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IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF MULTNOMAH

STATE OF OREGON ex rel. ELLEN F. ROSENBLUM, Attorney General for the State of Oregon,

Plaintiff,

v.

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

Defendant.

Case No.
COMPLAINT
(Unlawful Trade Practices Act, ORS 646.605, et seq.)
CLAIM NOT SUBJECT TO MANDATORY ARBITRATION
ORS 20.140 - State fees deferred at filing; standard filing fee (ORS 21.135(2)(g))

1.

Plaintiff, STATE OF OREGON, acting by and through Attorney General Ellen F. Rosenblum, 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:

PARTIES

2.

Plaintiff, Attorney General Ellen F. Rosenblum, brings this action in the name of the State of Oregon, under the authority granted by the Oregon Unlawful Trade Practices Act, ORS 646.605 et seq. (hereafter referred to as “UTPA”), 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 ORS 646.632(1), 646.636 and 646.642(3), the Attorney General is

///

1 authorized to seek injunctive relief, penalties, and consumer redress for conduct declared
2 unlawful under ORS 646.607 and 646.608.

3 3.

4 Defendant American Honda Motor Co., Inc., is a foreign business corporation located at
5 1919 Torrance Boulevard, Torrance, California 90501.

6 4.

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

9 **JURISDICTION AND VENUE**

10 5.

11 This Court has jurisdiction over the subject matter of this action and over Defendants,
12 pursuant to ORCP 4(A)(4) and (D).

13 6.

14 Venue of this suit lies in Multnomah County, Oregon for the following reasons:

15 (a) Pursuant to ORS 646.632(1) and ORS 646.605(1)(c) and (d), venue is proper because
16 Honda has done business in Multnomah County, Oregon, by advertising, marketing, distributing,
17 selling, delivering, leasing, warranting, and/or financing motor vehicles manufactured by Honda;
18 and

19 (b) At all relevant times, Defendants have purposefully availed themselves of this forum.

20 7.

21 Defendants agree to waive notice as required by ORS 646.632.

22 8.

23 Plaintiff, the State of Oregon, has reason to believe that Defendants are engaging in, have
24 engaged in, or are about to engage in acts or practices declared to be unlawful under the UTPA.

25 ///

26 ///

1 9.

2 Whenever in this Complaint it is alleged that Honda did any act, it is meant that:

3 (a) Honda performed or participated in the act, or

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

6 **BACKGROUND**

7 10.

8 Since December 2015, an Attorneys General Multistate Working Group has been
9 engaged in an investigation of Honda's use and installation of frontal Takata Airbags in the
10 passenger compartment of its motor vehicles. Attorney General Ellen F. Rosenblum on behalf of
11 Plaintiff, the State of Oregon, is a member of the Multistate Working Group.¹

12 11.

13 Contemporaneously filed with this Complaint is a Stipulated General Judgment that the
14 Parties hereto respectfully request that this Court sign and enter as the final resolution of this
15 action. Plaintiff and Defendants, by their respective counsel, have agreed to resolve the issues
16 raised in the investigation without trial or adjudication of any issue of fact or law and without
17 admission of any wrongdoing or admission of any violations of the UTPA or any other law as
18 alleged by Plaintiff. Upon the entry of the Stipulated General Judgment by this Court, no Answer
19 is required and no additional discovery will be conducted.

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21 ///

22 _____
23 ¹ "Multistate Working Group" shall mean the Attorneys General of Alabama, Alaska,
24 Arkansas, Colorado, Connecticut, Delaware, District of Columbia, Florida, Georgia, Guam,
25 Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts,
26 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.

1 12.

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

4 **ALLEGATIONS**

5 13.

6 At all times relevant to the allegations made in this Complaint, Honda has been in the
7 business of manufacturing private passenger vehicles, among other motor vehicles, for sale and
8 lease in the United States. Honda effectuates the sale and lease of these vehicles through an
9 extensive network of dealerships. As part of its business, Honda engages in nationwide
10 advertising and marketing efforts in order to promote the sale or lease of its products to
11 consumers.

12 14.

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

18 15.

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

26 ///

1 dropped on a non-Honda airbag, the watermelon shattered when the airbag did not deploy
2 properly.

3 16.

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

8 17.

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

17 18.

18 Even before Takata began manufacturing airbags utilizing ammonium nitrate, Takata had
19 revealed its then-new ammonium nitrate-based propellant formula to Honda on September 7,
20 1999. Honda was Takata’s first customer of the Airbags, installing them in model year 2001
21 vehicles. (The term “Airbags” shall hereafter refer to frontal airbag assemblies which utilized
22 ammonium nitrate as a propellant and that Honda purchased from Takata).

23 19.

24 From the outset, Honda was aware of information indicating that the Airbags were
25 problematic and posed an unreasonable safety risk as demonstrated by explosive failures during
26 testing in October 1999 and January 2000, one of which was powerful enough that the force of

1 the blast injured an observer from Honda. Honda had other indications of problems, as well,
2 including but not limited a rupture in May 2004 involving an Airbag installed in a Honda
3 Accord.

4 20.

5 In 2007, Honda became aware of at least three other field ruptures but failed to timely
6 report these ruptures to the National Highway Traffic Safety Administration (“NHTSA”).

7 Concerned that the Airbags were incurring a larger number of field ruptures than other types of
8 airbags, that same year, Honda and Takata formed a joint committee to identify the root cause(s)
9 of the ruptures. This committee ultimately determined that Honda should initiate a recall for the
10 Airbags.

11 21.

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

14 22.

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

22 23.

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

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24.

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.

25.

In the United States, over 12.9 million vehicles containing the Airbags, including 160,491 in Oregon, have been recalled. Repairs performed pursuant to these recalls are still being performed today.

26.

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.

27.

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.

CLAIM FOR RELIEF
UNLAWFUL TRADE PRACTICES ACT

28.

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

29.

Honda has violated the UTPA 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

///

1 any components of its Airbags, including, but not limited to, ammonium nitrate, and (d) the
2 overall safety of its vehicles, in violation of ORS 646.608(1)(i);

3 (b) Representing that its Airbags or any components of its Airbags, including, but not limited
4 to, ammonium nitrate, have uses, benefits and characteristics which they do not have, in violation
5 of ORS 646.608(1)(e);

6 (c) Representing that its Airbags or any components of its Airbags, including, but not limited
7 to, ammonium nitrate, are of a particular standard, quality, or grade, when they are of another, in
8 violation of ORS 646.608(1)(g); and

9 (d) Failing to timely notify or warn consumers who owned or were considering the purchase
10 of a Honda vehicle that the Airbags could rupture and possibly cause injury or death, when such
11 information became known to, or should have been known to, Honda, in violation of ORS
12 646.607(1).

13 30.

14 Honda committed a separate and independent violation of the UTPA through each and
15 every unfair, deceptive, false, or misleading representation, or omission of material information.

16 31.

17 Santander knew or should have known that its conduct is a violation of ORS 646.608(1).

18 32.

19 **PRAYER FOR RELIEF**

20 **WHEREFORE**, PLAINTIFF, with respect to the Claim for Relief, prays the court for a
21 judgment as follows:

22 (a) Finding that nothing in this Complaint shall be construed as a claim that relieves
23 Defendants of their obligations to comply with all state, local, and federal laws,
24 regulations or rules, or as granting permission to engage in any acts or practices
25 prohibited by such law, regulation or rule;

26 ///

COMPLAINT

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Department of Justice
100 SW Market Street
Portland, OR 97201
Phone: (971) 673-1880 / Fax: (971) 673-1888

- 1 (b) Finding that Defendants committed a separate and independent violation of the UTPA
2 through each and every unfair, deceptive, false, or misleading representation, or omission
3 of material information;
- 4 (c) Permanently enjoining Defendants and their subsidiaries and affiliates, and in their
5 official capacities, all present and former officers, directors, agents, employees, and
6 representatives of such entities, from advertising, promoting, or otherwise representing in
7 any way that is false, deceptive, or misleading (a) their airbags, (b) the safety of their
8 airbags, (c) the safety of any components of their airbags, including, but not limited to,
9 ammonium nitrate, or (d) the overall safety of their vehicles, in violation of the UTPA;
- 10 (d) Permanently enjoining Defendants and their subsidiaries and affiliates, and in their
11 official capacities, all present and former officers, directors, agents, employees, and
12 representatives of such entities, from engaging in acts or practices which constitute
13 violations of the UTPA in connection with: (1) the offer or sale of Honda vehicles
14 equipped with airbags, to the extent Honda provides any guidance, directive, notice or
15 other communication to dealers or consumers concerning the offer or sale of such
16 vehicles, or (2) the design, testing, purchase or installation of airbags in Honda vehicles;
- 17 (e) Permanently enjoining Defendants and their subsidiaries and affiliates, and in their
18 official capacities, all present and former officers, directors, agents, employees, and
19 representatives of such entities from failing to timely disclose to consumers including in
20 advertising, or any other communication, matters that implicate the safety of their
21 airbags, or components of such airbags;
- 22 (f) Requiring Defendants to pay civil penalties of up to \$25,000 per violation for each and
23 every violation of ORS 646.642(3); and
- 24 (g) Requiring Defendants to pay all costs of Court, costs of investigations, and reasonable
25 attorneys' fees pursuant to ORS 646.632(8).

26 ///

1 33.

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

4 DATED this 25th day of August, 2020.

5 Respectfully submitted,

6 ELLEN F. ROSENBLUM
7 Attorney General

8 /s/ Eva H. Novick
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