COUNT II

BREACH OF IMPLIED WARRANTY

46. Plaintiff incorporates the foregoing paragraphs as though fully set forth at length herein.

47. Defendants impliedly warranted that Toyota automotive vehicles were merchantable and fit for use for particular purposes at the time of the purchase and sale.

48. Plaintiff and the Proposed Classes' Members reasonably relied on the implied warranty of for a particular purpose.

49. Defendants' malfunctioning and/or defective automobiles were unfit for the particular purposes for which they were manufactured, marketed and/or sold at the time of the purchase and sale.

50. As a direct and proximate result of Defendants' breach of the implied warranty of fitness for a particular purpose, of which Defendants were aware, Plaintiff's Classes has been damaged, estimated at more than $5,000,000, as a result of the diminished value of the Defendants' products, the products' malfunctioning and the non use of their vehicles.

51. Plaintiff and the Classes' Members are entitled to damages, including the diminished value of their automobiles as a result of the defective accelerator pedals and brakes that are affected by the instant safety recall, in addition to any costs associated with purchasing safer vehicles, incidental and consequential damages, and all other damages allowable under law, including such further relief as the Court deems just and proper.

COUNT III

UNJUST ENRICHMENT

52. Plaintiff incorporates the foregoing paragraphs as though fully set forth at length

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