

1 repeat each and every allegation contained in the prior paragraphs of this complaint.

2 50. Defendants breached the implied warranties of merchantability. The  
3 warranty of merchantability is implied into every commercial transaction. The warranty  
4 of merchantability requires that products be of reasonable workmanlike quality and free  
5 from defects. Defendant impliedly warranted to the Plaintiffs and the Class that their  
6 vehicles were of merchantable quality. The Defendant breached the warranty of  
7 merchantability by designing, manufacturing, distributing, selling and refusing to  
8 adequately repair or replace their vehicles after it became apparent they were defective.

9 51. At all times Plaintiffs and the Class relied on the representations made by  
10 Defendant that their vehicles are reliable and of a quality that rendered them suitable for  
11 their intended use. Plaintiffs and Class Members also relied on the fact that Defendant  
12 would produce a vehicle of merchantable quality as required by the implied warranty of  
13 merchantability.

14 52. Defendant has breached its implied warranties to Plaintiffs and the Class in  
15 that the defective design of their vehicles renders them unusable for their intended  
16 purpose and Defendants refuse to properly repair or replace these vehicles.

17 53. As a direct and proximate cause of the Defendants' breach of the implied  
18 warranty of merchantability, the Plaintiffs and Class Members have suffered and will  
19 continue to suffer losses.

20 **SECOND CAUSE OF ACTION**

21 **UNIFORM MISREPRESENTATION/FRAUD**

22 54. Plaintiffs on behalf of themselves and the Class, against all Defendants,  
23 repeat each and every allegation contained in the prior paragraphs of this complaint.

24 55. The Defendants uniformly misrepresented the true cause of the unintended  
25 acceleration of their vehicles. The Defendants owed a duty of care to the Plaintiffs and  
26 Class Members. The Defendants breached their duty by making the uniform, written,  
27 material misrepresentations that the unintended acceleration of their vehicles was caused  
28 by floor mats or faulty pedal designs.