Recalled Vehicles unfit for use. Toyota and CTS knew or recklessly disregarded the fact that Plaintiff and the Nationwide Class were not knowledgeable with regard to the frequent failures, cost, and true nature of the accelerator pedal assemblies as alleged herein, and did not disclose that information to Plaintiff and the Nationwide Class. Defendants also breached those covenants by refusing to provide Plaintiff and the Nationwide Class with an adequate remedy.

95. Defendants behaved inequitably and acted in total disregard of the harm caused to Plaintiff and the Nationwide Class, and unjustly enriched themselves at the expense of Plaintiff and the Nationwide Class.

96. As a direct and proximate result of Toyota and CTS's breach of its implied covenants, Plaintiff and Nationwide Class members have been damaged.

COUNT VI

Asserted On Behalf Of The Sub-Class Against Toyota and CTS
(Violation Of N.Y. G.B.L. §349)

97. Plaintiff repeats and realleges the allegations of the preceding paragraphs as if fully set forth herein.

98. Plaintiff and other members of the Sub-Class are "consumers" in accordance with GBL §349.

99. At all relevant times material hereto, Toyota and CTS conducted trade and commerce in New York and elsewhere within the meaning of GBL §349.

100. Toyota and CTS' acts materially misled Plaintiff and the Sub-Class in that Toyota and CTS misrepresented or failed to disclose the following material facts:

a. The Recalled Vehicles are not fit for normal use;

b. The accelerator pedal assemblies have a dangerous propensity to stick in the full-open position resulting in sudden and unintended acceleration;

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