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Attorneys for Plaintiff
THE PEOPLE OF THE STATE OF CALIFORNIA

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF ORANGE, CENTRAL JUSTICE CENTER

THE PEOPLE OF THE STATE OF CALIFORNIA

Plaintiff,

vs.

TOYOTA MOTOR SALES, U.S.A., INC.;
TOYOTA FINANCIAL SERVICES USA,
TOYOTA MOTOR CREDIT CORP.,
TOYOTA MOTOR CORP.; and, DOES 1
through 100 inclusive,

Defendants.

Case No.:

COMPLAINT FOR VIOLATION OF SECTION 17200 OF THE CALIFORNIA BUSINESS AND PROFESSIONS CODE

1 Plaintiff, the People of the State of California ("Plaintiff" or "the People"), by and through
2 Tony Rackauckas, District Attorney for the County of Orange ("District Attorney"), alleges the
3 following, on information and belief:
4

5 INTRODUCTION

6 1. This case is based exclusively on California law and is directed only at sales, leases,
7 or other wrongful conduct or injuries occurring in California. The primary defendant is Toyota
8 Motor Sales USA, which is based in Torrance California. This case is not removable to federal
9 court because a state is not a citizen for purposes of diversity jurisdiction and therefore cannot be
10 sued in a diversity action. *Navarro Sav. Ass'n v. Lee* (1980) 446 U.S. 458, 460-61 [100 S.Ct. 1779,
11 64 L.Ed. 2d 425]; *Moor v. Alameda County* (1973) 411 U.S. 693, 717 [93 S.Ct. 1785, 36 L.Ed. 2d
12 596]; see also *California v. Steelcase, Inc.* (C.D. Cal. 1992) 792 F. Supp. 84, 86, overruled on other
13 grounds by *California v. Dynergy, Inc.* (9th Cir. 2004) 375 F. 3d 831, 849 ("... for diversity
14 purposes, a state is not a citizen of itself. Therefore, it cannot sue or be sued in a diversity
15 action.").

16 2. At all times relevant during the liability period, Toyota has knowingly sold cars and
17 trucks that have one or more defects that cause the Toyota-made vehicles to accelerate suddenly
18 and uncontrollably. These defects exist in millions of Toyota-made cars and trucks sold to
19 Californians over the last several years. Toyota has known about these defects but intentionally
20 did not disclose them to California purchasers. Rather than halt sales of products in California until
21 it genuinely fixed this problem, the Defendants made the business decision to continue selling their
22 defective products to Californians.

23 3. This case is based on several simple and provable facts: (a) millions of California
24 consumers purchased defective Toyota vehicles; (b) Toyota knew that these defects existed; (c)
25 Toyota failed to disclose these defects, and actually took affirmative steps to hide the defects and
26 mislead the public about them; (d) as a result, none of the California consumers knew about, or
27 reasonably could have known about, the defects; (e) millions of California consumers have been
28 harmed by owning or leasing Toyota vehicles that contain defects which completely undermine the

1 safety and reliability of the vehicles; and (f) the value of every Toyota vehicle owned by California
2 consumers has been reduced because of these defects.

3 4 PLAINTIFF'S AUTHORITY

5 4. Tony Rackackaus, District Attorney of the County of Orange, acting to protect the
6 public as consumers from unlawful, unfair and fraudulent business practices, brings this action in
7 the public interest in the name of the People of the State of California pursuant to section 17200 of
8 the California Business and Professions Code. Plaintiff, by this action, seeks to enjoin Defendants
9 from engaging in the unlawful, unfair and fraudulent business practices alleged herein, and seeks
10 civil penalties for the Defendants' violations of the above statute.

11 12 DEFENDANTS

13 5. Defendant Toyota Motor Sales U.S.A., Inc. ("Toyota-Sales"), is a California
14 corporation and a citizen of California, with its principal place of business in Torrance, California.
15 At all relevant times hereto, Toyota-Sales was engaged in the business of marketing, distributing,
16 selling and leasing the Toyota and Lexus cars and trucks that are the subject of this Complaint.
17 Toyota-Sales transacts business in Orange County, California, and did at all relevant times
18 throughout the state of California. Toyota-Sales has significant contacts with Orange County,
19 California, and the activities complained of herein occurred, in whole or in part, in Orange County,
20 California.

21 6. Defendant Toyota Financial Services USA ("Toyota-Financial") is a California
22 corporation and a citizen of California, with its principal place of business in Torrance, California.
23 At all relevant times hereto Toyota-Financial was engaged in the business of designing,
24 manufacturing, marketing, distributing, selling, leasing, and financing the Toyota and Lexus cars
25 and trucks that are the subject of this Complaint. Toyota-Financial transacts business in Orange
26 County, California, and did at all relevant times, throughout the state of California. Toyota-
27 Financial has significant contacts with Orange County, California, and the activities complained of
28 herein occurred, in whole or in part, in Orange County, California.

1 7. Defendant Toyota Motor Corp. is a Japanese corporation that is registered to do
2 business in California ("Toyota-Motor"). At all relevant times hereto Toyota-Motor was engaged
3 in the business of designing, manufacturing, distributing, selling, and leasing the Toyota and Lexus
4 cars and trucks that are the subject of this Complaint. Toyota-Motor transacts business in Orange
5 County, California, and did at all relevant times throughout the state of California. Toyota-Motor
6 has significant contacts with Orange County, California, and the activities complained of herein
7 occurred, in whole or in part, in Orange County, California.

8 8. Defendant Toyota Motor Credit Corp. is a Japanese corporation that is registered to
9 do business in California ("Toyota-Motor Credit"). At all relevant times hereto Toyota-Motor
10 Credit was engaged in the business of designing, manufacturing, distributing, selling, leasing, and
11 financing the Toyota and Lexus cars and trucks that are the subject of this Complaint. Toyota-
12 Motor Credit transacts business in Orange County, California, and did at all relevant times
13 throughout the state of California. Toyota-Motor has significant contacts with Orange County,
14 California, and the activities complained of herein occurred, in whole or in part, in Orange County,
15 California.

16 9. Defendants, Toyota Motor Sales U.S.A., Inc., Toyota Financial Services USA,
17 Toyota Motor Corp., and Toyota Motor Credit Corp. are collectively referred to herein as "Toyota"
18 or "Defendants."

19 10. Each defendant is a wholly owned subsidiary of the Japanese parent company,
20 Toyota-Motor. Each defendant is part of a joint enterprise for profit whose business is to
21 manufacture and sell Toyota and Lexus vehicles, including the vehicles that are the subject of this
22 Complaint. Each defendant is under common control and management.

23 11. Plaintiff is not aware of the true names and capacities of the defendants sued as Does
24 1 through 100, inclusive, and therefore sues these defendants by such fictitious names. Each of
25 these fictitiously named defendants is responsible in some manner for the activities alleged in this
26 Complaint. Plaintiff will seek leave of Court to amend this Complaint to replace the fictitious
27 names of these entities with their true names when they are discovered.

1 specifically in the County of Orange. The violations of law alleged herein were committed in
2 Orange County and elsewhere within the State of California.

3 17. Venue is proper in Orange County, California, pursuant to CCP section 395 and
4 because many of the acts complained about occurred in Orange County.

5 6 FACTUAL BACKGROUND

7 8 A. The Defective Toyota Cars and Trucks at Issue

9 18. The Toyota cars and trucks that are the subject of this Complaint are the vehicles
10 sold and/or leased by Defendants, during the liability period, with defects that may cause various
11 makes and models of Toyota-made cars and trucks to experience sudden unexpected and
12 uncontrollable acceleration of speeds up to 100 miles per hour and more (hereinafter the
13 "Defects").

14 19. While the models of Toyota cars and trucks at issue are not precisely known at this
15 time, based on current investigations and admissions of Defendants, the vehicles that are the
16 subject of this Complaint include: (i) all Toyota and Lexus vehicles referred to in Toyota's October
17 30, 2009 "Interim Notice," which according to Toyota's website are: 2007 - 2010 Camry, 2005 -
18 2010 Avalon, 2004 - 2009 Prius, 2005 - 2010 Tacoma, 2007 - 2010 Tundra, 2007 - 2010 ES350,
19 2006 - 2010 IS250 and IS350; (ii) all model year 2002 - 2010 Toyota vehicles (this means all
20 model year 2002 - 2010 vehicles of the Toyota brand, including Prius, and all model year 2002 -
21 2010 vehicles of the Lexus brand); and (iii) all other Toyota and Lexus cars and trucks sold and/or
22 leased with the Defects ("Subject Vehicles").

23 24 B. Timeline of Key Events

25 20. Defendants ignored, omitted, obfuscated, and misrepresented the evidence that was
26 amassing for many years, from a variety of sources, which established there was a serious safety
27 defect in their vehicles, including an alarming increase in the number of complaints, injuries, and
28 deaths it knew or should have known were likely caused by the Defects.

1 21. In the late 1990's, Toyota began to replace its mechanical throttle linkage with a
2 computer-controlled accelerator system or fly-by-wire system. In 2000, Toyota discontinued the
3 mechanical linkage in throttle systems and changed completely to a computer-controlled
4 accelerator system.

5 22. In 2003, Toyota sold 6,780,000 vehicles and overtook Ford Motor Company in
6 annual sales to become second in the United States behind only General Motors.

7 23. In February, 2003, NHTSA conducted its first of many investigations regarding
8 speed control problems in Toyota vehicles. The first two involved the Camry and Solara models.

9 24. In April, 2003, Toyota dealt internally with an "unwanted acceleration" incident
10 during production testing of the Sienna model. Toyota blamed a "faulty trim panel clip," deemed it
11 an isolated incident, and did not report it to NHTSA until 5 years later in response to a blanket
12 information request by the agency.

13 25. In July, 2003, NHTSA opened the first probe of sudden acceleration complaints in
14 Lexus sedans at the request of an owner.

15 26. In March, 2004, NHTSA opened a wider probe into Lexus sedans after another
16 complaint regarding sudden acceleration. NHTSA notified Toyota that it was opening an
17 investigation of unwanted acceleration and vehicle surge in 2002-2003 Camry and Solara models.
18 Toyota worked closely with NHTSA and succeeded in narrowing the investigation to 11 incidents
19 involving 5 crashes. This investigation was closed after four months without discovery of any
20 defect.

21 27. In July, 2004, the NHTSA closed its investigation of the Lexus sudden acceleration
22 complaints without finding a defect. Citing a lack of resources, the NHTSA turned down two more
23 requests from consumers to investigate the problem.

24 28. In 2005, the auto part supplier CTS began making pedal assemblies for Toyota.

25 29. In August, 2005, the NHTSA conducted an evaluation of the Camry after reports of
26 some "inappropriate and uncontrollable vehicle accelerations."
27
28

1 30. In November, 2005, Toyota writes the NHTSA and states that a dealership-led
2 review of 59 owner claims regarding their Toyota found "no evidence of a system or component
3 failure" and stated that the "vehicles operated as designed."

4 31. In 2006, Toyota passed General Motors as the number one brand of cars sold in the
5 United States with 8,800,000 vehicles sold.

6 32. In January, 2006, NHTSA opened a second investigation of Toyota Camry models
7 and received questionnaires from Camry owners, who reported hundreds of problems with
8 acceleration and braking. After communicating with Toyota, NHTSA closed the investigation
9 without finding a defect and stated the claims were of "ambiguous significance."

10 33. In August, 2006, the NHTSA continued to receive more complaints about
11 accelerator problems with the 2002-2006 Camry models.

12 34. In September, 2006, the NHTSA opened a third investigation into reported "engine
13 surging" incidents with Toyota vehicles. Toyota represented to the NHTSA that there was no
14 abnormality in the throttle control system and blamed water damage. The NHTSA closed this
15 investigation without finding a defect, citing "the need to best allocate limited administrative
16 resources."

17 35. In March, 2007, the NHTSA launched a probe into the floor mats of Lexus models.
18 Toyota responded by claiming the "issue is not a safety concern." The NHTSA also preliminarily
19 reviewed the 2007 Lexus ES for unwanted acceleration due to floor mat interference, but closed the
20 investigation seven months later.

21 36. In August, 2007, the NHTSA upgraded its investigation to "engineering analysis,"
22 which means the agency would test Toyota vehicles rather than merely review complaints.

23 37. In September, 2007, Toyota recalled 55,000 Camry and Lexus models under
24 pressure from the NHTSA due to suspected floor mats that purportedly interfered with the
25 accelerator pedal.

26 38. In January, 2008, the NHTSA launched a probe into sudden acceleration of the
27 Tacoma pickups after receiving notice of potentially 478 incidents with 2004-2008 models. In
28

1 response, Toyota told the NHTSA they could not find enough evidence to support allegations and
2 that an investigation was not warranted.

3 39. In August, 2008, the NHTSA closed its investigation of the Tacoma without finding
4 a defect despite hundreds of complaints. This was the eighth investigation of Toyota vehicles since
5 2003. As of that time, there were over 2,600 complaints made regarding "run away" Toyota
6 vehicles.

7 40. In April, 2009, the NHTSA received another petition for an investigation of throttle-
8 control problems in Toyota vehicles unrelated to floor mat issues.

9 41. On August, 28, 2009, California Highway Patrol officer Mark Saylor and his family
10 were killed when his Toyota vehicle (Lexus ES350) accelerated out of control over 100 mph. A
11 911 call by a passenger said the car had "no brakes."

12 42. In September, 2009, the NHTSA told Toyota to expect wider recalls of floor mats.
13 Toyota warned consumers to remove floor mats because of the supposed potential to jam the
14 accelerator, purportedly causing sudden acceleration.

15 43. In October, 2009:

- 16 • Toyota received reports in the United States and Canada that pedals were
17 sticking in certain models.
- 18 • Toyota then issued a floor mat recall on 4.2 million Toyota and Lexus
19 vehicles, advising consumers to remove floor mats and place them in the
20 trunk and directing dealers to use zip ties to secure floor mats to avoid gas
21 pedal interference.
- 22 • Akio Toyoda, president of the Japanese parent corporation, issued a public
23 apology to the Saylor family and every customer affected by the recall,
24 admitting: "Customers bought our cars because they thought they were the
25 safest but now we have given them cause for grave concern. I can't begin to
26 express my remorse."
- 27 • The Los Angeles Times published the first of many stories concerning claims
28 of unintended acceleration in Toyota vehicles, including nine NHTSA

1 investigations that included five deaths and hundreds of complaints filed with
2 the federal government. Toyota then sent letters to consumers regarding the
3 unintended acceleration issue, claiming "no defect exists."

4 44. In November, 2009:

- 5 • Toyota expanded the floor mat recall by over a million vehicles.
- 6 • The NHTSA publicly rebuked Toyota, calling Toyota's press release
7 "inaccurate" and "misleading," noting that the floor mat recall was an
8 "interim" measure and that it "does not correct the underlying defect."
- 9 • Toyota then publicly apologized for its inaccurate press release.
- 10 • Toyota issued another press release denying media reports that a problem
11 existed with the electronic throttle system.
- 12 • The Los Angeles Times wrote another article stating that Toyota ignored
13 over 1,200 complaints of sudden acceleration over the past eight years.
- 14 • Toyota announced a preliminary fix for the "floor mat problem" by cutting
15 off part of the gas pedal and expanded the total number of Toyota vehicles
16 subject to recall to 4.2 million.
- 17 • Toyota instructed dealers to remove the gas pedal and shorten it so it would
18 not interfere with floor mats.

19 45. In December, 2009:

- 20 • The NHTSA opened an investigation into whether the electronic control
21 modules in Corolla and Matrix models caused them to stall without warning.
- 22 • The NHTSA opened an investigation into the 2003 Sequoia SUV model for
23 problems with the computerized vehicle stability control system.

24 46. In January, 2010:

- 25 • Toyota announced a brake override software "fix" would be applied to its
26 vehicles globally by 2011.
- 27 • Toyota told the NHTSA it may have "an issue" with sticking accelerator
28 pedals.

- 1 • The NHTSA told Toyota it must conduct a recall.
- 2 • Toyota issued a recall for sticking accelerator pedals affecting 2.3 million
- 3 vehicles.
- 4 • Toyota then expanded the pedal recall to include another 1.1 million vehicles.
- 5 • United States Transportation Secretary Ray LaHood told a Chicago radio
- 6 station that the government had asked Toyota to stop selling recalled
- 7 vehicles.
- 8 • Toyota told the NHTSA it had a fix for the sticky-pedal problem, as well as a
- 9 permanent fix for the mat problem.
- 10 • On January 26, 2010, after ever-increasing adverse publicity, Toyota stopped
- 11 selling its recalled models, stating that preventing the sale of the vehicles was
- 12 “necessary until a remedy is finalized.”

13 47. In February, 2010:

- 14 • Transportation Secretary Ray LaHood testified before a Congressional panel
- 15 cautioning drivers to seek repairs for sticking accelerators.
- 16 • Kelly Blue Book said affected Toyota models were devalued as much as 5%.
- 17 • Edmunds stated the average devaluation was between 4%-8%.
- 18 • Toyota admitted to brake software problem in 2010 Prius Hybrids.
- 19 • Toyota recalled the 2010 Prius, Lexus HS 250h and Camry Hybrids due to
- 20 faulty brakes (437,000 vehicles worldwide).

21 48. On March 4, 2010, United States Representatives Henry Waxman and Bart Stupak
22 wrote in a letter to Toyota: “We do not understand the basis for Toyota’s repeated assertions that it
23 is ‘confident’ there are no electronic defects contributing to incidents of sudden unintended
24 acceleration . . . There’s a Glitch . . . You really don’t know when it’s going to occur and that’s the
25 uncertainty which should cause safety concerns.”

26 49. On March 5, 2010, new data released showed that more than 60 drivers have
27 complained of sudden acceleration incidents despite the fact that their cars were repaired by Toyota
28 Motor Corp. in the current recalls. The latest figure, released by NHTSA, significantly increased

1 the total number of complaints involving repaired vehicles. The new complaints allege several
2 accidents and at least three injuries resulting from runaway unintended acceleration despite the
3 vehicles' modifications at Toyota dealerships designed to resolve the issue.

4 . . . 50. . . As of March 6, 2010, the number of deaths attributed to possible unintended
5 acceleration in Toyota cars had risen to 58. The Detroit Free Press reported that the number of
6 complaints to U.S. auto safety regulators related to sudden acceleration also had grown to 3,300.

7 51. As of March, 2010, Toyota reported more than \$200 billion in worldwide sales for
8 the fiscal year that ended in March 2010.

9
10 **C. Toyota's Knowledge Of The Defects And The Risk To Public Safety**

11 52. Toyota has known throughout the liability period, and likely earlier, that certain
12 models of their cars and trucks sold or leased in the State of California were defective because they
13 tend to accelerate suddenly and uncontrollably, and that consumers and members of the public
14 could be seriously injured or killed as a direct and proximate result of the Defects.

15 . . . 53. Since 2001, and likely earlier, many people have been injured or died in accidents
16 relating to the Defects. While the exact injury and death toll is unknown, due to Toyota's
17 campaign of concealment and suppression, as alleged herein, numerous other drivers and
18 passengers of Toyota vehicles have died or suffered serious injuries and property damage. All
19 owners and lessees of Toyota-made vehicles have suffered economic damage to their property
20 due to the Defects. Many are unable to sell or trade their cars, and many are afraid to drive their
21 cars.

22 54. Despite its knowledge of the Defects, Toyota continued to sell or lease its cars and
23 trucks with the Defects. As a result, the injury and death toll has continued to increase and, to this
24 day, Toyota continues to conceal and suppress this information and has failed to disclose to buyers
25 this life-threatening uncontrolled acceleration peril.

26 55. During this time period, as set forth in detail below, Toyota falsely assured
27 California consumers in various written statements that their cars were safe and reliable, and
28 concealed and suppressed the true facts that the Toyota-manufactured vehicles were defective. To

1 this day, Toyota continues to conceal and suppress information about the existence and nature of
2 the Defects in its vehicles. Instead, as alleged herein, Toyota has launched a misinformation
3 campaign which includes misrepresenting to California consumers that the Defects were solely
4 caused by floor mats or by accelerator pedals that were "sticking." Toyota continues to cover up
5 and conceal the fact that drivers were experiencing a sudden, uncontrollable acceleration when
6 their foot was on the brake and not touching the accelerator.

7 56. Against this backdrop of fraud and concealment, Toyota has, for decades, touted its
8 reputation for safety and reliability, and knew that people bought its vehicles because of that
9 reputation, and yet purposefully chose to conceal and suppress the existence and nature of the
10 Defects. Instead of disclosing the truth about the dangerous propensity of Toyota-manufactured
11 vehicles to suddenly and unintentionally accelerate, California consumers were given assurances
12 that their vehicles were safe and defect free. For example, California consumers were given a
13 Warranty and a Maintenance Guide that states:

14 At Toyota, our top priority is always our customers. We know your Toyota is an
15 important part of your life and something you depend on every day. That's why
16 we're dedicated to building **products of the highest quality and reliability**. . . . Our
goal is for every Toyota customer to enjoy **outstanding quality, dependability and
peace of mind** . . . (Emphasis added).

17 57. After more than eight years of suppression and concealment of the existence and
18 nature of the Defects, presumably because it could no longer conceal the rising injury and death
19 toll, in September, 2009, Toyota admitted there was a defect in its vehicles that causes unintended
20 acceleration. However, Toyota's belated admission only concedes that some of its models have
21 had unintended acceleration and resulting crashes, and continues its plan and scheme of
22 concealment by denying the existence of the Defects in numerous models which also have suffered
23 unacceptable levels of unintended acceleration. For example, Toyota claims the Defect "does not
24 exist in vehicles in which the driver's side floor mat is compatible with the vehicle and properly
25 secured."

26 58. On October 30, 2009, Toyota began mailing a letter to owners of only some of its
27 models that have experienced a high incidence of unintended acceleration, not to owners of all
28

1 Toyota models that have experienced it. Toyota calls the letter an "Interim Notice." The letter
2 contains the statement about "compatible, properly secured" floor mats quoted above.

3 59. Even though Toyota has made a limited admission of a defect in a limited number of
4 its models, Toyota continues to manufacture and sell even those models without making the
5 changes it announced in the October 30, 2009 "Interim Notice," and without installing "smart
6 pedal" software.

7 60. Even though Toyota knew about the high incidence of unintended acceleration in
8 other Toyota models, Toyota continues to deny, conceal and suppress information related to the
9 Defects in numerous other models. Instead, but for the few models it has admitted to, Toyota
10 continues to manufacture, distribute, market, sell or lease these dangerously defective vehicles
11 without disclosing to consumers before they purchase or lease them, that these Toyota cars and
12 trucks are defective and the Defects have and are likely to cause, serious injury and death.

13 61. The current recall repair for "sticking accelerators" is not effective in preventing the
14 sudden uncontrollable acceleration defect in that numerous reported and documented incidences of
15 sudden uncontrollable acceleration have occurred *after* Toyota has claimed to have "fixed" the
16 Defects. Toyota has continually assured consumers that vehicle recall repair eliminated the sudden
17 uncontrollable acceleration problem. However, since the claimed "repair," the Defects remain.
18 Toyota purchasers and lessees of recalled vehicles have not received substitute vehicles and are
19 simply left to drive dangerous vehicles endangering not only their lives but all others in the vicinity
20 of these run-away Toyota-made vehicles.

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22
23 **FIRST CAUSE OF ACTION**

24 **Violation of Business and Professions Code Section 17200**

25 (Against all Defendants)

26 62. Plaintiff realleges and incorporates by reference all preceding paragraphs.
27
28

1 63. Defendants have engaged in, and continue to engage in, acts or practices that
2 constitute unfair competition, as that term is defined in section 17200 of the California Business
3 and Professions Code.

4 64. Defendants have violated, and continue to violate, Business and Professions Code
5 section 17200 through their unlawful, unfair, fraudulent and/or deceptive business acts and/or
6 practices. Defendants uniformly concealed, failed to disclose and omitted important safety-related
7 material information that was known only to Defendants and that could not reasonably have been
8 discovered by California consumers. Based on Defendants' concealment, half-truths, and
9 omissions, California consumers agreed to purchase or lease one or more of the subject Toyota or
10 Lexus vehicles. Defendants also repeatedly and knowingly made untrue and misleading statements
11 in California regarding the purported reliability and safety of their vehicles in general and the
12 existence or absence of the Defects and the purported causes thereof. This information was known
13 only to Defendants and could not reasonably have been discovered by California consumers.

14 65. As a direct and proximate result of Defendants' concealment and failure to disclose
15 the Defects, Defendants intended that consumers would be misled into believing that they would be
16 purchasing a safe and reliable vehicle, when in fact, the subject Toyota and Lexus vehicles are
17 dangerously defective.

18
19 **UNLAWFUL**

20 66. The unlawful acts and practices of Defendants alleged above constitute unlawful
21 business acts and/or practices within the meaning of California Business and Professions Code
22 section 17200. Defendants' unlawful business acts and/or practices as alleged herein have violated
23 numerous state, statutory and/or common laws - and said predicate acts are therefore per se
24 violations of section 17200. These predicate unlawful business acts and/or practices include, but
25 are not limited to, the following: California Business and Professions Code section 17500 (False
26 Advertising), California Civil Code section 1572 (Actual Fraud - Omissions), California Civil Code
27 section 1573 (Constructive Fraud by Omission), California Civil Code section 1710 (Deceit),
28 California Civil Code section 1770 (the Consumers Legal Remedies Act - Deceptive Practices),

1 California Civil Code section 1793.2 et seq. (the Consumer Warranties Act), and other California
2 statutory and common law.

3
4 UNFAIR

5 67. Defendants' concealment, omissions and misconduct as alleged in this action
6 constitute negligence and other tortious conduct and gave Defendants an unfair competitive
7 advantage over their competitors who did not engage in such practices. Said misconduct, as
8 alleged herein, also violated established law and/or public policies which seek to promote prompt
9 disclosure of important safety-related information. Concealing and failing to disclose the nature
10 and extent of the Defects to California consumers, before those consumers purchased or leased one
11 or more of the Subject Vehicles, as alleged herein, was and is directly contrary to established
12 legislative goals and policies promoting safety and the prompt disclosure of such defects, prior to
13 purchase. Therefore Defendants' acts and/or practices alleged herein were and are unfair within the
14 meaning of Business and Professions Code section 17200.

15 68. The harm to California consumers outweighs the utility, if any, of Defendants' acts
16 and/or practices as alleged herein. Thus, Defendants' deceptive business acts and/or practices, as
17 alleged herein, were unfair within the meaning of Business and Professions Code section 17200.

18 69. As alleged herein, Defendants' business acts and practices offend established public
19 policies, including but not limited to, public policies against making partial half truths and failing
20 to disclose important material facts to consumers before they bought or leased the Subject Vehicles.

21 70. In addition, as alleged herein, Defendants intended that California consumers would
22 be misled and/or deceived into believing that they would be purchasing a safe and reliable vehicle,
23 when, in fact, they were purchasing a vehicle that had Defects that had the potential to cause
24 serious bodily injury and/or death. This practice is and was immoral, unethical, oppressive,
25 unscrupulous or substantially injurious to consumers and thus unfair within the meaning of
26 Business and Professions Code section 17200.

27 71. At all times relevant, Defendants' misconduct and omissions alleged herein: (a)
28 caused substantial injury to the Public; (b) had no countervailing benefit to consumers or to

1 competition that could possibly outweigh this substantial injury; and (c) caused injury that could
2 not have been avoided or even discovered by ordinary consumers, because it resulted from
3 Defendants' concealment, failure to disclose and/or omission of important safety related material
4 information that only the Defendants knew or could have known. Thus, Defendants' acts and/or
5 practices as alleged herein were unfair within the meaning of Business and Professions Code
6 section 17200.

8 FRAUDULENT

9 72. Defendants' acts and practices, as alleged herein, were likely to, and did, deceive the
10 Public. Defendants' concealment, material omissions, acts, practices and non-disclosures, as
11 alleged herein, therefore constitute fraudulent business acts and/or practices within the meaning of
12 California Business and Professions Code section 17200.

13 73. California consumers have been, and continue to be, deceived by Defendants'
14 concealment and material omissions as alleged herein. California consumers have suffered injury
15 and lost money as a direct result of the deceptive conduct as alleged herein. The unlawful, unfair,
16 deceptive and/or fraudulent business acts and practices of Defendants, as fully described herein,
17 present a continuing threat to the citizens of California to be misled and/or deceived by Defendants
18 as alleged herein, and or to be substantially injured by these dangerously defective cars and trucks.

20 PRAYER FOR RELIEF

21
22 WHEREFORE, Plaintiff prays for judgment against each Defendant, jointly and severally,
23 as follows:

- 24 A. Pursuant to Business and Professions Code section 17203, that all Defendants, their
25 employees, agents, representatives, successors, assigns, and all persons who act in
26 concert with them be permanently enjoined from committing any acts of unfair
27 competition, including the violations alleged in the First Cause of Action.

- B. Pursuant to Business and Professions Code section 17206, that Defendants, and each of them, be ordered to pay a civil penalty in the amount of two thousand five hundred dollars (\$2,500.00) for each violation of Business and Professions Code section 17200 by Defendants, in an amount according to proof.
- C. That Plaintiff recover its costs of suit, including costs of investigation.
- D. For reasonable attorneys' fees pursuant to Code of Civil Procedure section 1021.5, or other applicable law; and
- E. For such other equitable relief as is just and proper.

Dated: March 11, 2010

Respectfully submitted,

TONY RACKAUCKAS, DISTRICT ATTORNEY
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