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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

RYAN BALDWIN; ERIN REILLY;
BILAL MOHAMMAD ALI; JASON
KLEIN; JOSHUA KIM; ERIC RUIZ;
REX WESTON, individually, and on
behalf of all others similarly situated;

Plaintiffs,

vs.

KIA MOTORS AMERICA, INC., a
California corporation; HYUNDAI
MOTOR AMERICA, a California
corporation; FCA US LLC, a Delaware
limited liability company;
MITSUBISHI MOTORS AMERICA,

Case No.

**CLASS ACTION COMPLAINT
FOR DAMAGES AND
EQUITABLE RELIEF**

1 INC., a Delaware corporation;
2 AMERICAN HONDA MOTOR CO.,
3 INC., a California corporation;
4 ACURA, a Division of American
5 Honda Motor Co., Inc.; TOYOTA
6 MOTOR SALES, U.S.A., INC., a
7 California corporation; ZF TRW
8 AUTOMOTIVE HOLDINGS CORP.,
9 a Delaware corporation,

Defendants.

10
11 **– JURY TRIAL DEMANDED –**
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I. INTRODUCTION

1 1. This case involves an egregious breach of public trust by seven automotive
2 manufacturers and a tier-one parts supplier, who have concealed a deadly airbag defect in
3 12.3 million U.S. cars. On the heels of the Takata recall, and the \$1.5 billion in class
4 action settlements that accompanied it, the manufacturers – Acura, Honda, Toyota, FCA,
5 Mitsubishi, Kia and Hyundai – have known of this new airbag defect for years, and have
6 yet refused to issue a recall to fix it.

7 2. At issue is the vehicles’ airbag control unit (“ACU”) manufactured by
8 supplier ZF-TRW that becomes over-stressed by excess electrical energy generated
9 during a crash. The “electrical over-stress” forces the ACU to seize-up at the moment of
10 impact, causing the airbags to not deploy and the seatbelt locks to fail.

11 3. After numerous reports of deaths and serious injuries, in 2018 the National
12 Highway Safety Traffic Administration (“NHTSA”) launched an investigation into the
13 matter, only to find out that ZF-TRW had been having in-depth discussions with
14 manufacturers about the defective ACU since at least 2011. Under the Federal Motor
15 Vehicle Safety Standards, manufacturers are required to issue a full vehicle recall within
16 *five days* of learning of a defect.

17 4. In April 2019, NHTSA elevated the investigation to an Engineering Analysis
18 and expanded the scope of the investigation to include other manufacturers who had
19 installed the ZF-TRW made ACU in their production vehicles. At its early investigation
20 stages, NHTSA has confirmed that the defective ACU has been linked to at least four
21 deaths; however, NHTSA complaint logs confirm that many more fatalities have been
22 reported to NHTSA that are still under investigation.

23 5. The Class Action complaint brings claims against each of the seven
24 automotive manufacturers and the tier-one parts supplier for violations of the Magnuson
25 Moss Act, violations of California consumer protection statutes and violations of
26 common law claims of fraud and unjust enrichment.
27
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II. PARTIES

A. Defendants

6. Defendant Kia Motors America, Inc. (“Kia”) is a California corporation, with its corporate headquarters located in this district at 111 Peters Canyon Road, Irvine, California 92606. Kia is a manufacturer and distributor of new motor vehicles under the Kia brand. Kia markets, leases, warrants, and oversees regulatory compliance and warranty servicing of Kia-brand vehicles through a network of dealers throughout the United States from its headquarters in California. Kia also creates and distributes the warranties and other written materials that accompany the sale and lease of Kia-branded vehicles throughout the United States, and makes decisions concerning warranty coverage of customer vehicles when problems arise.

7. Defendant Hyundai Motor America (“Hyundai”) is a California corporation, with its corporate headquarters located in this district at 10550 Talbert Avenue, Fountain Valley, California 92708. Hyundai is a manufacturer and distributor of new motor vehicles under the Hyundai brand. Hyundai markets, leases, warrants, and oversees regulatory compliance and warranty servicing of Hyundai-brand vehicles through a network of dealers throughout the United States from its headquarters in California. Hyundai also creates and distributes the warranties and other written materials that accompany the sale and lease of Hyundai-branded vehicles throughout the United States, and makes decisions concerning warranty coverage of customer vehicles when problems arise.

8. Defendant FCA US LLC (“FCA”) is a Delaware limited liability company, with its corporate headquarters located at 1000 Chrysler Drive, Auburn Hills, Michigan 48326. FCA is a manufacturer and distributor of new motor vehicles under the Chrysler, Dodge, Jeep, Ram, and Fiat brands. FCA markets, leases, warrants, and oversees regulatory compliance and warranty servicing of Chrysler, Dodge, Jeep, Ram, and Fiat-brand vehicles through a network of dealers throughout the United States from its

1 headquarters in Michigan. FCA also creates and distributes the warranties and other
2 written materials that accompany the sale and lease of Chrysler, Dodge, Jeep, Ram, and
3 Fiat-branded vehicles throughout the United States, and makes decisions concerning
4 warranty coverage of customer vehicles when problems arise.

5 9. Defendant Mitsubishi Motors North America, Inc., (“Mitsubishi”) is a
6 Delaware corporation, with its corporate headquarters located in this district at 6400
7 Katella Ave., Cypress, CA 90630. Mitsubishi is a manufacturer and distributor of new
8 motor vehicles under the Mitsubishi brand. Mitsubishi markets, leases, warrants, and
9 oversees regulatory compliance and warranty servicing of Mitsubishi-brand vehicles
10 through a network of dealers throughout the United States from its headquarters in
11 California. Mitsubishi also creates and distributes the warranties and other written
12 materials that accompany the sale and lease of Mitsubishi-branded vehicles throughout
13 the United States, and makes decisions concerning warranty coverage of customer
14 vehicles when problems arise.

15 10. Defendant American Honda Motor Co., Inc., (“Honda”) is a California
16 corporation, with its corporate headquarters located in this district at 1919 Torrance
17 Boulevard, Torrance, California 90501. Honda is a manufacturer and distributor of new
18 motor vehicles under the Honda brand. Honda markets, leases, warrants, and oversees
19 regulatory compliance and warranty servicing of Honda-brand vehicles through a
20 network of dealers throughout the United States from its headquarters in California.
21 Honda also creates and distributes the warranties and other written materials that
22 accompany the sale and lease of Honda-branded vehicles throughout the United States,
23 and makes decisions concerning warranty coverage of customer vehicles when problems
24 arise.
25

26 11. Defendant Acura, (“Acura”) is a division of American Honda Motor Co.,
27 Inc., with its corporate headquarters located in this district at 1919 Torrance Blvd.,
28 Torrance, CA 90501-2746 USA.

1 12. Defendant Toyota Motor Sales, U.S.A., Inc., (“Toyota”) is a California
2 corporation, with its corporate headquarters located at 6565 Headquarters Drive, Plano,
3 Texas 75024. Toyota is a manufacturer and distributor of new motor vehicles under the
4 Toyota brand. Toyota markets, leases, warrants, and oversees regulatory compliance and
5 warranty servicing of Toyota-brand vehicles through a network of dealers throughout the
6 United States from its headquarters in Texas. Toyota also creates and distributes the
7 warranties and other written materials that accompany the sale and lease of Toyota-
8 branded vehicles throughout the United States, and makes decisions concerning warranty
9 coverage of customer vehicles when problems arise.

10 13. Defendant ZF-TRW Automotive Holdings Corp. (“ZF-TRW”) is a Delaware
11 corporation, with its corporate headquarters located at 12001 Tech Center Drive, Livonia,
12 Michigan 48150. ZF TRW designs, manufactures, and sells automotive systems,
13 modules, and components, including airbag systems, to automotive original equipment
14 manufacturers. ZF-TRW markets, leases, warrants, and oversees regulatory compliance
15 and warranty servicing of ZF-TRW products from its headquarters in Michigan. ZF-TRW
16 also creates and distributes the warranties and other written materials that accompany the
17 sale of ZF-TRW products throughout the United States, and makes decisions concerning
18 warranty coverage when problems arise.

20 21 **B. Plaintiffs**

22 14. Plaintiff Ryan Baldwin owns a 2014 Mitsubishi Lancer Evolution. The
23 airbags in his vehicle have the ASIC Defect. The value of Baldwin’s 2014 Mitsubishi
24 Lancer Evolution has been diminished as a result of the ASIC Defect. If Baldwin had
25 known about the ASIC Defect, he would not have purchased his 2014 Lancer Evolution
26 or would have not paid as much as he did for it.

27 15. Plaintiff Erin Reilly owns a 2013 Honda CR-V. The airbags in her vehicle
28 have the ASIC Defect. The value of Reilly’s 2013 Honda CR-V has been diminished as a

1 result of the ASIC Defect. If Reilly had known about the ASIC Defect, she would not
2 have purchased her 2013 Honda CR-V or would have not paid as much as she did for it.

3 16. Plaintiff Bilal Mohammad Ali owns a 2013 Kia Optima. The airbags in his
4 vehicle have the ASIC Defect. The value of Ali's 2013 Kia Optima has been diminished
5 as a result of the ASIC Defect. If Ali had known about the ASIC Defect, he would not
6 have purchased his 2013 Kia Optima or would have not paid as much as he did for it.

7 17. Plaintiff Jason Klein owns a 2017 Toyota Tacoma. The airbags in his vehicle
8 have the ASIC Defect. The value of Klein's 2017 Toyota Tacoma has been diminished as
9 a result of the ASIC Defect. If Klein had known about the ASIC Defect, he would not
10 have purchased his 2017 Toyota Tacoma or would have not paid as much as he did for it.

11 18. Plaintiff Joshua Kim owns a 2017 Hyundai Sonata. The airbags in his
12 vehicle have the ASIC Defect. The value of Kim's 2017 Hyundai Sonata has been
13 diminished as a result of the ASIC Defect. If Kim had known about the ASIC Defect, he
14 would not have purchased his 2017 Hyundai Sonata or would have not paid as much as
15 he did for it.

16 19. Plaintiff Eric Ruiz owns a 2016 Fiat 500x. The airbags in his vehicle have
17 the ASIC Defect. The value of Ruiz' 2016 Fiat 500x has been diminished as a result of
18 the ASIC Defect. If Ruiz had known about the ASIC Defect, he would not have
19 purchased his 2016 Fiat 500x or would have not paid as much as he did for it.

20 20. Plaintiff Rex Weston owns a 2014 Acura RLX. The airbags in his vehicle
21 have the ASIC Defect. The value of Weston's 2014 Acura RLX has been diminished as a
22 result of the ASIC Defect. If Weston had known about the ASIC Defect, he would not
23 have purchased his 2014 Acura RLX or would have not paid as much as he did for it.
24
25

26 **III. JURISDICTION AND VENUE**

27 21. Jurisdiction is proper in this Court pursuant to 28 U.S.C. §§ 1331, 1961,
28 1962 and 1964, because Plaintiffs' Magnusson-Moss claims arise under federal law.

1 22. Jurisdiction is also proper in this Court pursuant to the Class Action Fairness
2 Act, 28 U.S.C. § 1332(d), because members of the proposed Plaintiff Classes are citizens
3 of states different from some of Defendant's home states, and the aggregate amount in
4 controversy exceeds \$5,000,000, exclusive of interest and costs. Further, greater than
5 two-thirds of the members of the Class reside in states other than the states in which
6 Defendants are citizens.

7 23. In addition, under 28 U.S.C. § 1367, this Court may exercise supplemental
8 jurisdiction over the state law claims because all the claims are derived from a common
9 nucleus of operative facts and are such that Plaintiffs ordinarily would expect to try them
10 in one judicial proceeding.

11 24. This Court has personal jurisdiction over Plaintiffs because Plaintiffs submit
12 to the Court's jurisdiction.

13 25. This Court also has personal jurisdiction over Defendants Acura, FCA,
14 Honda, Hyundai, Kia, Mitsubishi, Toyota and TRW under 18 U.S.C. § 1965(d) because
15 each is found, has agents, or transacts business in this District.

16 26. Venue lies within this District under 28 U.S.C. § 1391(b)(1) and (c)(2)
17 because Defendants' contacts are sufficient to subject them to personal jurisdiction in this
18 District, and therefore, Defendants reside in this District for purposes of venue, or under
19 28 U.S.C. § 1391(b)(2) because certain acts giving rise to the claims at issue in this
20 Complaint occurred, among other places, in this District.

21 **IV. FACTUAL ALLEGATIONS**

22 **A. The Defective Airbag Control Unit**

23 27. The airbag control unit ("ACU"), which contains the application-specific
24 integrated circuit ("ASIC"), is the specific part at-issue in this matter. The ACU monitors
25 signals from crash sensors on the vehicle. The ACU is in the vehicle's passenger
26 compartment, and it connects to sensors in the front of the vehicle.
27
28

28. The ACU is supposed to detect the collision and signal the vehicle's safety devices to spring into action in the milliseconds following a collision. The safety features which the ACU is supposed to engage may include airbag inflation, and the seatbelt pretensioner which should remove slack from the seatbelt, secure a vehicle passenger's body firmly into the seat, then milliseconds later, release the occupant to receive the maximum protective benefit the airbag can provide.

29. If the ASIC fails, then the ACU may fail to engage the vehicle's safety features such as airbags and seatbelt pretensioners or may cause other vehicle safety features to fail. ACU malfunctions greatly increase the risk of serious injury and death to vehicle occupants in the event of a collision.

30. The circuitry of the Class Vehicles' ASIC within the ACU may become overstressed from too many electrical signals during automobile crash. This electrical overstress ("EOS") causes the ASIC and the ACU to fail which results in the failure of the vehicle's safety features.

31. The ZF-TRW Defendants designed, engineered and manufactured the ACUs defectively (design or manufacturing flaws). The defect causes failure of the airbags and other supplemental restraints in a crash. By designing, manufacturing, assembling, inspecting, distributing, or selling defective ACUs or Class Vehicles equipped with airbag systems containing the ACU Defect, Defendants rendered the Class Vehicles unsafe for their intended use and purpose.

B. The Affected Cars

32. The vehicles manufactured by Defendants that contain the ACU Defect ("Class Vehicles") are:

| Make | Model | Years |
|-------|------------|-----------|
| Acura | RLX | 2014-2019 |
| Acura | RLX Hybrid | 2014-2019 |

| | | | |
|----|------------|------------------|-----------|
| 1 | Acura | TL | 2012-2014 |
| 2 | Acura | TLX | 2015-2017 |
| 3 | Acura | TSX | 2012-2014 |
| 4 | Acura | TSX Sport | 2014 |
| 5 | Acura | TSX Sportwagon | 2012-2013 |
| 6 | Dodge | Nitro | 2010-2011 |
| 7 | Dodge | Ram 1500 | 2009 |
| 8 | Dodge | Ram 3500 | 2010 |
| 9 | Fiat | 500 | 2012-2019 |
| 10 | Jeep | Compass | 2015-2017 |
| 11 | Jeep | Liberty | 2010-2012 |
| 12 | Jeep | Patriot | 2015-2017 |
| 13 | Jeep | Wrangler | 2010-2018 |
| 14 | Honda | Accord | 2013-2015 |
| 15 | Honda | Accord Hybrid | 2014-2015 |
| 16 | Honda | Civic | 2012-2015 |
| 17 | Honda | Civic GX | 2012-2015 |
| 18 | Honda | Civic Hybrid | 2012-2015 |
| 19 | Honda | Civic SI | 2012-2015 |
| 20 | Honda | CR-V | 2012-2016 |
| 21 | Honda | Fit | 2012-2017 |
| 22 | Honda | Fit EV | 2013-2014 |
| 23 | Honda | Ridgeline | 2012-2014 |
| 24 | Hyundai | Sonata | 2013-2019 |
| 25 | Hyundai | Sonata Hybrid | 2013-2019 |
| 26 | Kia | Forte | 2010-2013 |
| 27 | Kia | Forte Koup | 2013 |
| 28 | Kia | Optima | 2013-2019 |
| | Kia | Optima Hybrid | 2012-2016 |
| | Kia | Sedona | 2014 |
| | Mitsubishi | Lancer | 2013-2017 |
| | Mitsubishi | Lancer Evolution | 2013-2015 |
| | Mitsubishi | Lancer Ralliart | 2014-2015 |
| | Mitsubishi | Lancer | 2013-2016 |
| | Mitsubishi | Outlander | 2013 |
| | Ram | 1500 | 2009-2012 |
| | Ram | 2500 | 2010-2012 |
| | Ram | 3500 | 2010-2012 |
| | Ram | 4500 | 2011-2012 |
| | Ram | 5500 | 2011-2012 |

| | | |
|--------|----------------|-----------|
| Toyota | Avalon | 2012-2018 |
| Toyota | Avalon Hybrid | 2013-2018 |
| Toyota | Corolla | 2011-2019 |
| Toyota | Corolla IM | 2017-2018 |
| Toyota | Corolla Matrix | 2011-2013 |
| Toyota | Sequoia | 2012-2017 |
| Toyota | Tacoma | 2012-2019 |
| Toyota | Tundra | 2012-2017 |

C. Defendants Conceal the Defect

i. Defendants' Knowledge and Partial Recalls

33. In 2016, FCA issued a *partial recall* of over 1.4 million vehicles, under NHTSA Campaign Number 16V-668. FCA was aware its vehicles were affected by the defective ACUs and these defective ACUs were resulting in injury and death on American roads. [Ex. 1, 2].

34. On February 21, 2018, Hyundai and ZF-TRW finally conceded its awareness that the ZF-TRW ACUs within its vehicles were safety device failures resulting in injuries in automobile crashes which should have been prevented. Hyundai instituted a *partial recall* on February 27, 2018, and a still further partial recall on April 18, 2018, under NHTSA Campaign Number 18V-137. [Ex. 3, 4].

35. Four months after Hyundai's initial recall, on June 1, 2018 Kia conceded its awareness of the defective ZF-TRW ACU components, and instituted its own *partial recall* in response to injuries in its vehicles which should have been prevented with properly functioning safety devices, under NHTSA Campaign Number 18V-363. [Ex. 5, 6].

36. The recalled vehicles all contained ZF-TRW ASIC components in the ACU systems.

37. As the NHTSA Safety Recall reports describe the defect, "if the ASIC becomes damaged, the front airbags and seatbelt pretensioners may not deploy in certain frontal crashes where deployment may be necessary, thereby increasing the risk of

injury.” The reports further cite inadequate circuit protection as the cause of the defect. The investigations into the ACU system defects in these vehicles and the recalls they led to were sparked by four deaths and six injuries.

ii. The NHTSA Investigations

38. On March 16, 2018 NHTSA opened its initial investigation into the ACU Defect. At that time, at least six injuries and four deaths resulted from the failure of vehicle features such as airbags and seatbelt pretensioners. [Ex. 7]. The initial investigation linked Kia and Hyundai vehicles to the defective ZF-TRW ACUs.

39. On April 19, 2019, NHTSA upgraded its investigation of the ACU Defect to an Engineering Analysis, which entails “a more detailed and complete analysis of the character and scope of the alleged defect,” than the initial investigation. [Ex. 8]. An Engineering Analysis, unlike the initial investigation, may recommend a safety recall.

40. Internal NHTSA documents reveal that Defendants knew of the problems with the ASIC as early as August of 2011. [Ex. 9, 10, 11, 12]. Defendants could have taken steps to ensure the safety of the public in August of 2011, but instead chose to cover up the safety problems.

iii. Consumer Complaints

41. While the Acura, FCA, Honda, Hyundai, Kia, Mitsubishi, and Toyota Defendants were discussing the ACU defect with ZF-TRW, scores of consumers were lodging complaints about their vehicle airbags not deploying and seatbelt locks not working during major collisions, resulting in death and serious injury. The chart below lists complaints to NHTSA about the Class Vehicles which make clear that the Acura, Honda, Mitsubishi, and Toyota Defendants knew, or should have known, of the defects within their Class Vehicles.

Acura

| Date | Vehicle | Complaint | NHTSA ID |
|-------------|----------------------|--|-----------------|
| 3/12/13 | 2012 Acura TSX | "Front end damage both sides damaged air bags did not come on <i>wife died</i> , dealer say bags ok but didnt know why they didnt come on. *TR" | 10502566 |
| 7/7/16 | 2016 Acura RLX | "I was involved in a moderate to severe frontal crash driving down a road and a left turning driver struck my car the knee airbag was the only airbag to deploy causing leg. Pain due to the air bag in the steering wheel not going off caused neck, back pain with headaches along with pain going into my legs. The car is showing two air bag codes car is a 2016 Acura RLX" | 10883170 |

Honda

| Date | Vehicle | Complaint | NHTSA ID |
|-------------|-----------------------|---|-----------------|
| 9/17/12 | 2012 Honda CR-V | <p>"My wife who was driving our Honda CRV 2012 had an accident on the freeway off ramp. When the car in front of her ran over some wire that was left on the road, the driver made a sudden stop. My wife was unable to stop in time and hit the vehicle with our Honda. There was considerable damage on both cars.</p> <p>Since the airbags did not deploy and the safety belt in our 2012 Honda CRV did not restrain my wife from hitting the steering wheel, she was seriously hurt.</p> <p>I hope other owners of the Honda CRV 2012 do not have this type of situation happen to them. *tr"</p> | 10479504 |
| 10/23/12 | 2012 Honda CR-V | "TL* The contact owns a 2012 Honda CR-V. The contact stated that while traveling 55 mph the vehicle collided with a deer and the drivers air bag and passenger side air | 10481537 |

| | | | |
|----------|------------------|--|----------|
| | | bags failed to deploy. No injuries were reported. The vehicle was towed to a repair shop. The vehicle was not repaired. The failure and current mileages was 1,500." | |
| 11/28/14 | 2012 Honda Civic | "TL* The contact owns a 2013 Honda Civic. The contact stated that while making a left turn, another vehicle drove through a red light and crashed into the front of the contacts vehicle. The air bag warning light illuminated and the air bags failed to deploy. A police report was filed. The contact sustained injuries to the chest, the back, abdomen and shoulder pains that required medical attention. The vehicle was not diagnosed or repaired. The manufacturer was notified of the failure. The approximate failure mileage was 10,000." | 10661200 |

Mitsubishi

| Date | Vehicle | Complaint | NHTSA ID |
|----------|----------------------------------|---|----------|
| 9/14/14 | 2013 Mitsubishi Outlander | "My air bags did not deploy, the seat belt did not engage. Therefore I struck the steering wheel twice, and whipped my neck. *TR" | 10633083 |
| 3/21/15 | 2014 Mitsubishi Lancer Evolution | "My car was recently wrecked going around the corner in the snow is it slid off the road into a telephone pole and the fire hydrant the airbags did not go off when we impact we were doing about 40 miles per hour. The car also did not turn itself off like it should have. *TR" | 10700824 |
| 10/21/16 | 2015 Mitsubishi Lancer | "I was traveling along 20 miles below the speed limit had a deer jump out in front of me I swear to miss it my front passenger side tire went off the asphalt and into soft dirt and my car high centered on the raised lip of the road and slid down the hillside landing into trees both going forward and towards the right side of the car stopping | 10917870 |

because of trees it destroyed the front end the entire undercarriage the entire passenger side of the car popped open the sunroof tried pushing the roof off the back driver side of the car and no airbags went off no safety features other than the seat belt worked.”

Toyota

| Date | Vehicle | Complaint | NHTSA ID |
|---------|---------------------------|--|----------|
| 4/28/19 | 2012 Toyota Corolla | <p>“My air bags did not deploy during an accident where a construction truck hit my car causing me to hit a tree and roll. <i>My father died as a result of this accident.</i> Now that a problem with the air bags not deploying in this type car I wonder if this is what happened.</p> <p>Toyota did not inspect vehicle.</p> <p>Lawyers Engineer said because of occupants bouncing around car couldn’t tell where everyone was and therefore air bag deployment was not commanded. Consumer stated ‘Don’t believe Toyota was ever notified of incident. Cosumer stated air bag deployed when the fireman cut the roof off the car to get her parents, who were at the bottom of the car.</p> <p>Crush Report [XXX], Case #[XXX]</p> <p>Traffic Homicide Investigation Case #[XXX]</p> <p>Information Redacted Pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. 552(B)(6). *TT *DT *DT *JB</p> | 11204250 |

| | | | |
|---------|---------------------------|--|----------|
| 1/17/13 | 2011 Toyota Corolla | "I was hit by a big rig traveling at approximately 20mph while stopped on the highway, the big rigs impact forced me into the back of an FL50XL, causing signifcant damage to the front and rear of the vehicle. The air bags did not deploy. *TR" | 10493277 |
| 2/26/13 | 2011 Toyota Corolla | "While traveling on a highway, a vehicle struck the Toyota Corolla automobile on the front, passenger side. This collision caused the Corolla to then strike a median wall. After the second impact, the Corolla flipped at least two (2) times. The airbag never deployed. The entire front side was damaged in this accident. *TR" | 10500195 |

D. Misrepresentations to the Public About Safety

42. The Acura, FCA, Honda, Hyundai, Kia, Mitsubishi, and Toyota Defendants omitted to inform or notify consumers, Plaintiffs, and Class Members of the ACU Defect, while at the same time Defendants marketed and represented that the Class Vehicles were safe and reliable. Plaintiffs were exposed to and consumed Defendants' advertisements and marketing materials prior to purchasing or leasing the Class Vehicles. The misleading statements and omissions about Class Vehicles' safety in the Defendants' advertising and marketing materials influenced Plaintiffs' decisions to purchase or lease Class Vehicles. Examples of the representations of safety to the public include:

- 1 a. **Kia** – Defendant Kia advertised safety as their top priority with advanced
2 airbags throughout the vehicle.



SAFETY

Things happen. There are incidents on the road outside of anyone's control.

At Kia, we work tirelessly to ensure that every passive safety system on our vehicles is designed to help you handle the unexpected. And that every active safety system is designed to help you avoid trouble whenever possible.

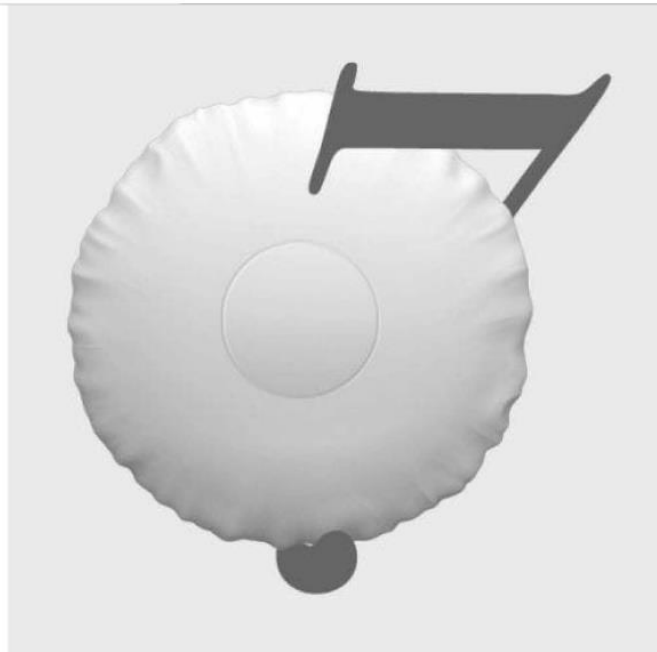
The automobile industry has taken notice, too. To learn more visit our awards page.

[*Disclaimers >](#)

10 Built with your safety as our top priority, Kia's vehicle lineup has collected numerous top safety awards.

- 11
12 b. **FCA** – Defendant FCA's advertisement of seven airbags surrounding the
13 driver of the Fiat 500 would lead a consumer to believe the airbags will
14 work.

15
16 2019 2018 FIAT® 500



SEVEN AIRBAGS SURROUND YOU

27
28 Drive confidently with the knowledge that you are protected by seven airbags*. Rest assured with advanced multistage driver and front passenger airbags, a driver's knee airbag, full-length side-curtain airbags and seat-mounted pelvic-thoracic airbags. Reactive front seat head restraints* also activate in the event of a rear collision.

- c. **Hyundai** – Defendant Hyundai boasts of safety awards received for their 10 new Hyundai models.



- d. **Mitsubishi** – Defendant Mitsubishi’s advertisement of its “Top Safety Pick” award leads consumers to believe they are safe in this vehicle, and the vehicle is without a known defect.

[The Insurance Institute for Highway Safety \(IIHS\)](#) recently named this affordably priced and fun-to-drive vehicle an official IIHS “Top Safety Pick” for both the 2014 and 2015 models.

The [Lancer](#) joins the ranks of Mitsubishi’s outstanding crossover/SUV offerings in the stylish 5-passenger [Outlander Sport](#) and the 7-passenger [Outlander](#) as Mitsubishi vehicles rated as a “Top Safety Pick” or higher.



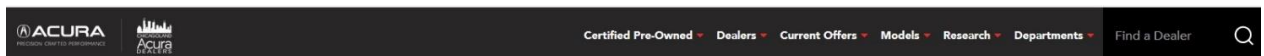
- e. **Honda** – Defendant Honda advertised many safety features which include traction control, electronic stability and safe airbags to help keep families safe on the road.



Keep Your Family Safe on the Road

The 2018 Honda Accord Coupe comes with many modern safety features that help keep you and your family safe while you're out enjoying the open road. The latest traction control and electronic stability systems come standard along with front side airbags, dual stage multiple threshold airbags and side curtain airbags. There is also an optional safety system available, known as Honda Sensing, that includes even more valuable safety features, such as Lane Keeping Assist, that help steer the vehicle back into the lane if it drifts too far. This, along with many other features and options, sets the Honda Accord Coupe apart from the competition.

- f. **Acura** – Defendant Acura claims to have improved their safety features.



The 2017 Acura RLX Safety Features



g. **Toyota** – Toyota simply advertises, “Designed for safety.”



E. Diminished Value of the Cars

43. Plaintiffs and members of the Class purchased or leased Class Vehicles unaware of the ACU defect within, and thus suffered other damages related to their purchase or lease of the Class Vehicles in the form of diminished market value, and loss of the benefit of their bargain as a direct result of Defendants’ misrepresentations and omissions regarding the Class Vehicles’ characteristics and the existence of the ACU Defect. The ACU Defect within the Class Vehicles diminishes the value and exposes drivers and passengers of the Class Vehicles to unreasonable safety risks.

V. CLASS ACTION ALLEGATIONS

A. Class Definitions

44. Plaintiffs bring this action and seek to certify and maintain it as a class action under Federal Rules of Civil Procedure 23(a), (b)(2), and (b)(3), on behalf of themselves, and a Nationwide Consumer Class defined as follows: All persons in the United States who purchased or leased a Class Vehicle.

45. Excluded from each Class are Defendants ZF-TRW, Acura, FCA, Honda, Hyundai, Kia, Mitsubishi and Toyota, including their employees, officers, directors, legal representatives, heirs, and successors, wholly or partly owned subsidiaries or affiliates of

1 Defendants, Class Counsel and their employees, and the judicial officers, their immediate
2 family members, and associated court staff assigned to this case.

3 4 **B. Class Certification Requirements**

5 46. This action satisfies the requirements of Federal Rule of Civil Procedure
6 23(a)(1). There are millions of Class Vehicles nationwide. Individual joinder of all Class
7 members is impracticable.

8 47. This action satisfies the requirements of Federal Rule of Civil Procedure
9 23(a)(2). The questions of law and fact, described throughout this Complaint, are
10 common to the class because they arise from the same course of conduct from
11 Defendants. A sampling of the common claims include: 1) the Class Vehicles contain
12 defective components, 2) that Defendants knew of defective components within the Class
13 Vehicles; 3) Defendants failed to take any remedial action which resulted in damages to
14 the Class members, 4) that Defendants failed to notify or warn Class members of the
15 defective components, 5) that Defendants had a duty to warn Class members of the
16 defective components; 6) that Defendants actively concealed and misled Class members
17 as to the safety of the Class Vehicles, 7) that Defendants breached implied warranties,
18 including the warranty of merchantability.

19
20 48. This action satisfies the requirements of Federal Rule of Civil Procedure
21 23(a)(3). The claims of the representative parties are typical of the claims of the class.

22 49. This action satisfies the requirements of Federal Rule of Civil Procedure
23 23(a)(4). The representative parties will fairly and adequately protect the interests of the
24 class because they have retained counsel experienced in prosecuting consumer class
25 action lawsuits with the financial resources to pursue these claims and the commitment to
26 follow through with prosecution of these claims.

27 50. Each of the Classes are ascertainable because their members can be readily
28 identified using vehicle registration records, sales records, production records, and other

1 information kept by Defendants or third parties in the usual course of business and within
2 their control. Plaintiffs anticipate providing appropriate notice to the Class in compliance
3 with Federal Rules of Civil Procedure 23(c)(1)(2)(A) and/or (B), to be approved by the
4 Court after class certification, or pursuant to court order under Rule 23(d).

5 6 **VI. EQUITABLE TOLLING**

7 **A. Discovery Rule**

8 51. The causes of action alleged here did not accrue until Plaintiffs and proposed
9 Class members discovered that the Class Vehicles had the defective ACUs.

10 52. Plaintiffs could not have discovered with reasonable diligence that their
11 Class Vehicle was defective within the time period of any applicable statute of
12 limitations.

13 53. Plaintiffs and proposed Class members had no realistic ability to discern that
14 their vehicles were defective until after either the defective ACUs failed, or their vehicles
15 were recalled. Even then, Defendants' active concealment of the true nature of the defect
16 gave Plaintiffs and proposed Class members no reason to discover the causes of action.

17 18 19 **B. Fraudulent Concealment**

20 54. Defendants have known of the ASIC defect since at least August 2011, but
21 have actively concealed from, or failed to notify, Plaintiffs, Class members, and the
22 general public of the full and complete nature of the ASIC defect.

23 55. Although in 2018 there was some limited disclosure of the relevant defects,
24 the ACUs were defective for years prior to disclosure, and the Acura, FCA, Honda,
25 Hyundai, Kia, Mitsubishi, and Toyota Defendants did not fully investigate or disclose the
26 seriousness of the issue.

27 56. Instead, the Acura, FCA, Honda, Hyundai, Kia, Mitsubishi, and Toyota
28 Defendants concealed and downplayed the widespread prevalence of the problem. To this

1 day ZF-TRW has refused to acknowledge that their product is defective or to initiate a
2 recall of its defective ACUs.

3 57. Any applicable statute of limitations has therefore been tolled by
4 Defendants' knowledge, active concealment, and denial of the facts alleged herein, which
5 behavior is ongoing.

6 7 **C. Estoppel**

8 58. Defendants have an ongoing duty to disclose to Plaintiffs and proposed
9 Class members the true character, quality, and nature of the Class Vehicles. They actively
10 concealed the true character, quality, and nature of the vehicles, and knowingly made
11 misrepresentations about the quality, reliability, characteristics, and performance of the
12 vehicles. Plaintiffs and proposed Class members reasonably relied upon Defendants'
13 knowing, and affirmative misrepresentations and/or active concealment of these facts.
14 Based on the foregoing, Defendants are estopped from relying on any statute of
15 limitations in defense of this action.
16

17 18 **VII. CLAIMS FOR RELIEF**

19 **A. Federal Claims**

20 **COUNT I**

21 **i. Violation of the Magnuson-Moss Warranty Act, 15 U.S.C. § 2301, *et seq.***

22 59. Plaintiffs incorporate and reallege all preceding allegations as though fully
23 set forth herein.

24 60. On behalf of themselves and members of the Class, Plaintiffs allege this
25 count against all Acura, FCA, Honda, Hyundai, Kia, Mitsubishi, and Toyota Defendants.

26 61. 28 U.S.C. § 1332 (a)-(d) gives this Court jurisdiction to decide claims
27 brought under 15 U.S.C. § 2301.
28

1 62. The amount in controversy of Plaintiffs' individual claims meets or exceeds
2 the sum of \$25. In addition, the amount in controversy meets or exceeds \$50,000 in value
3 (exclusive of interest and costs) based on all claims to be determined in this lawsuit.

4 63. The Class Vehicles are "consumer products" within the meaning of the
5 Magnuson-Moss Warranty Act, 15 U.S.C. § 2301(1).

6 64. Plaintiffs and members of the Class are "consumers" as defined by 15
7 U.S.C. § 2301(3).

8 65. The Acura, FCA, Honda, Hyundai, Kia, Mitsubishi, and Toyota Defendants
9 are each a "supplier" and "warrantor" within the meaning of the Magnuson-Moss
10 Warranty Act, 15 U.S.C. section 2301(4)-(5).

11 66. Section 2310(d)(1) of the Magnuson-Moss Warranty Act provides a cause of
12 action for any consumer who is damaged by the failure of a warrantor to comply with a
13 written or implied warranty.

14 67. Plaintiffs, including the Class, were provided with implied warranties of
15 merchantability as defined by 15 U.S.C. § 2301(7). By this warranty, the Acura, FCA,
16 Honda, Hyundai, Kia, Mitsubishi, and Toyota Defendants warranted that the Class
17 vehicles were fit for their ordinary purpose of safe passenger vehicles, and would
18 conform in the trade as designed, manufactured, and marketed, and were adequately
19 contained, packaged, and labeled.

20 68. 15 U.S.C. § 2310(e) relieves Plaintiffs of the requirement to give the Acura,
21 FCA, Honda, Hyundai, Kia, Mitsubishi, and Toyota Defendants notice and an
22 opportunity to cure, until such time as the Court determines the representative capacity of
23 Plaintiffs pursuant to Rule 23 of the Federal Rules of Civil Procedure.

24 69. Furthermore, affording the Acura, FCA, Honda, Hyundai, Kia, Mitsubishi,
25 and Toyota Defendants an opportunity to cure their breach of written warranties would be
26 unnecessary and futile here. At the time of sale or lease of each Class Vehicle, the Acura,
27 FCA, Honda, Hyundai, Kia, Mitsubishi, and Toyota Defendants knew, should have
28

1 known, or were reckless in not knowing of their misrepresentations and omissions
2 concerning the Class Vehicles' inability to perform as warranted, but nonetheless failed
3 to rectify the situation or disclose the defective design. Under the circumstances, the
4 remedies available under any informal settlement procedure would be inadequate and any
5 requirement that Plaintiffs resort to an informal dispute resolution procedure or afford the
6 Acura, FCA, Honda, Hyundai, Kia, Mitsubishi, and Toyota Defendants a reasonable
7 opportunity to cure their breach of warranties is excused and thereby deemed satisfied.

8 70. Plaintiffs and the other Class members would suffer economic hardship if
9 they returned their Class Vehicles but did not receive the return of all payments made by
10 them.

11 71. Because the Acura, FCA, Honda, Hyundai, Kia, Mitsubishi, and Toyota
12 Defendants are refusing to acknowledge any revocation of acceptance and return
13 immediately any payments made, Plaintiffs and the other Class members have not re-
14 accepted their Defective Vehicles by retaining them.

15 72. Plaintiffs, individually and on behalf of the other Class members, seek all
16 damages permitted by law, including diminution in value of their vehicles, in an amount
17 to be proven at trial.

18 73. In addition, pursuant to 15 U.S.C. § 2310(d)(2), Plaintiffs and the other
19 Class members are entitled to recover a sum equal to the aggregate amount of costs and
20 expenses (including attorneys' fees based on actual time expended) determined by the
21 Court to have reasonably been incurred by Plaintiffs and the other Class members, in
22 connection with the commencement and prosecution of this action.

23 74. Plaintiffs also request, as a form of equitable monetary relief, re-payment of
24 the out-of-pocket expenses, and costs they have incurred in attempting to rectify the
25 ASIC defect in their vehicles. Such expenses and losses will continue as Plaintiffs and
26 Class members must take time off from work, pay for rental cars or other transportation
27
28

1 arrangements, child care, and the myriad of expenses involved in going through the recall
2 process.

3 75. The right of Class members to recover these expenses as an equitable
4 matter—to put them in the place they would have been but for the Acura, FCA, Honda,
5 Hyundai, Kia, Mitsubishi, and Toyota Defendants’ conduct—presents common questions
6 of law.

7 76. Plaintiffs request that the Court establish, administer, and supervise a
8 program funded by the Acura, FCA, Honda, Hyundai, Kia, Mitsubishi, and Toyota
9 Defendants, under which the claims set forth in this count can be made and paid.
10

11 **B. California Statutory Claims**

12 **COUNT II**

13 **i. Violation of the Song-Beverly Consumer Warranty Act and Breach of** 14 **the Implied Warranty of Merchantability**

15 77. Plaintiffs incorporate and reallege all preceding allegations as though fully
16 set forth herein.
17

18 78. Plaintiffs bought or leased the Class Vehicles manufactured by the Acura,
19 FCA, Honda, Hyundai, Kia, Mitsubishi, and Toyota Defendants.

20 79. Each Class Vehicle is a “consumer good” as defined by Cal. Civ. Code §
21 1791(a).

22 80. Plaintiffs and members of the Class are “consumers” as defined by Cal. Civ.
23 Code § 1791(b).

24 81. The Acura, FCA, Honda, Hyundai, Kia, Mitsubishi, and Toyota Defendants
25 are each a “manufacturer” as defined by Cal. Civ. Code § 1791(j).

26 82. At the time of purchase the Acura, FCA, Honda, Hyundai, Kia, Mitsubishi,
27 and Toyota Defendants were in the business of manufacturing consumer goods.
28

1 83. At the time of transfer by sale or lease, the Acura, FCA, Honda, Hyundai,
2 Kia, Mitsubishi, and Toyota Defendants provided Plaintiffs and members of the Class
3 with the implied warranty of merchantability as set forth in Cal. Civ. Code §§ 1791.1(a)
4 and 1792.

5 84. The Class Vehicles were not of the same quality as those generally
6 acceptable in the trade, nor sanctioned by the Acura, FCA, Honda, Hyundai, Kia,
7 Mitsubishi, and Toyota Defendants.

8 85. The Class Vehicles were not fit for the ordinary purposes for which the
9 goods are used because they were equipped with defective ACUs, which among other
10 things, may fail to deploy airbags and seat belt pretensioners in a crash event due to the
11 ASICs being damaged by EOS, leading to an unreasonable likelihood of serious bodily
12 injury or death to vehicle occupants, instead of protecting vehicle occupants from bodily
13 injury during accidents.

14 86. Because of the ASIC defect, the Class Vehicles are not safe to drive, and
15 thus not fit for ordinary purposes.

16 87. The Class Vehicles did not measure up to the promises or facts stated on the
17 advertising because the advertising leads consumers to believe the vehicles are safe and
18 uniformly fails to disclose the ASIC defect.

19 88. The Acura, FCA, Honda, Hyundai, Kia, Mitsubishi, and Toyota Defendants
20 breached the implied warranty of merchantability by manufacturing and selling Class
21 Vehicles equipped with defective ACUs containing the ASIC defect which may result in
22 failure of airbags and seat belt pretensioners to function as expected in a crash event due
23 to the ASICs being damaged by EOS. The defective ACUs have deprived the Plaintiffs of
24 the benefit of their bargain and have caused excessive depreciation in value of the Class
25 Vehicles.

26 89. Notice of breach is not required because Plaintiffs and the Class did not
27 purchase their automobiles directly from the Acura, FCA, Honda, Hyundai, Kia,
28

1 Mitsubishi, and Toyota Defendants. Furthermore, on information and belief, the Acura,
 2 FCA, Honda, Hyundai, Kia, Mitsubishi, and Toyota Defendants are already on notice by
 3 way of their knowledge of the issues, through customer complaints, numerous complaints
 4 filed against it and/or others, internal investigations, and individual letters and
 5 communications sent by consumers.

6 90. As a direct and proximate result of the Acura, FCA, Honda, Hyundai, Kia,
 7 Mitsubishi, and Toyota Defendants' breach of their duties under California Law,
 8 Plaintiffs and the Class received goods whose dangerous condition substantially impairs
 9 their value. Plaintiffs and the Class have been damaged by the diminished value,
 10 malfunctioning, and non-use of their Class Vehicles.

11 91. Under Cal. Civ. Code §§ 1791.1(d) and 1794, Plaintiffs and the Class are
 12 entitled to damages and other legal and equitable relief including, at their election, the
 13 purchase price of their Class Vehicles or the overpayment or diminution in value of their
 14 Class Vehicles.

15 92. Under Cal. Civ. Code § 1794, Plaintiffs and the Class are entitled to costs
 16 and attorneys' fees.

17 93. The Acura, FCA, Honda, Hyundai, Kia, Mitsubishi, and Toyota Defendants'
 18 breach of the implied warranty of merchantability was a substantial factor in causing
 19 Plaintiffs' harm.
 20

21 COUNT III

22 ii. Violation of California Unfair Competition Law, Cal. Bus. & Prof. Code 23 § 17200, *et seq.*

24 94. Plaintiffs incorporate and reallege all preceding allegations as though fully
 25 set forth herein.

26 95. Cal. Bus. & Prof. Code § 17200 prohibits any "unlawful, unfair, or
 27 fraudulent business act or practices." The Acura, FCA, Honda, Hyundai, Kia, Mitsubishi,
 28

1 Toyota and ZF-TRW Defendants engaged in conduct that violated each of this statute's
2 three prongs.

3 96. The Acura, FCA, Honda, Hyundai, Kia, Mitsubishi, and Toyota Defendants
4 engaged in unlawful business acts or practices in violation of § 17200 by their violations
5 of the Consumer Legal Remedies Act and Cal. Civ. Code § 1750 by the acts and practices
6 set forth in this Complaint.

7 97. The Acura, FCA, Honda, Hyundai, Kia, Mitsubishi, Toyota and ZF-TRW
8 Defendants also violated the unlawful prong because they have engaged in violations of
9 the Transportation Recall Enhancement, Accountability and Documentation ("TREAD")
10 Act, 49 U.S.C. § 30101, *et seq.*, and its accompanying regulations by failing to promptly
11 notify vehicle owners, purchasers, dealers, and NHTSA of the defective Class Vehicles
12 or the defective ACUs installed in them and failing to remedy the ASIC defect.

13 98. 49 C.F.R. § 573.6 (and Federal Motor Vehicle Safety Standard "FMVSS"
14 573) set forth a motor vehicle manufacturer's responsibility to notify the NHTSA of a
15 motor vehicle defect within five days of determining that a defect in a vehicle has been
16 determined to be safety-related.

17 99. The Acura, FCA, Honda, Hyundai, Kia, Mitsubishi, and Toyota Defendants
18 violated the reporting requirements of FMVSS 573 by failing to report the ASIC defect or
19 any of the other dangers or risks posed by the defective ACUs within five days of
20 determining the defect existed, and by failing to recall all Class Vehicles.

21 100. The Acura, FCA, Honda, Hyundai, Kia, Mitsubishi, and Toyota Defendants
22 violated the common-law claim of negligent failure to recall, because the Acura, FCA,
23 Honda, Hyundai, Kia, Mitsubishi, and Toyota Defendants knew or should have known
24 that the Class Vehicles or the defective ACUs installed in them were dangerous or were
25 likely to be dangerous when used in a reasonably foreseeable manner.

26 101. Defendants' active concealment of the dangers and risks posed by the Class
27 Vehicles and/or the defective ACUs were material to Plaintiff and Class members.
28

1 Defendants misrepresented, concealed, and failed to disclose or remedy defects with the
2 intention that consumers would rely on the misrepresentations, concealments and
3 omissions.

4 102. These acts were likely to mislead the public as to existing defects, and did in
5 fact deceive Plaintiffs, about material information. Had they known the truth, Plaintiffs
6 and Class members who purchased or leased the Class vehicles would not have
7 purchased or leased them or would have paid significantly less for them.

8 103. The Acura, FCA, Honda, Hyundai, Kia, Mitsubishi, and Toyota Defendants
9 also violated the unfairness prong of § 17200 by knowingly and intentionally concealing
10 from Plaintiffs and the Class that the Class Vehicles suffer from a design defect while
11 simultaneously obtaining money from Plaintiff and Class members.

12 104. Defendants' failure to adequately investigate, disclose, and remedy, offend
13 established public policy because the harm it causes to consumers greatly outweighs any
14 benefits associated with those practices. The Acura, FCA, Honda, Hyundai, Kia,
15 Mitsubishi, and Toyota Defendants' conduct has also impaired competition within the
16 automotive vehicles market and has prevented the Plaintiffs and the Class from making
17 fully informed decisions about whether to purchase or lease Class Vehicles with the
18 defective ACUs installed in them or the price to pay to purchase or lease them.

19 105. The Acura, FCA, Honda, Hyundai, Kia, Mitsubishi, and Toyota Defendants
20 violated the fraudulent prong of § 17200 because of the misrepresentations and omissions
21 they made in marketing the Class Vehicles as being equipped with standard safety
22 features including airbags while failing to disclose that the ACUs have a potentially
23 deadly defect. Defendants' active concealment of the dangers and risks posed by the
24 Class Vehicles or the defective ACUs installed in them are likely to mislead the public.

25 106. Plaintiffs and the Class have suffered injuries in fact, including the loss of
26 money or property, because of the Acura, FCA, Honda, Hyundai, Kia, Mitsubishi, and
27 Toyota Defendants' unfair, unlawful, or deceptive practices. As set forth above, each
28

1 member of the Class, in purchasing or leasing Class Vehicles with the defective ACUs,
2 relied on the misrepresentations or omissions of the Acura, FCA, Honda, Hyundai, Kia,
3 Mitsubishi, and Toyota Defendants with respect of the safety and reliability of the
4 vehicles. Had Plaintiffs and the Class known the truth, they would not have purchased or
5 leased their vehicles, or not paid as much for them.

6 107. All the wrongful conduct alleged herein occurred and continues to occur in
7 the conduct of the Acura, FCA, Honda, Hyundai, Kia, Mitsubishi, and Toyota
8 Defendants' businesses. The Acura, FCA, Honda, Hyundai, Kia, Mitsubishi, and Toyota
9 Defendants' wrongful conduct is part of a pattern or generalized course of conduct that is
10 still ongoing.

11 108. As a direct and proximate result of the Acura, FCA, Honda, Hyundai, Kia,
12 Mitsubishi, and Toyota Defendants' unfair and deceptive practices, Plaintiffs and the
13 Class have suffered and will continue to suffer actual damages.

14 109. Plaintiffs and the Class request that this Court enter such orders or
15 judgments as may be necessary to enjoin the Acura, FCA, Honda, Hyundai, Kia,
16 Mitsubishi, and Toyota Defendants from continuing the unfair, unlawful, or deceptive
17 practices, as provided in Cal. Bus. & Prof. Code § 17203; and for such other relief
18 requested herein.

20 COUNT IV

21 **iii. Violation of the Consumer Legal Remedies Act, Cal. Civ. Code § 1750,** 22 ***et seq.***

23 110. Plaintiffs incorporate and reallege all preceding allegations as though fully
24 set forth herein.

25 111. Plaintiffs bring this claim on behalf of themselves and the members of the
26 Class under the laws of California against the Acura, FCA, Honda, Hyundai, Kia,
27 Mitsubishi, and Toyota Defendants pursuant to the Consumer Legal Remedies Act
28 ("CLRA") Cal. Civ. Code §1750, et seq.

1 112. Plaintiffs and the Class are each a “consumer” within the meaning of Cal.
2 Civ. Code § 1761(d).

3 113. The Class Vehicles are “goods” as defined in Cal. Civ. Code § 1761(a).

4 114. The Acura, FCA, Honda, Hyundai, Kia, Mitsubishi, and Toyota Defendants
5 are “persons” as defined in Cal. Civ. Code § 1761(c).

6 115. The CLRA prohibits “unfair or deceptive acts or practices undertaken by any
7 person in a transaction intended to result or which results in the sale or lease of goods or
8 services to any consumer.” Cal. Civ. Code § 1770(a).

9 116. The Acura, FCA, Honda, Hyundai, Kia, Mitsubishi, and Toyota Defendants
10 have engaged in unfair or deceptive acts or practices that violated Cal. Civ. Code § 1750,
11 by representing that the Class Vehicles or the defective ACUs installed in them have
12 characteristics, uses, benefits, and qualities which they do not have; representing that they
13 are of a particular standard, quality, and grade when they are not; advertising them with
14 the intent not to sell or lease them as advertised; and representing that the subject of a
15 transaction involving them has been supplied in accordance with a previous
16 representation when it has not.
17

18 117. In the course of business, the Acura, FCA, Honda, Hyundai, Kia, Mitsubishi,
19 and Toyota Defendants failed to disclose and actively concealed the dangers and risks
20 posed by the Class Vehicles or the defective ACUs installed in them as described herein
21 and otherwise engaged in activities with a tendency or capacity to deceive.

22 118. The Acura, FCA, Honda, Hyundai, Kia, Mitsubishi, and Toyota Defendants
23 also engaged in unlawful trade practices by representing that the Class Vehicles or the
24 defective ACUs installed in them have qualities which they do not have, representing that
25 the vehicles are of higher quality than they actually are, advertising the Class Vehicles
26 with the intent not to sell or lease them as advertised, and omitting material facts while
27 describing them.
28

1 119. The Acura, FCA, Honda, Hyundai, Kia, Mitsubishi, and Toyota Defendants
2 are liable for engaging in unfair and deceptive acts or practices in the conduct of trade or
3 commerce in violation of the CLRA.

4 120. The Acura, FCA, Honda, Hyundai, Kia, Mitsubishi, and Toyota Defendants
5 have known of the ASIC defect in the defective ACUs since at least August of 2011,
6 when the airbag non-deployment crashes were first attributed to damage of the ASIC by
7 EOS. The Acura, FCA, Honda, Hyundai, Kia, Mitsubishi, and Toyota Defendants failed
8 to disclose and actively concealed the dangers and risks posed by the Class Vehicles or
9 the defective ACUs installed in them.

10 121. The Acura, FCA, Honda, Hyundai, Kia, Mitsubishi, and Toyota Defendants
11 engaged in unfair or deceptive business practices in violation of the CLRA by failing to
12 disclose and actively concealing known defects involving the failure to deploy airbags
13 and seat belt pretensioners in a crash event due to the ASICs being damaged by EOS.

14 122. Defendants engaged in these acts in order to ensure that consumers would
15 purchase the Class Vehicles.

16 123. The Acura, FCA, Honda, Hyundai, Kia, Mitsubishi, and Toyota Defendants
17 knew or should have known that their conduct violated the CLRA.

18 124. The Acura, FCA, Honda, Hyundai, Kia, Mitsubishi, and Toyota Defendants
19 made material statements about the safety and reliability of the Class Vehicles or the
20 defective ACUs installed in them that were either false or misleading, such as
21 representing the Class Vehicles to be “safe” and “reliable,” despite their knowledge of the
22 ASIC defect and failure to reasonably investigate.

23 125. The Acura, FCA, Honda, Hyundai, Kia, Mitsubishi, and Toyota Defendants
24 concealed the dangers and risks posed by the Class Vehicles or the defective ACUs
25 installed in them and their tragic consequences and allowed unsuspecting car purchasers
26 to continue to buy or lease the Class Vehicles and to continue driving highly dangerous
27 vehicles.
28

1 126. The Acura, FCA, Honda, Hyundai, Kia, Mitsubishi, and Toyota Defendants
2 owed the Plaintiffs and the Class a duty to disclose the true safety and reliability risks of
3 the Class Vehicles or the defective ACUs installed in them because the Acura, FCA,
4 Honda, Hyundai, Kia, Mitsubishi, and Toyota Defendants:

- 5 a. Possessed exclusive knowledge of the dangers and risks posed by the
6 foregoing;
7 b. Intentionally concealed the dangers and risks from Plaintiffs and the Class;
8 or
9 c. Made incomplete representations about the safety and reliability of the
10 foregoing generally, while purposefully withholding material facts from the
11 Plaintiffs and the Class that contradicted these representations.

12 127. The Class Vehicles or the defective ACUs installed in them pose an
13 unreasonable risk of death or serious bodily injury to the Class, passengers, other
14 motorists, pedestrians, and the public at large, because the defective ACUs are inherently
15 defective and dangerous in that the defective ACUs will not deploy lifesaving safety
16 measures of airbags and seatbelt pretensioners, which increases the risk of bodily injury
17 during accidents to drivers and passengers.

18 128. The Acura, FCA, Honda, Hyundai, Kia, Mitsubishi, and Toyota Defendants
19 have also failed to promptly notify vehicle owners, purchases, dealers, and NHTSA of the
20 defective Class Vehicles or the defective ACUs installed in them and failed to remedy the
21 ASIC defect. This is a further violation of the CLRA by way of violating the TREAD
22 Act, 49 U.S.C. § 30101, and its accompanying regulations.

23 129. The TREAD Act and its regulations requires manufacturers to disclose
24 known vehicle defects related to motor vehicle safety. 49 U.S.C. § 30118(c)(1) & (2).

25 130. The TREAD Act requires manufacturers to promptly notify vehicle owners,
26 purchasers, and dealers of the defect and remedy the defect. 49 U.S.C. § 30118(b)(2)(A)
27 and (B).
28

1 131. The TREAD Act requires manufacturers to file a report with NHTSA within
2 five working days of discovering “a defect in a vehicle or item of equipment has been
3 determined to be safety related, or a noncompliance with a motor vehicle safety standard
4 has been determined to exist.” 49 C.F.R. § 573.6(a) and (b). At a minimum, the report to
5 NHTSA must include: the manufacturer’s name; the identification of the vehicles or
6 equipment containing the defect, including the make, line, model year, and years of
7 manufacturing; a description of the basis for determining the recall population; how those
8 vehicles differ from similar vehicles that the manufacturer excluded from the recall; and a
9 description of the defect. 49 C.F.R. § 276.6(b), (c)(1), (c)(2), & (c)(5).

10 132. The manufacturer must also promptly inform NHTSA regarding: the total
11 number of vehicles or equipment potentially containing the defect, the percentage of
12 vehicles estimated to contain the defect, a chronology of all principal events that were the
13 basis for the determination that the defect related to motor vehicle safety, including a
14 summary of all warranty claims, field or service reports, and other information, with its
15 dates of receipt, and a description of the plan to remedy the defect. 49 C.F.R. § 276.6(b)
16 and (c).

17 133. The TREAD Act provides that any manufacturer who violates 49 U.S.C. §
18 30166 must pay a civil penalty to the U.S. Government. The current penalty “is \$7,000
19 per violation per day,” and the maximum penalty “for a related series of daily violations
20 is \$17,350,000.” 49 C.F.R. § 578.6(c).

21 134. The Acura, FCA, Honda, Hyundai, Kia, Mitsubishi, and Toyota Defendants
22 engaged in deceptive business practices prohibited by the CLRA and Cal. Civ. Code §
23 1750, by failing to disclose and by actively concealing dangers and risks posed by the
24 defective ACUs, by selling vehicles while violating the TREAD Act.

25 135. The Acura, FCA, Honda, Hyundai, Kia, Mitsubishi, and Toyota Defendants
26 knew that the Class Vehicles or the defective ACUs installed in them contained the ASIC
27 defect that could cause a failure of deployment of airbags and seat belt pretensioners, but
28

1 the Acura, FCA, Honda, Hyundai, Kia, Mitsubishi, and Toyota Defendants failed for
2 many years to inform NHTSA of this defect.

3 136. The Acura, FCA, Honda, Hyundai, Kia, Mitsubishi, and Toyota Defendants'
4 unfair or deceptive acts or practices were likely to and did in fact deceive reasonable
5 consumers, including the Class members, about the true safety and reliability of the Class
6 Vehicles or the defective ACUs installed in them.

7 137. The value of the Class Vehicles has greatly diminished due to the acts and
8 omissions of the Acura, FCA, Honda, Hyundai, Kia, Mitsubishi, and Toyota Defendants.
9 Now that the defects in the Acura, FCA, Honda, Hyundai, Kia, Mitsubishi, and Toyota
10 Defendants' Class Vehicles are known, the Class Vehicles are now worth significantly
11 less than they otherwise would be.

12 138. The Acura, FCA, Honda, Hyundai, Kia, Mitsubishi, and Toyota Defendants'
13 misrepresentations and failure to disclose material information caused the Class
14 ascertainable loss. If Plaintiffs and Class members had been aware of the ASIC defect
15 that existed in the Class Vehicles or the defective ACUs installed in them and the Acura,
16 FCA, Honda, Hyundai, Kia, Mitsubishi, and Toyota Defendants' complete disregard for
17 safety, the Class members either would have paid less for their vehicles or would not
18 have purchased or leased them at all. Class members did not receive the benefit of their
19 bargain as a result of the Acura, FCA, Honda, Hyundai, Kia, Mitsubishi, and Toyota
20 Defendants' misconduct.

21 139. The Class risks irreparable injury because of the Acura, FCA, Honda,
22 Hyundai, Kia, Mitsubishi, and Toyota Defendants' acts and omissions in violation of the
23 CLRA, and these violations present a continuing risk to the Class, as well as to the
24 general public. The Acura, FCA, Honda, Hyundai, Kia, Mitsubishi, and Toyota
25 Defendants' unlawful acts and practices complained of herein affect the public interest.

26 140. The recalls and repairs instituted by some of the Acura, FCA, Honda,
27 Hyundai, Kia, Mitsubishi, and Toyota Defendants have not been adequate. The recall is
28

1 not an effective remedy and is not offered for all Class Vehicles and other vehicles with
2 defective ACUs susceptible to the malfunctions described herein. Moreover, The Acura,
3 FCA, Honda, Hyundai, Kia, Mitsubishi, and Toyota Defendants' failure to comply with
4 TREAD Act disclosure obligations continues to pose a grave risk to the Class.

5 141. As a direct and proximate result of the Acura, FCA, Honda, Hyundai, Kia,
6 Mitsubishi, and Toyota Defendants' violations of the CLRA, the Class members have
7 suffered injury-in-fact or actual damage. The Class currently own or lease or within the
8 class period have owned or leased Class Vehicles with defective ACUs installed in them
9 that are defective and inherently unsafe. The Class risk irreparable injury as a result of the
10 Acura, FCA, Honda, Hyundai, Kia, Mitsubishi, and Toyota Defendants' acts and
11 omissions in violation of the CLRA, and these violations present a continuing risk to the
12 Class, as well as to the general public.

13 **C. California Common Law Counts**

14 **COUNT IV**

15 **i. Fraudulent Concealment**

16 142. Plaintiffs incorporate and reallege all preceding allegations as though fully
17 set forth herein.

18 143. Plaintiffs allege this count on behalf of themselves individually, and the
19 Class.

20 144. The Acura, FCA, Honda, Hyundai, Kia, Mitsubishi, and Toyota Defendants
21 failed to disclose the defect in each of the Class vehicles but instead represented that the
22 vehicles were equipped with airbags. Through advertisements, and other marketing
23 materials, Defendants consistently represented that their vehicles were equipped with
24 airbags.
25

26 145. Any reasonable consumer would believe these representations to mean that
27 the airbags were functional, not defective.
28

1 146. Defendants concealed and suppressed the fact that the Class Vehicles had a
2 defect in the ACUs since at least August of 2011, when the airbag non-deployment
3 crashes were first attributed to damage of the ASIC by EOS. Defendants failed to
4 disclose and actively concealed the dangers and risks posed by the Class Vehicles or the
5 defective ACUs installed in them. This was a material fact about which the Defendants
6 had knowledge and that they concealed from Plaintiffs and Class members to mislead
7 them.

8 147. Plaintiffs and Class Members did not know this fact and could not have
9 discovered it through reasonably diligent investigation.

10 148. Defendants had a duty to disclose that the Defect existed in the AOC during
11 an EOS or car collision because 1) the Defendants had exclusive knowledge of the
12 defects; 2) the Defendants actively concealed the defects, including by not timely
13 notifying NHTSA and consumers and by making partial representations about the
14 existence of airbags that were misleading without the disclosure of the fact that the Class
15 Vehicles contained defects which made the airbags fail during a collision—the very
16 moment when airbags are needed.

17 149. When Plaintiffs bought or leased their respective Class Vehicles they
18 received no information from ZF-TRW, nor the Acura, FCA, Honda, Hyundai, Kia,
19 Mitsubishi, and Toyota Defendants regarding the defective and potentially dangerous
20 ACU. The failure to disclose the defect was consistent and pervasive. In advertising and
21 materials provided with each Class Vehicle the ACU defect was uniformly concealed
22 from Plaintiffs and consumers.

23 150. Defendants intentionally concealed, suppressed and failed to disclose the
24 ACU defect in the Class Vehicles and the nature of risk that the airbags would not deploy
25 in an accident. The full and complete nature of the defect was concealed from Plaintiffs,
26 Class members, and the general public in order to protect their profits and to avoid recalls
27 that would hurt each brand's image and cost the Acura, FCA, Honda, Hyundai, Kia,
28

1 Mitsubishi, and Toyota Defendants money. The Acura, FCA, Honda, Hyundai, Kia,
2 Mitsubishi, and Toyota Defendants as well as ZF-TRW concealed these facts at the
3 expense of Plaintiffs and the Class.

4 151. Plaintiffs and the Class were unaware of these omitted material facts and
5 would not have acted as they did if they had known of the concealed or suppressed facts.

6 152. Had they been aware of the defective ACUs and the Defendants' disregard
7 for safety, Plaintiffs and the Class either would not have paid as much for their Class
8 Vehicles or would not have purchased or leased them at all.

9 153. Plaintiffs did not receive the benefit of their bargain as a result of the Acura,
10 FCA, Honda, Hyundai, Kia, Mitsubishi, and Toyota Defendants' fraudulent conduct.

11 154. Defendants' concealment and suppression of facts damaged Plaintiffs and
12 the Class because the vehicles diminished in value as a result of the Acura, FCA, Honda,
13 Hyundai, Kia, Mitsubishi, and Toyota Defendants' concealment of, failure to timely
14 disclose, and/or misrepresentations concerning the serious ASIC defect in millions of
15 Class Vehicles and the serious safety and quality issues caused by the Acura, FCA,
16 Honda, Hyundai, Kia, Mitsubishi, and Toyota Defendants' conduct.

17 155. The value of all Class members' vehicles has diminished as a result of the
18 Acura, FCA, Honda, Hyundai, Kia, Mitsubishi, and Toyota Defendants' fraudulent
19 conduct in connection with the defective ACUs and made any reasonable consumer
20 reluctant to purchase any of the Class Vehicles, let alone pay what otherwise would have
21 been fair market value for the vehicles.

22 156. Accordingly, the Acura, FCA, Honda, Hyundai, Kia, Mitsubishi, and Toyota
23 Defendants are liable to the Class for their damages in an amount to be proven at trial,
24 including, but not limited to, their lost benefit of the bargain or overpayment for the Class
25 Vehicles at the time of purchase, the diminished value of the defective ACUs and the
26 Class Vehicles, and/or the costs incurred in storing, maintaining or otherwise disposing of
27 the defective ACUs.
28

1 162. The ZF-TRW Defendant benefitted through their unjust conduct, by selling
2 components with a known safety-and-reliability related defect, at a profit, for more than
3 the components were worth.

4 163. Plaintiffs overpaid for these Class Vehicles and defective components
5 within, or would not have purchased these Class Vehicles at all, and who have been
6 forced to pay other costs.

7 164. It is inequitable for the Acura, FCA, Honda, Hyundai, Kia, Mitsubishi,
8 Toyota and ZF-TRW Defendants to retain these benefits.

9 165. Plaintiffs do not have an adequate remedy at law.

10 166. As a result of the Acura, FCA, Honda, Hyundai, Kia, Mitsubishi, Toyota and
11 ZF-TRW Defendants' conduct, the amount of their unjust enrichment should be
12 disgorged, in an amount to be proven at trial.

13
14 **VIII. PRAYER FOR RELIEF**

15 1. Plaintiffs, for themselves and all others similarly situated, request the Court
16 to enter judgment against the Acura, FCA, Honda, Hyundai, Kia, Mitsubishi, Toyota
17 Defendants, and ZF-TRW as follows:

- 18
19 a. An order certifying the proposed Class, designating Plaintiffs as the named
20 representatives of the Class, designating the undersigned as Class Counsel,
21 and making such further orders for the protection of Class members as the
22 Court deems appropriate, under Rule 23 of the Federal Rules of Civil
23 Procedure;
- 24 b. A declaration that the ACUs in the Class Vehicles are defective;
- 25 c. An order enjoining the Defendants from further deceptive, fraudulent,
26 unlawful and unfair business practices, and such other injunctive relief that
27 the Court deems just and proper;
- 28

- d. An award to Plaintiffs and Class Members of compensatory, exemplary, and punitive remedies and damages and statutory penalties, including interest, in an amount to be proven at trial;
- e. An award to Plaintiffs and Class Members for the return of the purchase prices of the Class Vehicles, with interest from the time it was paid, for the reimbursement of the reasonable expenses occasioned by the sale, for damages, and for reasonable attorney fees;
- f. A Defendant-funded program, using transparent, consistent, and reasonable protocols, under which out-of-pocket and loss-of-use expenses and damages claims associated with the Defective ACUs in Plaintiffs' and Class Members' Class Vehicles, can be made and paid, such that the Acura, FCA, Honda, Hyundai, Kia, Mitsubishi, Toyota Defendants and ZF-TRW, not the Class Members, absorb the losses and expenses fairly traceable to the recalls of the vehicles and correction of the Defective ACUs;
- g. A declaration that the Acura, FCA, Honda, Hyundai, Kia, Mitsubishi, Toyota Defendants and ZF-TRW must disgorge, for the benefit of Plaintiff and Class Members, all or part of the ill-gotten profits they received from the sale or lease of the Class Vehicles or make full restitution to Plaintiffs and Class Members;
- h. An award of attorneys' fees and costs, as allowed by law;
- i. An award of prejudgment and post judgment interest, as provided by law; and
- j. Such other relief as may be appropriate under the circumstances.

IX. DEMAND FOR JURY TRIAL

MLG, APLC

Dated: July 15, 2019

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EXHIBIT “1”

Part 573 Safety Recall Report**16V-668****Manufacturer Name :** Chrysler (FCA US LLC)**Submission Date :** SEP 13, 2016**NHTSA Recall No. :** 16V-668**Manufacturer Recall No. :** S61**Manufacturer Information :****Population :**

Manufacturer Name : Chrysler (FCA US LLC)

Number of potentially involved : 1,425,627

 Address : 800 Chrysler Drive
 CIMS 482-00-91 Auburn Hills MI
 48326-2757

Estimated percentage with defect : 100 %

Company phone : 1-800-853-1403

Vehicle Information :

Vehicle 1 : 2011-2014 Chrysler 200

Vehicle Type :

Body Style : ALL

Power Train : NR

Descriptive Information : 2011-2014 MY Chrysler 200 ("JS") vehicles.

Production Dates : AUG 02, 2010 - FEB 14, 2014

VIN Range 1 : Begin : NR End : NR

☐ Not sequential

Vehicle 2 : 2010-2010 Chrysler Sebring

Vehicle Type :

Body Style : ALL

Power Train : NR

Descriptive Information : 2010 MY Chrysler Sebring ("JS") vehicles.

Production Dates : FEB 18, 2009 - SEP 29, 2010

VIN Range 1 : Begin : NR End : NR

☐ Not sequential

Vehicle 3 : 2010-2014 Jeep Patriot

Vehicle Type :

Body Style : SUV

Power Train : NR

Descriptive Information : 2010-2014 MY Jeep Patriot ("MK") vehicles.

Production Dates : FEB 14, 2009 - AUG 13, 2014

VIN Range 1 : Begin : NR End : NR

☐ Not sequential

Part 573 Safety Recall Report**16V-668**

Page 2

Vehicle 4 : 2010-2014 Jeep Compass

Vehicle Type :

Body Style : SUV

Power Train : NR

Descriptive Information : 2010-2014 MY Jeep Compass ("MK") vehicles.

Production Dates : FEB 14, 2009 - AUG 13, 2014

VIN Range 1 : Begin :

NR

End : NR

☐ Not sequential

Vehicle 5 : 2010-2014 Dodge Avenger

Vehicle Type :

Body Style : ALL

Power Train : NR

Descriptive Information : 2010-2014 MY Dodge Avenger ("JS") vehicles.

Production Dates : FEB 18, 2009 - FEB 14, 2014

VIN Range 1 : Begin :

NR

End : NR

☐ Not sequential

Vehicle 6 : 2010-2012 Dodge Caliber

Vehicle Type :

Body Style : ALL

Power Train : NR

Descriptive Information : 2010-2012 MY Dodge Caliber ("PM") vehicles.

Production Dates : AUG 10, 2009 - DEC 17, 2011

VIN Range 1 : Begin :

NR

End : NR

☐ Not sequential**Description of Defect :**

Description of the Defect : 2010–2014 MY Chrysler 200, Chrysler Sebring and Dodge Avenger ("JS"), 2010–2014 MY Jeep Compass and Jeep Patriot ("MK") and 2010–2012 MY Dodge Caliber ("PM") vehicles may experience loss of air bag and seat belt pretensioner deployment capability in certain crash events due to a shorting condition resulting in a negative voltage transient that travels to the Occupant Restraint Controller ("ORC") via the front impact sensor wires damaging an Application Specific Integrated Circuit ("ASIC") in the ORC. The root cause of the failure was determined to be a combination of the relative susceptibility of the subject ORC ASIC to negative transients and the front acceleration sensor signal cross-car wire routing in certain crash events.

FMVSS 1 : NR

FMVSS 2 : NR

Description of the Safety Risk : The potential loss of air bag and seat belt pretensioner deployment capability in such crash events may increase the risk of injury in a crash.

Description of the Cause : NR

Part 573 Safety Recall Report**16V-668**

Page 3

Identification of Any Warning NR
that can Occur :

Supplier Identification :**Component Manufacturer**

Name : ZF-TRW
Address : 34605 West Twelve Mile Road
Farmington Hills MICHIGAN 48331
Country : United States

Chronology :

Please see the attached supplemental information titled "FCA US LLC Chronology – Occupant Restraint Controller Electrical Overstress – 09132016.pdf".

Description of Remedy :

Description of Remedy Program : FCA US has not defined a recall remedy at this time.
FCA US has a longstanding policy and practice of reimbursing owners who have incurred the cost of repairing a problem that subsequently becomes the subject of a field action. To ensure consistency, FCA US, as part of the owner letter, will request that customers send the original receipt and/or other adequate proof of payment to the company for confirmation of the expense.

How Remedy Component Differs NR
from Recalled Component :

Identify How/When Recall Condition NR
was Corrected in Production :

Recall Schedule :

Description of Recall Schedule : FCA-US has not defined a recall remedy at this time.
Planned Dealer Notification Date : NR - NR
Planned Owner Notification Date : NR - NR

* NR - Not Reported

EXHIBIT “2”



OCCUPANT RESTRAINT CONTROLLER

IMPORTANT SAFETY RECALL

S61 / NHTSA 16V-668

This notice applies to your vehicle (VIN: xxxxxxxxxxxxxxxxx).

Dear: (Name)

This interim notice is sent to you in accordance with the National Traffic and Motor Vehicle Safety Act to inform you that your vehicle^[1] requires a safety recall repair. FCA US has decided that a defect, which relates to motor vehicle safety, exists in certain **2010 Chrysler Sebring, 2011-2014 Chrysler 200, 2010-2014 Dodge Avenger, 2010-2012 Dodge Caliber, 2010-2014 Jeep® Compass and 2010-2014 Jeep Patriot** vehicles.

YOUR ADDITIONAL OPTIONS

1. RECOMMENDED OPTION

Visit recalls.mopar.com to sign up for email or SMS notification for when remedy parts become available. You will be asked to provide your Vehicle Identification Number (VIN), provided above

2. Wait for FCA US to contact you again, by mail, with a follow-up recall notice when remedy parts are available

3. Visit www.safercar.gov for more information on recalls

4. Call the FCA Recall Assistance Center at 1-800-853-1403. An agent can sign you up for email or SMS notification for when remedy parts become available, or answer any other questions that you may have

Why is my vehicle being recalled?

What is the risk?

How do I resolve this important airbag issue?

What do I need to do?

The above vehicles may experience a loss of air bag and seat belt pretensioner deployment capability during a crash due to a shorting condition resulting in a negative voltage transient that travels to the Occupant Restraint Controller via the front impact sensor wires.

The potential loss of air bag and seat belt pretensioner deployment capability during a crash may increase the risk of injury in a crash.

The remedy for this condition is not currently available. We are making every effort to finalize a remedy and obtain parts as quickly as possible, and will service your vehicle free of charge (parts and labor).

FCA US will contact you again, by mail, with a follow-up recall notice when the remedy and parts are available. Once you receive your follow-up notice, simply contact your Chrysler, Jeep, Dodge or RAM dealer right away to schedule a service appointment^[2]. Additional options for your next steps are included on the left side of this notification. We appreciate your patience.

If you have already experienced this specific condition and have paid to have it repaired, you may visit www.fcarecallreimbursement.com to submit your reimbursement request online^[3]. Once we receive and verify the required documents, reimbursement will be sent to you within 60 days. If you have had previous repairs performed and/or already received reimbursement, you may still need to have the recall repair performed.

We apologize for any inconvenience, but are sincerely concerned about your safety. Thank you for your attention to this matter.

Customer Care / Field Operations
FCA US LLC

Note to lessors receiving this recall: Federal regulation requires that you forward this recall notice to the lessee within 10 days

[1] If you no longer own this vehicle, please help us update our records. Call the FCA Recall Assistance Center at 1-800-853-1403 to update your information.

[2] If your dealer fails or is unable to remedy this defect without charge and within a reasonable time, you may submit a written complaint to the Administrator, National Highway Traffic Safety Administration, 1200 New Jersey Ave., S.E., Washington, DC 20590, or you can call the toll-free Vehicle Safety Hotline at 1-888-327-4236 (TTY 1-800-424-9153), or go to safercar.gov.

[3] You can also mail in your original receipts and proof of payment to the following address for reimbursement consideration: FCA US Customer Assistance, P.O. Box 21-8004, Auburn Hills, MI 48321-8007, Attention: Recall Reimbursement.

EXHIBIT “3”

Part 573 Safety Recall Report**18V-137****Manufacturer Name :** Hyundai Motor America**Submission Date :** FEB 27, 2018**NHTSA Recall No. :** 18V-137**Manufacturer Recall No. :** 174**Manufacturer Information :****Manufacturer Name :** Hyundai Motor America**Address :** 10550 Talbert Avenue

Fountain Valley CA 92708

Company phone : 800-633-5151**Population :****Number of potentially involved :** 154,753**Estimated percentage with defect :** 1 %**Vehicle Information :****Vehicle 1 :** 2011-2011 Hyundai Sonata**Vehicle Type :** LIGHT VEHICLES**Body Style :** 4-DOOR**Power Train :** GAS

Descriptive Information : As of the date of this filing, Hyundai Motor America ("HMA") is aware of three airbag non-deployment allegations where Electrical Overstress ("EOS") was observed inside the vehicle's airbag control unit ("ACU"). The allegations are limited to early production Model Year 2011 Sonata vehicles produced by Hyundai Motor Manufacturing Alabama ("HMMA"). Therefore certain model year 2011 Hyundai Sonata vehicles produced between December 11, 2009 and September 29, 2010 at the Hyundai Motor Manufacturing Alabama ("HMMA") plant are included in this notification.

Production Dates : DEC 11, 2009 - SEP 29, 2010**VIN Range 1 : Begin :**

NR

End : NR☐ Not sequential**Description of Defect :**

Description of the Defect : The subject vehicles are equipped with an Airbag Control Unit ("ACU") which detects a crash signal and commands deployment of the airbags and seat belt pretensioner. In some airbag non-deployment allegations, electrical overstress ("EOS") was observed on an Application Specific Integrated Circuit ("ASIC") inside the ACU.

FMVSS 1 : NR**FMVSS 2 :** NR

Description of the Safety Risk : If the ACU circuitry is damaged, the airbags and seat belt pretensioners may not deploy in some crashes where deployment is necessary, increasing the risk of injury.

Description of the Cause : As of the date of this filing, EOS was observed on an ASIC inside the ACU. Hyundai is actively investigating the cause of the EOS.

Part 573 Safety Recall Report**18V-137**

Page 2

Identification of Any Warning None
that can Occur :

Supplier Identification :**Component Manufacturer**

Name : ZF TRW
Address : Active & Passive Safety Technology
12001 Tech Center Drive Livonia MICHIGAN 48150
Country : United States

Chronology :

Please see Attachment A for the requested chronology.

Description of Remedy :

Description of Remedy Program : HMA and HMC are actively investigating this issue with the ACU supplier and evaluating a remedy. The remedy will be performed at no charge.

Hyundai will provide reimbursement to owners for repairs according to the plan submitted on November 2, 2016.

How Remedy Component Differs from Recalled Component : Hyundai is actively evaluating a remedy.

Identify How/When Recall Condition was Corrected in Production : Hyundai is actively evaluating a remedy.

Recall Schedule :

Description of Recall Schedule : Hyundai is actively evaluating a remedy.

Planned Dealer Notification Date : APR 20, 2018 - APR 20, 2018

Planned Owner Notification Date : APR 20, 2018 - APR 20, 2018

* NR - Not Reported

EXHIBIT “4”



Hyundai Motor America
P.O. Box 20839
Fountain Valley, CA 92728-9937

IMPORTANT SAFETY RECALL

2011 Model Year Sonata Vehicles – Airbag Control Unit

This notice applies to your Hyundai Sonata, VIN: XXXXXXXXXX

Interim Recall Notification

- Information about this recall and Hyundai's recall implementation plan.
- For updates regarding this recall, please visit:

www.HyundaiUSA.com/Campaign174

Dear <First Name, Last Name>,

This notice is sent to you in accordance with the National Traffic and Motor Vehicle Safety Act. Hyundai has decided that a defect which relates to motor vehicle safety exists in certain Model Year 2011 Hyundai Sonata vehicles manufactured at Hyundai Motor Manufacturing Alabama from December 11, 2009 through September 29, 2010. Our records indicate that your vehicle falls within this production date range.

The purpose of this letter is to explain what the recall is about and to keep you informed of Hyundai's recall implementation plan. We are currently making preparations to implement the safety recall remedy. We will send you another notification when the remedy is available.

What is the problem?

Your vehicle is equipped with an airbag control unit which detects collisions and commands deployment of the airbags and seat belt pretensioners as necessary. In some instances, electrical overstress damage has been observed in the module circuitry, which may prevent the frontal air bags, seat belt pretensioners, and side air bags from deploying. If the frontal air bags, seat belt pretensioners, and side air bags are disabled, there is an increased risk of injury to the vehicle occupants in the event of a vehicle crash that necessitates deployment of these safety systems.

What should you do in the interim?

We appreciate your patience. Hyundai is currently making preparations to implement the recall remedy. You will receive a second notification letter when the remedy is available. In the interim, if the air bag warning lamp remains illuminated in your vehicle, you should seek service at your Hyundai dealer as soon as possible. For updated information regarding this recall, please visit:

If you are a vehicle lessor, Federal law requires that any vehicle lessor receiving this recall notice must forward a copy of this notice to the lessee within ten days.

We urge your prompt attention to this important safety matter.

Hyundai Motor America

If you have other questions

If you require further assistance, you may contact the Hyundai Customer Care Center at 1-855-371-9460.

Owner Information Changes

Changes to your name, address, or you no longer own this vehicle? Visit the link below and click on the "Owner Info" tab:

www.HyundaiUSA.com/Campaign174

Importante Retiro del Mercado por Motivos de Seguridad — Si tiene preguntas visite nuestro sitio web en www.HyundaiUSA.com/Campaign174/espanol o llama [1-800-633-5151](tel:1-800-633-5151) y oprima “8”



Hyundai Motor America
P.O. Box 20839
Fountain Valley, CA 92728-9937

PRESORTED
FIRST-CLASS MAIL
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HYUNDAI

IMPORTANT SAFETY RECALL

2011 Model Year Sonata Vehicles – Airbag Control Unit

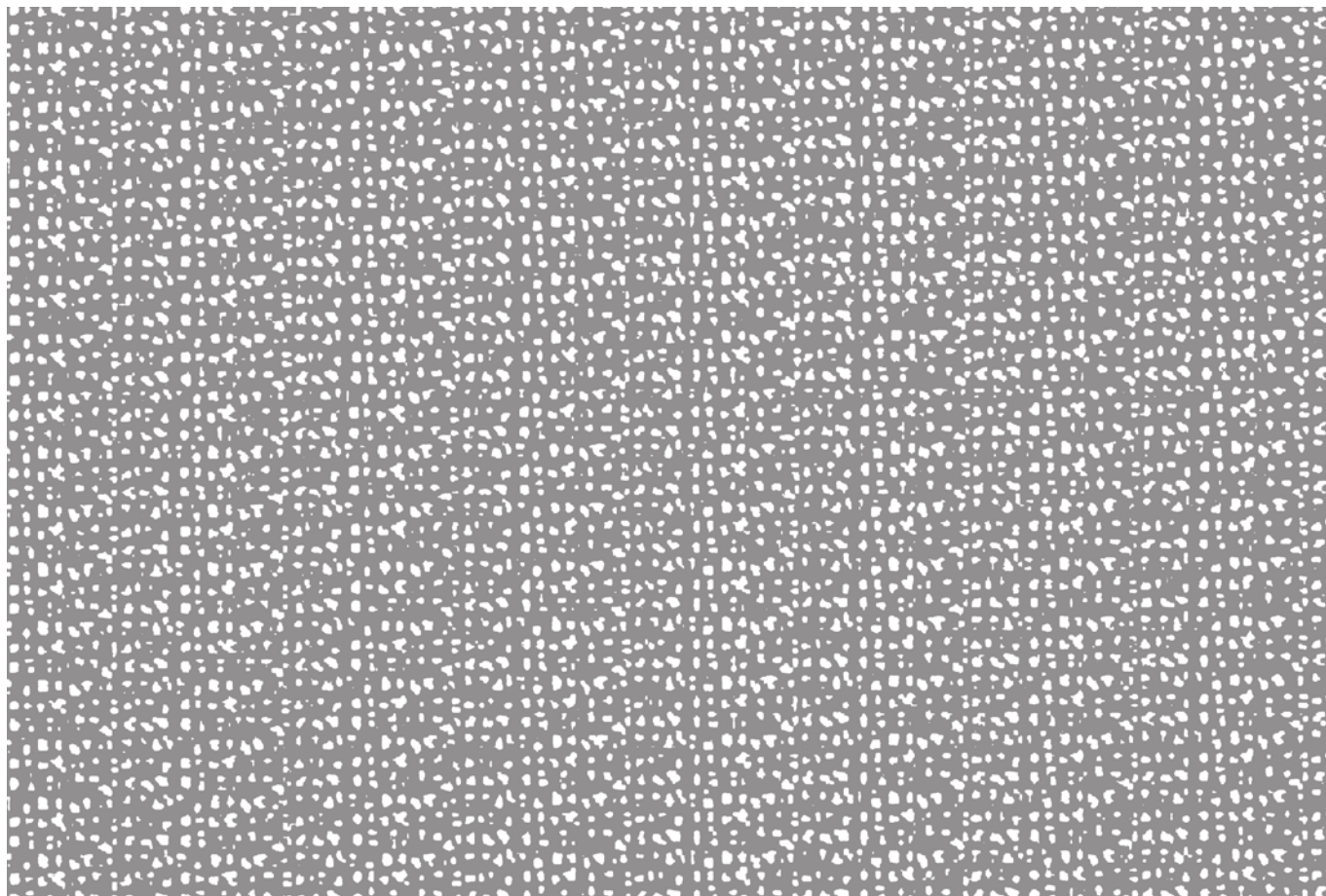


EXHIBIT “5”

Part 573 Safety Recall Report**18V-363****Manufacturer Name :** Kia Motors America**Submission Date :** JUN 01, 2018**NHTSA Recall No. :** 18V-363**Manufacturer Recall No. :** SC165**Manufacturer Information :****Population :**

Manufacturer Name : Kia Motors America

Number of potentially involved : 507,587

Address : 111 Peters Canyon Road
Irvine CA 92606

Estimated percentage with defect : 100 %

Company phone : 800-333-4542

Vehicle Information :

Vehicle 1 : 2010-2013 KIA FORTE

Vehicle Type : LIGHT VEHICLES

Body Style : ALL

Power Train : GAS

Descriptive Information : All 2010-2013 model year Forte vehicles produced from February 24, 2009 thru August 31, 2012.

All 2010-2013 model year Forte Koup vehicles produced from June 5, 2009 thru August 31, 2012.

All 2011-2013 model year Optima vehicles produced from August 12, 2010 thru August 31, 2012.

All 2011-2012 model year Optima Hybrid vehicles produced from February 15, 2011 thru August 31, 2012.

All 2011-2012 model year Sedona vehicles produced from March 3, 2010 thru August 14, 2012.

The recalled vehicles are equipped with an Advanced Airbag System ("AAS"). The airbag control unit ("ACU") in these vehicles may be susceptible to electrical overstress ("EOS") during certain frontal crash events. The recall population was determined based on a review of vehicle production records.

Production Dates : FEB 24, 2009 - AUG 31, 2012

VIN Range 1 : Begin :

NR

End : NR

☐ Not sequential

Vehicle 2 : 2011-2012 KIA OPTIMA HYBRID

Vehicle Type : LIGHT VEHICLES

Body Style : ALL

Power Train : HYBRID ELECTRIC

Part 573 Safety Recall Report**18V-363**

Page 2

Descriptive Information : All 2010-2013 model year Forte vehicles produced from February 24, 2009 thru August 31, 2012.

All 2010-2013 model year Forte Koup vehicles produced from June 5, 2009 thru August 31, 2012.

All 2011-2013 model year Optima vehicles produced from August 12, 2010 thru August 31, 2012.

All 2011-2012 model year Optima Hybrid vehicles produced from February 15, 2011 thru August 31, 2012.

All 2011-2012 model year Sedona vehicles produced from March 3, 2010 thru August 14, 2012.

The recalled vehicles are equipped with an Advanced Airbag System ("AAS"). The airbag control unit ("ACU") in these vehicles may be susceptible to electrical overstress ("EOS") during certain frontal crash events. The recall population was determined based on a review of vehicle production records.

Production Dates : FEB 15, 2011 - AUG 31, 2012

VIN Range 1 : Begin :

NR

End : NR

☐ Not sequential

Vehicle 3 : 2010-2013 KIA FORTE KOUP

Vehicle Type : LIGHT VEHICLES

Body Style : ALL

Power Train : GAS

Descriptive Information : All 2010-2013 model year Forte vehicles produced from February 24, 2009 thru August 31, 2012.

All 2010-2013 model year Forte Koup vehicles produced from June 5, 2009 thru August 31, 2012.

All 2011-2013 model year Optima vehicles produced from August 12, 2010 thru August 31, 2012.

All 2011-2012 model year Optima Hybrid vehicles produced from February 15, 2011 thru August 31, 2012.

All 2011-2012 model year Sedona vehicles produced from March 3, 2010 thru August 14, 2012.

The recalled vehicles are equipped with an Advanced Airbag System ("AAS"). The airbag control unit ("ACU") in these vehicles may be susceptible to electrical overstress ("EOS") during certain frontal crash events. The recall population was determined based on a review of vehicle production records.

Production Dates : JUN 05, 2009 - AUG 31, 2012

VIN Range 1 : Begin :

NR

End : NR

☐ Not sequential

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Vehicle 4 : 2011-2013 KIA OPTIMA

Vehicle Type : LIGHT VEHICLES

Body Style : ALL

Power Train : GAS

Descriptive Information : All 2010-2013 model year Forte vehicles produced from February 24, 2009 thru August 31, 2012.

All 2010-2013 model year Forte Koup vehicles produced from June 5, 2009 thru August 31, 2012.

All 2011-2013 model year Optima vehicles produced from August 12, 2010 thru August 31, 2012.

All 2011-2012 model year Optima Hybrid vehicles produced from February 15, 2011 thru August 31, 2012.

All 2011-2012 model year Sedona vehicles produced from March 3, 2010 thru August 14, 2012.

The recalled vehicles are equipped with an Advanced Airbag System ("AAS"). The airbag control unit ("ACU") in these vehicles may be susceptible to electrical overstress ("EOS") during certain frontal crash events. The recall population was determined based on a review of vehicle production records.

Production Dates : AUG 12, 2010 - AUG 31, 2012

VIN Range 1 : Begin :

NR

End : NR

☐ Not sequential

Vehicle 5 : 2011-2012 KIA SEDONA

Vehicle Type : LIGHT VEHICLES

Body Style : ALL

Power Train : GAS

Descriptive Information : All 2010-2013 model year Forte vehicles produced from February 24, 2009 thru August 31, 2012.

All 2010-2013 model year Forte Koup vehicles produced from June 5, 2009 thru August 31, 2012.

All 2011-2013 model year Optima vehicles produced from August 12, 2010 thru August 31, 2012.

All 2011-2012 model year Optima Hybrid vehicles produced from February 15, 2011 thru August 31, 2012.

All 2011-2012 model year Sedona vehicles produced from March 3, 2010 thru August 14, 2012.

The recalled vehicles are equipped with an Advanced Airbag System ("AAS"). The

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airbag control unit ("ACU") in these vehicles may be susceptible to electrical overstress ("EOS") during certain frontal crash events. The recall population was determined based on a review of vehicle production records.

Production Dates : MAR 03, 2010 - AUG 14, 2012

VIN Range 1 : Begin :

NR

End : NR

☐ Not sequential

Description of Defect :

Description of the Defect : The Airbag Control Unit ("ACU") detects crash severity and commands deployment of the advanced airbags and seatbelt pretensioners when necessary. The recalled vehicles are equipped with an ACU which contain a certain application-specific integrated circuit ("ASIC") that may be susceptible to electrical overstress ("EOS") during certain frontal crash events.

FMVSS 1 : NR

FMVSS 2 : NR

Description of the Safety Risk : If the ASIC becomes damaged, the front airbags and seatbelt pretensioners may not deploy in certain frontal crashes where deployment may be necessary, thereby increasing the risk of injury.

Description of the Cause : The ASIC component within the subject ACUs may be susceptible to EOS due to inadequate circuit protection.

Identification of Any Warning that can Occur : N/A

Supplier Identification :**Component Manufacturer**

Name : ZF TRW

Address : 12001 Tech Center Drive
Livonia MICHIGAN 48150

Country : United States

Chronology :

See attached document titled "Forte, Forte Koup, Optima, Optima Hybrid, Sedona ACU Chronology"

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Description of Remedy :

Description of Remedy Program : Kia is currently evaluating a remedy for this recall. Kia will reimburse owners for repair expenses already incurred pursuant to Kia's General Reimbursement Plan filed April 10, 2018.

How Remedy Component Differs from Recalled Component : Kia is currently evaluating a remedy.

Identify How/When Recall Condition was Corrected in Production : The ACU implemented into production from August 15, 2012 for the Sedona and from September 1, 2012 for the Forte, Forte Koup, Optima and Optima Hybrid have adequate circuit protection.

Recall Schedule :

Description of Recall Schedule : The Dealer Notification is planned to begin and end on July 24, 2018. The Owner Notification is planned to begin and end of July 27, 2018.

Planned Dealer Notification Date : JUL 24, 2018 - JUL 24, 2018

Planned Owner Notification Date : JUL 27, 2018 - JUL 27, 2018

* NR - Not Reported

EXHIBIT “6”



Kia Motors America, Inc.
Corporate Headquarters
111 Peters Canyon Road, Irvine, CA 92606-1790 USA

IMPORTANT SAFETY RECALL

(Interim Notice)

(NHTSA Recall Number: 18V363)

This notice applies to your vehicle: (Insert VIN)

July 27, 2018

Dear Kia Sedona Owner:

Kia has identified a defect in your vehicle which relates to motor vehicle safety


This notice is sent to you in accordance with the requirements of the National Traffic and Motor Vehicle Safety Act. Kia Motors has decided that a defect which relates to motor vehicle safety exists in certain 2011-2012 MY Sedona vehicles manufactured from March 3, 2010 through August 14, 2012. The defect may cause the front airbags and seatbelt pretensioners not to deploy in certain frontal crashes where deployment may be necessary, thereby increasing the risk of injury. Our records indicate that you own or lease one of the potentially affected vehicles.

This is only an interim letter as we work on the repair remedy. The purpose of this letter is to keep you informed of Kia's recall implementation plan. We will send you another letter when the repair is available. That repair remedy, when available, will be provided free of charge. In the meantime, PLEASE SEE THE "WHAT SHOULD YOU DO IN THE INTERIM?" SECTION BELOW.

What Is The Problem?

The airbag control unit ("ACU") detects crash severity and commands deployment of the advanced airbags and seatbelt pretensioners when necessary. The ACU in your vehicle contains a certain application-specific integrated circuit ("ASIC") that may be susceptible to electrical overstress ("EOS") during certain frontal crash events. If the ASIC becomes damaged, the frontal airbags and seatbelt pretensioners may not deploy in certain frontal crashes where deployment may be necessary, thereby increasing the risk of injury.

What Should You Do In The Interim?

- **If the airbag warning light**  **comes on and remains illuminated at any time**, do not wait for a follow-up letter from Kia regarding repair availability and instead please contact your nearest Kia dealer to have the vehicle's airbag system inspected as soon as possible.
- To find your nearest dealer, visit www.kia.com and click the "Find Dealer" button in the upper right corner ("Dealers" on a mobile device). You can also use the QR code below with your mobile device to access this information (*see the bottom of this letter for more information about QR code use*):



What If You Have Already Paid To Have This Situation Corrected?

If you have incurred expense to remedy this issue prior to the date of this notice, you may have the opportunity to obtain reimbursement for that expense. You may submit your receipts online to Kia via the Owners section of www.kia.com or mail your receipts with a cover letter directly to Kia for review and consideration:

**Consumer Assistance Center
Kia Motors America, Inc
P.O. Box 52410
Irvine, CA 92619-2410
1-800-333-4542**

The Kia Consumer Assistance Center is available at the number listed above if you have any questions or require assistance in submitting your claim.

Pursuant to the General Reimbursement Plan issued by Kia pursuant to Federal Regulation 49 CFR 573.13, Kia will use its best efforts to respond to your claim within sixty (60) days of receipt and at that time Kia may either accept or reject that claim or it may request more information to evaluate the claim.

Have You Changed Your Address Or Sold Your Kia?

If you have changed your home address, sold your Kia vehicle, or no longer own your vehicle, please complete the attached prepaid "Change of Address/Ownership" card and mail it to us. You can also contact the Consumer Assistance Center phone number listed above.

What If You Are A Vehicle Lessor?

Federal regulation requires that any vehicle lessor receiving this recall notice must forward a copy of this notice to the lessee within ten days.

What If You Have Other Questions?

If your dealer does not respond to your service request in a timely manner, we suggest that you call Kia's Consumer Assistance Center at 1-800-333-4542. This number has TTY capability. If you still are not satisfied that we have remedied this situation without charge and within a reasonable amount of time, you may submit a complaint to the Administrator, National Highway Traffic Safety Administration, 1200 New Jersey Avenue, S.E., Washington, DC 20590; or call the toll free Vehicle Safety Hotline at 1-888-327-4236 (TTY: 1-800-424-9153); or go to <http://www.safercar.gov>.

This action has been taken in the interest of your safety, and we regret any inconvenience this situation may cause you.

Sincerely,

Consumer Affairs Department

QR Code Use:

- A QR Code is a square, 2-dimensional barcode that can be read by mobile devices loaded with an appropriate barcode or **QR Code Reader App**. The app reads the barcode image and then launches/uploads the specific information the code contains, such as URLs, text, photos, videos.
- With a mobile device, **download a QR Code Reader App**. With many devices, you can do this through an app store or marketplace.
- **Open the QR Code Reader App on your mobile device. The app will utilize your device's camera.** Center the code in the camera viewing area. With some apps, the URL or other information will automatically load when the code is recognized. For others, you may have to snap or take a picture of the QR code. **Refer to the QR Reader Code App instructions.**

EXHIBIT “7”



U.S. Department
of Transportation

**National Highway
Traffic Safety
Administration**

ODI RESUME

OFFICE OF DEFECTS INVESTIGATION

NHTSA

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National Highway Traffic Safety Administration
uses a digital certificate to ensure
the content has remained unchanged

Investigation: PE 18-003
Date Opened: 03/16/2018
Investigator: Nathan Ong
Approver: Stephen Ridella
Subject: Air bags may be disabled during crash
Reviewer: Paul Simmons

MANUFACTURER & PRODUCT INFORMATION

Manufacturer: Kia Motors America, Hyundai Motor America
Products: 2012-2013 Kia Forte and 2011 Hyundai Sonata
Population: 425,000 (Estimated)
Problem Description: Failure of the air bag control unit may prevent the frontal air bags from deploying in the event of a crash.

FAILURE REPORT SUMMARY

| | ODI | Manufacturer | Total |
|------------------------------|-----|--------------|-------|
| Complaints: | 2 | TBD | TBD |
| Crashes/Fires: | 6 | TBD | TBD |
| Injury Incidents: | 5 | TBD | TBD |
| Number of Injuries: | 6 | TBD | TBD |
| Fatality Incidents: | 4 | TBD | TBD |
| Number of Fatalities: | 4 | TBD | TBD |
| Other*: | 1 | TBD | TBD |

*Description of Other: Early Warning Reporting (EWR) data as described below

ACTION / SUMMARY INFORMATION

Action: Open Preliminary Evaluation (PE)

Summary:

The Office of Defects Investigation (ODI) is currently aware of six crashes with significant collision related damage events involving Hyundai and Kia models where air bags failed to deploy in frontal crashes. Four such crashes involved model year (MY) 2011 Hyundai Sonatas and two others involved MY 2012 and MY 2013 Kia Fortes. The MY 2013 Forte crash occurred in Canada and the Forte was a Canadian market vehicle. ODI learned of two crashes via Vehicle Owner Questionnaires (VOQ) filed in 2015 and 2016, and all six crashes were reported via Early Warning Reporting submitted between 2012 and 2017. In total, the crashes resulted in four fatalities and six injuries.

On February 27, 2018, Hyundai filed a defect information report leading to NHTSA Recall No. 18V-137. Hyundai indicates that the DIR stemmed from post-collision inspections of the air bag control units (ACUs) showing that an electrical overstress condition (EOS) of an ACU electronic component occurred in three of the crashes, and that the fourth ACU is under evaluation for the same concern. Hyundai has not identified a remedy for this recall, and states that the cause of the EOS is being investigated with the ACU supplier, ZF-TRW. ODI's current understanding is that the above Kia products also use similar ACUs supplied by ZF-TRW. Additionally, ODI is aware of a prior recall, 16V-668 where EOS appeared to be a root cause of air bag non-deployment in significant frontal crashes in certain Fiat Chrysler vehicles.

Under the investigation, ODI will evaluate the scope of Hyundai's recall, confirm Kia's use of the same or similar ZF-TRW ACU, review the root cause analysis of all involved parties, and review and evaluate pertinent vehicle and/or ACU factors that may be contributing to, or causing EOS failures. Additionally, ODI will determine if any other vehicle

manufacturers used the same or similar ACUs, as supplied by ZF-TRW, and if so, evaluate whether the field experience of these vehicles indicates potentially related crash events.

The above VOQs can be reviewed at NHTSA.gov under identification numbers 10781050 and 10849839.

EXHIBIT “8”



U.S. Department
of Transportation

**National Highway
Traffic Safety
Administration**

ODI RESUME

OFFICE OF DEFECTS INVESTIGATION

NHTSA

Authentic US Government Information
National Highway Traffic Safety Administration
uses a digital certificate to ensure
the content has remained unchanged

Investigation: EA 19-001
Prompted by: PE 18-003
Date Opened: 04/19/2019
Investigator: Brian Smith **Reviewer:** Scott Yon
Approver: Stephen Ridella
Subject: Air Bag ACU Electrical Overstress

MANUFACTURER & PRODUCT INFORMATION

Manufacturer: Kia Motors America, Chrysler (FCA US LLC), Mitsubishi Motors North America, Inc., Hyundai Motor America, TRW Automotive Inc, Honda (American Honda Motor Co.), Toyota Motor Corporation

Products: Various MY 2010 to 2019 vehicles w/ZF air bag control unit

Population: 12,300,000 (Estimated)

Problem Description: Certain FCA, Honda, Hyundai, Kia, Mitsubishi and Toyota vehicles are equipped with an air bag control unit produced by TRW (ZF), which could fail during a crash event resulting in non-deployment of air bags and seat belt pretensioners. These control units may suffer electrical overstress due to harmful signals (electrical transients) produced by the crash event, causing the unit to stop working during the crash.

FAILURE REPORT SUMMARY

| | ODI | Manufacturer | Total |
|------------------------------|-----|--------------|-------|
| Complaints: | 0 | TBD | TBD |
| Crashes/Fires: | 2 | TBD | TBD |
| Injury Incidents: | 1 | TBD | TBD |
| Number of Injuries: | 2 | TBD | TBD |
| Fatality Incidents: | 1 | TBD | TBD |
| Number of Fatalities: | 1 | TBD | TBD |
| Other*: | 1 | 1 | TBD |

***Description of Other:** One crash event was identified by ZF and one was identified by ODI through monitoring insurance salvage facility (public) web sites. Each involved Toyota vehicles, and neither was filed as a Vehicle Owner's Questionnaire.

ACTION / SUMMARY INFORMATION

Action: Upgrade PE18-003 to an Engineering Analysis and expand the scope of the investigation to include the Tier-one supplier and any manufacturers who installed this unit in production vehicles.

Summary:

The Office of Defects Investigation (ODI) is expanding the investigation to include the equipment supplier and vehicle manufacturers (OEMs) using this unit. The investigation focuses on ACUs manufactured by TRW, now ZF-TRW (ZF), the Tier-one supplier to Hyundai and Kia and the other affected OEMs. The ACU senses a vehicle crash to determine whether air bag deployment is required, and if so, deploys the appropriate air bags and other supplemental restraints. ZF supplied subject ACUs to six OEMs: FCA, Honda, Hyundai, Kia, Mitsubishi and Toyota.

Internal to the ACU is an electronic component (an application specific integrated circuit, or ASIC) that monitors signals from crash sensors. A failure of the ASIC may prevent deployment of the required air bags and devices, or may otherwise affect the proper operation of the ACU. The ACU is located in the passenger compartment, and electrical wiring connects the ASIC to sensors located at the front of the vehicle. ODI's current understanding is that a crash event may, in and of itself, produce harmful signals on the sensor wiring capable of damaging the ASIC,

although the probability of this occurring appears to be low. While the ACU incorporates electrical circuitry intended to protect the ASIC from harmful signals, the level and effectiveness of the protective circuitry varies by OEM customer.

During PE18-003, Hyundai and Kia filed recalls (18V-137 and 18V-363 respectively) to address a defect that could result in ACU disablement and non-deployments. According to the filings, the disablement occurs in certain types of frontal crash events. Both filings discussed a condition known as electrical overstress (EOS) that affected the subject ASIC and was likely caused by electrical signals that entered the ACU via sensor wiring. The recalled vehicles used ACUs that had the lowest levels of ASIC protection while non-recalled Hyundai and Kia products using subject ACUs had higher levels of protection. ODI has not identified any EOS failures in the non-recalled Kia and Hyundai populations.

In September 2016, FCA filed recall 16V-668 for certain model year (MY) 2010 to 2014 Chrysler, Dodge and Jeep products also manufactured with the subject ACU. In that filing, FCA also discussed an EOS condition that resulted in a failure of the subject ASIC, which caused air bag non-deployment. FCA noted that the defect condition had only been observed in vehicles equipped with sensor harnessing routed across the front of the vehicle. Other FCA vehicles that also used the subject ACU, but not the cross-car harnessing, had not experienced EOS failures, despite similar time in service. The recalled FCA vehicles used a mid-level form of ASIC protection. Other FCA vehicles that did not use cross car wiring, or used higher levels of ASIC protection, have not been recalled. ODI has not identified any EOS failures in the non-recalled FCA population.

Recently, ODI has identified two substantial frontal crash events (one fatal) involving Toyota products where EOS is suspected as the likely cause of the non-deployments. The crashes involved a MY 2018 and a MY 2019 Corolla equipped with the subject ACU that incorporated higher levels of ASIC protection. Additionally, both ACUs were found to be non-communicative (meaning the ACU could not be read with an Event Data Recorder) after the crash, a condition found in other cases where EOS occurred with other OEMs. No other EOS events have been identified for other Toyota products (including Corolla models that used the subject ACU since MY 2011), or for the Honda and Mitsubishi vehicles that use the subject ACU.

ODI plans to evaluate the susceptibility of the subject ACU designs to electrical signals, as well as other vehicle factors that can either lead to, or reduce the likelihood of, an EOS event. Additionally, ODI will evaluate whether an unreasonable risk exists that requires further field action.

EXHIBIT “9”

TRW Automotive Inc. (ZF) Chronology

| | |
|----------------|--|
| Aug. 2011 | At Mobis' request, ZF analyzes the ACU from a Kia Forte in China involved in an event in which the airbags purportedly did not deploy. ZF observes damage on the ASIC that is consistent with EOS. Hyundai Kia Motors Corporation (HKMC) subsequently communicates its assessment that the incident was a commanded nondeployment. |
| March 2012 | At Mobis' request, ZF analyzes the ACU from a Kia Forte in Egypt involved in an event in which the airbags purportedly did not deploy. ZF observes damage on the ASIC that is consistent with EOS. HKMC subsequently communicates its assessment that the incident was a commanded nondeployment. |
| May 17, 2012 | ZF communicates with HKMC and Mobis about the investigation of field events with observed EOS. |
| Feb. 15, 2015 | At Hyundai Motor America's (HMA) request, ZF downloads available data in an ACU from a Hyundai Sonata involved in an event in which the airbags purportedly did not deploy. |
| May 6, 2015 | At Kia Motors America's (KMA) request, ZF downloads available data in an ACU from a Kia Forte involved in an event in which the airbags purportedly did not deploy. |
| Dec. 1-3, 2015 | At KMA's request, ZF analyzes ACUs from two Kia Forte vehicles involved in separate events in which the airbags purportedly did not deploy. ZF observes damage on the ASIC in both ACUs that is consistent with EOS. HKMC subsequently communicates its assessment that one of the incidents was a commanded nondeployment and the other is under investigation. |
| Dec. 14, 2015 | At KMA's request, ZF attends the inspection of two Kia Forte vehicles for which ZF had previously downloaded data from events in which the airbags purportedly did not deploy. |
| Jan. 2016 | ZF communicates with customers regarding EOS and contact with NHTSA. |
| Feb. 5, 2016 | ZF meets with NHTSA, at ZF's request, to discuss its investigation of EOS observed on its ACUs and incidents involving nondeployment of airbags. |
| Feb. 25, 2016 | ZF meets with HKMC and Mobis in Korea to discuss the NHTSA meeting and the continued investigation of nondeployments with observed EOS. |
| April 25, 2016 | At HMA's request, ZF analyzes an ACU from a Hyundai Sonata for which ZF had previously downloaded data from an event in which the airbags purportedly did not deploy. ZF observes damage on the ASIC that is consistent with EOS. HKMC subsequently communicates its assessment that the incident was a commanded nondeployment. |
| April 26, 2016 | At HMA's request, ZF attends the inspection of a Hyundai Sonata vehicle for which ZF had previously downloaded data from an event in which the airbags purportedly did not deploy. |

| | |
|------------------|---|
| May 24-26, 2016 | ZF attends another in-person meeting with HKMC and Mobis in Korea to discuss the ongoing EOS analysis and investigation. |
| July 19, 2016 | ZF attends another in-person meeting with NHTSA to provide an update on the ongoing EOS investigation. |
| July 29, 2016 | ZF meets with HKMC and Mobis in Korea to discuss the NHTSA meeting and continued investigation of nondeployments with observed EOS on the ACU. |
| Aug. 23, 2016 | At KMA's request, ZF downloads available data in an ACU from a Kia Forte involved in an event in which the airbags purportedly did not deploy. |
| Sept. 23, 2016 | ZF voluntarily provides data pertaining to its supply of ACUs with particular ASICs to customers, at NHTSA's request. |
| Sept. 2016 | ZF communicates with its customers about its ongoing investigation of EOS and contact with NHTSA. |
| Nov. 3, 2016 | At HMA's request, ZF downloads available data in an ACU from a Hyundai Sonata involved in an event in which the airbags purportedly did not deploy. |
| Feb. 23, 2017 | At HMA's request, ZF downloads available data in the ACU from a Hyundai Sonata involved in an event in which the airbags purportedly did not deploy. |
| March 3, 2017 | At Mobis' request, ZF downloads available data in an ACU from a Kia Forte from China, involved in an event in which the airbags purportedly did not deploy. |
| Aug. 21-22, 2017 | At HMA's request, ZF attends the inspection of two Hyundai Sonata vehicles for which ZF had previously downloaded data from events in which the airbags purportedly did not deploy. |
| Aug. 24-25, 2017 | At HMA and KMA's request, ZF analyzes ACUs from two vehicles for which ZF had previously downloaded data, from events involving Hyundai Sonatas and an event involving a Kia Forte in which the airbags purportedly did not deploy. ZF observes damage on the ASICs that is consistent with EOS. HKMC communicates its assessment that all three incidents were commanded nondeployments. |
| Jan. 31, 2018 | At KMA's request, ZF downloads available data from the ACU from an event involving a Kia Sedona. |
| Jan.-Feb. 2018 | ZF is informed by HMA and KMA that NHTSA is requesting information about incidents involving airbag nondeployment. ZF shares information previously provided to HKMC regarding the ongoing investigation. |
| Feb. 27, 2018 | HMA voluntarily recalls vehicles. |
| March 8, 2018 | ZF meets with NHTSA, at ZF's request, to provide an update on the ongoing investigation. |
| March 2018 | ZF communicates with customers regarding contact with NHTSA. |
| March 16, 2018 | NHTSA announces its Preliminary Evaluation of certain Hyundai and Kia vehicles following reports of air bag nondeployment in frontal crashes (PE18-003). ZF supports NHTSA's investigation, continues to |

| | |
|----------------|--|
| | communicate with NHTSA about the ongoing investigation, and voluntarily provides information at NHTSA's request. |
| March 23, 2018 | At HMA's request, ZF downloads available data and analyzes an ACU from a Hyundai Sonata vehicle involved in a crash test conducted by HMA in which the airbags deployed. ZF observes damage on the ASIC that is consistent with EOS. |
| March 27, 2018 | At HMA's request, ZF downloads available data from and analyzes an ACU from a Hyundai Sonata involved in a crash event where the airbags purportedly did not deploy. ZF observes damage on the ASIC that is consistent with EOS. |
| April 12, 2018 | At NHTSA and HMA's request, ZF downloads available data and analyzes ACUs from Hyundai Sonata vehicles involved in crash tests conducted by HMA, one purportedly involving an airbag deployment and the other a nondeployment. ZF observes damage on both ASICs that is consistent with EOS. |
| April 27, 2018 | NHTSA issues an Information Request to ZF in connection with PE 18-003, requesting information about ACUs supplied to customers. ZF subsequently provides information responsive to NHTSA's request. |
| May 2018 | ZF continues to communicate with its customers about the ongoing investigation. |
| May 24, 2018 | At NHTSA and KMA's request, ZF downloads available data and analyzes ACUs from Kia Forte vehicles collected in connection with NHTSA's investigation. ZF observes damage on the ASIC in one of the modules that is consistent with EOS and no EOS damage on the other module. |
| June 1, 2018 | Kia voluntarily recalls vehicles. |
| June 13, 2018 | NHTSA requests that ZF file a Part 573 report following the HMA and KMA recalls. |

EXHIBIT “10”

FCA US LLC Chronology
Occupant Restraint Controller Electrical Overstress
Submitted on September 13, 2016

Based on the data and engineering analysis conducted to date, this Issue has the potential to occur when all of the following three conditions are met (1) specific Occupant Restraint Controller (“ORC”)/Application Specific Integrated Circuit (“ASIC”) design; (2) front impact sensor cross-car wire routing; and (3) certain crash events.

To FCA US’s knowledge, this Issue has not occurred in (1) other 2010–2014 MY vehicles with the same ORC/ASIC with front sensor wiring routed independently along the left and right side of the vehicles (2009-2012 MY Ram 1500 (“DS”), 2010–2012 MY Ram 2500/3500 (“DJ/D2”), 2011–2012 MY Ram 3500/4500/5500 Cab-Chassis (“DD/DP”), 2010–2014 MY Jeep Wrangler (“JK”), 2010–2012 MY Dodge Nitro (“KA”), 2010–2013 MY Jeep Liberty (“KK”), 2012–2016 MY Fiat 500 (“FF”)); or (2) any Dodge Caliber (“PM”), Chrysler 200, Chrysler Sebring and Dodge Avenger (“JS”) or Jeep Compass and Jeep Patriot (“MK”) vehicles prior to 2010 MY which have a different ORC/ASIC design but the same front impact sensor cross-car wire routing.

The investigation was initiated in April 2015 and included review of (1) 10 crash events and one third-party barrier test (e.g., IIHS small overlap rigid barrier test of 2012 MY MK), (2) bench and in-vehicle transient testing, (3) supplier ORC analysis, (4) Event Data Record (“EDR”) review, (5) warranty and production build data, (6) wiring design and layout changes for the subject population, (7) ORC design and changes for the subject and non-subject populations, (8) Customer Assistance Inquiry Record (“CAIR”) system, (9) event timing analyses, and (10) temperature and geography considerations.

The chart below is a summary of the 10 crash events and one third-party barrier test that were the focus of the investigation due to suspected ASIC Electrical Overstress (“EOS”). The chart identifies whether ASIC EOS was confirmed, if an EDR was written and airbag deployment status.

NOTE: FCA US LLC (“FCA US”) engineering did not have access to all of the vehicles or ORCs identified below. The Incidents will be referred to throughout the chronology below by way of their letter designation.

| <u>Incident</u> | <u>Vehicle Make/Model</u> | <u>Model Year</u> | <u>ASIC EOS</u> | <u>Airbags Deployed</u> | <u>CDR Present</u> |
|-----------------|---------------------------|-------------------|-----------------|-------------------------|--------------------|
| A | JEEP PATRIOT | 2012 | Yes | No | No events recorded |
| B | DODGE AVENGER | 2012 | Yes | No | No events recorded |
| C | JEEP PATRIOT | 2012 | Yes | Yes | Interrupted |
| D | JEEP PATRIOT | 2012 | Yes | Yes | Interrupted |
| F | CHRYSLER 200 | 2012 | Yes | No | No events recorded |
| G | CHRYSLER 200 | 2012 | Yes | No | No events recorded |
| H | DODGE AVENGER | 2011 | Suspected (*) | No | No events recorded |

| | | | | | |
|---|--------------|------|---------------|----|--------------------|
| I | JEEP COMPASS | 2014 | Suspected (*) | No | No events recorded |
| J | JEEP COMPASS | 2012 | Unknown | No | Unknown |
| K | CHRYSLER 200 | 2013 | Suspected (*) | No | No events recorded |
| M | CHRYSLER 200 | 2012 | Suspected (*) | No | No events recorded |

(*) ASIC EOS is strongly suspected; however, FCA US was unable to obtain ORC for analysis

A detailed timeline of the FCA US Vehicle Safety and Regulatory Compliance ("VSRC") organization's investigation and review (as summarized above) follows:

- On April 6, 2015, FCA US engineering contacted the VSRC about the analysis of two ORCs involved in frontal collisions with no airbag deployment which did not communicate with the Crash Data Retrieval ("CDR") tool. FCA US became aware of these two crash events (i.e., Incidents A and B) through its U.S. Office of General Counsel ("OGC").
- FCA US engineering confirmed ASIC EOS in the two ORCs from Incidents A and B. Neither Incident A nor B had an EDR record.
- On April 8, 2015, FCA US engineering contacted the VSRC about an IIHS small overlap rigid barrier test conducted on a 2012 MY MK (Incident C) because the ORC did not communicate with the CDR tool after the test although the supplier later retrieved a partial EDR record. The ASIC in this ORC also sustained ASIC EOS damage.
- In each of these three incidents (i.e., Incidents A, B and C), the damaged ASIC prevented the ORC's microcontroller from operating by drawing excessive current from the ORC power supply. This damage also explains why the ORCs could not communicate with the CDR tool.
- On April 8, 2015, FCA US also reviewed a document that had been submitted by the ORC supplier on May 30, 2013 (and previously reviewed by FCA US Engineering) addressing a potential warranty concern. The document described a potential condition of ORC ground offset and intermittent power connection (while a front acceleration sensor signal wire is shorted to vehicle ground) that may cause ASIC EOS. The document recommended countermeasures that were later implemented in production.
- On April 15, 2015, FCA US engineering informed the VSRC of a design change introduced on 2015 MY MK, JK, PF and KL and 2016 MY UF vehicles to improve the robustness of the ORCs against ASIC EOS as a quality improvement in response to an unrelated issue.
- On April 15, 2015, the VSRC was made aware of six potentially related field incidents involving various frontal crash configurations associated with no frontal airbag deployment. These Incidents (i.e., Incidents D -J) came into FCA US through the OGC.
- From April 15, 2015, through August 31, 2015, the VSRC reviewed available police reports, vehicle photos, test video and EDR reports, if any, for Incidents A-J and conducted laboratory and other tests. A summary of the work, analysis and information from this timeframe is set forth below:
 - The ORC from Incident I communicated with the CDR tool based on the CDR report obtained. The ORC was not inspected for ASIC EOS damage because it was not available to FCA US.
 - FCA US was not given permission to analyze the ORCs from Incidents D, F or H for ASIC EOS damage during this period.
 - No ORC information was available about Incidents G and J during this period.

- Incident C was a confirmed ORC ASIC EOS. The crash was a 40 MPH 25% offset rigid barrier test performed by a third-party where airbag deployment occurred. The test is not required for regulatory compliance and the vehicle passed the test. After extensive analysis and review during this investigation, it was determined that the second stage airbag may not have deployed.
- FCA US inspected the 2012 MY JS vehicle involved in Incident B. The sensor signal wiring was pinched and the insulation was compromised in several locations throughout the wiring harness. Electrical conductivity was confirmed between the two front sensor connectors and the ORC connector. The resistance in the ground path from the ORC to the negative battery jump post was less than 10 milliohm.
- From April 16, 2015, to June 2, 2015, lab bench tests determined that 70 to 100 milliohms of resistance between the ORC ground and chassis (while a front sensor signal is shorted) is required to create an ASIC EOS failure during an intermittent power-feed condition of at least a 170 milliseconds.
- On June 12, 2015, the ORC supplier proposed that ASIC EOS failure could be caused by an electrical transient generated during the crash under the conditions of a front sensor signal wire and high current power feed simultaneously shorted to vehicle chassis and subsequently the power feed short opens.
- On June 26, 2015, the ORC supplier demonstrated in a lab bench test the conditions required to create a negative transient capable of creating ASIC EOS. The supplier indicated that a negative transient of -1.2 Volts to -2.0 Volts with duration of less 100 microseconds is sufficient to create an ASIC EOS failure in the subject ORC population.
- On June 30, 2015, FCA US inspected the 2012 MY MK vehicle involved in Incident A. The sensor signal wiring was pinched and the insulation was compromised in several areas. Electrical conductivity was confirmed between the sensor connectors and the ORC connector. The resistance in the ground path from the ORC to the negative battery jump post was less than 10 milliohm.
 - Based on the low resistance between the ORC ground and chassis measured on the vehicles from Incidents A and B, it was determined by FCA US engineering and the ORC supplier that resistive ground offset was not a contributor to the ASIC EOS failures.
- On July 29, 2015, FCA US simulated the conditions of a simultaneous shorted sensor signal wire and shorted high current power feed to vehicle chassis on an MK vehicle. When the shorted power feed condition was removed, transients of similar magnitude and duration that could cause an ASIC EOS failure were generated.
- On August 21, 2015, FCA US conducted a review of the sensor wiring architecture for the vehicle in the subject ORC population. It was determined that the left and right front sensor signal wires are routed together on the left-side of the vehicle between the engine compartment and fender on MK, JS and PM vehicles. The routing continues across the front left corner of the engine to the position of the left front sensor. The right front sensor signal wires continue across the front of the vehicle near the top of the radiator. Two high current power feeds for the anti-lock braking system are similarly routed across the front of the vehicle.
- Other vehicles using the same or similar ORC module were determined to have the left and right front sensors signal wiring routed independently along the left and right side of the engine compartment.
- On August 28, 2015, FCA US provided the ORC from Incident G to the ORC supplier for analysis.

- On August 28, 2015, FCA US inspected the 2012 MY JS vehicle from Incident G. The wiring was compromised in several locations.
- On August 31, 2015, FCA US examined the CDR from Incident I. No crash data was recorded. An active internal ORC fault was noted in the data record.
- On September 15, 2015, FCA US received a lab report from the ORC supplier confirming that a microcontroller reset occurs at the same instant a negative transient creates an ASIC EOS event.
- On September 18, 2015, FCA US was informed by the National Highway Transportation Safety Administration (“NHTSA”) of a Vehicle Owner Questionnaire (“VOQ”) concerning a 2015 MY MK vehicle involved in a frontal offset crash with a midsize sedan (“the VOQ Incident”). On February 23, 2016, FCA US received the CDR from NHTSA for this Incident. The ORC communicated with the CDR tool and two crash events were recorded.
- On September 25, 2015, FCA US determined through design analysis and inspection of JS and MK vehicles that no significant changes were made to the left and right sensor wiring routing between models years 2008 and 2014.
- On September 30, 2015, the ORC supplier determined that the failure can also result in an ORC that communicates with a CDR tool but has an active internal diagnostic trouble code related to an ASIC failure.
- On October 8, 2015, FCA US determined the driver- and passenger-side front airbags deployed during Incident D based on a picture obtained of the vehicle. It was not known at this time whether the second stage airbags deployed.
- On October 14, 2015, FCA US received a report from the ORC supplier confirming ASIC EOS failure had occurred on the ORC from Incident D.
- On October 14, 2015, FCA US reviewed the CAIR system and did not find any additional suspect crashes involving ASIC EOS and no airbag deployment within the vehicle population using the subject ORC/ASIC design.
- On October 28, 2015, FCA US received a report from the ORC supplier confirming ASIC EOS failure had occurred on the ORC from Incident G.
- On November 2, 2015, FCA US determined that vehicles, other than JS, MK and PM, with ORCs using the same subject ORC/ASIC design did not have high current anti-lock brake system power feeds in the same wiring bundles as the left- and right-front sensor signals.
- On November 17, 2015, FCA US received a lab report from the ORC supplier confirming ORCs with certain ASIC EOS robustness improvements can withstand negative voltage transients up to approximately -15 Volts without failure; however anomalies are observed; compared to the subject ORCs which exhibit failures starting at approximately -1.2 Volts.
- On November 18, 2015, FCA US received a report from the ORC supplier confirming ASIC EOS failure had occurred and an active internal diagnostic failure related to ASIC EOS was present in the ORC from Incident F.
- On December 14, 2015, FCA US determined other ORCs that are not in the subject population are capable of withstanding negative transients on the sensor signal inputs up to approximately -14 Volts or greater before anomalies appear.
- On December 15, 2015, the VSRC was informed of a potentially related crash involving a 2013 MY JS vehicle, referred to as Incident K.
- From January 4, 2016, to January 28, 2016, FCA US reviewed CAIR claims of no airbag deployment in frontal collisions involving 2008–2009 MY JS and 2007–2009 MY MK vehicles and found no suspected incidents of ASIC EOS.
- On February 18, 2016, a representative from FCA US inspected the vehicle involved in Incident K. The ORC from this vehicle did not communicate with the CDR tool.
- On March 3, 2016, FCA US met with NHTSA to discuss the status of the investigation and analysis.

- On March 7, 2016, FCA US inspected the 2012 MY JS vehicle involved in Incident F.
- On March 9, 2016, FCA US completed an analysis of crash event timing to estimate when the ASIC EOS occurred during Incidents C and D. Based on the amount of data written in the partial EDR retrieved from the ORCs, the timing of the ASIC EOS was estimated relative to the command given by the ORC to deploy the first stage airbag.
 - In the case of Incident C, the data indicated that the ASIC EOS occurred just before or after the second stage deployment command was given by the ORC, potentially inhibiting passenger second stage airbag deployment.
 - In the case of Incident D, the data proved that the ASIC EOS occurred before the second stage deployment command was given by the ORC, inhibiting passenger second stage airbag deployment and potentially inhibiting driver second stage airbag deployment.
- On March 31, 2016, FCA US and NHSTA inspected the vehicle involved in the VOQ Incident. The CDR was imaged from the ORC.
- On March 31, 2016, the ORC supplier transferred the integrated circuit which retains crash record data from Incident K's ORC to a recipient ORC. The CDR retrieved from the recipient ORC did not contain a crash record.
- On May 5, 2016, FCA US and NHTSA conducted a second inspection of the VOQ Incident vehicle. NHTSA took possession of the ORC.
- Between the March 3, 2016, NHTSA meeting and June 1, 2016, FCA US continued its investigation, focusing on timing aspects of ASIC EOS events.
- On June 1, 2016, NHTSA transported the ORC from the VOQ Incident vehicle to the ORC supplier where an image of the internal memory was performed.
- On June 15, 2016, FCA US received the ORC supplier's translation of the data imaged from the VOQ Incident vehicle ORC which took place on June 1, 2016.
- On June 29, 2016, FCA US met with NHTSA and determined, based on the CDR and data imaging from the ORC supplier, that the VOQ Incident was not related to an ASIC EOS issue.
- On July 12, 2016, FCA US and the ORC supplier reviewed the data and conclusions of the investigation.
- On July 18, 2016, the ORC supplier provided additional information regarding wiring and calibration changes which may have influenced the occurrence of ASIC EOS and/or airbag and pretensioner deployment during certain crashes.
- Since July 18, 2016, FCA US has continued to analyze and discuss these topics with the ORC supplier with no change in conclusion.
- On August 9, 2016, FCA US engineering determined that the additional information provided by the ORC supplier did not alter its current analysis with respect to the investigation.
- The root cause of the ASIC EOS failures was determined to be a combination of the relative susceptibility of the subject ORC ASIC to negative transients and the front acceleration sensor signal cross-car wire routing. Based on analysis and testing to date, the subject ORC/ASIC design and front impact sensor cross-car wiring appear to be contributing factors in certain crash events for the occurrence of ASIC EOS, resulting in the potential loss of airbag and seat belt pretensioner deployment capability in such events.
- On August 16, 2016, the VSRC was presented to the FCA US Vehicle Regulations Committee. The Vehicle Regulations Committee asked for additional data, information and analysis.
- Between August 16, 2016, and September 2, 2016, in response to the Vehicle Regulations Committee's request for additional information, the investigation team conducted further review and analyses of existing data, including (1) review of the 10 crash events and the IIHS small overlap rigid barrier test of the 2012MY MK, (2) bench and in-vehicle transient testing, (3) review of supplier ORC analysis, (4) review and confirmation of subject vehicle EDR data, (5) warranty and production

build data, (6) wiring design and layout changes for the subject population, (7) ORC design and changes for the subject and non-subject populations, (8) CAIR system, (9) temperature and geography considerations, and (10) continued its event timing analyses of Incidents C and D and the exhibited deformation patterns of the vehicles from Incidents B, C, D, F, H, and K, concluding that ASIC EOS may contribute to loss of airbag and seat belt pretensioner deployment capability in certain crashes.

- The suspect period was established as February 24, 2009, start of production (“SOP”) for the 2010 MY MK vehicles to August 13, 2014, end of production (“EOP”) for the 2014 MK vehicles at Belvidere Assembly Plant ; August 10, 2009, SOP for the 2010 MY PM vehicles to December 17, 2011 EOP for the PM vehicles at Belvidere Assembly Plant; February 18, 2009, SOP for the 2010 MY JS vehicles to February 14, 2014, EOP for JS vehicles at Sterling Heights Assembly Plant.
- The vehicles in the subject population utilize ORCs with the subject ASIC design and have similar front sensor cross-car wiring design.
- As of September 2, 2016, FCA US identified approximately five CAIRs, zero VOQs and five field reports related to this issue.
- As of September 2, 2016, total warranty is zero at 0 c/1000.
- As of September 2, 2016, FCA US is aware of three fatalities and five injuries potentially related to this issue.
- On September 6, 2016, FCA US determined, through the Vehicle Regulations Committee, to conduct a voluntary safety recall of the affected vehicles.

| Reviewer | Initials | Reviewer | Initials |
|--|----------|--|----------|
| <input checked="" type="checkbox"/> Team Lead (Jonik, Marck, Cowser, Hendler, Plante) | | <input type="checkbox"/> MGR Product Investigations (David Smith) | |
| <input type="checkbox"/> Manager (Jen Shute, Cheryl Fry) | | <input type="checkbox"/> OGC (Alan DeGraw) | |
| <input type="checkbox"/> Technical Writer (Gabrielle Elser) | | <input type="checkbox"/> Head Vehicle Safety & Product Analysis (Thomas McCarthy) | |

EXHIBIT “11”

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Attachment A

Chronology of events leading up to the defect decision:

- In February 2012, HMA was notified of a collision involving a 2011 Hyundai Sonata vehicle in which an allegation of airbag non-deployment was made. In June 2012, HMA inspected the vehicle and found no crash event recorded. HMA communicated with the supplier and enlisted its assistance and explanation. Further inspection of the ACU indicated EOS inside the unit's ASIC, which, at that time, was attributed to numerous aftermarket accessories installed in the vehicle.
- In May 2015, HMA was notified of a collision involving a 2011 Hyundai Sonata in which a similar allegation of airbag non-deployment was made. In October 2015, HMA inspected the vehicle. The ACU was non-communicative. Subsequent analysis by the supplier indicated internal damage potentially caused by EOS. HMA conducted a U.S. marketplace search of incidents of similar nature and circumstance, but no incidents other than the two that HMA received in February 2012 and May 2015 were identified. HMA then began monitoring for specific crash events containing similar facts and circumstances as the two vehicles identified so far.
- Between July and November 2016, HMA received two additional reports of collisions involving 2011 Hyundai Sonata vehicles in which similar allegations of airbag non-deployment were made. HMA began to reassess its prior analysis. HMA again enlisted the supplier of the ACU to investigate the ACU's recovered from the incident vehicles. The supplier confirmed the recovered ACU from one of the vehicles as being damaged internally potentially by EOS. As of the date of this filing, the results of the supplier's inspection of the recovered ACU from the remaining vehicle are still pending. Furthermore, Hyundai Motor Company ("HMC") determined, upon examination of the unique facts and circumstances associated with each incident, that it was possible that airbag deployment was not warranted.
- HMA's investigation was ongoing when, in November 2017, NHTSA's Office of Defect Investigations ("ODI") contacted HMA to obtain follow-up information in connection with one of the four vehicles under investigation. HMA responded to ODI's request and continued analysis of all available information surrounding each incident. During this time period, ODI and HMA continued to communicate and exchange information.
- In December 2017, HMA engaged a third-party engineering firm to study and analyze the facts and circumstances surrounding its investigation and reassessment.
- On February 21, 2018, Hyundai met with the supplier to discuss its reassessment. On February 22, 2018, HMA convened its Technical Committee with a recommendation to conduct a safety recall.

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Attachment A

- As of the date of this filing, Hyundai is aware of four incidents alleging the subject condition. EOS was observed inside the ACUs involved in three of these crashes. Hyundai is actively investigating the fourth incident.

EXHIBIT “12”

**Forte, Forte Koup, Optima, Optima Hybrid, Sedona ACU Chronology
Basis of Safety Defect Determination 573.6(c)(6)**

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| March 2014 | Kia Motors America, Inc., (“KMA”) receives lawsuit complaint alleging non-deployment of frontal airbag in 2012 Kia Forte. Incident reported to NHTSA through Early Warning Reporting. |
| July 2014 | KMA receives and responds to inquiry DI14-024 from NHTSA regarding incident. Limited information; initial stages of litigation. |
| March-June 2015 | KMA attempts download of airbag control unit (“ACU”); unable to communicate with module. KMA requests assistance from supplier, ZF TRW (“TRW”), and also obtains no data. Engineering consultant concludes front impact sensors (“FIS”) compromised before airbag signal could be transmitted. |
| Summer 2015 | TRW advises Kia that NHTSA is investigating airbag non-deployment issues with wide range of models regarding TRW ACU. |
| October-November 2015 | Under TREAD reporting, KMA provides NHTSA with ACU download and photographs taken by police and engineering consultants. |
| October 2015-January 2016 | KMA ships subject ACU to Kia Motors Corporation (“KMC”) for analysis. KMC unable to determine ACU performance issues and refers to TRW, which concludes non-deployment occurred due to a complex series of possible events. |
| December 14-15, 2015 | Joint inspection of subject vehicle conducted by TRW, KMC, KMA and MOBIS. KMC concludes 1) power terminal and front impact sensors (FIS) did not reveal any issues related to airbag non-deployment; 2) inspection of wiring confirmed no issues with interior ACU power terminal and ground terminal circuit; and 3) FISs disconnected during crash event. |
| February 5, 2016 | Kia advised by TRW Legal that TRW has provided information regarding all manufacturers with this ACU and ASIC to NHTSA. TRW presentation includes unverified and incorrect information regarding Kia vehicles. |
| February 25, 2016 | Kia meets with TRW in Korea to obtain information from TRW on what it has told NHTSA regarding NHTSA’s concerns with EOS issues. Discussion includes information reported unilaterally by TRW to NHTSA. TRW declines to provide detailed information regarding TRW’s experience with that ACU and ASIC issues with other manufacturers, in particular regarding what TRW calls electrical stress (“EOS”) issues. Kia requires TRW to provide Kia detailed questions TRW needs in order to determine whether a defect prevented a non-deployment of a frontal airbag in any Kia vehicle. KMA asks TRW whether an EOS related defect has caused any Kia airbag non-deployment and TRW advises that has not occurred. |
| April 21, 2016 | KMC provides responses to TRW’s questions for use by TRW and for TRW’s reporting to NHTSA. |

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| July 19, 2016 | TRW meets with NHTSA. Based on communications with TRW, Kia understands NHTSA is satisfied and no action is to be taken by NHTSA. |
| July-August 2016 | During several communications between Kia with TRW Legal, TRW advises KMA that the ACU issue has been fully reported to NHTSA, that NHTSA is satisfied and that Kia needs to take no further action. During last call, TRW Legal advises that FCA has decided to recall certain models, but that recall is due to the design of the wiring harnesses for the FIS in those vehicles and TRW disagrees with FCA's recall decision. TRW advises that the discussions with FCA and NHTSA do not require any recall by Kia. |
| May-June 2017 | Kia Canada, Inc. ("KCI") advises KMA that Transport Canada (TC) has requested support of ACU download regarding possible non-deployment event involving a 2013 Kia Forte Koup. KMA advises TRW. KMA begins to pursue accident reconstruction but TC identifies Forte Koup has been destroyed. Only photos available. TC has ACU and it is provided by KCI to TRW. |
| August 24, 2017 | TRW, Kia and MOBIS conduct joint inspection of 2013 Forte Koup ACU at TRW facility. Inspection identified internal damage to ACU ASIC; no EDR data recorded. TRW engineers advise Kia that damage to ACU ASIC occurred when TC attempted download. Based on limited photos, KMC concludes Canadian Forte crash structures not impacted and insufficient frontal crash energy to generate deployment signal. |
| September-October 2017 | KMA receives and responds to DI17-077 request from NHTSA regarding 2013 Forte Koup Canadian incident. |
| January-February 2018 | KMA participates in telephone conferences with NHTSA to discuss Forte non-deployment incidents. KMA provides historical background of its involvement with TRW during NHTSA's investigation into the EOS issue with TRW in 2016. KMA requests that NHTSA involve TRW in any discussions based on TRW's superior knowledge. |
| March 1, 2018 | KMA participates in telephone conference with NHTSA. NHTSA seeks Kia's proposed action in light of Hyundai Sonata recall. KMA advises Hyundai Sonata incidents are very different than what Kia has seen in its Forte vehicles and expresses its belief that this issue had been resolved against any recall of Kia vehicles during NHTSA's investigation of the TRW ACU EOS issue in 2016. KMA requests in person meeting at NHTSA headquarters in Washington D.C. to present Kia's learning on the EOS issue and the investigative effort by Kia to evaluate this issue. |
| March 14, 2018 | Kia meets with NHTSA and provides detailed presentation of its investigation and conclusions regarding Forte non-deployment incidents. Kia identifies no cause had been found despite extensive evaluation and investigation. In light of Kia's understanding that the FCA recall in 2016 was critically based on the design architecture of |

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| | the wiring harnesses for those vehicles, Kia inquires whether NHTSA is basing its recall evaluation on the design architecture of the Forte or on the existence of specific internal damage to the TRW ACU ASIC in the Forte. NHTSA advises that it is still evaluating those issues. |
| March 15, 2018 | At NHTSA's request, KMA participates in follow-up call with NHTSA. NHTSA identifies that it will open an investigation to evaluate the issue further. |
| March 16, 2018 | ODI Resume issued to KMA and HMA to investigate non-deployment of frontal airbags in the 2012-2013 Kia Forte and 2011 Hyundai Sonata (PE18-003). |
| April 4-5, 2018 | During telephone conference with NHTSA, KMA proposes that Kia conduct a design analysis to determine whether the 2010-2013 Kia Forte and Forte Koup are susceptible to EOS, leading to airbag non-deployment. NHTSA approves of proposed plan and timeline. |
| April 20-May 4, 2018 | Weekly discussions between KMA and NHTSA to provide status updates of analysis. NHTSA locates two exemplar Forte vehicles in salvage yards for further evaluation and requests assistance from KMA to conduct ACU download. |
| May 15-16, 2018 | NHTSA, KMA, NHTSA's Vehicle Research & Test Center (VRTC) and Kia's consultants participate in joint inspection of the 2011 Kia Forte Koup and 2012 Kia Forte. KMA able to communicate with 2011 Forte Koup ACU module. Crash did not meet deployment threshold. KMA unable to communicate with 2012 Forte ACU module. Both ACU modules removed for further analysis by TRW. |
| May 24, 2018 | TRW, Kia, MOBIS, NHTSA and VRTC conduct joint inspection of 2011 Forte Koup and 2012 Forte ACUs at TRW facility. Downloaded data of 2011 Kia Forte Koup confirmed ACU operated as designed and crash pulse did not warrant deployment of front airbags. Downloaded data of 2012 Kia Forte showed one (1) event recorded in Event 1 buffer and no data recorded in Event 2 buffer. Ignition counter information showed Event 1 was a previous incident. Resistance measurements made on certain circuit board pins consistent with prior controller measurements taken by TRW that have exhibited an EOS event. Based on these results and available information from other manufacturers, NHTSA requests Kia conduct a recall of the 2010-2013MY Forte. |
| May 28, 2018 | KMC agrees to recall 2010-2013 Kia Forte and Forte Koup based on NHTSA conclusion that ACUs that do not contain adequate circuit protection create a higher risk of EOS. Based on its engineering analysis of other Kia models equipped with the same TRW ACU as the Forte and Forte Koup, KMC determines that NHTSA logic also requires a recall of 2011-2013 Optima, 2011-2012 Optima Hybrid and 2011-2012 Sedona, regardless of the absence of prior incidents involving those vehicles. |