

# **EXHIBIT D**

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF QUEENS

-----X  
**INDEX:**

ANNA AYBAR, ORLANDO GONZALEZ,  
JESENIA AYBAR, as legal guardian on behalf of  
KEYLA CABRAL, 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 TIFFANY CABRAL, a deceased infant  
under the age of fourteen (14) years, and ANNA AYBAR, as  
Administratrix of the ESTATE OF CRYSTAL CRUZ-AYBAR

**DATE FILED:**

Plaintiffs,

-against-

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

Defendants

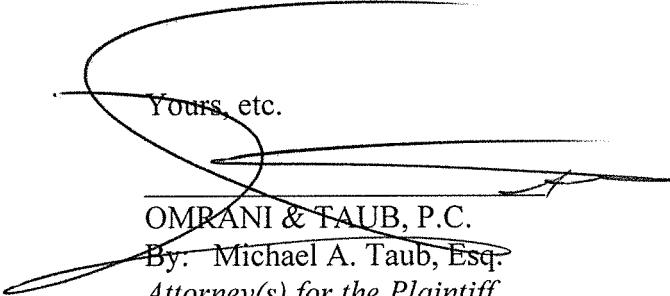
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**S U M M O R S**

Plaintiff designates  
Queens County as place of trial

Basis of venue:  
Plaintiff Anna Aybar's residence:  
1726 Himrod Street,  
Ridgewood, Queens, NY 11416

**YOU ARE HEREBY SUMMONED** to answer the Complaint in this action  
and to serve a copy of your answer, or, if the complaint is not served with this summons, to serve a  
notice of appearance on the Plaintiff's attorney within 20 days after the service of this summons,  
exclusive of the day of service (or within 30 days after service is complete if this summons is not  
personally delivered to you within the State of New York), and in case of your failure to appear or  
answer, judgment will be taken against you by default for the relief demanded in the complaint.

Dated: New York, New York  
June 30, 2015

  
Yours, etc.

OMRANI & TAUB, P.C.  
By: Michael A. Taub, Esq.  
Attorney(s) for the Plaintiff  
909 Third Ave., - 28<sup>th</sup> Floor  
New York, New York 10022  
(212) 599-5550

**PROMPTLY FORWARD THIS DOCUMENT TO YOUR INSURANCE COMPANY:**

Defendant's addresses:

JOSE AYBAR  
7208 Tonnelle Avenue  
North Bergen, NJ  
*(service via Department of State and/or Personal Service)*

THE GOODYEAR TIRE & RUBBER CO  
200 Innovation Way  
Akron, OH 44316-0001  
*(service via Department of State)*

FORD MOTOR COMPANY  
1 American Rd.  
Dearborn, MI 48126  
*(service via Department of State)*

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF QUEENS

-----x  
ANNA AYBAR, ORLANDO GONZALEZ,  
JESENIA AYBAR, as legal guardian on behalf of  
KEYLA CABRAL, 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 TIFFANY CABRAL, and ANNA AYBAR, as  
Administratrix of the ESTATE OF CRYSTAL CRUZ-AYBAR

Index No.:

Plaintiffs,

**VERIFIED  
COMPLAINT**

-against-

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

Defendants.

-----x

Plaintiff, by and through his attorneys, OMRANI & TAUB, P.C., complaining of the defendants herein, respectfully alleges, upon information and belief, as follows:

1. That at all times relevant herein, the Plaintiff, ANNA AYBAR, was and still is a resident of the County of Queens, State of New York.
2. That on the 1<sup>st</sup> day of July, 2012 and at all times relevant herein, the defendant, JOSE A. AYBAR, JR., was a resident of the State of New York.
3. The on the 1<sup>st</sup> day of July, 2012 and at all times relevant herein, the defendant, JOSE A. AYBAR, JR., was the owner of a certain motor vehicle bearing New York State license plate registration number FGV9198 for the year 2012 and assigned Vehicle Identification No. 1FMDU74WX2ZB89795.
4. That on or about the 1<sup>st</sup> day of July, 2012 and at all times relevant herein, the defendant, JOSE A AYBAR, JR., was the operator of the aforesaid motor vehicle bearing New York State license plate registration number FGV9198.

5. That at all times relevant herein, the defendant, JOSE A. AYBAR, JR., maintained the aforesaid motor vehicle bearing New York State license plate registration number FGV9198.

6. That at all times relevant herein, the defendant, JOSE A. AYBAR, JR., managed the aforesaid motor vehicle bearing New York State license plate registration number FGV9198.

7. That at all times relevant herein, the defendant, JOSE A. AYBAR, JR., controlled the aforesaid motor vehicle bearing New York State license plate registration number FGV9198.

8. That at all times relevant herein, the defendant, FORD MOTOR COMPANY, was and still 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, and was at all times herein mentioned authorized and/or qualified to conduct business, and was conducting business, in the State of New York.

9. That at all times relevant herein, the defendant, FORD MOTOR COMPANY, was and still is a foreign corporation duly registered with the New York Department of State, and was authorized to transact business in the State of New York.

10. That at all times relevant herein, the defendant, FORD MOTOR COMPANY, transacted business, and derived substantial revenue from the sale of its products, in the State of New York.

11. That at all times relevant herein, the defendant, FORD MOTOR COMPANY, owned real property and/or leased various premises, and otherwise conducted business at said locations, within the State of New York, and within the County of Queens.

12. That at all times relevant herein, the defendants, "JOHN DOES 1 thru 30", and each of them, were individuals, corporations, partnerships, and/or associations residing in and/or authorized to do business in, and/or were doing business in the State of New York, and derived substantial income from said business. The true names and/or capacities, whether individual , corporate, associate, governmental or otherwise of defendants, "JOHN DOES 1 thru 30",

inclusive and each of them, are unknown to the plaintiffs, who therefore sue said defendants by such fictitious names. When the true names and/or capacities of said defendants are ascertained, the plaintiffs will seek leave of this Court to amend the Complaint accordingly.

13. That each of the defendants designated herein as a "JOHN DOE" was responsible, negligently or in some other actionable manner, for the events and happenings herein referred to which proximately caused the damages to the plaintiff as hereinafter alleged herein, either through said defendant's own negligence or through the conduct of its agents, servants, employees or representatives in some other matter.

14. That at all times relevant herein, the defendants designated as "JOHN DOE", and each of them, were the agents, servants, employees, representatives and/or joint venturers of the defendant, FORD MOTOR COMPANY, and/or their co-defendants and were, as such, acting within the course, scope and authority of said relationship.

15. That at all times relevant herein, the defendants, FORD MOTOR COMPANY and "JOHN DOES 1 thru 30", inclusive, were engaged in the business of manufacturing, fabricating, designing, assembling, distributing, selling, inspecting, servicing, repairing, marketing, warranting, selling, retailing, wholesaling and advertising certain motor vehicles, and or its component parts, bearing the designations Ford Explorer for the year 2002.

16. That at all times relevant herein, the defendants, FORD MOTOR COMPANY and/or "JOHN DOES 1 thru 30", inclusive, manufactured, fabricated, designed, assembled, distributed, and sold into the stream of commerce, the aforesaid **2002 Ford Explorer** model motor vehicle, and each and every component part thereof, bearing New York State license plate registration number FGV9198 for the year 2012 and Vehicle Identification No. 1FMDU74WX2ZB89795 (hereinafter referred to as the subject "Ford Explorer").

17. That at all times relevant herein, the defendants, FORD MOTOR COMPANY and/or "JOHN DOES 1 thru 30" inclusive, marketed, warranted, sold, retailed, wholesaled and advertised the aforesaid 2002 Ford Explorer motor vehicle bearing New York State license plate

registration number FGV9198 for the year 2012 and Vehicle Identification No.

1FMDU74WX2ZB89795.

18. That at all times relevant herein, the defendants, FORD MOTOR COMPANY and/or "JOHN DOES 1 thru 30" inclusive, inspected, serviced and/or repaired the aforesaid 2002 Ford Explorer motor vehicle bearing New York State license plate registration number FGV9198 for the year 2012 and Vehicle Identification No. 1FMDU74WX2ZB89795.

19. That at all times relevant herein, the defendants knew, or in the exercise of reasonable care should have known, that the aforesaid subject Ford Explorer motor vehicle would be used without inspection for defects in its parts, component parts, mechanisms or design, for use in the State of New York and elsewhere.

20. That at all times relevant herein, there existed certain defective, unsafe and defective condition(s) in the design, manufacture, fabrication and/or assembly of the aforesaid subject 2002 Ford Explorer motor vehicle bearing New York State license plate registration number FGV9198 for the year 2012 and Vehicle Identification No. 1FMDU74WX2ZB89795.

21. That at all times relevant herein, the defendant, THE GOODYEAR TIRE & RUBBER CO., was and still is a corporation, duly organized and existing pursuant to the laws of the State of Ohio, Delaware, with a principal place of business in Akron, Ohio, and was at all times herein mentioned authorized and/or qualified to conduct business, and was conducting business, in the State of New York.

22. That at all times relevant herein, the defendant, THE GOODYEAR TIRE & RUBBER CO., was and still is an unincorporated business enterprise, duly organized and existing pursuant to the laws of the State of Ohio, Delaware, with a principal place of business in Akron, Ohio, and was at all times herein mentioned authorized and/or qualified to conduct business, and did conduct business, in the State of New York.

23. That at all times relevant herein, the defendant, THE GOODYEAR TIRE & RUBBER CO., was and still is a foreign corporation duly registered with the New York

Department of State, and as such was authorized to transact business in the State of New York.

24. That at all times relevant herein, the defendant, THE GOODYEAR TIRE & RUBBER CO., was and still is a domestic corporate entity, duly registered with the New York Department of State.

25. That at all times relevant herein, the defendant, THE GOODYEAR TIRE & RUBBER CO., was and still is a business enterprise duly registered with the New York Department of State, and as such was authorized to transact business in the State of New York.

26. That at all times relevant herein, the defendant, THE GOODYEAR TIRE & RUBBER CO., transacted business and derived substantial revenue from the sale of its products, within the State of New York.

27. That at all times relevant herein, the defendant, THE GOODYEAR TIRE & RUBBER CO., owned real property and/or leased various premises, and otherwise conducted business at said locations, within the State of New York, and within the County of Queens.

28. That at all times relevant herein, the defendant, THE GOODYEAR TIRE & RUBBER CO., regularly does and/or solicits business and drives substantial revenue from goods used and consumed and services rendered in the State of New York.

29. That at all times relevant herein, the defendant, THE GOODYEAR TIRE & RUBBER CO., was and still is in the business of designing, testing, manufacturing, marketing and selling tires for automobiles that are marketed, sold and used through the world, and in the State of New York.

30. That at all times relevant herein, the defendant, THE GOODYEAR TIRE & RUBBER CO., was and still is a designer, manufacturer and/or seller of "GOODYEAR" brand tires.

31. That at all times relevant herein, the defendant, THE GOODYEAR TIRE & RUBBER CO., has represented to the public or has otherwise held itself out as having expertise and/or special knowledge in the design, fabrication and manufacture of motor vehicle tires.

32. That at all times relevant herein, the defendant, THE GOODYEAR TIRE & RUBBER CO., has represented to the public that its tires are well constructed and safe to use as tires for motor vehicles, including the subject 2002 Ford Explorer herein.

33. That at all times relevant herein, the defendant, THE GOODYEAR TIRE & RUBBER CO., designed, fabricated, manufactured and/or sold, into the stream of commerce, "Goodyear" brand tires, and more specifically, a "Wrangler AP P245/70R16 106S tire bearing the DOT # MK9L3NER0402 (hereinafter the subject "Goodyear Wrangler AP tire").

34. That on or about late 2011, the defendant, JOSE A. AYBAR, JR., purchased and received delivery of the aforesaid subject "Ford Explorer" motor vehicle bearing VIN #: 1FMDU74WX2ZB89795, together with the "subject tire" from a third-party and thereafter used and operated the aforesaid "Ford Explorer" and the subject "Goodyear Wrangler AP tire" as intended.

35. That the aforesaid subject "Goodyear Wrangler AP tire" was dangerous, hazardous and defective, and was otherwise unsuitable for the use for which it was intended.

36. That on or about the 1<sup>st</sup> day of July, 2012 and at all times relevant herein, the plaintiff, ANNA AYBAR, was a passenger in the aforesaid motor vehicle bearing New York State license plate registration number FGV9198.

37. That on or about the 1<sup>st</sup> day of July and at all times relevant herein, the plaintiff, ORLANDO GONZALEZ, was a passenger in the aforesaid motor vehicle bearing New York State license plate registration number FGV9198.

38. That on or about the 1<sup>st</sup> day of July and at all times relevant herein, the plaintiff, KAYLA CABRAL, was a passenger in the aforesaid motor vehicle bearing New York State license plate registration number FGV9198.

39. That on or about the 1<sup>st</sup> day of July and at all times relevant herein, the plaintiff, NOELIA OLIVERAS, deceased, was a passenger in the aforesaid motor vehicle bearing New York State license plate registration number FGV9198.

40. That on or about the 1<sup>st</sup> day of July and at all times relevant herein, the plaintiff, CRYSTAL N. CRUZ-AYBAR, deceased, was a passenger in the aforesaid motor vehicle bearing New York State license plate registration number FGV9198.

41. That on or about the 1<sup>st</sup> day of July and at all times relevant herein, the plaintiff, TIFFANY CABRAL (deceased infant), was a passenger in the aforesaid motor vehicle bearing New York State license plate registration number FGV9198.

42. That at all times, Interstate Highway 85, Northbound, at or about mile marker #24, in the County of Brunswick, State of Virginia, was and still is a public roadway.

43. That on the 1<sup>st</sup> day of July, 2012 while the defendant, JOSE A. AYBAR, JR., was operating the aforesaid "Ford Explorer" at or about the aforesaid roadway location, the subject "Ford Explorer" became unstable following the failure of the rear driver's side subject "Goodyear Wrangler AP tire", thereby causing and/or allowing and otherwise resulting in said subject motor vehicle to lose stability and control, and to overturn and roll over multiple times.

44. That said loss of control and subsequent rollover was due, in whole or in part, to a dynamic oversteer resulting from the rear or lateral instability of the subject "Ford Explorer", which was beyond the recovery capabilities of the defendant operator, JOSE A. AYBAR, JR., as a non-professional driver, which eventually caused the subject "Ford Explorer" vehicle's remaining tires to exceed their maximum cornering speed causing the vehicle in turn to roll due to its low Static Stability Factor ("SSF"), i.e. high center of gravity and comparatively narrow wheel base.

45. That at all times relevant herein, the defendants, and each of them, had a duty to properly manufacture, design, assemble, package, test, fabricate, analyze, inspect, merchandise, market, distribute, label, advertise, promote, market, sell, supply, warn, select, and repair the aforesaid subject "Ford Explorer" and/or the subject "Goodyear Wrangler AP tire" and/or aftermarket parts and/or installation guides.

46. That at all times relevant herein, the defendants, and each of them, knew or in the

exercise of reasonable care should have known that the subject "Ford Explorer" and/or the subject "Goodyear Wrangler AP tire" and any component parts and/or aftermarket parts and/or installation guides were not properly manufactured, designed, assembled, packaged, tested, fabricated, analyzed, inspected, merchandised, marketed, distributed, labeled, advertised, promoted, sold, supplied, leased, rented, repaired, selected and provided inadequate warnings for the use and purpose for which it was intended and posed unreasonable risk of injury those person(s) who used it.

47. That the defendants, and each of them, so negligently and carelessly, manufactured, designed, assembled, packaged, tested, fabricated, analyzed, inspected, merchandised, marketed, distributed, labeled, advertised, marketed, promoted, sold, supplied, leased, rented, repaired, selected and provided inadequate warnings and provided the aforesaid subject Ford Explorer and each of its component parts and/or aftermarket parts and/or installation guides so that the same was a defective and dangerous product, unsafe for the respective use and purpose for which it was intended when used and driven as recommended or for reasonably foreseeable misuse by said defendants and each of them, in that said Subject Explorer and each of its component parts and/or aftermarket parts and/or installation guides during a reasonably foreseeable maneuver was unstable, dangerous and would rollover with roof crushing instability causing injury to its occupants, as alleged hereinabove.

48. That at all time relevant herein the aforesaid subject "Ford Explorer" and subject "Goodyear Wrangler AP tire" were unreasonably dangerous, unstable, hazardous and otherwise defective, during a reasonably foreseeable driving and/or driving maneuvers made with due care.

49. That said tire failure of the subject "Goodyear Wrangler AP tire", including, but not necessarily limited to complete tread separation and blowout was due, in whole or in part, to negligent design, fabrication and manufacture, improper and/or inadequate testing and inspecting, and failure to properly, sufficiently, diligently and/or adequately warning or instructing purchasers and/or third-party installers and/or end users of said product.

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

50. That by reason of the foregoing, the plaintiff, ANNA AYBAR, was caused to be seriously injured, and to sustain painful, permanent, and disabling personal injuries requiring medical care and treatment.

51. That said injuries and related damages were caused by the negligence, carelessness and/or recklessness of the defendants herein, their agents, servants, employees and/or assigns, jointly and severally, and without any negligence on the part of the plaintiff contributing thereto.

52. That as a result of the foregoing, the plaintiff, ANNA AYBAR, sustained a Serious Injury as defined by Section §5102 of the Insurance Law of the State of New York.

53. That as a result of the foregoing, the plaintiff, ANNA AYBAR, sustained, and/or will continue to accrue, a loss greater than Basic Economic Loss as defined by Section §5102 of the Insurance Law of the State of New York.

54. That this action falls within one or more of the exceptions set forth in CPLR §1602. Plaintiff defers all issues of law to the Court for resolution at the time of trial.

55. That by reason of the foregoing, the Plaintiff, ANNA AYBAR, has been damaged in an amount to be determined by the court and/or a jury, in excess of the jurisdictional dollar limits of all lower courts which might otherwise have jurisdiction over the action.

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

56. Plaintiffs repeat, reiterate and reallege each and every allegation set forth in the

paragraphs of this Complaint marked and designated as "1" through "49" herein, with the same force and effect as though the same were set forth herein at length.

57. That by reason of the foregoing, the plaintiff, ORLANDO GONZALEZ, was caused to be seriously injured, and to sustain painful, permanent, and disabling personal injuries requiring medical care and treatment.

58. That said injuries and related damages were caused by the negligence, carelessness and/or recklessness of the defendants herein, their agents, servants, employees and/or assigns, jointly and severally, and without any negligence on the part of the plaintiff contributing thereto.

59. That as a result of the foregoing, the plaintiff, ORLANDO GONZALEZ, sustained a Serious Injury as defined by Section §5102 of the Insurance Law of the State of New York.

60. That as a result of the foregoing, the plaintiff, ORLANDO GONZALEZ, sustained, and/or will continue to accrue, a loss greater than Basic Economic Loss as defined by Section §5102 of the Insurance Law of the State of New York.

61. That this action falls within one or more of the exceptions set forth in CPLR §1602. Plaintiff defers all issues of law to the Court for resolution at the time of trial.

62. That by reason of the foregoing, the plaintiff, ORLANDO GONZALEZ, has been damaged in an amount to be determined by the court and/or a jury, in excess of the jurisdictional dollar limits of all lower courts which might otherwise have jurisdiction over the action.

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

63. Plaintiffs repeat, reiterate and reallege each and every allegation set forth in the paragraphs of this Complaint marked and designated as "1" through "49" herein, with the same force and effect as though the same were set forth herein at length.

64. That on July 1, 2012 the infant plaintiff, KEYLA CABRERA, was fourteen (14) years old, having been born on May 21, 1998. At present she is seventeen(17) years old, and brings suit by and through her legal guardian, Anna Aybar.

65. That by reason of the foregoing, the infant plaintiff, KEYLA CABRERA, was caused to be seriously injured, and to sustain painful, permanent, and disabling personal injuries requiring medical care and treatment.

66. That said injuries and related damages were caused by the negligence, carelessness and/or recklessness of the defendants herein, their agents, servants, employees and/or assigns, jointly and severally, and without any negligence on the part of the plaintiff contributing thereto.

67. That as a result of the foregoing, the plaintiff, KEYLA CABRERA, sustained a Serious Injury as defined by Section §5102 of the Insurance Law of the State of New York.

68. That as a result of the foregoing, the plaintiff, KEYLA CABRERA, sustained, and/or will continue to accrue, a loss greater than Basic Economic Loss as defined by Section §5102 of the Insurance Law of the State of New York.

69. That this action falls within one or more of the exceptions set forth in CPLR §1602. Plaintiff defers all issues of law to the Court for resolution at the time of trial.

70. That by reason of the foregoing, the plaintiff, KEYLA CABRERA, has been damaged in an amount to be determined by the court and/or a jury, in excess of the jurisdictional dollar limits of all lower courts which might otherwise have jurisdiction over the action.

**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)**

71. Plaintiffs repeat, reiterate and reallege each and every allegation set forth in the

paragraphs of this Complaint marked and designated as "1" through "49" herein, with the same force and effect as though the same were set forth herein at length.

72. That on July 1, 2012 NOELIA OLIVERAS, was forty two (42) years old, having been born on July 19, 1979. Her estate brings suit by and through JESENIA AYBAR, as duly appointed Administratrix of the ESTATE OF NOELIA OLIVERAS.

73. That by reason of the foregoing, NOELIA OLIVERAS, and the ESTATE OF NOELIA OLIVERAS, was caused to be seriously injured, and to sustain painful, permanent, and disabling personal injuries requiring medical care and treatment, and eventually and ultimately resulting in her death.

74. That said injuries and related damages were caused by the negligence, carelessness and/or recklessness of the defendants herein, their agents, servants, employees and/or assigns, jointly and severally, and without any negligence on the part of the plaintiff contributing thereto.

75. That as a result of the foregoing, the plaintiff, NOELIA OLIVERAS, and the ESTATE OF NOELIA OLIVERAS, sustained a Serious Injury as defined by Section §5102 of the Insurance Law of the State of New York.

76. That as a result of the foregoing, the plaintiff, NOELIA OLIVERAS, and the ESTATE OF NOELIA OLIVERAS, sustained, and/or will continue to accrue, a loss greater than Basic Economic Loss as defined by Section §5102 of the Insurance Law of the State of New York.

77. That this action falls within one or more of the exceptions set forth in CPLR §1602. Plaintiff defers all issues of law to the Court for resolution at the time of trial.

78. That by reason of the foregoing, the plaintiff, the ESTATE OF NOELIA OLIVERAS, has been damaged in an amount to be determined by the court and/or a jury, in excess of the jurisdictional dollar limits of all lower courts which might otherwise have jurisdiction over the

action.

**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)**

79. Plaintiffs repeat, reiterate and reallege each and every allegation set forth in the paragraphs of this Complaint marked and designated as "1" through "49" herein, with the same force and effect as though the same were set forth herein at length.

80. That on July 1, 2012 CRYSTAL CRUZ-AYBAR was twenty-two (22) years of age, having been born on August 25, 1989. Her estate brings suit by and through JESENIA AYBAR, as duly appointed Administratrix of the ESTATE OF CRYSTAL CRUZ-AYBAR.

81. That by reason of the foregoing, CRYSTAL CRUZ-AYBAR, and the ESTATE OF CRYSTAL CRUZ-AYBAR, was caused to be seriously injured, and to sustain painful, permanent, and disabling personal injuries requiring medical care and treatment, and eventually and ultimately resulting in her death.

82. That said injuries and related damages were caused by the negligence, carelessness and/or recklessness of the defendants herein, their agents, servants, employees and/or assigns, jointly and severally, and without any negligence on the part of the plaintiff contributing thereto.

83. That as a result of the foregoing, the plaintiff, CRYSTAL CRUZ-AYBAR, and the ESTATE OF CRYSTAL CRUZ-AYBAR, sustained a Serious Injury as defined by Section §5102 of the Insurance Law of the State of New York.

84. That as a result of the foregoing, the plaintiff, CRYSTAL CRUZ-AYBAR, and the ESTATE OF CRYSTAL CRUZ-AYBAR, sustained, and/or will continue to accrue, a loss greater than Basic Economic Loss as defined by Section §5102 of the Insurance Law of the State of New York.

85. That this action falls within one or more of the exceptions set forth in CPLR §1602.

Plaintiff defers all issues of law to the Court for resolution at the time of trial.

86. That by reason of the foregoing, the plaintiff, the ESTATE OF CRYSTAL CRUZ-AYBAR, has been damaged in an amount to be determined by the court and/or a jury, in excess of the jurisdictional dollar limits of all lower courts which might otherwise have jurisdiction over the action.

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

87. Plaintiffs repeat, reiterate and reallege each and every allegation set forth in the paragraphs of this Complaint marked and designated as "1" through "49" herein, with the same force and effect as though the same were set forth herein at length.

88. That on July 1, 2012 TIFFANY CABRAL was an infant eight (8) years of age, having been born on January 22, 2004. Her estate brings suit by and through JESENIA AYBAR, as duly appointed Administratrix of the ESTATE OF TIFFANY CABRAL.

89. That by reason of the foregoing, TIFFANY CABRAL, and the ESTATE OF TIFFANY CABRAL, was caused to be seriously injured, and to sustain painful, permanent, and disabling personal injuries requiring medical care and treatment, and eventually and ultimately resulting in her death.

90. That said injuries and related damages were caused by the negligence, carelessness and/or recklessness of the defendants herein, their agents, servants, employees and/or assigns, jointly and severally, and without any negligence on the part of the plaintiff contributing thereto.

91. That as a result of the foregoing, the plaintiff, TIFFANY CABRAL, and the ESTATE OF TIFFANY CABRAL, sustained a Serious Injury as defined by Section §5102 of the Insurance

Law of the State of New York.

92. That as a result of the foregoing, the plaintiff, TIFFANY CABRAL and the ESTATE OF TIFFANY CABRAL, sustained, and/or will continue to accrue, a loss greater than Basic Economic Loss as defined by Section §5102 of the Insurance Law of the State of New York.

93. That this action falls within one or more of the exceptions set forth in CPLR §1602. Plaintiff defers all issues of law to the Court for resolution at the time of trial.

94. That by reason of the foregoing, the plaintiff, the ESTATE OF TIFFANY CABRAL, has been damaged in an amount to be determined by the court and/or a jury, in excess of the jurisdictional dollar limits of all lower courts which might otherwise have jurisdiction over the action.

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

**On behalf of all plaintiffs**

**(Strict Products Liability against defendant, FORD MOTOR COMPANY)**

95. Plaintiffs repeat, reiterate and reallege each and every allegation set forth in the paragraphs of this Complaint marked and designated as "1" through "94" herein, with the same force and effect as though the same were set forth herein at length.

96. That the defendants knew, or should have known, that the subject "Ford Explorer" vehicle was to be purchased and used without inspection for defects by the foreseeable users of said vehicle, including but not limited to the plaintiffs herein.

97. That the subject "Ford Explorer" and each of its parts, component parts and/or aftermarket parts and/or installation guides mentioned herein was manufactured, designed, assembled, packaged, tested, warranted, fabricated, analyzed, inspected, merchandised, marketed, distributed, labeled, advertised, promoted, warranted, sold, supplied, leased, repaired, modified, aftermarket modified, adjusted, selected and/or used with inherent vices and defects both in design and manufacturing and by failure to warn (hereinafter "subject defects") which made it dangerous, hazardous and unsafe both for its intended use or for reasonably foreseeable misuses.

98. That the plaintiffs are informed and believe, and thereupon allege, that these "subject defects" include, but are not necessarily limited to, the following conditions:

A. Insufficient lateral and roll stability so as to keep the vehicle upright during cornering and handling by an ordinary driver during reasonably foreseeable roadway and traffic conditions, which Defendants at all times knew and were aware could and did cause substantial severe and life-threatening injuries and head and neck injuries when used in a reasonably foreseeable manner, and which Defendants, and each of them further knew and were aware, would fail to keep the vehicle upright during cornering and handling by an ordinary driver during reasonably foreseeable roadway and traffic conditions. Despite the availability to defendants of the technology to include AdvanceTrac, with RSC, Ford's electronic stability enhancement system, which includes four integrated components; the Anti-lock Brake system, Traction Control, Yaw Control, and a vehicle-roll motion sensor, defendants did not include such available roll stability control systems in the subject Ford Explorer, which systems would have prevented the roll over accident and the injuries sustained the plaintiff during the subject accident sequence;

B. SKATE, or loss of rear end directional control and high propensity to roll Over during foreseeable usage;

C. Lateral instability and rollover propensities;

D. Despite the defendants' awareness of the aforementioned dangers and defects, the defendants failed to give any warnings, and or adequate warnings, to the plaintiff and/or other purchasers and end users of the subject Ford Explorer of the aforementioned known dangers and defects.

99. That at all times relevant herein, the defendants, and each of them, knew and intended that said vehicles would be purchased, operated and/or used by members of the general public who would rely on the defendants to transmit any relevant warnings about said vehicles.

100. That the subject "Ford Explorer", and each of its component parts and/or after market parts and/or installation guides, was unsafe for its intended use and/or reasonably

foreseeable misuse by reason of defects in its design and/or manufacturing and/or failure to warn by said defendants, and each of them, in that when the subject Explorer and each of its component parts and/or after market parts and/or installation guides was used by the plaintiffs, on or about July 1, 2012 as intended and in a foreseeable manner, that the subject "Ford Explorer", during reasonably foreseeable operation and driving maneuvers, was dangerous and otherwise defective, and did suffer a loss of lateral control, and did roll over, which was the proximate and competent producing cause of the serious injuries and resulting damages set forth herein-above.

101. That as a direct and foreseeable and legal result of the conduct of the defendants, and the aforementioned defects inherent in the subject "Ford Explorer vehicle", control over said vehicle was lost by the defendant, JOSE A. AYBAR, JR., resulting in it rolling over and leaving the roadway following the failure of the subject "GOODYEAR Wrangler AP tire" mounted on the driver's side rear wheel, thereby causing the subject incident of July 1<sup>st</sup>, 2012 and the severe and serious injuries sustained by the plaintiffs herein.

**Allegations supporting Exemplary Damages**

102. That the plaintiffs further allege that the defendants, FORD MOTOR COMPANY and/or "JOHN DOES 1 THRU 30", and each of them, intentionally engaged in conduct which, with respect to the "subject defects" which plaintiffs allege herein were a legal cause of their loss, damages, serious injuries, disability, death, permanent disability and economic losses, exposed the plaintiffs and other end users of the subject "Ford Explorer" to serious potential danger known to the defendants in order to advance the defendants' pecuniary interests and thus acted with a conscious disregard for the safety of the plaintiff and other users of the subject "Ford Explorer", warranting an award of exemplary damages against the defendant.

103. That the defendants, FORD MOTOR COMPANY and "JOHN DOES 1-30" inclusive, knowingly and deliberately falsified test results, ignored and suppressed data, rejected changes recommended by their own engineers and their own marketing departments to increase

stability by lowering the center of gravity and increasing track width of the Ford Explorer motor vehicle and tire sizes, and further falsely mischaracterized adverse test data which these defendants knew at the time showed that their trucks, vans, suv's and pick-ups, including the subject "Ford Explorer" and similar vehicles, were prone to skid and to rollover and were defective and unsafe in real world rollover accidents thereby exposing members of the public and users of said vehicles to death and/or serious head and spinal injuries.

104. That by putting profit and public relations image in front of safety, Defendant FORD MOTOR COMPANY and/or "JOHN DOES 1-30", inclusive, produced a vehicle that was prone to handling and control problems, prone to loss of control and going out of control in response to foreseeable simple accident avoidance maneuvers when operated by the ordinary driver, stability problems that resulted in unnecessary rollovers.

105. That by reason thereof, the plaintiffs, ANNA AYBAR, ORLANDO GONZALEZ, KEYLA AYBAR, NOELIA OLIVERAS, CRYSTAL CRUZ-AYBAR and TIFFANY CABRAL, were caused to be injured, and to sustain painful, permanent, and disabling personal injuries requiring medical care and treatment, resulting in the death of the plaintiffs, NOELIA OLIVERAS, CRYSTAL CRUZ-AYBAR and TIFFANY CABRAL.

106. That by reason thereof, the plaintiffs herein, and each of them and/or their respective estates, have been damaged in a substantial sum of money in an amount to be determined by the court and/ or a jury, in excess of the jurisdictional limits of all lower courts which might otherwise have jurisdiction over the action.

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

**On behalf of all plaintiffs**

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

107. Plaintiffs repeat, reiterate and reallege each and every allegation set forth in the paragraphs of this Complaint marked and designated as "1" through "106" herein, with the same force and effect as though the same were set forth herein at length.

108. That the subject Goodyear Wrangler AP tire" was received by the defendant, JOSE A. AYBAR, JR., and ultimately used by the plaintiff's herein, in substantially the same condition in which it was sold, delivered, or otherwise placed in the stream of commerce by the defendant, THE GOODYEAR TIRE & RUBBER CO.

109. The subject tire was defective in design, manufacture and component materials and parts and in the inadequacy and inaccuracy of accompanying instructions, labels and warnings.

110. That the subject tire, as designed and constructed, was unfit for their intended use and was therefore unreasonably dangerous to its intended and anticipated user(s).

111. That the defendant, THE GOODYEAR TIRE & RUBBER CO., failed to warn others, including end users and/or installers, of said known defects and unfitness for the use on motor vehicles.

112. That as a result of the defective nature of the subject product the Plaintiffs herein, ANNA AYBAR, ORLANDO GONZALEZ, KEYLA AYBAR, NOELIA OLIVERAS, CRYSTAL CRUZ-AYBAR and TIFFANY CABRAL, were caused to be injured, and to sustain painful, permanent, and disabling personal injuries requiring medical care and treatment, resulting in the death of the plaintiffs, NOELIA OLIVERAS, CRYSTAL CRUZ-AYBAR and TIFFANY CABRAL.

113. For claims based upon the above, the Defendants are strictly liable for the Plaintiff's resulting injuries.

114. For claims based upon strict products liability, the defendant, THE GOODYEAR TIRE & RUBBER CO. and/or "JOHN DOES 1 thru 30" are liable to the Plaintiffs for compensatory damages in a sum greater than the jurisdictional limits of all lower Courts.

115. That by reason thereof, the plaintiffs herein, and each of them and/or their respective estates, have been damaged in a substantial sum of money in an amount to be determined by the court and/ or a jury, in excess of the jurisdictional limits of all lower courts which might otherwise have jurisdiction over the action.

**AS AND FOR A NINTH CAUSE OF ACTION**  
**On behalf of all plaintiffs**  
**(Breach of Warranty against Defendant, THE GOODYEAR TIRE & RUBBER CO.)**

116. Plaintiffs repeat, reiterate and reallege each and every allegation set forth in the paragraphs of this Complaint marked and designated as "1" through "115" herein, with the same force and effect as though the same were set forth herein at length.

117. That the defendant, THE GOODYEAR TIRE & RUBBER CO., warranted by implication that the subject tire was fit and reasonably safe for use and made in consideration of reliable research, design, testing and inspection conducted by qualified and knowledgeable experts and professionals.

118. That the defendant, THE GOODYEAR TIRE & RUBBER CO., made express representations about the quality, design, safety and fitness of its product as an inducement to encourage the purchase and use of its product.

119. That the defendant, THE GOODYEAR TIRE & RUBBER CO.'s, warranties with respect to the subject tire were breached when the subject tire and its component parts proved to be unsafe and not reasonably suitable and fit for the uses intended and expected.

120. That those breaches of express warranties by said defendant were the proximate cause of the Plaintiffs injuries as alleged in this complaint.

121. That the defendant, THE GOODYEAR TIRE & RUBBER CO., breached the warranties in that the product failed to perform and operate as promised, implied, expected and relied upon.

122. That as a direct result of Plaintiffs reliance on said Defendant's product, they sustained the injuries and other damages complained of herein.

123. For claims based upon breach of warranty the defendant, THE GOODYEAR TIRE & RUBBER CO., is liable to the Plaintiffs for compensatory damages in a sum greater than the jurisdictional limits of all lower Courts.

124. That by reason thereof, the plaintiffs, ANNA AYBAR, ORLANDO GONZALEZ, KEYLA AYBAR, NOELIA OLIVERAS, CRYSTAL CRUZ-AYBAR and TIFFANY CABRAL, were caused to be injured, and to sustain painful, permanent, and disabling personal injuries requiring medical care and treatment, and resulting in the death of the plaintiffs, NOELIA OLIVERAS, CRYSTAL CRUZ-AYBAR and TIFFANY CABRAL.

125. That by reason thereof, the plaintiffs herein, and each of them and/or their respective estates, have been damaged in a substantial sum of money in an amount to be determined by the court and/ or a jury, in excess of the jurisdictional limits of all lower courts which might otherwise have jurisdiction over the action.

**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.**

126. Plaintiffs repeat, reiterate and reallege each and every allegation set forth in the paragraphs of this Complaint marked and designated as "1" through "125" herein, with the same force and effect as though the same were set forth herein at length.

127. That the defendant, THE GOODYEAR TIRE & RUBBER CO., concealed and/or

failed to reveal material facts that were known, or should have been known, to them with respect to the subject tire product and its attendant hazards and risks.

128. That the defendant, THE GOODYEAR TIRE & RUBBER CO., failed to provide adequate or reasonable warnings and/or instructions concerning the attendant hazards and risks which it knew or should have known were associated with its product, including but not limited to the safe and effective use life of its tire products including the subject tire product.

129. That prior to the subject incident, the defendant were aware of prior incidents that demonstrated the need for further warnings and/or instructions.

130. Despite defendants' awareness of the serious nature of the above defect(s) and age related failures, the defendants took no action to warn plaintiff and other owner, users or bystanders of the potential of injury and/or property loss associated with its tire products including the subject tire.

131. Defendants' conduct in failing to issue a proper warning, instruction, or take any other reasonable prophylactic action needlessly exposed the public to the latent dangers of its product in violation of the New York State General Business Law (NYS GBL) prohibition against unfair and deceptive trade practices pursuant to GBL §349.

132. That by reason thereof, the plaintiffs, ANNA AYBAR, ORLANDO GONZALEZ, KEYLA AYBAR, NOELIA OLIVERAS, CRYSTAL CRUZ-AYBAR and TIFFANY CABRAL, were caused to be injured, and to sustain painful, permanent, and disabling personal injuries requiring medical care and treatment, and resulting in the death of the plaintiffs, NOELIA OLIVERAS, CRYSTAL CRUZ-AYBAR and TIFFANY CABRAL.

133. That by reason thereof, the plaintiffs herein, and each of them and/or their respective estates, have been damaged in a substantial sum of money in an amount to be determined by the court and/ or a jury, in excess of the jurisdictional limits of all lower courts

which might otherwise have jurisdiction over the action.

**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**

134. Plaintiffs repeat, reiterate and reallege each and every allegation set forth in the paragraphs of this Complaint marked and designated as "1" through "133" herein, with the same force and effect as though the same were set forth herein at length.

135. That the defendant, ford motor company, concealed and/or failed to reveal material facts that were known, or should have been known, to them with respect to the subject 2002 "Ford Explorer" and similar vehicles, and their attendant hazards and risks described hereinabove.

136. That the defendant, FOR MOTOR COMPANY, failed to provide adequate or reasonable warnings and/or instructions concerning the attendant hazards and risks which it knew or should have known were associated with its product, including but not limited to its above-described unreasonable propensity for loss of stability and rollover following rear axle tire failure.

137. That prior to the subject incident, the defendant were aware of prior incidents that demonstrated the need for further warnings, instructions and/or recall.

138. Despite defendants' awareness of the serious nature of said risks involved to end users of the 2002 Ford Explorer SUVs, the defendants took no action to warn plaintiff and other owner, users or bystanders of the potential of injury and/or property loss associated with said vehicles, including but not limited to the subject "Ford Explorer".

139. Defendants' conduct in failing to issue a proper warning, instruction, recall, or take any other reasonable prophylactic action needlessly exposed the public to the latent dangers

of its product in violation of the New York State General Business Law (NYS GBL) prohibition against unfair and deceptive trade practices pursuant to GBL §349.

140. That by reason thereof, the plaintiffs, ANNA AYBAR, ORLANDO GONZALEZ, KEYLA AYBAR, NOELIA OLIVERAS, CRYSTAL CRUZ-AYBAR and TIFFANY CABRAL, were caused to be injured, and to sustain painful, permanent, and disabling personal injuries requiring medical care and treatment, and resulting in the death of the plaintiffs, NOELIA OLIVERAS, CRYSTAL CRUZ-AYBAR and TIFFANY CABRAL.

141. That by reason thereof, the plaintiffs herein, and each of them and/or their respective estates, have been damaged in a substantial sum of money in an amount to be determined by the court and/ or a jury, in excess of the jurisdictional limits of all lower co

**WHEREFORE**, the plaintiffs demand judgment of the defendants, joint and severally, on each Cause of Action, in an amount of money to be determined by the court and/or a jury, together with interest, costs and disbursements of this action.

Dated: New York, New York  
June 30, 2015

*Yours, etc.*

~~OMRANI & TAUB, P.C.  
By: Michael A. Taub, Esq.  
Attorney(s) for the Plaintiff  
909 Third Ave., – 28<sup>th</sup> Floor  
New York, New York 10022  
(212) 599-5550~~

STATE OF NEW YORK      }  
                              }ss.:  
COUNTY OF NEW YORK    }

MICHAEL A. TAUB, ESQ., being duly sworn, affirms and says that:

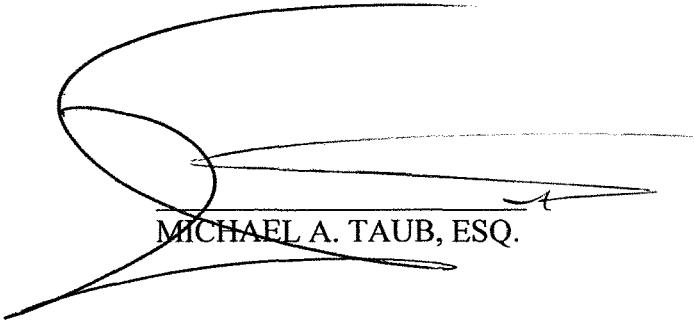
He is an attorney duly admitted to practice law in the State of New York and is a member of the firm of OMRANI & TAUB, P.C. in the within action; that he has read the foregoing **Summons and Verified Complaint** and knows the contents thereof, that the same is true to the best of his own knowledge, except as to the matters therein stated to be alleged on information and belief, and that as to those matters he believes them to be true.

The reason this verification is not made by the plaintiff is that plaintiff resides and is located outside the county wherein he maintains his principal office.

The source of deponent's information and the grounds for his belief, as to those matters stated upon information and belief, are statements furnished to deponent by plaintiff, personal investigation of this matter and from records in deponent's file.

I affirm the foregoing statements to be true under the penalties of perjury.

Dated: New York, New York  
June 30, 2015

  
MICHAEL A. TAUB, ESQ.

Index No.: **Year:**  
**SUPREME COURT OF THE STATE OF NEW YORK**  
**COUNTY OF QUEENS**

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ANNA AYBAR, ORLANDO GONZALEZ,  
JESENIA AYBAR, as legal guardian on behalf of  
KEYLA CABRAL, 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 TIFFANY CABRAL, a deceased infant  
under the age of fourteen (14) years, and ANNA AYBAR, as  
Administratrix of the ESTATE OF CRYSTAL CRUZ-AYBAR

*Plaintiff(s),*  
-against-

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

*Defendant(s).*

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## **SUMMONS AND VERIFIED COMPLAINT**

### **OMRANI & TAUB, P.C.**

Attorneys for: PLAINTIFF  
909 THIRD AVENUE – 28<sup>TH</sup> FLOOR  
NEW YORK, NEW YORK 10022  
TEL: (212) 599-5550

Pursuant to 22 NYCRR 130-1.1, the undersigned, an attorney admitted to practice in the courts of New York State, certifies that, upon information and belief and reasonable inquiry, the contentions contained in the annexed documents are not frivolous.

Dated: June 30, 2015  
New York, New York

Signature .....  
Printed Name: MICHAEL A. TAUB, ESQ.

PLEASE TAKE NOTICE

NOTICE OF ENTRY that the within is a (certified) true copy of a entered in the office of the clerk of the within named Court on 20 \_\_\_\_

NOTICE OF SETTLEMENT that an Order of which the within is a true copy will be presented for settlement to the Hon. at on 200 \_\_\_, at M.

**OMRANI & TAUB, P.C.**  
Attorneys for: PLAINTIFF  
909 THIRD AVENUE-28<sup>TH</sup> FLOOR  
NEW YORK, NEW YORK 10022