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SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF LOS ANGELES, PASADENA JUDICIAL DISTRICT

ROXANN TATE individually, and	)	CASE NO. GC009689
as Guardian ad Litem for	)	
ALEXANDRA LYNN TRENT and	)	SECOND AMENDED COMPLAINT
ZACHARY STEWART TRENT, and	)	FOR MONEY DAMAGES
Administratrix of the Estate of	)	[WRONGFUL DEATH AND
LAWRENCE E. TRENT,	)	SURVIVAL ACTION (CCP
	)	§377.34) AUTO]
Plaintiffs,	)	
	)	
vs.	)	
	)	
DR. Ing. h.c.F. PORSCHE AG;	)	
PORSCHE CARS NORTH AMERICA,	)	
INC.; PRISTINE PORSCHE;	)	
SCOTTSDALE PORSCHE AUDI, LTD.;	)	
THE CITY OF PASADENA; RUZNAK OF	)	
PASADENA; PORSCHE OF DOWNTOWN	)	
L.A.; SCIENTIFIC AUTOMOTIVE;	)	
AJ-USA, INC.; ALAN JOHNSON	)	
RACING, INC.; BMW OF SAN DIEGO	)	
and DOES 1 through 200,	)	
	)	
Defendants.	)	

Plaintiffs allege:

**JURISDICTION, VENUE AND GENERAL ALLEGATIONS  
(INCORPORATED INTO ALL CAUSES OF ACTION)**

1. Plaintiff Roxann Tate is the surviving spouse of

Lawrence Edwin Trent, and is the natural mother and Guardian ad Litem, appointed by the Court on April 8, 1993, for Alexandra Lynn Trent, born October 11, 1989, and Zachary Stewart Trent, born November 13, 1991.

2. Alexandra Lynn Trent and Zachary Stewart Trent are the children of Lawrence Edwin Trent, the deceased, and together with their mother, Roxann Tate, are the sole heirs of Lawrence Edwin Trent [hereinafter HEIRS].

3. Roxann Tate also brings this action as the Administratrix of the Estate of Lawrence E. Trent [hereinafter ESTATE], having been appointed the Administratrix of the Estate on March 3, 1993.

4. Dr. Ing. h.c.F. Porsche AG [hereinafter PORSCHE] is believed to be a German corporation, doing business in the State of California, individually and through its agent, Porsche Cars North America, Inc., which is also the alter ego of PORSCHE. It is in the business of designing, manufacturing, assembling, testing, distributing, selling, recalling and repairing automobiles.

5. Porsche Cars North America, Inc. [hereinafter PORSCHE NORTH AMERICA] is a corporation which was and is the agent and alter ego of PORSCHE and which does business in the State of California. It was and is in the business of importing, distributing, recalling, servicing and selling Porsche vehicles on its own and through its dealers in the United States.

6. Scottsdale Porsche Audi, Ltd. [hereinafter

SCOTTSDALE PORSCHE], formerly sued herein as Does 41, 61 and 81, is a business organization, the form of which is presently unknown, which is and was in the business of importing, modifying and selling automobiles and sold the vehicle at issue in this lawsuit to a California resident on or about May 18, 1985. It is an agent of and dealer for PORSCHE and PORSCHE NORTH AMERICA.

7. AJ-USA, Inc. and Alan Johnson Racing, Inc. [hereinafter collectively referred to as ALAN JOHNSON PORSCHE] were formerly sued herein as Does 43, 63, 83 and 44, 64, 84, respectively. Based on information and belief, ALAN JOHNSON PORSCHE are affiliated corporations engaged in the business of servicing, repairing, importing, modifying and selling Porsche automobiles. Plaintiffs are further informed and believe that ALAN JOHNSON PORSCHE was affiliated with Scottsdale Porsche Audi, Ltd. and engaged in the business of importing, modifying and selling European model Porsches. ALAN JOHNSON PORSCHE sold the vehicle at issue in this case on or about May 17, 1985.

8. BMW of San Diego [hereinafter BMW], formerly sued herein as Does 42, 62 and 82, is a business organization, the form of which is presently unknown, which is and was in the business of selling automobiles and sold the vehicle at issue in this lawsuit on or about April 4, 1984.

9. The City of Pasadena [hereinafter the CITY] is a public entity, more specifically, a municipality, located in the County of Los Angeles, State of California.

10. Pristine Porsche, previously identified as Pristine Motors and as Defendant Does 1, 65, and 121, [hereinafter PRISTINE] is, and was at all times referenced, based upon information and belief, a business organization doing business in the State of California. Its business is and was inspecting, repairing, servicing and modifying vehicles, including 930 Turbo Porsche vehicles.

11. Scientific Automotive Inc., previously identified as Does 101 and 121, [hereinafter SCIENTIFIC] is and was at all times referenced, based upon information and belief, a business organization doing business in the State of California. The business of SCIENTIFIC was the inspection, repair, modification and service of automobiles, including 930 Turbo Porsche vehicles.

12. Ruznak-Pasadena, previously identified as Does 102 and 122, [hereinafter RUZNAK] is and was at all times referenced, based upon information and belief, a business organization doing business in the State of California. The business of RUZNAK was the inspection, repair, modification and service of automobiles, including 930 Turbo Porsche vehicles, as an authorized Porsche dealer.

13. Porsche of Downtown L.A., [hereinafter DOWNTOWN] previously identified as Does 103 and 123, is and was at all times referenced, based upon information and belief, a business organization doing business in the State of California. The business of DOWNTOWN was the inspection, repair, modification and service of automobiles, including

930 Turbo Porsche vehicles, as an authorized Porsche dealer.

14. Plaintiffs are ignorant of the true names and capacities of the remaining defendants Does 2-40, 45-60, 65-80, 85-100, 104-120 and 124-200, and therefore sue these defendants by such fictitious names. Plaintiffs will amend this complaint to allege the true names and capacities of the defendants when they have been ascertained.

15. Plaintiffs are informed and believe, and thereon allege, that each of the fictitiously named defendants is responsible in some manner, either by act or omission, strict liability, contract, fraud, negligence or otherwise, for the occurrences herein alleged, and that plaintiffs' injuries were legally caused by the conduct of the fictitiously named defendants.

16. Plaintiffs are informed and believe, and thereon allege, that at all times herein mentioned, each of the defendant Does were the agents, servants, joint venturers, alter egos, partners, co-conspirators and/or employees of the other defendants, and were at all times acting within the purpose and scope of such agency, servitude, joint venture, alter ego, partnership, conspiracy or employment, and with the authority, consent, approval and ratification of each of the remaining defendants.

17. Plaintiffs were required to comply with a claims statute with regard to their claim against the CITY. Plaintiff HEIRS have complied with the applicable claims statute by filing a timely claim, which was denied, after

which the present lawsuit was timely filed. Plaintiff ESTATE did not file a claim and is not proceeding against the CITY.

18. This Court is the proper court because injury to person or damage to property occurred in its jurisdictional area, the CITY is a municipality within this jurisdictional district, and at least one defendant now resides in its jurisdictional area.

19. On or about April 17, 1992, Lawrence E. Trent [LARRY TRENT], the plaintiffs' deceased husband and father, was driving the 1983 Porsche Turbo 930 that he had purchased on May 22, 1990, when the car went out of control and struck a light standard. The incident occurred on Holly Street, at its intersection with Arroyo Drive, in the City of Pasadena. LARRY TRENT survived the collision, but was severely injured, and died a short time later.

**FOR A FIRST CAUSE OF ACTION FOR STRICT PRODUCTS LIABILITY  
AGAINST DEFENDANTS PORSCHE AND DOES 2 THROUGH 60,  
PLAINTIFFS ESTATE AND HEIRS ALLEGE:**

20. The 1983 Porsche Turbo 930, owned and being driven by LARRY TRENT, had been designed, assembled, tested, manufactured and sold by defendant PORSCHE for use on the public streets and highways as vehicular transportation.

21. When the vehicle was designed, assembled, manufactured, tested, sold and imported into the United States, it was defective in the following respects (as more specifically set forth in paragraph 75, infra):

A. The vehicle had a tendency to "oversteer," in certain

situations, a handling characteristic which would take a driver by surprise and create a dangerous and defective handling/steering condition of the vehicle; and,

- B. The turbocharger on the vehicle was so powerful, and behaved in such a way, that when the vehicle reached approximately 3,000 r.p.m.'s, under certain conditions, the vehicle would self-accelerate, causing the operator to decelerate, which would cause the vehicle to go into the oversteer condition, causing the operator to lose control of the vehicle; and,
- C. The vehicle lacked warnings of the above conditions, without which the vehicle was even more dangerous, especially in the hands of a lay driver; and,
- D.(a) No training or instruction was provided with respect to the handling or power characteristics of the vehicle, which made the vehicle even more dangerous, especially in the hands of a lay driver; and,
- E. There may have been other, as yet undiscovered defects in the vehicle which, together or individually, caused or contributed to the collision and injuries, death and damages described herein.

22. Defendants PORSCHE and DOES 2 through 60 knew that the vehicle would be purchased and used without inspection for defects.

23. The Porsche Turbo 930 was defective, as set forth above, when it left the control of each of the above-named defendants.

24. At the time of the incident set forth above, LARRY TRENT was using the 930 Turbo in a manner intended by the above-named defendants.

25. At the time of the incident set forth above, LARRY TRENT was also using the vehicle in a manner reasonably foreseeable by the defendants as involving a substantial danger which was not readily apparent, namely driving on the public streets and highways with the dangerous power and handling characteristics set forth above. Adequate warnings of those dangers were not given, as more particularly set forth above.

26. As a result of the defective condition of the vehicle, the Porsche Turbo 930 self-accelerated, LARRY TRENT decelerated, at which time the vehicle went into an oversteer condition, causing it to go out of control and strike the light standard, which resulted in severe injury and, ultimately, in the death of Mr. TRENT.

27. As a result of the injuries and death to LARRY TRENT, caused by the defendants, the plaintiffs have been deprived of and have lost his love and affection, care, comfort, companionship, society, attention, services and support, all to their pecuniary loss in non-economic damages. In addition, the plaintiffs have suffered economic damages, including property damage and loss, emergency

medical evacuation and hospital and medical expenses, funeral and burial expenses, wage losses and loss of future earnings, loss of support and loss of inheritance. All of the economic and non-economic damages are within the jurisdiction of this Court and will be proven at the time of trial.

28. In addition, the ESTATE, pursuant to CCP §377.34, in its survival action, is entitled to damages to make an example of, and to punish, defendant PORSCHE, as set forth in paragraphs 75, 76, and 77, infra, incorporated herein by reference.

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**FOR A SECOND CAUSE OF ACTION FOR NEGLIGENCE  
AGAINST DEFENDANTS PORSCHE AND DOES 66 THROUGH 80,  
PLAINTIFFS ESTATE AND HEIRS ALLEGE:**

29. Plaintiffs refer to and incorporate herein by reference paragraphs 20 through 28 of the First Cause of Action as though set forth in full herein.

30. Defendants PORSCHE and Does 65 through 80 failed to exercise reasonable care in designing, assembling, manufacturing, testing, selling and importing the 1983 Porsche Turbo 930 vehicle and in failing to warn of or provide instructions or training with regard to its dangerous propensities and handling characteristics.

31. On or about April 17, 1992, as a result of the aforesaid conduct, the automobile failed and malfunctioned while being used and operated in a foreseeable fashion, causing injury and death to the plaintiffs' decedent.

**FOR A THIRD CAUSE OF ACTION FOR NEGLIGENCE AGAINST**

**DEFENDANTS PORSCHE NORTH AMERICA AND DOES 104  
THROUGH 120, PLAINTIFFS ESTATE AND HEIRS ALLEGE:**

32. Plaintiffs refer to and incorporate herein by reference paragraphs 20 through 28 of the First Cause of Action as though set forth in full herein.

33. Prior to September of 1984, plaintiffs are informed and believe that Volkswagen of America, Inc. ("VOLKSWAGEN") had an exclusive arrangement with PORSCHE by which it imported, distributed and sold Porsche vehicles in the United States.

34. VOLKSWAGEN was represented to the United States government as being the importer of Porsche vehicles during that period of time.

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35. During that period of time, VOLKSWAGEN acted as the agent for PORSCHE with respect to not only the distribution of the Porsche vehicles, but also with respect to the control, supervision and accountability of all PORSCHE dealers in the United States. It also acted as the agent for PORSCHE with respect to warranty service on Porsche vehicles, advertising, sales and marketing of Porsche vehicles in the United States, and was responsible for giving notice to the federal government of safety defects in Porsche vehicles; providing notice to consumers of safety defects in Porsche vehicles; and, recalling Porsches for repairs, corrections or replacement.

36. Between 1975 and 1979, VOLKSWAGEN imported, distributed and sold, through its dealer network, Porsche

Turbo 930 vehicles.

37. On or about May 12, 1980, a lawsuit was filed arising out of the death of a passenger in a 1979 Porsche Turbo 930, which was a "gray market" vehicle, a European model Turbo 930 that had been imported into the United States from Canada and "federalized" to comply with Federal Motor Vehicle Safety Standards. The case was encaptioned Garrison v. Porsche, et al.

38. At the time of the Garrison case, which continued until June 27, 1983, when a jury verdict was rendered, the head of Porsche operations in the United States maintained his office at VOLKSWAGEN's offices in California and New Jersey.

39. During the course of the Garrison trial, in June of 1983, the vehicle in which LARRY TRENT was ultimately injured and killed was imported into the United States.

40. Shortly thereafter, the jury rendered its verdict in the Garrison case, finding that the Porsche Turbo 930 was defective due to its power and handling characteristics (as alleged in the present case), and that PORSCHE had failed to warn of those dangerous defects.

41. During the course of the Garrison case, the evidence disclosed that PORSCHE's own testing of the 930 Turbo vehicle had revealed that it had a dangerous tendency to oversteer and PORSCHE's official test report characterized the handling of the vehicle as "poisonous." Before producing PORSCHE's test report, the head of PORSCHE

operations in the United States, flew to Germany and ordered the testing engineer to falsify the report by changing "poisonous" to "normal" and by changing "oversteer" to "understeer." He was also ordered to delete his recommendation that the vehicle's handling be changed to understeering.

42. The falsification of the report was discovered during the trial of the case, when a true copy of the original was anonymously sent to plaintiff's counsel and its authenticity verified by the head of the crime lab in Santa Clara County. The original test report from the archives in Germany was ordered to be produced by the trial court. Upon its production, the falsification was apparent.

43. After the Garrison trial and before September of 1984, PORSCHE decided that it wanted to take control of distribution of its vehicles in the United States.

44. It then had its attorneys, the same attorneys that represented it in the Garrison trial, through a series of shell corporations and transfers, ultimately establish PORSCHE NORTH AMERICA, which was and is controlled by PORSCHE, the agent of PORSCHE and the alter ego of PORSCHE.

45. In or around September of 1984, PORSCHE NORTH AMERICA took over the importation, distribution, marketing, sales, warranty, servicing, warning, recall and repair functions that had previously been provided by VOLKSWAGEN. PORSCHE NORTH AMERICA identified itself to the government as PORSCHE's representative for all of those purposes in the

United States.

46. It conducted recalls and gave warnings for Porsche vehicles that were imported before September of 1984, when it came into existence, identifying itself as the importer of those pre-1984 vehicles.

47. Under government regulations, it was required to give notice of safety defects in Porsche vehicles imported into the United States to the federal government, as well as to owners and dealers, and it was obligated to recall and repair or replace such vehicles.

48. PORSCHE NORTH AMERICA voluntarily, or by contract with PORSCHE and as the actual and ostensible agent of PORSCHE, was dutybound to warn of, repair, recall, and/or replace defects in Porsche vehicles in the United States.

49. PORSCHE NORTH AMERICA knew of the defects existing in Porsche Turbo 930's previously imported into the United States by VOLKSWAGEN, as well as in Turbo 930's imported privately and in those that PORSCHE NORTH AMERICA had imported beginning in 1986.

50. Yet, PORSCHE NORTH AMERICA failed to warn owners, dealers, the government and others of those defects and failed to recall, repair or replace the defective automobiles.

51. Had PORSCHE NORTH AMERICA warned of the defects, recalled, repaired or replaced the defective automobiles, the vehicle that was ultimately sold to LARRY TRENT would

have contained an appropriate warning or would have already been repaired. This is true because dealer records and/or warranty repairs, and/or registrations would have resulted in the information being provided to the owner of the particular 1983 930 Turbo involved in this incident, since it was taken in for repairs and since the owners of the vehicle were registered.

52. Moreover, had PORSCHE NORTH AMERICA provided warnings or recalled the vehicles for repairs, those warnings or repairs would have been provided by SCOTTSDALE PORSCHE, a PORSCHE NORTH AMERICA agent/dealer which was in the chain of distribution and sold the defective vehicle in 1985, before it was purchased by LARRY TRENT. Thus, by the time the vehicle was purchased by LARRY TRENT, it would have been repaired or contained an appropriate warning.

53. Moreover, had PORSCHE NORTH AMERICA given notice of the dangers or provided warnings or recalled the vehicle, then the information would have been available to any consumer, such as LARRY TRENT or the prior owners of the vehicle, from the federal government.

54. Furthermore, PORSCHE contends in this lawsuit that the vehicle which LARRY TRENT was driving had been modified in such a way as to make it more dangerous, or more likely to oversteer and self-accelerate than it was originally. If this is true, had PORSCHE NORTH AMERICA provided adequate warnings or recalled and repaired the vehicle, it would not have been modified as it was or the

modifications would not have had the effect of making a dangerous condition more dangerous.

55. As a result of PORSCHE NORTH AMERICA's failure to warn, LARRY TRENT (1) purchased a vehicle which contained no warning of its dangerous power and handling characteristics, (2) had not had those dangerous characteristics repaired, (3) was not warned of those dangerous characteristics by PORSCHE dealers who serviced the vehicle while he owned it, because they had not been warned, and (4) would not have purchased the vehicle had he been aware of its dangerous power and handling characteristics.

56. The conduct of PORSCHE NORTH AMERICA was motivated by greed and the ESTATE, pursuant to CCP §377.34, in its survival action, is entitled to damages to make an example of, and to punish defendant PORSCHE NORTH AMERICA, as set forth in paragraphs 75, 76, and 77, infra, incorporated herein by reference.

**FOR A FOURTH CAUSE OF ACTION FOR NEGLIGENCE AGAINST  
DEFENDANTS SCOTTSDALE PORSCHE, ALAN JOHNSON PORSCHE,  
BMW AND DOES 122 THROUGH 140, PLAINTIFFS ESTATE AND  
HEIRS ALLEGE:**

57. Plaintiffs incorporate by reference paragraphs 20 through 27 of the First Cause of Action as though set forth in full herein.

58. At the time that defendants BMW, ALAN JOHNSON PORSCHE, SCOTTSDALE PORSCHE and Does 121 through 140 sold the 1983 Porsche turbo 930, they had reason to know of the dangerous power and handling characteristics set forth above

and of the failure to warn of those characteristics.

59. Those defendants had a duty to use reasonable care to give warning of the dangerous condition of the product which would make it likely to be dangerous to those who might be expected to use the vehicle and be endangered by its probable use. Each of the defendants failed to give such warning.

60. Defendant ALAN JOHNSON PORSCHE had reason to know of the dangerous power and handling characteristics of the 1983 Porsche Turbo 930 because (1) Alan Johnson had driven such vehicles competitively, (2) ALAN JOHNSON PORSCHE was located in San Diego and was aware of the Garrison trial and verdict, and (3) when ALAN JOHNSON PORSCHE purchased the 1983 Turbo 930 from BMW, it did so without proof that the vehicle met the Federal Motor Vehicle Safety Standards and thus was on notice that the vehicle needed to be inspected and tested for defects before it was sold.

61. Defendant BMW was similarly in San Diego and knew or should have known of possible defects in the vehicle by virtue of the evidence and verdict in the Garrison case in San Diego and also was aware that the vehicle may not have met the Federal Motor Vehicle Safety Standards. BMW was thus dutybound to inspect and test for defects before selling the vehicle.

62. Defendant SCOTTSDALE PORSCHE knew or should have known of the dangerous defects in the vehicle because (1) plaintiffs are informed and believe that it was associated

in business with ALAN JOHNSON PORSCHE and thereby had the knowledge of ALAN JOHNSON PORSCHE, and (2) it was directly importing European Turbo 930's into the United States, having them "federalized" to comply with Federal Motor Vehicle Safety Standards, advertising and selling them, and (3) it was having Porsche Turbo 930's modified by PORSCHE in Germany for sale in the United States in 1983.

63. Despite their knowledge or their reasons to know, defendants SCOTTSDALE PORSCHE, ALAN JOHNSON PORSCHE, BMW and Does 121 through 140, did not inspect or test the 1983 Turbo 930 for defects or warn of its dangerous power and handling characteristics.

64. Moreover, to the extent that any claim is made that the 1983 Porsche Turbo 930 being driven by LARRY TRENT did not conform to Federal Motor Vehicle Safety Standards, defendants ALAN JOHNSON PORSCHE, SCOTTSDALE PORSCHE and BMW were negligent and in violation of applicable law in selling a vehicle which failed to comply with Federal Motor Vehicle Safety Standards, if in fact the 1983 Turbo 930 did not so comply.

**FOR A FIFTH CAUSE OF ACTION FOR BREACH OF IMPLIED WARRANTY AGAINST DEFENDANTS PORSCHE, SCOTTSDALE PORSCHE, ALAN JOHNSON PORSCHE AND DOES 124 THROUGH 140, PLAINTIFFS ESTATE AND HEIRS ALLEGE:**

65. Plaintiffs refer to and incorporate by reference paragraphs 20 through 27 of the First Cause of Action as though set forth in full herein.

66. Prior to and at the time PORSCHE, SCOTTSDALE

PORSCHE, ALAN JOHNSON PORSCHE and Does 121 through 140 sold the 1983 Turbo 930 vehicle, and prior to the time that LARRY TRENT used the vehicle for transportation on the public streets and highways, PORSCHE, SCOTTSDALE PORSCHE, ALAN JOHNSON PORSCHE and Does 121 through 140 impliedly warranted that the 930 Porsche 930 Turbo vehicle was of merchantable quality and safe for the use for which it was intended by the defendants, namely as vehicular transportation for the public streets and highways.

67. The 1983 930 Turbo was not safe for its intended use, or of merchantable quality as warranted by the defendants, in that it had dangerous handling and power characteristics, as set forth in paragraph 23, above.

68. After LARRY TRENT was severely injured and killed by the 930 Turbo vehicle as set forth above, notice was given by plaintiffs to defendants, in the time and manner and form prescribed by law, of the breach of their implied warranties.

**FOR A SIXTH CAUSE OF ACTION FOR NEGLIGENCE AGAINST DEFENDANTS PRISTINE, ALAN JOHNSON PORSCHE, AND DOES 161 THROUGH 180, PLAINTIFFS ESTATE AND HEIRS ALLEGE:**

69. Plaintiffs refer to and incorporate by reference paragraphs 20 through 27 of the First Cause of Action as though set forth in full herein.

70. PRISTINE and ALAN JOHNSON PORSCHE repaired, serviced and modified the 930 Turbo in which LARRY TRENT was killed.

71. PRISTINE and ALAN JOHNSON PORSCHE knew or should

have known that repairing, servicing, altering or modifying the 930 Turbo negligently could or would significantly alter its power and/or handling characteristics.

72. PORSCHE and PORSCHE NORTH AMERICA, among others claim that PRISTINE and ALAN JOHNSON PORSCHE negligently serviced, altered, modified and repaired the Porsche 930 Turbo vehicle which is the subject of this action, significantly changing its power and handling characteristics, causing the vehicle to be more dangerous than as originally manufactured. To the extent these claims are true, the negligence of PRISTINE and ALAN JOHNSON has caused or contributed to the death of LARRY TRENT.

**FOR AN SEVENTH CAUSE OF ACTION FOR NEGLIGENCE AGAINST DEFENDANTS, RUZNAK, DOWNTOWN, SCIENTIFIC AND DOES 161 THROUGH 180, PLAINTIFFS ESTATE AND HEIRS ALLEGE:**

73. Plaintiffs refer to and incorporate by reference paragraphs 20 through 27 of the First Cause of Action as though set forth in full herein.

74. RUZNAK, DOWNTOWN and SCIENTIFIC failed to use reasonable care in inspecting, repairing, servicing and modifying the 930 Turbo, including, but limited to, the following actions:

- A. SCIENTIFIC conducted a pre-purchase inspection on the vehicle for LARRY TRENT, giving it a clean bill of health at a time when, according to PORSCHE and PORSCHE NORTH AMERICA, the vehicle had been so substantially and negligently modified and repaired, that it was nothing more than a hunk of

salvage that had been shocked to life;

- B. SCIENTIFIC, RUZNAK and DOWNTOWN either negligently failed to discover the defects of which PORSCHE and PORSCHE NORTH AMERICA complained of, or did discover them, but failed to repair or warn of the dangers, choosing instead to keep draining the Trents' bank accounts for repairs of lesser significance;
- C. SCIENTIFIC, RUZNAK, and DOWNTOWN failed to warn of the dangerous power and handling characteristics of the vehicle, even though they were, or should have been, aware of them;
- D. SCIENTIFIC, RUZNAK or DOWNTOWN negligently connected the turbo boosting device to the turbo wastegate, causing the wastegate to remain closed, and negligently disconnected the governor, resulting in the turbocharger having significantly more boost than it would otherwise have had, or they at least failed to correct those conditions, which a reasonable inspection or road test would have revealed;
- E. According to PORSCHE and PORSCHE NORTH AMERICA, SCIENTIFIC negligently aligned the vehicle, and was negligent in adding an exhaust system that increased the power of the vehicle. RUZNAK and DOWNTOWN were negligent in failing to identify, repair or warn of these conditions.

### EXEMPLARY OR PUNITIVE DAMAGES

75. As additional damages against defendants PORSCHE, PORSCHE NORTH AMERICA, the ESTATE, by and through its representative, Roxann Tate, in the survivor action, alleges that the conduct of PORSCHE, PORSCHE NORTH AMERICA, and defendants Does 181 through 200, which resulted in the death of LARRY TRENT, was done with fraud, malice, and/or oppression, and in willful and conscious disregard of the rights and safety of plaintiffs and others, as those terms are used in Civil Code §3294, entitling the ESTATE to damages to make an example of, and to punish PORSCHE and PORSCHE NORTH AMERICA. In that regard, PORSCHE and PORSCHE NORTH AMERICA through their officers, directors and/or managing agents, authorized, directed, conducted or ratified each of the following acts and engaged in the following conduct:

- (a) Before marketing the Porsche Turbo 930 vehicle, PORSCHE tested the vehicle. The testing determined that consumers would be injured and/or killed because the vehicle had a dangerous tendency to "oversteer." ("Oversteering" refers to the tendency of the car to drift into a curve and requires the driver to countersteer out of the curve to hold the desired course.) PORSCHE's testing demonstrated that the handling of the vehicle was "poisonous." PORSCHE's internal, secret test report indicated that the handling

characteristics should be changed for the good of its customers.

(b) At the same time that the test report documented the dangerous handling characteristics of the vehicle, the Turbo 930 was equipped with a turbocharger much more powerful than any other sold on a production car anywhere in the world. The vehicle was capable of breaking the national speed limit in under five seconds, while still in first gear. It would do 94 miles per hour in second gear, 127 miles per hour in third gear, and 156 miles in fourth gear. It was the fastest street legal vehicle sold in the world. In addition, the turbocharger had a sudden and dramatic increase in acceleration when the engine reached 3,000 r.p.m.'s, even when the accelerator was being held constant.

(c) This sudden acceleration caused drivers of the vehicle to find themselves suddenly going too fast in a curve. The natural reaction of decelerating, caused the vehicle to abruptly shift from "understeering" to the dangerous "oversteering" condition, resulting in a loss of control of the vehicle. There was and is no other car sold to the public, which exhibits this transition from understeering to oversteering under deceleration in a curve. Despite the knowledge derived from

its own testing, and in direct contravention of the recommendation of its engineers, PORSCHE secreted its findings of the dangerous characteristics and marketed the vehicle, without warnings or instructions, to unwitting consumers who became purchasers, users, occupants, importers and/or modifiers of the Porsche 930 Turbo.

- (d) To preclude purchasers and users around the world from finding out about the vehicle's fatal flaws, PORSCHE secreted its test report by hiding it in its archives in Weissach, Germany, under strict security by armed guards.
- (e) In 1979, a Porsche Turbo 930 was purchased in Canada by California residents who brought it into the United States that year. On May 12, 1980 that Turbo 930 lost control in a curve as a result of the defects mentioned above, resulting in the death of its passenger. A wrongful death action was filed against PORSCHE and others, in California, entitled Garrison vs. Dr. Ing. h.c.F. Porsche AG. Shortly before the trial of that case in 1983, and after being ordered by the court to produce its test reports, PORSCHE produced a fabricated version of the test report, which it later told the jury was its "original" and "only" driving test of the Porsche 930 Turbo. The fabricated test report indicated that the 930

- Turbo "understeered" in all turns, and that its handling had to be characterized as "normal."
- (f) While the case was in trial, a copy of the original test report was anonymously received and entered into evidence. Subsequent testimony established that the head of PORSCHE operations in the United States had gone to Germany after the court required production of the test report, and ordered the author to make the changes identified above. The altered report was then presented to the court and the jury as a copy of the original.
- (g) The fraud was exposed on June 6, 1983, approximately one week before the vehicle which killed LARRY TRENT was imported into the United States. Thirteen days after the Trent vehicle was imported into the United States, the jury in the Garrison case returned its verdict against PORSCHE in the amount of \$2.5 million dollars, finding that the 930 Turbo was defective with respect to its power and handling characteristics, that PORSCHE had failed to warn of those dangerous characteristics, and that the vehicle was too dangerous for the ordinary consumer without warnings and instructions as to its peculiar power and handling characteristics.
- (h) The jury's verdict was upheld by the Court of Appeal on July 15, 1986. Thereafter, the Supreme

Court denied PORSCHE a hearing.

- (i) The Court in the Garrison case ordered PORSCHE to retain the original of the altered test report and to make it available in subsequent actions. However, PORSCHE, in furthering its efforts to conceal the results of the true test report and continuing its efforts to hide these results and its fraudulent attempt to cover them up, destroyed the altered report. This destruction was not only in direct and flagrant violation of a court order, but calculated to prevent persons injured by its defective vehicle from proving that PORSCHE knew of the defects.
- (j) After the Garrison verdict and the exposure of PORSCHE's fraudulent coverup, in an attempt to avoid future liability for its Turbo 930 vehicle in the United States, PORSCHE closed down its two offices at VOLKSWAGEN in California and in New Jersey, terminated its distributorship contract with VOLKSWAGEN and established a "puppet" company named Porsche Cars North America [PORSCHE NORTH AMERICA], which was to distribute Porsche vehicles in the United States, beginning in September of 1984.
- (k) PORSCHE NORTH AMERICA was either the alter ego or co-conspirator of PORSCHE in the United States. PORSCHE NORTH AMERICA's Board of Directors

consisted of German nationals who were well familiar with the operations of PORSCHE, the fraudulent test report and its coverup, as well as the defects in the Turbo 930. PORSCHE NORTH AMERICA consciously and maliciously decided to conceal from his customers, potential customers, importers, modifiers or owners of the vehicle of the dangerous power and handling characteristics.

In fact, PORSCHE and PORSCHE NORTH AMERICA decided that if a "front" or "puppet" corporation was set up in the United States, then rather than recall or provide warnings about the 930 Turbo vehicles, PORSCHE would attempt to avoid further liability on jurisdictional grounds, knowing that consumers would continue to be killed or severely injured.

- (1) PORSCHE and PORSCHE NORTH AMERICA have continued to hide the dangerous characteristics of the Turbo 930 from the public, and have continued to advertise and sell the vehicle in California and the rest of the United States.

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- (m) Had PORSCHE or VOLKSWAGEN or PORSCHE NORTH AMERICA warned of the dangers of the vehicle, or had they recalled it, then (1) Mr. TRENT would not have purchased the vehicle, (2) the vehicle would not have been in its dangerous condition, and (3) the

vehicle would not have been modified after its importation, in a manner which PORSCHE now claims made the dangerous power and handling characteristics even more dangerous.

76. Plaintiffs are informed and believe that PORSCHE, PORSCHE NORTH AMERICA and VOLKSWAGEN have engaged in other acts and conduct, including coverups of their knowledge of the dangerous characteristics of the 930 Turbo vehicle and have engaged in wilful suppression of that evidence.

77. The conduct of PORSCHE, PORSCHE NORTH AMERICA, VOLKSWAGEN and Does 181 through 200, as set forth above, constitutes fraud, malice and/or oppression, entitling the plaintiff ESTATE to punitive or exemplary damages in an amount sufficient to punish or set an example of PORSCHE, PORSCHE NORTH AMERICA, VOLKSWAGEN and Does 181 through 200.

**FOR AN EIGHTH CAUSE OF ACTION FOR INTENTIONAL  
SPOILIATION OF EVIDENCE AGAINST DEFENDANT PORSCHE,  
PLAINTIFFS ESTATE AND HEIRS ALLEGE:**

78. Plaintiffs incorporate paragraphs 20 through 28 of their First Cause of Action and paragraphs 75 through 77 of their Exemplary Damage Allegations.

79. PORSCHE was ordered by the Court in the Garrison case to preserve, protect and make available to others, the original falsified test report which was discovered in the Garrison case.

80. In recognition of the defect documented by the falsified test report and despite the Court's order, PORSCHE, through its officers, directors and managing

agents, intentionally and deliberately shredded or otherwise destroyed the original test report so as to prevent other persons, including plaintiffs, from showing to a jury its deliberate alteration of the original test report.

81. PORSCHE's actions in destroying the original test report were deliberate and intentional and done with a conscious and willful disregard for plaintiffs' rights and were in direct violation of a Court order.

82. As a result of PORSCHE'S conduct, plaintiffs will have to incur additional, and otherwise unnecessary expenses, to prove PORSCHE's falsifications of the test report, all to plaintiff's damage in an amount subject to proof.

83. As a further result of PORSCHE's conduct, plaintiffs are entitled to an evidentiary sanction against PORSCHE. In that regard, plaintiffs request that the court exercise its equity jurisdiction and that PORSCHE be precluded from offering any evidence that it did not falsify its test report and that the jury be instructed that (1) it did falsify the report and (2) it destroyed the falsified report to coverup the evidence of its wrongful conduct.

84. Plaintiffs are entitled to punitive and exemplary damages from PORSCHE for its willful violation of a Court order and for the willful destruction of evidence in an amount to be proven at time of trial.

**FOR A NINTH CAUSE OF ACTION FOR A DANGEROUS CONDITION OF PUBLIC PROPERTY AGAINST DEFENDANTS THE CITY AND DOES 161 THROUGH 180, PLAINTIFFS ESTATE AND HEIRS ALLEGE:**

85. Holly Street at its intersection with Arroyo Drive is owned and maintained by the CITY.

86. Holly Street is a downhill, curved roadway which runs in an east/west direction, west of Orange Grove Boulevard. Grand Avenue intersects Holly Street from the north (on the right for westbound traffic) as a "T" intersection, approximately 300 feet west of Orange Grove.

87. Arroyo Drive intersects Holly Street as a "T" intersection from the south (on the left for westbound traffic) and is approximately 300 feet west of Grand Avenue, and 600 feet west of Orange Grove.

88. Holly Street is approximately 52 feet wide from curb to curb immediately west of Orange Grove.

89. However, to the west of Arroyo Drive, Holly Street is only 30 feet wide.

90. The portion of Holly Street between Orange Grove and Arroyo, which is approximately 600 feet, narrows considerably for westbound traffic, as it moves downhill and into the sharp right curve.

91. LARRY TRENT was traveling westbound on Holly Street at the time that this incident occurred.

92. Proceeding westbound on Holly Street before the downhill, sharp curve on the narrowing roadway, the centerline striping is not continuous as a left side guide for westbound traffic. Instead, there is a left-turn pocket so that westbound traffic could turn left onto Arroyo Drive.

93. Because of the inconsistency of the centerline

striping, cars turning left onto eastbound Holly Street from Arroyo Drive, or cars traveling eastbound on Holly Street, may cross over the middle of the street, which a centerline would otherwise delineate.

94. Westbound traffic, such as LARRY TRENT, could not see vehicles that crossed over the centerline until the approach to the curve at about the intersection with Grand Avenue.

95. The difficulty in seeing the roadway ahead is due not only to the downhill slope of the sharp curve, which allows the crest of the hill to block westbound traffic's vision of oncoming vehicles, but it is also due to the existence of a large diameter tree that was located on the northwest corner, just west of the intersection of Holly Street and Grand Avenue.

96. As westbound traffic approaches the curve, the tree blocked the vision of vehicles turning left, or eastbound, onto Holly Street from Arroyo Drive. It also blocked the vision of eastbound traffic coming through the curve.

97. These visual obstructions are critical because the roadway narrowing and the centerline striping is not continuous as a left side guide for westbound traffic.

98. These visual obstructions which existed on the day of the incident, are compounded by a posted speed limit of 35 m.p.h., which is too high for the curve, given the severe degree of the curve, the obstructed vision

approaching the curve, and the poor geometric design conditions set forth above, including the sharpness of the turn, the inconsistency of the centerline striping and the narrowing of the roadway, all of which created a dangerous condition.

99. This dangerous condition is complicated by the left-turn pocket for traffic turning onto Arroyo Drive. Westbound vehicles on Holly Street pull into the turn pocket and quickly brake, causing following vehicles to have to swerve to the right, going into the downhill, narrowing, sharp curve.

100. Even making the condition more dangerous, is the fact that the surface of the roadway at the curve was slippery or slick due, in all likelihood, to the glazing of the asphalt or the potential pumping out of oil from the asphalt onto the roadway surface.

101. The combination of the poor sight distance, blocked vision, sharp, slippery, downhill and narrowing curve, together with the inadequate and inconsistent center striping and abrupt left turn pocket, caused vehicles to lose control in that curve, resulting in accidents and injuries of which the CITY had notice, as more fully detailed below.

102. In addition to the dangerous conditions set forth above, the roadway is made more dangerous by the fact that once control is lost in the curve, there is no room to recover. The westbound traffic lane is narrow, with no

recovery zone before the curb.

103. The curb itself is low, allowing it to be easily mounted.

104. Unfortunately, once the curb is mounted, a concrete light standard is waiting at the apex of the curve, only approximately 2 feet 8 inches from the outside vertical edge of the curb.

105. The public property is in a dangerous condition by virtue of the lack of a recovery area at the side of the roadway, in light of the likelihood of vehicles losing control and the history of vehicles losing control in that curve at that location.

106. The roadway was also in a dangerous condition by virtue of the location of the light standard at the apex of the curve and only 2 feet 8 inches from the edge of the curb, thereby creating a dangerous condition by presenting a hazard to operators using the roadway with due care, who lose control of their vehicles for the reasons set forth above.

107. The roadway was further in a dangerous condition because the light standard itself was not protected and was made of concrete, rather an energy-absorbing material.

108. The injury which occurred to LARRY TRENT resulted from an impact with the light standard which was a foreseeable consequence of placing the concrete standard so close to the curb in the apex of a curve where vehicles are losing control because of the narrowing roadway, the lack of

adequate center striping, the slipperiness of the surface, the lack of sight distance, the abrupt left-hand turn pocket, and the excessive speed limit.

109. At the time that LARRY TRENT was traveling westbound on Holly Street on April 17, 1992, plaintiffs are informed and believe that a vehicle traveling eastbound came into or appeared to come into the westbound lane of traffic in the curve, for the reasons identified above; the vehicle was not seen until the last minute by LARRY TRENT because of the inadequate sight distance and obstructions identified above. LARRY TRENT, upon seeing the vehicle and the sudden turbocharger self-acceleration of his vehicle, decelerated, which caused the Porsche to go into an oversteer condition, resulting in a loss of control. The dangerous slipperiness of the roadway surface exacerbated the oversteer condition, and the dangerous lack of a recovery area caused the vehicle to quickly mount the adjacent curb on Holly Street where it impacted the unprotected and dangerously located light standard, resulting in severe injuries and death shortly thereafter to LARRY TRENT.

110. After LARRY TRENT's death, the CITY came out to the scene and cut down the tree that was obstructing the vision of the curve.

111. After the death of LARRY TRENT, the CITY also resurfaced the street to eliminate the slipperiness.

112. After the death of LARRY TRENT, plaintiffs are informed and believe that another vehicle lost control in

the same location and impacted the same light standard, but completely knocked it down. Plaintiffs are informed and believe that the CITY then replaced the light standard which existed at the time of LARRY TRENT's collision.

113. The CITY had actual or constructive notice of the dangerous conditions set forth above in sufficient time before the incident so that the measures taken afterwards, could have been taken before to protect against the dangerous conditions. Additional measures could also have been taken. The actual or constructive notice is evidenced by the fact that in the last ten years, there have been 41 accidents in the curve, eight of which have occurred in the last three years. The history of that curve indicates that there will be an accident on an average of one every four months.

114. In addition to the accident history in the curve, the CITY had actual or constructive notice, plaintiffs are informed and believe, by complaints made by adjacent property owners directly to the CITY before this incident.

115. Moreover, the plaintiffs are informed and believe that the CITY had actual or constructive knowledge by virtue of a police car going out of control and crashing in the very same curve.

116. Plaintiffs refer to and incorporate herein paragraph 27 of the First Cause of Action as though set forth in full herein.

WHEREFORE, plaintiffs ESTATE and HEIRS pray for damages

against the defendants as follows:

1 For compensatory damages, both economic and non-economic, according to proof;

2 For equitable relief, as set forth in the Eight Cause of Action;

3 For costs of suit;

4 For such other relief as the Court deems just, fair and equitable; and,

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5 Additionally, plaintiff ESTATE also prays for punitive or exemplary damages against defendants PORSCHE, PORSCHE NORTH AMERICA and VOLKSWAGEN arising out of the survivor action, in an amount sufficient to punish or set an example of those defendants.

DATED: November 1, 1994

McCLELLAN & ASSOCIATES

By: \_\_\_\_\_  
Craig R. McClellan  
Attorneys for Plaintiffs