

IN THE CIRCUIT COURT OF THE 15<sup>TH</sup>  
JUDICIAL CIRCUIT IN AND FOR  
PALM BEACH COUNTY, FLORIDA

CASE NO: 50 2012 CA0 17172 XXXX  
MB AI

BRET QUINLAN,

Plaintiff,

vs.

TOYOTA MOTOR CORPORATION, a foreign corporation; TOYOTA MOTOR SALES U.S.A., INC., a foreign corporation; TOYOTA MOTOR MANUFACTURING, KENTUCKY, INC., a foreign corporation; TOYOTA MOTOR NORTH AMERICA, INC., foreign corporation; and KING AUTOMOTIVE MANAGEMENT, LLC, f/k/a KING MOTOR CENTER OF DEERFIELD BEACH, LLC, a Florida corporation.

Defendants.

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**THIRD AMENDED COMPLAINT**

COMES NOW, the Plaintiff, Bret Quinlan, by and through his undersigned counsel, and hereby sues the Defendants Toyota Motor Corporation, a foreign corporation; Toyota Motor Sales U.S.A., Inc., a foreign corporation; Toyota Motor Manufacturing, Kentucky, Inc., a foreign corporation; Toyota Motor North America, Inc., a foreign corporation; and King Automotive Management, LLC, a Florida corporation, and states as follows:

**JURISDICTION, PARTY AND VENUE**

1. This action is for damages in excess of this Court's minimum jurisdictional limits, exclusive of costs, interest and attorneys' fees.

2. The Plaintiff, Bret Quinlan, is over eighteen years of age, a resident of Lee County, Florida, and is otherwise *sui juris*.

3. Defendant King Automotive Management, LLC, is a Florida corporation with its principal address located at 1345 South Federal Highway, Deerfield Beach, Florida 33441, and its registered agent Clay King is located at that same address. Clay King and Edward Appleby, III, are presently officers and directors of King Automotive Management, LLC. King Automotive Management, LLC, was created in 2010.

4. Defendant King Automotive Management, LLC, is the successor corporation of King Motor Center of Deerfield, LLC, because Defendant King Automotive Management, LLC, either (1) expressly or impliedly assumed the obligations of King Motor Center of Deerfield, LLC, (2) is the result of a de-facto merger with King Motor Center of Deerfield, LLC, and/or (3) is a mere continuation of the predecessor Defendant King Motor Center of Deerfield, LLC.

5. King Motor Center of Deerfield, LLC, was a Florida corporation with its principal address located at 1441 South Federal Highway, Deerfield Beach, Florida 33441, and its registered agent Edward Appleby, III, was located at 1345 South Federal Highway, Deerfield Beach, Florida 33441. Clay King and Edward Appleby, III, were officers and directors of King Motor Center of Deerfield, LLC.

6. King Motor Center of Deerfield, LLC, was administratively dissolved in 2010. When King Motor Center of Deerfield, LLC, was administratively dissolved, the State of Florida was directed to forward all correspondence concerning that matter to a representative at King Automotive Management, LLC, located at 1345 South Federal Highway, Deerfield Beach, Florida 33441.

7. King Motor Center of Deerfield, Inc. was a Florida corporation with its principal address located at 1441 South Federal Highway, Deerfield Beach, Florida 33441, and its registered agent Clay King located at 700 E. Sunrise Boulevard, Fort Lauderdale, FL 33324. Clay King and Edward Appleby, III, were directors and officers of King Motor Center of Deerfield, Inc.

8. King Motor Center of Deerfield, Inc. was converted into King Motor Center of Deerfield, LLC, by the State of Florida on or about December 17, 2007.

9. Upon information and belief, the subject 2002 Camry was purchased new from King Motor Center of Deerfield, Inc. by the Plaintiff's grandmother, Evelyn Quinlan, in 2002. At all relevant times, King Motor Center of Deerfield, Inc., was in the business of distributing automobiles to the consuming public for profit.

10. Defendant Toyota Motor Corporation has been at all relevant times a foreign corporation incorporated in the Republic of Japan. Defendant has directly, and through its wholly owned subsidiaries and/or joint ventures, carried on regular business activities in the state of Florida, and it has at all times relevant been in the business of designing, manufacturing, testing, inspecting, marketing and selling motor vehicles, including the 2002 Camry involved in the accident at issue in this lawsuit. Defendant is subject to personal jurisdiction in the state of Florida because it operates, conducts, engages in, or carries on a business or business venture in the state of Florida, has an office or agency in the state of Florida, or engages in substantial and not isolated activity within the state of Florida.

11. Defendant Toyota Motor North America, Inc. is a California Corporation with its principal office at 19001 South Western Avenue, Torrance, California 90501, and registered agent located at 1200 South Pine Island Road, Plantation, Florida 33324. Defendant is a wholly

owned subsidiary of Defendant Toyota Motor Corporation. Defendant has at all relevant times been in the business of marketing, selling, and distributing motor vehicles, including the 2002 Camry involved in this case. Defendant is subject to personal jurisdiction in the state of Florida because it operates, conducts, engages in, or carries on a business or business venture in the state of Florida, has an office or agency in the state of Florida, or engages in substantial and not isolated activity within the state of Florida.

12. Defendant Toyota Motor Sales, U.S.A., Inc. is a California Corporation with its principal office at 19001 South Western Avenue, Torrance, California 90501, and registered agent located at 1200 South Pine Island Road, Plantation, Florida 33324. Defendant is a wholly owned subsidiary of Defendant Toyota Motor Corporation. Defendant has at all relevant times been in the business of marketing, selling, and distributing motor vehicles, including the 2002 Camry involved in this case. Defendant is subject to personal jurisdiction in the state of Florida because it operates, conducts, engages in, or carries on a business or business venture in the state of Florida, has an office or agency in the state of Florida, or engages in substantial and not isolated activity within the state of Florida.

13. Defendant Toyota Motor Manufacturing, Kentucky, Inc. is a Kentucky Corporation with its principal office at 25 Atlantic Avenue, Erlanger, Kentucky 40601, and registered agent located at 306 West Main Street, Suite 512, Frankfort, KY 40601. Defendant has at all relevant times been in the business of designing, manufacturing, marketing, selling, and distributing motor vehicles, including the 2002 Camry involved in this case. Defendant is subject to personal jurisdiction in the state of Florida because it operates, conducts, engages in, or carries on a business or business venture in the state of Florida, has an office or agency in the state of Florida, or engages in substantial and not isolated activity within the state of Florida.

14. The Defendants, Toyota Motor Corporation, Toyota Manufacturing Motor, Kentucky, Inc., Toyota Motor North America, Inc., and Toyota Motor Sales, USA, Inc., are hereinafter referred collectively to as the “Toyota Defendants.”

15. The Toyota Defendants are, *inter alia*, in the business of designing, developing, manufacturing, marketing, assembling, testing, distributing, and selling motor vehicles, including the 2002 Camry which is the subject of this Complaint.

16. Plaintiff is informed and believed, and thereupon alleges, that at all times relevant and mentioned herein, Defendants, and each of them, were at all times material hereto acting within the authorized course, scope and purpose of said agency and employment and that all of said acts were subsequently performed with the knowledge, acquiescence, ratification and consent of the respective principals, and the benefits thereof accepted by said principals.

17. Venue is proper in Palm Beach County, Florida.

### **INTRODUCTION**

18. The Toyota Defendants misleadingly promised safety and trust, while at the same time purposely concealed evidence of electronic defects in its vehicles from the American Public, and hid its own knowledge of an alarming number of incidents of unintended accelerations, deaths, and injuries.

19. Despite the feasibility and availability of a “brake override system” whereby driver brake application will immediately stop any unintended acceleration (“UA”), and despite the fact that Toyota’s internal documents show that Toyota was aware that UA incidents were occurring and presented an unreasonable risk of serious injury or death, the Toyota Defendants recklessly failed to install brake overrides in its vehicles, including the 2002 Camry.

20. Even in late 2009 and early 2010 when the Toyota Defendants announced recalls involving a brake override system, the Toyota defendants purposely hid the fact that this redesign was safety-related and critical to preventing UA. Instead, the Toyota Defendants claimed that the brake override system was being added as an “extra measure of confidence” for Toyota owners.

21. While pressed to explain and implement solutions to UA, Toyota Defendants issued recalls to address alleged mechanical issues, such as defective floor mats and sticky accelerator pedals.

22. While these problems undoubtedly posed real dangers for some drivers, a far greater number of vehicles, including the 2002 Camry, were affected by the Electronic Throttle Control System (“ETCS”) design defects. Indeed, the “sticky pedal” and “floor mat” recalls have failed to adequately address the UA problem. Drivers continue to report UA incidents in vehicles that were not part of recalls. Likewise, even among vehicles that were recalled and repaired, drivers continue to report experiences of UA.

23. Since 1998, Toyota has manufactured and sold millions of vehicles (under the Toyota, Lexus, and Scion brand names) throughout the United States and worldwide that use an electronic throttle control system, including in the 2002 Camry. (“ETCS” or “ETCS-i”)

24. Vehicles with ETCS manufactured, marketed, sold, and/or distributed by Toyota and its affiliated companies suffer from the same overarching defect, in that, they are vulnerable to UA incidents, including surges, lurching, revving engines, and other instances of unintended acceleration captured as part of the thousands of complaints to NHTSA and the more than 37,900 complaints received by Toyota. Regardless of the many root causes, an effective brake-override system would serve as a fail-safe design feature to prevent and/or

minimize the risk of injury, harm, or damage to Toyota vehicle owners or their occupants from UA events.

25. In addition to the lack of an effective brake-override system, there are other defects in the Vehicles that cause and/or contribute to the overarching defect of UA, including, but not limited to, defective pedals and poorly designed floor mats, and there are design defects in Toyota vehicles that caused, contributed to, and/or failed to prevent UA events, including the following: (1) an inadequate fault detection system that is not robust enough to anticipate foreseeable unwanted outcomes, including UA; (2) the ETCS and its components are highly susceptible to malfunction caused by various electronic failures, including, but not limited to, short circuits, software glitches, and electromagnetic interference from sources outside the vehicle; and (3) there was a failure to warn consumers as to how to properly push and hold buttons or shift into neutral in order to stop UA events once the aforementioned defects had set the UA events in motion.

26. In addition, the Toyota Defendants have known that its vehicles, including the 2002 Camry, can and often will sustain “torque steer” when acceleration occurs. This is a phenomenon whereby the steering wheel will twist to one side and the vehicle will lurch to either the left or to the right. Torque Steer can be scary because it can be unpredictable, particularly for unprofessional drivers.

### **GENERAL ALLEGATIONS**

27. On July 17, 2011, Plaintiff was operating a 2002 Toyota Camry, VIN # 4T1BE32K22U115913, Northbound on State Route 551 in Orange County, Florida.

28. While driving, the Camry suddenly and without warning, began accelerating. Plaintiff, Brett Quinlan, heavily applied the brakes. The braking system of the Subject Toyota Vehicle failed to operate as intended, and Plaintiff was unable to overcome the Subject Toyota Vehicle's acceleration. As a result of the Camry's quick and unexpected acceleration, the vehicle lurched and steered to the left. As a result the vehicle struck a building structure located at 1602 North Goldenrod Road, Orange County, Florida.

29. Plaintiff suffered severe injuries in the accident, resulting in him becoming a quadriplegic.

30. At all material times, Plaintiff exercised due care and was properly using the subject vehicle for the use and in the manner for which it was designed, manufactured, and sold.

31. At all material times, Plaintiff was alert, not sleeping, and not suffering a seizure.

32. At all material times, Plaintiff was properly wearing his seatbelt.

**COUNT I**  
**NEGLIGENCE AGAINST THE TOYOTA DEFENDANTS**

33. Plaintiff reallages and incorporates the allegations in paragraphs 1 through 32 above.

34. The Toyota Defendants owed a duty of reasonable care in the design, development, testing, manufacture, assembly, marketing, and distribution of vehicle and its safety systems so as to avoid exposing the Plaintiff to unnecessary and unreasonable risks.

35. Toyota breached that duty in one or more of the following ways.

- a. By negligently failing to use due care in the manufacture, distribution, design, sale, testing, and servicing of the subject vehicle and its component parts in order to avoid the aforementioned risks to individuals;

- b. By negligently failing to provide adequate warnings of the UA problem and its propensity to cause and/or contribute to an accident;
- c. By negligently failing to incorporate within the subject vehicle and its design reasonable safeguards and protections against sudden acceleration and the consequences thereof;
- d. By negligently failing to make timely correction to the design of the subject vehicle to correct the sudden acceleration problems, including the failure to install and provide a proper brake override system;
- e. By negligently failing to adequately identify and mitigate the hazards associated with UA in accordance with good engineering practices;
- f. By negligently failing to provide adequate warnings of torque steer and its propensity to cause and/or contribute to an accident;
- g. By negligently failing to incorporate within the subject vehicle and its design reasonable safeguards and protections against torque steer and the consequences thereof;
- h. By negligently failing to make timely correction to the design of the subject vehicle to correct the torque steer problems;
- i. By negligently failing to adequately identify and mitigate the hazards associated with torque steer in accordance with good engineering practices;
- j. By designing the vehicle structure so that it was not reasonably crashworthy in a foreseeable impact and, more specifically, among other things, by designing the vehicle in such a way that it allowed the floor pan structure to lose its

integrity and become disconnected from the rockers (side structure) during a reasonably foreseeable frontal impact, which resulted in enhanced injuries;

- k. By negligently manufacturing the vehicle with inappropriate welds, thus contributing to the floor pan structure losing its integrity and becoming disconnected from the rockers (side structure) during a reasonably foreseeable frontal impact;
- l. By negligently failing to adequately test the vehicle to ensure it provided foreseeable occupants with reasonable safety in foreseeable impacts;
- m. By negligently designing the vehicle from an occupant protection/crashworthiness standpoint;
- n. By failing to adequately warn foreseeable users of the unreasonable dangerous and defective condition(s) of the vehicle despite that Toyota knew or should have known the unreasonably dangerous condition(s).
- o. By failing to disclose known problems and defects;
- p. By marketing the vehicle as a safe passenger vehicle and reasonably safe in a crash;
- q. By negligently designing the vehicle from a marketing standpoint in that the vehicle was marketed as reasonably safe for the uses for which Toyota represented it publicly;
- r. By failing to meet or exceed internal corporate guidelines;
- s. By failing to meet or reasonably exceed minimum Federal Motor Vehicle Safety Standards despite knowledge of the inadequacy of such standards;

- t. By failing to notify consumers, as required by law, that a defect exists in the vehicle that relates to public safety;
- u. By failing to recall the vehicle or alternatively retrofitting the vehicle to enhance safety;
- v. By failing to provide adequate warning and/or instructions to foreseeable users of the unreasonable, dangerous and defective condition of the vehicle despite that it knew or should have known the unreasonably, dangerous conditions; and
- w. By failing to inform the consumer, including Plaintiff, Bret Quinlan, of information that Toyota knew about the UA, torque steer, and occupant protection risks in the subject vehicle, thus depriving Plaintiff, Bret Quinlan of the right to make a conscious or free choice in light of the known risks of operating the subject vehicle.

36. As a direct and proximate result of the aforementioned negligence of the Toyota Defendants, the Plaintiff suffered permanent, catastrophic bodily injuries, including spine and spinal cord injuries resulting in Plaintiff becoming quadriplegic, and resulting pain and suffering, disability, disfigurement, mental anguish, loss of capacity for the enjoyment of life, the expense of hospitalization, medical and nursing care and treatment, loss of earnings, loss of ability to earn money, and aggravation of a previously existing condition, if any. The losses are either permanent or continuing and Plaintiff will suffer the losses in the future.

WHEREFORE, Plaintiff, Bret Quinlan demands judgment for compensatory damages, including interest on all liquidated damages, attorneys' fees pursuant to any applicable offer of judgment statute and/or rule, and taxable costs against the Toyota Defendants, and further

demands trial by jury of all issues so triable as a matter of right by jury. Further, Plaintiff reserves the right to amend this Complaint to add a claim for punitive damages pursuant to section 768.72, Florida Statutes.

**COUNT II**  
**STRICT LIABILITY AGAINST THE TOYOTA DEFENDANTS**

37. Plaintiff reallages and incorporates the allegation found in paragraphs 1 through 32 above.

38. At all material times, the Toyota Defendants designed, developed, manufactured, marketed, assembled, tested, distributed, sold, and placed in the stream of commerce the subject vehicle.

39. At all material times, the subject vehicle was unreasonably dangerous and defective because:

- a. The Defendants failed to use due care in the manufacture, distribution, design, sale, testing, and servicing of the subject vehicle and its component parts in order to avoid the aforementioned risks to an individual;
- b. The Defendants failed to provide adequate warnings of the UA problem and its propensity to cause and/or contribute to an accident;
- c. The vehicle and its design failed to incorporate within its reasonable safeguards and protections against sudden acceleration and the consequences thereof;
- d. The Defendants failed to make timely correction to the design of the subject vehicle to correct the sudden acceleration problems, including the failure to install and provide a proper brake override system;

- e. The Defendants failed to adequately identify and mitigate the hazards associated with UA in accordance with good engineering practices;
- f. The Defendants failed to provide adequate warnings of torque steer and its propensity to cause and/or contribute to an accident;
- g. The Defendants failed to incorporate in its design reasonable safeguards and protections against torque steer and the consequences thereof;
- h. The Defendants failed to make timely correction to the design of the subject vehicle to correct the torque steer problems;
- i. The Defendants failed to adequately identify and mitigate the hazards associated with torque steer in accordance with good engineering practices;
- j. The vehicle was not reasonably safe from an accident avoidance or an occupant protection standpoint by design;
- k. The vehicle's structural integrity was not reasonably safe because the vehicle's floor pan structure lost its integrity and became disconnected from the rockers (side structure) during a reasonably foreseeable frontal impact;
- l. The vehicle had inappropriate welds, thus contributing to the floor pan structure's loss of integrity and its becoming disconnected from the rockers (side structure) during a reasonably foreseeable frontal impact;
- m. Defendants failed to adequately test the vehicle to ensure the foregoing did not occur;
- n. The vehicle failed to provide reasonable protection from an occupant protection/crashworthiness standpoint;

- o. Defendants failed to adequately warn foreseeable users of the unreasonably dangerous and defective condition(s) of the vehicle despite that Toyota knew or should have known the unreasonably dangerous condition(s);
- p. Defendants failed to disclose known problems and defects;
- q. Defendants marketed the vehicle as a safe passenger vehicle;
- r. Defendants designed the vehicle from a marketing standpoint rather than from a safety standpoint;
- s. Defendants failed to meet or exceed internal corporate guidelines;
- t. Defendants failed to inform the consumer, including Plaintiff Bret Quinlan, of information that Toyota knew about the UA, torque steer, and occupant protection risks in the subject vehicle, thus depriving Plaintiff Bret Quinlan of the right to make a conscious or free choice in light of the known risks of operating the subject vehicle;
- u. Defendants failed to comply with reasonable and necessary Federal Motor Vehicle Safety Standards;
- v. Defendants failed to notify consumers, as required by law, that a defect exists in the vehicle that relates to public safety;
- w. Defendants failed to recall the vehicle or alternatively retrofit the vehicle to enhance safety.
- x. Defendants failed to provide adequate warning and/or instructions to foreseeable users of the unreasonable, dangerous, and defective condition of the vehicle despite that they knew or should have known of the unreasonably dangerous and defective condition of the vehicle;

40. These unreasonably dangerous defects were present in the vehicle when it was placed into the stream of commerce by the Toyota Defendants and the vehicle did not undergo material change or alteration up to and including the time of the aforementioned crash.

41. As a direct and proximate result of the aforementioned defects, Plaintiff suffered permanent, catastrophic bodily injuries, including spine and spinal cord injuries, resulting in Plaintiff becoming quadriplegic, and resulting pain and suffering, disability, disfigurement, mental anguish, loss of capacity for the enjoyment of life, the expense of hospitalization, medical and nursing care and treatment, loss of earnings, loss of ability to earn money, and aggravation of a previously existing condition, if any. The losses are either permanent or continuing and Plaintiff will suffer the losses in the future.

WHEREFORE, Plaintiff, Bret Quinlan demands judgment for compensatory damages, including interest on all liquidated damages, attorneys' fees pursuant to any applicable offer of judgment statute and/or rule, and taxable costs against the Toyota Defendants, and further demands trial by jury of all issues so triable as a matter of right by jury. Further, Plaintiff reserves the right to amend this Complaint to add a claim for punitive damages pursuant to section 768.72, Florida Statutes.

**COUNT III**  
**NEGLIGENCE AGAINST KING AUTOMOTIVE**

42. Plaintiff realleges and incorporates the allegations in paragraphs 1 through 32 above.

43. As the seller or distributor of a dangerous instrumentality, King Automotive had a duty to warn and protect the Plaintiff from the risk of reasonably foreseeable injuries created by reasonably foreseeable conditions of use of the vehicle, and to use reasonable care in inspecting

the vehicle prior to its sale and in warning and notifying foreseeable users, including Plaintiff, of the defective and dangerous condition of the vehicle, of which King Automotive knew or should have known.

44. King Automotive breached this duty in one or more of the following ways:
  - a. By selling or distributing the subject vehicle with actual or constructive knowledge that:
  - b. By negligently failing to use due care in the manufacture, distribution, design, sale, testing, and servicing of the subject vehicle and its component parts in order to avoid the aforementioned risks to individual;
  - c. By negligently failing to provide adequate warnings of the UA problem and its propensity to cause and/or contribute to an accident;
  - d. By negligently failing to incorporate within the subject vehicle and its design reasonable safeguards and protections against sudden acceleration and the consequences thereof;
  - e. By negligently failing to make timely correction to the design of the subject vehicle to correct the sudden acceleration problems, including the failure to install and provide a proper brake override system;
  - f. By negligently failing to adequately identify and mitigate the hazards associated with UA in accordance with good engineering practices;
  - g. By negligently failing to provide adequate warnings of torque steer and its propensity to cause and/or contribute to an accident;

- h. By negligently failing to incorporate within the subject vehicle and its design reasonable safeguards and protections against torque steer and the consequences thereof;
- i. By negligently failing to make timely correction to the design of the subject vehicle to correct the torque steer problems;
- j. By negligently failing to adequately identify and mitigate the hazards associated with torque steer in accordance with good engineering practices;
- k. By designing the vehicle structure so that it was not reasonably crashworthy in a foreseeable impact and, more specifically, among other things, by designing the vehicle in such a way that it allowed the floor pan structure to lose its integrity and become disconnected from the rockers (side structure) during a reasonably foreseeable frontal impact, which resulted in enhanced injuries;
- l. By negligently manufacturing the vehicle with inappropriate welds, thus contributing to the floor pan structure losing its integrity and becoming disconnected from the rockers (side structure) during a reasonably foreseeable frontal impact;
- m. By negligently failing to adequately test the vehicle to ensure it provided foreseeable occupants with reasonable safety in foreseeable impacts;
- n. By negligently designing the vehicle from an occupant protection/crashworthiness standpoint;
- o. By failing to adequately warn foreseeable users of the unreasonable dangerous and defective condition(s) of the vehicle despite that Toyota knew or should have known the unreasonably dangerous condition(s).

- p. By failing to disclose known problems and defects;
- q. By marketing the vehicle as a safe passenger vehicle and reasonably safe in a crash;
- r. By negligently designing the vehicle from a marketing standpoint in that the vehicle was marketed as reasonably safe for the uses for which Toyota represented it publicly;
- s. By failing to meet or exceed internal corporate guidelines;
- t. By failing to meet or reasonably exceed minimum Federal Motor Vehicle Safety Standards despite knowledge of the inadequacy of such standards;
- u. By failing to notify consumers, as required by law, that a defect exists in the vehicle that relates to public safety;
- v. By failing to recall the vehicle or alternatively retrofitting the vehicle to enhance safety;
- w. By failing to provide adequate warning and/or instructions to foreseeable users of the unreasonable, dangerous and defective condition of the vehicle despite that it knew or should have known the unreasonably, dangerous conditions; and
- x. By failing to inform the consumer and reasonably foreseeable users, including Plaintiff, Bret Quinlan, of information that Defendants knew about the UA, torque steer and occupant protection risks in the subject vehicle, thus depriving Plaintiff, Bret Quinlan of the right to make a conscious or free choice in light of the known risks of operating the subject vehicle.

45. As a direct and proximate result of the aforementioned negligence of King Automotive, Plaintiff suffered permanent, catastrophic bodily injuries, including spine and spinal cord injuries resulting in Plaintiff becoming quadriplegic, and resulting pain and suffering, disability, disfigurement, mental anguish, loss of capacity for the enjoyment of life, the expense of hospitalization, medical and nursing care and treatment, loss of earnings, loss of ability to earn money, and aggravation of a previously existing condition, if any. The losses are either permanent or continuing and Plaintiff will suffer the losses in the future.

WHEREFORE, Plaintiff, Bret Quinlan demands judgment for compensatory damages, including interest on all liquidated damages, attorneys' fees pursuant to any applicable offer of judgment statute and/or rule, and taxable costs against Defendant King Automotive, and further demands trial by jury of all issues so triable as a matter of right by jury. Further, Plaintiff reserves the right to amend this Complaint to add a claim for punitive damages pursuant to section 768.72, Florida Statutes.

**COUNT IV**  
**STRICT LIABILITY AGAINST KING AUTOMOTIVE**

46. Plaintiff reallages and incorporates the allegations in paragraphs 1 through 32 above.

47. At all times material, King Automotive sold or distributed the subject vehicle, placing it into the stream of commerce intending it would reach the consumer with no change in its condition.

48. When the subject vehicle left the custody and control of King Automotive, it was in a defective and unreasonably dangerous condition because:

- a. The Defendants failed to use due care in the manufacture, distribution, design, sale, testing, and servicing of the subject vehicle and its component parts in order to avoid the aforementioned risks to an individual;
- b. The Defendants failed to provide adequate warnings of the UA problem and its propensity to cause and/or contribute to an accident;
- c. The vehicle and its design failed to incorporate within its reasonable safeguards and protections against sudden acceleration and the consequences thereof;
- d. The Defendants failed to make timely correction to the design of the subject vehicle to correct the sudden acceleration problems, including the failure to install and provide a proper brake override system;
- e. The Defendants failed to adequately identify and mitigate the hazards associated with UA in accordance with good engineering practices;
- f. The Defendants failed to provide adequate warnings of torque steer and its propensity to cause and/or contribute to an accident;
- g. The Defendants failed to incorporate in its design reasonable safeguards and protections against torque steer and the consequences thereof;
- h. The Defendants failed to make timely correction to the design of the subject vehicle to correct the torque steer problems;
- i. The Defendants failed to adequately identify and mitigate the hazards associated with torque steer in accordance with good engineering practices;
- j. The vehicle was not reasonably safe from an accident avoidance or an occupant protection standpoint by design;

- k. The vehicle's structural integrity was not reasonably safe because the vehicle's floor pan structure lost its integrity and became disconnected from the rockers (side structure) during a reasonably foreseeable frontal impact;
- l. The vehicle had inappropriate welds, thus contributing to the floor pan structure's loss of integrity and its becoming disconnected from the rockers (side structure) during a reasonably foreseeable frontal impact;
- m. Defendants failed to adequately test the vehicle to ensure the foregoing did not occur;
- n. The vehicle failed to provide reasonable protection from an occupant protection/crashworthiness standpoint;
- o. Defendants failed to adequately warn foreseeable users of the unreasonable dangerous and defective condition(s) of the vehicle despite that King Automotive knew or should have known the unreasonably dangerous condition(s).
- p. Defendants failed to disclose known problems and defects;
- q. Defendants marketed the vehicle as a safe passenger vehicle;
- r. Defendants designed the vehicle from a marketing standpoint rather than from a safety standpoint;
- s. Defendants failed to meet or exceed internal corporate guidelines;
- t. Defendants failed to inform the consumer, including Plaintiff, Bret Quinlan, of information that Toyota Defendants and King Automotive knew about the UA, torque steer, and occupant protection risks in the subject vehicle, thus

depriving Plaintiff, Bret Quinlan, of the right to make a conscious or free choice in light of the known risks of operating the subject vehicle;

- u. Defendants failed to comply with reasonable and necessary Federal Motor Vehicle Safety Standards;
- v. Defendants failed to notify consumers, as required by law, that a defect exists in the vehicle that relates to public safety;
- w. Defendants failed to recall the vehicle or alternatively retrofit the vehicle to enhance safety; and
- x. Defendants failed to provide adequate warning and/or instructions to foreseeable users of the unreasonably dangerous and defective condition of the vehicle despite that they knew or should have known of the unreasonably dangerous and defective condition of the vehicle.

49. These unreasonably dangerous defects were present in said vehicle when it was placed into the stream of commerce by King Automotive and said vehicle did not undergo material change or alteration up to and including the time of the aforementioned incident.

50. As a direct and proximate result of the aforementioned defects, Plaintiff suffered permanent, catastrophic bodily injuries, including spine and spinal cord injuries resulting in Plaintiff becoming quadriplegic, and resulting pain and suffering, disability, disfigurement, mental anguish, loss of capacity for the enjoyment of life, the expense of hospitalization, medical and nursing care and treatment, loss of earnings, loss of ability to earn money, and aggravation of a previously existing condition, if any. The losses are either permanent or continuing and Plaintiff will suffer the losses in the future.

WHEREFORE, Plaintiff, Bret Quinlan demands judgment for compensatory damages, including interest on all liquidated damages, attorneys' fees pursuant to any applicable offer of judgment statute and/or rule, and taxable costs against Defendant, King Automotive and further demands trial by jury of all issues so triable as a matter of right by jury. Further, Plaintiff reserves the right to amend this Complaint to add a claim for punitive damages pursuant to section 768.72, Florida Statutes.

**DEMAND FOR JURY TRIAL**

Plaintiff demands a jury trial on all issues so triable as a matter of right.

Dated this 4<sup>th</sup> day of August, 2014.

Respectfully submitted,

s/Theodore J. Leopold  
THEODORE J. LEOPOLD, ESQ.  
Florida Bar No. 705608  
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Palm Beach Gardens, FL 33410  
(561) 515-1400

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing was furnished by email ~~XXXXXX~~ and U. S. Mail, this 4<sup>th</sup> day of August, 2014 to Robert J. Rudock, Esq., Arnstein & Lehr, , 200 S. Biscayne Boulevard, Suite 3600, Miami, FL 33131.

Cohen Milstein, Sellers & Toll, PLLC  
2925 PGA Boulevard, Suite 200  
Palm Beach Gardens, FL 33410  
(561) 515-1400  
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By:           s/Theodore J. Leopold            
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