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TAMEKIA FRANKLIN  
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By [Signature] D.C.

IN THE CIRCUIT COURT OF PHILLIPS COUNTY, ARKANSAS  
CIVIL DIVISION

STATE OF ARKANSAS, *ex rel.*  
TIM GRIFFIN, ATTORNEY GENERAL

PLAINTIFF

v.

CASE NO. 54CV-25-77

GENERAL MOTORS LLC; and ONSTAR  
LLC

DEFENDANTS

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COMPLAINT

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I. INTRODUCTION

1. This case is about General Motors LLC (“General Motors” or “GM”), the largest automobile manufacturer in the United States, monitoring and selling detailed customer driving data to third-party data brokers for over ten years. The data points in consumers’ driving data included, among others, the start time, end time, vehicle speed, high-speed driving percentage, late-night driving percentage, distance driven, acceleration data, and braking data.<sup>1</sup> GM also collected (1) information from a consumer’s use of one of GM’s many mobile apps;<sup>2</sup> and (2) the

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<sup>1</sup> *Introducing the OnStar Smart Driver Feature*, BAKER MOTOR CO., <https://www.bakermotorcompany.com/6762-2/> (last visited Jan. 2, 2025).

<sup>2</sup> ONSTAR, PRIVACY STATEMENT FOR APPLICATION SERVICES 2 (MAY 2, 2022), <https://www.onstar.com/content/dam/onstar/na/us/en/index/legal/legal-privacy-statement-jan012011/02-pdfs/Privacy-Statement-for-Application-Services.pdf> (“[T]he types of your information that we may collect include...[a]ccount information, vehicle-related information, and driving information, such as the location and speed of your Vehicle based on GPS.”).

location data on all drivers who activated the internet connection for their GM vehicles, even if the drivers did not enroll or opt-in to OnStar services.<sup>3</sup> The Attorney General seeks an injunction to prohibit GM from violating consumers' privacy and monetary penalties for its decade-long deceptive and unconscionable data-collection practices.

2. For over two decades, GM has equipped its vehicles with telematics technology, including software from its wholly-owned subsidiary OnStar LLC ("OnStar"). GM promoted and advertised OnStar as offering the benefits of better driving, safety, and operability of its vehicles. Third-party data brokers develop driver-risk profiles and resell that data to insurance companies who use the information to upcharge premiums and deny or cancel coverage altogether to consumers. Using this telematic technology, GM was able to unlawfully and secretly capture, transmit, receive, and sell highly specific driving data of millions of vehicles nationwide and, based on current estimates, over 100,000 Arkansans' vehicles without obtaining consumers' informed consent.<sup>4</sup>

3. To facilitate this scheme, GM created a deceptive onboarding process that takes place at the point of sale or lease and is used to tout GM's telematics technology and to promote the benefits of OnStar services to customers to lower customers' insurance bills. During the onboarding process, GM and OnStar enlist dark patterns, which are design practices that trick or manipulate consumers into making choices that they would not otherwise make by taking

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<sup>3</sup> *Automaker Responses to Sen. Markey Letter on Privacy*, GEN. MOTORS (Dec. 21, 2023), [https://www.markey.senate.gov/imo/media/doc/automaker\\_responses\\_to\\_sen\\_markey\\_letter\\_on\\_privacy\\_-\\_022824pdf.pdf](https://www.markey.senate.gov/imo/media/doc/automaker_responses_to_sen_markey_letter_on_privacy_-_022824pdf.pdf) (answering Question 1 on page 2 of GM's response).

<sup>4</sup> Suzanne Smalley, *Senators to FTC: Car Companies' Data Privacy Practices Must be Investigated*, RECORD (July 29, 2024), <https://therecord.media/markey-wyden-ask-ftc-to-probe-car-company-data-practices>.

advantage of consumers' cognitive biases to keep them from material information needed to make fully-informed decisions.<sup>5</sup>

4. GM and OnStar never inform customers that they sell the customers' driving data to third-party data brokers, and they do not disclose that they collaborate with these data brokers to develop risk profiles. GM and OnStar also do not tell consumers that the driving data could be used to penalize them. GM and OnStar are profiting, or have profited, from the deceptive sale of customer data at the direct expense of Arkansans' statutory consumer and privacy rights.

5. GM's use of dark patterns created an onboarding process that prevented consumers from fully understanding GM's data-sharing practices. GM marketed its OnStar products exclusively as beneficial to consumers and stated that data collection related to those products would be for the safety, functionality, and operability of its vehicles. GM did not notify consumers that it was selling consumers' driving data to data brokers. GM also did not notify consumers about its contracts with third parties to create data exchanges that assigned driving scores to consumers or permitted those third parties to resell consumers' driving data to third-party insurance companies.

6. GM sold the driving data it collected from consumers to third-party data exchanges in order to profit from their own customers' data.<sup>6</sup> GM was paid a lump sum to provide the initial

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<sup>5</sup> FED. TRADE COMM'N, *Bringing Dark Patterns to Light 2* (Sept. 2022), [https://www.ftc.gov/system/files/ftc\\_gov/pdf/P214800%20Dark%20Patterns%20Report%209.14.2022%20-%20FINAL.pdf](https://www.ftc.gov/system/files/ftc_gov/pdf/P214800%20Dark%20Patterns%20Report%209.14.2022%20-%20FINAL.pdf).

<sup>6</sup> *Automaker Responses to Sen. Markey Letter on Privacy*, *supra* note 2 (answering Question (1)(e) with, "For those limited data shares where there is a commercial benefit attributable directly to the data sharing, the impact to GM's overall 2022 revenue was de minimis."); *see* GENERAL MOTORS, DATA SHARING AGREEMENT (DEC. 21, 2018), [https://www.sec.gov/Archives/edgar/data/1864448/000110465921093068/tm2121431d2\\_ex10-2.htm](https://www.sec.gov/Archives/edgar/data/1864448/000110465921093068/tm2121431d2_ex10-2.htm).



data to these exchanges along with periodic payments for additional data sent over a span of years.<sup>7</sup> On information and belief, GM was also paid by the data exchanges when insurance companies would purchase licenses to access driving data from the exchanges.

7. GM represented to third parties and the exchange companies that consumers provided consent for the collection, use, and sale of their data; but, due to GM's deceptive practices, consumers never gave informed consent for any of those purposes.<sup>8</sup>

8. GM's practices contradict its promises in the Consumer Privacy Protection Principles of the Alliance for Automotive Innovation ("Alliance"), of which GM is a Participating Member.<sup>9</sup> In these Privacy Protection Principles, GM affirmed its commitment to provide "clear, meaningful, and prominent notice disclosing the collection, use, and sharing of Covered Information"<sup>10</sup> to allow owners to provide affirmative consent.<sup>11</sup> The very first principle outlined by the Alliance is transparency. Under this principle, GM committed itself to designing notices to provide owners with clear, meaningful, and prominent information about the collection of Driving

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<sup>7</sup> See *Data Sharing Agreement*, *supra* note 6.

<sup>8</sup> *Verisk Insurance Solutions Announces GM as Inaugural Auto Manufacturer to Join Telematics Data Exchange*, VERISK (Sept. 2, 2015), <https://www.verisk.com/company/newsroom/verisk-insurance-solutions-announces-gm-as-inaugural-auto-manufacturer-to-join-telematics-data-exchange/>.

<sup>9</sup> *Our Members*, ALLIANCE FOR AUTOMOTIVE INNOVATION, <https://www.autosinnovate.org/about/our-members> (last visited Jan. 2, 2025).

<sup>10</sup> "Covered Information" is defined as "[i]dentifiable information that vehicles collect, generate, record, or store in an electronic form that is retrieved from the vehicles by or on behalf of a Participating Member...or Personal Subscription Information provided by individuals subscribing or registering for Vehicle Technologies and Services. Alliance For Automotive Innovation, Inc., *Consumer Privacy Protection Principles* 4 (Mar. 2022), [https://www.autosinnovate.org/innovation/Automotive%20Privacy/Consumer\\_Privacy\\_Principlesfor\\_VehicleTechnologies\\_Services-03-21-19.pdf](https://www.autosinnovate.org/innovation/Automotive%20Privacy/Consumer_Privacy_Principlesfor_VehicleTechnologies_Services-03-21-19.pdf).

<sup>11</sup> *Id.*

Behavior Information,<sup>12</sup> such as “the purposes for which it is collected, and the types of entities with which the information may be shared.”<sup>13</sup> GM’s failure to uphold its promises under the Consumer Privacy Protection Principles placed its unsuspecting customers at risk of financial harm.

9. Indeed, for years, GM promised consumers that OnStar is an “in-vehicle safety and security system,” not an Orwellian “Big Brother,” that was “designed to help protect you and your family and provide peace of mind on the road,”<sup>14</sup> and that GM would not use OnStar to overstep into consumers’ private lives without their consent. GM lied repeatedly.

10. GM’s deception was finally revealed on March 11, 2024, when *The New York Times* reported on GM’s illegal data collection in an article titled “Automakers Are Sharing Consumers’ Driving Behavior With Insurance Companies.” The article detailed rampant privacy violations by the automobile industry generally, and GM specifically, noting, “drivers of General Motors cars...may not realize that their driving data is being shared with insurance companies” and that data broker “LexisNexis, which generates consumer risk profiles for the insurers, knew about every trip G.M. drivers had taken in their cars, including when they sped, braked too hard or accelerated rapidly.”<sup>15</sup>

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<sup>12</sup> “Driving Behavior Information” is “Covered Information about how a person drives a vehicle.” *Id.* at 5.

<sup>13</sup> *Id.* at 6–7.

<sup>14</sup> *Help: Chevrolet, ONSTAR*, <https://www.onstar.com/support/faq/chevrolet> (last visited Jan. 2, 2025).

<sup>15</sup> Kasmir Hill, *Automakers Are Sharing Consumers’ Driving Behavior With Insurance Companies*, N.Y. TIMES (Mar. 11, 2024), <https://www.nytimes.com/2024/03/11/technology/carmakers-driver-tracking-insurance.html>.

11. In response to questions from *The New York Times*, GM admitted that it shares with data brokers LexisNexis Risk Solutions (“LexisNexis”) and Verisk Analytics, Inc. (“Verisk”) “select insights” about consumers’ hard braking, hard accelerating, speeding over 80 miles per hour, and drive time.

12. Less than one week later, on March 20, 2024, GM announced it was ending its relationship with LexisNexis and Verisk. GM spokesperson Kevin Kelly sent the *Detroit Free Press* the following statement: “As of March 20th, OnStar Smart Driver customer data is no longer being shared with LexisNexis or Verisk. Customer trust is a priority for us, and we are actively evaluating our privacy processes and policies.”

13. The State of Arkansas, *ex rel.* Tim Griffin, Attorney General (the “State”) brings this consumer protection action against GM and OnStar (collectively “Defendants”) to redress and restrain violations of the Arkansas Deceptive Trade Practices Act (“ADTPA”), Ark. Code Ann. § 4-88-101, et seq. The State seeks an order enjoining Defendants’ challenged conduct, imposing civil penalties, and providing all other monetary and equitable relief to which the State is entitled.

## II. PARTIES

14. Plaintiff is the State of Arkansas, *ex rel.* Tim Griffin, Attorney General, who is authorized to enforce the ADTPA in this action under Ark. Code Ann. §§ 4-88-104, 4-88-113.

15. Defendant General Motors LLC is a United States limited liability company headquartered in Detroit, Michigan and incorporated under the laws of Delaware. GM is a multinational manufacturer that owns and manufactures four automobile brands: Chevrolet, GMC, Cadillac, and Buick. At the time of filing, GM’s agent for service of process in Arkansas is Corporation Service Company, 300 S. Spring Street, Suite 900, Little Rock, Arkansas 72201.



16. Defendant OnStar LLC is a United States limited liability company headquartered in Detroit, Michigan and incorporated under the laws of Delaware. OnStar is a wholly-owned subsidiary of GM that provides subscription-based communications, in-vehicle security, emergency services, turn-by-turn navigation, and remote diagnostics systems throughout the United States. At the time of filing, OnStar's agent for service of process in Arkansas is the Corporation Service Company, 300 S. Spring Street, Suite 900, Little Rock, Arkansas 72201.

### III. JURISDICTION AND VENUE

17. This Court has jurisdiction over this action under Ark. Code Ann. §§ 4-88-104 and 16-4-101, as well as under the common law of the State of Arkansas.

18. Defendants have purposefully availed themselves of the privilege of doing business in the State of Arkansas. Defendants sell GM-branded vehicles and services via employees and dealerships located across the State of Arkansas and intentionally direct its resources toward, marketing to, and selling its goods and services to Arkansas residents.<sup>16</sup> As of January 1, 2024, GM operated 63 dealerships across the state.<sup>17</sup> In 2023 alone, GM delivered more than 28,000 vehicles to the state.<sup>18</sup>

19. These causes of action arise from or relate to Defendants' contacts with the State of Arkansas. Defendants are violating Arkansas residents' privacy rights by deceptively collecting, using, selling, and profiting from their customers' driving data that is or was later resold via exchanges to insurers, which insurers use to increase consumers' insurance rates. These unlawful,

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<sup>16</sup> *General Motors in Arkansas*, GEN. MOTORS, <https://www.gm.com/company/usa-operations/arkansas> (last visited Jan. 2, 2025).

<sup>17</sup> *Id.*

<sup>18</sup> *Id.*

deceptive, and unconscionable trade practices induced Arkansas residents to transact with Defendants at the risk of financial harm to those residents.

20. Venue is proper under Ark. Code Ann. §§ 4-88-104, 4-88-112, and 16-60-101, and under the common law of the State of Arkansas.

21. The State does not plead, expressly or implicitly, any cause of action or request any remedy that arises under federal law.

#### IV. FACTUAL ALLEGATIONS

22. GM is a multinational company, and it is one of the world's largest manufacturers of vehicles. It owns and operates four well-known brands: Chevrolet, GMC, Cadillac, and Buick.<sup>19</sup>

23. In 2023, GM had 63 dealerships and delivered more than 28,000 vehicles to the State of Arkansas.<sup>20</sup> GM's agreements with dealerships authorized those dealerships to advertise, offer, and sell GM's products and services, including subscription-based products, in accordance with GM's requirements and specifications.<sup>21</sup>

24. GM launched its first telematics systems in 1996.<sup>22</sup> Over time and with the advancement of its telematics systems, GM could obtain driving data from its own vehicles instead of relying on insurer-provided devices that consumers had to install themselves.

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<sup>19</sup> *Our Brands*, GEN. MOTORS, <https://www.gm.com/gm-brands> (last visited Jan. 2, 2025).

<sup>20</sup> *General Motors in Arkansas*, *supra* note 16.

<sup>21</sup> See Jim Koscs, *Why General Motors Dropped Its OnStar Smart Driver Program*, CAPITALONE (July 2, 2024), <https://www.capitalone.com/cars/learn/finding-the-right-car/why-general-motors-dropped-its-onstar-smart-driver-program/3366>.

<sup>22</sup> *The Evolution of OnStar*, ONSTAR, <https://www.onstar.com/why-onstar/evolution-of-onstar-innovations> (last visited Jan. 2, 2024).



25. The telematics system is composed of both hardware and software. The hardware consists of internal and external cameras, sensors (such as seat and seatbelt sensors), speakers, and microphones. The software is produced by OnStar to collect and transfer data on and off a vehicle.<sup>23</sup> OnStar has been installed in almost all vehicles manufactured by GM since 2015.<sup>24</sup>

26. GM captured Arkansans' driving data using GM vehicles' telematics systems, and the mobile apps that GM provided to consumers (such as myChevrolet, myCadillac, myGMC, and myBuick). Unlike usage-based insurance programs that required an optional device installed by the customer that used driving data to reward good driving behavior, GM used the telematics system to unilaterally collect its customers' driving data, analyze it, and sell it in a manner that, unknown to the customer, penalized bad driving behavior.<sup>25</sup>

27. In 2015, GM entered into the first of many agreements to sell its customers' driving data.<sup>26</sup> Over the course of nearly a decade, GM continued to sell, re-sell, and have other companies license out access to its customers' driving data, oftentimes in a manner it knew would financially harm those customers.

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<sup>23</sup> Memorandum from the Alliance for Automotive Innovation entitled "No, your car isn't spying...it's keeping you safe" 1 (Dec. 2023), <https://www.autosinnovate.org/posts/communications/Telematics%20Data%20Memo%20to%20Interested%20Parties.pdf>.

<sup>24</sup> *How to Get Started with OnStar*, ONSTAR (Jan. 9, 2019), <https://www.onstar.com/tips/get-started-services> ("If your car is Model Year 2015 or newer, push your blue OnStar button...and get your service started.").

<sup>25</sup> Hill, *supra* note 15.

<sup>26</sup> *Verisk Insurance Solutions Announces GM as Inaugural Auto Manufacturer to Join Telematics Data Exchange*, *supra* note 8.

**A. General Motors' agreement with third-party data broker Verisk Analytics, Inc.**

28. In 2015, GM entered into an agreement with Verisk to sell GM's customers' driving data.<sup>27</sup> Verisk is a data-analytics and risk-assessment firm that touts its focus on providing insurance companies with "industry-leading brands" to help "customers protect people, property, and financial assets."<sup>28</sup>

29. GM told Verisk that it collected and sold the driving data with customers' consent.<sup>29</sup> According to Verisk, GM was successful in getting at least 85 percent of new-car buyers to sign up for the program allowing Verisk to collect data from "about 900,000 participating vehicles covering more than 3 billion trip miles" in 2016 alone.<sup>30</sup> Verisk claimed that the data collection was "poised for continued significant growth, adding about 5,000 to 6,000 vehicles and 2.5 million miles a day."<sup>31</sup>

30. Under the Verisk agreement with GM, Verisk established a database referred to as the "Verisk Telematics Data Exchange" (hereinafter, "Verisk Exchange") to house the driving data

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<sup>27</sup> *Id.*

<sup>28</sup> *Id.*

<sup>29</sup> *Id.*

<sup>30</sup> VERISK ANALYTICS, *Insight: 2016 Annual Report* 8 (2017), [https://www.annualreports.com/HostedData/AnnualReportArchive/v/NASDAQ\\_VRSK\\_2016.pdf](https://www.annualreports.com/HostedData/AnnualReportArchive/v/NASDAQ_VRSK_2016.pdf).

<sup>31</sup> *Id.*

received from GM<sup>32</sup> and to use the driving data to calculate a Driving Score for each of GM's customers.<sup>33</sup>

31. A customer's Driving Score was based on a series of factors developed by GM that were supposedly indicative of bad driving behavior and included behavior such as: (a) speed, (b) acceleration, (c) braking, and (d) driver behavior.<sup>34</sup> Under the Verisk agreement, GM provided Verisk with the driving data necessary to determine whether a customer exhibited any bad driving behaviors. GM provided sufficient personally identifiable information to Verisk to allow Verisk to link the driving data to the driver and license this data to insurance companies to provide "increasing discounts to drivers who display safer driving behaviors and patterns."<sup>35</sup>

32. In reality, neither Verisk nor GM could know the actual identity of the individual driving the subject vehicle (whether the vehicle owner, owner's spouse, a child, a friend, or even a restaurant valet), making GM's secret scheme all the more egregious.

33. Upon purchasing the rights to access the Verisk Exchange, insurance companies could use it to search for the Driving Score of their insureds or potential insureds<sup>36</sup> and then use that information to financially harm GM's customers, including by denying prospective insureds coverage, increasing current insureds' monthly premiums, or dropping their current insureds from

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<sup>32</sup> *Id.*

<sup>33</sup> Hill, *supra* note 15 ("Verisk provides insurers with trip data and a risk score").

<sup>34</sup> *Insight: 2016 Annual Report*, *supra* note 30, at 8.

<sup>35</sup> *Id.*

<sup>36</sup> *Verisk Insurance Solutions Expands Relationship with Duck Creek Technologies by Providing Access to Verisk Data Exchange*, VERISK (Dec. 21, 2016), <https://www.verisk.com/company/newsroom/verisk-insurance-solutions-expands-relationship-with-duck-creek-technologies-by-providing-access-to-verisk-data-exchange/>; Hill, *supra* note 15.



coverage entirely.<sup>37</sup> This is all despite GM's repeated claims that the Verisk Exchange "will give customers a clear choice to seamlessly share their driving data with the insurance company of their choosing, and obtain financial benefits tied to good driving"<sup>38</sup> without any mention of the potential financial harm it could cause those same customers.

**B. General Motors' agreement with third-party data broker Wejo Limited.**

34. On December 21, 2018, GM entered into an agreement with Wejo Limited ("Wejo"), a British connected car start-up.<sup>39</sup> Like the Verisk agreement, GM sold Wejo its customers' driving data specifically so that Wejo could sell licenses for other companies to access the driving data.<sup>40</sup>

35. Under the Wejo agreement, GM sold and delivered its customers' driving data to Wejo.<sup>41</sup> As compensation for the driving data provided, GM received a certain portion of the "gross revenue received by Wejo from Wejo's licensing or other use of the Data and Derived Data Insights."<sup>42</sup> Wejo had to send payments to GM within 30 days following the end of the month during the agreement term, and Wejo had to pay any unpaid revenue owed for any prior month or any other amounts owed to GM under the agreement.<sup>43</sup>

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<sup>37</sup> Hill, *supra* note 15.

<sup>38</sup> Verisk Insurance Solutions Announces GM as Inaugural Auto Manufacturer to Join Telematics Data Exchange, *supra* note 8.

<sup>39</sup> Data Sharing Agreement 1, *supra* note 6.

<sup>40</sup> See *id.* (allowing Wejo to sell licenses to third party licensees).

<sup>41</sup> *Id.*

<sup>42</sup> *Id.* at 3, subsection 4.

<sup>43</sup> *Id.* at 4, subsection 4(d).

**C. General Motors' agreement with third-party data broker LexisNexis Risk Solutions.**

36. GM entered into a similar agreement with LexisNexis in 2019, under which GM agreed to provide "consumer-approved connected car data" to create a Driving Score for each of GM's customers to include in the LexisNexis Telematics Exchange.<sup>44</sup> The driving data was paired with sufficient personally identifiable information sold by GM to allow "[c]onsumers [to] benefit from insurance offers and discounts based on safe driving behavior and habits that can take care of their cars and the people in them."<sup>45</sup>

37. On information and belief, like the arrangement with Verisk, insurers that purchased licenses to use the LexisNexis Telematics Exchange could search for information about their insureds derived from the driving data and increase their insureds' monthly premiums or drop their insureds from coverage entirely based upon that information.

**D. General Motors aggressively publicized the benefits of its products while hiding its true privacy practices so it could collect and sell customers' driving data.**

38. Since at least 2015, GM utilized aggressive and deceptive enrollment practices on customers purchasing a GM vehicle for the purpose of signing them up for GM products including: (a) Connected Vehicle Services, a term used for a vehicle's telematics system; (b) GM's mobile apps; and (c) the OnStar Guardian App.<sup>46</sup>

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<sup>44</sup> *LexisNexis Risk Solutions Selected by GM as Preferred Insurance Data Partner*, LEXISNEXIS RISK SOLS. (Aug. 21, 2019), <https://risk.lexisnexis.com/about-us/press-room/press-release/20190821-gm-partnership>.

<sup>45</sup> *Id.*

<sup>46</sup> Jim Koscs, *supra* note 21 (discussing sales incentives to sign up).

39. This enrollment scheme resulted in signing up customers for products who were not told that GM would use these products to collect and sell their driving data to other companies, including insurance companies.

40. GM marketed its Connected Vehicle Services as giving customers “better drives,” “better entertainment,” “better safety,” and “better control.”<sup>47</sup> GM offered customers these Connected Vehicle Services through a myriad of subscription plan options, which included both free and paid subscriptions.

41. All GM Connected Vehicle Service plans included the five features that were included in the free Connected Access plan, which were: (a) OnStar Smart Driver, (b) OnStar Vehicle Diagnostics (“OVD”), (c) OnStar Dealer Maintenance Notifications, (d) OnStar Marketplace, and (e) OnStar In-Vehicle App. Each of the plans captured vehicle data and diagnostics.<sup>48</sup>

42. GM couched its collection, use, and sale of driving data as a means of realizing “our vision of a world with zero crashes, zero emissions, and zero congestion” through its provision of “critical safety services,” “convenience features,” and GM’s collection of “vehicle diagnostic and operational information.”<sup>49</sup>

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<sup>47</sup> *Innovation at every turn – that’s OnStar*, ONSTAR, <https://www.onstar.com/why-onstar> (last visited Jan. 2, 2025).

<sup>48</sup> *OnStar Plans & Pricing*, ONSTAR, [https://www.onstar.com/content/dam/onstar/na/us/en/index/pricing/02-pdfs/0053\\_PlansPricing\\_USE\\_1PG-OTSlayout.pdf](https://www.onstar.com/content/dam/onstar/na/us/en/index/pricing/02-pdfs/0053_PlansPricing_USE_1PG-OTSlayout.pdf) (last visited Jan. 2, 2025).

<sup>49</sup> *Automaker Responses to Sen. Markey Letter on Privacy*, *supra* note 2 (providing information on page 1 of GM’s response).



43. Despite all these benefits, GM never mentioned that the data it collected through its Connected Vehicle Services could have negative effects on consumers.

44. GM pushed to have as many customers as possible download its brand-specific mobile apps: myChevrolet, myGMC, myBuick, or myCadillac. It made these apps free to download, but, unknown to persons who downloaded the app, GM treated the download and enrollment in the app as the customer's purported consent to their terms and the collection and sale of their driving data.

45. GM advertised the apps as a "mobile command center for your vehicle"<sup>50</sup> that provided customers with a "user-friendly way to leverage many of the basic and available connectivity and vehicle management features offered through [OnStar]."<sup>51</sup> The mobile apps allowed the user to track a vehicle's location; check its odometer reading, fuel level, and oil life; lock and unlock doors; and, remotely turn on or off the vehicle.<sup>52</sup>

46. GM highlighted the safety benefits of the OnStar Guardian App to encourage customers to sign up. However, unknown to the customers, GM treated enrollment in the Guardian App as the customer's purported agreement to the collection and sale of their driving data.

47. GM marketed the Guardian App as a way to give "your family the key safety services of OnStar" even when the customer or a customer's family member is in someone else's

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<sup>50</sup> *myChevrolet Mobile App*, CHEVROLET, <https://www.chevrolet.com/connectivity-and-technology/my-chevrolet-app> (last visited Jan. 2, 2025).

<sup>51</sup> *MyGMC App: Six Ways to Stay Connected with Your GMC*, GMC, <https://www.gmc.com/gmc-life/technology/stay-connected-with-the-mygmc-mobile-app> (last visited Jan. 2, 2025).

<sup>52</sup> *Id.*; *Updated My Chevy App*, *supra* note 50.

care, at home, or out somewhere else.<sup>53</sup> GM promoted the Guardian App to include substantive safety services, which included location alerts, custom boundary settings, and additional safety features such as roadside assistance, mobile crash response, and emergency services.<sup>54</sup>

### **OnStar Services Wherever You Are With the OnStar Guardian app**

Thanks to OnStar, you may feel safer in your car. But how about when you or your family are in someone else's car? Or on your motorcycle? Or at home? Or out for a walk or hike? We've got you. The OnStar Guardian<sup>®</sup> app<sup>\*</sup> gives your family the key safety services of OnStar — Roadside Assistance,<sup>\*</sup> GPS locator service,<sup>\*</sup> emergency help — even crash detection — anywhere you go. You can share the app with up to seven friends or family members.<sup>\*</sup>

*Figure 1*

48. On information and belief, GM was able to use the OnStar Guardian App to collect and sell additional data about its customers and anyone with whom the customers shared the OnStar Guardian App.

**E. General Motors used several deceptive techniques to ensure customers would enroll in its services.**

49. For nearly a decade, GM pushed customers into enrolling in its Connected Vehicle Services through a series of deceptive and misleading practices, including its deceptive onboarding process.

50. At the point of sale or lease, GM incentivized dealership salespeople with bonuses for enrolling customers in OnStar before they left the dealership. At the same time, if the

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<sup>53</sup> *OnStar Guardian app*, ONSTAR, <https://www.onstar.com/plans/guardian-app> (last visited Jan. 2, 2025).

<sup>54</sup> *Id.*

salesperson did not comply with GM's policy of placing a customer-signed copy of OnStar's terms and conditions in the vehicle's sales packet, he or she risked a charge-back for not complying.<sup>55</sup> GM's conduct and its policies regarding dealership employees were designed to impair customers' decision making to ensure that they would enroll in the Connected Vehicle Services.

51. During the enrollment process, the GM salesperson presents a customer, at the point of sale or lease, with information about Connected Services and prompts the customer to either accept or decline its terms.<sup>56</sup> However, the process does not obtain informed consent from the customer. Rather, the customer is led through a series of steps that makes the onboarding process appear mandatory.

52. To initiate the onboarding process, the dealership employee would create an OnStar account for the customer or locate the customer's existing account before presentment of the Connected Vehicle Services plans for which that vehicle was eligible. On information and belief, at no point did the dealership employee disclose to the customer that they were not required to complete the onboarding process or that selection of one of the plans would result in GM collecting, using, and sharing the consumer's driving data for its own benefit and to the potential detriment of the customer.

53. Once a consumer selects the Get Started button, GM overwhelms the customer with information by providing him or her a screen with a 29-page "User Terms for Connected Vehicle Services," an 18-page "General Motors U.S. Connected Services Privacy Statement," a link to AT&T's terms and conditions, a link to AT&T's network management practices, a vehicle

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<sup>55</sup> Koscs, *supra* note 21.

<sup>56</sup> *Automaker Responses to Sen. Markey Letter on Privacy*, *supra* note 2 (providing information on page 5 of GM's response).



ownership acknowledgement statement, and, finally, an “I accept” and an “I decline” checkbox with both options including even more information.

Figure 2<sup>57</sup>

<sup>57</sup> *Appendix A: Documents from General Motors*, GEN. MOTORS (July 26, 2024), <https://www.wyden.senate.gov/imo/media/doc/wyden-markey-auto-privacy-letter-to-ftc.pdf>.

54. As seen in Figure 2, customers were only shown the first paragraph of the two policies and needed to scroll to review them, but neither of the policies disclosed the true nature of GM's data collection and sharing practices. Further, the substantial information on the screen served to prevent and deter customers from reviewing GM's policies and disclosures. Even if a customer carefully read every word on the screen, the disclosures and linked policies would still not inform the customer of GM's actual conduct. The process does not obtain informed consent from the customer.

55. Nowhere did the disclosures explain that by selecting the "I accept" option, customers were agreeing to GM's collection and sale of their driving data to, and collaborate with, third-party vendors, who in turn would develop driving risk profiles or driving scores to market and sell to insurance companies. Consumers could not have known that their data would be sold to insurance companies.

56. GM maintained and provided customers with multiple, voluminous disclosures about its products and provided them to customers during the onboarding process, as well as on its websites and apps. GM's disclosures generally consisted of user terms and privacy statements, which as of October 21, 2024, included a 34-page User Terms for Connected Vehicle Services, a 16-page U.S. Consumer Privacy Statement, a link to an AT&T Consumer Service Agreement, a link to an AT&T Broadband Information website, and, if a customer downloaded the mobile app when prompted or enrolled in the OnStar Guardian App, an additional 3-page User Terms for Application Services, a 4-page Privacy Statement for OnStar Guardian, and a 20-page User Terms for OnStar Guardian. While GM's disclosures varied over time, at no point did they materially disclose anything above and beyond that described below.

57. While GM's confusing mix of user terms and privacy statements varied, none of them informed consumers that GM would sell any of their data or that the data may be used to create risk profiles or driving scores that could increase their insurance premiums and cause them financial harm.

58. To entice customers to enroll in its driving data collection scheme, GM trumpets over and over about the benefits of using its services. Specifically, it states that GM collects "information about you and the world around you that we need to power the products and services we offer, to improve your experience in your vehicle, and to advance future technologies."<sup>58</sup> GM also states, "we use this Personal Information to deliver products and services, keep vehicles and roadways safe, and innovate and evolve our vehicles for the next generation."<sup>59</sup>

59. GM discloses that it collects personal information about customers either directly from the customer or automatically through their interaction with GM's products or services, including enrolling in OnStar or the use of OnStar services and the use of GM's mobile apps.<sup>60</sup> Through these customer interactions, GM collects Driver Behavior Information about how a customer drives a vehicle that is linked or reasonably linkable to the customer.<sup>61</sup> This data includes vehicle speed, seat belt usage, and information about braking habits.<sup>62</sup>

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<sup>58</sup> GENERAL MOTORS, U.S. CONSUMER PRIVACY STATEMENT 1 (Sept. 25, 2024), [https://www.gm.com/content/dam/company/docs/us/en/gmcom/privacy-statement/GM\\_US\\_Consumer\\_Privacy\\_Statement.pdf](https://www.gm.com/content/dam/company/docs/us/en/gmcom/privacy-statement/GM_US_Consumer_Privacy_Statement.pdf).

<sup>59</sup> *Id.*

<sup>60</sup> *Id.* at 2–3.

<sup>61</sup> *Id.* at 4.

<sup>62</sup> *Id.*



60. GM informs customers that it uses Driver Behavior Information for only the *limited* purposes outlined below in Figure 3. GM does *not* disclose its actual conduct of monetizing and selling Driver Behavior Information to third parties and exchanges.

*Driver Behavior Information*

We use Driver Behavior Information for the following categories of limited purposes:

- To deliver our products and services where Driver Behavior Information is reasonably necessary or otherwise compatible with your reasonable expectations
- As reasonably necessary to protect the safety, property, or rights of us, our customers, or members of the public
- For operations, compliance, or warranty purposes
- For internal research or product development
- To prevent, detect, protect against, or respond to security incidents, identity theft, harassment, malicious or deceptive activities, or any illegal activity; and preserve the integrity or security of systems; or investigate, report, or prosecute those responsible for any such action
- Comply with legal, regulatory, or contractual requirements
- Protect our rights, such as investigating, establishing, exercising, preparing for, or defending legal claims

*Figure 3*<sup>63</sup>

61. Furthermore, GM fails to alert customers about the disclosure of their personal information under the “How We May Share Your Information” section of its July 2023 U.S. Connected Services Privacy Statement. Instead, GM buries its only reference to usage-based insurance providers at the end of a lengthy parenthetical when it states GM “may also share data with third parties...where you have elected to receive a service from them and/or authorized them to request data from GM (for example...usage based insurance providers).”<sup>64</sup>

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<sup>63</sup> *Id.* at 7.

<sup>64</sup> GENERAL MOTORS, U.S. CONNECTED SERVICES PRIVACY STATEMENT 1, 4 (July 1, 2023), [https://www.gm.com/content/dam/company/docs/us/en/onstar/privacy-statement/US\\_Connected\\_Services\\_Privacy\\_Statement\\_070123\\_final.pdf](https://www.gm.com/content/dam/company/docs/us/en/onstar/privacy-statement/US_Connected_Services_Privacy_Statement_070123_final.pdf).

62. In its U.S. Consumer Privacy Statement, GM only addresses disclosing Driver Behavior Information for usage-based insurance on page 9 of the statement, but it is specific to General Motors Insurance (“GM Insurance”). The statement says GM may disclose Driver Behavior Information “[w]here you have given your affirmative consent to disclose Driver Behavior Information with General Motors Insurance for usage-based insurance offers or to help determine your rate for an insurance quote or policy.”<sup>65</sup> This statement is highly misleading for at least two reasons. First, given the deceptive and confusing nature of the onboarding process, customers are unable to give informed, affirmative consent to GM’s collection, use, and sale of their Driving Behavior Information even to GM Insurance. Second, GM’s statement only applies to GM Insurance and does not put any customers on notice that their information will be shared with any third-party insurers. GM insurance is irrelevant to most consumers, as it has less than 0.02% of the market share for the private passenger auto insurance market.<sup>66</sup>

63. The only other mention of insurance by GM was in its 36-page User Terms for Connected Vehicle Services to clarify that General Motors is not an insurance company.<sup>67</sup>

64. GM’s Privacy Statement for Application Services and its OnStar Guardian Privacy Statement also failed to notify customers that GM used customers’ data to create Driving Scores and sold those scores along with the underlying driving data to insurers.

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<sup>65</sup> GENERAL MOTORS U.S. CONSUMER PRIVACY STATEMENT, *supra* note 58, at 9.

<sup>66</sup> See NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS, *2023 Market Share Reports For Property/Casualty Groups and Companies by State and Countrywide* 406–07 (2024), <https://content.naic.org/sites/default/files/publication-msr-pb-property-casualty.pdf>.

<sup>67</sup> *User Terms: User Terms for Connected Vehicle Services*, ONSTAR (May 1, 2018), <https://www.onstar.com/legal/user-terms>.

65. GM's Privacy Statement for Application Services was last updated on May 2, 2022, and it purports to describe how GM and its affiliates "collect, use, and share information (including the location of your...vehicle...and how your Vehicle is used) when you download this software application...to your phone or other Internet-connected device."<sup>68</sup> This Privacy Statement for Application Services makes no mention of insurance in its section entitled Sharing of Information.<sup>69</sup> Instead, this section has a catch-all for "the purposes described in the OnStar Privacy Statement" thereby referring customers back to the lengthy U.S. Consumer Privacy Statement to parse and understand.<sup>70</sup>

66. Similarly, the OnStar Guardian Privacy Statement has a Sharing of Information section, and it likewise omits any reference or mention to insurance and directs the reader back to the lengthy U.S. Consumer Privacy Statement.

**We share your information as described in the OnStar Privacy Statement. For example, we share information with necessary third parties when you use the Application to make requests for third party or related services available through the Application, such as roadside assistance. We may share your information with:**

- third party service providers working on our behalf;
- members and invitees of your "My Family";
- emergency service providers;
- individuals specified by you when using the Application, such as emergency contacts;
- others when required or permitted by law, and
- those you ask us to share this information with.

**We may share the location of your Device when necessary to provide the Application Services to you; to comply with legal obligations; to protect the safety and rights of you and others; for product safety and security purposes; and for the purposes described in the OnStar Privacy Statement.**

*Figure 4*

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<sup>68</sup> *Privacy Statement for Application Services*, *supra* note 2, at 1.

<sup>69</sup> *Id.* at 2–3.

<sup>70</sup> *Id.* at 3.



67. GM's Privacy Statement for Application Services and the OnStar Guardian Privacy Statement cause further confusion due to the cross references with other privacy documents. On information and belief, there is no OnStar Privacy Statement, and a customer is directed to the U.S. Consumer Privacy Statement when it goes to [onstar.com/privacy](https://onstar.com/privacy), but the Privacy Statement for OnStar Guardian and Previous Privacy Statements are presented at the bottom of the webpage (below the entire U.S. Consumer Privacy Statement).<sup>71</sup>

68. GM also used its descriptions and disclosures associated with the OnStar "Smart Driver" feature to further confuse and mislead consumers, particularly regarding whether their driving data would be sold to other companies, provided to insurers, or used to evaluate their insurance rate based on their Driving Score.

69. Despite GM ending its free "Smart Driver" program in April 2024, since at least 2017 until its cessation in 2024, GM marketed the "Smart Driver" program as a way of "making it possible for drivers to increase their skills on the road." It was said to "maximiz[e] their vehicle's overall performance, while reducing the rate of wear and tear" and it would "help owners save money and drive responsibly."<sup>72</sup> This feature was advertised to the customer as purely beneficial.

70. GM likewise de-emphasized the significance of a bad Driving Score and reassured customers that their Driving Score was not permanent and could improve over time:

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<sup>71</sup> After entering [www.onstar.com/privacy](https://www.onstar.com/privacy) into the search bar, a user is redirected to [https://www.gm.com/privacy-statement?evan25=onstar\\_legal\\_privacy](https://www.gm.com/privacy-statement?evan25=onstar_legal_privacy), where the U.S. Consumer Privacy Statement is located.

<sup>72</sup> *Introducing the OnStar Smart Driver Feature*, *supra* note 1.

### **What does your score tell you?**

**In summary, if you have a score of 88, yes, you might consider yourself a B+ driver — well above average. Unlike a permanent high school grade, though, your Smart Driver score isn't permanent. With the regular feedback and tips for improving your score, you can make your Smart Driver score grow over time. Check how you compare (anonymously) with other Smart Drivers in your monthly report — you could find yourself among the highest-scoring Smart Drivers.**

### *Figure 5*<sup>73</sup>

71. During the deceptive onboarding process to enroll customers in GM's Connected Vehicle Services, GM did not disclose any potential harm or negative consequences that could be caused by a customer's use of the Smart Driver program. Instead, GM told customers they could "earn achievements, get valuable feedback with each trip, and access [their] driving data." GM told customers it would "use information...about where and how you operate your vehicle," but GM never told customers that it would profit from the sale of that driving data or that driving data could end up in the hands of insurers who could raise rates or cancel policies.<sup>74</sup>

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<sup>73</sup> *Reading Into Your Chevrolet, Buick, GMC and Cadillac Smart Driver Score*, *supra* note 72.

<sup>74</sup> *Appendix A: Documents from General Motors*, *supra* note 57; Hill, *supra* note 15.

## Enrollment Preferences

*(Smart Driver and Notifications opt-in)*

### One-click Enroll into OnStar Smart Driver and Notifications

#### OnStar Smart Driver<sup>75</sup>

Improve your ownership experience with access to OnStar Smart Driver.

What is OnStar Smart Driver? OnStar Smart Driver provides you insights on your driving behavior and can help you recognize driving improvement opportunities. You'll earn achievements, get valuable feedback with each trip, and access your driving data. OnStar Smart Driver also gives you the opportunity to use Connected Teen Driver, which helps promote safe driving habits.

We'll use information we collect about where and how you operate your vehicle, such as your vehicle's location, routes driven, driving schedule, fuel or charging levels, fuel economy, battery status, overall vehicle health, and driving behavior, such as hard braking, hard acceleration, tailgating, vehicle speed, late night driving, driver and passenger seatbelt status, and driver attention. Smart Driver "hard braking" and "hard acceleration" events are identified when measured vehicle speed changes rapidly, regardless of the cause of the rapid speed change. We may also use alerts from your vehicle, such as forward collision and traction control.

After enrollment, you can opt out of OnStar Smart Driver at any time by clicking "unenroll" in OnStar Smart Driver in your myGMC mobile app.

*Figure 6<sup>75</sup>*

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<sup>75</sup> Appendix A: Documents from General Motors, *supra* note 57.



## V. CAUSES OF ACTION

### COUNT I

#### **Arkansas Deceptive Trade Practices Act, Ark. Code Ann. § 4-88-107, et seq.**

72. The State repeats and incorporates by reference each allegation contained in the preceding paragraphs. Ark. R. Civ. P. 10(c).

73. Defendants are “persons” within the meaning of Ark. Code Ann. § 4-88-102(6).

74. Defendants are engaged in the marketing, advertising and sale of goods and services, within the meaning of Ark. Code Ann. § 4-88-102(5) and (8), in Arkansas, including GM vehicles with OnStar telematic systems.

75. Defendants knowingly engaged in the conduct detailed above and challenged by this action.

76. The ADTPA prohibits, among other things, the following:

a. “Knowingly making a false representation as to the characteristics, ingredients, uses, benefits, alterations, source, sponsorship, approval, or certification of goods or services.” Ark. Code Ann. § 4-88-107(a)(1);

b. “Advertising the goods or services with the intent not to sell them as advertised.” Ark. Code Ann. § 4-88-107(a)(3);

c. “Knowingly taking advantage of a consumer who is reasonably unable to protect his or her interest because of...ignorance.” Ark. Code. Ann. § 4-88-107(a)(8)(B); and,

d. “Engaging in any other unconscionable, false, or deceptive act or practice in business, commerce, or trade.” Ark. Code. Ann. § 4-88-107(a)(10).

77. GM’s conduct complained of herein violates each of the above-identified provisions of the ADTPA. GM offered goods and services designed and used to collect, use, and

sell consumer driving data without the consumer's informed consent. GM knowingly used dark patterns in its onboarding process and lengthy, cross-referencing privacy statements to deceive consumers and create a complicated process, which denied consumers the ability to truly consent to the collection, use, and sale of their driving data. GM advertised each of its services as a benefit to consumers without any mention of its profits from the sale of driving data or the possibility of financial harm to consumers from the sale of that data.

## **COUNT 2**

### **Arkansas Deceptive Trade Practices Act, Ark. Code Ann. § 4-88-108, et seq.**

78. The State repeats and incorporates by reference each allegation contained in the preceding paragraphs. Ark. R. Civ. P. 10(c).

79. The ADTPA prohibits the following:

a. "The act, use, or employment by a person of any deception, fraud, or false pretense...[w]hen utilized in connection with the sale or advertisement of any goods, services, or charitable solicitation." Ark. Code Ann. § 4-88-108(a)(1); and

b. "The concealment, suppression, or omission of any material fact with intent that others rely upon the concealment, suppression, or omission...[w]hen utilized in connection with the sale or advertisement of any goods, services, or charitable solicitation." Ark. Code Ann. § 4-88-108(a)(1).

80. GM's conduct violates each of the above-identified provisions of the ADTPA. Defendants created an onboarding process that was designed to get customers to agree to the collection, use, and sale of their driving data without their informed consent. The design of GM's interface used during the onboarding process along with the complicated nature of following the privacy protections across multiple lengthy privacy statements obscured GM's real data practices.

Additionally, GM's only mention of insurance across any of its policies is to state that GM could collect and use driving data for GM Insurance and that GM, itself, was not an insurance company. However, GM did not disclose the collection, use, and sale of driving data to any third parties for the purpose of insurance activities. GM hid the possibility that a consumer's driving data could be used to create financial harm to that same consumer.

81. These deceptive and unconscionable trade practices have harmed, and continue to harm, Arkansans.

82. Under Ark. Code Ann. § 4-88-113(a)(1), the State is entitled to preliminary and permanent injunction prohibiting Defendants from continuing to engage in these deceptive business practices.

83. Under Ark. Code Ann. § 4-88-113(a)(3), the State is entitled to civil penalties not to exceed \$10,000 for every violation of the ADTPA.

84. Under Ark. Code Ann. § 4-88-113(e), for compensation for services to investigate and prosecute Defendants' violations of the ADTPA, the State is entitled to all expenses reasonably incurred in the investigation and prosecution of this suit, including but not limited to, expenses for expert witnesses, attorneys' fees, and costs for violations of the ADTPA.

### **COUNT 3**

#### **Unjust Enrichment**

85. The State repeats and incorporates by reference each allegation contained in the preceding paragraphs. Ark. R. Civ. P. 10(c).

86. The State brings this count for unjust enrichment against Defendants under its common law and *parens patriae* authority.



87. As a direct and proximate result of the unlawful conduct described above, Defendants have been and will continue to be unjustly enriched.

88. Defendants have benefited from their unlawful acts, realizing millions of dollars in revenues and profits through the collection, use, and monetization of vast amounts of driving data.

89. Defendants have further been enriched via deceptive conduct in the sale of services to Arkansas consumers.

90. It would be inequitable and not in good conscience for Defendants to retain any ill-gotten gains earned because of the conduct alleged herein, which gains would not exist but for Defendants' victimization of consumers in the State of Arkansas.

91. Defendants have retained this significant benefit despite their knowledge and understanding of the harms caused to consumers.

92. Arkansans have suffered and will continue to suffer significant detriments, in the form of both privacy harms and financial harms because of Defendants' continued practices relating to its Connected Vehicle Services, GM mobile applications, and Guardian App.

93. The State requests an order from the Court compelling Defendants to disgorge proceeds that they unjustly received, including but not limited to the value of the driving data collected and sold to third parties via telematic exchanges along with royalties collected for insurers' use of those same exchanges.

#### **VI. JURY DEMAND**

94. The State demands a trial by jury.

#### **VII. PRAYER FOR RELIEF**

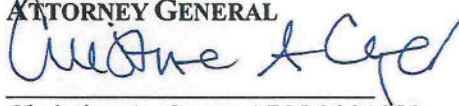
95. The State of Arkansas is entitled to an Order from this Court:

- a. Declaring Defendants' actions unlawful, unconscionable, and deceptive to Arkansas consumers under Ark. Code Ann. § 4-88-101, et seq.;
- b. Declaring that Defendants were unjustly enriched;
- c. Preliminarily and permanently enjoining Defendants from continuing to treat Arkansas consumers unlawfully, unconscionably, and deceptively;
- d. Awarding the State civil penalties of \$10,000 per violation of the ADTPA;
- e. Awarding all other monetary and equitable relief deemed proper by the Court;
- f. Awarding the State its expenses for expert witnesses, reasonable and necessary costs incurred in pursuing this action, including reasonable attorneys' fees, and prejudgment and post-judgment interest at the highest lawful rates; and,
- g. Granting such other and further relief as this Court deems just and appropriate.

Respectfully submitted,

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