

Alicia Mata

DC-18-03659

5 CIT/ESERVE

Cause No. \_\_\_\_\_

Donald Loughran and	§	In the District Court of
Linda Loughran, Individually and as	§	
Next Friend to M.L., a minor,	§	
	§	
<i>Plaintiffs,</i>	§	
	§	
vs.	§	Dallas County, Texas
	§	
Jimmy Sanders, Jr.,	§	
Otmane Barre d/b/a	§	
Complete Auto Group,	§	
LKQ Auto Parts of North Texas, L.P.,	§	
Lorentz Automotive, Inc., and	§	
Classic K Carrollton LLC d/b/a	§	
Classic Kia of Carrollton,	§	
	§	
<i>Defendants.</i>	§	_____ Judicial District

**PLAINTIFFS’ ORIGINAL PETITION & REQUESTS FOR DISCLOSURE**

**To the Honorable Judge of Said Court:**

COME NOW, Donald Loughran and Linda Loughran, both individually and as Next Friend to M.L., a minor (hereinafter referred to as “Plaintiffs”), and respectfully file this Original Petition and Requests for Disclosure against Jimmy Sanders, Jr., Otmane Barre d/b/a Complete Auto Group, LKQ Auto Parts of North Texas, L.P., Lorenz Automotive, Inc., and Classic K Carrollton, LLC d/b/a Classic Kia of Carrollton (hereinafter referred to as “Defendants”).

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 Donald Loughran and Linda Loughran are married. They are the biological parents of Sarah Loughran, deceased, and the biological grandparents of M.L., a minor child. They reside in and are citizens of Texas.

3. Defendant Jimmy Sanders, Jr. is an individual who resides in and is a citizen of the State of Texas. Service of process upon this Defendant may be had by serving Defendant at his place of business, 14832 Venture Drive, Farmers Branch, Texas, 75234, or wherever he may be found.

4. Defendant Otmane Barre d/b/a Complete Auto Group is an individual doing business as Complete Auto Group. Service of process upon this Defendant may be had by serving Defendant at his place of business, 14832 Venture Drive, Farmers Branch, Texas, 75234, or wherever he may be found.

5. Defendant LKQ Auto Parts of North Texas, L.P. is a foreign limited partnership doing business in Texas. Service of process upon this Defendant may be had by serving its registered agent for service, Corporate Creations Network, Inc., 2425 W. Loop South #200, Houston, Texas 77027.

6. Defendant Lorentz Automotive, Inc. is a Texas corporation. Service of process upon this Defendant may be had by serving its registered agent for service, Angela Renae Lorentz, 1476 W. Jeter Road, Argyle, Texas 76226.

7. Defendant Classic K Carrollton, LLC d/b/a Classic Kia of Carrollton, is a Texas limited liability company. Service of process upon this Defendant may be had by serving its registered agent for service, Thomas Durant, 1101 West State Highway 114, Grapevine, Texas 76051.

### **III. Tex. R. Civ. P. 47**

8. 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. The damages sought by Plaintiffs in this case won't be measured by a specific dollar amount as much as they are based on the collective wisdom of a jury. Indeed, the jury will be reminded that it is solely up to them to award intangible damages for all applicable non-economic damages.

9. 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 states that Plaintiffs are seeking monetary relief of over \$1,000,000.

### **IV. Assumed and Common Names**

10. Pursuant to the Texas Rules of Civil Procedure, Plaintiffs hereby give notice that all defendants are being sued in all of their business or common names regardless of whether such businesses are partnerships, unincorporated associations, individuals, entities, or private corporations.

## V. Facts

11. On or about January 11, 2017, Sarah Loughran was driving a 2013 Kia Soul (VIN# KNDJT2A63D7537209) traveling on Beverly Drive in Highland Park, Dallas County, Texas.

12. For unknown reasons, Sarah Loughran lost control of the subject vehicle, and the vehicle ultimately struck a tree.

13. At the time of the accident, Sarah Loughran was properly seated and properly wearing the available seat belt.

14. However, despite being properly seated and properly wearing the available seat belt, Sarah Loughran sustained fatal injuries when the vehicle failed to protect her because the vehicle's airbag did not work.

15. The vehicle did not properly protect Sara Loughran because of the acts and/or omissions of one or more of the Defendants.

16. One or more of the Defendants had either failed to notice the vehicle's airbag was not working, or had installed an aftermarket replacement airbag part which did not work during the subject accident.

17. It is an imprudent and negligent act for a dealer or service repair facility to place cars on the market or back on the road if the vehicle's safety systems are not all properly functional. The Defendants either knew this and/or should have known this.

18. The negligence of one or more of the Defendants was the cause of Sara Loughran's fatal injuries and Plaintiffs' damages.

19. The negligence of one or more of the Defendants was inherently undiscoverable until an accident occurred, and Plaintiffs had no objective knowledge of any actionable conduct until after the accident. The negligence was essentially undetectable, inherently dormant, characterized by prolonged latency, and no immediate injury manifested itself to alert Plaintiffs until after the accident.

## **VI. Cause(s) of Action as to Defendants**

20. Plaintiffs' claims against the Defendants include all of what has previously been mentioned.

21. Additionally, Plaintiffs file this claim due to the negligent acts and/or omissions of one or more of the Defendants which include, but which are not necessarily limited to, one of more of the following:

- a. making representations and/or failing to inform (failure to warn) Plaintiffs regarding the vehicle;
- b. negligent in the vehicle's repair;
- c. negligent in modifications to the vehicle;
- d. negligent in supervision;
- e. negligent in quality control;
- f. negligent in maintenance;
- g. negligent in service;
- h. failing to properly inspect the safety of the vehicle;
- i. failing to properly inspect for, repair, and/or report safety hazards; and/or
- j. failing to properly inspect the safety systems on the vehicle.

22. The injuries resulted from the gross negligence, malice, and/or unconscionable conduct of one or more of the Defendants, which entitles Plaintiffs to exemplary damages under Texas Civil Practice & Remedies Code section 41.003(a).

23. The facts at trial will further prove fraud and/or deception on the part of one or more of the Defendants.

24. One or more of the Defendants engaged in an unconscionable action or course of action that took advantage of the lack of knowledge, ability, experience, or capacity to a grossly unfair degree.

25. Plaintiffs also state that the Defendants were negligent, grossly negligent, and/or violated Texas' DTPA.

26. Defendants failed to ensure that the vehicle had properly functioning safety systems and/or that it was crashworthy.

27. Defendants are responsible for the conduct, acts, and/or omissions of their employees under the doctrine of respondeat superior.

28. The injuries resulted from the gross negligence, malice, or unconscionable conduct of one or more of the Defendants, which entitles Plaintiffs to exemplary damages under Texas Civil Practice & Remedies Code section 41.003(a).

29. In the alternative and/or in addition to other counts, Defendants have violated the Deceptive Trade Practices—Consumer Protection Act and Plaintiffs seek to recover treble damages and court costs under the DTPA.

30. Plaintiffs were “consumers”.

31. The conduct, as described herein and otherwise, constituted “false, misleading, or deceptive” acts or practices. Each such act or practice was a producing cause of economic damages and damages for mental anguish to the Plaintiffs.

32. In the event the acts or practices were committed knowingly by the Defendant, Plaintiffs are also entitled to recover up to three times the amount of economic damages.

33. In the event the acts or practices were committed intentionally, Plaintiffs are entitled to recover up to three times the amount of economic damages and damages for mental anguish.

34. Plaintiffs are also entitled to recover reasonable and necessary attorneys' fees and court costs.

35. Defendants violated the DTPA when engaged in false, misleading, and/or deceptive acts or practices.

36. Defendants engaged in an unconscionable action or course of action that took advantage of the lack of knowledge, ability, experience, or capacity to a grossly unfair degree.

37. The wrongful conduct of Defendants was a producing cause of damages to Plaintiffs.

38. After materials are produced in discovery and after Defendants and others have been deposed, additional allegations may come to light, and Plaintiffs reserve the right to amend their pleadings.

## **VII. Damages to Plaintiffs**

39. As a result of the acts and/or omissions of one or more of the Defendants, Plaintiffs have suffered past and future: loss of care, maintenance, support, service, advice, counsel, reasonable contributions of a pecuniary value, loss of companionship

and society, loss of consortium, emotional distress and mental anguish as a result of the death of Sarah Loughran.

40. As a result of the acts and/or omissions of one or more of the Defendants, Plaintiffs have become obligated to pay reasonable and necessary funeral and burial expenses as a result of the fatal injuries to Sarah Loughran.

41. The above and foregoing acts and/or omissions of one or more of the Defendants, resulting in the fatal injuries to Sarah Loughran, have caused actual damages to Plaintiffs in excess of the minimum jurisdictional limits of this Court.

### **IX. Intent to Use Defendant's Documents**

42. 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.

### **X. Requests for Disclosure**

43. Under Texas Rule of Civil Procedure 194, Plaintiffs hereby request that Defendants disclose, within 50 days of the service of this request, the information or material described in Rule 194.2.

## **XI. Conclusion and Prayer**

44. For the reasons presented herein, Plaintiffs pray that Defendants be cited to appear and answer, and 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 and statutory penalty damages in excess of the minimum jurisdictional units of the Court;
- d. prejudgment and post-judgment interest at the maximum legal rate provided by law;
- e. reasonable and necessary attorneys' fees;
- f. costs of suit; and
- g. 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.

Respectfully submitted,

**The TRACY firm**

/s E. Todd Tracy

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