65. The Unfair Business Practices Act defines unfair business competition to include any "unfair," "unlawful," or "fraudulent" business or practice. Cal. Bus. & Prof. Code §17200. Unfair competition also includes "unfair, deceptive, untrue or misleading advertising." The Act also provides for injunctive relief and restitution for violations.

66. Throughout the Class Period, Defendants committed acts of unfair competition, as defined by Business & Professions Code §17200, by:

a. manufacturing and selling vehicles containing a dangerous condition;

b. failing to adequately investigate claims of unintended acceleration;

c. failing to individually notify Class members of the worn accelerator recall and underlying dangerous condition; and

d. violating other laws alleged herein.

67. Defendants' conduct is unfair in that the harm to Plaintiffs and the Class arising from Defendants' conduct outweighs the utility, if any, of those practices.

68. As a direct and proximate result of the acts and practices alleged above, pursuant to California Business & Professions Code §17203, Plaintiffs and the Class are therefore entitled to: (a) an Order requiring Defendants to cease the acts of unfair competition alleged herein; (b) full restitution of all monies paid to Defendants as a result of its deceptive practices, including, but not limited to, disgorgement of all profits derived from the sale of the subject vehicles; (c) interest at the highest rate allowable by law; and (d) the payment of Plaintiffs' attorneys' fees and costs pursuant to, *inter alia*, California Code of Civil Procedure §1021.5.

COUNT III

Breach of Implied Warranty of Merchantability

69. Plaintiffs, on behalf of themselves and on behalf of all others similarly situated, reallege and incorporate herein by reference each of the foregoing paragraphs.

TOY-TQ002-06-3D-00003080