

# **EXHIBIT**

## **"E"**

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF QUEENS

ANNA AYBAR, ORLANDO GONZALEZ,  
JESENIA AYBAR, as legal guardian on behalf of  
K.C., an infant over the age of fourteen (14) years;  
JESENIA AYBAR, as Administratrix of the  
ESTATE OF NOELIA OLIVERAS, JESENIA  
AYBAR, as Administratrix of the ESTATE OF  
T.C., a deceased infant under the age of fourteen  
(14) years, and ANNA AYBAR, as Administratrix  
of the ESTATE OF CRYSTAL CRUZ-AYBAR

**VERIFIED ANSWER**

Index No. 706909/2015

**JURY DEMAND**

Plaintiffs,

- against -

JOSE A. AYBAR, JR., FORD MOTOR  
COMPANY, THE GOODYEAR TIRE &  
RUBBER CO., and "JOHN DOES 1 THRU 30"

Defendants.

Defendant, FORD MOTOR COMPANY, by its attorneys, AARONSON RAPPAPORT  
FEINSTEIN & DEUTSCH, LLP, as and for its answer to plaintiffs' Verified Complaint,  
respectfully shows to this Court and alleges upon information and belief:

1. Denies the knowledge or information sufficient to form a belief as to the truth of the  
allegations contained in paragraph(s) "1", "2", "3", "5", "6", "7", "12", "13", "14", "21", "22",  
"23", "24", "25", "26", "27", "28", "29", "30", "31", "32", "33", "34", "35" and "42" and refer all  
questions of law to this Honorable Court.

2. Denies the knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph(s) "4", "36", "37", "38", "39", "40", "41" and "49".

3. Denies the allegations contained in paragraph(s) "8" and "10" in the form alleged, except admits that FORD MOTOR COMPANY is a corporation duly organized and existing pursuant to the laws of the State of Delaware, with a principal place of business in Dearborn, Michigan.

4. Denies the allegations in the form allege except admits that Ford Motor Company is and was a foreign corporation with its principal place of business in Michigan and its State of incorporation in Delaware. Ford Motor Company admits it is registered to conduct business in New York and therefore, was authorized to conduct business in New York. Ford Motor Company, however, denies that it submitted itself to the personal jurisdiction of this Court as Ford Motor Company is not "at home" in New York, and the suit does not arise from any Ford conduct in New York.

5. Denies the allegations contained in paragraph(s) "15" and "16" in the form alleged, except admits that FORD MOTOR COMPANY, in part, designed and manufactured the 2002 Ford Explorer.

6. Denies the allegations contained in paragraph(s) "17", "18", "19" and "45" in the form alleged, except admits that FORD MOTOR COMPANY's 2002 Ford Explorer is fit for its intended purpose and denies knowledge or information sufficient to form a belief as to allegations against the other defendants.

7. Denies the allegations contained in paragraph(s) "11" and "20".

8. Denies the allegations contained in paragraph(s) "43", "44", "46", "47" and "48", as to FORD MOTOR COMPANY and denies knowledge or information sufficient to form a

belief as to allegations as to the remaining defendants.

**AS AND FOR A FIRST CAUSE OF ACTION**  
**On behalf of plaintiff, ANA AYBAR**  
**(Negligence and/or Products Liability against all defendants).**

9. Denies the allegations contained in paragraph(s) "50" and "51" as to FORD MOTOR COMPANY and denies knowledge or information sufficient to form a belief as to allegations as to the remaining defendants and refers all questions of law to this Honorable Court.

10. Denies the allegations contained in paragraph(s) "52", "53" and "55", as to FORD MOTOR COMPANY and denies knowledge or information sufficient to form a belief as to allegations as to the remaining defendants.

11. Denies the knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph(s) "54" and refer all questions of law to this Honorable Court.

**AS AND FOR A SECOND CAUSE OF ACTION**  
**On behalf of plaintiff, ORLANDO GONZALEZ**  
**(Negligence and/or Products Liability against all defendants).**

12. In response to paragraph "56", repeats each admission or denial contained in paragraph(s) "1" through "55" herein as though fully set forth hereat.

13. Denies the allegations contained in paragraph(s) "57" and "58", as to FORD MOTOR COMPANY and denies knowledge or information sufficient to form a belief as to allegations as to the remaining defendants.

14. Denies the allegations contained in paragraph(s) "59", "60" and "62", as to FORD MOTOR COMPANY and denies knowledge or information sufficient to form a belief as to

allegations as to the remaining defendants and refers all questions of law to this Honorable Court.

15. Denies the knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph(s) "61" and refer all questions of law to this Honorable Court.

**AS AND FOR A THIRD CAUSE OF ACTION**  
**On behalf of plaintiff, KEYLA CABRERA**  
**(Negligence and/or Products Liability against all defendants).**

16. In response to paragraph "63", repeats each admission or denial contained in paragraph(s) "1" through "62" herein as though fully set forth hereat.

17. Denies the knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph(s) "64" and "69" and respectfully refers all questions of law to this Honorable Court.

18. Denies the allegations contained in paragraph(s) "65", "66", "67", "68" and "70", as to FORD MOTOR COMPANY and denies knowledge or information sufficient to form a belief as to allegations as to the remaining defendants and refers all questions of law to this Honorable Court.

**AS AND FOR A FOURTH CAUSE OF ACTION**  
**On behalf of THE ESTATE OF NOELIA OLIVERAS**  
**(Negligence and/or Products Liability and Wrongful Death against all defendants).**

19. In response to paragraph "71", repeats each admission or denial contained in paragraph(s) "1" through "70" herein as though fully set forth hereat.

20. Denies the knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph(s) "72" and "77" and respectfully refers all questions of law to this Honorable Court.

21. Denies the allegations contained in paragraph(s) "73", "74", "75", "76" and "78", as to FORD MOTOR COMPANY and denies knowledge or information sufficient to form a belief as to allegations as to the remaining defendants and refers all questions of law to this Honorable Court.

**AS AND FOR A FIFTH CAUSE OF ACTION**  
**On behalf of THE ESTATE OF CRYSTAL CRUZ-AYBAR**  
**(Negligence and/or Products Liability and Wrongful Death against all defendants).**

22. In response to paragraph "79", repeats each admission or denial contained in paragraph(s) "1" through "78" herein as though fully set forth hereat.

23. Denies the knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph(s) "80" and "85" and respectfully refers all questions of law to this Honorable Court.

24. Denies the allegations contained in paragraph(s) "81", "82", "83", "84 and "86", as to FORD MOTOR COMPANY and denies knowledge or information sufficient to form a belief as to allegations as to the remaining defendants and refers all questions of law to this Honorable Court.

**AS AND FOR A SIXTH CAUSE OF ACTION**  
**On behalf of THE ESTATE OF T.C.**  
**(Negligence and/or Products Liability and Wrongful Death against all defendants).**

25. In response to paragraph "87", repeats each admission or denial contained in paragraph(s) "1" through "86" herein as though fully set forth hereat.

26. Denies the knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph(s) "88" and "93" and respectfully refers all questions of law to this Honorable Court.

27. Denies the allegations contained in paragraph(s) "89", "90", "91", "92" and "94", as to FORD MOTOR COMPANY and denies knowledge or information sufficient to form a belief as to allegations as to the remaining defendants and refers all questions of law to this Honorable Court.

**AS AND FOR A SEVENTH CAUSE OF ACTION**  
**On behalf of all plaintiffs**  
**(Strict Products Liability against defendant, FORD MOTOR COMPANY)**

28. In response to paragraph "95", repeats each admission or denial contained in paragraph(s) "1" through "94" herein as though fully set forth hereat.

29. Denies the allegations contained in paragraph(s) "96", as to FORD MOTOR COMPANY and denies knowledge or information sufficient to form a belief as to allegations as to the remaining defendants and refers all questions of law to this Honorable Court.

30. Denies the allegations contained in paragraph(s) "97" and "98 A, B, C and D" and "100".

31. Denies the allegations contained in paragraph(s) "99" in the form alleged, except admits that the 2002 Ford Explorer is fit for its intended purpose and denies knowledge or information sufficient to form a belief as to all allegations as to the remaining defendants.

32. Denies the allegations contained in paragraph(s) "101", as to FORD MOTOR COMPANY and denies knowledge or information sufficient to form a belief as to allegations as to the remaining defendants and refers all questions of law to this Honorable Court.

**Allegations Supporting Exemplary Damages**

33. Denies the allegations contained in paragraph(s) "102", "103", "104", "105 and "106", as to FORD MOTOR COMPANY and denies knowledge or information sufficient to form a belief as to allegations as to the remaining defendants and refers all questions of law to

this Honorable Court.

**AS AND FOR AN EIGHTH CAUSE OF ACTION**

**On behalf of all plaintiffs**

**(Strict Products Liability against defendant, THE GOODYEAR TIRE & RUBBER CO.)**

34. In response to paragraph "107", repeats each admission or denial contained in paragraph(s) "1" through "106" herein as though fully set forth hereat.

35. Denies the knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph(s) "108", "109", "110" and "111" and respectfully refers all questions of law to this Honorable Court.

36. Denies the allegations contained in paragraph(s) "112", "113", "114" and "115", as to FORD MOTOR COMPANY and denies knowledge or information sufficient to form a belief as to allegations as to the remaining defendants and refers all questions of law to this Honorable Court.

**AS AND FOR A NINTH CAUSE OF ACTION**

**On behalf of all plaintiffs**

**(Breach of Liability against defendant, THE GOODYEAR TIRE & RUBBER CO.)**

37. In response to paragraph "116", repeats each admission or denial contained in paragraph(s) "1" through "115" herein as though fully set forth hereat.

38. Denies the knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph(s) "117", "118", "119", "121" and "123" and respectfully refers all questions of law to this Honorable Court.

39. Denies the allegations contained in paragraph(s) "120", "122", "124" and "125", as to FORD MOTOR COMPANY and denies knowledge or information sufficient to form a belief as to allegations as to the remaining defendants and refers all questions of law to this Honorable Court.



**AS AND FOR A TENTH CAUSE OF ACTION**  
**On behalf of all plaintiffs**  
**(Unfair and Deceptive Trade Practices GBL §349 against defendant,**  
**THE GOODYEAR TIRE & RUBBER CO.)**

40. In response to paragraph "126", repeats each admission or denial contained in paragraph(s) "1" through "125" herein as though fully set forth hereat.

41. Denies the knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph(s) "127" and "128" and respectfully refers all questions of law to this Honorable Court.

42. Denies the allegations contained in paragraph(s) "129", "130", "131", "132" and "133", as to FORD MOTOR COMPANY and denies knowledge or information sufficient to form a belief as to allegations as to the remaining defendants and refers all questions of law to this Honorable Court.

**AS AND FOR AN ELEVENTH CAUSE OF ACTION**  
**On behalf of all plaintiffs**  
**(Unfair and Deceptive Trade Practices GBL §349 against defendant,**  
**FORD MOTOR COMPANY.)**

43. In response to paragraph "134", repeats each admission or denial contained in paragraph(s) "1" through "133" herein as though fully set forth hereat.

44. Denies the allegations contained in paragraph(s) "135", "136" and "137".

45. Denies the allegations contained in paragraph(s) "138", "139", "140" and "141", as to FORD MOTOR COMPANY and denies knowledge or information sufficient to form a belief as to allegations as to the remaining defendants and refers all questions of law to this Honorable Court.

**AS AND FOR THE FIRST AFFIRMATIVE DEFENSE**

46. That the Court lacks personal jurisdiction over the answering defendant.

**AS AND FOR THE SECOND AFFIRMATIVE DEFENSE**

47. The liability of the answering defendant(s), if any, is limited pursuant to CPLR Article 16.

**AS AND FOR THE THIRD AFFIRMATIVE DEFENSE**

48. The cause(s) of action set forth in plaintiffs' complaint are barred inasmuch as the action was not instituted within the time period prescribed by all applicable Statute of Limitations.

**AS AND FOR THE FOURTH AFFIRMATIVE DEFENSE**

49. That the injuries claimed by plaintiffs in the complaint were cause in whole or in part, by the culpable conduct of the plaintiffs which either bars the claims completely or else diminishes the damages by the proportion that such culpable conduct of the plaintiffs bear to the total culpable conduct causing the injuries.

**AS AND FOR THE FIFTH AFFIRMATIVE DEFENSE**

50. Plaintiffs' cause of actions are barred by UCC §2.313.

**AS AND FOR THE SIXTH AFFIRMATIVE DEFENSE**

51. Plaintiffs' cause of actions are barred by UCC §2.314.

**AS AND FOR THE SEVENTH AFFIRMATIVE DEFENSE**

52. Plaintiffs' cause of actions are barred by UCC §2.315.

**AS AND FOR THE EIGHTH AFFIRMATIVE DEFENSE**

53. The complaint should be dismissed for failing to name all indispensable parties.

**AS AND FOR THE NINTH AFFIRMATIVE DEFENSE**

54. The complaint should be dismissed and/or plaintiffs' potential recovery reduced proportionally because the accident and/or plaintiffs' injuries/death were caused by the acts of others who are not named as defendants in this case.

**AS AND FOR THE TENTH AFFIRMATIVE DEFENSE**

55. The defendant, FORD MOTOR COMPANY is entitled to an offset pursuant to GOL§15-108.

**AS AND FOR THE ELEVENTH AFFIRMATIVE DEFENSE**

56. The complaint should be dismissed because plaintiffs did not avail themselves of all of the safety restraints available in the vehicle including, but not limited to, the proper use of their safety belt.

**AS AND FOR THE TWELFTH AFFIRMATIVE DEFENSE**

57. The claim for exemplary/punitive damages should be dismissed because it fails to state a valid cause of action.

**AS AND FOR THE THIRTEENTH AFFIRMATIVE DEFENSE**

58. The claim for exemplary/punitive damages should be dismissed because it violates the United States Constitution and the New York State Constitution.

**AS AND FOR A CROSS CLAIM BY DEFENDANT, FORD MOTOR COMPANY**


59. That if the plaintiff was caused to sustain damages at the time and place set forth in Plaintiffs' complaint through any carelessness, recklessness, and negligence other than plaintiffs' own, then said damages arose in whole or in part from the active carelessness, negligence and/or breach of common law and/or statutory duty of the co-defendant, JOSE A. AYBAR, JR., with the negligence, if any, on the part of the answering defendant being passive,

secondary, derivative and/or vicarious in nature. If any judgment is recovered herein by the plaintiff against the answering defendant, then the answering defendant will be entitled to contribution and/or complete indemnification from the co-defendant, JOSE A. AYBAR, JR. for the full amount of any recovery claimed or obtained by the plaintiff as against the defendant, FORD MOTOR COMPANY.

WHEREFORE, defendant, FORD MOTOR COMPANY, demands judgment dismissing the Complaint, together with the costs and disbursements of the within action.

Dated: New York, New York  
June 8, 2016

Yours, etc.,



BY: Peter J. Fazio  
AARONSON RAPPAPORT FEINSTEIN  
& DEUTSCH, LLP  
Attorneys for Defendant  
FORD MOTOR COMPANY  
Office & P.O. Address  
600 Third Avenue  
New York, New York 10016  
Tel.: (212) 593-6700

ATTORNEY'S VERIFICATION

STATE OF NEW YORK                    )  
  :    SS:  
COUNTY OF NEW YORK                )


PETER J. FAZIO, being duly sworn, deposes and says:

That I am a member in the firm of attorneys representing the defendant FORD MOTOR COMPANY.

That I have read the attached **VERIFIED ANSWER** and the same is true to my own belief, except as to matters alleged on information and belief, and as to those matters, I believe them to be true to the best of my knowledge.

My sources of information are a claims file containing statements, reports and records of investigation, investigators, parties and witnesses, with which I am fully familiar.

That this verification is made by me because my client does not reside within the county where I maintain my office.

  
PETER J. FAZIO

Sworn to before me this

8<sup>th</sup> day of June, 2016.

  
Notary Public

GLORIA E. WILLIAMS  
Notary Public, State of New York  
No. 01WI5031377  
Qualified in Queens County  
Commission Expires Aug. 1, 2018