

SUPREME COURT STATE OF NEW YORK
COUNTY OF NEW YORK

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PEOPLE OF THE STATE OF NEW YORK BY
ERIC T. SCHNEIDERMAN, ATTORNEY
GENERAL OF THE STATE OF NEW YORK,

SUMMONS

Index No.

PLAINTIFF,

v.

GENERAL MOTORS COMPANY.

DEFENDANT.

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TO: THE ABOVE NAMED DEFENDANT:

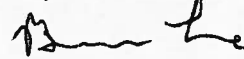
YOU ARE HEREBY SUMMONED to answer in this action and serve a copy of your answer, or if the complaint is not served with the summons to serve a notice of appearance, on the plaintiff's attorney within twenty (20) days after the service of the summons, exclusive of the day of service. If the summons is not personally served upon you, or if the summons is served upon you outside of the State of New York, then your answer or notice of appearance must be served within thirty (30) days. In case of your failure to appear or answer, judgment will be taken against you by default, for the relief demanded in the complaint.

Dated: New York, New York
October 18, 2017

Respectfully submitted,

ERIC T. SCHNEIDERMAN
Attorney General of the
State of New York
Attorney for Plaintiff

By:



Benjamin J. Lee
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TO: THE SUPREME COURT OF THE STATE OF NEW YORK

Plaintiff, the People of the State of New York, by their attorney, Eric T. Schneiderman, Attorney General of the State of New York, alleges the following upon information and belief:

JURISDICTION & PARTIES

1. Plaintiff is the People of the State of New York, by Eric T. Schneiderman, Attorney General of the State of New York.
2. The Attorney General brings this complaint pursuant to Executive Law § 63(12) and General Business Law ("GBL") §§ 349 and 350. Executive Law § 63(12) authorizes the Attorney General to seek injunctive relief, restitution, damages and costs when any person or business entity has engaged in or otherwise demonstrated repeated fraudulent or illegal acts in the transaction of business. GBL § 349 empowers the Attorney General to seek injunctive relief and restitution when any person or entity has engaged in deceptive acts or practices in the conduct of any business. GBL § 350 empowers the Attorney General to seek injunctive relief and restitution when any person or entity has engaged in false advertising. GBL § 350-d empowers the Attorney General to seek civil penalties in the amount of \$5,000 for each violation of GBL §§ 349 and 350.

3. Defendant General Motors Company, (“Defendant” and/or “GM”), is a Delaware corporation with its principal place of business at 300 Renaissance Center, Detroit, Michigan 48265.

4. At all relevant times hereto, Defendant GM transacted business in the State of New York and nationwide by manufacturing, assembling, advertising, marketing, promoting, selling, and distributing motor vehicles.

5. Defendant has waived its right to receive pre-litigation notice pursuant to GBL §§ 349 (c) and 350-c.

6. By falsely marketing certain defective automobiles as safe and reliable, by failing to fix known defects in the ignition system of GM cars, by failing to initiate a safety recall in a timely fashion, and by concealing dangers associated with these defects including death, Defendant has engaged in repeated and persistent fraud and illegality in violation of New York Executive Law § 63 (12), deceptive acts or practices in the conduct of its business in violation of GBL § 349, and false and misleading advertising in violation of GBL § 350.

7. Accordingly, based on the above violations of New York law, the Attorney General brings this action seeking permanent injunctive relief, civil penalties, disgorgement, restitution for injured consumers and for all other proper relief.

FACTUAL ALLEGATIONS

8. GM manufactures, assembles, advertises, markets, promotes, sells, and distributes motor vehicles nationally and in the State of New York. 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.

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

10. 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.

11. Between February 2014 and September 2014, GM issued seven vehicle recalls in response to the ignition switch problem. 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.

12. National Highway Traffic Safety Administration (“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

13. 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 ignition switch (hereinafter, the “Ignition Switch”). That Ignition Switch would later be installed in additional models in 2004 through late 2006.

14. This Ignition Switch was defective. The defect involves a low torque (twisting force) 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.

15. 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, but the production was approved regardless.

16. General Motors Corporation customers immediately began to report problems with motor vehicles equipped with the Ignition Switch.

17. 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.

18. 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.

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

20. 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 coming off the production line. 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" position, were rejected.

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

22. 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.

23. 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, as was General Motors Corporations' practice.

24. 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.

25. GM 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.

26. From early 2012, certain GM employees knew the Ignition Switch posed a safety defect because it could cause airbag non-deployment, which could lead to serious injury or even death.

FAILURE TO INITIATE A SAFETY RECALL

27. 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.

28. 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, assuring the consumer purchaser that the motor vehicles' components, which would include their ignition systems and keys, met all safety standards.

29. GM first notified NHTSA and the public of the known connection between the Ignition Switch and fatal airbag non-deployment on February 7, 2014. Up to and including this time, GM was aware of at least 15 individuals who had died as a result of defects with the ignition switch. In fact, GM 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.

30. Between February 2014 and September 2014, GM issued seven vehicle recalls in response to the ignition switch problem. Those recalls have affected over 9 million vehicles in the United States.

FIRST CAUSE OF ACTION
VIOLATION OF GENERAL BUSINESS LAW § 350

31. Plaintiff repeats, re-alleges, and incorporates paragraphs one through thirty (30) contained herein

32. GBL § 350 prohibits “[f]alse advertising in the conduct of any business, trade or commerce or in the furnishing of any service in [New York].”

33. GBL § 350-a further provides that “false advertising” is advertising that is “misleading in a material respect.”

34. By engaging in the advertising alleged above, Defendant has engaged in false advertising in violation of GBL § 350.

SECOND CAUSE OF ACTION
VIOLATION OF GENERAL BUSINESS LAW § 349

35. Plaintiff repeats, re-alleges, and incorporates paragraphs one through thirty (30) contained herein.

36. GBL § 349 declares unlawful “[d]eceptive acts or practices in the conduct of any business, trade or commerce or in the furnishing of any service in [New York].”

37. By engaging in the acts and practices alleged above, Defendant has engaged in deceptive and misleading practices in violation of GBL § 349.

THIRD CAUSE OF ACTION
VIOLATION OF EXECUTIVE LAW § 63(12) (FRAUD)

38. Plaintiff repeats, re-alleges, and incorporates paragraphs one through thirty (30) contained herein.

39. Executive Law § 63(12) authorizes the Attorney General to seek injunctive relief whenever any person engages in repeated fraudulent or illegal conduct or otherwise demonstrates persistent fraud or illegality in the carrying on, conducting, or transaction of business.

40. By the acts and practices alleged above, Defendant has engaged in repeated and persistent fraudulent and illegal conduct in violation of Executive Law § 63(12).

WHEREFORE, Plaintiff requests that this Court issue an Order and Judgment pursuant to Executive Law § 63(12) and GBL §§ 349, 350 and 350-d:

(a) permanently enjoining Defendant from engaging in the fraudulent, deceptive and illegal conduct alleged in the Complaint;

(b) directing Defendant to pay restitution and damages to injured consumers, known and unknown;

(c) directing Defendant to disgorge all profits illegally obtained in order to effectuate a just result, and make payment of such amounts to the State of New York;

(d) directing Defendant to pay a civil penalty to the State of New York pursuant to GBL § 350-d in the sum of five thousand dollars (\$5,000) for each violation of GBL § 349 and GBL § 350;

(e) directing Defendant to pay to Plaintiff the costs of this proceeding, including the sum of two thousand dollars (\$2,000) to cover additional costs pursuant to CPLR § 8303(a)(6); and

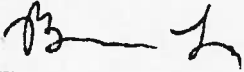
(f) granting Plaintiff such other and further relief as the Court deems just and proper.

Dated: New York, NY
October 19, 2017

Respectfully submitted,

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Attorney General of the State of New York
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By:



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