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IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, NORTHERN DIVISION

ROBERT H. PETERSEN; CLARK and
ANN-MARIE HUGGINS, individually and
as co-Personal Representatives of the Estate
of JUSTIN CLARK HUGGINS; GARTH
and KATHY WILCOX, individually and as
co-Personal Representatives of the Estate of
BRADLEY G. WILCOX; KENNETH F.
MADSEN, individually and as Personal
Representative of the Estate of CURT A.
MADSEN; CONNIE GUNNELL,
individually and as Personal Representative
of the Estate of JUSTIN W. GUNNELL;
WAYNE and JANE McENTYRE,
individually and as co-Personal
Representatives of the Estate of RYAN W.
McENTYRE; LYLE and DIXIE BAIR,
individually and as co-Personal
Representatives of the Estate of STEVEN D.
BAIR; SCOTT and KATHY FUHRIMAN,
individually and as co-Personal
Representatives of the Estate of DUSTIN D.
FUHRIMAN; DENNIS and SUSAN

COMPLAINT

and

JURY DEMAND

Civil No. _____

Judge: _____

JORGENSEN and SHARI JORGENSEN,
 individually and as the heirs of JONATHAN
 JORGENSEN; BRENT NELSON, as
 Conservator of the Estate of JARED PAUL
 NELSON, an injured person; and AMY
 NELSON,

Plaintiffs,

vs.

DAIMLERCHRYSLER CORPORATION;
 DAIMLERCHRYSLER MOTORS
 CORPORATION; COOPER TIRE &
 RUBBER COMPANY; and JOHN DOES I
 - X,

Defendants.

ROBERT H. PETERSEN; CLARK and ANN-MARIE HUGGINS, individually and as co-Personal Representatives of the Estate of JUSTIN CLARK HUGGINS; GARTH and KATHY WILCOX, individually and as co-Personal Representatives of the Estate of BRADLEY G. WILCOX; KENNETH F. MADSEN, individually and as Personal Representative of the Estate of CURT A. MADSEN; CONNIE GUNNELL, individually and as Personal Representative of the Estate of JUSTIN W. GUNNELL; WAYNE and JANE McENTYRE, individually and as co-Personal Representatives of the Estate of RYAN WAYNE McENTYRE; LYLE and DIXIE BAIR, individually and as co-Personal Representatives of the Estate of STEVEN D. BAIR; SCOTT and KATHY FUHRIMAN, individually and as co-Personal Representatives of the Estate of DUSTIN D. FUHRIMAN; DENNIS and SUSAN JORGENSEN and SHARI JORGENSEN, individually and as the heirs of JONATHAN JORGENSEN; BRENT NELSON, as Conservator of the Estate of JARED PAUL NELSON, an injured person; and AMY NELSON (collectively, "Plaintiffs"), hereby complain against Defendants DAIMLERCHRYSLER CORPORATION; DAIMLERCHRYSLER

MOTORS CORPORATION; COOPER TIRE & RUBBER COMPANY; and JOHN DOES I - X (collectively, "Defendants") as follows:

PARTIES

1. Plaintiff Robert H. Petersen is an individual residing in Elwood, Utah.
2. Plaintiffs Clark Huggins and Ann-Marie Huggins are individuals residing in Bear River City, Utah, and are the co-Personal Representatives of the Estate of Justin Clark Huggins. Justin Clark Huggins, deceased, left the following immediate next of kin:
 - a) Clark Huggins, his father; and
 - b) Ann-Marie Huggins, his mother.
3. Plaintiffs Garth and Kathy Wilcox are individuals residing in Rexburg, Idaho, and are the co-Personal Representatives of the Estate of Bradley G. Wilcox. Bradley G. Wilcox, deceased, left the following immediate next of kin:
 - a) Garth Wilcox, his father;
 - b) Kathy Wilcox, his mother; and
 - c) Kim Wilcox, his surviving spouse.
4. Plaintiff Kenneth F. Madsen is an individual residing in Payson, Utah, and is the Personal Representative of the Estate of Curt A. Madsen. Curt A. Madsen, deceased, left the following immediate next of kin:
 - a) Kenneth F. Madsen, his father; and
 - b) Tamra Madsen, his mother.

5. Plaintiff Connie Gunnell is a resident of Wellsville, Utah, and is the Personal Representative of the Estate of Justin W. Gunnell. Justin W. Gunnell, deceased, left the following immediate next of kin:

- a) Connie Gunnell, his wife;
- b) Paul Gunnell, his father; and
- c) Merlynn Gunnell, his mother.

6. Plaintiffs Wayne and Jane McEntyre are residents of Clearfield, Utah, and are the co-Personal Representatives of the Estate of Ryan Wayne McEntyre. Ryan Wayne McEntyre, deceased, left the following immediate next of kin:

- a) Wayne McEntyre, his father; and
- b) Jane McEntyre, his mother.

7. Plaintiffs Lyle and Dixie Bair are residents of Moses Lake, Washington, and are the co-Personal Representatives of the Estate of Steven Delbert Bair. Steven Delbert Bair, deceased, left the following immediate next of kin:

- a) Lyle Bair, his father; and
- b) Dixie Bair, his mother.

8. Plaintiff Scott Fuhriman is a resident of Logan, Utah, and Plaintiff Kathy Fuhriman is a resident of Tremonton, Utah, and are the co-Personal Representatives of the Estate of Dustin D. Fuhriman. Dustin D. Fuhriman, deceased, left the following immediate next of kin:

- a) Scott Fuhriman, his father; and
- b) Kathy Fuhriman, his mother.

9. Dennis and Susan Jorgensen are residents of Peoa, Utah, and Shari Jorgensen is a resident of Logan, Utah, and are the heirs of Jonathan Jorgensen. Jonathan Jorgensen, deceased, left the following immediate next of kin:

- a) Dennis Jorgensen, his father;
- b) Susan Jorgensen, his mother; and
- c) Shari Jorgensen, his wife.

10. Plaintiff Brent Nelson is an individual residing in Woodburn, Oregon, and is the Conservator of the Estate of Jared Paul Nelson, an injured person.

11. Plaintiff Amy Nelson is an individual residing in Woodburn, Oregon, and is the spouse of Jared Nelson.

12. Defendants DaimlerChrysler Corporation and DaimlerChrysler Motors Corporation (collectively, "Chrysler") are Delaware corporations doing business in the State of Utah.

13. Defendant Cooper Tire & Rubber Company ("Cooper") is a Delaware corporation doing business in the State of Utah.

14. John Does I-X are individuals or entities unknown to Plaintiffs at this time, who are responsible for the incidents complained of herein.

JURISDICTION AND VENUE

15. Utah courts have personal jurisdiction over Defendants under Utah Code Ann. § 78-27-24.

16. In this action, Plaintiffs seek compensation for damages in excess of \$75,000, exclusive of interest and costs.

17. This Court has subject matter jurisdiction over this lawsuit under 28 U.S.C. § 1332(a) (diversity jurisdiction).

18. Venue is proper in this Court under 28 U.S.C. §§ 1391(a) and (c) because a substantial part of the events or omissions giving rise to the claim occurred in the State of Utah and all Defendants are deemed to reside in the State of Utah.

BACKGROUND

19. At all times relevant hereto, Chrysler was and is engaged in the business of manufacturing, fabricating, designing, assembling, distributing, selling, inspecting, servicing, warranting, promoting, marketing, modifying and advertising a certain subject 1994 Dodge Ram 3500 Wagon, VIN# 2B5WB35Y8RK158692 (the "Dodge Van") and each and every component part thereof. The Dodge Van was designed, manufactured, and originally sold into commerce by Chrysler for use by consumers such as the Plaintiffs.

20. At all times relevant hereto, Cooper was and is engaged in the business of manufacturing, fabricating, designing, assembling, distributing, selling, inspecting, servicing, warranting, promoting, marketing, modifying and advertising a certain Wildcat LT All Terrain tire, DOT# UPIL DMF419 FO5L (the "Van Tire"), which was being used on the Dodge Van at the time of the accident giving rising to the Plaintiffs' claims set forth herein. The Van Tire was designed, manufactured, and originally sold into commerce by Cooper for use by consumers such as the Plaintiffs.

21. On September 26, 2005, at approximately 4:00 p.m., Justin Clark Huggins, Bradley G. Wilcox, Curt A. Madsen, Justin W. Gunnell, Ryan Wayne McEntyre, Steven Delbert Bair, Dustin

D. Fuhriman, Jonathan Jorgensen (collectively, the "Decedents"), Robert Petersen and Jared Nelson were passengers in the subject Dodge Van while it was traveling east along Interstate 84 in Box Elder County, Utah. Without warning, the tread on the Van Tire peeled off causing the driver of the Dodge Van to lose control. The Van Tire was unreasonably dangerous and defective. Further, due to the unreasonably dangerous and defective condition of the Dodge Van, as set forth in more detail herein, the driver was unable to keep the Dodge Van under control, and it then left the roadway and rolled over several times.

22. During the incident, all of the victims were violently ejected from the Dodge Van.

23. Robert H. Petersen and Jared Paul Nelson suffered serious personal injuries as a result of the accident.

24. Decedent Jonathan Jorgensen survived for a period of time following the accident; was sufficiently conscious at the scene of the accident to suffer intense pain and terror; and was transported from the accident scene and subsequently life-flighted to the University of Utah Hospital where he died following the best medical efforts.

25. On information and belief, decedents Justin Clark Huggins, Bradley G. Wilcox, Curt A. Madsen, Justin W. Gunnell, Ryan Wayne McEntyre, Steven Delbert Bair and Dustin D. Fuhriman survived for a period of time following the accident, each experiencing conscious pain, suffering and terror, but thereafter died at the accident scene and/or while en route to the hospital.

FIRST CLAIM FOR RELIEF

**Wrongful Death/Survival Action – All Plaintiffs except Robert H. Petersen, Brent Nelson, as
Conservator of the Estate of Jared Paul Nelson, an injured person, and Amy Nelson
(Strict Liability Against Chrysler)**

26. Paragraphs 1-25 set forth above are incorporated herein by reference.

27. At all times relevant hereto, Chrysler was and is engaged in the business of manufacturing, fabricating, designing, assembling, distributing, selling, inspecting, servicing, warranting, promoting, marketing, modifying and advertising the Dodge Van and each and every component part thereof, which contained design and/or manufacturing defects in that the Dodge Van was capable of causing and in fact did cause personal injuries to the user and consumer thereof while being used in a manner reasonably foreseeable, thereby rendering the same unsafe and dangerous for use by the consumer, user or bystander.

28. Chrysler expected the Dodge Van to reach the user or consumer in the condition in which it was sold and, upon information and belief, the Dodge Van did reach the user or consumer in the condition in which it was sold.

29. Upon information and belief, at the time the Dodge Van was placed into the stream of commerce by and left the possession of Chrysler, the Dodge Van and each and every component thereof was defective, and such defects were of such a nature that the defects would not be discovered in the normal course of inspection and operation of the Dodge Van by the users thereof. The defects included, but are not limited to:

- (a) an unsafe center of gravity that is dangerously high and rearward in proportion to the track width and wheelbase of the vehicle;
- (b) unsafe and unreasonably dangerous handling and stability characteristics;
- (c) unsafe passenger capacity;
- (d) unsafe seatbelt design;
- (e) unsafe tires;

(f) the Dodge Van was designed with a rear axle, suspension and tire combination that was inadequate to carry the fully rated load of the vehicle;

(g) the Dodge Van was not properly and adequately tested to determine the vehicle's susceptibility to oversteer before the Dodge Van was placed into the stream of commerce;

(h) the Dodge Van was not properly and adequately tested to determine the vehicle's susceptibility to roll over before the Dodge Van was placed into the stream of commerce;

(i) adequate and proper warnings and instructions were not issued to users of the Dodge Van despite Chrysler's knowledge of:

(i) frequent complaints of "steering wander" from customer-users of such vehicles;

(ii) incidents involving loss of directional control and rollover of the vehicles, with fatal and tragic consequences for the occupants of the Dodge Van; and

(iii) the propensity of the vehicle to roll over when operated by consumers;

(j) the nature and extent of the unique handling characteristics of the Dodge Van were not determined before the Dodge Van was placed into the stream of commerce;

(k) no special training or instructions were given to consumers or users for operating the Dodge Van, despite Chrysler's knowledge of the defective and unreasonably dangerous nature of the Dodge Van;

(l) the nature and extent of the unique handling characteristics of the Dodge Van were not communicated to owners and users of such vehicles, despite Chrysler's knowledge of such characteristics;

(m) owners and users of such vehicles were not warned of the increased propensity for rollover associated with such vehicles, despite Chrysler's knowledge of such increased propensity;

(n) the safety restraint system was designed in a manner such that it failed to lock and/or restrain occupants in the event of a rollover;

(o) the Dodge Van failed to maintain its structural integrity in a rollover; and

(p) the Dodge Van was placed into the stream of commerce by Chrysler, even though the unreasonably dangerous conditions aforesaid were conditions that Chrysler knew or should have known about and designed against, all of which caused or contributed to the injuries suffered by the Plaintiffs and the Decedents.

30. Chrysler knew or should have known that the Dodge Van was unreasonably dangerous as a result of the defects set forth above.

31. Chrysler failed to give adequate and proper warnings and instructions to users of the Dodge Van regarding the danger posed by the aforementioned defects, which defects and danger would not otherwise be known to the average consumer.

32. The Dodge Van was dangerous to an extent beyond that which would be contemplated by the ordinary consumer who used it with the ordinary knowledge common to the community as to its characteristics.

33. As a direct and proximate result of the conduct of Chrysler in manufacturing, fabricating, designing, assembling, distributing, selling, inspecting, servicing, warranting, promoting, marketing, modifying and advertising the subject Dodge Van and each every component thereof, which contained design and manufacturing defects as aforesaid, Decedents were killed.

34. As a direct and proximate result of the conduct of Chrysler, Plaintiffs have suffered injuries and damages in an amount to be proven at trial.

35. As a further direct and proximate result of the conduct of Chrysler, the Decedents' estates were required to incur medical and funeral and burial expenses, and suffered other pecuniary and economic losses, and the individual Plaintiffs were required to incur expenses, including funeral and burial expenses, and have suffered the loss of the Decedents' future contributions, personal services, advice and training, all to their special damage in an amount to be proven at time of trial.

36. As a further direct and proximate result of the conduct of Chrysler, the individual Plaintiffs have and will suffer the loss of Decedents' love, companionship, comfort, society, solace, moral support and physical assistance, all to their general damage in a sum to be proven at time of trial.

37. Chrysler acted with malice, oppression, and reckless disregard of the rights of others, including Plaintiffs, such that punitive damages are appropriate, and should be awarded in favor of Plaintiffs, to punish and to deter Chrysler from engaging in such conduct in the future. Chrysler acted in a conscious disregard for the rights and safety of others and committed despicable conduct by placing a concern for profits and financial well-being over the rights and safety of the intended users of its vehicles, knowing that its conduct would result in death and severe injury. Specifically, and without limitation, prior to the production of the Dodge Van, Chrysler realized that such vans suffered from an unacceptably high risk of rollovers and loss of control, but deliberately failed to make design changes to combat this knowledge or warn consumers about the problems with its vans. The general body of information available prior to (1) the production of the Dodge Van, and (2) the accident itself confirms that Chrysler knew about these dangerous and defective conditions; however,

Chrysler chose to conceal this information and not to inform the general public or correct the defects, valuing corporate profits over safety. At all times mentioned herein, the officers, directors, and/or managing agents of Chrysler authorized or ratified the conduct described herein.

SECOND CLAIM FOR RELIEF

**Wrongful Death/Survival Action – All Plaintiffs except Robert H. Petersen, Brent Nelson, as
Conservator of the Estate of Jared Paul Nelson, an injured person, and Amy Nelson
(Negligence Against Chrysler)**

38. Paragraphs 1-37 set forth above are incorporated herein by reference.

39. At all times relevant hereto, Chrysler was and is engaged in the business of manufacturing, fabricating, designing, assembling, distributing, selling, inspecting, servicing, warranting, promoting, marketing, modifying and advertising the Dodge Van and each and every component part thereof, which Chrysler knew, or in the exercise of reasonable care should have known, would be used without inspection for defects in its parts, mechanisms or design.

40. At all times mentioned herein, Chrysler negligently and carelessly manufactured, fabricated, designed, assembled, distributed, sold, inspected, serviced, warranted, promoted, marketed, modified and advertised the Dodge Van and each and every component part thereof, in that the Dodge Van was capable of causing and in fact did cause, personal injuries to the user and consumer thereof, while being used in a manner reasonably foreseeable, thereby rendering the same unsafe. The defects included, but are not limited to:

- (a) an unsafe center of gravity that is dangerously high and rearward in proportion to the track width and wheelbase of the vehicle;
- (b) unsafe and unreasonably dangerous handling and stability characteristics;
- (c) unsafe passenger capacity;

(d) unsafe seatbelt design;

(e) unsafe tires;

(f) the Dodge Van was designed with a rear axle, suspension and tire combination that was inadequate to carry the fully rated load of the vehicle;

(g) the Dodge Van was not properly and adequately tested to determine the vehicle's susceptibility to oversteer before the Dodge Van was placed into the stream of commerce;

(h) the Dodge Van was not properly and adequately tested to determine the vehicle's susceptibility to roll over before the Dodge Van was placed into the stream of commerce;

(i) adequate and proper warnings and instructions were not issued to users of the Dodge Van despite Chrysler's knowledge of:

(i) frequent complaints of "steering wander" from customer-users of such vehicles;

(ii) incidents involving loss of directional control and rollover of the vehicles, with fatal and tragic consequences for the occupants of the Dodge Van; and

(iii) the propensity of the vehicle to roll over when operated by consumers;

(j) the nature and extent of the unique handling characteristics of the Dodge Van were not determined before the Dodge Van was placed into the stream of commerce;

(k) no special training or instructions were given to consumers or users for operating the Dodge Van, despite Chrysler's knowledge of the defective and unreasonably dangerous nature of the Dodge Van;

(l) the nature and extent of the unique handling characteristics of the Dodge Van were not communicated to owners and users of such vehicles, despite Chrysler's knowledge of such characteristics;

(m) owners and users of such vehicles were not warned of the increased propensity for rollover associated with such vehicles, despite Chrysler's knowledge of such increased propensity;

(n) the safety restraint system was designed in a manner such that it failed to lock and/or restrain occupants in the event of a rollover;

(o) the Dodge Van failed to maintain its structural integrity in a rollover; and

(p) the Dodge Van was placed into the stream of commerce by Chrysler, even though the unreasonably dangerous conditions aforesaid were conditions that Chrysler knew or should have known about and designed against, all of which caused or contributed to the injuries suffered by the Plaintiffs and the Decedents.

41. As a direct and proximate result of the negligent and careless conduct of Chrysler, Decedents were killed.

42. As a further direct and proximate result of the negligent and careless conduct of Chrysler, Plaintiffs have suffered injuries and damages in an amount to be proven at trial.

43. As a further direct and proximate result of the negligent and careless conduct of Chrysler, the Decedents' estates were required to incur medical and funeral and burial expenses, and suffered other pecuniary and economic losses, and the individual Plaintiffs were required to incur expenses, including funeral and burial expenses, and have suffered the loss of the Decedents' future

contributions, personal services, advice and training, all to their special damage in an amount to be proven at time of trial.

44. As a further direct and proximate result of the negligent and careless conduct of Chrysler, the individual Plaintiffs have and will suffer the loss of Decedents' love, companionship, comfort, society, solace, moral support and physical assistance, all to their general damage in a sum to be proven at time of trial.

45. Chrysler acted with malice, oppression, and reckless disregard of the rights of others, including Plaintiffs, such that punitive damages are appropriate, and should be awarded in favor of Plaintiffs, to punish and to deter Chrysler from engaging in such conduct in the future. Chrysler acted in a conscious disregard for the rights and safety of others and committed despicable conduct by placing a concern for profits and financial well-being over the rights and safety of the intended users of its vehicles, knowing that its conduct would result in death and severe injury. Specifically, and without limitation, prior to the production of the Dodge Van, Chrysler realized that such vans suffered from an unacceptably high risk of rollovers and loss of control, but deliberately failed to make design changes to combat this knowledge or warn consumers about the problems with its vans.

The general body of information available prior to (1) the production of the Dodge Van, and (2) the accident itself confirmed that Chrysler knew about these dangerous and defective conditions; however, Chrysler chose to conceal this information and not to inform the general public or correct the defects, valuing corporate profits over safety. At all times mentioned herein, the officers, directors, and/or managing agents of Chrysler authorized or ratified the conduct described herein.

THIRD CLAIM FOR RELIEF

**Wrongful Death/Survival Action – All Plaintiffs except Robert H. Petersen, Brent Nelson, as
Conservator of the Estate of Jared Paul Nelson, an injured person, and Amy Nelson
(Breach of Express and Implied Warranties Against Chrysler)**

46. Paragraphs 1-45 set forth above are incorporated herein by reference.

47. Chrysler made both express and implied warranties to the Decedents, which included oral and written representations regarding the qualities, characteristics and overall safety of the Dodge Van.

48. Chrysler manufactured, fabricated, designed, assembled, distributed, sold, inspected, serviced, warranted, promoted, marketed, modified and advertised the Dodge Van in the ordinary course of its business.

49. Chrysler is a merchant with respect to the Dodge Van and implied in the contract for sale of the vehicle was an implied warranty that the vehicle was fit for the ordinary purposes for which it was used at the time of the injuries complained of herein.

50. Chrysler designed, manufactured, marketed, distributed, and sold the Dodge Van for the particular purpose of transporting up to 15 passengers and/or their luggage, equipment, or other possessions.

51. At the time of sale of the Dodge Van, Chrysler had reason to know the particular purpose for which the vehicle was required and to expect that it would be used for the particular purpose. Chrysler had reason to know that consumers and users relied on Chrysler's skill and judgment to select and furnish them with a vehicle that was suitable and fit for the particular purpose for which the vehicle was required.

52. Chrysler warranted that the Dodge Van was reasonably fit for the particular purpose for which the vehicle was acquired.

53. The Dodge Van was being used by the passengers of the Dodge Van for the ordinary and particular purposes for which the Dodge Van was designed, manufactured, marketed, distributed, and sold.

54. Chrysler breached its implied and expressed warranties, as set forth herein, resulting in an unreasonable risk of harm to the passengers of the Dodge Van, including the Decedents, and proximately caused the injuries complained of herein.

55. Chrysler had a duty to the Decedents to provide a vehicle that did not subject them to an unreasonable risk of harm when used for the ordinary and particular purposes for which the Dodge Van was designed, manufactured, marketed, distributed, and sold.

56. The Decedents relied to their detriment upon the implied and expressed warranties of Chrysler that the vehicle was safe and fit for its intended purposes and uses.

57. As a direct and proximate result of the breaches of the foregoing warranties, Decedents were killed.

58. As a further direct and proximate result of the breaches of the foregoing warranties, Plaintiffs have suffered injuries and damages in an amount to be proven at trial.

59. As a further direct and proximate result of the breaches of the foregoing warranties, the Decedents' estates were required to incur medical and funeral and burial expenses, and suffered other pecuniary and economic losses, and the individual Plaintiffs were required to incur expenses, including funeral and burial expenses, and have suffered the loss of the Decedents' future

contributions, personal services, advice and training, all to their special damage in an amount to be proven at time of trial.

60. As a further direct and proximate result of the breaches of the foregoing warranties, the individual Plaintiffs have and will suffer the loss of Decedents' love, companionship, comfort, society, solace, moral support and physical assistance, all to their general damage in a sum to be proven at time of trial.

FOURTH CLAIM FOR RELIEF

**Wrongful Death/Survival Action – All Plaintiffs except Robert H. Petersen, Brent Nelson, as
Conservator of the Estate of Jared Paul Nelson, an injured person, and Amy Nelson
(Strict Liability Against Cooper)**

61. Paragraphs 1-60 set forth above are incorporated herein by reference.

62. At all times relevant hereto, Cooper was and is engaged in the business of manufacturing, fabricating, designing, assembling, distributing, selling, inspecting, servicing, warranting, promoting, marketing, modifying and advertising the Van Tire and each and every component part thereof, which contained design and/or manufacturing defects in that the Van Tire was capable of causing and in fact did cause personal injuries to the user and consumer thereof while being used in a manner reasonably foreseeable, thereby rendering the same unsafe and dangerous for use by the consumer, user or bystander.

63. Cooper expected the Van Tire to reach the user or consumer in the condition in which it was sold and, upon information and belief, the Van Tire did reach the user or consumer in the condition in which it was sold.

64. Upon information and belief, at the time the Van Tire was placed into the stream of commerce by and left the possession of Cooper, the Van Tire was defective, and such defects were of

such a nature that the defects would not be discovered in the normal course of inspection and use of the Van Tire by the users thereof. The defects included, but are not limited to:

(a) The Van Tire came apart in operation well within its expected life notwithstanding the fact that it was properly maintained and inflated, and did not have disproportionate wear compared to the other three Cooper tires that remain on the vehicle;

(b) the Van Tire was inadequate to carry the fully rated load of the vehicle;

(c) the Van Tire was not properly and adequately tested to determine its susceptibility to tread separation before the Van Tire was placed into the stream of commerce;

(d) adequate and proper warnings and instructions were not issued to users of the Van Tire despite Cooper's knowledge of its propensity for tread separation;

(e) owners and users of such tires were not warned of the increased propensity for tread separation, despite Cooper's knowledge of such increased propensity; and

(f) the Van Tire was placed into the stream of commerce by Cooper, even though the unreasonably dangerous conditions aforesaid were conditions that Cooper knew or should have known about and designed against, all of which caused or contributed to the injuries suffered by the Plaintiffs and the Decedents.

65. Cooper knew or should have known that the Van Tire was unreasonably dangerous as a result of the defects set forth above.

66. Cooper failed to give adequate and proper warnings and instructions to users of the Van Tire regarding the danger posed by the aforementioned defects, which defects and danger would not otherwise be known to the average consumer.

67. The Van Tire was dangerous to an extent beyond that which would be contemplated by the ordinary consumer who used it with the ordinary knowledge common to the community as to its characteristics.

68. As a direct and proximate result of the conduct of Cooper in manufacturing, fabricating, designing, assembling, distributing, selling, inspecting, servicing, warranting, promoting, marketing, modifying and advertising the subject Van Tire, which contained design and manufacturing defects as aforesaid, Decedents were killed.

69. The catastrophic failure of the Van Tire caused an emergency condition from which the driver of the vehicle could not recover and resulted in an uncontrollable vehicle.

70. As a direct and proximate result of the conduct of Cooper, Plaintiffs have suffered injuries and damages in an amount to be proven at trial.

71. As a further direct and proximate result of the conduct of Cooper, the Decedents' estates were required to incur medical and funeral and burial expenses, and suffered other pecuniary and economic losses, and the individual Plaintiffs were required to incur expenses, including funeral and burial expenses, and have suffered the loss of the Decedents' future contributions, personal services, advice and training, all to their special damage in an amount to be proven at time of trial.

72. As a further direct and proximate result of the conduct of Cooper, the individual Plaintiffs have and will suffer the loss of Decedents' love, companionship, comfort, society, solace, moral support and physical assistance, all to their general damage in a sum to be proven at time of trial.

73. Cooper acted with malice, oppression, and reckless disregard of the rights of others, including Plaintiffs, such that punitive damages are appropriate, and should be awarded in favor of

Plaintiffs, to punish and to deter Cooper from engaging in such conduct in the future. Cooper acted in a conscious disregard for the rights and safety of others and committed despicable conduct by placing a concern for profits and financial well-being over the rights and safety of the intended users of its tires, knowing that its conduct would result in death and severe injury. Specifically, and without limitation, prior to the production of the Van Tire, Cooper realized that its tires suffered from an unacceptably high rate of tread separations, but deliberately failed to make design changes to combat this knowledge or warn consumers about the problems with its tires. The general body of information available prior to (1) the production of the Van Tire, and (2) the accident itself confirmed that Cooper knew about these dangerous and defective conditions; however, Cooper chose to conceal this information and not to inform the general public or correct the defects, valuing corporate profits over safety. At all times mentioned herein, the officers, directors, and/or managing agents of Cooper authorized or ratified the conduct described herein.

FIFTH CLAIM FOR RELIEF

**Wrongful Death/Survival Action – All Plaintiffs except Robert H. Petersen, Brent Nelson, as Conservator of the Estate of Jared Paul Nelson, an injured person, and Amy Nelson
(Negligence Against Cooper)**

74. Paragraphs 1-73 set forth above are incorporated herein by reference.

75. At all times relevant hereto, Cooper was and is engaged in the business of manufacturing, fabricating, designing, assembling, distributing, selling, inspecting, servicing, warranting, promoting, marketing, modifying and advertising the Van Tire and each and every component part thereof, which Cooper knew, or in the exercise of reasonable care should have known, would be used without inspection for defects in its parts, mechanisms or design.

76. At all times mentioned herein, Cooper negligently and carelessly manufactured, fabricated, designed, assembled, distributed, sold, inspected, serviced, warranted, promoted, marketed, modified and advertised the Van Tire and each and every component part thereof, in that the Van Tire was capable of causing and in fact did cause, personal injuries to the user and consumer thereof, while being used in a manner reasonably foreseeable, thereby rendering the same unsafe. The defects included, but are not limited to:

- (a) The Van Tire came apart in operation well within its expected life notwithstanding the fact that it was properly maintained and inflated, and did not have disproportionate wear compared to the other three Cooper tires that remain on the vehicle;
- (b) the Van Tire was inadequate to carry the fully rated load of the vehicle;
- (c) the Van Tire was not properly and adequately tested to determine its susceptibility to tread separation before the Van Tire was placed into the stream of commerce;
- (d) adequate and proper warnings and instructions were not issued to users of the Van Tire despite Cooper's knowledge of its propensity for tread separation;
- (e) owners and users of such tires were not warned of the increased propensity for tread separation, despite Cooper's knowledge of such increased propensity; and
- (f) the Van Tire was placed into the stream of commerce by Cooper, even though the unreasonably dangerous conditions aforesaid were conditions that Cooper knew or should have known about and designed against, all of which caused or contributed to the injuries suffered by the Plaintiffs and the Decedents.

77. As a direct and proximate result of the negligent and careless conduct of Cooper, Decedents were killed.

78. As a further direct and proximate result of the negligent and careless conduct of Cooper, Plaintiffs have suffered injuries and damages in an amount to be proven at trial.

79. As a further direct and proximate result of the negligent and careless conduct of Cooper, the Decedents' estates were required to incur medical and funeral and burial expenses, and suffered other pecuniary and economic losses, and the individual Plaintiffs were required to incur expenses, including funeral and burial expenses, and have suffered the loss of the Decedents' future contributions, personal services, advice and training, all to their special damage in an amount to be proven at time of trial.

80. As a further direct and proximate result of the negligent and careless conduct of Cooper, the individual Plaintiffs have and will suffer the loss of Decedents' love, companionship, comfort, society, solace, moral support and physical assistance, all to their general damage in a sum to be proven at time of trial.

81. Cooper acted with malice, oppression, and reckless disregard of the rights of others, including Plaintiffs, such that punitive damages are appropriate, and should be awarded in favor of Plaintiffs, to punish and to deter Cooper from engaging in such conduct in the future. Cooper acted in a conscious disregard for the rights and safety of others and committed despicable conduct by placing a concern for profits and financial well-being over the rights and safety of the intended users of its tires, knowing that its conduct would result in death and severe injury. Specifically, and without limitation, prior to the production of the Van Tire, Cooper realized that its tires suffered from an unacceptably high rate of tread separations, but deliberately failed to make design changes to combat this knowledge or warn consumers about the problems with its tires. The general body of information available prior to (1) the production of the Van Tire, and (2) the accident itself

confirmed that Cooper knew about these dangerous and defective conditions; however, Cooper chose to conceal this information and not to inform the general public or correct the defects, valuing corporate profits over safety. At all times mentioned herein, the officers, directors, and/or managing agents of Cooper authorized or ratified the conduct described herein.

SIXTH CLAIM FOR RELIEF

**Wrongful Death/Survival Action – All Plaintiffs except Robert H. Petersen, Brent Nelson, as Conservator of the Estate of Jared Paul Nelson, an injured person, and Amy Nelson
(Breach of Express and Implied Warranties Against Cooper)**

82. Paragraphs 1-81 set forth above are incorporated herein by reference.

83. Cooper made both express and implied warranties to the Decedents, which included oral and written representations regarding the qualities, characteristics and overall safety of the Van Tire.

84. Cooper manufactured, fabricated, designed, assembled, distributed, sold, inspected, serviced, warranted, promoted, marketed, modified and advertised the Van Tire in the ordinary course of its business.

85. Cooper is a merchant with respect to the Van Tire and implied in the contract for sale of the tire was an implied warranty that the tire was fit for the ordinary purposes for which it was used at the time of the injury complained of herein.

86. Cooper designed, manufactured, marketed, distributed, and sold the Van Tire for the particular purpose of use on vehicles such as the Dodge Van.

87. At the time of sale of the Van Tire, Cooper had reason to know the particular purpose for which the tire was required and to expect that it would be used for the particular purpose. Cooper had reason to know that consumers and users relied on Cooper's skill and judgment to select and

furnish them with a tire that was suitable and fit for the particular purpose for which the Van Tire was required.

88. Cooper warranted that the Van Tire was reasonably fit for the particular purpose for which the Van Tire was acquired.

89. The Van Tire was being used by the passengers of the Dodge Van for the ordinary and particular purposes for which the Van Tire was designed, manufactured, marketed, distributed, and sold.

90. Cooper breached its implied and expressed warranties, as set forth herein, resulting in an unreasonable risk of harm to the passengers of the Dodge Van, including the Decedents, and proximately caused the injuries complained of herein.

91. Cooper had a duty to the Decedents to provide a tire that did not subject them to an unreasonable risk of harm when used for the ordinary and particular purposes for which the Van Tire was designed, manufactured, marketed, distributed, and sold.

92. The Decedents relied to their detriment upon the implied and expressed warranties of Cooper that the Van Tire was safe and fit for its intended purposes and uses.

93. As a direct and proximate result of the breaches of the foregoing warranties, Decedents were killed.

94. As a further direct and proximate result of the breaches of the foregoing warranties, Plaintiffs have suffered injuries and damages in an amount to be proven at trial.

95. As a further direct and proximate result of the breaches of the foregoing warranties, the Decedents' estates were required to incur medical and funeral and burial expenses, and suffered other pecuniary and economic losses, and the individual Plaintiffs were required to incur expenses,

including funeral and burial expenses, and have suffered the loss of the Decedents' future contributions, personal services, advice and training, all to their special damage in an amount to be proven at time of trial.

96. As a further direct and proximate result of the breaches of the foregoing warranties, the individual Plaintiffs have and will suffer the loss of Decedents' love, companionship, comfort, society, solace, moral support and physical assistance, all to their general damage in a sum to be proven at time of trial.

SEVENTH CLAIM FOR RELIEF

**Personal Injury and Loss of Consortium – Plaintiffs Robert H. Petersen, Brent Nelson, as
Conservator of the Estate of Jared Paul Nelson, an injured person, and Amy Nelson
(Strict Liability Against Chrysler)**

97. Paragraphs 1-96 set forth above are incorporated herein by reference.

98. At all times relevant hereto, Chrysler was and is engaged in the business of manufacturing, fabricating, designing, assembling, distributing, selling, inspecting, servicing, warranting, promoting, marketing, modifying and advertising the Dodge Van and each and every component part thereof, which contained design and/or manufacturing defects in that the Dodge Van was capable of causing and in fact did cause personal injuries to the user and consumer thereof while being used in a manner reasonably foreseeable, thereby rendering the same unsafe and dangerous for use by the consumer, user or bystander.

99. Chrysler expected the Dodge Van to reach the user or consumer in the condition in which it was sold and, upon information and belief, the Dodge Van did reach the user or consumer in the condition in which it was sold.

100. Upon information and belief, at the time the Dodge Van was placed into the stream of commerce by and left the possession of Chrysler, the Dodge Van and each and every component thereof was defective, and such defects were of such a nature that the defects would not be discovered in the normal course of inspection and operation of the Dodge Van by the users thereof. The defects included, but are not limited to:

- (a) an unsafe center of gravity that is dangerously high and rearward in proportion to the track width and wheelbase of the vehicle;
- (b) unsafe and unreasonably dangerous handling and stability characteristics;
- (c) unsafe passenger capacity;
- (d) unsafe seatbelt design;
- (e) unsafe tires;
- (f) the Dodge Van was designed with a rear axle, suspension and tire combination that was inadequate to carry the fully rated load of the vehicle;
- (g) the Dodge Van was not properly and adequately tested to determine the vehicle's susceptibility to oversteer before the Dodge Van was placed into the stream of commerce;
- (h) the Dodge Van was not properly and adequately tested to determine the vehicle's susceptibility to roll over before the Dodge Van was placed into the stream of commerce;
- (i) adequate and proper warnings and instructions were not issued to users of the Dodge Van despite Chrysler's knowledge of:
 - (i) frequent complaints of "steering wander" from customer-users of such vehicles;

(ii) incidents involving loss of directional control and rollover of the vehicles, with fatal and tragic consequences for the occupants of the Dodge Van; and

(iii) the propensity of the vehicle to roll over when operated by consumers;

(j) the nature and extent of the unique handling characteristics of the Dodge Van were not determined before the Dodge Van was placed into the stream of commerce;

(k) no special training or instructions were given to consumers or users for operating the Dodge Van, despite Chrysler's knowledge of the defective and unreasonably dangerous nature of the Dodge Van;

(l) the nature and extent of the unique handling characteristics of the Dodge Van were not communicated to owners and users of such vehicles, despite Chrysler's knowledge of such characteristics;

(m) owners and users of such vehicles were not warned of the increased propensity for rollover associated with such vehicles, despite Chrysler's knowledge of such increased propensity;

(n) the safety restraint system was designed in a manner such that it failed to lock and/or restrain occupants in the event of a rollover;

(o) the Dodge Van failed to maintain its structural integrity in a rollover; and

(p) the Dodge Van was placed into the stream of commerce by Chrysler, even though the unreasonably dangerous conditions aforesaid were conditions that Chrysler knew or should have known about and designed against, all of which caused or contributed to the injuries suffered by Robert Petersen and Jared Nelson.

101. Chrysler knew or should have known that the Dodge Van was unreasonably dangerous as a result of the defects set forth above.

102. Chrysler failed to give adequate and proper warnings and instructions to users of the Dodge Van regarding the danger posed by the aforementioned defects, which defects and danger would not otherwise be known to the average consumer.

103. The Dodge Van was dangerous to an extent beyond that which would be contemplated by the ordinary consumer who used it with the ordinary knowledge common to the community as to its characteristics.

104. As a direct and proximate result of the conduct of Chrysler in manufacturing, fabricating, designing, assembling, distributing, selling, inspecting, servicing, warranting, promoting, marketing, modifying and advertising the subject Dodge Van and each every component thereof, which contained design and manufacturing defects as aforesaid, Robert Petersen and Jared Nelson suffered serious personal injuries.

105. As a direct and proximate result of the conduct of Chrysler, Robert Petersen and Jared Nelson have and will suffer special damages in an amount to be proven at trial.

106. As a further direct and proximate result of the conduct of Chrysler, Robert Petersen and Jared Nelson have and will suffer general damages including pain and suffering and emotional distress, in a sum to be proven at time of trial.

107. As a further direct and proximate result of the conduct of Chrysler, Plaintiff Amy Nelson has and will suffer the loss of future contributions, personal services, companionship and consortium of her husband, Jared Nelson, all to her special and general damage in a sum to be proven at time of trial.

108. Chrysler acted with malice, oppression, and reckless disregard of the rights of others, including Plaintiffs, such that punitive damages are appropriate, and should be awarded in favor of Plaintiffs, to punish and to deter Chrysler from engaging in such conduct in the future. Chrysler acted in a conscious disregard for the rights and safety of others and committed despicable conduct by placing a concern for profits and financial well-being over the rights and safety of the intended users of its vehicles, knowing that its conduct would result in death and severe injury. Specifically, and without limitation, prior to the production of the Dodge Van, Chrysler realized that such vans suffered from an unacceptably high risk of rollovers and loss of control, but deliberately failed to make design changes to combat this knowledge or warn consumers about the problems with its vans. The general body of information available prior to (1) the production of the Dodge Van, and (2) the accident itself confirmed that Chrysler knew about these dangerous and defective conditions; however, Chrysler chose to conceal this information and not to inform the general public or correct the defects, valuing corporate profits over safety. At all times mentioned herein, the officers, directors, and/or managing agents of Chrysler authorized or ratified the conduct described herein.

EIGHTH CLAIM FOR RELIEF

**Personal Injury and Loss of Consortium – Plaintiffs Robert H. Petersen, Brent Nelson, as
Conservator of the Estate of Jared Paul Nelson, an injured person, and Amy Nelson
(Negligence Against Chrysler)**

109. Paragraphs 1-108 set forth above are incorporated herein by reference.

110. At all times relevant hereto, Chrysler was and is engaged in the business of manufacturing, fabricating, designing, assembling, distributing, selling, inspecting, servicing, warranting, promoting, marketing, modifying and advertising the Dodge Van and each and every

component part thereof, which Chrysler knew, or in the exercise of reasonable care should have known, would be used without inspection for defects in its parts, mechanisms or design.

111. At all times mentioned herein, Chrysler negligently and carelessly manufactured, fabricated, designed, assembled, distributed, sold, inspected, serviced, warranted, promoted, marketed, modified and advertised the Dodge Van and each and every component part thereof, in that the Dodge Van was capable of causing and in fact did cause, personal injuries to the user and consumer thereof, while being used in a manner reasonably foreseeable, thereby rendering the same unsafe. The defects included, but are not limited to:

- (a) an unsafe center of gravity that is dangerously high and rearward in proportion to the track width and wheelbase of the vehicle;

- (b) unsafe and unreasonably dangerous handling and stability characteristics;

- (c) unsafe passenger capacity;

- (d) unsafe seatbelt design;

- (e) unsafe tires;

- (f) the Dodge Van was designed with a rear axle, suspension and tire combination that was inadequate to carry the fully rated load of the vehicle;

- (g) the Dodge Van was not properly and adequately tested to determine the vehicle's susceptibility to oversteer before the Dodge Van was placed into the stream of commerce;

- (h) the Dodge Van was not properly and adequately tested to determine the vehicle's susceptibility to roll over before the Dodge Van was placed into the stream of commerce;

- (i) adequate and proper warnings and instructions were not issued to users of the Dodge Van despite Chrysler's knowledge of:

(i) frequent complaints of “steering wander” from customer-users of such vehicles;

(ii) incidents involving loss of directional control and rollover of the vehicles, with fatal and tragic consequences for the occupants of the Dodge Van; and

(iii) the propensity of the vehicle to roll over when operated by consumers;

(j) the nature and extent of the unique handling characteristics of the Dodge Van were not determined before the Dodge Van was placed into the stream of commerce;

(k) no special training or instructions were given to consumers or users for operating the Dodge Van, despite Chrysler's knowledge of the defective and unreasonably dangerous nature of the Dodge Van;

(l) the nature and extent of the unique handling characteristics of the Dodge Van were not communicated to owners and users of such vehicles, despite Chrysler's knowledge of such characteristics;

(m) owners and users of such vehicles were not warned of the increased propensity for rollover associated with such vehicles, despite Chrysler's knowledge of such increased propensity;

(n) the safety restraint system was designed in a manner such that it failed to lock and/or restrain occupants in the event of a rollover;

(o) the Dodge Van failed to maintain its structural integrity in a rollover; and

(p) the Dodge Van was placed into the stream of commerce by Chrysler, even though the unreasonably dangerous conditions aforesaid were conditions that Chrysler knew or

should have known about and designed against, all of which caused or contributed to the injuries suffered by Robert Petersen and Jared Nelson.

112. As a direct and proximate result of the negligent and careless conduct of Chrysler in manufacturing, fabricating, designing, assembling, distributing, selling, inspecting, servicing, warranting, promoting, marketing, modifying and advertising the subject Dodge Van and each every component thereof, which contained design and manufacturing defects as aforesaid, Robert Petersen and Jared Nelson suffered serious personal injuries.

113. As a direct and proximate result of the negligent and careless conduct of Chrysler, Robert Petersen and Jared Nelson have and will continue to suffer special damages in an amount to be proven at trial.

114. As a further direct and proximate result of the negligent and careless conduct of Chrysler, Robert Petersen and Jared Nelson have and will continue to suffer general damages including pain and suffering and emotional distress, in a sum to be proven at time of trial.

115. As a further direct and proximate result of the conduct of Chrysler, Plaintiff Amy Nelson has and will suffer the loss of future contributions, personal services, companionship and consortium of her husband, Jared Nelson, all to her special and general damage in a sum to be proven at time of trial.

116. Chrysler acted with malice, oppression, and reckless disregard of the rights of others, including Plaintiffs, such that punitive damages are appropriate, and should be awarded in favor of Plaintiffs, to punish and to deter Chrysler from engaging in such conduct in the future. Chrysler acted in a conscious disregard for the rights and safety of others and committed despicable conduct by placing a concern for profits and financial well-being over the rights and safety of the intended

users of its vehicles, knowing that its conduct would result in death and severe injury. Specifically, and without limitation, prior to the production of the Dodge Van, Chrysler realized that such vans suffered from an unacceptably high risk of rollovers and loss of control, but deliberately failed to make design changes to combat this knowledge or warn consumers about the problems with its vans. The general body of information available prior to (1) the production of the Dodge Van, and (2) the accident itself confirmed that Chrysler knew about these dangerous and defective conditions; however, Chrysler chose to conceal this information and not to inform the general public or correct the defects, valuing corporate profits over safety. At all times mentioned herein, the officers, directors, and/or managing agents of Chrysler authorized or ratified the conduct described herein.

NINTH CLAIM FOR RELIEF

**Personal Injury and Loss of Consortium – Plaintiffs Robert H. Petersen, Brent Nelson, as Conservator of the Estate of Jared Paul Nelson, an injured person, and Amy Nelson
(Breach of Express and Implied Warranties Against Chrysler)**

117. Paragraphs 1-116 set forth above are incorporated herein by reference.

118. Chrysler made both express and implied warranties to Robert Petersen and Jared Nelson, which included oral and written representations regarding the qualities, characteristics and overall safety of the Dodge Van.

119. Chrysler manufactured, fabricated, designed, assembled, distributed, sold, inspected, serviced, warranted, promoted, marketed, modified and advertised the Dodge Van in the ordinary course of its business.

120. Chrysler is a merchant with respect to the Dodge Van and implied in the contract for sale of the vehicle was an implied warranty that the vehicle was fit for the ordinary purposes for which it was used at the time of the injury complained of herein.

121. Chrysler designed, manufactured, marketed, distributed, and sold the Dodge Van for the particular purpose of transporting up to 15 passengers and/or their luggage, equipment, or other possessions.

122. At the time of sale of the Dodge Van, Chrysler had reason to know the particular purpose for which the vehicle was required and to expect that it would be used for the particular purpose. Chrysler had reason to know that consumers and users relied on Chrysler's skill and judgment to select and furnish them with a vehicle that was suitable and fit for the particular purpose for which the vehicle was required.

123. Chrysler warranted that the Dodge Van was reasonably fit for the particular purpose for which the vehicle was required.

124. The Dodge Van was being used by the passengers of the Dodge Van for the ordinary and particular purposes for which the Dodge Van was designed, manufactured, marketed, distributed, and sold.

125. Chrysler breached its implied and expressed warranties, as set forth herein, resulting in an unreasonable risk of harm to the passengers of the Dodge Van, including Robert Petersen and Jared Nelson, and proximately caused the injuries complained of herein.

126. Chrysler had a duty to Robert Petersen and Jared Nelson to provide a vehicle that did not subject them to an unreasonable risk of harm when used for the ordinary and particular purposes for which the Dodge Van was designed, manufactured, marketed, distributed, and sold.

127. Robert Petersen and Jared Nelson relied to their detriment upon the implied and expressed warranties of Chrysler that the vehicle was safe and fit for its intended purposes and uses.

128. As a direct and proximate result of the breaches of the foregoing warranties, Robert Petersen and Jared Nelson have and will continue to suffer special damages in an amount to be proven at trial.

129. As a further direct and proximate result of the breaches of the foregoing warranties, Robert Petersen and Jared Nelson have and will continue to suffer general damages including pain and suffering and emotional distress, in a sum to be proven at time of trial.

130. As a further direct and proximate result of the conduct of Chrysler, Plaintiff Amy Nelson has and will suffer the loss of future contributions, personal services, companionship and consortium of her husband, Jared Nelson, all to her special and general damage in a sum to be proven at time of trial.

TENTH CLAIM FOR RELIEF

**Personal Injury and Loss of Consortium – Plaintiffs Robert H. Petersen, Brent Nelson, as
Conservator of the Estate of Jared Paul Nelson, an injured person, and Amy Nelson
(Strict Liability Against Cooper)**

131. Paragraphs 1-130 set forth above are incorporated herein by reference.

132. At all times relevant hereto, Cooper was and is engaged in the business of manufacturing, fabricating, designing, assembling, distributing, selling, inspecting, servicing, warranting, promoting, marketing, modifying and advertising the Van Tire and each and every component part thereof, which contained design and/or manufacturing defects in that the Van Tire was capable of causing and in fact did cause personal injuries to the user and consumer thereof while being used in a manner reasonably foreseeable, thereby rendering the same unsafe and dangerous for use by the consumer, user or bystander.

133. Cooper expected the Van Tire to reach the user or consumer in the condition in which it was sold and, upon information and belief, the Van Tire did reach the user or consumer in the condition in which it was sold.

134. Upon information and belief, at the time the Van Tire was placed into the stream of commerce by and left the possession of Cooper, the Van Tire was defective, and such defects were of such a nature that the defects would not be discovered in the normal course of inspection and use of the Van Tire by the users thereof. The defects included, but are not limited to:

(a) The Van Tire came apart in operation well within its expected life notwithstanding the fact that it was properly maintained and inflated, and did not have disproportionate wear compared to the other three Cooper tires that remain on the vehicle;

(b) the Van Tire was inadequate to carry the fully rated load of the vehicle;

(c) the Van Tire was not properly and adequately tested to determine its susceptibility to tread separation before the Van Tire was placed into the stream of commerce;

(d) adequate and proper warnings and instructions were not issued to users of the Van Tire despite Cooper's knowledge of its propensity for tread separation;

(e) owners and users of such tires were not warned of the increased propensity for tread separation, despite Cooper's knowledge of such increased propensity; and

(f) the Van Tire was placed into the stream of commerce by Cooper, even though the unreasonably dangerous conditions aforesaid were conditions that Cooper knew or should have known about and designed against, all of which caused or contributed to the injuries suffered by Robert Petersen and Jared Nelson.

135. Cooper knew or should have known that the Van Tire was unreasonably dangerous as a result of the defects set forth above.

136. Cooper failed to give adequate and proper warnings and instructions to users of the Van Tire regarding the danger posed by the aforementioned defects, which defects and danger would not otherwise be known to the average consumer.

137. The Van Tire was dangerous to an extent beyond that which would be contemplated by the ordinary consumer who used it with the ordinary knowledge common to the community as to its characteristics.

138. As a direct and proximate result of the conduct of Cooper in manufacturing, fabricating, designing, assembling, distributing, selling, inspecting, servicing, warranting, promoting, marketing, modifying and advertising the subject Van Tire and each every component thereof, which contained design and manufacturing defects as aforesaid, Robert Petersen and Jared Nelson suffered serious personal injuries.

139. As a direct and proximate result of the conduct of Cooper, Robert Petersen and Jared Nelson have and will continue to suffer special damages in an amount to be proven at trial.

140. As a further direct and proximate result of the conduct of Cooper, Robert Petersen and Jared Nelson have and will continue to suffer general damages including pain and suffering and emotional distress, in a sum to be proven at time of trial.

141. As a further direct and proximate result of the conduct of Chrysler, Plaintiff Amy Nelson has and will suffer the loss of future contributions, personal services, companionship and consortium of her husband, Jared Nelson, all to her special and general damage in a sum to be proven at time of trial.

142. Cooper acted with malice, oppression, and reckless disregard of the rights of others, including Plaintiffs, such that punitive damages are appropriate, and should be awarded in favor of Plaintiffs, to punish and to deter Cooper from engaging in such conduct in the future. Cooper acted in a conscious disregard for the rights and safety of others and committed despicable conduct by placing a concern for profits and financial well-being over the rights and safety of the intended users of its tires, knowing that its conduct would result in death and severe injury. Specifically, and without limitation, prior to the production of the Van Tire, Cooper realized that its tires suffered from an unacceptably high rate of tread separations, but deliberately failed to make design changes to combat this knowledge or warn consumers about the problems with its tires. The general body of information available prior to (1) the production of the Van Tire, and (2) the accident itself confirmed that Cooper knew about these dangerous and defective conditions; however, Cooper chose to conceal this information and not to inform the general public or correct the defects, valuing corporate profits over safety. At all times mentioned herein, the officers, directors, and/or managing agents of Cooper authorized or ratified the conduct described herein.

ELEVENTH CLAIM FOR RELIEF

**Personal Injury and Loss of Consortium – Plaintiffs Robert H. Petersen, Brent Nelson, as Conservator of the Estate of Jared Paul Nelson, an injured person, and Amy Nelson
(Negligence Against Cooper)**

143. Paragraphs 1-142 set forth above are incorporated herein by reference.

144. The Van Tire came apart in operation well within its expected life, was properly maintained and inflated, and did not have disproportionate wear compared to the other three Cooper tires that remain on the vehicle.

145. At all times relevant hereto, Cooper was and is engaged in the business of manufacturing, fabricating, designing, assembling, distributing, selling, inspecting, servicing, warranting, promoting, marketing, modifying and advertising the Van Tire and each and every component part thereof, which Cooper knew, or in the exercise of reasonable care should have known, would be used without inspection for defects in its parts, mechanisms or design.

146. At all times mentioned herein, Cooper negligently and carelessly manufactured, fabricated, designed, assembled, distributed, sold, inspected, serviced, warranted, promoted, marketed, modified and advertised the Van Tire and each and every component part thereof, in that the Van Tire was capable of causing and in fact did cause, personal injuries to the user and consumer thereof, while being used in a manner reasonably foreseeable, thereby rendering the same unsafe. The defects included, but are not limited to:

- (a) The Van Tire came apart in operation well within its expected life notwithstanding the fact that it was properly maintained and inflated, and did not have disproportionate wear compared to the other three Cooper tires that remain on the vehicle;
- (b) the Van Tire was inadequate to carry the fully rated load of the vehicle;
- (c) the Van Tire was not properly and adequately tested to determine its susceptibility to tread separation before the Van Tire was placed into the stream of commerce;
- (d) adequate and proper warnings and instructions were not issued to users of the Van Tire despite Cooper's knowledge of its propensity for tread separation;
- (e) owners and users of such tires were not warned of the increased propensity for tread separation, despite Cooper's knowledge of such increased propensity; and

(f) the Van Tire was placed into the stream of commerce by Cooper, even though the unreasonably dangerous conditions aforesaid were conditions that Cooper knew or should have known about and designed against, all of which caused or contributed to the injuries suffered by Robert Petersen and Jared Nelson.

147. As a direct and proximate result of the negligent and careless conduct of Cooper in manufacturing, fabricating, designing, assembling, distributing, selling, inspecting, servicing, warranting, promoting, marketing, modifying and advertising the subject Van Tire and each every component thereof, which contained design and manufacturing defects as aforesaid, Robert Petersen and Jared Nelson suffered serious personal injuries.

148. As a direct and proximate result of the negligent and careless conduct of Cooper, Robert Petersen and Jared Nelson have and will continue to suffer special damages in an amount to be proven at trial.

149. As a further direct and proximate result of the negligent and careless conduct of Cooper, Robert Petersen and Jared Nelson have and will continue to suffer general damages including pain and suffering and emotional distress, in a sum to be proven at time of trial.

150. As a further direct and proximate result of the conduct of Chrysler, Plaintiff Amy Nelson has and will suffer the loss of future contributions, personal services, companionship and consortium of her husband, Jared Nelson, all to her special and general damage in a sum to be proven at time of trial.

151. Cooper acted with malice, oppression, and reckless disregard of the rights of others, including Plaintiffs, such that punitive damages are appropriate, and should be awarded in favor of Plaintiffs, to punish and to deter Cooper from engaging in such conduct in the future. Cooper acted

in a conscious disregard for the rights and safety of others and committed despicable conduct by placing a concern for profits and financial well-being over the rights and safety of the intended users of its tires, knowing that its conduct would result in death and severe injury. Specifically, and without limitation, prior to the production of the Van Tire, Cooper realized that its tires suffered from an unacceptably high rate of tread separations, but deliberately failed to make design changes to combat this knowledge or warn consumers about the problems with its tires. The general body of information available prior to (1) the production of the Van Tire, and (2) the accident itself confirmed that Cooper knew about these dangerous and defective conditions; however, Cooper chose to conceal this information and not to inform the general public or correct the defects, valuing corporate profits over safety. At all times mentioned herein, the officers, directors, and/or managing agents of Cooper authorized or ratified the conduct described herein.

TWELFTH CLAIM FOR RELIEF

**Personal Injury and Loss of Consortium – Plaintiffs Robert H. Petersen, Brent Nelson, as
Conservator of the Estate of Jared Paul Nelson, an injured person, and Amy Nelson
(Breach of Express and Implied Warranties Against Cooper)**

152. Paragraphs 1-151 set forth above are incorporated herein by reference.

153. Cooper made both express and implied warranties to Robert Petersen and Jared Nelson, which included oral and written representations regarding the qualities, characteristics and overall safety of the Van Tire.

154. Cooper manufactured, fabricated, designed, assembled, distributed, sold, inspected, serviced, warranted, promoted, marketed, modified and advertised the Van Tire in the ordinary course of its business.

155. Cooper is a merchant with respect to the Van Tire and implied in the contract for sale of the tire was an implied warranty that the tire was fit for the ordinary purposes for which it was used at the time of the injury complained of herein.

156. Cooper designed, manufactured, marketed, distributed, and sold the Van Tire for the particular purpose of use on vehicles such as the Dodge Van.

157. At the time of sale of the Van Tire, Cooper had reason to know the particular purpose for which the tire was required and to expect that it would be used for the particular purpose. Cooper had reason to know that consumers and users relied on Cooper's skill and judgment to select and furnish them with a tire that was suitable and fit for the particular purpose for which the Van Tire was required.

158. Cooper warranted that the Van Tire was reasonably fit for the particular purpose for which the Van Tire was required.

159. The Van Tire was being used by the passengers of the Dodge Van for the ordinary and particular purposes for which the Van Tire was designed, manufactured, marketed, distributed, and sold.

160. Cooper breached its implied and expressed warranties, as set forth herein, resulting in an unreasonable risk of harm to the passengers of the Dodge Van, including Robert Petersen and Jared Nelson, and proximately caused the injuries complained of herein.

161. Cooper had a duty to Robert Petersen and Jared Nelson to provide a tire that did not subject them to an unreasonable risk of harm when used for the ordinary and particular purposes for which the Van Tire was designed, manufactured, marketed, distributed, and sold.

162. Robert Petersen and Jared Nelson relied to their detriment upon the implied and expressed warranties of Cooper that the Van Tire was safe and fit for its intended purposes and uses.

163. As a direct and proximate result of the breaches of the foregoing warranties, Robert Petersen and Jared Nelson suffered serious personal injuries.

164. As a direct and proximate result of the breaches of the foregoing warranties, Robert Petersen and Jared Nelson have and will suffer special damages in an amount to be proven at trial.

165. As a further direct and proximate result of the breaches of the foregoing warranties, Robert Petersen and Jared Nelson have and will suffer general damages including pain and suffering and emotional distress, in a sum to be proven at time of trial.

166. As a further direct and proximate result of the conduct of Chrysler, Plaintiff Amy Nelson has and will suffer the loss of future contributions, personal services, companionship and consortium of her husband, Jared Nelson, all to her special and general damage in a sum to be proven at time of trial.

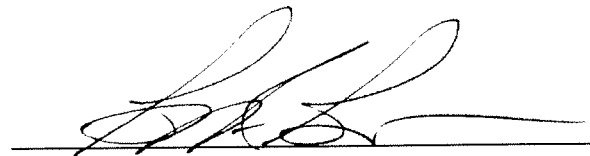
JURY DEMAND

167. Under Rule 38, Federal Rules of Civil Procedure, Plaintiffs hereby demand a trial by jury.

WHEREFORE, Plaintiffs pray for the following relief:

A. Under all Counts, for judgment against Defendants for such damages, specific, general and punitive, as are reasonable in the premises, together with attorneys' fees and the costs of this action.

DATED this 10 day of September, 2006.



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Bradley G. Wilcox
3825 South 7000 West
Rexburg, ID 83440

Kenneth F. Madsen, individually and as
Personal Representative of the Estate of
Curt A. Madsen, Deceased
1008 South 680 West
Payson, UT 84651

Connie Gunnell, individually and as
Personal Representative of the Estate of
Justin Wade Gunnell
137 East 200 North
Wellsville, UT 84339

Wayne and Jane McEntyre, individually and as
co-Personal Representatives of the Estate of
Ryan Wayne McEntyre
3596 West 1300 North, Apt. 1300
Clearfield, Utah 84015

Lyle and Dixie Bair, individually and as
co-Personal Representatives of the Estate of
Steven D. Bair
10995 Road 20 NE, Apt. A
Moses Lake, WA 98837

Scott Fuhriman, individually and as
co-Personal Representative of the Estate of
Dustin D. Fuhriman
450 East 400 South
Logan, UT 84321

Kathy Fuhriman, individually and as
co-Personal Representative of the Estate of
Dustin D. Fuhriman
547 North 100 East
Tremonton, UT 84337

Dennis and Susan Jorgensen, individually and as
the heirs of Jonathan Jorgensen
3945 N. Woodenshoe Lane
Peoa, UT 84061

Shari Jorgensen, individually and as
the heir of Jonathan Jorgensen
175 West 510 South
American Fork, UT 84003