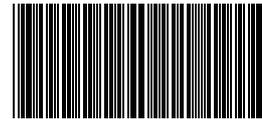




Filed: 14 September 2018 3:33 PM



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### Amended Defence

#### COURT DETAILS

Court	Supreme Court of NSW
Division	Equity
List	Equity General
Registry	Supreme Court Sydney
Case number	2018/00042244

#### TITLE OF PROCEEDINGS

First Plaintiff	Camilla Coates
First Defendant	MAZDA AUSTRALIA PTY. LIMITED ABN 78004690804

#### FILING DETAILS

Filed for	MAZDA AUSTRALIA PTY. LIMITED, Defendant 1
Legal representative	Kathryn Beryl Edghill
Legal representative reference	
Telephone	02 9226 9888
Your reference	3320517

#### ATTACHMENT DETAILS

In accordance with Part 3 of the UCPR, this coversheet confirms that both the Lodge Document, along with any other documents listed below, were filed by the Court.

Amended Defence (Signed Amended Defence.pdf)

[attach.]

Form 7A (version 5)  
UCPR 14.3

**AMENDED DEFENCE**

**COURT DETAILS**

Court Supreme Court of NSW  
 Division Equity  
 List General (Class Action)  
 Registry Sydney  
 Case number 2108/00042244

**TITLE OF PROCEEDINGS**

Plaintiff **Camilla Coates**  
 Defendant **Mazda Australia Pty Ltd**  
**ABN 78 004 690 804**

**FILING DETAILS**

Filed for **Mazda Australia Pty Ltd, Defendant**  
 Filed in relation to Plaintiff's Amended Statement of Claim  
 Legal representative Kathryn Edghill, Mills Oakley  
 Legal representative reference 3320517  
 Contact name and telephone Kathryn Edghill 02 8035 7853  
 Contact email kedghill@millsoakley.com.au

**HEARING DETAILS**

If the proceedings do not already have a listing date, they are to be listed at

**COMMON QUESTIONS, PLEADINGS AND PARTICULARS**

**A. COMMON QUESTIONS**

1 The Defendant does not plead to the Common Questions and says that the determination of which questions are Common Questions is a matter to be agreed or determined by the Court at a date to be determined by the Court.

**B PLEADINGS**

1 In answer to paragraph B.1 of the Further Amended Statement of Claim (FASOC), the Defendant:

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- a. says that the fact that a vehicle was fitted with a front driver or passenger airbag manufactured or supplied by Takata Corporation and/or its related entities or subsidiaries, including TK Holdings, Inc., and which has been or will be at any point prior to the Opt Out process the subject of a an-airbag-related product safety recall does not render the vehicle defective;
  - b. denies that the vehicles defined as "Defective Vehicles" were defective; and
  - c. otherwise does admit paragraph B.1.
- 2 In answer to paragraph B.2 of the EASOC, the Defendant:
- a. repeats paragraph 1 above;
  - b. does not admit subparagraphs B.2(a) to B.2(d);
  - c. does not admit the purposes for which the Plaintiff acquired the Plaintiff's Vehicle, and otherwise denies subparagraph B.2(e);
  - d. denies ~~does not admit~~ subparagraph B.2(e1);
  - e. does not admit subparagraph B.2(e2);
  - f. does not plead to subparagraph B.2(f) on the basis that it does not plead any material facts; and
  - g. otherwise denies paragraph B.2.
- 3 In answer to paragraph B.3 of the EASOC, the Defendant:
- a. repeats paragraph 1 above;
  - b. does not admit subparagraphs B.3(a) to B.3(c);
  - c. does not admit the purposes for which each Group Member acquired a Mazda branded vehicle, and otherwise denies subparagraph B.3(d);
  - d. does not admit subparagraph B.3(e);
  - e. does not admit subparagraph B.3(f); and
  - f. otherwise denies paragraph B.3.
- 4 In answer to paragraph B.4 of the EASOC, the Defendant:
- a. repeats paragraph 1 above;
  - b. admits subparagraphs B.4(a) and B.4(b);

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- c. in relation to subparagraph B.4(c):
  - i. admits the chapeau to subparagraph B.4(c);
  - ii. admits subparagraphs B.4(c)(i) and B.4(c)(ii);
  - iii. says that at all material times it was not, and is not the agent or representative of Mazda Corporation;
  - iv. says that the Defendant did not manufacture any vehicles during the period 1 April 2001 to 27 February 2018 or at all;
  - v. admits that Mazda Corporation manufactured Mazda branded vehicles;
  - vi. says that neither it nor Mazda Corporation manufactured Takata Airbags which were installed in Mazda branded vehicles, which airbags were manufactured or supplied by Takata Corporation; and
  - vii. otherwise denies subparagraph B.4(c)(iii);
- d. admits subparagraph B.4(d);
- e. in relation to subparagraph B.4(e):
  - i. admits that it imported Mazda branded vehicles into Australia;
  - ii. otherwise denies subparagraph B.4(e);
- f. in relation to subparagraph B.4(f):
  - i. repeats paragraphs 1, 4(c), and 4(d) above;
  - ii. admits that it is the manufacturer of each Mazda branded vehicle it imported into Australia within the meaning of section 74A of the TPA or section 7 of the ACL; and
  - iii. otherwise denies subparagraph B.4(f).
- g. in relation to subparagraph B.4(g):
  - i. admits that it supplied Mazda branded vehicles, other than by way of auction, in the course of business and in trade or commerce to other persons who acquired the goods for re-supply and to consumers, within the meaning of section 4B of the TPA or section 3 of the ACL;
  - ii. repeats paragraphs 2(b) and 3(b) above, and paragraphs 14(b) and 14(c) below;
  - iii. otherwise denies subparagraph B.4(g); and
- h. otherwise denies paragraph B.4.

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- 5 In answer to paragraph B.5 of the EASOC, the Defendant:
- a. repeats paragraph 1 above;
  - b. admits that Mazda branded vehicles were supplied to Group Members in trade or commerce; and
  - c. otherwise denies paragraph B. 5.
- 6 The Defendant does not admit paragraph B. 6 of the EASOC.
- 7 In answer to paragraph B.7(a) of the EASOC, the Defendant:
- a. repeats paragraph 1 above;
  - b. admits that ammonium nitrate was used as a propellant in Takata Airbags;
  - c. denies that the use of ammonium nitrate alone as a propellant in Takata Airbags has the consequence alleged in subparagraphs B.7(a)(i) and B.7(a)(ii);
  - d. says that no Takata Airbag has or at any time had any propensity or risk of exploding and propelling metal shrapnel as alleged in subparagraph B.7(a)(i) or, of malfunctioning on deployment by deploying too rapidly and/or with excessive force as alleged in subparagraph B.7(a)(ii) unless all of the following were or are present;
    - i. the seal around the inflator mechanism does not or did not prevent moisture ingress to the propellant;
    - ii. the vehicle in which the Takata Airbag is installed is or was located in a climate zone of high temperatures and high humidity for a sustained period of no less than 6 years, resulting in long term daily temperature cycling of moist propellant;
    - iii. the vehicle in which the Takata Airbag is installed is or was involved in an impact sufficient to trigger the vehicle's airbag deployment sensors;
    - iv. at the time of deployment of the Takata Airbag the propellant in the Takata Airbag had or has degraded such that it burns more rapidly than intended;

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- v. over-pressurisation occurs in the inflator's steel housing as a result of the faster than intended burn rate of the propellant referred to in subparagraph 7(c)(v) above; and
  - vi. fragmentation of the steel housing occurs due to the over-pressurisation referred to in subparagraph 7(c)(vi) above;
- e. says that the presence and effect of the factors referred to in subparagraph 7(c)(i) to (iii) and (v) and (vi) above in respect of any particular Takata Airbag was and is dependent on a number of factors including, but not limited to, the date and place of manufacture of the particular Takata Airbag, whether or not desiccant was used, the form or shape of the propellant, the volume of propellant, the inflator housing and seal design and the installed location (be it passenger versus driver) used in the particular Takata Airbag and the location in which the vehicle was stored and driven;

#### Particulars

Further particulars will be provided after evidence and discovery.

- f. says that all of the factors referred to in subparagraph 7(d) above are not and were not present in all Takata Airbags; and
- ~~g. denies that the use of ammonium nitrate as a propellant in Takata Airbags has the consequence alleged in subparagraph (a)(ii);~~
- ~~h. says that no Takata Airbag had or has any propensity or risk of malfunctioning as alleged in subparagraph (a)(ii); and~~
- i. otherwise denies paragraph B.7(a).

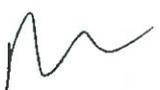
8 The Defendant admits paragraph B.7(b) of the FASOC.

9 In answer to paragraph B.7(c) of the FASOC the Defendant:

- a. admits that some vehicles fitted with airbags manufactured by Takata Corporation or its related companies have been the subject of product safety recalls in places outside Australia;
- b. admits that some vehicles in Australia fitted with Takata Airbags have been the subject of product safety recalls in Australia;
- c. repeats paragraphs 15 and 16 below; and
- d. otherwise does not admit paragraph B.7(c).

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- 10 In answer to paragraph B.7(d) of the FASOC, the Defendant:
- a. admits that some vehicles fitted with airbags manufactured by Takata Corporation or its related companies have caused injuries;
  - b. denies that Takata Airbags fitted in Mazda branded vehicles supplied in Australia have caused any such injuries;
  - c. does not admit that any Takata Airbags fitted in Mazda branded vehicles supplied in places outside Australia have caused any such injuries; and
  - d. otherwise does not admit paragraph B.7(d).
- 11 In answer to paragraphs B.7(e) of the FASOC and B.7(f) of the FASOC, the Defendant:
- a. admits that one death has occurred in Australia in a vehicle in which an airbag manufactured by Takata Corporation or its related companies was installed;
  - b. denies that any death has occurred in Australia in a vehicle supplied by it or in a Mazda branded vehicle in which a Takata Airbag was installed; and
  - c. otherwise does not admit subparagraphs B.7(e) and B.7(f).
- 12 In answer to paragraph B.8 of the FASOC, the Defendant:
- a. says that the term "Defective Vehicles" is defined in paragraph B.1(b) of the FASOC as (among other things) a Mazda motor vehicle fitted with a front driver or passenger airbag manufactured or supplied by Takata Corporation;
  - b. repeats paragraph 1(b) above; and
  - c. otherwise does not admit subparagraph B.8.
- ~~13 In answer to paragraph B.9 of the ASOC, the Defendant:~~
- ~~a. admits that the vehicle models listed in subparagraphs B.9(i) to B.9(vii) were fitted with one or more Takata Airbags at the time of manufacture;~~
  - ~~b. admits that the vehicle models listed in subparagraphs B.9(i) to B.9(vii) have been the subject of a voluntary recall by the Defendant on the dates specified in paragraph B.11 of the ASOC and a compulsory recall by the Assistant~~

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~~Minister to the Treasurer on the date specified in paragraph B.11A of the ASOC;~~

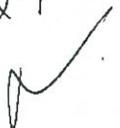
- ~~e. repeats paragraph 1(b) above; and~~
- ~~d. otherwise denies subparagraph B.9.~~

14 In answer to paragraph B.10, the Defendant:

- a. repeats paragraph 1(b) above;
- b. admits that some Mazda branded vehicles are goods acquired for an amount that did not exceed \$40,000 but otherwise does not admit subparagraph B.10(a)(i);
- c. denies that each of the Mazda BT-50 (UN) Ute/Cab Chassis 2006-2011, Mazda B2500 (UNYOW2) Ute/Cab Chassis and B2600 (UNY062) Ute/Cab Chassis models were vehicles of a kind ordinarily acquired for personal, domestic or household use or consumption, and otherwise does not admit subparagraph B.10(a)(ii);
- d. in relation to subparagraph B.10(b);
  - i. admits that Mazda branded vehicles are goods of a kind which are commonly bought and commonly supplied for the purpose of driving or permitting to be driven; and
  - ii. otherwise does not admit subparagraph B.10(b);
- e. denies subparagraph B.10(c);
- f. In relation to subparagraph B.10(d):
  - i. admits that the vehicle models which were the subject of the safety warning pleaded in listed in subparagraphs (i) to (iii) and (vi) to (vii) of subparagraph B.911 are goods within the meaning of sections 4 and 74A(2)(a) of the TPA and section 2 of the ACL other than Mazda BT50 (UN) Ute/Cab Chassis 2006-2011 models and Mazda B2500 (UNYOW2) Ute/Cab Chassis and B2600 (UNY062) Ute/Cab Chassis models; and:
  - ii. ~~denies that the vehicle models listed in subparagraphs (iv) to (v) of paragraph B.9 are goods within the meaning of sections 4 and 74A(2)(a) of the TPA and section 2 of the ACL;~~
  - iii. otherwise does not admit subparagraph B.10(d).

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- 15 In answer to paragraph B.11 of the FASOC, the Defendant:
- a. admits that product safety recalls were issued to the Department of Infrastructure and Regional Development by Mazda pursuant to section 128 of the ACL as described in subparagraphs B.11(a) to B.11(c) and B.11(e) to B.11(fg); and
  - b. admits that the product safety recalls were amended as alleged in paragraphs B.11(a)(v), B.11(b)(v), B.11(c)(v), B.11(e)(v) and B.11(f) (v);
  - c. otherwise does not admit paragraph B.11.
- 16 In answer to paragraph B.11A of the FASOC:
- a. admits that a compulsory safety recall to the public was issued by Michael Sukkar, Assistant Minister to the Treasurer pursuant to section 122 of the ACL, dated 27 February 2018 in respect of vehicles including Mazda branded vehicles; and
  - b. otherwise denies paragraph B.11A.
- 17 In answer to paragraph B.12 of the FASOC, the Defendant:
- a. admits subparagraph B.12(a);
  - b. admits that, in respect of the Mazda branded vehicle models identified in each of the product safety recall notices listed in paragraph B.11 of the FASOC, it held out such vehicles as being safe to drive and safe for passengers:
    - i. at all times up to the date of issue of the product safety recall notice applying to the particular vehicle; and
    - ii. upon replacement of the Takata Airbag or Airbags fitted in a particular vehicle in compliance with the product safety recall notice applying to such vehicle; and
    - iii. otherwise denies subparagraph B.12(b);
  - c. in relation to subparagraph B.12(c), the Defendant:
    - i. says that it took adequate steps to inform members of the public and owners of affected Mazda branded vehicles that the vehicles were the subject of a product safety recalls pleaded in paragraphs B.11 and B.11A;

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**Particulars**

- (a) The Defendant issued the product safety recalls which were published on the Australian government product safety website at <https://www.productsafety.gov.au/recalls>;
- (b) The Defendant has conducted, and continues to conduct, searches of its own records and that of all available public records to identify the names and addresses of owners of each of the Mazda branded vehicles which were the subject of each recall, including where ownership of such vehicles has changed from time to time;
- (c) The Defendant notified each of its dealers that the vehicles were the subject of a product safety recall and arranged for such dealers to inform any of their customers with an affected vehicle that it was the subject of a product safety recall;
- (d) The Defendant has communicated with owners of affected vehicles identified as a result of the actions referred to in subparagraphs (b) and (c), including without limitation by email, letter, phone and text message, informing them of the relevant product safety recall and requesting that they take the action stated in the relevant product safety recall notice;
- (e) The Defendant is continuing to communicate with owners of affected vehicles referred to in subparagraph (d) where such owners have failed to comply with a product safety recall notice and have their Takata Airbags replaced;
- (f) Since issuing the recalls pleaded in paragraph B.11 the Defendant has participated in a working group administered by the Commonwealth Department of Infrastructure and Regional Development and Cities (DIRD) at which the recalls and their progress was discussed;
- (g) The Defendant has communicated with the Australian Competition and Consumer Commission (ACCC) about the recalls pleaded in paragraphs B.11 and B.11A which recalls have been the subject of public comment by the ACCC including in its publications such as:
  - a. ACCCount for the June Quarter 2014 (at paragraph 2.35);
  - b. ACCCount for the September Quarter 2015 (at paragraph 2.33);

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c. Annual Report for 2014-2015; and

(h) The Defendant may provide further particulars of the steps it took to inform members of the public and owners of affected Mazda branded vehicles that the vehicles were the subject of a product safety recall at the time of service of its evidence.

- ii. says that it has not supplied any Mazda branded vehicles with Takata Airbags since 2014 when it issued its first voluntary product safety recall notice in 2013; and
- iii. otherwise denies subparagraph B.12(c).

18 In answer to paragraph B.23 of the FASOC, the Defendant:

- a. repeats paragraphs 7 to 11, 12, 14(d) and 14(e) above; and
- b. otherwise denies paragraph B.23.

19 The Defendant denies paragraph B.24 of the FASOC.

20 In answer to paragraph B.25 of the FASOC, the Defendant:

- a. repeats paragraphs 3(d), 4(g), 5, 14(f), 18 and 19 above; and
- b. otherwise denies paragraph B25.

21 In further answer to paragraphs B.23, B.24 and B.25 of the FASOC, the Defendant says that if, which is denied, any Group Member, acquired a Mazda branded vehicle which was not of merchantable quality within the meaning of section 74D(3) of the TPA, then:

- a. where such acquisition by a Group member occurred after the product safety recalls pleaded in paragraphs B.11 and B.11A of the FASOC, any defect was specifically drawn to the consumer's attention before the making of the contract for the supply of the vehicle to the consumer for the purpose of section 74D(2)(b) of the TPA; and
- b. where such acquisition by a Group Member occurred at any time later than 10 years after the time of first supply of the Group Member's Defective Vehicle to a consumer, such Group Member's claim is statute barred by reason of section 74J (3) of the TPA.

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- 22 In answer to paragraph B.30 of the FASOC, the Defendant:
- a. repeats paragraphs 3(d), 4(d) and 5 above;
  - b. admits that if a person supplies, in trade or commerce, goods to a consumer and the supply does not occur by way of auction, there is a guarantee that the goods are of acceptable quality pursuant to section 54 of the ACL; and
  - c. otherwise denies paragraph B.30.
- 23 In answer to paragraph B.31 of the FASOC, the Defendant:
- a. repeats paragraphs 7 to 11, 12, 14(d), 14(e), 15 and 16 above; and
  - b. otherwise denies paragraph B.31.
- 24 In answer to paragraph B.32 of the FASOC, the Defendant:
- a. repeats paragraph 23 above; and
  - b. otherwise denies paragraph B.32.
- 25 In answer to paragraph B.33 of the FASOC, the Defendant:
- a. repeats paragraphs 4(f), 22 and 24 above; and
  - b. otherwise denies paragraph B.33.
- 26 In further answer to paragraphs B.30, B.31, B.32 and B.33 of the FASOC, the Defendant says that if, which is denied, any Group Member, acquired a Mazda branded vehicle which was not of acceptable quality within the meaning of section 54 of the ACL, then:
- a. any failure of the Defective Vehicle to meet the guarantee of acceptable quality was due to an act, default or omission of the manufacturer of the Takata Airbags and not due to any act, default or omission of the Defendant and such Group Members have no entitlement to bring a claim against the Defendant by reason of section 271(2)(a) of the ACL; and
  - b. where such acquisition by a Group Member occurred after the product safety recalls pleaded in paragraphs B.11 and B.11A of the FASOC, any defect was specifically drawn to the consumer's attention before the making of the



contract for the supply of the vehicle to the consumer for the purpose of s 54(4)(b) of the ACL.

27 In answer to paragraph B.42 of the FASOC, the Defendant:

- a. repeats paragraphs 4(f), 4(g), 7 to 12, 14(e), 15 and 17 above; and
- ~~b. says that each of section 53(a) of the TPA and section 29(1)(a) of the ACL do not depend on conduct (as pleaded) but on a representation by the Defendant;~~
- ~~c. says that, despite being requested to do so, the plaintiff has failed or refused to identify the representation alleged to have been made by the Defendant;~~  
and
- d. otherwise denies paragraph B.42.

27A In answer to paragraph B.42A of the FASOC, the Defendant:

- a. repeats paragraphs 4(f), 4(g), 7 to 12, 14(e), 15, 17 and 27 above; and
- b. otherwise denies paragraph B.42A.

27B The Defendant denies paragraph B.42B of the FASOC.

27C The Defendant denies paragraph B.42C of the FASOC.

28 In answer to paragraph B.43 of the FASOC, the Defendant:

- a. admits that Mazda branded vehicles were supplied in trade or commerce;
- b. repeats paragraphs 27, 27A, 27B and 27C above; and
- c. otherwise denies paragraph B.43.

29 In answer to paragraph B.44 of the FASOC, the Defendant:

- a. repeats paragraph 7, 12, 14(d), 14(e), 15, 16 and 27 above; and
- b. otherwise denies paragraph B.443.

30 The Defendant denies paragraph B.45 of the FASOC.

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31 In further answer to paragraphs B B.42, B.42A, B.42B, B.42C, B.43, B.44 and B.45 of the FASOC, the Defendant says that if, which is denied, any Group Member, acquired a Mazda branded vehicle in reliance on any false or misleading representation, or misleading or deceptive conduct by the Defendant, then where the Group Member acquired the vehicle more than 6 years prior to the commencement of these proceedings on 8 February 2018, such Group Member's claim is statute barred by reason of section 82(2) of the TPA or section 236(2) of the ACL.

32 The Defendant denies paragraphs B.46 and B.47 of the FASOC.

33 In answer to paragraph B.48 of the FASOC, the Defendant:

- a. repeats paragraphs 7, 12, and 14(e) above; and
- b. otherwise denies paragraph B.48.

34 In answer to paragraph B.49 of the FASOC, the Defendant:

- a. repeats paragraphs 7 to 12, 14(e), 14(f), 15, 16 and 33 above; and
- b. otherwise denies paragraph B.49.

35 The Defendant denies paragraph B.49A of the FASOC.

36 In answer to paragraph B.50 of the FASOC, the Defendant:

- a. repeats paragraph 2, 3, 33, 34 and 35 above; and
- b. otherwise denies paragraph B.50.

37 In answer to paragraph B.51 of the FASOC, the Defendant:

- a. repeats paragraphs 34, 35 and 36 above; and
- b. otherwise denies paragraph B.51.

38 In further answer to paragraphs B.48, B.49, B.49A, B.50 and B.51 of the FASOC, the Defendant says that:

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- a. if, which is denied, any Group Member, would not have acquired a Mazda branded vehicle but for unconscionable conduct of the Defendant in breach of section 51AB of the TPA:
  - i. where the Group Member acquired the Mazda branded vehicle more than 6 years prior to the commencement of these proceedings on 8 February 2018, such Group Member's claim is statute barred by reason of section 82(2) of the TPA; and
- b. if, which is denied, any Group Member, acquired a Mazda branded vehicle in reliance on any unconscionable conduct by the Defendant in breach of section 21 of the ACL:
  - i. where the Group Member acquired the Mazda branded vehicle more than 6 years prior to the commencement of these proceedings on 8 February 2018, such Group Member's claim is statute barred by reason of section 236(2) of the ACL.

#### CONTRIBUTORY NEGLIGENCE

39 If, which is denied, the plaintiff or any Group Member has suffered loss or damage by reason of ~~by reason of~~ a contravention by the Defendant of any of the following:

- a. section 52 of the TPA;
- b. section 53 of the TPA;
- c. section 18 of the ACL;
- d. section 29 of the ACL;

then the Defendant's liability is to be reduced to the extent which the Court thinks just and equitable having regard to the share of the plaintiff or the Group Member in the responsibility for the loss or damage pursuant to the following provisions:

- e. section 82(1B) of the TPA;
- f. section 137B of the *Competition and Consumer Act 2010* (Cth).

#### Particulars

Failing to or delaying in responding to a product safety recall notice issued in respect of an affected vehicle.

Further particulars will be provided after evidence and discovery.

#### PROPORTIONATE LIABILITY

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40 Further, or in the alternative, if, which is denied, the plaintiff has suffered loss or damage ~~by reason of~~ by reason of a contravention by the Defendant of any of the following:

- a. section 52 of the TPA;
- b. section 18 of the ACL;

then the Defendant relies on the matters pleaded in paragraphs 41 to 43 below.

41 The Applicant's claim is an apportionable claim for the purpose of:

- a. section 34 *Civil Liability Act 2002* (NSW);
- b. section 87CB TPA;
- c. section 87CB *Competition and Consumer Act 2010* ~~1974~~ (Cth).

42 Takata Corporation (in bankruptcy in the USA), as manufacturer of the Takata Airbags, is a concurrent wrongdoer.

#### Particulars

For the purpose only of the pleading of proportionate liability, the Defendant repeats paragraphs B.1(b)(ii), B.7, B.8 and B.10(c) of the EASOC.

43 The Defendant's liability is to be reduced to the extent which the Court thinks just and equitable having regard to the Defendant's share in the responsibility for the loss or damage pursuant to the following provisions:

- a. section 35 *Civil Liability Act 2002* (NSW);
- b. section 87CD TPA;
- c. section 87CD *Competition and Consumer Act 2010* (Cth).

#### SIGNATURE OF LEGAL REPRESENTATIVE

I certify under clause 4 of Schedule 2 to the Legal Profession Uniform Law Application Act 2014 that there are reasonable grounds for believing on the basis of provable facts and a reasonably arguable view of the law that the defence to the claim for damages in these proceedings has reasonable prospects of success.

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Signature

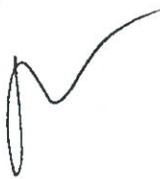
*Kathryn Edgell, by her partner Graham  
Mather*

Capacity

Solicitor on the record

Date of signature

21 May 2018-14 September 2018

*Q.Y.S*  


#AFFIDAVIT VERIFYING

Name Michael Robins  
 Address 211 Wellington Road, Mulgrave, Victoria 3170  
 Occupation Lawyer  
 Date ~~21-May-2018~~ 14 September 2018

I affirm:

- 1 I am general counsel for the Defendant and have knowledge of the matters referred to in this defence.
- 2 I believe that the allegations of fact contained in the defence are true.
- 3 I believe that the allegations of fact that are denied in the defence are untrue.
- 4 After reasonable inquiry, I do not know whether or not the allegations of fact that are not admitted in the defence are true.

AFFIRMED at Melbourne

Signature of deponent

**Michael J Robins**  
 211A Wellington Road  
 Mulgrave VIC 3170  
 An Australian Legal Practitioner  
 Within the meaning of the  
 Legal Profession Act 2004

Name of witness

QI YUN SOI

Address of witness

3/58 Nicholson St, Essendon 3040

Capacity of witness

Solicitor

And as a witness, I certify the following matters concerning the person who made this affidavit (the deponent):

- 1 I saw the face of the deponent.
- 2 I have known the deponent for at least 12 months.

Signature of witness

Note: The deponent and witness must sign each page of the affidavit. See UCPR 35.7B.

Q.Y.S

**FURTHER DETAILS ABOUT FILING PARTY****Filing party**

Name Mazda Australia Pty Ltd  
Address 211 Wellington Street  
Mulgrave Victoria 3170

Frequent user identifier

**Legal representative for filing party**

Name Kathryn Edghill  
Practising certificate number 19515  
Firm Mills Oakley  
Contact solicitor  
Address Level 12  
400 George Street Sydney NSW 2000  
DX address 13025 Sydney Market Street  
Telephone 02 8035 7853  
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Email kedghill@millsoakley.com.au  
Electronic service address kedghill@millsoakley.com.au

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