THIRD CLAIM FOR RELIEF

NEW YORK GENERAL BUSINESS LAW

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

68. Plaintiff and the other members of the Classes are consumers within the meaning of N.Y. Gen. Bus. Law § 349, *et seq*.

69. Deceptive acts and practices are declared unlawful pursuant to the N.Y. Act, which provides in pertinent part under N.Y. Gen. Bus. Law § 349 as follows: "Deceptive acts or practices in the conduct of any business, trade or commerce or in the furnishing of any service in this state are hereby declared unlawful."

70. N.Y. Gen. Bus. Law § 349(h) provides Plaintiff with standing to commence this action, recover treble damages, attorneys' fees and costs, and enjoin the continuation of practices complained of herein and provides in relevant part as follows:

> In addition to the right of action granted to the attorney general pursuant to this section, any person who has been injured by reason of any violation of this section may bring an action in his own name to enjoin such unlawful act or practice, an action to recover his actual damages or fifty dollars, whichever is greater, or both such actions. The court may, in its discretion, increase the award of damages to an amount not to exceed three times the actual damages up to one thousand dollars, if the court finds the defendant willfully or knowingly violated this section. The court may award reasonable attorney's fees to a prevailing plaintiff.

71. The conduct of Defendants in the design, manufacture, distribution, promotion, marketing and sale of Toyota-produced vehicles with ETCS without disclosing the dangerous defects in design and manufacture and as otherwise set forth in this Complaint constitute deceptive acts or practices.

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