

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
GAINESVILLE DIVISION**

JOHN BARRETT and GRETTA
BARRETT, on behalf of themselves
and all others similarly situated,

Plaintiff,

v.

FCA US LLC,

Defendant.

Case No.

JURY TRIAL DEMANDED

DEFENDANT FCA US LLC'S NOTICE OF REMOVAL

Defendant FCA US LLC ("FCA US"), pursuant to 28 U.S.C. §§ 1332, 1441, 1446 and 1453, hereby removes this case to this Court. As set forth below, this Court has subject matter jurisdiction under 28 U.S.C. § 1332(d)(2).

I. BACKGROUND

1. On June 26, 2019, John and Gretta Barrett ("Plaintiffs") filed a Class Action Complaint in the Superior Court of Forsyth County in the State of Georgia, where it is known and numbered as *John Barrett and Gretta Barrett v. FCA US LLC*, Case No. 19CV-1079-1 ("the State Court Action").

2. FCA US was served with process and a copy of the Complaint in the State Court Action on July 2, 2019. No other pleadings, process, or orders have been

served or entered. A copy of the Complaint and the entire process served on FCA US is attached as Exhibit A.

A. Allegations In The Complaint.

3. Plaintiffs, who reside in Georgia, seek to bring their claims on behalf of all consumers in the state of Georgia who own or owned any model-year 2015, 2016, 2017, or 2018 Jeep Wrangler vehicle (“Class Vehicles”). *See* Complaint (“Comp.”), ¶¶ 1, 23.

4. According to Plaintiffs, the Class Vehicles have a “defect” which they characterize as a “Death Wobble.” *Id.* at ¶ 2. Specifically, Plaintiffs contend that all of the Class Vehicles “have an unreasonable propensity to develop heavy shaking and dangerous oscillations of the steering components at highway speeds.” *Id.* at ¶¶ 2, 17.

5. Plaintiffs aver that: (i) the alleged defect poses a “safety risk”; (ii) the failure to disclose the alleged defect has caused consumers to purchase vehicles that “they otherwise would not have”; (iii) consumers have “overpaid for their vehicles” based on the alleged defect; and (iv) the alleged defect has caused a “diminution in value” of the Class Vehicles. *Id.* at ¶¶ 9, 34

6. Plaintiffs seek to represent a class consisting of all Georgia residents who purchased or leased “a Jeep Wrangler model year 2015-2018.” *Id.* at ¶¶ 23, 34.

7. On behalf of themselves and members of the putative class, Plaintiffs seek, *inter alia*, the following: (i) “actual damages” based on FCA US’s alleged failure “to properly repair the defects or repurchase” the Class Vehicles; (ii) “damages for the benefit of the bargain they struck when purchasing their vehicles”; (iii) “statutory damages and penalties,” including “three times their monetary damages” under O.C.G.A. § 10-1-399(c); (iv) exemplary and/or punitive damages (v) “restitution”; (vi) attorney’s fees; (vii) their costs and expenses in bringing this lawsuit; and (viii) injunctive and declaratory relief, “including an order that [FCA US] recall the Jeep Vehicles, extend the applicable warranties, and repair the ‘Death Wobble’ defect.” *Id.* at ¶¶ 4, 36-37, 39 & Wherefore Clause, pp. 10-11.

8. Plaintiffs plead claims for: Breach of Express and Implied Warranties (Count I); Violation of Georgia Fair Business Practices Act (Count II); and Attorney’s Fees and Expenses of Litigation (Count III). *Id.* at ¶¶ 28-39.

B. Facts Related To Amount In Controversy.

9. “The Jeep Wrangler is one of the most popular vehicles in the United States.” *Id.* at ¶ 27. There have been more than over 35,000 sales and/or leases of model-year 2015, 2016, 2017, and 2018 Jeep Wrangler in Georgia.

10. The most recent model-year Jeep Wrangler vehicles with the alleged defect – *i.e.*, the model-year 2018 Jeep Wranglers – have an MSRP ranging from

\$27,945 (Sport) to \$41,445 (Unlimited Rubicon). There have been over 8,600 sales and/or leases of just model-year 2018 Jeep Wrangler vehicles in Georgia.

11. Plaintiffs allege that they purchased their 2018 Jeep Wrangler in March 2018 for \$41,817.18. *Id.* at ¶ 12. Plaintiffs have demanded that FCA US repurchase their vehicle because of the alleged defect. *Id.* at ¶ 18.

II. GROUNDS FOR REMOVAL

12. This Court has jurisdiction of this case under 28 U.S.C. § 1332(d)(2), which is commonly referred to as the Class Action Fairness Act (“CAFA”).

13. Pursuant to CAFA, when the number of putative class members exceeds 100, this Court has original jurisdiction over “any civil action in which the matter in controversy exceeds the sum or value of \$5,000,000, exclusive of interest and costs, and is a class action in which ... any member of a class of plaintiffs is a citizen of a State different from any defendant.” 28 U.S.C. § 1332(d)(2).

14. “A defendant’s notice of removal need include only a plausible allegation that the amount in controversy exceeds the jurisdictional threshold.” *Dart Cherokee Basin Operating Co., LLC v. Owens*, 574 U.S. 81, 135 S.Ct. 547, 551 (2014).

15. Plaintiffs, and the class they seek to represent, are citizens of the state of Georgia. *See Comp.*, ¶¶ 6, 23. FCA US, a limited liability company, is a citizen

of the State of Delaware under whose laws it was organized and the State of Michigan where its principal place of business is located. *Id.* at ¶ 9. Thus, the minimal diversity requirements of CAFA are satisfied. *See* 28 U.S.C. § 1332(d)(2)(A).

16. There are more than 100 putative class members. The putative class is defined in the Complaint to include “[a]ll Georgia residents who own or owned a Jeep Wrangler model year 2015-2018[,]” (Comp., ¶ 23), and there were more than 35,000 Class Vehicles sold in the state of Georgia.

17. The amount put into controversy by Plaintiffs vastly exceeds the sum or value of \$5,000,000, exclusive of interest or costs. Plaintiffs allege that the source of the alleged defect is the “stiff” design of the vehicles’ front axle (*id.* at ¶ 2), a component that (all by itself) costs approximately \$1,000.¹ Thus, measuring the amount-in-controversy by just the cost of the components that Plaintiffs claim are “defective” would place the amount-in-controversy at \$35 million (\$1,000 x 35,000 vehicles at issue = \$35 million).² Of course, Plaintiffs are seeking far more than this,

¹*See, e.g.*, https://www.moparpartsoverstock.com/p/Jeep_Wrangler/AXLE-FRONT/10709589/P5160036.html?partner=googlebase_adwords&kwd=&origin=pla&partnerDevice=c&userLocation=9022857&gclid=EAiaIQobChMIqYaXosHJ4wIVCJyzCh0wLwBIEAkYAyABEgJguvD_BwE.

²Indeed, given the substantial number of vehicles at issue, CAFA’s amount-in-controversy requirement would be satisfied if the total damages per vehicle were

including all repair costs (*e.g.*, labor charges and the cost of repairing other, related components), overpayment damages, diminished value damages, punitive damages, **“three times [their] total monetary damages”** under O.C.G.A. § 10-1-399(c), and a recall of all model-year 2015-2018 Jeep Wrangler vehicles. *See id.* at ¶¶ 4, 36-37, 39 & Wherefore Clause, pp. 10-11 (emphasis added). This confirms, beyond any doubt, that the requisite amount in controversy is easily satisfied here.

18. Because there is minimal diversity, greater than 100 putative class members, and the matter in controversy exceeds the sum of \$5,000,000, this Court has jurisdiction under 28 U.S.C. § 1332(d)(2).³

19. No statutory exception to CAFA jurisdiction applies in this case.

a mere \$142.86 per vehicle (\$142.86 x 35,000 vehicles at issue = \$5,000,100), even if Plaintiffs were not seeking to recover triple each class member’s actual damages (and they are).

³In *Dart Cherokee*, the Supreme Court made clear that a defendant who removes a case to federal court does not have to submit evidence proving that the amount-in-controversy requisite of CAFA jurisdiction is satisfied until and unless the plaintiff or the court challenges the defendant’s position, at which point “both sides submit proof and the court decides, by a preponderance of the evidence, whether the amount-in-controversy requirement has been satisfied.” 135 S.Ct. at 554. Here, FCA US stands ready and willing to provide declaratory proof of the amount in controversy if the Court deems it necessary.

III. REMOVAL IS PROPER AND TIMELY

20. This Notice of Removal is filed within thirty days of July 2, 2019, the date on which FCA US was first served with a summons and the Complaint. Thus, it is timely filed. *See* 18 U.S.C. § 1446(b)(1).

21. FCA US will promptly file a copy of this Notice of Removal with the clerk of the Superior Court of Forsyth County in the State of Georgia, and provide written notice of the removal to all counsel of record.

22. The United States District Court for the Northern District of Georgia embraces the county and court in which Plaintiffs filed this case. 28 U.S.C. § 84. Therefore, this action is properly removed to this Court pursuant to 28 U.S.C. § 1441(a).

WHEREFORE, the above described action now pending against FCA US LLC in the Superior Court of Forsyth County in the State of Georgia is removed to the United States District Court for the Northern District of Georgia.

Respectfully submitted, this 26th day of July, 2019.

CAROTHERS & MITCHELL, LLC

/s/ Thomas M. Mitchell

THOMAS M. MITCHELL
Georgia Bar No. 513597

Attorneys for Defendant FCA US LLC

1809 Buford Highway
Buford, GA 30518
(770) 932-3552
(770) 932-6348 FAX

CERTIFICATE OF SERVICE

This is to certify that I have this day electronically filed the foregoing with the Clerk of Court using the CM/ECF system, and sent a copy by regular U.S. Mail to the following:

Kevin E. Epps (Ga. Bar No. 785511)
Adam L. Hoipkemier (Ga. Bar No. 745811)
Epps Holloway DeLoach & Hoipkemier LLC
1220 Langford Dr., Bldg. 200
Watkinsville, GA 30677
Telephone: (706) 508-4000
Facsimile: (706) 842-6750

Attorneys for Plaintiff

Respectfully submitted, this 26th day of July, 2019.

CAROTHERS & MITCHELL, LLC

/s/ Thomas M. Mitchell

THOMAS M. MITCHELL
Georgia Bar No. 513597

Attorneys for Defendant FCA US LLC

1809 Buford Highway
Buford, GA 30518
(770) 932-3552
(770) 932-6348 FAX

EXHIBIT A

JUN 26, 2019 12:18 PM

Greg G. Allen

Greg G. Allen, Clerk
Forsyth County, Georgia

General Civil and Domestic Relations Case Filing Information Form

Superior or State Court of Forsyth County

For Clerk Use Only

Date Filed 06-26-2019 **Case Number** 19CV-1079-1
MM-DD-YYYY

Plaintiff(s)

Barrett, Gretta

Last	First	Middle I.	Suffix	Prefix
Barrett	John			

Barrett, John

Last	First	Middle I.	Suffix	Prefix

Last	First	Middle I.	Suffix	Prefix

Last	First	Middle I.	Suffix	Prefix

Plaintiff's Attorney Hoipkemier, Adam

Defendant(s)

FCA US, LLC

Last	First	Middle I.	Suffix	Prefix

Last	First	Middle I.	Suffix	Prefix

Last	First	Middle I.	Suffix	Prefix

Last	First	Middle I.	Suffix	Prefix

Bar Number 745811 **Self-Represented**

Check One Case Type in One Box

General Civil Cases

- Medical Malpractice Tort
- Product Liability Tort
- Automobile Tort
- General Tort
- Contract
- Real Property
- Civil Appeal
- Habeas Corpus
- Restraining Petition
- Injunction/Mandamus/Other Writ
- Garnishment
- Landlord/Tenant
- Other General Civil

Domestic Relations Cases

- Dissolution/Divorce/Separate Maintenance
- Paternity/Legitimation
- Support – IV-D
- Support – Private (non-IV-D)
- Adoption
- Family Violence Petition
- Other Domestic Relations

Post-Judgement – Check One Case Type

- Contempt
- Non-payment of child support, medical support, or alimony.
- Modification
- Administrative/Other

Check if the action is related to another action(s) pending or previously pending in this court involving some or all the same parties, subject matter, or factual issues. If so, provide a case number for each.

_____ **Case Number**

_____ **Case Number**

I hereby certify that the documents in this filing, including attachments and exhibits, satisfy the requirements for redaction of personal or confidential information in O.C.G.A. §9-11-7.1.

Is interpreter needed in this case? If so, provide the language(s) required. _____
Language(s) Needed

Do you or your client need any disability accommodations? If so, please describe the accommodation request.

**SUPERIOR COURT OF FORSYTH COUNTY
STATE OF GEORGIA**

FILED IN OFFICE
CLERK OF SUPERIOR COURT
FORSYTH COUNTY, GEORGIA
19CV-1079-1

JUN 26, 2019 12:18 PM



Greg G. Allen, Clerk
Forsyth County, Georgia

CIVIL ACTION NUMBER 19CV-1079-1

Barrett, Gretta
Barrett, John

PLAINTIFF

VS.

FCA US, LLC

DEFENDANT

SUMMONS

TO THE ABOVE NAMED DEFENDANT:

You are hereby summoned and required to file with the Clerk of said court and serve upon the Plaintiff's attorney, whose name and address is:

**Adam Hoipkemier
Epps, Holloway, DeLoach & Hoipkemier, LLC
1220 Langford Drive
Building 200-101
Watkinsville, Georgia 30677**

an answer to the complaint which is herewith served upon you, within 30 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint.

This 26th day of June, 2019.

Clerk of Superior Court



Greg G. Allen, Clerk
Forsyth County, Georgia

FILED IN OFFICE
CLERK OF SUPERIOR COURT
FORSYTH COUNTY, GEORGIA

SHERIFF'S ENTRY OF SERVICE

19CV-1079-1

JUL 02, 2019 10:45 AM

Civil Action No. 19CV-1079-1

Superior Court Magistrate Court
State Court Probate Court
Juvenile Court

Date Filed 06/26/19 12:18 PM

Georgia, FORSYTH COUNTY

Greg G. Allen, Clerk
Forsyth County, Georgia

Attorney's Address Hoipkemier, Adam
Epps, Holloway, DeLoach & Hoipkemier, LLC
1220 Langford Drive
Building 200-101
Watkinsville, Georgia 30677

Barrett, Gretta; Barrett, John

Plaintiff

VS.

FCA US, LLC

Defendant

Name and Address of Party to be Served.
FCA US, LLC

112 North Main Street

Cumming, Georgia 30040

Garnishee

SHERIFF'S ENTRY OF SERVICE

PERSONAL

I have this day served the defendant _____ personally with a copy of the within action and summons.

NOTORIOUS

I have this day served the defendant _____ by leaving a copy of the action and summons at his most notorious place of abode in this County.

Delivered same into hands of _____ described as follows: age, about _____ years; weight _____ pounds; height, about _____ feet and _____ inches, domiciled at the residence of defendant.

CORPORATION

Served the defendant Corporation company a corporation by leaving a copy of the within action and summons with Ashley Mashburn in charge of the office and place of doing business of said Corporation in the County.

TACK & MAIL

I have this day served the above styled affidavit and summons on the defendant(s) by posting a copy of the same to the door of the premises designated in said affidavit, and on the same day of such posting by depositing a true copy of the same in the United States Mail, first class in an envelope property address to the defendant(s) at the address shown in said summons, with adequate postage affixed thereon containing notice to the defendant(s) to answer said summons at the place stated in the summons.

NONEST

Diligent search made and defendant _____ not to be found in the jurisdiction of this court.

This 2 day of July, 2019

Z Devo
Deputy

CLALTI: R FORSYTH COUNTY SHERIFF'S OFFICE 06/27/2019 12:57:23

Civil Paper - CIVIL PAPER

CP24437

Civil ID 24437	Case ID	File/Docket # 19CV-1079-1
Officer SOTOR, N. C.	Location of Original Copy	Local #
PLAINTIFF NAME & ADDRESS BARRETT, GRETTA & JOHN		Court
		Court Date
Date Issued 06/26/2019		Date Received 06/27/2019
Disposition Active		Disposition Date 06/27/2019

VERSUS

DEFENDANT NAME & ADDRESS FCA US, LLC 112 N Main St Cumming, GA 30040	SERVE TO ADDRESS: Beat: N52 District: NRTH ReportArea: COM1 Neighbhd: SubDivsn:
Race / Sex / DOB	SSN
Employer Information	DEFENDANT NAME & ADDRESS
Home Phone	Work Phone
Alerts	Notes (for above Defendant)

SERVICE NOTES

FIRST ATTEMPT

Successful <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Date 7/2	Time 1000	Officer Demp	Who Served Ashley Mashburn
Where Served Serve To Address:			Comments (include new address)	

SECOND ATTEMPT

Successful <input type="checkbox"/> Yes <input type="checkbox"/> No	Date	Time	Officer	Who Served
Where Served			Comments (include new address)	

THIRD ATTEMPT

Successful <input type="checkbox"/> Yes <input type="checkbox"/> No	Date	Time	Officer	Who Served
Where Served			Comments (include new address)	

FILED IN OFFICE
CLERK OF SUPERIOR COURT
FORSYTH COUNTY, GEORGIA
19CV-1079-1

JUN 26, 2019 12:18 PM


Greg G. Allen, Clerk
Forsyth County, Georgia

**IN THE SUPERIOR COURT OF FORSYTH COUNTY
STATE OF GEORGIA**

JOHN BARRETT and GRETTA BARRETT,)
on behalf of themselves and all others)
similarly situated,)
)
Plaintiffs,)
)
v.)
)
FCA US, LLC,)
)
Defendant.)

Civil Action
File No. _____

JURY TRIAL DEMANDED

CLASS ACTION COMPLAINT

Plaintiffs John Barrett and Gretta Barrett (“Plaintiffs”) bring this action against Defendant FCA US, LLC (“Defendant” or “FCA”) on behalf of themselves and all others similarly situated, showing as follows:

SUMMARY OF THE CASE

1.

This is a class action brought by Plaintiffs on behalf of themselves and a class of Georgia residents who currently or formerly owned model year 2015-2018 Jeep Wrangler vehicles (“Jeep Vehicles”). Jeep Vehicles have an unreasonable propensity to develop heavy shaking and dangerous oscillations of the steering components at highway speeds. This defect has become colloquially known on various internet forums dedicated to discussion of Jeeps and other vehicles as the “Death Wobble.” *E.g., Jeep Death Wobble: Explanation & Fixes*, available at: <https://www.extremeterrain.com/wrangler-jeep-death-wobble.html> (last visited June 19, 2019).

2.

Plaintiffs' Jeep has the "Death Wobble" defect. FCA failed to warn Plaintiffs and the proposed Georgia Class about the "Death Wobble" defect, despite FCA being on prior notice of Jeep Wrangler's propensity to experience the defect due to its stiff front axle. FCA has been unable to repair Plaintiffs' defective Jeep despite numerous attempts and has refused Plaintiffs' demand to repurchase the Jeep in violation of O.C.G.A. § 10-1-784.

3.

FCA misrepresented the standard, quality and grade of the Jeep Vehicles and knowingly, actively, and affirmatively omitted and/or concealed the existence of the "Death Wobble." The problem could have, and should have, been disclosed at the time of purchase so Plaintiffs and the Class members could make an informed decision about whether to purchase a Jeep Vehicle and, if so, how much they were willing to pay for such a vehicle containing such a defect

4.

As a direct result of FCA's wrongful conduct, Plaintiffs and members of the Georgia Class have been harmed and are entitled to actual damages, including damages for the benefit of the bargain they struck when purchasing their vehicles, the diminished value of their vehicles, attorneys' fees, costs, restitution, and injunctive and declaratory relief.

VENUE AND JURISDICTION

5.

FCA US, LLC can be served with process on its registered agent, The Corporation Company, 112 North Main Street, Cumming, Georgia 30040.

6.

Venue and jurisdiction are proper in this Court because FCA's registered office is located in Forsyth County, because FCA conducts extensive business throughout Georgia including in Forsyth County, and because Plaintiffs' and the Georgia Class's injuries arose from FCA's business activities in Georgia.

7.

Prior to discovery, Plaintiffs do not have access to Jeep Wrangler sales figures in Georgia to ascertain the size of the proposed Georgia Class or precisely estimate class-wide damages. Based on reasonable extrapolations from publicly available information regarding Jeep Wrangler nationwide sales, however, Plaintiffs currently believes that the damages suffered by the proposed Georgia Class are less than \$5,000,000.

FACTUAL BACKGROUND

8.

FCA designs, manufactures, markets, and sells Jeep Wranglers throughout Georgia. FCA sells Jeep Wranglers in Georgia through a network of authorized dealerships, including Hayes Dodge Chrysler Jeep in Athens, Georgia (the "Jeep Dealership").

9.

In July 2012, California Congressional Representatives Henry Waxman and Anna Eshoo wrote a letter to FCA urging it to launch a campaign informing its customers that the Jeeps they own could suffer from a safety risk called the "Death Wobble."

10.

The lawmakers wrote that they "believe[d] Chrysler should undertake an outreach campaign to its customers, such as a Customer Satisfaction Campaign, to notify Jeep owners of

the risk of the ‘wobble’ condition, also described as a ‘vibration’ or ‘shimmy,’ and the possible methods for repairing and preventing the problem,” and to “advise customers how to stop the wobble if they experience it while driving.”¹

11.

In response, in August 2012, FCA issued a technical service bulletin to its dealerships acknowledging the an issues with Jeep’s steering and suspension components and outlining just what dealers should be looking for when someone comes in complaining of front end shaking, including a detailed inspection of the steering controls and components as well as the tires. However, FCA would not agree to pay for any such repairs for vehicles outside of the factory warranty period.

12.

Plaintiffs own a 2018 Jeep Wrangler, VIN # 1C4HJXDGXJW128552, purchased at the Jeep Dealership in March 2018 for \$41,817.18.

13.

On January 8, 2019, Plaintiffs sent the Jeep Dealership a “Final Repair Opportunity Notice” pursuant to the Georgia Lemon Law, O.C.G.A. § 10-1-784(a)(2).

14.

Over the next year, the Jeep Dealership attempted to repair the defects. Each time, the defects reemerged a short time after the Jeep Dealership attempted repairs.

15.

On April 5, 2019, counsel sent a letter to the Jeep Manufacturer Customer Center again demanding that FCA repair the vehicle.

¹ <https://thehill.com/blogs/floor-action/house/236483-dems-press-chrysler-to-helpits-customers-fix-jeep-death-wobble>

16.

FCA coordinated with the Jeep Dealership to again attempt a repair of the vehicle on April 12, 2019.

17.

The vehicle continued to experience heavy, uncontrolled shaking of the steering wheel and the vehicle following the attempted repair, along with electrical failures with the cruise control and check engine light.

18.

On May 28, 2019, Plaintiffs' counsel demanded that FCA repurchase the vehicle due to its inability to repair the defects.

19.

FCA failed to repurchase the vehicle within the statutory 20-day period provided by O.C.G.A. § 10-1-784.

20.

According to Autoweek Magazine, FCA has blamed the wobble on "poorly installed or maintained aftermarket equipment, damaged or worn steering components and incorrect tire pressure." <https://autoweek.com/article/technology/autoweek-explains-what-death-wobble> (last visited June 19, 2019).

21.

Plaintiffs' Jeep is not installed with any aftermarket equipment and does not have damaged or worn steering components or incorrect tire pressure.

CLASS ALLEGATIONS

22.

Plaintiffs assert claims on behalf of themselves and a class of similarly-situated persons pursuant to Federal Rule 23.

23.

Plaintiffs currently propose the following class:

Georgia Class:

All Georgia residents who own or owned a Jeep Wrangler model year 2015-2018.

24.

Plaintiffs reserve the right to revise this class definition.

25.

Plaintiffs propose certification of all issues, while reserving the right to alternatively seek certification as to any specific claim or issue.

26.

Plaintiffs would serve as the class representatives.

27.

Plaintiffs satisfy the requirements of Federal Rule 23:

- a. Numerosity: The class is so numerous and geographically dispersed that joinder is impracticable. The Jeep Wrangler is one of the most popular vehicles in the United States. Between 2015 and 2018, FCA sold more than 800,000 Jeep Wranglers nationwide.
- b. Commonality – There are numerous common questions of law and fact, including but not limited to the following:

- i. Whether the “Death Wobble” constitutes a safety defect.
 - ii. Whether and when FCA knew that it failed to make required disclosures relating to the “Death Wobble” defect.
 - iii. Whether FCA failed to warn Plaintiffs and Georgia Class members of the “Death Wobble” defect.
 - iv. Whether FCA owed Plaintiffs and Georgia Class members a duty to disclose the “Death Wobble” defect.
 - v. Whether Plaintiffs and the Georgia Class members are entitled to restitution or damages, and in what amount.
 - vi. Whether Plaintiffs and Georgia Class members are entitled to equitable relief and if so, the nature of the relief.
- c. Typicality – Plaintiffs’ claims are typical of the classes’ claims. Upon information and belief, the “Death Wobble” defect impacted Plaintiffs’ Jeep in the same manner that it impacted the Jeep Vehicles owned by the rest of the class.
- d. Adequacy – Plaintiffs would adequately protect the class’s interests. Plaintiffs have a genuine interest in protecting the rights of the class and Plaintiffs’ counsel are experienced in handling complex class actions. Indeed, Plaintiffs’ counsel has been designated and approved as class counsel in numerous state and federal courts.
- e. Predominance – The answers to the common questions in this case will decide liability for the entire class. If Plaintiffs establish that FCA’s manufacturing, marketing, and disclosures related to “Death Wobble Defect” in the Jeep Vehicles violated FCA’s duties to Plaintiff, it will establish liability for all Class members, without the need for any additional proof as to liability. Thus, common issues predominate over individual issues.

- f. Superiority – A class action is superior to other available remedies. The common questions would predominate over any individual questions, and thus no other form of litigation could be superior to a class action. Further, because of the low dollar amounts at stake for each class member, a class action is the only way for Plaintiffs and other Georgia Class members to obtain redress. Moreover, the most efficient way to resolve the class’s claims is for a court to decide all claims in a single class. Requiring Georgia Class members to individually litigate their claims over and over again in various courts would be vastly inefficient. It also raises the possibility of inconsistent judgments or conflicting declaratory and injunctive relief.
- g. Declaratory and Injunctive Relief – FCA has acted or failed to act on grounds generally applicable to Plaintiff and the Georgia Class making appropriate injunctive and declaratory relief with respect to the Georgia Class.

COUNT I: BREACH OF EXPRESS AND IMPLIED WARRANTIES

28.

FCA impliedly warranted to Plaintiff and the Georgia Class that their Jeep Vehicles were free of defects, merchantable, and fit for their ordinary purpose.

29.

FCA breached the implied warranty of merchantability and fitness for a particular purpose because the Jeep Vehicles suffer from the “Death Wobble” defect when operated at normal highway speeds.

30.

After Plaintiffs experienced the “Death Wobble” on numerous occasions and returned the vehicle to the Jeep Dealership on separate occasions, as well as sending letters to FCA pursuant to

the Georgia Lemon Law.

31.

The Jeep Vehicles and the component parts affected by the “Death Wobble” are covered by warranties FCA provided to all purchasers and lessors of the Jeep Vehicles.

32.

FCA breached these warranties by refusing or failing to remedy the “Death Wobble” defect during the applicable warranty periods.

33.

FCA’s attempt to disclaim or limit these warranties are unconscionable and unenforceable under the facts and circumstances of the case.

34.

As a direct and proximate cause of Defendant’s breach, Plaintiffs and the Georgia Class bought or leased the Jeep Vehicles they otherwise would not have, overpaid for their vehicles, did not receive the benefit of their bargain, and the Jeep Vehicles suffered a diminution in value.

COUNT II: VIOLATION OF GEORGIA FAIR BUSINESS PRACTICES ACT

35.

FCA’s knew about the Jeep’s “Death Wobble” at all material times yet failed to adequately disclose and warn Plaintiffs and the Georgia Class about the defect. FCA’s conduct constitutes an unfair and deceptive practice in violation of the Georgia Fair Business Practices Act, O.C.G.A. § 10-1-393(a).

36.

Plaintiffs gave FCA more than thirty days notice of the defects with her Jeep and offered FCA the opportunity to repair the defects or repurchase the vehicle. FCA failed to do so.

FCA intentional engaged in the unfair and deceptive practices alleged in the Complaint, as evidenced by FCA's continuing failure to disclose the "Death Wobble" defect to consumers despite notice and knowledge of the defect, entitling Plaintiffs and the Georgia Class to three times their monetary damages pursuant to O.C.G.A. § 10-1-399(c).

37.

Plaintiffs and the Georgia Class are entitled to injunctive and monetary relief, including exemplary damages, based on FCA's violations of the Georgia Fair Business Practices Act.

COUNT III: ATTORNEY'S FEES AND EXPENSES OF LITIGATION

38.

FCA has acted in bad faith, been stubbornly litigious, and put Plaintiffs to unnecessary trouble and expense by failing to properly repair the defects or repurchase their Jeep.

39.

Plaintiffs are entitled to recover their expenses of litigation, including reasonable attorneys' fees, from FCA pursuant to O.C.G.A. § 13-6-11.

WHEREFORE, Plaintiffs respectfully request that the Court enter judgment in favor of Plaintiffs and the Georgia and award the following relief:

- a. Certify this action as a class action pursuant to Federal Rule 23, including certifying Plaintiffs as class representative and undersigned counsel as class counsel;
- b. Grant judgment as a matter of law in favor of Plaintiffs and the Georgia Class on any or all issues or, in the alternative, hold a jury trial to decide any disputed fact questions;
- c. Award Plaintiffs and the Georgia Class restitution and any damages they

are entitled to, including but not limited to statutory damages and penalties, punitive damages, attorney fees, pre-judgment interest, post-judgment interest, and costs;

- d. Permanently enjoin FCA from continuing the unlawful practices set forth here and enter appropriate injunctive and declaratory relief, including an order that FCA recall the Jeep Vehicles, extend the applicable warranties, and repair the “Death Wobble” defect;
- e. And order any other relief as the Court may deem proper and just.

This 26th day of June, 2019.

**EPPS HOLLOWAY DELOACH
& HOIPKEMIER LLC**

/s/ Adam L. Hoipkemier

Kevin E. Epps (Ga. Bar No. 785511)

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JS44 (Rev. 6/2017 NDGA)

CIVIL COVER SHEET

The JS44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form is required for the use of the Clerk of Court for the purpose of initiating the civil docket record. (SEE INSTRUCTIONS ATTACHED)

I. (a) PLAINTIFF(S)

John Barrett and Gretta Barrett, on behalf of themselves and all others similarly situated

DEFENDANT(S)

FCA US LLC

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF Oconee
(EXCEPT IN U.S. PLAINTIFF CASES)

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT Forsyth
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED

(c) ATTORNEYS (FIRM NAME, ADDRESS, TELEPHONE NUMBER, AND E-MAIL ADDRESS)

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ATTORNEYS (IF KNOWN)

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II. BASIS OF JURISDICTION

(PLACE AN "X" IN ONE BOX ONLY)

- 1 U.S. GOVERNMENT PLAINTIFF
- 2 U.S. GOVERNMENT DEFENDANT
- 3 FEDERAL QUESTION (U.S. GOVERNMENT NOT A PARTY)
- 4 DIVERSITY (INDICATE CITIZENSHIP OF PARTIES IN ITEM III)

III. CITIZENSHIP OF PRINCIPAL PARTIES

(PLACE AN "X" IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)
(FOR DIVERSITY CASES ONLY)

- | | | | | | |
|---------------------------------------|----------------------------|---|----------------------------|---------------------------------------|---|
| PLF | DEF | | PLF | DEF | |
| <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | CITIZEN OF THIS STATE | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 | INCORPORATED OR PRINCIPAL PLACE OF BUSINESS IN THIS STATE |
| <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | CITIZEN OF ANOTHER STATE | <input type="checkbox"/> 5 | <input checked="" type="checkbox"/> 5 | INCORPORATED AND PRINCIPAL PLACE OF BUSINESS IN ANOTHER STATE |
| <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | CITIZEN OR SUBJECT OF A FOREIGN COUNTRY | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 | FOREIGN NATION |

IV. ORIGIN (PLACE AN "X" IN ONE BOX ONLY)

- 1 ORIGINAL PROCEEDING
- 2 REMOVED FROM STATE COURT
- 3 REMANDED FROM APPELLATE COURT
- 4 REINSTATED OR REOPENED
- 5 TRANSFERRED FROM ANOTHER DISTRICT (Specify District)
- 6 MULTIDISTRICT LITIGATION - TRANSFER
- 7 APPEAL TO DISTRICT JUDGE FROM MAGISTRATE JUDGE JUDGMENT
- 8 MULTIDISTRICT LITIGATION - DIRECT FILE

V. CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE - DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY)

Putative class action, breach of warranty, and Georgia Fair Business Practices Act; Class Action Fairness Act.

(IF COMPLEX, CHECK REASON BELOW)

- 1. Unusually large number of parties.
- 2. Unusually large number of claims or defenses.
- 3. Factual issues are exceptionally complex
- 4. Greater than normal volume of evidence.
- 5. Extended discovery period is needed.
- 6. Problems locating or preserving evidence
- 7. Pending parallel investigations or actions by government.
- 8. Multiple use of experts.
- 9. Need for discovery outside United States boundaries.
- 10. Existence of highly technical issues and proof.

CONTINUED ON REVERSE

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT \$ _____ APPLYING IFP _____ MAG. JUDGE (IFP) _____
 JUDGE _____ MAG. JUDGE _____ NATURE OF SUIT _____ CAUSE OF ACTION _____
 (Referral)

VI. NATURE OF SUIT (PLACE AN "X" IN ONE BOX ONLY)

CONTRACT - "0" MONTHS DISCOVERY TRACK

- 150 RECOVERY OF OVERPAYMENT & ENFORCEMENT OF JUDGMENT
- 152 RECOVERY OF DEFAULTED STUDENT LOANS (Excl. Veterans)
- 153 RECOVERY OF OVERPAYMENT OF VETERAN'S BENEFITS

CONTRACT - "4" MONTHS DISCOVERY TRACK

- 110 INSURANCE
- 120 MARINE
- 130 MILLER ACT
- 140 NEGOTIABLE INSTRUMENT
- 151 MEDICARE ACT
- 160 STOCKHOLDERS' SUITS
- 190 OTHER CONTRACT
- 195 CONTRACT PRODUCT LIABILITY
- 196 FRANCHISE

REAL PROPERTY - "4" MONTHS DISCOVERY TRACK

- 210 LAND CONDEMNATION
- 220 FORECLOSURE
- 230 RENT LEASE & EJECTMENT
- 240 TORTS TO LAND
- 245 TORT PRODUCT LIABILITY
- 290 ALL OTHER REAL PROPERTY

TORTS - PERSONAL INJURY - "4" MONTHS DISCOVERY TRACK

- 310 AIRPLANE
- 315 AIRPLANE PRODUCT LIABILITY
- 320 ASSAULT, LIBEL & SLANDER
- 330 FEDERAL EMPLOYERS' LIABILITY
- 340 MARINE
- 345 MARINE PRODUCT LIABILITY
- 350 MOTOR VEHICLE
- 355 MOTOR VEHICLE PRODUCT LIABILITY
- 360 OTHER PERSONAL INJURY
- 362 PERSONAL INJURY - MEDICAL MALPRACTICE
- 365 PERSONAL INJURY - PRODUCT LIABILITY
- 367 PERSONAL INJURY - HEALTH CARE/ PHARMACEUTICAL PRODUCT LIABILITY
- 368 ASBESTOS PERSONAL INJURY PRODUCT LIABILITY

TORTS - PERSONAL PROPERTY - "4" MONTHS DISCOVERY TRACK

- 370 OTHER FRAUD
- 371 TRUTH IN LENDING
- 380 OTHER PERSONAL PROPERTY DAMAGE
- 385 PROPERTY DAMAGE PRODUCT LIABILITY

BANKRUPTCY - "0" MONTHS DISCOVERY TRACK

- 422 APPEAL 28 USC 158
- 423 WITHDRAWAL 28 USC 157

CIVIL RIGHTS - "4" MONTHS DISCOVERY TRACK

- 440 OTHER CIVIL RIGHTS
- 441 VOTING
- 442 EMPLOYMENT
- 443 HOUSING/ ACCOMMODATIONS
- 445 AMERICANS with DISABILITIES - Employment
- 446 AMERICANS with DISABILITIES - Other
- 448 EDUCATION

IMMIGRATION - "0" MONTHS DISCOVERY TRACK

- 462 NATURALIZATION APPLICATION
- 465 OTHER IMMIGRATION ACTIONS

PRISONER PETITIONS - "0" MONTHS DISCOVERY TRACK

- 463 HABEAS CORPUS- Alien Detainee
- 510 MOTIONS TO VACATE SENTENCE
- 530 HABEAS CORPUS
- 535 HABEAS CORPUS DEATH PENALTY
- 540 MANDAMUS & OTHER
- 550 CIVIL RIGHTS - Filed Pro se
- 555 PRISON CONDITION(S) - Filed Pro se
- 560 CIVIL DETAINEE: CONDITIONS OF CONFINEMENT

PRISONER PETITIONS - "4" MONTHS DISCOVERY TRACK

- 550 CIVIL RIGHTS - Filed by Counsel
- 555 PRISON CONDITION(S) - Filed by Counsel

FORFEITURE/PENALTY - "4" MONTHS DISCOVERY TRACK

- 625 DRUG RELATED SEIZURE OF PROPERTY 21 USC 881
- 690 OTHER

LABOR - "4" MONTHS DISCOVERY TRACK

- 710 FAIR LABOR STANDARDS ACT
- 720 LABOR MGMT. RELATIONS
- 740 RAILWAY LABOR ACT
- 751 FAMILY and MEDICAL LEAVE ACT
- 790 OTHER LABOR LITIGATION
- 791 EMPL. RET. INC. SECURITY ACT

PROPERTY RIGHTS - "4" MONTHS DISCOVERY TRACK

- 820 COPYRIGHTS
- 840 TRADEMARK

PROPERTY RIGHTS - "8" MONTHS DISCOVERY TRACK

- 830 PATENT
- 835 PATENT-ABBREVIATED NEW DRUG APPLICATIONS (ANDA) - a/k/a Hatch-Waxman cases

SOCIAL SECURITY - "0" MONTHS DISCOVERY TRACK

- 861 HIA (1395ff)
- 862 BLACK LUNG (923)
- 863 DIWC (405(g))
- 863 DIJW (405(g))
- 864 SSID TITLE XVI
- 865 RSI (405(g))

FEDERAL TAX SUITS - "4" MONTHS DISCOVERY TRACK

- 870 TAXES (U.S. Plaintiff or Defendant)
- 871 IRS - THIRD PARTY 26 USC 7609

OTHER STATUTES - "4" MONTHS DISCOVERY TRACK

- 375 FALSE CLAIMS ACT
- 376 Qui Tam 31 USC 3729(a)
- 400 STATE REAPPORTIONMENT
- 430 BANKS AND BANKING
- 450 COMMERCE/ICC RATES/ETC.
- 460 DEPORTATION
- 470 RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS
- 480 CONSUMER CREDIT
- 490 CABLE/SATELLITE TV
- 890 OTHER STATUTORY ACTIONS
- 891 AGRICULTURAL ACTS
- 893 ENVIRONMENTAL MATTERS
- 895 FREEDOM OF INFORMATION ACT
- 899 ADMINISTRATIVE PROCEDURES ACT / REVIEW OR APPEAL OF AGENCY DECISION
- 950 CONSTITUTIONALITY OF STATE STATUTES

OTHER STATUTES - "8" MONTHS DISCOVERY TRACK

- 410 ANITRUST
- 850 SECURITIES / COMMODITIES / EXCHANGE

OTHER STATUTES - "0" MONTHS DISCOVERY TRACK

- 896 ARBITRATION (Confirm / Vacate / Order / Modify)

*** PLEASE NOTE DISCOVERY TRACK FOR EACH CASE TYPE. SEE LOCAL RULE 26.3**

VII. REQUESTED IN COMPLAINT:

CHECK IF CLASS ACTION UNDER F.R.Civ.P. 23 DEMAND \$ _____

JURY DEMAND YES NO (CHECK YES ONLY IF DEMANDED IN COMPLAINT)

VIII. RELATED/REFILED CASE(S) IF ANY

JUDGE _____ DOCKET NO. _____

CIVIL CASES ARE DEEMED RELATED IF THE PENDING CASE INVOLVES: (CHECK APPROPRIATE BOX)

- 1. PROPERTY INCLUDED IN AN EARLIER NUMBERED PENDING SUIT.
- 2. SAME ISSUE OF FACT OR ARISES OUT OF THE SAME EVENT OR TRANSACTION INCLUDED IN AN EARLIER NUMBERED PENDING SUIT.
- 3. VALIDITY OR INFRINGEMENT OF THE SAME PATENT, COPYRIGHT OR TRADEMARK INCLUDED IN AN EARLIER NUMBERED PENDING SUIT.
- 4. APPEALS ARISING OUT OF THE SAME BANKRUPTCY CASE AND ANY CASE RELATED THERETO WHICH HAVE BEEN DECIDED BY THE SAME BANKRUPTCY JUDGE.
- 5. REPETITIVE CASES FILED BY PRO SE LITIGANTS.
- 6. COMPANION OR RELATED CASE TO CASE(S) BEING SIMULTANEOUSLY FILED (INCLUDE ABBREVIATED STYLE OF OTHER CASE(S)):

7. EITHER SAME OR ALL OF THE PARTIES AND ISSUES IN THIS CASE WERE PREVIOUSLY INVOLVED IN CASE NO. _____, WHICH WAS DISMISSED. This case IS IS NOT (check one box) SUBSTANTIALLY THE SAME CASE.

SIGNATURE OF ATTORNEY OF RECORD

DATE

7/26/2019

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [FCA Facing Class Action Over Alleged Jeep Wrangler 'Death Wobble'](#)
