 <p>U.S. Department of Transportation National Highway Traffic Safety Administration</p>		<p>INFORMATION ACT (FOIA), 5 U.S.C. 552(B)(6) DOT Auto Safety Hotline</p> <p>Vehicle Owner's Questionnaire To Report Vehicle Safety Defects 1-888-DASH-2-DOT (1-888-327-4236) INTERNET: www.nhtsa.dot.gov/hotline</p>		<p>FOR AGENCY USE ONLY 100148</p>	
<p>Date Received AUG 22 2012 17-JUL-2012</p>		<p>Repository <input type="checkbox"/></p> <p>Reference No: 10466031</p>			
<p>OWNER INFORMATION (Type or Print)</p>					
<p>Name [REDACTED]</p>		<p>Daytime Telephone Number [REDACTED]</p>		<p>E-mail Address [REDACTED]</p>	
<p>Address [REDACTED]</p>		<p>Evening Telephone Number SAME</p>			
<p>City AVERHILL PARK</p>	<p>State NY</p>	<p>Zip Code [REDACTED]</p>			
<p><i>The information you provide will be used to identify potential safety-related defects. We may share your information with the applicable vehicle manufacturer during an investigation or recall in accordance with the routine uses described in the agency's Privacy Act notice. See 49 FR 53971 (Sep. 3, 2004).</i></p>					
<p>VEHICLE INFORMATION</p>					
<p>17 digit Vehicle Identification Number Located at bottom of windshield on driver's side 1HD1TA810BB [REDACTED]</p>		<p>Make H-D</p>	<p>Model FLTRU</p>	<p>Model Year 2011</p>	
<p>Date Purchased 7/11/11</p>	<p>Dealer's Name and Telephone Number Brunswick H-D 518-279-1145</p>		<p>Engine: No: Cylinders 2</p>	<p>Fuel Type: gas</p>	
<p>Original Owner <input type="checkbox"/></p>	<p>Dealer's City Troy</p>	<p>State NY</p>	<p>Zip Code 12180</p>		
<p>Transmission Type Manual 6 speed</p>	<p><input checked="" type="checkbox"/> Antilock Brakes <input checked="" type="checkbox"/> Cruise Control</p>	<p>Powertrain</p>	<p>Multiple Failure:</p>	<p>Incident Date(s) 01-MAR-2012</p>	
<p>FAILED COMPONENT(S)/PART(S) INFORMATION</p>					
<p>Vehicle Component Code: ENGINE (PWS)</p>			<p>Failure Mileage 6550</p>	<p>Failure Speed</p>	
<p>ADDITIONAL ITEMS TO BE COMPLETED WHEN REPORTING A TIRE FAILURE</p>					
<p>Tire Make</p>	<p>Tire Model (Name or Number)</p>		<p>Tire Size (Example P215/65R15)</p>		
<p>DOT No. (Example: DOTM19ABC036)</p>	<p><input type="checkbox"/> Original Equipment <input type="checkbox"/> Prior Repair</p>	<p>Failure Location:</p>			
<p>Tire Component Code</p>			<p>Tire Failure Type:</p>		
<p>ADDITIONAL ITEMS TO BE COMPLETED WHEN REPORTING A CHILD SEAT FAILURE</p>					
<p>Make:</p>		<p>Date Manufactured:</p>		<p>Model No./Name:</p>	
<p>Seat Type:</p>		<p>Installation System:</p>			
<p>Child Seat Component Code:</p>		<p>Failed Part:</p>			
<p>APPLICABLE INCIDENT INFORMATION <i>(Please describe in detail the incident(s), failure(s), crash(es), and injury(ies).)</i></p>					
<p>Crash <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p>	<p>Fire <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p>	<p>Number of Persons Injured 0</p>	<p>Number of Deaths 0</p>	<p>Reported to Police N</p>	
<p>Narrative Description of Incident(S), Crash(es), and Injury(ies). Please describe (1) events leading up to the failure, (2) failure and its consequences, and (3) what was done to correct the failure; i.e. parts repaired or replaced (and if old part is available).</p>					
<p>TL* THE CONTACT OWNS A 2011 HARLEY DAVIDSON FL TRUSE (N/A). THE CONTACT STATED THAT THE EXHAUST PIPE HEATED TO A TEMPERATURE THAT BURNT HIS LEG THROUGH HIS PANTS. THE CONTACT DID NOT SUSTAIN ANY INJURIES, BUT THERE WAS REDNESS OF THE SKIN. THE CONTACT STATED THAT THE LONGER HE DROVE THE MOTORCYCLE, THE HOTTER IT WOULD BECOME. THE MOTORCYCLE WAS TAKEN TO THE DEALER AND THE DEALER STATED THAT THE MOTORCYCLE WAS WITHIN SPECIFICATIONS. THE CONTACT USED A HANDHELD INFRARED SCANNER AND DETERMINED THAT THE EXHAUST PIPE HEATED UP TO APPROXIMATELY 300 TO 320 DEGREES FAHRENHEIT. THIS TEST WAS CONDUCTED WHILE THE VEHICLE WAS IDLED AT 2,000 RPM FOR ABOUT THREE MINUTES. THE FAILURE MILEAGE WAS 6,550 AND THE CURRENT MILEAGE WAS 9,000.</p> <p><i>The burning of our leg and other safety related issues have been documented on attached documents. The attached is only a small sample of the information available on the internet in substantiate my claim and warrant immediate attention from the NHTSA.</i></p>					
<p>Include, if available: Police/Fire Department Report, Photos, and Repair Invoice.</p>			<p>ATTACH ADDITIONAL SHEETS IF NECESSARY</p>		
<p>The Privacy Act of 1974-Public Law 93-579 This information is requested pursuant to authority vested in the National Highway Traffic Safety Act and subsequent amendments. You are under no obligation to respond this questionnaire. Your response may be used to assist the NHTSA in determining whether a Manufacturer should take appropriate action to correct a safety defect. If the NHTSA proceeds with administrative enforcement or litigation against a manufacturer, your response, or a statistical summary thereof, may be used in support of the agency's action.</p>					



ATTORNEY GENERAL ERIC T. SCHNEIDERMAN
 STATE OF NEW YORK
 OFFICE OF THE ATTORNEY GENERAL
 BUREAU OF CONSUMER FRAUDS AND PROTECTION
 The Capitol
 Albany, NY 12224-0341
 Tel. (518) 474-5481 Fax (518) 474-3618

COMPLAINT FORM
 Consumer Hotline For Hearing Impaired
 1 (800) 771-7755 TDD (800) 788-9898
 http://www.ag.ny.gov

- PLEASE BE SURE TO COMPLAIN TO THE COMPANY OR INDIVIDUAL BEFORE FILING.
- PLEASE TYPE OR PRINT CLEARLY IN DARK INK.
- YOU MUST COMPLETE THE ENTIRE FORM. INCOMPLETE OR UNCLEAR FORMS WILL BE RETURNED TO YOU.
- MAKE SURE YOU ENCLOSE COPIES OF IMPORTANT PAPERS CONCERNING YOUR TRANSACTION.

CONSUMER		
[REDACTED]		HOME TELEPHONE NUMBER [REDACTED]
STREET ADDRESS [REDACTED]		BUSINESS TELEPHONE NUMBER [REDACTED]
CITY/TOWN Averill Park	COUNTY Rensselaer	STATE NY
COMPLAINT		
NAME OF SELLER OR PROVIDER OF SERVICES Harley-Davidson, Inc		NAME OF OTHER SELLER OR PROVIDER OF SERVICES Brunswick Harley-Davidson/Bullmoose
STREET ADDRESS 3700 West Junco Ave. PO Box 653		STREET ADDRESS 1130 Hoosick Road
CITY/TOWN Milwaukee	STATE WI	ZIP 53201
CITY/TOWN Troy	STATE NY	ZIP 12180
TELEPHONE NUMBER [REDACTED]		TELEPHONE NUMBER 518-279-1145
DATE OF TRANSACTION 7/4/11	COST OF PRODUCT OR SERVICE \$35,506.95	HOW PAID (Check those which apply) <input type="checkbox"/> Cash <input type="checkbox"/> Check <input type="checkbox"/> Credit Card <input checked="" type="checkbox"/> Other <i>Finance</i>
DID YOU SIGN A CONTRACT? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	WHERE DID YOU SIGN THE CONTRACT?	DATE SIGNED
WAS PRODUCT OR SERVICE ADVERTISED? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	WHERE WAS IT ADVERTISED? Harley literature + website	DATE ADVERTISED 1/1/11
TYPE OF COMPLAINT (e.g. car, mail order, etc. Use the reverse side of this form to provide details) Motorcycle		
DATE YOU COMPLAINED TO THE COMPANY OR INDIVIDUAL Yes <input checked="" type="checkbox"/> By Mail <input checked="" type="checkbox"/> By Telephone <input type="checkbox"/> In Person	PERSON CONTACTED Kerrie Brandell Lori Oelhaesen	DEPARTMENT Mar. Consumer Affairs
NATURE OF RESPONSE Phone call stating bike was within specifications. Specs. [unclear]	DATE OF RESPONSE 2/5/30/12	
HAS MATTER BEEN SUBMITTED TO ANOTHER AGENCY OR ATTORNEY? (If "Yes," give name and address) <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No National Highway Traffic Safety Admin ODI#10466031		
IS COURT ACTION PENDING? (Please describe as necessary) <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
ADDITIONAL INFORMATION		
MANUFACTURER OF PRODUCT Harley-Davidson Motor Company		PRODUCT MODEL OR SERIAL NUMBER 1HDI-TA810BB [REDACTED]
ADDRESS 3700 West Junco Ave. PO Box 653 Milwaukee, WI 53201		WARRANTY EXPIRATION DATE 7/11/13(?)
DID BUSINESS ARRANGE FINANCING? (If "Yes," give name and address of bank or finance company) <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No First National Bank of Scotia, 201 Mohawk Ave., Scotia, NY 12302		

PLEASE DESCRIBE COMPLAINT ON REVERSE SIDE

BRIEFLY DESCRIBE YOUR COMPLAINT

The bike in question as well as others with the 107CC or 119 cc. in twin V engine has a problem with running extremely hot.

Specifically, my bike, when it gets above 75°F outside air temp "burns" the inside of my right leg. The cause is the engine and exhaust temperatures.

I measured the exhaust temperature with an infra-red thermometer. The bike having run 7.1 miles and then setting for 15 min. and then restarted and idling at 2000 rpm had a temperature reading of 300-325°F at the oxygen sensor location on the exhaust. This location is 3" from my right leg. The situation is exacerbated after running for extended periods of time. Harley has tried to correct this problem over the years by re-routing exhaust pipes, installing heat shields, heat deflectors and an oil cooler. NO success! The 300-325°F reading did not include the engine block heat.

WHAT FORM OF RELIEF ARE YOU SEEKING? (e.g., exchange, repair or money back, etc.) Repair/Correction of

unsafe condition

WHO REFERRED YOU TO THIS OFFICE? lawyer friend

READ THE FOLLOWING BEFORE SIGNING BELOW

PLEASE ATTACH TO THIS FORM PHOTOCOPIES of any papers involved (contracts, warranties, bills received, canceled checks, correspondence, etc.). DO NOT SEND ORIGINALS.

NOTE: In order to resolve your complaint, we may send a copy of this form to the person or firm about whom you are complaining.

In filing this complaint, I understand that the Attorney General is not my private attorney, but represents the public in enforcing laws designed to protect the public from misleading or unlawful business practices. I also understand that if I have any questions concerning my legal rights or responsibilities, I should contact a private attorney. I have no objection to the contents of this complaint being forwarded to the business or person the complaint is directed against. The above complaint is true and accurate to the best of my knowledge.

I also understand that any false statements made in this complaint are punishable as a Class A Misdemeanor under Section 175.30 and/or Section 210.45 of the Penal Law.

Signature 

Date: _____

HAVE YOU ENCLOSED COPIES OF IMPORTANT PAPERS?

Return to: Office of the Attorney General
Bureau of Consumer Frauds and Protection
The Capitol
Albany, NY 12224-0341

Brunswick Harley Davidson

WWW.BRUNSWICKHARLEY.COM
 1130 HOOSICK RD. TROY, NY 12180-
 (518) 279-1145

Repair Order Invoice

R/O Number: 94024175 Invoice Number: 95333193
 Date In: 5/2/2012 Today Date: 5/19/2012
 Date Promised: 5/18/2012 Date Closed: 5/18/2012
 Cashier: NICOLE

Repair Order For:



AVERILL PARK, NY

h: w:

Description:

Units For This Repair Order

Service Writer: ADAM G

Year	Make	Model	VIN/Serial No.	Plate	Key Board	Miles
2011	HARLEY	FLTRUSE-A	1HD1TA810BE			9047

Job: 10,000 MILE SERVICE SYN3

Job For: 2011 HARLEY FLTRUSE-A 1HD1TA810BE

Description

Parts

Part Number	Quantity	Description	Each Price	Extension
32362-04	2	SPARK PLUG, 6R12	\$3.95	\$7.90
62600005	6	SYN3,1-QT,BTL	\$11.95	\$71.70
11105	3	O-RING	\$0.95	\$2.85
63798-99A	1	OIL FILTER, CHROME SUPERPREMIU	\$13.95	\$13.95
	1	NEW YORK STATE INSPECTION	\$6.00	\$6.00
Parts Subtotal:				\$102.40

Labor

Description	Job Code	Technician	Quantity	Line Total
SERVICE		WICK	2.5 Hours	\$162.50
Labor Subtotal				\$162.50

Recommendations

Resolution

NYS# 049104
 WASHED BIKE REMOVED BUGS ON FRONT OF BIKE

Other Charges	
Shop Supplies	\$6.50
Job Subtotal	\$271.40

Job: 1) C.S. LIFTER TICS IN 1200 MILES AFTER OIL CHANGES

Job For: 2011 HARLEY FLTRUSE-A 1HD1TA810BB

Description

- 2) C.S. BIKE RUNS EXTREMELY HOT.
- 3) C.S. HAS TROUBLE LOCKING FORK LOCK
- 4) C.S. THAT THE BRAKE IS SPONGY AFTER RECALL SWITCH

Recommendations

Resolution

NO PROBLEM FOUND WITH THE FORK LOCK.
NPF W/ REAR BRAKE
RAN BIKE ON DIGITAL TECH WHILE AT OPERATING
TEMPERATURE AND EVERYTHING WAS NORMAL.
THE BIKE IS THE PROPER REPRESENTATION OF THE
HARLEY PRODUCT.

Job Subtotal \$0.00

Customer Job Totals

Parts \$102.40
Labor \$162.50
Other \$6.50

Total of Customer Jobs \$271.40

Repair Order Subtotal \$271.40

Sales Tax \$21.25

Repair Order Total \$292.65

Total Amount Due \$292.65

Tendered: MC/VISA \$292.65

Change Due \$0.00

Parts unclaimed after 30 days become shop property. In store credit only on returned parts, good for 1 year. 20% Restocking fee on returned parts. Painted parts require 100% deposit and are not returnable. All monies received are not refundable. IF PURCHASING METZLER OR AVON TIRES, CUSTOMER MUST REGISTER TIRE ON MANUFACTURERS WEB SITE. THANK YOU FOR YOUR BUSINESS !!! Owner acknowledges responsibility for insuring motorcycle. I hereby authorize the above work.

By signing below I am allowing Brunswick Harley-Davidson to contact me via e-mail and/or phone about upcoming events.

X _____

E-MAIL ADDRESS _____

7010 3090 0002 7999 6950

U.S. Postal Service
CERTIFIED MAIL RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at www.usps.com.

MILWAUKEE WI 53201 **OFFICIAL USE**

Postage	\$ 0.45	0196
Certified Fee	\$2.95	05
Return Receipt Fee (Endorsement Required)	\$2.35	Postmark Here
Restricted Delivery Fee (Endorsement Required)	\$0.00	
Total Postage & Fees	\$ 5.75	05/22/2012

Sent to *Mr. Keith C. Wandell - Pres & CEO*
 Street, Apt. No.,
 or PO Box No. *3700 W. Juneau Ave., PO Box 653*
 City, State, ZIP+4
Milwaukee, WI 53201

PS Form 3800, August 2006 See Reverse for Instructions

7010 3090 0002 7999 6967

U.S. Postal Service
CERTIFIED MAIL RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at www.usps.com.

MILWAUKEE WI 53201 **OFFICIAL USE**

Postage	\$ 0.45	0196
Certified Fee	\$2.95	05
Return Receipt Fee (Endorsement Required)	\$2.35	Postmark Here
Restricted Delivery Fee (Endorsement Required)	\$0.00	
Total Postage & Fees	\$ 5.75	05/22/2012

Street, Apt. No.,
 or PO Box No. *Mr. Consumer Affairs*
 City, State, ZIP+4
Milwaukee, WI

PS Form 3800, August 2006 or Instructions



Track/Confirm - Intranet Item Inquiry
Item Number: 7010 3090 0002 7999 6967

This item was delivered on 05/29/2012 at 09:51

Signature:	Delivery Section
	Lawrence Davis
Address:	
	53201

Enter Request Type and Item Number:

Quick Search Extensive Search

[Explanation of Quick and Extensive Searches](#)

Version 1.0

Inquire on multiple items.

Go to the Product Tracking System Home Page.



Track/Confirm - Intranet Item Inquiry
Item Number: 7010 3090 0002 7999 6950

This item was delivered on 05/29/2012 at 09:51

Signature:	Delivery Section
	Lawrence Davis
Address:	
	53201

Enter Request Type and Item Number:

Quick Search Extensive Search

[Explanation of Quick and Extensive Searches](#)

Version 1.0

Inquire on multiple items.

Go to the Product Tracking System Home Page.

May 21, 2012

[REDACTED]
Averill Park, NY [REDACTED]

Harley-Davidson Motor Company
Ms. Lori Oelhafen
Manager of Consumer Affairs
3700 West Juneau Ave.
PO Box 653
Milwaukee, WI 53201

Dear Ms. Oelhafen,

I recently brought my 2011, CVO FLTRUSE Road Glide Ultra, serial #1HD1TA810BB [REDACTED] into Brunswick Harley-Davidson for service and warranty issues. The service, NYS inspection and minor warranty issues were corrected without incident. However, my major complaint of the exhaust burning my right leg was not corrected. The dealership contacted Star, your Harley-Davidson Service Operations Area Representative on Friday 5/18/12, at my request, to see what could be done to correct the problem. I was told by the dealership's Service Manager, Adam Ginsburg that she contacted Harley-Davidson and then called Adam back and told him to "scan" the bike to see if it was in specification. If it was in specification, that was all they would do. Brunswick did the "scan" and the bike was within Harley-Davidson's specifications.

The bike is unsafe to ride when the weather is warm because the exhaust pipes become too hot.

I purchased a \$36,506.95 H-D motorcycle that has an implied warranty to be used for the purpose it was designed and advertised to do. My bike (and the H-D bikes of many others) does not meet the criteria because it is UNSAFE to ride when the outside temperature goes above 75-80 degrees Fahrenheit. The exhaust burns the inside of my right leg through my jeans. I believe this is considered a 1st degree burn in medical terms.

The heat issue from the exhaust and motor has been an ongoing issue with the 110 and 103 cu in. engines since their inception. Harley-Davidson has changed exhaust routing, added heat shields, oil cooler, etc. - without successfully correcting the problem even though they have claimed to have done so. The customer has been left "holding the bag"; forced to pay for exhaust modifications in an effort to correct poor design on Harley-Davidson's part. I REFUSE to spend any more of my money to correct a problem that Harley-Davidson has created through consciously calculated poor design that results in fewer parts and lower assembly costs for Harley Davidson.

I also placed a call to you on Friday 5/18/12. I left a message on Sheila's phone for you. I have not been shown the courtesy of a return phone call at the time of this letter being written.

Based on the lack of appropriate response from Harley-Davidson, I am putting Harley-Davidson on notice of my intention to file the necessary paper work with the NYS Attorney General's Office under NYS Lemon Law as well as the Federal Transportation Safety Office. I am sending this letter with return receipt requested. You have 30 days from the date of receipt to resolve my issue.

Also, if these options fail to get the issue resolved I will contact an attorney and file a class action lawsuit against Harley-Davidson to not only have my issue corrected but the same issue that thousands of other Harley-Davidson owners of 103 and 110 cu in engines have. An apparent expensive proposition for Harley-Davidson to have to face.

My issue is with Harley-Davidson and NOT Brunswick Harley-Davidson.

I sincerely hope I do not have to employ any of these options, as I am a proud owner and operator of a Harley-Davidson motorcycle. However, Harley-Davidson owes its customers the decency and respect to provide fully-operational and SAFE machinery.

Respectfully submitted,



Keith E. Wandell, President and CEO, Harley-Davidson

Adam Ginsburg, Service Manager, Brunswick Harley-Davidson

NYS Attorney General's Office, after 30 days

Federal Office of Transportation Safety after 30 days

New York State Department of Motor Vehicles
RETAIL CERTIFICATE OF SALE

TYPE OF SALE

WHOLESALE OR RETAIL:
 Used Demo Salvage

No. **39012228**

VEHICLE INFORMATION:

Year 2011	Make Harley Davidson	Model FLTRUSE	Body Type MCY	Color WH/TN	Weight (Unladen) 905	Fuel Type: G	Cylinders 2	Adult Seating Capacity 2
Vehicle Identification Number 1HD1TAB10RE		Lien(s) U-1	Inspection Certificate Number 009509	Date of Inspection 7/11/11	Inspection Station Number 3420096			
Plate/Permit Number	Number of Dealer Plate Loaned NA	<input type="checkbox"/> Lease Buyout (Insp. Not Required)	Selling Price \$ 9999.00					

DEALER INFORMATION (Print Name and Address)

Brunswick Harley-Davidson 1130 Hoosick RD Troy, NY 12180

PURCHASER INFORMATION (Print Name and Address)

[Redacted] Park, NY [Redacted] Date of Sale 7/11/11

PRIOR OWNER INFORMATION (Print Name and Address Source of Ownership)

Harley-Davidson Motor Company Milwaukee WI Date of Purchase 6/13/11

ODOMETER DISCLOSURE STATEMENT

Federal and state laws require that you state the mileage of the vehicle described on this certificate, when transferring ownership. Failure to do so, or not telling the truth about the mileage may result in fines and/or imprisonment.

The odometer on the vehicle described above has: 5 digits 6 digits, not including tenths

ODOMETER READING				
				1

(no tenths)

- I certify that, to the best of my knowledge, this odometer reading reflects the "ACTUAL MILEAGE" of the vehicle described above.
- I certify that, to the best of my knowledge, this odometer reading "EXCEEDS MECHANICAL LIMITS."
- I certify that, to the best of my knowledge, this odometer reading is "NOT THE ACTUAL MILEAGE. WARNING: ODOMETER DISCREPANCY."

DEALER CERTIFICATION:

I certify: The vehicle described above was sold to the purchaser on the date indicated. At the time of delivery the purchaser was entitled to register the vehicle. This vehicle complied with equipment requirements of the Commissioner's Regulations. At the time of delivery, such equipment was in condition and repair to render satisfactory and adequate service on the public highway under normal use. Equipment certification does not apply to a vehicle sold as new, wholesale, or salvage. All New York State and local taxes due as a result of this sale have been collected from the purchaser. False statements made herein are punishable as a Class A misdemeanor pursuant to Section 210.45 of the Penal Law.

DEALER (or authorized representative) - (SIGN full name): <i>Christopher Andrew Smith</i>	PRINT full name of dealer or authorized rep. BRUNSWICK HARLEY-DAVIDSON INC. 1130 Hoosick Rd NY 7 Troy, NY 12180	Date 7/11/11	Dealer Facility No. 3420096
PURCHASER - (SIGN full name): [Redacted]	PRINT full name of purchaser: [Redacted]	Date 7/11/11	Selling Dealer NYS Sales Tax No. 141564995

PART 3 — CUSTOMER COPY

ANY CHANGE OR ALTERATION VOIDS THIS CERTIFICATE

Brunswick Harley-Davidson/Buell, Inc.

1130 Hoosick Road • NY7
 TROY, NEW YORK 12180
 Ph: (518) 279-1145 • Fax: (518) 279-0825
 FAC#3420096

WS# 3973

BILL OF SALE 7/11/11
 INSP.# 009509(7/11)
 MV50 3901228
 PG# 13
 LIC. PLT# [REDACTED]

PUR [REDACTED] DATE 7/11/11
 STREET [REDACTED]
 CITY Averill Park STATE NY ZIP [REDACTED] COUNTY Rensselaer

DESCRIPTION OF PURCHASE				DESCRIPTION OF TRADE-IN			
<input checked="" type="checkbox"/> NEW	MAKE	MODEL	YEAR	MAKE	MODEL	YEAR	
<input type="checkbox"/> USED	Harley-Davidson	FLTRUSE-Alarm	2011	Harley-Davidson	FLTRCUSE3	2008	
SERIAL NO. 1HD1TA81038 [REDACTED]				SERIAL NO. 1HD1PRR488Y [REDACTED]			
COLOR Ivory & Gold		ODOMETER 1		COLOR Copper & Black		LIC. OR TITLE NO.	
KEY NO. 3715		CC 1803		INSURED WITH: Key#3121			
LIC. OR TITLE NO.		DEALER INV. NO. 0956863VF1		Std 9-Spoke Chrm Cast		Pg#	

ACCESSORIES			PURCHASE AGREEMENT		
Balance	26248	69	SALE PRICE	35999	00
GAP	115	00	SECURITY STD WHEEL OPTION	STDBLY	500 00
BORROW	26363	69	DEALER PREP & FREIGHT	7	95
			2011 Discount	-1000	00
				35506	95
			TRADE-IN ALLOWANCE	-20000	00
			TAXABLE DIFFERENCE	9506	95
			EXTENDED SERVICE AGREEMENT	Deerwood	
TOTAL			SUB-TOTAL	9506	95
REMARKS: ALL MONIES RECEIVED ARE NOT REFUNDABLE.			8% SALES TAX	760	56
CODE: 32840			GAP DEBT PROT.		
			PAPERWORK FEES	75	00
			NYS INSP. & TIRE FEES	11	00
			DMV/PLT / REG / TITLE FEES	100	00
LIEN - TO WHOM: FNBS 2.50 63mos			7/11/11 TOTAL PRICE	10413	57
26363.69 = 446.97			TRADE-IN LOAN PAYOFF	15770	18
AMOUNT OWED \$ 26248.69 = 445.02			LESS TODAY'S DOWN PAYMENT	+ 105	00
ANY DEBT OWED ON TRADE-IN WILL BE PAID BY <input type="checkbox"/> DEALER <input type="checkbox"/> BUYER			BALANCE DUE	26248	69

I AGREE THAT THE BALANCE WILL BE PAID BY CASH, CASHIER'S CHECK, OR BY THE EXECUTION OF A RETAIL INSTALLMENT CONTRACT, OR A SECURITY AGREEMENT AND ITS ACCEPTANCE BY A FINANCING AGENCY.

The terms and conditions on both the face and reverse side of this bill of sale comprise the entire agreement pertaining to this purchase and no other agreement of any kind, verbal understanding or promise whatsoever will be recognized. Upon failure or refusal of the purchaser to complete this agreement for any reason, all or part of the cash deposit may be retained as liquidated damages. The purchaser certifies he/she is of legal age and hereby accepts and acknowledges receipt of a copy of this bill of sale.

Stuart
 SALESPERSON
 Brunswick Harley-Davidson
 DEALER ACCEPTANCE
 NOT VALID UNLESS ACCEPTED BY AUTHORIZED REPRESENTATIVE

Office Use Only :

Case No. _____

Referred To NYSDRA _____

Filing Date _____

NEW YORK STATE ATTORNEY GENERAL'S OFFICE
ERIC T. SCHNEIDERMAN, ATTORNEY GENERAL

NEW YORK NEW CAR LEMON LAW ARBITRATION PROGRAM
REQUEST FOR ARBITRATION FORM

CONSUMER INFORMATION

1. Name: _____
Address: _____
City: Averill Park State: NY Zip: _____
Phone: Home (_____) Work: N/A

VEHICLE INFORMATION (Attach Copy of Your Bill of Sale or Lease)

2. Manufacturer: Harley-Davidson
(GM, Ford, Chrysler, Toyota, Winnebago, etc.)
3. Year: 2011 Make: Harley-Davidson Model: FLTRUSE-A
(ex. Chevrolet, Dodge) (ex. Cavalier, Caravan)
4. Vehicle Identification Number (VIN): 1HD1TA810BB _____
5. Date of delivery? 7/11/11 Mileage at delivery: 1 Current Mileage: 9,465
6. Did you purchase or lease your vehicle in New York? Yes [] No []
[] I purchased my vehicle. [] I leased my vehicle.
7. Is your vehicle registered in New York? Yes [] No []
8. Is your vehicle primarily used for personal, family or household purposes? Yes [] No []
9. Do you still own or lease your vehicle? Yes [] No []

DEALER INFORMATION

10. Name: Brunswick Harley-Davidson / Buell, Inc.
Address: 1130 Hoosick Road
City: Troy State: NY Zip: 12180

BANK OR FINANCING INSTITUTION (if financed):

11. Name: First National Bank of Scotia
Address: 201 Mohawk Ave.
City: Scotia State: NY Zip: 12302

LEASING COMPANY (if leased):

12. Name: N/A
Address: _____
City: _____ State: _____ Zip: _____
Lease Acct #: _____

VEHICLE'S PROBLEM(S)

13. Briefly describe the problem(s) for which you seek a refund or a replacement vehicle:

The exhaust temperature on the right side of bike burns my leg through my jeans when it is ridden for extended periods of time at temperatures (outside air) above 75°F.

14. Does the problem(s) for which you seek relief substantially impair the value of the vehicle to you? Yes No

15. On what date and at what mileage did you first report this problem(s) to the dealer or the manufacturer? Date: 5/2/12 Mileage: 9047
formally reported - see Repair Order 94024775 attached

16. Does the problem(s) involve a dealer installed option? Yes No
Specify: _____

BASIS FOR RELIEF SOUGHT: You must complete at least one of the following three questions (17, 18 or 19). If you have a Motor Home, you must also answer # 20.

17. Unsuccessful Repair Attempts

- A. How many repair attempts for the same problem were made within the first 18,000 miles or 24 months, whichever is earlier? 1
- B. Give the date, mileage and work order number for each of the repair attempts by an authorized dealer for the same problem.

Problem 1 (Specify) exhaust (bike runs extremely hot)

	<u>Date</u>	<u>Mileage</u>	<u>Work Order #</u>
(1)	<u>5/2/2012</u>	<u>9047</u>	<u>94024175</u>
(2)	<u>5/29/2012</u>	<u>9047</u>	<u>N/A Attached letter</u>
(3)	<u>Sent Certified Mail to Manager of Consumer Affairs and President/CEO Harley-Davidson</u>		
(4)	<u>NO FORMAL Response was received from H/D in the 30dday</u>		

Problem 2 (Specify) _____

	<u>Date</u>	<u>Mileage</u>	<u>Work Order #</u>
(1)	_____	_____	_____
(2)	_____	_____	_____
(3)	_____	_____	_____
(4)	_____	_____	_____

- C. Do you have copies of all relevant work orders?..... Yes No
(If yes, attach copies of them. Otherwise, once accepted into the Program, you may request copies from the manufacturer, with the arbitrator's approval, by writing to the Administrator pursuant to Regulation §300.9.)

- D. Did the problem continue to exist at the end of the fourth attempt? Yes No
There was only one attempt made by the dealer based on the repair order. H/D refuses to address the problem or to reimburse the dealership for investigating the problem.

18. Days in Shop for Repairs

A. How many days was the vehicle out of service due to repairs within the first 18,000 miles or 24 months, whichever is earlier? 16 days.

B. List the dates, mileage, and repair order numbers for those repairs:

From: 5/2/12 To: 5/19/12 Days out: 16 Mileage: 9047 Work Order # RO94024175
From: _____ To: _____ Days out: _____ Mileage: _____ Work Order # _____
From: _____ To: _____ Days out: _____ Mileage: _____ Work Order # _____
From: _____ To: _____ Days out: _____ Mileage: _____ Work Order # _____

C. Do you have copies of all relevant work orders?..... Yes No
(If yes, attach copies of them. Otherwise, once accepted into the Program, you may request copies from the manufacturer, with the arbitrator's approval, by writing to the Administrator pursuant to Regulation §300.9.)

19. Refusal to Repair (Note: This question should only be completed if the dealer and the manufacturer refuse to commence repairs.)

A. Did you first notify the dealer of the problem for which you are seeking this arbitration? Yes No

B. If yes, what problem(s)? Bike runs very hot - UNSAFE to Ride

C. What was the date of notification to the dealer? 5/2/12

D. Did the dealer refuse to inspect the vehicle and make whatever repairs were necessary within 7 days of receiving your initial notice of the problem?.. Yes No

E. If yes, did you notify the manufacturer by certified mail, return receipt requested, of such refusal? (Attach copy of notification with proof of mailing.) Yes No

F. Did the manufacturer fail to make repairs within 20 days of receiving your written notice of the dealer's refusal to repair?..... Yes No

20. **If Your Complaint Involves a Motor Home:**

- A. Did the dealer or manufacturer provide you with a written copy of the special lemon law notification requirements? Yes [] No []
- B. If the answer to (A) is yes, prior to this application for arbitration, did you notify the dealer or the manufacturer, by certified mail, return receipt requested, of a defect or condition that was subject to repair at least 2 times, or that the motor home has been out of service by reason of repair for 21 days, whichever occurs first? (If yes, attach copy of the notification with proof of mailing.) Yes [] No []
- C. If the answer to both (A) and (B) is yes, was the motor home out of service for a total of at least 30 days (the last 9 days after the notice is given to the manufacturer), or was the motor home in the shop for repairs 3 or more times (the 3rd repair attempt after the notice is given to the manufacturer) for the same problem?..... Yes [] No []

HEARING LOCATION

21. Please indicate where you want the arbitration hearing to be held:

- | | | |
|--------------------------------------------|------------------------------------------|-------------------------------------------|
| <input checked="" type="checkbox"/> Albany | <input type="checkbox"/> Hempstead | <input type="checkbox"/> Oneida |
| <input type="checkbox"/> Amsterdam | <input type="checkbox"/> Highland | <input type="checkbox"/> Oneonta |
| <input type="checkbox"/> Auburn | <input type="checkbox"/> Hudson | <input type="checkbox"/> Oswego |
| <input type="checkbox"/> Batavia | <input type="checkbox"/> Ilion | <input type="checkbox"/> Penn Yan |
| <input type="checkbox"/> Binghamton | <input type="checkbox"/> Ithaca | <input type="checkbox"/> Plattsburgh |
| <input type="checkbox"/> Bronx | <input type="checkbox"/> Jamaica | <input type="checkbox"/> Poughkeepsie |
| <input type="checkbox"/> Brooklyn | <input type="checkbox"/> Jamestown | <input type="checkbox"/> Rochester |
| <input type="checkbox"/> Buffalo | <input type="checkbox"/> Johnstown | <input type="checkbox"/> Saratoga Springs |
| <input type="checkbox"/> Canandaigua | <input type="checkbox"/> Lake Placid | <input type="checkbox"/> Schenectady |
| <input type="checkbox"/> Carmel | <input type="checkbox"/> Lower Manhattan | <input type="checkbox"/> Smithtown |
| <input type="checkbox"/> Catskill | <input type="checkbox"/> Lowville | <input type="checkbox"/> Speculator |
| <input type="checkbox"/> Cobleskill | <input type="checkbox"/> Lyons | <input type="checkbox"/> Staten Island |
| <input type="checkbox"/> Corning | <input type="checkbox"/> Malone | <input type="checkbox"/> Syracuse |
| <input type="checkbox"/> Cortland | <input type="checkbox"/> Monticello | <input type="checkbox"/> Troy |
| <input type="checkbox"/> Delhi | <input type="checkbox"/> Montour Falls | <input type="checkbox"/> Upper Manhattan |
| <input type="checkbox"/> Elmira | <input type="checkbox"/> New City | <input type="checkbox"/> Utica |
| <input type="checkbox"/> Fort Edward | <input type="checkbox"/> Niagara Falls | <input type="checkbox"/> Waterloo |
| <input type="checkbox"/> Geneseo | <input type="checkbox"/> Norwich | <input type="checkbox"/> Watertown |
| <input type="checkbox"/> Glens Falls | <input type="checkbox"/> Ogdensburg | <input type="checkbox"/> Yonkers |
| <input type="checkbox"/> Goshen | <input type="checkbox"/> Olean | |

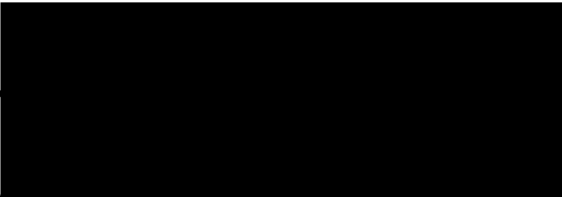
TYPE OF HEARING AND RELIEF REQUESTED

22. Oral (in person) Documents only (if manufacturer agrees)
23. If successful, I wish to receive a:
 full refund comparable replacement vehicle

PREVIOUS ARBITRATION

24. A. Did you participate in any previous arbitration for the same problem(s) for which you now seek arbitration?..... Yes No
- B. If yes, what was the name of the Program? _____ *N/A*
- C. Did you accept the decision of the arbitrator? Yes No *N/A*
- D. Did the manufacturer comply with the decision?..... Yes No *N/A*
- E. Date of Decision: _____ (attach copy of decision) *N/A*

SIGNATURE



Date:

7/17/12

CNS 006 (1/10)

Just another WordPress site

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Harley Davidson Burn Lawsuit

Harley Bikers Proceeding with Lawsuit Against Harley Davidson

Personal injury law firm Owen, Patterson & Owen is currently representing victims of Harley-Davidson motorcycle burn injuries.

Four California bikers claim their Harley Davidson motorcycles were defectively designed because their engines ran so hot as to pose a constant danger of being burned and were therefore not fit for their intended use. Phillip Johnson, Jimmy Aldridge, Matthew Weyuker and Randy Vandermolen alleged that Twin Cam engines in Harley motorcycles were prone to overheating and have resulted in burn injuries to their legs. The bikers also claim that transmissions on models manufactured since 2006 also came with defective speed transmissions.

The complaint alleges that since 1999, Twin Cam 88, 96, 103 and 110 cubic inch engines in Harley motorcycles produce severe, excessive heat causing clothing to catch on fire, burn injuries and the danger of burn injury to riders and passengers as well as overheating causing premature engine wear and is in models manufactured after 2006, transmission failure.

One of the bikers says that Harley has recommended several fixes, but he doesn't feel he should have to pay for the extra work on his fairly new bike.

"Plaintiffs sufficiently allege that the engine defect is material because a reasonable consumer would change his behavior if he knew that the engine heat can cause burns and that the transmission would require numerous repairs or replacements," U.S. District Judge John Mendez Mendez wrote.

Greg Owen, a partner at Owen, Patterson & Owen and one of the lawyers representing the plaintiffs in this case, states, "Harley Davidson has known about this problem from the early 2000s and has the technology to fix it, but has chosen to sell tens of thousands of touring bikes here in California without disclosing this known defect. When Harley customers complain to Harley's dealers after purchase, Harley's response is that's normal and it refuses to offer an effective fix to the problem."

The recent ruling allows the case to move forward, and Harley Davidson will now face Class Action Certification process at the end of the month.

Class members are encouraged to contact us for more information, by calling .

Whether your case involves a settlement or going to trial, our law firm is committed to getting results. We enlist industry experts and trusted medical professionals to make it clear that you deserve every bit of compensation we are asking for.





Start With a Free Consultation. Call us at or send us an to schedule a meeting to discuss your potential motorcycle injury incident and how our experienced attorneys can help.

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23822 W. Valencia Blvd #201 | Valencia, CA 91355 |

44130 10th Street West | Lancaster, CA 93534 |

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Harley Davidson Flhtcu 2007 - Engine and engine cooling

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Flhtcu

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Table of contents:

- Harley Davidson Flhtcu 2007
 - Consumer Complaints

**Harley Davidson Flhtcu 2007
Consumer Complaints**

Fail date	miles	occurrences	Purchase date
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ENGINE AND ENGINE COOLING

02/13/2008	12500		
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Engine knocks and kicks backs, on starting and when accelerating,has been worked on several times, by harley davidson dealer. the problem i've been told is the compensator sprocket and assembly . through many forums and talks with other harley riders that have had the same problems, the fix to the problem according to people who have researched the compensator is for it to be replaced with the screaming eagle compensator part #40274-08.if this is not recalled or repaired by harley it can be very expensive for the owner to repair approx. 600.00 dollars but more important the compensator can come apart possibly busting the primary case letting oil to spill on to road and tires which could cause an accident and possibly hurting someone or worse killing someone

02/13/2008	12500		
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02/13/2008	12500		
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08/02/2008 14205 1

2007 harley-davidson twin cam engine has excessive heat. whenever air temperature exceeds 95 the air cooled engine does not cool properly. due to excessive heat from engine, the back of my legs are getting extremely hot. it is difficult to concentrate when this happens. *tr

08/22/2007 1 1 05/21/2007

2007 harley-davidson ultra classic (flhtcu) with 96 engine runs exceeding/dangerously hot to the point of possible burns inflicted on inner thigh area of legs. *tr

06/01/2007 1 09/01/2006

The situation: on a motorcycle, drivetrain failure at typical operating speeds could very well mean severe injury or

death of the rider. abnormal heat or noise coming from the motorcycle's drivetrain are not issues to be ignored by a prudent rider or by the manufacturer of the motorcycle. for example the drivetrain on my 2007 flhtcu is excessively noisy when operated in 5th gear at normal rpms. this implies excessive vibration and/or abnormal wear occurring somewhere within the system. in addition, the drivetrain runs so hot as to present a burn hazard to the rider and passenger even when properly clothed. it is well known that excessive heat will contribute to longterm problems with any drivetrain, increasing the likelihood of failure. what harley davidson has done: to date, the only half-hearted solution to these maladies offered by the harley davidson motor company has been the torque smoothing download which accomplished nothing when installed on my bike. hd has asserted that the noise and heat are normal. on the contrary, many 2007 hd units do not have these issues, thus they are clearly not normal. they are certainly common problems, however. many owners have resorted to costly aftermarket solutions such as replacement gearsets and fuel management systems all installed at their own expense. in essence, hd has offloaded their responsibilities onto their customers. what hd should do: hd should issue a recall. hd should retrofit all affected 2007 models with the ids rubbermount rear sprocket (now standard on the 2008 touring models) to reduce drivetrain vibration and wear. they should also provide adjustments and/or modifications as needed to the fuel system to reduce drivetrain heat. they should extend the warranty of all affected 2007 motorcycles appropriately. "tr

05/25/2007	1	09/20/2006
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Purchased a flhtcu in sept. 06. since day 1 i felt intense heat on my thighs and the weather wasn't even hot (in 60's). hd rep and dealers stated bike is running lean due to epa regulations and i need to install, at additional cost , a s.e.r.t. and stage 1 kit to make it run cooler. on may 25, 2007, my passenger and myself were in traffic moving about 20 mph and we

could feel the heat. at around 5 mph the heat was getting so unbearable my passenger had to put her right leg on my lap. after a couple of minutes i had to pull over on the expressway because of the heat. my passenger checked her leg and it was so red and buming that i had to administer first aid cream on her leg. i checked the bike temperature with a surface temperature device (which i always carry on this bike) and it was above 450 degrees! does someone have to have a serious or fatal accident and get the media's attention before this problem is rectified! i hope not!

*tr

04/24/2007 200 27 08/17/2006

This is the follow-up relating to the complaint i filled on march 6, 2007 (odi number) 10184521. again, we stopped at a harley davidson dealer on our trip to california with our friends, this time san juan capistrano. the mechanic stated that we had some serious heating problems. pipe discoloration, excessive heat, but they do not have a dyna. he recommended a dealer that wasn't open for 3 more days. that wasn't going to work. we then had to stop at quaid harley davidson on the way home, because of these problems. after coming back from california again and experiencing excessive heating issues, we thought harley davidson would fix the problem. we brought our bike to hacienda harley davidson in scottsdale, az the following morning with massive discoloration (black/dark brown) on the pipes not including the blue and yellow ones (from the day we drove it home from the dealership) and oil that was so thick, your figures stuck together. i then contacted harley davidson and spoke to deb. she stated that their (harley davidson) rep was going to look at the bike. so we left it at the dealer for two weeks. the harley davidson rep states that the bike is just fine and that we need to take off the lowers. also, we were informed that the race tuner that we were told to purchase at \$500.00 plus \$500.00 installation would void the warranty on the motor if there was a problem. this is sooo wrong. we now have to pick up a bike that injuries

riders. we live in arizona, which there is a lemon law, however, we do not know if it applies. probably not. our only other recourse is to sue harley davidson. what to sue them for? i do not know, but i have a \$37,800.00 bike that i make a payment of \$700.00 monthly on that we are scared to ride. we have personally put nothing on this bike, and it is a bomb waiting to explode. "jb

08/20/2006 5 50 08/04/2006

I purchased a 2007 harley davidson flhtcu in august 20 06. i immediately noticed a tremendous amount of heat coming from the rear cylinder. when the air temperatura got over 80 degrees it was virtually impossible to ride at low speeds. several complaints to the dealership failed to resolve the problem. after purchasing a heat gun i began to monitor engine temperatures. the rear cylinder routinely topped 400 fahrenheit, the front ran 70 to 80 degrees cooler. in march 29007 i contacted customer service & after much arguing it was agreed that an area representative would look at my bike. on april 3rd i dropped the bike off at the dealership. when i turned off the engine i checked temperature with the heat gun, the rear cylinder read 430°, the front was 350°. the outside air temperature at the time was about 50 degrees. the next day i was informed by the dealership that the factory representative determined everything to be within specs. once again it was suggested that i remove the lower fairing and install a race tuner and different mufflers. this had been suggested earlier by the dealer, and i was quoted a price of \$1,500.00. hardly a reasonable solution for a problem i did not create. sitting atop a 400 degree engine in summer heat was a daunting task. last year when temperature reached the 90's the bike sat in my garage. the failure of harley davidson to in any way acknowledge there was a problem, in spite of motorcycle magazines & websites with lots of complaints, was very disappointing."ak

03/06/2007 200 20 08/17/2006

We purchased our motorcycle in august of 2006. after riding it

pulled the bike over to the side of the road and shut it down. i waited for a while and restarted it. the oil pressure seemed ok and the engine was quiet. the same thing happened three times before i got home. i called my local harley dealer and they picked my bike up and took it to their shop. after they stripped the engine down and checked it out they told me the crankshaft runout was way beyond spec and was starting to wipe out the oil pump. the bike had 5,000 miles on it. it was bad enough that harley davidson decided to replace the complete engine. i've heard this is a problem with the new 96 cubic inch engine.

*tr

05/28/2007 600 1 10/07/2006

The heat generating from the engine and exhaust on to the rider's legs and seat and also to the passenger's legs is extremely high. i have on repeated times, left burned jeans on the left rear exhaust heat shield. after experiencing this a number of times i added an additional aftermarket heat shield, which has helps some, but now this heat shield on the left side is melting and bubbling. i also can not sit on the seat when stopped at traffic lights, i have to standup. the heat transferring up through the bike's seat is so intense i am sure that i will end up with burns on my bottom forward area if i remain seated. this same heat is transferred to the passengers feet and legs, more so when riding down the road. i feel as if harley davidson, in their quest to meet epa guidelines have leaned out the engines, which generates intense heat, and have disregarded the safety and comfort of the rider and passenger. this creates an unsafe condition in which the rider and passenger are either going to get burned by the exhaust and/or engine heat, or be injured by being distracted with consently adjusting themselves while riding the bike. i have taken the bike to the dealer for service on a couple times to check on the heat problem. they did add a heat management upgrade program, and they also tell me the engine temperature is in the harley-davidson specs. this may be true, however, there is still a problem with the amout of heat

for a while the first day out with some friends visiting from california the rear engine, cylinder got unbearably hot. there where points that we wanted to jump off the motorcycle. we took pictures of the burns it caused and sent them to harley davidson. i still have them. the dealer and harley davidson stated that we would have to take off the lowers and that should cure the problem. however, now it is getting hotter and coming home from a road trip in 80 degree weather, we couldn't stand still at a stop light without turning off the bike. we then contacted the dealer and they told us the only way to get rid of the heating issue is to purchase a race tuner for an additional \$1000.00. the burning is intense. this is a manufacturing issue, not one that the consumers problem. they (harley davidson) are aware of the issue and have done nothing to fix it, except to offer something else to purchase. is this intentional? with malice? do not care? why is somebody not making them fix this? also, the pipes were burned so bad that we sent pictures to harley davidson of the intense coloration, they said normal coloring. this is not our first motorcyle. we traded in an 03 screaming eagle road king, that had a bigger motor, but never had a heating issue. we wouldn't had bought this motorcycle if we knew then what we know now. *jb

11/25/2006	4	1	08/21/2006
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2007 harley davidson flhtcui, experiencing intense heat from the right rear cylinder, when the bike is stopped in traffic it is unbearable, i am fearful it will burn the underside of my right thigh. discussed with the dealer and was told, there is nothing that can be done. it was suggested that i remove the lower fairings, but this had no effect on the heat when the bike was stopped. as i said, i am afraid i will be burned by this.
*nm

ENGINE AND ENGINE COOLING - ENGINE

11/15/2008	5000	1	
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As i was riding down the road at approx. 50 mph in 5th gear i noticed a drop in oil pressure and a noise from the engine. i

and the possibility of injury to the rider and passenger. *tr			
ENGINE AND ENGINE COOLING - ENGINE - GASOLINE			
03/07/2007	1		03/07/2007
Engine runs excessively hot on the rear cylinder. temp. difference of 100 degrees. *tr			
ENGINE AND ENGINE COOLING - EXHAUST SYSTEM			
09/10/2008	14000	1	
Heat from the rear exhaust is so intense that it caused burns to my wife with her feet on the passenger footboards as designed. caused burns to the inside of my right thigh. *tr			
08/15/2007	8	100	06/16/2007
Harley exhaust temp. is hot. *jb			
08/03/2007	822	1	07/20/2007
Excessive heat from engine and exhaust makes riding the motorcycle unsafe in heavy traffic and could lead to injury from burns or a loss of control. *tr			
07/23/2007	10	35	03/18/2007
Extreme heat from exhaust and engine burns riders thighs and passengers feet and lower leg. this causes a comfort issue which then becomes a safety hazard as you constantly have to shift your position so you will not burn yourself. *tr			
09/15/2006	10	1	09/15/2006
The situation: on a motorcycle, drivetrain failure at typical operating speeds could very well mean severe injury or death of the rider. abnormal heat or noise coming from the motorcycle's drivetrain are not issues to be ignored by a prudent rider or by the manufacturer of the motorcycle. for example the drivetrain on my 2007 flhtcu is excessively noisy when operated in gear. this implies excessive vibration and/or abnormal wear occurring somewhere within the system. in addition, the exhaust runs so hot as to present a burn hazard to the rider and passenger even when properly clothed. while riding even in winter temperatures i sustained a severe burn to my left leg, leaving a permanent scar. it is well known that excessive heat will also contribute to longterm problems with any drivetrain, increasing the likelihood of failure. what harley davidson			

has done: to date, the only half-hearted solution to these maladies offered by the harley davidson motor company has been the torque smoothing download which accomplished nothing when installed on my bike. hd has asserted that the noise and heat are normal. on the contrary, many 2007 hd units do not have these issues, thus they are clearly not normal. many owners have resorted to costly aftermarket solutions such as replacement gearsets and fuel management systems all installed at their own expense. in essence, hd has offloaded their responsibilities onto their customers. what hd should do: hd should issue a recall. hd should retrofit all affected 2007 models with the id's rubbermount rear sprocket (now standard on the 2008 touring models) to reduce drivetrain vibration and wear. they should also provide adjustments and/or modifications as needed to the fuel system to reduce drivetrain heat. they should extend the warranty of all affected 2007 motorcycles appropriately. *tr

05/14/2007 1 09/01/2006

I purchased peace officer ultra classic model, i also own a 2005 sportster. the ultra was dangerously hot on the left side above the exhaust, where left leg sat by design. i read the other posts and felt hd needed to address this. the latest hd magazine simply suggests to wear heavy pants. very disappointed with this design flaw. hd was offering a reprogramming that shut off the rear cylinder at parade speeds. again, i believed the exhaust was the problem, and also checked myself at long lights to make sure pants were not on fire! *ak

04/24/2007 200 27 08/17/2006

This is the follow-up relating to the complaint i filed on march 6, 2007 (odi number) 10184521. again, we stopped at a harley davidson dealer on our trip to california with our friends, this time san juan capistrano. the mechanic stated that we had some serious heating problems. pipe discoloration, excessive heat, but they do not have a dyna. he recommended a dealer that wasn't open for 3 more days. that wasn't going to

work. we then had to stop at quaid harley davidson on the way home, because of these problems. after coming back from california again and experiencing excessive heating issues, we thought harley davidson would fix the problem. we brought our bike to hacienda harley davidson in scottsdale, az the following morning with massive discoloration (black/dark brown) on the pipes not including the blue and yellow ones (from the day we drove it home from the dealership) and oil that was so thick, your figures stuck together. i then contacted harley davidson and spoke to deb. she stated that their (harley davidson) rep was going to look at the bike. so we left it at the dealer for two weeks. the harley davidson rep states that the bike is just fine and that we need to take off the lowers. also, we were informed that the race tuner that we were told to purchase at \$500.00 plus \$500.00 installation would void the warranty on the motor if there was a problem. this is sooo wrong. we now have to pick up a bike that injures riders. we live in arizona, which there is a lemon law, however, we do not know if it applies. probably not. our only other recourse is to sue harley davidson. what to sue them for? i do not know, but i have a \$37,800.00 bike that i make a payment of \$700.00 monthly on that we are scared to ride. we have personally put nothing on this bike, and it is a bomb waiting to explode. *jb

ENGINE AND ENGINE COOLING - EXHAUST SYSTEM - EMISSION CONTROL

12/06/2006	1	1	12/06/2006
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2007 flhtcu harley davidson runs so hot it cooks your legs. dealer says this is due to fed emission. *tr

ENGINE AND ENGINE COOLING - EXHAUST SYSTEM - MANIFOLD/HEADER/MUFFLER/TAIL PIPE

09/03/2007	1250	2	
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Had this '07 flhtcu since 04/07. the heat coming off the engine is totally unbearable above 85 f. the wife has had first degree burns twice now as the summer has worn on. i've done all the hd recommendations, keeping within the sum total of the parts

that came with the original purchase. i will not spend more money with hd to correct a defective product. from all the reading on the subject that hd has forced me to pursue ... it can be corrected. i find it absolutely incredible all my calls to hd and the contacts with hd dealers have just been blowing me off. most recently i was doing 75 mph on an interstate in 85 f temp. and the engine just tums off, very bad ... i maneuvered off the road between a couple of 18 wheelers, pretty dangerous. after 30 min. of checking every thing i could, it just started. it seemed to be running hot, even at that speed; back to a dealer next and probably the usual ... can't find anything. seems to me hd has a big responsibility here, very sad that they won't support their customer. and, where's the gov't. people ?? *tr the system relay switch failed which was heat related. the dealer speculated the left side muffler clamp was leaking which was blowing hot exhaust near the fuse block. updated 09/27/07. *jb

08/26/2007	67	1	08/28/2007
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There is excessive heat coming from the engine which burns on the inner thigh just to the right of the seat. i purchased the bike yesterday and was told by dealer that after 1000 miles i need to change the oil with synthetic oil. i was also told i must purchase lexan engine guards. i burned my inner thigh yesterday while i was stopped at a stop light. i was wearing thick jeans as well. it got so hot i almost dropped the motorcycle. when riding in stop-and-go traffic the problem becomes even worse. this is clearly a safety issue to both operator and those traveling around the motorcycle. if the motorcycle is too hot to handle the operator becomes focused on not getting burned rather than the surrounding environment. the potential for an accident is raised significantly. secondary, to burn potential is the possible damage to the pipes through bluing and excessive heat. a consumer pays a premium price for a hd product and would expect that these safety and maintenance issues would be properly addressed by the manufacturer instead of making the customer pay for the fix of

this problem. *jb			
08/11/2007	12		06/09/2007
	<p>There is excessive heat coming from the engine, bluing of the exhaust pipes, and an extreme burn danger to the operator and passenger. since my purchase of the bike i have installed the recommended hd lexan heat guards. these items simply do not work as the heat from the engine and exhaust is so intense that i have burned myself on the inside of the thigh several times (through a thick pair of blue jeans). with the natural reaction to pull away when burned i have almost dropped the motorcycle on several occasions. when riding in stop-and-go traffic the problem becomes even worse. this is clearly a safety issue to both operator and those traveling around the motorcycle. if the motorcycle is too hot to handle the operator becomes focused on not getting burned rather than the surrounding environment. the potential for an accident is raised significantly. secondary, to burn potential is the possible damage to the pipes through bluing and excessive heat. a consumer pays a premium price for a hd product and would expect that these safety and maintenance issues would be properly addressed by the manufacturer.</p> <p style="text-align: center;">*tr</p>		
07/27/2007	12	1	04/30/2007
	<p>Excessive heat from engine, exhaust. *jb</p>		
07/25/2007	0	1	06/21/2007
	<p>Excessive heat from engine , exhaust system turning blue, i have burnt my leg on the exhaust. *jb</p>		
05/28/2007	600	1	10/07/2006
	<p>The heat generating from the engine and exhaust on to the rider's legs and seat and also to the passenger's legs is extremely high. i have on repeated times, left burned jeans on the left rear exhaust heat shield. after experiencing this a number of times i added an additional aftermarket heat shield, which has helps some, but now this heat shield on the left side is melting and bubbling. i also can not sit on the seat when stopped et traffic lights, i have to standup. the heat transferring up through the</p>		

bike's seat is so intense i am sure that i will end up with burns on my bottom forward area if i remain seated. this same heat is transferred to the passengers feet and legs, more so when riding down the road. i feel as if harley davidson, in their quest to meet epa guidelines have leaned out the engines, which generates intense heat, and have disregarded the safety and comfort of the rider and passenger. this creates an unsafe condition in which the rider and passenger are either going to get burned by the exhaust and/or engine heat, or be injured by being distracted with consently adjusting themselves while riding the bike. i have taken the bike to the dealer for service on a couple times to check on the heat problem. they did add a heat management upgrade program, and they also tell me the engine temperature is in the harley-davidson specs. this may be true, however, there is still a problem with the amout of heat and the possibility of injury to the rider and passenger. *tr

06/27/2007 144 1 06/19/2007

Burning of pants by an open exhaust pipe on a 2007 harley davidson flhtcu motorcycle. the left exhaust pipe under the riders left leg got so hot that it could actually catch a rider's pants on fire and cause serious injury or death. my pants had holes burned in them but had not actually caught on fire. the pipe was tested to be 180 degrees by the hd dealer. harley davidson, as i was told by my dealer, had no solution for this very serious problem. the solution could be very simple but apparently harley didn't care. i was told that you could not wear dress pants and ride a harley. harley davidson should not be allowed to put such an unsafe vehicle on the market to sell to unsuspecting buyers. *ak

04/24/2007 200 27 08/17/2006

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J K L M N O P Q
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11/22/2009 10:58:12 AM
4277 posts in 1188

Want to ask about *Harley-Davidson Model FLTRUSE-A temperature complaints?*

12-11-2009, 03:49 PM



Join Date: May 2008
Posts: 1,890

Filed Excessive Heat Complaint with NHTSA

After months of getting nowhere with Harley's Customer Service and listening to their constant denial that 2009 V-twins have an excessive heat problem and their insulting B.S mantra that 270-300 degree engine oil temp on an 80-100 degree day is normal. I finally got disgusted and filed an "excessive engine heat" complaint with the National Highway Transportation Safety Administration (NHTSA)

I know that several others before me have filed similar complaints with NHTSA but being a devoted "Harley Guy" all of my life, I naively thought that MOCA would step up to the plate and resolve this issue! But instead, they stubbornly refuse to even admit that there is a problem despite the fact that several owners including my self have suffered burns on our legs and some owners have even used an interferred thermometer to record temperature reading of 140 degrees on their jean pants leg! However, Harley still refuses to even acknowledge the problem, *(which is insulting and degrading)*! How can 140 degrees on your pant leg possibly be NORMAL?

As close as I could get Harley to admit that there is an excessive heat problem... I had had a customer service rep tell me that: *"I should remove my lowers when the outside temperatures get above 70 degrees so as to improve my riding comfort"*. I asked him to put this recommendation in writing and be refused!

Besides the obvious safety concerns, there is also the question of long term reliability (*long term being defined as warranty expiration*) of these hot running engines? There have been hundreds of complaints just on this forum about engine oil boiling and escaping through the air cleaner and now another common occurrence on the late model 103's is "galling of the spark plugs". Some owners have reported "galled" spark plugs at as little as 1,000 miles; more evidence that these late model V-twins are running too dang hot! Because of the CATs on the 2010 models, the 10' run even hotter, so you folks with new bikes; just wait until summer to find out that you can't enjoy your new toy on a warm, made for riding summer day!


It is painfully apparent that the only way we are going to get Harley to address this serious heat issue is to have "Big Brother" force them to do so! If you are like me and tired of the insulting B.S, tired of the heat discomfort and the fear of being burned during the summer months prime riding season, don't want 140 degree jean pant leg, don't feel that you should have to remove the lowers on a very expensive bike and are concerned that the excessive heat will shorten the life of your engine... then join me in filing a complaint with NHTSA; it takes less than 3 minutes to complete the form. **There is strength in numbers and maybe, just maybe together we can get this problem rectified!**

Thanks and have a great Holiday Season! 



Oil Temp & OAT Gauge,PC-V,10 Row Oil Cooler & Fan,SE A/C,V&H Slip- ons,Parade Fan,Jackpot Head

A Good Credit Score Means Lower Rates on Mortgages





I hope this is a joke - if not, you're a loser.

12-11-2009, 04:06 PM



Outstanding HDF Member

Join Date: Oct 2009
Location: Scottsboro
Posts: 2,640

Betta dollar your a lawyer! Call Obama he ain't doing nothing nohow! Yeah I gotta degree in inglis



Scottsboro, Al Where Agnostics say "There ain't no hell" and I say "The hell there ain't"

12-11-2009, 04:07 PM



Ultimate HDF Member

Join Date: Dec 2006
Location: Po-Dunk Looziana
Posts: 8,293

Somebody pass me a beer. This is gonna get uuuuuugly!!!

Quote:

Originally Posted by **TheJimer**

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Thanks and have a great Holiday Season!





2007 UltraClassic\103"BB\manual CR's\030 Ceramic Head Gasket\SE 255's
Doherty PowerPACC w/vents\D&D FatCat 2.1\SERT\Bagger Brace
M1.15W-50 in crank\AIF in Primary\Redline Shoeproof in Tranny
87HP & 1.15TQ(\$600 build)

Last edited by UltraClassic; 12-11-2009 at

12-11-2009, 04:15 PM



Road Warrior

Join Date: May 2008
Posts: 1,890

Quote:

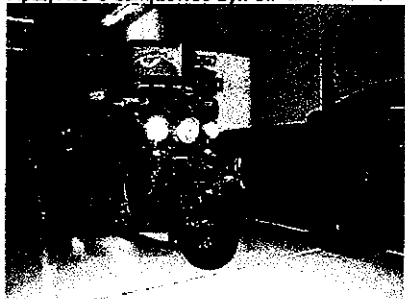
Originally Posted by xxxflhnc1 .
An air cooled motor between your legs gets hot? Who woulda think?

Air cooled yes but I had 6 other Harley's and never saw 300 degree engine oil temps before! That is NOT normal!

This is not a 2000 or 1977 problem it is a 2008, 2009, 2010 and future problem...If we let them!!!!!!

Thanks for your support!

Oil Temp & OAT Gauge,PC-V,10 Row Oil Cooler & Fan,SE A/C,V&H Slip-ons,Parade Fan,Jackpot Head
Pipes,TW6-6 Cam,20W60 Syn Oil <50 PSI TEMP



CONVETTE & HARLEY-DAVIDSON I

12-11-2009, 04:15 PM



Road Master

Join Date: May 2009
Location: Seginaw, MI
Posts: 828

Go electric or water cooled. This is no place for heat complaints.

HARLEY DAVIDSON FXDB - 2009 HARLEY DAVIDSON FXDB Problems & Complaints

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There are 14 complaints filed for the **2009 Harley Davidson FXDB** by **HARLEY DAVIDSON**

Below is a list of complaints & problems filed against the **2009 HARLEY DAVIDSON FXDB**. These problems includes information received by consumers either directly or as recorded by the Vehicle Safety Hotline. This information may be used by NHTSA during the investigation process. If you like to file an official complaint for the **2009 HARLEY DAVIDSON FXDB**, you can do so by calling the NHTSA Mon-Fri 8am to 8pm at , TTY: 800-424-9153. You can also file your complaint online by . Your complaint will be added to the NHTSA complaints database after a thorough review. If a trend is discovered, an investigation will be opened by the ODI.

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Complaint	Description
FUEL SYSTEM, OTHER: STORAGE: FUEL GAUGE SYSTEM	8/2/2011 - KANSAS CITY, MO THE BIKES FUEL GAUGE HAS NEVER WORKED SINCE THE ORIGINAL PURCHASE OF THIS BIKE. IT HAS NEVER BEEN TAKEN TO A DEALER TO BE "FIXED" BECAUSE AFTER DOING SOME RESEARCH IT APPEARS THAT THERE IS NO FIX FOR THE FAULTY GAUGE.
ELECTRICAL SYSTEM	4/30/2011 - FAIR OAKS, CA DEAR SIR: ON DECEMBER 5, 2010 WHILE MAKING A LEFT TURN INTO A DRIVEWAY MY HARLEY DAVIDSON TRI-GLIDE (VIN [XXX]) MODEL FLHTCUTG (THIS MODEL # WAS NOT ALLOWED IN A FOLLOWING FIELD) ACCELERATED UNEXPECTEDLY AND TIPPED ON ITS SIDE THROWING ME OFF AND THEN INTO A FENCE. I WAS TRANSPORTED FROM THE SCENE BY AMBULANCE WITH MINOR INJURIES (BROKEN RIBS) AND THE BIKE WAS TOWED TO A STORAGE YARD. THE NEXT DAY I CALLED HARLEY DAVIDSON OF SACRAMENTO TO ARRANGE FOR THE BIKE TO BE TOWED THERE AND REPAIRED. I WAS TOLD BY THEM THAT THEY DID NOT PERFORM INSURANCE REPAIRS AND WAS REFERRED TO MID-CAL CYCLE OF WEST SACRAMENTO TO DO THE FACTORY AUTHORIZED REPAIRS. I INFORMED MID-CAL THAT THE THROTTLE HAD ADVANCED ON ITS OWN AND THEY REPLACED THE THROTTLE WRING, THROTTLE PN 56304-08 AND THE SENSOR THROTTLE PN 32305-08A (I HAVE BOTH PARTS). I PICKED THE BIKE UP ON FEBRUARY 25, 2011 AND HAVE BEEN RIDING IT SINCE. ON APRIL 7, 2011 WHILE RIDING IN TRAFFIC IN THE CITY OF CITRUS HEIGHTS THE THROTTLE AGAIN ACCELERATED UNEXPECTEDLY CAUSING ME TO REAR-END THE CAR IN FRONT OF ME. I WAS TRAVELING AT APPROXIMATELY 20 MPH WHEN THIS STARTED SO THE IMPACT SPEED WAS KEPT DOWN. I CLUTCHED THE BIKE AFTER IMPACT AND THE ENGINE RPM'S INCREASED ABOVE 4000 BEFORE I HIT THE KILL SWITCH. NO ONE WAS INJURED IN THIS ACCIDENT. THE CAR SUSTAINED BUMPER DAMAGE AND MY BIKE REQUIRES \$2000 IN REPAIRS. THIS MOTORCYCLE HAS AN ELECTRONIC THROTTLE SO I HAVE LISTED IT AS AN ELECTRICAL SYSTEM FAILURE. INFORMATION REDACTED PURSUANT TO THE FREEDOM OF INFORMATION ACT (FOIA), 5 U.S.C. 552(B)(6).
ENGINE AND ENGINE COOLING: EXHAUST SYSTEM	5/18/2010 - WESTERVILLE, OH FOR THE THIRD TIME I HAVE SUSTAINED A SECOND DEGREE BURN ON MY LOWER RIGHT LEG WHEN ABOARD MY 2009 HARLEY DAVIDSON ELECTRA GLIDE. THIS OCCURS WHEN I STOP THE BIKE TO

PARK IT OR GET GAS AND MY LEG CONTACTS THE EXHAUST PIPE JUNCTURE JUST AFT OF THE RIDER FLOORBOARD. THE BURN IS SUSTAINED IMMEDIATELY ON ANY CONTACT WITH THE EXHAUST PIPE WHICH IS PROTECTED BY A HEAT SHIELD PROVIDED BY HARLEY DAVIDSON. THE HEAT SHIELD IS INADEQUATE FOR THE TASK, AS THIS IS WHAT I AM ACTUALLY CONTACTING WHEN I AM BURNED. I QUESTIONED THE SELLING DEALER, AND THERE SOLUTION WAS TO WRAP THE AREA IN A HEAT RESISTANT TAPE, WHICH WOULD NOT LOOK GOOD AND MAY NOT BE EFFECTIVE ANYWAY. I WEAR AN ANKLE HIGH LEATHER BOOT WHEN I RIDE, WHICH I FEEL SHOULD BE ADEQUATE PROTECTION. I FEEL THAT HARLEY SHOULD DESIGN AND MANUFACTURE A GUARD OR AUXILIARY SHIELD TO PROTECT THE OPERATOR, AND PROVIDE THIS TO ALL OWNERS OF 2009 AND 2010 TOURING MODELS WHICH HAVE THE REDESIGNED EXHAUST SYSTEM THAT CAUSES THIS PROBLEM. NOT ONLY ARE THE BURNS PAINFUL BUT COULD BECOME INFECTED. THE CORRECT MODEL IS FLHTCU.

VEHICLE SPEED CONTROL

7/9/2010 - GIG HARBOR, WA

THE CONTACT OWNS A 2009 HARLEY DAVIDSON ROAD GLIDE MOTORCYCLE. WHILE DRIVING 55-65 MPH THE CONTACT STATED THE VEHICLE WENT INTO A LIMP HOME MODE. HE STATED THE VEHICLE WOULD NOT ACCELERATE MORE THAN 200 RPM'S. HE STATED THIS WAS VERY UNSAFE WHEN TRAVELING ON THE HIGHWAY. HE STATED THE FAILURE HAS OCCURRED FOUR TIMES. HE STATED THE DEALER WAS UNABLE TO LOCATE THE FAILURE ON THE OTHER OCCASSIONS. THE VEHICLE WAS AT AN AUTHORIZED DEALER AT THE TIME ON THE COMPLAINT AND HE STATED THEY WERE REPLACING THE COMPUTER SYSTEM. THE FAILURE MILEAGE WAS 15,000 AND THE CURRENT MILEAGE WAS 17,000. VWB

ENGINE AND ENGINE COOLING

12/8/2009 - LAKE HAVASU CITY, AZ

EXCESSIVE ENGINE HEAT ON THE 2009 HARLEY-DAVIDSON ULTRA TRI-GLIDE MOTOR CYCLE, MODEL FLHTCUTGI ENGINE OIL TEMPERATURES RUN AROUND 300 DEGREES AND INFRARED TEMPERATURE READINGS ON RIDER+S JEAN PANT LEG ARE 140 DEGREES! HARLEY SAYS THIS IS NDRMAL! I HAVE BURN SCARE ON MY LEG THAT SAYS THIS SHOULD NOT BE NORMAL!

SERVICE BRAKES, HYDRAULIC

11/25/2009 - CONCORD, OH

WHILE RIDING MY 2009 HARLEY DAVIDSON STREETGLIDE MY ABS BRAKING SYSTEM APPEARED TO FAIL. I WAS AT A STOP WAITING FOR TRAFFIC TO CLEAR SO THAT I COULD SAFELY PULL OUT. WHEN I STARTED TO PULL OUT A CAR "FROM NOWHERE" APPEARED. I HAD TO BRAKE. WHEN I DID, THE ABS BRAKING SYSTEM ACTIVATED AND CAUSED THE MOTORCYCLE TO "FREEWHEEL". IN OTHER WORDS MY BRAKES DID NOT WORK. I HAD TO STOP THE BIKE BY PUTTING MY FEET DOWN. THE PAVEMENT WAS DRY AND CLEAN AND I WAS GOING LESS THAN 5 MPH...NO REASON FOR THE ABS BRAKES TO ACTIVATE. WHEN I ATTEMPTED TO STOP I HAD THE REAR BRAKE PEDAL DEPRESSED TO IT'S FULLEST EXTENT BUT NO BRAKING OCCURRED. IT'S MY UNDERSTANDING SIMILAR INCIDENTS HAVE OCCURRED WITH OTHER PEOPLE. THE ABS IS A FACTORY INSTALLED OPTION AND NO MODIFICATIONS HAVE BEEN MADE TO IT. THE MOTORCYCLE HAD APPROX. 5200 MILES ON IT WHEN THIS OCCURRED. I STRONGLY SUGGEST YOUR ORGANIZATION LOOK INTO THIS MATTER. THE MOTORCYCLE IS PRESENTLY IN STORAGE AT MY LOCAL HARLEY DAVIDSON DEALER AND I HAVE VOICED MY COMPLAINT TO THEM. I HAD ANOTHER PROBLEM WITH MY FRONT TIRE AND HARLEY SEEMS SLOW TO RESPOND TO THESES TYPES OF COMPLAINTS. ALTHOUGH AFTER A CALL TO HD DIRECTLY I DID GET THE TIRE PROBLEM RESOLVED. AND THEY DID SEND OUT A BULLETIN TO THEIR DEALERS ON THE SUBJECT. HOPEFULLY YOU CAN LOOK INTO THIS MATTER BEFORE SOMEONE GETS HURT OR KILLED.

ENGINE AND ENGINE COOLING

10/30/2009 - OAK GROVE, OR

THE CONTACT OWNS A 2009 HARLEY DAVIDSON SCREAMING EAGLE ROAD GLIDE FLTRSE3. HE ATTEMPTING TO MAKE A TURN AFTER EXITING A PARKING SPACE, BUT THE ENGINE MISFIRED. HE LOST VEHICLE CONTROL, AND THEN CRASHED ONTO THE ROADWAY. THERE WERE PERSONAL INJURIES INCLUDING FRACTURES TO THE LEFT ANKLE AND RIBS. THE FAILURE WAS CONTRIBUTED TO THE HEAT MANAGEMENT SYSTEM. THE VEHICLE HAS NOT BEEN REPAIRED FOR THE MALFUNCTION. THE FAILURE MILEAGE WAS 2,800. THE CURRENT MILEAGE WAS 3,000.

SERVICE BRAKES, HYDRAULIC

10/23/2009 - LOGANSPOUT, IN

2009 HARLEY DAVIDSON TRI-GLIDE. REAR BRAKES WONT PROPERLY STOP BIKE. ALL STOPPING IS COUNTING ON FRONT BRAKES (ONE WHEEL). REAR BRAKE PADS WORE OUT AT 6000 MILES.

**ENGINE AND ENGINE COOLING:
EXHAUST SYSTEM:
MANIFOLD/HEADER/MUFFLER/TAIL
PIPE**

9/16/2009 - PITTSBURG, PA

THE CONTACT OWNS A 2009 HARLEY DAVIDSON VRSCF. HE STATED THAT THE HEADER PIPE FROM THE MOTOR TO THE MUFFLER TURNS CHERRY RED DUE TO HEAT EXPOSURE OF 1800-1800 DEGREES. HIS LEGS ARE POSITIONED DIRECTLY ABOVE THE HEAT, WHICH MAY IGNITE HIS CLOTHING. THE VEHICLE WAS TAKEN TO THE DEALER, AND THE TECHNICIANS CONCLUDED THAT THE HIGH TEMPERATURES FROM THE COMPONENT IS A NORMAL CHARACTERISTIC OF THE VEHICLE. NO REPAIRS HAVE BEEN MADE. THE FAILURE MILEAGE WAS 1,200. THE CURRENT MILEAGE WAS 2,600. BL

TIRES

9/3/2009 - CRANBERRY TWP, PA

I HAVE A 2009 HARLEY DAVIDSON ULTRA CLASSIC ELECTRA GLIDE. THIS MODEL ALONG WITH THE "TOURING" LINE OF HD MOTORCYLES ARE NEWLY REDESIGNED AND USES THE NEW DUNLOP 407F MOTORCYCLE TIRES. THESE TIRES ARE THE ONLY TIRES THAT ARE AVAILABLE FOR THIS LINE OF MOTORCYCLES. MY TIRES ARE "CUPPING" AFTER 7,000 MILES. THE CUPPING IS CAUSING VIBRATION AT HIGHWAY SPEEDS AND NOISES WHILE CORNERING. I HAVE BEEN READING ABOUT THIS ISSUE ON HARLEY DAVIDSON FORUMS AND I HAVE DISCOVERED THAT THERE ARE NUMEROUS COMPLAINTS

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

PHILLIP JOHNSON, JIMMY ALDRIDGE,) Case No. 2:10-CV-02443 JAM-EFB
RANDY VANDERMOLEN, and MATTHEW)
WEYUKER, individually and on)
behalf of all others similarly) ORDER DENYING IN PART AND
situated,) GRANTING IN PART DEFENDANT'S
) MOTION TO DISMISS
)
Plaintiffs,)
)
v.)
)
)
HARLEY-DAVIDSON MOTOR COMPANY)
GROUP, LLC, HARLEY-DAVIDSON,)
INC., WHICH WILL DO BUSINESS IN)
CALIFORNIA AS: (WISCONSIN))
HARLEY-DAVIDSON, INC., HARLEY-)
DAVIDSON MOTOR COMPANY, INC. and)
DOES 1-50,)
)
Defendants.)

This matter comes before the Court on Defendant Harley-Davidson Motor Company Group, LLC, Harley-Davidson Inc.'s ("Defendant") Motion to Dismiss (Doc. #40) the Third Amended Complaint ("TAC") (Doc. #34) filed by Plaintiffs Phillip Johnson, Jimmy Aldridge, Randy Vandermolen, and Matthew Weyuker,

1 collectively "Plaintiffs." Plaintiffs oppose the motion (Doc.
2 #42).¹

3
4 I. FACTUAL AND PROCEDURAL BACKGROUND

5 Plaintiffs allege that Defendant, the largest manufacturer
6 of heavy-weight motorcycles in the world based on market share,
7 produced defective Twin Cam 88 and Twin Cam 96 motors.
8 Plaintiffs aver two defect claims: 1) since model year 1999,
9 Defendant's Twin Cam motorcycle engines have produced
10 dangerously excessive heat during normal operations and the
11 engine cooling systems designed by Defendant are inadequate to
12 safely cool the engines and 2) since model year 2006, the six-
13 speed transmissions and other related systems suffer premature
14 wear and failure. Plaintiffs allege that Defendant has known
15 about the excessive heat defect since approximately 1999 and has
16 known about the transmission defect since approximately 2006.
17 Plaintiffs also aver that Defendant is aware of reasonable
18 alternative designs for motorcycle engines and cooling systems,
19 including those used by its competitors and those used by
20 Defendant itself in V-Rod models beginning in the 2002 model
21 year. Finally, Plaintiffs allege that Defendant is aware of
22 reasonable alternative designs for transmissions, including
23 those used by its competitors and those used by Defendant itself
24 in C.V.O. models.

25 The TAC includes the individual claims of each named
26 plaintiff. In short, each named plaintiff claims that he owns a

27
28 ¹This motion was determined to be suitable for decision without
oral argument. E.D. Cal. L.R. 230(g). The hearing was scheduled
for July 20, 2011.

1 motorcycle with a defective engine and/or transmission and has
2 suffered economic injuries due to having the defective engine
3 and/or transmission repaired and replaced between one and five
4 times. Additionally, after Plaintiffs discovered the
5 overheating problem, Defendant's agents and representatives
6 allegedly induced Plaintiffs to purchase plastic "heat shields"
7 claiming that they would resolve the overheating issue.

8 Plaintiffs also allege physical injuries in the form of
9 burns on their legs. They aver that the economic and physical
10 injuries are a result of the defective engine and/or
11 transmission in Defendant's motorcycles.

12 Plaintiff Philip Johnson commenced this action on September
13 10, 2010. On October 1, 2010, Plaintiff filed a First Amended
14 Complaint joining Jimmy Aldridge and Randy Vandermolen as
15 plaintiffs and bringing claims on behalf of a class of similarly
16 situated Harley-Davidson owners. On December 10, 2010, pursuant
17 to a stipulation of the parties, Plaintiffs filed a Second
18 Amended Complaint joining Matthew Weyuker as a plaintiff. On
19 April 29, 2011, pursuant to a stipulation of the parties,
20 Plaintiffs filed a Third Amended Complaint, naming the correct
21 Harley Davidson entity as defendant. It is this Third Amended
22 Complaint that is the subject of Defendant's instant motion to
23 dismiss.

24 Plaintiffs bring this suit as a class action alleging six
25 causes of action: 1) Strict products liability; 2) Violations of
26 California Business and Professional Code §§ 17200 ("UCL") for
27 committing unfair, unlawful, and fraudulent business practices;
28 3) Violations of the breach of express and implied warranty;

1 4) Negligence; 5) Unjust enrichment; and 6) Violations of the
2 Consumers Legal Remedies Act, California Civil Code §§ 1750 et
3 seq. ("CLRA"). This Court has original jurisdiction over this
4 action pursuant to 28 U.S.C. § 1332(a)(1) and independent
5 jurisdiction over this action pursuant to 28 U.S.C. § 1332(d).

6
7 II. OPINION

8 A. Legal Standard

9 1. Motion to Dismiss

10 A party may move to dismiss an action for failure to state
11 a claim upon which relief can be granted pursuant to Federal
12 Rules of Civil Procedure 12(b)(6). In considering a motion to
13 dismiss, the court must accept the allegations in the complaint
14 as true and draw all reasonable inferences in favor of the
15 plaintiff. Scheuer v. Rhodes, 416 U.S. 232, 236 (1975),
16 overruled on other grounds by Davis v. Scherer, 468 U.S. 183
17 (1984); Cruz v. Beto, 405 U.S. 319, 322 (1972). Assertions that
18 are mere "legal conclusions," however, are not entitled to the
19 assumption of truth. Ashcroft v. Iqbal, 129 S.Ct. 1937, 1950
20 (2009), citing Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 555
21 (2007). To survive a motion to dismiss, a plaintiff needs to
22 plead "enough facts to state a claim to relief that is plausible
23 on its face." Twombly, 550 U.S. at 570. Dismissal is
24 appropriate where the plaintiff fails to state a claim
25 supportable by a cognizable legal theory. Balistreri v.
26 Pacifica Police Department, 901 F.2d 696, 699 (9th Cir. 1990).

27 Upon granting a motion to dismiss for failure to state a
28 claim, the court has discretion to allow leave to amend the

1 complaint pursuant to Federal Rules of Civil Procedure 15(a).
2 "Dismissal with prejudice and without leave to amend is not
3 appropriate unless it is clear . . . that the complaint could
4 not be saved by amendment." Eminence Capital, L.L.C. v. Aspeon,
5 Inc., 316 F.3d 1048, 1052 (9th Cir. 2003).

6 B. Claims for Relief

7 1. UCL Pleading

8 Defendant argues that Plaintiffs' UCL claims (Claim 2) fail
9 to satisfy federal pleading requirements under Federal Rules of
10 Civil Procedure 8(a) and 9(b) because they are plain recitations
11 of the elements and they fall short of the specificity required
12 under Rule 9(b). Plaintiffs respond that as long as they plead
13 facts sufficient to support either their lawful, unfair, or
14 fraudulent theories of liability under the UCL, their Complaint
15 should survive a motion to dismiss. They also argue that the
16 TAC recites the material facts necessary to support allegations
17 that Defendant's conduct is unlawful and unfair under the UCL.

18 Each prong of the UCL is a separate and distinct theory of
19 liability. Kearns v. Ford Motor Co., 567 F.3d 1120, 1127 (9th
20 Cir. 2009). Rule 9(b)'s heightened pleading requirements apply
21 to claims for violations of the UCL. Id. at 1125.

22 While fraud is not a necessary element of a claim
23 under the . . . UCL, a plaintiff may nonetheless
24 allege that the defendant engaged in fraudulent
25 conduct. A plaintiff may allege a unified course of
26 fraudulent conduct and rely entirely on that course of
27 conduct as the basis of that claim. In that event,
the claim is said to be 'grounded in fraud' or to
'sound in fraud,' and the pleading . . . as a whole must
satisfy the particularity requirement of Rule 9(b).
Id. (internal citations omitted).

28 Because all of Plaintiffs' UCL allegations are based on

1 Defendant' alleged failure to disclose known defects and that it
2 misrepresented the dangers of the motorcycles to Plaintiffs, the
3 UCL claims sound in fraud and must meet Rule 9(b)'s heightened
4 pleading standard.

5 Plaintiffs' allegations that Defendant committed fraudulent
6 and unfair business practices are sufficient. The gravamen of
7 Plaintiffs' factual allegations is that Defendant defectively
8 designed and manufactured motorcycles - the engines produced
9 excessive heat and the transmissions prematurely failed - and
10 then marketed and sold those motorcycles to Plaintiffs and the
11 class. Plaintiffs claim Defendant knew about these defects and
12 injuries since approximately 1999 and rather than correct the
13 defects and/or warn consumers of them, Defendant continued to
14 produce the defective motorcycles knowing about the overheating
15 and transmission defects and failing to inform consumers of such
16 material defects and actively concealing such defects.
17 Plaintiffs allege that the defectively designed motorcycles
18 caused both economic and physical injuries, including burns, to
19 Plaintiffs and the class.

20 While it would have been preferable for Plaintiffs to
21 provide more details concerning the identity of the people who
22 made the misrepresentations, the time and place of the
23 misrepresentations, and the method by which the
24 misrepresentations were communicated, Plaintiffs "set forth more
25 than the neutral facts necessary to identify the transaction."
26 Cooper v. Pickett, 137 F.3d 616, 625 (9th Cir. 1997).
27 Plaintiffs provide enough facts for their unfair and fraudulent
28 business practice claims "to give defendants notice of the

1 particular misconduct . . . so that they can defend against the
2 charge and not just deny that they have done anything wrong.”
3 Bly-Magee v. California, 236 F.3d 1014, 1019 (9th Cir. 2001)
4 (internal quotations omitted); see also Kearns, 567 F.3d at 1125
5 (One of the purposes of Rule 9(b) is “to provide defendants with
6 adequate notice to allow them to defend the charge . . .”).

7 Plaintiffs’ unlawful conduct claim, however, requires
8 amendment. “An ‘unlawful’ business activity includes anything
9 that can properly be called a business practice and that at the
10 same time is forbidden by law.” Smith v. State Farm Mutual
11 Automobile Insurance Co., 93 Cal.App.4th 700, 718 (Cal.App.Ct.2d
12 2001) (internal citations omitted). The TAC is unclear which
13 laws are relied upon by Plaintiffs. Plaintiffs merely allege
14 that Defendant violates California statutory and common law.
15 TAC ¶ 68(a).

16 Accordingly, Defendant’s Motion to Dismiss Plaintiffs’ UCL
17 claims is DENIED for the unfair and fraudulent business
18 practices claims and is GRANTED WITH LEAVE TO AMEND concerning
19 the unlawful conduct claim.

20 2. CLRA Claim

21 Defendant argues that Plaintiffs’ CLRA claim (Claim 6)
22 fails because it does not satisfy the heightened pleading
23 requirements. Defendant additionally contends that Phillip
24 Johnson (“Johnson”), Jimmy Aldridge (“Aldridge”), and Randy
25 Vandermolen’s (“Vandermolen”) CLRA claims are time-barred due to
26 the three-year statute of limitations. Plaintiffs respond that
27 they have pled enough facts demonstrating that Defendant failed
28 to disclose a material defect in violation of the CLRA and that

1 the statute of limitations period began to run when Plaintiffs
2 Johnson, Aldridge, and Vandermolen knew or should have known of
3 the violation.

4 a. CLRA Pleading

5 The CLRA prohibits "unfair methods of competition and
6 unfair or deceptive acts or practices undertaken by any person
7 in a transaction intended to result or which results in the sale
8 . . . of goods or services to any consumer." Cal. Civ. Code
9 § 1770(a). Rule 9(b)'s heightened pleading standards apply to
10 claims for violations of the CLRA. Kearns, 567 F.3d at 1125.

11 As discussed supra, Plaintiffs' TAC has been pled with
12 sufficient specificity to meet the Rule 9(b) pleading
13 requirements.

14 In their Opposition, Plaintiffs rely on Falk v. General
15 Motors Corp., 496 F.Supp.2d 1088 ((N.D. Cal. 2007) to support
16 their argument that they sufficiently state a claim under the
17 CLRA because Defendant failed to disclose a material defect and
18 that Defendant was obliged to disclose the defect. See Falk,
19 496 F.Supp.2d at 1094. A failure to disclose can constitute
20 actionable fraud in four circumstances:

21 (1) when the defendant is in a fiduciary relationship
22 with the plaintiff; (2) when the defendant had
23 exclusive knowledge of material facts not known to the
24 plaintiff; (3) when the defendant actively conceals a
25 material fact from the plaintiff; and (4) when the
26 defendant makes partial representations but also
27 suppresses some material fact.

28 Id. at 1094-95, quoting LiMandri v. Judkins, 52 Cal.App.4th 326,
337 (Cal.App.Ct.4d 1997).

Plaintiffs base their CLRA claim on the allegation that the

1 engine defect is material and that Defendant had a duty to
2 disclose that defect. Plaintiffs sufficiently allege that the
3 engine defect is material because a reasonable consumer would
4 change his behavior if he knew that the engine heat can cause
5 burns and that the transmission would require numerous repairs
6 or replacements. See Id. at 1095 (“[F]or non-disclosed
7 information to be material, a plaintiff must show that had the
8 omitted information been disclosed, one would have been aware of
9 it and behaved differently.”) (internal citations omitted).

10 Plaintiffs also adequately allege that Defendant had
11 exclusive knowledge of the alleged defect or that it actively
12 concealed the material defects. A duty to disclose exists
13 “when the defendant had exclusive knowledge of material facts
14 not known to the plaintiff.” Id. at 1096. In Falk, the
15 plaintiffs alleged that General Motors (“GM”) had exclusive
16 knowledge of the defect because “only GM had access to the
17 aggregate data from its dealers, only GM had access to pre-
18 release testing data, and only GM had access to the numerous
19 complaints from its customers.” Id. Though Plaintiffs lack the
20 specific allegations proffered in Falk, Plaintiffs allege enough
21 facts to survive the instant motion. Plaintiffs claim that
22 Defendant knew of the excessive engine heat defect as early as
23 1999 and of the transmission defect as early as 2006.
24 Plaintiffs discovered the excessive heat and transmission
25 defects after purchasing the motorcycles. Since Defendant was
26 in a superior position to know of its defective engines,
27 Plaintiffs properly allege that Defendant had exclusive
28 knowledge of material facts not known to Plaintiffs.

1 Similarly, Plaintiffs' active concealment argument is
2 sufficient. To state a claim for active concealment, a
3 plaintiff must plead the following five elements:

4 (1) the defendant must have concealed or suppressed a
5 material fact, (2) the defendant must have been under
6 a duty to disclose the fact to the plaintiff, (3) the
7 defendant must have intentionally concealed or
8 suppressed the fact with the intent to defraud the
9 plaintiff, (4) the plaintiff must have been unaware of
the fact and would not have acted as he did if he had
known of the concealed or suppressed fact, and (5) as
a result of the concealment or suppression of the
fact, the plaintiff must have sustained damage.

10 Falk, at 1097, quoting Lovejoy v. AT&T Corp., 119
11 Cal.App.4th 151, 157 (Cal.App.Ct.3d 2004).

12 The plaintiffs in Falk alleged active concealment by
13 averring that GM had received numerous customer complaints, yet
14 did not notify other customers or effect a recall and that when
15 GM replaced defective speedometers, they used equally defective
16 speedometers to create the illusion that the broken ones were
17 unique cases. Id. Here, Plaintiffs allege that Defendant knew
18 of the defects and that at least two of the Plaintiffs
19 complained of the overheating issue. Plaintiffs allege that
20 Defendant's agents recommended that Plaintiffs purchase
21 additional parts, including plastic "heat shields" and different
22 exhaust pipes, based on misrepresentations that the additional
23 parts would alleviate the excessive engine heat defect. Like in
24 Falk, Plaintiffs allege that when Plaintiffs brought their
25 motorcycles in for repair, replacement, or rebuilding of
26 prematurely failing transmissions, Defendant replaced the
27 defective parts with equally defective parts, such that the
28 defect was not corrected, even though Defendant and its agents

1 represented to Plaintiffs that it was corrected. Plaintiffs
2 claim that this resulted in two of the Plaintiffs having their
3 transmissions repaired, replaced, or rebuilt four and five times
4 respectively. Thus, Plaintiffs properly allege their CLRA claim
5 and Defendant's Motion to Dismiss Plaintiffs' CLRA claim for
6 failure to satisfy federal pleading requirements is DENIED.

7 b. Time-Bar

8 Defendant argues that Plaintiffs Johnson, Aldridge and
9 Vandermelon's CLRA claims are premised upon Defendant's alleged
10 misrepresentations during the time of sale. Plaintiff Johnson
11 alleges that he purchased his motorcycle in or around August of
12 2007 and Plaintiffs Aldridge and Vandermolten allege they
13 purchased their motorcycles in or around 2007. Plaintiff
14 Johnson filed the lawsuit on September 10, 2010; Plaintiffs
15 Aldridge and Vandermolten joined the lawsuit on October 1, 2010.
16 Defendant argues that Plaintiffs failed to file their lawsuit
17 within the CLRA's three year statute of limitations and that the
18 Court should not apply the delayed discovery exception to
19 Plaintiffs' CLRA claims. Plaintiffs counter that the CLRA's
20 statute of limitations runs from the time Plaintiffs knew or
21 should have known about the alleged defects. Plaintiffs argue
22 that since they could not have discovered facts that would put
23 them on notice of the defective transmission until they had to
24 have the transmission repaired, rebuilt, or replaced, Plaintiffs
25 could not have been aware of the defective transmission at the
26 time of sale and could not have filed a suit about unknown
27 defects on the day they bought their motorcycles.

28 The CLRA provides that actions "shall be commenced not more

1 than three years from the date of the commission of such method,
2 act or practice" made unlawful by the act. Cal. Civ. Code
3 § 1783. This statute of limitations runs "from the time a
4 reasonable person would have discovered the basis for a claim."
5 Chamberlan v. Ford Motor Co., 369 F.Supp.2d 1138, 1148 (N.D.
6 Cal. 2005), quoting Mass. Mutual Life Insurance Co. v. Superior
7 Court, 97 Cal.App.4th 1282, 1295 (Cal.App.Ct.4d 2002).

8 Defendant's argument concerning the application of the
9 "delayed discovery rule" is not persuasive. Defendant relies
10 on Purdum v. Holmes, 187 Cal.App.4th 916, 924 (Cal.Ct.App.2d
11 2010) in which the California Court of Appeal held that the
12 plaintiff's claim was time-barred. Purdum, however, is not
13 applicable. The Purdum court held that the action before it was
14 time-barred under a statute not relevant to this case.

15 Furthermore, it does not invalidate the reasonable person
16 standard set out in Chamberlan, 369 F.Supp.2d at 1148. The
17 Purdum court merely opines that it is unsettled whether the
18 Chamberlan standard applies to UCL claims.

19 This Court will apply the Chamberlan standard in the case
20 at bar. Here, Plaintiffs Johnson, Aldridge and Vandermelon
21 allege that they did not discover, and could not have been
22 reasonably expected to discover, facts that would put them on
23 notice of the excessive engine heat until, at the earliest,
24 sometime after the initial purchase when they began experiencing
25 the excessive heat as a result of the defect. Given that
26 Plaintiffs Johnson, Aldridge, and Vandermelon allege they
27 purchased their motorcycles in 2007, and that Johnson filed suit
28 in September 2010 and Aldridge and Vandermelon joined the

1 lawsuit in October 2010, it is unclear whether their claims fall
2 within the three year statute of limitations period.

3 Plaintiffs must amend their Complaint to provide more
4 specificity concerning when they discovered the purported
5 defects. Plaintiffs must specifically plead facts which show
6 (1) the time and manner of discovery and (2) the inability to
7 have made earlier discovery despite reasonable diligence. Yumul
8 v. Smart Balance, Inc., 733 F.Supp.2d 1117, 1130-31 (C.D. Cal.
9 2010) (internal citations omitted). Accordingly, Defendant's
10 Motion to Dismiss Plaintiffs Johnson, Aldridge, and
11 Vandermolen's CLRA claims is GRANTED WITH LEAVE TO AMEND.

12 3. Unjust Enrichment

13 Defendant argues that unjust enrichment (Claim 5) is not an
14 independent cause of action and fails as a matter of law.
15 Plaintiffs respond that unjust enrichment is a proper
16 alternative theory of recovery to contract claims. Plaintiffs
17 admit that unjust enrichment depends upon the viability of their
18 other claims, but argue that since they successfully pled claims
19 for strict products liability, unfair competition, negligent
20 design, breach of warranty, and violations of the CLRA, their
21 unjust enrichment claim should survive as an alternative theory
22 of recovery.

23 To plead a claim for unjust enrichment, a plaintiff must
24 allege a receipt of a benefit and unjust retention of the
25 benefit at the expense of another." Sanders v. Apple, Inc., 672
26 F.Supp.2d 978, 989 (N.D. Cal. 2009). Plaintiffs properly allege
27 that "Defendants' retention of some or all of the monies they
28 gained through their wrongful acts and practices would be

1 unjust." TAC ¶ 92.

2 Unjust enrichment, however, is not a separate cause of
3 action, but depends upon the viability of the other claims.
4 Sanders, 673 F.Supp.2d at 989. Since Plaintiffs plead viable
5 claims for strict products liability, unfair business practices,
6 fraudulent business practices, negligent design, breach of
7 warranty, and violations of the CLRA, the unjust enrichment
8 claim survives as an alternative theory of recovery.
9 Accordingly, Defendant' Motion to Dismiss the unjust enrichment
10 claim is DENIED.

11

12 III. ORDER

13 For the reasons set forth above,

14 Defendant's Motion to Dismiss Plaintiffs' Second Claim for
15 Relief alleging fraudulent and unfair business practices under
16 the UCL is DENIED.

17 Defendant's Motion to Dismiss Plaintiffs' Second Claim for
18 Relief alleging unlawful business practices under the UCL is
19 GRANTED WITH LEAVE TO AMEND.

20 Defendant's Motion to Dismiss Plaintiffs' Sixth Claim for
21 Relief alleging violations of the CLRA based on failure to state
22 a claim is DENIED.

23 Defendant's Motion to Dismiss Plaintiffs Johnson, Aldridge,
24 and Vandermolen's CLRA claims based on the statute of
25 limitations is GRANTED WITH LEAVE TO AMEND.

26 Defendant' Motion to Dismiss Plaintiffs' Fifth Claim for
27 Relief alleging unjust enrichment is DENIED.

28 Plaintiffs shall file their Fourth Amended Complaint within

1 twenty (20) days of the date of this Order.

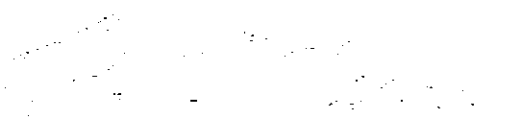
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3 IT IS SO ORDERED.

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5 Dated: July 21, 2011

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JOHN A. MENDEZ,
UNITED STATES DISTRICT JUDGE

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Monday, July 23, 2012

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Judge Rules Harley Bikers May Proceed with Overheating and Burn Lawsuit Against Harley Davidson

A Federal Court Judge has denied a Harley Davidson motion to dismiss Harley bikers' claims for fraudulent and unfair business practices, violations of Consumers Legal Remedies Act (CLRA), and unjust enrichment. A class action lawsuit may now go forward against Harley Davidson alleging certain Harley motorcycle engines produce severe, and excessive heat causing burn injuries and clothing to catch on fire.

Valencia, CA (PRWEB) August 06, 2011

Last week, a federal judge ruled that a class action lawsuit against Harley Davidson could go forward, siding with four bikers who claim their Harley Davidson motorcycles were defectively designed because their engines ran so hot as to pose a constant danger to riders of being burned and were therefore not fit for their intended use.

The complaint alleges that since 1999, Twin Cam 88, 96, 103 and 110 cubic inch engines in Harley motorcycles produce severe, excessive heat causing clothing to catch on fire, burn injuries and the danger of burn injury to riders and passengers as well as overheating causing premature engine wear and in models manufactured after 2006, transmission failure. Although Harley Davidson asked the Eastern District of California court to throw out the claims under state law, the U.S. District Judge sided with the bikers.

Greg Owen, a partner at law firm Owen, Patterson & Owen and one of the lawyers representing the plaintiffs in this case, states, "Harley Davidson has known about this problem from the early 2000s and has the technology to fix it, but has chosen to sell tens of thousands of touring bikes here in California without disclosing this known defect. When Harley customers complain to Harley's dealers after purchase, Harley's response is that's normal and it refuses to offer an effective fix to the problem."

Owen believes the unsafe heat problem is due to Harley selling larger engines that cannot comply with the emission standards of many states, including California.

"The fix is pretty simple," says Owen, "and Harley already has it - manufacture touring bikes with liquid cooled engines instead of air cooled engines. If Harley did that this serious design and safety defect would go away."

The recent ruling allows the case to move forward, and Harley Davidson will now face Class Action Certification process at the end of the month.

Class members are encouraged to contact Greg Owen at Owen, Patterson & Owen for more information, by calling (866) 654-4947.

*Case No. 2:10-CV-02443-JAM-EFB in the Eastern District of California

Owen, Patterson & Owen represents injured plaintiffs in consumer fraud, defective products and severe injury cases. Avid consumer advocates, they have demonstrated their ability to devote substantial resources in both time and money, which has generated hundreds of millions of dollars in recoveries for their clients.

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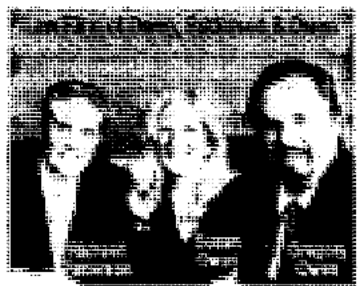
Contact

Greg Owen
Law Firm: Owen, Patterson and
Owen
661.877.9169
Email:

Attachments



Greg Owen, Partner
Greg Owen is highly involved in racing and riding motorcycles for pleasure when not representing personal injury clients.



Harley Davidson has the ability to sell tens of thousands of touring bikes in California without disclosing this known defect.