members have suffered damages in an amount to be determined at trial in that, among other things, they purchased and paid for a product that did not conform to what was promised as promoted, marketed, advertised, packaged and labeled by Toyota, and they were deprived of the benefit of their bargain and spent money on a product that did not have any value or had less value than warranted or a product they would not have purchased and used had they known the true facts about it. Plaintiff and other members of the class are further harmed in having to spend money on attaining other transportation while the Recalled Vehicles are being fixed. Additionally, or in the alterative, plaintiff and other members of the class suffered actual damages, including a diminution of value of the subject vehicles (the difference in market value of the product in the condition in which it was delivered, and its market value in condition in which it should have been delivered according to contract of parties).

VI. SECOND CAUSE OF ACTION

(BREACH OF IMPLIED WARRANTY OF MERCHANTABILITY)

34. Plaintiff repeats and realleges all preceding paragraphs, as if fully set forth herein.

35. Plaintiff and other Class members purchased Toyota's Recalled Vehicles, which were promoted, marketed, advertised, packaged and labeled as being safe to operate. Pursuant to these sales, Toyota impliedly warranted that the Recalled Vehicles would be merchantable, including that the Recalled Vehicles would be fit for the ordinary purposes for which such goods are used and conform to the promises or affirmations of fact made in the Recalled Vehicle's promotions, marketing, advertising, packaging and labels. In doing so, plaintiff and other Class members relied on Toyota's representations that the Recalled Vehicles were safe to operate, and at or about that time, Toyota sold to plaintiff and other Class members the Recalled Vehicles. By its representations

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