

IN THE SUPREME COURT OF OHIO

PETER ROMANS, Individually and as Administrator	:	
of the Estates of Billi, Ami, and Caleb Romans,	:	
deceased,	:	
	:	Case No. 2013-2055
Plaintiff-Appellant,	:	
	:	
v.	:	
	:	Discretionary Appeal from
SENSATA TECHNOLOGIES, INC.	:	the Madison County Court of
(f/k/a TEXAS INSTRUMENTS, INC.), et al.,	:	Appeals, 12th Appellate
	:	District, Case No.
Defendants-Appellees.	:	CA2013-040-012

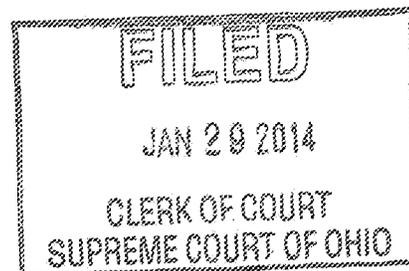
**DEFENDANT-APPELLEE BRIDGESTONE RETAIL OPERATIONS, LLC'S
MEMORANDUM IN RESPONSE TO PLAINTIFF-APPELLANT PETER ROMANS'
MEMORANDUM IN SUPPORT OF JURISDICTION**

William G. Porter, II (0017296)
Perry W. Doran, II, Counsel of Record
(0071757)
Peter A. Lusenhop (0069941)
Vorys, Sater, Seymour and Pease LLP
52 East Gay Street, P.O. Box 1008
Columbus, Ohio 43216-1008
Tel: (614) 464-6305
Fax: (614) 719-5185
pdoran@vorys.com
wgporter@vorys.com
palusenhop@vorys.com

*Attorneys for Plaintiff-Appellant
Peter Romans, Individually and as
Administrator of the Estates of Billi, Ami and
Caleb Romans*

Terrance M. Miller, Counsel of Record
(0023089)
Anthony R. McClure (0075977)
Jared M. Klaus (0087780)
Porter Wright Morris & Arthur LLP
41 South High Street, 29th Floor
Columbus, Ohio 43215
Tel: (614) 227-2000
Fax: (614) 227-2100
tmiller@porterwright.com
amclure@porterwright.com
jklaus@porterwright.com

*Attorneys for Defendant-Appellee Bridgestone
Retail Operations, LLC*



Michael H. Carpenter (0015733)
Timothy R. Bricker (0061872)
Carpenter Lipps & Leland LLP
280 Plaza, Suite 1300
280 N. High Street
Columbus, Ohio 43215
Tel: (614) 365-4100
carpenter@carpenterlipps.com
bricker@carpenterlipps.com

Eric J. Mayer
Matthew C. Behncke
Susman Godfrey LLP
1000 Louisiana Street, Suite 5100
Houston, Texas 77002-5096
Tel: (713) 651-9366
emayer@susmangodfrey.com
mbehncke@susmangodfrey.com

*Attorneys for Defendant-Appellee
Sensata Technologies, Inc., f/k/a Texas
Instruments Incorporated*

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**THIS APPEAL PRESENTS NO QUESTION OF PUBLIC OR
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The Ohio Constitution limits this Court’s discretionary jurisdiction to “cases of public or great general interest.” Article IV, Section 2(B)(2)(e), Ohio Constitution. As it concerns Appellee Bridgestone Retail Operations, LLC (“BSRO”), this appeal presents no issue of public or great general interest. Rather, this appeal presents only an Ohio appellate court’s straightforward application of unwavering Ohio Supreme Court precedent stretching back 60 years.

In the 1954 case of *Landon v. Lee Motors, Inc.*, this Court held that:

[o]ne who contracts to repair or service an automobile is liable for any damage proximately resulting from the negligent or unskillful manner in which he makes repairs or performs the services, but such **repairman is not liable for an alleged failure to discover a latent defect, unless the evidence shows that he undertook to discover such defect and negligently failed to do so.**

161 Ohio St. 82 (1954), paragraph 7 of the syllabus (emphasis added). This Court has twice reaffirmed the rule of *Landon* in the years since the case was decided. *State Farm Fire & Cas. Co. v. Chrysler Corp.*, 37 Ohio St.3d 1, 10, 523 N.E.2d 489 (1988), *superseded by statute on other grounds*; *State Auto Mut. Ins. Co. v. Chrysler Corp.*, 36 Ohio St.2d 151, 157, 304 N.E.2d 891 (1973). And the Court has declined jurisdiction in at least one case asking it to revisit the *Landon* rule. *Risk v. Woeste Eastside Motors*, 80 Ohio St.3d 1411, 684 N.E.2d 704 (1997).

In unanimously affirming the decision by the Madison County Court of Common Pleas granting summary judgment in favor of BSRO on Plaintiff-Appellant Peter Romans’ (“Romans”) negligence claims, the Twelfth District Court of Appeals simply applied *Landon* and its progeny. The Twelfth District did not extend *Landon*. The Twelfth District did not misapply *Landon*. And the Twelfth District certainly did not, as Romans contends, create “a new blanket immunity for mechanics.” (Memorandum of Appellant Peter Romans in Support of Jurisdiction, p. 11.)

As found by the Twelfth District, the undisputed evidence in this case demonstrates that BSRO did not undertake to discover or repair any alleged defect in the speed-control deactivation switch (“SCDS”) on Romans’ 2001 Ford Expedition (“Expedition”). (Appeals Court Opinion, ¶ 63.) Rather, BSRO undertook only to fix the symptoms that Romans reported when he brought the Expedition into BSRO’s shop – *i.e.*, that the Expedition would blow a fuse when the brake pedal was depressed, making it impossible to shift the Expedition out of “Park.” (*Id.*) The scope of BSRO’s undertaking, in turn, defined the scope of its legal duty to Romans per the rule of *Landon*: to repair the Expedition in such a manner that the fuse would stop blowing when the brake pedal was depressed and the Expedition could be shifted out of “Park.” (*Id.*) The Twelfth District also found that the undisputed evidence showed that BSRO had properly discharged that duty because it diagnosed the root of the symptoms reported by Romans (a malfunctioning brake pedal position switch), fixed the root of the symptoms (by replacing the brake pedal position switch), and confirmed by retesting the Expedition that the symptoms no longer occurred. (*Id.* at ¶ 64.) In essence, the Twelfth District found, based upon the undisputed evidence, that BSRO properly did all that Romans had asked it to do, and that is all that *Landon* requires.

Cases of public or great general interest typically involve novel questions of law or procedure that appeal not only to the legal profession, but to the Court’s “collective interest in jurisprudence.” *Noble v. Colwell*, 44 Ohio St.3d 92, 94, 540 N.E.2d 1381 (1989). This case, although involving a tragic loss of life, offers nothing from a legal perspective but a garden-variety tort case involving the rote application of settled negligence principles to a set of unique facts that are unlikely to repeat themselves. *See Ahmad v. AK Steel Corp.*, 119 Ohio St.3d 1210, 2008-Ohio-4082, 893 N.E.2d 1287, ¶ 7 (O’Connor, J., concurring, joined by Chief Justice Moyer

and Justices Pfeifer and Lanzinger, declining review of a “garden-variety” case that is “neither of substantial constitutional import nor of public or great general interest”); *City of St. Marys v. Auglaize Cty. Bd. of Commrs.*, 115 Ohio St.3d 387, 2007-Ohio-5026, 875 N.E.2d 561, ¶ 71 (O’Donnell, J., dissenting, joined by Justice Lanzinger, stating that the case should not have been accepted for review because, “[a]lthough interesting, the case involves neither a novel legal issue nor a substantial constitutional question or an issue of public or great general interest”); *Williamson v. Rubich*, 171 Ohio St. 253, 254, 168 N.E.2d 876 (1960) (distinguishing questions of public or great general interest from questions of interest primarily to the parties involved). Accepting Romans’ invitation to revisit 60 years of settled Ohio Supreme Court precedent will surely not advance this Court’s jurisprudence. Were it to accept Romans’ appeal, this Court would be “merely second-guessing the appellate court’s decision * * * [, which, b]y rule and by necessity, * * * is not the role of this [C]ourt.” *Manigault v. Ford Motor Co.*, 96 Ohio St.3d 431, 2002-Ohio-5057, 775 N.E.2d 824, ¶ 18 (Lundberg Stratton, J., dissenting).

Because Romans’ appeal with respect to BSRO fails to present any issues of public or great general interest, the Ohio Constitution provides Romans with “a right to but one appellate review of his cause.” *Williamson*, 171 Ohio St. at 253-54. Romans has already exhausted this right through his appeal to the Twelfth District, which, applying this Court’s black-letter law, unanimously affirmed the trial court’s grant of summary judgment. In such a case, the Twelfth District’s decision serves as “the ultimate and final adjudication” of the matter. *Id.* at 253. Furthermore, even were the Twelfth District to have reached the wrong result, as Romans argues, Romans would in no way be deprived of his remedy by dismissal of his appeal. Rather, if this Court properly declines discretionary review over Romans’ appeal, this case will simply return to

the Madison County Court of Common Pleas for a trial on Romans' claims against Ford Motor Company, the primary defendant in this case.

STATEMENT OF THE CASE AND FACTS

Romans, individually and as administrator for the estates of his wife, Billi Romans, and his two children, Ami and Caleb Romans, brought this action following a fire that engulfed Romans' home and claimed the lives of Billi, Ami, and Caleb on the night of April 5, 2008. Romans claimed that the fire originated in the Expedition, which was parked in the home's attached carport, and that the fire was caused by a defective SCDS – an electrical component responsible for switching off the Expedition's cruise-control system. The SCDS on the Expedition was the subject of a safety recall issued by Ford Motor Company ("Ford") in 2005 due to concerns that it could malfunction and cause spontaneous vehicle fires. The evidence shows that Romans received, and ignored, at least one notice from Ford advising him of this recall prior to the fire.

Romans brought claims against Ford as well as Sensata Technologies, Inc. (formerly Texas Instruments, Inc.), which manufactured the SCDS, and BSRO, which, about a month before the fire, performed some service on the Expedition at the BSRO-operated Firestone Complete Auto Care service center on Henderson Road in Columbus, Ohio.

Romans' claims against BSRO alleged that BSRO was negligent for failing to repair, disable, and/or warn Romans of the allegedly defective SCDS when the Expedition was in BSRO's shop. But the undisputed evidence shows that Romans never requested BSRO to inspect or repair the Expedition's cruise-control system, of which the SCDS was a part, or to perform a complete inspection of the Expedition's electrical system. (Appeals Court Opinion, ¶ 63.) Rather, Romans had brought the Expedition in for service because one of the Expedition's

fuses repeatedly kept blowing out when the brake pedal was depressed, making it impossible to shift the Expedition out of “Park.” (*Id.* at ¶ 14.) Romans described these symptoms to BSRO Service Adviser Michael Hoskin,¹ who, in turn, relayed the information to BSRO technician James Cole via a computer-generated work order. (*Id.* at ¶ 15.) Based upon the work order, Cole diagnosed the problem as a malfunctioning brake pedal position switch (“brake switch”), replaced the brake switch, and retested the Expedition, confirming that the problem was fixed.² (*Id.* at ¶ 17.) Indeed, Romans admitted to being satisfied with Cole’s repairs, testifying that he “didn’t think there was any problem with [BSRO’s] service work.” (*Id.* at ¶¶ 63-64.)

Following extensive discovery, BSRO moved for summary judgment on Romans’ claims on the ground that it owed no duty to discover, repair, or warn of the allegedly defective SCDS when the Expedition was in BSRO’s shop because doing so would have been outside the scope of the services requested by Romans. The Madison County Court of Common Pleas, relying upon the rule of *Landon* and its progeny, granted BSRO’s motion. (Trial Court Decision, p. 29.)

The trial court began its analysis by concluding that the SCDS – an encapsulated unit that would have conveyed no visual clues as to its allegedly defective condition – was “the essence of a latent defect” under the rule of *Landon*. (*Id.* at p. 11.) The trial court then concluded based

¹ Romans incorrectly refers to Hoskin as a “service manager.” (Memorandum of Appellant Peter Romans in Support of Jurisdiction, p. 5.) Hoskin testified that his formal title was only “service adviser,” and the trial court accurately summarized Hoskin’s role at BSRO when it stated that Hoskin “operated simply as an intake functionary” who “inputted symptoms reported by customers into the computer to generate work orders.” (Trial Court Decision, p. 6.)

² Romans asserts that “Cole has no recollection of testing the brake switch, and it is more likely that he simply assumed that it was the problem.” (Memorandum of Appellant Peter Romans in Support of Jurisdiction, p. 15.) This is a mischaracterization of the record. Cole had no specific recollection whatsoever of working on the Expedition, which is not surprising given that Cole’s deposition was taken almost four years after the fact. However, Cole was able to testify as to the work that he performed on the Expedition by reviewing his notes on the work order as well as by reference to his standard procedure, from which, contrary to Romans’ unsupported speculation, there is no evidence that Cole deviated.

upon the undisputed evidence that BSRO had not undertaken to discover or repair the SCDS because “diagnosing its condition was outside the scope of the work order.” (*Id.* at p. 19-20.) Based upon a straightforward application of *Landon*, the trial court thus found that BSRO owed no duty to warn of, repair, or disable the SCDS. (*Id.* at p. 29.)

Romans appealed the trial court’s decision to the Twelfth District, making essentially the same argument he makes to this Court – *i.e.*, that BSRO was obligated to conduct a comprehensive examination of the Expedition’s entire electrical system even after determining that it had adequately diagnosed and fixed the symptoms reported by Romans. The Twelfth District rightfully rejected Romans’ theory, finding, as the trial court did, that the rule of *Landon* foreclosed his claims as a matter of law. (Appeals Court Opinion, ¶¶ 67-68.)

Like the trial court, the Twelfth District found that the SCDS, if indeed defective, was a “latent” defect. (*Id.* at ¶ 67.) Not only was the SCDS an enclosed unit, it was also located in the engine compartment, an area that Cole had no reason to access because the brake switch that Cole had found to be malfunctioning was located in the passenger compartment. (*Id.*) In addition, neither Cole nor Hoskin had any tool at their disposal that would have alerted them of the 2005 recall on the SCDS. (*Id.* at ¶¶ 67, 71.)

The Twelfth District also concurred in the trial court’s finding that BSRO had not undertaken to discover or repair the allegedly defective SCDS. (*Id.* at ¶ 63.) Indeed, the Twelfth District found that “[t]here is nothing in the conversation between Hoskin and Romans or in the work order which indicated that the inspection or repair of the SCDS was part of the service requested by Romans.” (*Id.*) Rather, the Twelfth District found that the undisputed evidence showed that “Romans only requested [BSRO] fix the symptoms he reported,” which BSRO did to Romans’ admitted satisfaction. (*Id.* at ¶¶ 63-64.)

ARGUMENT

A. The Twelfth District did not create a new legal rule or immunity, but merely applied this Court’s well-settled precedent to a unique set of facts.

Although *Romans* leads with the extraordinary assertion that the Twelfth District “created a new blanket immunity for mechanics with respect to ‘latent’ defects,” the meat of *Romans*’ argument demonstrates that the trial court and the Twelfth District did nothing more than routinely apply this Court’s longstanding precedent. *Romans* simply disagrees with the outcome. Yet this Court is “not an error-correcting court; rather, [its] role as the court of last resort is to clarify confusing constitutional questions, resolve uncertainties in the law, and address issues of public or great general interest.” *State v. Noling*, 136 Ohio St.3d 163, 2013-Ohio-1764, 992 N.E.2d 1095, ¶ 63 (O’Donnell, J., dissenting, joined by Justice French). Because *Romans*’ appeal presents none of the necessary bases for jurisdiction and is instead nothing but a plea for error correction, this Court should decline discretionary review.

The scope of an automobile repair shop’s duty to its customer has been settled since this Court’s 1954 decision in *Landon v. Lee Motors, Inc.*, in which the Court held that:

[o]ne who contracts to repair or service an automobile is liable for any damage proximately resulting from the negligent or unskillful manner in which he makes repairs or performs the services, but such *repairman is not liable for an alleged failure to discover a latent defect, unless the evidence shows that he undertook to discover such defect and negligently failed to do so.*

161 Ohio St. 82 (1954), paragraph 7 of the syllabus (emphasis added).

In the years since *Landon* was decided, this Court has twice, in cases similar to this one, affirmed its adherence to the rule that an automobile repair shop has no duty to inspect for or repair a latent defect on a vehicle unless it has contractually obligated itself to do so. Most analogous to this case is *State Farm Fire & Cas. Co. v. Chrysler Corp.*, in which the Court held

that an automobile repair shop was, as a matter of law, not liable for failing to diagnose an electrical defect that eventually caused the plaintiff's car to catch fire. 37 Ohio St.3d 1, 10, 523 N.E.2d 489 (1988), *superseded by statute on other grounds*. As in this case, the plaintiff claimed that the repair shop was negligent for failing to discover the defective electrical component alleged to be the cause of the fire when the vehicle was in its shop for other electrical repairs. *Id.* Relying on *Landon*, this Court held that the repair shop was entitled to a directed verdict, refusing to impose a duty on the repair shop to spot the allegedly incendiary electrical component simply because the repair shop had undertaken to diagnose and repair other electrical problems with the vehicle. *Id.* As in *Landon*, the *State Farm* Court limited the repair shop's duty to the four corners of the contract with its customer. *Id.*

The Court also reaffirmed the rule of *Landon* in *State Auto Mut. Ins. Co. v. Chrysler Corp.*, holding that a repair shop was entitled to a directed verdict on the plaintiff's claim that the shop negligently failed to spot a leak in a truck's brake hose during its repairs of the truck's brake drum and linings because "there [was] no evidence in the record that [the shop] had occasion or cause to examine the brake hose during the repair work on the drum and linings." 36 Ohio St.2d 151, 157, 304 N.E.2d 891 (1973).

Notably, Romans does not dispute that the SCDS, if defective at all, was a "latent" defect within the meaning of *Landon* and that BSRO thus had no duty to discover it unless it had undertaken to do so. (Memorandum of Appellant Peter Romans in Support of Jurisdiction, p. 12-13.) Nor does Romans argue that the trial court and the Twelfth District overstepped their bounds in ruling, as a matter of law, on the existence of a legal duty owed by BSRO. To be sure, the existence of a legal duty is a question of law to be decided by the court. *See Wallace v. Ohio DOC*, 96 Ohio St.3d 266, 2002-Ohio-4210, 773 N.E.2d 1018, ¶ 22.

Rather, Romans' only point of contention is that, based upon the specific exchange between Romans and BSRO Service Adviser Hoskin, the trial court and the Twelfth District should have found that BSRO *did* undertake to discover the allegedly defective SCDS and thus had a duty to do so. (Memorandum of Appellant Peter Romans in Support of Jurisdiction, p. 12-14.) That three appellate court judges and one trial court judge have found this argument to be completely unsupported by the undisputed facts in this case is beside the point. What matters in the jurisdictional analysis is that Romans is complaining merely that the lower courts reached the wrong result, not that they took the wrong steps to get there. Romans has come knocking at this Court's door, not because his case presents an issue of public or great general interest, but rather because he hopes that the third time will be the charm. This is not a valid basis for invoking this Court's discretionary jurisdiction. *See State v. Bartrum*, 121 Ohio St.3d 148, 2009-Ohio-355, 902 N.E.2d 961, ¶ 31 (O'Donnell, J., dissenting, stating that "our role as a court of last resort is not to serve as an additional court of appeals on review, but rather to clarify rules of law arising in courts of appeals that are matters of public or great general interest").

In addition, Romans' appeal is of such a "fact-specific nature" – involving a specific set of symptoms reported by Romans to BSRO that Romans claims should have alerted BSRO to a specific defect in an obscure electrical component – that an opinion by this Court would be "unlikely to provide meaningful guidance to the bench and bar." *City of Blue Ash v. Kavanagh*, 113 Ohio St.3d 67, 2007-Ohio-1103, 862 N.E.2d 810, ¶ 31 (Pfeifer, J., dissenting); *see also State v. Urbin*, 100 Ohio St.3d 1207, 2003-Ohio-5549, 797 N.E.2d 985, ¶ 5 (Moyer, C.J., concurring, dismissing appeal as improvidently granted in part because one of the appellant's propositions of law raised "a case-specific issue of no general interest"); *State Auto Ins. Co. v. Pasquale*, 113 Ohio St.3d 11, 2007-Ohio-970, 862 N.E.2d 483, ¶ 18 (Pfeifer, J., dissenting, stating that an

appeal should have been dismissed as having been improvidently granted because it “affects a very small number of cases” and “involves nothing more than error correction”).

Romans has failed to demonstrate that his appeal presents issues of public or great general interest aside from his own personal interests in continuing to litigate a settled issue. The Court should therefore decline jurisdiction over his appeal.

B. Romans’ allegation that BSRO had knowledge of the allegedly defective SCDS does not change the outcome under *Landon* and does not transform this appeal into one of public or great general interest.

Romans’ argument that BSRO had a duty to inspect, repair, or warn him of the allegedly defective SCDS because BSRO Service Adviser Hoskin knew of the alleged defect is a red herring. (Memorandum of Appellant Peter Romans in Support of Jurisdiction, p. 11.) As an initial matter, this argument is based upon a mischaracterization of the evidence. As found by both the trial court and the Twelfth District, although Hoskin was generally aware that Ford had issued a recall due to the risk of fire from a malfunctioning SCDS, there is no evidence that Hoskin either was aware of the symptoms of a malfunctioning SCDS or knew that the Expedition’s SCDS was defective. (Appeals Court Opinion, ¶ 71; Trial Court Decision, p. 27.)

More importantly, BSRO’s knowledge, or lack thereof, of the allegedly defective SCDS is irrelevant in assessing the scope of its duty under *Landon*, as it does not change the fact that inspecting the SCDS was outside the scope of the services that Romans requested. Nor was BSRO obligated to share whatever knowledge it may have had regarding the 2005 recall of the SCDS with Romans. As the Twelfth District found, “Romans failed to present evidence demonstrating that a repair shop owes a legal duty to advise customers that their vehicle is subject to a recall.” (Appeals Court Opinion, ¶ 71.) The Twelfth District rightfully found that to impose such a duty would be “burdensome and unreasonable,” especially because BSRO did not have any type of system in place that would have automatically notified a technician or service

adviser that a customer's vehicle was subject to a recall. (*Id.*) The absence of such a system, of course, presents no cause for alarm. There is already a closely regulated system in place in this country, administered by the National Highway Traffic Safety Administration ("NHTSA") in cooperation with vehicle manufacturers, to provide timely, accurate, and consistent information on vehicle safety recalls to consumers – a system that, by design, omits any role for third-party mechanics such as BSRO in the recall-notification process.³ *See generally* 49 U.S.C. §§ 30118-30119; 49 C.F.R. § 577.1 *et seq.* This system works, as evidenced by Romans' testimony that he received a recall notice on the Expedition's SCDS more than two years before bringing the vehicle to BSRO's shop.

Contrary to Romans' exclamations that the Twelfth District's decision created a new rule of non-liability for auto mechanics, the Twelfth District did nothing but apply settled law. In fact, the Twelfth District's decision was strikingly similar to one that it issued more than 16 years ago and that this Court declined to review on appeal. *Risk v. Woeste Eastside Motors, Inc.*, 119 Ohio App.3d 761, 764, 696 N.E.2d 283 (12th Dist. 1997), appeal dismissed by *Risk v. Woeste Eastside Motors*, 80 Ohio St.3d 1411, 684 N.E.2d 704 (1997).

In *Risk*, the Twelfth District held that a car repair shop was entitled to a directed verdict on the plaintiff's claim alleging that the shop was negligent for failing to inspect or replace the plaintiff's timing belt, even though the evidence showed that the repair shop was aware of a manufacturer's recommendation, based on the vehicle's mileage, that the timing belt be replaced. 119 Ohio App.3d at 764-65. Applying the rule of *Landon*, the Twelfth District held that the repair shop had no duty to inspect or replace the timing belt because the undisputed evidence showed that the plaintiff had requested only a 90,000-mile tune-up and air-conditioning

³ Indeed, BSRO was not even authorized to perform the repairs called for by the recall on the SCDS – a job that was reserved solely for Ford dealerships. (Appeals Court Opinion, ¶ 66.)

inspection and that the inspection or replacement of a timing belt was not part of the shop's 90,000-mile service. *Id.* The Twelfth District also held that the repair shop was entitled to a directed verdict on the plaintiff's claim that the shop negligently failed to inform him of the manufacturer's recommendation on the timing belt because no evidence was offered to show that the standard of care in the automobile repair industry required a repair shop to inform its customer of additional repairs recommended by the manufacturer. *Id.* The Twelfth District held that to impose a duty on a repair shop "to advise a customer of all the additional repairs that are recommended * * * would be burdensome and unreasonable." *Id.*

As Romans has done here, the plaintiff in *Risk* appealed the Twelfth District's decision to this Court, arguing that the Twelfth District had violated the settled expectations of consumers by holding that mechanics have no duty to inform their customers of manufacturers' recommendations of which they are aware. *See* Memorandum in Support of Jurisdiction of Appellant Samir F. Risk, Case No. 97-1427, filed July 11, 1997, at p. 2, 5-7. This Court declined jurisdiction and dismissed the appeal, finding, without explanation, that the case presented no substantial constitutional question and that a discretionary appeal was not allowed. *Risk*, 80 Ohio St.3d at 1411. Because Romans has done little more than parrot the same old arguments that were rejected in *Risk* – the only distinction, without a difference, being that this case involves a manufacturer's *recall* rather than a manufacturer's service recommendation – the Court should decline to review his appeal as well.

C. The settled expectations of mechanics and their customers will not be disturbed if this Court properly declines discretionary review.

In an effort to portray this case as one of public or great general interest, Romans argues that the Twelfth District's decision "violates the settled expectations of mechanics and their customers." (Memorandum of Appellant Peter Romans in Support of Jurisdiction, p. 14.) This

is essentially the same plea for jurisdiction made by the appellant in *Risk* and properly rejected by this Court. See Memorandum in Support of Jurisdiction of Appellant Samir F. Risk, Case No. 97-1427, filed July 11, 1997, at p. 2, 5-7; *Risk*, 80 Ohio St.3d at 1411. It is also wholly unfounded. To decline jurisdiction over Romans' appeal would simply preserve the *status quo* as it has existed in the 60 years since *Landon* was decided.

The Twelfth District's decision did not, as Romans argues, alter the rule that an auto mechanic asked by its customer to diagnose and repair the source of an unknown electrical problem has the duty to do so with ordinary care. (Memorandum of Appellant Peter Romans in Support of Jurisdiction, p. 1.) Rather, the Twelfth District merely held that, after fulfilling this duty – which the undisputed evidence shows that BSRO did when it diagnosed the source of the symptoms reported by Romans as a defective brake switch, replaced the brake switch, and confirmed by retesting the Expedition that the symptoms no longer occurred⁴ – a mechanic has no duty to continue checking the vehicle's electrical system for other potential problems. (Appeals Court Opinion, ¶¶ 63-65.)

Indeed, it is Romans who seeks to drastically reshape the law governing auto mechanics by imposing a duty on them not only to fix the symptoms reported by a customer but to then conduct a mandated inspection of the remainder of the vehicle's electrical system. It must be noted that, in this case, both the trial court and the Twelfth District found the undisputed

⁴ In his Memorandum in Support of Jurisdiction, Romans argues that Cole should not have relied on his retesting of the Expedition to confirm that replacing the brake switch had fixed the source of the blowing fuse because, on past occasions when Romans had replaced the fuse, it had taken weeks for it to blow again. (Memorandum of Appellant Peter Romans in Support of Jurisdiction, p. 5, 15.) Yet the prior lag time of the blowing fuse is irrelevant in assessing the scope of BSRO's legal duty. First, it is undisputed that Romans never conveyed this information to Hoskin or anyone else at BSRO, making it impossible for Cole to have taken it into consideration. (*Id.*, p. 5.) Second, on the prior occasions on which Romans had replaced the blown fuse, he had not also replaced the malfunctioning brake switch, as Cole did. (Appeals Court Opinion, ¶ 14.)

evidence to show that BSRO had no reason to suspect a defect in the SCDS based upon either the symptoms reported by Romans or the service work performed by Cole. (Appeals Court Opinion, ¶¶ 63, 65; Trial Court Decision, p. 27.) In addition, Romans' own expert witness stated in a letter to Romans' counsel that, following the work performed by Cole, it was "completely reasonable then for any technician to assume he has corrected the problem" – a statement that the trial court found "conclusively established that * * * Cole[] performed his duties under the *Landon* rationale with the appropriate skill and care of a garageman." (Appeals Court Opinion, p. 29.)

To accept Romans' argument would therefore be to hold that a repair shop, despite having a reasonable belief that it has adequately fixed the problem complained of by its customer, nevertheless must continue inspecting its customer's vehicle on the off chance that it may discover some other problem. Such a rule would be more akin to strict liability than negligence, and its assured economic impact – *i.e.*, increased costs that would be passed along to consumers in the form of higher prices across the board – is self evident. The Twelfth District properly rejected Romans' argument for an extension of the law and, in doing so, steered the duties owed by an auto mechanic squarely within the lane markers laid down in *Landon* and reapplied in this Court's subsequent cases. Romans' appeal thus presents no issue of public or great general interest but rather a solicitation for the Court to revisit its settled precedents in the service of Romans' personal interests. *See Branch v. Cleveland Clinic Found.*, 134 Ohio St.3d 114, 2012-Ohio-5345, 980 N.E.2d 970, ¶ 31 (Pfeifer, J., dissenting, stating that an appeal should have been dismissed as having been improvidently granted where the case was only a matter of great personal interest to the parties and not a case of public or great general interest). This Court should therefore decline jurisdiction.

CONCLUSION

The unanimous decision of the Twelfth District, affirming the decision of the trial court in this fact-specific case involving the routine application of this Court's settled holdings simply does not qualify as a case of public or great general interest warranting discretionary review. Defendant-Appellee Bridgestone Retail Operations, LLC respectfully asks the Court to decline jurisdiction over this appeal.

Respectfully submitted,



Terrance M. Miller, Counsel of Record (0023089)
Anthony R. McClure (0075977)
Jared M. Klaus (0087780)
PORTER WRIGHT MORRIS & ARTHUR LLP
41 South High Street
Columbus, Ohio 43215
614-227-2000 / Fax: 614-227-2100
tmiller@porterwright.com
ameclure@porterwright.com
jklaus@porterwright.com

*Attorneys for Defendant-Appellee Bridgestone
Retail Operations, LLC*

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing *Memorandum In Response* was served by ordinary U.S. Mail, postage prepaid, and electronically this 29th day of January, 2014 upon:

William G. Porter, II, Esq.
Perry W. Doran, II, Esq.
Vorys, Sater, Seymour and Pease LLP
52 East Gay Street, P.O. Box 1008
Columbus, Ohio 43216-1008

*Attorneys for Plaintiff-Appellant
Peter Romans, Individually and as
Administrator of the Estates of Billi, Ami and
Caleb Romans*

Michael H. Carpenter, Esq.
Shana Ortiz See, Esq.
CARPENTER LIPPS & LELAND LLP
280 Plaza, Suite 1300
280 N. High Street
Columbus, Ohio 43215

Eric J. Mayer, Esq.
Matthew C. Behncke, Esq.
SUSMAN GODFREY LLP
1000 Louisiana Street, Suite 5100
Houston, Texas 77002

*Attorneys for Defendant-Appellee
Sensata Technologies, Inc., f/k/a Texas
Instruments Incorporated*



Terrance M. Miller