

DENNIS L. KENNEDY
Nevada Bar No. 1462
SARAH E. HARMON
Nevada Bar No. 8106
BAILEY ♦ KENNEDY
8984 Spanish Ridge Avenue
Las Vegas, Nevada 89148-1302
Telephone: 702.562.8820
Facsimile: 702.562.8821
DKennedy@BaileyKennedy.com
SHarmon@BaileyKennedy.com

VICTOR E. SCHWARTZ
(*Pro Hac Vice pending*)
SHOOK, HARDY & BACON L.L.P.
1155 F Street, N.W., Suite 200
Washington, DC 20004-1305
Telephone: 202.783.8400
Facsimile: 202.783.4211
VSchwartz@shb.com
*Attorneys for proposed
Amici Curiae*

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Tracie K. Lindeman
Clerk of Supreme Court

IN THE SUPREME COURT OF THE STATE OF NEVADA

FORD MOTOR COMPANY,

Appellant,

vs.

THERESA GARCIA TREJO AS
SUCCESSOR-IN-INTEREST AND
SURVIVING SPOUSE OF RAFAEL
TREJO, DECEASED,

Respondent.

Supreme Court No. 67843

District Court No. A-11-641059-C

**MOTION FOR LEAVE TO FILE *AMICI CURIAE* BRIEF OF
THE NATIONAL ASSOCIATION OF MANUFACTURERS AND
ALLIANCE OF AUTOMOBILE MANUFACTURERS, INC.
IN SUPPORT OF APPELLANT**

Pursuant to Rule 29(c) of the Nevada Rules of Appellate Procedure, the National Association of Manufacturers and Alliance of Automobile Manufacturers, Inc. (“Movants”) hereby move for leave to file a brief as *amici curiae* in the above-referenced matter. The proposed brief is filed conditionally with this Motion.

Statement of Interest

The proposed *amici curiae* are organizations representing a wide range of manufacturers that contribute to Nevada’s economy. This case is of importance to the proposed *amici* because application of the consumer expectations test in complex product liability cases may result in imposing liability against manufacturers even where their products achieve the optimal level of safety.

The National Association of Manufacturers (“NAM”) is the largest manufacturing association in the United States, representing small and large manufacturers in every industrial sector and in all 50 states. Manufacturing employs over 12 million men and women, contributes roughly \$2.1 trillion to the U.S. economy annually, has the largest economic impact of any major sector and accounts for two-thirds of private-sector research and development. NAM’s mission is to enhance the competitiveness of manufacturers and improve American living standards by shaping an environment conducive to U.S. economic growth.

The Alliance of Automobile Manufacturers, Inc. (“the Alliance”), formed in 1999 and incorporated in Delaware, has twelve members: BMW Group, FCA US LLC, Ford Motor Company, General Motors, Jaguar Land Rover, Mazda, Mercedes-Benz USA, Mitsubishi Motors, Porsche Cars North America, Toyota,

Volkswagen Group of America, and Volvo Car Corporation. Alliance members are responsible for 77% of all car and light truck sales in the United States. The Alliance’s mission is to improve the environment and motor vehicle safety through the development of global standards and the establishment of market-based, cost-effective solutions to meet emerging challenges associated with the manufacture of new automobiles. The Alliance files *amicus curiae* briefs in cases such as this one that are important to the automobile industry.

Reasons Why an *Amicus* Brief Is Desirable

The proposed *amici curiae* brief seeks to educate the Court on a single issue presented in this case: whether the “risk v. benefits” test, rather than the consumer expectations test, should govern complex product liability cases where ordinary consumers cannot reasonably evaluate a product’s expected performance in unfamiliar circumstances. The brief will explain the history and development of the consumer expectations test, and the basic problems courts have encountered when applying this test in context of design defect claims involving complex products. The brief will further explain why a majority of courts have supplanted such an analysis with a “risk-utility” test to more fairly decide product liability design defect claims and encourage the manufacturer of safer products. Accordingly, the proposed brief does not repeat the Appellant’s arguments. Rather, the proposed *amici* seek to utilize their broad perspective to inform the Court on the most sound public policy for Nevada consumers and manufacturers.

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1 For these reasons, the proposed *amici curiae* request that the Court grant
2 its Motion.

3 DATED this 19th day of November, 2015.

4 BAILEY ❖ KENNEDY

5
6 By: /s/ Dennis L. Kennedy
7 DENNIS L. KENNEDY
8 SARAH E. HARMON

9 and

10 VICTOR E. SCHWARTZ
11 (*Pro Hac Vice pending*)
12 SHOOK, HARDY & BACON L.L.P.

13 *Attorneys for proposed Amici Curiae*
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CERTIFICATE OF SERVICE

I certify that I am an employee of BAILEY ♦ KENNEDY and that on the 19th day of November, 2015, service of the foregoing **MOTION FOR LEAVE TO FILE *AMICI CURIAE* BRIEF OF THE NATIONAL ASSOCIATION OF MANUFACTURERS AND ALLIANCE OF AUTOMOBILE MANUFACTURERS, INC. IN SUPPORT OF APPELLANT** was made by electronic service through Nevada Supreme Court's electronic filing system and/or by depositing a true and correct copy in the U.S. Mail, first class postage prepaid, and addressed to the following at their last known addresses:

VAUGHN A. CRAWFORD JAY J. SCHUTTERT MORGAN T. PETRELLI SNELL & WILMER L.L.P. 3883 Howard Hughes Parkway Suite 1100 Las Vegas, NV 89169	Email: vcrawford@swlaw.com jschutttert@swlaw.com mpetrelli@swlaw.com <i>Attorneys for Appellant</i> FORD MOTOR COMPANY
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LISA PERROCHET EMILY V. CUATTO HORVITZ & LEVY LLP 15760 Ventura Boulevard 18th Floor Encino, CA 91436-3000	Email: lperrochet@horvitzlevy.com ecuatto@horvitzlevy.com <i>Attorneys for Appellant</i> FORD MOTOR COMPANY
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MICHAEL W. EADY THOMPSON COE COUSINS & IRONS, L.L.P. 701 Brazos Street 15th Floor Austin, TX 78701	Email: meady@thompsoncoe.com <i>Attorneys for Appellant</i> FORD MOTOR COMPANY
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BRIAN D. NETTLES WILLIAM R. KILLIP, JR. NETTLES LAW FIRM 1389 Galleria Drive Suite 200 Henderson, NV 89014	Email: brian@nettleslawfirm.com bill@nettleslawfirm.com <i>Attorneys for Respondent</i> THERESA GARCIA TREJO
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RICARDO A. GARCIA
JODY R. MASK
GARCIA OCHOA MASK
820 South Main Street
McAllen, TX 78501

Attorneys for Respondent
THERESA GARCIA TREJO

LARRY W. LAWRENCE, JR.
LAWRENCE LAW FIRM
3112 Windsor Road
Suite A234
Austin, TX 78703

Attorneys for Respondent
THERESA GARCIA TREJO

A. WILLIAM MAUPIN
NAYLOR & BRASTER
1050 Indigo Drive
Suite 112
Las Vegas, NV 89145

Email:
wmaupin@naylorandbrasterlaw.com

Attorneys for Respondent
THERESA GARCIA TREJO

DAVID N. FREDERICK
43 Innisbrook Avenue
Las Vegas, NV 89113

Email: dnfrederick@cox.net
Attorneys for Respondent
THERESA GARCIA TREJO

BEAU STERLING
STERLING LAW, LLC
228 South 4th Street
1st Floor
Las Vegas, NV 89101

Email: bsterling@sterlinglaw.com

Attorneys for Respondent
THERESA GARCIA TREJO

/s/ Jennifer Kennedy
Employee of BAILEY ❖ KENNEDY