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IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAII

STATE OF HAWAII, by its Office of Consumer)
Protection,)
)
Plaintiff,)
)
vs.)
)
TAKATA CORPORATION; TK HOLDINGS,)
INC.; HONDA MOTOR CO., LTD.;)
AMERICAN HONDA MOTOR CO., INC.;)
HONDA OF AMERICA MANUFACTURING,)

CIVIL NO. 16-1-0922-05 JHC
(Other Civil Action)
COMPLAINT; SUMMONS TO
ANSWER CIVIL COMPLAINT

I do hereby certify that this is a full, true, and
correct copy of the original on file in this office.


Clerk, Circuit Court, First Circuit

INC., and DOE DEFENDANTS 1-100,)
)
 Defendants.) No trial date has been set.
)
_____)

COMPLAINT

Plaintiff STATE OF HAWAII, by its Office of Consumer Protection (hereinafter “State” or “Plaintiff”), for cause of action against the above-named Defendants, alleges and avers upon information and belief as follows:

JURISDICTION AND VENUE

1. The Office of Consumer Protection is a division of the State of Hawai'i Department of Commerce and Consumer Affairs that is charged with the enforcement of Hawai'i's consumer protection laws, including those statutes prohibiting unfair or deceptive acts or practices in the conduct of any trade or commerce.

2. In its enforcement of the aforementioned laws, the Office of Consumer Protection is authorized by law to bring this suit in the name of the State of Hawai'i.

3. This action is brought by the Office of Consumer Protection pursuant to Chapters 480 and 487, Hawai'i Revised Statutes (“HRS”), and other applicable Hawai'i law, seeking declaratory and injunctive relief, restitution, disgorgement, non-compensatory civil penalties, and other and additional relief against the above-named Defendants, as warranted.

4. This Court has jurisdiction over this case pursuant to HRS §§ 480-21 and 603-21.5. This Court is also the appropriate venue for this action pursuant to HRS § 480-21 because the seat of government of the State of Hawai'i, the plaintiff in this action, is situated within the City and County of Honolulu, State of Hawai'i.

5. This Court has jurisdiction over the above-named Defendants pursuant to HRS § 634-35, which extends this Court's *in personam* jurisdiction over foreign defendants to the fullest extent permitted by the United States Constitution, because, among other things, Defendants placed the products which are the subject of this action into the stream of commerce with the knowledge and intent that their products would be widely disseminated throughout the United States, including the State of Hawai'i, and that the adverse effects of the unsafe condition of their products would likely be felt in the State of Hawai'i, and/or Defendants otherwise directed their activities toward the State of Hawai'i and/or otherwise availed themselves of the benefits and protections of the laws of the State of Hawai'i.

NO FEDERAL REMOVAL JURISDICTION

6. The State of Hawai'i, as a sovereign governmental entity, is not a citizen of any State within the meaning of 28 U.S.C. § 1332 and/or 28 U.S.C. § 1441 *et seq.*

7. This action is not a class action or mass action under Hawai'i law, 28 U.S.C. § 1332(d) and/or 28 U.S.C. § 1441 *et seq.*, and Plaintiff expressly disavows any intent to bring this action as a class action or mass action.

8. This action does not arise under the Constitution, laws, or treaties of the United States within the meaning of 28 U.S.C. § 1331 and/or 28 U.S.C. § 1441 *et seq.*

PARTIES

9. Plaintiff STATE OF HAWAII is, and was at all times material herein, a sovereign body politic formed under the Constitution and laws of the State of Hawai'i, with its principal place of business in the City and County of Honolulu, State of Hawai'i.

10. Defendant Takata Corporation ("Takata Corp.") is, and was at all times material herein, a foreign for-profit corporation engaged in the design, manufacture, testing, marketing,

promotion and sale of motor vehicle airbags and component parts thereof, with its principal place of business in Tokyo, Japan.

11. Defendant TK Holdings Inc. (“TK Holdings”) is, and was at all times material herein, a subsidiary of Takata Corp. engaged in the design, manufacture, testing, marketing, and distribution of motor vehicle airbags and their component parts throughout the United States, with its principal place of business in Auburn Hills, Michigan.

12. Hereinafter, Takata Corp. and TK Holdings may be referred to collectively as “Takata” or “Takata Defendants.”

13. Defendant Honda Motor Co., Ltd. (“Honda Japan”) is, and was at all times material herein, a foreign for-profit corporation with its principal place of business in Tokyo, Japan, engaged in the manufacture and sale of motorcycles, automobiles, and power products through independent retail dealers, outlets, and authorized dealerships primarily in Japan, North America, Europe, and Asia.

14. Defendant American Honda Motor Co., Inc. (“American Honda”) is, and was at all times material herein, a subsidiary of American Honda headquartered in Torrance, California, which conducts the sales, marketing, and operational activities for Honda cars, trucks, and sport utility vehicles’ automobile parts in the United States.

15. Honda of America Manufacturing, Inc. (“Honda Manufacturing”) is a corporation organized under the laws of Ohio, with its principal place of business in Marysville, Ohio. Honda Manufacturing is responsible for designing and marketing Honda Motors’ vehicles for the United States Market. It designs, tests, manufactures, markets, distributes and sells those vehicles in the United States.

16. Hereinafter, Defendants Honda Japan, American Honda, and Honda Manufacturing may be referred to collectively as “Honda” or “Honda Defendants.”

17. DOE DEFENDANTS 1-100 are sued herein under fictitious names for the reason that after diligent and good faith efforts to ascertain their names and identities, their true names and identities are presently unknown to Plaintiff except that they are connected in some manner with the named Defendants and/or were the agents, servants, employees, employers, representatives, co-venturers, associates, vendors, suppliers, manufacturers, governmental entities, sub-contractors or contractors and/or owners, lessees, assignees, licensees, and designers of the named Defendants; and/or were in some manner presently unknown to Plaintiff engaged in the activities alleged herein; and/or were in some manner responsible for the statutory violations and or other wrongful acts and/or omissions alleged herein; and/or manufactured and/or designed and/or placed on the market a product which was unsafe and concealed and/or misrepresented or failed to adequately disclose its risks, which affected the safety of the motor vehicle airbags discussed herein and/or created an unreasonable risk of harm to persons or property; and/or inspected and/or maintained and/or controlled some object or product in an unfair or deceptive or otherwise wrongful manner; and/or were in some manner related to the named Defendants; and Plaintiff prays for leave to insert herein their true names, identities, capacities, activities and/or responsibilities when the same are ascertained.

COUNT I – TAKATA DEFENDANTS
UNFAIR OR DECEPTIVE ACTS OR PRACTICES

18. Plaintiff reasserts and realleges, as if fully set forth herein, the allegations of all preceding paragraphs.

19. At all times material herein, Takata designed, manufactured, marketed and/or sold motor vehicle airbags and/or component parts thereto that were expected and intended to be and

were installed in motor vehicles sold or leased throughout the United States, including Hawai'i (hereinafter "Takata Airbags").

20. Airbags are critical safety features that protect drivers and passengers from injury in the event of an accident. However, Takata Airbags have made the vehicles in which they are installed, and their occupants, less safe.

21. As used herein with respect to Takata Airbags, the term "unsafe" means that Takata airbags fail to operate as safely as an ordinary user or consumer would expect.

22. From 1999 to the present, Takata Airbags have been unsafe in that, among other things, they have been inflated by means of an explosive charge powered by an unstable, volatile compound known as ammonium nitrate that Takata began using in its airbags in 1999.

23. Heat and humidity, independently or in combination, can further aggravate the instability of ammonium nitrate. Over time, either or both of these conditions can alter the physical properties of ammonium nitrate, causing it to explode when an airbag is deployed (often euphemistically referred to by Defendants as "overly aggressive combustion"). As discussed below, such an explosion can result in the body of the inflator erupting, sending metal fragments through the airbag and into the vehicle's occupants at lethal velocities.

24. Hawai'i's geography and location create precisely the kinds of temperature and humidity conditions that adversely affect the stability of ammonium nitrate. Temperature fluctuations across a number of different temperature thresholds can alter the physical structure of ammonium nitrate, causing it to go from one structural "phase" to another. Hawai'i's temperatures routinely fluctuate across one such threshold, and, as a result, cause changes in the structure of ammonium nitrate from one phase to another and back again, rendering it even more unstable.

25. Over time, exposure to high absolute humidity will also reportedly worsen the stability of ammonium nitrate. Hawai'i is surrounded by warm ocean water, which contributes to a much higher absolute humidity than in most regions in the United States. Given the persistent condition of high absolute humidity in Hawai'i and the routine temperature fluctuations that would trigger phase changes in ammonium nitrate, Hawai'i residents have always been at a significantly greater risk of overly aggressive combustion, rupture, and injury and/or death caused by Takata's unsafe airbags.

26. Takata purported to moderate the volatility of the ammonium nitrate in its airbags through a process it called "phase stabilization," but the phase stabilization itself has proven unreliable and ineffective for long-term and even short-term use.

27. In or before 2003, Takata Airbags began injuring and killing motor vehicle occupants. A full three years earlier, in 2000, Takata covered up evidence that it knew its airbags might fail, producing just that outcome.

28. Takata began investigating unsafe deployment of its airbags as early as January 2004, following an incident involving a BMW whose airbag inflator had been manufactured in Takata's LaGrange, Georgia plant.

29. Another incident in May 2004 that resulted in the death of a woman in Alabama (hereinafter "the 2004 Alabama incident"), involved a Honda Accord, which was reported to and examined by Honda and then investigated by Takata during the Summer of 2004.

30. Honda reportedly notified Takata of an additional incident in February 2007 and two additional incidents in May 2007, and from that time to the present Takata Airbags reportedly have been injuring and killing motor vehicle occupants in increasing numbers.

31. As of the latest count, Takata Airbags have killed ten people in the United States. Takata Airbags have also injured more than 100 people, with injuries ranging from severe lacerations, puncture wounds, broken bones and burns, to permanent disfigurement, blindness, traumatic brain injury, and quadriplegia.

32. Takata knew even before it began using ammonium nitrate in its airbags in 1999 that ammonium nitrate was too unstable to be suitable for use in motor vehicle airbags, particularly in areas of the country with high heat and/or high humidity, like Hawai'i. Takata even acknowledged the risks inherent in ammonium nitrate in its initial application to patent its ammonium nitrate inflator, which described the chemical as "problematic" and "thermally unstable." Although safer alternative inflator propellants were available, and had been used by Takata from the time it first began manufacturing airbags in the 1980's, ammonium nitrate was much cheaper. Takata overrode these concerns and switched to ammonium nitrate as the propellant for its airbag inflators.

33. After Takata changed its airbag propellant to the markedly cheaper ammonium nitrate in 1999, Takata experienced a significant increase in its share of the worldwide airbag market. By 2015, almost one-quarter of all motor vehicle airbags sold worldwide were Takata Airbags.

34. Takata has known that its airbags were injuring and killing people since at least the 2004 Alabama incident, but Takata has tried to conceal that knowledge from the public, and has withheld material information regarding the hazards of Takata Airbags from the public for years. Further, Takata introduced its ammonium nitrate airbags onto the market even though they had never passed its initial product testing, a particularly glaring failure given what it knew about the dangers of this chemical.

35. Even at the time, Takata employees discussed the risk they were taking. One former Takata engineer has testified that, prior to the launch of the new inflators, he warned a manager that “if we go forward with [ammonium nitrate], someone will be killed.” The manager “acknowledged that he understood the issue, but [stated that] the decision was out of his hands.”

36. During its investigation of the 2004 Alabama incident, Takata instructed its engineers at a facility in the United States to run secret tests on a series of 50 airbags. After Takata received the results, it ordered its employees to dispose of the airbags and destroy the test results. Takata successfully hid this information from the unsuspecting public until one or more Takata whistleblowers revealed it to the *New York Times*, which published the information in November 2014. However, Takata continued to deny that ammonium nitrate was responsible for the safety issues in its airbags, failed to disclose what it knew about its own testing of the airbags, and continued to attempt to minimize the scope of the problem.

37. Any purported doubts Takata may claim to have had regarding the dangers of ammonium nitrate as an airbag inflator propellant were most certainly laid to rest when the violent explosion of several containers of ammonium nitrate propellant rocked Takata’s main inflator production plant in Monclava, Mexico in March 2006 (photo below).



38. The explosions reportedly blew out windows on houses a kilometer away.

39. Takata has engaged in a pattern and practice of hiding and then downplaying the significance of the unsafe deployment of its airbags. Takata failed to disclose what it knew about the dangers of its airbags, then tried to hide it. When the danger began to come to light, Takata misled the public about how widespread the danger was; and then, when the widespread nature of the danger could no longer be denied, Takata (along with Honda) dragged its feet in recalling and replacing its products. As late as 2013, Takata falsely stated publicly that it was “not aware of any injuries associated with the improper deployment of any air bags containing the suspect inflators.” Takata continued this pattern of deception and intransigence throughout multiple hearings before Congress in 2014 and 2015, even opposing government pleas for a nationwide recall as late as December 2015.

40. Internal Takata documents released by the United States Senate Committee on Commerce, Science, and Transportation Office of Oversight and Investigation reveal that Takata engaged in a pattern and practice of manipulating and “selectively modify[ing]” test data as early as 2004 in order to conceal the flaws in its airbag designs. Eleven years later, in hearings before Congress, Takata executives testified to theories regarding the cause of certain airbag incidents that its own personnel had earlier characterized as “technically unsupportable” and “a clear misrepresentation of the production records.”

41. Takata has acknowledged that “[i]n several instances” it provided the National Highway Traffic Safety Administration (or “NHTSA”) with testing reports that contained “selective, incomplete, or inaccurate data” and failed to disclose information regarding “the safety-related defects that may arise in some of [its] inflators.” Takata likewise misled and failed to inform consumers about the safety of Takata Airbags and the source and scope of the risks of its airbags, and aided and abetted Honda in making similar material misrepresentations and omissions.

42. From 1999 to the present, many makes and models of motor vehicle were available for sale or lease in the United States, including Hawai’i, with airbags that did not use ammonium nitrate as a propellant. During that time, Takata concealed, misrepresented, and/or failed to disclose to the public material information regarding the hazards of its airbags, thereby depriving the public of the opportunity to purchase vehicles containing airbags that did not use the volatile, unstable ammonium nitrate as a propellant.

43. Takata did so in order to increase its own profits and market share, and to avoid the expense and negative publicity from a wider recall.

44. The aforementioned acts and omissions of Takata were unfair and deceptive.

45. The aforementioned acts and omissions of Takata constituted violations of HRS Chapter 480 and other applicable Hawai'i law, and constituted a continuing violation of HRS § 480-2's prohibition against unfair or deceptive acts or practices in the conduct of any trade or business.

46. Specifically, the aforementioned acts and omissions of Takata constituted unfair trade practices, in that Takata, by misrepresenting and withholding material information from the public, offended established public policy and acted immorally, unethically, and unscrupulously, and substantially injured consumers by subjecting them to serious injury, death and/or the risk of serious injury and death. Takata also took advantage of consumer ignorance and exercised oppressive power over consumers because consumers were not in a position to investigate, or to recognize the need to investigate, the unsafe condition of the airbags for themselves.

47. As a result of the aforementioned unfair or deceptive acts and omissions, Takata was able to continue manufacturing Takata Airbags and selling them to automobile manufacturers, which, in turn, installed the unsafe Takata Airbags in their vehicles and sold and/or leased the vehicles to unsuspecting members of the public, including Hawai'i consumers.

48. More than 70,000 cars containing Takata Airbags were sold or leased in the State of Hawai'i.

49. Takata's sale and distribution of its unsafe airbags with ammonium nitrate propellant, which Takata knew was inherently unstable, which it failed to adequately test and appropriately manufacture, and which yielded a widening toll of injuries and deaths that only confirmed Takata's assessment of their risks, resulted in enormous profits to Takata, including profits from airbags installed in vehicles ultimately sold or leased in the State of Hawai'i.

50. Takata's concealment, misrepresentations, and omissions with regard to the nature and scope of the unsafe condition of its airbags were also unfair and deceptive and delayed and minimized the extent of recalls by automobile manufacturers, thereby delaying and minimizing its own lost profits and the expense of replacing unsafe Takata Airbags containing ammonium nitrate.

51. Due to the widespread nature of the unsafe condition of Takata Airbags, the demand for replacement airbags and/or replacement airbag inflators has allegedly been overwhelming for Takata and automobile manufacturers, resulting in long delays before unsafe Takata Airbags have been or will be replaced. To date, only about one-third of the Takata Airbags have been replaced nationwide, and the number of vehicles being recalled increases almost daily. At last report, an estimated 35 to 40 million additional vehicles will soon be added to the list of approximately 24 million already subject to recall in the United States alone.

52. Moreover, those replacement airbags still use ammonium nitrate as the propellant for their inflators, making the replacement parts, upon information and belief, as unreliable and dangerous as the original parts.

53. As a result of the foregoing, members of the Hawai'i public have now been placed in an untenable position by Takata's misconduct – they must either: (1) continue to operate their vehicles with their existing Takata Airbags, and thereby face exposure to a risk of serious injury or death on a daily basis; (2) disable their Takata Airbags and thereby face potentially serious injury or death due to the lack of a functioning airbag; or (3) stop using their vehicles altogether, and face the cost of securing a replacement vehicle or other means of transportation until their Takata Airbag is replaced.

54. None of these solutions is satisfactory, and two of them are potentially life-threatening. Even the safest alternative of not using the vehicle would impose an intolerable financial hardship on most Hawai'i residents and businesses.

55. Plaintiff therefore, pursuant to HRS § 480-15, other applicable Hawai'i law, and the equitable authority of the court, seeks the relief laid out below.

56. Plaintiff requests that this Court enter an order:

- a. enjoining the Takata Defendants from engaging in their unfair and deceptive conduct;
- b. compelling Takata to engage in a robust public education effort to ensure that affected Hawai'i consumers are aware of the potential hazards of their Takata Airbags and the availability of repairs;
- c. compelling Takata to promptly, on an ongoing basis, reimburse and/or otherwise provide restitution to all affected vehicle owners and to assume the cost of distributing such restitution;
- d. compelling Takata to disgorge to Plaintiff all ill-gotten gains unjustly obtained; and
- e. assessing and awarding all additional remedies available under HRS Chapter 480 and other applicable Hawai'i law.

57. Plaintiff further seeks a declaration by this Court that:

- a. Takata engaged in unfair or deceptive acts or practices in violation of HRS § 480-2 by selling and distributing Takata Airbags for installation in motor vehicles while concealing material information from, misrepresenting, and/or failing to disclose material information to the public regarding the hazards of its airbags and/or while inaccurately

downplaying the significance, severity and/or widespread nature of the hazards posed to the public by Takata Airbags and the appropriate scope of a proper recall;

b. Takata's acts and/or omissions constitute a continuing violation of HRS Chapter 480 from the time it first used ammonium nitrate propellant through December 2015, in that Takata engaged in a course of unfair and deceptive conduct that included and depended upon: (i) manufacturing, marketing and selling unsafe airbags; (ii) actively concealing from, misrepresenting, and/or failing to disclose to the public and to the government the source and scope of the unsafe condition of Takata Airbags; and (iii) pursuing inappropriately narrow recalls and inadequate repairs that allowed, and continues to allow, Hawai'i consumers to drive and be sold automobiles that are unsafe; which acts and omissions prevented consumers and the State of Hawai'i from being aware of the unsafe condition of Takata Airbags; and

c. Takata's sale and/or distribution of each Takata Airbag installed in a vehicle sold or leased in the State of Hawai'i, or later transported to the State of Hawai'i, constituted multiple, separate violations of HRS § 480-2 for which a civil penalty shall be imposed.

58. Plaintiff further requests that this Court impose civil penalties of up to \$10,000 per defendant for each violation of Chapter 480. Plaintiff asserts that Takata's sale and/or other distribution of each Takata Airbag installed in a vehicle sold or leased in Hawai'i, or transported to Hawai'i after its original purchase, constitutes multiple, separate violations of Chapter 480 by Takata. Due to the aggravated nature of Takata's misconduct, Plaintiff asserts that imposition of the maximum civil penalty is warranted for each violation.

COUNT II – HONDA DEFENDANTS
UNFAIR OR DECEPTIVE ACTS OR PRACTICES

59. Plaintiff reasserts and realleges, as if fully set forth herein, the allegations of all preceding paragraphs.

60. Upon information and belief, at all times material herein Honda knew that the airbags it was purchasing from Takata used ammonium nitrate as a propellant.

61. At all times material herein, Honda and its engineers knew or should have known that ammonium nitrate was commonly used as an explosive in mining, construction and other industries and that ammonium nitrate was not used by any other maker of airbags.

62. In or before 2004, when the first Takata Airbag rupture was reported, Honda knew or should have known that there was a problem with the airbags that could cause them to unexpectedly explode and injure or kill vehicle occupants and/or Honda was put on notice of that fact and turned a blind eye toward it.

63. From and after 2007 and 2008, when the injuries and fatalities began mounting, Honda again either knew of the unsafe condition of the Takata Airbags or turned a blind eye toward the existence of such unsafe condition.

64. Honda had numerous discussions with Takata in which Takata offered shifting explanations of the source and potential extent of the hazardous condition of the airbags. Privately, Honda expressed concern about these shifting explanations, but Honda did not share its knowledge or concerns with the public or the government, and instead offered unqualified (and inaccurate) descriptions of the nature and scope of the hazardous condition of Takata Airbags.

65. Despite its reasons for concern, through December 2015, Honda continued to install unsafe Takata Airbags in Honda automobiles, and continued to sell and/or lease such vehicles to the motoring public, including purchasers and lessees in Hawai'i.

66. It was not until November 2008 that Honda began slowly notifying vehicle owners and the federal government that the airbags in some of its vehicles should be replaced. But it did so in small increments, apparently in the hope of avoiding widespread publicity regarding the problem. In November 2008, Honda indicated there was a problem in only 3,940 vehicles. In June 2009, Honda revealed that more vehicles were involved, but claimed that it was only approximately 440,000 of the many millions of vehicles Honda had sold. In February 2010, Honda indicated that other Honda vehicles were involved, but only about 379,000 more. It was not until April 2011 that Honda acknowledged that approximately another 833,277 vehicles were affected. Only in 2014 did Honda reveal that nearly another 4.5 million vehicles were involved, and only in 2015 did Honda reveal that more than 5 million additional Honda vehicles were implicated.

67. In December 2014, Honda admitted that between 2003 and 2014 it failed to disclose more than 1,729 accidents resulting in injuries or deaths, including eight involving Takata Airbags. Honda likewise misled and failed to inform consumers about the safety of its vehicles, the source and scope of the risks of its airbags, and the adequacy of its recalls.

68. From 1999 to the present, many makes and models of motor vehicle were available for sale or lease with airbags that did not use ammonium nitrate as a propellant. During that time, Honda concealed, misrepresented, and/or failed to disclose to the public material information regarding the hazards of its airbags, thereby depriving the public of the opportunity

to purchase vehicles containing airbags that did not use the volatile, unstable ammonium nitrate as a propellant.

69. Honda did so in order to increase its own profits and market share and to avoid the expense and negative publicity from a wider recall.

70. The aforementioned acts and omissions of Honda were unfair and deceptive.

71. The aforementioned acts and omissions of Honda constituted continuing violations of HRS Chapter 480 and other applicable Hawai'i law, and constituted a continuing violation of HRS § 480-2's prohibition against unfair or deceptive acts or practices in the conduct of any trade or business.

72. Specifically, the aforementioned acts and omissions of Honda constituted unfair trade practices, in that Honda, by misrepresenting and withholding material information from the public, offended established public policy and acted immorally, unethically, unscrupulously, and substantially injured consumers by subjecting them to serious injury, death and/or the risk of serious injury and death. Honda also took advantage of consumer ignorance and exercised oppressive power over consumers because consumers were not in a position to investigate, or to recognize the need to investigate, the unsafe condition of Takata Airbags for themselves.

73. As a result of the aforementioned unfair or deceptive acts and omissions, Honda was able to continue distributing its vehicles to dealers who sold and/or leased Honda vehicles to unsuspecting members of the public, including members of the Hawai'i public, with unsafe Takata Airbags inside.

74. More than 20,000 Honda vehicles containing Takata Airbags were sold or leased in the State of Hawai'i.

75. Honda's continued sale and distribution of its vehicles containing Takata Airbags with dangerous ammonium nitrate propellant, which it failed to ensure was adequately tested and appropriately manufactured, and which yielded a widening toll of injuries in deaths that only confirmed its risks, resulted in enormous profits to Honda, including profits from vehicles sold or leased in the State of Hawai'i.

76. Honda's concealment, misrepresentations, and omissions with regard to the nature and scope of the unsafe condition of Takata Airbags were also unfair and deceptive and delayed and minimized the extent of its recalls, thereby delaying and minimizing its own lost profits and the expense of replacing unsafe Takata Airbags containing ammonium nitrate.

77. Due to the widespread nature of the unsafe condition of Takata Airbags, the demand for replacement airbags and/or replacement airbag inflators has allegedly been overwhelming for Takata and Honda, resulting in long delays before unsafe Takata Airbags have been or will be replaced. To date, just over one-half of the Takata Airbags in Honda vehicles have been replaced nationwide, and the number of vehicles being recalled increases almost daily now. At last report, an estimated 35 to 40 million additional vehicles will soon be added to the list of approximately 24 million already subject to recall in the United States alone.

78. Moreover, many of the replacement airbags offered by Honda still used ammonium nitrate as the propellant for its inflator, making the replacement parts, upon information and belief, as unreliable and dangerous as the original parts.

79. As noted above, due to the foregoing, members of the Hawai'i public have now been placed in an untenable position by Honda's misconduct – they must either: (1) continue to operate their vehicles with their existing Takata Airbags, and thereby face exposure to a risk of serious injury or death on a daily basis; (2) disable their Takata Airbags and thereby face

potentially serious injury or death due to the lack of a functioning airbag; or (3) stop using their vehicles altogether, and face the cost of securing a replacement vehicle or other means of transportation until their Takata Airbag is replaced.

80. None of these solutions is satisfactory, and two of them are potentially life-threatening. Even the safest alternative of not using the vehicle would impose an intolerable financial hardship on most Hawai'i residents and businesses.

81. Plaintiff therefore, pursuant to HRS § 480-15, other applicable Hawai'i law, and the equitable authority of the court, seeks the relief laid out below.

82. Plaintiff requests that this Court enter an order:

a. enjoining the Honda Defendants from engaging in their unfair and deceptive conduct;

b. compelling Honda to engage in a robust public education effort to ensure that affected Hawai'i consumers are aware of the potential hazards of their Takata Airbags and the availability of repairs;

c. compelling Honda to promptly, on an ongoing basis, reimburse and/or otherwise provide restitution to all affected vehicle owners and to assume the cost of distributing such restitution;

d. compelling Takata to disgorge to Plaintiff all ill-gotten gains unjustly obtained; and

e. assessing and awarding all additional remedies available under HRS Chapters 480 and other applicable Hawai'i law.

83. Plaintiff further seeks a declaration by this Court that:

a. Honda engaged in unfair or deceptive acts or practices in violation of HRS § 480-2 by installing Takata Airbags in its vehicles while concealing material information from, misrepresenting, and/or failing to disclose material information to, the public regarding the hazards of Takata Airbags and/or while inaccurately downplaying the significance, severity and/or widespread nature of the hazards posed to the public by Takata Airbags and the appropriate scope of a proper recall;

b. Honda's acts and/or omissions constitute a continuing violation of HRS Chapter 480 from at least the time it learned of the 2004 Alabama incident through December 2015, in that, from at least 2004 through December 2015, Honda engaged in a course of unfair and deceptive conduct that included and depended upon: (i) manufacturing, marketing and selling automobiles with unsafe airbags; (ii) actively concealing from, misrepresenting, and/or failing to disclose to the public and to the government the source and scope of the unsafe condition of its airbags; and (iii) pursuing inappropriately narrow recalls and inadequate repairs that allowed, and continues to allow, Hawai'i consumers to drive and be sold automobiles that are unsafe. These acts and omissions prevented consumers and the State of Hawai'i from being aware of the unsafe condition of Takata Airbags; and

c. Honda's sale and/or distribution of each Takata Airbag in a Honda vehicle sold or leased in the State of Hawai'i, or later transported to the State of Hawai'i, constituted multiple, separate violations of HRS § 480-2 for which a civil penalty shall be imposed.

84. Plaintiff further requests that this Court impose civil penalties of up to \$10,000 per defendant for each violation of Chapter 480. Plaintiff asserts that Honda's sale and/or other distribution of each Takata Airbag in each Honda-affiliated vehicle sold or leased in Hawai'i, or transported to Hawai'i after its original purchase, constitutes a violation of Chapter 480 by

Honda. Due to the aggravated nature of Honda's misconduct, Plaintiff asserts that imposition of the maximum civil penalty is warranted for each violation.

WHEREFORE, the State of Hawaii, by and through its Office of Consumer Protection, respectfully prays this Court for the following relief against Defendants:

1. A declaration by this Court that the Defendants each engaged in unfair or deceptive acts or practices, in violation of HRS §480-2(a) and other applicable Hawai'i law, by concealing and/or failing to disclose to the public material information regarding the potential hazards of Takata Airbags.

2. A declaration by this Court that the Takata Defendants' sale or other distribution of each Takata Airbag that was installed in any vehicle ultimately sold or leased in Hawai'i and/or otherwise transported to Hawai'i after purchase, constituted multiple, separate violations of HRS § 480-2(a) and other applicable Hawai'i law by each Takata Defendant;

3. A declaration by this Court that each Takata Airbag in a Honda vehicle that was sold or leased in Hawai'i, or otherwise transported to Hawai'i after purchase, constituted multiple, separate violations of HRS § 480-2(a) and other applicable Hawaii law by each Honda Defendant;

4. A declaration by this Court that the acts and omissions of Defendants described herein and otherwise proved at trial constitute continuing violations of HRS § 480-2.

5. Pursuant to HRS § 480-3.1, an award of civil penalties of \$10,000 against each Takata Defendant for each Takata Airbag installed in any vehicle ultimately sold or leased in Hawai'i and/or otherwise transported to Hawai'i after purchase, in amounts to be proved at trial;

6. Pursuant to HRS § 480-3.1, an award of civil penalties of \$10,000 against each Honda Defendant for each Takata Airbag in a Honda-affiliated vehicle that was sold, leased or otherwise distributed in Hawai'i and/or otherwise transported to Hawai'i after purchase, in amounts to be proved at trial;

7. Pursuant to HRS § 480-15, an order enjoining each Takata and Honda Defendant from future violations of the law and compelling Defendants to inform Hawai'i consumers about the potential hazards of and repair options for their Takata Airbags;

8. An award compelling each Defendant to pay restitution to any purchasers or successor vehicle owners in Hawai'i and to assume the cost of distributing such restitution;

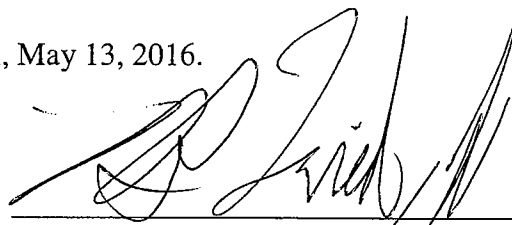
9. An award compelling each Defendant to disgorge to Plaintiff all ill-gotten gains unjustly obtained; and

10. An award of:

- a. Plaintiff's cost of investigation and reasonable attorneys' fees, pursuant to HRS Chapter 480,
- b. Interest allowed by law, including pre-judgment interest, and
- c. Such other and further relief as provided by law and/or as the Court deems just in the premises.

Plaintiff asserts claims herein in excess of the minimum jurisdictional requirements of this Court.

DATED: Honolulu, Hawai'i, May 13, 2016.



L. RICHARD FRIED, JR.
PATRICK F. MCTERNAN
Attorneys for Plaintiff

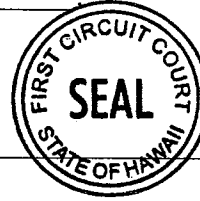
A failure to obey this summons may result in an entry of default and default judgment against the disobeying person or party.

MAY 13 2016

DATE ISSUED: _____

N. ANAYA

CLERK



In accordance with the Americans with Disabilities Act and other applicable state and federal laws, if you require a reasonable accommodation for a disability, please contact the ADA Coordinator at the First Circuit Court Administration Office at PHONE NO. 539-4333, FAX 539-4322, or TTY 539-4853, at least ten (10) working days prior to your hearing or appointment date.