

1 Class Members foreseeably and permissibly relied upon the Defendant's uniform
2 written misrepresentations when making a decision to purchase a vehicle. Class
3 Members reasonably believed that they were purchasing vehicles that were free from
4 defects. Class Member relied upon the Defendant's misrepresentations of material
5 facts concerning the qualities and characteristics of their vehicles and the purported
6 cause of the unintended acceleration – floor mats and pedals.

7 Because of the Defendant's uniform misrepresentations, the Class Members
8 have suffered losses and are entitled to a remedy.

9 **FOURTH CAUSE OF ACTION**

10 **NEGLIGENCE**

11 Plaintiffs repeats each and every allegation contained in the prior paragraphs of
12 this Complaint.

13 Defendants had a duty to the Plaintiffs and Class Members to provide a safely
14 designed and manufactured product. Defendants also had a duty to warn the NHTSA,
15 Plaintiffs and Class Members of the true nature of the defective design of the
16 Defendants' vehicles. Defendants failed to fulfill this duty to the Plaintiff and Class
17 Members.

18 Defendants breached the duty owed to the Plaintiffs and Class Members by
19 negligently designing its electronic throttle control (ETC) system such that vehicles were
20 prone to unintended acceleration and inability to stop that acceleration once started.
21 Defendants failed to properly program software in their vehicles to disengage the
22 throttle when the brake was pressed and/or to design mechanical throttle control
23 systems as a safety back up for their electronic throttle control system.

24 Defendants breached the duty owed to the Plaintiffs and Class Members by
25 failing to adequately warn that their vehicles were prone to unintended acceleration
26 and/or that it might be difficult to disengage the throttle once the accelerator pedal had
27 been pressed. Defendants also failed to adequately warn the Plaintiffs and Class
28 Members how to disengage the accelerator pedal manually – by shifting to neutral