

***IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION***

KAITLYNN GRAHAM TRUSS,

Plaintiff,

v.

GENERAL MOTORS, LLC; GENERAL
MOTORS HOLDINGS, LLC; AUTOLIV
ASP, INC. & IEE SENSING, INC.,

Defendants.

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CIVIL ACTION NO. 2:20-CV-89

PLAINTIFF’S ORIGINAL COMPLAINT

TO THE HONORABLE UNITED STATES DISTRICT JUDGE:

COMES NOW KAITLYNN GRAHAM TRUSS (“Plaintiff Kaitlynn”) and files this Original Complaint against General Motors, LLC (“Defendant GM”); General Motors Holdings, LLC (“Defendant GM Holdings”); Autoliv ASP, Inc. (“Defendant Autoliv”) and IEE Sensing, Inc. (“Defendant IEE”), and in support thereof, would respectfully show unto the Court as follows:

I.

PARTIES

1. At all relevant times, Plaintiff KAITLYNN GRAHAM TRUSS is and was a resident of the Eastern District of Texas.
2. At all relevant times, Defendant General Motors, LLC is and was a Delaware corporation with its principal place of business in Detroit, Michigan. General Motors, LLC does business in the State of Texas and it can be served *via* its

Registered Agent, Corporation Service Company d/b/a CSC-Lawyers Inc. 211 E. 7th Street, Suite 620, Austin, Texas 78701. General Motors, LLC is the successor in interest to General Motors Corporation.

3. At all relevant times, Defendant General Motors Holding, LLC is and was a Delaware corporation, and is a holding company and direct parent of General Motors, LLC. General Motors Holding, LLC does business in the State of Texas, and can be served *via* its Registered Agent at Corporation Service Company, 2711 Centerville Road, Suite 400, Wilmington, Delaware 19808.
4. At all relevant times, Defendant Autoliv ASP, Inc. is and was an Indiana corporation with its principle place of business located at 3350 Airport Road M/S A9130, Ogden, Utah. It can be served with process by serving its registered agent C T Corporation System, 350 North St, Paul Street, Suite 2900, Dallas, Texas 75201-4234.
5. At all relevant times, Defendant IEE Sensing, Inc. is and was a Delaware corporation with its principle place of business being located in Auburn Hills, Michigan. It can be served with process by serving its registered agent The Corporation Company, 40600 Ann Arbor Road East, Suite 201, Plymouth, Michigan 48170.

II.

JURISDICTION & VENUE

6. This Court has jurisdiction pursuant to 28 U.S.C. § 1332 (West 2020) in that the parties to this lawsuit are citizens of different states, and the matter in controversy exceeds the sum or value of \$75,000.00 exclusive of interest and costs.
7. Venue is proper in the Eastern District of Texas in that all or a substantial part of the occurrences giving rise to Plaintiff's claims occurred in the Eastern District of Texas. In particular, the automobile accident giving rise to Plaintiff's claims occurred in the Eastern District of Texas.

III.

BACKGROUND FACTS

8. On the evening of March 31, 2018, Plaintiff Kaitlynn's mother drove a 2009 Chevrolet Aveo (the "Aveo") westbound on State Highway 11 near its intersection with Kentucky Town Road in Whitewright, Grayson County, Texas.
9. Plaintiff Kaitlynn rode in the front passenger seat of the Aveo.
10. As the Aveo approached Kentucky Town Road, a 2011 Kia Sorento darted onto State Highway 11 directly into the path of Plaintiff Kaitlynn and her mother.
11. The front of the Aveo slammed into the left side of the Kia Sorento.
12. The Aveo included safety restraint system and a front seat passenger airbag safety system designed and intended to protect the most vulnerable parts of the human body during a frontal impact — the head, neck, chest and abdomen.

13. Despite the massive frontal collision, the Aveo's front seat passenger airbag safety system (the "Airbag Safety System") failed to deploy during the collision.
14. As a result, even though Plaintiff Kaitlynn properly employed the Aveo's vehicle safety restraint system, the impact tossed her about like a ping-pong ball in the cabin of the vehicle.
15. As a result of the Airbag Safety System's failure to deploy, Plaintiff Kaitlynn suffered serious injury to her head, neck, chest and abdomen including but not limited to a closed head injury, multiple rib fractures and a lacerated spleen.
16. Plaintiff Kaitlynn weighed approximately 120 pounds at the time of the crash.
17. General Motors Corporation through its various entities, designed, manufactured, marketed, distributed and sold Chevrolet and other branded automobiles in Texas and multiple other locations in the United States and worldwide.
18. In 2009, General Motors Corporation filed for bankruptcy, and substantially all of its assets were sold pursuant to a Master Sales and Purchase Agreement ("Agreement") to Defendant General Motors LLC.
19. Under the Agreement, Defendant General Motors LLC also expressly assumed certain liabilities of General Motors Corporation, including warranties delivered in connection with the sale of new vehicles or new vehicle parts and equipment manufactured or sold by General Motors Corporation or General Motors LLC.
20. At all relevant times herein, General Motors Corporation and General Motors LLC were engaged in the business of designing, manufacturing and marketing automobiles, including the Aveo made the subject of this case.

21. Defendant GM and its predecessor designed, manufactured, assembled, tested, marketed, promoted, advertised, distributed and sold Chevrolet brand cars, including but not limited to the Aveo at issue in this case, in the United States.
22. Defendant GM and its predecessor have been directly involved in the safety investigation and determination made as to the motor vehicle safety issues arising from the defective and unreasonably dangerous condition of certain Chevrolet brand vehicles it makes, including the Aveo made the subject of this case and the public safety hazard involving airbag safety systems.
23. Moreover, Defendant GM and its predecessor have actively been involved in developing knowledge of this motor vehicle safety issue by GM entities over the last decade and the actions and/or inactions of same relating to this public safety hazard involving airbag safety systems.
24. Defendant Autoliv is a dominant worldwide manufacturer of products pertaining to automotive safety including but not limited to the research, design, development, manufacture and marketing of airbags systems, seat belts, safety electronics, steering wheels, anti-whiplash systems and seat components.
25. Defendant Autoliv designed, manufactured and marketed the Airbag Safety System.
26. Defendant IEE claims to have operated in the automotive market for more than 25 years developing and manufacturing cutting edge sensing solutions for the automotive industry.

27. Defendant IEE researched, designed, developed, manufactured and marketed the sensor located in the front right passenger seat of the Aveo where Plaintiff Kaitlynn sat at the time of the accident (“the “Sensor”).
28. Defendant IEE claims that the Sensor detects whether the passenger seat is occupied and classifies the occupant as a child or an adult based on body weight for airbag deployment.
29. Defendant IEE further claims that the Sensor will disable the air bag system if the passenger seat is unoccupied or occupied by a child.
30. For seats occupied by adult passengers, the Sensor purportedly ensures that the airbag deploys in the event of an accident.
31. In this case, the Sensor misclassified Plaintiff as a child and disabled the Airbag Safety System.
32. Upon information and belief, at the time of the accident, the Aveo, the Airbag Safety System and the Sensor were in the same essential condition as they were at the time they left Defendants’ control.
33. All conditions precedent have been performed or have occurred for the recovery of the relief sought by Plaintiff.

IV.

CAUSES OF ACTION

A.

STRICT PRODUCTS LIABILITY

34. Plaintiff adopts and re-alleges each prior paragraph, where relevant, as if set forth full herein.
35. Defendants GM, GM Holdings, Autoliv and IEE designed, manufactured and/or marketed the Aveo, Airbag Safety System and Sensor which caused Plaintiff's injuries and damages.
36. The Aveo, Airbag Safety System and Sensor were defective and unsafe for their intended purpose inasmuch as they were in a defective condition and unreasonably dangerous as designed, manufactured and/or marketed by Defendants.
37. Plaintiff invokes the doctrine of strict liability pursuant to Section 402A of the Restatement (Second) of Torts as adopted by the Supreme Court of Texas.
38. The defects in the design, manufacture and/or marketing of the Aveo, Airbag Safety System and Sensor constituted a producing cause of Plaintiffs injuries and damages.
39. More specifically, but not by way of limitation, Defendants defectively designed the Aveo, Airbag Safety System and Sensor such that the Sensor had propensity to misclassify passengers and erroneously disable the system designed to protect them from injury.

40. In addition, Defendants defectively manufactured the Aveo, Airbag Safety System and Sensor such that the Sensor had propensity to misclassify passengers and erroneously disable the system designed to protect them from injury.
41. On the evening of March 31, 2018, the Airbag Safety System and Sensor misclassified Plaintiff Kaitlynn as a child and failed to protect her from injury.
42. Further, Defendants defectively marketed the Aveo, Airbag Safety System and Sensor by failing to warn Plaintiff Kaitlynn that the airbag would fail to deploy in a frontal collision and place her at an increased risk of serious bodily injury.

B.

NEGLIGENCE

43. Plaintiff adopts and re-alleges each prior paragraph, where relevant, as if set forth fully herein.
44. Defendants failed to use ordinary care in the design, manufacture and/or marketing of the Aveo, Airbag Safety System and Sensor.
45. In particular, Defendants knew or should have known that the Aveo, Airbag Safety System and Sensor — as designed, marketed and manufactured by Defendants — had a propensity to misclassify front seat passengers such that it would improperly disable the airbag.
46. Despite actual and/or constructive knowledge of the risk presented by the defectively designed, manufactured and/or marketed the Aveo, Airbag Safety System and Sensor, Defendants failed to correct the flaws in the system or warn passengers of the dangers it presented.

47. On the evening of March 31, 2018, the Airbag Safety System and the Sensor misclassified Plaintiff Kaitlynn as a child and failed to protect her from injury.
48. Defendants' negligence proximately cause Plaintiff's injuries and damages.

V.

DAMAGES

49. As a result of Defendants' conduct, Plaintiff has endured pain & suffering, extreme emotional distress, mental anguish, physical impairment, medical expenses and a reduced capacity to enjoy life.
50. In reasonable medical probability, Plaintiff Kaitlynn will continue to endure such losses and damages in the future as a result of her injuries caused by Defendants.
51. The above and foregoing acts and/or omissions of Defendants, resulting in the serious injuries and damages to Plaintiff, have caused actual damages in an amount within the minimum jurisdictional limits of the Court.

WHEREFORE, PREMISES CONSIDERED, KAITLYNN GRAHAM TRUSS

requests that General Motors, LLC; General Motors Holdings, LLC; Autoliv ASP, Inc. and IEE Sensing, Inc. be cited to appear and answer her allegations and, upon final trial, the Court find them jointly and severally liable for all damages to which Plaintiff Kaitlynn may be justly entitled including actual damages as alleged herein together with pre-judgment and post-judgment interest at the highest rate as allowed by law; all costs of suit and such other and further relief to which Plaintiff may show herself justly entitled.

Respectfully submitted,

By: /s/ **David K. Wilson**

David K. Wilson (Attorney in Charge)

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