The Honorable Catherine Shaffer 1 ŒŒÁRWŠÁHEÁFFIK €ÁŒT 2 SOÞ ÕÁÔU WÞVŸ ÙWÚÒÜQJÜÁÔUWÜVÁÔŠÒÜS 3 ÒËØŠÒÖ. ÔŒŨŎŔĬĸŔŦĬĔŒŦĬĠIJĦŔŨŎŒ 4 IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON FOR KING COUNTY 5 6 JANYCE L. MACKENZIE, NO. 18-2-17249-7 SEA 7 Plaintiff, THIRD AMENDED COMPLAINT FOR 8 **DAMAGES** v. 9 MEINEKE CAR CARE CENTERS, LLC, a North Carolina corporation; MCCC 4333, INC. 10 d/b/a MEINEKE CAR CARE CENTER #4333, a Washington corporation 11 Defendants. 12 13 14 PLAINTIFF ALLEGES AS FOLLOWS: 15 I. **PARTIES** 16 1. Plaintiff Janyce L. MacKenzie at all times materials hereto was a resident of 17 Everett, Snohomish County, Washington. 18 2. Defendant Meineke Car Care Centers, LLC ("Meineke") is a North Carolina 19 corporation with its principal place of business located at 440 S. Church Street, Suite 700, 20 Charlotte, NC 28202. At all times material Defendant Meineke was authorized to do, and was 21 doing, business in the State of Washington, and was engaged in the business of providing auto care 22 THIRD AMENDED COMPLAINT FOR LAWRENCE KAHN LAW GROUP, PS 23 14240 Interurban Avenue, S., Suite B-132 DAMAGES -1 Tukwila, WA 98168 Tel (425) 453-5679 Fax (425) 453-5685 staff@lklegal.com

services, including, but not limited to, servicing, inspecting, maintaining, repairing and/or
replacing tires within the State of Washington, and more specifically within King County
Washington, through its franchisees and/or agents throughout the United States, including
Washington State. Defendant Meineke has an agent for service of process at National Registered
Agents, Inc., 711 Capitol Way S., Suite 204, Olympia, Washington 98501. Meineke is liable for
the acts and/or omissions of its franchisee and/or agents under the doctrine of Respondeat Superior
3. Defendant MCCC 4333, Inc. ("MCCC") is a Washington corporation with its

3. Defendant MCCC 4333, Inc. ("MCCC") is a Washington corporation with its principal place of business located at 9424 Evergreen Way, Everett, Washington 98104, and at all times material was doing business as Meineke Car Care Center #4333 and was engaged in the business of providing auto care services, including, but not limited to, servicing, inspecting, maintaining, repairing and/or replacing tires as a franchisee of Defendant Meineke.

II. JURISDICTION AND VENUE

- 4. The Superior Court of King County, State of Washington, has subject matter jurisdiction over this action pursuant to RCW 2.08.010.
 - 5. Jurisdiction is proper in the State of Washington because the cause of action as alleged herein arose out of activities (to wit, the transaction of business within this state by marketing, distributing, selling, servicing, inspecting, maintaining, and/or repairing automobiles and their parts) within the State of Washington. RCW 4.28.185.
 - 6. Venue is proper in King County pursuant to RCW 4.12.025(1) because Defendants Meineke and MCCC transact business in King County, Washington.

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1		action are related to their auto care services, including, but not limited to, servicing
2		inspecting, maintaining and/or repairing tires, were performed through their local
3		stores, distributors, retailers, suppliers, franchisees and/or agents located in
4		Washington;
5	h.	Because due process and fair play and substantial justice are honored by this civil
6		action going forward in this Washington Court;
7	i.	Because there is little or no burden on Meineke and MCCC litigating this case in
8		this Washington Court;
9	j.	Because it would be a tremendous burden and great inefficiency and unnecessary
10		delay imposed on Plaintiffs to litigate this case in another forum;
11	k.	Because Washington has an interest in overseeing this litigation which involves
12		injuries to Washington residents and tortious transactions which occurred in
13		Washington;
14	1.	Because public policy favors resolution of this dispute in this Washington Court
15		and
16	m.	Because Defendant Meineke's conduct and connection with Washington are such
17		that Defendant should reasonably anticipate being hailed into court in Washington
18		
19		III. THE PRODUCT
20	9.	The subject of this Complaint is the Cooper Tire 235/75R15, DOT 3D1T T5C 4607
21	Wild Country	Radial XTX Sport ("Subject Tire") that was mounted on the left-rear of a 1998 Force
22		
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1	Explorer (VIN # 1FMZU35P2WZC21912) ("Subject Vehicle") owned by Plaintiff Janyce
2	MacKenzie and in which Angela Kelly was a passenger at the time of the accident.
3	10. Based on the DOT number, the Subject Tire was manufactured in the 46 th week of
4	2007, making it approximately nine years old in 2016.
5	
6	IV. <u>FACTS</u>
7	11. On or about January 22, 2016, the Subject Vehicle was taken to Sears located at
8	1302 SE Everett Mall Way, Everett, Washington 98208 for maintenance. Defendant Sears
9	changed the battery of the Subject Vehicle and performed an undercar courtesy check.
10	12. On or about April 22, 2016, the Subject Vehicle was taken to Defendant MCCC,
11	Meineke's franchisee (collectively "Meineke Defendants"), located at 9424 Evergreen Way,
12	Everett, Washington 98204 for maintenance. In addition to addressing concerns with coolant
13	leaking and vehicle overheating, Meineke Defendants purported to perform a free tire inspection,
14	rotation and purportedly included a visual brake inspection.
15	13. On or about August 2, 2016, the Subject Vehicle was taken to Meineke Defendants
16	for additional maintenance. In addition to an oil change, Meineke Defendants purported to
17	perform a 23-point vehicle inspection, including a tire inspection, a tire pressure check, and a
18	visual inspection of the brakes.
19	14. On August 4, 2016, at approximately 8:50 a.m., Plaintiff Janyce MacKenzie was
20	driving the Subject Vehicle on Interstate 90 at mile marker 93.1 Eastbound outside the city limits
21	of Missoula, Montana. Angela Kelly was a passenger in the Subject Vehicle at this time.
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1 15. At that time and place, as the Subject Vehicle was travelling along the dry pavement, a tread suddenly and without warning separated from the Subject Tire, causing the 2 3 Subject Vehicle to lose control and consequently roll over numerous times at a high rate of speed. 4 As a direct and proximate result of the tread belt separation and resulting accident, Plaintiff and 5 her passenger were seriously injured. 6 7 V. FIRST CAUSE OF ACTION NEGLIGENCE AGAINST MEINEKE AND MCCC ("MEINEKE DEFENDANTS") 8 9 16. Plaintiff refers to each and every preceding paragraph and incorporates those 10 paragraphs as though set forth in full herein. 11 17. Meineke Defendants owed a duty to Plaintiff to inspect the condition of the Subject 12 Tire for defects and dangerous conditions when they assumed the inspection of the tires that 13 Defendants could have, and should have, discovered through the exercise of reasonable care, and 14 to advise Plaintiff to replace the Subject Tire and to warn of the defects and dangers that existed while operating the Subject Vehicle with a tire that contained an imminent and foreseeable 15

At the time Meineke Defendants serviced the Subject Vehicle and its components,

including the Subject Tire, they knew or should have known that the Subject Tire required

replacement because it was in a condition such that malfunction including separation of the tread

was imminent, and Defendants knew or should have known that these conditions posed an

unreasonable risk of harm to users, including Plaintiff, during ordinary and foreseeable driving

22 23 THIRD AMENDED COMPLAINT FOR DAMAGES - 6

malfunction including tread separation.

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1	maneuvers.	
2	19.	The Subject Tire was not reasonably safe to foreseeable users, including Plaintiff,
3	who used the	Subject Tire in an ordinary and foreseeable manner.
4	20.	At the time Meineke Defendants serviced the Subject Vehicle, they breached their
5	duty of care ir	n one or more of the following ways:
6	a.	Negligently inspecting or failing to inspect the Subject Tire so that the defects and
7		dangerous conditions would be discovered.
8	b.	Negligently failing to warn of the dangers and hazards of the Subject Tire of which
9		Meineke Defendants either knew or should have known existed.
10	c.	Negligently failing to recommend that the Subject Tire be replaced with a new tire.
11		;
12	d.	Negligently warning or failing to warn of the signs of malfunction including tread
13		belt separation and the consequences thereof; and
14	e.	Negligently failing to warn that the Subject Tire was an improper fitment for the
15		Subject Vehicle.
16	21.	Plaintiff's injuries were caused by the negligence of franchisor Meineke, its agents,
17	servants, and/	or employees, as follows:
18	a.	In that it failed to ensure that its franchisee possessed the requisite qualifications to
19		competently operate a Meineke franchise which offered tire inspection and
20		maintenance services.
21	b.	In that it failed to ensure that its franchisee hired mechanics with the requisite
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c. In that it failed to monitor its Meineke franchise at a time of transition from primarily muffler services to a time of offering a broader spectrum of services including tire services and to ensure that the franchise was competently equipped d. In that it failed to conduct adequate inspection of its franchisee to ensure that its e. In that it failed to ensure that its franchisee actually performed its advertised complete and competent tire inspections on all customer vehicles, including but not limited to the Subject Vehicle, even though it had actual knowledge that its franchisee was not performing complete and competent tire inspections on all The negligence of Defendants Meineke and MCCC described above directly and proximately caused the incident and catastrophic injuries sustained by Plaintiff in that it directly and in natural and continuous sequence produced or contributed substantially to Plaintiff's injuries. PROXIMATE CAUSE/DAMAGES

- As a direct and proximate result of the tortious conduct of Defendants as set forth above, Plaintiff sustained catastrophic, ongoing, and permanent injuries.
 - As a further direct and proximate result of the conduct of the Defendants as set forth

1	above, the injuries sustained by Plaintiff are painful, permanent, and disabling, and have	
2	necessitated extensive medical care in the past and will continue to require such care in the future.	
3	25. As a further direct and proximate result of their injuries, Plaintiff has sustained	
4	medical expenses, lost earnings, out of pocket expenses, and costs. With reasonable probability,	
5	Plaintiff will continue to sustain medical expenses, future life care costs and expenses, and other	
6	out-of- pocket costs and expenses as a result of their serious injuries.	
7	26. As a further direct and proximate result of their injuries, Plaintiff has suffered loss	
8	of enjoyment of life, pain and suffering, disability and disfigurement, and with reasonable	
9	probability will continue to suffer loss of enjoyment of life, pain and suffering, disability and	
10	disfigurement in the future.	
11		
12	VII. PRAYER FOR RELIEF	
13	WHEREFORE, Plaintiff demands judgment against Defendants jointly and severally as	
14	follows:	
15	1. For past and future general damages as shall be determined at the time of trial;	
16	2. For past and future special damages to be shown at the time of trial;	
17	3. For costs of suit incurred herein;	
18	4. For pre-judgment interest as provided by law; and	
19	5. For such other and further relief as the Court may deem just and proper.	
20	DATED this 17th day of July, 2020.	
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