

STATE OF SOUTH CAROLINA

COUNTY OF COLLETON

MANUEL SANTIZ-CRISTIAN,

Plaintiff,

v.

HILARIO RUIZ GARCIA, FORD  
MOTOR CO., AND MICHELIN NORTH  
AMERICA, INC.,

Defendants.

) IN THE COURT OF COMMON PLEAS

)  
) CIVIL ACTION NO.: 11-CP-15- 764

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**SUMMONS**

*(Jury Trial Demanded)*

*(Product Liability)*

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PATRICIA C. GRANT  
COLLETON COUNTY  
COMMON PLEAS

**TO THE DEFENDANTS ABOVE-NAMED:**

**YOU ARE HEREBY SUMMONED** and required to answer the complaint herein, a copy of which is herewith served upon you, and to serve a copy of your answer to this complaint upon the subscriber, at Peters, Murdaugh, Parker, Eltzroth, & Detrick, P.A., 101 Mulberry Street East, Post Office Box 457, Hampton, SC 29924, within thirty (30) days after service hereof, exclusive of the day of such service. If you fail to answer the complaint, judgment by default will be rendered against you for the relief demanded in the complaint.

PETERS, MURDAUGH, PARKER, ELTZROTH  
& DETRICK, P.A.

BY: Wil. Barnes

R. Alexander Murdaugh  
Ronnie L. Crosby  
William F. Barnes, III  
Post Office Box 457  
101 Mulberry Street East  
Hampton, SC 29924  
(803) 943-2111

ATTORNEYS FOR PLAINTIFF

August 25, 2011  
Hampton, South Carolina

STATE OF SOUTH CAROLINA

COUNTY OF COLLETON

MANUEL SANTIZ-CRISTIAN,

Plaintiff,

v.

HILARIO RUIZ GARCIA, FORD

MOTOR CO., MICHELIN NORTH

AMERICA, INC.,

Defendants.

IN THE COURT OF COMMON PLEAS

CIVIL ACTION NO.: 11-CP-15- 764

**COMPLAINT**

*(Jury Trial Demanded)*

*(Product Liability)*

The Plaintiff alleges:

1. The Plaintiff, Manuel Santiz-Cristian, is a citizen and resident of Chiapas, Mexico.
2. The Defendant, Hilario Ruiz Garcia ("Garcia"), is a citizen and resident of Oaxaca, Mexico. At the time of the events giving rise to this action, Defendant Garcia was the driver of the Subject Vehicle in which Plaintiff was a passenger.
3. The Defendant, Ford Motor Company ("Ford") is a foreign corporation organized, existing, and maintaining its principal place of business in a state other than South Carolina. Ford is registered with the South Carolina Secretary of State and maintains an office and agent and transacts business in South Carolina.
4. Ford manufactured a 1995 Ford Explorer bearing VIN Number 1FMDU32XXSUB02611 ("Subject Vehicle"), which it placed into the stream of commerce.
5. The Defendant, Michelin North America, Inc. ("Michelin") is a foreign corporation that maintains its principal place of business in the State of South Carolina. Michelin is engaged in the business of manufacturing and selling tires.

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PATRICIA C. GRANT  
COLLETON COUNTY  
COMMON PLEAS  
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6. Michelin manufactured and placed a Michelin LTX tire bearing DOT number B7LB EVUX 3001 ("Subject Tire") into the stream of commerce. At the time of the events giving rise to this action, the Subject Tire was installed on the right rear of the Subject Vehicle.

7. On or about November 4, 2009, the Subject Vehicle and Subject Tire were both in the same or substantially same condition as when placed into the stream of commerce by Defendants Ford and Michelin, and were being used in a manner consistent with their intended purpose.

8. On or about November 4, 2009, the Plaintiff was a passenger in the Subject Vehicle, driven by Defendant Garcia, which was traveling in a southerly direction along Interstate 95 near mile marker 47 in Colleton County, South Carolina when the tread separated from the right rear tire of the vehicle.

9. After the tread separation, Defendant Garcia failed to keep the vehicle under proper control and the vehicle left the travel portion of the highway where the vehicle began to overturn, causing Plaintiff to suffer severe and permanent injuries.

**FIRST CAUSE OF ACTION**  
**(Negligence)**

10. The damages Plaintiff sustained were due to and proximately caused by the negligent, careless, reckless, willful, and wanton conduct of the Defendants wherein they breached the duty to use due care in one or more of the following particulars:

**(AS TO HILARIO RUIZ GARCIA)**

- (a) In failing to keep his vehicle under proper control;
- (b) In traveling too fast for conditions existing at that time;
- (c) In operating a vehicle in disregard for the safety of others;
- (d) In failing to use the degree of care and caution that a reasonably prudent person would have used under the circumstances then

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and there existing;

- (e) In failing to keep a proper lookout; and
- (f) In failing to exercise due care pursuant to S.C. Code Ann § 56-5-3230.

**(AS TO DEFENDANT FORD)**

- a) In failing to implement design standards to ensure the stability and controllability of its vehicles during a tire failure;
- b) In adopting an inadequate design to ensure controllability during a tire failure;
- c) In failing to warn of the likelihood of a rollover following a tread separation and in failing to warn and instruct with regard to dangers of tire degradation;
- d) In failing to act in a reasonable and prudent manner.

**(AS TO DEFENDANT MICHELIN)**

- a) In designing, manufacturing, and selling the subject tire when it knew or should have known that it was dangerously defective because of its propensity for a tread belt separation which was inherent in the design of the tire;
- b) In failing to use a nylon overlay or cap ply in the construction of the tire to reduce the propensity for tread belt separation;
- c) In failing to use proper manufacturing and quality control techniques at its plant to ensure that tires meet applicable manufacturing standards;
- d) In failing to warn of the dangers associated with tire aging and in failing to instruct owners of its products on the proper method to determine the age of a tire; and
- e) In failing to inform tire dealers and tire service technicians of the dangers associated with tire aging.
- f) In failing to act in a reasonably prudent manner.

11. As a direct and proximate result of the aforementioned conduct, the Plaintiff suffered severe and permanent injuries from which he has suffered and will continue to suffer great physical

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pain and mental anguish, has expended, and will in the future expend, monies for medical care and treatment, and caused to lose the enjoyment of life.

12. By reason of and in consequence of the aforesaid negligence, carelessness, recklessness, willfulness, wantonness, and grossly negligent conduct of the Defendants, the Plaintiff suffered the injuries and losses complained of for which Defendants are liable.

**SECOND CAUSE OF ACTION**  
**(Breach of Warranty as to Ford and Michelin)**

13. The above allegations are repeated as if verbatim.

14. Ford and Michelin impliedly warranted that the Subject Vehicle and Subject Tire, which were defective, were of merchantable quality and was fit for use on the road.

15. The subject vehicle and subject tire were defective and unreasonably dangerous, rendering them unfit for their intended purpose.

16. Ford and Michelin's warranty breaches in the sale of the subject vehicle and subject tire in a defective condition was the proximate cause of Plaintiff's injuries.

**THIRD CAUSE OF ACTION**  
**(Strict Liability as to Ford and Michelin pursuant to S.C. Code Ann. § 15-73-10 et. seq)**

17. The above allegations are repeated as if verbatim.

18. Ford and Michelin are engaged in a business that encompasses the sale of vehicles and tires.

19. The subject vehicle and subject tire were defective and unreasonably dangerous to the Plaintiff and similarly situated consumers in the condition in which they were released for sale to the public.

20. The subject vehicle and subject tire had not been altered and were being used in a reasonably foreseeable manner at the time of the events alleged in this Complaint.

21. Ford and Michelin sold the subject vehicle and subject tire, in an unreasonably dangerous and defective condition and as a result Ford and Michelin are strictly liable, pursuant to S.C. Code Ann. § 15-73-10, to Plaintiff in an amount to be ascertained by the jury at the trial of this action.

WHEREFORE, plaintiff prays for judgment against the defendant for actual damages, together with punitive damages in an appropriate amount, for the costs of this action, and for such other and further relief as the Court may deem just and proper.

PETERS, MURDAUGH, PARKER, ELTZROTH  
& DETRICK, P.A.

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August 25, 2011  
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STATE OF SOUTH CAROLINA

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MANUEL SANTIZ-CRISTIAN

Plaintiff(s)

vs.

HILARIO RUIZ GARCIA, FORD MOTOR CO.,  
AND MICHELIN NORTH AMERICA, INC.,

Defendant(s)

IN THE COURT OF COMMON PLEAS

CIVIL ACTION COVERSHEET

11-CP-15-764

(Please Print)

Submitted By: William F. Barnes, III

Address: P.O. Box 457

Hampton, SC 29924

SC Bar #: 78220

Telephone #: (803) 943-2111

Fax #: (803) 942-2014

Other:

E-mail: wbarnes@pmped.com

NOTE: The cover sheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for the use of the Clerk of Court for the purpose of docketing. It must be filled out completely, signed, and dated. A copy of this cover sheet must be served on the defendant(s) along with the Summons and Complaint.

DOCKETING INFORMATION (Check all that apply)

\*If Action is Judgment/Settlement do not complete

- ☒ JURY TRIAL demanded in complaint. ☐ NON-JURY TRIAL demanded in complaint.  
☐ This case is subject to ARBITRATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.  
☒ This case is subject to MEDIATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.  
☐ This case is exempt from ADR. (Proof of ADR/Exemption Attached)

NATURE OF ACTION (Check One Box Below)

- |  |  |  |   |
|--|--|--|---|
| <b>Contracts</b><br><input type="checkbox"/> Constructions (100)<br><input type="checkbox"/> Debt Collection (110)<br><input type="checkbox"/> Employment (120)<br><input type="checkbox"/> General (130)<br><input type="checkbox"/> Breach of Contract (140)<br><input type="checkbox"/> Other (199) | <b>Torts - Professional Malpractice</b><br><input type="checkbox"/> Dental Malpractice (200)<br><input type="checkbox"/> Legal Malpractice (210)<br><input type="checkbox"/> Medical Malpractice (220)<br>Previous Notice of Intent Case #<br>20-CP-_____<br><input type="checkbox"/> Notice/ File Med Mal (230)<br><input type="checkbox"/> Other (299)   | <b>Torts - Personal Injury</b><br><input type="checkbox"/> Assault/Slander/Libel (300)<br><input type="checkbox"/> Conversion (310)<br><input type="checkbox"/> Motor Vehicle Accident (320)<br><input type="checkbox"/> Premises Liability (330)<br><input checked="" type="checkbox"/> Products Liability (340)<br><input type="checkbox"/> Personal Injury (350)<br><input type="checkbox"/> Wrongful Death (360)<br><input type="checkbox"/> Other (399) | <b>Real Property</b><br><input type="checkbox"/> Claim & Delivery (400)<br><input type="checkbox"/> Condemnation (410)<br><input type="checkbox"/> Foreclosure (420)<br><input type="checkbox"/> Mechanic's Lien (430)<br><input type="checkbox"/> Partition (440)<br><input type="checkbox"/> Possession (450)<br><input type="checkbox"/> Building Code Violation (460)<br><input type="checkbox"/> Other (499)   |
| <b>Inmate Petitions</b><br><input type="checkbox"/> PCR (500)<br><input type="checkbox"/> Mandamus (520)<br><input type="checkbox"/> Habeas Corpus (530)<br><input type="checkbox"/> Other (599)   | <b>Judgments/Settlements</b><br><input type="checkbox"/> Death Settlement (700)<br><input type="checkbox"/> Foreign Judgment (710)<br><input type="checkbox"/> Magistrate's Judgment (720)<br><input type="checkbox"/> Minor Settlement (730)<br><input type="checkbox"/> Transcript Judgment (740)<br><input type="checkbox"/> Lis Pendens (750)<br><input type="checkbox"/> Transfer of Structured Settlement Payment Rights Application (760)<br><input type="checkbox"/> Other (799) | <b>Administrative Law/Relief</b><br><input type="checkbox"/> Reinstate Driver's License (800)<br><input type="checkbox"/> Judicial Review (810)<br><input type="checkbox"/> Relief (820)<br><input type="checkbox"/> Permanent Injunction (830)<br><input type="checkbox"/> Forfeiture-Petition (840)<br><input type="checkbox"/> Forfeiture-Consent Order (850)<br><input type="checkbox"/> Other (899)   | <b>Appeals</b><br><input type="checkbox"/> Arbitration (900)<br><input type="checkbox"/> Magistrate-Civil (910)<br><input type="checkbox"/> Magistrate-Criminal (920)<br><input type="checkbox"/> Municipal (930)<br><input type="checkbox"/> Probate Court (940)<br><input type="checkbox"/> SCDOT (950)<br><input type="checkbox"/> Worker's Comp (960)<br><input type="checkbox"/> Zoning Board (970)<br><input type="checkbox"/> Public Service Commission (990)<br><input type="checkbox"/> Employment Security Comm (991)<br><input type="checkbox"/> Other (999) |
| <b>Special/Complex /Other</b><br><input type="checkbox"/> Environmental (600)<br><input type="checkbox"/> Automobile Arb. (610)<br><input type="checkbox"/> Medical (620)<br><input type="checkbox"/> Other (699)  | <input type="checkbox"/> Pharmaceuticals (630)<br><input type="checkbox"/> Unfair Trade Practices (640)<br><input type="checkbox"/> Out-of State Depositions (650)<br><input type="checkbox"/> Motion to Quash Subpoena in an Out-of-County Action (660)<br><input type="checkbox"/> Sexual Predator (510)   |  |   |

Submitting Party Signature:

*W. Barnes*

Date:

8/25/2011

Note: Frivolous civil proceedings may be subject to sanctions pursuant to SCRPC, Rule 11, and the South Carolina Frivolous Civil Proceedings Sanctions Act, S.C. Code Ann. §15-36-10 et. seq.