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10 UNITED STATES DISTRICT COURT
 11 CENTRAL DISTRICT OF CALIFORNIA

13 ALFRED SALAS and GLORIA
 14 ORTEGA, individually, and on
 behalf of a class of similarly situated
 individuals,
 15
 Plaintiffs,
 16
 vs.
 17
 TOYOTA MOTOR SALES, U.S.A.,
 18 INC., a California corporation,
 19
 Defendant.

Case No.: 2;15-cv-08629 FMO (Ex)

**SECOND AMENDED CLASS
 ACTION COMPLAINT FOR:**

- (1) Violations of California Consumer
 Legal Remedies Act;
- (2) Violations of Unfair Competition
 Law;
- (3) Breach of Implied Warranty pursuant
 to Song-Beverly Consumer Warranty
 Act;
- (4) Breach of Implied Warranty pursuant
 to the Magnuson-Moss Warranty
 Act. and
- (5) Unjust Enrichment

DEMAND FOR JURY TRIAL

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1 **INTRODUCTION**

2 Plaintiffs Alfred Salas and Gloria Ortega (“Plaintiffs”) hereby submit their
3 Second Amended Complaint (“SAC”) pursuant to this Court’s Order Re:
4 Pending Motion (“Order”) [Dkt. No. 30] and allege as follows:¹

5 1. Plaintiffs bring this action for themselves and on behalf of all
6 persons in the United States who purchased or leased any Toyota Camry XV50
7 model vehicles² (collectively, “Class Vehicles”) designed, manufactured,
8 marketed, distributed, sold, warranted, and serviced by Toyota Motor Sales,
9 U.S.A., Inc. (“Toyota” or “Defendant”).

10 2. This action arises out of a uniform and widespread defect in the
11 Heating, Ventilation, and Air Conditioning (“HVAC”) system of an entire class
12 of automobiles that poses an unreasonable health risk to the driver and
13 passengers of the vehicle.

14 3. On information and belief, the HVAC system contains one or more
15 design defects that cause, among other problems, emissions of noxious and foul
16 odors from debris and contamination in the HVAC system, as well as possible
17 growth of mold (the “HVAC Defect”).

18 4. Owners of the affected vehicles have a reasonable expectation that
19 normal and routine use of their vehicle’s HVAC system will not result in
20 exposure to noxious, foul odors or debris and contamination from their HVAC
21 system. Exposure to such smells and contamination is hazardous to health and
22 can lead to illness. The Center for Disease Control and Prevention (“CDC”)
23 states that “molds can cause symptoms such as nasal stuffiness, eye irritation,
24 wheezing, or skin irritation. Some people, such as those with serious allergies to

25 _____
26 ¹ Plaintiffs have not amended the claims that the Court already has
27 sustained. The amended allegations are for equitable relief at paragraphs 77-101
28 of the SAC.

² On information and belief, these vehicles include, but are not limited to,
the following models: 2012-2015 Toyota Camry.

1 molds, may have more severe reactions . . . [including] fever and shortness of
2 breath.”³

3 5. Many studies have been published concerning the health and safety
4 risks of mold exposure. For example, the World Health Organization has stated
5 that “[h]ealthy indoor air is recognized as a basic right” and that mold exposure
6 is “clinically associated with respiratory symptoms, allergies, asthma, and
7 immunological reactions.”⁴ In another study, the Environmental Research
8 Center in the Department of Biology at Georgia State University found that the
9 “enclosed environment of the automobile is a microcosm of the indoor
10 environment and is thus potentially susceptible to fungal-mediated allergy
11 problems.”⁵

12 6. On information and belief, the contamination emanating from the
13 HVAC system grows on a component called the evaporator, located inside the
14 vehicle’s dashboard. As the cold refrigerant passes into the evaporator, it
15 absorbs heat from the air in the passenger compartment and also collects
16 moisture because of condensation on the evaporator’s surface. This moisture,
17 along with pollen, dead insects in the air, and bits of leaves that enter the HVAC
18 system from the outside vents, leads to an environment favorable to the growth
19 of mold and other contaminants.

20 ///

21 ///

22 ///

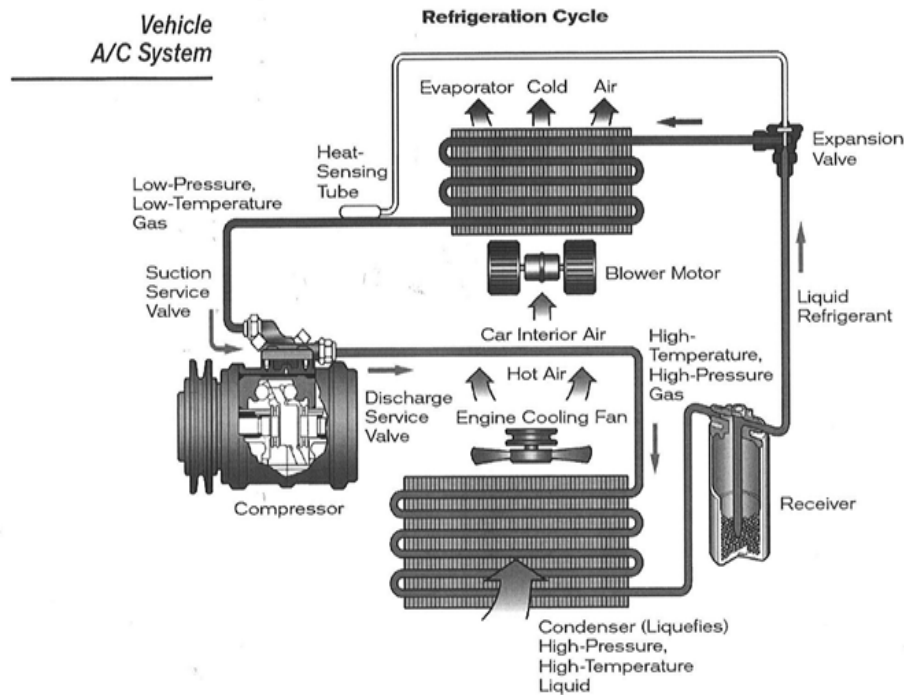
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24 ³ CDC, “Basic Facts: Molds in the Environment,
25 <http://www.cdc.gov/mold/faqs.htm> (last visited February 17, 2015).

26 ⁴ Marc Danzon, *Foreword* to WHO Guidelines for Indoor Air Quality:
27 Dampness and Mould at xi (Elisabeth Heseltine and Jerome Rosen eds., 2009).

28 ⁵ R.B. Simmons et al., *Fungal Colonization of Automobile Air
Conditioning Systems*, *Journal of Industrial Microbiology & Biotechnology* 150
(1997).

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7. On information and belief, the HVAC Defect cannot be resolved by the Defendant’s offered “fixes” and thus may require expensive and temporary repairs that do not address the issue, including repeated replacement of air filters or other related components, as well as repeated foam flushes or other related repairs.

8. Plaintiffs are informed and believe, and based thereon allege, that even where Defendant agreed to address consumer complaints of the HVAC system containing mold or emitting noxious and foul odors, Defendant merely replaced the defective HVAC components with the same defective components, which never repairs the HVAC Defect as warranted.

9. On information and belief, prior to sale of the Class Vehicles, Defendant knew, or should have known, about the HVAC Defect through its exclusive knowledge of non-public, internal data about the HVAC Defect, including, without limitation, early consumer complaints about the HVAC Defect to Defendant’s dealers who are their agents for vehicle repairs; dealership repair orders; testing conducted in response to those complaints; technical service bulletins (“TSBs”) applicable to the identical Class Vehicles; and other

1 internal sources. Nevertheless, Defendant has actively concealed and failed to
2 disclose this defect to Plaintiffs and Class Members at the time of their purchase
3 or lease of the Class Vehicles and thereafter.

4 10. Beginning as early as 1997, Defendant knew or should have known
5 through pre-sale testing and other internal sources that the HVAC system
6 contained one or more design defects that cause health risks. Nonetheless,
7 Defendant has actively concealed and failed to disclose this defect to Plaintiffs
8 and Class Members at the time of purchase or lease of the Class Vehicles and
9 thereafter and continued to use the defective HVAC system in its vehicles,
10 including the Class Vehicles.

11 11. Before offering the vehicle for sale, Toyota had already offered
12 prior model year Camry vehicles for sale, which utilized the same, or
13 substantially similar, HVAC systems. Specifically, nearly two decades ago and
14 as a result of the HVAC Defect, Toyota issued TSB AC002-97 to its dealers in
15 the United States, acknowledging to its dealers that the HVAC system and its
16 associated parts for “all models,” including the Camry, were defective and
17 malfunctioning. The TSB, issued on or about May 9, 1997 and titled “AIR
18 CONDITIONING EVAPORATOR ODOR,” informs dealers that a “musty odor
19 may be emitted from the air conditioning system of some vehicles,” and one
20 reason for this odor is “[m]icrobial growth in the evaporator, arising from
21 dampness in the evaporator housing where the cooling air flow is dehumidified.”
22 On information and belief, the HVAC systems at issue in this TSB are identical
23 or substantially similar to those used in the Class Vehicles.

24 12. Toyota has acknowledged that the HVAC system used in the Class
25 Vehicles and its attendant problems are the same as the odor issues occurring in
26 other Toyota vehicles. Specifically, a Toyota technician’s training manual
27 published in 2005 indicated that “A/C system odors are a common complaint
28 among users, especially after start up.” It goes on to explain that the odors can

1 be caused by “[m]icrobes [i.e., mold] growing on the evaporator surface” that are
2 “small living bacteria . . . carried into the evaporator case [that] grow in the
3 warm, moist environment.” Additionally, it states that there is “**no permanent**
4 **mechanical repair**” for this issue. On information and belief, the HVAC
5 systems at issue in this technician’s training manual are identical or substantially
6 similar to those used in the Class Vehicles.

7 13. More recently, in or around August 2009, Toyota released yet
8 another TSB, TSB-0261-09, to its dealers in the United States, titled “HVAC
9 Odor,” once again acknowledging that the HVAC system and its associated parts
10 for 2007-2010 Camry, Camry HV, and 2004-2008 Prius vehicles were defective
11 and malfunctioning. On information and belief, the HVAC systems at issue in
12 this TSB are identical or substantially similar to those used in the Class Vehicles.

13 14. Subsequently, in or around September 2013, Toyota released
14 another TSB, TSB 0142-13, to its dealers in the United States, once again
15 acknowledging that the HVAC system and its associated parts for the Class
16 Vehicles were defective and malfunctioning. This TSB was titled “HVAC Odor
17 Maintenance” and applies to all 2004-2014 Camry vehicles.

18 15. On information and belief, despite notice of the defect from
19 numerous consumer complaints and dealership repair orders, Toyota has not
20 recalled the Class Vehicles to repair the HVAC Defect, has not offered their
21 customers a suitable repair or replacement free of charge, and has not offered to
22 reimburse the Class Vehicles’ owners and leaseholders in full for the costs they
23 incurred in diagnosing and repairing the HVAC Defect.

24 16. Because Toyota will not notify Class Members that the HVAC
25 system is defective, Plaintiffs and Class Members (as well as other passengers)
26 are subjected to serious adverse health risks because of their vehicle.

27 17. The alleged HVAC Defect was inherent in each Toyota Camry
28 HVAC system and was present in each Toyota Camry HVAC system at the time

1 of sale.

2 18. Toyota knew about the HVAC Defect present in every Class
3 Vehicle, along with the attendant risks to health and safety, and concealed them
4 from Plaintiffs and Class Members, at the time of sale, lease, and repair and
5 thereafter.

6 19. The HVAC Defect is material to Plaintiffs and Class Members. If
7 Plaintiffs and Class Members had known about these defects at the time of sale
8 or lease, Plaintiffs and Class Members would not have purchased or leased the
9 Class Vehicles or would have paid less for them.

10 As a result of their reliance on Defendant's omissions, owners and/or
11 lessees of the Class Vehicles suffered an ascertainable loss of money, property,
12 and/or value of their Class Vehicles, including, but not limited to, out-of-pocket
13 costs related to repairs to the HVAC system. Additionally, as a result of the
14 HVAC Defect, Plaintiffs and Class Members were harmed and suffered actual
15 damages in that repair or replacement of the Class Vehicles' HVAC components
16 will be substantially certain to fail to resolve the odor and/or mold issues and,
17 thus, the HVAC system will require repairs or replacements throughout the life
18 of the vehicles.

19 THE PARTIES

20 Plaintiff Alfred Salas

21 20. Plaintiff Alfred Salas is a California citizen who resides in Los
22 Angeles, California.

23 21. On or about June 20, 2015, Plaintiff Salas purchased a used 2014
24 Toyota Camry from South Coast Toyota, an authorized Toyota dealer in Los
25 Angeles County.

26 22. Plaintiff Salas purchased his vehicle primarily for personal, family,
27 or household use. Toyota manufactured, sold, distributed, advertised, marketed,
28 and warranted the vehicle.

1 23. Passenger safety and reliability were factors in Plaintiff Salas’s
2 decision to purchase his vehicle. Prior to purchasing his vehicle, Plaintiff Salas
3 reviewed specific features and options for the Camry on Toyota’s official
4 website and test drove his Toyota Camry with a sales representative from South
5 Coast Toyota.

6 24. Plaintiff Salas’ vehicle came with a standard 3 year/ 36,000 mile
7 bumper-to-bumper warranty.

8 25. On or about August 29, 2015, with approximately 26,476 miles on
9 the odometer of his 2014 Toyota Camry, Plaintiff Salas brought his vehicle to
10 South Coast Toyota complaining that the HVAC system was not draining
11 following use of the air conditioning and that the vehicle’s HVAC system was
12 emitting an odor when the heat or air conditioning was in use. Toyota’s service
13 advisor inspected Plaintiff Salas’s vehicle and performed repairs designed to
14 eliminate “bacteria build up” in the HVAC system including running an “O-
15 Zone” machine for several hours and replacing the cabin air filter.

16 26. Plaintiff Salas continues to experience the HVAC Defect, including,
17 but not limited to noxious, foul, and moldy odors emitting from his vehicle’s
18 HVAC system.

19 27. At all times, Plaintiff Salas, like all Class Members, has driven his
20 vehicle in a foreseeable manner and in the manner in which it was intended to be
21 used.

22 28. Prior to the purchase of his Class Vehicle, Plaintiff Salas did not
23 know about the HVAC Defect. Defendant had exclusive knowledge of the
24 HVAC Defect and actively concealed it.

25 29. The HVAC Defect was material to Plaintiff Salas. Had Defendant
26 disclosed the HVAC Defect, Plaintiff Salas would have been aware and would
27 not have purchased his vehicle, or would have paid less for it.

28

1 **Plaintiff Gloria Ortega**

2 30. Plaintiff Gloria Ortega is a California citizen who resides in Long
3 Beach, California.

4 31. On or about October 29, 2011, Ms. Ortega purchased a 2012 Toyota
5 Camry from Longo Toyota, an authorized Toyota dealer in Los Angeles County

6 32. Plaintiff Ortega purchased her vehicle primarily for personal,
7 family, or household use. Toyota manufactured, sold, distributed, advertised,
8 marketed, and warranted the vehicle.

9 33. Passenger safety and reliability were factors in Plaintiff Ortega's
10 decision to purchase her vehicle. Prior to purchasing her vehicle, Plaintiff
11 Ortega reviewed specific features and options for the Camry on Toyota's official
12 website and test drove her Toyota Camry with a sales representative from Longo
13 Toyota.

14 34. Plaintiff Ortega's vehicle came with a standard 3 year/ 36,000 mile
15 bumper-to-bumper warranty.

16 35. On or about June 21, 2013, with approximately 29,509 miles on the
17 odometer of her 2012 Toyota Camry, Plaintiff Ortega brought her vehicle to
18 AutoNation Toyota Cerritos complaining that the vehicle's HVAC system was
19 emitting an odor when the heat or air conditioning was in use. Toyota's service
20 advisor inspected Plaintiff Ortega's vehicle and confirmed the presence of the
21 odor when turning on the HVAC system. However, Toyota's service advisor did
22 not perform any repairs to address Plaintiff Ortega's concern and instead
23 recommended running the HVAC system in non-recirculation mode so the
24 evaporator could dry out the smell. Following this visit to the dealership's
25 service department, Plaintiff Ortega's vehicle's HVAC system continued to emit
26 the foul odors she complained of whenever she used the heating or air
27 conditioning.

28 36. In addition, on or about March 28, 2015, with approximately 59,970

1 miles on the odometer of her 2012 Toyota Camry, Plaintiff Ortega brought her
2 vehicle to Cabe Toyota, another authorized Toyota dealer in Long Beach,
3 California. During this visit, the assigned Toyota service advisor also confirmed
4 the foul odor emitting from the vehicle's HVAC system. However, the service
5 advisor did not perform any repairs to address Plaintiff Ortega's concern.

6 37. Plaintiff Ortega continues to experience the HVAC Defect,
7 including, but not limited to noxious, foul, and moldy odors emitting from her
8 vehicle's HVAC system.

9 38. At all times, Plaintiff Ortega, like all Class Members, has driven her
10 vehicle in a foreseeable manner and in the manner in which it was intended to be
11 used.

12 39. Prior to the purchase of his Class Vehicle, Plaintiff Ortega did not
13 know about the HVAC Defect. Defendant had exclusive knowledge of the
14 HVAC Defect and actively concealed it.

15 40. The HVAC Defect was material to Plaintiff Ortega. Had Defendant
16 disclosed the HVAC Defect, Plaintiff Ortega would have been aware and would
17 not have purchased her vehicle, or would have paid less for it.

18 **Defendant**

19 41. Defendant Toyota Motor Sales, U.S.A., Inc. is a corporation
20 organized and in existence under the laws of the State of California and
21 registered to do business in the State of California. Toyota Motor Sales, U.S.A.,
22 Inc.'s Corporate Headquarters is located at 19001 South Western Avenue,
23 Torrance, California 90501. Toyota Motor Sales, U.S.A., Inc. designs and
24 manufactures motor vehicles, parts, and other products for sale in California, in
25 the United States, and throughout the world. Toyota Motor Sales, U.S.A., Inc. is
26 the warrantor and distributor of the Class Vehicles in California.

27 42. At all relevant times, Defendant was and is engaged in the business
28 of designing, manufacturing, constructing, assembling, marketing, distributing,

1 and selling automobiles and motor vehicle components in California, and
2 throughout the United States.

3 **JURISDICTION**

4 43. This is a class action.

5 44. Plaintiff and other class members are citizens of states different
6 from the home state of Defendant Toyota Motor Engineering and Manufacturing
7 North America, Inc.

8 45. On information and belief, aggregate claims of individual Class
9 Members exceed \$5,000,000.00 in value, exclusive of interest and costs.

10 46. Jurisdiction is proper in this Court pursuant to 28 U.S.C. § 1332(d).

11 **VENUE**

12 47. Toyota, through its business of distributing, selling, and leasing the
13 Class Vehicles, has established sufficient contacts in this district such that
14 personal jurisdiction is appropriate. Defendant is deemed to reside in this district
15 pursuant to 28 U.S.C. § 1391(a).

16 48. In addition, a substantial part of the events, omissions, or
17 misrepresentations giving rise to these claims and a substantial part of the
18 property that is the subject of this action are in this district. In addition,
19 Plaintiffs' Declarations, as required under California Civil Code section 1780(d)
20 but not pursuant to *Erie* and federal procedural rules, which reflect that
21 Defendant are doing business in Los Angeles County, California, are filed
22 concurrently herewith as Exhibit 1.

23 49. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(a).

24 **FACTUAL ALLEGATIONS**

25 50. For years, Toyota has designed, manufactured, distributed, sold, and
26 leased the Class Vehicles. Toyota has sold, directly or indirectly, through
27 dealers and other retail outlets, tens of thousands of Class Vehicles in California,
28 and throughout the United States.

1 51. The Class Vehicles contain one or more design defects that lead to
2 the growth of mold within their HVAC system, leading to emissions of mold and
3 noxious, foul odors.

4 52. On information and belief, the defect is contained in or around the
5 evaporator located within the HVAC system, which contributes to mold growth
6 from the collection of condensation moisture on the evaporator’s surface and the
7 external contaminants provided to the mold from airborne sources via the outside
8 air vents.

9 53. Dating back to at least 1997, Toyota was aware of the defects of the
10 HVAC system. Toyota, however, failed and refused to disclose these known
11 defects to consumers. As a result of this failure, Plaintiffs and Class Members
12 have been damaged.

13 **The HVAC System Defect Poses an Unreasonable Safety Risk**

14 54. Many purchasers and lessees of the Class Vehicles have experienced
15 problems with the HVAC system. Complaints filed by consumers with the
16 National Highway Traffic Safety Administration (“NHTSA”) and posted on the
17 internet demonstrate that the defect is widespread. The complaints also indicate
18 Defendant’s awareness of the problems with the HVAC system and the
19 unreasonable health and safety risks of the HVAC Defect. The following are
20 some safety complaints relating to the HVAC Defect (spelling and grammar
21 mistakes remain as found in the original):

22 **NHTSA Complaints** (Safecar.gov, *Search for Complaints* (October 23,
23 2015), <http://www-odi.nhtsa.dot.gov/complaints/>):

- 24 a. (2011 Toyota Camry 03/17/2011) TL*THE CONTACT OWNS A
25 2011 TOYOTA CAMRY LE. THE CONTACT STATED THAT
26 FOR THE LAST THREE MONTHS HE SMELLED AN ODOR
27 INSIDE THE VEHICLE WHEN HE TURNED THE AIR
28 CONDITIONER/HEAT OFF. AFTER A WHILE HE BECAME
SICK AND WAS HOSPITALIZED, BUT THEY COULDN'T
FIGURE OUT WHAT CAUSED HIM TO BECOME SICK. THE
VEHICLE WAS INSPECTED BY A DEALER WHO ADVISED
HIM THAT THE FILTER UNDERNEATH THE GLOVE BOX

1 MAY NEED TO BE CHANGED. THEY WERE ABLE TO
2 DUPLICATE THE FAILURE, SMELL THE ODOR AND A
3 TECHNICIAN FROM THE FACTORY WAS NOTIFIED.
4 WHEN THE TECHNICIAN INSPECTED THE VEHICLE
5 THEY ADVISED HIM THAT THEY COULD NOT LOCATE
6 WHERE THE ODOR WAS CAME FROM; HOWEVER, HE
7 ADDED A SPECIAL FILTER TO THE VEHICLE TO KEEP
8 THE ODOR OUT. WITHIN A FEW WEEKS HE SMELLED
9 THE STRONG ODOR AGAIN. THE FAILURE MILEAGE
10 WAS APPROXIMATELY 3,000. THE VIN WAS
11 UNAVAILABLE.

12 b. (2011 Toyota Camry 08/22/2014) TL* THE CONTACT OWNS
13 A 2011 TOYOTA CAMRY. THE CONTACT NOTICED AN
14 ABNORMAL ODOR IN THE VEHICLE WITHIN A MONTH
15 OF IT BEING PURCHASED. THERE WAS ALSO WHITE
16 POWDER COMING FROM THE AIR VENTS WHENEVER
17 THE AIR CONDITIONER WAS ACTIVATED. THE
18 CONTACT STATED THAT THE ODOR WAS CAUSING HER
19 AND HER FAMILY TO BECOME ILL. THE VEHICLE WAS
20 TAKEN TO THE DEALER MULTIPLE TIMES AND STATED
21 THAT THE EVAPORATOR SYSTEM CAUSED THE
22 FAILURE. THE DEALER CHANGED THE EVAPORATOR
23 SYSTEM, BUT THE ODOR PERSISTED. THE CONTACT
24 CLEANED THE VEHICLE AND MADE SURE ALL THE
25 WINDOWS WERE CLOSED IN ORDER TO ELIMINATE THE
26 FAILURES, BUT WHITE POWDER CONTINUED TO COME
27 THROUGH THE VENTS. THE CONTACT WAS VERY
28 CONCERNED THAT THE WHITE POWDER COULD BE
TOXIC, ESPECIALLY SINCE IT WAS MAKING HER AND
HER FAMILY NAUSEOUS. THE CONTACT ATTEMPTED
TO USE AIR FRESHENERS IN THE VEHICLE, BUT THE
ODOR WAS STILL PRESENT. THE MANUFACTURER WAS
MADE AWARE OF THE FAILURE. THE FAILURE
MILEAGE WAS 80. UPDATED 10/29/14*CN

19 c. (2012 Toyota Camry 01/29/2015) I HAVE HAD MULTIPLE
20 PROBLEMS WITH MY 2012 CAMRY. PURCHASED IT NEW
21 AND STARTED HAVING PROBLEMS AROUND 3,500
22 MILES. FIRST, NOTICED A MILDEW SMELL THAT THEY
23 STATED WAS FROM THE AC WHICH THEY FIXED.
CONTINUED TO HAVE THE ODOR AND FOUND OUT
15,000 MILES LATER THAT THERE WAS A LEAK IN THE
AC THAT WAS PRESSING ON MY AIRBAGS SO THE
ENTIRE AIRBAG SYSTEM NEEDED TO BE REPLACED.

24 d. (2012 Toyota Camry 08/02/2014) I DROVE THIS 2012 CAMRY
25 ON THE HIGH WAY TO NASHVILLE TN FOR 8 DAYS
26 VACATION STARTED 28 JUNE 2014, LOT OF WATER
27 COMING OUT FROM CARPET, HAD TO STOP AND CLEAN
28 WATER IN EVERY COUPLE HOURS(MY HAND WAS
INJURED WHEN CLEANING UP WATER). AFTER I
ARRIVED A HOTEL, I SEARCHED ON THE INTERNET
AND FOUND OUT THAT TOYOTA HAD A RECALL IN DEC
2013 ON THIS A/C WATER LEAK, IT CAN CAUSE "AIRBAG

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WARNING LIGHT", ELECTRONIC POWER STEERING LIGHT", OR OTHER PROBLEMS. WE ARE VERY WORRIED ABOUT CAR MAY CAUSE ACCIDENT IN THE WHOLE VOCATION. ----- AFTER BACK TO ROCHESTER NY, CALLED TOYOTA AND THEY TOLD ME GO TO TOYOTA SERVICE TO REPAIR THIS PROBLEM; SO I WENT TO HENRIETTA NY TOYOTA SERVICE AND TOLD THEM A/C WATER LEAK, THEY SAID THEY WILL FIX THAT, ON THE SERVICE REPORT PRINTED:" CUSTOMER STATES THERE IS A WATER LEAK", "WORK PERFORMED BY XXXX", "CLEANED A/C DRAIN". BUT THE MANAGER LIED TO ME, HE SAID THERE IS NO RECALL. ----- NOT SURE IF IT IS TOTALLY FIXED, CAR STILL VERY MOIST, SMELL IS BAD, EVEN AFTER OPEN CAR'S 4 DOORS, PUT THE CARPET BASK IN THE SUN FOR FEW DAYS. ----- YESTERDAY, I FOUND ANOTHER TOYOTA SERVICE REPORT AND RECALL LETTER FROM TOYOTA ON 12/28/2013, AND THIS REPORT SHOWS THEY "PERFORMED WORK BY XXXX." . I TOTALLY FORGOT THIS CAR RECALLED AND ALREADY PERFORMED THE "FIX" FOR A/C WATER LEAK PROBLEM, OBVIOUSLY, TOYOTA SERVICE DID NOT FIX THIS PROBLEM AND THEY LIED TO ME. ----- THIS CAMRY HAS DAMAGE UNDER CARPET BECAUSE OF WATER LEAK, IT MAY CAUSE SOME ELECTRIC CIRCUITS PROBLEMS IN THE FUTURE, I DON'T WANT TO BE WORRY EVERYDAY, SO I DON'T WANT THIS CAR ANY MORE (THE LEASE TERM WILL END IN ONE MORE YEAR AND A MONTH, I PAID \$3000 DOWN PAYMENT FOR 3 YEAR LEASE, ALSO EVERY MONTH PAYMENT). WHAT IS MY CHOICE? ----- THANKS!

- e. (2012 Toyota Camry 05/17/2014) FOR THE PAST SEVERAL MONTHS MY 2012 CAMRY A/C UNIT RELEASES A FOUL MILDEW ORDER. IN-CABIN FILTER AS WELL AS OZONE DEPLETION SPRAY WAS COMPLETED TWICE OVER THE SPAN OF ONE WEEK AT CROWN TOYOTA, HOWEVER THE FOUL SMELL SHORTLY REAPPEARS WHEN THE CAR IS TURNED ON. *JS
- f. (2012 Toyota Camry 05/02/2014) . . . A/C HAVE BAD SMELL WHEN I TURN OFF THE A/C LEAK LOTS OF WATER,WHEN I STOP AND TOOK OFF THE CAR SKID AND A LIGHT ABS LIGHT ON THE PANEL.I SPOKE TO THE MGR AND HE TOLL ME WAS NORMAL WHEN A/C OFF OPEN THE OUTSIDE AIR TO THE SMELL GO AWAY
- g. (2012 Toyota Camry 01/02/2014) P/O RESPONSE LTR TO TOYOTA CORP. RE 2012 CAMRYDATE: DECEMBER 26, 2013 - ...FURTHERMORE,MY BROTHER AND I HAVE STRESSED TO EVERYONE WE HAVE SPOKEN WITH SINCE OUR FIRST CONTACT ON DEC16, 2013 WITH TOYOTA REGARDING THESE DANGEROUS MECHANICAL PROBLEMS I.E., THE UNINTENDED ACCELERATION, STEERING PULLING TO THE RIGHT AS

1 WELL AS THE OFFENSIVE ODOR THAT OCCURS WHEN
2 THE AC IS TURNED ON.

3 h. (2013 Toyota Camry 01/05/2015) ANYTIME DURING WARM
4 WEATHER WHEN THE AIR CONDITIONER HAS BEEN/IS
5 BEING USED THERE IS A DISGUSTING FOUL MILDEW
6 ODOR IMMEDIATELY UPON STARTING THE VEHICLE.
7 THE ODOR IS NAUSEATING AND CAUSES HEADACHES.
8 EVERY TIME THE CAR IS DRIVEN, I HAVE TO TURN ON
9 THE HEAT AND PUT ALL THE WINDOWS DOWN FOR
10 ABOUT 5-10 MINUTES TO GET RID OF THE ODOR.
11 APPARENTLY THERE IS AN ISSUE WITH
12 CONDENSATION FROM THE AC NOT DRAINING
13 PROPERLY. I HAVE BEEN ABLE TO FIND SEVERAL
14 SIMILAR COMPLAINTS ONLINE. SOME DEALERSHIPS
15 CLAIM THEY HAVE NEVER HEARD OF THIS ISSUE,
16 WHILE OTHERS ADMIT THAT THEY ARE AWARE OF IT
17 BUT THAT TOYOTA HAS NO "FIX" FOR IT. BREATHING
18 IN MOLD IS A SAFETY CONCERN. THIS DOES NOT
19 OCCUR IN THE WINTER WHEN AC IS NOT USED.

20 i. (2014 Toyota Camry 9/22/2015) MY 2014 CAMRY HAS LESS
21 THAN 20,000 MILES ON IT AND I AM ABOUT TO BE ON
22 MY 3RD CABIN FILTER DUE TO A MOLDY SMELL IN MY
23 CAR. I BOUGHT THIS CAR FOR MY WIFE BRAND NEW
24 AND I HAVE COMPLAINED TO THE DEALERSHIP
25 MULTIPLE TIMES ABOUT THIS ISSUE. THEY HAVE
26 ACCEPTED THE FAULT AND IN APRIL OF THIS YEAR
27 THEY REPLACED THE CABIN FILTER FREE OF CHARGE.
28 LESS THAN 6 MONTHS LATER IT HAS GONE BAD AGAIN,
THE CAR SMELLS MOLDLY AND MY CHILD AND WIFE
ARE SURROUNDED BY THIS MOLDY SMELL WHENEVER
THE A/C IS ON. I HAVE FILED A COMPLAINT WITH
TOYOTA WITH THE REQUEST FOR THEM TO BUY-BACK
THIS VEHICLE FROM ME AS EVERY OTHER VEHICLE I
HAVE OWNED DOESN'T NEED A CABIN FILTER UNTIL
50-60K MILES. TOYOTA HAS ACKNOWLEDGED THIS
ISSUE AND FAULT. I WAS ADVISED TO PLACE A
COMPLAINT AT THIS TIME HERE SINCE THIS ODOR IS
EFFECTING MY FAMILIES HEALTH. TOYOTA HAS BEEN
SLOW RETURNING MY CALLS AND HAS ADVISED ME
THAT THIS PROCESS WILL TAKE OVER 30 DAYS FROM
HERE.

23 j. (2014 Toyota Camry 3/28/2015) THERE IS SOMETHING
24 SERIOUSLY WRONG WITH THIS VEHICLE'S AIR
25 CONDITIONING SYSTEM. IT HAS BEEN OMITTING A
26 FOUL, MOLDY, MILDEWY, BAD BO (BODY ODOR),
27 MUSTY, SOUR SMELL SINCE ONLY OWNING THE
28 VEHICLE FOR LESS THAN HALF A YEAR. THIS IS A
HUGE SAFETY/HEALTH ISSUE & NEEDS TO BE
REMEDIED ASAP. I MYSELF HAVE ALLERGIES & THE
SMELL BLOWING OUT FROM THE VENTS ON A DAILY
BASIS IS CAUSING ME TO BE VERY SICK. I HAVE TAKEN
THE VEHICLE INTO THE DEALERSHIP SEVERAL TIMES

1 & THERE IS NO PERMANENT FIX. IT IS A RECURRENT
2 PROBLEM WITH THIS MANUFACTURER'S VEHICLES &
3 THEY HAVE NOT BOTHERED TO ADDRESS OR REMEDY
4 THE PROBLEM. THERE ARE MANY OTHER OWNERS
5 WITH THE SAME VEHICLE WHO ARE ALSO
6 EXPERIENCING THE SAME PROBLEMS.

7 k. (2014 Toyota Camry 11/23/2014) WHEN STARTING VEHICLE
8 AND TURNING ON A/C A VERY FOUL ODOR OF MILDEW
9 AND MOLD COMES FROM THE VENTS. WE HAVE TAKEN
10 IT BACK TO THE DEALERSHIP FOR A CLEANING AND
11 REPLACED THE FILTER WITH A CARBON ONE AT THE
12 DEALERSHIP AT OUR EXPENSE. THIS DID NOT FIX THE
13 ISSUE. WE FOLLOW INSTRUCTIONS OF RUNNING AC IN
14 NON RECIRCULATING MODE TO NO AVAIL. TOYOTA
15 DOES NOT SEEN TO WANT TO TAKE OWNERSHIP OF
16 THE ISSUE. I AM CONCERNED OF OUR HEALTH FROM
17 INHALING THESE MOLD SPORES AND BACTERIA.

18 55. Also, complaints posted by consumers in internet forums
19 demonstrate that the defect is widespread. The complaints also indicate
20 Defendant's awareness of the problems with the HVAC system and how
21 potentially dangerous the defective condition is for consumers. The following
22 are some safety complaints relating to the HVAC Defect (spelling and grammar
23 mistakes remain as found in the original) (CarComplaints.com (October 23,
24 2015), <http://www.carcomplaints.com/>):

25 **CarComplaints.com 2012 Toyota Camry – Consumer Reviews**

26 a. (2012 Toyota Camry) I have been in to the dealer 3x for this
27 problem. The service person can smell the odor but the
28 mechanic's cannot. The first time I went in they said it was full of
water that was not draining. The next time I went in they claimed
they don't smell anything, yet the opened a ticket with Toyota.
The smell has now become unbearable and it is making me sick
because I have health issues with my immune system. The smell
occurs each time you turn on the a/c, no matter how long it has
been sitting. They told me that they have never had this problem
before and don't know what to do. When I called Toyota's 800
number the dealer told them they took apart the dash. They are
liars. Do you or did you have this problem and did they find a
solution. I hate driving my new car.

b. (2012 Toyota Camry) Bad smell from a/c when it is turned on
every day. Took to dealer for inspection and told me everything is
ok . Gave me an instruction sheet indicating to turn a/c to fresh air
mode every day before turning the engine off. Never had this
problem before in any other car even in another Camry 2010 that
I leased before. I suspect that the problem is water not draining

1 correctly. Will take the car again to get the problem resolved. It's
2 a shame, I was very happy with my prior Camry which was
perfect and now I hate this car.

3 c. (2012 Toyota Camry) ok. I am reporting for the first time
4 however tomorrow will be my second trip to the dealer. Mold
5 smell coming from ac, Toyota does know this is a problem. Don't
6 let them tell you otherwise! The first time I went to dealer they
7 ran some sort of disinfecting solution through the system. This
8 just masks the smell for a short time, if you google "dirty sock
9 syndrome ac" you will find several articles on the subject. It can
10 happen in cars and home ac units. Here in florida we have a three
11 strike lemon law, as noted this will be strike two if they fail to
12 resolve the problem. The only way to fix it is to purge the system,
13 replace the compressor and evaporator coil. Even this sometimes
14 does not fix it. I plan to give the dealer three chances to resolve, I
15 have started a case number with Toyota USA and contacted the
Florida Attorney Generals office. They have told me to allow the
dealer 3 attempts and if not resolved the dealer will have the
option to buy back the car for the total purchase price or give me
a new car. **DO NOT LET TOYOTA SCREW YOU OVER! IT IS
A REPORTED PROBLEM!** I have been told Toyota tech.
services is working on a solution but as of now no known fix.
This means they will delay for as long as possible hoping you will
give up. There are hundreds of reported cars with this problem,
and over all it has been reported that 3% of the 2012 model have
been lemons for a host of problems. That number is up from <1 %
for previous years 0711. Toyota quality? What quality!

16 d. (2012 Toyota Camry) So I have the foul smell which tarted at 3k
17 miles! I just upgraded from my 2007 to the 2012. I was so happy
18 with my old car, now I am just pissed. My dealer is going to run
19 the A/C cleaner a no charge for my first oil change. This is a band
20 aid for this problem and I am sure it will be back. Dirty Socks
21 smell coming from a brand new car, come on Toyota. I loved my
22 old 2007 and am now about to trade in my brand new car. I have
asthma, thids has not effected me yet, but who knows if it will! I
am so disappointing in my new car because of this. The last thing
I want is the dealer tearing apart my dash and messing with
stuff!!! Gonna file my first complaint with Toyota. If this is not
fixed in 2 times I will let the attorneys do the talking!!! Good luck
folks. I am not happy about this at all, as you may see!!

23 e. (2012 Toyota Camry) Horrible smell coming out of the vents
24 after starting car before I turn on the AC. Smells like very strong
25 cat pee. The car is garage kept. (2012 Toyota Camry) Bad smell
26 from a/c when it is turned on every day. Took to dealer at least 3
27 times and the problem is still the same. Given instructions to turn
28 a/c to fresh air mode every day before turning the engine off.
Now the smell is coming directly from the fresh air outside. It
seems to be a water drying or draining problem based on
conversation with service manager. Will take the car again for the
4th time, to get the problem resolved. It's a shame and I am really
mad. I was very happy with my prior Toyota and I am really
disappointed now.

- 1 f. (2012 Toyota Camry) This smell is like mold out of the unit when
2 it is turned on after sitting a while. It is nasty, stale, and most
3 unpleasant. I had a Lexus with the same problem. I believe the
4 parts Toyota and it Lexus division use for HVAC are not right as
5 my mom's Rav4 also gets that moldy smell a lot, she complains.
- 6 g. (2012 Toyota Camry) We bought this 2012 Camry at the end of
7 the 2012 year. It only has 8,000 k on it right now, and we have an
8 ongoing issue that Toyota denies having ever seen before,
9 however when we go to the TOYOTA NATION WEBSITE, you
10 can find a HUGE THREAD of complaints about this issues, none
11 of which Toyota seems to be doing a damn thing about!!! THIS
12 CAR which has never been eaten in or smoked in and is
13 showroom spotless in and out, has a HORRID STINK coming
14 from the AC vents! We live in Indiana, keep the car spotless, and
15 are disgusted that when we take the car into the dealership they
16 can acknowledge that they smell the stink, but have not been able
17 to offer a fix . The car sat there for an entire week before they
18 called us to come get it, and had not done one thing to it!!!! We
19 have filed a formal complaint online with the Toyota Corporation,
20 but even this seems to be of no avail and everyone says the same
21 thing, "WE HAVE NOT SEEN THIS PROBLEM BEFORE"
22 However, I know it is not trueas I said, go to Toyota Nation and
23 see for yourself!!!! This is disgusting and I would love to know
24 how to get this situation resolved! I did not pay 26,000 dollars for
25 a car that would stink so badly that no one wants to get into it!!!!
26 I would not have even bought a USED car that stunk!!!! What can
27 I do???
- 28 h. (2012 Toyota Camry) We bought a 2012 Toyota Camry SE from
Stevens Creek Toyota NEW for \$27,000. We have always kept it
garaged and have it cleaned weekly at the carwash. At around
10,000 miles we started getting a foul smell out of AC and
thought we were just crazy because the interior still smells of new
car until we start it. Now after several months and extreme
discomfort and humiliation we are utterly disgusted that we have
bought a car that has such a horrible problem. I can't wait for the
lawsuit and will be contacting a lawyer soon to start filing a class
action suit against Toyota. So let's all band together and report
this problem to the Better Business Bureau. I have only put 1000
miles on my car in the last 10 months due to the horrid smell and
discomfort! Toyota should recall all our cars immediately before
they lose there tales and get horrible publicity. Tell everyone you
know about what horrible products Toyota has and never to buy
from them again!
- i. (2012 Toyota Camry) Bad odor every time the a/c is turned on.
Kids are embarrassed to have their friends ride in the car.

CarComplaints.com 2013 Toyota Camry – Consumer Reviews

- a. (2013 Toyota Camry) My 2013 Camry started smelling bad (wet
sock/wet dog) from the Ac/Heater vents at 13,300 miles. I
replaced the cabin filter at my expense at 14,000 miles. The smell
is still there. The Asst. Service Mgr. said to turn the car off about

1 5 to 10 minutes before you reach your destination to dry out the
2 vents. I have driven the car for one more week after replacing the
3 cabin filter and there is no change in the smell. If you turn off the
4 ac and the heater and just let the car run the smell is still there. I
5 think there may be a serious problem that the dealership is not
6 admitting to. I have written the Toyota Motor Corporation about
7 the problem and hope to hear from them shortly.

8
9 b. (2013 Toyota Camry) 2013 Toyota Camry-10,000 miles Really
10 bad odor coming from A/C when first start up with air on. Smells
11 like stagnant water. We have just started the process with a
12 Toyota Service Dept. They have had the Camry for a day and a
13 half. Picked it up and will return it two days later to replace Cabin
14 Filter w/Charcoal Cabin Filter. Service Manager said we should
15 try turning the air to vent or off the last 10 minutes of driving so
16 A/C could dry out. Camry has been returned to Toyota Service
17 Department at 5,000 miles for a recall to put a catch pan to keep
18 condensation off air bag wiring. Could the be a drainage
19 problem? Can it be fixed?

20
21 c. (2013 Toyota Camry) Moldy odor in the A/C unit. I brought it to
22 the dealer and they have made many excuses. I call the Toyota
23 Motors Company . they tell me they will send a technical
24 professional master , but i have to live without my car overnight
25 and get my car the next day or evening , Toyota Moto doesn't
26 want to provide a Rent car . they said is my problem. My wife
27 had asthma a long time ago, she'd been able to control it. But,
28 since we have this car and the moldy odor from the ac vent, she
started to get sick with asthma attacks. I did tell the situation to
Toyota ,they filed the claim, and they canceled because the said i
say different versions & they told me I lied . Toyota knows there
is a problem with the car but they don't want to take
responsibility, They don't care about the Health of every North
American. All they want is Money. Is there anybody who can
help with this? We need go to Legal advice. I bring my car too
many time to the dealer & the cover the problem temporarily,
change air filter etc,,

20 d. (2013 Toyota Camry) I am very allergic to mold, so this explains
21 my headaches every morning on my 2 hour commute to work and
22 the lovely 2 hours back. There is a disgusting and very foul scent
23 that emanates from the vents when I turn on the heater or the air
24 conditioning and it has become progressively worse over the last
25 few months. My husband complained about it before our second
26 service at 10K. When we took it in the service manager told us
27 this is a common problem amongst all Toyota vehicles. He said
28 that the drainage system doesn't seem to work very well (which
you would think after the myriad of complaints they would find a
way to fix this issue - it is disgusting and more disgusting when
you spent over \$36,000.00 of your hard earned money on a car
that people don't want to get in from your law firm because of the
awful stench!!).....He said that the condensation from running
the heater or AC builds and doesn't drain properly and then
begins to build up mold and bacteria. He said "we" meaning my
husband and I could go down to Kragen and buy a pine scented

1 spray that would help (NOT)... and I then proceeded to tell him
2 that this wasn't my issue but TOYOTA's and for it to be fixed.
3 They changed the filter and said they ran a FRIGI FRESH anti -
4 bacterial liquid through and that would help. Oh and for me to
5 make sure I press this and that on the air conditioning buttons
6 about 10 minutes from home so that it drains as much as possible
7 and that would help. (I don't think I should have to do
8 ANYTHING at all after 10,000 miles) It's as if there is a dead
9 squirrel in my engine! It's disgusting and its giving me MAJOR
10 headaches due to my allergies). I have filed a complaint with
11 Toyota USA, with the Dublin Toyota where I purchased it. The
12 smell needless to say came back the second time we drove it in
13 the evening after our service. and is back FULLY.

- 14 e. (2013 Toyota Camry) smell and allergens coming from vent wit
15 or without a/c on Toyota sprayed alcohol foam into unit...got rid
16 of mold smell, but not toxic allergens. Cannot drive car without
17 getting ill. August 2, 2013 interior "sanatized" for \$70. Mold
18 smell temporarily gone, still makes our eyes water, noses to run,
19 and gives us a sore throat to drive car with windows
20 closed...appears to be allergen.
- 21 f. (2013 Toyota Camry) Wet, moldy smell coming from the air
22 vents, even when off. Took it to the dealership and was told to
23 turn the AC off on the last minutes of my drive to let the system
24 recover? WHAT? That's sort of an inconvenient under the Florida
25 merciless sun... Love the car, love the space, the drive, everything
26 about it! Except the smell and the possible complications that
27 come with it.

28 **CarComplaints.com 2013 Toyota Camry – Consumer Reviews**

- 17 a. (2014 Toyota Camry) We purchased a 2014 Camry in December
18 2013 and the first summer is when the air conditioning started to
19 blow mildew and musty smell. We complained to the dealership
20 and the technician told my husband to make sure we ran the air
21 conditioning on uncirculated cabin air so the vents would dry out
22 from the moisture of being on max air cabin circulation. Needless
23 to say that has not done anything and I just had my cabin air filter
24 changed last month and it did nothing either. Since I have
25 researched this problem it appears there is a terrible problem with
26 Toyota Camry and also Lexus is having this problem. I have only
27 found a class action lawsuit out of California and no solution on
28 that case that I know of. It appears from everyone else that there
is not a fix and Toyota needs to compensate or recall. Anyone
else know of a solution that has been met? Before I pay any more
money to try and fix a problem that is unfixable, does anyone
know of any other law suits on this problem? Since the problem is
so dominant in the Toyota Camry I will not buy another Toyota.
Very disappointed in my new car, wish I could get rid of it.
- b. (2014 Toyota Camry) Same problem with the bad odor coming
through the AC/heat vents. It began just before the car turned one
year old. Toyota's solution is ridiculous: Run the fresh air only
(no A/C) for 15 minutes before you turn the car off. Yeah right!

1 Especially when it's 95 degrees outside and you're running a 10
2 minute errand. Plus, there is no logical reason that would work.
3 They claim it reduces moisture in the condenser but, when the
4 outside humidity is over 80%, seems like you're only introducing
5 more moisture into the system. We had a cool enough day this
6 week to run only the vent air, without A/C and not on re-circulate.
7 Still smelled when we turned it on. So, I think this problem will
8 only continue, even into heating season. Maybe there is
9 something in the hoses that connect the vents to the blower unit?
10 Right now the odor dissipates after a minute or so but it sounds
11 like this is only going to get worse. I guess we are lucky. Our
12 local dealer did the prescribed clean out of the evaporator,
13 injected some kind of disinfectant and installed a charcoal cabin
14 filter instead of the paper one it comes with. They said they ran it
15 quite a while until the disinfectant odor went away. All of this for
16 no charge. Unfortunately, it didn't help much. They also tried to
17 convince me that the charcoal filter kills bacteria, which is b.s. It
18 is a better odor absorber but it doesn't kill anything. I called to
19 complain again and have not yet heard back. I wish we had
20 known about this before buying the car. We've been loyal to
21 Toyota and haven't bought a brand new car since '93. It might not
22 have been this one. So disappointing to learn they have known
23 about this problem for several years and refuse to do anything
24 about it. Still trying to convince everyone that it is normal for the
25 A/C system to emit odors.

- 14 c. (2014 Toyota Camry) Car has a very strong B.O. type smell
15 coming from the A/C ducts when the recirculate is on. I've
16 sprayed with a duct cleaner and deodorizer but the problem
17 persists. After taking it into Toyota they suggested that some
18 mud buildup within the wheel wells was likely causing the
19 odor...They recommended I purchase a carbon-type cabin filter
20 for \$60 to help (not eliminate) the smell. I've tried dousing the
21 intake at the cabin filter with Lysol but the smell still hasn't
22 improved. I've also checked the drain line but it appears to be free
23 and clear of any buildup. The next step at the dealership, I'm told,
24 is to contact Toyota engineering for a recommended fix. On my
25 invoice a service of 'Foam Flush Evap Coil' was marked as
26 'Declined by Customer'...this was done by the service manager
27 because it wouldn't be covered by Toyota at this time. Only thing
28 left to do now is use the recirculate less as suggested...
- d. (2014 Toyota Camry) Ok now I'm really getting sick of the awful
musty, sour, BO smell. Don't even feel like getting in the car
anymore. Every time I turn the A/C on it stinks!
- e. (2014 Toyota Camry) No surprise the 2014 Camry has the same
problem as previous years. Sure wish I had investigated prior to
purchase. To have purchased a new car and get this problem so
early prior to 7000 miles is totally disgusting. The dealership has
changed cabin filter, inserted some solution somewhere and
recently sprayed foam in the lines. Then they spray some
disgusting perfume that they think will cover the smell. No a
happy camper.

1 56. The HVAC Defect poses an unreasonable safety risk for Class
2 Members. Many consumers may suffer from allergies and asthma, which can be
3 triggered or aggravated by the presence of mold and other allergens or bacteria in
4 the Class Vehicles' HVAC system. For example, the Environmental Protection
5 Agency ("EPA") has stated on its website that the "[p]otential health effects and
6 symptoms associated with mold exposures include allergic reactions, asthma,
7 and other respiratory complaints." According to the EPA, "the way to control
8 the indoor mold growth is to control moisture" and to fix the "source of the water
9 problem or leak to prevent mold growth."⁶ Moreover, Toyota's admission in its
10 technician's training manual that no permanent mechanical repair exists means
11 that there is no practical way to completely get rid of the mold. Such a defect
12 poses a safety hazard to the general public and increases health risks to the
13 vehicles' drivers and passengers alike.

14 **Toyota Has Exclusive Knowledge of the HVAC Defect**

15 57. Toyota had superior and exclusive knowledge of the HVAC Defect,
16 and knew or should have known that the defect was not known or reasonably
17 discoverable by Plaintiffs and Class Members before they purchased or leased
18 the Class Vehicles.

19 58. Plaintiffs are informed and believe, and based thereon allege, that
20 before Plaintiffs purchased their Class Vehicles, and since at least 1997, Toyota
21 knew about the HVAC Defect through sources not available to consumers,
22 including: early consumer complaints about the HVAC Defect to Defendant's
23 dealers who are their agents for vehicle repairs; warranty claim data related to
24 the defect; consumer complaints to the NHTSA and resulting notice from
25 NHTSA; early consumer complaints on websites and internet forums; dealership
26 repair orders; testing conducted in response to owner or lessee complaints; TSBs

27 _____
28 ⁶ Environmental Protection Agency, "Mold Resources,"
<http://www.epa.gov/mold/moldresources.html> (last visited February 18, 2015).

1 applicable to the Class Vehicles; and other internal sources of aggregate
2 information about the problem.

3 59. Defendant has been aware of the HVAC Defect since at least May 9,
4 1997, before the Class Vehicles were sold, and when the first TSB addressing the
5 issue was released for an identical or substantially similar HVAC system. On or
6 around May 9, 1997, Defendant issued TSB AC002-97, which addressed “AIR
7 CONDITIONING EVAPORATOR ODOR” in “all models,” including the
8 Camry.

9 60. Another TSB for an identical or substantially similar HVAC system,
10 “TSB-0261-09,” issued in or around August 2009, addressed “HVAC Odor” in
11 the 2007-2010 Camry, Camry HV, and 2004-2008 Prius vehicles.

12 61. Further, Toyota’s TSB 0142-13, published on or around
13 September 18, 2013, covering a variety of vehicles, including, but not limited to,
14 the 2012 Toyota Camry, informed dealers that “Some 2004 - 2014 model year
15 Toyota vehicles may exhibit odors naturally occurring from the HVAC system
16 and/or related environmental factors. Although there is no way to eliminate these
17 odors, follow the General Procedure in this bulletin to minimize the odors
18 experienced.”

19 62. In addition, a Toyota technician’s training manual published in 2005
20 indicated that “A/C system odors are a common complaint among users,
21 especially after start up.” It goes on to explain that the odors can be caused by
22 “[m]icrobes [i.e., mold] growing on the evaporator surface” that are “small living
23 bacteria . . . carried into the evaporator case [that] grow in the warm, moist
24 environment.” Additionally, it states that there is “**no permanent mechanical**
25 **repair**” for this issue.

26 63. The alleged HVAC Defect was inherent in each Toyota Camry
27 vehicle and was present in each Toyota Camry at the time of sale.

28 64. The existence of the HVAC Defect is a material fact that a

1 reasonable consumer would consider when deciding whether to purchase or lease
2 a vehicle. Had Plaintiffs and other Class Members known that the Class
3 Vehicles were equipped with defective HVAC systems, they would not have
4 purchased or leased the Class Vehicles or would have paid less for them.

5 65. Reasonable consumers, like Plaintiffs, expect that a vehicle's HVAC
6 system is safe, will function in a manner that will not pose a safety hazard, and is
7 free from defects. Plaintiffs and Class Members further reasonably expect that
8 Toyota will not sell or lease vehicles with known safety defects, such as the
9 HVAC Defect, and will disclose any such defects to its consumers when it learns
10 of them. Plaintiffs and Class Members did not expect Toyota to fail to disclose
11 the HVAC Defect to them and to continually deny the defect.

12 **Toyota Has Actively Concealed the HVAC Defect**

13 66. While Toyota has been fully aware of the HVAC Defect in the Class
14 Vehicles, it actively concealed the existence and nature of the defect from
15 Plaintiffs and Class Members at the time of purchase, lease or repair and
16 thereafter. Specifically, Toyota failed to disclose or actively concealed at and
17 after the time of purchase, lease, or repair:

- 18 (a) any and all known material defects or material nonconformity
19 of the Class Vehicles, including the defects relating to the
20 HVAC systems;
- 21 (b) that the Class Vehicles, including their HVAC systems, were
22 not in good in working order, were defective, and were not fit
23 for their intended purposes; and
- 24 (c) that the Class Vehicles and their HVAC systems were
25 defective, despite the fact that Toyota knew of such defects in
26 the HVAC systems through customer complaints, and other
27 internal sources, as early as 1997.

28 67. As a result of the HVAC Defect, Toyota was inundated with

1 complaints regarding the Camry's HVAC system.

2 68. As a result of the HVAC System defect, Toyota issued multiple
3 Technical Service Bulletins ("TSBs") for an identical or substantially similar
4 HVAC system to its dealers in the United States, acknowledging defects in the
5 HVAC system and attempting to address the issue. For example, on or about
6 May 9, 1997, as a result of the HVAC Defect, Toyota issued TSB AC002-97 to
7 its dealers in the United States, acknowledging to its dealers that the HVAC
8 system and its associated parts for "all models," including the Camry, were
9 defective and malfunctioning. The TSB, titled "AIR CONDITIONING
10 EVAPORATOR ODOR," informs dealers that a "musty odor may be emitted
11 from the air conditioning system of some vehicles," and one reason for this odor
12 is from "[m]icrobial growth in the evaporator, arising from dampness in the
13 evaporator housing where the cooling air flow is dehumidified." However, on
14 information and belief, consumers continued to experience problems with their
15 vehicles despite the fix, including, but not limited to, emissions of noxious and
16 foul odors from mold growth in the HVAC system.

17 69. Additionally, on or about August 2009, Toyota released yet another
18 TSB, TSB-0261-09, to its dealers in the United States, titled "HVAC Odor,"
19 once again acknowledging that the HVAC system and its associated parts for
20 2007-2010 Camry, Camry HV, and 2004-2008 Prius vehicles were defective and
21 malfunctioning. However, on information and belief, consumers continued to
22 experience problems with their vehicles despite the fix, including, but not limited
23 to, emissions of noxious and foul odors from mold growth in the HVAC system.

24 70. Further, Toyota's TSB 0142-13, published on or around
25 September 18, 2013, covering a variety of vehicles, including, but not limited to,
26 the 2012 Toyota Camry, informed dealers that "Some 2004 - 2014 model year
27 Toyota vehicles may exhibit odors naturally occurring from the HVAC system
28 and/or related environmental factors. Although there is no way to eliminate

1 these odors, follow the General Procedure in this bulletin to minimize the odors
2 experienced.” However, on information and belief, consumers continued to
3 experience problems with their vehicles despite the fix, including, but not limited
4 to, emissions of noxious and foul odors from mold growth in the HVAC system.

5 71. On information and belief, Toyota was unable to pinpoint the cause
6 of these HVAC issues and thus continued to issue TSBs for various components
7 in the HVAC system. Specifically, on or about December 2005, Toyota
8 informed its service technicians in a Toyota technicians’ manual that “A/C
9 system odors are a common complaint among users, especially after start up.” It
10 goes on to explain that the odors can be caused by “[m]icrobes [i.e., mold]
11 growing on the evaporator surface” that are “small living bacteria . . . carried
12 into the evaporator case [that] grow in the warm, moist environment.”
13 Additionally, it states that there is “**no permanent mechanical repair**” for this
14 issue.

15 72. Despite notice of the defect from numerous consumer complaints
16 and dealership repair orders, Toyota has not recalled the Class Vehicles to repair
17 the HVAC Defect, has not offered their customers a suitable repair or
18 replacement free of charge, and has not offered to reimburse the Class Vehicles’
19 owners and leaseholders in full for the costs they incurred in diagnosing and
20 repairing the HVAC Defect.

21 73. On information and belief, the TSBs and recalls outlined above have
22 been ineffective at addressing the HVAC Defect.

23 74. When consumers present the Class Vehicles to an authorized Toyota
24 dealer for repair of the HVAC system, consumers are typically told they must
25 pay for the repair. On information and belief, whether or not consumers are
26 forced to pay for the repair, the same defective part or parts are used to replace
27 the prior defective part or parts.

28 75. To this day, Toyota still has not notified Plaintiffs and Class

1 Members that the Class Vehicles suffer from a systemic defect that causes the
2 HVAC system to malfunction.

3 76. On information and belief, Toyota has caused Plaintiffs and Class
4 Members to expend money at its dealerships to diagnose, repair, or replace the
5 Class Vehicles' HVAC systems or related components, despite Toyota's
6 knowledge of the HVAC Defect.

7 **PLAINTIFFS' EQUITABLE RELIEF ALLEGATIONS**

8 **HVAC Odor Countermeasures to be Covered Under Warranty**

9 77. TMS has acknowledged that HVAC Odor is a problem and has
10 identified various forms of remediation or countermeasures to address HVAC
11 odor. These include the use of a charcoal impregnated filter, cleaning or
12 replacing the evaporator core, and various cleaners and sanitizers. Toyota's own
13 TSB regarding HVAC Odor Maintenance (TSB 0142-13) recommends switching
14 to a charcoal filter that must be replaced every year and conducting an annual or
15 biannual A/C evaporator cleaning. Interestingly, a TMS product engineer
16 referring to HVAC "odor control strategy" in 2012 states that "[t]he best way to
17 prevent odors is to prevent ingestion of foreign matter and *provide for an easily*
18 *draining evaporator and sump.*" Toyota_Salas Bates No. 58446 (emphasis
19 added). This is essentially the defect in design identified by Plaintiffs' expert.

20 78. However, because TMS considers HVAC Odor to be a
21 "maintenance issue," TMS does not cover any of these odor abatement efforts
22 under Toyota's New Vehicle Limited Warranty or under any other any warranty.
23 Indeed, TMS was particularly aware of the "overall warranty cost implications of
24 launching a nationwide TSB." Toyota_Salas Bates No. 15503. The TSB
25 carefully identifies the countermeasures as "maintenance" so as to avoid
26 warranty claims. As a result, Class members have to pay out of pocket to obtain
27 these countermeasures, as Toyota's documents expressly confirm. For example,
28 another TMS product engineer explicitly notes that "[t]he charcoal filter can't be

1 replaced under warranty because it is considered a wear item.” Toyota_Salas
2 Bates No. 8739. The costs of these countermeasures range from \$50 for do-it-
3 yourself HVAC cleaners to \$1,000 for a new AC evaporator.

4 79. Even TMS’ own employees understood that TMS’ policy of forcing
5 customers to pay for HVAC odor abatement is unfair. As one manager noted
6 regarding charging customers for filters, “if this is a known issue, with a TSB for
7 how to repair, why are we asking to charge customers?...it does seem
8 challenging to explain why to get what a customer should expect as a standard
9 condition for the air conditioner (no odor) we charge more?” Toyota_Salas
10 Bates No. 67287.

11 80. Other vehicle manufacturers, including Ford Motor Company, offer
12 remediation or countermeasures for HVAC Odor under the vehicle’s limited
13 warranty.

14 81. Plaintiffs seek injunctive relief to compel TMS to offer, under
15 warranty, the remediation solutions that TMS has identified but for which
16 Toyota currently is forcing Class members to pay out of pocket.

17 82. Alternatively, TMS should issue a maintenance program for 8 years
18 to cover all maintenance required to address HVAC Odor. TMS is familiar with
19 maintenance plans, as TMS offers them as part of TMS’ ToyotaCare program.

20 **Park Fresh Logic in All Class Vehicles**

21 83. Second, Plaintiffs seek to compel TMS to offer, in *all* Class
22 vehicles, “Park Fresh Logic,” a software countermeasure that puts the HVAC
23 into fresh air mode when the vehicle is parked. Plaintiffs allege, and discovery
24 has confirmed, that the HVAC odor is exacerbated by a change made by Toyota
25 and implemented in March 2012, referred to as “Greenhouse Gas Logic” (GHG),
26 in order to reduce tailpipe emissions and obtain CAFÉ credits from the federal
27 government. Russell Suzuki, Manager at the Vehicle Component Quality
28 Electrical at TMS, confirmed in his deposition that GHG substantially

1 contributed to the consumer complaints about bad odors emanating from their
2 HVAC Systems. Suzuki Tr. at 82-83, 150. Toyota's own documents further
3 confirm that Toyota was well aware of the HVAC Odor problem exacerbated by
4 GHG. For example, a Toyota document expressly states, "TMS requests parking
5 fresh implementation as odor issue f[ield]/fix for 12MY Camry because TMS
6 thinks that 12MY Camry odor issue spike is caused by GHG logic."

7 Toyota_Salas Bates No.12799. A similar Toyota document states, "[Park Fresh
8 Logic] offsets the Greenhouse Gas Logic that was applied over the last few
9 years...[but] has caused more potential for AC odor..." Toyota_Salas Bates No.
10 55228. Another Toyota document clearly demonstrates a spike in odor
11 complaints after GHG was introduced. Toyota_Salas Bates No.13749.

12 84. GHG works by automatically putting the HVAC system in REC
13 (Recirculation) mode based on outside temperature. Instead of pulling air from
14 outside the car, REC mode recirculates cabin air through the vehicle's cabin,
15 including any odors the HVAC system emits, making them more pungent and
16 longer lasting. In order to remediate the exacerbation of the HVAC Odor by
17 GHG, Toyota developed and implemented in 2014 model year Class vehicles the
18 Park Fresh Logic software update that attempts to mitigate AC odor by
19 automatically putting the HVAC system into Fresh Mode when the vehicle is
20 parked.

21 85. By designing and implementing Park Fresh Logic to address the
22 HVAC odor problem, Toyota has effectively admitted that HVAC odor is a
23 problem that needs to be resolved. However, TMS implemented Park Fresh on a
24 going forward basis only. TMS did not implement Park Fresh Logic
25 retroactively for model year 2012 and 2013 Class vehicles. Toyota should
26 implement, for all the Class vehicles, the Park Fresh Logic software that TMS
27 apparently claim ameliorates the HVAC Odor problem. This would include
28 updating the AC amplifier/ECU in model year 2012 and 2013 Class vehicles or

1 performing any other upgrades as necessary so that Park Fresh can be
2 implemented in those model year vehicles.

3 **Properly Characterizing HVAC Countermeasures as “Repair Attempts”**

4 86. Third, Plaintiffs seek an order compelling TMS to properly identify
5 the HVAC Odor remediation efforts undertaken by TMS as “repair attempts,”
6 rather than “maintenance.” By telling consumers the HVAC odor condition is
7 normal, by emphasizing that HVAC odor is a “maintenance” issue, and by
8 bundling the various logics or countermeasures into the maintenance TSB, TMS
9 is effectively trying to prevent consumers from accruing repair attempts that
10 would potentially qualify the Class vehicles for warranty relief and for lemon
11 law claims and potential vehicle buybacks as provided by the lemon laws.

12 87. Toyota specifically sought to designate the countermeasures as
13 “maintenance,” rather than as a “repair” to avoid triggering buybacks. As one
14 Toyota engineer explained explicitly with respect to HVAC Odor:

15 My understanding of the lemon law is that it is 3 (dependent on state)
16 repair attempts for the same issue. However, the definition of repair
17 attempt isn’t as simple as installing and removing an AC ECU (each
18 would be a separate repair attempt). Basically anytime the customer
19 comes in and complains about the issue and the dealer records this
20 transaction it can be called a ‘repair attempt.’ It can be as simple as a
21 quick comment from the customer and the dealer changing the air filter or
22 as indepth as pulling the IP and replacing the evaporator. Each would be
23 one repair attempt. Unfortunately with a chronic issue like AC Odor
24 which can go away and come back with simple treatments (air filter
25 change, evaporator refresh, etc) hitting the magic number of attempts
26 becomes very easy. This is why the dealers and TMS are hesitant to try
27 CMs that aren’t guaranteed to solve the issue.

28 Toyota_Salas Bates No. 52719.

1 88. Similarly, another Toyota product engineer noted regarding AC
2 Odor, “[t]here is no repair...I’m not sure what the buyback laws are in Canada,
3 but here [an amplifier replacement] would be one repair attempt, 2 more for the
4 same concern and the dealer would be facing buyback.” Toyota_Salas Bates No.
5 84399.

6 89. Another Toyota document confirms that “[c]urrently there is no
7 F[ield]/Fix for this issue [12-13 MY Camry HVAC Odor]; Dealers are not
8 creating repair orders/warranty claims to prevent possible buybacks.”
9 Toyota_Salas Bates No. 44248. A similar summary of the 2013 Summer HVAC
10 Conference Report states, “dealers do not write warranty claims for odor –
11 concerns about lemon law effect.” Toyota_Salas Bates No. 79320.

12 90. TMS’ own documents confirm that, with respect to Park Fresh
13 Logic, TMS specifically sought to avoid deeming this remediation or
14 countermeasure a “repair” that could trigger a buyback and that TMS did not
15 want to implement Park Fresh Logic due to the risk of increased lemon law
16 buybacks. As one internal report noted, “[i]f Parking Fresh will be introduced to
17 field as field fix, there is a high risk of buy back. And TMS had big concern
18 about buy back for repair which does not have enough effectiveness in the past.”
19 Toyota_Salas Bates No. 10638.

20 91. In a similar exchange between employees regarding HVAC Odor
21 countermeasures, Stefan Young, General Manager of VPD2 [Vehicle Product
22 Development, Performance Development 2, the group tasked with the evaluation
23 and assessment of the HVAC Odor problem], explained, “[t]he Parking fresh
24 logic will be added WITH other CM’s (like evap cleaning and charcoal filter).
25 The Parking fresh logic will HELP the effectiveness of those CM’s and will act
26 to hopefully make customer more satisfied with repair. Because the parking
27 fresh logic will not be added by itself, it WILL NOT be another repair attempt,
28 and it therefore CAN NOT have any impact on buy back.” Toyota_Salas Bates

1 No. 27939. He added further, “as we discussed, adding the park fresh logic by
2 itself is no good, its not enough of an improvement and will constitute a repair
3 attempt.” Toyota_Salas Bates No. 27938.

4 92. Stefan Young noted in another exchange, “TMS had wanted to
5 include [‘Parking Fresh’ logic] as a field fix, but 1AB [TMC’s design group] was
6 concerned that the logic is not perfect, and as such, may cause more buy backs.
7 VPD2 advised TMS that this komori odor logic should be ‘Bundled’ with other
8 CM’s (Evap cleaning, Carbon filter) to improve the TSB’s effect without having
9 any additional repair attempts. Our idea is that adding this logic will hedge the
10 bet that the TSB is satisfactory to the customer, and because the logic isn’t being
11 added under a separate repair attempt, it won’t add any risk of buy back.”

12 Toyota_Salas Bates No. 52485.

13 93. Similarly, a TMS meeting summary regarding HVAC Odor notes
14 that “Parking Fresh as a field fix - TMC is worried that this will still allow
15 multiple repair because we cannot guaranty odor elimination.” Toyota_Salas
16 Bates No. 10591. Toyota’s own Rule 30(b)(6) designees, Russell Suzuki and
17 Stefan Young, testified that one of the main reasons that Toyota decided against
18 implementing Park Fresh Logic in more vehicles was the concern that it would
19 be deemed a “repair attempt” and result in more lemon law buybacks. Suzuki
20 Tr. at 142-149; Young Tr. at 64-65.

21 94. Indeed, TMS’ own documents confirm that TMS was well aware of
22 the buyback implications of HVAC Odor. For example, another TMS product
23 engineer reported in 2012 that “SET [South East Toyota] stopped attempting to
24 repair vehicles with AC odor, because of the severity of the Lemon Law in the
25 state of Florida. SET started to tell customers the condition was normal. This
26 caused the warranty claims and field reports to drop off and TMC [Toyota Japan]
27 to think that the issue was resolved.” Toyota_Salas Bates No. 58063. In fact,
28 since 2013, the Florida Attorney General’s Office has conducted 8 arbitration

1 hearings for lemon law buyback claims regarding Toyota vehicles with HVAC
2 Odor. Dwayne Kinsey of Toyota attended certain of these hearings.
3 Toyota_Salas Bates No. 95862. The Arbitration Board found in favor of the
4 consumers in all 8 cases, concluding that the foul and offensive “odor[s]
5 emanating from the air conditioner substantially impaired the use and value of
6 the vehicle[s], thereby constituting one or more nonconformities as defined by
7 the statute and the applicable rule.”

8 95. Further, in addition to the lemon law/buyback issue, it is important
9 that TMS properly identify the HVAC remediation efforts or countermeasures as
10 “repair attempts” and not “maintenance” so that TMS will properly track and
11 monitor the HVAC problem. TMS does not track activities that constitute
12 “maintenance” relating to HVAC Odor as carefully as TMS tracks activities that
13 its field technicians and dealers define as “repairs” and which are thus often
14 covered by warranty. By labeling HVAC odor as a “maintenance condition,”
15 TMS has artificially limited the data that it acquires to assess and address this
16 issue and convinced itself that the HVAC Odor is not serious enough to warrant
17 sufficient action.

18 96. Other TMS’ documents further confirm that TMS lacks the data
19 tools to assess the HVAC Odor problem. For example, Stefan Young testified
20 that “[i]n the case of odor, warranty data is not a great indicator because
21 nothing’s broken. So there’s nothing necessarily that can be replaced to fix it.”
22 Young Tr. at 75. He clarified that remediation of HVAC odor undertaken by
23 customers as maintenance in the form or replacement filter or HVAC cleaners
24 and sanitizers “are aftermarket part sales. And, no, we don’t have any means to
25 monitor that data.” Young Tr. at 78.

26 97. Similarly, Dwayne Kinsey noted in an email exchange with other
27 TMS employees that “[a]s the majority of dealers are following the current TT
28 [Tech-Tip] and Owners manual information there will be no claim submitted. No

1 claim submitted means no tracking of the issue.” Toyota_Salas Bates No. 13621.
2 Other similar exchanges confirm the discrepancy between odor claims tracked
3 and actual countermeasures performed: “Monthly average: Odor Claims are 300
4 cases nationwide, but A/C Refresher are purchased 6,500 pcs in SET DLRS.
5 This is the real world!” Toyota_Salas Bates No. 13728. Other TMS documents
6 confirm the gap between consumer complaints and remediation attempts.
7 Toyota_Salas Bates No. 14160.

8 98. By properly labeling the HVAC countermeasures as “repair
9 attempts,” consumers will have all the appropriate rights pursuant to their state’s
10 warranty law for Toyota’s failure to repair. It would also force Toyota to
11 monitor the number of repairs performed for HVAC Odor and therefore provide
12 Toyota with a clearer picture of the prevalence of the problem. Finally, it would
13 put the burden on Toyota to correct the odor problem so that customers do not
14 have to return for repeated repairs.

15 **Equitable Relief Is Available Under the Causes of Action for Implied**
16 **Warranty, UCL and CLRA**

17 99. All of the foregoing requested equitable relief is available under
18 Plaintiffs’ cause of action for implied warranty, which the Court has sustained.
19 Dkt. No. 38, Order re Pending Motion at 20-21. Cal. Civ. Code Section 1794(a)
20 provides, in relevant part, that “Any buyer of consumer goods who is damaged
21 by a failure to comply with any obligation under this chapter or under an implied
22 or express warranty or service contract may bring an action for the recovery of
23 damages and other legal *and equitable relief.*” (emphasis added)

24 100. Moreover, the Court has sustained the UCL and CLRA claims but
25 found that Plaintiffs have an adequate remedy at all under these claims. In fact,
26 damages are not an adequate remedy at law under these claims because Class
27 members can be entitled to statutory penalties, in addition to damages. Damages
28 as a remedy does not provide for civil statutory penalties under lemon laws. For

1 example, under California’s lemon law, a prevailing consumer’s remedies can
2 include a “*civil penalty* of up to two times the amount of damages.” Cal. Civ.
3 Code Section 1794(e)(1).

4 **TOLLING OF THE STATUTE OF LIMITATIONS**

5 101. Because the defects in the design or manufacturer of the Class
6 Vehicles and their HVAC system cannot be detected until the defect manifests
7 itself, Plaintiffs and Class Members were not reasonably able to discover the
8 problem until after purchasing or leasing the Class Vehicles, despite their
9 exercise of due diligence.

10 102. Plaintiffs and Class Members had no realistic ability to discern that
11 the HVAC system was defective until it prematurely failed and would have no
12 reason to believe that problems they encountered were caused by a widespread,
13 systemic defect. Therefore, the discovery rule is applicable to the claims
14 asserted by Plaintiffs and Class Members.

15 103. Plaintiffs are informed and believe and based thereon allege that
16 Toyota knew of the HVAC Defect since 1997, if not earlier, and has concealed
17 from or failed to alert owners and lessees of the Class Vehicles of the defective
18 nature of their HVAC system.

19 104. Any applicable statute of limitation has therefore been tolled by
20 Toyota’s knowledge, active concealment, and denial of the facts alleged herein.
21 Toyota is further estopped from relying on any statute of limitation because of its
22 concealment of the defective nature of the Class Vehicles and their HVAC
23 system.

24 **CLASS ACTION ALLEGATIONS**

25 105. Plaintiffs bring this lawsuit as a class action on behalf of themselves
26 and all others similarly situated as members of the proposed Plaintiff Classes
27 pursuant to Federal Rules of Civil Procedure 23(a), 23(b)(2) and/or 23(b)(3).
28 This action satisfies the numerosity, commonality, typicality, adequacy,

1 predominance, and superiority requirements of those provisions.

2 106. The Class and Sub-Class are defined as:

3 **Class:** All individuals residing in the United States
4 who purchased or leased any Toyota Camry XV50
model vehicle.

5 **CLRA Sub-Class:** All members of the Class who are
6 "consumers" within the meaning of California Civil
Code § 1761(d).

7 **Implied Warranty Sub-Class:** All members of the
8 Class who purchased or leased their vehicles in the
9 State of California.

10 107. Excluded from the Class and Sub-Classes are: (1) Defendant, any
11 entity or division in which Defendant has a controlling interest, and their legal
12 representatives, officers, directors, assigns, and successors; (2) the Judge to
13 whom this case is assigned and the Judge's staff; (3) any Judge sitting in the
14 presiding state and/or federal court system who may hear an appeal of any
15 judgment entered; and (4) those persons who have suffered personal injuries as a
16 result of the facts alleged herein. Plaintiffs reserve the right to amend the Class
17 and Sub-Class definitions if discovery and further investigation reveal that the
18 Class and Sub-Classes should be expanded or otherwise modified.

19 108. There is a well-defined community of interest in the litigation and
20 each subclass is readily ascertainable.

21 109. Numerosity: Although the exact number of prospective class
22 members is uncertain and can only be ascertained through appropriate discovery,
23 the number is great enough such that joinder is impracticable. The disposition of
24 prospective class members' claims in a single action will provide substantial
25 benefits to all parties and to the Court. The prospective class members are
26 readily identifiable from information and records in Defendant's possession,
27 custody, or control, as well as from records kept by the departments of motor
28 vehicles of the various states.

1 110. Typicality: The claims of the representative Plaintiffs are typical of
2 the claims of the all prospective class members in that the representative
3 Plaintiffs and the prospective class members purchased and/or leased a Class
4 Vehicle designed, manufactured, and distributed by Toyota. The representative
5 Plaintiffs, like all prospective class members, have been damaged by
6 Defendant's misconduct in that they have incurred or will incur the cost of
7 repairing or replacing the defective HVAC system. Furthermore, the factual
8 bases of Toyota's misconduct are common to all prospective class members and
9 represent a common thread resulting in injury to all prospective class members.

10 111. Commonality: There are numerous questions of law and fact
11 common to Plaintiffs and the prospective class members that predominate over
12 any question affecting individual prospective class members. These common
13 legal and factual issues include the following:

- 14 (a) Whether Class Vehicles contain defects relating to the HVAC
15 system;
- 16 (b) Whether the defects relating to the HVAC system constitute
17 an unreasonable safety risk;
- 18 (c) Whether Defendant knew about the defects relating to the
19 HVAC system and, if so, how long Defendant has known of
20 the defect;
- 21 (d) Whether the defective nature of the HVAC system constitutes
22 a material fact;
- 23 (e) Whether Defendant has a duty to disclose the defective nature
24 of the HVAC system to Plaintiffs and prospective class
25 members;
- 26 (f) Whether Plaintiffs and the prospective class members are
27 entitled to equitable relief, including but not limited to a
28 preliminary and/or permanent injunction;

- 1 (g) Whether Defendant knew or reasonably should have known of
- 2 the defects relating to the HVAC system before it sold and
- 3 leased Class Vehicles to prospective class members;
- 4 (h) Whether Defendant should be declared financially responsible
- 5 for notifying all prospective class members of the problems
- 6 with the Class Vehicles and for the costs and expenses of
- 7 repairing and replacing the defective HVAC system;
- 8 (i) Whether Defendant is obligated to inform prospective class
- 9 members of their right to seek reimbursement for having paid
- 10 to diagnose, repair, or replace the defective HVAC system;
- 11 and
- 12 (j) Whether Defendant breached the implied warranty of
- 13 merchantability pursuant to the Song-Beverly Act.

14 112. Adequate Representation: Plaintiffs will fairly and adequately
15 protect prospective class members' interests. Plaintiffs have retained attorneys
16 experienced in prosecuting class actions, including consumer and product defect
17 class actions, and Plaintiffs intend to prosecute this action vigorously.

18 113. Predominance and Superiority: Plaintiffs and Class Members have
19 all suffered and will continue to suffer harm and damages as a result of
20 Defendant's unlawful and wrongful conduct. A class action is superior to other
21 available methods for the fair and efficient adjudication of the controversy.
22 Absent a class action, most Class Members would likely find the cost of
23 litigating their claims prohibitively high and would therefore have no effective
24 remedy at law. Because of the relatively small size of the individual Class
25 Members' claims, it is likely that only a few Class Members could afford to seek
26 legal redress for Defendant's misconduct. Absent a class action, Class Members
27 will continue to incur damages, and Defendant's misconduct will continue
28 without remedy. Class treatment of common questions of law and fact would

1 also be a superior method to multiple individual actions or piecemeal litigation in
2 that class treatment will conserve the resources of the courts and the litigants and
3 will promote consistency and efficiency of adjudication.

4 114. In the alternative, the Class may be certified because

- 5 (a) the prosecution of separate actions by the individual members
6 of the Class would create a risk of inconsistent or varying
7 adjudication with respect to individual Class Members, which
8 would establish incompatible standards of conduct for
9 Toyota;
- 10 (b) the prosecution of separate actions by individual Class
11 Members would create a risk of adjudications with respect to
12 them that would, as a practical matter, be dispositive of the
13 interests of other Class Members not parties to the
14 adjudications, or substantially impair or impede their ability
15 to protect their interests; and
- 16 (c) Toyota has acted or refused to act on grounds generally
17 applicable to the Class, thereby making appropriate final and
18 injunctive relief with respect to the members of the Class as a
19 whole.

20 **FIRST CAUSE OF ACTION**

21 **(Violation of California’s Consumer Legal Remedies Act,**
22 **California Civil Code § 1750, et seq.)**

23 115. Plaintiffs incorporate by reference the allegations contained in the
24 preceding paragraphs of this Complaint.

25 116. Plaintiffs bring this cause of action on behalf of themselves and on
26 behalf of the members of the CLRA Sub-Class.

27 117. Defendant is a “person(s)” as defined by California Civil Code
28 § 1761(c).

1 118. Plaintiffs and CLRA Sub-Class Members are “consumers” within
2 the meaning of California Civil Code § 1761(d) because they purchased their
3 Class Vehicles primarily for personal, family, or household use.

4 119. By failing to disclose and concealing the defective nature of the
5 HVAC system from Plaintiffs and prospective Class Members, Defendant
6 violated California Civil Code § 1770(a), as it represented that the Class
7 Vehicles and their HVAC systems had characteristics and benefits that they do
8 not have, and represented that the Class Vehicles and their HVAC systems were
9 of a particular standard, quality, or grade when they were of another. *See Cal.*
10 *Civ. Code §§ 1770(a)(5) & (7).*

11 120. Defendant’s unfair and deceptive acts or practices occurred
12 repeatedly in Defendant’s trade or business, were capable of deceiving a
13 substantial portion of the purchasing public, and imposed a safety risk on the
14 public.

15 121. Defendant knew that the Class Vehicles and their HVAC systems
16 suffered from an inherent defect, were defectively designed or manufactured, and
17 were not suitable for their intended use.

18 122. As a result of their reliance on Defendant’s omissions, owners
19 and/or lessees of the Class Vehicles suffered an ascertainable loss of money,
20 property, and/or value of their Class Vehicles. Additionally, as a result of the
21 HVAC Defect, Plaintiffs and Class Members were harmed and suffered actual
22 damages in that repair or replacement of the Class Vehicles’ HVAC components
23 is substantially certain to fail to resolve the odor or mold issues and, thus, the
24 HVAC system will require repair or replacement perpetually.

25 123. Defendant was under a duty to Plaintiffs and Class Members to
26 disclose the defective nature of the HVAC system and/or the associated repair
27 costs because:

28 (a) Defendant was in a superior position to know the true state of

1 facts about the safety defect in the Class Vehicles' HVAC
2 systems;

3 (b) Plaintiffs and Class Members could not reasonably have been
4 expected to learn or discover that their HVAC systems had a
5 noxious and un-repairable safety defect until it manifested;
6 and

7 (c) Defendant was that Plaintiffs and Class Members could not
8 reasonably have been expected to learn of or discover the
9 safety defect.

10 124. In failing to disclose the defective nature of the HVAC system,
11 Defendant knowingly and intentionally concealed material facts and breached
12 their duty not to do so.

13 125. The facts Defendant concealed from or failed to disclose to
14 Plaintiffs and Class Members are material in that a reasonable consumer would
15 have considered them to be important in deciding whether to purchase or lease
16 the Class Vehicles or pay less. Had Plaintiffs and Class Members known that the
17 Class Vehicles' HVAC systems were defective, they would not have purchased
18 or leased the Class Vehicles or would have paid less for them.

19 126. Plaintiffs and Class Members are reasonable consumers who do not
20 expect the HVAC system installed in their vehicles to exhibit problems such as
21 contamination, mold growth and the emissions of foul and noxious odors. This
22 is the reasonable and objective consumer expectation relating to vehicle HVAC
23 systems.

24 127. As a result of Defendant's conduct, Plaintiffs and Class Members
25 were harmed and suffered actual damages in that, on information and belief, the
26 Class Vehicles experienced and may continue to experience problems such as the
27 HVAC system becoming contaminated, growing mold, and emitting foul and
28 noxious odors, which can't be permanently repaired.

1 128. As a direct and proximate result of Defendant’s unfair or deceptive
2 acts or practices, Plaintiffs and Class Members suffered and will continue to
3 suffer actual damages.

4 129. Plaintiffs and the Class are entitled to equitable relief.

5 130. Plaintiffs provided Defendant with notice of their violations of the
6 CLRA pursuant to California Civil Code § 1782(a). Defendant failed to provide
7 appropriate relief for their violations of the CLRA. Therefore, Plaintiffs now
8 seek monetary, compensatory, and punitive damages, in addition to injunctive
9 and equitable relief.

10 **SECOND CAUSE OF ACTION**

11 **(Violation of California Business & Professions Code § 17200, *et seq.*)**

12 131. Plaintiffs incorporate by reference the allegations contained in the
13 preceding paragraphs of this Complaint.

14 132. Plaintiffs bring this cause of action on behalf of themselves and on
15 behalf of the Class.

16 133. As a result of their reliance on Defendant’s omissions, owners
17 and/or lessees of the Class Vehicles suffered an ascertainable loss of money,
18 property, and/or value of their Class Vehicles. Additionally, as a result of the
19 HVAC Defect, Plaintiffs and Class Members were harmed and suffered actual
20 damages in that repair or replacement of the Class Vehicles’ HVAC components
21 is substantially certain to fail to resolve the odor issue and, thus, the HVAC
22 system will require repair or replacement perpetually.

23 134. California Business & Professions Code § 17200 prohibits acts of
24 “unfair competition,” including any “unlawful, unfair or fraudulent business act
25 or practice” and “unfair, deceptive, untrue or misleading advertising.”

26 135. Plaintiffs and Class Members are reasonable consumers who do not
27 expect their HVAC systems to exhibit problems such as emissions of foul and
28 noxious odors, contamination and mold growth.

1 136. Defendant knew the Class Vehicles and their HVAC systems
2 suffered from inherent defects, were defectively designed or manufactured, and
3 were not suitable for their intended use.

4 137. In failing to disclose the defects with the HVAC system, Defendant
5 has knowingly and intentionally concealed material facts and breached their duty
6 not to do so.

7 138. Defendant was under a duty to Plaintiffs and Class Members to
8 disclose the defective nature of the Class Vehicles and their HVAC system:

- 9 (a) Defendant was in a superior position to know the true state of
10 facts about the safety defect in the Class Vehicles' HVAC
11 systems;
- 12 (b) Defendant made partial disclosures about the quality of the
13 Class Vehicles without revealing the defective nature of the
14 Class Vehicles and their HVAC systems; and
- 15 (c) Defendant actively concealed the defective nature of the Class
16 Vehicles and their HVAC systems from Plaintiffs and the
17 Class.

18 139. The facts Defendant concealed from or did not disclose to Plaintiffs
19 and Class Members are material in that a reasonable person would have
20 considered them to be important in deciding whether to purchase or lease Class
21 Vehicles. Had Plaintiffs and Class Members known that the Class Vehicles'
22 HVAC systems were defective and posed a safety hazard, then Plaintiffs and
23 Class Members would not have purchased or leased Class Vehicles equipped
24 with the HVAC system, or would have paid less for them.

25 140. Defendant continued to conceal the defective nature of the Class
26 Vehicles and their HVAC systems even after Class Members began to report
27 problems. Indeed, Defendant continues to cover up and conceal the true nature
28 of the problem.

1 141. Defendant's conduct was and is likely to deceive consumers.

2 142. Defendant's acts, conduct and practices were unlawful, in that they
3 constituted:

4 (a) Violations of the California Consumer Legal Remedies Act;
5 and

6 (b) Violations of the Song-Beverly Consumer Warranty Act.

7 (c) Violations of the Magnuson-Moss Warranty Act, 15 U.S.C. §
8 2301 et seq.)

9 143. By their conduct, Defendant has engaged in unfair competition and
10 unlawful, unfair, and fraudulent business practices.

11 144. Defendant's unfair or deceptive acts or practices occurred
12 repeatedly in Defendant's trade or business, and were capable of deceiving a
13 substantial portion of the purchasing public.

14 145. As a direct and proximate result of Defendant's unfair and deceptive
15 practices, Plaintiffs and the Class have suffered and will continue to suffer actual
16 damages.

17 146. Defendant has been unjustly enriched and should be required to
18 make restitution to Plaintiffs and the Class pursuant to §§ 17203 and 17204 of
19 the Business & Professions Code.

20 **THIRD CAUSE OF ACTION**

21 **(Breach of Implied Warranty Pursuant to Song-Beverly**
22 **Consumer Warranty Act, California Civil Code §§ 1792 and 1791.1, et seq.)**

23 147. Plaintiffs incorporate by reference the allegations contained in the
24 preceding paragraphs of this Complaint.

25 148. Plaintiffs bring this cause of action against Defendant on behalf of
26 themselves and on behalf of the members of the Implied Warranty Sub-Class.

27 149. Defendant was at all relevant times the manufacturer, distributor,
28 warrantor, and/or seller of the Class Vehicles. Defendant knew or had reason to

1 know of the specific use for which the Class Vehicles were purchased or leased.

2 150. Defendant provided Plaintiffs and Class Members with an implied
3 warranty that the Class Vehicles and their components and parts are
4 merchantable and fit for the ordinary purposes for which they were sold.
5 However, the Class Vehicles are not fit for their ordinary purpose of providing
6 reasonably reliable and safe transportation because, *inter alia*, the Class Vehicles
7 and their HVAC systems suffered from an inherent defect at the time of sale and
8 thereafter are not fit for their particular purpose of providing safe and reliable
9 transportation.

10 151. Defendant impliedly warranted that the Class Vehicles were of
11 merchantable quality and fit for such use. This implied warranty included,
12 among other things: (i) a warranty that the Class Vehicles and their HVAC
13 systems were manufactured, supplied, distributed, and/or sold by Toyota were
14 safe and reliable for providing transportation; and (ii) a warranty that the Class
15 Vehicles and their HVAC systems would be fit for their intended use while the
16 Class Vehicles were being operated.

17 152. Contrary to the applicable implied warranties, the Class Vehicles
18 and their HVAC systems at the time of sale and thereafter were not fit for their
19 ordinary and intended purpose of providing Plaintiffs and Class Members with
20 reliable, durable, and safe transportation. Instead, the Class Vehicles are
21 defective, including, but not limited to, the defective design and manufacture of
22 their HVAC systems.

23 153. As a result of Defendant's breach of the applicable implied
24 warranties, owners and/or lessees of the Class Vehicles suffered an ascertainable
25 loss of money, property, and/or value of their Class Vehicles. Additionally, as a
26 result of the HVAC Defect, Plaintiffs and Class Members were harmed and
27 suffered actual damages in that repair or replacement of the Class Vehicles'
28 HVAC components is substantially certain to fail to resolve the odor issue and,

1 thus, the HVAC system will require repair or replacement perpetually.

2 154. Defendant’ actions, as complained of herein, breached the implied
3 warranty that the Class Vehicles were of merchantable quality and fit for such
4 use in violation of California Civil Code §§ 1792 and 1791.1.

5 **FOURTH CAUSE OF ACTION**

6 **(Breach of Implied Warranty Pursuant to the Magnuson-Moss Warranty**
7 **Act, 15 U.S.C. § 2301 et seq.)**

8 155. Plaintiffs incorporate by reference the allegations contained in the
9 preceding paragraphs of this Complaint.

10 156. Plaintiffs bring this cause of action on behalf of themselves and on
11 behalf all Class Members against Defendant.

12 157. The Class Vehicles are a “consumer product” within the meaning of
13 the Magnuson-Moss Warranty Act, 15 U.S.C. § 2301(1).

14 158. Plaintiffs and Class Members are “consumers” within the meaning
15 of the Magnuson-Moss Warranty Act, 15 U.S.C. § 2301(3).

16 159. Defendant are “suppliers” and “warrantors” within the meaning of
17 the Magnuson-Moss Warranty Act, 15 U.S.C. § 2301(4)-(5). Defendant
18 impliedly warranted that the Class Vehicles were of merchantable quality and fit
19 for such use. This implied warranty included, among other things: (i) a warranty
20 that the Class Vehicles and their HVAC systems were manufactured, supplied,
21 distributed, and/or sold by Toyota were safe and reliable for providing
22 transportation; and (ii) a warranty that the Class Vehicles and their HVAC
23 systems would be fit for their intended use while the Class Vehicles were being
24 operated.

25 160. Contrary to the applicable implied warranties, the Class Vehicles, at
26 the time of sale and thereafter, were not fit for their ordinary and intended
27 purpose of providing Plaintiffs and Class Members with reliable, durable, and
28 safe transportation. Instead, the Class Vehicles are defective, including, but not

1 limited to, the defective design and manufacture of their HVAC systems.

2 161. Defendant’s breach of implied warranty has deprived Plaintiffs and
3 Class Members of the benefit of their bargain.

4 162. The amount in controversy of Plaintiffs’ individual claims meets or
5 exceeds the sum or value of \$25,000. In addition, the amount in controversy
6 meets or exceeds the sum or value of \$50,000 (exclusive of interests and costs)
7 computed on the basis of all claims to be determined in this suit.

8 163. The alleged HVAC Defect was inherent in each Class Vehicle and
9 was present in each Class Vehicle at the time of sale.

10 164. Upon information and belief, Defendant has been afforded a
11 reasonable opportunity to cure its breaches, including when owners and lessees
12 of the Class Vehicles brought their vehicles in for diagnoses and repair of the
13 Class Vehicles.

14 165. As a direct and proximate cause of Defendant’s breach of implied
15 warranty, Plaintiffs and Class Members sustained damages and other losses in an
16 amount to be determined at trial. Defendant’s conduct damaged Plaintiffs and
17 Class Members, who are entitled to recover actual damages, consequential
18 damages, specific performance, diminution in value, costs, attorneys’ fees,
19 and/or other relief as appropriate.

20 166. As a result of Defendant’s violations of the Magnuson-Moss
21 Warranty Act as alleged herein, Plaintiffs and Class Members have incurred
22 damages.

23 **FIFTH CAUSE OF ACTION**

24 **(For Unjust Enrichment)**

25 167. Plaintiffs incorporate by reference the allegations contained in the
26 preceding paragraphs of this Complaint.

27 168. Plaintiffs bring this cause of action on behalf of themselves and
28 Class Members against Defendant.

1 169. As a direct and proximate result of Defendant’s failure to disclose
2 known defects and material misrepresentations regarding known defects,
3 Defendant has profited through the sale and lease of said vehicles. Although
4 these vehicles are purchased through Defendant’s agents, the money from the
5 vehicle sales flows directly back to Defendant.

6 170. Additionally, as a direct and proximate result of Defendant’s failure
7 to disclose known defects and material misrepresentations regarding known
8 defects in the Class Vehicles, Plaintiffs and Class Members have vehicles that
9 require repeated repairs that can and therefore have conferred an unjust
10 substantial benefit upon Defendant.

11 171. Defendant has therefore been unjustly enriched due to the known
12 defects in the Class Vehicles through the use of funds that earned interest or
13 otherwise added to Defendant’s profits when said money should have remained
14 with Plaintiffs and Class Members.

15 172. As a result of the Defendant’s unjust enrichment, Plaintiffs and
16 Class Members have suffered damages.

17 **RELIEF REQUESTED**

18 173. Plaintiffs, on behalf of themselves and all others similarly situated,
19 request the Court to enter judgment against Defendant, as follows:

- 20 (a) An order certifying the proposed Class and Sub-Class,
21 designating Plaintiffs as named representatives of the Class,
22 and designating the undersigned as Class Counsel;
- 23 (b) A declaration that Defendant are financially responsible for
24 notifying all Class Members about the defective nature of the
25 HVAC system, including the need for periodic maintenance;
- 26 (c) An order enjoining Defendant from further deceptive
27 distribution, sales, and lease practices with respect to Class
28 Vehicles, and to remove and replace Plaintiffs and Class

1 Members' HVAC systems with a suitable alternative product;
2 enjoining Defendant from selling the Class Vehicles with the
3 misleading information; compelling Defendant to provide
4 Class members with a replacement HVAC system that does
5 not contain the defects alleged herein; and/or compelling
6 Defendant to reform their manufacturer's warranty, in a
7 manner deemed to be appropriate by the Court, to cover the
8 injury alleged and to notify all Class Members that such
9 manufacturer's warranty has been reformed;

10 (d) A declaration requiring Defendant to comply with the various
11 provisions of the Song-Beverly Act alleged herein and to
12 make all the required disclosures;

13 (e) An award to Plaintiffs and the Class for compensatory,
14 exemplary, and statutory damages, including interest, in an
15 amount to be proven at trial;

16 (f) Any and all remedies provided pursuant to the Song-Beverly
17 Act, including California Civil Code section 1794;

18 (g) A declaration that Defendant must disgorge, for the benefit of
19 the Class, all or part of the ill-gotten profits they received
20 from the sale or lease of their Class Vehicles, or make full
21 restitution to Plaintiffs and Class Members;

22 (h) An award of attorneys' fees and costs, as allowed by law;

23 (i) An award of attorneys' fees and costs pursuant to California
24 Code of Civil Procedure § 1021.5;

25 (j) An award of pre-judgment and post-judgment interest, as
26 provided by law;

27 (k) Leave to amend the Complaint to conform to the evidence
28 produced at trial; and

1 (l) Such other relief as may be appropriate under the
2 circumstances.

3 **DEMAND FOR JURY TRIAL**

4 174. Plaintiffs demand a trial by jury of any and all issues in this action
5 so triable.

6
7 Dated: October 21, 2016

Respectfully submitted,

8 Capstone Law APC

9
10 By: /s/ Jordan L. Lurie

11 Jordan L. Lurie
12 Robert Friedl
13 Tarek H. Zohdy
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