

In The Circuit Court Of The First Judicial District Of Hinds
County, Mississippi

Jamarion Smith, A Minor, And
Jirehian Smith, A Minor, The Sole
Wrongful Death Beneficiaries of Jerano
Smith, Deceased, By And Through
Nyiesha Wilson Their Mother And Next Friend;
And Jamarion Smith, A Minor, And Jirehian Smith,
A Minor, By And Through Nyiesha Wilson,
Their Mother And Next Friend

PLAINTIFFS

V. MEC CIVIL ACTION NUMBER 25CII:15-CV-00080

Tracey Smith, Michelin North
America, Inc., TRW Vehicle Safety
Systems Inc., and Jane Does A-Z

DEFENDANTS

FIRST AMENDED COMPLAINT
JURY TRIAL DEMANDED

Come now the Plaintiffs, Jamarion Smith, a minor, and
Jirehian Smith, a minor, by and through their mother, next
friend, and natural guardian Nyiesha Wilson and file this
Complaint against Tracey Smith, Michelin North America, Inc.,
TRW Vehicle Safety Systems Inc., and Does 1-10. In support of
this complaint Plaintiffs allege the following:

PARTIES

1. Plaintiff Jamarion Smith is a minor, and brings this action
by and through Nyiesha Wilson, his mother and next friend.
2. Plaintiff Jirehian Smith is a minor, and brings this action
by and through Nyiesha Wilson, his mother and next friend.

3. Plaintiff Jamarion Smith, a minor, and Plaintiff Jirehian Smith, a minor, are the sole wrongful death beneficiaries of Jerano Smith.

4. Nyiesha Wilson is the mother, natural guardian, and next friend of Jamarion Smith, a minor, and Jirehian Smith, a minor.

5. Defendant Tracey Smith is an adult resident citizen of the State of Mississippi.

6. Defendant Michelin North America, Inc. (hereinafter "Michelin") is a New York corporation with its headquarters located in Greenville, South Carolina.

7. Michelin may be served with process through its registered agent in the State of Mississippi, CT Corporation System. CT Corporation System is located at 645 Lakeland East Drive, Suite 101, Flowood, Mississippi 39232.

8. Defendant TRW Vehicle Safety Systems Inc. is a Delaware corporation with its principal place of business located at 4505 West 26 Mile Road, Washington, MI 48094.

9. TRW Vehicle Safety Systems Inc. may be served with process through its registered agent in the State of Mississippi, Corporation Service Company, 506 South President Street, Jackson, Mississippi 39201.

10. Does 1-10 are corporations, entities, agencies, businesses, individuals, and the like which are presently unknown to the

Plaintiffs but whose negligent acts and/or omissions proximately caused the Plaintiffs' injuries and damages. Plaintiffs will amend this First Amended Complaint to allege the true capacity of these parties when they are ascertained. Plaintiffs are informed and believe that each of the Defendants designated herein as unknown is responsible in some manner for the occurrences herein alleged that proximately contributed to the damages set forth herein.

JURISDICITON AND VENUE

11. The Circuit Court of the First Judicial District of Hinds County, Mississippi has jurisdiction over defendant Tracey Smith.

12. The Circuit Court of the First Judicial District of Hinds County, Mississippi has jurisdiction over defendant Michelin.

13. The Circuit Court of the First Judicial District of Hinds County, Mississippi has jurisdiction over defendant TRW Vehicle Safety Systems Inc.

14. Venue is proper in the First Judicial District of Hinds County, Mississippi.

FACTUAL BACKGROUND

15. On October 4, 2013, defendant Tracey Smith was driving a 2000 Mercury Mountaineer (VIN 4M2ZU86P1YUJ47795) along Interstate 55 in Mississippi.

16. Jamarion Smith, a minor, Jirehian Smith, a minor, and Jerano Smith were guest passengers in the Mercury Mountaineer.

17. The left rear tire on the Mercury Mountaineer was a Michelin tire.

18. The left rear Michelin tire failed and the Mercury Mountaineer crashed.

19. Jerano Smith was killed in the crash.

20. As a result of the crash Plaintiff Jamarion Smith, a minor, and Plaintiff Jirehian Smith, a minor, suffered personal injuries and medical expenses, and damages in an amount to be determined by the Court. The damages for Jamarion Smith and Jirehian Smith include, but are not limited to the following, to wit:

a. Past, present and future medical expenses;

b. Past, present and future physical pain and suffering;

c. Past, present and future mental and emotional distress/anguish;

d. Loss of wage earning ability;

e. Any other relief, which the Court or jury deems just

or appropriate based upon the circumstances.

LIABILITY OF TRACEY SMITH

21. Tracey Smith negligently failed to maintain proper control of the Mercury Mountaineer on October 4, 2013 and allowed the vehicle to crash.

22. The negligence of Tracey Smith in failing to maintain proper control of the Mercury Mountaineer was a proximate contributing cause of the damages for which recovery is sought.

LIABILITY OF MICHELIN

23. Michelin designed, manufactured, marketed, and/or sold the tire that failed while in use on the Mercury Mountaineer on October 4, 2013.

24. The subject Michelin tire is defective pursuant to Mississippi Code Annotated § 11-1-63.

25. At the time the tire left Michelin's control the tire was defective because it deviated in a material way from the manufacturer's or designer's specifications or from otherwise identical units manufactured to the same manufacturing specifications.

26. At the time the tire left Michelin's control the tire was defective because it did not contain adequate warnings or instructions.

27. At the time the tire left Michelin's control the tire was defective because it was designed in a defective manner.

28. The defective condition rendered the Michelin tire unreasonably dangerous to the user or consumer.

29. The defective and unreasonably dangerous condition of the Michelin tire was a proximate contributing cause of the damages for which recovery is sought.

30. At the time the tire left the control of Michelin, Michelin knew or in light of reasonably available knowledge should have known about the danger that caused the damage for which recovery is sought and that the ordinary user or consumer would not realize the tire's dangerous condition.

31. At the time the tire left the control of Michelin, Michelin knew, or in light of reasonably available knowledge or in the exercise of reasonable care should have known, about the danger that caused the damage for which recovery is sought.

32. The Michelin tire failed to function as expected and there existed feasible design alternatives that would have, to a reasonable probability, prevented the harm that occurred on October 4, 2013.

33. The feasible design alternatives would have, to a reasonable probability, prevented the harm without impairing the utility, usefulness, practicality or desirability of the tire to users or consumers.

34. Michelin deliberately participated and engaged in a course of corporate conduct designed to conceal the nature and extent of the defective properties associated with the subject tire.

35. Michelin acted with actual malice and gross negligence which evidenced a willful or reckless disregard for the safety of others, or committed actual fraud.

LIABILITY OF TRW VEHICLE SAFETY SYSTEMS INC.

36. TRW Vehicle Safety Systems Inc. designed, manufactured, marketed, and/or sold the occupant restraint system for the subject Mercury Mountaineer.

37. Jerano Smith was properly belted in the front passenger seat of the Mercury Mountaineer.

38. The subject TRW Vehicle Safety Systems Inc. occupant restraint system used by Jerano Smith was defective pursuant to Mississippi Code Annotated § 11-1-63.

39. At the time the occupant restraint system left TRW Vehicle Safety Systems Inc.'s control the product was defective because it deviated in a material way from the manufacturer's or designer's specifications or from otherwise identical units manufactured to the same manufacturing specifications.

40. At the time the occupant restraint system left TRW Vehicle Safety Systems Inc.'s control, it was defective because it did not contain adequate warnings or instructions.

41. At the time the occupant restraint system left TRW Vehicle Safety Systems Inc.'s control, it was defective because it was designed in a defective manner.

42. The defective condition rendered the TRW Vehicle Safety Systems Inc.'s occupant restraint system unreasonably dangerous to the user or consumer.

43. The defective and unreasonably dangerous condition of the TRW Vehicle Safety Systems Inc.'s occupant restraint system was a proximate contributing cause of the damages for which recovery is sought for the wrongful death of Jerano Smith.

44. At the time the occupant restraint system left the control of TRW Vehicle Safety Systems Inc., TRW Vehicle Safety Systems Inc. knew or in light of reasonably available knowledge should have known about the danger that caused the damage for which recovery is sought and that the ordinary user or consumer would not realize the occupant restraint system's dangerous condition.

45. At the time the occupant restraint system left the control of TRW Vehicle Safety Systems Inc., TRW Vehicle Safety Systems Inc. knew or in light of reasonably available knowledge or in the exercise of reasonable care should have known, about the danger that caused the damage for which recovery is sought.

46. The TRW Vehicle Safety Systems Inc.'s occupant restraint system failed to function as expected and there existed feasible design alternatives that would have, to a reasonable probability, prevented the harm that occurred on October 4, 2013.

47. The feasible design alternatives would have, to a reasonable probability, prevented the death of Jerano Smith without impairing the utility, usefulness, practicality or

desirability of the occupant restraint system to users or consumers.

48. TRW Vehicle Safety Systems Inc. deliberately participated and engaged in a course of corporate conduct designed to conceal the nature and extent of the defective properties associated with the subject occupant restraint system.

49. TRW Vehicle Safety Systems Inc. acted with actual malice and gross negligence which evidenced a willful or reckless disregard for the safety of others, or committed actual fraud.

DAMAGES

50. Plaintiff Jamarion Smith, a minor, and Plaintiff Jirehian Smith, a minor, seek all damages recoverable under Mississippi law and Mississippi Code Annotated § 11-7-13 for the wrongful death of their father, Jerano Smith.


51. The jury will determine the amount of damages to be awarded to Jamarion Smith, a minor, and Jirehian Smith, a minor, for the wrongful death of Jerano Smith.

52. Plaintiff Jamarion Smith, a minor, and Plaintiff Jirehian Smith, a minor, seek all damages allowable under Mississippi law for the damages they each sustained as a result of the October 4, 2013 crash.

WHEREFORE PREMISES CONSIDERED, Plaintiffs demand a jury trial in the First Judicial District of Hinds County, Mississippi and seek an award of damages to be determined by the

jury for all damages of whatever kind and type available under Mississippi law, fees (including attorney fees), and costs of whatever kind and type available under Mississippi law against defendants Michelin North America, Inc., TRW Vehicle Safety Systems Inc., Tracey Smith, and Does 1-10. Plaintiffs also request such general and equitable relief as this Court sees fit.

Respectfully submitted,
Plaintiffs

By: 
J.C. Patton, Jr. MBN 4059
jpatton@pattonlawoffice.net
John Davidson, MBN 9073
jdavidson@dbslawfirm.net
Edward Sanders, MBN 8880
edwardlloydsanders@gmail.com

Of Counsel:

J.C. Patton, Jr.
Patton Law Office
107 East Lampkin
Starkville, MS 30759
T 662-324-6300
F 662-324-2211

John Davidson
Davidson Bowie, PLLC
2506 Lakeland Drive, Suite 501
Flowood, MS 39232
T 601-932-0028
F 601-932-0115

Edward Sanders
188 E. Capital Street, Suite 777
Jackson, MS 39201
T 601-622-5477