R.C.§1302.28 that the vehicles were fit for the purposes Plaintiffs and Class members intended for them.

76. Toyota's vehicles were not fit for that purpose in that their design, choice of components or manufacture are so defective as to cause such vehicles to suddenly and unintentionally accelerate. Additionally, the vehicles fail to provide an adequate means of braking or stopping vehicles that have so accelerated.

77. As a result, Plaintiffs and Class members have been damaged in an amount to be proved at trial.

## COUNT X

## Negligence

78. Plaintiffs incorporate by reference and restate each and every allegation above as if fully rewritten herein.

79. Toyota had a duty to its customers as a manufacturer of motor vehicles to provide vehicles that, in their ordinary operation, would be safe. Toyota had a duty to adequately test its vehicles' safety before selling millions to American consumers. Toyota particularly had a duty to test vehicles for acceleration system problems once Toyota was on notice that its vehicles had a propensity to suddenly accelerate and/or once Toyota became aware that American consumers were dying in large numbers as a result of the problem.

80. Toyota breached its duty to Plaintiffs and Class members.

81. As direct and proximate causes of the breach, Plaintiffs and Class members have been damaged including, but not limited to, the financial loss of owning or leasing vehicles that are unsafe as well as being subject to the potential risk of injury.



TOY-TQ002-06-3D-00002282