

Cause No. DC-15-09782

Lafonda Sims

Matthew Seebachan and	§	In the District Court
Marcia Seebachan,	§	
	§	
<i>Plaintiffs,</i>	§	
	§	
vs.	§	Dallas County, Texas
	§	
JOHN EAGLE COLLISION CTR,	§	
EAGLE IMPORTS, LP A/K/A	§	
JOHN EAGLE COLLISION CENTER	§	
A/K/A JOHN EAGLE LINCOLN-	§	
MERCURY-ASTON MARTIN, L.P.,	§	
	§	
<i>Defendants.</i>	§	192 nd Judicial District

PLAINTIFFS’ FOURTH AMENDED PETITION

To the Honorable Judge of Said Court:

COME NOW, Matthew Seebachan and Marcia Seebachan (hereinafter referred to as “Plaintiffs”), and respectfully file this Fourth Amended Petition against JOHN EAGLE COLLISION CTR, EAGLE IMPORTS, LP A/K/A JOHN EAGLE COLLISION CENTER A/K/A JOHN EAGLE LINCOLN-MERCURY-ASTON MARTIN, L.P., (hereinafter referred to as “Defendants” or “John Eagle”).

In support hereof, Plaintiffs would state and show unto this Honorable Court the following:

I. Discovery Control Plan

1. Plaintiffs intend to conduct discovery under Level 3 pursuant to Rule 190.4 of the Texas Rules of Civil Procedure.

II. Parties

2. Plaintiffs Matthew Seebachan and Marcia Seebachan are husband and wife. Plaintiffs reside in and are citizens of Murphy, Texas.

3. Defendant JOHN EAGLE COLLISION CTR is a Texas based corporation at all times doing business in Texas, and service on this Defendant is not necessary as they have filed an Answer.

4. Defendant EAGLE IMPORTS, LP A/K/A JOHN EAGLE COLLISION CENTER A/K/A JOHN EAGLE LINCOLN-MERCURY-ASTON MARTIN, L.P. is a Texas based corporation at all times doing business in Texas, and service on this Defendant is not necessary as they have filed an Answer.

III. Tex. R. Civ. P. 47

5. As a general matter, Plaintiffs' counsel believes that the amount of damages to be awarded to a claimant is strictly within the province of the jury. Indeed, the jury will be reminded that it is solely up to them to award intangible damages for all applicable non-economic damages.

6. Despite all of the foregoing, and despite the many objections lodged by both the defense bar and the plaintiff bar, the rules now provide that a plaintiff must state how much money a plaintiff is seeking in a given suit. Therefore, due to the new rules put in place in 2013, and pursuant to Texas Rule of Civil Procedure 47(c)(5), Plaintiffs, through counsel, hereby state that they are seeking monetary relief of over \$1,000,000.

IV. Facts

7. On or about December 21, 2013, Matthew Seebachan was driving a 2010 Honda Fit (VIN#JHMGE8H43AC006993) traveling northbound on US 281 in Burnet County, Texas. Marcia Seebachan was the right-front passenger in the vehicle. Both Matthew and Marcia Seebachan were properly wearing their seat belts.

8. The Seebachans purchased the 2010 Honda Fit used in August of 2013, and had only had it for approximately 4 months before the accident.

9. When the Seebachans purchased the 2010 Honda Fit, it was important to them to purchase a vehicle which had no prior collisions, damage, or significant repair work.

10. At the time the vehicle was purchased, it was not disclosed to Plaintiffs that the Honda Fit had had previous repairs and body work which had been performed by Defendants John Eagle. The CarFax report which was provided to them did not contain any repair work or other damage on it.

11. While driving, the Seebachan vehicle was struck by another vehicle being driven by Jack Jordan.

12. During the accident sequence, both Matthew and Marcia Seebachan sustained serious injuries.

13. After the accident, the vehicle caught on fire, and Matthew Seebachan sustained serious burn injuries. He was trapped in the burning vehicle, and was conscious while his body burned.

14. Again, as noted earlier, prior to the subject accident, Defendant Eagle Imports, LP a/k/a John Eagle Collision Center a/k/a John Eagle Lincoln-Mercury-Aston Martin, L.P. had performed certain repairs and/or maintenance to the subject vehicle.

15. It was only after the accident had occurred that it was discovered that the vehicle had had previously repair work. Moreover, there was no way for Plaintiffs to have known because of the way the work was covered up by Defendants John Eagle. According to John Eagle, there was also no way for the dealership which sold the Seebachans the car to have known about the repair work and how it was done.

16. The 2010 Honda Fit was originally designed to provide structural and fuel system crashworthiness protection which would prevent serious injuries to occupants in this foreseeable accident.

17. However, the repairs performed by Defendant John Eagle Collision Center were defective/deficient and negligent, and the repairs altered the structural and fuel system protection of the subject vehicle.

18. The roof was defectively attached to the vehicle structure by John Eagle Collision Center. It is effectively disconnected from the structure and did not provide the necessary contribution to the overall vehicle structure. There are no welds at the flange between the roof and the cant rail.

19. The doors on the vehicle were also jammed shut. This again is the result of the defective repair performed by Defendant John Eagle. Also, the driver's door suf-

ferred a failure of the door beam, and deformation that allowed the fire to enter the occupant compartment from below.

20. The structural failures resulted in intrusion into the occupant compartment, which caused both Matthew and Marcia Seebachan to suffer their serious injuries.

21. The fuel tank was compromised in this collision due to the altered level of structural and fuel system protection caused by the negligent repairs.

22. The negligent repairs caused the vehicle's structural failures which also led to a fire.

23. The orthopedic and fire injuries were caused by the negligent repairs of the subject vehicle.

24. Again, due to the nature of the repairs and work performed, it was inherently undiscoverable to Plaintiffs what would happen in the event of an accident.

25. Accordingly, the John Eagle Defendants committed negligence.

**V. Cause(s) of Action as to Defendants John Eagle Collision Ctr,
Eagle Imports, LP A/K/A John Eagle Collision Center A/K/A
John Eagle Lincoln-Mercury-Aston Martin, L.P.**

26. Plaintiff Matthew Seebachan suffered his severe burn and other serious injuries, and Plaintiff Marcia Seebachan suffered her severe injuries, because Defendant had, prior to the accident, performed various acts and/or omissions, one or all of which constitutes negligence.

27. Defendant's negligent acts and/or omissions include, but are not necessarily limited to, one of more of the following:

- a. Defendant was negligent for failing to inform (failure to warn) Plaintiffs regarding the missing fuel tank protector and/or the work they did;
- b. Defendant was negligent in its modifications, installations, repairs, service, and/or maintenance work;
- c. Defendant was negligent in its supervision of its employees;
- d. Defendant failed to properly inspect the safety of the vehicle; and/or
- e. Defendant failed to properly inspect for, repair, and/or report safety hazards.

28. Furthermore, Defendant John Eagle is a certified body shop. Defendant John Eagle has admitted under oath that if a certified body shop does not repair the vehicle to the vehicle manufacturer's repair specifications, and then someone is seriously injured or killed because of the repair failure, that the body shop is responsible.

29. Defendant John Eagle did not repair the subject 2010 Honda Fit to Honda's repair specifications. Defendant John Eagle has admitted this.

30. Defendant is responsible for the conduct, acts, and/or omissions of its employees under the doctrine of respondeat superior.

31. The foregoing acts and/or omissions of Defendant were a producing, direct, and/or proximate cause of the burn injuries and other injuries to Plaintiff Matthew Seebachan and the injuries to Plaintiff Marcia Seebachan.

32. The foregoing acts and/or omissions of Defendant were a producing, direct, and/or proximate cause of Plaintiffs' damages.

VI. Exemplary Damages

33. Plaintiffs hereby incorporate by reference the allegations contained in the preceding paragraphs of this Petition.

34. Plaintiffs' injuries resulted from Defendant's gross negligence, malice, intentional acts, or actual fraud, which entitles Plaintiffs to exemplary damages under Texas Civil Practice & Remedies Code section 41.003(a).

35. Indeed, the repair work was done with gross negligence, malice, intent, or actual fraud.

36. Defendant has admitted that it was supposed to follow Honda's repair specifications, and that if the repair specifications were not followed, that it would be responsible for what happened. Defendant John Eagle unilaterally chose—on its own—to purposefully ignore Honda's repair specifications. Defendant John Eagle made a conscious and deliberate decision to place unsuspecting people in a vehicle that it knew or should have known could cause serious injury or harm if involved in an accident such as occurred in this case. Indeed, John Eagle knew that people could be killed or seriously injured, and deliberately chose to place the Seebachans in danger.

37. Such conduct (or lack of conduct) shows a total lack of regard for human life. It also shows a deliberate disregard by Defendants for the safety of persons who would ride in the vehicle at a later date.

VII. Damages to Plaintiffs

38. Plaintiffs seek recovery for all available damages under any applicable statute and/or common law of the state of Texas.

39. Indeed, as a producing, direct, and/or proximate result of the acts and/or omissions of Defendants, Plaintiff Matthew Seebachan has suffered damages which include, but are not limited to, the following:

- a. Physical pain and mental anguish sustained in the past;
- b. Physical pain and mental anguish that, in reasonable probability, Matthew Seebachan will sustain in the future;
- c. Loss of earning capacity sustained in the past;
- d. Loss of earning capacity that, in reasonable probability, Matthew Seebachan will sustain in the future;
- e. Disfigurement sustained in the past;
- f. Disfigurement that, in reasonable probability, Matthew Seebachan will sustain in the future;
- g. Physical impairment sustained in the past;
- h. Physical impairment that, in reasonable probability, Matthew Seebachan will sustain in the future;
- i. Medical care expenses in the past;
- j. Medical care expenses that, in reasonable probability, Matthew Seebachan will incur in the future.

40. Furthermore, as a producing, direct, and/or proximate result of the acts and/or omissions of Defendants, Plaintiff Marcia Seebachan has suffered damages which include, but are not limited to, the following:

- a. Physical pain and mental anguish sustained in the past;
- b. Physical pain and mental anguish that, in reasonable probability, Marcia Seebachan will sustain in the future;
- c. Loss of earning capacity sustained in the past;
- d. Loss of earning capacity that, in reasonable probability, Marcia Seebachan will sustain in the future;
- e. Disfigurement sustained in the past;
- f. Disfigurement that, in reasonable probability, Marcia Seebachan will sustain in the future;
- g. Physical impairment sustained in the past;
- h. Physical impairment that, in reasonable probability, Marcia Seebachan will sustain in the future;
- i. Medical care expenses in the past;
- j. Medical care expenses that, in reasonable probability, Marcia Seebachan will incur in the future.

41. Additionally, as a producing, direct, and/or proximate result of the acts and/or omissions of Defendants, Plaintiffs Matthew and Marcia Seebachan have suffered a loss of household services in the past, a loss of household services that, in reasonable probability, each will sustain in the future, a loss of consortium sustained in the past, and a loss of consortium that, in reasonable probability, each will sustain in the future.

42. Lastly, as noted above, Plaintiffs are entitled to exemplary damages for Defendants' conduct.

VIII. Intent to Use Defendants' Documents

43. In accordance with Texas Rule of Civil Procedure Rule 193.7, Plaintiffs hereby notify Defendants that any and all documents produced to Plaintiffs by Defendants in response to written discovery requests may be used at any pretrial proceeding, as well as entered into evidence at the final trial of this cause, and are considered authenticated as to producing parties by the fact of production itself.

IX. Conclusion and Prayer

44. For the reasons presented herein, Plaintiffs pray that upon a final trial of this cause, Plaintiffs recover judgment against Defendants for:

- a. actual damages;
- b. economic and non-economic damages;
- c. exemplary damages;
- d. prejudgment and post-judgment interest;
- e. costs of suit; and
- f. all other relief, general and special, to which Plaintiffs are entitled to at law and/or in equity, and/or which the Court deems proper.

