IN THE IOWA DISTRICT COURT FOR POLK COUNTY

STATE OF IOWA ex rel. THOMAS J. MILLER, ATTORNEY GENERAL OF IOWA PLAINTIFF, v. GENERAL MOTORS COMPANY. DEFENDANT.	**EQUITY NO.** EQCE082171 **PETITION FOR INJUNCTIVE AND OTHER RELIEF**

1. Plaintiff, State of Iowa, by and through Attorney General Thomas J. Miller, brings this action against Defendant General Motors Company ("Defendant" or "GM"), for violating the Iowa Consumer Fraud Act ("CFA"), Iowa Code § 714.16 (2017), as follows:

JURISDICTION

2. This Court has jurisdiction over the Defendant pursuant to Iowa Code § 714.16(7) because Defendant has transacted business within the State of Iowa at all times relevant to this complaint.

3. In describing remedies under the Consumer Fraud Act, Iowa Code § 714.16(7) provides in pertinent part as follows:

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> If it appears to the attorney general that a person has engaged in, is engaging in, or is about to engage in a practice declared to be unlawful by this section, the attorney general may seek and obtain in an action in a district court a temporary restraining order, preliminary injunction, or permanent injunction prohibiting the person from continuing the practice or engaging in the practice or doing an act in furtherance of the practice. The court may make orders or judgments as necessary to prevent the use or employment by a person of any prohibited practices, or which are necessary to restore to any person in interest any moneys ... which have been acquired by means of a practice declared to be unlawful by this section ...
>
> In addition to the remedies otherwise provided for in this subsection, the attorney general may request and the court may impose a civil penalty not

> to exceed forty thousand dollars per violation against a person found by the court to have engaged in a method, act, or practice declared unlawful under this section; provided, however, a course of conduct shall not be considered to be separate and different violations merely because the conduct is repeated to more than one person. In addition, on the motion of the attorney general or its own motion, the court may impose a civil penalty of not more than five thousand dollars for each day of intentional violation of a ... permanent injunction issued under authority of this section.

4. The Iowa Consumer Fraud Act, Iowa Code § 714.16 (2)(a) ("the Consumer Fraud Act") provides in pertinent part:

> The act, use or employment by a person of an unfair practice, deception, fraud, false pretense, false promise, or misrepresentation, or the concealment, suppression or omission of a material fact with intent that others rely upon the concealment, suppression, or omission, in connection with the lease, sale, or advertisement of any merchandise or the solicitation of contributions for charitable purposes, whether or not a person has in fact been misled, deceived, or damaged, is an unlawful practice.

5. Iowa Code § 714.16(1) provides the following definitions:

   a. "Deception" means an act or practice which has the tendency or capacity to mislead a substantial number of consumers as to a material fact or facts. Iowa Code § 714.16(1)(f).

   b. "Merchandise" includes any objects, wares, goods, commodities, intangibles, securities, bonds, debentures, stocks, real estate or services. Iowa Code § 714.16(1)(i).

   c. "Person" includes any natural person or the person's legal representative, partnership, corporation (domestic and foreign), company, trust, business entity or association, and any agent, employee, salesperson, partner, officer, director, member, stockholder, associate, trustee or cestui que trust thereof. Iowa Code § 714.16(1)(j).

   d. "Sale" includes any sale, offer for sale, or attempt to sell any merchandise for cash or on credit. Iowa Code § 714.16(1)(k).

   e. "Unfair practice" means an act or practice which causes substantial, unavoidable injury to consumers that is not outweighed by any consumer or competitive benefits which the practice produces. Iowa Code § 714.16(1)(n).

VENUE

6. Venue for this action properly lies in Polk County, pursuant to Iowa Code § 714.16(10) because Defendant transacts business in Polk County, the transactions out of which this action arose occurred in Polk County.

7. At all relevant times, Defendant has purposefully availed itself of this forum.

8. Defendant agrees to waive notice as required Iowa R. Civ. P. 1.302.

PARTIES

9. Plaintiff is the State of Iowa, ex rel. Attorney General Thomas J. Miller, the duly elected Attorney General of Iowa.

10. The Attorney General of Iowa is expressly authorized pursuant to Iowa Code § 714.16(7) to file a civil action against any person who has engaged in a practice declared to be an "unlawful practice" under Iowa Code § 714.16.

11. Defendant is the automotive manufacturer, General Motors Company ("GM") and its present parents, subsidiaries (whether or not wholly owned), and affiliates. GM's headquarters are located in Detroit, Michigan.

BACKGROUND AND STATEMENT OF FACTS

12. GM manufactures, assembles, advertises, markets, promotes, sells, and distributes motor vehicles nationally and in the State of Iowa. GM came into existence following the June 1, 2009 bankruptcy filing of General Motors Corporation. Prior to this date, General Motors Corporation manufactured and sold the motor vehicles at issue herein. Pursuant to the court-approved bankruptcy sale of substantially all of General Motors Corporation's assets and related transfer of personnel, GM became the entity manufacturing and selling motor vehicles under the

General Motors brand. As a successor entity to General Motors Corporation, GM has the same knowledge of the defect as General Motors Corporation.

13. GM, like General Motors Corporation before it, consistently represented in advertising and public statements that its vehicles are safe and reliable transportation.

14. Prior to early 2014, GM was fully aware of widespread reports of unintended key rotation-related and/or ignition-switch-related issues in several models and model years of GM vehicles.

15. Between February 2014 and September 2014, GM issued seven vehicle recalls in response to unintended key rotation-related and/or ignition-switch-related issues. Those recalls have affected over 9 million vehicles in the United States: including but not limited to: Model Year 2003-2007 Saturn Ion, Model Year 2005-2010 Chevrolet Cobalt, Model Year 2006-2010 Pontiac Solstice, Model Year 2007-2010 Pontiac G5, Model Year 2007-2010 Saturn Sky, Model Year 2006-2011 Chevrolet HHR, Model Year 2010-2014 Chevrolet Camaro, Model Year 2005-2009 Buick Lacrosse, Model Year 2006-2011 Buick Lucerne, Model Year 2000-2005 Cadillac Deville, Model Year 2006-2011 Cadillac DTS, Model Year 2006-2014 Chevrolet Impala, Model Year 2006-2007 Chevrolet Monte Carlo, Model Year 2003-2014 Cadillac CTS, Model Year 2004-2006 Cadillac SRX, Model Year 2000-2005 Chevrolet Impala, Model Year 1997-2003 Chevrolet Malibu, Model Year 2004-2005 Chevrolet Malibu Classic, Model Year 2000-2005 Chevrolet Monte Carlo, Model Year 1999-2004 Oldsmobile Alero, Model Year 1998-2002 Oldsmobile Intrigue, Model Year 1999-2005 Pontiac Grand Am, Model Year 2004-2008 Pontiac Grand Prix, Model Year 2002-2004 Saturn VUE, Model Year 2008-2009 Pontiac G8.

16. NHTSA campaign numbers for the seven recalls were: 14V-047000 ("ignition switch may turn off"), 14V-346000 ("knee contact may turn ignition switch off"), 14V-35500

("ignition switch may turn off"), 14V-394000 ("ignition switch may turn off"), 14V-400000 ("ignition switch may turn off"), 14V-490000 ("ignition key can be removed when in on position"), and 14V-540000 ("knee contact may turn ignition switch off").

LOW TORQUE IGNITION SWITCH

17. In the early 2000s, General Motors Corporation launched a line of motor vehicles that were marketed to the public as affordable, safe, and fuel-efficient. Two of these vehicles, the Saturn Ion and the Chevrolet Cobalt, were equipped with the same Pre-2008 Delta Ignition Switch (hereinafter, the "Ignition Switch"). The Ignition Switch is the ignition switch that may have been installed in the 2005, 2006, and 2007 Chevrolet Cobalt; the 2007 Pontiac G5; the 2003, 2004, 2005, 2006, and 2007 Saturn Ion; the 2006 and 2007 Chevrolet HHR; the 2007 Saturn Sky; and the 2006 and 2007 Pontiac Solstice.

18. This Ignition Switch was defective. The Ignition Switch defect involves a low-torque ignition switch, which, under certain conditions, may move out of the "Run" position to the "Accessory" or "Off" position. If this occurs, the driver experiences a loss of electrical systems, including power steering, power brakes, and a loss of power to the sensing diagnostic module, which controls safety airbag deployment. If a collision occurs while the Ignition Switch is in the "Accessory" or "Off" position, the motor vehicle's safety airbags may fail to deploy, increasing the risk of serious injury or death in certain types of crashes in which the airbag was otherwise designed to deploy.

19. Prior to the Ignition Switch going into production in 2002, certain General Motors Corporation engineers knew that it was prone to movement out of the "Run" position; testing of a prototype showed that the torque return between the Run and Accessory positions fell below

General Motors Corporation's own internal specifications. But the engineer in charge of the Ignition Switch nonetheless approved its production.

20. Customers immediately began to report problems with motor vehicles equipped with the Ignition Switch. General Motors Corporation employees also reported stalls while driving such vehicles, which some employees attributed to the easy rotation of the key within the Ignition Switch.

21. In 2004 and 2005, other General Motors Corporation employees and General Motors Corporation customers began to experience sudden stalls and engine shutoffs caused by the Ignition Switch.

22. General Motors Corporation considered fixing the problem, but ultimately rejected a simple improvement to the key head that would have significantly reduced unexpected shutoffs. Instead, General Motors Corporation chose to leave the switch as it was, while promulgating an advisory to dealerships with tips on how to minimize the risk of unexpected movement out of the "Run" position.

23. General Motors Corporation decided, incorrectly, that the Ignition Switch problem was not a safety concern.

24. In November 2004, General Motors Corporation opened the first of six engineering inquiries that would be initiated in the next five years to consider engineering changes for new motor vehicles being produced with the Ignition Switch. The first inquiry was closed "with no action." Proposed fixes, such as improving torque performance of the Ignition Switch and changing the head of the key to reduce the likelihood of inadvertent movement from the "Run" to "Accessory" positon, were rejected.

25. Because General Motors Corporation had determined that the Ignition Switch did not pose a safety concern, General Motors Corporation determined that each proposed solution would cost too much, take too long to implement, or would not fully fix the problem.

26. In 2005 through 2009, General Motors Corporation issued various publications to their dealers to assist them in dealing with the Ignition Switch problem. General Motors Corporation also opened addition inquiries to consider fixes for the Ignition Switch problem. However, General Motors Corporation continued to state publicly that the Ignition Switch problem was not a safety issue.

27. During this time, General Motors Corporation replaced the Ignition Switch with a different one that had significantly greater torque; however, this part change to the Ignition Switch did not include a corresponding part number change, despite the fact changing the part number was General Motors Corporations' practice.

28. From 2004 to 2011, both prior to and following General Motors Corporations' bankruptcy, numerous vehicles equipped with the defective Ignition Switch were involved in crashes in which the safety airbags did not deploy.

29. General Motors Corporation employees responsible for dealing with the Ignition Switch and who had knowledge of the true nature of the problem, had transferred to GM as part of the bankruptcy sale. Thus by early 2011, if not earlier, GM knew or should have known that these non-deployment cases involved an "anomaly" with the Ignition Switch.

30. From about the spring of 2012, certain GM employees knew the Ignition Switch posed a safety defect because it could cause airbag non-deployment.

FAILURE TO INITIATE A SAFETY RECALL

31. Despite this knowledge, GM personnel responsible for GM's internal safety recall process delayed making any recalls, and instead, took affirmative steps to keep the Ignition Switch problem outside the normal GM recall process.

32. From the spring of 2012 through the spring of 2013, GM sold no new motor vehicles that were equipped with the Ignition Switch. However, GM dealers continued to sell pre-owned Chevrolet, Pontiac, and Saturn brand motor vehicles that would later become the subject of the February 2014 recalls. These sales included certifications from GM, stating that the certification process involved testing of over a hundred components, including, specifically, the ignition system.

33. GM first notified NHTSA and the public of the known connection between the Ignition Switch and fatal airbag non-deployment on February 7, 2014. GM acknowledged 15 deaths occurring in crashes in which the Ignition Switch may have caused or contributed to airbag non-deployment In fact, General Motors Corporation was aware of some of these deaths as early as 2004, yet continued to market the reliability and safety of its motor vehicles which were equipped with the Ignition Switch.

34. Between February 2014 and September 2014, GM issued seven vehicle recalls in response to the unintended key rotation-related and/or ignition-switch-related issues. Those recalls have affected over 9 million vehicles in the United States.

VIOLATIONS OF LAW

Iowa Consumer Fraud Act, Iowa Code § 714.16

35. The State incorporates by reference and re-alleges each allegation contained in paragraphs 1-32.

36. All of the acts and practices engaged in and employed by the Defendant as alleged herein, are unfair or deceptive acts or practices in connection with the lease, sale, or advertisement of merchandise in Iowa, which are declared unlawful by Iowa Code § 714.16(2)(a). Specifically, Defendant:

a. **Failed to warn of a known danger:** Defendant failed to disclose to consumers and regulators known safety risks associated with operation of GM motor vehicles and motor vehicle equipment;

b. **Misrepresented safety and reliability**: Defendant misrepresented, directly or by implication, GM motor vehicles and motor vehicle equipment as safe and reliable;

c. **Sold unsafe Motor Vehicles**: Defendant sold unsafe motor vehicles and unsafe motor vehicle components, in violation of 49 U.S.C. Section 30120(i).

d. **Failed to perform consistent with contract obligations imposed by express and implied warranties**: Defendant failed to timely diagnose and repair motor vehicles and motor vehicle equipment that were the subject of consumer complaints related to the defective ignition switch as required pursuant to express and implied warranty representations and terms and as required by state warranty and Lemon Laws; and

e. **Failed to communicate critical safety related information and decision making**: Defendant withheld safety related decision making authority and critical safety data, information, engineering/design changes and safety repairs from appropriate members of GM management.

37. Each and every unfair or deceptive act or practice engaged in by Defendant, as recited above constitutes a separate § 714.16(2)(a) violation of the Iowa Consumer Fraud Act as provided by Iowa Code § 714.16.

38. Because Defendant persistently and knowingly failed to reveal material facts regarding the motor vehicles sold to consumers nationwide, the Defendant has violated Iowa Code § 714.16(2)(a) with each representation or omission.

REMEDIES

1. Section § 714.16(7) of the Consumer Fraud Act, states in relevant part as follows:

> If it appears to the attorney general that a person has engaged in, is engaging in, or is about to engage in a practice declared to be unlawful by this section, the attorney general may seek and obtain in an action in a district court a temporary restraining order, preliminary injunction, or permanent injunction prohibiting the person from continuing the practice or engaging in the practice or doing an act in furtherance of the practice. The court may make orders or judgments as necessary to prevent the use or employment by a person of any prohibited practices, or which are necessary to restore to any person in interest any moneys ... which have been acquired by means of a practice declared to be unlawful by this section ...
>
> In addition to the remedies otherwise provided for in this subsection, the attorney general may request and the court may impose a civil penalty not to exceed forty thousand dollars per violation against a person found by the court to have engaged in a method, act, or practice declared unlawful under this section; provided, however, a course of conduct shall not be considered to be separate and different violations merely because the conduct is repeated to more than one person. In addition, on the motion of the attorney general or its own motion, the court may impose a civil penalty of not more than five thousand dollars for each day of intentional violation of a ... permanent injunction issued under authority of this section.

PRAYER FOR RELIEF

WHEREFORE, the State of Iowa, by and through Attorney General Thomas J. Miller, respectfully requests that this honorable Court enter an order:

A. Issuing a permanent injunction prohibiting Defendant, their agents, employees, and all other persons and entities, corporate or otherwise, in active concert or participation with any of them, from engaging in unfair, unconscionable, deceptive, or misleading conduct;

B. Ordering Defendant to pay civil penalties of up to $40,000 for each violation found by the court as a method, act, or practice declared unlawful under this section, and pay civil penalties of not more than $5,000 for each day of intentional violation of a temporary restraining order, preliminary injunction, or permanent injunction issued under authority of this section, as provided by § 714.16(7)];

C. Ordering Defendant to pay all attorney fees and costs for the prosecution and investigation of this action, as provided by § 714.16(11).

D. Granting such other and further relief as the Court deems equitable and proper.

Dated: October 19, 2017.

Respectfully submitted,

THOMAS J. MILLER
Attorney General of Iowa

/s/ Max M. Miller
MAX M. MILLER
Assistant Attorney General
Consumer Protection Division
1305 East Walnut Street, Second Floor
Des Moines, IA 50319
Telephone: (515) 281-5926
Facsimile: (515) 281-6771
E-Mail: Max.Miller@iowa.gov

ATTORNEY FOR THE STATE