

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TENNESSEE
SOUTHERN DIVISION**

TH CHIRO, PLLC,

Plaintiff,

**JAGUAR LAND ROVER NORTH
AMERICA, LLC,**

Defendant.

Civil Action No. 1:20-cv-00156

(Removed from Hamilton County Chancery
Court, Case No. 20-0305)

NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, Defendant Jaguar Land Rover North America, LLC (“JLRNA”) hereby invokes this Court’s subject matter jurisdiction and removes the state court action described below from the Chancery Court of Hamilton County, Tennessee, Case No. 20-0305, to the United States District Court for the Eastern District of Tennessee, Southern Division. The basis for removal is as follows:

STATEMENT OF JURISDICTION

1. This is a civil action over which this Court has original jurisdiction under 28 U.S.C. § 1332 and is one which therefore may be removed to this Court under 28 U.S.C. §§ 1441, 1446, and 1453, as discussed in more detail below.

BASES FOR DIVERSITY AND REMOVAL

2. On May 7, 2020, TH Chiro, PLLC (“TH Chiro” or “Plaintiff”), individually and on behalf of all others similarly situated filed a lawsuit against JLRNA in the Chancery Court of Hamilton County, Tennessee, entitled: *TH CHIRO, PLLC, Plaintiff, vs. Jaguar Land Rover North America, LLC, Defendant*, Case Number 20-0305.

The Requirements of §§ 1441 and 1446 are Met

3. The Chancery Court of Hamilton County, Tennessee is located within the Eastern District of Tennessee, Southern Division. 28 U.S.C. § 123(a). This Notice of Removal is therefore properly filed with this Court pursuant to 28 U.S.C. § 1441(a).

4. Pursuant to 28 U.S.C. § 1446(a), true and correct copies of all process, pleadings, and orders served upon JLRNA, including the Complaint, are attached to this Notice of Removal as **Exhibit A**.

5. This Notice of Removal has been timely filed pursuant to 28 U.S.C. § 1446(b). On May 18, 2020, JLRNA's registered agent was served with the summons and Complaint. The date of this Notice of Removal, June 17, 2020, is within thirty days of receipt of the Complaint by this registered agent.

6. In accordance with 28 U.S.C. § 1446(d), copies of this Notice of Removal are being served upon counsel for Plaintiff and filed with the Clerk of the Chancery Court of Hamilton County, Tennessee, in the form of **Exhibit B**.

7. Pursuant to Local Rule 3.1, JLRNA attaches a completed Civil Cover Sheet (Form JS-44).

This Court has Original Jurisdiction over this Action

8. This Court has original jurisdiction because, as discussed further below, the parties are of diverse citizenship and the amount in controversy exceeds \$75,000. In addition, this Court has original jurisdiction pursuant to the Class Action Fairness Act ("CAFA"), Pub. L. 109-2, 119 Stat. 4 (2005), codified at 28 U.S.C. § 1332(d).

9. **Diversity of Citizenship.** Plaintiff is a professional limited liability company with its principal place of business in Hamilton County, Tennessee. Compl. ¶ 2. On information and belief, the sole member of TH Chiro, Lance Silverman, is a citizen of the State

of Tennessee. *Delay v. Rosenthal Collins Grp., LLC*, 585 F.3d 1003, 1005 (6th Cir. 2009) (“The general rule is that all unincorporated entities . . . have the citizenship of each partner or member.”); *see also Von Dunser v. Aronoff*, 915 F.2d 1071, 1072 (6th Cir. 1990) (“State citizenship for the purpose of the diversity requirement is equated with domicile.”). Plaintiff alleges that Defendant JLRNA is a limited liability company with its principal place of business located in Mahwah, New Jersey. Compl. ¶ 3. The sole member of JLRNA is Jaguar Land Rover Limited, a private limited company incorporated under the laws of England and Wales with its principal place of business in Coventry, United Kingdom. Because neither JLRNA nor its sole member is a citizen of the State of Tennessee, diversity of citizenship exists pursuant to 28 U.S.C. § 1332(a).

10. **Amount in Controversy.** Although JLRNA denies the claims alleged in Plaintiff’s Complaint and further denies that Plaintiff is entitled to an award of damages, injunctive relief or any other type of relief, the relief sought by Plaintiff exceeds the \$75,000 amount-in-controversy threshold under 28 U.S.C. § 1332(a) and the \$5,000,000 amount-in-controversy threshold under CAFA, 28 U.S.C. § 1332(d).

A. Plaintiff seeks damages in the form of a refund of the purchase price it paid for a 2017 model year Land Rover Discovery vehicle. See Compl. ¶ 120(I). Plaintiff also requests that the amount of any damages be trebled. See *id.* ¶¶ 103, 120(N); *see also* Tenn. Code Ann. § 47-18-109(a)(3) (authorizing treble damages under the Tennessee Consumer Protection Act). The average manufacturer suggested retail price of a 2017 model year Land Rover Discovery, like the one Plaintiff purchased, is approximately \$51,000.¹ Trebling this

¹ *See* Kelly Blue Book Official Guide, <https://www.kbb.com/land-rover/discovery/2017/#:~:text=The%202017%205%2Dpassenger%20Land,just%20under%20%2451%2C000%2C%20including%20destination> (last visited June 16, 2020).

amount—even after applying a credit to account for Plaintiff’s use of the vehicle, see Compl. ¶ 120(I)—easily would exceed the \$75,000 amount-in-controversy threshold under 28 U.S.C. § 1332(a). See *Rosen v. Chrysler Corp.*, 205 F.3d 918, 922 (6th Cir. 2000) (holding that “trebling” of statutory “damages alone potentially could exceed the . . . amount in controversy”). As a result, this amount-in-controversy is met.

B. Independently, the relief Plaintiff seeks on behalf of the putative class could easily exceed the amount-in-controversy threshold under CAFA. For this analysis, the relevant question is whether the claims of all the putative class members, in the aggregate, “exceed[] the sum or value of \$5,000,000.” 28 U.S.C. § 1332(d)(6). Enacted to expand federal diversity jurisdiction over purported class actions, the burden to invoke this statute is not meant to be onerous. 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, 89 (2014); *Spivey v. Vertrue, Inc.*, 528 F.3d 982, 986 (7th Cir. 2008) (explaining that a removing party need only “describ[e] how the controversy exceeds \$5 million” and that this represents a “pleading requirement”).

C. In this case, the Complaint seeks, among other things, “repurchase” or “refund” of “the purchase—after appropriate credit—of all class vehicles” that were supposedly damaged by what Plaintiff maintains is a “common” alleged defect. Compl. ¶¶ 27, 39, 120(I). The Complaint defines the putative class as consisting of all owners and lessees of 2017 model year Land Rover Discovery vehicles nationwide. *Id.* ¶ 49.

D. As set forth above, the average manufacturer suggested retail price of a 2017 model year Land Rover Discovery vehicle is approximately \$51,000.² Refunding the

² See Kelly Blue Book Official Guide, <https://www.kbb.com/land-rover/discovery/2017/#:~:text=The%202017%205%2Dpassenger%20Land,just%20under%20%>

purchase price of only 99 such vehicles would cause the amount in controversy to exceed \$5,000,000. In one month *alone*, approximately 845 model year 2017 Land Rover Discovery vehicles were sold in the United States.³ Refunding the purchase price of only these vehicles would cost approximately \$43,095,000. Extrapolating to months of sales, it is reasonable to infer that refunding the purchase price of all 2017 model year Land Rover Discovery vehicles that are supposedly affected by a common alleged defect would exceed the requisite \$5,000,000 threshold. *See Ibarra v. Manheim Invs., Inc.*, 775 F.3d 1193, 1198 (9th Cir. 2015) (“CAFA’s requirements are to be tested by consideration . . . using reasonable assumptions underlying the defendant’s theory of damages exposure.”).

E. On the other hand, there is no basis to infer that any “credit” for putative class members’ use of the vehicles would materially alter this calculation. Compl. ¶ 120(I). Focusing again on a subset of the putative class, the 845 model year 2017 Land Rover Discovery vehicles sold in a single month would have to be worth today no more than \$5,917.15 in order for the amount in controversy to fall below the \$5 million threshold. In other words, the use of these vehicles by a subset of the putative class, over the course of only 3 years, would have had to have caused the vehicles to lose approximately 88.4% of their value. There is no basis to assume that such a devaluation has occurred. One third party, for example, currently estimates the value of a “used 2017 Land Rover Discovery” at between “\$22,504 to \$32,042, based on vehicle condition, mileage, and options.”⁴

[2451%2C000%2C%20including%20destination](#) (last visited June 16, 2020).

³ *See* Jaguar Land Rover Reports US Sales for June 2017, <https://media.jaguarlandrover.com/en-us/news/2017/07/jaguar-land-rover-reports-us-sales-june-2017> (last visited June 16, 2020).

⁴ Edmunds, 2017 Land Rover Discovery Value, <https://www.edmunds.com/land-rover/discovery/2017/appraisal-value/> (last visited June 16, 2020).

F. To be sure, Plaintiff’s Complaint also alleges that the “total damages” shall amount to \$3,000,000. Compl. ¶ 120(P). But this allegation fails to take into account the forms of relief other than damages that are issue in the Complaint—including attorneys’ fees and injunctive relief. In addition, to the extent this allegation represents an “attempt to limit damages” at issue, it “is not dispositive when determining the amount in controversy[,]” *Standard Fire Ins. Co. v. Knowles*, 568 U.S. 588, 591 (2013)—especially considering that Plaintiff admits that this amount is “subject to potential amendment” in the future. Compl. ¶ 120(P).

G. The additional relief Plaintiff seeks—*e.g.*, an injunction and attorneys’ fees, *see* Compl. ¶ 120—only reinforces the conclusion that the amount-in-controversy requirements of both 28 U.S.C. § 1332(a) and CAFA are met here. *See Heyman v. Lincoln Nat’l Life Ins. Co.*, 781 F. App’x 463, 473 (6th Cir. 2019) (“[A] reasonable fee to compensate attorneys for their work must also be included in the calculation of the relevant amount in controversy in the litigation.”). For example, to the extent that the injunctive relief sought by Plaintiff could be fashioned or enforced, both of which JLRNA contests, the cost of complying with such injunctive relief would be exorbitant. *See Hunt v. Washington State Apple Advert. Comm’n*, 432 U.S. 333, 347 (1977) (where the object of litigation is injunctive or other equitable relief, the “costs of compliance are properly considered in computing the amount in controversy”). At a minimum, the Complaint seeks injunctive relief:

- i. Requiring JLRNA to recall and repair the alleged defect in all 2017 model year Land Rover Discovery vehicles, Compl. ¶ 120(G);
- ii. Enjoining JLRNA from marking or distributing the allegedly defective vehicles, *id.* ¶ 120(K); and

iii. Requiring JLRNA to extend the warranties applicable to all 2017 model year Land Rover Discovery vehicles, *id.* ¶ 120(L).

H. In sum, the only reasonable inference is that the relief sought by (1) Plaintiff is in excess of the \$75,000 jurisdictional threshold set by 28 U.S.C. § 1332(a) and (2) the putative class is, in the aggregate, in excess of the \$5 million jurisdictional threshold set by 28 U.S.C. § 1332(d)(2).

11. In addition to the amount in controversy, CAFA's other requirements are satisfied. First, CAFA requires that the putative class's membership be no less than 100. *See* 28 U.S.C. § 1332(d)(5)(B). That is clearly satisfied here. Plaintiff brings this action on behalf of a "nationwide class of current or former owners or lessees of a 2017 Land Rover Discovery." Compl. ¶ 49. In June 2017 alone, approximately 845 model year 2017 Land Rover Discovery vehicles were sold in the United States.⁵ CAFA also requires that any one member of the purported class be a citizen of a state different from any defendant. *See* 28 U.S.C. § 1332(d)(2). This requirement is also satisfied here. On information and behalf, and as set forth above, Plaintiff is a citizen of the State of Tennessee. The sole member of JLRNA is Jaguar Land Rover Limited, a private limited company incorporated under the laws of England and Wales with its principal place of business in Coventry, United Kingdom. Thus, JLRNA is not a citizen of Tennessee, whereas Plaintiff is. *See id.* ¶ 2, 3, 5.

12. Based upon the foregoing, JLRNA respectfully submits: (i) that this Court has diversity jurisdiction under 28 U.S.C. §§ 1332, 1441, and 1453; and (ii) that the procedural

⁵ *See* Jaguar Land Rover Reports US Sales for June 2017, <https://media.jaguarlandrover.com/en-us/news/2017/07/jaguar-land-rover-reports-us-sales-june-2017> (last visited June 16, 2020).

requirements of 28 U.S.C. § 1446 are met. As such, this action is properly removable to federal court.

WHEREFORE, the above described action now pending against JLRNA in the Chancery Court of Hamilton County, Tennessee is removed to the United States District Court for the Eastern District of Tennessee, Southern Division.

Date: June 17, 2020

CHAMBLISS, BAHNER & STOPHEL, P.C.

By: s/ Catherine S. Dorvil

Catherine S. Dorvil, BPR #034060

Liberty Tower

605 Chestnut Street, Suite 1700

Chattanooga, TN 37450

Tel: 423-757-0240

Attorneys for Defendant Jaguar Land Rover North America, LLC

CERTIFICATE OF SERVICE

I do hereby certify that the foregoing **Notice of Removal** has been electronically filed. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. Parties may access this filing through the Court's electronic filing system. The following parties will be served by regular U.S. Mail and email with proper postage applied thereon to ensure prompt delivery:

Stephen S. Duggins
8052 Standifer Gap Road, Suite B
Chattanooga, TN 37421
Tel: 423-635-7113
Steve@stevedugginslaw.com

Attorney for Plaintiff

This 17th day of June, 2020.

CHAMBLISS, BAHNER & STOPHEL, P.C.

By: s/ Catherine S. Dorvil

EXHIBIT A

<u>Hamilton</u> County Chancery Court	STATE OF TENNESSEE CIVIL SUMMONS page 1 of 1	Case Number <u>20-0305</u>
<u>TH CHIRO, PLLC,</u> Vs. <u>JAGUAR LAND ROVER NORTH AMERICA, LLC,</u>		

Served On:

Jaguar Land Rover North America, LLC Jaguar Land Rover North America, LLC c/o Registered Agent Corporation Service Company
Princeton South Corporate CTR, STE 160, 100 Charles Ewing Blvd, Ewing, NJ 08628

You are hereby summoned to defend a civil action filed against you in Chancery Court, Hamilton County, Tennessee. Your defense must be made within thirty (30) days from the date this summons is served upon you. You are directed to file your defense with the clerk of the court and send a copy to the plaintiff's attorney at the address listed below. If you fail to defend this action by the below date, judgment by default may be rendered against you for the relief sought in the complaint.

Issued: May 7, 2020 **ROBIN L. MILLER, C&M**
Angela Poole
Clerk / Deputy Clerk

Attorney for Plaintiff: Stephen S. Duggins, 8052 Standifer Gap Rd, Suite B, Chattanooga, TN 37421 BPR 13222; (423) 635-7113 *Ag Duggins*

NOTICE OF PERSONAL PROPERTY EXEMPTION

TO THE DEFENDANT(S): Tennessee law provides a ten thousand dollar (\$10,000) personal property exemption as well as a homestead exemption from execution or seizure to satisfy a judgment. The amount of the homestead exemption depends upon your age and the other factors which are listed in TCA § 26-2-301. If a judgment should be entered against you in this action and you wish to claim property as exempt, you must file a written list, under oath, of the items you wish to claim as exempt with the clerk of the court. The list may be filed at any time and may be changed by you thereafter as necessary; however, unless it is filed before the judgment becomes final, it will not be effective as to any execution or garnishment issued prior to the filing of the list. Certain items are automatically exempt by law and do not need to be listed; these include items of necessary wearing apparel (clothing) for your self and your family and trunks or other receptacles necessary to contain such apparel, family portraits, the family Bible, and school books. Should any of these items be seized you would have the right to recover them. If you do not understand your exemption right or how to exercise it, you may wish to seek the counsel of a lawyer. Please state file number on list.

Mail list to Hon. Robin Miller, Clerk & Masters Office, Hamilton County
500 Courthouse, 625 Georgia Ave., Chattanooga, TN 37402

A TRUE COPY
ROBIN L. MILLER, Clerk & Master
Chancery Court, Hamilton County, Tennessee

CERTIFICATION (IF APPLICABLE)

This 7 day of May, 2020
By: Angela Poole DC&M

I, _____, Clerk of _____ County do certify this to be a true and correct copy of the original summons issued in this case.

Date: _____
Clerk / Deputy Clerk

OFFICER'S RETURN: Please execute this summons and make your return within ninety (90) days of issuance as provided by law.

I certify that I have served this summons together with the complaint as follows: _____

Date: _____ By: _____
Officer, Title

RETURN ON SERVICE OF SUMMONS BY MAIL: I hereby certify and return that on _____, I sent postage prepaid, by registered return receipt mail or certified return receipt mail, a certified copy of the summons and a copy of the complaint in the above styled case, to the defendant _____. On _____ I received the return receipt, which had been signed by _____ on _____. The return receipt is attached to this original summons to be filed by the Court Clerk.

Date: _____
Notary Public / Deputy Clerk (Comm. Expires _____)

Signature of Plaintiff _____
Plaintiff's Attorney (or Person Authorized to Serve Process)
(Attach return receipt on back)

ADA: If you need assistance or accommodations because of a disability, please call, ADA Coordinator, at (423).209-6700

IN THE CHANCERY COURT OF HAMILTON COUNTY, TENNESSEE

TH CHIRO, PLLC,)
)
 Plaintiff,)
)
 v.)
)
 JAGUAR LAND ROVER NORTH)
 AMERICA, LLC,)
)
 Defendant.)

Case No. 20-0305
Part _____

COMPLAINT

Plaintiff TH Chiro, PLLC (“TH Chiro”), individually and on behalf of all others similarly situated (the “Class Members”), states the following as its complaint against Defendant Jaguar Land Rover North America, LLC (“Land Rover”).

INTRODUCTION AND NATURE OF ACTION

1. This action arises out of a windshield defect in the 2017 Land Rover Discovery, a common characteristic in that particular vehicle. Plaintiff asserts claims for fraud, consumer protection act violations, breach of duty of good faith, and breach of warranty. Plaintiff brings this action on behalf of itself and on behalf of a similarly situated class of current and former owners and lessees of a 2017 Land Rover Discovery. Plaintiff further reserves the right to amend this complaint to expand the class to include other year models of the Land Rover Discovery.

PARTIES, JURISDICTION, AND VENUE

2. TH Chiro is a Tennessee professional limited liability company with its principal place of business located in Hamilton County, Tennessee.

3. Land Rover is a limited liability company with its principal place of business located in Mahwah, New Jersey.

4. Land Rover is an automobile marketing and distribution company which markets and distributes automobiles throughout the world under the Land Rover brand or mark.

5. Upon information and belief, Land Rover is a subsidiary of Defendant Land Rover PLC, a United Kingdom public limited company, which, upon information and belief, is a subsidiary of Tata Motors, a company based in India.

6. This Court has subject matter jurisdiction over this case because this case involves claims for fraud, consumer protection act violations, breach of duty of good faith, and breach of warranty.

7. This Court has personal jurisdiction over Land Rover because Land Rover regularly markets and distributes Land Rover vehicles—and other vehicles—in Hamilton County, Tennessee as well as throughout the world.

8. Venue is proper in this Court because TH Chiro entered the pertinent contract and purchased the vehicle at issue in Hamilton County, Tennessee, because Land Rover can be found in Hamilton County, Tennessee, and because TH Chiro's causes of action arose in Hamilton County, Tennessee.

FACTUAL BACKGROUND

9. Land Rover is a manufacturer of passenger automobiles.

10. Land Rover distributes its vehicles in the State of Tennessee, throughout the United States, and beyond.

11. Land Rover uses a network of automobile dealerships throughout the United States to sell its vehicles in the United States.

12. Among numerous other dealerships in contractual relationships with Land Rover, Land Rover has a contractual relationship with a Land Rover dealership in Hamilton County, Tennessee known as Jaguar Land Rover Porsche of Chattanooga.

13. Land Rover regularly supplies and distributes Land Rover vehicles and other vehicles to dealerships throughout the United States.

14. Land Rover regularly supplies and distributes Land Rover vehicles and other vehicles to Jaguar Land Rover Porsche of Chattanooga.

15. On or about November 20, 2017, TH Chiro Purchased a new 2017 Land Rover Discovery (the "Discovery") from Jaguar Land Rover Porsche of Chattanooga.

16. Land Rover manufactured the Discovery.

17. Land Rover supplied the Discovery to Jaguar Land Rover Porsche of Chattanooga.

18. The Discovery was purported to be a high-end luxury vehicle.

19. Shortly before December 5, 2019, the Discovery suffered a major water breach around its windshield.

20. The water breach occurred as a result of a defect in or around the Discovery's windshield.

21. The water breach resulted in a destruction of the computer system in or controlling the Discovery's dash or dashboard.

22. The failure of the Discovery's computer system in or controlling the Discovery's dashboard occurred as TH Chiro's principal was driving the Discovery on or about December 5, 2019.

23. As TH Chiro's principal was driving the Discovery on or about December 5, 2019, all dashboard controls, signals, instrumentation or messaging stopped functioning.

24. The complete dashboard failure created a dangerous condition in the car.

25. The complete dashboard failure was a proximate result of a defect in or around the Discovery's windshield.

26. After experiencing the destruction of computer and dashboard failure, TH Chiro promptly brought the Discovery to a Land Rover dealership for repairs.

27. During the course of attempting to obtain repairs for the Discovery, TH Chiro learned from Land Rover dealership personnel that the defective windshield was a common problem with Land Rover Discovery vehicles.

28. Land Rover—or its authorized dealership—did not promptly repair the Discovery.

29. After approximately two months in the dealership repair shop, Land Rover finally advised TH Chiro that the Discovery was available for pick up.

30. But it really wasn't.

31. When TH Chiro's principal arrived at the dealership to pick up the purportedly repaired Discovery, it was not in a condition to be picked up.

32. While it is possible that the windshield defect had been repaired and that the computer system had been repaired, the Discovery was moldy.

33. The dealership had allowed the Discovery to remain closed up, uncleaned, wet, and soggy for approximately two months, thereby resulting in mold growing in the Discovery.

34. TH Chiro refused to accept the Discovery in that condition.

35. Land Rover dealership personnel expressed understanding of TH Chiro's refusal to accept the Discovery in that condition.

36. Since that time, TH Chiro has been attempting to obtain a resolution of the problems with the Discovery. Land Rover has failed to provide any resolution.

37. The Discovery has now been at the dealership for repairs for approximately five months.

38. TH Chiro has been without the Discovery for approximately five months.

CLASS ACTION ALLEGATIONS

39. The windshield defect in TH Chiro's Discovery is a common problem in other Land Rover Discovery vehicles.

40. The windshield defect in TH Chiro's Discovery and in other Discovery vehicles is a safety hazard.

41. The windshield defect in TH Chiro's Discovery and in other Discovery vehicles is a dangerous condition.

42. Land Rover has been aware of the windshield defects for a substantial period of time.

43. Land Rover was aware of the windshield defect at the time the Discovery was sold to TH Chiro.

44. Neither Land Rover nor its dealership disclosed the defect to TH Chiro at the time of TH Chiro's purchase of the Discovery.

45. Land Rover actively concealed the defect at the time the Discovery was provided to its dealership in Hamilton County, Tennessee and at the time the Discovery was sold to TH Chiro.

46. Land Rover has a practice of not disclosing the windshield defects to purchasers of Discovery vehicles.

47. Land Rover has a practice of actively concealing the defect from purchasers of Discovery vehicles.

48. Upon information and belief, Land Rover has continued to manufacture and distribute Discovery vehicles with the windshield defect.

49. Plaintiff asserts this action on behalf of itself and on behalf of a nationwide class of current or former owners or lessees of a 2017 Land Rover Discovery.

50. Plaintiff specifically reserves the right to amend this complaint, after further investigation and discovery, to broaden the class to include current or former owners or lessees of a 2013, 2014, 2015, 2016, 2019 and 2020 Land Rover Discovery.

51. Plaintiff specifically reserves the right to further amend or modify the description of the class if deemed appropriate after further investigation and discovery.

52. Plaintiff excludes from the class the Defendant, any of Defendant's dealerships, and any officer, director, employee, affiliate or agent of Defendant or its dealerships.

53. Plaintiff also excludes from the class any judge or employee of the court in which this action is filed.

54. The exact number of class members is not known at the present time and must be obtained through discovery. Nevertheless, the number is sufficiently large to render joinder impracticable.

55. Resolving all claims of class members in a single action will promote efficiency, economy and the interests of the Court and the class members.

56. The cost of litigation would effectively preclude many class members from pursuing their claim if their claims were not included within a class action. Thus, without a class action, many class members would not have effective relief or remedy.

57. Class members will continue to suffer damages without a class action.

58. Land Rover will continue its wrongful actions without a class action.

59. Class members can be identified from information and records within Defendant's custody or control.

60. Plaintiff's claim is typical of claims of other class members in that Plaintiff and each class member each have a Land Rover Discovery with a windshield that has a defect which has been or needs to be repaired or replaced.

61. Plaintiff and each of the class members have been damaged as a result of Land Rover's wrongful acts.

62. Additionally, Land Rover's wrongful conduct in manufacturing and distributing the Land Rover Discovery vehicles with a windshield defect is common to Plaintiff and all class members.

63. Likewise, Land Rover's wrongful conduct in failing to disclose the defect is common to Plaintiff and all class members.

64. Land Rover's active concealment of the defect is also common to Plaintiff and all class members.

65. There are common questions of law and fact for the claims of Plaintiff and all class members.

66. The most fundamental underlying common question for the claims of Plaintiff and the class members is whether the class vehicles have a windshield defect.

67. Another common question for the claims of Plaintiff and the class members is whether the windshield defect is an unreasonable safety hazard or dangerous condition.

68. Another common question for the claims of Plaintiff and the class members is whether the windshield defect is a material fact in connection with the purchase of a Land Rover Discovery.

69. Another common question for the claims of Plaintiff and the class members is when Land Rover learned of the defect.

70. Another common question for the claims of Plaintiff and the class members is whether Land Rover had a duty to disclose the defect to purchasers.

71. Another common question for the claims of Plaintiff and the class members is whether Land Rover actively concealed the defect.

72. Another common question for the claims of Plaintiff and the class members is whether Land Rover's conduct constitutes fraud.

73. Another common question for the claims of Plaintiff and the class members is whether Land Rover's conduct constitutes a breach of contract.

74. Another common question for the claims of Plaintiff and the class members is whether Land Rover's conduct constitutes a breach of warranty.

75. Another common question for the claims of Plaintiff and the class members is whether Land Rover's conduct violated consumer protection act rules.

76. Another common question for the claims of Plaintiff and the class members is whether Plaintiff and the class members are entitled to equitable relief.

77. Another common question for the claims of Plaintiff and the class members is whether Plaintiff and the class members are entitled to monetary damages.

78. Another common question for the claims of Plaintiff and the class members is whether Land Rover should be responsible for bearing the cost of notifying class members of their rights relating to the defect and this action.

79. Plaintiff will fairly and adequately represent and protect the interests of the class members.

80. The undersigned counsel is initial counsel and will be associating additional counsel to assist with representation on behalf of the class. Such additional class action counsel will be associated prior to a motion for certification of class status.

COUNT 1—FRAUD

81. All preceding allegations are hereby adopted and incorporated by reference as if fully restated herein.

82. The windshield defects in the Land Rover Discovery vehicles are and were material.

83. The windshield defects, if revealed or disclosed prior to purchase of a Land Rover Discovery, would have materially impacted Plaintiff and class members' decision to purchase the vehicle or the purchase or lease price of the vehicle.

84. The windshield defects were not visible or apparent to Plaintiff and class members at the time they purchased or leased their Land Rover Discovery vehicles.

85. The windshield defects were not reasonably discoverable by Plaintiff and the class members at the time they purchased or leased their Land Rover Discovery vehicles.

86. Land Rover was aware of the windshield defects while it marketed and distributed the Land Rover Discovery vehicles.

87. Land Rover was aware of the windshield defects at the time Plaintiff and the class members purchased or leased their Land Rover Discovery vehicles.

88. Land Rover had a duty to disclose the windshield defects while marketing and distributing the Land Rover Discovery vehicles.

89. Land Rover had a duty to disclose the windshield defect prior to selling or leasing the Land Rover Discovery vehicles to Plaintiff and the class members.

90. Land Rover did not disclose the windshield defects while marketing and distributing the Land Rover Discovery vehicles.

91. Land Rover did not disclose the windshield defects prior to selling or leasing the Land Rover Discovery vehicles to Plaintiff and the class members.

92. Land Rover actively concealed the windshield defects as they distributed and marketed the Land Rover Discovery vehicles.

93. Land Rover actively concealed the windshield defects as they sold the Land Rover Discovery vehicles to Plaintiff and the class members.

94. Land Rover's failure to disclose the windshield defects constitutes fraud.

95. Land Rover's concealment of the windshield defects constitutes fraud.

96. Plaintiff and the class members have been damaged as a result of Land Rover's fraud.

97. Plaintiff and the class members are entitled to an award of damages and/or equitable relief.

98. The egregious, willful and intentional nature of Land Rover's actions also warrants an award of punitive damages against Land Rover.

COUNT 2—CONSUMER PROTECTION ACT VIOLATION

99. All preceding allegations are hereby adopted and incorporated by reference as if fully restated herein.

100. Land Rover's actions as described above constitute unfair and deceptive business practices within the meaning of the Tennessee Consumer Protection Act and within the meaning of the applicable state consumer protection act of each of the class members.

101. Plaintiff and the class members have been damaged as a result of Land Rover's violations of the state consumer protection act applicable respectively to Plaintiff and each of the class members.

102. Plaintiff and the class members are entitled to an award of damages and/or equitable relief.

103. Plaintiff and the class members are also entitled to an award of up to treble damages pursuant to the applicable provisions of the consumer protection act.

104. Plaintiff and the class members are also entitled to an award of their reasonable attorney fees and litigation expenses.

COUNT 3—BREACH OF DUTY OF GOOD FAITH

105. All preceding allegations are hereby adopted and incorporated by reference as if fully restated herein.

106. Land Rover had an implied duty of good faith in all dealings with Plaintiff and the class members.

107. Land Rover breached its duty of good faith by concealing and failing to disclose the windshield defects when marketing and distributing its Land Rover Discovery vehicles.

108. Land Rover breached its duty of good faith by concealing and failing to disclose the windshield defects when Plaintiff and the class members were purchasing or leasing the Land Rover Discovery vehicles.

109. Plaintiff and the class members have been damaged as a result of Land Rover's breach of its duty of good faith.

110. Plaintiff and the class members are entitled to an award of damages and/or equitable relief.

111. The egregious, willful and intentional nature of Land Rover's actions also warrants an award of punitive damages against Land Rover.

COUNT 4—BREACH OF WARRANTY

112. All preceding allegations are hereby adopted and incorporated by reference as if fully restated herein.

113. As Land Rover manufactured, marketed, and distributed its Land Rover Discovery vehicles, Land Rover provided an implied warranty of merchantability.

114. As Land Rover manufactured, marketed, and distributed its Land Rover Discovery vehicles, Land Rover provided an implied warranty that the vehicle was fit for the purpose of being driven and used as a passenger vehicle.

115. As Land Rover manufactured, marketed, and distributed its Land Rover Discovery vehicles, it also provided an express warranty with the vehicles.

116. Land Rover's warranties included a warranty that the Land Rover Discovery vehicles' windshields were not defective.

117. Land Rover's warranties included a warranty that the Land Rover Discovery vehicles' windshields were not subject to water breaches or leaks.

118. Land Rover's manufacture, marketing and distribution of Land Rover Discovery vehicles to Plaintiff and the class members breached Land Rover's warranties.

119. Plaintiff and the class members have been damaged as a result of Land Rover's breach of warranties.

120. Plaintiff and the class members are entitled to an award of damages and/or equitable relief.

WHEREFORE, Plaintiff TH Chiro, PLLC prays as follows:

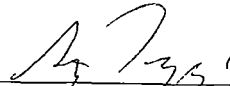
- A. That process issue and that the Defendant be required to answer this complaint within the time provided by law;
- B. That a jury be empaneled to try this cause;
- C. That this Court enter an order certifying the proposed class or, in the alternative, a subset of such proposed class;
- D. That the Court enter an order designating TH Chiro as representative of the class;
- E. That the Court enter an order, after entry of appearance by additional counsel, of the undersigned counsel and additional counsel as counsel for the class;
- F. That the Court enter an order requiring Land Rover to bear the financial cost of providing appropriate notice to all class members about this action and the windshield defect in the Land Rover Discovery vehicles;
- G. That the Court enter an order requiring Land Rover to recall and repair the windshield defect in the class vehicles;
- H. That the Court enter an order requiring Land Rover to reimburse class members for expenses and losses already incurred in connection with the windshield defect in class vehicles;

- I. That the Court enter an order requiring Land Rover to re-purchase or refund the purchase price—after appropriate credit—of all class vehicles that suffered major damages as a result of a water breach because of the windshield defect;
- J. That the Court enter an order providing appropriate injunctive relief against further concealment of the windshield defect in Land Rover Discovery vehicles;
- K. That the Court enter an order enjoining Land Rover from marketing and distributing Land Rover Discovery vehicles with the windshield defect;
- L. That the Court enter an order requiring Land Rover to extend warranties to cover the windshield defect in class vehicles;
- M. That the Court award Plaintiff and the class members compensatory damages;
- N. That the Court award Plaintiff and the class members treble damages and/or punitive damages;
- O. That the Court award Plaintiff and the class members their reasonable attorney fees;
- P. That, subject to potential amendment after discovery regarding the size of the class and amount of damages per class member, Plaintiff and all class members be awarded total damages, inclusive of all forms of damages, in the total amount of \$3,000,000;
- Q. That Plaintiff and the class members be awarded prejudgment and post-judgment interest; and
- R. That this Court provide Plaintiff and the class members with such other legal and equitable relief as it deems proper and appropriate.

This the 7th day of May, 2020.

Respectfully Submitted,

Law Office of Stephen S. Duggins



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A TRUE COPY
ROBIN L. MILLER, Clerk & Master
Chancery Court, Hamilton County, Tennessee

This 7 day of May, 2020

By: Angela Pool DC&M

ENDORSED

Filed May 7, 2020

ROBIN L. MILLER, Clerk & Master

By: Angela Pool DC&M



LAW OFFICE OF
STEPHEN S. DUGGINS

8052 Standifer Gap Road, Suite B
Chattanooga, TN 37421

Jaguar Land Rover North America, LLC
c/o Registered Agent Corporation Service
Company
Princeton South Corporate CRT, STE. 160
100 Charles Ewing Building
Ewing, NJ 08628

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Land Rover Discovery Plagued by Windshield Defect, Class Action Alleges](#)
