ARGUMENT

I. Plaintiffs Are Entitled To A Temporary Restraining Order Or Preliminary Injunction To Prevent Imminent Harm

A. Plaintiffs Satisfy the Requirements for a Temporary Restraining Order Or A Preliminary Injunction

Pursuant to F.R.C.P. 65, the factors considered in granting a temporary restraining order or a preliminary injunction are similar:

(1) Whether the movant has shown a strong or substantial likelihood or probability of success on the merits;

(2) Whether the movant has shown irreparable injury;

(3) Whether the issuance of a preliminary injunction [TRO] would cause substantial harm to others; and

(4) Whether the public interest would be served by granting the injunctive relief.

Kingsley v. Brundige, Case No. C2-1090, 2009 WL 459745 (S.D. Ohio Dec. 3, 2009)

Here, the uncontested facts (as a result of Defendants' admissions and promises) establish that Plaintiffs are entitled to a injunctive relief. First, a substantial likelihood exists that Plaintiffs will prevail on the merits. The current record, even without discovery, establishes that Toyota has recalled millions of cars and trucks due their SUA defect, which causes accidents, injuries, and deaths. Consumer reaction to the recalls demonstrates that Ohio consumers, similar to consumers throughout the United States, believe that Toyota vehicles are dangerous and that Ohio consumers do not want to drive the cars and trucks. The recalls also demonstrate that Toyota cars and trucks are, in fact, unsafe. Toyota's continuing misrepresentations and concerning the cause of and "fix" for SUA, and its admitted brake override modifications to unsold new cars demonstrate that Plaintiffs have a substantial likelihood of prevailing on the merits.