

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

SHARON CHENG, CRISTINA DIAS,
RHONDA SANFILIPO, BRUCE PULEO,
ZINA PRUITT, RON ZIMMERMAN,
CHERYL SILVERSTEIN, TINA FENG,
ROBERT HAKIM, BERNADETTE
GRIMES, ELIZABETH GENDRON,
ROGER CARTER, MARLENE RUDOLPH,
PATRICIA BARLOW, TERESA
EDWARDS, ISSAC TORDJMAN, JAMES
HETTINGER, DIEU LE, CHRIS BOHN,
DANIEL DEWEERDT, CRAIG BOXER,
BETTY DENDY, ELIZABETH PERSAK,
KRISTI ROCK, JENNIFER CHALAL,
JOHN TORRANCE, LENARD
SHOEMAKER, MICHAEL MITCHELL,
ROBERT SKELTON, JEFFREY JONES,
ISABEL MARQUES, PAYAM RASTEGAR,
and SYED ABDUL NAFAY, individually
and on behalf of all others similarly situated,

Plaintiffs,

v.

TOYOTA MOTOR CORPORATION,
TOYOTA MOTOR NORTH AMERICA,
INC., and DENSO INTERNATIONAL
AMERICA, INC.,

Defendants.

Case No.: 1:20-cv-00629-WFK-CLP

**THIRD AMENDED CONSOLIDATED
CLASS ACTION COMPLAINT**

JURY TRIAL DEMANDED

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Plaintiffs Sharon Cheng, Cristina Dias, Rhonda SanFilipo, Bruce Puleo, Zina Pruitt, Ron Zimmerman, Cheryl Silverstein, Tina Feng, Robert Hakim, Bernadette Grimes, Elizabeth Gendron, Roger Carter, Marlene Rudolph, Patricia Barlow, Teresa Edwards, Issac Tordjman, James Hettinger, Dieu Le, Chris Bohn, Daniel DeWeerd, Craig Boxer, Betty Dendy, Elizabeth Persak, Kristi Rock, Jennifer Chalal, John Torrance, Lenard Shoemaker, Michael Mitchell, Robert Skelton, Jeffrey Jones, Isabel Marques, Payam Rastegar, and Syed Abdul Nafay (“Plaintiffs”) file this Third Amended Consolidated Class Action Complaint (“Complaint”), pursuant the Court’s Order dated September 2, 2022, on behalf of themselves and all others similarly situated against defendants Toyota Motor Corporation (“TMC”) and Toyota Motor North America, Inc. (“TMNA,” and, together with TMC, “Toyota”); and Denso Corporation (“Denso Corp.”) and Denso International America, Inc. (“DIAM,” and, together with Denso Corp., “Denso”).¹ Based on personal knowledge as to matters relating to themselves, and on information and belief based on the investigation of counsel, including counsel’s review of consumer complaints available on the database of the National Highway Transportation Safety Administration (“NHTSA”), other publicly available information, and formal and confirmatory discovery from Defendants as to all other matters, Plaintiffs allege as follows:

INTRODUCTION

1. This class action lawsuit seeks redress for the misconduct of Denso, a global company with billions of dollars of annual sales that claims to be a leading supplier of advanced automotive technology, systems and components, and Toyota, one of the largest automobile manufacturers in the world, both of which knowingly exposed the purchasers and lessees of

¹ Toyota and DIAM are collectively referenced as “Defendants.” While Denso Corp. was dismissed from this action on August 16, 2021, the term “Denso” sometimes includes DIAM as well as Denso Corp. for accuracy and ease of reference.

millions of Toyota and Lexus vehicles to a dangerous defect in their vehicles' Denso-made low-pressure fuel pumps. This defect can cause Toyota vehicles to run "rough," fail to accelerate, and stall, creating a substantial risk of injury and death for any person operating or riding in a vehicle equipped with the defective fuel pump. Despite being aware of this problem for years, Toyota failed to disclose it to Plaintiffs and consumers until January 2020 when it announced a limited recall of approximately 700,000 Toyota and Lexus vehicles. As of the filing of this Complaint, the universe of recalled vehicles has grown to *approximately 3.4 million Toyota and Lexus vehicles* in the United States and *5.8 million Toyota and Lexus vehicles world-wide*.

2. On January 13, 2020, Toyota submitted a Part 573 Safety Recall Report (the "Recall Report")² to NHTSA voluntarily recalling approximately 695,541 Toyota and Lexus vehicles³ manufactured from August 1, 2018 through January 31, 2019 with defective Denso low-pressure fuel pumps (the "Recall"). In the Recall Report, Toyota admitted there is a dangerous defect in the low-pressure fuel pumps in the recalled vehicles such that the pumps can fail and cause the vehicles to *unexpectedly stall*:

These fuel pumps contain an impeller that could deform due to excessive fuel absorption. . . . [i]f impeller deformation occurs, the impeller may interfere with the fuel pump body, and this could result in illumination of check engine and master warning indicators, rough engine running, engine no start and/or vehicle stall

(the "Fuel Pump Defect").

² Toyota's Recall campaign number is 20V-012. The Recall Report is attached hereto as Exhibit A.

³ The following Toyota and Lexus vehicles were recalled on January 13, 2020: 2018-2019 Toyota 4Runner, 2019 Toyota Avalon, 2018-2019 Toyota Camry, 2019 Toyota Corolla, 2018-2019 Toyota Highlander, 2018-2019 Toyota Land Cruiser, 2018-2019 Toyota Sequoia, 2018-2019 Toyota Sienna, 2018-2019 Toyota Tacoma, 2018-2019 Toyota Tundra, 2019 Lexus ES, 2018-2019 Lexus GS, 2018-2019 Lexus GX, 2018-2019 Lexus IS, 2018-2019 Lexus LC, 2018-2019 Lexus LS, 2018-2019 Lexus LX, 2019 Lexus NX, 2018-2019 Lexus RC, and 2018-2019 Lexus RX.

3. The fuel pump in an automobile is critically important to the overall operation of a vehicle because it lifts gasoline from the fuel tank and delivers it to the engine where it is ignited in the combustion chamber and drives the pistons down, generating vehicle propulsion. In the vehicles at issue in this case, the Fuel Pump Defect is in the “low-pressure fuel pump,” which resides within the fuel tank and delivers fuel to the high-pressure fuel pump, which then sends the fuel to the fuel injectors to be fed into the combustion chamber. A low-pressure fuel pump is expected to last for the life of an automobile and, if not, a minimum of 200,000 miles.

4. Despite admitting in the Recall Report that the identified Fuel Pump Defect “could occur while driving at higher speeds, *increasing the risk of crash*,” Toyota did not direct the owners and lessees of the Recalled Vehicles (defined herein) to immediately cease driving their cars. Further, Toyota did not offer a remedy for the Fuel Pump Defect such that at least 700,000 of its customers were driving in potentially dangerous Toyota and Lexus vehicles.

5. The Recall Report was accompanied by a Defect Information Report (“DIR”)⁴ which disclosed that, as of January 7, 2020, there had been 66 Toyota Field Technical Reports and 2,571 warranty claims received from U.S. sources concerning the Fuel Pump Defect. Upon information and belief, Field Technical Reports are Toyota generated documents that reflect a consumer’s experience and the potential causal modes.

6. In the DIR, Toyota did not disclose when it first learned of the Fuel Pump Defect, but stated that “[i]n early June 2019, Toyota observed an *increase in field reports* related to the low pressure fuel pumps produced by the supplier [Denso],” meaning Toyota knew of the Fuel

⁴ The DIR is attached hereto as Exhibit B. A DIR is a report submitted to NHTSA that, among other things, identifies the affected vehicles, manufacturers, production period, number of vehicles involved, the percentage of vehicles that are estimated to contain the defect, a description of the problem, and a description of the corrective repair.

Pump Defect since well before June 2019. As set forth below, Toyota knew or should have known about the Fuel Pump Defect years earlier. Nonetheless, Toyota did not issue the Recall until January 13, 2020, knowingly exposing its customers to additional risk.

7. The defective fuel pumps (“Fuel Pump(s)”) in the Class Vehicles (defined below) were manufactured by Denso, which is approximately 25% owned by Toyota. Toyota and Denso together designed, engineered, tested, validated, manufactured, and placed in the stream of commerce the defective Fuel Pumps in the vehicles identified in the Recall. The Toyota and Denso Defendants are equally culpable for the grave misconduct alleged herein.

8. On March 4, 2020, Toyota submitted an Amended Defect Information Report (the “Second DIR”)⁵ to NHTSA expanding the Recall from 695,541 vehicles to ***1,817,969 of its most popular Toyota and Lexus vehicles***. In the Second DIR, Toyota admitted that the additional 1,122,428 recalled Toyota and Lexus vehicles suffer from the same Fuel Pump Defect that gave rise to the January 13, 2020 Recall announced just two months earlier.

9. In the Second DIR, Toyota stated:

The subject vehicles are equipped with a low-pressure fuel pump, located in the fuel tank, that supplies fuel pressure to the fuel injection system. These fuel pumps may include impellers which have been manufactured with lower density. If these impellers are also (1) of a type with lower surface strength or (2) of a different type but were exposed to production solvent drying for longer periods of time, higher levels of surface cracking may occur. In this condition, excessive fuel absorption may occur, resulting in increased impeller deformation. In some cases, ***the impeller may deform to a point that creates sufficient interference with the fuel***

⁵ The Second DIR is attached hereto as Exhibit C. The Second DIR recalled the following vehicles that were not included in the initial Recall: 2014-2015 Toyota 4Runner, 2018 Toyota Avalon, 2018 Toyota Corolla, 2014 Toyota FJ Cruiser, 2014-2015 Toyota Land Cruiser, 2017 Toyota Sienna, 2018-2019 Lexus ES350, 2018-2019 Lexus GS300, 2013-2014 and 2018-2019 Lexus GS350, 2014-2015 Lexus GX460, 2014 Lexus IS-F, 2017 Lexus IS200t, 2018-2019 Lexus IS300, 2014-2015 Lexus IS350, 2018-2019 Lexus LC500, 2018-2019 Lexus LC500h, 2013-2015 Lexus LS460, 2018-2019 Lexus LS500, 2018-2019 Lexus LS500h, 2014-2015 Lexus LX570, 2015 Lexus NX200t, 2018-2019 Lexus RC300, 2017 Lexus RC200t, 2015 and 2018-2019 Lexus RC350, 2017-2019 Lexus RX350, and 2018-2019 Lexus RX350L.

*pump body to cause the fuel pump to become inoperative. An inoperative fuel pump due to these conditions could result in illumination of check engine and master warning indicators, rough engine running, engine no start and/or vehicle stall while driving at low speed. However, in rare instances, vehicle stall could occur while driving at higher speeds, increasing the risk of a crash.*⁶ (Emphasis added.)

10. On March 4, 2020, Toyota Australia also announced a recall of 45,683 vehicles equipped with the same defective Fuel Pumps as those in Toyota's January 2020 Recall. Toyota Australia confirmed that the scope of Recalled Vehicles is still growing:

This is the same issue as the recall initiated in North America in January 2020. After further investigation, we are now initiating a global recall and adjusting the scope of affected vehicles in North America.⁷

11. Just over two weeks later, on March 19, 2020, Toyota submitted a second Part 573 Safety Recall Report ("Second Recall Report")⁸ to NHTSA further expanding the Recall to cover a total of 1,830,752 Toyota and Lexus vehicles (the "Second Recall").

12. More than seven months later, on October 28, 2020, Toyota announced via a press release that it would be expanding the Recall yet again, to include an *additional 1.5 million* vehicles (the "Third Recall").⁹

13. On November 4, 2020, Toyota submitted its third Part 573 Safety Recall Report (the "Third Toyota Recall Report") to NHTSA.¹⁰ The Third Recall Report identified the additional

⁶ See Exhibit C.

⁷https://www.pressroom.com.au/press_release_detail.asp?clientID=2&prID=44575&navSectionID=2 (last visited August 23, 2022).

⁸ The Second Recall Report is attached hereto as Exhibit D. The Second Recall Report expanded the number of Lexus GS vehicles subject to the Recall to include 2018-19 Lexus GS300 vehicles produced from October 13, 2017 through January 18, 2019, and 2013-2015 and 2018-19 Lexus GS350 vehicles produced from September 2, 2013 through February 21, 2015 and from October 3, 2017 through January 31, 2019.

⁹ A copy of this press release is attached as Exhibit J.

¹⁰ The Third Recall Report is attached hereto as Exhibit M.

1,517,721 Toyota and Lexus vehicles being recalled, which include the following models that were not covered by the previous recalls: the Toyota Corolla Hatchback, Toyota RAV4, Lexus GS200t, and Lexus NX300.

14. Thus, as of November 4, 2020, *nearly 3.4 million Toyota and Lexus vehicles had been recalled as a result of the Fuel Pump Defect* in the United States alone.¹¹ According to one news article, as of October 28, 2020, Toyota has initiated global recalls of 5.8 million vehicles in connection with the Fuel Pump Defect.¹²

15. The Third Recall Report was accompanied by an Amended Defect Information Report (“Third DIR”)¹³ in which Toyota stated that the reason it expanded the recall was because “the previous method for evaluating the combination of factors leading to this condition [i.e., the Fuel Pump Defect] resulted in the exclusion of vehicles from the recall that should have been included.” Specifically, Toyota explained that, after the March 19, 2020 Second Recall Report, Denso examined the “three factors (impeller density, impeller surface strength, and stress exposure through solvent drying) that can combine to create the condition in the recall.”

16. The Third DIR described Denso’s examination and its findings:

In addition, the supplier re-evaluated its prior estimates about the potential levels of density in the affected impellers. Because the impeller material contains three elements (resin, glass fiber, and calcium carbonate), but only one element (the resin) is susceptible to swelling, the supplier examined whether considering only the density of the resin is more appropriate. Thus, the supplier developed a method to measure resin density by assessing the production variation of the amount of resin, glass fiber, and calcium

¹¹ The Recall as expanded and amended by the Amended DIR, the Second Recall Report, and the Third Recall are referenced as the “Recalls” and, sometimes, the “Recall,” for ease of reference. The vehicles covered by the Recalls are collectively referenced as the “Recalled Vehicles.”

¹² <https://www.startribune.com/toyota-adds-1-5m-vehicles-to-us-recall-for-engine-stalling/572898341/> (last visited Nov. 2, 2020).

¹³ The Third DIR is attached hereto as Exhibit N.

carbonate between each impeller lot that could have used material of lower density. Then the supplier conducted testing to quantify the content of glass fiber and calcium carbonate in representative impellers from each lot, which was then used to calculate the resin density. Based on this methodology, it was determined that the resin density had a higher correlation to the occurrence of field cases confirmed through part recovery as compared to overall density.

The supplier also re-evaluated its prior measurements of the surface strength for the affected impeller types. From this activity, the supplier observed that some test pieces previously used to assess surface strength had rougher surfaces due to the process used to cut the samples for testing. Thus, the supplier evaluated whether the existence of a rough surface on the test pieces could affect the accuracy of the measurement. The supplier then collected available impellers to re-test and confirm the prior measurements of minimum surface strength. The results of these tests found that the potential range of surface strength measurements could be wider than previously measured and that a lower minimum surface strength than previously estimated could be possible.

17. On the basis of these findings, “an additional pump type and additional suspect lots not included in the [earlier] recall scope were identified” which led to the belated addition of more than 1.5 million Toyota and Lexus vehicles to the Recall.

18. In the Third DIR, Toyota also disclosed that, as of October 11, 2020, its “best engineering judgment” was that there were 103 Field Technical Reports and 3,552 warranty claims received from U.S. sources “regarding the new identified vehicles” in the Third DIR alone.

19. On December 18, 2020, Toyota submitted an Amended DIR identifying clerical errors in the number of cars reported in the October 28, 2020 Amended Part 573 Report which increased the total number of affected vehicles from 3,348,743 to 3,356,494.¹⁴

20. Toyota’s serial expansions of the Recall still did not capture all the Toyota and Lexus vehicles equipped with the defective Denso low-pressure Fuel Pumps and Fuel Pump

¹⁴ The December 18, 2020 Amended DIR is attached here to as Exhibit L.

assemblies that begin with part number prefixes 23220- and 23221-. Thus, the same dangerous condition in the Recalled Vehicles could be present in all model year 2013-2019 Toyota and Lexus vehicles equipped with Denso low-pressure Fuel Pumps with part number prefixes 23220- or 23221- that gave rise to the Recalls. Indeed, in the Third DIR, Toyota did not state that the expanded Recall captured all of its vehicles that are equipped with the Fuel Pump that gave rise to the Recalls or that its investigation and/or the investigation of Denso about the Fuel Pump Defect was complete.

21. Because the part number prefixes for the subject Fuel Pumps were identified, Toyota knew, or was extremely reckless in not knowing, that the approximately 2.6 million vehicles added in the expanded Recalls were equipped with the same defective Fuel Pumps as the vehicles in the initial January 13, 2020 Recall. Despite this knowledge Toyota failed to include these vehicles in the initial Recall, which delayed notice to owners and lessees of the Recalled Vehicles about the Fuel Pump Defect and the grave dangers it poses. Moreover, as set forth below, it is now known that there are additional Class Vehicles that were not recalled, meaning potentially hundreds of thousands, if not more, Toyota and Lexus owners and lessees were driving non-recalled vehicles that were equipped with the defective Fuel Pumps, even after the Third Recall.

22. Indeed, on August 6, 2021, Toyota filed a DIR with NHTSA recalling more than 31,300 Toyota Yaris Hatchback and Toyota Yaris Sedan vehicles (“Yaris Recall”).¹⁵ While these vehicles were produced by Mazda, the recalled Yaris vehicles suffered from the same Fuel Pump Defect in the Denso fuel pumps that gave rise to Toyota’s initial Recall.

¹⁵ The August 6, 2021 DIR is attached hereto as Exhibit Q.

23. In addition, on September 22, 2021, Toyota filed a Remedy Notice with NHTSA concerning 3,700 Toyota “86” vehicles.¹⁶ These vehicles were produced and recalled by Subaru on July 29, 2021.¹⁷ They suffer from the same Fuel Pump Defect in the Denso fuel pumps that gave rise to Toyota’s initial Recall and Toyota is therefore administering the recall (the “86 Recall”).

24. Thus, as of September 22, 2021, the Toyota and Lexus Recalled Vehicles, together with the vehicles covered by the Yaris Recall and the 86 Recall, are as follows:

Make	Model Years	Model	Production Dates
Toyota	2014-2015, 2018-2019	4Runner	Early September 2013 – Mid-February 2015, Late May 2018 – Early April 2019
Toyota	2018-2020	Avalon	Early April 2018 – Early October 2019
Toyota	2018-2020	Camry	Mid-November 2017 – Mid-February 2019
Toyota	2018-2020	Corolla	Mid-October 2017 – Early July 2019
Toyota	2019	Corolla Hatchback	Mid-June 2018 – Early November 2018
Toyota	2014	FJ Cruiser	Early September 2013 – Early August 2014
Toyota	2017-2019	Highlander	Mid-July 2017 – Early December 2019
Toyota	2014-2015, 2018-2019	Land Cruiser	Early September 2013 – Mid-March 2015, Mid-July 2018 – Early April 2019
Toyota	2019-2020	RAV4	Early October 2018 – Early October 2019
Toyota	2018-2020	Sequoia	Early April 2018 – Late July 2019
Toyota	2017-2020	Sienna	Early September 2017 – Early September 2019 1
Toyota	2017-2020	Tacoma	Early September 2017 - Mid-September 2019
Toyota	2018-2020	Tundra	Early April 2018 – Mid-July 2019
Lexus	2018-2020	ES350	Mid-November 2017 – Early September 2019

¹⁶ The September 21, 2021 Remedy Notice is attached hereto as Exhibit R.

¹⁷ Subaru’s Part 573 Safety Recall Report 21V-587 is attached hereto as Exhibit S.

Lexus	2017	GS200t	Late July 2017 – Early September 2017
Lexus	2018, 2019	GS300	Mid-October 2017 – Early June 2018, Mid-September 2018 – Mid January 2019, Mid-May 2019 – Mid-May 2019
Lexus	2013-2014, 2015, 2017- 2019	GS350	Early September 2013 – Late July 2014, Early September 2014 – Late February 2015, Early July 2017 – Late May 2019
Lexus	2014-2015, 2018-2019	GX460	Early September 2013 – Mid-February 2015, Late May 2018 – Early April 2019
Lexus	2014	IS-F	Mid-September 2013 – Late July 2014
Lexus	2017	IS200t	Early July 2017 – Early October 2017
Lexus	2018-2019	IS300	Early October 2017 – Mid-May 2019
Lexus	2014-2015, 2018-2019	IS350	Early September 2013 – Late February 2015, Early October 2017 – Mid-May 2019
Lexus	2018-2020	LC500	Mid-July 2017 – Mid-June 2019
Lexus	2018-2020	LC500h	Mid-July 2017 – Early June 2019
Lexus	2013-2015	LS460	Early September 2013 – Late February 2015
Lexus	2018-2020	LS500	Late July 2017 – Late May 2019
Lexus	2018-2019	LS500h	Early October 2017 - Late May 2019
Lexus	2014-2015, 2018-2019	LX570	Early September 2013 – Mid-March 2015, Mid-July 2018 – Early April 2019
Lexus	2015	NX200t	Mid-October 2014 – Early June 2015
Lexus	2018-2019	NX300	Mid-May 2018 – Mid-April 2019
Lexus	2017	RC200t	Mid-September 2017 – Late November 2017
Lexus	2018-2019	RC300	Late November 2017 – Mid-May 2019
Lexus	2015, 2018-2019	RC350	Mid-April 2014 – Late February 2015, Late November 2017 – Mid-May 2019
Lexus	2017-2020	RX350	Early July 2017 – Early December 2019
Lexus	2018-2020	RX350L	Early August 2017 – Early September 2019
Lexus	2019	UX200	Late June 2018 – Mid-February 2019
Toyota	2019-2020	Yaris Hatchback	Early October 2018 – Early February 2020
Toyota	2019-2020	Yaris Sedan	Early October 2018 – Early February 2020
Toyota	2019-2020	Yaris R	Early October 2018 – Early February 2020

Toyota	2018-2019	86	Early April 2018 – Early November 2018
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25. Counsel is now aware that in July 2021, Toyota launched a Special Service Campaign (“SSC”) covering approximately 130,100 2017-2019 Highlander Hybrid, 2018 Camry Hybrid, 2019 Avalon Hybrid, 2019 RAV4 Hybrid Toyota-brand vehicles,¹⁸ and approximately 42,000 2013-2015 Lexus 600h, 2014-2015 GS 450h, 2017-2020 RX 450h, 2018-2020 RX 450h L, 2018 GS 450h, 2019 ES 300h Lexus-brand hybrid vehicles,¹⁹ for replacement of the defective Fuel Pumps that had not been included in the Recalls (the “SSC Vehicles”). The SSC Vehicles, all of which are equipped with Denso low-pressure fuel pumps with part number prefixes 23220- and/or 23221, are as follows:

Make	Model Years	Model	Production Period
Toyota	2017 – 2019	Highlander Hybrid	Mid-July 2017 – Early December 2019
Toyota	2018 – 2020	Camry Hybrid	Late October 2017 – Mid-September 2019
Toyota	2019	Avalon Hybrid	Mid-April 2018 – Early June 2019
Toyota	2019	RAV4 Hybrid	Early January 2019 – Late September 2019
Lexus	2013 – 2015	LS 600h	Mid-September 2013 – Late February 2015
Lexus	2014 – 2015	GS 450h	Mid-September 2013 – Late February 2015
Lexus	2017 – 2020	RX 450h	Early July 2017 – Early December 2019
Lexus	2018 – 2020	RX 450h L	Mid-October 2017 – Early September 2019
Lexus	2018	GS 450h	Mid-July 2018 – Late August 2018

¹⁸ The July 15, 2021 Special Service Campaign 21TC03 Remedy Notice is attached hereto as Exhibit T.

¹⁹ The July 15, 2021 Special Service Campaign 21LC01 Remedy Notice is attached hereto as Exhibit U.

Lexus	2019	ES 300h	Early July 2018 – Early June 2019
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26. Counsel is also now aware of yet more Toyota and Lexus vehicles, not previously included in the Recalls or the SSC, that are equipped with Denso Fuel Pumps with part number prefixes 23220- or 23221- which potentially could contain the defect (the “Additional Vehicles”).

As of the filing of this Complaint, the Additional Vehicles are:

Make	Model Years	Model	Production Period
Toyota	2015-2018, 2019	4Runner	February 20, 2015 – May 31, 2018, April 5, 2019 – July 26, 2019
Toyota	2018	Avalon	October 24, 2017 – March 31, 2018
Toyota	2019-2020	Avalon Hybrid	June 11, 2019 – August 28, 2019
Toyota	2019-2020	Camry Hybrid	August 8, 2019 – August 28, 2019
Toyota	2019-2020	Camry	August 7, 2019 – January 23, 2020
Toyota	2019-2020	Corolla Hatchback	November 10, 2018 – August 30, 2019
Toyota	2019-2020	Corolla	May 9, 2018 – October 18, 2019
Toyota	2015-2020	Land Cruiser	March 12, 2015 – July 20, 2018, April 8, 2019 – August 2, 2019
Toyota	2019-2020	RAV4	November 7, 2018 – February 10, 2020
Toyota	2019-2020	RAV4 Hybrid	January 28, 2019 – February 13, 2020
Toyota	2018-2020	Sequoia	October 26, 2017 – November 19, 2019
Toyota	2019-2020	Tacoma	June 18, 2019 – September 11, 2019
Toyota	2018-2020	Tundra	October 25, 2017 – November 7, 2019

Lexus	2019-2020	ES 300h	February 21, 2019 – February 26, 2020
Lexus	2018	ES 350	October 24, 2017 – March 31, 2018
Lexus	2015-2017	GS 350	February 20, 2015 – July 5, 2017
Lexus	2015-2019	GX 460	February 20, 2015 – May 31, 2018 April 5, 2019 – July 26, 2019
Lexus	2015-2016	IS 350	February 23, 2015 – September 30, 2016
Lexus	2015-2020	LX570	March 12, 2015 – July 20, 2018 April 8, 2019 – August 2, 2019
Lexus	2015-2020	NX 200t / NX 300	June 3, 2015 – May 11, 2018, April 22, 2019 – January 10, 2020
Lexus	2015-2017	RC350	February 24, 2015 – November 28, 2017
Lexus	2019	UX 200	February 10, 2019 – September 2, 2019

27. The “Class Vehicles” are all 2013-2020 Toyota and Lexus vehicles with the condition that gave rise to the Recall and are equipped with Denso low-pressure Fuel Pumps with part number prefixes 23220- and 23221-.

28. As described in Section E, throughout the relevant period, Toyota’s marketing of these Class Vehicles was uniform and pervasive, and was replete with assurances about their safety and dependability. A vehicle that can suddenly stall and lose power under normal operating conditions is inherently unsafe and not dependable and renders Toyota’s marketing of the Class Vehicles untrue and materially misleading. Denso’s uniform and pervasive marketing message, which is directed at consumers, is also one of safety and durability, and is equally misleading. Plaintiffs and other Class Members²⁰ have been damaged as a result.

²⁰ The “Class Members” are purchasers or lessees of all model year 2013-2020 Toyota and Lexus vehicles with the condition that gave rise to the Recall and are equipped with Denso low-pressure Fuel Pumps with part number prefixes 23220- and 23221-.

29. Despite marketing and selling the Class Vehicles as safe and dependable, Toyota has long known of the Fuel Pump Defect. In its initial January 13, 2020 DIR, Toyota admitted that, as of January 7, 2020, it had received at least 66 Toyota Field Technical Reports and 2,571 warranty claims received from U.S. sources concerning the Fuel Pump Defect.²¹ In its March 4, 2020 Second DIR, Toyota admitted that, as of that date, it had received at least an additional “81 Toyota Field Technical Reports and 3,225 warranty claims” from U.S sources concerning the Fuel Pump Defect in the vehicles in the Second DIR.²² In its Third DIR, Toyota stated that, as of October 11, 2020, it believed there were “103 Toyota Field Technical Reports and 3,522 warranty claims” associated with the Fuel Pump Defect in the 1.5 million additional vehicles identified in the Third Recall Report.²³ Thus, Toyota admits to receiving a total of 250 Field Technical Reports and 9,498 warranty claims related to the Fuel Pump Defect in the Recalled Vehicles.²⁴ Toyota did not disclose when it first began to receive Field Technical Reports and warranty claims.

30. In fact, Toyota knew or was reckless in not knowing about the defect long before the Recall. As set forth above, the TREAD Act, Pub. L. No. 106-414, 114 Stat. 1800 (2000), requires automakers like Toyota to be in close contact with NHTSA regarding potential defects. Accordingly, Toyota should (and does) monitor NHTSA databases for consumer complaints regarding their automobiles as part of their obligation to identify potential defects in their vehicles, such as the Fuel Pump Defect. There were consumer complaints about the dangerous Fuel Pump

²¹ See Exhibit B.

²² See Exhibit C.

²³ See Exhibit N.

²⁴ See Exhibits B, C, and N.

Defect on NHTSA's website²⁵ that predate the initial January 13, 2020 Recall by at least three years and cover vehicles from model years over three years prior to the Recall. For example:

- i. On January 3, 2017, the owner of a 2015 Lexus LS460 (model recalled on January 13, 2020), complained: "***Fuel system shuts down while driving at highway speeds*** band new car with 7,623 miles. ***Had to have the entire low end fuel pump system replaced. Issue still ongoing. Car will not start now.***"²⁶ (Emphasis added.)
- ii. On March 25, 2017, the owner of a 2014 Lexus GS350 (model recalled on January 13, 2020) complained: "[w]hile driving at approximately 40 mph, ***I experienced an engine stall.*** This caused difficulty in steering and braking ***resulting in an accident.***"²⁷ (Emphasis added).
- iii. On October 17, 2019, the owner of a 2019 Toyota Highlander (model recalled on January 13, 2020) complained: The contact leases a 2019 Toyota Highlander. ***While driving, the engine stalled without warning and the steering wheel seized. The contact coasted the vehicle over to the side of the road*** and powered off the engine. The vehicle was restarted and was able to drive normally; however, ***the failure recurred twice.*** The vehicle was taken to page Toyota (21262 Telegraph Rd, Southfield, MI 48033, (248) 352-8580) where it was diagnosed, but the technician could not find a failure code. The vehicle was not repaired. The manufacturer was

²⁵ Consumer complaints posted on NHTSA are reported in all capitalized text. That text has been reformatted into sentence case here for ease of readability. However, all typographical errors in quoted complaints are reproduced from the originals.

²⁶ NHTSA Complaint ID No. 10939537. (Emphasis added).

²⁷ NHTSA Complaint ID No. 10968914. (Emphasis added).

made aware of the failure and provided case number: 1910282286. The failure mileage was approximately 4,000.²⁸ (Emphasis added).

31. On April 27, 2020, nearly three months after Toyota's initial Recall, Denso, the maker of the defective Fuel Pump in the Class Vehicles, also submitted a Part 573 Safety Recall Report (the "First Denso Recall Report")²⁹ to NHTSA, because of the same Fuel Pump Defect and recalled 2,020,000 of its Fuel Pumps. Denso, like Toyota, admitted that its low-pressure Fuel Pumps can fail and cause the vehicles to unexpectedly stall and cause engine shutdown. Denso described the safety defect and its cause as follows:

An impeller in some low pressure fuel pumps may become deformed under certain conditions which could render the fuel pump inoperable.

...

Under current knowledge, if an impeller is manufactured with a lower density, and contains a lower surface strength or is exposed to production solvent drying for a longer period of time, higher levels of surface cracking may occur which, when excessive fuel absorption occurs, may result in impeller deformation. Geographic location and vehicle applications influence the potential for deformation resulting in fuel pump inoperability.

32. Denso admitted that the Fuel Pump Defect is dangerous and can cause rough engine running, engine stalling or failure to start, and can increase the likelihood of an automobile crash while driving:

If an impeller deforms to a point that creates sufficient interference with the fuel pump body, *the fuel pump becomes inoperative*. According to vehicle manufacturer's system evaluation, an inoperative fuel pump may result in the illumination of the check engine light and/or master warning indicators, *rough engine running, engine no start and/or vehicle stall while driving at low speed*, and, in rare instances, *a vehicle could stall could occur while*

²⁸ NHTSA Complaint ID No. 11277376. (Emphasis added.)

²⁹ The First Denso Recall Report is attached hereto as Exhibit E.

driving at higher speeds, increasing the risk of a crash. (Emphasis added.)³⁰

33. While Toyota and Denso both self-servingly claimed that the Fuel Pump Defect increased the risk of crash in “rare instances,” they provided no data to support their claim. In addition to the dangerous conditions reported by drivers, as set forth in Section C, there are consumer complaints on NHTSA’s website that report drivers being stranded on the road, barely avoiding crashes, and actual crashes. Moreover, any number of car crashes or other dangerous conditions could have been caused by the Fuel Pump Defect that were not reported as such.

34. On June 11, 2020, Denso submitted a second Part 573 Safety Recall Report (the “Second Denso Recall Report”)³¹ to NHTSA expanding the universe of the recalled defective Fuel Pumps to 2,156,057. The Denso Recall Reports identify several automakers whose vehicles are equipped with the defective Fuel Pumps, including, obviously, Toyota. The language in the Denso Recall Reports is nearly identical to that in the Recall Reports submitted by Toyota, Denso’s 25% owner.

35. On November 17, 2020, Denso submitted a third Part 573 Safety Recall Report (the “Third Denso Recall Report”) to NHTSA.³² The Third Denso Recall Report expands the Denso recall to include the additional 1,517,721 vehicles recalled by Toyota on November 4, 2020, and, like Toyota’s Third DIR, describes the additional analysis Denso conducted on the Fuel Pumps between June 2020 and October 2020:

Additional analysis was conducted regarding the density of impellers manufactured during various periods. Because the

³⁰ Exhibit E.

³¹ Denso’s Recall campaign number is 20E-026. The Second Denso Recall Report is attached hereto as Exhibit F.

³² The Third Denso Recall Report is attached hereto as Exhibit O. The First Denso Recall Report, the Second Denso Recall Report and the Third Denso Recall Report are referenced collectively as the “Denso Recall Reports” and the recalls are referenced as the “Denso Recall.”

impeller material contains three elements (resin, glass fiber, and calcium carbonate), but only one element (resin) is susceptible to swelling, only resin density was examined for this analysis. Resin density was found to more closely correlate with the occurrence of field cases than overall impeller density. The resin density findings indicated additional material lots which could contribute to the occurrence of the condition in combination with other factors.

In addition, the surface strength of impellers manufactured during various periods was examined with additional variables considered. This analysis demonstrated that a lower minimum surface strength than previously estimated could be possible.

The new resin density and surface strength information can be correlated by vehicle manufacturers with warranty data, production timing data, vehicle specific variables, and other information to determine which vehicles, if any, may be susceptible to the condition.

36. Denso is as responsible as Toyota for the harm alleged herein because Denso, together with Toyota, designed, engineered, tested, validated, manufactured, and placed into the stream of commerce the defective Fuel Pumps, which it knew would be installed in the Class Vehicles.

37. As described in Section D below, Denso indisputably had knowledge of the Fuel Pump Defect since well before October 2016 because, in October 2016, Denso filed a patent application seeking to improve the durability and absorption qualities of the defective fuel pump impeller. However, at no time did Denso disclose to the public what it knew about the Fuel Pump Defect, nor was that information reasonably available to Plaintiffs and the public.

38. Because Denso and Toyota together designed, engineered, tested, validated, and manufactured the defective Fuel Pump in the Class Vehicles, and because Toyota owns approximately 25% of Denso, Toyota also knew about the problems with the durability and absorption qualities of the defective Fuel Pump impeller since well before October 2016 and knew

about Denso's October 2016 patent application or, in the alternative, Denso had exclusive knowledge and information in 2016 that it did not disclose to Toyota or the public at that time.

39. The Fuel Pump Defect in the Class Vehicles exposes occupants and others to extreme danger, or even death. A vehicle that unexpectedly stalls or suffers rough engine running subjects its occupants to a heightened risk for collision and/or serious injury. A vehicle that stalls or suffers rough engine running causes drivers to react to remove themselves from danger, typically by exiting the road. Drivers stranded on the side of the road experience a heightened risk of danger, whether it is from other vehicles, remoteness, or weather elements.

40. Fuel pump failure can also prevent the driver from accelerating at the necessary and anticipated pace. Diminished acceleration creates unexpected hazards, startles drivers of the Class Vehicles and other drivers in their proximity, and reduces the ability of a driver to react to dangerous conditions that may arise while driving. Finally, once a Class Vehicle's Fuel Pump fails, the vehicle becomes totally inoperable and will not start.

41. While Toyota knew about the Fuel Pump Defect and the associated dangers, Toyota manufactured, marketed, sold, leased, and warranted Class Vehicles, and did not disclose to the unsuspecting public that the Class Vehicles were inherently defective, dangerous, and posed a grave risk for bodily harm or death. Toyota did not disclose, and to this day has not fully disclosed, what it knew about the Fuel Pump Defect to existing and prospective purchasers and lessees.

42. Similarly, while Denso knew about the Fuel Pump Defect and the associated dangers, it manufactured and sold the Fuel Pumps to Toyota knowing they would be installed in the Class Vehicles and did not disclose to the unsuspecting public that the Fuel Pumps in the Class Vehicles were inherently defective, dangerous, and posed a grave risk for bodily harm or death.

Denso did not disclose what it knew about the Fuel Pump Defect to existing and prospective purchasers and lessees.

43. As set forth above, in the initial January 13, 2020 Recall Report, Toyota admitted it had no “fix” for the Fuel Pump Defect and that “a final corrective action is still under study.” In the March 19, 2020 Second Recall Report, issued more than two months later, Toyota still had not identified a remedy for the Fuel Pump Defect. Toyota vaguely stated that its dealers would “replace the fuel pump assembly with an improved one,” but did not state when the “improved” fuel pump assembly – if it in fact turned out to be improved and posed no danger to consumers – would be available and installed in the Recalled Vehicles.

44. In March 2020, Toyota began to implement the countermeasure for the defective Fuel Pumps in the recalled Toyota and Lexus vehicles in the United States. The Recall Repair (defined below) was inadequate because, among other things, the Recall Repair process deviated from industry norms and carried a risk of creating additional damage to the Vehicles’ fuel pump module, such as unseated O-rings. Soon thereafter, there were reports by Class Members whose Class Vehicles underwent the Recall Repair of experiencing such problems.

45. As an initial matter, Toyota’s description of the Recall Remedy in its March 19, 2020 Second Recall Report – that Toyota dealers “will replace the fuel pump assembly with an improved one” – is not the remedy that is being implemented. Toyota dealers are not replacing the fuel pump assembly with an improved fuel pump assembly. Instead, Toyota’s Recall Repair directs Toyota dealers’ technicians to replace only the fuel pump motor which houses the impeller. This is a procedure with a risk of damaging fragile fuel pump assembly components, which can result, among other things, in fuel pressure loss, creating hazardous conditions and exacerbating the Fuel

Pump Defect instead of correcting it. As set forth in Section F, there were numerous reports from Class Members detailing the consequences of the Recall Repair soon after it was rolled out.

46. Due to Toyota's failure to timely and adequately remedy the Fuel Pump Defect, owners and lessees of the Class Vehicles were driving on roads and highways in potentially dangerous vehicles while Toyota knowingly exposed Class Members, from whom it made at least tens of billions of dollars from the sale of just the Recalled Vehicles, to the risk of serious physical harm and even death.

47. As further evidence of Toyota's knowledge of the inherent danger of the Class Vehicles, during the Recall, Toyota issued a letter to its dealerships instructing them not to sell or lease any Recalled Vehicles in their inventory until they were remedied. However, Toyota did not instruct Plaintiffs and Class members who already owned or leased Recalled Vehicles to stop operating their Vehicles until the defective Fuel Pump could be replaced with a fuel pump that was demonstrably safe. Given the inherent dangers of driving the Class Vehicles, Toyota at a minimum should have made immediate direct contact with purchasers and lessees of the Class Vehicles, including through Toyota's dealers, which are Toyota's agents, and state vehicle registry lists, and warned Class Members of the dangers posed by the dangerous Fuel Pump Defect in their vehicles and to immediately stop driving their vehicles.

48. While certain owners and lessees of the Recalled Vehicles were offered loaner vehicles while their Vehicles were receiving the Recall Repair, the loaner vehicles were not of comparable make, model, or value to the Toyota or Lexus vehicles they drove, or the same or similar grade or quality as the owners' or lessees' own vehicles. Indeed, many consumers submitted complaints to NHTSA stating that Toyota had provided them with loaner vehicles that were of subpar quality to their Recalled Vehicles. In other instances, owners and lessees of

Recalled Vehicles were not provided loaner vehicles when they presented their Recalled Vehicles for repair and were instead instructed to continue to drive the Recalled Vehicles because no loaners were available. Toyota's failure to provide an adequate number of loaner vehicles, adequately fund the loaner program, or require its dealers to inform drivers of Recalled Vehicles not to continue to operate them placed those drivers and occupants of Recalled Vehicles at continued risk of collision, serious injury, or death. In addition to its failure to ensure loaner vehicles were available to owners/lessees of the Recalled Vehicles, Toyota failed to provide towing to Class Members free of charge.

49. Moreover, with or without a viable remedy for the Fuel Pump Defect, the Recall has decreased the intrinsic and resale value of the Class Vehicles. Additionally, Class Members must still honor their lease and loan payments (without proration). Plaintiffs and other Class Members have been damaged as a result.

50. Plaintiffs, on behalf of themselves and as proposed class representatives on behalf of the nationwide, multi-state and/or statewide Classes (defined below), seek redress for Defendants' misconduct, and assert claims for: (1) violations of various states' consumer protection statutes; (2) strict product liability; (3) breach of express warranty; (4) breach of implied warranty; (5) negligent recall/undertaking; and (6) violations of the Magnuson-Moss Warranty Act, 15 U.S.C. § 2301, *et seq.* Plaintiffs seek damages, restitution and punitive damages as permitted by law.

51. In addition, Plaintiffs, on behalf of themselves and as proposed representatives on behalf of the Classes, seek an order directing Defendants to, among other things: (a) supply and install safe and dependable fuel pumps in the Recalled Vehicles; (b) supply and install safe and dependable fuel pumps in Class Vehicles that have not been recalled, free of charge; (c) provide

extended warranty coverage for the fuel pumps; (d) provide loaner vehicles, free of charge, to Class Members while their vehicles are undergoing repair that is of comparable make, model, or value to the vehicles they drive, or the same or similar grade or quality as their own vehicles; (e) provide towing to Toyota Dealers, free of charge, for Class Vehicles, if necessary; and (f) implement a streamlined and consumer friendly mechanism for Class Members to apply for and get reimbursement for expenses incurred in connection with repairing or replacing their defective Denso Fuel Pumps.

JURISDICTION AND VENUE

52. Subject matter jurisdiction is proper in this Court pursuant to the Class Action Fairness Act, 28 U.S.C. § 1332(d), because Plaintiffs and Class Members are citizens of a state different than Defendants' home states, and the aggregate amount in controversy exceeds \$5,000,000, exclusive of interest and costs.

53. Subject matter jurisdiction is also proper in this Court pursuant to 28 U.S.C. § 1331 because Plaintiffs' Magnuson-Moss Warranty Act claim arises under federal law, and this Court has supplemental subject matter jurisdiction over Plaintiffs' state law claims under 28 U.S.C. § 1367.

54. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(a) because a substantial part of the events or omissions giving rise to these claims occurred in this District, Defendants have caused harm to Plaintiffs in this District, and Defendants are residents of this District under 28 U.S.C. § 1391(c)(2) because they are subject to personal jurisdiction in this District. Also, venue is proper in this district pursuant to 18 U.S.C. § 1965.

55. This Court has personal jurisdiction over the Defendants because they conduct substantial business the State of New York and some of the actions giving rise to this action took place in New York and/or caused injury to property in this state; and products, materials, or things

processed, serviced, or manufactured by them anywhere were used or consumed in this state in the ordinary course of commerce, trade, or use. Toyota is one of the largest manufacturers and sellers of automotive vehicles in the world. Denso is one of the largest Tier1 original equipment manufacturers in the world. Defendants, at all relevant times, have conducted and continue to conduct business in New York, and every other state in the country.

Toyota Defendants

56. This Court has personal jurisdiction over Toyota under CPLR § 302(a) because, as described below, Toyota, itself and/or through its subsidiaries or agents, transacts business within the State of New York and/or contracts anywhere to supply goods or services in New York, including by marketing and selling the Class Vehicles and other products in New York, and by providing services, including repair services related to the Recall and the Class Vehicles, and other services, in New York (CPLR § 302(a)(1)).

57. According to Toyota's website, Toyota has 79 Toyota and Lexus branded dealerships in New York, has approximately 5,407 employees in New York, has spent approximately \$1.34 billion in New York, and has made \$96 million in philanthropic contributions in New York.³³

58. Toyota, itself and/or through its subsidiaries or agents, maintains an interactive website that is accessible in New York and from which it solicits business in New York, including by directing consumers to Toyota and Lexus dealerships in New York and throughout the United States, and markets its brand and sells its products in New York.

59. Toyota, itself and/or through its subsidiaries or agents, committed tortious acts within the State of New York (CPLR § 302(a)(2)).

³³ <https://www.toyota.com/usa/operations/map.html#!/USNY> (last visited August 15, 2022).

60. Toyota, itself and/or through its subsidiaries or agents, disseminated and continues to disseminate television, radio, print, social media, and other forms of promotional and marketing materials from and/or in New York, including material touting its Class Vehicles. Through these various media outlets, Toyota, itself and/or through its subsidiaries or agents, disseminated statements that omitted material facts, made material misrepresentations and/or misleading statements and continues to do so, which damaged and continues to damage Plaintiffs and Class Members in New York and elsewhere, as alleged herein.

61. Toyota, itself and/or through its subsidiaries or agents, operated dealerships in New York at which salespersons marketed and sold Class Vehicles to Plaintiffs and other Class Members without disclosing material facts, made material misrepresentations/omissions and/or misleading statements and continue to do so, which damaged and continues to damage Plaintiffs and Class Members in New York and elsewhere, as alleged herein.

62. Toyota, itself and/or through its subsidiaries or agents, serviced Plaintiffs' and other Class Members' Class Vehicles in New York and continues to do so. When Class Vehicles were and are presented for Fuel Pump diagnoses and repair, Toyota, itself and/or through its subsidiaries or agents, failed to disclose material facts, made material misrepresentations and/or misleading statements and continue to do so, which damaged and continue to damage Plaintiffs and Class Members in New York and elsewhere, as alleged herein.

63. Toyota, itself and/or through its subsidiaries or agents, committed negligent acts, issued warranties that it breached, and committed unfair and deceptive conduct in New York, as alleged herein.

64. Toyota, itself and/or through its subsidiaries or agents, committed tortious acts outside the State of New York that caused injury to persons or property within New York, regularly

conducts and solicits business in New York, and derives substantial revenue from goods used and services rendered in New York. CPLR § 302(a)(3)(i). Toyota, itself and/or through its subsidiaries or agents, has derived substantial revenue in New York from the sale of its products, including the Class Vehicles, and services.

65. Toyota also expected or should reasonably have expected that its tortious acts outside the State of New York that caused injury to persons or property within New York to have consequences in New York. Toyota knew or should have reasonably known that Toyota and Lexus vehicles that were defectively designed and/or manufactured outside of New York would be marketed and sold in New York State and would have consequences there. Toyota also knew its omissions, misrepresentations and misleading statements about the Class Vehicles would have consequences in New York. Toyota derives substantial revenue from interstate and international commerce. CPLR 302(a)(3)(ii). For the fiscal year ended March 2021, TMC had net revenues of \$256 billion and net income of \$21 billion.³⁴

66. This Court has personal jurisdiction over Toyota because Toyota, itself or through its subsidiaries or agents, owns, uses or possesses real property situated within the state. CPLR § 302(a)(4).

67. TMNA is registered to do business in New York and, according to Toyota's website, operates an office in New York.³⁵

68. Toyota, itself and/or through its subsidiaries or agents, purposefully availed itself of the privileges of doing business in New York.

³⁴ <https://pressroom.toyota.com/tmc-announces-financial-results-for-fiscal-year-ended-march-31-2021/> (last visited August 15, 2022).

³⁵ <https://www.toyota.com/usa/operations/map.html#!/USNY> (last visited June 23, 2020).

69. Toyota, itself and/or through its subsidiaries or agents, has also availed itself of the privilege of submitting to the jurisdiction of New York courts, including in *PixFusion LLC v. Toyota Motor North America, Inc.*, 1:10-cv-08176-JFK (S.D.N.Y.).

70. Toyota, itself and/or through its subsidiaries or agents, has sufficient contacts with the State of New York such that exercising jurisdiction over Toyota is reasonable and comports with due process.

DIAM

71. This Court has personal jurisdiction over DIAM under CPLR § 302(a) because, as described below, DIAM, itself and/or through its parent Denso Corp., its subsidiaries, related entities, or agents, transacts business within the State of New York and/or contracts anywhere to supply goods or services in New York, including by selling the Class Vehicles equipped with the Fuel Pumps, other vehicles equipped with the Fuel Pumps, and other Denso products in New York, and by contracting to supply goods, including the Class Vehicles equipped with the Fuel Pumps, other vehicles equipped with the Fuel Pumps, and other Denso products, in New York (CPLR § 302(a)(1)).

72. Denso, itself and/or through its subsidiaries, entered into an agreement with Toyota for the sale of its Fuel Pumps, which it knew would be installed in the Class Vehicles and that the Class Vehicles would be sold in New York.

73. Denso, itself and/or through its subsidiaries or agents, entered into agreements with other car manufacturers for the sale of its Fuel Pumps, which it knew would be installed in those manufacturers' vehicles and that those vehicles would be sold in New York.

74. Denso, itself and/or through its subsidiaries and/or agents, also independently sells and distributes its fuel pumps in New York to Toyota dealerships, repair shops, and automotive parts stores to be used as service replacement parts.

75. Denso, itself and/or through its subsidiaries, committed tortious acts within the State of New York (CPLR § 302(a)(2)).

76. Denso, itself and/or through its subsidiaries or agents, maintains an interactive website that is accessible in New York and from which it solicits business in New York, and markets its brand and products in New York.

77. Denso, itself and/or through its subsidiaries or agents, disseminated statements that omitted material facts, made material misrepresentations and/or misleading statements, which damaged Plaintiffs and Class Members in New York and elsewhere, as alleged in detail herein.

78. Denso, itself and/or through its subsidiaries, committed tortious acts outside the State of New York that caused injury to persons or property within New York, regularly conducts and solicits business in New York, and derives substantial revenue from goods used and services rendered in New York. CPLR § 302(a)(3)(i). Denso, itself and/or through its subsidiaries or agents, has derived substantial revenue from the sale of its products, including the Fuel Pumps in the Class Vehicles and other vehicles, and the other products it sells in New York.

79. Denso also expected or should reasonably have expected that its tortious acts outside New York that caused injury to persons or property within New York to have consequences in New York. Denso knew or should have reasonably known that Class Vehicles and other vehicles equipped with the defective Fuel Pumps, or its other products that were defectively designed and/or manufactured outside of New York, would be marketed and sold in New York and would have consequences there. Denso also knew its omissions, misrepresentations and misleading statements about the Fuel Pumps in the Class Vehicles would have consequences in New York. Denso derives substantial revenue from interstate and international commerce. CPLR § 302(a)(3)(ii).

80. On its website, DIAM states it does business at over 31 locations throughout the United States, holds 1,900 U.S. Patents, employs over 23,000 U.S. citizens, and makes \$10.9 billion in annual sales.³⁶

81. Toyota owns about 25% of Denso, and Toyota and Denso together designed, engineered, tested, validated, manufactured, and placed in the stream of commerce the defective the Class Vehicles with the defective Fuel Pumps. Toyota and Denso both issued recalls covering the Fuel Pumps installed in the Class Vehicles. Thus, this Court's jurisdiction over Toyota under CPLR 302(a)(1)-(3) also gives this Court jurisdiction over Denso.

82. This Court has personal jurisdiction over Denso because Denso, itself or through its subsidiaries or agents, owns, uses or possesses real property situated within the state. CPLR 302(a)(4).

83. Denso, by and through its subsidiaries and/or agents, is registered to do business in New York. Specifically, Denso International, Inc. Denso Limited Liability Company, Denso Manufacturing Tennessee, Inc., and Denso Retailers, Inc. are all registered to do business in New York and have offices in New York.

84. Hundreds of thousands of New York citizens are operating vehicles equipped with DIAM made fuel pumps, and DIAM has derived millions of dollars in revenue from the sale of its fuel pumps in New York.

85. Denso, itself and/or through its subsidiaries or agents, purposefully availed itself of the privileges of doing business in New York.

³⁶ <https://www.denso.com/us-ca/en/about-us/at-a-glance/> (last visited June 23, 2020).

86. Denso, itself and/or through its subsidiaries or agents, has sufficient contacts with the State of New York such that exercising jurisdiction over Denso is reasonable and comports with due process.

THE PARTIES

PLAINTIFFS

A. New York

a. Plaintiff Sharon Cheng

87. Plaintiff Cheng is a citizen of the State of New York and resides in Nesconset, New York.

88. Plaintiff Cheng leased a new 2019 Lexus RX 350 from Smithtown Lexus in St. James, New York, in January of 2019. Plaintiff Cheng's Lexus is a Recalled Vehicle equipped with a defective Denso fuel pump.

89. Prior to leasing her Lexus, Plaintiff Cheng reviewed Toyota's promotional materials, such as Toyota's "Lexus December to Remember" advertisements, the Monroney sticker, and sales brochures, and interacted with at least one sales representative without Toyota disclosing the Fuel Pump Defect.

90. Through her exposure to Toyota's advertisements, promotional materials and Toyota's other public statements, Plaintiff Cheng was aware of Toyota's uniform and pervasive marketing message that its vehicles are safe and dependable, which was material to her decision to lease her Class Vehicle. When she leased the vehicle, she believed, based on Toyota's uniform and pervasive marketing message, that she would be in a safe and dependable vehicle, one that is safer than a vehicle that is not marketed as safe and dependable. At no point before Plaintiff Cheng leased her vehicle did Toyota disclose to her that her vehicle was not safe or dependable, or that it was equipped with a defective Fuel Pump.

91. Plaintiff Cheng's Lexus suffered from the Fuel Pump Defect because the impeller in her vehicle's fuel pump started absorbing fuel and deforming the moment it was exposed to gasoline.

92. The Fuel Pump Defect creates a dangerous condition that gives rise to a clear, substantial, and unreasonable danger of death or personal injury to Plaintiff Cheng, other occupants in her Class Vehicle, and others on the road. At no time did Toyota inform Plaintiff Cheng of the seriousness of the Fuel Pump Defect or recommend that she discontinue use of her vehicle until there is a repair or a replacement fuel pump assembly.

93. Plaintiff Cheng leased her Class Vehicle with the Fuel Pump Defect as part of a transaction in which Toyota did not disclose material facts related to the automobile's essential purpose – safe and dependable transportation. Plaintiff Cheng did not receive the benefit of her bargain. She leased a vehicle that is of a lesser standard, grade, and quality than represented, and she did not receive a vehicle that met ordinary and reasonable consumer expectations regarding safe and reliable operation. The Fuel Pump Defect significantly diminished the value of Plaintiff's Cheng's Class Vehicle.

94. Plaintiff Cheng received the Recall Repair from Toyota on June 22, 2020. Toyota did not offer a free follow-up inspection of the replacement pump or an extended warranty for the part.

95. Had Toyota disclosed the Fuel Pump Defect, Plaintiff's Cheng would not have leased her Class Vehicle, or would have paid less to do so.

96. Plaintiff Cheng would lease a Lexus from Toyota in the future if Defendants' representations about the vehicle, including its safety and durability, were accurate.

b. Plaintiff Cristina Dias

97. Plaintiff Dias is a citizen of the State of New York and resides in Levittown, New York.

98. Plaintiff Dias owned a 2018 Toyota Highlander which she leased new from Atlantic Toyota in West Islip, New York in April 2018. Plaintiff Dias' Toyota Highlander is a Recalled Vehicle with a defective Denso low-pressure fuel pump.

99. Prior to leasing her Toyota, Plaintiff Dias reviewed Toyota's promotional materials, including Toyota's website, interacted with at least one sales representative and test drove her vehicle all without Toyota disclosing the Fuel Pump Defect.

100. Through her exposure to Toyota's advertisements, promotional materials and other public statements, Plaintiff Dias was aware of Toyota's uniform and pervasive marketing message that its vehicles are safe and dependable, which was material to her decision to lease her Class Vehicle. When she leased the vehicle, she believed, based on Toyota's uniform and pervasive marketing message, that she would be in a safe and dependable vehicle, one that is safer than a vehicle that is not marketed as safe and dependable. At no point before Plaintiff Dias leased her vehicle did Toyota disclose to her that her vehicle was not safe or dependable, or that it was equipped with a defective Fuel Pump.

101. Plaintiff Dias's Toyota suffered from the Fuel Pump Defect because the impeller in her vehicle's fuel pump started absorbing fuel and deforming the moment it was exposed to gasoline.

102. Plaintiff Dias experienced the symptoms of the Fuel Pump Defect shortly after taking possession of her vehicle. In many instances, Plaintiff Dias's vehicle hesitated before accelerating when she depressed the accelerator pedal. At other times, the vehicle stumbled and

lurched before accelerating when Plaintiff Dias depressed the accelerator pedal. Plaintiff Dias reported the behavior to her Toyota dealer, but the dealer failed to repair the defect.

103. Toyota never contacted Plaintiff Dias about the Recalls. Rather, Plaintiff Dias learned her vehicle was involved in the Recalls when she typed her VIN online. Toyota even failed to notify Plaintiff Dias of the Recalls when she presented her vehicle for service on March 20, 2020, more than two weeks after the Recall was expanded on March 4, 2020.

104. Plaintiff Dias eventually received the Recall Repair from Toyota on August 15, 2020. Toyota did not offer a free follow-up inspection of the replacement pump or an extended warranty for the part. Plaintiff Dias subsequently terminated her lease, as she was unable to safely operate her Class Vehicle. Despite her vehicle's inoperable status, Plaintiff Dias continued to honor her monthly payments throughout her lease.

105. The Fuel Pump Defect created a dangerous condition that gives rise to a clear, substantial, and unreasonable risk of death or personal injury to Plaintiff Dias, others in her Class Vehicle, and others on the road. At no time did Toyota inform Plaintiff Dias of the seriousness of the Fuel Pump Defect or recommend that she discontinue use of her vehicle until there is a repair or a replacement fuel pump assembly.

106. Plaintiff Dias did not receive the benefit of her bargain. She leased a vehicle that is of a lesser standard, grade, and quality than represented, and she did not receive a vehicle that met ordinary and reasonable consumer expectations regarding safe and reliable operation. The Fuel Pump Defect has significantly diminished the intrinsic and resale value of Plaintiff Dias's Class Vehicle. Plaintiff Dias's and all other Class Vehicles are stigmatized as a result of being equipped with the Fuel Pump Defect and the publicity of the Recalls.

107. Had Toyota disclosed the Fuel Pump Defect, Plaintiff Dias would not have leased her Class Vehicle, or would have paid less to do so.

108. Plaintiff Dias would lease a Toyota from Toyota in the future if Defendants' representations about the vehicle, including its safety and durability, were accurate.

c. Plaintiff Rhonda SanFilipo

109. Plaintiff SanFilipo is a citizen of New York and resides in Rochester, New York.

110. Plaintiff SanFilipo leases a 2019 Lexus NX300 which she leased new from Dorschel Lexus in Rochester, New York on November 30, 2018. Plaintiff SanFilipo's Lexus has a defective Denso low-pressure Fuel Pump but was not part of Toyota's first two Recalls. However, Plaintiff SanFilipo's 2019 Lexus NX300 is one of the Lexus models recalled in Toyota's Third Recall in November 2020.

111. Prior to leasing her Lexus, Plaintiff SanFilipo reviewed Toyota's promotional materials, interacted with at least one sales representative, and test drove her vehicle all without Toyota disclosing the Fuel Pump Defect.

112. Through her exposure to Toyota's advertisements, promotional materials and other public statements, Plaintiff SanFilipo was aware of Toyota's uniform and pervasive marketing message that its vehicles are safe and dependable, which was material to her decision to lease her Class Vehicle. When she leased the vehicle, she believed, based on Toyota's uniform and pervasive marketing message, that she would be in a safe and dependable vehicle, one that is safer than a vehicle that is not marketed as safe and dependable. At no point before Plaintiff SanFilipo leased her vehicle did Toyota disclose to her that her vehicle was not safe or dependable, or that it was equipped with a defective Fuel Pump.

113. Plaintiff SanFilipo's Lexus suffered from the Fuel Pump Defect because the impeller in her vehicle's fuel pump started absorbing fuel and deforming the moment it was exposed to gasoline.

114. Shortly after leasing her vehicle, Plaintiff SanFilipo experienced symptoms associated with the Fuel Pump Defect. For example, Plaintiff SanFilipo's vehicle hesitated before accelerating when she depressed the accelerator pedal. At other times, Plaintiff SanFilipo's vehicle stumbled and lurched before accelerating. Additionally, her vehicle occasionally experiences rough idling. Ms. SanFilipo has reported this behavior to Dorschel Lexus, but the dealer failed to cure the issue.

115. On February 12, 2020, Plaintiff SanFilipo received a letter from Lexus stating the Recall affected her vehicle. She contacted Dorschel Lexus about the Recall, but the dealer informed her they could not repair the Fuel Pump, or offer a repair rollout date. Ms. SanFilipo reported this to the Lexus Division of Toyota Motor Sales USA by certified, return receipt requested mail, but it failed to cure the defective Fuel Pump.

116. The Fuel Pump Defect creates a dangerous condition that gives rise to a clear, substantial, and unreasonable risk of death or personal injury to Plaintiff SanFilipo, other occupants in her Class Vehicle, and others on the road.

117. Plaintiff SanFilipo did not receive the benefit of her bargain. She leased a vehicle of a lesser standard, grade, and quality than represented, and she did not receive a vehicle that met ordinary and reasonable consumer expectations regarding safe and reliable operation. The Fuel Pump Defect has significantly diminished the intrinsic and resale value of Plaintiff SanFilipo's Class Vehicle. Plaintiff SanFilipo's and all other Class Vehicles are stigmatized as a result of being equipped with the Fuel Pump Defect and the publicity of the Recall.

118. Had Toyota disclosed the Fuel Pump Defect, Plaintiff SanFilipo would not have leased her Class Vehicle, or would have paid less to do so.

119. Plaintiff SanFilipo would lease a Lexus from Toyota in the future if Defendants' representations about the vehicle, including its safety and durability, were accurate.

B. Alabama

120. Plaintiff Zina Pruitt is a citizen of the State of Alabama and resides in Livingston, Alabama.

121. Plaintiff Pruitt owns a 2019 Lexus RX 350 which is a Recalled Vehicle and equipped with a defective Denso low-pressure Fuel Pump. Plaintiff Pruitt purchased her Class Vehicle new from Lexus of Birmingham in Birmingham, Alabama on January 30, 2019.

122. Prior to purchasing her Lexus, Plaintiff Pruitt reviewed Toyota's promotional materials, interacted with at least one sales representative, and test drove her vehicle all without Toyota disclosing the Fuel Pump Defect.

123. Through her exposure to Toyota's advertisements, promotional materials and other public statements, Plaintiff Pruitt was aware of Toyota's uniform and pervasive marketing message that its vehicles are safe and dependable, which was material to her decision to purchase her Class Vehicle. When she purchased the vehicle, she believed, based on Toyota's uniform and pervasive marketing message, that she would be in a safe and dependable vehicle, one that is safer than a vehicle that is not marketed as safe and dependable. At no point before Plaintiff Pruitt purchased her vehicle did Toyota disclose to her that her vehicle was not safe or dependable, or that it was equipped with a defective Fuel Pump.

124. Plaintiff Pruitt's Lexus suffered from the Fuel Pump Defect because the impeller in her vehicle's fuel pump started absorbing fuel and deforming the moment it was exposed to gasoline.

125. On January 21, 2020, Plaintiff Pruitt received notice from Toyota confirming her vehicle is equipped with a defective Denso low-pressure Fuel Pump, but that the company offers no viable repair. When Plaintiff Pruitt contacted Lexus of Birmingham to inquire into the Recall/repair, the service manager revealed Toyota's position to not warn Class Members of the Fuel Pump Defect until March 2020. On a separate visit to the dealership, a service technician informed her that Toyota's remedy rollout was tentatively scheduled for June 2020. Finally, in or about July 2020, Plaintiff Pruitt received a Recall notice instructing her to bring her Class Vehicle to her local Toyota dealership to obtain the Recall Repair.

126. Plaintiff Pruitt's vehicle eventually received the Recall Repair from Toyota on July 20, 2020. Toyota did not offer a free follow-up inspection of the replacement pump or an extended warranty for the part.

127. At no time did Toyota inform Plaintiff Pruitt of the seriousness of the Fuel Pump Defect or instruct her to quit driving her Class Vehicle.

128. The Fuel Pump Defect creates a dangerous condition that gives rise to a clear, substantial, and unreasonable risk of death or personal injury to Plaintiff Pruitt, other occupants in her Class Vehicle, and others on the road.

129. Plaintiff Pruitt did not receive the benefit of her bargain. She purchased a vehicle of a lesser standard, grade, and quality than represented, and she did not receive a vehicle that met ordinary and reasonable consumer expectations regarding safe and reliable operation. The Fuel Pump Defect has significantly diminished the intrinsic and resale value of Plaintiff Pruitt's Class

Vehicle. Plaintiff Pruitt's and all other Class Vehicles are stigmatized as a result of being equipped with the Fuel Pump Defect and the publicity of the Recall.

130. Had Toyota disclosed the Fuel Pump Defect, Plaintiff Pruitt would not have purchased her Class Vehicle, or would have paid less to do so.

131. If Toyota is enjoined from future deceptive conduct, Plaintiff Pruitt would purchase another Lexus from Toyota in the future.

C. Arizona

a. Plaintiff Ron Zimmerman

132. Plaintiff Ron Zimmerman is a citizen of the State of Arizona and resides in Mesa, Arizona.

133. Plaintiff Zimmerman owns a 2019 Toyota Highlander which he purchased new from Earnhardt Toyota in Mesa, Arizona in April 2019. Plaintiff Zimmerman's Toyota Highlander is a Recalled Vehicle and is equipped with a defective Denso low-pressure fuel pump.

134. Prior to purchasing his Toyota, Plaintiff Zimmerman reviewed Toyota's promotional materials, including TV advertisements and the window sticker, and interacted with at least one sales representative all without Toyota disclosing the Fuel Pump Defect.

135. Through his exposure to Toyota's advertisements, promotional materials and other public statements, Plaintiff Zimmerman was aware of Toyota's uniform and pervasive marketing message that its vehicles are safe and dependable, which was material to his decision to purchase his Class Vehicle. When he purchased the vehicle, he believed, based on Toyota's uniform and pervasive marketing message, that he would be in a safe and dependable vehicle, one that is safer than a vehicle that is not marketed as safe and dependable. At no point before Plaintiff Zimmerman

purchased his vehicle did Toyota disclose to him that his vehicle was not safe or dependable, or that it was equipped with a defective Fuel Pump.

136. Plaintiff Zimmerman's Toyota suffered from the Fuel Pump Defect because the impeller in his vehicle's fuel pump started absorbing fuel and deforming the moment it was exposed to gasoline.

137. The Fuel Pump Defect creates a dangerous condition that gives rise to a clear, substantial, and unreasonable risk of death or personal injury to Plaintiff Zimmerman, other occupants in his Class Vehicle, and others on the road.

138. Plaintiff Zimmerman learned of the Recall when he received the recall notice via mail in April of 2020, at which point he contacted Mesa Toyota. Mesa Toyota him they had no remedy for the Fuel Pump Defect, and when Plaintiff Zimmerman contacted Toyota corporate he was told that they would not provide a free loaner of comparable quality and with comparable capabilities as Mr. Zimmerman's Highlander. The dealership called back the next day and offered a loaner but insisted on taking possession of Mr. Zimmerman's vehicle and keeping it stored on an uncovered lot fully exposed to the Arizona sun. Fearing the sun would damage his vehicle, Plaintiff Zimmerman requested that the dealership allow him to store the vehicle in his covered garage, which they permitted on the condition that he sign a release.

139. Since learning of the Recall, Plaintiff Zimmerman made several requests for repair and inquiries regarding a timeline for repair, always to be told no remedy was available.

140. In or about June 2020, Plaintiff Zimmerman received the Recall Repair from Toyota. Toyota did not offer a free follow-up inspection of the replacement pump or an extended warranty for the part.

141. Plaintiff Zimmerman did not receive the benefit of his bargain. He purchased a vehicle of a lesser standard, grade, and quality than represented, and he did not receive a vehicle that met ordinary and reasonable consumer expectations regarding safe and reliable operation. The Fuel Pump Defect has significantly diminished the intrinsic and resale value of Plaintiff Zimmerman's Class Vehicle. Plaintiff Zimmerman's and all other Class Vehicles are stigmatized as a result of being equipped with the Fuel Pump Defect and the publicity of the Recall.

142. Had Toyota disclosed the Fuel Pump Defect, Plaintiff Zimmerman would not have purchased his Class Vehicle, or would have paid less to do so.

143. Plaintiff Zimmerman would purchase a Toyota from Toyota in the future if Defendants' representations about the vehicle, including its safety and durability, were accurate.

b. Plaintiff Cheryl Silverstein

144. Plaintiff Cheryl Silverstein is a citizen of the State of Arizona and resides in San Tan Valley, Arizona.

145. Plaintiff Silverstein leased a new 2018 Toyota Tacoma from Earnhardt Toyota in Mesa Arizona, in June 2018. Plaintiff Silverstein's Tacoma is a Recalled Vehicle is equipped with a defective Denso low-pressure fuel pump.

146. Prior to leasing her Lexus, Plaintiff Silverstein reviewed Toyota's promotional materials, the Monroney sticker, and sales brochures, and interacted with at least one sales representative without Toyota disclosing the Fuel Pump Defect.

147. Through her exposure to Toyota's advertisements, promotional materials and Toyota's other public statements, Plaintiff Silverstein was aware of Toyota's uniform and pervasive marketing message that its vehicles are safe and dependable, which was material to her decision to purchase her Class Vehicle. When she purchased the vehicle, she believed, based on

Toyota's uniform and pervasive marketing message, that she would be in a safe and dependable vehicle, one that is safer than a vehicle that is not marketed as safe and dependable. At no point before Plaintiff Silverstein purchased her vehicle did Toyota disclose to her that her vehicle was not safe or dependable, or that it was equipped with a defective Fuel Pump.

148. Plaintiff Silverstein's Tacoma suffered from the Fuel Pump Defect because the impeller in her vehicle's fuel pump started absorbing fuel and deforming the moment it was exposed to gasoline.

149. The Fuel Pump Defect creates a dangerous condition that gives rise to a clear, substantial, and unreasonable danger of death or personal injury to Plaintiff Silverstein, other occupants in her Class Vehicle, and others on the road. At no time did Toyota inform Plaintiff Silverstein of the seriousness of the Fuel Pump Defect or recommend that she discontinue use of her vehicle until there is a repair or a replacement fuel pump.

150. Plaintiff Silverstein purchased her Class Vehicle with the Fuel Pump Defect as part of a transaction in which Toyota did not disclose material facts related to the automobile's essential purpose – safe and dependable transportation. Plaintiff Silverstein did not receive the benefit of her bargain. She purchased a vehicle that is of a lesser standard, grade, and quality than represented, and she did not receive a vehicle that met ordinary and reasonable consumer expectations regarding safe and reliable operation. The Fuel Pump Defect has significantly diminished the value of Plaintiff Silverstein's Class Vehicle.

151. In mid-May 2020, Plaintiff Silverstein brought in her Tacoma to her dealer pursuant to the Recall, but they did not have the parts to fix it. Plaintiff Silverstein then had to wait four and a half months for them to "fix" the truck, even as she was continuing to pay \$491 a month on lease payments.

152. By September 30, 2020, Plaintiff Silverstein had received the Recall Repair. Toyota did not offer a free follow-up inspection of the replacement pump or an extended warranty for the part.

153. Had Toyota disclosed the Fuel Pump Defect, Plaintiffs Silverstein would not have leased her Class Vehicle, or would have paid less to do so.

154. Plaintiff Silverstein would lease a Toyota from Toyota in the future if Defendants' representations about the vehicle, including its safety and durability, were accurate.

D. California

a. Plaintiff Tina Feng

155. Plaintiff Feng is a citizen of California and resides in San Diego, California.

156. Plaintiff Feng leases a 2019 Lexus RC350 which she leased new from Lexus San Diego in San Diego, California on February 19, 2019. Plaintiff Feng's CLRA venue declaration is attached hereto as Exhibit G as though fully incorporated herein. Plaintiff Feng's Lexus is a Recalled Vehicle equipped with a defective Denso Fuel Pump.

157. Prior to leasing her Lexus, Plaintiff Feng reviewed Toyota's promotional materials and interacted with at least one sales representative all without Toyota disclosing the Fuel Pump Defect.

158. Through her exposure to Toyota's advertisements, promotional materials and other public statements, Plaintiff Feng was aware of Toyota's uniform and pervasive marketing message that its vehicles are safe and dependable, which was material to her decision to purchase her Class Vehicle. When she leased the vehicle, she believed, based on Toyota's uniform and pervasive marketing message, that she would be in a safe and dependable vehicle, one that is safer than a vehicle that is not marketed as safe and dependable. At no point before Plaintiff Feng purchased

her vehicle did Toyota disclose to her that her vehicle was not safe or dependable, or that it was equipped with a defective Fuel Pump.

159. Plaintiff Feng's Lexus suffered from the Fuel Pump Defect because the impeller in her vehicle's fuel pump started absorbing fuel and deforming the moment it was exposed to gasoline.

160. The Fuel Pump Defect creates a dangerous condition that gives rise to a clear, substantial, and unreasonable risk of death or personal injury to Plaintiff Feng, other occupants in her Class Vehicle, and others on the road.

161. Plaintiff Feng learned of the Recall when she received the recall notice via mail, at which point she contacted San Diego Lexus. San Diego Lexus told her they had no remedy for the Fuel Pump Defect but offered her a free loaner until repair. The loaner that Ms. Feng was provided was substantially of lower quality and grade than the vehicle she had leased. San Diego Lexus required Ms. Feng to continue making her full lease payments or pay \$100 per month to defer her lease term. The dealer initially stored her vehicle on the lot before asking her to store it at her home after it was accidentally struck by another vehicle in the dealership parking lot.

162. Plaintiff Feng received the Recall Repair from Toyota on or about on June 19, 2020. Toyota did not offer a free follow-up inspection of the replacement pump or an extended warranty for the part.

163. Plaintiff Feng did not receive the benefit of her bargain. She purchased a vehicle of a lesser standard, grade, and quality than represented, and she did not receive a vehicle that met ordinary and reasonable consumer expectations regarding safe and reliable operation. The Fuel Pump Defect has significantly diminished the intrinsic and resale value of Plaintiff Feng's Class

Vehicle. Plaintiff Feng's and all other Class Vehicles are stigmatized as a result of being equipped with the Fuel Pump Defect and the publicity of the Recall.

164. Had Toyota disclosed the Fuel Pump Defect, Plaintiff Feng would not have leased her Class Vehicle, or would have paid less to do so.

165. Plaintiff Feng would purchase a Lexus from Toyota in the future if Defendants' representations about the vehicle, including its safety and durability, were accurate.

b. Plaintiff Robert Hakim

166. Plaintiff Hakim is a citizen of the State of California and resides in Los Angeles, California.

167. Plaintiff Hakim leases a 2019 Lexus ES350 which he leased new from Keyes Lexus of Valencia in Valencia, California on August 1, 2019. Plaintiff Hakim's CLRA venue declaration is attached hereto as Exhibit H as though fully incorporated herein. Plaintiff Hakim's Lexus ES350 is a Recalled Vehicle and is equipped with a defective Denso low-pressure fuel pump.

168. Prior to leasing his Lexus, Plaintiff Hakim reviewed Toyota's promotional materials, including TV advertisements and the window sticker, and interacted with at least one sales representative all without Toyota disclosing the Fuel Pump Defect.

169. Through his exposure to Toyota's advertisements, promotional materials and other public statements, Plaintiff Hakim was aware of Toyota's uniform and pervasive marketing message that its vehicles are safe and dependable, which was material to his decision to lease his Class Vehicle. When he leased the vehicle, he believed, based on Toyota's uniform and pervasive marketing message, that he would be in a safe and dependable vehicle, one that is safer than a vehicle that is not marketed as safe and dependable. At no point before Plaintiff Hakim purchased

his vehicle did Toyota disclose to him that his vehicle was not safe or dependable, or that it was equipped with a defective Fuel Pump.

170. Plaintiff Hakim's Lexus suffered from the Fuel Pump Defect because the impeller in his vehicle's fuel pump started absorbing fuel and deforming the moment it was exposed to gasoline.

171. The Fuel Pump Defect creates a dangerous condition that gives rise to a clear, substantial, and unreasonable risk of death or personal injury to Plaintiff Hakim, other occupants in his Class Vehicle, and others on the road.

172. Plaintiff Hakim learned of the Recall when he received the recall notice via email on January 25, 2020, at which point he contacted Lexus of Tustin. The dealership told him Lexus had no remedy for the Fuel Pump Defect, though they offered him a free loaner until repair. Initially, Plaintiff Hakim was provided a loaner of inferior grade and quality than his own vehicle. Ultimately, he was forced to return the loaner to the rental agency as it had sold the vehicle to a dealership. Plaintiff Hakim then contacted Lexus of Valencia who provided another a loaner vehicle.

173. Plaintiff Hakim received the Recall Repair from Toyota on or about June 26, 2020. Toyota did not offer a free follow-up inspection of the replacement pump or an extended warranty for the part.

174. Plaintiff Hakim did not receive the benefit of his bargain. He purchased a vehicle of a lesser standard, grade, and quality than represented, and he did not receive a vehicle that met ordinary and reasonable consumer expectations regarding safe and reliable operation. The Fuel Pump Defect has significantly diminished the intrinsic and resale value of Plaintiff Hakim's Class

Vehicle. Plaintiff Hakim's and all other Class Vehicles are stigmatized as a result of being equipped with the Fuel Pump Defect and the publicity of the Recall.

175. Had Toyota disclosed the Fuel Pump Defect, Plaintiff Hakim would not have leased his Class Vehicle or would have paid less to do so.

176. Plaintiff Hakim would purchase a Lexus from Toyota in the future if Defendants' representations about the vehicle, including its safety and durability, were accurate.

c. Plaintiff Bernadette Grimes

177. Plaintiff Grimes is a citizen of the State of California and resides in Sacramento, California.

178. Plaintiff Grimes purchased a 2019 Toyota Highlander which she bought new from Elk Grove Toyota in Elk Grove, California on November 18, 2019. Plaintiff Grimes' CLRA venue declaration is attached hereto as Exhibit I as though fully incorporated herein. Plaintiff Grimes' Toyota Highlander is a Recalled Vehicle and is equipped with a defective Denso low-pressure fuel pump.

179. Prior to purchasing her Highlander, Plaintiff Grimes was exposed to Toyota TV advertisements and interacted with at least one sales representative all without Toyota disclosing the Fuel Pump Defect.

180. Through her exposure to Toyota's advertisements, promotional materials and other public statements, Plaintiff Grimes was aware of Toyota's uniform and pervasive marketing message that its vehicles are safe and dependable, which was material to her decision to purchase her Class Vehicle. When she purchased the vehicle, she believed, based on Toyota's uniform and pervasive marketing message, that she would be in a safe and dependable vehicle, one that is safer than a vehicle that is not marketed as safe and dependable. At no point before Plaintiff Grimes

purchased her vehicle did Toyota disclose to her that her vehicle was not safe or dependable, or that it was equipped with a defective Fuel Pump.

181. Plaintiff Grimes' Toyota suffered from the Fuel Pump Defect because the impeller in her vehicle's fuel pump started absorbing fuel and deforming the moment it was exposed to gasoline.

182. The Fuel Pump Defect creates a dangerous condition that gives rise to a clear, substantial, and unreasonable risk of death or personal injury to Plaintiff Grimes, other occupants in her Class Vehicle, and others on the road.

183. Plaintiff Grimes experienced multiple stalling events and informed a Toyota dealership each time. On March 28, 2019, Plaintiff Grimes was executing a right turn in a busy intersection when the car failed to accelerate when she depressed the gas pedal. The car had only 1,437 miles on it when Plaintiff Grimes first experienced the defect. Between April 2, 2019 and June 19, 2019, Plaintiff Grimes experienced several instances of hesitated acceleration usually while turning a corner or while on the freeway. Each time Plaintiff Grimes experienced hesitation or stalling she brought the Highlander to Maita Toyota of Sacramento which failed to properly diagnose or repair the issue.

184. Plaintiff Grimes learned of the Recall when she received the recall notice via mail in February 2020, at which point she contacted Maita Toyota of Sacramento. Maita Toyota told her they had no remedy for the Fuel Pump Defect and had no information as to when it would be available. Plaintiff Grimes was not offered a loaner until May, after she had made repeated inquiries as to when her vehicle would be fixed. Plaintiff Grimes' loaner was of an inferior grade and quality than that which she had purchased from Toyota.

185. Plaintiff Grimes received the Recall Repair from Toyota on or about June 29, 2020. Toyota did not offer a free follow-up inspection of the replacement pump or an extended warranty for the part.

186. Plaintiff Grimes did not receive the benefit of her bargain. She purchased a vehicle of a lesser standard, grade, and quality than represented, and she did not receive a vehicle that met ordinary and reasonable consumer expectations regarding safe and reliable operation. The Fuel Pump Defect has significantly diminished the intrinsic and resale value of Plaintiff Grimes' Class Vehicle. Plaintiff Grimes' and all other Class Vehicles are stigmatized as a result of being equipped with the Fuel Pump Defect and the publicity of the Recall.

187. Had Toyota disclosed the Fuel Pump Defect, Plaintiff Grimes would not have purchased her Class Vehicle, or would have paid less to do so.

188. Plaintiff Grimes would purchase from Toyota in the future if Defendants' representations about the vehicle, including its safety and durability, were accurate.

d. Plaintiff Elizabeth Gendron

189. Plaintiff Elizabeth Gendron is a citizen of the State of California and resides in Orange County.

190. Plaintiff Gendron leased a new 2018 Lexus GX460 from Newport Lexus in Newport Beach, California in December of 2017. Plaintiff Gendron's CLRA venue declaration is attached hereto as Exhibit P as though fully incorporated herein. Plaintiff Gendron's Lexus was a Class Vehicle equipped with a defective Denso low-pressure fuel pump.³⁷ While Plaintiff Gendron's Vehicle was not included in the First Recall or the Second Recall, it was included in the Third Recall and thus is a Recalled Vehicle.

³⁷ Toyota part number 23220-31430.

191. Prior to leasing her Lexus GX460, Plaintiff Gendron reviewed Toyota's promotional materials, such as "Lexus December to Remember" advertisements and sales brochures, and interacted with at least one sales representative all without Toyota disclosing the Fuel Pump Defect.

192. Through her exposure to Toyota's advertisements, promotional materials and other public statements, Plaintiff Gendron was aware of Toyota's uniform and pervasive marketing message that its vehicles are safe and dependable, which was material to her decision to lease her Class Vehicle. When she leased the vehicle, she believed, based on Toyota's uniform and pervasive marketing message, that she would be in a safe and dependable vehicle, one that is safer than a vehicle that is not marketed as safe and dependable. At no point before Plaintiff Gendron leased her vehicle did Toyota disclose to her that her vehicle was not safe or dependable, or that it was equipped with a defective Fuel Pump.

193. Plaintiff Gendron's vehicle suffered from the Fuel Pump Defect because the impeller in her vehicle's fuel pump started absorbing fuel and deforming the moment it was exposed to gasoline.

194. The Fuel Pump Defect created a dangerous condition that gave rise to a clear, substantial, and unreasonable risk of death or personal injury to Plaintiff Gendron, other occupants in her Class Vehicle, and others on the road.

195. Plaintiff Gendron began to experience the Fuel Pump Defect shortly after taking possession of her vehicle. Plaintiff Gendron's vehicle suffered from hesitated acceleration when she depressed the accelerator pedal. Plaintiff Gendron subsequently terminated her lease, as she was unable to safely operate her Class Vehicle. Despite her vehicle's inoperable status, Plaintiff Gendron continued to honor her monthly payments throughout her lease.

196. Plaintiff Gendron did not receive the benefit of her bargain.

197. She leased a vehicle of a lesser standard, grade, and quality than represented, and she did not receive a vehicle that met ordinary and reasonable consumer expectations regarding safe and reliable operation. The Fuel Pump Defect has significantly diminished the intrinsic and resale value of Plaintiff Gendron's Class Vehicle. Plaintiff Gendron's and all other Class Vehicles are stigmatized as a result of being equipped with the Fuel Pump Defect and the publicity of the Recall.

198. Had Toyota disclosed the Fuel Pump Defect, Plaintiff Gendron would not have leased her Class Vehicle, or would have paid less to do so.

199. Plaintiff Gendron would purchase from Toyota in the future if Defendants' representations about the vehicle, including its safety and durability, were accurate.

e. Plaintiff Roger Carter

200. Plaintiff Roger Carter is a citizen of the state of California and resides in Orange County.

201. Plaintiff Carter leased a new 2018 Lexus IS300 F-Sport from South County Lexus in Mission Viejo, California, in August of 2018. Plaintiff Carter's CLRA venue declaration is attached hereto as Exhibit P as though fully incorporated herein. Plaintiff Carter's Lexus is a Recalled Vehicle and is equipped with a defective Denso low-pressure fuel pump.

202. Prior to leasing his vehicle, Plaintiff Carter reviewed Toyota's promotional materials, such as "Lexus December to Remember" advertisements and sales brochures, and interacted with at least one sales representative all without Toyota disclosing the Fuel Pump Defect.

203. Through his exposure to Toyota's advertisements, promotional materials and other public statements, Plaintiff Carter was aware of Toyota's uniform and pervasive marketing message that its vehicles are safe and dependable, which was material to his decision to lease his Class Vehicle. When he leased the vehicle, he believed, based on Toyota's uniform and pervasive marketing message, that he would be in a safe and dependable vehicle, one that is safer than a vehicle that is not marketed as safe and dependable. At no point before Plaintiff Carter leased his vehicle did Toyota disclose to him that his vehicle was not safe or dependable, or that it was equipped with a defective Fuel Pump.

204. Plaintiff Carter's vehicle suffered from the Fuel Pump Defect because the impeller in his vehicle's fuel pump started absorbing fuel and deforming the moment it was exposed to gasoline.

205. The Fuel Pump Defect creates a dangerous condition that gives rise to a clear, substantial, and unreasonable risk of death or personal injury to Plaintiff Carter, other occupants in his Class Vehicle, and others on the road.

206. Plaintiff Carter was not made aware of the Recall by Toyota. Plaintiff Carter learned of the Recall when he visited Lexus' website. Subsequently, Plaintiff Carter transferred the lease of his vehicle.

207. Plaintiff Carter did not receive the benefit of his bargain. He leased a vehicle of a lesser standard, grade, and quality than represented, and he did not receive a vehicle that met ordinary and reasonable consumer expectations regarding safe and reliable operation. The Fuel Pump Defect has significantly diminished the intrinsic and resale value of Plaintiff Carter's Class Vehicle. Plaintiff Carter's and all other Class Vehicles are stigmatized as a result of being equipped with the Fuel Pump Defect and the publicity of the Recall.

208. Had Toyota disclosed the Fuel Pump Defect, Plaintiff Carter would not have leased his Class Vehicle, or would have paid less to do so.

209. Plaintiff Carter would lease from Toyota in the future if Defendants' representations about the vehicle, including its safety and durability, were accurate.

E. Florida

a. Plaintiff Marlene Rudolph

210. Plaintiff Rudolph is a citizen of the State of Florida and resides in West Palm Beach, Florida.

211. Plaintiff Rudolph owns a 2019 Lexus ES350 which she leased new from JM Lexus in Margate, Florida in March 2019. Plaintiff Rudolph's Lexus is a Recalled Vehicle and equipped with a defective Denso Fuel Pump.

212. Prior to purchasing her Lexus, Plaintiff Rudolph reviewed Toyota's promotional materials, and interacted with at least one sales representative all without Toyota disclosing the Fuel Pump Defect.

213. Through her exposure to Toyota's advertisements, promotional materials and other public statements, Plaintiff Rudolph was aware of Toyota's uniform and pervasive marketing message that its vehicles are safe and dependable, which was material to his decision to purchase her Class Vehicle. When she leased the vehicle, she believed, based on Toyota's uniform and pervasive marketing message, that she would be in a safe and dependable vehicle, one that is safer than a vehicle that is not marketed as safe and dependable. At no point before Plaintiff Rudolph leased her vehicle did Toyota disclose to her that her vehicle was not safe or dependable, or that it was equipped with a defective Fuel Pump.

214. Plaintiff Rudolph's Lexus suffered from the Fuel Pump Defect because the impeller in her vehicle's fuel pump started absorbing fuel and deforming the moment it was exposed to gasoline.

215. Shortly after leasing her Class Vehicle, Plaintiff Rudolph experienced symptoms associated with the Fuel Pump Defect. Specifically, her car hesitated before accelerating when she depressed the accelerator pedal. In some instances, Plaintiff Rudolph's vehicle would fail to start, as identified in the Recall. Plaintiff Rudolph reported her experiences to Palm Beach Lexus, but they were unable to cure the problems.

216. Plaintiff Rudolph learned of the Recall through Lexus Enform. When she contacted Palm Beach Lexus about the Recall/repair, they informed her that her vehicle was included in the recall, but they could not repair it, nor did they know the remedy rollout date. Palm Beach Lexus offered her a loaner vehicle of lesser value.

217. Plaintiff Rudolph received the Recall Repair from Toyota on or about June 26, 2020. Toyota did not offer a free follow-up inspection of the replacement pump or an extended warranty for the part.

218. The Fuel Pump Defect creates a dangerous condition that gives rise to a clear, substantial, and unreasonable risk of death and personal injury to Plaintiff Rudolph, other occupants in her Class Vehicle, and others on the road.

219. Plaintiff Rudolph did not receive the benefit of her bargain. She leased a vehicle of a lesser standard, grade, and quality than represented, and she did not receive a vehicle that met ordinary and reasonable consumer expectations regarding safe and reliable operation. The Fuel Pump Defect has significantly diminished the intrinsic and resale value of Plaintiff Rudolph's

Class Vehicle. Plaintiff Rudolph's and all other Class Vehicles are stigmatized as a result of being equipped with the Fuel Pump Defect and the publicity of the Recall.

220. Had Toyota disclosed the Fuel Pump Defect, Plaintiff Rudolph would not have leased or purchased her Class Vehicle, or would have paid less to do so.

221. Plaintiff Rudolph would lease a Lexus from Toyota in the future if Defendants' representations about the vehicle, including its safety and durability, were accurate.

b. Plaintiff Patricia Barlow

222. Plaintiff Barlow is a citizen of the State of Florida and resides in Clearwater, Florida.

223. Plaintiff Barlow leases a 2019 Lexus RX350 which she leased from Lexus of Clearwater in Clearwater, Florida on June 19, 2019. Plaintiff Barlow's Lexus is a Recalled Vehicle and is equipped with a defective Denso Fuel Pump.

224. Prior to leasing her Lexus, Plaintiff Barlow reviewed Toyota's promotional materials, including Toyota's website, interacted with at least one sales representative, and test drove her vehicle all without Toyota disclosing the Fuel Pump Defect.

225. Through her exposure to Toyota's advertisements, promotional materials and other public statements, Plaintiff Barlow was aware of Toyota's uniform and pervasive marketing message that its vehicles are safe and dependable, which was material to his decision to purchase her Class Vehicle. When she leased the vehicle, she believed, based on Toyota's uniform and pervasive marketing message, that she would be in a safe and dependable vehicle, one that is safer than a vehicle that is not marketed as safe and dependable. At no point before Plaintiff Barlow leased her vehicle did Toyota disclose to her that her vehicle was not safe or dependable, or that it was equipped with a defective Fuel Pump.

226. Plaintiff Barlow's Lexus suffered from the Fuel Pump Defect because the impeller in her vehicle's fuel pump started absorbing fuel and deforming the moment it was exposed to gasoline.

227. With approximately 4,648 miles on her Vehicle, Plaintiff Barlow's vehicle exhibited symptoms associated with the Fuel Pump Defect when it hesitated before accelerating when she depressed the accelerator pedal. Plaintiff Barlow reported this behavior to Lexus of Clearwater, which failed to repair the defect. Plaintiff Barlow again experienced the Fuel Pump Defect at approximately 6,000 miles where her vehicle ran rough and failed to accelerate with enough power to safely operate in traffic. Plaintiff Barlow again reported the behavior to JM Lexus of Clearwater, which failed to repair the defect.

228. On January 15, 2020, Plaintiff Barlow received a notification via Lexus Enform that the First Recall affected her vehicle. When she contacted JM Lexus about the Recall/repair, they informed her that her vehicle was included in the recall, but they could not repair it, nor did they know the remedy rollout date. The dealer provided a loaner vehicle of lesser value.

229. Plaintiff Barlow received the Recall Repair from Toyota on or about July 10, 2020. Toyota did not offer a free follow-up inspection of the replacement pump or an extended warranty for the part.

230. Even after obtaining the Recall Repair, Plaintiff Barlow continued to experience hesitation during acceleration when operating her Class Vehicle. Plaintiff Barlow subsequently terminated her lease, as she was unable to safely operate her Class Vehicle.

231. Despite her vehicle's inoperable status, Plaintiff Barlow continued to honor her monthly payments throughout her lease.

232. The Fuel Pump Defect creates a dangerous condition that gives rise to a clear, substantial, and unreasonable risk of death or personal injury to Plaintiff Barlow, other occupants in her Class Vehicle, and others on the road.

233. Plaintiff Barlow did not receive the benefit of her bargain. She leased a vehicle of a lesser standard, grade, and quality than represented, and she did not receive a vehicle that met ordinary and reasonable consumer expectations regarding safe and reliable operation. The Fuel Pump Defect has significantly diminished the intrinsic and resale value of Plaintiff Barlow's Class Vehicle. Plaintiff Barlow's and all other Class Vehicles are stigmatized as a result of being equipped with the Fuel Pump Defect and the publicity of the Recall.

234. Had Toyota disclosed the Fuel Pump Defect, Plaintiff Barlow would not have leased her Class Vehicle, or would have paid less to do so.

235. Plaintiff Barlow would lease or purchase a Lexus from Toyota in the future if Defendants' representations about the vehicle, including its safety and durability, were accurate.

c. Plaintiff Teresa Edwards

236. Plaintiff Edwards is a citizen of the State of Florida and resides in Cocoa, Florida.

237. Plaintiff Edwards owns a 2019 Toyota Camry which she purchased new from Toyota of Orlando in Orlando, Florida in April 2019. Plaintiff Edwards's Toyota Camry was not part of the initial and Second Recall, but was included in the Third Recall, and is equipped with a defective Denso low-pressure fuel pump.

238. Prior to purchasing her Toyota, Plaintiff Edwards reviewed Toyota's promotional materials, including Toyota's website and the window sticker, and interacted with at least one sales representative all without Toyota disclosing the Fuel Pump Defect.

239. Through her exposure to Toyota's advertisements, promotional materials and other public statements, Plaintiff Edwards was aware of Toyota's uniform and pervasive marketing message that its vehicles are safe and dependable, which was material to her decision to purchase her Class Vehicle. When she purchased the vehicle, she believed, based on Toyota's uniform and pervasive marketing message, that she would be in a safe and dependable vehicle, one that is safer than a vehicle that is not marketed as safe and dependable. At no point before Plaintiff Edwards purchased her vehicle did Toyota disclose to her that her vehicle was not safe or dependable, or that it was equipped with a defective Fuel Pump.

240. Plaintiff Edwards's Toyota suffered from the Fuel Pump Defect because the impeller in her vehicle's fuel pump started absorbing fuel and deforming the moment it was exposed to gasoline.

241. Plaintiff Edwards experienced symptoms associated with the defect with approximately 31,635 miles on her vehicle when her engine stalled unexpectedly and without warning.

242. Toyota never contacted Plaintiff Edwards about the Recalls. Rather, Plaintiff Edwards learned her vehicle was potentially involved in the Recalls when she took her vehicle in for diagnosis and repair following the stall event. The service technician informed Plaintiff Edwards of the Recall and stated that, based on his examination of the Fuel Pump, the symptoms exhibited were consistent with the Fuel Pump Defect.

243. Plaintiff Edwards received the Recall Repair from Toyota on or about May 25, 2020. Plaintiff Edwards' vehicle was not identified as a Recalled Vehicle until the Third Recall, months after she had it repaired after suffering a stall. Toyota did not offer a free follow-up inspection of the replacement pump or an extended warranty for the part.

244. The Fuel Pump Defect creates a dangerous condition that gives rise to a clear, substantial, and unreasonable risk of death or personal injury to Plaintiff Edwards, other occupants in her Class Vehicle, and others on the road. At no time did Toyota inform Plaintiff Edwards of the seriousness of the Fuel Pump Defect or recommend that she discontinue use of her vehicle until there is a repair or a replacement fuel pump.

245. Plaintiff Edwards did not receive the benefit of her bargain. She purchased a vehicle that is of a lesser standard, grade, and quality than represented, and she did not receive a vehicle that met ordinary and reasonable consumer expectations regarding safe and reliable operation. The Fuel Pump Defect has significantly diminished the intrinsic and resale value of Plaintiff Edwards's Class Vehicle. Plaintiff Edwards's and all other Class Vehicles are stigmatized as a result of being equipped with the Fuel Pump Defect and the publicity of the Recalls.

246. Had Toyota disclosed the Fuel Pump Defect, Plaintiff Edwards would not have purchased her Class Vehicle, or would not have paid as much to do so.

247. Plaintiff Edwards would purchase a Toyota from Toyota in the future if Defendants' representations about the vehicle, including its safety and durability, were accurate.

d. Plaintiff Issac Tordjman

248. Plaintiff Isaac Tordjman is a citizen of the State of Florida and resides in Boca Raton, Florida.

249. Plaintiff Tordjman leased a 2018 Lexus RX350 which he leased new from Lexus of North Miami in North Miami, Florida, in March 2018. Plaintiff Tordjman's Lexus is a Recalled Vehicle and is equipped with a defective Denso low-pressure fuel pump.

250. Prior to leasing his Toyota, Plaintiff Tordjman reviewed Toyota's promotional materials, including TV advertisements and the window sticker, and interacted with at least one sales representative all without Toyota disclosing the Fuel Pump Defect.

251. Through his exposure to Toyota's advertisements, promotional materials and other public statements, Plaintiff Tordjman was aware of Toyota's uniform and pervasive marketing message that its vehicles are safe and dependable, which was material to his decision to lease his Class Vehicle. When he leased the vehicle, he believed, based on Toyota's uniform and pervasive marketing message, that he would be in a safe and dependable vehicle, one that is safer than a vehicle that is not marketed as safe and dependable. At no point before Plaintiff Tordjman leased his vehicle did Toyota disclose to him that his vehicle was not safe or dependable, or that it was equipped with a defective Fuel Pump.

252. Plaintiff Tordjman's Toyota suffered from the Fuel Pump Defect because the impeller in his vehicle's fuel pump started absorbing fuel and deforming the moment it was exposed to gasoline.

253. The Fuel Pump Defect creates a dangerous condition that gives rise to a clear, substantial, and unreasonable risk of death or personal injury to Plaintiff Tordjman, other occupants in his Class Vehicle, and others on the road.

254. On or about June 23, 2020, Plaintiff Tordjman was driving down the highway when his Vehicle stalled for a second time. He brought it into the dealer, who diagnosed the problem as the Fuel Pump Defect. Unfortunately, the dealership told him that they did not have the right part to fix the Defect, and thus would not be able to perform any repair for several weeks.

255. Plaintiff Tordjman received the Recall Repair on or about June 2020. Toyota did not offer a free follow-up inspection of the replacement pump or an extended warranty for the part.

256. Plaintiff Tordjman did not receive the benefit of his bargain. He leased a vehicle of a lesser standard, grade, and quality than represented, and he did not receive a vehicle that met ordinary and reasonable consumer expectations regarding safe and reliable operation. The Fuel Pump Defect has significantly diminished the intrinsic and resale value of Plaintiff Tordjman's Class Vehicle. Plaintiff Tordjman's and all other Class Vehicles are stigmatized as a result of being equipped with the Fuel Pump Defect and the publicity of the Recall.

257. Had Toyota disclosed the Fuel Pump Defect, Plaintiff Tordjman would not have leased his Class Vehicle, or would have paid less to do so.

258. Plaintiff Tordjman would lease a Lexus from Toyota in the future if Defendants' representations about the vehicle, including its safety and durability, were accurate.

F. Georgia

259. Plaintiff James Hettinger is a citizen of the State of Georgia and resides in Dallas, Georgia.

260. Plaintiff Hettinger owns a 2018 Toyota Tacoma, which he purchased new from Toyota of McDonough in McDonough, Georgia in December 2018. Plaintiff Hettinger's Toyota Tacoma is a Recalled Vehicle and is equipped with a defective Denso low-pressure fuel pump.

261. Prior to purchasing his Toyota, Plaintiff Hettinger reviewed Toyota's promotional materials, including TV advertisements and the window sticker, and interacted with at least one sales representative all without Toyota disclosing the Fuel Pump Defect.

262. Through his exposure to Toyota's advertisements, promotional materials and other public statements, Plaintiff Hettinger was aware of Toyota's uniform and pervasive marketing message that its vehicles are safe and dependable, which was material to his decision to purchase his Class Vehicle. When he purchased the vehicle, he believed, based on Toyota's uniform and

pervasive marketing message, that he would be in a safe and dependable vehicle, one that is safer than a vehicle that is not marketed as safe and dependable. At no point before Plaintiff Hettinger purchased his vehicle did Toyota disclose to him that his vehicle was not safe or dependable, or that it was equipped with a defective Fuel Pump.

263. Plaintiff Hettinger's Toyota suffered from the Fuel Pump Defect because the impeller in his vehicle's fuel pump started absorbing fuel and deforming the moment it was exposed to gasoline.

264. The Fuel Pump Defect creates a dangerous condition that gives rise to a clear, substantial, and unreasonable risk of death or personal injury to Plaintiff Hettinger, other occupants in his Class Vehicle, and others on the road.

265. Plaintiff Hettinger received the Recall Repair from Toyota on October 17, 2020. Toyota did not offer a free follow-up inspection of the replacement pump or an extended warranty for the part.

266. Plaintiff Hettinger did not receive the benefit of his bargain. He purchased a vehicle of a lesser standard, grade, and quality than represented, and he did not receive a vehicle that met ordinary and reasonable consumer expectations regarding safe and reliable operation. The Fuel Pump Defect has significantly diminished the intrinsic and resale value of Plaintiff Hettinger's Class Vehicle. Plaintiff Hettinger's and all other Class Vehicles are stigmatized as a result of being equipped with the Fuel Pump Defect and the publicity of the Recall.

267. Had Toyota disclosed the Fuel Pump Defect, Plaintiff Hettinger would not have purchased his Class Vehicle, or would have paid less to do so.

268. Plaintiff Hettinger would purchase a Toyota from Toyota in the future if Defendants' representations about the vehicle, including its safety and durability, were accurate.

G. Illinois

a. Plaintiff Dieu Le

269. Plaintiff Le is a citizen of Illinois and resides in Des Plaines, Illinois.

270. Plaintiff Le owns a 2014 Lexus GS350 which she purchased certified pre-owned from Lexus of Arlington in Arlington Heights, Illinois in November 2016 with approximately 47,685 miles on it. Plaintiff Le's Lexus is a Recalled Vehicle and equipped with a defective Denso Fuel Pump.

271. Through her exposure to Toyota's advertisements, promotional materials and other public statements, Plaintiff Le was aware of Toyota's uniform and pervasive marketing message that its vehicles are safe and dependable, which was material to her decision to purchase her Class Vehicle. When she purchased the vehicle, she believed, based on Toyota's uniform and pervasive marketing message, that she would be in a safe and dependable vehicle, one that is safer than a vehicle that is not marketed as safe and dependable. At no point before Plaintiff Le purchased her vehicle did Toyota disclose to her that her vehicle was not safe or dependable, or that it was equipped with a defective Fuel Pump.

272. Plaintiff Le's Toyota suffered from the Fuel Pump Defect because the impeller in her vehicle's fuel pump started absorbing fuel and deforming the moment it was exposed to gasoline.

273. Plaintiff Le experienced symptoms associated with the Fuel Pump Defect in approximately August 2019. Particularly, while operating her vehicle under intended and foreseeable circumstances, Plaintiff Le experienced a loss of acceleration and felt her vehicle slow while she was traveling at highway speeds while the accelerator pedal was depressed. As she felt the vehicle lose power she noticed the dashboard warning lights briefly flickered.

274. Plaintiff Le only learned of the Recall after receiving an official notice from Lexus in March. She contacted her dealer who initially did not offer a loaner and suggested that the fuel pump was unlikely to fail. Only after contacting Lexus corporate was Plaintiff Le offered a free loaner.

275. Plaintiff Le received the Recall Repair from Toyota on or about June 29, 2020. Toyota did not offer a free follow-up inspection of the replacement pump or an extended warranty for the part.

276. The Fuel Pump Defect creates a dangerous condition that gives rise to a clear, substantial, and unreasonable risk of death or personal injury to Plaintiff Le, other occupants in her Class Vehicle, and others on the road.

277. Plaintiff Le did not receive the benefit of her bargain. She purchased a vehicle of a lesser standard, grade, and quality than represented, and she did not receive a vehicle that met ordinary and reasonable consumer expectations regarding safe and reliable operation. The Fuel Pump Defect has significantly diminished the intrinsic and resale value of Plaintiff Le's Class Vehicle. Plaintiff Le's and all other Class Vehicles are stigmatized as a result of being equipped with the Fuel Pump Defect and the publicity of the Recall.

278. Had Toyota disclosed the Fuel Pump Defect, Plaintiff Le would not have purchased her Class Vehicle, or would have paid less to do so.

279. Plaintiff Le would purchase a Lexus from Toyota in the future if Defendants' representations about the vehicle, including its safety and durability, were accurate.

b. Plaintiff Chris Bohn

280. Plaintiff Bohn is a citizen of the State of Illinois and resides in Lemont, Illinois.

281. Plaintiff Bohn owns a 2018 Toyota Highlander which he purchased new from Orland Toyota in Tinley Park, Illinois on April 21, 2018. Plaintiff Bohn's Toyota Highlander is a Recalled Vehicle and is equipped with a defective Denso low-pressure fuel pump.

282. Prior to purchasing his Toyota, Plaintiff Bohn reviewed Toyota's promotional materials, including Toyota's website and sales brochures, and interacted with at least one sales representative all without Toyota disclosing the Fuel Pump Defect.

283. Through his exposure to Toyota's advertisements, promotional materials and other public statements, Plaintiff Bohn was aware of Toyota's uniform and pervasive marketing message that its vehicles are safe and dependable, which was material to his decision to purchase his Class Vehicle. When he purchased the vehicle, he believed, based on Toyota's uniform and pervasive marketing message, that he would be in a safe and dependable vehicle, one that is safer than a vehicle that is not marketed as safe and dependable. At no point before Plaintiff Bohn purchased his vehicle did Toyota disclose to him that his vehicle was not safe or dependable, or that it was equipped with a defective Fuel Pump.

284. Plaintiff Bohn's Toyota suffered from the Fuel Pump Defect because the impeller in his vehicle's fuel pump started absorbing fuel and deforming the moment it was exposed to gasoline.

285. Plaintiff Bohn's Class Vehicle has experienced symptoms associated with the Fuel Pump Defect, beginning shortly after purchase. Specifically, Plaintiff Bohn's Class Vehicle has experienced engine no start and engine malfunction indicators.

286. The Fuel Pump Defect creates a dangerous condition that gives rise to a clear, substantial, and unreasonable risk of death or personal injury to Plaintiff Bohn, other occupants in his Class Vehicle, and others on the road.

287. Plaintiff Bohn learned of the Recall when he received the recall notice via mail, at which point he contacted Orland Toyota, where they offered him a free loaner until a repair is available.

288. Plaintiff Bohn did not receive the benefit of his bargain. He purchased a vehicle of a lesser standard, grade, and quality than represented, and he did not receive a vehicle that met ordinary and reasonable consumer expectations regarding safe and reliable operation. The Fuel Pump Defect has significantly diminished the intrinsic and resale value of Plaintiff Bohn's Class Vehicle. Plaintiff Bohn's and all other Class Vehicles are stigmatized as a result of being equipped with the Fuel Pump Defect and the publicity of the Recall.

289. Plaintiff Bohn received the Recall Repair from Toyota on or about June 30, 2020. Toyota did not offer a free follow-up inspection of the replacement pump or an extended warranty for the part.

290. Following the Recall Repair, Plaintiff Bohn's Class Vehicle had to be returned to the dealer for service because it was leaking fuel due to an improperly installed O-ring during the Recall Repair.

291. Had Toyota disclosed the Fuel Pump Defect, Plaintiff Bohn would not have purchased his Class Vehicle, or would have paid less to do so.

292. Plaintiff Bohn would purchase a Toyota from Toyota in the future if Defendants' representations about the vehicle, including its safety and durability, were accurate.

I. Maryland

293. Plaintiff Daniel DeWeerd is a citizen of the State of Maryland and resides in Mount Airy, Maryland.

294. Plaintiff DeWeerdts owns a 2018 Toyota Highlander which he purchased new from Koons Toyota in Easton, Maryland on March 23, 2018. Plaintiff DeWeerdts's Toyota Highlander is a Recalled Vehicle and is equipped with a defective Denso low-pressure fuel pump.

295. Prior to purchasing his Toyota, Plaintiff DeWeerdts reviewed Toyota's promotional materials, including Toyota's website, and interacted with at least one sales representative all without Toyota disclosing the Fuel Pump Defect.

296. Through his exposure to Toyota's advertisements, promotional materials and other public statements, Plaintiff DeWeerdts was aware of Toyota's uniform and pervasive marketing message that its vehicles are safe and dependable, which was material to his decision to purchase his Class Vehicle. When he purchased the vehicle, he believed, based on Toyota's uniform and pervasive marketing message, that he would be in a safe and dependable vehicle, one that is safer than a vehicle that is not marketed as safe and dependable. At no point before Plaintiff DeWeerdts purchased his vehicle did Toyota disclose to him that his vehicle was not safe or dependable, or that it was equipped with a defective Fuel Pump.

297. Plaintiff DeWeerdts's Toyota suffered from the Fuel Pump Defect because the impeller in his vehicle's fuel pump started absorbing fuel and deforming the moment it was exposed to gasoline.

298. Plaintiff DeWeerdts's Class Vehicle has experienced symptoms associated with the Fuel Pump Defect. Specifically, on April 17, 2020, while operating his vehicle under intended and foreseeable circumstances, Plaintiff DeWeerdts's vehicle experienced hesitate acceleration when the accelerator was depressed, and ultimately stalled. He reported the incident to Darcars Toyota in Frederick, Maryland who replicated the issue, found the pressure to be below specifications, and diagnosed it with the Fuel Pump Defect.

299. The Fuel Pump Defect creates a dangerous condition that gives rise to a clear, substantial, and unreasonable risk of death or personal injury to Plaintiff DeWeerd, other occupants in his Class Vehicle, and others on the road.

300. Plaintiff DeWeerd learned of the Recall when he received the recall notice via mail, at which point he contacted Darcars Toyota, where they offered him a free loaner until a repair is available.

301. Plaintiff DeWeerd did not receive the benefit of his bargain. He purchased a vehicle of a lesser standard, grade, and quality than represented, and he did not receive a vehicle that met ordinary and reasonable consumer expectations regarding safe and reliable operation. The Fuel Pump Defect has significantly diminished the intrinsic and resale value of Plaintiff DeWeerd's Class Vehicle. Plaintiff DeWeerd's and all other Class Vehicles are stigmatized as a result of being equipped with the Fuel Pump Defect and the publicity of the Recall.

302. Plaintiff DeWeerd received the Recall Repair from Toyota on or about June 29, 2020. Toyota did not offer a free follow-up inspection of the replacement pump or an extended warranty for the part.

303. Had Toyota disclosed the Fuel Pump Defect, Plaintiff DeWeerd would not have purchased his Class Vehicle, or would have paid less to do so.

304. Plaintiff DeWeerd would purchase a Toyota from Toyota in the future if Defendants' representations about the vehicle, including its safety and durability, were accurate.

J. Missouri

305. Plaintiff Craig Boxer is a citizen of the state of Missouri and resides in Boone County, Missouri.

306. Plaintiff Boxer purchased a new 2014 Lexus GX460 Luxury from Mungenast Lexus of Saint Louis in October of 2013. Plaintiff Boxer's 2014 Lexus GX 460 is a Recalled Vehicle and is equipped with a defective Denso low-pressure fuel pump.

307. Prior to leasing his 2014 Lexus GX 460, Plaintiff Boxer reviewed Toyota's promotional materials, such as advertisements and sales brochures, and interacted with at least one sales representative all without Toyota disclosing the Fuel Pump Defect.

308. Through his exposure to Toyota's advertisements, promotional materials and other public statements, Plaintiff Boxer was aware of Toyota's uniform and pervasive marketing message that its vehicles are safe and dependable, which was material to his decision to purchase his Class Vehicle. When he purchased the vehicle, he believed, based on Toyota's uniform and pervasive marketing message, that he would be in a safe and dependable vehicle, one that is safer than a vehicle that is not marketed as safe and dependable. At no point before Plaintiff Boxer purchased his Class Vehicle did Toyota disclose to him that his vehicle was not safe or dependable, or that it was equipped with a defective Fuel Pump.

309. Plaintiff Boxer's Class Vehicle suffered from the Fuel Pump Defect because the impeller in his vehicle started absorbing fuel and deforming the moment it was exposed to gasoline.

310. Plaintiff Boxer's Class Vehicle experienced the rough run / idle manifestation of the Fuel Pump Defect.

311. Plaintiff Boxer received the Recall Repair from Toyota on or about June 19, 2020. Toyota did not offer a free follow-up inspection of the replacement pump or an extended warranty for the part

312. After the Recall Repair was implemented, Plaintiff Boxer continued to experience the rough engine run/idle when operating his Class Vehicle. Approximately a week later, Plaintiff

Boxer's Class Vehicle displayed the "check engine" warning light to alert him of a significant problem. On or about June 26, 2020, Plaintiff Boxer reported the issue to the dealer and had the Class Vehicle serviced to address a faulty Recall Repair. During this service, Plaintiff Boxer was informed that an O-ring was improperly installed during the Recall Repair, resulting in his Class Vehicle leaking fuel while in operation.

313. Even after the second repair, Plaintiff Boxer's Class Vehicle continued to experience the rough run / idle manifestation of the Fuel Pump Defect. Demonstrating the dangerousness of the problem, on one occasion, when Plaintiff Boxer was approaching an intersection, his Class Vehicle went into a very slow idle and appeared likely to stall. Plaintiff Boxer attempted to stop his Class Vehicle, however, the idle dropped so low the power brakes failed to activate – even when pressed fully to the floor. After multiple attempts, he was able to slow his Class Vehicle somewhat. He was not able to prevent it from coming in contact with another car in the intersection.

314. Prior to receiving the Recall Repair, Plaintiff Boxer was provided a loaner vehicle, but after the Recall Repair Toyota did not provide Plaintiff Boxer with a loaner vehicle despite the fact that he was still experiencing the Fuel Pump Defect. Both before and after the Recall Repair and subsequent repairs, Plaintiff Boxer did not feel safe driving his Class Vehicle, and traded in his vehicle.

315. The Fuel Pump Defect creates a dangerous condition that gives rise to a clear, substantial, and unreasonable risk of death or personal injury to Plaintiff Boxer, other occupants in his Class Vehicle, and others on the road.

316. Plaintiff Boxer has traded in his Class Vehicle. He was informed by the dealer where he was making the trade that he was receiving a lower trade-in value because of the Recall, despite the Recall Repair having been performed.

317. Plaintiff Boxer did not receive the benefit of his bargain. He purchased a vehicle of a lesser standard, grade, and quality than represented, and he did not receive a vehicle that met ordinary and reasonable consumer expectations regarding safe and reliable operation. The Fuel Pump Defect has significantly diminished the intrinsic and resale value of Plaintiff Boxer's Class Vehicle. Plaintiff Boxer's and all other Class Vehicles are stigmatized as a result of being equipped with the Fuel Pump Defect and the publicity of the Recall.

318. Had Toyota disclosed the Fuel Pump Defect, Plaintiff Boxer would not have purchased his Class Vehicle, or would have paid less to do so

K. New Jersey

319. Plaintiff Bruce Puleo is a citizen of the State of New Jersey and resides in Boonton, New Jersey.

320. Plaintiff Puleo leases two Class Vehicles, both of which are Recalled Vehicles and equipped with a defective Denso low-pressure fuel pump. First, he leased a 2019 Toyota Highlander from Westchester Foreign Auto, Inc. in Yonkers, New York on May 17, 2019. Second, he leased a 2018 Toyota Corolla from Westchester Foreign Autos, Inc. in Yonkers, New York on June 1, 2018.

321. Prior to leasing both of his Class Vehicles, Plaintiff Puleo reviewed Toyota's promotional materials, including Toyota's website, and interacted with at least one sales representative all without Toyota Disclosing the Fuel Pump Defect.

322. Through his exposure to Toyota's advertisements, promotional materials and other public statements, Plaintiff Puleo was aware of Toyota's uniform and pervasive marketing message that its vehicles are safe and dependable, which was material to his decision to lease his Class Vehicles. When he leased the vehicles, he believed, based on Toyota's uniform and pervasive marketing message, that he would be in safe and dependable vehicles, one that is safer than a vehicle that is not marketed as safe and dependable. At no point before Plaintiff Puleo leased his vehicles did Toyota disclose to him that his vehicles were not safe or dependable, or that they were equipped with defective Fuel Pumps.

323. Plaintiff Puleo's Toyotas suffer from the Fuel Pump Defect because the impellers in his vehicles' fuel pumps started absorbing fuel and deforming the moment they were exposed to gasoline.

324. The Fuel Pump Defect creates a dangerous condition that gives rise to a clear, substantial, and unreasonable risk of death or personal injury to Plaintiff Puleo, other occupants in his Class Vehicles, and others on the road.

325. Plaintiff Puleo received the Recall Repair on his Class Vehicles from Toyota on September 15 and September 17, 2020. Toyota did not offer a free follow-up inspection of the replacement pumps or an extended warranty for the parts.

326. Plaintiff Puleo did not receive the benefit of his bargain. He leased vehicles of a lesser standard, grade, and quality than represented, and he did not receive vehicles that met ordinary and reasonable consumer expectations regarding safe and reliable operation. The Fuel Pump Defect has significantly diminished the value of Plaintiff Puleo's Class Vehicles. Plaintiff Puleo's and all other Class Vehicles are stigmatized as a result of being equipped with the Fuel Pump Defect and the publicity of the Recall.

327. Had Toyota disclosed the Fuel Pump Defect, Plaintiff Puleo would not have leased his Class Vehicles, or would have paid less to do so.

328. Plaintiff Puleo would lease a Toyota from Toyota in the future if Defendants' representations about the vehicle, including its safety and durability, were accurate.

L. North Carolina

a. Betty Dendy

329. Plaintiff Betty Dendy is a citizen of the State of North Carolina and resides in Asheville, North Carolina.

330. Plaintiff Dendy leases a 2019 Toyota Highlander which she leased new from Bryan Easler Toyota in Hendersonville, North Carolina on August 3, 2019. Plaintiff Dendy's Toyota is a Recalled Vehicle and is equipped with a defective Denso low-pressure fuel pump.

331. Prior to purchasing her Class Vehicle, Plaintiff Dendy viewed Toyota's promotional materials, such as Toyota's website, TV ads, and window sticker, and interacted with at least one sales representative all without Toyota disclosing the Fuel Pump Defect.

332. Through her exposure to Toyota's advertisements, promotional materials and other public statements, Plaintiff Dendy was aware of Toyota's uniform and pervasive marketing message that its vehicles are safe and dependable, which was material to her decision to purchase his Class Vehicle. When she leased the vehicle, she believed, based on Toyota's uniform and pervasive marketing message, that she would be in a safe and dependable vehicle, one that is safer than a vehicle that is not marketed as safe and dependable. At no point before Plaintiff Dendy leased her vehicle did Toyota disclose to her that her vehicle was not safe or dependable, or that it was equipped with a defective Fuel Pump.

333. Plaintiff Dendy's Toyota suffered from the Fuel Pump Defect because the impeller in her vehicle's fuel pump started absorbing fuel and deforming the moment it was exposed to gasoline.

334. The Fuel Pump Defect creates a dangerous condition that gives rise to a clear, substantial, and unreasonable risk of death or personal injury to Plaintiff Dendy, other occupants in her Class Vehicle, and others on the road.

335. Plaintiff Dendy, after learning of the Recall, sought a remedy through Toyota's informal dispute process. She also made repeated requests for a repair and inquiries as to when the issue would be remedied to both her dealer and Toyota Customer Service. Eventually Toyota denied that Plaintiff Dendy was entitled to recourse via email on June 6, 2020, from Toyota Representative Jose Vazquez. Mr. Vazquez stated in his letter, "Reviewed the documentation sent to us; and, your claim is based on the fact [sic.] vehicle is subject to open recall. According to the service history, there are not warranty related concerns noted at this time."

336. Plaintiff Dendy was not initially provided with a loaner from her dealer and only received one after making repeated requests and by stating that she felt unsafe in the Class Vehicle.

337. Plaintiff Dendy received the Recall Repair from Toyota on or about June 30, 2020. Toyota did not offer a free follow-up inspection of the replacement pump or an extended warranty for the part.

338. Plaintiff Dendy did not receive the benefit of her bargain. She purchased a vehicle of a lesser standard, grade, and quality than represented, and she did not receive a vehicle that met ordinary and reasonable consumer expectations regarding safe and reliable operation. The Fuel Pump Defect has significantly diminished the intrinsic and resale value of Plaintiff Dendy's Class

Vehicle. Plaintiff Dendy's and all other Class Vehicles are stigmatized as a result of being equipped with the Fuel Pump Defect and the publicity of the Recall.

339. Had Toyota disclosed the Fuel Pump Defect, Plaintiff Dendy would not have leased her Class Vehicle, or would have paid less to do so.

340. Plaintiff Dendy would purchase a Toyota from Toyota in the future if Defendants' representations about the vehicle, including its safety and durability, were accurate.

b. Elizabeth Persak

341. Plaintiff Elizabeth Persak is a citizen of the State of North Carolina and resides in Raleigh, North Carolina.

342. Plaintiff Persak leased a new 2019 Toyota Highlander from Fred Anderson Toyota in Raleigh, North Carolina, in December 2018. Plaintiff Persak's Highlander is a Recalled Vehicle equipped with a defective Denso low-pressure fuel pump.

343. Prior to leasing her Highlander, Plaintiff Persak reviewed Toyota's promotional materials, the Monroney sticker, and sales brochures, and interacted with at least one sales representative without Toyota disclosing the Fuel Pump Defect.

344. Through her exposure to Toyota's advertisements, promotional materials and Toyota's other public statements, Plaintiff Persak was aware of Toyota's uniform and pervasive marketing message that its vehicles are safe and dependable, which was material to her decision to purchase her Class Vehicle. When she leased the vehicle, she believed, based on Toyota's uniform and pervasive marketing message, that she would be in a safe and dependable vehicle, one that is safer than a vehicle that is not marketed as safe and dependable. At no point before Plaintiff Persak leased her vehicle did Toyota disclose to her that her vehicle was not safe or dependable, or that it was equipped with a defective Fuel Pump.

345. Plaintiff Persak's Highlander suffered from the Fuel Pump Defect because the impeller in her vehicle's fuel pump started absorbing fuel and deforming the moment it was exposed to gasoline.

346. The Fuel Pump Defect creates a dangerous condition that gives rise to a clear, substantial, and unreasonable danger of death or personal injury to Plaintiff Persak, other occupants in her Class Vehicle, and others on the road. At no time did Toyota inform Plaintiff Persak of the seriousness of the Fuel Pump Defect or recommend that she discontinue use of her vehicle until there is a repair or a replacement fuel pump.

347. Plaintiff Persak purchased her Class Vehicle with the Fuel Pump Defect as part of a transaction in which Toyota did not disclose material facts related to the automobile's essential purpose – safe and dependable transportation. Plaintiff Persak did not receive the benefit of her bargain. She purchased a vehicle that is of a lesser standard, grade, and quality than represented, and she did not receive a vehicle that met ordinary and reasonable consumer expectations regarding safe and reliable operation. The Fuel Pump Defect has significantly diminished the value of Plaintiffs Persak's Class Vehicle.

348. On February 26, 2020, Plaintiff Persak brought in her Highlander to her dealer pursuant to the Recall, but they did not have the parts to perform the Recall Repair. Plaintiff Persak then had to wait five months for them to "fix" the Class Vehicle, even as she was continuing to pay \$380 a month on lease payments.

349. Plaintiff Persak received the Recall Repair from Toyota on or about June 30, 2020. Toyota did not offer a free follow-up inspection of the replacement pump or an extended warranty for the part.

350. Had Toyota disclosed the Fuel Pump Defect, Plaintiffs Persak would not have leased her Class Vehicle, or would have paid less to do so.

351. Plaintiff Persak would lease a Toyota from Toyota in the future if Defendants' representations about the vehicle, including its safety and durability, were accurate.

H. Ohio

352. Plaintiff Kristi Rock is a citizen of Ohio and resides in Springboro, Ohio.

353. Plaintiff Rock owns a 2018 Lexus RX350 which she purchased used with approximately 4,000 miles on it from Lexus of Dayton in Dayton, Ohio on January 21, 2020. Plaintiff Rock's Lexus is a Recalled Vehicle and is equipped with a defective Denso Fuel Pump.

354. Prior to purchasing her Lexus, Plaintiff Rock reviewed Toyota's promotional materials, interacted with at least one sales representative, and test drove her vehicle all without Toyota disclosing the Fuel Pump Defect.

355. Through her exposure to Toyota's advertisements, promotional materials and other public statements, Plaintiff Rock was aware of Toyota's uniform and pervasive marketing message that its vehicles are safe and dependable, which was material to her decision to purchase her Class Vehicle. When Plaintiff Rock purchased the vehicle, she believed, based on Toyota's uniform and pervasive marketing message, that she would be in a safe and dependable vehicle, one that is safer than a vehicle that is not marketed as safe and dependable. At no point before Plaintiff Rock purchased her vehicle did Toyota disclose to her that her vehicle was not safe or dependable, or that it was equipped with a defective Fuel Pump.

356. Plaintiff Rock purchased her Class Vehicle because Lexus of Dayton expressly represented her vehicle was not included in the Recall, and they certified it. Nevertheless, Plaintiff Rock subsequently learned from Lexus customer service that her vehicle was subject to the Recall

issued in early January 2020. Plaintiff Rock has repeatedly reported the discrepancy to Lexus of Dayton, as well as present her vehicle for repair, but they failed to take corrective action.

357. Plaintiff Rock's Lexus suffered from the Fuel Pump Defect because the impeller in her vehicle's fuel pump started absorbing fuel and deforming the moment it was exposed to gasoline.

358. The Fuel Pump Defect creates a dangerous condition that gives rise to a clear, substantial, and unreasonable risk of death or personal injury to Plaintiff Rock, other occupants in her Class Vehicle, and others on the road.

359. Plaintiff Rock was contacted by Toyota via phone regarding the Recall.

360. Plaintiff Rock received the Recall Repair from Toyota during the week of June 22, 2020. Toyota did not offer a free follow-up inspection of the replacement pump or an extended warranty for the part.

361. Plaintiff Rock did not receive the benefit of her bargain. She purchased a vehicle of a lesser standard, grade, and quality than represented, and she did not receive a vehicle that met ordinary and reasonable consumer expectations regarding safe and reliable operation. The Fuel Pump Defect has significantly diminished the intrinsic and resale value of Plaintiff Rock's Class Vehicle. Plaintiff Rock's and all other Class Vehicles are stigmatized as a result of being equipped with the Fuel Pump Defect and the publicity of the Recall.

362. Had Toyota disclosed the Fuel Pump Defect, Plaintiff Rock would not have purchased her Class Vehicle, or would have paid less to do so.

363. Plaintiff Rock would purchase a Lexus from Toyota in the future if Defendants' representations about the vehicle, including its safety and durability, were accurate.

M. Pennsylvania

a. **Plaintiff Jennifer Chalal**

364. Plaintiff Chalal is a citizen of Pennsylvania and resides in Wynnewood, Pennsylvania.

365. Plaintiff Chalal leased a 2019 Lexus RX350L which she leased new from Wilkie Lexus in Haverford, Pennsylvania on January 21, 2019. Plaintiff Chalal's Lexus is a Recalled Vehicle and is equipped with a defective Denso Fuel Pump.

366. Through her exposure to Toyota's advertisements, promotional materials and other public statements, Plaintiff Chalal was aware of Toyota's uniform and pervasive marketing message that its vehicles are safe and dependable, which was material to her decision to purchase her Class Vehicle. When she leased the vehicle, she believed, based on Toyota's uniform and pervasive marketing message, that she would be in a safe and dependable vehicle, one that is safer than a vehicle that is not marketed as safe and dependable. At no point before Plaintiff Chalal leased her vehicle did Toyota disclose to her that her vehicle was not safe or dependable, or that it was equipped with a defective Fuel Pump.

367. Plaintiff Chalal's Lexus suffered from the Fuel Pump Defect because the impeller in her vehicle's fuel pump started absorbing fuel and deforming the moment it was exposed to gasoline.

368. The Fuel Pump Defect creates a dangerous condition that gives rise to a clear, substantial, and unreasonable risk of death or personal injury to Plaintiff Chalal, other occupants in her Class Vehicle, and others on the road.

369. Plaintiff Chalal received the Recall Repair from Toyota on September 9, 2020. Toyota did not offer a free follow-up inspection of the replacement pump or an extended warranty

for the part. Plaintiff Chalal returned her vehicle to the dealership at the conclusion of her lease in January 2022.

370. Plaintiff Chalal did not receive the benefit of her bargain. She leased a vehicle of a lesser standard, grade, and quality than represented, and she did not receive a vehicle that met ordinary and reasonable consumer expectations regarding safe and reliable operation. The Fuel Pump Defect has significantly diminished the value of Plaintiff Chalal's Class Vehicle. Plaintiff Chalal's and all other Class Vehicles are stigmatized as a result of being equipped with the Fuel Pump Defect and the publicity of the Recall.

371. Had Toyota disclosed the Fuel Pump Defect, Plaintiff Chalal would not have leased her Class Vehicle, or would have paid less to do so.

372. Plaintiff Chalal would purchase or lease a Lexus from Toyota in the future if Defendants' representations about the vehicle, including its safety and durability, were accurate.

b. Plaintiff John Torrance

373. Plaintiff Torrance is a citizen of Pennsylvania and resides in Honsdale, Pennsylvania.

374. Plaintiff Torrance owns a 2019 Toyota Highlander which he purchased new from Toyota of Scranton, Pennsylvania on November 23, 2018. Plaintiff Torrance's Highlander is a Recalled Vehicle and is equipped with a defective Denso Fuel Pump.

375. Prior to purchasing his Class Vehicle, Plaintiff Torrance viewed Toyota's promotional materials, such as Toyota's website, TV ads, and window sticker, and interacted with at least one sales representative all without Toyota disclosing the Fuel Pump Defect.

376. Through his exposure to Toyota's advertisements, promotional materials and other public statements, Plaintiff Torrance was aware of Toyota's uniform and pervasive marketing

message that its vehicles are safe and dependable, which was material to his decision to purchase his Class Vehicle. When he purchased the vehicle, he believed, based on Toyota's uniform and pervasive marketing message, that he would be in a safe and dependable vehicle, one that is safer than a vehicle that is not marketed as safe and dependable. At no point before Plaintiff Torrance purchased his vehicle did Toyota disclose to him that his vehicle was not safe or dependable, or that it was equipped with a defective Fuel Pump.

377. Plaintiff Torrance's Toyota suffered from the Fuel Pump Defect because the impeller in his vehicle's fuel pump started absorbing fuel and deforming the moment it was exposed to gasoline.

378. Plaintiff Torrance experienced a stall while entering an intersection in June of 2019 with roughly 25,000 miles on his Toyota Highlander. Plaintiff Torrance reported the incident to Toyota of Scranton in February after learning of the Recall and was provided a loaner vehicle that was of substantially lesser quality than the Highlander he purchased.

379. Plaintiff Torrance received the Recall Repair from Toyota on or about July 10, 2020. Toyota did not offer a free follow-up inspection of the replacement pump or an extended warranty for the part.

380. The Fuel Pump Defect creates a dangerous condition that gives rise to a clear, substantial, and unreasonable risk of death or personal injury to Plaintiff Torrance, other occupants in his Class Vehicle, and others on the road.

381. Plaintiff Torrance did not receive the benefit of his bargain. He purchased a vehicle of a lesser standard, grade, and quality than represented, and he did not receive a vehicle that met ordinary and reasonable consumer expectations regarding safe and reliable operation. The Fuel Pump Defect has significantly diminished the intrinsic and resale value of Plaintiff Torrance's

Class Vehicle. Plaintiff Torrance's and all other Class Vehicles are stigmatized as a result of being equipped with the Fuel Pump Defect and the publicity of the Recall.

382. Had Toyota disclosed the Fuel Pump Defect, Plaintiff Torrance would not have purchased his Class Vehicle, or would have paid less to do so.

383. Plaintiff Torrance would purchase from Toyota in the future if Defendants' representations about the vehicle, including its safety and durability, were accurate.

c. Plaintiff Lenard Shoemaker

384. Plaintiff Lenard Shoemaker is a citizen of the State of Pennsylvania and resides in Scranton, Pennsylvania.

385. Plaintiff Shoemaker owns a 2018 Toyota Tundra which he purchased new from Toyota of Scranton in Scranton, Pennsylvania in June 2018. Plaintiff Shoemaker's Toyota Tundra is a Recalled Vehicle and is equipped with a defective Denso low-pressure fuel pump.

386. Prior to purchasing his Toyota, Plaintiff Shoemaker reviewed Toyota's promotional materials, including TV advertisements and the window sticker, and interacted with at least one sales representative all without Toyota disclosing the Fuel Pump Defect.

387. Through his exposure to Toyota's advertisements, promotional materials and other public statements, Plaintiff Shoemaker was aware of Toyota's uniform and pervasive marketing message that its vehicles are safe and dependable, which was material to his decision to purchase his Class Vehicle. When he purchased the vehicle, he believed, based on Toyota's uniform and pervasive marketing message, that he would be in a safe and dependable vehicle, one that is safer than a vehicle that is not marketed as safe and dependable. At no point before Plaintiff Shoemaker purchased his vehicle did Toyota disclose to him that his vehicle was not safe or dependable, or that it was equipped with a defective Fuel Pump.

388. Plaintiff Shoemaker's Toyota suffered from the Fuel Pump Defect because the impeller in his vehicle's fuel pump started absorbing fuel and deforming the moment it was exposed to gasoline.

389. The Fuel Pump Defect creates a dangerous condition that gives rise to a clear, substantial, and unreasonable risk of death or personal injury to Plaintiff Shoemaker, other occupants in his Class Vehicle, and others on the road.

390. Plaintiff Shoemaker received the Recall Repair from Toyota in mid-July 2020. Toyota did not offer a free follow-up inspection of the replacement pump or an extended warranty for the part.

391. Plaintiff Shoemaker did not receive the benefit of his bargain. He purchased a vehicle of a lesser standard, grade, and quality than represented, and he did not receive a vehicle that met ordinary and reasonable consumer expectations regarding safe and reliable operation. The Fuel Pump Defect has significantly diminished the intrinsic and resale value of Plaintiff Shoemaker's Class Vehicle. Plaintiff Shoemaker's and all other Class Vehicles are stigmatized as a result of being equipped with the Fuel Pump Defect and the publicity of the Recall.

392. Had Toyota disclosed the Fuel Pump Defect, Plaintiff Shoemaker would not have purchased his Class Vehicle, or would have paid less to do so.

393. Plaintiff Shoemaker would purchase a Toyota from Toyota in the future if Defendants' representations about the vehicle, including its safety and durability, were accurate.

N. Texas

a. Plaintiff Michael Mitchell

394. Plaintiff Michael Mitchell is a citizen of the State of Texas and resides in Prosper, Texas.

395. Plaintiff Mitchell owns a 2018 Lexus RX350 which he purchased used from Carvana on November 22, 2019 with the Manufacturer's Warranty still effective. At the time of purchase, Mr. Mitchell also reviewed a CARFAX report which indicated no issues with the vehicle. Plaintiff Mitchell's Lexus is a Recalled Vehicle and is equipped with a defective Denso low-pressure fuel pump.

396. Prior to purchasing his Lexus, Plaintiff Mitchell reviewed Toyota's promotional materials, such as Toyota's website, without Toyota disclosing the Fuel Pump Defect.

397. Through his exposure to Toyota's advertisements, promotional materials, and other public statements, Plaintiff Mitchell was aware of Toyota's uniform and pervasive marketing message that its vehicles are safe and dependable, which was material to his decision to purchase his Class Vehicle. When he purchased the vehicle, he believed, based on Toyota's uniform and pervasive marketing message, that he would be in a safe and dependable vehicle, one that is safer than a vehicle that is not marketed as safe and dependable. At no point before Plaintiff Mitchell purchased his vehicle did Toyota disclose to him that his vehicle was not safe or dependable, or that it was equipped with a defective Fuel Pump.

398. Plaintiff Mitchell received notice of the Recall in March and was never contacted by Lexus to obtain a loaner. Plaintiff Mitchell, understanding that the Recalled Vehicle presented a substantial safety risk, began driving his 2003 Lexus with nearly 200,000 miles as an alternative to his newly purchased Lexus.

399. Plaintiff Mitchell's Lexus suffered from the Fuel Pump Defect because the impeller in his vehicle's fuel pump started absorbing fuel and deforming the moment it was exposed to gasoline.

400. The Fuel Pump Defect creates a dangerous condition that gives rise to a clear, substantial, and unreasonable risk of death or personal injury to Plaintiff Mitchell, other occupants in his Class Vehicle, and others on the road.

401. Plaintiff Mitchell obtained the Recall Repair from Toyota on or about July 9, 2020. Toyota did not offer a free follow-up inspection of the replacement pump or an extended warranty for the part.

402. Plaintiff Mitchell did not receive the benefit of his bargain. He purchased a vehicle of a lesser standard, grade, and quality than represented, and he did not receive a vehicle that met ordinary and reasonable consumer expectations regarding safe and reliable operation. The Fuel Pump Defect has significantly diminished the intrinsic and resale value of Plaintiff Mitchell's Class Vehicle. Plaintiff Mitchell's and all other Class Vehicles are stigmatized as a result of being equipped with the Fuel Pump Defect and the publicity of the Recall.

403. Had Toyota disclosed the Fuel Pump Defect, Plaintiff Mitchell would not have purchased his Class Vehicle, or would have paid less to do so.

404. Plaintiff Mitchell would purchase a Lexus from Toyota in the future if Defendants' representations about the vehicle, including its safety and durability, were accurate.

b. Plaintiff Robert Skelton

405. Plaintiff Robert Skelton is a citizen of the State of Texas and resides in San Antonio, Texas.

406. Plaintiff Skelton owns a 2018 Toyota Camry which he purchased new from Red McCombs Toyota in San Antonio, Texas, in December 2018. Plaintiff Skelton's Toyota Camry is a Recalled Vehicle and is equipped with a defective Denso low-pressure fuel pump.

407. Prior to purchasing his Toyota, Plaintiff Skelton reviewed Toyota's promotional materials, including TV advertisements and the window sticker, and interacted with at least one sales representative all without Toyota disclosing the Fuel Pump Defect.

408. Through his exposure to Toyota's advertisements, promotional materials and other public statements, Plaintiff Skelton was aware of Toyota's uniform and pervasive marketing message that its vehicles are safe and dependable, which was material to his decision to purchase his Class Vehicle. When he purchased the vehicle, he believed, based on Toyota's uniform and pervasive marketing message, that he would be in a safe and dependable vehicle, one that is safer than a vehicle that is not marketed as safe and dependable. At no point before Plaintiff Skelton purchased his Vehicle did Toyota disclose to him that his Vehicle was not safe or dependable, or that it was equipped with a defective Fuel Pump.

409. Plaintiff Skelton's Toyota suffered from the Fuel Pump Defect because the impeller in his vehicle's fuel pump started absorbing fuel and deforming the moment it was exposed to gasoline.

410. The Fuel Pump Defect creates a dangerous condition that gives rise to a clear, substantial, and unreasonable risk of death or personal injury to Plaintiff Skelton, other occupants in his Class Vehicle, and others on the road.

411. Plaintiff Skelton received the Recall Repair from Toyota on or about July 3, 2020. Toyota did not offer a free follow-up inspection of the replacement pump or an extended warranty for the part.

412. Plaintiff Skelton did not receive the benefit of his bargain. He purchased a vehicle of a lesser standard, grade, and quality than represented, and he did not receive a vehicle that met ordinary and reasonable consumer expectations regarding safe and reliable operation. The Fuel

Pump Defect has significantly diminished the intrinsic and resale value of Plaintiff Skelton's Class Vehicle. Plaintiff Skelton's and all other Class Vehicles are stigmatized as a result of being equipped with the Fuel Pump Defect and the publicity of the Recall.

413. Had Toyota disclosed the Fuel Pump Defect, Plaintiff Skelton would not have purchased his Class Vehicle, or would have paid less to do so.

414. Plaintiff Skelton would purchase a Toyota from Toyota in the future if Defendants' representations about the vehicle, including its safety and durability, were accurate.

O. Utah

415. Plaintiff Jeffrey Jones is a citizen of Utah and resides in Farmington, Utah.

416. Plaintiff Jones purchased a new 2019 Toyota Tacoma from Toyota Bountiful in Bountiful, Utah on December 12, 2018. Plaintiff Jones' Toyota is a Recalled Vehicle equipped with a defective Denso low-pressure fuel pump.

417. Prior to purchasing his Tacoma, Plaintiff Jones reviewed Toyota's promotional materials and interacted with at least one sales representative all without Toyota disclosing the Fuel Pump Defect.

418. Through his exposure to Toyota's advertisements, promotional materials and other public statements, Plaintiff Jones was aware of Toyota's uniform and pervasive marketing message that its vehicles are safe and dependable, which was material to his decision to purchase his Class Vehicle. When he purchased the vehicle, he believed, based on Toyota's uniform and pervasive marketing message, that he would be in a safe and dependable vehicle, one that is safer than a vehicle that is not marketed as safe and dependable. At no point before Plaintiff Jones purchased his vehicle did Toyota disclose to him that his vehicle was not safe or dependable, or that it was equipped with a defective Fuel Pump.

419. Plaintiff Jones' Toyota suffered from the Fuel Pump Defect because the impeller in his vehicle's fuel pump started absorbing fuel and deforming the moment it was exposed to gasoline.

420. The Fuel Pump Defect creates a dangerous condition that gives rise to a clear, substantial, and unreasonable risk of death or personal injury to Plaintiff Jones, other occupants in his Class Vehicle, and others on the road. Plaintiff Jones experienced intermittent hesitation and stalling with his vehicle prior to receiving the Recall notice.

421. Plaintiff Jones learned of the Recall when he received the recall notice via mail in May 2020, at which point he contacted Bountiful Toyota. Bountiful Toyota told him that they had no remedy for the Fuel Pump Defect but offered him a free loaner until repair. Plaintiff Jones was provided a loaner of inferior grade and quality than his own vehicle.

422. Plaintiff Jones received the Recall Repair from Toyota or about October 2020. Toyota did not offer a free follow-up inspection of the replacement pump or an extended warranty for the part.

423. Plaintiff Jones did not receive the benefit of his bargain. He purchased a vehicle of a lesser standard, grade, and quality than represented, and he did not receive a vehicle that met ordinary and reasonable consumer expectations regarding safe and reliable operation. The Fuel Pump Defect has significantly diminished the intrinsic and resale value of Plaintiff Jones' Class Vehicle. Plaintiff Jones' and all other Class Vehicles are stigmatized as a result of being equipped with the Fuel Pump Defect and the publicity of the Recall.

424. Had Toyota disclosed the Fuel Pump Defect, Plaintiff Jones would not have purchased his Class Vehicle, or would have paid less to do so.

425. Plaintiff Jones would purchase a Vehicle from Toyota in the future if Defendants' representations about the vehicle, including its safety and durability, were accurate.

P. Virginia

a. Plaintiff Isabel Marques

426. Plaintiff Isabel Marques is a citizen of the State of Virginia and resides in Chantilly, Virginia.

427. Plaintiff Marques purchased a new 2019 Toyota Corolla XSE from Koons Tysons Toyota in Tyson's Corner, Virginia, in June 2018. Plaintiff Marques' Corolla is a Recalled Vehicle equipped with a defective Denso low-pressure fuel pump.

428. Prior to purchasing her Vehicle, Plaintiff Marques reviewed Toyota's promotional materials, the Monroney sticker, and sales brochures, and interacted with at least one sales representative without Toyota disclosing the Fuel Pump Defect.

429. Through her exposure to Toyota's advertisements, promotional materials and Toyota's other public statements, Plaintiff Marques was aware of Toyota's uniform and pervasive marketing message that its vehicles are safe and dependable, which was material to her decision to purchase her Class Vehicle. When she purchased the vehicle, she believed, based on Toyota's uniform and pervasive marketing message, that she would be in a safe and dependable vehicle, one that is safer than a vehicle that is not marketed as safe and dependable. At no point before Plaintiff Marques purchased her vehicle did Toyota disclose to her that her vehicle was not safe or dependable, or that it was equipped with a defective Fuel Pump.

430. Plaintiff Marques's Class Vehicle suffered from the Fuel Pump Defect because the impeller in her vehicle's fuel pump started absorbing fuel and deforming the moment it was exposed to gasoline.

431. The Fuel Pump Defect creates a dangerous condition that gives rise to a clear, substantial, and unreasonable danger of death or personal injury to Plaintiff Marques, other occupants in her Class Vehicle, and others on the road. At no time did Toyota inform Plaintiff Marques of the seriousness of the Fuel Pump Defect or recommend that she discontinue use of her vehicle until there is a repair or a replacement fuel pump.

432. Plaintiff Marques purchased her Class Vehicle with the Fuel Pump Defect as part of a transaction in which Toyota did not disclose material facts related to the automobile's essential purpose – safe and dependable transportation. Plaintiff Marques did not receive the benefit of her bargain. She purchased a vehicle that is of a lesser standard, grade, and quality than represented, and she did not receive a vehicle that met ordinary and reasonable consumer expectations regarding safe and reliable operation. The Fuel Pump Defect has significantly diminished the value of Plaintiffs Marques's Class Vehicle.

433. Plaintiff Marques received the Recall Repair from Toyota on August 10, 2020. Toyota did not offer a free follow-up inspection of the replacement pump or an extended warranty for the part.

434. Had Toyota disclosed the Fuel Pump Defect, Plaintiffs Marques would not have purchased her Class Vehicle, or would have paid less for it.

435. Plaintiff Marques would purchase a Toyota from Toyota in the future if Defendants' representations about the vehicle, including its safety and durability, were accurate.

b. Plaintiff Payam Rastegar

436. Plaintiff Payam Rastegar is a citizen of the State of Virginia and resides in Springfield, Virginia.

437. Plaintiff Rastegar owns a 2019 Toyota Camry XSE which he purchased new from Toyota Priority in Springfield, Virginia in December 2018. Plaintiff Rastegar's Toyota Camry is a Recalled Vehicle and is equipped with a defective Denso low-pressure fuel pump.

438. Prior to purchasing his Toyota, Plaintiff Rastegar reviewed Toyota's promotional materials, including TV advertisements and the window sticker, and interacted with at least one sales representative all without Toyota disclosing the Fuel Pump Defect.

439. Through his exposure to Toyota's advertisements, promotional materials and other public statements, Plaintiff Rastegar was aware of Toyota's uniform and pervasive marketing message that its vehicles are safe and dependable, which was material to his decision to purchase his Class Vehicle. When he purchased the vehicle, he believed, based on Toyota's uniform and pervasive marketing message, that he would be in a safe and dependable vehicle, one that is safer than a vehicle that is not marketed as safe and dependable. At no point before Plaintiff Rastegar purchased his vehicle did Toyota disclose to him that his vehicle was not safe or dependable, or that it was equipped with a defective Fuel Pump.

440. Plaintiff Rastegar's Toyota suffered from the Fuel Pump Defect because the impeller in his vehicle's fuel pump started absorbing fuel and deforming the moment it was exposed to gasoline.

441. The Fuel Pump Defect creates a dangerous condition that gives rise to a clear, substantial, and unreasonable risk of death or personal injury to Plaintiff Rastegar, other occupants in his Class Vehicle, and others on the road.

442. In late 2021, Plaintiff Rastegar received the notice of a recall, and brought his vehicle in soon thereafter. Toyota did not offer a free follow-up inspection of the replacement pump or an extended warranty for the part.

443. Plaintiff Rastegar did not receive the benefit of his bargain. He purchased a vehicle of a lesser standard, grade, and quality than represented, and he did not receive a vehicle that met ordinary and reasonable consumer expectations regarding safe and reliable operation. The Fuel Pump Defect has significantly diminished the intrinsic and resale value of Plaintiff Rastegar's Class Vehicle. Plaintiff Rastegar's and all other Class Vehicles are stigmatized as a result of being equipped with the Fuel Pump Defect and the publicity of the Recall.

444. Had Toyota disclosed the Fuel Pump Defect, Plaintiff Rastegar would not have purchased his Class Vehicle, or would have paid less to do so.

445. Plaintiff Rastegar would purchase a Toyota from Toyota in the future if Defendants' representations about the vehicle, including its safety and durability, were accurate.

c. Plaintiff Syed Abdul Nafay

446. Plaintiff Syed Nafay is a citizen of the State of Virginia and resides in Sterling, Virginia.

447. Plaintiff Nafay owns a 2019 Toyota Camry XSE which he purchased new from Koons Tyson Toyota in Tyson's Corner, Virginia, in April 2019. Plaintiff Nafay's Toyota Camry is a Recalled Vehicle and is equipped with a defective Denso low-pressure fuel pump.

448. Prior to purchasing his Toyota, Plaintiff Nafay reviewed Toyota's promotional materials, including TV advertisements and the window sticker, and interacted with at least one sales representative all without Toyota disclosing the Fuel Pump Defect.

449. Through his exposure to Toyota's advertisements, promotional materials and other public statements, Plaintiff Nafay was aware of Toyota's uniform and pervasive marketing message that its vehicles are safe and dependable, which was material to his decision to purchase his Class Vehicle. When he purchased the vehicle, he believed, based on Toyota's uniform and

pervasive marketing message, that he would be in a safe and dependable vehicle, one that is safer than a vehicle that is not marketed as safe and dependable. At no point before Plaintiff Nafay purchased his vehicle did Toyota disclose to him that his vehicle was not safe or dependable, or that it was equipped with a defective Fuel Pump.

450. Plaintiff Nafay's Toyota suffered from the Fuel Pump Defect because the impeller in his vehicle's fuel pump started absorbing fuel and deforming the moment it was exposed to gasoline.

451. The Fuel Pump Defect creates a dangerous condition that gives rise to a clear, substantial, and unreasonable risk of death or personal injury to Plaintiff Nafay, other occupants in his Class Vehicle, and others on the road.

452. Plaintiff Nafay's Toyota has a defective Denso low-pressure Fuel Pump but was not part of Toyota's first two recalls. On December 17, 2021, Plaintiff Nafay received a recall notice, and brought in his vehicle soon thereafter. Toyota did not offer a free follow-up inspection of the replacement pump or an extended warranty for the part.

453. Although Plaintiff Nafay's 2019 Toyota Camry is one of the Toyota models recalled in Toyota's Third Recall in November 2020, he has not received notification of it. In fact, in mid-November 2020, he visited his Toyota dealership to obtain replacement tires, and inquired as to whether his vehicle was subject to any recalls, and he was informed that it was not

454. Plaintiff Nafay did not receive the benefit of his bargain. He purchased a vehicle of a lesser standard, grade, and quality than represented, and he did not receive a vehicle that met ordinary and reasonable consumer expectations regarding safe and reliable operation. The Fuel Pump Defect has significantly diminished the intrinsic and resale value of Plaintiff Nafay's Class

Vehicle. Plaintiff Nafay's and all other Class Vehicles are stigmatized as a result of being equipped with the Fuel Pump Defect and the publicity of the Recall.

455. Had Toyota disclosed the Fuel Pump Defect, Plaintiff Nafay would not have purchased his Class Vehicle, or would have paid less to do so.

456. Plaintiff Nafay would purchase a Toyota from Toyota in the future if Defendants' representations about the vehicle, including its safety and durability, were accurate.

DEFENDANTS

A. Toyota Motor Corporation

457. Defendant Toyota Motor Corporation ("TMC") is a Japanese corporation located at 1 Toyota-Cho, Toyota City, Aichi Prefecture, 471-8571, Japan. TMC is the parent corporation of TMNA. TMC has substantial control over TMNA, and TMNA acts for the benefit of TMC.

458. At all relevant times, TMC acted in the United States by itself and through TMNA and its other various entities, including in New York. TMC, itself and through TMNA and its other various entities, is in the business of designing, engineering, testing, validating, manufacturing, marketing, and selling Toyota and Lexus branded vehicle throughout the United States, including within New York.

B. Toyota Motor North America, Inc.

459. Defendant Toyota Motor North America, Inc. ("TMNA") is incorporated in California, with its primary address at 6565 Headquarters Dr., Plano, Texas 75024. TMNA is a holding company of sales, manufacturing, engineering, and research and development subsidiaries of Toyota Motor Corporation located in the United States. TMNA is in the business of designing, engineering, testing, validating, manufacturing, marketing, and selling Toyota and Lexus branded vehicles throughout the United States, including within New York.

460. TMNA is the corporate parent of all relevant Toyota entities, including but not limited to Toyota Motor Manufacturing, Kentucky, Inc.; Toyota Motor Manufacturing, Indiana, Inc.; Toyota Motor Manufacturing Canada Inc.; Toyota Motor Manufacturing Mississippi Inc.; Toyota Motor Manufacturing, Texas, Inc.; Toyota Motor Manufacturing de Baja California; Toyota Financial Services; Toyota Motor Sales, U.S.A., Inc.; Toyota Motor Engineering & Manufacturing North America, Inc.; and Toyota Motor Credit Corporation.

461. TMNA is registered to do business in New York and, according to its website, operates an office in New York.

C. Lexus

462. Lexus is a wholly owned brand and/or division of Toyota. Toyota employs engineering, legal, compliance, and regulatory personnel to make decisions regarding the subject Lexus vehicles. These employees, on behalf of TMC and TMNA, ultimately made or ratified the decisions that allowed the subject Lexus vehicles to be fraudulently designed, manufactured, marketed, and sold.

D. Denso International America, Inc.

463. Denso International America, Inc. (“DIAM”) is incorporated in Delaware and has its principal place of business at 2477 Denso Drive Southfield, Michigan 48033. DIAM is a holding company of sales, manufacturing, engineering, and research and development subsidiaries of Denso Corporation located in the United States. DIAM is in the business of designing, engineering, testing, validating, manufacturing, and selling, among other things, fuel pumps throughout the United States, including within New York.

464. DIAM is Denso Corp.'s "North American regional headquarters and parent company for its North American operations, including design and production engineering, technical support, sales and finance."³⁸

465. DIAM is the corporate parent of all relevant entities, including but not limited to Denso Manufacturing Kentucky, LLC.

E. Non-Party Denso Corporation

466. Non-Party Denso Corporation ("Denso Corp.") is a Japanese corporation located at 1-1, Showa-cho, Karlya, Alchi 448-9661, Japan. Denso Corp. is the parent company of DIAM.

467. DIAM is a wholly owned subsidiary of Denso Corp. DIAM acts for benefit and at the discretion of Denso Corp.

468. Denso Corp., itself and through DIAM and its other various subsidiaries and agents, designed, engineered, tested, and validated the Fuel Pump that is equipped in Toyota vehicles sold/leased in the United States, including in Plaintiffs' states.

FACTUAL ALLEGATIONS

469. Toyota is the world's second largest manufacturer of automotive vehicles and sells its vehicles across the United States through a network of over 1,200 dealers, including those in Plaintiffs' states.

470. Toyota also designs, manufacturers, markets and sells its Lexus branded vehicles across the United States, including in Plaintiffs' states.

³⁸ <https://www.denso.com/us-ca/en/about-us/company-information/us/diam/> (last visited August 31, 2022).

471. In 2021, Toyota sold over 2.3 million Toyota and Lexus branded vehicles in the U.S.³⁹

472. Toyota has branded itself as the maker of safe and dependable vehicles and has spent millions, if not billions, of dollars on extensive marketing and advertising campaigns to cement the association of safety, reliability and durability with its Toyota and Lexus brand automobiles, including the Class Vehicles.

473. Denso is the world's second largest Tier1 Original Equipment Manufacturer ("OEM"), producing parts and products for Toyota and other manufacturers. According to its website, Denso recorded nearly \$44.6 billion in consolidated net sales in 2021.⁴⁰

474. The Defendants collectively designed, engineered, tested, validated, manufactured and placed in the stream of commerce the Class Vehicles equipped with the defective Fuel Pumps, thereby subjecting Plaintiffs and Class Members to an unreasonable risk of death or injury, and damaging Plaintiffs and Class Members as further detailed below.

A. THE OPERATION OF CLASS VEHICLES' LOW-PRESSURE FUEL PUMP

475. All Class Vehicles suffer from the Fuel Pump Defect.

476. All Class Vehicles are equipped with the same or substantially similar defective Fuel Pump.

477. Fuel Pumps serve a critical role in the function of combustion engines. In simple terms, the fuel pump lifts gasoline out of the fuel tank and sends it to the high-pressure fuel pump,

³⁹ <https://pressroom.toyota.com/toyota-motor-north-america-reports-u-s-december-year-end-2021-sales/> (last visited August 15, 2022).

⁴⁰ <https://www.denso.com/global/en/news/newsroom/2021/20210428-g01/> (last visited August 15, 2022).

which sends the fuel to the fuel injectors and into the engine where it is ignited in the cylinder, driving the pistons and creating propulsion.

478. The Fuel Pump assembly – also called the Fuel Pump module – is mounted inside the fuel tank. The Fuel Pump module consists of a fuel intake strainer at one end and a fuel output line at the other. At the heart of the Fuel Pump module is an electric motor with a plastic composite impeller attached to a rotating shaft. The impeller is a rotating component equipped with – vanes or blades – that, when spun, create negative pressure which lifts the gasoline out of the fuel tank and sends it to the engine. Protruding from the side of the Fuel Pump assembly is a fuel level float and a fuel level sender. Figure One illustrates the parts of a generic fuel pump assembly.

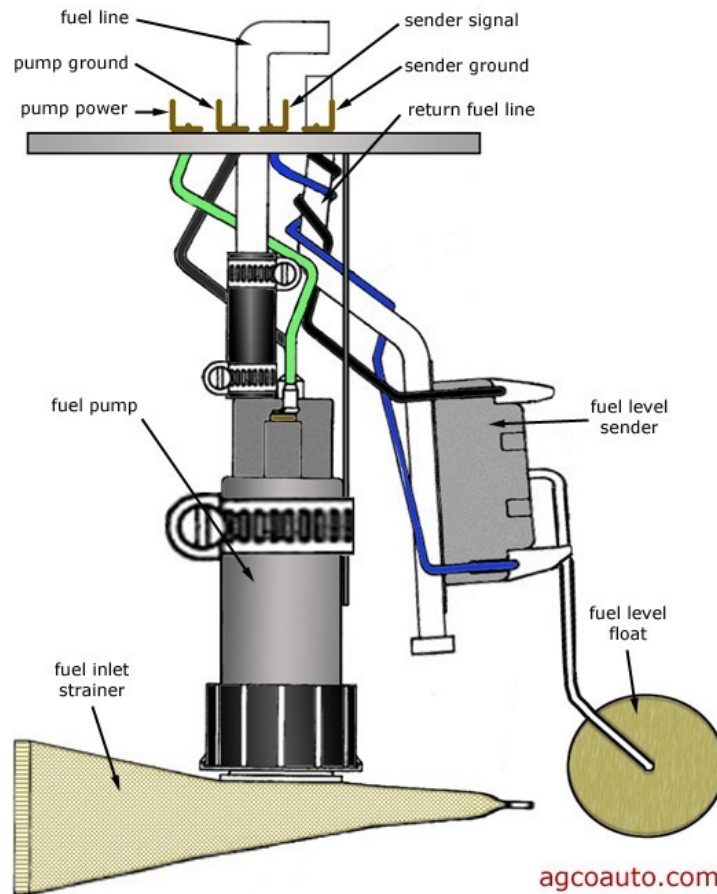
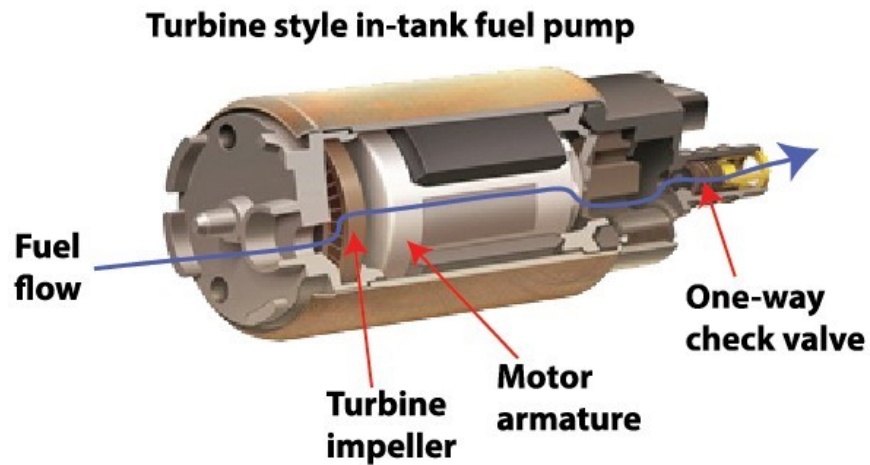


Figure 1 Fuel Pump Assembly Diagram.⁴¹

479. As the electric motor rotates, the impeller spins generating negative pressure. The negative pressure pulls fuel into the pump housing where it passes through the electric motor assembly and exits through the output, into the fuel line and forward to the fuel filter. After exiting the fuel filter, the fuel flow is accelerated via a high-pressure pump which delivers pressurized fuel to injectors mounted in the engine. Figure Two illustrates this sequence. Figure Three shows the components of an exemplar Class Vehicle Fuel Pump evaluated by Plaintiffs' counsel's independent automotive engineering expert consultant ("Automotive Expert").

⁴¹ http://www.agcoauto.com/content/news/p2_articleid/195 (last visited January 30, 2020).



*Figure 2 Fuel Pump Sequence.*⁴²



Figure 3 Exemplar Class Vehicle Fuel Pump

480. At all times, by design, the Fuel Pump assembly and all its components are exposed to gasoline within the tank, as Figure Four demonstrates. Fuel pumps are designed to survive the harsh environment for at least 200,000 miles.⁴³

⁴² <https://www.autoplusdubai.net/blog/fuel-pumps-common-causes-and-how-to-identify-it/> (last visited January 30, 2020).

⁴³ <https://www.autoblog.com/2015/11/24/how-long-does-a-fuel-pump-usually-last/> (last visited April 10, 2020).

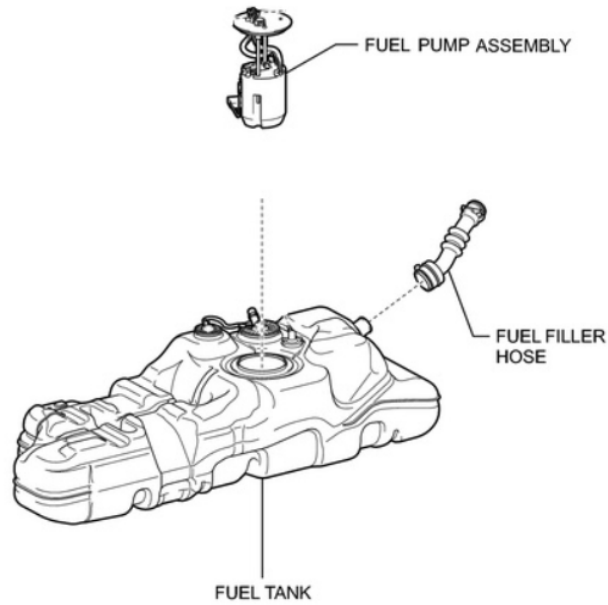


Figure 4

481. The Fuel Pump Defect, and the Recalls, cover approximately thirteen different Toyota part numbers, each of which are substantially similar. Importantly, the different part numbers can be placed into one of three different design categories: regular design, short design, and brushless design. Figure 5, below, identifies each Toyota part number and its respective design category.

Regular design	Short design	Brushless design
23220 31430	23220 0T201	23221 31130
23220 0P180	23220 0C301	23220 0P240
23220 0S011		23220 31600
23220 38041		
23221 36030		
23220 38050		
23220 50271		
23220 38030		

Figure 5

482. The impellers used in each Fuel Pump are substantially similar, however, with only minor variances in diameter (1.295” – 1.324”), thickness (0.148” – 0.157”), turbine blade count (37 – 41), and curvature. The impellers can be identified with an individual QR code labeled on the edge.

B. THE CLASS VEHICLES ARE EQUIPPED WITH A DEFECTIVE FUEL PUMP

483. As described herein, the Class Vehicles’ Fuel Pumps suffer from a defect causing them to prematurely fail. Engines operate within a narrow and precisely calibrated air/fuel mixture range, which means they are very sensitive to fuel pressure and delivery requirements. Partial, intermittent, or complete fuel pump failure disturbs the calculated precision and results in engine stalling or hesitancy.

484. Based on Toyota’s and Denso’s admissions, and the findings of Plaintiffs’ counsel’s Automotive Expert, the failure is caused by a defectively designed plastic impeller or defects in materials or workmanship.

485. The Defendants’ collective goal in designing and manufacturing a fuel pump must be to create one that operates safely and dependably for the life of the vehicle. According to the analysis of the Automotive Expert and as confirmed by Toyota and Denso’s admissions in their Recall Reports, the Fuel Pump assembly in the Class Vehicles was underdesigned and improperly manufactured.

486. As Defendants admit, the subject “fuel pumps contain an impeller that could deform due to excessive fuel absorption.”⁴⁴ The Denso Fuel Pump impeller’s material is unsuitable for

⁴⁴ Exhibits A-F.

its environment due to its excessive fuel absorption propensity, which causes swelling and premature and unexpected Fuel Pump failure.



Figure 6 Class Vehicle Exemplar Impeller.⁴⁵

487. Plaintiffs' Automotive Expert inspected over 100 of the Fuel Pumps. His findings show the Denso impeller uses an unsuitable material for its intended use. The impeller's material has an inferior long-term dimensional stability (it deforms, swells, and changes shape), resulting in premature and unexpected failure due to component distortion and the resultant swelling induced friction.

488. Plaintiffs' Automotive Expert's research further indicates that the defective impellers with lower material density also exhibit high surface porosity. Such a highly porous surface is more likely to absorb fuel, which in turn causes the impeller to swell and deform. High surface porosity also leads to crack initiation and crack propagation due to microscopic porous features forming stress risers and the disruption of uniform stress distribution over the surface of

⁴⁵ Figure 6 captures an impeller from an exemplar Class Vehicle Fuel Pump.

the impeller. In other words, the highly porous defective impellers are more likely to swell, deform, and crack.

489. The findings of Plaintiffs' Automotive Expert are confirmed by Toyota's and Denso's November 2020 NHTSA filings which report that resin density (resin is one of the materials in the impeller) was found to be closely correlated with the Fuel Pump Defect, and that the Fuel Pumps had a lower minimum surface strength than previously estimated. These findings contributed to Toyota's recalling of more than 1.5 million additional Class Vehicles to the Recall in November 2020.

490. The Denso impeller's material has inadequate heat resistance, potentially resulting in dimensional distortion and loss of structural integrity when exposed to high temperatures or repeated temperature cycling (i.e., the intended and repeated temperature changes of operation).

491. The impeller's material is also highly porous, which may lead not only to absorption of gasoline, but also the absorption of fuel contaminants that may become lodged in the impeller's pores, also leading to Fuel Pump failure.

492. Plastics absorb liquids, typically. However, the degree of absorption varies depending on the type of plastic and its environmental conditions. When plastic absorbs liquid, such as gasoline, the plastic's intended dimensions change. Therefore, manufacturers like Toyota and Denso must adequately design and validate plastic materials exposed to fuel to ensure that they remain dimensionally stable.⁴⁶ Here, Toyota and Denso clearly failed to do that with respect to the Fuel Pumps in the Class Vehicles.

⁴⁶ See generally <https://www.ensingerplastics.com/en-us/shapes/plastic-material-selection/dimensionally-stable> (last visited August 15, 2022).

493. Compounding the problem, the Fuel Pumps in the Class Vehicles are repurposed from earlier model year vehicles featuring an older fuel system with different flow and duty cycle properties. When the repurposed Fuel Pump runs on lower voltage amounts than intended, the pump may overheat and reach higher than desired temperatures for extended periods of time, thus excessively stressing and prematurely aging the already marginally durable impeller causing it to deform, swell, and/or crack under thermal stress.

494. Toyota initially hypothesized that heat, production solvents, production drying time, gasoline formulas and contaminants may have contributed to Fuel Pump Defect, but the DIR and Second DIR indicate Toyota reached inconclusive results. After additional analysis, in their November 4, 2020 NHTSA filings, Toyota and Denso both reported findings that the low density of the resin in the Fuel Pumps more closely correlated with failed Fuel Pumps recovered from the field.

495. Initially, Toyota also hypothesized that lower surface strength of the impeller contributes to the Fuel Pump Defect, and, in November 2020, further reported that the surface strength of the impeller could be lower than previously estimated. But lower surface strength is an obvious and expected correlation to the low-density material – resin – of the impeller rather than a separate issue. Notably, it is typical and expected for a low-density material to exhibit lower surface strength when compared to a higher density material. It is also expected that low density materials would have higher porosity and absorption propensity compared to higher density materials.

496. Toyota admitted Denso's impeller was poorly designed to the point that it cannot remain dimensionally stable under its intended conditions. Specifically, Toyota admitted in the

DIR and the Second DIR that Denso's impeller deformation "may interfere with the fuel pump body" causing it to fail and become inoperable.⁴⁷

497. The Fuel Pump Defect manifests from the moment the Fuel Pump is installed in the fuel tank and submerged in gasoline. Once exposed to gasoline, the impeller begins to absorb gasoline and begins to deform.

498. The Defendants did not use and specify material in the design of the Fuel Pump and/or impeller with the necessary robustness to operate safely under normal operating conditions.

499. At the time Defendants designed, engineered, tested, validated, manufactured, and placed in the stream of commerce the Fuel Pump, they were aware of, and had access to, reasonable alternative materials and designs. Such materials and designs would mitigate or eliminate the Fuel Pump Defect.

500. For example, Defendants could have mitigated or eliminated the Fuel Pump Defect by using different designs and/or materials where:

- a. The impeller was not fuel permeable in intended and foreseeable operating conditions;
- b. The impeller would not deform when exposed to operating temperatures under intended and foreseeable purposes;
- c. The impeller would not prematurely age under intended and foreseeable purposes; and
- d. The Fuel Pump would not overheat under intended and foreseeable purposes.

⁴⁷ Exhibits A-F.

501. Nevertheless, Defendants designed, engineered, tested, validated, manufactured, and placed in the stream of commerce Class Vehicles with the Fuel Pump Defect that elevates the risk of injury or death for Plaintiffs, Class Members, and others.

C. THE FUEL PUMP DEFECT REDUCES ENGINE POWER, CAUSES VEHICLE STALLING, AND CAN LEAVE THE CLASS VEHICLES COMPLETELY INOPERABLE COMPROMISING CONSUMER SAFETY

502. The Fuel Pump Defect in the Class Vehicles exposes occupants and others to extreme danger, even death. Toyota and Denso confirmed this in their Recall Reports, in which they admitted that the Fuel Pump Defect can “increas[e] the risk of a crash”.⁴⁸

503. The Fuel Pump is an integral component of safe vehicle operation. But as described herein, the Class Vehicles suffer from a defect that causes the Fuel Pump to prematurely fail and malfunction. As Toyota admitted in the Recall Report and the DIRs, the deformed impeller comes in contact with the Fuel Pump body, creating excess running resistance, causing “illumination of check engine and master warning indicators, rough engine running, engine no start and/or vehicle stall” Denso admitted – as Toyota did – that the Fuel Pump Defect creates a serious risk for consumer safety:

If an impeller deforms to a point that creates sufficient interference with the fuel pump body, *the fuel pump becomes inoperative*. According to vehicle manufacturer’s system evaluation, an inoperative fuel pump may result in the illumination of the check engine light and/or master warning indicators, *rough engine running, engine no start and/or vehicle stall while driving at low speed*, and, in rare instances, *a vehicle could stall could occur while driving at higher speeds, increasing the risk of a crash*. (Emphasis added).⁴⁹

⁴⁸ *Id.*

⁴⁹ Exhibits B, E and F.

504. Toyota and Denso essentially admit the Class Vehicles are rendered dangerous by the Fuel Pump Defect.

505. As shown below, Defendants knew and failed to disclose this serious potential harm to Class Members, and instead made false and misleading statements about the safety and dependability of the Class Vehicles during the Class Period.

506. As stated above, Toyota monitors consumer complaints that are posted on NHTSA's website as part of its ongoing obligation to uncover and report potential safety-related defects. Accordingly, Toyota knew or should have known of the many complaints lodged with NHTSA and elsewhere about the specific safety hazards that are the subject of the Recalls.

507. Class Members' complaints set forth below exemplify the real-world dangers caused by the Fuel Pump Defect. This group of complaints is a representative sample and does not represent all of the complaints made about the Fuel Pump Defect.

508. On August 9, 2019, the owner of a 2019 Toyota Highlander filed the following complaint with NHTSA:

2019 Highlander XLE loses power, unable to accelerate, & jerks and stalls in traffic. Bought at 200 miles, certified preowned. It is a nightmare vehicle.

Accelerator has been touchy and jumpy at times, intermittently at slow speeds. First time it stalled it started to lose power put -put and chug like jerking and all dash and electrical on dash went out, unable to accelerate, then stalled out in road, unable to steer or control vehicle. This occurrence was after a longer period of driving. Second time it stalled out began to lose power, putter and chug, unable to accelerate applying gas pedal, getting no gas, vehicle dies out, unable to steer or control vehicle. This occurrence was after a longer period of driving. Third time was yesterday 8-8-19. Left work and about 5-7 minutes into my drive, started hesitating, losing all dash and electrical power and will not accelerate when gas pedal applied, then stalls out, unable to control the steering wheel again! ***Almost got hit this time, man behind me coming fast and had to swerve into lane over to miss me. This car is going to kill me or someone by causing an accident if they do not get it fixed right.***

After the second stall it was towed into dealership and they were not sure but said fuel pressure was reading 22 and was supposed to be in the mid to high 50's. They replaced the fuel pump and it drove ok for a little while but I noticed the average fuel mileage going down from an approx in city 19.1--20 to 17.1-17.3. Has never been so low so obviously the stalling and the replacing of the fuel pump are not the real issue. Fuel economy going down since replacement of the fuel pump and now another dangerous stalling issue. Car is at Toyota dealer now. They need to dive much deeper & resolve this very dangerous safety issue! ***I bought this car to feel safe and have reliable transportation and have neither. It really scares me.***⁵⁰

509. On March 11, 2019, the owner of a 2018 Toyota Camry filed the following complaint with NHTSA:

Lag and hesitation when going to full throttle on the gas pedal. It hesitates for a second and then finally grabs on to accelerate. ***It has done this since I purchased it but was hoping it would work itself out eventually, but this hasn't happened.*** Toyota did a TSB software update for the 4 cylinder but not the v6.⁵¹

510. On February 9, 2019, the owner of a 2018 Toyota Camry filed the following complaint with NHTSA:

I have had constant problems with my 2018 Camry since purchasing May 2018. ***My car is always jerking as I accelerate and when I'm driving in town, feels like I'm getting rear-ended and hesitating on highway when I have to accelerate into traffic which is very dangerous when the car won't get up and go.*** I have had it to the dealer several times. They reset the computer because it can save settings from previous drivers. That didn't help. They told me that it's a different transmission and it takes few seconds for the computer to communicate back to transmission. This is a very unsafe feature.⁵²

511. On September 11, 2019, the owner of a 2019 Toyota Highlander filed the following complaint with NHTSA:

⁵⁰ NHTSA Complaint ID No. 11242822. (Emphasis added.)

⁵¹ NHTSA Complaint ID. No. 11185947 (emphasis added).

⁵² NHTSA Complaint ID No. 11175845. (Emphasis added.)

Severe hesitation when gas is applied, especially when crossing heavy traffic and instant power/quick acceleration needed. Also noted when going around corners, after car has slowed down below 5 mph to make the corner. Gas is applied with hesitation. Noted more when car is at a complete stand still/moving at slow speed then gas applied to move forward. *Car does not move/react instantly.* I notice this problem on a weekly (at least) basis.⁵³

512. On September 11, 2019, the owner of a 2019 Toyota Highlander filed the following complaint with NHTSA:

2019 Highlander XLE jerks and stalls, then loses power. This occurred on a newly purchased vehicle that has approximately 13k miles on it, in stop and go traffic on a sub-urban street. *No check engine light or other alert came on, providing no indication to the driver of the issue.* Was able to restart the vehicle and drive it to the dealership. *They said it was a fuel pressure issue, and are replacing the fuel pump - a part that usually lasts more than 200,000 miles.* I have no idea whether this is a fuel pump issue, or a fuel regulation issue, and if those functions are both performed by the fuel pump. The dealer did not seem to be aware of the issue, and there are no related recalls for this issue. They did find one other instance of this occurring when they researched it. I'd like to know for certain whether this is a fuel pump issue, or a fuel regulation issue. *This presented a very dangerous situation, and I was lucky to be able to get off the road.*⁵⁴

513. On October 17, 2019, the owner of a 2019 Toyota Highlander filed the following complaint with NHTSA:

The contact leases a 2019 Toyota Highlander. *While driving, the engine stalled without warning and the steering wheel seized. The contact coasted the vehicle over to the side of the road* and powered off the engine. The vehicle was restarted and was able to drive normally; however, *the failure recurred twice.* The vehicle was taken to page Toyota (21262 Telegraph Rd, Southfield, MI 48033, (248) 352-8580) where it was diagnosed, but the technician could not find a failure code. The vehicle was not repaired. The manufacturer was made aware of the failure and provided case

⁵³ NHTSA Complaint ID No. 11254633. (Emphasis added.)

⁵⁴ NHTSA Complaint ID No. 11254630. (Emphasis added.)

number: 1910282286. The failure mileage was approximately 4,000.⁵⁵

514. On October 20, 2019, the owner of a 2019 Highlander filed the following complaint with NHTSA:

Stopped at a stop light and when it turned green pushed on the gas pedal. ***The entire car jerked and didn't have any power to go through the intersection.*** The RPM gage began jumping as the car rolled. ***I rolled on through the intersection, was almost hit.*** Had no steering ability. Lights and alarms began going off. Message board said traction control turned off. Then check engine. Then visit dealer. ***Then the car died at the edge of the intersection and we pushed it off the highway*** onto a county road. It will not start at all. Acts like it isn't getting any gas. ***This is the 3 incident with this car doing this. We have towed it twice to the dealership.*** They replaced a valve in the engine. They said it was stuck. Apparently that wasn't what is wrong with it. ***Glad this wasn't on the interstate. We could have been killed.***⁵⁶

515. On November 22, 2019, the owner of a 2018 Camry filed the following complaint with NHTSA:

When driving the vehicle, the transmission does not appear to know what gear to be in and is always searching. So much so that ***it will lunge at times when all you are trying to do is accelerate.*** When slowing down and then slowly applying gas again, nothing happens for a good 10 seconds and then ***it surges and causes my head to slam into the back of the head rest.*** Also while idling the vehicle is decently loud, more so when defroster is engaged. At freeway speeds it tends to do better, but most issues appear to be in city day to day driving from the transmission/ or fuel system.⁵⁷

516. On March 5, 2020, the owner of a 2014 Toyota FJ Cruiser filed the following complaint with NHTSA:

The contact owns a 2014 Toyota FJ Cruiser. The contact stated that while coming to a stop and pulling into a drive thru, ***the vehicle stalled*** while the check engine warning light illuminated

⁵⁵ NHTSA Complaint ID No. 11277376. (Emphasis added.)

⁵⁶ NHTSA Complaint ID No. 11269776. (Emphasis added.)

⁵⁷ NHTSA Complaint ID No. 11282087. (Emphasis added.)

intermittently. The contact was able to restart the vehicle. ***The failure recurred multiple times.***⁵⁸

517. On March 25, 2017, the owner of a 2014 Lexus GS350 filed the following complaint with NHTSA:

While driving at approximately 40 mph, ***I experienced an engine stall.*** This caused difficulty in steering and braking ***resulting in an accident.***⁵⁹

518. On March 5, 2020, the owner of a 2018 Toyota Sienna filed the following complaint with NHTSA:

The contact owns a 2018 Toyota Sienna. The contact stated that after coming to a complete stop, ***the vehicle hesitated without warning as the accelerator pedal was depressed.*** Upon investigation, the contact discovered NHTSA campaign number: 20v012000 (fuel system, gasoline) however, the parts to do the repair were unavailable. The contact stated that the manufacturer exceeded a reasonable amount of time for the recall repair.⁶⁰

519. On January 15, 2020, the owner of a 2019 Toyota Sienna filed the following complaint with NHTSA:

Pulled out into oncoming traffic and vehicle hesitated and would not accelerate. Dash lights came on and car stalled. Attempted to crank van and it restarted but would ***barely move with the accelerator pressed fully.*** ***Had to call a tow truck to have it delivered to the dealer.*** I called Toyota road side assistance number and 2.5 later no one showed up. Called again and demanded a different tow company respond and 30 minutes later someone was at the scene. This episode started 230 pm and van was picked up 637pm.⁶¹

⁵⁸ NHTSA Complaint ID No. 11316305. (Emphasis added).

⁵⁹ NHTSA Complaint ID No. 10968914. (Emphasis added).

⁶⁰ NHTSA Complaint ID No. 11316449. (Emphasis added).

⁶¹ NHTSA Complaint ID No. 11299633. (Emphasis added).

520. On November 8, 2019, the owner of a 2019 Toyota Sienna filed the following complaint with NHTSA:

I pulled onto a highway and reaching about 25 mph the 2019 sienna hesitated for at least 10 seconds as if it was not getting gas. I pressed the gas wanting to get out of the way of traffic and it jumped slightly but would not go. Then it kicked in with a few hesitations and took off. Another 100' or so, it did it again. Prior to this i had already brought it to toyota complaining that there is a hesitation when the van is not warmed up yet between 20-40 mph. It is only slight, but noticeable and feels like it is not getting gas. *The van does this every time after it has been sitting long enough to cool down.* The long hesitation only happened twice so far (dangerous enough!), there have been a few shorter ones, and then there is the every time slight hesitation. Toyota has told me nothing shows in their diagnostics and they do not know what is wrong. They tried cutting the power to the computer to reset the memory, but this did not change anything.⁶²

521. On March 7, 2020, the owner of a 2019 Toyota Avalon filed the following complaint with NHTSA:

My car mostly parked in the garage. *Latelty, it's getting worse and noticing engine running rough, stall at speed about 20 mph* and humming from under rear of the car hours after it's shut off.⁶³

522. On January 17, 2020, the owner of a 2018 Toyota Tacoma filed the following complaint with NHTSA:

When slowing down before making a left turn across traffic, *after the vehicle comes to a crawl or stop and then I accelerate to turn left across traffic, the engine hesitates for 1 to 2 seconds before accelerating.* I took my 2018 Toyota Tacoma to my dealer and they were able to replicate the problem. A re-set or upgrade to the computer has not fixed the problem.⁶⁴

⁶² NHTSA Complaint ID No. 11278845. (Emphasis added).

⁶³ NHTSA Complaint ID No. 11316755. (Emphasis added).

⁶⁴ NHTSA Complaint ID No. 11300086. (Emphasis added).

523. On November 5, 2018, the owner of a 2018 Lexus IS300 filed the following complaint with NHTSA:

When I accelerate from a stop or while moving on a roadway, *the engine seems to stall*. I'm not talking about the normal turbo spooling stall. *It lasts for about 3 to 5 full seconds*..⁶⁵

524. On March 17, 2020, the lessee of a 2019 Lexus RX350 filed the following complaint with NHTSA:

While driving on a city street the warning lights came on and the car stalled. I was alone in the car and in downtown city traffic with honking cars behind me. I was able to restart the car after a few attempts. *A few days after this incident, while driving on a very busy hwy at 55mph the car engine was skipping as if about to stall*. I had a passenger in my car who experienced this rough ride and made a comment about it. *A few days later, on march 8,2020, I received an email from Lexus Enform services with a vehicle health report informing me that my vehicle requires attention due to a safety recall 20la01*. When I leased my vehicle, I was never informed of this recall which goes back to 01/13/2020. *Safety is a top concern for me and I fully communicated this to the salesperson when i leased my car but i was not informed of this recall at that time*. I have exactly 2800 miles on my car. *I am not able to use it because the service department at lexus does not have a remedy available to fix the low -pressure fuel pump and they do not know when they will have it*. I want to drive a vehicle that is safe not one that increases the risk of having a crash..⁶⁶

525. On July 17, 2018, the owner of a 2017 Lexus RX350 filed the following complaint with NHTSA:

Hesitation upon acceleration. The engine does not respond in a linear manner when pressing the gas pedal..⁶⁷

⁶⁵ NHTSA Complaint ID No. 11149541. (Emphasis added).

⁶⁶ NHTSA Complaint ID No. 11318534. (Emphasis added).

⁶⁷ NHTSA Complaint ID No. 11150133. (Emphasis added).

526. On January 3, 2017, the owner of a 2015 Lexus LS460 filed the following complaint with NHTSA:

*Fuel system shuts down while driving at highway speeds band new car with 7,623 miles. Had to have the entire low end fuel pump system replaced. Issue still ongoing. Car will not start now.*⁶⁸

527. The above complaints represent a mere sampling of the voluminous complaints Class Members filed with NHTSA.

528. Consumers also filed additional complaints about the Fuel Pump Defect on other websites that Toyota monitored, or should have been monitoring.

529. For example, on carcomplaints.com, a popular site that collects complaints lodged by drivers,⁶⁹ an owner of a 2018 Toyota Camry stated:

The response time of accelerating and the car moving is significant at irregular intervals. *This is hazardous when I am planning to overtake* because it takes longer than expected.⁷⁰

530. On carcomplaints.com, an owner of a 2018 Toyota Camry stated:

When driving my vehicle I get a stalled response when pressing on the gas and *then it jerks forward. This can be very dangerous when driving on the streets* because there is a lot if stop and go movements. It usually happens when I come to a complete stop at a stop light or stop sign, even when stopping to turn down a street. I'm not sure why the vehicle does this, I just bought it so it should still be in very good shape. *I'm reporting this because it can be a potential hazard for a car crash.* Please have Toyota fix this problem in their 2018 Toyota Camry se..⁷¹

⁶⁸ NHTSA Complaint ID No. 10939537. (Emphasis added).

⁶⁹ The excerpts are true and correct copies of the original complaints published on carcomplaints.com.

⁷⁰ http://m.carcomplaints.com/Toyota/Camry/2018/fuel_system/fuel_propulsion_system.shtml (August 15, 2022). (Emphasis added.)

⁷¹ <http://m.carcomplaints.com/Toyota/Camry/2018/engine/engine.shtml> (last visited August 15, 2022). (Emphasis added.)

531. As demonstrated above, Class Vehicles suffer from a uniform defect that causes the Fuel Pump to malfunction and fail prematurely. Compounding the issue, drivers often are not protected from these safety risks by a warning prior to Fuel Pump failure.

532. The Fuel Pump Defect causes vehicles to become dangerous to operate or inoperable while on the road and therefore they are not fit for their ordinary and intended purpose.

D. DEFENDANTS KNEW ABOUT THE FUEL PUMP DEFECT, BUT CONTINUED TO MANUFACTURE, MARKET, AND SELL CLASS VEHICLES

533. Toyota knew or should have known about the Fuel Pump Defect, but it concealed or failed to disclose the defect and continued to manufacture, market, and sell its popular Class Vehicles – including nearly 3.4 million model year 2013-2019 Toyota and Lexus Recalled Vehicles – equipped with the defective Denso Fuel Pumps. Specifically, Toyota knew or should have known that the defective Fuel Pumps in the Class Vehicles exposed Class Members to extreme danger and, to render them safe, the Class Vehicles needed new or enhanced fuel pumps that functioned safely, dependably, and as intended. Nonetheless, Toyota failed to take corrective action.

534. In fact, Toyota knew or should have known about the Fuel Pump Defect since the pre-release process of designing, manufacturing, engineering, and testing the Class Vehicles. During these phases, Toyota would have gained comprehensive and exclusive knowledge about the Fuel Pumps, particularly the basic engineering principles behind the construction and function of the Fuel Pumps such as their impellers' susceptibility to fuel absorption and deformation. However, Toyota failed to act on that knowledge and instead installed the defective Fuel Pumps in the Class Vehicles, and subsequently marketed and sold the vehicles to unsuspecting consumers without disclosing the safety risk or warning Class Members.

535. Moreover, Toyota knew about the Fuel Pump Defect based on the large number of claims for Fuel Pump Defect repair and replacement that it admits to receiving. Specifically, as set forth in the Toyota's DIRs, Toyota identified at least 9,498 warranty claims associated with the Fuel Pump Defect in the Recalled Vehicles.⁷²

536. Further, as for set forth above, from its required monitoring of the NHTSA databases, Toyota knew or should have known of the many Fuel Pump Defect complaints lodged by Class Members, such as those quoted in Section C above. However, Toyota failed to act on that knowledge by warning Class Members.

537. Finally, Toyota knew about the Fuel Pump Defect through its own investigation. In its DIRs, Toyota admitted to conducting no fewer than 250 field investigations as part of which it generated Field Technical Reports.⁷³

538. Despite Toyota's extensive knowledge of the Fuel Pump Defect, Toyota failed to act on that knowledge by warning Class Members. Toyota instead chose to enrich itself by using false and misleading marketing to sell the Class Vehicles as safe and durable at inflated prices without disclosing the Fuel Pump Defect.

539. Plaintiffs and other Class Members were damaged by Toyota's failure to disclose the Fuel Pump Defect, and had Toyota disclosed it, they would not have purchased or leased their Class Vehicles equipped with the Fuel Pump, or certainly would have paid less to do so.

540. Like Toyota, Denso knew of the Fuel Pump Defect since long before it recalled its defective Fuel Pumps on April 27, 2020.

⁷² See Exhibits B, C, and N.

⁷³ See Exhibits B, C, and N.

541. Denso knew about the Fuel Pump Defect since well before 2016, when it filed a patent application with the United States Patent and Trademark Office to change the chemical composition of its impeller for greater resistance to swelling. As Denso stated in the application:

The housing includes an inner wall defining a pump chamber into which a fuel flows. The impeller is made of resin and housed in the housing. The impeller is positioned such that a clearance having a specified dimension is secured between the inner wall and the impeller. ***The impeller may be swelled due to the fuel and water contained in the fuel, therefore a rotation of the impeller may be stopped when the impeller is swelled and comes in contact with the housing.*** Thus, the dimension of the clearance is set to prevent the impeller from coming in contact with the housing. However, when the dimension of the clearance is too large, an abnormality, e.g., an increase of an output loss of the fuel pump or an increase of a power consumption of the fuel pump, may occur because the fuel leaks through the clearance. ***Therefore, it is required to find a resin material to suppress a dimensional change of the impeller, which is mounted to the fuel pump, due to the fuel and the water contained in the fuel. The dimensional change will be referred to as a swelling amount hereinafter.***⁷⁴

542. Denso's knowledge of the Fuel Pump Defect reasonably predates the filing of the patent application because Denso must have discovered the need for improved impeller material well before it filed the patent. Specifically, Denso must have learned of the Fuel Pump Defect since the original design, engineering, testing, and validation of the Fuel Pump and impeller, or at least during continued product improvement, testing, and validation of the Fuel Pump and impeller.

543. Because Denso and Toyota together designed, engineered, tested, validated, and manufactured the defective Fuel Pump, either Toyota knew what Denso knew about the Fuel Pump Defect, or, alternatively, Denso had exclusive knowledge and information about the Fuel Pump

⁷⁴ U.S. Patent Application No. 15767375, *Impeller for Fuel Pump*, (application date Oct. 26, 2016) (Denso Corporation, et al. applicants), available at <https://patentscope.wipo.int/search/en/detail.jsf?docId=US231859533> (last visited April 19, 2020).

Defect that it did not disclose to Toyota. Denso did not disclose its knowledge and information about the Fuel Pump Defect to the public at any time before its April 2020 Recall, three months after Toyota's initial January 2020 Recall. Denso, which is 25% owned by Toyota, therefore must have known about Toyota's concerns leading up to the January 2020 Recall for some substantial period of time prior to the announcement of the January 2020 Recall.

544. Denso actively concealed the Fuel Pump Defect. Denso long knew of the Fuel Pump Defect, but it intentionally failed disclosed it to Class Members. The Fuel Pump Defect is a serious safety defect that places Plaintiffs and Class members at an increased risk for injury or death, as Denso admitted.⁷⁵ Class members did not know of the Fuel Pump Defect, and they could not have discovered it through reasonable diligence. Denso could have, but failed to, disclose the Fuel Pump Defect to Plaintiffs and the Class members by publishing it on its website, issuing a press release, or issuing an equipment recall, like it ultimately did.

545. Plaintiffs and other Class Members were damaged by Denso's failure to disclose the Fuel Pump Defect, and had Denso disclosed it, they would not have purchased their Class Vehicles equipped with the Fuel Pump, or certainly would have paid less to do so.

E. DEFENDANTS CONTINUOUSLY TOUTED CLASS VEHICLES AS SAFE AND DEPENDABLE, CONCEALING THE FUEL PUMP DEFECT

546. Toyota's overarching marketing message for the Class Vehicles was that the Class Vehicles are safe and dependable and that their engines can be relied on to perform well. This marketing message is false and misleading given the propensity of the Fuel Pumps in the Class Vehicles to fail, causing the vehicles' engines to run rough, stall, and become inoperable, which Toyota admits increases the risk of a crash.

⁷⁵ Exhibits E and F.

547. In late 2010, after suffering public embarrassment over widespread unintended acceleration claims, Toyota's top executives "decided to revamp its marketing message and shift the focus to safety in a big way."⁷⁶ As detailed in an article in Advertising Age titled, "Toyota to Push Safety in Upcoming Ad Blitz":

Toyota Motor Sales U.S.A.'s overall sales fell 34% in August and are down 1% for the year -- it's the only major manufacturer with a decline for 2010. Executives admit that consumers have doubts about the safety and quality of Toyota vehicles, so the automaker is planning an advertising blitz to counter that perception.

For years, Toyota's brand message has been based on quality, durability and reliability, with a dash of value thrown in at the tagline. But with both Toyota loyalists and possible converts now skeptical of that message, the automaker is putting safety first.

"What we're dealing with is a perception issue, and brand perceptions are not brand realities," said Bob Carter, Toyota Division general manager. "If a customer has removed us from their consideration list, it was because of a perception of Toyota safety."

...

Mr. Carter said the safety theme will continue in Toyota's brand advertising until consumer attitudes change.

...

Said Mr. Fay [the Toyota Marketing VP in charge of the campaign] of the coming ad campaign: "We need to make an emotional connection with people who own or are considering our product. We need to address the concerns of the customer, based on what we've been through this year."

...

⁷⁶ Mark Rehtin, "Toyota to Push Safety in Upcoming Ad Blitz," September 6, 2010, AdvertisingAge. Available at <http://adage.com/article/news/advertising-toyota-push-safety-upcoming-ad-blitz/145729/> (last visited August 15, 2022), referencing statement made by top Toyota executives to Automotive News.

“This is not a short-term thing where we run an execution or two,” Mr. Fay said. “We still have QDR. We just have to assure customers that’s the case.”⁷⁷

548. In furtherance of its safety centric campaign, Toyota produced a video commercial with a voiceover that stated: “Everyone deserves to be safe. That’s why every Toyota now comes with the Star Safety System, standard. ... We always think of safety, even in the concept design of our vehicles ... we know there’s nothing more important to you than your safety.”⁷⁸

549. Additionally, in January 2011, Toyota added a page to its website called “Toyota Safety” which highlighted Toyota’s array of safety features. A video imbedded in this page featured the following text, “Everyone deserves to be safe. Which is why Toyota is doing even more to enhance our cars’ safety and technology.”⁷⁹ Toyota also boasted, “[a]t Toyota, we’re currently investing one million dollars an hour to enhance the safety and technology of our vehicles.”⁸⁰

550. Toyota’s 2010 message of safety first continues through present day.

551. Toyota is one of the ten biggest advertising spenders in the United States,⁸¹ and much of that advertising budget goes toward promoting its brands as safe and dependable.

552. Through its marketing efforts, Toyota induced potential customers to purchase or lease the Class Vehicles by stating, among other things:

Let’s Go Places, Safely.

⁷⁷ *Id.*

⁷⁸ https://www.youtube.com/watch?v=a_vaFypz8xk (last visited August 15, 2022).

⁷⁹ <https://web.archive.org/web/20110103143210/>; <https://www.toyota.com:80/safety/> (last visited August 15, 2022).

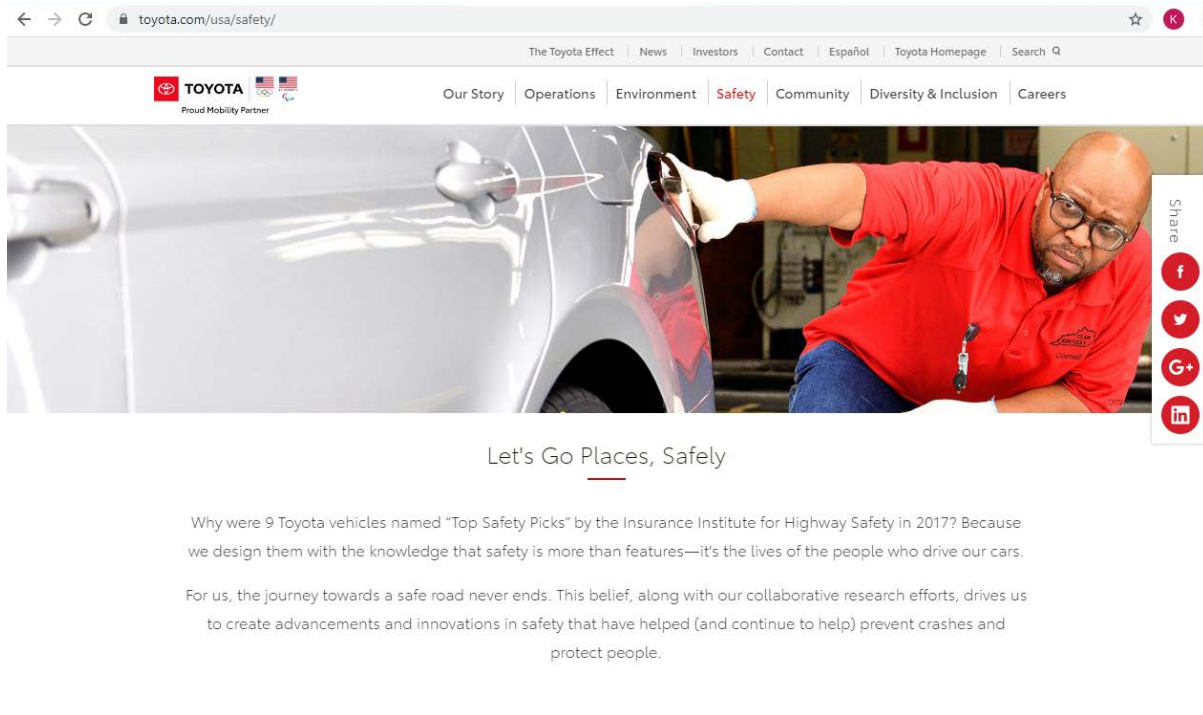
⁸⁰ *Id.*

⁸¹ Jitendra Parashar, “Understanding Toyota’s Marketing Strategy,” Market Realist, May 27, 2016, Available at <http://marketrealist.com/2016/05/understanding-toyotas-marketing-strategy/> (last visited August 15, 2022).

Why were 9 Toyota vehicles named “Top Safety Picks” by the Insurance Institute for Highway Safety in 2017? Because we design them with the knowledge that safety is more than features – it’s the lives of the people who drive our cars.

For us, the journey towards a safe road never ends. This belief, along with our collaborative research efforts, drives us to create advancements and innovations in safety that have helped (and continue to help) prevent crashes and protect people.

553. An image of this top section of Toyota’s website, in 2020, is below.⁸²



554. This part of Toyota’s website goes on to provide a vast array of information about the purported safety mechanisms Toyota offers in its vehicles, including the Class Vehicles, such as pre-collision technology, vehicle stability control and blind spot monitoring.⁸³ This is true of prior versions of the website as well.⁸⁴

⁸² <https://www.toyota.com/usa/safety/> (last visited August 15, 2022).

⁸³ *Id.*

⁸⁴ *See, e.g.,* <https://web.archive.org/web/20190518011539/> <https://www.toyota.com/usa/safety/> (last August 15, 2022).

555. On Toyota's main website, there is a page describing the Company's leadership that repeats its consistent and pervasive marketing message that Toyota vehicles are safe and dependable. Toyota states: "We build cars and trucks that help you and your family go places reliably and safely."⁸⁵

556. At all relevant times, Toyota's website contained these representations.

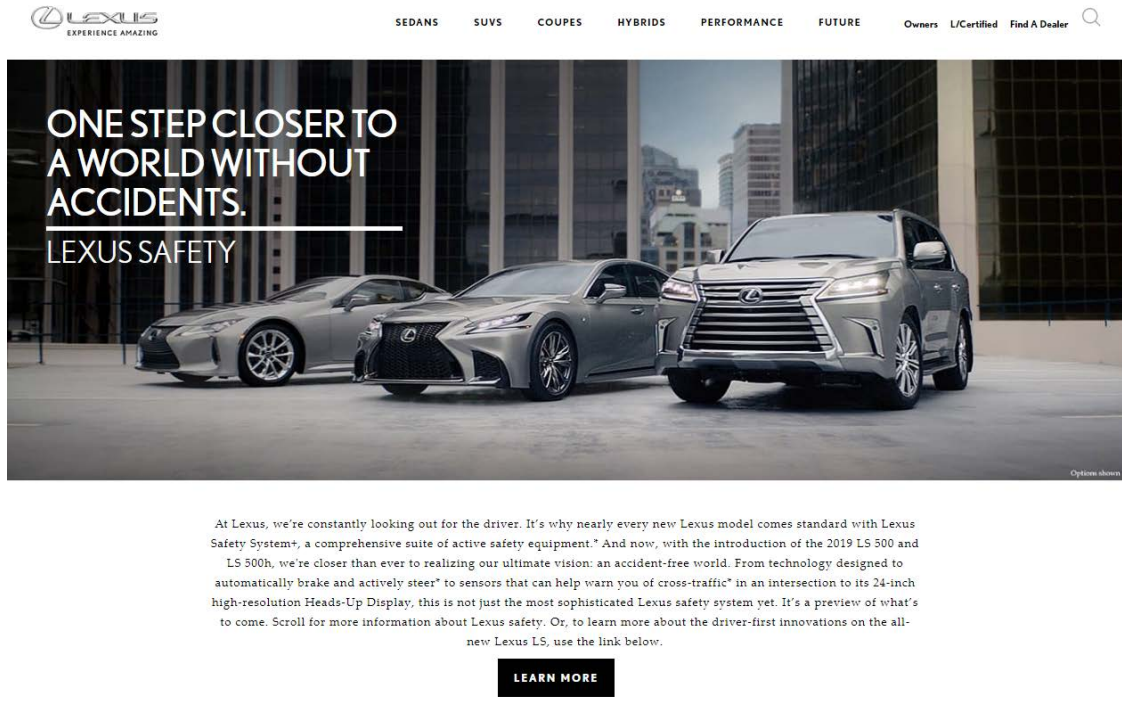
557. Similar representations are on the Lexus website, which is operated by Toyota. Lexus.com has a detailed section with many subheadings and tabs devoted to describing a host of safety features on Lexus vehicles.⁸⁶ While the standard availability of certain safety features may vary on certain different models, the overall consistent and pervasive marketing message that Toyota advances through its web marketing for its Lexus Class Vehicles is clearly one of safety and dependability. An example of one image from the Safety section of the Lexus website as of March 2019 is shown below.⁸⁷ (and similar language remains on the Lexus website to as of the time of the filing of this complaint).⁸⁸ It begins with the language, "ONE STEP CLOSER TO A WORLD WITHOUT ACCIDENTS. LEXUS SAFETY. ... At Lexus, we're constantly looking out for the driver. It's why nearly every new Lexus model comes standard with Lexus Safety System +, a comprehensive suite of active safety equipment.":

⁸⁵ <https://www.toyota.com/usa/our-story/> (last visited August 15, 2022).

⁸⁶ <https://web.archive.org/web/20190331073031/> <https://www.lexus.com/safety> (last visited August 15, 2022).

⁸⁷ *Id.*

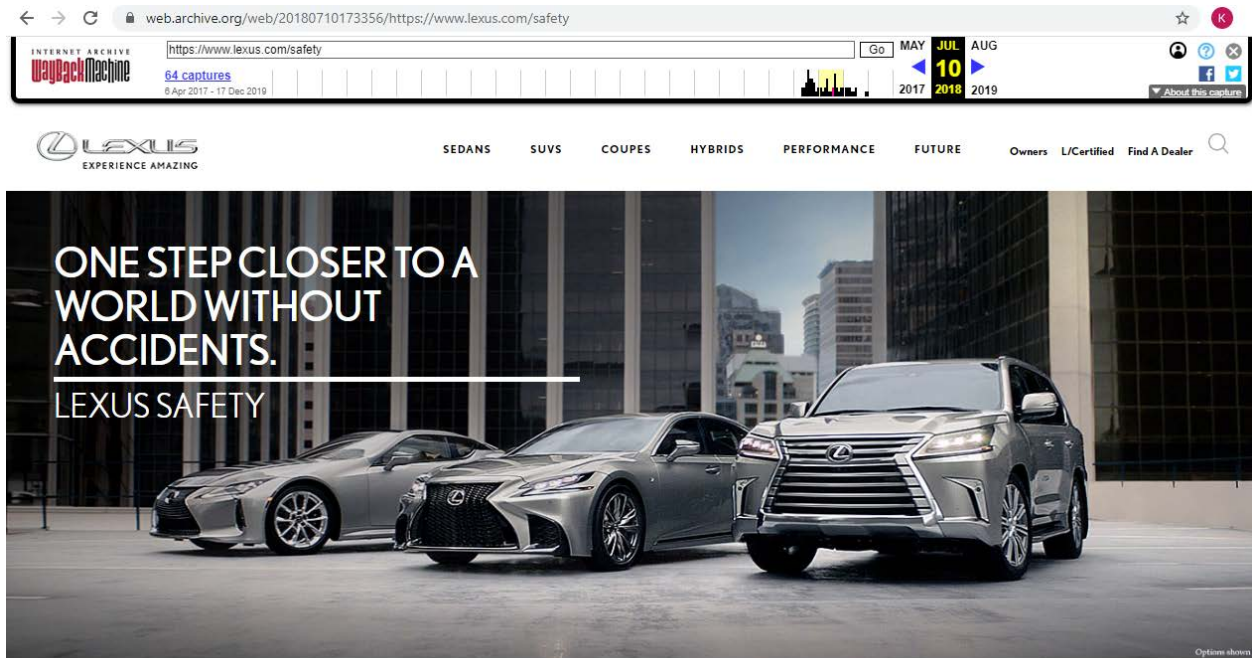
⁸⁸ <https://www.lexus.com/safety> (last visited August 15, 2022).



558. This section of the website describes additional safety features equipped in the Class Vehicles,⁸⁹ which also appeared on the website in 2018.⁹⁰ An example of one image from the Lexus.com safety page as of July 10, 2018 is shown below. It begins with identical language to that used in 2019, “ONE STEP CLOSER TO A WORLD WITHOUT ACCIDENTS. LEXUS SAFETY. ... At Lexus, we’re constantly looking out for the driver. It’s why nearly every new Lexus model comes standard with Lexus Safety System+, a comprehensive suite of active safety equipment”:

⁸⁹ <https://web.archive.org/web/20190331073031/https://www.lexus.com/safety> (last visited August 15, 2022).

⁹⁰ <https://web.archive.org/web/20180710173356/https://www.lexus.com/safety> (last visited August 15, 2022).

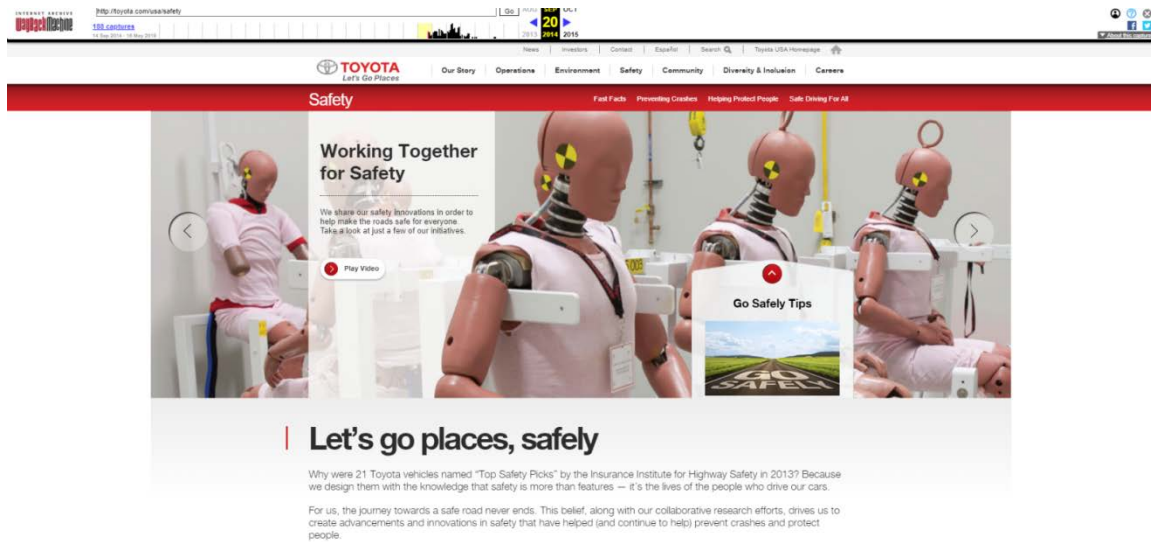


559. In 2018, as in 2019, the website went on to describe numerous additional safety features equipped in the Class Vehicles.

560. Toyota likewise touted the safety of older models, including those affected by the Second Recall. For example, in 2014, Toyota’s website featured pages dedicated to “safety.” Here, Toyota again touted the safety and dependability of its vehicles, stating, “[I]et’s go places, safely.”⁹¹ As seen below, Toyota claimed it designed vehicles “with the knowledge that safety is more than features—it’s the lives of the people who drive our cars.”⁹²

⁹¹ <http://web.archive.org/web/20140920203532/http://toyota.com/usa/safety/fast-facts> (last visited August 15, 2022).

⁹² *Id.*



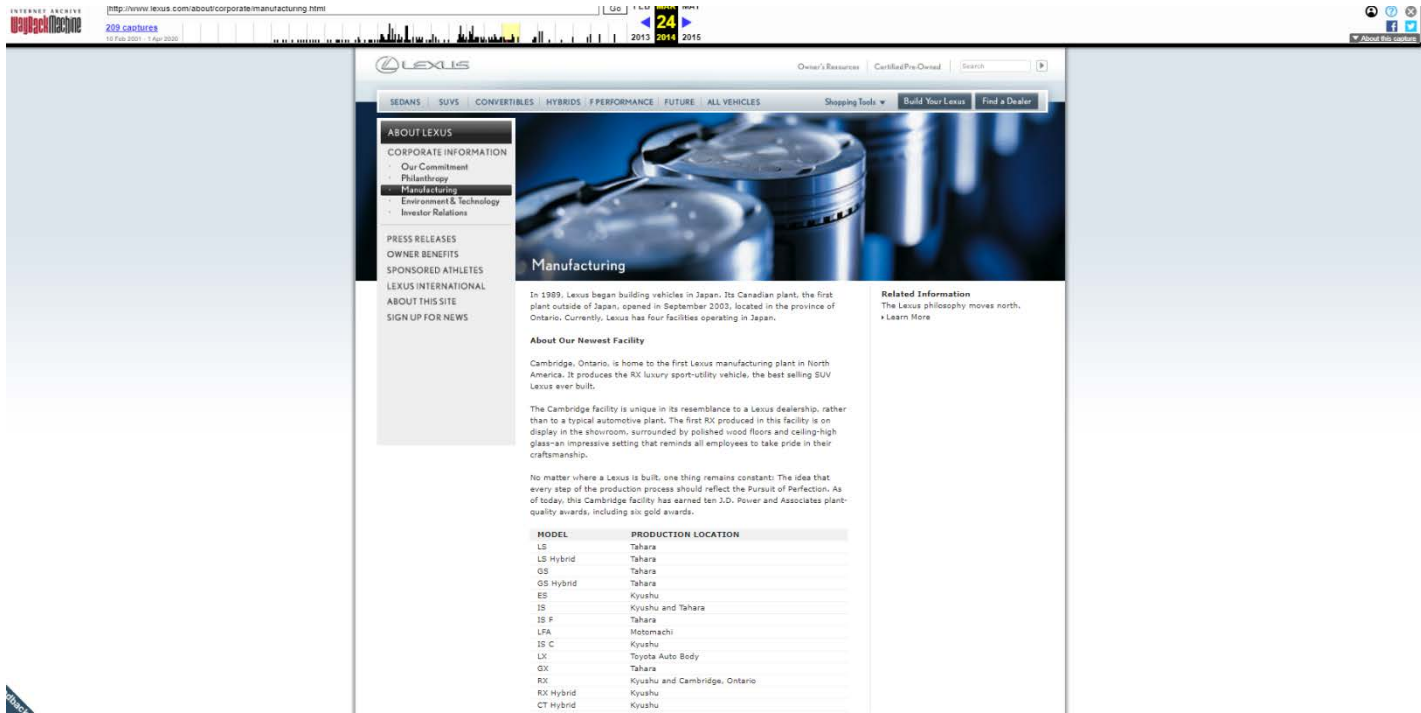
561. Toyota’s 2015, 2016, 2017, and 2018 safety marketing materials carried forward its 2014 safety message.⁹³

562. Lexus.com, owned and operated by Toyota, conveyed a similar message. In 2014, Lexus’s website stated, “Discover the ways Lexus pursues perfection in everything we do.”⁹⁴ Here, Lexus also made public its manufacturing policy of the “Pursuit of Perfection,” as shown in the screenshot below:⁹⁵

⁹³ <http://web.archive.org/web/20151006193804/http://www.toyota.com/usa/safety/helping-protect-people> (last visited August 15, 2022); <http://web.archive.org/web/20161006202909/http://www.toyota.com:80/usa/safety/> (last visited August 15, 2022); <http://web.archive.org/web/20171223064632/https://www.toyota.com/usa/safety/> (last visited August 15, 2022).

⁹⁴ <http://web.archive.org/web/20140226063004/http://www.lexus.com/about/> (last visited August 15, 2022).

⁹⁵ <http://web.archive.org/web/20140324121308/http://www.lexus.com/about/corporate/manufacturing.html> (last visited August 15, 2022).



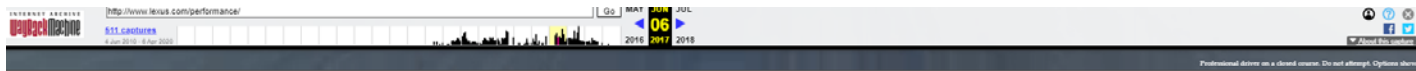
563. Lexus’s 2015 website tracked the 2014 version, carrying forward its message of manufacturing perfection.⁹⁶

564. In 2017, Lexus updated its website to proclaim, “[y]our safety is a top priority for Lexus.”⁹⁷ The website also featured a “performance” page stating that Lexus exhibits “[f]lawless craftsmanship.”⁹⁸

⁹⁶<http://web.archive.org/web/20150908063422/http://www.lexus.com/about/corporate/manufacturing.html> (last visited August 15, 2022).

⁹⁷<http://web.archive.org/web/20170301045625/https://www.lexus.com/> (last visited August 15, 2022).

⁹⁸<http://web.archive.org/web/20170606084647/http://www.lexus.com/performance/> (last visited August 15, 2022).



WE ARE NOT HERE TO OBSERVE, TO SIT IDLY BY OR
WATCH FROM THE STANDS. WE ARE HERE FOR
ONE REASON: TO LEAVE A MARK.

Lexus High Performance marks a shift in the natural order. Flawless craftsmanship. Striking design. Superior engineering. Announcing the arrival of a performance vehicle with power, control and zero compromise that puts the entire category on notice.

With an impressive line of performance vehicles, including the GS F, RC F and the incomparable new LC 500—the highest expressions of performance from Lexus.

THE EXCEPTION TO ALL THE RULES

F PERFORMANCE | F SPORT | F SPORT ACCESSORIES

565. Lexus’s 2018 website further conveys its “safety” focus stating, “At Lexus, we’re constantly looking out for the driver.”⁹⁹



ONE STEP CLOSER TO A
WORLD WITHOUT
ACCIDENTS.
LEXUS SAFETY



At Lexus, we’re constantly looking out for the driver. It’s why nearly every new Lexus model comes standard with Lexus Safety System™, a comprehensive suite of active safety equipment.* And now, with the introduction of the 2018 LS 500 and LS 500h, we’re closer than ever to realizing our ultimate vision: an accident-free world. From technology designed to automatically brake and actively steer* to sensors that can help warn you of cross-traffic* in an intersection to its 24-inch high-resolution Heads-Up Display, this is not just the most sophisticated Lexus safety system yet. It’s a preview of what’s to come. Scroll for more information about Lexus safety. Or, to learn more about the driver-first innovations on the all-new Lexus LS, use the link below.

⁹⁹ <http://web.archive.org/web/20180412233339/https://www.lexus.com/safety> (last visited on August 15, 2022).

566. In addition to its representations about Toyota and Lexus vehicles generally, Toyota's website contained specific representations about safety on the pages for specific models of the Class Vehicles.

567. For example, webpages of various models of the Class Vehicles include multiple photographs and descriptions advertising the safety systems of each of the Class Vehicles. Those sections list an array of safety features equipped in the Class Vehicles.

568. Point of sale communications for the Toyota models that are part of the First Recall proudly proclaim that the vehicles come standard with the "Star Safety System." For example, below is a screenshot of the page for the 2019 4Runner, which is part of the Recall.¹⁰⁰

¹⁰⁰ https://web.archive.org/web/20190207051044/https://www.toyota.com/content/ebrochure/2019/4runner_ebrochure.pdf (last visited August 15, 2022).

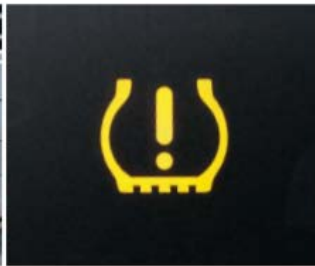
The peace of mind you need to enjoy the peace of nature.

While your many adventures have earned you a bold reputation, you're not a danger seeker. Neither are we. That's why we've equipped 4Runner with an array of active and passive safety features. The standard Star Safety System™ is designed to help you avoid trouble. Our rigorous crash testing has helped us develop a comprehensive occupant protection system that features eight standard airbags;²⁵ should trouble prove unavoidable.



INTEGRATED BACKUP CAMERA²⁷ DISPLAY

When backing up, the area visible to the camera is displayed on the touch-screen. 4Runner's available front and rear parking assist sonar²⁸ beeps to tell you how close the bumpers are from an object. The faster it beeps, the closer it is.



TIRE PRESSURE MONITOR SYSTEM (TPMS)²⁷

Proper tire pressure is important not only for good handling and fuel economy, but for your safety. 4Runner's standard Tire Pressure Monitor System (TPMS) evaluates the pressure of the tires and issues a warning if the pressure becomes critically low.



DRIVER AND FRONT PASSENGER ACTIVE HEADRESTS²⁸

Designed to optimize headrest position during certain types of rear-end collisions, driver and front passenger active headrests move slightly up and forward, helping to reduce neck injuries.



EIGHT AIRBAGS²⁵

A driver and front passenger Advanced Airbag System, driver and front passenger TAP (Thorax, Abdomen, Pelvis) front seat-mounted side airbags, driver and front passenger knee airbags and all-row (third-row airbags on models so equipped) Roll-sensing Side Curtain Airbags (RSCA) are all part of a system designed to help keep you safe.

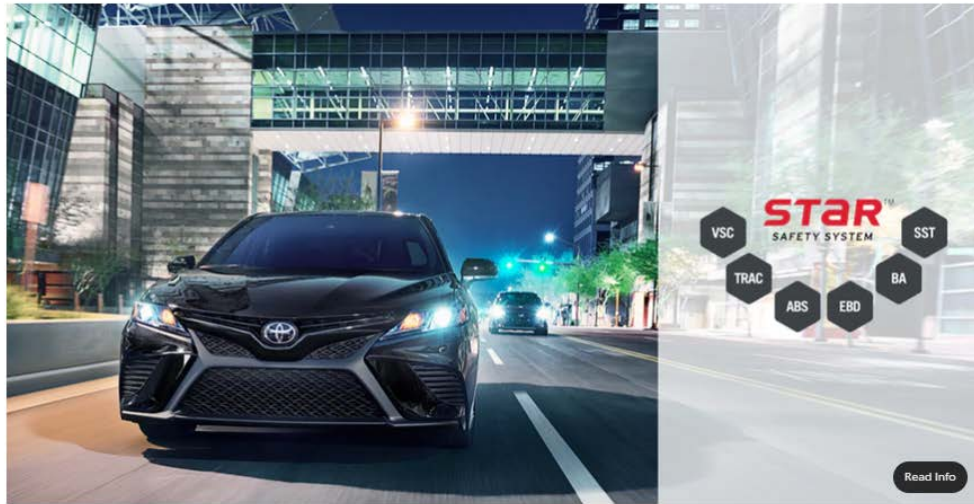
See numbered footnotes in Disclosures section.

569. Similarly, below is a screenshot of the Star Safety page for the 2019 Camry:¹⁰¹

¹⁰¹ <https://www.toyota.com/camry/2019/camry-features/> (last visited April 9, 2020).

Safety

Smart safety. Helping you drive with confidence.



Star Safety System™

Smart tech helps keep you safe. This standard comprehensive suite of six advanced safety features helps keep you out of harm's way. The system includes enhanced Vehicle Stability Control (VSC),⁶¹ Traction Control (TRAC), Anti-lock Brake System (ABS), Electronic Brake-force Distribution (EBD), Brake Assist (BA)⁶⁰ and Smart Stop Technology® (SST).⁵⁵

570. The Lexus website makes similar representations about the safety of the individual Lexus models that are part of the First Recall. For example, multiple Class Vehicles' individual pages contain the following statement: "LEXUS SAFETY SYSTEM+* ... With an integrated suite of active safety equipment, security comes standard," and go on to list an array of safety features, from Fuel Pumps to computerized functions.¹⁰²

571. For the vehicles included in the Second Recall, Toyota conveyed identical safety messages. For example, below is a screenshot of a sales brochure for a 2014 Toyota 4Runner sales brochure, which is a Class Vehicle:¹⁰³

¹⁰² See, e.g., <https://web.archive.org/web/20180506081936/http://www.lexus.com/models/RX/safety> (last visited August 15, 2022); <https://web.archive.org/web/20180525081736/http://www.lexus.com/models/NX/safety> (last visited August 15, 2022).

¹⁰³ <https://cdn.dealereprocess.org/cdn/brochures/toyota/2014-4runner.pdf> (last visited August 15, 2022).

Safety

The peace of mind you need to enjoy the peace of nature.

While your many adventures have earned you a bold reputation, you're not a danger seeker. Neither are we. That's why we've equipped the 2014 4Runner with an array of active and passive safety features. The standard Star Safety System™ is designed to help you avoid trouble. Our rigorous crash testing has helped us develop a comprehensive occupant protection system that features eight standard airbags,¹ should trouble prove unavoidable.

8
airbags

A driver and front passenger Advanced Airbag System, driver and front passenger TAP (Thorax, Abdomen, Pelvis) front seat-mounted side airbags, driver and front passenger knee airbags and all-row (third-row airbags on models so equipped) Roll-over Sensing Side Curtain Airbags (RSCA) with out-of-switch.² It's all part of a system designed to help keep you safe.



INTEGRATED BACKUP CAMERA³ DISPLAY

When backing up, the area visible to the camera is displayed on the touch-screen display. 4Runner's available front and rear parking assist sonar beeps to tell you how close the bumpers are from an object. The faster it beeps, the closer it is.



TIRE PRESSURE MONITOR SYSTEM⁴

Proper tire pressure is important not only for good handling and fuel economy, but for your safety. 4Runner's standard Tire Pressure Monitor System (TPMS) evaluates the pressure of the tires and issues a warning if the pressure becomes critically low.



DRIVER AND FRONT PASSENGER ACTIVE HEADRESTS⁵

Designed to optimize headrest position during certain types of rear-end collisions, driver and front passenger active headrests move slightly up and forward, helping to reduce neck injuries.

1. See footnote 20 in Disclosures section. 2. See footnote 21 in Disclosures section. 3. See footnote 14 in Disclosures section. 4. See footnote 23 in Disclosures section. 5. See footnote 22 in Disclosures section.

572. Below is a screenshot of a sales brochure for a 2017 Toyota Sienna, which is a

Class Vehicle:¹⁰⁴

¹⁰⁴ <https://cdn.dealereprocess.org/cdn/brochures/toyota/2017-sienna.pdf> (last visited August 15, 2022).

We've taken an active interest in your family.

Every new Toyota is equipped with the Star Safety System,[™] a suite of six active safety features designed to help keep you out of harm's way. The system includes Enhanced Vehicle Stability Control (VSC),[†] Traction Control (TRAC), Anti-lock Brake System (ABS), Electronic Brake-force Distribution (EBD), Brake Assist (BA)[‡] and Smart Stop Technology[®] (SST).[‡] What's more, Sienna's Vehicle Dynamics Integrated Management (VDIM)^{††} system, available on the Limited Premium FWD model, enhances the effectiveness of Sienna's Star Safety System[™] by coordinating with various active safety features to help anticipate potential trouble and react accordingly.



BLIND SPOT MONITOR (BSM)[†] AND REAR CROSS-TRAFFIC ALERT (RCTA)[†]

Using radar technology, the available Blind Spot Monitor[†] is designed to alert you when a vehicle enters a blind spot on either side. Available Rear Cross-Traffic Alert[†] works similarly by providing you with audible and visual indicators to warn you of approaching vehicles.

STANDARD INTEGRATED BACKUP CAMERA[‡]

A backup camera[‡] comes standard on Sienna. Available on Limited is a backup camera[‡] with 180-degree wide-angle view, both of which help make reversing and parking easier. You can choose from wide or normal views, plus guideline modes that show your distance and projected path.

AUTOMATIC HIGH BEAMS (AHB)[‡]

The available Automatic High Beam[‡] system allows for enhanced visibility, helping make nighttime driving easier. Using a camera to detect oncoming vehicles' headlights, Automatic High Beams[‡] can switch between high and low beams for you.

DYNAMIC RADAR CRUISE CONTROL (DRCC)^{‡‡}

Cruise with more control. The available Dynamic Radar Cruise Control^{‡‡} is designed to keep a preselected following distance between your Sienna and the vehicle traveling in front of you. If that vehicle slows down, so do you — and if it speeds back up or changes lanes, DRCC^{‡‡} will help you automatically accelerate back to your set cruising speed.

See numbered footnotes in Disclosures section.

573. Below is a screenshot of a sales brochure for a 2014 Toyota FJ Cruiser, which is a Class Vehicle:¹⁰⁵

¹⁰⁵ <https://cdn.dealereprocess.org/cdn/brochures/toyota/2014-fjcruiser.pdf> (last visited August 15, 2022).

Star Safety System™ — includes Vehicle Stability Control (VSC); ²⁰ Traction Control (TRAC), Anti-lock Brake System (ABS), Electronic Brake-force Distribution (EBD), Brake Assist (BA) ²¹ and Smart Stop Technology (SST) ¹⁹	Standard
Driver and front passenger Advanced Airbag System ²²	Standard
Driver and front passenger front seat-mounted side airbags and front and rear Roll-sensing Side Curtain Airbags (RSCA) ²² with cutoff switch	Standard
Driver and front passenger active headrests ²³	Standard
Driver and front passenger seatbelt pretensioners with force limiters	Standard
3-point seatbelts for all seating positions; driver-side Emergency Locking Retractor (ELR) and Automatic/Emergency Locking Retractors (ALR/ELR) on all passenger belts	Standard
LATCH (Lower Anchors and Tethers for Children) includes lower anchors on outboard rear seats and tether anchors on all rear seats	Standard
Side-impact door beams	Standard
Tire Pressure Monitor System (TPMS) ²⁴	Standard
Daytime Running Lights (DRL)	Standard
Rear parking assist sonar	Available
Engine immobilizer ²⁵	Standard

574. Lexus, through Toyota, made similar representations about Lexus branded vehicles.

For example, below is a screenshot of a sales brochure for a 2013 Lexus GS 350, which a Class Vehicle:¹⁰⁶

STANDARD SAFETY AND SECURITY FEATURES

ACTIVE SAFETY

- Four-wheel ventilated power-assisted disc brakes
- Four-sensor, four-channel Anti-lock Braking System (ABS)
- Vehicle Dynamics Integrated Management (VDIM)³² with cutoff switch
- Vehicle Stability Control (VSC)²²
- Traction Control (TRAC)
- Brake Assist²³
- Electronic parking brake with Auto and Hold functions
- Electronic Brakeforce Distribution (EBD)
- Smart Stop Technology²⁴
- Direct Tire Pressure Monitor System²⁵
- Bi-Xenon™ High-Intensity Discharge (HID) headlamps with LED daytime running lights and dynamic auto-leveling
- Integrated foglamps (excluding GS 350 F SPORT)
- LED taillamps

PASSIVE SAFETY

- Power-adjustable outside mirrors with defoggers, puddle lamps, integrated turn indicators and auto tilt-down in reverse
- Driver's and front passenger's dual-stage airbag system (SRS)¹⁶
- Front and rear seat-mounted side airbags (SRS)¹⁶
- Front and rear side curtain airbags (SRS)¹⁶
- Driver's and front passenger's knee airbags (SRS)¹⁶
- Whiplash Injury Lessening (WIL) front seats¹⁷
- Three-point seatbelts for all seating positions, pre-tensioners with force limiters for front and outboard rear seats
- Automatic Locking Retractor/Emergency Locking Retractor (ALR/ELR) seatbelts for front and outboard mounted rear-passenger seating positions. Emergency Locking Retractor (ELR) only for driver's seat and center rear-passenger seating position
- Height-adjustable front shoulder belt anchors

- Child Restraint Seat (CRS) tether anchor brackets for rear outboard seating positions
- Rigid body structure with front and rear crumple zones
- Side-impact door beams
- Reinforcements in pillars and door sills
- Impact-dissipating interior trim

SECURITY

- Safety Connect^{18,36} offers Automatic Collision Notification, Stolen Vehicle Location, Emergency Assistance Button (SOS) and Enhanced Roadside Assistance³⁷ services. Subscription required. One-year trial subscription included
- Vehicle theft-deterrent and engine-immobilizer system²²

¹⁰⁶ <https://cdn.dealereprocess.org/cdn/brochures/lexus/2013-gs350.pdf> (last visited August 15, 2022).

575. Below is a screenshot of a sales brochure for a 2017 Lexus RX 350, which is a Class Vehicle:¹⁰⁷

LEXUS SAFETY SYSTEM+

Now standard, Lexus Safety System+ is an integrated suite of advanced technologies designed to work together in order to pave the way to a world with fewer collisions and better-informed drivers.

PRE-COLLISION SYSTEM WITH PEDESTRIAN DETECTION

The Pre-Collision System (PCS) with Pedestrian DetectionTM is engineered to detect vehicles in the path of your Lexus under certain conditions. Should the system detect a pedestrian or determine a frontal collision is imminent, it's designed to automatically prepare Brake AssistTM for increased brake force, is able to automatically begin braking before impact, and can even brake the RX to a stop at speeds above six mph.

ALL-SPEED DYNAMIC RADAR CRUISE CONTROL

To help maintain a preset following distance from the vehicle ahead, All-Speed Dynamic Radar Cruise ControlTM uses radar technology to sense the speed and distance of vehicles in front of you. If you get too close to the vehicle ahead, it can automatically reduce your speed accordingly, and can even operate in stop-and-go traffic.

INTELLIGENT HIGH-BEAM HEADLAMPS

To help provide added visibility, intelligent high-beam headlampsTM offer added illumination when the road ahead is clear and temporarily switch to low-beam when they sense another vehicle ahead.

LANE ASSIST TECHNOLOGY

Lexus Safety System+ features multiple technologies designed to help prevent inadvertent lane departures. Lane Departure AlertTM with Steering Assist can warn you if it determines you are beginning to drift and can even take corrective measures to help keep you within your visibly marked lane. Additionally, Lane Keep AssistTM can take this a step further by helping the driver remain in the center of the visibly marked lane, to help prevent lane drifting before it occurs.

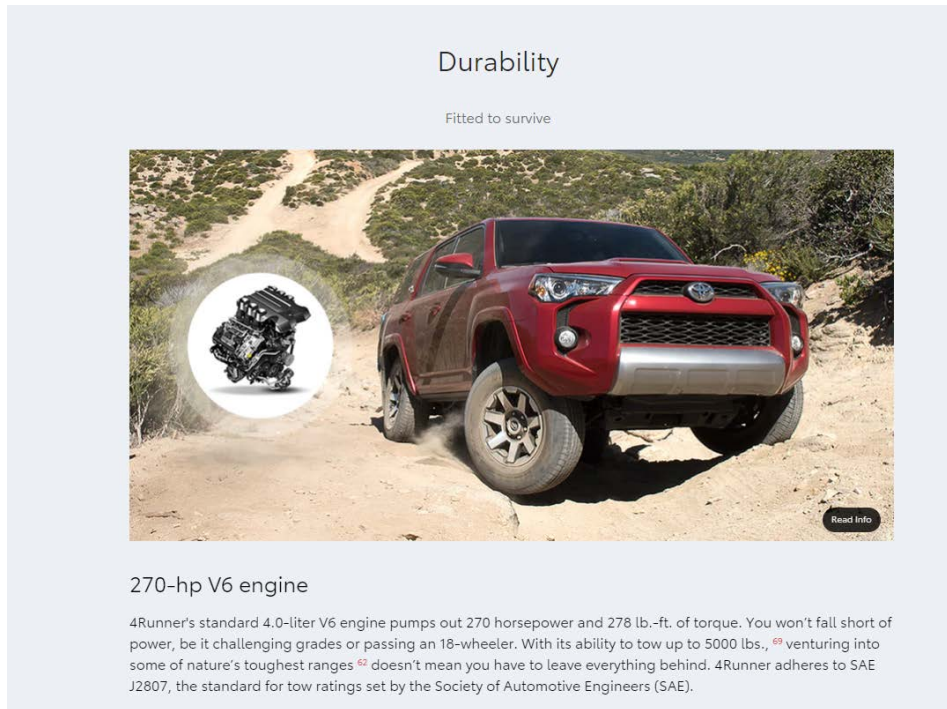


576. A car with a defective fuel pump that can cause the engine to stutter or stall while the vehicle is in motion, as do the Class Vehicles, and thereby exposes its occupants to the risk of injury and even death *is not a safe car*. Thus, Toyota's marketing of the Class Vehicles as safe is false and misleading and omits facts that would be material to consumers such as Class Members who purchased or leased Class Vehicles because they were consistently marketed as having the utmost safety on the road.

577. In addition to its representations about safety, Toyota also made false and misleading representations about the durability, power and functioning of the engines of the Class Vehicles. For vehicles included in the First Recall, such as the 2019 Toyota 4Runner, the Toyota

¹⁰⁷ <https://cdn.dealereprocess.org/cdn/brochures/lexus/2017-rx350.pdf> (last visited August 15, 2022).

webpage touts its “durability,” that the 4Runner is “[f]itted to survive,” and tells drivers: “You won’t fall short of power.” Below is a screenshot of the relevant page from Toyota’s website:



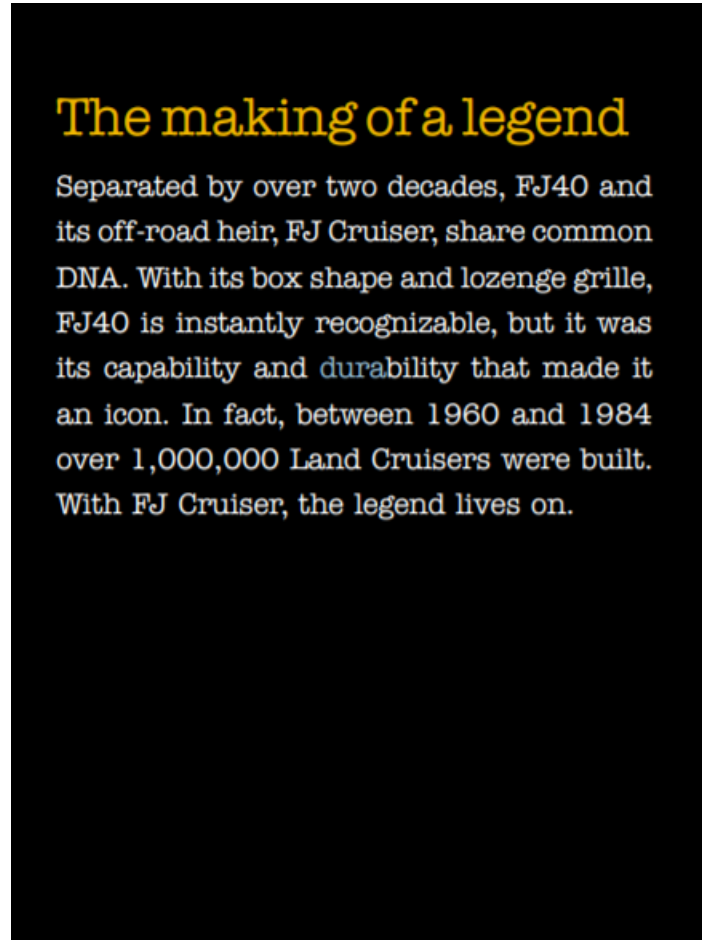
578. Similarly, with respect to the 2018 Lexus RX, the Lexus website touts the vehicle’s “exceptionally smooth performance”:¹⁰⁸

THE FEARLESS 2018 RX

The RX pairs leading-edge technology with exceptionally smooth performance. Meanwhile, the first-ever three-row RXL delivers uncompromised styling with added passenger capacity.

¹⁰⁸ <https://web.archive.org/web/20180513215900/http://www.lexus.com/models/RX/features> (last visited August 15, 2022).

579. Toyota's representations about older vehicles affected by the Second Recall are consistent with its more recent representations. For example, below is a screenshot of a sales brochure for a 2014 Toyota FJ Cruiser, which is a Class Vehicle:¹⁰⁹



580. Lexus made similar representations about its older vehicles affected by the Second Recall. For example, below is a screenshot of a sales brochure for a 2017 Lexus RX 350, which is a Class Vehicle:¹¹⁰

¹⁰⁹ <https://cdn.dealereprocess.org/cdn/brochures/toyota/2014-fjcruiser.pdf> (last visited August 15, 2022).

¹¹⁰ <https://cdn.dealereprocess.org/cdn/brochures/lexus/2017-rx350.pdf> (last visited August 15, 2022).



581. As with Toyota's representations about the safety of the Class Vehicles, these and similar representations about their performance are false and misleading.¹¹¹ Toyota's representations that "you won't fall short of power," and that the Lexus has an "exceptionally smooth performance," are false and misleading because, as Toyota admits by virtue of the Recall, the Class Vehicles are unsafe and do not perform as advertised as they are prone to Fuel Pump failure that can lead to rough running, engine hesitation and stalling while the vehicle is in motion, and render the Class Vehicles inoperable while on the road.

582. Similar representations to those that Toyota made on the Toyota and Lexus vehicles included above are also included in Toyota's marketing about the other Class Vehicles.

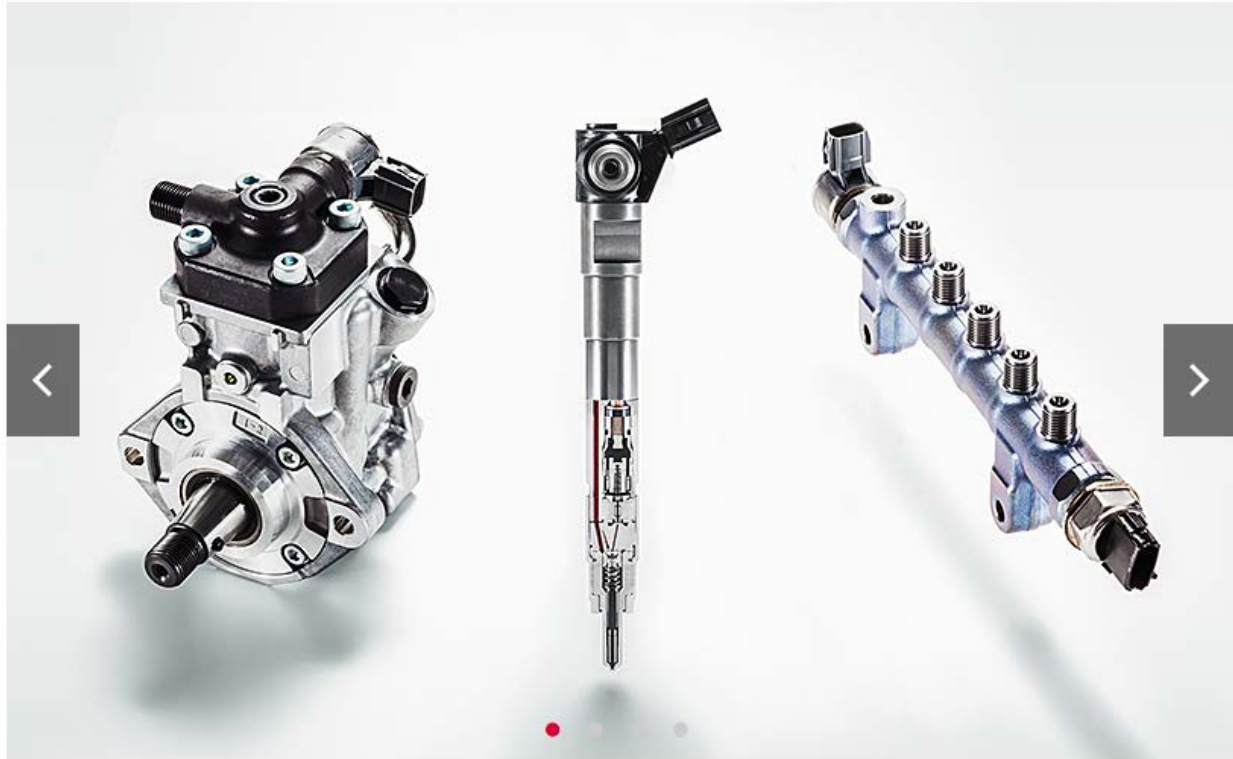
¹¹¹ <https://web.archive.org/web/20180513215900/http://www.lexus.com/models/RX/features> (last visited August 15, 2022).

583. The above marketing material was available and accessible on Toyota's and Lexus's respective websites at all relevant times.

584. Toyota's marketing of the Class Vehicles conveys a clear, uniform, and pervasive message that Class Vehicles are to be equated with safety and dependability. Safety and dependability are material to consumers when purchasing or leasing a vehicle, and, as the content of Toyota's marketing makes clear, are a big if not the biggest factor driving consumers' decision to purchase or lease their Class Vehicles.

585. Moreover, Denso has also associated itself with safety and quality. On its website, Denso represented that it is committed to making high-quality products that contribute to a higher quality of life for all people:¹¹²

¹¹² <https://www.denso.com/global/en/about-us/our-strengths/> (last visited August 15, 2022).



The pursuit of world firsts

DENSO is committed to creating technologies that contribute to a better quality of life for all people. Our world-first advances range from common rail systems that dramatically improve diesel engine performance to night view technology that detects pedestrians at night.

586. Denso also stated that it focuses on “Meticulous quality control,” and that “DENSO focuses on safety because cars carry people.”¹¹³

¹¹³ *Id.*

Manufacturing

Innovative products and components can only be realized if they can be manufactured. At DENSO, our technicians and engineers painstakingly refine every detail of our manufacturing systems to enable the creation of the best technologies and products.



Meticulous quality control

DENSO focuses on safety because cars carry people. We were one of the first parts manufacturers to build our own test courses to evaluate our products, ensuring that people could confidently drive cars using our components. Our advanced test facilities are comparable with those of major carmakers and include such advances as high-low temperature wind tunnel laboratories and anechoic chambers that simulate the diverse conditions drivers encounter every day.

587. In its corporate brochure, Denso stated that it seeks to create a world that is accident free, a goal that obviously cannot be reached when it produced the Fuel Pumps with the Fuel Pump Defect.¹¹⁴

¹¹⁴ https://www.denso.com/-/media/global/en/about-us/download/files/DENSO_brochure_en.pdf (last visited June 29, 2020).

Advanced Safety and Automated Driving

Provided Value

Realizing a safe society without accidents, and free and comfortable mobility

DENSO aims to create a mobile society without accidents and in which all people can move safely and with peace of mind. Guided by this aim, DENSO has developed reliable, high-quality safety technologies. By enhancing our long-cultivated sensing technologies as well as our AI and information technologies, we will further contribute to the development of automated driving. Maintaining our firm commitment to quality, which we have adopted since our founding, we will deliver genuine peace of mind for the future of the mobile society.



588. Additionally, on its aftermarket website, Denso stated its products are of high quality, reliable, and valuable:¹¹⁵

Home

WHY DENSO

Quality, Reliability and Value

Quality, Reliability and Value. At DENSO we've taken everything we have learned as an OE manufacturer and applied it to our aftermarket product lines. Every component that leaves our factories has been designed with precision, manufactured to OE standards and subjected to rigorous safety and performance tests.

DENSO factories are QS9000 and ISO9000 certified worldwide, just one of the many reasons why zero defects for parts produced in the millions is a reality for DENSO. A recipient of the prestigious Deming Award for quality in 1961, we've spent over five decades perfecting our technology and processes, a claim that few automotive manufacturers can make.

The OE-standard quality and reliability of DENSO aftermarket components add up to a tremendous value for our customers.

589. Despite its knowledge, Denso actively placed its defective Fuel Pump in the stream of commerce intending that they be installed into the Class Vehicles and sold to the consuming public, including Plaintiffs and Class Members.

590. Defendants marketed the Class Vehicles and Fuel Pumps as safe, dependable, and made of high-quality materials and the product of innovation, but failed to disclose the existence,

¹¹⁵ <https://densoautoparts.com/why-denso.aspx> (last visited August 15, 2022).

impact and danger of the Fuel Pump Defect and/or that the Class Vehicles were not safe or dependable. Specifically, Defendants:

- a. Failed to disclose, at and after the time of purchase, lease, and/or service, any and all known material defects of the Class Vehicles, including the Fuel Pump Defect, despite their knowledge;
- b. Failed to disclose, at and after the time of purchase, lease, and/or service, that the Class Vehicles' Fuel Pumps were defective and not fit for their ordinary purpose, despite their knowledge; and
- c. Failed to disclose and actively concealed the existence and pervasiveness of the Fuel Pump Defect, despite their knowledge.

591. Defendants' deceptive marketing and willful and knowing failure to disclose the Fuel Pump Defect damaged, and continues to damage, Plaintiffs and Class Members. If Plaintiffs and Class Members had known of the Fuel Pump Defect and/or that the Class Vehicles were not safe and durable, they would not have purchased or leased the Class Vehicles or certainly would have paid less to do so.

F. TOYOTA ADMITTED THE FUEL PUMP DEFECT WAS DANGEROUSLY DEFECTIVE, BUT ISSUED AN INADEQUATE RECALL

592. On January 13, 2020, Toyota instituted the Recall, a voluntary safety recall of 695,541 vehicles admitting that the defective Fuel Pump prematurely fails, compromising consumer safety.

593. On March 4, 2020, Toyota amended the Recall and issued the Second DIR, enlarging the universe of Recalled Vehicles from 695,541 vehicles to 1,817,969 vehicles.

594. On March 19, 2020, Toyota again expanded the scope of the Recall and announced the Second Recall to cover approximately 1,830,752 Toyota and Lexus vehicles.

595. On October 28, 2020, Toyota expanded the Recall yet again by adding another 1.5 million cars such that now there are more than 3.3 million Toyota and Lexus vehicles that have been recalled as a result of the Fuel Pump Defect. On November 4, 2020, it issued the Third Recall Report and the Third DIR.

596. In connection with the Recalls, Toyota identified as the root cause a Denso Fuel Pump with a plastic impeller that deforms due to fuel absorption.

597. By instituting the Recall, Toyota admitted the Fuel Pump Defect is a serious safety defect that could lead to a crash, which can result in serious injury or death. However, the Recall is inadequate.

598. First, Toyota limited the Recall to a subset of the Class Vehicles. Specifically, Toyota limited the Recall to the Recalled Vehicles, which are certain 2013-2020 Toyota and Lexus Class Vehicles equipped with a Denso made low-pressure Fuel Pump. The Recall omitted other Class Vehicles equipped with the same defective Fuel Pumps.

599. The vast majority of Toyota's Hybrid variant Class Vehicles are not included in the Recall,¹¹⁶ but Toyota admits in the Recall Reports that they too are equipped with the same defective Fuel Pump. These Hybrid variant Class Vehicles also experience the Fuel Pump Defect and should have been included in the Recall.

600. Omission of these Hybrid variants from the Recall was improper, as Toyota had ample knowledge that the unreasonably dangerous Fuel Pump Defect also exists within these vehicles. Indeed, as set forth above, in July 2021, Toyota launched Special Service Campaigns covering approximately 130,100 Hybrid Toyota-brand vehicles, and approximately 42,000 Lexus-brand vehicles, for replacement of the defective Fuel Pumps.

¹¹⁶ The 2018-2020 Lexus LC500h and 2018-2019 Lexus LS500h hybrid variants are included in the Recall.

601. Toyota manufactured other vehicles with the Fuel Pump Defect but dropped them from the Recall in the March 4, 2020 Second DIR Report. For example, Plaintiff SanFilipo owns a 2018 Lexus NX300 that continually experiences the Fuel Pump Defect. Despite being equipped with the recalled Fuel Pump and exhibiting the Fuel Pump Defect, her vehicle was excluded from the Recall in the March 4, 2020 Second DIR. Eventually, Plaintiff SanFilipo's vehicle was recalled in November 2020 as part of the Third Recall.

602. In connection with Toyota's exclusion of vehicles previously recalled on January 13, 2020 in the March 4, 2020 Second DIR, an analysis conducted by Plaintiffs' Automotive Expert revealed that the vehicles Toyota excluded are equipped with three-wire Fuel Pumps. The three-wire Fuel Pumps have variable input and output capability, which enables them to run cooler than the two-wire Fuel Pumps in the vehicles covered by the initial Recall. However, because the vehicles removed from the Recall on March 4, 2020 contain a substantially similar, if not identical, Fuel Pump impeller, they should have been included in the Second Recall.

603. Notably, Class Vehicles omitted from the Recalls do not benefit from any remedy Toyota offers to address the Fuel Pump Defect. Because the Recall does not cover them, drivers of the excluded vehicles will not be able to take advantage of the remedy.

604. Toyota did not timely and adequately notified owners of the Class Vehicles equipped with the defective Fuel Pump. Toyota acknowledged the defect and the serious safety consequences it poses on January 13, 2020 and again on March 4, 2020, by submitting the Recall Report and Second Recall Report to NHTSA. Toyota then acknowledged the defect yet again on October 28, 2020 when it announced the expansion of the Recall to include an additional 1.5 million vehicles, and filed the Third Recall Report and Third DIR on November 4, 2020. Other than the owners and lessees of the vehicles covered by the SSC, the owners and lessees of Class

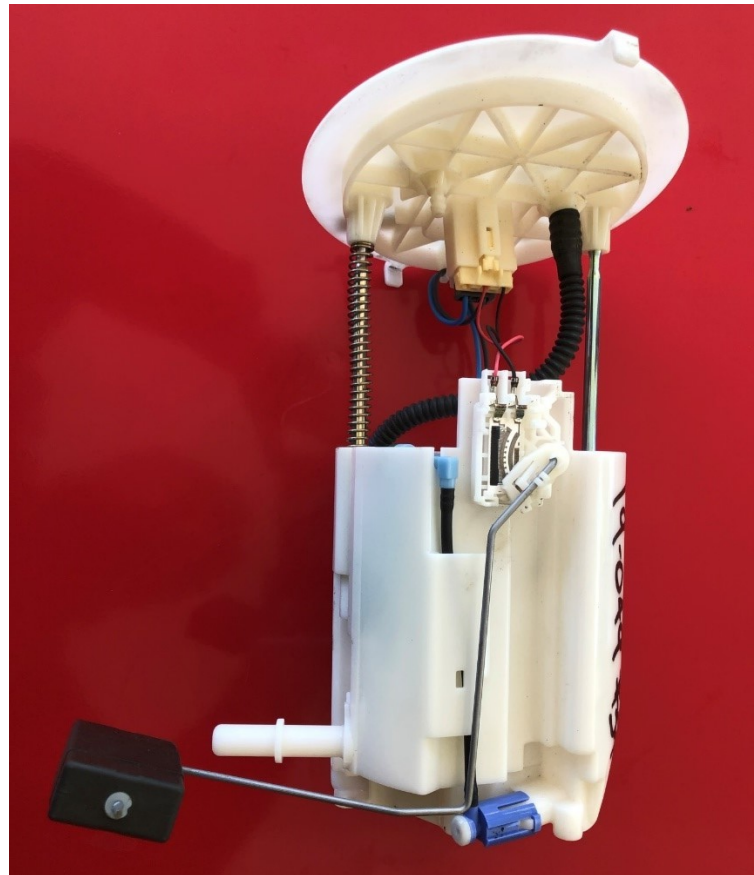
Vehicles that have not been recalled by Toyota have not been notified. As set forth above, Plaintiffs' counsel is now aware of the Additional Vehicles equipped with the Denso Fuel Pumps that have not been recalled and therefore not yet notified.

605. Moreover, Defendants' remedy for the 2020 Recall was inadequate because it deviated from industry norms and carried a risk of creating additional damage to the Recalled Vehicles. The remedy consisted of an instruction to Toyota dealers' auto repair technicians to remove the existing fuel pump module in the vehicle and to replace the existing fuel pump motor with a new fuel pump motor (the "Countermeasure Fuel Pump") in the module and reinstall it in the vehicle (the "Recall Repair").

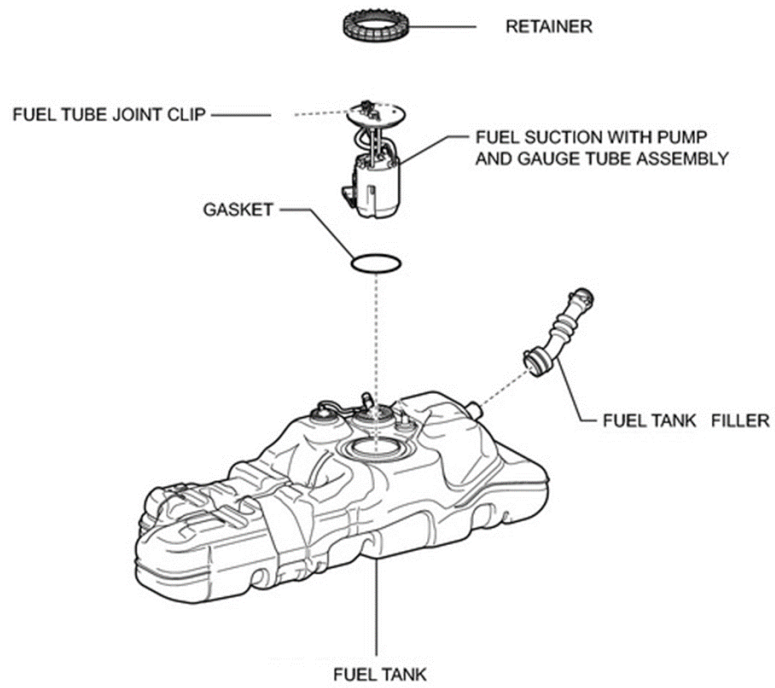
606. Because of the risk of damage to the entire fuel pump module if only the fuel pump motor is removed and replaced, it is industry standard to replace the entire fuel pump module if the fuel pump motor is defective (as is the case here). However, contrary to industry practice, the Recall Repair replaces only the motor, placing Plaintiffs and the Class at an increased risk of experiencing additional hazardous conditions as a result of technician error or due to degradation of other components of the fuel pump module. Moreover, at the very least, the Recall Repair must include a defect-free fuel pump with an impeller made of sufficiently robust materials.

607. Upon information and belief, the Recall Repair originated from Denso, the manufacturer of the defective Fuel Pumps that gave rise to Toyota's Recall. Denso sells its fuel pumps to automobile manufacturers as a single fuel pump module unit. In a cost-savings effort, Denso provided only the fuel pump motor, and not the entire fuel pump module, for Toyota's Recall Repair, despite knowing that industry norms would require the replacement of the entire fuel pump module to adequately remedy the Fuel Pump Defect (assuming, of course, that the new fuel pump assembly functioned properly).

608. The Recall Repair involves both the Fuel Pump and the fuel pump module, which houses the fuel pump. The Fuel Pump (i.e., the electric motor and impeller) is an internal component of the fuel pump module. The fuel pump module is a complete package, hosting the pump, associated plumbing and components and the fuel gauge sending unit. Figure 7 below is a photograph of the Denso fuel pump module used in Class Vehicles.



609. As Figure 8 below demonstrates, the fuel pump module drops into the fuel tank through an access hole on the topside of the tank. A retainer ring ensures that the flange and O-ring create a tight seal against the tank surface, preventing fuel escape.

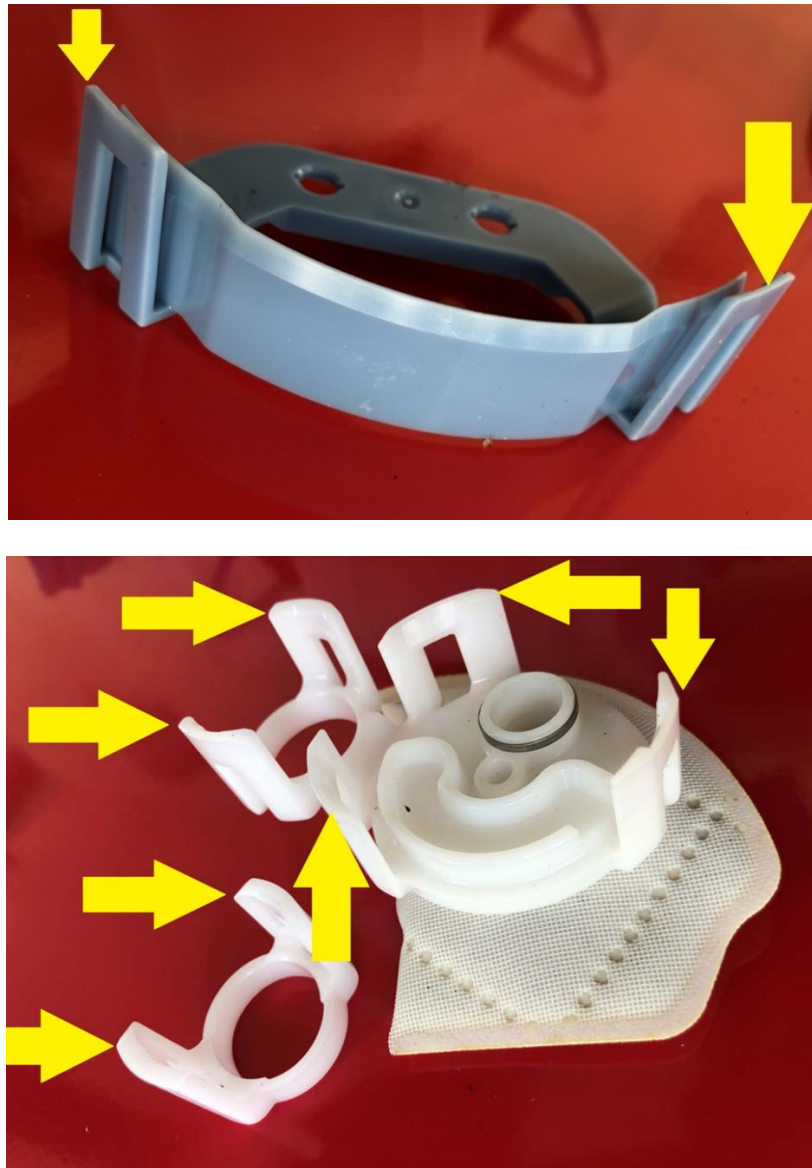


610. Figure 9 below depicts the component parts of a Denso fuel pump module.



611. The fuel pump module's housing protects the fragile internal components that fit together like puzzle pieces within the module.

612. As Figures 10 and 11 below demonstrate, the Denso fuel pump module is held together with plastic tabs and clips.



613. Fuel exposure weakens these plastic tabs and clips depleting durability and elasticity.

614. As Figure 12 below demonstrates, the fuel pump modules contain numerous small and fragile parts, such as O-rings, that require delicate handling and precise installation. Disassembling the fuel pump module exposes these critical components to contamination, dislocation, and breakage, thereby affecting vehicle performance.



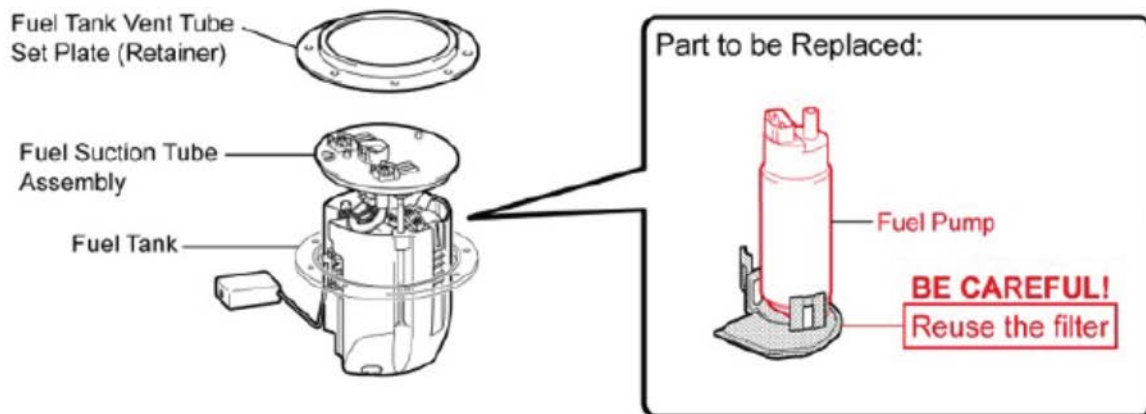
615. Because of these concerns (and others), it is industry standard to replace the fuel pump module as a complete unit rather than remove and replace discrete failed internal components. Replacing the fuel pump module as a complete unit greatly reduces technician error frequency.

616. However, as Toyota's Technical Instructions for Safety Recall 20LA01¹¹⁷ demonstrate, Toyota instructed technicians to disassemble the fuel pump module to replace the fuel pump (i.e., the electric motor and impeller) when performing the Recall Remedy, an extremely delicate process requiring the technician to disassemble the fuel pump module, remove the motor, replace the old motor with a new one, and then reassemble the fuel pump module. This process involves bending tabs and clips, which in turn invite hairline cracks, breakage, and incomplete

¹¹⁷ Toyota's Technical Instructions for Safety Recall 20LA01, instructing technicians as to how to perform the Recall Repair, is attached as Exhibit K.

catching of the tabs and clips that hold the fuel pump module together. These common and likely labor errors can create seal failure and resultant fuel leaks and/or fuel pressure loss due to cavitation¹¹⁸ or recycling of fuel.

617. Toyota instructs technicians to remove the fuel pump module from the fuel tank and extract the fuel pump motor (which houses the impeller).¹¹⁹



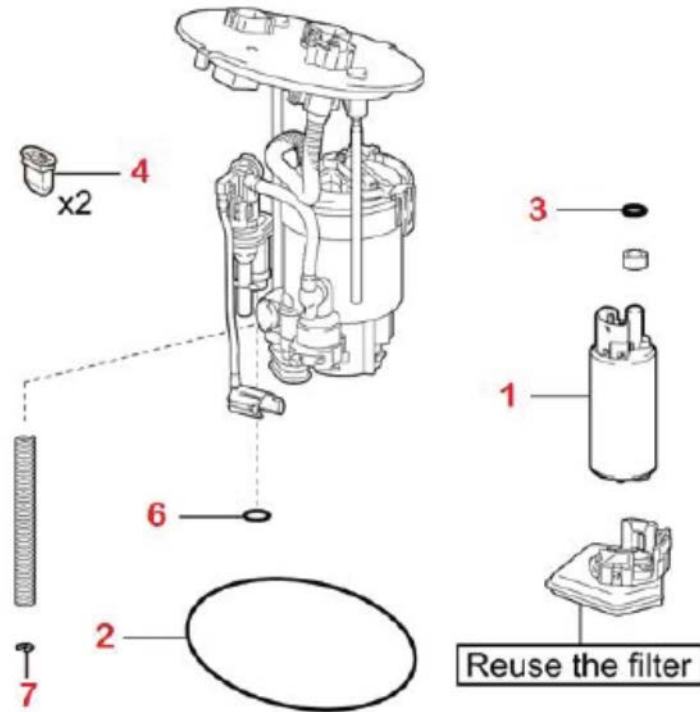
¹¹⁸ Cavitation is a phenomenon in which rapid changes of pressure in a liquid lead to the formation of small vapor-filled cavities in places where the pressure is relatively low. When subjected to higher pressure, these cavities, called “bubbles” or “voids,” collapse and can generate a shock wave strong enough to damage component parts.

¹¹⁹ Exhibit K.



618. Following removal of the recalled Fuel Pump, Toyota instructs technicians to install a new one. Once the new Fuel Pump is installed inside of the original fuel pump module, Toyota instructs technicians to reassemble the Fuel Pump module and insert in the fuel tank.

619. In another example of the inadequacy of the Recall Repair, as illustrated in Figure 13 below, Toyota instructed technicians to reuse fuel filters, ignoring a logical opportunity to replace worn, used fuel filters with new ones. This obvious cost-saving decision can lead to fuel filter contamination (especially in a shop environment), which in turn increases the risk of the fuel pump module clogging and the fuel not reaching the engine, potentially resulting in the dangerous stalling events associated with the Fuel Pump Defect:



620. Toyota's Recall Repair is consistent for substantially all Recalled Vehicles.

621. The inadequacy of the Recall Repair is demonstrated in multiple complaints filed with NHTSA by Class Members *after* the announcement of the Recall. These complaints demonstrate that for many Class Members, the Recall either (a) did not adequately repair the Fuel Pump Defect; and/or (b) caused additional damage to their Vehicles. Additionally, many Class Members reported that they had been unable to obtain the Recall Repair, either because their Vehicle was erroneously excluded from the Recall by Toyota, or because Toyota was unable to supply their dealership with the necessary parts.

622. For example, on July 25, 2020, a consumer with a 2019 Toyota Highlander filed the following complaint with NHTSA:

The contact owns a 2019 Toyota Highlander. The contact stated that while attempting to accelerate from a standing start the vehicle would suddenly accelerate and immediately hesitate before accelerating and operating as normal. The failure had occurred on 2 separate occasions. *The contact indicated that the failure had*

*occurred after the recall remedy was performed for the NHTSA recall campaign number 20V012000(fuel system). The cause of the failure was not yet determined. The dealer ... [a]nd the manufacturer were notified of the failure. The failure mileage was 30,078.*¹²⁰

616. On July 2, 2020, a consumer with a 2019 Toyota Highlander filed the following complaint with NHTSA:

TI* the contact owns a 2019 Toyota Highlander. The contact received notification of NHTSA campaign number: 20v012000 (fuel system, gasoline) ... An unknown dealer was contacted and confirmed that parts were available. The manufacturer was made aware of the issue. The contact had experienced a failure. VIN tool confirms parts were available. *bf

*Consumer stated fuel pump was replaced but the jarring of the vehicle happened 2 more times.*jb.*¹²¹

617. On July 20, 2020, a consumer with a 2018 Toyota Camry filed the following complaint with NHTSA:

TI* the contact owns a 2018 Toyota Camry. *The contact stated that the vehicle was serviced under NHTSA campaign number: 20v012000 (fuel system, gasoline) After retrieving the vehicle, the contact stated that there was an abnormal fuel odor coming from the rear of the vehicle.* The same dealer was contacted and informed of the issue. The contact was referred to the manufacturer to file a complaint. The manufacturer was informed of the failure and a case was filed. The failure mileage was approximately 8,000.¹²²

618. On August 24, 2020, a consumer with a 2018 Toyota Corolla filed the following complaint with NHTSA:

TL the contact owns a 2018 Toyota Corolla. The contact received notification of NHTSA campaign numbers: 20V024000 (air bags) and 20V012000 (fuel system, gasoline). *The vehicle was taken to the Toyota of Bowie dealer located at 16700 governor bridge rd, bowie, md 20716, where the recalls were repaired. The contact*

¹²⁰ NHTSA Complaint ID No. 11342099. (Emphasis added.)

¹²¹ NHTSA Complaint ID No. 11337213. (Emphasis added.)

¹²² NHTSA Complaint ID No. 11340410. (Emphasis added.)

stated after the repairs, she started feeling dizzy and nauseated, having migraine headaches. The dealer was called back and the technician was unable to detect the cause of the issue. The contact purchased an air quality detector and detected a VOC (volatile organic compound) of .975mg (within 15 minutes of running the vehicle) which was over EPA recommendation. The manufacturer was made aware of the failure and was told that someone would call back. The contact was not called back. The vehicle was not repaired. The failure mileage was approximately 60,000.¹²³

619. On September 8, 2020, a consumer with a 2019 Toyota Highlander filed the following complaint with NHTSA:

Gas spilling after fuel pump recall***

Ever since fuel pump recall was done on 08/15/2020, the car is leaving me in a dangerous situation when I fill my gas tank in the gas station and it's spilling out gas even after the pump nozzle cuts off. This happened twice (actually 3 times) *and started only after this recall was done.*

Last night (9/6/2020) when I was filling gas in a gas station about 50 miles from home, it did sprayout/spilled a large amount of gas (almost half gallon) into the ground leaving me in an extremely dangerous situation. So I drove back to where I live and went into a Sonoco to confirm the issue. This time the gas got spilled even after the pump nozzle cut off and stopped pumping. Almost a quarter gallon gas spilled out.

When it happened for the first time on August 24th (08/24/2020) *when I filled the gas for the first time after this recall I didn't quite realize what was going on and for sure it was my car. After filling the gas tank in the gas station I felt my shoes were sleepy and I could feel gas on the ground. Next day morning I started smelling gas and went to see the back of the car and I could see some drops. Apparently that was liquid gas dropping off being the tank still full.*¹²⁴

¹²³ NHTSA Complaint ID No. 11351018. (Emphasis added.)

¹²⁴ NHTSA Complaint ID No. 11353590. (Emphasis added.)

620. Numerous complaints were also made online outside of NHTSA. For example, on July 29, 2020, a consumer with a 2018 Highlander posted the following complaint in to in response to an article announcing the recall repair:

our 2018 Highlander was fine till we took it in for the fuel pump recallOn the drive home from the dealer after the supposed fix ;, the pump or something failed and I experienced the jerky bouncy stall dance that so many comments have described,,,,, I even captured the malfunctioning moment with video super unsafe for Toyota to send me home with such a faulty repair waiting for the loaner car and tow truck again.¹²⁵

621. On July 9, 2020, a consumer with a covered Lexus posted the following complaint in response to the above-referenced article:

Update: ***I got my vehicle back on July 3rd. It started having acceleration issues again the next day after 80 miles.*** Dealer sent a tech to pick it up. They're not sure what exactly is wrong, as I am only the 2nd person they've seen with this unique code. Could be a computer issue, could be they used the old O-rings in the new pump, could be the fuel rail... so they are attempting to diagnose. Back without a car and skeptical on ever getting a Lexus again .¹²⁶

622. On July 19, 2020, a consumer with a 2014 Toyota 4Runner posted the following complaint in response to that article:

Bought a 2014 Toyota 4Runner July 9th 2020, saw that it had a recall for the fuel pump and called the local Toyota Dealership that I've used for years to make sure there was a fix in place (prior to purchasing). Service Dept manager said there was, but he didn't know when they could get the part in, but that they would provide a rental vehicle at no cost to me . Spoke to another Toyota Dealer and they said they could order the part but that it could take a couple of weeks to get it. Brought my 4Runner in the following Monday July 13th 2020 to Quality Toyota dealership after purchase (bought it used from an Audi dealership), and they gave me a rental (2020 Rav) at no cost, had it marked down that I would have it for a month. Shocker, Quality Toyota called me the next day July 14th and told

¹²⁵ <https://www.torquenews.com/1083/toyota-updates-its-huge-fuel-pump-recall-heres-fix-your-vehicle?page=2> (last visited August 15, 2022.)

¹²⁶ *Id.*

me my vehicle was ready. *I'm wondering if they just replaced the fuel pump with the same original pump and not the new replacement. Noticed it idles / shudders a tiny bit a few times when I slow to come to a stop.* Not sure if this is normal because I just have not had it for long enough. Friday July 17th I got a call from the other Toyota dealership I had spoken to previously and they said they had ordered the fuel pump part on July 8th and that it had just come in. I thought that was odd...they just got the part in but Quality Toyota miraculously got it in just a couple of days. I went to Toyota corporate site and plugged in my VIN, and it showed mine had been repaired. I cross referenced the part number from my invoice from Quality Toyota with the part number the other Toyota dealer had, and the part number matched. Toyota dealer #2 said she was glad to hear it was fixed, and said they'd use it for someone else's recall. Side note, the Audi dealership had asked them to order the part. I had not intended to bring my 4Runner there. Yesterday July 18th 2020 I went to put gas in my 4Runner for the first time since purchase and gas dropped straight to the ground. I'm at half a tank and was just going to top it off. I now have to get it back to Quality Toyota, apparently they did not hook the tank back up properly. *I am concerned that the part they put in is faulty because of that slight shudder I experienced, and now more concerned because they clearly did a rush job.* Stay tuned..¹²⁷

623. On August 9, 2020, a consumer with a 2019 Toyota Highlander posted the following complaint in response to that article:

I called my dealership (2019 Highlander) on a Saturday and they got the replacement parts by the following Friday. It was an entire day job (dropped off at 8am picked up at 6pm). *And now my car REEKS of fuel.* And I've been snapping parts back in on my seats and stuff for 2 days. I'm calling them first thing tomorrow and demand they check for a hose leak or if they "spilled" something on my carpet I need that shampooed out. They did not provide a loaner last week but I might throw a fit and request one. I have a toddler so Ubering while I wait for them to get it together is not a feasible option..¹²⁸

624. On August 20, 2020, a consumer with a 2014 Toyota 4Runner posted the following complaint in response to that article:

¹²⁷ *Id.*

¹²⁸ *Id.*

Got the recall notice for my 2014 4Runner. Called the local Toyota dealer, made the appointment, had it cancelled because they had not told me make sure the gas tank was close to empty so it would be easier to work on, *rescheduled and had the work done, on time, easy.* *However... for some reason the cruise control will not work, and now does not even show up on the dash. And something completely new - engine light showing on the left dial, No Trac on the right. Will call the dealer this morning, but could this be related to the work the dealer did?* Other than that, this vehicle has been EXCELLENT with no previous issues. I am the original owner. ¹²⁹

625. On August 22, 2020, a consumer with a 2019 Toyota Avalon posted the following complaint in response to that article:

Please notify me about any law suits or action being taking about the fuel pump replacement. I just *had my 2019 Avalon touring fuel pump replaced and they gave it back to me stinking with gas.* I am too very disappointed and would never buy another Toyota. I have been buying Toyota's for the last 30 years..¹³⁰

626. On August 25, 2020, a consumer with covered vehicle posted the following complaint in response to that article:

A week after my fuel pump replacement, I filled my near empty tank with 13 gallons of gas. The pump stopped at the the first click. I didn't notice any spill. It drove fine with no lights coming on, but the gas odor was strong in the car with the windows down. We drove about 20 miles. The next morning the gas smell was not noticeable in the car but was strong around the gas cap. The dealer told me that I overfilled the tank and got gas in the charcoal cannister and repair is over 1300.00. I didn't over fill, just did as always and stopped filling when the handle clicked. I feel it must be related to the fuel pump installation. Any ideas, please..¹³¹

627. On September 2, 2020, a consumer with a Toyota Tundra posted the following complaint in response to that article:

¹²⁹ *Id.*

¹³⁰ *Id.*

¹³¹ *Id.*

Took my Tundra in Saturday to get the fuel pump switched out. Took about three hours. Drove to work this morning and the check engine light came on. Starting to second guess the purchase of this Toyota.¹³²

628. On September 17, 2020, a consumer with a 2015 Lexus 200t posted the following response to the above comment:

What is the now update on your problem? *I'm having some of the same issues with my 2015 Lexus 200t. They put two fuel pumps in and still problems.* Now sitting at dealer waiting for "the new fix" sometime in October. ¹³³

629. On September 17, 2020, a consumer with a 2015 Lexus NX200T posted the following complaint in response to that article:

I have a 2015 Lexus NX200T. Bought it new. Several episodes of a sudden loss of power at highway speeds. Warning light comes on and says the AWD system has malfunctioned and is now in 2WD mode, traction control is off, see your dealer. I did and they replaced the fuel pump in late August 2020. Car would not start at the dealer! ***They then put in another new fuel pump, same result, car would not start. Low fuel pressure. Lexus gave them another bulletin procedure/fix then the car would start. I picked it up and within a week the same codes appeared and now the car has been at the dealer for a week and they have told me there are new parts to fix the problem, but they would not be available for another three weeks-the parts are on "the boat."*** No offer of a loaner or paid rental car. This is the fourth new car I have bought from this dealer in the last 14 years. I know the dealer did not cause the problem, but I would expect better treatment. With this history the value of this Lexus will forever be diminished even if they have a true fix.¹³⁴

630. On October 1, 2020, a consumer with a 2019 Toyota Sienna posted the following complaint in response to an article announcing that recall repair:

Bought my new 2019 Sienna 2 years ago and has had bad issues supposedly with the pump. I had been to the shop 5 times complaining and leaving it with them 2-3 days with them finally


¹³² *Id.*

¹³³ *Id.*

¹³⁴ *Id.*

saying there is no issue. Then it broke down and they had to fix it by replacing the fuel pump. ***2 months later the recall came out and so they replaced it again. Still runs horrible. I'm consulting with an attorney now who has a few cases of the same issue "after" the recall part was installed.*** Bad news, but the issue is beyond the fuel pump. Worse yet is how it affects the engine. Mine has run for 36,000 miles missing, sputtering, and stalling. Not good on the engine. Toyota could care a less. I opened a case with Toyota, they investigated and closed the case saying its just how their vehicles run! Sharing because I feel for anyone having this issue and we all need answers!¹³⁵

631. On October 2, 2020, a consumer with a 2018 Toyota Highlander posted the following complaint in response to that article:

I took my 2018 Highlander in for regular maintenance. I did have my fuel pump recall done two months prior. When I went for this recent maintenance I got about a mile from dealership and warning and check engine lights came on. I took Highlander back and they gave me a loaner. The call I get next day is telling me that fuel pump needs to be replaced. I told them that was done 2 months ago and they see that but that's is what is causing the problem. So they replace fuel pump again, I go to pick up vehicle and drive about 500 feet from dealership and all warning  and check engine lights come on again. I turn around go back to dealership. Get a loaner again as they need to look into vehicle again. Get a call later asking if I put E85 gas into my tank and I said no. I put E15 in. I even confirmed with gas station. Toyota is saying they think it's the gas. Mind you I have used E15 there before and I have had my vehicle almost 2 years. Now Larry H Miller Toyota want to charge me 300 to drop my fuel tank to remove the gas that they think is E85. I'm at a lost. I don't trust Toyota anymore.¹³⁶

632. In approximately July 2020, a consumer with a 2018 Toyota Highlander posted the following complaint on the website Toyotanation.com:

¹³⁵ *Id.*

¹³⁶ *Id.*

I had a recall on my 2018 Highlander. The Fuel Pump needed to be replaced. Now my car smells like gasoline. The dealership sanitized my car, but a day later the smell came back. What should I do?¹³⁷

633. On October 6 2020, a consumer with a 2014 or 2015 Lexis GX posted the following complaint on the website clublexis.com:

I'll add one more "issue" with the replacement of the fuel pump. I have been getting codes P0441 and P0455. Turns out the dealer neglected to attach the Fuel Tank vent hose securely when they replaced the pump. They said this wasn't the first time they saw this....¹³⁸

634. In addition, many owners and lessees of Class Vehicles not included in the first two Recalls experienced problems with their fuel pumps identical to those at issue in the Recall, but were told that their VIN number was not covered, or otherwise not offered recall repairs. For example, on March 22, 2020, a consumer with 2015 Lexus RX350 filed the following complaint with NHTSA:

My car stalls on acceleration. No check engine light comes on. *I have researched the internet and discovered that there are recalls for fuel pump failures on some Toyotas I have checked with the dealer and the recall site using the VIN.* Nothing I believe I have a defective fuel pump that was installed on my vehicle. I would appreciate Toyota repair it.¹³⁹

635. On May 16, 2020, a consumer with a 2019 Lexus NS filed the following complaint with NHTSA:

On six occasions in the last two weeks, when accelerating from a full stop at stop lights on city streets, when I press the gas pedal, the car doesn't accelerate. It rolls very slowly at 3/4 mph for about 10 seconds. I keep the gas pedal pressed and eventually the car accelerates. This does not happen every time I drive the car and

¹³⁷ <https://www.toyotanation.com/threads/fuel-pump-replacement-due-to-a-recall.1681359/#post-14268615> (last visited August 15, 2022).

¹³⁸ <https://www.clublexus.com/forums/gx-2nd-gen-2010-present/937116-2014-2015-fuel-pump-recall-9.html> (last visited August 15, 2022).

¹³⁹ NHTSA Complaint ID No. 11318976. (Emphasis added.)

sometimes it happens twice in a row and sometimes it happens once while I am out driving. On may 15, I took it to the Lexus dealership where I purchased it and was told they can only fix it if they are able to duplicate it and they where unable to duplicate it.. I was instructed to bring the car back when it happens again.

The first time this occurred was in March but I did not write down the day. I thought that it happened because I was not paying attention when the light changed. It also occurred on April 23, May 7, and May 12. I called Lexus on May 7 and was told that I am not driving the car enough and that a lot of customers are reporting the same problem because of the nationwide stay at home orders. I was instructed to drive it at least 20 miles a week on the highway and the problem would go away. On May 11, I drove it 60 miles on the highway along with some street driving and it did not happen. On May 12, I drove 60 miles on the highway along with going to the grocery store and it happened twice at two stop lights on the way home from the grocery store.

Furthermore, I received a notification that my car was initially part of the Toyota/Lexus fuel pump recall but subsequently received a letter last week (week of May 11 2020) that after further review, it is no longer part of the recall. *TR.¹⁴⁰

636. On June 1, 2020, a consumer with a 2017 Toyota Sienna filed the following complaint with NHTSA:

Vehicle exhibits periods of rough acceleration, chugging, and hesitation. After 3 trips to different Toyota dealers they refuse to address problem. ***A massive recall of Toyota fuel pumps is underway on several vehicles including 2017 Sienna's but dealerships claim my 2017 Sienna is not on list.*** I've lived with this for 3 years and my vehicle is till under warranty with less than 18,000 miles on it. Happens whenever vehicle is used. Dealerships won't test it as they have to drop gas tank..¹⁴¹

637. On June 10, 2020, a consumer with a 2018 RX450H filed the following complaint with NHTSA:

HAD AN ISSUE WHILE DRIVING THE 2018 RX450H ON MAY 4TH WHERE THE CAR lights came on....engine light, AWD, ABS,

¹⁴⁰ NHTSA Complaint ID No. 11324794. (Emphasis added.)

¹⁴¹ NHTSA Complaint ID No. 11326738. (Emphasis added.)

etc and the car stalled completely. Had towed to dealership and they stated that it was “fixed”. 4 weeks later while traveling at 70+ mph on major interstate, car stalled again the same way....lights on, etc.. Was luckily in the right lane of 4 wide traffic as car went to a stop quickly. Was stranded in a heavy traffic lane, car would not shift into neutral to push out of traffic. Was 2 hours from home, had another Lexus dealership tow the car and they came back within a few hours and said it was the fuel pump. ***I was not aware of the recall till then and this 18’ 450h was not on the current list which only proves that this issue is systemic.*** Fortunately, no one was hurt in these 2 occurrences but we are not driving this car again under no circumstances.¹⁴²

638. On July 6, 2020, a consumer with a 2019 Toyota Camry filed the following complaint with NHTSA:

Vehicle was in motion on the interstate at 70 mph. The check engine light came on and the engine began to stall. I had to pull over on side the road to prevent from getting hit by an 18 wheeler from the rear. I was able to drive the vehicle a while longer before the engine stalled again. I had to get the vehicle towed to the nearest Toyota dealership. They reported an issue with the fuel pump. The dealership reported having many issues with the fuel pump for the 2019 Camry. On the date of June 29th repair appointment, they reported they fuel pump is on back order and they would not be able to get the part until July 22nd, 2020 due to so many vehicles having that defect. However, the part is under warranty and would be covered. As a result, I had to privately rent a vehicle without being offered a loaner car or a rental for 2 weeks. I had to spend approximately 1,000 in expenses to cover the cost of not having a vehicle. The vehicle was towed to a dealership in a remote area far from home and work. My disabled mother had to book a hotel to check the vehicle status the following day with my father. I've had the vehicle for 8 months with 29,000 miles. ***When I placed my vin number in the system, my vehicle wasn't identified or qualified as a recall in the system despite the dealership confirming their were problems with the fuel pump and the description of the vehicle defect matching one of the 5 identified recalls related to the Toyota Camry.*** Based on my vin #, my vehicle didn't qualify for any recalls, when I called the Toyota recall office, they reported my vehicle didn't meet recall standards .the Kelly blue book reported 5 different recalls and their descriptions in relation to the 2019 Camry. I noticed

¹⁴² NHTSA Complaint ID No. 11328150. (Emphasis added.)

the fuel pump defect/symptoms matched with my vehicle out of the 5 identified recalls.¹⁴³

639. On July 6, 2020, a consumer with a 2019 Toyota Highlander filed the following complaint with NHTSA:

Vehicle stalls out several times. Have taken it to dealership but no problem found. We were driving the vehicle made a turn onto a major street during rush hour. It stalled out, we just made it to the side of the road. Car finally gave out and did not start again. This is very dangerous due to poor power while driving and can endanger people in the car as well as surrounding vehicles.¹⁴⁴

640. On July 15, 2020, a consumer with a 2018 Toyota Camry filed the following complaint with NHTSA:

My car will randomly stall after driving several hours on the freeway and sometimes will not start up. I am concerned that it will stall while driving on the freeway leading to a crash. My car is not involved under Toyota's fuel pump recall but I have verified that my fuel pressure goes to near 0 psi when the condition happens (former Toyota technician) *and the symptoms are exactly the same as outlined in the recall. I have contacted two Toyota technicians from my local dealer and said they would not be able to duplicate it due to having to drive so long and as a result they would not be able to provide a fix for me. I would be tempted to purchase a new fuel pump, however if Toyota doesn't know about this issue on my car, the part will not be updated and will likely to have the same result.*¹⁴⁵

641. On July 17, 2020, a consumer with a 2019 Toyota Highlander filed the following complaint with NHTSA:

While driving on a city street in Baltimore, md on vacation at about 35 mph having just cone around a blind curve my vehicle's engine shut off and would not restart, got multiple malfunctions on the display. We were almost rear ended multiple times due to the vehicle being in a lane of traffic for about an hour after it shut off. Had it towed to the dealer and was told that it was the fuel pump. The

¹⁴³ NHTSA Complaint ID No. 11337655. (Emphasis added.)

¹⁴⁴ NHTSA Complaint ID No. 11337802. (Emphasis added.)

¹⁴⁵ NHTSA Complaint ID No. 11339484. (Emphasis added.)

mechanic said that the non-hybrid had a recall but since we have a hybrid it only has a TSB so it is not covered by the recall 20V012000 even though it should be as the entire gasoline fuel system is the same. I looked up the recall information and the hazard described happened to me except we didn't crash.¹⁴⁶

642. On August 19, 2020, a consumer with a 2018 Toyota Camry filed the following complaint with NHTSA:

Car stops working and runs rough and the **dealer said it's a bad fuel pump but doesn't have a recall**.¹⁴⁷

643. On September 1, 2020, a consumer with a 2017 Lexus RX350 filed the following complaint with NHTSA:

Vehicle experienced rough transmission mostly between gear number 2 and 3 after take off. Vehicle stalled around rpm 1200 - 1500 during normal drive at highway, then suddenly shifted forward with excessive force. Encountered very dangerous situations on highway on my recent trip. I almost hit the vehicle at the front for a few times due to consistent rough shift pattern. I have taken this vehicle to Lexus dealership several times to address issue in the past. Updated ecu software didn't resolve the problem, and always keep coming back. ***I believe this issue could have been related to recent fuel pump recall, but the recall didn't include the 2017 RX 350 models.*** Please investigate for safety issue. Thank you.¹⁴⁸

644. On September 3, 2020, a consumer with a 2018 Toyota Camry filed the following complaint with NHTSA:

I purchased this vehicle 1 month ago. It has stalled on the freeway twice. I am at 10k miles. The dealer is replacing the "bad" fuel pump with another identical pump! **Those cars considered part of the known recall get a different pump.** So I am to drive this vehicle at my own risk.¹⁴⁹

¹⁴⁶ NHTSA Complaint ID No. 11339876. (Emphasis added.)

¹⁴⁷ NHTSA Complaint ID No. 11350308. (Emphasis added.)

¹⁴⁸ NHTSA Complaint ID No. 11352399. (Emphasis added.)

¹⁴⁹ NHTSA Complaint ID No. 11352880. (Emphasis added.)

645. On September 7, 2020, a consumer with a 2018 Toyota Camry filed the following complaint with NHTSA:

When I start my car by pressing the start button, the car can't start and said ignition is not ready and many error codes show up on the screen, sometimes it takes 8 to 10 times before car can start and today it can't start at all, I went to check for the car cattery and it is fine, and we changed our key fob battery, but the problem still persists, some website said it is fuel pump issue, and I see some 2018 Toyota Camry is on fuel pump recall but when I input my vin, *it said it is not under recall*, so I am very worried that one day I will get stranded somewhere without notice and don't know what caused the issue, please help. This happens when vehicle is stationary before I start.¹⁵⁰

646. On carcomplaints.com, an owner of a 2018 Toyota Camry Hybrid stated about their vehicle:

The vehicle did not respond properly to the driver pressing the accelerator. When the driver attempted to drive the vehicle after it had been parked for a few hours, with no problems previously, *the vehicle would barely accelerate*. The vehicle felt very sluggish and even with the accelerator fully pressed it would not exceed 25 mph. The driver pulled the vehicle over and turned off the vehicle and turned it back on but this did not immediately resolved the issue. The driver drove the vehicle for a few blocks to a safer parking location and turned off the vehicle again to better inspect the vehicle. *There were no warnings on the instrument panel and no obvious signs of mechanical issues*. The driver restarted the vehicle and attempted to drive it again the issue did not re-appear. This vehicle had not yet been inspected by the dealership since the incident but *could have resulted in a tragic collision and needs to be addressed*.¹⁵¹

647. On carcomplaints.com, an owner of a 2018 Toyota Camry Hybrid stated about their vehicle:

The contact owns a 2018 Toyota Camry hybrid. While driving at lower speeds in both drive and reverse, *the vehicle would hesitate and jerk*. The contact indicated that the failure was more severe

¹⁵⁰ NHTSA Complaint ID No. 11353530. (Emphasis added.)

while driving in very cold weather temperatures and when the engine was not warmed up. In addition, *the braking distance was extended when the brake pedal was depressed*. The vehicle was taken to the local dealer (crestmont Toyota, 730 NJ-23, pompton plains, New Jersey) where the failure was able to be duplicated, but indicated that the vehicle was operating as designed. The manufacturer was also notified and the contact was referred back to the dealer. The failure mileage was 1,000.¹⁵²

648. Some of these Class Vehicles are now included in the Third Recall.

649. Moreover, the roll-out of the Recall Repair for the first two recalls was excruciatingly slow, and many Class Members complained that months after the Recall they had yet to obtain a repair weeks or months after the announcement of the Recall. For example, on January 16, 2020, the owner of a 2019 Toyota Highlander filed the following complaint with NHTSA:

*Fuel pump stops working while driving on highway at high speeds, vehicle rides rough intermittently then shuts down. Vehicle will not start up again.*¹⁵³

650. On January 24, 2019, the owner of a 2019 Toyota Highlander filed the following complaint with NHTSA, expressly complaining about the dangerous lack of recall remedy, and stating that the owner had been forced to “park” (*i.e.*, not use) the car in the interim:

First incident occurred in Dec 2019 and then again in Jan 2020. *While driving engine lost power and vehicle began lurching forward and back uncontrollably*. After pulling over engine shut down. *Thankfully we did not cause an accident*. Check engine light came on, also said reduced engine power and traction control off. First time dealer said it was bad gas. Second time they tested fuel pump and it was producing 5 psi. Way below 50-60 psi norm. *Now our vehicle is parked waiting for Toyota to develop a fix for their fuel pump*. No idea how long that will take. Our car is part of the

¹⁵³ NHTSA Complaint ID No. 11299706. (Emphasis added.)

almost 700,000 Toyota recalled. Toyota used to mean quality, not sure any more.¹⁵⁴

651. On March 18, 2020, the owner of a 2019 Lexus RX350 filed the following complaint with NHTSA complaining about the adequacy of the Recall:

TI* the contact owns a 2019 Lexus RX350. The contact received notification of NHTSA campaign number: 20v012000 (fuel system, gasoline) however, ***the part to do the recall repair was not yet available. The contact stated that the manufacturer had exceeded a reasonable amount of time for the recall repair.*** The contact stated that dch Lexus of oxnard (located at 1640 auto center dr, oxnard, ca 93036), exceeded a reasonable amount of time for the recall repair. The manufacturer was made aware of the issue. The contact had not experienced a failure. Parts distribution DISCONNECT.¹⁵⁵

652. On March 25, 2020, the owner of a 2019 Lexus RX350 filed the following complaint with NHTSA complaining about the inadequacy of the Recall:

TL* the contact owns a 2019 Lexus RX350. The contact was notified through the Lexus app that the vehicle was included in NHTSA campaign number 20v012000 (fuel system, gasoline). The contact reached out to Lexus of orange county located at (3496 route us-6 middletown, new york, 10940, (845)589-5435, and ***was informed that the part to do the recall would be available the beginning of the fall season.*** The contact stated that the manufacturer had exceeded a reasonable amount of time for the recall repair. The manufacturer was not contacted or made aware of the issue. The contact had not experienced a failure. Vin tool confirms parts not available.¹⁵⁶

653. On April 1, 2020, the owner of a 2018 Toyota Tacoma filed the following complaint with NHTSA expressly complaining about the inadequacy of the Recall:

I have a 2018 Toyota Tacoma with an open recall on the fuel pump. The safety risk is that the vehicle may stall at higher speeds. ***This recall came out in January 13, 2020, but there still isn't a remedy***

¹⁵⁴ NHTSA Complaint ID No. 11301691. (Emphasis added.)

¹⁵⁵ NHTSA Complaint ID No. 11318626. (Emphasis added.)

¹⁵⁶ NHTSA Complaint ID No. 11319355. (Emphasis added.)

to the issue. My daily commute is on the highway approximately 40 miles one way. I feel very unsafe in my Toyota Tacoma as this vehicle is my daily driver. ***It is now April 1, 2020 and Toyota has yet to release any fix or remedy to correct this safety recall. How long does Toyota have to remedy the issue and what are my options at this point with the vehicle?***¹⁵⁷

654. On April 14, 2020, the owner of a 2019 Toyota Tacoma filed the following complaint with NHTSA regarding the inadequacy of the Recall:

Recalled fuel pump with no remedy – constant vibration from 20-40 mph – automatically braking from shadows – automatically redlines when cold driving – various trim melting from the sun – power steering fluid disappearing told them at every service since new – again on March 25 was told truck was good – then on March 26 they tell me they are replacing an entire steering rack. Rear brake drums are loud and clumsy feeling – rear end white – mpg 17 at the best – stalls shifting from D>R<D. This truck is a death trap. It is sitting at the dealership waiting for a fuel pump recall remedy. The auto braking and automatic acceleration has almost killed me and most likely would have a less experienced driver. Toyota of Nashua NH have given me no updates. They have locked me into this lease without paying thousands to get out of it. The date of occurrence I put is a random date as all of these issues have been happening since I leased the vehicle brand new. Toyota of Nashua of course can never replicate any problems. I need help ASAP getting away from this truck and I cannot get any help. I am 100 percent disabled veteran and needed a reliable vehicle not a death trap. Help me please..¹⁵⁸

655. On April 15, 2020, the owner of a 2019 Toyota Highlander filed the following complaint with NHTSA regarding the inadequacy of the Recall:

There has been no accident however I am still waiting for the recall to be remedied in a timely manner, recall was apparent Jan. 13, 2020. There is a potential for loss of life if my vehicle should be operating at a high legal speed limit and suddenly stop because of an inadequate fuel pump. This delay is not acceptable. I purchased

¹⁵⁷ NHTSA Complaint ID No. 11319988. (Emphasis added).

¹⁵⁸ NHTSA Complaint ID No. 11321148.

a brand new auto and it should be fully operational as I rely on it to get me to and from work and daily life activities. ¹⁵⁹

656. On June 15, 2020, the owner of a 2018 Toyota Tundra filed the following complaint with NHTSA regarding the inadequacy of the Recall:

I received a safety recall notice for potential fuel pump failure from Toyota in Jan. 2020. It has been 6 months and no solution has been announced and the local dealership is not assisting with resolution. ¹⁶⁰

657. On June 7, 2020, the owner of a 2018 Toyota Tacoma filed the following complaint with NHTSA regarding the inadequacy of the Recall:

Vehicle has had a recall for the fuel pump since January. So far Toyota does not have a fix. It is dangerous to drive with this problem and should not take 6 months for them to find a fix. ¹⁶¹

658. On June 9, 2020, the owner of a 2019 Lexus RX350 filed the following complaint with NHTSA regarding the inadequacy of the Recall:

2019 Model Lexus R350L are installed with low efficiency “fuel pump system” and this is a recall from the manufacturer. Still there is no remedy?? ¹⁶²

658. On September 21, 2020, a consumer with a 2018 Toyota Tacoma filed the following complaint with NHTSA:

Notice received in January of 2020 that my 2018 Toyota Tacoma pickup truck has a defective fuel pump that is located in the fuel tank (NHTSA safety recall no. 20v-012). ***It is now September 21st, 2020 and still no fix for this problem. This is unacceptable.*** Why has this problem not been resolved? ¹⁶³

¹⁵⁹ NHTSA Complaint ID No. 11321252.

¹⁶⁰ NHTSA Complaint ID No. 11328964.

¹⁶¹ NHTSA Complaint ID No. 11327651.

¹⁶² NHTSA Complaint ID No. 11327962.

¹⁶³ NHTSA Complaint ID No. 11360214. (Emphasis added.)

659. On September 17, 2020, a consumer with a 2019 Toyota Highlander filed the following complaint with NHTSA:

My vehicle was under recall no. 20v-012 since March of this year. I called the Toyota dealership at least twice to ask about it & was told there was no fix for it at the times I inquired. I was also told that I would be notified when a fix was available. I never received a notice.

On 9/15/20 I was making a turn out of a parking lot onto a city street when the car began hesitating & made only halting movements. It would not accelerate beyond about 3-4 mph. The check engine warning light came on along with a low fuel pressure message & a message to take the car to a dealer. Fortunately, I was able to put on the hazard lights & slowly limp into another entrance to the parking lot. The car had to be towed to the dealership. The dealership notified me the following day that the problem was the faulty fuel pump that was under recall & they just happened to have the parts needed for repair. Great. Glad to have the vehicle fixed. My question is...why didn't I ever get a notice that a solution to the problem was available? It would have be nice to avoid the hazardous event that occurred. I hope that Toyota will step up to the plate & notify other owners of this vehicle that they are able to have the repair done. ***Plus, 6 months to come up with a solution for a recall repair seems extraordinary long.***¹⁶⁴

660. On September 17, 2020, a consumer with a 2018 Toyota Tacoma filed the following complaint with NHTSA:

Got a recall form Toyota back in January on a fuel pump issue and here it is in Sept and ***still have not been notified that there is a fix.***¹⁶⁵

661. On August 28, 2020, a consumer with a 2019 Toyota Tacoma filed the following complaint with NHTSA:

In Feb 2019, I purchased a new Toyota Tacoma from Cavender Toyota, located in San Antonio Texas. In less than two (2) years and with only 7,084 miles, I received recall notices pertaining to its radar sensor system and fuel pump. The former alerts the driver when

¹⁶⁴ NHTSA Complaint ID No. 11355632. (Emphasis added.)

¹⁶⁵ NHTSA Complaint ID No. 11355625. (Emphasis added.)

another vehicle or obstacle is too close; the remedy was installed by the dealer this year. The latter remains and is still pending development/delivery by headquarters (hq) Toyota projected for late Sep 2020. In the interim, the risk is the 2019 Toyota Tacoma can stall while driving. On 6 Aug 2020, my vehicle stalled while exiting my drive way. Upon taking it to the dealer, the service representative and manager advised nothing can be done since the part is not available. They said the risk is the truck may stall again and to call roadside assistance to have it towed. They also stated the fuel pump recall pertains to the Toyota Tacoma, Corolla, Sienna, and Highlander. Due to safety hazard posed and my dissatisfaction with the responses provided by the service representative and manager, they recommended contacting hq Toyota to relay my views. On 7 Aug, I did so. The hq customer service experience advocate provided the same response. Specifically, nothing further can be done to remedy the issue since the part is being developed. On 17 Aug, my vehicle completely stalled while approaching a red light at a major intersection. I immediately reached out to roadside assistance and waited for two hours in extreme weather conditions before the vehicle was loaded and towed to the dealer. The vehicle now resides at the Cavender Toyota dealers parking lot where it sits with other vehicles having the same issue, until the part is produced/shipped and can be fixed. On 18 Aug 2020, I provided an update to he Toyota on my horrible experience and safety concerns. They reiterated nothing further can be done at this time.¹⁶⁶

662. Further, many Class Members have reported that when they were provided with loaner vehicles by Toyota, those Vehicles were subpar to their Class Vehicles. For example, on February 24, 2020, a consumer with a 2019 Toyota 4Runner filed the following complaint with NHTSA:

My issue is primarily with Toyota corporate and how they are handling the fuel pump recall. A brand new vehicle with less than 5000 miles has a recall for a random fuel pump failure, and Toyota does not have a “remedy” available nor do they have a timeline for when the remedy may be available. They are requiring their customers to assume the risk of the stall or car wreck while they are trying to figure out the cheapest way to replace the fuel pumps in 700,000 vehicles. I am no vehicle engineer, but if the fuel pump is the issue, and they have isolated to a faulty batch of fuel pumps, it seems that the “remedy” would be replacing the fuel pump. My

¹⁶⁶ NHTSA Complaint ID No. 11351751. (Emphasis added.)

guess is that Toyota is trying to only partially replace or fix parts on the fuel pump to save a few dollars per fix instead of putting their customers first. The least they could do would be to be forthcoming about the timeline or why there is a delay. Instead, they are either putting their customers at risk in a car that they have acknowledged can have a random fuel pump failure leading to bodily harm or injury, or **they force their customers into a subpar loaner/rental car (I initially went from a 4runner to a minivan)** and having to return to the rental car company to sign a new contract every 30 days.¹⁶⁷

663. On June 1, 2020, a consumer with a 2019 Toyota Highlander filed the following complaint with NHTSA:

I have received a recall notice from Toyota for a low pressure fuel pump issue which may stop the vehicle. If this happens the vehicle may stall while driving and could risk a crash. Nothing has happened so far but we are afraid to drive the vehicle. **We got this car for towing and Toyota will not provide us with a comparable vehicle that will tow.** The eta on the repair was to be about 6/1/2020 but Toyota will not provide a firm date for repair. All of our summer vacation plans are on hold until we get this fixed...¹⁶⁸

664. On April 27, 2020, a consumer with a 2018 Toyota Highlander filed the following complaint with NHTSA:

We purchased this vehicle new in May, 2019. Within a few weeks, we noticed a problem with it stalling out momentarily when turning at intersections or idling at lights. Within 4-5 seconds, you could feel it finally pick up fuel and go. It gives you a very scary feeling to think you can't keep moving along with the traffic, especially when our grandchildren are in the back seat. We returned the vehicle to the dealer and was told there was a recall for the fuel pump and we would need to leave it there for repair. **They put us in a rental Dodge Durango, which is fine, but that's not the vehicle we wanted when we purchased our Highlander.** This was over a month ago and when we contact the service department are just told that there is still no fix in sight. We think it's been long enough for something to have been done. Our warranty is expiring while it sets on the

¹⁶⁷ NHTSA Complaint ID No. 11311121. (Emphasis added.)

¹⁶⁸ NHTSA Complaint ID No. 11326767. (Emphasis added.)

dealer's lot in the hot Florida sunshine. It was always garaged while in our care.¹⁶⁹

665. On May 7, 2020, a consumer with a Toyota posted the following in response to an article about the recall:

I contacted Toyota and was provided a loaner van. Our van is mobility modified. ***No way could my husband transport me in a car loaner.*** The service manager at Classic Toyota told me we could drive the van. I told him no way because the letter said there could be a crash. I told him that's what happened in Dec. 2nd when the van did stop suddenly. We considered it might have been the PCS. But my thoughts now are the fuel pump fault may have caused the PCS to falter. When I saw our van nearing the car in front of us I just knew our lives would end soon. I could see inside the rear window of that car. There was an injury to my neck from the hard impact of the van stopping dead in its tracks. Nobody should attempt to drive a vehicle with a faulty fuel pump. Knowing the fuel pump is faulty, if the car does stop and there is a crash I doubt your insurance company would pay. You would be at fault because you were forewarned by Toyota. I reported the incident and the reply back was a nasty letter filled with false statements. An attorney won't take that on because there wasn't a crash and I was not badly injured though my neck is injured. I am already mobility impaired. I do not trust that the "fix" will resolve the problem.¹⁷⁰

666. On June 1, 2020, a consumer with a 2019 Toyota Sienna filed the following complaint with NHTSA:

I lease a 2019 Toyota Sienna. There has been a recall since January, 2020 on the fuel pump which may cause the car to stop operating and could increase the risk of a crash. Toyota has not still not remedied the recall. I have called for the past five months, and yet the recall is still in the interim stage. This is a breach of the lease and causes us to be unable to use the vehicle. Due to the danger in driving the car, I contacted 4 different Toyota dealers to obtain a comparable rental car that Toyota has agreed to provide. ***Not one of the dealerships I called has a comparable car in their fleet.*** I also called Toyota customer experience twice and on both occasions they

¹⁶⁹ NHTSA Complaint ID No. 11322340. (Emphasis added.)

¹⁷⁰ <https://www.torquenews.com/1083/toyota-updates-its-huge-fuel-pump-recall-heres-fix-your-vehicle> (last visited August 15, 2022).

hung up on me stating that their agents were "too busy". in addition, this has caused us to cancel a road trip..¹⁷¹

667. On June 10, 2020, a consumer with a 2019 Toyota Sienna filed the following complaint with NHTSA:

The contact owns a 2019 Toyota Sienna. The contact stated that on numerous occasions, the vehicle failed to start. The vehicle was taken to ourisman fairfax Toyota (10287 fairfax blvd, fairfax, va 22030) where the contact was informed that the failure was due to the keyfob being placed in her purse while attempting to start the vehicle. The contact continued to experience the failure intermittently. The contact then received notification of NHTSA campaign number: 20V012000 (fuel system, gasoline) however, the part to do the recall repair was unavailable. The same dealer was contacted and confirmed that the part was not available for the recall remedy. The contact stated that the manufacturer exceeded a reasonable amount of time for the recall repair. The manufacturer was made aware of the issue and informed the contact to request a loaner vehicle from the nearest authorized dealer. The contact stated that her vehicle was custom made for her son who has a disability and that a loaner vehicle would not suffice. The failure mileage was 1,749. VIN tool confirms parts not available..¹⁷²

668. On June 16, 2020, a consumer with a 2019 Toyota Sienna reported the following to NHTSA:

The contact owns a 2019 Toyota Sienna. The contact stated that on several occasions after refueling, the vehicle failed to restart. After several attempts, the vehicle restarted with the check engine warning light illuminated. Prior to the failure the contact received notification of NHTSA campaign number: 20V012000 (fuel system, gasoline) however, the parts to do the recall repair was not yet available. Stapp Interstate Toyota (8019 raspberry way, Frederick, CO 80504) was contacted and confirmed that the part was not available. The vehicle remained at the dealer however, was not repaired. ***The contact was promised a loaner vehicle which was not provided.*** The contact stated that the manufacturer exceeded a reasonable amount of time for the recall repair. The manufacturer

¹⁷¹ NHTSA Complaint ID No. 11326794. (Emphasis added.)

¹⁷² NHTSA Complaint ID No. 11328217.

was not made aware of the issue. The failure mileage was approximately 24,500. VIN tool confirms parts not available.¹⁷³

669. On June 23, 2020, a consumer with a 2018 Toyota Highlander filed the following complaint with NHTSA:

The recall was posted on January 13. Toyota did not notify us until mid May. There is still no remedy. It is more than 6 months. Our Highlander is sitting in a Toyota service center for over a month. We need them to remedy the situation immediately. ***Toyota rented a car for us but we are paying extra for insurance on the rental- \$400 a month.*** Can you find out why it's taking them so long to come up with a remedy? Thank you.¹⁷⁴

670. Finally, and not surprisingly given the inadequacy of the Recall and the Recall Repair, many Class Members have reported that the trade-in value of their Class Vehicles has declined. For example, on March 26, 2020, a consumer with a 2019 Lexus ES posted the following on clublexus.com:

Am I wrong for thinking this is a win/win solution?

Having just purchased my slightly used 2019 ES and having it parked until this recall has a fix (3-6 months) it makes total sense to me that Lexus would take my 2019 in as a trade and offer a significant incentive for me to purchase a brand new 2020. Consider the \$45.00 per day rental for the next several months they are paying. Instead of shelling out to Enterprise, they can use those dollars for another unit sold. The dealer gets the sale, the customer is really happy, it's a win/win. So, I have called Lexus CS and two dealers. ***The dealers are offering me ridiculous (pathetic) trade-in value for my U/L ES with 3800 mi. and no incentive to purchase a new one other than current offers.*** Am I wrong in thinking this is a no brainer?¹⁷⁵

¹⁷³ NHTSA Complaint ID No. 11329250. (Emphasis added.)

¹⁷⁴ NHTSA Complaint ID No. 11330271. (Emphasis added.)

¹⁷⁵ <https://www.clublexus.com/forums/gx-2nd-gen-2010-present/937116-2014-2015-fuel-pump-recall-3.html>. (Emphasis added.) (last visited August 15, 2022).

671. On June 22, 2020, a consumer with a 2019 Toyota Highlander filed posted the following in a comment on torquenews.com:

*My 2019 Highlander was recalled, like yours. A dealership was going to give me 25,000 for it a week ago. The value has tanked, I'm paying notes on a car I can't drive, I'm paying full coverage insurance, I'm in a rental that is costing Toyota 1,200 a month, and we have to renew our tags..... my husband and I have bought 7 Toyota's. Never again...*¹⁷⁶

672. In sum, Toyota's Recall was inadequate. Toyota failed to promptly alert Class Members to the admittedly dangerous Fuel Pump Defect and provide them with a safe alternative, the rollout of the Recall Remedy took too long, the implementation of the Recall Remedy could result in additional problems, there were an insufficient number of loaners and they were of subpar quality, and the Recall was inadequate in scope, as evidenced by the serial expansions of the Recall and the subsequent identification of the hybrid vehicles in the SSC, and, most recently, the additional vehicles that were identified.

673. Toyota's actions exposed Class Members to potential injury and death. In addition to these dangers, Toyota's actions deprived purchasers and lessees of the Class Vehicles of the benefit of their bargain.

674. Denso's Recall also failed to include all defective low-pressure Fuel Pumps. Denso states the affected population of Fuel Pumps was manufactured between June 26, 2017 and June 28, 2019. However, reports of faulty Fuel Pumps and problems associated with inoperative Fuel Pumps, such as vehicles stalling while driving, have been made by owners and lessees to NHTSA dating back to 2015, or earlier. Denso's failure to timely, reasonably, and adequately identify the

¹⁷⁶ <https://www.torquenews.com/1083/toyota-updates-its-huge-fuel-pump-recall-heres-fix-your-vehicle> (last visited August 2022).

scope of the affected Fuel Pumps exposed Plaintiffs and Class Members to extreme injury or even death.

G. APPLICABLE WARRANTIES

675. Toyota sold and leased the Class Vehicles with written express warranties.

676. For the Toyota branded Class Vehicles, Toyota offered a written express basic warranty covering Toyota brand vehicles for 36 months or 36,000 miles covering all components (except normal wear and tear). Toyota also offered a 60 month or 60,000 miles powertrain warranty, which covers the Fuel Pump.

677. For the Lexus branded Class Vehicles, Toyota offered a written express Limited Warranty of four years or 50,000 miles. Toyota also offered a six-year 70,000 miles powertrain warranty.

678. Toyota provides these warranties to buyers and lessees after the purchase/lease of the Class Vehicles is completed; buyers and lessees have no pre-sale/lease knowledge or ability to bargain as to the terms of the warranties.

679. However, Toyota admitted a breach of these warranties in the Recall Report when it reported it did not have a repair or remedy for the defective Fuel Pump. Class Members complained to dealers about the Fuel Pump Defect but do not receive an adequate repair, breaching the express and implied warranties provided by Toyota.

H. TOYOTA RECEIVED NOTICE MULTIPLE TIMES AND WAYS

680. As alleged herein, the Fuel Pump Defect is a serious safety risk that Toyota failed to repair, thus rendering the satisfaction of notice requirement futile. For example, several Plaintiffs have presented their vehicle for repair or inquired into the Recall repair to be turned away and left waiting.

681. In addition to other forms of notice alleged herein, Toyota has notice of the Fuel Pump Defect by way of the numerous complaints filed against it directly and through its dealers, as well as complaints submitted to NHTSA and other fora, which, upon information and belief, it monitors. Toyota also has notice of the Fuel Pump Defect from the thousands of warranty claims it admitted to receiving in relation to the Fuel Pump Defect.

682. Toyota received notice of the Fuel Pump Defect and the claims asserted herein from the filing of the original *Cheng v. Toyota Motor Corp. et al* action filed on February 4, 2020 (ECF No. 1), as well as similar cases filed after.

683. Plaintiffs have also served Toyota with various pre-suit notice letters identifying the claimant, the claims, and the demand. Specifically, Plaintiff Pruitt served Toyota with a pre-suit notice letter identifying herself the class she seeks to represent on January 24, 2020 and acknowledged the same day. Plaintiff Feng served Toyota with a pre-suit notice letter on March 20, 2020 and it was received on March 24, 2020. Plaintiffs Rudolph, Barlow, SanFilipo, Dias, and Rock served Toyota with pre-suit notice letters identifying themselves and the classes they seek to represent on June 11, 2020 and acknowledged that same day. Plaintiffs Le and Hakim served Toyota with pre-suit notice letters identifying themselves and the classes they seek to represent on June 9, 2020 and acknowledged on June 15, 2020. Plaintiff Zimmerman served Toyota with a pre-suit notice letters identifying themselves and the classes they seek to represent on June 10, 2020 and acknowledged on June 15, 2020. Plaintiff Edwards sent Toyota pre-suit notice letter identifying herself and the class she seeks to represent on June 11, 2020 and acknowledged on June 17, 2020. Plaintiff Dendy notified Toyota of her claims via a warranty claims process, which Toyota denied any assistance or repairs in writing on June 6, 2020. Plaintiff Mitchell served Toyota with a pre-suit notice letter on June 24, 2020 and it was acknowledged on June 25, 2020.

684. Moreover, as alleged herein, Toyota had notice when Plaintiffs presented their vehicles to Toyota for repair but subsequently denied.

685. Finally, considering the allegations Plaintiffs set forth herein, the remedies available under any informal settlement procedure would be inadequate, and any requirement that Plaintiffs and the Class Members resort to an informal dispute resolution procedure and/or afford Toyota a reasonable opportunity to cure its breach of warranties is excused and thus deemed satisfied.

I. FRAUDULENT OMISSION/CONCEALMENT ALLEGATIONS

686. Absent discovery, Plaintiffs are unaware of, and unable through reasonable investigation to obtain, the true names and identities of those individuals at Toyota and Denso responsible for making false and misleading statements regarding the Class Vehicles. Toyota and Denso necessarily are in possession of all of this information. Plaintiffs' claims arise out of Defendants' fraudulent omission/concealment of the Fuel Pump Defect, despite their representations about the quality, safety, and comfort of the Class Vehicles.

687. Plaintiffs allege that at all relevant times, including specifically at the time they and Class Members purchased their Class Vehicle, Defendants knew, or were reckless in not knowing, of the Fuel Pump Defect; Defendants had a duty to disclose the Fuel Pump Defect based upon their exclusive knowledge; and Defendants never disclosed the Fuel Pump Defect to Plaintiffs or the public at any time or place in any manner other than a halfhearted, inadequate recall of a subset of the Class Vehicles.

688. Plaintiffs make the following specific concealment/omission-based allegations with as much specificity as possible absent access to the information necessarily available only to Defendants:

e. **Who:** Defendants actively concealed and omitted the Fuel Pump Defect from Plaintiffs and Class Members while simultaneously touting the safety and dependability of the Class Vehicles, as alleged herein. Plaintiffs are unaware of, and therefore unable to identify, the true names and identities of those specific individuals at Defendants responsible for such decisions.

f. **What:** Defendants knew, or were reckless or negligent in not knowing, that the Class Vehicles contain the Fuel Pump Defect, as alleged herein. Defendants concealed and omitted the Fuel Pump Defect while making representations about the safety, dependability, and other attributes of the Class Vehicles, as alleged herein.

g. **When:** Defendants always concealed and omitted material information regarding the Fuel Pump Defect while making representations about the safety and dependability of the Class Vehicles on an ongoing basis, and continuing to this day, as alleged herein. Defendants still have not disclosed the truth about the full scope of the Fuel Pump Defect in the Class Vehicles to anyone outside of their respective entities. Defendants have never taken any action to inform consumers about the true nature of the Fuel Pump Defect in Class Vehicles. And when consumers brought their vehicles to Toyota complaining of the Fuel Pump failures, Toyota denied any knowledge of or repair for the Fuel Pump Defect.

h. **Where:** Defendants concealed and omitted material information regarding the true nature of the Fuel Pump Defect in every communication they had with Plaintiffs and Class Members and made representations about the quality, safety, and comfort of the Class Vehicles. Plaintiffs are aware of no document, communication, or other place or thing, in which Defendants disclosed the truth about the full scope of the

Fuel Pump Defect in the Class Vehicles to anyone outside of their respective entities. Such information is not adequately disclosed in any sales documents, displays, advertisements, warranties, owner's manuals, or on Defendants' websites. There are channels through which Defendants could have disclosed the Fuel Pump Defect, including but not limited to, (1) point of sale communications; (2) the owner's manual; and/or (3) direct communication to Class Members through means such as state vehicle registry lists.

i. **How:** Defendants concealed and omitted the Fuel Pump Defect from Plaintiffs and Class Members and made representations about the quality, safety, dependability, and comfort of the Class Vehicles. Defendants actively concealed and omitted the truth about the existence, scope, and nature of the Fuel Pump Defect from Plaintiffs and Class Members at all times, even though it knew about the Fuel Pump Defect and knew that information about the Fuel Pump Defect would be important to a reasonable consumer, and Toyota promised in its marketing materials that Class Vehicles have qualities that they do not have.

j. **Why:** Defendants actively concealed and omitted material information about the Fuel Pump Defect in the Class Vehicles for the purpose of inducing Plaintiffs and Class Members to purchase and/or lease Class Vehicles, rather than purchasing or leasing competitors' vehicles, and made representations about the quality, safety, durability, and comfort of the Class Vehicles. Had Defendants disclosed the truth, for example in its advertisements or other materials or communications, Plaintiffs and Class Members (all reasonable consumers) would have been aware of it, and would not have bought or leased the Class Vehicles or would not have paid as much for them.

J. TOLLING OF THE STATUTE OF LIMITATIONS

A. Continuing Act Tolling

689. Beginning in 2013, Toyota continuously marketed and sold the Class Vehicles equipped with the defective Fuel Pumps to unsuspecting customers. Toyota continuously represented the Class Vehicles as safe and dependable despite their propensity to lose fuel pressure, hesitate under acceleration and/or experience engine shutdown. Denso, the manufacturer of the defective Fuel Pumps, continuously represented the Fuel Pumps as safe and dependable despite knowing their impellers could deform due to excessive fuel absorption. By making these false representations, and failing to disclose the existence of the Fuel Pump Defect in the Class Vehicles and thereby exposing occupants to risk of injury and death, Defendants engaged in a continuing wrong sufficient to render inapplicable any statute of limitations that they might seek to apply.

690. Pursuant to the TREAD Act, 49 U.S.C. § 30118, manufacturers are required to report information regarding customer complaints and warranty claims to NHTSA, and federal law imposes criminal penalties against manufacturers who fail to disclose known safety defects. Toyota owed a continuing duty to Plaintiffs and Class Members to disclose any risks to life and limb that its products pose. It continually breached that duty.

691. Toyota breached its duties to consumers by knowingly selling Class Vehicles with the defective Fuel Pumps on an ongoing basis.

692. Toyota's knowledge of the Fuel Pump Defect is evidenced by numerous NHTSA complaints by consumers, many of whom reported contacting Toyota directly about the Defective Fuel Pump. Other NHTSA complainants reported taking their vehicles to Toyota's dealers, who are agents of Toyota and, on information and belief, report consumer complaints back to Toyota.

693. Toyota owns approximately 25% of Denso, and Denso and Toyota together designed, engineered, tested, validated, and manufactured the defective Fuel Pumps identified in

the Recall, which Denso knew would be installed in the Class Vehicles. Denso knew or should have known of the Fuel Pump Defect during the relevant period, as alleged herein.

694. Thus, Defendants had continuing knowledge of the Fuel Pump Defect and the dangers it posed, yet continued to market, sell and lease the Class Vehicles equipped with the defective Fuel Pumps. Plaintiffs' and other Class Members' claims are not time barred.

B. Fraudulent Concealment Tolling

695. Toyota had a duty to disclose to Plaintiffs and the Class Members the true quality and nature of the Class Vehicles, that the Class Vehicles had uniform defect; and that the Fuel Pump Defect requires repairs, poses a safety risk, and reduces the intrinsic and resale value of the affected vehicles.

696. This duty arose, inter alia, under the TREAD Act, 49 U.S.C. § 30118.

697. Denso also had a duty to disclose to Plaintiffs and the Class Members the true quality and nature of the Fuel Pumps, that the Fuel Pumps in the Class Vehicles are defective; and that the Fuel Pump Defect poses a safety risk.

698. Defendants knew, or were reckless or negligent in not knowing, that the Class Vehicles contain the Fuel Pump Defect, as alleged herein.

699. Defendants together concealed and omitted to disclose the Fuel Pump Defect while making representations about the safety, dependability, and other attributes of the Class Vehicles, as alleged herein.

700. Despite their knowledge of the Fuel Pump Defect, Defendants failed to disclose and concealed this material information from Plaintiffs and other Class Members, and instead continued to market the Class Vehicles as safe and durable.

701. The purpose of Defendants' concealment of the Defective Fuel Pump was to prevent Plaintiffs and other Class Members from seeking redress.

702. Plaintiffs and the other Class Members justifiably relied on Defendants to disclose the existence of dangerous defects, including the Fuel Pump Defect, in the Class Vehicles that they purchased or leased, because that defect was not discoverable by Plaintiffs and the other Class Members through reasonable efforts.

703. Any applicable statute of limitations has been tolled by virtue of Defendants' knowledge, active concealment, and denial of the facts alleged herein, which behavior was ongoing.

C. Discovery Rule Tolling

704. Even through the exercise of reasonable diligence, Plaintiffs and other Class Members could not have discovered, prior to Toyota's issuance of the Recall on January 13, 2020, and/or the Second Recall on March 19, 2020, and/or the Third Recall on October 28, 2020, and/or Denso's subsequent recalls that Defendants were concealing and misrepresenting the existence of the Fuel Pump Defect in the Class Vehicles and the risks it posed.

705. Plaintiffs and the other Class Members could not have reasonably discovered, and could not have known of facts that would have caused a reasonable person to suspect, that Defendants failed to disclose material information within its knowledge about a dangerous defect to consumers worldwide.

K. CLASS ACTION ALLEGATIONS

706. Plaintiffs bring this action pursuant to Rules 23(a), 23(b)(2), and 23(b)(3) of the Federal Rules of Civil Procedure on behalf of themselves and all others similarly situated.

707. Plaintiffs seek to represent a Nationwide Class ("Nationwide Class") defined as:

All current and former owners or lessees of a Class Vehicle (as defined herein) that was purchased or leased in the fifty States, the District of Columbia, Puerto Rico, and all other United States territories and/or possessions.

708. Plaintiffs Cheng, Dias, and SanFilipo (“New York Plaintiffs”) also seek to represent a Multi-State Consumer Protection class comprised of states’ consumer protection statutes that do not require reliance or scienter (“Multi-State Consumer Protection Class One”), defined as:

All current and former owners or lessees of a Class Vehicle (as defined herein) that was purchased or leased in New York, Connecticut, Delaware, District of Columbia, Florida, Hawaii, Idaho, Illinois, Kansas, Kentucky, Louisiana, Maine, Massachusetts, Missouri, Montana, Nebraska, New Hampshire, New Jersey, Ohio, Oregon, Rhode Island, South Carolina, Vermont, Washington, West Virginia, and Wisconsin.

709. Plaintiffs Feng, Hakim, Grimes, Dendy, Mitchell, Gendron, and Carter also seek to represent a Multi-State Consumer Protection class comprised of states’ consumer protection statutes that do not require scienter (“Multi-State Consumer Protection Class Two”), defined as:

All current and former owners or lessees of a Class Vehicle (as defined herein) that was purchased or leased in California, Georgia, Indiana, North Carolina, Texas, and Virginia.

710. Plaintiff Pruitt, Zimmerman, Feng, Hakim, Grimes, Le, Bohn, DeWeerd, Puleo, Rock, Gendron, Carter, and Jones also seeks to represent a Multi-State Strict Liability class comprised of states that recognize applicable exceptions to the economic loss doctrine (“Multi-State Strict Product Liability Class”), defined as:

All current or former owners or lessees of a Class Vehicle (as defined herein) that was purchased or leased in Alabama, Alaska, Arizona, Arkansas, California, Colorado, Connecticut, Georgia, Illinois, Iowa, Kansas, Louisiana, Maryland, Massachusetts, Michigan, Montana, New Hampshire, New Jersey, Ohio, Oregon, Rhode Island, Utah, Virginia, Washington, and West Virginia.

711. Plaintiff Pruitt, Zimmerman, Feng, Hakim, Grimes, Le, Bohn, DeWeerd, Puleo, Rock, Gendron, Carter, and Jones also seeks to represent a Multi-State Negligent Recall class comprised of states that recognize applicable exceptions to the economic loss doctrine (“Multi-State Negligent Recall Class”), defined as:

All current or former owners or lessees of a Class Vehicle (as defined herein) that was purchased or leased in Alabama, Alaska, Arizona, Arkansas, California, Colorado, Connecticut, Georgia, Illinois, Iowa, Kansas, Louisiana, Maryland, Massachusetts, Michigan, Montana, New Hampshire, New Jersey, Ohio, Oregon, Rhode Island, Utah, Virginia, Washington, and West Virginia.

712. In addition, and in the alternative to the above, Plaintiffs also seek to represent individual Statewide classes.

713. Plaintiff Pruitt seeks to represent an Alabama statewide class (“Alabama Class”) defined as follows:

All current and former owners or lessees of a Class Vehicle (as defined herein) that was purchased or leased in the State of Alabama.

714. Plaintiffs Zimmerman and Silverstein seek to represent an Arizona statewide class (“Arizona Class”) defined as follows:

All current and former owners or lessees of a Class Vehicle (as defined herein) that was purchased or leased in the State of Arizona.

715. Plaintiffs Feng, Gendron, Carter, Hakim, Grimes, Gendron, and Carter seek to represent a California statewide class (“California Class”) defined as follows:

All current and former owners or lessees of a Class Vehicle (as defined herein) that was purchased or leased in the State of California.

716. Plaintiffs Rudolph, Barlow, Edwards, and Tordjman seek to represent a Florida statewide class (“Florida Class”) defined as follows:

All current and former owners or lessees of a Class Vehicle (as defined herein) that was purchased or leased in the State of Florida.

717. Plaintiff Hettinger seeks to represent a Georgia statewide class (“Georgia Class”) defined as follows:

All current and former owners or lessees of a Class Vehicle (as defined herein) that was purchased or leased in the State of Georgia.

718. Plaintiffs Le and Bohn seek to represent an Illinois statewide class (“Illinois Class”) defined as follows:

All current and former owners or lessees of a Class Vehicle (as defined herein) that was purchased or leased in the State of Illinois.

719. Plaintiff DeWeerdts seeks to represent a Maryland statewide class (“Maryland Class”) defined as follows:

All current and former owners or lessees of a Class Vehicle (as defined herein) that was purchased or leased in the State of Maryland.

720. Plaintiff Boxer seeks to represent a Missouri statewide class (“Missouri Class”) defined as follows:

All current and former owners or lessees of a Class Vehicle (as defined herein) that was purchased or leased in the State of Missouri.

721. Plaintiffs Cheng, Dias, SanFilipo, and Puleo seek to represent a New York statewide class (“New York Class”) defined as follows:

All current and former owners or lessees of a Class Vehicle (as defined herein) that was purchased or leased in the State of New York.

722. Plaintiff Puleo seeks to represent a New Jersey statewide class (“New Jersey Class”) defined as follows:

All current or former owners or lessees of a Class Vehicles (as defined herein) that was purchased or leased in the State of New Jersey.

723. Plaintiffs Dendy and Persak seek to represent a North Carolina statewide class “(North Carolina Class”) defined as follows:

All current and former owners or lessees of a Class Vehicle (as defined herein) that was purchased or leased in the State of North Carolina.

724. Plaintiff Rock seeks to represent an Ohio statewide class (“Ohio Class”) defined as follows:

All current and former owners or lessees of a Class Vehicle (as defined herein) that was purchased or leased in the State of Ohio.

725. Plaintiffs Chalal, Torrance, and Shoemaker seek to represent a Pennsylvania statewide class (“Pennsylvania Class”) defined as follows:

All current and former owners or lessees of a Class Vehicle (as defined herein) that was purchased or leased in the Commonwealth of Pennsylvania.

726. Plaintiff Mitchell seeks to represent a Texas statewide class (“Texas Class”) defined as follows:

All current and former owners or lessees of a Class Vehicle (as defined herein) that was purchased or leased in the State of Texas.

727. Plaintiff Jones seeks to represent a Utah statewide class (“Utah Class”) defined as follows:

All current and former owners or lessees of a Class Vehicle (as defined herein) that was purchased or leased in the State of Utah.

728. Plaintiffs Marques, Rastegar, and Nafay seek to represent a Virginia statewide class (“Virginia Class”) defined as follows:

All current and former owners or lessees of a Class Vehicle (as defined herein) that was purchased or leased in the Commonwealth of Virginia.

729. Excluded from the Nationwide, Multi-State and various Statewide Classes (together, “Classes”) are Toyota and Denso and any of their members, affiliates, parents, subsidiaries, officers, directors, employees, successors, or assigns; the judicial officers, and their immediate family members; and Court staff assigned to this case. Plaintiffs reserve the right to modify or amend definitions of the Classes, and to add additional classes and sub-classes, as appropriate, during the course of this litigation.

730. This action has been brought and may properly be maintained on behalf of the Classes proposed herein under the criteria of Rule 23 of the Federal Rules of Civil Procedure.

731. **Numerosity – Federal Rule of Civil Procedure 23(a)(1).** The members of the Classes are so numerous and geographically dispersed that individual joinder of all class members is impracticable. While Plaintiffs are informed and believe that there are at least 2,000,000 members of the Classes, the precise number of Class Vehicles is unknown to Plaintiffs, but may be ascertained from Toyota’s books and records. Nationwide, Multi-State and Statewide Class Members may be notified of the pendency of this action by recognized, Court-approved notice dissemination methods, which may include U.S. mail, electronic mail, Internet postings, and/or published notice.

732. **Commonality and Predominance – Federal Rules of Civil Procedure 23(a)(2) and 23(b)(3).** This action involves common questions of law and fact, which predominate over any questions affecting individual members of the Classes, including, without limitation:

- a. whether Defendants engaged in the conduct alleged herein;
- b. whether Defendants’ alleged conduct violates applicable law;

- c. whether Defendants designed, manufactured, advertised, marketed, distributed, leased, sold, or otherwise placed the Class Vehicles and/or the Fuel Pumps into the stream of commerce in the United States;
- d. whether Defendants made false or misleading statements about the quality, safety and characteristics of the Class Vehicles and/or the Fuel Pumps;
- e. whether the Class Vehicles contain the Fuel Pump Defect;
- f. whether Defendants had actual or implied knowledge of the Fuel Pump Defect;
- g. whether Defendants failed to disclose Fuel Pump Defect to Plaintiffs and the other members of the Classes;
- h. whether Defendants' omissions and concealment regarding the quality, safety and characteristics of the Class Vehicles and/or the Fuel Pumps were likely to deceive the members of the Multi-State Consumer and Statewide Classes in violation of the state consumer protection statutes alleged herein;
- i. whether Toyota breached its express warranties with respect to the Class Vehicles;
- j. whether Toyota breached its implied warranties with respect to the Class Vehicles;
- k. whether the members of the Classes overpaid for their Class Vehicles;
- l. whether the members of the Classes are entitled to damages, restitution, disgorgement, statutory damages, exemplary damages, equitable relief, and/or other relief; and
- m. the amount and nature of relief to be awarded to Plaintiffs and the other members of the Classes.

733. **Typicality – Federal Rule of Civil Procedure 23(a)(3).** Plaintiffs' claims are typical of the claims of the other members of the Classes because Plaintiffs and the members of

the Classes purchased or leased Class Vehicles that contain defective Fuel Pumps, as described herein. Neither Plaintiffs nor the other members of the Classes would have purchased or leased the Class Vehicles, or would have paid as much as they did for the Class Vehicles, had they known of the Fuel Pump Defect. Plaintiffs and the other members of the Classes suffered damages as a direct and proximate result of the same wrongful practices in which Defendants engaged. Plaintiffs' claims arise from the same practices and course of conduct that give rise to the claims of the other members of the Classes.

734. **Adequacy of Representation – Federal Rule of Civil Procedure 23(a)(4).** Plaintiffs are adequate Class representatives because their interests do not conflict with the interests of the other members of the Classes that they seek to represent. Plaintiffs have retained counsel competent and experienced in complex class action litigation, including automotive litigation, and Plaintiffs intend to prosecute this action vigorously. The interests of the members of the Classes will be fairly and adequately protected by Plaintiffs and their counsel.

735. **Declaratory and Injunctive Relief – Federal Rule of Civil Procedure 23(b)(2).** Defendants have acted or refused to act on grounds generally applicable to Plaintiffs and the other members of the Classes, thereby making appropriate final injunctive relief and declaratory relief, as described below, with respect to the Nationwide, Multi-State and Statewide Class Members as a whole.

736. **Superiority – Federal Rule of Civil Procedure 23(b)(3).** A class action is superior to any other available means for the fair and efficient adjudication of this controversy, and no unusual difficulties are likely to be encountered in the management of this class action. The damages or other financial detriment suffered by Plaintiffs and the other members of the Classes are relatively small compared to the burden and expense that would be required to

individually litigate their claims against Defendants, so it would be impracticable for the other members of the Classes to individually seek redress for Defendants' wrongful conduct. Even if these Class Members could afford individual litigation, the court system could not. Individual litigation creates a potential for inconsistent or contradictory judgments, and increases the delay and expense to all parties and the court system. By contrast, the class action device, as intended by Congress, presents far fewer management difficulties, and provides the benefits of single adjudication, economy of scale, and comprehensive supervision by a single court.

CLAIMS FOR RELIEF

I. Claims Brought on Behalf of the Multi-State Classes

COUNT 1

VIOLATION OF NEW YORK GENERAL BUSINESS LAW, N.Y. GEN. BUS. LAW § 349, AND MATERIALLY IDENTICAL STATE CONSUMER PROTECTION STATUTES

(Individually and on Behalf of the Multi-State Consumer Protection Class One)
(As to Toyota and Denso)

737. Plaintiffs Cheng, Dias, and SanFilipo ("Plaintiffs" for purposes of this Count) incorporate by reference each allegation as if set forth fully herein.

738. This Count is brought individually and on behalf of the Multi-State Consumer Protection Class One.

739. The foregoing acts, conduct and omission of Toyota constitute unfair, unconscionable, deceptive, or unlawful acts or business practices in violation of at least the following state consumer protection statutes:

- a. **New York N.Y Gen. Bus. Law §§ 349, 350**
- b. **Connecticut Conn. Gen. Stat. §§ 42-110a through 42-110q**
- c. **Delaware Del. Code Ann. Title 6, §§ 2511 through 2527, §§ 2580 through 2584**
- d. **District of Columbia D.C. Code §§ 28-3901 through 3913**

- e. **Florida Fla. Stat. §§ 501.201 through 501.213**
- f. **Hawaii Haw. Rev. Stat. §§ 480-1 through 480-24**
- g. **Idaho Code Ann. §§ 48-601 through 48-619**
- h. **Illinois 815 Ill. Comp. Stat. 505/1 through 505/12**
- i. **Kansas Kan. Stat. Ann. §§ 50-623 through 50-640, and §§ 50-675(a) through 50-679(a)**
- j. **Kentucky Ky. Rev. Stat. Ann. §§ 367.110 through 367.990**
- k. **Louisiana La. Rev. Stat. Ann. §§ 51:1401 through 51:1420**
- l. **Maine Me. Rev. Stat. Ann. tit. 5, §§ 205A through 214**
- m. **Massachusetts Mass. Gen. Laws Ann. Ch. 93A, §§ 1 through 11**
- n. **Missouri Mo. Rev. Stat. §§ 407.010 through 407.307**
- o. **Montana Mont. Code Ann. §§ 30-14-101 through 30-14-157**
- p. **Nebraska Neb. Rev. Stat. §§ 59-1601 through 59-1623**
- q. **New Hampshire N.H. Rev. Stat. Ann. §§ 358-A:1 through 358-A:13**
- r. **New Jersey N.J. Stat. Ann. §§ 56:8-1 through 56:8-91**
- s. **Ohio Rev. Code Ann. §§ 1345.01 through 1345.13**
- t. **Oregon Or. Rev. Stat. §§ 646.605 through 646.656**
- u. **Rhode Island R.I. Gen. Laws §§ 6-13.1-1 through 6-13.1-27**
- v. **South Carolina S.C. Code Ann. §§ 39-5-10 through 39-5-160**
- w. **Vermont Vt. Stat. Ann. tit. 9, §§ 2451 through 2480(g)**
- x. **Washington Wash. Rev. Code §§ 19.86.010 through 19.86.920**
- y. **West Virginia W. Va. Code §§ 46A-6-101 through 46A-6-110**
- z. **Wisconsin Wis. Stat. § 100.18, §§ 100.20 through 100.264**

740. New York GBL § 349(h) provides that “any person who has been injured by reason of any violation of this section may bring . . . an action to recover his actual damages or fifty dollars, whichever is greater.”

741. GBL § 349(h) further provides that “[t]he court may, in its discretion, increase the award of damages to an amount not to exceed three times the actual damages up to one thousand dollars, if the court finds the defendant willfully or knowingly violated this section,” and that “[t]he court may award reasonable attorney’s fees to a prevailing Plaintiffs.”

742. Defendants’ design, engineering, testing, manufacture, distribution, marketing, advertising, labeling, and sale of the Class Vehicles constitutes “business, trade or commerce” under GBL § 349(a).

743. Defendants’ conduct violates GBL § 349 because Defendants engaged in the deceptive acts and practices described above.

744. Defendants’ deceptive conduct and its false and misleading statements about Class Vehicle and Fuel Pump safety and dependability and omissions regarding the Fuel Pump Defect, which causes the Fuel Pumps to prematurely fail, are facts that a reasonable person would have considered material in deciding whether or not to purchase or lease (or how much they were willing to pay to purchase or lease) the Class Vehicles.

745. Defendants’ acts and practices described above were likely to mislead a reasonable consumer acting reasonably under the circumstances, including Plaintiffs and members of the Class.

746. Plaintiffs and the other Class Members justifiably acted or relied to their detriment upon Defendants’ misrepresentations and omissions of fact, as evidenced by Plaintiffs and the other Class Members’ leasing and purchasing of Class Vehicles.

747. Defendants' materially misleading statements and deceptive acts and practices were directed at the public at large, including Plaintiffs and members of the Class.

748. Had Defendants disclosed all material information regarding the Fuel Pump Defect to Plaintiffs and the other Class Members, Plaintiffs and the other Class Members would not have purchased or leased Class Vehicles or would have paid less to do so.

749. Defendants' deceptive acts and practices, and/or misrepresentations and omissions, have deceived Plaintiffs, and those same business practices have deceived or are likely to deceive members of the consuming public and the other members of the Class.

750. Toyota also engaged in deceptive conduct by issuing a defective Recall that did not notify all Class Members about the Fuel Pump Defect; did not instruct consumers to stop driving the dangerous Class Vehicles; and did not offer Class Members free loaner vehicles of comparable make, model, or value as their own Class Vehicles to enable them to cease driving their dangerous Class Vehicles until a remedy was available and could be implemented.

751. Denso also engaged in deceptive conduct by manufacturing and placing in the stream of commerce a Fuel Pump it knew, or should have known, was materially defective.

752. Defendants' actions impacted the public interest because Plaintiffs and the members of the Class have been injured in exactly the same way as millions of other consumers by Defendants' deceptive acts and practices as described herein.

753. As a direct and proximate result of Defendants' deceptive trade practices, Plaintiffs and the other Class Members have suffered ascertainable loss and actual damages. Plaintiffs and the other Class Members would not have purchased or leased the Class Vehicles or would have paid less for them had Defendants disclosed the truth about the Fuel Pump Defect. Plaintiffs and the other Class Members also suffered diminished value of their vehicles.

754. As a direct and proximate result of Defendants' deceptive trade practices, Plaintiffs and the other Class Members were harmed by Toyota's inadequate Recall, described above, including Defendants' failure to notify them of the Fuel Pump Defect, failure to direct them to stop driving their Class Vehicles, and failure to offer Class Members free loaner vehicles of comparable make, model, or value as their Class Vehicles until Defendants were able to devise a remedy that is safe and dependable and implement it in each Class Vehicle. Defendants' failure to do so exposed Plaintiffs and the Class to the risk of injury and death.

755. Defendants' violation of GBL § 349 was willful and knowing. Defendants knowingly and willfully marketed the Class Vehicles as safe and dependable all the while knowing they were not. Defendants admit in the Recall Reports the fact of the Fuel Pump Defect, the thousands of warranty claims and more than 60 Field Technical Reports received about the Fuel Pump Defect, and that the Fuel Pump Defect posed a serious risk of injury rendering the Class Vehicles unsafe. The facts of the defect Recall are incontrovertible. Defendants, through their willful and knowing deceptive acts and practices, as detailed above, have willfully and knowingly exposed Plaintiffs and the Class to the risk of serious injury and death, and continue to do so by virtue of having issued the deficient Recall.

756. As a direct and proximate result of Defendants' conduct in violation of GBL § 349, Plaintiffs and the members of the Class have been injured in an amount to be proven at trial, with a statutory minimum of fifty dollars per Class member. Because Defendants' violation was knowing and willful, Plaintiffs is entitled to treble damages under GBL § 349(h).

757. Plaintiffs also seek injunctive relief as requested below and as may be deemed appropriate by the Court.

758. Defendants had notice of their violations as alleged herein.

759. Additionally, pursuant to GBL § 349, Plaintiffs and the Class seek attorneys' fees and costs.

COUNT 2
VIOLATION OF NEW YORK'S G.B.L § 350, AND MATERIALLY IDENTICAL STATE
STATUTES

(Individually and on Behalf of the Multi-State Consumer Protection Class One)
(As to Toyota)

760. Plaintiffs Cheng, Dias, and SanFilipo ("Plaintiffs" for purposes of this Count) incorporate by reference each allegation as if set forth fully herein.

761. This Count is brought individually and on behalf of the Multi-State Consumer Protection Class One.

762. The foregoing acts, conducts, and omissions of Toyota constitute false advertising in violation of the same States' consumer protection statutes as set forth in Paragraph 516, above.

763. Toyota was and is engaged in "conduct of business, trade or commerce" within the meaning of GBL § 350.

764. Defendants' design, engineering, testing, manufacture, distribution, marketing, advertising, labeling, and sale of the Class Vehicles constitutes "business, trade or commerce" under GBL § 350.

765. Toyota caused to be made or disseminated through New York, through advertising, marketing, and other publications, statements that were untrue or misleading, and which were known, or which by exercise of reasonable care should have been known to Toyota, to be untrue and misleading to consumers, including the Plaintiffs and Class Members. Numerous examples of these statements and advertisements appear in the preceding paragraphs throughout this Complaint.

766. In the course of their business, Toyota, through its agents, employees, and/or subsidiaries, violated GBL § 350 by knowingly and intentionally misrepresenting, omitting, concealing, and/or failing to disclose material facts regarding the reliability, safety, and performance of the Class Vehicles and the defective Fuel Pumps, as detailed above.

767. Toyota's deceptive conduct and its false and misleading statements about Class Vehicle and Fuel Pump safety and dependability and omissions regarding the Fuel Pump Defect, which causes the Fuel Pumps to prematurely fail, are facts that a reasonable person would have considered material in deciding whether or not to purchase or lease (or how much they were willing to pay to purchase or lease) the Class Vehicles.

768. Toyota's acts and practices described above were likely to mislead a reasonable consumer acting reasonably under the circumstances, including Plaintiffs and members of the Class.

769. Plaintiffs and the other Class Members justifiably acted or relied to their detriment upon Toyota's misrepresentations and omissions of fact, as evidenced by Plaintiffs and the other Class Members' leasing and purchasing of Class Vehicles.

770. Toyota's materially misleading statements and deceptive acts and practices were directed at the public at large, including Plaintiffs and members of the Class.

771. Toyota's false advertising practices, including misrepresentations, concealments, omissions, and suppressions of material facts, had a tendency or capacity to mislead and create a false impression in consumers, and were likely to and did in fact deceive reasonable consumers, including Plaintiffs and the Class Members, about the true safety and reliability of Class Vehicles and/or the defective Fuel Pumps installed in them, the quality of the Class Vehicles, and the true value of the Class Vehicles.

772. As a direct and proximate result of Toyota's misconduct alleged herein, Plaintiffs and the other Class Members have suffered ascertainable loss and actual damages. Plaintiffs and the other Class Members would not have purchased or leased the Class Vehicles or would have paid less for them had they known the truth. Plaintiffs and the other Class Members also suffered diminished value of their vehicles.

773. The Plaintiffs and Class Members relied on Toyota and had no way of discerning that its representations were false and misleading and/or otherwise learning the facts that Toyota had concealed or failed to disclose.

774. Toyota had an ongoing duty to the Plaintiffs and Class Members to refrain from false advertising practices under GBL § 350 in the course of their business. Specifically, Toyota owed the Plaintiffs and Class Members a duty to disclose all the material facts concerning the Fuel Pump defect in the Class Vehicles because it possessed exclusive knowledge, it intentionally concealed the Fuel Pump defect from the Plaintiffs and Class Members, and/or they made misrepresentations that were rendered misleading because they were contradicted by withheld facts.

775. The Plaintiffs and Class Members suffered ascertainable losses and actual damages as a direct and proximate result of the Defendants' concealment, misrepresentations, and/or failure to disclose material information.

776. As a direct and proximate result of Toyota's conduct in violation of GBL § 350, Plaintiffs and the members of the Class have been injured in an amount to be proven at trial. Because Toyota's violation was knowing and willful, Plaintiffs is entitled to treble damages under GBL § 350(e).

777. Toyota's violations present a continuing risk to the Plaintiffs and Class Members, as well as to the general public. Toyota's unlawful acts and practices complained of herein affect the public interest.

778. Pursuant to GBL § 350, the Plaintiffs and Class Members seek an order enjoining Toyota's false advertising practices and awarding damages and any other just and proper relief available under GBL § 350.

779. Toyota had notice of their violations as alleged herein.

780. Additionally, pursuant to GBL § 350, Plaintiffs and the Class seek attorneys' fees and costs.

COUNT 3
VIOLATION OF THE CALIFORNIA CONSUMERS LEGAL REMEDIES ACT, CAL.
CIV. CODE §§ 1750, *et seq.* AND MATERIALLY IDENTICAL STATE STATUTES
(Individually and on Behalf of the Multi-State Consumer Protection Class Two)
(As to Toyota and Denso)

781. Plaintiffs Feng, Hakim, Grimes, Dendy, Mitchell, Gendron, and Carter ("Plaintiffs" for purposes of this Count) incorporate by reference each allegation as if set forth fully herein.

782. This Count is brought individually and on behalf of the Multi-State Consumer Protection Class Two.

783. The foregoing acts, conduct and omission of Toyota constitute unfair, unconscionable, deceptive, or unlawful acts or business practices in violation of at least the following state consumer protection statutes:

- a. **Cal. Bus. & Prof. Code §§ 17200 through 17594 (West) Unfair Competition Law; Cal. Civ. Code §§ 1750 through 1785 (West) Consumers Legal Remedies Act**
- b. **Georgia Ga. Code. Ann. §§ 10-1-390 through 10-1-407**

- c. **Indiana Ind. Code §§ 24-5-0.5-1 through 24-5-0.5-12**
- d. **North Carolina N.C. Gen. Stat. §§ 75-1.1 through 75-35**
- e. **Texas Tex. Bus. & Com. Code Ann. §§ 17.41 through 17.63 (Vernon)**
- f. **Virginia Va. Code Ann. §§ 59.1-196 through 59.1-207**

784. Defendants are “persons” as defined by California Civil Code § 1761(c).

785. Plaintiffs and the California Class Members are “consumers” within the meaning of California Civil Code § 1761(d) because they purchased Class Vehicles for personal, family, or household use.

786. The sale of the Class Vehicles to Plaintiffs and the putative Class Members is a “transaction” as defined by California Civil Code § 1761(e).

787. Defendants’ acts and practices, which were intended to result, and which did result, in the sale of the Class Vehicles, violate § 1770 of the Consumers Legal Remedies Act (“CLRA”) for at least the following reasons:

- a. Defendants represented that the Class Vehicles have characteristics, uses or benefits which they do not have;
- b. Defendants advertised their goods with intent to not sell them as advertised;
- c. Defendants represented that their products are of a particular standard, quality, or grade when they are not; and
- d. Defendants represented that their goods have been supplied in accordance with a previous representation when they have not.

788. By failing to disclose and concealing the defective nature of the Class Vehicles from Plaintiffs and the prospective class members, Defendants violated California Civil Code §

1761(a), as they represented that the Class Vehicles had characteristics and benefits that they do not have and represented that the Class Vehicles and their engine components were of a particular standard, quality, or grade when they were of another. *See* Cal. Civ. Code §§ 1770(a)(5), (7), (9), and (16).

789. Defendants' unfair and deceptive acts or practices occurred repeatedly in Defendants' trade or business, were capable of deceiving a substantial portion of the purchasing public and imposed a serious safety risk on the public.

790. Defendants knew that the Class Vehicles suffered from an inherent defect, were defectively designed or manufactured, and were not suitable for their intended use. The Fuel Pump Defect is in each of the Class Vehicles at purchase or lease but may have not been discovered by putative class members until months, or years, after the purchase. Indeed, Defendants knew, or should have known, well in advance of the Recall that the Class Vehicles contained the Fuel Pump Defect which presents a substantial danger of bodily injury or death.

791. As a result of their reliance on Defendants' omissions and/or misrepresentations, owners and/or lessees of the Class Vehicles suffered an ascertainable loss of money, property, and/or value of their Class Vehicles. Additionally, as a result of the Fuel Pump Defect, Plaintiffs and the Multi-State Consumer Protection Class Two Members were harmed and suffered actual damages in that the Class Vehicles are substantially certain to fail before their expected useful life has run.

792. Defendants were under a duty to Plaintiffs and the California Class Members to disclose the defective nature of the Class Vehicles and/or associated repair costs because Defendants were in a superior position to know the true state of facts about the Fuel Pump Defect in the Class Vehicle and Plaintiffs and Multi-State Consumer Protection Class Two Members

could not reasonably have been expected to learn or discover that their vehicles had a dangerous safety defect until it manifested.

793. In failing to disclose the defective nature of the Class Vehicles prior to January 2020, Defendants knowingly and intentionally concealed material facts and breached its duty not to do so.

794. A reasonable consumer would have considered the facts Defendants concealed or did not disclose to Plaintiffs and the Multi-State Consumer Protection Class Two Members to be material in deciding whether to purchase or lease the Class Vehicles or pay less for them. Had Plaintiffs and the Multi-State Consumer Protection Class Two Members known of the defective nature of the Class Vehicles, they would not have purchased or leased said vehicles or would have paid less for them.

795. Plaintiffs and the Multi-State Consumer Protection Class Two Members are reasonable consumers who do not expect their vehicles to suddenly decelerate, or stall without warning and while underway. This is a reasonable and objective consumer expectation relating to consumer automobiles.

796. As a result of Defendants' conduct, Plaintiffs and the Class Members were harmed and suffered actual damages in that the Class Vehicles experienced and will continue to experience the Fuel Pump Defect and the resultant effects therefrom.

797. As a direct and proximate result of Defendants' unfair or deceptive acts or practices, Plaintiffs and Multi-State Consumer Protection Class Two Members suffered and will continue to suffer actual damages. Had Defendants disclosed the true nature and/or danger in its vehicles, Plaintiffs and members of the Class would not have been misled into leasing or purchasing the Class Vehicles or would have paid significantly less for them.

798. Plaintiffs, on behalf of themselves and all other similarly situated California consumers, and as appropriate, on behalf of the general public of the State of California, seek injunctive relief prohibiting Defendants from continuing these unlawful practices pursuant to California Civil Code § 1782(a)(2), and such other equitable relief, including restitution of either (1) the full purchase or lease price paid by customers who purchased a Class Vehicle, or (2) a portion of the purchase or lease price paid by customers who purchased or leased a Class Vehicle reflecting the difference in value as compared to a vehicle without the defect.

799. Plaintiffs provided Defendants with notice of its violations of the CLRA pursuant to California Civil Code § 1782(a) demanding that Defendants correct such violations, and further notified them as alleged herein. Because Defendants failed to adequately respond to the letters within 30 days Plaintiffs also seek actual damages and attorneys' fees as allowed by the CLRA.

COUNT 4
VIOLATIONS OF CALIFORNIA'S FALSE ADVERTISING LAW, AND MATERIALLY
IDENTICAL STATE STATUTES
(Individually and on Behalf of the Multi-State Consumer Protection Class Two)
(As to Toyota)

800. Plaintiffs Feng, Hakim, Grimes, Dendy, Mitchell, Gendron, and Carter ("Plaintiffs" for purposes of this Count) incorporate by reference each allegation as if set forth fully herein.

801. This Count is brought individually and on behalf of the Multi-State Consumer Protection Class Two.

802. The foregoing acts, conduct, and omission of Toyota constitute unfair, unconscionable, deceptive, or unlawful acts or business practices in violation of at least the States' consumer protection statutes set forth above.

803. Toyota has benefitted from intentionally selling and leasing at an unjust profit defective Class Vehicles at artificially inflated prices due to Defendants' concealment of the Fuel Pump Defect, and Plaintiffs and other Multi-State Consumer Protection Class Two Members overpaid for their Class Vehicles.

804. Toyota publicly disseminated advertising and promotional material that was designed and intended to convey to the public that the Class Vehicles were safe, reliable, and operated as consumers would expect the Class Vehicles to operate.

805. Toyota was aware, or should have been aware, of the Fuel Pump Defect at the time Plaintiffs and Multi-State Consumer Protection Class Two Members purchased or leased the Class Vehicles.

806. However, Toyota negligently or intentionally made representations in its advertisements, and, due to issues it was aware of, did not sell the Class Vehicles that conformed to the representations and promises in the publicly disseminated advertisements.

807. Toyota unjustly received and retained benefits from Plaintiffs and the other Multi-State Consumer Protection Class Two Class Members.

808. It is inequitable and unconscionable for Toyota to retain these benefits.

809. Because Toyota wrongfully concealed their misconduct, Plaintiffs and Class Members were not aware of the facts concerning the Class Vehicles and did not benefit from Defendants' misconduct.

810. Toyota knowingly accepted the unjust benefits of its wrongful conduct.

811. Toyota had notice of its violations as alleged herein.

812. As a result of Toyota's misconduct, Plaintiffs and Multi-State Consumer Protection Class Two Class Members suffered an injury-in-fact and lost money and/or property in an amount to be proven at trial.

COUNT 5
VIOLATIONS OF CALIFORNIA'S UNFAIR COMPETITION LAW, AND
MATERIALLY IDENTICAL STATE STATUTES
(Individually and on Behalf of the Multi-State Consumer Protection Class Two)
(As to Toyota and Denso)

813. Plaintiffs Feng, Hakim, Grimes, Dendy, Mitchell, Gendron, and Carter ("Plaintiffs" for purposes of this Count) incorporate by reference each allegation as if set forth fully herein.

814. This Count is brought individually and on behalf of the Multi-State Consumer Protection Class Two.

815. The foregoing acts, conduct, and omission of Defendants constitute unfair, unconscionable, deceptive, or unlawful acts or business practices in violation of at least the States' consumer protection statutes set above.

816. As a result of their reliance on Defendants' omissions and/or misrepresentations, owners and lessees of the Class Vehicles suffered an ascertainable loss of money, property, and/or value in connection with the purchase or lease of their Class Vehicles. Additionally, as a result of the Fuel Pump Defect, Plaintiffs and members of the Multi-State Consumer Protection Class Two Class were harmed and suffered actual damages in that the Class Vehicles are substantially certain to fail before their expected useful life has run.

817. California Business & Professions Code § 17200 prohibits acts of "unfair competition," including any "unlawful, unfair or fraudulent business act or practice" and "unfair, deceptive, untrue or misleading advertising."

818. Plaintiffs and members of the Class are reasonable consumers who do not expect their vehicles to suffer from sudden deceleration and stalling without warning.

819. Defendants knew the Class Vehicles suffered from inherent defects, were defectively designed or manufactured, would fail prematurely, and were not suitable for their intended use.

820. In failing to disclose the Fuel Pump Defect, Defendants' knowingly or intentionally concealed material facts and breached their duty not to do so.

821. Defendants were under a duty to Plaintiffs and members of the Class to disclose the Fuel Pump Defect because Defendants were in a superior position to know the true state of facts about the safety defect and Plaintiffs and members of the Class could not reasonably have been expected to learn or discover that the Class Vehicles had a dangerous safety defect until it manifested.

822. A reasonable consumer would have considered the facts Defendants concealed or did not disclose to Plaintiffs and members of the Class to be important in deciding whether to purchase or lease the Class Vehicles or pay less for them. Had Plaintiffs and members of the Class known of the Fuel Pump Defect in the Class Vehicles, they would not have purchased or leased the vehicles or would have paid less for them.

823. Defendants continued to conceal the defective nature of the Class Vehicles even after consumers began to report problems. Defendants continue to cover up and conceal the true nature of the Fuel Pump Defect.

824. Defendants' acts, conduct, and practices were fraudulent, in that they constituted business practices and acts that were likely to deceive reasonable members of the public.

Defendants' acts, conduct, and practices were fraudulent because they are immoral, unethical, oppressive, unscrupulous, and/or are substantially injurious to consumers.

825. Defendants' acts, conduct, and practices were unfair in that they constituted business practices and acts the utility of which does not outweigh the harm to consumers. Defendants' business acts and practices were further unfair in that they offend established public policy, are immoral, unethical, oppressive, unscrupulous, and substantially injurious to consumers.

826. A business practice is unlawful if it is forbidden by any law. Defendants' acts, conduct, and practices were unlawful, in that they constituted:

- a. Violations of the California Consumers Legal Remedies Act;
- b. Violations of the Song-Beverly Consumer Warranty Act;
- c. Violations of the False Advertising Law;
- d. Violations of Magnuson-Moss Consumer Warranty Act; and
- e. Violations of the express and implied warranty provisions of California

Commercial Code sections 2313 and 2314.

827. By its conduct, Defendants have engaged in unfair competition and unlawful, unfair, and fraudulent business practices.

828. Defendants' unfair or deceptive acts or practices occurred repeatedly in Defendants' trade or business and were capable of deceiving a substantial portion of the purchasing public.

829. As a direct and proximate result of Defendants' unfair and deceptive practices, Plaintiffs and members of the Class have suffered and will continue to suffer actual damages.

830. Defendants had notice of their violations as alleged herein.

831. Defendants have been unjustly enriched and should be required to make restitution to Plaintiffs and members of the Class pursuant to §§ 17203 and 17204 of the Business & Professions Code. Plaintiffs and members of the Classes also seek injunctive relief as requested below and as may be deemed appropriate by the Court.

COUNT 6
STRICT PRODUCT LIABILITY
(Individually and on Behalf of the Multi-State Strict Product Liability Class)
(As to Toyota and Denso)

832. Plaintiffs Pruitt, Zimmerman, Feng, Hakim, Grimes, Le, Bohn, DeWeerd, Puleo, Rock, Gendron, Carter, and Jones (“Plaintiffs” for purposes of this Count) incorporate by reference each allegation as if set forth fully herein.

833. This Count is brought individually and on behalf of the Multi-State Strict Liability Class.

834. By placing an unreasonably dangerous product in the stream of commerce, Defendants are strictly liable in at least the following states:

- a. **Alabama**
- b. **Alaska**
- c. **Arizona**
- d. **Arkansas**
- e. **California**
- f. **Colorado**
- g. **Connecticut**
- h. **Georgia (as to Defendant Denso only)**
- i. **Illinois**
- j. **Iowa**

- k. **Kansas**
- l. **Louisiana**
- m. **Maryland**
- n. **Massachusetts**
- o. **Michigan**
- p. **Montana**
- q. **New Hampshire**
- r. **New Jersey (as to Defendant Denso only)**
- s. **Ohio (as to Defendant Denso only)**
- t. **Oregon**
- u. **Rhode Island**
- v. **Utah (as to Defendant Denso only)**
- w. **Washington**
- x. **West Virginia**

835. Defendants are strictly liable for designing, engineering, testing, validating, manufacturing, and placing in the stream of commerce an unreasonably dangerous Fuel Pump.

836. Defendants designed, engineered, tested, validated, manufactured, and placed in the stream of commerce the unreasonable dangerous Fuel Pump.

837. The Class Vehicles and Fuel Pumps are being used in an intended and/or foreseeable manner. Plaintiffs and Class Members have not misused or altered the Class Vehicles or Fuel Pumps. The Class Vehicles and Fuel Pumps are in the same or substantially similar condition as they were at the time of purchase/lease.

838. The Class Vehicles and Fuel Pumps are unreasonably dangerous and defective because they were designed, engineered, tested, validated, manufactured, and placed in the stream of commerce with the Fuel Pump Defect that can cause Class Vehicles to suddenly and unexpectedly stall or lose engine power.

839. The Fuel Pump Defect causes an unreasonably dangerous condition when Class Vehicles are used for their intended and foreseeable purpose of providing safe and reliable transportation and places Plaintiffs, Class Members, and others on the road at an unreasonable and substantial risk for injury or death.

840. Defendants were aware of feasible alternative designs which would minimize or eliminate the Fuel Pump Defect and the risk it poses. Such alternative designs were known and available when the Class Vehicles and Fuel Pumps were designed, engineered, tested, validated, manufactured, and placed in the stream of commerce.

841. Defendants failed to design, test, validate, manufacture, and place in the stream of commerce a Class Vehicle and Fuel Pump that is free from the Fuel Pump Defect and the unreasonable safety risks it poses.

842. As a result of Defendants' actions as described herein, Plaintiffs and the other Class Members have been damaged in an amount to be determined at trial.

COUNT 7
NEGLIGENT RECALL/UNDERTAKING
(Individually and on Behalf of the Multi-State Negligent Recall Class)
(As to Toyota)

843. Plaintiffs Pruitt, Zimmerman, Feng, Hakim, Grimes, Le, Bohn, DeWeerd, Puleo, Rock, Gendron, Carter, and Jones ("Plaintiffs" for purposes of this Count) incorporate by reference each allegation as if set forth fully herein.

844. Plaintiff brings this claim individually and on behalf of the Multi-State Negligent Recall Class.

845. By not acting prudent, Toyota is liable for breaching a duty of care in the following states:

- a. **Alabama**
- b. **Alaska**
- c. **Arizona**
- d. **Arkansas**
- e. **California**
- f. **Colorado**
- g. **Connecticut**
- h. **Georgia**
- i. **Illinois**
- j. **Iowa**
- k. **Kansas**
- l. **Louisiana**
- m. **Maryland**
- n. **Massachusetts**
- o. **Michigan**
- p. **Montana**
- q. **New Hampshire**
- r. **New Jersey**
- s. **Ohio**

- t. **Oregon**
- u. **Rhode Island**
- v. **Utah**
- w. **Virginia**
- x. **Washington**
- aa. **West Virginia**

846. Prior to the events made the basis of this action, Toyota designed, engineered, manufactured, marketed, and placed the Class Vehicles in the stream of commerce.

847. On January 13, 2020, Toyota initiated a voluntary recall of the Recalled Vehicles. Toyota's recall was voluntary and not initiated by NHTSA. The Recall was expanded and amended in the March 19, 2020 Second Recall.

848. Toyota owed a duty to use reasonable care to Plaintiffs and Class Members based on its undertaking of the Recall.

849. As described above, Toyota breached its duty by conducting the Recall negligently and/or wantonly by, among other things, failing to notify Plaintiffs and the Class of the Fuel Pump Defect, failing to direct Class Members to stop driving their Class Vehicles, and failing to offer Class Members free loaner vehicles of comparable make, model, or value as their Class Vehicles until Toyota is able to devise a remedy that is safe and dependable (if ever) and implement it in each Class Vehicle. Toyota's failure to do so continues to expose Plaintiffs and the Class to the risk of injury and death.

850. For the reasons set for the above, Toyota knew, or should have known through the exercise of ordinary care, the Recall was not being performed in a reasonable manner.

851. As a direct and proximate result, Plaintiffs and the other Class Members have been and continue to be damaged in an amount to be determined at trial.

II. Claims Brought on Behalf of the Statewide Classes

I. NEW YORK CLASS

COUNT 8 VIOLATION OF NEW YORK GENERAL BUSINESS LAW, N.Y. GEN. BUS. LAW § 349 (Individually and on Behalf of the New York Class) (As to all Defendants)

852. Plaintiffs Cheng, Dias, and SanFilipo (“Plaintiffs” for purposes of this Count) incorporates by reference each allegation as if set forth fully herein.

853. This Count is brought on behalf of Plaintiffs and the New York Class (“Class” for the purposes of this Count) for violation of New York General Business Law § 349 (“GBL § 349”), which prohibits deceptive acts or practices in the conduct of any business, trade or commerce in New York State.

854. GBL § 349(h) provides that “any person who has been injured by reason of any violation of this section may bring . . . an action to recover his actual damages or fifty dollars, whichever is greater.”

855. GBL § 349(h) further provides that “[t]he court may, in its discretion, increase the award of damages to an amount not to exceed three times the actual damages up to one thousand dollars, if the court finds the defendant willfully or knowingly violated this section,” and that “[t]he court may award reasonable attorney’s fees to a prevailing Plaintiffs.”

856. Defendants’ design, engineering, testing, manufacture, distribution, marketing, advertising, labeling, and sale of the Class Vehicles constitutes “business, trade or commerce” under GBL § 349(a).

857. Defendants' conduct violates GBL § 349 because Defendants engaged in the deceptive acts and practices described above.

858. Defendants' deceptive conduct and its false and misleading statements about Class Vehicle and Fuel Pump safety and dependability and omissions regarding the Fuel Pump Defect, which causes the Fuel Pumps to prematurely fail, are facts that a reasonable person would have considered material in deciding whether or not to purchase or lease (or how much they were willing to pay to purchase or lease) the Class Vehicles.

859. Defendants' acts and practices described above were likely to mislead a reasonable consumer acting reasonably under the circumstances, including Plaintiffs and members of the Class.

860. Plaintiffs and the other Class Members justifiably acted or relied to their detriment upon Defendants' misrepresentations and omissions of fact, as evidenced by Plaintiffs and the other Class Members' leasing and purchasing of Class Vehicles.

861. Defendants' materially misleading statements and deceptive acts and practices were directed at the public at large, including Plaintiffs and members of the Class.

862. Had Defendants disclosed all material information regarding the Fuel Pump Defect to Plaintiffs and the other Class Members, Plaintiffs and the other Class Members would not have purchased or leased Class Vehicles or would have paid less to do so.

863. Defendants' deceptive acts and practices, and/or misrepresentations and omissions, have deceived Plaintiffs, and those same business practices have deceived or are likely to deceive members of the consuming public and the other members of the Class.

864. Toyota also engaged in deceptive conduct by issuing defective Recall that: provides no remedy for the Fuel Pump Defect; does not notify Class Members about the Fuel Pump Defect;

does not instruct consumers to stop driving the dangerous Class Vehicles; and does not notify offer Class Members free loaner vehicles of comparable make, model, or value as their own Class Vehicles to enable them to cease driving their dangerous Class Vehicles until a remedy is available and implemented.

865. Denso also engaged in deceptive conduct by manufacturing and placing in the stream of commerce a Fuel Pump it knew, or should have known, was materially defective.

866. Defendants' actions impact the public interest because Plaintiffs and the members of the Class have been injured in exactly the same way as millions of other consumers by Defendants' deceptive acts and practices as described herein.

867. As a direct and proximate result of Defendants' deceptive trade practices, Plaintiffs and the other Class Members have suffered ascertainable loss and actual damages. Plaintiffs and the other Class Members would not have purchased or leased the Class Vehicles or would have paid less for them had Defendants disclosed the truth about the Fuel Pump Defect. Plaintiffs and the other Class Members also suffered diminished value of their vehicles.

868. As a direct and proximate result of Defendants' deceptive trade practices, Plaintiffs and the other Class Members were harmed by Toyota's inadequate Recall, described above, including Defendants' failure to notify them of the Fuel Pump Defect, failure to direct them to stop driving their Class Vehicles, and failure to offer Class Members free loaner vehicles of comparable make, model, or value as their Class Vehicles until Defendants are able to devise a remedy that is safe and dependable (if ever) and implement it in each Class Vehicle. Defendants' failure to do so continues to expose Plaintiffs and the Class to the risk of injury and death.

869. Defendants' violation of GBL § 349 was willful and knowing. Defendants knowingly and willfully marketed the Class Vehicles as safe and dependable all the while knowing

they were not. Defendants admit in the Recall Reports the fact of the Fuel Pump Defect, the thousands of warranty claims and more than 60 Field Technical Reports it received about the Fuel Pump Defect, and that the Fuel Pump Defect poses a serious risk of injury rendering the Class Vehicles unsafe. The facts of the defect Recall are incontrovertible. Defendants, through their willful and knowing deceptive acts and practices, as detailed above, have willfully and knowingly exposed Plaintiffs and the Class to the risk of serious injury and death, and continue to do so by virtue of having issued the deficient Recall.

870. As a direct and proximate result of Defendants' conduct in violation of GBL § 349, Plaintiffs and the members of the Class have been injured in an amount to be proven at trial, with a statutory minimum of fifty dollars per Class member. Because Defendants' violation was knowing and willful, Plaintiffs is entitled to treble damages under GBL § 349(h).

871. Plaintiffs also seek injunctive relief as deemed appropriate by the Court.

872. Additionally, pursuant to GBL § 349, Plaintiffs and the Class seek attorneys' fees and costs.

COUNT 9
VIOLATION OF NEW YORK'S G.B.L § 350
(Individually and on Behalf of the New York Class)
(As to Toyota)

873. Plaintiffs Cheng, Dias, and SanFilipo ("Plaintiffs" for purposes of this Count) incorporate by reference each allegation as if set forth fully herein.

874. This Count is brought individually and on behave of the Statewide Classes.

875. The foregoing acts, conducts, and omissions of Toyota constitute false advertising in violation of the same States' consumer protection statutes as set forth in Paragraph 550, above.

876. Toyota was and is engaged in "conduct of business, trade or commerce" within the meaning of GBL § 350.

877. Toyota's design, engineering, testing, manufacture, distribution, marketing, advertising, labeling, and sale of the Class Vehicles constitutes "business, trade or commerce" under GBL § 350.

878. Toyota caused to be made or disseminated through New York, through advertising, marketing, and other publications, statements that were untrue or misleading, and which were known, or which by exercise of reasonable care should have been known to the Toyota, to be untrue and misleading to consumers, including the Plaintiffs and Class Members. Numerous examples of these statements and advertisements appear in the preceding paragraphs throughout this Complaint.

879. In the course of their business, Toyota through its agents, employees, and/or subsidiaries, violated GBL § 350 by knowingly and intentionally misrepresenting, omitting, concealing, and/or failing to disclose material facts regarding the reliability, safety, and performance of the Class Vehicles and the defective Fuel Pumps, as detailed above.

880. Toyota's deceptive conduct and its false and misleading statements about Class Vehicle and Fuel Pump safety and dependability and omissions regarding the Fuel Pump Defect, which causes the Fuel Pumps to prematurely fail, are facts that a reasonable person would have considered material in deciding whether or not to purchase or lease (or how much they were willing to pay to purchase or lease) the Class Vehicles.

881. Toyota's acts and practices described above were likely to mislead a reasonable consumer acting reasonably under the circumstances, including Plaintiffs and members of the Class.

882. Plaintiffs and the other Class Members justifiably acted or relied to their detriment upon Toyota's misrepresentations and omissions of fact, as evidenced by Plaintiffs and the other Class Members' leasing and purchasing of Class Vehicles.

883. Toyota's materially misleading statements and deceptive acts and practices were directed at the public at large, including Plaintiffs and members of the Class.

884. Toyota's false advertising practices, including misrepresentations, concealments, omissions, and suppressions of material facts, had a tendency or capacity to mislead and create a false impression in consumers, and were likely to and did in fact deceive reasonable consumers, including Plaintiffs and the Class Members, about the true safety and reliability of Class Vehicles and/or the defective Fuel Pumps installed in them, the quality of the Class Vehicles, and the true value of the Class Vehicles.

885. Toyota's scheme and concealment of the Fuel Pump defect was material to the Plaintiffs and the Class Members, as Toyota intended. Had they known the truth, the Plaintiffs and Class Members would not have purchased or leased the Class Vehicles or would have paid significantly less for them.

886. Toyota's deceptive acts and practices, and/or misrepresentations and omissions, have deceived Plaintiffs, and those same business practices have deceived or are likely to deceive members of the consuming public and the other members of the Class.

887. Toyota's actions impact the public interest because Plaintiffs and the members of the Class have been injured in exactly the same way as millions of other consumers by Toyota's deceptive acts and practices as described herein.

888. As a direct and proximate result of Toyota's deceptive trade practices, Plaintiffs and the other Class Members have suffered ascertainable loss and actual damages. Plaintiffs and

the other Class Members would not have purchased or leased the Class Vehicles or would have paid less for them had Toyota disclosed the truth about the Fuel Pump Defect. Plaintiffs and the other Class Members also suffered diminished value of their vehicles.

889. As a direct and proximate result of Toyota's deceptive trade practices, Plaintiffs and the other Class Members were harmed by Toyota's inadequate Recall, described above, including Toyota's failure to notify them of the Fuel Pump Defect, failure to direct them to stop driving their Class Vehicles, and failure to offer Class Members free loaner vehicles of comparable make, model, or value as their Class Vehicles until Toyota are able to devise a remedy that that is safe and dependable (if ever) and implement it in each Class Vehicle. Toyota' failure to do so continues to expose Plaintiffs and the Class to the risk of injury and death.

890. Toyota's violation of GBL § 350 was willful and knowing. Toyota knowingly and willfully marketed the Class Vehicles as safe and dependable all the while knowing they were not. Toyota; admit in the Recall Reports the fact of the Fuel Pump Defect, the thousands of warranty claims and more than 60 Field Technical Reports it received about the Fuel Pump Defect, and that the Fuel Pump Defect poses a serious risk of injury rendering the Class Vehicles unsafe; and the facts of the defect Recall are incontrovertible. Toyota, through their willful and knowing deceptive acts and practices, as detailed above, have willfully and knowingly exposed Plaintiffs and the Class to the risk of serious injury and death, and continue to do so by virtue of having issued the deficient Recall.

891. The Plaintiffs and Class Members relied on Toyota and had no way of discerning that those representations were false and misleading and/or otherwise learning the facts that Toyota had concealed or failed to disclose. Plaintiffs and members of the Class did not, and could not, unravel Toyota' deception on their own.

892. Toyota had an ongoing duty to the Plaintiffs and Class Members to refrain from false advertising practices under GBL § 350 in the course of their business. Specifically, Toyota owed the Plaintiffs and Class Members a duty to disclose all the material facts concerning the Fuel Pump defect in the Class Vehicles because they possessed exclusive knowledge, they intentionally concealed the Fuel Pump defect from the Plaintiffs and Class Members, and/or they made misrepresentations that were rendered misleading because they were contradicted by withheld facts.

893. The Plaintiffs and Class Members suffered ascertainable losses and actual damages as a direct and proximate result of Toyota's concealment, misrepresentations, and/or failure to disclose material information.

894. As a direct and proximate result of Toyota's conduct in violation of GBL § 350, Plaintiffs and the members of the Class have been injured in an amount to be proven at trial. Because Toyota's violation was knowing and willful, Plaintiffs is entitled to treble damages under GBL § 350(e).

895. Toyota's violations present a continuing risk to the Plaintiffs and Class Members, as well as to the general public. Toyota' unlawful acts and practices complained of herein affect the public interest.

896. Pursuant to GBL § 350, the Plaintiffs and Class Members seek an order enjoining the Toyota's false advertising practices and awarding damages and any other just and proper relief available under GBL § 350.

897. Additionally, pursuant to GBL § 350, Plaintiffs and the Class seek attorneys' fees and costs.

COUNT 10
BREACH OF EXPRESS WARRANTY

N.Y. U.C.C. § 2-313
(Individually and on Behalf of the New York Class)
(As to Toyota)

898. Plaintiffs Cheng, Dias, and SanFilipo (“Plaintiffs” for purposes of this Count) incorporate by reference each allegation as if set forth fully herein.

899. Plaintiffs bring this claim individually and on behalf of the other members of the New York Class (“Class” for purposes of this Count).

900. Toyota is and was at all relevant times a merchant with respect to the Class Vehicles.

901. Pursuant to N.Y. U.C.C. § 2-313(i)(a), “[a]ny affirmation of fact or promise made by the seller to the buyer which relates to the goods and becomes part of the basis of the bargain creates an express warranty that the goods shall conform to the affirmation or promise.”

902. In its written express warranties, Toyota expressly warranted that it would repair or replace defective parts free of charge if the defects became apparent during the warranty period.

903. Toyota’s written express warranties formed the basis of the bargain that was reached when Plaintiffs and the other Class Members purchased or leased their Class Vehicles.

904. Toyota breached its express warranty to repair defective parts in the Class Vehicles. Toyota admittedly has not repaired the Class Vehicles’ Fuel Pump Defect.

905. Further, Toyota has refused to provide an adequate warranty repair for the Fuel Pump Defect, thus rendering the satisfaction of any notice requirement futile. As stated above, customers that have presented their vehicles for warranty repair due to Fuel Pump failure have been denied adequate repairs.

906. The written express warranties fail in their essential purpose because the contractual remedy is insufficient to make Plaintiffs and the other Class Members whole and because Toyota has failed and/or has refused to adequately provide an effective remedy within a reasonable time.

907. Accordingly, recovery by Plaintiffs and the other Class Members is not limited to the limited remedy of repair, and Plaintiffs, individually and on behalf of the other Class Members, seeks all remedies as allowed by law.

908. Also, as alleged in more detail herein, at the time that Toyota warranted and sold or leased the Class Vehicles it knew that the Class Vehicles did not conform to the warranty and were inherently defective, and Toyota improperly concealed material facts regarding its Class Vehicles. Plaintiffs and the other Class Members were therefore induced to purchase or lease the Class Vehicles under false pretenses.

909. Toyota had notice of its breach as alleged herein.

910. As a direct and proximate result of Toyota's breach of its express warranty, Plaintiffs and the other Class Members have been damaged in an amount to be determined at trial.

COUNT 11
BREACH OF IMPLIED WARRANTY OF MERCHANTABILITY
N.Y. U.C.C. § 2-314
(Individually and on Behalf of the New York Class)
(As to Toyota)

911. Plaintiffs Cheng, Dias, and SanFilipo ("Plaintiffs" for purposes of this Count) incorporates by reference each allegation as if set forth fully herein.

912. This Count is brought on behalf of Plaintiffs and the New York Class ("Class" for the purposes of this Count).

913. Toyota is a “merchant” and the Class Vehicles are “goods” as defined in N.Y. U.C.C. §§ 2-104 and 2-105.

914. Pursuant to N.Y. U.C.C. § 2-314, a warranty that the Class Vehicles were in merchantable condition was implied by law in the sale or lease of the product. Toyota impliedly warranted that the Class Vehicles were of a merchantable quality.

915. By placing the Class Vehicles in the stream of commerce, Toyota impliedly warranted that the Class Vehicles are safe, and that all claims in their advertising and marketing of the Class Vehicles were true.

916. The Class Vehicles did not comply with the implied warranty of merchantability because, at the time of sale or lease and at all times thereafter, the Class Vehicles were defective and not in merchantable condition, would not pass without objection in the trade, and were not fit for the ordinary purpose for which vehicles were used. Specifically, the Class Vehicles suffer from the Fuel Pump Defect which causes the Class Vehicles’ Fuel Pump to prematurely fail, which can cause the engine to run rough, and the vehicle to stall while being driven or become inoperable.

917. Further, Toyota has refused to provide an adequate warranty repair for the Fuel Pump Defect, thus rendering the satisfaction of any notice requirement futile. As stated above, customers that have presented their vehicles for warranty repair due to Fuel Pump failure have been denied adequate repair.

918. Plaintiffs and the other Class Members suffered injuries due to the defective nature of the Class Vehicles and Toyota’s breach of the warranty of merchantability.

919. At all times that Toyota warranted and sold the Class Vehicles, it knew or should have known that its warranties were false, and yet it did not disclose the truth, or stop manufacturing or selling the Class Vehicles, and instead continued to issue false warranties, and

continued to insist the products were safe. The Class Vehicles were defective when Toyota delivered them to their resellers, dealers, and distributors which sold the Class Vehicles, and the Class Vehicles were therefore still defective when they reached Plaintiffs and the Class.

920. Toyota's resellers, dealers, and distributors are intermediaries between Toyota and consumers. These intermediaries sell Class Vehicles to consumers and are not, themselves, consumers of Class Vehicles, and therefore have no rights against Toyota with respect to Plaintiffs and all other Class Members' acquisition of Class Vehicles. Toyota's warranties were designed to influence consumers who purchased and/or owned Class Vehicles.

921. Plaintiffs and each Class member's acquisition of the Class Vehicles suffices to create privity of contract between Plaintiffs and all other members of the Class, on the one hand, and Toyota, on the other hand; however, privity of contract need not be established nor is it required because Plaintiffs and the Class Members are intended third-party beneficiaries of contracts between Toyota and their resellers, authorized dealers, and, specifically, of Toyota's implied warranties.

922. Toyota had notice of its breach as alleged herein.

923. As a direct and proximate result of Toyota's breach of implied warranties of merchantability, Plaintiffs and the Class are entitled to damages in an amount to be determined at trial.

COUNT 12
FRAUDULENT OMISSION
(Individually and on behalf of the New York Class)
(As to all Defendants)

924. Plaintiffs Cheng, Dias, and SanFilipo ("Plaintiffs" for purposes of this Count) incorporate by reference each allegation as if fully set forth herein.

925. Plaintiffs bring this Count individually and on behalf of the other members of the New York Class (the “Class,” for purposes of this Count).

926. Defendants were aware of the Fuel Pump Defect within the Class Vehicles when the Class Vehicles were marketed and sold to Plaintiff and the other members of the Class.

927. Having been aware of the Fuel Pump Defect within the Class Vehicles, and having known that Plaintiff and the other members of the Class could not have reasonably been expected to know of the Fuel Pump Defect, Defendants had a duty to disclose the defect to Plaintiff and the other members of the Class in connection with the sale or lease of the Class Vehicles.

928. Defendants did not disclose the Fuel Pump Defect to Plaintiff and the other members of the Class in connection with the sale of the Class Vehicles.

929. For the reasons set forth above, the Fuel Pump Defect within the Class Vehicles comprises material information with respect to the sale or lease of the Class Vehicles.

930. In purchasing the Class Vehicles, Plaintiff and the other members of the Class reasonably relied on Defendants to disclose known material defects with respect to the Class Vehicles.

931. Had Plaintiff and the other members of the Class known of the Fuel Pump Defect within the Class Vehicles, they would have not purchased the Class Vehicles or would have paid less for the Class Vehicles.

932. Through their omissions regarding the Fuel Pump Defect within the Class Vehicles, Defendants intended to induce, and did induce, Plaintiff and the other members of the Class to either purchase a Class Vehicle that they otherwise would not have purchased, or pay more for a Class Vehicle than they otherwise would have paid.

933. As a direct and proximate result of Defendants' omissions, Plaintiff and the other members of the Class either overpaid for the Class Vehicles or would not have purchased the Class Vehicles at all if the Fuel Pump Defect had been disclosed to them, and, therefore, have incurred damages in an amount to be determined at trial.

II. ALABAMA CLASS

COUNT 13
VIOLATIONS OF ALABAMA'S DECEPTIVE TRADE PRACTICES ACT
ALA. CODE §§ 8-19-1, et seq.
(Individually and on behalf of the Alabama Class)
(As to all Defendants)

934. Plaintiff Pruitt ("Plaintiff" for purposes of this Count) incorporates by reference each allegation as if fully set forth herein.

935. Plaintiff brings this claim individually and on behalf of the other members of the Alabama Class (the "Class," for purposes of this Count).

936. The Alabama Deceptive Trade Practices Act, Ala. Code. § 8-19-5, prohibits "[e]ngaging in . . . unconscionable, false, or deceptive act[s] or practice[s] in business, commerce, or trade."

937. By the conduct described in detail above and incorporated herein, Defendants engaged in deceptive trade practices.

938. Plaintiff, individually and on behalf of the other Class Members, notified Toyota of the Fuel Pump Defect in the Class Vehicles, and its violation of the Alabama Deceptive Trade Practices Act, through a notice letter hand delivered to Toyota's registered agent in Montgomery, Alabama on January 24, 2020, which Toyota acknowledged the same day. Toyota was also provided notice of the Fuel Pump Defect through numerous complaints filed against it directly and through its dealers, as well as its own internal engineering knowledge.

939. Defendants' omissions regarding the Fuel Pump Defect, described above, which causes the Fuel Pump to prematurely fail, are material facts that a reasonable person would have considered in deciding whether or not to purchase (or to pay the same price for) the Class Vehicles.

940. Defendants intended for Plaintiff and the other Class Members to rely on the omissions regarding the Fuel Pump Defect.

941. Plaintiff and the other Class Members justifiably acted or relied to their detriment upon Defendants' omissions of fact concerning the above-described Fuel Pump Defect, as evidenced by Plaintiff and the other Class Members' purchases of Class Vehicles.

942. Had Defendants disclosed all material information regarding the Fuel Pump Defect to Plaintiff and the other Class Members, Plaintiff and the other Class Members would not have purchased or leased Class Vehicles or would have paid less to do so.

943. Defendants' omissions have deceived Plaintiff, and those same business practices have deceived or are likely to deceive members of the consuming public and the other members of the Class.

944. Defendants had notice of their violations as alleged herein.

945. As a direct and proximate result of Defendants' deceptive trade practices, Plaintiff and the other Class Members have suffered ascertainable loss and actual damages. Plaintiff and the other Class Members who purchased or leased the Class Vehicles would not have purchased or leased the Class Vehicles, or, alternatively, would have paid less for them had the truth about the Fuel Pump Defect been disclosed. Plaintiff and the other Class Members also suffered diminished value of their vehicles. Plaintiff and the other Class Members are entitled to recover actual damages, attorneys' fees and costs, and all other relief allowed under Ala. Code. §§ 8-19-1, *et seq.*

COUNT 14
STRICT PRODUCT LIABILITY
(Individually and on behalf of the Alabama Class)
(As to all Defendants)

946. Plaintiff Pruitt (“Plaintiff” for purposes of this Count) incorporates by reference each allegation as if fully set forth herein.

947. Plaintiff brings this claim individually and on behalf of other members of the Alabama Class (the “Class,” for purposes of this Count).

948. Defendants are strictly liable for designing, engineering, testing, validating, manufacturing, and placing in the stream of commerce an unreasonably dangerous Fuel Pump.

949. Defendants designed, engineered, tested, validated, manufactured, and placed in the stream of commerce the unreasonable dangerous Fuel Pump.

950. The Class Vehicles and Fuel Pumps are being used in an intended and/or foreseeable manner. Plaintiff and Class Members have not misused or materially altered the Class Vehicles or Fuel Pumps. The Class Vehicles and Fuel Pumps are in the same or substantially similar condition as they were at the time of purchase/lease.

951. The Class Vehicles and Fuel Pumps are unreasonably dangerous and defective because they were designed, engineered, tested, validated, manufactured, and placed in the stream of commerce with the Fuel Pump Defect that can cause Class Vehicles to suddenly and unexpectedly stall or lose engine power.

952. The Fuel Pump Defect causes an unreasonably dangerous condition when Class Vehicles are used for their intended and foreseeable purpose of providing safe and reliable transportation and places Plaintiff, Class Members, and others on the road at an unreasonable and substantial risk for injury or death.

953. Defendants were aware of feasible alternative designs which would minimize or eliminate the Fuel Pump Defect and the risk it poses. Such alternative designs were known and available when the Class Vehicles and Fuel Pumps were designed, engineered, tested, validated, manufactured, and placed in the stream of commerce.

954. Defendants failed to design, test, validate, manufacture, and place in the stream of commerce a Class Vehicle and Fuel Pump that is free from the Fuel Pump Defect and the unreasonable safety risks it poses.

955. As a result of Defendants' actions as described herein, Plaintiff and the other Class Members have been damaged in an amount to be determined at trial.

COUNT 15
BREACH OF EXPRESS WARRANTY
ALA. CODE §§ 7-2-313 AND 7-2A-210
(Individually and on behalf of the Alabama Class)
(As to Toyota)

956. Plaintiff Pruitt ("Plaintiff" for purposes of this Count) incorporates by reference each allegation as if fully set forth herein.

957. Plaintiff brings this claim individually and on behalf of the other members of the Alabama Class (the "Class" for purposes of this Count).

958. Toyota is a merchant with respect to the Class Vehicles.

959. In its written express warranties, Toyota expressly warranted that it would repair or replace defective parts free of charge if the defects became apparent during the warranty period.

960. Toyota's written express warranties formed the basis of the bargain that was reached when Plaintiff and the other Class Members purchased or leased their Class Vehicles.

961. Toyota breached its express warranty to repair defective parts in the Class Vehicles. Toyota admittedly has not repaired the Class Vehicles' Fuel Pump Defect.

962. Plaintiff, individually and on behalf of the other Class Members, notified Toyota of the Fuel Pump Defect in the Class Vehicles, and its corresponding breach of warranty, through a notice letter hand delivered to Toyota's registered agent in Montgomery, Alabama on January 24, 2020, which Toyota acknowledged the same day. Toyota was also provided notice of the Fuel Pump Defect through numerous complaints filed against it directly and through its dealers, as well as its own internal engineering knowledge. Toyota has not remedied its breach.

963. Further, Toyota has refused to provide an adequate warranty repair for the Fuel Pump Defect, thus rendering the satisfaction of any notice requirement futile. As stated above, customers that have presented their vehicles for warranty repair due to Fuel Pump failure have been denied adequate repairs.

964. The written express warranties fail in their essential purpose because the contractual remedy is insufficient to make Plaintiff and the other Class Members whole and because Toyota has failed and/or has refused to adequately provide effective remedies within a reasonable time.

965. Accordingly, recovery by Plaintiff and the other Class Members is not limited to the limited remedy of repair, and Plaintiff, individually and on behalf of the other Class Members, seeks all remedies as allowed by law.

966. Also, as alleged in more detail herein, at the time that Toyota warranted and sold the Class Vehicles it knew that the Class Vehicles did not conform to the warranty and were inherently defective, and Toyota improperly concealed material facts regarding its Class Vehicles. Plaintiff and the other Class Members were therefore induced to purchase or lease the Toyota Vehicles under false pretenses.

967. Toyota had notice of its breach as alleged herein.

968. As a direct and proximate result of Toyota's breach of its express warranty, Plaintiff and the other Class Members have been damaged in an amount to be determined at trial.

COUNT 16
BREACH OF IMPLIED WARRANTY OF MERCHANTABILITY
ALA. CODE §§ 7-2-314 AND 7-2A-314
(Individually and on behalf of the Alabama Class)
(As to Toyota)

969. Plaintiff Pruitt ("Plaintiff" for purposes of this Count) incorporates by reference each allegation as if fully set forth herein.

970. Plaintiff brings this Count individually and on behalf of the other members of the Alabama Class (the "Class," for purposes of this Count).

971. Toyota is a merchant with respect to motor vehicles under Ala. Code §§ 7-2-104 and 7-2A-103.

972. Pursuant to Ala. Code §§ 7-2-314 and 7-2A-212, a warranty that the Class Vehicles were in merchantable condition was implied by law, and the Class Vehicles were bought and sold subject to an implied warranty of merchantability.

973. The Class Vehicles do not comply with the implied warranty of merchantability because, at the time of sale and at all times thereafter, they were defective and not in merchantable condition, would not pass without objection in the trade, and were not fit for the ordinary purpose for which vehicles were used. Specifically, the Class Vehicles suffer from the Fuel Pump Defect which causes the Class Vehicles' Fuel Pump to prematurely fail.

974. Plaintiff, individually and on behalf of the other Class Members, notified Toyota of the Fuel Pump Defect in the Class Vehicles, and its corresponding breach of warranty, through a notice letter hand delivered to Toyota's registered agent in Montgomery, Alabama on January 24, 2020, which Toyota acknowledged the same day. Toyota was also provided notice of the Fuel

Pump Defect through numerous complaints filed against it directly and through its dealers, as well as its own internal engineering knowledge. Toyota has not remedied its breach.

975. Further, Toyota has refused to provide an adequate warranty repair for the Fuel Pump Defect, thus rendering the satisfaction of any notice requirement futile. As stated above, customers that have presented their vehicles for warranty repair due to Fuel Pump failure have been denied adequate repair.

976. Plaintiff and the other Class Members suffered injuries due to the defective nature of the Class Vehicles and Toyota's breach of the warranty of merchantability.

977. Toyota had notice of its breach as alleged herein.

978. As a direct and proximate result of Toyota's breach of the warranty of merchantability, Plaintiff and the other Class Members have been damaged in an amount to be proven at trial.

COUNT 17
NEGLIGENT RECALL/UNDERTAKING
(Individually and on behalf of the Alabama Class)
(As to Toyota)

979. Plaintiff Pruitt ("Plaintiff" for purposes of this Count) incorporates by reference each allegation as if fully set forth herein.

980. Plaintiff brings this Count individually and on behalf of the other members of the Alabama Class (the "Class," for purposes of this Count).

981. Prior to the events made the basis of this action, Toyota designed, engineered, manufactured, marketed, and placed the Class Vehicles in the stream of commerce.

982. On January 13, 2020 Toyota initiated a voluntary recall of the Recalled Vehicles. Toyota's recall was voluntary and not initiated by NHTSA. The Recall was expanded and amended in the March 19, 2020 Second Recall, and expanded again in Toyota's October 28, 2020 Third Recall.

983. Toyota owed a duty to use reasonable care to Plaintiff and Class Members based on its undertaking of the Recall.

984. As described above, Toyota breached its duty by conducting the Recall negligently and/or wantonly by, among other things, failing to notify Plaintiff and the Class of the Fuel Pump Defect, failing to direct Class Members to stop driving their Class Vehicles, and failing to offer Class Members free loaner vehicles of comparable make, model, or value as their Class Vehicles until Toyota is able to devise a repair that works (if ever) and implement it in each Class Vehicle. Toyota's failure to do so continues to expose Plaintiff and the Class to the risk of injury and death.

985. For the reasons set for the above, Toyota knew, or should have known through the exercise of ordinary care, the Recall was not being performed in a reasonable manner.

986. As a direct and proximate result, Plaintiff and the other Class Members have been and continue to be damaged in an amount to be determine at trial.

COUNT 18
FRAUDULENT OMISSION
(Individually and on behalf of the Alabama Class)
(As to all Defendants)

987. Plaintiff Pruitt ("Plaintiff" for purposes of this Count) incorporates by reference each allegation as if fully set forth herein.

988. Plaintiff brings this Count individually and on behalf of the other members of the Alabama Class (the "Class," for purposes of this Count).

989. Defendants were aware of the Fuel Pump Defect within the Class Vehicles when it marketed and sold the Class Vehicles to Plaintiff and the other members of the Class.

990. Having been aware of the Fuel Pump Defect within the Class Vehicles, and having known that Plaintiff and the other members of the Class could not have reasonably been expected to know of the Fuel Pump Defect, Defendants had a duty to disclose the defect to Plaintiff and the other members of the Class in connection with the sale or lease of the Class Vehicles.

991. Defendants did not disclose the Fuel Pump Defect to Plaintiff and the other members of the Class in connection with the sale of the Class Vehicles.

992. For the reasons set forth above, the Fuel Pump Defect within the Class Vehicles comprises material information with respect to the sale or lease of the Class Vehicles.

993. In purchasing the Class Vehicles, Plaintiff and the other members of the Class reasonably relied on Defendants to disclose known material defects with respect to the Class Vehicles.

994. Had Plaintiff and the other members of the Class known of the Fuel Pump Defect within the Class Vehicles, they would have not purchased the Class Vehicles or would have paid less for the Class Vehicles.

995. Through its omissions regarding the Fuel Pump Defect within the Class Vehicles, Defendants intended to induce, and did induce, Plaintiff and the other members of the Class to either purchase a Class Vehicle that they otherwise would not have purchased, or pay more for a Class Vehicle than they otherwise would have paid.

996. As a direct and proximate result of Defendants' omissions, Plaintiff and the other members of the Class either overpaid for the Class Vehicles or would not have purchased the Class

Vehicles at all if the Fuel Pump Defect had been disclosed to them, and, therefore, have incurred damages in an amount to be determined at trial.

III. ARIZONA CLASS

COUNT 19 VIOLATIONS OF ARIZONA'S CONSUMER FRAUD ACT

A.R.S. §§ 44-1521, *et. seq.*

(Individually and on behalf of the Arizona Class)

(As to all Defendants)

997. Plaintiff Ron Zimmerman (“Plaintiff,” for purposes of this Count) incorporates by reference all preceding allegations as if fully set forth herein.

998. Plaintiff bring this claim individually and on behalf of the other members of the Arizona Class (the “Class,” for purposes of this Count).

999. The Arizona Consumer Fraud Act (“ACFA”), A.R.S. § 44-1522(A), states that, “[t]he act, use or employment by any person of any deception, deceptive or unfair act or practice, fraud, false pretense, false promise, misrepresentation, or concealment, suppression or omission of any material fact with intent that others rely on such concealment, suppression or omission, in connection with the sale or advertisement of any merchandise whether or not any person has in fact been misled, deceived or damaged thereby, is declared to be an unlawful practice.”

1000. By the conduct described in detail above and incorporated herein, Defendants engaged in unfair or deceptive acts and/or material omissions in violation of A.R.S. § 44-1522(A).

1001. Defendants’ affirmative representations and omissions regarding the Fuel Pump Defect, described above, that causes the Fuel Pump to prematurely fail, are material facts that a reasonable person would have considered in deciding whether or not to purchase (or to pay the same price for) the Class Vehicles.

1002. Defendant's omissions are deceptive because they have the tendency and capacity to create misleading impressions in the minds of consumers. Defendants material omissions as to the quality and characteristics of the Class Vehicles falsely created an impression in the minds of consumers that the Class Vehicles were of a grade and quality superior to that which were sold to consumers.

1003. Defendants intended for Plaintiff and the other Class Members to rely on Defendants' misrepresentations and omissions regarding the Defect.

1004. Plaintiff and the other Class Members justifiably acted or relied to their detriment upon Defendants' omissions of fact concerning the above-described Fuel Pump Defect, as evidenced by Plaintiff's and the other Class Members' purchases of Class Vehicles. Plaintiffs similarly relied on affirmative representations regarding the Call Vehicles safety, reliability, and suitability for everyday driving.

1005. Had Defendants disclosed all material information regarding the Fuel Pump Defect to Plaintiff and the other Class Members, Plaintiff and the other Class Members would not have purchased or leased Class Vehicles or would have paid less to do so.

1006. Defendants' omissions and representations have deceived Plaintiff, and those same business practices have deceived or are likely to deceive members of the consuming public and the other members of the Class.

1007. In addition to being deceptive, the business practices of Defendants were unfair because they knowingly sold Plaintiff and the other Class Members Class Vehicles with defective Fuel Pumps that are essentially unusable for the purposes for which they were sold. The injuries to Plaintiff and the other Class Members are substantial and greatly outweigh any alleged countervailing benefit to Plaintiff and the other Class Members or to competition under all of the

circumstances. Moreover, in light of Defendants' exclusive knowledge of the Fuel Pump Defect, the injury is not one that Plaintiff or the other Class Members could have reasonably avoided.

1008. Defendants acts and omissions, as described more fully throughout this Complaint, were wanton and reckless and Defendants displayed a reckless indifference to the interests of others by knowingly advertising, selling, and distributing the Class Vehicles in a defective condition that increases the likelihood of a collision and without disclosing that condition prior to the recall campaign. By distributing defective Class Vehicles, and omitting that such vehicles were more likely than other vehicles to stall or be in a collision, Defendants exhibited a reckless indifference for the lives and safety of their customers, and those other motorists on the road.

1009. Defendants had notice of their violations as alleged herein.

1010. As a direct and proximate result of Defendants' unfair and deceptive trade practices, Plaintiff and the other Class Members have suffered ascertainable loss and actual damages. Plaintiff and the other Class Members who purchased or leased the Class Vehicles would not have purchased or leased the Class Vehicles, or, alternatively, would have paid less for them had the truth about the Fuel Pump Defect been disclosed. Plaintiff and the other Class Members also suffered diminished value of their vehicles. Plaintiff and the other Class Members are entitled to recover actual damages, punitive damages, attorneys' fees and costs, and all other relief allowed under A.R.S. §§ 44-1521, et. seq.

COUNT 20
STRICT PRODUCT LIABILITY
(Individually and on behalf of the Arizona Class)
(As to all Defendants)

1011. Plaintiff Zimmerman ("Plaintiff" for purposes of this Count) incorporate by reference each allegation as if set forth fully herein.

1012. Plaintiff brings this claim individually and on behalf of other members of the Arizona Class (the “Class,” for purposes of this Court).

1013. Defendants are strictly liable for designing, engineering, testing, validating, manufacturing, and placing in the stream of commerce an unreasonably dangerous Fuel Pump.

1014. Defendants designed, engineered, tested, validated, manufactured, and placed in the stream of commerce the unreasonable dangerous Fuel Pump.

1015. The Class Vehicles and Fuel Pumps are being used in an intended and/or foreseeable manner. Plaintiff and Class Members have not misused or materially altered the Class Vehicles or Fuel Pumps. The Class Vehicles and Fuel Pumps are in the same or substantially similar condition as they were at the time of purchase/lease.

1016. The Class Vehicles and Fuel Pumps are unreasonably dangerous and defective because they were designed, engineered, tested, validated, manufactured, and placed in the stream of commerce with the Fuel Pump Defect that can cause Class Vehicles to suddenly and unexpectedly stall or lose engine power.

1017. The Fuel Pump Defect causes an unreasonably dangerous condition when Class Vehicles are used for their intended and foreseeable purpose of providing safe and reliable transportation and places Plaintiff, Class Members, and others on the road at an unreasonable and substantial risk for injury or death.

1018. Defendants were aware of feasible alternative designs which would minimize or eliminate the Fuel Pump Defect and the risk it poses. Such alternative designs were known and available when the Class Vehicles and Fuel Pumps were designed, engineered, tested, validated, manufactured, and placed in the stream of commerce.

1019. Defendants failed to design, test, validate, manufacture, and place in the stream of commerce a Class Vehicle and Fuel Pump that is free from the Fuel Pump Defect and the unreasonable safety risks it poses.

1020. As a result of Defendants' actions as described herein, Plaintiff and the other Class Members have been damaged in an amount to be determined at trial.

COUNT 21
BREACH OF EXPRESS WARRANTY
A.R.S. § 47-2313
(Individually and on Behalf of the Arizona Class)
(As to Toyota)

1021. Plaintiff Zimmerman ("Plaintiff" for purposes of this Count) incorporates by reference each allegation as if set forth fully herein.

1022. Plaintiff brings this claim individually and on behalf of the other members of the Arizona Class ("Class" for the purposes of this Count).

1023. Toyota is and was at all relevant times a merchant with respect to the Class Vehicles.

1024. Pursuant to A.R.S. § 47-2313(A)(1), "[a]ny affirmation of fact or promise made by the seller to the buyer which relates to the goods and becomes part of the basis of the bargain creates an express warranty that the goods shall conform to the affirmation or promise."

1025. In its written express warranties, Toyota expressly warranted that it would repair or replace defective parts free of charge if the defects became apparent during the warranty period.

1026. Toyota's written express warranties formed the basis of the bargain that was reached when Plaintiff and the other Class Members purchased or leased their Class Vehicles.

1027. Toyota breached its express warranty to repair defective parts in the Class Vehicles. Toyota admittedly has not repaired the Class Vehicles' Fuel Pump Defect.

1028. Further, Toyota has refused to provide an adequate warranty repair for the Fuel Pump Defect, thus rendering the satisfaction of any notice requirement futile. As stated above, customers that have presented their vehicles for warranty repair due to the Fuel Pump failure, as Plaintiff has, have been denied adequate repairs.

1029. The written express warranties fail in their essential purpose because the contractual remedy is insufficient to make Plaintiff and the other Class Members whole and because Toyota has failed and/or has refused to adequately provide effective remedies within a reasonable time after being noticed of the non-conformity.

1030. Accordingly, recovery by Plaintiff and the other Class Members is not limited to the limited remedy of repair, and Plaintiff, individually and on behalf of the other Class Members, seeks all remedies as allowed by law.

1031. Also, as alleged in more detail herein, at the time that Toyota warranted and sold or leased the Class Vehicles it knew that the Class Vehicles did not conform to the warranty and were inherently defective, and Toyota improperly concealed material facts regarding its Class Vehicles. Plaintiff and the other Class Members were therefore induced to purchase or lease the Class Vehicles under false pretenses.

1032. Toyota had notice of its breach as alleged herein.

1033. As a direct and proximate result of Toyota's breach of its express warranty, Plaintiff and the other Class Members have been damaged in an amount to be determined at trial.

COUNT 22
BREACH OF IMPLIED WARRANTY OF MERCHANTABILITY
A.R.S. § 47-2314
(Individually and on Behalf of the Arizona Class)
(As to Toyota)

1034. Plaintiff Zimmerman (“Plaintiff” for purposes of this Count) incorporates by reference each allegation as if set forth fully herein.

1035. Plaintiff brings this claim individually and on behalf of the other members of the Arizona Class (“Class” for the purposes of this Count).

1036. Toyota is a “merchant” and the Class Vehicles are “goods” as defined in A.R.S. §§ 47-2104 and 2105.

1037. Pursuant to A.R.S. § 47-2314, a warranty that the Class Vehicles were in merchantable condition was implied by law in the sale or lease of the product. Toyota impliedly warranted that the Class Vehicles were of a merchantable quality.

1038. By placing the Class Vehicles in the stream of commerce, Toyota impliedly warranted that the Class Vehicles are safe, and that all claims in their advertising and marketing of the Class Vehicles were true.

1039. The Class Vehicles did not comply with the implied warranty of merchantability because, at the time of sale or lease and at all times thereafter, the Class Vehicles were defective and not in merchantable condition, would not pass without objection in the trade, and were not fit for the ordinary purpose for which vehicles were used. Specifically, the Class Vehicles suffer from the Fuel Pump Defect which causes the Class Vehicles’ Fuel Pump to prematurely fail, which can cause the engine to run rough, and the vehicle to stall while being driven or become inoperable.

1040. Further, Toyota has refused to provide an adequate warranty repair for the Fuel Pump Defect, thus rendering the satisfaction of any notice requirement futile. As stated above, customers that have presented their vehicles for warranty repair due to the Fuel Pump failure, as Plaintiff has, have been denied adequate repair.

1041. Plaintiff and the other Class Members suffered injuries due to the defective nature of the Class Vehicles and Toyota's breach of the warranty of merchantability.

1042. At all times that Toyota warranted and sold the Class Vehicles, it knew or should have known that its warranties were false, and yet it did not disclose the truth, or stop manufacturing or selling the Class Vehicles, and instead continued to issue false warranties, and continued to insist the products were safe. The Class Vehicles were defective when Toyota delivered them to their resellers, dealers, and distributors which sold the Class Vehicles, and the Class Vehicles were therefore still defective when they reached Plaintiff and the Class.

1043. Toyota's resellers, dealers, and distributors are intermediaries between Toyota and consumers. These intermediaries sell Class Vehicles to consumers and are not, themselves, consumers of Class Vehicles, and therefore have no rights against Toyota with respect to Plaintiff and all other Class Members' acquisition of Class Vehicles. Toyota's warranties were designed to influence consumers who purchased and/or owned Class Vehicles.

1044. Plaintiff and each Class member's acquisition of the Class Vehicles suffices to create privity of contract between Plaintiff and all other members of the Class, on the one hand, and Toyota, on the other hand; however, privity of contract need not be established nor is it required because Plaintiff and the Class Members are intended third-party beneficiaries of contracts between Toyota and their resellers, authorized dealers, and, specifically, of Toyota's implied warranties.

1045. Toyota had notice of its breach as alleged herein.

1046. As a direct and proximate result of Toyota's breach of implied warranties of merchantability, Plaintiff and the Class are entitled to damages in an amount to be determined at trial.

COUNT 23
NEGLIGENT RECALL/UNDERTAKING
(Individually and on Behalf of the Arizona Class)
(As to Toyota)

1047. Plaintiff Zimmerman (“Plaintiff” for purposes of this Count) incorporates by reference each allegation as if set forth fully herein.

1048. Plaintiff brings this Count individually and on behalf of the other members of the Arizona Class (the “Class,” for purposes of this Count).

1049. Prior to the events made the basis of this action, Toyota designed, engineered, manufactured, marketed, and placed the Class Vehicles in the stream of commerce.

1050. On January 13, 2020 Toyota initiated a voluntary recall of the Recalled Vehicles. Toyota’s recall was voluntary and not initiated by NHTSA. The Recall was expanded and amended in the March 19, 2020 Second Recall, and expanded again in Toyota’s October 28, 2020 Third Recall.

1051. Toyota owed a duty to use reasonable care to Plaintiff and Class Members based on its undertaking of the Recall.

1052. As described above, Toyota breached its duty by conducting the Recall negligently and/or wantonly by, among other things, failing to notify Plaintiff and the Class of the Fuel Pump Defect, failing to direct Class Members to stop driving their Class Vehicles, and failing to offer Class Members free loaner vehicles of comparable make, model, or value as their Class Vehicles until Toyota is able to devise a remedy that is safe and dependable (if ever) and implement it in each Class Vehicle. Toyota’s failure to do so continues to expose Plaintiff and the Class to the risk of injury and death.

1053. For the reasons set for the above, Toyota knew, or should have known through the exercise of ordinary care, the Recall was not being performed in a reasonable manner.

1054. As a direct and proximate result, Plaintiff and the other Class Members have been and continue to be damaged in an amount to be determined at trial.

COUNT 22
FRAUDULENT INDUCEMENT OF A CONTRACT
(Individually and on behalf of the Arizona Class)
(As to all Defendants)

1055. Plaintiff Zimmerman (“Plaintiff” for purposes of this Count) incorporates by reference each allegation as if fully set forth herein.

1056. Plaintiff brings this Count individually and on behalf of the other members of the Arizona Class (the “Class,” for purposes of this Count).

1057. Defendants were aware of the Fuel Pump Defect within the Class Vehicles when the Class Vehicles were marketed and sold to Plaintiff and the other members of the Class. Despite this awareness, Defendants continued to market as safe and reliable and suitable for everyday driving purposes Class Vehicles with a known defect that substantially increases the chance of a collision.

1058. Having been aware of the Fuel Pump Defect within the Class Vehicles, and having known that Plaintiff and the other members of the Class could not have reasonably been expected to know of the Fuel Pump Defect, Defendants had a duty to disclose the defect to Plaintiff and the other members of the Class in connection with the sale or lease of the Class Vehicles.

1059. Defendants did not disclose the Fuel Pump Defect to Plaintiff and the other members of the Class in connection with the sale of the Class Vehicles. Such information was not publicly available until January 2020, well after Defendants knew of the Fuel Pump Defect and breached their duty to disclose it to owners and lessees of the Class Vehicles.

1060. Defendants failed to disclose the known safety hazard and did so knowing it was a safety issue and was material to customers when deciding whether or not to purchase the Class Vehicles (or what price to pay for them).

1061. For the reasons set forth above, the Fuel Pump Defect within the Class Vehicles comprises material information with respect to the sale or lease of the Class Vehicles.

1062. Defendants misrepresented the true nature of the Class Vehicles with respect to the Fuel Pump Defect intending that Plaintiff and members of the Class would rely on those misrepresentations and omissions and be induced into purchasing the Class Vehicles.

1063. In purchasing the Class Vehicles, Plaintiff and the other members of the Class reasonably relied on Defendants to disclose known material defects with respect to the Class Vehicles. Plaintiff's and members of the Class reasonably relied on Defendant's representations and omissions because Defendants were in a superior position to know the true qualities of the Class Vehicles and Defendants have a duty to field merchantable vehicles into the stream of commerce and to notice owners and lessees of known safety issues.

1064. Plaintiff and members of the Class could not have discovered the Fuel Pump Defect through the exercise of reasonable diligence and Defendants concealed the known defect from them at the time of purchase or lease.

1065. Had Plaintiff and the other members of the Class known of the Fuel Pump Defect within the Class Vehicles, they would have not purchased the Class Vehicles or would have paid less for the Class Vehicles.

1066. Through their omissions regarding the Fuel Pump Defect within the Class Vehicles, Defendants intended to induce, and did induce, Plaintiff and the other members of the Class to

either purchase a Class Vehicle that they otherwise would not have purchased, or pay more for a Class Vehicle than they otherwise would have paid.

1067. As a direct and proximate result of Defendants' omissions, Plaintiff and the other members of the Class either overpaid for the Class Vehicles or would not have purchased the Class Vehicles at all if the Fuel Pump Defect had been disclosed to them, and, therefore, have incurred damages in an amount to be determined at trial.

IV. CALIFORNIA CLASS

COUNT 25
VIOLATION OF THE CONSUMERS LEGAL REMEDIES ACT,
Cal. Civ. Code §§ 1750, *et seq.*
(Individually and on behalf of the California Class)
(As to all Defendants)

1068. Plaintiffs Feng, Hakim, Grimes, Gendron, and Carter ("Plaintiffs" for purposes of this Count) incorporate by reference the allegations set forth in the preceding paragraphs as though fully set forth herein.

1069. Plaintiffs bring this cause of action on behalf of themselves and on behalf California Class ("Class" for purposes of this Count).

1070. Defendants are "persons" as defined by California Civil Code § 1761(c).

1071. Plaintiffs and the California Class Members are "consumers" within the meaning of California Civil Code § 1761(d) because they purchased Class Vehicles for personal, family, or household use.

1072. The sale of the Class Vehicles to Plaintiffs and the putative Class Members is a "transaction" as defined by California Civil Code § 1761(e).

1073. Defendants' acts and practices, which were intended to result, and which did result, in the sale of the Class Vehicles, violate § 1770 of the Consumers Legal Remedies Act ("CLRA") for at least the following reasons:

- i. Defendants represented that the Class Vehicles have characteristics, uses or benefits which they do not have;
- ii. Defendants advertised their goods with intent to not sell them as advertised;
- iii. Defendants represented that their products are of a particular standard, quality, or grade when they are not; and
- iv. Defendants represented that their goods have been supplied in accordance with a previous representation when they have not.

1074. By failing to disclose and concealing the defective nature of the Class Vehicles from Plaintiffs and the prospective class members, Defendants violated California Civil Code § 1761(a), as they represented that the Class Vehicles had characteristics and benefits that they do not have, and represented that the Class Vehicles and their engine components were of a particular standard, quality, or grade when they were of another. *See* Cal. Civ. Code §§ 1770(a)(5), (7), (9), and (16).

1075. Defendants' unfair and deceptive acts or practices occurred repeatedly in Defendants' trade or business, were capable of deceiving a substantial portion of the purchasing public and imposed a serious safety risk on the public.

1076. Defendants knew that the Class Vehicles suffered from an inherent defect, were defectively designed or manufactured, and were not suitable for their intended use. The Fuel Pump Defect is in each of the Class Vehicles at purchase or lease but may have not been discovered by putative class members until months, or years, after the purchase. Indeed, Defendants knew, or

should have known, well in advance of the Recall that the Class Vehicles contained the Fuel Pump Defect which presents a substantial danger of bodily injury or death.

1077. As a result of their reliance on Defendants' omissions and/or misrepresentations, owners and/or lessees of the Class Vehicles suffered an ascertainable loss of money, property, and/or value of their Class Vehicles. Additionally, as a result of the Fuel Pump Defect, Plaintiffs and the California Class Members were harmed and suffered actual damages in that the Class Vehicles are substantially certain to fail before their expected useful life has run.

1078. Defendants were under a duty to Plaintiffs and the California Class Members to disclose the defective nature of the Class Vehicles and/or associated repair costs because Defendants were in a superior position to know the true state of facts about the Fuel Pump Defect in the Class Vehicle and Plaintiffs and California Class Members could not reasonably have been expected to learn or discover that their vehicles had a dangerous safety defect until it manifested.

1079. In failing to disclose the defective nature of the Class Vehicles prior to January 2020, Defendants knowingly and intentionally concealed material facts and breached its duty not to do so.

1080. A reasonable consumer would have considered the facts Defendants concealed or did not disclose to Plaintiffs and the California Class Members to be material in deciding whether to purchase or lease the Class Vehicles or pay less for them. Had Plaintiffs and the California Class Members known of the defective nature of the Class Vehicles, they would not have purchased or leased said vehicles or would have paid less for them.

1081. Plaintiffs and the California Class Members are reasonable consumers who do not expect their vehicles to suddenly accelerate, decelerate, or stall without warning and while

underway. This is the reasonable and objective consumer expectation relating to consumer automobiles.

1082. As a result of Defendants' conduct, Plaintiffs and the California Class Members were harmed and suffered actual damages in that the Class Vehicles experienced and will continue to experience the Fuel Pump Defect and the resultant effects therefrom.

1083. As a direct and proximate result of Defendants' unfair or deceptive acts or practices, Plaintiffs and California Class Members suffered and will continue to suffer actual damages. Had Defendants disclosed the true nature and/or danger in its vehicles, Plaintiffs and members of the California Class would not have been misled into purchasing the Class Vehicles or would have paid significantly less for them.

1084. Plaintiffs, on behalf of themselves and all other similarly situated California consumers, and as appropriate, on behalf of the general public of the State of California, seek injunctive relief prohibiting Defendants from continuing these unlawful practices pursuant to California Civil Code § 1782(a)(2), and such other equitable relief, including restitution of either (1) the full purchase or lease price paid by customers who purchased a Class Vehicle, or (2) a portion of the purchase or lease price paid by customers who purchased or leased a Class Vehicle reflecting the difference in value as compared to a vehicle without the defect.

1085. In addition to other forms of notice as alleged herein, Plaintiffs provided Defendants with notice of its violations of the CLRA pursuant to California Civil Code § 1782(a) via certified mail demanding that Defendants correct such violations. Because Defendants failed to adequately respond to the letters within 30 days, Plaintiffs also seek actual damages and attorneys' fees as allowed by the CLRA.

COUNT 26
VIOLATION OF THE SONG-BEVERLY CONSUMER WARRANTY ACT

Cal. Civ. Code §§ 1790, et seq.
(Individually and on Behalf of the California Class)
(As to Toyota)

1086. Plaintiffs Feng, Hakim, Grimes, Gendron, and Carter (“Plaintiffs” for purposes of this Count) incorporate by reference the allegations set forth in the preceding paragraphs as though fully set forth herein.

1087. Plaintiffs bring this cause of action on behalf of themselves and on behalf California Class (“Class” for purposes of this Count).

1088. Each of the Plaintiffs is a buyer as Civil Code section 1791, subdivision (b), defines the term “buyer.”

1089. The Class Vehicles are consumer goods, as Civil Code section 1791, subdivision (a), defines the term “consumer good.” The Class Vehicles are new motor vehicles, as Civil Code section 1793.22, subdivision (e)(2), defines the term “new motor vehicle.”

1090. Toyota was, at all times relevant hereto, the manufacturer, distributor, warrantor, lessor, and/or seller of the Class Vehicles. Toyota knew or had reason to know of the specific use for which the Class Vehicles were purchased or leased.

1091. Plaintiffs leased Class Vehicles from Toyota and Toyota provided Plaintiffs and California Class Members with a standard express written warranty covering the Class Vehicles which states, in part, that:

Toyota: Basic Coverage is 36 months/36,000 miles, whichever occurs first, from the date of first use and covers all components other than normal wear and maintenance items. This warranty covers repairs and adjustments needed to correct defects in materials or workmanship or any part supplied by Toyota, subject to exceptions.

Powertrain Coverage is 60 months/60,000 miles, whichever occurs first, from the date of first use and includes engine, transmission/transaxle, front-wheel-drive system and rear-wheel drive system.

Lexus: The Basic Warranty coverage is for 48 months or 50,000 miles, whichever occurs first.

The Powertrain Warranty is for 72 months or 70,000 miles, whichever occurs first. Except for the situations listed on the Basic Warranty page, this warranty covers repairs needed to fix defects in materials or workmanship of any component listed below:

ENGINE

Cylinder block and head and all internal parts, timing belt and cover, flywheel, oil pan, water pump, fuel pump, engine mounts, engine control computer, seals and gaskets ...

1092. Toyota is unable to conform Class Vehicles to its express warranty as they have no fix for the Fuel Pump Defect. Toyota is only prepared to temporarily replace Plaintiffs' Class Vehicles with ones of inferior quality while insisting that they continue to make full lease payments on Class Vehicles they cannot safely operate and ones that cannot be made to conform to Toyota's express warranty.

1093. Plaintiffs and the California Class Members were harmed because they purchased or leased the Class Vehicles and paid the full purchase or lease price of those vehicles but were unable to use such Class Vehicles due to the Fuel Pump Defect. Temporary loaner vehicles to be provided to Plaintiffs and California Class Members are not of the same quality as the Class Vehicles purchased or leased and Plaintiffs and the Class Members suffered substantial economic injury and other harm as they were deprived of the benefit of the bargain that they struck with Toyota.

1094. Toyota's failure to equip the Class Vehicles with an appropriate and reliable fuel pump, and failure to repair the Fuel Pump Defect such that the Class Vehicles conform to the express warranty, is a substantial factor in Plaintiffs' and California Class Members' harm.

1095. Toyota is unable to conform the Class Vehicles to the express warranties despite being afforded a reasonable opportunity to do so. Toyota will not replace the Class Vehicles or

refund the purchase price and/or lease payments. Rather, Toyota insists that Plaintiffs and California Class Members continue making payments on inoperable Class Vehicles.

1096. Since being informed of the defect in the Class Vehicles, neither Plaintiffs nor Class Members have been able to safely drive their Class Vehicles as the Fuel Pump Defect is likely to cause death or serious injury if it fails while the Class Vehicles are being operated.

1097. Under the Song-Beverly Consumer Warranty Act, all express warranties are accompanied by the implied warranty of merchantability, which may not be disclaimed by the manufacturer or retail seller.

1098. Toyota provided Plaintiffs and the California Class Members with an implied warranty that the Class Vehicles and their components and parts are merchantable and fit for the ordinary purposes for which they are sold. However, the Class Vehicles are not fit for their ordinary purpose of providing reasonably reliable and safe transportation because, among other things, the Class Vehicles suffered from an inherent defect at the time of sale and thereafter are not fit for their particular purpose of providing safe and reliable transportation.

1099. Toyota impliedly warranted that the Class Vehicles were of merchantable quality and fit for such use. This implied warranty included, among other things: (1) a warranty that the Class Vehicles that were manufactured, supplied, distributed, and/or sold by Defendants were safe and reliable for providing transportation; and (2) a warranty that the Class Vehicles would be fit for their intended use while they were being operated.

1100. Contrary to the applicable implied warranties, the Class Vehicles at the time of sale and thereafter were not fit for their ordinary and intended purpose of providing Plaintiffs and the California Class Members with reliable, durable, and safe transportation. Instead, the Class Vehicles are defective.

1101. Toyota's breach of express and implied warranties was willful and has deprived Plaintiffs and the California Class Members of the benefit of their bargain.

1102. Toyota has had multiple reasonable opportunities to cure the breach, but either cannot or will not do so due to conditions reasonably within its control. Pursuant to the Song-Beverly Consumer Warranty Act, if the manufacturer is unable to conform a New Motor Vehicle to the express warranty, then the manufacturer shall promptly replace the vehicle with one that conforms to the express warranty or reimburse the buyer. Toyota has done neither despite being informed that the Class Vehicles are defective and do not conform to applicable warranties.

1103. On April 20, 2020, Plaintiffs Gendron and Carter Defendants a letter informing them of their statutory consumer protection and warranty claims under California law.

1104. Toyota's breach of express and implied warranties was willful and has deprived Plaintiffs and the California Class Members of the benefit of their bargain.

1105. Toyota had notice of its breach as alleged herein.

1106. As a direct and proximate cause of Toyota's breach of express and implied warranties, Plaintiffs and the California Class Members sustained damages and other losses in an amount to be determined at trial. Defendants' conduct damaged Plaintiffs and the California Class Members, who are entitled to recover under section 1794 of the act, including civil penalties, actual damages, consequential damages, specific performance, diminution in value, costs, attorneys' fees, and/or other such relief the Court deems appropriate.

COUNT 27
VIOLATION OF THE FALSE ADVERTISING LAW
California Bus. & Prof. Code §§ 17500, et seq.
(Individually and on behalf of the California Class)
(As to Toyota)

1107. Plaintiffs Feng, Hakim, Grimes, Gendron, and Carter (“Plaintiffs” for purposes of this Court) incorporate by reference the allegations set forth in the preceding paragraphs as though fully set forth herein.

1108. Plaintiffs bring this cause of action on behalf of themselves and on behalf California Class (“Class” for purposes of this Court).

1109. Toyota has benefitted from intentionally selling and leasing at an unjust profit defective Class Vehicles at artificially inflated prices due to the concealment of the Fuel Pump Defect, and Plaintiffs and other California Class Members overpaid for their Class Vehicles.

1110. Toyota publicly disseminated advertising and promotional material that was designed and intended to convey to the public that the Class Vehicles were safe, reliable, and operated as consumers would expect the Class Vehicles to operate.

1111. Toyota was aware, or should have been aware, of the Fuel Pump Defect at the time Plaintiffs and California Class Members purchased or leased the Class Vehicles.

1112. However, Toyota negligently or intentionally made representations in its advertisements, and, due to issues it was aware of, did not sell the Class Vehicles that conformed to the representations and promises in the publicly disseminated advertisements.

1113. Toyota unjustly received and retained benefits from Plaintiffs and the other California Class Members.

1114. It is inequitable and unconscionable for Toyota to retain these benefits.

1115. Because Toyota wrongfully concealed their misconduct, Plaintiffs and California Class Members were not aware of the facts concerning the Class Vehicles and did not benefit from Defendants’ misconduct.

1116. Toyota knowingly accepted the unjust benefits of its wrongful conduct.

1117. Toyota had notice of conduct as alleged herein.

1118. As a result of Toyota's misconduct, Plaintiffs and California Class Members suffered an injury-in-fact and lost money and/or property in an amount to be proven at trial.

COUNT 28
VIOLATION OF THE UNFAIR COMPETITION LAW
Cal. Civ. Code §§ 17200, et seq.
(Individually and on behalf of the California Class)
(As to all Defendants)

1119. Plaintiffs Feng, Hakim, Grimes, Gendron, and Carter ("Plaintiffs" for purposes of this Count) incorporate by reference the allegations set forth in the preceding paragraphs as though fully set forth herein.

1120. Plaintiffs bring this cause of action on behalf of themselves and on behalf California Class ("Class" for purposes of this Count).

1121. As a result of their reliance on Defendants' omissions and/or misrepresentations, owners and lessees of the Class Vehicles suffered an ascertainable loss of money, property, and/or value in connection with the purchase or lease of their Class Vehicles. Additionally, as a result of the Fuel Pump Defect, Plaintiffs and members of the California Class were harmed and suffered actual damages in that the Class Vehicles are substantially certain to fail before their expected useful life has run.

1122. California Business & Professions Code § 17200 prohibits acts of "unfair competition," including any "unlawful, unfair or fraudulent business act or practice" and "unfair, deceptive, untrue or misleading advertising."

1123. Plaintiffs and members of the California Class are reasonable consumers who do not expect their vehicles to suffer from sudden acceleration, deceleration, and stalling without warning.

1124. Defendants knew the Class Vehicles suffered from inherent defects, were defectively designed or manufactured, would fail prematurely, and were not suitable for their intended use.

1125. In failing to disclose the Fuel Pump Defect, Defendants' knowingly or intentionally concealed material facts and breached their duty not to do so.

1126. Defendants were under a duty to Plaintiffs and members of the California Class to disclose the Fuel Pump Defect because Defendants were in a superior position to know the true state of facts about the safety defect and Plaintiffs and members of the California Class could not reasonably have been expected to learn or discover that the Class Vehicles had a dangerous safety defect until it manifested.

1127. A reasonable consumer would have considered the facts Defendants concealed or did not disclose to Plaintiffs and members of the California Class to be important in deciding whether to purchase or lease the Class Vehicles or pay less for them. Had Plaintiffs and members of the California Class known of the Fuel Pump Defect in the Class Vehicles, they would not have purchased or leased the vehicles or would have paid less for them.

1128. Defendants continued to conceal the defective nature of the Class Vehicles even after consumers began to report problems. Defendants continue to cover up and conceal the true nature of the Fuel Pump Defect.

1129. Defendants' acts, conduct, and practices were fraudulent, in that they constituted business practices and acts that were likely to deceive reasonable members of the public. Defendants' acts, conduct, and practices were fraudulent because they are immoral, unethical, oppressive, unscrupulous, and/or are substantially injurious to consumers.

1130. Defendants' acts, conduct, and practices were unfair in that they constituted business practices and acts the utility of which does not outweigh the harm to consumers. Defendants' business acts and practices were further unfair in that they offend established public policy, are immoral, unethical, oppressive, unscrupulous, and substantially injurious to consumers.

1131. A business practice is unlawful if it is forbidden by any law. Defendants' acts, conduct, and practices were unlawful, in that they constituted:

- a. Violations of the California Consumers Legal Remedies Act;
- b. Violations of the Song-Beverly Consumer Warranty Act;
- c. Violations of the False Advertising Law;
- d. Violations of Magnuson-Moss Consumer Warranty Act; and
- e. Violations of the express and implied warranty provisions of California Commercial Code sections 2313 and 2314.

1132. By its conduct, Defendants have engaged in unfair competition and unlawful, unfair, and fraudulent business practices.

1133. Defendants' unfair or deceptive acts or practices occurred repeatedly in Defendants' trade or business and were capable of deceiving a substantial portion of the purchasing public.

1134. As a direct and proximate result of Defendants' unfair and deceptive practices, Plaintiffs and members of the California Class have suffered and will continue to suffer actual damages.

1135. Defendants had notice of their conduct as alleged herein.

1136. Defendants have been unjustly enriched and should be required to make restitution to Plaintiffs and members of the California Class pursuant to §§ 17203 and 17204 of the Business

& Professions Code. Plaintiffs and members of the Classes also seek injunctive relief as requested below and as may be deemed appropriate by the Court.

COUNT 29
NEGLIGENT RECALL/UNDERTAKING
(Individually and on Behalf of the California Class)
(As to Toyota)

1137. Plaintiffs Feng, Hakim, Grimes, Gendron, and Carter (“Plaintiffs” for purposes of this Count) incorporate by reference the allegations set forth in the preceding paragraphs as though fully set forth herein.

1138. Plaintiffs bring this cause of action on behalf of themselves and on behalf California Class (“Class” for purposes of this Count).

1139. Prior to the events made the basis of this action, Toyota designed, engineered, manufactured, marketed, and placed the Class Vehicles in the stream of commerce.

1140. On January 13, 2020 Toyota initiated a voluntary recall of the Recalled Vehicles. Toyota’s recall was voluntary and not initiated by NHTSA. The Recall was expanded and amended in the March 19, 2020 Second Recall, and expanded again in Toyota’s October 28, 2020 Third Recall.

1141. Toyota owed a duty to use reasonable care to Plaintiff and Class Members based on its undertaking of the Recall.

1142. As described above, Toyota breached its duty by conducting the Recall negligently and/or wantonly by, among other things, failing to notify Plaintiff and the Class of the Fuel Pump Defect, failing to direct Class Members to stop driving their Class Vehicles, and failing to offer Class Members free loaner vehicles of comparable make, model, or value as their Class Vehicles until Toyota is able to devise a remedy that is safe and dependable (if ever) and implement it in

each Class Vehicle. Toyota's failure to do so continues to expose Plaintiff and the Class to the risk of injury and death.

1143. For the reasons set for the above, Toyota knew, or should have known through the exercise of ordinary care, the Recall was not being performed in a reasonable manner.

1144. As a direct and proximate result, Plaintiff and the other Class Members have been and continue to be damaged in an amount to be determined at trial.

V. FLORIDA CLASS

COUNT 30
VIOLATIONS OF THE FLORIDA UNFAIR AND
DECEPTIVE TRADE PRACTICES ACT
Fla. Stat. Ann. §§ 501.201, et seq.
(Individually and on behalf of the Florida Class)
(As to all Defendants)

1145. Plaintiffs Rudolph, Barlow, and Edwards ("Plaintiffs," for purposes of this Count) incorporate by reference all preceding allegations as if fully set forth herein.

1146. Plaintiffs bring this claim individually and on behalf of the other members of the Florida Class (the "Class," for purposes of this Count).

1147. The Florida Deceptive and Unfair Trade Practices Act, F.S.A. §§ 501.201, et seq., states that, "[u]nfair methods of competition, unconscionable acts or practices, and unfair or deceptive acts or practices in the conduct of any trade or commerce are hereby declared unlawful."

1148. By the conduct described in detail above and incorporated herein, Defendants engaged in unfair or deceptive acts in violation of F.S.A. § 501.204.

1149. Defendants' omissions regarding the Fuel Pump Defect, described above, that causes the Fuel Pump to prematurely fail, are material facts that a reasonable person would have considered in deciding whether or not to purchase (or to pay the same price for) the Class Vehicles.

1150. Defendants intended for Plaintiffs and the other Class Members to rely on Defendants' omissions regarding the Defect.

1151. Plaintiffs and the other Class Members justifiably acted or relied to their detriment upon Defendants' omissions of fact concerning the above-described Fuel Pump Defect, as evidenced by Plaintiffs and the other Class Members' purchases of Class Vehicles.

1152. Had Defendants disclosed all material information regarding the Fuel Pump Defect to Plaintiffs and the other Class Members, Plaintiffs and the other Class Members would not have purchased or leased Class Vehicles or would have paid less to do so.

1153. Defendants' omissions have deceived Plaintiffs, and those same business practices have deceived or are likely to deceive members of the consuming public and the other members of the Class.

1154. In addition to being deceptive, the business practices of Defendants were unfair because they knowingly sold Plaintiffs and the other Class Members Class Vehicles with defective Fuel Pumps that are essentially unusable for the purposes for which they were sold. The injuries to Plaintiffs and the other Class Members are substantial and greatly outweigh any alleged countervailing benefit to Plaintiffs and the other Class Members or to competition under all of the circumstances. Moreover, in light of Defendants' exclusive knowledge of the Fuel Pump Defect, the injury is not one that Plaintiffs or the other Class Members could have reasonably avoided.

1155. Defendants had notice of their conduct as alleged herein.

1156. As a direct and proximate result of Defendants' unfair and deceptive trade practices, Plaintiffs and the other Class Members have suffered ascertainable loss and actual damages. Plaintiffs and the other Class Members who purchased or leased the Class Vehicles would not have purchased or leased the Class Vehicles, or, alternatively, would have paid less for them had the

truth about the Fuel Pump Defect been disclosed. Plaintiff and the other Class Members also suffered diminished value of their vehicles. Plaintiffs and the other Class Members are entitled to recover actual damages, attorneys' fees and costs, and all other relief allowed under F.S.A. §§ 501.201, *et seq.*

COUNT 31
BREACH OF EXPRESS WARRANTY
Fla. Stat. §§ 672.313 and 680.21
(Individually and on behalf of the Florida Class)
(As to Toyota)

1157. Plaintiffs Rudolph, Barlow, and Edwards (“Plaintiffs,” for purposes of this Count) incorporates by reference all preceding allegations as if fully set forth herein.

1158. Plaintiffs bring this Count individually and on behalf of the other members of the Florida Class (the “Class,” for purposes of this Count).

1159. Toyota is a merchant with respect to the Class Vehicles.

1160. In its written express warranties, Toyota expressly warranted that it would repair or replace defective parts free of charge if the defects became apparent during the warranty period.

1161. Toyota’s express written warranty formed the basis of the bargain that was reached when Plaintiffs and the other Class Members purchased or leased their Class Vehicles equipped with the defective Fuel Pumps.

1162. Toyota breached the express warranty to repair defects in materials and workmanship within the Class Vehicles. Defendant have not repaired, and have been unable to repair, the Class Vehicles’ materials and workmanship defects.

1163. Toyota was notified of its breach via letter from Plaintiff Pruitt on behalf of herself and the Class which was hand delivered to Toyota’s registered agent in Montgomery, Alabama on January 24, 2020, which Toyota acknowledged the same day. Toyota was also provided notice of

the Fuel Pump Defect through numerous complaints filed against it directly and through its dealers, as well as its own internal engineering knowledge.

1164. Furthermore, the express written warranty fails in its essential purpose because the contractual remedy is insufficient to make Plaintiffs and the other Class Members whole and because Toyota has failed and/or has refused to adequately provide effective remedies within a reasonable time.

1165. Accordingly, recovery by Plaintiffs and the other Class Members is not limited to the limited warranty of repair to parts defective in materials and workmanship, and Plaintiffs, individually and on behalf of the other Class Members, seeks all remedies allowable by law.

1166. Also, and as alleged in more detail herein, at the time that Toyota warranted and sold the Class Vehicles it knew that the Class Vehicles did not conform to the warranty and were inherently defective, and Toyota improperly concealed material facts regarding its Class Vehicles. Plaintiffs and the other Class Members were, therefore, induced to purchase or lease the Class Vehicles under false pretenses.

1167. Moreover, much of the damage flowing from the Class Vehicles cannot be resolved through the limited remedy of repairs, as those incidental and consequential damages have already been suffered due to 's improper conduct as alleged herein, and due to its failure and/or continued failure to provide such limited remedy within a reasonable time, and any limitation on Plaintiffs and the other Class Members' remedies would be insufficient to make them whole.

1168. Toyota had notice of its breach as alleged herein.

1169. As a direct and proximate result of Toyota's breach of its express warranty, Plaintiffs and the other Class Members have been damaged in an amount to be determined at trial.

COUNT 32
BREACH OF IMPLIED WARRANTY OF MERCHANTABILITY

Fla. Stat. §§ 672.314 and 680.212
(Individually and on behalf of the Florida Class)
(As to Toyota)

1170. Plaintiffs Rudolph and Barlow (“Plaintiffs,” for purposes of this Count) incorporates by reference all preceding allegations as if fully set forth herein.

1171. Plaintiffs bring this Count individually and on behalf of the other members of the Florida Class (the “Class,” for purposes of this Count).

1172. Toyota is a merchant with respect to motor vehicles under Fla. Stat. §§ 672.104 and 680.103.

1173. Pursuant to Fla. State §§ 672.314 and 680.212, a warranty that the Class Vehicles were in merchantable condition was implied by law, and the Class Vehicles were bought and sold subject to an implied warranty of merchantability.

1174. The Class Vehicle did not comply with the implied warranty of merchantability because, at the time of sale and all times thereafter, they were defective and not in merchantable condition, would not pass without objection in the trade, and were not fit for the ordinary purpose for which vehicles were used. Specifically, the Class Vehicles suffer from the Fuel Pump Defect which causes the Class Vehicles’ Fuel Pump to prematurely fail.

1175. Toyota was notified of its breach via letter from Plaintiff Pruitt on behalf of herself and the Class which was hand delivered to Toyota’s registered agent in Montgomery, Alabama on January 24, 2020, which Toyota acknowledged the same day. Toyota was also provided notice of the Fuel Pump Defect through numerous complaints filed against it directly and through its dealers, as well as its own internal engineering knowledge.

1176. Further, Toyota has refused to provide an adequate warranty repair for the Fuel Pump Defect, thus rendering the satisfaction of any notice requirement futile. As states above,

customers that have presented their vehicles for warranty repair due to Fuel Pump failure have been denied.

1177. Plaintiff and other Class Members suffered injuries due to the defective nature of the Class Vehicles and Toyota's breach of the warrant of merchantability.

1178. Toyota had notice of its breach as alleged herein.

1179. As a direct and proximate result of Toyota's breach of the warranty of merchantability, Plaintiff and the other Class Members have been damages in an amount to be proven at trial.

COUNT 33
FRAUDULENT OMISSION
(Individually and on behalf of the Florida Class)
(As to all Defendants)

1180. Plaintiffs Rudolph, Barlow, and Edwards ("Plaintiffs," for purposes of this Count) incorporates by reference all preceding allegations as if fully set forth herein.

1181. Plaintiffs bring this Count individually and on behalf of the other members of the Florida Class (the "Class," for purposes of this Count).

1182. Defendants were aware of the Fuel Pump Defect within the Class Vehicles when it marketed and sold the Class Vehicles to Plaintiffs and the other members of the Class.

1183. Having been aware of the Fuel Pump Defect within the Class Vehicles, and having known that Plaintiffs and the other members of the Class could not have reasonably been expected to know of the Fuel Pump Defect, Defendants had a duty to disclose the defect to Plaintiffs and the other members of the Class in connection with the sale or lease of the Class Vehicles.

1184. Defendants did not disclose the Fuel Pump Defect to Plaintiffs and the other members of the Class in connection with the sale of the Class Vehicles.

1185. For the reasons set forth above, the Fuel Pump Defect comprises material information with respect to the sale or lease of the Class Vehicles.

1186. In purchasing the Class Vehicles, Plaintiffs and the other members of the Class reasonably relied on Defendants to disclose known material defects with respect to the Class Vehicles.

1187. Had Plaintiffs and the other members of the Class known of the Fuel Pump Defect within the Class Vehicles, they would have not purchased the Class Vehicles or would have paid less for the Class Vehicles.

1188. Through its omissions regarding the Fuel Pump Defect, Defendants intended to induce, and did induce, Plaintiffs and the other members of the Class to either purchase a Class Vehicle that they otherwise would not have purchased, or pay more for a Class Vehicle than they otherwise would have paid.

1189. As a direct and proximate result of Defendants' omissions, Plaintiffs and the other members of the Class either overpaid for the Class Vehicles or would not have purchased the Class Vehicles at all if the Fuel Pump Defect had been disclosed to them, and, therefore, have incurred damages in an amount to be determined at trial.

VI. GEORGIA

COUNT 34 VIOLATIONS OF GEORGIA'S FAIR BUSINESS PRACTICES ACT, GA. CODE ANN. § 10-1-390 *ET. SEQ.* (Individually and on Behalf of the Georgia Class) (As to all Defendants)

1190. Plaintiff James Hettinger ("Plaintiff," for purposes of this Count) incorporates by reference each allegation as though fully set forth herein.

1191. This Count is brought on behalf of Plaintiff and the Georgia Class (“Class” for the purposes of this Count) for violation of Georgia’s Fair Business Practices Act, Ga. Code Ann. § 10-2-390 *et. seq.*, which prohibits deceptive acts or practices in the conduct of any business, trade or commerce in Georgia.

1192. Plaintiff and other Class Members are “consumers” within the meaning of Ga. Code Ann. § 10-1-393(b).

1193. Plaintiff, the other Class Members, and Defendants are “persons” within the meaning of Ga. Code Ann. § 10-1-393(b).

1194. Defendants were and are engaged in “trade” and “commerce” within the meaning of Ga. Code Ann. § 10-1-393(b).

1195. The Georgia Fair Business Practices Act (“Georgia FBPA”) declares “[u]nfair or deceptive acts or practices in the conduct of consumer transactions and consumer acts or practices in trade or commerce” to be unlawful, Ga. Code Ann. § 10-1-393(a), including, but not limited to, “representing that goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits, or quantities that they do not have,” “[r]epresenting that goods and services are of a particular standard, quality, or grade . . . if they are of another,” and “[a]dvertising goods or services with intent not to sell them as advertised.” Ga. Code Ann. § 10-1-393(b).

1196. Defendants’ conduct violates the FBPA because Defendants engaged in the deceptive acts and practices described above.

1197. Defendants’ deceptive conduct and its false and misleading statements about Class Vehicle and Fuel Pump safety and dependability and omissions regarding the Fuel Pump Defect, which causes the Fuel Pumps to prematurely fail, are facts that a reasonable person would have

considered material in deciding whether or not to purchase or lease (or how much they were willing to pay to purchase or lease) the Class Vehicles.

1198. Defendants' acts and practices described above were likely to mislead a reasonable consumer acting reasonably under the circumstances, including Plaintiff and members of the Class.

1199. Plaintiff and the other Class Members justifiably acted or relied to their detriment upon Defendants' misrepresentations and omissions of fact, as evidenced by Plaintiff and the other Class Members' leasing and purchasing of Class Vehicles.

1200. Defendants' materially misleading statements and deceptive acts and practices were directed at the public at large, including Plaintiff and members of the Class.

1201. Had Defendants disclosed all material information regarding the Fuel Pump Defect to Plaintiff and the other Class Members, Plaintiff and the other Class Members would not have purchased or leased Class Vehicles or would have paid less to do so.

1202. Defendants' deceptive acts and practices, and/or misrepresentations and omissions, have deceived Plaintiff, and those same business practices have deceived or are likely to deceive members of the consuming public and the other members of the Class.

1203. Toyota also engaged in deceptive conduct by issuing defective Recall that: provides no remedy for the Fuel Pump Defect; does not notify Class Members about the Fuel Pump Defect; does not instruct consumers to stop driving the dangerous Class Vehicles; and does not notify offer Class Members free loaner vehicles of comparable make, model, or value as their own Class Vehicles to enable them to cease driving their dangerous Class Vehicles until a remedy is available and can be implemented.

1204. Denso also engaged in deceptive conduct by manufacturing and placing in the stream of commerce a Fuel Pump it knew, or should have known, was materially defective.

1205. Defendants' actions impact the public interest because Plaintiff and the members of the Class have been injured in exactly the same way as millions of other consumers by Defendants' deceptive acts and practices as described herein.

1206. As a direct and proximate result of Defendants' deceptive trade practices, Plaintiff and the other Class Members have suffered ascertainable loss and actual damages. Plaintiff and the other Class Members would not have purchased or leased the Class Vehicles or would have paid less for them had Defendants disclosed the truth about the Fuel Pump Defect. Plaintiff and the other Class Members also suffered diminished value of their vehicles.

1207. As a direct and proximate result of Defendants' deceptive trade practices, Plaintiff and the other Class Members were harmed by Toyota's inadequate Recall, described above, including Defendants' failure to notify them of the Fuel Pump Defect, failure to direct them to stop driving their Class Vehicles, and failure to offer Class Members free loaner vehicles of comparable make, model, or value as their Class Vehicles until Defendants are able to devise a remedy that is safe and dependable (if ever) and implement it in each Class Vehicle. Defendants' failure to do so continues to expose Plaintiff and the Class to the risk of injury and death.

1208. Defendants' violation of the Georgia FBPA was willful and knowing. Defendants knowingly and willfully marketed the Class Vehicles as safe and dependable all the while knowing they were not. Defendants admit in the Recall Reports the fact of the Fuel Pump Defect, the thousands of warranty claims and more than 60 Field Technical Reports it received about the Fuel Pump Defect, and that the Fuel Pump Defect poses a serious risk of injury rendering the Class Vehicles unsafe. The facts of the defect Recall are incontrovertible. Defendants, through their willful and knowing deceptive acts and practices, as detailed above, have willfully and knowingly

exposed Plaintiff and the Class to the risk of serious injury and death, and continue to do so by virtue of having issued the deficient Recall.

1209. The Georgia Class Members are entitled to recover damages and exemplary damages (for intentional violations) per Ga. Code Ann. § 10-1-399(a).

1210. The Georgia Class Members also seek an order enjoining Defendants' unfair, unlawful, and/or deceptive practices, attorneys' fees, and any other just and proper relief available under the Georgia FBPA per Ga. Code Ann. § 10-1-399.

1211. In accordance with Ga. Code Ann. § 10-1-399(b), Lead Plaintiff, individually and on behalf of the other Class Members, notified Toyota of the Fuel Pump Defect in the Class Vehicles through a notice letter hand delivered to Toyota's registered agent in Montgomery, Alabama on January 24, 2020, which Toyota acknowledged the same day. Plaintiffs also notified Toyota in a similar letter dated June 10, 2020. Toyota was also provided notice of the Fuel Pump Defect through numerous complaints filed against it directly and through its dealers, as well as its own internal engineering knowledge.

COUNT 35
VIOLATIONS OF GEORGIA'S UNIFORM DECEPTIVE TRADE PRACTICES ACT,
GA. CODE ANN. § 10-1-370, *et seq.*
(Individually and on Behalf of the Georgia Class)
(As to all Defendants)

1212. Plaintiff James Hettinger ("Plaintiff," for purposes of this Count) incorporates by reference each allegation as though fully set forth herein.

1213. This Count is brought on behalf of Plaintiff and the Georgia Class ("Class" for the purposes of this Count) for violation of Georgia's Uniform Deceptive Trade Practices Act (UDPTA), Ga. Code Ann. § 10-1-370 *et. seq.*, which prohibits deceptive acts or practices in the conduct of any business, trade or commerce in Georgia.

1214. Georgia's UDPTA prohibits "deceptive trade practices," which include "representing that goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits, or quantities that they do not have"; "[r]epresenting that goods or services are of a particular standard, quality, or grade ... if they are of another"; and "[a]dvertising goods or services with intent not to sell them as advertised." Ga. Code Ann. § 10-1-393(b).

1215. Defendants, Plaintiffs, and Georgia Class Members are "persons" within the meaning of 10-1-371(5).

1216. Plaintiffs seek an order enjoining Defendants' unfair, unlawful, and/or deceptive practices, attorneys' fees, and any other just and proper relief available under Ga. Code Ann. § 10-1-373.

COUNT 36
BREACH OF EXPRESS WARRANTY
GA. CODE ANN. §§ 11-2-313 and 11-2A-210
(Individually and on Behalf of the Georgia Class)
(As to Toyota)

1217. Plaintiff Hettinger ("Plaintiff" for purposes of this Count) incorporates by reference each allegation as if set forth fully herein.

1218. Plaintiff brings this claim individually and on behalf of the other members of the Georgia Class ("Class" for purposes of this Count).

1219. Toyota is and was at all relevant times a merchant with respect to the Class Vehicles under Ga. Code Ann. §§ 11-2-104(1) and 11-2A-103(d), and "sellers" of the Class Vehicles under § 11-2-103(1)(d).

1220. Pursuant to Ga. Code Ann. § 11-2-313(a), Toyota had obligations to conform the Class Vehicles to the express warranties.

1221. In its written express warranties, Toyota expressly warranted that it would repair or replace defective parts free of charge if the defects became apparent during the warranty period.

1222. Toyota's written express warranties formed the basis of the bargain that was reached when Plaintiff and the other Class Members purchased or leased their Class Vehicles.

1223. Toyota breached its express warranty to repair defective parts in the Class Vehicles. Toyota admittedly has not repaired the Class Vehicles' Fuel Pump Defect.

1224. Further, Toyota has refused to provide an adequate warranty repair for the Fuel Pump Defect, thus rendering the satisfaction of any notice requirement futile. As stated above, customers that have presented their vehicles for warranty repair due to Fuel Pump failure have been denied adequate repairs.

1225. The written express warranties fail in their essential purpose because the contractual remedy is insufficient to make Plaintiff and the other Class Members whole and because Toyota has failed and/or has refused to adequately provide an effective remedy within a reasonable time.

1226. Accordingly, recovery by Plaintiff and the other Class Members is not limited to the limited remedy of repair, and Plaintiff, individually and on behalf of the other Class Members, seeks all remedies as allowed by law.

1227. Also, as alleged in more detail herein, at the time that Toyota warranted and sold or leased the Class Vehicles it knew that the Class Vehicles did not conform to the warranty and were inherently defective, and Toyota improperly concealed material facts regarding its Class Vehicles. Plaintiff and the other Class Members were therefore induced to purchase or lease the Class Vehicles under false pretenses.

1228. Toyota had notice of its breach as alleged herein.

1229. As a direct and proximate result of Toyota's breach of its express warranty, Plaintiff and the other Class Members have been damaged in an amount to be determined at trial.

COUNT 37
BREACH OF IMPLIED WARRANTY OF MERCHANTABILITY
GA. CODE ANN. §§ 11-2-314 and 11-2A-212
(Individually and on Behalf of the Georgia Class)
(As to Toyota)

1230. Plaintiff Hettinger ("Plaintiff" for purposes of this Count) incorporates by reference each allegation as if set forth fully herein.

1231. This Count is brought on behalf of Plaintiff and the Georgia Class ("Class" for the purposes of this Count).

1232. Toyota is a "merchant" with respect to motor vehicles under Ga. Code Ann. §§ 11-2-104(1) and 11-2A-103(3), and "sellers" of motor vehicles under § 11-2-103(1)(d)(t). The Class Vehicles are "goods" as defined in Ga. Code Ann. §§ 11-2-105(1) and 11-2A-103(1)(h).

1233. Pursuant to Ga. Code Ann. §§ 11-2-314 and 11-2A-212, a warranty that the Class Vehicles were in merchantable condition was implied by law in the sale or lease of the product. Toyota impliedly warranted that the Class Vehicles were of a merchantable quality.

1234. By placing the Class Vehicles in the stream of commerce, Toyota impliedly warranted that the Class Vehicles are safe, and that all claims in their advertising and marketing of the Class Vehicles were true.

1235. The Class Vehicles did not comply with the implied warranty of merchantability because, at the time of sale or lease and at all times thereafter, the Class Vehicles were defective and not in merchantable condition, would not pass without objection in the trade, and were not fit for the ordinary purpose for which vehicles were used. Specifically, the Class Vehicles suffer from

the Fuel Pump Defect which causes the Class Vehicles' Fuel Pump to prematurely fail, which can cause the engine to run rough, and the vehicle to stall while being driven or become inoperable.

1236. Further, Toyota has refused to provide an adequate warranty repair for the Fuel Pump Defect, thus rendering the satisfaction of any notice requirement futile. As stated above, customers that have presented their vehicles for warranty repair due to Fuel Pump failure have been denied adequate repair.

1237. Plaintiff and the other Class Members suffered injuries due to the defective nature of the Class Vehicles and Toyota's breach of the warranty of merchantability.

1238. At all times that Toyota warranted and sold the Class Vehicles, it knew or should have known that its warranties were false, and yet Toyota did not disclose the truth, or stop manufacturing or selling the Class Vehicles, and instead continued to issue false warranties, and continued to insist the products were safe. The Class Vehicles were defective when Toyota delivered them to its resellers, dealers, and distributors which sold the Class Vehicles, and the Class Vehicles were therefore still defective when they reached Plaintiff and the Class.

1239. Toyota's resellers, dealers, and distributors are intermediaries between Toyota and consumers. These intermediaries sell Class Vehicles to consumers and are not, themselves, consumers of Class Vehicles, and therefore have no rights against Toyota with respect to Plaintiff and all other Class Members' acquisition of Class Vehicles. Toyota's warranties were designed to influence consumers who purchased and/or owned Class Vehicles.

1240. Plaintiff and each Class member's acquisition of the Class Vehicles suffices to create privity of contract between Plaintiff and all other members of the Class, on the one hand, and Toyota, on the other hand; however, privity of contract need not be established nor is it required because Plaintiff and the Class Members are intended third-party beneficiaries of

contracts between Toyota and their resellers, authorized dealers, and, specifically, of Toyota's implied warranties.

1241. Toyota had notice of its breach as alleged herein.

1242. As a direct and proximate result of Toyota's breach of implied warranties of merchantability, Plaintiff and the Class are entitled to damages in an amount to be determined at trial.

COUNT 38
FRAUDULENT OMISSION
(Individually and on behalf of the Georgia Class)
(As to all Defendants)

1243. Plaintiff Hettinger ("Plaintiff" for purposes of this Count) incorporates by reference each allegation as if fully set forth herein.

1244. Plaintiff brings this Count individually and on behalf of the other members of the Georgia Class (the "Class," for purposes of this Count).

1245. Defendants were aware of the Fuel Pump Defect within the Class Vehicles when the Class Vehicles were marketed and sold to Plaintiff and the other members of the Class.

1246. Having been aware of the Fuel Pump Defect within the Class Vehicles, and having known that Plaintiff and the other members of the Class could not have reasonably been expected to know of the Fuel Pump Defect, Defendants had a duty to disclose the defect to Plaintiff and the other members of the Class in connection with the sale or lease of the Class Vehicles.

1247. Defendants did not disclose the Fuel Pump Defect to Plaintiff and the other members of the Class in connection with the sale of the Class Vehicles.

1248. For the reasons set forth above, the Fuel Pump Defect within the Class Vehicles comprises material information with respect to the sale or lease of the Class Vehicles.

1249. In purchasing the Class Vehicles, Plaintiff and the other members of the Class reasonably relied on Defendants to disclose known material defects with respect to the Class Vehicles.

1250. Had Plaintiff and the other members of the Class known of the Fuel Pump Defect within the Class Vehicles, they would have not purchased the Class Vehicles or would have paid less for the Class Vehicles.

1251. Through their omissions regarding the Fuel Pump Defect within the Class Vehicles, Defendants intended to induce, and did induce, Plaintiff and the other members of the Class to either purchase a Class Vehicle that they otherwise would not have purchased, or pay more for a Class Vehicle than they otherwise would have paid.

1252. As a direct and proximate result of Defendants' omissions, Plaintiff and the other members of the Class either overpaid for the Class Vehicles or would not have purchased the Class Vehicles at all if the Fuel Pump Defect had been disclosed to them, and, therefore, have incurred damages in an amount to be determined at trial.

COUNT 39
STRICT PRODUCT LIABILITY
(Individually and on behalf of the Georgia Class)
(As to Denso)

1253. Plaintiff Hettinger ("Plaintiff" for purposes of this Count) incorporates by reference each allegation as if fully set forth herein.

1254. Plaintiff brings this claim individually and on behalf of other members of the Georgia Class (the "Class," for purposes of this Count).

1255. Defendants are strictly liable for designing, engineering, testing, validating, manufacturing, and placing in the stream of commerce an unreasonably dangerous Fuel Pump.

1256. Defendants designed, engineered, tested, validated, manufactured, and placed in the stream of commerce the unreasonable dangerous Fuel Pump.

1257. The Class Vehicles and Fuel Pumps are being used in an intended and/or foreseeable manner. Plaintiff and Class Members have not misused or materially altered the Class Vehicles or Fuel Pumps. The Class Vehicles and Fuel Pumps are in the same or substantially similar condition as they were at the time of purchase/lease.

1258. The Class Vehicles and Fuel Pumps are unreasonably dangerous and defective because they were designed, engineered, tested, validated, manufactured, and placed in the stream of commerce with the Fuel Pump Defect that can cause Class Vehicles to suddenly and unexpectedly stall or lose engine power.

1259. The Fuel Pump Defect causes an unreasonably dangerous condition when Class Vehicles are used for their intended and foreseeable purpose of providing safe and reliable transportation and places Plaintiff, Class Members, and others on the road at an unreasonable and substantial risk for injury or death.

1260. Defendants were aware of feasible alternative designs which would minimize or eliminate the Fuel Pump Defect and the risk it poses. Such alternative designs were known and available when the Class Vehicles and Fuel Pumps were designed, engineered, tested, validated, manufactured, and placed in the stream of commerce.

1261. Defendants failed to design, test, validate, manufacture, and place in the stream of commerce a Class Vehicle and Fuel Pump that is free from the Fuel Pump Defect and the unreasonable safety risks it poses.

1262. As a result of Defendants' actions as described herein, Plaintiff and the other Class Members have been damaged in an amount to be determined at trial.

COUNT 40
NEGLIGENT RECALL/UNDERTAKING
(Individually and on behalf of the Georgia Class)
(As to Toyota)

1263. Plaintiff Hettinger (“Plaintiff” for purposes of this Count) incorporates by reference each allegation as if fully set forth herein.

1264. Plaintiff brings this Count individually and on behalf of the other members of the Georgia Class (the “Class,” for purposes of this Count).

1265. Prior to the events made the basis of this action, Toyota designed, engineered, manufactured, marketed, and placed the Class Vehicles in the stream of commerce.

1266. On January 13, 2020 Toyota initiated a voluntary recall of the Recalled Vehicles. Toyota’s recall was voluntary and not initiated by NHTSA. The Recall was expanded and amended in the March 19, 2020 Second Recall, and again in Toyota’s October 28, 2020 Third Recall.

1267. Toyota owed a duty to use reasonable care to Plaintiff and Class Members based on its undertaking of the Recall.

1268. As described above, Toyota breached its duty by conducting the Recall negligently and/or wantonly by, among other things, failing to notify Plaintiff and the Class of the Fuel Pump Defect, failing to direct Class Members to stop driving their Class Vehicles, and failing to offer Class Members free loaner vehicles of comparable make, model, or value as their Class Vehicles until Toyota is able to devise a repair that works (if ever) and implement it in each Class Vehicle. Toyota’s failure to do so continues to expose Plaintiff and the Class to the risk of injury and death.

1269. For the reasons set for the above, Toyota knew, or should have known through the exercise of ordinary care, the Recall was not being performed in a reasonable manner.

1270. As a direct and proximate result, Plaintiff and the other Class Members have been and continue to be damaged in amount to be determined at trial.

VII. ILLINOIS CLASS

COUNT 41 VIOLATION OF THE ILLINOIS CONSUMER FRAUD AND DECEPTIVE BUSINESS PRACTICES ACT

815 Ill. Comp. Stat. 505/1, et seq.
(Individually and on Behalf of the Illinois Class)
(As to all Defendants)

1271. Plaintiffs Le and Bohn (“Plaintiffs” for purposes of this Count) incorporate by reference the allegations set forth in the preceding paragraphs as though fully set forth herein.

1272. Plaintiffs bring this cause of action on behalf of themselves and on behalf of the Illinois Class (“Class” for purposes of this Count).

1273. The Illinois Consumer Fraud and Deceptive Business Practices Act prohibits unfair or deceptive acts or practices in connection with any trade or commerce, including, among other things, “the use or employment of any deception, fraud, false pretense, false promise, misrepresentation or the concealment, suppression or omission of any material fact ... whether any person has in fact been misled, deceived, or damaged thereby.” The Act also prohibits suppliers from representing that their goods are of a particular quality or grade they are not.

1274. The conduct of Defendants, as set forth herein, constitutes unfair or deceptive acts or practices in violation of 815 Ill. Comp. Stat. 505/2. The prohibited conduct includes, but is not limited to, their manufacture and sale of Class Vehicles, failure to disclose and remedy the Fuel Pump Defect in Class Vehicles, and misrepresentations and/or omissions regarding the safety and reliability of Class Vehicles.

1275. Defendants’ actions as set forth above occurred in the conduct of trade or commerce.

1276. Defendants have successor liability for the deceptive or unfair acts or practices of Defendants.

1277. Defendants' actions impact the public interest because Plaintiffs and the other Illinois Class Members were injured in exactly the same way as millions of others purchasing and/or leasing Class Vehicles as a result of Defendants' generalized course of deception.

1278. All of the wrongful conduct alleged herein occurred, and continues to occur, in the conduct of Defendants' business.

1279. Plaintiffs and the other Illinois Class Members suffered ascertainable loss as a result of Defendants' conduct. Plaintiffs and the other Illinois Class Members were injured and suffered economic damages as a result of such conduct.

1280. Plaintiffs and the other Illinois Class Members overpaid for their Class Vehicles and did not receive the benefit of their bargain, and Class Vehicles have suffered a diminution in value as a result of the conduct described herein.

1281. Defendants knew that Class Vehicles suffered from an inherent defect, were defectively designed or manufactured, and were not suitable for their intended use. The Fuel Pump Defect is in each of lass Vehicles at purchase or lease but may have not been discovered by putative class members until months, or years, after the purchase. Indeed, Defendants knew, or should have known, well in advance of the Recall that Class Vehicles contained the Fuel Pump Defect which presents a substantial danger of bodily injury or death.

1282. Defendants were under a duty to Plaintiffs and the other Illinois Class Members to disclose the defective nature of Class Vehicles and/or associated repair costs because Defendants were in a superior position to know the true state of facts about the Fuel Pump Defect in Class

Vehicle and Plaintiffs and the other Illinois Class Members could not reasonably have been expected to learn or discover that their vehicles had a dangerous safety defect until it manifested.

1283. In failing to disclose the defective nature of the Class Vehicles prior to January 2020, Defendants knowingly and intentionally concealed material facts and breached its duty not to do so.

1284. A reasonable consumer would have considered the facts Defendants concealed or did not disclose to Plaintiffs and the other Illinois Class Members to be material in deciding whether to purchase or lease Class Vehicles or pay less for them. Had Plaintiffs and the other Illinois Class Members known of the defective nature of Class Vehicles, they would not have purchased or leased said vehicles or would have paid less for them.

1285. Plaintiffs and the other Illinois Class Members are reasonable consumers who do not expect their vehicles to suddenly accelerate, decelerate, or stall without warning and while underway.

1286. As a result of Defendants' conduct, Plaintiffs and the other Illinois Class Members were harmed and suffered actual damages in that Class Vehicles experienced and will continue to experience the Fuel Pump Defect and the resultant effects therefrom.

1287. As a direct and proximate result of Defendants' unfair or deceptive acts or practices, Plaintiffs and the other Illinois Class Members suffered and will continue to suffer actual damages. Had Defendants disclosed the true nature and/or danger in its vehicles, Plaintiffs and the other Illinois Class Members would not have been misled into purchasing or leasing Class Vehicles or would have paid significantly less to do so.

1288. Defendants had notice of their conduct as alleged herein.

1289. Defendants are liable to Plaintiffs and the other Illinois Class Members for damages in amounts to be proven at trial, including attorneys' fees recoverable pursuant to 815 Ill. Comp. Stat. 505/1, *et seq.*

1290. Plaintiffs and the other Illinois Class Members also seek punitive damages against Defendants because their conduct was wanton, willful and malicious.

1291. Pursuant to 815 Ill. Comp. Stat. 505/7, Plaintiffs request that this Court enter an order enjoining Defendants from continuing its unfair and/or deceptive practices as alleged herein.

COUNT 42
VIOLATION OF THE ILLINOIS UNIFORM DECEPTIVE TRADE PRACTICES
ACT

815 Ill. Comp. Stat. 510/1, *et seq.*

(Individually and on Behalf of the Illinois Class Against Defendants)

1292. Plaintiffs Le and Bohn ("Plaintiffs" for purposes of this Count) incorporate by reference the allegations set forth in the preceding paragraphs as though fully set forth herein.

1293. Plaintiffs bring this cause of action on behalf of themselves and on behalf of the Illinois Class ("Class" for purposes of this Count).

1294. The Illinois Uniform Deceptive Trade Practices Act, 815 Ill. Comp. Stat. 510/2(a) sets forth that:

A person engages in a deceptive trade practice when, in the course of his or her business, vocation, or occupation, the person: ... causes likelihood of confusion or of misunderstanding as to the source, sponsorship, approval, or certification of goods or services; ... represents that goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits, or quantities that they do not have or that a person has a sponsorship, approval, status, affiliation, or connection that he or she does not have; ... represents that goods or services are of a particular standard, quality, or grade or that goods are a particular style or model, if they are of another; ... advertises goods or services with intent not to sell them as advertised; ... [or] engages in any other conduct which similarly creates a likelihood of confusion or misunderstanding.

1295. As described above, Class Vehicles sold or leased to Plaintiff and the other Illinois Class Members were not of the particular standard, quality, grade or characteristic represented by Defendants.

1296. Defendants have successor liability for the deceptive or unfair acts or practices of Defendants.

1297. Defendants had notice of their conduct as alleged herein.

1298. Plaintiff and the other Illinois Class Members are persons damaged as a result of Defendants' conduct alleged above. 815 Ill. Comp. Stat. 510/3 provides that the Court may enter injunctive relief to prevent Defendants from continuing to engage in the deceptive conduct alleged, and to assess costs and attorneys' fees against Defendants upon finding that it willfully engaged in a deceptive trade practice.

COUNT 43
BREACH OF EXPRESS WARRANTY
810 Ill. Comp. Stat. 5/2-313
(Individually and on Behalf of the Illinois Class Against Toyota)

1299. Plaintiffs Le and Bohn ("Plaintiffs" for purposes of this Count) incorporate by reference the allegations set forth in the preceding paragraphs as though fully set forth herein.

1300. Plaintiffs bring this cause of action on behalf of themselves and on behalf of the Illinois Class ("Class" for purposes of this Count).

1301. Toyota was, at all times relevant hereto, the manufacturer, distributor, warrantor, seller, and/or lessor of Class Vehicles. Toyota knew or had reason to know of the specific use for which the Class Vehicles were purchased or leased.

1302. Toyota was, at all times relevant hereto, a merchant with respect to motor vehicles.

1303. Plaintiffs purchased a Class Vehicle from Toyota and Toyota provided Plaintiffs and other Illinois Class Members with a standard express written warranty covering the Class Vehicles which states, in part, that:

Toyota: Basic Coverage is 36 months/36,000 miles, whichever occurs first, from the date of first use and covers all components other than normal wear and maintenance items. This warranty covers repairs and adjustments needed to correct defects in materials or workmanship or any part supplied by Toyota, subject to exceptions.

Powertrain Coverage is 60 months/60,000 miles, whichever occurs first, from the date of first use and includes engine, transmission/transaxle, front-wheel-drive system and rear-wheel drive system.

Lexus: The Basic Warranty coverage is for 48 months or 50,000 miles, whichever occurs first.

The Powertrain Warranty is for 72 months or 70,000 miles, whichever occurs first. Except for the situations listed on the Basic Warranty page, this warranty covers repairs needed to fix defects in materials or workmanship of any component listed below:

ENGINE

Cylinder block and head and all internal parts, timing belt and cover, flywheel, oil pan, water pump, fuel pump, engine mounts, engine control computer, seals and gaskets ...

1304. “Express warranties by the seller are created as follows: (a) Any affirmation of fact or promise made by the seller to the buyer which relates to the goods and becomes part of the basis of the bargain creates an express warranty that the goods shall conform to the affirmation or promise.” 810 ILCS 5/2-313.

1305. Toyota made the above warranties in advertisements and in uniform statements to the public and consumers of Class Vehicles. These affirmations and promises were part of the basis of the bargain between Toyota, on the one hand, and Plaintiffs and the other Illinois Class Members, on the other.

1306. Toyota is unable to conform Class Vehicles to its express warranty as they have no fix for the Fuel Pump Defect. Toyota is only prepared to temporarily replace Plaintiffs' Class Vehicles with ones of inferior quality while insisting that he continue to make full lease payments on Class Vehicles they cannot safely operate and ones that cannot be made to conform to Toyota's express warranty.

1307. Plaintiffs and the other Illinois Class Members were harmed because they purchased or leased the Class Vehicles and paid the full purchase or lease price of those vehicles but were unable to use such Class Vehicles due to the Fuel Pump Defect. Temporary loaner vehicles to be provided to Plaintiffs and the other Illinois Class Members are not of the same quality as the Class Vehicles purchased or leased and Plaintiffs and the other Illinois Class Members suffered substantial economic injury and other harm as they were deprived of the benefit of the bargain that they struck with Toyota.

1308. Toyota's failure to equip the Class Vehicles with an appropriate and reliable fuel pump, and failure to repair the Fuel Pump Defect such that Class Vehicles conform to the express warranty, is a substantial factor in Plaintiffs' and the other Illinois Class Members' harm. At the time that Toyota warranted and sold and/or leased Class Vehicles, it knew that they did not conform to the express warranties and were inherently defective, and Toyota wrongfully misrepresented and/or concealed material facts regarding Class Vehicles from Plaintiffs and the other Illinois Class Members.

1309. Toyota is unable to conform the Class Vehicles to the express warranties despite being afforded a reasonable opportunity to do so. Toyota will not replace Class Vehicles or refund the purchase price and/or lease payments. Rather, Toyota insists that Plaintiffs and the other Illinois Class Members continue making payments on inoperable Class Vehicles.

1310. Since being informed of the Fuel Pump Defect in the Class Vehicles, neither Plaintiffs nor the other Illinois Class Members have been able to safely drive their Class Vehicles as the Fuel Pump Defect is likely to cause death or serious injury if it fails while the Class Vehicles are being operated.

1311. At all times relevant to this action, Toyota falsely represented the safety characteristics of Class Vehicles in breach of its express warranties.

1312. Toyota had notice of its breach as alleged herein.

1313. As a direct and proximate cause of Toyota's breach of express warranties, Plaintiffs and the other Illinois Class Members sustained damages and other losses in an amount to be determined at trial.

COUNT 44
BREACH OF IMPLIED WARRANTY
810 Ill. Comp. Stat. 5/2-314
(Individually and on Behalf of the Illinois Class Against Toyota)

1314. Plaintiffs Le and Bohn ("Plaintiffs" for purposes of this Count) incorporate by reference the allegations set forth in the preceding paragraphs as though fully set forth herein.

1315. Plaintiffs bring this cause of action on behalf of themselves and on behalf of the Illinois Class ("Class" for purposes of this Count).

1316. Class Vehicles are "goods" within the meaning of 810 ILCS 5/2-314(2).

1317. Toyota is a "merchant" within the meaning of 810 ILCS 5/2-314(1) with respect to Class Vehicles.

1318. A warranty that goods shall be merchantable and fit for ordinary purposes for which such goods are used is implied in a contract for their sale if the seller is a merchant of goods of that kind.

1319. Toyota was, at all times relevant hereto, the manufacturer, distributor, warrantor, seller, and/or lessor of Class Vehicles. Toyota knew or had reason to know of the specific use for which Class Vehicles were purchased or leased.

1320. Toyota provided Plaintiffs and the other Illinois Class Members with an implied warranty that Class Vehicles and their components and parts are merchantable and fit for the ordinary purposes for which they are sold.

1321. Class Vehicles, however, are not fit for their ordinary purpose of providing reasonably reliable and safe transportation because, among other things, they suffered from an inherent defect at the time of sale and thereafter are not fit for their particular purpose of providing safe and reliable transportation.

1322. Toyota impliedly warranted that Class Vehicles were of merchantable quality and fit for such use. This implied warranty included, among other things, a warranty that Class Vehicles: (1) manufactured, supplied, distributed, and/or sold by Toyotas were safe and reliable for providing transportation; and (2) would be fit for their intended use while they were being operated.

1323. Contrary to the applicable implied warranties, the Class Vehicles at the time of sale and thereafter were not fit for their ordinary and intended purpose of providing Plaintiffs and the other Illinois Class Members with reliable, durable, and safe transportation. Instead, Class Vehicles are defective.

1324. Toyota's breach of implied warranties was willful and has deprived Plaintiffs and the other Illinois Class Members of the benefit of their bargain.

1325. Toyota has had multiple reasonable opportunities to cure the breach, but either cannot or will not do so due to conditions reasonably within its control.

1326. Toyota has received timely notice of the breach.

1327. As a direct and proximate cause of Toyota's breach of implied warranties, Plaintiffs and the other Illinois Class Members sustained damages and other losses in an amount to be determined at trial.

COUNT 45
NEGLIGENT RECALL/UNDERTAKING
(Individually and on Behalf of the Illinois Class Against Toyota)

1328. Plaintiffs Le and Bon ("Plaintiffs" for purposes of this Count) incorporates by reference the allegations contained in the preceding paragraphs as though fully set forth herein.

1329. Plaintiffs brings this cause of action on behalf of themselves and on behalf of the Illinois Class ("Class" for purposes of this Count).

1330. Toyota owed a duty to Plaintiffs and the other Illinois Class Members to provide a vehicle that conformed to its publicly disseminated representations, warranties, and promotional information given to Plaintiffs and the other Illinois Class Members at the time of their respective transactions.

1331. Toyota harmed Plaintiffs and the other Illinois Class Members by negligently designing, testing, engineering, and incorporating the Fuel Pump into Class Vehicles.

1332. Toyota's negligence was a substantial and necessary factor in causing Plaintiffs and the other Illinois Class Members, and it was foreseeable by Toyota that Plaintiffs and the other Illinois Class Members would be harmed by negligently designing, testing, engineering, and incorporating the Fuel Pump into Class Vehicles.

1333. On January 13, 2020 Toyota initiated a voluntary recall of the Recalled Vehicles. Toyota's recall was voluntary and not initiated by NHTSA. The Recall was expanded and amended

in the March 19, 2020 Second Recall, and expanded again in Toyota's October 28, 2020 Third Recall.

1334. As described above, Toyota breached its duty by conducting the Recall negligently and/or wantonly by, among other things, failing to notify Plaintiffs and the other members of the Classes of the Fuel Pump Defect, failing to direct Plaintiffs and the other Illinois Class Members to stop driving their Class Vehicles, and failing to offer Plaintiffs and the other Illinois Class Members free loaner vehicle of comparable value to their Class Vehicles until Toyota is able to devise a repair that works (if ever) and implement it in each Class Vehicle. Toyota's failure to do so continues to expose Plaintiffs and the other Illinois Class Members to the risk of injury and death.

1335. For the reasons set for the above, Toyota knew, or should have known through the exercise of ordinary care, the Recall was not being performed in a reasonable manner.

1336. As a direct and proximate result of Toyota's negligence, Plaintiffs and the other Illinois Class Members have been damaged in an amount to be determined at trial.

COUNT 46
FRAUDULENT OMISSION
(Individually and on Behalf of the Illinois Class)
(As to all Defendants)

1337. Plaintiffs Le and Bohn ("Plaintiffs," for purposes of this Count) incorporates by reference all preceding allegations as if fully set forth herein.

1338. Plaintiffs bring this Count individually and on behalf of the other members of the Illinois Class (the "Class," for purposes of this Count).

1339. Defendants were aware of the Fuel Pump Defect within the Class Vehicles when it marketed and sold the Class Vehicles to Plaintiffs and the other members of the Class.

1340. Having been aware of the Fuel Pump Defect within the Class Vehicles, and having known that Plaintiffs and the other members of the Class could not have reasonably been expected to know of the Fuel Pump Defect, Defendants had a duty to disclose the defect to Plaintiffs and the other members of the Class in connection with the sale or lease of the Class Vehicles.

1341. Defendants did not disclose the Fuel Pump Defect to Plaintiffs and the other members of the Class in connection with the sale of the Class Vehicles.

1342. For the reasons set forth above, the Fuel Pump Defect comprises material information with respect to the sale or lease of the Class Vehicles.

1343. In purchasing the Class Vehicles, Plaintiffs and the other members of the Class reasonably relied on Defendants to disclose known material defects with respect to the Class Vehicles.

1344. Had Plaintiffs and the other members of the Class known of the Fuel Pump Defect within the Class Vehicles, they would have not purchased the Class Vehicles or would have paid less for the Class Vehicles.

1345. Through its omissions regarding the Fuel Pump Defect, Defendants intended to induce, and did induce, Plaintiffs and the other members of the Class to either purchase a Class Vehicle that they otherwise would not have purchased, or pay more for a Class Vehicle than they otherwise would have paid.

1346. As a direct and proximate result of Defendants' omissions, Plaintiffs and the other members of the Class either overpaid for the Class Vehicles or would not have purchased the Class Vehicles at all if the Fuel Pump Defect had been disclosed to them, and, therefore, have incurred damages in an amount to be determined at trial.

VII. MARYLAND CLASS

COUNT 47
VIOLATIONS OF THE MARYLAND CONSUMER PROTECTION ACT
Md. Code Ann., Com. Law §§ 13-101, et seq. (“MCPA”)
(Individually and on behalf of the Maryland Class)
(As to all Defendants)

1347. Plaintiff DeWeerd (‘‘Plaintiff’’ for purposes of this Count) incorporates by reference each paragraph as if fully set forth herein.

1348. Plaintiff brings this claim individually and on behalf of the other members of the Maryland Class (the ‘‘Class,’’ for purposes of this Count).

1349. The MCPA prohibits ‘‘any [f]alse, falsely disparaging, or misleading oral or written statement, visual description, or other representation of any kind which has the capacity, tendency, or effect of deceiving or misleading consumers.’’ Md. Code Ann., Com. Law § 13-301(1). The MCPA also prohibits any ‘‘[d]eception, fraud, false pretense, false premise, misrepresentation, or knowing concealment, suppression, or omission of any material fact with the intent that a consumer rely on the same in connection with . . . [t]he promotion or sale of any consumer goods.’’ Md. Code Ann., Com. Law § 13-301(9) – 13-301(9)(i).

1350. Plaintiff and the Maryland Class are ‘‘consumers’’ within the meaning of the MCPA. Md. Code Ann., Com. Law § 13-101(c).

1351. Each Defendant is a ‘‘person’’ as used in the MCPA. Md. Code Ann., Com. Law § 13-101(h).

1352. The Class Vehicles are ‘‘consumer good[s]’’ within the meaning of the MCPA. Md. Code Ann., Com. Law § 13-101(d).

1353. By the conduct described in detail above and incorporated herein, Defendants engaged in deceptive trade practices.

1354. Plaintiff notified Toyota of the Fuel Pump Defect in the Class Vehicles when he brought his Class Vehicle into a dealer after experiencing problems as a result of the Defect. Toyota was also provided notice of the Fuel Pump Defect through numerous complaints filed against it directly and through its dealers, as well as its own internal engineering knowledge.

1355. Defendants' omissions regarding the Fuel Pump Defect, described above, which causes the Fuel Pump to prematurely fail, are material facts that a reasonable person would have considered in deciding whether or not to purchase (or to pay the same price for) the Class Vehicles.

1356. Defendants intended for Plaintiff and the other Class Members to rely on the omissions regarding the Fuel Pump Defect.

1357. Plaintiff and the other Class Members justifiably acted or relied to their detriment upon Defendants' omissions of fact concerning the above-described Fuel Pump Defect, as evidenced by Plaintiff and the other Class Members' purchases of Class Vehicles.

1358. Had Defendants disclosed all material information regarding the Fuel Pump Defect to Plaintiff and the other Class Members, Plaintiff and the other Class Members would not have purchased or leased Class Vehicles or would have paid less to do so.

1359. Defendants' omissions have deceived Plaintiff, and those same business practices have deceived or are likely to deceive members of the consuming public and the other members of the Class.

1360. Defendants' actions impact the public interest because Plaintiff and the Class have been injured in exactly the same way as millions of other consumers by Defendants' deceptive acts and practices as described herein.

1361. As a direct and proximate result of Defendants' deceptive trade practices, Plaintiff and the other Class Members have suffered ascertainable loss and actual damages. Plaintiff and

the other Class Members who purchased or leased the Class Vehicles would not have purchased or leased the Class Vehicles, or, alternatively, would have paid less for them had the truth about the Fuel Pump Defect been disclosed. Plaintiff and the other Class Members also suffered diminished value of their vehicles.

1362. Defendants had notice of their conduct as alleged herein.

1363. Pursuant to Md. Code Ann., Com. Law § 13-408, Plaintiff and the Maryland Class seek actual damages, attorneys' fees, and any other just and proper relief available under the MCPA, Md. Code Ann., Com. Law § 13-301, *et seq.*

COUNT 48
STRICT PRODUCT LIABILITY
(Individually and on behalf of the Maryland Class)
(As to all Defendants)

1364. Plaintiff DeWeerd (‘‘Plaintiff’’ for purposes of this Count) incorporates by reference each allegation as if fully set forth herein.

1365. Plaintiff brings this claim individually and on behalf of other members of the Maryland Class (the ‘‘Class,’’ for purposes of this Count).

1366. Defendants are strictly liable for designing, engineering, testing, validating, manufacturing, and placing in the stream of commerce an unreasonably dangerous Fuel Pump.

1367. Defendants designed, engineered, tested, validated, manufactured, and placed in the stream of commerce the unreasonably dangerous Fuel Pump.

1368. The Class Vehicles and Fuel Pumps are being used in an intended and/or foreseeable manner. Plaintiff and Class Members have not misused or materially altered the Class Vehicles or Fuel Pumps. The Class Vehicles and Fuel Pumps are in the same or substantially similar condition as they were at the time of purchase/lease.

1369. The Class Vehicles and Fuel Pumps are unreasonably dangerous and defective because they were designed, engineered, tested, validated, manufactured, and placed in the stream of commerce with the Fuel Pump Defect that can cause Class Vehicles to suddenly and unexpectedly stall or lose engine power.

1370. The Fuel Pump Defect causes the Class Vehicles to malfunction. The Fuel Pump Defect also causes the Class Vehicles to be sold in a condition not contemplated by the ultimate consumer which is dangerous to an extent beyond that which would be anticipated by the ordinary consumer with ordinary knowledge as to their characteristics.

1371. The Fuel Pump Defect causes an unreasonably dangerous condition when Class Vehicles are used for their intended and foreseeable purpose of providing safe and reliable transportation and places Plaintiff, Class Members, and others on the road at an unreasonable and substantial risk for injury or death.

1372. Defendants were aware of feasible alternative designs which would minimize or eliminate the Fuel Pump Defect and the risk it poses. Such alternative designs were known and available when the Class Vehicles and Fuel Pumps were designed, engineered, tested, validated, manufactured, and placed in the stream of commerce.

1373. Defendants failed to design, test, validate, manufacture, and place in the stream of commerce a Class Vehicle and Fuel Pump that is free from the Fuel Pump Defect and the unreasonable safety risks it poses.

1374. As a result of Defendants' actions as described herein, Plaintiff and the other Class Members have been damaged in an amount to be determined at trial.

COUNT 49
BREACH OF EXPRESS WARRANTY
MD. CODE ANN., COM. LAW § 2-313
(Individually and on behalf of the Maryland Class)

(As to Toyota)

1375. Plaintiff DeWeerd (‘‘Plaintiff’’ for purposes of this Court) incorporates by reference each allegation as if fully set forth herein.

1376. Plaintiff brings this claim individually and on behalf of the other members of the Maryland Class (the ‘‘Class’’ for purposes of this Court).

1377. Toyota is a merchant with respect to the Class Vehicles.

1378. In its written express warranties, Toyota expressly warranted that it would repair or replace defective parts free of charge if the defects became apparent during the warranty period.

1379. Toyota’s written express warranties formed the basis of the bargain that was reached when Plaintiff and the other Class Members purchased or leased their Class Vehicles.

1380. Toyota breached its express warranty to repair defective parts in the Class Vehicles. Toyota admittedly has not repaired the Class Vehicles’ Fuel Pump Defect.

1381. Plaintiff notified Toyota of the Fuel Pump Defect in the Class Vehicles when he brought it in to a dealer after his Class Vehicle failed due to the Fuel Pump Defect in April 2020. Toyota knew that it was unable to provide adequate remedy under the warranty. Toyota was also provided notice of the Fuel Pump Defect through numerous complaints filed against it directly and through its dealers, as well as its own internal engineering knowledge. Toyota has not remedied its breach.

1382. Further, Toyota has refused to provide an adequate warranty repair for the Fuel Pump Defect, thus rendering the satisfaction of any notice requirement futile. As stated above, customers that have presented their vehicles for warranty repair due to Fuel Pump failure have been denied adequate repairs.

1383. The written express warranties fail in their essential purpose because the contractual remedy is insufficient to make Plaintiff and the other Class Members whole and because Toyota has failed and/or has refused to adequately provide effective remedies within a reasonable time.

1384. Accordingly, recovery by Plaintiff and the other Class Members is not limited to the limited remedy of repair, and Plaintiff, individually and on behalf of the other Class Members, seeks all remedies as allowed by law.

1385. Also, as alleged in more detail herein, at the time that Toyota warranted and sold the Class Vehicles it knew that the Class Vehicles did not conform to the warranty and were inherently defective, and Toyota improperly concealed material facts regarding its Class Vehicles. Plaintiff and the other Class Members were therefore induced to purchase or lease the Toyota Vehicles under false pretenses.

1386. Toyota had notice of its breach as alleged herein.

1387. As a direct and proximate result of Toyota's breach of its express warranty, Plaintiff and the other Class Members have been damaged in an amount to be determined at trial.

COUNT 50
BREACH OF IMPLIED WARRANTY OF MERCHANTABILITY
MD. CODE ANN., COM. LAW §§ 2-314
(Individually and on behalf of the Maryland Class)
(As to Toyota)

1388. Plaintiff DeWeerd ("Plaintiff" for purposes of this Count) incorporates by reference each allegation as if fully set forth herein.

1389. Plaintiff brings this Count individually and on behalf of the other members of the Maryland Class (the "Class," for purposes of this Count).

1390. Toyota is a “merchant” and each Class Vehicle is a “good” as defined in Maryland’s Commercial Law governing the implied warranty of merchantability. Md. Code, Com. Law §§ 2-104(1), 2-105(1)

1391. Pursuant to Md. Code §§ 2-314, a warranty that the Class Vehicles were in merchantable condition was implied by law, and the Class Vehicles were bought and sold subject to an implied warranty of merchantability.

1392. By placing the Class Vehicles in the stream of commerce, Toyota impliedly warranted that the Class Vehicles are safe, and that all claims in their advertising and marketing of the Class Vehicles were true.

1393. The Class Vehicles did not comply with the implied warranty of merchantability because, at the time of sale or lease and at all times thereafter, the Class Vehicles were defective and not in merchantable condition, would not pass without objection in the trade, and were not fit for the ordinary purpose for which vehicles were used. Specifically, the Class Vehicles suffer from the Fuel Pump Defect which causes the Class Vehicles’ Fuel Pump to prematurely fail, which can cause the engine to run rough, and the vehicle to stall while being driven or become inoperable.

1394. Further, Toyota has refused to provide an adequate warranty repair for the Fuel Pump Defect, thus rendering the satisfaction of any notice requirement futile. As stated above, customers that have presented their vehicles for warranty repair due to Fuel Pump failure have been denied adequate repair.

1395. Plaintiff and the other Class Members suffered injuries due to the defective nature of the Class Vehicles and Toyota’s breach of the warranty of merchantability.

1396. At all times that Toyota warranted and sold the Class Vehicles, they knew or should have known that their warranties were false, and yet they did not disclose the truth, or stop

manufacturing or selling the Class Vehicles, and instead continued to issue false warranties, and continued to insist the products were safe. The Class Vehicles were defective when Toyota delivered them to their resellers, dealers, and distributors which sold the Class Vehicles, and the Class Vehicles were therefore still defective when they reached Plaintiff and the Class.

1397. Toyota's resellers, dealers, and distributors are intermediaries between Toyota and consumers. These intermediaries sell Class Vehicles to consumers and are not, themselves, consumers of Class Vehicles, and therefore have no rights against Toyota with respect to Plaintiff's and all other Class Members' acquisition of Class Vehicles. Toyota's warranties were designed to influence consumers who purchased and/or owned Class Vehicles.

1398. Plaintiff and each Class member's acquisition of the Class Vehicles suffices to create privity of contract between Plaintiff and all other members of the Class, on the one hand, and Toyota, on the other hand; however, privity of contract need not be established nor is it required because Plaintiff and the Class Members are intended third-party beneficiaries of contracts between Toyota and their resellers, authorized dealers, and, specifically, of Toyota's implied warranties.

1399. Toyota had notice of its breach as alleged herein.

1400. As a direct and proximate result of Toyota's breach of implied warranties of merchantability, Plaintiff and the Class are entitled to damages in an amount to be determined at trial.

COUNT 51
NEGLIGENT RECALL/UNDERTAKING
(Individually and on behalf of the Maryland Class)
(As to Toyota)

1401. Plaintiff DeWeerd (Plaintiff" for purposes of this Count) incorporates by reference each allegation as if fully set forth herein.

1402. Plaintiff brings this Count individually and on behalf of the other members of the Maryland Class (the “Class,” for purposes of this Count).

1403. Prior to the events made the basis of this action, Toyota designed, engineered, manufactured, marketed, and placed the Class Vehicles in the stream of commerce.

1404. On January 13, 2020 Toyota initiated a voluntary recall of the Recalled Vehicles. Toyota’s recall was voluntary and not initiated by NHTSA. The Recall was expanded and amended in the March 19, 2020 Second Recall, and expanded again in Toyota’s October 28, 2020 Third Recall.

1405. Toyota owed a duty to use reasonable care to Plaintiff and Class Members based on its undertaking of the Recall.

1406. As described above, Toyota breached its duty by conducting the Recall negligently and/or wantonly by, among other things, failing to notify Plaintiff and the Class of the Fuel Pump Defect, failing to direct Class Members to stop driving their Class Vehicles, and failing to offer Class Members free loaner vehicles of comparable make, model, or value as their Class Vehicles until Toyota is able to devise a repair that works (if ever) and implement it in each Class Vehicle. Toyota’s failure to do so continues to expose Plaintiff and the Class to the risk of injury and death.

1407. For the reasons set for the above, Toyota knew, or should have known through the exercise of ordinary care, the Recall was not being performed in a reasonable manner.

1408. As a direct and proximate result, Plaintiff and the other Class Members have been and continue to be damaged in an amount to be determine at trial.

COUNT 52
FRAUDULENT OMISSION
(Individually and on behalf of the Maryland Class)
(As to all Defendants)

1409. Plaintiff DeWeerd (‘‘Plaintiff’’ for purposes of this Court) incorporates by reference each allegation as if fully set forth herein.

1410. Plaintiff brings this Court individually and on behalf of the other members of the Maryland Class (the ‘‘Class,’’ for purposes of this Court).

1411. Defendants were aware of the Fuel Pump Defect within the Class Vehicles when it marketed and sold the Class Vehicles to Plaintiff and the other members of the Class.

1412. Having been aware of the Fuel Pump Defect within the Class Vehicles, and having known that Plaintiff and the other members of the Class could not have reasonably been expected to know of the Fuel Pump Defect, Defendants had a duty to disclose the defect to Plaintiff and the other members of the Class in connection with the sale or lease of the Class Vehicles.

1413. Defendants did not disclose the Fuel Pump Defect to Plaintiff and the other members of the Class in connection with the sale of the Class Vehicles.

1414. For the reasons set forth above, the Fuel Pump Defect within the Class Vehicles comprises material information with respect to the sale or lease of the Class Vehicles.

1415. In purchasing the Class Vehicles, Plaintiff and the other members of the Class reasonably relied on Defendants to disclose known material defects with respect to the Class Vehicles.

1416. Had Plaintiff and the other members of the Class known of the Fuel Pump Defect within the Class Vehicles, they would have not purchased the Class Vehicles or would have paid less for the Class Vehicles.

1417. Through its omissions regarding the Fuel Pump Defect within the Class Vehicles, Defendants intended to induce, and did induce, Plaintiff and the other members of the Class to

either purchase a Class Vehicle that they otherwise would not have purchased, or pay more for a Class Vehicle than they otherwise would have paid.

1418. As a direct and proximate result of Defendants' omissions, Plaintiff and the other members of the Class either overpaid for the Class Vehicles or would not have purchased the Class Vehicles at all if the Fuel Pump Defect had been disclosed to them, and, therefore, have incurred damages in an amount to be determined at trial.

VIII. MISSOURI CLASS

COUNT 53
VIOLATION OF MISSOURI'S MERCHANDISING PRACTICE ACT
Mo. Ann. Stat. § 407.010, *et seq.*
(Individually and on Behalf of the Missouri Class)
(As to all Defendants)

1419. Plaintiff Boxer ("Plaintiff" for purposes of this Count) incorporates by reference each allegation as if set forth fully herein.

1420. This Count is brought on behalf of Plaintiff and the Missouri Class ("Class" for the purposes of this Count) for violation of Missouri's Merchandising Practices Act ("MMPA"), Mo. Rev. Stat. § 407.010 *et seq.*, which prohibits deceptive acts or practices in the conduct of any business, trade or commerce in Missouri.

1421. Plaintiff Boxer incorporates and realleges, as though fully set forth herein, each and every allegation set forth in the preceding paragraphs of this Complaint.

1422. The MMPA provides a private right of action for "any deception, fraud, false pretense, false promise, misrepresentation, unfair practice or the concealment, suppression, or omission of any material fact in connection with the sale or advertisement of any merchandise in trade or commerce . . . in or from the state of Missouri." Mo. Stat. §§ 407.020.1; 407.025.1.

1423. Members of the Missouri Class purchased their Class Vehicles within the State of Missouri for personal, family or household use.

1424. By the conduct described in detail above and incorporated herein, Defendants engaged in deceptive trade practices.

1425. Defendants' misrepresentations and omissions regarding the Fuel Pump Defect, described above, which causes the Fuel Pump to prematurely fail, are material facts that a reasonable person would have considered in deciding whether or not to purchase (or to pay the same price for) the Class Vehicles.

1426. Defendants intended for Plaintiff and the other Class members to rely on their misrepresentations and omissions regarding the Fuel Pump Defect.

1427. Plaintiff and the other Class members justifiably acted or relied to their detriment upon Defendants' omissions of fact concerning the above-described Fuel Pump Defect, as evidenced by Plaintiff and the other Class members' purchases of Class Vehicles. The Class members acted as reasonable consumers in light of all circumstances and the acts Defendants committed in violation of Section 407.020 would cause a reasonable person to enter into the transactions that caused the damages at issue.

1428. Had Defendants disclosed all material information regarding the Fuel Pump Defect to Plaintiff and the other Class members, Plaintiff and the other Class members would not have purchased or leased Class Vehicles or would have paid less to do so.

1429. Defendants' omissions have deceived Plaintiff, and those same business practices have deceived or are likely to deceive members of the consuming public and the other members of the Class. Defendants' acts and practices as alleged herein have intentionally harmed Plaintiff

and member of the Class without just cause and Defendants have acted with deliberate and flagrant disregard for the safety of others.

1430. As a direct and proximate result of Defendants' deceptive trade practices, Plaintiff and the other Class members have suffered ascertainable loss and actual damages, and those damages can be proved with a reasonable degree of certainty using objective evidence. Plaintiff and the other Class members who purchased or leased the Class Vehicles would not have purchased or leased the Class Vehicles, or, alternatively, would have paid less for them had the truth about the Fuel Pump Defect been disclosed. Plaintiff and the other Class members also suffered diminished value of their vehicles. Plaintiff and the other Class members are entitled to recover actual damages, civil penalties, punitive damages, attorneys' fees and costs, equitable relief, and all other relief allowed under Mo. Rev. Stat. § 407.010, *et seq.*

COUNT 54
STRICT PRODUCT LIABILITY
(Individually and on behalf of the Missouri Class)
(As to Denso)

1431. Plaintiff Boxer ("Plaintiff" for purposes of this Count) incorporates by reference each allegation as if fully set forth herein.

1432. Plaintiff brings this claim individually and on behalf of other members of the Missouri Class (the "Class," for purposes of this Count).

1433. Defendants are strictly liable for designing, engineering, testing, validating, manufacturing, and placing in the stream of commerce an unreasonably dangerous Fuel Pump.

1434. Defendants designed, engineered, tested, validated, manufactured, and placed in the stream of commerce the unreasonably dangerous Fuel Pump.

1435. The Class Vehicles and Fuel Pumps are being used in an intended and/or foreseeable manner. Plaintiff and Class members have not misused or materially altered the Class

Vehicles or Fuel Pumps. The Class Vehicles and Fuel Pumps are in the same or substantially similar condition as they were at the time of purchase/lease.

1436. The Class Vehicles and Fuel Pumps are unreasonably dangerous and defective because they were designed, engineered, tested, validated, manufactured, and placed in the stream of commerce with the Fuel Pump Defect that can cause Class Vehicles to suddenly and unexpectedly stall or lose engine power.

1437. The Fuel Pump Defect causes the Class Vehicles to malfunction. The Fuel Pump Defect also causes the Class Vehicles to be sold in a condition not contemplated by the ultimate consumer which is dangerous to an extent beyond that which would be anticipated by the ordinary consumer with ordinary knowledge as to their characteristics.

1438. The Fuel Pump Defect causes an unreasonably dangerous condition when Class Vehicles are used for their intended and foreseeable purpose of providing safe and reliable transportation and places Plaintiff, Class members, and others on the road at an unreasonable and substantial risk for injury or death.

1439. Defendants were aware of feasible alternative designs which would minimize or eliminate the Fuel Pump Defect and the risk it poses. Such alternative designs were known and available when the Class Vehicles and Fuel Pumps were designed, engineered, tested, validated, manufactured, and placed in the stream of commerce.

1440. Defendants failed to design, test, validate, manufacture, and place in the stream of commerce a Class Vehicle and Fuel Pump that is free from the Fuel Pump Defect and the unreasonable safety risks it poses.

1441. As a result of Defendants' actions as described herein, Plaintiff and the other Class members have been damaged in an amount to be determined at trial.

COUNT 55
BREACH OF EXPRESS WARRANTY
MO. REV. STAT. §§ 400.2-313, 400.2A-210.
(Individually and on behalf of the Missouri Class)
(As to Toyota)

1442. Plaintiff Boxer (“Plaintiff” for purposes of this Count) incorporates by reference each allegation as if fully set forth herein.

1443. Plaintiff brings this claim individually and on behalf of the other members of the Missouri Class (the “Class” for purposes of this Count).

1444. Toyota is a merchant with respect to the Class Vehicles.

1445. In its written express warranties, Toyota expressly warranted that it would repair or replace defective parts free of charge if the defects became apparent during the warranty period.

1446. Toyota’s written express warranties formed the basis of the bargain that was reached when Plaintiff and the other Class members purchased or leased their Class Vehicles.

1447. Toyota breached its express warranty to repair defective parts in the Class Vehicles. Toyota admittedly has not repaired the Class Vehicles’ Fuel Pump Defect.

1448. Plaintiff notified Toyota of the Fuel Pump Defect in the Class Vehicles when he brought it in to a dealer for the Recall Repair in June 2020 and reported experiencing the Fuel Pump Defect, and then again when approximately one week later, he brought it back for further repair after experiencing subsequent fuel pump problems. Toyota knew that it was unable to provide adequate remedy under the warranty. Toyota was also provided notice of the Fuel Pump Defect through numerous complaints filed against it directly and through its dealers, as well as its own internal engineering knowledge. Toyota has not remedied its breach.

1449. Further, Toyota has refused to provide an adequate warranty repair for the Fuel Pump Defect, thus rendering the satisfaction of any notice requirement futile. As stated above,

customers, including Plaintiff Boxer, that have presented their vehicles for warranty repair due to Fuel Pump failure have been denied adequate repairs.

1450. The written express warranties fail in their essential purpose because the contractual remedy is insufficient to make Plaintiff and the other Class members whole and because Toyota has failed and/or has refused to adequately provide effective remedies within a reasonable time.

1451. Accordingly, recovery by Plaintiff and the other Class members is not limited to the limited remedy of repair, and Plaintiff, individually and on behalf of the other Class members, seeks all remedies as allowed by law.

1452. Also, as alleged in more detail herein, at the time that Toyota warranted and sold the Class Vehicles it knew that the Class Vehicles did not conform to the warranty and were inherently defective, and Toyota improperly concealed material facts regarding its Class Vehicles. Plaintiff and the other Class members were therefore induced to purchase or lease the Toyota Vehicles under false pretenses.

1453. Toyota had notice of its breach as alleged herein.

1454. As a direct and proximate result of Toyota's breach of its express warranty, Plaintiff and the other Class members have been damaged in an amount to be determined at trial.

COUNT 56
BREACH OF IMPLIED WARRANTY OF MERCHANTABILITY
MO. REV. STAT. §§ 400.2-314, 400.2A-212.
(Individually and on behalf of the Missouri Class)
(As to Toyota)

1455. Plaintiff Boxer ("Plaintiff" for purposes of this Count) incorporates by reference each allegation as if fully set forth herein.

1456. Plaintiff brings this Count individually and on behalf of the other members of the Missouri Class (the "Class," for purposes of this Count).

1457. Toyota is a “merchant” and each Class Vehicle is a “good” as defined in Missouri’s Commercial Law governing the implied warranty of merchantability. Mo. Rev. Stat. § 400.2-104, 2-105. Pursuant to Mo. Rev. Stat. §§ 400.2-314 and 400.2A-212, a warranty that the Class Vehicles were in merchantable condition was implied by law, and the Class Vehicles were bought, sold, and leased subject to an implied warranty of merchantability.

1458. By placing the Class Vehicles in the stream of commerce, Toyota impliedly warranted that the Class Vehicles are safe, and that all claims in their advertising and marketing of the Class Vehicles were true.

1459. The Class Vehicles did not comply with the implied warranty of merchantability because, at the time of sale or lease and at all times thereafter, the Class Vehicles were defective and not in merchantable condition, would not pass without objection in the trade, and were not fit for the ordinary purpose for which vehicles were used. Specifically, the Class Vehicles suffer from the Fuel Pump Defect which causes the Class Vehicles’ Fuel Pump to prematurely fail, which can cause the engine to run rough, and the vehicle to stall while being driven or become inoperable.

1460. Further, Toyota has refused to provide an adequate warranty repair for the Fuel Pump Defect, thus rendering the satisfaction of any notice requirement futile. As stated above, customers that have presented their vehicles for warranty repair due to Fuel Pump failure have been denied adequate repair.

1461. Plaintiff and the other Class members suffered injuries due to the defective nature of the Class Vehicles and Toyota’s breach of the warranty of merchantability.

1462. At all times that Toyota warranted and sold the Class Vehicles, they knew or should have known that their warranties were false, and yet they did not disclose the truth, or stop manufacturing or selling the Class Vehicles, and instead continued to issue false warranties, and

continued to insist the products were safe. The Class Vehicles were defective when Toyota delivered them to their resellers, dealers, and distributors which sold the Class Vehicles, and the Class Vehicles were therefore still defective when they reached Plaintiff and the Class.

1463. Toyota's resellers, dealers, and distributors are intermediaries between Toyota and consumers. These intermediaries sell Class Vehicles to consumers and are not, themselves, consumers of Class Vehicles, and therefore have no rights against Toyota with respect to Plaintiff's and all other Class members' acquisition of Class Vehicles. Toyota's warranties were designed to influence consumers who purchased and/or owned Class Vehicles.

1464. Plaintiff and each Class member's acquisition of the Class Vehicles suffices to create privity of contract between Plaintiff and all other members of the Class, on the one hand, and Toyota, on the other hand; however, privity of contract need not be established nor is it required because Plaintiff and the Class members are intended third-party beneficiaries of contracts between Toyota and their resellers, authorized dealers, and, specifically, of Toyota's implied warranties.

1465. Toyota had notice of its breach as alleged herein.

1466. As a direct and proximate result of Toyota's breach of implied warranties of merchantability, Plaintiff and the Class are entitled to damages in an amount to be determined at trial.

COUNT 57
NEGLIGENT RECALL/UNDERTAKING
(Individually and on behalf of the Missouri Class)
(As to Toyota)

1467. Plaintiff Boxer ("Plaintiff" for purposes of this Count) incorporates by reference each allegation as if fully set forth herein.

1468. Plaintiff brings this Count individually and on behalf of the other members of the Missouri Class (the “Class,” for purposes of this Count).

1469. Prior to the events made the basis of this action, Toyota designed, engineered, manufactured, marketed, and placed the Class Vehicles in the stream of commerce.

1470. On January 13, 2020 Toyota initiated a voluntary recall of the Recalled Vehicles. Toyota’s recall was voluntary and not initiated by NHTSA. The Recall was expanded and amended in the March 19, 2020 Second Recall.

1471. Toyota owed a duty to use reasonable care to Plaintiff and Class members based on its undertaking of the Recall.

1472. As described above, Toyota breached its duty by conducting the Recall negligently and/or wantonly by, among other things, failing to notify Plaintiff and the Class of the Fuel Pump Defect, failing to direct Class members to stop driving their Class Vehicles, and failing to offer Class members free loaner vehicles of comparable make, model, or value as their Class Vehicles until Toyota is able to devise a repair that works (if ever) and implement it in each Class Vehicle. Toyota’s failure to do so continues to expose Plaintiff and the Class to the risk of injury and death.

1473. For the reasons set for the above, Toyota knew, or should have known through the exercise of ordinary care, the Recall was not being performed in a reasonable manner.

1474. As a direct and proximate result, Plaintiff and the other Class members have been and continue to be damaged in an amount to be determine at trial.

COUNT 58
FRAUDULENT OMISSION
(Individually and on behalf of the Missouri Class)
(As to all Defendants)

1475. Plaintiff Boxer (“Plaintiff” for purposes of this Count) incorporates by reference each allegation as if fully set forth herein.

1476. Plaintiff brings this Count individually and on behalf of the other members of the Missouri Class (the “Class,” for purposes of this Count).

1477. Defendants were aware of the Fuel Pump Defect within the Class Vehicles when it marketed and sold the Class Vehicles to Plaintiff and the other members of the Class.

1478. Having been aware of the Fuel Pump Defect within the Class Vehicles, and having known that Plaintiff and the other members of the Class could not have reasonably been expected to know of the Fuel Pump Defect, Defendants had a duty to disclose the defect to Plaintiff and the other members of the Class in connection with the sale or lease of the Class Vehicles.

1479. Defendants did not disclose the Fuel Pump Defect to Plaintiff and the other members of the Class in connection with the sale of the Class Vehicles.

1480. For the reasons set forth above, the Fuel Pump Defect within the Class Vehicles comprises material information with respect to the sale or lease of the Class Vehicles.

1481. In purchasing the Class Vehicles, Plaintiff and the other members of the Class reasonably relied on Defendants to disclose known material defects with respect to the Class Vehicles.

1482. Had Plaintiff and the other members of the Class known of the Fuel Pump Defect within the Class Vehicles, they would have not purchased the Class Vehicles or would have paid less for the Class Vehicles.

1483. Through its omissions regarding the Fuel Pump Defect within the Class Vehicles, Defendants intended to induce, and did induce, Plaintiff and the other members of the Class to either purchase a Class Vehicle that they otherwise would not have purchased, or pay more for a Class Vehicle than they otherwise would have paid.

1484. As a direct and proximate result of Defendants' omissions, Plaintiff and the other members of the Class either overpaid for the Class Vehicles or would not have purchased the Class Vehicles at all if the Fuel Pump Defect had been disclosed to them, and, therefore, have incurred damages in an amount to be determined at trial.

IX. NEW JERSEY CLASS

COUNT 59 VIOLATION OF THE NEW JERSEY CONSUMER FRAUD ACT N.J. STAT. ANN. § 56:8-1, *et seq.* (Individually and on Behalf of the Statewide Class) (As to all Defendants)

1485. Plaintiff Bruce E. Puleo ("Plaintiff," for purposes of this Count) incorporates by reference each allegation set forth in the previous paragraphs as if fully set forth herein.

1486. Plaintiff brings this Count individually and on behalf of the other members of the New Jersey Class (the "Class," for purposes of this Count).

1487. The New Jersey Consumer Fraud Act ("NJCFCA") makes unlawful "[t]he act, use or employment by any person of any unconscionable commercial practice, deception, fraud, false pretense, false promise, misrepresentation, or the knowing, concealment, suppression, or omission of any material fact with intent that others rely upon such concealment, suppression or omission, in connection with the sale or advertisement of any merchandise or real estate, or with the subsequent performance of such person as aforesaid, whether or not any person has in fact been misled, deceived or damaged thereby." N.J. STAT. ANN. § 56:8-2.

1488. Toyota violated the NJCFCA by representing that the Class Vehicles have certain safety characteristics and benefits that they do not have; and engaging in deceptive conduct which creates a likelihood of misleading or deceiving the buyer about the Class Vehicles (N.J. STAT. ANN. §§ 56:8-2).

1489. Toyota's deceptive conduct and its false and misleading statements about Class Vehicle safety and dependability and omissions regarding the Fuel Pump Defect which causes the Fuel Pumps to prematurely fail, are facts that a reasonable person would have considered material in deciding whether or not (and for what price) to purchase or lease the Class Vehicles.

1490. Toyota's materially misleading statements and deceptive acts and practices were directed at the public at large, including Plaintiff and members of the Class, and were likely to mislead reasonable consumers, including Plaintiff and Class Members.

1491. Had Toyota disclosed all material information regarding the Fuel Pump Defect, Plaintiff and the other Class Members would not have purchased or leased Class Vehicles or would have paid less to do so.

1492. Toyota's deceptive acts and practices, and misrepresentations and omissions, have deceived Plaintiff, and those same business practices have deceived or are likely to deceive members of the consuming public and the other members of the Class.

1493. Plaintiff and the other Class Members justifiably acted or relied to their detriment upon Toyota's misrepresentations and omissions of fact, as evidenced by Plaintiffs and the other Class Members' leasing and purchasing of Class Vehicles.

1494. As a direct and proximate result of Toyota's deceptive acts and practices, Plaintiff and the other Class Members have suffered ascertainable and quantifiable loss and actual damages. Plaintiff and the other Class Members also suffered diminished value of their vehicles.

1495. Defendants had notice of their conduct as alleged herein.

1496. Pursuant to N.J. STAT. ANN. § 56:8-19, Plaintiff and the Class seek an order for: actual and treble damages; appropriate injunctive relief as may be deemed appropriate by the Court; costs; and reasonable attorneys' fees.

COUNT 60
STRICT PRODUCT LIABILITY
(Individually and on Behalf of the New Jersey Class)
(As to Denso)

1497. Plaintiff Puleo (“Plaintiff” for purposes of this Count) incorporates by reference each allegation as if fully set forth herein.

1498. Plaintiff brings this claim individually and on behalf of other members of the New Jersey Class (the “Class,” for purposes of this Count).

1499. Defendants are strictly liable for designing, engineering, testing, validating, manufacturing, and placing in the stream of commerce an unreasonably dangerous Fuel Pump.

1500. Defendants designed, engineered, tested, validated, manufactured, and placed in the stream of commerce the unreasonably dangerous Fuel Pump.

1501. The Class Vehicles and Fuel Pumps are being used in an intended and/or foreseeable manner. Plaintiff and Class Members have not misused or materially altered the Class Vehicles or Fuel Pumps. The Class Vehicles and Fuel Pumps are in the same or substantially similar condition as they were at the time of purchase/lease.

1502. The Class Vehicles and Fuel Pumps are unreasonably dangerous and defective because they were designed, engineered, tested, validated, manufactured, and placed in the stream of commerce with the Fuel Pump Defect that can cause Class Vehicles to suddenly and unexpectedly stall or lose engine power.

1503. The Fuel Pump Defect causes the Class Vehicles to malfunction. The Fuel Pump Defect also causes the Class Vehicles to be sold in a condition not contemplated by the ultimate consumer which is dangerous to an extent beyond that which would be anticipated by the ordinary consumer with ordinary knowledge as to their characteristics.

1504. The Fuel Pump Defect causes an unreasonably dangerous condition when Class Vehicles are used for their intended and foreseeable purpose of providing safe and reliable transportation and places Plaintiff, Class Members, and others on the road at an unreasonable and substantial risk for injury or death.

1505. Defendants were aware of feasible alternative designs which would minimize or eliminate the Fuel Pump Defect and the risk it poses. Such alternative designs were known and available when the Class Vehicles and Fuel Pumps were designed, engineered, tested, validated, manufactured, and placed in the stream of commerce.

1506. Defendants failed to design, test, validate, manufacture, and place in the stream of commerce a Class Vehicle and Fuel Pump that is free from the Fuel Pump Defect and the unreasonable safety risks it poses.

1507. As a result of Defendants' actions as described herein, Plaintiff and the other Class Members have been damaged in an amount to be determined at trial.

COUNT 61
BREACH OF EXPRESS WARRANTY OF MERCHANTABILITY
N.J. STAT. ANN. § 12A:2-313
(Individually and on Behalf of the New Jersey Class)
(As to Toyota)

1508. Plaintiff Puleo ("Plaintiff" for purposes of this Count) incorporates by reference each allegation set forth in the previous paragraphs as if fully set forth herein.

1509. Plaintiff brings this claim individually and on behalf of the other members of the New Jersey Class ("Class" for purposes of this Count).

1510. Pursuant to N.J. STAT. ANN. § 12A:2-313(1)(a), an express warranty is created by "[a]ny affirmation of fact or promise made by the seller to the buyer which relates to the goods

and becomes part of the basis of the bargain creates an express warranty that the goods shall conform to the affirmation or promise.”

1511. Toyota violated N.J. STAT. ANN. § 12A:2-313 by failing to comply with the terms of a written guarantee or warranty given to the buyer which formed part of the basis of the buyer’s bargain.

1512. Toyota offers the following warranty for the 2018 Corolla and 2019 Highlander:

“Every Toyota vehicle is supported by a 36-month/36,000-mile limited warranty coverage. But it doesn’t stop there.

On top of our basic coverage, we offer:

Basic Coverage 36 months/36,000 miles (all components other than normal wear and maintenance items).

Powertrain Coverage 60 months/60,000 miles (engine, transmission/transaxle, front-wheel-drive system, rear-wheel drive, seatbelts and airbags).”¹⁷⁷

Toyota’s written express warranties formed the basis of the bargain that was reached when Plaintiff and the other Class Members purchased or leased their Class Vehicles.

1513. Toyota breached its express warranty to repair defective parts in the Class Vehicles. Toyota admittedly has not repaired the Class Vehicles’ Fuel Pump Defect.

1514. Further, Toyota has refused to provide an adequate warranty repair for the Fuel Pump Defect, thus rendering the satisfaction of any notice requirement futile. As stated above, customers that have presented their vehicles for warranty repair due to Fuel Pump failure have been denied adequate repairs.

¹⁷⁷ Available at <https://www.toyota.com/owners/resources/warranty-owners-manuals/corolla/2018> and <https://www.toyota.com/owners/resources/warranty-owners-manuals/highlander/2019>. Last accessed on June 25, 2020.

1515. Also, as alleged in more detail herein, at the time that Toyota warranted and sold or leased the Class Vehicles, it knew that the Class Vehicles did not conform to the warranty and were inherently defective, and Toyota improperly concealed material facts regarding its Class Vehicles. Plaintiff and the other Class Members were therefore induced to purchase or lease the Toyota Vehicles under false pretenses.

1516. The written express warranties fail in their essential purpose because the contractual remedy is insufficient to make Plaintiff and the other Class Members whole and because Toyota has failed and/or has refused to adequately provide effective remedies within a reasonable time.

1517. Accordingly, recovery by Plaintiff and the other Class Members is not limited to the limited remedy of repair, and Plaintiff, individually and on behalf of the other Class Members, seeks all remedies as allowed by law.

1518. Toyota had notice of its breach as alleged herein.

1519. As a direct and proximate result of Toyota's breach of its express warranty, Plaintiff and the other Statewide Class Members have been damaged in an amount to be determined at trial.

COUNT 62
BREACH OF IMPLIED WARRANTY OF MERCHANTABILITY
N.J. Stat. Ann. §§ 12a:2-314 and 12a:2a-212
(Individually and on Behalf of the New Jersey Class)
(As to Toyota)

1520. Plaintiff Puleo ("Plaintiff," for purposes of the New Jersey Class's claims) repeats and realleges each paragraph as if fully set forth herein.

1521. Plaintiff brings this Count individually and on behalf of the other members of the New Jersey Class (the "Class," for purposes of this Count).

1522. Toyota is and was at all relevant times a merchant with respect to motor vehicles under N.J. Stat. Ann. §§ 12a:2-104 and 12a:2a-103.

1523. Pursuant to N.J. Stat. Ann. §§ 12a:2-314 and 12a:2A-212, a warranty that the Class Vehicles were in merchantable condition was implied by law, and the Class Vehicles were bought and sold subject to an implied warranty of merchantability.

1524. The Class Vehicles did not comply with the implied warranty of merchantability because, at the time of sale and at all times thereafter, they were defective and not in merchantable condition, would not pass without objection in the trade, and were not fit for the ordinary purpose for which vehicles were used. Specifically, the Class Vehicles suffer from the Fuel Pump Defect which causes unexpected and unintended hesitated acceleration or stalling.

1525. Plaintiff and the other Class Members suffered injuries due to the defective nature of the Class Vehicles and Toyota's breach of the warranty of merchantability.

1526. Toyota had notice of its breach as alleged herein.

1527. As a direct and proximate result of Toyota's breach of the warranty of merchantability, Plaintiff and the other Class Members have been damaged in an amount to be proven at trial.

COUNT 63
NEGLIGENT RECALL/UNDERTAKING
(Individually and on Behalf of the New Jersey Class)
(As to Toyota)

1528. Plaintiff Puleo ("Plaintiff" for purposes of this Count) incorporates by reference each allegation as if fully set forth herein.

1529. Plaintiff brings this Count individually and on behalf of the other members of the New Jersey Class (the "Class," for purposes of this Count).

1530. Prior to the events made the basis of this action, Toyota designed, engineered, manufactured, marketed, and placed the Class Vehicles in the stream of commerce.

1531. On January 13, 2020 Toyota initiated a voluntary recall of the Recalled Vehicles. Toyota's recall was voluntary and not initiated by NHTSA. The Recall was expanded and amended in the March 19, 2020 Second Recall, and expanded again in Toyota's October 28, 2020 Third Recall.

1532. Toyota owed a duty to use reasonable care to Plaintiff and Class Members based on its undertaking of the Recall.

1533. As described above, Toyota breached its duty by conducting the Recall negligently and/or wantonly by, among other things, failing to notify Plaintiff and the Class of the Fuel Pump Defect, failing to direct Class Members to stop driving their Class Vehicles, and failing to offer Class Members free loaner vehicles of comparable make, model, or value as their Class Vehicles until Toyota is able to devise a repair that works (if ever) and implement it in each Class Vehicle. Toyota's failure to do so continues to expose Plaintiff and the Class to the risk of injury and death.

1534. For the reasons set for the above, Toyota knew, or should have known through the exercise of ordinary care, the Recall was not being performed in a reasonable manner.

1535. As a direct and proximate result, Plaintiff and the other Class Members have been and continue to be damaged in an amount to be determine at trial

COUNT 64
FRAUDULENT OMISSION
(Individually and on Behalf of the New Jersey Class)
(As to all Defendants)

1536. Plaintiff Puleo ("Plaintiff" for purposes of this Count) incorporates by reference each allegation as if fully set forth herein.

1537. Plaintiff brings this Count individually and on behalf of the other members of the New Jersey Class (the “Class,” for purposes of this Count).

1538. Defendants were aware of the Fuel Pump Defect within the Class Vehicles when it marketed and sold the Class Vehicles to Plaintiff and the other members of the Class.

1539. Having been aware of the Fuel Pump Defect within the Class Vehicles, and having known that Plaintiff and the other members of the Class could not have reasonably been expected to know of the Fuel Pump Defect, Defendants had a duty to disclose the defect to Plaintiff and the other members of the Class in connection with the sale or lease of the Class Vehicles.

1540. Defendants did not disclose the Fuel Pump Defect to Plaintiff and the other members of the Class in connection with the sale of the Class Vehicles.

1541. For the reasons set forth above, the Fuel Pump Defect within the Class Vehicles comprises material information with respect to the sale or lease of the Class Vehicles.

1542. In purchasing the Class Vehicles, Plaintiff and the other members of the Class reasonably relied on Defendants to disclose known material defects with respect to the Class Vehicles.

1543. Had Plaintiff and the other members of the Class known of the Fuel Pump Defect within the Class Vehicles, they would have not purchased the Class Vehicles or would have paid less for the Class Vehicles.

1544. Through its omissions regarding the Fuel Pump Defect within the Class Vehicles, Defendants intended to induce, and did induce, Plaintiff and the other members of the Class to either purchase a Class Vehicle that they otherwise would not have purchased, or pay more for a Class Vehicle than they otherwise would have paid.

1545. As a direct and proximate result of Defendants' omissions, Plaintiff and the other members of the Class either overpaid for the Class Vehicles or would not have purchased the Class Vehicles at all if the Fuel Pump Defect had been disclosed to them, and, therefore, have incurred damages in an amount to be determined at trial.

IX. NORTH CAROLINA CLASS

**COUNT 65
VIOLATIONS OF NORTH CAROLINA'S UNFAIR AND DECEPTIVE TRADE
PRACTICES ACT**

N.C.G.S. §§ 75-1.1, *et. seq.*

(Individually and on behalf of the North Carolina Class)

(As to all Defendants)

1546. Plaintiffs Dendy and Persak ("Plaintiffs" for purposes of this Count) incorporate by reference each allegation as if set forth fully herein.

1547. This Count is brought on behalf of Plaintiffs and the North Carolina Class ("Class" for the purposes of this Count) for violation of North Carolina's Unfair and Deceptive Trade Practices Act N.C.G.S. § 75-1.1, *et. seq.* ("UDTPA"), which prohibits, "[u]nfair methods of competition in or affecting commerce, and unfair or deceptive acts or practices in or affecting commerce." N.C.G.S. § 75-1.1(a).

1548. Defendants' design, engineering, testing, manufacture, distribution, marketing, advertising, labeling, and sale of the Class Vehicles constitutes "commerce" as defined by N.C.G.S. § 75-1.1(b).

1549. Defendants' conduct violates UDTPA because Defendants engaged in the deceptive acts and practices described above and those acts and/or omissions possessed the tendency or capacity to mislead, or created the likelihood of deception in the minds of consumers and the public at large and did so deceive them with respect to the true qualities and characteristics of the Class Vehicles.

1550. Defendants' deceptive conduct and its false and misleading statements about Class Vehicle and Fuel Pump safety and dependability and omissions regarding the Fuel Pump Defect, which causes the Fuel Pumps to prematurely fail, are facts that a reasonable person would have considered material in deciding whether or not to purchase or lease (or how much they were willing to pay to purchase or lease) the Class Vehicles.

1551. Defendants' acts and practices are unfair because they offend the public policy of the state of North Carolina and are immoral, unethical, oppressive, unscrupulous, and substantially injurious to consumers.

1552. Defendants' acts and practices described above were directed at Plaintiffs and the public at large and were likely to mislead a reasonable consumer acting reasonably under the circumstances, including Plaintiffs and members of the Class who justifiably acted or relied to their detriment upon Defendants' misrepresentations and omissions of fact, as evidenced by Plaintiffs and the other Class Members' leasing and purchasing of Class Vehicles.

1553. Had Defendants disclosed all material information regarding the Fuel Pump Defect to Plaintiffs and the other Class Members, Plaintiffs and the other Class Members would not have purchased or leased Class Vehicles or would have paid less to do so.

1554. Defendants' unfair and deceptive acts and practices, and/or misrepresentations and omissions, have deceived Plaintiffs, and those same business practices have deceived or are likely to deceive members of the consuming public and the other members of the Class.

1555. Toyota also engaged in unfair and deceptive conduct by issuing a defective Recall that provides no remedy for the Fuel Pump Defect, does not notify Class Members about the Fuel Pump Defect, does not instruct consumers to stop driving the dangerous Class Vehicles, does not notify consumers and offer them free loaner vehicles of comparable make, model, or value as their

own Class Vehicles to enable them to cease driving their dangerous Class Vehicles until a remedy is available and can be implemented.

1556. Denso also engaged in unfair and deceptive conduct by manufacturing and placing in the stream of commerce a Fuel Pump it knew, or should have known, was materially defective and posed substantial risk to the drivers and passengers of the Class Vehicles and other motorists.

1557. As a direct and proximate result of Defendants' deceptive commercial practices, Plaintiffs and the other Class Members have suffered ascertainable loss and actual damages. Plaintiffs and the other Class Members would not have purchased or leased the Class Vehicles or would have paid less for them had Defendants disclosed the truth about the Fuel Pump Defect. Plaintiffs and the other Class Members also suffered diminished value of their vehicles and other losses.

1558. As a direct and proximate result of Defendants' unfair and deceptive commercial practices, Plaintiffs and the other Class Members were harmed by Toyota's inadequate Recall, described above, including Defendants' failure to notify them of the Fuel Pump Defect, failure to direct them to stop driving their Class Vehicles, and failure to offer Class Members free loaner vehicles of comparable make, model, or value as their Class Vehicles until Defendants are able to devise a remedy that that is safe and dependable (if ever) and implement it in each Class Vehicle. Defendants' failure to do so continues to expose Plaintiffs and the Class to the risk of serious injury and death.

1559. N.C.G.S. § 75-16 provides that "if damages are assessed in such case judgment shall be rendered in favor of the plaintiff and against the defendant for treble the amount fixed by the verdict." N.C.G.S. § 75-16.1(a) further provides that, "the presiding judge may, in his discretion, allow a reasonable attorney fee to the duly licensed attorney representing the prevailing

party,” upon a finding that, “The party charged with the violation has willfully engaged in the act or practice, and there was an unwarranted refusal by such party to fully resolve the matter.”

1560. Defendants’ violation of UDTPA was willful and Defendants refusal to conform the vehicles to the warranties, and to reimburse consumers for their reasonable losses which result from Defendant’s acts and omissions is unwarranted. Defendants knowingly and willfully marketed the Class Vehicles as safe and dependable all the while knowing they were not; admit in the Recall Reports the fact of the Fuel Pump Defect, the thousands of warranty claims and more than 60 Field Technical Reports it received about the Fuel Pump Defect, and that the Fuel Pump Defect poses a serious risk of injury rendering the Class Vehicles unsafe; and the facts of the defect Recall are incontrovertible. Defendants, through their willful and knowing deceptive acts and practices, as detailed above, have willfully and knowingly exposed Plaintiffs and the Class to the risk of serious injury and death, and continue to do so by virtue of having issued the deficient Recall.

1561. Defendants had notice of their conduct as alleged herein.

1562. As a direct and proximate result of Defendants’ conduct in violation of UDTPA, Plaintiff and the members of the Class have been injured in an amount to be proven at trial and are entitled to treble damages under N.C.G.S. § 75-16. Because Defendants’ violation of UDTPA was willful and they unreasonably refused to conform the Class Vehicles to the warranties and reimburse Class Vehicle owners and lessees for their pecuniary losses Plaintiffs and members of the Class are further entitled to attorney’s fees under N.C.G.S. § 75-16.1.

COUNT 66
BREACH OF EXPRESS WARRANTY
N.C.G.S. § 25-2-313
(Individually and on Behalf of the North Carolina Class)
(As to Toyota)

1563. Plaintiffs Dendy and Persak (“Plaintiffs” for purposes of this Court) incorporate by reference each allegation as if set forth fully herein.

1564. Plaintiffs bring this claim individually and on behalf of the other members of the North Carolina Class (“Class” for the purposes of this Court).

1565. Toyota is and was at all relevant times a merchant with respect to the Class Vehicles.

1566. Pursuant to N.C.G.S. § 25-2-313(A)(1), “[a]ny affirmation of fact or promise made by the seller to the buyer which relates to the goods and becomes part of the basis of the bargain creates an express warranty that the goods shall conform to the affirmation or promise.”

1567. In its written express warranties, Toyota expressly warranted that it would repair or replace defective parts free of charge if the defects became apparent during the warranty period.

1568. Toyota’s written express warranties formed the basis of the bargain that was reached when Plaintiffs and the other Class Members purchased or leased their Class Vehicles.

1569. Toyota breached its express warranty to repair defective parts in the Class Vehicles. Toyota admittedly has not repaired the Class Vehicles’ Fuel Pump Defect.

1570. Further, Toyota has refused to provide an adequate warranty repair for the Fuel Pump Defect, thus rendering the satisfaction of any notice requirement futile. As stated above, customers that have presented their vehicles for warranty repair, as Plaintiffs have, due to the Fuel Pump failure have been denied adequate repairs.

1571. The written express warranties fail in their essential purpose because the contractual remedy is insufficient to make Plaintiffs and the other Class Members whole and because Toyota has failed and/or has refused to adequately provide effective remedies within a reasonable time.

1572. Accordingly, recovery by Plaintiffs and the other Class Members is not limited to the limited remedy of repair, and Plaintiffs, individually and on behalf of the other Class Members, seeks all remedies as allowed by law.

1573. Also, as alleged in more detail herein, at the time that Toyota warranted and sold or leased the Class Vehicles it knew that the Class Vehicles did not conform to the warranty and were inherently defective, and Toyota improperly concealed material facts regarding its Class Vehicles. Plaintiffs and the other Class Members were therefore induced to purchase or lease the Class Vehicles under false pretenses.

1574. Toyota had notice of its breach as alleged herein.

1575. As a direct and proximate result of Toyota's breach of its express warranty, Plaintiffs and the other Class Members have been damaged in an amount to be determined at trial.

COUNT 67
BREACH OF IMPLIED WARRANTY OF MERCHANTABILITY
N.C.G.S. § 25-2-314
(Individually and on Behalf of the North Carolina Class)
(As to Toyota)

1576. Plaintiffs Dendy and Persak ("Plaintiffs" for purposes of this Count) incorporate by reference each allegation as if set forth fully herein.

1577. Plaintiffs bring this claim individually and on behalf of the other members of the North Carolina Class ("Class" for the purposes of this Count).

1578. Toyota is a "merchant" and the Class Vehicles are "goods" as defined in N.C.G.S. §§ 25-2-104 and 2-105.

1579. Pursuant to N.C.G.S. § 25-2-314, a warranty that the Class Vehicles were in merchantable condition was implied by law in the sale or lease of the product. Toyota impliedly warranted that the Class Vehicles were of a merchantable quality.

1580. By placing the Class Vehicles in the stream of commerce, Toyota impliedly warranted that the Class Vehicles are safe, and that all claims in their advertising and marketing of the Class Vehicles were true.

1581. The Class Vehicles did not comply with the implied warranty of merchantability because, at the time of sale or lease and at all times thereafter, the Class Vehicles were defective and not in merchantable condition, would not pass without objection in the trade, and were not fit for the ordinary purpose for which vehicles were used. Specifically, the Class Vehicles suffer from the Fuel Pump Defect which causes the Class Vehicles' Fuel Pump to prematurely fail, which can cause the engine to run rough, and the vehicle to stall while being driven or become inoperable.

1582. Further, Toyota has refused to provide an adequate warranty repair for the Fuel Pump Defect, thus rendering the satisfaction of any notice requirement futile. As stated above, customers that have presented their vehicles for warranty repair, as Plaintiffs have, due to the Fuel Pump failure have been denied adequate repair.

1583. Plaintiffs and the other Class Members suffered injuries due to the defective nature of the Class Vehicles and Toyota's breach of the warranty of merchantability.

1584. At all times that Toyota warranted and sold the Class Vehicles, they knew or should have known that their warranties were false, and yet they did not disclose the truth, or stop manufacturing or selling the Class Vehicles, and instead continued to issue false warranties, and continued to insist the products were safe. The Class Vehicles were defective when Toyota

delivered them to their resellers, dealers, and distributors which sold the Class Vehicles, and the Class Vehicles were therefore still defective when they reached Plaintiffs and the Class.

1585. Toyota's resellers, dealers, and distributors are intermediaries between Toyota and consumers. These intermediaries sell Class Vehicles to consumers and are not, themselves, consumers of Class Vehicles, and therefore have no rights against Toyota with respect to Plaintiffs and all other Class Members' acquisition of Class Vehicles. Toyota's warranties were designed to influence consumers who purchased and/or owned Class Vehicles.

1586. Plaintiffs and each Class member's acquisition of the Class Vehicles suffices to create privity of contract between Plaintiffs and all other members of the Class, on the one hand, and Toyota, on the other hand; however, privity of contract need not be established nor is it required because Plaintiffs and the Class Members are intended third-party beneficiaries of contracts between Toyota and their resellers, authorized dealers, and, specifically, of Toyota's implied warranties.

1587. Toyota had notice of its breach as alleged herein.

1588. As a direct and proximate result of Toyota's breach of implied warranties of merchantability, Plaintiffs and the Class are entitled to damages in an amount to be determined at trial.

COUNT 68
FRAUDULENT OMISSION
(Individually and on behalf of the North Carolina Class)
(As to all Defendants)

1589. Plaintiffs Dendy and Persak ("Plaintiffs" for purposes of this Count) incorporate by reference each allegation as if fully set forth herein.

1590. Plaintiffs bring this Count individually and on behalf of the other members of the North Carolina Class (the "Class," for purposes of this Count).

1591. Defendants were aware of the Fuel Pump Defect within the Class Vehicles when the Class Vehicles were marketed and sold to Plaintiffs and the other members of the Class. Despite being aware of the fuel pump issue

1592. Having been aware of the Fuel Pump Defect within the Class Vehicles, and having known that Plaintiffs and the other members of the Class could not have reasonably been expected to know of the Fuel Pump Defect, Defendants had a duty to disclose the defect to Plaintiffs and the other members of the Class in connection with the sale or lease of the Class Vehicles.

1593. Defendants did not disclose the Fuel Pump Defect to Plaintiffs and the other members of the Class in connection with the sale of the Class Vehicles. Such information was not publicly available until January 25, 2020, well after Defendants knew of the Fuel Pump Defect and breached their duty to disclose it to owners and lessees of the Class Vehicles.

1594. For the reasons set forth above, the Fuel Pump Defect within the Class Vehicles comprises material information with respect to the sale or lease of the Class Vehicles.

1595. In purchasing the Class Vehicles, Plaintiffs and the other members of the Class reasonably relied on Defendants to disclose known material defects with respect to the Class Vehicles. Plaintiffs and members of the Class reasonably relied on Defendant's representations and omissions because Defendants were in a superior position to know the true qualities of the Class Vehicles and Defendants have a duty to field merchantable vehicles into the stream of commerce.

1596. Plaintiffs and members of the Class could not have discovered the Fuel Pump Defect through the exercise of reasonable diligence and Defendants concealed that fact from them at the time of purchase or lease.

1597. Had Plaintiffs and the other members of the Class known of the Fuel Pump Defect within the Class Vehicles, they would have not purchased the Class Vehicles or would have paid less for the Class Vehicles.

1598. As a result of withholding material information regarding the Fuel Pump Defect, Defendants realized unjustifiable profits as they sold more Class Vehicles, and at a higher price, than they would have had they disclosed the truth about the Fuel Pump Defect.

1599. Through their omissions regarding the Fuel Pump Defect within the Class Vehicles, Defendants intended to induce, and did induce, Plaintiffs and the other members of the Class to either purchase a Class Vehicle that they otherwise would not have purchased, or pay more for a Class Vehicle than they otherwise would have paid.

1600. As a direct and proximate result of Defendants' omissions, Plaintiffs and the other members of the Class either overpaid for the Class Vehicles or would not have purchased the Class Vehicles at all if the Fuel Pump Defect had been disclosed to them, and, therefore, have incurred damages in an amount to be determined at trial. Plaintiffs and the other members of the Class have also suffered damages resulting from loss of use, diminished value, increased transactional costs and other losses to be proved at trial.

X. OHIO CLASS

COUNT 69
VIOLATIONS OF THE OHIO CONSUMER SALES PRACTICES ACT
Ohio Rev. Code Ann. §§ 1345.01, et seq.
(Individually and on Behalf of the Ohio Class)
(As to all Defendants)

1601. Plaintiff Kristi Rock ("Plaintiff," for purposes of this Count) incorporates by reference all preceding allegations as if fully set forth herein.

1602. Plaintiff brings this Count individually and on behalf of the other members of the Ohio Class (the “Class,” for purposes of this Count).

1603. Defendants, Plaintiff, and the other Class Members are “persons” within the meaning of Ohio Rev. Code Ann. § 145.01(B). Defendants are a “supplier” as defined by Ohio Rev. Code Ann. § 1345.01(c).

1604. Plaintiff and the other Class Members are “consumers” as that term is defined in Ohio Rev. Code Ann. § 1345.01(D), and their purchase and lease of the Class Vehicles are “consumer transactions” within the meaning of Ohio Rev. Code Ann. § 1345.01(A).

1605. Ohio Rev. Code Ann. § 1345.02 prohibits unfair or deceptive acts or practices in connection with consumer transactions, such as those described herein.

1606. In the course of Defendants’ business, Defendants violated the Ohio Consumer Sales Practices Act (“CSPA”) by selling Class Vehicles with the Fuel Pump Defect that may result in Fuel Pumps failing prematurely, leading to an unreasonable likelihood of serious bodily injury or death to vehicle occupants, or negligently concealing or suppressing material facts concerning the Fuel Pump Defect in the Class Vehicles.

1607. Further, as a result of placing a defective product into the stream of commerce, Defendants have breached their implied warranty in tort, which is an unfair and deceptive act, as defined in Ohio Rev. Code Ann. § 1345.09(B).

1608. Defendants have committed unfair and deceptive acts in violation of the Ohio CSPA by knowingly placing into the stream of commerce the Class Vehicles with the Fuel Pump Defect.

1609. Moreover, Defendants have committed an unfair and deceptive act by knowingly concealing the Fuel Pump Defect in the Class Vehicles and failing to inform Plaintiff and the other Class Members of this defect.

1610. The Ohio Attorney General has made available for public inspection prior state court decisions which have held that the acts and omissions of Defendants as detailed in this Complaint, including, but not limited to, the failure to honor both its express and implied warranties; and the concealment and/or non-disclosure of a substantial defect, constitute deceptive practices in violations of the CSPA. These cases include, but are not limited to:

- a. *Mason v. Mercedes Benz USA, LLC* (OPIF #10002382);
- b. *State ex rel. Betty D. Montgomery v. Ford Motor co.* (OPIF #10002123);
- c. *State ex rel. Betty D. Montgomery v. Bridgestone/Firestone, Inc.* (OPIF #10002025);
- d. *Bellinger v. Hewlett-Packard Co.*, No. 20744, 2002 Ohio App. LEXIS 1573 (Ohio Ct. App. Apr. 10, 2002) (OPIF #10002077);
- e. *Borror v. MarineMax of Ohio*, No. OT-06-010, 2007 Ohio App. LEXIS 525 (Ohio Ct. App. Feb. 9, 2007) (OPIF #10002388);
- f. *State ex rel. Jim Petro v. Craftmatic Organization, Inc.* (OPIF #10002347);
- g. *Cranford v. Joseph Airport Toyota, Inc.* (OPIF #10001586);
- h. *Brown v. Spears* (OPIF #10000403);
- i. *Brinkman v. Mazda Motor of America, Inc.* (OPIF #10001427);
- j. *Mosley v. Performance Mitsubishi AKA Automanage* (OPIF #10001326); and
- k. *Walls v. Harry Williams dba Butch's Auto Sales* (OPIF #10001524).

1611. Defendants' unfair or deceptive acts or practices were likely to, and did, in fact, deceive consumers, including Plaintiff and the other Class Members, about the true reliability, dependability, efficiency, and quality of the Class Vehicles.

1612. Plaintiff and the other Class Members suffered ascertainable loss and actual damages as a direct result of Defendants' concealment of and failure to disclose material information, namely, the Fuel Pump Defect. Plaintiff and the other Class Members who purchased or leased the Class Vehicles would not have done so, or would have paid significantly less, if the true nature of the Class Vehicles had been disclosed. Plaintiff and the other Class Members also suffered diminished value of their vehicles.

1613. Defendants had notice of their conduct as alleged herein.

1614. Defendants are liable to Plaintiff and the other Class Members for compensatory damages, injunctive/equitable relief, and attorneys' fees pursuant to Ohio Rev. Code Ann. § 1345.09.

COUNT 70
STRICT PRODUCT LIABILITY
(Individually and on behalf of the Ohio Class)
(As to Denso)

1615. Plaintiff Rock ("Plaintiff" for purposes of this Count) incorporate by reference each allegation as if fully set forth herein.

1616. Plaintiff brings this claim individually and on behalf of other members of the Ohio Class (the "Class," for purposes of this Count).

1617. Defendants are strictly liable for designing, engineering, testing, validating, manufacturing, and placing in the stream of commerce an unreasonably dangerous Fuel Pump.

1618. Defendants designed, engineered, tested, validated, manufactured, and placed in the stream of commerce the unreasonable dangerous Fuel Pump.

1619. The Class Vehicles and Fuel Pumps are being used in an intended and/or foreseeable manner. Plaintiff and Class Members have not misused or materially altered the Class Vehicles or Fuel Pumps. The Class Vehicles and Fuel Pumps are in the same or substantially similar condition as they were at the time of purchase/lease.

1620. The Class Vehicles and Fuel Pumps are unreasonably dangerous and defective because they were designed, engineered, tested, validated, manufactured, and placed in the stream of commerce with the Fuel Pump Defect that can cause Class Vehicles to suddenly and unexpectedly stall or lose engine power.

1621. The Fuel Pump Defect causes an unreasonably dangerous condition when Class Vehicles are used for their intended and foreseeable purpose of providing safe and reliable transportation and places Plaintiff, Class Members, and others on the road at an unreasonable and substantial risk for injury or death.

1622. Defendants were aware of feasible alternative designs which would minimize or eliminate the Fuel Pump Defect and the risk it poses. Such alternative designs were known and available when the Class Vehicles and Fuel Pumps were designed, engineered, tested, validated, manufactured, and placed in the stream of commerce.

1623. Defendants failed to design, test, validate, manufacture, and place in the stream of commerce a Class Vehicle and Fuel Pump that is free from the Fuel Pump Defect and the unreasonable safety risks it poses.

1624. As a result of Defendants' actions as described herein, Plaintiff and the other Class Members have been damaged in an amount to be determined at trial.

COUNT 71
BREACH OF EXPRESS WARRANTY
Ohio Rev. Code Ann. §§ 1302.26 and 1310.17
(Individually and on behalf of the Ohio class)

(As to Toyota)

1625. Plaintiff Kristi Rock (“Plaintiff,” for purposes of this Count) incorporates by reference all preceding allegations as if fully set forth herein.

1626. Plaintiff brings this Count individually and on behalf of the other members of the Ohio Class (the “Class,” for purposes of this Count).

1627. Toyota is a merchant with respect to the Class Vehicles.

1628. In their written express warranty, Defendants expressly warranted that it would repair or replace defects in material or workmanship free of charge if they became apparent during the warranty period.

1629. Toyota’s Limited Warranty formed the basis of the bargain that was reached when Plaintiff and the other Class Members purchased or leased their Class Vehicles equipped with the defective Fuel Pumps.

1630. Toyota breached the express warranty to repair defects in materials and workmanship within the Class Vehicles. Toyota has not repaired, and has been unable to repair, the Class Vehicles’ materials and workmanship defects.

1631. Toyota was notified of its breach via letter from Plaintiff Pruitt on behalf of herself and the Class which was hand delivered to Toyota’s registered agent in Montgomery, Alabama on January 24, 2020, which Toyota acknowledged the same day. Toyota was also provided notice of the Fuel Pump Defect through numerous complaints filed against it directly and through its dealers, as well as its own internal engineering knowledge.

1632. Furthermore, the limited warranty of repair fails in its essential purpose because the contractual remedy is insufficient to make Plaintiff and the other Class Members whole and

because Toyota has failed and/or have refused to adequately provide effective remedies within a reasonable time.

1633. Accordingly, recovery by Plaintiff and the other Class Members is not limited to the limited warranty of repair to parts defective in materials and workmanship, and Plaintiff, individually and on behalf of the other Class Members, seeks all remedies as allowed by law.

1634. Also, as alleged in more detail herein, at the time that Toyota warranted and sold the Class Vehicles it knew that the Class Vehicles did not conform to the warranty and were inherently defective, and Toyota improperly concealed material facts regarding its Class Vehicles. Plaintiff and the other Class Members were, therefore, induced to purchase or lease the Class Vehicles under false pretenses.

1635. Moreover, much of the damage flowing from the Class Vehicles cannot be resolved through the limited remedy of repairs, as those incidental and consequential damages have already been suffered due to Toyota's improper conduct as alleged herein, and due to its failure and/or continued failure to provide such limited remedy within a reasonable time, and any limitation on Plaintiff and the other Class Members' remedies would be insufficient to make Plaintiff and the other Class Members whole.

1636. Toyota had notice of its breach as alleged herein.

1637. As a direct and proximate result of Toyota's breach of express warranty, Plaintiff and the other Class Members have been damaged in an amount to be determined at trial.

COUNT 72
BREACH OF IMPLIED WARRANTY IN TORT
(Individually and on behalf of the Ohio class)
(As to Toyota)

1638. Plaintiff Kristi Rock ("Plaintiff," for purposes of this Count) incorporates by reference all preceding allegations as if fully set forth herein.

1639. Plaintiff brings this Count individually and on behalf of the other members of the Ohio Class (the “Class,” for purposes of this Count).

1640. Toyota manufactured and sold the defective Class Vehicles to Plaintiff and the other Class Members.

1641. The Class Vehicles are defective because they have a defective Fuel Pump, which may result in Fuel Pumps failing prematurely, leading to an unreasonable likelihood of serious bodily injury or death to vehicle occupants.

1642. These defects existed at the time the Class Vehicles left the control of Toyota.

1643. Based upon these defects, Toyota has failed to meet the expectations of a reasonable consumer. The Class Vehicles have failed in their ordinary, intended use, because they suffer from the Fuel Pump Defect, causing Fuel Pumps to potentially fail to deploy in a crash event, leading to an unreasonable likelihood of serious bodily injury or death to vehicle occupants.

1644. Toyota had notice of its breach as alleged herein.

1645. The above-described defects in the Class Vehicles were the direct and proximate cause of economic damages to Plaintiff and the other Class Members.

COUNT 73
NEGLIGENT RECALL/UNDERTAKING
(Individually and on behalf of the Ohio class)
(As to Toyota)

1646. Plaintiff Kristi Rock (“Plaintiff,” for purposes of this Count) incorporates by reference all preceding allegations as if fully set forth herein.

1647. Plaintiff brings this Count individually and on behalf of the other members of the Ohio Class (the “Class,” for purposes of this Count).

1648. Prior to the events made the basis of this action, Toyota designed, engineered, manufactured, marketed, and placed the Class Vehicles in the stream of commerce.

1649. On January 13, 2020 Toyota initiated a voluntary recall of the Recalled Vehicles. Toyota's recall was voluntary and not initiated by NHTSA. The Recall was expanded and amended in the March 19, 2020 Second Recall, and expanded again in Toyota's October 28, 2020 Third Recall.

1650. Toyota owed a duty to use reasonable care to Plaintiff and Class Members based on its undertaking of the Recall.

1651. As described above, Toyota breached its duty by conducting the Recall negligently and/or wantonly by, among other things, failing to notify Plaintiff and the Class of the Fuel Pump Defect, failing to direct Class Members to stop driving their Class Vehicles, and failing to offer Class Members free loaner vehicles of comparable make, model, or value as their Class Vehicles until Toyota is able to devise a repair that works (if ever) and implement it in each Class Vehicle. Toyota's failure to do so continues to expose Plaintiff and the Class to the risk of injury and death.

1652. For the reasons set for the above, Toyota knew, or should have known through the exercise of ordinary care, the Recall was not being performed in a reasonable manner.

1653. As a direct and proximate result, Plaintiff and the other Class Members have been and continue to be damaged in an amount to be determine at trial.

COUNT 74
FRAUDULENT OMISSION
(Individually and on behalf of the Ohio class)
(As to all Defendants)

1654. Plaintiff Kristi Rock ("Plaintiff," for purposes of this Count) incorporates by reference all preceding allegations as if fully set forth herein.

1655. Plaintiff brings this Count individually and on behalf of the other members of the Ohio Class (the “Class,” for purposes of this Count).

1656. Defendants were aware of the Fuel Pump Defect within the Class Vehicles when it marketed and sold the Class Vehicles to Plaintiff and the other Class Members.

1657. Having been aware of the Fuel Pump Defect, and having known that Plaintiff and the other Class Members could not have reasonably been expected to know of this defect, Defendants had a duty to disclose the Fuel Pump Defect to Plaintiff and the other Class Members in connection with the sale or lease of the Class Vehicles.

1658. Defendants did not disclose the Fuel Pump Defect to Plaintiff and the other Class Members in connection with the sale or lease of the Class Vehicles.

1659. For the reasons set forth above, the Fuel Pump Defect in the Class Vehicles comprises material information with respect to the sale or lease of the Class Vehicles.

1660. In purchasing or leasing the Class Vehicles, Plaintiff and the other Class Members reasonably relied on Defendants to disclose known material defects with respect to the Class Vehicles. Had Plaintiff and the other Class Members known of the Fuel Pump Defect in the Class Vehicles, they would have not purchased the Class Vehicles or would have paid less for the Class Vehicles.

1661. Through their omissions regarding the Fuel Pump Defect in the Class Vehicles, Defendants intended to induce, and did induce, Plaintiff and the other Class Members to purchase or lease a Class Vehicle that they otherwise would not have purchased, or to pay more for a Class Vehicle than they otherwise would have paid.

1662. As a direct and proximate result of Defendants’ omissions, Plaintiff and the other Class Members either paid too much for the Class Vehicles or would not have purchased the Class

Vehicles if the Fuel Pump Defect had been disclosed to them, and, therefore, have incurred damages in an amount to be determined at trial.

XI. PENNSYLVANIA CLASS

**COUNT 75
VIOLATION OF PENNSYLVANIA UNFAIR TRADE PRACTICES AND CONSUMER
PROTECTION LAW**

73 PA. STAT. ANN. §§ 201-11, *et seq.*
(Individually and on Behalf of the Pennsylvania Class)
(As to all Defendants)

1663. Plaintiffs Chalal and Torrance (“Plaintiffs” for purposes of this Count) incorporate by reference each allegation set forth in the previous paragraphs as if fully set forth herein.

1664. Plaintiffs bring this count on behalf of themselves and on behalf of the Pennsylvania Class (“Class” for purposes of this Count).

1665. The Pennsylvania Unfair Trade Practices and Consumer Protection Law (“UTPCPL”) prohibits “unfair or deceptive acts or practices in the conduct of any trade or commerce” 73 PA. STAT. ANN. § 201-3.

1666. Toyota’s design, manufacture, distribution, marketing, advertising, labeling, and sale of the Class Vehicles constitutes “trade and commerce” under 73 PA. STAT. ANN. § 201-2(3).

1667. Toyota violated the UTPCPL by: representing that the Class Vehicles have certain safety characteristics and benefits that they do not have (73 PA. STAT. ANN. § 201-2(4)(v)); failing to comply with the terms of a written guarantee or warranty given to the buyer (73 PA. STAT. ANN. § 201-2(4)(xiv)); and engaging in deceptive conduct which creates a likelihood of confusion or misunderstanding about the Class Vehicles (73 PA. STAT. ANN. § 201-2(4)(xxi)).

1668. Toyota’s deceptive conduct and its false and misleading statements about Class Vehicle safety and dependability and omissions regarding the Fuel Pump Defect, which causes the Fuel Pumps to prematurely fail, are facts that a reasonable person would have considered material

in deciding whether or not to purchase or lease (or how much they were willing to pay to purchase or lease) the Class Vehicles.

1669. Toyota's materially misleading statements and deceptive acts and practices were directed at the public at large, including Plaintiffs and members of the Statewide Class, and were likely to mislead reasonable consumers, including Plaintiffs and Class Members.

1670. Had Toyota disclosed all material information regarding the Fuel Pump Defect, Plaintiffs and the other Class Members would not have purchased or leased Class Vehicles or would have paid less to do so.

1671. Toyota's deceptive acts and practices, and misrepresentations and omissions, have deceived Plaintiff, and those same business practices have deceived or are likely to deceive members of the consuming public and the other members of the Class.

1672. Plaintiffs and the other Class Members justifiably acted or relied to their detriment upon Toyota's misrepresentations and omissions of fact, as evidenced by Plaintiffs' and the other Class Members' leasing and purchasing of Class Vehicles.

1673. As a direct and proximate result of Toyota's deceptive acts and practices, Plaintiffs and the other Class Members have suffered ascertainable loss and actual damages. Plaintiffs and the other Class Members would not have purchased or leased the Class Vehicles or would have paid less for them had Toyota disclosed the truth about the Fuel Pump Defect. Plaintiffs and the other Class Members also suffered diminished value of their vehicles.

1674. Defendants had notice of their conduct as alleged herein.

1675. Pursuant to 73 PA. STAT. ANN. § 201-9.2(a), Plaintiffs and the Class also seek an order for: actual and treble damages; injunctive relief as requested below and as may be deemed appropriate by the Court; costs; and reasonable attorneys' fees.

COUNT 76
BREACH OF EXPRESS WARRANTY
13 Pa. C.S. § 2101 et seq.
(Individually and on Behalf of the Pennsylvania Class)
(As to Toyota)

1676. Plaintiffs Chalal and Torrance (“Plaintiffs” for purposes of this Count) incorporate by reference each allegation set forth in the previous paragraphs as if fully set forth herein.

1677. Plaintiffs bring this count on behalf of themselves and on behalf of the Pennsylvania Class (“Class” for purposes of this Count).

1678. Pursuant to 13 PA. C.S. § 2104, Toyota is and was at all relevant times a merchant with respect to the Class Vehicles.

1679. Pursuant to 13 PA. C.S. § 2313(a), “[a]ny affirmation of fact or promise made by the seller to the buyer which relates to the goods and becomes part of the basis of the bargain creates an express warranty that the goods shall conform to the affirmation or promise.”

1680. In its written express warranties, Toyota expressly warranted that it would repair or replace defective parts free of charge if the defects became apparent during the warranty period.

1681. Toyota’s written express warranties formed the basis of the bargain that was reached when Plaintiff and the other Class Members purchased or leased their Class Vehicles.

1682. Toyota breached its express warranty to repair defective parts in the Class Vehicles. Toyota admittedly has not repaired the Class Vehicles’ Fuel Pump Defect.

1683. Further, Toyota has refused to provide an adequate warranty repair for the Fuel Pump Defect, thus rendering the satisfaction of any notice requirement futile. As stated above customers that have presented their vehicles for warranty repair due to Fuel Pump failure have been denied adequate repairs.

1684. The written express warranties fail in their essential purpose because the contractual remedy is insufficient to make Plaintiffs and the other Class Members whole and because Toyota has failed and/or has refused to adequately provide effective remedies within a reasonable time.

1685. Accordingly, recovery by Plaintiffs and the other Class Members is not limited to the limited remedy of repair, and Plaintiff, individually and on behalf of the other Class Members, seeks all remedies as allowed by law.

1686. Also, as alleged in more detail herein, at the time that Toyota warranted and sold or leased the Class Vehicles, it knew that the Class Vehicles did not conform to the warranty and were inherently defective, and Toyota improperly concealed material facts regarding its Class Vehicles. Plaintiffs and the other Class Members were therefore induced to purchase or lease the Toyota Vehicles under falsepretenses.

1687. Toyota had notice of its breach as alleged herein.

1688. As a direct and proximate result of Toyota's breach of its express warranty, Plaintiffs and the other Class Members have been damaged in an amount to be determined at trial.

COUNT 77
BREACH OF IMPLIED WARRANTY OF MERCHANTABILITY
13 Pa. Cons. Stat. §§ 2314 and 2A212
(Individually and on Behalf of the Pennsylvania Class)
(As to Toyota)

1689. Plaintiffs Chalal and Torrance ("Plaintiffs," for purposes of the Pennsylvania Class's claims) repeat and reallege all paragraphs as if fully set forth herein.

1690. Plaintiffs bring this Count individually and on behalf of the other members of the Pennsylvania Class (the "Class," for purposes of this Count).

1691. Toyota is and was at all relevant times a “merchant” with respect to motor vehicles under 13 Pa. Cons. Stat. §§ 2104 and 2A103, and a “seller” of motor vehicles under § 2103(a).

1692. With respect to leases, Toyota is and was at all relevant times a “lessor” of motor vehicles under 13 Pa. Cons. Stat. § 2A103(a).

1693. The Class Vehicles are and were at all relevant times “goods” within the meaning of 13 Pa. Cons. Stat. §§ 2105(a) and 2A103(a).

1694. A warranty that the Class Vehicles were in merchantable condition and fit for the ordinary purpose for which vehicles are used is implied in law pursuant to 13 Pa. Cons. Stat. §§ 2314 and 2A212.

1695. The Class Vehicles, when sold or leased and at all times hereafter, were not in merchantable condition and are not fit for the ordinary purpose for which vehicles are used. Specifically, the Class Vehicles are inherently defective in that they contain the Oil Consumption Defect which causes excessive oil loss and engine damage.

1696. Plaintiffs and the other Class Members suffered injuries due to the defective nature of the Class Vehicles and Toyota’s breach of the implied warranty of merchantability.

1697. Toyota had notice of its breach as alleged herein.

1698. As a direct and proximate result of Toyota’s breach of the implied warranty of merchantability, Plaintiffs and the other Class Members have been damaged in an amount to be proven at trial.

COUNT 78
FRAUDULENT OMISSION
(Individually and on Behalf of the Pennsylvania Class)
(As to all Defendants)

1699. Plaintiffs Chalal and Torrance (“Plaintiffs,” for purposes of this Count) incorporate by reference all preceding allegations as if fully set forth herein.

1700. Plaintiffs bring this Count individually and on behalf of the other members of the Pennsylvania Class (the “Class,” for purposes of this Count).

1701. Defendants were aware of the Fuel Pump Defect within the Class Vehicles when it marketed and sold the Class Vehicles to Plaintiff and the other Class Members.

1702. Having been aware of the Fuel Pump Defect, and having known that Plaintiffs and the other Class Members could not have reasonably been expected to know of this defect, Defendants had a duty to disclose the Fuel Pump Defect to Plaintiffs and the other Class Members in connection with the sale or lease of the Class Vehicles.

1703. Defendants did not disclose the Fuel Pump Defect to Plaintiffs and the other Class Members in connection with the sale or lease of the Class Vehicles.

1704. For the reasons set forth above, the Fuel Pump Defect in the Class Vehicles comprises material information with respect to the sale or lease of the Class Vehicles.

1705. In purchasing or leasing the Class Vehicles, Plaintiffs and the other Class Members reasonably relied on Defendants to disclose known material defects with respect to the Class Vehicles. Had Plaintiffs and the other Class Members known of the Fuel Pump Defect in the Class Vehicles, they would have not purchased the Class Vehicles or would have paid less for the Class Vehicles.

1706. Through their omissions regarding the Fuel Pump Defect in the Class Vehicles, Defendants intended to induce, and did induce, Plaintiffs and the other Class Members to purchase or lease a Class Vehicle that they otherwise would not have purchased, or to pay more for a Class Vehicle than they otherwise would have paid.

1707. As a direct and proximate result of Defendants’ omissions, Plaintiffs and the other Class Members either paid too much for the Class Vehicles or would not have purchased the Class

Vehicles if the Fuel Pump Defect had been disclosed to them, and, therefore, have incurred damages in an amount to be determined at trial.

XI. TEXAS

COUNT 79
VIOLATIONS OF TEXAS DECPETIVE TRADE PRACTICES ACT
Tex. Bus. & Comm. Code §§ 17.41, et. seq.
(Individually and on behalf of the Texas Class)
(As to all Defendants)

1708. Plaintiff Mitchell (“Plaintiff” for purposes of this Count) incorporates by reference each allegation as if set forth fully herein.

1709. This Count is brought on behalf of Plaintiff and the Texas Class (“Class” for the purposes of this Count) for violation of Texas’s Deceptive Trade Practices Act, Tex. Bus. & Comm. Code §§ 17.41, *et. seq.* (“DTPA”), which prohibits, “[f]alse, misleading, or deceptive acts or practices in the conduct of any trade or commerce.” Tex. Bus. & Comm. Code § 17.46(a).

1710. Plaintiff and members of the Class are consumers as defined by Tex. Bus. & Comm. Code § 17.45(4).

1711. Defendants’ design, engineering, testing, manufacture, distribution, marketing, advertising, labeling, and sale of the Class Vehicles constitutes “trade or commerce” as defined by Tex. Bus. & Comm. Code § 17.45(6).

1712. Defendants violated DTPA by, *inter alia*:

- i. representing that goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits, or quantities which they do not have (Tex. Bus. & Comm. Code § 17.46(b)(5));

- ii. representing that goods or services are of a particular standard, quality, or grade, or that goods are of a particular style or model, if they are of another (Tex. Bus. & Comm. Code § 17.46(b)(7);
- iii. advertising goods or services with intent not to sell them as advertised (Tex. Bus. & Comm. Code § 17.46(b)(9);
- iv. representing that a guaranty or warranty confers or involves rights or remedies which it does not have or involve (Tex. Bus. & Comm. Code § 17.46(b)(20); and
- v. failing to disclose information concerning goods or services which was known at the time of the transaction if such failure to disclose such information was intended to induce the consumer into a transaction into which the consumer would not have entered had the information been disclosed (Tex. Bus. & Comm. Code § 17.46(b)(24).

1713. Defendants also violated DTPA by disseminating statements that they knew to be materially misrepresentative of the quality and characteristics of the Class Vehicles in order to induce Plaintiff and members of the Class to purchase or lease the Class Vehicles. Tex. Bus. & Comm. Code § 17.12(a)(1) & (2).

1714. Defendants further violated DTPA because they were warrantors of the Class Vehicles and failed to conform the Class Vehicles to the express and implied warranties they offered at the time of sale. Tex. Bus. & Comm. Code § 17.50(a)(2).

1715. Defendants' conduct violates DTPA because Defendants engaged in the deceptive acts and practices described herein and Defendants acted with flagrant disregard of prudent and fair business practices to the extent that they should be treated as having acted intentionally.

1716. Defendants affirmative representations and omissions with regard to the Fuel Pump Defect were intentional as they were done with knowledge of the Fuel Pump Defect and with the intention that Plaintiff and members of the Class rely upon the misrepresentation when deciding whether or not to purchase the vehicles or how much they should pay for them.

1717. Defendants acts and/or omissions were false, misleading, and deceptive because they improperly, and without justification, created a false impression in the minds of purchasers and lessees of Class Vehicles that the vehicles were safe, reliable, and suitable for everyday driving when Defendants knew that they were not.

1718. Defendants practices, acts, and/or omissions were unconscionable because they took advantage of Plaintiff's and members of the Class's lack of knowledge, ability, experience, or capacity to a grossly unfair degree and to the consumer's detriment.

1719. Defendants' deceptive conduct and its false and misleading statements about Class Vehicle and Fuel Pump safety and dependability and omissions regarding the Fuel Pump Defect, which causes the Fuel Pumps to prematurely fail, are facts that a reasonable person would have considered material in deciding whether or not to purchase or lease (or how much they were willing to pay to purchase or lease) the Class Vehicles.

1720. Defendants' acts and practices described above were directed at Plaintiff and the public at large and were likely to mislead a reasonable consumer acting reasonably under the circumstances, including Plaintiffs and members of the Class who justifiably acted or relied to their detriment upon Defendants' misrepresentations and omissions of fact, as evidenced by Plaintiffs and the other Class Members' leasing and purchasing of Class Vehicles.

1721. Had Defendants disclosed all material information regarding the Fuel Pump Defect to Plaintiffs and the other Class Members, Plaintiffs and the other Class Members would not have purchased or leased Class Vehicles or would have paid less to do so.

1722. Defendants' unfair and deceptive acts and practices, and/or misrepresentations, and omissions, have deceived Plaintiff, and those same business practices have deceived or are likely to deceive members of the consuming public and the other members of the Class.

1723. Toyota also engaged in unfair and deceptive conduct by issuing a defective Recall that provides no remedy for the Fuel Pump Defect, does not notify Class Members about the Fuel Pump Defect, does not instruct consumers to stop driving the dangerous Class Vehicles, does not notify consumers and offer them free loaner vehicles of comparable make, model, or value as their own Class Vehicles to enable them to cease driving their dangerous Class Vehicles until a remedy is available and can be implemented.

1724. Denso also engaged in unfair and deceptive conduct by manufacturing and placing in the stream of commerce a Fuel Pump it knew, or should have known, was materially defective and posed substantial risk to the drivers and passengers of the Class Vehicles and other motorists.

1725. As a direct and proximate result of Defendants' deceptive commercial practices, Plaintiff and the other Class Members have suffered ascertainable loss and actual damages. Plaintiffs and the other Class Members would not have purchased or leased the Class Vehicles or would have paid less for them had Defendants disclosed the truth about the Fuel Pump Defect. Plaintiffs and the other Class Members also suffered diminished value of their vehicles and other losses.

1726. As a direct and proximate result of Defendants' unfair and deceptive commercial practices, Plaintiff and the other Class Members were harmed by Toyota's inadequate Recall,

described above, including Defendants' failure to notify them of the Fuel Pump Defect, failure to direct them to stop driving their Class Vehicles, and failure to offer Class Members free loaner vehicles of comparable make, model, or value as their Class Vehicles until Defendants are able to devise a remedy that that is safe and dependable (if ever) and implement it in each Class Vehicle. Defendants' failure to do so continues to expose Plaintiff and the Class to the risk of serious injury and death.

1727. Tex. Bus. & Comm. Code § 17.50(b)(1) provides for actual damages and where “the conduct of the defendant was committed knowingly, the consumer may also recover damages for mental anguish. . . and the trier of fact may award not more than three times the amount of economic damages; or if the trier of fact finds the conduct was committed intentionally, the consumer may recover damages for mental anguish. . . and the trier of fact may award not more than three times the amount of damages for mental anguish and economic damages.

1728. Tex. Bus. & Comm. Code § 17.50(b)-(d) provide for injunctive relief, attorney's fees and costs, and any other relief the Court deems proper.

1729. Defendants' violation of DTPA was willful and Defendants refusal to conform the vehicles to the warranties, and to reimburse consumers for their reasonable losses which result from Defendant's acts and omissions is unwarranted. Defendants knowingly and willfully marketed the Class Vehicles as safe and dependable all the while knowing they were not; admit in the Recall Reports the fact of the Fuel Pump Defect, the thousands of warranty claims and more than 60 Field Technical Reports it received about the Fuel Pump Defect, and that the Fuel Pump Defect poses a serious risk of injury rendering the Class Vehicles unsafe; and the facts of the defect Recall are incontrovertible. Defendants, through their unconscionable, willful, knowing, and intentional deceptive acts and practices, as detailed above, have exposed Plaintiffs and the Class

to the risk of serious injury and death, and continue to do so by virtue of having issued the deficient Recall.

1730. Defendants had notice of their conduct as alleged herein.

1731. As a direct and proximate result of Defendants' conduct in violation of DTPA, Plaintiff and the members of the Class have been injured in an amount to be proven at trial and are entitled to treble damages, injunctive relief, and attorney's fees, costs, and any other relief the Court deems proper.

COUNT 80
BREACH OF EXPRESS WARRANTY
Tex. Bus. & Comm. Code § 2.313
(Individually and on Behalf of the Texas Class)
(As to Toyota)

1732. Plaintiff Mitchell ("Plaintiff" for purposes of this Count) incorporates by reference each allegation as if set forth fully herein.

1733. Plaintiff brings this claim individually and on behalf of the other members of the Texas Class ("Class" for the purposes of this Count).

1734. Toyota is and was at all relevant times a merchant with respect to the Class Vehicles.

1735. Pursuant to Tex. Bus. & Comm. Code § 2.313(a)(1), "[a]ny affirmation of fact or promise made by the seller to the buyer which relates to the goods and becomes part of the basis of the bargain creates an express warranty that the goods shall conform to the affirmation or promise."

1736. In its written express warranties, Toyota expressly warranted that it would repair or replace defective parts free of charge if the defects became apparent during the warranty period and Plaintiff and members of the Class relied on Defendants' affirmation as to the warranty.

1737. Toyota's written express warranties formed the basis of the bargain that was reached when Plaintiff and the other Class Members purchased or leased their Class Vehicles.

1738. Toyota breached its express warranty to repair defective parts in the Class Vehicles. Toyota admittedly has not repaired the Class Vehicles' Fuel Pump Defect.

1739. Further, Toyota has refused to provide an adequate warranty repair for the Fuel Pump Defect, thus rendering the satisfaction of any notice requirement futile. As stated above, customers that have presented their vehicles for warranty repair, as Plaintiff has, due to the Fuel Pump failure have been denied adequate repairs.

1740. The written express warranties fail in their essential purpose because the contractual remedy is insufficient to make Plaintiff and the other Class Members whole and because Toyota has failed and/or has refused to adequately provide effective remedies within a reasonable time.

1741. Accordingly, recovery by Plaintiff and the other Class Members is not limited to the limited remedy of repair, and Plaintiff, individually and on behalf of the other Class Members, seeks all remedies as allowed by law.

1742. Also, as alleged in more detail herein, at the time that Toyota warranted and sold or leased the Class Vehicles it knew that the Class Vehicles did not conform to the warranty and were inherently defective, and Toyota improperly concealed material facts regarding its Class Vehicles. Plaintiff and the other Class Members were therefore induced to purchase or lease the Class Vehicles under false pretenses.

1743. Toyota had notice of its breach as alleged herein.

1744. As a direct and proximate result of Toyota's breach of its express warranty,

1745. Plaintiff and the other Class Members have been damaged in an amount to be determined at trial.

COUNT 81
BREACH OF IMPLIED WARRANTY OF MERCHANTABILITY
Tex. Bus. & Comm. Code § 2.314
(Individually and on Behalf of the Texas Class)
(As to Toyota)

1746. Plaintiff Mitchell (“Plaintiff” for purposes of this Count) incorporates by reference each allegation as if set forth fully herein.

1747. Plaintiff brings this claim individually and on behalf of the other members of the Texas Class (“Class” for the purposes of this Count).

1748. Toyota is a “merchant” and the Class Vehicles are “goods” as defined in Tex. Bus. & Comm. Code §§ 2.104 and 2.105.

1749. Pursuant to Tex. Bus. & Comm. Code § 2.314, a warranty that the Class Vehicles were in merchantable condition was implied by law in the sale or lease of the product. Toyota impliedly warranted that the Class Vehicles were of a merchantable quality.

1750. By placing the Class Vehicles in the stream of commerce, Toyota impliedly warranted that the Class Vehicles are safe, and that all claims in their advertising and marketing of the Class Vehicles were true.

1751. The Class Vehicles did not comply with the implied warranty of merchantability because, at the time of sale or lease and at all times thereafter, the Class Vehicles were defective and not in merchantable condition, would not pass without objection in the trade, and were not fit for the ordinary purpose for which vehicles were used. Specifically, the Class Vehicles suffer from the Fuel Pump Defect which causes the Class Vehicles’ Fuel Pump to prematurely fail, which can cause the engine to run rough, and the vehicle to stall while being driven or become inoperable.

1752. Further, Toyota has refused to provide an adequate warranty repair for the Fuel Pump Defect, thus rendering the satisfaction of any notice requirement futile. As stated above,

customers that have presented their vehicles for warranty repair, as Plaintiff has, due to the Fuel Pump failure have been denied adequate repair.

1753. Plaintiff and the other Class Members suffered injuries due to the defective nature of the Class Vehicles and Toyota's breach of the warranty of merchantability.

1754. At all times that Toyota warranted and sold the Class Vehicles, they knew or should have known that their warranties were false, and yet they did not disclose the truth, or stop manufacturing or selling the Class Vehicles, and instead continued to issue false warranties, and continued to insist the products were safe. The Class Vehicles were defective when Toyota delivered them to their resellers, dealers, and distributors which sold the Class Vehicles, and the Class Vehicles were therefore still defective when they reached Plaintiff and the Class.

1755. Toyota's resellers, dealers, and distributors are intermediaries between Toyota and consumers. These intermediaries sell Class Vehicles to consumers and are not, themselves, consumers of Class Vehicles, and therefore have no rights against Toyota with respect to Plaintiff and all other Class Members' acquisition of Class Vehicles. Toyota's warranties were designed to influence consumers who purchased and/or owned Class Vehicles.

1756. Plaintiff and each Class member's acquisition of the Class Vehicles suffices to create privity of contract between Plaintiff and all other members of the Class, on the one hand, and Toyota, on the other hand; however, privity of contract need not be established nor is it required because Plaintiff and the Class Members are intended third-party beneficiaries of contracts between Toyota and their resellers, authorized dealers, and, specifically, of Toyota's implied warranties.

1757. Toyota had notice of its breach as alleged herein.

1758. As a direct and proximate result of Toyota's breach of implied warranties of merchantability, Plaintiff and the Class are entitled to damages in an amount to be determined at trial.

COUNT 82
FRAUDULENT OMISSION
(Individually and on behalf of the Texas Class)
(As to all Defendants)

1759. Plaintiff Mitchell ("Plaintiff" for purposes of this Count) incorporate by reference each allegation as if fully set forth herein.

1760. Plaintiff brings this Count individually and on behalf of the other members of the Texas Class (the "Class," for purposes of this Count).

1761. Defendants were aware of the Fuel Pump Defect within the Class Vehicles when the Class Vehicles were marketed and sold to Plaintiff and the other members of the Class. Despite this awareness, Defendants deliberately continued to market as safe and reliable and suitable for everyday driving purposes Class Vehicles with a known defect that substantially increases the chance of a collision.

1762. Having been aware of the Fuel Pump Defect within the Class Vehicles, and having known that Plaintiff and the other members of the Class could not have reasonably been expected to know of the Fuel Pump Defect, Defendants had a duty to disclose the defect to Plaintiff and the other members of the Class in connection with the sale or lease of the Class Vehicles.

1763. Defendants duty to disclose the Fuel Pump Defect arose when Defendants discovered the Fuel Pump Defect that made its earlier representations as to the Class Vehicle's safety, reliability and suitability for everyday driving untrue and misleading.

1764. Defendants deliberately did not disclose the Fuel Pump Defect to Plaintiff and the other members of the Class in connection with the sale of the Class Vehicles. Such information

was not publicly available until January 2020, well after Defendants knew of the Fuel Pump Defect and breached their duty to disclose it to owners and lessees of the Class Vehicles.

1765. For the reasons set forth above, the Fuel Pump Defect within the Class Vehicles comprises material information with respect to the sale or lease of the Class Vehicles.

1766. Defendants misrepresented the true nature of the Class Vehicles with respect to the Fuel Pump Defect intending that Plaintiff and members of the Class would rely on those misrepresentations and omissions and be induced into purchasing the Class Vehicles.

1767. In purchasing the Class Vehicles, Plaintiff and the other members of the Class reasonably relied on Defendants to disclose known material defects with respect to the Class Vehicles. Plaintiff's and members of the Class reasonably relied on Defendant's representations and omissions because Defendants were in a superior position to know the true qualities of the Class Vehicles and Defendants have a duty to field merchantable vehicles into the stream of commerce.

1768. Plaintiff and members of the Class could not have discovered the Fuel Pump Defect through the exercise of reasonable diligence and Defendants concealed that fact from them at the time of purchase or lease.

1769. Had Plaintiff and the other members of the Class known of the Fuel Pump Defect within the Class Vehicles, they would have not purchased the Class Vehicles or would have paid less for the Class Vehicles.

1770. As a result of withholding material information regarding the Fuel Pump Defect, Defendants realized unjustifiable profits as they sold more Class Vehicles, and at a higher price, than they would have had they disclosed the truth about the Fuel Pump Defect.

1771. Through their omissions regarding the Fuel Pump Defect within the Class Vehicles, Defendants intended to induce, and did induce, Plaintiff and the other members of the Class to either purchase a Class Vehicle that they otherwise would not have purchased, or pay more for a Class Vehicle than they otherwise would have paid.

1772. As a direct and proximate result of Defendants' omissions, Plaintiff and the other members of the Class either overpaid for the Class Vehicles or would not have purchased the Class Vehicles at all if the Fuel Pump Defect had been disclosed to them, and, therefore, have incurred damages in an amount to be determined at trial. Plaintiff and the other members of the Class have also suffered damages resulting from loss of use, diminished value, increased transactional costs and other losses to be proved at trial.

XII. UTAH

COUNT 83

VIOLATIONS OF THE UTAH CONSUMER SALES PRACTICES ACT

Utah Code Ann. § 13-11-1, *et seq.*

(Individually and on Behalf of the Utah Class)

(As to all Defendants)

1773. Plaintiff Jones ("Plaintiff" for purposes of this Count) incorporates by reference each allegation as if set forth fully herein.

1774. Plaintiff brings this claim individually and on behalf of other members of the Utah Class (the "Class," for purposes of this Count).

1775. Defendants qualify as "suppliers" under the Utah Consumer Sales Practices Act ("Utah CSPA"), Utah Code Ann. § 13-11-3.

1776. Plaintiff Jones and the Utah Class Members are “persons” under Utah Code Ann. § 13-11-3. Sales of the Class Vehicles to Plaintiff Jones and the Utah Class Members were “consumer transactions” within the meaning of Utah Code Ann. § 13-11-3.

1777. The Utah CSPA makes unlawful any “deceptive act or practice by a supplier in connection with a consumer transaction” under Utah Code Ann. § 13- 11-4. Specifically, “a supplier commits a deceptive act or practice if the supplier knowingly or intentionally: (a) indicates that the subject of a consumer transaction has sponsorship, approval, performance characteristics, accessories, uses, or benefits, if it has not” or (b) indicates that the subject of a consumer transaction is of a particular standard, quality, grade, style, or model, if it is not.” Utah Code Ann. § 13-11-4. “An unconscionable act or practice by a supplier in connection with a consumer transaction” also violates the Utah CSPA. Utah 24 Code Ann. § 13-11-5.

1778. In the course of Toyota’s business, it willingly failed to disclose and actively concealed that the Fuel Pump in the Class Vehicles is defective in that they suffer from the Fuel Pump Defect. Toyota engaged in unfair and deceptive trade practices, in unfair methods of competition, unconscionable acts or practices, including representing that the Class Vehicles have characteristics, uses, benefits, and qualities which they do not have; representing that the Class Vehicles are of a particular standard and quality when they are not; failing to reveal a material fact, the omission of which tends to mislead or deceive the consumer, and which fact could not reasonably be known by the consumer; making a representation of fact or statement of fact material to the transaction such that a person reasonably believes the represented and suggested state of affairs to be other than it actually is; and failing to reveal facts that are material to the transaction in light of the representations of fact made in a positive manner. Toyota’s acts had capacity, tendency, or effect of deceiving or misleading consumers; failed to state a material fact that

deceives or tends to deceive; and constitute deception, fraud, false pretense, false promise, or knowing concealment, suppression, or omission of any material fact with intent that Plaintiff Jones and the Utah Class Members rely upon such concealment, suppression, or omission, in connection with the sale of Class Vehicles. Toyota engaged in unfair and deceptive business practices in violation of the Utah CSPA.

1779. In purchasing or leasing the Class Vehicles, Plaintiff Jones and the Class and Utah Class Members were deceived by Defendants' failure to disclose that the Class Vehicles' Fuel Pumps suffer from the Fuel Pump Defect.

1780. Plaintiff Jones and the Utah Class Members reasonably relied upon Defendants' omissions. They had no way of knowing that Toyota's representations and omissions were false and materially misleading. Nor had they any way of knowing that Denso was concealing and omitting material information regarding the Fuel Pump Defect. As alleged herein, Toyota and Denso engaged in sophisticated methods of deception. Plaintiff Jones and the Utah Class Members did not, and could not, unravel Defendants' deception on their own, as they were not aware of the defective nature of the Fuel Pumps prior to purchase or lease.

1781. Defendants' actions as set forth above occurred in the conduct of trade or commerce.

1782. The facts concealed and omitted by Toyota were material in that a reasonable consumer would have considered them to be important in deciding whether to purchase or lease the Class Vehicles or pay a lower price. Had Plaintiff Jones and the Utah Class Members known of the Fuel Pump Defect at the time they purchased or leased their Class Vehicles, they would not have purchased or leased those vehicles, or would have paid substantially less for the vehicles than they did.

1783. Defendants' unfair or deceptive acts or practices, fraud, concealment, suppression, or omission of material facts were likely to and did in fact deceive reasonable consumers.

1784. Toyota intentionally and knowingly misrepresented material facts regarding the Class Vehicles with intent to mislead Plaintiff Jones and the Utah Class Members, and Denso likewise omitted and concealed material facts with respect to the Fuel Pump Defect.

1785. Defendants knew or should have known that their conduct violated the Utah CSPA.

1786. Defendants owed to Plaintiff Jones and the Utah Class Members a duty to disclose the truth about the Fuel Pump Defect because Defendants: a) possessed exclusive knowledge of the design of the Class Vehicles and the Fuel Pump Defect in its vehicles, including the uptick in fuel pump failure rates they saw; b) intentionally concealed the foregoing from Plaintiff Jones and the Utah Class Members; and/or c) made incomplete representations regarding the quality and durability of the Class Vehicles, while purposefully withholding material facts from Plaintiff Jones and the Utah Class Members that contradicted these representations.

1787. Due to Defendants' specific and superior knowledge that the Fuel Pumps in the Class Vehicles will fail, and the reliance of Plaintiff Jones and the Utah Class Members on these material omissions, Defendants had a duty to disclose to Plaintiff Jones and the Utah Class Members that their Class Vehicles suffered from the Fuel Pump Defect. These omitted and concealed facts were material because they directly impact the value of the Class Vehicles purchased or leased by Plaintiff Jones and the Utah Class Members.

1788. Defendants' conduct proximately caused injuries to Plaintiff Jones and the Utah Class Members.

1789. Plaintiff Jones and the Utah Class Members were injured and suffered ascertainable loss, injury in act, and/or actual damages as a proximate result of Defendants' conduct in that

Plaintiff Jones and the Utah Class Members overpaid for their Class Vehicles, were unable to use their Vehicles for prolonged periods, did not get the benefit of their bargain, had their Class Vehicles suffer a diminution in value, and because their Vehicles are equipped with a defective Fuel Pump. These injuries are the direct and natural consequence of Toyota's misrepresentations and Defendants' omissions.

1790. Defendants' violations present a continuing risk to Plaintiff Jones and the Utah Class Members and the general public. Defendants' unlawful acts and practices complained of herein affect the public interest.

1791. Pursuant to Utah Code Ann. § 13-11-4, Plaintiff Jones and the Utah Class Members seek monetary relief against Defendants measured as the greater of (a) actual damages in an amount to be determined at trial and (b) statutory damages in the amount of \$2,000 for Plaintiff Jones and each Utah Class member, reasonable attorneys' fees, and any other just and proper relief available under the Utah CSPA. Plaintiff Jones and the Utah Class Members also seek a declaratory judgment that Defendants are responsible for violation of the Utah CSPA, an order enjoining Defendants from any further deceptive acts related to the Fuel Pump Defect, and any other ancillary relief, including an appropriate fix for the Fuel Pump Defect.

COUNT 84
FRAUD BY CONCEALMENT
Utah Code Ann. § 13-11-1, et seq.
(Individually and on Behalf of the Utah Class)
(As to all Defendants)

1792. Plaintiff Jones ("Plaintiff" for purposes of this Count) incorporates by reference each allegation as if set forth fully herein.

1793. Plaintiff brings this claim individually and on behalf of other members of the Utah Class (the "Class," for purposes of this Count).

1794. Defendants concealed and suppressed material facts concerning the quality, safety and durability of the Class Vehicles with respect to Plaintiff and the Utah class. As alleged herein, at all relevant times, Defendants were aware that the fuel pump defect posed a danger to Plaintiff, members of the class and the public at large because it could fail while the vehicle was underway and increase the chance of a collision and subsequent injury.

1795. Defendants concealed and suppressed material facts concerning the safety, performance, and quality of the Class Vehicles to generate consumer confidence in the Class Vehicles and its component parts in an effort to induce consumers to purchase or lease class vehicles and to pay more for them than if consumers had known of the fuel pump defect. These representations and omissions were material to consumers because the propensity of the class vehicles to increase the likelihood of collision or injury is a fact that consumers would rely upon when deciding whether and how much to pay for the Class Vehicles.

1796. Plaintiff and Utah Class Members viewed Toyota advertising on Toyota's website and other forums that promised safe and reliable vehicles and Plaintiff and members of the Class had no way of knowing that Toyota's representations were false and materially misleading. Plaintiff and Utah Class Members did not and could not detect Toyota's deception on their own

1797. Defendants had a duty to disclose the true qualities of the Class Vehicles because knowledge of the scheme and its details were known and/or accessible only to Defendants and Defendants had superior knowledge and access to the facts and knew the facts were not known to, or reasonably discoverable, by Plaintiff and the Utah Class.

1798. Toyota also had a duty to disclose because they made affirmative representations about the qualities of the Class Vehicles, as set forth above, which were misleading, deceptive, and incomplete without the disclosure of the additional facts regarding the fuel pump defect.

1799. Plaintiff and the Utah Class were unaware of these omitted material facts and would not have acted as they did if they had known of the concealed and/or suppressed facts, in that they would not have purchased or leased the Class Vehicles or would have paid less for them. Plaintiff's and the Utah Class Members' actions were justified under the information available to them at the time of transaction and they could not have reasonably avoided the injury. Defendants were in exclusive control of the material facts and such facts were not known to the public, Plaintiff, or the Utah Class.

1800. The value of all Utah Class Members' Class Vehicles has diminished as a result of Toyota's fraudulent concealment of the fuel pump defect, which has diminished the Toyota/Lexus brand and made reasonable consumers reluctant to purchase the Class Vehicles on the secondary market. Accordingly, Defendants are liable to the Utah Class for damages in an amount to be proven at trial.

1801. Moreover, Defendants' acts were done maliciously, oppressively, deliberately, with intent to defraud, and in reckless disregard of Plaintiff's and the Utah Class Members' rights and well-being to enrich Toyota at the expense of Plaintiff, the Class, and the travelling public.

COUNT 85
BREACH OF EXPRESS WARRANTY
Utah Code Ann. § 70A-2-313
(Individually and on Behalf of the Utah Class)
(As to Toyota)

1802. Plaintiff Jones ("Plaintiff" for purposes of this Count) incorporates by reference each allegation as if set forth fully herein.

1803. Plaintiff bring this claim individually and on behalf of other members of the Utah Class (the "Class," for purposes of this Count).

1804. Toyota is and was at all relevant times a “merchant” with respect to motor vehicles under Utah Code Ann. § 70A-2-104(1) and a “seller” of motor vehicles under Utah Code Ann. § 70A-2-313.

1805. The Class Vehicles are and were at all relevant times “goods” within the meaning of Utah Code Ann. §§ 70A-2-105(1) and 70A-2-313. 620.

1806. Pursuant to Utah Code Ann. § 70A-2-313(1)(a), “[a]ny affirmation of fact or promise made by the seller to the buyer which relates to the goods and becomes part of the basis of the bargain creates an express warranty that the goods shall conform to the affirmation or promise.”

1807. In its written express warranties, Toyota expressly warranted that it would repair or replace defective parts free of charge if the defects became apparent during the warranty period.

1808. Toyota’s written express warranties formed the basis of the bargain that was reached when Plaintiffs and the other Class Members purchased or leased their Class Vehicles.

1809. Toyota breached its express warranty to repair defective parts in the Class Vehicles. Toyota admittedly has not repaired the Class Vehicles’ Fuel Pump Defect.

1810. Further, Toyota has refused to provide an adequate warranty repair for the Fuel Pump Defect, thus rendering the satisfaction of any notice requirement futile. As stated above, customers that have presented their vehicles for warranty repair due to Fuel Pump failure have been denied adequate repairs.

1811. The written express warranties fail in their essential purpose because the contractual remedy is insufficient to make Plaintiffs and the other Class Members whole and because Toyota has failed and/or has refused to adequately provide the promised remedies within a reasonable time.

1812. Accordingly, recovery by Plaintiffs and the other Class Members is not limited to the limited remedy of repair, and Plaintiffs, individually and on behalf of the other Class Members, seeks all remedies as allowed by law.

1813. Also, as alleged in more detail herein, at the time that Toyota warranted and sold or leased the Class Vehicles it knew that the Class Vehicles did not conform to the warranty and were inherently defective, and Toyota improperly concealed material facts regarding its Class Vehicles. Plaintiffs and the other Class Members were therefore induced to purchase or lease the Class Vehicles under false pretenses.

1814. As a direct and proximate result of Toyota's breach of its express warranty, Plaintiffs and the other Class Members have been damaged in an amount to be determined at trial.

COUNT 86
BREACH OF IMPLIED WARRANTY OF MERCHANTABILITY

Utah Code Ann. § 70A-2-314

(Individually and on Behalf of the Utah Class)

(As to Toyota)

1815. Plaintiff Jones ("Plaintiff" for purposes of this Count) incorporates by reference each allegation as if set forth fully herein.

1816. Plaintiff brings this claim individually and on behalf of other members of the Utah Class (the "Class," for purposes of this Count).

1817. Toyota was at all times a merchant with respect to motor vehicles within the meaning of the Utah Code Ann. § 70A-2-314.

1818. Under Utah Code Ann. § 70A-2-314, a warranty that the Class Vehicles were in merchantable condition and fit for the ordinary purpose for which the vehicles are used was implied by law in the transactions when Plaintiff Jones and the Class and Utah Sub-Class Members purchased or leased their Class Vehicles from Toyota.

1819. The Class Vehicles, when sold or leased and at all times thereafter, were not in merchantable condition and are not fit for the ordinary purpose for which vehicles are used. Specifically, the Class Vehicles suffered from the Fuel Pump Defect.

1820. It was reasonable to expect that Plaintiff Jones and the Utah Class Members may use, consume, or be affected by the defective vehicles.

1821. The Fuel Pumps in the Class Vehicles are inherently defective in that they suffered from the Fuel Pump Defect.

1822. Plaintiff Jones and the Utah Class Members were and are third-party beneficiaries to the Toyota's manufacturer's contracts with Toyota-certified/authorized retailers who sold the Class Vehicles to Plaintiff Jones, the Class, and the Utah Sub-Class Members.

1823. Toyota was provided notice of these issues within a reasonable time of Plaintiffs' knowledge of the non-conforming or defective nature of the Class Vehicles via complaints by Plaintiffs or Class Members to Toyota either orally or in writing, complaints to Toyota dealerships, intermediate sellers, or repair facilities either orally or in writing, presentation of the vehicles for repair to dealerships or to intermediate sellers or repair facilities, countless consumer complaints to NHTSA regarding the defect that is the subject of this Complaint, and/or by the allegations contained in this Complaint.

1824. As a direct and proximate result of Toyota's breach of the implied warranty of merchantability, Plaintiff Jones and the Utah Class Members have been damaged in an amount to be proven at trial.

COUNT 87
STRICT PRODUCT LIABILITY
(As to Denso)

1825. Plaintiff Jones (“Plaintiff” for purposes of this Court) incorporates by reference each allegation as if set forth fully herein.

1826. Plaintiff brings this claim individually and on behalf of other members of the Utah Class (the “Class,” for purposes of this Court).

1827. Defendants are strictly liable for designing, engineering, testing, validating, manufacturing, and placing in the stream of commerce an unreasonably dangerous Fuel Pump.

1828. Defendants designed, engineered, tested, validated, manufactured, and placed in the stream of commerce the unreasonable dangerous Fuel Pump.

1829. The Class Vehicles and Fuel Pumps are being used in an intended and/or foreseeable manner. Plaintiff and Class Members have not misused or materially altered the Class Vehicles or Fuel Pumps. The Class Vehicles and Fuel Pumps are in the same or substantially similar condition as they were at the time of purchase/lease.

1830. The Class Vehicles and Fuel Pumps are unreasonably dangerous and defective because they were designed, engineered, tested, validated, manufactured, and placed in the stream of commerce with the Fuel Pump Defect that can cause Class Vehicles to suddenly and unexpectedly stall or lose engine power.

1831. The Fuel Pump Defect causes an unreasonably dangerous condition when Class Vehicles are used for their intended and foreseeable purpose of providing safe and reliable transportation and places Plaintiff, Class Members, and others on the road at an unreasonable and substantial risk for injury or death.

1832. Defendants were aware of feasible alternative designs which would minimize or eliminate the Fuel Pump Defect and the risk it poses. Such alternative designs were known and

available when the Class Vehicles and Fuel Pumps were designed, engineered, tested, validated, manufactured, and placed in the stream of commerce.

1833. Defendants failed to design, test, validate, manufacture, and place in the stream of commerce a Class Vehicle and Fuel Pump that is free from the Fuel Pump Defect and the unreasonable safety risks it poses.

1834. As a result of Defendants' actions as described herein, Plaintiff and the other Class Members have been damaged in an amount to be determined at trial.

XIII. VIRGINIA

COUNT 88
VIOLATIONS OF THE VIRGINIA CONSUMER PROTECTION ACT,
VA. CODE ANN. § 59.1-196, *et seq.*
(Individually and on behalf of the Virginia Class)
(As to all Defendants)

1835. Plaintiffs Isabel Marques, Payam Pastegar, and Syed Abdul Nafay ("Plaintiffs," for purposes of this Count) incorporate by reference each allegation as though fully set forth herein.

1836. This Count is brought on behalf of Plaintiffs and the Virginia Class ("Class" for the purposes of this Count) for violation of Virginia's Consumer Protection Act, § 59.1-196 *et seq.*, which prohibits deceptive acts or practices in the conduct of any business, trade or commerce in Virginia.

1837. Defendants, Plaintiffs, and the Virginia class are "persons" within the meaning of VA. Code § 59.1-198.

1838. Defendants are "suppliers" as defined by VA. Code. Ann. § 59.1-198.

1839. The transaction between Plaintiffs and the other Class Members on the one hand and Defendants on the other, leading to the purchase or lease of the Class Vehicles by Plaintiffs and other Class Members, are "consumer transactions" as defined by Va. Code Ann. § 59.1-1.98,

because the Class Vehicles were purchased or leased primarily for personal, family or household purposes.

1840. The Virginia Consumer Protection Act (“Virginia CPA”) prohibits the following fraudulent acts or practices committed by a supplier with a consumer transaction: “(5) misrepresenting that goods or services have certain quantities, characteristics, ingredients, uses, or benefits; (6) misrepresenting that goods or services are of a particular standard, quality, grade, style, or model; ... (8) advertising goods or services with intent not to sell them as advertised; ... [and] (14) using any other deception, fraud, false pretense, false promise, or misrepresentation in connection with a consumer transaction[.]” Va. Code Ann. § 59.1-200(A).

1841. Defendants’ conduct violates the Virginia CPA because Defendants engaged in the deceptive acts and practices described above.

1842. Defendants’ deceptive conduct and its false and misleading statements about Class Vehicle and Fuel Pump safety and dependability and omissions regarding the Fuel Pump Defect, which causes the Fuel Pumps to prematurely fail, are facts that a reasonable person would have considered material in deciding whether or not to purchase or lease (or how much they were willing to pay to purchase or lease) the Class Vehicles.

1843. Defendants’ acts and practices described above were likely to mislead a reasonable consumer acting reasonably under the circumstances, including Plaintiffs and members of the Class.

1844. Plaintiffs and the other Class Members justifiably acted or relied to their detriment upon Defendants’ misrepresentations and omissions of fact, as evidenced by Plaintiffs and the other Class Members’ leasing and purchasing of Class Vehicles.

1845. Defendants' materially misleading statements and deceptive acts and practices were directed at the public at large, including Plaintiffs and members of the Class.

1846. Had Defendants disclosed all material information regarding the Fuel Pump Defect to Plaintiffs and the other Class Members, Plaintiffs and the other Class Members would not have purchased or leased Class Vehicles or would have paid less to do so.

1847. Defendants' deceptive acts and practices, and/or misrepresentations and omissions, have deceived Plaintiffs, and those same business practices have deceived or are likely to deceive members of the consuming public and the other members of the Class.

1848. Toyota also engaged in deceptive conduct by issuing defective Recall that: provides no remedy for the Fuel Pump Defect; does not notify Class Members about the Fuel Pump Defect; does not instruct consumers to stop driving the dangerous Class Vehicles; and does not notify offer Class Members free loaner vehicles of comparable make, model, or value as their own Class Vehicles to enable them to cease driving their dangerous Class Vehicles until a remedy is available and can be implemented.

1849. Denso also engaged in deceptive conduct by manufacturing and placing in the stream of commerce a Fuel Pump it knew, or should have known, was materially defective.

1850. Defendants' actions impact the public interest because Plaintiffs and the members of the Class have been injured in exactly the same way as millions of other consumers by Defendants' deceptive acts and practices as described herein.

1851. As a direct and proximate result of Defendants' deceptive trade practices, Plaintiffs and the other Class Members have suffered ascertainable loss and actual damages. Plaintiffs and the other Class Members would not have purchased or leased the Class Vehicles or would have

paid less for them had Defendants disclosed the truth about the Fuel Pump Defect. Plaintiffs and the other Class Members also suffered diminished value of their vehicles.

1852. As a direct and proximate result of Defendants' deceptive trade practices, Plaintiffs and the other Class Members were harmed by Toyota's inadequate Recall, described above, including Defendants' failure to notify them of the Fuel Pump Defect, failure to direct them to stop driving their Class Vehicles, and failure to offer Class Members free loaner vehicles of comparable make, model, or value as their Class Vehicles until Defendants are able to devise a remedy that that is safe and dependable (if ever) and implement it in each Class Vehicle. Defendants' failure to do so continues to expose Plaintiffs and the Class to the risk of injury and death.

1853. Defendants' violation of the Virginia CPA was willful and knowing. Defendants knowingly and willfully marketed the Class Vehicles as safe and dependable all the while knowing they were not. Defendants admit in the Recall Reports the fact of the Fuel Pump Defect, the thousands of warranty claims and more than 60 Field Technical Reports it received about the Fuel Pump Defect, and that the Fuel Pump Defect poses a serious risk of injury rendering the Class Vehicles unsafe. The facts of the defect Recall are incontrovertible. Defendants, through their willful and knowing deceptive acts and practices, as detailed above, have willfully and knowingly exposed Plaintiffs and the Class to the risk of serious injury and death, and continue to do so by virtue of having issued the deficient Recall.

1854. Pursuant to Va. Code Ann. § 59.1-204, Plaintiffs and the Class Members seek monetary relief against Defendants measured as the greater of (a) actual damages in an amount to be determined at trial and (b) statutory damages in the amount of \$500 for Plaintiffs and each Class member. Because Defendants' conduct was committed willfully and knowingly, Plaintiffs and the Class is entitled to recover, for him/herself and each Class member, the greater of (a) three times

actual damages or (b) \$1,000. Plaintiffs also seek an order enjoining Defendants' fraudulent, unfair and/or deceptive acts or practices, punitive damages, and attorneys' fees, and any other just and proper relief available under the Virginia General Business Law § 59.1-203 *et seq.*

COUNT 89
BREACH OF EXPRESS WARRANTY
VA. CODE §§ 8.2-313 and 8.2A-210
Individually and on Behalf of the Virginia Class)
(As to Toyota)

1855. Plaintiffs Marques, Rastegar, and Nafay ("Plaintiffs" for purposes of this Count) incorporate by reference each allegation as if set forth fully herein.

1856. Plaintiffs bring this claim individually and on behalf of the other members of the Virginia Class ("Class" for purposes of this Count).

1857. Toyota is and was at all relevant times a merchant with respect to the Class Vehicles under Va. Code § 8.2-104(1) and 8.2A-103(1)(t), and "sellers" of the Class Vehicles under § 8.2-103(1)(d).

1858. Pursuant to Va. Code § 8.2-313(1)(a), Toyota had obligations to conform the Class Vehicles to the express warranties.

1859. In its written express warranties, Toyota expressly warranted that it would repair or replace defective parts free of charge if the defects became apparent during the warranty period.

1860. Toyota's written express warranties formed the basis of the bargain that was reached when Plaintiffs and the other Class Members purchased or leased their Class Vehicles.

1861. Toyota breached its express warranty to repair defective parts in the Class Vehicles. Toyota admittedly has not repaired the Class Vehicles' Fuel Pump Defect.

1862. Further, Toyota has refused to provide an adequate warranty repair for the Fuel Pump Defect, thus rendering the satisfaction of any notice requirement futile. As stated above,

customers that have presented their vehicles for warranty repair due to Fuel Pump failure have been denied adequate repairs.

1863. The written express warranties fail in their essential purpose because the contractual remedy is insufficient to make Plaintiffs and the other Class Members whole and because Toyota has failed and/or has refused to adequately provide an effective remedy within a reasonable time.

1864. Accordingly, recovery by Plaintiffs and the other Class Members is not limited to the limited remedy of repair, and Plaintiffs, individually and on behalf of the other Class Members, seeks all remedies as allowed by law.

1865. Also, as alleged in more detail herein, at the time that Toyota warranted and sold or leased the Class Vehicles it knew that the Class Vehicles did not conform to the warranty and were inherently defective, and Toyota improperly concealed material facts regarding its Class Vehicles. Plaintiffs and the other Class Members were therefore induced to purchase or lease the Class Vehicles under false pretenses.

1866. Toyota had notice of its breach as alleged herein.

1867. As a direct and proximate result of Toyota's breach of its express warranty, Plaintiffs and the other Class Members have been damaged in an amount to be determined at trial.

COUNT 90
BREACH OF IMPLIED WARRANTY OF MERCHANTABILITY
VA. CODE ANN. § 8.2-314
(Individually and on Behalf of the Virginia Class)
(As to Toyota)

1868. Plaintiffs Marques, Rastegar, and Nafay ("Plaintiffs" for purposes of this Count) incorporates by reference each allegation as if set forth fully herein.

1869. This Count is brought on behalf of Plaintiffs and the Virginia Class ("Class" for the purposes of this Count).

1870. Toyota is a “merchant” with respect to motor vehicles under Va. Code Ann. § 8.2-314, and a “seller” of the Class Vehicles under § 8.2-103(1)(d). The Class Vehicles are “goods” as defined in Va. Code §§ 8.2-105(1) and 8.2A-103(1)(h).

1871. Pursuant to VA. Code Ann. §§ 8.2-314 and 8.2A-212, a warranty that the Class Vehicles were in merchantable condition was implied by law in the sale or lease of the product. Toyota impliedly warranted that the Class Vehicles were of a merchantable quality.

1872. By placing the Class Vehicles in the stream of commerce, Toyota impliedly warranted that the Class Vehicles are safe, and that all claims in their advertising and marketing of the Class Vehicles were true.

1873. The Class Vehicles did not comply with the implied warranty of merchantability because, at the time of sale or lease and at all times thereafter, the Class Vehicles were defective and not in merchantable condition, would not pass without objection in the trade, and were not fit for the ordinary purpose for which vehicles were used. Specifically, the Class Vehicles suffer from the Fuel Pump Defect which causes the Class Vehicles’ Fuel Pump to prematurely fail, which can cause the engine to run rough, and the vehicle to stall while being driven or become inoperable.

1874. Further, Toyota has refused to provide an adequate warranty repair for the Fuel Pump Defect, thus rendering the satisfaction of any notice requirement futile. As stated above, customers that have presented their vehicles for warranty repair due to Fuel Pump failure have been denied adequate repair.

1875. Plaintiffs and the other Class Members suffered injuries due to the defective nature of the Class Vehicles and Toyota’s breach of the warranty of merchantability.

1876. At all times that Toyota warranted and sold the Class Vehicles, it knew or should have known that its warranties were false, and yet Toyota did not disclose the truth, or stop

manufacturing or selling the Class Vehicles, and instead continued to issue false warranties, and continued to insist the products were safe. The Class Vehicles were defective when Toyota delivered them to its resellers, dealers, and distributors which sold the Class Vehicles, and the Class Vehicles were therefore still defective when they reached Plaintiffs and the Class.

1877. Toyota's resellers, dealers, and distributors are intermediaries between Toyota and consumers. These intermediaries sell Class Vehicles to consumers and are not, themselves, consumers of Class Vehicles, and therefore have no rights against Toyota with respect to Plaintiffs and all other Class Members' acquisition of Class Vehicles. Toyota's warranties were designed to influence consumers who purchased and/or owned Class Vehicles.

1878. Plaintiffs and each Class member's acquisition of the Class Vehicles suffices to create privity of contract between Plaintiffs and all other members of the Class, on the one hand, and Toyota, on the other hand; however, privity of contract need not be established nor is it required because Plaintiffs and the Class Members are intended third-party beneficiaries of contracts between Toyota and their resellers, authorized dealers, and, specifically, of Toyota's implied warranties.

1879. Toyota had notice of its breach as alleged herein.

1880. As a direct and proximate result of Toyota's breach of implied warranties of merchantability, Plaintiffs and the Class are entitled to damages in an amount to be determined at trial.

COUNT 91
FRAUDULENT OMISSION
(Individually and on behalf of the Virginia Class)
(As to all Defendants)

1881. Plaintiffs Marques, Rastegar, and Nafay ("Plaintiffs" for purposes of this Count) incorporates by reference each allegation as if fully set forth herein.

1882. Plaintiffs bring this Count individually and on behalf of the other members of the Virginia Class (the “Class,” for purposes of this Count).

1883. Defendants were aware of the Fuel Pump Defect within the Class Vehicles when the Class Vehicles were marketed and sold to Plaintiffs and the other members of the Class.

1884. Having been aware of the Fuel Pump Defect within the Class Vehicles, and having known that Plaintiffs and the other members of the Class could not have reasonably been expected to know of the Fuel Pump Defect, Defendants had a duty to disclose the defect to Plaintiffs and the other members of the Class in connection with the sale or lease of the Class Vehicles.

1885. Defendants did not disclose the Fuel Pump Defect to Plaintiffs and the other members of the Class in connection with the sale of the Class Vehicles.

1886. For the reasons set forth above, the Fuel Pump Defect within the Class Vehicles comprises material information with respect to the sale or lease of the Class Vehicles.

1887. In purchasing the Class Vehicles, Plaintiffs and the other members of the Class reasonably relied on Defendants to disclose known material defects with respect to the Class Vehicles.

1888. Had Plaintiffs and the other members of the Class known of the Fuel Pump Defect within the Class Vehicles, they would have not purchased the Class Vehicles or would have paid less for the Class Vehicles.

1889. Through their omissions regarding the Fuel Pump Defect within the Class Vehicles, Defendants intended to induce, and did induce, Plaintiffs and the other members of the Class to either purchase a Class Vehicle that they otherwise would not have purchased, or pay more for a Class Vehicle than they otherwise would have paid.

1890. As a direct and proximate result of Defendants' omissions, Plaintiffs and the other members of the Class either overpaid for the Class Vehicles or would not have purchased the Class Vehicles at all if the Fuel Pump Defect had been disclosed to them, and, therefore, have incurred damages in an amount to be determined at trial.

COUNT 92
NEGLIGENT RECALL/UNDERTAKING
(Individually and on behalf of the Virginia Class)
(As to Toyota)

1891. Plaintiffs Marques, Rastegar, and Nafay ("Plaintiffs" for purposes of this Count) incorporate by reference each allegation as if fully set forth herein.

1892. Plaintiffs bring this Count individually and on behalf of the other members of the Virginia Class (the "Class," for purposes of this Count).

1893. Prior to the events made the basis of this action, Toyota designed, engineered, manufactured, marketed, and placed the Class Vehicles in the stream of commerce.

1894. On January 13, 2020 Toyota initiated a voluntary recall of the Recalled Vehicles. Toyota's recall was voluntary and not initiated by NHTSA. The Recall was expanded and amended in the March 19, 2020 Second Recall, and again expanded in Toyota's October 28, 2020 Third Recall.

1895. Toyota owed a duty to use reasonable care to Plaintiffs and Class Members based on its undertaking of the Recall.

1896. As described above, Toyota breached its duty by conducting the Recall negligently and/or wantonly by, among other things, failing to notify Plaintiffs and the Class of the Fuel Pump Defect, failing to direct Class Members to stop driving their Class Vehicles, and failing to offer Class Members free loaner vehicles of comparable make, model, or value as their Class Vehicles

until Toyota is able to devise a repair that works (if ever) and implement it in each Class Vehicle. Toyota's failure to do so continues to expose Plaintiffs and the Class to the risk of injury and death.

1897. For the reasons set for the above, Toyota knew, or should have known through the exercise of ordinary care, the Recall was not being performed in a reasonable manner.

1898. As a direct and proximate result, Plaintiffs and the other Class Members have been and continue to be damaged in an amount to be determine at trial.

C. Claims Brought on Behalf of the Nationwide Class

COUNT 94
BREACH OF EXPRESS WARRANTY
N.Y. U.C.C. § 2-313, AND MATERIALLY IDENTICAL STATE STATUTES
(Individually and on Behalf of the Nationwide Class)
(As to Toyota)

1899. Plaintiffs Cheng, Dias, and SanFilipo ("Plaintiffs" for purposes of this Count) incorporate by reference each allegation as if set forth fully herein.

1900. Plaintiffs bring this claim individual and on behalf of the Nationwide Class ("Class" for purposes of this Count).

1901. Toyota is and was at all relevant times a merchant with respect to the Class Vehicles.

1902. Pursuant to N.Y. U.C.C. § 2-313(i)(a), "[a]ny affirmation of fact or promise made by the seller to the buyer which relates to the goods and becomes part of the basis of the bargain creates an express warranty that the goods shall conform to the affirmation or promise."

1903. In its written express warranties, Toyota expressly warranted that it would repair or replace defective parts free of charge if the defects became apparent during the warranty period.

1904. Toyota's written express warranties formed the basis of the bargain that was reached when Plaintiffs and the other Class Members purchased or leased their Class Vehicles.

1905. Toyota breached its express warranty to repair defective parts in the Class Vehicles. Toyota admittedly has not repaired the Class Vehicles' Fuel Pump Defect.

1906. Further, Toyota has refused to provide an adequate warranty repair for the Fuel Pump Defect, thus rendering the satisfaction of any notice requirement futile. As stated above, customers that have presented their vehicles for warranty repair due to Fuel Pump failure have been denied adequate repairs.

1907. The written express warranties fail in their essential purpose because the contractual remedy is insufficient to make Plaintiffs and the other Class Members whole and because Toyota has failed and/or has refused to adequately provide effective remedies within a reasonable time.

1908. Accordingly, recovery by Plaintiffs and the other Class Members is not limited to the limited remedy of repair, and Plaintiffs, individually and on behalf of the other Class Members, seeks all remedies as allowed by law.

1909. Also, as alleged in more detail herein, at the time that Toyota warranted and sold or leased the Class Vehicles it knew that the Class Vehicles did not conform to the warranty and were inherently defective, and Toyota improperly concealed material facts regarding its Class Vehicles. Plaintiffs and the other Class Members were therefore induced to purchase or lease the Class Vehicles under false pretenses.

1910. Toyota had notice of its breach as alleged herein.

1911. As a direct and proximate result of Toyota's breach of its express warranty, Plaintiffs and the other Class Members have been damaged in an amount to be determined at trial.

COUNT 95
BREACH OF IMPLIED WARRANTY OF MERCHANTABILITY
N.Y. U.C.C. § 2-314, AND MATERIALLY IDENTICAL STATE STATUTES
(Individually and on behalf of the Nationwide Class)
(As to Toyota)

1912. Plaintiffs Cheng, Dias, and SanFilipo (“Plaintiffs” for purposes of this Count) incorporate by reference each allegation as if set forth fully herein.

1913. Plaintiffs bring this claim individually and on behalf of the Nationwide Class (“Class” for purposes of this Count).

1914. Toyota is a “merchant” and the Class Vehicles are “goods” as defined in N.Y. U.C.C. §§ 2-104 and 2-105.

1915. Pursuant to N.Y. U.C.C. § 2-314, a warranty that the Class Vehicles were in merchantable condition was implied by law in the sale or lease of the product. Toyota impliedly warranted that the Class Vehicles were of a merchantable quality.

1916. By placing the Class Vehicles in the stream of commerce, Toyota impliedly warranted that the Class Vehicles are safe, and that all claims in their advertising and marketing of the Class Vehicles were true.

1917. The Class Vehicles did not comply with the implied warranty of merchantability because, at the time of sale or lease and at all times thereafter, the Class Vehicles were defective and not in merchantable condition, would not pass without objection in the trade, and were not fit for the ordinary purpose for which vehicles were used. Specifically, the Class Vehicles suffer from the Fuel Pump Defect which causes the Class Vehicles’ Fuel Pump to prematurely fail, which can cause the engine to run rough, and the vehicle to stall while being driven or become inoperable.

1918. Further, Toyota has refused to provide an adequate warranty repair for the Fuel Pump Defect, thus rendering the satisfaction of any notice requirement futile. As stated above, customers that have presented their vehicles for warranty repair due to Fuel Pump failure have been denied adequate repair.

1919. Plaintiffs and the other Class Members suffered injuries due to the defective nature of the Class Vehicles and Toyota's breach of the warranty of merchantability.

1920. At all times that Toyota warranted and sold the Class Vehicles, they knew or should have known that their warranties were false, and yet they did not disclose the truth, or stop manufacturing or selling the Class Vehicles, and instead continued to issue false warranties, and continued to insist the products were safe. The Class Vehicles were defective when Toyota delivered them to their resellers, dealers, and distributors which sold the Class Vehicles, and the Class Vehicles were therefore still defective when they reached Plaintiffs and the Class.

1921. Toyota's resellers, dealers, and distributors are intermediaries between Toyota and consumers. These intermediaries sell Class Vehicles to consumers and are not, themselves, consumers of Class Vehicles, and therefore have no rights against Toyota with respect to Plaintiffs' and all other Class Members' acquisition of Class Vehicles. Toyota's warranties were designed to influence consumers who purchased and/or owned Class Vehicles.

1922. Plaintiffs' and each Class member's acquisition of the Class Vehicles suffices to create privity of contract between Plaintiffs and all other members of the Class, on the one hand, and Toyota, on the other hand; however, privity of contract need not be established nor is it required because Plaintiffs and the Class Members are intended third-party beneficiaries of contracts between Toyota and their resellers, authorized dealers, and, specifically, of Toyota's implied warranties.

1923. Toyota had notice of its breach as alleged herein.

1924. As a direct and proximate result of Toyota's breach of implied warranties of merchantability, Plaintiffs and the Class are entitled to damages in an amount to be determined at trial.

COUNT 96
COMMON LAW FRAUDULENT OMISSION/CONCEALMENT
(Individually and on Behalf of the Nationwide Class)
(As to Toyota and Denso)

1925. Plaintiffs Cheng, Dias, and SanFilipo (“Plaintiffs” for purposes of this Count) incorporate by reference each allegation as if set forth fully herein.

1926. Plaintiffs bring this claim individually and on behalf of the Nationwide Class (“Class” for purposes of this Count).

1927. Defendants were aware of the Fuel Pump Defect within the Class Vehicles when the Class Vehicles were marketed and sold to Plaintiff and the other members of the Class.

1928. Having been aware of the Fuel Pump Defect within the Class Vehicles, and having known that Plaintiff and the other members of the Class could not have reasonably been expected to know of the Fuel Pump Defect, Defendants had a duty to disclose the defect to Plaintiff and the other members of the Class in connection with the sale or lease of the Class Vehicles.

1929. Defendants did not disclose the Fuel Pump Defect to Plaintiff and the other members of the Class in connection with the sale of the Class Vehicles.

1930. For the reasons set forth above, the Fuel Pump Defect within the Class Vehicles comprises material information with respect to the sale or lease of the Class Vehicles.

1931. In purchasing the Class Vehicles, Plaintiff and the other members of the Class reasonably relied on Defendants to disclose known material defects with respect to the Class Vehicles.

1932. Had Plaintiff and the other members of the Class known of the Fuel Pump Defect within the Class Vehicles, they would have not purchased or leased the Class Vehicles or would have paid less for the Class Vehicles.

1933. Through their omissions regarding the Fuel Pump Defect within the Class Vehicles, Defendants intended to induce, and did induce, Plaintiff and the other members of the Class to either purchase or lease a Class Vehicle that they otherwise would not have purchased or leased, or pay more for a Class Vehicle than they otherwise would have paid.

1934. As a direct and proximate result of Defendants' omissions, Plaintiff and the other members of the Class either overpaid for the Class Vehicles or would not have purchased or leased the Class Vehicles at all if the Fuel Pump Defect had been disclosed to them, and, therefore, have incurred damages in an amount to be determined at trial.

COUNT 97
VIOLATION OF THE MAGNUSON-MOSS WARRANTY ACT
15 U.S.C. §§ 2301, *et seq.*
(Individually and on Behalf of the Nationwide Class)
(As to Toyota)

1935. Plaintiffs Cheng, Dias, and SanFilipo ("Plaintiffs" for purposes of this Count) incorporate by reference each allegation as if set forth fully herein.

1936. Plaintiffs bring this claim individually and on behalf of the Nationwide Class ("Class" for purposes of this Count).

1937. This Court has jurisdiction to decide claims brought under 15 U.S.C. § 2301 by virtue of 28 U.S.C. §§ 1332 (a) and (d).

1938. Each Plaintiff is a "consumer" within the meaning of the Magnuson-Moss Warranty Act, 15 U.S.C. § 2301(3).

1939. Toyota is a "supplier" and "warrantor" within the meaning of the Magnuson-Moss Warranty Act, 15 U.S.C. §§ 2301(4)-(5).

1940. The Class Vehicles are "consumer products" within the meaning of the Magnuson-Moss Warranty Act, 15 U.S.C. § 2301(1).

1941. 15 U.S.C. § 2310(d)(1) provides a cause of action for any consumer who is damaged by the failure of a warrantor to comply with a written warranty.

1942. In its express written warranties, Toyota expressly warranted that it would repair or replace defects in material or workmanship free of charge if those defects become apparent during the warranty period.

1943. Toyota's warranties are written warranties within the meaning of the Magnuson-Moss Warranty Act, 15 U.S.C. § 2301(6). The Class Vehicles' implied warranty of merchantability is covered by 15 U.S.C. § 2301(7).

1944. With respect to Class Members' purchases or leases of the Class Vehicles, the terms of Toyota's written warranties and implied warranty became part of the basis of the bargain between Toyota and Plaintiffs and other Class Members.

1945. Toyota breached the implied warranty of merchantability. Without limitation, the Class Vehicles have Fuel Pumps that prematurely fail, as described above, which renders the Class Vehicles unmerchantable.

1946. Toyota breached its express warranties by not offering a functioning repair for the defective Fuel Pump in the Class Vehicles as evidenced by Toyota's own admission in the Recall Report that it has not identified a remedy.

1947. Further, Toyota has refused to provide an adequate warranty repair for the Fuel Pump Defect, thus rendering the satisfaction of any notice requirement futile. As stated above, Class Members report Fuel Pump failure to their dealer, but Toyota has failed to repair the defect.

1948. At the time of sale or lease of each Class Vehicle, Toyota knew, should have known, or was reckless in not knowing of the Class Vehicles' inability to perform as warranted, but nonetheless failed to rectify the situation and/or disclose the Fuel Pump Defect.

1949. The amount in controversy of each Plaintiff's individual claim exceeds the sum of \$25. The amount in controversy in this action exceeds the sum of \$50,000, exclusive of costs and interest, computed on the basis of all claims to be determined in this lawsuit.

1950. Toyota had notice of its breach as alleged herein.

1951. Plaintiffs, individually and on behalf of the Class Members, seeks all damages permitted by law, including diminution in value of their vehicles, in an amount to be proven at trial.

REQUEST FOR RELIEF

WHEREFORE, Plaintiffs respectfully request relief against Defendants as set forth below:

- A. Certifying the proposed Nationwide, Multistate and Statewide Classes;
- B. Appointing Plaintiffs as Class representatives and the undersigned counsel as Class counsel;
- C. Ordering Defendants to pay actual and statutory damages (including punitive damages) and restitution to Plaintiffs and the other Class Members, as allowable by law;
- D. Enjoining Defendants from continuing the unfair business practices alleged in this Complaint;
- E. Ordering Defendants to, among other things: (a) supply and install safe and dependable fuel pumps in the Recalled Vehicles; (b) supply and install safe and dependable fuel pumps in Class Vehicles that have not been recalled, free of charge; (c) provide extended warranty coverage for the fuel pumps; (d) provide loaner vehicles, free of charge, to Class Members while their vehicles are undergoing repair for the Fuel Pump Defect that is of comparable make, model, or value to the vehicles they drive, or the same or similar grade or quality as their own vehicles; (e) provide towing to Toyota Dealers, free of charge, for Class Vehicles, if necessary; and (f) implement a streamlined and consumer friendly mechanism for Class Members to apply for and

get reimbursement for expenses incurred in connection with repairing or replacing their defective Fuel Pumps;

F. Directing Toyota to promptly and fully inform Class Members of the Fuel Pump Defect and its associated dangers and instructing such Class Members to cease driving their vehicles, and ordering Toyota to provide free loaner vehicles of comparable make, model, or value to the Class Vehicle each Class member owns or leases until a remedy for the Fuel Pump Defect is installed in the Class Vehicles;

G. Ordering Defendants to pay both pre- and post-judgement interest on any amounts awarded;

H. Ordering Defendants to pay attorneys' fees and costs of suit; and

I. Granting such additional relief as the Court deems just and proper.

JURY TRIAL DEMANDED

Plaintiffs demand a jury trial on all issues so triable.

Dated: New York, New York
September 7, 2022

/s/ W. Daniel "Dee" Miles, III
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Demet Basar
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