

IN THE CIRCUIT COURT OF LINCOLN COUNTY, WEST VIRGINIA

SHARON A. OLDAKER and
EMILY OLDAKER, by her next
Friend, Sharon A. Oldaker,

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CIRCUIT CLERK
LINCOLN CO., W.V.

Plaintiffs,

v.

CA No. 06-C-142

FORD MOTOR COMPANY,
A Delaware corporation, and

BERT WOLFE FORD, INC.,
A West Virginia corporation,

Defendants.

COMPLAINT

For her cause of action in this matter, Plaintiff, by Counsel, states as follows:

I. Jurisdiction and Venue

1. Pursuant to Rule 11 (b)(3), Plaintiff states that the allegations and other factual contentions in the following paragraphs 2 through 10 of this Complaint, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery.

2. This Court has jurisdiction of this claim under W. V. Code § 51-2-2. Venue for this action properly lies in Lincoln County under W. V. Code § 56-1-1 because the cause of action arose there, and because Defendant Bert Wolfe Ford, Inc. actually conducts business in Lincoln County, West Virginia.

II. Parties

3. Sharon A. Oldaker and Emily Oldaker are residents of Lincoln County, West Virginia.

4. Ford Motor Company (hereafter “Ford”) is a Delaware Corporation with its principal place of business in the state of Michigan and is engaged in the manufacture and sale of motor vehicles.

5. Bert Wolfe Ford, Inc. (hereafter “Bert Wolfe”), is a West Virginia corporation with its principal place of business in Kanawha County, and is engaged in the sale of motor vehicles.

III. Statement of Facts

6. On or about January 2, 2005, Plaintiffs were injured while operating a motor vehicle manufactured by Ford and sold to Plaintiff by Bert Wolfe. The motor vehicle accident occurred because of defects in a cable controlling the gas pedal, which defect caused the vehicle to accelerate uncontrollably, and for which defect Ford recalled the vehicle on January 17, 2005. Plaintiffs’ injuries were exacerbated by the failure of the vehicle’s air bags to deploy, contrary to their design.

7. The vehicle manufactured and distributed by Ford, and sold to Plaintiff Sharon A. Oldaker by Bert Wolfe, was defective in that it was not reasonably safe for its intended use, as measured by what a reasonably prudent manufacturer’s standards should have been at the time the product was made. A malfunction occurred in the vehicle that would not ordinarily happen in the absence of a defect, and there was neither abnormal use nor a reasonable secondary cause of the malfunction.

8. The crash in which Plaintiff was injured would not have happened but for the defect in the vehicle manufactured, distributed and sold by Defendants Ford and Bert Wolfe. Plaintiffs' injuries would not have been severe but for the failure of the airbags to deploy, as designed.

9. Under settled principles of West Virginia law, the product defect need not be the only cause of the incident, and the fact that there are or may have been other concurrent causes of the harm as a result of the negligence of others does not preclude liability. *Bennett v. ASCO Services, Inc.*, 621 S.E.2d 710 (2005).

10. Plaintiffs have been injured in a manner and amount to be proved at trial as a proximate result of the Defendants' manufacture, distribution and sale of the negligently manufactured and defective motor vehicle, as recited herein. Plaintiffs are entitled to damages in an amount to be proved at trial. If, under the standards authorizing imposition of punitive damages, the evidence adduced at trial warrants, Plaintiffs will request punitive damages.

IV. Prayer for Relief

WHEREFORE, Plaintiffs respectfully request that this Court:

1. enter a judgment for Plaintiffs for compensatory damages against Defendants, jointly and severally;

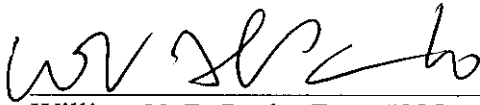
2. award punitive damages against any Defendant, as warranted by the evidence, in an amount to be determined by jury at trial, and

3. award the costs of this action and such other relief as the facts and law require, and the interests of justice demand.

PLAINTIFFS DEMAND A TRIAL BY JURY.

**SHARON A. OLDAKER
EMILY OLDAKER**

By Counsel

A handwritten signature in black ink, appearing to read 'WV DePaulo', written over a horizontal line.

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