COUNT II
PRODUCT LIABILITY – DESIGN DEFECT, MANUFACTURING DEFECT AND FAILURE TO WARN (N.J.S.A. 2A:58C-1 *et seq.*)

49. Plaintiff incorporates by reference paragraphs 1 through 48 above, as though fully set forth herein.

50. At all times material hereto, Toyota was engaged in the business of designing, manufacturing, assembling, promoting, advertising, selling, and distributing vehicles in the United States, including but not limited to, the Subject Vehicles.

51. Toyota knew and expected for the Subject Vehicles to eventually be sold to and operated by purchasers and /or eventual owners of the Subject Vehicles, including Plaintiff and the Plaintiff Class members; consequently, Plaintiff and the Plaintiff Class Members were expected users of the Subject Vehicles which Toyota manufactured.

52. The Subject Vehicles reached Plaintiffs without substantial change in their condition from time of completion of manufacture by Toyota.

53. The accelerator pedal defects in the Subject Vehicles could not have been contemplated by any reasonable person expected to operate the Subject Vehicles, and, therefore, presented an unreasonably dangerous situation for expected users of the Subject Vehicles even though Subject Vehicles were operated by expected users in a reasonable manner.

54. Toyota should have reasonably foreseen that the dangerous conditions caused by the defective accelerator pedals in the Subject Vehicles would subject Plaintiff and the Plaintiff Class Members to harm resulting from the defective pedals.

55. Plaintiff and the Plaintiff Class Members have used the Subject Vehicles reasonably and as intended, to the fullest degree possible given the defective nature of the accelerator pedals, and, nevertheless, have suffered damages through no fault of their own.