80. Defendant's 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.

81. As a direct and proximate result of Defendant's breach of the implied warranty of fitness for a particular purpose, Plaintiff and the Class have been damaged as a result of the diminished value of the Defendant's products, the products' malfunctioning and the non use of their vehicles.

82. Plaintiff and the Class 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.

COUNT V

In the Alternative, UNJUST ENRICHMENT

83. Plaintiff incorporates by reference and realleges all paragraphs alleged herein. Plaintiff pleads this count in the alternative should Plaintiff's statutory claims fail or be dismissed.

84. Defendant had knowledge of the safety defect of select automotive vehicles.

85. Defendant failed to disclose the design defect of Toyota automotive vehicles to Plaintiff and the Class either at the time of purchase or anytime thereafter prior to the recent recall.

86. During the class period, Plaintiff and the Class conferred upon Defendant, without knowledge of the safety condition affecting select models, payment for these vehicles, which are benefits that were clearly non-gratuitous.

87. Defendant appreciated, accepted and retained the non-gratuitous benefits conferred by Plaintiff and the Class despite Defendant's knowledge of the defects affected the select automotive vehicle models. Retaining the non-gratuitous benefits

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