51. Plaintiff has retained counsel competent and experienced in complex consumer class actions and consumer litigation. Counsel will strongly assert the claims of the Classes.

FIRST CLAIM FOR RELIEF

BREACH OF THE IMPLIED WARRANTY OF MERCHANTABILTY

52. Plaintiff incorporates by reference the allegations in paragraphs 1-51 above as though fully set forth at length herein.

53. Defendants have violated the implied warranty of merchantability.

54. Defendants have violated U.C.C. § 2-314.

55. Defendants are, and at all relevant time have been, merchants as they deal in goods of the kind at issue here.

56. Defendants impliedly warrant their vehicles as merchantable, or in other words, as fit for the ordinary purposes for which such goods are used.

57. The ordinary purpose for which Toyota-produced vehicles are used is to provide the purchaser with a reasonably safe vehicle that can be used to transport persons and things, without unduly endangering them, from one point to another.

58. Defendants have breached their implied warranty of merchantability by selling vehicles that are unreasonably dangerous due to sudden, unintended acceleration and that do not contain safety mechanisms which would prevent such sudden, unintended acceleration or assist the driver in controlling the vehicle in the event of such sudden, unintended acceleration.

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