

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

BURTON TAFT, ADMINISTRATOR OF	:	NO.:
THE ESTATE OF BRIAN TAFT,	:	
DECEASED	:	
2503 Cherry Hill Road	:	
Clarks Summit, PA 18411	:	CIVIL ACTION - LAW
	:	JURY TRIAL DEMANDED
Plaintiff	:	
	:	
vs.	:	
	:	
GENERAL MOTORS CORPORATION	:	
3044 General Motors Boulevard	:	
Detroit, MI 48232-5170	:	
	:	
Defendant	:	

COMPLAINT

AND NOW, comes the Plaintiff, Burton Taft, Administrator of the Estate of Brian Taft, deceased, by and through his counsel, Roth & Dempsey, P.C., and complains against the Defendant as follows:

1. Plaintiff Burton Taft is an adult and competent individual residing at 2503 Cherry Hill Road, Clarks Summit, Lackawanna County, Pennsylvania and was appointed Administrator of the Estate of Brian Taft, his brother, by the Register of Wills of Lackawanna County on December 3, 2007. A copy of the Letters of

Administration is attached hereto as Exhibit "A" and incorporated herein by reference.

2. Defendant General Motors Corporation (hereinafter GM) is a corporation authorized to conduct business in the Commonwealth of Pennsylvania and has a principal place of business located at 3044 General Motors Boulevard, Detroit, Michigan. GM has sufficient contacts with this District to subject it to personal jurisdiction.

3. At all times material hereto, the Defendant acted by and through its agents, servants and employees who at all times acted within the course and scope of their agency, employment and authority.

4. This court has jurisdiction over this claim pursuant to 28 U.S.C. §1332. Venue is proper under 28 U.S.C. §1391.

5. On or about November 12, 2007, Brian Taft was the owner and driver of a 1986 K30 Chevrolet pickup truck, VIN No. 1GCGK24M6GJ153097, which was designed, manufactured and distributed by Defendant GM.

6. On the aforementioned date, Brian Taft drove the aforementioned vehicle out of the parking lot of a business located at the intersection of SR 435 and Phillips Road, in Clifton Township, Lackawanna County, Pennsylvania. Brian Taft intended to turn left and head south on SR 435.

7. At the aforementioned time and date, as Brian Taft crossed the northbound lanes of SR 435 and headed toward the southbound lanes, his vehicle was broadsided on the driver's side by a vehicle heading north on SR 435.

8. The aforementioned collision resulted in punctures to the fuel tank mounted by GM on the driver's side of the truck outside the protective frame rails of the truck. The punctures resulted in an immediate explosion and fire.

9. As a direct and proximate result of the explosion and fire, Brian Taft suffered excruciating thermal burns, smoke inhalation, and eventually death which he would not have suffered had the gas tank not been punctured and the fuel not exploded and burned.

10. In March, 1964, long before the explosion, fire, fire related injuries, and death of Brian Taft, and long before the design, manufacture and distribution of the aforementioned Chevrolet pickup truck, GM Engineer A.C. Mair, while working on a Chevrolet Division "Safety Program", concluded that the fuel tank in GM pickup trucks "must be mounted outside the cab and as near the center of the vehicle as practical." See memorandum attached hereto as Exhibit "B".

11. Despite the aforementioned design safety mandate, Defendant GM designed the K series Chevrolet pickup trucks, including the one owned by Brian Taft, with side mounted gas tanks and began manufacturing and distributing them in 1973.

12. In 1973, long before the explosion, fire, fire related injuries, and death of Brian Taft, and long before the manufacture and distribution of the aforementioned Chevrolet pickup truck owned by Brian Taft, GM Engineer Ronald Elwell gave a presentation to GM management in which he provided his professional

engineering opinion that fuel leaks and post-collision fires in GM vehicles "should not occur in collisions which produce occupant impact forces below the threshold level of fatality." He recognized that "any fuel leak represents a potential fire hazard to the occupants." See excerpt of Abstract of Presentation on Fuel System Integrity attached hereto as Exhibit "C".

13. After circulation of the design mandates of Mr. Mair and the safety statements of Mr. Elwell, but prior to the aforementioned collision, explosion, fire, fire related injuries and death of Brian Taft, GM Engineer Edward Ivy was directed by GM management to conduct a cost benefit analysis of fire related deaths in GM vehicles.

14. In 1973, Edward Ivy completed his cost benefit analysis and reported his results to GM.

15. Mr. Ivy calculated the value of each human life consumed by a fire in a GM vehicle at two hundred thousand dollars (\$200,000.00).

16. Mr. Ivy calculated that if every claim for death by fire was filed by those surviving the victims, and GM paid an average of two hundred thousand dollars (\$200,000.00) per claim, the cost to GM would be two dollars and twenty cents (\$2.20) per GM vehicle sold. See Ivy Memorandum attached hereto as Exhibit "D."

17. Mr. Ivy concluded that "for G.M. it would be worth \$2.20 per new model auto to prevent a fuel fed fire." See Exhibit "D".

18. Despite GM's conclusion that pickup truck fuel tanks should be located close to the center of the trucks to protect its occupants from explosions and fires, GM decided that \$2.20 per vehicle was not sufficient incentive to prevent fire related deaths. It continued to manufacture and distribute Chevrolet pickup trucks, including the one owned by Brian Taft at the time of his death, with vulnerable and dangerous side mounted fuel tanks, located outside the frame rails of the trucks and in a known crush zone where, upon impact, the gas tanks were known to puncture causing fatal explosions and fires.

19. In 1981, before Mr. Ivy had ever given any sworn testimony about his cost benefit analysis, he told GM that:

His report was written at the request of his superiors;

He "did not do it on his own"; and

His analysis was distributed within GM.

20. GM interviewed Mr. Ivy in 1981 and concluded that "obviously Ivy is not an individual whom we would ever, in any conceivable situation, want to be identified to the Plaintiffs in a [post-collision fuel fed fire] case, and the documents he generated are undoubtedly some of the potentially most harmful and most damaging were they ever to be produced." See Notes of Interview of Edward Ivy dated November 3, 1981 attached hereto as Exhibit "E".

21. After Mr. Ivy's interview, GM embarked upon a course of conduct designed to prevent Mr. Ivy's cost benefit analysis from being discovered, and attempted

to cover up the truth about its creation and distribution in an effort to keep it from the general public including decedent Brian Taft.

22. The conduct of GM in attempting to hide the Ivy interview and in attempting to suppress the truth about the dangerousness of side mounted gas tanks on its pickup trucks, kept members of the motoring public, including decedent Brian Taft, ignorant of the dangers about which they deserved to know and led directly to needless injuries and death, including the injuries to and ultimate death of Brian Taft.

23. GM designed, manufactured and distributed Chevrolet pickup trucks with the vulnerable and dangerous side mounted fuel tanks so as to allow placement of an optional second fuel tank on the passenger side of the vehicles, thereby increasing the fuel capacity of its pickup trucks above those of its competitors which placed their tanks safely inside the frame rails.

24. In 1978, after GM decided to design, manufacture and distribute trucks with the vulnerable

and dangerous side mounted fuel tanks, GM Automotive Safety Engineer George Garvil was directed by GM to consider alternative fuel tank locations for its pickup trucks, including the one eventually owned by Brian Taft, because there were a high number of fire related deaths in GM pickup trucks resulting from the failure of the side mounted fuel tanks.

25. George Garvil concluded that, based upon side impact collision data, nineteen percent (19%) of the side impacts "were judged to have had high fuel tank leakage potential". He concluded that "the data appears to favor a rear located tank" or at a minimum a tank "positioned inboard of the frame." See Garvil Memorandum attached hereto as Exhibit "F".

26. Despite GM's knowledge of the inherent fire and explosion dangers of side mounted fuel tanks, GM decided to continue manufacturing and distributing Chevrolet pickup trucks with the vulnerable and dangerous side mounted fuel tanks.

27. In or about 1984, GM, in the person of A.C. Mair, who in 1964 had recommended that the fuel tanks

be located as near to the center of the pickup trucks as possible, recognized the continuing dangers posed by GM pickup trucks equipped with the vulnerable side mounted fuel tanks. He proposed a "probable easy fix" to the danger of fires and explosions created by the side mounted fuel tanks.

28. GM, in the person of A.C. Mair, proposed installing a steel shield above and along the side mounted fuel tanks to provide protection and more structural integrity to the tanks. See sketches attached hereto as Exhibit "G".

29. Despite a "probable easy fix" eliminating the dangers of fires and explosions created by the side mounted fuel tanks, GM continued to manufacture and distribute Chevrolet pickup trucks equipped with the vulnerable and dangerous side mounted fuel tanks without any shield after 1984, including the 1986 pickup truck driven by Brian Taft at the time of his death.

30. Despite more than a decade of evidence that its side mounted fuel tanks were dangerous and exploded

and/or burst into flames upon impact, GM continued to engineer, manufacture, market, distribute and sell Chevrolet pickup trucks, including the 1986 model driven by Brian Taft, with a defectively designed fuel system which was not crashworthy.

31. Despite decades of evidence that drivers and occupants of GM pickup trucks were dying in post-collision explosions and fires at a high rate due to the vulnerable and dangerous side mounted fuel tanks, Defendant GM has never recalled these vehicles.

32. Despite GM's knowledge of the inherent fire and explosion dangers of side mounted fuel tanks, and decades of evidence that its side mounted fuel tanks were dangerous and exploded and/or burst into flames upon impact, GM failed to warn Brian Taft of these dangers.

33. As a direct and proximate result of the aforementioned defective design, manufacture and distribution by Defendant GM of the 1986 K30 pickup truck driven by Brian Taft, and the failure of GM to

warn of those defects, Brian Taft was caused to suffer severe thermal burns, smoke inhalation, and death.

34. Defendant GM made the decision to place the fuel tanks on its Chevrolet pickup trucks outside the frame rails and in a crush zone for marketing reasons and not for safety reasons.

35. Despite the aforementioned knowledge, and empirical data demonstrating that the side mounted fuel tanks were dangerous and vulnerable to puncture with resulting fatal fuel explosions and fires in side impact collisions, Defendant GM continued to manufacture and distribute pickup trucks equipped with fuel tanks mounted outside the frame rails and in a known crush zone until 1987.

36. All of the misconduct of Defendant GM outlined herein manifests a willful, wanton and reckless disregard for the life of Brian Taft and for the motoring public, warranting an award of punitive damages.

37. Brian Taft did not, prior to this lawsuit, bring any action for the crash of November 12, 2007 and

no other action for the injuries and death of Brian Taft has been commenced against any Defendant.

38. Brian Taft left surviving him the following persons who are entitled to recover damages for his injuries and death and on whose behalf this action is brought:

Cathy Taft, HC1 Box 77A, Clifton, Pa 18424
(spouse)

Zoey Taft, HC1 Box 77A, Clifton, Pa 18424
(daughter, age 8)

Brian Burton Taft, HC1 Box 77A, Clifton, Pa
18424 (son, age 2)

COUNT I

Wrongful Death Action

Strict Liability

39. Paragraphs 1 through 38 inclusive are incorporated herein by reference as if fully set forth at length.

40. The aforementioned truck driven by Brian Taft was designed, manufactured and distributed by the Defendant in a defective and dangerous condition in that its fuel tank was located outside the truck's

frame rails in a known crush zone which made it vulnerable to puncture with resulting explosion and fire in the event of a side impact collision and therefore was not crashworthy.

41. The aforementioned truck driven by Brian Taft was designed, manufactured and distributed by the Defendant in a defective and dangerous condition in that its fuel tank had little or no shielding to protect it from puncture creating a known risk of explosion and fire in the event of a side impact collision and was therefore not crashworthy.

42. The aforementioned truck driven by Brian Taft was designed, manufactured and distributed by the Defendant in a defective and dangerous condition in that it violated Defendant GM's own safety and design policies and was not crashworthy.

43. The aforementioned truck driven by Brian Taft was designed, manufactured and distributed by the Defendant in a defective and dangerous condition in that it contained inadequate warnings of the known

risks of explosion and fire from the side mounted fuel tank in the event of a side impact collision.

44. The aforementioned truck driven by Brian Taft was designed, manufactured and distributed by the Defendant in a defective and dangerous condition in that it contained an inadequate and unsafe fuel system and was therefore not crashworthy.

45. The Defendant's pickup trucks, including the one owned and driven by Brian Taft, were defective and dangerous.

46. The aforementioned defects and dangers of Brian Taft's 1986 K30 pickup truck existed when the truck left the Defendant's possession.

47. As a direct and proximate result of the aforementioned design, manufacture and distribution of the dangerous and defective truck driven by Brian Taft, the side mounted fuel tank punctured and exploded into flames when involved in the aforementioned side impact collision.

48. As a direct and proximate result of the aforementioned design, manufacture and distribution of

the dangerous and defective truck driven by Brian Taft, which resulted in the aforementioned puncture of the side mounted fuel tank and fiery explosion, Brian Taft was caused to suffer excruciating thermal burns, smoke inhalation, and death.

49. As a direct and proximate result of the aforementioned design, manufacture and distribution of the dangerous and defective truck driven by Brian Taft, which caused the aforementioned injuries to and death of Brian Taft, Burton Taft, Administrator of the Estate of Brian Taft incurred funeral and burial expenses and hereby makes claim for the costs of same.

50. As a direct and proximate result of the aforementioned design, manufacture and distribution of the dangerous and defective truck driven by Brian Taft, which caused the aforementioned injuries to and death of Brian Taft, the heirs of Brian Taft have suffered a permanent loss of the services, support, society, comfort, and contribution of Brian Taft, all to their great financial loss and detriment.

51. The Plaintiff brings this action for all damages encompassed by the Pennsylvania Wrongful Death Act 42 Pa.C.S.A. §8301.

WHEREFORE, Plaintiff Burton Taft, Administrator of the Estate of Brian Taft, demands judgment in his favor and against the Defendant for compensatory damages in an amount in excess of seventy-five thousand dollars (\$75,000.00), together with interest, costs of prosecution, punitive damages, and whatever other relief this court deems just and appropriate.

COUNT II

SURVIVAL ACTION

Strict Liability

52. Paragraphs 1 through 51 inclusive are incorporated herein by reference as if fully set forth at length.

53. As a direct and proximate result of the aforementioned design, manufacture and distribution of the dangerous and defective truck driven by Brian Taft, which caused the aforementioned injuries to and death

of Brian Taft, there has been a permanent and total loss of the decedent's income and earning capacity.

54. As a direct and proximate result of the aforementioned design, manufacture and distribution of the dangerous and defective truck driven by Brian Taft, which caused the aforementioned injuries to and death of Brian Taft, decedent Brian Taft suffered great conscious physical and emotional pain prior to his death.

55. The Plaintiff brings this action for all damages encompassed by the Pennsylvania Survival Act 20 Pa.C.S.A. §3371 et seq. and 42 Pa.C.S.A. §8302.

WHEREFORE, Plaintiff Burton Taft, Administrator of the Estate of Brian Taft, demands judgment in his favor and against the Defendant for compensatory damages in an amount in excess of seventy-five thousand dollars (\$75,000.00), together with interest, costs of

prosecution, punitive damages, and whatever other relief this court deems just and appropriate.

ROTH & DEMPSEY, P.C.

/s/ Michael G. Gallacher
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/s/ Michael H. Roth
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