

4. Defendant is a manufacturer of vehicles and is in the business of, among other things, designing, manufacturing, assembling, selling, and otherwise distributing motor vehicles and motor vehicle component parts, including Chrysler Pacifica Hybrid Electric Vehicles, including the Subject Vehicle.

5. At all times relevant hereto, [REDACTED] was the possessor and owner of the Subject Vehicle, which was designed, manufactured, assembled, sold, and otherwise distributed by Defendant.

6. On or about [REDACTED] the Subject Vehicle was parked in the garage of the Subject Property when a fire originated in or around the Subject Vehicle while it was being charged. The fire spread and damaging significant portions of the Property, destroying the home and various pieces of personal property, including but not limited to the Subject Vehicle.

7. At the time of the fire, the Subject Vehicle had approximately 55,000 miles on it and had not undergone any alteration or repairs from the moment it was sold and distributed to Timothy Ferguson by Defendant and Monken Dodge Chrysler Jeep.

8. As a direct and proximate result of the fire, the Subject Vehicle was totaled, causing damages in excess of sustained significant damages in excess of \$35,000.

9. The Subject Vehicle is insured pursuant to an automobile policy of insurance by Pekin Insurance Company which has a subrogation interest in the instant lawsuit in the amount of \$35,251.65.

10. Venue is proper in this Court as all of the damages and actions or inactions described herein occurred in Marion County Illinois.

COUNT I - STRICT LIABILITY

11. Plaintiff incorporates paragraphs 1-10 by reference as if fully set forth herein.

12. The Subject Vehicle was designed, manufactured, assembled, sold and otherwise distributed by Defendant in the regular course of Defendant's business and was expected to and did reach Plaintiff's insured without substantial change in the condition which it was designed, manufactured, assembled, sold, and otherwise distributed by Defendant.

13. The Subject Vehicle was then in a defective condition and susceptible to a malfunction and fire, which rendered it unreasonably dangerous when put to a reasonably anticipated use, in that the Subject Vehicle was designed, manufactured, assembled, sold and otherwise distributed by Defendant in the defective condition described herein.

14. [REDACTED] was using the Subject Vehicle in a normal manner at the time of the fire and had used it in a normal manner since the Subject Vehicle was purchased.

15. There is no other reasonable cause for the fire other than a defect in the Subject Vehicle.

16. Plaintiff sustained damages, as a direct proximate result of such defective and unreasonably dangerous conditions of the Subject Vehicle as it existed when it was designed, manufactured, assembled, sold distributed and left Defendant's control, causing damages to the Plaintiff in excess of \$35,000.

WHEREFORE, Plaintiff prays for a judgment against Defendant in an amount in excess of \$35,000, together with costs and pre and post judgment interest, costs, attorney fees and for such other and further relief as the Court may deem just and proper under the circumstances.

COUNT II – STRICT LIABILITY – FAILURE TO WARN

17. Plaintiff incorporates paragraphs 1-16 by reference as if fully set forth herein.

18. The Subject Vehicle was expected to and did reach Plaintiff's insured without substantial change in the condition in which it was manufactured, designed, assembled, distributed and sold by Defendant in the regular course of business.

19. The Subject Vehicle was then in a defective condition which rendered the Subject Vehicle unreasonably dangerous when put to a reasonably anticipated use in that the Subject Vehicle was designed, manufactured, assembled, sold and otherwise distributed by Defendant in a defective condition and susceptible to a malfunction and fire.

20. Defendant did not give an adequate warning of these dangers and defective conditions.

21. The Subject Vehicle was used in a manner reasonably anticipated as a personal automobile.

22. Plaintiff sustained damages as a direct and proximate result of the failure to warn of the defective and unreasonably dangerous conditions as they existed when the Subject Vehicle was manufactured and distributed, in an amount in excess of \$35,000.

WHEREFORE, Plaintiff prays for a judgment against Defendant in an amount in excess of \$35,000, along with costs and pre and post judgment interest, costs, attorney fees and for such other and further relief as the Court may deem just and proper under the circumstances.

COUNT III - NEGLIGENCE

23. Plaintiff incorporates paragraphs 1-22 by reference as if fully set forth herein.

24. The Subject Vehicle was manufactured, assembled, designed, sold and otherwise distributed in the regular course of Defendant's business.

25. Defendant designed the Subject Vehicle.

26. Defendant owed Plaintiff's insured a duty to use ordinary care in the manufacturing, assembly, design, sale, servicing, and distribution of the Subject Vehicle.

27. Defendant owed Plaintiff's insured a duty to warn of the dangers of the Subject Vehicle when it was manufactured and distributed in a defective condition and susceptible to fire.

28. Defendant was negligent and failed to use ordinary care in the manufacture, assembly, design, sale, service and distribution of the Subject Vehicle and by negligently failing to inspect or investigate the Subject Vehicle and its susceptibility to a malfunction and cause a fire and by negligently failing to warn Plaintiff's insured of said defective conditions.

29. As a direct and proximate result of the aforementioned negligence, Plaintiff was damaged.

WHEREFORE, Plaintiff prays for damages against Defendant in an amount in excess of \$35,000, along with costs, interest, attorney's fees and for such other relief as the Court may deem just and proper under the circumstances.

**COUNT IV - BREACH OF IMPLIED WARRANTY OF MERCHANTABILITY AND
FITNESS FOR PARTICULAR PURPOSE**

30. Plaintiff incorporates paragraph 1-29 by reference as if fully set forth herein.

31. Defendant designed, manufactured, assembled, sold, distributed and introduced the Subject Vehicle into the stream of commerce in the process of their usual and customary business.

32. When Defendant designed, manufactured, assembled, sold, distributed and introduced the Subject Vehicle into the stream of commerce, it was not fit for its ordinary purpose because it was manufactured and designed in a way that it was defective and susceptible to malfunction and a fire.

33. Plaintiff's insured used the Subject Vehicle for its ordinary purpose and gave Defendant notice that it was not fit for its ordinary purpose.

34. As a result of the Subject Vehicle not being fit for its ordinary purpose, Plaintiff was damaged and Defendant breached its implied warranties.

WHEREFORE, Plaintiff prays for damages against Defendant in an amount in excess of \$35,000, together with costs, interest, attorney's fees and for such other and further relief as the Court may deem just and proper under the circumstances.

COUNT V - BREACH OF EXPRESS WARRANTY

35. Plaintiff incorporates paragraphs 1-34 by reference as if fully set forth herein.

36. Defendant is the warrantor of the Subject Vehicle.

37. Defendant did not meet the conditions of the expressed warranty in that the Subject Vehicle did not conform to the representations by Defendant that it was fit for use as a personal vehicle and that it would be free from manufacturers defect for 60,000 miles because the Subject Vehicle was designed, manufactured, sold, distributed and introduced into the stream of commerce by Defendant as defective and susceptible to malfunction and fire.

38. Plaintiff notified Defendant of the defective condition described herein of the Subject Vehicle.

39. As a direct and proximate cause of Defendant's breach of the expressed warranties, Plaintiff was damaged.

WHEREFORE, Plaintiff prays for a judgment against Defendant in an amount in excess of \$35,000, together with costs, interest, and attorney's fees and for such other and further relief as the Court may deem just and proper under the circumstances.

PLAINTIFF DEMANDS JURY OF TWELVE

Respectfully submitted,

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