



2012.12.04 10:15



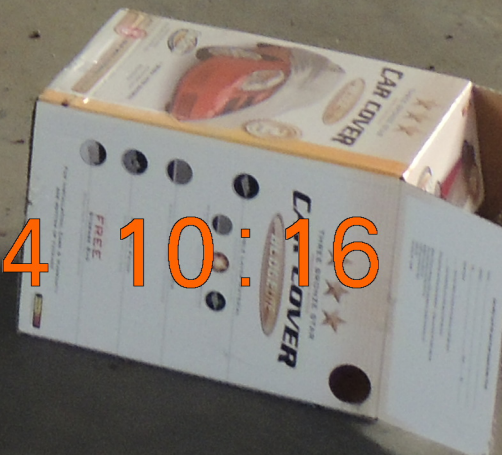
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KYU 265105
USDOT 1764344

5

2012.12.04 10:16





LE SAERRE

2012.12.04 10:16



COBALT

2012.12.04 10:16



2012.12.04 10:16



2012.12.04 10:16



2012.12.04 10:16



2012.12.04 10:17



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2012.12.04 10:24



2012.12.04 10:24



KENNETH T. CUCCINELLI, II

ATTORNEY GENERAL OF VIRGINIA

[Return to Attorney General Home Page](#)

Consumer Complaint Form



Thank you for submitting your information.

**Office of the Attorney General of Virginia
Consumer Protection Section**

[PLEASE PRINT THIS FOR YOUR RECORDS](#)

If you need to submit additional information or supporting documents for this complaint, you may send them via email to consumer@oag.state.va.us, please reference this confirmation number:

Confirmation Number 9532-2522-1112

If necessary, you may fax the information to (804) 225-4378 or mail the documents to: Office of the Attorney General of Virginia - Consumer Protection Section, 900 East Main Street, Richmond, VA 23219

If you have questions or need further assistance please email us at consumer@oag.state.va.us. You may also call us at (800) 552-9963 if calling within Virginia, or (804) 786-2042 if calling outside of Virginia.

SECTION 1 - Your Information

* Prefix Mr.	* First Name [REDACTED]	Middle Initial	* Last Name [REDACTED]	Suffix
* Mailing address [REDACTED]				Apt. or suite number
* City [REDACTED]	State [REDACTED]	Zip code [REDACTED]	Region and Country, if not U.S.	
Home phone, including area code [REDACTED]	Work phone, including area code	Fax number, including area code		
* City or county of residence Corning	Your e-mail address [REDACTED]m			
* Contact preference Email	Best time to reach you between 8AM and 5PM?			

SECTION 2 - Name of Company Against Which You Are Complaining

* Full name of company Trinity Industries	Office or suite number		
* Mailing address [REDACTED]			
* City [REDACTED]	State [REDACTED]	Zip code [REDACTED]	Region and Country, if not U.S.

If you do not know the Mailing address, please describe where the business is located.

Company's Internet address (URL)
www.trin.net

Telephone number, incl. area code
(214) 631-4420

Fax number, including area code

Other contact number, including area code

SECTION 3 - Complaint Information

* Type of product, item, or service involved

Additional Information about Product Type, etc.

Other

Highway end terminal

Manufacturer, make or brand

Model

Year

Trinity

4" ET-Plus

Serial number, Vehicle Identification Number (VIN)

Date of purchase or lease

Was this a new or used item?

Did you sign a contract or lease?

If yes, Starting date

Ending date

Total amount paid

Total amount in dispute

How was payment made?

\$

\$

Did you buy an extended service contract?

If yes, name of company responsible for extended service contract or extended warranty

For automobile complaints, indicate type of repairs or services performed (Air conditioner, brakes, oil change, transmission, etc.)

Before any work was performed, did you ask for and receive a written copy of the cost estimate?

Did you authorize any changes to the original estimate?

If yes, please provide details in section 4

Were the completed repairs different from what you had authorized?

If yes, please provide details in section 4

SECTION 4 – Full Description of Complaint



SECTION 5 – Resolution Attempts You Have Made

Have you contacted the company?

If yes, name of person most recently contacted

Their phone number, incl. area code

No

* What resolution are you seeking?

Removal of 4" ET-Plus from the roads, compensation for victims

List any other organizations you have contacted (i e., other consumer protection offices, Better Business Bureau, etc.)

Do you have an attorney in this case?

If yes, name of your attorney

Attorney's number, incl. area code

Yes

[REDACTED]

[REDACTED]

* Has your complaint been heard or is it scheduled to be heard in court?

No

* If yes, when and where?

SECTION 6 – Additional Documentation

Select the Upload File(s) button to upload pertinent documents or images

Uploaded Files

- 2012-12-04 10.17.16.jpg

- 2012-12-04 10.16.31-.jpg

Victim: Highway guardrails 'designed to save lives, not destroy them'

Posted: 11/21/2013



- By: Dave Biscobing
- By: Maria Tomasch

Guardrails and their terminal heads are designed to save lives.

But according to some lawsuits, they have become more dangerous since the guardrail head model changed in 2005. advertisement

Guardrail piercing cars

In 2010, a guardrail in Florida punctured the floorboard of a truck, slicing through the leg of the 18-year-old passenger. Two years earlier in Tennessee, a mother died when a guardrail cut straight through the front of her sport utility vehicle. And when Luke Robinson and his family moved to New York two years ago, they careened into a guardrail.

"When I started hearing what happened to these families and realizing the same thing happened to my family, I had no words. I was blown away – shocked, horrified," said Luke.

"Looking back," he continued, "and seeing my children and seeing my youngest pinned in his seatbelt upside down, he wasn't saying anything. He was just screaming."

Photos show the guardrail punctured through the wheel well and pushed through the back seat.

Two-year-old Ethan was still in his car seat, pinned by the guardrail.

"It was the most helpless I've ever felt, and the most terrified I've ever seen my children," said Luke.

Whistleblower

Josh Harman is a whistleblower.

"There's no question these heads are failing," said Harman.

He filed a lawsuit on behalf of the American public against the manufacturer of most of the guardrails on the road today, Trinity Industries.

"I want the truth out. These things are destroying families' lives," said Harman.

Harman is Trinity's competition. During a patent dispute, he noticed the guardrail terminal heads were no longer working how they should. The newer models were smaller.

"I have been in the business 25 years, and I have never seen anything like this," he said.

Ted Leopold, an attorney in Florida, is representing several people in a different lawsuit against Trinity Industries.

"What is out on the roadway is defective," he said. "On a grand scale, it's massive."

In the lawsuit, Leopold also claims Trinity changed the design of its guardrail heads and the newer models aren't working like they should.

"Something had to go awry. This is not a normal way a guardrail is supposed to function."

The safety issue

These guardrails are all across the world, including 60 countries and all 50 states.

This is how they are supposed to work:

In the older model, the feeder chute was five inches wide and more than 15 inches high. The exit chute is one-and-a-half inches.

Upon impact, the railing should thread through the terminal head and pigtail out the side away from the car.

We checked guardrails across the Valley and found the majority are smaller, newer heads.

It's easy to check because the smaller ones are only four inches wide, not five.

Harman said with the smaller terminal head, the railing either gets stuck behind the head or acts like a projectile shooting through the car and its passengers inside.

"These changes are resulting in fatalities, injuries," said Harman, "a guardrail is not supposed to cut a person in half."

Government cover-up?

In a deposition from Harman's patent lawsuit, officials from the Federal Highway Administration (FHWA) claim they did not know about the changes to the guardrail until long after they were already lining roadways across the country.

The attorney who is off-camera asked, "Have they told you anything about the height of the feeder channel?" and the official responded, "No sir, we did not cover that topic."

According to Harman, that is a problem because federal rules also require guardrail makers to report any changes to the FHWA.

The official also said many factors contribute to the effectiveness.

The ABC15 Investigators obtained a draft letter where the same FHWA official questioned Trinity about the changes.

He wrote, "...the number of highway crashes with fatal injuries" involving the new design, "does not match the excellent history of the original" design.

But that letter was never sent.

And after meeting with Trinity executives, the feds sent an email allowing the changes.

"We believe there has been a very large cover-up," said Leopold. "And the government has failed to step in and stop it."

Trinity response

Trinity executives declined repeated requests for interviews, but sent this response to our sister Scripps station in West Palm Beach, Florida:

Trinity Highway Products Statement:

Trinity has a high degree of confidence in the performance and integrity of the ET-Plus® System, which we are proud to manufacture and sell under license from Texas A&M University. The false and misleading allegations being made were reviewed by the Federal Highway Administration (FHWA). The FHWA re-affirmed its acceptance of the ET-Plus® System in October 2012 and its eligibility for use on the National Highway System.

A lawsuit was brought by Trinity and Texas A&M for infringement of the patents covering the ET-Plus® System. During this patent lawsuit, Mr. Harman filed his own lawsuit against Trinity based on allegations of "false claims" associated with the ET-Plus® System. The U.S. Government reviewed his "false claim" allegations and declined to participate in the lawsuit. Trinity is defending itself against the individual making these allegations in court and

is taking the steps necessary to fully protect the intellectual property of Texas A&M and the outstanding reputation of Trinity Highway Products and the ET-Plus® System.

“I believe these changes were made for the purpose so they can sell more heads,” said Harman.

To date, the FHWA does not have a formal approval letter with diagrams for the newer ET Plus guardrail.

FHWA Statement:

"When the ET-Plus guardrail was tested in 2005, the end terminal with the four-inch feeder channels met all crash test safety standards, and FHWA has received no complaints from states over the past seven years during which the guardrail has been used nationwide. Only in early 2012 did a competitor of the company that manufactures the device reach out to FHWA and other organizations to allege performance issues.

"There are a several lawsuits in a number of courts and States that are part of an ongoing business dispute between the manufacturer of the ET-Plus guardrail and the competitor that contacted FHWA alleging performance issues. FHWA is not party to any of the claims between these business competitors."

The whistleblower lawsuit is going forward led by a prestigious national law firm. The Department of Justice has not joined the suit, but is monitoring it.

“It's senseless. The things I've seen are senseless. It's like you can see it clearly in front of you, but everyone else has chosen to turn away,” said Harman.

Ethan's recovery

Ethan's had two years to recover from the accident.

His father said he broke his pelvis in two places and had head trauma.

Today, he is running around like most 4-year-olds.

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Items

1,247 -

Size:

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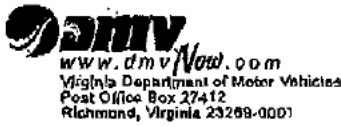
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Settings ([Global](#) :: [I81_VA_NB_MM_104_MEDIAN_4_INCH](#))

Photographs of Scene and terminal available at:

<http://www.make-a-way.phrop.com/album/14036>



INFORMATION REQUEST

D. WALKER
OCT 15 2013

OCT 15 2013

DMS/CR

Purpose: Use this form to request information from DMV records.

Instructions: Type or print clearly.

REQUESTER FULL NAME (last, first, mi, suffix) <i>B. Lawrence, Steven R.</i>		FEDERAL TAX ID OR SOCIAL SECURITY NUMBER [REDACTED]	
ORGANIZATIONAL AFFILIATION (if any) <i>The Lawrence Law Firm</i>	TELEPHONE NUMBER <i>512-565-5544</i>	USE AGREEMENT NUMBER (if applicable)	
STREET ADDRESS <i>700 Lavaca St, Suite 1400</i>		ACCESS CODE (if applicable)	
CITY <i>Austin, TX</i>	STATE <i>TX</i>	ZIP CODE <i>78701</i>	
REASON FOR REQUEST (be specific) <i>I represent Mr. Robinson and his family in the accident.</i>			

If you are requesting driving record information, the subject will be the person you are requesting information on. If you are requesting vehicle information, the subject will be the vehicle owner (if available), otherwise you do not need to complete this section.

SUBJECT FULL NAME (last, first, mi, suffix) CHECK TO INDICATE SUBJECT NAME AND ADDRESS IS THE SAME AS THE REQUESTER ABOVE.

STREET ADDRESS

CITY STATE ZIP CODE

Check one or more boxes below to indicate the type of information you wish to receive. All data fields must be completed for Driving Record Information, Vehicle Information and Decedent Photo Requests. For Police Crash Reports provide as much information as possible.

DRIVING RECORD INFORMATION (Includes license history and conviction data) (complete SUBJECT INFORMATION above)

SUBJECT DRIVER LICENSE NUMBER _____ or SUBJECT BIRTH DATE (mm/dd/yyyy) _____

An authorization from the subject is required for employers and others not authorized by Virginia code. I authorize the Department of Motor Vehicles to furnish, for this one time only, information pertaining to my driving record to the requester identified above.

SUBJECT SIGNATURE _____ DATE (mm/dd/yyyy) _____

VEHICLE INFORMATION (Includes vehicle description and registration data) (complete SUBJECT INFORMATION above)

VEHICLE IDENTIFICATION NUMBER (VIN) _____ VEHICLE MAKE _____ VEHICLE YEAR _____

POLICE CRASH REPORT

Check one or more boxes to indicate your involvement in the crash:

I was a DRIVER I was a PASSENGER I am a VEHICLE-OWNER I am the OWNER of property involved in the accident

I legally REPRESENT an involved person I was injured OTHER (explain) _____

I was NOT involved in the accident AND I do not legally represent an involved person

I am an authorized representative of any insurance carrier reasonably anticipating exposure to civil liability as a consequence of the accident or to which the person has applied for issuance or renewal of a policy of automobile insurance

IMPORTANT NOTE: The Department may only release a full accident report to a person involved in the accident, or their legal or personal representative, in accordance with Virginia Code § 46.2-380. All other requesters are entitled to receive only the name and addresses of the drivers, the owners of the vehicles involved, the injured persons, the witnesses, and one investigating officer, in accordance with Virginia Code § 46.2-379.

INFORMATION REQUESTED (continued)

DECEDENT PHOTO REQUEST (requester may need to provide proof of death, i.e. copy of death certificate, executor papers, etc.)

DECEDENT FULL NAME (last, first, mi, suffix)

DECEDENT DMV CUSTOMER NUMBER

DECEDENT BIRTH DATE (mm/dd/yyyy)

Requester's relationship to decedent (check one):

Spouse

Executor

Child

Administrator

CERTIFICATION

I understand that it is unlawful to use information provided by DMV for any purpose other than the one stated. I certify that the information I have requested with this form will be used only for the stated purpose.

I further certify and affirm that all information presented in this form is true and correct, that any documents I have presented to DMV are genuine, and that the information included in all supporting documentation is true and accurate. I make this certification and affirmation under penalty of perjury and I understand that knowingly making a false statement or representation on this form is a criminal violation.

I agree that the information I obtain in response to my request is considered privileged and confidential. I agree that such information is subject to the restrictions upon use and dissemination imposed by (1) the Federal Drivers Privacy Protection Act (18 USC § 2721 et seq.), (2) the Government Data Collection and Dissemination Practices Act (Va. Code § 2.2-3800 et seq.), (3) the provisions of Va. Code §§ 46.2-208 through 210, 46.2-212, and 50.1-3, and (4) any successor rules, regulations, or guidelines adopted by DMV with regard to disclosure or dissemination of any information obtained from DMV records or files, and I agree to comply with such restrictions and understand that any violation may result in damages, civil penalties, criminal penalties or other relief permitted pursuant to Virginia law.

REQUESTER SIGNATURE

DATE (mm/dd/yyyy)

10/11/2013

OTHER INFORMATION (Be specific)

DMV CUSTOMER SERVICE CENTER

Proof of requester's identification

Valid Driver's License Number

2097153
126 5 5 13
SP 43-24-13

Other Photo Identification

If referred to Headquarters to fill Request, Complete

CSR Name

CSC Name and CSC number

Request on Organization's behalf

Request on Organization's behalf

Request on behalf of another person

Law Enforcement Badge Number

Other

Remarks/CSR Stamp

Fee Charged

\$0.00

ABN-687



Police Crash Report

Revised Report

CRASH

Crash Date 02/13/2012 Day of Week Monday City of Town of

MILITARY Time (24 hr clock) 10:50 County of Crash PULASKI COUNTY Landmarks at Scene

GPS Lat. 37.087382 GPS Long. -80.605161 Official DMV Use 120455066

Location of Crash (route/street) I-81

Railroad Crossing ID no. (if within 150 ft.)

Local Case Number DIV412009624

At Intersection With or 0.30 Miles Feet

Location of Crash (route/street) of ROUTE 799

Mile Marker Number 103601 Number of Vehicles

VEHICLE # 1

VEHICLE #

DRIVER

Driver's Name (Last, First, Middle)

Driver Fled Scene

Gender

DRIVER

Driver's Name (Last, First, Middle)

Driver Fled Scene

Gender

Address (Street and Number) 611 PHEASANT AVE

Address (Street and Number)

City LONGWOOD

City

State ZIP

Birth Date Drivers License Number

State ZIP FL 32750

Birth Date Drivers License Number State DL CDL

Safety Equip. Used Air Bag Ejected Date of Death

Injury Type EMS Transport

Safety Equip. Used Air Bag Ejected Date of Death Injury Type EMS Transport

Summons Issued As Result of Crash 1 Offenses Charged to Driver 46.2-852

Summons Issued As Result of Crash Offenses Charged to Driver

VEHICLE

Vehicle Owner's Name (Last, First, Middle)

Same as Driver

VEHICLE

Vehicle Owner's Name (Last, First, Middle)

Same as Driver

Address (Street and Number)

Address (Street and Number)

City

City

State ZIP

Vehicle Year Vehicle Make Vehicle Model 2001 Buick LeSabre

Vehicle Year Vehicle Make Vehicle Model Disabled CMV Towed

Vehicle Plate Number

State Approximate Repair Cost FL 6000

Vehicle Plate Number State Approximate Repair Cost

VIN

VIN

Oversize

Name of Insurance Company (not agent) GMAC

Name of Insurance Company (not agent)

Override

Speed Before Crash 70 Speed Limit 70 Maximum Safe Speed 70 ALL Passengers Age Count Under 8 3 Over 21 1

Speed Before Crash 70 Speed Limit 70 Maximum Safe Speed 70 ALL Passengers Age Count Under 8 3 Over 21 1

PASSENGER (only if injured or killed)

Name of Injured (Last, First, Middle)

EMS Transport Date of Death

PASSENGER (only if injured or killed)

Name of Injured (Last, First, Middle)

EMS Transport Date of Death

Position In/On Vehicle 3 Safety Equip Used 3 Airbag 1 Ejected 1 Injury Type 4 Birthdate Gender

Position In/On Vehicle Safety Equip Used Airbag Ejected Injury Type Birthdate Gender

Name of Injured (Last, First, Middle)

EMS Transport Date of Death

Name of Injured (Last, First, Middle)

EMS Transport Date of Death

ROBINSIN, ETAN

Position In/On Vehicle 5 Safety Equip Used 3 Airbag 3 Ejected 1 Injury Type 4 Birthdate Gender

Position In/On Vehicle Safety Equip Used Airbag Ejected Injury Type Birthdate Gender

Name of Injured (Last, First, Middle)

EMS Transport Date of Death

Name of Injured (Last, First, Middle)

EMS Transport Date of Death

Position In/On Vehicle Safety Equip Used Airbag Ejected Injury Type Birthdate Gender

Position In/On Vehicle Safety Equip Used Airbag Ejected Injury Type Birthdate Gender

Codes

POSITION IN/ON VEHICLE

SAFETY EQUIPMENT USED

AIRBAG

EJECTED FROM VEHICLE

INJURY TYPE

- Codes: 1, 2, 3, 4, 5, 6, 7, 8. POSITION IN/ON VEHICLE: 1. Driver, 2-6. Passengers, 7. Cargo Area, 8. Riding/Hanging On Outside, 9-9B. All Other Passengers. SAFETY EQUIPMENT USED: 1. Lap Belt Only, 2. Shoulder Belt Only, 3. Lap and Shoulder Belt, 4. Child Restraint, 5. Helmet, 6. Other, 7. Booster Seat, 8. No Restraint Used, 9. Not Applicable. AIRBAG: 1. Deployed - Front, 2. Not Deployed, 3. Unavailable/Not Applicable, 4. Keyed Off, 5. Unknown, 6. Deployed - Side, 7. Deployed - Other (Knee, Air Belt, etc.), 8. Deployed - Combination. EJECTED FROM VEHICLE: 1. Not Ejected, 2. Partially Ejected, 3. Totally Ejected. INJURY TYPE: 1. Dead, 2. Serious Injury, 3. Minor/Possible Injury, 4. No Apparent Injury, 6. No Injury (driver only). SUMMONS ISSUED AS A RESULT OF CRASH: 1. Yes, 2. No, 3. Pending.

Investigating Officer

Badge/Code Number

Agency/Department Name and Code

Reviewing Officer

Report File Date

ROBERT CHURCH

6459

VIRGINIA STATE POLICE/ 156

Dirksen Compton

02/13/2012



Revised Report

Police Crash Report

CRASH

Crash Date: 02/13/2012 10:50 MILITARY Time (24 hr clock) County of Crash: PULASKI COUNTY City of Town of: Local Case Number: DIV412009624

DRIVER INFORMATION

- Driver's Action P1
1. No Improper Action
2. Exceeded Speed Limit
3. Exceeded Safe Speed But Not Speed Limit
...
Condition of Driver P2 Contributing to the Crash
1. No Defects
2. Eyesight Defective
...
Drug Use P7
1. Yes
2. No
3. Unknown

VEHICLE INFORMATION

- Driver Vision Obscured P3
1. Not Obscured
2. Rain, Snow, etc. on Windshield
...
Type of Driver Distractions P4
1. Looking at Roadside Incident
2. Driver Fatigue
...
Drinking P5
1. Had Not Been Drinking
2. Drinking - Obviously Drunk
...
Method of Alcohol P6 Determination (by police)
1. Blood
2. Breath
...
Vehicle Maneuver V1
1. Going Straight Ahead
2. Making Right Turn
...
Skidding Tire/Mark V2
1. Before Application of Brakes
2. After Application of Brakes
...
Vehicle Body Type V3
1. Passenger car
2. Truck - Pick-up/Passenger Truck
...
Vehicle Damage V4
1. Unknown
2. No damage
...
Vehicle Condition V5
1. No Defects
2. Lights Defective
...
Special Function V6 Motor Vehicle
1. No Special Function
2. Taxi
...
EMV in service V7
1. Yes
2. No
...
Truck Cover V8
1. Yes
2. No



Revised Report
CRASH

Police Crash Report

Crash Date 02/13/2012 MILITARY Time (24 hr clock) 10:50 County of Crash PULASKI COUNTY City of Town of Local Case Number DIV412009624

CRASH INFORMATION

Location of First Harmful Event in Relation to Roadway C1 <input checked="" type="checkbox"/> 1. On Roadway <input type="checkbox"/> 2. Shoulder <input type="checkbox"/> 3. Median <input type="checkbox"/> 4. Roadside <input type="checkbox"/> 5. Gore <input type="checkbox"/> 6. Separator <input type="checkbox"/> 7. In Parking Lane or Zone <input type="checkbox"/> 8. Off Roadway, Location Unknown <input type="checkbox"/> 9. Outside Right-of-Way	Traffic Control Type C5 <input type="checkbox"/> 1. No Traffic Control <input type="checkbox"/> 2. Officer or Flagger <input type="checkbox"/> 3. Traffic Signal <input type="checkbox"/> 4. Stop Sign <input type="checkbox"/> 5. Slow or Warning Sign <input checked="" type="checkbox"/> 6. Traffic Lanes Marked <input type="checkbox"/> 7. No Passing Lines <input type="checkbox"/> 8. Yield Sign <input type="checkbox"/> 9. One Way Road or Street <input type="checkbox"/> 10. Railroad Crossing With Markings and Signs <input type="checkbox"/> 11. Railroad Crossing With Signals <input type="checkbox"/> 12. Railroad Crossing With Gate and Signals <input type="checkbox"/> 13. Other <input type="checkbox"/> 14. Pedestrian Crosswalk <input type="checkbox"/> 15. Reduced Speed - School Zone <input type="checkbox"/> 16. Reduced Speed - Work Zone <input type="checkbox"/> 17. Highway Safety Corridor	Roadway Description C9 <input type="checkbox"/> 1. Two-Way, Not Divided <input type="checkbox"/> 2. Two-Way, Divided, Unprotected Median <input checked="" type="checkbox"/> 3. Two-Way, Divided, Positive Median Barrier <input type="checkbox"/> 4. One-Way, Not Divided <input type="checkbox"/> 5. Unknown Roadway Defects C10 <input checked="" type="checkbox"/> 1. No Defects <input type="checkbox"/> 2. Holes, Ruts, Bumps <input type="checkbox"/> 3. Soft or Low Shoulder <input type="checkbox"/> 4. Under Repair <input type="checkbox"/> 5. Loose Material <input type="checkbox"/> 6. Restricted Width <input type="checkbox"/> 7. Slick Pavement <input type="checkbox"/> 8. Roadway Obstructed <input type="checkbox"/> 9. Other <input type="checkbox"/> 10. Edge Pavement Drop Off	Intersection Type C12 <input checked="" type="checkbox"/> 1. Not at Intersection <input type="checkbox"/> 2. Two Approaches <input type="checkbox"/> 3. Three Approaches <input type="checkbox"/> 4. Four Approaches <input type="checkbox"/> 5. Five-Point, or more <input type="checkbox"/> 6. Roundabout Work Zone C13 <input type="checkbox"/> 1. Yes <input checked="" type="checkbox"/> 2. No Work Zone Workers Present C14 <input type="checkbox"/> 1. With Law Enforcement <input type="checkbox"/> 2. With No Law Enforcement <input type="checkbox"/> 3. No Workers Present Work Zone Location C15 <input type="checkbox"/> 1. Advance Warning Area <input type="checkbox"/> 2. Transition Area <input type="checkbox"/> 3. Activity Area <input type="checkbox"/> 4. Termination Area
Weather Condition C2 <input checked="" type="checkbox"/> 1. No Adverse Condition (Clear/Cloudy) <input type="checkbox"/> 3. Fog <input type="checkbox"/> 4. Mist <input type="checkbox"/> 5. Rain <input type="checkbox"/> 6. Snow <input type="checkbox"/> 7. Sleet/Hail <input type="checkbox"/> 8. Smoke/Dust <input type="checkbox"/> 9. Other <input type="checkbox"/> 10. Blowing Sand, Soil, Dirt, or Snow <input type="checkbox"/> 11. Severe Crosswinds	Roadway Alignment C6 <input checked="" type="checkbox"/> 1. Straight - Level <input type="checkbox"/> 2. Curve - Level <input type="checkbox"/> 3. Grade - Straight <input type="checkbox"/> 4. Grade - Curve <input type="checkbox"/> 5. Hillcrest - Straight <input type="checkbox"/> 6. Hillcrest - Curve <input type="checkbox"/> 7. Dip - Straight <input type="checkbox"/> 8. Dip - Curve <input type="checkbox"/> 9. Other <input type="checkbox"/> 10. On/Off Ramp	Relation to Roadway Interchange Area: C11 <input type="checkbox"/> 1. Main-Line Roadway <input type="checkbox"/> 2. Acceleration/Deceleration Lanes <input type="checkbox"/> 3. Gore Area (Between Ramp and Highway Edgelines) <input type="checkbox"/> 4. Collector/Distributor Road <input type="checkbox"/> 5. On Entrance/Exit Ramp <input type="checkbox"/> 6. Intersection at end of Ramp <input type="checkbox"/> 7. Other location not listed above within an interchange area (median, shoulder and roadside)	Work Zone Type C16 <input type="checkbox"/> 1. Lane Closure <input type="checkbox"/> 2. Lane Shift/Crossover <input type="checkbox"/> 3. Work on Shoulder or Median <input type="checkbox"/> 4. Intermittent or Moving Work <input type="checkbox"/> 5. Other
Light Conditions C3 <input checked="" type="checkbox"/> 1. Dawn <input type="checkbox"/> 2. Daylight <input type="checkbox"/> 3. Dusk <input type="checkbox"/> 4. Darkness - Road Lighted <input type="checkbox"/> 5. Darkness - Road Not Lighted <input type="checkbox"/> 6. Darkness - Unknown Road Lighting <input type="checkbox"/> 7. Unknown	Roadway Surface Condition C7 <input checked="" type="checkbox"/> 1. Dry <input type="checkbox"/> 2. Wet <input type="checkbox"/> 3. Snowy <input type="checkbox"/> 4. Icy <input type="checkbox"/> 5. Muddy <input type="checkbox"/> 6. Oil/Other Fluids <input type="checkbox"/> 7. Other <input type="checkbox"/> 8. Natural Debris <input type="checkbox"/> 9. Water (Standing, Moving) <input type="checkbox"/> 10. Slush <input type="checkbox"/> 11. Sand, Dirt, Gravel	Intersection Area: <input checked="" type="checkbox"/> 8. Non-Intersection <input type="checkbox"/> 9. Within Intersection <input type="checkbox"/> 10. Intersection-Related - Within 150' <input type="checkbox"/> 11. Intersection-Related - Outside 150' Other Location: <input type="checkbox"/> 12. Crossover Related <input type="checkbox"/> 13. Driveway, Alley-Access - Related <input type="checkbox"/> 14. Railway Grade Crossing <input type="checkbox"/> 15. Other Crossing (Crossings for Bikes, School, etc.)	School Zone C17 <input type="checkbox"/> 1. Yes <input type="checkbox"/> 2. Yes - With School Activity <input checked="" type="checkbox"/> 3. No Type of Collision C18 <input type="checkbox"/> 1. Rear End <input type="checkbox"/> 2. Angle <input type="checkbox"/> 3. Head On <input type="checkbox"/> 4. Sideswipe - Same Direction <input type="checkbox"/> 5. Sideswipe - Opposite Direction <input type="checkbox"/> 6. Fixed Object in Road <input type="checkbox"/> 7. Train <input type="checkbox"/> 8. Non-Collision <input checked="" type="checkbox"/> 9. Fixed Object - Off Road <input type="checkbox"/> 10. Deer <input type="checkbox"/> 11. Other Animal <input type="checkbox"/> 12. Pedestrian <input type="checkbox"/> 13. Bicyclist <input type="checkbox"/> 14. Motorcyclist <input type="checkbox"/> 15. Backed Into <input type="checkbox"/> 16. Other
Traffic Control Device C4 <input checked="" type="checkbox"/> 1. Yes - Working <input type="checkbox"/> 2. Yes - Working and Obscured <input type="checkbox"/> 3. Yes - Not Working <input type="checkbox"/> 4. Yes - Not Working and Obscured <input type="checkbox"/> 5. Yes - Missing <input type="checkbox"/> 6. No Traffic Control Device Present	Roadway Surface Type C8 <input checked="" type="checkbox"/> 1. Concrete <input checked="" type="checkbox"/> 2. Blacktop, Asphalt, Bituminous <input type="checkbox"/> 3. Brick or Block <input type="checkbox"/> 4. Slag, Gravel, Stone <input type="checkbox"/> 5. Dirt <input type="checkbox"/> 6. Other		



Revised Report

Police Crash Report

CRASH

Crash Date 02/13/2012 MILITARY Time (24 hr clock) 10:50 County of Crash PULASKI COUNTY City of Town of Local Case Number DIV412009624

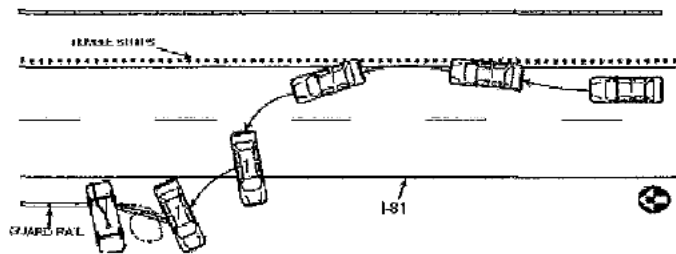
CRASH DIAGRAM

VEHICLE # 1
 Fill In Impact Area(s).
 Initial Impact. 10

11	✓		✓	1
10	✓		✓	2
9	✓	13	✓	3
8	✓		✓	4
7	✓		✓	5
		6		

N

Veh Dir of Travel—N/S/E/W



VEHICLE #
 Fill In Impact Area(s).
 Initial Impact.

		12		
11				1
10				2
9	13			3
8				4
7				5
		6		

Veh Dir of Travel—N/S/E/W

VEHICLE #
 Fill In Impact Area(s).
 Initial Impact.

		12		
11				1
10				2
9	13			3
8				4
7				5
		6		

Veh Dir of Travel—N/S/E/W

VEHICLE #
 Fill In Impact Area(s).
 Initial Impact.

		12		
11				1
10				2
9	13			3
8				4
7				5
		6		

Veh Dir of Travel—N/S/E/W

DAMAGE TO PROPERTY OTHER THAN VEHICLES

Approx. Repair Cost 3500 Object Struck (Tree, Fence, etc.) GUARD RAIL Property Owners Name (Last, First, Middle) VDOT Address (Street and Number) 1401 BROAD STREET RICHMOND VA VDOT Property

CRASH DESCRIPTION

DRIVER OF VEHICLE #1 EYES WERE NOT ON THE ROAD, VEHICLE #1 DRIFTED OFF ROAD RIGHT HITTING RUMBLE STRIPS, VEHICLE #1 OVERCORRECTED BACK TO THE LEFT LOST CONTROL CROSSED BACK ACROSS TRAFFIC LANES, VEHICLE #1 RAN OFF ROAD LEFT STRIKING GUARD RAIL

CRASH EVENTS

Vehicle #	First Event	Second Event	Third Event	Fourth Event	Most Harmful Event	Vehicle #	First Event	Second Event	Third Event	Fourth Event	Most Harmful Event
1	28	36	28	5	5						

First Harmful Event of Entire Crash that Results in First Injury or Damage.
5

COLLISION WITH FIXED OBJECT

- 1. Bank Or Ledge
- 2. Trees
- 3. Utility Pole
- 4. Fence Or Post
- 5. Guard Rail
- 6. Parked Vehicle
- 7. Tunnel, Bridge, Underpass, Culvert, etc.
- 8. Sign, Traffic Signal
- 9. Impact Cushioning Device
- 10. Other
- 11. Jersey Wall
- 12. Building/Structure
- 13. Curb
- 14. Ditch
- 15. Other Fixed Object
- 16. Other Traffic Barrier
- 17. Traffic Sign Support
- 18. Mailbox

COLLISION WITH PERSON, MOTOR VEHICLE OR NON-FIXED OBJECT

- 19. Pedestrian
- 20. Motor Vehicle In Transport
- 21. Train
- 22. Bicycle
- 23. Animal
- 24. Work Zone
- Maintenance Equipment
- 25. Other Movable Object
- 26. Unknown Movable Object
- 27. Other

NON-COLLISION

- 28. Ran Off Road
- 29. Jack Knife
- 30. Overturn (Rollover)
- 31. Downhill Runaway
- 32. Cargo Loss or Shift
- 33. Explosion or Fire
- 34. Separation of Units
- 35. Cross Median
- 36. Cross Centerline
- 37. Equipment Failure (Tire, etc)
- 38. Immersion
- 39. Fell/Jumped From Vehicle
- 40. Thrown or Falling Object
- 41. Non-Collision Unknown
- 42. Other Non-Collision

FEB 18 2014

RECEIVED

VIRGINIA: IN THE CIRCUIT COURT OF PULASKI COUNTY

BRITTANY F. ROBINSON,
Plaintiff

COMPLAINT

v.

TRINITY INDUSTRIES, INC, TRINITY
HIGHWAY PRODUCTS, LLC,
MAKCO, INC., AND JOHN DOE
CONTRACTOR

COMPLAINT

Comes now the plaintiff, Brittany F. Robinson, by counsel, and moves this Honorable Court for entry of judgment against the defendants, Trinity Industries, Inc., Trinity Highway Products, LLC (collectively "Trinity"), Makco, Inc., and John Doe Contractor on the grounds and in the amount set forth below.

Parties, Jurisdiction and Venue

1. Brittany F. Robinson is an individual and citizen of the United States of America who resides in Corning, NY.

2. Trinity Industries is a Delaware corporation doing business in Virginia, with its principal place of business located at 2525 Stemmons Freeway, Dallas, Texas 75207 and may be served via its registered agent Edward R. Parker at 5511 Staples Mill Road, Richmond, Virginia 23228. Defendant actively solicits business and sells its products in the Commonwealth of Virginia and derives substantial revenue from such sales. The tortious injury giving rise to this suit occurred in the Commonwealth of Virginia and arose from the defendant's contracting and transaction of business in the Commonwealth of Virginia.

RECEIVED

FEB 18 2014

3. Trinity Highway is a limited liability company doing business in Virginia with its principal place of business located at 2525 Stemmons Freeway, Dallas, Texas 75207. Defendant actively solicits business and sells its products in the Commonwealth of Virginia and derives substantial revenue from such sales. The tortious injury giving rise to this suit occurred in the Commonwealth of Virginia and arose from the defendant's contracting and transaction of business in the Commonwealth of Virginia.

4. Makco, Incorporated is a Virginia Corporation with a principal office located at 49 Deerfield Road, Louisa, VA 23093.

5. Defendant John Doe Contractor is reasonably believed to be a contractor in the Commonwealth of Virginia who installed or maintained the guardrail system that is the subject of this lawsuit.

6. This Court has *in personam* jurisdiction over the defendants pursuant to Virginia Code §8.01-328.1(A)(1), (2), (3), (4) and/or (5).

Factual Background

7. Trinity Industries, Inc. is the parent corporation of Trinity Highway Products, LLC and as such controls Trinity Highway Products, LLC (collectively "Trinity").

8. Trinity is in the business of manufacturing and selling various highway safety and construction products for use across the United States and specifically in and more specifically manufactures and sells the ET-Plus guardrail end terminal ("ET-Plus") under an exclusive licensing agreement from Texas A & M University.

9. The ET-Plus unit is commonly referred to as a "head" and when used in conjunction with the standard "W" style guardrail see throughout the roads and highways of America is designed to safely absorb and dissipate the energy of a vehicular impact.

10. Upon impact, the guardrail is designed to be extruded through the head and flattened out into a ribbon, thus absorbing the majority of the collision energy.

11. The original production of the ET-Plus, built to approved specifications, was overall very successful and not only did it work for an initial impact, it continued, in minimally the majority of instances, to work even when struck again in a separate incident and before maintenance crews were able to repair it.

12. The ET-Plus, along with each and every other product used on the National Highway System throughout the United States must undergo testing to determine and validate crashworthiness before the product may be placed on the National Highway System or on the roads of the Commonwealth of Virginia.

13. The Federal Highway Administration, a division of the United States Government under the U.S. Department of Transportation, along with other state and federal organizations are charged with establishing the crashworthiness criteria for products such as the ET-Plus.

14. Virginia, like other states, requires that its Department of Transportation (“VDOT”) approve any product installed on its roadways. Each highway project in Virginia is governed by contract documents issued by VDOT. These documents require that any products installed on Virginia’s highways be both previously approved by the VDOT and compliant with National Cooperative Highway Research Program Report 350 (“NCHRP 350”), if tested prior to January 1, 2011, or tested using the Manual for Assessing Safety Hardware (“MASH”), if presented for testing after that date. Products previously accepted under NCHRP 350 do not need to be retested unless, of course, the product is changed.

15. NCHRP 350, Recommended Procedures for the Safety Performance Evaluation of Highway Features, establishes a performance range on several criteria that guardrail terminals

must satisfy through as many as seven different tests to be deemed safe and reliable for installation. The prime contractor who submits a winning bid on a project must sign contract documents agreeing with the NCDOT to install only state-approved, NCHRP 350 or MASH-compliant products.

16. Virginia has an Approved List for the product at issue (GR-9 Terminals). Trinity manufactures and sells guardrail end terminals under the names ET-2000 Plus, ET-Plus and ET-31, among others. The ET-Plus, also known as ET-2000 Plus, was approved by VDOT and placed on VDOT's Approved List for End Terminals by 2001. The version of the ET-Plus approved by VDOT remains on VDOT's current Approved Product List. VDOT has not approved any other version of the ET-Plus.

17. Once a product is approved for use along the National Highway System or the roadways of Virginia, its design specifications cannot be altered; or if altered, the product must undergo additional testing and approval prior to its placement on the roadways of Virginia or the National Highway System.

18. Beginning sometime between 2000 and 2005, a different or altered ET-Plus started appearing along the National Highway System and on the roads in the Commonwealth of Virginia, in particular, a revised or altered "head" was manufactured with an exit gap of approximately 1.0 inches rather than approximately 1.5 inches as originally tested, approved, and manufactured.

19. Beginning in early 2005, yet another different or altered ET-Plus started appearing along the National Highway System and on the roads in the Commonwealth of Virginia; in particular, a revised or altered 'head' was manufactured with a 4" feeder chute (as opposed to the prior approved 5" feeder chute) and a shorter overall height.

20. In addition to the above, due to the shortened height, the feeder rails are actually inserted into the head .75" rather than being welded flush to it as originally designed and approved, thus drastically reducing the overall space of the feeder chute.

21. Trinity twice petitioned the Federal Highway Administration ("FHWA") for modifications to other components of the overall ET-Plus system; once in September of 2005 and then again in August of 2007.

22. The above-described requests (September 2005 and August 2007) dealt with components sold with the ET-Plus and their configuration, and nowhere in these design changes does Trinity mention the reduced feeder chute size or any other changes to the ET-Plus head.

23. Based upon information and belief, Trinity never officially notified or petitioned the Federal Highway Administration, the Virginia Department of Transportation or any branch or unit of any federal or state government for approval or consideration of the feeder chute changes as described above.

24. The ET-Plus, as modified in 2005 and at issue in this case, does not allow the guardrail to feed properly through the chute due to the reduced internal area of the head itself causing the guardrail to "throat lock" in the head during impact.

25. Once "throat lock" occurs, as is the case in this action, the ET-Plus system violently stops or redirects the vehicle in a manner causing serious injury or death – often by impalement.

26. Based on information and belief, Trinity, at all times relevant hereto, knew of the dangerous conditions created by its unapproved, modified ET-Plus system, as literally hundreds of thousands of these unapproved, secretly modified, inherently dangerous ET-Plus systems have been in use across the country for several years preceding the incident at issue in this lawsuit.

Facts

27. Paragraphs 1-26 are incorporated hereby as though fully and completely set forth.

28. At or about 10:50 AM on Monday, February 13, 2013, Brittany Robinson was a passenger in a vehicle travelling northbound on I-81 in Pulaski, VA near mile marker 104.

29. At the time and place described in the preceding paragraph, the vehicle in which Brittany Robinson was a passenger left the roadway and struck an ET-Plus end terminal at issue.

30. The impact described above resulted in the failure of the ET-Plus end terminal to properly extrude and, rather than performing properly, caused the guardrail to lock inside the end terminal and fail to dissipate the energy of the vehicle in a safe manner and bring it to a safe stop.

31. As a result of the ET-Plus failure, the vehicle was impaled by the guardrail and overturned.

32. Further as a result of the ET-Plus failure, Brittany Robinson suffered injuries, including broken bones, which required surgery, hospitalization, and other medical care.

33. In addition to bodily injury, Brittany Robinson suffered emotional distress from her injuries as well from witnessing the injuries to her children, including her child Ethan Robinson who was pinned to the roof of the vehicle by the impaling guardrail and suffered pelvic injuries, brain trauma, and other injuries.

Count One

(Trinity's Negligence)

34. Plaintiff realleges and repleads all of those allegations contained and set forth in paragraphs numbered 1 through 33, inclusive, of this Complaint, with the same force and effect as though they were herein fully and specifically again set forth in detail.

35. Defendant Trinity changed, modified and altered their ET-Plus guardrail system, and more specifically, its end terminal which resulted in the guardrail at issue, and guardrails across the United States, failing and, rather than properly absorbing the energy of an impact, it locks up and injures or kills vehicle occupants due to the trauma of the sudden stop, by catapulting the vehicle, redirecting it an unsafe manner, or causing the guardrail to impale the vehicle.

36. Defendant Trinity knew of multiple failures of the secretly modified ET-Plus terminals and failed to disclose either modifications to the products or the dramatic increase in severe, even death-producing collisions occurring across the United States. The terminals were defective in their design and manufacture.

37. As a direct and proximate cause of Defendant Trinity's negligence and gross negligence, Brittany Robinson suffered bodily and other injuries.

Count Two

(Trinity, Makco and John Doe Contractor)

38. Plaintiff realleges and repleads all of those allegations contained and set forth in paragraphs numbered 1 through 37, inclusive, of this Complaint, with the same force and effect as though they were herein fully and specifically again set forth in detail.

39. Makco, Inc. was responsible for the inspection, maintenance, installation, and/or repair of the guardrail system at issue in this lawsuit.

40. John Doe Contractor was responsible for the installation, maintenance, inspection and/or repair of the guardrail system at issue in this lawsuit.

41. Makco, Inc. failed and was negligent in the inspection, repair, installation, and/or maintenance of the guardrail system at issue in this lawsuit.

42. John Doe Contractor failed and was negligent in the inspection, installation, maintenance, and/or repair of the guardrail system at issue in this lawsuit.

43. The negligence of Makco, Inc. and John Doe Contractor in the performance of their duties, individually and/or collectively was a proximate cause of the injuries to Brittany Robinson.

Count Three

(Strict Liability)

44. Plaintiff realleges and repleads all of those allegations contained and set forth in paragraphs numbered 1 through 43, inclusive, of this Complaint, with the same force and effect as though they were herein fully and specifically again set forth in detail.

45. Defendant Trinity manufactured and sold the defective ET-Plus that caused Brittany Robinson's injuries.

46. Defendant Makco, Inc. purchased and installed the defective ET-Plus terminal and was compensated for the terminal and installation by VDOT.

47. Defendant John Doe Contractor repaired or replaced the ET-Plus terminal and was compensated for the terminal and/or maintenance by VDOT.

48. Plaintiff alleges that the ET-Plus terminal involved in this cause of action was in a defective and unreasonably dangerous condition at all times herein material, including but not necessarily limited to, the time of design, the time of manufacture, the time of installation, the time of the accident, and the time it was placed into the stream of commerce in Virginia.

49. The design, manufacture, installation, repair, and maintenance of rails placed near vehicles moving at high rates of speed is an inherently dangerous and ultra hazardous activity. As such, all of the defendants are strictly liable in tort.

Count Four

(Implied Warranty of Merchantability)

50. Plaintiff realleges and repleads all of those allegations contained and set forth in paragraphs numbered 1 through 50, inclusive, of this Complaint, with the same force and effect as though they were herein fully and specifically again set forth in detail.

51. As the manufacturer of the ET-Plus and the vendor of the same, Trinity impliedly warranted to plaintiff that the ET-Plus and all components of and a part of the ET-Plus, as manufactured, equipped and sold by the defendant, including the terminal head, and related parts and components thereof, were free of defects, safe to use, and fit for their intended purposes and uses, were of merchantable quality, and that they, including the material employed in their assembly, were fit, safe and in proper condition for their intended and ordinary uses, and for the particular purposes for which its end users such as plaintiff, intended, and for the general purposes and uses for which they were designed, constructed, assembled, manufactured, tested, inspected, distributed, sold and/or delivered. The use of the ET-Plus which the plaintiff attempted to make on February 13, 2012, was reasonably foreseeable, predictable, and expected/anticipated by the defendant when it sold the ET-Plus.

52. Notwithstanding defendant Trinity's aforesaid implied warranties to plaintiff, defendant breached these warranties by carelessly and negligently:

- a. failing to manufacture the ET-Plus with the dimensions approved by the FHWA and the Commonwealth of Virginia;
- b. failing to test the modified terminal in conformance with NCHRP 350;
- c. failing to conform the ET-Plus to defendant Trinity's implied warranties of merchantability, as they were not, in fact, of merchantable quality and were

unfit, unsafe and dangerous and unusable for their intended uses and purposes and/or reasonably foreseeable uses, or for the general purposes and uses for which they were intended.

Count Five

(Breach of Implied Warranty of Fitness for a Particular Purpose)

53. Plaintiff realleges and repleads all of those allegations contained and set forth in paragraphs numbered 1 through 52, inclusive, of this Complaint with the same force and effect as though they were herein fully and specifically set forth again in detail.

54. Defendant Trinity impliedly warranted that the ET-Plus was fit for the purposes for which it was sold and for the particular purpose of dissipating the forces brought to bear on vehicle occupants in collisions with guardrails. At the ET-Plus from defendant Trinity was sold and installed, Trinity knew or had reason to know that Makco or John Doe Contractor would purchase and install and that the driving public would use the ET-Plus in reliance on the Trinity's skill and judgment to furnish suitable goods.

55. The ET-Plus manufactured, modified, and/or equipped by defendant Trinity, and purchased by Makco or John Doe contractor for the use of the driving public, including the plaintiff, was not fit for the particular purpose for which they were intended. Such conditions of the ET-Plus constituted a breach of the defendant's implied warranties of fitness for a particular purpose.

56. As a direct and proximate result of the defendant's breach, plaintiff was seriously and permanently wronged, injured, and damaged as fully set forth above.

Count Six

(Breach of Express Warranties)

57. Plaintiff realleges and repleads all of those allegations contained and set forth in paragraphs numbered 1 through 57, inclusive, of this Complaint, with the same force and effect as though they were herein fully and specifically set forth in detail.

58. Defendant made express warranties that the ET-Plus, including, but not limited to, were NCHRP 350 compliant, tested, and approved, free from defects in design and manufacture, and that the ET-Plus had been properly designed, constructed, manufactured, assembled, tested, sold, and distributed; and that the same were safe and could be used and operated by the plaintiff for the uses and purposes normally contemplated; and that Trinity otherwise expressly represented the safety of the ET-Plus, all of which representations and express warranties were reasonably relied upon by Makco or John Doe Contractor, and the driving public, including plaintiff.

59. The ET-Plus as sold by Trinity was not free of defects in material and workmanship; rather, it was defective and not usable for the purposes for which it was sold as aforesaid. Such conditions constituted a breach of Trinity's express warranties, as aforesaid.

60. By reason of the events aforesaid, and as a direct and proximate result of the breach of aforesaid express warranties and representations made by the defendant, plaintiff has been seriously and permanently wronged, damaged and injured as fully set forth above.

Count Seven

(Negligent Infliction of Emotional Distress)

61. Plaintiff realleges and repleads all of those allegations contained and set forth in paragraphs numbered 1 through 60, inclusive, of this Complaint, with the same force and effect as though they were herein fully and specifically set forth in detail.

62. As a consequence of defendants' negligence and breaches of warranty as described above, plaintiff was forced to watch as her son was violently pinned to the roof of the family's vehicle by the impaling guardrail, causing her to suffer severe emotional distress. Her emotional distress was compounded by the fact that, because of her injuries and the condition of the vehicle after the impact, she was unable to do anything to assist her son and was forced to watch helplessly as her son suffered and cried out for help.

Count Eight

(Punitive Damages)

63. Plaintiff realleges and repleads all of those allegations contained and set forth in paragraphs numbered 1 through 62, inclusive, of this Complaint, with the same force and effect as though they were herein fully and specifically set forth in detail.

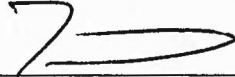
64. The defendants' actions and omissions were willful and wanton and evinced a conscious and reckless disregard for the public in general and your plaintiff in particular. As a consequence, plaintiff is entitled to an award of punitive damages.

WHEREFORE, for Counts One through Seven, plaintiff moves the Court for entry of judgment against the defendants, in the principal amount of \$500,000.00 of compensatory damages and, on Count Eight, \$350,000 in punitive damages, plus interest thereon at the legal

rate from February 13, 2012, until fully paid, plus plaintiff's taxable costs incurred in this action, along with such other and further relief as the Court deems appropriate.

Plaintiff demands a trial by jury on all counts.

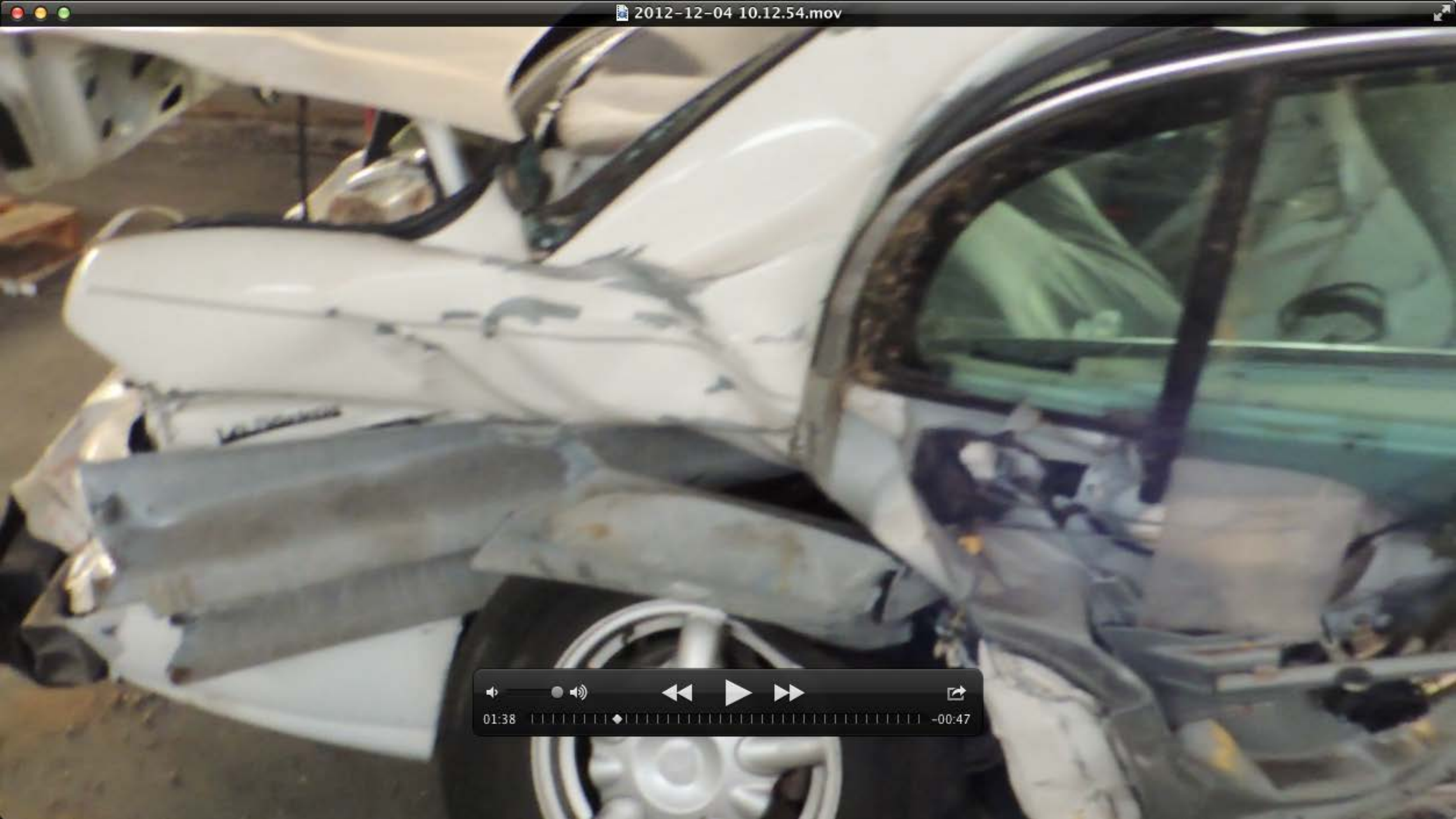
Respectfully submitted,
Brittany F. Robinson

By  _____
Of Counsel

Respectfully submitted this 13th Day of February, 2014.

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