

CAUSE NO. _____

TIFFANY ADAMS,

Plaintiff,

v.

GENERAL MOTORS LLC; GENERAL
MOTORS HOLDING, LLC; DELPHI
AUTOMOTIVE PLC; DPH-DAS LLC f/k/a
DELPHI AUTOMOTIVE SYSTEMS, LLC;
and HOUSTON MAC HAIK AUTOMOTIVE
LLC d/b/a HOUSTON DIRECT PRE-
OWNED,

Defendants.

In the District Court of

Harris County, Texas

_____ Judicial District

PLAINTIFF'S ORIGINAL PETITION AND JURY DEMAND

COMES NOW Plaintiff TIFFANY ADAMS and files this Original Petition and Jury Demand complaining of Defendants GENERAL MOTORS LLC, GENERAL MOTORS HOLDING, LLC, DELPHI AUTOMOTIVE PLC, DPH-DAS LLC F/K/A DELPHI AUTOMOTIVE SYSTEMS, LLC, and MAC HAIK AUTOMOTIVE LLC d/b/a HOUSTON DIRECT PRE-OWNED, and would respectfully show as follows:

I. DISCOVERY PLAN

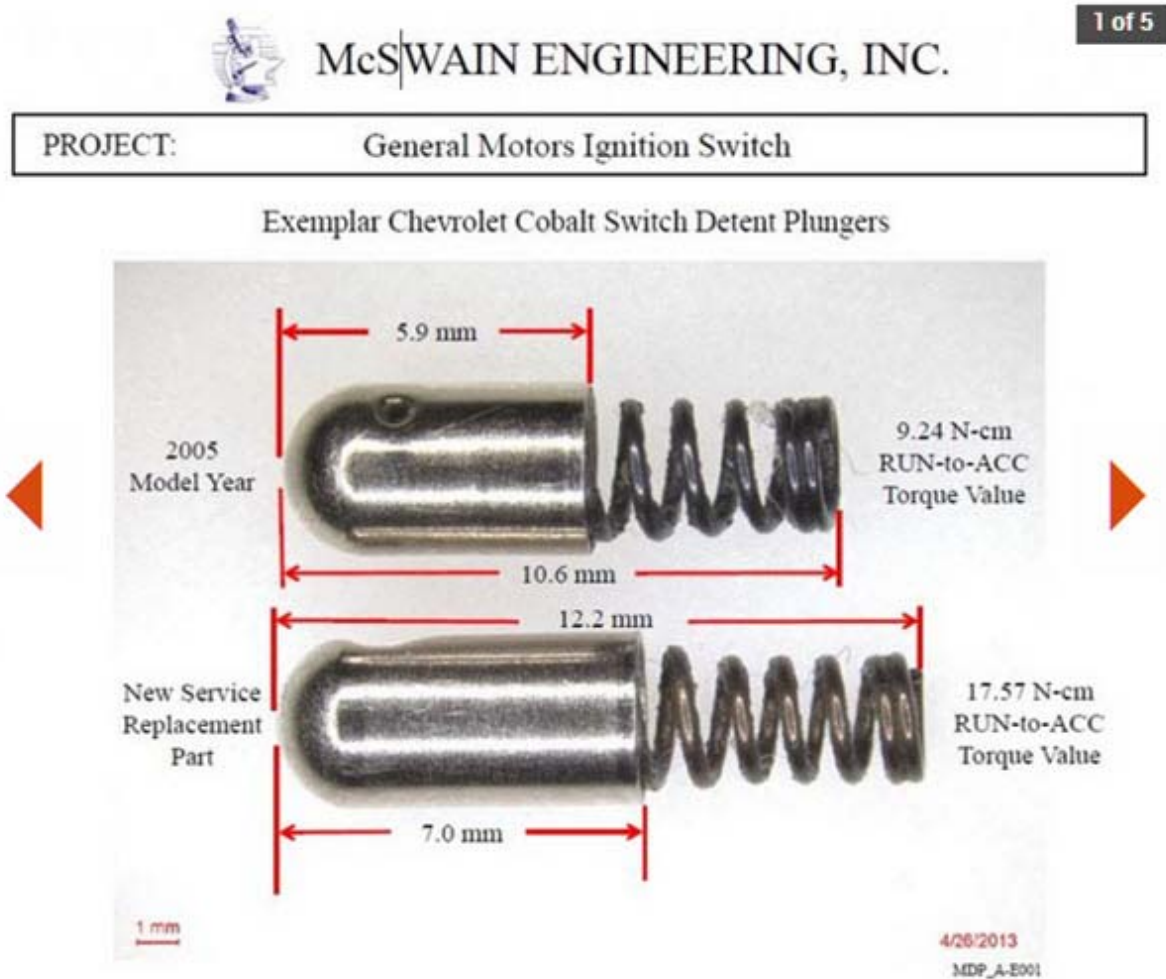
1. Plaintiff requests that this lawsuit be governed by Discovery Plan Level 3 pursuant to Rule 190.4 of the Texas Rules of Civil Procedure.

II. PARTIES

2. Plaintiff TIFFANY ADAMS is an individual adult resident of the State of Texas. At the time of the subject automobile collision on December 23, 2013, just two days before Christmas, Tiffany was a 30-year-old graduate of Sam Houston State University. On that day, at 12:38 in the afternoon, Tiffany was driving a General Motors vehicle (2007 Pontiac Solstice)

which was subsequently recalled in March 2014 (around two months after the crash) for the now infamous Ignition Switch Defect. Due to the severity of the crash, Tiffany lost both of her legs and broke her neck in the collision. She is now being cared for by her parents in Lufkin, Texas. General Motors mailed a recall notice to Tiffany in March 2014. See *Exhibit A*, attached hereto.

3. The Ignition Switch at issue is a simple and inexpensive part, as can be seen in the photographs and measurements from McSwain Engineering, Inc., below:



The top component is the switch detent plunger of a 2005 Chevrolet Cobalt, which is one of the seven GM models that have been recalled over problems with the vehicles' ignition switches. The bottom image is the same component in new service replacement part. It's longer in order to produce more tension. The weak tension of the shorter spring is believed to be the reason why ignition keys in the cars would easily switch from the on position to the accessory position if jostled. Courtesy of McSwain Engineering

4. Defendant HOUSTON MAC HAIK AUTOMOTIVE, LLC d/b/a HOUSTON DIRECT PRE-OWNED, is a Texas corporation with a principal place of business in Harris County, Texas, c/o Mac Haik, 12111 Katy Freeway, Suite 1500, Houston, TX 77079. Defendant MAC HAIK AUTOMOTIVE LLC d/b/a HOUSTON DIRECT PRE-OWNED is a used car and truck dealer located at 12111 Katy Freeway, Houston, TX 77079, and is in the business of selling and leasing vehicles designed and manufactured by the General Motors entities described herein, including the 2007 Pontiac Solstice that Plaintiff TIFFANY ADAMS drove at the time of the December 23, 2013 incident that resulted in the bilateral amputation of her legs, as discussed in this Petition.

5. Defendant GENERAL MOTORS LLC is a Delaware corporation with its headquarters in Detroit, Michigan. GENERAL MOTORS LLC does business in the State of Texas with its principal office located at Corporation Service Company d/b/a CSC-Lawyers Inco, 211 E. 7th Street, Suite 620, Austin, TX 78701. GENERAL MOTORS LLC is the successor in interest to General Motors Corporation.

6. General Motors Corporation was a Delaware corporation with its headquarters in Detroit, Michigan. The Corporation, through its various entities, designed, manufactured, marketed, distributed and sold Pontiac, Saturn, Chevrolet and other brand automobiles in Texas and multiple other locations in the United States and worldwide.

7. In 2009, General Motors Corporation filed for bankruptcy, and substantially all of its assets were sold pursuant to a Master Sales and Purchase Agreement (“Agreement”) to Defendant GENERAL MOTORS LLC (“GM”).

8. Under the Agreement, Defendant GENERAL MOTORS LLC also expressly assumed certain liabilities of General Motors Corporation, including certain statutory requirements:

From and after the Closing, Purchaser [GM] shall comply with the certification, reporting and recall requirements of the National Traffic and Motor Vehicle Safety 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 Seller.

In addition, General Motors LLC expressly set forth that it:

shall be responsible for the administration, management and payment of all Liabilities arising under (i) express written warranties of Sellers [General Motors Corporation] 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 Sellers or Purchaser prior to or after the Closing and (ii) Lemon Laws.

9. At all times relevant herein, General Motors Corporation and its successor in interest GENERAL MOTORS LLC were engaged in the business of designing, manufacturing, constructing, assembling, marketing, warranting, distributing, selling, leasing, and servicing automobiles, including the Subject Vehicle, as described in this Petition, and other motor vehicles and motor vehicle components throughout the United States.

10. Defendant GENERAL MOTORS HOLDING, LLC (“GM”) is a Delaware corporation, and is a holding company and direct parent of GENERAL MOTORS LLC. GENERAL MOTORS HOLDING, LLC does business in the State of Texas, and can be served via its Registered Agent at Corporation Service Company, 2711 Centerville Road, Suite 400, Wilmington, DE 19808. GENERAL MOTORS HOLDING, LLC has sufficient contacts with

Texas, such that under the Texas Long-Arm Statute, Section 17.044 *et seq.* of the Texas Civil Practice and Remedies Code, it is subject to the jurisdiction of this court.

11. Defendant DELPHI AUTOMOTIVE PLC (“Delphi”) is a headquartered in Gillingham, Kent, United Kingdom, and is the parent company of Delphi Automotive Systems LLC, which is headquartered in Troy, Michigan. Delphi does business in the State of Texas, and can be served via its Registered Agent at The Corporation Trust Company, Corporation Trust Center, 1209 Orange Street, Wilmington, DE 19801. Delphi has sufficient contacts with Texas, such that under the Texas Long-Arm Statute, Section 17.044 *et seq.* of the Texas Civil Practice and Remedies Code, it is subject to the jurisdiction of this court.

12. DPH-DAS LLC f/k/a DELPHI AUTOMOTIVE SYSTEMS, LLC (“Delphi”) is a corporation with its headquarters in Troy, Michigan. DPH-DAS LLC f/k/a DELPHI AUTOMOTIVE SYSTEMS, LLC does business in the State of Texas, with its principal office located at CT Corporation System, 350 N. St. Paul Street, Suite 2900, Dallas, TX 75201.

13. Delphi began as a wholly-owned subsidiary of General Motors Corporation, until it was launched as an independent publicly-held corporation in 1999.

14. In 2005, Delphi declared Chapter 11 bankruptcy. After emerging from bankruptcy in 2009, GM purchased certain Delphi assets, including Delphi’s steering assets, and four Delphi plants to assist with its post-bankruptcy restructuring. In 2011, GM finally ended its ownership interest in Delphi by selling back the assets.

15. At all times relevant herein, Delphi, through its various entities, designed, manufactured, and supplied GM with motor vehicle components, including the subject ignition switches.

16. Defendants GENERAL MOTORS LLC, GENERAL MOTORS HOLDING, LLC, DELPHI AUTOMOTIVE PLC, DPH-DAS LLC F/K/A DELPHI AUTOMOTIVE SYSTEMS, LLC, and HOUSTON MAC HAIK AUTOMOTIVE LLC d/b/a HOUSTON DIRECT PRE-OWNED are hereinafter collectively referred to in this Petition as “Defendants.”

III. VENUE AND JURISDICTION

17. This Court has jurisdiction over the parties and controversies involved in this litigation because each Defendant maintained sufficient minimum contacts with the State of Texas such that the exercise of jurisdiction over such Defendants would not offend traditional notions of fair play and substantial justice; and because the amount in controversy in Plaintiff’s claim is within the jurisdictional limits of this Court.

18. Venue is proper in Harris County, Texas, because a substantial part of the events or omissions that gave rise to the claims occurred within that county. Furthermore, Plaintiff’s 2007 Pontiac Solstice was purchased from Defendant HOUSTON MAC HAIK AUTOMOTIVE LLC d/b/a HOUSTON DIRECT PRE-OWNED, which is located in Houston, Harris County.

19. Plaintiff sues for an amount within the jurisdictional limits of this court.

IV. STATEMENT OF FACTS

A. Background

20. As used in this Petition, the “Subject Vehicles” refers to the GM vehicles sold in the United States equipped at the time of sale with ignition switches (the “Ignition Switches”) sharing a common, uniform, and defective design, including the following makes and model years:

- 2005-2010 Chevrolet Cobalt
- 2006-2011 Chevrolet HHR
- 2006-2010 Pontiac Solstice

- 2003-2007 Saturn Ion
- 2007-2010 Saturn Sky
- 2005-2010 Pontiac G5

Plaintiff's 2007 Pontiac Solstice (the "Subject Vehicle") falls within this line of Subject Vehicles as discussed in this Petition.

21. An estimated 2.6 million vehicles were sold in the United States equipped with the Ignition Switches. Upon information and belief, there are other vehicles sold in the United States equipped with the Ignition Switches that have not yet been disclosed by GM.

22. The Ignition Switches in the Subject Vehicles turn on the vehicle's motor engine and main electrical systems when the key is turned to the "run" or "on" position. The Ignition Switches have several common switch points, including "RUN" (or "ON"), "OFF," and "ACC" ("accessory"). At the "run" position, the vehicle's motor engine is running and the electrical systems have been activated; at the "accessories" position the motor is turned off, and electrical power is generally only supplied to the vehicle's entertainment system; and at the "off" position, both the vehicle's engine and electrical systems are turned off. In most vehicles, a driver must intentionally turn the key in the ignition to move to these various positions.

23. GM began installing the Delphi-manufactured Ignition Switches beginning in 2002 vehicle models. Upon information and belief, Delphi knew the Ignition Switches were defectively designed, but nonetheless continued to manufacture and sell the Subject Ignition Switches with the knowledge that they would be used in GM vehicles, including the Subject Vehicles.

24. Because of defects in their design, the Ignition Switches installed in the Subject Vehicles are, by their nature, loose and improperly positioned and are susceptible to failure

during normal and expected conditions. The ignition module is located in a position in the vehicle that allows a driver to contact the key ring, and inadvertently switch the ignition position. Due to faulty design and improper positioning, the Ignition Switches can unexpectedly and suddenly move from the “on” or “run” position while the vehicle is in operation to the “Off” or “Acc” position (the “Ignition Switch Defect”). When this ignition switch failure occurs, the motor engine and certain electrical components such as power-assisted steering and anti-lock brakes are turned off, thereby endangering the vehicle occupants and compromising the safety airbag system.

25. The Ignition Switch Defect can occur at any time during normal and proper operation of the Subject Vehicles, meaning the ignition can suddenly switch off while it is moving at 70 mph on the freeway, leaving the driver unable to control the vehicle, and vulnerable to a nonfunctioning safety airbag system.

26. GM has acknowledged that the Ignition Switch Defect has caused at least thirteen deaths. GM has refused, however, to disclose the identities of those it counts among these thirteen deaths. Independent safety regulators have recorded 303 deaths associated with only the Saturn Ion and Chevrolet Cobalt Subject Vehicle models. The actual number of deaths for all Subject Vehicle models is expected to be much higher.

27. The Ignition Switch Defect precludes drivers and owners of the Subject Vehicles, such as Plaintiff TIFFANY ADAMS, from proper and safe use of their vehicles, reduces vehicle occupant protection, and endangers them and other vehicle occupants. However, no driver or owner of the Subject Vehicles, including Plaintiff TIFFANY ADAMS, knew, or could reasonably have discovered, the Ignition Switch Defect, prior to it manifesting in a sudden and dangerous failure.

28. Upon information and belief, prior to the sale of the Subject Vehicles, GM knew of the Ignition Switch Defect through sources such as pre-release design, manufacturing, and field testing data; in-warranty repair data; early consumer complaints made directly to GM, collected by the National Highway Transportation Safety Administration's Office of Defect Investigation ("NHTSA ODI") and/or posted on public online vehicle owner forums; field testing done in response to those complaints; aggregate data from GM dealers; and accident data, yet despite this knowledge, GM failed to disclose and actively concealed the Ignition Switch Defect from Plaintiff TIFFANY ADAMS and the public, and continued to market and advertise the Subject Vehicles as reliable and safe vehicles, which they are not.

29. As a result of GM's alleged misconduct, Plaintiff TIFFANY ADAMS was harmed and suffered actual damages and personal injuries, in that the Subject Vehicles are unsafe, unfit for their ordinary and intended use, and have manifested, or are at unreasonable risk of manifesting, the Ignition Switch Defect by way of a sudden and dangerous failure that puts them and others at serious risk of injury or death. Drivers and owners of the Subject Vehicles, including Plaintiff TIFFANY ADAMS, did not receive the benefit of their bargain as purchasers and/or lessees, received vehicles that were of a lesser standard, grade, and quality than represented, and did not receive vehicles that met ordinary and reasonable consumer expectations. Drivers and owners of the Subject Vehicles, including Plaintiff TIFFANY ADAMS, did not receive vehicles that would reliably operate with reasonable safety, and that would not place drivers and occupants in danger of encountering an ongoing and undisclosed risk of harm, which could have been avoided, as GM knew but did not disclose, through the use of non-defective ignition parts.

i. The Subject Vehicles

30. The Saturn Ion was a compact car first introduced in 2002 for the 2003 model year, and was discontinued in 2007.

31. The Chevrolet Cobalt was a compact car first introduced in 2004 for the 2005 model year, and was discontinued in 2010.

32. The Pontiac G5 was first introduced in 2004 for the 2005 model year, and was discontinued in 2009. The coupe and four-door sedan version of the G5 was marketed in Canada from 2005 to 2010.

33. The Chevrolet HHR was a compact car first introduced in 2005 for the 2006 model year, and was discontinued in 2011.

34. The Pontiac Solstice was a sports car first introduced in 2005 for the 2006 model year, and was discontinued in 2009. This is the vehicle that was driven by Plaintiff TIFFANY ADAMS at the time of the subject crash.

35. The Saturn Sky was first introduced in 2006 for the 2007 model year, and was discontinued in 2009.

36. The Saturn Ion, Pontiac G5, Chevrolet HHR, and Chevrolet Cobalt were constructed on GM's Delta Platform.

37. The Saturn Sky and Pontiac Solstice were constructed on GM's Kappa Platform.

38. Upon information and belief, GM promoted these Subject Vehicles as safe and reliable in numerous marketing and advertising materials.

39. No reasonable consumer expects that the vehicle that he or she purchases or leases contains a known but undisclosed design defect that poses a safety risk at the time of purchase or lease.

ii. **GM Field Reports and Internal Testing Reveal a Problem**

40. In 2001, during pre-production of the 2003 Saturn Ion, GM engineers learned that the ignition switch could unintentionally move from the “run” position to the “accessory” or “off” position. In an internal report generated at the time, GM identified the cause of the problem as “low detent plunger force.” The “detent” is part of the ignition switch’s inner workings that keeps the switch from rotating from one setting to another unless the driver turns the key. The report stated that than an “ignition switch design change” was believed to have resolved the problem.

41. In 2003, a second report documented an incident with a Saturn Ion where “a service technician observed a stall while driving.” There the technician noted that the owner had several keys on the key ring and surmised that the “weight of the keys had worn out the ignition switch” and replaced the switch and closed the matter.

42. GM engineers encountered the problem again in 2004 just prior to the launch of the 2005 Chevrolet Cobalt. GM learned of an incident in which a Cobalt vehicle suddenly switched out of the “run” position and lost engine power. GM engineers were able to replicate this problem during test drives of the Cobalt. According to GM, an engineering inquiry known as a Problem Resolution Tracking System (“PRTS”) was able to pinpoint the problem and evaluate a number of solutions; however, after considering “lead time required, cost, and effectiveness,” GM decided to do nothing.

43. After the Chevrolet Cobalt entered the market in 2004, GM began receiving complaints about incidents of sudden loss of engine power. GM engineers determined that the low torque in the ignition switch could cause the key to move from the “run” to the “accessory” or “off” position under ordinary driving conditions with normal key chains because “detent efforts on ignition switch are too low, allowing key to be cycled to off position inadvertently.”

Specifically, in February 2005, GM engineers concluded that “there are two main reasons that we believe can cause a lower effort in turning the key: a lower torque detent in the ignition switch . . . [and a] low position of the lock module [on] the [steering] column.”

44. Additional PRTS’s were opened to investigate the problem, and in May 2005, GM engineers proposed redesigning the key head from a “slotted” to a “hole” configuration to prevent inadvertent shifting of the key in the ignition. Although GM initially approved the design, the company once again declined to act.

45. GM CEO Mary Barra explained in her April 1, 2014 testimony before the House Committee on Energy and Commerce that the proposed “fix” for the Ignition Switch Defect was rejected in 2005 because it would have taken too long and cost too much. Ms. Barra testified that GM’s decision making was the product of a “cost culture” versus a “culture that focuses on safety and quality.”

46. In April 2006, GM approved a design change for the Chevrolet Cobalt’s ignition switch, as proposed by the supplier, Delphi. According to GM, the changes included a new detent plunger and spring, but there was no corresponding change in the ignition switch part number. GM estimates that Delphi began producing the redesigned ignition switch for all Subject Vehicles during the 2007 model year.

47. Delphi assigned its newly designed switch the same part number assigned to the faulty ignition switch. Upon information and belief, Delphi’s action was intended to make it difficult to trace the defective switch back to its original design in 2001.

48. After another PRTS in 2009, GM redesigned the Chevrolet Cobalt key, changing the top of the key from a “slot” design to a “hole” design—as had been suggested in 2005. GM instituted the change after finding that consumers “with substantially weighted key

chains/additional keys hanging from ignition key have experienced accidental ignition shut-off” and the design change was intended to “significantly reduce downward force and the likelihood of this occurrence.” The new key design was produced for 2010 model year.

49. According to Delphi, the component required to fix the Ignition Switch Defect costs approximately \$2 to \$5. GM management estimated that replacement components would cost an additional 90 cents per vehicle, but would only save 10 to 15 cents in warranty costs.

50. GM also now acknowledges that Field Product Reports and PRTS reports related to the Subject Vehicles from 2003 and 2006 concerned engine stalling in the Saturn Ion and may be related to the Ignition Switch Defect.

iii. GM Issues Information Service Bulletins

51. In 2005, as a result of internal investigation, GM issued an Information Service Bulletin entitled the “Information on Inadvertent Turning of Key Cylinder, Loss of Electrical System and No DTCs” (#05-02-35-007) to GM dealers warning about a stalling problem related to inadvertent shifting of the ignition switch. The bulletin applied to 2005 and 2006 Chevrolet Cobalt, 2006 Chevrolet HHR, 2005 and 2006 Pontiac Pursuit (Canada only), 2006 Pontiac Solstice, and 2003 to 2006 Saturn Ion, which all had the same ignition switch.

52. The bulletin advised that “[t]here is potential for the driver to inadvertently turn off the ignition due to low ignition key cylinder torque/effort,” noting that risk was greater “if the driver is short and has a large and/or heavy key chain” such that “the driver’s knee would contact the key chain while the vehicle was turning.” GM dealers were told to inform consumers of this risk, and recommend “removing unessential items from their key chain.” The bulletin also informed dealers that GM had developed an insert for the key ring so that “the key ring cannot move up and down in the slot any longer – it can only rotate on the hole” and that the key ring

has been replaced by a smaller design such that “the keys [will] not hang[] as low as in the past.”

53. On July 19, 2005, the New York Times reported that Chevrolet dealers were telling Cobalt owners to remove extra items from their key rings to prevent accidental stalling of their vehicles. Alan Adler, GM’s Manager for Safety Communications, stated that the problem manifested in only “rare cases when a combination of factors is present.” Adler advised that consumers “can virtually eliminate this possibility by taking several steps, including removing nonessential material from their key rings.”

54. The Times reporter noted that his wife had already encountered the problem with the Chevrolet Cobalt: she was driving on a freeway, accidentally bumped the steering column with her knee, and found the engine “just went dead.” She was able to safely coast to the side of the road. When the vehicle was brought back to the Chevrolet dealer for an inspection, nothing was found wrong and they were advised of the service bulletin. The reporter stated that the key chain being used at the time of the stalling incident was provided by GM, and included only the key fob and a tag.

55. GM, in a statement at the time through Adler, insisted that this problem was not a safety issue because “[w]hen this happens, the Cobalt is still controllable” and the “engine can be restarted after shifting to neutral.” Adler also claimed that this ignition issue was widespread because “practically any vehicle can have power to a running engine cut off by inadvertently bumping the ignition”

56. In October 2006, GM updated the Information Service Bulletin, “Information on Inadvertent Turning of Key Cylinder, Loss of Electrical System and No DTCs” (#05-02-35-007A) to include additional vehicles and model years. Specifically, GM included the 2007

Chevrolet Cobalt, the 2007 Chevrolet HHR, the 2007 Pontiac G5, the 2007 Pontiac Solstice, the 2007 Saturn Ion, and the 2007 Saturn Sky. The updated bulletin included the same service advisories to GM dealers as the earlier version.

57. According to GM, the service bulletin was the appropriate response “given that the car’s steering and braking systems remained operational even after a loss of engine power.” GM reports that GM dealers provided 474 key inserts to GM vehicle owners who brought their vehicles in for servicing.

iv. Reports of Unintended Engine Shut Down

58. A number of reports from warranty and technical assistance data beginning in 2003, “addressed complaints of stalling Ion vehicles.” Despite these reports, the Saturn Ion remained in production until 2007.

59. On May 26, 2005, a reporter for The Daily Item in Sunbury, Pennsylvania reviewed the Chevrolet Cobalt and found that during his test drives of the vehicle there were “[u]nplanned engine shutdowns [that] happened four times during a hard-driving test week” with the vehicle.

v. Crash Reports and Data

60. The Defendants knew of the Ignition Switch Defect and its deadly consequences for consumers, but concealed that information from safety regulators and the public.

61. National Highway Traffic Safety Administration (NHTSA) data shows that there were three fatal car crashes involving Saturn Ions due to a failure of the airbag to deploy prior to July 2005.

62. In July 2005, a sixteen-year old was killed when her 2005 Chevrolet Cobalt crashed with the ignition switch in the accessory mode, which disabled the airbag.

63. In 2006, there were at least two fatalities associated with a Chevy Cobalt crash. Information from the car's data recorder indicated that the ignition switch was in "accessory" instead of run, and the front airbags failed to deploy.

64. In 2007, GM reviewed available sensor data from nine front-impact Cobalt crashes where the airbags did not deploy. GM discovered that in four of the crashes, the ignition was in the "accessory position." Crash information for the other Subject Vehicles was not reviewed.

65. In 2007, NHTSA's early warning division reviewed available data provided by GM on airbag non-deployments in Chevrolet Cobalt vehicles. This review identified 43 incidents in which airbags may not have deployed in a crash. The early warning division referred the case to NHTSA's data analysis division for further screening. A defects panel was convened, but after reviewing the data and consulting with GM, the panel ultimately concluded that "[t]he data available at the time of this evaluation did not indicate a safety defect or defect trend that would warrant the agency opening a formal investigation." In prepared remarks delivered April 1, 2014, to the Committee on Energy and Commerce, NHTSA Acting Administrator David Friedman stated, "At the time of these reviews, NHTSA did not have the information that GM has since provided—for instance, new evidence linking airbag non-deployment to faulty ignition switches."

66. GM has identified 23 frontal-impact crashes in the United States involving 2005 to 2007 Chevrolet Cobalts and 2007 Pontiac G5s in which the Ignition Switch Defect may have caused or contributed to the failure of the safety airbags to deploy.

67. GM has identified 8 frontal-impact crashes in the United States involving 2003 to 2007 Saturn Ion vehicles in which the Ignition Switch Defect may have caused or contributed to

the failure of the safety airbags to deploy. These crashes resulted in four fatalities and six injuries to occupants.

68. GM has identified 3 frontal-impact crashes in the United States involving 2006 and 2007 model year Chevrolet HHR vehicles in which the Ignition Switch Defect may have caused or contributed to the failure of the safety airbags to deploy. These crashes resulted in three injuries to occupants.

vi. **GM's Belated Repair Recall of Some Vehicles**

69. On February 7, 2014, GM filed a Part 573 Defect Notice with the NHTSA to recall 2005 to 2007 model year Chevrolet Cobalt and 2007 Pontiac G5 vehicles. The notice stated that the "ignition switch torque performance may not meet General Motors' specifications," explaining that if "the key ring is carrying weight or the vehicle goes off road or experiences some other jarring event, the ignition switch may inadvertently be moved out of the 'run' position" and may result in deactivating the airbags. The notice did not acknowledge that the Ignition Switch Defect could occur under normal driving conditions, even when the key ring is not carrying added weight.

70. The notice also did not identify all the vehicles affected by the Ignition Switch Defect.

71. The notice failed to indicate the full extent to which GM has been aware of the Defect. The notice suggests that GM's knowledge of the defect is recent, stating that "[t]he issue was presented to the Field Performance Evaluation Review Committee and on January 31, 2014, the Executive Field Action Decision Committee decided to conduct a safety recall."

72. In a February 24, 2014 letter to the NHTSA, GM amended the Part 573 Report to include a more detailed chronology. The chronology indicated that GM first learned of the

Ignition Switch Defect during the launch of the 2005 Chevrolet Cobalt from field tests by its engineers.

73. On February 25, 2014, GM amended its Part 573 Report to cover additional models and model years due to the same Ignition Switch Defect. Specifically, GM identified the 2003 to 2007 model years of the Saturn Ion, 2006 and 2007 model years of the Chevrolet HHR, 2007 model year of the Pontiac Solstice, and 2007 model year of Saturn Sky vehicles.

74. According to the NHTSA Acting Administrator David Friedman, the chronology information provided by GM on February 24, 2014 “raise[d] serious questions as to the timeliness of GM’s recall.” Therefore, the NHTSA opened a “timeliness query” on February 26, 2014.

75. On March 4, 2014, the NHTSA issued GM a Special Order demanding that it provide additional information by April 3, 2014, on 107 specific requests, including information to “evaluate the timing of GM’s defect decision making and reporting of the safety defect to NHTSA.”

76. On March 11, 2014, GM filed a new Part 573 report superseding its February 25 filing. The new chronology provided with the report indicated that GM was aware of the Ignition Switch Defect in 2001—significantly earlier than its previous 2004 disclosure. GM now indicated that it had a report from 2001 that revealed a problem with the ignition switch during pre-production of the Saturn Ion.

77. On March 28, 2014, GM filed a new Part 573 report, which expanded the recall set forth in its February 25, 2014 filing. GM’s March 28 report indicated that several additional model year vehicles may be affected by the Ignition Switch Defect. GM identified those vehicles as the 2008-2010 Chevrolet Cobalt, 2008-2011 Chevrolet HHR, 2008-2010 Pontiac

Solstice, 2008-2010 Pontiac G5, and 2008-2010 Saturn Sky. The March 28 report added over one million vehicles to the total affected by the Ignition Switch Defect.

78. GM notified dealers of the Subject Vehicles of the recall in February and March 2014. GM also notified owners of the Subject Vehicles by letter of the recall. The letter minimized the risk of the defect, indicating that the Ignition Switch Defect would occur only “under certain conditions” and emphasized that the risk increased if the “key ring is carrying added weight . . . or your vehicle experiences rough road conditions.”

79. GM has advised the public that the replacement ignition switches “ARE NOT CURRENTLY AVAILABLE.”

B. The Subject December 23, 2013 Incident

80. At or around 12:38 P.M. on December 23, 2013, Plaintiff TIFFANY ADAMS was driving a 2007 Pontiac Solstice, VIN 1G2MB35B67Y142862 (referred to herein as the “Subject Vehicle”), Northbound on U.S. Route 59, in Polk County, Texas. Plaintiff TIFFANY ADAMS was properly wearing her seatbelt, and was driving in daylight with clear weather, and dry surface conditions. Plaintiff’s use of the 2007 Pontiac Solstice to travel on a public roadway was an ordinary and foreseeable use of the product.

81. The 2007 Pontiac Solstice is one of the many Subject Vehicles that contains the Ignition Switch Defect.

82. The 2007 Pontiac Solstice also did not have Electronic Stability Control (ESC), which is an essential safety feature that reduces the risk of loss of vehicle control. Notably, Plaintiff TIFFANY ADAMS’ base model 2007 Solstice did NOT have StabiliTrak (General Motors’ version of ESC) or Antilock Braking System (ABS), however, the 2007 Solstice GXP model did have both StabiliTrak and ABS.

83. Plaintiff TIFFANY ADAMS' vehicle is described as follows: 2007 Pontiac Solstice; Body Type: Convertible w/Manual Transmission; Engine Series: 4-Cylinder, 2.4L; Engine Type: 4-Cylinder, 2.4 Liter, MFI, DOHC, Ecotec; Fuel Type: Gasoline; Texas Tag: BZT0005; VIN: 1G2MB35B67Y142862.

84. To Plaintiff's knowledge and understanding, the Subject Vehicle had not been substantially modified or changed in any material way from its initial condition as designed, manufactured, marketed, and sold by the Defendants, and Plaintiff was unaware of any problems or concerns with the vehicle or its components prior to the incident described herein.

85. At the above-described time and place, Plaintiff was driving the Subject Vehicle Northbound on the left lane of U.S. Route 59 when the vehicle went out of control due to the Ignition Switch Defect, and it struck the rumble strips on the left edge of the roadway. The Subject Vehicle then skidded to the right across both Northbound lanes, and traveled off of the pavement, where it went down a dirt embankment, and ultimately collided with a tree, where it came to a rest.

86. Despite the Subject Vehicle's speed and force at the time of collision with the tree, the Subject Vehicle's airbags did not deploy upon impact with the tree.

87. The Subject Vehicle's failure to deploy airbags upon impact with the tree was caused by the Ignition Switch Defect.

88. The Subject Vehicle's impact with the tree caused severe damage to the vehicle and caused multiple traumatic forces to be applied to Plaintiff's body. These forces could have been mitigated had the airbags deployed in the Subject Vehicle.

89. Plaintiff suffered severe and debilitating personal injuries as a result of the collision and the Subject Vehicle's failure to deploy its airbags. Plaintiff's injuries include a

broken neck, several broken ribs, the amputation of both of her legs, post-traumatic stress, anxiety, and depression, physical and mental pain and suffering, and other compensable damages. Plaintiff is now permanently disfigured from the loss of both of her legs, and she will never be able to resume the normal life she had prior to the December 23, 2013 incident. The severity of Plaintiff's injuries from the December 23, 2013 incident could have been mitigated had the airbags deployed in the Subject Vehicle at the moment of impact.

V. CAUSES OF ACTION (AGAINST ALL DEFENDANTS)

A. STRICT LIABILITY

90. Plaintiff hereby incorporates by reference each and every paragraph set forth in this Petition as if fully copied and set forth at length herein.

91. Defendants designed, manufactured, and/or sold the Subject Vehicles, including Plaintiff's 2007 Pontiac Solstice, with design, manufacturing, and/or marketing defects, more particularly set forth herein.

92. *Marketing Defect and Failure to Warn* – Defendants designed, manufactured, and/or sold the Subject Vehicle, with one or more marketing defects:

- a. There was an unreasonable risk in the intended or reasonably foreseeable use of such automobile in that the above defect prevents the vehicle's airbag from being deployed, causing physical injury and death;
- b. Defendants knew, foresaw, or should have known and foreseen the above risk;
- c. Defendants failed to adequately warn plaintiff of the above risks, failed to adequately instruct plaintiff how to avoid the above danger, or both.

93. *Design Defect* – Defendants designed, manufactured, and/or sold the Subject Vehicle, with one or more design defects, more particularly set forth in the preceding paragraphs in this Petition, including an Ignition Switch Defect that prevented the vehicle's airbag from

deploying in the event of an impact, and a lack of Electronic Stability Control (“ESC”).

Defendants designed the Subject Vehicle and knew of safer alternative designs that existed at the time of production that would have prevented or significantly reduced the above risks without substantially impairing the vehicle’s utility, and was economically and technologically feasible at the time that the Subject Vehicle left Defendants’ control by the application of existing or reasonably achievable scientific knowledge.

94. *Manufacturing Defect* – Defendants designed, manufactured, and/or sold the Subject Vehicle, with one or more manufacturing defects, more particularly set forth above. The Subject Vehicle manufactured by Defendants deviate, in their construction or quality, from the specifications or planned output in a manner that renders the automobiles unreasonably dangerous.

95. *Unreasonably Dangerous* – The manufacturing defects, marketing defects, or both, rendered the Subject Vehicle, unreasonably dangerous by making the automobile dangerous to an extent beyond that which would be contemplated by the ordinary consumer with the knowledge common to the community as to its characteristics.

96. The design defects, or any of them, rendered the Subject Vehicle unreasonably dangerous as designed, considering the utility of the automobile and the risks involved in its use.

97. The design, manufacturing, and/or marketing defects, or any of them, were producing causes of Plaintiff’s injuries and damages, as more particularly set forth above.

98. It was entirely foreseeable to, and well-known by, Defendants that incidents involving its automobiles, such as occurred herein, would on occasion take place during the normal and ordinary use of said automobiles.

99. The Subject Vehicle was defective and unreasonably dangerous in that it contained the Ignition Switch Defect that prevented the vehicle's airbag from deploying upon an impact, and was designed without Electronic Stability Control.

100. The Subject Vehicle was in this defective condition at the time it left the possession or control of Defendants.

101. The Subject Vehicle reached the consumers without substantial change to the condition of the Ignition Switch.

102. Defendants designed, manufactured, marketed, distributed, and sold the Subject Vehicle to be unreasonably dangerous and defective within the meaning of Section 402A Restatement (Second) Torts in that the Subject Vehicle were unreasonably dangerous as designed, marketed, manufactured, or any of them. Specifically, the Subject Vehicle contained an Ignition Switch that was defective, inferior and inadequately designed, marketed and manufactured, and the Subject Vehicle also lacked Electronic Stability Control.

103. The foregoing acts and/or omissions of Defendants were a producing and/or proximate cause of the Plaintiff's damages.

B. NEGLIGENCE

104. Plaintiff hereby incorporates by reference each and every paragraph set forth in this Petition as if fully copied and set forth at length herein.

105. Defendants were negligent in designing, manufacturing, and/or selling the Subject Vehicle, with one or more design defects, more particularly set forth above, including the Ignition Switch Defect that prevented the vehicle's airbag from deploying in the event of an impact, and the lack of Electronic Stability Control ("ESC") that would reduce the risk of loss of vehicle control.

106. Defendants owed Plaintiff a duty to exercise ordinary care in designing, manufacturing, marketing, testing, selling and distributing the automobiles in question; and to discover dangerous propensities of its product. Defendants failed to exercise ordinary care in designing, manufacturing, marketing, testing, selling and distributing the Subject Vehicle and the Subject Vehicles in question.

107. Defendants breached their duties to Plaintiff by designing, manufacturing, marketing, testing, selling and distributing the Subject Vehicle with a latent dangerous defect in the Ignition Switch and lack of Electronic Stability Control and/or by failing to warn of the defects and/or by failing to adopt a safer, practical, feasible or otherwise reasonable alternative design that could have then been reasonably adopted to prevent or substantially reduce the risk of harm without substantially impairing the usefulness, practicality, or desirability of the Subject Vehicle.

C. BREACH OF WARRANTY

108. Plaintiff hereby incorporates by reference each and every paragraph set forth in this Petition as if fully copied and set forth at length herein.

109. When Defendants placed the Subject Vehicle into the stream of commerce, Defendants knew or should have known of the use for which it was intended and expressly and impliedly warranted to Plaintiff that the use of the Subject Vehicle was safe and acceptable.

110. Plaintiff reasonably relied upon the expertise, skill, judgment and knowledge of Defendants and upon the express and/or implied warranty that the Subject Vehicle was of merchantable quality and fit for use as intended.

111. The Subject Vehicle was not of merchantable quality and was not safe or fit for its intended use because it was unreasonably dangerous and unfit for the ordinary purpose for which it is used in that it caused injury to Plaintiff. Defendants breached the warranty because the

Subject Vehicle was unduly dangerous in expected use and did indeed cause undue injury to Plaintiff.

112. As a direct and proximate result of Defendants breach of warranty of merchantability, Plaintiff was seriously and permanently injured.

VI. DAMAGES

113. Plaintiff hereby incorporates by reference each and every paragraph set forth in this Petition as if fully copied and set forth at length herein.

114. Because of Plaintiff's bodily injuries proximately caused by Defendants' conduct, Plaintiff is entitled to reasonable and proper compensation for the following legal damages:

- a. past and future medical expenses and charges;
- b. past and future physical pain and mental anguish;
- c. past and future physical impairment;
- d. past and future disfigurement; and
- e. past lost wages and future lost wage-earning capacity.

115. Plaintiff seeks actual and punitive damages to be awarded by the jury in an amount in excess of the minimum jurisdictional limits of this Court.

VII. GROSS NEGLIGENCE

116. Plaintiff hereby incorporates by reference each and every paragraph set forth in this Petition as if fully copied and set forth at length herein.

117. Plaintiff would further show that the clear and convincing evidence in this case will show that Defendants acted with gross negligence in that when viewed objectively from the standpoint of these Defendants at the time of the occurrence, there was an extreme danger of risk considering the probability and magnitude of potential harm to others, and of which each Defendant had actual, subjective awareness of the risk involved, but nevertheless proceeded with

indifference to the rights, safety, or welfare of others, including the Plaintiff. Therefore, punitive damages are sought and should be assessed against each Defendant.

VIII. REQUEST FOR DISCLOSURES

118. Pursuant to Rule 194 of the Texas Rules of Civil Procedure, Defendants are requested to disclose the information and material described in Rule 194.2 within fifty (50) days of the service of this Plaintiff's Requests for Disclosure to Defendants.

IX. JURY DEMAND

119. Pursuant to Texas Rule of Civil Procedure 216, Plaintiff requests a trial by jury and would show that the appropriate fee is paid contemporaneously with the filing of this Petition.

X. PRAYER

WHEREFORE, PREMISES CONSIDERED, Plaintiff TIFFANY ADAMS respectfully prays that Plaintiff have upon final trial, among other things:

1. Judgment against Defendants for compensatory damages in excess of the minimum jurisdictional limits of the Court;
2. Judgment for punitive damages in excess of the minimum jurisdictional limits of the Court;
3. Pre-judgment interest in accordance with Texas law;
4. Post-judgment interest in accordance with Texas law;
5. Reasonable and necessary attorney's fees;
6. Costs of suit; and
7. Such other and further relief as this Court may deem proper and just.

Dated: April 8, 2014

Respectfully submitted,

THE LANIER LAW FIRM, P.C.

By: /s/ W. Mark Lanier
W. Mark Lanier

W. Mark Lanier
State Bar No.: 11934600
Eugene R. Egdorf
State Bar No.: 06479570
THE LANIER LAW FIRM, P.C.
P.O. Box 691448
6810 FM 1960 West (77069)
Houston, Texas 77269-1448
Telephone: (713) 659-5200
Fax: (713) 659-2204
Direct Fax: (281) 866-6963

Bradley L. Leger
State Bar No.: 24039899
LEGER ADKINS LLP
2323 S. Shepherd Drive, Suite 915
Houston, TX 77019-7028
Telephone: (713) 574-5558
Fax: (713) 574-1894

Elizabeth J. Cabraser (*Pro Hac Vice* Pending)
Todd A. Walburg (*Pro Hac Vice* Pending)
**LIEFF CABRASER HEIMANN &
BERNSTEIN, LLP**
275 Battery Street, 29th Floor
San Francisco, CA 94111-3339
Telephone: (415) 956-1000
Facsimile: (415) 956-1008

Attorneys for the Plaintiff

EXHIBIT A



IMPORTANT SAFETY RECALL

March 2014

Tiffany Adams
13050 Champions Park Dr., Apt. 818
Houston, TX 77069-3254

Dear Tiffany Adams:

This notice is sent to you in accordance with the National Traffic and Motor Vehicle Safety Act.

General Motors has decided that a defect which relates to motor vehicle safety exists in 2005-2007 model year (MY) Chevrolet Colbalt, 2006-2007 MY Chevrolet HHR, 2005-2006 MY Pontiac Pursuit, 2006-2007 MY Pontiac Solstice, 2007 MY Pontiac G5, 2003-2007 MY Saturn Ion, and 2007 MY Saturn Sky vehicles. As a result, GM is conducting a recall. We apologize for this inconvenience. However, we are concerned about your safety and continued satisfaction with our products.

IMPORTANT

- This notice applies to your 2007 model year Pontiac Solstice, VIN 1G2MB35B67Y142862. It is involved in safety recall 14063.
- **Until the recall repairs have been performed, it is very important that you remove all items from your key ring, leaving only the vehicle key. The key fob (if applicable), should also be removed from your key ring.**
- When parts become available, GM will notify you to schedule an appointment with your General Motors dealer.
- The recall repairs will be performed for you at **no charge**.

Why is your vehicle being recalled?

There is a risk, under certain conditions, that your ignition switch may move out of the "run" position, resulting in a partial loss of electrical power and turning off the engine. This risk increases if your key ring is carrying added weight (such as more keys or the key fob) or your vehicle experiences rough road conditions or other jarring or impact related events. If the ignition switch is not in the run position, the air bags may not deploy if the vehicle is involved in a crash, increasing the risk of injury or fatality.

Until the recall repairs have been performed, it is very important that you remove all items from your key ring, leaving only the vehicle key. The key fob (if applicable), should also be removed from your key ring.

What will we do?

PARTS ARE NOT CURRENTLY AVAILABLE, but when parts are available, your General Motors dealer will replace the ignition switch on your vehicle. This service will be performed for you at **no charge**. Because of scheduling



requirements, it is likely that your dealer will need your vehicle longer than the actual service correction time of approximately 40 minutes.

We are working as quickly as possible to obtain parts, and expect to have parts beginning in April of this year. We will contact you as soon as parts are available so that you can schedule an appointment with your dealer to have your vehicle repaired.

What should you do?

When GM notifies you that parts are available, you should contact your General Motors dealer to arrange a service appointment. In the meantime, remove all items other than the vehicle key from your key ring.

Did you already pay for this repair?

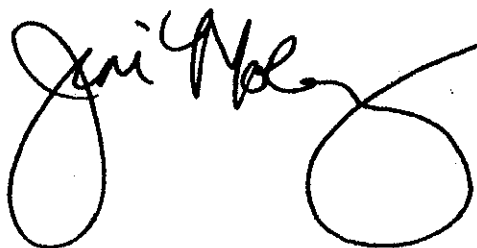
When GM notifies you that parts are available, GM will also provide instructions for you to request reimbursement if you paid for repairs for the recall condition previously.

Do you have questions?

If you have questions or concerns that your dealer is unable to resolve, please contact the Pontiac Customer Assistance Center at 1.800.762.2737 (TTY 1.800.833.7668).

If after contacting your dealer and the Customer Assistance Center, you are still not satisfied we have done our best to remedy this condition without charge and within a reasonable time, you may wish to write the Administrator, National Highway Traffic Safety Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590, or call the toll-free Vehicle Safety Hotline at 1.888.327.4236 (TTY 1.800.424.9153), or go to <http://www.safercar.gov>. The National Highway Traffic Safety Administration Campaign ID Number for this recall is 14V-047.

Federal regulation requires that any vehicle lessor receiving this recall notice must forward a copy of this notice to the lessee within ten days.



Jim Moloney
General Director – Customer & Relationship Services

GM Recall #14063

