118. The conduct of Defendants alleged above constitutes unfair and/or deceptive consumer sales practices in violation of K.R.S. Section 367.170, because Defendants represented through advertising and other marketing communications that the vehicles were new and free from defects and could be driven safely in normal operation. Instead, the vehicles were not of the standard, quality or grade of new vehicles.

119. Defendants' conduct caused Plaintiffs damages as alleged.

120. Plaintiffs specifically do not allege herein a claim for violation of K.R.S. Section 367.840-42.

121. As a result of the foregoing wrongful conduct of Defendants, Plaintiffs and the Class have been damaged in an amount to be proved at trial.

COUNT V

False Advertising and Negligence Per Se

122. Plaintiffs incorporate by reference and restate each and every allegation above as if fully rewritten herein.

123. Defendants violated K.R.S. Section 517.030, false or misleading advertising in connection with the promotion of goods.

124. Toyota violated this statute because it advertised that its vehicles were safe and reliable contrary to the advertisements and similar representations by Toyota dealers, Toyota knew since 2002 that the recalled vehicles were highly dangerous, unsafe and unreliable due to the likelihood of the vehicles to rapidly accelerate.

125. Toyota's violation of K.R.S. Section 517.030 is a misdemeanor. K.R.S. Section 517.030(2). Toyota is therefore negligent per se.

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