> or any advertising device, . . . or in any other manner or means whatever, including over the Internet, any statement . . . which is untrue or misleading, and which is known, or which by the exercise of reasonable care should be known, to be untrue or misleading . . . .

90. Toyota stated directly and indirectly in various marketing and advertising campaigns that its vehicles are safe and reliable. For example, a statement on Toyota's website dated November 18, 2009 states: "Toyota is confident its vehicles are among the safest on the road today and is committed to the highest levels of vehicle safety and quality." These statements were untrue in light of the problems with unintended acceleration.

91. Defendants' statements in its brochures, websites, television ads, newspaper ads, and other means constituted advertising for purposes of this claim.

92. Defendants' advertising program contained statements concerning vehicle safety and reliability that were false or misleading and that were known or should have been known to Defendants to be false or misleading.

93. As a direct result of Defendants' unlawful conduct, Plaintiff and the Class have suffered the damages set forth in paragraph 8.

FIFTH CLAIM FOR RELIEF
BREACH OF THE IMPLIED WARRANTY OF MERCHANTABILITY

94. Plaintiff re-alleges all preceding allegations as if fully set forth herein.

95. Defendants' vehicles were accompanied by an implied warranty of merchantability when sold, pursuant to California Civil Code § 1792.

96. California Civil Code § 1791.1(a) states:

> "Implied warranty of merchantability" or "implied warranty that goods are merchantable" means that the consumer goods meet each of the following: