

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN

ANA MARIA PIÑA,

Plaintiff,

Case No. 13- - NO

HON.

v.

CHRYSLER GROUP LLC,

Defendant.

COURTNEY E. MORGAN, JR. (P29137)

DEBRA N. POSPIECH (P55277)

Morgan & Meyers, PLC

Attorneys for Plaintiffs

3200 Greenfield, Suite 260

Dearborn, MI 48120

(313) 961-0130

COMPLAINT AND DEMAND FOR JURY TRIAL

NOW COMES the Plaintiff, ANA MARIA PIÑA, by and through her attorneys, MORGAN & MEYERS, PLC, and states as her cause of action against the Defendant, CHRYSLER GROUP LLC, the following:

GENERAL ALLEGATIONS

1. The amount in controversy exceeds SEVENTY-FIVE THOUSAND (\$75,000) DOLLARS, exclusive of interest, costs and attorneys' fees.

2. At all relevant times, Plaintiff, Ana Maria Piña, is a resident of the State of Indiana.

3. At all relevant times, Defendant Chrysler Group LLC ("Chrysler") is a Delaware corporation with its principal place of business in Michigan. Chrysler's headquarters is located in Auburn Hills, MI.

4. At all relevant times, DaimlerChrysler Corporation ("DCC") was and is a Delaware corporation doing business in Michigan.

5. One of the successors in interest to DCC is Chrysler LLC, which has undergone bankruptcy and is not sued here.

6. In the Chrysler LLC bankruptcy proceedings, a "New Chrysler" company was formed called "Chrysler Group LLC," which thereafter purchased or otherwise acquired all the substantial tangible and intangible assets of the "Old" Chrysler LLC, including "Old" Chrysler LLC's manufacturing plants and equipment, lists and contracts, customer lists, the Chrysler trademark, and also continued to retain the predecessor's employees in virtually the same capacities. Chrysler Group LLC has continued to conduct virtually the same business, including maintaining the same product lines, as Chrysler LLC.

7. By virtue of such circumstances, Plaintiff alleges that Defendant Chrysler Group LLC is a successor in interest to DaimlerChrysler Corporation and to

Chrysler LLC, which designed, tested, manufactured and marketed the 2000 Jeep Cherokee XJ at issue in this lawsuit. As such, Chrysler Group LLC is subject to successor liability under products liability law in Michigan.

8. Separate and apart from the allegations that Chrysler Group LLC is subject to successor liability under Michigan law, Chrysler Group LLC is also liable for the injuries and damages caused by defects and the unreasonably dangerous condition of the 2000 Jeep Cherokee XJ that is the subject of this lawsuit by virtue of its express assumption of those liabilities. Chrysler Group LLC assumed certain liabilities of Chrysler LLC, including the product liability claims for Chrysler vehicles sold on or prior to the Chrysler LLC bankruptcy closing date and arising from accidents occurring on or after the closing date. Said assumption of liabilities includes the product liability claims set forth in this Complaint which arise out of a January 14, 2012 rear-end collision fuel-fed fire (after the Closing date) involving a vehicle (a 2000 Jeep Cherokee XJ) sold before the closing date. Said assumption of liabilities were confirmed by a Stipulation and Agreed Order Approving Amendment No. 4 to Master Transaction Agreement in In re Old Carco LLC (f/k/a Chrysler LLC), et al., no. 09-50002 (U.S.Br. Ct. S.D.N.Y.), and said assumption of liabilities were confirmed by the Final Master Transaction Agreement as amended. Said assumption of liabilities was also independently confirmed by a letter to U.S. Senator Richard Durbin by Chrysler Group LLC

dated August 27, 2009, in which it was stated that Chrysler Group LLC "will accept product liability claims on vehicles manufactured by Old Carco before June 10, inclusive, that are involved in accidents on or after that date." The 2000 Jeep Cherokee XJ that is the subject of this action fits within this express acceptance and assumption of liability for product liability claims.

9. The acts and occurrences which form the basis of this complaint occurred in the State of Michigan and the State of Indiana.

10. Jurisdiction is proper under 28 USC § 1332(a)(1), since the parties are citizens of different states.

11. Venue is proper under USC § 1391(b)(1)&(2), since Defendant is a resident of this judicial district and it is also the location of the acts and occurrences which form the basis of this complaint.

12. This case is one of a series of Jeep Cherokee incidents that are the subject of litigation.

ALLEGATIONS COMMON TO ALL COUNTS

13. On or about the morning of January 14, 2012, Plaintiff Ana Maria Piña was operating a 2000 Chrysler Jeep Cherokee XJ, VIN# 1J4FF48S8YL180550 (the "Jeep Cherokee XJ) with an Indiana license plate number 436ARD, eastbound on

U.S. Route 30, east of County Road 325E in Washington Township, in Valparaiso, Indiana.

14. On said date, January 14, 2012, Plaintiff Ana Maria Piña was the owner of record of the 2000 Jeep Cherokee XJ.

15. At the aforementioned time, as Ana drove her Jeep, traffic on U.S. Route 30 began to slow down as a funeral procession for a fallen U.S. Marine headed west. When Ana reduced her speed as well, her Jeep Cherokee XJ was rear-ended, the fuel tank ruptured, and the vehicle and immediately caught on fire.



16. Also immediately following said rear end collision, all of Ana's Jeep XJ doors jammed shut, trapping Ana and her children in the burning vehicle as the

flames quickly engulfed it. Only Ana's mother, who was seated in the front passenger seat, was eventually able to force her door open and escape the fire unassisted by rescuers.

17. As the direct and proximate result of Defendant Chrysler's actions and/or omissions, as outlined below, Plaintiff Ana Maria Piña suffered extensive, severe, and permanent physical injuries, as shown in the photographs below:



18. As the direct and proximate result of Defendant Chrysler's actions and/or omissions, as outline below, Plaintiff Ana Maria Piña suffered extensive, severe, and permanent physical injuries, and severe economic damages, to include but not limited to:

- a. Catastrophic third and fourth degree burns over 40% of her body;

- b. Placed in an induced coma for approximately 90 days;
- c. Multiple skin graft surgeries;
- d. Lost the majority of her nose, ears, eyelids, eyebrows, and hair;
- e. Amputation of all fingers;
- f. Graft scars over 70% of her body;
- g. Permanent speech impediment due to scarring around mouth;
- h. Permanent and irreversible lung damage;
- i. Inability to sweat or appreciate heat or cold;
- j. Severe depression;
- k. Permanent disfigurement;
- l. Permanent and total disability;
- m. Medical expenses, past and future;
- n. Wage earning capacity;
- o. Other income loss to be determined through discovery.



19. Below is a photo of the interior of the Piña vehicle, and the police report.



Local ID 1201880		901761605		Page 2 of 5	
Type of Crash REAR END					
Time Notified 10:10 AM		Time Arrived 10:10 AM		Other Location of Investigation AT SCENE ONLY	
Assisting Officer EDWARDS FTO		ID No. 71	Agency PORTER SD	Investigation Complete? YES	Photos Taken? YES
Assisting Officer		ID No.	Agency	Date of Report 01/14/2012	
Investigating Officer MCFALLS, B		ID No. 120	Agency PORTER SD	Reviewing Officer SGT L LAFLOWER	
Narrative					
<p>D1 stated that he was traveling westbound on US Highway 30, but did not remember the crash. He stated that he had taken cholesterol medication, but no other medication today. Cpl. Praschak administered a PBT test to which the driver registered .000%. D1 had no signs of impairment.</p> <p>D2 was unable to make a statement due to her injuries.</p> <p>No statements were gathered from the other 3 injured occupants of vehicle 2.</p> <p>The crash was witnessed by Sgt. M. Edwards of the Porter County Sheriff Department. Sgt. Edwards was leading a funeral procession eastbound of US HWY 30, when he stated he heard tires screeching. Sgt. Edwards stated he looked in his side mirror and observed the pickup truck rear end an SUV. The pickup truck then left the roadway to the north. <u>The SUV's rear compartment instantly caught on fire, crossing the grass median to the south and coming to rest in the eastbound lanes.</u> Sgt. Edwards stated just prior to the crash he observed that the SUV was slowing down in the right hand lane behind several slow moving vehicles.</p> <p>Evidence at the scene suggests that both vehicles were headed westbound on US Highway 30. Marks on the roadway suggest that both vehicles were in the right hand lane and that V1 rear ended V2. V2 then caught fire, drove through the median, and into the eastbound lanes of US Highway 30. V1 veered north down into an embankment.</p>					

UNIT INFORMATION						901761605		Page 4 of 5												
Local ID 1201880																				
Driver's Name (Last, First, MI) 2 PINA, ANA, M						Safety Equipment Used LAP + HARNESS														
Address (Street, City, State, Zip) 2824 SAMPSON ST SOUTH BEND IN 46804						Safety Equipment Effective? YES														
Date of Birth 02/17/1976			Age 35		Gender FEMALE		Ejection/Trapped TRAPPED IN		EMR No. UNK	Injured Athn YES	Driver Injury Status INCAPACITATING									
Driver's License # 0920839844			Lic Type OP	CDL Class	Lic State IN	Nature of Most Severe Injury SEVERE BURN														
Apparent Physical Status <input checked="" type="checkbox"/> Normal <input type="checkbox"/> Had Been Drinking <input type="checkbox"/> Handicapped <input type="checkbox"/> III <input type="checkbox"/> Asleep/Fatigued <input type="checkbox"/> Drugs/Medication <input type="checkbox"/> Unknown			Restrictions <input type="checkbox"/> Glasses/Contact Lenses <input type="checkbox"/> Outside Rearview Mirror <input type="checkbox"/> Daylight Driving <input type="checkbox"/> Automatic Transmission <input type="checkbox"/> Special Controls <input type="checkbox"/> Employment Only <input type="checkbox"/> Motorcycle Only <input type="checkbox"/> Tol/From Employment			<input type="checkbox"/> Employer's Vehicle Only <input type="checkbox"/> State-Owned Vehicles <input type="checkbox"/> PP Chauffeurs Tax Only <input type="checkbox"/> Power Steering <input type="checkbox"/> Special Restrictions <input type="checkbox"/> Probation DWI <input type="checkbox"/> Probation HTD <input checked="" type="checkbox"/> None			Location of Most Severe Injury ENTIRE BODY		IC Codes <input type="checkbox"/> Infraction <input type="checkbox"/> Misdemeanor <input type="checkbox"/> Felony									
Test Given NONE			Type Given <input type="checkbox"/> Blood <input type="checkbox"/> Urine <input type="checkbox"/> Breath <input type="checkbox"/> SFST <input type="checkbox"/> PBT			Alcohol Results Certified Test <input type="checkbox"/> Pending		Drug Results												
Veh# 2	Color GREY	Vehicle Year 2000	Make Jeep (post 1988)	Model PTGRAND CHEROKEE		Style UT	Initial Impact Area <input type="checkbox"/> Undercarriage <input type="checkbox"/> Trailer <input type="checkbox"/> None <input type="checkbox"/> Unknown		<table border="1"> <tr><td><input type="checkbox"/></td><td><input type="checkbox"/></td><td><input type="checkbox"/></td></tr> <tr><td><input type="checkbox"/></td><td><input type="checkbox"/></td><td><input checked="" type="checkbox"/></td></tr> <tr><td><input type="checkbox"/></td><td><input type="checkbox"/></td><td><input type="checkbox"/></td></tr> </table>			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>																		
# Occupants 4	Lic Year 2012	License # 438ARD		License State IN		# Axles 2	Speed Limit 60	Insured By UNK	Phone Number UNK	<table border="1"> <tr><td><input checked="" type="checkbox"/></td><td><input checked="" type="checkbox"/></td><td><input checked="" type="checkbox"/></td></tr> <tr><td><input checked="" type="checkbox"/></td><td><input checked="" type="checkbox"/></td><td><input checked="" type="checkbox"/></td></tr> <tr><td><input checked="" type="checkbox"/></td><td><input checked="" type="checkbox"/></td><td><input checked="" type="checkbox"/></td></tr> </table>		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
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<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>																		
Vehicle Identification# 1J4FF48S8YL180550						Areas Damaged (Multiples) <input checked="" type="checkbox"/> Undercarriage <input type="checkbox"/> Trailer <input type="checkbox"/> None <input type="checkbox"/> Unknown														
Registered Owner's Name (Last, First, MI) PINA, ANA, M						<input type="checkbox"/> Same as Driver														
Address (Street, City, State, Zip) 2824 SAMPSON ST SOUTH BEND IN 46804						Vehicle Use PERSONAL (FARM, COMPANY)														
Towed? To VALPARAISO YES By BENTLEYS TOWING						Due to Disabling Damage YES		Emergency Run? <input type="checkbox"/> Fire? YES												
License#			Address (Street, City, State, Zip)			Vehicle Type SPORT UTILITY VEHICLE														
Veh Year/Make			Registered Owner's Name (Last, First, MI) <input type="checkbox"/> Same as Driver			Pre-Crash Vehicle Action SLOWING OR STOPPED IN TRAFFIC														
License#			Address (Street, City, State, Zip)			Direction of Travel WEST														
Veh Year/Make			Commercial Vehicle: Carrier's Name and Address			Type of Primary/Secondary Roadway One Way Traffic: <input type="checkbox"/> One Lane <input type="checkbox"/> Two Lanes <input type="checkbox"/> Multi-Lane (3 or more) Two Way Traffic: <input type="checkbox"/> Two Lanes <input checked="" type="checkbox"/> Multi-Lane Divided (3 or more) <input type="checkbox"/> Multi-Lane Undivided 2 way left turn <input type="checkbox"/> Multi-Lane Undivided (3 or more) <input type="checkbox"/> Private Drive <input type="checkbox"/> Alley														
HAZMAT Proper Shipping Name:			State DOT#			Event Collision With 1 ANOTHER MOTOR VEHICLE														
US DOT#		ICC#		CMV Inspection		If Yes														
Gross Vehicle Weight Rating			Cargo Body Type																	
HAZMAT Placard	HAZMAT Release of Cargo	HAZMAT 4-Digit ID#	Hazard Class #																	

20. Ana Pina's crash was ergonomically and anatomically minor, as demonstrated by the fact that Plaintiff did not suffer a single impact related injury, such as a broken bone or a contusion.

21. At all times material, Ana Piña was properly using the Jeep Cherokee XJ for its intended use and in the manner for which it was designed and sold.

22. At all times from the date of purchase until the moment of the post rear-end collision fire on January 14, 2012, the Jeep Cherokee XJ was properly maintained and was used in normal operation and in a manner expected, intended, and marketed, and promoted by the Defendant.

23. The Jeep Cherokee driven by Plaintiff Ana Maria Piña, was introduced into the stream of commerce in 1999, when it was sold to the first buyer in the State of Michigan.

24. The Jeep Cherokee in question remained in the State of Michigan until Plaintiff Ana Maria Piña purchased it in Indiana in 2005.

25. The Jeep XJ driven by Ana was equipped with a plastic fuel tank constructed of Coextruded High Density Polyethylene (HDPE) located in the vehicle's "crush zone," below the rear bumper, thereby exposing it to fuel leakage and fire in the presence of an ignition source in the foreseeable event of a rear vehicle impact. The Jeep Cherokee XJ's fuel tank, which is mounted squarely in the "crush zone" of the vehicle, was not shielded by any protective deflection structure.

26. Defendant Chrysler offered fuel tank skid plates as optional equipment on both the 1993 – 2001 Jeep Cherokee XJ and as part of the Up Country Suspension Package.

27. As early as 1978, Defendant Chrysler knew the rear-mounted tank located in the crush zone was vulnerable and needed to be moved for safety but delayed moving the tank for almost 30 years, until the 2005 model year. At the time of Plaintiff's Jeep Cherokee XJ fire, Defendant Chrysler had already been selling a redesigned model of the Jeep Cherokee with the tank having been moved to a mid-ship location for over 7 years. At the time the subject vehicle left the control of Chrysler, the state of the art in design for similar vehicles was to locate the fuel tank outside the crush zone.

28. There has not been *a single* post rear-impact fuel-fed fire involving post 2005 Jeep Cherokee vehicles, which are equipped with a redesigned fuel system in which the fuel tank was repositioned in mid-ship area in the middle of the body of the vehicle (i.e. not in the crush zone) and encapsulated by an impact deflection structure. The same is true of peer vehicles manufactured by Chrysler's competitors.

29. Upon information and belief, as of the early 1990's, Defendant Chrysler's Jeep Cherokee XJ, Jeep Grand Cherokee, Liberty models, and Ford's

Mustang and Crown Victoria models, were the only *five* vehicles manufactured and sold to consumers with a fuel tank placed behind the rear axle, or in the “crush zone.”

30. A full 20 years prior to the December 1999 date of sale, and continuing for over a decade thereafter, Defendant Chrysler, through its officers, directors, partners, or managing agents, had actual knowledge that the Jeep Cherokee XJ was defective in the manner alleged in this Complaint, and took affirmative steps to conceal such defects. The specific acts of concealment, and the substantial factual and legal basis for the Plaintiffs' allegations of same, include but are not limited to the following events specified below.

I. *History Preceding the Marketing of the Jeep Cherokee XJ*

31. Defendant Chrysler first introduced the Jeep Cherokee XJ to the market in 1984.

32. The Jeep Cherokee XJ was the continuation of a vehicle line – the XJ body – that originated in the 1984 model year and remained in production until it was discontinued at the end of the 2001 model year. Also, from the 1984 through 1990 model years, the XJ body vehicle shared two model designations – the Jeep Cherokee (XJ) and the Jeep Wagoneer (XJ) – and they differed only in non-

functional trim levels. The Jeep Wagoneer was discontinued after the 1990 model year.

33. Also around this time, widespread media coverage emerged regarding the Ford Pinto's lack of reinforcing structure between the rear panel and the fuel tank, such that the tank would be pushed forward and punctured by the protruding bolts of the differential, making the car less safe than its contemporaries. Controversy followed the Pinto after 1977 allegations that a defect in its structural design allowed its fuel tank filler neck to break off and the fuel tank to be punctured in a rear-end collision, resulting in deadly fuel-fed fires.

34. The Ford Pinto media coverage reached a peak during the 4-month trial in Elkhart County Indiana, which involved a claim of reckless homicide against Ford and its corporate officers. The trial lasted approximately 4 months and was covered daily by a group of about 50 reporters who remained on-site in Elkhart for its duration.

35. In 1978, the National Highway Traffic Safety Administration ("NHTSA") directed Ford to recall the Pinto and to provide a plastic protective shield to be dealer-installed between the fuel tank and the differential bolts, another to deflect contact with the right-rear shock absorber, and a new fuel-tank filler neck that extended deeper into the tank and was more resistant to breaking off in a rear-end collision.

36. By the time Defendant Chrysler began its initial development of the Jeep Cherokee XJ model, it was well aware of the dangers of placing the fuel tank in the vehicle crush zone without providing adequate protection, and of the accompanying problems posed by the defective design of the fuel-tank filler neck.

37. Despite having actual knowledge of the unreasonable danger of the fuel system design employed by the Ford Pinto, as the automotive industry began moving away from rear-mounted fuel tanks, Defendant Chrysler negligently pressed ahead with the design and development of an SUV with the gas tank located in the crush zone.

38. In 1978, Defendant Chrysler's Manager of Automotive Safety, Lewis L. Baker ("L.L. Baker") authored and disseminated an internal memorandum advising Defendant Chrysler of the dangers of fuel-fed fires created by placing the gas tank in the crush zone without adequate protection against rupture in the event of a rear-end collision. An image of the pertinent parts of the memorandum authored by L.L. Baker on August 24, 1978, are shown below:

"CONFIDENTIAL"

Inter Company Correspondence

	File Code	Date	
		August 24, 1978	
From - Name & Department	Division	Plant/Office	CIMS Number
R. M. Sinclair, Director International Product Development	Product Plan. & Design Office	Chrysler Center	416-20-15
To - Name & Department	Division	Plant/Office	CIMS Number
L. L. Baker, Manager Automotive Safety	Engineering Office	Chrysler Center	418-12-34

Subject: Fuel System Design - Chrysler Passenger Cars And Trucks.

Pursuant to the discussions between Messrs. Vining, Jaffe, Sperlich and yourself with Mr. Mochida on August 22, the fuel system design for domestic passenger cars and trucks is summarized for Mr. Mochida's information.

Not only are the impact performance requirements of MVSS-301 pertinent to the design approach but the significant increase in the last few years in the numbers of product liability cases involving fuel system fires and the increase in the size of the awards by sympathetic juries has to be recognized. In the Ford Pinto case the NHTSA Office of Defects Investigation selected arbitrary performance criteria of minimal or no fuel leakage when the test car is impacted in the rear by a full size car at 35 mph as a basis for questioning the safety of a recall modification of the Pinto.

. Passenger Car

Fuel Tank Location

The front wheel drive configuration in Chrysler's Omni and Horizon allowed the fuel tank to be located beneath the rear seat. This location provides the protection of all of the structure behind the rear wheels--as well as the rear wheels themselves--to protect the tank from being damaged in a collision. This same location will be used in the new 1981 K-Body cars which will also have a front wheel drive.

The rear wheel drive H-Body scheduled for introduction in 1983 will have the fuel tank located over the rear axle and beneath the floor pan.

The question of whether M, R or J-Body cars should be converted to tank over axle prior to their phase-out is a matter under intensive study at this time.

Filler Neck And Cap

As the fuel tank is moved to a more forward location, the fuel fill is moved to the side of the car. The fuel cap will be recessed below the body surface and a fuel fill door provided. The fuel filler neck is designed to break away from the car body with the fuel filler cap still in place.

In this design the filler cap and fill neck or fill tube remain with the tank to avoid separation and possible fuel leakage. This side fill is scheduled for J and M-Bodies in 1980 and the Y-car in 1981.

Mr. R. M. Sinclair

Page 2

August 24, 1978

The fuel fill is less likely to be damaged in a sideswipe when located on the right side of the car. As new models are introduced, the fuel fill will be moved to the right side of the vehicle. This may also offer greater protection to drivers who run out of gasoline on the highway, since they will fill the tank on the side away from the traffic.

Structure

In 1979 through 1983, the M, R, and J model cars which have the fuel tank under the floor pan behind the rear wheels, structural reinforcement of the longitudinals on each side of the tank, shielding of any unfriendly surfaces adjacent to the tank, and the design of straps and hangers to limit undesired tank movement will be employed.

Truck

Fuel Tank Location

~~The same principles regarding fuel tank location apply to truck design.~~
It is important that these larger fuel tanks are not only shielded from damage in a collision but do not break away from the truck and thereby spread fuel onto the roadway. The approach used by Mitsubishi on the SP-27 of locating the fuel tank ahead of the rear wheels appears to provide good protection for the tank.

The front wheel drive T-115 to be introduced in 1982 will have the fuel tank ahead of the rear wheels and under the rear seat. However, in rear wheel drive trucks there is no clearance over the axle for fuel tank installation and in many cases there is insufficient space ahead of the axle for fuel tanks of the desired capacity.

Chrysler is investigating fuel tank relocation ahead of the rear wheels for vans and multi-purpose vehicles, but present plans for pickups through 1983 and for MPV's and vans through 1985 have the fuel tank located behind the rear wheels. In vehicles both with and without bumpers there is a concern with vertical height differences that create a mismatch with passenger car bumpers. Where fuel tank location behind the rear axle is all that is feasible, a protective impact deflection structure may have to be provided whether or not a bumper is provided. An investigation whether to relocate the fuel tank or to provide impact deflecting structures is presently underway.

Fill Neck And Cap

All trucks and vans have side fill. The sweptline pickup truck (DW 1-3) and multi-purpose vehicles (AD-1 & AW-1) will have a recessed fill cap and fuel filler door beginning in 1981.


L. L. Baker

39. L.L. Baker's recommendations for fuel system integrity made in 1978 were consistent with Defendant Chrysler's own official Fuel Supply System

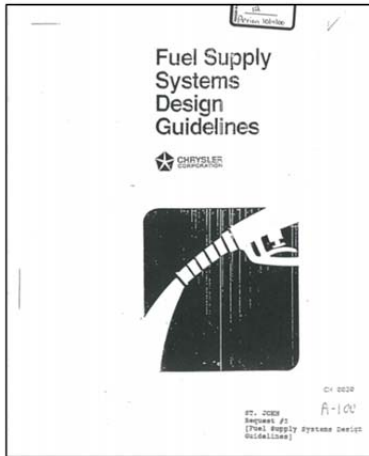
Design Guidelines that, in part, state, as shown below: “[t]he tank should be located in a manner that avoids known impact areas and provides isolation from the passenger compartment... .” and “[t]he design of the fuel tank and supply system should not be compromised for bumper or platform hitches. It is the responsibility of the Hitch-Releasing Department to insure the performance of the fuel system defined in these guidelines is not impaired.”

1. FUEL TANK

A. Basic Configuration

1. The capacity of the tank should give a driving range of 300 miles (483 kilometers), determined by the anticipated fuel economy of the base engine, as evaluated by Performance and Development Dept.
2. The tank should be located in a manner that avoids known impact areas and provides isolation from the passenger compartment. The Fuel Supply Dept. is to be consulted during advance fuel tank packaging studies.
3. The shape of the tank should tend to that of a cube, to minimize the weight of the tank and support system.

9. The sending unit should be capable of being serviced without removal of tank.
10. The tank should be serviced with removal of adjacent components.
11. The design of the fuel tank and supply system should not be compromised for bumper or platt hitches. It is the responsibility of Hitch-Releasing Dept. to insure the performance of the fuel system defined in these guidelines, not be paired.
12. No offset flanges—see fig. 1.1.
13. Tank flanges, formations and forcements should be configured as not to entrap corrosive agents.



B. Packaging Clearances

1. Ground clearance—The minimum fuel tank clearance to ground is (76 mm) measured by design under dynamic full bounce met metal (includes tire deflections calculated for the dynamic tire load conditions of the part-vehicle).—see fig. 1.2.
2. Departure Line
 - a. Tank Rear of Axle. 0.25" (6.4 mm) clearance must be maintained between the tank and departure line determined by a test constructed between the bot-

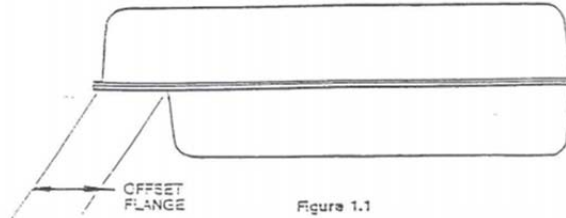


Figure 1.1

CH 00

40. Defendant Chrysler’s own Fuel Supply System Design Guidelines unequivocally state that the fuel tank should not come into contact with vehicle underbody “unfriendly” surfaces during an impact event, as shown below:

Under the guidelines for the basic fuel tank configuration it states:

1. The tank should be located in a manner that avoids known impact areas and provides isolation from the passenger compartment.
2. The design of the fuel tank and fuel supply system should not be compromised for bumper or platform hitches.

Under Detail Design and Performance it states:

“Tank Location- Lateral and longitudinal location to be provided by body formations (such as seat formations in L Body).”

Under Fuel Tank it states:

1. Spring Clearance- the minimum clearance to the tank or tank flange is 2.0 inches static and 0.75 under dynamic sway deflection.
2. Exhaust Clearance- Steel tanks: A minimum of 1.5 inches between exhaust component and tank, and 1.0 inch to tank flange. ...Tanks must be shielded to exhaust system to protect against continual temp's exceeding 175 degrees F.

3. Axle, Bumper, Shock, Strut and Unfriendly Surfaces (emphasis added)- This clearance to be determined by Advance Chassis Design crush analysis and verified by vehicle impact testing. No contact should occur between these components and the tank during the impact event.

41. With reckless disregard for its own official Fuel Supply System Design Guidelines and the recommendations of its own head of Automotive Safety that the Jeep Cherokee XJ be redesigned to *either* move to the gas tank to a location ahead of the rear axle (and out of the crush zone), or alternatively – if moving the fuel tank was *unfeasible*, to provide a “protective impact deflection structure,” Defendant Chrysler rejected both recommendations, even though either one would have improved the Jeep Cherokee XJ fuel system integrity, thereby making it far less prone to rear-impact fuel-fed fires, and even though Chrysler’s competitors were themselves making similar changes.

42. Defendant Chrysler deliberately decided to reject these recommendations in a conscious effort to avoid increased production costs that would have resulted from the recommended design changes.

43. Instead, Defendant Chrysler seized the opportunity to increase its profit margin by providing the very fuel tank protective impact deflection structure L.L. Baker recommended for ALL Jeep Cherokee XJ models, commonly referred to as a “skid plate,” as a feature available ONLY to consumers who purchased the most expensive model of the Jeep Cherokee XJ line, advertised by Defendant Chrysler as the “off-road” model.

44. Defendant Chrysler has consistently told consumers, media, and government regulators that the tank skid plate is an *off-road driving accessory* typically offered on SUVs that is mounted on the underside of the vehicle below the fuel tank. Defendant Chrysler’s claim is that the purpose of the skid plate is to permit the vehicle to “skid” or slide over an obstacle to avoid “pebbles and other debris” from abrading or damaging the fuel tank surface during low speed off-road excursions into uneven or unfamiliar environments. Defendant Chrysler officially and publicly denies that the skid plate would in any way increase the Jeep Cherokee XJ fuel system integrity in rear-end collisions.

45. Beginning in August of 1981, Defendant Chrysler began FMVSS-301 fuel system integrity compliance testing of the Jeep XJ prototype. The FMVSS-301 tests, conducted by Defendant Chrysler, were performed using a movable barrier to create a rear-end collision. The FMSVSS-301 required that testing occur at no fewer than 30 miles per hour, the minimum standard of testing.

46. Defendant Chrysler performed several rear impact fuel integrity development tests of the Jeep Cherokee XJ, yielding the following results:

- a. August 13, 1981 at a speed of 30.02 miles per hour, **resulting in fuel leakage**, noted in testing documents to have occurred between the fuel vent and the fuel tank.
- b. In December of 1982, Defendant Chrysler performed a pre-certification rear-impact fuel integrity test at a speed of 29.8 miles per hour, resulting in a **fuel leak**, noted in test documents, to have originated in the filler neck solder joint.
- c. In January of 1983, CHRYSLER performed another pre-certification rear-impact fuel integrity test, this time at 29.4 miles per hour. This test also resulted in a **fuel leak** from the filler neck tube located on the fuel tank.
- d. In June 1983, the Jeep XJ also failed another pre-certification rear-impact fuel integrity test performed at 30.2 miles per hour. Test documents indicate that **fuel leaked** from the gas tank sending unit.

47. During this same era (early 1980's) Defendant Chrysler's competitors had begun performing 50 miles per hour vehicle to vehicle crash testing in order to enhance the fuel system integrity for its customers. *Such testing thus became state*

of the art at that time. However, since that time and for the next 30 years, Defendant Chrysler failed and refused to engage in such testing.

48. In or about August 1983, Defendant Chrysler completed manufacturing the Jeep Cherokee XJs, and in 1984 began selling them to consumers worldwide. Defendant Chrysler advertised the 1984 Jeep Cherokee XJ as a revolutionary vehicle: 21 inches shorter, 6-inches narrower, 4 inches lower, and 1,000 pounds lighter than the average full-size SUV. The Jeep Cherokee was also built with a unibody frame instead of a traditional chassis-and-frame, which Defendant Chrysler claimed was “rugged” and thus, superior to its competitors. Defendant Chrysler went to market with an aggressive “fuel efficiency and rugged” marketing platform. Defendant Chrysler did not advise its consumers of the risk of fuel tank rupture in the foreseeable event of a rear-end collision created by its decision to locate the plastic fuel tank in the vehicle’s soft, rear end crush zone. One of several of Defendant Chrysler’s marketing materials for the 1984 Jeep Cherokee XJ is shown below:

JEEP INTRODUCES LEANER AND MEANER 4-WHEEL DRIVE CHEROKEE.

From the engineering experts at Jeep, this is the newest advance in Jeep 4-wheel drive technology. *The all-new Cherokee is leaner.* to give you the highest gas mileage ever in a Jeep. Mileage that beats Bronco II and S-10 Blazer. (Blazer 4 X 4 comparison — 1983 EPA EST. MPG and EST. HWY 19/25.)

And Cherokee is meaner. . . . You get more ground clearance than S-10 Blazer and Bronco II. And more horsepower-per-pound than S-10 Blazer, too. This is Jeep ruggedness. Jeep power. Jeep agility. Cherokee is built in a different way than its competitors. Jeep's Uni-frame Construction is a welding of the frame to the body shell to create one solid rugged unit. And our Quadra-Link Front Suspension combines a solid front axle with four locating arms and coil springs to give you a remarkable combination of ruggedness off-road and smoothness on-road. There's more inside, too. Like shift-on-the-fly between 2- and 4-wheel drive. And seating for 5, not 4 like the competition. You get more cargo room. Plus, only Jeep gives you a choice of 2-door and 4-door availability. The all-new leaner, meaner Cherokee is at your Jeep dealer's now. Helping to make up what is the world's largest selection in 4-wheel drive.

CHEROKEE
33^{SE}EST. / 24^{HWY}EST. MPG*

S-10 BLAZER 4X4
31^{SE}EST. / 22^{HWY}EST. MPG*

BRONCO II
30^{SE}EST. / 20^{HWY}EST. MPG*

*EPA figures for comparison. Fuel mileage may vary with speed, weather, trip length. Actual highway and CA figures lower. **4 figures for S-10 Blazer 4x4 not available at printing.

	ALL-NEW CHEROKEE	S-10 BLAZER 4X4	BRONCO II
Wheelbase Length (In.)	101.4	100.5	94.0
Ground Clearance (In.)	7.7	6.9	6.5
2-Dr and 4-Dr Availability	YES	NO	NO
Cargo Room (ft ³)	71.2	62.7	64.9
Seating Capacity	5	4	4
Uni-frame Construction	YES	NO	NO
Quadra-Link Front Suspension	YES	NO	NO
Payload (pounds)	1150	1000	726
Selec-Trac 2WD/4WD Available	YES	NO	NO
Rear Window Wiper/Washer	YES	NO	NO

Jeep

WHEN IT COMES TO 4-WHEEL DRIVE... ONE WORD SAYS IT ALL.

II. Defendant Chrysler Ignored a Substantial Body of Research in Fuel System Integrity When Designing and Developing the Jeep Cherokee XJ

49. A brief review of industry and academic literature on safe automotive engineering reveals that, as early as the 1960's, two decades prior to its introduction of the Jeep Cherokee XJ model to commerce, Defendant Chrysler was aware of the dangers of designing a vehicle with a fuel tank in the "crush zone." The following are just some examples of said research:

- a. At the September 14, 1961 Stapp Automotive Crash and Field Demonstration Conference, Howard K. Gandelot, Engineer-in Charge of

General Motors's Vehicle Safety Section, presented a twenty minute motion picture comprised of clips from engineering record films of *car-to-car crash testing at 50 mph* conducted at the GM Proving Ground.

- b. A 1966 article entitled "Car Crash Fire Investigation" by Locati and Franchini of *Fiat*, reported that a gas tank "arrangement particular safe in the different types of collisions is . . . where the tank is housed inside sturdy bulkheads."
- c. In September 1967, in connection with the Ford Pinto NHTSA investigation, Fairchild Hiller submitted its final report, entitled "Investigation of Motor Vehicle Performance Standards for Fuel Tank Protection", which *concluded that the safest position for a gas tank in a passenger automobile was above the rear axle, between the rear wheels, "removed from the area of high probability of damage or repair."* "Removing the tank from the area of high probability of damage and rupture represents the most cost-effective modification and "represents the minimum cost of tank protection."
- d. In the April 1968 edition of the Journal of the Society of Automotive Engineers an article entitled "The New York State Safety Sedan Ready for Takers" illustrated a *crash-resistant fuel system to minimize fire hazards by placing the tank above the rear axle.*
- e. In July 1968, the Institution of Mechanical Engineers Proceedings on the State of the Art of Safety in Design - Continental Practice [Malschaert] contains the report of one foreign automobile manufacturer that "among the very great number of reports of accidents with cars from our fifteen years of production, *we have found no case where the petrol tank has failed in such a way that it increases the severity of the accident.* The report also states: "*The best place for the fuel tank is inside the structure so that it is protected by the body of the vehicle.*"
- f. At the Twelfth Stapp Car Crash Conference on October 22-23, 1968, held in in Detroit Michigan, Severy, Brink and Baird reported their tests of passenger protection for a four door sedan, the first collision experiment evaluating post-crash fire as a complication to collision survival. The authors noted that "*somewhat offsetting the low probability aspects of post-crash fires, however, are the awesome and devastating aspects of such an adverse turn of events.* Additionally, preliminary studies indicate that much progress can be made in reducing the

- probability of crash fires by incorporation of *relatively inexpensive design considerations having to do with the fuel tank and related fuel system.*"
- g. In October 1968, Severy, Brink and Baird [UCLA] reported in "Vehicle Design for Passenger Protection From High Speed Rear-End Collisions," SAE 689774, reports that "preliminary studies suggest that an *improved location for the fuel tank would be the area cradled by the rear wheels, above the rear axle and below the rear window. This location is least often compromised from collision of all types.*" As for station wagon gas tanks located in *rear quarter panels*, the authors state: "*The problem requires attention and its solution is not so difficult as to warrant further delay.*"
 - h. The April 1970 Consumer Reports stated: "*It is known now that it's safer to place the fuel tank well forward of the rear bumper and that to permit the fuel tank's upper surface to serve as the floor of the trunk is to invite puncture by sharp and heavy objects.*"
 - i. A June 1970 Rapin in SAE paper 700413, "Vehicle Structural Crashworthiness," discussing *designing a vehicle for crashworthiness*, notes that *the types of accidents to be taken in to account by the designer should be front impact, rear impact, side impact, rollover, free fall, and truck underride.* The paper states, "*Rear part - the most important point is the protection of the fuel tank. It is absolutely necessary to avoid its penetration by bending or buckling members of the structure submitted to shock load.*"
 - j. The December 1971 Final Report by Neva Johnson of Dynamic Science for NHTSA, entitled "An Assessment of Automotive Fuel System Fire Hazards", analyzed 27 new vehicles and 35 crashed vehicles' fuel systems and concluded: "*The only fuel tank that was not crushed during the rear end barrier test was one which was located above the rear axle behind the rear seat.*" This is a "*much safer position*" and "*would in all probability, allow the standard metal tank to survive a 30 mph rear barrier impact without failing.*" The report critically explains that "*it is not the crash acceleration forces that cause system damage which may ultimately lead to fire, but rather structural deformation and direct impact*, either by outside objects or other vehicle components."

- k. Severy's article on Automotive Collision Fires, 1974, Society of Automotive Engineers Transactions, reported: "Trucks have a higher crash-fire frequency than passenger vehicles, notwithstanding their superior size and weight. Even a cursory examination of the crash-vulnerable fuel system of most trucks provides the explanation for this undesirable record. The archaic "outside plumbing" designs of truck fuel systems completely obviate any safety advantage the use of diesel fuel may provide over gasoline. ***A notable exception to these archaic designs is found on the 1973-1974 Ford F-100 - F-350 trucks and the 1973-1974 GMC Motorhome with the fuel tank located between the rugged frame channels. This represents the safest and the most practical location for truck fuel tanks, diesel or gasoline.***"
- l. The 18th Stapp Car Conference was held that same year. As a result of this conference, the industry agreed on the following three fundamental fire prevention canons for automotive safety researchers and designers: 1) ***prevention of release of fuel***, 2) ***elimination of sources of inadvertent ignition of fuel***, and 3) ***isolation of motorist from flames, heat and toxic gas, to providing an opportunity for escape.***

50. By the 1960's, Defendant Chrysler automotive engineers had at their disposal a substantial body of research and generally-accepted best industry practices regarding fuel system integrity, which primarily included, removing the fuel tank from the area of high probability of damage and rupture and locating it in a protected area. Alternatively, if locating the fuel tank in protected area proved unfeasible, then the best industry practice for fuel system integrity called for protection deflection structure designed to prevent fuel tank rupture.

51. In line with this general recognition, auto manufacturers such as Ford and General Motors began subjecting their prototype vehicles to safety testing protocols that were more rigorous than the 30 mile/hour moving barrier FMSSV-

301 test Defendant Chrysler performed, instead opting for testing protocols based on Failure Mode and Effect Analysis (FMEA), rear-world crash scenarios, and crashworthiness. Among several auto industry recognitions that helped steer auto manufacturers in this direction was that *actual average speed limits throughout the country during the 1960's and 1970's were significantly higher than 30 miles per hour.*

52. In contrast to developing trends in the auto industry while Defendant Chrysler was in the process of designing and developing the Jeep Cherokee XJ, Defendant Chrysler made *no changes* that were significant to rear-end collision fuel-fed fire problems, from the inception of the model in the 1970's until the end of its production in 2001. For nearly 20 years, the Jeep Cherokee XJ proved to be a highly profitable model SUV for Defendant Chrysler, which sold roughly three million of these vehicles from 1984 through 2001.

III. Legal Battles Regarding the Jeep XJ Design

53. Upon information and belief, Defendant Chrysler became aware of a legal claim in which the Jeep XJ design was alleged to have caused or contributed to serious personal injuries no later than March of 1997. This claim involved a 1987 model Jeep Wagoneer XJ rear end collision that took place in Minnesota in January of 1997 in which one infant burned to death and her sister was severely burned. The police report, shown below, for this rear-end collision fuel-fed fire

depicts a tragic sequence of events that would repeat time and time again in Jeep Cherokee XJs, and in later Jeep models equipped with substantially the same fuel system as the subject Jeep XJ.

SUPPLEMENT REPORT

CN 97000361

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entire scene and the victim. She was found to be laying just outside the rear passenger door of the Jeep Wagoneer.

In speaking with the first responding officer, Paul Novotny, he stated that upon his arrival, he believed the victim was still in the Jeep, after numerous attempts to retrieve the victim had failed by the parties involved in the accident. Novotny stated that upon the arrival of the Fire Department, the victim may have been knocked out of the vehicle by the Fire Department trying to extinguish the flames.

Initially the victim, along with her surviving sister, had been strapped into their car seats, along with seat belts. Once these restraints had burned away, the victim would have been free to fall clear.

I spoke with the first witness, [REDACTED], the driver of the southern-most vehicle. She stated to this officer that she had been south bound on County Road 15 when the railroad crossing arm started to go down. She was aware that this road was extremely slippery. At this point, she started to slow down and brake. At that time, her vehicle started to slide. She was in fear of sliding up to the railroad crossing, so she edged the vehicle towards the shoulder of the road. She did this so she would have the opportunity to drive into the ditch, rather than to strike the oncoming train. She stated that her vehicle stopped quite short of the crossing arm. She was off on the shoulder of the road.

At this time, the second vehicle, driven by [REDACTED], struck the rear portion and quarter panel of the [REDACTED] vehicle. There was only slight damage to the vehicle.

[REDACTED] further stated that they briefly exchanged information and prepared to leave the scene. She stated that [REDACTED] backed her vehicle up slightly onto the roadway in order to leave. She then stopped and exited her vehicle again. She asked [REDACTED] whether or not she was going to need any help getting her vehicle out of the ditch.

She stated that while this exchange was taking place, the third vehicle, driven by [REDACTED], began to slide and struck [REDACTED] vehicle. Immediately, upon impact, there was what they described as an explosion. This would have been the gasoline igniting.

At this point, all three individuals tried desperately to rescue the two infants located in [REDACTED] vehicle. They were able to get one daughter, [REDACTED], out of the vehicle. By this time, the vehicle was fully engulfed in flames and they were unable to release the restraints on the second car seat, which would have enabled them to rescue [REDACTED]. At this point, they had to abandon all attempts to rescue her, as all three individuals were being burned and injured by the consuming flames.

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54. As with countless fuel-fed fires that have claimed the lives of innocent victims all over the United States and severely burned and disfigured countless others, the Jeep Cherokee XJ fuel system design defect exposes the vehicles fuel

tank to rupture and fuel leak-fed fires in the foreseeable event of a rear-end collision. The supplemental police report, shown below, describes how the Jeep Wagoneer XJ fuel tank rupture and the ensuing fire occurred from a low speed collision:

HERBURN COUNTY SHERIFF DEP.		CASE NO. <u>97000361</u>
FOLLOW UP/CONTINUATION REPORT		
Fatal Motor Vehicle Accident		
TYPE OF OFFENSE _____		
COMPLAINANT _____		
ADDRESS _____		
ADDITIONAL DETAILS OF OFFENSE, PROGRESS OF INVESTIGATIONS, ETC.		
Jacobs, writer		
<p>On 010797 at approximately 1330 hours, this officer returned to the scene of the accident located on Cty. Rd. 15. At that location, this officer retrieved a 5-gallon plastic gas can that this officer had observed earlier at the scene.</p> <p>This gas can was lying approximately 50-75 feet away from the scene in the ditch. I was unable to retrieve it earlier due to investigative priorities, however, upon retrieving this gas can, it appeared that it had rolled to that location, bouncing to where it ended up. It appears that it may have fallen off a vehicle crossing the railroad tracks. The can was somewhat broken up and there is no reason to suspect that there is any connection between this gas can and the accident that had occurred there.</p> <p>This officer then went to Jerry's Auto Salvage where Peterson's Amoco has a storage yard for their vehicles in which they tow in. At that location, I again examined the vehicles and photographed the vehicles further. The Jeep was photographed first by this officer. The under portion was the area photographed and the area of the gas tank. This officer observed a large puncture in the driver's side rear of the gas tank. This was photographed by this officer from numerous angles and documented.</p> <p>In looking at the striking vehicle, the 1994 Geo Prism, it appears that the majority of the damage was to the passenger side front. It appeared as though it had struck the Jeep at somewhat of an angled direction. In noting any part of the front of that vehicle that may have punctured the gas tank of the Jeep, it appeared that a possibility would be the mounting post for the front bumper. This is merely speculative and was photographed for further examination.</p> <p>It should be noted that Peterson's was also notified that both these vehicles will be held indefinitely for investigative purposes and should not be released unless authorized by this department. End of report.</p>		
Investigator Paul Jacobs, 3512 SCSO, Elk River, MN 55330-4609 010797/lm		
THIS OFFENSE IS DECLARED:		
Unfounded	<input type="checkbox"/>	SIGNED <u>Paul Jacobs</u> Investigating Officer Date <u>1-9-97</u>
Resolved by Arrest	<input type="checkbox"/>	
Exceptionally Cleared	<input type="checkbox"/>	
Inactive (Not Cleared)	<input type="checkbox"/>	SIGNED _____ Supervisor EA12-005-Chrysler-000874 Date _____
Ref. Other Agency	<input type="checkbox"/>	
This form is used by the officer assigned to a case to report any additional information gained through investigation.		

55. At least as of 1997 Minnesota Jeep XJ fire that claimed the life of one child and severely burned and disfigured another child, *and continuing each year*

and every year since, Defendant Chrysler continued to receive claims on behalf of persons who had suffered severe burn injuries, died, or both, caused by the Jeep Cherokee XJ's defective fuel system design. In each such lawsuit, to NHSTA, to the media, and the multiple other lawsuits filed during the last three decades, Defendant Chrysler has consistently made baseless claims that such rear-end collision fuel-fed fires are the "inevitable result of high-impact collisions."

56. Throughout the course of many of the legal claims, Defendant Chrysler defended over rear-impact fuel-fed fires, while its own executives and engineers conceded, at least two separate times, that *placement of the fuel tank in the "crush zone" of the vehicle without proper protection against rupture in the event of a rear-end collision is a dangerous practice*. In a February 2, 1995 deposition taken in connection with a 1986 model year Jeep Cherokee XJ Texas case involving a rear-end impact fuel-fed fire in which three people were trapped in their vehicle and burned alive, Dennis Renneker, Chief Engineer for Chrysler's Advanced Chassis Engineering Group and Director of Advanced Vehicle Engineering from 1977 through 1981, stated, as shown below:

Q. Do you agree with me that when you place a fuel tank behind the rear axle just in front of the rear bumper, you are placing the fuel tank in the crush zone of a rear end collision?

A. As a generalized statement, I agree with that.

57. In the same deposition, Dennis Renneker, concedes **that *fuel tank rupture should be prevented***:

Q. ... It's a basic tentative chassis engineering that the fuel tank ought not to be placed in close proximity with sharp bolt heads, sharp corners, things that can perforate or puncture the fuel tank in the event of a collision, would you agree with that concept in general?

A. Well, it's certainly a concern. You don't want your fuel tank to be punctured in a foreseeable situation.

58. With actual knowledge and reckless disregard for the lives of Jeep consumers, between 1993 and 2002, Defendant Chrysler added to its Jeep fleet two new models with substantially the *same basic fuel system design* as the Jeep Cherokee XJ (i.e. gas tank is located in the crush zone); the Jeep Grand Cherokee and the Jeep Liberty. Defendant Chrysler followed the same profitable plan for these new models as it did for the Jeep Cherokee XJ, specifically, avoiding the increased production costs of providing fuel tank protective impact deflection structures for all SUVs, instead marketing them as “*off-road*” and optional fuel tank protection against flying debris and pebbles, and making them available only to consumers who purchased the high-end “*off-road*” package, as admitted in a 1995 Texas deposition of Chrysler’s Chief Engineer:

Q. (By Mr. Watts): Mr. Renneker, one of the pieces of optional equipment made available to the purchasers of the Jeep Cherokee XJ vehicle was a steel skid plate. You are aware of that, aren't you, sir?

A. Yes, I am.

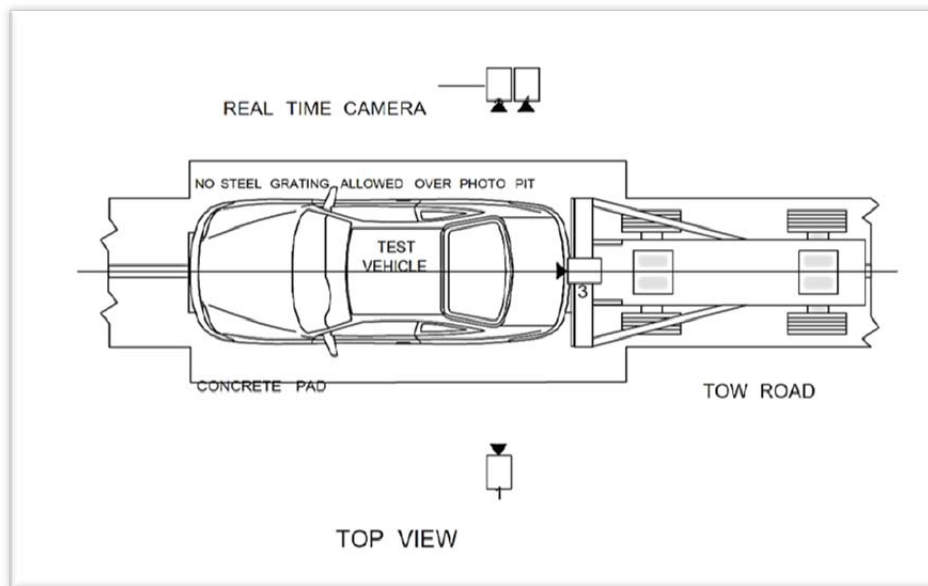
59. The images below show that the fuel tank location for the Jeep Cherokee XJ, the Jeep Grand Cherokee, and the Jeep Liberty are substantially identical in that the fuel tank is in the rear-end, or “crush zone,” of the vehicle. The fuel tank, in all three models, hangs well below the bumper, and it is not protected by an impact deflection structure.



IV. Chrysler Rejects Auto Industry Safety Practices for Three Decades: Refuses to Conduct Real World Testing and Refuses to Perform Failure Mode Analysis

60. Defendant Chrysler’s fuel integrity testing of the Jeep Cherokee XJ was limited to the Federal Motor Vehicle Safety Standard -301 (“FMVSS-301”), colloquially referred to in the auto industry as the “bumper test.” FMVSS-301 is an unartful rear-end collision test that uses a moving

concrete barrier to strike the rear of the vehicle at bumper height. At the time that Chrysler tested the Jeep Cherokee XJ, Chrysler had actual knowledge that FMVSS-30 did not simulate real-world conditions and would not yield reliable results. In fact, at the time Chrysler tested the Jeep Cherokee XJ using FMVSS-301, *Chrysler knew that the Ford Pinto had also passed the very same test.* A diagram of the FMVSS-301 testing apparatus is shown below:



61. At the time Defendant Chrysler began design and development of the Jeep Cherokee XJ, Chrysler knew that FMVSS-301 test did not reflect real world crash scenarios, especially in the event of angular/off-side rear-end collisions, or under-ride situations in which the heights of crashing vehicles are significantly different. Chrysler's Chief Engineer, Dennis

Renneker in a 1995 deposition *admitted to having actual knowledge that the Jeep Cherokee XJ would be subjected to collision conditions not tested by FMVSS-301*, as shown below:

Q. At the time that you began designing the XJ at American Motors, was it known to the engineers that the XJ would be hit in the rear at various angles of angular components and at various offset components?

A. Yes, it certainly was.

62. In this same 1995 deposition, Renneker admitted, for a second time, to *having actual knowledge that the Jeep Cherokee XJ would be subjected to collision conditions not tested by FMVSS-301*, as shown below:

Q. All right. And so the location where you're putting the fuel tank is the location where the rear structure is going to crush inwards, is that correct?

It depends on the situation.

Q. In a rear end collision.

A. Well, it depends on -- there's an infinite number of rear end collisions.

63. Despite having actual knowledge that the Jeep Cherokee XJ, in real world conditions, would be subject to rear-end collisions at many different angles, Defendant Chrysler *did not conduct a single angular rear-impact fuel system integrity test in all of the 23 years it manufactured and sold the Jeep Cherokee XJ to the public.*

64. With the exception of Chrysler, by the 1960's, the majority of auto manufacturers had already adopted Failure Mode Effect and Analysis (FMEA) engineering and real-world simulation crash tests as part of their design, development and testing protocol. Defendant Chrysler repeatedly justifies its failure to perform FMEA or real-world testing on the Jeep Cherokee XJ on the premise that it is impossible to perform these kinds of tests as there is an "infinite number of angles," and that angular crash testing would necessarily require a test for any and all conceivable impacts. The 1995 deposition excerpts of Chrysler's Chief Engineer, Renneker, taken in *Sihanouraj v. Arocha, et al*, below illustrates Chrysler's long-standing, unique position among auto manufacturers on the subject of angular rear-impact crash testing:

Q. ... First of all, you said that you have to look at the way the vehicle is going to crush, and my question to you is how do you know how a Jeep XJ is going to crush given a rear angular collision from the right side if you don't test for it?

A. Well, as I said, *the reason you can't test for it is because there's an infinite number of angles and overlaps that can occur. You would have to impact test every vehicle that came out of the plant to test for every possible situation.* We just don't know how to do that and no other vehicle maker in the world that I'm aware of knows how to do that. We use -- we try -- we make certain tests and then we use judgment to try and -- to try and predict what might happen in other situations, but to run -- to run a specific test on every conceivable impact that could possibly happen in the rear world is something that I as an engineer don't know how to do.

Q. Is it your testimony that no other auto manufacturer runs rear offset tests?

A. I didn't say that.

Q. Is it your testimony that no other auto manufacturer runs rear angular tests?

A. That's not my testimony. My testimony is I don't know how to test for every conceivable angle test. Somebody could run an angle test, but that certainly wouldn't cover all angles that could possibly happen to a vehicle.

Q. So because you can't test for all the angles, you're not going to test for any of them, is that your testimony?

A. No company that I have ever worked for has run – to my knowledge has run other than the federal test, but I've never been specifically responsible for the final testing of a vehicle. So there may have been some tests run that I'm not aware of. (Emphasis added.)

65. Despite ample notice that, on average, rear-world travel speeds far exceed 30 miles per hour, Defendant Chrysler did not perform **FMEA or a *single crash test that simulated real world conditions*** on the Jeep Cherokee XJ. In fact, Defendant Chrysler did not perform a *single* crash test that simulated real world conditions on either of the new Jeep fleet models (i.e. Jeep Grand Cherokee and Jeep Liberty) with the same basic fuel system design as the Jeep XJ (i.e. gas tank is located in the crush zone).

66. Instead, Defendant Chrysler has long advanced in statements targeting the public and NTHSA, the premise that “complying with government standards” is the essence of crashworthiness, the very premise that the remainder of the auto industry implicitly rejected when it began

employing FMEA and real-world crash testing. The deposition excerpts below show that Chrysler's *only fuel system integrity goal for the Jeep Cherokee XJ was to pass the FMVSS-301 test*. In the *Sihanouraj v. Arocha*, 1995 deposition, Chrysler's Chief Engineer, Renneker, stated:

Q. (By Mr. Watts): Okay. Do you have a recollection of documents being created during the design and development of the XJ about performance objectives for the fuel tank?

A. Not that I can recall. It was an accepted objective that we had to pass the or that we wanted to pass the federal test.....

A. Well, when a vehicle gets out in the real world, there's an infinite number of accident situations that it could encounter. *In the design phase, we have a specific federal rear impact test that's a very well-defined test, and we design to make sure that we can pass that test with a good allowance, compliance allowance, and in addition to that we try and use good practice to the best of our ability to make sure that nothing else unusual would happen, but we -- it's impossible to think through every possible thing that could possibly happen to the vehicle. Our primary -- our primary work relative to whether a bolt would or wouldn't encounter the fuel tank would be relative to the specific federal rear barrier test.* (Emphasis added.)

67. Since Defendant Chrysler's executives have been deposed numerous times in litigation involving post rear-end collision fuel-fed fires involving all three Jeep models in which the fuel tank is placed in the "crush zone." In these depositions, Defendant Chrysler's executives repeatedly testified that the Chrysler's corporate approach to *fuel system integrity design of the Jeep*

Cherokee XJ was never founded on principles of crashworthiness or consumer safety, but on the single goal to pass the “bumper test.” Excerpts from Chrysler’s Renekee, taken in 1995, are shown below:

8 Q. What are the special challenges that exist when a
9 decision is made to place the fuel tank behind the
10 rear axle just in front of the rear bumper?
11 A. Well, any fuel tank has basically the same
12 challenges. You have to get a filler into it that
13 works and fills properly and is adequately attached
14 and adequately protected. You have to make sure
15 that there is enough structure around the tank so
16 that in the rear impact test, the tank is not overly
17 distorted, and you have to make sure that there are
18 no sharp projections that during that test would
19 pierce the tank or cause it to kink and develop a
20 leak. Those criteria would be common regardless of
21 where you put the tank.

8 Q. And one of the things that you saw in the crash
9 tests in rear impacts is that the rear structure of
10 the vehicle is going to move forward and impact the
11 rear face of the fuel tank in a collision with an
12 energy equivalent of 30 miles an hour rear moving
13 barrier, is that right?

14 A. Well, first most of the impact testing was done in
15 the production phase, but I have to point out, this
16 tank location that we picked for this vehicle was
17 the most common location of the great predominance
18 of all the similar vehicles in the world have that
19 same tank location. So all of the problems that we
20 faced are normal kinds of problems that most

21 competitive vehicles face. Our criteria was to
22 provide a level of safety that met the federal
23 requirements and was basically equivalent to
24 competitive products, and we certainly felt that we
25 could do that and did do that.

6 load of the fuel. So it's a complex situation, and
7 we basically use our judgment and our skill as
8 engineers to design something that will comply to
9 the test.

10 Q. The test being FMVSS 301?

11 A. I don't remember the number. It was a rear impact
12 test.

13 Q. Okay. You had to meet a 30 mile an hour rear
14 moveable impact with a 4,000 pound moving barrier?

15 A. That's correct.

16 Q. That was the test that AMC engineers used all of
17 their skill and their judgment to make sure that the
18 vehicle would meet?

19 A. That's right.

8 Q. Did AMC have engineering specifications that
9 required clearance distances separating structural
10 components and structural attaching components from
11 the fuel tank?

12 A. No, it's too complex a thing to set down solid
13 rules. There's a specific test that we have to
14 pass, so engineers basically make their -- make
15 their judgments on what it's going to require to
16 make sure that this -- that we pass this test
17 reliably.

21 A. Well, I guess I have trouble with your cleaning up
22 the environment. There was no -- we created -- we
23 created the environment. We had certain standards
24 that we had to pass as far as the fuel tank crush
25 test, and we designed everything to the best of our
1 ability to pass those tests without puncturing the
2 tank.

68. In 2011, in connection with a post rear-impact fuel-fed fire which burned a woman alive in her Jeep Grand Cherokee, Chrysler's Chief Engineer responsible for the design and development of the Jeep Cherokee XJ fuel system, François Castaing, re-iterated Chrysler's "pass the test" approach to fuel system design several times, as shown below:

FRANCOIS CASTAING
June 14, 2011

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1 for itself. So at the time AMC, like later Chrysler
2 has books of specification and standard that the
3 engineer were using for designing their part of the
4 car. So there's no improvisation, if you wish, not
5 when you design a new car. It's not just the thing
6 that the chief engineer think it should be done this
7 way or this way. There is a set of rules that you
8 have to design within which is good for everyone.

9 Q. When you say there is a set of rules, you're saying
10 that AMC had a set of rules that needed to be complied
11 with in achieving fuel system integrity for the fuel
12 system for the ZJ; is that correct?

13 A. Well, I say in the case of fuel integrity, it's driven
14 by a Federal mandate about what it should be doing, it
15 should be able to do.

7 Q. Your testimony is on the record, Mr. Castaing. Let me
8 make sure that I understand. You cannot on this
9 record and under oath provide me with any information
10 about what AMC and/or Chrysler did to protect its
11 customers in Grand Cherokees in the event of an offset
12 rear impact with respect to fuel system integrity; am
13 I correct?

14 MR. FUSCO: Object to the form.

15 MS. JEFFREY: Join.

16 A. Like I said earlier, we made sure that all the known
17 standard as laid out by NHTSA were complied with.
18 That's what we complied with.

18 A. Agree to what, that we should not spill fuel on the
19 roadway?
20 Q. That the principles regarding fuel tank location apply
21 to truck design as well. It is important that these
22 larger fuel tanks are not only shielded from damage in
23 a collision but do not break away from the truck and
24 thereby spread fuel on the highway.
25 Do you agree with that statement, sir?

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1 MR. FUSCO: Object to the form.
2 A. I don't agree because it's kind of making a statement
3 without the context. It's like saying car
4 manufacturers should not build small cars because
5 don't you know they are less safe than big cars. So
6 it's not the way we think. We create cars for the
7 need that we see in the marketplace, and we make them
8 safe regardless of the architecture, so on. We design
9 them to pass minimum standards agreed by the industry
10 and NHTSA to make them safe. So I can say an argument

19 Q. Thank you. Now was it also known that underride
20 impacts, rear underride impacts would occur once the
21 Grand Cherokee was placed into the hands of the
22 driving public?

23 A. We knew that. We knew also frankly that the tests we
24 were passing were at 30 miles an hour, and there are a
25 lot of accidents that happen at 40, 50, where the

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1 energy and the shock is three times, four times. So
2 you know that when you design a car, but you design
3 for what you know and the standard is at the time.

20 Q. Mr. Castaing, do you agree that the manufacturer of a
21 motor vehicle has a legal duty to design and
22 manufacture a reasonably crashworthy product?

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1 A. I agree that, like I said earlier, we as a group of
2 engineers were committed to make sure that the ZJ and
3 other cars, all the trucks we did were all compliant
4 with crash-related standard established by the
5 industry in the U.S. or in Europe or other countries
6 where they are different, and doing so, we thought
7 that we were doing the right thing, and for customers,
8 which in the case of most of our vehicles have been
9 proven -- I mean, I think the ZJ has a good record in
10 that we made millions of them, and they were
11 performing to the expectation in most of the case for
12 customer in case of accidents.

69. Defendant Chrysler's fuel system integrity design of the Jeep Cherokee XJ (i.e. "pass the test) was so myopic it effectively redefined the term "impact" to mean "bumper test impact" for Chrysler, as shown below in the 2011 deposition of François Castaing:

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1 that if you do it and put it in the back of the car,
2 on Page 4, here's the way it should be done.
3 Q. So it's your testimony that Item Number 2 for the
4 basic configuration of the fuel tank where it says,
5 The tank should be located in a manner that avoids
6 known impact areas, has nothing to do with impacts
7 that occur in motor vehicle accidents; do I have that
8 right?
9 A. Impact, impact, yeah, like an FMVSS test.
10 Q. Okay. .

70. Despite Defendant Chrysler's informal but consistent policy that rear-end testing for Jeep Cherokee XJ models and other Jeep models was strictly limited to the FMVSS-301 "bumper test," Chrysler knowingly and purposefully mislead its consumers when it released advertising commercials that falsely portrayed Chrysler's Jeep testing as "comprehensive." The images below depict a Chrysler television commercial that aired in 2000 for that year's Jeep Grand Cherokee with the following narration "... Jeep Grand Cherokee goes where you could encounter anything. *So we tested for anything.*" (Emphasis added).



71. In November, NHTSA published a proposal to upgrade FMVSS-301, making it stricter and more consistent with real-world collision scenarios. Having actual knowledge that the Jeep Cherokee XJ, Grand Cherokee, and Liberty could not pass a stricter rear-end collision test, Defendant Chrysler objected fiercely to NHTSA's new standard, ultimately engaging the agency in a protracted Court

battle. In a letter to NHTSA, in response to the agency's contention that if auto makers treated NHTSA standards as minimum standards, cars and truck would not fail the new, stricter NHTSA standard, Chryslers writes: "Chrysler disagrees. *The law says all you have to do is pass.*" (Emphasis added.)

72. Defendant Chrysler has actual knowledge that it was dangerous to locate the Jeep Cherokee XJ fuel tank in the "crush zone" of the vehicle without any impact deflection protection structure. Defendant Chrysler, also had actual knowledge of the attendant risk of serious injury and death posed by rear-impact collision fuel-fed fires, particularly those occurring at speeds higher than 30 miles per hour well before it ever sold the Jeep Cherokee XJ to its first consumer in 1984.

73. Nevertheless, Defendant Chrysler's consistent public position was and continues to be that the Jeep Cherokee XJ fuel system design was safe *because it passed all applicable Federal Government tests in place at the time the Jeep Cherokee XJ was designed*, and that Chrysler is not to blame in any way for injuries occurring in rear-impact fuel-fed fires.

V. *Defendant Chrysler Feigns Ignorance of Industry-Wide Term*
"Crashworthiness"

74. Vehicle crashworthiness is a concept well known in the auto industry. With the exception of Defendant Chrysler, auto manufacturers routinely provide

the public with a grade scale of crashworthiness. Despite the prevalence and well known usage of the auto industry term “crashworthiness,” Defendant Chrysler executives repeatedly deny knowing the meaning of the term.

75. On March 14, 1996, François Castaing, Defendant Chrysler’s Chief Engineering Executive responsible for the development and production of the Jeep Cherokee XJ, testified as follows regarding his knowledge of crashworthiness:

Q: What does the term crashworthiness mean in terms of design of a product?

A: I don’t know. Tell me.

Q: You don’t know the phrase?!

A: No.

Q: Well, let me make sure I’m clear on this. As the chief engineer of the company, are you at all familiar with the use of the phrase crashworthiness by the engineers of the company?

A: Crashworthiness is so vague that you have to tell me what you intend by that.

76. In a deposition held on June 15, 2011, former Chrysler Executive Engineer for Chassis Systems, Owen J. Viergutz, testified as follows regarding vehicle crashworthiness:

Q: If I tell you that the crashworthiness is based on the duty of a manufacturer to make a vehicle safe to protect its passengers from enhanced injuries after a collision do you recognize that as a definition of crashworthiness?

A: Not at all. I don't have a better one necessarily, but I don't understand what that one says. (---)

Q: So let me just ask you so that I'm clear. During the time when you were Chassis Drivetrain Engineering director and executive engineer in the Engine Engineering of Jeep, Dodge and Truck, you never discussed or knew what the term "crashworthiness" meant?

A: I'm saying now sitting at this point in time, I don't have any recollection of it, no. Whether I did 20 years ago, I don't know.

Q: What don't you have a recollection of, what the term meant, or do you have a recollection of talking to someone about it?

Q: Did you have an understanding of your own idea of what the meaning of crashworthiness was when you were executive engineer of Jeep, Dodge and Truck or director of Chassis Drivetrain Engineering?

A: The difficulty I'm having is with the term "crashworthiness". To me that's somewhat like a term "goodness," that it is too unspecific, too amorphous to really get a handle on what it means. You know, I understand the need to have a vehicle perform in certain adverse conditions, but the term I'm struggling with is the term "crashworthiness." To me it has no specifics behind it. I'm not saying it doesn't; I'm saying to me it doesn't.

Q: And was that your understanding of how you approached the term "crashworthiness" back in the years from 1987 to '94; you also felt it didn't have any meaning?

A: I don't -- I'm saying I don't have a way of defining crashworthiness today. I don't know what I thought 20 years ago on the subject.

VI. *NHTSA Launches Investigation and Asks Chrysler to Perform a Voluntary Recall*

77. On or about October 2, 2009, the Center for Auto Safety ("CAS"), a consumer advocacy organization, sent the National Highway Traffic Safety Administration ("NHTSA") a petition to initiate a defect investigation and recall of Chrysler Jeep Grand Cherokees, model years 1993-2004. In its petition, the Center calls NHTSA's attention to the staggering number of post rear-end collision fuel-fed fires, and describes the defect in the Jeep Grand Cherokee fuel system design. Pertinent sections of the CAS recall petition to NHTSA are shown below.

CENTER FOR AUTO SAFETY
1825 CONNECTICUT AVENUE NW SUITE 330 WASHINGTON DC 20009-5708
202-328-7700 ◆ www.autosafety.org

October 2, 2009

Ronald Medford, Acting Deputy Administrator
National Highway Traffic Safety Administration
1200 New Jersey Avenue SE
Washington DC 20590

PETITION

Dear Deputy Administrator Medford:


The Center for Auto Safety (CAS) petitions the National Highway Traffic Safety Administration (NHTSA) to initiate a defect investigation into and recall all 1993-2004 Jeep Grand Cherokee with a fuel tank located behind the rear axle. Unlike the earlier Jeep Cherokee, the fuel tank of the Grand Cherokee is plastic and extends below the rear bumper so there is nothing to protect the tank from a direct hit in a rollover or by a vehicle with a low front profile or one lowered by pre-impact braking.

The design is so bad that Chrysler frequently settles lawsuits without extensive discovery and subject to confidentiality agreements. A search of NHTSA's FARS files for fatal fire crashes where there was a fire occurrence in a 1993-2004 Jeep Grand Cherokee from calendar year 1992 through 2008 found 172 fatal fire crashes with 254 fatalities. (Attachment A.) With an additional known fatal fire crash in 2009, there have been at least 44 crashes with 64 fatalities where the Most Harmful Event is fire.¹ (Attachment B.) In comparison, NHTSA reported a total of 38 fire crashes involving only 26 fire deaths in the Ford Pinto when it issued its initial defect report in May 1978. (Attachment C.)

The fuel system in the 1993-04 Grand Cherokee is defectively designed in that it contains a plastic fuel tank subject to rupture, degrades in performance over time, a fuel filler neck that tears off in a range of crashes, a hostile environment with sharp objects such as suspension bolts that can puncture the tank, extends below the bumper and is unshielded although Chrysler offers an optional 3/16" steel shield as a "skid plate" for off road use which would protect the tank in rear impacts where there is pre-crash braking of the striking vehicle. Similar shields are offered in the aftermarket by companies like Quadratec and take advantage of OEM holes in the frame rail to mount the shields.²

With funding from General Motors, the Motor Vehicle Fire Research Institute (MVFRI) has performed detailed technical assignments of the fuel tanks and fuel systems in motor vehicles. As pointed out in the assessment of the 2003 Grand Cherokee, the rear sway bar link bolt is only

78. After performing a preliminary evaluation of the affected Jeep Grand Cherokees, as outlined in CAS' 2009 Petition, in August of 2010, NHTSA's Office of Defect Investigations (ODI) opened a formal Preliminary Evaluation covering over 3 million Jeep Grand Cherokee vehicles, model years 1994 through 2004. Pertinent portions of NHTSA's new investigation summary are shown below:

	ODI RESUME		
	Investigation: PE 10-031 Date Opened: 08/23/2010 Investigator: Lawrence Hershman Approver: Richard Boyd Subject: Crash Related Fuel Tank Fires	Reviewer: Scott Yon	<small>OFFICE OF DEFECT INVESTIGATION NHTSA National Highway Traffic Safety Administration 400 Capitol Mall, S.W. Salem, Oregon 97331-3434 Phone: (503) 325-4000 Fax: (503) 325-4001 TDD: (503) 325-4002 www.nhtsa.gov</small>
MANUFACTURER & PRODUCT INFORMATION			
Manufacturer: CHRYSLER GROUP LLC Products: 1993-2004 Jeep Grand Cherokee Population: 3,037,000 (Estimated) Problem Description: FUEL TANK PRESENTS FIRE HAZARD IN CRASHES.			
FAILURE REPORT SUMMARY			
	ODI	Manufacturer	Total
Complaints:	12	TBD	TBD
Crashes/Fires:	12	TBD	TBD
Injury Incidents:	5	TBD	TBD
Number of Injuries:	9	TBD	TBD
Fatality Incidents:	1	TBD	TBD
Number of Fatalities:	1	TBD	TBD
Other*:	10	TBD	TBD
*Description of Other: FARS fatal rear-impact crashes where fire is the MHE, resulting in 13 occupant deaths.			
ACTION / SUMMARY INFORMATION			
Action: Open a Preliminary Evaluation.			
Summary: In a letter dated October 2, 2009, the Center for Auto Safety (CAS) petitioned NHTSA to open a defect investigation and recall model year 1993-2004 Jeep Grand Cherokees. CAS alleged that the subject vehicles have defective fuel tank storage systems that present a fire hazard in crashes. CAS alleged that the plastic fuel tank's placement behind the rear axle and below the rear bumper, and the lack of adequate shielding, make it more vulnerable to rupture or leakage from a rear-impact by another vehicle (including damage from other components located on the Grand Cherokee), or in the case of rollover crashes, from other external objects. CAS also alleged that the fuel filler neck tears off in crashes. In its petition, CAS cites data from NHTSA's Fatality Analysis Reporting System (FARS) showing 172 fatal fire crashes with 254 fatalities involving the subject vehicles from calendar years 1992 through 2008. CAS stated that there have been at least 44 crashes with 64 total fatalities (subject and non-subject vehicles) where fire was entered as the Most Harmful Event (MHE) in the FARS database.			

79. In June, 2012, NHTSA decided to expand its investigation to include the Jeep Cherokee XJ and Jeep Liberty models, bringing the investigation to a total of 5.1 million vehicles. At this same time, NHTSA also upgraded its investigation to a more rigorous Engineering Analysis.

80. In furtherance of NHTSA's preliminary inquiry, on October 18, 2010, NHTSA sent to Defendant Chrysler a request for information and documents concerning the fuel-fires in rear-impact collisions, requesting a response by December 13, 2010.

81. In or around December 2010, in response to NHTSA's request, Defendant Chrysler submitted several documents. However, despite its obligation

to do so under DP09-005 and PE10-031, Defendant Chrysler intentionally omitted the following documents from its official submission to NHTSA:

- a. The Baker Memo, even though the subject and contents of the Baker memo had been the focus of recent depositions in a fuel system integrity defect claim in the *Austin v. DaimlerChrysler*.
- b. The Deposition of Chrysler's own expert witness, Robert Banta, taken on September 7, 2012, in which he implicitly concedes that Jeep Cherokee XJ, Grand Cherokee, and Liberty fuel tank systems only comply with the narrow test configuration of FMVSS-301, but *cannot and will not protect occupants and bystanders from fire-injury and fire-death in the real-world*. The pertinent sections of these deposition are shown below:

Q: Now, in looking at that photo, can you tell me what part of the vehicle protects the part of the tank that we're looking at in that photograph?

A: *No. It's covered by the fascia.*

Q: So if a vehicle were to strike just that yellow piece of the car, whether it be because it's lower or some kind of vehicle that's not even a car, let's say it was a recreational vehicle of some sort, what would protect that portion of the tank that we see here in yellow.

A: *Just the tank surface itself.*

Q: So in other words, whatever the material of the tank is at the time?

A: *The tank's on its own.*

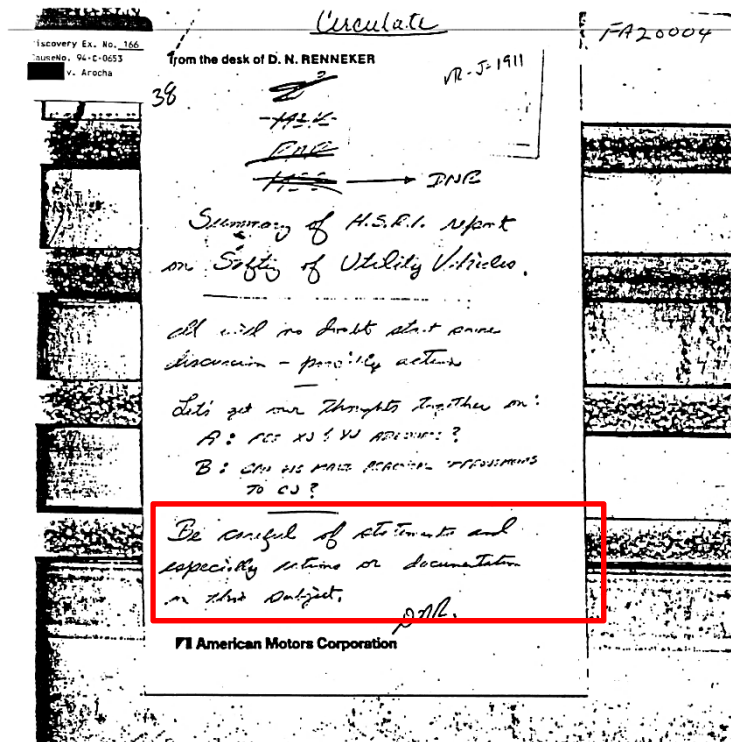
82. In connection with NHTSA's ongoing investigation of Jeep fuel-fed fires, in December 2010, Defendant Chrysler submitted a special presentation to NHTSA containing its own analysis of post rear-end collisions involving fuel leaks and fatalities, and rebuking the agency's findings. In this presentation, Defendant Chrysler included several charts they claimed to show that the Jeep models with unshielded fuel tanks placed in the crush zone perform as well or better in rear-end

collisions as similar, or 'peer,' SUVs sold to the public by other auto manufacturers.

83. Defendant Chrysler also failed to disclose to NHTSA that Chrysler did not actually perform the analysis or author the presentation, but instead *paid* a consultant, Exponent Failure Analysis, to perform said analysis.

84. Also, at this time, Defendant Chrysler intentionally concealed from NHTSA that the consultant Defendant Chrysler paid to analyze crash data and prepare said presentation for NHTSA, is the same consultant that manufactured an analysis and presentation for General Motors when NHTSA was actively investigating GM's defective side saddle gas tank. It was only when NHTSA became aware of the fraud perpetrated by GM and Exponent Failure Analysis that GM recanted their analysis, and apologized for the fraudulent misrepresentations they had intentional made to NHTSA.

85. On or about November 3, 1983, D.N. Renneker, engineer in Defendant Chrysler's Chassis Engineering team, authored and circulated an internal monthly report containing the a handwritten note referencing "Summary of H.S.R.I. Report on Safety of Utility Vehicles." The note, shown below, states: "It will no doubt start some discussion, possibly action. Let's get together on or let's get together our thoughts on are XJ and YJ adequate. Be careful of statements and especially actions or documentation on this subject."



VII. Feasible Alternative Fuel System Designs Existed at the Time Defendant Chrysler Designed the Jeep XJ

86. In the Deposition of Chrysler's Joe Seidl, Engineer, taken in September 1994 in connection with *Sihanouraj* litigation in Texas, he *conceded that one feasible alternate design for the fuel system was to place the fuel tank in the front of the rear axle*, but Chrysler wanted the Jeep Cherokee XJ to have a bigger fuel tank than would fit in front of the axle, so instead of selecting a smaller fuel tank, Chrysler decided to place said fuel tank in the crush zone of the vehicle. An excerpt of Seidl's deposition is shown below:

Q. Is it your position that there is not enough space between the front and the rear axle to place a fuel tank in front of the rear axle on the XJ vehicle?

A. No, there's enough space for a fuel tank in that area, but not a very large fuel tank.

87. In a special presentation submitted to NHTSA as part of the agency's ongoing investigation of Jeep fuel-fed fires, Defendant Chrysler misled NHTSA and the public when it made the following statements below:

“... in all of the incidents that Chrysler Group had sufficient information to analyze were *high energy rear end collisions involving severe crash forces* that are substantially greater than the energy associated with the applicable FMVSS 301 standard.”

“Because of the severe nature of crash forces, *no fuel system design in any vehicle could reasonably be expected to guarantee against fuel leakage or fire*. Indeed, the resultant damage to the struck vehicles in most of these cases would not have been prevented by taking any reasonable countermeasure steps with respect to the vehicles, and would have occurred in vehicles of other makes and models.” (Emphasis added.)

88. In this same submission to NHTSA, Defendant Chrysler's claim that the majority of post rear-end collision fuel-fed fires are the result of “high energy rear end collisions involving severe crash forces” is a knowingly false statement made with the intent to mislead both NHTSA and the public. Defendant Chrysler has actual knowledge extending back decades that in countless post rear-end collision fuel-fed fires, as is the case with Plaintiff Ana Piña, many of the people who were burned alive in Jeep Cherokee XJs *suffered no injuries other than burns*, an outcome inconsistent with Defendant Chrysler's baseless assertion that post rear-end collision fuel-fed fires are the “result of high energy rear end collisions involving severe crash forces.”

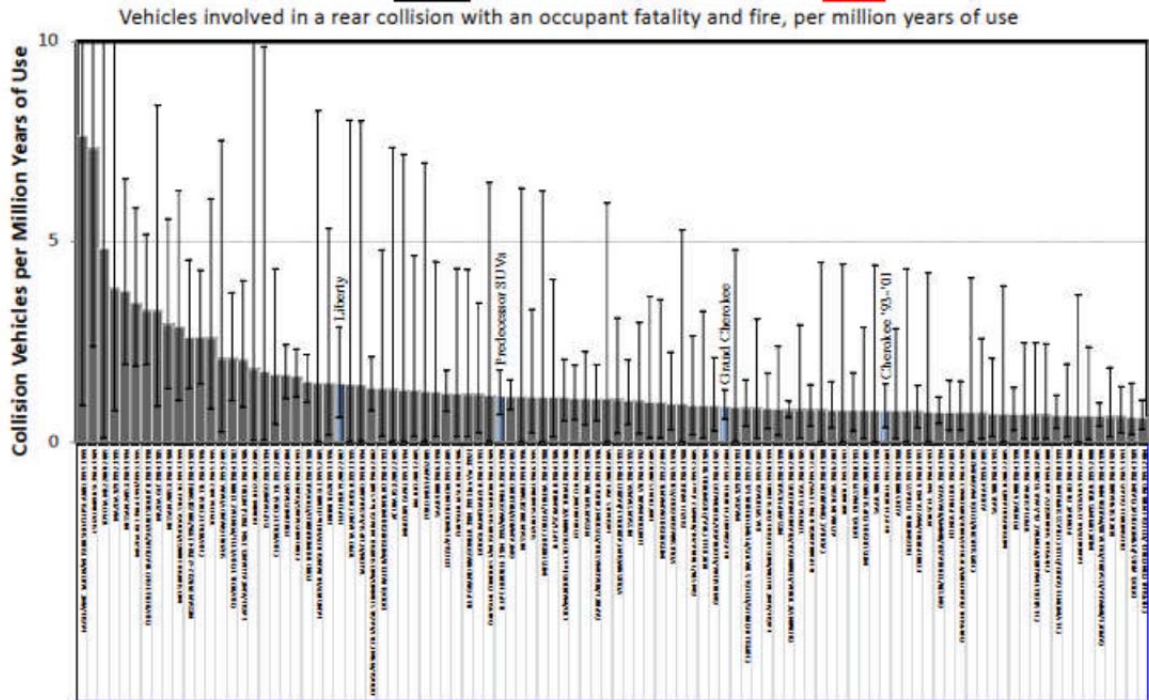
89. Also in this submission, Defendant Chrysler's second claim that [impact deflection structures] "*would have made no difference in the outcome of these tragic events*" is also knowingly false statement made with the intent to mislead both NHTSA and the public. Chrysler *does not and cannot know* whether an impact deflection structure shielding the fuel tank "would have made no difference" because Chrysler *never performed a single crash test on the Jeep Cherokee XJ or any other model in the Jeep fleet in which the fuel tank was shielded by an impact deflection structure*. Since it never performed said tests, Chrysler *does not and cannot know* the efficiency of an impact deflection structure in protecting Jeep SUVs from rupture and leakage in rear-end collisions.

90. Furthermore, Defendant Chrysler's defiant response to NHTSA's request for a voluntary recall is based on Chrysler's *own* misleading statistical comparison of Jeep Cherokee XJ, Jeep Grand Cherokee, and Jeep Liberty fire rates and other comparable SUV fire rates. In its analysis, Chrysler deliberately introduces *irrelevant* data calculated to skew the analysis in such a way that the outcome would be favorable to Chrysler. Examples of data fabricated and manipulated by Defendant Chrysler to intentionally skew the analysis include, as depicted in the Chrysler's own chart submitted to NHTSA, which follows the summaries below:

- a. Crash calculations using total number of *registered* Jeeps to dilute the percentage of rear-impact fuel-fed fires in Jeeps versus comparable SUVs because, as commonly known, the *same Jeep* can be registered and re-registered countless times during a normal lifespan. The number of times

- a given Jeep has been registered is irrelevant to calculating rear-impact fuel-fed fires incidents for those vehicles.
- b. Intentionally introducing cars into the analysis which are not vehicles comparable to SUVs for the purposes of assessing the frequency of rear-end impact collisions fuel-fed fires. Cars, by virtue of their smaller size and weight, are statistically more likely to experience fires and cause fatalities in the event of a crash.
 - c. Employing a calculation based on an estimate of “millions of miles driven” and “years in use” to intentionally deflect NHTSA and the public’s attention from the *only data* that actually shows that the fuel system design defect in Jeep Cherokee XJ and other Jeep fleet models equipped with a substantially identical fuel system design, which is an accurate comparison of: 1) number of rear-end impact collisions in Jeep Cherokee XJ models that resulted in fuel-fed fires where Jeep occupants were trapped in the burning Jeep, unable to escape, ultimately burning to death or sustaining severe burn injuries, versus 2) number of rear-end impact collisions in comparable SUVs models that resulted in fuel-fed fires where SUV occupants were trapped in the burning SUV, unable to escape, ultimately burning to death or sustaining severe burn injuries.

100 Vehicles Having the Highest Rates of Rear Fatal Collisions With Fire



Notes: Each bar represents a different model of vehicle. Subject SUVs are: Grand Cherokee 1993-2004, Cherokee 1993-2001, and Liberty 2002-2007. Predecessor SUVs are: Jeep Cherokee 1984-1992 and Wagoneer 1984-1990. Other vehicles are model years 1984-2005. FARS data 1984-2010. Registration data from RL Polk. Rear collision includes either initial or principal impact to clock points 5, 6, or 7. Includes vehicles with an occupant fatality where the vehicle experienced a post-collision fire. Vertical lines are 95% confidence intervals about the rates.

30

91. Even though Defendant Chrysler included in its analysis of “comparable SUVs” *countless cars and other non-comparable SUVs*, Defendant Chrysler used this very data as the basis for its knowingly false and intentionally misleading conclusion that post-collision fires in rear impacts for SUVs built with aft axle fuel tanks is about the same as for Jeep SUVs with fuel tanks in the crush zone:

“In this case, the evidence strongly shows that the rates of post-collision fires in rear impacts for SUVs built with aft axle fuel tanks are statistically indistinguishable from the rates of post-collision fires in rear impacts involving the Subject Vehicles.”

92. Defendant Chrysler's defiance of NHTSA's recall request coupled with its deliberate campaign to fraudulently mislead NHTSA and the public is all the more transparent when viewed in light of Chrysler's own engineer's concession, David D. Dillon, that *Chryslers' Jeep post rear-impact fuel-fed fire rates far exceed its top competitor, the 1993-04 Ford Explorer in most harmful event (MHE) rear impact fire crashes.*

VIII. Chrysler Agrees to Voluntary Partial Recall, Limits "Fix" to "the tow package [that] does not protect the tank"

93. On June 18, 2013, Defendant Chrysler issued a public statement that it agreed to perform a voluntary recall pursuant to NHTSA's investigation and subsequent recall request. While Chrysler did not identify the number of vehicles it agreed to recall, it was assumed to include all 2.7 million vehicles NHTSA included in its request. In its statement Chrysler said:

Chrysler Group will conduct a voluntary campaign with respect to the vehicles in question that, in addition to a visual inspection of the vehicle will, if necessary, provide an upgrade to the rear structure of the vehicle to better manage crash forces in low-speed impacts.

94. On June 9, Defendant Chrysler's CEO, Sergio Marchionne, and Transportation Secretary, Ray LaHood, held a secret meeting at a Chicago airport to "negotiate" the terms of a recall of over 2.7 million Jeep SUVs that

regulators said posed a fire risk. The next day, Defendant Chrysler disclosed the details of the deal, stating it agreed to recall 1.56 million 1992-1998 Jeep Grand Cherokees and 2002-2007 Jeep Libertys. Chrysler publicly stated the fix for the recalled vehicles was a trailer hitch assembly that would protect the gas tank located between the rear axle and bumper during rear-end crashes. Jeeps that already had factory-installed or Mopar hitches would not need to have a new hitch installed.

95. For the additional 1.2 million 1999-2004 Jeep Grand Cherokees that NHTSA wanted recalled, Defendant Chrysler negotiated a service campaign to replace non-factory-installed hitches.

96. Despite publicly announcing this “fix,” Defendant Chrysler had actual knowledge and previously admitted that the trailer hitch does not protect the fuel tank in any of the Jeep vehicles subject to the NHTSA investigation, which includes the Jeep Cherokee XJ. In a 2011 deposition, François J. Castaing, Defendant Chrysler’s Vice President for Engineering from 1988 through 1996 and the engineer primarily responsible for the design of the Jeep Cherokee XJ, stated under oath: “*the tow package does not protect the tank.*”

97. Despite its own admission that the tow package, or trailer hitch, “does not protect the tank,” Defendant Chrysler’s *exclusive service recall*

remedy is to install this very tow package, again misleading the public about the safety of its Jeeps and the effectiveness of the recall solution.

98. Defendant Chrysler's exclusive recall remedy is made with reckless disregard for the safety of its consumers because Chrysler has both actual knowledge that the trailer not only "does not protect the tank," Chrysler also has actual knowledge that *very trailer hitch can puncture the fuel tank* in the event of a rear-end collision, as was the case in a tragic 2006 Jeep post rear-impact collision fuel-fed fire in which a toddler was trapped and burned alive in the vehicle.

99. Despite multiple press releases promising a "recall," Defendant Chrysler's misleading conduct toward its consumers continues to this day, as a full six months later – as of the day this complaint was filed, Chrysler *has yet to recall a single of the 1.5 million affected Jeeps.*

IX. Defendant Chrysler's Continued Concealment

100. Though Defendant Chrysler made substantial design changes to the Jeep Cherokee model during the 2002 model year, it continued to commit affirmative acts of concealment concerning the defects of the Jeep Cherokee XJ as it was originally designed and marketed. For example, warnings about the dangerous fuel system design and safety improvements described in Paragraph 38 were first acknowledged and recommended by Defendant Chrysler's own safety engineer in

1978. Notwithstanding the warnings and calls for safety improvements by its own engineers, Chrysler decided to treat said safety improvements as an opportunity for revenue growth and made those safety improvements available only to consumers who bought the high-end Jeep XJ model.

101. Upon information and belief, an impact deflection structure would have cost Defendant Chrysler about \$100.00 per vehicle, such that, by treating the fuel tank impact deflection structure as optional rather than standard equipment. By failing to provide this safety measure in the majority of the Jeep Cherokee XJ vehicles it sold, and by passing the cost of said safety measure to consumers who bought the higher-end (and more expensive) XJ model, ***Chrysler profited approximately 300 million dollars on Jeep Cherokee XJs fleet alone.***

102. In addition to its desire to profit from its customers' need for additional safety, as alleged above, Defendant Chrysler's decision to make the fuel tank impact deflection structure optional rather than standard equipment was motivated by a desire to conceal the known design defects in the existing, pre- 2002 Jeep Cherokee XJ model. As such, that decision represented a further affirmative act of concealment within the meaning of Michigan's Product Liability Law.

**COUNT I – GROSS NEGLIGENCE UNDER MCL 600.2946 and
600.2946(a)(3)**

PLAINTIFF HEREBY restates, realleges, and incorporates by reference each and every paragraph set forth above, as though fully set forth herein and further states in the alternative the following:

103. By 1999, the year of manufacture of the subject Jeep Cherokee XJ, Defendant Chrysler was aware that placing the fuel tank in the “crush zone” of a vehicle greatly increased the chances of the fuel tank being ruptured upon the vehicle being rear ended at speeds where the vehicle’s occupants are not likely to be killed or seriously injured by impact forces, thus increasing the chances of a vehicle fire and consequent thermal injury to the vehicle’s occupants.

104. At all times pertinent to this complaint, Defendant Chrysler designed, tested, manufactured and assembled the Jeep Cherokee and placed it in the stream of commerce in Michigan.

105. The Jeep Cherokee was expected to, and did reach the Plaintiff without substantial alteration in the condition in which it was sold.

106. The Jeep Cherokee was not reasonably safe at the time it left Defendant Chrysler’s control and alternative design, testing and manufacturing practices were practical, technically feasible and available, which would have prevented Plaintiff’s injuries and damages and which would not have significantly impaired

the usefulness or desirability of the vehicle. In addition, the alternative practices described in this Complaint would not have created equal or greater risk of harm to others.

107. In designing, manufacturing, and marketing the Jeep Cherokee, Defendant Chrysler was grossly negligent and acted with a wanton disregard for the safety of the ultimate users of the Jeep Cherokee including Plaintiff, in violation of MCL 600.2946 and 600.2946(a)(3), out of a concern only for their own pecuniary benefit by placing into the stream of commerce in 1999 a vehicle that:

- a. Located the gas tank in an area where it hung below the bumper in an exposed position, such that it was subject to foreseeable rear impacts, rupture, leakage and fire under circumstances where the occupants of said vehicle were likely to survive the impact;
- b. Failed to incorporate adequate protections for the fuel tank, in reasonably foreseeable impacts, such as skid plates, and instead represented them only as an option available for off road use and not for fuel system integrity;
- c. Utilized a plastic fuel tank, as opposed to a more robust material, such as steel, so the fuel tank would be able to withstand foreseeable rear impacts;
- d. Other acts and omissions to be determined throughout the course of discovery.

108. At the time of manufacture or distribution of the Jeep Cherokee, Defendant Chrysler knew that the Jeep Cherokee was defective and there was a substantial

likelihood that the defect would cause the injuries that are the basis of this action, in violation of MCL 600.2949a, and that such injuries would be prevented by the inclusion of Chrysler's own shield plate on the vehicle.

109. As a direct and proximate result of the above-referenced negligence and/or reckless acts and/or omissions of Defendant, Plaintiff was severely injured and are entitled to such damages as are deemed fair and just, including:

- a. Permanent disability and disfigurement;
- b. Hospitalization, invasive medical procedures;
- c. Pain, suffering and emotional distress, past, present and future;
- d. Humiliation, mortification, fright, past, present and future;
- e. Medical expenses;
- f. Lost wages, compensation, and earning capacity, past, present and future;
- g. Emotional and mental suffering, past, present and future;
- h. Loss of enjoyment of life, past, present and future;
- i. Attorney fees and legal costs;
- j. Any and all other injuries and damages found to be appropriate by the trier of fact.

WHEREFORE, the Plaintiff respectfully request that this Honorable Court enter a judgment against the Defendant in any amount in excess of SEVENTY-FIVE THOUSAND (\$75,000) DOLLARS, together with interest, costs and attorney fees, to which the Plaintiff is deemed to be entitled.

COUNT II – PRODUCT LIABILITY UNDER MCL 600.2946(2)

PLAINTIFF HEREBY restates, realleges, and incorporates by reference each and every paragraph set forth above, as though fully set forth herein and further states in the alternative the following:

110. At all times pertinent to this Complaint, pursuant to MCL 600.2946(2), Defendant Chrysler owed the general public, including Plaintiffs, a duty to design, manufacture, market and distribute the Jeep Cherokee in a reasonably safe condition according to generally accepted protection practices at the time and to provide the practical and technically feasible alternative production practices available at the time the vehicle left the Defendant's control.

111. Notwithstanding said obligation, and in breach thereof in violation of MCL 600.2946, Defendant Chrysler was negligent in the design, manufacture, marketing and/or distribution of the Jeep Cherokee as they failed to design, manufacture, market and/or distribute the Jeep Cherokee reasonably and by placing into the stream of commerce in 1999 a vehicle that:

- a. Located the gas tank in an area where it hung below the bumper in an exposed position, such that it was subject to foreseeable rear impacts, rupture, leakage and fire;
- b. Failed to incorporate adequate protections for the fuel tank, in reasonably foreseeable impacts, such as skid plates, and instead represented them only as an option available for off road use and not for fuel system integrity;
- c. Utilized a plastic fuel tank, as opposed to a more robust material, such as steel, so the fuel tank would be able to withstand foreseeable rear impacts;
- d. Other acts and omissions to be determined throughout the course of discovery.

112. Defendant Chrysler actually knew that the Jeep Cherokee was defective and there was a substantial likelihood that the defect would cause the injuries that are the basis of this action, in violation of MCL 600.2949a, and that such injuries would be prevented by the inclusion of Chrysler's own shield plate on the vehicle.

113. As a direct and proximate result of the aforementioned acts and/or omissions of Defendant, Plaintiff was severely injured and are entitled to such damages as are deemed fair and just, including:

- a. Permanent disability and disfigurement;
- b. Hospitalization, invasive medical procedures;
- c. Pain, suffering and emotional distress, past, present and future;
- d. Humiliation, mortification, fright, past, present and future;

- e. Medical expenses;
- f. Lost wages, compensation, and earning capacity, past, present and future;
- g. Emotional and mental suffering, past, present and future;
- h. Loss of enjoyment of life, past, present and future;
- i. Attorney fees and legal costs;
- j. Any and all other injuries and damages found to be appropriate by the trier of fact.

WHEREFORE, the Plaintiff respectfully request that this Honorable Court enter a judgment against the Defendant in any amount in excess of SEVENTY-FIVE THOUSAND (\$75,000) DOLLARS, together with interest, costs and attorney fees, to which the Plaintiff is deemed to be entitled.

COUNT III – BREACH OF IMPLIED WARRANTY OF FITNESS

PLAINTIFF HEREBY restates, realleges, and incorporates by reference each and every paragraph set forth above, as though fully set forth herein and further states in the alternative the following:

114. At all times pertinent to this Complaint, the Jeep Cherokee was not reasonably fit for its intended, anticipated, or reasonably foreseeable use, given that the Jeep Cherokee's gas tank was ruptured during the course of normal

operation, consistent with the existence of underlying defects. This constitutes a break of said implied warranty.

115. Plaintiff suffered injuries as a result of Defendant's breach of the implied warranty of fitness and suitability, which attended the design, manufacture, distribution, and sale of the Jeep Cherokee XJ.

116. As a direct and proximate result of the aforementioned breach of the implied warranty of fitness and/or omissions of Defendant, Plaintiff was severely injured and are entitled to such damages as are deemed fair and just, including:

- a. Permanent disability and disfigurement;
- b. Hospitalization, invasive medical procedures;
- c. Pain, suffering and emotional distress, past, present and future;
- d. Humiliation, mortification, fright, past, present and future;
- e. Medical expenses;
- f. Lost wages, compensation, and earning capacity, past, present and future;
- g. Emotional and mental suffering, past, present and future;
- h. Loss of enjoyment of life, past, present and future;
- i. Attorney fees and legal costs;

- j. Any and all other injuries and damages found to be appropriate by the trier of fact.

WHEREFORE, the Plaintiff respectfully request that this Honorable Court enter a judgment against the Defendant in any amount in excess of SEVENTY-FIVE THOUSAND (\$75,000) DOLLARS, together with interest, costs and attorney fees, to which the Plaintiff is deemed to be entitled.

Respectfully submitted,

MORGAN & MEYERS, PLC

/s/ Courtney E. Morgan, Jr. (P29137)
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DATED: January 9, 2014

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN

ANA MARIA PIÑA,
Plaintiff,

Case No.
HON.

v.

CHRYSLER GROUP LLC,
Defendant.

COURTNEY E. MORGAN, JR. (P29137)

DEBRA N. POSPIECH (P55277)

Morgan & Meyers, PLC

Attorneys for Plaintiffs

3200 Greenfield, Suite 260

Dearborn, MI 48120

(313) 961-0130

DEMAND FOR JURY TRIAL

NOW COMES the above-captioned Plaintiff, by and through her attorneys, MORGAN & MEYERS, PLC, and hereby demand a jury trial in the above cause of action.

Respectfully submitted,

MORGAN & MEYERS, PLC

/s/ Courtney E. Morgan, Jr. (P29137)

Courtney E. Morgan, Jr. (P29137)

Attorneys for Plaintiff

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DATED: January 9, 2014