IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF SOUTH CAROLINA

AIKEN DIVISION

Robert K. Besley, Jr., on behalf of himself and all others similarly situated, Plaintiff, vs. FCA US, LLC f/k/a Chrysler Group, LLC, Defendant.	Case No. 1:15-1511-JMC **CLASS ACTION COMPLAINT** **(Jury Trial Demanded)**

NATURE OF THE ACTION

1. Plaintiff Robert K. Besley, Jr. ("Plaintiff") brings this action on behalf of himself and all other similarly situated owners and lessees within the United States of certain branded Ram trucks, including the Ram 1500, whose Monroney stickers contain false representations and for which Plaintiff and class members paid for certain "optional" equipment which the vehicles did not contain, and which vehicles were manufactured, marketed and sold by Defendant, FCA US, LLC ("FCA") f/k/a Chrysler Group LLC,.

2. This is an action arising out of FCA's false and deceptive representations made to purchasers and lessees of pickup trucks, including Plaintiff. Specifically, FCA represented on standardized "Monroney" stickers affixed to vehicles for sale that certain of its pickup trucks were equipped with optional equipment that included larger rear axle ratios than the standard equipment listed on the Monroney sticker.

3. Plaintiff purchased a 2014 Ram 1500 Big Horn® pickup truck on or about January 15, 2014, in Aiken, South Carolina. The pickup truck he purchased had affixed to it a Monroney

sticker representing that the truck had "optional" equipment, including a 3.55 Rear Axle Ratio, instead of the standard 3.21 Rear Axle Ratio. Nine (9) months after Plaintiff's purchase, FCA informed Plaintiff that the information provided on the Monroney sticker affixed to the pickup truck Plaintiff purchased was false, and that the 2014 Ram 1500 Big Horn® pickup truck he purchased was equipped with a 3.21 Rear Axle Ratio.

4. Through its false representations, described more fully herein, FCA has been unjustly enriched. Plaintiff also alleges claims on behalf of himself and the Class members he seeks to represent based on common law breach of contract and misrepresentation. Plaintiff and the Class were damaged because the pickup trucks they purchased did not contain the Rear Axle Ratios that were represented, making the pickup trucks less valuable than the pickup trucks would have been had FCA's representations been true. This Class Action Complaint does not seek relief for, and explicitly excludes, any claims for personal injury.

PARTIES

5. Plaintiff Bob Besley is an individual consumer residing in Aiken County, South Carolina, and an owner of a 2014 Ram 1500 Big Horn® pickup truck. Plaintiff purchased his pickup truck on or about January 15, 2014, from Triangle Dodge Chrysler Jeep dealership in Aiken, South Carolina. Plaintiff specifically desired the optional axle package to use for towing.

6. Defendant FCA is a Delaware Corporation, having its principal place of business at 1000 Chrysler Drive in Auburn Hills, Michigan. FCA is one of the world's largest automobile manufacturers, boasting annual revenues in the billions of dollars. FCA manufactures Ram pickup trucks, including the 2014 Ram 1500. FCA's Ram pickup truck line has been one of FCA's best-selling vehicle lines over the years, and FCA has even used the smooth-sounding voice of Sam Elliott to flaunt and tout the supposedly first rate quality, superiority, and toughness of these pickup

trucks in its widespread advertisements across various media. The Ram 1500 won Motor Trend's Truck of the Year award in 2013 and 2014 – a benchmark award in the pickup truck community—and, is also Consumer Reports' top-rated full-size pickup.

JURISDICTION AND VENUE

7. This Court has subject matter over this action pursuant to the Class Action Fairness Act, 28 U.S.C. § 1332(d) (as amended 2005), because this action is a "class action," which contains class allegations and expressly seeks certification of a proposed class of individuals; (2) the putative class consists of at least hundreds of proposed class members; (3) the citizenship of at least one class member is different from FCA's citizenship; and (4) the aggregate amount-in-controversy by the claims of Plaintiff and the putative Class exceeds $5 million, excluding interests and costs.

8. This Court has personal jurisdiction over FCA US LLC ("FCA") f/k/a Chrysler Group, LLC, because FCA transacts business within this judicial district, selling millions of vehicles in this judicial district through its authorized dealers. In addition, Defendant FCA has availed itself of the courts in this judicial district numerous times to file various lawsuits, such that it would not offend traditional notions of justice or fair play to hail Defendant FCA into court within this judicial district. Defendant FCA has registered agents within the State of South Carolina that are authorized to accept service of process for lawsuits titled against these entities within the State of South Carolina.

9. Venue is proper in this district pursuant to 28 U.S.C. § 1391 because the sale of Plaintiff's FCA automobile took place within this judicial district, and it was that sale that ultimately gave rise to Plaintiff's claims. The alleged misrepresentations made by FCA also were

disseminated within this judicial district. Furthermore, this action is filed in this division pursuant to Local Rule 3.01(A)(1).

DEFENDANT'S AFFIRMATIVE MISREPRESENTATIONS CONCERNING THE RAM PICKUP TRUCK'S REAR AXLE RATIO

10. On or about January 15, 2014, Plaintiff purchased a 2014 Ram 1500 Big Horn® pickup truck from Triangle Dodge Chrysler Jeep dealership in Aiken, South Carolina. Plaintiff used the truck for, *inter alia*, towing.

11. Affixed to the 2014 Ram 1500 Big Horn® pickup truck was a Monroney sticker containing information about the vehicle.

12. The Monroney sticker is required to be affixed to the side window or windshield of every new car sold in the United States and can only be removed by the consumer. 15 U.S.C. § 1231. If the sticker is missing, federal statute authorizes a fine of up to $1,000 per vehicle for each offense, and other fees and penalties are authorized if the sticker is altered illegally.

13. The Monroney sticker is required to include "the retail delivered price suggested by the manufacturer for each accessory or item of optional equipment, physically attached to such automobile at the time of its delivery to such dealer." 15 U.S.C. § 1232(f)(2).

14. The Monroney sticker affixed to the 2014 Ram 1500 Big Horn® pickup truck that Plaintiff purchased on January 15, 2014, indicated that the Ram pickup truck was equipped with the "Customer Preferred Package 26Z," which included a 3.55 Rear Axle Ratio.

15. As explained below, Plaintiff's 2014 Ram 1500 Big Horn® pickup truck was not equipped with the 3.55 Rear Axle Ratio that he paid for, but, rather, a 3.21 Rear Axle Ratio.

16. On or about October 23, 2014, nine (9) months following his purchase and after having driven the truck only 15,000 miles, Chrysler Customer Service began calling Plaintiff in order to inform him that the Monroney sticker located in his truck's window at the time of purchase

was incorrect. Although the Monroney sticker indicated the truck was equipped with a 3.55 Rear Axle Ratio, the pickup truck was only equipped with a 3.21 Rear Axle Ratio. Plaintiff purchased his specific Ram pickup truck because he wanted the increased towing capacity provided by the larger rear axle ratio. Chrysler Customer Service offered Plaintiff 750 Mopar® dollars. The cost of increasing the rear axle ratio is substantially more than $750, and replacement parts and labor can cost as much as several thousand dollars. At no time during his discussions with Chrysler Customer Service was Plaintiff offered a complimentary replacement of his rear axle.

CLASS ACTION ALLEGATIONS

17. Pursuant to Federal Rule of Civil Procedure 23, Plaintiff brings this action as a class action on behalf of all owners and lessees within the United States of FCA Ram pickup trucks which contained false and deceptive information concerning the equipped rear axle ratio at the time of purchase or lease (the "Class").

18. Specifically excluded from the Class are all judicial officers presiding over this or any related case, as well as all local, state and federal government employees. Plaintiff reserves the right to modify this class definition as discovery or other case circumstances warrant.

19. Based upon the size of FCA's Ram pickup truck operations in the United States, and the information Plaintiff was able to obtain via internet forums researching the issue, Plaintiff believes that the Class consists of at least thousands of individuals in the United States who purchased FCA Ram pickup trucks that had affixed to them a deceptive Monroney sticker. FCA sells over 350,000 RAM pickup trucks annually. Even if a fraction of such vehicles are found in the States, the class definition still readily satisfies the numerosity requirement for class certification.

20. Class certification is also appropriate because there are questions of fact and/or law that are common to the class members. Among these common questions of fact and/or law are:

a. Whether FCA made false representations to the Class concerning the rear axle ratio equipped to Ram pickup trucks;

b. Whether FCA breached any contractual duty it owed to the Class;

c. Whether FCA was unjustly enriched through its false and deceptive representations concerning the rear axle ratio equipped to such pickup trucks;

d. Whether class members are entitled to the relief sought, and if so, the proper scope of such relief.

21. Plaintiff's claims are typical of the claims of the absent Class members in that Plaintiff alleges a common course of conduct by FCA toward each member of the Class – specifically, FCA directed false and misleading representations to each Class member. Plaintiff and the other Class members seek identical remedies under identical legal theories. There is no antagonism or material factual variation between Plaintiff's claims and those of the Class.

22. Plaintiff is an adequate Class representative in that, as a member of the Class and as a current owner of an allegedly defective FCA Ram pickup truck, his interests are entirely aligned with those of the class. There are no individual conflicts that prevent Plaintiff from adequately representing the class. Plaintiff has also retained competent counsel experienced in class action litigation.

23. A class action presents a superior form of adjudication over individual litigation. The costs of litigating this action against large and sophisticated entities like FCA in comparison to the recovery or relief sought would make individual litigation impracticable. In addition, forcing individual litigation would risk the result of inconsistent rulings with respect to Defendant's duties owed to the various vehicle owners and lessees.

24. A class action is manageable. The proposed class represents an identifiable community that can be readily identified, and the relief sought is one that can be overseen by the Court.

COUNT I
(UNJUST ENRICHMENT)

25. Plaintiff hereby incorporates by reference every allegation of this Complaint with the same force and effect as if it had been fully restated herein.

26. FCA received and retained wrongful benefits as a result of the purchases made by Plaintiff and Class members as FCA, *inter alia*, reported them as revenues in their financial disclosures and reports to investors, and, in doing so, FCA has disregarded the rights of Plaintiff and the Class members.

27. By means of FCA's wrongful conduct alleged herein, FCA made false and deceptive representations to Plaintiff and Class members; thus, FCA's acceptance and retention of benefits under circumstances that make it inequitable for them to retain such benefits.

28. As a result of FCA's wrongful conduct as alleged herein, FCA has been unjustly enriched at the expense of, and to the detriment of, Plaintiff and Class members.

29. FCA's unjust enrichment is traceable to, and resulted directly and proximately from, the conduct alleged herein.

30. Under the common law doctrine of unjust enrichment, it is inequitable for FCA to be permitted to retain the benefits it received, without justification, from its deceptive practices. FCA's retention of such funds under circumstances making it inequitable to do so constitutes unjust enrichment. The financial benefits derived by FCA rightfully belong to Plaintiff and the Class members.

31. Plaintiff and the Class members are therefore entitled to and do hereby seek an order directing FCA to disgorge its ill-gotten gains conveyed upon it by Plaintiff and the Class members.

COUNT II
(PROMISSORY ESTOPPEL)

32. Plaintiff hereby incorporates by reference every allegation of this Complaint with the same force and effect as if it had been fully restated herein.

33. By means of FCA's wrongful conduct alleged herein, FCA made an unambiguous promise that Plaintiff's and other Class members' Ram pickup trucks contained larger rear axle ratios than were available in standard equipment packages.

34. In purchasing their Ram pickup trucks, Plaintiff and Class members reasonably relied on the promises contained in the Monroney stickers affixed to each vehicle. Furthermore, it was foreseeable and expected that Plaintiff and other Class members would rely on the misrepresentations contained in the Monroney stickers in purchasing their Ram pickup trucks.

35. As a direct, foreseeable, and proximate result of the conduct of FCA alleged herein, Plaintiff and the Class members he seeks to represent have been injured, and seek recovery in the form of money damages for the purchase price paid for the falsely labeled vehicles, as well as for expenses incurred due to loss-of-use, repair, and associated expenses caused by the repair and replacement of the vehicles brought about by the performance of any of FCA.

COUNT III
(NEGLIGENT MISREPRESENTATION)

36. Plaintiff hereby incorporates by reference every allegation of this Complaint with the same force and effect as if it had been fully restated herein.

37. The above-described representations made by FCA, its agents, and employees to Plaintiff and the Class members were untrue and negligent misrepresentations of material fact.

38. FCA made the above-described representations in the business and commercial capacity, and had a pecuniary interest in making such representations.

39. FCA made the above-described representations intending for Plaintiff and the Class members to rely on the information contained therein.

40. FCA made the above-described representations at a time when, in the exercise of reasonable and ordinary care, it should have known that they were false, and when FCA knew, or should have known, that the Plaintiff and the Class members he seeks to represent would rely on those representations made in its Monroney stickers, FCA, therefore, failed to exercise reasonable care or competence in making the above-described representations.

41. Plaintiff and the Class members he seeks to represent relied on the false and misleading representations supplied by FCA when they purchased their Ram pickup trucks, which they would not have done had they known the truth of the representations.

42. Such reliance by Plaintiff and the Class members he seeks to represent was reasonable and justifiable based on the knowledge available to the Plaintiff and the Class members he seeks to represent and the circumstances at the time.

43. As a direct and foreseeable result of FCA's negligent misrepresentations, Plaintiff and the Class members he seeks to represent were harmed and seek recovery in the form of money damages for, *inter alia,* the purchase price paid for the mislabeled Ram pickup trucks, that were the subject of FCA's fraudulent representations, as well as for expenses incurred due to loss-of-use, repair, replacement, and associated expenses caused by FCA's false and misleading

representations, and punitive damages resulting there from, including costs and attorney's fees associated with this action.

COUNT IV
(NEGLIGENCE *PER SE*)

44. Plaintiff hereby incorporates by reference every allegation of this Complaint with the same force and effect as if it had been fully restated herein.

45. In addition to the aforementioned acts of negligence, FCA was negligent in that it failed to comply with federal automobile information disclosure regulations and laws which were intended to protect purchasers of automobiles, like Plaintiff and the Class members, from injuries caused by adulterated, misbranded, and otherwise dangerous medical devices. Those regulations include, among others, 15 U.S.C. § 1231, 15 U.S.C. § 1232, and 15 U.S.C. § 1233.

46. As the direct, producing, proximate and legal result of FCA's violations of these statutes and regulations, Plaintiff and the Class members have suffered severe pecuniary loss.

47. Plaintiffs are therefore entitled to damages in an amount to be proven at trial, together with interest thereon and costs.

48. Defendants' conduct as alleged above was malicious, intentional and outrageous and constitutes a willful and wanton disregard for the rights and safety of others. Such conduct was directed specifically at Plaintiffs and as such, warrants an imposition of punitive damages.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff and the Class members pray for the following:

a. That the Court determine that this action may be litigated as a class action, and that Plaintiff and his counsel be appointed class representative and class counsel, respectively;

b. That the Court enter judgment against Defendant and in favor of Plaintiff and the Class on all counts;

c. That Defendant be required by this Court's Order to create a common fund to remedy the defects alleged herein, and to compensate all Class members for their damages and injuries, as well as to compensate Plaintiff's counsel for their attorneys' fees and cost of suit; and, that Defendant be ordered to bear the cost of notice the absent Class members, as well as of the administration of this common fund;

d. That damages and/or restitution or disgorgement be awarded to Plaintiff and each Class member according to proof;

e. That the Court award Plaintiff and the Class and subclass members punitive damages assessed against Defendant;

f. That Plaintiff and the Class members be awarded all such other relief as this Court deems just and proper.

Plaintiffs request a jury trial on all counts so triable.

Respectfully submitted,

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