

IN THE IOWA DISTRICT COURT FOR POLK COUNTY

STATE OF IOWA ex rel.
THOMAS J. MILLER,
ATTORNEY GENERAL OF IOWA

Plaintiff,

v.

AMERICAN HONDA MOTOR CO., INC.
and HONDA OF AMERICA MFG., INC.,

Defendants.

EQUITY NO.

**STATE OF IOWA'S PETITION FOR
INJUNCTIVE RELIEF**

The Plaintiff, State of Iowa, acting by and through Attorney General Thomas J. Miller, complains of American Honda Motor Co., Inc. and Honda of America Mfg., Inc. (hereafter referred to collectively as "Honda" or "Defendants"), and for cause of action states as follows:

I. PARTIES

1.1 Plaintiff, Attorney General Thomas J. Miller, brings this action through the Consumer Protection Division of the Office of the Attorney General, in the name of the State of Iowa, under the authority granted by the Iowa Consumer Fraud Act, Iowa Code § 714.16, upon the grounds that Defendants have engaged in unfair, false, misleading, and/or deceptive acts and practices in the course of trade and commerce. Pursuant to Iowa Code § 714.16(7), the Attorney General is authorized to seek injunctive relief, penalties, and consumer redress for conduct declared unlawful under the Iowa Consumer Fraud Act, Iowa Code § 714.16.

1.2 Defendant American Honda Motor Co., Inc., is a corporation located at 1919 Torrance Boulevard, Torrance, California 90501.

1.3 Defendant Honda of America Mfg., Inc., is a corporation located at 24000 Honda Parkway, Marysville, Ohio 43040.

II. JURISDICTION AND VENUE

2.1 This Court has jurisdiction over the subject matter of this action and over Defendants, pursuant to Iowa Consumer Fraud Act, Iowa Code § 714.16.

2.2 Venue of this suit lies in Polk County, Iowa for the following reasons:

- a. Pursuant to Iowa Code § 714.16(10), venue is proper because Honda has done business in Polk County, Iowa, by advertising, marketing, distributing, selling, delivering, leasing, warranting, and/or financing motor vehicles manufactured by Honda.
- b. At all relevant times, Defendants have purposefully availed themselves of this forum.

III. PUBLIC INTEREST

3.1 Plaintiff, the State of Iowa, has reason to believe that Defendants are engaging in, have engaged in, or are about to engage in acts or practices declared to be unlawful under Iowa Consumer Fraud Act, Iowa Code § 714.16; therefore, the Attorney General of the State of Iowa asserts that these proceedings are in the public interest.

IV. CONSUMER FRAUD ACT

4.1 Honda, at all times described below, is a person engaged in conduct which is covered by Iowa Consumer Fraud Act, Iowa Code § 714.16.

V. ACTS OF AGENTS

5.1 Whenever in this Petition it is alleged that Honda did any act, it is meant that:

- a) Honda performed or participated in the act, or

- b) Honda's officers, agents, employees, affiliates, or subsidiaries performed or participated in the act on behalf of and under the authority of Honda.

VI. BACKGROUND

6.1 Since December 2015, an Attorneys General Multistate Working Group has been engaged in an investigation of Honda's use and installation of frontal Takata Airbags in the passenger compartment of its motor vehicles. Attorney General Thomas J. Miller on behalf of Plaintiff, the State of Iowa, is a member of the Multistate Working Group.¹

6.2 Contemporaneously filed with this Petition is a Consent Judgment that the Parties hereto respectfully request that this Court sign and enter as the final resolution of this action. Plaintiff and Defendants, by their respective counsel, have agreed to resolve the issues raised in the investigation without trial or adjudication of any issue of fact or law and without admission of any wrongdoing or admission of any violations of the Iowa Consumer Fraud Act, Iowa Code § 714.16 or any other law as alleged by Plaintiff. Upon the entry of the Consent Judgment by this Court, no Answer is required and no additional discovery will be conducted.

6.3 Judgments taken by Multistate Working Group members against the Defendants will be filed in the respective courts of each state.

VII. ALLEGATIONS

7.1 At all times relevant to the allegations made in this Petition, Honda has been in the business of manufacturing private passenger vehicles, among other motor vehicles, for sale

¹ "Multistate Working Group" shall mean the Attorneys General of Alabama, Alaska, Arkansas, Colorado, Connecticut, Delaware, District of Columbia, Florida, Georgia, Guam, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Northern Mariana Islands, Ohio, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin and Wyoming. With regard to Maryland, any references to the Attorney General or Attorneys General shall mean the Consumer Protection Division, Office of the Attorney General of Maryland.

and lease in the United States. Honda effectuates the sale and lease of these vehicles through an extensive network of dealerships. As part of its business, Honda engages in nationwide advertising and marketing efforts in order to promote the sale or lease of its products to consumers.

7.2 Honda private passenger vehicles include critical safety features, such as seatbelts and airbags. Airbags are strategically installed in locations throughout the passenger compartment of the vehicle to maximize their safety effectiveness. Each airbag's design depends on its location within the passenger compartment. Frontal airbags can be the most critical airbag in circumstances that result in deployment.

7.3 Honda has advertised, promoted, and represented, in the media and in communications to consumers, the performance of its airbags, the safety benefits of its airbags, and the overall safety of its vehicles. For example, Honda created a video commercial featuring a demonstration involving a watermelon. In that advertisement, airbags are set up in a way that objects could be dropped on them from overhead while the airbags simultaneously deployed. In the first segment of the video, a watermelon is dropped on a Honda airbag, and it deployed in such a way that the watermelon was cushioned and did not shatter. In the second segment, when a watermelon is dropped on a non-Honda airbag, the watermelon shattered when the airbag did not deploy properly.

7.4 At all times relevant hereto, Honda purchased frontal airbag assemblies from Takata Corporation ("Takata"), a Tokyo, Japan-based corporation, for installation by Honda in various Honda and Acura model vehicles. During the time that Honda was purchasing airbags from Takata, Honda was a fractional owner of Takata.

7.5 At some point in 2000, Takata began manufacturing the airbags utilizing ammonium nitrate, a highly volatile and unstable substance, as the propellant. At the time that Takata began using ammonium nitrate, there was little to no industry experience with using it as a propellant in airbags, although it was widely understood that ammonium nitrate was unstable and could degrade because of environmental conditions, such as heat and humidity. As evidenced by later airbag ruptures, degraded ammonium nitrate ignited more quickly and forcefully than non-degraded ammonium nitrate, creating so much excess pressure that the airbags ruptured, sending metal fragments into a vehicle's passenger compartment.

7.6 Even before Takata began manufacturing airbags utilizing ammonium nitrate, Takata had revealed its then-new ammonium nitrate-based propellant formula to Honda on September 7, 1999. Honda was Takata's first customer of the Airbags, installing them in model year 2001 vehicles. (The term "Airbags" shall hereafter refer to frontal airbag assemblies which utilized ammonium nitrate as a propellant and that Honda purchased from Takata).

7.7 From the outset, Honda was aware of information indicating that the Airbags were problematic and posed an unreasonable safety risk as demonstrated by explosive failures during testing in October 1999 and January 2000, one of which was powerful enough that the force of the blast injured an observer from Honda. Honda had other indications of problems, as well, including but not limited a rupture in May 2004 involving an Airbag installed in a Honda Accord.

7.8 In 2007, Honda became aware of at least three other field ruptures but failed to timely report these ruptures to the National Highway Traffic Safety Administration ("NHTSA"). Concerned that the Airbags were incurring a larger number of field ruptures than other types of airbags, that same year, Honda and Takata formed a joint committee to identify the root cause(s)

of the ruptures. This committee ultimately determined that Honda should initiate a recall for the Airbags.

7.9 In 2008, Honda initiated a recall of only a small set of Airbags that were manufactured during a narrow time period.

7.10 In 2009, Honda reported the 2007 field ruptures to NHTSA. Following a larger recall that same year, a Honda engineer identified serious concerns with the Airbags: In July 2009, he informed his colleagues and superiors that the Airbags' inflator modules contained serious safety deficiencies. In response to the engineer's concerns, Honda and Takata redesigned the Airbags' inflator modules and began installing the redesigned Airbags in MY2010 Honda vehicles. Honda did not, however, inform regulators, including NHTSA, of the change, nor did it warn owners of vehicles with the original, deficiently designed Airbags of these safety concerns.

7.11 From 2009 on, the original Airbags continued to rupture in the field, and passengers continued to be killed or seriously injured by the shrapnel thrown off by the shattered inflator modules.

7.12 The mounting and recurrent rupture incidents culminated in the repeated, separate recalls of Honda vehicles in discrete sets over the course of seven years until, eventually, in 2015, widespread recalls of the Airbags were initiated.

7.13 In the United States, over 12.9 million vehicles containing the Airbags, including 72,684 in the State of Iowa, have been recalled. Repairs performed pursuant to these recalls are still being performed today.

7.14 Ultimately, on January 13, 2017, Takata pled guilty to wire fraud in a federal court case brought by the United States Department of Justice in relation to it falsifying test data.

7.15 Despite the early and continuing indications that the Airbags posed an unreasonable safety risk, including such indications as the concerns of Honda's own engineers, the ever-increasing number of recalled Airbags, and the mounting human cost, Honda did not break with Takata and failed to adequately warn its consumers of the dangers posed by the Airbags until it learned of the misconduct that formed the basis of the criminal allegations against Takata.

VIII. VIOLATIONS OF IOWA CONSUMER FRAUD ACT

8.1 The State of Iowa re-alleges the facts above and incorporates them herein by reference.

8.2 Honda has violated the Iowa Consumer Fraud Act, Iowa Code § 714.16 by:

- a) advertising, promoting, communicating or otherwise representing in a way that is unfair, false, misleading, and/or deceptive (a) its Airbags, (b) the safety of its Airbags, (c) the safety of any components of its Airbags, including, but not limited to, ammonium nitrate, and (d) the overall safety of its vehicles, in trade or commerce, in violation of the Iowa Consumer Fraud Act, Iowa Code § 714.16.
- b) representing that its Airbags or any components of its Airbags, including, but not limited to, ammonium nitrate, have uses, benefits and characteristics which they do not have, in violation of the Iowa Consumer Fraud Act, Iowa Code § 714.16.;
- c) representing that its Airbags or any components of its Airbags, including, but not limited to, ammonium nitrate, are of a particular standard, quality,

or grade, when they are of another, in violation of the Iowa Consumer Fraud Act, Iowa Code § 714.16; and,

- d) failing to disclose information concerning its Airbags or any components of its Airbags, including, but not limited to, ammonium nitrate, which was known at the time of the offer and sale of its vehicles, when the failure was intended to induce the consumer into the transaction into which the consumer would not have entered had the information been disclosed, in violation of the Iowa Consumer Fraud Act, Iowa Code § 714.16.

IX. PRAYER FOR RELIEF

WHEREFORE, the State of Iowa prays that this Honorable Court enter an Order:

9.1 Plaintiff, the State of Iowa, Prays upon final hearing that this Court will enter a Permanent Injunction and Final Consent Judgment, as follows:

- a) finding that this matter is in the public interest;
- b) finding that Defendants have engaged covered by the Iowa Consumer Fraud Act, Iowa Code § 714.16;
- c) finding that nothing in this Petition shall be construed as a claim that relieves Defendants of their obligations to comply with all state, local, and federal laws, regulations or rules, or as granting permission to engage in any acts or practices prohibited by such law, regulation or rule.
- d) finding that Defendants committed a separate and independent violation of the Iowa Consumer Fraud Act, Iowa Code § 714.16 through each and every unfair, deceptive, false, or misleading representation, or omission of material information.

- e) permanently enjoining Defendants and their subsidiaries and affiliates, and in their official capacities, all present and former officers, directors, agents, employees, and representatives of such entities, from advertising, promoting, or otherwise representing in any way that is false, deceptive, or misleading (a) their airbags, (b) the safety of their airbags, (c) the safety of any components of their airbags, including, but not limited to, ammonium nitrate, or (d) the overall safety of their vehicles, in violation of Iowa Consumer Fraud Act, Iowa Code § 714.16;
- f) permanently enjoining Defendants and their subsidiaries and affiliates, and in their official capacities, all present and former officers, directors, agents, employees, and representatives of such entities, from engaging in acts or practices which constitute violations of Iowa Consumer Fraud Act, Iowa Code § 714.16 (7) in connection with: (1) the offer or sale of Honda vehicles equipped with airbags, to the extent Honda provides any guidance, directive, notice or other communication to dealers or consumers concerning the offer or sale of such vehicles, or (2) the design, testing, purchase or installation of airbags in Honda vehicles; and
- g) permanently enjoining Defendants and their subsidiaries and affiliates, and in their official capacities, all present and former officers, directors, agents, employees, and representatives of such entities from failing to timely disclose to consumers including in advertising, or any other communication, matters that implicate the safety of their airbags, or components of such airbags;

- h) requiring Defendants to pay civil penalties of up to \$40,000 per violation for each and every violation of Iowa Consumer Fraud Act, Iowa Code § 714.16(7); and
- i) requiring Defendants to pay all costs of Court, costs of investigations, and reasonable attorneys' fees pursuant to Iowa Consumer Fraud Act, Iowa Code § 714.16 (11).

9.2 Plaintiff further prays for post-judgment interest.

9.3 Plaintiff further prays that this Court grant any other and further relief to which Plaintiff may be justly entitled.

Respectfully submitted,

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