

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA

PAULETTE LAWSON and LEE TRINKLE  
LAWSON, JR. as Co-Executors of the Estate of  
LEE TRINKLE LAWSON, deceased

Plaintiff

Civil Action No.: 7:19cv484  
(To Be assigned by Clerk of District Court)

vs.

Jury Trial: Yes

FCA US, L.L.C., a Foreign Corporation  
Serve R/A:

CT Corporation  
4701 Cox Rd. Ste 285  
Glen Allen, VA 23060

Defendant.

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**COMPLAINT**

COME NOW, the Plaintiffs, PAULETTE LAWSON and LEE TRINKLE LAWSON, JR., as Co-Executors of the Estate of LEE TRINKLE LAWSON, deceased, by and through their undersigned attorneys, and move for judgment against the Defendant, FCA US, L.L.C., and allege and state as follows:

**PARTIES, JURISDICTION, AND VENUE**

1. The decedent, LEE TRINKLE LAWSON, was born on January 18, 1944, and died on July 17, 2017.
2. At all times material hereto, the decedent, LEE TRINKLE LAWSON, was a resident and citizen of the Commonwealth of Virginia.
3. The Plaintiff, PAULETTE LAWSON, is a duly qualified Co-Executor of the Estate of LEE TRINKLE LAWSON and was so qualified on April 24, 2018.

4. The Plaintiff, LEE TRINKLE LAWSON, JR., is a duly qualified Co-Executor of the estate of LEE TRINKLE LAWSON and was so qualified on April 24, 2018.

5. At all times material hereto, the Plaintiff, PAULETTE LAWSON, and the decedent, LEE TRINKLE LAWSON, were married and living as wife and husband.

6. At all times material hereto, the Plaintiff, PAULETTE LAWSON, was and is the surviving spouse of the decedent, LEE TRINKLE LAWSON.

7. At all times material hereto, the Plaintiff, PAULETTE LAWSON, was and is a resident and citizen of the Commonwealth of Virginia.

8. At all times material hereto, the Plaintiff, LEE TRINKLE LAWSON, JR., was and is the only surviving child of the decedent, LEE TRINKLE LAWSON.

9. At all times material hereto, the Plaintiff, LEE TRINKLE LAWSON, JR., was and is a resident and citizen of the Commonwealth of Virginia.

10. This is a wrongful death action brought pursuant to § 8.01-50 et. seq. of the Code of Virginia, 1950, as amended, by the Plaintiffs on behalf of the following surviving beneficiaries of the decedent, pursuant to § 8.01-53 of the Code of Virginia, as amended: PAULETTE LAWSON (spouse) and LEE TRINKLE LAWSON, JR. (son).

11. At all times material hereto, Defendant, FCA US, L.L.C. (hereinafter referred to as “FCA”), was and is a Delaware Limited Liability Corporation authorized to do business in the Commonwealth of Virginia, with its principal place of business at 1000 Chrysler Drive, Auburn Hills, MI 48326.

12. At all times material hereto, the Defendant, FCA was and is engaged in advertising, promoting, and selling FCA automobiles, including Dodge brand automobiles, in the Commonwealth of Virginia.

13. This is an action involving diversity of citizenship of the parties as more fully described herein and for damages in excess of Seventy-Five Thousand (\$75,000.00) Dollars, exclusive of interest, attorney's fees and costs. Jurisdiction is proper under 28 U.S.C. §1332(a)(1) as there is diversity of citizenship between the parties since Plaintiffs are citizens of Virginia and the Defendant is a citizen of Delaware and Michigan. Venue is proper in the United States District Court for the Western District of Virginia pursuant to 28 U.S.C. §1391, since the incident occurred in Roanoke, Virginia, and the Plaintiffs are residents of Roanoke, Virginia.

14. At all times material hereto, the Defendant, FCA, acted through its employees, agents, and/or servants and is responsible for the acts of its employees, agents, and/or servants on the grounds of *respondeat superior*.

15. At all times material hereto, the Defendant, FCA, was and is the manufacturer and vendor of the 2016 Dodge Journey, VIN: 3C4PDCABXGT185837 vehicle ("subject vehicle"), which was purchased, operated, and used by the decedent, LEE TRINKLE LAWSON.

16. At all times material hereto, the Defendant, FCA, had and has substantial and not isolated contact with the Commonwealth of Virginia and is subject to the general jurisdiction of Virginia courts.

17. At all times material hereto, the Defendant, FCA, was and is in the business of selling automobiles, including the subject vehicle, and reasonably expects that its vehicles will be used within the Commonwealth of Virginia and regularly conducts or solicits business within the Commonwealth of Virginia, within the meaning of Virginia's Long-Arm Statute. Va. Code Ann. § 8.01-328.1.

18. At all times material hereto, the Defendant, FCA, was and is engaging in a persistent course of conduct and/or derives substantial revenue from goods used or consumed within the

Commonwealth of Virginia, within the meaning of Virginia's Long-Arm Statute. Va. Code Ann. § 8.01-328.1.

19. The subject vehicle was manufactured in December of 2015.

20. All conditions precedent to the bringing of this action have been complied with or waived.

### **MOTOR VEHICLE IGNITION SYSTEMS**

21. Since the early part of the 20<sup>th</sup> century, motor vehicles required a physical key in order to start the vehicle engine.

22. Around the 1920s, vehicle manufacturers began using vehicle keys that are placed in an ignition cylinder to start the vehicle. This key in a cylinder design (traditional keyed ignition) required the driver to insert the key into a cylinder and turn the key. This action started the vehicle engine. The traditional keyed ignition design also required the turning of the key in the cylinder to turn off the vehicle engine.

23. The traditional keyed ignition remains in the majority of vehicles today.

24. In a traditional keyed ignition vehicle, the operator of the vehicle knew that if the key was outside of the vehicle, then the vehicle engine was off. This is true because the key was a known cue to the state of the vehicle engine.

25. Because the location of the key was a cue to whether the vehicle engine was running, the physical key operated as a fail-safe to prevent unintentional carbon monoxide poisoning from vehicle exhaust.

### **FCA US L.L.C.'S KEYLESS IGNITION SYSTEM**

26. In the mid-2000s, FCA chose to transition its vehicles from a traditional keyed ignition to a keyless ignition.

27. FCA's keyless ignition system is a vehicle entry and ignition system that uses a computerized keyless device that allows drivers to lock and unlock the doors or start and stop the vehicle engine without the use of a traditional key. The system operates by using two-way electronic communication between a remote unit and a special antenna located in the vehicle. With this system, a traditional key does not need to be physically inserted into an ignition cylinder to start or stop the engine.

28. The keyless ignition system is solely a convenience feature in the subject vehicle, yet it creates certain safety risks that did not exist with the traditional key technology, including the risk of carbon monoxide gas being omitted from the vehicle while the driver, along with the key, are no longer in the vehicle.

29. FCA's keyless ignition system is designed so that a "key fob" can remain in the driver's pocket or handbag when starting and stopping the vehicle's engine. When the key fob is within a specified range of the vehicle, signals are received by the antenna located within the vehicle. The signals being received by the antenna permit certain systems to activate in the vehicle, such as the engine start/stop function. While in range, the keyless starter button will become functional allowing the driver to push the start/stop button to turn on or off the vehicle's engine. There is no key to insert in an ignition key cylinder, no key to turn, and no key to remove to turn off the engine.

30. This keyless ignition technology permits an operator to inadvertently remove the key fob from the vehicle while the vehicle is still running.

31. The National Highway Transportation Safety Administration (NHTSA) has received multiple complaints from consumers that have exited their cars with the key fob on their person and mistakenly left the vehicle's engine running.

32. FCA chose to install its first keyless ignition in the 2008 Dodge Challenger SRT. Other FCA vehicles followed closely on its heels.

33. FCA modeled its keyless ignition system after Nissan's keyless ignition system but was unaware whether Nissan had any complaints or problems with that system and did no investigation to determine whether the keyless ignition system was safe.

34. FCA chose to install its keyless ignition system as standard equipment in the Dodge Journey since at least 2013.

35. The purchaser of a Dodge Journey from 2013 to the present did not have the option to purchase a traditional keyed ignition system.

36. FCA's choice to switch its vehicles from a traditional keyed ignition to the keyless ignition removed the key as a critical fail-safe.

37. In a keyless ignition system, the location of the key is no longer a cue to whether the vehicle engine is still running.

38. In fact, in a keyless ignition system, there is no actual key as defined by the National Highway Transportation Safety Administration (NHTSA). The key in FCA's keyless ignition vehicles is an electronic code that is transferred to the vehicle when you push the button.

39. In a keyless ignition system, the key is something the user cannot visualize or perceive.

40. Further, unlike a traditional keyed ignition vehicle, the invisible key code in the keyless ignition vehicles plays no role in shutting off the vehicle engine.

41. Prior to July 17, 2017, the Defendant, FCA, designed, manufactured, tested, certified, marketed, distributed, and/or sold the subject vehicle to the decedent, LEE TRINKLE LAWSON.

42. At the time it was designed, manufactured, tested, certified, marketed, and sold, the subject vehicle was equipped with FCA's keyless ignition system.

**NOTICE AND KNOWLEDGE OF A DEFECTIVE  
UNREASONABLY DANGEROUS PRODUCT**

43. FCA has known since at least 2011, and likely years earlier, that it is possible for a driver to leave the vehicle with the key while the engine is running in an enclosed space, posing a carbon monoxide poisoning risk to anyone exposed to the engine exhaust.

44. FCA did not undertake any human factors testing or analysis in the implementation and continued use of the keyless ignition system, despite recognizing that a change from a traditional key to the keyless system poses added risks.

45. The first known death resulting from carbon monoxide poisoning with a keyless ignition vehicle was in 2006.

46. The first known death resulting from carbon monoxide poisoning with a keyless ignition in an FCA vehicle was Ray Harrington in March 2012. 62-year-old Ray Harrington died lying in his bed from carbon monoxide poisoning in his home in North Carolina. Mr. Harrington's death was the result of his 2011 Chrysler 300C, another FCA model equipped with FCA's keyless ignition system, being unintentionally left running in his enclosed garage. The vehicle continued to run despite the vehicle remaining in Park and stationary for an extended period of time, with the keys inside the residence on the third floor.

47. In October 2015, husband and wife Paul and Juanita Berry were found dead inside their New Smyrna Beach, Florida, home from carbon monoxide poisoning. The Berrys came home after dropping off their granddaughter at a friend's house and parked in the garage. Unbeknownst to the Berrys, their 2013 Dodge Journey, equipped with FCA's keyless ignition system, continued to run despite the vehicle remaining in park and stationary for an extended period of time with the

keys inside the residence. Carbon monoxide filled the Berry home and took the lives of Mr. and Mrs. Berry.

48. In addition to these tragic and easily preventable deaths caused by FCA vehicles, FCA Customer Service received scores of complaints from customers who had inadvertently left their keyless ignition vehicles running for extended periods of time. Almost all of these customers called FCA because they were concerned about the significant safety issues that the vehicles keyless ignition system posed and wanted to prevent future injuries or deaths.

49. Despite FCA's indisputable knowledge that their keyless ignition system posed an unreasonable risk of injury or death, FCA failed to act.

50. In addition to the FCA specific information listed above, other manufacturers who have implemented similar keyless ignition systems have seen similar deaths and injuries as a result.

51. In February 2009, in the State of New York, Erni Cordelia and Mary Rivera unintentionally left their 2008 Lexus ES350 equipped with Toyota's Smart Key System in their garage. The running engine distributed carbon monoxide throughout the home, killing Erni Cordelia and causing serious and irreversible brain damage to Mary Rivera, a college professor.

52. In 2011, 23-year-old Rebecca Hawk, a child protective investigator in Tampa, Florida, was killed when her neighbor, Andrew Grywalski, inadvertently left a 2011 Mazda 3, with the keyless ignition running in the enclosed garage. Hawk's apartment shared a wall with Grywalski's garage.

53. Also in 2011, Dr. Harry Pitt, the former Montgomery County, Maryland Superintendent of Schools, died in his home when his Infiniti vehicle with a keyless ignition system was inadvertently left running in his garage. Dr. Pitt died from acute carbon monoxide poisoning.



54. In March 2015, Michael Quinn's family was critically injured as a result of carbon monoxide poisoning when his father's Lexus ES350 equipped with Toyota's Smart Key System was unintentionally left running in the garage, requiring emergent and critical medical care for his mother, father, and son.

**THE SOLUTION IS EASY AND INEXPENSIVE**

55. Ford Motor Company and General Motors began installing automatic engine shut-offs in their 2013 model year vehicles with keyless ignitions.

56. The automatic shut-off is simple and inexpensive. It functions by shutting off the vehicle engine after a set period of time when the vehicle is in park and stationary.

57. In 2010, Safety Shutdown, L.L.C., filed for a provisional patent on its technology that would automatically shut down vehicle engines.

58. Safety Shutdown, L.L.C.'s patent application recognizes keyless ignition systems "allow an operator to leave the vehicle while the engine remains running."

59. In 2011, a division of Ford Motor Company filed for a patent for its automatic shut-off technology, recognizing that having an automatic shut-off "would be advantageous, desirable, and useful."

60. General Motors issued a recall on its 2011-2014 Chevy Volts to install an automatic shut-off on each vehicle. The recall consisted of conducting a software update to the vehicle computer. The entire process took about 30 minutes at a cost of less than \$5.00 per vehicle.

61. FCA has demonstrated its ability to apply an automatic shut-off feature with a simple software update. In 2008, FCA recalled the 2008 and 2009 Dodge Challengers with keyless ignitions. The recall included adding "a time-out feature to prevent draining the battery if the

vehicle remains in the ‘Accessory’ or ‘Run’ mode for more than 30 minutes with the engine off.”

The entire software update took about 30 minutes to complete.

62. Furthermore, FCA vehicles, including the 2016 Dodge Journey, have an optional remote start feature wherein the user can turn on the vehicle engine from outside of the vehicle. If the driver does not enter the vehicle within 15 minutes of the remote start, the vehicle engine will automatically shut-off.

### **THE DEATH OF LEE TRINKLE LAWSON**

63. On Sunday, July 16, 2017, decedent, LEE TRINKLE LAWSON, attended church at Garst Mill Presbyterian Church.

64. After attending church, decedent, LEE TRINKLE LAWSON, had lunch with his wife, Plaintiff PAULETTE LAWSON.

65. After lunch, decedent, LEE TRINKLE LAWSON, drove his 2016 Dodge Journey (the subject vehicle) to his home located at 3920 Three Chop Lane, Roanoke, Virginia, and parked the vehicle in the enclosed garage.

66. The subject vehicle’s engine failed to shutdown despite the vehicle being placed in park, the driver exiting the vehicle, and the key being removed from the vehicle.

67. On the morning of July 17, 2017, Plaintiff PAULETTE LAWSON discovered the ice cold and lifeless body of her husband, LEE TRINKLE LAWSON, in the bedroom. PAULETTE LAWSON remained by the side of her husband until Fire Rescue personnel took her outside and treated her for carbon monoxide exposure.

68. The level of carbon monoxide within the home at 3920 Three Chop Lane on July 17, 2017, when Fire Rescue arrived was in excess of 500 parts per million, a lethal level of carbon monoxide.

69. The decedent, LEE TRINKLE LAWSON, was pronounced dead at the scene, the victim of acute carbon monoxide poisoning caused by the defective and unreasonably dangerous design and lack of adequate warning of the 2016 Dodge Journey's keyless ignition system.

70. As a result of the defective and unreasonably dangerous keyless ignition in the subject vehicle, the decedent, LEE TRINKLE LAWSON, was wrongfully killed.

**COUNT 1**  
**BREACH OF WARRANTY FOR DESIGN DEFECT AGAINST DEFENDANT**  
**FCA US, L.L.C.**

Plaintiffs reallege and reincorporate the allegations contained in paragraphs 1-70 as though fully set forth herein, and further state:

71. The Defendant, FCA, was at all times relevant to this wrongful death action, a corporation in the business of designing, manufacturing, assembling, distributing, testing, inspecting, selling, marketing, and placing into the stream of commerce motor vehicles, including the 2016 Dodge Journey that is the subject of this Complaint.

72. At the time that the subject 2016 Dodge Journey was placed into the stream of commerce, the Defendant, FCA, expressly and impliedly warranted that the subject 2016 Dodge Journey was reasonably fit and safe for its intended and ordinary use or reasonably foreseeable purpose and was of merchantable quality throughout.

73. Defendant, FCA, breached said express and implied warranties in that the subject 2016 Dodge Journey was defective in design due to its failure to incorporate an automatic shut-off, not fit or reasonably safe for its intended and ordinary use or reasonably foreseeable purpose, and not of merchantable quality at the time it left Defendant FCA's control.

74. The unreasonably dangerous condition of the subject 2016 Dodge Journey existed from the time it left the Defendant FCA's control until the time of LEE TRINKLE LAWSON's death on July 17, 2017.

75. As a direct and proximate result of such breach of warranty by the Defendant, FCA, decedent, LEE TRINKLE LAWSON, was killed from carbon monoxide poisoning.

**COUNT 2**  
**BREACH OF WARRANTY FOR FAILURE TO WARN AGAINST DEFENDANT**  
**FCA US, L.L.C.**

Plaintiffs reallege and reincorporate the allegations contained in paragraphs 1-75 as though fully set forth herein, and further state:

76. The Defendant, FCA, was at all times relevant to this wrongful death action, a corporation in the business of designing, manufacturing, assembling, distributing, testing, inspecting, selling, marketing, and placing into the stream of commerce motor vehicles, including the 2016 Dodge Journey that is the subject of this Complaint.

77. At the time that the subject 2016 Dodge Journey was placed into the stream of commerce, the Defendant, FCA, expressly and impliedly warranted that the subject 2016 Dodge Journey was reasonably fit and safe for its intended and ordinary use or reasonably foreseeable purpose and was of merchantable quality throughout.

78. Defendant, FCA, breached said express and implied warranties in that the subject 2016 Dodge Journey was defective in warning due to its failure to incorporate adequate warnings, not fit or reasonably safe for its intended and ordinary use or reasonably foreseeable purpose, and not of merchantable quality at the time it left Defendant FCA's control.

**COUNT 3**  
**BREACH OF WARRANTY FOR POST SALE FAILURE TO WARN AGAINST**  
**DEFENDANT FCA US, L.L.C.**

Plaintiffs reallege and reincorporate the allegations contained in paragraphs 1-78 as though fully set forth herein, and further state:

79. The Defendant, FCA, was at all times relevant to this wrongful death action, a corporation in the business of designing, manufacturing, assembling, distributing, testing, inspecting, selling, marketing, and placing into the stream of commerce motor vehicles, including the 2016 Dodge Journey that is the subject of this Complaint.

80. After the subject 2016 Dodge Journey was placed into the stream of commerce, the Defendant, FCA, expressly and impliedly warranted that the subject 2016 Dodge Journey was reasonably fit and safe for its intended and ordinary use or reasonably foreseeable purpose and was of merchantable quality throughout.

81. Defendant, FCA, breached said express and implied warranties in that the subject 2016 Dodge Journey was defective in warning due to its failure to incorporate adequate warnings, not fit or reasonably safe for its intended and ordinary use or reasonably foreseeable purpose, and not of merchantable quality at the time it left Defendant FCA's control.

82. The unreasonably dangerous condition of the subject 2016 Dodge Journey existed from the time it left the Defendant FCA's control, until the time of LEE TRINKLE LAWSON's death on July 17, 2017.

83. As a direct and proximate result of such breach of warranty by the Defendant, FCA, decedent, LEE TRINKLE LAWSON, was killed from carbon monoxide poisoning.

**COUNT 4**  
**NEGLIGENCE AGAINST DEFENDANT**  
**FCA US, L.L.C.**

Plaintiffs reallege and reincorporate the allegations contained in paragraphs 1-83 as though fully set forth herein, and further state:

84. The Defendant, FCA, was at all times relevant to this wrongful death action, a corporation in the business of designing, manufacturing, assembling, distributing, testing, inspecting, selling, marketing, and placing into the stream of commerce motor vehicles, including the 2016 Dodge Journey that is the subject of this Complaint.

85. The Defendant, FCA, owed a duty to Plaintiff to design, manufacture, and place into the stream of commerce vehicles that are reasonably safe to operate, and to warn, at the time of sale, and post-sale, of dangerous conditions it knew about, or in the exercise of reasonable care, should have known about at the time.

86. The Defendant, FCA, breached said duty of care in their design, manufacture, and placing into the stream of commerce the subject 2016 Dodge Journey, which was unreasonably dangerous for its foreseeable uses at the time it was sold and at the time of the incident that is the subject of this suit.

87. The breach of said duty by the Defendant, FCA, was a direct and proximate cause of the death of LEE TRINKLE LAWSON.

**COUNT 5**  
**PUNITIVE DAMAGES AGAINST DEFENDANT**  
**FCA US, L.L.C.**

Plaintiffs reallege and reincorporate the allegations contained in paragraphs 1-84 as though fully set forth herein, and further state:

88. The Plaintiffs additionally pray for exemplary and/or punitive damages.

89. The aforesaid conduct of the Defendant, FCA, was so reckless that it demonstrated gross negligence and a reckless disregard for and/or conscious indifference to the life and safety of consumers, including LEE TRINKLE LAWSON.

90. The aforesaid conduct of the Defendant, FCA, demonstrated malice or oppression, in that the conduct was willful and wanton which was carried on by the Defendant, FCA, with a conscious disregard of the rights or safety of others and/or subjected persons, including LEE TRINKLE LAWSON, to cruel and unjust hardship in conscious disregard for that person's rights.

91. Plaintiffs as Co-Executors and statutory beneficiaries of the Estate of LEE TRINKLE LAWSON, deceased, are entitled to such damages that a jury may see fit and just, for the wrongful death of LEE TRINKLE LAWSON, including, but not limited to, damages for:

- a) Sorrow, mental anguish and solace including the society, companionship, comfort, guidance and kindly offices and advice of the decedent;
- b) Loss of income of the decedent;
- c) Loss of services, protection, care and assistance of the decedent;
- d) Medical expenses of the decedent incident to the injuries which caused his death;
- e) Funeral expenses;
- f) Punitive damages; and
- g) Any other damages and costs allowable under law against the Defendant.

WHEREFORE, Plaintiffs as Co-Executors of the Estate of LEE TRINKLE LAWSON, deceased, demand judgment against the Defendant, FCA US, L.L.C., in the amount of Fifty Million Dollars (\$50,000,000.00) in compensatory damages, and Fifty Million Dollars (\$50,000,000.00) in exemplary and/or punitive damages, with interest thereon, including prejudgment interest, and their costs expended herein. Trial by jury is demanded on all issues.

**DEMAND FOR JURY TRIAL**

The Plaintiffs in the above-styled cause hereby demand a trial by jury of all of the issues triable by right.

Dated this 3<sup>rd</sup> day of July, 2019.

/s/Donald J. Ward, III

Donald J. Ward, III

Virginia Bar No.: 93118

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