

10. Reports of unintended accelerations of Toyota vehicles began to increase significantly in 2002, when Toyota began installing the ETCS-i in a broad range of its vehicle lines.

11. ETCS-i-equipped vehicles are sometimes referred to as "throttle-by-wire" or "drive-by-wire" because the ETCS-i has no mechanical linkage between the accelerator pedal and the throttle plate in the engine.

12. It soon became apparent that models with the ETCS-i were experiencing a failure rate significantly greater than other models. As the number of reports involving Toyota models with "throttle-by-wire" electronics grew, the claimed injury and death toll also increased alarmingly. However, Toyota and Toyota dealers continue to market ETCS-i-equipped vehicles without an appropriate failsafe despite knowledge that they are unreasonably dangerous by virtue of their design.

13. By marketing vehicles equipped with ETCS-i such as the 2007 Toyota FJ Cruiser, and 2007 Toyota Highlander, without incorporating an electronic or mechanical failsafe similar to those provided by Toyota's competitors, Toyota has misled and harmed the Plaintiffs and thousands of unsuspecting consumers throughout West Virginia.

14. Toyota engaged in unfair and deceptive marketing of its ETCS-i-equipped vehicles both in direct communications to its consumers and in misinformation supplied by Toyota to the National Highway Transportation Safety Administration ("NHTSA") investigators. Specifically, Defendant Toyota Motor North America ("TMNA") was the Toyota entity charged with communicating with NHTSA and is liable for its misconduct in causing or contributing to unfair deceptive acts and practices in so doing.