

STATE OF NORTH CAROLINA
WAKE COUNTY

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IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
File No. 15CVS 6395

WAKE COUNTY, N.C.

JONATHON KINGSLEY, Individually and as)
Administrator of the Estate of Weston Kingsley,)
and KELSEY KINGSLEY, Individually,)
Plaintiffs,)

v.)

FCA US LLC and WILLIAM TYLER HOOVER,)
Defendants.)

COMPLAINT

Plaintiffs, complaining of the Defendants, allege:

INTRODUCTION

1. “There is a world where people . . . make [things] happen,” according to the CEO of Chrysler’s parent company.¹ “They take risks. They leave their mark.”² Chrysler has known for decades that front seats in its Dodge Caravans are not crashworthy and fail in rear-end collisions because of their defective design, killing children seated in the second row. Yet it refuses to warn consumers of those dangers, marketing Caravans as safe family vehicles.

2. All too often, as here, innocent consumers bear the risks automobile manufacturers take. Chrysler left its mark on Jonathon and Kelsey Kingsley—by designing, manufacturing, marketing, and selling the defective Dodge Caravan that killed their 13-month-old son, Weston. The Kingsleys sue to recover for the damages Chrysler wrought. Their claims arise under North Carolina’s substantive product-liability and negligence law.

¹ Fiat Chrysler Automobiles, *Our Values*, FCAGroup.com, <http://www.fcagroup.com/en-US/group/values/Pages/values.aspx> (last visited Apr. 24, 2015). “Chrysler” means FCA US LLC.

² *Id.*

**PARTIES, JURISDICTION, VENUE,
AND SERVICE OF PROCESS**

3. Plaintiff Jonathon Kingsley is Weston Kingsley's father and has been duly appointed as the Administrator of the Estate of Weston Kingsley. Plaintiff Kelsey Kingsley is Weston's mother. The Kingsleys are North Carolina citizens. They avail themselves of the jurisdiction and venue of this Court.

4. Chrysler LLC, a Delaware limited liability company, or one of its predecessors, successors, subsidiaries, or affiliates designed, tested, manufactured, marketed, distributed, and sold the 2003 Dodge Caravan or otherwise put it into the stream of commerce before 2009. In 2009, Chrysler LLC and its subsidiaries and affiliates filed for bankruptcy, and the bankruptcy court approved the sale of substantially all of Chrysler LLC's assets. Chrysler Group LLC bought those assets and assumed all product-liability claims arising after the closing in 2009 for Dodge-brand vehicle manufactured before then, which includes the 2003 Dodge Caravan. Last year, Chrysler Group LLC changed its name to FCA US LLC. For these reasons, FCA US LLC (herein "Chrysler") is the proper entity against which to assert the claims made herein related to the 2003 Dodge Caravan. Chrysler remains a Delaware limited liability company registered to transact business in North Carolina. Like its predecessors, Chrysler is in the business of designing, testing, manufacturing, marketing, distributing, and selling vehicles in North Carolina, throughout the United States, and elsewhere.

5. Chrysler may be served with process through its registered agent, CT Corporation System, at 150 Fayetteville Street, Raleigh, Wake County, North Carolina 27601. Under N.C. Gen. Stat. § 1-75.4, personal jurisdiction is proper over Chrysler because it is a domestic corporation engaged in substantial activity within this State, and it, or its legal predecessor, designed, tested, manufactured, marketed, distributed, and sold the subject Caravan. Personal

jurisdiction is also proper over Chrysler under the Due Process Clause because Chrysler purposely directs its activities toward the forum, and it has sufficient contacts with the forum. That Chrysler is registered to transact business in North Carolina and maintains a registered agent here is further proof that personal jurisdiction is proper over it in this Court.

6. Defendant William Tyler Hoover is an adult citizen of North Carolina residing at 107 Hoover Hollow Road, Old Fort, North Carolina 28762. He may be served with process at that address or wherever else he may be found and served as allowed by law. Under N.C. Gen. Stat. § 1-75.4, this Court has personal jurisdiction over Hoover.

7. This Court has subject-matter jurisdiction here under N.C. Gen. Stat. § 7A-240 and Article IV, Section 12(3) of the North Carolina Constitution. Venue is proper in this Court under N.C. Gen. Stat. §§ 1-79 and 1-82 and other applicable law because Chrysler resides in Wake County, North Carolina, and is a joint tortfeasor with Hoover. Because complete diversity is lacking, and this action arises under North Carolina law, the United States District Court has no subject-matter jurisdiction here.

FACTUAL ALLEGATIONS

8. “Nothing matters more than keeping your kids safe”—Dodge Caravan ad.³

I. A Dodge Caravan’s defective seat⁴ fails in a rear-end collision, killing Weston Kingsley.

9. The subject Caravan is a 2003 Dodge Caravan, VIN 1D4GP25R63B234054 (the “Caravan”) initially purchased for use or consumption on May 29, 2003, less than 12 years

³ *Dodge Caravan: Safety & Security*, Dodge.com, http://www.dodge.com/en/grand_caravan/safety_security/ (last visited Apr. 24, 2015).

⁴ For simplicity, “seat” means seat, seatback, seat tracks, seating assembly, and seating components.

before the Kingsleys filed this action. Under N.C. Gen. Stat. § 1-46.1(1), the statute of repose is inapplicable.

10. On the morning of February 2, 2014, the Kingsleys were on their way to Sunday school in the Caravan. Jonathon drove; Kelsey was in the front passenger seat; their son Teague sat in the second row behind Kelsey; and Weston, properly restrained in a child car seat, sat in the left seat in the second row, behind his father. Jonathon and Kelsey were properly belted with their seats in an upright position.

11. At 13 months old, at least 26 pounds, and 30.5 inches tall, Weston was in a forward-facing child car seat. That position complies with the child seat's instructions, North Carolina law, and the Caravan's owner's manual. He was properly restrained in five-point harness in a child car seat affixed to the second row seat behind the driver's seat.

12. As the Kingsleys waited on US 70 to turn into the church parking lot, Hoover rear-ended them. During the crash, both of the Caravan's front seats failed, collapsing rearward. Because the driver's seat failed, the seatback, headrest, and/or Jonathon's head struck Weston's head. Restrained in the child car seat, Weston had nowhere to go. He was a direct, fixed target for the defective driver's seat as it failed rearward, sending his father rearward in the impact.

13. As a direct and proximate result of the Caravan's driver seat failure, Weston suffered severe blunt force trauma, fracturing his skull. He had no other significant injuries and no significant soft tissue injuries. Surviving for nearly three hours, Weston spent the last of his life with a badly fractured skull. He died that afternoon. No one else in the car had any significant physical injuries, including Kelsey's unborn child, who was delivered later, at term, and in good health then and now.

14. Chrysler's and Hoover's tortious acts and omissions combined to proximately cause Weston's death and the Kingsleys' damages. Thus, Chrysler and Hoover are joint tortfeasors and are jointly and severally liable for the Kingsleys' damages.

15. As a direct and proximate result of the Caravan's driver seat failure, Jonathon and Kelsey (both of whom suffered physical impacts in the crash) suffered severe emotional distress: they witnessed their 13-month-old son's injuries, his suffering, and his death.

II. Although Chrysler knew its front seats failed in crashes—killing children—it marketed the Caravan as safe for families and children, refusing to warn about those dangers.

16. Chrysler designed, tested, manufactured, marketed, and sold the Caravan, putting it in the stream of commerce knowing that its front seats would collapse in foreseeable impacts.

17. At all relevant times, Chrysler had notice that its 2003 Dodge Caravan has defective front seats. This notice comes from Chrysler's own crash tests and from real-world incidents where occupants of Chrysler minivans (or Chrysler vehicles with similar seats)—including children—were injured or killed because of front seat failures.

18. Chrysler knew, at all relevant times, that the front seats in its 2003 Dodge Caravan fail to protect minivan passengers from serious injury in rear-end collisions, and that the Caravan's front seats are unreasonably dangerous. In fact, Chrysler used safer, stronger seats in the Chrysler Sebring beginning in 1996 and in the Dodge Ram extended cab pickup truck since 1998. And Chrysler's former affiliate, Mercedes-Benz, installs safer, stronger seats in its vehicles to protect occupants in rear-end collisions.

19. But for the Caravan's negligently and defectively designed front seats, Weston would not have suffered life-threatening or life-altering injuries in the crash, and Jonathon and Kelsey would not have witnessed his injuries and death.

20. Despite its knowledge of the dangers posed by its defective front seats, Chrysler marketed the Dodge Caravan to families as a vehicle safe for children. It induced families to purchase the Dodge Caravan—directly from it or in a used condition from private owners—without warning them of the known dangers of its defective front seats. And Chrysler encouraged families to place their children behind seats it knew could fail, seriously injuring the children. Minivan purchasers relied on Chrysler’s marketing about safety—which Chrysler knew was false and/or misleading.

21. Chrysler concealed the defective design of the front seats in its minivans from the public and the Kingsleys. Chrysler also has refused to warn the public and the Kingsleys that placing children in the second row is dangerous because of defects in the front seats.

22. The Kingsleys relied on Chrysler’s representations, believing that Chrysler minivans were safe family vehicles and that putting their children in the second row was safe. Chrysler did nothing to warn the Kingsleys that they were wrong, that their children were not safe there.

23. Chrysler still markets Caravans as “CARRIER[S] OF CHILDREN.”⁵

LEGAL LIABILITY

Count I: Chrysler’s Inadequate Design

24. The Kingsleys incorporate the preceding paragraphs verbatim into this Count.

25. As a product manufacturer, Chrysler owes a duty of reasonable care to the public and the Kingsleys to design, test, manufacture, market, and sell products free of unreasonable risks of harm to owners, users, and occupants. The Caravan had not been substantially modified from its original condition when the crash occurred.

⁵ *Dodge Caravan*, Dodge.com, http://www.dodge.com/en/grand_caravan/ (last visited Apr. 24, 2015).

26. Chrysler knew or should have known from its own crash tests and other real-world incidents involving Dodge Caravans (and other Chrysler vehicles with the same or similar front seats) that the front seats would fail in foreseeable rear-end collisions, causing serious injuries.

27. Chrysler breached its duties of care by, among other things, designing the front seats of the 2003 Dodge Caravan without sufficient strength and structural integrity to hold Jonathon Kingsley in an upright and stable position in this foreseeable rear-end collision. In short, Chrysler chose a front-seat design that lacks adequate crashworthiness in foreseeable and otherwise survivable collisions.

28. When it designed, tested, manufactured, marketed, and sold the 2003 Dodge Caravan, Chrysler reasonably foresaw that rear-end collisions such as this one would occur. Yet Chrysler designed the Caravan with defective front seats so lacking in crashworthiness that Weston Kingsley died because of those defects—in an otherwise injury-free crash. The Caravan's inadequate design enhanced the Kingsleys' injuries far beyond what they reasonably should have suffered in the crash. Indeed, given the findings of *no other injuries* other than fatal skull fractures in autopsy after Weston's death, had the failing seat, his father, or some combination of the two not struck him, he would not have perished.

29. When the Caravan left Chrysler's control, Chrysler had unreasonably failed to adopt safer, practical, feasible, and otherwise reasonable alternative designs of the front seats that could have been reasonably adopted and that would have prevented or substantially reduced the risk of harm without substantially impairing the usefulness, practicality, or desirability of the Caravan.

30. When the Caravan left Chrysler's control, the design of the Caravan's front seats was so unreasonable that a reasonable person aware of the relevant facts would not use or consume a product of that design.

31. The Kingsleys' claims are based on characteristics of the Caravan that can be eliminated without substantially compromising its usefulness or desirability. No ordinary person with ordinary knowledge common to the community would recognize the characteristics of the Caravan that the Kingsleys' claims are based on as inherent characteristics of the Caravan that cannot be eliminated without substantially compromising its usefulness or desirability.

32. As a direct and proximate result of Chrysler's inadequate design and unreasonable conduct, the Kingsleys suffered damages in an amount greatly in excess of this Court's jurisdictional minimum.

Count II: Chrysler's Inadequate Warning

33. The Kingsleys incorporate the preceding paragraphs verbatim into this Count.

34. Chrysler had a duty to adequately warn the public and the Kingsleys of the dangers posed by the Caravan's defective front seats. Chrysler breached its duty by failing to warn of those dangers.

35. Chrysler acted unreasonably in failing to warn of dangers posed by the Caravan's front seats, and that failure to adequately warn proximately caused the Kingsleys' damages. Chrysler never warned consumers or the Kingsleys that the Caravan's lack of crashworthiness would enhance their injuries far beyond what they reasonably should have suffered.

36. When the Caravan left Chrysler's control, it lacked adequate warnings, creating an unreasonably dangerous condition that Chrysler knew, or in the exercise of ordinary care

should have known, posed a substantial risk of harm to reasonably foreseeable claimants, including the Kingsleys.

37. After the Caravan left Chrysler's control, Chrysler became aware, or in the exercise of ordinary care should have known, that the Caravan posed a substantial risk of harm to reasonably foreseeable users or consumers, including the Kingsleys, and failed to take reasonable steps to adequately warn of those dangers or to take other reasonable action under the circumstances.

38. The risks to which Chrysler exposed the Kingsleys were neither open nor obvious, and they were not a matter of common knowledge.

39. As a direct and proximate result of Chrysler's inadequate warning, the Kingsleys suffered damages in an amount greatly in excess of this Court's jurisdictional minimum.

Count III: Chrysler's Negligent Infliction of Emotional Distress

40. The Kingsleys incorporate the preceding paragraphs verbatim into this Count.

41. Chrysler negligently designed the Caravan and negligently failed to warn of the dangers it posed.

42. It was reasonably foreseeable to Chrysler that its negligent conduct would cause people whose children were killed because of that negligent conduct, including the Kingsleys, to suffer severe emotional distress.

43. Chrysler's negligent conduct in fact caused the Kingsleys severe emotional distress.

44. As a direct, proximate, and foreseeable result of Chrysler's negligent conduct, the Kingsleys suffered damages in an amount greatly in excess of this Court's jurisdictional minimum.

Count IV: Hoover's Negligence

45. The Kingsleys incorporate the preceding paragraphs verbatim into this Count.

46. Hoover has a duty to exercise reasonable care in operating vehicles on North Carolina roads and to abide by North Carolina rules of the road.

47. Hoover breached his duty by, among other things, failing to keep a proper lookout and failing to maintain a reasonable distance between his vehicle and the Caravan.

48. As a direct and proximate result of Hoover's negligence, the Kingsleys suffered damages in an amount in excess of this Court's jurisdictional minimum.

49. Although Hoover was negligent in his driving and is liable for causing the crash itself, Chrysler is liable for the Caravan's seat failures and lack of crashworthiness and all damages caused by those failings. That is, the Kingsleys do not allege that Hoover is responsible for the catastrophic failure of the Caravan's front seats—which caused Weston's fatal injuries—but he is responsible for the crash itself.

DAMAGES

50. As the Administrator of the Estate of Weston Kingsley, Jonathon Kingsley's damages include:

- (a) Weston's expenses for care, treatment, and hospitalization incident to the injury resulting in death;
- (b) Weston's funeral expenses;
- (c) Weston's pain and suffering; and
- (d) Weston's present monetary value, including compensation for the loss of his reasonably expected net income; his services, protection, care, and assistance; and his society and companionship.

51. For their claims in their individual capacities, Jonathon and Kelsey Kingsley are entitled to all damages allowed by North Carolina law.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully pray for relief as follows:

- (a) that the Court award Plaintiffs compensatory damages against all Defendants, jointly and severally, in an amount to be determined by a jury but in any event an amount greater than \$25,000;
- (b) that the Court award Plaintiffs costs incurred in bringing this action;
- (c) that the Court award Plaintiffs pre- and post-judgment interest as provided by law; and
- (d) that the Court award Plaintiffs any additional relief to do justice.

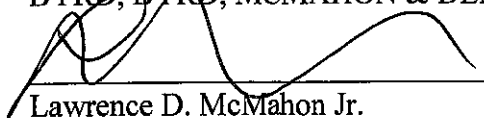
JURY DEMAND

Plaintiffs respectfully demand a jury trial on all issues so triable.

This 12th day of May 2015.

Respectfully submitted,

BYRD, BYRD, MCMAHON & DENTON, P.A.



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