IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION

RAMONA RANDALL, Plaintiff, v. VOLVO CAR USA; PERFORMANCE DODGE JEEP CHRYSLER RAM; AUTOLIV JOHN DOES (1-10) Et Al. Defendants.	)	Civil Action No. 3:22-cv-414-CWR-FKB JURY TRIAL DEMANDED

COMPLAINT

Comes now the Plaintiff, Ramona Randall, in the above-styled cause and files this Complaint against Defendants Volvo Car USA, Performance Dodge Jeep Chrysler Ram, Autoliv and John Does 1-10. In support of same, the Court is shown as follows:

I. PARTIES

1. Plaintiff, Ramona Randall, is a citizen of Natchez, Mississippi.

2. Defendant Volvo Car USA is a Delaware limited liability company, whose principal place of business is located at Rockleigh, New Jersey,

3. Defendant Performance Dodge Jeep Chrysler Ram is a corporation, whose principal place of business is located at 6100 Hwy 84 W, Ferriday, LA 71334

4. Defendant John Does 1-10, inclusive, whether individual, corporate, associate or otherwise, are unknown to Plaintiffs, but upon information and belief are not citizens of Mississippi for diversity purposes.

5. AutoLiv USA is a Delaware corporation, with its principal place of business

located at 1320 Pacific Drive, Auburn Hills, MI 48326.

II. JURISDICTION AND VENUE

6. This Court has subject matter jurisdiction over this Action under 28 U.S.C. §1332. Plaintiff is a citizen of Mississippi whereas all defendants reside outside the state of Mississippi. As the amount in controversy exceeds Seventy-Five Thousand Dollars ($75,000), exclusive of interests and costs, the Parties are completely diverse.

7. Venue is proper on all Defendants pursuant to 28 U.S.C. §1391(b)(2) because a substantial part of the events or omissions giving rise to the claims in this Action occurred in this judicial district.

8. The Defendants are subject to personal jurisdiction because they are engaged in substantial and not isolated activities within this State and such jurisdiction does not violate the Due Process Clause of the Fourteenth Amendment.

III. FACTS COMMON TO ALL COUNTS

A. Initial Communications (2021)

9. On or about November 2021, Plaintiff experienced an event in which her 2015 Volvo S60 was violently jerking such that she almost lost control of the vehicle. As such, Plaintiff immediately took the vehicle to Performance Dodge Jeep Chrysler where she had coverage for certain services under a "bumper to bumper warranty" (full warranty). While at the location, the service personnel agreed to and did in fact examine the subject vehicle and assured that there were no outstanding mechanical issues that posed any safety problems. To be sure, the service personnel represented that the subject vehicle was safe to drive. As a result, Plaintiff decided to further invest in the vehicle and she purchased an additional comprehensive warranty from Volvo.

10. Weeks later, Plaintiff experienced similar jerking and the same service personnel

at Performance Dodge Jeep Chrysler further inspected the vehicle. They informed her that the problem should not repeat itself. Service personnel further represented that the subject vehicle was safe to drive.

B. The Accident (2021)

11. Following the second visit to the dealership, without any further warning, Plaintiff's car jerked again in the exact same fashion as before and as a result, she was involved in a severe life altering accident.

12. During the accident, the safety belt tested and manufactured by Volvo failed to perform. Indeed, Plaintiff was partially ejected from the safety belt which failed to latch. Unbeknownst to Plaintiff, the belt was subject to recall for the very same failure experienced by Plaintiff.

IV. COUNT I-NEGLIGENT MISREPRESENTATION

13. Plaintiffs hereby allege and adopts fully each and every preceding paragraph as set forth herein and further alleges as follows:

14. During the time that Plaintiff engaged with Performance Dodge Jeep Chrysler, it made negligent material misrepresentations to Plaintiff regarding the safety, drivability and outstanding mechanical issues of the subject vehicle. Performance Dodge Jeep Chrysler also failed to disclose that it was never positioned to resolve Plaintiff's technical issues based on the inadequate inspections and testing that it had performed. Indeed, both the jerking issue and the safety belt issue were unresolved prior to Plaintiff's accident though Performance Dodge Jeep Chrysler had misrepresented the safety services which encompassed providing professional expertise as to these covered areas.

15. The representations mentioned above were false when Performance Dodge Jeep

Chrysler made them and the services Plaintiff ultimately received were materially dissimilar from what it had represented to Plaintiff. Based on the foregoing, Plaintiff suffered a severe accident.

V. COUNT II-NEGLIGENCE

16. Plaintiff hereby alleges and adopts fully each and every preceding paragraph as set forth herein and further alleges as follows:

17. The above-mentioned accident was proximately caused by Defendant Performance Dodge Jeep Chrysler's faulty advice/service. It owed a duty to Plaintiff to exercise the ordinary degree of care expected of service facilities/manufacturers who provide such to its customers.

18. Performance Dodge Jeep Chrysler's breached that duty of care to Plaintiff by failing to advise that the subject vehicle did not possess the requisite safety belt and that the jerking issue was unresolved; failing to provide adequate safety inspections; and failing to adequately train its employees.

19. Performance Dodge Jeep Chrysler's negligently trained or supervised, and/or failed to train and supervise, it's employees who played a role in Plaintiff's subsequent accident/injuries.

20. The injuries suffered by Plaintiff based on the aforementioned circumstances were reasonably foreseeable.

21. Performance Dodge Jeep Chrysler is liable pursuant to the doctrine of respondeat superior.

VI. COUNT III-PRODUCT LIABILITY VOLVO/ AUTOLIV (SEATBELT)

22. The Plaintiff incorporates by reference the foregoing paragraphs as if set forth fully herein, and further alleges as follows:

23. The Defendant Volvo and AutoLiv tested, designed, marketed, fabricated, assembled, manufactured, distributed, packaged, labeled, sold, and/or advertised the Volvo (seatbelt) in a defective condition, which rendered the belt unreasonably dangerous to foreseeable users and consumers, including Ramona Randall.

24. The Defendant had a duty to users and consumers, including Ramona Randall, to make the seatbelt reasonably safe by eliminating or correcting the defective condition, which posed unreasonable danger, to guard against the defective condition or to warn against the hazard posed by the defective condition.

25. At the time the seatbelt left the control of the Defendant Auto Liv, the Defendant Auto Liv, or any of them, breached their duty by shipping the seatbelt which had a design defect and was unreasonably dangerous in the following particulars:

a. defective design, particularly with regard to the false latching;

b. defective design, particularly with regard to tension cable that caused weakening of the seat belt system;

c. defective marketing and/or distribution, particularly with regard to the failure of the seatbelt to restrain Plaintiff during the course of her accident;

d. failure to adequately warn of the inherent danger of the seatbelt;

e. failure to adequately instruct consumers as to safe usage thereby avoiding or reducing the risk of injury posed by the inherent dangers of the seatbelt;

f. failure to adequately test the seatbelt to discover the inherent danger, thereby facilitating elimination and/or correction of the defective conditions and/or guarding against the defective conditions; and

g. other defects to be discovered, including but not limited to, manufacturing defects.

26. Due to the foregoing particulars, the seatbelt was unsafe as designed, and a less

dangerous alternative design was in existence at the time of Plaintiff's accident; and the less dangerous and safer design was financially and technologically feasible for Defendant Volvo and Autoliv when the seatbelt was designed and produced; and the safer alternative design for the seatbelt would not have materially affected the seatbelt's utility.

27. The injuries suffered by Plaintiff proximately caused by the defect were reasonably foreseeable.

VII. COUNT IV-PRODUCT LIABILITY VOLVO/ (JERKING ISSUE)

28. The Plaintiff incorporates by reference the foregoing paragraphs as if set forth fully herein, and further alleges as follows:

29. The Defendant Volvo tested, designed, marketed, fabricated, assembled, manufactured, distributed, packaged, labeled, sold, and/or advertised the Volvo in a defective condition, which rendered the subject vehicle unreasonably dangerous to foreseeable users and consumers, including Ramona Randall.

30. The Defendant Volvo had a duty to users and consumers, including Ramona Randall, to make the subject vehicle reasonably safe by eliminating or correcting the defective condition that included predictable jerking, which posed unreasonable danger, to guard against the defective condition or to warn against the hazard posed by the defective condition.

31. At the time the subject vehicle left the control of the Defendant Volvo, breached its duty by shipping the subject vehicle had a design defect and was unreasonably dangerous in the following particulars:

a. defective design, particularly with regard to the subject jerking;

b. defective marketing and/or distribution, particularly with regard to the subject jerking that caused Plaintiff's accident;

c. failing to adequately warn of the inherent danger of the subject jerking;

d. failure to adequately instruct consumers as to safe usage thereby avoiding or reducing the risk of injury posed by the inherent dangers of the subject vehicle;

e. failure to adequately test the subject vehicle to discover the inherent danger, thereby facilitating elimination and/or correction of the defective conditions and/or guarding against the defective conditions including the subject jerking; and

f. other defects to be discovered, including but not limited to, manufacturing defects.

32. Due to the foregoing particulars, the subject vehicle was unsafe as designed, and a less dangerous alternative design was in existence at the time of Plaintiff's accident; and the less dangerous and safer design was financially and technologically feasible for Defendant Volvo when the seatbelt was designed and produced; and the safer alternative design for the jerking issue would not have materially affected the seatbelt's utility.

33. The injuries suffered by Plaintiff proximately caused by the defect were reasonably foreseeable.

VIII. COUNT V-GROSS NEGLIGENCE

34. Plaintiff hereby alleges and adopts fully each and every preceding paragraph as set forth herein and further alleges as follows:

35. At all times relevant to this Complaint, Defendant Performance Jeep Chrysler; and John Does 1-6 committed acts and omissions which when viewed objectively from the standpoint of the actors at the time of its occurrence involved an extreme risk, considering the probability and magnitude of the potential harm to others, including Plaintiff, of which Performance Dodge Jeep Chrysler Ram and John Does 1-6 had actual, subjective awareness of

the risk involved, but nevertheless proceeded with conscious indifference to the rights, safety, and welfare of Plaintiff.

36. Performance Dodge Jeep Chrysler Ram and John Does 1-6's grossly negligent acts and omissions include, but are not limited to, the following:

a. Repeatedly failing to provide Plaintiff an adequate inspection despite the clear and obvious risks of the serious harm suffered by Plaintiff;

b. Failing to train its employees on necessary safety equipment and procedures at the facility;

c. Failing to give Plaintiff adequate warnings about the dangerous activities and conditions of the subject vehicle;

d. Such other grossly negligent acts to be proven at trial.

37. The aforementioned acts and omissions of Defendant Performance Dodge Jeep Chrysler Ram; and John Does 1-6, when viewed from their standpoint at the time those acts and omissions occurred, involved an extreme degree of risk, considering the probability and magnitude of the potential harm to others, including Plaintiff. Defendants had actual, subjective awareness of the risk involved, but nevertheless proceeded with conscious indifference to the rights, safety, and welfare of Plaintiff. Those grossly negligent acts caused and proximately caused Plaintiff damages.

COUNT VI-BREACH OF WARRANTIES (State)

38. Plaintiff hereby alleges and adopts fully each and every preceding paragraph as set forth herein and further alleges as follows:

39. Defendants breached the express warranty that purchased by Plaintiff from Volvo as well as Performance Jeep Dodge Chrysler Ram as well as the implied warranty of

merchantability and fitness of purpose in the following particulars:

a. Due to the inherent defects as described herein; the seatbelt as distributed to Plaintiff would not pass without objection in the trade;

b. Due to the inherent defects as described herein, the seatbelt as manufactured by Autoliv but distributed to Plaintiff by Volvo and further warrantied by Volvo and Performance Jeep was not fit for the ordinary purpose for which seatbelts are used; and due to the inherent defects as described herein, the seatbelt as distributed to Plaintiff may not have been merchantable in additional means yet to be discovered.

IX. COUNT VII-BREACH OF IMPLIED WARRANTY PURSUANT TO THE MAGNUS WARRANTY ACT

40. Plaintiff hereby alleges and adopts fully each and every preceding paragraph as though fully stated herein.

41. Defendants (Auto liv, Performance Jeep and Volvo) are merchants with respect to the motor vehicle.

42. The subject vehicle was subject to implied warranty of merchantability, as defined in, 15 U.S.C. § 2308 and W.S.A. § 4302.314, running from Defendants to Plaintiff.

43. An implied warranty that the subject vehicle was merchantable arose by operation of law as part of the purchase of the subject vehicle.

44. Defendants breached the implied warranty of merchantability in that the subject vehicle was not in merchantable condition when the Plaintiff purchased it, or any time thereafter, and the subject vehicle was unfit for the ordinary purpose of which the subject vehicle was used.

45. Plaintiff notified Defendants of the defects within a reasonable time after she discovered them.

46. As a result of the Defendants' breaches of the implied warranty of merchantability, Plaintiff suffered damages including but not limited to incidental and consequential damages that exceeds $50,000.00.

X. COUNT VII-BREACH OF WARRANTY PURSUANT TO THE MAGNUS WARRANTY ACT, 15 U.S.C. §2301, et seq.

47. Plaintiff hereby alleges and adopts fully each and every preceding paragraph as though fully stated herein.

48. The Plaintiff is a consumer as defined in §2301(3).

49. The subject vehicle is a consumer product.

50. Plaintiff made repeated demands for Defendants to remedy the subject vehicle to no avail and the damage to the Plaintiff exceeds $75,000.00 due to breaches of the full written warranties.

WHEREFORE PREMISES CONSIDERED, Plaintiff, Ramona Randall respectfully moves this Honorable Court for a trial by jury and to enter judgment in favor of Plaintiff against Defendants in an amount as may be determined by the jury to fully compensate Plaintiff for all actual and punitive damages, plus pre-and post-judgment interest, attorneys' fees and all costs incurred in filing and prosecuting the subject action, and forsuch other and further relief as the Court deems just and proper.

RESPECTFULLY SUBMITTED, on this, the 21st day of July, 2022.

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