

Litigated Case Report

October 19, 2018

Case Title Progressive Insurance Co aso [REDACTED] v. KMA

Number [REDACTED]

Case Type Product Litigation

Category Subrogation Lawsuit

Case Summary On February 9, 2016 in P [REDACTED] the vehicle caught fire resulting in the destruction of the vehicle. Plaintiff seeking \$18,391.38 in damages.

Status Pending

Created Date September 6, 2018

Closed Date [REDACTED]

VIN [REDACTED]

Model Year/Series 2015 / SOUL +

Warranty Start Date 2015-09-23

State WA

County Pierce

Jurisdiction State

Defect(s) , , , ,

Failure(s) Fire, , ,

Injury

08/30/2018

CT Log Number 533976828

TO: Mark Goldzweig
Kia Motors America, Inc.
111 Peters Canyon Rd
Irvine, CA 92606-1790

RE: Process Served in New York

FOR: KIA MOTORS AMERICA, INC. (Domestic State: CA)

ENCLOSED ARE COPIES OF LEGAL PROCESS RECEIVED BY THE STATUTORY AGENT OF THE ABOVE COMPANY AS FOLLOWS:

TITLE OF ACTION: PROGRESSIVE INSURANCE CO., etc., Pltf. vs. KIA MOTORS AMERICA, INC, Dft.

DOCUMENT(S) SERVED: Summons, Complaint(s), Attachment(s)

COURT/AGENCY: Pierce County Superior Court, WA
[REDACTED]

NATURE OF ACTION: Product Liability Litigation - Breach of Warranty - codified at 62A-2-315

ON WHOM PROCESS WAS SERVED: C T Corporation System, New York, NY

DATE AND HOUR OF SERVICE: By Process Server on 08/30/2018 at 12:53

JURISDICTION SERVED : New York

APPEARANCE OR ANSWER DUE: Within 60 days after Service, excluding the day of the service

ATTORNEY(S) / SENDER(S): J. Jason Marquoit
Law office of J. Jason Marquoit
7830 SW 40th Ave., Suite 8
Portland, OR 97219
503-245-0110

ACTION ITEMS: CT has retained the current log, Retain Date: 08/31/2018, Expected Purge Date: 09/05/2018

Image SOP

Email Notification, Mark Goldzweig Mgoldzweig@kiausa.com

Email Notification, Debbie Avalos davalos@kiausa.com

Email Notification, Jennifer Yoo jyoo@kiausa.com

Email Notification, Kathy Sumner ksumner@kiausa.com

Email Notification, Bryan Rhie brhie@kiausa.com

SIGNED: C T Corporation System

ADDRESS: 111 8th Ave Fl 13
New York, NY 10011-5213

TELEPHONE: 212-590-9070

August 24 2018 8:30 AM

KEVIN STOCK
COUNTY CLERK
NO: 18-2-10782-8

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR PIERCE COUNTY

PROGRESSIVE INSURANCE CO., as
Subrogee of Springmeyer,

Plaintiff,

v.

KIA MOTORS AMERICA, INC.,

Defendant.

Case No. 18-2-10782-8

SUMMONS

THE STATE OF WASHINGTON, TO: KIA MOTORS AMERICA, INC.
c/o C.T. CORPORATION SYSTEM (Registered Agent)
111 EIGHTH AVE 13TH FL
NEW YORK NY 10011

Defendant.

TO THE DEFENDANT: A lawsuit has been started against you in the above-entitled Court by the plaintiff, PROGRESSIVE INSURANCE CO., a corporation. The plaintiff's claim is stated in the written Complaint, a copy of which is served upon you with this Summons.

In order to defend against this lawsuit, you must respond to the Complaint by stating your defense in writing, and by serving a copy upon the person signing this Summons within 60 days after the service of this Summons, excluding the day of service, or a default judgment may be entered against you without notice. A default judgment is one where the plaintiff is entitled to what has been asked for because you have not responded. If you serve a written notice of appearance on the undersigned person, you are entitled to notice before a default judgment may be entered.

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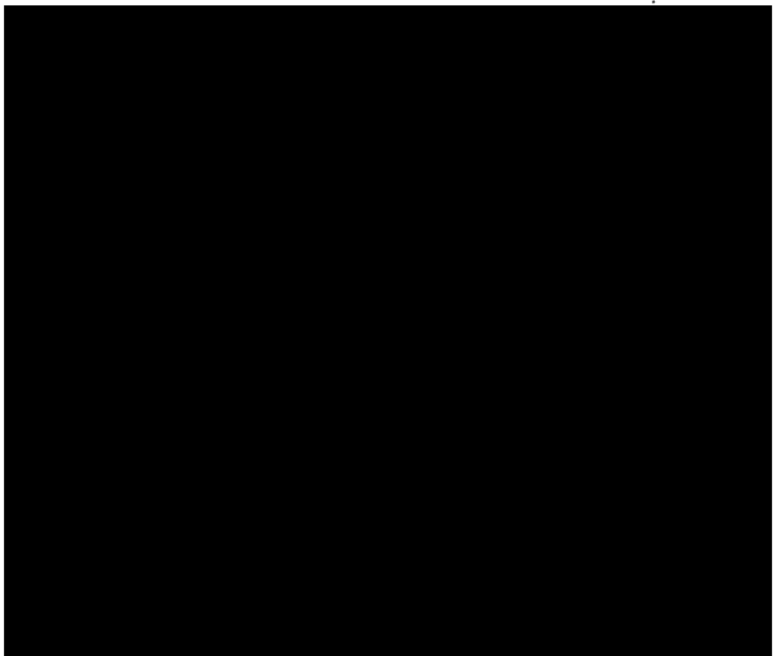
LAW OFFICE OF J. JASON MARQUOIT
7830 SW 40th Ave., Suite 8
Portland, OR 97219
(503) 245-0110

1 You may demand that the plaintiff file this lawsuit with the Court, if it has not already
2 been filed. If you do so, the demand must be in writing and must be served upon the person
3 signing this Summons. Within 14 days after you serve the demand, the Plaintiff must file this
 lawsuit with the Court, or service on you of this Summons and Complaint will be void.

4 If you wish to seek the advice of an attorney in this matter, you should do so promptly so
5 that your written response, if any, may be served on time.

6 THIS SUMMONS is issued pursuant to Rule 4 of the Superior Court Civil Rules of the
 State of Washington.

7 DATED: August 23, 2018



August 24 2018 8:30 AM

KEVIN STOCK
COUNTY CLERK
NO: 18-2-10782-8

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR PIERCE COUNTY

PROGRESSIVE INSURANCE CO., as
Subrogee of Springmeyer,

Plaintiff,

v.

KIA MOTORS AMERICA, INC.,

Defendant.

No

COMPLAINT FOR DAMAGES

(PRODUCT LIABILITY; BREACH OF
WARRANTY)

Comes now the plaintiff, by and through its counsel of record, and for its Complaint for damages against the defendant, and alleges and avers as follows:

FOR ITS FIRST CLAIM FOR RELIEF (Product Liability):

1. Plaintiff is a corporation organized under the laws of the state of Ohio, with a principal place of business in Mayfield, OH. At all times relevant to this action, Plaintiff was duly licensed and authorized to conduct a property and casualty business within the State of Washington.
2. At all times relevant herein, Defendant was a corporation authorized to do business in the state of Washington.
3. All material facts alleged herein occurred within Pierce County Washington.
4. At all times material herein, Plaintiff had in effect a policy of insurance with Colton

Page 1 - COMPLAINT FOR DAMAGES

1 Springmeyer as its named insured, covering a 2015 Kia Soul automobile (hereinafter "the
2 vehicle."). The foregoing individual is hereinafter referred to as "plaintiff's insured." Plaintiff
3 brings this action in its own name, pursuant to the subrogation provisions of the aforementioned
4 policy of insurance, and pursuant to the laws of the State of Washington regarding subrogation.

5 5. Plaintiff's insured purchased the vehicle during 2016 for valuable consideration.

6 6. On or about February 9, 2016 in Pierce County, Washington, the vehicle caught fire,
7 resulting in the destruction of the vehicle.

8 7. The vehicle failed due to a design and/or manufacturing defect inherent in said product,
9 which makes the product vulnerable to failure under ordinary conditions of use and operation.
10 Plaintiff's insured was entirely without fault.

11 8. As a direct, proximate, and foreseeable result of the defective condition of the
12 defendant's product, plaintiff's insured sustained damages in the amount of \$18,391.38. Plaintiff
13 was required to compensate its insured in the aforesaid amount, which constitutes reasonable and
14 necessary compensation for losses sustained in said occurrence. As a result of said payment,
15 plaintiff is subrogated to the rights of its insured to the extent of the payment made.

16
17 **FOR ITS SECOND CLAIM FOR RELIEF (Breach of Warranty):**

18 9. Plaintiff realleges and incorporates by this reference paragraphs 1-8, above, as though
19 explicitly set forth herein.

20 10. The unreasonably dangerous condition of the vehicle and its resulting fire constituted a
21 breach of the defendant's express warranty issued at the time of sale to plaintiff's insured, as
22 well as the implied warranty of merchantability codified at RCW 62A.2-314, and the implied

23 ///

24 ///

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26 ///

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1 ///

2 warranty of fitness for a particular purpose (ie: driving) codified at 62A.2-315

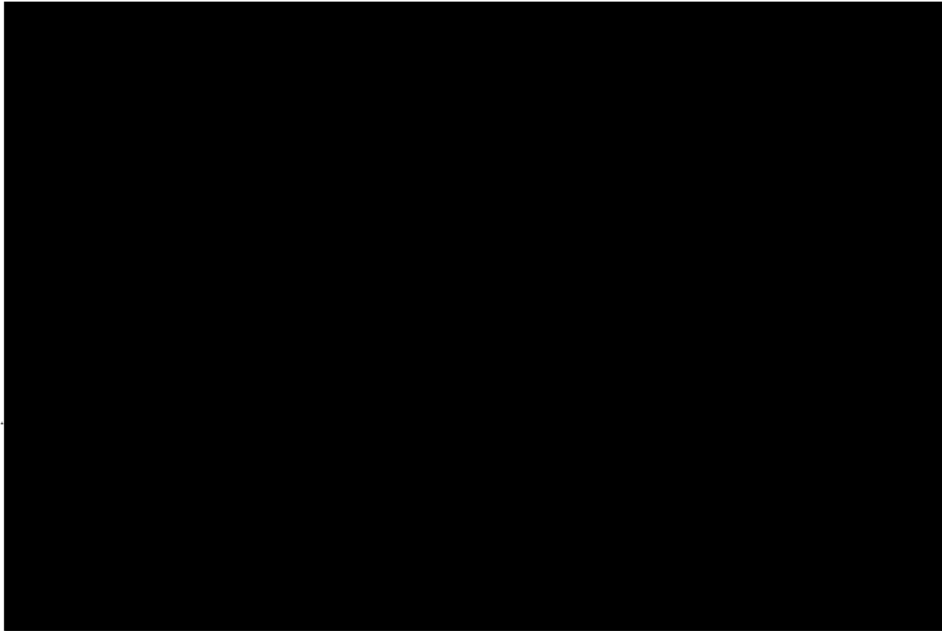
3 WHEREFORE, the plaintiff demands judgment against the defendants, providing the following
4 relief:

5 (1) Awarding plaintiff \$18,391.38.

6 (2) Awarding plaintiff its costs and disbursements incurred herein, and

7 (3) For such other relief as the court deems just and equitable.

8
9
10 Dated: August 23, 2018.



**IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR PIERCE COUNTY**

August 24 2018 8:30 AM

PROGRESSIVE INSURANCE CO.

Plaintiff(s)

Vs,

INC. KIA MOTORS AMERICA

Defendant(s)

No. 18-2-10782-8

ORDER SETTING CASE SCHEDULE

Type of case: PRP

Estimated Trial (days):

Track Assignment: Standard

Assignment Department: 08

Docket Code: ORSCS

KEVIN STOCK
COUNTY CLERK
NO: 18-2-10782-8

Confirmation of Service	9/21/2018
Confirmation of Joinder of Parties, Claims and Defenses	12/21/2018
Jury Demand	12/28/2018
Plaintiff's/Petitioner's Disclosure of Primary Witnesses	2/15/2019
Defendant's/Respondent's Disclosure of Primary Witnesses	3/15/2019
Disclosure of Rebuttal Witnesses	5/3/2019
Deadline for Filing Motion to Adjust Trial Date	5/31/2019
Discovery Cutoff	7/5/2019
Exchange of Witness and Exhibit Lists and Documentary Exhibits	7/19/2019
Joint Statement of Evidence	7/26/2019
Deadline to file Certificate or Declaration re: Alternative Dispute Resolution	7/26/2019
Deadline for Hearing Dispositive Pretrial Motions	7/26/2019
Pretrial Conference	Week of 8/9/2019
Trial	8/22/2019 9:00

Unless otherwise instructed, ALL Attorneys/Parties shall report to the trial court at 9:00 AM on the date of trial.

NOTICE TO PLAINTIFF/PETITIONER

If the case has been filed, the plaintiff shall serve a copy of the Case Schedule on the defendant(s) with the summons and complaint/petition. Provided that in those cases where service is by publication the plaintiff shall serve the Case Schedule within five (5) court days of service of the defendant's first response/appearance. If the case has not been filed, but an initial pleading is served, the Case Schedule shall be served within five (5) court days of filing. See PCLR 3.

NOTICE TO ALL PARTIES

All attorneys and parties shall make themselves familiar with the Pierce County Local Rules, particularly those relating to case scheduling. Compliance with the scheduling rules is mandatory and failure to comply shall result in sanctions appropriate to the violation. If a statement of arbitrability is filed, PCLR 3 does not apply while the case is in arbitration.

Dated: August 23, 2018

