addition to her compensatory damages.

XI.

Requests for Disclosure

52. Pursuant to Rule 194, Defendants are requested to disclose within the time period set forth in Rule 194.3 the information or material described in Rule 194.2(a) - 194.2(l).

XII.

Pre-Judgment Interest

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

XIII.

Jury Demand

54. Plaintiff hereby demands a trial by jury.

PRAYER

WHEREFORE, Plaintiff prays that Defendants be cited to appear and answer herein, and that upon final trial Plaintiff recover damages as specified above from the Defendants, both jointly and severally, plus costs of court, pre-judgment and post-judgment interest at the legal rate, attorneys' fees and expenses, and have such other and further relief, general and special, at law and in equity, to which Plaintiff may show herself justly entitled.

Respectfully submitted,

THE AMMONS LAW FIRM, L.L.P.

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3700 Montrose Boulevard
Houston, Texas 77006
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ATTORNEY FOR PLAINTIFF

CIVIL CASE INFORMATION SHEET (REV. 2/13)

CAUSE NUMBER *(FOR CLERK USE ONLY)*: _____ COURT *(FOR CLERK USE ONLY)*: _____

STYLED Stephanie Erdman vs. American Honda Motor Co., Inc., and Gunn GP, L.L.C.

(e.g., John Smith v. All American Insurance Co; In re Mary Ann Jones; In the Matter of the Estate of George Jackson)

A civil case information sheet must be completed and submitted when an original petition or application is filed to initiate a new civil, family law, probate, or mental health case or when a post-judgment petition for modification or motion for enforcement is filed in a family law case. The information should be the best available at the time of filing.

1. Contact information for person completing case information sheet:

Name: Robert E. Ammons
Email: terri@ammonslaw.com
Address: 3700 Montrose Blvd.
Telephone: 713-523-1606
City/State/Zip: Houston, TX 77006
Fax: 713-523-4159
Signature:
State Bar No: 01159820

Names of parties in case:

Plaintiff(s)/Petitioner(s): Stephanie Erdman

Defendant(s)/Respondent(s): American Honda Motor Co., Inc., and Gunn GP, L.L.C.

[Attach additional page as necessary to list all parties]

Person or entity completing sheet is:

- [x] Attorney for Plaintiff/Petitioner
- [ ] *Pro Se* Plaintiff/Petitioner
- [ ] Title IV-D Agency
- [ ] Other: _____

Additional Parties in Child Support Case:

Custodial Parent: _____

Non-Custodial Parent: _____

Presumed Father: _____

2. Indicate case type, or identify the most important issue in the case *(select only 1)*:

Civil

Contract

Debt/Contract
- [ ] Consumer/DTPA
- [ ] Debt/Contract
- [ ] Fraud/Misrepresentation
- [ ] Other Debt/Contract: _____

Foreclosure
- [ ] Home Equity—Expedited
- [ ] Other Foreclosure
- [ ] Franchise
- [ ] Insurance
- [ ] Landlord/Tenant
- [ ] Non-Competition
- [ ] Partnership
- [ ] Other Contract: _____

Injury or Damage
- [ ] Assault/Battery
- [ ] Construction
- [ ] Defamation

Malpractice
- [ ] Accounting
- [ ] Legal
- [ ] Medical
- [ ] Other Professional Liability: _____
- [ ] Motor Vehicle Accident
- [ ] Premises

Product Liability
- [ ] Asbestos/Silica
- [x] Other Product Liability
  List Product: vehicle
- [ ] Other Injury or Damage: _____

Real Property
- [ ] Eminent Domain/ Condemnation
- [ ] Partition
- [ ] Quiet Title
- [ ] Trespass to Try Title
- [ ] Other Property: _____

Related to Criminal Matters
- [ ] Expunction
- [ ] Judgment Nisi
- [ ] Non-Disclosure
- [ ] Seizure/Forfeiture
- [ ] Writ of Habeas Corpus—Pre-indictment
- [ ] Other: _____

Employment
- [ ] Discrimination
- [ ] Retaliation
- [ ] Termination
- [ ] Workers' Compensation
- [ ] Other Employment: _____

Other Civil
- [ ] Administrative Appeal
- [ ] Antitrust/Unfair Competition
- [ ] Code Violations
- [ ] Foreign Judgment
- [ ] Intellectual Property
- [ ] Lawyer Discipline
- [ ] Perpetuate Testimony
- [ ] Securities/Stock
- [ ] Tortious Interference
- [ ] Other: _____

Tax
- [ ] Tax Appraisal
- [ ] Tax Delinquency
- [ ] Other Tax

Family Law

Marriage Relationship
- [ ] Annulment
- [ ] Declare Marriage Void

Divorce
- [ ] With Children
- [ ] No Children

Post-judgment Actions (non-Title IV-D)
- [ ] Enforcement
- [ ] Modification—Custody
- [ ] Modification—Other

Title IV-D
- [ ] Enforcement/Modification
- [ ] Paternity
- [ ] Reciprocals (UIFSA)
- [ ] Support Order

Other Family Law
- [ ] Enforce Foreign Judgment
- [ ] Habeas Corpus
- [ ] Name Change
- [ ] Protective Order
- [ ] Removal of Disabilities of Minority
- [ ] Other: _____

Parent-Child Relationship
- [ ] Adoption/Adoption with Termination
- [ ] Child Protection
- [ ] Child Support
- [ ] Custody or Visitation
- [ ] Gestational Parenting
- [ ] Grandparent Access
- [ ] Parentage/Paternity
- [ ] Termination of Parental Rights
- [ ] Other Parent-Child: _____

Probate & Mental Health

Probate/Wills/Intestate Administration
- [ ] Dependent Administration
- [ ] Independent Administration
- [ ] Other Estate Proceedings
- [ ] Guardianship—Adult
- [ ] Guardianship—Minor
- [ ] Mental Health
- [ ] Other: _____

3. Indicate procedure or remedy, if applicable *(may select more than 1)*:

- [ ] Appeal from Municipal or Justice Court
- [ ] Arbitration-related
- [ ] Attachment
- [ ] Bill of Review
- [ ] Certiorari
- [ ] Class Action
- [ ] Declaratory Judgment
- [ ] Garnishment
- [ ] Interpleader
- [ ] License
- [ ] Mandamus
- [ ] Post-judgment
- [ ] Prejudgment Remedy
- [ ] Protective Order
- [ ] Receiver
- [ ] Sequestration
- [ ] Temporary Restraining Order/Injunction
- [ ] Turnover

4. Indicate damages sought (*do not select if it is a family law case*):

- [ ] Less than $100,000, including damages of any kind, penalties, costs, expenses, pre-judgment interest, and attorney fees
- [ ] Less than $100,000 and non-monetary relief
- [ ] Over $100, 000 but not more than $200,000
- [ ] Over $200,000 but not more than $1,000,000
- [x] Over $1,000,000