

IN THE CIRCUIT COURT OF JACKSON COUNTY, MISSOURI  
AT KANSAS CITY

LEUNIQUE WATSON  
8151 James A. Reed Road  
Kansas City, MO 64138

ALEXANDER GATSON  
8151 James A. Reed Road  
Kansas City, MO 64138

Plaintiffs,

v.

TOYOTA MOTOR SALES USA

Serve:  
CT Corporation System  
120 South Central Avenue  
Clayton, Missouri 63105

THE CLEAVER COMPANY LLC D/B/A  
THE GRANDVIEW AUTO WASH

Serve:  
Emanuel Cleaver II, in care of agent  
William Session or Darwin Johnson,  
2600 Grand Boulevard, Suite 440  
Kansas City, Missouri 64108

JOHN PAGE

Serve:  
Dana Harris  
9233 Ward Parkway  
Kansas City, Missouri 64114

Defendants.

Case No.: \_\_\_\_\_

Division: \_\_\_\_\_

**JURY TRIAL DEMANDED**

FILED-CIRCUIT COURT  
JACKSON CO MO-KC  
2010 DEC -2 PM 1:32

**PETITION FOR DAMAGES**  
(Wrongful Death)

Plaintiffs LeUnique Watson and Alexander Gatson bring this petition for damages and state, upon information and belief, as follows:

### INTRODUCTION

1. On November 5, 2009, Rosland Watson (“Ms. Watson”) was tragically killed while waiting for her car to be dried off at the defendant Grandview Auto Wash in Grandview, Missouri.

2. Ms. Watson was crushed by an out-of-control 2002 Toyota Land Cruiser that was designed, manufactured, warranted, sold and/or otherwise placed into the stream of commerce by defendant Toyota Motor Sales USA. The out-of-control 2002 Toyota Land Cruiser was driven by defendant John Page. As a result of the incident described herein, Ms. Watson suffered severe pain and later died.

3. Ms. Watson’s unnecessary and untimely death was a direct result of the Defendants’ conduct.

### PARTIES

4. Plaintiff LeUnique Watson (“LeUnique”) is a surviving child of Rosland Watson, Deceased, and is a resident of Kansas City, Missouri.

5. Plaintiff Alexander Gatson (“Alex”) is a surviving child of Rosland Watson, Deceased, and is a resident of Kansas City, Missouri.

6. Plaintiffs, the only surviving children of Rosland Watson, are within the class of persons entitled to bring a cause of action for the wrongful death of their mother, Rosland Watson, pursuant to Mo. Rev. Stat. § 537.080.

7. Defendant Toyota Motor Sales USA, Inc. is a California Corporation with its principal place of business in Los Angeles, California. It can be served through CT Corporation System at 120 South Central Avenue, Clayton, Missouri 63105.

8. Defendant Cleaver Company LLC (“The Cleaver Company”) is a Missouri Corporation with its principal place of business in Kansas City, Missouri. The Cleaver Company owns and operates the Grandview Auto Wash. The Cleaver Company may be served through its agent, Emanuel Cleaver II at 8217 East Gregory, Kansas City, Missouri, 64133.

9. John Page was the driver of the Toyota Land Cruiser that killed Rosland Watson. Defendant John Page is a Kansas resident and can be served through his attorney, Dana Harris at 9233 Ward Parkway, Kansas City, Missouri 64114.

#### **JURISDICTION AND VENUE**

10. Venue properly lies in this Court pursuant to Mo. Rev. Stat. § 508.010 because Plaintiffs’ cause of action accrued in Jackson County, Missouri and all Defendants reside and/or transact business within the jurisdiction of this Court in Jackson County, Missouri.

#### **FACTUAL ALLEGATIONS COMMON TO ALL COUNTS**

11. On November 5, 2009, Ms. Watson drove to the Grandview Auto Wash in order to have her car washed. She pulled into the entryway to the car wash and left her car with the attendant. Ms. Watson’s car proceeded through the automated car wash bay while she walked into the car wash lobby, approached the cashier’s desk, paid for her car wash, and then proceeded to the car wash waiting area on the south side of the car wash bay. Ms. Watson sat on a bench in the designated waiting area on the unseasonably sunny and warm November afternoon. No doubt enjoying the weather, she sat on a bench quietly waiting next to another Grandview Auto Wash customer, Dona Elmore.

12. Meanwhile, John Page, another customer of defendant Grandview Autowash, pulled his vehicle into the carwash. Unlike decedent Ms. Watson, however, Mr. Page was not required to exit his vehicle, but rather stayed in his Toyota Land Cruiser and was permitted to personally drive his vehicle through the car wash bay.

13. At the end of the car wash bay, Mr. Page slowly proceeded to the drying area of the car wash. Ms. Watson's car was in the same area in the process of being dried-off.

14. Suddenly, and without warning, Mr. Page's Toyota accelerated, veered off to the right, swiped Ms. Watson's Pontiac, crashed into Ms. Watson and Ms. Elmore, and finally flipped onto its left side.

15. While Ms. Watson must have seen and heard what was coming her way, she did not have time to move out of the way and was struck and crushed into the exterior stone wall of the car wash.

16. After being struck, Ms. Watson went to the ground, bleeding and suffering.

17. Ms. Watson was helpless. She lay in the Car Wash waiting area feeling the effects of the tragic accident and now knowing that the day that started out like any other day would be her last.

18. Ms. Watson suffered trauma to her head, neck, throat, and abdomen. Twenty-two of her ribs were broken. Her pubic bone was broken. She had numerous contusions, lacerations, and abrasions to her neck, abdomen, arms, legs, lungs, intestines, liver spleen, bladder and stomach.

19. Police, fire and paramedics quickly arrived at the scene. They were able to provide some comfort to Ms. Watson who was convulsing with blood coming out of her ears and nose. Although Ms. Watson was unable to speak as she lay on the ground, the first responders retrieved Ms. Watson's cell phone and attempted to contact her family members.

20. Once they were eventually notified of the incident, Ms. Watson's daughter, son, and newborn granddaughter rushed to the hospital. Despite their efforts, they were unable to see their mother alive for one final time.

21. Ms. Watson suffered and died as a direct result of the accident at approximately 4:33PM.

22. LeUnique and Alex buried their mother on November 16, 2009.

Damages Caused By Defendants' Wrongful Conduct

23. As a direct and proximate result of the foregoing conduct of Defendants, Rosland Watson suffered and was killed and Plaintiffs LeUnique Watson and Alexander Gatson were injured and damaged.

24. As a direct and proximate result of the negligence of Defendants, Plaintiffs have suffered loss of services, training, support, companionship, comfort, instruction, guidance, and counsel of their mother.

25. The actions of Defendants caused or directly contributed to cause the loss of past and future earnings and future earning capacity of Rosland Watson.

26. The actions of Defendants caused or directly contributed to cause the pain, suffering, and death of Rosland Watson.

27. The actions of Defendants occurred under aggravating circumstances and the jury should be permitted to return a verdict of aggravating circumstances damages that will serve to punish Defendants and deter others from like conduct.

**COUNT I (STRICT LIABILITY OF TOYOTA)**

28. Plaintiffs incorporate by reference the allegations contained in all paragraphs above.

29. Toyota is no stranger to accidents caused by its defective acceleration and braking systems resulting in unintended acceleration.

30. Dozens of deaths have been connected to unintended acceleration in Toyota vehicles since 2000. A number of these accidents are eerily similar to this accident.

31. Toyota was aware of the unintended acceleration defect since at least 2002, but did nothing to deal with the problem for many years. Had Toyota addressed the defect in a timely manner, Ms. Watson would still be alive today.

32. At recent Congressional hearings, Toyota admitted that the vast majority of vehicles experiencing unintended acceleration were vehicles that were not subject to, and are still not subject to, any recalls. It also indicated that the recalls were not successful. When asked whether the recalls would eliminate all the problems, Toyota Motor Sales USA's President, James Lentz, responded, "not totally."

33. Toyota also admitted that it was aware of unintended acceleration problems long before it initiated its widely-publicized recalls.

34. In fact, Toyota has received thousands of complaints of unintended acceleration, but has admittedly "not done a very good job" of investigating those complaints. In reality, it has ignored and/or attempted to discredit these complaints. Toyota's defense that the unintended accelerations are always driver error lacks credibility in the face of the numerous instances of unintended acceleration that have come to light.

35. Toyota has also actively concealed the truth. For example, even though Toyota was aware of unintended acceleration problems that resulted in a European recall, it failed to notify NHTSA of the defect as it was required to do. Further, a former Toyota lawyer has emerged as a whistleblower and has stated that Toyota affirmatively concealed and destroyed safety documents.

36. Further, once the mounting evidence of a defect became too great to conceal any longer, Toyota – rather than actually identifying the cause of unintended acceleration such as a nonexistent brake override system and faulty electronic throttle control system – blamed its problems on "floor mats" and issued a limited floor mat recall.

37. Once the public recognized that the floor mat recall was ineffective, Toyota then later initiated an equally ineffective and unfounded “sticky pedal” recall.

38. The recalls did not resolve the problem but rather served as a fraudulent public relations device to deceive the public into believing the unintended acceleration defect had been resolved. Unfortunately, it took more accidents and deaths for Toyota to ultimately admit the recalls did not correct the problem.

39. Toyota has agreed to pay a \$16.4 million fine for its outrageous conduct in covering up its unintended acceleration defect.

40. Toyota’s cover-up has extended to this particular case. Shortly after the November 5, 2009 incident, Toyota dispatched two of its own corporate representatives to “inspect” Mr. Page’s Toyota Land Cruiser. Toyota, unfortunately, had no interest in the truth, but rather staged an inspection intended to clear its name and point all blame at Mr. Page. Toyota did not ask for any independent evaluation of the vehicle. Instead, it claimed its innocence and moved on – as it has done with the other vehicles it has “inspected” after similar incidents.

41. Toyota has fraudulently concealed its information relating to the unintended acceleration defect and continues its strategy of willful blindness. Toyota’s willful blindness to the mounting acceleration problems has resulted in numerous deaths.

42. At all relevant times herein, Toyota, in the course of its business, designed, manufactured, sold or otherwise distributed into the stream of commerce the 2002 Land Cruiser that struck Rosland Watson and directly caused her pain, suffering and eventual death.

43. The Land Cruiser was put to a foreseeable, reasonably anticipated, and intended use on November 5, 2009.

44. The Land Cruiser, when placed in the stream of commerce by Toyota was in a defective condition unreasonably dangerous when put to a reasonably anticipated use for reasons including but not limited to:

a. The Land Cruiser was defective in manufacture and/or design because it was built in such a way that it experienced an unintended sudden acceleration, the cause of which includes, but is not limited to a faulty throttle control system, an unreasonably dangerous gas pedal, an unreasonably dangerous floor mat design, and /or electronic interference causing acceleration; and/or

b. The Land Cruiser was defective in manufacture and/or design because the accelerator did not have a brake override system.

45. The incident was foreseeable to Toyota. In fact, it had specific knowledge of the unintended acceleration and braking defects at issue.

46. As a direct and proximate result of the foregoing defects in the Land Cruiser described above, Rosland Watson was killed and Plaintiffs were injured and damaged.

47. As a direct and proximate result of the foregoing actions of Toyota, Plaintiffs have suffered loss of services, training, support, companionship, comfort, instruction, guidance, and counsel of Rosland Watson.

48. Toyota caused or directly contributed to cause the loss of past and future earnings and future earning capacity of Rosland Watson.

49. Toyota caused or directly contributed to cause the pain, suffering, and death of Rosland Watson.

50. The death of Rosland Watson occurred under aggravating circumstances that the jury should consider.

51. Toyota acted with conscious disregard for the safety of Rosland Watson and others knowing that its conduct created a high and unreasonable risk of serious harm to others

and the jury should be permitted to return a verdict of aggravating circumstances damages that will serve to punish Toyota and deter others from like conduct.

52. WHEREFORE, Plaintiffs request judgment against Toyota for a reasonable sum of money for damages in excess of \$25,000, for a reasonable sum for aggravating circumstances damages, for prejudgment and post-judgment interest pursuant to Mo. Rev. Stat. § 408.040, and for costs herein incurred and expended and for such other and further relief as the Court deems just and proper.

### COUNT II (NEGLIGENCE OF TOYOTA)

53. Plaintiffs incorporate by reference the allegations contained in all paragraphs above.

54. Toyota owed a duty to Rosland Watson to use due care in the design, manufacture and sale of the Land Cruiser into the stream of commerce.

55. Toyota breached its duty of care for reasons including but not limited to:

- a. The Land Cruiser was negligently designed and manufactured and not reasonably safe because it had defects that led to unintended sudden acceleration; and/or
- b. The Land Cruiser was negligently designed and manufactured and not reasonably safe because the accelerator did not have a brake override system even though Toyota was aware of the unintended acceleration problems; and/or
- b. Toyota had actual knowledge of the defects, but did nothing to correct them; and/or
- c. Toyota should have known about the defects, but did nothing to correct them; and/or
- d. Toyota did not adequately warn of the risk of harm resulting from the aforementioned defects.

56. As a direct and proximate result of the foregoing negligence of Toyota, Rosland Watson was killed and Plaintiffs were injured and damaged.

57. As a direct and proximate result of the foregoing negligence of Toyota, Plaintiffs have suffered loss of services, training, support, companionship, comfort, instruction, guidance, and counsel of Rosland Watson.

58. The actions of Toyota caused or directly contributed to cause the loss of past and future earnings and future earning capacity of Rosland Watson.

59. The actions of Toyota caused or directly contributed to cause the pain, suffering, and death of Rosland Watson.

60. The death of Rosland Watson occurred under aggravating circumstances that the jury should consider.

61. Toyota acted with conscious disregard for the safety of Rosland Watson and others knowing that their conduct created a high and unreasonable risk of serious harm to others and the jury should be permitted to return a verdict of aggravating circumstances damages that will serve to punish Toyota and deter others from like conduct.

62. WHEREFORE, Plaintiffs request judgment against Toyota for a reasonable sum of money for damages in excess of \$25,000, for a reasonable sum for aggravating circumstances damages, for prejudgment and post-judgment interest pursuant to Mo. Rev. Stat § 408.040, and for costs herein incurred and expended and for such other and further relief as the Court deems just and proper.

**COUNT III (NEGLIGENCE OF CLEAVER COMPANY D/B/A/ GRANDVIEW AUTO WASH)**

63. Plaintiffs incorporate by reference the allegations contained in paragraphs 1 through 27 above.

64. Grandview Auto Wash had a duty to exercise ordinary care in providing a safe environment to its business invitees and in operating a facility involving the running of dangerous machinery and automobiles.

65. Grandview Auto Wash did not live up to that duty because it: (1) placed the car wash waiting area and bench in an area that was not reasonably safe because it was adjacent to the car wash bay exit and did not have a barrier between the exit and the waiting area; and (2) allowed Defendant Page to operate his vehicle in an area that was designated for employees only. This negligent conduct constituted a condition that was not reasonably safe.

66. The dangerous condition of the car wash created a reasonably foreseeable risk of harm of the kind incurred by decedent Rosland Watson.

67. As a direct and proximate result of Grandview Auto Wash's negligence, Rosland Watson was killed and Plaintiffs were injured and damaged.

68. As a direct and proximate result of the foregoing negligence, Plaintiffs have suffered loss of services, training, support, companionship, comfort, instruction, guidance, and counsel of Rosland Watson.

69. Grandview Auto Wash's conduct caused or directly contributed to cause the loss of past and future earnings and future earning capacity of Rosland Watson.

70. Grandview Auto Wash's conduct caused or directly contributed to cause the pain, suffering and death of Rosland Watson.

71. The death of Rosland Watson occurred under aggravating circumstances that the jury should consider.

72. Grandview Auto Wash acted with conscious disregard for the safety of Rosland Watson and others knowing that their conduct created a high and unreasonable risk of serious harm to others and the jury should be permitted to return a verdict of aggravating circumstances damages that will serve to punish Grandview Auto Wash and deter others from like conduct.

73. WHEREFORE, Plaintiffs request judgment against the Cleaver Company D/B/A/ Grandview Auto Wash for a reasonable sum of money for damages in excess of \$25,000, for a

reasonable sum for aggravating circumstances damages, for pre-judgment and post-judgment interest pursuant to Mo.Rev.Stat. § 408.040, and for costs herein incurred and expended and for such other and further relief as the Court deems just.

**COUNT IV (PREMISES LIABILITY OF CLEAVER COMPANY D/B/A/ GRANDVIEW AUTO WASH)**

74. Plaintiffs incorporate by reference the allegations contained in paragraphs 1 through 27 and 63 through 73 above.

75. Grandview Auto Wash had a duty to exercise care in providing a safe environment to its business invitees and in operating a facility involving the running of dangerous machinery and automobiles.

76. Grandview Auto Wash did not live up to that duty because it: (1) placed the car wash waiting area and bench in an area that was not reasonably safe because it was adjacent to the car wash bay exit and did not have a barrier between the exit and the waiting area; and (2) allowed Defendant Page to operate his vehicle in an area that was designated for employees only. This negligent conduct constituted a condition that was not reasonably safe.

77. The dangerous condition existed on the premises of the car wash and involved an unreasonable risk of danger.

78. Grandview Auto Wash knew or should have known of the unreasonable risk of danger.

79. Grandview Auto Wash failed to use ordinary care in removing or warning of the danger.

80. As a direct and proximate result of Grandview Auto Wash's unsafe condition and failure to exercise ordinary care, Rosland Watson was killed and Plaintiffs were injured and damaged.

81. As a direct and proximate result of Grandview Auto Wash's unsafe condition and conduct, Plaintiffs have suffered loss of services, training, support, companionship, comfort, instruction, guidance, and counsel of Rosland Watson.

82. Grandview Auto Wash's unsafe condition and conduct caused or directly contributed to cause the loss of past and future earnings and future earning capacity of Rosland Watson.

83. Grandview Auto Wash's unsafe condition and conduct caused or directly contributed to cause the pain, suffering and death of Rosland Watson.

84. The death of Rosland Watson occurred under aggravating circumstances that the jury should consider.

85. Grandview Auto Wash acted with conscious disregard for the safety of Rosland Watson and others knowing that their conduct created a high and unreasonable risk of serious harm to others and the jury should be permitted to return a verdict of aggravating circumstances damages that will serve to punish Grandview Auto Wash and deter others from like conduct.

86. WHEREFORE, Plaintiffs request judgment against the Cleaver Company D/B/A/ Grandview Auto Wash for a reasonable sum of money for damages in excess of \$25,000, for a reasonable sum for aggravating circumstances damages, for pre-judgment and post-judgment interest pursuant to Mo.Rev.Stat. § 408.040, and for costs herein incurred and expended and for such other and further relief as the Court deems just.

**COUNT V (NEGLIGENCE OF JOHN PAGE)**

87. Plaintiffs incorporate by reference the allegations in all paragraphs 1 through 27 above.

88. At the time of the tragedy described above, Defendant John Page owed the highest degree of care to Rosland Watson because John Page was operating a motor vehicle.

89. Defendant Page breached his duty of care and was therefore negligent by failing to control his vehicle under the circumstances.

90. As a direct and proximate result of Page's negligence, Rosland Watson was killed and Plaintiffs were injured and damaged.

91. As a direct and proximate result of the foregoing negligence, Plaintiffs have suffered loss of services, training, support, companionship, comfort, instruction, guidance, and counsel of their mother.

92. The actions of Defendant Page caused or directly contributed to cause the loss of past and future earnings and future earning capacity of Rosland Watson.

93. The actions of Defendant Page caused or directly contributed to cause the pain, suffering, and death of Rosland Watson.

94. The death of Rosland Watson occurred under aggravating circumstances that the jury should consider.

95. Defendant Page acted with conscious disregard for the safety of Rosland Watson and others knowing that his conduct created a high and unreasonable risk of serious harm to others and the jury should be permitted to return a verdict of aggravating circumstances damages that will serve to punish Defendant Page and deter others from like conduct.

96. WHEREFORE, Plaintiffs request judgment against Defendant Page, for a reasonable sum of money for damages in excess of \$25,000, for a reasonable sum for aggravating circumstances damages, for prejudgment and post-judgment interest pursuant to Mo. Rev. Stat. § 408.040, and for costs herein incurred and expended and for such other and further relief as the Court deems just and proper.

**DEMAND FOR JURY TRIAL**

97. Plaintiffs hereby demand a trial by jury on all claims so triable.

