26. As a direct and proximate result of said breach of implied warranty, Plaintiff has sustained, and continues to sustain, incidental and consequential damages in the approximate amount of $75,000.00.

27. Pursuant to Civil Code § 1794(d), Plaintiff is entitled to reasonable attorney fees according to proof.

THIRD CAUSE OF ACTION
Breach of Written Warranty--Magnuson-Moss Warranty Act

28. Plaintiff incorporates by reference all preceding paragraphs.

29. The vehicle is a "consumer product" as defined by 15 U.S.C. § 2301(1).

30. Plaintiff is a "consumer" as defined by 15 U.S.C. § 2301(3).

31. Toyota is a "supplier" and a "warrantor" as defined respectively by 15 U.S.C.§ 2301(4) and (5).

32. The express written warranty is a "written warranty" as defined by 15 U.S.C. § 2301(6).

33. Toyota breached the written warranty by failing to conform the vehicle to the express warranty within a reasonable number of attempts, a reasonable amount of time or within the warranty period itself.

34. Prior to commencing this action, Plaintiff afforded Toyota reasonable opportunities to cure the failures and to comply with the terms of the written warranty.

35. Pursuant to 15 U.S.C. § 2310(d)(1), Plaintiff is entitled to the equitable remedies of rescission and restitution and/or damages. Plaintiff revokes acceptance of the vehicle and rescinds the contract. Plaintiff is entitled to restitution of all consideration given.

36. As a proximate result of the breach of written warranty, Plaintiff has sustained, and continues to sustain damages, both economic and noneconomic, in the approximate amount of $75,000.00.

37. Pursuant to 15 U.S.C. § 2310(d)(2), Plaintiff is entitled to attorney fees and expenses reasonably incurred in connection with this action.

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