

DISTRICT COURT, CITY AND COUNTY OF DENVER, COLORADO 1437 Bannock Street Denver, CO 80203	
STATE OF COLORADO, ex rel., PHILIP J. WEISER, ATTORNEY GENERAL Plaintiff, v. AMERICAN HONDA MOTOR CO., INC. and HONDA OF AMERICA MFG., INC., Defendant(s)	<p style="text-align: center;">▲ COURT USE ONLY ▲</p>
PHILIP J. WEISER, Attorney General Jay B. Simonson, 24077* First Assistant Attorney General Mark T. Bailey, 36861 Senior Assistant Attorney General II Ralph L. Carr Colorado Judicial Center 1300 Broadway, 10th Floor Denver, CO 80203 Telephone: (720) 508-6000 FAX: (720) 508-6040	Case Number:
COMPLAINT	

Plaintiff, the State of Colorado, upon relation of Philip J. Weiser, Attorney General for the State of Colorado (“Plaintiff”), states and alleges as follows:

INTRODUCTION

1. This is an action brought by the State of Colorado pursuant to the Colorado Consumer Protection Act, §§ 6-1-101 *et seq.*, C.R.S. (2019) (“CCPA”), to enjoin and restrain Defendants from engaging in certain unlawful deceptive trade practices, for restitution to injured consumers, for statutorily mandated civil penalties, for disgorgement, and other relief as provided in the CCPA.

PUBLIC INTREST

2. This is an action brought by the State of Colorado pursuant to the Colorado Consumer Protection Act, §§ 6-1-101 *et seq.*, C.R.S. (2019) (“CCPA”), to enjoin and restrain Defendants from engaging in certain unlawful deceptive trade practices, for restitution to injured consumers, for statutorily mandated civil penalties, for disgorgement, and other relief as provided in the CCPA.

JURISDICTION AND VENUE

3. This action is brought for and on behalf of the State of Colorado, by Philip J. Weiser, Attorney General of the State of Colorado, pursuant to the provisions of the CCPA, and his common law authority as Attorney General to represent the State of Colorado.

4. Venue for this action properly lies in the City and County of Denver pursuant to C.R.S. § 6-1-103 and C.R.C.P. 98 because Defendant transacts business in the City and County of Denver or some of the transactions upon which this action is based occurred in the City and County of Denver.

5. This court has jurisdiction over the Defendants pursuant to C.R.S. §§ 6-1-103 and 6-1-110 because the Defendants have transacted business within Colorado at all times relevant to this complaint.

PARTIES

6. Plaintiff brings this action by the State of Colorado, *ex. rel.* Philip J. Weiser, under the CCPA upon the grounds that Defendants have engaged in unfair, false, misleading, and/or deceptive acts and practices in the course of trade and commerce.

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

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

TRADE AND COMMERCE

9. Honda, at all times described below, engaged in conduct which constitutes “trade” and “commerce” as those terms are defined by CCPA.

ACTS OF AGENTS

10. Whenever in this Complaint 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.

11. Whenever in this Complaint 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.

12. Whenever in this Complaint 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.

BACKGROUND

13. 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 Weiser on behalf of Plaintiff, the State of Colorado, is a member of the Multistate Working Group.¹

14. Contemporaneously filed with this Complaints 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

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, Northern Mariana Islands, North Carolina, North Dakota, 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.

admission of any violations of the Colorado Consumer Protection Act C.R.S. §§6-105-5 *et seq.*, (“CCPA”) or any other law as alleged by Plaintiff. Upon the entry of Judgment by this Court, no Answer is required, and no additional discovery will be conducted.

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

ALLEGATIONS

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

17. 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.

18. 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.

19. 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.

20. 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.

21. 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).

22. 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 to a rupture in May 2004 involving an Airbag installed in a Honda Accord.

23. 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.

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

25. 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.

26. 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.

27. 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.

28. In the United States, over 12.9 million vehicles containing the Airbags, including 228,603 in the State of Colorado, have been recalled. Repairs performed pursuant to these recalls are still being performed today.

29. 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.

30. 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.

FIRST CLAIM FOR RELIEF

(Knowingly makes a false representation as to the characteristics, ingredients, uses, benefits, alterations, or quantities of goods, food, services, or property or a false representation as to the sponsorship, approval, status, affiliation, or connection of a person therewith in violation of C.R.S. § 6-1-105(1)(e))

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

32. Honda has violated CCPA 6-1-105 (e) by falsely advertising the benefits of its vehicles air bags and, specifically, by exaggerating the safety of the air bags.

SECOND CLAIM FOR RELIEF

(Represents that goods, food, services, or property are of a particular standard, quality, or grade, or that goods are of a particular style or model, if he knows or should know that they are of another in violation of C.R.S. § 6-1-105(1)(g))

33. The State of Colorado re-alleges the facts above and incorporates them by reference.

34. Honda has violated CCPA 6-1-105 (g) by advertising that its air bags were of a particular standard or quality or grade when they were not

THIRD CLAIM FOR RELIEF

(Fails to disclose material information concerning goods, services, or property which information was known at the time of an advertisement or sale if such failure to disclose such information was intended to induce the consumer to enter into a transaction, in violation of C.R.S. § 6-1-105(u))

35. The State of Colorado re-alleges the facts above and incorporates them by reference.

36. Honda has violated CCPA 6-1-105 (u) by failing to timely disclose known defects in the air bags and failing to pass along to the consumer material information concerning the safety of the air bags known to Honda.

RELIEF REQUESTED

WHEREFORE, the Plaintiff, the State of Colorado, request upon final hearing that this Court will enter a Permanent Injunction and Final Judgment, as follows:

- A. An order that Defendant’s conduct violates the Colorado Consumer Protection Act, including C.R.S. § 6-1-105(1)(e), (g), and (u).
- B. A judgment pursuant to C.R.S. § 6-1-110(1) against Defendant to completely compensate or restore to the original position of any person injured by means of Defendant’s deceptive practices;
- C. An order pursuant to C.R.S. § 6-1-110(1) requiring Defendant to disgorge all unjust proceeds derived from its deceptive practices to prevent unjust enrichment;
- D. An order pursuant to C.R.S. § 6-1-110(1) for an injunction or other orders or judgments relating to Defendant’s deceptive practices;
- E. An order pursuant to C.R.S. § 6-1-112(1)(a) for civil penalties payable to the general fund of this state;
- F. An order pursuant to C.R.S. § 6-1-113(4) requiring Defendant to pay the costs and attorney fees incurred by the Attorney General;
- G. An order pursuant to C.R.S. § 6-1-716(4) to address violations of this section and for other relief that may be appropriate to ensure compliance with this section or to recover direct economic damages

resulting from a violation.

- H. Any such further relief as this Court may deem just and proper to effectuate the purposes of the Colorado Consumer Protection Act.

Respectfully submitted this 25th day of August 2020.

PHILP J. WEISER
Attorney General

s/ Mark T. Bailey

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