

FTS ATTACHMENT – DATED JULY 27, 2007
QUESTION NO. 12a – PART 4 OF 4

647. Defendant, Kuskin, breached its warranties, both express and implied, that the Defective Van was safe and proper for its intended and foreseeable use and was designed and manufactured such that it would be safe for its intended use.

648. Defendant, Kuskin, breached its warranties, both express and implied, by designing, manufacturing, assembling and selling the Defective Van such that it was unsafe, defective and of non-merchantable quality and not reasonably safe for the uses for which it was intended or for which was reasonably foreseeable.

649. As a direct and proximate result of Defendant, Kuskin's, breach of its express and implied warranties, Figueiredo was caused to sustain multiple serious and permanent injuries, serious impairment bodily function, permanent and serious disfigurement and death.

650. As a direct and proximate result of the injuries and death, Figueiredo suffered great pain, anguish, sickness and agony.

651. As a direct and proximate result, the injuries and death, Figueiredo suffered emotional injuries, mental anguish, humiliation, loss of life's pleasures, loss of hedonic pleasures, and the inability to attend to social and work obligations.

652. As a direct and proximate result of the injuries, Figueiredo has undergone a great loss of earnings and earning capacity and by the reason of the death has sustained a great loss of all future earnings and earning capacity.

653. As a direct and proximate result of these injuries, Figueiredo has incurred medical, rehabilitative and other related expenses in excess of the basic personal injury protection benefits required by the Pennsylvania Motor Vehicle Financial Responsibility Law, 75 Pa. C.S.A. §1701 et seq. as amended, which is hereby claimed in this action.

WHEREFORE, Plaintiff, Robert E. McCulley, Administrator of the Estate of Claudeir Jose Figueiredo, Deceased, respectfully requests this Honorable Court enter judgment in his favor and against Defendant, Kuskin, Individually and Jointly and Severally with Defendants in an amount to exceed the jurisdictional Arbitration limit of Fifty Thousand Dollars (\$50,000.00), together with interest, costs, punitive damages, delay damages, attorney's fees and any or further relief this Honorable Court may deem just and proper.

COUNT LXXV - WRONGFUL DEATH
FIGUEIREDO ADMINISTRATOR V. KUSKIN

654. Plaintiff hereby incorporates all matter stated elsewhere in this pleading as if fully set forth herein at length.

655. As a direct and proximate result of Defendant, Kuskin's, negligence, negligence per se, carelessness and recklessness and liability pursuant to 402(A) of the Restatement of Torts Second, on or about August 12, 2006, immediately following the failure of the Defective Tire by tread-belt separation, the Defective Van swerved out of control, across the highway, rolled over, struck an embankment and failed to contain Figueiredo, thereby causing Figueiredo to sustain multiple serious and permanent injuries, serious impairment of bodily function, permanent and serious disfigurement and death.

656. Plaintiff brings this action on behalf of the Figueiredo Beneficiaries pursuant to the Pennsylvania Wrongful Death Act, 42 Pa. C.S.A. §8301 et. seq. (hereinafter "Wrongful Death Act") and claims all damages recoverable under the Pennsylvania Wrongful Death Act.

657. As a direct and proximate result of the injuries and death of Figueiredo, the Figueiredo Beneficiaries have been caused to incur and pay large and various expenses medical

treatment rendered to Figueiredo until the time of his death and to incur various funeral, cremation and estate administration expenses for which Plaintiff is entitled to compensation in this proceeding along with all other damages recoverable under the Pennsylvania Wrongful Death Act.

658. As a direct and proximate result of the injuries and death of Figueiredo, the Figueiredo Beneficiaries suffered, are suffering and will for an indefinite period of time in the future suffer damages, injuries losses, including but not limited to, a loss of financial support, and the Figueiredo Beneficiaries have been wrongfully deprived of the contributions they would have received from Figueiredo, including monies which Figueiredo would have provided for items such as clothing, shelter, food, medical care, education, entertainment, recreation and gifts.

659. As a direct and proximate result of the injuries and death of Figueiredo, the Figueiredo Beneficiaries have been, continue to be and will be in the future wrongfully deprived of the services, society and comfort which Figueiredo would have provided including work around the home, physical comforts and services, society and comfort.

660. As a direct and proximate result of the injuries and death of Figueiredo, the Figueiredo Beneficiaries have been, continue to be and will be in the future wrongfully deprived of the guidance, tutelage and moral upbringing which they would have received but for Figueiredo's wrongful death.

661. No recovery for any damages was made during Decedent's lifetime.

WHEREFORE, Plaintiff, Robert E. McCulley, Administrator of the Estate of Claudeir Jose Figueiredo, Deceased, respectfully requests this Honorable Court enter judgment in his favor and against Defendant, Kuskin, Individually and Jointly and Severally with Defendants in an amount to exceed the jurisdictional Arbitration limit of Fifty Thousand Dollars (\$50,000.00), together with

interest, costs, punitive damages, delay damages, attorney's fees and any or further relief this Honorable Court may deem just and proper.

COUNT LXXVI - SURVIVAL ACT
FIGUEIREDO ADMINISTRATOR VS. KUSKIN

662. Plaintiff hereby incorporates all matter stated elsewhere in this pleading as if fully set forth herein at length.

663. As a direct and proximate result of Defendant, Kuskin's, negligence, negligence per se, carelessness, recklessness and liability pursuant to 402(A) of the Restatement of Torts Second, on or about August 12, 2006, immediately following the failure of the Defective Tire by tread-belt separation, the Defective Van swerved out of control, across the highway, rolled over, struck an embankment and failed to contain Figueiredo, thereby causing Figueiredo to sustain multiple serious and permanent injuries, serious impairment of bodily function, permanent and serious disfigurement and death.

664. Plaintiff brings this action as Administrator of the Estate and on behalf of the Figueiredo Estate pursuant to the Pennsylvania Survival Act, 42 Pa. C.S.A. §8302 et. seq. (hereinafter "Survival Act") and claims all damages recoverable under the Survival Act.

665. As a direct and proximate result of the injuries and death of Figueiredo, the Figueiredo Estate suffered damages and losses for the total amount Figueiredo would have earned between August 12, 2006 and his death.

666. As a direct and proximate result of the injuries and death of Figueiredo, the Figueiredo Estate has suffered losses for the total net amount Figueiredo would have earned between

August 12, 2006 and the end of Figueiredo's work life expectancy subject to the cost of maintenance and support.

667. As a direct and proximate result of the injuries and death of Figueiredo, the Figueiredo Estate, is entitled to be fairly and adequately compensated for the mental and physical pain, suffering and inconvenience that Figueiredo endured from the moment of the August 12, 2006 injury to the moment of the August 12, 2006 death.

WHEREFORE, Plaintiff, Robert E. McCulley, Administrator of the Estate of Claudeir Jose Figueiredo, Deceased, respectfully requests this Honorable Court enter judgment in his favor and against Defendant, Kuskin, Individually and Jointly and Severally with Defendants in an amount to exceed the jurisdictional Arbitration limit of Fifty Thousand Dollars (\$50,000.00), together with interest, costs, punitive damages, delay damages, attorney's fees and any or further relief this Honorable Court may deem just and proper.

COUNT LXXVII - STRICT PRODUCTS LIABILITY
FIGUEIREDO ADMINISTRATOR VS. MANUFACTURER

668. Plaintiff hereby incorporates all matter stated elsewhere in this pleading as if fully set forth herein at length.

669. Defendant, Manufacturer, is strictly liable under Section 402(a) of the Restatement of the Law of Torts (Second) and is liable for the injuries and death of Figueiredo because:

(a) At all relevant times Defendant, Manufacturer, was in the business of designing, manufacturing, assembling, selling and/or distributing Compass Tellurid tires and specifically, the Defective Tire;

(b) Defendant, Manufacturer, expected the Defective Tire to reach the consumer without substantial change in the condition it was sold;

(c) The Defective Tire actually reached the consumer without substantial change in the condition in which it was sold;

(d) At or around the 23rd production week of 2004 and prior thereto, alternative safer, practical designs, manufacturing techniques and quality control systems for production of the Defective Tire existed.

670. Defendant, Manufacturer, breached its duties and obligations under Section 402(a) of the Restatement of the Law of Torts (Second) by:

(a) Designing, manufacturing, assembling, selling and/or distributing the Defective Tire with an inadequate inner liner (too thin) allowing oxygen to escape and degrade the Defective Tire, thereby causing tread-belt separation;

(b) Designing, manufacturing, assembling, selling and/or distributing the Defective Tire in such a condition that it failed to provide protection to Figueiredo against personal injury and death as a result of a motor vehicle collision;

(c) Designing, manufacturing, assembling, selling and/or distributing the Defective Tire in such a condition that the rubber composition of the inner liner was inadequate (not enough butyl) allowing oxygen to escape and degrade the Defective Tire, thereby causing tread-belt separation;

(d) Designing, manufacturing, assembling, selling and/or distributing the Defective Tire in such a condition that the wedging for stress reduction at belt edge was inadequate (too small), thereby causing tread-belt separation;

(e) Designing, manufacturing, assembling, selling and/or distributing the Defective Tire in such a condition that the belt alignment is inadequate (misaligned), thereby causing tread-belt separation;

(f) Designing, manufacturing, assembling, selling and/or distributing the Defective Tire in such a condition that the aging resistance is insufficient by reason of inadequate (not enough antidegradents; antioxidants and antiozonands), thereby causing tread-belt separation;

(g) Designing, manufacturing, assembling, selling and/or distributing the Defective Tire in such a condition that the Defective Tire lacked nylon cap plies, thereby causing tread-belt separation;

(h) Designing, manufacturing, assembling, selling and/or distributing the Defective Tire in such a condition that the tread-belt adhesion was inadequate, thereby causing tread-belt separation;

(i) Designing, manufacturing, assembling, selling and/or distributing the Defective Tire in such a condition that the rubber materials and components of the Defective Tire were contaminated during production by oil water, dirt, perspiration, solvent, humidity and other debris, thereby causing tread-belt separation;

(j) Designing, manufacturing, assembling, selling and/or distributing the Defective Tire in such a condition that the Defective Tire was stored inadequately (too long during the green phase), thereby causing tread-belt separation;

(k) Designing, manufacturing, assembling, selling and/or distributing the Defective Tire in such a condition that the Defective Tire was handled inadequately (dropped during the green phase), thereby causing tread-belt separation;

(l) Designing, manufacturing, assembling, selling and/or distributing the Defective Tire in such a condition that the Defective Tire was manufactured without adequate quality control, thereby causing tread-belt separation;

(m) designing, manufacturing, assembling, selling and/or distributing the Defective Tire in such a condition that the Defective Tire was manufactured without adequate testing, thereby causing tread-belt separation;

(n) Designing, manufacturing, assembling, selling and/or distributing the Defective Tire in such a condition that the Defective Tire curing was inadequate (not hot enough and/or not long enough), thereby causing tread-belt separation;

(o) Designing, manufacturing, assembling, selling and/or distributing the Defective Tire without implementation of alternative, safer, practical designs, manufacturing techniques and quality control systems;

(p) Designing, manufacturing, assembling, selling and/or distributing the Defective Tire in a defective and unreasonably dangerous condition when it could have been designed and manufactured more safely;

(q) Designing, manufacturing, assembling, selling and/or distributing the Defective Tire without adequate and proper testing;

(r) Designing, manufacturing, assembling, selling and/or distributing the Defective Tire without proper quality control;

(s) Designing, manufacturing, assembling, selling and/or distributing the Defective Tire without adequate warning;

671. As a direct and proximate result of Defendant, Manufacturer's, designing, manufacturing, selling and/or distributing the Defective Tire and Defendant, Manufacturer's corresponding violation of Section 402(a) of the Restatement of the Law of Torts (Second) on or about August 12, 2006, suddenly and without warning, the tread of the Defective Tire separated from the belt and carcass and became to such an extent that it was wrapped around the axle and became lodged therein and the Defective Van swayed and swerved across the highway out of control, rolled over, struck an embankment and came to a final resting with the driver's side on the pavement and the passenger side of the Defective Van facing upwards with such force as to cause Figueiredo to sustain multiple serious and permanent injuries, serious impairment of bodily function, permanent and serious disfigurement and death.

672. As a direct and proximate result of the injuries and death, Figueiredo suffered great pain, anguish, sickness and agony.

673. As a direct and proximate result of the injuries and death, Figueiredo suffered emotional injuries, mental anguish, humiliation, loss of life's pleasures, loss of hedonic pleasures, and the inability to attend to social and work obligations.

674. As a direct and proximate result of the injuries, Figueiredo has undergone a great loss of earnings and earning capacity and by the reason of the death has sustained a great loss of all future earnings and earning capacity.

675. As a direct and proximate result of these injuries, Figueiredo has incurred medical, rehabilitative and other related expenses in excess of the basic personal injury protection benefits required by the Pennsylvania Motor Vehicle Financial Responsibility Law, 75 Pa. C.S.A. §1701 et seq. as amended, which is hereby claimed in this action.

WHEREFORE, Plaintiff, Robert E. McCulley, Administrator of the Estate of Claudeir Jose Figueiredo, Deceased, respectfully requests this Honorable Court enter judgment in his favor and against Defendant, Manufacturer, Individually and Jointly and Severally with Defendants in an amount to exceed the jurisdictional Arbitration limit of Fifty Thousand Dollars (\$50,000.00), together with interest, costs, punitive damages, delay damages, attorney's fees and any or further relief this Honorable Court may deem just and proper.

COUNT LXXVII - NEGLIGENCE
FIGUEIREDO ADMINISTRATOR VS. MANUFACTURER

676. Plaintiff hereby incorporates all matter stated elsewhere in this pleading as if fully set forth herein at length.

677. Defendant, Manufacturer, negligently, carelessly and recklessly designed, manufactured, assembled, sold, and distributed the Defective Van in such a condition that on or about August 12, 2006, while the Defective Van was being operated in a southerly direction in the right lane of Pennsylvania Route 476, approaching the 80 mile marker, suddenly and without warning, the tread of the Defective Tire separated from the belt and carcass to such an extent that it was wrapped around the axle and became lodged therein and the Defective Van swayed and swerved across the highway out of control, rolled over, struck an embankment and came to a final resting position with the driver's side on the pavement and the passenger side of the Defective Van facing upwards.

678. The negligence, carelessness and recklessness of Defendant, Manufacturer, includes, but is not limited to the following:

(a) Choosing to design, manufacture, assemble, sell and distribute the Defective Tire with an inadequate inner liner (too thin) allowing oxygen to escape and degrade the Defective Tire, thereby causing tread-belt separation;

(b) Choosing to design, manufacture, assemble, sell and distribute the Defective Tire in such a condition that it failed to provide protection to Figueiredo against personal injury and death as a result of a motor vehicle collision;

(c) Choosing to design, manufacture, assemble, sell and distribute the Defective Tire in such a condition that the rubber composition of the inner liner was inadequate (not enough butyl) allowing oxygen to escape and degrade the Defective Tire, thereby causing tread-belt separation;

(d) Choosing to design, manufacture, assemble, sell and distribute the Defective Tire in such a condition that the wedging for stress reduction at belt edge was inadequate (too small), thereby causing tread-belt separation;

(e) Choosing to design, manufacture, assemble, sell and distribute the Defective Tire in such a condition that the belt alignment is inadequate (misaligned), thereby causing tread-belt separation;

(f) Choosing to design, manufacture, assemble, sell and distribute the Defective Tire in such a condition that the aging resistance is insufficient by reason of inadequate (not enough antidegradents; antioxidants and antiozonands), thereby causing tread-belt separation;

(g) Choosing to design, manufacture, assemble, sell and distribute the Defective Tire in such a condition that the Defective Tire lacked nylon cap plys, thereby causing tread-belt separation;

(h) Choosing to design, manufacture, assemble, sell and distribute the Defective Tire in such a condition that the tread-belt adhesion was inadequate, thereby causing tread-belt separation;

(i) Choosing to design, manufacture, assemble, sell and distribute the Defective Tire in such a condition that the rubber materials and components of the Defective Tire were contaminated during production by oil water, dirt, perspiration, solvent, humidity and other debris, thereby causing tread-belt separation;

(j) Choosing to design, manufacture, assemble, sell and distribute the Defective Tire in such a condition that the Defective Tire was stored inadequately (too long during the green phase), thereby causing tread-belt separation;

(k) Choosing to design, manufacture, assemble, sell and distribute the Defective Tire in such a condition that the Defective Tire was handled inadequately (dropped during the green phase), thereby causing tread-belt separation;

(l) Choosing to design, manufacture, assemble, sell and distribute the Defective Tire in such a condition that the Defective Tire was manufactured without adequate quality control, thereby causing tread-belt separation;

(m) Choosing to design, manufacture, assemble, sell and distribute the Defective Tire in such a condition that the Defective Tire was manufactured without adequate testing, thereby causing tread-belt separation;

(n) Choosing to design, manufacture, assemble, sell and distribute the Defective Tire in such a condition that the Defective Tire curing was inadequate (not hot enough and/or not long enough), thereby causing tread-belt separation;

(o) Choosing to design, manufacture, assemble, sell and distribute the Defective Tire in such a condition that the Defective Tire lacked adequate warnings;

(p) Failing to design, manufacture, assemble, sell and/or distribute the Defective Tire with implementation of alternative, safer, practical designs, manufacturing techniques and quality control systems;

(q) Choosing to design, manufacture, assemble, sell and distribute the Defective Tire in a defective and unreasonably dangerous condition when it could have been designed and manufactured more safely;

(r) Choosing to design, manufacture, assemble, sell and distribute the Defective Tire without adequate and proper testing;

(s) Choosing to design, manufacture, assemble, sell and/or distribute the Defective Tire without proper quality control;

(t) Choosing to design, manufacture, assemble, sell and distribute the Defective Tire without adequate warning;

(u) Violating Federal Standards and Regulations and Statutes pertaining to the obligation of a tire manufacturer or distributor to recall or make modifications to its product after the manufacturer, distributor knows or should know of the defective nature of its tire;

(v) Violating Federal Regulations pertaining to tires and motor vehicles;

(w) Choosing not to warn of the defective conditions of the Defective Tire;

679. As a direct and proximate result of the negligence, negligence per se, carelessness and recklessness of Defendant, Manufacturer, Figueiredo was caused to sustain multiple serious and

FTS 1130

permanent injuries, serious impairment of bodily function, permanent and serious disfigurement and death.

680. As a direct and proximate result of the injuries and death, Figueiredo suffered great pain, anguish, sickness and agony.

681. As a direct and proximate result, the injuries and death, Figueiredo suffered emotional injuries, mental anguish, humiliation, loss of life's pleasures, loss of hedonic pleasures, and the inability to attend to social and work obligations.

682. As a direct and proximate result of the injuries, Figueiredo has undergone a great loss of earnings and earning capacity and by the reason of the death has sustained a great loss of all future earnings and earning capacity.

683. As a direct and proximate result of these injuries, Figueiredo has incurred medical, rehabilitative and other related expenses in excess of the basic personal injury protection benefits required by the Pennsylvania Motor Vehicle Financial Responsibility Law, 75 Pa. C.S.A. §1701 et seq. as amended, which is hereby claimed in this action.

WHEREFORE, Plaintiff, Robert E. McCulley, Administrator of the Estate of Claudeir Jose Figueiredo, Deceased, respectfully requests this Honorable Court enter judgment in his favor and against Defendant, Manufacturer, Individually and Jointly and Severally with Defendants in an amount to exceed the jurisdictional Arbitration limit of Fifty Thousand Dollars (\$50,000.00), together with interest, costs, punitive damages, delay damages, attorney's fees and any or further relief this Honorable Court may deem just and proper.

COUNT LXXIX - BREACH OF WARRANTY
FIGUEIREDO ADMINISTRATOR VS. MANUFACTURER

684. Plaintiff hereby incorporates all matter stated elsewhere in this pleading as if fully set forth herein at length.

685. Defendant, Manufacturer, breached its warranties, both express and implied, that the Defective Van was safe and proper for its intended and foreseeable use and was designed and manufactured such that it would be safe for its intended use.

686. Defendant, Manufacturer, breached its warranties, both express and implied, by designing, manufacturing, assembling and selling the Defective Van such that it was unsafe, defective and of non-merchantable quality and not reasonably safe for the uses for which it was intended or for which was reasonably foreseeable.

687. As a direct and proximate result of Defendant, Manufacturer's, breach of its express and implied warranties, Figueiredo was caused to sustain multiple serious and permanent injuries, serious impairment of bodily function, permanent and serious disfigurement and death.

688. As a direct and proximate result of the injuries and death, Figueiredo suffered great pain, anguish, sickness and agony.

689. As a direct and proximate result, the injuries and death, Figueiredo suffered emotional injuries, mental anguish, humiliation, loss of life's pleasures, loss of hedonic pleasures, and the inability to attend to social and work obligations.

690. As a direct and proximate result of the injuries, Figueiredo has undergone a great loss of earnings and earning capacity and by the reason of the death has sustained a great loss of all future earnings and earning capacity.

FTS 1132

691. As a direct and proximate result of these injuries, Figueiredo has incurred medical, rehabilitative and other related expenses in excess of the basic personal injury protection benefits required by the Pennsylvania Motor Vehicle Financial Responsibility Law, 75 Pa. C.S.A. §1701 et seq. as amended, which is hereby claimed in this action.

WHEREFORE, Plaintiff, Robert E. McCulley, Administrator of the Estate of Claudeir Jose Figueiredo, Deceased, respectfully requests this Honorable Court enter judgment in his favor and against Defendant, Manufacturer, Individually and Jointly and Severally with Defendants in an amount to exceed the jurisdictional Arbitration limit of Fifty Thousand Dollars (\$50,000.00), together with interest, costs, punitive damages, delay damages, attorney's fees and any or further relief this Honorable Court may deem just and proper.

COUNT LXXX - WRONGFUL DEATH
FIGUEIREDO ADMINISTRATOR V. MANUFACTURER

692. Plaintiff hereby incorporates all matter stated elsewhere in this pleading as if fully set forth herein at length.

693. As a direct and proximate result of Defendant, Manufacturer's, negligence, negligence per se, carelessness and recklessness and liability pursuant to 402(A) of the Restatement of Torts Second, on or about August 12, 2006, immediately following the failure of the Defective Tire by tread-belt separation, the Defective Van swerved out of control, across the highway, rolled over, struck an embankment and failed to contain Figueiredo, thereby causing Figueiredo to sustain multiple serious and permanent injuries, serious impairment of bodily function, permanent and serious disfigurement and death.

FTS 1133

694. Plaintiff brings this action on behalf of the Figueiredo Beneficiaries pursuant to the Pennsylvania Wrongful Death Act, 42 Pa. C.S.A. §8301 et. seq. (hereinafter “Wrongful Death Act”) and claims all damages recoverable under the Pennsylvania Wrongful Death Act.

695. As a direct and proximate result of the injuries and death of Figueiredo, the Figueiredo Beneficiaries have been caused to incur and pay large and various expenses medical treatment rendered to Figueiredo until the time of his death and to incur various funeral, cremation and estate administration expenses for which Plaintiff is entitled to compensation in this proceeding along with all other damages recoverable under the Pennsylvania Wrongful Death Act.

696. As a direct and proximate result of the injuries and death of Figueiredo, the Figueiredo Beneficiaries suffered, are suffering and will for an indefinite period of time in the future suffer damages, injuries losses, including but not limited to, a loss of financial support, and the Figueiredo Beneficiaries have been wrongfully deprived of the contributions they would have received from Figueiredo, including monies which Figueiredo would have provided for items such as clothing, shelter, food, medical care, education, entertainment, recreation and gifts.

697. As a direct and proximate result of the injuries and death of Figueiredo, the Figueiredo Beneficiaries have been, continue to be and will be in the future wrongfully deprived of the services, society and comfort which Figueiredo would have provided including work around the home, physical comforts and services, society and comfort.

697. As a direct and proximate result of the injuries and death of Figueiredo, the Figueiredo Beneficiaries have been, continue to be and will be in the future wrongfully deprived of the guidance, tutelage and moral upbringing which they would have received but for Figueiredo’s wrongful death.

FTS 1134

698. No recovery for any damages was made during Decedent's lifetime.

WHEREFORE, Plaintiff, Robert E. McCulley, Administrator of the Estate of Claudeir Jose Figueiredo, Deceased, respectfully requests this Honorable Court enter judgment in his favor and against Defendant, Manufacturer, Individually and Jointly and Severally with Defendants in an amount to exceed the jurisdictional Arbitration limit of Fifty Thousand Dollars (\$50,000.00), together with interest, costs, punitive damages, delay damages, attorney's fees and any or further relief this Honorable Court may deem just and proper.

COUNT LXXXI - SURVIVAL ACT
FIGUEIREDO ADMINISTRATOR VS. MANUFACTURER

699. Plaintiff hereby incorporates all matter stated elsewhere in this pleading as if fully set forth herein at length.

700. As a direct and proximate result of Defendant, Manufacturer's, negligence, negligence per se, carelessness, recklessness and liability pursuant to 402(A) of the Restatement of Torts Second, on or about August 12, 2006, immediately following the failure of the Defective Tire by tread-belt separation, the Defective Van swerved out of control, across the highway, rolled over, struck an embankment and failed to contain Figueiredo, thereby causing Figueiredo to sustain multiple serious and permanent injuries, serious impairment of bodily function, permanent and serious disfigurement and death.

701. Plaintiff brings this action as Administrator of the Estate and on behalf of the Figueiredo Estate pursuant to the Pennsylvania Survival Act, 42 Pa. C.S.A. §8302 et. seq. (hereinafter "Survival Act") and claims all damages recoverable under the Survival Act.

FTS 1135

702. As a direct and proximate result of the injuries and death of Figueiredo, the Figueiredo Estate suffered damages and losses for the total amount Figueiredo would have earned between August 12, 2006 and his death.

703. As a direct and proximate result of the injuries and death of Figueiredo, the Figueiredo Estate has suffered losses for the total net amount Figueiredo would have earned between August 12, 2006 and the end of Figueiredo's work life expectancy subject to the cost of maintenance and support.

704. As a direct and proximate result of the injuries and death of Figueiredo, the Figueiredo Estate, is entitled to be fairly and adequately compensated for the mental and physical pain, suffering and inconvenience that Figueiredo endured from the moment of the August 12, 2006 injury to the moment of the August 12, 2006 death.

WHEREFORE, Plaintiff, Robert E. McCulley, Administrator of the Estate of Claudeir Jose Figueiredo, Deceased, respectfully requests this Honorable Court enter judgment in his favor and against Defendant, Manufacturer, Individually and Jointly and Severally with Defendants in an amount to exceed the jurisdictional Arbitration limit of Fifty Thousand Dollars (\$50,000.00), together with interest, costs, punitive damages, delay damages, attorney's fees and any or further relief this Honorable Court may deem just and proper.

COUNT LXXXII - NEGLIGENCE
FIGUEIREDO ADMINISTRATOR VS. OPERATOR

705. Plaintiff hereby incorporates all matter stated elsewhere in this pleading as if fully set forth herein at length.

706. On or about August 12, 2006, Defendant, Operator, carelessly and negligently operated and drove the Defective Van with the Defective Tire mounted on the left rear wheel within the posted speed limit in a southerly direction on Pennsylvania Route 476 approaching the 80 mile marker, when suddenly and without warning, the tread of the Defective Tire separated from the belt and carcass to such an extent that it was wrapped around the axle and became lodged therein and the Defective Van swayed and swerved across the highway out of control, rolled over, struck an embankment and came to a final resting position with the driver's side on the pavement and the passenger side of the Defective Van facing upwards with such force as to cause Figueiredo serious and permanent injuries and death.

707. The negligence, carelessness and recklessness of Defendant, Operator, includes, but is not limited to the following:

- (a) Failing to be highly vigilant and maintain sufficient control of the Defective Van;
- (b) Failing to keep the Defective Van under proper and adequate control.

708. As a direct and proximate result of the negligence and carelessness, of Defendant, Operator, Figueiredo was caused to sustain multiple serious and permanent injuries, serious impairment of bodily function, permanent and serious disfigurement and death.

709. As a direct and proximate result of the injuries and death, Figueiredo suffered great pain, anguish, sickness and agony.

710. As a direct and proximate result, the injuries and death, Figueiredo suffered emotional injuries, mental anguish, humiliation, loss of life's pleasures, loss of hedonic pleasures, and the inability to attend to social and work obligations.

711. As a direct and proximate result of the injuries, Figueiredo has undergone a great loss of earnings and earning capacity and by the reason of the death has sustained a great loss of all future earnings and earning capacity.

712. As a direct and proximate result of these injuries, Figueiredo has incurred medical, rehabilitative and other related expenses in excess of the basic personal injury protection benefits required by the Pennsylvania Motor Vehicle Financial Responsibility Law, 75 Pa. C.S.A. §1701 et seq. as amended, which is hereby claimed in this action.

WHEREFORE, Plaintiff, Robert E. McCulley, Administrator of the Estate of Claudeir Jose Figueiredo, Deceased, respectfully requests this Honorable Court enter judgment in his favor and against Defendant, Operator, Individually and Jointly and Severally with Defendants in an amount to exceed the jurisdictional Arbitration limit of Fifty Thousand Dollars (\$50,000.00), together with interest, costs, punitive damages, delay damages, attorney's fees and any or further relief this Honorable Court may deem just and proper.

COUNT LXXXIII - WRONGFUL DEATH
FIGUEIREDO ADMINISTRATOR V. OPERATOR

713. Plaintiff hereby incorporates all matter stated elsewhere in this pleading as if fully set forth herein at length.

714. As a direct and proximate result of Defendant, Operator's, negligence and carelessness pursuant to 402(A) of the Restatement of Torts Second, on or about August 12, 2006,

immediately following the failure of the Defective Tire by tread-belt separation, the Defective Van swerved out of control, across the highway, rolled over, struck an embankment and failed to contain Figueiredo, thereby causing Figueiredo to sustain multiple serious and permanent injuries, serious impairment of bodily function, permanent and serious disfigurement and death.

715. Plaintiff brings this action on behalf of the Figueiredo Beneficiaries pursuant to the Pennsylvania Wrongful Death Act, 42 Pa. C.S.A. §8301 et. seq. (hereinafter “Wrongful Death Act”) and claims all damages recoverable under the Pennsylvania Wrongful Death Act.

716. As a direct and proximate result of the injuries and death of Figueiredo, the Figueiredo Beneficiaries have been caused to incur and pay large and various expenses medical treatment rendered to Figueiredo until the time of his death and to incur various funeral, cremation and estate administration expenses for which Plaintiff is entitled to compensation in this proceeding along with all other damages recoverable under the Pennsylvania Wrongful Death Act.

717. As a direct and proximate result of the injuries and death of Figueiredo, the Figueiredo Beneficiaries suffered, are suffering and will for an indefinite period of time in the future suffer damages, injuries losses, including but not limited to, a loss of financial support, and the Figueiredo Beneficiaries have been wrongfully deprived of the contributions they would have received from Figueiredo, including monies which Figueiredo would have provided for items such as clothing, shelter, food, medical care, education, entertainment, recreation and gifts.

718. As a direct and proximate result of the injuries and death of Figueiredo, the Figueiredo Beneficiaries have been, continue to be and will be in the future wrongfully deprived of the services, society and comfort which Figueiredo would have provided including work around the home, physical comforts and services, society and comfort.

FTS 1139

719. As a direct and proximate result of the injuries and death of Figueiredo, the Figueiredo Beneficiaries have been, continue to be and will be in the future wrongfully deprived of the guidance, tutelage and moral upbringing which they would have received but for Figueiredo's wrongful death.

720. No recovery for any damages was made during Decedent's lifetime.

WHEREFORE, Plaintiff, Robert E. McCulley, Administrator of the Estate of Claudeir Jose Figueiredo, Deceased, respectfully requests this Honorable Court enter judgment in his favor and against Defendant, Operator, Individually and Jointly and Severally with Defendants in an amount to exceed the jurisdictional Arbitration limit of Fifty Thousand Dollars (\$50,000.00), together with interest, costs, punitive damages, delay damages, attorney's fees and any or further relief this Honorable Court may deem just and proper.

COUNT LXXXIV - SURVIVAL ACT
FIGUEIREDO ADMINISTRATOR VS. OPERATOR

721. Plaintiff hereby incorporates all matter stated elsewhere in this pleading as if fully set forth herein at length.

722. As a direct and proximate result of Defendant, Operator's, negligence and carelessness, pursuant to 402(A) of the Restatement of Torts Second, on or about August 12, 2006, immediately following the failure of the Defective Tire by tread-belt separation, the Defective Van swerved out of control, across the highway, rolled over, struck an embankment and failed to contain Figueiredo, thereby causing Figueiredo to sustain multiple serious and permanent injuries, serious impairment of bodily function, permanent and serious disfigurement and death.

FTS 1140

723. Plaintiff brings this action as Administrator of the Estate and on behalf of the Figueiredo Estate pursuant to the Pennsylvania Survival Act, 42 Pa. C.S.A. §8302 et. seq. (hereinafter "Survival Act") and claims all damages recoverable under the Survival Act.

724. As a direct and proximate result of the injuries and death of Figueiredo, the Figueiredo Estate suffered damages and losses for the total amount Figueiredo would have earned between August 12, 2006 and his death.

725. As a direct and proximate result of the injuries and death of Figueiredo, the Figueiredo Estate has suffered losses for the total net amount Figueiredo would have earned between August 12, 2006 and the end of Figueiredo's work life expectancy subject to the cost of maintenance and support.

726. As a direct and proximate result of the injuries and death of Figueiredo, the Figueiredo Estate, is entitled to be fairly and adequately compensated for the mental and physical pain, suffering and inconvenience that Figueiredo endured from the moment of the August 12, 2006 injury to the moment of the August 12, 2006 death.

WHEREFORE, Plaintiff, Robert E. McCulley, Administrator of the Estate of Claudeir Jose Figueiredo, Deceased, respectfully requests this Honorable Court enter judgment in his favor and against Defendant, Operator, Individually and Jointly and Severally with Defendants in an amount to exceed the jurisdictional Arbitration limit of Fifty Thousand Dollars (\$50,000.00), together with interest, costs, punitive damages, delay damages, attorney's fees and any or further relief this Honorable Court may deem just and proper.

FTS 1141

COUNT LXXXV - STRICT LIABILITY
SOUZA VS. GM

727. Plaintiff hereby incorporates all matter stated elsewhere in this pleading as if fully set forth herein at length.

728. The Defendant, GM is strictly liability under Section 402(a) of the Restatement of the Law of Torts Second and is liable for the injuries of Souza because:

(a) At all relevant times, Defendant, GM, was in the business of designing, manufacturing, assembling, selling and/or distributing Chevrolet Express Cargo Vans including the Defective Van;

(b) Defendant, GM, expected the Defective Van to reach the consumer without substantial change in the condition it was sold;

(c) The Defective Van actually reached the consumer without substantial change in the condition it was sold;

(d) At or around 2000 and prior thereto, alternative, safer, practical designs of the Defective Van existed;

729. Defendant, GM, breached its duties and obligations under Section 402(a) of the Restatement of the Law of Torts Second by:

(a) Designing, manufacturing, assembling, selling and/or distributing the Defective Van in an unreasonably dangerous defective and unsafe condition;

(b) Designing, manufacturing, assembling, selling and/or distributing the Defective Van in such a condition that the Defective Van lacked one or more elements necessary to make it safe for its intended use;

(c) Designing, manufacturing, assembling, selling and/or distributing the Defective Van in such a condition that it contained one or more elements which made it unsafe for its intended use;

(d) Designing, manufacturing, assembling, selling and/or distributing the Defective Van in such a condition that it was not reasonably crashworthy;

(e) Designing, manufacturing, assembling, selling and/or distributing the Defective Van in such a condition that it swerved and steered out of control, rolled over and failed to keep the occupants contained within the Defective Van;

(f) Designing, manufacturing, assembling, selling and/or distributing the Defective Van such that it could be steered and control can be maintained in the event of a tire failure and such that occupants are contained within the Defective Van;

(g) Designing, manufacturing, assembling, selling and/or distributing the Defective Van in such a condition that it lacked all necessary safety features to protect occupants;

(h) Designing, manufacturing, assembling, selling and/or distributing the Defective Van without the implementation of alternative safer, practical designs;

(i) Designing, manufacturing, assembling, selling and/or distributing the Defective Van in a defective and unreasonably dangerous condition when it could have been designed more safely;

(j) Designing, manufacturing, assembling, selling and/or distributing the Defective Van without incorporating therein the state of the art of the scientific and technological knowledge available to GM at the time the Defective Van was placed on the market;

- (k) Designing, manufacturing, assembling, selling, distributing and failing to warn of the defective and dangerous conditions of the Defective Van including a high rollover propensity;
- (l) Designing, manufacturing, assembling, selling, distributing and failing to warn of the defective and dangerous conditions of the Defective Van including lack of electronic stability control;
- (m) Designing, manufacturing, assembling, selling, distributing and failing to warn of the defective and dangerous conditions of the Defective Van including false latching seatbelts;
- (n) Designing, manufacturing, assembling, selling, distributing and failing to warn of the defective and dangerous conditions of the Defective Van including lack of glazing;
- (o) Designing, manufacturing, assembling, selling, distributing and failing to warn of the defective and dangerous conditions of the Defective Van including faulty door latching;
- (p) Designing, manufacturing, assembling, selling, distributing and failing to warn of the defective and dangerous conditions of the Defective Van including a center of gravity which is too high;
- (q) Designing, manufacturing, assembling, selling, distributing and failing to warn of the defective and dangerous conditions of the Defective Van including a track width which was too narrow;
- (r) Designing, manufacturing, assembling, selling, distributing the Defective Van in such a condition that it had an extremely low static stability factor;
- (s) Designing, manufacturing, assembling, selling and/or distributing the Defective Van in such a condition that it causes over-steering and under-steering in the event of tire failure.

730. As a direct and proximate result of Defendant, GM's designing, manufacturing, assembling selling and/or distributing of the Defective Van and Defendant, GM's corresponding violation of Section 402(a) of the Restatement of Law Torts Second on or about August 12, 2006, immediately following the failure of the Defective Tire by tread-belt separation, the Defective Van swerved out of control, across the highway, rolled over, struck an embankment and failed to contain Melo, Figueiredo, Souza, thereby resulting in multiple serious and permanent injuries.

731. As a direct and proximate result of the injuries, Souza, suffered great pain, anguish, sickness and anxiety.

732. As a direct and proximate result of the injuries, Souza, suffered emotional injuries, mental anguish, humiliation, loss of life's pleasures, loss of Hedonic pleasures and the inability to attend to social and work obligations.

733. As a direct and proximate result of the injuries, Souza, has undergone a great loss of earnings and earning capacity and by reason of the injuries has sustained a great loss of all future earnings and earning capacity.

734. As a direct and proximate result of the injuries, Souza, has incurred medical, rehabilitative and other related expenses in an amount in excess of the basic personal injury protection benefits required by the Pennsylvania Motor Vehicle Financial Responsibility Law, 75 Pa. C.S.A. Section 1701 et. seq., as amended, which is hereby claimed in this action.

WHEREFORE, Plaintiff, Carlos Souza, respectfully requests this Honorable Court enter judgment in his favor and against Defendant, General Motors Corporation, Individually and Jointly and Severally with Defendants in an amount to exceed the jurisdictional Arbitration limit of Fifty

Thousand Dollars (\$50,000.00), together with interest, costs, punitive damages, delay damages, attorney's fees and any or further relief this Honorable Court may deem just and proper.

COUNT LXXXVI - NEGLIGENCE
SOUZA VS. GM

735. Plaintiff hereby incorporates all matter stated elsewhere in this pleading as if fully set forth herein at length.

736. Defendant, GM, negligently, carelessly and recklessly designed, manufactured, assembled, sold and/or distributed the Defective Van in such a condition that in the event of a foreseeable tire failure, the Defective Van would steer out of control, sway across the highway, rollover, strike an embankment and fail to contain the occupants.

737. The negligence, carelessness and recklessness of Defendant, GM, includes but is not limited to,

- (a) Choosing not to take reasonable care in the design of the Defective Van;
- (b) Choosing not to use reasonable care in the production of the Defective Van;
- (c) Choosing not to use reasonable care in the manufacture of the Defective Van;
- (d) Choosing not to use reasonable care in the assembly of the Defective Van;
- (e) Choosing not to reasonably and properly test and properly analyze the testing of the Defective Van under reasonably foreseeable circumstances;
- (f) Choosing not to use due care under the circumstances;
- (g) Choosing to violate Federal Standards and Regulations and Statutes pertaining to the obligation of an automobile manufacturer to recall and make modifications to its products after the manufacturer knows or should know of the defective nature of the Defective Van;

- (h) Choosing to violate Federal Regulations pertaining to motor vehicles;
- (i) Negligence at law;
- (j) Choosing not to take necessary steps to modify the Defective Van;
- (k) Choosing not to recall and retrofit the Defective Van;
- (l) Choosing not to design, manufacture, assemble, sell and/or distribute the

Defective Van such that the steering and suspension does not cause over-steer and under-steer in cases of tire failure;

- (m) Choosing not to design, manufacture, assemble, sell and/or distribute the

Defective Van with a wider track width;

- (n) Choosing not to design, manufacture, assemble, sell and/or distribute the

Defective Van with a lower center of gravity;

- (o) Choosing not to design, manufacture, assemble, sell and/or distribute the

Defective Van with a higher static stability factor;

- (p) Choosing not to design, manufacture, assemble, sell and/or distribute the

Defective Van with stiffer shock absorbers;

- (q) Choosing not to design, manufacture, assemble, sell and/or distribute the

Defective Van with stronger stabilize bars;

- (r) Choosing not to design, manufacture, assemble, sell and/or distribute the

Defective Van with seatbelts that do not false latch;

- (s) Choosing not to design, manufacture, assemble, sell and/or distribute the

Defective Van with door latches that will not fail during reasonable foreseeable crashes and rollovers;

(t) Choosing not to design, manufacture, assemble, sell and/or distribute the Defective Van with glazing to contain occupants in the event of a reasonably foreseeable crash or rollover;

(u) Choosing not to design, manufacture, assemble, sell and/or distribute the Defective Van such that all occupants would be contained in the event of a reasonably foreseeable rollover or crash;

(v) Choosing not to design, manufacture, assemble, sell and/or distribute the Defective Van in such a condition that it will not sway, serve and steer out of control thereby resulting in rollover and crashes in the event of a reasonably foreseeable tire failure;

738. As a direct and proximate result of the negligence, negligence per se, carelessness, and recklessness of Defendant, GM, Souza was caused to sustain serious and permanent injuries, serious impairment of bodily function, permanent and serious disfigurement, including but not limited to, right posterior superior parietal convexity extra-axial hematoma, non-displaced fractures of the frontal and right occipital bones, open fracture to right ankle region and blunt force trauma and abrasions to the head, neck, pelvis, upper extremities and lower extremities.

739. As a direct and proximate result of the injuries, Souza suffered great pain, anguish, sickness and agony.

740. As a direct and proximate result, the injuries, Souza suffered emotional injuries, mental anguish, humiliation, loss of life's pleasures, loss of hedonic pleasures, and the inability to attend to social and work obligations.

741. As a direct and proximate result of the injuries, Souza has undergone a great loss of earnings and earning capacity and has sustained a great loss of all future earnings and earning capacity.

742. As a direct and proximate result of these injuries, Souza has incurred medical, rehabilitative and other related expenses in excess of the basic personal injury protection benefits required by the Pennsylvania Motor Vehicle Financial Responsibility Law, 75 Pa. C.S.A. §1701 et seq. as amended, which is hereby claimed in this action.

WHEREFORE, Plaintiff, Carlos Souza, respectfully requests this Honorable Court enter judgment in his favor and against Defendant, General Motors Corporation, Individually and Jointly and Severally with Defendants in an amount to exceed the jurisdictional Arbitration limit of Fifty Thousand Dollars (\$50,000.00), together with interest, costs, punitive damages, delay damages, attorney's fees and any or further relief this Honorable Court may deem just and proper.

COUNT LXXXVII - BREACH OF WARRANTY
SOUZA VS. GM

743. Plaintiff hereby incorporates all matter stated elsewhere in this pleading as if fully set forth herein at length.

744. Defendant, GM, breached its warranties, both express and implied, that the Defective Van was safe and proper for its intended and foreseeable use and was designed and manufactured such that it would be safe for its intended use.

745. Defendant, GM, breached its warranties, both express and implied, by designing, manufacturing, assembling and selling the Defective Van such that it was unsafe, defective and of

non-merchantable quality and not reasonably safe for the uses for which it was intended or for which was reasonably foreseeable.

746. As a direct and proximate result of Defendant, GM's, breach of its express and implied warranties, Souza was caused to sustain multiple serious and permanent injuries, serious impairment bodily function, permanent and serious disfigurement, including but not limited to, right posterior superior parietal convexity extra-axial hematoma, non-displaced fractures of the frontal and right occipital bones, open fracture to right ankle region and blunt force trauma and abrasions to the head, neck, pelvis, upper extremities and lower extremities.

747. As a direct and proximate result of the injuries, Souza suffered great pain, anguish, sickness and agony.

748. As a direct and proximate result, the injuries, Souza suffered emotional injuries, mental anguish, humiliation, loss of life's pleasures, loss of hedonic pleasures, and the inability to attend to social and work obligations.

749. As a direct and proximate result of the injuries, Souza has undergone a great loss of earnings and earning capacity and has sustained a great loss of all future earnings and earning capacity.

750. As a direct and proximate result of these injuries, Souza has incurred medical, rehabilitative and other related expenses in excess of the basic personal injury protection benefits required by the Pennsylvania Motor Vehicle Financial Responsibility Law, 75 Pa. C.S.A. §1701 et seq. as amended, which is hereby claimed in this action.

WHEREFORE, Plaintiff, Carlos Souza, respectfully requests this Honorable Court enter judgment in his favor and against Defendant, General Motors Corporation, Individually and Jointly

and Severally with Defendants in an amount to exceed the jurisdictional Arbitration limit of Fifty Thousand Dollars (\$50,000.00), together with interest, costs, punitive damages, delay damages, attorney's fees and any or further relief this Honorable Court may deem just and proper.

COUNT LXXXVIII - STRICT PRODUCTS LIABILITY
SOUZA VS. OWNER

751. Plaintiff hereby incorporates all matter stated elsewhere in this pleading as if fully set forth herein at length.

752. Defendant, Owner, is strictly liable under Section 402(a) of the Restatement of the Law of Torts (Second) and is liable for the injuries of Souza because:

(a) At all relevant times Defendant, Owner, was in the business of supplying Compass Tellurid tires and specifically, the Defective Tire;

(b) Defendant, Owner, expected the Defective Tire to reach the consumer without substantial change in the condition it was sold;

(c) The Defective Tire actually reached the consumer without substantial change in the condition in which it was sold;

(d) At or around the 23rd production week of 2004 and prior thereto, alternative safer, practical designs, manufacturing techniques and quality control systems for production of the Defective Tire existed.

753. Defendant, Owner, breached its duties and obligations under Section 402(a) of the Restatement of the Law of Torts (Second) by:

(a) Designing, manufacturing, assembling, selling, distributing and/or supplying the Defective Tire with an inadequate inner liner (too thin) allowing oxygen to escape and degrade the Defective Tire, thereby causing tread-belt separation;

(b) Designing, manufacturing, assembling, selling, distributing and/or supplying the Defective Tire in such a condition that the rubber composition of the inner liner was inadequate (not enough butyl) allowing oxygen to escape and degrade the Defective Tire, thereby causing tread-belt separation;

(c) Designing, manufacturing, assembling, selling, distributing and/or supplying the Defective Tire in such a condition that the wedging for stress reduction at belt edge was inadequate (too small), thereby causing tread-belt separation;

(d) Designing, manufacturing, assembling, selling, distributing and/or supplying the Defective Tire in such a condition that the belt alignment is inadequate (misaligned), thereby causing tread-belt separation;

(e) Designing, manufacturing, assembling, selling, distributing and/or supplying the Defective Tire in such a condition that the aging resistance is insufficient by reason of inadequate (not enough antidegradents; antioxidants and antiozonands), thereby causing tread-belt separation;

(f) Designing, manufacturing, assembling, selling, distributing and/or supplying the Defective Tire in such a condition that the Defective Tire lacked nylon cap plies, thereby causing tread-belt separation;

(g) Designing, manufacturing, assembling, selling, distributing and/or supplying the Defective Tire in such a condition that the tread-belt adhesion was inadequate, thereby causing tread-belt separation;

(h) Designing, manufacturing, assembling, selling, distributing and/or supplying the Defective Tire in such a condition that the rubber materials and components of the Defective Tire were contaminated during production by oil water, dirt, perspiration, solvent, humidity and other debris, thereby causing tread-belt separation;

(i) Designing, manufacturing, assembling, selling, distributing and/or supplying the Defective Tire in such a condition that the Defective Tire was stored inadequately (too long during the green phase), thereby causing tread-belt separation;

(j) Designing, manufacturing, assembling, selling, distributing and/or supplying the Defective Tire in such a condition that the Defective Tire was handled inadequately (dropped during the green phase), thereby causing tread-belt separation;

(k) Designing, manufacturing, assembling, selling, distributing and/or supplying the Defective Tire in such a condition that the Defective Tire was manufactured without adequate quality control, thereby causing tread-belt separation;

(l) Designing, manufacturing, assembling, selling, distributing and/or supplying the Defective Tire in such a condition that the Defective Tire was manufactured without adequate testing, thereby causing tread-belt separation;

(m) Designing, manufacturing, assembling, selling, distributing and/or supplying the Defective Tire in such a condition that the Defective Tire curing was inadequate (not hot enough and/or not long enough), thereby causing tread-belt separation;

(n) Designing, manufacturing, assembling, selling, distributing and/or supplying the Defective Tire in such a condition that the Defective Tire lacked adequate warnings

(o) Designing, manufacturing, assembling, selling, distributing and/or supplying the Defective Tire without implementation of alternative, safer, practical designs, manufacturing techniques and quality control systems;

(p) Designing, manufacturing, assembling, selling, distributing and/or supplying the Defective Tire in a defective and unreasonably dangerous condition when it could have been designed and manufactured more safely;

(q) Designing, manufacturing, assembling, selling, distributing and/or supplying the Defective Tire without adequate and proper testing;

(r) Designing, manufacturing, assembling, selling, distributing and/or supplying the Defective Tire without proper quality control;

(s) Designing, manufacturing, assembling, selling, distributing and/or supplying the Defective Tire without adequate warning;

754. As a direct and proximate result of Defendant, Owner's, supplying of the Defective Tire and Defendant, Owner's corresponding violation of Section 402(a) of the Restatement of the Law of Torts (Second), on or about August 12, 2006, suddenly and without warning, the tread of the Defective Tire separated from the belt and carcass to such an extent that it was wrapped around the axle and became lodged therein and the Defective Van swayed and swerved across the highway out of control, rolled over, struck an embankment and came to a final resting with the driver's side on the pavement and the passenger side of the Defective Van facing upwards with such force as to cause Souza to sustain multiple serious and permanent injuries, serious impairment bodily function,

permanent and serious disfigurement, including but not limited to, right posterior superior parietal convexity extra-axial hematoma, non-displaced fractures of the frontal and right occipital bones, open fracture to right ankle region and blunt force trauma and abrasions to the head, neck, pelvis, upper extremities and lower extremities.

755. As a direct and proximate result of the injuries, Souza suffered great pain, anguish, sickness and agony.

756. As a direct and proximate result of the injuries, Souza suffered emotional injuries, mental anguish, humiliation, loss of life's pleasures, loss of hedonic pleasures, and the inability to attend to social and work obligations.

757. As a direct and proximate result of the injuries, Souza has undergone a great loss of earnings and earning capacity and by the reason of the death has sustained a great loss of all future earnings and earning capacity.

758. As a direct and proximate result of these injuries, Souza has incurred medical, rehabilitative and other related expenses in excess of the basic personal injury protection benefits required by the Pennsylvania Motor Vehicle Financial Responsibility Law, 75 Pa. C.S.A. §1701 et seq. as amended, which is hereby claimed in this action.

WHEREFORE, Plaintiff, Carlos Souza, respectfully requests this Honorable Court enter judgment in his favor and against Defendant, Owner, Individually and Jointly and Severally with Defendants in an amount to exceed the jurisdictional Arbitration limit of Fifty Thousand Dollars (\$50,000.00), together with interest, costs, punitive damages, delay damages, attorney's fees and any or further relief this Honorable Court may deem just and proper.

COUNT LXXXIX - NEGLIGENCE
SOUZA VS. OWNER

759. Plaintiff hereby incorporates all matter stated elsewhere in this pleading as if fully set forth herein at length.

760. On or about August 12, 2006, Defendant, Operator, carelessly and negligently operated and drove the Defective Van with the Defective Tire mounted on the left rear wheel within the posted speed limit in a southerly direction on Pennsylvania Route 476 approaching the 80 mile marker, suddenly and without warning, the tread of the Defective Tire separated from the belt and carcass to such an extent that it was wrapped around the axle and became lodged therein and the Defective Van swayed and swerved across the highway out of control, rolled over, struck an embankment and came to a final resting with the driver's side on the pavement and the passenger side of the vehicle facing upwards with such force as to cause Souza to sustain multiple serious and permanent injuries, serious impairment bodily function, permanent and serious disfigurement, including but not limited to, right posterior superior parietal convexity extra-axial hematoma, non-displaced fractures of the frontal and right occipital bones, open fracture to right ankle region and blunt force trauma and abrasions to the head, neck, pelvis, upper extremities and lower extremities.

761. The negligence, carelessness and recklessness of Defendant, Owner, includes but is not limited to the following:

(a) Negligently entrusting the Defective Van to Defendant, Operator, thereby allowing Defendant, Operator, to fail to be highly vigilant and maintain sufficient control of the Defective Van;

(b) Negligently entrusting the Defective Van to Defendant, Operator, thereby allowing Defendant, Operator, to fail to keep the Defective Van under proper and adequate control;

(c) Failing to maintain the Defective Van and the Defective Tire in a safe and non-defective condition;

(d) Failing to warn;

(e) Failing to take reasonable action after the right rear tire detreaded;

762. As a direct and proximate result of the negligence and carelessness of Defendant, Owner, Souza was caused to sustain multiple serious and permanent injuries, serious impairment of bodily function, permanent and serious disfigurement and other conditions, including but not limited to, right posterior superior parietal convexity extra-axial hematoma, non-displaced fractures of the frontal and right occipital bones, open fracture to right ankle region and blunt force trauma and abrasions to the head, neck, pelvis, upper extremities and lower extremities.

763. As a direct and proximate result of the injuries, Souza suffered great pain, anguish, sickness and agony.

764. As a direct and proximate result of the injuries, Souza suffered emotional injuries, mental anguish, humiliation, loss of life's pleasures, loss of hedonic pleasures, and the inability to attend to social and work obligations.

765. As a direct and proximate result of the injuries, Souza has undergone a great loss of earnings and earning capacity and has sustained a great loss of all future earnings and earning capacity.

766. As a direct and proximate result of these injuries, Souza has incurred medical, rehabilitative and other related expenses in excess of the basic personal injury protection benefits

required by the Pennsylvania Motor Vehicle Financial Responsibility Law, 75 Pa. C.S.A. §1701 et seq. as amended, which is hereby claimed in this action.

WHEREFORE, Plaintiff, Carlos Souza, respectfully requests this Honorable Court enter judgment in his favor and against Defendant, Owner, Individually and Jointly and Severally with Defendants in an amount to exceed the jurisdictional Arbitration limit of Fifty Thousand Dollars (\$50,000.00), together with interest, costs, punitive damages, delay damages, attorney's fees and any or further relief this Honorable Court may deem just and proper.

COUNT XC - STRICT PRODUCTS LIABILITY
SOUZA VS. RETAILER

767. Plaintiff hereby incorporates all matter stated elsewhere in this pleading as if fully set forth herein at length.

768. Defendant, Retailer, is strictly liable under Section 402(a) of the Restatement of the Law of Torts (Second) and is liable for the injuries of Souza because:

(a) At all relevant times Defendant, Retailer, was in the business of designing, manufacturing, assembling, selling and/or distributing Compass Tellurid tires and specifically, the Defective Tire;

(b) Defendant, Retailer, expected the Defective Tire to reach the consumer without substantial change in the condition it was sold;

(c) The Defective Tire actually reached the consumer without substantial change in the condition in which it was sold;

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(d) At or around the 23rd production week of 2004 and prior thereto, alternative safer, practical designs, manufacturing techniques and quality control systems for production of the Defective Tire existed.

769. Defendant, Retailer, breached its duties and obligations under Section 402(a) of the Restatement of the Law of Torts (Second) by:

(a) Designing, manufacturing, assembling, selling and/or distributing the Defective Tire with an inadequate inner liner (too thin) allowing oxygen to escape and degrade the Defective Tire, thereby causing tread-belt separation;

(b) Designing, manufacturing, assembling, selling and/or distributing the Defective Tire in such a condition that it failed to provide protection to Souza against personal injury and death as a result of a motor vehicle collision;

(c) Designing, manufacturing, assembling, selling and/or distributing the Defective Tire in such a condition that the rubber composition of the inner liner was inadequate (not enough butyl) allowing oxygen to escape and degrade the Defective Tire, thereby causing tread-belt separation;

(d) Designing, manufacturing, assembling, selling and/or distributing the Defective Tire in such a condition that the wedging for stress reduction at belt edge was inadequate (too small), thereby causing tread-belt separation;

(e) Designing, manufacturing, assembling, selling and/or distributing the Defective Tire in such a condition that the belt alignment is inadequate (misaligned), thereby causing tread-belt separation;

(f) Designing, manufacturing, assembling, selling and/or distributing the Defective Tire in such a condition that the aging resistance is insufficient by reason of inadequate (not enough antidegradents; antioxidants and antiozonands), thereby causing tread-belt separation;

(g) Designing, manufacturing, assembling, selling and/or distributing the Defective Tire in such a condition that the Defective Tire lacked nylon cap plys, thereby causing tread-belt separation;

(h) Designing, manufacturing, assembling, selling and/or distributing the Defective Tire in such a condition that the tread-belt adhesion was inadequate, thereby causing tread-belt separation;

(i) Designing, manufacturing, assembling, selling and/or distributing the Defective Tire in such a condition that the rubber materials and components of the Defective Tire were contaminated during production by oil water, dirt, perspiration, solvent, humidity and other debris, thereby causing tread-belt separation;

(j) Designing, manufacturing, assembling, selling and/or distributing the Defective Tire in such a condition that the Defective Tire was stored inadequately (too long during the green phase), thereby causing tread-belt separation;

(k) Designing, manufacturing, assembling, selling and/or distributing the Defective Tire in such a condition that the Defective Tire was handled inadequately (dropped during the green phase), thereby causing tread-belt separation;

(l) Designing, manufacturing, assembling, selling and/or distributing the Defective Tire in such a condition that the Defective Tire was manufactured without adequate quality control, thereby causing tread-belt separation;

(m) designing, manufacturing, assembling, selling and/or distributing the Defective Tire in such a condition that the Defective Tire was manufactured without adequate testing, thereby causing tread-belt separation;

(n) Designing, manufacturing, assembling, selling and/or distributing the Defective Tire in such a condition that the Defective Tire curing was inadequate (not hot enough and/or not long enough), thereby causing tread-belt separation;

(o) Designing, manufacturing, assembling, selling and/or distributing the Defective Tire without implementation of alternative, safer, practical designs, manufacturing techniques and quality control systems;

(p) Designing, manufacturing, assembling, selling and/or distributing the Defective Tire in a defective and unreasonably dangerous condition when it could have been designed and manufactured more safely;

(q) Designing, manufacturing, assembling, selling and/or distributing the Defective Tire without adequate and proper testing;

(r) Designing, manufacturing, assembling, selling and/or distributing the Defective Tire without proper quality control;

(s) Designing, manufacturing, assembling, selling and/or distributing the Defective Tire without adequate warning;

770. As a direct and proximate result of Defendant, Retailer's, designing, manufacturing, selling and/or distributing the Defective Tire and Defendant, Retailer's corresponding violation of Section 402(a) of the Restatement of the Law of Torts (Second) on or about August 12, 2006, suddenly and without warning, the tread of the Defective Tire separated from the belt and carcass

and became to such an extent that it was wrapped around the axle and became lodged therein and the Defective Van swayed and swerved across the highway out of control, rolled over, struck an embankment and came to a final resting with the driver's side on the pavement and the passenger side of the Defective Van facing upwards with such force as to cause Souza to sustain multiple serious and permanent injuries, serious impairment of bodily function, permanent and serious disfigurement and other conditions, including but not limited to, right posterior superior parietal convexity extra-axial hematoma, non-displaced fractures of the frontal and right occipital bones, open fracture to right ankle region and blunt force trauma and abrasions to the head, neck, pelvis, upper extremities and lower extremities.

771. As a direct and proximate result of the injuries, Souza suffered great pain, anguish, sickness and agony.

772. As a direct and proximate result of the injuries, Souza suffered emotional injuries, mental anguish, humiliation, loss of life's pleasures, loss of hedonic pleasures, and the inability to attend to social and work obligations.

773. As a direct and proximate result of the injuries, Souza has undergone a great loss of earnings and earning capacity and has sustained a great loss of all future earnings and earning capacity.

774. As a direct and proximate result of these injuries, Souza has incurred medical, rehabilitative and other related expenses in excess of the basic personal injury protection benefits required by the Pennsylvania Motor Vehicle Financial Responsibility Law, 75 Pa. C.S.A. §1701 et seq. as amended, which is hereby claimed in this action.

WHEREFORE, Plaintiff, Carlos Souza, respectfully requests this Honorable Court enter judgment in his favor and against Defendant, Retailer, Individually and Jointly and Severally with Defendants in an amount to exceed the jurisdictional Arbitration limit of Fifty Thousand Dollars (\$50,000.00), together with interest, costs, punitive damages, delay damages, attorney's fees and any or further relief this Honorable Court may deem just and proper.

COUNT XCI - NEGLIGENCE
SOUZA VS. RETAILER

775. Plaintiff hereby incorporates all matter stated elsewhere in this pleading as if fully set forth herein at length.

776. Defendant, Retailer, negligently, carelessly and recklessly designed, manufactured, assembled, sold, and distributed the Defective Van in such a condition that on or about August 12, 2006, while the Defective Van was being operated in a southerly direction in the right lane of Pennsylvania Route 476, approaching the 80 mile marker, suddenly and without warning, the tread of the Defective Tire separated from the belt and carcass to such an extent that it was wrapped around the axle and became lodged therein and the Defective Van swayed and swerved across the highway out of control, rolled over, struck an embankment and came to a final resting position with the driver's side on the pavement and the passenger side of the Defective Van facing upwards.

777. The negligence, carelessness and recklessness of Defendant, Retailer, includes, but is not limited to the following:

(a) Choosing to design, manufacture, assemble, sell and distribute the Defective Tire with an inadequate inner liner (too thin) allowing oxygen to escape and degrade the Defective Tire, thereby causing tread-belt separation;

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(b) Choosing to design, manufacture, assemble, sell and distribute the Defective Tire in such a condition that it failed to provide protection to Souza against personal injury as a result of a motor vehicle collision;

(c) Choosing to design, manufacture, assemble, sell and distribute the Defective Tire in such a condition that the rubber composition of the inner liner was inadequate (not enough butyl) allowing oxygen to escape and degrade the Defective Tire, thereby causing tread-belt separation;

(d) Choosing to design, manufacture, assemble, sell and distribute the Defective Tire in such a condition that the wedging for stress reduction at belt edge was inadequate (too small), thereby causing tread-belt separation;

(e) Choosing to design, manufacture, assemble, sell and distribute the Defective Tire in such a condition that the belt alignment is inadequate (misaligned), thereby causing tread-belt separation;

(f) Choosing to design, manufacture, assemble, sell and distribute the Defective Tire in such a condition that the aging resistance is insufficient by reason of inadequate (not enough antidegradents; antioxidants and antiozonands), thereby causing tread-belt separation;

(g) Choosing to design, manufacture, assemble, sell and distribute the Defective Tire in such a condition that the Defective Tire lacked nylon cap plys, thereby causing tread-belt separation;

(h) Choosing to design, manufacture, assemble, sell and distribute the Defective Tire in such a condition that the tread-belt adhesion was inadequate, thereby causing tread-belt separation;

(i) Choosing to design, manufacture, assemble, sell and distribute the Defective Tire in such a condition that the rubber materials and components of the Defective Tire were contaminated during production by oil water, dirt, perspiration, solvent, humidity and other debris, thereby causing tread-belt separation;

(j) Choosing to design, manufacture, assemble, sell and distribute the Defective Tire in such a condition that the Defective Tire was stored inadequately (too long during the green phase), thereby causing tread-belt separation;

(k) Choosing to design, manufacture, assemble, sell and distribute the Defective Tire in such a condition that the Defective Tire was handled inadequately (dropped during the green phase), thereby causing tread-belt separation;

(l) Choosing to design, manufacture, assemble, sell and distribute the Defective Tire in such a condition that the Defective Tire was manufactured without adequate quality control, thereby causing tread-belt separation;

(m) Choosing to design, manufacture, assemble, sell and distribute the Defective Tire in such a condition that the Defective Tire was manufactured without adequate testing, thereby causing tread-belt separation;

(n) Choosing to design, manufacture, assemble, sell and distribute the Defective Tire in such a condition that the Defective Tire curing was inadequate (not hot enough and/or not long enough), thereby causing tread-belt separation;

(o) Choosing to design, manufacture, assemble, sell and distribute the Defective Tire in such a condition that the Defective Tire lacked adequate warnings;

(p) Failing to design, manufacture, assemble, sell and/or distribute the Defective Tire with implementation of alternative, safer, practical designs, manufacturing techniques and quality control systems;

(q) Choosing to design, manufacture, assemble, sell and distribute the Defective Tire in a defective and unreasonably dangerous condition when it could have been designed and manufactured more safely;

(r) Choosing to design, manufacture, assemble, sell and distribute the Defective Tire without adequate and proper testing;

(s) Choosing to design, manufacture, assemble, sell and/or distribute the Defective Tire without proper quality control;

(t) Choosing to design, manufacture, assemble, sell and distribute the Defective Tire without adequate warning;

(u) Violating Federal Standards and Regulations and Statutes pertaining to the obligation of a tire manufacturer or distributor to recall or make modifications to its product after the manufacturer, distributor knows or should know of the defective nature of its tire;

(v) Violating Federal Regulations pertaining to tires and motor vehicles;

(w) Choosing not to warn of the defective conditions of the Defective Tire;

778. As a direct and proximate result of the negligence, negligence per se, carelessness and recklessness of Defendant, Retailer, Souza was caused to sustain multiple serious and permanent injuries, serious impairment of bodily function, permanent and serious disfigurement, including but not limited to, right posterior superior parietal convexity extra-axial hematoma, non-displaced

fractures of the frontal and right occipital bones, open fracture to right ankle region and blunt force trauma and abrasions to the head, neck, pelvis, upper extremities and lower extremities.

779. As a direct and proximate result of the injuries, Souza suffered great pain, anguish, sickness and agony.

780. As a direct and proximate result, the injuries, Souza suffered emotional injuries, mental anguish, humiliation, loss of life's pleasures, loss of hedonic pleasures, and the inability to attend to social and work obligations.

781. As a direct and proximate result of the injuries, Souza has undergone a great loss of earnings and earning capacity and has sustained a great loss of all future earnings and earning capacity.

782. As a direct and proximate result of these injuries, Souza has incurred medical, rehabilitative and other related expenses in excess of the basic personal injury protection benefits required by the Pennsylvania Motor Vehicle Financial Responsibility Law, 75 Pa. C.S.A. §1701 et seq. as amended, which is hereby claimed in this action.

WHEREFORE, Plaintiff, Carlos Souza, respectfully requests this Honorable Court enter judgment in his favor and against Defendant, Retailer, Individually and Jointly and Severally with Defendants in an amount to exceed the jurisdictional Arbitration limit of Fifty Thousand Dollars (\$50,000.00), together with interest, costs, punitive damages, delay damages, attorney's fees and any or further relief this Honorable Court may deem just and proper.

COUNT XCII - BREACH OF WARRANTY
SOUZA VS. RETAILER

783. Plaintiff hereby incorporates all matter stated elsewhere in this pleading as if fully set forth herein at length.

784. Defendant, Retailer, breached its warranties, both express and implied, that the Defective Van was safe and proper for its intended and foreseeable use and was designed and manufactured such that it would be safe for its intended use.

785. Defendant, Retailer, breached its warranties, both express and implied, by designing, manufacturing, assembling and selling the Defective Van such that it was unsafe, defective and of non-merchantable quality and not reasonably safe for the uses for which it was intended or for which was reasonably foreseeable.

786. As a direct and proximate result of Defendant, Retailer's, breach of its express and implied warranties, Souza was caused to sustain multiple serious and permanent injuries, serious impairment bodily function, permanent and serious disfigurement, including but not limited to, right posterior superior parietal convexity extra-axial hematoma, non-displaced fractures of the frontal and right occipital bones, open fracture to right ankle region and blunt force trauma and abrasions to the head, neck, pelvis, upper extremities and lower extremities.

787. As a direct and proximate result of the injuries, Souza suffered great pain, anguish, sickness and agony.

788. As a direct and proximate result, the injuries, Souza suffered emotional injuries, mental anguish, humiliation, loss of life's pleasures, loss of hedonic pleasures, and the inability to attend to social and work obligations.

789. As a direct and proximate result of the injuries, Souza has undergone a great loss of earnings and earning capacity and has sustained a great loss of all future earnings and earning capacity.

790. As a direct and proximate result of these injuries, Souza has incurred medical, rehabilitative and other related expenses in excess of the basic personal injury protection benefits required by the Pennsylvania Motor Vehicle Financial Responsibility Law, 75 Pa. C.S.A. §1701 et seq. as amended, which is hereby claimed in this action.

WHEREFORE, Plaintiff, Carlos Souza, respectfully requests this Honorable Court enter judgment in his favor and against Defendant, Retailer, Individually and Jointly and Severally with Defendants in an amount to exceed the jurisdictional Arbitration limit of Fifty Thousand Dollars (\$50,000.00), together with interest, costs, punitive damages, delay damages, attorney's fees and any or further relief this Honorable Court may deem just and proper.

COUNT XCIII - STRICT PRODUCTS LIABILITY
SOUZA VS. WHOLESALER

791. Plaintiff hereby incorporates all matter stated elsewhere in this pleading as if fully set forth herein at length.

792. Defendant, Wholesaler, is strictly liable under Section 402(a) of the Restatement of the Law of Torts (Second) and is liable for the injuries of Souza because:

(a) At all relevant times Defendant, Wholesaler, was in the business of designing, manufacturing, assembling, selling and/or distributing Compass Tellurid tires and specifically, the Defective Tire;

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(b) Defendant, Wholesaler, expected the Defective Tire to reach the consumer without substantial change in the condition it was sold;

(c) The Defective Tire actually reached the consumer without substantial change in the condition in which it was sold;

(d) At or around the 23rd production week of 2004 and prior thereto, alternative safer, practical designs, manufacturing techniques and quality control systems for production of the Defective Tire existed.

793. Defendant, Wholesaler, breached its duties and obligations under Section 402(a) of the Restatement of the Law of Torts (Second) by:

(a) Designing, manufacturing, assembling, selling and/or distributing the Defective Tire with an inadequate inner liner (too thin) allowing oxygen to escape and degrade the Defective Tire, thereby causing tread-belt separation;

(b) Designing, manufacturing, assembling, selling and/or distributing the Defective Tire in such a condition that it failed to provide protection to Souza against personal injury and death as a result of a motor vehicle collision;

(c) Designing, manufacturing, assembling, selling and/or distributing the Defective Tire in such a condition that the rubber composition of the inner liner was inadequate (not enough butyl) allowing oxygen to escape and degrade the Defective Tire, thereby causing tread-belt separation;

(d) Designing, manufacturing, assembling, selling and/or distributing the Defective Tire in such a condition that the wedging for stress reduction at belt edge was inadequate (too small), thereby causing tread-belt separation;

FTS 1170

(e) Designing, manufacturing, assembling, selling and/or distributing the Defective Tire in such a condition that the belt alignment is inadequate (misaligned), thereby causing tread-belt separation;

(f) Designing, manufacturing, assembling, selling and/or distributing the Defective Tire in such a condition that the aging resistance is insufficient by reason of inadequate (not enough antidegradents; antioxidants and antiozonands), thereby causing tread-belt separation;

(g) Designing, manufacturing, assembling, selling and/or distributing the Defective Tire in such a condition that the Defective Tire lacked nylon cap plies, thereby causing tread-belt separation;

(h) Designing, manufacturing, assembling, selling and/or distributing the Defective Tire in such a condition that the tread-belt adhesion was inadequate, thereby causing tread-belt separation;

(i) Designing, manufacturing, assembling, selling and/or distributing the Defective Tire in such a condition that the rubber materials and components of the Defective Tire were contaminated during production by oil water, dirt, perspiration, solvent, humidity and other debris, thereby causing tread-belt separation;

(j) Designing, manufacturing, assembling, selling and/or distributing the Defective Tire in such a condition that the Defective Tire was stored inadequately (too long during the green phase), thereby causing tread-belt separation;

(k) Designing, manufacturing, assembling, selling and/or distributing the Defective Tire in such a condition that the Defective Tire was handled inadequately (dropped during the green phase), thereby causing tread-belt separation;

(l) Designing, manufacturing, assembling, selling and/or distributing the Defective Tire in such a condition that the Defective Tire was manufactured without adequate quality control, thereby causing tread-belt separation;

(m) designing, manufacturing, assembling, selling and/or distributing the Defective Tire in such a condition that the Defective Tire was manufactured without adequate testing, thereby causing tread-belt separation;

(n) Designing, manufacturing, assembling, selling and/or distributing the Defective Tire in such a condition that the Defective Tire curing was inadequate (not hot enough and/or not long enough), thereby causing tread-belt separation;

(o) Designing, manufacturing, assembling, selling and/or distributing the Defective Tire without implementation of alternative, safer, practical designs, manufacturing techniques and quality control systems;

(p) Designing, manufacturing, assembling, selling and/or distributing the Defective Tire in a defective and unreasonably dangerous condition when it could have been designed and manufactured more safely;

(q) Designing, manufacturing, assembling, selling and/or distributing the Defective Tire without adequate and proper testing;

(r) Designing, manufacturing, assembling, selling and/or distributing the Defective Tire without proper quality control;

(s) Designing, manufacturing, assembling, selling and/or distributing the Defective Tire without adequate warning;

794. As a direct and proximate result of Defendant, Wholesaler's, designing, manufacturing, selling and/or distributing the Defective Tire and Defendant, Wholesaler's corresponding violation of Section 402(a) of the Restatement of the Law of Torts (Second) on or about August 12, 2006, suddenly and without warning, the tread of the Defective Tire separated from the belt and carcass and became to such an extent that it was wrapped around the axle and became lodged therein and the Defective Van swayed and swerved across the highway out of control, rolled over, struck an embankment and came to a final resting with the driver's side on the pavement and the passenger side of the Defective Van facing upwards with such force as to cause Souza multiple serious and permanent injuries, serious impairment of bodily function, permanent and serious disfigurement, including but not limited to, right posterior superior parietal convexity extra-axial hematoma, non-displaced fractures of the frontal and right occipital bones, open fracture to right ankle region and blunt force trauma and abrasions to the head, neck, pelvis, upper extremities and lower extremities.

795. As a direct and proximate result of the injuries, Souza suffered great pain, anguish, sickness and agony.

796. As a direct and proximate result of the injuries, Souza suffered emotional injuries, mental anguish, humiliation, loss of life's pleasures, loss of hedonic pleasures, and the inability to attend to social and work obligations.

797. As a direct and proximate result of the injuries, Souza has undergone a great loss of earnings and earning capacity and has sustained a great loss of all future earnings and earning capacity.

798. As a direct and proximate result of these injuries, Souza has incurred medical, rehabilitative and other related expenses in excess of the basic personal injury protection benefits required by the Pennsylvania Motor Vehicle Financial Responsibility Law, 75 Pa. C.S.A. §1701 et seq. as amended, which is hereby claimed in this action.

WHEREFORE, Plaintiff, Carlos Souza, respectfully requests this Honorable Court enter judgment in his favor and against Defendant, Wholesaler, Individually and Jointly and Severally with Defendants in an amount to exceed the jurisdictional Arbitration limit of Fifty Thousand Dollars (\$50,000.00), together with interest, costs, punitive damages, delay damages, attorney's fees and any or further relief this Honorable Court may deem just and proper.

COUNT XCIV - NEGLIGENCE
SOUZA VS. WHOLESALER

799. Plaintiff hereby incorporates all matter stated elsewhere in this pleading as if fully set forth herein at length.

800. Defendant, Wholesaler, negligently, carelessly and recklessly designed, manufactured, assembled, sold, and distributed the Defective Van in such a condition that on or about August 12, 2006, while the Defective Van was being operated in a southerly direction in the right lane of Pennsylvania Route 476, approaching the 80 mile marker, suddenly and without warning, the tread of the Defective Tire separated from the belt and carcass to such an extent that it was wrapped around the axle and became lodged therein and the Defective Van swayed and swerved across the highway out of control, rolled over, struck an embankment and came to a final resting position with the driver's side on the pavement and the passenger side of the Defective Van facing upwards.

801. The negligence, carelessness and recklessness of Defendant, Wholesaler, includes, but is not limited to the following:

(a) Choosing to design, manufacture, assemble, sell and distribute the Defective Tire with an inadequate inner liner (too thin) allowing oxygen to escape and degrade the Defective Tire, thereby causing tread-belt separation;

(b) Choosing to design, manufacture, assemble, sell and distribute the Defective Tire in such a condition that it failed to provide protection to Souza against personal injury as a result of a motor vehicle collision;

(c) Choosing to design, manufacture, assemble, sell and distribute the Defective Tire in such a condition that the rubber composition of the inner liner was inadequate (not enough butyl) allowing oxygen to escape and degrade the Defective Tire, thereby causing tread-belt separation;

(d) Choosing to design, manufacture, assemble, sell and distribute the Defective Tire in such a condition that the wedging for stress reduction at belt edge was inadequate (too small), thereby causing tread-belt separation;

(e) Choosing to design, manufacture, assemble, sell and distribute the Defective Tire in such a condition that the belt alignment is inadequate (misaligned), thereby causing tread-belt separation;

(f) Choosing to design, manufacture, assemble, sell and distribute the Defective Tire in such a condition that the aging resistance is insufficient by reason of inadequate (not enough antidegradents; antioxidants and antiozonands), thereby causing tread-belt separation;

(g) Choosing to design, manufacture, assemble, sell and distribute the Defective Tire in such a condition that the Defective Tire lacked nylon cap plys, thereby causing tread-belt separation;

(h) Choosing to design, manufacture, assemble, sell and distribute the Defective Tire in such a condition that the tread-belt adhesion was inadequate, thereby causing tread-belt separation;

(i) Choosing to design, manufacture, assemble, sell and distribute the Defective Tire in such a condition that the rubber materials and components of the Defective Tire were contaminated during production by oil water, dirt, perspiration, solvent, humidity and other debris, thereby causing tread-belt separation;

(j) Choosing to design, manufacture, assemble, sell and distribute the Defective Tire in such a condition that the Defective Tire was stored inadequately (too long during the green phase), thereby causing tread-belt separation;

(k) Choosing to design, manufacture, assemble, sell and distribute the Defective Tire in such a condition that the Defective Tire was handled inadequately (dropped during the green phase), thereby causing tread-belt separation;

(l) Choosing to design, manufacture, assemble, sell and distribute the Defective Tire in such a condition that the Defective Tire was manufactured without adequate quality control, thereby causing tread-belt separation;

(m) Choosing to design, manufacture, assemble, sell and distribute the Defective Tire in such a condition that the Defective Tire was manufactured without adequate testing, thereby causing tread-belt separation;

(n) Choosing to design, manufacture, assemble, sell and distribute the Defective Tire in such a condition that the Defective Tire curing was inadequate (not hot enough and/or not long enough), thereby causing tread-belt separation;

(o) Choosing to design, manufacture, assemble, sell and distribute the Defective Tire in such a condition that the Defective Tire lacked adequate warnings;

(p) Failing to design, manufacture, assemble, sell and/or distribute the Defective Tire with implementation of alternative, safer, practical designs, manufacturing techniques and quality control systems;

(q) Choosing to design, manufacture, assemble, sell and distribute the Defective Tire in a defective and unreasonably dangerous condition when it could have been designed and manufactured more safely;

(r) Choosing to design, manufacture, assemble, sell and distribute the Defective Tire without adequate and proper testing;

(s) Choosing to design, manufacture, assemble, sell and/or distribute the Defective Tire without proper quality control;

(t) Choosing to design, manufacture, assemble, sell and distribute the Defective Tire without adequate warning;

(u) Violating Federal Standards and Regulations and Statutes pertaining to the obligation of a tire manufacturer or distributor to recall or make modifications to its product after the manufacturer, distributor knows or should know of the defective nature of its tire;

(v) Violating Federal Regulations pertaining to tires and motor vehicles;

(w) Choosing not to warn of the defective conditions of the Defective Tire;

802. As a direct and proximate result of the negligence, negligence per se, carelessness and recklessness of Defendant, Wholesaler, Souza was caused to sustain multiple serious and permanent injuries, serious impairment of bodily function, permanent and serious disfigurement, including but not limited to, right posterior superior parietal convexity extra-axial hematoma, non-displaced fractures of the frontal and right occipital bones, open fracture to right ankle region and blunt force trauma and abrasions to the head, neck, pelvis, upper extremities and lower extremities.

803. As a direct and proximate result of the injuries, Souza suffered great pain, anguish, sickness and agony.

804. As a direct and proximate result, the injuries, Souza suffered emotional injuries, mental anguish, humiliation, loss of life's pleasures, loss of hedonic pleasures, and the inability to attend to social and work obligations.

805. As a direct and proximate result of the injuries, Souza has undergone a great loss of earnings and earning capacity and has sustained a great loss of all future earnings and earning capacity.

806. As a direct and proximate result of these injuries, Souza has incurred medical, rehabilitative and other related expenses in excess of the basic personal injury protection benefits required by the Pennsylvania Motor Vehicle Financial Responsibility Law, 75 Pa. C.S.A. §1701 et seq. as amended, which is hereby claimed in this action.

WHEREFORE, Plaintiff, Carlos Souza, Deceased, respectfully requests this Honorable Court enter judgment in his favor and against Defendant, Wholesaler, Individually and Jointly and Severally with Defendants in an amount to exceed the jurisdictional Arbitration limit of Fifty

Thousand Dollars (\$50,000.00), together with interest, costs, punitive damages, delay damages, attorney's fees and any or further relief this Honorable Court may deem just and proper.

COUNT XCV - BREACH OF WARRANTY
SOUZA VS. WHOLESALER

807. Plaintiff hereby incorporates all matter stated elsewhere in this pleading as if fully set forth herein at length.

808. Defendant, Wholesaler, breached its warranties, both express and implied, that the Defective Van was safe and proper for its intended and foreseeable use and was designed and manufactured such that it would be safe for its intended use.

809. Defendant, Wholesaler, breached its warranties, both express and implied, by designing, manufacturing, assembling and selling the Defective Van such that it was unsafe, defective and of non-merchantable quality and not reasonably safe for the uses for which it was intended or for which was reasonably foreseeable.

810. As a direct and proximate result of Defendant, Wholesaler's, breach of its express and implied warranties, Souza was caused to sustain multiple serious and permanent injuries, serious impairment bodily function, permanent and serious disfigurement, including but not limited to, right posterior superior parietal convexity extra-axial hematoma, non-displaced fractures of the frontal and right occipital bones, open fracture to right ankle region and blunt force trauma and abrasions to the head, neck, pelvis, upper extremities and lower extremities.

811. As a direct and proximate result of the injuries, Souza suffered great pain, anguish, sickness and agony.

812. As a direct and proximate result, the injuries, Souza suffered emotional injuries, mental anguish, humiliation, loss of life's pleasures, loss of hedonic pleasures, and the inability to attend to social and work obligations.

813. As a direct and proximate result of the injuries, Souza has undergone a great loss of earnings and earning capacity and has sustained a great loss of all future earnings and earning capacity.

814. As a direct and proximate result of these injuries, Souza has incurred medical, rehabilitative and other related expenses in excess of the basic personal injury protection benefits required by the Pennsylvania Motor Vehicle Financial Responsibility Law, 75 Pa. C.S.A. §1701 et seq. as amended, which is hereby claimed in this action.

WHEREFORE, Plaintiff, Carlos Souza, respectfully requests this Honorable Court enter judgment in his favor and against Defendant, Wholesaler, Individually and Jointly and Severally with Defendants in an amount to exceed the jurisdictional Arbitration limit of Fifty Thousand Dollars (\$50,000.00), together with interest, costs, punitive damages, delay damages, attorney's fees and any or further relief this Honorable Court may deem just and proper.

COUNT XCVI - STRICT PRODUCTS LIABILITY
SOUZA VS. ALTERNATE WHOLESALER

815. Plaintiff hereby incorporates all matter stated elsewhere in this pleading as if fully set forth herein at length.

816. Defendant, Alternate Wholesaler, is strictly liable under Section 402(a) of the Restatement of the Law of Torts (Second) and is liable for the injuries of Souza because:

(a) At all relevant times Defendant, Alternate Wholesaler, was in the business of designing, manufacturing, assembling, selling and/or distributing Compass Tellurid tires and specifically, the Defective Tire;

(b) Defendant, Alternate Wholesaler, expected the Defective Tire to reach the consumer without substantial change in the condition it was sold;

(c) The Defective Tire actually reached the consumer without substantial change in the condition in which it was sold;

(d) At or around the 23rd production week of 2004 and prior thereto, alternative safer, practical designs, manufacturing techniques and quality control systems for production of the Defective Tire existed.

817. Defendant, Alternate Wholesaler, breached its duties and obligations under Section 402(a) of the Restatement of the Law of Torts (Second) by:

(a) Designing, manufacturing, assembling, selling and/or distributing the Defective Tire with an inadequate inner liner (too thin) allowing oxygen to escape and degrade the Defective Tire, thereby causing tread-belt separation;

(b) Designing, manufacturing, assembling, selling and/or distributing the Defective Tire in such a condition that it failed to provide protection to Souza against personal injury as a result of a motor vehicle collision;

(c) Designing, manufacturing, assembling, selling and/or distributing the Defective Tire in such a condition that the rubber composition of the inner liner was inadequate (not enough butyl) allowing oxygen to escape and degrade the Defective Tire, thereby causing tread-belt separation;

(d) Designing, manufacturing, assembling, selling and/or distributing the Defective Tire in such a condition that the wedging for stress reduction at belt edge was inadequate (too small), thereby causing tread-belt separation;

(e) Designing, manufacturing, assembling, selling and/or distributing the Defective Tire in such a condition that the belt alignment is inadequate (misaligned), thereby causing tread-belt separation;

(f) Designing, manufacturing, assembling, selling and/or distributing the Defective Tire in such a condition that the aging resistance is insufficient by reason of inadequate (not enough antidegradents; antioxidants and antiozonands), thereby causing tread-belt separation;

(g) Designing, manufacturing, assembling, selling and/or distributing the Defective Tire in such a condition that the Defective Tire lacked nylon cap plies, thereby causing tread-belt separation;

(h) Designing, manufacturing, assembling, selling and/or distributing the Defective Tire in such a condition that the tread-belt adhesion was inadequate, thereby causing tread-belt separation;

(i) Designing, manufacturing, assembling, selling and/or distributing the Defective Tire in such a condition that the rubber materials and components of the Defective Tire were contaminated during production by oil water, dirt, perspiration, solvent, humidity and other debris, thereby causing tread-belt separation;

(j) Designing, manufacturing, assembling, selling and/or distributing the Defective Tire in such a condition that the Defective Tire was stored inadequately (too long during the green phase), thereby causing tread-belt separation;

(k) Designing, manufacturing, assembling, selling and/or distributing the Defective Tire in such a condition that the Defective Tire was handled inadequately (dropped during the green phase), thereby causing tread-belt separation;

(l) Designing, manufacturing, assembling, selling and/or distributing the Defective Tire in such a condition that the Defective Tire was manufactured without adequate quality control, thereby causing tread-belt separation;

(m) designing, manufacturing, assembling, selling and/or distributing the Defective Tire in such a condition that the Defective Tire was manufactured without adequate testing, thereby causing tread-belt separation;

(n) Designing, manufacturing, assembling, selling and/or distributing the Defective Tire in such a condition that the Defective Tire curing was inadequate (not hot enough and/or not long enough), thereby causing tread-belt separation;

(o) Designing, manufacturing, assembling, selling and/or distributing the Defective Tire without implementation of alternative, safer, practical designs, manufacturing techniques and quality control systems;

(p) Designing, manufacturing, assembling, selling and/or distributing the Defective Tire in a defective and unreasonably dangerous condition when it could have been designed and manufactured more safely;

(q) Designing, manufacturing, assembling, selling and/or distributing the Defective Tire without adequate and proper testing;

(r) Designing, manufacturing, assembling, selling and/or distributing the Defective Tire without proper quality control;

(s) Designing, manufacturing, assembling, selling and/or distributing the Defective Tire without adequate warning;

818. As a direct and proximate result of Defendant, Alternate Wholesaler's, designing, manufacturing, selling and/or distributing the Defective Tire and Defendant, Alternate Wholesaler's corresponding violation of Section 402(a) of the Restatement of the Law of Torts (Second) on or about August 12, 2006, suddenly and without warning, the tread of the Defective Tire separated from the belt and carcass and became to such an extent that it was wrapped around the axle and became lodged therein and the Defective Van swayed and swerved across the highway out of control, rolled over, struck an embankment and came to a final resting with the driver's side on the pavement and the passenger side of the Defective Van facing upwards with such force as to cause Souza multiple serious and permanent injuries, serious impairment of bodily function, permanent and serious disfigurement, including but not limited to, right posterior superior parietal convexity extra-axial hematoma, non-displaced fractures of the frontal and right occipital bones, open fracture to right ankle region and blunt force trauma and abrasions to the head, neck, pelvis, upper extremities and lower extremities.

819. As a direct and proximate result of the injuries, Souza suffered great pain, anguish, sickness and agony.

820. As a direct and proximate result of the injuries, Souza suffered emotional injuries, mental anguish, humiliation, loss of life's pleasures, loss of hedonic pleasures, and the inability to attend to social and work obligations.

821. As a direct and proximate result of the injuries, Souza has undergone a great loss of earnings and earning capacity and has sustained a great loss of all future earnings and earning capacity.

822. As a direct and proximate result of these injuries, Souza has incurred medical, rehabilitative and other related expenses in excess of the basic personal injury protection benefits required by the Pennsylvania Motor Vehicle Financial Responsibility Law, 75 Pa. C.S.A. §1701 et seq. as amended, which is hereby claimed in this action.

WHEREFORE, Plaintiff, Carlos Souza, respectfully requests this Honorable Court enter judgment in his favor and against Defendant, Alternate Wholesaler, Individually and Jointly and Severally with Defendants in an amount to exceed the jurisdictional Arbitration limit of Fifty Thousand Dollars (\$50,000.00), together with interest, costs, punitive damages, delay damages, attorney's fees and any or further relief this Honorable Court may deem just and proper.

COUNT XCVII - NEGLIGENCE
SOUZA VS. ALTERNATE WHOLESALER

823. Plaintiff hereby incorporates all matter stated elsewhere in this pleading as if fully set forth herein at length.

824. Defendant, Alternate Wholesaler, negligently, carelessly and recklessly designed, manufactured, assembled, sold, and distributed the Defective Van in such a condition that on or about August 12, 2006, while the Defective Van was being operated in a southerly direction in the right lane of Pennsylvania Route 476, approaching the 80 mile marker, suddenly and without warning, the tread of the Defective Tire separated from the belt and carcass to such an extent that it was wrapped around the axle and became lodged therein and the Defective Van swayed and

swerved across the highway out of control, rolled over, struck an embankment and came to a final resting position with the driver's side on the pavement and the passenger side of the Defective Van facing upwards.

825. The negligence, carelessness and recklessness of Defendant, Alternate Wholesaler, includes, but is not limited to the following:

(a) Choosing to design, manufacture, assemble, sell and distribute the Defective Tire with an inadequate inner liner (too thin) allowing oxygen to escape and degrade the Defective Tire, thereby causing tread-belt separation;

(b) Choosing to design, manufacture, assemble, sell and distribute the Defective Tire in such a condition that it failed to provide protection to Souza against personal injury as a result of a motor vehicle collision;

(c) Choosing to design, manufacture, assemble, sell and distribute the Defective Tire in such a condition that the rubber composition of the inner liner was inadequate (not enough butyl) allowing oxygen to escape and degrade the Defective Tire, thereby causing tread-belt separation;

(d) Choosing to design, manufacture, assemble, sell and distribute the Defective Tire in such a condition that the wedging for stress reduction at belt edge was inadequate (too small), thereby causing tread-belt separation;

(e) Choosing to design, manufacture, assemble, sell and distribute the Defective Tire in such a condition that the belt alignment is inadequate (misaligned), thereby causing tread-belt separation;

(f) Choosing to design, manufacture, assemble, sell and distribute the Defective Tire in such a condition that the aging resistance is insufficient by reason of inadequate (not enough antidegradents; antioxidants and antiozonands), thereby causing tread-belt separation;

(g) Choosing to design, manufacture, assemble, sell and distribute the Defective Tire in such a condition that the Defective Tire lacked nylon cap plies, thereby causing tread-belt separation;

(h) Choosing to design, manufacture, assemble, sell and distribute the Defective Tire in such a condition that the tread-belt adhesion was inadequate, thereby causing tread-belt separation;

(i) Choosing to design, manufacture, assemble, sell and distribute the Defective Tire in such a condition that the rubber materials and components of the Defective Tire were contaminated during production by oil water, dirt, perspiration, solvent, humidity and other debris, thereby causing tread-belt separation;

(j) Choosing to design, manufacture, assemble, sell and distribute the Defective Tire in such a condition that the Defective Tire was stored inadequately (too long during the green phase), thereby causing tread-belt separation;

(k) Choosing to design, manufacture, assemble, sell and distribute the Defective Tire in such a condition that the Defective Tire was handled inadequately (dropped during the green phase), thereby causing tread-belt separation;

(l) Choosing to design, manufacture, assemble, sell and distribute the Defective Tire in such a condition that the Defective Tire was manufactured without adequate quality control, thereby causing tread-belt separation;

(m) Choosing to design, manufacture, assemble, sell and distribute the Defective Tire in such a condition that the Defective Tire was manufactured without adequate testing, thereby causing tread-belt separation;

(n) Choosing to design, manufacture, assemble, sell and distribute the Defective Tire in such a condition that the Defective Tire curing was inadequate (not hot enough and/or not long enough), thereby causing tread-belt separation;

(o) Choosing to design, manufacture, assemble, sell and distribute the Defective Tire in such a condition that the Defective Tire lacked adequate warnings;

(p) Failing to design, manufacture, assemble, sell and/or distribute the Defective Tire with implementation of alternative, safer, practical designs, manufacturing techniques and quality control systems;

(q) Choosing to design, manufacture, assemble, sell and distribute the Defective Tire in a defective and unreasonably dangerous condition when it could have been designed and manufactured more safely;

(r) Choosing to design, manufacture, assemble, sell and distribute the Defective Tire without adequate and proper testing;

(s) Choosing to design, manufacture, assemble, sell and/or distribute the Defective Tire without proper quality control;

(t) Choosing to design, manufacture, assemble, sell and distribute the Defective Tire without adequate warning;

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(u) Violating Federal Standards and Regulations and Statutes pertaining to the obligation of a tire manufacturer or distributor to recall or make modifications to its product after the manufacturer, distributor knows or should know of the defective nature of its tire;

(v) Violating Federal Regulations pertaining to tires and motor vehicles;

(w) Choosing not to warn of the defective conditions of the Defective Tire;

826. As a direct and proximate result of the negligence, negligence per se, carelessness and recklessness of Defendant, Alternate Wholesaler, Souza was caused to sustain multiple serious and permanent injuries, serious impairment of bodily function, permanent and serious disfigurement, including but not limited to, right posterior superior parietal convexity extra-axial hematoma, non-displaced fractures of the frontal and right occipital bones, open fracture to right ankle region and blunt force trauma and abrasions to the head, neck, pelvis, upper extremities and lower extremities.

827. As a direct and proximate result of the injuries, Souza suffered great pain, anguish, sickness and agony.

828. As a direct and proximate result, the injuries, Souza suffered emotional injuries, mental anguish, humiliation, loss of life's pleasures, loss of hedonic pleasures, and the inability to attend to social and work obligations.

829. As a direct and proximate result of the injuries, Souza has undergone a great loss of earnings and earning capacity and has sustained a great loss of all future earnings and earning capacity.

830. As a direct and proximate result of these injuries, Souza has incurred medical, rehabilitative and other related expenses in excess of the basic personal injury protection benefits

required by the Pennsylvania Motor Vehicle Financial Responsibility Law, 75 Pa. C.S.A. §1701 et seq. as amended, which is hereby claimed in this action.

WHEREFORE, Plaintiff, Carlos Souza, respectfully requests this Honorable Court enter judgment in his favor and against Defendant, Alternate Wholesaler, Individually and Jointly and Severally with Defendants in an amount to exceed the jurisdictional Arbitration limit of Fifty Thousand Dollars (\$50,000.00), together with interest, costs, punitive damages, delay damages, attorney's fees and any or further relief this Honorable Court may deem just and proper.

COUNT XCVIII - BREACH OF WARRANTY
SOUZA VS. ALTERNATE WHOLESALER

831. Plaintiff hereby incorporates all matter stated elsewhere in this pleading as if fully set forth herein at length.

832. Defendant, Alternate Wholesaler, breached its warranties, both express and implied, that the Defective Van was safe and proper for its intended and foreseeable use and was designed and manufactured such that it would be safe for its intended use.

833. Defendant, Alternate Wholesaler, breached its warranties, both express and implied, by designing, manufacturing, assembling and selling the Defective Van such that it was unsafe, defective and of non-merchantable quality and not reasonably safe for the uses for which it was intended or for which was reasonably foreseeable.

834. As a direct and proximate result of Defendant, Alternate Wholesaler's, breach of its express and implied warranties, Souza was caused to sustain multiple serious and permanent injuries, serious impairment of bodily function, permanent and serious disfigurement, including but not limited to, right posterior superior parietal convexity extra-axial hematoma, non-displaced fractures

of the frontal and right occipital bones, open fracture to right ankle region and blunt force trauma and abrasions to the head, neck, pelvis, upper extremities and lower extremities.

835. As a direct and proximate result of the injuries, Souza suffered great pain, anguish, sickness and agony.

836. As a direct and proximate result, the injuries, Souza suffered emotional injuries, mental anguish, humiliation, loss of life's pleasures, loss of hedonic pleasures, and the inability to attend to social and work obligations.

837. As a direct and proximate result of the injuries, Souza has undergone a great loss of earnings and earning capacity and has sustained a great loss of all future earnings and earning capacity.

838. As a direct and proximate result of these injuries, Souza has incurred medical, rehabilitative and other related expenses in excess of the basic personal injury protection benefits required by the Pennsylvania Motor Vehicle Financial Responsibility Law, 75 Pa. C.S.A. §1701 et seq. as amended, which is hereby claimed in this action.

WHEREFORE, Plaintiff, Carlos Souza, respectfully requests this Honorable Court enter judgment in his favor and against Defendant, Alternate Wholesaler, Individually and Jointly and Severally with Defendants in an amount to exceed the jurisdictional Arbitration limit of Fifty Thousand Dollars (\$50,000.00), together with interest, costs, punitive damages, delay damages, attorney's fees and any or further relief this Honorable Court may deem just and proper.

COUNT XCIX - STRICT PRODUCTS LIABILITY
SOUZA VS. FTS

839. Plaintiff hereby incorporates all matter stated elsewhere in this pleading as if fully set forth herein at length.

840. Defendant, FTS, is strictly liable under Section 402(a) of the Restatement of the Law of Torts (Second) and is liable for the injuries of Souza because:

(a) At all relevant times Defendant, FTS, was in the business of designing, manufacturing, assembling, selling and/or distributing Compass Tellurid tires and specifically, the Defective Tire;

(b) Defendant, FTS, expected the Defective Tire to reach the consumer without substantial change in the condition it was sold;

(c) The Defective Tire actually reached the consumer without substantial change in the condition in which it was sold;

(d) At or around the 23rd production week of 2004 and prior thereto, alternative safer, practical designs, manufacturing techniques and quality control systems for production of the Defective Tire existed.

841. Defendant, FTS, breached its duties and obligations under Section 402(a) of the Restatement of the Law of Torts (Second) by:

(a) Designing, manufacturing, assembling, selling and/or distributing the Defective Tire with an inadequate inner liner (too thin) allowing oxygen to escape and degrade the Defective Tire, thereby causing tread-belt separation;

(b) Designing, manufacturing, assembling, selling and/or distributing the Defective Tire in such a condition that it failed to provide protection to Souza against personal injury as a result of a motor vehicle collision;

(c) Designing, manufacturing, assembling, selling and/or distributing the Defective Tire in such a condition that the rubber composition of the inner liner was inadequate (not enough butyl) allowing oxygen to escape and degrade the Defective Tire, thereby causing tread-belt separation;

(d) Designing, manufacturing, assembling, selling and/or distributing the Defective Tire in such a condition that the wedging for stress reduction at belt edge was inadequate (too small), thereby causing tread-belt separation;

(e) Designing, manufacturing, assembling, selling and/or distributing the Defective Tire in such a condition that the belt alignment is inadequate (misaligned), thereby causing tread-belt separation;

(f) Designing, manufacturing, assembling, selling and/or distributing the Defective Tire in such a condition that the aging resistance is insufficient by reason of inadequate (not enough antidegradents; antioxidants and antiozonands), thereby causing tread-belt separation;

(g) Designing, manufacturing, assembling, selling and/or distributing the Defective Tire in such a condition that the Defective Tire lacked nylon cap plys, thereby causing tread-belt separation;

(h) Designing, manufacturing, assembling, selling and/or distributing the Defective Tire in such a condition that the tread-belt adhesion was inadequate, thereby causing tread-belt separation;

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(i) Designing, manufacturing, assembling, selling and/or distributing the Defective Tire in such a condition that the rubber materials and components of the Defective Tire were contaminated during production by oil water, dirt, perspiration, solvent, humidity and other debris, thereby causing tread-belt separation;

(j) Designing, manufacturing, assembling, selling and/or distributing the Defective Tire in such a condition that the Defective Tire was stored inadequately (too long during the green phase), thereby causing tread-belt separation;

(k) Designing, manufacturing, assembling, selling and/or distributing the Defective Tire in such a condition that the Defective Tire was handled inadequately (dropped during the green phase), thereby causing tread-belt separation;

(l) Designing, manufacturing, assembling, selling and/or distributing the Defective Tire in such a condition that the Defective Tire was manufactured without adequate quality control, thereby causing tread-belt separation;

(m) designing, manufacturing, assembling, selling and/or distributing the Defective Tire in such a condition that the Defective Tire was manufactured without adequate testing, thereby causing tread-belt separation;

(n) Designing, manufacturing, assembling, selling and/or distributing the Defective Tire in such a condition that the Defective Tire curing was inadequate (not hot enough and/or not long enough), thereby causing tread-belt separation;

(o) Designing, manufacturing, assembling, selling and/or distributing the Defective Tire without implementation of alternative, safer, practical designs, manufacturing techniques and quality control systems;

(p) Designing, manufacturing, assembling, selling and/or distributing the Defective Tire in a defective and unreasonably dangerous condition when it could have been designed and manufactured more safely;

(q) Designing, manufacturing, assembling, selling and/or distributing the Defective Tire without adequate and proper testing;

(r) Designing, manufacturing, assembling, selling and/or distributing the Defective Tire without proper quality control;

(s) Designing, manufacturing, assembling, selling and/or distributing the Defective Tire without adequate warning;

842. As a direct and proximate result of Defendant, FTS's, designing, manufacturing, selling and/or distributing the Defective Tire and Defendant, FTS's corresponding violation of Section 402(a) of the Restatement of the Law of Torts (Second) on or about August 12, 2006, suddenly and without warning, the tread of the Defective Tire separated from the belt and carcass and became to such an extent that it was wrapped around the axle and became lodged therein and the Defective Van swayed and swerved across the highway out of control, rolled over, struck an embankment and came to a final resting with the driver's side on the pavement and the passenger side of the Defective Van facing upwards with such force as to cause Souza to sustain multiple serious and permanent injuries, serious impairment of bodily function, permanent and serious disfigurement, including but not limited to, right posterior superior parietal convexity extra-axial hematoma, non-displaced fractures of the frontal and right occipital bones, open fracture to right ankle region and blunt force trauma and abrasions to the head, neck, pelvis, upper extremities and lower extremities.

843. As a direct and proximate result of the injuries, Souza suffered great pain, anguish, sickness and agony.

844. As a direct and proximate result of the injuries, Souza suffered emotional injuries, mental anguish, humiliation, loss of life's pleasures, loss of hedonic pleasures, and the inability to attend to social and work obligations.

845. As a direct and proximate result of the injuries, Souza has undergone a great loss of earnings and earning capacity and has sustained a great loss of all future earnings and earning capacity.

846. As a direct and proximate result of these injuries, Souza has incurred medical, rehabilitative and other related expenses in excess of the basic personal injury protection benefits required by the Pennsylvania Motor Vehicle Financial Responsibility Law, 75 Pa. C.S.A. §1701 et seq. as amended, which is hereby claimed in this action.

WHEREFORE, Plaintiff, Carlos Souza, respectfully requests this Honorable Court enter judgment in his favor and against Defendant, FTS, Individually and Jointly and Severally with Defendants in an amount to exceed the jurisdictional Arbitration limit of Fifty Thousand Dollars (\$50,000.00), together with interest, costs, punitive damages, delay damages, attorney's fees and any or further relief this Honorable Court may deem just and proper.

COUNT C - NEGLIGENCE
SOUZA VS. FTS

547. Plaintiff hereby incorporates all matter stated elsewhere in this pleading as if fully set forth herein at length.

848. Defendant, FTS, negligently, carelessly and recklessly designed, manufactured, assembled, sold, and distributed the Defective Van in such a condition that on or about August 12, 2006, while the Defective Van was being operated in a southerly direction in the right lane of Pennsylvania Route 476, approaching the 80 mile marker, suddenly and without warning, the tread of the Defective Tire separated from the belt and carcass to such an extent that it was wrapped around the axle and became lodged therein and the Defective Van swayed and swerved across the highway out of control, rolled over, struck an embankment and came to a final resting position with the driver's side on the pavement and the passenger side of the Defective Van facing upwards.

849. The negligence, carelessness and recklessness of Defendant, FTS, includes, but is not limited to the following:

(a) Choosing to design, manufacture, assemble, sell and distribute the Defective Tire with an inadequate inner liner (too thin) allowing oxygen to escape and degrade the Defective Tire, thereby causing tread-belt separation;

(b) Choosing to design, manufacture, assemble, sell and distribute the Defective Tire in such a condition that it failed to provide protection to Souza against personal injury and death as a result of a motor vehicle collision;

(c) Choosing to design, manufacture, assemble, sell and distribute the Defective Tire in such a condition that the rubber composition of the inner liner was inadequate (not enough butyl) allowing oxygen to escape and degrade the Defective Tire, thereby causing tread-belt separation;

(d) Choosing to design, manufacture, assemble, sell and distribute the Defective Tire in such a condition that the wedging for stress reduction at belt edge was inadequate (too small), thereby causing tread-belt separation;

(e) Choosing to design, manufacture, assemble, sell and distribute the Defective Tire in such a condition that the belt alignment is inadequate (misaligned), thereby causing tread-belt separation;

(f) Choosing to design, manufacture, assemble, sell and distribute the Defective Tire in such a condition that the aging resistance is insufficient by reason of inadequate (not enough antidegradents; antioxidants and antiozonands), thereby causing tread-belt separation;

(g) Choosing to design, manufacture, assemble, sell and distribute the Defective Tire in such a condition that the Defective Tire lacked nylon cap plys, thereby causing tread-belt separation;

(h) Choosing to design, manufacture, assemble, sell and distribute the Defective Tire in such a condition that the tread-belt adhesion was inadequate, thereby causing tread-belt separation;

(i) Choosing to design, manufacture, assemble, sell and distribute the Defective Tire in such a condition that the rubber materials and components of the Defective Tire were contaminated during production by oil water, dirt, perspiration, solvent, humidity and other debris, thereby causing tread-belt separation;

(j) Choosing to design, manufacture, assemble, sell and distribute the Defective Tire in such a condition that the Defective Tire was stored inadequately (too long during the green phase), thereby causing tread-belt separation;

(k) Choosing to design, manufacture, assemble, sell and distribute the Defective Tire in such a condition that the Defective Tire was handled inadequately (dropped during the green phase), thereby causing tread-belt separation;

(l) Choosing to design, manufacture, assemble, sell and distribute the Defective Tire in such a condition that the Defective Tire was manufactured without adequate quality control, thereby causing tread-belt separation;

(m) Choosing to design, manufacture, assemble, sell and distribute the Defective Tire in such a condition that the Defective Tire was manufactured without adequate testing, thereby causing tread-belt separation;

(n) Choosing to design, manufacture, assemble, sell and distribute the Defective Tire in such a condition that the Defective Tire curing was inadequate (not hot enough and/or not long enough), thereby causing tread-belt separation;

(o) Choosing to design, manufacture, assemble, sell and distribute the Defective Tire in such a condition that the Defective Tire lacked adequate warnings;

(p) Failing to design, manufacture, assemble, sell and/or distribute the Defective Tire with implementation of alternative, safer, practical designs, manufacturing techniques and quality control systems;

(q) Choosing to design, manufacture, assemble, sell and distribute the Defective Tire in a defective and unreasonably dangerous condition when it could have been designed and manufactured more safely;

(r) Choosing to design, manufacture, assemble, sell and distribute the Defective Tire without adequate and proper testing;

(s) Choosing to design, manufacture, assemble, sell and/or distribute the Defective Tire without proper quality control;

(t) Choosing to design, manufacture, assemble, sell and distribute the Defective Tire without adequate warning;

(u) Violating Federal Standards and Regulations and Statutes pertaining to the obligation of a tire manufacturer or distributor to recall or make modifications to its product after the manufacturer, distributor knows or should know of the defective nature of its tire;

(v) Violating Federal Regulations pertaining to tires and motor vehicles;

(w) Choosing not to warn of the defective conditions of the Defective Tire;

850. As a direct and proximate result of the negligence, negligence per se, carelessness and recklessness of Defendant, FTS, Souza was caused to sustain multiple serious and permanent injuries, serious impairment of bodily function, permanent and serious disfigurement, including but not limited to, right posterior superior parietal convexity extra-axial hematoma, non-displaced fractures of the frontal and right occipital bones, open fracture to right ankle region and blunt force trauma and abrasions to the head, neck, pelvis, upper extremities and lower extremities.

851. As a direct and proximate result of the injuries, Souza suffered great pain, anguish, sickness and agony.

852. As a direct and proximate result, the injuries, Souza suffered emotional injuries, mental anguish, humiliation, loss of life's pleasures, loss of hedonic pleasures, and the inability to attend to social and work obligations.

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853. As a direct and proximate result of the injuries, Souza has undergone a great loss of earnings and earning capacity and has sustained a great loss of all future earnings and earning capacity.

854. As a direct and proximate result of these injuries, Souza has incurred medical, rehabilitative and other related expenses in excess of the basic personal injury protection benefits required by the Pennsylvania Motor Vehicle Financial Responsibility Law, 75 Pa. C.S.A. §1701 et seq. as amended, which is hereby claimed in this action.

WHEREFORE, Plaintiff, Carlos Souza, respectfully requests this Honorable Court enter judgment in his favor and against Defendant, FTS, Individually and Jointly and Severally with Defendants in an amount to exceed the jurisdictional Arbitration limit of Fifty Thousand Dollars (\$50,000.00), together with interest, costs, punitive damages, delay damages, attorney's fees and any or further relief this Honorable Court may deem just and proper.

COUNT CI - BREACH OF WARRANTY
SOUZA VS. FTS

855. Plaintiff hereby incorporates all matter stated elsewhere in this pleading as if fully set forth herein at length.

856. Defendant, FTS, breached its warranties, both express and implied, that the Defective Van was safe and proper for its intended and foreseeable use and was designed and manufactured such that it would be safe for its intended use.

857. Defendant, FTS, breached its warranties, both express and implied, by designing, manufacturing, assembling and selling the Defective Van such that it was unsafe, defective and of

non-merchantable quality and not reasonably safe for the uses for which it was intended or for which was reasonably foreseeable.

858. As a direct and proximate result of Defendant, FTS's, breach of its express and implied warranties, Souza was caused to sustain multiple serious and permanent injuries, serious impairment bodily function, permanent and serious disfigurement, including but not limited to, right posterior superior parietal convexity extra-axial hematoma, non-displaced fractures of the frontal and right occipital bones, open fracture to right ankle region and blunt force trauma and abrasions to the head, neck, pelvis, upper extremities and lower extremities.

859. As a direct and proximate result of the injuries, Souza suffered great pain, anguish, sickness and agony.

860. As a direct and proximate result, the injuries, Souza suffered emotional injuries, mental anguish, humiliation, loss of life's pleasures, loss of hedonic pleasures, and the inability to attend to social and work obligations.

861. As a direct and proximate result of the injuries, Souza has undergone a great loss of earnings and earning capacity and has sustained a great loss of all future earnings and earning capacity.

862. As a direct and proximate result of these injuries, Souza has incurred medical, rehabilitative and other related expenses in excess of the basic personal injury protection benefits required by the Pennsylvania Motor Vehicle Financial Responsibility Law, 75 Pa. C.S.A. §1701 et seq. as amended, which is hereby claimed in this action.

WHEREFORE, Plaintiff, Carlos Souza, respectfully requests this Honorable Court enter judgment in his favor and against Defendant, FTS, Individually and Jointly and Severally with

Defendants in an amount to exceed the jurisdictional Arbitration limit of Fifty Thousand Dollars (\$50,000.00), together with interest, costs, punitive damages, delay damages, attorney's fees and any or further relief this Honorable Court may deem just and proper.

COUNT CII - STRICT PRODUCTS LIABILITY
SOUZA VS. KUSKIN

863. Plaintiff hereby incorporates all matter stated elsewhere in this pleading as if fully set forth herein at length.

864. Defendant, Kuskin, is strictly liable under Section 402(a) of the Restatement of the Law of Torts (Second) and is liable for the injuries of Souza because:

(a) At all relevant times Defendant, Kuskin, was in the business of designing, manufacturing, assembling, selling and/or distributing Compass Tellurid tires and specifically, the Defective Tire;

(b) Defendant, Kuskin, expected the Defective Tire to reach the consumer without substantial change in the condition it was sold;

(c) The Defective Tire actually reached the consumer without substantial change in the condition in which it was sold;

(d) At or around the 23rd production week of 2004 and prior thereto, alternative safer, practical designs, manufacturing techniques and quality control systems for production of the Defective Tire existed.

865. Defendant, Kuskin, breached its duties and obligations under Section 402(a) of the Restatement of the Law of Torts (Second) by:

(a) Designing, manufacturing, assembling, selling and/or distributing the Defective Tire with an inadequate inner liner (too thin) allowing oxygen to escape and degrade the Defective Tire, thereby causing tread-belt separation;

(b) Designing, manufacturing, assembling, selling and/or distributing the Defective Tire in such a condition that it failed to provide protection to Souza against personal injury as a result of a motor vehicle collision;

(c) Designing, manufacturing, assembling, selling and/or distributing the Defective Tire in such a condition that the rubber composition of the inner liner was inadequate (not enough butyl) allowing oxygen to escape and degrade the Defective Tire, thereby causing tread-belt separation;

(d) Designing, manufacturing, assembling, selling and/or distributing the Defective Tire in such a condition that the wedging for stress reduction at belt edge was inadequate (too small), thereby causing tread-belt separation;

(e) Designing, manufacturing, assembling, selling and/or distributing the Defective Tire in such a condition that the belt alignment is inadequate (misaligned), thereby causing tread-belt separation;

(f) Designing, manufacturing, assembling, selling and/or distributing the Defective Tire in such a condition that the aging resistance is insufficient by reason of inadequate (not enough antidegradents; antioxidants and antiozonands), thereby causing tread-belt separation;

(g) Designing, manufacturing, assembling, selling and/or distributing the Defective Tire in such a condition that the Defective Tire lacked nylon cap plies, thereby causing tread-belt separation;

(h) Designing, manufacturing, assembling, selling and/or distributing the Defective Tire in such a condition that the tread-belt adhesion was inadequate, thereby causing tread-belt separation;

(i) Designing, manufacturing, assembling, selling and/or distributing the Defective Tire in such a condition that the rubber materials and components of the Defective Tire were contaminated during production by oil water, dirt, perspiration, solvent, humidity and other debris, thereby causing tread-belt separation;

(j) Designing, manufacturing, assembling, selling and/or distributing the Defective Tire in such a condition that the Defective Tire was stored inadequately (too long during the green phase), thereby causing tread-belt separation;

(k) Designing, manufacturing, assembling, selling and/or distributing the Defective Tire in such a condition that the Defective Tire was handled inadequately (dropped during the green phase), thereby causing tread-belt separation;

(l) Designing, manufacturing, assembling, selling and/or distributing the Defective Tire in such a condition that the Defective Tire was manufactured without adequate quality control, thereby causing tread-belt separation;

(m) designing, manufacturing, assembling, selling and/or distributing the Defective Tire in such a condition that the Defective Tire was manufactured without adequate testing, thereby causing tread-belt separation;

(n) Designing, manufacturing, assembling, selling and/or distributing the Defective Tire in such a condition that the Defective Tire curing was inadequate (not hot enough and/or not long enough), thereby causing tread-belt separation;

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(o) Designing, manufacturing, assembling, selling and/or distributing the Defective Tire without implementation of alternative, safer, practical designs, manufacturing techniques and quality control systems;

(p) Designing, manufacturing, assembling, selling and/or distributing the Defective Tire in a defective and unreasonably dangerous condition when it could have been designed and manufactured more safely;

(q) Designing, manufacturing, assembling, selling and/or distributing the Defective Tire without adequate and proper testing;

(r) Designing, manufacturing, assembling, selling and/or distributing the Defective Tire without proper quality control;

(s) Designing, manufacturing, assembling, selling and/or distributing the Defective Tire without adequate warning;

866. As a direct and proximate result of Defendant, Kuskin's, designing, manufacturing, selling and/or distributing the Defective Tire and Defendant, Kuskin's corresponding violation of Section 402(a) of the Restatement of the Law of Torts (Second) on or about August 12, 2006, suddenly and without warning, the tread of the Defective Tire separated from the belt and carcass and became to such an extent that it was wrapped around the axle and became lodged therein and the Defective Van swayed and swerved across the highway out of control, rolled over, struck an embankment and came to a final resting with the driver's side on the pavement and the passenger side of the Defective Van facing upwards with such force as to cause Souza to sustain multiple serious and permanent injuries, serious impairment of bodily function, permanent and serious disfigurement, including but not limited to, right posterior superior parietal convexity extra-axial

hematoma, non-displaced fractures of the frontal and right occipital bones, open fracture to right ankle region and blunt force trauma and abrasions to the head, neck, pelvis, upper extremities and lower extremities.

867. As a direct and proximate result of the injuries, Souza suffered great pain, anguish, sickness and agony.

868. As a direct and proximate result of the injuries, Souza suffered emotional injuries, mental anguish, humiliation, loss of life's pleasures, loss of hedonic pleasures, and the inability to attend to social and work obligations.

869. As a direct and proximate result of the injuries, Souza has undergone a great loss of earnings and earning capacity and has sustained a great loss of all future earnings and earning capacity.

870. As a direct and proximate result of these injuries, Souza has incurred medical, rehabilitative and other related expenses in excess of the basic personal injury protection benefits required by the Pennsylvania Motor Vehicle Financial Responsibility Law, 75 Pa. C.S.A. §1701 et seq. as amended, which is hereby claimed in this action.

WHEREFORE, Plaintiff, Carlos Souza, respectfully requests this Honorable Court enter judgment in his favor and against Defendant, Kuskin, Individually and Jointly and Severally with Defendants in an amount to exceed the jurisdictional Arbitration limit of Fifty Thousand Dollars (\$50,000.00), together with interest, costs, punitive damages, delay damages, attorney's fees and any or further relief this Honorable Court may deem just and proper.

COUNT III - NEGLIGENCE
SOUZA VS. KUSKIN

871. Plaintiff hereby incorporates all matter stated elsewhere in this pleading as if fully set forth herein at length.

872. Defendant, Kuskin, negligently, carelessly and recklessly designed, manufactured, assembled, sold, and distributed the Defective Van in such a condition that on or about August 12, 2006, while the Defective Van was being operated in a southerly direction in the right lane of Pennsylvania Route 476, approaching the 80 mile marker, suddenly and without warning, the tread of the Defective Tire separated from the belt and carcass to such an extent that it was wrapped around the axle and became lodged therein and the Defective Van swayed and swerved across the highway out of control, rolled over, struck an embankment and came to a final resting position with the driver's side on the pavement and the passenger side of the Defective Van facing upwards.

873. The negligence, carelessness and recklessness of Defendant, Kuskin, includes, but is not limited to the following:

(a) Choosing to design, manufacture, assemble, sell and distribute the Defective Tire with an inadequate inner liner (too thin) allowing oxygen to escape and degrade the Defective Tire, thereby causing tread-belt separation;

(b) Choosing to design, manufacture, assemble, sell and distribute the Defective Tire in such a condition that it failed to provide protection to Souza against personal injury as a result of a motor vehicle collision;

(c) Choosing to design, manufacture, assemble, sell and distribute the Defective Tire in such a condition that the rubber composition of the inner liner was inadequate (not enough butyl) allowing oxygen to escape and degrade the Defective Tire, thereby causing tread-belt separation;

(d) Choosing to design, manufacture, assemble, sell and distribute the Defective Tire in such a condition that the wedging for stress reduction at belt edge was inadequate (too small), thereby causing tread-belt separation;

(e) Choosing to design, manufacture, assemble, sell and distribute the Defective Tire in such a condition that the belt alignment is inadequate (misaligned), thereby causing tread-belt separation;

(f) Choosing to design, manufacture, assemble, sell and distribute the Defective Tire in such a condition that the aging resistance is insufficient by reason of inadequate (not enough antidegradents; antioxidants and antiozonands), thereby causing tread-belt separation;

(g) Choosing to design, manufacture, assemble, sell and distribute the Defective Tire in such a condition that the Defective Tire lacked nylon cap plys, thereby causing tread-belt separation;

(h) Choosing to design, manufacture, assemble, sell and distribute the Defective Tire in such a condition that the tread-belt adhesion was inadequate, thereby causing tread-belt separation;

(i) Choosing to design, manufacture, assemble, sell and distribute the Defective Tire in such a condition that the rubber materials and components of the Defective Tire were

contaminated during production by oil water, dirt, perspiration, solvent, humidity and other debris, thereby causing tread-belt separation;

(j) Choosing to design, manufacture, assemble, sell and distribute the Defective Tire in such a condition that the Defective Tire was stored inadequately (too long during the green phase), thereby causing tread-belt separation;

(k) Choosing to design, manufacture, assemble, sell and distribute the Defective Tire in such a condition that the Defective Tire was handled inadequately (dropped during the green phase), thereby causing tread-belt separation;

(l) Choosing to design, manufacture, assemble, sell and distribute the Defective Tire in such a condition that the Defective Tire was manufactured without adequate quality control, thereby causing tread-belt separation;

(m) Choosing to design, manufacture, assemble, sell and distribute the Defective Tire in such a condition that the Defective Tire was manufactured without adequate testing, thereby causing tread-belt separation;

(n) Choosing to design, manufacture, assemble, sell and distribute the Defective Tire in such a condition that the Defective Tire curing was inadequate (not hot enough and/or not long enough), thereby causing tread-belt separation;

(o) Choosing to design, manufacture, assemble, sell and distribute the Defective Tire in such a condition that the Defective Tire lacked adequate warnings;

(p) Failing to design, manufacture, assemble, sell and/or distribute the Defective Tire with implementation of alternative, safer, practical designs, manufacturing techniques and quality control systems;

(q) Choosing to design, manufacture, assemble, sell and distribute the Defective Tire in a defective and unreasonably dangerous condition when it could have been designed and manufactured more safely;

(r) Choosing to design, manufacture, assemble, sell and distribute the Defective Tire without adequate and proper testing;

(s) Choosing to design, manufacture, assemble, sell and/or distribute the Defective Tire without proper quality control;

(t) Choosing to design, manufacture, assemble, sell and distribute the Defective Tire without adequate warning;

(u) Violating Federal Standards and Regulations and Statutes pertaining to the obligation of a tire manufacturer or distributor to recall or make modifications to its product after the manufacturer, distributor knows or should know of the defective nature of its tire;

(v) Violating Federal Regulations pertaining to tires and motor vehicles;

(w) Choosing not to warn of the defective conditions of the Defective Tire;

874. As a direct and proximate result of the negligence, negligence per se, carelessness and recklessness of Defendant, Kuskin, Souza was caused to sustain multiple serious and permanent injuries, serious impairment of bodily function, permanent and serious disfigurement, including but not limited to, right posterior superior parietal convexity extra-axial hematoma, non-displaced fractures of the frontal and right occipital bones, open fracture to right ankle region and blunt force trauma and abrasions to the head, neck, pelvis, upper extremities and lower extremities.

875. As a direct and proximate result of the injuries, Souza suffered great pain, anguish, sickness and agony.

876. As a direct and proximate result, the injuries, Souza suffered emotional injuries, mental anguish, humiliation, loss of life's pleasures, loss of hedonic pleasures, and the inability to attend to social and work obligations.

877. As a direct and proximate result of the injuries, Souza has undergone a great loss of earnings and earning capacity and has sustained a great loss of all future earnings and earning capacity.

878. As a direct and proximate result of these injuries, Souza has incurred medical, rehabilitative and other related expenses in excess of the basic personal injury protection benefits required by the Pennsylvania Motor Vehicle Financial Responsibility Law, 75 Pa. C.S.A. §1701 et seq. as amended, which is hereby claimed in this action.

WHEREFORE, Plaintiff, Carlos Souza, respectfully requests this Honorable Court enter judgment in his favor and against Defendant, Kuskin, Individually and Jointly and Severally with Defendants in an amount to exceed the jurisdictional Arbitration limit of Fifty Thousand Dollars (\$50,000.00), together with interest, costs, punitive damages, delay damages, attorney's fees and any or further relief this Honorable Court may deem just and proper.

COUNT CIV - BREACH OF WARRANTY
SOUZA VS. KUSKIN

879. Plaintiff hereby incorporates all matter stated elsewhere in this pleading as if fully set forth herein at length.

880. Defendant, Kuskin, breached its warranties, both express and implied, that the Defective Van was safe and proper for its intended and foreseeable use and was designed and manufactured such that it would be safe for its intended use.

881. Defendant, Kuskin, breached its warranties, both express and implied, by designing, manufacturing, assembling and selling the Defective Van such that it was unsafe, defective and of non-merchantable quality and not reasonably safe for the uses for which it was intended or for which was reasonably foreseeable.

882. As a direct and proximate result of Defendant, Kuskin's, breach of its express and implied warranties, Souza was caused to sustain multiple serious and permanent injuries, serious impairment bodily function, permanent and serious disfigurement, including but not limited to, right posterior superior parietal convexity extra-axial hematoma, non-displaced fractures of the frontal and right occipital bones, open fracture to right ankle region and blunt force trauma and abrasions to the head, neck, pelvis, upper extremities and lower extremities.

883. As a direct and proximate result of the injuries, Souza suffered great pain, anguish, sickness and agony.

884. As a direct and proximate result, the injuries, Souza suffered emotional injuries, mental anguish, humiliation, loss of life's pleasures, loss of hedonic pleasures, and the inability to attend to social and work obligations.

885. As a direct and proximate result of the injuries, Souza has undergone a great loss of earnings and earning capacity and has sustained a great loss of all future earnings and earning capacity.

886. As a direct and proximate result of these injuries, Souza has incurred medical, rehabilitative and other related expenses in excess of the basic personal injury protection benefits required by the Pennsylvania Motor Vehicle Financial Responsibility Law, 75 Pa. C.S.A. §1701 et seq. as amended, which is hereby claimed in this action.

WHEREFORE, Plaintiff, Carlos Souza, respectfully requests this Honorable Court enter judgment in his favor and against Defendant, Kuskin, Individually and Jointly and Severally with Defendants in an amount to exceed the jurisdictional Arbitration limit of Fifty Thousand Dollars (\$50,000.00), together with interest, costs, punitive damages, delay damages, attorney's fees and any or further relief this Honorable Court may deem just and proper.

COUNT CV - STRICT PRODUCTS LIABILITY
SOUZA VS. MANUFACTURER

887. Plaintiff hereby incorporates all matter stated elsewhere in this pleading as if fully set forth herein at length.

888. Defendant, Manufacturer, is strictly liable under Section 402(a) of the Restatement of the Law of Torts (Second) and is liable for the injuries of Souza because:

(a) At all relevant times Defendant, Manufacturer, was in the business of designing, manufacturing, assembling, selling and/or distributing Compass Tellurid tires and specifically, the Defective Tire;

(b) Defendant, Manufacturer, expected the Defective Tire to reach the consumer without substantial change in the condition it was sold;

(c) The Defective Tire actually reached the consumer without substantial change in the condition in which it was sold;

(d) At or around the 23rd production week of 2004 and prior thereto, alternative safer, practical designs, manufacturing techniques and quality control systems for production of the Defective Tire existed.

889. Defendant, Manufacturer, breached its duties and obligations under Section 402(a) of the Restatement of the Law of Torts (Second) by:

(a) Designing, manufacturing, assembling, selling and/or distributing the Defective Tire with an inadequate inner liner (too thin) allowing oxygen to escape and degrade the Defective Tire, thereby causing tread-belt separation;

(b) Designing, manufacturing, assembling, selling and/or distributing the Defective Tire in such a condition that it failed to provide protection to Souza against personal injury as a result of a motor vehicle collision;

(c) Designing, manufacturing, assembling, selling and/or distributing the Defective Tire in such a condition that the rubber composition of the inner liner was inadequate (not enough butyl) allowing oxygen to escape and degrade the Defective Tire, thereby causing tread-belt separation;

(d) Designing, manufacturing, assembling, selling and/or distributing the Defective Tire in such a condition that the wedging for stress reduction at belt edge was inadequate (too small), thereby causing tread-belt separation;

(e) Designing, manufacturing, assembling, selling and/or distributing the Defective Tire in such a condition that the belt alignment is inadequate (misaligned), thereby causing tread-belt separation;

(f) Designing, manufacturing, assembling, selling and/or distributing the Defective Tire in such a condition that the aging resistance is insufficient by reason of inadequate (not enough antidegradents; antioxidants and antiozonands), thereby causing tread-belt separation;

(g) Designing, manufacturing, assembling, selling and/or distributing the Defective Tire in such a condition that the Defective Tire lacked nylon cap plies, thereby causing tread-belt separation;

(h) Designing, manufacturing, assembling, selling and/or distributing the Defective Tire in such a condition that the tread-belt adhesion was inadequate, thereby causing tread-belt separation;

(i) Designing, manufacturing, assembling, selling and/or distributing the Defective Tire in such a condition that the rubber materials and components of the Defective Tire were contaminated during production by oil water, dirt, perspiration, solvent, humidity and other debris, thereby causing tread-belt separation;

(j) Designing, manufacturing, assembling, selling and/or distributing the Defective Tire in such a condition that the Defective Tire was stored inadequately (too long during the green phase), thereby causing tread-belt separation;

(k) Designing, manufacturing, assembling, selling and/or distributing the Defective Tire in such a condition that the Defective Tire was handled inadequately (dropped during the green phase), thereby causing tread-belt separation;

(l) Designing, manufacturing, assembling, selling and/or distributing the Defective Tire in such a condition that the Defective Tire was manufactured without adequate quality control, thereby causing tread-belt separation;

(m) designing, manufacturing, assembling, selling and/or distributing the Defective Tire in such a condition that the Defective Tire was manufactured without adequate testing, thereby causing tread-belt separation;

(n) Designing, manufacturing, assembling, selling and/or distributing the Defective Tire in such a condition that the Defective Tire curing was inadequate (not hot enough and/or not long enough), thereby causing tread-belt separation;

(o) Designing, manufacturing, assembling, selling and/or distributing the Defective Tire without implementation of alternative, safer, practical designs, manufacturing techniques and quality control systems;

(p) Designing, manufacturing, assembling, selling and/or distributing the Defective Tire in a defective and unreasonably dangerous condition when it could have been designed and manufactured more safely;

(q) Designing, manufacturing, assembling, selling and/or distributing the Defective Tire without adequate and proper testing;

(r) Designing, manufacturing, assembling, selling and/or distributing the Defective Tire without proper quality control;

(s) Designing, manufacturing, assembling, selling and/or distributing the Defective Tire without adequate warning;

890. As a direct and proximate result of Defendant, Manufacturer's, designing, manufacturing, selling and/or distributing the Defective Tire and Defendant, Manufacturer's corresponding violation of Section 402(a) of the Restatement of the Law of Torts (Second) on or about August 12, 2006, suddenly and without warning, the tread of the Defective Tire separated from the belt and carcass and became to such an extent that it was wrapped around the axle and became lodged therein and the Defective Van swayed and swerved across the highway out of control, rolled over, struck an embankment and came to a final resting with the driver's side on the pavement

and the passenger side of the Defective Van facing upwards with such force as to cause Souza to sustain multiple serious and permanent injuries, serious impairment of bodily function, permanent and serious disfigurement, including but not limited to, right posterior superior parietal convexity extra-axial hematoma, non-displaced fractures of the frontal and right occipital bones, open fracture to right ankle region and blunt force trauma and abrasions to the head, neck, pelvis, upper extremities and lower extremities.

891. As a direct and proximate result of the injuries, Souza suffered great pain, anguish, sickness and agony.

892. As a direct and proximate result of the injuries, Souza suffered emotional injuries, mental anguish, humiliation, loss of life's pleasures, loss of hedonic pleasures, and the inability to attend to social and work obligations.

893. As a direct and proximate result of the injuries, Souza has undergone a great loss of earnings and earning capacity and has sustained a great loss of all future earnings and earning capacity.

894. As a direct and proximate result of these injuries, Souza has incurred medical, rehabilitative and other related expenses in excess of the basic personal injury protection benefits required by the Pennsylvania Motor Vehicle Financial Responsibility Law, 75 Pa. C.S.A. §1701 et seq. as amended, which is hereby claimed in this action.

WHEREFORE, Plaintiff, Carlos Souza, respectfully requests this Honorable Court enter judgment in his favor and against Defendant, Manufacturer, Individually and Jointly and Severally with Defendants in an amount to exceed the jurisdictional Arbitration limit of Fifty Thousand

Dollars (\$50,000.00), together with interest, costs, punitive damages, delay damages, attorney's fees and any or further relief this Honorable Court may deem just and proper.

COUNT CVI - NEGLIGENCE
SOUZA VS. MANUFACTURER

895. Plaintiff hereby incorporates all matter stated elsewhere in this pleading as if fully set forth herein at length.

896. Defendant, Manufacturer, negligently, carelessly and recklessly designed, manufactured, assembled, sold, and distributed the Defective Van in such a condition that on or about August 12, 2006, while the Defective Van was being operated in a southerly direction in the southbound right lane of Pennsylvania Route 476, approaching the 80 mile marker, suddenly and without warning, the tread of the Defective Tire separated from the belt and carcass to such an extent that it was wrapped around the axle and became lodged therein and the Defective Van swayed and swerved across the highway out of control, rolled over, struck an embankment and came to a final resting position with the driver's side on the pavement and the passenger side of the Defective Van facing upwards.

897. The negligence, carelessness and recklessness of Defendant, Manufacturer, includes, but is not limited to the following:

(a) Choosing to design, manufacture, assemble, sell and distribute the Defective Tire with an inadequate inner liner (too thin) allowing oxygen to escape and degrade the Defective Tire, thereby causing tread-belt separation;

(b) Choosing to design, manufacture, assemble, sell and distribute the Defective Tire in such a condition that it failed to provide protection to Souza against personal injury as a result of a motor vehicle collision;

(c) Choosing to design, manufacture, assemble, sell and distribute the Defective Tire in such a condition that the rubber composition of the inner liner was inadequate (not enough butyl) allowing oxygen to escape and degrade the Defective Tire, thereby causing tread-belt separation;

(d) Choosing to design, manufacture, assemble, sell and distribute the Defective Tire in such a condition that the wedging for stress reduction at belt edge was inadequate (too small), thereby causing tread-belt separation;

(e) Choosing to design, manufacture, assemble, sell and distribute the Defective Tire in such a condition that the belt alignment is inadequate (misaligned), thereby causing tread-belt separation;

(f) Choosing to design, manufacture, assemble, sell and distribute the Defective Tire in such a condition that the aging resistance is insufficient by reason of inadequate (not enough antidegradents; antioxidants and antiozonands), thereby causing tread-belt separation;

(g) Choosing to design, manufacture, assemble, sell and distribute the Defective Tire in such a condition that the Defective Tire lacked nylon cap plys, thereby causing tread-belt separation;

(h) Choosing to design, manufacture, assemble, sell and distribute the Defective Tire in such a condition that the tread-belt adhesion was inadequate, thereby causing tread-belt separation;

(i) Choosing to design, manufacture, assemble, sell and distribute the Defective Tire in such a condition that the rubber materials and components of the Defective Tire were contaminated during production by oil water, dirt, perspiration, solvent, humidity and other debris, thereby causing tread-belt separation;

(j) Choosing to design, manufacture, assemble, sell and distribute the Defective Tire in such a condition that the Defective Tire was stored inadequately (too long during the green phase), thereby causing tread-belt separation;

(k) Choosing to design, manufacture, assemble, sell and distribute the Defective Tire in such a condition that the Defective Tire was handled inadequately (dropped during the green phase), thereby causing tread-belt separation;

(l) Choosing to design, manufacture, assemble, sell and distribute the Defective Tire in such a condition that the Defective Tire was manufactured without adequate quality control, thereby causing tread-belt separation;

(m) Choosing to design, manufacture, assemble, sell and distribute the Defective Tire in such a condition that the Defective Tire was manufactured without adequate testing, thereby causing tread-belt separation;

(n) Choosing to design, manufacture, assemble, sell and distribute the Defective Tire in such a condition that the Defective Tire curing was inadequate (not hot enough and/or not long enough), thereby causing tread-belt separation;

(o) Choosing to design, manufacture, assemble, sell and distribute the Defective Tire in such a condition that the Defective Tire lacked adequate warnings;

(p) Failing to design, manufacture, assemble, sell and/or distribute the Defective Tire with implementation of alternative, safer, practical designs, manufacturing techniques and quality control systems;

(q) Choosing to design, manufacture, assemble, sell and distribute the Defective Tire in a defective and unreasonably dangerous condition when it could have been designed and manufactured more safely;

(r) Choosing to design, manufacture, assemble, sell and distribute the Defective Tire without adequate and proper testing;

(s) Choosing to design, manufacture, assemble, sell and/or distribute the Defective Tire without proper quality control;

(t) Choosing to design, manufacture, assemble, sell and distribute the Defective Tire without adequate warning;

(u) Violating Federal Standards and Regulations and Statutes pertaining to the obligation of a tire manufacturer or distributor to recall or make modifications to its product after the manufacturer, distributor knows or should know of the defective nature of its tire;

(v) Violating Federal Regulations pertaining to tires and motor vehicles;

(w) Choosing not to warn of the defective conditions of the Defective Tire;

898. As a direct and proximate result of the negligence, negligence per se, carelessness and recklessness of Defendant, Manufacturer, Souza was caused to sustain multiple serious and permanent injuries, serious impairment of bodily function, permanent and serious disfigurement, including but not limited to, right posterior superior parietal convexity extra-axial hematoma, non-

displaced fractures of the frontal and right occipital bones, open fracture to right ankle region and blunt force trauma and abrasions to the head, neck, pelvis, upper extremities and lower extremities.

899. As a direct and proximate result of the injuries, Souza suffered great pain, anguish, sickness and agony.

900. As a direct and proximate result, the injuries, Souza suffered emotional injuries, mental anguish, humiliation, loss of life's pleasures, loss of hedonic pleasures, and the inability to attend to social and work obligations.

901. As a direct and proximate result of the injuries, Souza has undergone a great loss of earnings and earning capacity and has sustained a great loss of all future earnings and earning capacity.

902. As a direct and proximate result of these injuries, Souza has incurred medical, rehabilitative and other related expenses in excess of the basic personal injury protection benefits required by the Pennsylvania Motor Vehicle Financial Responsibility Law, 75 Pa. C.S.A. §1701 et seq. as amended, which is hereby claimed in this action.

WHEREFORE, Plaintiff, Carlos Souza, respectfully requests this Honorable Court enter judgment in his favor and against Defendant, Manufacturer, Individually and Jointly and Severally with Defendants in an amount to exceed the jurisdictional Arbitration limit of Fifty Thousand Dollars (\$50,000.00), together with interest, costs, punitive damages, delay damages, attorney's fees and any or further relief this Honorable Court may deem just and proper.

COUNT CVII - BREACH OF WARRANTY
SOUZA VS. MANUFACTURER

903. Plaintiff hereby incorporates all matter stated elsewhere in this pleading as if fully set forth herein at length.

904. Defendant, Manufacturer, breached its warranties, both express and implied, that the Defective Van was safe and proper for its intended and foreseeable use and was designed and manufactured such that it would be safe for its intended use.

905. Defendant, Manufacturer, breached its warranties, both express and implied, by designing, manufacturing, assembling and selling the Defective Van such that it was unsafe, defective and of non-merchantable quality and not reasonably safe for the uses for which it was intended or for which was reasonably foreseeable.

906. As a direct and proximate result of Defendant, Manufacturer's, breach of its express and implied warranties, Souza was caused to sustain multiple serious and permanent injuries, serious impairment of bodily function, permanent and serious disfigurement, including but not limited to, right posterior superior parietal convexity extra-axial hematoma, non-displaced fractures of the frontal and right occipital bones, open fracture to right ankle region and blunt force trauma and abrasions to the head, neck, pelvis, upper extremities and lower extremities.

907. As a direct and proximate result of the injuries, Souza suffered great pain, anguish, sickness and agony.

908. As a direct and proximate result, the injuries, Souza, suffered emotional injuries, mental anguish, humiliation, loss of life's pleasures, loss of hedonic pleasures, and the inability to attend to social and work obligations.

909. As a direct and proximate result of the injuries, Souza has undergone a great loss of earnings and earning capacity and has sustained a great loss of all future earnings and earning capacity.

910. As a direct and proximate result of these injuries, Souza has incurred medical, rehabilitative and other related expenses in excess of the basic personal injury protection benefits required by the Pennsylvania Motor Vehicle Financial Responsibility Law, 75 Pa. C.S.A. §1701 et seq. as amended, which is hereby claimed in this action.

WHEREFORE, Plaintiff, Carlos Souza, respectfully requests this Honorable Court enter judgment in his favor and against Defendant, Manufacturer, Individually and Jointly and Severally with Defendants in an amount to exceed the jurisdictional Arbitration limit of Fifty Thousand Dollars (\$50,000.00), together with interest, costs, punitive damages, delay damages, attorney's fees and any or further relief this Honorable Court may deem just and proper.

COUNT CVIII - NEGLIGENCE
SOUZA VS. OPERATOR

911. Plaintiff hereby incorporates all matter stated elsewhere in this pleading as if fully set forth herein at length.

912. On or about August 12, 2006, Defendant, Operator, carelessly and negligently operated and drove the Defective Van with the Defective Tire mounted on the left rear wheel within the posted speed limit in a southerly direction on Pennsylvania Route 476 approaching the 80 mile marker, when suddenly and without warning, the tread of the Defective Tire separated from the belt and carcass to such an extent that it was wrapped around the axle and became lodged

therein and the Defective Van swayed and swerved across the highway out of control, rolled over, struck an embankment and came to a final resting position with the driver's side on the pavement and the passenger side of the Defective Van facing upwards with such force as to cause Souza to sustain multiple serious and permanent injuries, serious impairment of bodily function, permanent and serious disfigurement, including but not limited to, right posterior superior parietal convexity extra-axial hematoma, non-displaced fractures of the frontal and right occipital bones, open fracture to right ankle region and blunt force trauma and abrasions to the head, neck, pelvis, upper extremities and lower extremities.

913. The negligence, carelessness and recklessness of Defendant, Operator, includes, but is not limited to the following:

(a) Failing to be highly vigilant and maintain sufficient control of the Defective Van;

(b) Failing to keep the Defective Van under proper and adequate control.

914. As a direct and proximate result of the negligence and carelessness, of Defendant, Operator, Souza was caused to sustain multiple serious and permanent injuries, serious impairment of bodily function, permanent and serious disfigurement, including but not limited to, right posterior superior parietal convexity extra-axial hematoma, non-displaced fractures of the frontal and right occipital bones, open fracture to right ankle region and blunt force trauma and abrasions to the head, neck, pelvis, upper extremities and lower extremities.

915. As a direct and proximate result of the injuries, Souza suffered great pain, anguish, sickness and agony.

916. As a direct and proximate result, the injuries, Souza suffered emotional injuries, mental anguish, humiliation, loss of life's pleasures, loss of hedonic pleasures, and the inability to attend to social and work obligations.

917. As a direct and proximate result of the injuries, Souza has undergone a great loss of earnings and earning capacity and has sustained a great loss of all future earnings and earning capacity.

918. As a direct and proximate result of these injuries, Souza has incurred medical, rehabilitative and other related expenses in excess of the basic personal injury protection benefits required by the Pennsylvania Motor Vehicle Financial Responsibility Law, 75 Pa. C.S.A. §1701 et seq. as amended, which is hereby claimed in this action.

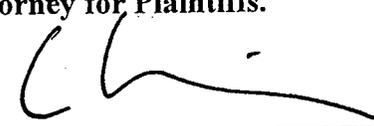
WHEREFORE, Plaintiff, Carlos Souza, respectfully requests this Honorable Court enter judgment in his favor and against Defendant, Operator, Individually and Jointly and Severally with Defendants in an amount to exceed the jurisdictional Arbitration limit of Fifty Thousand Dollars (\$50,000.00), together with interest, costs, punitive damages, delay damages, attorney's fees and any or further relief this Honorable Court may deem just and proper.

Respectfully submitted,

WOLOSHIN & KILLINO, P.C.

BY: 

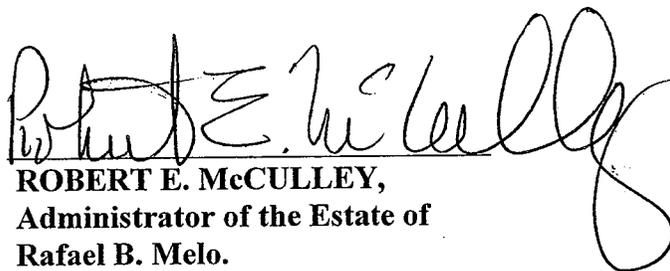
JEFFREY B. KILLINO, ESQUIRE
Attorney for Plaintiffs.

BY: 

DAVID L. WOLOSHIN, ESQUIRE
Attorney for Plaintiffs.

VERIFICATION

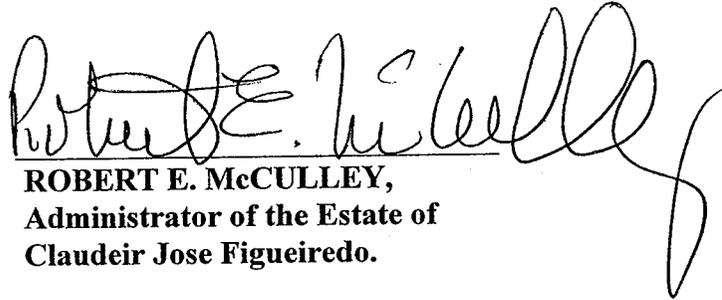
I, **ROBERT E. McCULLEY, Administrator of the Estate of Rafael B. Melo**, hereby depose and say that the foregoing Complaint in Civil Action are true and correct to the best of my knowledge, information and belief. The undersigned understands that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 relating to unsworn falsification to authorities.


ROBERT E. McCULLEY,
Administrator of the Estate of
Rafael B. Melo.

DATED:

VERIFICATION

I, **ROBERT E. McCULLEY, Administrator of the Estate of Claudeir Jose Figueiredo**, hereby depose and say that the foregoing Complaint in Civil Action are true and correct to the best of my knowledge, information and belief. The undersigned understands that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 relating to unsworn falsification to authorities.


ROBERT E. McCULLEY,
Administrator of the Estate of
Claudeir Jose Figueiredo.

DATED:

VERIFICATION

I, **CARLOS SOUZA**, hereby depose and say that the foregoing Complaint in Civil Action are true and correct to the best of my knowledge, information and belief. The undersigned understands that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 relating to unsworn falsification to authorities.

Carlos Junior de Souza
CARLOS SOUZA

DATED:

LOCKS LAW FIRM, LLC
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Philadelphia, PA 19103-2925
(215) 569-2711

Attorneys for Plaintiff

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

ROBERT MCCULLEY, individually and on
behalf of all others similarly situated,

Plaintiffs,

v.

HANGZHOU ZHONGCE RUBBER
COMPANY, LTD., a/k/a HANGZHOU
RUBBER FACTORY, a/k/a HANGZHOU
RUBBER GROUP, a Chinese corporation;
TIRECO, a California corporation;
STRATEGIC IMPORT SUPPLY, a
Minnesota corporation, OMNI UNITED
USA, INC, a Florida Corporation,
ORTECK INTERNATIONAL, INC., a
Maryland Corporation, K&D TIRE
WHOLESALERS LLC, a California
Corporation, ROBINSON TIRE, a
Mississippi corporation, FOREIGN TIRE
SALES, INC., a New Jersey corporation;
RELIABLE TIRE COMPANY, a New
Jersey corporation and JOHN DOES 1 – 50,

Defendants.

Civil Case No.

CLASS ACTION COMPLAINT FOR:

- (1) BREACH OF IMPLIED WARRANTY;
- (2) UNJUST ENRICHMENT;
- (3) VIOLATION OF THE NEW JERSEY
CONSUMER FRAUD ACT

DEMAND FOR JURY TRIAL

Plaintiff Robert McCulley, individually, and on behalf of all others similarly situated, on information and belief alleges as follows:

INTRODUCTION

1. This is a class action lawsuit brought on behalf of all persons who purchased light-belted truck, sport utility vehicle and van tires which were manufactured, distributed, and/or sold by Defendants. The suit alleges that the tires contain a manufacturing defect undetectable to consumers that creates an imminent and substantial risk of serious injury or death to Plaintiff and class members; that at all relevant times Defendants have known about the defect and have nonetheless intentionally failed to disclose such defect to, and concealed such defect from, Plaintiff and class members; that such unfair and deceptive acts and practices by Defendants violated the New Jersey Consumer Fraud Act, N.J.S.A. 56:8-1, *et seq.*; violated the implied warranty of merchantability and caused Defendants to be unjustly enriched at the expense of Plaintiff and the class members; and that as a proximate result of such violations Plaintiff and class members have suffered an ascertainable loss of money or personal property, as to which loss they each seek an award of compensatory damages measured by treble their actual damages as well as injunctive relief and/or disgorgement, plus costs, interest, and reasonable attorneys' fees.

2. Plaintiff is informed and believe that there are hundreds of thousands of Defendants' tires that were manufactured, distributed, and/or sold and which are missing a necessary gum strip – a feature that helps to keep the tire belts from separating, and that these tires were purchased by consumers throughout the United States who are unaware of the potential risk of serious injury or death that may be caused.

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3. Defendants HANGZHOU ZHONGCE RUBBER COMPANY, LTD., a/k/a HANGZHOU RUBBER FACTORY, a/k/a HANGZHOU RUBBER GROUP, TIRECO; STRATEGIC IMPORT SUPPLY; OMNI UNITED USA, INC; ORTECK INTERNATIONAL, INC.; K&D TIRE WHOLESALERS LLC; ROBINSON TIRE; FOREIGN TIRE SALES, INC.; and RELIABLE TIRE COMPANY (hereinafter referred to as Defendants) are manufacturers, distributors and/or retailers of light-belted truck, sport utility vehicle, and van tires which were purchased by Plaintiff and other members of the class. These defendants acting, together and/or in concert caused the harms alleged herein.

4. Defendants designed, manufactured, marketed, advertised and warranted their products to be safe, fit for their ordinary purpose and use and free from defects. Defendants produced and sold these tires with the intent that consumers would purchase them for their vehicles. The tires were intended to be placed in the stream of commerce and distributed and sold to Plaintiff and purchasers in the United States and placed on countless vehicles. Defendants uniformly omitted telling Plaintiff and the other members of the class of the defect contained in the tires and the hazards such a defect posed.

5. Plaintiff brings this action, pursuant to Rule 23 of the Federal Rules of Civil Procedure, on his own behalf and as a representative Plaintiff of a class of persons consisting of all persons in the United States who purchased or incurred damages by the use of tires produced, manufactured, distributed, and/or sold by Defendants, that were or will be recalled by Defendants, including those recalled by Defendant Foreign Tire Sales, Inc (“FTS”) in June, 2007, and those tires yet to be identified by Defendants Hangzhou Zhongce (“HZ”) and subject to recall (hereinafter referred to as the Class). The Class excludes Defendants, their employees and agents, and all individual officers and their staff to whom this action may be assigned.

6. The individual Plaintiff named herein is a purchaser of tires manufactured, sold and/or distributed by Defendants which contain a manufacturing defect undetectable to him and other members of the Class and which creates an imminent and

substantial risk of serious injury or death to him and others similarly situated. As a result of the use of Defendants' defective products, Plaintiff and members of the Class incurred ascertainable loss of money or personal property and are entitled to the relief set forth below.

7. Plaintiff files this action seeking relief for himself and all persons in the United States who purchased or used Defendants' products, including the following: (1) injunctive relief in the form of a Court approved and supervised notice that warns class members to immediately cease the use of Defendants' products and informs them of all potential risks and dangers of continued use of Defendants' products, including up-to-date information regarding the potential risk of harm, included but not limited to exploding tires, tire disintegration, vehicle rollovers, and all other potential hazards which result from use of Defendants' products; (2) an order for the identification of and immediate removal of all potentially harmful products from the stream of commerce; (3) actual and compensatory damages and out-of-pocket costs; (4) disgorgement, for the benefit of the Class, of all of Defendants' ill-gotten profits received from the sale of the offending products and/or full restitution to Plaintiff and the members of the Class; and (5) attorneys' fees and costs.

8. Defendants know and have admitted that certain of their products are defective and capable of causing injury and death and in June, 2007, Defendant "FTS" initiated a partial recall of some products. Defendants "HZ" have yet to identify the total scope of affected tires, and also either knew or should have known that their products were defective and presented a serious risk to the health and safety of consumers prior to the stated partial recall.

JURISDICTION

9. This Court has original and subject matter jurisdiction over this class action pursuant to 28 U.S.C. Section 1332(d) because (a) Plaintiff and members of the putative class are citizens of states different from those of which Defendants are citizens, (b) the amount in controversy exceeds \$5,000,000, exclusive of interest and costs, and (c) none of the jurisdictional exceptions contained in 28 U.S.C. Section 1332(d)(4)–(5) applies in this action.

VENUE

10. Venue is proper in this district under, *inter alia*, 28 U.S.C. Section 1391(a)(1), because Defendants conduct business herein and Defendants Reliable Tire Company and Foreign Tire Sales, Inc. are both New Jersey corporations.

PARTIES

PLAINTIFF

11. Plaintiff Robert McCulley is a Pennsylvania citizen who resides in Philadelphia. Plaintiff purchased tires from Defendant Reliable Tire Company. Robert McCulley asserts individual and class claims for damages and injunctive and equitable relief.

DEFENDANTS

12. Defendant HANGZHOU ZHONGCE RUBBER COMPANY, LTD, a/k/a HANG ZHOU RUBBER FACTORY, a/k/a HANG ZHOU RUBBER GROUP is a Chinese corporation affiliated with the other Defendants and involved in their activities relating to the manufacture, sale and/or distribution of the tire products.

13. Defendant TIRECO is a California corporation, affiliated with the other Defendants and involved in their activities relating to the manufacture, sale and/or distribution of the tire products.

14. Defendant STRATEGIC IMPORT SUPPLY is a Minnesota corporation, affiliated with the other Defendants and involved in their activities relating to the manufacture, sale and/or distribution of the tire products.

15. Defendant OMNI UNITED USA, INC is a Florida Corporation, affiliated with the other Defendants and involved in their activities relating to the manufacture, sale and/or distribution of the tire products.

16. Defendant ORTECK INTERNATIONAL, INC, is a Maryland corporation affiliated with the other Defendants and involved in their activities relating to the manufacture, sale and/or distribution of the tire products.

17. Defendant K&D TIRE WHOLESALERS LLC, is a California corporation affiliated with the other Defendants and involved in their activities relating to the manufacture, sale and/or distribution of the tire products.

18. Defendant ROBINSON TIRE, is a Mississippi corporation affiliated with the other Defendants and involved in their activities relating to the manufacture, sale and/or distribution of the tire products.

19. Defendant FOREIGN TIRE SALES, INC, is a New Jersey corporation affiliated with the other Defendants and involved in their activities relating to the manufacture, sale and/or distribution of the tire products.

20. Defendant RELIABLE TIRE COMPANY, is a New Jersey corporation affiliated with the other Defendants and involved in their activities relating to the manufacture, sale and/or distribution of the tire products.

21. Defendants JOHN DOE 1 – 50 are as yet unnamed corporations affiliated with the other Defendants and involved in their activities relating to the manufacture, sale and/or distribution of the tire products.

22. Plaintiff alleges that, at all times relevant to this litigation, each of the Defendants were the agents, servants, employees, and/or alter egos, of each of the remaining Defendants, and at all times were acting within the course and scope of said agency, service, employment and capacity.

FACTUAL ALLEGATIONS

23. At all relevant times, Defendants marketed, distributed and/or sold tire products in the United States. Defendants marketed, distributed, sold, advertised, and otherwise represented to the public, including Plaintiff, that their products were, among other things, safe and effective for purported use. At no time did Defendants inform Plaintiff and the other members of the class that some or all of the tire products marketed, distributed and sold in the United States, and purchased by Plaintiff and placed on their vehicles are missing entirely, or were built with an insufficient, gum strip – a feature that helps to keep the tire belts from

separating. These defective tires were purchased by consumers throughout the United States who are unaware of the potential risk of serious injury or that may be caused by use of Defendants' products.

24. On or about July 6, 2001, Defendant HZ, entered into long term agreement with FTS for the distribution of light truck radial tires sized 245/75 R16.

25. FTS specifically requested that HZ incorporate .6 millimeter gum strips (wedges), an important safety feature, to prevent tread-belt separation.

26. During production week 23 of 2004, HZ manufactured one line of tubeless steel belted radial rubber light truck tire branded Compass Telluride a/t 245/75 R16, bearing Department of Transportation No. 7DT3FTS2304 (hereinafter "Defective Tire").

27. During production week 23 of 2004, HZ specifically omitted putting the gum strips into the "Defective Tires" during the production process.

28. This Defective Tire was imported by FTS and distributed through various wholesalers and retailers.

29. Following a serious automobile accident involving the Defective Tire, the families of the victims retained the Law Firm of Woloshin & Killino, P.C. to investigate the circumstances involving the fatal crash.

30. Woloshin & Killino, P.C. promptly took possession of the vehicle and engaged in exhaustive and extensive investigation into the circumstances.

31. Woloshin & Killino, P.C.'s investigation included, but was not limited to, having the vehicle and tires examined by nationally recognized experts, conducting extensive research into the design and manufacture of the tires, conducting extensive research into the companies and distributors who placed the tires into the stream of commerce and determining that the fatal crash occurred because of a tire which sustained a tread-belt separation due to inadequate gum strip or wedge.

32. Based on its investigation, Woloshin & Killino, P.C. filed a three hundred thirty (330) page complaint on behalf of the families of the killed or injured parties and against HZ and FTS, among other Defendants.

33. The Complaint alleges, amongst other things, that the Defective Tire had inadequate wedging or gum strip.

34. The lawsuit filed by Woloshin & Killino, P.C., prompted "FTS" to file a Non-Compliance Information Report with the National Highway Traffic Safety Administration (hereinafter referred to as "NHTSA") pursuant to 49 C.F.R. 573 disclosing that adjustment data had been increasing since at least October of 2005, that other vehicle rollovers had occurred and the tires were determined to have missing gum strips.

35. This report also indicated that "HZ" manufactured the tires sometimes without any gum strips and sometimes only with .3mm gum strips, as opposed to the .6mm gum strips required.

36. This defect makes the tires susceptible to belt and/or tread separations.

37. These tires were also distributed in the U.S. by Defendants TIRECO; STRATEGIC IMPORT SUPPLY; OMNI UNITED USA, INC; ORTECK INTERNATIONAL, INC.; K&D TIRE WHOLESALERS LLC; and ROBINSON TIRE and also sold to Plaintiff and other members of the class by Defendant Reliable Tire Company.

38. Gary Eiber, an engineer with "FTS" worked with engineers at "HZ" to ensure that the tires met necessary Federal Safety Standards, including FMVSS119.

39. In or about September 2006 "HZ" admitted that it had been omitting gum strips in the manufacture of the tires for an undisclosed amount of time.

40. In its reports, "NHTSA" and "FTS" admits that the following sizes and brand names of tires were manufactured without gum strips:

a. Brand names: Westlake, Telluride, Compass, and 4KS.

b. Sizes: LT235/75R-15 CR861 CR857

LT225/75R-16 CR861

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LT235/85R-16 CR860 CR861 CR857

LT245/85R-16 CR860 CR861 CR857

LT265/85R-16 CR860 CR861 CR857

LT31 X 10.5-15 CR857 CR861

41. HZ has refused to provide information and data regarding exactly when the strips were omitted and how many tires are affected. However, it is believed that the gum strips were omitted for approximately the past five (5) years, and that the number of tires defectively sold may be in excess of one million.

42. Plaintiff and the Class have sustained pecuniary damages caused by the purchase and/or use of a defective and thereby valueless product and may suffer injury and other damages including but not limited to exploding tires, tire disintegration, vehicle rollovers, and all other potential hazards which result from use of Defendants' products. Plaintiff seeks redress in the form of the cost of replacement tires and all incidental costs and other damages, as well as the other relief set forth herein.

43. Defendants have an ongoing duty to immediately warn and notify Plaintiff, the Class, and all other potential purchasers of all potential risks and dangers of use of their tire products, and to immediately provide them with information regarding replacement of those products.

44. This notice and warning is necessary so that those who have not already purchased Defendants' tires and suffered a pecuniary or other loss will refrain from doing so, and so that purchaser of Defendants' tires will cease to place them on their vehicles or cease to drive said vehicles will more quickly and readily replace these tires and alleviate any further potential harm to themselves and others who might have cause to interact with them whether as a passenger in their vehicle or fellow traveler on the road or otherwise by placed in harm's way by cause of Defendant's defective tires.

45. Absent this warning and notice, numerous Class members will likely delay, forego, or fail to realize the need for prompt removal and replacement of the tires, and

will lack sufficient information necessary for the identification of the tires aforementioned and will continue to present a serious hazard to themselves and all others who are in peril by way of being near or around those vehicles equipped with Defendants' defective tires, which may potentially cause death or serious bodily injury or other harm. Early identification and removal of these defective tires is thus invaluable since it may prevent suffering and/or death.

46. Thus, without the relief requested the Class would suffer irreparable harm. Damages are not an adequate substitute for preventing the future harm to hapless victims, who through no fault of their own, may be injured by way of the continued use Defendants' tires.

CLASS ACTION ALLEGATIONS

47. Plaintiff brings this lawsuit as a class action on behalf of himself and all others similarly situated as members of a proposed Plaintiff Class pursuant to Federal Rule of Civil Procedure Section 23.

48. The Class is defined as: All individuals who reside in the United States and who own or have purchased or placed on their vehicle Defendants' defective tires. Excluded from the Class are individuals who have filed individual actions based on claims arising from the above acts or who have suffered individual personal injury arising from the above acts. Also excluded are Defendants and Defendants' employees, Defendants' employees' immediate families, and Defendants' representatives, agents, and assigns. Also excluded are the judge to whom this case is assigned and any member of the judge's staff and immediate family.

49. Plaintiff is informed and believes that the Class is comprised of hundreds, if not thousands, of individuals, making joinder impracticable. The disposition of the claims of these Class members in a single class action will provide substantial benefits to all parties and to the Court.

50. There is a well-defined community of interest among members of the Class. The claims of the representative Plaintiff are typical of the claims of the Class in that the

representative Plaintiff, like all Class members, purchased Defendants' tire products or vehicles containing Defendants' tire products in the United States and, like numerous Class members, is at risk for suffering serious bodily injury or death following the placement of Defendants' tires on their vehicles and the continued use of Defendants' tires. Furthermore, the factual bases of Defendants' misconduct are common to all Class members and represent a common thread of deliberate, reckless and/or negligent misconduct resulting in injury to all members of the Class.

51. There are numerous questions of law and fact common to Plaintiff and the Class members; those questions predominate over any questions that may affect individual Class members and include the following:

- a. Whether Defendants breached their duty to Plaintiff and the Class members to exercise reasonable and ordinary care in the manufacture and/or distribution of their tire products;
- b. Whether and when Defendants knew or should have known that their products contained a manufacturing defect which created an unreasonable risk of causing serious bodily injury or death to consumers when placed on vehicles;
- c. Whether Defendants failed to conduct adequate quality control and testing of samples of their products to assure that the product was properly designed, effective and safe;
- d. Whether Defendants failed to adequately and timely warn Plaintiff, and the members of the Class of the unsafe and dangerous nature of their products;
- e. Whether Defendants failed to timely discontinue sale and distribution of their products once injuries to consumers and/or users and foreseeable members of the general public who would benefit from the use of the product were reported to Defendants;
- f. Whether the conduct of Defendants was committed willfully or by gross negligence, in disregard of humanity, and whether Plaintiff and the Class are entitled to exemplary and/or punitive damages;

g. Whether the products purchased or used by Plaintiff were defective in manufacture and/or formulation when they left the hands of Defendants;

h. Whether Defendants made misrepresentations or omissions concerning the qualities and safety of their products;

i. Whether Defendants breached the implied warranty of merchantability by manufacturing and/or distributing tires which caused or have the potential to cause serious bodily injury or death in conjunction with the ordinary and intended use for which it was designed and/or manufactured, marketed, distributed and/or sold;

j. Whether Defendants have violated the New Jersey Consumer Fraud Act, and/or similar statutes in effect in other states;

k. Whether Defendants have been unjustly enriched to the detriment of Plaintiff and the Class;

l. Whether Defendants are liable for the claims asserted herein.

52. The named Plaintiff will fairly and adequately protect the interests of the Class. Plaintiff has retained counsel with significant experience in product liability, consumer, personal injury and class action litigation,. Plaintiff and his counsel are committed to prosecuting this action vigorously on behalf of the Class, and have the financial resources to do so. Neither Plaintiff nor his counsel have any interests adverse to those of the Class.

53. Plaintiff and the members of the Class have all suffered and will continue to suffer harm and damages as a result of Defendants' unlawful and wrongful conduct. A class action is superior to other available methods for the fair and efficient adjudication of the controversy. Absent a class action, most members of the Class would likely find the cost of litigating their claims to be prohibitive and would have no effective remedy at law. Because of the relatively small size of each individual Class member's claims, it is likely that only a few Class members could afford to seek legal redress for Defendants' misconduct. Absent a class action, Class members will continue to incur damages and Defendants' misconduct will

continue without remedy. Class treatment of common questions of law and fact would also be superior to multiple individual actions or piecemeal litigation in that class treatment will conserve the resources of the courts and the litigants, and will promote consistency and efficiency of adjudication.

54. In addition to monetary damages, Plaintiff seeks injunctive relief which includes a Court-ordered and supervised notice to Class members, mechanics, repairmen, and all other foreseeable users of potential harm and information regarding recall and replacement.

CLAIMS FOR RELIEF

FIRST CLAIM FOR RELIEF

BREACH OF IMPLIED WARRANTY

55. Plaintiff incorporates paragraphs 1-54, above, as though the same were fully set forth herein.

56. At the time Defendants manufactured, marketed, sold, and distributed their tire products for use by Plaintiff and others, Defendants were merchants with respect to this type of tire and impliedly warranted the product to be of merchantable quality and safe and fit for such use and, in fact, superior to other tires on the market.

57. Plaintiff and the Class reasonably relied upon the skill and judgment of Defendants as to whether their products were of merchantable quality and safe and fit for their intended use.

58. Defendants breached that implied warranty in that their products purchased by Plaintiff and the Class were not of merchantable quality or safe or fit for their intended use, because the products were and are unreasonably dangerous and unfit for the ordinary purposes for which they were used, as described above.

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59. As a direct and proximate result of the breach of said warranties, Plaintiff and the Class suffered and will continue to suffer injury, harm and economic loss, as alleged herein, in amounts to be proven at trial.

60. Wherefore, Plaintiff and the Class are entitled to the relief set forth in the Prayer for Relief below.

SECOND CLAIM FOR RELIEF

UNJUST ENRICHMENT

61. Plaintiff incorporates paragraphs 1-54, above, as though the same were fully set forth herein.

62. By virtue of their obtaining monies from the manufacture, distribution, marketing and/or sale of tire products that they knew, or reasonably should have known, were inherently defective, and not safe for use, Defendants have been unjustly enriched to the detriment of, and profited at the expense of, Plaintiff and the other members of the Class who paid monies for the defective tire products.

63. Defendants' retention of the monies they gained through their wrongful and/or illegal acts and practices would be unjust considering the circumstances of their obtaining those monies.

64. Defendants should be required to make restitution to Plaintiff and the other members of the Class, in an amount to be determined, of the monies by which they have been unjustly enriched, as well as be required to provide the other relief sought forth in the Prayer for Relief below.

THIRD CLAIM FOR RELIEF

VIOLATION OF THE NEW JERSEY CONSUMER FRAUD ACT

65. Plaintiff incorporates paragraphs 1-54, above, as though the same were fully set forth herein.

66. The actions and failures of Defendants constitute acts, uses, or employment by Defendants of unconscionable commercial practices, deception, fraud, false pretenses, false promises, misrepresentations, and/or the knowing concealment, suppression or omission of material facts with the intent that others rely upon such concealment, suppression, or omission, in connection with the sale or advertisement of merchandise by Defendants in violation of the New Jersey Consumer Fraud Act, N.J.S.A. 56:8-1, *et seq.* and/or other similar statutes in effect in other states.

67. In connection with the sale of tire products, Defendants failed to disclose material information, such as the material facts that the tires were defective and unsafe. Defendants made the knowing concealment, suppression, or omission of these material facts relating to tires with intent that others would rely upon such concealment, suppression or omission.

68. The acts and practices of Defendants, as set forth above, have directly, foreseeably, and proximately caused ascertainable damages and injury in amounts to be determined to Plaintiff and the other members of the Class who purchased Defendants' products. As a result of Defendants' unlawful acts or practices, Plaintiff and the other members of the Class suffered an ascertainable loss of money as a result of the use or employment of methods, acts or practices declared unlawful by the New Jersey Consumer Fraud Act and therefore bring this private action to recover damages in the amount necessary to adequately

compensate them for their losses, as well as the other declaratory and injunctive relief set forth below.

69. Plaintiff requests that this Court award them and the Class three times the amount of compensatory damages and attorneys' fees and costs, together with the other and further relief set forth in the Prayer for Relief below.

NOTICE TO ATTORNEY-GENERAL OF ACTION

70. A copy of this Amended Complaint shall be mailed to the Attorney General of the State of New Jersey within ten days after the filing of this Amended Complaint with the Court pursuant to N.J.S.A. 56:8-20.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff on behalf of himself and all others similarly situated, pray the Court to award the following relief:

1. Certification of the proposed Plaintiff Class;
2. An order for a Court-approved and supervised notice to warn Plaintiff, Class members, and all other foreseeable purchasers or users of all potential risks and dangers of continued use of Defendants' tire products;, and that the Court order that such notice be a continuing duty;
3. An order requiring Defendants to immediately remove all potentially harmful products from the stream of commerce and not re-introduce them without substantive changes to the manufacturing process;
4. Compensatory and actual damages, including out-of-pocket costs and expenses for tire repair, replacement, and related reasonable and necessary expenses, according to proof;

5. Punitive damages for intentional, willful, reprehensible and/or wanton misconduct as herein alleged, according to proof;

6. Disgorgement, for the benefit of the Class, of all of Defendants' ill-gotten profits received from the sale of the offending products, and/or full restitution to Plaintiff and the members of the Class;

7. An award of costs and attorneys' fees, as allowed by law, and/or from the common fund created hereby; and

8. Such other or further relief as the Court may deem fair, appropriate and just.

DEMAND FOR TRIAL BY JURY

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Plaintiff demands a trial by jury on all questions of fact raised by the complaint.

DATED: June 27, 2007

By:  _____

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