

Archive Case Report - 200606051138

NGHORN PL

Customer/Caller Summary:

Customer Name/Address:

Caller Phone: Caller Alt. Phone:

Case Summary: Case Title:

Case Type:

Category:

Component:

Condition:

VIN:

Dofu:

Contact Method:

Cust Attitude:

Coding Type:

Problem Area:

Current Miles:

Model Year:

Model Name:

Region:

District:

Dealer 1:

Incident Miles:

Selling Dealer:

PRODUCT; ABNORMAL CONDITION; RADIATOR- COOLING; OTHER-PLEASE SPECIFY GENERAL PHONE FRUSTRATED COMPLAINT PRODUCT ABNORMAL CONDITION RADIATOR- COOLING OTHER-PLEASE SPECIFY 2T1BR32E66C 03/28/2006 2000 2000 2006 COROLLA CAT А Sloane Toyota, 37101 Sloane Toyota, 37101

Case History:

Caller Seeks: REPAIR RADIATOR CAC Stated: NCR APOL. NCR ADV CUST WILL OPEN CASE TO CRM FOR DSPM INVOLVEMENT. NCR ADV CUST WILL FORWARD CASE FOR DSPM'S POSITION. NCR ADV CUST CASE#

*** PHONE LOG 06/05/2006 12:54:40 PM KClark

cllr sts: he george is calling on behalf of daughter would like to appeal a warranty decision. cllr adv his radiator needs to replaced. cllr adv dlr informed cust there has been physical damage to dlr which. cllr he has spoken to crm TWelsh, cllr adv crm informed veh looks as though someone put somethin in veh, which is causing the radiator to smoke. cllr adv the radiator has an housing around it, cllr adv he does not believe something couldn't fell into radiator.

*** NOTES 06/05/2006 12:54:40 PM KClark NOTE TO DLR: please get dspm involvement. ncr adv to contact with with poss appt.

*** NOTES 06/05/2006 01:07:29 PM KClark OUTGOING CALL TO DLR: ncr adv cust per TWelsh, crm will contact dspm for involvement. ncr adv crm informed dspm will not be avail to speak in person, until 06/21/06. ncr adv cust understood & thanked.

*** CASE CLOSE 06/12/2006 12:50:32 PM DLR37101 DLR CONTACTED DSM. DLR EXPLAINED FINDINGS TO DSM. DSM APPROVED REPLACEMENT OF RADIATOR UNDER WARRANTY. DLR INFORMED CUSTOMER, CUSTOMER HAPPY. DLR ORDERED PART. PART ON BACK ORDER. PART CAME IN 6/9 AND DLR INSTALLED AND CONTACTED CUSTOMER. CUSTOMER PICKED UP VEHICLE. PLEASE CLOSE.

| Activity Summary: | | | | | |
|-------------------|---------------------|------------|--|--|--|
| Activity | Date/Time | Originator | Additional Information | | |
| CLOSE | 06/12/2006 13:31:56 | LKARNS800 | Status = Closed, Resolution Code = Full, State = Open. | | |
| YANKED | 06/12/2006 13:31:52 | LKARNS800 | Case grabbed from DLR37101 to LKarns800's default | | |

| | | | | WipBin. |
|---------------|------------|----------|--------|---|
| DEALER CLOSE | 06/12/2006 | 12:50:33 | SCOTT | Status changed to Dealer Close |
| DISPATCH | 06/12/2006 | 12:50:33 | SCOTT | Case Dispatched to CAT Closed Queue. |
| ASSIGN | 06/05/2006 | 13:08:45 | KCLARK | Case assigned to DLR37101 |
| ACTION DEALER | 06/05/2006 | 13:08:45 | KCLARK | Case status changed to Action Dealer. |
| NOTES PHONE | 06/05/2006 | 13:07:29 | KCLARK | Log notes. Customer |
| MODIFY | 06/05/2006 | 12:54:40 | KCLARK | into WIP default and Status of Action CAC. |
| PHONE LOG | 06/05/2006 | 12:54:40 | KCLARK | <pre>Start = 06/05/2006 12:44:19 PM, End = 06/05/2006 12:54:40 PM, Contact = Maria Benonis.</pre> |
| NOTES NOTES C | 06/05/2006 | 12:54:40 | KCLARK | Log notes. Customer |
| CREATE | 06/05/2006 | 12:52:04 | KCLARK | Contact =, Priority = Customer, Status = Action CAC. |

| Robert A. Rapkin, Esquire Identification No. 61628 KIMMEL & SILVERMAN, P.C | LEGAL SERVICES | ATTORNEYS FOR PLAINTIFF |
|---|----------------|---|
| 30 East Butler Pike Ambler, PA 19002 (215) 540-8888 | FEB 1 8 2009 | THIS IS AN ARBITRATION MATTER. ASSESSMENT OF DAMAGES HEARING IS |
| | GROUP RECEIVED | REQUESTED. |
| Feasterville Trevose, PA | COU | RT OF COMMON PLEAS ADELPHIA COUNTY |
| v. TOYOTA MOTOR SALES, U.S.A 19001 South Western Avenue Torrance, CA 90501 | | LACTION |

COMPLAINT CODE: 1900

1. Plaintiff, **Sector**, is an adult individual citizen and legal resident of the Commonwealth of Pennsylvania, **Sector**, Feasterville Trevose, PA

2. Defendant, Toyota Motor Sales, U.S.A., Inc., is a corporation qualified to do and regularly conduct business in the Commonwealth of Pennsylvania, with its address and principal place of business located at 19001 South Western Avenue, Torrance, CA 90501, and can be served at this address.

BACKGROUND

3. On or about March 28, 2006, Plaintiff purchased a new 2006 Toyota Corolla, manufactured and warranted by Defendant, bearing the Vehicle Identification Number 2T1BR32E66C

4. The vehicle was purchased in the Commonwealth of Pennsylvania and is registered in the Commonwealth of Pennsylvania.

5. The contract price of the vehicle, including registration charges, document fees, sales tax, finance and bank charges, but <u>excluding</u> other collateral charges not specified, yet defined by the Case ID: 090200742

Lemon Law, totaled more than \$19,819.41. A true and correct copy of the contract is attached hereto, made a part hereof, and marked Exhibit "A".

6. In consideration for the purchase of said vehicle, Defendant issued to Plaintiff several warranties, guarantees, affirmations or undertakings with respect to the material or workmanship of the vehicle and/or remedial action in the event the vehicle fails to meet the promised specifications.

7. The above-referenced warranties, guarantees, affirmations or undertakings are/were part of the basis of the bargain between Defendant and Plaintiff.

8. The parties' bargain includes an express 3-year / 36,000 mile warranty, as well as other guarantees, affirmations and undertakings as stated in Defendant's warranty materials and owner's manual.

9. However, as a result of the ineffective repair attempts made by Defendant through its authorized dealer(s), the vehicle is rendered substantially impaired, unable to be utilized for its intended purposes, and is worthless to Plaintiff.

10. During the first 12 months and/or 12,000 miles, Plaintiff complained on at least three (3) occasions about defects and or non-conformities to the following vehicle components: Check Engine Light On, Loss of Power and Vehicle Stallilng. True and correct copies of all invoices in Plaintiff possession are attached hereto, made a part hereof, and marked Exhibit "B".

COUNT I MAGNUSON-MOSS (FTC) WARRANTY IMPROVEMENT ACT

11. Plaintiff hereby incorporates all facts and allegations set forth in this Complaint by reference as if fully set forth at length herein.

12. Plaintiff may or may have resorted to Defendant's informal dispute settlement procedure, to the extent said procedure complies with 16 CFR 703.

Case ID: 090200742

13. Plaintiff avers that the Federal Trade Commission (FTC) has determined that no automobile manufacturer complies with 16 CFR 703. See, Fed. Reg. 15636, Vol. 62, No. 63 (Apr. 2, 1997).

14. Plaintiff is a "Consumer" as defined by 15 U.S.C. §2301(3).

15. Defendant is a "supplier", "warrantor", and a "service contractor" as defined by 15 U.S.C. § 2301 (4),(5) and (8).

16. The subject vehicle is a "consumer product" as defined by 15 U.S.C. § 2301(1).

17. By the terms of its written warranties, affirmations, promises, or service contracts, Defendant agreed to perform effective repairs at no charge for parts and/or labor.

18. The Magnuson-Moss Warranty Improvement Act requires Defendant to be bound by all warranties implied by state law. Said warranties are imposed on all transactions in the state in which the vehicle was delivered.

19. Defendant has made attempts on several occasions to comply with the terms of its express warranties; however, such repair attempts have been ineffective.

20. The Magnuson-Moss Warranty Improvement Act, 15 U.S.C. §2310(d)(2) provides:

If a consumer finally prevails on an action brought under paragraph (1) of this subsection, he may be allowed by the court to recover as part of the judgment a sum equal to the amount of aggregate amount of costs and expenses (including attorney fees based upon actual time expended), determined by the court to have been reasonably incurred by the Plaintiff for, or in connection with the commencement and prosecution of such action, unless the court, in its discretion shall determine that such an award of attorney's fees would be inappropriate.

21. Plaintiff has afforded Defendant a reasonable number of opportunities to conform the vehicle to the aforementioned express warranties, implied warranties and contracts.

22. As a direct and proximate result of Defendant's failure to comply with the express written warranties, Plaintiff has suffered damages and, in accordance with 15 U.S.C. (d)(d)(1), Plaintiff is entitled to bring suit for such damages and other legal and equitable relief.

23. Defendant's failure is a breach of Defendant's contractual and statutory obligations constituting a violation of the Magnuson-Moss Warranty Improvement Act, including but not limited to: breach of express warranties; breach of implied warranty of merchantability; breach Case ID: 090200742 of implied warranty of fitness for a particular purpose; breach of contract; and constitutes an Unfair Trade Practice.

24. Plaintiff avers that Defendant's warranty was not provided to Plaintiff until after the vehicle was delivered, making any and all limitations, disclaimers and/or alternative dispute provisions ineffective for a failure of consideration.

25. Plaintiff avers Defendant's Dispute Resolution Program was not in compliance with 16 CFR 703 for the model year of the subject vehicle.

26. Plaintiff avers that Defendant's warranty did not require Plaintiff to first resort to a Dispute Resolution Program before filing suit.

27. Plaintiff avers that upon successfully prevailing upon the Magnuson-Moss claim herein, all attorney fees are recoverable and are demanded against Defendant.

WHEREFORE, Plaintiff respectfully demands judgment against Defendant in an amount equal to the price of the subject vehicle, plus all collateral charges, incidental and consequential damages, reasonable attorneys' fees, and all court costs.

COUNT II PENNSYLVANIA UNFAIR TRADE PRACTICES AND CONSUMER PROTECTION LAW

28. Plaintiff hereby incorporates all facts and allegations set forth in this Complaint by reference as if fully set forth at length herein.

29. Plaintiff is a "Person" as defined by 73 P.S. §201-2(2).

30. Defendant is a "Person" as defined by 73 P.S. §201-2(2).

31. Section 201-9.2(a) of the Act authorizes a private cause of action for any person "who

purchases or leases goods or services primarily for personal, family or household purposes."

32. Section 1961 of the Pennsylvania Automobile Lemon Law, provides that a violation of its

provisions shall automatically constitute a violation of the Pennsylvania Unfair Trade Practices

and Consumer Protection Act, 73 P.S. 201-1 et seq.

Case ID: 090200742

33. In addition, the Pennsylvania Unfair Trade Practices and Consumer Protection Act, 73P.S. §201-2(4), defines "unfair or deceptive acts or practices" to include the following conduct:

(vii). Representing that goods or services are of a particular standard, quality or grade, or that goods are of a particular style or model, if they are of another;

(xiv). Failing to comply with the terms of any written guarantee or warranty given to the buyer at, prior to, or after a contract for the purchase of goods or services is made;

(xv). Knowingly misrepresenting that services, replacements or repairs are needed if they are not needed;

(xvi). Making repairs, improvements or replacements on tangible, real or personal property of a nature or quality inferior to or below the standard of that agreed to in writing;

(xvii). Engaging in any other fraudulent or deceptive conduct which creates a likelihood of confusion or of misunderstanding.

34. Plaintiff avers Defendant has violated these, as well as other provisions, of 73 P.S. §201-

2 <u>et seq</u>.

35. Section 201-3.1 of the Act provides that the Automotive Industry Trade Practice rules and regulations adopted by the Attorney General for the enforcement of this Act shall constitute additional violations of the Act.

36. Defendant's conduct surrounding the sale and servicing of the subject vehicle falls within

the aforementioned definitions of "unfair or deceptive acts or practices."

37. The Act also authorizes the Court, in its discretion, to award up to three (3) times the actual damages sustained for violations.

WHEREFORE, Plaintiff respectfully demands judgment against Defendant in an amount not in excess of Fifty Thousand Dollars (\$50,000.00), together with all collateral charges, attorneys' fees, all court costs and treble damages.

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KIMMEL & SILVERMAN, P.C.

By: /s/_

ROBERT A. RAPKIN, ESQUIRE Attorney for Plaintiff 30 East Butler Pike Ambler, Pennsylvania 19002 (215) 540-8888

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Case ID: 090200742

VERIFICATION

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Robert A. Rapkin, states that he is the attorney for the Plaintiff herein; that he is acquainted with the facts set forth in the foregoing Complaint; that same are true and correct to the best of his knowledge, information and belief; and that this statement is made subject to the Penalties of 18 Pa. C.S.A. §4904, relating to unsworn falsifications to authorities.

> /s/_____ ROBERT A. RAPKIN, ESQUIRE Attorney for Plaintiff

> > Case ID: 090200742

| N-55-506 | 09 09:50 From: | \sim | To *** | 55408817 | Page: 4/5 | | | |
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| 411 217 1 17 | Security: | You have granted Capital One Auto Finance, Inc. a security interest in the vehicle you purchased with the loan proceeds. | | | | | | |
| | Filing Fee: | You agree to pay any lien filing fees, estimated at up to \$65.00. | | | | | | |
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SLOANE TOYOTA EASTON AND JENKINTOWN ROADS GLENSIDE, PA 19038 TOYOTA (215) 885-5400

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SERVICE & PARTS DEPARTMENT HOURS OF OPERATION:

MONDAY - SATURDAY 7:00 AM - 7:00 PM

www.sloaneautos.com

OUSTOWER ND. ACMISCIE TAG NO. UNDICE CHITE 78220 MACHCE NO. JOSEPH MCMILLAN 4<u>42</u> 06/09/06 TOCS356122 3,131 161662 MARE / MOORE OCLIVEHY DATE TOYOTA/COROLLA/SON 4CYL S AUTO 03/28/06 06 LANGHORNE, PA 20 MODUCTION DAT 37101 11 8 R 3 <u>2 E 6 6 C</u> L CE INC 06/05/06 BUSINESS DUNK CONHENTS MO: 3132 JOB# 1 CHARGES *----ABOR -KEN CK ENGINE-LIGHT ON TECH(S):29 CUSTOMER STATES CHECK ENGINE LIGHT IS ON CLRTIFIED DIAGHOSTIC TECHNICIAN ANALYZES VEHICLE ELECTRONIC CONTROL SYSTEMS USING FACTORY COMPUTERIZED DIAGNOSTIC TOOL. CUST STATES CAR WAS OVERHEATINGPARKED IN GARAGE CAR HAD A SMELL OF BURNT RUBBER AFTER DRIVING..... CODE PD 117 COOLANT TEMP SENSOR FOUND RADIATOR LEAKING REPLACE RADIATOR ASSY OP: 16011XZ 64/48 J# 1 55TOZZCKEN WARRANTY 1 PARTS------QTY---FP-NUHBER------1 16400-0D240 1 00272-SLLC2 WARRANTY TOTAL · PARTS 0.00 WARRANTY TOTAL · SUBLET 0.00 JOB# 1 FOTALS JOB# 1 JOURNAL PREFIX TOCS JOB# 1 TOTAL 0.00 COMMENTS DROP TOTALS-----CUSTOMER NOTIFICATION: TOTAL LABOR.... TOTAL PARTS.... TOTAL SUBLET... TOTAL G.O.G... TOTAL MISC CHG. TOTAL MISC DISC TOTAL TAX.... 0.00 0.00 0.00 DATE: TIME: TALK TO: ASH # AHOUNT S 0.00 0.00 0.00 ŏ.00 ŝ [] VISA [] H/CARD [] AH/EX [] DISCOVER \$ \$ \$ TOTA [] CHARGE [] CASH [] CHECK - CK# AUTHORIZATION # RECEIVED BY CUSTOKER SIGNATURE . PLAINTIFF'S **UL-STATE LEGA** EXI PAGE 1 OF 1 CUSTOMER COPY EEND OF INVOICE 105:11pm case ID: 09 02007'42

| NEW | 8 | USED | CAR | SALES |
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| 1-800-826-7971 ітожелика — 129953—— | www.te | rne, PA 190 amtoyota.n -741-4200 | et | | 215-741 [⊆] 828i | 215-378-9646 |
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Thanks for Being Part of the Team!

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TOYOTA | moving forward

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| Thanks for Being Part of the Team! | Service Center 407 East Lincoln Highway Langhorne, PA 19047 www.teamtoyota.net | NEW & USED CAR SALES TOYOTA moving forwar PARTS & SERVICE HOURS MONDAY - FRIDAY 7:30 - 9:00 SATURDAY 8:00 - 5:00 |
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Case Report - 200510121080

Bakersfield, CA

Customer/Caller Summary:

Customer Name/Address:

Caller Phone: Caller Alt. Phone:

Case Summary:

Contact Method:

Cust Attitude:

Coding Type: Category:

Problem Area:

Current Miles: Incident Miles:

Model Year: Model Name:

Region:

District:

Dealer 1:

Component:

Condition:

VIN:

Dofu:

Case Title: Case Type: Product; Abnormal Condition; HVAC System; Does not Cool Priority Written To Pursue Legal Acti Complaint Product Abnormal Condition HVAC System Does not Co<u>o</u>l 2T1BY32E55C 05/29/2005 0 0 2005 Corolla Los Angeles 03 04347 Frontier Toyota, Frontier Toyota, 04347

Case History:

Selling Dealer:

Customer Seeks:Repurchase + payment of Attorney fees.CAC Stated:Region will follow up with Attorney's Office as instructed.

*** PHONE LOG 10/12/2005 01:42:42 PM WSamuels

==LEMON LAW (CA) == Rec.via InterOffice delivery 10/12/2005. Prev. cases are 200508171313 and 200508251154. Atty J. Basola (K&M) adv on cust's behalf that cust has taken veh to Dlr for unsuccessful repair attempts for HVAC syst not cooling, cap missing from a/c line, veh stalls when clutch is engaged. Per Song-Beverly, cust seeks cancellation of contract & return of all funds paid towards veh + payment of Atty fees.

*** NOTES 10/12/2005 01:43:04 PM WSamuels
KROHN & MOSS, Ltd.
5055 Wilshire Boulevard, Suite 300
Los Angeles, CA 90036
Jennifer Basola - Attorney
323-988-2400 x227 - Office
866-431-5575 Facsimile
www.krohnandmoss.com
jbasola@consumerlawcenter.com

*** CASE CLOSE 11/15/2005 12:05:17 PM CSimard110 LA Region repurchasing customers vehicle. Left mess at attorney's office

*** NOTES 11/16/2005 02:07:23 PM MSweeter110 LA Region repurchased vehicle.

Activity Summary:

ActivityDate/TimeOriginatorAdditional InformationNotes11/16/2005 02:07:23 PMMSweeter110Log notes.Rule Action11/16/2005 02:07:28 PMrulemgrAction Send Notify of rule Toyota Priority Notify

| * | | | | |
|---|--|----------------------------|--|--|
| Yanked | 11/15/2005 12 | 2:04:32 PM | CSimard110 | Non Owner fired Case grabbed from MGiderman110 to CSimard110's default WipBin. |
| Chg Status Case Close | 11/15/2005 1: 11/15/2005 1: | | CSimard110 CSimard110 | Action Region Status = Closed, Resolution Code = Full, State = Open. |
| Rule Action | 11/15/2005 1 | 2:05:20 PM | rulemgr | Action Notify Originator for Closed Case of rule Toyota Priority Closed Case fired |
| Accept Create | 10/13/2005 0 10/12/2005 1 | | MGiderman110 WSamuels | from Queue Los Angeles to WIP LEMON LAW CASES. Contact =, Priority = Lemon Law, Status = Action CAC. |
| Phone Log | 10/12/2005 0 | 1:42:42 PM | WSamuels | Start = 10/12/2005 12:28:14 PM, End = 10/12/2005 01:42:42 PM, Contact = |
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Case Report - 200508251154

Bakersfield, CA

Customer/Caller Summary:

Customer Name/Address:

Caller Phone: Caller Alt. Phone:

Case Summary: Case Title:

Contact Method:

Cust Attitude:

Current Miles:

Model Year:

Model Name: Region:

District:

Dealer 1:

Incident Miles:

Selling Dealer:

Coding Type:

Case Type:

Category: Problem Area:

Component:

Condition:

VIN:

Dofu:

Sales/New Purchase; Delivery; Features not explained; Not Applicable General Survey Concerned Complaint Sales/New Purchase Delivery Features not explained Not Applicable 2T1BY32E55C 05/29/2005 0 0 2005 Corolla Los Angeles 03 Frontier Toyota, 04347 Frontier Toyota, 04347

Case History:

Customer Seeks: crm contact CAC Stated:

*** PHONE LOG 08/25/2005 01:48:00 PM EHellmer ===Rapid Response Survey=== Q04A-Accessories as Promised-Poor

*** CASE CLOSE 08/30/2005 03:03:23 PM DLR04347 ASST CUST WITH INTERIOR FABRIC AND EXTERIOR PAINT PROTECTION AND WILL DETAIL & FUEL VEH. CUST VERY HAPPY.

Activity Summary:

| Activity | Date/Time | Originator Addi | itional Information |
|------------|---------------------|-----------------|--|
| Yanked | 08/30/2005 04:36:41 | PM MGiderman110 | Case grabbed from DLR04347 to MGiderman110's default WipBin. |
| Chg Status | 08/30/2005 04:36:41 | PM MGiderman110 | Action Region |
| Case Close | 08/30/2005 04:36:44 | PM MGiderman110 | Status = Closed, Resolution Code = Full, State = Open. |
| Chq Status | 08/30/2005 03:03:23 | PM DLR04347 | Status changed to Dealer Close |
| Dispatch | 08/30/2005 03:03:23 | PM DLR04347 | Case Dispatched to Los Angeles Closed Queue. |
| Create | 08/25/2005 01:45:20 | PM EHellmer | Contact = Priority = Customer, Status = Action CAC. |
| Modify | 08/25/2005 01:48:00 | PM EHellmer | into WIP default and Status of Action CAC. |
| Phone Log | 08/25/2005 01:48:00 | PM EHellmer | Start = 08/25/2005 01:45:20 PM, End = 08/25/2005 01:48:00 PM, Contact = |
| Modify | 08/25/2005 01:48:16 | PM EHellmer | into WIP default and Status of Action CAC. |
| Assign | 08/25/2005 01:48:17 | PM EHellmer | Case assigned to DLR04347 |
| Chg Status | 08/25/2005 01:48:17 | PM EHellmer | Case status changed to Action Dealer. |

Case Report - 200508171313

Customer/Caller Summary:

Customer Name/Address:

Caller Phone: Caller Alt. Phone:

Case Summary:

Case Title: Case Type: Contact Method: Cust Attitude: Coding Type: Category: Problem Area: Component: Condition: VIN: Dofu:

| | | Abnormal | Condition; | Engine- | Powertrain; | Stalls |
|---|-----------|-----------|------------|---------|-------------|--------|
| G | eneral | | | | | |
| P | hone | | | | | |
| C | Concerned | i | | | | |
| C | complaint | ; | | | | |
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| | bnormal | Condition | n | | | |
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| - | T1BY32E | 550 | | | | |
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| | Corolla | | | | | |
| I | Los Ange | les | | | | |
| (| 08 | | | | | |
| I | Bill Wri | ght Toyot | a, 04187 | | | |
| I | Frontier | Toyota, | 04347 | | | |
| | | - | | | | |

Bakersfield, CA

Case History:

Current Miles: Incident Miles: Model Year: Model Name: Region: District: Dealer 1: Selling Dealer:

Customer Seeks: rpr of veh. CAC Stated: ncr apol & adv cust of case#. adv cust of CRM name/role & c/b w/in 3 bus days.

*** PHONE LOG 08/17/2005 03:52:22 PM CSilao cust sts Corolla at dlr. sts dlr adv cust clutch is burned out & will not be rpr under warr. sts veh stalls all the time. sts husband adv cluth engages to go into another gear. sts a/c stopped working. sts has been working w/ Andy at svc. sts when you come to a stop & push clutch in w/ brakes veh wants to stall.

*** CASE CLOSE 08/19/2005 05:18:58 PM DLR04187 08/19/05 SPOKE TO CUST AND EXPLD THAT IF CLUTCH IS WORN THAT REPAIRS WOULD BE AT HER EXPENSE. CUST STATED SHE WANTED A SECOND OPINION. SVC MANAGER SET APPT FOR CUSTOMER FOR SECOND OPINION.

Activity Summary:

| Activity | Date/Time | Originator Add | itional Information |
|---|--|------------------------------|--|
| Yanked | 08/22/2005 08:08:11 | LAM JSchurger110 | Case grabbed from DLR04187 to JSchurger110's default WipBin. |
| Chg Status Case Close | 08/22/2005 08:08:11 08/22/2005 08:08:14 | | Action Region Status = Closed, Resolution Code = Full, State = Open. |
| Chg Status Dispatch Modify Phone Log | 08/19/2005 05:18:58 08/19/2005 05:18:58 08/17/2005 03:52:22 08/17/2005 03:52:22 | 8 PM DLR04187 2 PM CSilao | Status changed to Dealer Close Case Dispatched to Los Angeles Closed Queue. into WIP default and Status of Action CAC. Start = 08/17/2005 03:46:26 PM, End = 08/17/2005 03:52:22 PM, Contact = Elizabeth Campbell. |
| Assign Chg Status Create | 08/17/2005 03:52:22 08/17/2005 03:52:22 08/17/2005 03:46:26 | 2 PM CSilao | Case assigned to DLR04187 Case status changed to Action Dealer. Contact = Priority = Customer, Status = Action CAC. |

| 1 | Todd M. Friedman, Esq State Bar #216752 C ORIGINAL FILED ON: C Krohn & Moss | |
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| 2 | | |
| 3 | | 4 |
| 4 | | |
| 5 6 | COUNTY OF KERN UNLIMITED JURISDICTION | |
| 7 | 5 1400 OV 1 5/ 257 | LPE |
| 8 | Plaintiff,) COMPLAINT | |
| 9 | vs. | |
| 10 | TOYOTA MOTOR SALES, USA, INC. | |
| 11 | Defendant) (1101 / ED | |
| 12 | nark the solution of the solut | |
| 13 | | |
| 14 | COMPLAINT | |
| 15 | NOW COMES the Plaintiff by and through Plaintiff's | |
| 16 | attorneys, KROHN & MOSS, LTD., and for Plaintiff's Complaint against Manufacturer, | |
| 17 | TOYOTA MOTOR SALES, USA, INC., alleges and affirmatively states as follows: | |
| 18 | PARTIES | |
| 19 | 1. Plaintiff, ("Plaintiff), is an individual who purchase | ;d |
| 20 | subject vehicle in the State of California. | |
| 21 | 2. Manufacturer, TOYOTA MOTOR SALES, USA, INC. | |
| 22 | ("Manufacturer"), is a corporation Authorized to do business in the State of California and is | |
| 23 | engaged in the manufacture, sale, and distribution of motor vehicles and related equipment and | |
| 24 | services. Manufacturer is also in the business of marketing, supplying and selling written | |
| 25 | warranties to the public at large through a system of authorized dealerships, including Bill | |
| | COMPLAINT | |

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| 1 | Wright Toyota, Inc. ("Seller"). Manufacturer does business in all counties of the State of |
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| 2 | California. |
| 3 | BACKGROUND |
| 4 | 3. On or about May 29, 2005, Plaintiff purchased from Seller a 2005 Toyota Corolla |
| 5 | ("Corolla"), manufactured by Manufacturer, Vehicle Identification No. 2T1BY32E55C |
| 6 | for valuable consideration (Plaintiff is unable to locate his purchase contract at this time, but will |
| 7 | produce same upon receipt. Notwithstanding, Defendant is in possession of said contract). |
| 8 | 4. In consideration for the purchase of the Corolla, Manufacturer issued and supplied |
| 9 | to Plaintiff several written warranties, including a three (3) year or thirty-sixty thousand (36,000) |
| 10 | mile factory warranty, as well as other standard warranties fully outlined in the Manufacturer's |
| 11 | Warranty Booklet. |
| 12 | 5. On or about May 29, 2005, Plaintiff took possession of the Corolla and shortly |
| 13 | thereafter experienced the various defects listed below that substantially impair the use, value |
| 14 | and/or safety of the Corolla. |
| 15 | 6. The defects listed below violate the express written warranties issued to Plaintiff |
| 16 | by manufacturer, as well as the implied warranty of merchantability. |
| 17 | 7. Plaintiff brought the Corolla to Seller and/or other authorized service dealers of |
| 18 | manufacturer for various defects, including, but not limited to the following: |
| 19 | a. Defective a/c as evidenced by a/c not cold and cap missing from a/c line; |
| 20 | b. Defective engine as evidenced by vehicle stalling when clutch pushed in; and |
| 21 | c. Any additional complaints made by Plaintiff, whether or not they are contained in Manufacturer's records or on any repair orders. |
| 22 | |
| 23 | 8. Plaintiff provided Manufacturer through Seller and/or other authorized dealers of |
| 24 | Manufacturer sufficient opportunities to repair the Corolla. |
| 25 | 9. Manufacturer, through its authorized dealers was unable and/or failed to repair |
| | |
| | COMPLAINT |

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COMPLAINT

1 the Corolla within a reasonable number of attempts. 2 10. Plaintiff justifiably lost confidence in the Corolla's reliability and said 3 defects have substantially impaired the value of the Corolla to Plaintiff. 4 11. Said defects could have not been discovered by Plaintiff prior to Plaintiff's 5 acceptance of the Corolla. 6 12. As a result of said defects, Plaintiff revoked acceptance of the Corolla in writing 7 on October 3, 2005 (A copy of said letter is attached hereto and marked as Exhibit "A"). 8 13. At the time of revocation, the Corolla was in substantially the same condition as 9 at delivery except for damage caused by its own defects and ordinary wear and tear. 10 14. Manufacturer refused Plaintiff's demand for revocation and has refused to provide 11 Plaintiff with the remedies Plaintiff is entitled upon revocation. 12 15. The Corolla remains in a defective and unmerchantable condition, and continues 13 to exhibit the above mentioned defects that substantially impair its use, value and/or safety. 14 16. Plaintiff has and will continue to be financially damaged due to Manufacturer's 15 failure to comply with the provisions of its express and implied warranties. 16 17. Prior to filing this complaint, Plaintiff attempted to submit to Manufacturer's 17 informal dispute resolution program and was unsatisfied with the results therein. 18 COUNT I **BREACH OF WRITTEN WARRANTY** 19 PURSUANT TO THE MAGNUSON-MOSS WARRANTY ACT MANUFACTURER 20 18. Plaintiff realleges and incorporates by reference as fully set forth herein, 21 paragraphs 1-18 of this Complaint. 22 19. Plaintiff is a purchaser of a consumer product who received the Corolla during the 23 24 duration of a written warranty period applicable to the Corolla and who is entitled by the terms 25 of the written warranty to enforce against Manufacturer the obligations of said warranty.

COMPLAINT

1 Manufacturer is a person engaged in the business of making a consumer product 20. 2 directly available to Plaintiff. 3 21. Seller is an authorized dealership/agent of Manufacturer designed to perform 4 repairs on vehicles under Manufacturer's automobile warranties. 5 22. The Magnuson-Moss Warranty Act, Chapter 15 U.S.C.A., Section, 2301 et. Seq. 6 ("Warranty Act") is applicable to Plaintiff's Complaint in that the Corolla was manufactured, 7 sold and purchased after July 4, 1975, and costs in excess of ten dollars (\$10.00). 8 23. Plaintiff's purchase of the Corolla was accompanied by written factory warranties 9 for any non-conformities or defects in materials or workmanship, comprising an undertaking in 10 writing in connection with the purchase of the Corolla to repair the Corolla or take other 11 remedial action free of charge to Plaintiff with respect to the Corolla in the event that the Corolla 12 failed to meet the specifications set forth in said undertaking. 13 14 24. Said warranties were the basis of the bargain of the contract between the Plaintiff 15 and Manufacturer for the sale of the Corolla to Plaintiff. 16 25. Said purchase of Plaintiff's Corolla was induced by, and Plaintiff relied upon, 17 these written warranties. 18 26. Plaintiff has met all of Plaintiff's obligations and preconditions as provided in the 19 written warranties. 20 27. As a direct and proximate result of Manufacturer's failure to comply with its 21 express written warranties, Plaintiff has suffered damages and, in accordance with 15 U.S.C. § 22 2310(d), Plaintiff is entitled to bring suit for such damages and other equitable relief. 23 WHEREFORE, Plaintiff prays for judgment against Manufacturer as follows: 24 25 COMPLAINT

1 Return of all monies paid or in the alternative applicable damages pursuant to a. section 2714 of the Commercial Code, and all incidental and consequential 2 damages incurred; All reasonable attorneys' fees, witness fees and all court costs and other costs; Ь. 3 Such other and further relief that the Court deems just and appropriate. c. 4 **COUNT II** BREACH OF IMPLIED WARRANTY 5 PURSUANT TO THE MAGNUSON-MOSS WARRANTY ACT **MANUFACTURER** 6 7 28. Plaintiff realleges and incorporates by reference as through fully set forth herein, 8 paragraphs 1-18 of this complaint. 9 29. The Corolla purchased by Plaintiff was subject to an implied warranty of 10 merchantability as defined in 15 U.S.C. § 2301(7) running from the Manufacturer to the intended 11 consumer, Plaintiff herein. 12 30. Manufacturer is a supplier of consumer goods as a person engaged in the business 13 of making a consumer product directly available to Plaintiff. 14 31. Manufacturer is prohibited from disclaiming or modifying any implied warranty 15 when making a written warranty to the consumer or when Manufacturer has entered into a 16 contract in writing within ninety (90) days of purchase to perform services relating to the 17 maintenance or repair of a motor vehicle. 18 32. Pursuant to 15 U.S.C. § 2308, Plaintiff's Corolla was impliedly warranted to be 19 substantially free of defects and non-conformities in both material and workmanship, and 20 21 thereby fit for the ordinary purpose for which the Corolla was intended. 22 33. The Corolla was warranted to pass without objection in the trade under the 23 contract description, and was required to conform to the descriptions of the vehicle contained in 24 the contracts and labels. 25

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| 1 | 34. The above described defects in the Corolla render the Corolla unfit for the |
| 2 | ordinary and essential purpose for which the Corolla was intended. |
| 3 | 35. As a result of the breaches of implied warranty by Manufacturer, Plaintiff has |
| 4 | suffered and continues to suffer various damages. |
| 5 | WHEREFORE, Plaintiff prays for judgment against Manufacturer as follows: |
| 6 | a. Return of all monies paid or in the alternative applicable damages pursuant to section |
| 7 | 2714 of the Commercial Code, and all incidental and consequential damages incurred; |
| 8 | b. All reasonable attorneys' fees, witness fees and all court costs and other costs; c. Such other and further relief that the Court deems just and appropriate. |
| 9 | COUNT III |
| 10 | <u>REVOCATION OF ACCEPTANCE</u> MANUFACTURER |
| 11 | 36. Plaintiff realleges and incorporates by reference as though fully set forth herein, |
| 12 | paragraphs 1-18 of this Complaint. |
| 13 14 | 37. Manufacturer's tender of the Corolla was substantially impaired to Plaintiff. |
| 14 | 38. Manufacturer's tender of the Corolla, which was substantially impaired to |
| 16 | Plaintiff, constitutes a violation of 15 U.S.C. §2310(d). |
| 17 | WHEREFORE, Plaintiff prays for judgment against Manufacturer as follows: |
| 18 | a. Return of all monies paid or in the alternative applicable damages pursuant to section |
| 19 | 2714 of the Commercial Code, and all incidental and consequential damages incurred; |
| 20 | b. All reasonable attorneys' fees, witness fees and all court costs and other costs;c. Such other and further relief that the Court deems just and appropriate. |
| 21 | <u>COUNT IV</u> |
| 22 | SONG –BEVERLY CONSUMER WARRANTY ACT |
| 23 | 39. Plaintiff realleges and incorporates by reference as though fully set forth herein, |
| 24 | paragraphs 1-18 of this Complaint. |
| 25 | |
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| | COMPLAINT |
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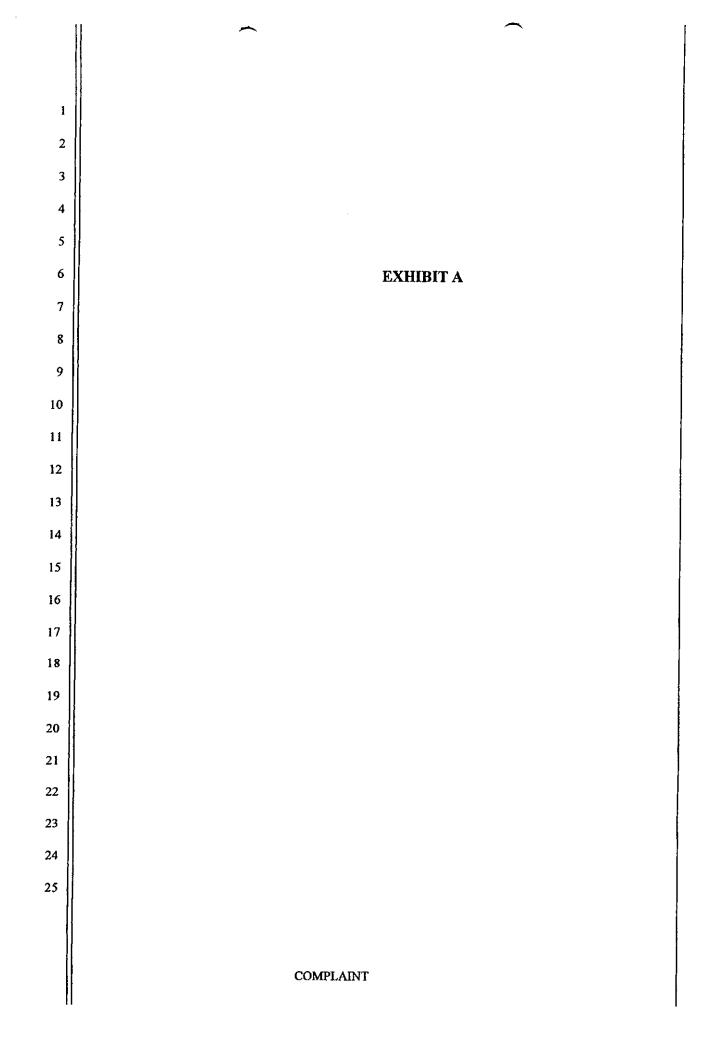
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| I | 40. Pursuant to Cal Civ. Code. § 1793.22(b)(2), Plaintiff has presented the Corolla to |) |
| 2 | Seller and/or other authorized service dealers of Manufacturer within the term of protection and | |
| 3 | have tendered the subject vehicle four (4) or more times for the same defects and/or non- | |
| 4 | conformities within eighteen-thousand (18,000) miles and/or eighteen (18) months for the above | ; |
| 5 | mentioned defects that substantially affect the use, value and safety of the Corolla. | |
| 6 | 41. Manufacturer, through Seller and/or other authorized dealerships, have been | |
| 7 | unable to repair said defects in a reasonable number of attempts. | |
| 8 | | |
| 9 | | |
| 10 | purchase price of the vehicle, including all collateral charges and finance charges, and/or a | |
| 11 | replacement vehicle, plus all attorney fees and costs. | |
| 12 | 43. Manufacturer has willfully violated the provisions of this act by knowing of its | |
| 13 | obligations to refund or replace Plaintiff's vehicle, but failing to fulfill them. | |
| 14 | WHEREFORE, Plaintiff prays for judgment against Manufacturer as follows: | |
| 15 | a. Return of the Corolla's purchase price and all incidental and consequential | Į |
| 16 | damages incurred by Plaintiff;b.Return of all finance charges incurred by Plaintiff for the Corolla; | |
| 17 | c. All reasonable attorneys' fees, witness fees, court costs and other fees incurred by Plaintiff; and | ļ |
| 18 | d. A civil penalty pursuant to Cal. Civ. Code § 1794 (c). e. Such other and further relief that this Court deems just and appropriate. | |
| 19 | COUNT V | |
| 20 | SONG -BEVERLY CONSUMER WARRANTY ACT | |
| 21 | 44. Plaintiff realleges and incorporates by reference as though fully set forth herein, | |
| 22 | paragraphs 1-18 of this Complaint. | |
| 23 | 45. The Corolla purchased by Plaintiff was subject to an implied warranty of | |
| 24 | merchantability as defined in Cal. Civ. Code §1790 running from the Manufacturer to the | |
| 25 | intended consumer, Plaintiff herein. | |
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| 1 | 46. Manufacturer is a supplier of consumer goods as a person engaged in the business |
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| 2 | of making a consumer product directly available to Plaintiff. |
| 3 | 47. Manufacturer is prohibited from disclaiming or modifying any implied warranty |
| 4 | under Cal. Civ. Code §1790. |
| 5 | 48. Pursuant to Cal. Civ. Code §1790, Plaintiff's Corolla was impliedly warranted to |
| 6 | be fit for the ordinary use for which the Corolla was intended. |
| 7 | 49. The Corolla was warranted to pass without objection in the trade under the |
| 8 | contract description, and was required to conform to the descriptions of the vehicle contained in |
| 9 10 | the contracts and labels. |
| 10 | 50. The above described defects in the Corolla caused it to fail to possess even the |
| 12 | most basic degree of fitness for ordinary use. |
| 13 | 51. As a result of the breaches of implied warranty by Manufacturer, Plaintiff has |
| 14 | suffered and continues to suffer various damages. |
| 15 | WHEREFORE, Plaintiff prays for judgment against Manufacturer as follows: |
| 16 | a. Return of all monies paid or in the alternative applicable damages |
| 17 | pursuant to section 2714 of the Commercial Code, and all incidental and consequential damages incurred; |
| 18 | b. All reasonable attorneys' fees, witness fees and all court costs and other costs; |
| 19 | c. Such other and further relief that the Court deems just and appropriate. |
| 20 | |
| 21 | PLAINTIFF HEREBY REQUESTS A JURY TRIAL IN THIS MATTER. |
| 22 23 | |
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| 25 | |
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| | COMPLAINT |
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Dated this 31st day of August, 2005 Todd M. Friedman Attorney for Plaintiff. COMPLAINT



Krohn & Moss, Ltd.

(Arizons, Californis, Florids, Georgie, Illinois, Indiana, Missonei, Novada, Obio, Wisconsin) 5055 Wilshiro Blvd Suite 300 Los Angeles, CA. 90036 www.krohnandmoss.com

Weiter's Direct Number (323) 988-2400 x227 Writer's Direct Fassimile (866) 431-5575 Writer's Direct E-Mail ibasole@consumerlawcenter.com

Writer licensed to practice only in: California Illinois

October 3, 2005

Toyota Motor Sales USA, Inc. ATTN: Legal Department 19001 S. Western Ave. Torrance, CA 90509

> RE: v. Toyota Motor Sales USA, Inc. Vehicle: 2005 Toyota Corolla VIN: 2T1BY32E55C Our File: L05098225A

Dear Sir or Madam:

Pursuant to California Civil Code 1793.22(b)(3), please be advised that this office represents the above-named individual regarding claims against your company pursuant to the Song-Beverly Warranty Consumer Warranty Act ("Lemon Law") and/or the Federal Magnuson-Moss Warranty Act with regard to the above-listed vehicle. Please direct all future contacts and correspondence to our office as such.

<u>Having been formally notified of our representation, you are instructed not to contact our</u> <u>client under any circumstances. Direct all inquiries to this office. If you fail to act in</u> <u>conformity with this directive, injunctive relief will be sought against you.</u>

Pursuant to California Civil Code 1794 (d) and/or 15 U.S.C. 2310(d), you are hereby notified that any settlement made with our client requires payment of our attorneys' fees. If you settle directly with our client and do not make arrangements for payment of our attorneys' fees, we will file suit against you. In addition, you are hereby notified of our attorneys' lien.

There are numerous defects and non-conformities present in my client's automobile for which relief is sought, and numerous attempts to repair the vehicle have been unsuccessful. These defects and non-conformities include, but are not limited to:

- 1. Defective a/c as evidenced by a/c not cold and cap missing from a/c line;
- 2. Defective engine as evidenced by vehicle stalling when clutch pushed in;

3. Any additional complaints made by our client, whether or not they are contained in your company's records or on any repair orders.

The defects and non-conformities listed above constitute a substantial impairment of the use, value and/or safety of the vehicle. Because of these defects and non-conformities, my client has justifiably lost confidence in the vehicle.

Therefore, you are hereby notified that my client is revoking acceptance of this vehicle. My client has directed me to demand the cancellation of the contracts and the return of all funds paid towards this vehicle, including any trade-in value given, all collateral charges, finance charges and incidental and consequential damages.

To avoid any litigation, my client merely requests a refund for the defective vehicle, plus payment of our attorneys' fees pursuant to the fee-shifting provisions of the Lemon Law and/or Federal Magnuson-Moss Warranty Act. Our attorneys' fees are minimal at this stage and we would prefer to resolve this matter without the need for any more time spent on our part or on the part of your attorneys. A great deal of time, money and effort could be saved by all parties involved with a quick resolution of this claim.

Accordingly, if you wish to resolve this matter amicably, please feel free to contact my office. If the matter has not been resolved within fourteen (I4) days from the date of this letter, a lawsuit will be filed.

Sincerely.

JB/tme



Jacqueline C. Herritt, Esquire **KIMMEL & SILVERMAN, P.C. Executive Quarters** 1930 E. Mariton Pike, Suite T11 Cherry Hill, NJ 08003 (856)429-8334

ATTORNEY FOR PLAINTIFF

THIS IS AN ARBITRATION MATTER. ASSESSMENT OF DAMAGES HEARING IS **REQUESTED.**

SUPERIOR COURT OF NEW JERSEY HUNTERDON COUNTY

Whitehouse Station, NJ

v.

TOYOTA MOTOR SALES, 🏨 19001 South Western Avenue Torrance, CA 90509

DEC - 5 2005

GROUP RECE

NO. L - 565-05

is an adult individual citizen and legal resident of the State of

CIVIL ACTION

1. Plaintiff, Whitehouse Station, NJ New Jersey,

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2. Defendant, Toyota Motor Sales, USA, Inc., is a corporation qualified to do and regularly conduct business in the State of New Jersey, with its address and principal place of business located at 19001 South Western Avenue, Torrance, CA 90509, and can be served at this address.

BACKGROUND

3. On or about June 02, 2005, Plaintiff leased a new 2005 Toyota Corolla, manufactured 2T1BR 32E05C and warranted by Defendant, bearing the Vehicle Identification Number 2TB1BR32E05C

4. The vehicle was leased in the State of New Jersey and is registered in the State of New Jersey.

5. The lease price of the vehicle, including registration charges, document fees, sales tax, finance and bank charges, but excluding other collateral charges not specified, yet defined by the Lemon Law, totaled more than \$11,200.40. A true and correct copy of the contract is attached hereto, made a part hereof, and marked Exhibit "A".

6. In consideration for the purchase of said vehicle, Defendant issued to Plaintiff several warranties, guarantees, affirmations or undertakings with respect to the material or workmanship of the vehicle and/or remedial action in the event the vehicle fails to meet the promised specifications.

7. The above-referenced warranties, guarantees, affirmations or undertakings are/were part of the basis of the bargain between Defendant and Plaintiff.

8. The parties' bargain includes an express 3-year / 36,000 mile warranty, as well as other guarantees, affirmations and undertakings as stated in Defendant's warranty materials and owner's manual.

9. However, as a result of the ineffective repair attempts made by Defendant through its authorized dealer(s), the vehicle is rendered substantially impaired, unable to be utilized for its intended purposes, and is worthless to Plaintiff.

COUNT I NEW JERSEY MOTOR VEHICLE WARRANTY ACT

10. Plaintiff hereby incorporates all facts and allegations set forth in this Complaint by reference as if fully set forth at length herein.

11. Plaintiff is a "Consumer" as defined by N.J.S.A. 56:12-30.

12. Defendant is a "Manufacturer" as defined by N.J.S.A. 56:12-30.

13. Crystal Motors, is and/or was at the time of sale a "Dealer or Motor Vehicle Dealer" in the business of buying, selling, and/or exchanging vehicles as defined by N.J.S.A. 56:12-30.

14. On or about June 02, 2005, Plaintiff took possession of the above mentioned vehicle and experienced nonconformities as defined by N.J.S.A. 56:12-29 et seq., which substantially impair the use, value and/or safety of the vehicle.

15. Defendant through its authorized dealer failed to provide written notification that the vehicle was covered by the New Jersey Motor Vehicle Warranty Act as provided in N.J.S.A. 56:12-34(c). Plaintiff believes and therefore avers said failure is a per se violation of the New

Jersey Consumer Fraue Act, N.J.S.A. 56:8-1 et seq., as well as a violation of the New Jersey

Motor Vehicle Warranty Act.

16. The nonconformities described violate the express written warranties issued to Plaintiff

by Defendant.

17. Section 56:12-32 of the New Jersey Motor Vehicle Warranty Act provides:

a. If, during the period specified in section 3 of this act, the manufacturer or its dealer is unable to repair or correct a nonconformity within a reasonable time, the manufacturer shall accept return of the motor vehicle from the consumer. The manufacturer shall provide the consumer with a full refund of the purchase price of the original motor vehicle including any stated credit or allowance for the consumer's used motor vehicle, the cost of any options or other modifications arranged, installed, or made by the manufacturer or its dealer within 30 days after the date or original delivery, and any other charges or fees including, but not limited to, sales tax, license and registration fees, finance charges, reimbursement for towing and reimbursement for actual expenses incurred by the consumer for the rental of a motor vehicle equivalent to the consumer's motor vehicle and limited to the period during which the consumer's motor vehicle was out of service due to a nonconformity, less a reasonable allowance for vehicle use.

18. Section 56:12-33 of the New Jersey Motor Vehicle Warranty Act provides a presumption

of a reasonable number of repair attempts:

- a. It is presumed that a manufacturer or its dealer is unable to repair or correct a nonconformity within a reasonable time if, within the first 18,000 miles of operation or during the period of two years following the date of original delivery of the motor vehicle to a consumer, whichever is the earlier date:
 - (1) Substantially the same nonconformity has been subject to repair three or more times by the manufacturer or its dealer and the nonconformity continues to exist; or
 - (2) The motor vehicle is out of service by reason of repair for one or more nonconformities for a cumulative total of 20 or more calendar days since the original delivery of the motor vehicle and a nonconformity continues to exist.
- b. The presumption contained in sub-section a. of this section shall apply against a manufacturer only if the manufacturer has received written notification, by or on behalf of the consumer, by certified mail return receipt requested, of a potential claim pursuant to the provisions of this act and has had one opportunity to repair or correct the defect or condition within 10 calendar days following receipt of the notification. Notification by the consumer shall take place any time after the motor vehicle has had substantially the same nonconformity subject to repair two or more times or has been out of service by reason of repair for a cumulative total of 20 or more calendar days.

19. Plaintiff has satisfied the above definition as the vehicle has been subject to repair more

than three (3) times for the same nonconformity, and the nonconformity remained uncorrected.

20. In addition, the above vehicle has or will be out of service by reason of the nonconformities complained of for a cumulative total of twenty (20) or more calendar days.

21. Plaintiff has delivered the nonconforming vehicle to an authorized service and repair facility of the Defendant on numerous occasions as outlined below.

22. After a reasonable number of attempts, Defendant was unable to repair the nonconformities.

23. During the first 24 months and/or 18,000 miles, Plaintiff complained on at least three (3) occasions about defects and or non-conformities to the following vehicle components: rattle in front dash at radio, vehicle died, check engine light on and steering wheel of center. True and correct copies of all invoices in Plaintiff possession are attached hereto, made a part hereof, and marked Exhibit "B".

24. Plaintiff has been and will continue to be financially damaged due to Defendant's intentional, reckless, wanton, and negligent failure to comply with the provisions of N.J.S.A. 56:12-29 et seq.

25. Plaintiff has provided Defendant with a final repair opportunity prior to filing the within Complaint.

26. Pursuant to N.J.S.A. 56:12-29 et seq, Plaintiff seeks relief for losses due to the nonconformities and defects in the above-mentioned vehicle in addition to reasonable attorney fees and all court costs.

WHEREFORE, Plaintiff respectfully demands judgment against Defendant in an amount equal to the price of the subject vehicle, plus all collateral charges, attorneys' fees, and court costs.

COUNT II MAGNUSON-MOSS (FTC) WARRANTY IMPROVEMENT ACT

27. Plaintiff has or may have resorted to Defendant's informal dispute settlement procedure, to the extent said procedure complies with 16 CFR 703.

28. Plaintiff avers that the Federal Trade Commission (Fic) has determined that no automobile manufacturer complies with 16 CFR 703. See, Fed. Reg. 15636, Vol. 62, No. 63 (Apr. 2, 1997).

29. Plaintiff hereby incorporates all facts and allegations set forth in this Complaint by reference as if fully set forth at length herein.

30. Plaintiff is a "Consumer" as defined by 15 U.S.C. §2301(3).

31. Defendant is a "supplier", "warrantor", and a "service contractor" as defined by 15 U.S.C.

§ 2301 (4),(5) and (8).

32. The subject vehicle is a "consumer product" as defined by 15 U.S.C. § 2301(1).

33. By the terms of its written warranties, affirmations, promises, or service contracts,

Defendant agreed to perform effective repairs at no charge for parts and/or labor.

34. The Magnuson-Moss Warranty Improvement Act requires Defendant to be bound by all warranties implied by state law. Said warranties are imposed on all transactions in the state in which the vehicle was delivered.

35. Defendant has made attempts on several occasions to comply with the terms of its express warranties; however, such repair attempts have been ineffective.

36. The Magnuson-Moss Warranty Improvement Act, 15 U.S.C. §2310(d)(2) provides:

If a consumer finally prevails on an action brought under paragraph (1) of this subsection, he may be allowed by the court to recover as part of the judgment a sum equal to the amount of aggregate amount of costs and expenses (including attorney fees based upon actual time expended), determined by the court to have been reasonably incurred by the Plaintiff for, or in connection with the commencement and prosecution of such action, unless the court, in its discretion shall determine that such an award of attorney's fees would be inappropriate.

37. Plaintiff has afforded Defendant a reasonable number of opportunities to conform the vehicle to the aforementioned express warranties, implied warranties and contracts.

38. As a direct and proximate result of Defendant's failure to comply with the express written warranties, Plaintiff has suffered damages and, in accordance with 15 U.S.C. 2310(d)(1), Plaintiff is entitled to bring suit for such damages and other legal and equitable relief.

39. Defendant's failure is a breach of Defendant's contractual and statutory obligations constituting a violation of the Magnuson-Moss Warranty Improvement Act, including but not limited to: breach of express warranties; breach of implied warranty of merchantability; breach of implied warranty of fitness for a particular purpose; breach of contract; and constitutes an Unfair Trade Practice.

40. Plaintiff avers that Defendant's warranty was not provided to Plaintiff until after the vehicle was delivered, making any and all limitations, disclaimers and/or alternative dispute provisions ineffective for a failure of consideration.

41. Plaintiff avers Defendant's Dispute Resolution Program was not in compliance with 16 CFR 703 for the model year of the subject vehicle.

42. Plaintiff avers that Defendant's warranty did not require Plaintiff to first resort to a Dispute Resolution Program before filing suit.

43. Plaintiff avers that upon successfully prevailing upon the Magnuson-Moss claim herein, all attorney fees are recoverable and are demanded against Defendant.

WHEREFORE, Plaintiff respectfully demands judgment against Defendant in an amount equal to the price of the subject vehicle, plus all collateral charges, incidental and consequential damages, reasonable attorneys' fees, and all court costs.

COUNT III UNIFORM COMMERCIAL CODE

44. Plaintiff hereby incorporates all facts and allegations set forth in this Complaint by reference as if fully set forth at length herein.

45. The defects and nonconformities existing within the vehicle constitute a breach of contractual and statutory obligations of Defendant, including but not limited to the following:

- a. Express Warranty;
- b. Implied Warranty Of merchantability; and
- c. Implied Warranty Of Fitness For A Particular Purpose.

46. At the time of obtaining possession of the vehicle and at an times subsequent thereto, Plaintiff has justifiably relied upon Defendant's express warranties and implied warranties of fitness for a particular purpose and implied warranties of merchantability.

47. At the time of obtaining possession of the vehicle and at all times subsequent thereto, Defendant was aware Plaintiff was relying upon Defendant's express and implied warranties, obligations, and representations with regard to the subject vehicle.

48. Plaintiff has incurred damages as a direct and proximate result of the breach and failure of Defendant to honor its express and implied warranties.

49. Such damages include, but are not limited to, the contract price of the vehicle plus all collateral charges, including attorney fees and costs, as well as other expenses, the full extent of which are not yet known.

WHEREFORE, Plaintiff respectfully demands judgment against Defendant in an amount equal to the contract price of the vehicle, plus all collateral charges and attorneys' fees.

COUNT IV NEW JERSEY CONSUMER FRAUD ACT

50. Plaintiff hereby incorporates all facts and allegations set forth in this Complaint by reference as if fully set forth at length herein.

51. Plaintiff is a "Person" as defined by N.J.S.A. 56:8-1(d).

52. Defendant is a "Person" as defined by N.J.S.A. 56:8-1(d).

53. Defendant's actions surrounding the sale and servicing of the subject vehicle were unconscionable. Defendant's agents also acted with a reckless and callous disregard for Plaintiff's rights in negotiating and handling Plaintiff's warranty claims.

54. Defendant's actions surrounding the sale and servicing of said vehicle constitute a unconscionable commercial practice, deception, fraud, false pretense, false promise, and/or misrepresentation. Defendant and its agents acted affirmatively in such a manner as to be an unlawful commercial practice.

55. Defendant acted knowingly with the intent to cause Plaintitt's reliance thereupon.

56. Defendant knowingly concealed, suppressed, or omitted facts material to the transactions at issue, in that Defendant was aware the defect(s)/condition(s) could not be repaired, and that the ineffectual repairs were performed by incompetent or unqualified individuals. Defendant's failure to verify the defect(s) or condition(s) constitutes a refusal to perform the repairs under its statutory or contractual obligations.

57. Defendant through its authorized dealer failed to provide written notification that the vehicle was covered by the New Jersey Motor Vehicle Warranty Act N.J.S.A. 56:12-34(c) and Plaintiff believes and therefore avers said failure is a per se violation of the New Jersey Consumer Fraud Act N.J.S.A. 56:8-1 et seq. as well as a violation of the New Jersey Motor Vehicle Warranty Act.

58. Plaintiff believes and therefore avers that the defect(s) or condition(s) outlined previously is/are an inherent design defect and that as such the Defendant must certify the existence of this defect or condition to the Division of Consumer Affairs. Defendant has failed to file this certification and this failure is a violation of the New Jersey Consumer Fraud Act N.J.S.A. 56:8-1 et seq.

59. Defendant's failure to supply an itemized legible statement of repair is an unlawful practice pursuant to the New Jersey Consumer Fraud Act N.J.S.A. 56:8-2.

60. The Act prohibits the aforementioned action of Defendant in the sale and attempted repair of the subject vehicle.

61. Plaintiff believes and therefore avers the reckless, wanton and willful failure of Defendant to comply with the terms of the written warranties constitutes an unfair method of competition.

62. As a result of Defendant's unlawful conduct, Plaintiff has and will continue to suffer ascertainable financial loss proximately caused by the Defendant's conduct. Said losses are outlined as follows:

- a. Plaintiff is enumed to a full refund N.J.S.A. 56:8-2.11-12,
- b. Plaintiff's vehicle, given the defect/condition, is worthless;
- c. Plaintiff lost time from work and other money as a result of having to take the vehicle in for the repeated repair attempts;
- d. Plaintiff has been relegated to finding alternative means of transportation while the vehicle was in for repairs and while the vehicle has been in its present condition. As a result, Plaintiff has incurred additional transportation costs; and
- e. Plaintiff has expended sums to maintain, store, insure, register, and other expenses for transportation.

WHEREFORE, Plaintiff respectfully demands judgment against Defendant for compensatory damages, treble damages, attorney fees, costs of suit, and any further relief as the Court may deem just and proper.

KIMMEL & SILVERMAN, P.C.

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ACQUELINE C. HERRITT, ESQUIRE Attorney for Plaintiff Executive Quarters 1930 E. Marlton Pike, Suite T11 Cherry Hill, NJ 08003 (856) 429-8334

JURY-DEMAND

Plaintiff hereby demands a trial by jury as to all the issues

KIMMEL & SILVERMAN, P.C.

By: HERRITT, ESQUIRE JACQUE INE. Attorney for Plaintiff

CERTIFICATION PURSUANT TO R.4:15-1

Upon knowledge and belief I hereby certify that there are no other actions or arbitrations related to this suit pending or presently contemplated.

KIMMEL & SILVERMAN, P.C.

By: C. HERRPTT, ESQUIRE JA

Attorney for Plaintiff

CERTIFICATION OF NOTICL

Pursuant to N.J.S.A. 56:8-20 Plaintiff is mailing a copy of this Complaint to the Office of the Attorney General, Richard J. Hughes Justice Complex, 25 West Market Street in the City of Trenton, County of Mercer, in the state of New Jersey on Wiend 17. W

KIMMEL & SILVERMAN, P.C.

By: HERRITT, ESQUIRE JA C.

Attorney for Plaintiff

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14. Lease Term, Scheduled Maturity Date and Total Cost of this Lease The Lease Term of this Lease is 36. 36 months, and the 06701/2008 Scheduled Maturity Date of this Lease is

The total cost of this Lease, assuming you do not default and you exer-cise the purchase option at the Scheduled Maturity Date, is clse the purchase option at the Scheduled Maturity Date, is \$1.9,.495,.40. This disclosure is required by New Jersey law and is calculated in a manner specified under the law. We calculated this amount by adding the amount of the Purchase Option at End of Lease Term (Section 11), plus the Amount Due at Lease Signing or Delivery (Section 3) (minus the First Monthly Payment (Section 7(b) and Refundable Security Deposit (Section 7(c)), plus the total of your Monthly Payments (Section 4). Because this disclosure is based on certain assumptions and does not include all costs (such as Insurance), your actual total cost of this Lease may differ.

15. Required Insurance

You must provide the following insurance during the Lease Term, with the Lessee and/or Co-Lessee as an insured driver. No other types of insurance are required:

- a) primary automobile liability insurance with minimum limits for bodily injury or death of
 - 1) \$ 100,000, co. for any one person, and
 - ii) \$ 300,000 00 for any one accident, and
 - ii) \$ ______ oo___ oo____ for property damage; and .
- physical damage insurance for the full value of the Vehicle, with a b) maximum deductible of \$1,000.
- See Section 24 for additional information.

You have provided us today with the following insurance information:

| NJ MANUFACTURERS | F4 | 52724-8 |
|----------------------------------|-------------------|---------------------------------------|
| Insurance Provider | Policy No. | Insurance Coverage Ventication |
| DIRECT SOI SULLIVAN WAY | | By: Dealer Employee (800) 232-5500 |
| TRETTO Agent's Name / Address | | Agent's Phone No. |
| - genne manner manage | the second second | Agentis Phone No. |

16. Estimated Official Fees and Taxes

This is an estimate of the total amount you will pay over the Lease Term for official and license fees, registration, title, and taxes (including per-sonal property taxes), whether included in your Total Monthly Payment (Section 9.1), the Amount Due at Lease Signing or Delivery (Section 7) or billed separately. The actual total of Official Fees and Taxes may be higher or lower than this estimate depending on the tax rates in effect or the value of the Vehicle at the time a fee or tax is assessed. This esti-mate is based on your current address and may increase if you mate is based on your current address and may increase if you move or if tax rates change. You are responsible for paying any increases. See Section 28 for additional information.

\$

NOTICE TO LESSEE AND CO-LESSEE: (1) DO NOT SIGN THIS LEASE BEFORE YOU READ BOTH SIDES OF IT OR IF IT CON-TAINS ANY BLANK SPACES; (2) YOU ARE ENTITLED TO A COMPLETELY FILLED IN COPY OF THIS LEASE WHEN YOU SIGN IT. By signing below, you acknowledge that: (1) You have read the entire Lease, including the back side; (2) You agree to all of the provisions of this Lease; (3) You have received a completely filled-in copy of this Lease; (4) This is a lease; you have no ownership interest in the Vehicle unless and until you exercise your option to purchase set forth in this Lease. NOTICE: THE LESSEE AND THE LESSOR SHALL BE ENTED TO REVIEW THE CONTRACT FOR

| | THE CONTRACT FOR ONE BUSINESS DAY BEFURE S | GNING THE CONTRACT. |
|---|--|---|
| Lessee Signature | Co-Lessee Signature | |
| The Lessor hereby accepts this bease and rights under any guaranty executed in conr related to this Lease, any guaranty, and this | assigns to Toyota Motor Credit Corporation all rights, title and interest in the | le, and Lessor's discharge all obligations |
| LessorR_Y_S_T_A_LMO | rons By Title Date | 06-02-05 |
| | PLEASE READ THE BACK SIDE FOR ADDITIONAL TERMS AND CONDITIONS LESSEE COPY | 6005NJ 07/04 |
| | | |

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17. Vehicle Maintenance and Damage

You are responsible for all maintenance, repair, service, and operating expenses of the Vehicle. You agree to follow the owner's manual and maintenance schedule, and to provide us with written proof of such-maintenance. You are responsible for all damage to the Verkle and for its loss, seizure or their. You must tell us immediately if any of these events happen, and cooperate with your insurance company.

18. Warranty

If the Vehicle is a new or a demo Vehicle, the Vehicle is subject to the standard new warranty from the manufacturer. If the Vehicle is used, it is not covered by a warranty unless identified below:

Remainder of standard new vehicle warranty from manufacturer Used vehicle warranty from manufacturer

YOU ARE LEASING THIS VEHICLE "AS IS." THERE ARE NO WAR-RANTIES AS TO THE VEHICLE'S CONDITION, MERCHANTABILI-TY, SUITABILITY, OR FITNESS FOR A PARTICULAR PURPOSE

19. Optional Insurance and Other Products

Optional Credit Life Insurance

You are not required to buy any of the Optional Insurance or Other Products listed below to enter into this Lease, and they are not a factor in Products issed below to enter into this Lease, and they are not a factor in our credit decision. These insurance and other products will not be pro-vided unless the appropriate box is checked, all information is filled in, you initial below, and you are accepted by the Provider. By your initials below, you agree that you have received a notice of the terms of the insurance or product, and you want to obtain the insurance or product for the premium or charge shown. A portion of the premium or charge shown may be retained by the Lesson (Decision) may be retained by the Lessor (Dealer).

| | | Beginning Coverage |
|-------------|---|-----------------------------|
| • | Insured(s) | Joganning Corerago |
| | S N/A | |
| | Provider Premium | Lessee / Co-Lessee Initials |
| | Optional Credit Disability insurance | |
| <i>*</i> | N/A | Maximum Monitaly Coverage |
| N 14 1 | | Lessee / Co-Lessee Initials |
| | Optional Mechanical Breakdown Protection Cov | es/months |
| | VANGUARD TNSURANCE 500 00 Provider Premium or Charge | |
| • • | Optional Guaranteed Automobile Protection (see | Section 23) |
| Ś. | CRYSTAL MOTORS \$ N/A Provider Premium or Charge | ials. |
| | Optional Maintenance Agreement | |
| -95 - 15 | VANGUARD INSURANCE N/A | |
| - | Provider Premium or Charge | as |
| - 7 | Total Premiums and Charges \$ 500.00 | |
| 20, | Complete Agreement or Modification By your initials, you acknowledge that this Lease cont ment for the Lease of this Vehicle. There are no of change to this Lease must be in writing, and signed b | ner agreements Anv |
| | la partana di serie dan serie Serie dan serie dan s Serie dan serie dan s | |
| 21. | Agreement to Arbitrate By initialing below, you agree that at the reque us any controversy or claim (defined in Sectio between you and us shall be determined by ne tration. See Section 47 for further terms and co | n 47 of this Lease) |
| | | als |



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THE FACTORY WARRANTY CONSTITUTES ALL OF THE WARRANTIES WITH RESPECT TO THE SALE OF THIS ITEM/ITEMS. THE SELLER HEREBY EXPRESSLY DISCLAIMS ALL WARRANTIES, EITHER EXPRESS OR IMPLIED, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. SELLER NEITHER ASSUMES NOR AUTHORIZES ANY OTHER PERSON TO ASSUME FOR IT ANY LIABILITY IN CONNECTION WITH THE SALE OF THIS ITEM/ITEMS.

| WHITEHOUSE CELL: TAG: 0482 MFG: 26T001 | STATION NJ WORK: MORK: M | LIM CUS C 👘 VO | CELL: | IOSC LIC | ENSE NUMBER | : NJ |
|---|---|--------------------|--|-----------------------------|----------------------|----------------|
| DATES BEG | %: 1146 GUT: 1147 SIN: 08/01/05 DONE: 08/02/05 | | DATES INSER | STOCK# : VICE: 060205 | | SOLD: 060205 |
| CONCERN 35 | ****WELCOME TO CRYSTAL SERVICE W PERFORMED COMPLETE LUBE.OIL AND | ITH SPECIAL COUPON | -ONLY \$19.95 + | TAX**** OPERATION 101F | | AMOUN * 3.9 |
| | TOY KITYZZA2CCSP14 TOY 90915-YZZF2 010 OIL | #14 OIL | . CHANGE KIT | 1 | ** | |
| | TOY 90915-YZZF2 | FILTER | S/A, OIL | 1\$ | | 5.00 |
| FACTORY | OIO OIL TECH: 109 - LUND, KENNETH M | GOG MOTOR C |)IL | 4S SUE | 1.50 | |
| | | | | PARTS | TUTAL | 5.00 |
| | | | | GAS-OIL-GREASE | | |
| | LINE FLAGS: NOS | | | LAB-MECHANICAL | | 3.95 |
| | | | | TOTAL CHARGE FOR | | |
| CORRECTION | CUSTOMER STATES THAT THERE IS A F RADIO IF YOUR PROBLEM PERSIST, PLEASE C | ATTLE IN THE FRONT | DASH AREA WITH | H THE OPERATION NP | | AMOUNT |
| COMMENT | CHECK SPEAKERS AND RADIO NO PROBL TECH: 109 - LUND, KENNETH M | EM FOUND AT THIS T | IME | | | |
| | LINE FLAGS: NOS | | | TOTAL CHARGE FOR | CONCERN | .00 |
| | | | | | | PAGE 1 |
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| | | | | P REFERENCE REFERENCE | LAINTIFF' EXHIBIT | 2 |



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| | CE USE | | | 10MATION |
|---------------------------------------|----------------------------------|-----------------|---------------------------------------|-------------------------|
| TAG: 0482 ADV: 237 SEIJAS, | INVOICED: 08/02/2005 09:02:52 | 2 VO 05 COROLLA | BLUE LI | CENSE NUMBER: NJ |
| | GRA | | | |
| SUMMARY OF CHARGES FOR INVO | | | | JTION FOR INVOICE CO913 |
| PARTS | 5.00 | | TOTAL CHARGE | 15. |
| GAS-OIL-GREASE | 6.00 | | | |
| LAB-MECHANICAL | 3.95 | | CASH DUE | 15. |
| SUB-TOTAL | 14.95 | | | |
| ΓΑΧ | .90 | | | |
| TOTAL CHARGE | 15.85 | | | |
| _ABOR RATE: 35.00 - 94.25 | | | | |
| IF YOU HAVE ANY QUESTIONS - | | | | |
| | NT IS-DATE TIME | | | |
| | E SERVICE UNTIL 9 P.M. MONDAY-TH | IURSDAY *** | | |
| | ANTEED FOR 12 MONTHS OR 12,000 M | | | |
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| CELL: | WORK: WORK: ADV: 604 PETERSEN, INVO | | TM WΔR W | CELL : | VEHICLE | | 1 |
|---|---|-------------------|-----------|---|-----------------------|------------------------|-----------------|
| MFG: 26T00 | 1 TAX RULES: NN1NY INVO | ICED: 10 |)/04/2005 | 15:54:49 05 TOYOTA | COROLLA LE | 4DR SDN | BLUE |
| DATES BE | N: 2458 OUT: 2462 GIN: 09/28/05 DONE: 10/04 | 4/05 | | DATES INSE | STOC RVICE: 060205 | SO | LD: 0602 |
| CONCERN 40 CAUSE CORRECTION COMMENT FACTORY | THANK YOU FOR YOUR PATRO AS PER SERVICE WARRANTY TECH: 999 - HOUSE. | y rental Dnage | | | . OPERATI | ON HOURS .0 | amou |
| TYPE: W | FAIL CODE : 99 LINE FLAGS: NOS | C | OND CODE | | TOTAL CHARGE | FOR CONCERN | -' |
| CAUSE | CUSTOMER STATES VEHICLE D HAD TOWED IN - NEEDS TO B ENGINE DIED OUT COMB: CYLINDER HEAD (ONE) | E REIMBU | rsed for | TOW | 1201010 | ON HOURS DEGKL 25.6 | AMOUI 2355.2 |
| | PART NUMBER | PO# | NOTE | DESCRIPTION SYNTHETIC LOF FILTER S/A, OIL SYNTEC SEMI-SYNTHETI | QTY | SELL | |
| | PART NUMBER TOY KITYZZA2SYNTEC TOY 90915-YZZF2 010 SYNTEC TOY 00272-SLLC2 SP0 11400-0D130 SP0 11101-0D010 | | | SYNTHETIC LOF | 1 | ** | ** |
| | TOY 90915-YZZF2 | | | FILTER S/A, OIL | 1S | 5.00 | 5.0 |
| | 010 SYNTEC | | GOG | SYNTEC SEMI-SYNTHETI | 45 | 3.75 | 15.0 |
| | 104 002/2-SLLC2 | | | SUPER LONG LIFE COOL | 2 | 9.32 | 18.6 |
| | SP0 11400-00130 | | | BLOCK ASSY, SHORT | 1 | 1466.14 | 1466.1 |
| | SP0 04111-0D301 | | | HEAD SUB-ASSY, CYLIN | 1 | 528.93 | 528.9 |
| | SP0 13715-0D010 | | | VALVE FYMALICT | 1 | 139.50 | 139.5 |
| | SP0 13711-0D010 | | | FILTER S/A, OIL SYNTEC SEMI-SYNTHETI SUPER LONG LIFE COOL BLOCK ASSY, SHORT HEAD SUB-ASSY, CYLIN GASKET KIT, ENGINE O VALVE, EXHAUST VALVE, INTAKE CHAIN SUB-ASSY | 0 R | 5.50 671 | /9.8 52 6 |
| | SP0 13506-0D010 | | | CHAIN SUB-ASSY | 1 | 98.85 | 98.9 |
| | SP0 13523-0D010 | | | CHAIN SUB-ASSY SPROCKET, CAMSHAFT T PIPE ASSY, EXHAUST, GASKET, EXHAUST PIPE | 1 | 17.04 | |
| | SP0 17410+0D340 | - | | PIPE ASSY, EXHAUST, | 1 | 595.41 | 595.4 |
| | SP0 17451-00050 | | | GASKET. EXHAUST PIPE | 1 | 16.65 | 16.6 PAGE |
| | | | | | | | ' |



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| TAG: 0154 | ADV: 604 PETERSEN IN | | | | | | |
|------------|------------------------|-------------------|-------------------|---------------|----------------|--------------------|--------|
| | SPO 31250-05101 | | | SY. CLUTCH | 1 | 40.42 | 40. |
| | SPO 15104-0D020 | | STRAINE | R SUB-ASSY, O | 1 | 22.54 | 22. |
| | SPO 13751-22240 | | LIFTER. | VALVE | 2 | 8.92 | 17. |
| | SPO 13751-22250 | | LIFTER, | VALVE | 2 | 8.92 | 17. |
| | SPO 13751-22180 | | LIFTER. | VALVE | 2 | 8.92 | 17. |
| | SPO 13751-22210 | | LIFTER. | VALVE | 1 | 8.92 | 8. |
| | SPO 13751-22190 | | LIFTER, | VALVE | 1 | 8.92 | 8. |
| | SPO 13751-22200 | | LIFTER, | VALVE | 1 | 8.92 | 8. |
| | SPO 90105-06283 | | BOLT. F | _ANGE | 1 | .43 | |
| | TOY 00295-00103 | | FIPG OI | | 1 | 7.61 | 7. |
| | TOY 90919-01217 | | PLUG, SI | | 4 | 6.22 | 24. |
| | SPD 17120-0D080 | | | D ASSY, INTAK | | 185.49 | 185. |
| | SPO 13050-0D020 | | | SY, CAMSHAFT | | 76.20 | 76. |
| | SPO 31210-05042 | _ | COVER AS | SSY, CLUTCH | 1 | 59.99 | 59. |
| | PARTS: COUNT 4 | | | | | | |
| FACTORY | TECH: 103 - SELSER, | | 000F | | | | • |
| | FAIL CODE : 13 | CUND | CODE : 99 | | c | SUBTOTAL | |
| | | | | | PARTS | | 5098. |
| | | | | | GAS-OIL-GREASE | | 15. |
| | | | | | LAB-MECHANICAL | | 2355. |
| TYPE: W | | | | | | DR CONCERN | |
| | | | GRAND TOT | ALS | | | |
| | CHARGES FOR INVOICE N | | | | | SUTION FOR INVOICE | |
| PARTS | | 5098.18 | | | TOTAL CHARGE | | 7468.3 |
| GAS-OIL-GR | EASE | 15.00 | | | | | |
| LAB-MECHAN | ICAL | 2355.20 | | | FAC WARRANTY | | 7468.3 |
| TOTAL CHAR | GE | 7468.38 | | | | | |
| LAB RATE: | 35.00 - 94.25 | | | | | | |
| TE YOU HAV | E ANY QUESTIONS - PLEA | | | | | | |
| | RY OUR NIGHT LUBE SERV | /ICE UNTIL 9 P.M. | MONDAY - THURSDAY | **** | | | |
| | | | | | | | PAGE |
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I ACKNOWLEDGE RECEIPT OF THE PARTS AND LABOR LISTED ABOVE X



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| TAG: 0154 A | DV: 604 PETERSEN INVOIC | ED: 10/04/2005 15:54:49 | VO 05 COROLLA | BLUE | LICENSE NUMBER: NJ |
|-------------|--------------------------|---------------------------|---------------|------|--------------------|
| ***** ALL R | EPAIRS ARE GUARANTEED FO | OR 12 MONTHS OR 12.000 MI | | | |
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| TAG: 0916 | WORK: WORK: FOR OFFICE USE FOR OFFICE USE | NJ DICE: QUOTE | | CELL: | VEHICLE INFO | RMATION |) |
|-------------|---|-------------------|----------|--|------------------|-----------------|----------|
| MFG: 26T001 | TAX RULES: NN1NY INVO | | | .0:56:29 05 TOYOTA | COROLLA LE | 4DR SDN B | LUE |
| ODOMETER IN | : 2802 OUT: 2803 | 1 /05 | | | STOCK# 5 | 5C486539 | D 00000 |
| DATES DEG. | IN: 10/17/05 DONE: 10/ | 31/05 | *** | DATES INSER | VIGE: 060205 | SUL | D: 06020 |
| | 24 HOUR-COURTESY RENTAL | | | R.O. NOT CONFEETE | | HOURS | |
| CAUSE | ARRANTY RENTAL | | | | 207 | .0 | |
| CORRECTION | THANK YOU FOR YOUR PATE | Ronage | | | | | |
| | AS PER SERVICE WARRANTY | | | | | | |
| | PART NUMBER | PO# | NOTE | DESCRIPTION | QTY | SELL | |
| | | 36231 | | RENTAL | 1 | | |
| | TECH: 999 - HOUSE, | | | | | | |
| | FAIL CODE : 99 | CO | NU CODE | : 99 | | | |
| TYPE · W | LINE FLAGS: NOS | LINE AUTH | : 55 103 | 103 17:10 | TOTAL CHARGE FOR | CONCERN | 112 11 |
| | CUSTOMER STATES VEHICLE | | | | | Hours | |
| | ENGINE REPLACE LESS THAN | | | | 120101CEGKL | 10.0 | 942.50 |
| | ENGINE STOPPED RUNNING | | | | | 15.2 | |
| CORRECTION | R& R ENGINE | | | | | | |
| | PART NUMBER | P0# | NOTE | | QTY | SELL | |
| | SP0 11101-0D010 | | | HEAD SUB-ASSY, CYLIN | 1 | 528.93 | 528.93 |
| | SP0 13711-0D010 | | | VALVE, INTAKE | 8 | | 53.68 |
| | SP0 13715-0D010 | | | VALVE, EXHAUST GASKET KIT, ENGINE O | 8 | 9. <u>9</u> 8 | 79.84 |
| | SP0 04111-0D301 | | | | | | 139.56 |
| | SP0 13741-22021 | | | RETAINER, VALVE SPRI | 6 | | 7.14 |
| | SP0 11400-0D130 | | | BLOCK ASSY, SHORT FIPG OIL PAN | 1 | 1466.14 7.61 | 1466.14 |
| | TOY 00295-00103 | | | FIPG OIL PAN | 1 | | |
| | TOY 00272-1LLAC-01 TOY 00279-10T5W-01 | | | ANTIFREEZE GALLON W | 1 | 11.32 | 11.32 |
| | | | | OIL,MOTOR 5W30 QT W NUT, LOCK | 5 . 1 | 1.65 .86 | 8.25 |
| | | | | NUI, LUCK | 4 | .00 | J.44 |
| | TOY 90080-17187 | | | | | | PAGE 1 |

I ACKNOWLEDGE RECEIPT OF THE PARTS AND LABOR LISTED ABOVE X

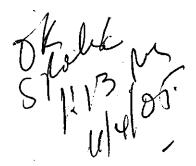
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| LING: DATO | ADV: 604 PETERSEN | INVOICED: | 11/02/2005 10 | :56:29 BP | 05 COROLLA | BLUE LI | URMAIIUN | |
|--|---------------------------------|---------------------------------------|-----------------|--------------|---------------|------------------|------------|-----------|
| | | · · · · · · · · · · · · · · · · · · · | *** | R.O. NOT | COMPLETE *** | | | |
| | TOY 91512-81035 | | | BOLT, F | | 4 | . 55 | 2.20 |
| | 010 SPARTAN | | 062910 | | | 18 | | |
| | TOY 15100-0D021 | | | PUMP AS | SY. OIL | 1 | 81.56 | 81.56 |
| | TOY 90913-03028 | } | | LOCK, V | ALVE SPRING R | 10 | .66 | 6.60 |
| | TOY 13540-0D010 | | | TENSION | ER ASSY, CHAI | 1 | 14.21 | 14.21 |
| | TOY 90919-01217 | | | PLUG, SI | PARK | 4 | 6.22 | 24.88 |
| | TOY 90915-YZZF2 | 1 | | FILTER S | S/A, OIL | 1 | | 3.22 |
| | PARTS: COUNT | 57 | | | | | | |
| FACTORY | | | | | | | | |
| | FAIL CODE : 02 | | COND CODE | : 99 | | | | |
| | | | | | | SI | UBTOTAL | • |
| | | | | | | PARTS | | 3535.99 |
| | | | | | | LAB-MECHANICAL | | 2340.90 |
| TYPE: W | | | | | | TOTAL CHARGE FOR | R CONCERN | 5876.89 |
| fotal char | θE | 2340.9 6290.2 | | | | FAC WARRANTY | | 6290.29 |
| | 35.00 - 94.25 | | | | | | | |
| DATE | | RS ON THIS N TES INVOICE | | | | | | , |
| 10/31 | | | | | | | | |
| | ANY QUESTIONS - P | | | | | | | |
| ************************************** | Y OUR NIGHT LUBE S | ERVICE UNII | L 9 P.M. MONDA' | Y - THURSDAY | **** | | | |
| | REPAIRS ARE GUARAN D 2 TIMES | ICCD FUR 12 | MUNIHS UK 12,0 | UUU MILES ' | **** | | | |
| VEL MINTE | | | | | | | | PAGE 2 |
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| WHITEHOUSE STATION NJ CELL: WORK: WORK: | WHITEHOUSE STATION NJ CELL: WORK: | |
|--|--|----------------|
| TAG:0567ADV:604PETERSEN,INVOICE:PRELIM WAR WBPMFG:26T001TAXRULES:NN1NYINVOICED:11/04/200513:09:16ODDMETERIN:3099OUT:3105 | VEHICLE INFORMATION | E |
| CONCERN 51 CUSTOMER STATES STEERING WHEEL OFF CENTER CAUSE STEERING WHEEL OFF CENTER CORRECTION ST/WHL OFF-CNTR(ST/WHL&T RD) - ADJ FACTORY TECH: 130 - MIHOK. DAVID A. FAIL CODE : 3C COND CODE : 99 | OPERATION HOURS 044174 .6 | AMOUI |
| TYPE: W | LAB-MECHANICAL TOTAL CHARGE FOR CONCERN | 55.2 |
| SUMMARY OF CHARGES FOR INVOICE W20039 LAB-MECHANICAL 55.20 TOTAL CHARGE 55.20 | PAYMENT DISTRIBUTION FOR INVOICE | √20039 55.2 |
| LAB RATE: 35.00 - 94.25 IF YOU HAVE ANY QUESTIONS - PLEASE SEE BRUCE E PETERSEN **** NOW TRY OUR NIGHT LUBE SERVICE UNTIL 9 P.M. MONDAY-THURSDAY ****** ALL REPAIRS ARE GUARANTEED FOR 12 MONTHS OR 12,000 MILES ** | ***** P | AGE T PAG |
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| ACKNOWLEDGE RECEIPT OF THE PARTS AND LABOR | | n |

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| | ANY WARRANTIES ON THE PARTS AND ACLOSE. SOLD HEREBY ARE MADE |
| | AGREET THAT DEALER MAKEA NO MADERSIGNED PURCHASER UNDERSTANDS AND |
| | CHARTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, WITH REGARD TO THE PARTS AND/OR ACCESSION AND INCLUSION AND AUTOMIC REGARD TO |
| | MERCIAL LOSSES ARISING OUT OF SUCH PURCHASE. THE UNDERSIGNED PUR- CHASER FURTHER ARRESS THAT THE WARRANTER THE UNDERSIGNED PUR- |
| 220 RTE. 22 WEST, GREEN BROOK, NJ 08812 | INCLUDE, BUT ARE NOT LIMITED TO ANY WARRANTIES EXCLUDED BY DEALER, INCLUDE, BUT ARE NOT LIMITED TO ANY WARRANTIES THAT SUCH PARTS |
| Phone (732) 968-1000 | ENABLE ANY VEHICLE OR ANY OF ITS SYSTEMS TO PERFORM WITH REASON- ABLE SAFETY, EFFICIENCY, OR COMFORT. |
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| Burlington | PLEASE REMIT ALL CORRESPO | NDENCE TO CORPORATE HEAD | SEP 0.5 2007 |
| Customer Assis 19001 South W | | | Customer Resolution Group |
| | Re: Our Client: Vehicle: Date of Purch/Lease: VIN: Current Mileage: <u>Our File No:</u> | Revocation of Acceptance 2007 Toyota Corolla January 6, 2007 2T1BR32E07C 9,800 071501LL | SEP 0.5 2007 Customer Support Group |

Dear Sir/Madam:

Please be advised that this office has been retained by requirementation regarding the above-referenced vehicle which was obtained from Towne Toyota Scion (Ledgewood, NJ). Since that time, our client's vehicle has undergone repeated repair attempts for a number of defects and nonconformities. As a result, our client has been forced to seek full relief pursuant to state and federal consumer product warranty laws.

The vehicle's primary defects and nonconformities include, but are not limited to, the following:

- I. Noises;
- 2. Brakes; and
- 3. Any and all additional complaints actually made, whether contained on company invoices or otherwise.

4

These nonconformities substantially impair the use, value and safety of the subject vehicle as defined under the New Jersey Lemon Law, the Magnuson-Moss Warranty Act and the New Jersey Uniform Commercial Code. Because the "purchase of a new car is a major investment [which is] rationalized by the peace of mind that flows from its dependability and safety...," these defects have understandably caused our client to lose all faith and confidence in the vehicle's integrity. Zabriskie Chevrolet, Inc. v. Smith, 240 A.2d 195 (N.J. Super, Ct. 1968).

* noneds case

Therefore, you (and the authorized dealer) are hereby notified that **sectors** is revoking acceptance of the vehicle effective immediately. Our client has directed us to demand the return of any and all funds paid towards this vehicle, to rescind the contracts, and to seek compensation for any incidental and consequential damages, including attorney's fees. Please inform this office of the procedure whereby our client may return the vehicle and recoup these expenses. DO NOT CONTACT OUR CLIENT UNDER ANY CIRCUMSTANCES AND DIRECT ALL INQUIRIES TO ONE OF OUR LAW OFFICES.¹

Please contact me as soon as possible to discuss resolving this matter. Knowing we have to wait up to forty (40) days for an arbitration decision prior to filing with the court, we will be preparing the arbitration application immediately. If we do not hear anything from you and/or we receive an unfavorable decision from the arbitration panel, we have been directed to commence formal legal proceedings against you.²

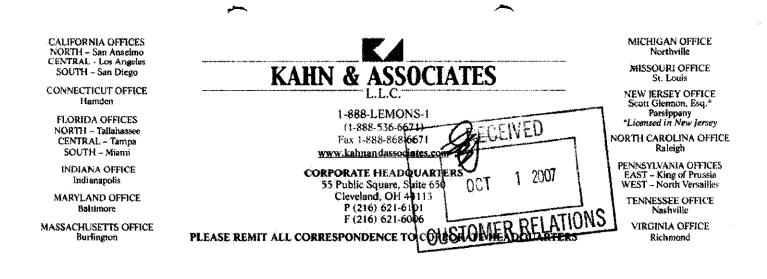
Sincerely,

Kenneth C. Ho Attorney for



¹Until this matter is resolved, **the serves are reserves the right to make appointments to have current** and future defects repaired by any authorized dealer of the consumer's choice, especially while the vehicle remains under warranty.

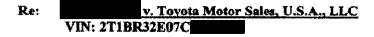
²However, if the consumer has already completed the informal arbitration process, we will begin preparing a formal complaint to be filed with the Court in fourteen (14) days.



September 26, 2007

VIA REGULAR U.S. MAIL

Mr. Vincent Favorito New York Regional Office 16 Henderson Drive West Caldwell, NJ 07006



Dear Mr. Favorito:

I am in receipt of your correspondence dated September 14, 2007 wherein you asked for our client's relevant documents to the above referenced matter. Thave enclosed these documents for your review.

If you should need anything further, please do not hesitate to contact me.

Sincerely,

KAHN & ASSOCIATES, L.L.C.

Kelly M. Stauch

Kelly M. Strauch Paralegal

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FLORIDA OFFICE - SOUTH 13876 Southwest 56th St., Suite 476 Miami, FL 33175

MASSACHUSETTS OPFICE 25 Burlington Mall Rd., Suite 300 Burlington, MA 01803 MICHIGAN OFFICE

22260 Haggerty Rd., Suite 250 Northville, MI 48167

NORTH CAROLINA OFFICE 4030 Wake Forest Rd., Suite 300 Raleigh, NC 27609



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CORPORATE HEADQUARTERS

55 Public Square, Suite 650 Cleveland, OH 44113 P (216) 621-6101 F (216) 621-6006

NEW JERSEY OFFICE J.D. Narula, Esq.⁴ 2001 Route 46 Waterview Plaza, Suite 310 Parsippany, NI 07054 *Livensed in New Jersey

PENNSYLVANIA OFFICE - WEST 1751 Lincoln Hwy. North Versailles, PA 15137

PENNSYLVANIA OFFICE - EAST 1060 First Ave., Suite 400 King of Prussia, PA 19406

TENNESSEE OFFICE 102 Woodmont Blvd., Suite 200 Nashville, TN 37205

VIRGINIA OFFICE 700 East Main St., Suite 1600 Richmond, VA 23219:

PLEASE REMIT ALL CORRESPONDENCE TO CORPORATE HEADQUARTERS

September 14, 2007

VIA REGULAR U.S. MAIL

Mr. Vincent Favorito Toyota Motor Sales, U.S.A., Inc. New York Regional Office 16 Henderson Drive West Caldwell, NJ 07006

v. Toyota Motor Sales, U.S.A., Inc. Re: VIN No.: 2T1BR32E07C

Dear Mr. Favorito:

Repair Orders you requested. This is the only document we Enclosed please find have at this time. We will forward to you our client's purchase documents upon receipt of the same.

Should you need anything further, please do not hesitate to contact me.

Sincerely,

KAHN & ASSOCIATES, L.L.C.

Kelly M. Strauch

Kelly M. Strauch Paralegal

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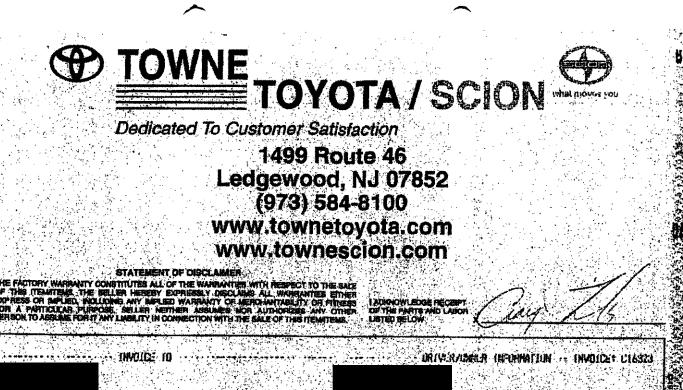
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| Kenneth C. Ho Kahn & Associates, L.L.C. 2001 Route 46 – Waterview Plaza – Suite 310 | FEB 2 1 2008 |
| Parsippany, NJ 07054 Ph: (888) 536-6671 Fax: (888) 868-6671 | FINANCE DIVISION HERLIGENTILED 04 |
| | : SUPERIOR COURT OF NEW JERSEY : LAW DIVISION – ESSEX COUNTY |
| Plaintiff, | : DOCKET NO. : CIVIL ACTION $L = 1615 - 08$ |
| vs. | CIVIL ACTION $\begin{bmatrix} -76 \\ 5 \end{bmatrix}$ |
| TOYOTA MOTOR SALES U.S.A., INC. | : <u>COMPLAINT AND JURY DEMAND</u> |
| Defendant. | |
| Now comes Plaintiff, | y and through undersigned counsel and states as |
| follows: | |
| BACKGROUND | |
| 1. Plaintiff, sector , is an adult individual citizen and legal resident of the State of | |
| New Jersey, residing at Great Meadows, NJ | |
| 2. Defendant, Toyota Motor Sales, U.S.A., Inc., is a business corporation qualified to do | |
| and regularly conducting business in Essex County, New Jersey and can be served at | |
| its registered agent c/o Prentice Hall Corp. Systems, 830 Bear Tavern Rd., West | |
| Trenton, NJ 08628. | |
| 3. On or about January 6, 2007, Plaintiff purchased or leased a 2007 Toyota Corolla, | |
| manufactured and warranted by Defendant, from Towne Toyota Scion (1499 Route | |
| 46, Ledgewood, New Jersey 078 | 52), bearing the Vehicle Identification Number |

2T1BR32E07C (hereinafter the "vehicle").

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- The vehicle was purchased or leased in the State of New Jersey and is registered in New Jersey.
- 5. The price of the vehicle and/or the total of payments is approximately \$18,300.00.
- 6. Plaintiff states that as a result of the ineffective repair attempts made by Defendant, through its authorized dealer(s), the vehicle cannot be utilized for the purposes intended by Plaintiff at the time of acquisition and hence, the vehicle is worthless and/or substantially impaired.
- 7. In consideration for the purchase of the above vehicle, Defendant issued to Plaintiff one or more written warranties on particular items.
- 8. Plaintiff notified the Defendant and/or its Authorized Dealer(s) on one or more occasions, and/or formally notified the Defendant by letter of Plaintiff's present intention to revoke acceptance of the vehicle and requested the return of all funds paid toward the vehicle.

<u>COUNT I</u> <u>NEW JERSEY LEMON LAW</u>

- Plaintiff hereby repeats and incorporates by reference all statements and allegations previously set forth as if fully rewritten herein.
- Section 56:12-29 et seq. is commonly known as, and will hereinafter be referred to as, the "New Jersey Lemon Law."
- 11. Plaintiff is a "Consumer" as defined by N.J.S.A. § 56:12-30.
- 12. Defendant is a "Manufacturer" as defined by N.J.S.A. § 56:12-30.
- Defendant provided a "Manufacturer's Warranty" and a "Warranty" as defined by N.J.S.A. § 56:12-30.

- Plaintiff purchased or leased the vehicle from and/or had it serviced at Defendant's "Dealer[(s)]," as that term is defined by § 56:12-30.
- Plaintiff reported one or more "nonconformities," as defined by N.J.S.A. § 56:1230, to the manufacturer, through its authorized dealer, within two years or
 eighteen thousand (18,000) miles of the date of delivery.
- 16. Defendant, through its authorized dealer(s), has been unable, unwilling and/or has refused to conform the motor vehicle to the express warranty by repairing one or more nonconformities within a reasonable number of attempts or a reasonable amount of time.
- 17. Plaintiff may satisfy one or more of the presumptions in N.J.S.A. § 56:12-33.
- 18. After notifying the Defendant via return receipt service of the aforementioned defects following the second repair attempt and/or at least 20 days out of service, the manufacturer failed to instruct Plaintiff as to where to deliver the vehicle or failed to repair the vehicle.

WHEREFORE, Plaintiff respectfully demands:

- 1. The "full purchase price" of the vehicle, collateral charges, finance charges, incidental and consequential damages;
- 2. Costs, including expert witness fees and reasonable attorney's fees; and
- 3. For such other relief as this court deems just and proper.

<u>COUNT II</u> <u>MAGNUSON-MOSS FEDERAL TRADE COMMISSION ACT</u>

- 19. Plaintiff hereby repeats and incorporates by reference all statements and allegations previously set forth as if fully rewritten herein.
- 20. Plaintiff is a "Consumer" as defined by 15 U.S.C. § 2301(3).
- 21. Defendant is a "Supplier" and a "Warrantor" as defined by 15 U.S.C. § 2301(4) &
 (5).
- 22. The vehicle is a "Consumer Product" as defined by 15 U.S.C. § 2301(1).
- 23. One or more of the warranties given to Plaintiff by Defendant was a "Written Warranty" as defined by 15 U.S.C. § 2301(6) and/or a "Service Contract" as defined by 15 USC § 2301(8).
- 24. Defendant, through its authorized dealer(s), has been unable, unwilling and/or has refused to conform the motor vehicle to the written warranty and/or service contract by repairing one or more nonconformities within a reasonable number of attempts or a reasonable amount of time.
- 25. Plaintiff states that Defendant has been afforded a reasonable opportunity to cure the vehicle's nonconformities pursuant to 15 U.S.C. § 2310 (e).
- 26. Section 15 U.S.C. § 2310 (d) (1) provides:

Subject to subsections (a)(3) and (e) of this section, a consumer who is damaged by the failure of a supplier, warrantor, or service contractor to comply with any obligation under this chapter, or under a written warranty, implied warranty, or service contract, may bring suit for damages and other legal and equitable relief....

27. As a direct and proximate result of Defendant's failure to comply with

Defendant's express written and implied warranties and service contract, Plaintiff

has and continues to suffer damages.

- 28. If Defendant maintains a qualified Informal Dispute Resolution Mechanism,
 Plaintiff has resorted to it at least forty (40) days prior to filing this Complaint
 and/or has pursued that process to its completion, as required by 15 U.S.C. § 2310
 (a) and rules promulgated thereunder.
- 29. Pursuant to 15 U.S.C. § 2310 (d)(2), plaintiff seeks all Costs, including attorney's fees and expert witness fees.

WHEREFORE, Plaintiff respectfully demands:

- 1. The "full purchase price" of the vehicle, collateral charges, finance charges, incidental and consequential damages;
- 2. Costs, including expert witness fees and reasonable attorney's fees; and
- 3. For such other relief as this court deems just and proper.

COUNT III NEW JERSEY UNIFORM COMMERCIAL CODE

- 30. Plaintiff hereby repeats and incorporates by reference all statements and allegations previously set forth as if fully rewritten herein.
- 31. The defects and nonconformities exhibited by the vehicle constitute a breach of contractual and statutory obligations of Defendant, including, but not limited to, the following:
 - a. Express Warranty
 - b. Implied Warranty of Merchantability; and
 - c. Implied Warranty of Fitness for a Particular Purpose.
- 32. At the time delivery of the vehicle to Plaintiff and at all times subsequent thereto, Plaintiff has justifiably relied on Defendant's express and implied warranties, obligations and representations with regard to the vehicle.

- 33. At the time of delivery of the vehicle and at all times subsequent thereto, Defendant was aware that Plaintiff was relying on Defendant's express and implied warranties, obligations and representations with regard to the vehicle.
- 34. Plaintiff has incurred damage as a direct and proximate result of the Defendant's breach and failure to honor its express and implied warranties, obligations and representations with regard to the vehicle.
- 35. Plaintiff has incurred damage as a direct and proximate result of the failure of essential purpose of Defendant's express and implied warranties, obligations and representations with regard to the vehicle.
- WHEREFORE, Plaintiff respectfully demands:
 - 1. The "full purchase price" of the vehicle, collateral charges, finance charges, incidental and consequential damages;
 - 2. Costs, including expert witness fees and reasonable attorney's fees; and
 - 3. For such other relief as this court deems just and proper.

COUNT IV NEW JERSEY CONSUMER FRAUD ACT

- 36. Plaintiff hereby repeats and incorporates by reference all statements and allegations previously set forth as if fully rewritten herein.
- N.J.S.A. § 56:8-1 et seq. is commonly known as, and will hereinafter be referred to as, the "New Jersey Consumer Fraud Act."
- 38. Defendant employed unconscionable commercial practices, deception, false promise and misrepresentation in violation of N.J.S.A. § 56:8-2.
 Said acts and practices include, but are not limited to, the following:

- 39. Defendant's representation that the vehicle contained a valid warranty, which would cause effective warranty repairs to be made within a reasonable time and within the warranty period, was untrue.
- 40. Defendant's representation that the vehicle contained, as a remedy, an effective warranty, which would cause effective warranty repairs to be made within a reasonable time and within the warranty period, was false.
- 41. Defendant's representation that the vehicle would have the natural benefits of being fit for its intended and ordinary purposes and merchantable, was untrue.
- 42. Defendant's representation that the vehicle was merchantable was untrue.
- 43. Defendant may have violated the New Jersey Lemon Law, which constitutes a practice in violation of N.J.S.A. § 56:8-2.
- 44. Defendant may have failed to provide Plaintiff with repair orders at the time of service in violation of N.J.S.A. § 56:12-34(c).
- 45. Defendant, who had a legal obligation to Plaintiff under the written warranty, breached, avoided and/or attempted to avoid its obligation to the Plaintiff.
- 46. Defendant exhibited a pattern of inefficiency, stalling and/or incompetency with regard to its warranty repair work.

WHEREFORE, Plaintiff respectfully demands:

- 1. Judgment against Defendant in an amount equal to three times Plaintiff's actual damages;
- 2. Costs, including expert witness fees and reasonable attorney's fees; and
- 3. For such other relief as this court deems just and proper.

Respectfully submitted,

KAHN & ASSOCIATES, L.L.C.

KENNETH C. HO Attorney for Plaintiff

TOYOTA MOTOR SALES, U.S.A., INC. Manufacturer Response Form

| Customer Name: | Manufacturer Kespo | Case #: 1607144 | | |
|---|---|---|--|--|
| VIN: 2T1BR32E07C | (2007 Corolla) | Start Date: 09/21/2007 | | |
| VIII. 21 IDI COLLOTO | Manufacturer In | formation | | |
| Region: New York | Servicing Dealer: T | | | |
| Can the hearing be held at the se | rvicing dealership? • Yes C |) No | | |
| | Manufacturer's Sta | tement | | |
| Are the customer's concerns cover Yes, if applicable. | | | | |
| Is the customer's vehicle current No, according to the dealer the | y unrepaired? Does the cond vehicle has been inspected | cem exist? Explain: ad and repaired. | | |
| Is the use, value or safety of this No, the use, value or safety of | vehicle substantially impaire this vehicle has not been s | d? Explain: substantially impaired. | | |
| Are the number of repair attempt 12/13/06 - Pre-Delivery Service | | curate? Explain: | | |
| 1/10/07 - supplied floor mats fr | ont and back | | | |
| 2/5/07 1,000 mile service free fi replaced engine oil and filter, t | | Iter change, lube, oil and filter completed, | | |
| performed LOF, performed lub area, no problem found at this | e, oil and filter change. / ci time lubricated chassis po ual noise, front rotors sand | hnician performed the following service, ustomer states terrible squeak from brake bints and brakes, all ok, tech notes: brake ded to put swiri finish- may help, bund warranty | | |
| before test drive, check and fo | und creaking noise comin | nder car while stopping slowly - see Dave g from back end assembly, power steering red alignment, road-tested warranty | | |
| 7/10/07 - customer states brak repair vehicle suggest drop of | es banging, heard noise fr f for another day, no repair | om left front wheels, will need more time to rs were performed warranty | | |
| 7/26/07 - c/s tire went flat and brakes stopped working after. tech inspect and found right rear drum not in rear axle, it was found attached to flat tire in trunk that damaged the right wheel cylinder causing the system to loose fluid, tech replaced the right rear wheel cylinder, rear brake shoes for the right side and mount and balanced new tire, test drove for proper operation - customer pay | | | | |
| 7/26/07 - customer states a clu fitting shim fit kit, tech replace | ink noise is heard when ac ad the front kit and shim ki | celerating from a take off, found poor t for front brake pads - warranty | | |
| Inspection of vehicle 10/16/07. holes. FTS applied brake great Inspected customer concern for recorded 37.8 mpg. c/s engine | Inspected the following: ase to anti rattle clips on fr or poor fuel economy, FTS e stalls shakes and will not | ecialist inspection, FTS completed FTS rattle noises over large bumps & pot ont brakes, test drove, noise repaired. S completed fuel economy test, FTS t accelerate, FTS test drove and could not codes present vehicle operating as | | |

designed at this time. - warranty

Please provide your position in regard to the customer's claim(s). In the interest of customer satisfaction Toyota would like an opportunity to have a Toyota Field Technical Specialist inspect and repair any demonstrable warrantable repairs. A Toyota Field Technical Specialist has inspected the customer's vehicle on 10/16/07 and has repaired the customer's vehicle for brake noise and after his inspection found the customer's vehicle to be repaired and operating as designed and no further warrantable repairs are necessary at this time.

At this time, Toyota requests the customer's request of a repurchase/replacement be denied. There has not been an unreasonable amount of days down or repair attempts made for the same nonconformity and the use, value or safety of this vehicle has not been substantially impaired.

| R/PD will participate O By phone O In Person | In Writing | Available Dates: |
|--|------------|------------------|
| Return this form by: 09/30/2007 | | Contact: |
| NCDS Fax: (586) 790-4774 | Phone: | Fax: |

National Center for Dispute Settlement

October 31, 2007

22300 Metropolitan Parkway - Suite 200 Clinton Township, MI 48035 (800) 936-4303 (586) 741-0870 Fax: (586) 790-4774

Kenneth C. Ho, Esq. Kahn & Assoc., L.L.C. 55 Public Square, Ste. #650 Cleveland, OH 44113

Toyota Motor Sales, U.S.A., Inc. New York Regional Office 16 Henderson Drive West Caldwell, NY 07006

> RE: CASE # 1607144 Customer Name::

Dear Parties:

By direction of the Arbitrator(s), we are enclosing the Decision in the above referenced case.

Enclosed for the vehicle owner is an "Acceptance of Decision" form. The vehicle owner has twenty (20) days from the date of this letter in which NCDS must receive the "Acceptance of Decision" form. The form should be mailed to:

> National Center for Dispute Settlement 22500 Metropolitan Parkway Snite 200 Clinton Township, MI 48035

Thank you for your cooperation in resolving this matter through the Expedited Dispute Settlement mechanism. Should you have any questions regarding the Acceptance of Decision, please contact NCDS. Failure to return this form within twenty (20) days from the date of this letter will be considered a rejection of the Arbitrator's Decision and therefore, NCDS will close your case.

Finally, you may obtain, at a reasonable cost, copies of all the case records related to this dispute.

Sincerely,

NCDS bull

Allisia Powell x.118 Case Administrator

Enclosures: as noted cc: Board Members

Where interests converge, agreements emerge

National Center for Dispute Settlement

22500 Metropolitan Parkway . Suite 200

Clinton Township, MI 48035

(800) 936-4303 (586) 741-0870

Fax: (586) 790-4774

DATE: October 31, 2007

CUSTOMER:

CASE #: 1607144

I understand that I am not bound to the Decision of the Arbitrator(s) in my case unless I accept it. If I reject the decision, or am dissatisfied with Toyota's eventual performance, I may pursue other legal remedies, including the use of small claims court. Whether or not I accept the Decision, however, the Decision is admissible in any subsequent legal proceeding concerning the dispute.

I also understand that if I accept the Decision, Toyota will be legally bound by the Decision.

You must mark one of the boxes below, otherwise, NCDS will consider that no response has been made to the Decision and your case will be closed accordingly.

I ACCEPT THE DECISION

I DO NOT ACCEPT THE DECISION

()

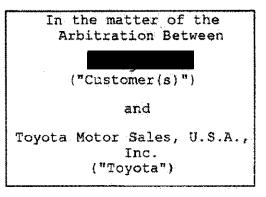
()

SIGNED:

DATE:

Where interests converge, agreements emerge

NATIONAL CENTER FOR DISPUTE SETTLEMENT



DECISION Case # 1607144

A Three-Person Board, consisting of Ed Hester, Richard Bee and Kathy Lowry was appointed pursuant to NCDS rules as Arbitrators to determine disputes, which had arisen between the Customer(s), and Toyota regarding a 2007 Corolla.

By a letter dated September 21, 2007, the Board advised the parties that a hearing based solely on documents would be conducted on October 30, 2007.

The complaint(s) existing between the parties were set forth on a "Customer Claim Form" received by NCDS on September 21, 2007, and may be summarized as follows:

The Attorney for the Customer states there is a clunk noise on acceleration and a squealing noise from the brake area.

SUMMARY OF PRESENTATION:

مذجر جرد بعيانه ا

According to the Customer Claim Form received by NCDS on September 20, 2007, the Customer purchased a 2007 Toyota Corolla. The vehicle currently has over 9,800 miles on the odometer.

and the second and a

In addition to the Customer Claim Form, the Customer's Attorney submitted two (2) typed letters dated August 27, 2007 and September 14, 2007; and a copy of Repair Order numbers C09770 and W16323.

According to the Attorney's letter, the vehicle has had problems with a clunk noise on acceleration and a squealing noise from the brake area. The Attorney's letter does not state whether the problems continue to exist. The Customer's Attorney has requested the Customer's choice of a replacement or repurchase of the vehicle, plus all collateral charges, incidental expenses, and Attorney's fees.

Toyota submitted a Manufacturer Response Form, which stated that in the interest of Customer satisfaction, Toyota would like an opportunity to have a Toyota Field Technical Specialist inspect and repair any demonstrable warrantable repairs. A Toyota Field Technical Specialist inspected the Customer's vehicle on October 16, 2007, and has repaired the Customer's vehicle for brake noise and after his inspection, found the Customer's vehicle to be repaired and operating as designed and no further warrantable repairs are necessary at this time. At this time, Toyota requests the Customer's request of a repurchase/replacement be denied. There has not been an unreasonable amount of days out of service or repair attempts made for the same nonconformity and the use, value, or safety of the vehicle has not been substantially impaired.

DECISION:

After reviewing the complaint(s) and hearing the proofs and arguments of the parties and taking into consideration the applicable manufacturer's new vehicle warranty, and the applicable warranty law including the applicable State Statute commonly referred to as the "Lemon Law," and after due deliberation, we find and Award as follows:

The Customer's request for a repurchase or replacement of the vehicle, plus all collateral charges, incidental expenses, and Attorney's fees is hereby DENIED.

We have reached this unanimous conclusion because although the vehicle was repaired for conditions which impair the use of the vehicle, it has not been subject to an unreasonable number of repair attempts for the same nonconformity.

Collateral charges, incidental expenses, and Attorney's fees are beyond the scope of this process.

This constitutes the panels complete DECISION as to all the complaint(s) submitted to the panel for determination.

10 DATE

3607 DATE

.10 DATE

Ed Hester

Richard Rec

Lowry



Date September 14, 2007 Toyota Motor Sales, U.S.A., Inc.

Toyota Motor Sales, U.S.A., Inc. New York Regional Office 16 Henderson Drive West Caldwell, NJ 07006 373 575-1900

VIA OVERNIGHT MAIL

Kenneth C. Ho Kahn & Associates L.L.C. 55 Public Square, Suite 650 Cleveland, OH 44113

> Re: Claim of VIN : 2T1BR32E07C Vehicle model and year Corolla 2007

Dear Mr. Ho:

Toyota Motor Sales, U.S.A., Inc. ("TMS") is in receipt of your correspondence dated August 29, 2007 wherein you are seeking relief under Connecticut's Lemon Law on behalf of Craig Freda. This letter has been forwarded to me at New York to ensure efficient handling and a prompt response.

At this time, we are uncertain as to the specific mechanical concerns which form the basis for the b

We will need to review the following information which you or your client may have in your possession:

- 1. Legible copies of any and all documents relating to the purchase or lease of the subject vehicle;
- 2. Legible copies of any and all documents relating to any prior debts which were rolled into the purchase price or lease terms of this vehicle;
- 3. Legible copies of any and all documents relating to the purchase and installation of any after-market equipment added to the vehicle on or after the date of purchase;
- 4. Legible copies of any and all maintenance records for the subject vehicle, including non-Toyota repair facilities; and,
- 5. Legible copies of any and all documents relating to any accidents involving the vehicle.

Please send this information to the following address:

Toyota New York Region 16 Henderson Dr

West Caldwell, NJ 07006 ATTN: Customer Relations Manager

In the meantime, we will compile our records on this matter. Depending on the underlying facts, we may want to conduct an inspection of the vehicle. Because Toyota values retaining your client as a customer, we would like to inform you that the National Center for Dispute Settlement (NCDS) arbitration services are available to your client. This program is part of Toyota's commitment to provide its customers with an impartial non-affiliated organization to promptly and equitably resolve their concerns. To obtain more information about this process please contact the Toyota National Customer Assistance Center at 1-800-331-4331, Monday through Friday, 6:00 a.m. to 6:00 p.m., Pacific time.

We appreciate the opportunity to lend our assistance. Please be assured that we will be contacting you shortly with hopes of amicably resolving this matter.

Very Truly Yours, Vincent Favdritč

Toyota R/PD Customer Relations Manager



Printed by RBrown

Case Report - 200708310093

Minnetonka, MN

Customer/Caller Summary:

Customer Name/Address:

Caller Phone: Caller Alt. Phone:

Case Summary:

| Case Title: | Arbitration Request; Speci | Recurring | Condition; | Engine- | Powertrain; | Other-Please |
|-----------------|-------------------------------|-----------|------------|---------|-------------|--------------|
| Case Type: | Priority | | | | | |
| Contact Method: | Phone | | | | | |
| Cust Attitude: | Concerned | | | | | |
| Coding Type: | Complaint | | | | | |
| Category: | Arbitration Request | | | | | |
| Problem Area: | Recurring Condition | | | | | |
| Component: | Engine- Powertrain | | | | | |
| Condition: | Other-Please Specify | | | | | |
| VIN: | 1NXBR30E76Z | | | | | |
| Dofu: | 07/31/2006 | | | | | |
| Current Miles: | 12000 | | | | | |
| Incident Miles: | 2182 | | | | | |
| Model Year: | 2006 | | | | | |
| Model Name: | Corolla | | | | | |
| Region: | Chicago | | | | | |
| District: | I | | | | | |
| Dealer 1: | Rudy Luther Toyota, | 22030 | | | | |
| Selling Dealer: | Rudy Luther Toyota, | 22030 | | | | |

Case History:

Caller Seeks: Seeking to pursue ARB for refund of veh or replacement b/c of lack of reliability CAC Stated: see case notes

*** PHONE LOG 08/31/2007 07:13:09 AM JSugar

Caller states: took veh in for svc @ Rudy Luther for same issue 5 times. May pursue lemon law in MN. Purch veh in aug 2006. 2x in oct 06, when driving interior lights shut off, engine lost power, & speedometer went to 0. Check eng light, tire light, & abs light came on & trans didn't shift properly. Veh ran w/some check lights on but when run long enough some lights turn off. Issue not always occuring but has happened. Dlr has put in 2 new ecu's & a new actuator.

*** NOTES 08/31/2007 07:13:10 AM JSugar

VHas happened 3 times in October 06 & 2 times in August 07. Happened 8/27/07, took to dlr to get fixed. As cust was leaving it happened again. Dlr advd found loose wire & has replaced it, fls should fix problem. Has happened on freeway, under 30, etc. very sporadic. Planning on p/u veh & driving 4 hours north, concerned b/c not any toy dlr?s in the area. Sks c/b today concerning whether or not to keep rental. Sks to doc concern for filing lemon law in future.

*** NOTES 08/31/2007 07:13:28 AM JSugar NCR apol, advd case #, advd cm c/b w/in 1b/d.

*** SUBCASE 200708310093-1 CREATED 09/04/2007 07:44:03 AM KGohn

*** NOTES 09/04/2007 10:40:58 AM KGohn +OUTGOING DLR CALL+ NCR spoke with SM David who adv cust was back in dlr 8/30/07. Sts cust has been to dlr several times. Sts will fax ROs to NCR at 310-974-5859. Sts veh is fixed at this time.

*** NOTES 09/04/2007 10:45:23 AM KGohn +OUTGOING CUST CALL+ NCR attempted to contact cust at twice and was adv that call could not be completed as dialed and call was disconnected.

NCR left v/m for cust requesting a c/b on NCR adv 800 #, option 3, log in ID of 73181 & adv NCR?s hours are 7:00-3:30 PDT. *** NOTES 09/04/2007 12:10:46 PM KGohn ATF: NCR received RO history from dlr. *** NOTES 09/04/2007 01:23:40 PM BBarkley Cust cld to speak with CM who was n/a. NCR apol and adv cust Cm will c/b EOB 1 day. Cust adv to call her work # *** PHONE LOG 09/05/2007 11:06:03 AM KGohn Action Type: Outgoing call ARB NO PREVIOUS CASES +OUTGOING CUST CALL+ NCR spoke with cust who adv would like to pursue ARB for refund of veh. Sts doesn?t feel safe any longer in weh and is concerned about reliability. NCR apol and adv ARB is what toy offers if she no longer wants weh and educated cust on ARB process. Adv ARB ppwk mailed w/in 10-14 bus days. Adv to refer to owner?s warr rights notification booklet for more info. NCR adv Toy is obligated to repair veh while under warr. Cust understood but still would like to pursue ARB. *** SUBCASE 200708310093-1 CLOSED 09/05/2007 11:07:42 AM KGohn *** DEALER NOTES: 0<u>9/05/07 15:0</u>6:50 CALLED CUSTOMER AT AND LEFT MESSAGE. THE OTHER NUMBER IS A NON WORKING NUMBER. *** NOTES 09/06/2007 03:36:35 PM ECastaneda Mailed arb ppwk 09/06/07. *** CASE CLOSE 09/10/2007 11:39:29 AM NVacura210 vehicle repaired, but cust. lost confidence. wants to pursue arbitration for a buy/back. Activity Summary: Activity Date/Time Originator Additional Information Rule Action 09/10/2007 11:39:36 AM rulemgr Action Notify Originator for Closed Case of rule Toyota Priority/Accident Closed Case fired Case Close 09/10/2007 11:39:29 AM NVacura210 Status = Closed, Resolution Code = Full, State = Open. Yanked 09/10/2007 11:38:51 AM NVacura210 Case grabbed from KGohn to NVacura210's default WipBin. 09/10/2007 11:38:51 AM Chg Status NVacura210 Action Region Rule Action 09/06/2007 03:36:44 PM rulemgr Action Send Notify of rule Toyota Priority/Accident Non Orig Notes fired 09/06/2007 03:36:35 PM Notes ECastaneda Log notes. Rule Action 09/05/2007 03:07:04 PM rulemar Action Notify Originator of dealer add of rule Toyota Priority/Accident Dlr Add Notes fired 09/05/2007 03:06:49 PM Notes DLR22030 Log notes by dealer. Subcase Close 09/05/2007 11:07:42 AM Number = 200708310093-1, Status = Action CAC, KGohn Resolution Code = Full .. 09/05/2007 11:07:36 AM Dispatch KGohn Action Region. Chg Status 09/05/2007 11:07:36 AM KGohn Case sent to region: Chicago Phone Log 09/05/2007 11:06:03 AM Start = 09/05/2007 11:05:4<u>1 AM, End =</u> 09/05/2007 KGohn 11:06:03 AM, Contact = Rule Action 09/04/2007 01:23:44 PM rulemgr Action Send Notify of rule Toyota Priority/Accident Non Orig Notes fired Notes 09/04/2007 01:23:40 PM BBarkley Log notes. 09/04/2007 12:10:45 PM 09/04/2007 10:45:23 AM Notes KGohn Log notes. Notes KGohn Log notes. Notes 09/04/2007 10:40:58 AM KGohn Log notes. Admin Subcase 09/04/2007 07:44:03 AM KGohn Number = 200708310093-1, Created in WIP default with due date $09/04/2007 \ 06:00:00 \ PM.$. 09/04/2007 07:43:24 AM Modify into WIP default and Status of Action CAC. KGohn Set Originato 09/04/2007 07:43:22 AM KGohn Set Originator: by KGohn Accept 09/04/2007 07:43:03 AM KGohn from Queue Toyota Resolution Queue to WIP default. 08/31/2007 07:14:29 AM Dispatch JSugar from WIP default to Queue Toyota Resolution Queue. Modify 08/31/2007 07:14:24 AM JSugar into WIP default and Status of Action CAC. 08/31/2007 07:13:28 AM Notes JSugar Log notes. 08/31/2007 07:13:10 AM Notes JSugar Log notes. Modify 08/31/2007 07:13:09 AM JSugar into WIP default and Status of Action CAC.

| | ` | | ~ | | |
|--|------------------|--------------------------|----------|----|------------------|
| | Phone Log | 08/31/2007 | 07:13:09 | AM | JSugar |
| | Modify Create | 08/31/2007 08/31/2007 | | | JSugar JSugar |

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Start = 08/31/2007 07:05:00 AM, End = 08/31/2007 07:13:09 AM, Contact = into WIP default and Status of Action CAC. Contact = Status = Action CAC.

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LEGAL SERVICES

DEC - 4 2007

GROUP RECEIVED

DISTRICT COURT

COUNTY OF HENNEPIN

STATE OF MINNESOTA

FOURTH JUDICIAL DISTRICT Case Type: Minnesota Lemon Law

| Plaintiffs, |)) |
|--|--|
| vs. |)) COMPLAINT |
| Toyota Motor Sales, U.S.A., Inc., a California corporation transacting business in the State of Minnesota, |))) |
| Defendant. |) |
| Plaintiffs, | , as and for their cause of action against |

Defendant allege as follows:

1.

At all times relevant to Plaintiffs' claims in this case, Plaintiffs have resided at 1908 Ford Road, City of Minnetonka, County of Hennepin, State of Minnesota.

2.

Defendant is a California corporation transacting business in the State of Minnesota.

Defendant continually and systematically transacts business in the State of Minnesota by selling

motor vehicles to its authorized dealers in the State of Minnesota, County of Hennepin.

Defendant's authorized dealers ultimately sell said motor vehicles to Minnesota consumers.

3.

The occurrences that form the basis for this cause of action, or some part thereof, arose in Hennepin County. Therefore, pursuant to Minn. Stat. § 542.09, venue is proper in Hennepin County. On or about August 2, 2006, Plaintiffs purchased a new 2006 Toyota Corolla (the "subject vehicle") from Defendant's authorized dealer, Rudy Luther's Scion, of Golden Valley, Minnesota.

5.

Defendant manufactured the subject vehicle.

6.

The vehicle identification number of the subject vehicle is 1NXBR30E762

7.

Plaintiffs took delivery of the subject vehicle on or about August 2, 2006.

8.

Included with the purchase of the subject vehicle was a manufacturer's express written new vehicle warranty.

9.

The problems, conditions and/or defects ("nonconformities") experienced by Plaintiffs are evidenced by, but not necessarily limited to, the speedometer falling to zero, the ABS, low tire and check engine lights illuminating, and loss of engine power.

10.

Plaintiffs made repeated attempts to have Defendant correct the warranted problems with the subject vehicle. As a result of said attempts, the subject vehicle was the subject an unreasonable number of repair attempts for the same nonconformity and/or has been out of service by reason of repair for more than 30 days.

11.

On or about August 31, 2007, Plaintiffs provided Defendant's authorized dealership with written notice that Plaintiffs were revoking acceptance of the subject vehicle due to Defendant's inability to provide the repairs required by its warranty and of Plaintiffs' intentions to pursue their rights under the Minnesota Lemon Law, Minn. Stat. § 325F.665.

<u>COUNT 1</u> VIOLATION OF MINN. STAT. § 325F.665, SUBD. 2. ("MINNESOTA LEMON LAW")

12.

Plaintiffs reallege Paragraphs 1 through 11 as though fully set forth herein.

13.

Plaintiffs are "consumers" as the Minnesota Lemon Law defines that term.

14.

Defendant is a "manufacturer" as the Minnesota Lemon Law defines that term.

15.

The new vehicle warranty purchased by Plaintiffs is a "manufacturer's express warranty"

and "warranty" as the Minnesota Lemon Law defines that term.

16.

Plaintiffs reported the vehicle nonconformities outlined above to Defendant and/or its authorized dealers during the term of the applicable express warranty and during the two years following the date of original delivery of the new motor vehicle to Plaintiffs.

17.

Defendant failed to make the repairs necessary to conform the subject vehicle to the applicable express warranty.

18.

Defendant has therefore violated Minn. Stat. § 325F.665, subd. 2.

Plaintiffs, therefore, are entitled to repair of the subject vehicle, and/or to be compensated in an amount to be determined at trial, plus reasonable attorneys' fees and litigation costs incurred in this action as set forth under the Minnesota Lemon Law.

<u>COUNT 2</u> VIOLATION OF MINN. STAT. § 325F.665, SUBD. 3. ("MINNESOTA LEMON LAW")

20.

Plaintiffs reallege Paragraphs 1 through 19 as though fully set forth herein.

21.

The subject vehicle has been out of service by reason of repair for more than 30 cumulative

days within the warranty period and/or two years of delivery of the subject vehicle to Plaintiffs.

22.

Defendant attempted an unreasonable number of repairs of the subject vehicle for the same

warranted defect or condition within the warranty period and/or two years of delivery of the subject vehicle to Plaintiffs.

23.

The nonconformities in the subject vehicle substantially impair its use and/or market value to Plaintiffs.

24.

Plaintiffs gave Defendant the notice and an opportunity to repair the subject vehicle required by Minn. Stat. § 325F.665, subd. 3(e).

25.

Plaintiffs are, therefore, entitled to the presumption provided by Minn. Stat. § 325F.665, subd. 3(b).

Defendant has therefore violated Minn. Stat. § 325F.665, subd. 3, thereby entitling Plaintiffs to vehicle replacement or full refund of the purchase price of the subject vehicle, at Plaintiffs' choice, including the cost of any options or other modifications arranged, installed, or made by the manufacturer, its agent, or its authorized dealer within 30 days after the date of original delivery, and all other charges, including, but not limited to, sales or excise tax, license fees and registration fees, reimbursement for towing and rental vehicle expenses incurred by Plaintiffs as a result of the vehicle being out of service for warranty repair, plus attorneys' fees and litigation costs incurred bringing this action as set forth in the Minnesota Lemon Law.

<u>COUNT 3</u> VIOLATION OF 15 U.S.C. SECTION 2301 *ET SEQ.* ("MAGNUSON-MOSS WARRANTY ACT")

27.

Plaintiffs reallege Paragraphs 1 through 26 as though fully set forth herein.

28.

The subject vehicle is a "consumer product" as the Magnuson-Moss Warranty Act defines that term.

29.

The warranty purchased by Plaintiffs is a "warranty" as the Magnuson-Moss Warranty Act defines that term.

30.

Plaintiffs are "consumers" as the Magnuson-Moss Warranty Act defines that term.

31.

Defendant is a "warrantor" as the Magnuson-Moss Warranty Act defines that term.

Defendant has failed to conform the subject vehicle to its written/express warranty after a reasonable number or repair attempts or number of days, notwithstanding Plaintiffs having provided Defendant with a reasonable opportunity to do so.

33.

Defendant has therefore violated the Magnuson-Moss Warranty Act, thereby entitling Plaintiffs to (i) revoke acceptance of the vehicle, (ii) receive a full refund of the purchase price of

the vehicle plus all out of pocket expenses related to the vehicle, (iii) recover loss of use damages measured by the cost to rent a like vehicle for the periods during which the subject vehicle has not conformed to the written or implied warranties, and (iv) compensation for his reasonable legal fees and litigation costs incurred in prosecuting this matter.

<u>COUNT 4</u> BREACH OF EXPRESS WARRANTY (VIOLATION OF MINN, STAT. § 336.2-607 & COMMON LAW)

34.

Plaintiffs reallege Paragraphs 1 through 33 as though fully set forth herein.

35.

Plaintiffs notified Defendant of its failure to remedy defects in the subject vehicle within a reasonable time after discovering them, and gave Defendant a reasonable opportunity to cure said defects.

36.

Defendant's express warranty required it to remedy the defects in the subject vehicle, but Defendant failed to do so, or to do so within a reasonable period of time. Defendant has, therefore, breached its warranty to Plaintiffs. Defendant's breach of warranty has directly and proximately caused Plaintiffs' damages.

38.

Defendant has thereby violated Minn. Stat. § 336.2-607. Plaintiffs are therefore entitled to

recover their actual damages, together with all incidental and consequential damages including, but

not limited to, loss of use damages from Defendant.

<u>COUNT 5</u> VIOLATION OF MINN. STAT. § 336.2-314 (BREACH OF IMPLIED WARRANTY OF MERCHANTABILITY)

39.

Plaintiffs reallege Paragraphs 1 through 38 as though fully set forth herein

40.

Defendant is a merchant with respect to the subject vehicle purchased by Plaintiffs.

41.

Included with Plaintiffs' purchase of subject vehicle was an implied warranty of

merchantability.

42.

The subject vehicle was of a character and quality that it would not pass without objection in the trade under the contract description.

43.

The subject vehicle was not fit for the ordinary purpose for which such good are used.

44.

The subject vehicle was not of fair average quality within the contract description.

45.

Defendant neither excluded nor modified said warranty of merchantability.

.

Defendant has therefore violated Minn. Stat. § 336.2-314 by breaching its implied warranty of merchantability to Plaintiffs.

47.

Plaintiffs are therefore entitled to recover their actual damages, together with all incidental and consequential damages from Defendant.

<u>COUNT 6</u> VIOLATION OF MINN. STAT. § 336.2-608. (REVOCATION OF ACCEPTANCE)

48.

Plaintiffs reallege Paragraphs 1 through 47 as though fully set forth herein.

49.

Plaintiffs reported the nonconformities outlined above to Defendant during the term of the applicable express warranty and within a reasonable time after discovering the same.

50.

The nonconformities outlined above substantially impair the value of the subject vehicle.

51.

Plaintiffs were reasonably induced to accept the subject motor vehicle by the difficulty of

discovery of said nonconformities before acceptance and by Defendant's assurances that the subject vehicle conformed to its warranties.

52.

Plaintiffs provided Defendant with a reasonable number of opportunities to cure the nonconformities in the subject vehicle, but Defendant failed to seasonably cure said nonconformities.

Plaintiffs revoked acceptance of the subject vehicle within a reasonable time after discovery of the nonconformities outlined above.

54.

Plaintiffs are therefore entitled to recover the full purchase price of the subject motor vehicle plus all incidental and consequential damages including, but not limited to, loss of use damages.

WHEREFORE, Plaintiffs respectfully pray for judgment against Defendant for damages in the amount of \$18,371.00, plus incidental and consequential damages, loss of use damages, attorney fees and litigation costs in a reasonable amount to be specifically proven at the time of trial, together with pre-judgment and post-judgment interest and all other costs the Court deems just.

JURY DEMAND

Plaintiffs hereby respectfully demand a trial by jury.

ACKNOWLEDGMENT

Plaintiffs assert these claims in good faith and acknowledge that costs, disbursements, and reasonable attorney and witness fees may be awarded to the opposing party as provided by Minnesota Statutes Section 549.211, subd. 2 (1994).

Date: November 21, 2007

Daniel J. Brennan (#284646) BRENNAN LAW OFFICE 3541 45th Avenue South Minneapolis, MN 55406 Telephone (612) 729-7410

ATTORNEY FOR PLAINTIFFS



05/25/2005 10:22 FAX

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May 25, 2005.

VIA FAX ONLY 310-468-7808

Toyota Motor Sales, U.S.A., Inc. National Hondquarters 19001 S. Western Avenue Mail Drop H200 Torrance, CA 90509

> Re: <u>va Toyota</u> Vehicle: 2995 Toyota-Corolla Date of Purchase: 05/25/04 Place of Purchase: Savage Toyota VIN: 1GNEK13R5V.

Dear Sir/Madam:

Please be advised that this office represents the above individual against Toyota Motor Sales, U.S.A., Inc. pursuant to the PA Lenson Law, Uniform Commercial Code, Unfair Trade Practices Act, and Magnuson-Moss Warnanty Claim. Kindly acknowledge our firm's representation and direct any and all correspondence to this office.

DO NOT HAVE ANY FURTHER CONTACT WITH OUR CLIENT WITH THE EXCEPTION OF COMMUNICATION NECESSARY TO EFFECTUATE CURRENT REPAIRS,

Thank you for your attention to this matter. If you have any questions, please do not hesitate to contact the undersigned.

inuly

SMR: P2 cc: Bernedotte Ha Coaig Thor Kimmel, Esquire Identification No. 57100 Statmor M. Ryan, Esquire Identification No. 87648 KIMMEL & SILVERMAN, P.C. 30 East Butter Pike Statuter, 274 19002 (215) 540-8888

| Port Carbon, PA | |
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TOYOTA MOTOR SALES, USA, INC. 19001 South Western Avenue Torrance, CA 90509

ATTORNEYS FOR PLAINTIFF

THIS IS AN ARBITRATION MATTER. ASSESSMENT OF DAMAGES HEARING IS REQUESTED.

COURT OF COMMON PLEAS PHILADELPHIA COUNTY

CIVIL ACTION

LEGAL SERVICES AUG - 2 2005 GROUP RECEIVED

COMPLAINT CODE: 1900

1. Plaintiff, is an adult individual citizen and legal resident of the Commonwealth of Pennsylvania, Carbon, PA

2. Defendant, Toyota Motor Sales, USA, Inc., is a corporation qualified to do and regularly conduct business in the Commonwealth of Pennsylvania, with its address and principal place of business located at 19001 South Western Avenue, Torrance, CA 90509, and can be served at this address.

BACKGROUND

3. On or about May 25, 2004, Plaintiff purchased a new 2005 Toyota Corolla, manufactured and warranted by Defendant, bearing the Vehicle Identification Number 1NXBR32E35Z

4. The vehicle was purchased in the Commonwealth of Pennsylvania and is registered in the Commonwealth of Pennsylvania.

5. The contract price of the vehicle, including registration charges, document fees, sales tax, finance and bank charges, but <u>excluding</u> other collateral charges not specified, yet defined by the

Law, totaled more than \$17,491.98. A true and correct copy of the contract is attached contract a part hereof, and marked Exhibit "A".

So the consideration for the purchase of said vehicle, Defendant issued to Plaintiff several source a guarantees, affirmations or undertakings with respect to the material or workmanship the sociele and/or remedial action in the event the vehicle fails to meet the promised purcheations.

The above-referenced warranties, guarantees, affirmations or undertakings are/were part of the basis of the bargain between Defendant and Plaintiff.

and the parties' bargain includes an express 3-year / 36,000 mile warranty, as well as other servers, affirmations and undertakings as stated in Defendant's warranty materials and the smanual.

However, as a result of the ineffective repair attempts made by Defendant through its weed dealer(s), the vehicle is rendered substantially impaired, unable to be utilized for its substantially impaired, and is worthless to Plaintiff.

Example 1 Fraintiff has or may have resorted to Defendant's informal dispute settlement procedure,

The Plaintiff avers that the Federal Trade Commission (FTC) has determined that no receive one manufacturer complies with 16 CFR 703. See, Fed. Reg. 15636, Vol. 62, No. 63 No. 51 (1997).

COUNT I PENNSYLVANIA AUTOMOBILE LEMON LAW

Plaintiff hereby incorporates all facts and allegations set forth in this Complaint by

Plaintiff is a "Purchaser" as defined by 73 P.S. §1952.

the londant is a "Manufacturer" as defined by 73 P.S. §1952.

Savage Toyota is and/or was at the time of sale a Motor Vehicle Dealer in the business of

and/or exchanging vehicles as defined by 73 P.S. §1952.

We the or about May 25, 2004, Plaintiff took possession of the above mentioned vehicle and

and a subsconformities as defined by 73 P.S §1951 et seq., which substantially impair the

and/or safety of the vehicle.

The nonconformities described violate the express written warranties issued to Plaintiff

by Defendant.

18. Section 1955 of the Pennsylvania Automobile Lemon Law provides:

If a manufacturer fails to repair or correct a nonconformity after a reasonable number of attempts, the semifacturer shall, at the option of the purchaser, replace the motor vehicle... or accept return of the semifacturer shall, at the option of the purchaser, replace the motor vehicle... or accept return of the semifacturer shall, at the option of the purchaser, replace the motor vehicle... or accept return of the semifacturer shall, at the option of the purchaser the full purchase price, including all collateral sharges, less a reasonable allowance for the purchasers use of the vehicle, not exceeding \$.10 per mile driven or 10% of the purchase price of the vehicle, whichever is less.

Section 1956 of the Pennsylvania Automobile Lemon Law provides a presumption of a

whether of repair attempts if:

The same nonconformity has been subject to repair three times by the manufacturer, its agents or annorized dealers and the nonconformity still exists; or

The vehicle is out-of-service by reason of any nonconformity for a cumulative total of thirty or a = b calendar days.

200 Plaintiff has satisfied the above definition as the vehicle has been subject to repair more

man data (3) times for the same nonconformity, and the nonconformity remained uncorrected.

addition, the above vehicle has or will be out-of-service by reason of the

restant for sities complained of for a cumulative total of thirty (30) or more calendar days.

22. Plaintiff has delivered the nonconforming vehicle to an authorized service and repair

23. After a reasonable number of attempts, Defendant was unable to repair the

24. During the first 12 months and/or 12,000 miles, Plaintiff complained on at least three (3) about defects and or non-conformities to the following vehicle components: stalling

condition. True and correct copies of all invoices in Plaintiff possession are attached hereto,

Haintiff avers the vehicle has been subject to additional repair attempts for defects and the for which Defendant's warranty dealer did not provide or maintain itemized to the s required by 73 P.S. § 1957.

 1.5 ± 1957 also include technicians' notes of diagnostic procedures and repairs, and Defendant's becamical Service Bulletins relating to this vehicle.

Chaintiff has and will continue to suffer damages due to Defendant's failure to comply the provisions of 73 P.S. §§ 1954 (repair obligations), 1955 (manufacturer's duty for refund the maxement), and 1957 (itemized statements required).

restonation to 73 P.S. § 1958, Plaintiff seeks relief for losses due to the vehicle's restonation including the award of reasonable attorneys' fees and all court costs.

THEREFORE, Plaintiff respectfully demands judgment against Defendant in an amount the price of the subject vehicle, plus all collateral charges, attorneys' fees, and court

COUNT II MAGNUSON-MOSS (FTC) WARRANTY IMPROVEMENT ACT

36 Plaintiff hereby incorporates all facts and allegations set forth in this Complaint by

31 Plaintiff is a "Consumer" as defined by 15 U.S.C. §2301(3).

32. Defendant is a "supplier", "warrantor", and a "service contractor" as defined by 15 U.S.C. \$ 230 ((4), (5) and (8).

33. The subject vehicle is a "consumer product" as defined by 15 U.S.C. § 2301(1).

34. By the terms of its written warranties, affirmations, promises, or service contracts, Defendant agreed to perform effective repairs at no charge for parts and/or labor.

35. The Magnuson-Moss Warranty Improvement Act requires Defendant to be bound by all warranties implied by state law. Said warranties are imposed on all transactions in the state in which the vehicle was delivered.

36. Defendant has made attempts on several occasions to comply with the terms of its express warranties; however, such repair attempts have been ineffective.

37. The Magnuson-Moss Warranty Improvement Act, 15 U.S.C. §2310(d)(2) provides:

If a consumer finally prevails on an action brought under paragraph (1) of this subsection, he may be allowed by the court to recover as part of the judgment a sum equal to the amount of aggregate amount of costs and expenses (including attorney fees based upon actual time expended), determined by the court to have been reasonably incurred by the Plaintiff for, or in connection with the commencement and r oscertion of such action, unless the court, in its discretion shall determine that such an award of attorney's fees would be inappropriate.

38. Plaintiff has afforded Defendant a reasonable number of opportunities to conform the vehicle to the aforementioned express warranties, implied warranties and contracts.

39. As a direct and proximate result of Defendant's failure to comply with the express written warranties, Plaintiff has suffered damages and, in accordance with 15 U.S.C. 2310(d)(1), Plaintiff is entitled to bring suit for such damages and other legal and equitable relief.

40. Defendant's failure is a breach of Defendant's contractual and statutory obligations constituting a violation of the Magnuson-Moss Warranty Improvement Act, including but not limited to: breach of express warranties; breach of implied warranty of merchantability; breach of implied warranty of fitness for a particular purpose; breach of contract; and constitutes an Unfair Trade Practice.

41. Plaintiff avers Defendant's Dispute Resolution Program is not in compliance with 16 CFR 703 by the FTC for the period of time this claim was submitted.

Plaintiff avers that upon successfully prevailing upon the Magnuson-Moss claim herein,

are demanded against Defendant.

REFORE, Plaintiff respectfully demands judgment against Defendant in an amount second price of the subject vehicle, plus all collateral charges, incidental and consequential

COUNT III PENNSYLVANIA UNFAIR TRADE PRACTICES AND CONSUMER PROTECTION LAW

Plaintiff hereby incorporates all facts and allegations set forth in this Complaint by

Plaintiff is a "Person" as defined by 73 P.S. §201-2(2).

E Defendant is a "Person" as defined by 73 P.S. §201-2(2).

Section 201-9.2(a) of the Act authorizes a private cause of action for any person "who

uses or leases goods or services primarily for personal, family or household purposes."

Section 1961 of the Pennsylvania Automobile Lemon Law, provides that a violation of its

seasons shall automatically constitute a violation of the Pennsylvania Unfair Trade Practices

and the assumer Protection Act, 73 P.S. 201-1 et seq.

addition, the Pennsylvania Unfair Trade Practices and Consumer Protection Act, 73

(4), defines "unfair or deceptive acts or practices" to include the following conduct:

(vii). Representing that goods or services are of a particular standard, quality or grade, or that goods are of a particular style or model, if they are of another;

(xiv). Failing to comply with the terms of any written guarantee or warranty given to the buyer at, prior to, or after a contract for the purchase of goods or services is made;

(xv). Knowingly misrepresenting that services, replacements or repairs are needed if they are not needed;

(xvi). Making repairs, improvements or replacements on tangible, real or personal property of a nature or quality inferior to or below the standard of that agreed to in writing;

(xvii). Engaging in any other fraudulent or deceptive conduct which creates a likelihood of confusion or of misunderstanding.

Haintiff avers Defendant has violated these, as well as other provisions, of 73 P.S. §201-

Section 201-3.1 of the Act provides that the Automotive Industry Trade Practice rules

violations of the Act.

Defendant's conduct surrounding the sale and servicing of the subject vehicle falls within the aforementioned definitions of "unfair or deceptive acts or practices."

52. The Act also authorizes the Court, in its discretion, to award up to three (3) times the

COREFORE, Plaintiff respectfully demands judgment against Defendant in an amount not converse of Fifty Thousand Dollars (\$50,000.00), together with all collateral charges, attorneys' converse and treble damages.

KIMMEL & SELVERMAN By:

CRAIG THOR KIMMEL, ESQUIRE Attorney for Plaintiff 30 East Butler Pike Ambler, Pennsylvania 19002 (215) 540-8888

VERIFICATION

Finang Thor Kimmel, states that he is the attorney for the Plaintiff herein; that he is

sequences with the facts set forth in the foregoing Complaint; that same are true and correct to

bis knowledge, information and belief; and that this statement is made subject to the does of 18 Pa. C.S.A. §4904, relating to unsworn falsifications to authorities.

CRAIG THOR KIMMEL ESQUIRE Attorney for Plaintiff

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EXCLUSION OF WARRANTIES

EXCLUSION OF WARRANTIES Any warranties on the parts and accessories sold hereby are made by the manufacturer. The express or implied, and disclaims all warrenties, including warranties of merchantability or fitness for a particular purpose, with regard to the parts and/or accessories purchased; and that in no out of such purchase. The undersigned purchaser further agrees that the warranties arising dealer, include, but are not limited to any warranties that such parts and/or accessories are of merchantable quality or that they will enable any vehicle or any of its systems to perform with reasonable safety, efficiency, or comfort.

AUTHORIZATION FOR REPAIRS

AUTHORIZATION FOR REPAIRS I hereby authorize the repair work herein set forth to be done along with the necessary material and agree that you are not responsible for loss or damage to vehicle or articles left in vehicle in case of fire, theft or any other cause beyond your control or for any delays caused by navailability of parts or delays in parts shipments by the supplier or transporter. I hereby grant vou and/or your employees permission to operate the vehicle herein described on streets, hereby acknowledged on above vehicle to secure the amount of repairs thereto. The dealership is ot responsible for damages from freezing due to lack of antifreeze.

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Central Atlantic Toyota Distributors a division of Toyota Motor Sales, U.S.A., inc. 6710 Baymeadow Drive Glen Burnie, MD 21060 (410) 760-1500

May 26, 2005

<u>VIA U.S. MAIL</u> Shannon Ryan Kimmel & Silverman, PC 30 East Butler Pike Ambler, PA 19002

> Re: Claim of VIN 1NXBR32E35Z Vehicle model and year Corolla 2005

Dear Ms. Ryan:

Toyota Motor Sales, U.S.A., Inc. ("TMS") is in receipt of your correspondence dated May 25, 2005 wherein you are seeking relief under Pennsylvania's Lemon Law on behalf of Bernadette Hammer. This letter has been forwarded to me at Central Atlantic Toyota to ensure efficient handling and a prompt response.

At this time, we are uncertain as to the specific mechanical concerns which form the basis for Bernadette Hammer's Lemon Law demand. Because we cannot investigate this claim without such information, we ask that you contact us immediately.

We will need to review the following information which you or your client may have in your possession:

- 1. Legible copies of any and all documents relating to the purchase or lease of the subject vehicle;
- 2. Legible copies of any and all documents relating to any prior debts which were rolled into the purchase price or lease terms of this vehicle;

- 3. Legible copies of any and all documents relating to the purchase and installation of any after-market equipment added to the vehicle on or after the date of purchase;
- 4. Legible copies of any and all maintenance records for the subject vehicle, including non-Toyota repair facilities; and,
- 5. Legible copies of any and all documents relating to any accidents involving the vehicle.
- 6. Copies of current registration and/or title.

Please send this information to the following address:

Central Atlantic Toyota 6710 Baymeadow Drive Glen Burnie, MD 21060 ATTN: Customer Relations Department

In the meantime, we will compile our records on this matter. Depending on the underlying facts, we may want to conduct an inspection of the vehicle. Because Toyota values retaining your client as a customer, we would like to inform you that the National Center for Dispute Settlement (NCDS) arbitration services are available to your client. This program is part of Toyota's commitment to provide its customers with an impartial non-affiliated organization to promptly and equitably resolve their concerns. To obtain more information about this process please contact the Toyota National Customer Assistance Center at 1-800-331-4331, Monday through Friday, 6:00 a.m. to 6:00 p.m., Pacific time.

We appreciate the opportunity to lend our assistance. Please be assured that we will be contacting you shortly with hopes of amicably resolving this matter.

Very Truly Yours,

isi M. Karna

Lisa M. Karns Customer Relations Representative



Case Report - 200409300794

Customer/Caller Summary:

Customer Name/Address:

Caller Phone: Caller Alt. Phone:

Case Summary:

Contact Method:

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Problem Area:

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Model Name:

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Category:

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Case Title:

Case Type:

Potential Arbitration; Abnormal Condition; Engine- Powertrain; Stalls General Phone Frustrated Complaint Potential Arbitration Abnormal Condition Engine- Powertrain Stalls 2T1BR32E25C 09/13/2004 1053 1000 2005 Corolla New York 03 Dch Brunswick Toyota, 29085 Dch Brunswick Toyota, 29085

Case History:

Customer Seeks:perm fix for engine stalling or toy to replace vehCAC Stated:ncr apol & provided case#. region open 3 business days (updated cpa)

*** PHONE LOG 09/30/2004 12:33:55 PM TWitherspoon

===PA=== NO PREV CASE#

cust sts w/in 1 month of purch, veh has stalled 6X. sts storage compartment also not working properly & having other concerns w/veh. sts dlr replaced computer & after picked up, veh wouldnt start and elect instruments would not work. sts she has been loyal toy cust & very dissatis w/veh. sts has been working w/pete-svc rep & has not spk to CRM/svc mgr. sts sks perm fix or toy to replace veh.

*** NOTES 09/30/04 04:10:32 PM ny5 REGION- case has been assigned to DPSM(c. underwood) and FTS (t. senneca)

*** NOTES 10/06/04 05:12:49 AM ny5 DSPM called cust on 10/5/2004 @ 11am at to discuss concern. Cust adv veh has been at the dlr since 9/29/2004 for no start concern. CUst adv she thinks the dealer found out the concern this time. DSPM gave cust info and adv would contact dlr to make find out more details. Cust satisfied. Case closed.

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Activity Summary:

| Activity | Date/Time | Originator | Additional Information |
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| CPU Created | 09/30/2004 12:31:18 | PM TWithersp | |



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Jacqueline C. Herritt, Esquire KIMMEL & SILVERMAN, P.C. Executive Quarters 1930 E. Marlton Pike, Suite T11 Cherry Hill, NJ 08003 (856)429-8334 **ATTORNEY FOR PLAINTIFFS**

JURY TRIAL DEMANDED.

SUPERIOR COURT OF NEW JERSEY SOMERSET COUNTY

Somerset, New Jersey

v.

TOYOTA MOTOR SALES, USA, INC. 19001 South Western Avenue Torrance, CA 90509 CIVIL ACTION

NO. L-164-05

FEB 2 3 2005

COMPLAINT

 1. Plaintiffs,
 are adult individual citizens and

 legal residents of the State of New Jersey
 Somerset, New Jersey

2. Defendant, Toyota Motor Sales, USA, Inc., is a corporation qualified to do and regularly

conduct b usiness in the State of New Jersey, with its address and principal place of b usiness located at 19001 South Western Avenue, Torrance, CA 90509, and can be served at this address.

BACKGROUND

3. On or about August 31, 2004, Plaintiffs purchased a new 2005 Toyota Corolla, manufactured and warranted by Defendant, bearing the Vehicle Identification Number

2T1BR32E250

4. The vehicle was purchased in the State of New Jersey and is registered in the State of New Jersey.

5. The contract price of the vehicle, including registration charges, document fees, sales tax, finance and bank charges, but <u>excluding</u> other collateral charges not specified, yet defined by the

Lemon Law, totaled more than \$25,051.14. A true and correct copy of the contract is attached hereto, made a part hereof, and marked Exhibit "A".

6. In consideration for the purchase of said vehicle, Defendant issued to Plaintiffs several warranties, guarantees, affirmations or undertakings with respect to the material or workmanship of the vehicle and/or remedial action in the event the vehicle fails to meet the promised specifications.

7. The above-referenced warranties, guarantees, affirmations or undertakings are/were part of the basis of the bargain between Defendant and Plaintiffs.

8. The parties' bargain includes an express 3-year / 36,000 mile warranty, as well as other guarantees, affirmations and undertakings as stated in Defendant's warranty materials and owner's manual.

9. However, as a result of the ineffective repair attempts made by Defendant through its authorized dealer(s), the vehicle is rendered substantially impaired, unable to be utilized for its intended purposes, and is worthless to Plaintiffs.

10. Plaintiffs have or may have resorted to Defendant's informal dispute settlement procedure, to the extent said procedure complies with 16 CFR 703.

11. Plaintiffs aver that the Federal Trade Commission (FTC) has determined that no automobile manufacturer complies with 16 CFR 703. See, Fed. Reg. 15636, Vol. 62, No. 63 (Apr. 2, 1997).

COUNT I <u>NEW JERSEY MOTOR VEHICLE WARRANTY</u> ACT

12. Plaintiffs hereby incorporate all facts and allegations set forth in this Complaint by reference as if fully set forth at length herein.

13. Plaintiffs are "Consumers" as defined by N.J.S.A. 56:12-30.

14. Defendant is a "Manufacturer" as defined by N.J.S.A. 56:12-30.

15. DCH Brunswick Toyota, is and/or was at the time of sale a "Dealer or Motor Vehicle Dealer" in the business of buying, s elling, and/or exchanging v ehicles as d efined by N.J.S.A. 56:12-30.

16. On or about August 31, 2004, Plaintiffs took possession of the above mentioned vehicle and experienced nonconformities as defined by N.J.S.A. 56:12-29 <u>et seq.</u>, which substantially impair the use, value and/or safety of the vehicle.

17. Defendant through its authorized dealer failed to provide written notification that the vehicle was covered by the New Jersey Motor Vehicle Warranty Act as provided in N.J.S.A. 56:12-34(c). Plaintiffs believe and therefore aver said failure is a per se violation of the New Jersey Consumer Fraud Act, N.J.S.A. 56:8-1 et seq., as well as a violation of the New Jersey Motor Vehicle Warranty Act.

18. The nonconformities described violate the express written warranties issued to Plaintiffs by Defendant.

19. Section 56:12-32 of the New Jersey Motor Vehicle Warranty Act provides:

a. If, during the period specified in section 3 of this act, the manufacturer or its dealer is unable to repair or correct a nonconformity within a reasonable time, the manufacturer shall accept return of the motor vehicle from the consumer. The manufacturer shall provide the consumer with a full refund of the purchase price of the original motor vehicle including any stated credit or allowance for the consumer's used motor vehicle, the cost of any options or other modifications arranged, installed, or made by the manufacturer or its dealer within 30 days after the date or original delivery, and any other charges or fees including, but not limited to, sales tax, license and registration fees, finance charges, reimbursement for towing and reimbursement for actual expenses incurred by the consumer for the rental of a motor vehicle equivalent to the consumer's motor vehicle and limited to the period during which the consumer's motor vehicle use.

20. Section 56:12-33 of the New Jersey Motor Vehicle Warranty Act provides a presumption

of a reasonable number of repair attempts:

- a. It is presumed that a manufacturer or its dealer is unable to repair or correct a nonconformity within a reasonable time if, within the first 18,000 miles of operation or during the period of two years following the date of original delivery of the motor vehicle to a consumer, whichever is the earlier date:
 - (1) Substantially the same nonconformity has been subject to repair three or more times by the manufacturer or its dealer and the nonconformity continues to exist; or
 - (2) The motor vehicle is out of service by reason of repair for one or more nonconformities for a cumulative total of 20 or more calendar days since the original delivery of the motor vehicle and a nonconformity continues to exist.

b. The presumption contained in sub-section a. of this section shall apply against a manufacturer only if the manufacturer has received written notification, by or on behalf of the consumer, by certified mail return receipt requested, of a potential claim pursuant to the provisions of this act and has had one opportunity to repair or correct the defect or condition within 10 calendar days following receipt of the notification. Notification by the consumer shall take place any time after the motor vehicle has had substantially the same nonconformity subject to repair two or more times or has been out of service by reason of repair for a cumulative total of 20 or more calendar days.

21. Plaintiffs have satisfied the above definition as the vehicle has been subject to repair more than three (3) times for the same nonconformity, and the nonconformity remained uncorrected.

22. In addition, the above vehicle has or will be out of service by reason of the nonconformities complained of for a cumulative total of twenty (20) or more calendar days.

23. Plaintiffs have delivered the nonconforming vehicle to an authorized service and repair facility of the Defendant on numerous occasions as outlined below.

24. After a reasonable number of attempts, Defendant was unable to repair the nonconformities.

25. During the first 24 months and/or 18,000 miles, Plaintiffs complained on at least three (3) occasions about defects and or non-conformities to the following vehicle components: abnormal malfunction indicator light on, stalling condition, jerk in transmission, no-start condition and defective engine control module. True and correct copies of all invoices in Plaintiffs possession are attached hereto, made a part hereof, and marked Exhibit "B".

26. Plaintiffs have been and will continue to be financially damaged due to Defendant's intentional, reckless, wanton, and negligent failure to comply with the provisions of N.J.S.A. 56:12-29 et seq.

27. Plaintiffs have provided Defendant with a final repair opportunity prior to filing the within Complaint.

28. Pursuant to N.J.S.A. 56:12-29 et seq, Plaintiffs seek relief for losses due to the nonconformities and defects in the above-mentioned vehicle in addition to reasonable attorney fees and all court costs.

WHEREFORE, Plaintiffs respectfully demand judgment against Defendant in an amount equal to the price of the subject vehicle, plus all collateral charges, attorneys' fees, and court costs.

COUNT II MAGNUSON-MOSS (FTC) WARRANTY IMPROVEMENT ACT

29. Plaintiffs hereby incorporate all facts and allegations set forth in this Complaint by reference as if fully set forth at length herein.

30. Plaintiffs are "Consumers" as defined by 15 U.S.C. §2301(3).

31. Defendant is a "supplier", "warrantor", and a "service contractor" as defined by 15 U.S.C.

§ 2301 (4),(5) and (8).

32. The subject vehicle is a "consumer product" as defined by 15 U.S.C. § 2301(1).

33. By the terms of its written warranties, affirmations, promises, or service contracts,

Defendant agreed to perform effective repairs at no charge for parts and/or labor.

34. The Magnuson-Moss Warranty Improvement Act requires Defendant to be bound by all warranties implied by state law. Said warranties are imposed on all transactions in the state in which the vehicle was delivered.

35. Defendant has made attempts on several occasions to comply with the terms of its express warranties; however, such repair attempts have been ineffective.

36. The Magnuson-Moss Warranty Improvement Act, 15 U.S.C. §2310(d)(2) provides:

If a consumer finally prevails on an action brought under paragraph (1) of this subsection, he may be allowed by the court to recover as part of the judgment a sum equal to the amount of aggregate amount of costs and expenses (including attorney fees based upon actual time expended), determined by the court to have been reasonably incurred by the Plaintiff for, or in connection with the commencement and prosecution of such action, unless the court, in its discretion shall determine that such an award of attorney's fees would be inappropriate.

37. Plaintiffs have afforded Defendant a reasonable number of opportunities to conform the vehicle to the aforementioned express warranties, implied warranties and contracts.

38. As a direct and proximate result of Defendant's failure to comply with the express written warranties, Plaintiffs have suffered damages and, in accordance with 15 U.S.C. §2310(d)(1), Plaintiffs are entitled to bring suit for such damages and other legal and equitable relief.

39. Defendant's failure is a breach of Defendant's contractual and statutory obligations constituting a violation of the Magnuson-Moss W arranty I mprovement A ct, including but not limited to: breach of express warranties; breach of implied warranty of merchantability; breach of implied w arranty of fitness for a particular purpose; b reach of c ontract; and c onstitutes an Unfair Trade Practice.

40. Plaintiffs aver Defendant's Dispute Resolution Program is not in compliance with 16 CFR 703 by the FTC for the period of time this claim was submitted.

41. Plaintiffs aver that upon successfully prevailing upon the Magnuson-Moss claim herein, all attorney fees are recoverable and are demanded against Defendant.

WHEREFORE, Plaintiffs respectfully demand judgment against Defendant in an amount equal to the price of the subject vehicle, plus all collateral charges, incidental and consequential damages, reasonable attorneys' fees, and all court costs.

COUNT III UNIFORM COMMERCIAL CODE

42. Plaintiffs hereby incorporate all facts and allegations set forth in this Complaint by reference as if fully set forth at length herein.

43. The defects and nonconformities existing within the vehicle constitute a breach of contractual and statutory obligations of Defendant, including but not limited to the following:

- a. Express Warranty;
- b. Implied Warranty Of merchantability; and
- c. Implied Warranty Of Fitness For A Particular Purpose.

44. At the time of obtaining possession of the vehicle and at all times subsequent thereto, Plaintiffs have justifiably relied upon Defendant's express warranties and implied warranties of fitness for a particular purpose and implied warranties of merchantability.

45. At the time of obtaining possession of the vehicle and at all times subsequent thereto, Defendant was aware Plaintiffs were relying upon Defendant's express and implied warranties, obligations, and representations with regard to the subject vehicle.

46. Plaintiffs have incurred damages as a direct and proximate result of the breach and failure of Defendant to honor its express and implied warranties.

47. Such damages include, but are not limited to, the contract price of the vehicle plus all collateral charges, including attorney fees and costs, as well as other expenses, the full extent of which are not yet known.

WHEREFORE, Plaintiffs respectfully demand judgment against Defendant in an amount equal to the contract price of the vehicle, plus all collateral charges and attorneys' fees.

COUNT IV NEW JERSEY CONSUMER FRAUD ACT

48. Plaintiffs hereby incorporate all facts and allegations set forth in this Complaint by reference as if fully set forth at length herein.

49. Plaintiffs are "Persons" as defined by N.J.S.A. 56:8-1(d).

50. Defendant is a "Person" as defined by N.J.S.A. 56:8-1(d).

51. Defendant's actions surrounding the sale and servicing of the subject vehicle were unconscionable. Defendant's agents also acted with a reckless and callous disregard for Plaintiffs' rights in negotiating and handling Plaintiffs' warranty claims.

52. Defendant's actions surrounding the sale and servicing of said vehicle constitute a unconscionable commercial practice, deception, fraud, false pretense, false promise, and/or misrepresentation. Defendant and its agents acted affirmatively in such a manner as to be an unlawful commercial practice.

53. Defendant acted knowingly with the intent to cause Plaintiffs' reliance thereupon.

54. Defendant knowingly concealed, suppressed, or omitted facts material to the transactions at issue, in that Defendant was aware the defect(s)/condition(s) could not be repaired, and that the ineffectual repairs were performed by incompetent or unqualified individuals. Defendant's failure to verify the defect(s) or condition(s) constitutes a refusal to perform the repairs under its statutory or contractual obligations.

55. Defendant through its authorized dealer failed to provide written notification that the vehicle was covered by the New Jersey Motor Vehicle Warranty Act N.J.S.A. 56:12-34(c) and Plaintiffs believe and therefore aver said failure is a per se violation of the New Jersey Consumer Fraud Act N.J.S.A. 56:8-1 et seq. as well as a violation of the New Jersey Motor Vehicle Warranty Act.

56. Plaintiffs believe and therefore aver that the defect(s) or condition(s) outlined previously is/are an inherent design defect and that as such the Defendant must certify the existence of this defect or condition to the Division of Consumer Affairs. Defendant has failed to file this certification and this failure is a violation of the New Jersey Consumer Fraud Act N.J.S.A. 56:8-1 et seq.

57. Defendant's failure to supply an itemized legible statement of repair is an unlawful practice pursuant to the New Jersey Consumer Fraud Act N.J.S.A. 56:8-2.

58. The Act prohibits the aforementioned action of Defendant in the sale and attempted repair of the subject vehicle.

59. Plaintiffs believe and therefore aver the reckless, wanton and willful failure of Defendant to comply with the terms of the written warranties constitutes an unfair method of competition.

60. As a result of Defendant's unlawful conduct, Plaintiffs have and will continue to suffer ascertainable financial loss proximately caused by the Defendant's conduct. Said losses are outlined as follows:

a. Plaintiffs are entitled to a full refund N.J.S.A. 56:8-2.11-12;

- b. Plaintiffs' vehicle, given the defect/condition, is worthless;
- c. Plaintiffs lost time from work and other money as a result of having to take the vehicle in for the repeated repair attempts;
- d. Plaintiffs have been relegated to finding alternative means of transportation while the vehicle was in for repairs and while the vehicle has been in its present condition. As a result, Plaintiffs have incurred additional transportation costs; and
- e. Plaintiffs have expended sums to maintain, store, insure, register, and other expenses for transportation.

WHEREFORE, Plaintiffs respectfully demand judgment against Defendant for compensatory damages, treble damages, attorney fees, costs of suit, and any further relief as the Court may deem just and proper.

KIMMEL & SILVERMAN, P.C.

By:

ACQUELINE C. HERRITY, ESQUIRE Attorney for Plaintiffs Executive Quarters 1930 E. Marlton Pike, Suite T11 Cherry Hill, NJ 08003 (856) 429-8334

JURY-DEMAND

Plaintiffs hereby demand a trial by jury as to all the issues

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KIMMEL & SILVERMAN, P.C.

By: HERRITT, ESQUIRE JA(Autorney for Plaintiffs

CERTIFICATION PURSUANT TO R.4:15-1

Upon knowledge and belief I hereby certify that there are no other actions or arbitrations related to this suit pending or presently contemplated.

KIMMEL & SILVERMAN, P.C. By: INE C. HERRINT, ESQUIRE Attorney for Plaintiffs

CERTIFICATION OF NOTICE

Pursuant to N.J.S.A. 56:8-20 Plaintiffs are mailing a copy of this Complaint to the Office

of the Attorney General, Richard J. Hughes Justice Complex, 25 West Market Street in the City of Trenton, County of Mercer, in the state of New Jersey on

KIMMEL & SILVERMAN, P.C.

By: NE C. HERRITT, ESQUIRE JA OUEI

Attorney for Plaintiffs

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| | B Price of Required Physical Damage Insurance Purchased fr | rom the Insurance Comp | bany Named Below - | * | | N/A | |
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| | C Price of Optional Credit Insurance Purchased from the Insur Life \$ Disability, Accident and Heat | | panies Naijieu Below - | N/A \$ | (| N/A 37.50 | |
| | D Government License and/or Registration Fees | | · · · | \$ | | N/A | |
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NEW JERSEY (For use in the State of New Jersev)

DISTRIBUTION: WHITE - BRANCH CORY: GREEN + FILE COPY: GANARY - SELLER COPY: PINK: - 2 BUYER'S COPIES

PAGE 1

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DCH Brunswick Toyota/SCION 1504 ROUTE 1, NORTH BRUNSWICK, NEW JERSEY 08902 TEL: (732) 418-7888 FAX: (732) 418-9134 www.dchbrunswicktoyota.com

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PAGE 2

DCH Brunswick Toyota/SCION 1504 ROUTE 1, NORTH BRUNSWICK, NEW JERSEY 08902 TEL: (732) 418-7888 FAX: (732) 418-9134

www.dchbrunswicktoyota.com

SOMERSET, NJ

SERVICE ADVISOR *PETE PEREZ REPAIR ORDER DATE READY STOCK NO. VEHICLE IDENTIFICATION CUST. NO. TAG NO. INVOICE PRINTED P.D. NO. INVOICE NO. 14SEP0428SEP04 |BT50248 2T1BR32E25C 28SEP04 400974 TIME IN TIME READY YEAR MAKE & MODEL TELEPHONE NO. LUST. PAY DELIVERY PEEPARED BY 9/8 08:11 17:03 05 TOYOTA COROLLA 0.00 31AUG04 55 55 MILEAGE IN MILEAGE OUT LICENSE NO. 1047 1049 HURS INFO INFO ONLY 13 ITY 0.00 TECH # 13 RE-INSTALLED GLOVE BOX ASSY (N/C) D** RENTAL CAR RC RENTAL CAR 13 CP4 0.00 0.00 0.00 MISC TRAC CAR RENTAL PO#55 WRNT BACKORDER PARTS # YC4724TY (N/C)** PRE-INVOICE ** DESCRIPTION TOTALS LABOR AMOUNT I hereby authorize the repair work herein set forth to be done along with the necessary material and agree that you are not responsible for loss or damage to vahicle or articles left in vehicle in case of fire, theit, or any other cause beyond your control or for any delays caused by unavailability of parts or delays in parts shipments by the supplier or transporter. I hereby grant you and/or your employees permission to operate the vehicle herein described on streets, highways or elsewhere for the purpose of testing and/or inspection. An express mechanic's lien is hereby acknowledged on above vehicle to secure the amount of repairs thereto. 0.00 PARTS AMOUNT 0.00 GAS, OIL, LUBE 0.00 SUBLET AMOUNT 0.00 **MISC. CHARGES** 0.00 TOTAL CHARGES 0.00 LESS INSURANCE 0.00 SALES TAX I HEREBY ACKNOWLEDGE RECEIPT OF A COPY HEREOF. 0.00 PLEASE PAY THIS AMOUNT 0.00 X YOUR COMPLETE SATISFACTION IS OUR GOAL AND IF WE HAVE NOT MET YOUR EXPECTATIONS, PLEASE CALL OUR SERVICE MANAGER, BOB HOSSLER AT (732) 867-5151. ***** NOW YOU CAN MAKE YOUR OWN SERVICE APPOI NTMENT ON LINE AT OUR DEALER WEB SITE. CHECK IT OUT AT (WWW.DCHBRUNSWICKTOYOTA.COM) ***** ON BEHALF OF SERVICING DEALER, I HEREBY CERTIFY THAT THE INFORMATION CONTAINED HEREON IS ACCURATE UNLESS OTHERWISE SHOWN. SERVICES DESCRIBED WERE PERFORMED AT NO CHARGE TO OWNER. THERE WAS NO INDICATION FROM THE APPEARANCE OF THE VEHICLE OR OTHERWISE, THAT ANY PART REPARED OR REPLACED UNDER THIS CLAIM HAD BEEN CONNECTED IN ANY WAY WITH ANY ACCIDENT, NEGLIGENCE OR MISUSE. RECORDS SUPPORTING THIS CHAR ARE AVAILABLE FOR (1) YEAR FROM THE DATE OF PAYMENT NOTIFICATION AT THE SERVICING DEALER FOR INSPECTION BY MANUFACTURER'S REPRESENTATIVE.

Copyright 2000 ADP, Inc. SERVICE INVOICE #1 XSHC

(SIGNED) CUSTOMER COPONERAL MANAGER OR AUTHORIZED PERSON

PAGE 1

DCH Brunswick Toyota/scion

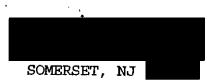
1504 ROUTE 1, NORTH BRUNSWICK, NEW JERSEY 08902 TEL: (732) 418-7888 FAX: (732) 418-9134 www.dchbrunswicktoyots.com

SOMERSET, NJ

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SERVICE ADVISOR PETE PEREZ REPAR CROCK DATE READY STOCK NO. HIVOICE VEHICLE IDENTIFICATION CUST. NO. TAG NO. INVOICE NO. P.O. NO. BOSEP04 050CT04 2T1BR32E250 BT50248 050CT04 402616 MAKE & MODEL TIME IN TIME READY YEAR LABOR RATE DECIVER 2122, 2123 TELEPHONE NO. SIA BY. 07:42 17:22 05 TOYOTA COROLLA 0.00 31AUG04 55 55 MILEAGE IN MILEAGE OUT LICENSE NO. 1077 1116 TROM : VEHICLE TOWED TO DEALERSHIP TAUSE: TECH VERIFIED CONCERN CONFIRMMED BAD BATTERY & TERMINAL REPLACED BATTERY & TERMINAL RECHECK FOR NORMAL OPERATION Z DIAGNOSE NO START CONDITION 13 WP 4.00 (N/C) 1 00544-035T2-525 TRUE-2 35 (N/C) 1 90982-05035 TERMINAL ASSY, BATTE (N/C)FC: T1-99,T2-99 PART#: 00544-035T2-252 COUNT: 2 CLAIM TYPE: REG AUTH CODE: SUBL TOW JAYS RECOVERY PO#55 WP (N/C) B INSPECT NO START DIAG INSPECT / DIAGNOIS. 13 ITY 0.00 (N/C)RENTAL CAR RC RENTAL CAR DESCRIPTION TOTALS LABOR AMOUNT hereby authorize the repair work herein set forth to be done i hereby authorize the repair work herein set forth to be done along with the necessary materiai and agree that you are not responsible for loss or damage to vehicle or articles left in vehicle in case of fire, theft, or any other cause beyond your control or for any delays caused by unavailability of parts or delays in parts shipments by the supplier or transporter. I hereby grant you and/or your employees permission to operate the vehicle herein described on streets, highways or elsewhere for the purpose of testing and/or inspection. An express mechanic's lien is hereby acknowledged on above vehicle to secure the amount of repairs thereto. PARTS AMOUNT GAS, OIL, LUBE SUBLET AMOUNT MISC. CHARGES **TOTAL CHARGES** LESS INSURANCE I HEREBY ACKNOWLEDGE RECEIPT OF A COPY HEREOF. SALES TAX PLEASE PAY Х THIS AMOUNT ON BEHALF OF SERVICING DEALER, I HEREBY CERTIFY THAT THE INFORMATION CONTAINED HEREON IS ACCURATE UNLESS OTHERWISE SHOWN, SERVICES DESCRIBED WERE PERFORMED AT NO CHARGE TO OWNER, THERE WAS NO INDICATION FROM THE APPEARANCE OF THE VENICLE OR OTHERWISE, THAT ANY PART REPAIRED OR REPLACED UNDER THIS CLAIM HAD BEEN CONNECTED IN ANY WAY WITT ACCIDENT, NEOLOGENCE OR MISUSE. RECORDS SUPPORTING THIS CLAIM ARE AVAILABLE FOR (1) YEAR FROM THE DATE OF NOTHICATION AT THE SERVICING BEALER FOR INSPECTION BY MANUFACTURER'S REPRESENTATIVE. CUSTOMER COPENERAL MANAGER OR AUTHORIZED PERSON (SIGNED)



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DCH Brunswick Toyota/scional 1504 ROUTE 1, NORTH BRUNSWICK, NEW JERSEY 08902 TEL: (732) 418-7888 FAX: (732) 418-9134 www.dchbrunswicktoyota.com

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Case Report - 200707051568

Customer/Caller Summary:

Customer Name/Address:

Cherry Hill, NJ

Caller Phone: Caller Alt. Phone:

Case Summary:

Referrals; Referrals; Other/Not applicable; Not Applicable Case Title: General Case Type: Contact Method: Written To Pursue Legal Acti Cust Attitude: Inquiry/Request Coding Type: Referrals Category: Referrals Problem Area: Other/Not applicable Component: Not Applicable Condition: VIN: Dofu: 0 Current Miles: 0 Incident Miles: 2006 Model Year: Corolla Model Name: New York Region: 0 District: 29018 New York Region, Dealer 1: Selling Dealer:

Case History:

Caller Seeks:Possible Final Repair Attempt, Repurchase or ReplacementCAC Stated:Region to follow up with Atty.

*** PHONE LOG 07/05/2007 04:30:17 PM KCravin ==LEMON LAW (NJ)== Rec.via Inter-Office delivery. Atty J.C. Herritt (KIMMEL & SILVERMAN) sent ltr advising of cust's legal representation pursuant to NJ Lemon Law, Mag-Moss Warranty, UCC & Unfair Trade Practices Act. Atty d/not state what resolution is been sought nor what issues cust has w/veh (veh repair history NOT supplied by Atty). . DO NOT CONTACT CUSTOMER. except to effectuate current repairs.

*** NOTES 07/05/2007 04:30:45 PM KCravin
Attorney Information:
KIMMEL & SILVERMAN
New Jersey Office
Executive Quarters
1930 E. Marlton Pike, Suite T11
Cherry Hill, NJ 08003
Jacqueline C. Herritt - Attorney
856-429-8334 Office
856-216-7344 Facsimile
www.lemonlaw.com

*** NOTES 07/06/2007 08:57:26 AM HDiver160 Case assigned to FTS T Morin, cc: CRS H Diver.

*** NOTES 07/06/2007 09:21:00 AM HDiver160 Acknowledgement letter sent to atty, J Herritt, via fax and US mail. Unable to request ROs, no VIN provided by atty.

Activity Summary:

| Activity | Date/Time | | Originator | | Additional Information | |
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 Robert M. Silverman, Esquire Jacqueline C. Herritt, Esquire KIMMEL & SILVERMAN, P.C. Executive Quarters 1930 E. Marlton Pike, Suite T11 Cherry Hill, NJ 08003 (856)429-8334

Elizabeth, NJ v. TOYOTA MOTOR SALES, USA, INC. 19001 South Western Avenue

Torrance, CA 90509

RECEIVED/FILED Superior Court of New Jersey

jul **3 1** 2007 👘

CIVIL CASE MANAGEMENT UNION COUNTY ATTORNEYS FOR PLAINTIFF

THIS IS AN ARBITRATION MATTER. ASSESSMENT OF DAMAGES HEARING IS REQUESTED.

SUPERIOR COURT OF NEW JERSEY UNION COUNTY

CIVIL UNIN 1-2665-07

NO.

COMPLAINT

1. Plaintiff, is an adult individual citizen and legal resident of the State of New Jersey, Elizabeth, NJ

2. Defendant, Toyota Motor Sales, USA, Inc., is a corporation qualified to do and regularly conduct business in the State of New Jersey, with its address and principal place of business located at 19001 South Western Avenue, Torrance, CA 90509, and can be served at this address.

BACKGROUND

3. On or about February 26, 2007, Plaintiff purchased a used 2006 Toyota Corolla, manufactured and warranted by Defendant, bearing the Vehicle Identification Number 1NXBR32E66Z

4. The vehicle was purchased in the State of New Jersey and is registered in the State of New Jersey.

5. The contract price of the vehicle, including registration charges, document fees, sales tax, finance and bank charges, but <u>excluding</u> other collateral charges not specified, yet defined by the

Lemon Law, totaled more than \$19,152.00. A true and correct copy of the contract is attached hereto, made a part hereof, and marked Exhibit "A".

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6. In consideration for the purchase of said vehicle, Defendant issued to Plaintiff several warranties, guarantees, affirmations or undertakings with respect to the material or workmanship of the vehicle and/or remedial action in the event the vehicle fails to meet the promised specifications.

7. The above-referenced warranties, guarantees, affirmations or undertakings are/were part of the basis of the bargain between Defendant and Plaintiff.

8. The parties' bargain includes an express 3-year / 36,000 mile warranty, as well as other guarantees, affirmations and undertakings as stated in Defendant's warranty materials and owner's manual.

9. However, as a result of the ineffective repair attempts made by Defendant through its authorized dealer(s), the vehicle is rendered substantially impaired, unable to be utilized for its intended purposes, and is worthless to Plaintiff.

10. During the first 12 months and/or 12,000 miles, Plaintiff complained on at least three (3) occasions about defects and or non-conformities to the following vehicle components: vehicle revs high; vehicle jerks intermittently; vehicle stalls; noise in brakes; vehicle heats up when accelerating; vehicle shakes and shimmys when braking and vehicle is smoking when braking. True and correct copies of all invoices in Plaintiff possession are attached hereto, made a part hereof, and marked Exhibit "B".

COUNT I MAGNUSON-MOSS (FTC) WARRANTY IMPROVEMENT ACT

11. Plaintiff may or may have resorted to Defendant's informal dispute settlement procedure, to the extent said procedure complies with 16 CFR 703.

12. Plaintiff avers that the Federal Trade Commission (F1C) has determined that no automobile manufacturer complies with 16 CFR 703. See, Fed. Reg. 15636, Vol. 62, No. 63 (Apr. 2, 1997).

13. Plaintiff hereby incorporates all facts and allegations set forth in this Complaint by reference as if fully set forth at length herein.

14. Plaintiff is a "Consumer" as defined by 15 U.S.C. §2301(3).

15. Defendant is a "supplier", "warrantor", and a "service contractor" as defined by 15 U.S.C.

§ 2301 (4),(5) and (8).

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16. The subject vehicle is a "consumer product" as defined by 15 U.S.C. § 2301(1).

17. By the terms of its written warranties, affirmations, promises, or service contracts,

Defendant agreed to perform effective repairs at no charge for parts and/or labor.

18. The Magnuson-Moss Warranty Improvement Act requires Defendant to be bound by all warranties implied by state law. Said warranties are imposed on all transactions in the state in which the vehicle was delivered.

19. Defendant has made attempts on several occasions to comply with the terms of its express warranties; however, such repair attempts have been ineffective.

20. The Magnuson-Moss Warranty Improvement Act, 15 U.S.C. §2310(d)(2) provides:

If a consumer finally prevails on an action brought under paragraph (1) of this subsection, he may be allowed by the court to recover as part of the judgment a sum equal to the amount of aggregate amount of costs and expenses (including attorney fees based upon actual time expended), determined by the court to have been reasonably incurred by the Plaintiff for, or in connection with the commencement and prosecution of such action, unless the court, in its discretion shall determine that such an award of attorney's fees would be inappropriate.

21. Plaintiff has afforded Defendant a reasonable number of opportunities to conform the vehicle to the aforementioned express warranties, implied warranties and contracts.

22. As a direct and proximate result of Defendant's failure to comply with the express written warranties, Plaintiff has suffered damages and, in accordance with 15 U.S.C. 2310(d)(1), Plaintiff is entitled to bring suit for such damages and other legal and equitable relief.

23. Defendant's failure is a breach of Defendant's contractual and statutory obligations constituting a violation of the Magnuson-Moss Warranty Improvement Act, including but not limited to: breach of express warranties; breach of implied warranty of merchantability; breach of implied warranty of fitness for a particular purpose; breach of contract; and constitutes an Unfair Trade Practice.

24. Plaintiff avers that Defendant's warranty was not provided to Plaintiff until after the vehicle was delivered, making any and all limitations, disclaimers and/or alternative dispute provisions ineffective for a failure of consideration.

25. Plaintiff avers Defendant's Dispute Resolution Program was not in compliance with 16 CFR 703 for the model year of the subject vehicle.

26. Plaintiff avers that Defendant's warranty did not require Plaintiff to first resort to a Dispute Resolution Program before filing suit.

27. Plaintiff avers that upon successfully prevailing upon the Magnuson-Moss claim herein, all attorney fees are recoverable and are demanded against Defendant.

WHEREFORE, Plaintiff respectfully demands judgment against Defendant in an amount equal to the price of the subject vehicle, plus all collateral charges, incidental and consequential damages, reasonable attorneys' fees, and all court costs.

COUNT II UNIFORM COMMERCIAL CODE

28. Plaintiff hereby incorporates all facts and allegations set forth in this Complaint by reference as if fully set forth at length herein.

29. The defects and nonconformities existing within the vehicle constitute a breach of contractual and statutory obligations of Defendant, including but not limited to the following:

- a. Express Warranty;
- b. Implied Warranty Of merchantability; and
- c. Implied Warranty Of Fitness For A Particular Purpose.

30. At the time of obtaining possession of the vehicle and at all times subsequent thereto, Plaintiff has justifiably relied upon Defendant's express warranties and implied warranties of fitness for a particular purpose and implied warranties of merchantability.

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31. At the time of obtaining possession of the vehicle and at all times subsequent thereto, Defendant was aware Plaintiff was relying upon Defendant's express and implied warranties, obligations, and representations with regard to the subject vehicle.

32. Plaintiff has incurred damages as a direct and proximate result of the breach and failure of Defendant to honor its express and implied warranties.

33. Such damages include, but are not limited to, the contract price of the vehicle plus all collateral charges, including attorney fees and costs, as well as other expenses, the full extent of which are not yet known.

WHEREFORE, Plaintiff respectfully demands judgment against Defendant in an amount equal to the contract price of the vehicle, plus all collateral charges and attorneys' fees.

KIMMEL & SILVERMAN, P.C. By: ROBERT M. SILVERMAN, ESQUIRE

ROBERT M. SILVERMAN, ESQUIRE Attorney for Plaintiff Executive Quarters 1930 E. Marlton Pike, Suite T11 Cherry Hill, NJ 08003 (856) 429-8334

JURY-DEMAND

Plaintiff hereby demands a trial by jury as to all the issues

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KIMMEL & SILVERMAN, P.C. By: ROBERT M. SILVERMAN, ESQUIRE Attorney for Plaintiff

CERTIFICATION PURSUANT TO R.4:15-1

Upon knowledge and belief I hereby certify that there are no other actions or arbitrations related to this suit pending or presently contemplated.

KIMMEL & SILVERMAN, P.C.

By: SILVERMAN, ESQUIRE ROBERT hey for Plaintiff

CERTIFICATION OF NOTICE

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Pursuant to N.J.S.A. 56:8-20 Plaintiff is mailing a copy of this Complaint to the Office of the Attorney General, Richard J. Hughes Justice Complex, 25 West Market Street in the City of Trenton, County of Mercer, in the state of New Jersey on

KIMMEL & SILVERMAN, P.C.

By: ROBERT M. SILVERMAN, ESQUIRE Attorney for Plaintiff

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Case Report - 200709070277

Customer/Caller Summary:

Customer Name/Address:

Caller Phone: Caller Alt. Phone:

Case Summary:

| Case Title: Case Type: Contact Method: Cust Attitude: Coding Type: Category: Problem Area: Component: Condition: VIN: Dofu: Current Miles: Incident Miles: Model Year: Model Year: Model Name: Region: District: Dealer 1: | Referrals; Referrals; General Written To Pursue Legal Acti Inquiry/Request Referrals Other/Not applicable 2006 0 2006 Corolla New York 09 Crestmont Toyota, 2 | Other/Not | applicable; | Not Applicable |
|--|--|--------------|-------------|----------------|
| Dealer 1: Selling Dealer: | . , | 9081 9081 | | |
| | | | | |

Wayne, NJ

Case History:

Caller Seeks: Possible Final Repair Attempt, Repurchase or Replacement CAC Stated: Region to follow up with attorney

*** PHONE LOG 09/07/2007 08:33:03 AM BSanchez1 ==LEMON LAW== Prev Case#200708270517 Letter rovd via Inter-Office mail. Atty Jacqueline C. Herritt (KIMMEL & SILVERMAN) sent ltr advising of cust's legal representation pursuant to VT Lemon Law, Mag-Moss, UCC & Unfair Trade Practices Act. Atty did not state what resolution is been sought nor what issues cust has w/veh. Atty instructs DO NOT CONTACT CUSTOMER. All correspondence should be directed to Atty's Office.

*** NOTES 09/07/2007 08:33:31 AM BSanchez1 Attorney Information Jacqueline C. Herritt Kimmel & Silverman 30 E Butler Pike Ambler, PA 19002 Phone: 215-540-8888 Fax: 215-540-8817

*** NOTES 09/10/2007 02:18:00 PM DMitzka160 assigned case to FTS Joe Bingaman & cc DPSM Andrea Buin & cc CRS Hanna Diver

Activity Summary:

| Activity | Date/Time | Originator Ad | ditional Information |
|---|---|--|--|
| Assign Notes Yanked | 09/10/2007 02:18:07 09/10/2007 02:18:00 09/10/2007 02:17:38 | PM DMitzka160 | 200709070277 to HDiver160, WIP cable Log notes. Case grabbed from BSanchez1 to DMitzka160's default |
| Chg Status Dispatch Chg Status Notes Modify | 09/10/2007 02:17:38 09/07/2007 08:33:40 09/07/2007 08:33:40 09/07/2007 08:33:31 09/07/2007 08:33:03 | AM BSanchezl AM BSanchezl AM BSanchezl | WipBin. Action Region Action Region to New York Case sent to region: New York Log notes. into WIP default and Status of Action CAC. |

| Phone Log | 09/07/2007 | 08:33:03 AM | BSanchez1 |
|-----------|------------|-------------|-----------|
| Create | 09/07/2007 | 08:20:33 AM | BSanchez1 |

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Start = 09/07/2007 08:20:33 AM, End = 09/07/2007 08:33:03 AM, Contact = Qinghui Lin. Contact = Qinghui Lin, Priority = Lemon Law, Status = Action CAC.

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Case Report - 200708270517

Wayne, NJ

Customer/Caller Summary:

Customer Name/Address:

Caller Phone: Caller Alt. Phone:

Case Summary:

Case Title: Case Type: Contact Method: Cust Attitude: Coding Type: Category: Problem Area: Component: Condition: VIN: Dofu:

| Arbitration Request General Phone Concerned Complaint Arbitration Request Abnormal Condition Engine- Powertrain Stalls 2T1BR32E96C 04/07/2006 25000 25000 2006 Corolla | : Abnormal | Condition; | Engine- | Powertrain; | Stalls |
|--|------------|------------|---------|-------------|--------|
| Corolla New York | | | | | |
| <u> </u> | 9018 | | | | |
| Crestmont Toyota, | 29081 | | | | |

Case History:

Current Miles: Incident Miles: Model Year: Model Name: Region: District: Dealer 1: Selling Dealer:

Caller Seeks:Seeks to pursue arb for reoccuring cncrns w/engineCAC Stated:Ncr apol, adv would send ARB ppwk, allow 10-14 bus days. Ncr adv ARB process
takes 40 days. Ncr adv case#.

*** PHONE LOG 08/27/2007 09:09:42 AM AGutierrez ARB

Caller states: veh gets 19MPG. Sts Universe Toy adv veh performing as should. Sts veh stalls & Universe Toy had veh for lmonth 06/07. Sts rep adv veh was rpr'd, sts cncrn continued. Sts took veh to Crestmont Toy 08/07 & veh was rpr'd. Sts 1wk after cncrn cont & engine light went on. Sts took veh back to Crestmont Toy & was adv rep was going to get region involvement. Sts feels veh is a lemon. Sts does not know what part was rpr'd. Sks ARB ppwk.

*** RETURN 08/27/2007 09:11:57 AM SAboolian ARB case needs ARB coding.

*** NOTES 08/28/2007 09:37:41 AM ABranche OUTGOING CALL TO DLR- Crestmont Toyota Svc mgr, Roger, provided the following rpr info sts veh currently at dlr. R0: 391340, dtd - 8/27/07 @ 25459 mi Cond: Engine would not accelerate & stalls when turning. Remedy: dlr was able to duplicate, found broken ground wire (EFI harness part# 82121-02c70). Ordered wiring harness, sts FTS Tom will come out to inspect after rpr is performed.

*** NOTES 08/28/2007 09:38:15 AM ABranche RO: 389751, dtd - 8/9/07 @ 25089 mi Cond: When stopping engine shakes & stalls Remedy: dlr was able to duplicate, found code for stuck throttle body (P3111); found loose connection at accelerator switch. Dir cleaned throttle body, readjusted wiring.

*** NOTES 08/28/2007 09:48:23 AM ABranche
OUTGOING CALL TO DLR2- Toyota Universe
NCR clld SM to obtain veh info. SM not avail. NCR left v/m: provided brief reason for call, name of cust,
veh MY, case #, requested a c/b @ contact #310-468-9577 (ABranche) & hours of avail (7-3:30 PST).

*** NOTES 08/28/2007 09:56:42 AM ABranche
+OUTGOING CUST CALL+
Ncr spk w/cust adv dlr sts found cncrn & is working w/FTS to rpr veh. Ncr inquired if cust wants to
continue to work w/Toy at this time opposed to pursuing arb. Cust sts has already filed claim for lemon
law, sts will continue to pursue arb. NCR apol & adv Arb parameters; adv info located in owner's warr
rights notification book; adv will send ppwk & it should arrive within 10-14 b/d; Cust understood.

*** NOTES 08/28/2007 01:52:41 PM DMitzka160 region closed-assigned case tp FTS Tom Morin & cc DPSM Andrea Buin & cc CRC Alice DeCristo

*** CASE CLOSE 08/28/2007 01:52:46 PM DMitzka160 region closed-assigned case tp FTS Tom Morin & cc DPSM Andrea Buin & cc CRC Alice DeCristo

*** NOTES 08/29/2007 05:14:27 AM DMitzka160 On Aug 28 the FTS contacted the cust regarding check engine light concerns. The FTS informed the cust that he has been involved with the diagnosis and the final repair of his vehicle and will do a inspected on his vehicle on Aug 29. The cust thanked the FTS and informed him that if the vehicle is repaired he will not pursue lemon law. The FTS thanked the cust for his patience and assured him that the vehicle will be repaired when he picks it up.

*** NOTES 08/29/2007 11:25:33 AM ECastaneda Mailed arb ppwk 08/29/07.

*** NOTES 09/14/2007 07:35:59 AM HDiver160 Acknowledgement letter sent to atty today via fax and US mail.

Activity Summary:

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| Activity | Date/Time | Origina | ator 2 | Additional Information |
|-------------|-------------------|----------|-----------|---|
| Notes | 09/14/2007 07:35: | 59 AM HI | Diver160 | Log notes. |
| Notes | 08/29/2007 11:25: | 33 AM E | Castaneda | Log notes. |
| Notes | 08/29/2007 05:14: | 27 AM DI | Mitzkal60 | Log notes. |
| Case Close | 08/28/2007 01:52: | 16 PM DI | Mitzka160 | Status = Closed, Resolution Code = Full, State = Open. |
| Notes | 08/28/2007 01:52: | 1 PM DI | Mitzka160 | Log notes. |
| Yanked | 08/28/2007 01:52: | 07 PM DI | Mitzka160 | Case grabbed from ABranche to DMitzkal60's default WipBin. |
| Chg Status | 08/28/2007 01:52: | 7 PM D | Mitzkal60 | Action Region |
| Dispatch | 08/28/2007 10:00: | 59 AM AB | Branche | Action Region. |
| Chg Status | 08/28/2007 10:00: | 9 AM A | Branche | Case sent to region: New York |
| Modify | 08/28/2007 10:00: | 58 AM AF | Branche | into WIP default and Status of Action CAC. |
| Notes | 08/28/2007 09:56: | 12 AM AB | Branche | Log notes. |
| Notes | 08/28/2007 09:48: | 23 AM AB | Branche | Log notes. |
| Notes | 08/28/2007 09:38: | L5 AM AB | Branche | Log notes. |
| Notes | 08/28/2007 09:37: | 1 AM AB | Branche | Log notes. |
| Modify | 08/28/2007 09:37: | | Branche | into WIP default and Status of Action CAC. |
| | 08/28/2007 09:19: | | Branche | Set Originator: by ABranche |
| Chg Status | 08/28/2007 09:18: | | Branche | Case yanked |
| Yanked | 08/28/2007 09:18: | | Branche | Case grabbed from AGutierrez to ABranche's default WipBin. |
| Dispatch | 08/27/2007 09:23: | 4 AM AG | Gutierrez | from WIP default to Queue Toyota Resolution Queue. |
| Modify | 08/27/2007 09:23: | | Gutierrez | into WIP default and Status of Action CAC. |
| Rule Action | 08/27/2007 09:12: |)3 AM ru | ulemgr | Action Notify owner of rejected case of rule Toyota Rejected Cases fired |
| Return | 08/27/2007 09:11: | 7 AM SA | Aboolian | from Queue Toyota Resolution Queue to WIP default. |
| Dispatch | 08/27/2007 09:09: | 8 AM AG | Gutierrez | from WIP default to Queue Toyota Resolution Queue. |
| Modify | 08/27/2007 09:09: | 2 AM AG | Gutierrez | into WIP default and Status of Action CAC. |
| Phone Log | 08/27/2007 09:09: | | Gutierrez | <pre>Start = 08/27/2007 08:59:25 AM, End = 08/27/2007 09:09:42 AM, Contact = Qinghui Lin.</pre> |
| Create | 08/27/2007 08:59: | 5 AM AG | Gutierrez | Contact = Qinghui Lin, Priority = Customer, Status = Action CAC. |

Robert M. Silverman, Esquire Jacqueline C. Herritt, Esquire KIMMEL & SILVERMAN, P.C. Executive Quarters 1930 E. Marlton Pike, Suite T11 Cherry Hill, NJ 08003 (856)429-8334



THIS IS AN ARBITRATION MATTER. ASSESSMENT OF DAMAGES HEARING IS REQUESTED.

ATTORNEYS FOR PLAINTIFF

SUPERIOR COURT OF NEW JERSEY PASSAIC COUNTY

v.

Wayne, NJ

TOYOTA MOTOR SALES, U.S.A., INC. Attention: Legal Department 19001 South Western Avenue

Torrance, CA 90501

CIVIL ACTION NO.1.450.07

963.962007 -

COMPLAINT

1. Plaintiff, **Sector**, is an adult individual citizen and legal resident of the State of New Jersey, **Wayne**, NJ**E**.

2. Defendant, Toyota Motor Sales, U.S.A., Inc., is a corporation qualified to do and regularly conduct business in the State of New Jersey, with its address and principal place of business located at Attention: Legal Department, 19001 South Western Avenue, Torrance, CA 90501, and can be served at this address.

BACKGROUND

3. On or about April 06, 2006, Plaintiff purchased a new 2006 Toyota Corolla, manufactured and warranted by Defendant, bearing the Vehicle Identification Number 2T1BR32E96C

4. The vehicle was purchased in the State of New Jersey and is registered in the State of New Jersey.

5. The contract price of the vehicle, including registration charges, document fees, sales tax, finance and bank charges, but <u>excluding</u> other collateral charges not specified, yet defined by the

Lemon Law, totaled more than \$17,647.04. A true and correct $c_{0y}y$ of the contract is attached hereto, made a part hereof, and marked Exhibit "A".

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6. In consideration for the purchase of said vehicle, Defendant issued to Plaintiff several warranties, guarantees, affirmations or undertakings with respect to the material or workmanship of the vehicle and/or remedial action in the event the vehicle fails to meet the promised specifications.

7. The above-referenced warranties, guarantees, affirmations or undertakings are/were part of the basis of the bargain between Defendant and Plaintiff.

8. The parties' bargain includes an express 3-year / 36,000 mile warranty, as well as other guarantees, affirmations and undertakings as stated in Defendant's warranty materials and owner's manual.

9. However, as a result of the ineffective repair attempts made by Defendant through its authorized dealer(s), the vehicle is rendered substantially impaired, unable to be utilized for its intended purposes, and is worthless to Plaintiff.

10. During the first 24 months and/or 18,000 miles, Plaintiff complained on at least three (3) occasions about defects and or non-conformities to the following vehicle components: engine light on; vehicle shutters; engine shakes and stalls; engine malfunction warning light on; abnormal shuttering in vehicle when brakes applied; warped brake drums; engine does not accelerate and oil filter leak. True and correct copies of all invoices in Plaintiff possession are attached hereto, made a part hereof, and marked Exhibit "B".

COUNT I <u>NEW JERSEY MOTOR VEHICLE WARRANTY ACT</u>

11. Plaintiff hereby incorporates all facts and allegations set forth in this Complaint by reference as if fully set forth at length herein.

12. Plaintiff is a "Consumer" as defined by N.J.S.A. 56:12-30.

13. Defendant is a "Manufacturer" as defined by N.J.S.A. 56:12-30.

14. Crestmont Toyota, .s and/or was at the time of sale a "Deal., or Motor Vehicle Dealer" in the business of buying, selling, and/or exchanging vehicles as defined by N.J.S.A. 56:12-30.

15. On or about April 06, 2006, Plaintiff took possession of the above mentioned vehicle and experienced nonconformities as defined by N.J.S.A. 56:12-29 et seq., which substantially impair the use, value and/or safety of the vehicle.

16. Defendant through its authorized dealer failed to provide written notification that the vehicle was covered by the New Jersey Motor Vehicle Warranty Act as provided in N.J.S.A. 56:12-34(c). Plaintiff believes and therefore avers said failure is a per se violation of the New Jersey Consumer Fraud Act, N.J.S.A. 56:8-1 <u>et seq.</u>, as well as a violation of the New Jersey Motor Vehicle Warranty Act.

17. The nonconformities described violate the express written warranties issued to Plaintiff by Defendant.

18. Section 56:12-32 of the New Jersey Motor Vehicle Warranty Act provides:

a. If, during the period specified in section 3 of this act, the manufacturer or its dealer is unable to repair or correct a nonconformity within a reasonable time, the manufacturer shall accept return of the motor vehicle from the consumer. The manufacturer shall provide the consumer with a full refund of the purchase price of the original motor vehicle including any stated credit or allowance for the consumer's used motor vehicle, the cost of any options or other modifications arranged, installed, or made by the manufacturer or its dealer within 30 days after the date or original delivery, and any other charges or fees including, but not limited to, sales tax, license and registration fees, finance charges, reimbursement for towing and reimbursement for actual expenses incurred by the consumer for the rental of a motor vehicle equivalent to the consumer's motor vehicle and limited to the period during which the consumer's motor vehicle was out of service due to a nonconformity, less a reasonable allowance for vehicle use.

19. Section 56:12-33 of the New Jersey Motor Vehicle Warranty Act provides a presumption

of a reasonable number of repair attempts:

- a. It is presumed that a manufacturer or its dealer is unable to repair or correct a nonconformity within a reasonable time if, within the first 18,000 miles of operation or during the period of two years following the date of original delivery of the motor vehicle to a consumer, whichever is the earlier date:
 - (1) Substantially the same nonconformity has been subject to repair three or more times by the manufacturer or its dealer and the nonconformity continues to exist; or
 - (2) The motor vehicle is out of service by reason of repair for one or more nonconformities for a cumulative total of 20 or more calendar days since the original delivery of the motor vehicle and a nonconformity continues to exist.
- b. The presumption contained in sub-section a. of this section shall apply against a manufacturer only if the manufacturer has received written notification, by or on behalf of the consumer, by certified mail

return receipt req. sted, of a potential claim pursuant to the provide s of this act and has had one opportunity to repair or correct the defect or condition within 10 calendar days following receipt of the notification. Notification by the consumer shall take place any time after the motor vehicle has had substantially the same nonconformity subject to repair two or more times or has been out of service by reason of repair for a cumulative total of 20 or more calendar days.

20. Plaintiff has satisfied the above definition as the vehicle has been subject to repair more than three (3) times for the same nonconformity, and the nonconformity remained uncorrected.

21. In addition, the above vehicle has or will be out of service by reason of the nonconformities complained of for a cumulative total of twenty (20) or more calendar days.

22. Plaintiff has delivered the nonconforming vehicle to an authorized service and repair facility of the Defendant on numerous occasions as outlined below.

23. After a reasonable number of attempts, Defendant was unable to repair the nonconformities.

24. Plaintiff has been and will continue to be financially damaged due to Defendant's intentional, reckless, wanton, and negligent failure to comply with the provisions of N.J.S.A. 56:12-29 et seq.

25. Plaintiff has provided Defendant with a final repair opportunity prior to filing the within Complaint.

26. Pursuant to N.J.S.A. 56:12-29 et seq, Plaintiff seeks relief for losses due to the nonconformities and defects in the above-mentioned vehicle in addition to reasonable attorney fees and all court costs.

WHEREFORE, Plaintiff respectfully demands judgment against Defendant in an amount equal to the price of the subject vehicle, plus all collateral charges, attorneys' fees, and court costs.

COUNT II MAGNUSON-MOSS (FTC) WARRANTY IMPROVEMENT ACT

27. Plaintiff may or may have resorted to Defendant's informal dispute settlement procedure, to the extent said procedure complies with 16 CFR 703.

28. Plaintiff avers that the Federal Trade Commission (F.) has determined that no automobile manufacturer complies with 16 CFR 703. See, Fed. Reg. 15636, Vol. 62, No. 63 (Apr. 2, 1997).

29. Plaintiff hereby incorporates all facts and allegations set forth in this Complaint by reference as if fully set forth at length herein.

30. Plaintiff is a "Consumer" as defined by 15 U.S.C. §2301(3).

31. Defendant is a "supplier", "warrantor", and a "service contractor" as defined by 15 U.S.C. § 2301 (4),(5) and (8).

32. The subject vehicle is a "consumer product" as defined by 15 U.S.C. § 2301(1).

33. By the terms of its written warranties, affirmations, promises, or service contracts, Defendant agreed to perform effective repairs at no charge for parts and/or labor.

34. The Magnuson-Moss Warranty Improvement Act requires Defendant to be bound by all warranties implied by state law. Said warranties are imposed on all transactions in the state in which the vehicle was delivered.

35. Defendant has made attempts on several occasions to comply with the terms of its express warranties; however, such repair attempts have been ineffective.

36. The Magnuson-Moss Warranty Improvement Act, 15 U.S.C. §2310(d)(2) provides:

If a consumer finally prevails on an action brought under paragraph (1) of this subsection, he may be allowed by the court to recover as part of the judgment a sum equal to the amount of aggregate amount of costs and expenses (including attorney fees based upon actual time expended), determined by the court to have been reasonably incurred by the Plaintiff for, or in connection with the commencement and prosecution of such action, unless the court, in its discretion shall determine that such an award of attorney's fees would be inappropriate.

37. Plaintiff has afforded Defendant a reasonable number of opportunities to conform the vehicle to the aforementioned express warranties, implied warranties and contracts.

38. As a direct and proximate result of Defendant's failure to comply with the express written warranties, Plaintiff has suffered damages and, in accordance with 15 U.S.C. 2310(d)(1), Plaintiff is entitled to bring suit for such damages and other legal and equitable relief.

39. Defendant's failue is a breach of Defendant's contractual and statutory obligations constituting a violation of the Magnuson-Moss Warranty Improvement Act, including but not limited to: breach of express warranties; breach of implied warranty of merchantability; breach of implied warranty of fitness for a particular purpose; breach of contract; and constitutes an Unfair Trade Practice.

40. Plaintiff avers that Defendant's warranty was not provided to Plaintiff until after the vehicle was delivered, making any and all limitations, disclaimers and/or alternative dispute provisions ineffective for a failure of consideration.

41. Plaintiff avers Defendant's Dispute Resolution Program was not in compliance with 16 CFR 703 for the model year of the subject vehicle.

42. Plaintiff avers that Defendant's warranty did not require Plaintiff to first resort to a Dispute Resolution Program before filing suit.

43. Plaintiff avers that upon successfully prevailing upon the Magnuson-Moss claim herein, all attorney fees are recoverable and are demanded against Defendant.

WHEREFORE, Plaintiff respectfully demands judgment against Defendant in an amount equal to the price of the subject vehicle, plus all collateral charges, incidental and consequential damages, reasonable attorneys' fees, and all court costs.

COUNT III UNIFORM COMMERCIAL CODE

44. Plaintiff hereby incorporates all facts and allegations set forth in this Complaint by reference as if fully set forth at length herein.

45. The defects and nonconformities existing within the vehicle constitute a breach of contractual and statutory obligations of Defendant, including but not limited to the following:

- a. Express Warranty;
- b. Implied Warranty Of merchantability; and
- c. Implied Warranty Of Fitness For A Particular Purpose.

46. At the time of our possession of the vehicle and at all times subsequent thereto, Plaintiff has justifiably relied upon Defendant's express warranties and implied warranties of fitness for a particular purpose and implied warranties of merchantability.

47. At the time of obtaining possession of the vehicle and at all times subsequent thereto, Defendant was aware Plaintiff was relying upon Defendant's express and implied warranties, obligations, and representations with regard to the subject vehicle.

48. Plaintiff has incurred damages as a direct and proximate result of the breach and failure of Defendant to honor its express and implied warranties.

49. Such damages include, but are not limited to, the contract price of the vehicle plus all collateral charges, including attorney fees and costs, as well as other expenses, the full extent of which are not yet known.

WHEREFORE, Plaintiff respectfully demands judgment against Defendant in an amount equal to the contract price of the vehicle, plus all collateral charges and attorneys' fees.

KIMMEL & SILVERMAN, P.C.

By:

ROBERT/M. SILVERMAN, ESQUIRE Attorney for Plaintiff Executive Quarters 1930 E. Marlton Pike, Suite T11 Cherry Hill, NJ 08003 (856) 429-8334

JURY-DEMAND

Plaintiff hereby demands a trial by jury as to all the issues

KIMMEL & SILVERMAN, P.C.

By: SILVERMAN, ESQUIRE ROBERT 'M Attorney for Plaintiff **CERTIFICATION PURSUANT/TO R.4:15-1**

Upon knowledge and belief I hereby certify that there are no other actions or arbitrations related to this suit pending or presently contemplated.

KIMMEL & SILVERMAN, P.C.

By: ROBERT M. SILVERMAN, ESQUIRE Attorney for Plaintiff

CERTIFICATION OF NOTICE

Pursuant to N.J.S.A. 56:8-20 Plaintiff is mailing a copy of this Complaint to the Office of the Attorney General, Richard J. Hughes Justice Complex, 25 West Market Street in the City of Trenton, County of Mercer, in the state of New Jersey on

KIMMEL & SILVERMAN, P.C.

By: ROBERT M. SILVERMAN, ESQUIRE Attorney for Plaintiff

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| ON A SEPARATE DISCLOSURE STATEM PART OF THIS ORDER. | ENT IS MADE A | The only warranties applying to this vehicle are those offered by the manufacturer. Dealer sells/leases this vehicle "as is" and hereby |
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| Dealer Installed Options | | dealer's negligence, or otherwise), is expressly excluded and customer hereby assumes any such risks. |
| None | <u> </u> | OR |
| | 1. · · · · · · · · · · · · · · · · · · · | The only dealer warranty on this vehicle is the limited warranty which is issued with and made a part of this order form. |
| | | ALL USED VEHICLE SALES DEALER'S OBLIGATION |
| | | The laws of New Jersey require Motor Vehicle Dealers to make all necessary repairs, without charge, or return the full purchase price (if |
| Lease Term: Months | Miles Per Year | a sale) to the customer in the event a used vehicle sold and intended to be registered in this State fails to meet State Inspection Standards |
| Monthly Payment | | for the issuance of a certificate of approval due to a defect that is not |
| · · · · · · · · · · · · · · · · · · · | + | the result of the customer's own act. The undersigned, before entering into this contract, has been informed of dealer's obligation above and |
| | • | I agrees to have the used vehicle inspected within 14 days from the |
| Total Due For Lease | | issuance of the permanent registration for such vehicle. |
| Total Paid By | 11 021/ 1 | Date Customer's Signature |
| TOTAL PRICE OF VEHICLE | 16,234 00 | WAIVER OF DEALER'S OBLIGATION (USED VEHICLE SALE) The undersigned, has read and understood the above Dealer's Obligation, |
| Optional Anti-Theft Protection | 6 179 90 | -I and does hereby WAIVE AND RELEASE the DEALER'S OBLIGATION to |
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| DESCRIBED, MER PERFORMED AT NO CHARGE TO | competantity performed and that any defect that occurs will be corrected without charge by this repair shop for a period of 90 days or 4000 miles from the date of | PARTS AMOUNT | 0.00 |
| APPEARANCE THE VEHICLE OR THERWISE, THAT | repair, whichever occurs first, except fuel contamination and wheel alignments. This part(s) is sold "as is". The only warranties applying to this part(s) are those. | GAS, OIL, LUBE | 0.00 |
| ANY MARY REPAIRED OR REPLACED UNDER THIS | which may be offered by the manufacturer(s). The selling desire hereby expressly disclaims all warranties, either express or implied, including any implied | SUBLET AMOUNT | 0.00 |
| ANY ACCOUNT AND A PRICE OF THUSE. RECORDS | warranty of merchantability or fitness for a particular purpose, and network assume for it any liability in | MISC. CHARGES | 0.00 |
| VERY AND THE OWNER OF DATABASE MOTIFIC ATION | connection with the sele of this partial and/or service. Buyer shall not be entitled to recover from the selling dealer any consequential damages, damages to | TOTAL CHARGES | 0.00 |
| AT THE SERVICING DEALER FOR INSPECTION BY | property, damages for loss of use, loss of time, loss of profits, or income, or any other incidental damages. In addition, expressiv excluded is any dealer liability | LESS INSURANCE | 0.00 |
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02/27/2006 11:30:58 AM

Case Report - 200511010611

Brandon, FL

Customer/Caller Summary:

Customer Name/Address:

Caller Phone: Caller Alt. Phone:

Case Summary:

Contact Method:

Cust Attitude:

Coding Type:

Problem Area: Component:

Current Miles:

Model Year: Model Name:

Region:

District:

Dealer 1:

Incident Miles:

Selling Dealer:

Category:

Condition: VIN:

Dofu:

Case Title:

Case Type:

Arbitration Request; Abnormal Condition; Pump- Fuel; Inoperative General Email Concerned Complaint Arbitration Request Abnormal Condition Pump- Fuel Inoperative 1NXBR32E15Z 01/31/2005 Ω 0 2005 Corolla SET 02 Courtesy Toyota, 09200 09004 Precision Tovota,

Case History:

Customer Seeks:to replace current vehCAC Stated:ncr apol & adv arb parameters. adv cust would receive arb paperwork within 10
business days. adv case#.

*** PHONE LOG 11/01/2005 10:30:33 AM QHolmes RNW#051026-000088 ncr parapharse: cust sts veh to dlr for multiple rpr's (fuel pump, dashboard and seals around the front windows). sts no longer seeks to keep veh.

*** SUBCASE 200511010611-1 CREATED 11/01/2005 10:32:10 AM QHolmes cust sts "Customer Information First Name : Last Name : Account Number: NO ACCOUNT

Contact Information Email Address : Preferred Method of Contact: Email

Message:

We have had what we view as too many issues with our car which we purchased new the last week of January 2005. Our car is a 2005 Corolla. 45 days after we purchased the car it left me stranded in the rain on my way to work (fuel pump). It took about 2 wks to fix. Then the radio went and had to be replaced. Then the dashboard separated around the instrument panel and that had to be fixed. Now the seals around the front windows are buckling. It was interesting, when I called the service manager to make the appointment to have this fixed he said "That does happen in rare cases and it depends on the age of the car as well". Are you kidding me? The car is only 8 months old. I have been extremely inconvenienced by this vehicle. To you it may not seem that bad but everytime I have to take the car in (minor or major problem) it is an inconvenience. The whole point of purchasing a new car is so it doesn't have to go to the shop often except for oil changes and regular maintenance. I am not going to keep this car! We are previous Toyota owners and believed in your product until now. I would like to give Toyota an opportunity to make this right for us. The car has been well taken care of. It has less than average mileage and obviously all its

maintanence is up to date. We will trade in this car with no loss to us and purchase/lease another Toyota vehicle. We need Toyota to stand behind its product and we, on our part will be understanding that sometimes one bad product may slip through but Toyota still believes in their product as a whole. Our maintanence dealership is Courtesy Toyota on Adamo Dr in Tampa. They can be reached at (813)622-8372. The service manager is Brett Schaffer. We want to be loyal to Toyota but we need you to be loyal to your customers. You may contact

Thank you for your attention to this matter."

ncr verbatim:

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<as-html> Thank you for contacting Toyota Motor Sales, U.S.A., Inc.

We apologize for the concerns you have experienced with your Corolla.

In order for Toyota to buy back or replace your vehicle, you will need to pursue arbitration.

We have sent an arbitration packet to you. Once received, please fill out the Customer Claim form and submit to the National Center for Dispute Resolution (NCDS). Once NCDS receives your claim form, they will render a decision within forty days.

If NCDS decides that Toyota needs to buy back or replace your vehicle, Toyota will do so. If NCDS finds that Toyota does not need to buy back or replace your vehicle, you are not bound by this decision and can pursue your request outside of Toyota.

Additional information regarding arbitration, as well as a Customer Claim Form can be found it your Warranty Rights Notification booklet that came with your vehicle.

Again, we apologize for the concerns you have experienced.

Your email has been documented at our National Headquarters under file #\$incidents.c\$clarifycasenumber. If we can be of further assistance, please contact our Customer Experience Center directly, by calling 800-331-4331. Our normal hours are from 6:00am to 6:00pm Pacific time, Monday through Friday. Any representative will be able to assist you.

National Customer Relations </as-html>

*** SUBCASE 200511010611-1 CLOSED 11/01/2005 10:32:12 AM QHolmes

*** NOTES 11/02/2005 08:25:38 AM JWatson Customer was sent ARB paperwork on 11/02/05.

*** NOTES 11/03/2005 12:43:21 PM CElias500 REG closing case, as cust has stated he is not keeping the car and has been sent arb paperwork.

*** CASE CLOSE 11/03/2005 12:44:19 PM CElias500 REG Closing case, as cust stated he is NOT KEEPING HIS CAR and requested arb paperwork.

Activity Summary:

| Activity | Date/Time | Originator | Additional Information |
|---------------------------|---|--------------|--|
| Notes Case Close | 11/03/2005 12:43:21 11/03/2005 12:44:19 | | |
| Notes Accept Create | 11/02/2005 08:25:38 11/02/2005 08:48:58 11/01/2005 10:24:46 | AM CElias500 | Log notes. from Queue SET to WIP District 2. Contact = Priority = Customer, Status = Action CAC. |
| Modify Phone Log | 11/01/2005 10:30:33 11/01/2005 10:30:33 | | into WIP default and Status of Action CAC. Start = 11/01/2005 10:24:46 AM, End = 11/01/2005 10:30:33 AM, Contact = |
| | 11/01/2005 10:32:10 11/01/2005 10:32:12 | - | Number = 200511010611-1, Created in WIP default with due date 11/01/2005 12:30:40 PM Number = 200511010611-1, Status = Action CAC, |
| Modify | 11/01/2005 10:32:35 | AM QHolmes | Resolution Code = Full into WIF default and Status of Action CAC. |

Dispatch Chg Status 11/01/2005 10:32:36 AM 11/01/2005 10:32:36 AM

AM QHolmes AM QHolmes Action Region to SET Case sent to region: SET THE COUNTY COURT OF THE THIRTEENTH JUDICIAL CIRCUIT IN AND FOR HILLSBOROUGH COUNTY, STATE OF FLORIDA CIVIL DIVISION

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CASE NO .:

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v

TOYOTA MOTOR SALES U.S.A., INC. And UNIVERSITY MOTORCARS, LLC d/B/a PRECISION TOYOTA

Defendants.

COMPLAINT AND JURY DEMAND

INTRODUCTION

The Plaintiff, (Hereinafter "PLAINTIFF"), through CONSUMER LEGAL SERVICES, P.C., and the undersigned counsel, sues defendant TOYOTA MOTOR SALES U.S.A. INC. (Hereinafter MANUFACTURER) UNIVERSITY MOTORCARS, LLC (hereinafter DEALER), for violations of EXPRESS WARRANTY Fla. Stat. 362 .101 et al, IMPLIED WARRANTY Fla. Stat. 362.101 et al, REVOCATION OF ACCEPTANCE Fla. Stat. 672.608 et al, MAGNUSON MOSS WARRANTY ACT 15 U.S.C. 2301 et al.(hereinafter "ACT"). Arising from defects associated with the 2005 TOYOTA COROLLA VIN 1NXBR32E15Z "VEHICLE") warrantied by the MANUFACTURER purchased from the DEALER an agent of the MANUFACTURER.

JURISDICTION

1. PLAINTIFF is a resident of the city of BRANDON, HILLSBOROUGH County,

Florida.

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2. MANUFACTURER is a Foreign Corporation authorized to do business in the State of Florida and, at all times relevant hereto, and was engaged in the business of selling and servicing automobiles in HILLSBOROUGH, County Florida.

3. DEALER is a FLORIDA Corporation authorized to do business in the State of Florida and, at all times relevant hereto, and was engaged in the business of selling and servicing automobiles in HILLSBOROUGH County Florida.

4. The property that is the subject of this litigation is located in city of BRANDON, HILLSBOROUGH County, Florida.

5. The amount in controversy does not exceed FIFTEEN THOUSAND DOLLARS (\$15,000.00), exclusive of interest and costs.

FACTS COMMON TO ALL COUNTS

6. On or about JANUARY 30, 2005, PLAINTIFF purchased the VEHICLE from the MANUFACTURE'S seller/ agent PRECISION TOYOTA. (See EX. A).

7. Along with the sale of the VEHICLE, PLAINTIFF received written warranties and other express and implied warranties from the MANUFACTURER and DEALER. (See EX. B).

8. PLAINTIFF has taken the VEHICLE to the MANUFACTURER'S seller/ agent on at least FIVE (5) separate occasions. (See EX C).

9. By way of example, and not by way of limitation, the defects with PLAINTIFF'S VEHICLE include the following:

| <u>Date</u> | Invoice# | <u>Complaint</u> |
|-------------|----------|----------------------------------|
| 3/18/2005 | W74555 | VEHICLE STALLED AND COULD NOT BE |
| | | RESTARTED |
| 6/23/2005 | W89539 | RADIO INOPERABLE |
| 9/23/2005 | W04882 | WINDOW RUNS DEFORMED |
| 10/20/2005 | W07961 | CLICKING NOISE WHEN ACCELERATING |
| | | AND DECELERATING |

10. The EXPRESS and IMPLIED warranties given as part of the PURCHASE have failed their essential purpose due to the MANUFACTURER failure to remedy the defects of the VEHICLE.

A. Any attempt to disclaim implied warranties is invalid because the DEALER sold to and was a party to a service contract pursuant to 15 U.S.C. 2308 (a) See Ex.: B

11. This cause of action arises out of MANUFACTURER'S misrepresentations, various breaches of warranties, violations of statutes and breaches of covenants of good faith and fair dealing as hereinafter alleged.

FACTS ALLEGING AGENCY RELATIONSHIP BY ESTOPPEL BETWEEN MANUFACTURER AND DEALER

12. Upon information and belief the MANUFACTURER has contracted with and has authorized, consented to or knowingly acquiesced to DEALER'S exercise of authority by allowing it or requiring it to:

(a) Call itself "authorized dealer,"

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(b) Display MANUFACTURER'S logo and other MANUFACTURER'S materials in its showrooms,

(c) To receive technical bulletins detailing potential car problems from MANUFACTURER;

(d) Train its technicians with MANUFACTURER;

(e) Use only MANUFACTURER trained technicians to repair and maintain cars under MANUFACTURER'S warranties;

(f) Create an impression that DEALER sells cars for MANUFACTURER; and

(g) Holding itself out as the seller of cars and provider of car repair services for the MANUFACTURER.

13. PLAINTIFF reasonably concluded that DEALER was an agent of MANUFACTURER, in that PLAINTIFF thought that the transaction took place between PLAINTIFF and MANUFACTURER.

14. PLAINTIFF'S reliance was justified, and PLAINTIFF suffered harm as a result of the actions or inactions of DEALER as an agent of MANUFACTURER.

FACTS ALLEGING ACTUAL OR IMPLIED AGENCY RELATIONSHIP BETWEEN MANUFACTURER AND DEALER

15. Upon information and belief, MANUFACTURER exercises control over DEALER with respect to:

(a) Reporting of sales;

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- (b) Computer network connection with MANUFACTURER;
- (c) Training of DEALER'S sales and technical personnel;
- (d) Use of the MANUFACTURER supplied computer software;
- (e) Participation in MANUFACTURER'S training programs;
- (g) Reporting to MANUFACTURER with respect to the car delivery, including reporting PLAINTIFF'S name, address, preferred title, and business phone numbers, e-mail address, car's VIN number, delivery date, type of sale, lease/finance terms, factory incentive coding, if applicable, car's odometer reading, extended service contract sale designation, if any, MANUFACTURER'S contact language preference, and names of delivering dealership employees; and

(h) displaying MANUFACTURER'S logos upon signs, literature, products, and brochures within the dealership.

16. Upon information and belief DEALER binds MANUFACTURER with respect to:

- (a) Warranty repairs on the cars DEALER sells; and
- (b) issuing service contracts administered by MANUFACTURER.
- 17. There is no issue of privity as between PLAINTIFF and MANUFACTURER.

18. Upon information and belief MANUFACTURER further exercises control over DEALER with respect to:

- (a) Financial incentives given to DEALER'S employees;
- (b) Prizes given to DEALER;'S employees;
- (c) Number of bathrooms DEALER must make available to the public;
- (d) Location of DEALER;

(e) Size and number of DEALER'S logos bearing

MANUFACTURER'S name;

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(f) Testing and certification of the sales and service personnel in MANUFACTURER'S policies and procedures; and

(g) Customer satisfaction surveys, pursuant to which MANUFACTURER allocates the number of cars to DEALER, thus directly controlling DEALER profits.
 19. Upon information and belief DEALER is not an independent merchant who buys cars from MANUFACTURER and resells them to third parties; rather, DEALER sells cars on MANUFACTURER'S behalf, pursuant to a "floor plan," and MANUFACTURER does not receive payment for its cars until DEALER sells them.

20.Upon information and belief DEALER bears MANUFACTURER'S brand name, uses its logo in advertising and on its warranty repair orders, posts its sign for the public to see.

21. Upon information and belief MANUFACTURER required DEALER to follow the rules and policies of MANUFACTURER in conducting all aspects of its business, including the delivery of the MANUFACTURER'S warranties described above, and the servicing of defective cars, such as PLAINTIFF'S car.

22.Upon information and belief MANUFACTURER required DEALER to post MANUFACTURER'S name, logo, and signs at DEALER, including its service department, and to identify itself to the public as an authorized dealer and servicing outlet for MANUFACTURER'S cars.

23. Upon information and belief MANUFACTURER required DEALER to use service and repair forms that contained MANUFACTURER'S name and logo.

24. MANUFACTURER required DEALER to perform MANUFACTURER'S warranty diagnoses and repairs, and to do the diagnoses and repairs according to the procedures and policies set forth in writing by MANUFACTURER.

25. Upon information and belief MANUFACTURER required DEALER to use parts and tools either provided by MANUFACTURER, or approved by MANUFACTURER, and to inform MANUFACTURER when DEALER discovered that unauthorized parts had been installed on one of MANUFACTURER'S vehicle.

26. Upon information and belief MANUFACTURER audited DEALER'S service department and directly contacted the customers of DEALER to determine their level of satisfaction with the repair services provided by DEALER. 27. Upon information and belief MANUFACTURER required DEALER to provide it with monthly statements and records pertaining, in part, to d1's servicing of MANUFACTURER'S cars.

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28. Upon information and belief MANUFACTURER reserved the right at all times to enter upon DEALER'S business premises and to audit the records and operations of DEALER'S service department.

29. Upon information and belief MANUFACTURER provided DEALER with, or required it to obtain, computer programs that would display the repair and title history of MANUFACTURER'S cars.

30. Upon information and belief MANUFACTURER provided technical service bulletins and messages to DEALER detailing chronic defects present in product lines, and repair procedures to be followed for chronic defects.

31. Upon information and belief MANUFACTURER provided DEALER with specially trained service and repair consultants with whom DEALER was required by MANUFACTURER to consult when DEALER was unable to correct a defect on its own.

32. Upon information and belief MANUFACTURER required its customers to go to DEALER or other authorized dealers to obtain servicing under its warranties.

33. Upon information and belief MANUFACTURER required DEALER to consult with MANUFACTURER before voiding a consumer warranty or making a decision to decline a warranty repair.

34. Upon information and belief MANUFACTURER required, in its owner manual, furnished to PLAINTIFF by DEALER, that any questions first be referred to DEALER, not MANUFACTURER, and that if warranty service is required, the car should be taken to DEALER or other authorized MANUFACTURER dealer.

COUNT I VIOLATION OF MAGNASON MOSS WARRANTY ACT EXPRESS WARRANTY MANUFACTURER ONLY

35. PLAINTIFF incorporates herein all Common Allegations as though herein fully restated and realleged.

36. PLAINTIFF is a "consumer" as defined in the ACT 15 U.S.C. 2301(3).

37. The MANUFACTURER is a "supplier" and "warrantor" as defined by the ACT, 15 U.S.C. 2301(4) and (5).

38. The VEHICLE is a "consumer product" as defined in the ACT, 15 U.S.C. 2301(1).

39. The VEHICLE was manufactured, sold and purchased after July 4, 1975.

40. The express warranty given by the MANUFACTURER pertaining to the VEHICLE is a "written warranty" as defined in the Warranty Act, 15 U.S.C. 2301(6).

41. The above-described actions (failure to repair and/or properly repair the above-mentioned defects, etc.), including failure to honor the written warranty, constitute a breach of the written warranty by the MANUFACTURER under the ACT, 15 U.S.C. 2310(d)(1) and (2).

WHEREFORE, PLAINTIFF prays for judgment against MANUFACTURER:

A. For the difference value of VEHICLE as promised and as actually delivered;

B. For consequential, incidental and actual damages;

C. For costs, interest and actual attorneys' fees; and

D. Such other relief this Court deems appropriate.

COUNT II VIOLATION OF EXPRESS WARRANTY FLA. STAT. 672.101 et al MANUFACTURER ONLY

42. PLAINTIFF incorporates herein all Common Allegations as though herein fully restated and realleged.

43. PLAINTIFF is a "Buyer" under the Florida Uniform Commercial Code, Fla. Stat. 672.103.

44. MANUFACTURER is a "Seller" under the Florida Uniform Commercial Code, Fla. Stat. 672.103.

45. The VEHICLE constitutes "goods" under the Florida Uniform Commercial Code, Fla. Stat. 672.105.

46. This is a "transaction", to which Fla. Stat. 672.102 is applicable.

47. PLAINTIFF'S purchase of the VEHICLE was accompanied by an express warranty,

written and otherwise offered by the MANUFACTURER. Whereby said warranty was part of the basis of the bargain of the contract, upon which PLAINTIFF relied, between PLAINTIFF and MANUFACTURER for its sale of the vehicle.

48. In this express warranty, the MANUFACTURER warranted that if any defects were discovered within certain periods of time, the MANUFACTURER would provide repair of the VEHICLE free of charge to PLAINTIFF under specific terms as stated in the express warranty.

49. The PLAINTIFF discovered the VEHICLE had defects and problems after PLAINTIFF purchased the vehicle as discussed above.

50. PLAINTIFF notified MANUFACTURER of the aforementioned defects.

51.PLAINTIFF has provided the MANUFACTURER with sufficient opportunities to repair or replace the VEHICLE.

52. PLAINTIFF has reasonably met all obligations and pre-conditions as provided in the express warranty.

53. The MANUFACTURER has failed to adequately repair the VEHICLE and/or have not repaired the VEHICLE in a timely fashion, and the VEHICLE remains in a defective condition.

54. Even though the express warranty provided to PLAINTIFF limited PLAINTIFF'S remedy to repair and/or adjust defective parts, the VEHICLE's defects have rendered the limited warranty ineffective to the extent that the limited remedy of repair and/or adjustment of defective parts failed of its essential purpose pursuant to Fla. Stat. 672.719(2); and/or the above remedy is not the exclusive remedy under Fla. Stat. 672.719(1)(b).

55. The VEHICLE continues to contain defects, which substantially impair the value of the automobile to the PLAINTIFF.

56. These defects, could not reasonably have been discovered by the PLAINTIFF prior to PLAINTIFF's acceptance of the VEHICLE.

57. The MANUFACTURER induced PLAINTIFF'S acceptance of the VEHICLE by agreeing, by means of the express warranty, to remedy, within a reasonable time, those defects which had not been or could not have been discovered prior to acceptance.

58. As a result of its many defects, the PLAINTIFF has lost faith and confidence in the VEHICLE and the PLAINTIFF cannot reasonably rely upon the vehicle for the ordinary purpose of safe, efficient transportation.

59. The MANUFACTURER has refused PLAINTIFF'S demands and have refused to provide PLAINTIFF with the remedies to which PLAINTIFF is entitled pursuant to Fla. Stat.

672.313, 672.714 and 672.715.

WHEREFORE, PLAINTIFF prays for judgment against the MANUFACTURER:

A. For difference in value of the VEHICLE as promised and as actually

delivered

B. For incidental, consequential and actual damages;

C. For costs, interest and actual attorneys' fees;

D. For such other relief this Court deems appropriate.

<u>COUNT III</u>

VIOLATION OF MAGNASON MOSS WARRANTY ACT IMPLIED WARRANTY MANUFACTURER AND DEALER

60. PLAINTIFF incorporates herein all Common Allegations and Paragraphs 11-33 as though herein fully restated and realleged.

61. PLAINTIFF is a "consumer" as defined in the ACT 15 U.S.C. 2301(3).

62. The MANUFACTURER and DEALER is a "supplier" and "warrantor" as defined by the ACT, 15 U.S.C. 2301(4) and (5).

63. The VEHICLE is a "consumer product" as defined in the ACT, 15 U.S.C. 2301(1).

64. The VEHICLE was manufactured, sold and purchased after July 4, 1975.

65. The MANUFACTURER and DEALER supplied the PLAINTIFF with an implied warranty as defined in 15 U.S.C. 2301(7).

66. The above-described actions (failure to repair and/or properly repair the abovementioned defects, etc.), including failure to honor the implied warranty, constitute a breach of the written warranty by the MANUFACTURER and DEALER because the vehicle is not fit for its ordinary purpose under the ACT, 15 U.S.C. 2310(d)(1) and (2).

WHEREFORE, PLAINTIFF prays for judgment against MANUFACTURER and DEALER:

A. For the difference value of the VEHICLE as promised and as actually delivered

B. For consequential, incidental and actual damages;

C. For costs, interest and actual attorneys' fees; and

D. Such other relief this Court deems appropriate.

<u>COUNT IV</u> <u>VIOLATION OF IMPLIED WARRANTY</u> <u>FLA. STAT. 672.101 et al</u> <u>MANUFACTURER AND DEALER</u>

67. PLAINTIFF incorporates herein all Common Allegations and Paragraphs 11-33 as though herein fully restated and realleged.

68. The MANUFACTURER and DEALER is a "merchant" with respect to automobiles under the Florida Uniform Commercial Code, Fla. Stat. 672.104.

69. The VEHICLE was subject to implied warranties of merchantability under Fla. Stat. 672.314, running from the MANUFACTURER and DEALER to the benefit of PLAINTIFF.

70. The VEHICLE was not fit for the ordinary purpose for which such goods are used.

71. The defects and problems hereinbefore described rendered the VEHICLE unmerchantable.

72. The MANUFACTURER and DEALER failed to adequately remedy the defects in the VEHICLE; and the VEHICLE continues to be in an unmerchantable condition at the time of revocation.

WHEREFORE, PLAINTIFF prays for judgment against the MANUFACTURER and DEALER:

A. For the difference value of the VEHICLE as promised and as actually delivered

B. For consequential, incidental and actual damages;

C. For costs, interest and actual attorneys' fees; and

D. Such other relief this Court deems appropriate.

COUNT V REVOCATION OF ACCEPTANCE FLA. STAT. 672.101 et al DEALER ONLY

73. PLAINTIFF incorporates herein all Common Allegations and Paragraphs 11-33 as though herein fully restated and realleged.

74. PLAINTIFF accepted the VEHICLE without discovering the above defects because PLAINTIFF was reasonably induced to accept the vehicle by the difficulty of discovery of the above defects.

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75. In the alternative, PLAINTIFF reasonably assumed, and MANUFACTURER and DEALER represented, that all of the aforesaid defects and/or nonconformities would be cured within a reasonable time.

76. After numerous attempts by the MANUFACTURER and DEALER to cure, it has become apparent the nonconformities could not be seasonably cured.

77. The nonconformities substantially impaired the value of the VEHICLE to the PLAINTIFF.

78. PLAINTIFF had previously notified the MANUFACTURER and DEALER of the nonconformities and PLAINTIFF'S intent to revoke acceptance pursuant to Fla. Stat. 672.108 and demanded the refund of the purchase price for the VEHICLE and out-of-pocket expenses. (See EX. D).

79. The MANUFACTURER and DEALER has nevertheless refused to accept return of the VEHICLE and has refused to refund any part of the sum equal to the purchase price and out-of-pocket expenses incurred by PLAINTIFF.

WHEREFORE, PLAINTIFF prays for judgment against the MANUFACTURER and DEALER:

A. For revocation of the sales contract and refund of purchase price;

B. For consequential, incidental and actual damages;

C. For costs, interest and actual attorneys' fees; and

D. Such other relief this Court deems appropriate.

DEMAND FOR JURY TRIAL

PLAINTIFF demands trial by jury on all issues triable as such.

Respectfully submitted. CONSUMER LEGAL SERVICES, P.C.

makel /M

ALDO BOLLIGER, ESQ Fl. Bar No.: 486973 RICHARD A. DENNO, ESQ. Fl. Bar No.: 883336 KURT D. MITCHELL J.D. Fl. Bar No.: 12860 CONSUMER LEGAL SERVICES, P.C. 1915 N. Dale Mabry Highway Suite 303 Tampa, Florida 33607 P: 813-870-2525

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THE PRINTER MAKES NO WARRANTY, EXPRESSION IMPLIED, AS TO CONTENT OR FITNESS FOR PURPOSE OF THIS FORM COMPLET WHILE CAMPLE FOR CONTRACT

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f.

1. FINANCE CHARGE AND PAYMENTS

- How we will figure Finance Charge. We will treat a. any Prepaid Finance Charge as fully earned on the date of this contract. We will figure the rest of the finance charge on a daily basis at the Base Rate on the unpaid part of your Principal Balance. Your Principal Balance is the sum of the Amount Financed and the Prepaid Finance Charge, if any.
- How we will apply payments. We may apply each < b. payment to the earned and unpaid part of the Finance Charge, to the unpaid part of your Principal Balance and to other amounts you owe under this contract in: any order we choose.
- C. How late payments or early payments change what you must pay. We based the Finance Charge, Total of Payments, and Total Sale Price shown on the front on the assumption that you will make every payment and
- on the day it is due. Your Finance Charges Total of Payments, and Total Sale Price will be more if you" the form of a larger or smaller final payment or stour option, more or fewer payments of the same amount as your scheduled payment with a smaller final payment. We will send you a notice telling you about these 🔬 : 383 changes before the final scheduled payment is due,
- You may prepay. You may prepay all or part of your d. Prinicipal Balance at any time. If the contract is paid in ... full within six months after the date you sign it, we may 2003 and impose an acquisition charge, not exceeding \$75, fore. services performed on your behalf for processing this contract. If you prepay, you must pay the earned and work the unpaid part of the Finance Charge and all other amounts due up to the date of your payment.
- You may ask for a payment extension. You may ask e. $1 \ge 1$ us for a deferral of the scheduled due date of all or any non-smooth part of a payment (extension). If we agree to your attact trained request, we may charge you a \$15 extension fee. You and must maintain the physical damage insurance required by this contract (see below) during any extension. If your with do not have this insurance, we may buy it and about
- you for it as this contract save fourmay extend the term of any optional insurance you bought with this contract to cover the extension if the insurance company or yourinsurance contract permits it, and you pay the charge for extending this insurance.

If you get a payment extension, you will pay additional finance charges at the Base Rate on the amount extended during the extension. You will also pay any additional insurance charges resulting from the extension, and the \$15 extension fee if we charge you this fee.

YOUR OTHER PROMISES TO US

- If the vehicle is damaged, destroyed, or missing. a. You agree to pay us all you owe under this contract even if the vehicle is damaged, destroyed, or missing.
- Using the vehicle. You agree not to remove the b. vehicle from the U.S. or Canada, or to sell, rent, lease, or transfer any interest in the vehicle or this contract without our written permission. You agree not to expose the vehicle to misuse, seizure, confiscation, or involuntary transfer. If we pay any repair bills, storage

If you pay late, we may also take the steps described below.

- b. You may have to pay all you owe at once. If you break your promises (default), we may demand that you pay all you owe on this contract at once. Default means:
 - You do not pay any payment on time;
 - You start a proceeding in bankruptcy or one is started against you or your property; or
 - You break any agreements in this contract.
 - The amount you will owe will be the unpaid part of your Principal Balance plus the earned and unpaid part of the Finance Charge, any late charges, and any amounts due because you defaulted.

You may have to pay collection costs. If we hire an attorney to collect what you owe, you will pay the attorney's fee and court costs as permitted by law. This includes any attorneys' fees we incur as a result of any bankruptcy

to ist proceeding prought by pragains who under foder Flaw. d. We may take the vehicle from you. If you default, we pay late and less if you pay early. Changes may take may take (repossess) the vehicle from you if we do so we peacefully and the law allows it. If your vehicle has an electronic tracking device, you agree that we may use the device to find the vehicle. If we take the vehicle, any accessories, equipment, and replacement parts will stay with the vehicle. If any personal items are in the vehicle, we may store them for you at your expense. If you do not ask for these items back, we may dispose of them as the law allows. $\dot{\sigma}$.

> How you can get the vehicle back if we take it. If we repossess the vehicle, you may pay to get it back (redeem). We will tell you how much to pay to redeem. Your right to redeem ends when we sell the vehicle.

> We will sell the vehicle if you do not get it back. If you do not redeem, we will sell the vehicle. We will send you a written notice of sale before selling the vehicle.

> We will apply the money from the sale, less allowed expenses, to the amount you owe. Allowed expenses are expenses we pay as a direct result of taking the vehicle, holdricht brechting it for sale, and selling it. Attorney fees and court costs the law primits are also allowed expenses

> the law requires us to pay it to someone else. If money from the sale is not enough to pay the amount you owe, you mast pay the cost of the low do not pay this amount when we ask, we may charge you interest at a rate not exceeding the highest lawful rate until you pay.

What we may do about optional insurance, g. maintenance, service, or other contracts. This contract may contain charges for optional insurance, maintenance, service, or other contracts. If we repossess the vehicle, we may claim benefits under these contracts and cancel them to obtain refunds of unearned charges to reduce what you owe or repair the vehicle. If the vehicle is a total loss because it is confiscated, damaged, or stolen, we may claim benefits under these contracts and cancel them to obtain refunds of unearned charges to reduce what you owe.

WARRANTIES SELLER DISCLAIMS 4. Unless the Seller makes a written warranty, or enters into a service contract within 90 days from the date of

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- The vehicle and all parts Cods put on it;
- All money or goods received (proceeds) for the
 vehicle;
- All insurance, maintenance, service, or other contracts we finance for you; and
- All proceeds from insurance, maintenance, service, or other contracts we finance for you. This includes any refunds of premiums or charges from the contracts.

This secures payment of all you owe on this contract. It also secures your other agreements in this contract. You will make sure the title shows our security interest (lien) in the vehicle.

d. Insurance you must have on the vehicle.

You agree to have physical damage insurance covering loss of or damage to the vehicle for the term of this contract. The insurance must cover our interest in the vehicle. If you do not have this insurance, we may, if we choose, buy physical damage insurance. If we decide to buy physical damage insurance, we may either buy insurance, that, covers your interest, and

- our interest in the vehicle, or buy insurance that covers only our interest. If we buy either type of insurance, we will tell you which type and the charge you must pay. The charge will be the premium of the insurance and a finance charge at the highest rate, the law permits. If the vehicle is lost or damaged, you agree that we may use any insurance settlement to reduce what you owe or repair the vehicle.
- e. What happens to returned insurance, maintenance, service, or other contract charges. If we obtain a refund on insurance, maintenance, service, or other contract charges, you agree that we may subtract the refund from what you owe.
- I. IF YOU PAY LATE OR BREAK YOUR OTHER PROMISES

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a. You may owe late charges. You will pay a late charge on each late payment as shown on the front. Acceptance of a late payment or late charge does not excuse your late payment or mean that you may keep making late payments.

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This provision doc ... ot affect any warranties covering the vehicle that the vehicle manufacturer may provide.

- 5. Used Car Buyers Guide. The information you see on the window form for this vehicle is part of this contract. Information on the window form overrides any contrary provisions in the contract of sale. Spanish Translation: Guía para compradores de vehículos usados. La información que ve en el formulario de la ventanilla para este vehículo forma parte del presente contrato. La información del formulario de la ventanilla deja sin efecto toda disposición en contrario contenida en el contrato de venta.
- 6. Optional Service Contracts.

You are not required to buy a service contract to obtain credit. Your choice of service contract providers for any service contracts you buy will not affect our decision to sell or extend credit to you.

7. Rejection or Revocation.

If you are permitted under Fiorida's Uniform Commercial Code to reject or revoke acceptance of the vehicle and you claim a security interest in the vehicle because of this, you must either: (a) post a bond in the amount of the disputed balance; or (b) deposit all installment payments as they become due into the registry of a court of competent jurisdiction.

8. Applicable Law

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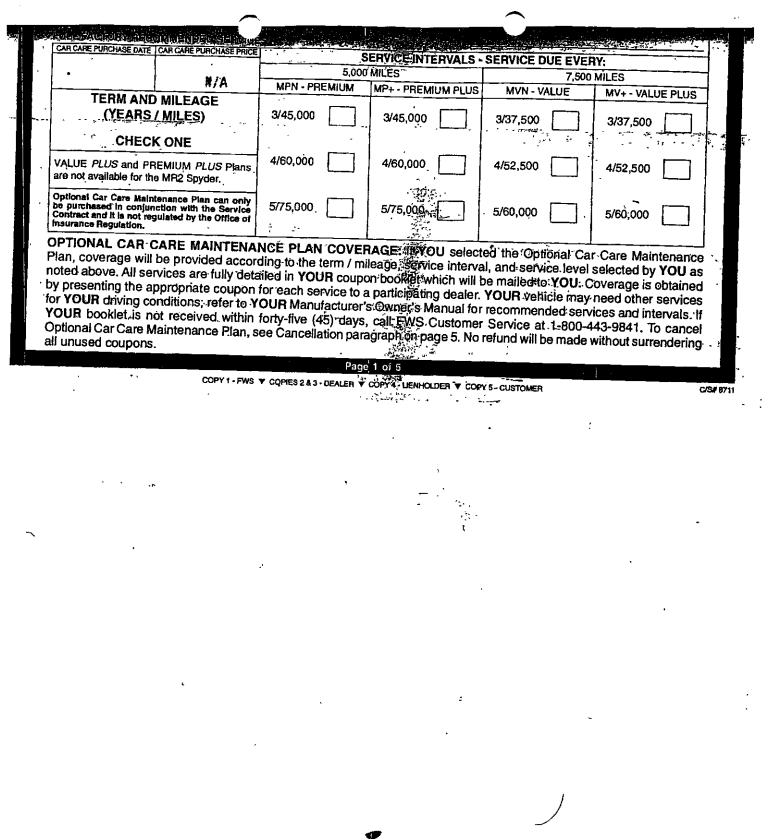
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IOTICE: ANY HOLDER OF THIS CONSUMER GREDIT CONTRACT IS SUBJECT TO ALL CLAIMS AND DESENSES WHICH HE DEBTOR COULD ASSERT AGAINST THE SELLER OF GOUDS OR SERVICES OBTAINED PURSUANT HERETO OR /ITH THE PROCEEDS HEREOF, RECOVERY HEREUNDER BY THE DEBTOR SHALL NOT EXCEED AMOUNTS PAID BY HE DEBTOR HEREUNDER.

he preceding NOTICE applies only if the "personal, family or household" box in the "Primary Use for Which Purchased" section this contract is checked. In all other cases, Buyer will not assert against any subsequent holder or assignee of this contract any aims or defenses the Buyer (debtor) may have against the Seller, on against the manufacturer of the vehicle or equipment obtained nder this contract.

rm No. 553-FL 9/04

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PARTIES TO THIS SERVICE CONTRACT: The following BOLD print appearing throughout this Service Contract has the following meanings: "YOU" and "YOUR" mean the customer named as Service Contract Holder on the front of this Service Contract. "WE", "US" and "OUR" refer to Fidelity Warranty Services, Inc ("FWS").

SERVICE CONTRACT PERIOD: Coverage under this Service Contract begins on the "Purchase Date" shown on the front of this Service Contract and expires according to the Term or Mileage of the plan selected, whichever occurs first. Plan expiration is measured in Term/Mileage from (a) the "Purchase Date" and 0 miles if the "Current Odometer Reading" is 5,999 or less, or, (b) January 1 of YOUR vehicle's model year and 0 miles if the "Current Odometer Reading" is 6,000 miles or greater.

SERVICE CONTRACT COVERAGE: In the event of Mechanical Breakdown of a Covered Part, WE agree to make repairs or reimburse YOU for the cost of parts and labor, to repair or replace a Covered Part less applicable deductible, subject to the terms, conditions, and limitations herein. Mechanical Breakdown means: (1) The failure of a Covered Part due to faulty workmanship or materials supplied by the original vehicle manufacturer or distributor, or; (2) The failure of a Covered Part due to a gradual reduction in operating performance as a result of normal wear and tear, prior to the vehicle reaching 50,000 miles. A Covered Part has failed when it can no longer perform the function for which it was designed solely because of its condition and not because of the action, inaction, or failure of any non-covered parts. IF THE MECHANICAL BREAKDOWN IS COVERED UNDER ANY OTHER WARRANTY, SERVICE POLICY, RECALL, OR REPAIR ADJUSTMENT ("OTHER COVERAGE"), WE WILL PAY THE DIFFERENCE, IF ANY, BETWEEN THE PAYMENTS DUE UNDER THIS SERVICE CONTRACT AND THE PAYMENTS DUE UNDER THE OTHER COVERAGE. This Service Contract is not an insurance policy, a warranty, or a guarantee.

PLAN COVERAGE: There are four coverage plans (Silver, Gold, Gold Plus and Platinum) described in this Service Contract. The coverage plan that applies to YOUR which also dotated and the state of the service plan.

VEHICLE COVERED PARTS SILVER COVERAGE AN

ENGINE: Engine block and cylinder heads and all internally lubricated parts including pistons, piston rings, pins and cylinder sleeves; crankshaft, pulley, main bearings, caps and bolts; connecting rods rod parts including pistons, piston rings, pins and cylinder sleeves; buttons and plugs; timing gears and timing chain orbelt; rocker arms, rocker arms,

TRANSMISSION/TRANSAXLE: Transmission/transaxle case and all internally lubricated parts including ring and pinion gears; oil pump, cover, gears, housing and vanes; torque converter; valve body(s); throttle valve; valve pack; governor, gear and cover; parking gear and pawl; roll pins; sprags; sprockets; chain; springs; stator and shaft; pressure regulator valve; pressure switches; solenoids; bands; automatic transmission/transaxle clutch, drums, pistons and stee plates; planetary and sun gears; servos and rings; blockers; synchronizer hubs and keys; bearings; bushings; supports and shaft; control rings; yoke; extension housing; speedometer drive gears; accumulators and rings; adjusters; all internal fasteners, nuts and bolts; shift cover and forks; separate bell housing; seals and gaskets. (STANDARD TRANSMISSION CLUTCH ASSEMBLIES AND ALL COMPONENT PARTS ARE NOT COVERED.)

DRIVE AXLE: Differential/axle housing(s) and all internally lubincated parts including the axle flange; ring and pinion gear/carrier assembly; spider gears and bearings; pins; retainers; positraction clutches, plates and springs; cover. Transfer case and all internal parts contained within the transfer case; seals and gaskets.

STEERING: Steering gear housing and internal parts including control rings, valves, pinion shaft, pitman shaft, worm shaft and gear, sector shaft, bearings, adjusters; rack and pinion housing and internal parts including control valve, rack bellows, mounts, rack shaft and yoke, spool valve, bearings; power steering owns and internal parts including control valve, rack bellows, mounts, rack shaft and yoke, spool valve, bearings; power steering owns and internal parts including control valve, rack bellows, mounts, rack shaft and yoke, spool valve, bearings; power steering owns and internal parts including control valve, rack bellows, mounts, rack shaft and yoke, spool valve, bearings; power steering owns and internal parts including to the provide steering owns

BRAKES: Master cylinder; vacuum or hydraulic brake booster assembly; hydraulic lines, hoses and fittings; brake pedal apply pin; seals and gaskets. (ABS COMPONENTS NOT COVERED.)

AIR CONDITIONING: Condensor; compressor; evaporator; orifice/expansion/POA valve; seals and gaskets.

FRONT SUSPENSION: Upper and lower control arms, shafts and bushings; struts, housing and cartridge; spindle/steering knuckle and spindle support.

ELECTRICAL: Alternator housing and all internal parts including bearings, bushings, brushes, rectifier bridge, diodes, field coil and rotor; alternator mounting bracket; voltage regulator; starter motor housing and all internal parts including bushings, brushes, field windings, starter drive and solenoid.

GOLD COVERAGE PLAN

(includes SILVER coverage plus the following additional parts)

ENGINE: Oil pan; valve, timing and side covers; thermostat housing; water pump pulley; engine mounts; harmonic balancer; flex plate/ flywheel and ring gear.

TRANSMISSION: Oil pan; detent cable; kickdown link; TVI/throttle cable; vacuum modulator; transmission mounts.

DRIVE AXLE: Constant velocity joints; slip joint; front wheel drive axles/half-shafts and wheel bearings; u-joints; couplings; flex disc; prop shafts; center support bearings.

prop shafts; center support bearings.

STEERING: Tie rods, idler and pitman arms, center/drag link, coupling and shafts; cooler lines.

BRAKES: Compensator/proportioning valve; metering valve; calipers, piston, seal and dust boot; wheel cylinders, cups, seals, spring and dust boots; backing plate; brake adjusters; brake pedal, pedal lever and pedal pivot; parking brake cable; ABS component parts including control processor/module, pump, dump valve, wheel speed sensors, solenoids, accumulator, and pressure differential switch.

AIR CONDITIONING: Accumulator; receiver drier; automatic temperature control programmer; clutch assembly including coil, disc and pulley; control cables; cutoff switch; serpentine belt tensioner, bearing and pulley.

FRONT SUSPENSION: Wheel bearings; ball joints and bushings; kingpin and bushings; stabilizer bar, links and bushings; torsion bar, mounts and bushings; track bar, links and bushings.

ELECTRICAL: Front and rear wiper motor and linkage; power window motor, window regulators; power seat motor; steering column multi-function switch and individual switches for turn signal, headlamp, dimmer, wiper, washer and speed control; mirror motor switch; brake light switch; neutral safety switch; glove box light switch; courtesy light switch; cooling fan relay; air control solenoid; air regulator valve; E.F.E. heater; I.A.C. motor; electronic ignition module; electronic instrument panel module; ignition coil; engine distributor including shaft, gear, bushings and modules; throttle position sensor; vehicle speed sensor; M.A.P. sensor; knock sensor and barometric pressure sensor.

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GOLD PLUS COVERAGE PLAN

(includes SILV = R and GOLD coverage plus the following additional parts)

COOLING: Radiator, mounting brackets and coolant recovery tank; fan clutch, fan blades and motor; fan shroud; heater core;

FUEL: Fuel lines; fuel pressure regulator; level sending unit; fuel injectors and seals; injection pump; fuel injection control components including mixture control processor, throttle body assembly, cutoff valve, fuel rail, fuel distributor, trigger contacts, cold start valve, fuel injection valve, fuel accumulator; tank; tank door latch; tank filler neck and o-ring.

AIR CONDITIONING: Compressor mounting brackets; idler pulley and bearings; air conditioning/heater blower motor.

STEERING: Steering wheel tilt and telescoping mechanism.

FRONT SUSPENSION: Coil and leaf springs, seats and bushings, leaf spring shackles; electronic level control components including

REAR SUSPENSION: Upper and lower control arms, shafts and bushings; upper and lower ball joints; struts, housing and cartridge; wheel bearings; spindle/steering knuckle and spindle support; coil and leaf springs, seats and bushings, leaf spring shackles; track bars, links and bushings; electronic level control components including pump, accumulator, lines, bags; stabilizer bar, links and bushings.

ELECTRICAL: Cruise control module, servo, cables and switches; ESC systems; electronic instrument clusters and driver information systems including speedometer, odometer, tachometer and all gauges, warning indicators; burglar alarm or electronic entry systems including remote entry receiver, sender and module; door lock actuators; mirror motor; power window switch; power lock switch; rear window defogger; horn and relay; convertible top motor; support motor; power antenna motor; electrical headlamp motor; power trunk/ hatch release motor, switch and solenoid; power sliding door motor and switch; electronic control modules including body control module, electronic control unit, powertrain control module, transmission control module; electronic throttle control module; crank angle sensor; camshaft position sensor; throttle position motor; fuel pulse dampener; wide open throttle switch; thermo time switch; fuel pump relay; automatic temperature control sensor; ride height sensor and relay; oxygen (02) sensor; mass air flow sensor; manifold differential pressure sensor; coolant temperature sensor; OEM radio, graphic equalizer, cassette tape player and compact disc player.

PLATINUM COVERAGE PLAN

Includes the Silver, Gold and Gold Plus coverage plans plus ANY OTHER MECHANICAL BREAKDOWN except for those items listed in the sections "EXCLUSIONS FROM COVERAGE", and the section "LIMITS OF LIABILITY." All other terms and conditions of this

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RENTAL CAR COVERAGE: YOU will be allowed up to \$35 per day for a maximum of ten (10) days for car rental expense incurred, if required due to a covered Mechanical Breakdown. YOU are responsible for obtaining the rental car and rental car expense incurred must be from a licensed rental car agency or authorized dealer. WE will then reimburse YOU. RENTAL CAR REIMBURSEMENT IS NOT PROVIDED FOR PARTS DELAY, SHOP SCHEDULING, OR FOR WORK NOT COVERED BY THIS SERVICE CONTRACT. YOU MUST RECEIVE PRIOR AUTHORIZATION FOR RENTAL EXPENSES. RENTAL REIMBURSEMENT IS LIMITED TO DOWNTIME REPAIRS AND ENDS ON THE DATE OF REPAIR COMPLETION.

FOWING COVERAGE: YOU will be allowed up to \$75 per covered Mechanical Breakdown for towing expense incurred if required

RAVEL BREAKDOWN: In the event of a Mechanical Breakdown of a Covered Part, WE will reimburse YOU for food and lodging, commencing the day after the claim is reported to US, providing YOU are in excess of 100 miles from home. Such expense shall e limited to \$75 per calendar day and \$375 per occurrence. Reimbursement is limited to downtime repairs and ends at the date

HAGNOSTICS COVERAGE: WE will pay for reasonable, necessary and customary diagnostic charges incurred in conjunction vith a covered repair, not to exceed the labor time listed in a nationally recognized parts and labor guide. DIAGNOSTIC TIME VILL NOT BE PAID FOR THOSE CONDITIONS WHERE THE PROPER REPAIR IS READILY APPARENT TO THE NORMAL ENSES OF SIGHT, TOUCH, SMELL AND/OR SOUND.

ELATED DAMAGE COVERAGE: WE will pay for the replacement of brake pads, belts and hoses that are damaged and require splacement as a direct result of a covered Mechanical Breakdown. This coverage includes disc brake rotor or brake drum resurfacing squired as a direct result of a covered Mechanical Breakdown.

LUID COVERAGE: WE will pay for replacement of necessary fluids, oils, greases, lubricants and approved A/C gases that must 3 replaced in conjunction with a covered repair. THIS COVERAGE DOES NOT APPLY TO SHOP SUPPLIES.

PTIONAL ROAD HAZARD TIRE COVERAGE: WE will pay to repair or replace a damaged tire if the tire damage is caused / Road Hazard. Road Hazard is defined as debris on the road surface or road surface conditions such as potholes, cracks and eaks. Coverage applies only when the Road Hazard Tire Coverage box on the front of this Service Contract is checked. Coverage eaks. Coverage applies only when the Hoad Hazard The Coverage box on the front of this Service Contract is checked. Coverage hds when the lowest tread depth reaches 3/32" or when this Service Contract terminates, whichever comes first. OUR payment r tire replacement will be pro-rated for wear (for example, if the tire is 25% worn YOU will pay 25% of the price of the tire). IS COVERAGE WILL NOT PAY FOR WEAR, TIRE BALANCING, TIRE DEFECTS, COLLISION DAMAGE OR VANDALISM. SO EXCLUDED FROM COVERAGE IS THE TIRE STEM, VALVE, WHEEL, ATTACHING HARDWARE, WHEEL COVER AND PACE SAVER" STYLE SPARE TIRE. BENEFITS DESCRIBED UNDER RENTAL CAR COVERAGE, TOWING COVERAGE ID TRAVEL BREAKDOWN DO NOT APPLY TO BOAD HAZARD TIRE COVERAGE. ND TRAVEL BREAKDOWN DO NOT APPLY TO ROAD HAZARD TIRE COVERAGE.

ANSFER: YOU may transfer this Service Contract to another owner but not to another vehicle. To transfer this Service intract YOU must mail the following three (3) items to FWS within thirty (30) days of transfer of vehicle ownership: a completed Transfer Form (or a letter containing the name and address of the new owner and YOUR authorization transfer); (2) a legible copy of the front page of this Service Contract; and (3) a check for \$40 payable to FWS, for > transfer fee. This Service Contract may not be transferred to any entity in the business of selling or leasing motor

DUCTIBLE AND UNCOVERED COSTS: For each repair visit, YOU will be responsible for the deductible amount selected by YOU.

as shown on the front page of this Service intract, and for any other costs not covered by this Service Contract. If no box is checked, the deductible will be waived. If YOU selected the \$50 deductible option and return to the Selling Dealer to have repairs made, the vehicle repaired elsewhere, and WE will waive the deductible. When a breakdown to a Covered Part occurs which is covered by a the same Covered Part previously repaired under this Service Contract fails again, the deductible will be waived.

CANCELLATION: This Service Contract may be cancelled by YOU at anytime. To cancel, YOU must return this Service Contract to YOUR Selling Dealer. If YOU cancel during the first sixty (60) days, a 100 percent refund of the Service Contract Price will be made upon the greater of the time or mileage expired from the Purchase Date and odometer reading at Purchase Date, less a fee of \$50 or 5 percent device Contract Price, whichever is less. After sixty (60) days, a pro-rata refund will be made based 10 percent of the unearned Service Contract Price, whichever is less. After sixty (60) days, we cannot cancel this Service Contract Price, whichever is less. After sixty (60) days, we cannot cancel this Service Contract Price, whichever is less. After sixty (60) days, we cannot cancel this Service Contract Price, in which case YOU will be notified by certified mail. If we cancel this Service Contract, we will return 100 percent of the paid unearned loss or repossession, all rights and interests under this Service Contract will immediately transfer to the Lienholder and the Lienholder will be named sole payee for any refund amounts.

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IBURSE YOU FOH: EXCLUSIONS FROM COVERAGE: THI. ERVICE CONTRACT WILL NOT PAY OR M.

- ANY LOSS, DAMAGE OR EXPENSE CAUSED BY ACCIDENTS, ANY ALTERATION TO THE VEHICLE OR THE PART, USE OF OVERSIZED TIRES OR WHEELS, ALTERATION TO THE VEHICLE NOT AUTHORIZED BY ITS MANUFACTURER, THE FAILURE OF ANY PART NOT COVERED BY THIS SERVICE CONTRACT, ACCIDENTAL LOSS
- ANY MECHANICAL BREAKDOWN CAUSED BY ACCIDENTS, COLLISION, UPSET DAMAGE, FALLING OBJECTS, 2. THEFT, LARCENY, EXPLOSION, LIGHTNING, EARTHQUAKES, FIRE, WINDSTORMS, HAIL, WATER, FLOODS, SUBFREEZING TEMPERATURE, MALICIOUS MISCHIEF, VANDALISM, CIVIL COMMOTION, RIOTS, WARS;
- THE REPAIR OR REPLACEMENT OF A COVERED PART BY ANY MANUFACTURER WARRANTY OR FOR ANY OTHER 3. COVERAGE OR OTHER REASON THE MANUFACTURER, IMPORTER, DISTRIBUTOR, SELLER OR REPAIRER OF THE VEHICLE WILL REPAIR OR REPLACE THE PART AT ITS EXPENSE OR AT A REDUCED COST;
- ANY INVOICE PRESENTED TO FWS FOR PAYMENT FOR SERVICES NOT PERFORMED AS DESCRIBED AT THE TIME 4. OF AUTHORIZATION;
- ANY CLAIM IF YOUR VEHICLE'S ODOMETER, SINCE THE PURCHASE DATE OF THIS SERVICE CONTRACT, HAS 5. BEEN ALTERED, DISCONNECTED, IS INOPERABLE, OR ACTUAL MILEAGE CANNOT BE DOCUMENTED, OR REASONABLY BE ESTIMATED;
- ANY CLAIM IF YOUR VEHICLE IS USED FOR COMPETITIVE DRIVING OR RACING, POLICE OR EMERGENCY SERVICE, 6. PRINCIPALLY OFF-ROAD USE, SNOW REMOVAL, CARRIAGE OF PASSENGERS FOR HIRE, COMMERCIAL DELIVERY/ SERVICE/REPAIR, RENTAL PURPOSES, TOWING A TRAILER OR ANOTHER VEHICLE UNLESS YOUR VEHICLE IS EQUIPPED FOR THIS AS RECOMMENDED BY THE MANUFACTURER;
- ANY MECHANICAL BREAKDOWN CAUSED BY MISUSE, ABUSE, NEGLIGENCE, IMPROPER TOWING, LACK OF 7. MAINTENANCE
- ANY MECHANICAL BREAKDOWN CAUSED BY CONTAMINATION, OVERHEATING, LACK OF COOLANT OR 8. LUBRICANTS, LACK OF OIL VISCOSITY, SLUDGE, RESTRICTED OIL FLOW, SALT, RUST AND RUST DAMAGE, ENVIRONMENTAL DAMAGE, CHEMICALS;
- THE NEED TO REPAIR OR REPLACE A COVERED PART ARISING OR RESULTING FROM THE USE OF YOUR VEHICLE 9. OUTSIDE OF THE UNITED STATES, ITS TERRITORIES OR POSSESSIONS OR CANADA;
- HAZARDOUS WASTE DISPOSAL CHARGES, STORAGE OR FREIGHT CHARGES, ADJUSTMENTS, SHOP SUPPLIES, 10. CORE CHARGES, AND CORRECTION OF RATTLES/SQUEAKS/WIND NOISE/ODORS/WATER LEAKS;
- ANY CONSEQUENTIAL, SECONDARY DAMAGES OR UNREASONABLE COSTS THAT YOU MAY SUFFER AS A 11. **RESULT OF THE NEED TO REPAIR OR REPLACE A PART;**
- LIABILITY FOR DAMAGE TO PROPERTY, INJURY TO OR DEATH OF ANY PERSON ARISING OUT OF THE OPERATION. 12. MAINTENANCE OR USE OF YOUR VEHICLE WHETHER OR NOT RELATED TO THE COVERED PARTS;
- UNDER SILVER, GOLD AND GOLD PLUS COVERAGES, ANY PART THAT IS NOT SPECIFICALLY LISTED AS COVERED 13. UNDER THE COVERAGE SELECTED;
- UNDER PLATINUM COVERAGE, ANY OF THE FOLLOWING PARTS: BRAKE LININGS, BRAKE DRUMS AND ROTORS, 14. DISC BRAKE PADS, STANDARD TRANSMISSION CLUTCH COMPONENTS, AIR BAGS, SOLAR POWERED DEVICES, HINGES, GLASS, LENSES, SEALED BEAMS, TRIM, MOLDINGS, DOOR HANDLES, LOCK CYLINDERS, TIRES, BATTERIES, LIGHT BULBS, UPHOLSTERY, PAINT, BRIGHT METAL, FREEZE PLUGS, HEATER AND RADIATOR HOSES, EXHAUST SYSTEM, SHOCK ABSORBERS, AUDIO, SECURITY OR OTHER SYSTEMS NOT FACTORY INSTALLED, WORK SUCH AS FRONT-END ALIGNMENT OR WHEEL BALANCING, CONSTANT VELOCITY JOINT BOOTS, SAFETY RESTRAINT SYSTEMS, CELLULAR PHONES, ELECTRONIC TRANSMITTING DEVICES (EXCEPT FOR THOSE SPECIFICALLY LISTED UNDER SILVER, GOLD, OR GOLD PLUS COVERAGE), RADAR DETECTORS, APPLIANCES, NEAR OBJECT AVOIDANCE SYSTEMS AND ALL LASER RADAR CRUISE CONTROL COMPONENTS,
- VINYL AND CONVERTIBLE TOPS; BURNT VALVES, WORN RINGS, THE CORRECTION OF OIL CONSUMPTION, ANY REPAIRS FOR REDUCTION IN ENGINE EFFICIENCY THAT MUST BE PERFORMED ON YOUR VEHICLE; 15.
- ANY MAINTENANCE ON YOUR VEHICLE, UNLESS OPTIONAL CAR CARE MAINTENANCE PLAN IS SELECTED;\ 16.
- ANY PERSONAL EXPENSES (EXCEPT WHERE NOTED UNDER TRAVEL BREAKDOWN) ARISING BECAUSE YOUR 17. VEHICLE IS NOT AVAILABLE FOR YOU TO USE;
- DAMAGES CAUSED TO YOUR ENGINE RESULTING FROM THE INGESTION OF WATER THROUGH THE ENGINE AIR 18. INTAKE SYSTEM (COMMONLY REFERRED TO AS WATER INGESTION).

HOW TO MAKE A CLAIM: When repairs are required, if possible, return YOUR vehicle to YOUR Selling Dealer. If YOU cannot return YOUR vehicle to YOUR Selling Dealer, YOU must telephone FWS at 1-800-327-5172 during normal working hours to receive instructions. If YOU do not follow OUR instructions, WE are not obligated to reimburse YOU for the cost of any repairs. Authorization must be obtained from FWS prior to having YOUR vehicle repaired. WE reserve the right to inspect any vehicle before authorization of any repairs. In order to make a claim under this Service Contract YOU must:

- Have YOUR vehicle serviced according to the maintenance schedule provided in the Manufacturer's Owner's Manual. YOU 1. must keep original copies of all repair orders, invoices and receipts from the performed services and maintenance and present the originals at the time a claim is made;
- Use all means to protect YOUR VEHICLE FROM FURTHER DAMAGE IN THE EVENT OF A MECHANICAL BREAKDOWN. 2. WITHOUT LIMITING THIS GENERAL RULE, SPECIFICALLY YOU MUST STOP THE VEHICLE IMMEDIATELY AND HAVE IT REPAIRED BEFORE DRIVING IT FURTHER;
- Provide "teardown authonization" when requested by US, so that the repair facility can provide an accurate diagnosis and 3. estimate of repairs;
- In the event of an emergency situation that occurs and FWS cannot be reached, the Service Contract Holder can proceed 4. with repairs, but payment will be in accordance with the other provisions of this Service Contract;
- Submit a claim for reimbursement to US along with all required documents within thirty (30) days of authorization; 5.
- Retain all replaced parts until YOUR claim is settled, as YOU may be required to submit these parts for inspection. 6.

Failure to comply with the responsibilities outlined above may result in the denial of YOUR claim. If YOU have any questions which cannot be answered by YOUR Selling Dealer please contact FWS.

PAYMENTS: YOUR Repairing Dealer should perform authorized repairs covered under this Service Contract without charge to YOU for such repairs. If the Repairing Dealer does charge YOU for authorized repairs covered under this Service Contract, submit copies **PAYMENTS: YOUR** Repairing Dealer s. Id perform authorized repairs covered under this Service Contract without charge to **YOU** for such repairs. If the Repairing Dealer does charge **YOU** for authorized repairs covered under this Service Contract, submit copies of all invoices and receipts pertaining to the authorized repairs along with a copy of the front page of this Service Contract to: FWS, P.O. Box 8567, Deerfield Beach, Florida 33443.

OUR OPTIONS: FWS will pay the repair facility directly or reimburse YOU for the repair or replacement of any part covered by this Service Contract. Replacement parts utilized in covered repairs will be, at the discretion of FWS, new or remanufactured OEM parts, new or remanufactured aftermarket parts or used parts that meet the quality standards of the repair facility or FWS.

LIMITS OF LIABILITY: For any one repair visit, all benefits paid or payable shall not exceed the actual cash value of YOUR vehicle at the instant prior to the most recent loss. The aggregate total of all benefits paid or payable during the term of this Service Contract shall not exceed the price YOU paid for YOUR vehicle. The payment for or reimbursement for repair or replacement of Covered Parts and the benefits stated under RENTAL CAR COVERAGE, TOWING COVERAGE, TRAVEL BREAKDOWN, DIAGNOSTICS COVERAGE, RELATED DAMAGE COVERAGE, FLUID COVERAGE and OPTIONAL ROAD HAZARD TIRE COVERAGE are the only remedies available to a Service Contract Holder. WE assume no other obligation or responsibility with regard to the vehicle. WE neither assume, nor authorize anyone to assume for US, any additional liability.

INSURANCE: OUR obligations under this Service Contract are insured by Courtesy Insurance Company, 500 Jim Moran Boulevard, Deerfield Beach, Florida 33442. YOU are entitled to make a direct claim to Courtesy Insurance Company. To do so, please call 1-800-298-8011 for instructions.

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GENERAL:

- 1. THE TERMS AND CONDITIONS OUTLINED ABOVE ARE THE FULL AND COMPLETE AGREEMENT BETWEEN THE PARTIES. NO ORAL REPRESENTATION OR STATEMENT SHOULD BE RELIED UPON BY THE PURCHASER.
- If it is not clear which Term/Mileage or coverage plan has been purchased, YOU should contact YOUR Selling Dealer or US.
 This Service Contract will be governed by the laws of the state in which it is sold.
- 4. No amendment, supplement, or waiver of any provision of this Service Contract will be binding against US unless it is in writing and signed by one of the authorized representatives at OUR home office.
- 5. WE may delegate the performance of OUR duties and obligations and assign OUR rights and benefits hereunder.
- 6. OUR right to recover payment: If WE make any payment under this Service Contract and YOU have a right to recover against another party, YOUR rights shall become OUR rights and YOU shall do whatever is necessary to enable US to enforce these rights. OUR subrogation rights become effective after YOU are made whole.

OPTIONAL CAR CARE MAINTENANCE PLAN

OPTIONAL CAR CARE MAINTENANCE PLAN COVERAGE: If YOU selected the Optional Car Care Maintenance Plan, coverage will be provided according to the term / mileage, service interval, and service level selected by YOU as noted on the front page of this Service Contract. All services are fully detailed in YOUR coupon booktet which will be mailed to YOU. Coverage is obtained by presenting the appropriate coupon for each service to a participating dealer. YOUR vehicle may need other services for YOUR driving conditions; refer to YOUR Manufacturer's Owner's Manual for recommended services and intervals. If YOUR booklet is not received within forty-five (45) days, call FWS Customer Service at 1-800-443-9841.

CANCELLATION: Optional Car Care Maintenance Plan may be cancelled by YOU at anytime. To cancel, YOU must return to YOUR Selling Dealer. If YOU cancel during the first sixty (60) days, a 100 percent refund of the Car Care Purchase Price will be made, less a \$50 administration fee. After sixty (60) days, a pro-rata refund will be made based upon the greater of the time or mileage expired from the Purchase Date and odometer reading at Purchase Date, less a \$50 administration fee. In the event of cancellation, YOU authorize the Lienholder to receive any refund amounts. In the event of a total loss or repossession, Lienholder is authorized to cancel this coverage and Lienholder will be named as sole payee for any refund amounts and all rights and interests under this coverage will immediately transfer to the Lienholder. This coverage is non-cancellable except for fraud, material misrepresentation, or failure to pay the Car Care Purchase Price. No refund will be made without surrendering all unused coupons.

TRANSFER: YOU may transfer the Optional Car Care Maintenance Plan to another owner but not to another vehicle. To transfer this coverage, YOU must mail the following four (4) items to FWS within thirty (30) days of transfer of vehicle ownership: 1.) a completed Transfer Form (or a letter containing the name and address of the new owner and YOUR authorization to transfer; 2.) a legible copy of the front page of this Service Contract; 3.) a check for \$40 payable to FWS, for the transfer fee; and, 4.) all remaining Car Care Maintenance Plan coupons. A new coupon book will be sent to the new owner. This coverage may not be transferred to any entity in the business of selling or leasing motor vehicles.

'ehicle Protection Plan

ise that studies show most rs are needed after the factory is expired. That means you'll I with all the inconvenience, time, expense without any help from your ginal factory warranty, until now.

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Overage levels

ver Coverage old Coverage .id Plus Coverage otinum Coverage vice and instant authorization of covered repairs via our toll-free number. Just call 800-327-5172. Our toll-free number gives you instant access to an authorized repair facility near you.

- National Coverage We provide peace of mind so that with a Fidelity Warranty Services extended service contract, you are covered anywhere in the U.S., its territories or possessions, or Canada.
- Direct Payment Participating dealers are paid directly. You do not have to pay and wait for reimbursement of authorized repairs. If necessary, credit card payment is available.



FIDELITY WARRANTY SERVICES, INC. 500 Jim Moran Boulevard Deerfield Beach, FL 33442

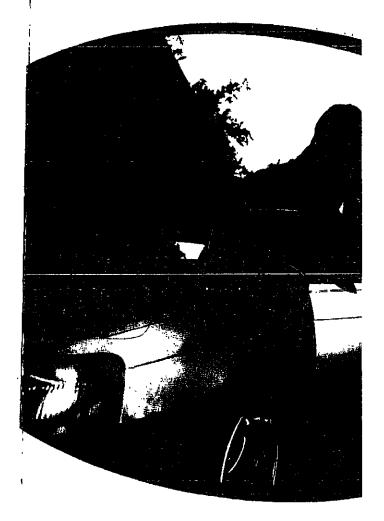
FLORIDA LICENSE #60026

LIMITATIONS OF COVERAGE

This Information is intended to provide only an outline of the types of coverages, exclusions and limitations of the service contracts described in this brochure and should not be relied upon when purchasing a specific service contract. For exact coverages, exclusions and limitations, please review the service contract itself.

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New Vehicle Protection Plan





Silver

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ENGINE: Engine block and cylinder heads and all internally lubricated parts including pistans, pistan rings, pins and cylinder sleeves; crankshaft, pulley, main bearings, caps and bolts, connecting rods, rod bearings, caps and bolts, camshaft(s), camshaft bearings, buttons and plugs; timing gears and timing chain or belt; rocker arms, rocker arm pivots, shafts and bushings, intake and exhaust valves, springs, guides, adjusters, retainers and seats; pushrods and lifters, intake manifold, exhaust manifolds, balance shaft, water pump; fuel pump; thermostat; all pump, cover; gears, pressure relief volve and screen; rotar housing, rators, shims and selent shaft; all internal fasteners, nuts and bolts; turbocharger/supercharger assembly including boost valve and wastegate; seals and gaskets.

TRANSMISSION/TRANSAXLE: Transmission/transaxle case and all internally lubricated parts including ring and pinlon gears; oil pump, caver, gears, housing and vanes; torque converter; valve body(s); thrattle valve; valve pack; governor, gear and cover; parking gear and pawl, roll pins; sprogs; sprockets; chain; springs; stator and shaft; pressure regulator valve; pressure switches; solenoids; bands; automatic transmission/transaxle clutch, drums, pistons and steel plates, planetary and sun gears; servos and rings; blackers; synchronizer hubs and keys; bearings; bushings; supports and shaft; control rings, yoke; extension hausing; speedometer drive gears; accumulators and rings; adjusters; all internal fasteners, nuts and balts; shift cover and forks; separate bell housing; seals and gaskets. (STANDARD TRANSMISSION CLUTCH ASSEMBLIES AND ALL COMPONENT PARTS ARE NOT COVERED.)

DRIVE AXLE: Differential/axle housing(s) and all internally lubricated parts including the axle flange, ring and pinion gear/carrier assembly; spider gears and bearings; pins; retainers; positraction clutches, plates and springs; cover Transfer case and all internal parts contained within the transfer case; seals and gaskets.

STEERING: Steering gear housing and internal parts including control rings, valves, pinion shaft, pitman shaft, worm shaft and gear, sector shaft, bearings, adjusters; rack and pinion housing and internal parts including control valve, rack beliaws, mounts, rack shaft and yake, spool valve, bearings, power steering pump and internal parts including housing, reservoir, shaft and vanes; power steering pump mounting brackets; seals and gaskets.

BRAKES: Master cylinder, vacuum or hydraulic brake booster assembly; hydraulic lines, hoses and fittings, brake pedal apply pin, seals and gaskets. (ABS COMPONENTS NOT COVERED.)

AIR CONDITIONING⁻ Condensor, compressor, evaporator, orifice/ expansion/POA valve, seals and gaskets,

FRONT SUSPENSION: Upper and lower control arms, shafts and bushings; struts, housing and cartridge; spindle/steering knuckle and spindle support.

ELECTRICAL: Alternator housing and all internal parts including bearings, bushings, brushes, rectifier bridge, diodes, field coil and rotor; alternator mounting



Gold

ENGINE: Oil par, valve, timing and side covers; thermostot housing; water pump pulley; engine mounts; harmonic balancer; flex plate/flywheel and ring gear.

TRANSMISSION: Oil pan, detent cable; kickdown link; TVI/throttle cable; vacuum modulator; transmission mounts.

DRIVE AXLE: Constant velocity joints; slip joint; front wheel drive axles/halfshafts and wheel bearings; u-joints; couplings; flex disc; prop shafts; center support bearings.

STEERING: Tie rods, Idler and pitman arms, center/drag link, coupling and shafts; cooler lines.

BRAKES: Compensator/proportioning valve; metering valve; colipers, piston, seal and dust baat, wheel cylinders, cups, seals, spring and dust baats; backing plate; brake adjusters; brake pedal pedal lever and pedal plvat; parking brake cable; ABS component parts including control processor/module, pump, dump valve, wheel speed sensors, solenoids, accumulator, and pressure differential switch.

AIR CONDITIONING: Accumulator; receiver drier; automotic temperature control programmer; clutch assembly including coil, disc and pulley; control cables; cutoff switch; serpentine belt tensioner, bearing and pulley.

FRONT SUSPENSION: Wheel bearings; ball joints and bushings; kingpin and bushings; stabilizer bar, links and bushings; torsion bar, mounts and bushings; track bar, links and bushings.

ELECTRICAL: Front and rear wiper motor and linkage; power window motor; window regulators; power seat motar; steering column multi-function switch and Individual switches for turn signal, headiamp, dimmer, wiper, washer and speed control; mirror motar switch; brake light switch; neutral safety switch, glave bax light switch, courtesy light switch; cooling fan relay; air control solenaid; air regulator valve; E.F.E. heater; LAC motor; electronic lightfon module; electronic instrument panel module; ignition coil; engine distributor including shaft, gear, bushinns and modules; that the position scenary which scenary which scenary of the position scenary which scenary which scenary to be the stenary of modules; that the position scenary which scenary to be subline.

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| Travel Coverage | If you're mc miles from break dowr to \$75 per per occurre and lodging mechanica |
| FLUIDS COVERAGE | Replaceme fluids, oils, c lubricants, c conditioner be replaced with a cover |
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| Optional Tire Coverage | Repair or re tire that is d road hazard on the road |
| Ask your salasperson or finance | |

Ask your salesperson or finance manager for a Protection Plan, and you'll be on your way to

w Vehicle Protection Plan





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COOLING: Radiator, mounting brackets and coolant recovery tank; for clutch, fan blades and motor; fan shroud; heater core; transmission cooler.

FUEL: Fuel lines; fuel pressure regulator; level sending unit; fuel injectors and seals; injection pump; fuel injection control components including mixture control processor, throttle body assembly, cutoff valve, fuel rail, fuel distributor; trigger contacts, cold stort valve, fuel injection valve, fuel accumulator; tank, tank door latch; tank filler neck and o-ring

AIR CONDITIONING: Compressor mounting brackets; idler pulley and bearings; air conditioning/heater blower motor.

STEERING: Steering wheel tilt and telescoping mechanism.

FRONT SUSPENSION: Coil and leaf springs, seats and bushings, leaf spring shackles, electronic level control components including pump, accumulator, lines and bags.

REAR SUSPENSION: Upper and lower control arms, shafts and bushings, upper and lower ball joints; struts, housing and cartridge; wheel bearings; spindle/steering knuckle and spindle support; coil and leaf springs, seats and bushings, leaf spring shackles; track bars, links and bushings; electronic level control components including pump, accumulator, lines, bags; stabilizer bar, links and bushings.

ELECTRICAL: Cruise control module, servo, cables and switches; ESC systems: electronic instrument clusters and driver information systems including speedometer, adometer, tachometer and all gauges, warning indicators; burglar alarm or electronic entry systems including remote entry receiver, sender and module; door lock actuators; mirror mator; power window switch; power lock switch; rear window defogger; horn and relay; convertible top motor; sunroof motor; power antenna motor; electrical headlamp motor; power trunk/hatch release motor, switch and solenoid; power sliding door motor and switch; electronic control modules including body control module, electronic control unit, powertrain control module, transmission control module; electronic throttle control module; crank angle sensor, comshaft position sensor, throttle position motor; fuel pulse dampener; wide open throttle switch; thermo time switch; fuel pump relay; automotic temperature control sensor; ride height sensor and relay; oxygen (02) sensor, mass air flow sensor, manifold differential pressure sensor, coolant temperature sensor; OEM radio, graphic equalizer, cassette tope player and compact disc player.





<u>Platinum</u>

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UNDER PLATINUM COVERAGE, ANY OF THE FOLLOWING PARTS:

BRAKE LININGS, BRAKE DRUMS AND ROTORS, DISC BRAKE PADS, STANDARD TRANSMISSION CLUTCH COMPONENTS, AIR BAGS, SOLAR POWERED DEVICES, HINGES, GLASS, LENSES, SEALED BEAMS, TRIM, MOLDINGS, DOOR HANDLES, LOCK CYLINDERS, TIRES, BATTERIES, LIGHT BULBS, UPHOLSTERY, PAINT, BRIGHT METAL, FREEZE PLUGS, HEATER AND RADIATOR HOSES, EXHAUST SYSTEM, SHOCK ABSORBERS, AUDIO, SECURITY OR OTHER SYSTEMS NOT FACTORY INSTALLED, WORK SUCH AS FRONTEND ALIGNMENT OR WHEEL BALANCING, CONSTANT VELOCITY JOINT BOOTS, SAFETY RESTRAINT SYSTEMS, CELLULAR PHONES, ELECTRONIC TRANSMITTING DEVICES (EXCEPT FOR THOSE SPECIFICALLY LISTED UNDER SILVER, GOLD, OR GOLD PLUS COVERAGE), RADAR DETECTORS, APPLIANCES, NEAR OBJECT AVOIDANCE SYSTEMS AND ALL LASER RADAR CRUISE CONTROL COMPONENTS, VINYL AND CONVERTIBLE TOPS.

You Decide!

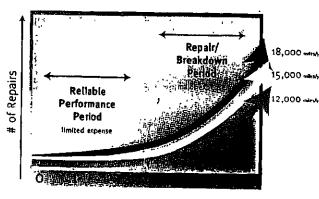


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A toyota, our top priority is always our customers. We know your Toyota is an Important part of your life and something you depend on every day. That's why we're dedicated to building products of the highest quality and reliability.

Our excellent warranty coverage is evidence that we stand behind the quality of our vehicles. We're confident — as you should be — that your Toyota will provide you with many years of enjoyable driving.

To further demonstrate our commitment to our customers' satisfaction, occasionally we may establish a special policy adjustment to pay for specific repairs that are no longer covered by warranty. When we establish such a policy adjustment, we mail details to all applicable owners we have on record. That's why it's important to send in the card at the back of this booklet if you change your address or if you've purchased this vehicle from a previous owner.

To provide you with added protection against unexpected service costs, we offer Toyota Extra Care vehicle service agreements and Toyota Auto Care pre-paid maintenance programs. Both offer plans to meet a wide

variety of needs. Your dealership can help you select the plan that's best for you.

Our goal is for every Toyota customer to enjoy outstanding quality, dependability and peace of mind throughout their ownership experience. We want you to be a satisfied member of the Toyota family for many miles to come.

This booklet describes the terms of Toyota warranty coverage as well as general owner responsibilities. A separate publication found in your glove box, the *Scheduled Maintenance Guide*, describes your vehicle's maintenance requirements. Be sure to review this publication carefully, since proper maintenance is required to ensure that warranty coverage remains intact.

All information in this booklet is the latest available at the time of publication and, with the exception of the emission control warranties, is subject to change without notice.

Introduction

TRANSPORTATION ASSISTANCE

e realize that your confidence in the quality and reliability of our products was a key factor in your decision to buy a Toyota. We also know how disruptive the loss of transportation can be to your daily routine. That's why we're pleased to offer you the benefits of our Transportation Assistance Policy.

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Under this policy, you are eligible for transportation assistance if your Toyota must be kept overnight for warranty-covered repairs. The policy applies when your vehicle must be kept overnight for any of the following reasons:

- The warranty repairs will take longer than one day to complete.
- The warrantable condition requires extensive diagnosis.

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 The parts needed for the warranty repairs are not readily available and your vehicle is inoperative or unsafe to drive.

The policy does not apply when warranty repairs can be completed In one day but the vehicle must be kept overnight due to dealer or owner scheduling conflicts. The Transportation Assistance Policy applies for the duration of the New Vehicle Limited Warranty. The policy applies to all 2005 model-year Toyotas sold and serviced by authorized Toyota dealerships in the mainland United States and Alaska.

For further details, please consult your Toyota dealer.

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Introduction 3

IF YOU NEED ASSISTANCE

Both Toyota and your Toyota dealer are dedicated to serving your automotive needs. Your complete satisfaction is our first priority. Should you have a problem or concern — either during or after the warranty period — please take the following steps to ensure the quickest possible response:

Step 1

Discuss the situation with a dealership manager, such as the service manager or customer relations manager. In most cases, a satisfactory solution can be reached at this step.

Step 2

If the dealership does not address your concern to your satisfaction, call Toyota Customer Experience at (800) 331–4331. If you are hearing- or speech-impaired, call (800)443-4999 (TDD).

Please have the following information ready when you call:

- Your Toyota's vehicle identification number (located on the driver's side corner of the dashboard, under the window)
- Current mileage on your vehicle
- Name of your Toyota dealership

A Toyota customer relations representative will assist you in working with the dealership to find a satisfactory solution.

Step 3

If your concern has still not been resolved to your satisfaction, Toyota offers additional assistance through the Dispute Settlement Program, a dispute resolution program administered by the National Center for Dispute Settlement. The purpose of the Dispute Settlement Program is to resolve disputes through arbitration — a process by which two parties authorize an independent third party to hear and resolve a dispute. The program is informal and free of charge. To request that your

Introduction

IF YOU NEED ASSISTANCE

case be reviewed through the program, complete the customer claim form in the Owner's Warronty Rights Notification booklet (found in your glove box) and mail it to:

National Center for Dispute Settlement P.O. Box 561109 Dallas, TX 75356-1109

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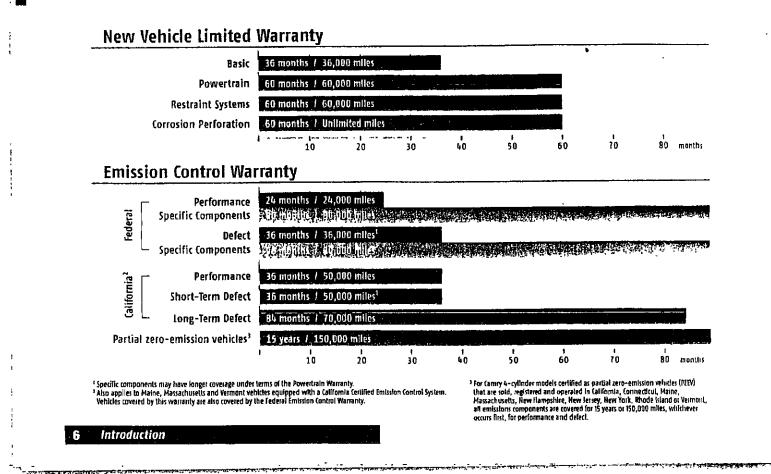
If you would like to request a customer claim form, call Toyota Customer Experience at (800) 331-4331. When you call, please have your vehicle identification number, the current mileage on your Toyota and the names of your selling and servicing dealerships.

California residents: Toyota offers you assistance through an arbitration program called the California Dispute Settlement Program (CDSP). A brochure about the program is found in your glove box. For additional information, call Toyota Customer Experience at (800)331-4331. You may also contact the CDSP directly at (888)300-6237. Failure to use the CDSP may affect your rights and remedies under California's "Lemon Laws." Important: You must use the Dispute Settlement Program (or, in California, the CDSP) before seeking remedies through a court action pursuant to the Magnuson-Moss Warranty Act. You may also be required to use the Dispute Settlement Program or CDSP before seeking remedies under the "Lemon Laws" of your state. Please check the appropriate page of the Owner's Warranty Rights Notification booklet for the requirements applicable to your state.

This information about the Dispute Settlement Programs is correct as of the date of printing. However, the programs may be changed without notice. For the most current information about the programs, call Toyota Customer Experience at (800) 331-4331.

Introduction

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GENERAL WARRANTY PROVISIONS

Who Is the Warrantor

The warrantor for these limited warranties is Toyota Motor Sales, U.S.A., Inc. ("Toyota"), 19001 South Western Avenue, Torrance, California 90509–2991, a California corporation.

Which Vehicles Are Covered

These warranties apply to all 2005 model-year Toyota vehicles distributed by Toyota that are originally sold by an authorized dealer in the United States and normally operated or touring in the United States, U.S. territories or Canada. Warranty coverage is automatically transferred at no cost to subsequent vehicle owners.

Multiple Warranty Conditions

This booklet contains warranty terms and conditions that may vary depending on the part covered. A warranty for specific parts or systems, such as the Powertrain Warranty or Emission Performance Warranty, is governed by the coverage set forth in that warranty as well as the General Warranty Provisions.

When Warranty Begins

The warranty period begins on the vehicle's in-service date, which is the first date the vehicle is either delivered to an ultimate purchaser, leased, or used as a company car or demonstrator.

Repairs Made at No Charge

Repairs and adjustments covered by these warranties are made at no charge for parts and labor.

Parts Replacement

Any needed parts replacement will be made using new or remanufactured parts. The decision whether a part should be repaired or replaced will be made by the servicing Toyota dealership and/or Toyota. Parts scheduled to be replaced as required maintenance are warranted until their first replacement only.

Your Warranties in Detail

GENERAL WARRANTY PROVISIONS

Limitations

The performance of necessary repairs and adjustments is the exclusive remedy under these warranties or any implied warranties. Toyota does not authorize any person to create for it any other obligation or liability in connection with this vehicle.

Any implied warranty of merchantability or fitness for a particular purpose is limited to the duration of these written warranties. Some states do not allow restrictions on how long an implied warranty lasts, so this limitation may not apply to you.

Your Rights Under State Law

These warranties give you specific legal rights. You may also have other rights that vary from state to state.

Your Warranties in Detail

NEW VEHICLE LIMITED WARRANTY

WHAT IS COVERED AND HOW LONG

Basic Warranty

. 1

This warranty covers repairs and adjustments needed to correct defects in materials or workmanship of any part supplied by Toyota, subject to the exceptions indicated under "What Is Not Covered" on pages 11–12.

Coverage is for 36 months or 36,000 miles, whichever occurs first, with the exception of wheel alignment and wheel balancing, which are covered for 12 months or 20,000 miles, whichever occurs first.

Powertrain Warranty

This warranty covers repairs needed to correct defects in materials or workmanship of any component listed in the next column and supplied by Toyota, subject to the exceptions indicated under "What Is Not Covered" on pages 11–12.

Coverage is for 60 months or 60,000 miles, whichever occurs first.

Engine

Cylinder block and head and all internal parts, timing gears and gaskets, timing chain/belt and cover, flywheel, valve covers, oil pan, oil pump, engine mounts, turbocharger housing and all internal parts, supercharger housing and all internal parts, engine control computer, water pump, fuel pump, seals and gaskets.

Transmission and Transaxle

Case and all internal parts, torque converter, clutch cover, transmission mounts, transfer case and all internal parts, engine control computer, seals and gaskets.

Front-Wheel-Drive System

Final drive housing and all internal parts, axle shafts, drive shafts, constant velocity joints, front hub and bearings, seals and gaskets.

Rear-Wheel-Drive System

Axle housing and all internal parts, propeller shafts, U-joints, axle shafts, drive shafts, bearings, supports, seals and gaskets.

Your Warronties In Detail 9

NEW VEHICLE LIMITED WARRANTY

Restraint Systems Warranty

This warranty covers repairs needed to correct defects in materials or workmanship of any seatbelt or air bag system supplied by Toyota, subject to the exceptions indicated under "What is Not Covered" on pages 11–12.

Coverage is for 60 months or 60,000 miles, whichever occurs first.

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For vehicles sold and registered in the state of Kansas, the warranty for seatbelts and related components is 10 years, regardless of mileage.

Corrosion Perforation Warranty

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This warranty covers repair or replacement of any original body panel that develops perforation from corrosion (rust-through), subject to the exceptions indicated under "What is Not Covered" on pages 11-12.

Coverage is for 60 months, regardless of mileage.

For information on how to protect your vehicle from corrosion, see the section entitled "Corrosion Prevention and Appearance Care" in the *Owner's Manual*.

Towing

When your vehicle is inoperable due to failure of a warranted part, towing service to the nearest authorized Toyota dealership is covered.

10 Your Warranties in Detail

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10909 N. Florida Ave. TAMPA, FLORIDA 33612 (813) 933-6402 PLEASE SEE BACK FOR INFORMATION REGARDING WARRANTY, AND SUPPLIES STATE OF FLORIDA REGISTRATION NUMBER MV-07773 WWW precisiontoyola com

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9210 Adamo Dr • Tampa, FL 33619 (813) 622-8372 MVR 07222

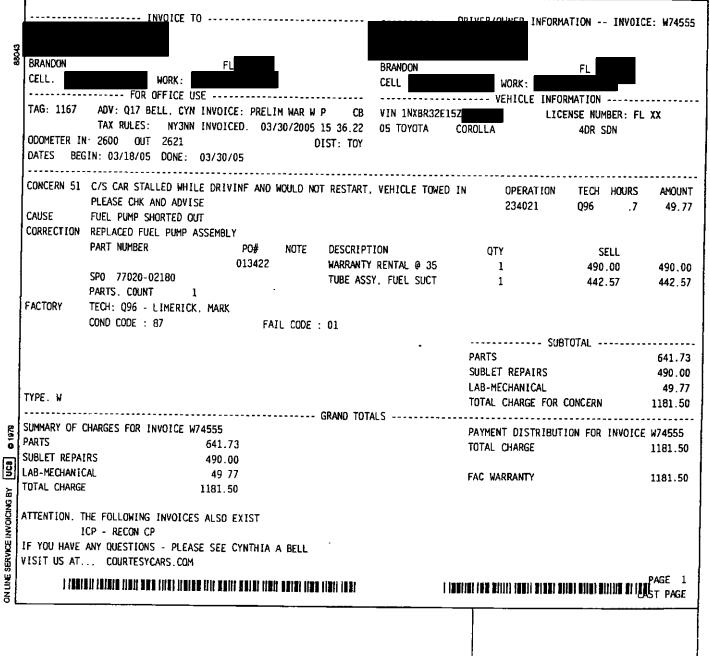
We guarantee our service work for 12 months/ unlimited mileage from the date of installation of genuma Toyota parts, or the remainder of any applicable new vehicle warranty, whichever provides the greater coverage in the event of used parts or non-Toyota replacement parts, we guarantee our service work for 3D days or 1,000 miles whichever occurs first, from the date and mileage at installation. Warranties exclude regular scheduled maintenance items

DISCLAIMER OF WARRANTIES

MISCELLANEOUS SHOP SUPPLIES AND WASTE DISPOSAL CHARGES. This charge represents costs and profits to the motor vehicle repair facility for miscellaneous shop supplies or waste disposal "

Any warranties on the product sold hereby are those made by the manufacturer. The seller hereby expressly disclaims all warranties, either express or implied, including any implied warranty of merchantability or faness for a particular purpose, and the seller neither assumes nor authorizes any other person to assume for it any liability in connection with the sale of said products.

The state of Florida requires a \$1 00 fee to be collected for each new tire sold in the state filness for a particular purpose, and the selfer neither assumes nor autho-(s.403.718) and a \$1 50 fee to be collected for each new or remanufactured battery sold in the rizes any other person to assume for it any liability in connection with the sale of said products.









9210 Adamo Dr · Tampa, FL 33619 (813) 622-8372 MVR 07222

We guarantee our service work for 12 months/ unlimited mileage from the date of installation of genuine Toyota parts, or the remainder of any applicable new vehicle warranty, whichever provides the greater coverage in the event of used parts or non-Toyota replacement parts, we guarantee our service work for 30 days or 1,000 miles whichever occurs first, from the date and mileage at installation. Warranties exclude regular scheduled meintenance items.

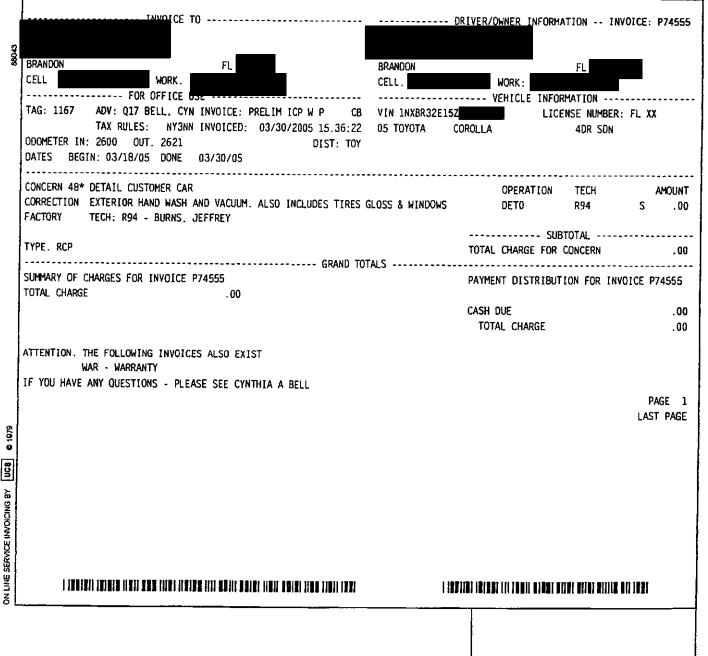
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MISCELLANEOUS SHOP SUPPLIES AND WASTE DISPOSAL CHARGES:

" This charge represents costs and profits to the motor vehicle repair facility for miscellaneous shop supplies or waste disposal "

DISCLAIMER OF WARRANTIES Any warranties on the product sold hereby are those made by the manufacturer. The seller hereby expressly disclaims all warranties, either express or implied, including any implied warranty of merchantability or

The state of Florida requires a \$1 00 fee to be collected for each new tire sold in the state fitness for a particular purpose, and the seller neither assumes nor autho-(s.403.718) and a \$1.50 fee to be collected for each new or remanufactured battery sold in the fizes any other person to assume for it any liability in connection with the state (s.403.7185).





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RTËSV AUTOGROUP



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9210 Adamo Dr. • Tampa, FL 33619 (813) 622-8372 MVR 07222

We guarantee our service work for 12 months/ unlimited mileege from the date of installation of genuine Toyota parts, or the remainder of any applicable new vehicle warranty, whichever provides the greater coverage. In the event of used parts or non-Toyota replacement parts, we guarantee our service work for 30 days or 1,000 miles whichever occurs first from the date and mileage at installation. Warranties exclude regular scheduled meintenance items

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| | INVOICE ТО | | | DRIVER/OWNER INFORM | IATION I | NVOICE: W82 |
|--|--|---|-----------------|--------------------------------|----------------------------------|-----------------|
| BRANDON | | • | BRANDON CELL | WORK: (| FL | |
| TAG: 8470 ODOMETER II DATES BE | ADV: Q17 BELL. CYN INVOICE: PRELI ADV: Q17 BELL. CYN INVOICE: PRELI TAX RULES: NY3NN INVOICED: 05/0 N: 4747 OUT: 4750 GIN: 05/09/05 DONE: 05/09/05 | M WAR W CB 09/2005 09.27:07 DIST. TOY | VIN 1NXBR32E15 | Z LIC | RMATION ENSE NUMBE 4DR SDN | R: FL XX |
| CONCERN 51 CAUSE CORRECTION COMMENT | C/S CHK ENGINE LIGHT ON P0441,P0455- EVAP EMISSION LEAK NO CHARGE SUSPECT LOOSE GAS CAP. RESECURED CA TECH: G47 - BRESEE, SHAWN | | RAN MONITOR T | OPERATION NC | | |
| TYPE: W | | | | TOTAL CHARGE FOR | | |
| SUMMARY OF TOTAL CHARG | CHARGES FOR INVOICE W82306 E .00 | GRAND TOTA | ALS | PAYMENT DISTRIBUT | ION FOR IN | VOICE W8230 |
| | | | | FAC WARRANTY TOTAL CHARGE | | • |
| IF YOU HAVE VISIT US AT | ANY QUESTIONS - PLEASE SEE CYNTHIA | A BELL | | | | |
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state (s.403 7185).

UTOGROUP



9210 Adamo Dr. • Tampa, FL 33619 (813) 622-8372 MVR 07222

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MISCELLANEOUS SHOP SUPPLIES AND WASTE DISPOSAL CHARGES This charge represents costs and profits to the motor vehicle repair facility for miscellaneous

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| | | INVOICE | ΤΟ | | | | - DRIVER/OWNER INFORM | ATION INVOL | CE: M84454 |
|--|--------------|--------------------------------|---|---------------|------------------|---------------|---|---|------------|
| | JM&A GROUP | | | NAD | 091241 | | | | |
| ş | 500 JIM MO | RAN BLVD | | | | | | | |
| Can Con Con Con Con Con Con Con Con Con Co | DEERFIELD | BEACH | FL 33442 | | | BRANDON | | FL | |
| | | WORK : | (800) 443-9841 | | | CELL | WORK : | | |
| | | FOR OFFICE | IISE | | | | VEHICLE INFO | DMATION | |
| | TAG: 3924 | ADV: Q16 SCHAEFE | L INVOICE PREL | IM MEG C A | 4 BS | VIN INVRD32F | | ENSE NUMBER: F | |
| | | TAX RULES: NY3 | IN INVOLCED: 05 | 23/2005 1 | 5 54.16 | | | 4DR SDN | |
| | ODOMETER IN | N: 5216 OUT: 5216 | | | IST: TOY | 03 101017 | CONDEEN | 408 300 | |
| | | GIN: 05/23/05 DONE | | 0. | | | | | |
| | | | | | | | | | |
| | CONCERN 25* | OWNER REQUESTS 1 7 | IRE REPLACED. | | | | OPERATION | TECH | AMOUNT |
| | CORRECTION | REPLACED 1 TIRE | | | | | CPT1 | G25 | S 21.33 |
| | | PART NUMBER | P0# | NOTE | DESCRIPT | TON | QTY | SELL | • •••• |
| | | TOY P99 | | TIRECP | ASSORTED | | 18 | | 79.00 |
| | | TOY KITTIRE | | | DISPOSAL | | 1 | ** | ** |
| | 1 | TOY 1042T | | | TIREVALE | S | 15 | 1.00 | 1.00 |
| | | TOY WEIGHT | | 8061D | | ***** | 18 | 50 | .50 |
| | | TOY RECOVE | | RECOVE | ******* | ***** | 18 | 1.50 | 1.50 |
| | | TOY TFEE | | TFEE | ******* | ***** | 18 | 1.00 | 1.00 |
| | FACTORY | TECH: G25 - GOMEZ, | CEZAR | | | | 10 | 1.00 | 1.00 |
| | | | | | | PART AUTH: BS | S 052305 09:25 | | |
| | | | | | | | SU | BTOTAL | |
| | | | | | | | PARTS | | 1.00 |
| | | | | | | | TIRES | | 79.00 |
| | 1 | | | | | | LAB-MECHANICAL | | 21.33 |
| | | | | | | | MISCELLANEOUS | | 3.00 |
| 85 | TYPE: TLC | | | | | | TOTAL CHARGE FOR | CONCERN | 104.33 |
| 5 | TYPE: TLC | | • | (| GRAND TOT | ALS | | | |
| 80 2 | SUMMARY OF (| CHARGES FOR INVOICE | M84454 | | | | PAYMENT DISTRIBU | TION FOR INVOID | E M84454 |
| | PARTS | | 1.00 | | | | TOTAL CHARGE | | 104.33 |
| à | TIRES | | 79.00 | | | | | | |
| 2 | LAB-MECHANIC | | 21 33 | | | | MFG EXT SVC | NAD 091241 | 104.33 |
| § | MISCELLANEOU | | 3.00 | | | | JM&A GROUP | | |
| ON LINE SERVICE INVOICING BY | TOTAL CHARGE | | 104 33 | | | | POLICY# 5140326 | 51 | |
| SHC S | | | | ** CUS | STOMER WAL | ITING ** | | | |
| 5 | ATTENTION: 1 | THE FOLLOWING INVOID | ES ALSO EXIST | | | | | | |
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state (s.403.7185).

ON LINE SERVICE INVOICING BY UCB





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We guarantee our service work for 12 months/ unlimited mileage from the date of installation of genuine Toyota parts, or the remainder of any applicable new vehicle warranty, whichever provides the greater coverage. In the event of used parts or non-Toyota replacement parts, we guarantee our service work for 30 days or 1,000 miles whichever occurs first, from the date and mileage at installation. Warranties exclude regular scheduled maintenance items

DISCLAIMER OF WARRANTIES

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"This charge represents costs and profits to the motor vehicle repair factility for miscellaneous shop supplies or waste disposal." The state of Florida requires a \$1.00 fee to be collected for each new tire sold in the state (s.403.718) and a \$1.50 fee to be collected for each new or remanufactured battery sold in the state (s.403.718). sale of said products.

| | JM&A GROUP NAD: 091241 | | | DR | IVER/OWNER INFORMATION INVOICE: M84454 |
|----------------------------------|------------------------|--------------------------------------|---------------------------------------|--------------------|---|
| 88043 | | | NAD: 091241 | *********** | VEHICLE INFORMATION |
| 8 | TAG: 3924 | ADV: Q16 SCHAEFER INVOICED. | 05/23/2005 15·54·16 BS | 05 COROLLA | LICENSE NUMBER: FL XX |
| | | CUS - CUSTOMERPAY | | | · · · · |
| | IF YOU HAV | E ANY QUESTIONS - PLEASE SEE | BRETT D SCHAEFER | | 0.07 |
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| 5 L | <u> </u> | | | | |
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| | | IACKNOWLE | DGE RECEIPT OF THE PARTS AND | LABOR LISTED ABOVE | < |
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We guarantee our service work for 12 months/ unlimited mileage from the date of installation of genuina Toyota parts, or the remainder of any applicable new vehicle warranty, whichever provides the greater coverage. In the event of used parts or non-Toyota replacement parts, we guarantee our service work for 30 days or 1,000 miles whichever occurs first, from the date and mileage at installation. Warranties exclude regular scheduled maintenance items.

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Any warranties on the product sold hereby are those made by the manufacturer. The seller hereby expressly disclaims all warranties, either express or implied, including any implied warranty of merchantability or fitness for a particular purpose, and the seller neither assumes nor authorizes any other person to assume for it any liability in connection with the

The state of Florida requires a \$1.00 fee to be collected for each new tire sold in the state fitness for a particular purpose, and the seller neither assumes nor autho-(s.403.718) and a \$1.50 fee to be collected for each new or remanufactured battery sold in the state (s.403.7185).

| BRANDON CELL | WORK | ² L | | | BRANDON Cell | WORK: | F. | |
|--------------------------|---|-----------------------------------|--------------------------------------|-------------------------------|-----------------|---------------------------------|---------------------------|----------------|
| | ADV: Q16 SCHAEFER, INVOI TAX RULES: NY3NN INVOI 1: 5216 OUT: 5216 IN: 05/23/05 DONE: 05/23 | CED- 05 | /23/2005 | M 8S 15·54·16 DIST: TOY | VIN 1NX8R32E1 | | ICENSE NUMBER: 4DR SDN | FL XX |
| CONCERN 24 CORRECTION | EXPRESS LUBE OIL CHANGE S EXPRESS OIL CHANGE ONLY. EXPRESS LUBE OIL CHANGE. CHANGE OIL WITH 5W-30 PEN OIL CHANGE ONLY. 29 MINUT | 29 MINUT 29 MINUT NZOIL ANI | ES \$24 95 ES OR LES D GENUINE | S GUARANTEI TOYOTA OIL | ED . | OPERATION EXL | TECH G25 | amoun S 9.0 |
| | PART NUMBER | PO# | NOTE | DESCRIPTI | ON | QTY | SELL | |
| | TOY KITFILTER | | | OILFILTER | t | 1 | ** | ** |
| | TOY 90430-1202B | | | GASKET | | 15 | . 5 9 | |
| | TOY NPOIL TOY FILTER | | GOG | | ***** | 58 | 1 5 9 | 7.9 |
| ACTORY | TECH: G25 - GOMEZ, CEZAR | | | OIL FILTE | R | 18 | 5.41 | 5.4 |
| | | | | | | SI | JBTOTAL | |
| | | | | | | PARTS | | 6.0 |
| | | | | | | GAS-OIL-GREASE | | 7.9 |
| YPE: CXL | | | | | | LAB-MECHANICAL | | 9.0 |
| | | | | | | TOTAL CHARGE FOR | CONCERN | 22.9 |
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| 1 cm 11 (| III CAIMIN IIN I NAM IIIN IIIN IIIN III NA | 188 W W1 W1 11 W | | | | IN FERN TOLLUK KINK ARAKE NEMER | | |



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ON LINE SERVICE INVOICING BY UCS





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DISCLAIMER OF WARRANTIES

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| | INVOICE TO | | DRIVER/OWNER INFORMATION - | - INVOICE: C84454 |
|----------------------------------|--|-----------|---|-----------------------------|
| m | FOR OFFICE USE | | | |
| 88043 | TAG: 3924 ADV: Q16 SCHAEFER INVOICED: 05/23/2005 15 54:16 BS | | | MBER: FL XX |
| | GRAND TO | TALS | | |
| | SUMMARY OF CHARGES FOR INVOICE C84454 | | PAYMENT DISTRIBUTION FO | R INVOICE C84454 |
| | PARTS 6.00 | | TOTAL CHARGE | 26.70 |
| | GAS-OIL-GREASE 7.95 | | | |
| | SUPPLIES 2 00 | | CASH DUE | 26.70 |
| | LAB-MECHANICAL 9 00 | | | |
| | SUB-TOTAL 24.95 | | | |
| | SALES TAX 1.50 | | | |
| | COUNTY TAX .25 | | | |
| | TOTAL CHARGE 26.70 | | | |
| | ** CUSTOMER W | AITING ** | | |
| | ATTENTION THE FOLLOWING INVOICES ALSO EXIST | | | |
| | MFG - MANUFAC SVC | | | |
| | IF YOU HAVE ANY QUESTIONS - PLEASE SEE BRETT D SCHAEFER | | | |
| | MISCELLANEOUS SHOP SUPPLY AND WASTE DISPOSAL CHARGES: "THIS CHARG | GE | | |
| | REPRESENTS COSTS AND PROFITS TO THE MOTOR VEHICLE REPAIR FACILI | | | |
| 1 | MISCELLANEOUS SHOP SUPPLIES OR WASTE DISPOSAL". THE STATE OF FI | | | |
| | REQUIRES A \$1.00 FEE TO BE COLLECTED FOR EACH NEW TIRE SOLD IN T | | | |
| | STATE(5.403.718), AND A \$1.50 FEE TO BE COLLECTED FOR EACH NEW OF | | | |
| | MANUFACTURED BATTERY SOLD IN THE STATE: (S.403.7185). | | | |
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9210 Adamo Dr. • Tampa, FL 33619 (813) 622-8372 MVR 07222

We guarantee our service work for 12 months/ unlimited mileage from the date of installation of genuine Toyola parts, or the remainder of any applicable new vehicle warranty, whichever provides the greater coverage. In the event of used parts or non-Toyola replacement parts, we guarantee our service work for 30 days or 1,000 miles whichever occurs first, from the date and mileage at installation. Warranties exclude regular scheduled maintenance items

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| 88043 | | INVOICE TO | | | | DRIVER/(| DWNER INFORM | ATION INV | OICE: C86300 |
|------------------------------|------------|--|-----------------------|-------------------------|------------------|----------|-------------------|---------------------------|--------------|
| 8 | BRANDON | FL WORK. | | | BRANDON CELL: | | WORK . | FL | |
| | | FOR OFFICE USE | | . | | | | RMALION | |
| | TAG: 3150 | ADV: Q17 BELL, CYN INVDIC | | | VIN 1NXBR32 | | | ense number: | |
| | | TAX RULES: NY3NN INVOIC I- 5774 OUT: 5784 IIN: 06/03/05 DONE: 06/03/ | | 5 12:22:45 DIST: TOY | 05 TOYOTA | COROLLA | | 4DR SDN | |
| | CONCERN 25 | ROTATE TIRES PLUS BRAKE IN | SPECTION | | | | OPERATION | тесн | AMOUNT |
| i | CORRECTION | THIS WAS DONE 5/23/05 AT N NO TIME AVAILABLE | /C TO CUSTOMER | PER BRETT | | | NT | 001 | .00 |
| | | COMPLETE CLEANING AND ADJU *CLEAN AND ADJUST REAR BRA | | STEM | | | BRKSVC | 001 | S .00 |
| | | *CLEAN BRAKE PADS AND ROTO | - | .UBRICATE C/ | ALIPERS* | | | | |
| | | *INSPECT BRAKE PADS. SHOES | | | | | | | |
| | | *INSPECT BRAKE MASTER CYLI WHEEL CYLINDERS, BRAKE FI | | | | | | | |
| | | *TOP OFF BRAKE FLUID TO PRO *ROAD TEST VEHICLE* | OPER LEVEL*F VE | HICLE | | | | | |
| | | | PO# NOTE | DESCRIPT | ION | QT | Y | SELL | |
| | FACTORY | TOY 00289-28C00 TECH: 001 - L01. L01 | | NON-CHL(| R BRAKE CLNR | | 1 | 5.83 | 5.83 |
| | | | | | | | | TOTAL | |
| | TYPE: CM | LINE FLAGS NOS | | | | PARTS | CHARGE FOR | CONCERN | 5.83 5.83 |
| 0 1979 | | ····· | | | | | | | J 0J |
| ÿ | | COUPON RENTAL VEHICLE | | | | | OPERATION | | AMOUNT |
| | FACTORY | COUPON RENTAL VEHICLE TECH: Q84 - EWBANK, RON | | | | | RENTAL | Q84 | 00 |
| SING E | ТҮРЕ, СИ | | | | | | | TOTAL | |
| NVOX | TIPE. UN | | | | | IUTAL | CHARGE FOR | CONCERN | 00 |
| VICE | | | | | | | | | PAGE 1 |
| ON LINE SERVICE INVOICING BY |] | | HIR RUINE IIRI KIKI K | NN (CO); CON | | | I SIMI FRIM DINKO | HIN HI NN H | 10 HZ () |
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9210 Adamo Dr. • Tampa, FL 33619 (813) 622-8372 MVR 07222

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| | FICE USE | | | |
|--|--|-----------|-------------------------------------|---|
| | CY INVOICED: 06/03/2005 12:22:45 CB | | | UMBER: FL XX |
| | GRAND TO | | | |
| SUMMARY OF CHARGES FOR IN | | | PAYMENT DISTRIBUTION F | OR INVOICE C86300 |
| PARTS | 5.83 | | | |
| COURTESY RENTAL | 5.83- | | CASH DUE | .0 |
| TOTAL CHARGE | .00 | | TOTAL CHARGE | .(|
| | ** CUSTOMER W | AITING ** | | |
| ATTENTION: THE FOLLOWING WAR - WARRANTY | INVOICES ALSO EXIST | | | |
| F YOU HAVE ANY QUESTIONS | - PLEASE SEE CYNTHIA A BELL | | | |
| ISCELLANEOUS SHOP SUPPLY | AND WASTE DISPOSAL CHARGES: "THIS CHAR | GE | | |
| | TS TO THE MOTOR VEHICLE REPAIR FACILI | | | |
| ISCELLANEOUS SHOP SUPPLI | S OR WASTE DISPOSAL*. THE STATE OF F | LORIDA | | |
| EQUIRES A \$1.00 FEE TO BE | COLLECTED FOR EACH NEW TIRE SOLD IN | The | | |
| | 50 FEE TO BE COLLECTED FOR EACH NEW O | R RE- | | |
| ANUFACTURED BATTERY SOLD | IN THE STATE:(S.403.7185). | | | |
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COURTESY TOYOTA/SCION

9210 Adamo Drive • Tampa, Florida 33619 (813) 622-8372

| | | (010) 011 0011 |
|----------|--|---|
| 11 | WE HAVE PERFORMED A COURTESY ISPECTION ON THE FOLLOWING ITEMS | RECOMMENDED SERVICES |
| 1 | CK FRONT BRAKES <u>98</u> % Remaining | □ Oil Change (LOF & EXL) \$24.95 □ Air Filter \$16.95 |
| 2 | CK REAR BRAKES 48 CK Remaining | □ In Cabin (A/C) air filter |
| 3 | | Image: Second State Provide Automatic State \$19.95 Image: Second State \$19.95 <td< td=""></td<> |
| | TIRE TREAD DEPTH REAR ////////////////////////////////// | □ Front Brakes (incl. Resurf) (FBJ) \$159.95 (Land Cruiser/Sequoya slightly higher) |
| 4 | CK ALIGNMENT/TIRE WEAR | Rear Brakes (incl Resurf) (RBJ) \$159.95 Kand Cruiser/Sequoya slightly higher) |
| 5 | SUSPENSION | Clean & Adjust Brake System (BRKSVC) \$34.95 |
| 6 | BRAKE ADJUSTMENT Remy | Transmission Fluid Flush (TRSVCF) \$129.95 |
| 7 | CK STRUTS AND SHOCKS | C Transmission Service (D&F) (TRSVC) \$59.95 |
| 8 | CK HYDRAULIC BRAKE | Coolant System Flush (CCSF) \$99.95 |
| 9 | CK EXHAUST SYSTEM | Coolant Service (D&F) (CCS) |
| 10 | CK ALL DRIVE BELTS | D Power Steering System Flush (PSF) |
| 11 | CK FLUID FLUID LEVELS | □ Throttle Body Cleaning (TES) |
| 12 | | Induction System Flush (IND) \$119.95 |
| 13 | CK WIPER BLADES AND WASHERS | □ Tire Patch \$16.95 |
| 14 | | C Tire(s) Replacement (see advisor for exact estimate) |
| 15 | CK ENGINE FOR LEAKS (OIL & COOLANT) | D Tire Rotation & Brake Inspection (ROT) \$19.95 |
| 16 | CK TRANSMISSION FOR LEAKS | Tire Balance & Rotation (RNB) \$39.95 Replace Engine Drive Belts (DRBLTS) \$119.95 |
| 17 | | (All external belts) |
| 18 | CK DOOR, WINDOW & HORN OPERATION | A/C Power-Foam Cleaning (ACPF) \$59.95 |
| | CHECK CV BOOTS / AXLES | Battery Replacement |
| <u> </u> | | D Battery Service |
| Tooh | nician Name: Kong/DCS Ewberk #284 | D 15K or 45K Service Package |
| rech | incian warne: <u>A counter la counter</u> <u>ACO</u> 7 | □ 15K or 45K Service Package See specific vehicle service menu for estimate □ 30K or 60K Service Package See specific vehicle service menu for estimate |
| | | |

PARTS & SERVICE ESTIMATE TECHNICIANS RECOMMENDATIONS Velicha OniA ¢ orine Whea f2 ۰. •7 ÷. Э 7a æ n ٠, ~ 4 ٠. • - ÷., 11644574 Q (QSAD) 5 lireadd. 6 2 بالأسفينية







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The state of Florida requires a \$1.00 fee to be collected for each new tire sold in the state fitness for a particular purpose, and the seller neither assumes nor autho-(s.403 718) and a \$1.50 fee to be collected for each new or remanufactured battery sold in the nzes any other person to assume for it any liability in connection with the state (s.403.7185).

| BRANDON Cell : | F WORK: | | BRANDON CELL : | WORK | FL | |
|--------------------------------|--|-------------------------------------|----------------------|------------------------------------|-----------------------------|--------|
| TAG: 3150 ODOMETER IN | ADV: Q17 BELL. CYN INVOI TAX RULES: NY3NN INVOI : 5774 CUT: 5784 IN: 06/03/05 DONE: 06/03 | CE. PRELIM WAR W CED: 06/03/2005 | C CB VIN 1NXBR3 | 2E15Z | ICENSE NUMBER: F 4DR SDN | |
| CAUSE CORRECTION FACTORY | C/S VEHICLE RIDING ROUGHE CHK AND ADVISE TIRES BALANCE REBALANCED ALL FOUR TIRES TECH: Q84 - EWBANK, RON COND CODE : 99 | | ALANCED ONE TIRE | | I TECH HOURS Q84 1.5 | |
| | | FAIL CODE | : 42 | c | UBTOTAL | |
| | | | | LAB-MECHANICAL | | 106.6 |
| TYPE: W | LINE FLAGS: NOS | | | TOTAL CHARGE FO | | 106.6 |
| CAUSE CORRECTION COMMENT | C/S VEHICLE PULLS SLIGHTLY TOE OFF CAUSING DRIFT INSPECTED, READJUSTED, TES CONCERN CORRECTED | ST DROVE IN RAIN | AND DRY SURFACE | OPERATION 044184DE | TECH HOURS Q84 2.0 | |
| | PART NUMBER | PO# NOTE | | | SELL | |
| FACTORY | TECH ADA TERMIN DOM | 015058 | COURTESY RENTAL @ 25 | 1 | 25.00 | 25.00 |
| | TECH: Q84 - EWBANK, RON COND CODE : 3A | FAIL CODE | • 81 | | | |
| | | | | SI | UBTOTAL | |
| | | | | SUBLET REPAIRS | | 25 00 |
| | | | | LAB-MECHANICAL | | 142.20 |
| TYPE: W | | | | TOTAL CHARGE FO | R CONCERN | 167 20 |
| | | | | | | PAGE 1 |
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|) (() | REE FURNIS IS NOT RUN ITING OF REAL IS IN | nan mutuni (joh) mutuni himi | N BINNI IN NI | t i Matana tan Atti Bi i Atti Kita | R TTATT BRITE RECEIL RIE T | |



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| | INVOICE | | | | - DRIVER/OWNER INFORMATION - | |
|---|--|------------------|-----------------|-----------|---|-------------|
| | TAG: 3150 ADV: Q17 BELL, CY | | 12:22:45 CB | | VEHICLE INFORMATION LICENSE NU | |
| | | | | | | |
| ļ | | | GRAND TO | TALS | | |
| I | SUMMARY OF CHARGES FOR INVOIC SUBLET REPAIRS. | 25.00 | | | PAYMENT DISTRIBUTION FOR | |
| İ | LAB-MECHANICAL | 248.85 | | | TOTAL CHARGE | 273.85 |
| ł | TOTAL CHARGE | 273.85 | | | FAC WARRANTY | 273.85 |
| I | | | * CUSTOMER W | ATTING ** | | 210.00 |
| | ATTENTION: THE FOLLOWING INVO CUS - CUSTOMERPAY | IICES ALSO EXIST | | | | |
| ł | IF YOU HAVE ANY QUESTIONS - P | | LL | | | |
| | VISIT US ATCOURTESYCARS | COM | | | | PAGE 2 |
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DISCLAIMER OF WARRANTIES

(s.403.718) and a \$1.50 fee to be collected for each new or remanufactured battery sold in the state fizes any other person to assume for it any liability in connection with the state (s.403.7185).

| eg. | INVOICE TO | | DF | RIVER/OWNER I | NFORMATION - | - INVOICE | E: W89539 |
|--|---|------------------|---------------|---------------------|--------------------|--------------|---------------------|
| BRANDON | FL | BDA | NDON | | FL | | |
| CELL: | WORK: | CEL | | HORK- | | | |
| | FOR OFFICE USE | | | | | | |
| | ADV: G51 RICHARDI, INVOICE. PRELIM WAR | | | | | | |
| | TAX RULES: NY3NN INVOICED: 06/24/20 | 05 09:36:12 05 | ΤΟΥΟΤΑ CC | ROLLA | 4DR | | |
| | N: 6471 OUT: 6472 GIN: 06/23/05 DONE: 06/24/05 | DIST: TOY | | | _ | | |
| CONCERN 51 | C/S RADIO CHANGES CHANNELS ON ITS OWN.IN | NSTALL SOP UNIT | | | TION TECH | | |
| CAUSE | INTERNAL FAILURE | | | | G47 | | |
| CORRECTION | INSTALLED RADIO EXCHANGE UNIT | | | | | | |
| | PART NUMBER PO# NOTE | E DESCRIPTION | | QTY | ! | SELL | |
| FACTORY | TOY 8612002440/T852253 FRG TECH: G47 - BRESEE, SHAWN FAIL CODE : 73 | HT ************* | ***** | 18 | 10 | 00 | 10 00 |
| | | PAR | T AUTH: DR 06 | 2405 09.35 | | | |
| | | | | | - SUBTOTAL | | |
| 1 | | | | LAB-MECHANIC | | | 28.44 |
| | | | | MISCELLANEOU | IS | | 10.00 |
| TYPE W | | | | TOTAL CHARGE | FOR CONCERN | 1 | 38 44 |
| | | GRAND TOTALS - | | | | | - <i>-</i> . |
| | CHARGES FOR INVOICE W89539 | | | PAYMENT DIST | RIBUTION FOR | INVOICE | W89539 |
| LAB-MECHANI | | | | TOTAL CHARGE | • | | 38 44 |
| MISCELLANED | | | | | | | |
| TOTAL CHARG | iE 38.44 | | | FAC WARRANTY | | | 38.44 |
| IF YOU HAVE | ANY QUESTIONS - PLEASE SEE DENNIS J RICH. COURTESYCARS.COM | ARDI | | | | | |
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INSCLAIMER OF WARRANTIES This charge represents costs and profits to the molor vehicle repair facility for miscellaneous shop supplies or waste disposal." The state of Florida requires a \$1 00 fee to be collected for each new tire sold in the state (s.403.7185). ISSCLAIMER OF WARRANTIES Any warraties on the product sold hereby are those made by the manu-facturer. The selfer hereby expressly disclams all warranties, either ex-press or implied, including any implied warranty of merchantability or filness for a particular purpose, and the selfer neither assumes nor autho-istate (s.403.7185). sale of said products.

state (s.403.7185).

| 3 | το | | | ORIVER/OWNER INFOR | MATION INVOI | CE: W0488 |
|---|---|-----------------------|---------------------------------|--------------------|---|---------------------|
| | FL | | BRANDON | LOOK. | FL | |
| FOR OFFICE TAG: 4113 ADV: G41 PHILLIPS TAX RULES. NY3N ODOMETER IN: 9709 OUT 9709 DATES BEGIN: 09/30/05 DONE: | USE J. INVOICE. PRELIM INVOICED. 09/3 09/30/05 | WAR W 0/2005 15 23 | FP VIN 1NXBR3 1:30 05 TOYOTA | YEHICLE INF | ORMATION Cense Number: Fi 4DR SDN | L XX |
| CONCERN 51 CUSTOEMR STATES WI CAUSE WINDOW RUNS DEFORM | NDOW RUNS PULLING | DOWN, PLEAS | e check | | | |
| PART NUMBER | | | | | SELL | |
| TOY 68151-02130 | | | | | | 32.34 32.34 |
| | - | | | | | |
| | | | | SL | JBTOTAL | |
| | | | | PARTS | | |
| TYPE. W | | | | TOTAL CHARGE FOR | | 122.22 |
| SUMMARY OF CHARGES FOR INVOICE | | GRANI | D TOTALS | | | |
| PARTS LAB-MECHANICAL | 93.78 28.44 | | | TOTAL CHARGE | HIGW FOR INVOIC | 122.22 |
| TOTAL CHARGE | 122.22 | | | FAC WARRANTY | | 122.22 |
| IF YOU HAVE ANY QUESTIONS - PLE | | HILLIPS | | | | |
| | | | | | L | PAGE 1 .AST PAGE |
| CELL: WORK: CLL: WORK: VEHICLE INFORMATION TAG: 4113 ADV: G41 PHILLIPS, INVOICE. PRELIM WAR W FP VIN INKBR32E15Z LICENSE NUMBER: FL XX TAG: 4113 ADV: G41 PHILLIPS, INVOICE. 09/30/2005 15 23:30 05 TOYOTA COROLLA 4DR SDN DDOMETER IN: 9709 DUT: 9709 DIST: TOY DIST: TOY DATES BEGIN: 09/30/05 ADR SDN CAUSE WINDON RUNS DEFORMED CONCERN 51 CUSTOEMR STATES MINDON RUNS PULLING DOWN, PLEASE CHECK OPERATION TECH HOURS ANOL CONCERN 51 CUSTOEMR STATES MINDON RUNS GATES G45 .4 28. CONCERN 51 CUSTOEMR STATES MINDON RUNS GATES G46 .4 28. CONCERN 51 CUSTOEMR STATES MINDON RUNS CONTE DESCRIPTION OTY SELL TOY 68141-02140 RUN, FR DOOR GLASS, 1 32.34 32. TYPE. W SUBTOTAL 28. SUBTOTAL 28. SUMMARY OF CHARGES FOR INVOICE W048B2 PARTS 93.78 107AL CHARGE 122. PARTS 93.78 93.78 TOTAL CHARGE 122. 122. </td <td>58</td> | 58 | | | | | |
| | | | | | <u> </u> | |







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| | INVOICE TO | D£ | DIVED/A | NFORM | ATION | INVOIC | E: W07961 |
|----------------------------------|--|---------------------------------|--------------------|-------------------------------------|-------------------|------------------|--------------------|
| 88043 | BRANDON FL CELL: WORK FILL | BRANDON CELL | | | | | |
| | TAG: 7719 ADV: G50 GILKES, WINVOICE PRELIM WAR C W BG TAX RULES. NY3NN INVOICED 10/20/2005 14.59.44 ODOMETER IN 10295 OUT 10295 DIST TOY DATES BEGIN. 10/20/05 DONE. 10/20/05 DIST TOY | VIN 1NXBR32E15Z 05 TOYOTA CO | ROLLA | LIC | ENSE NUM 4DR S | iber: Fl. Dn | XX |
| | CONCERN 51 CUSTOMER STATES THAT AFTER ACCELERATING AND YOU REL: ACLICKING NOISE FROM ENGINE AREA BEFORE HITTING THE CAUSE TEST DRIVEN AND FOUND NORMAL CORRECTION CANNOT DUPLICATE CONCERN AT THIS TIME TEST DRIVEN 9 COMMENT SYSTEM SHOWN NO FAULTS FACTORY TECH. Q52 - ADAMS, JOHN FAIL CODE 99 | EASE THE GAS THERE BRAKES | IS IS | OPERATION NC | TECH Q52 | Hours O | AMOUNT Og |
| | TYPE: W | | TOTAL | SU CHARGE FOR | CONCERN | | 00 |
| | SUMMARY OF CHARGES FOR INVOICE W07961 TOTAL CHARGE .00 | FALS | | NT DISTRIBU | | | |
| | | | | arranty Al charge | | | .00. 00 |
| NG BY UCS © 1979 | ATTENTION THE FOLLOWING INVOICES ALSO EXIST CUS - CUSTOMERPAY IF YOU HAVE ANY QUESTIONS - PLEASE SEE WILLIAM N GILKES VISIT US AT COURTESYCARS.COM | | | | | Li | PAGE 1 AST PAGE |
| ON LINE SERVICE INVOICING BY UCS | E ja dauni lanaka kindu u ka situ kangan diji kangan kangan lukuka dan kangan kanga |)) JUT I | 191: 1 51 1 | 1)))) 11 111 (111)) | IBNIB BYIRA II | 0)]#) #()8) | 11 |
| | I ACKNOWLEDGE RECEIPT OF THE PARTS AND | LABOR LISTED ABOVE | x | | | | |

27 POINT Vehicle Inspection

WE PERFORMED THE FOLLOWING FREE INSPECTION ON YOUR VEHICLE

PREVENTIVE MAINTENANCE IS LESS COSTLY THAN REPAIRS

| YEAR | MODEL | MILEAGE | R.O. NO. | |
|------|---------|---------|---------------|----|
| DATE | HOME PH | IONE | BUSINESS PHON | ١E |

| | <u> </u> | Inspect Each Service | Info./Estimate Check Tires/Measure Tire Tread Depth |
|------|------------|--|---|
| | с н | Window washer fluid level | Tire Pressure Set to Factory Recommendation |
| | E | Automatic transmission fluid level/condition | LF RF |
| | κ | Brake fluid level/condition | 910- |
| | 8 | Power steering level/condition | |
| | F | Coolant recovery reservoir fluid level/condition | |
| | Ĺ | Transaxle, transfer case, clutch reservoir fluid/condition (as equipped) | |
| | | Windshield for cracks, chips and pitting | |
| | | Operation of horn, interior and exterior lights | |
| | | Windshield washer spray and wiper operation | 50% or more remaining |
| | | Cooling system for visible leaks and damage | 20% - 50% remaining |
| | | Oll and/or tluid leaks (Specify) | Measure Front / Rear Brake Linings |
| | | Constant velocity (CV) drive axle booths (if equipped) | |
| | | Exhaust system (leaks, visible damage, loose parts) | |
| | | Drive belt(s) | |
| | | Steering, steering linkages/wheel end play/bearings | |
| | | Suspension (shocks/struts for bounce/leaks/damage) | |
| | | Brake lines, hoses, parking brake | |
| | | Battery terminals (clean, if necessary) | |
| | | Clutch operation (if equipped) | |
| | _ | Recommended Additional Services | |
| Y | <u>[</u>] | Rotate Tires | Brake Measurements Not Taken This Service Visit |
| Y | <u> </u> | Air Filter | 20% - 50% remaining |
| Y | <u> </u> | V Wiper Inserts 16 WFet 17 | Less than 20% remaining |
| Y | <u> </u> | I Tire Repair | Check Battery Performance |
| Y | 1 | Brakes (Specify) | Good Actual Cold |
| Y | 1 | Other | Bad Bad Amps and/or 6 C attach test results (CA |
| | | URTESY Courtesy Kia | FOR FURTHER INFORMATION ASK FOR: |

865-1175

Tampa, FL 33619

ASSISTANT SERVICE MANAGED



UTOGROUP



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(s.403.718) and a \$1.50 fee to be collected for each new or remanufactured battery sold in the rizes any other person to assume for it any liability in connection with the state (s.403.7185).

| | INVOICE TO | [| DRIVER/OWNER INF | FORMATION INVO | DICE: C07961 |
|---------------------|---|--------------------------------|---|----------------------------|-------------------|
| 88043 | BRANDON FL CELL: WORK WORK | | | FL | |
| | TAG: 7719 ADV: G50 GILKES. W INVOICE PRELIM CUS C W AR TAX RULES: NY3NN INVOICED: 10/20/2005 15·23·49 ODOMETER IN. 10295 OUT 10295 DIST. TOY DATES BEGIN: 10/20/05 DONE 10/20/05 10/20/05 | VIN 1NXBR32E157 Q5 TOYOTA (| COROLLA | LICENSE NUMBER: 4DR SDN | FL XX |
| | CONCERN 01 ENGINE OIL & FILTER CHANGE W/LUBE ADJUST TIRE PRESSU CORRECTION -COMPLETED- COMMENT \$24.95 | IRE + ADD FLUID S | 24.95 OPERATI | lon tech Q52 | AMOUNT * 12.96 |
| | PART NUMBER PO# NOTE DESCRIPT | | QTY | SELL | |
| | TOY KITLOFAL CUT FOR WOIL FILT | ER 4 CYL | 1 | ** | ** |
| | | | 1 | ** | ** |
| 1 | TOY 90915-YZZF1 2nd FILTER S | 5/A, OIL ******* | 15 | 3.45 | 3.45 |
| | TOY NPOIL GOG ********* TOY 90430-12028 GASKET | ****** | 58 | 1.59 .58 | 7.95 .58 |
| | FACTORY TECH. Q52 - ADAMS. JOHN | | ູ 15 | . 30 | . 30 |
| | FACTORY TECH. Q52 - ADAMS, JOHN Change | | | SUBTOTAL | |
| | | | PARTS | | 4.03 |
| | j v - | | GAS-OIL-GREAS | ίΕ | 7 95 |
| | | | HAZARDOUS WAS | | 1.69 |
| | | | LAB-MECHANICA | | 12.96 |
| _ | TYPE C LINE FLAGS. HAZ | | TOTAL CHARGE | FOR CONCERN | 26 63 |
| 86 | CONCERN 24 ROTATE TIRES PLUS BRAKE INSPECTION \$15.95 | | OPERATI | ON TECH | AMOUNT |
| <u> </u> | CORRECTION COMPLETE TIRE ROTATION AND BRAKE INSPECTION | | ROT | 052 | 5 |
| 3 | FACTORY TECH: Q52 - ADAMS, JOHN | | | | |
| 5 | TYPE, C LINE FLAGS NOS | | TOTAL CHARGE | FOR CONCERN | 15.00 |
| מכע גורה ווארטרוואם | | | | | PAGE 1 |
| | A SECTOR I TOTOLO ILLI I DE LICER FRENCH ILLE DOLLE DE LE DE LE DE LE | | IN THE CONTRACT OF A DECEMBER OF A DECEMB | NAKA JENAR KANELOJNER N | đi l e u t |
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(s.403.718) and a \$1.50 lee to be collected for each new or remanufactured battery sold in the rizes any other person to assume for it any fiability in connection with the state (s.403.7185).

| TAG: 7719 ADV: G50 GILKE | FFICE USE ES, INVOICED 10/24 | | | VEHICLE INFORMAT LICENSE | NUMBER: FL XX |
|---|---|---|--------------|-----------------------------|---------------------|
| | ••••• | GRAND TO | TALS | | |
| SUMMARY OF CHARGES FOR IN | WOICE C07961 | | | PAYMENT DISTRIBUTION | FOR INVOICE CO7961 |
| PARTS | 4 03 | | | TOTAL CHARGE | 46 69 |
| GAS-OIL-GREASE | 7 95 | | | | |
| SUPPLIES | 2 00 | | | CASH DUE | 46.69 |
| HAZARDOUS WASTE CHG | 1.69 | | | | |
| LAB-MECHANICAL | 27 96 | | | | |
| SUB-TOTAL | 43.63 | | | | |
| SALES TAX | 2 62 | | | | |
| COUNTY TAX | . 44 | | | | |
| TOTAL CHARGE | 46 69 | | | | |
| ATTENTION: THE FOLLOWING | INVOICES ALSO EXIST | | | | |
| WAR - WARRANTY | | | | | |
| IF YOU HAVE ANY QUESTIONS | - PLEASE SEE WILLIA | M N GILKES | | | |
| MISCELLANEOUS SHOP SUPPLY | | | E | | |
| REPRESENTS COSTS AND PROF | | | | | |
| MISCELLANEOUS SHOP SUPPLI | | | | | |
| HIJGELEMILOUD DIGE DUCHET | ES UK WASTE UISPUSAL | .". THE STATE OF FL | ORIDA | | |
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We guarantee our service work for 12 months/ unlimited mileege from the date of installation of genuine Toyota parts, or the remainder of any applicable new vehicle warranty, whichever provides the greater coverage, in the event of used parts or non-Toyota replacement parts, we guarantee our service work for 30 days or 1,000 miles whichever occurs first, from the date end mileege at installation, Warranties exclude regular scheduled maintenance items

MISCELLANEOUS SHOP SUPPLIES AND WASTE DISPOSAL CHARGES.

DISCLAIMER OF WARRANTIES Any warranties on the product sold hereby are those made by the manu-

" This charge represents costs and profits to the motor vehicle repair facility for miscellaneous

facturer. The seller hereby expressly disclaims all warranties, either ex-

The state of Florida requires a \$1.00 fee to be collected for each new tire sold in the state (s.403.718) and a \$1.50 fee to be collected for each new or remanufactured battery sold in the state (s.403.7185).

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We guarantee our service work for 12 months/ unlimited miteage from the date of installation of genuine Toyola parts, or the remainder of any applicable new vehicle warranty, whichever provides the greater coverage. In the event of used parts or non-Toyola replacement parts, we guarantee our service work for 30 days or 1,000 miles whichever occurs first from the date and mileage at installation. Warranties exclude regular scheduled maintenance items.

MISCELLANEOUS SHOP SUPPLIES AND WASTE DISPOSAL CHARGES: This charge represents costs and profits to the motor vehicle repair facility for miscellaneous DISCLAIMER OF WARRANTIES

Any warranties on the product sold hereby are those made by the manufacturer. The seller hereby expressly disclaims all warranties, either express or implied, including any implied warranty of merchantability or

The state of Florida requires a \$1.00 fee to be collected for each new tire sold in the state filness for a particular purpose, and the seller neither assumes nor autho-(s.403.718) and a \$1.50 fee to be collected for each new or remanufactured battery sold in the rizes any other person to assume for it any liability in connection with the state (s.403.7185).

----- INVOICE TO ---------- DRIVER/OWNER INFORMATION -- INVOICE: M13703 NAD. 091241 50053 DEERFIELD BEACH FL. BRANDON FI WORK : CELL. WORK : ----- FOR OFFICE USE ----------- VEHICLE INFORMATION ------TAG: 0145 ADV: Q33 RHODES, A INVOICE: PRELIM MFG W M VIN 1NXBR32E15Z AR LICENSE NUMBER: FL XX NY3NN INVOICED. 11/28/2005 12.50:48 TAX RULES. 05 TOYOTA 4DR SDN COROLLA ODOMETER IN: 11434 OUT. 11434 DIST: TOY DATES BEGIN: 11/28/05 DONE: 11/28/05 CONCERN 53* RENTAL CAR OPERATION TECH AMOUNT CAUSE OWNER STATES CHECK ENGINE LIGHT RENTALCAR 001 .00 CORRECTION RENTAL CAR COMMENT AUTH # 53321067A PART NUMBER P0# NOTE DESCRIPTION 0TY SELL 019972 COURTESY RENTAL 1 35.00 35.00 FACTORY TECH: 001 - L01, L01 ----- SUBTOTAL -----SUBLET REPAIRS 35.00 TYPE: TLC TOTAL CHARGE FOR CONCERN 35.00 GRAND TOTALS ------------SUMMARY OF CHARGES FOR INVOICE M13703 PAYMENT DISTRIBUTION FOR INVOICE M13703 SUBLET REPAIRS 35.00 TOTAL CHARGE 35.00 TOTAL CHARGE 35.00 MFG EXT SVC NAD 091241 35.00 JM&A GROUP POLICY# 30587243 ATTENTION: THE FOLLOWING INVOICES ALSO EXIST WAR - WARRANTY IF YOU HAVE ANY QUESTIONS - PLEASE SEE ALAN J RHODES PAGE 1 LAST PAGE I I BUCINE IBBUDE INLEED TEEL STEEL HERE UNDER THE STEEL HERE IN THE STEEL

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DISCLAIMER OF WARRANTIES

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Any warranties on the product sold hereby are those made by the manufacturer The seller hereby expressly disclaims all warranties, either express or implied, including any implied warranty of merchantability or

The state of Florida requires a \$1,00 fee to be collected for each new tire sold in the state fitness for a particular purpose, and the seller neither assumes nor author (s 403.718) and a \$1.50 fee to be collected for each new or remanufactured battery sold in the rizes any other person to assume for it any liability in connection with the sale of said products. state (s.403.7185).

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* This charge represents costs and profits to the motor vehicle repair facility for miscellaneous shop supplies or waste disposal.* DiscLAIMER OF WARRANTIES Any warranties on the product sold hereby are those made by the manufacturer. The seller hereby expressly disclaims all warranties, either express or implied, including any implied warranty of merchantability or fitness for a particular purpose, and the seller neither assumes nor authorizes any other person to assume for it any liability in connection with the sale of said products.

DISCLAIMER OF WARRANTIES

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ON LINE SERVICE INVOICING BY UCS

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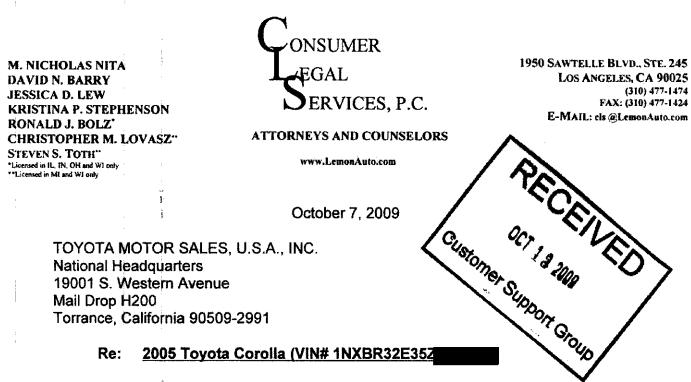
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| Case Act | ivity Report | | | | | | |
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| Case # : Brand : | 0910122392 Toyota REFERRALS ; REFERRALS ; OTHER/NO' | Case Type : Case/Activity Las | • | 4:38 AM | Owner': | s Group : DR | |
| Case Title : | | | | VEHICLE INFOR | ΜΑΤΙΩΝ | | CASE INFORMATION |
| | CUSTOMER INFORMATION | | VIN: | 1NXBR3 | | STATUS : | Closed |
| NAME : | | | MODEL YR, : | 2005 | | SUB-STATUS : | Completed |
| ADDR1 : | | | MODEL IN. | COROLL | ۵ | SOURCE : | CUSTOMER |
| ADDR2 : | | | GRADE : | S | | INITIAL CHANNEL : | Letter - Inbound |
| CITY, STATE, 2 | | | MODEL NUMBER : | 1812 | | OWNER : | MARINV |
| OUNTRY : | USA | | | 1812 1ZZ | | CREATED DATE : | 10/14/2009 09:00:18 AM |
| RIM. PHONE | | | ENGINE : | 4ECT | | CREATED BY : | MARINV |
| ALT PHONE : | | | TRANSMISSION : | | | CREATOR'S GROUP : | DR |
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| | | | CURRENT MONTHS : | 55 | | CLOSER'S GROUP : | DR |
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| 1.0700T | 10/14/2009 08:55:49 AM / Letter - Inbox | and the state of the | | LEMON LAW== | | Sent to outside Attorney Sean | 10/14/2009 09:04:29 AM |
| 1-GZBQT | 10/14/2009 00:55:49 AM / Letter - Indo | | Ltr as se | rovd from Atty (Con per Magnuson Moss eks to pursue Lemo | sumer Legal Service). Atty sts Act and UCC, and CLRA cust In Law due to issues not to not contact customer. | Beatty | |

This Information is confidential and proprietary to Toyota ; Please refer to guidelines/policies for restrictions on use.

RUN DATE : 10/21/2009 10:24:54 AM Page 1 of 1 Report Generated for BROWNR3



Dear Sir/Madam:

Please be advised that this law office, Consumer Legal Services, P.C., represents regarding the purchase/lease of a 2005 Toyota Corolla. This firm will refrain from filing a lawsuit for 14 days in an effort to resolve this matter prior to litigation. In order to assist you in evaluating this matter, please see attached copies of the second repair orders.

has submitted the 2005 Toyota Corolla for vehicle defects on at least four (4) occasions, and/or at least two times for a safety defect, and/or it has been out of service for repair for 30 days or more. The limited written warranty provides that TOYOTA MOTOR SALES, U.S.A., INC. or its authorized dealerships, will repair or replace all parts found to be defective in factory-supplied materials or workmanship. It is my client's position that TOYOTA MOTOR SALES, U.S.A., INC.'s inability to repair this vehicle after four attempts, and/or its inability to repair this vehicle's safety defect after two attempts, and/or for the vehicle being out of service for repair for 30 days or more is a violation of both the Song-Beverly Warranty Act and the Consumer Legal Remedies Act. As such, the service for repair that TOYOTA MOTOR SALES, U.S.A., INC. repurchase the 2005 Toyota Corolla and pay her attorney fees and costs.

More specifically, please take notice that pursuant to California Civil Code §1782(a)(1) the above acts and omissions on your behalf violate California Civil Code §§1770(a)(2) Misrepresenting the source, sponsorship, approval, or certification of goods or services;(7) Representing that goods or services are of a particular standard, quality, or grade; or that goods are of a particular style or model, if they are of another; and (16) Representing that the subject of a transaction has been supplied in accordance with a previous representation when it has not.

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October 7, 2009 TOYOTA MOTOR SALES, U.S.A., INC. <u>Re: 2005 Toyota Corolla</u> Page 2

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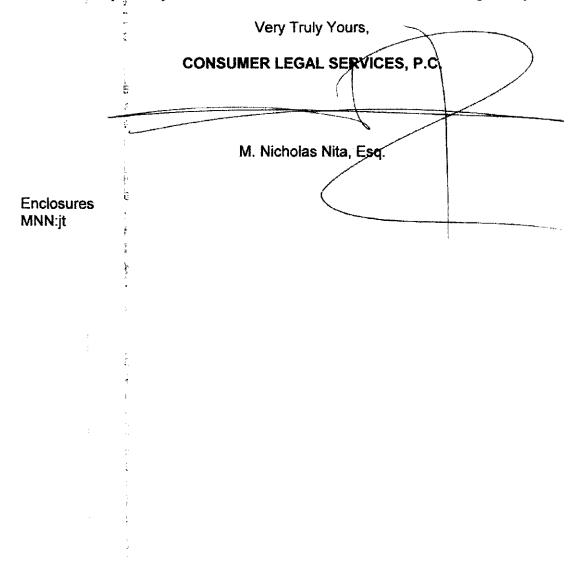
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Therefore, pursuant to California Civil Code §1782(a)(2) my client demands that you correct, repair, or otherwise rectify said violations of California Civil Code §1770 by repurchasing the vehicle. As stated above, this firm will refrain from filing a lawsuit for 14 days.

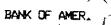
Please be further advised that all communication regarding this matter must be directed to my office.

This offer and all of its contents are for settlement purposes only.

Thank you for your time and attention. I look forward to hearing from you.



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FOYOTA CENTRAL • SCION CENTRAL

1600 South Figueroa Street - Los Angeles, CA 90015-0328

PHONE (213) 748-8301 WWW.TOYOTACENTHALLA.COM

B.A.R. # AB-007466

E.P.A. # CAD983670811

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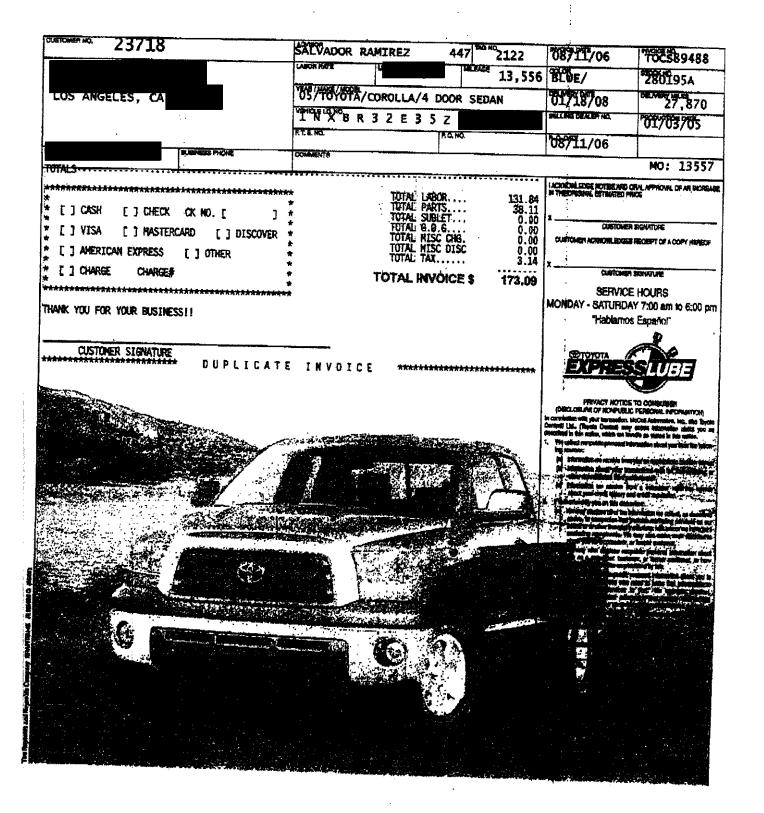
TOYOTA CENTRAL • SCION CENTRAL

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TOYOTA CENTRAL • SCION CENTRAL 1600 South Figueroa Street + Los Angeles, CA 90015-0328 PHONE (213) 748-8301 WWW.TOYOTACENTRALLA.COM B.A.R. # AB-007468 E.P.A. # CAD983670811 OUTTOMER NO. 23718 LUIS MENDOZA 446 8855 01718/07 TOCS103594 ABON NOT The second 18,758 BLUE/ 280195A 05/TOYOTA/COROLLA/4 DOOR SEDAN LOS ANGELES, CA 27,870 01718708 INXBR32E35Z ALLING DEALER NO. 01703705 TEMO 20.00 01718/07 and the second second COMMENTS NOV 1 CHARGES-MO: 18760 ABOR I ACTORING STORE NOTICE AND ORAL APPROVAL OF MI INCREASE IN THEORY AND BITMATED PRICE LABOR-JF T. DETOZ LOF CUSTOMER REQUESTED LUBE, OIL AND FILTER CHANGE INCLUDES "FREE" 27 POINT INSPECTION FRONT BRANES HAS BOAT REAR HAS DOA REMANING COMPLETED LUBE, OIL & FILTER CHANGE COMPLETED 27 POINT INSPECTION. CUSTOMEN SIGNATURE CLEATIONER ACCOLONILED ONE PRICEPT OF A COPY HEREOF PARTS ----- OTY --- FP-NUMBER---DESCRIPTION FILTER S/A. OIL 6.06 GASKET CLISTCHER SCHOLDE 90915.YZTF2 90430.12031 6.06 SERVICE HOURS 1.12 10.75 17.93 MOTOR OIL 5H30 MONDAY - SATURDAY 7:00 am to 6:00 pm TOTAL - PARTS "Hablamos Españo" 2.25 TOTAL - MISC JOB# 1 TOTALS LABOR 7.00 17.93 2.25 PARTS T NUTICE TO GOMM JOB# 1 JOURNAL PREFIX TOCS JOB# 1 TOTAL 27.18 ŝ

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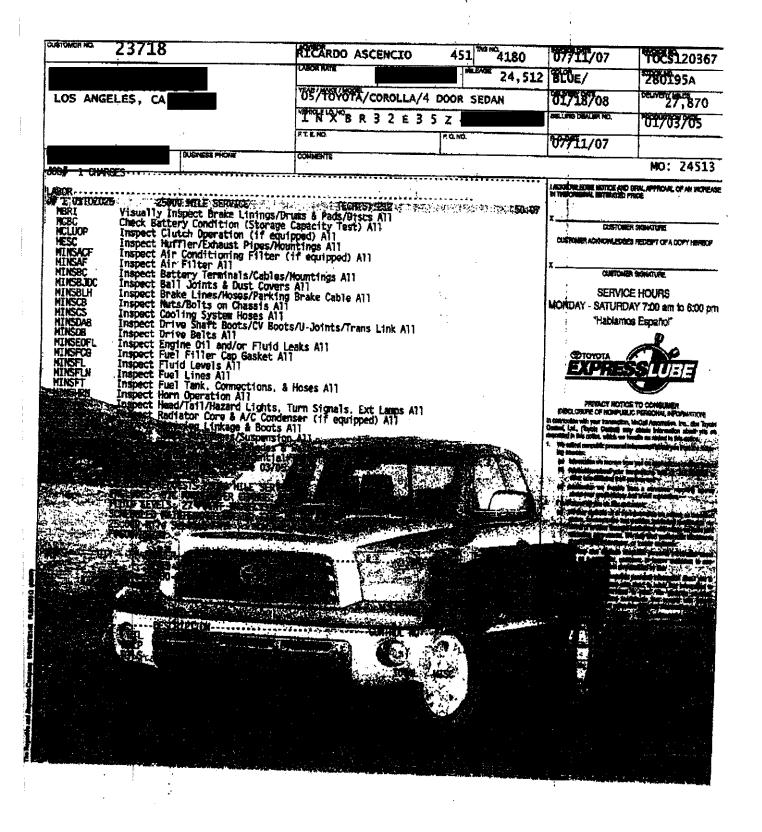
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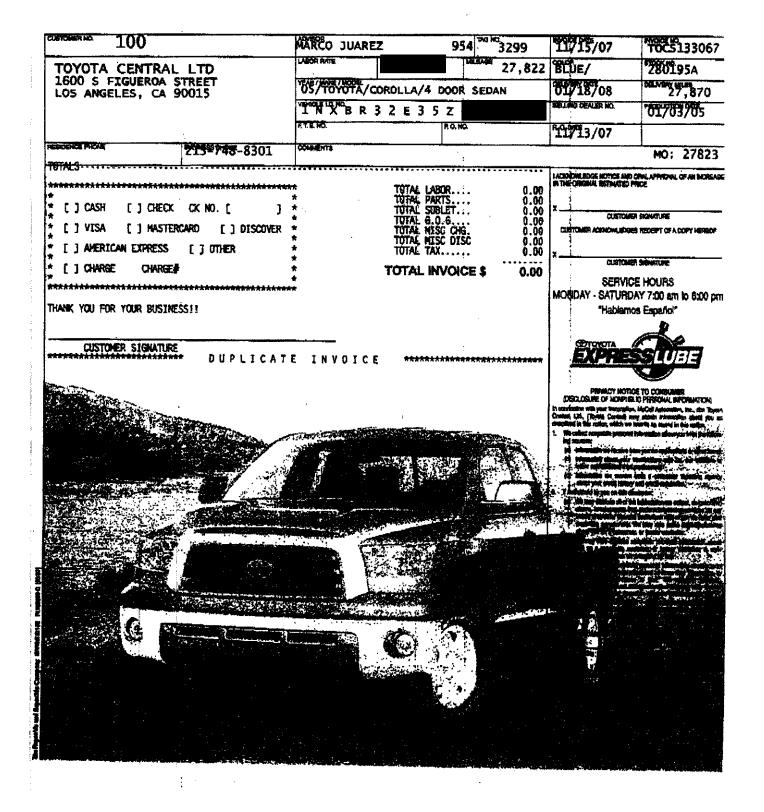
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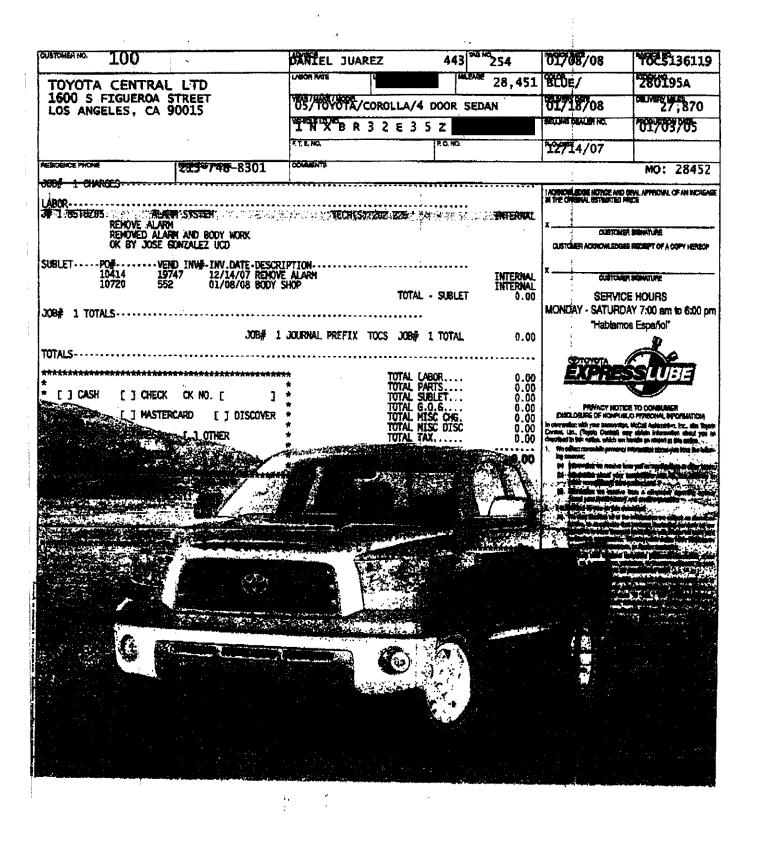


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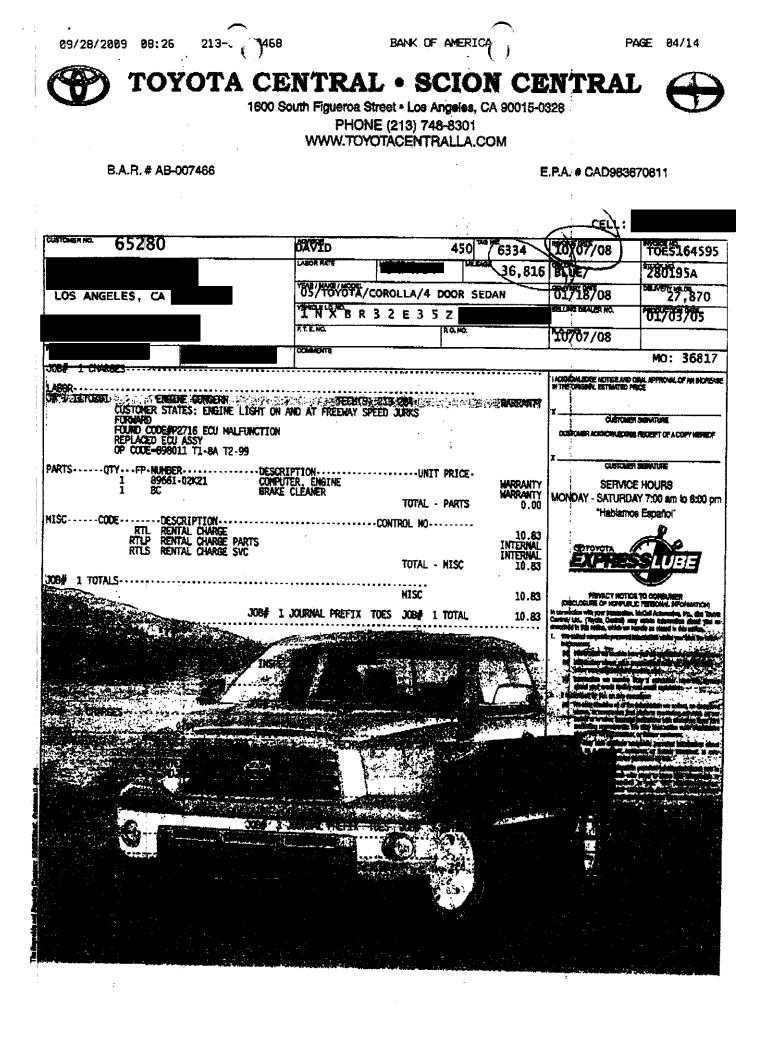
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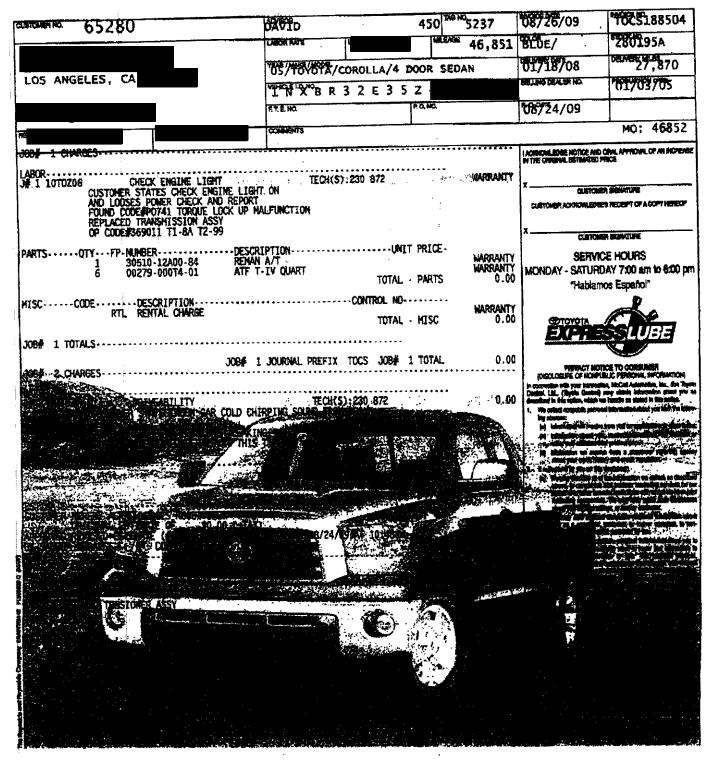
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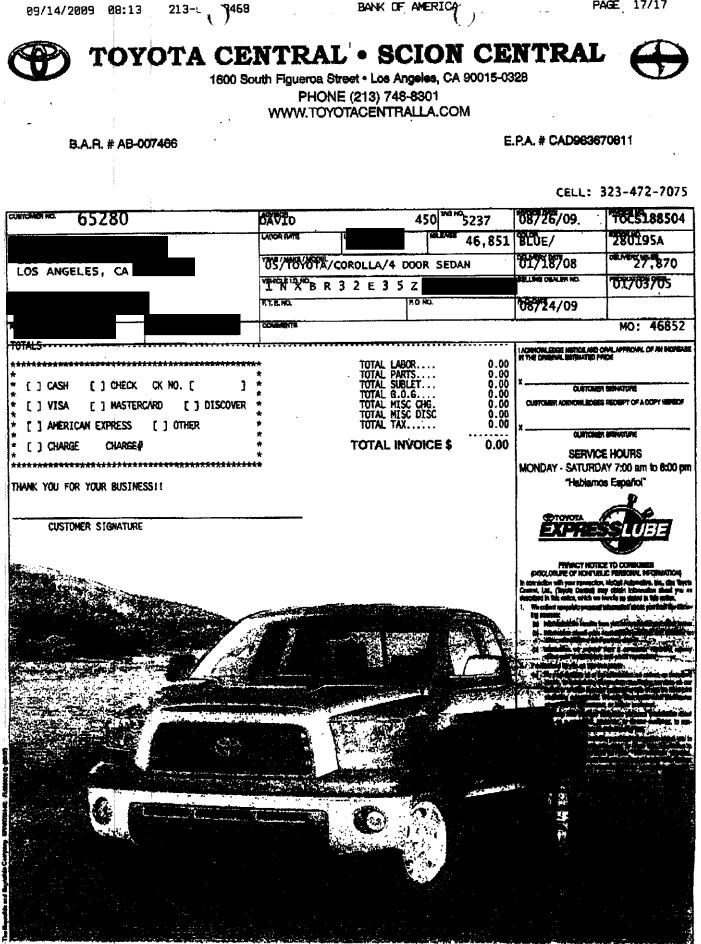
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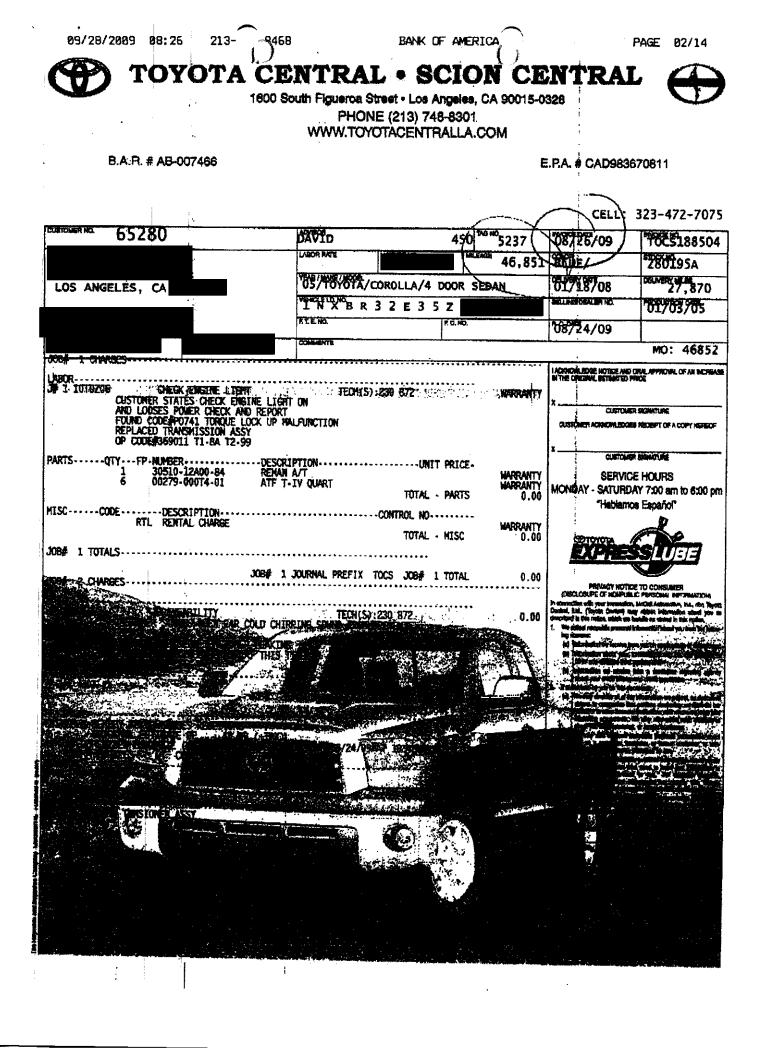


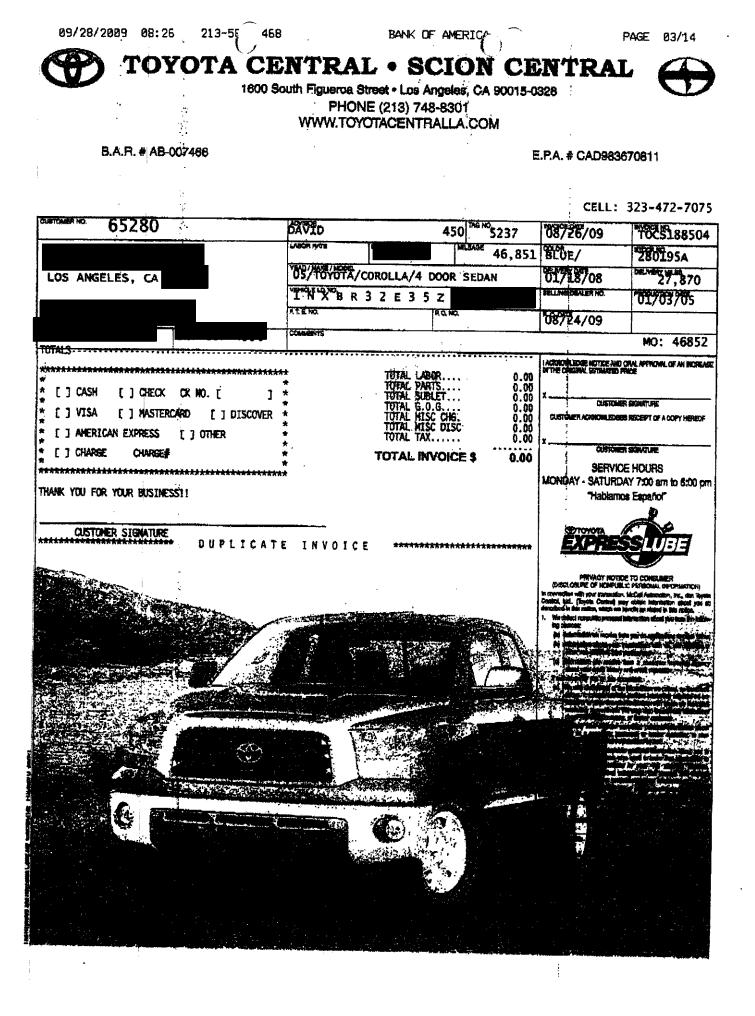
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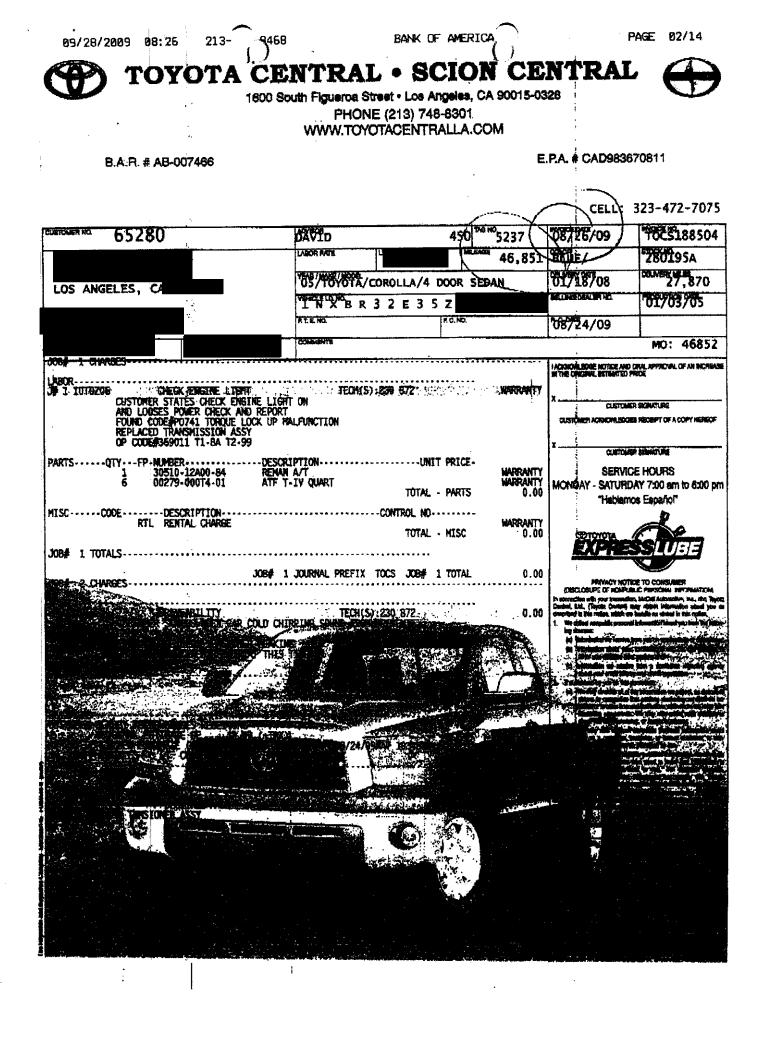
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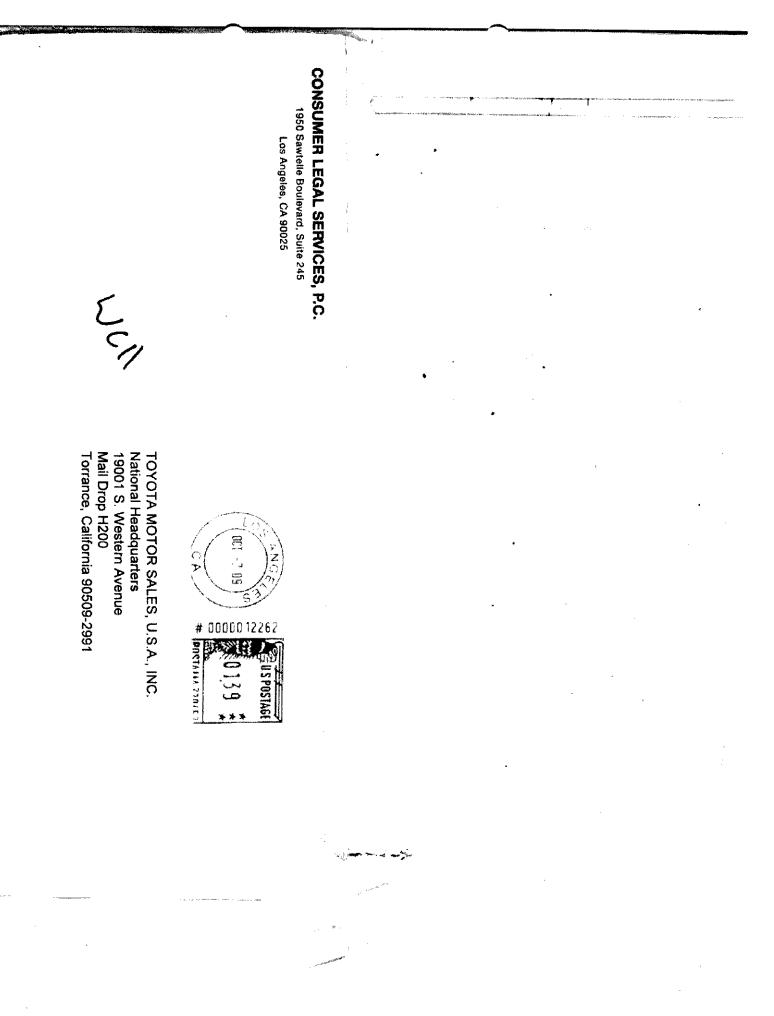






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| 2 3 4 | Attorneys for Plaintiff, SANDRA MORALES | 59) CONT |
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| 8 | SUPERIOR COURT OF T | HE STATE OF CALIFORNIA |
| 9 | FOR THE COUNT | TY OF LOS ANGELES |
| 10 | | BC428018 |
| 11 | , an individual, | |
| 12 13 | Plaintiff, | Assigned for all purposes to: The Honorable Dept.: |
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| 14 | | |
| 16 | v. | COMPLAINT FOR DAMAGES: |
| 10 | | 1. Breach of Implied Warranty |
| 17 |) | of Merchantability under the Song-Beverly Warranty Act. |
| 19 |) | 2. Breach of Express Warranty |
| 20 | TOYOTA MOTOR NORTH AMERICA,) INC., a California) | under the Song-Beverly Warranty Act. |
| 20 | Corporation; MCCALL) AUTOMOTIVE, INC., a California) | 3. Breach of Express Warranty |
| 22 | Corporation d/b/a TOYOTA) CENTRAL; and DOES 1 through) 20, inclusive, | under the Magnuson-Mose |
| 23 | Defendants. | 4. Breach of Implied Warranty |
| 24 |) berendants. | of Merchantability under the Magnuson-Moss Warranty Act. |
| 25 |) | |
| 26 | JAN 1 * 2010 | |
| 27 |) | JURY TRIAL DEMANDED. |
| 28 |) | |
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| | СОМІ | 1 PLAINT |

hereby alleges and complains as

2 follows:

PLAINTIFF

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GENERAL ALLEGATIONS COMMON TO ALL CAUSES OF ACTION

 Plaintiff is an individual residing in the City of Los Angeles, County of Los Angeles, in the State of California.

6 2. Defendant, TOYOTA MOTOR NORTH AMERICA. INC. 7 (hereinafter referred to as "Manufacturer"), is a corporation 8 doing business in the County of Los Angeles, State of California, 9 and, at all times relevant herein, was/is engaged in the 10 manufacture, sale, distribution, and/or importing of TOYOTA motor 11 vehicles and related equipment.

12 3. Defendant, MCCALL AUTOMOTIVE, INC. d/b/a TOYOTA CENTRAL 13 (hereinafter referred to as "Seller"), is a corporation doing 14 business in the County of Los Angeles, State of California, and, 15 at all times relevant herein, a Manufacturer-authorized agent 16 engaged in the business of selling/leasing and servicing and 17 repairing Manufacturer's vehicles.

18 4. The true names and capacities, whether individual, 19 corporate, associate, or otherwise, of the Defendants, Does 1 20 through 20, inclusive, are unknown to Plaintiff who therefore sues 21 these Defendants by such fictitious names. Plaintiff will seek 22 leave to amend this Complaint to set forth their true names and 23 capacities when they have ascertained them. Further, Plaintiff is 24 informed and believes, and thereon alleges, that each of the 25 Defendants designated herein as a "Doe" is responsible in some 26 manner for the events and happenings herein referred to and caused 27 injury and damage to Plaintiff as herein alleged. 28 111

1 5. Plaintiff is informed and believes, and thereon alleges, 2 that at all times herein mentioned, Defendants, and each of them, 3 were the agents, servants, and/or employees of each of their Co-Defendants. Plaintiff is informed and believes, and thereon 4 5 alleges, that in doing the things hereinafter alleged Defendants, 6 and each of them, were acting in the course and scope of their 7 employment as such agents, servants, and/or employees, and with 8 the permission, consent, knowledge, and/or ratification of their 9 Co-Defendants, principals, and/or employers.

10 6. Before January 18, 2008, defendants Manufacturer and
11 Does 1 through 20 inclusive, manufactured and/or distributed into
12 the stream of commerce a Certified Pre-Owned 2005 Toyota Corolla,
13 VIN 1NXBR32E35Z (hereinafter referred to as the "Vehicle")
14 for its eventual sale/lease in the State of California.

15 7. On or about January 18, 2008, Plaintiff purchased, for
16 personal, family, and/or household purposes, the subject Vehicle
17 from the Seller for a total consideration over the term of the
18 installment contract of \$23,248.72. Retail Installment Sale
19 Contract is in the personal of Defendents

Contract is in the possession of Defendants.

8. The subject Vehicle was/is a "new motor vehicle" under
the Song-Beverly Warranty Act.

22 9. Along with the purchase of the Vehicle, Plaintiff 23 received written warranties and other express and implied 24 warranties including, but not limited to, warranties from 25 Manufacturers and Seller that the Vehicle and its components would 26 be free from all defects in material and workmanship; that the 27 Vehicle would pass without objection in the trade under the 28 contract description; that the Vehicle would be fit for the

1 ordinary purposes for which it was intended; that the Vehicle 2 would conform to the promises and affirmations of fact made; that 3 and each of them, Defendants, would perform any repairs, 4 alignments, adjustments, and/or replacements of any parts 5 necessary to ensure that the Vehicle was free from any defects in 6 material and workmanship; that Defendants, and each of them, would maintain the utility of the Vehicle for three years or 36,000 7 miles and would conform the Vehicle to the applicable express 8 warranties. (A copy of the written warranty is in the possession 9 10 of the Defendants).

11 10. Plaintiff has duly performed all the conditions on 12 Plaintiff's part under the purchase agreement and under the 13 express and implied warranties given to plaintiff, except insofar 14 as the acts and/or omissions of the Defendants, and each of them, 15 as alleged herein, prevented and/or excused such performance.

16 11. Plaintiff delivered has the Vehicle to the 17 Manufacturers' authorized service and repair facilities, agents 18 and/or dealers, including Seller, on numerous separate occasions 19 resulting in the Vehicle being out of service by reason of repair 20 of nonconformities. Repair Orders/Invoices are in the possession 21 of Defendants.

12 12. By way of example, and not by way of limitation, the defects, malfunctions, misadjustments, and/or nonconformities with Plaintiff's Vehicle include the following: Plaintiff has submitted the subject Vehicle for defects and malfunctions, specifically for driveability concerns related to problems such as vehicle jerking forward when driving on freeways, leaking drive belt tensioner, chirping drive belts, and engine light coming on, that have been

1 unable to be fully repaired by the manufacturer/ dealer, among 2 other concerns.

Each time Plaintiff delivered the nonconforming Vehicle 13. 3 Manufacturer-authorized service and to а repair facility, 4 Plaintiff notified Defendants, and each of them, of the defects, 5 malfunctions, misadjustments, and/or nonconformities existent with 6 the Vehicle and demanded that Manufacturers or its representatives 7 repair, adjust, and/or replace any necessary parts to conform the 8 Vehicle to the applicable warranties. 9

Each time Plaintiff delivered the nonconforming Vehicle 14. 10 11 to а Manufacturer-authorized service and repair facility, Defendants, and each of them, represented to Plaintiff that they 12 could and would conform the Vehicle to the applicable warranties, 13 that in fact they did conform the Vehicle to said warranties, and 14 that all the defects, malfunctions, misadjustments, 15 and/or nonconformities have been repaired; however, Manufacturer or their 16 representatives failed to conform the Vehicle to the applicable 17 warranties because said defects, malfunctions, misadjustments, 18 and/or nonconformities continue to exist even after a reasonable 19

20 number of attempts to repair was given.

15. 21 The amount in controversy exceeds TWENTY FIVE THOUSAND DOLLARS (\$25,000.00), exclusive of interest and costs, for which 22 23 Plaintiff seeks judgment against Defendants, together with equitable relief. 24 In addition, Plaintiff seeks damages from Defendants, and each of them, for incidental, consequential, 25 exemplary, and actual damages including interest, costs, and 26 actual attorneys' fees. 27 28 111

FIRST CAUSE OF ACTION

2 (Breach of Implied Warranty of Merchantability under Song-Beverly
3 Warranty Act against all Defendants)

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4 16. Plaintiff realleges each and every paragraph (1-15) and
5 incorporates them by this reference as though fully set forth
6 herein.

7 17. The distribution and sale of the Vehicle was accompanied
8 by the Manufacturer and Seller's implied warranty that the Vehicle
9 was merchantable.

10 Furthermore, Defendants, and each of them, impliedly 18. 11 warranted, inter alia, that the Vehicle would pass without 12 objection in the trade under the contract description; that the 13 Vehicle was fit for the ordinary purposes for which it was 14 intended; that the Vehicle was adequately assembled; and/or that 15 the Vehicle conformed to the promises or affirmations of fact made 16 to Plaintiff.

17 19. As evidenced by the defects, malfunctions, 18 misadjustments, and/or nonconformities alleged herein, the Vehicle 19 was not merchantable because it did not have the quality that a 20 buyer would reasonably expect, because it could not pass without 21 objection in the trade under the contract description; because it 22 was not fit for the ordinary purposes for which it was intended; 23 because it was not adequately assembled; and/or because it did not 24 or could not be conformed to the promises or affirmations of fact 25 made to Plaintiff.

26 20. Upon discovery of the Vehicles's nonconformities,
27 Plaintiff took reasonable steps to notify Defendants, and each of
28 them, within a reasonable time that the Vehicle did not have the

1 quality that a buyer would reasonably expect and, further, 2 justifiably revoked acceptance of the nonconforming Vehicle.

3 On or about October 7, 2009, Plaintiff notified the 21. Manufacturer and Seller of their breach and justifiably revoked 4 5 acceptance of the nonconforming Vehicle under the Commercial Code sections 2607 and 2608. Plaintiff further demanded that the 6 7 Manufacturer cancel the sale, take back the nonconforming Vehicle, 8 refund all the money expended, pay the difference between the 9 value of the Vehicle as accepted and the value the Vehicle would 10 have had if it had been as warranted, and/or pay damages under the 11 Commercial Code sections 2711, 2714, and 2715. Defendants, and 12 each of them, have, however, refused to comply. Notification 13 Letter is in the possession of Defendants.

14 22. On or about October 7, 2009, Plaintiff also made a 15 demand upon Manufacturer and Seller for replacement or 16 restitution, pursuant to Song-Beverly. Defendants, and each of 17 them, knew of their obligations under Song-Beverly; however, 18 despite Plaintiff's demand, Defendants and each of them, have 19 intentionally failed and refused to make restitution or 20 replacement pursuant to Song-Beverly.

21 As a result of the acts and/or omissions of 23. the 22 Defendants, and each of them, Plaintiff has sustained damage in 23 the amount actually paid or payable under the contract, plus 24 prejudgement interest thereon at the legal rate. Plaintiff will 25 seek leave to amend this Complaint to set forth the exact amount 26 thereof when that amount is ascertained. 27 111

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1 24. As a further result of the actions of Defendants, and 2 each of them, Plaintiff has sustained incidental and consequential 3 damages in an amount yet to be determined, plus interest thereon 4 at the legal rate. Plaintiff will seek leave to amend this 5 Complaint to set forth the exact amount of incidental damages when 6 that amount is ascertained.

7 25. As a further result of the actions of Defendants, and 8 each of them, Plaintiff has sustained damages equal to the 9 difference between the value of the Vehicle as accepted and the 10 value the Vehicle would have had if it had been as warranted.

11 26. As a direct result of the acts and/or omissions of 12 Defendants, and each of them, and in pursuing Plaintiff's claim, 13 it was necessary for Plaintiff to retain legal counsel. Pursuant 14 to Song-Beverly, Plaintiff, in addition to their other remedies, 15 is entitled to the recovery of their attorneys' fees based upon 16 actual time expended and reasonably incurred, in connection with 17 the commencement and prosecution of this action.

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| | 8 | |
| 1 | COMPLAINT | |

SECOND CAUSE OF ACTION

2 (Breach of Express Warranty under Song-Beverly Warranty Act 3 against all Defendants)

27. Plaintiff realleges each and every paragraph (1-26) and
5 incorporates them by this reference as though fully set forth
6 herein.

7 28. The Vehicle had defects, malfunctions, misadjustments,
8 and/or nonconformities covered by the warranty that substantially
9 impaired its value, use, or safety to Plaintiff.

10 29. Plaintiff delivered the Vehicle to Manufacturer or its11 authorized repair facilities for repair.

12 30. Defendants, and each of them, failed to service or 13 repair the Vehicle to match the written warranty after a 14 reasonable number of opportunities to do so.

15 31. The acts and/or omissions of Defendants, and each of 16 them, in failing to perform the proper repairs, part replacements, 17 and/or adjustments, to conform the Vehicle to the applicable 18 express warranties constitute a breach of the express warranties 19 that the Manufacturer provided to Plaintiff, thereby breaching 20 Defendants' obligations under Song-Beverly.

21 32. Defendants, and each of them, failed to perform the 22 necessary repairs and/or service in good and workmanlike manner. 23 The actions taken by Defendants, and each of them, were 24 insufficient to make the Subject Vehicle conform to the express 25 warranties and/or proper operational characteristics of like 26 Vehicles, all in violation of Defendants' obligations under Song-27 Beverlv.

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1 On or about October 7, 2009, Plaintiff made a demand 33. 2 upon Manufacturer and Seller for replacement or restitution, 3 pursuant to Song-Beverly. Defendants, and each of them, knowing 4 their obligations under Song-Beverly, and despite Plaintiff's 5 demand, failed and refused to make restitution or replacement 6 according to the mandates of Song-Beverly. The failure of 7 Defendants, and each of them, to refund the price paid and payable 8 or to replace the Vehicle was intentional and justifies an award 9 of a Civil Penalty in an amount not to exceed two times 10 Plaintiff's actual damages.

11 34. As a result of the acts and/or omissions of Defendants, 12 and each of them, and pursuant to the provisions of the Song-13 Beverly, Plaintiff is entitled to replacement of the Vehicle or 14 restitution of the amount actually paid or payable under the 15 contract, at Plaintiff's election, plus prejudgment interest 16 thereon at the legal rate. Plaintiff will seek leave of Court to 17 amend this Complaint to set forth the exact amount of restitution 18 and interest, upon election, when that amount has been 19 ascertained.

20 35. Additionally, as a result of the acts and/or omissions 21 of Defendants, and each of them, and pursuant to Song-Beverly, 22 Plaintiff has sustained and is entitled to consequential and 23 incidental damages in amounts yet to be determined, plus interest 24 thereon at the legal rate. Plaintiff will seek leave of the court 25 to amend this complaint to set forth the exact amount of 26 consequential and/or incidental damages, when those amounts have 27 been ascertained.

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10 Complaint

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| 1 | 36. As a direct result of the acts and/or omissions of |
| 2 | Defendants, and each of them, and in pursuing Plaintiff's claim, |
| 3 | it was necessary for Plaintiff to retain legal counsel. Pursuant |
| 4 | to Song-Beverly, Plaintiff, in addition to other remedies, is |
| 5 | entitled to the recovery of their attorneys' fees based upon |
| 6 | actual time expended and reasonably incurred, in connection with |
| 7 | the commencement and prosecution of this action. |
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| 1 | THIRD CAUSE OF ACTION |
| 2 | (Breach of Written Warranty under Magnuson-Moss Warranty Act |
| . 3 | against all Defendants) |
| 4 | 37. Plaintiff realleges each and every paragraph (1-36) and |
| . 5 | incorporates them by this reference as though fully set forth |
| 6 | herein. |
| 7 | 38. Plaintiff is a "Consumer" as defined in the Magnuson- |
| 8 | Moss Warranty Act (hereinafter referred to as the "Warranty Act") |
| 9 | 15 USC 2301(3). |
| 10 | 39. The Seller is a "Supplier" and "Warrantor" as defined by |
| 11 | the Warranty Act, 15 USC 2301(4), (5). |
| 12 | 40. The Manufacturer is a "Supplier" and "Warrantor" as |
| 13 | defined by the Warranty Act, 15 USC 2301(4), (5). |
| 14 | 41. The Vehicle is a "Consumer Product" as defined in the |
| 15 | Warranty Act, 15 USC 2301(1). |
| 16 | 42. The Vehicle was manufactured, sold, and leased |
| | /purchased after July 4, 1975. |
| 18 | 43. The express warranty given by the Manufacturers |
| 19 | pertaining to the Vehicle is a "Written Warranty" as defined in |
| 20 | the Warranty Act, 15 USC 2301(6). |
| 21 22 | 44. The Seller is an authorized dealership/agent of the |
| 22 | manufacturer designated to perform repairs on Vehicles under |
| 23 | Manufacturer warranties. |
| 25 | 45. The above-described actions (failure to repair and/or |
| 26 | properly repair the above-mentioned defects, etc.), including failure to honor the written warranty, constitute a breach of the |
| 27 | written warranty by the Manufacturer and Seller actionable under |
| 28 | the Warranty Act, 15 USC $2310(d)(1)$, (2). |
| | 12 |

| • • • 7 | | |
|---------|--|--|
| 1 | 46. As a direct result of the Manufacturer and/or Seller's | |
| 2 | | |
| 3 | herein. Therefore, Plaintiff is entitled to a judgment and the | |
| 4 | | |
| 5 | acceptance has been properly revoked by Plaintiff and for damages | |
| 6 | | |
| 7 | price paid by Plaintiff for the Vehicle; (3) Cancellation of | |
| 8 | Plaintiff's retail installment contract and payment in full of the | |
| | balance of same; (4) Consequential, incidental, and actual damages | |
| | to be proved at trial; (5) Costs and expenses including actual | |
| | attorneys' fees reasonably incurred; (6) Prejudgment interest at | |
| | the legal rate; and (7) Such other relief the Court deems | |
| 13 | appropriate. | |
| 14 | 111 | |
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| | 13 | |
| | COMPLAINT | |

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| 1 | FOURTH CAUSE OF ACTION | | | | |
|---------|--|--|--|--|--|
| 2 | | | | | |
| 3 | (Breach of Implied Warranty under Magnuson-Moss Warranty Act against all Defendants) | | | | |
| 4 | | | | | |
| 5 | 47. Plaintiff realleges each and every paragraph (1-46) and | | | | |
| 6 | incorporates them by this reference as though fully set forth herein. | | | | |
| 7 | | | | | |
| 8 | 48. The above-described actions on the part of the Seller constitute a breach of the implied warranties of merchantability | | | | |
| 9 | actionable under the Warranty Act, 15 USC 2301(7), 2308, | | | | |
| 10 | | | | | |
| 11 | 49. As a direct result of the Seller's acts and/or | | | | |
| 12 | omissions, Plaintiff has suffered damages as set forth herein. | | | | |
| 13 | Therefore, Plaintiff is entitled to judgment against all | | | | |
| 14 | Defendants declaring acceptance has been properly revoked by | | | | |
| 15 | Plaintiff and for damages incurred in revoking acceptance, for a | | | | |
| 16 | refund of the purchase price paid by Plaintiff for the Vehicle, | | | | |
| 17 | for cancellation of Plaintiff's retail installment contract and | | | | |
| 18 | for payment in full by Defendants and all of them on the balance | | | | |
| 19 | of the installment contract, for consequential, incidental, and | | | | |
| 20 | actual damages, for costs, prejudgment interest at the legal rate, | | | | |
| 21 | for actual attorneys' fees reasonably incurred, and such other | | | | |
| 22 | relief the Court deems appropriate. | | | | |
| 23 | WHEREFORE, Plaintiff prays for judgment against all | | | | |
| 24 | Defendants, and each of them, as follows: | | | | |
| 25 | A. For replacement or restitution, at Plaintiff's election, | | | | |
| 26 | according to proof; | | | | |
| 27 | B. For incidental damages, according to proof; | | | | |
| 28 | C. For consequential damages, according to proof; | | | | |
| <u></u> | <u> </u> | | | | |
| | COMPLAINT | | | | |

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| | | | | | | | | |
| 1 | D. | For a civil penalty as provided in Song-Beverly, in an | | | | | | |
| 2 | | | | | | | | |
| 3 | actual damages; | | | | | | | |
| 4 | | | | | | | | |
| . 5 | F. | For costs of suit and expenses, according to proof; | | | | | | |
| 6 | G. | For the difference between the value of the Vehicle as | | | | | | |
| 7 | accepted and the value the Vehicle would have had if it | | | | | | | |
| 8 | had been as warranted; | | | | | | | |
| 9 | н. | For remedies provided in Chapters 6 and 7 of Division 2 | | | | | | |
| 10 | | of the Commercial Code; | | | | | | |
| 11 | I. | For pre-judgment interest at the legal rate; | | | | | | |
| 12 | J. | Such other relief the Court deems appropriate. | | | | | | |
| 13 | | | | | | | | |
| 14 | Date: | Respectfully submitted, | | | | | | |
| 15 | | CONSUMER LEGAL SERVICES, P.C. | | | | | | |
| 16 | | | | | | | | |
| 17 | | By: | | | | | | |
| | | M. Nicholas Nita, Esq. Jessica D. Lew, Esq. | | | | | | |
| 19 | | Attorneys for Plaintiff, SANDRA MORALES | | | | | | |
| 20 | | | | | | | | |
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| | 15 COMPLAINT | | | | | | | |
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100 West Broadway, Suite 5000 = Long Beach, CA 90802-4490 Tel 562. 606.1530 = Fax 562.268.1141 law@beattymyers.com

Our File No. TMS 0910161

November 6, 2009

VIA FACSIMILE AND CERTIFIED MAIL

M. Nicholas Nita Consumer Legal Services 1950 Sawtelle Blvd., Suite 250 Los Angeles, CA 90025

> Re: V. Toyota Motor Sales, U.S.A., Inc., et al. (CLRA Claim) Subject Vehicle: 2005 Toyota Corolla VIN: 1NXBR32E35Z

Dear Mr. Nita:

Our office represents Toyota Motor Sales, U.S.A., Inc. We have been asked to respond, on behalf of TMS and Toyota Central, to your letter of 10-7-09 requesting that our client repurchase the 2005 Toyota Corolla that was purchased by from Toyota Central on 1-18-08, as a TCUV.

In order to respond to your claim, we have done the following:

- 1. Reviewed the warranty history for the subject vehicle;
- 2. Reviewed the purchase records from Toyota Central;
- 3. Reviewed the repair orders from Toyota Central;
- 4. Reviewed the communication history with and; and
- 5. Reviewed the documentation that you sent to TMS.

Your letter fails to identify any specific problem with the subject vehicle. After reviewing the service history we were unable to identify any current or ongoing problems with the vehicle. We are also unaware of any instance where TMS failed to repair or conform the vehicle to the terms of the written limited warranty. Your client only had one service visit for an ECM malfunction,

M. Nicholas Nita November 6, 2009 Page 2

and one service visit for a transmission issue. The Song-Beverly Act requires at least two repair attempts for a given condition. Your client also refused to allow the dealership to attempt a repair of the drive belt noise complaint. Therefore, we are unable to comply with your request that the subject vehicle be repurchased. (If there are any current problems with the vehicle that you believe fall within the warranty coverage, please let us know and we would be happy to consider any additional information that you have.)

Your letter also accuses TMS and Toyota Central of violating certain provisions of the California Consumer Legal Remedies Act (Civil Code section 1750 et seq.). However, you have provided no factual information to support your allegations.

As a reminder, please be advised that TMS participates in an Informal Dispute Resolution Program with the National Center for Dispute Settlement (NCDS). This program is part of Toyota's commitment to provide, free of charge, an impartial and non-affiliated organization to promptly and equitably address your client's concerns. Also, the decision of NCDS is not binding on your client, but is binding on Toyota. Accordingly, if Ms. Morales continues to have concerns about the vehicle, we encourage her to contact NCDS at 1-866-272-4872.

Very truly yours,

JOHN W. MYERS IV

JWM:mj

TMS0910161\LETTERS\CLS\LETR01 110609



Case Report - 200710100059

Frog LA

Customer/Caller Summary:

Customer Name/Address:

Caller Phone: Caller Alt. Phone:

Case Summary:

| Case Title: Case Type: | Product; Abnormal Condition; ABS- Brakes; Other-Please Specify |
|---------------------------|--|
| Contact Method: | Accident |
| | Phone |
| Cust Attitude: | Concerned |
| Coding Type: | Complaint |
| Category: | Product |
| Problem Area: | Abnormal Condition |
| Component: | ABS- Brakes |
| Condition: | Other-Please Specify |
| VIN: | JTDBR32E670 |
| Dofu: | 01/08/2007 |
| Current Miles: | 11000 |
| Incident Miles: | 11000 |
| Model Year: | 2007 |
| Model Name: | Corolla |
| Region: | GST |
| District: | 13 |
| Dealer 1: | Van-Trow Toyota, 17027 |
| Selling Dealer: | Van-Trow Toyota, 17027 |

Case History:

Caller Seeks: to have \$8k rpr's paid for by Toy b/c computer failed. CAC Stated: CM closing case as veh repaired.cust to submit supporting docs, claims&photos to claims dept.

*** PHONE LOG 10/10/2007 06:24:16 AM DHenkenius

Caller (**Caller**, Father) states: daughter owns 07 Corolla. sts daughter was involved in accident. sts veh lost power & brakes. Date of accident 09/06, sts veh body has been rpr'd, sts veh currently located at toy dlr waiting for computer. cllr sts daughter only occupant & wearing seatbelt. sts daughter went to hospital next day & x-ray, sts was given some pain pills. sts point of impact approx 15-20 mph, sts lost power & ran into a steel pole(front impact), no...

*** NOTES 10/10/2007 06:34:36 AM DHenkenius

...airbag deployment. Cllr sts front bumper caved in, sts hood damaged, sts front bumper damaged. sts daughter?s head hit windshield. Cllr sts there was no warning lights on prior to accident. Cllr sts no prev accidents w/ veh. sts there was no fire. cllr fls veh died & caused accident b/c computer failed, fls concern should be rpr'd by toy. NCR apol & adv cllr have documented & opened case to case manager, adv expect a c/b within 1 bus dy

*** SUBCASE 200710100059-1 CREATED 10/11/2007 11:36:12 AM NRaye

*** NOTES 10/11/2007 02:29:37 PM NRaye ++OUTGOING CUST CALL++ father) who provided cm w/some info to complete legal tab \pounds will his daughter call CM spk w/ cm tomorrow.

*** PHONE LOG 10/12/2007 08:49:52 AM NRaye Action Type: Incoming call ++INCOMING CUST CALL++ Cllr Miss Nelson c/b sts traveling W. on Chinnier Rd@approx 55-60mph, attempting to make lft turn into excalibur parking lot, made turn going downhill, applied brakes then all of a sudden brakes & steering wheel locked up causing her to hit a handicap sign, causing damage to front end of veh, sts only occupant in veh, sts wore seatbelt, cust sts went to hosp next day, no hopilization the Dr. prescribed pain meds for soreness of back & neck, dashboard in normal cond, no downsizing. cllr sts veh previously involved in hit & run accident, veh has not been to dlr previously for brake or steering wheel concerns, no airbag deployment, veh was driveable after accident & has been repaired@Parkers auto body-ph#318-396-5870. Cllr fls main eng computer failed causing brakes & steering wheel to lock up causing her to hit the pole. Cust sks Toy to pay hosp, tow bill & compensation for missed work. cllr put her her Dad (dad) on the phone. CM apol, adv due to veh being repaired, he may send supporting ltrs, photos & claims does to our claims dept. cm provided cust w/address & adv once the paperwork is received he will be notified by mail or phone. cm closing case.

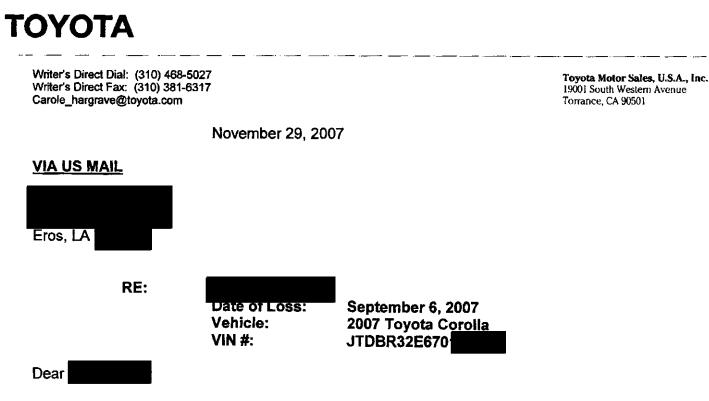
*** CASE CLOSE 10/12/2007 08:53:39 AM NRaye CM closing case as veh repaired.cust to submit supporting docs,claims&photos to claims dept.

*** SUBCASE 200710100059-1 CLOSED 10/12/2007 08:54:45 AM NRaye

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Activity Summary:

| Activity | Date/Time | Oriç | jinator Ac | ditional Information |
|---------------|----------------|-----------|------------|---|
| Subcase Close | 10/12/2007 08: | :54:45 AM | NRaye | Number = 200710100059-1, Status = Action CAC, Resolution Code = Full |
| Case Close | 10/12/2007 08: | :53:39 AM | NRaye | Status = Closed, Resolution Code = Full, State = Open. |
| Modify | 10/12/2007 08: | :53:27 AM | NRaye | into WIP default and Status of Action CAC. |
| Phone Log | 10/12/2007 08: | :49:52 AM | NRaye | Start = 10/12/2007 08:29:50 AM, End = 10/12/2007 08:49:52 AM, Contact = |
| Notes | 10/11/2007 02: | :29:37 PM | NRaye | Log notes. |
| Modify | 10/11/2007 02: | :29:37 PM | NRave | into WIP default and Status of Action CAC. |
| Modify | 10/11/2007 11: | :36:21 AM | NRave | into WIP default and Status of Action CAC. |
| Admin Subcase | 10/11/2007 11: | :36:12 AM | NRaye | Number = 200710100059-1, Created in WIP default with due date 10/11/2007 07:15:53 PM |
| Set Originato | 10/11/2007 11: | :35:44 AM | NRave | Set Originator: by NRave |
| Accept | 10/11/2007 11: | :35:28 AM | NRaye | from Queue Toyota Resolution Queue to WIP default. |
| Dispatch | 10/10/2007 06: | :35:41 AM | DHenkenius | from WIP default to Queue Toyota Resolution Queue. |
| Modify | 10/10/2007 06: | :35:30 AM | DHenkenius | into WIP default and Status of Action CAC. |
| Notes | 10/10/2007 06: | :34:36 AM | DHenkenius | Log notes. |
| Phone Log | 10/10/2007 06: | :24:16 AM | DHenkenius | Start = 10/10/2007 06:11:25 AM, End = 10/10/2007 06:24:16 AM, Contact = |
| Modify | 10/10/2007 06: | :24:15 AM | DHenkenius | into WIP default and Status of Action CAC. |
| Create | 10/10/2007 06: | :11:25 AM | DHenkenius | Contact =, Priority = Customer, Status = Action CAC. |



This letter is in response to your communication with our Customer Relations Department in regards to the above referenced incident.

It is our understanding that you reported that was turning into a parking lot, made a turn going downhill, traveling at approximately 15-20 mph, applied the brake and all of a sudden the brakes and steering wheel locked up causing her to hit a handicap sign.

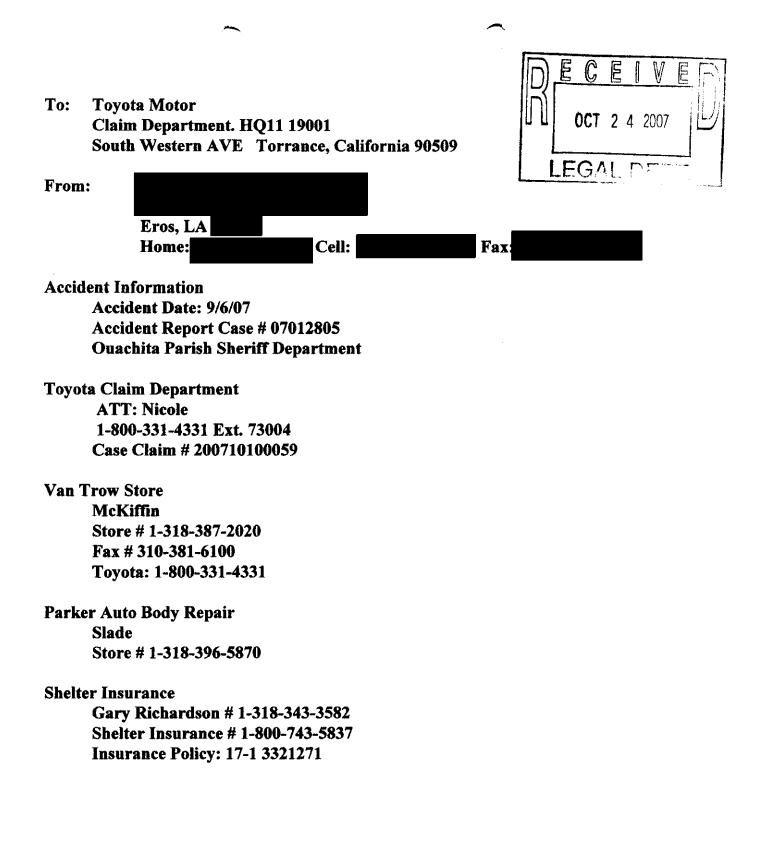
It is your opinion that the engine computer failed causing the brakes and steering wheel to lock up. According to the accident report **According** reported that she was unable to steer the vehicle and the brakes did not work. She did not state that the engine quit or that the steering wheel "locked up". Even if the vehicle had stalled the steering and brakes would still be operative and at the speed of 15-20mph she should have been able to both steer and brake the vehicle.

We are very sorry about this most unfortunate incident however based on the information we have received it is our opinion that this incident was not the result of any type of defect with the vehicle. Thank you for allowing us to address your concerns in this matter.

Very truly yours,

MAND

Carole A. Hargrave Claims Manager Toyota Motor Sales, U.S.A., Inc.





Van-Trow Toyota, Inc. (318) 367-2020 2015 Louisville Avenue • Box 4026 MONROE, LOUISIANA 71211-4026

DISCLAIMER OF WARRANTIES-The warrantes appring to this parts by techner's international settler express or impled, including any implies nor suborises any other person to assume for it any subbit, in connection with Parkade of this participants are brain to the settler table to the other assume the assume the assume to property, demages for loss of use loss of type. One of the participant of any other assume the property demages for loss of use loss of type. One of profiles or proceed or with the settler of the participant or any other assume the participant. The participant of type and the participant of the participant of type and the participant of the participant

NOT RESPONSIBLE FOR ANY CO RADIOS, CO ANTENNAS, TAPE DECKS, TAPES OR ANY PERSONAL ITEMS LEFT IN THIS VEHICLE A \$5.00 PER DAY CHARGE MAY BE ASSESSED AFTER THE CUSTOMER HAS BEEN NOTIFIED FOR VEHICLE PICKUP.

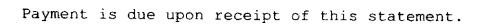
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| Business Phone | COMMENTS | ······ | | 10/08/07 | <u>.</u> |
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S WRECKER SERVICE *ROLL WITH U4 F10. Box 2293 WEST MONROF, LA 71294 318-398-9257 or 318-325-1637

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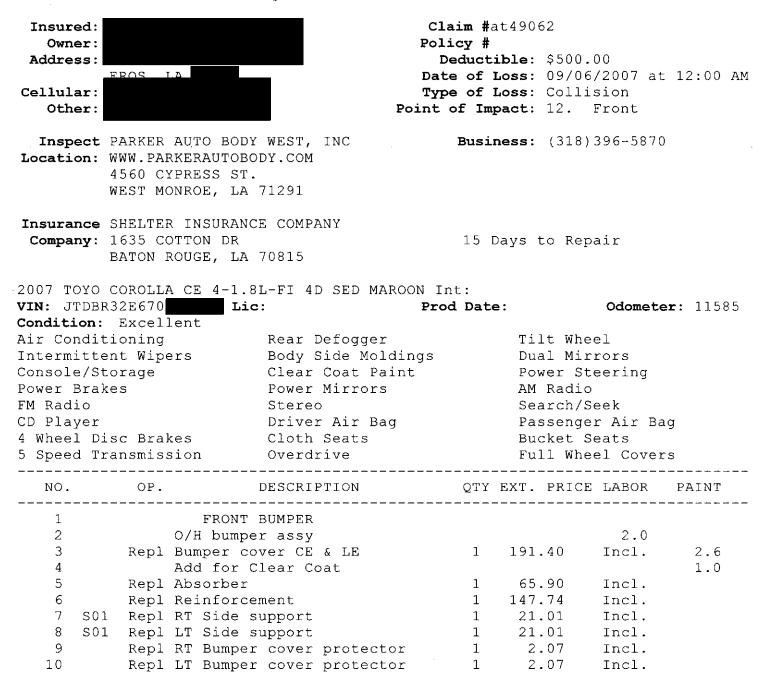
10/10/2007 at 03:52 PM 57584

PARKER AUTO BODY WEST, INC Federal ID #:721407623 "WHERE QUALITY COMES FIRST" WWW.PARKERAUTOBODY.COM 4560 CYPRESS ST.

WEST MONROE, LA 71291 (318)396-5870 Fax: (318)396-6353

SUPPLEMENT OF RECORD 4 WITH SUMMARY

Written By: SLADE FRITH 10/03/2007 10:25 AM Adjuster: WHITLEY, YVONNE



SUPPLEMENT OF RECORD 4 WITH SUMMARY

2007 TOYO COROLLA CE 4-1.8L-FI 4D SED MAROON Int:

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| NO. | OP. | DESCRIPTION | QTY | EXT. 1 | PRICE | LABOR | PAINI |
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| | | RT Hole cover LT Hole cover | 1 | 29.4 | 49 | Incl. | |
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| | | Emblem | | 21. | | Incl. | |
| | - | | | | | | |
| | | RT Headlamp assy CE & LE | 1 | 159.0 | 08 | Incl. | |
| | | LT Headlamp assy CE & LE | | | | Incl. | |
| | - | Aim headlamps | | | | 0.5 | |
| 20 | | RADIATOR SUPPORT | | | | | |
| 21# S01 | | D&R wiring harness | 1 | | | 1.0 | |
| | | Radiator support | 1 | 320. | 93 s | 8.5 | 1.5 |
| 23 | | Evacuate & recharge | | | m | 1.4 M | Ι |
| 24 | | Refrigerant recovery | | | 111 | | [|
| | Repl | Lock support | 1 | 40.2 | 24 | Incl. | |
| 26 | * | COOLING | | | | | |
| 27**S04 | Repl | A/M Radiator assy auto trans | 1 | 155. | 00 m | Incl. M | I |
| 28 | Repl | Shroud w/o XRS | 1 | 73. | 45 m | Incl. M | I |
| 29 | _ | Fan blade | 1 | 53. | 15 m | Incl. M | Ι |
| 30 | | Fan blade retainer nut | 1 | 8. | 71 | | |
| 31 | _ | Fan motor | | | | Incl. M | [|
| 32 | | RT Radiator assy upper | | 3. | | | |
| | - | insulator | | | | | |
| 33 | Repl | LT Radiator assy upper | 1 | 3. | 29 | | |
| | - | insulator | | | | | |
| 34 S01 | Repl | RT Radiator assy lower | 1 | 11. | 32 | | |
| | _ | bracket Japan built | | | | | |
| 35 S01 | Repl | LT Radiator assy lower | 1 | 11. | 32 | | |
| | | bracket Japan built | | | | | |
| 36 | | AIR CONDITIONER & HEATER | | | | | |
| 37# S01 | Repl | Refrigerant R-134a | 1 | 23. | 70 | | |
| 38# S01 | Repl | Refrigerant R-134a AC compressor oil A/M Condenser US built from | 1 | 4. | 49 | | |
| 39**S04 | Repl | A/M Condenser US built from | 1 | 207. | <u>00</u> m | Incl. M | I |
| | | 5/04 | | | | | |
| 40 | | Deduct for Overlap | | | | -0.5 M | 1 |
| 41# S01 | - | Coolant (Extended life) | 1 | 18. | | | |
| 42 S01 | Repl | Discharge hose all | 1 | 85. | 53 m | 0.5 M | I |
| 43 | | HOOD | | | | | |
| 44# S01 | | Mask jambs | 1 | | | | 0.5 |
| 45 | Repl | Hood | 1 | 284. | 50 | 1.0 | 2.4 |
| 46* | | Add for Clear Coat | | | | | 1.0 |
| 47 | | Add for Underside (Complete) | | | | | 1.4 |
| 48 | _ | Add for Clear Coat | _ | . | 6 0 | | 0.3 |
| 49 | - | Insulator | 1 | 128. | | Incl. | ~ - |
| 50 | | RT Hinge | 1 | 24. | | 0.3 | 0.3 |
| 51 | - | Insulator retainer | 8 | 9. | | 0 0 | ~ ~ ~ |
| 52 | | LT Hinge | 1 | 24. | | 0.3 | 0.3 |
| 53 | Кер⊥ | Lock assy | 1 | 42. | 4/ | Incl. | |

10/10/2007 at 03:52 PM

Job Number: 5522

57584

SUPPLEMENT OF RECORD 4 WITH SUMMARY

2007 TOYO COROLLA CE 4-1.8L-FI 4D SED MAROON Int:

| NO. | | OP. | DESCRIPTION | QTY | EXT. P | RICE | LABOR | PAINT |
|----------|------------|------|---------------------------------|-----|--------|------|--------------|-------------------|
| 54 | | | WINDSHIELD | | | | | |
| 55# | S01 | Repl | Urethane kit | 2 | 50.0 | 0 | | |
| 56 | S01 | R&I | RT Wiper arm | | | | Incl. | |
| 57 | S01 | Repl | Molding w/o cold spec w/o XRS | 1 | 48.5 | 9 | Incl. | |
| 58 | S01 | Repl | Windshield NAGS green | 1 | 185.6 | 5 | 2.3 G | |
| 59 | S01 | R&I | LT Wiper arm | | | | Incl. | |
| 60 | | | FENDER | | | | | |
| | S01 | | D&R wiring harness | 1 | | | 1.0 | |
| 62* | | - | RT Apron assy | | | S | 2.0 | 1.0 |
| 63 | | | Overlap Major Non-Adj. Panel | | | | | -0.2 |
| 64 | | | Add for Clear Coat | | | | | 0.2 |
| | S01 | | D&R wiring harness | 1 | | | 1.0 | |
| 66* | | | LT Apron assy | | | S | 2.0 | 1.0 |
| 67 | | | Overlap Major Non-Adj. Panel | | | | | -0.2 |
| 68 | | | Add for Clear Coat | | | | | 0.2 |
| | | | RT Front support | 1 | 42.8 | 1 | 0.5 | 0.2 |
| 70# | | + | PULL SHEET METAL TO REPLACE | | | | 1.0 | |
| 71* | | - | RT Sidemember assy | | | s | 2.0 | |
| 72 | | | Overlap Major Non-Adj. Panel | | | | | -0.2 |
| 73 | | | Add for Clear Coat | - | | | | 0.2 |
| 74# | | | PULL FRAME LT & RT | 1 | | | 7.0 | 1 0 |
| 75* | | Rpr | LT Sidemember assy | | | S | 3.0 | 1.2 |
| 76 | | | Overlap Major Non-Adj. Panel | | | | | -0.2 |
| 77 | 0.01 | | Add for Clear Coat | | | | 0 5 | 0.2 |
| | S01 S01 | крг | RT Fender all | | | | 0.5 | $\frac{0.0}{0.5}$ |
| 80 | 501 | Dlad | Add for Edging LT Fender all | | | | | 1.0 |
| 80 81 | | Бтиа | STEERING COLUMN | | | | | 1.0 |
| 82* | | Pnr | ADJUST TILT MECHANISM | | | m | 1.0 M | |
| 83 | S01 | крг | ENGINE / TRANSAXLE | | | m | <u>1.0</u> M | |
| 84 | S01 | Penl | Intake manifold | 1 | 311 / | 0 m | 2.2 M | |
| 85 | S01 | webr | COWL | 7 | J11.7 | 0 11 | 2.2 11 | |
| 8.6 | S01 | RLT | RT Cowl grille w/o cold spec | | | | Incl. | |
| 00 | DOT | IVGI | w/o XRS | | | | INCI. | |
| 87# | S01 | Subl | Hazardous waste removal | 1 | 5.0 | 0 | | |
| | S02 | | AUTHORIZATION AND DIRECTION | | 0.0 | 0 | | |
| 001 | DOL | | TO PAY LOCATED IN FILE | - | | | | |
| | | | Subtotals ==> | | 3275.7 | 0 | 40.9 | 17.4 |
| | | | | | | | | |
| | | | Parts | | | | | 3275.70 |
| | | | Body Labor | 33 | .6 hrs | @\$. | 45.00/hr | |
| | | | Paint Labor | | | | 45.00/hr | |
| | | | Mechanical Labor | | | | 60.00/hr | |
| | | | Glass Labor | 2 | .3 hrs | @\$ | 45.00/hr | 103.50 |
| | | | Paint Supplies | 17 | .4 hrs | 0\$ | 27.00/hr | 469.80 |
| | | | | | | | | |

Job Number: 5522

10/10/2007 at 03:52 PM 57584

SUPPLEMENT OF RECORD 4 WITH SUMMARY

2007 TOYO COROLLA CE 4-1.8L-FI 4D SED MAROON Int:

| SUBTOTAL | | | | Ś | 6444.00 |
|----------------|---|---------|----------|---------|---------|
| * | ~ | CAAA 00 | 0 | • | |
| Sales Tax | Ş | 6444.00 | la la | 9.6000% | 010.02 |
| | | | | | |
| GRAND TOTAL | | | | Ś | 7062.62 |
| Olding Tolling | | | | т | 1002.02 |
| | | | | | |
| ADJUSTMENTS: | | | | | |
| Deductible | | | | | 500.00 |
| Deddeeibie | | | | | 000.00 |
| | | | | | |
| CUSTOMER PAY | | | | \$ | 500.00 |
| INSURANCE PAY | | | | Ś | 6562.62 |
| | | | | Ť | ~~~~ |

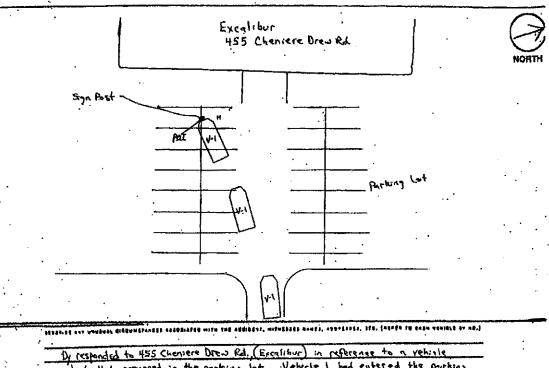
SOMETIMES AFTER THE WORK HAS BEEN STARTED, ADDITIONALLY DAMAGED OR WORN PARTS ARE DISCOVERED WHICH WERE NOT EVIDENT ON FIRST INSPECTION. THIS DAMAGE REPORT DOES NOT COVER OR INCLUDE ANY ADDITIONAL PARTS OR LABOR WHICH MAY BE REQUIRED. ALL PARTS PRICES ARE SUBJECT TO INVOICE AND PARTS ARE SUBJECT TO MANUFACTURERS WARRANTY.

ANY PERSON WHO KNOWINGLY PRESENTS A FALSE OR FRAUDULENT CLAIM FOR PAYMENT OF A LOSS OR BENEFIT OR KNOWINGLY PRESENTS FALSE INFORMATION IN AN APPLICATION FOR INSURANCE IS GUILTY OF A CRIME AND MAY BE SUBJECT TO FINES AND CONFINEMENT IN PRISON.

Estimate based on MOTOR CRASH ESTIMATING GUIDE. Unless otherwise noted all items are derived from the Guide ARM8427, CCC Data Date 09/01/2007, and the parts selected are OEM-parts manufactured by the vehicles Original Equipment Manufacturer. OEM parts are available at OE/Vehicle dealerships. OPT OEM (Optional OEM) or ALT OEM (Alternative OEM) parts are OEM parts that may be provided by or through alternate sources other than the OEM vehicle dealerships. OPT OEM or ALT OEM parts may reflect some specific, special, or unique pricing or discount. OPT OEM or ALT OEM parts may include "Blemished" parts provided by OEM's through OEM vehicle dealerships. Asterisk (*) or Double Asterisk (**) indicates that the parts and/or labor information provided by MOTOR may have been modified or may have come from an alternate data source. Tilde sign (~) items indicate MOTOR Not-Included Labor operations. Non-Original Equipment Manufacturer aftermarket parts are described as AM, Qual Repl Parts or Comp Repl Parts which stands for Competitive Replacement Parts. Used parts are described as LKQ, Qual Recy Parts, RCY, or USED. Reconditioned parts are described as Recond. Recored parts are described as Recore. NAGS Part Numbers and Benchmark Prices are provided by National Auto Glass Specifications. Labor operation times listed on the line with the NAGS information are MOTOR suggested labor operation times. NAGS labor operation times are not included. Pound sign (#) items indicate manual entries. Some 2006 vehicles contain minor changes from the previous year. For those vehicles, prior to receiving updated data from the vehicle manufacturer, labor and parts data from the previous year may be used. The Pathways estimator has a complete list of applicable vehicles. Parts numbers and prices should be confirmed with the local dealership.

CCC Pathways - A product of CCC Information Services Inc.

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Insident that encurred in the paptring let. Velocie I had entered the parties, Insident that encurred in the paptring let. Velocie I had entered the parties, lot from Chennere Drew Ed., crossed the marked packing places, gold hit of instal sign post set in the parking let. There was being damage to the front of vehicle I and the part was leaving from the impact. Driver I stated that she was unable to steer the velocie and the braines wouldn't work. The velocie was backed up approx 20 feet after the impact. The owner called, and had the velocie towed by warren's wreeker Service. The driver had hit her bread on the widsheld during the impact. She and her father, whe was an scene refused medical treatment.

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STATE OF LOUISIANA PA

PARISH OF OUACHITA

4TH JUDICIAL DISTRICT COURT SEP 0 8 2008

SHELTER MUTUAL INSURANCE COMPANY

VERSUS NO. 08-3364

TOYOTA MOTOR CORPORATION and TOYOTA MOTOR SALES, U.S.A., INC.

KATHY G. REAGAN

BY:_____ DEPUTY CLERK

FILED:

PETITION FOR DAMAGES

NOW INTO COURT, through undersigned counsel, comes petitioner, Shelter Mutual Insurance Company (hereinafter referred to as "Shelter"), a foreign insurance company authorized to do and doing business in this parish and state, who respectfully shows as follows:

1.

Named defendants herein is: Toyota Motor Corporation, believed to be a foreign corporation authorized to do and doing business in this parish and state, and Toyota Motor Sales, U.S.A., Inc., believed to be a foreign corporation authorized to do and doing business in this parish and state who is liable unto petitioners for the following reasons, to wit:

On or about September 6, 2007, **September 6** was attempting to park a 2007 Toyota Corolla owned by Alan Nelson, at the Excalibur Family Fun Center in West Monroe, Louisiana.

2.

3.

Due to a fault in the engine computer, the engine died, causing the steering wheel to lock and causing **causing** to hit a pole in the parking lot.

4.

As a result of the above described collision, Excalibur Family Fun Center sustained damages totaling \$500.00.

5.

| Petitioner shows that its insured, | , was seen at Glenwood Regional Medical |
|--|--|
| Center on September 7, 2007. She has incurred medi | cal bills totaling \$723.85, which was paid by |
| Shelter Mutual Insurance Company. | CASE ASSIGNED TO: |
| Shorton Matalan Inducation Company. | AL AFAT A |

6.

Petitioner shows that the legal cause of the accident described above and all resulting

damages was caused by a fault in the engine computer, which was covered under the car's warranty.

7.

Petitioner shows that the car was taken to Van-Trow Toyota and was repaired under the warranty.

8.

At all pertinent times herein, there was in full force and effect a policy of automobile insurance issued by Shelter to and in favor of **Constant of the provided insurance coverage for** the damages sustained in this accident. Shelter paid to or on behalf of **Constant of \$7,743.83**, representing the amount of property damage and medicals, as to result of the September 6, 2007 accident.

9.

Pursuant to the Shelter policy, as a result of said payments, Shelter is legally and conventionally subrogated to the rights of the extent of its payments by virtue of law and the policy contract, and is entitled to reimbursement both legally and conventionally from defendants to the extent of these payments to and on behalf of their insured pursuant to their policy.

10.

Petitioner shows that because of the defect in the vehicle, that defendants, Toyota Motor Corporation and Toyota Motor Sales, U.S.A., Inc., are legally liable to the plaintiff herein for the \$7,743.83 it has paid in connection with the 9/6/07 accident.

WHEREFORE, petitioner prays that defendants, Toyota Motor Corporation and Toyota Motor Sales, U.S.A., Inc. be duly cited and served with a copy of this Petition for Damages and that after all legal delays and due proceedings are had herein, there be judgment herein and in favor of **Shelter Mutual Insurance Company** and against defendants for damages as are reasonable under the premises, along with legal interest from the date of judicial demand until paid and for all costs of these proceedings.

Respectfully submitted,

HUDSON, POTTS & BERNSTEIN, L.L.P. P.O. Drawer 3008 Monroe, Louisiana 71210-3008 (318) 388-4400 BY: Jan P. Christiansen Bar Roll No.20142

Please serve defendants:

TOYOTA MOTOR CORPORATION THROUGH ITS ÅGENT FOR SERVICE PROCESSOR: C T CORPORATION SYSTEM, 5615 CORPORATE BLVD., STE. 400B BATON ROUGE, LA 70808

and

TOYOTA MOTOR SALES, U.S.A., INC. THROUGH ITS AGENT FOR SERVICE PROCESSOR: C T CORPORATION SYSTEM, 5615 CORPORATE BLVD., STE. 400B BATON ROUGE, LA 70808

CERTIFIED TRUE COPY

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SEP 0 8 2008 BY Come DEPUDY CLERK 4TH JUDICAL DISTRICT COURT OUACHITA PARISH, LA



| DAVID J. GORBERG & ASSOCIATE By: DAVID J. GORBERG Identification No. 53084 1234 Market Street Suite 2040 Philadelphia, PA 19107 (215) 563-7210 | S, P.C. Attorney for Plaintiff | |
|---|---|------------------------------------|
| | COURT OF COM | MON PLEAS |
| Norristown, PA | : : PHILADELPHIA | COUNTY |
| VS. | : : TERM, 2007 | JULY 2007 |
| TOYOTA MOTOR SALES, USA 19001 S. Western Avenue Torrance, CA 90509 | : : : NO. | 003115 |
| | COMPLAINT | |
| Commonwealth of Pennsylvania, resid | or Sales, USA, is a busines | |
| | PACKCDOUND | |
| 3. Plaintiff incorporates b | BACKGROUND by reference paragraphs 1 a | nd 2 as fully as if set forth here |
| length. | | |
| 4. On or about May 29, 2 | 2006, Plaintiff purchased a | 2005 Toyota Corolla LE |

.

(hereinafter referred to as the "vehicle") manufactured and warranted by Defendant bearing the Vehicle Identification Number 1NXBR32E55**7**. The vehicle was purchased and registered in the Commonwealth of Pennsylvania.

5. The price of the vehicle, including registration charges, document fees, sales tax, and interest but, <u>excluding</u> other collateral charges not specified, totaled \$29,310.00.

6. Plaintiff avers that as a result of the ineffective repair attempts made by Defendant through its authorized dealer, the vehicle cannot be utilized for the purposes intended by Plaintiff at the time of acquisition.

7. In consideration of the purchase of the above vehicle, Defendant, issued to Plaintiff several warranties, fully outlined in the warranty booklet.

8. On or about May 29, 2006, Plaintiff took possession of the above mentioned vehicle and experienced nonconformities, which substantially impaired the use, value and/or safety of the vehicle.

9. Said nonconformities consisted of, but were not limited to defective engine.

10. The nonconformities violate the express written warranties issued to Plaintiff by Defendant.

11. Plaintiff avers the vehicle has been subject to repair more than three (3) times for the same nonconformities, and the nonconformities remains uncorrected.

12. Plaintiff has delivered the nonconforming vehicle to an authorized service and repair facility of the defendant on numerous occasions. After a reasonable number of attempts, Defendant was unable to repair the nonconformities.

13. The vehicle continues to exhibit defects and nonconformities which substantially impair it's use, value and/or safety.

14. Plaintiff avers the vehicle has been subject to additional repair attempts for defects and/or nonconformities and/or conditions for which the Defendant and or it's authorized service center, may not have maintained records.

15. Plaintiff seeks relief for losses due to the nonconformities and defects in the above mentioned vehicle in addition to attorney fees and all court costs.

COUNT I MAGNUSON-MOSS FEDERAL TRADE COMMISSION IMPROVEMENT ACT

16. Plaintiff hereby incorporates all facts and allegations set forth in this Complaint by reference as if fully set forth at length herein.

17. Plaintiff is a "Consumer" as defined by 15 U.S.C. §2301(3).

18. Defendant is a "Warrantor" as defined by 15 U.S.C. §2301(5).

19. Plaintiff uses the subject product for personal, family and household purposes.

20. By the terms of the express written warranties referred to in this Complaint, Defendant agreed to perform effective warranty repairs at no charge for parts and/or labor.

21. Defendant failed to make effective repairs.

22. As a direct and proximate result of Defendant's failure to comply with the express written warranties. Plaintiff has suffered damages and, in accordance with 15 U.S.C. §2310(d) (1), Plaintiff is entitled to bring suit for such damages and other legal and equitable relief.

23. Section 15 U.S.C. §2310 (d) (1) provides:

If a consumer finally prevails on an action brought under paragraph (1) of this subsection, he may be allowed by the Court to recover as part of the

judgment a sum equal to the amount of aggregate amount of costs and expenses (including attorney fees based upon actual time expended), determined by the Court to have been reasonably incurred by the Plaintiff for, or in connection with the commencement and prosecution of such action, unless the Court, in its discretion shall determine that such an award of attorney's fees would be inappropriate.

24. Plaintiff avers that upon successfully prevailing upon the Magnuson-Moss claim herein, all attorney fees are recoverable and are demanded against the Defendant.

WHEREFORE, Plaintiff respectfully demands judgment in his favor and against the Defendant in an amount equal to three (3) times the purchase price of the subject vehicle, plus all available collateral changes and attorney fees. Amount not in excess of \$50,000.00.

COUNT II UNIFORM COMMERCIAL CODE

25. Plaintiff hereby incorporates all the paragraphs of this Complaint by reference as if fully set forth at length herein.

26. The defects and nonconformities existing within the vehicle constitute a breach of contractual and statutory obligations of the Defendant, including but not limited to the following;

- a. Breach of Express Warranty
- b. Breach of Implied Warranty of Merchantability
- c. Breach of Implied Warranty of Fitness For a Particular Purpose.
- d. Breach of Duty of Good Faith.

27. The purpose for which Plaintiff purchased the vehicle include but are not limited to his personal, family and household use.

28. At the time of this purchase and at all times subsequent thereto, Plaintiff has justifiably relied upon Defendant's express warranties and implied warranties of fitness for a particular purpose and implied warranty of merchantability.

29. At the time of the purchase and at all times subsequent thereto, Defendant was aware Plaintiff was relying upon Defendant's express and implied warranties, obligations, and representations with regard to the subject vehicle.

30. Plaintiff has incurred damages as a direct and proximate result of the breach and failure of Defendant to honor its express and implied warranties.

31. Such damages include, but are not limited to, the purchase price of the vehicle plus all collateral charges, including attorney fees and costs, as well as other expenses, the full extent of which are not yet known.

WHEREFORE, Plaintiff respectfully demands judgment in his favor and against the Defendant in an amount equal to three (3) times the purchase price of the subject vehicle, plus all available collateral changes and attorney fees. Amount not in excess of \$50,000.00.

COUNT III <u>PENNSYLVANIA UNFAIR TRADE PRACTICES AND</u> <u>CONSUMER PROTECTION CLAIM</u>

32. Plaintiff hereby incorporates all the paragraphs of this Complaint by reference as if set forth at length herein.

33. The Unfair Trade Practices and Consumer Protection Law defines unfair methods of competition to include the following:

(xiv). Failing to comply with the terms of any written guarantee or warranty

given to the buyer at, prior to, or after a contract for the purchase of goods or services is made.

34. Plaintiff, as a Pennsylvania resident, believes, and therefore, avers the reckless, wanton and willful failure of Defendant to comply with the terms of the written warranty constitutes an unfair method of competition.

35. Section 201-9.2(a) of the <u>Unfair Trade Practices and Consumer Protection</u> <u>Law,</u> authorizes the Court, in its discretion, to award up to three (3) times the actual damages sustained for violations of the Act.

WHEREFORE, Plaintiff respectfully demands judgment in his favor and against the Defendant in an amount equal to three (3) times the purchase price of the subject vehicle, plus all available collateral changes and attorney fees. Amount not in excess of \$50,000.00.

DAVID J. GORBERG & ASSOCIATES, P.C.

BY: DAVID J/GORBERG, ESQUIRE Attorney for Plaintiff

VERIFICATION

The undersigned verifies that the Civil Action Complaint is based on information furnished to counsel in the preparation c f his/her Lemon Law and/or Breach of Warranty lawsuit. The language of the Civil Action Complaint is that of counsel and not of signer. Signer verifies that the information supplied to counsel is true and correct to the best of his/her knowledge, information and belief. The contents of the Civil Action Complaint is that of counsel and not of signer. This verification is made subject to the penalties of 18 Pa. C.S. 4904 relating to unsworn falsification to authorities.

Vator

Date: 6/19/07

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| USED CAR TRADE-IN INFORMATION SELI MACLA 625 MILLAGE 134700 MODEL 1994 MINULE IVVEEZZCXR5 YEAR 1994 MILLAGE IVVEEZZCXR5 TAG# FXE4590 Exr0PHO1/071LE# INSURANCE SAFE AUTO COMPANY POLICY # | DR WHITE TRIM LE STOCK NO. TP8506 BOAT NO LOCATE | E ZIP CO BUS. PHONE COROLLA I MODEL MILEAGE |
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| TINANCIAL SERVICES | | Account Number: |
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| Buyer (and Co-Buyer) - Name(6) and Address(es) (include County and Zip Code) | Dealer Number: 371 Creditor (Seller) - Name and Business Ac | |
| พื่อสี่สัาร่าวีพิพิ PA | CONICELLI TOYOTA 1200 RIDGE PIKE CONSHOHOCKEN PA 19 | 3428 |

Meening of Words. In this contract, the words 'you," 'your' and 'yours' refer to the Buyer and Co-Buyer, if any. The word "Creditor' refers to the Creditor (Seller) named above and, after assignment, to Toyota Motor Credit Corporation ("TMCC") and any subsequent assignee.

Who is Bound. You may buy the vehicle described below for cash or on credit. The cash price is shown below as "Cash Price". The credit price is shown below as "Total Sale Price". By signing this con-tract, you choose to buy the vehicle on credit linder the terms on the front and back of this contract and you are individually liable to the Creditor for any amount due.

I Vehicle. You agree to buy and the Creditor agrees to sell the following vehicle:

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| Description of Vehicle. You agree to buy and the creater ag | | Primery Use for Which Purchased |
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| New Used of Dema Year Make and Model . | | CApersonal D agricultural |
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| ITEMIZATION OF THE AMOUNT FININC | ED · | | • | | 9 | 18090 | 30 (1) |
| 1 Cash Price (including any accessor es, | services, and taxes) | | -1000.00 | | | | |
| 2 Total Downpayment = Net Trade-in \$ | , 200,00 + Casi | | | | ······································ | 1200. | 00 (2) |
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| 1 | Year | Make | Model | | 1 | s 1689D. | 30 (3) |
| 3 Unpaid Balance of Cash Price (1 minus | 2) | | | | | · · · · · · · · · · · · · · · · · · · | |
| 4 On & Chorace Including Amounts Paid | to Others on Your Behalf (Si | eller may retain, or receiv | ve a portion of mese an | iounis): | | | |
| A Cost of Required Physical Dama je I/ | nsurance Paid to the Insurance | ce Company Named Belo | ow'- Covering | ¢. | N/A | | |
| Demons to the Vabicle | | | | | | | |
| B Cost of Optional Credit Insurance Pa | ld to the Insurance Company | y or Companies Named | Below | ۰. ۲ | N/A | | |
| | v Accident and Health \$ | នាវុក | | ° | | • | |
| C Cost of Optional Mechanical Breakd | own Protection Paid to the M | BP Company Named Be | slow - Covering | ¢ | 960.00 | | |
| Certain Mechanical Repairs | LUTUIR EXTICA LA | WE | | * | 5.00 | | |
| D Lien Notation Fee Paid to Public: Off | | | | | 14,00 | | |
| E Government License and/or Registra | ation Fees 14.00 | REG.FEE 15.4 | | * | 37.95 | | |
| F Government Certificate of The Fees | 22.50/ONLINE | | J | * | | | |
| G Other Charges (Creditor must den | lify who will receive payment | and describe purpose) DOC FEE | | ¢ | 55.00 | yoga tarisyi | |
| to CONICELLI TOTOT | A for | CALL COMPLEXES | | ¥ | 350,00 | | |
| D GUARANTEED ATTO | | | , | | | \$ 1421 | .95 (|
| Total Other Charges and Amounts I | Paid to Others on Your Behal | f | , | | | s 18312 | .25 (|
| 5 Amount Financed - Unpaid Balar co (| 3+4) | | | | | \$ 9797 | .75 (|
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| acceptable to the Cr | editor, You may put | ichase mechanical brea Ichase mechanical brea | kdown protection (| under this co | ontract by signing below | and agreeing to p | ey the additional co | ost, which is a | hown in 4C of 17 |
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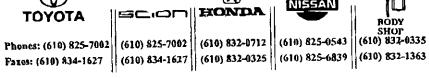
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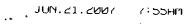
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Service Dept. Hours: Man. St. 7:30 A.M. to 6:00 P.M. Set 8:00 A.M. to 4:08 P.M.

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| | | | CELL: | 484-213-4843 |
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| | DMMENTS E\$ MAR | | | MO: 22603 |
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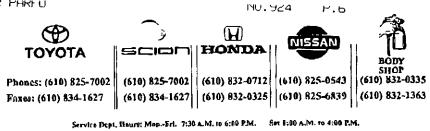


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Anice Place To Do Business





CELL: 484-213-4843

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| WE APPRECIATE YOUR BUS | INESS. | | | | - Gas Filters | WECARE |
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| PLEASE CONTACT US AT | (610-825-7002) | | | | | and the second se |
| | | | | | STATE OF THE | ART BODY SHOP |
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| | | | | | - FREE Estimates | |
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| Plaintiff,) v.) | <u>COMPLAINT</u> | | | | |
|) TOYOTA MOTOR SALES, U.S.A., INC.,) | | LEGAL SERVICES | | | |
|) Defendant.) | | JAN 3 0 2006 | | | |
|) | | GROUP RECEIVED | | | |

PARTIES

1. Plaintiff is an adult citizen and a legal resident of Leominster, Worcester County, Massachusetts.

2. Defendant Toyota Motors Sales, U.S.A., Inc. ("Toyota") is a California corporation with a principal place of business at 19001 South Western Avenue, Torrance, California. Toyota is the manufacturer of Toyota brand vehicles, and also provides maintenance and repair services to those vehicles through its many dealerships and agents located throughout the United States, including the Commonwealth of Massachusetts.

3. Norm Wagner Automotive, Inc. ("Norm Wagner") is a Massachusetts corporation with a principal place of business at 39 Mass Ave., Lundenburg, Massachusetts. Norm Wagner sells Toyota brand vehicles to the general public, and is an authorized agent of Toyota in the Commonwealth of Massachusetts.

JURISDICTION

4. This Court has jurisdiction over Toyota pursuant to m.G.L. ch. 223A § 3(a).

5. Toyota operates retail motor vehicle stores and service facilities in the Commonwealth of Massachusetts, and therefore venue is proper.

6. Further, Toyota has voluntary appeared in Massachusetts, and has affirmatively solicited business from Massachusetts consumers, in addition to directly conducting business with Massachusetts citizens.

7. Venue is also proper because a substantial part of the events giving rise to this suit occurred within Massachusetts.

FACTS

8. On or about August 16, 2004, Plaintiff purchased a new 2005 Toyota Corolla from Norm Wagner, bearing the Vehicle Identification Number 1NXBR32E35

9. The Vehicle was manufactured by Defendant, and is now registered in the Commonwealth of Massachusetts.

10. The contract price of the Vehicle, including registration charges, document fees, sales tax, finance and bank charges, but excluding certain other collateral charges not specified, totaled more than \$22,038.71. A true and correct copy of the sales contract is attached hereto, made a part hereof, and marked Exhibit "A."

11. In consideration for the purchase of the Vehicle, Defendant issued to Plaintiff several warranties, guarantees, affirmations and undertakings with respect to the reliability and workmanship of the Vehicle, and the remedial action that Defendant would undertake in the event that the Vehicle failed to meet the promised specifications.

12. The above-referenced warranties, guarantees, affirmations and undertakings were part of the basis of the bargain between Defendant and Plaintiff.

13. The bargain between the parties included an express 3 year / 36,000 mile warranty, as well as other guarantees, affirmations and undertakings as stated in Defendant's warranty materials and owner's manual. A copy of said warranty is attached hereto, made a part hereof, and marked as Exhibit "B."

14. However, as a result of Defendant's ineffective repair attempts, the Vehicle has been impaired and is unable to be fully used for all of its intended utilities.

15. Plaintiff may have resorted to Defendant's informal dispute settlement procedure.

16. However, Plaintiff avers that the Federal Trade Commission (FTC) has determined that no automobile manufacturer complies with 16 CFR 703. <u>See</u> Fed. Reg. 15636, Vol. 62, No. 63 (Apr. 2, 1997).

17. Within the warranty period, Plaintiff complained to Defendant, either directly or through its agents, on at least three occasions, about defects or non-conformities in the Vehicle, as follows: engine stalling, Vehicle failing to start, check engine light malfunctioning, and Vehicle hard starting. True and correct copies of all invoices in Plaintiff's possession are attached hereto, made a part hereof, and marked Exhibit "C."

18. Plaintiff avers that the Vehicle has been subject to additional repair attempts for defects and conditions that Defendant's warranty dealer failed to document.

19. Plaintiff avers that Defendant's warranty dealer failed to provide to him all warranty repair receipts that were generated, or should have been generated, in conjunction with repairs or repair attempts on the Vehicle.

20. Plaintiff avers that Defendant's warranty dealer did not provide to him, or otherwise maintain, technicians' notes of diagnostic procedures and repairs, in addition to Technical Service Bulletins issued by Defendant relative to the Vehicle's make and model.

21. On or about July 26, 2005, Plaintiff and/or Plaintiff's counsel informed

Defendant that Plaintiff no longer wished to keep the Vehicle, and demanded that a substitution of collateral or repurchase of the Vehicle occur, in accordance with the Massachusetts new car Lemon Law.

<u>Count I</u> Violation of m.G.L. ch. 90 § 7N ½

22. Plaintiff restates and reavers each and every allegation contained above, as if fully stated herein.

23. Defendant, through its authorized repair agent(s), made three or more repair attempts to address the same general defect in the Vehicle, without success.

24. Upon its failure to repair the Vehicle in three repair attempts, in addition to one final repair attempt, Defendant failed to offer Plaintiff a substitution of collateral or repurchase of the Vehicle.

25. Defendant failed to provide Plaintiff with accurate warranty receipts of each and every repair attempted on the Vehicle.

26. Defendant has provided Plaintiff with a defective vehicle that has never met the original purpose of "dependable, reliable and safe transportation," and has hindered Plaintiff with consistent malfunctions and impairments of use.

27. Due to Defendant's violation(s) of m.G.L. ch. 90 § 7N1/2, Plaintiff has incurred damage as a result.

Count II Violation of the Magnuson-Moss Warranty Improvement Act

28. Plaintiff restates and reavers each and every allegation contained above, as if fully stated herein.

29. Plaintiff is a "consumer" as defined by 15 U.S.C. §2301(3).

30. Defendant is a "supplier", "warrantor", and a "service contractor" as defined by 15 U.S.C. § 2301 (4), (5) and (8).

31. The Vehicle is a "consumer product" as defined by 15 U.S.C. § 2301(1).

32. The Magnuson-Moss Warranty Improvement Act binds Defendant to all warranties implied by state law and provided for in contract with Plaintiff. Said warranties are imposed on all transactions in the state in which a vehicle is delivered.

33. The Act enhances the U.C.C., as codified in Massachusetts at m.G.L. ch. 106.

34. Plaintiff avers that the provisions of the Magnuson Moss Warranty Act implicate and enhance all rights and remedies available under the Massachusetts UCC.

35. A violation of the Massachusetts UCC within a consumer transaction also constitutes a violation of the Magnuson Moss Warranty Act, and entitles a prevailing consumer under 15 U.S.C. § 2310(d)(2) to damages and attorney fees.

36. By the terms of the Defendant's oral and written warranties, affirmations, promises, and/or service contracts regarding the Vehicle, Defendant agreed to provide Plaintiff with a reliable vehicle in "new" condition, and to perform effective repairs on the Vehicle at no charge to Plaintiff.

37. By operation of the Massachusetts new car Lemon Law, codified at m.G.L. ch. 90 § 7N1/2, Defendant also was obligated to repair any defects in the first year, or 15,000 miles of operation, of the Vehicle within three attempts or fifteen days out of service.

38. Defendant failed to honor the express and implied warranties owed to Plaintiff, either under its own warranties or those constructed by Massachusetts law, and thereby violated the Magnuson-Moss Warranty Improvement Act. 39. Due to Defendant's violation(s) of the Magnuson-Moss Warranty Improvement Act, Plaintiff incurred damage as a result.

40. Plaintiff avers that due to Defendant's violation of the Magnuson-Moss Warranty Improvement Act, Defendant must reimburse Plaintiff for his reasonably incurred attorney's fees in accordance with the provisions of the Magnuson-Moss Warranty Improvement Act.

<u>Count III</u> Violation of m.G.L. ch. 93A

41. Plaintiff restates and reavers each and every allegation contained above, as if fully stated herein.

42. Toyota is a "person" and is engaged in "trade or commerce" within the meaning of m.G.L. ch. 93A.

43. Andres Vera is a "person" within the meaning of M.G.L. c. 93A § 1.

44. In accordance with the provisions contained in M.G.L. c. 93A § 9(3), Plaintiff served upon Toyota a written demand for relief over thirty days prior to the filing of this action. Proof of receipt is attached hereto, made a part hereof and marked as Exhibit "E."

45. More than thirty days have expired since Toyota's receipt of Plaintiff's Chapter 93A demand letter, and no reasonable offer of settlement has been received from Toyota.

46. The conduct of Toyota, as alleged herein, constitutes willful and knowing violations of m.G.L. ch. 93A § 2, and as a result thereof, Plaintiff has been permanently and irreparably harmed.

JURY DEMAND

Plaintiff demands a jury by trial on all claims so triable.

WHEREFORE, Plaintiff prays for the following relief:

1. Judgment against Defendant in an amount equal to the price of the subject

vehicle, plus all collateral charges, incidental and consequential damages,

reasonable attorneys' fees, and all court costs;

- 2 For treble damages and attorneys fees and costs against Defendant, as permitted under m.G.L ch. 93A § 9; and
- 3. For such other and further relief as the Court deems just and proper.

Respectfully Submitted, Andres Vera, By his Attorneys,

Jacqueline Bradford Porro, Esq. BBO # 655512 Michael D. Williams, Esq. BBO #654149 Kimmel & Silverman, P.C. 45 Pond St., Suite 202 Norwell, MA 02061 781-982-9112

Dated



RETAIL INSTALLMENT CONTRACT - SIMPLE INTEREST



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| | Dealer Number | Account Number |
|--|---|--|
| Buyer (and Co-Buyer) - Name(s) and Address(es) (Include County and Zip Code) | Creditor (Seller) - Name and Business | Address |
| | NURM WAGNER AUTO | MOTIVE ENC. |
| | 39 MASS AVE | |
| LEUMINSTER MR | LUNENBURG, MA 01 | 462 |
| Acaning of Words. In this contract, the words "you," 'your" and "yours' refer to the Buyer as 5 Toyola Motor Credit Corporation ("TMCC") and any subsequent assignce Who is Bound. You may buy the vehicle described below for cash or on credit. The cash p antract, you choose to-buy the vehicle on credit under the terms on the front and back of it bescription of Vehicle. You agree to buy and the Creditor agrees to self the following vehicle | rice is shown below as "Cash Price" The credit his contract and you are individually liable to the | price is shown below as "Total Sale Price" By signing this |
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Late Charge. It a payment is not paid in full within 15 days after it is due, you will pay a late charge of 5% of the unpaid amount of the late payment or \$5.00, whichever is less Prepayment. It you pay off all your debt early, you will not have to pay a penalty

Security. You are giving a security interest in the vehicle being purchased. Other Terms. Please read this contract, including the reverse side, for additional information about security interests, nonpayment, default, any required repayment in full before the scheduled date, and penalties.

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Тоуота Owner's Warranty Information

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SATISFACTION DOWN THE ROAD

t Toyota, our top priority is always our customers. We know your Toyota is an important part of your life and something you depend on every day. That's why we're dedicated to building products of the highest quality and reliability.

Our excellent warranty coverage is evidence that we stand behind the quality of our vehicles. We're confident — as you should be — that your Toyota will provide you with many years of enjoyable driving.

To further demonstrate our commitment to our customers' satisfaction, occasionally we may establish a special policy adjustment to pay for specific repairs that are no longer covered by warranty. When we establish such a policy adjustment, we mail details to all applicable owners we have on record. That's why it's important to send in the card at the back of this booklet if you change your address or if you've purchased this vehicle from a previous owner.

To provide you with added protection against unexpected service costs, we offer Toyota Extra Care vehicle service agreements and Toyota Auto Care pre-paid maintenance programs. Both offer plans to meet a wide variety of needs. Your dealership can help you select the plan that's best for you.

Our goal is for every Toyota customer to enjoy outstanding quality, dependability and peace of mind throughout their ownership expenence. We want you to be a satisfied member of the Toyota family for many miles to come.

This booklet describes the terms of Toyota warranty coverage as well as general owner responsibilities. A separate publication found in your glove box, the Scheduled Maintenance Guide, describes your vehicle's maintenance requirements. Be sure to review this publication carefully, since proper maintenance is required to ensure that warranty coverage remains intact.

All information in this booklet is the latest available at the time of publication and, with the exception of the emission control warranties, is subject to change without notice.

Introduction

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TRANSPORTATION ASSIST

e realize that your confidence in the quality and reliability of our products was a key factor in your decision to buy a Toyota. We also know how disruptive the loss of transportation can be to your daily routine. That's why we're pleased to offer you the benefits of our Transportation Assistance Policy

Under this policy, you are eligible for transportation assistance if your Toyota must be kept overnight for warranty-covered repairs. The policy applies when your vehicle must be kept overnight for any of the follow-ing reasons:

- The warranty repairs will take longer than one day to complete
- The warrantable condition requires extensive diagnosis.

 The parts needed for the warranty repairs are not readily available and your vehicle is inoperative or unsafe to drive.

The policy does not apply when warranty repairs can be completed in one day but the vehicle must be kept overnight due to dealer or owner scheduling conflicts. The Transportation Assistance Policy applies for the duration of the Vehicle Limited Warranty. The policy applies to all 2005 model-yea Toyotas sold and serviced by authorized Toyota dealerships in the mainland United States and Alaska.

For further details, please consult your Toyota dealer.

Introduction

IF YOU NEED ASSISTANCE

Both Toyota and your Toyota dealer are dedicated to serving your automotive needs. Your complete satisfaction is our first priority. Should you have a problem or concern – either during or after the warranty period – please take the following steps to ensure the quickest possible response:

Step 1

Discuss the situation with a dealership manager, such as the service manager or customer relations manager in most cases, a satisfactory solution can be reached at this step.

Step 2

If the dealership does not address your concern to your satisfaction, call Toyota Customer Experience at (800) 331–4331. If you are hearing- or speech-impaired, call (800) 443–4999 (TOD).

Please have the following information ready when you call:

- Your Toyota's vehicle identification number (located on the driver's side corner of the dashboard, under the window)
- Current mileage on your vehicle
- Name of your Toyota dealership

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A Toyota customer relations representative will assist you in working with the dealership to find a satisfactory solution.

Step 3

If your concern has sull not been resolved to your satisfaction, Toyota offers additional assistance through the Dispute Settlement Program, a dispute resolution program administered by the National Center for Dispute Settlement. The purpose of the Dispute Settlement Program is to resolve disputes through arbitration — a process by which two parties authorize an independent third party to hear and resolve a dispute. The program is informal and free of charge. To request that your

4 Introduction



IF YOU NEED ASSISTANCE

case be reviewed through the program, complete the customer claim form in the Owner's Warranty Rights Notification booklet (found in your glove box) and mail it to:

National Center for Dispute Settlement P.O. Box 561109 Dallas, TX 75356~1109

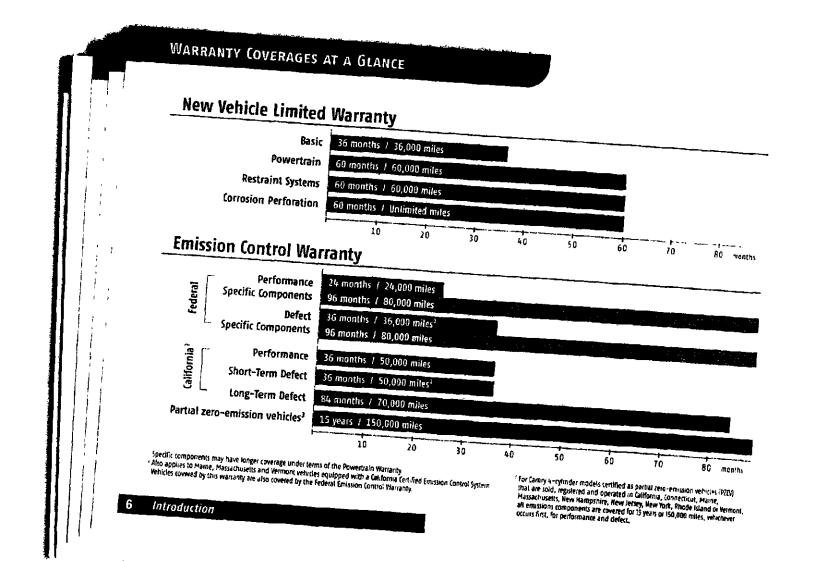
If you would like to request a customer claim form, call Toyota Customer Experience at (800) 331-4331. When you call, please have your vehicle identification number, the current mileage on your Toyota and the names of your selling and servicing dealerships.

California residents: Toyota offers you assistance through an arbitration program called the California Dispute Settlement Program (CDSP). A brochure about the program is found in your glove box. For additional information, call Toyota Customer Experience at (800) 331-4331. You may also contact the CDSP directly at (888) 300-6237. Failure to use the CDSP may affect your rights and remedies under California's "Lemon Laws." Important: You must use the Dispute Settlement Program (or, in California, the CDSP) before seeking remedies through a court action pursuant to the Magnuson-Moss Warranty Act. You may also be required to use the Dispute Settlement Program or CDSP before seeking remedies under the "Lemon Laws" of your state. Please check the appropriate page of the *Owner's Warranty Rights Notification* booklet for the requirements applicable to your state.

This information about the Dispute Settlement Programs is correct as of the date of printing. However, the programs may be changed without notice. For the most current information about the programs, call Toyota Customer Experience at (800) 331–4331.

Introduction

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GENERAL WARRANTY PROVISIONS

Who is the Warrantor

The warrantor for these limited warranties is Toyota Motor Sales, U.S.A., Inc. ("Toyota"), 19001 South Western Avenue, Torrance, California 90509-2991, a California corporation

Which Vehicles Are Covered

These warranties apply to all 2005 model-year Toyota vehicles distributed by Toyota that are originally sold by an authorized dealer in the United States and normally operated or touring in the United States, U S territories or Canada. Warranty coverage is automatically transferred at no cost to subsequent vehicle owners.

Multiple Warranty Conditions

This booklet contains warranty terms and conditions that may vary depending on the part covered. A warranty for specific parts or systems, such as the Powertrain Warranty or Emission Performance Warranty, is governed by the coverage set forth in that warranty as well as the General Warranty Provisions.

When Warranty Begins

The warranty period begins on the vehicle's in-service date, which is the first date the vehicle is either delivered to an ultimate purchaser, leased, or used as a company car or demonstrator.

Repairs Made at No Charge

Repairs and adjustments covered by these warranties are made at no charge for parts and labor.

Parts Replacement

Any needed parts replacement will be made using new or remanufactured parts. The decision whether a part should be repaired or replaced will be made by the servicing Toyota dealership and/or Toyota. Parts scheduled to be replaced as required maintenance are warranted until their first replacement only.

GENERAL WARRANTY PROVISIONS

Limitations

The performance of necessary repairs and adjustments is the exclusive remedy under these warranties or any implied warranties. Toyota does not authorize any person to create for it any other obligation or liability in connection with this vehicle.

Any implied warranty of merchantability or fitness for a particular purpose is limited to the duration of these written warranties. Some states do not allow restrictions on how long an implied warranty lasts, so this limitation may not apply to you.

Your Rights Under State Law

These warranties give you specific legal rights. You may also have other rights that vary from state to state.

NEW VEHICLE LIMITED WARRANTY

WHAT IS COVERED AND HOW LONG

Basic Warranty

This warranty covers repairs and adjustments needed to correct defects in materials or workmanship of any part supplied by Toyota, subject to the exceptions indicated under "What Is Not Covered" on pages 11–12.

Coverage is for 36 months or 36,000 miles, whichever occurs first, with the exception of wheel alignment and wheel balancing, which are covered for 12 months or 20,000 miles, whichever occurs first.

Powertrain Warranty

This warranty covers repairs needed to correct defects in materials or workmanship of any component listed in the next column and supplied by Toyota, subject to the exceptions indicated under "What is Not Covered" on pages 11–12.

Coverage is for 60 months or 60,000 miles, whichever occurs first

Engine

Cylinder block and head and all internal parts, timing gears and gaskets, timing chain/belt and cover, flywheel, valve covers, oil pan, oil pump, engine mounts, turbocharger housing and all internal parts, supercharger housing and all internal parts, engine control computer, water pump, fuel pump, seals and gaskets.

Transmission and Transaxle

Case and all internal parts, torque converter, clutch cover, transmission mounts, transfer case and all internal parts, engine control computer, seals and gaskets.

Front-Wheel-Drive System

Final drive housing and all internal parts, axle shafts, drive shafts, constant velocity joints, front hub and bearings, seals and gaskets.

Rear-Wheel-Drive System

Axle housing and all internal parts, propeiler shafts, U-joints, axle shafts, drive shafts, bearings, supports, seals and gaskets.

Your Worranties in Detail

NEW VEHICLE LIMITED WARRANTY

Restraint Systems Warranty

This warranty covers repairs needed to correct defects in materials or workmanship of any seatbelt or air bag system supplied by Toyota, subject to the exceptions indicated under "What Is Not Covered" on pages 11–12.

Coverage is for 60 months or 60,000 miles, whichever occurs first.

For vehicles sold and registered in the state of Kansas, the warranty for seatbelts and related components is 10 years, regardless of mileage.

Corrosion Perforation Warranty

This warranty covers repair or replacement of any original body panel that develops perforation from corrosion (rust-through), subject to the exceptions indicated under "What is Not Covered" on pages 11–12

Coverage is for 60 months, regardless of mileage.

For information on how to protect your vehicle from corrosion, see the section entitled "Corrosion Prevention and Appearance Care" in the *Owner's Manual*

Towing

When your vehicle is inoperable due to failure of a warranted part, towing service to the nearest authorized Toyota dealership is covered.

WHAT IS NOT COVERED

This warranty does not cover damage or failures resulting directly or indirectly from any of the following:

- Fire, accidents or theft
- Abuse or negligence
- Misuse -- for example, racing or overloading
- Improper repairs
- Alteration or tampering, including installation of non-Genuine Toyota Accessories
- Lack of or improper maintenance, including use of fluids other than those specified in the Owner's Manual
- Installation of non-Genuine Toyota Parts
- Airborne chemicals, tree sap, road debris (including stone chips), rail dust, salt, hail, floods, wind storms, lightning and other environmental conditions
- Water contamination

NEW VEHICLE LIMITED WARRANTY

This warranty also does not cover the following.

Tires

Tires are covered by a separate warranty provided by the lire manufacturer. See page 26.

Normal Wear and Tear

Noise, vibration, cosmetic conditions and other deterioration caused by normal wear and tear.

Maintenance Expense

Normal maintenance services such as:

- Engine tune-ups
- Replacement of fluids and filters
- Lubrication
- Cleaning and polishing
- Replacement of spark plugs and fuses
- Replacement of worn wiper blades, brake pads/linings and clutch linings

Your Warranties in Detail

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NEW VEHICLE LIMITED WARRANTY

Vehicles With Altered Odometer

Failure of a vehicle on which the odometer has been altered so that actual vehicle mileage cannot be readily determined.

Salvage or Total-Loss Vehicles

Any vehicle that has ever been issued a "salvage" title or similar title under any state's law; or has ever been declared a "total loss" or equivalent by a financial institution or insurer, such as by payment for a claim in lieu of repairs because the cost of repairs exceeded the cash value of the vehicle. This exclusion does not apply to the emission control warranties.

Incidental Damages

Incidental or consequential damages associated with a vehicle failure. Such damages include but are not limited to inconvenience; the cost of transportation, telephone calls and lodging; the loss of personal or commercial property; and the loss of pay or revenue.

Disclaimer of Extra Expenses and Damages

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The performance of necessary repairs and adjustments is the exclusive remedy under this warranty or any implied warranty. Toyota does not authorize any person to create for it any other obligation or liability in connection with this vehicle. Toyota shall not be liable for incidental or consequential damages resulting from breach of this written warranty or any implied warranty. Any implied warranty of merchantability or fitness for a particular purpose is limited to the duration of this written warranty, except in states where this limitation is not allowed.

Your Warranties in Detail

NEW VEHICLE LIMITED WARRANTY

DISPUTE RESOLUTION

If a dispute arises regarding your warranty coverage, please follow the steps described under "If You Need Assistance" on pages 4–5 Please note that you must use the Dispute Settlement Program (or, in California, the CDSP) before seeking remedies through a court action pursuant to the Magnuson-Moss Warranty Act. You may also be required to use the Dispute Settlement Program or CDSP before seeking remedies under the "Lemon Laws" of your state. Please check the appropriate page of the *Owner's Warranty Rights Notification* booklet (located in your glove box) for the requirements applicable to your state.

FEDERAL EMISSION CONTROL WARRANTY

WHAT IS COVERED AND HOW LONG

Emission Defect Warranty

Toyota warrants that your vehicle:

- Was designed, built and equipped to conform at the time of sale with applicable federal emissions standards.
- Is free from defects in materials and workmanship that may cause the vehicle to fail to meet these standards.

Federal regulations require that this warranty be in effect for two years or 24,000 miles from the vehicle's in-service date, whichever occurs first. However, under the terms of the Basic Warranty, Toyota provides coverage of three years or 36,000 miles, whichever occurs first. Specific components may have longer coverage under the terms of the Powertrain Warranty. Additionally, components marked "8/80" in the parts list on pages 15–16 have coverage of eight years or 80,000 miles, whichever occurs first.

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Emission Performance Warranty

Some states and localities have established vehicle inspection and maintenance (I/M) programs to encourage proper vehicle maintenance. If an EPA-approved I/M program is in force in your area, you are eligible for Emission Performance Warranty coverage.

Under the terms of the Emission Performance Warranty and federal regulations, Toyota will make all necessary repairs if both of the following occur:

- Your vehicle fails to meet applicable emissions standards as determined by an EPA-approved emissions test.
- This failure results or will result in some penalty to you such as a fine or denial of the right to use your vehicle — under local, state or federal law.

This warranty is in effect for two years or 24,000 miles from the vehicle's in-service date, whichever occurs first. Additionally, components marked "8/80" in the parts list on pages 15–16 have coverage of eight years or 80,000 miles, whichever occurs first.

Your Warranties in Detail

A Charles Andrews

WHAT IS NOT COVERED

These warranty obligations do not apply to failures or noncompliance caused by:

- The use of replacement parts not certified in accordance with aftermarket parts certification regulations.
- The use of replacement parts not equivalent in quality or design to original equipment parts.

Provisions under the "What is Not Covered" section of the New Vehicle Limited Warranty also apply to this warranty.

FEDERAL EMISSION CONTROL WARRANTY

WARRANTY PARTS LIST

Air/Fuel Metering System

- Air/fuel ratio feedback control system
- Cold-start enrichment system
- Deceleration control system
- · Electronic fuel injection system components
 - Airflow sensor
- ~ Engine control module (8/80)
- Throttle body
- Other components

Air Induction System

Intake manifold and intake air surge tank

Catalyst System

- Catalytic converter and protector (8/80)
- Constructed fuel filler neck
- Exhaust manifold
- Exhaust pipe (manifold to catalyst and/or catalyst to catalyst)

8/80 = Covered for eight years or 80,000 miles, whichever occurs first.

FEDERAL EMISSION CONTROL WARRANTY

Evaporative Control System

- Charcoal canister
- Diaphragm valve
- Fuel filler cap
- Fuel tank

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Vapor liquid separator

Exhaust Gas Recirculation (EGR) System

- EGR gas temperature sensor
- EGR valve
- Associated parts

Ignition System

- Distributor and internal parts
- Ignition coil and ignitor
- Ignition wires
- Spark plugs*

16 Your Warranties in Detail

Positive Crankcase Ventilation (PCV) System

- Oil filler cap
- PCV valve or onlice

Other Parts Used in Above Systems

- Data link connector (8/80)
- Hoses, clamps, fittings, tubing and mounting hardware
- Malfunction indicator light and bulb (8/80)
- Pulleys, belts and idlers
- Sealing gaskets and devices
- Sensors, solenoids, switches and valves

*Warranted until first required maintenarice under terms of the Catifornia Emission Control Warranty

8/80 = Covered for eight years or 80,000 miles, whichever occurs first

MAINTENANCE

You are responsible for performance of the required maintenance indicated in the Owner's Monuol and the Scheduled Maintenance Guide. Toyota will not deny a warranty claim solely because you do not have records to show that you maintained your vehicle. However, any failure or noncompliance caused by lack of maintenance is not covered by this warranty.

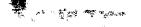
When maintenance and repairs are paid for by you, these services may be performed by you or by any automotive service provider you choose. Toyota will not deny a warranty claim solely because you used a service provider other than a Toyota dealership for maintenance and repairs. However, any failure or noncompliance caused by improper maintenance or repairs is not covered by this warranty

REPLACEMENT PARTS

To ensure optimum performance and maintain the quality built into your vehicle's emission control systems, Toyota recommends the use of Genuine Toyota Parts when servicing or repairing the systems.

Warranty coverage is not dependent upon the use of any particular brand of replacement parts and you may elect to use non-Genuine Toyota Parts for maintenance and repairs. However, use of replacement parts that are not equivalent in quality to Genuine Toyota Parts may impair the effectiveness of the emission control systems.

If you use replacement parts that have maintenance or replacement schedules different from those of Genuine Toyota Parts, you must follow the maintenance and replacement schedules for the parts you are using. In addition, you should ensure that such parts are warranted by their manufacturers to be equivalent to Genuine Toyota Parts.



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FEDERAL EMISSION CONTROL WARRANTY

IF YOUR VEHICLE FAILS AN EMISSIONS TEST

If your vehicle fails an EPA-approved emissions test, you may make a claim under the Emission Performance Warranty. To do so, take your vehicle to an authorized Toyota dealership and present a copy of the emissions test report. Also, take your maintenance records in case they are needed.

If your claim qualifies for coverage, the dealership will repair your vehicle within 30 days (unless a shorter period is required by law) if your claim is denied, Toyota will notify you in writing of the reason within the same period. If we fail to do so, we will repair your vehicle free of charge. The only exceptions allowed are when you request or agree to a delay, or when a delay is caused by factors beyond the control of Toyota or the dealership.

For information on how to obtain service under the Emission Defect Warranty, see page 29, "Obtaining Warranty Service."

IF YOU HAVE QUESTIONS

If you have questions or concerns about your vehicle's federal emission warranty coverage, please follow the steps described under "If You Need Assistance" on pages 4–5. In the case of the Emission Performance Warranty, you may also request information from or report complaints to

U.S. Environmental Protection Agency Vehicle Programs & Compliance Division (6405J) Attn: Warranty Complaints 401 M Street SW Washington, D.C 20460

Excluding Camry P2EV, vehicles equipped with a California Certified Emission Control System that are sold, registered and operated in California or any state that adopts California emission warranty provisions are also covered by the California Emission Control Warranty (see page 20). Currently, Maine, Massachusetts and Vermont are the only other states to which the California Emission Control Warranty applies.

8 Your Warranties in Detail

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FEDERAL EMISSION CONTROL WARRANTY

DEALER CERTIFICATE

We (the dealership) want you to know that at the time your new Toyota vehicle is being delivered:

- On the basis of written notification furnished by Toyota, we have knowledge that the vehicle is covered by an EPA Certificate of Conformity.
- 2) We have visually inspected those emission control devices or portions thereof that are visible without removing or adjusting any components or systems, emissions-related or otherwise. On the basis of this inspection, there are no apparent deficiencies in the installation of emission control devices by Toyota. (For purposes of this certificate, "emission control devices" is limited to devices installed on a vehicle for the sole or primary purpose of controlling emissions and which were not in general use before 1968.)
- 3) We have performed all emission control system preparations required by Toyota prior to the sale of the vehicle as set forth in Toyota's current pre-delivery service manual.
- 4) Except as may be provided in Paragraph 5, if this vehicle fails an EPA-approved emissions test within three months or 4,000 miles (whichever comes first) of delivery to the ultimate purchaser, and the vehicle has been maintained and used in accordance with the written instructions for proper maintenance and use, Toyota will remedy

the nonconformity free of charge under the terms of the Emission Performance Warranty.

- 5) If vehicle was used as a company car or demonstrator, check box and complete the following.
 - The vehicle with which this statement is delivered was placed into service as a company car or demonstrator prior to delivery. The Emission Performance Warranty period commenced on the date the vehicle was first placed into service, which was:

Month Day Year

Note: The dealership makes no representation or warranty that the emission control system or any part thereof is without defect or that the system will perform properly. The Emission Performance Warranty referred to in Paragraph 4 and furnished with the vehicle is solely that of the manufacturer.

This statement is required by section 207 of the Clean Air Act (42 U.S.C. 7541) and the EPA regulations issued thereunder.

Dealership Name

YOUR WARRANTY RIGHTS AND OBLIGATIONS

The California Air Resources Board (CARB) and Toyota are pleased to explain the emission control system warranty for your 2005 vehicle. In California, new motor vehicles must be designed, built and equipped to meet the state's stringent anti-smog standards. CARB regulations require that Toyota must warrant the emission control system on your vehicle for the time periods indicated on this page, provided there has been no abuse, neglect or improper maintenance of your vehicle.

Your emission control system may include parts such as the fuel injection system, ignition system, catalytic converter and engine computer. Also included may be hoses, belts, connectors and other emissions-related assemblies.

Where a warrantable condition exists, Toyota will repair your vehicle at no cost to you, including diagnosis, parts and labor.

MANUFACTURER'S WARRANTY COVERAGE

1) For three years or 50,000 miles, whichever occurs first:*

 If your vehicle fails a smog-check test, all necessary repairs and adjustments will be made by Toyota to ensure that your vehicle passes the test. This is your Emission Control System PERFORMANI WARRANTY

 If any emissions-related part on your vehicle is defective, the pa will be repaired or replaced by Toyota. This is your SHORT-TERM Emission Control System DEFECT WARRANTY. Covered parts are lists on pages 15–16. Specific components may have longer coverage under the terms of the Powertrain Warranty.

2) For seven years or 70,000 miles, whichever occurs first:*

 If an emissions-related part listed on pages 22–23 is defective, the part will be repaired or replaced by Toyota. This is your LONG-TERM Emission Control System DEFECT WARRANTY.

* For Camry 4-cylinder models certified as partial zero-emission vehicles (PZEV) that are sold, registered and operated in California, Connecticut, Marne, Massachusetts, New Hampshire, New Jersey, New York, Rhode Island or Vermont, all emissions components are covered for 15 years or 150,000 miles, whichever occurs first, for performance and defect.

OWNER'S WARRANTY RESPONSIBILITIES

You are responsible for performance of the required maintenance indicated in the *Owner's Monual* and the *Scheduled Maintenance Guide*. Toyota recommends that you retain all receipts covering maintenance on your vehicle, but Toyota cannot deny warranty coverage solely for the lack of receipts or your failure to ensure the performance of all scheduled maintenance.

You are responsible for presenting your vehicle to a Toyota dealership as soon as a problem exists. The warranty repairs should be completed in a reasonable amount of time, not to exceed 30 days

You should also be aware that Toyota may deny you warranty coverage if your vehicle or a part has failed due to abuse, neglect, improper maintenance or unapproved modifications.

If you have any questions regarding your warranty rights and responsibilities, you should contact Toyota Customer Experience at (800) 331-4331 or the California Air Resources Board, Mobile Source Control Division, at 9528 Telstar Avenue, P.O. Box 8001, El Monte, CA 91734-8001.

WHAT IS NOT COVERED

These warranty obligations do not apply to failures or noncompliance caused by:

- The use of replacement parts not certified in accordance with aftermarket parts certification regulations.
- The use of replacement parts not equivalent in quality or design to original equipment parts.

Provisions under the "What Is Not Covered" section of the New Vehicle Limited Warranty also apply to this warranty

PARTS LIST: LONG-TERM EMISSION DEFECT WARRANTY

The parts listed here are covered for seven years or 70,000 miles from the vehicle's in-service date, whichever occurs first

Air/Fuel Metering System

- Air pump on Sequoia, Tacoma equipped with 2TR-FE, Tundra equipped with 2UZ-FE, 4Runner equipped with 2UZ-FE
- · Engine control computer (engine control module)
- Throttle body

Air Induction System

- Intake manifold and intake air surge tank
- Intake manifold gasket on MR2 Spyder

Catalyst System

- Catalytic converter (warm-up three-way catalyst)
- Exhaust center pipe on Highlander, RAV4, Sienna
- Exhaust front pipe on Avaion, Camry, Camry PZEV, Camry Solara, Corolla, Corolla Matrix, ECHO, Land Cruiser, MR2 Spyder, Sequoia, Tacoma, Tundra, 4Runner
- Exhaust front pipe no 2 on Sequoia, Tacoma equipped with 1G Tundsa, 4Runner
- Exhaust manifold on Avalon, Camry PZEV, Camry Solara, Highlani Land Cruiser, MR2 Spyder, RAV4, Sequoia, Sienna, Tacoma equippi with 1GR-FE, Tundra, 4Runner
- Exhaust manifold gasket on Land Cruiser, Sequoia, Tundra equip, with 2U2-FE, 4Runner equipped with 2U2-FE

Evaporative Control System

- · Charcoal canister on Camry, Highlander
- Fuel tank

Ignition System

 Knock sensor on Land Cruiser, MR2 Spyder, Sequoia, Tacoma equipped with 1GR-FE, Tundra, 4Runner

MAINTENANCE

You are responsible for performance of the required maintenance indicated in the Owner's Monual and the Scheduled Maintenance Guide. Toyota will not deny a warranty claim solely because you do not have records to show that you maintained your vehicle. However, any failure or noncompliance caused by lack of maintenance is not covered by this warranty.

When maintenance and repairs are paid for by you, these services may be performed by you or by any automotive service provider you choose. Toyota will not deny a warranty claim solely because you used a service provider other than a Toyota dealership for maintenance and repairs. However, any failure or noncompliance caused by improper maintenance or repairs is not covered by this warranty.

REPLACEMENT PARTS

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To ensure optimum performance and maintain the quality built into your vehicle's emission control systems, Toyota recommends the use of Genume Toyota Parts when servicing or repairing the systems.

Warranty coverage is not dependent upon the use of any particular brand of replacement parts and you may elect to use non-Genuine Toyota Parts for maintenance and repairs. However, use of replace-

ment parts that are not equivalent in quality to Genuine Toyota Parts may impair the effectiveness of the emission control systems. If you use replacement parts that have maintenance or replacement

schedules different from those of Genuine Toyota Parts, you must follow the maintenance and replacement schedules for the parts you are using. In addition, you should ensure that such parts are warranted by their manufacturers to be equivalent to Genuine Toyota Parts.

IF YOUR VEHICLE FAILS A SMOG-CHECK TEST

lf your vehicle fails a smog-check lest, you may make a claim unde Emission Performance Warranty. To do so, take your vehicle to an a rized Toyota dealership and present a copy of the smog-check test report. Also, take your maintenance records in case they are needed

If your claim qualifies for coverage, the dealership will repair your v

cie within 30 days (unless a shorter period is required by law). If yo claim is denied. Toyota will notify you in writing of the reason with the same period. If we fail to do so, we will repair your vehicle free charge. The only exceptions allowed are when you request or agree a delay, or when a delay is caused by factors beyond the control of

For information on how to obtain service under the Emission Defect Warranty, see page 29, "Obtaining Warranty Service."

REPAIR DELAYS

If a Toyota dealership is unable to complete repairs on your vehicle within 30 days, you may have the repairs made under Toyota's provisions for emergency warranty repairs. See page 29 for details.

CALIFORNIA EMISSION CONTROL WARRANTY

IF YOU HAVE QUESTIONS

If you have questions or concerns about your vehicle's California emission warranty coverage, please follow the steps described under "If You Need Assistance" on pages 4–5. You may also request information from or report complaints to.

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California Air Resources Board Mobile Source Control Division 9528 Telstar Avenue P.O. Box 8001 El Monte, CA 91734-8001 (800) 242-4450

Excluding Camry PZEV, vehicles equipped with a California Certified Emission Control System that are sold, registered and operated in California or any state that adopts California emission warranty provisions are covered by this warranty. Currently, Maine, Massachusetts and Vermont are the only other states to which this warranty applies. Vehicles covered by this warranty are also covered by the Federal Emission Control Warranty (see page 14).

Your Warranties in Detail 25

1.

TIRE LIMITED WARRANTY

OBTAINING WARRANTY SERVICE

The tires that come as original equipment on your vehicle are warranted by their manufacturer and not Toyota. A separate warranty statement for the tires is in your glove box.

To obtain service for a tire defect, take the tire to an authorized dealer of the tire manufacturer. (Refer to your local phone directory for dealer locations.) Your Toyota dealer may also be able to assist you in obtaining warranty service from the manufacturer.

For additional warranty information or service assistance, contact the tire manufacturer directly.

ORIGINAL EQUIPMENT TIRE MANUFACTUREF

Bridgestone/Firestone

One Bridgestone Park Nashville, TN 37214 (800)847-3272

Continental General Tire 1800 Continental Blvd. Charlotte, NC 28273 (800)847-3349

Goodyear Dunlop Tires

North America, Ltd. P.O. Box 1109 Buffalo, NY 14240 (800)548-4714

Goodyear Tire and Rubber Co. 1144 East Market Street Akron, OH 44316 (800)321-2136

Michelin/BFGoodrich P.O. Box 19001 Greenville, SC 29602 (800)847-3435

Toyo Tire (U.S.A.) (orpora 6261 Katella Ave., Ste. 2B (ypress, CA 90630 (800)442-8696

Yokohama Tire Corporatio 601 South Acacia Avenue

Fullertan, CA 92831 (800)722-9888

Your Warranties in Detail

OPERATION AND MAINTENANCE

GENERAL INFORMATION

You are responsible for ensuring that your Toyota is operated and maintained according to the instructions in the *Owner's Manual* and the *Scheduled Maintenance Guide*.

You should keep detailed records of vehicle maintenance, since under some circumstances they may be required for warranty coverage. These records should include date of service, mileage at time of service and a description of service performed and/or parts installed. For your convenience, a maintenance log is included in the Scheduled Maintenance Guide. If you sell your vehicle, you should give your maintenance records to the new owner

Toyota will not deny a warranty claim solely because you do not have records to show that you maintained your vehicle. However, damage or failures caused by lack of proper maintenance are not covered under warranty

WHERE TO GO FOR MAINTENANCE

You may have maintenance performed on your vehicle by any qualified person or facility. However, Toyota recommends having maintenance performed by an authorized Toyota dealership

Toyota dealership technicians are specially trained to maintain and repair Toyota vehicles. They stay current on the latest service information through Toyota technical bulletins, service publications and training courses. Many are also certified through the Toyota Certification Program, which involves a series of rigorous written examinations. Feel free to ask any Toyota dealership to show you its technicians' credentials

You can be confident you're getting the best possible service for your vehicle when you take it to a Toyota dealership. Plus, a Toyota dealership will always use Genuine Toyota Parts designed specifically for your vehicle.

Your Responsibilities 27

OPERATION AND MAINTENANCE

REPLACEMENT PARTS

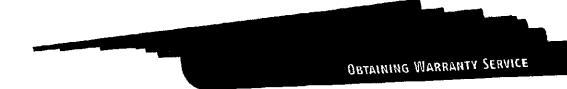
Warranty coverage is not dependent upon the use of any particular brand of replacement parts However, Toyota recommends using only Genuine Toyota Parts when you need to replace a part on your vehicle. Like all Toyota products, Genuine Toyota Parts are built to the highest standards of quality, durability and performance. They are also designed to fit your vehicle's exact specifications.

Your Toyota dealership maintains an extensive inventory of Genuine Toyota Parts to meet your vehicle service needs. And because it is linked electronically to Toyota's Parts Distribution Centers, the dealership has quick access to any parts it may not have in stock.

Genuine Toyota Parts are covered by their own warranty (see your dealer for details) or the remainder of any applicable New Vehicle Limited Warranty, whichever is longer. Non-Genuine Toyota Parts, or any damage or failures resulting from their use, are not covered by

Your Responsibilities

Your Worranties in peren 22



BY GEOGRAPHIC REGION

In the United States, U.S. Territories and Canada

To obtain warranty service in the United States, U.S. terntones or Canada, take your vehicle to an authorized Toyota dealership. If your vehicle cannot be driven, contact your nearest Toyota dealership for towing assistance. You do not have to pay for towing to the nearest Toyota dealership if your vehicle is inoperable due to failure of a warranted part.

Outside the United States, U.S. Territories and Canada

If you are using your vehicle outside the United States, U.S. territories and Canada and need warranty service, contact a local Toyota dealership. Please note, however, that your vehicle may not be repaired free of charge because the local Toyota distributor may have no obligation to provide warranty service for your vehicle, and/or your vehicle may not comply with local regulatory or environmental requirements.

EMERGENCY REPAIRS

If your vehicle is inoperable or unsafe to drive and there is no Toyota dealership reasonably available to make repairs, you may perform the repairs yourself or have them performed by another automotive service provider. Toyota will reimburse you for any of the repairs that are covered by warranty. To receive reimbursement, present to an authorized Toyota dealership your paid repair invoices and any parts that were removed from the vehicle. You will be reimbursed for warranted parts at the manufacturer's suggested retail price and warranted labor at a geographically appropriate hourly rate multiplied by Toyota's recommended time allowance for the repair.

If your vehicle requires emergency repair, Toyota assumes no liability for subsequent failures caused by improper repairs or the use of non-Genuine Toyota Parts unless you have the vehicle properly repaired in a timely manner. To ensure that warranty coverage remains intact, have your vehicle inspected by an authorized Toyota dealership as soon as possible after an emergency repair.

Your Responsibilities 29



Owner's Warranty Rights Notification

STATE OF MASSACHUSETTS NOTICE TO CONSUMERS

"LEMON LAW" INFORMATION: IF YOU HAVE SERIOUS PROBLEMS WITH THIS VEHICLE

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The Massachusetts "Lemon Law," M.G L. c.90, S., 7N1/2, provides protection for consumers who have serious problems with their new vehicle.

UNDER THE LEMON LAW, YOU HAVE A RIGHT TO A REFUND OR REPLACEMENT OF THE VEHICLE IF:

- 1) There is a substantially defect(s), AND
- The defect still exists or has recurred after either:
 - a) three or more repair attempts for the same defect; or
 - being out of service by reason of repair for any combination of defects for a cumulative total of 15 or more business days, within one year or 15,000 miles (whichever comes first) after original delivery; AND
- The manufacturer has been notified of the defect and given one final repair attempt of no more than seven business days.

IF THE MANUFACTURER DOES NOT REFUND OR REPLACE THE VEHICLE, YOU HAVE A RIGHT TO HAVE YOUR CASE ARBITRATED BY A STATE-CERTIFIED ARBITRATOR.

This state-certified arbitration is different from any manufacturersponsored program to which you may also be entitled. Under the state program, you will be sent a decision within 45 days of when your request for arbitration is accepted.

Under the law, you must request state-certified arbitration within 18 months of original delivery of the vehicle.

THIS PAGE PROVIDES ONLY A SUMMARY OF YOUR RIGHTS.

To request arbitration or to get further information, contact:

Office of Consumer Affairs and Business Regulation One Ashburton Place Boston, MA 02108 Lemon Law Information (617)727-7780, 1-888-238-3757 Toyota offers its customers third-party arbitration through the Dispute Settlement Program, a complaint resolution service administered by the National Center for Dispute Settlement. For information about the Dispute Settlement Program, see pages 2–5 of this booklet or contact:

TOYOTA CUSTOMER ASSISTANCE CENTER TOYOTA MOTOR SALES, U.S.A., INC. P.O. BOX 2991 TORRANCE, CA 90509-2991 (800)331-4331



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1-800-LEMON LAW

CORPORATE HEADQUARTERS 30 E. Butler Pixe Ambler, PA 19002 P (215) 540-8888 F (215) 540-8817 JACQUELINE C. HERRITT" RÖBERT A. RAFKIN' VIVIAN BERZ PERKIN' LOUIS COBI, TA' BRIAN T GOLDENFARB' BRIAN T GOLDENFARB' SUSANNE KINDERLAND' HELARY K. WHEATLEY' ROBYN G KATZ' BARRY R. WHOREMAN' CHRISTING N. DANTONIO' JENNIFER R. HURVITZ'' JACQUELINE BRADFORD PORRO'

WESTERN PA OFFICE, 210 Grant Street, Suite 202, Pirtsburgh, PA 15219, P (412) 566-1001, F (412) 566-1005 NEW JERSEY OFFICE, Executive Quarters, 1930 E. Markon Pike, Suite T11, Cherry Hill, NJ 08003, P (856) 429-8334, F (856) 216-7344 MARYLAND OFFICE, 10451 Mill Run Curcle, Suite 400, Owings Mills, MD 21117, P (410) 356-8835, F (410) 356-8896 DELAWARE OFFICE, 501 Silverside Road, Suite 118, Wilmington, DE 19809, P (302) 791-9373, F (302) 791-9476 MASSACHUSETTS OFFICE, 45 Pond St, Suite 202, Norwell, MA 02061, P (781) 982-9112, F (781) 982-9114 PLEASE REMIT ALL CORRESPONDENCE TO THE MASSACHUSETTS OFFICE

July 26, 2005

Via Fax No. 508-339-2571 And First Class Mail

Michael Ciccolini, Dispute Resolution Administrator c/o Toyota Motor Sales, U.S.A., Inc. Boston Regional Office 440 Forbes Blvd. Mansfield, MA 02048

<u>CHAPTER 93A DEMAND LETTER</u> YOU HAVE THIRTY DAYS TO RESPOND

Re: W. Toyota Motor Sales, U.S.A., Inc. Vehicle: 2005 Toyota Corolla Date of Purchase: 8/16/04 VIN#: 1NXBR32E35Z

Dear Sir or Madam:

Toyota Motor Sales, U.S.A., Inc., hereinafter "TMS," for the claims he has against your company, Toyota Motor Sales, U.S.A., Inc., hereinafter "TMS," for the sale of a seriously defective and damaged new vehicle on August 16, 2004. Internet intends to invoke his rights under the Massachusetts New Car Lemon Law (M.G.L. c. 90 § 7N1/2), the Massachusetts Consumer Protection Act (M.G.L. Chapter 93A and its subsections), and the Magnuson Moss Federal Warranty Act (U.S.C. Title 15, c. 50 § 2301-2312). Internet hereby demands to rescind the purchase agreement dated August 16, 2004 and demands reimbursement for any and all expenses applicable under the Lemon Law, the Consumer Protection Act, and the federal Magnuson Moss Warranty Act, including attorneys' fees and interest. It is the contention of my client that TMS, its agents, servants, and employees used unfair or deceptive acts or practices and made deceptive representations when selling and subsequently repairing his vehicle, which were clearly in violation of the Consumer Protection Act and the warranty obligations mandated by the Massachusetts Lemon Law and the federal Magnuson Moss Warranty Act.

<u>FACTS</u>

On or about August 16, 2004 my client purchased the above vehicle from Norm Wagner Automotive, Inc. My client purchased the vehicle with 2 miles. The basis of the bargain included a Massachusetts's mandated lemon law warranty period of one year or 15,000 miles. See M.G.L. c. 90 § 7N1/2), in addition to the 3year/36,000 miles manufacturer bumper-to-bumper warranty.

has returned his vehicle to Norm Wagner for the following defects on the following dates:

| Date of service | Defect/Complaint |
|-----------------|---|
| 11/11/04 | engine stalled out when brakes applied/engine surge after restart |
| 2/21/05-2/22/05 | car cranks over a while before it starts |
| 3/25/05 | check engine light, car cranks a long time and doesn't start |
| 4/29/05 | car turning over to much before starting |
| 5/13/05 | hard start |
| 5/20/05 | car turning over more than normal before it starts |

TMA has done nothing but deceive and misrepresent all of its transactions and communications with and failed to repair the defects with the vehicle in a reasonable number of repair attempts. The actions of TMS, its agents, employees, and/or servants, were clearly unfair and deceptive in violation of Massachusetts General Laws Chapter 93A and its subsections. TMS undoubtedly sold **Security** a vehicle with defects and through its agents, servants, and/or employees misrepresented the condition of the vehicle.

LAWS AND ANALYSIS

I. CONSUMER PROTECTION ACT

The Massachusetts Consumer Protections Act, Massachusetts General Law, Chapter 93A section 2 (a) provides that "unfair methods of competition and unfair or deceptive acts or practices in the conduct of any trade or commerce are hereby declared unlawful." Additionally, the Chapter 93A provides that a violation of the Lemon Law is a violation of the Consumer Protection Statute. The acts of TMS, its agents, servants, and employees, in the sale of my client's vehicle were deceptive and unfair and violated the Lemon Law.

The Massachusetts Attorney General's Regulation, 940 CMR 3.05, entitled, "General Misrepresentations" states:

(1) No claim or representation shall be made by any means concerning a product which directly, or by implication, or by failure to adequately disclose additional relevant information, has the capacity or tendency or effect of deceiving buyers or prospective buyers in any material respect. This prohibition includes, but is not limited to, representations or claims relating to reliability, manner or time of performance, safety, strength, condition, or life expectancy of such a product, or financing relating to such a product, or the ease with which such product may be operated, repaired, or maintained or the benefit to be derived thereof (emphasis added).

An act by a business is "deceptive" under Chapter 93A if it could reasonably be found to have caused a person to act differently from the way he would otherwise have acted. <u>Brennan v.</u> <u>Carvel Corp.</u>, 929 F.2d 801(1991 Mass.).

The Massachusetts Attorney General's Regulation 940 CMR 3.16 provides:

Without limiting the scope of any other rule, regulation, or statute, an act or practice is a Violation of Chapter 93A, Section 2 if:

- (1) It is oppressive or other <u>unconscionable in any respect</u>; or
- (2) Any person or other legal entity subject to this act <u>fails to disclose to a buyer or</u> prospective buyer any fact, the disclosure of which may have influenced the buyer or prospective buyer not to enter into the transaction; or
- (3) It fails to comply with existing statutes, rules, regulations or laws, meant for the protection of the public's health, safety or welfare promulgated by the Commonwealth or any political subdivision thereof intended to provide the consumers of this Commonwealth protection; or
- (4) Violates the Federal Trade Commission Act, the Federal Consumer Credit Protection Act or other Federal consumer protection statues within purview of Section 2 of Chapter 93A (emphasis added).

Finally, Section VII (B) of the Rules and Regulations promulgated by the Attorney General pursuant to Massachusetts General Laws Chapter 93A, Section 2 (c) provides in part: it shall be an unfair or deceptive act or practice to fail to perform or fulfill any promises or obligations arising under a warranty. The definitions of warranty in the rules or regulations include the following: an express warranty or guarantee includes any affirmation or fact or promise made by the seller to the buyer which relates to the goods and becomes part of the basis of the bargain.

The facts of my client's case demonstrate that the above-mentioned Regulations have been violated and in accordance with the Massachusetts Consumer Protection Act, my client is entitled to damages for these violations.

II. MASSACHUSETTS LEMON LAW

It is clear from the above facts that **Exercises** vehicle has been repaired at Norm Wagner on more than three occasions for the same defect since August 16, 2004.

As you know according to M.G.L. c.90, Section 7N 1/2:

A reasonable number of attempts shall be deemed to have been undertaken to conform a motor vehicle to any applicable express or implied warranties if (a) the same nonconformity has been subject to repair three or more times by the manufacturer or its agents or authorized dealers within the term of protection, but such nonconformity continues to exist or such nonconformity has recurred within the term of protection, or (b) the vehicle is out of service by reason of repair of any nonconformity for a cumulative total of fifteen or more business days during the term of protection; provided, however, that the manufacturer shall be afforded one additional opportunity, not to exceed seven business days, to cure any nonconformity arising during the term of protection, notwithstanding the fact that such additional opportunity to cure commences after the term of protection. Such additional opportunity to cure shall commence on the day the manufacturer first knows or should have known that the limits specified in clause (a) or (b) have been met or exceeded. The term of protection, said fifteen business day period and said additional opportunity to cure shall be extended by any period of time during which repair services are not available to the consumer as a direct result of a war, invasion, fire, flood or other natural disaster. The term of protection, said fifteen business day period and said additional opportunity to cure shall also be extended by that period of time during which repair services are not available as a direct result of a strike; provided, however, that the manufacturer, its agent, or authorized dealer provides or makes provision for the free use of a vehicle to any consumer whose vehicle is out of service by reason of repair during a strike. The burden shall be on the manufacturer to show that any event claimed as a reason for an extension under the provisions of this paragraph was the direct cause for the failure of the manufacturer, its agent or authorized dealer to cure any nonconformity during the time of said event. Extensions for concurrent events shall not be cumulative.

The above defects substantially impair the vehicle's "market value" because a motor vehicle with past defects is sure to be worth less at the time of resale or trade in than a non-

defective vehicle. Additionally, as is clear from the above-mentioned facts, the use and safety of my client's vehicle has been compromised. Should my client be forced to litigate this matter, he will be seeking damages for TMS's violations of the Massachusetts Lemon Law.

III. MAGNUSON MOSS WARRANTY ACT

Finally, my client will be pursuing a claim under the Magnuson Moss Warranty Act if this matter proceeds to trial. Under this federal mandate, a warrantor has a duty to remedy the defects/malfunctions complained of by a consumer within a "reasonable time and without charge." Failure of the warrantor to meet the minimum federal requirements under their warranty results in the consumer's right to sue the warrantor under the federal Magnuson Moss Warranty Act.

Given the repair history of **Construction** vehicle and the number of days that the vehicle was out of service, **he did not receive the benefit of the value of the vehicle or the warranties that were part of the basis of the bargain**. To that end, he will pursue his rights under the Magnuson Moss Warranty Act. Under the federal law, he is entitled to the diminution in value of the vehicle as warranted and the vehicle that he actually received. **Damages awarded pursuant to the Magnuson Moss claim will be in addition to the re-purchase calculation** that will be awarded after trial.

CONCLUSION

For the reasons stated herein, the manufacture by demands the following:

- 1. Full rescission of the original purchase agreement.
- 2. Payment of the loan pay-off and accompanying finance charges to the date of re-purchase and insurance payments to the date of re-purchase.
- 3. Payment of Attorneys' fees and costs.

Failure to forward the relief demanded within thirty days or a reasonable offer of settlement may result in the institution of legal proceedings against TMS seeking damages, reasonable attorneys' fees, interest and costs, all of which are permitted by Massachusetts General Laws, Chapter 93A and its subsections.

Additionally, TMS may be liable for two or three times the actual damages, if the court determines that its conduct was an unlawful or a knowing violation of Massachusetts General Laws, Chapter 93A and its subsections, or that TMS's failure to grant relief was made in bad faith with reason to know that its conduct was unfair and deceptive in violation of Massachusetts General Laws, Chapter 93A and its subsections.

Considering the obvious fact that my client has not requested any additional payment to compensate him for the double or treble damages to which he will be entitled after trial for the misrepresentations regarding the vehicle's condition at the time of sale or to compensate him for the damages he will receive for TMS's violation of the federal warranty mandate, the Magnuson Moss Warranty Act, my client's demand for a re-purchase, plus compensation for incidental and consequential damages (including finance charges and insurance payments), and attorneys' fees and costs is extremely reasonable. Should you require any documentation to verify my client's

loan pay-off and finance charges, insurance charges, or the bill for attorneys' fees and costs, please do not hesitate to call.

Very truly yours,

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Requeine Bradford Porro KIMMEL & SILVERMAN, P.C.

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| rice of Option | nai Credit insurance Purchas | ad from the t- | | | | | j | N /A | |
| ile \$ | Olsebility / | Coldent and H | ealth S | or Companies Nam | ed Below - | | | - + 4 6 17 | |
| rice of Option overling Certa | ial Mechanical Breakdown P in Nechanical Repairs | rotection or Se | rvice Contract Pure | hased from the Cre | A Kitar - | \$ | <u></u> | N/A | |
| ice of Option med Below - | al Debt Cancellation Covers - Covering a Waiver of Defic | | | | from the GAP | Provider \$ | | N/A | |
| her Charges | (Creditor must identify who | Will receive nev | ment and decode | Gummer) | | \$ | | N/B | |
| | | | for | haihos s) | | | | | |
| k | AGNER AUTOMOT | T 415 | tor | | | \$_ | ····· | N/A | |
| ier Amounts | Paid to Others on Your Behi | all . | | DOC_FEE | · | \$ | | 199.50 | |
| | id to Public Officials | | | | | - | | | |
| ios Paid to G | overnment Agencies (Not In | cluded in Cash | Price) | | | \$_ | | <u>N/A</u> | |
| remment Lice | mše Faos | | | | | <u>\$</u> _ | <u> </u> | 746.51 | |
| | istration Fees | | | | <u> </u> | | <u> </u> | N/A | |
| | lificate of Title Fees | | | | | <u>\$</u> | | _15.00 | |
| ter Charges I | and Amounts Paid to Others | on Your Beha | K | | | \$ | | <u>50</u> . 00 | |
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ed Physical Damage Insurance Physical damage Insurant +

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| i or controlled oertificates iss i \$i insurance Cor | veicel Damage Insurance. Physical di by you or through anyone you want used by the insurance company will desc N Deductible Collision AND mpany | amage insurance is requi who is reasonably accept mbe the terms and condito () () \$ | Deductible other than Collision i | ce is shown in 4A(i) of inclution Fire. Their a | ge through an existing reaccepted by the insur- the itemization above. | policy of insurance ance company, the po |
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| AND HEALTH purchase price | R Insurance. YOU CANNOT BE DENA INSURANCE ARE NOT REQUIRED TO is shown below and in 4A(ii) of the hem | O OBTAIN CREDIT, INSUE | USE YOU CHOOSE NOT TO BUY C IANCE WILL NOT BE PROVIDED U | REDIT INSURANCE. (NLESS YOU SIGN AN | AGREE TO PAY THE | E AND CREDIT ACC |
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| Credit Life | Single Coverage (Buyer Only) | \$ | You want the specified | | | |
| | Joint Coverage | sN/A | credit life coverage. | D | | |
| Credit Disability | Single Coverage (Buyer Only) | | You want the specified | Buyer's Signature | | er's Signature C |
| If you elect opti | unal insurance coverage and an | \$N/A | credit disability coverage. | Buyer's Signature | Date Co.P. | Charles |
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| | / | www. | normwagnerau | tomotive.cor | 12-0985 N |
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| | SERVICE ADVISOR | : 13 BREI | NDA OCASIO | C | |
| COLOR YEAR MAKE/MODEL | Vin | LICENSE | | EINFOUT | TAG |
| SILVERSTRE 05 TOYOTA COROLLA | 1NXBR32E35Z | | 3093 | /3093 | |
| DEL DATE PROD DATE WARR, EXP. PROMISE | D PO NO. | RATE | PAYMENT | INV. DA | TE |
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| READY OPTIONS: | | 70.00 ZZ6031691 | <u>CASH</u> | 11NOV20 | 04 |
| 09-26 11NOV04 14-11 (11NOV04) | | | | | |
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| A C/S ONLY ONCE 2 WEEKS AGO ENGINE ST | TALLED OUT WHEN BR | AKES | <u>NE1</u> | TOTAL | <u>, </u> |
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| B LOF, FREE DUE TO RETURN OF SURVEY 29C CHANGE OIL AND FILTER, CARS | | | | | |
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| ISTP 1 90915-YZZA2 FILTER S/A, OIL | | | | (N/C) | |
| 1 90430-12031 GASKET | | | | (N/C) (N/C) | |
| 5 OIL OT, 10W30 MOTOR OIL | | | | (N/C) | |
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| * 18 | Welcome to Magner | Toyota/Vo | olkswagen | * | |
| ייי די * | Blease visit our w vice and parts nee | ds at | or your se | 21~ * * | |
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| THE LABOR WARRANTY IS 90 DAYS OR 4,000 MILES WHICHEVER | STATEMENT OF DISCLAIMER | OESCRIPTION | , TOTALS * * * |
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| ON BEHALF OF SERVICING DEALER I HEREOV CEDITER THAT THE | the warranties with respect to the sale | LABOR AMOUNT | 0.00 |
| INFORMATION CONTAINED HEREON IS ACCURATE LINE FOR AVAILABLE | of this itemlitems. The Setter hereby expressly disclaims all warrenties | PARTS AMOUNT | 0.00 |
| SHOWN. SERVICES DESCRIBED WERE PERFORMED AT NO CHARGE TO OWNER. THERE WAS NO INDICATION FROM THE APPEARANCE OF THE | eliher express or implied, including any implied warranty of merchantability or | GAS, OIL, LUBE | 0.00 |
| VEHICLE ON OTHERWISE, THAT ANY PART REPAIRED ON DEGLACED | fitness for a particular purpose. Seller neither assumes nor authorizes any | SUBLET AMOUNT | 0.00 |
| UNDER THIS CLAIM HAD BEEN CONNECTED IN ANY WAY WITH ANY ACCIDENT. NEGLIGENCE OR MISUSE. RECORDS SUPPORTING THIS | other person to assume for it any liability in connection with the sale of | MISC. CHARGES | 0.00 |
| CLAIM ARE AVAILABLE FOR (1) YEAR FROM THE DATE OF PAYMENT NOTIFICATION AT THE SERVICING DEALER FOR INSPECTION BY | this item/items, I schnowledge receipt of vehicle and hereby approve above | TOTAL CHARGES | 0.00 |
| MANUFACTURER'S REPRESENTATIVE. | fisted services and parts | LESS INSURANCE | 0,00 |
| (SIGNED) DEALER, GENERAL MANAGER OR AUTHORIZED PERSON IDATE | | SALES TAX | 0.00 |
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| 6934 | 113070 | | TA VOLKSWA | | |
| | INVOICE | Lunen | 9 Massachusett burg, Massachu 342-1330 F | usetts 0146 | 2 |
| LEOMINSTER, MA HOME BUS: | PAGE 1 | www. | .normwagnerau /w.normwagner | tomotive.co | |
| CELL | | : 7 DEREK | | | |
| | | ··· LICENSE | MILEAG | EUN/(OUTP | TAG |
| SILVERSTRE 05 TOYOTA COROLLA DEUDATE PROG DATE WARE EXF. PHONICE | 1NXBR32E35Z | RATE | 7012/ PAYMENT | /7012 | T5252 |
| 16AUG04 IS 21:00 21 | | 80.00 | CASH | 22FEB05 | |
| | STK: T5063 ENG: 1 | .ZZ603169 | 7 | | |
| LINE_OPCODE TECH TYPE HOURS | | LIST | 1121 | (1)0/113 | |
| A CHANGE OIL AND FILTER, CARS | ····· <u></u> | <u></u> | NET | TOTA | <u>L</u> |
| 29C CHANGE OIL AND FILTER, CARS 123. CT 1 90915 MZZAZ BINTER S/A, OII 1 90430-12031 GASKET 5 OIL OT, 5W30 MOTOR OIL | cent e v B v v N X X X | 6,45 0,95 1.85 | 12.30 6.45 0.95 1.85 | , 12.3 6.4 0.9 9.2 | 5 5 |
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| 7012 LOF | | | | | |
| 3 ROTATE TIRES 46 ROTATE TIRES | **** | ****** | ** | | |
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| | | | | -U | b |
| HE LABOR WARRANTY IS 90 DAYS OR 4,000 MILES WHICHEVER OMES FIRST. | STATEMENT OF DISCLAIMER The factory warranty constitutes all of the warranties with respect to the sale | DESCRIP | | 31,25 | |
| IN BEHALF OF SERVICING DEALER, I HEREBY CERTIFY THAT THE FORMATION CONTAINED HEREON IS ACCURATE UNLESS OTHERWISE HOWN. SERVICES DESCRIBED WERE PERFORMED AT NO CHARGE TO WHER JURKE WAS NO INDICATION BEDINT THE ADDITION CHARGE TO | the warranties with respect to the sale of this iterrutions. The Salier hereby appressly dischams all warranties alther express or implied, including any | | IT | 16.65 | |
| EHICLE OR OTHERWISE, THAT ANY PART REPAIRED OR REPLACED | timping werranty of merchantability or fitness for a particular purpose. Seller neither essumes nor authorizes any | GAS, OIL, LUBI SUBLET AMOU | NT | 0.00 | |
| LAIM ARE AVAILABLE FOR (11 YEAR FROM THE DATE OF DAVIANT | Hability in connection with the sale of | MISC. CHARGE | | 0.00 | |
| OTIFICATION AT THE SERVICING DEALER FOR INSPECTION BY ANUFACTURER'S REPRESENTATIVE. | of vehicle and hereby approve above listed services and perts. | LESS INSURAN | | <u>47.90</u> 0.00 | |
| GNED) DEALER, GENERAL MANAGER OR AUTHORIZED PERSON (DATE) | CUSTOMER SIGNATURE | SALES TAX | | 0.83 | × 3 |
| | | THIS AMOUNT | | 48.73 | <u></u> |

| 6934 V | 114260 | | |
|--|--|--|-------------|
| | *INVOICE* | 39 Massachusetts Avenue Lunenburg, Massachusetts 01462 Phone: (978) 342-1330 Fax: (978) 342- | 0985 |
| LEOMINSTER, MA HOME: BUS: | PAGE 1 | www.normwagneraUtomotiva.com www.normwagneracion.com | |
| CBLL | SERVICE ADVISO | R: 1992 T J MCCORMACK | TAG |
| SILVERSTRE 05 TOYOTA COROLLA | 1NXBR32E35Z | | <u>5252</u> |
| 16AUG04 IS 21:00 2 | 5MAR05 | 80.00 CASH 25MAR05 | |
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| LINE OPCODE TECH TYPE HOURS A CUSTOMER STATES CHECK ENGINE LIGHT | T IS ON, CHECK ANI | LIST NET TOTAL REPORT | |
| 13 CUSTOMER STATES CHECK ENGINE CHECK, AND REPORT | BLIGHT IS ON, | | |
| 8108 NPF CHECK ENGINE LIGHT NOT ON. CODES OR HISTORY CODES. MAINT. REQ. | LIGHT WAS ON. | M, OR PENDING | |
| B C/S CAR CRANKS A LONG TIME AND DOE 51 FUNCTIONAL CHECK 259 ISTP PARTS: 0.00 LABOR: 0.00 | OTHER 0.00 | (N/C) TOTAL LINE B: 0.00 | |
| 8108 CND CRANKS NORMALLY, COULD NOT CONDITION OR A LONG CRANK CONDITION. | DUPLICATE A "DOES | N'T START" | |
| Ë | The set is our | ************************************** | |
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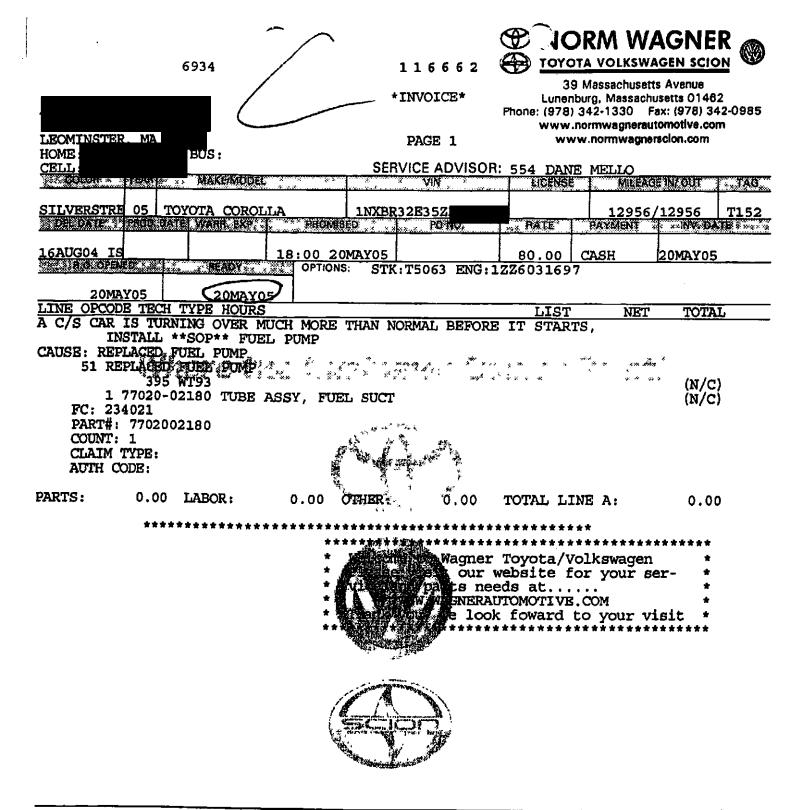
| THE LABOR WARRANTY IS 90 DAYS OR 4,000 MILES WHICHEVER | STATEMENT OF DISCLAIMER | · DESCRIPTION · · · · · | Auto TOTA SET |
|---|--|-------------------------|---|
| COMES FRIST. | The factory warranty constitutes all of the warranties with respect to the sale | LABOR AMOUNT | 0,00 |
| ON BEHALF OF SERVICING DEALER, I HEREBY CERTIFY THAT THE INFORMATION CONTAINED HEREON IS ACCURATE UNLESS OTHERWISE | of this itemvitems. The Seller hereby expressly disclaims all warranties | PARTS AMOUNT | 0.00 |
| SHOWN. SERVICES DESCRIBED WERE PERFORMED AT NO CHARGE TO OWNER, THERE WAS NO INDICATION PROM THE APPEARANCE OF THE | either express or impiled, including any implied warranty of merchantability or | GAS, OIL, LUBE | 0.00 |
| VEHICLE OR OTHERWISE, THAT ANY PART REPAIRED OR REPLACED | Stress for a particular purpose. Seller neither assumes nor authorizes any | SUBLET AMOUNT | 0.00 |
| UNDER THIS CLAIM HAD BEEN CONNECTED IN ANY WAY WITH ANY ACCIDENT, NEGLIGENCE OR MISUSE. RECORDS SUPPORTING THIS | other person to assume for it any liebility in connection with the sale of | MISC. CHARGES | 0.00 |
| CLAIM ARE AVAILABLE FOR (1) YEAR FROM THE DATE OF PAYMENT | this item/items, I acknowledge receipt of vehicle and hereby approve above | TOTAL CHARGES | 0.00 |
| NOTIFICATION AT THE SERVICING DEALER FOR INSPECTION BY | fisted services and parts. | LESS INSURANCE | 0.00 |
| | | SALES TAX | 0.00 |
| ISKGNED) DEALER, GENERAL MANAGER OR AUTHORIZED PERSON (DATE) | CUSTOMER SIGNATURE | PLEASE PAY | ······································ |
| | L | | A REAL PROPERTY AND |

| 6934 LEOMINSTER, MA LEOMINSTER, MA 1 1 5 7 1 2 *INVOICE* PAGE 1 1 1 5 7 1 2 *INVOICE* Proyota Volkswagen scion Signassachusetts Avenue Lunenburg, Massachusetts 01462 Phone: (978) 342-1330 Fax: (978) 342-0985 www.normwagnersutomotive.com Www.normwagnerscion.com |
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| LEOMINSTER, MA PAGE 1 Www.normwagnerscion.com |
| LEOMINSTER, MA PAGE 1 www.normwagnerscion.com |
| HOME: BUS: |
| CELL: SERVICE ADVISOR: 1992 M. T. MOCODNACK |
| MAKEMODEL VIN LICENSE MEEAGENVOULS TAG |
| SILVERSTRE 05 TOYOTA COROLLA 1NXBR32E35Z 12089/12089 T447 |
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| LINE OPCODE TECH TYPE HOURS |
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| 5 OIL QT, 5W30 MOTOR OIL PARTS: 16.65 LABOR: 12.30 OTHER: 0.00 TOTAL LINE A. 28.05 |
| PARTS: 16.65 LABOR: 12.30 OTHER: 0.00 TOTAL LINE A: 28.95 |
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| B ROTATE TIRES 46 ROTATE TIRES |
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| PARTS: 0.00 LABOR: 18.95 OTHER 0.00 TOTAL LINE B: 18.95 |
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| C C/S CAR IS TURNING OVER TO MUCH BEFORE STARTING |
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| You will be receiving a survey * Welcome to Wagner Toyota/Volkswagen * |
| You will be receiving a survey * Welcome to Wagner Toyota/Volkswagen * from the Manufacturer soon. * Please visit our website for your ser- * . A |
| Your Complete Sates will and * Vice ante parts needs at + () N |
| is our goal, if for any tested" contact: |
| */ Thank bay, we look foward to your visit * |
| |
| Towns Volkswagen |
| 978-342-1330 |
| |

| THE LABOR WARRANTY IS SO DAYS OR 4,000 MILES WHICHEVER COMES FIRST. | The factory warranty constitutes all of | S GESCRIPTION | |
|---|--|---------------------------|-------|
| ON BEHALF OF SERVICING DEALER I HEREAM CERTIFIC THAT THE | the warranties with respect to the sale of this itemuteme. The Saliar hereby | LABOR AMOUNT | 31.25 |
| INFORMATION CONTAINED HEREON IS ACCURATE UNLESS OTHERWISE SHOWN, SERVICES DESCRIBED WERE PERFORMED AT NO CHARGE TO | expressly disclaims all warranties | PARTS AMOUNT | 16,65 |
| UVENER, THERE WAS NU INDUCTION FROM THE ADDRADAUER OF THE | either express or implied, including any implied warranty of merchantability or | | 0.00 |
| UNDER THIS CLAIM HAD BEEN CONNECTED IN ANY WAY WAY | fitness for a particular purpose. Seller neither assumes nor euthorizes any | SUBLET AMOUNT | 0.00 |
| SUBJUCT IN NEULIVENUE ON MISUSE, RECORDE SUBBARTING TIME | other person to assume for it any lability in connection with the sale of | MISC. CHARGES | 0.00 |
| CLAIM ARE AVAILABLE FOR (1) YEAR FROM THE DATE OF PAYMENT WOTFICATION AT THE SERVICING DEALER FOR INSPECTION BY | inte item/iteme. I acknowledge receipt | TOTAL CHARGES | 47.90 |
| MANUFACTURER'S REPRESENTATIVE. | lated services and parts. | LESS INSURANCE | 0.00 |
| SIGNEDI DEALER, GENERAL MANAGER OR AUTHORIZED PERSON (DATE) | | SALES TAX | 0.83 |
| | CUSTOMER SIGNATURE | PLEASE PAY THIS AMOUNT | A8 73 |

| | e | 5934 | Ì | 11 | 6336 | | DRM W | AGNER |
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| THE LABOR WARRANTY IS 80 DAYS OR 4,000 MILES WHICHEVER COMES FIRST. ON BEHALF OF SERVICING DEALER, I HEREBY CERTIFY THAT THE INFORMATION CONTAINED HEREON IS ACCURATE UNLESS OTHERWISE SHOWN, SERVICES DESCRIBED WERE PERFORMED AT NO CHARGE TO OWNER. THERE WAS NO MOICATION FROM THE APPEARANCE OF THE VEHICLE OR OTHERWISE, THAT ANY PART REFAIRED OR REPLACED UNDER THIS CLAIM HAD BEEN CONNECTED IN ANY WAY WITH ANY ACCIDENT, NEGLIGENCE OR MISUSE. RECORDS SUPPORTING THIS CLAIM ARE AVAILABLE FOR (1) YEAR FROM THE DATE OF PAYMENT NOTIFICATION AT THE SERVICING DEALER FOR INSPECTION BY WANUFACTURER'S REPRESENTATIVE. | STATEMENT OF DISCLAIMER The factory werranty constitutes all of the warrantias with respect to the sale of this itemutens. The Seller hereby expressly disclaims all warranties either express or implied, including any implied werranty of merchantability or filmess for a particular purpose. Seller neither assume nor euthorizes any other person to assume for it any liability in connection with the sale of this itemutens. I actione/ledge receipt of vehicle and hereby approve above listed services and peris. | LABOR AMOUNT PARTS AMOUNT GAS, OIL, LUBE SUBLET AMOUNT MISC, CHARGES TOTAL CHARGES LESS INSURANCE SALES TAX | 0.00 0.00 0.00 0.00 0.00 0.00 0.00 0.0 |
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August 24, 2005

VIA FACSIMILE (781) 982-9114 and CERTIFIED MAIL NO.: 7003 3110 0002 8398 1136 RETURN RECEIPT REQUESTED

Jacqueline B. Porro, Esq. Kimmel & Silverman, P.C. 45 Pond Street Suite 202 Norwell, MA 02061

75 State Street Boston, MA 02109-1808 617.261.3100 Fax 617.261.3175 www.king.com

Jeffrey S. King

617.261.3179 Fax: 617.261.3175 jking@klng.com

DOCUMENTS SENT TO **OUTSIDE COUNSEL**

Demand of Re: 2005 Toyota Corolla – VIN # 1NXBR32E35Z

Dear Ms. Porro:

This office represents Toyota Motor Sales, U.S.A., Inc. ("TMS"). I write in response to your letter dated July 26, 2005 and addressed to Michael Ciccolini, Dispute Resolution Administrator c/o Toyota Motor Sales, U.S.A., Inc., in which you purport to assert a claim under Massachusetts General Laws, Chapter 93A, Section 9 ("Chapter 93A") and the Magnuson Moss Federal Warranty Act ("Mag-Moss"), in connection with the referenced 2005 Toyota Corolla (the "Vehicle"), on behalf of your client, We Your letter suggests that TMS has failed to honor its warranty obligations with respect to alleged problems concerning the manner in which the Vehicle starts and that those allegations would support a claim under the Lemon Law, Chapter 93A, and Mag-Moss. You demand rescission of the original purchase agreement, payment of the loan pay-off and accompanying finance charges and insurance payments to the date of re-purchase, and payment of attorneys' fees and costs. For the reasons set forth below, TMS denies that it has engaged in any conduct that violates the Lemon Law, Chapter 93A, or Mag-Moss, denies that the Vehicle meets the requirements for relief, and denies your request as your claims are without merit.1

We note as a preliminary matter that your letter fails to satisfy the requirements of Chapter 93A because it fails to describe reasonably any unfair or deceptive acts or practices of TMS and any injuries suffered as a result of such alleged behavior of TMS. You have not provided, and cannot provide, any credible evidence to prove that a defect existed in the Vehicle at any time and that a defect continues to exist in the Vehicle. Therefore you cannot prove that TMS failed to satisfy its warranty obligations.

Because your letter also refers to conduct by other entities, we wish to note that TMS and its 1 authorized dealers are separate and distinct entities, and that neither is an agent of the other or responsible for any alleged acts or practices of the other.



Jacqueline B. Porro August 24, 2005 Page 2

You allege the Vehicle was purchased on or about August 16, 2004 and that there have been several repair attempts related to the manner in which the Vehicle starts. You allege that on March 25, 2005, the check engine light was illuminated - this is not correct, on that date the maintenance light was illuminated. During the listed repairs, it was determined that the Vehicle was operating as designed and that no defects existed. However, in order to address what perceived as an improper starting condition, a new ECU/ECM was installed. When continued to complain of a condition he perceived as an improper starting condition, in order to further address his concerns, the fuel pump was replaced. However, at no time did any defects exist - these repairs were made to correct the perception of a "long crank" before the Vehicle started. A TMS Field Technical Specialist ("FTS") inspected the Vehicle on August 2, 2005. While the FTS determined the Vehicle was operating as designed, he noticed that a more recent part number existed for the ECU/ECM and so, as a further showing of good will towards After that replacement, he he replaced that unit, again, at no cost to confirmed that the Vehicle was operating as designed. While no defect ever existed, these repairs would have addressed any perception of a problem. Moreover, to the extent any such perceived problem did exist, it did not and does not rise to the level of a substantial impairment of use, value, or safety of the Vehicle.

Based on the information you have provided and the information that is currently available to TMS, you have not established that there are any defects in the Vehicle or that TMS failed to honor its warranty obligations, you have not alleged any unfair or deceptive acts or practices engaged in by TMS, and you have not established the elements for any claims under the Lemon Law, Chapter 93A, or Mag-Moss. Moreover, the fact that the perceived condition in the Vehicle has been addressed and corrected moots your demand. As a result, TMS denies that is entitled to any further relief at this time.

TMS endeavors to maintain customer loyalty and hopes to do so through customer satisfaction. Under the circumstances, we believe TMS has done all that it can do. TMS reserves the right to revise its response to your demand in the event you are able to provide additional information regarding your claim.

ery truly yours Jeffrey S. King (QS

JSK:as

cc: Mr. Mike Ciccolini