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| | **ATTACHMENT I**<br>**Offeror Response Form**<br>SOLICITATION NO: **AAGO15-00004552** | **Office of the Attorney General**<br>1275 W Washington<br>Phoenix, AZ<br>85007-2926 |

| | | |
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| | **OFFER AND ACCEPTANCE**<br>**Solicitation #AAGO15-00004552**<br>**Project #AG15-0026** | State of Arizona<br>Office of the<br>Attorney General<br>Procurement Section<br>1275 W Washington ST<br>Phoenix, Arizona 85007<br>(602) 542-8030 |

## OFFER

TO THE STATE OF ARIZONA:
The Undersigned hereby offers and agrees to furnish the material, service or construction in compliance with all terms, conditions, Specifications, and amendments in the Solicitation and any written exceptions in the offer. Signature also certifies Small Business status.

| | |
|---|---|
| Hagens Berman Sobol Shapiro LLP<br>Company Name | Signature of Person Authorized to Sign Offer |
| 11 West Jefferson, Suite 1000<br>Address | Robert B. Carey<br>Printed Name |
| Phoenix, AZ 85003<br>City State Zip | Phoenix Managing Partner<br>Title |
| rob@hbsslaw.com<br>Contact E-Mail Address | 602-840-5900 602-840-3012<br>Contact Telephone Number Contact Fax Number |

By signature in the Offer section above, the Offeror certifies:
1. The submission of the Offer did not involve collusion or other anticompetitive practices.
2. The Offeror shall not discriminate against any employee or applicant for employment in violation of Federal Executive Order 11246, State Executive Order 2009-9 or A.R.S. §§ 41-1461 through 1465.
3. The Offeror has not given, offered to give, nor intends to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with the submitted offer. Failure to provide a valid signature affirming the stipulations required by this clause shall result in rejection of the offer. Signing the offer with a false statement shall void the offer, any resulting contract and may be subject to legal remedies provided by law.
4. The Offeror certifies that the above referenced organization ___ IS/ _X_ IS NOT a small business with less than 100 employees or has gross revenues of $4 million or less.

## ACCEPTANCE OF OFFER (For Arizona State Use Only)

Your offer is hereby accepted:

The Contractor is now bound to sell the materials, services or construction listed by the attached contract based upon the solicitation, including all terms, conditions, specifications, amendments, etc., and the Contractor's offer as accepted by the Office of the Attorney General.

This Contract shall henceforth be referred to as Contract No. _____.

The effective date of the Contract is 10/28/2014.

The Contractor is hereby cautioned not to commence any billable work or provide any material or service under this contract until the Contractor receives a purchase order, contract release document or written notice to proceed.

**STATE OF ARIZONA**
**OFFICE OF THE ATTORNEY GENERAL**

Awarded this 28th day of October 2014

Jerry Connolly
Chief Procurement Officer

| | NOTICE OF REQUEST FOR PROPOSAL | Office of the Attorney General |
|---|---|---|
| | SOLICITATION NO: **AAGO15-00004552** | 1275 W Washington<br>Phoenix, AZ<br>85007-2926 |

## SOLICITATION NUMBER: AAGO15-00004552

## DESCRIPTION: Outside Counsel Services - Consumer Fraud Action related to General Motors' recent vehicle recalls

## SOLICITATION DUE DATE: October 17, 2014 at 3:00pm Local Arizona Time.

**OFFER DELIVERY LOCATION** (see Special Instructions Section)**:**

Electronic Delivery at ProcureAZ located at https://procure.az.gov (see Special Instructions Section)

OR Mail or deliver a sealed Offer to:

Arizona Office of the Attorney General
1275 West Washington Street
Phoenix, Arizona 85007
Attention: Jerry Connolly

In accordance with A.R.S. §41-2534 competitive sealed proposals for the services specified will be received by Arizona Office of the Attorney General at the specified location until the time and date cited above. Offers received by the correct time and date will be opened and the name of each Offeror will be publicly read. Offers must be in the actual possession of the Arizona Office of the Attorney General, Procurement Office, on or prior to the Solicitation Due Date and Time, and at the location indicated above. Late offers shall not be considered.

Offers mailed or delivered must be submitted in a sealed package with the Request for Proposal number and the Offeror's name and address clearly indicated on the package. Additional instructions for preparing a proposal are provided in the Uniform and Special Instructions to Offeror contained within this Request for Proposal.

***Offerors are Strongly Encouraged to Carefully Read the Entire Request for Proposal***

**Solicitation Contact Person**:
Jerry Connolly, Procurement Manager
Office of the Arizona Attorney General
1275 West Washington Street
Phoenix, AZ 85007
Telephone Number: (602) 542-8030
Facsimile Number: (602) 251-2285
E-mail: jerry.connolly@azag.gov

## A. PURPOSE

The purpose of this contract is to retain Counsel to aid the Arizona Attorney General (AGO) in commencing legal action against General Motors, LLC and/or its related entities and others for violations of the Arizona Consumer Fraud Act arising out of GM's recent vehicle recalls. Counsel will assist the AGO on a contingency fee basis per the terms set forth in this Request for Proposal.

## B. BACKGROUND

In 2014, GM began recalling millions of vehicles for dangerous ignition switch-related defects, key rotation-related defects, and other defects, which resulted in numerous fatalities and injuries, allegedly having known of such defects for many years, but failing to take any remedial action, all the while marketing and advertising these vehicles as safe and reliable. According to the Detroit News, as of July 24, 2014, GM has disclosed the existence of at least 95 class action lawsuits and 26 individual lawsuits arising out of these alleged facts, and corresponding federal criminal investigations into whether GM committed wire fraud by misleading federal safety regulators and bankruptcy fraud by failing to disclose such defects before its 2009 Chapter 11 restructuring. The AGO is issuing this Request for Proposals to contract with law firms, singularly or in conjunction with other firms, interested in and capable of assisting the State in commencing litigation against the appropriate defendants.

## C. GOALS

Litigation in this matter would be brought under the Arizona Consumer Fraud Act, A.R.S. § 44-1521 et seq., on behalf of the State, and, if appropriate, on behalf of consumers under the State's exercise of its parens patriae rights. Such litigation would seek to recover civil penalties, damages, disgorgement, restitution, attorneys' fees, costs, potential injunctive relief and other equitable relief, and any other appropriate relief, after consultation with the AGO. The Attorney General will consider proposals seeking all or any combination of these remedies.

## D. HIERARCHY

The retention of Counsel is intended to aid the Attorney General in representing the State of Arizona in this matter. The Attorney General will be actively involved in all stages of this matter and will decide all material issues, including whether and when to file suit, whom to sue, approval of all proposed asserted claims, and whether and on what terms to settle or proceed to trial. The AGO shall be co-counsel of record in the litigation.

## E. SCOPE OF WORK TASKS

Counsel shall be responsible for the following tasks and shall perform these tasks in accordance with the Method of Approach prepared by the Counsel in responding to this Request for Proposal and as accepted by the Office of the Attorney General.

a. Evaluation of Legality f Practices
b. Decision Process
c. Pre-Litigation Activities

d. Litigation, including all appeals

e. Litigation Support

f. Post Litigation Support

**F. REPORTING**

Counsel shall prepare and submit monthly reports to the AGO summarizing activities from the previous month and detailing the hours, rates, and costs incurred. Counsel shall maintain detailed contemporaneous time records for the attorneys and paralegals working on the matter in increments of no greater than one tenth of one hour and shall promptly provide these records to the AGO on request. Where expenses are disbursed or are incurred by Counsel which also benefit other clients of Counsel in other, similar litigation, only the portion of such expenses fairly and properly allocable to Plaintiff(s) in the Litigation shall be claimed as reasonable expenses of prosecuting the Litigation. The report shall also include activities planned for the upcoming month and budgetary costs associated with these activities. The report shall be due by the seventh day of each month. Reports shall be prepared in a format and of a quality approved by the Attorney General.

**1. CONTRACT**

This Contract is issued for the Arizona Attorney General's Office in accordance with A.R.S. §41-2538.

**2. CONTRACT TYPE/COMPENSATION**

**2.1 Contingency**

Neither the Office of the Attorney General nor the State of Arizona is liable under this agreement to pay compensation to Counsel, other than from a specific fund of monies that is recovered on behalf of the State or its agencies as a result of settlement or judgment obtained against the named defendants in the litigation.

**2.2 Compensation**

It is agreed that the fixed fee ("fee") to be charged by Counsel shall be contingent so that if no recovery is obtained, no fee will be charged by Counsel for the representation described in this agreement. If there is a recovery, the fee will be based on the contingent fee percentages set forth in A.R.S. § 41-4803 which percentages shall be applied to the gross amount received by settlement, at trial, or on appeal.

The fee does not include costs. All costs and expenses, including, but not limited to, court costs and fees of expert witnesses, incurred in the litigation shall be paid by the State only as follows. Counsel shall advance all costs and expenses, including, but not limited to, court costs and fees of expert witnesses, on behalf of the State. Counsel shall not submit to the AGO or the State an invoice for such costs and expenses on an interim basis. In the event of and to the extent of any recovery, the State agrees that Counsel shall pay for such costs and expenses from the State's share of the recovery. In the event the litigation is dismissed, or the State recovers an amount that does not exceed the reimbursable costs and disbursements in the litigation, or the State recovers nothing, or Counsel is terminated without cause, the AGO agrees to seek a legislative appropriation to reimburse reasonable costs. Counsel understands and acknowledges that the AGO's obligation to pay for such costs and expenses under said circumstances is subject to appropriation and Counsel may seek a recovery for such costs and expenses only from any appropriated funds. The State will, however, be responsible for and pay any costs or expenses directly assessed against the State by the court such as jury fees and taxable costs of the opposing party.

**2.3 Basis of Compensation**

**2.3.1** If there is a recovery and collection of damages, disgorged profits or penalties for the State and subject to judicial approval for reasonableness of attorneys' fees, the amount of compensation due to Counsel shall be paid in an amount no greater than the percentages set forth in A.R.S. §41-4803 and the limitations set forth in the statute shall not be exceeded.

**2.3.2** A defendant who is "settling" is a defendant who has entered into a written settlement agreement

with the State of Arizona. The settlement agreement shall determine the compensation as per paragraph 2.6 below.

**2.3.3** If Counsel represents any other governmental entity in this type of litigation and agrees to represent such entity for a contingency fee lower than that set forth in A.R.S. §41-4803, the contingency fee herein shall be reduced to meet that lower percentage. It is the intent of Counsel to provide the State of Arizona with the best price it offers for its services.

**2.3.4** The State reserves the right to petition any court before payment to determine reasonableness of attorneys' fees outlined in this agreement.

**2.4 Challenge to Contingency Fee Arrangements**

The AGO and Counsel agree that the contingent fee provisions set forth in A.R.S. §§ 41-4801 to 41-4805 are valid and govern any contract that may result from this Request for Proposal. The AGO and Counsel agree that the percentage limitations of A.R.S. § 41-4803 properly apply to the special circumstances of this solicitation. The AGO and Counsel further agree that the percentages set forth in A.R.S. § 41-4803 are reasonable and in the public interest.

The AGO and Counsel are aware that defendants may challenge and seek to invalidate or limit this contingency fee arrangement. Any such challenge shall not excuse Counsel's performance under this agreement. The AGO agrees to join Counsel in opposing any challenge to this contingency fee arrangement. In the event of a successful challenge to this contingency fee agreement, the AGO agrees to join Counsel in arguing to the Court that the contingency fee percentages set forth in A.R.S. § 41-4803 are fair and reasonable for purposes of compensation and a formal attorneys' fees application, and in the event such argument is not successful, then Counsel agrees to and shall continue its representation of the State in the litigation at the following maximum hourly billing rates: for partners, not to exceed $400 per hour; for associates, not to exceed $250 per hour; for paralegals, not to exceed $125 per hour. In such event, these hourly fees shall be contingent upon and payable solely out of any recovery obtained in the litigation. If there is no recovery, Counsel will not be paid for such hourly work. If the recovery is insufficient to pay for such hourly work in full, then any excess remainder hourly fees will not be paid. Counsel shall not submit to the AGO or the State an invoice for such hourly fees on an interim basis. Neither the AGO nor the State is liable under this agreement to pay compensation of any kind to Counsel, other than from a specific fund of monies that may be recovered on behalf of the State or its agencies as a result of settlement or judgment obtained against the named defendants in the litigation. In the alternative, in the event of a successful challenge to this contingency fee agreement, the AGO or the State, in their sole discretion, may terminate this contract and discharge Counsel from any further representation of the State in the litigation.

Notwithstanding anything to the contrary in this paragraph, in the event the litigation is dismissed, or the

State recovers an amount that does not exceed the hourly billings of Counsel, or Counsel is terminated without cause, the AGO, in its sole discretion, may seek a legislative appropriation to reimburse the hourly billings of Counsel. Counsel understands and acknowledges that the AGO's obligation to pay for such hourly billings under these circumstances is contingent upon and subject to appropriation and that Counsel may seek a recovery for such hourly billings only from any appropriated funds.

**2.5 Court Awarded Attorney Fees**

The State intends to seek an award from the court of fees and costs for prosecution of the case. Should the court award attorney fees and costs to the State, such amounts will be retained by the State to offset some or all of the fees paid to Counsel under this agreement.

**2.6 Settlement**

This compensation agreement applies to any partial or total settlement of the litigation. In addition, in the event the AGO enters into a partial settlement against the advice of Counsel, Counsel agrees to and shall continue its representation of the State in the litigation against the remaining defendants and to be compensated in accordance with paragraphs 2.2 and 2.3 and 2.4 above. In the event, the AGO enters into a settlement against the advice of Counsel, and such settlement completely resolves the litigation, Counsel agrees to and will be compensated in accordance with paragraphs 2.2 and 2.3 and 2.4 above.

**2.7 Advance Payment Prohibited**

No payment in advance or in anticipation of services or supplies under this contract shall be made by the Office of the Attorney General.

**3. TERM OF CONTRACT**

The term of the Contract shall extend from the date of appointment through the term of Litigation unless terminated pursuant to the terms and conditions of this agreement.

**3.1 Termination Without Cause**

The AGO may terminate this agreement without cause and without penalty upon at least thirty (30) days written notice to Counsel. At the conclusion of the litigation, counsel terminated without cause will be entitled to be reimbursed for reasonable out-of-pocket costs in accordance with paragraph 2.2 above. In any contract with substitute counsel, the AGO will require substitute counsel to share on a pro-rata basis with counsel terminated without cause any attorneys' fees recovered, according to each counsel's reasonable percentage of time and work spent on the litigation, or as otherwise agreed to by substitute counsel and terminated counsel. Substitute counsel's obligation to share fees with Counsel will only arise at the conclusion of the litigation if there is a recovery by settlement or judgment.

### 3.2 Termination With Cause

The AGO may terminate this agreement for cause if Counsel breaches any material terms or conditions of this agreement or fails to perform or fulfill any material obligation under this agreement or negligently pursues the litigation so as to cause harm to the State. Counsel shall be provided written notice of termination. If Counsel is terminated for cause, Counsel shall not be entitled to compensation or reimbursement of any kind under this agreement.

## 4. DOCUMENTS INCORPORATED BY REFERENCE

The State of Arizona's Uniform Instructions to Offerors (Rev 7-2013) and Uniform Terms and Conditions (V9 - Rev 7-1-2013) are incorporated into this Contract and included as Exhibit I and Exhibit II.

## 5. ESTIMATED USAGE

Any Contract resulting from this Solicitation shall be used on an as needed, if needed basis. The State makes no guarantee as to the amount of work that may be performed under any resulting Contract.

## 6. OWNERSHIP OF MATERIALS

All materials, documents, deliverables and/or other products of the Contract (including but not limited to e.g., work plans, reports, etc.) shall be the sole, absolute and exclusive property of the State of Arizona and the Attorney General's Office, free from any claim or retention of right on the part of the Counsel, its agents, Co-Counsel, subcontractors, officers or employees.

## 7. COUNSEL RESPONSIBILITIES

### 7.1 Counsel

A "team arrangement" or "multiple firm arrangement" may be proposed, but must be proposed as a Counsel/Co-Counsel relationship. A firm must be designated as Counsel. Counsel shall be responsible for all contractual obligations and the management of all "Co-Counsels". Counsel shall also be responsible for and agrees to be liable for any acts or omissions of Co-Counsel in the carrying out of its duties on behalf of the State. The AGO will not become part of any negotiations between Counsel and Co-Counsel or accept any invoices from Co-Counsel. Any agreement between Counsel and Co-Counsel shall include provisions indicating that the AGO and the State of Arizona are not third-party beneficiaries of such agreement and that Co-Counsel is not a third-party beneficiary of this agreement. A Proposal that reflects a teaming arrangement designating more than one entity as a cosigner of the proposal will not be accepted.

### 7.2 Key Personnel

It is essential that the Counsel provide an adequate staff of experienced personnel, capable of and

devoted to the successful accomplishment of work to be performed under this Contract. Counsel must assign specific individuals to key positions. Counsel agrees and understands that this agreement is predicated, in part and among other considerations, on the utilization of the specific individual(s) and/or personnel qualification(s) as identified and/or described in the Counsel's proposal. Therefore, Counsel agrees that no substitution of such specified individual(s) and/or personnel qualifications shall be made without the prior written approval of the AGO. Counsel further agrees that any substitution made pursuant to this paragraph must be equal or better than originally proposed and that the AGO's approval of a substitution shall not be construed as an acceptance of the substitution's performance potential. The AGO agrees that an approval of a substitution will not be unreasonably withheld. Counsel shall bear all transitional expenses incurred for any costs associated with removing or replacing Key Personnel who are performing work under this Contract. Counsel agrees to reveal its staffing levels by function, including resumes, upon request by the AGO at any time during the performance of this Contract.

**7.3 Lead Counsel**

Counsel shall name an individual as the Lead Counsel for the outside counsel team. This individual shall be considered a Key Personnel as defined in this contract. The Counsel shall provide the Lead Counsel's complete address, e-mail address and telephone and Fax numbers. The Lead Counsel shall be the company representative to whom all correspondence, official notices, and requests related to the project shall be addressed. If a firm joins together with another firm or firms, the firms shall name only one Lead Counsel.

**7.4 Other Key Personnel**

Counsel shall provide the name of any other individual who will perform duties to directly support the person offered as the Lead Counsel. The role and crucial duties this individual will perform shall be identified.

**7.5 Removal of Counsel's Employees**

The AGO may require the Counsel to remove from an assignment employees who endanger persons, property or whose continued employment under this Contract is inconsistent with the interests of the AGO.

**7.6 Availability of Counsel**

Counsel shall be available immediately upon receipt of the Notice to Proceed and remain available to the AGO throughout the period of performance as stated in the Contract.

**7.7 Submission of Electronic Deliverables**

At the request of the AGO, the Counsel shall submit electronic deliverables. All electronic deliverables shall be in format compatible with AGO software. The AGO currently uses the MS Office 2010 suite of products (e.g. docx, xlsx, and pptx) and Adobe Acrobat Pro X (e.g. pdf) software, other formats may be considered. Electronic Deliverables shall be treated with confidentiality and provided through encrypted e-mail, the AGO file share website (https://agfileshare.azag.gov), encrypted hard drive, or encrypted flash

drive.

## 8. OVERSIGHT AND DRAFT DOCUMENT REVIEW

### 8.1 Oversight

The retention of Counsel is intended to aid the Attorney General in representing the State of Arizona in a major matter. The Attorney General will be actively involved in all stages of this matter and deciding all major issues, including whether to file suit, when to file suit, who to file suit against, approval of the asserted claim or claims and whether and on what basis to settle or proceed to trial. Counsel shall acknowledge and defer to the Attorney General for direction and decisions.

### 8.2 Review of Services

The Attorney General reserves the right to review all and every part of the Services during performance or after completion as the Attorney General may see fit. If the Services or any part thereof have not been performed in accordance with this Agreement to the satisfaction of the Attorney General, the Attorney General may order that no further services be performed and may reject and refuse to pay for any improperly performed services and shall fully comply with all the requirements set forth in A.R.S. § 41-4803(C) and elsewhere.

### 8.3 Draft Document Review

Prior review of all documents is required to assure the AGO approval of the information, content and completeness. Documents for prior review shall include all pleadings, petitions, findings and any other document produced in the pursuit of this matter. All draft deliverables and other materials developed by the Counsel as part of this project shall be reviewed and approved in writing by the AGO prior to finalizing the material. Counsel shall promptly provide, in final form, the designated assistant attorney general with copies of all pleadings, discovery requests and responses, and relevant correspondence related to the Litigation.

### 8.4 Settlements/Compromises

All offers of compromise shall be promptly transmitted to the Attorney General together with Counsel's recommendation.

### 8.5 Depositions

Notices of depositions shall not be issued by Counsel without prior written authorization from the Attorney General. Notices of depositions of State of Arizona employees filed by any party must be submitted to the Attorney General immediately upon Counsel's receipt to make necessary arrangements for their testimony. Summaries of all depositions will be supplied by the assigned Counsel on conclusion of the deposition. Ordinarily only one attorney should attend depositions, although, upon AGO prior approval, Counsel may have more than one attorney attend a deposition. The Attorney General may request the presence of a State of Arizona employee at one or more depositions.

**8.6 Testimony**

Should Counsel be required to testify at any judicial, legislative or administrative hearing concerning matters in any way related to the Services performed under this Agreement, Counsel shall immediately supply to the Attorney General or his designated representative in writing all information likely to be disclosed at said hearing as well as Counsel's position thereon. Should Counsel be required by a third party to testify at any judicial, legislative or administrative hearing not specified in this Agreement but concerning the subject matter of this Agreement, Counsel shall immediately notify the Attorney General or his designated representative to enable State of Arizona representatives to attend and participate.

**8.7 Privileged Communications**

All confidential communications between the Attorney General, any State of Arizona officer, employee or agent ("Arizona") and Counsel, whether oral or written, and all Documentation, whether prepared by Counsel or supplied by Arizona, shall be considered privileged communications and shall not, except as required by law, be communicated by Counsel to any public agency, insurance company, rating organization, contractor, vendor, counsel, or any other third party or entity whether or not connected in any manner with Arizona or Counsel, without the prior written consent of the Attorney General. If such communications are approved, or if such communications are required to be disclosed by law, Counsel shall immediately provide the Attorney General with two (2) copies of each written communication and/or two (2) copies of summaries of each oral communication. If such communication is required by law, Counsel shall immediately provide the Attorney General written notice as to the time, place, and manner of such disclosure as well as a written summary of any information likely to be disclosed by such disclosure, and Counsel's position thereon.

**9. RECORDS**

Pursuant to A.R.S. §§35-214, 35-215, and 41-4803, Counsel shall retain and shall contractually require each Subcontractor to retain books, records, documents and other evidence pertaining to the acquisition and performance of the Contract, hereinafter collectively called the “records,” to the extent and in such detail as will properly reflect all net expenses, disbursements, charges, credits, receipts, invoices, and costs, direct or indirect, of labor, materials, equipment, supplies and services and other costs and expenses of whatever nature for which payment is made under the Contract. Counsel shall agree to make available at the office of the Counsel at all reasonable times during the period, as set forth below, any of the records for inspection, audit or reproduction by any authorized representative of the State or AGO. In coordination with the AGO, Counsel shall preserve and make available the records for a period of five years from the date of final payment under the Contract and for such period, if any, as is required by applicable statute. If the Contract is completely or partially terminated, the records relating to the work terminated shall be preserved and made available for a period of five years from the date of any resulting final settlement.

## 10. PROFESSIONAL RESPONSIBILITY

### 10.1 General

Counsel shall use Best Efforts to perform and complete the Services in accordance with the provisions of this Agreement. Best Efforts shall be considered those efforts which a skilled, competent, experienced and prudent legal professional would use to perform and complete the requirements of this Agreement in a timely manner, exercising the degree of skill, care, competence, and prudence customarily imposed on a legal professional performing similar work.

### 10.2 Conflict of Interest/Litigation against the State of Arizona

#### 10.2.1 Conflicts

Counsel shall advise the Attorney General of any perceived conflict. This duty shall extend throughout the performance of this contract when a conflict or perceived conflict becomes known to the Counsel. Whether the conflict is remote or disqualifying will be the Attorney General's decision.

#### 10.2.2 Litigation against the State of Arizona

Counsel is retained only for the purposes and to the extent set forth in this Agreement. Counsel shall be free to dispose of such portion of his entire time, energy and skill not required to be devoted to the State of Arizona in such manner as he sees fit and to such persons, firms or corporations as he deems advisable, but shall not engage in private litigation against the State of Arizona at the same time counsel accepts appointments representing the State of Arizona pursuant to this Agreement unless such litigation does not present an ethical conflict of interest, and a written waiver is first obtained from the Attorney General. Counsel shall disclose to the State of Arizona, in the proposal, all litigation, claims and matters in which counsel represents parties adverse to the State of Arizona. If Counsel is selected to contract with the State of Arizona pursuant to the Agreement, Counsel shall have a continuing duty to disclose such information.

## 11. INDEMNIFICATION

Counsel shall indemnify, defend, save and hold harmless the AGO and the State of Arizona, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees (hereinafter referred to as “Indemnitee”) from and against any and all claims, actions, liabilities, damages, losses, or expenses (including court costs, attorneys’ fees, and costs of claim processing, investigation and litigation) (hereinafter referred to as “Claims”) for bodily injury or personal injury (including death), or loss or damage to tangible or intangible property caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of Counsel or any of its owners, officers, directors, agents, employees or subcontractors. This indemnity includes any claim or amount arising out of or recovered under the Workers’ Compensation Law or arising out of the failure of such contractor to conform to any federal, state or local law, statute, ordinance, rule, regulation or court decree. It is the specific intention of the parties that the Indemnitee shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the Indemnitee, be indemnified by Counsel from and against any

and all claims of any kind whatsoever. It is agreed that Counsel will be responsible for primary loss investigation, defense and judgment costs where this indemnification is applicable. In consideration of the award of this contract, Counsel agrees to waive all rights of subrogation against the AGO and the State of Arizona, its officers, officials, agents and employees for losses arising from the work performed by the Counsel for the State of Arizona.

**12. INSURANCE REQUIREMENTS**

**12.1 General Requirements**

**12.1.1** Counsel, Co-Counsel and subcontractors shall procure and maintain until all of their obligations have been discharged, including any warranty periods under this Contract, insurance against claims for injury to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Counsel, his agents, representatives, employees, Co-Counsel or subcontractors.

**12.1.2** The insurance requirements herein are minimum requirements for this Contract and in no way limit the indemnity covenants contained in this Contract. The State of Arizona in no way warrants that the minimum limits contained herein are sufficient to protect the Counsel from liabilities that might arise out of the performance of the work under this contract by the Counsel, its agents, representatives, employees, Co-Counsel or subcontractors, and Counsel is free to purchase additional insurance.

**12.2 Minimum Scope and Limits of Insurance**

Counsel shall provide coverage with limits of liability not less than those stated below.

**12.2.1** Commercial General Liability – Occurrence Form

Policy shall include bodily injury, property damage, personal injury and broad form contractual liability coverage.

| | |
|---|---|
| General Aggregate | $2,000,000 |
| Products – Completed Operations Aggregate | $1,000,000 |
| Personal and Advertising Injury | $1,000,000 |
| Blanket Contractual Liability – Written and Oral | $1,000,000 |
| Fire Legal Liability | $ 50,000 |
| Each Occurrence | $1,000,000 |

**12.2.2** The policy shall be endorsed (blanket endorsements are not acceptable) to include the following additional insured language: “The Arizona Attorney General’s Office and the State of Arizona, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees shall be named as additional insureds with respect to liability arising out of the activities performed by or on behalf of the Contractor". Such additional insureds shall be covered

to the full limits of liability purchased by the Contractor, even if those limits of liability are in excess of those required by this Contract.

**12.2.3** The policy shall contain a waiver of subrogation endorsement (blanket endorsements are not acceptable) in favor of the AGO and the State of Arizona, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees for losses of any kind whatsoever arising from work performed by or on behalf of the Counsel.

**12.3 Business Automobile Liability**

**12.3.1** Bodily Injury and Property Damage for any owned, hired, and/or non-owned vehicles used in the performance of this Contract.

**12.3.2** Combined Single Limit (CSL) $1,000,000

**12.3.3** The policy shall be endorsed (blanked endorsements are not acceptable) to include the following additional insured language: "The Arizona Attorney General's Office and the State of Arizona, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees shall be named as additional insureds with respect to liability arising out of the activities performed by or on behalf of the Contractor, involving automobiles owned, leased, hired or borrowed by the Contractor". Such additional insureds shall be covered to the full limits of liability purchased by the contractor, even if those limits of liability are in excess of those required by this Contract.

**12.3.4** The policy shall contain a waiver of subrogation endorsement (blanket endorsements are not acceptable) in favor of the AGO and the State of Arizona, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees for losses of any kind whatsoever arising from work performed by or on behalf of the Counsel.

**12.3.5** The policy shall contain a severability of interest provision.

**12.4 Worker's Compensation and Employers' Liability**

**12.4.1** Workers' Compensation Statutory

**12.4.2** Employers' Liability

| | | |
|---|---|---|
| **12.4.2.1** | Each Accident | $ 500,000 |
| **12.4.2.2** | Disease – Each Employee | $ 500,000 |
| **12.4.2.3** | Disease – Policy Limit | $1,000,000 |

**12.4.3** Policy shall contain a waiver of subrogation endorsement in favor of the AGO and the State of Arizona, its departments, agencies, boards, commissions, universities and its officers, officials,

agents, and employees for losses of any kind whatsoever arising from work performed by or on behalf of the Counsel.

**12.4.4** This requirement shall not apply to: Separately, EACH contractor or subcontractor exempt under A.R.S. §23-901, AND when such contractor or subcontractor executes the appropriate waiver (Sole Proprietor/Independent Contractor) form.

**12.5 Professional Liability (Errors and Omissions Liability)**

**12.5.1** Each Claim $10,000,000

**12.5.2** Annual Aggregate $20,000,000

**12.5.3** In the event that the professional liability insurance required by this Contract is written on a claims-made basis, Counsel warrants that any retroactive date under the policy shall precede the effective date of this Contract, and that either continuous coverage will be maintained or an extended coverage period will be exercised for a period of two (2) years beginning at the time work under this Contract is completed.

**12.5.4** The policy shall cover at a minimum professional misconduct or lack of ordinary skill for those positions defined in the Scope of Work of this contract.

**12.6 Additional Insurance Requirements**

The policies shall include, or be endorsed to include, the following provisions:

**12.6.1** The Contractor's policies shall stipulate that the insurance afforded the contractor shall be primary insurance and that any insurance carried by the Department, its agents, officials, employees or the State of Arizona shall be excess and not contributory insurance, as provided by ARS §41-621(E).

**12.6.2** Coverage provided by the Contractor shall not be limited to the liability assumed under the indemnification provisions of this Contract.

**12.7 Notice of Cancellation**

With the exception of (10) day notice of cancellation for non-payment of premium, any changes material to compliance with this contract in the insurance policies above shall require (30) days written notice to the State of Arizona. Such notice shall be sent directly to Jerry Connolly, Office of the Arizona Attorney General, 1275 West Washington Street, Phoenix, AZ 85007 and shall be sent by certified mail, return receipt requested.

**12.8 Acceptability of Insurers**

Counsel's insurance shall be placed with companies duly licensed in the State of Arizona or hold approved non-admitted status on the Arizona Department of Insurance List of Qualified Unauthorized Insurers. Insurers shall have an "A.M. Best" rating of not less than A- VII or duly authorized to transact Workers'

Compensation insurance in the State of Arizona. The State of Arizona in no way warrants that the above-required minimum insurer rating is sufficient to protect the Contractor from potential insurer insolvency.

**12.9 Verification of Coverage**

**12.9.1** Contractor shall furnish the State of Arizona with certificates of insurance (ACORD form or equivalent approved by the State of Arizona) as required by this Contract. The certificates for each insurance policy are to be signed by an authorized representative.

**12.9.2** All certificates and endorsements (blanked endorsements are not acceptable) are to be received and approved by the State of Arizona before work commences. Each insurance policy required by this Contract must be in effect at or prior to commencement of work under this Contract and remain in effect for the duration of the project. Failure to maintain the insurance policies as required by this Contract or to provide evidence of renewal is a material breach of contract.

**12.9.3** All certificates required by this Contract shall be sent directly to Jerry Connolly, Office of the Arizona Attorney General, 1275 West Washington Street, Phoenix, AZ 85007. The State of Arizona project/contract number and project description shall be noted on the certificate of insurance. The State of Arizona reserves the right to require complete, certified copies of all insurance policies required by this Contract at any time.

**12.10 Subcontractors**

Counsel's certificate(s) shall include all Co-Counsel and subcontractors as insureds under its policies or Counsel shall furnish to the State of Arizona separate certificates and endorsements for each Co-Counsel and subcontractor. All coverages for Co-Counsel and subcontractors shall be subject to the minimum requirements identified above, except for Professional Liability which shall not be lower than $5,000,000.

**12.11 Approval**

Any modification or variation from the insurance requirements in this Contract shall be made by the contracting agency in consultation with the Department of Administration, Risk Management Division. Such action will not require a formal Contract amendment, but may be made by administrative action.

**13. NOTICES, CORRESPONDENCE AND INVOICES**

Notices, Correspondence and Invoices from the Counsel to AGO shall be sent to:

Brad Keogh, Senior Litigation Counsel
Consumer Protection and Advocacy Section
Arizona Office of the Attorney General
1275 West Washington Street
Phoenix, AZ 85007
Telephone: 602-542-7731
E-mail: Brad.Keogh@azag.gov

## 1. SOLICITATION INQUIRIES

### 1.1 Issuing Office Solicitation Contact Person

The AGO Procurement Office Solicitation Contact Person identified on the cover page of this RFP shall be the sole point of contact for purposes of the preparation and submittal of proposals to this Solicitation.

### 1.2 Solicitation Clarifications

All inquiries, questions or clarification requests regarding this Solicitation should be submitted no later than seven (7) days before the Solicitation due date. The Offeror should direct such inquiries, questions or requests to the attention of the Solicitation Contact Person via e-mail (preferred), facsimile or mail, or through ProcureAZ. All Solicitation Inquiries will be handled in accordance with the Uniform Instructions to Offerors. If any inquiries, questions or clarifications result in a change to the Solicitation, a written Solicitation Amendment will be issued prior to the Solicitation due date.

### 1.3 Solicitation Amendments

The Offeror should acknowledge receipt of a Solicitation Amendment by signing and attaching a copy of the Solicitation Amendment to their proposal. If submitting the proposal using ProcureAZ, the Offeror should follow the instructions provided in the Uniform Instructions.

## 2. SOLICITATION SUBMISSION GUIDELINES

### 2.1 Solicitation Response

An Offeror responding to this solicitation may do so in ProcureAZ located at https://procure.az.gov or by delivering/mailing your proposal to:

Office of the Arizona Attorney General
1275 West Washington Street
Phoenix, AZ 85007
Attention: Jerry Connolly
Solicitation #AAGO13-00003156

Offeror is expected to only use one method of submitting a proposal. If you have questions please contact Jerry Connolly at 602-542-8030 or jerry.connolly@azag.gov.

### 2.2 Late Proposals

All proposals must be received by the Solicitation due date and time specified. Any response received after the Solicitation due date and time specified will not be considered. Proposals are to be delivered to the Issuing Office, as indicated on the front page of this solicitation, and clearly designated as a Proposal for this specific Solicitation. Proposals delivered to any other location will not be considered "received" until they arrive at the location specified on the cover page. AGO will not waive delay in delivery resulting from need to transport a proposal from another location, or error or delay on the part of the carrier.

**2.3 Mailing of Proposals**

Offerors mailing proposals should allow sufficient mail delivery time to ensure timely receipt by the Issuing Office. Proposals arriving after the due date and time will not be considered.

**2.4 Proposals delivered in ProcureAZ**

Offerors should download from and use Attachment I in ProcureAZ located at https://procure.az.gov to prepare their proposal. Once their proposal is complete Offeror should attach their proposal in ProcureAZ. Proposal must be submitted before the Solicitation opening date and time.

## 3. FAMILIARIZATION WITH SCOPE OF WORK

The Offeror should carefully review the requirements of the Solicitation and familiarize itself with the Scope of Work, laws, regulations and other factors so to satisfy itself as to the expense and difficulties of the work to be performed. The signing of the Offer and Contract Award form will constitute a representation of compliance by the Offeror. There will be no subsequent financial adjustment, other than provided by the Contract, for lack of such familiarization.

## 4. COMPONENTS OF A COMPLETE PROPOSAL

**4.1 Offer Submittal:**

**4.1.1 Submittal via ProcureAZ**

Offerors submitting their proposal via ProcureAZ should complete their proposal, sign the Offer and Acceptance form, scan the complete proposal and attach it into ProcureAZ.

OR

**17.1.2 Submittal via Mail, Delivery Service or Delivered**

Offerors delivering or mailing proposals should submit their Offer as **One (1) original unbound set; three (3) bound copies.** The original copy of the proposal should be clearly labeled "**ORIGINAL**". The material should contain a table of contents, be in the sequence listed in section 18 below, and be related to the Request for Proposal. The State will not provide any reimbursement for the cost of developing or presenting proposals in response to this RFP.

**4.2 Conformance to the RFP**

The Offeror should use the provided forms and formats or forms and formats substantially similar. Failure to include the requested information, providing incomplete information or adding irrelevant information may result in lower evaluation scores and may have a negative impact on the evaluation of the Offeror's proposal.

**5. PROPOSAL FORMAT**

The following information should be submitted with each proposal and in this order. This format provides a layout for the proposal and pricing sections. Failure to include all of the requested information may result in a proposal being rejected.

**5.1** Offer and Contract Award Form

Offeror should complete the top half of the Offer and Acceptance Form (*see* Offeror Response Form at Attachment I) and should include the signature of a person authorized to bind the Offeror.

**5.2** Solicitation Amendments

Offeror should acknowledge receipt of Solicitations Amendments by including signed copies of all Solicitation Amendments.

**5.3** Exceptions to the RFP

An Offeror who takes exception to any portion of the Solicitation must do so pursuant to the Uniform Instructions to Offeror and must include the exceptions in a separate section in the proposal titled "Exceptions". Exceptions to the terms and conditions should provide sufficient justification to detail the reason the exception is advantageous to the State of Arizona.

**5.4** Confidential Information

If an Offeror believes that information in its Offer should remain confidential, the Offeror shall designate a special section labeled "Confidential Information" and include any information the Offeror indicates as confidential along with a statement detailing the reasons that the information should not be disclosed. Such request for confidentiality shall be handled in accordance with the Uniform Instructions to Offeror.

**5.5** Suspension or Debarment Status

An Offeror who has been debarred, suspended or otherwise lawfully precluded from participating in any public procurement activity with any Federal, State or local government shall include a letter with its proposal setting forth the disclosures and explanations required by the Uniform Instructions to Offerors.

**5.6** Insurance

The Offeror should provide a Certificate of Insurance or a letter from the Offeror's Insurance Provider demonstrating the Offeror is able to provide insurance in accordance with the Special Terms and Conditions Section of this RFP.

**5.7** Similar Cases

The Offeror should provide a brief description of at least 3 cases, similar to a project of this nature, that the firm has worked on (*see* Offeror Response Form at Attachment I).

**5.8** Executive Summary of Firm's Qualification

The Offeror should provide an executive summary of the firm's unique qualifications for this case (*see* Offeror Response Form at Attachment I).

**5.9** References

The Offeror should provide a list of three references where the services provided were similar to those described in this RFP (*see* Offeror Response Form at Attachment I).

**5.10** Key Personnel Resumes

The Offeror should provide resumes of the Key Personnel who would work on this case (*see* Offeror Response Form at Attachment I).

**5.11** Method of Approach

The Offeror should provide a brief description of its proposed approach to this case and provide answers to the Method of Approach questions identified in the Offeror Response Form at Attachment I.

**6. REGISTERING IN PROCUREAZ**

The Offeror should register in ProcureAZ. This is the State of Arizona Electronic Procurement System. Registering makes payment of any invoice easier and provides the Offeror an opportunity for notice of any future solicitation. The address for ProcureAZ is https://procure.az.gov. The Help desk for ProcureAZ can be reached at 602-542-7600 or procure@azdoa.gov.

**7. PROPOSAL OPENING**

Proposals shall be opened at the Solicitation Due Date and Time cited on the cover page of the Solicitation. The name of each Offeror shall be publicly read and recorded in the presence of at least one witness. Prices shall not be read.

**8. OFFER AND ACCEPTANCE PERIOD**

In order to allow for an adequate evaluation, AGO requires an Offer in response to this Solicitation to be valid and irrevocable for 120 days after the opening due date.

**9. EVALUATION CRITERIA**

Awards shall be made to the responsible Offeror whose proposal is determined to be the most advantageous to the State based upon the evaluation criteria listed below. The evaluation criteria are listed in relative order of importance.

**22.1 Capacity of the firm;**

**22.2 Experience and expertise of the firm and of key personnel;**

**22.3 Method of Approach;**

**22.4 Cost.**

**10. DISCUSSIONS**

After the initial receipt and evaluation of proposals, the AGO may conduct discussions with Offerors whose proposals are deemed to be reasonably susceptible to award. Notwithstanding this section, proposals should be submitted initially complete and on most favorable terms. In the event discussions are conducted, the AGO shall issue a written request for Best and Final Offers.

**11. BEST AND FINAL OFFER**

The request for Best and Final Offer shall inform Offerors that if they do not submit a Best and Final Offer or a notice of withdrawal, their immediate previous Offer will be considered as their Best and Final Offer. The Offeror's "immediate previous Offer" will consist of the Offeror's original proposal submission and any documents submitted by the Offeror during discussions.

**12. DEFINITIONS OF KEY WORDS USED IN THE RFP**

**12.1 AGO, Attorney General's Office, Office of the Attorney General**

Office of the Attorney General, Attorney General's Office or AGO shall all refer to the Arizona Office of the Attorney General.

**12.2 Co-Counsel**

Co-Counsel shall refer to a firm or firms that separately contract with Counsel to provide services related to this agreement

**12.3 Counsel, Contractor**

Counselor or Contractor shall refer to the firm or firms awarded a contract by the AGO for commencement of litigation against General Motors, LLC and/or its related entities and others for violations of the Arizona Consumer Fraud Act arising out of GM's recent vehicle recalls..

**12.4 Deliverable**

Deliverable shall refer to any report or other work product produced by the Counsel for the Office of the Attorney General.

**12.5 Documents**

Documents shall include all correspondence, evaluations, depositions, interrogatories, reports, pleadings, memoranda, briefs, information and any other similar documents or material prepared or used in connection with Services in the pursuit of this matter.

**12.6 May**

May indicates something that is not mandatory but permissible.

**12.7 Shall, Must**

Shall or must indicates a mandatory requirement. Failure to meet these mandatory requirements may result in the rejection of a proposal as non-responsive.

**12.8 Should, Will**

Should or will indicates something that is recommended but not mandatory.

**25.8 Subcontractor**

Subcontractor means a person or firm that separately contracts with Counsel to provide materials or services required for the performance of this contract.

**Standard Contract Addendum for All Office of the Arizona Attorney General Contingency Fee Contracts As Per A.R.S. §41-4803**

(This addendum is added as a part of this contract in accordance with A.R.S. §41-4803. These requirements are minimum and may be superseded by other statutory requirements listed within this agreement.)

A. This state may not enter into a contingency fee contract that provides for this state's private attorney to receive a contingency fee from this state's portion of the recovery in excess of an aggregate of all of the following:

1. Twenty-five per cent of the initial recovery of less than ten million dollars.

2. Twenty per cent of that portion of any recovery of ten million dollars or more but less than fifteen million dollars.

3. Fifteen per cent of that portion of any recovery of fifteen million dollars or more but less than twenty million dollars.

4. Ten per cent of that portion of any recovery of twenty million dollars or more but less than twenty-five million dollars.

5. Five per cent of any recovery of twenty-five million dollars or more.

B. The contingency fee received by this state's private attorney shall not exceed fifty million dollars, except for reasonable costs and expenses and regardless of the number of lawsuits filed or the number of private attorneys retained to achieve the recovery.

C. The state shall not enter into a contract for contingency fee attorney services unless the following requirements are met throughout the contract period and any extensions of the contract:

1. A government attorney retains ultimate control over the course and conduct of the case.

2. A government attorney with supervisory authority is personally involved in overseeing the litigation.

3. A government attorney retains veto power over any decisions made by the private attorney.

4. Any defendant's attorney that is the subject of the litigation may contact the lead government attorney directly without having to confer with the private attorney.

5. A government attorney with supervisory authority for the case attends all settlement conferences. For the purposes of this paragraph, "attends" includes attendance by phone, teleconferencing or similar electronic devices.

6. Decisions regarding settlement of the case may not be delegated to this state's private attorney.

D. The attorney general shall develop a standard addendum to every contract for contingent fee attorney services that the attorney general must use in all cases, describing in detail what is expected of both the contracted private attorney and this state, including the requirements prescribed in subsection C.

E. The attorney general shall post copies of any executed contingency fee contract and the attorney general's written determination to enter into a contingency fee contract with the private attorney on the attorney general's website for public inspection within five business days after the date the contract is executed, which shall remain posted on the website for the duration of the contingency fee contract, including any extensions or amendments of the contract, unless the attorney general determines that the posting may cause damage to the reputation of any business or person. Notwithstanding the requirements of this subsection, posting on the website shall be made no later than when a lawsuit is filed. The attorney general shall post any payment of contingency fees on the attorney general's website within fifteen days after the payment of the contingency fees to the private attorney, which shall remain posted on the website for at least three hundred sixty-five days thereafter.

F. Any private attorney under contract to provide services to this state on a contingency fee basis, from the inception of the contract until at least four years after the contract expires or is terminated, shall maintain detailed current records, including documentation of all expenses, disbursements, charges, credits, underlying receipts and invoices and other financial transactions that concern the provision of the attorney services. The private attorney shall make all the records available for inspection and copying on request pursuant to title 39, chapter 1, article 2. The private attorney shall maintain detailed contemporaneous time records for the attorneys and paralegals working on the matter in increments of no greater than one tenth of one hour and shall promptly provide these records to the attorney general on request.

G. This chapter does not apply to any contingent fee contract in which this state hires a private attorney to pursue debt collection and restitution cases for this state.

## UNIFORM INSTRUCTIONS TO OFFERORS

**A. Definition of Terms.** As used in these Instructions, the terms listed below are defined as follows:

1. "*Attachment*" means any item the Solicitation requires an Offeror to submit as part of the Offer.

2. "*Best and Final Offer"* means a revision to an Offer submitted after negotiations are completed that contains the Offeror's most favorable terms for price, service, and products to be delivered. Sometimes referred to as a Final Proposal Revision.

3. "*Contract*" means the combination of the Solicitation, including the Uniform and Special Terms and Conditions, and the Specifications and Statement or Scope of Work; the Offer, any Clarifications, and any Best and Final Offers; and any Solicitation Amendments or Contract Amendments.

4. "*Contract Amendment*" means a written document signed by the Procurement Officer issued for the purpose of making changes in the Contract.

5. "*Contractor*" means any person who has a Contract with a state governmental unit.

6. "*Day*" means calendar days unless otherwise specified.

7. *"eProcurement (Electronic Procurement)"* means conducting all or some of the procurement function over the Internet. Point, click, buy and ship Internet technology is replacing paper-based procurement and supply management business processes. Elements of eProcurement also include Invitation for Bids, Request for Proposals, and Request for Quotations.

8. "*Exhibit*" means any document or object labeled as an Exhibit in the Solicitation or placed in the Exhibits section of the Solicitation.

9. "*Offer*" means a response to a solicitation.

10. "*Offeror*" means a person who responds to a Solicitation.

11. *"Person"* means any corporation, business, individual, union, committee, club, or other organization or group of individuals.

12. "*Procurement Officer*" means the person, or his or her designee, duly authorized by the State to enter into and administer Contracts and make written determinations with respect to the Contract.

13. "*Solicitation*" means an Invitation for Bids ("IFB"), a Request for Technical Offers, a Request for Proposals ("RFP"), a Request for Quotations ("RFQ"), or any other invitation or request issued by the purchasing agency to invite a person to submit an offer.

14. "*Solicitation Amendment*" means a change to the Solicitation issued by the Procurement Officer.

15. "*Subcontract*" means any Contract, express or implied, between the Contractor and another party or between a subcontractor and another party delegating or assigning, in whole or in part, the making or furnishing of any material or any service required for the performance of the Contract.

16. "*State*" means the State of Arizona and Department or Agency of the State that executes the Contract.

**B. Inquiries**

1. Duty to Examine. It is the responsibility of each Offeror to examine the entire Solicitation, seek clarification in writing (inquiries), and examine its Offer for accuracy before submitting an Offer. Lack of care in preparing an Offer shall not be grounds for modifying or withdrawing the Offer after the Offer due date and time.

2. Solicitation Contact Person. Any inquiry related to a Solicitation, including any requests for or inquiries regarding standards referenced in the Solicitation shall be directed solely to the Procurement Officer.

3. Submission of Inquiries. All inquiries related to the Solicitation are required to be submitted in the State's eProcurement system. All responses to inquiries will be answered in the State's eProcurement system. Any inquiry related to the Solicitation should reference the appropriate Solicitation page and paragraph number. Offerors are prohibited from contacting any State employee other than the Procurement Officer concerning the procurement while the solicitation and evaluation are in process.

4. Timeliness. Any inquiry or exception to the Solicitation shall be submitted as soon as possible and should be submitted at least seven days before the Offer due date and time for review and determination by the State. Failure to do so may result in the inquiry not being considered for a Solicitation Amendment.

5. No Right to Rely on Verbal or Electronic Mail Responses. An Offeror shall not rely on verbal or electronic mail responses to inquiries. A verbal or electronic mail reply to an inquiry does not constitute a modification of the solicitation.

6. Solicitation Amendments. The Solicitation shall only be modified by a Solicitation Amendment.

7. Pre-Offer Conference. If a pre-Offer conference has been scheduled under the Solicitation, the date, time and location shall appear in the State's eProcurement system. Offerors should raise any questions about the Solicitation at that time. An Offeror may not rely on any verbal responses to questions at the conference. Material issues raised at the conference that result in changes to the Solicitation shall be answered solely through a Solicitation Amendment.

8. Persons With Disabilities. Persons with a disability may request a reasonable accommodation, such as a sign language interpreter, by contacting the Procurement Officer. Requests shall be made as early as possible to allow time to arrange the accommodation.

**C. Offer Preparation**

1. Electronic Documents. The Solicitation is provided in an electronic format. Offerors are responsible for clearly identifying any and all changes or modifications to any Solicitation documents upon submission to the State's eProcurement system. Any unidentified alteration or modification to any Solicitation, attachments, exhibits, forms, charts or illustrations contained herein shall be null and void. Offerors' electronic files shall be submitted in a format acceptable to the State. Acceptable formats include .doc and .docx (Microsoft Word), .xls and .xlsx (Microsoft Excel), .ppt and .pptx (Microsoft PowerPoint) and .pdf (Adobe Acrobat). Offerors wishing to submit files in any other formal shall submit an inquiry to the Procurement Officer.

2. Evidence of Intent to be Bound. The Offer and Acceptance form within the Solicitation shall be submitted with the Offer in the State's eProcurement system and shall include a signature by a person authorized to sign the Offer. The signature shall signify the Offeror's intent to be bound by the Offer and the terms of the Solicitation and that the information provided is true, accurate and complete. Failure to submit verifiable evidence of an intent to be bound, such as a signature, shall result in rejection of the Offer.

3. Exceptions to Terms and Conditions. All exceptions included with the Offer shall be submitted in the State's eProcurement system in a clearly identified separate section of the Offer in which the Offeror clearly identifies the specific paragraphs of the Solicitation where the exceptions occur. Any exceptions not included in such a section shall be without force and effect in any resulting Contract unless such exception is specifically accepted by the Procurement Officer in a written statement. The Offeror's preprinted or standard terms will not be considered by the State as a part of any resulting Contract.

   3.1. Invitation for Bids. An Offer that takes exception to a material requirement of any part of the Solicitation, including terms and conditions, shall be rejected.

   3.2. Request for Proposals. All exceptions that are contained in the Offer may negatively impact an Offeror's susceptibility for award. An offer that takes exception to any material requirement of the solicitation may be rejected.

4. Subcontracts. Offeror shall clearly list any proposed subcontractors and the subcontractor's proposed responsibilities in the Offer.

5. Cost of Offer Preparation. The State will not reimburse any Offeror the cost of responding to a Solicitation.

6. Federal Excise Tax. The State is exempt from certain Federal Excise Tax on manufactured goods. Exemption Certificates will be provided by the State.

7. Provision of Tax Identification Numbers. Offerors are required to provide their Arizona Transaction Privilege Tax Number and/or Federal Tax Identification number in the space provided on the Offer and Acceptance Form.

   7.1 Employee Identification. Offeror agrees to provide an employee identification number or social security number to the State for the purposes of reporting to appropriate taxing authorities, monies paid by the State under this contract. If the federal identifier of the Offeror is a social security number, this number is being requested solely for tax reporting purposes and will be shared only with appropriate state and federal officials. This submission is mandatory under 26 U.S.C. §6041A.

8. Identification of Taxes in Offer. The State is subject to all applicable state and local transaction privilege taxes. All applicable taxes shall be identified as a separate item offered in the Solicitation. When applicable, the tax rate and amount shall be identified on the price sheet.

9. Disclosure. If the person submitting this Offer has been debarred, suspended or otherwise lawfully precluded from participating in any public procurement activity, including being disapproved as a subcontractor with any federal, state or local government, or if any such preclusion from participation from any public procurement activity is currently pending, the Offeror shall fully explain the circumstances relating to the preclusion or proposed preclusion in the Offer. The Offeror shall set forth the name and address of the governmental unit, the effective date of the suspension or debarment, the duration of the suspension or debarment, and the relevant circumstances relating to the suspension or debarment. If suspension or debarment is currently pending, a detailed description of all relevant circumstances including the details enumerated above shall be provided.

10. Federal Immigration and Nationality Act. By signing of the Offer, the Offeror warrants that both it and all proposed subcontractors are in compliance with federal immigration laws and regulations (FINA) relating to the immigration status of their employees. The State may, at its sole discretion, require evidence of compliance during the evaluation process. Should the State request evidence of compliance, the Offeror shall have five days from receipt of the request to supply adequate information. Failure to comply with this instruction or failure to supply requested information within the timeframe specified shall result in the Offer not being considered for contract award.

11. Offshore Performance of Work Prohibited. Any services that are described in the specifications or scope of work that directly serve the State or its clients and involve access to secure or sensitive data or personal client data shall be performed within the defined territories of the United States. Unless specifically stated otherwise in the specifications, this paragraph does not apply to indirect or 'overhead' services, redundant back-up services or services that are incidental to the performance of the contract. This provision applies to work performed by subcontractors at all tiers. Offerors shall declare all anticipated offshore services in the Offer.

**D. Submission of Offer**

1. Offer Submission, Due Date and Time. Offerors responding to a Solicitation must submit the Offer electronically through the State's eProcurement system. Offers shall be received before the due date and time stated in the solicitation. Offers submitted outside of the State's eProcurement system or those that are received after the due date and time shall be rejected.

2. Offer and Acceptance. Offers shall include a signed Offer and Acceptance form. The Offer and Acceptance form shall be signed with a signature by the person authorized to sign the Offer, and shall be submitted in the State's eProcurement system with the Offer no later than the Solicitation due date and time. Failure to return an Offer and Acceptance form may result in rejection of the Offer.

3. Solicitation Amendments. A Solicitation Amendment shall be acknowledged in the State's eProcurement system no later than the Offer due date and time. Failure to acknowledge a Solicitation Amendment may result in rejection of the Offer.

4. Offer Amendment or Withdrawal. An Offer may not be amended or withdrawn after the Offer due date and time except as otherwise provided under applicable law.

5. Confidential Information. If an Offeror believes that any portion of an Offer, protest, or correspondence contains a trade secret or other proprietary information, the Offeror shall clearly designate the trade secret and other proprietary information, using the term "confidential." An Offeror shall provide a statement detailing the reasons why the information should not be disclosed including the specific harm or prejudice that may arise upon disclosure. The Procurement Officer shall review all requests for confidentiality and provide a written determination. Until a written determination is made, a Procurement Officer shall not disclose information designated as confidential except to those individuals deemed to have a legitimate State interest. In the event the Procurement Officer denies the request for confidentiality, the Offeror may appeal the determination to the State Procurement Administrator within the time specified in the written determination. Contract terms and conditions, pricing, and information generally available to the public are not considered confidential information.

6. Public Record. All Offers submitted and opened are public records and must be retained by the State for six years. Offers shall be open and available to public inspection through the State's eProcurement system after Contract award, except for such Offers deemed to be confidential by the State.

7. Non-collusion, Employment, and Services. By signing the Offer and Acceptance form or other official contract form, the Offeror certifies that:

   7.1. The Offeror did not engage in collusion or other anti-competitive practices in connection with the preparation or submission of its Offer; and

   7.2. The Offeror does not discriminate against any employee or applicant for employment or person to whom it provides services because of race, color, religion, sex, national origin, or disability, and that it complies with all applicable Federal, state and local laws and executive orders regarding employment.

**E. Evaluation**

1. Taxes. If the products and/or services specified require transaction privilege or use taxes, they shall be described and itemized separately on the Offer. Arizona transaction privilege and use taxes shall not be considered for evaluation.

2. Late Offers. An Offer submitted after the exact Offer due date and time shall be rejected.

3. Disqualifications. An Offeror (including each of its principals) who is currently debarred, suspended or otherwise lawfully prohibited from any public procurement activity shall have its offer rejected.

4. Offer Acceptance Period. An Offeror submitting an Offer under this Solicitation shall hold its Offer open for the number of days from the Offer due date that is stated in the Solicitation. If the Solicitation does not specifically state a number of days for Offer acceptance, the number of days shall be one hundred twenty (120). If a Best and Final Offer is requested pursuant to a Request for Proposals, an Offeror shall hold its Offer open for one hundred twenty (120) days from the Best and Final Offer due date.

5. Waiver and Rejection Rights. Notwithstanding any other provision of the Solicitation, the State reserves the right to:

   5.1 Waive any minor informality;
   5.2. Reject any and all Offers or portions thereof; or
   5.3 Cancel the Solicitation.

**F. Award**

1. Number of Types of Awards. The State reserves the right to make multiple awards or to award a Contract by individual line items or alternatives, by group of line items or alternatives, or to make an aggregate award, or regional awards, whichever is most advantageous to the State.

2. Contract Inception. An Offer does not constitute a Contract nor does it confer any rights on the Offeror to the award of a Contract. A Contract is not created until the Offer is accepted in writing by the Procurement Officer's signature on the offer and Acceptance Form. A notice of award or of the intent to award shall not constitute acceptance of the Offer.

3. Effective Date. The effective date of the Contract shall be the date that the Procurement Officer signs the Offer and Acceptance form or other official contract form, unless another date is specifically stated in the Contract.

**G. Protests**

A protest shall comply with and be resolved according to Arizona Revised Statutes Title 41, Chapter 23, Article 9 and rules adopted thereunder. Protests shall be in writing and be filed with both the Procurement Officer of the purchasing agency and with the State Procurement Administrator. A protest of a Solicitation shall be received by the Procurement Officer before the Offer due date. A protest of a proposed award or of an award shall be filed within ten (10) days after the Procurement Officer makes the procurement file available for public inspection. A protest shall include:

1. The name, address, email address and telephone number of the interested party;

2. The signature of the interested party or its representative;

3. Identification of the purchasing agency and the Solicitation or Contract number;

4. A detailed statement of the legal and factual grounds of the protest including copies of relevant documents; and

5. The form of relief requested.

**H. Comments Welcome**

The State Procurement Office periodically reviews the Uniform Instructions to Offerors and welcomes any comments you may have. Please submit your comments to: State Procurement Administrator, State Procurement Office, 100 North 15th Avenue, Suite 201, Phoenix, Arizona, 85007.

# UNIFORM TERMS AND CONDITIONS
# Version 9

## 1. Definition of Terms

As used in this Solicitation and any resulting Contract, the terms listed below are defined as follows:

1.1. *"Attachment"* means any item the Solicitation requires the Offeror to submit as part of the Offer.

1.2. *"Contract"* means the combination of the Solicitation, including the Uniform and Special Instructions to Offerors, the Uniform and Special Terms and Conditions, and the Specifications and Statement or Scope of Work; the Offer and any Best and Final Offers; and any Solicitation Amendments or Contract Amendments.

1.3. "*Contract Amendment"* means a written document signed by the Procurement Officer that is issued for the purpose of making changes in the Contract.

1.4. *"Contractor"* means any person who has a Contract with the State.

1.5. *"Days"* means calendar days unless otherwise specified.

1.6. *"Exhibit"* means any item labeled as an Exhibit in the Solicitation or placed in the Exhibits section of the Solicitation.

1.7. *"Gratuity"* means a payment, loan, subscription, advance, deposit of money, services, or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value is received.

1.8. "*Materials"* means all property, including equipment, supplies, printing, insurance and leases of property but does not include land, a permanent interest in land or real property or leasing space.

1.9. *"Procurement Officer"* means the person, or his or her designee, duly authorized by the State to enter into and administer Contracts and make written determinations with respect to the Contract.

1.10. *"Services"* means the furnishing of labor, time or effort by a contractor or subcontractor which does not involve the delivery of a specific end product other than required reports and performance, but does not include employment agreements or collective bargaining agreements.

1.11. *"Subcontract"* means any Contract, express or implied, between the Contractor and another party or between a subcontractor and another party delegating or assigning, in whole or in part, the making or furnishing of any material or any service required for the performance of the Contract.

1.12. *"State"* means the State of Arizona and Department or Agency of the State that executes the Contract.

1.13. *"State Fiscal Year"* means the period beginning with July 1 and ending June 30.

## 2. Contract Interpretation

2.1. Arizona Law. Arizona law applies to this Contract including, where applicable, the Uniform Commercial Code as adopted by the State of Arizona and the Arizona Procurement Code, Arizona Revised Statutes (A.R.S.) Title 41, Chapter 23, and its implementing rules, Arizona Administrative Code (A.A.C.) Title 2, Chapter 7.

2.2. Implied Contract Terms. Each provision of law and any terms required by law to be in this Contract are a part of this Contract as if fully stated in it.

2.3. Contract Order of Precedence. In the event of a conflict in the provisions of the Contract, as accepted by the State and as they may be amended, the following shall prevail in the order set forth below:

2.3.1. Special Terms and Conditions;

2.3.2. Uniform Terms and Conditions;

2.3.3. Statement or Scope of Work;

2.3.4. Specifications;

2.3.5. Attachments;

2.3.6. Exhibits;

2.3.7. Documents referenced or included in the Solicitation.

2.4. Relationship of Parties. The Contractor under this Contract is an independent Contractor. Neither party to this Contract shall be deemed to be the employee or agent of the other party to the Contract.

2.5. Severability. The provisions of this Contract are severable. Any term or condition deemed illegal or invalid shall not affect any other term or condition of the Contract.

2.6. No Parole Evidence. This Contract is intended by the parties as a final and complete expression of their agreement. No course of prior dealings between the parties and no usage of the trade shall supplement or explain any terms used in this document and no other understanding either oral or in writing shall be binding.

2.7. No Waiver. Either party's failure to insist on strict performance of any term or condition of the Contract shall not be deemed a waiver of that term or condition even if the party accepting or acquiescing in the nonconforming performance knows of the nature of the performance and fails to object to it.

## 3. Contract Administration and Operation

3.1. Records. Under A.R.S. §35-214 and §35-215, the Contractor shall retain and shall contractually require each subcontractor to retain all data and other "records" relating to the acquisition and performance of the Contract for a period of five years after the completion of the Contract. All records shall be subject to inspection and audit by the State at reasonable times. Upon request, the Contractor shall produce a legible copy of any or all such records.

3.2. Non-Discrimination. The Contractor shall comply with State Executive Order No. 2009-09 and all other applicable Federal and State laws, rules and regulations, including the Americans with Disabilities Act.

3.3. Audit. Pursuant to A.R.S. §35-214, at any time during the term of this Contract and five (5) years thereafter, the Contractor's or any subcontractor's books and records shall be subject to audit by the State and, where applicable, the Federal Government, to the extent that the books and records relate to the performance of the Contract or Subcontract.

3.4. Facilities Inspection and Materials Testing. The Contractor agrees to permit access to its facilities, subcontractor facilities and the Contractor's processes or services, at reasonable times for inspection of the facilities or materials covered under this Contract. The State shall also have the right to test, at its own cost, the materials to be supplied under this Contract. Neither inspection of the Contractor's facilities nor materials testing shall constitute final acceptance of the materials or services. If the State determines non-compliance of the materials, the Contractor shall be responsible for the payment of all costs incurred by the State for testing and inspection.

3.5. Notices. Notices to the Contractor required by this Contract shall be made by the State to the person indicated on the Offer and Acceptance form submitted by the Contractor unless otherwise stated in the Contract. Notices to the State required by the Contract shall be made by the Contractor to the Solicitation Contact Person indicated on the Solicitation cover sheet, unless otherwise stated in the Contract. An authorized Procurement Officer and an authorized Contractor representative may change their respective person to whom notice shall be given by written notice to the other and an amendment to the Contract shall not be necessary.

3.6. Advertising, Publishing and Promotion of Contract. The Contractor shall not use, advertise or promote information for commercial benefit concerning this Contract without the prior written approval of the Procurement Officer.

3.7. Property of the State. Any materials, including reports, computer programs and other deliverables, created under this Contract are the sole property of the State. The Contractor is not entitled to a patent or copyright on those materials and may not transfer the patent or copyright to anyone else. The Contractor shall not use or release these materials without the prior written consent of the State.

3.8. Ownership of Intellectual Property. Any and all intellectual property, including but not limited to copyright, invention, trademark, trade name, service mark, and/or trade secrets created or conceived pursuant to or as a result of this contract and any related subcontract ("Intellectual Property"), shall be work made for hire and the State shall be considered the creator of such Intellectual Property. The agency, department, division, board or commission of the State of Arizona requesting the issuance of this contract shall own (for and on behalf of the State) the entire right, title and interest to the Intellectual Property throughout the world. Contractor shall notify the State, within thirty (30) days, of the creation of any Intellectual Property by it or its subcontractor(s). Contractor, on behalf of itself and any subcontractor(s), agrees to execute any and all document(s) necessary to assure ownership of the Intellectual Property vests in the State and shall take no affirmative actions that might have the effect of vesting all or part of the Intellectual Property in any entity other than the State. The Intellectual Property shall not be disclosed by contractor or its subcontractor(s) to any entity not the State without the express written authorization of the agency, department, division, board or commission of the State of Arizona requesting the issuance of this contract.

3.9. Federal Immigration and Nationality Act. The contractor shall comply with all federal, state and local immigration laws and regulations relating to the immigration status of their employees during the term of the contract. Further, the contractor shall flow down this requirement to all subcontractors utilized during the term of the contract. The State shall retain the right to perform random audits of contractor and subcontractor records or to inspect papers of any employee thereof to ensure compliance. Should the State determine that the contractor and/or any subcontractors be found noncompliant, the State may pursue all remedies allowed by law, including, but not limited to; suspension of work, termination of the contract for default and suspension and/or debarment of the contractor.

3.10 E-Verify Requirements. In accordance with A.R.S. §41-4401, Contractor warrants compliance with all Federal immigration laws and regulations relating to employees and warrants its compliance with Section A.R.S. §23-214, Subsection A.

3.11 Offshore Performance of Work Prohibited. Any services that are described in the specifications or scope of work that directly serve the State of Arizona or its clients and involve access to secure or sensitive data or personal client data shall be performed within the defined territories of the United States. Unless specifically stated otherwise in the specifications, this paragraph does not apply to indirect or 'overhead' services, redundant back-up services or services that are incidental to the performance of the contract. This provision applies to work performed by subcontractors at all tiers.

**4. Costs and Payments**

4.1. Applicable Taxes.

4.1.1. Payment of Taxes. The Contractor shall be responsible for paying all applicable taxes.

4.1.2. State and Local Transaction Privilege Taxes. The State of Arizona is subject to all applicable state and local transaction privilege taxes. Transaction privilege taxes apply to the sale and are the responsibility of the seller to remit. Failure to collect such taxes from the buyer does not relieve the seller from its obligation to remit taxes.

4.1.3. Tax Indemnification. Contractor and all subcontractors shall pay all Federal, state and local taxes applicable to its operation and any persons employed by the Contractor. Contractor shall, and require all subcontractors to hold the State harmless from any responsibility for taxes, damages and interest, if applicable, contributions required under Federal and/or state and local laws and regulations and any other costs including transaction privilege taxes, unemployment compensation insurance, Social Security and Worker's Compensation.

4.1.4. IRS W9 Form. In order to receive payment the Contractor shall have a current I.R.S. W9 Form on file with the State of Arizona, unless not required by law.

4.2. Availability of Funds for the Next State fiscal year. Funds may not presently be available for performance under this Contract beyond the current state fiscal year. No legal liability on the part of the State for any payment may arise under this Contract beyond the current state fiscal year until funds are made available for performance of this Contract.

4.3. Availability of Funds for the current State fiscal year. Should the State Legislature enter back into session and reduce the appropriations or for any reason or these goods or services are not otherwise funded, the State may take any of the following actions:

4.3.1. Accept a decrease in price offered by the contractor;

4.3.2. Cancel the Contract; or

4.3.3. Cancel the contract and re-solicit the requirements.

**5. Contract Changes**

5.1. Amendments. This Contract is issued under the authority of the Procurement Officer who signed this Contract. The Contract may be modified only through a Contract Amendment within the scope of the Contract. Changes to the Contract, including the addition of work or materials, the revision of payment terms, or the substitution of work or materials, directed by a person who is not specifically authorized by the Procurement Officer in writing or made unilaterally by the Contractor are violations of the Contract and of applicable law. Such changes, including unauthorized written Contract Amendments, shall be void and without effect, and the Contractor shall not be entitled to any claim under this Contract based on those changes.

5.2. Subcontracts. The Contractor shall not enter into any Subcontract under this Contract for the performance of this Contract without the advance written approval of the Procurement Officer. The Contractor shall clearly list any proposed subcontractors and the subcontractors' proposed responsibilities. The Subcontract shall incorporate by reference the terms and conditions of this Contract.

5.3. Assignment and Delegation. The Contractor shall not assign any right nor delegate any duty under this Contract without the prior written approval of the Procurement Officer. The State shall not unreasonably withhold approval.

6. **Risk and Liability**

6.1. Indemnification

6.1.1. Contractor/Vendor Indemnification (Not Public Agency) The parties to this contract agree that the State of Arizona, its departments, agencies, boards and commissions, shall be indemnified and held harmless by the contractor for the vicarious liability of the State as a result of entering into this contract. However, the parties further agree that the State of Arizona, its departments, agencies, boards and commissions, shall be responsible for its own negligence. Each party to this contract is responsible for its own negligence.

6.1.2. Public Agency Language Only Each party (as 'indemnitor') agrees to indemnify, defend, and hold harmless the other party (as 'indemnitee') from and against any and all claims, losses, liability, costs, or expenses (including reasonable attorneys' fees) (hereinafter collectively referred to as 'claims') arising out of bodily injury of any person (including death) or property damage but only to the extent that such claims which result in vicarious/derivative liability to the indemnitee are caused by the act, omission, negligence, misconduct, or other fault of the indemnitor, its officers, officials, agents, employees, or volunteers.

6.2. Indemnification - Patent and Copyright**.** The Contractor shall indemnify and hold harmless the State against any liability, including costs and expenses, for infringement of any patent, trademark or copyright arising out of Contract performance or use by the State of materials furnished or work performed under this Contract. The State shall reasonably notify the Contractor of any claim for which it may be liable under this paragraph. If the Contractor is insured pursuant to A.R.S. §41-621 and §35-154, this section shall not apply.

6.3. Force Majeure.

6.3.1 Except for payment of sums due, neither party shall be liable to the other nor deemed in default under this Contract if and to the extent that such party's performance of this Contract is prevented by reason of force majeure. The term *"force majeure"* means an occurrence that is beyond the control of the party affected and occurs without its fault or negligence. Without limiting the foregoing, force majeure includes acts of God; acts of the public enemy; war; riots; strikes; mobilization; labor disputes; civil disorders; fire; flood; lockouts; injunctions- intervention-acts; or failures or refusals to act by government authority; and other similar occurrences beyond the control of the party declaring force majeure which such party is unable to prevent by exercising reasonable diligence.

6.3.2. Force Majeure shall not include the following occurrences:

6.3.2.1. Late delivery of equipment or materials caused by congestion at a manufacturer's plant or elsewhere, or an oversold condition of the market;

6.3.2.2. Late performance by a subcontractor unless the delay arises out of a force majeure occurrence in accordance with this force majeure term and condition; or

6.3.2.3. Inability of either the Contractor or any subcontractor to acquire or maintain any required insurance, bonds, licenses or permits.

6.3.3. If either party is delayed at any time in the progress of the work by force majeure, the delayed party shall notify the other party in writing of such delay, as soon as is practicable and no later than the following working day, of the commencement thereof and shall specify the causes of such delay in such notice. Such notice shall be delivered or mailed certified-return receipt and shall make a specific reference to this article, thereby invoking its provisions. The delayed party shall cause such delay to cease as soon as practicable and shall notify the other party in writing when it has done so. The time of completion shall be extended by Contract Amendment for a period of time equal to the time that results or effects of such delay prevent the delayed party from performing in accordance with this Contract.

6.3.4. Any delay or failure in performance by either party hereto shall not constitute default hereunder or give rise to any claim for damages or loss of anticipated profits if and to the extent that such delay or failure is caused by force majeure.

6.4. Third Party Antitrust Violations. The Contractor assigns to the State any claim for overcharges resulting from antitrust violations to the extent that those violations concern materials or services supplied by third parties to the Contractor toward fulfillment of this Contract.

**7. Warranties**

7.1. Liens. The Contractor warrants that the materials supplied under this Contract are free of liens and shall remain free of liens.

7.2. Quality. Unless otherwise modified elsewhere in these terms and conditions, the Contractor warrants that, for one year after acceptance by the State of the materials, they shall be:

7.2.1. Of a quality to pass without objection in the trade under the Contract description;

7.2.2. Fit for the intended purposes for which the materials are used;

7.2.3. Within the variations permitted by the Contract and are of even kind, quantity, and quality within each unit and among all units;

7.2.4. Adequately contained, packaged and marked as the Contract may require; and

7.2.5. Conform to the written promises or affirmations of fact made by the Contractor.

7.3 Fitness. The Contractor warrants that any material supplied to the State shall fully conform to all requirements of the Contract and all representations of the Contractor, and shall be fit for all purposes and uses required by the Contract.

7.4. Inspection/Testing. The warranties set forth in subparagraphs 7.1 through 7.3 of this paragraph are not affected by inspection or testing of or payment for the materials by the State.

7.5. Compliance With Applicable Laws. The materials and services supplied under this Contract shall comply with all applicable Federal, state and local laws, and the Contractor shall maintain all applicable license and permit requirements.

7.6. Survival of Rights and Obligations after Contract Expiration or Termination.

7.6.1. Contractor's Representations and Warranties. All representations and warranties made by the Contractor under this Contract shall survive the expiration or termination hereof. In addition, the parties hereto acknowledge that pursuant to A.R.S. §12-510, except as provided in A.R.S. §12-529, the State is not subject to or barred by any limitations of actions prescribed in A.R.S., Title 12, Chapter 5.

7.6.2. Purchase Orders. The Contractor shall, in accordance with all terms and conditions of the Contract, fully perform and shall be obligated to comply with all purchase orders received by the Contractor prior to the expiration or termination hereof, unless otherwise directed in writing by the Procurement Officer, including, without limitation, all purchase orders received prior to but not fully performed and satisfied at the expiration or termination of this Contract.

**8. State's Contractual Remedies**

8.1. Right to Assurance. If the State in good faith has reason to believe that the Contractor does not intend to or is unable to perform or continue performing under this Contract, the Procurement Officer may demand in writing that the Contractor give a written assurance of intent to perform. Failure by the Contractor to provide written assurance within the number of Days specified in the demand may, at the State's option, be the basis for terminating the Contract under the Uniform Terms and Conditions or other rights and remedies available by law or provided by the contract.

8.2. Stop Work Order.

8.2.1. The State may, at any time, by written order to the Contractor, require the Contractor to stop all or any part of the work called for by this Contract for period(s) of days indicated by the State after the order is delivered to the Contractor. The order shall be specifically identified as a stop work order issued under this clause. Upon receipt of the order, the Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage.

8.2.2. If a stop work order issued under this clause is canceled or the period of the order or any extension expires, the Contractor shall resume work. The Procurement Officer shall make an equitable adjustment in the delivery schedule or Contract price, or both, and the Contract shall be amended in writing accordingly.

8.3. Non-exclusive Remedies. The rights and the remedies of the State under this Contract are not exclusive.

8.4. Nonconforming Tender. Materials or services supplied under this Contract shall fully comply with the Contract. The delivery of materials or services or a portion of the materials or services that do not fully comply constitutes a breach of contract. On delivery of nonconforming materials or services, the State may terminate the Contract for default under applicable termination clauses in the Contract, exercise any of its rights and remedies under the Uniform Commercial Code, or pursue any other right or remedy available to it.

8.5. Right of Offset. The State shall be entitled to offset against any sums due the Contractor, any expenses or costs incurred by the State, or damages assessed by the State concerning the Contractor's non-conforming performance or failure to perform the Contract, including expenses, costs and damages described in the Uniform Terms and Conditions.

**9. Contract Termination**

9.1. Cancellation for Conflict of Interest. Pursuant to A.R.S. §38-511, the State may cancel this Contract within three (3) years after Contract execution without penalty or further obligation if any person significantly involved in initiating, negotiating, securing, drafting or creating the Contract on behalf of the State is or becomes at any time while the Contract or an extension of the Contract is in effect an employee of or a consultant to any other party to this Contract with respect to the subject matter of the Contract. The cancellation shall be effective when the Contractor receives written notice of the cancellation unless the notice specifies a later time. If the Contractor is a political subdivision of the State, it may also cancel this Contract as provided in A.R.S. §38-511.

9.2. Gratuities. The State may, by written notice, terminate this Contract, in whole or in part, if the State determines that employment or a Gratuity was offered or made by the Contractor or a representative of the Contractor to any officer or employee of the State for the purpose of influencing the outcome of the procurement or securing the Contract, an amendment to the Contract, or favorable treatment concerning the Contract, including the making of any determination or decision about contract performance. The State, in addition to any other rights or remedies, shall be entitled to recover exemplary damages in the amount of three times the value of the Gratuity offered by the Contractor.

9.3. Suspension or Debarment. The State may, by written notice to the Contractor, immediately terminate this Contract if the State determines that the Contractor has been debarred, suspended or otherwise lawfully prohibited from participating in any public procurement activity, including but not limited to, being disapproved as a subcontractor of any public procurement unit or other governmental body. Submittal of an offer or execution of a contract shall attest that the contractor is not currently suspended or debarred. If the contractor becomes suspended or debarred, the contractor shall immediately notify the State.

10. **Contract Claims**

All contract claims or controversies under this Contract shall be resolved according to A.R.S. Title 41, Chapter 23, Article 9, and rules adopted thereunder.

11. **Arbitration**

The parties to this Contract agree to resolve all disputes arising out of or relating to this contract through arbitration, after exhausting applicable administrative review, to the extent required by A.R.S. §12-1518, except as may be required by other applicable statutes.

12. **Comments Welcome**

The State Procurement Office periodically reviews the Uniform Terms and Conditions and welcomes any comments you may have. Please submit your comments to: State Procurement Administrator, State Procurement Office, 100 North 15th Avenue, Suite 201, Phoenix, Arizona, 85007.

**HAGENS BERMAN SOBOL SHAPIRO LLP**
11 WEST JEFFERSON, SUITE 1000
PHOENIX, AZ 85003
www.hbsslaw.com
**602-840-5900**

# Proposal to the State of Arizona Office of the Attorney General Outside Counsel Services

# Consumer Fraud Action Related to General Motors' Recent Vehicle Recalls

## By Hagens Berman Sobol Shapiro, LLP

## Solicitation Number: AAGO15-00004552

11 WEST JEFFERSON STREET, SUITE 1000 • PHOENIX, AZ 85003-2306
TELEPHONE 602-840-5900 • FACSIMILE 602-840-3012

1918 EIGHTH AVENUE, SUITE 3300 • SEATTLE, WA 98101-1244
TELEPHONE 206-623-7292 • FACSIMILE 206-623-0594

55 CAMBRIDGE PARKWAY, SUITE 301 • CAMBRIDGE, MA 02142-1234
TELEPHONE 617-482-3700 • FACSIMILE 617-482-3003

1144 WEST LAKE STREET, SUITE 400 • OAK PARK, IL 60301-1043
TELEPHONE 708-628-4949 • FACSIMILE 708-628-4950

2301 EAST PIKES PEAK AVENUE • COLORADO SPRINGS, CO 80909-8006
TELEPHONE 719-635-0377 • FACSIMILE 719-635-2920

301 NORTH LAKE AVENUE, SUITE 203 • PASADENA, CA 91101-5128
TELEPHONE 213-330-7150 • FACSIMILE 213-330-7152

555 FIFTH AVENUE, SUITE 1700 • NEW YORK NY 10017-2416
TELEPHONE 212-752-5455 • FACSIMILE 917-210-3980

715 HEARST AVENUE, SUITE 202 • BERKELEY, CA 94710-1948
TELEPHONE 510-725-3000 • FACSIMILE 510-725-3001

1701 PENNSYLVANIA AVENUE NW, SUITE 300 • WASHINGTON DC 20006-1631
TELEPHONE 202-248-5403 • FACSIMILE 202-580-6559

WWW.HBSSLAW.COM

ORIGINAL

HAGENS BERMAN SOBOL SHAPIRO LLP
11 WEST JEFFERSON, SUITE 1000
PHOENIX, AZ 85003
www.hbsslaw.com
602-840-5900

# Solicitation No. AAGO15-00004552

## Outside Counsel Services
## Consumer Fraud Action Related to
## General Motors' Recent Vehicle Recalls

## Table of Contents

# ATTACHMENT I

**Offeror Response Form**

SOLICITATION NO: **AAGO15-00004552**

**Office of the Attorney General**

1275 W Washington
Phoenix, AZ
85007-2926

## OFFER AND ACCEPTANCE

**Solicitation #AAGO15-00004552**
**Project #AG15-0026**

State of Arizona
Office of the
Attorney General
Procurement Section
1275 W Washington ST
Phoenix, Arizona 85007
(602) 542-8030

## OFFER

TO THE STATE OF ARIZONA:
The Undersigned hereby offers and agrees to furnish the material, service or construction in compliance with all terms, conditions, Specifications, and amendments in the Solicitation and any written exceptions in the offer. Signature also certifies Small Business status.

| | |
|---|---|
| Hagens Berman Sobol Shapiro LLP | |
| Company Name | Signature of Person Authorized to Sign Offer |
| 11 West Jefferson, Suite 1000 | Robert B. Carey |
| Address | Printed Name |
| Phoenix, AZ 85003 | Phoenix Managing Partner |
| City State Zip | Title |
| rob@hbsslaw.com | 602-840-5900 602-840-3012 |
| Contact E-Mail Address | Contact Telephone Number Contact Fax Number |

By signature in the Offer section above, the Offeror certifies:
1. The submission of the Offer did not involve collusion or other anticompetitive practices.
2. The Offeror shall not discriminate against any employee or applicant for employment in violation of Federal Executive Order 11246, State Executive Order 2009-9 or A.R.S. §§ 41–1461 through 1465.
3. The Offeror has not given, offered to give, nor intends to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with the submitted offer. Failure to provide a valid signature affirming the stipulations required by this clause shall result in rejection of the offer. Signing the offer with a false statement shall void the offer, any resulting contract and may be subject to legal remedies provided by law.
4. The Offeror certifies that the above referenced organization ___ IS/ _X_ IS NOT a small business with less than 100 employees or has gross revenues of $4 million or less.

## ACCEPTANCE OF OFFER (For Arizona State Use Only)

Your offer is hereby accepted:

The Contractor is now bound to sell the materials, services or construction listed by the attached contract based upon the solicitation, including all terms, conditions, specifications, amendments, etc., and the Contractor's offer as accepted by the Office of the Attorney General.

This Contract shall henceforth be referred to as Contract No. _____.

The effective date of the Contract is _____.

The Contractor is hereby cautioned not to commence any billable work or provide any material or service under this contract until the Contractor receives a purchase order, contract release document or written notice to proceed.

**STATE OF ARIZONA**
**OFFICE OF THE ATTORNEY GENERAL**

Awarded this _____ day of_____, 2014

_____
Jerry Connolly
Chief Procurement Officer

| | | |
|---|---|---|
| | **ATTACHMENT I**<br>**Offeror Response Form**<br>SOLICITATION NO: **AAGO15-00004552** | **Office of the Attorney General**<br>1275 W Washington<br>Phoenix, AZ<br>85007-2926 |

**EXCEPTION**

The request for proposal under Section 12.7 states at p. 14:

**12.7 Notice of Cancellation**

With the exception of (10) day notice of cancellation for non-payment of premium, any changes material to compliance with this contract in the insurance policies above shall require (30) days written notice to the State of Arizona. Such notice shall be sent directly to Jerry Connolly, Office of the Arizona Attorney General, 1275 West Washington Street, Phoenix, AZ 85007 and shall be sent by certified mail, return receipt requested.

Exception

Offeror takes exception to Section 12.7 in the following respects:

Offeror maintains professional liability coverage with AXIS Surplus Insurance Company, Nautilus Insurance Company, and ProSight Syndicate ("Insurers"). Insofar as the Request for Proposal requires Insurers to provide Notice of Cancellation under Section 12.7, Offeror has been informed that Insurers cannot agree to provide notice of cancellation for non-payment of premium because Insurers owe the duty of information and communication only to the Insured/Offeror; however, Insurers will agree to provide upon request and within (30) days an updated certificate at renewal. Insureds will also agree to provide to the Office of Attorney General within ten days of their receipt any notice of cancellation tendered to them.

Insurers are also unable to agree to provide the (30) day notice of "any changes material to compliance with this contract in the insurance policies" since Insurers do not monitor the contracts between the Offeror and the Office of the Attorney General, and therefore, unless Insurers are advised of any changes to such contracts by either Offeror or the Office of the Attorney General, the Insurers have no way of tracking compliance requests. Offeror believes the Insurer will provide 30 days' notice of any change in the policy from how it exists at the time the initial certificate is issued.

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| | | |
|---|---|---|
| | **ATTACHMENT I**<br>**Offeror Response Form**<br>SOLICITATION NO: **AAGO15-00004552** | **Office of the Attorney General**<br>1275 W Washington<br>Phoenix, AZ<br>85007-2926 |

## 1. Questionnaire

This section requests information about the Counsel. Please follow the format outlined in this section when responding. Do not provide a standard boilerplate for this information or make reference to a brochure or report as part of your response.

| **1. Business Name, Address and Primary Phone Number:** | **2. Submittal is for:** | **3. Year Submitting Entity was Established:** |
|---|---|---|
| Hagens Berman Sobol Shapiro LLP<br>11 West Jefferson, Suite 1000<br>Phoenix, AZ 85003<br>602-840-5900 | ☑ Parent Company<br>☑ Branch or Subsidiary Office<br>❑ Individual Counsel | 1993 |
| | **4. Name of Parent Company, if any:** | **5. Year Parent Company Established:** |
| **6. Is this a U.S. Corporation? If not provide the Country.** | **7. State of Incorporation, if U.S. Corporation** | **8. Location of Corporate Headquarters** |
| No. | N/A | N/A |

**9. Names of not more than two Principals to contact:**

| | Name | Title | Telephone Number | Fax Number |
|---|---|---|---|---|
| **a.** | Steve W. Berman | Firm Managing Partner | (206) 268-9320 | (206) 623-0594 |
| [redacted] | | E-Mail Address: | steve@hbsslaw.com | |
| **b.** | Robert B. Carey | Phoenix Managing Partner | (602) 224-2626 | (602) 840-3012 |
| [redacted] | | E-Mail Address: | rob@hbsslaw.com | |

**10. Number of Personnel by Discipline: (Count each person only once, by primary function)**

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| 28 | Attorneys | 32 | Principals | 22 | Paralegals | 1 | Documentation Staff |
| 15 | Administrative Staff | 10 | Other, Specify: | Investigator, HR, IT, Accounting, Marketing, Facilities | | | |

**11. Business Focus, by Profile, of Firm's Relevant Project Experience**

| | Profile of Business Focus | Percentage of Revenue | | Profile of Business Focus | Percentage of Revenue |
|---|---|---|---|---|---|
| **a.** | Antitrust | 25 | **d.** | Securities/Individual Civil Litigation | 10 |
| **b.** | Drug/Pharmaceuticals | 30 | **e.** | | |
| **c.** | Consumer Protection | 35 | **f.** | | |

**1. Qualifications and Experience of your Organization. Provide a brief description of at least 3 cases (additional relevant cases may be provided), similar to a project of this nature, that your firm has worked on. Include the role of your firm.**

**Brief Description of Case 1:** *In Re: General Motors LLC Ignition Switch Litigation*, 1:14-md-02543-JMF and 1:14-mc-02543-JMF (S. D. N.Y.)

Hagens Berman is plaintiffs' co-lead counsel in this consumer class action against General Motors, representing vehicle owners and lessees of over 25 million vehicles affected by safety defects, the largest of which involves the car's ignition which can suddenly shut off while in operation, disabling airbags and other electrical features such as power steering and power brakes. The ignition switch-related defects alone have resulted in the recall of more than 14 million vehicles. The case has expanded to include many of the approximately 60 recalls issued by GM in 2014, such as brake lights, electronic power steering, seat belt systems, side-impact airbag wiring harnesses, shift cables, safety defects affecting the powertrain, and numerous others.

Our firm filed seven class actions against GM. Six cases focus on ignition switch-related defects, including *McConnell*, which was among the earliest class actions filed. Hagens Berman's complaints against GM name 28 proposed class representatives from 18 states, including Arizona. The seventh case, *Andrews*, alleges brand-wide diminution in value resulting from GM's misrepresentations, concealment, and failure to disclose 35 defects which plague over 17 million GM-branded vehicles.

This *Ignition Switch Litigation* is in its early stages of the MDL, having been transferred by the Judicial Panel on Multidistrict Litigation to the Southern District of New York in June 2014. Plaintiffs recently filed two Consolidated Complaints against GM, one encompassing claims for consumers affected by the conduct of the former GM, and the other capturing the claims of those affected by the conduct of new GM, which incorporated after the bankruptcy reorganization concluded in July 2009. Collectively, these two complaints have approximately 150 class representatives covering nearly every state. Discovery has commenced and the parties and court are drafting discovery plans and production protocols.

Our firm is also actively involved in the GM Bankruptcy Court proceedings. We attend hearings and retained one of the three firms representing plaintiffs' positions to the Bankruptcy Court. We steadfastly advocate that the 2009 bankruptcy reorganization does not bar plaintiffs' claims here—those claims should soon be litigated outside of the bankruptcy court.

See Tab 6 of this offer for an example of our work in this case, which is the most recent complaint against GM, the contents of which are directly applicable to this matter and which indicate the skills, knowledge, and zeal we will bring to representing the State of Arizona.

Hagens Berman also represents the Orange County District Attorney in its suit against GM*, People of the State of California v. General Motors LLC*, 8:14-cv-01238-JVS-AN (C.D. Cal.), based on a number of alleged defects in motor vehicles manufactured and sold by GM. This is a comparable civil penalties case to what Arizona should be pursuing. Complaint attached, Tab 7.

**Brief Description of Case 2:** *In Re: Toyota Motor Corp. Unintended Acceleration Marketing, Sales Practices, and Products Liability Litigation*, 8:10-ml-02151-JVS-FMO (C.D. Cal.)

Hagens Berman was Plaintiffs' Co-lead Counsel for the economic loss classes in this successful, complex MDL. The firm challenged a defect which caused dozens of models spanning an eight-year period to undergo sudden, unintended acceleration. The resulting $1.6 billion settlement included $500 million in cash payments to class members, many of whom received checks for thousands of dollars; installation of a safety-enhancing brake override system on millions of vehicles; and a program that substantially extended warranties for millions of consumers. To our knowledge this was the largest automobile class settlement in U. S. history.

In *Toyota*, as lead counsel, Hagens Berman extensively researched and briefed, inter alia, Article III standing; federal preemption; the Magnuson-Moss Act (15 U.S.C. § 2301); the TREAD Act (49 U.S.C. § 30101, et seq.); arbitration clauses; notice, presentment, and privity requirements under various state warranty laws; consumer protection laws of every jurisdiction in the U.S.; proximate causation; and multiple forms of equitable and monetary relief. We are also well versed in the regulations governing NHTSA and auto manufacturer recall obligations.

The Phoenix office was instrumental in originating and prosecuting both the Toyota and GM matters, and worked extensively and in tandem with the Seattle office, which was the command center for both cases after appointment.

**Brief Description of Case 3**: *In Re: Hyundai and Kia Fuel Economy Litigation*, 2:13-ml-2424-GW-FFM (C. D. Cal.)

Hagens Berman was appointed Settlement Class Counsel in this class action (reportedly valued at $400 million) misrepresentation case against Hyundai Motor America and Kia Motors America, Inc. The firm's Phoenix office represents 900,000 class members in alleging that Hyundai and Kia misstated the EPA fuel economy ratings of their vehicles because they failed to carry out federally mandated tests correctly. The Court granted Preliminary approval of a proposed settlement in August 2014, and notice will be sent to class members in January 2015. The settlement rectifies deficiencies in Hyundai's voluntary Reimbursement Program by providing class members with the option of receiving a significant, up-front lump-sum payment or, if they so choose, dealer service credits and new car rebates worth 150% and 200% of the lump-sum amount, respectively. Additional lump-sum compensation is available for a large segment of class vehicles to address claims that Hyundai falsely advertised their fuel efficiency. Hagens Berman's Rob Carey has spearheaded the case and overseen HB's role in developing the core claims in the case, drafting of pleadings, court appearances, confirmatory fact discovery, settlement negotiations, and the settlement approval process. Final approval is set for June 2015.

**Brief Description of Case 4:** *Christopher Kearney, et al. v. Hyundai Motor America*, 8:09-cv-01298-JST-MLG (C. D. Cal.)

Hagens Berman was Class Counsel for the plaintiffs in this nationwide class action against Hyundai Motor America for an alleged design defect in a very technical defect with the Occupant Classification System, which caused the passenger-side airbag to deactivate when a small-statured adult occupied the front passenger seat. HBSS settled the case on a nationwide basis and ensured that hundreds of thousands we able to have the defect remedied or their vehicles repurchased as "lemons." As Class Counsel, Hagens Berman managed all phases of the litigation, including drafting of pleadings, court appearances, fact discovery, expert discovery, settlement, preliminary approval, providing oversight for the notice to the class members, and final approval. This case was managed out of the Phoenix office by Rob Carey, with Seattle (and Steve Berman) co-counseling as needed.

**Brief Description of Case 5**: *In re Pharm. Indus. Avg. Wholesale Pricing Litig. (AWP)*, 01-cv-12257-PBS (D. Mass).

As co-lead counsel in this MDL, and with Steve Berman as lead trial counsel, Hagens Berman proved that the nation's major pharmaceutical companies fraudulently inflated their prices by billions of dollars. A bellwether trial resulted in a plaintiffs' verdict against three of the four defendants. The cases concluded with $338 million in settlements and consumers received three times actual damages (unprecedented, to our knowledge).

Rob Carey and Steve Berman also represented the Arizona Attorney General's office in *State of Arizona, ex rel. Thomas C. Horne, Attorney General, v. McKesson Corporation*, CV-2012-013707 (Ariz. Super. Ct., Maricopa County), to recover civil penalties under the Arizona Consumer Fraud Act for fraudulently inflating pharmaceutical prices. The settlement with McKesson was for $10.1 million. The firm also represented several other states Attorney General offices, including Wisconsin, Mississippi, Utah, Virginia, Oregon, and New Mexico.

In related cases, Rob Carey and Leonard Aragon also represented the Arizona Health Care Cost Containment System in two administrative proceedings before the Arizona Office of Administrative Hearings (*McKesson Corporation v. Arizona Health Care Cost Containment System Administratio*n, No. 13-F-137578-AHC, and *McKesson Corporation v. Arizona Health Care Cost Containment System and Tom Betlach*, No. 2013-000509-001DT), in which McKesson contested AHCCC's jurisdiction and authority to impose penalties and assessments against McKesson. The case settled for $16.5 million.

**3. Executive Summary of organization's suitability for a project of this nature**

Hagens Berman has a two-decade track record of successfully litigating complex civil actions on behalf of plaintiffs throughout the country and in Arizona. We have been appointed lead or co-lead counsel in many of the largest consumer fraud, product liability, securities, and antitrust cases in history. We are intimately familiar with the consumer protection statutes in most states, including the Arizona Consumer Fraud Act, and are well positioned to assist the Office in seeking civil penalties, damages, disgorgement, restitution, and other relief against GM. Hagens Berman has also successfully served as counsel to many state Attorneys General in various civil actions involving consumer fraud, including the Office of the Attorney General in Arizona.

We know automobile defect litigation and have successfully litigated cases against Toyota (unintended acceleration defects); Ford (engine defects, transmission defects, and defects in dashboard computers); Chrysler (rear lift-gate and paint delamination defects); Nissan (defects in a throttle acceleration system); and Hyundai (defects, defects in sub-frames and rear trailing arms, and misrepresentation of fuel economy and horsepower metrics). In *In re Toyota Motor Corp. Unintended Acceleration Mktg.*, *Sales Practices, & Prods. Liab. Litig.*, 8:10ML2151 JVS, (C.D. Cal.), Hagens Berman served as co-lead counsel for the economic loss classes in this successful, complex MDL. We challenged a defect causing dozens of models spanning an 8-year period to undergo sudden, unintended acceleration. The resulting $1.6 billion settlement included $500 million in cash payments to class members, many of whom received checks for thousands of dollars; installation of a safety-enhancing brake override system on millions of vehicles; and a program that substantially extended warranties for millions of consumers. To our knowledge this was the largest automobile class settlement in U.S. history.

In the consolidated *General Motors LLC Ignition Switch Litigation* pending in the United States District Court for the Southern District of New York, Judge Furman recently appointed Hagens Berman as Co-Lead Counsel to the classes and, in doing so, recognized the firm's expertise in auto litigation, the extensive work that the firm has done on the GM matter in particular, and our ability to staff, fund, and vigorously prosecute a complex case against a well-heeled corporate defendant. We have filed numerous cases against GM; have closely monitored GM recalls and the Congressional and other investigations; gathered extensive information from thousands of disaffected consumers (including consumers in Arizona); have been actively involved in the Old GM bankruptcy proceedings; and were the first—if not only—firm to conclude and contend that GM's concealment of numerous defects and myopic focus on cost-cutting at the expense of safety led to a diminution in value for GM cars brand-wide, not just ignition-switch GM models. We have retained the premier damages experts in this field and engaged them to study econometrically the diminished value of GM models (which they have confirmed). Moreover, we have recently broadened the claims against GM to include GM's deceptions in connection with its recent ignition switch recalls, including GM's interminable delays; the fact that the replacement ignition switch is, in many instances, not remedying the safety defect (many consumers have reported repeated stalls and shut downs ***after*** their vehicles are purportedly repaired pursuant to the recall); and GM's failure to publicize and provide free loaner vehicles as promised. With a broad view, we are well-positioned to coordinate ongoing identification, investigation, and prosecution of GM claims on behalf of Arizona. We also represent Orange County District Attorney Tony Rackaukus in that county's law enforcement action against GM.

Other notable cases in which we have served as counsel to state Attorneys General, including in Arizona, are:

- *New England Carpenters Health & Benefit Fund v. McKesson Corp., et al*., 1:05-cv-11148 PBS (D. Mass.). As co-lead we pioneered these racketeering cases alleging a conspiracy to increase by 4% the list price on most brand-name drugs. After certification of a nationwide class, the case settled for $350 million and a roll back of drug prices for all brand-name drugs. Our work led to follow-on litigation by federal, state and local governments that netted another $500 million in recoveries. The States we represented in those actions received three to nine times the settlement amounts received by States not represented by us.
- *Attorneys General Tobacco Litigation*: In the historic litigation against the tobacco industry, we represented 13 states and advanced groundbreaking legal claims to secure a global settlement worth $260 billion, still the largest recovery in history. Only two law firms, including Hagens Berman, went to trial in these Attorneys General actions.

For a further description of our firm, please see our firm brochure which is attached, Tab 4.

| | | |
|---|---|---|
| | **ATTACHMENT I**<br>**Offeror Response Form**<br>SOLICITATION NO: **AAGO15-00004552** | **Office of the Attorney General**<br>1275 W Washington<br>Phoenix, AZ<br>85007-2926 |

## REFERENCES

Provide a list of three references where the services provided were similar to those described in this RFP. The reference information should include the following: Client Name, Street Address, City/State/Zip Code, Contact Name/Title, Contact Phone Number, Contact E-Mail Address and Summary of Project.

| | |
|---|---|
| **REFERENCE #1**<br>Company: Grant Woods Law Firm<br>Contact: Grant Woods<br>Street Address: Two Renaissance Square,<br>40 North Central Avenue, #2250<br>City, State, Zip: Phoenix, Arizona 85004<br>Telephone #: 602-258-2599<br>Fax #: 602-258-5233<br>E-Mail: gw@grantwoodspc.net<br>Project Description: Representation of Arizona in the Tobacco Litigation. | **REFERENCE #2**<br>Company: State of Virginia, Attorney General's Office<br>Contact: Wm. Clay Garrett<br>Street Address: 900 East Main Street<br>City, State, Zip: Richmond, VA 23219<br>Telephone #: 804-371-6016<br>Fax #: 804-786-0807<br>E-Mail: wgarrett@oag.state.va.us<br>Project Description: Litigation brought by Virginia against McKesson Corporation in which Hagens Berman represented Virginia, alleging McKesson artificially inflated spread between Wholesale Acquisition Cost and Average Wholesale Price on over 400 brand name drugs. |
| **REFERENCE #3**<br>Company: Arizona Health Care Cost Containment System Administration<br>Contact: Matt Devlin<br>Street Address: 801 East Jefferson Street, MD 4100<br>City, State, Zip: Phoenix, Arizona 85034<br>Telephone #: 602-417-4008<br>Fax #: 602-252-6536<br>E-Mail: Devlin@azahcccs.gov<br>Project Description: Representation of AHCCCS administration in litigation against McKesson corporation concerning unfair and/or illegal wholesale pharmaceutical pricing practices. | **REFERENCE #4**<br>Company: Former Nevada Attorney General<br>Contact: Frankie Sue Del Papa<br>Street Address: 1441 Alta Street<br>City, State, Zip: Reno, NV 89503<br>Telephone #: 775-688-1818<br>Fax #<br>E-Mail: renofsdp@aol.com<br>Project Description: Representation of Nevada in the Tobacco Litigation. |

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4. Qualifications and Experience of Key Personnel. **Provide the names of the attorneys who would be principally responsible for conducting and coordinating this project. Include a description of their practice areas, a list of cases with appropriate citations, and any other litigation experience relevant to this project. Full resumes may be added as an attachment.**

| **1. Name of Individual** | **2. Title** |
|---|---|
| Steve W. Berman | Firm Managing Partner |
| **3. Area(s) of Expertise**<br>Complex litigation, consumer class actions; auto claims; civil penalties; and representation of governmental entities. | **4. Proposed Project Role**<br>Co-lead counsel |
| **5. Education**<br>University of Michigan, B.A.,<br>University of Chicago Law School, J.D. | |

**6. Employment History**

| | Firms Name | Start Date | End Date |
|---|---|---|---|
| 1. | Shidler McBroom Gates | 1982 | 1985 |
| 2. | Bernstein Litowitz | 1985 | 1989 |
| 3. | Betts Patterson & Mines | 1989 | March 1993 |
| 4. | Hagens Berman Sobol Shapiro LLP | March 1993 | present |

**7. Executive Summary describing this individual's suitability for a project of this nature. Include similar cases the individual was involved in and their role.**

Steve W. Berman co-founded Hagens Berman in 1993 and is the Managing Partner of the firm. He represents consumers, investors and employees in large, complex litigation held in state and federal courts. Mr. Berman's trial experience has earned him significant recognition and led THE NATIONAL LAW JOURNAL to name him one of the 100 most powerful lawyers in the nation, and to repeatedly name Hagens Berman one of the top 10 plaintiffs' firms in the country. Public Justice recently nominated Mr. Berman and the *In re Toyota Motor Corp. Sudden, Unintended Acceleration* team as finalists for the prestigious trial lawyer of the year award for their work in securing a $1.6 billion settlement on behalf of car owners.

Mr. Berman serves as Co-Lead Counsel for the class in the *General Motors LLC Ignition Switch Litigation*, which alleges that the ignition switch could shut off while in operation, disabling airbags and other electrical features such as power steering and power brakes. The *General Motors* litigation has expanded to include a multitude of other serious defects. The case is in the early stages of the litigation after being transferred by the Judicial Panel on Multidistrict Litigation to the United States District Court for the Southern District of New York in June 2014.

Mr. Berman's other notable cases include the following:

» *In re Toyota Motor Corp. Sudden, Unintended Acceleration*: $1.6 billion settlement with 20 million class members, including $500 million in cash payments to class members, many of whom received checks for thousands of dollars; installation of a safety-enhancing brake override system on millions of vehicles; and a program that substantially extended warranties for millions of consumers. To our knowledge this was the largest automobile class settlement in U.S. history.

» *Exxon Valdez Oil Spill*: Represented clients against Exxon Mobil affected by the 10 million gallons of oil spilled off the coast of Alaska by the Exxon Valdez (multi-million dollar award).

» *In re Charles Schwab Securities* Litigation: Lead counsel in securities case resulting in $235 million settlement and 45 percent and 82 percent recoveries for the class, high percentages for securities cases.

» *Enron ERISA Litigation*: Represented Enron employees who had their retirement accounts wiped out by Enron's fraud, leading to the largest ERISA settlement in U.S. history.

» *State Tobacco Litigation*: Lead counsel for 13 states, including Arizona, in cases that led to the largest settlement in world history.

» *WPPSS Securities Litigation*: Member of trial team that led to the then largest securities case settlement.

» *McKesson Drug Litigation*: Lead counsel in an action that led to a rollback of benchmark prices of hundreds of brand name drugs, and a $350 million settlement for third-party payers and insurers.

» *Average Wholesale Price Litigatio*n: Steve served as lead trial counsel, securing trial verdicts against three drug companies that paved the way for a settlement of $338 million.

» *McKesson Governmental Entity Litigation*: Steve was lead counsel for a nationwide class of local governments that resulted in an $82 million settlement for drug price-fixing claims.

» *State and Governmental Drug Litigation*: Steve served as outside counsel for the state of New York for its Vioxx claims, several states for AWP claims and several states, including Arizona, for claims against McKesson.

» *E-Books Antitrust Litigation*: Serving as lead counsel in a challenge to Apple and publishers alleged price-fixing of e-books.

» *Optical-Disc Price Fixing Litigation*: Lead counsel in action on behalf of consumers in more than two dozen states against the manufacturers of optical disk drives. The plaintiffs allege defendants conspired to increase the price of ODDs that were sold to original equipment manufacturers. Defendants' conduct allegedly caused millions of consumer electronics products, such as computers, to be sold at illegally inflated prices.

» *Electronic Arts Video Games Litigation*: Nationwide certified class of consumers who bought interactive football video games. Plaintiffs allege that Electronic Arts entered into a series of exclusive licenses with football intellectual property owners, such as the NFL, in order to lock up the market, brought on behalf of a national class of consumers who purchased the football video games. A $60 million settlement in the case has been agreed to by the parties, but awaits approval by the court.

» *Bank of America Home Affordable Modification Program (HAMP) Contract Litigation*: Mr. Berman served as lead counsel in action on behalf of homeowners to whom the defendant allegedly promised mortgage modifications as part of a federal program but failed to provide.

» *Boeing Securities Litigation*: Mr. Berman served as lead counsel in a $92 million settlement of a securities action concerning Boeing's merger with McDonald Douglas.

» *Thalidomide Litigation*: Steve is leading the case for U.S. based thalidomide victims who have recently discovered that their injuries were caused by their mother's exposure to thalidomide and the role of certain drug companies in the distribution of thalidomide in the U.S.

» *NCAA Concussions*: Steve is lead counsel in a class action seeking to protect NCAA student athletes in all sports. A proposed class settlement is presently pending.

» *NCAA Grant-In-Aid Litigation*: Steve is lead counsel in a case challenging the NCAA's collusion in refusing to allow student athletes to receive the full cost of attending school.

» *Orange County and Santa Clara County Opioid Litigation*: Opioid abuse is one of our nation's leading health disasters. Mr. Berman is leading the first litigation seeking to recover public costs resulting from the opioid manufacturer's deceptive marketing.

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| **1. Name of Individual** | **2. Title** |
|---|---|
| Robert B. Carey | Phoenix Managing Partner |
| **3. Area(s) of Expertise**<br>Complex litigation, consumer class actions; auto claims; civil penalties; trials; and representation of government entities. | **4. Proposed Project Role**<br>Co-lead counsel |
| **5. Education**<br>Arizona State University B.S.<br>University of Denver J.D., M.B.A.<br>Harvard University Kennedy School of Government, Senior Executives in State and Local Government | |

**6. Employment History**

| | Firms Name | Start Date | End Date |
|---|---|---|---|
| 1. | Woods & Hart | 1986 | 1990 |
| 2. | Arizona Attorney General's Office | 1990 | 1996 |
| 3. | The Carey Law Firm | 1997 | 2000 |
| 4. | Hagens Berman Sobol Shapiro LLP | 2000 | Present |

**7. Executive Summary describing this individual's suitability for a project of this nature. Include similar cases the individual was involved in and their role.**

Rob Carey primarily handles contract and consumer claims. He has recovered millions against auto manufacturers such as Hyundai and Toyota, by prosecuting claims for vehicle defects for faulty airbag deployment, false performance claims, defective materials and electronic malfunctions, for example:

- He led the *Hyundai Horsepower Litigation*, which settled for an estimated $100 million.
- He started the firm's efforts in the *Toyota Unintended Acceleration* class action, where HB was Co-Lead Counsel.
- He is Class Counsel in the *Hyundai and Kia Fuel Economy Litigatio*n.
- He was Class Counsel in *Kearney v. Hyundai*, for defective Occupant Classification Systems, which caused the passenger-side air bag not to deploy in the event of an accident when a person of small-stature-adult-size occupied the front passenger seat. The recovery was for a nationwide class of hundreds of thousands of people, ensuring a fix or a new car.
- He was Class Counsel in *Cirulli v. Hyundai*, for defective sub-frame design which made them subject to premature oxidation and corrosion. The recovery was a nationwide settlement for hundreds of thousands of people which ensured vehicle owners could get a major subframe safety defect fixed for free at their dealership.
- Recently, Mr. Carey helped start the *General Motors LLC Ignition Switch Litigation*, which alleges that the ignition switch could shut off while in operation, disabling airbags and other electrical features such as power steering and power brakes. The *General Motors* litigation has expanded to include a multitude of other serious defects, and Steve Berman was appointed Co-Lead Counsel for the class in the MDL

Beyond vehicle defect class actions, Mr. Carey represents consumer interests in a variety of claims against other businesses and organizations, such as the recently completed the federal-court settlement in *LifeLock Sales and Marketing Litigation*, for which he was appointed Lead Counsel. He is currently handling the *NCAA Student-Athlete Name & Likeness Licensing Litigation* in California for misappropriating student-athletes' likenesses, which recently settled with NCAA for $20 million, and with Electronic Arts Inc. for $40 million. He is also currently representing over 50,000 Swift truck drivers in a certified class action against Swift Trucking for shorting mileage-based pay. Another landmark achievement was the successful representation of thirteen states in the historic tobacco litigation. He has handled dozens of consumer protection claims on a class basis, and was instrumental in the Arizona Attorney General's office in developing the office's consumer protection agenda.

In a case against the pharmaceutical giant McKesson Corporation, Rob represented the Arizona Attorney General's office in *State of Arizona, ex rel. Thomas C. Horne, Attorney General, v. McKesson Corporation*, CV-2012-013707 (Ariz. Super. Ct., Maricopa County), to recover civil penalties under the Arizona Consumer Fraud Act for fraudulently inflating pharmaceutical prices. The settlement with McKesson was for $10.1 million. The firm also represented several other states Attorney General offices, including Wisconsin, Mississippi, Utah, Virginia, Oregon, and New Mexico. In a related case against McKesson, Mr. Carey represented the Arizona Health Care Cost Containment System in two administrative proceedings before the Arizona Office of Administrative Hearings (*McKesson Corporation v. Arizona Health Care Cost Containment System Administration*, No. 13-F-137578-AHC, and *McKesson Corporation v. Arizona Health Care Cost Containment System and Tom Betlach*, No. 2013-000509-001DT), in which McKesson contested AHCCC's jurisdiction and authority to impose penalties and assessments against McKesson for fraudulently inflating pharmaceutical prices. The case settled for $16.5 million.

In the courtroom, Rob has handled matters involving copyright, high-tech issues, computer code, insurance, personal injury and contract claims. In 2013, after a two-month trial he prevailed with two jury verdicts against Electronic Arts in case about the iconic Madden NFL video game--an effort recognized as the Verdict of the Year by The Daily Journal. In 2014, he was selected as a finalist for Trial Lawyer of the Year by Public Justice (and HB was selected in 2014 as an Elite Trial Lawyer nationally by The National Law Journal. Other verdicts include the largest verdict in an Ohio jurisdiction in 2012 (for a woman burned during a good Samaritan act), a liability verdict in a case involving damages of $75 million, and numerous other verdicts obtaining punitive and treble damages.

Mr. Carey served as Arizona Chief Deputy Attorney General, overseeing 300+ lawyers and legal, legislative, and political issues. Rob originated Arizona's law requiring the DNA testing of all sex offenders and developed a penalty requiring criminals to pay the cost of victims' rights, helped draft Arizona's revised criminal code, and authored the section of the federal Prisoner Litigation Reform Act of 1995 that virtually eliminated frivolous prisoner lawsuits.

# ATTACHMENT I

**Offeror Response Form**

SOLICITATION NO: **AAGO15-00004552**

**Office of the Attorney General**

1275 W Washington
Phoenix, AZ
85007-2926

| **1. Name of Individual** | **2. Title** |
|---|---|
| Leonard W. Aragon | Partner |
| **3. Area(s) of Expertise**<br>Discovery and ESI protocols and practices. Arizona civil procedure. | **4. Proposed Project Role**<br>Discovery management and briefing legal issues. |
| **5. Education**<br>Arizona State University, B.A.<br>Stanford Law School, J.D. | |

**6. Employment History**

| | Firms Name | Start Date | End Date |
|---|---|---|---|
| 1. | Gammage and Burnham | 2001 | 2004 |
| 2. | Hagens Berman Sobol Shapiro | 2005 | Present |
| 3. | | | |
| 4. | | | |

**7. Executive Summary describing this individual's suitability for a project of this nature. Include similar cases the individual was involved in and their role.**

Mr. Aragon is a partner at Hagens Berman's Phoenix office. His entire practice is devoted to litigation with an emphasis on representing plaintiffs in nationwide consumer class actions and mass torts. He is currently prosecuting notable class actions against Hyundai, CBS, Swift Transportation, Electronic Arts, and the NCAA. Mr. Aragon also routinely represents individuals, states, and other governmental entities in complex litigation. Recent successes include two multi-million dollar jury verdicts in California and Ohio, and two multi-million dollar recoveries for the State of Arizona and the Arizona Health Care Cost Containment System.

Mr. Aragon and his firm take great pride in preparing all cases for trial, not settlement. To further this commitment, Mr. Aragon is often tasked with managing large discovery projects involving dozens of producing parties, hundreds of document repositories, complex ESI protocols, and technology assisted review. Since 2008, he has managed some of the largest document productions in Arizona and routinely handles productions involving terabytes of information.

In addition to his private practice, Mr. Aragon is an adjunct professor at Arizona State University's College of Law where he lectures in the areas of civil procedure and class actions.

Mr. Aragon graduated summa cum laude from Arizona State University in 1998 with degrees in History and Political Science, and received his J.D. from Stanford Law School in 2001. Before attending college, Mr. Aragon was a scout for the 2/68 Armored Tank Battalion.

Mr. Aragon is a member of the State Bar of Arizona and is admitted to practice in Arizona, California, Louisiana, Indiana, Illinois, Texas and Colorado federal district courts.

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| | |
|---|---|
| **1. Name of Individual**<br><br>Rachel E. Freeman | **2. Title**<br><br>Associate |
| **3. Area(s) of Expertise**<br>Auto defect cases/case and client management. | **4. Proposed Project Role**<br>Discovery management/coordination/client liaison with MDL leadership/Seattle office. |
| **5. Education**<br>Arizona State University, B.S.<br>Arizona State University, J.D. | |

**6. Employment History**

| | Firms Name | Start Date | End Date |
|---|---|---|---|
| 1. | Hagens Berman Sobol Shapiro LLP | 2011 | Present |
| 2. | | | |
| 3. | | | |
| 4. | | | |

**7. Executive Summary describing this individual's suitability for a project of this nature. Include similar cases the individual was involved in and their role.**

Ms. Freeman is an associate at Hagens Berman's Phoenix office, where she has worked since 2011. Her practice focuses on representing plaintiffs in complex civil litigation and nationwide class actions, including consumer fraud and mass tort. In 2012, Ms. Freeman was a member of the trial team responsible for a $5.25 million dollar jury verdict on behalf of a plaintiff who was badly burned while trying to rescue her paraplegic son from his burning home. Ms. Freeman also represents student-athlete plaintiffs in the recently settled class cases *Keller v. Electronic Arts* and *In Re: NCAA Student-Athlete Name and Likeness Licensing Litigation*. The cases alleged that video game manufacturer Electronic Arts, the National Collegiate Athletic Association, and the Collegiate Licensing Company violated state right of publicity laws and the NCAA's contractual agreements with student-athletes by using the names, images, and likenesses of the student athletes in EA's NCAA-themed football and basketball video games. The historic settlement is the first of its kind in securing compensation for current NCAA athletes for use of their publicity rights.

Ms. Freeman currently represents a nationwide class of consumers in the highly-publicized General Motors ignition switch defect litigation. With millions of GM drivers damaged by the impact of this defect, the case requires analysis and management of issues affecting large populations of consumers. Ms. Freeman also has experience litigating automotive class actions against Hyundai and Kia. She has extensive experience dealing with automobile purchasers in the context of safety-related litigation, including preservation issues.

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|---|---|---|
| | **ATTACHMENT I**<br>**Offeror Response Form**<br>SOLICITATION NO: **AAGO15-00004552** | **Office of the Attorney General**<br>1275 W Washington<br>Phoenix, AZ<br>85007-2926 |

| **1. Name of Individual** | **2. Title** |
|---|---|
| Sean R. Matt | Partner |
| **3. Area(s) of Expertise**<br>Complex litigation; class actions; special counsel to Attorneys General | **4. Proposed Project Role**<br>Help coordinate and pursue litigation strategy; assist with key briefing; work on discovery |
| **5. Education**<br>University of Oregon School of Law, J.D.<br>Indiana University, B.S., Finance | |

**6. Employment History**

| | Firms Name | Start Date | End Date |
|---|---|---|---|
| 1. | Betts Patterson & Mines | 1992 | 1993 |
| 2. | Hagens Berman Sobol Shapiro LLP | 1993 | present |
| 3. | | | |
| 4. | | | |

**7. Executive Summary describing this individual's suitability for a project of this nature. Include similar cases the individual was involved in and their role.**

Sean R. Matt is a senior partner at Hagens Berman, where he has worked since its founding in 1993. Mr. Matt's practice focuses on multi-state and nationwide class actions and complex commercial litigation encompassing securities and finance, consumer, antitrust, insurance and products. He has deep experience in all aspects of complex litigation, including initial case research and intake; early dispositive motions; all aspects of discovery and pre-trial preparation; working with experts; summary judgment proceedings; lead author on briefing; and arguing in courts at the trial and appellate level.

Mr. Matt leads the firm's innovation in organizing and prosecuting individual class cases across many states involving the same defendants and similar factual and legal issues; an approach that continues to be a key factor in the firm's success. His prior casework with the firm reflects his diverse experience in most of the firm's practice areas, involving appearances in state and federal courts across the country at both the trial and appellate levels.

Mr. Matt helps lead the firm's auto defect class action practice and has worked on cases against General Motors, Toyota, Ford, Nissan, Kia, and Hyundai. He is actively supporting and assisting Mr. Berman in the *General Motors LLC Ignition Switch Litigation.* In 2014, Public Justice nominated Mr. Matt and the *In re Toyota Motor Corp. Sudden, Unintended Acceleration* team as finalists for the prestigious trial lawyer of the year award for their work in securing a $1.6 billion settlement on behalf of car owners.

Mr. Matt is a key member of the firm's securities litigation team, most recently co-leading the prosecution and settlement of the *In Re: Charles Schwab Securities Litigation, the In Re: Oppenheimer Champion Income Fund Securities Class Actions, and the Oppenheimer Core Bond Fund Class Action Litigation.*

Mr. Matt is also a key member of the firm's pharmaceutical litigation team that confronts unfair and deceptive pricing and marketing practices in the drug and dietary supplement industries. Mr. Matt's cases in this field include the *Average Wholesale Price Litigation, the First Databank/McKesson Pricing Fraud Litigation* and *the Enzyte Litigation.*

Other notable cases include *In re Checking Account Overdraft Cases* pending against many of the country's largest banks; the *Washington State Ferry Litigation,* which resulted in one of the most favorable settlements in class litigation in the history of the State of Washington; the *Microsoft Consumer Antitrust* cases; and *State Attorneys General Tobacco Litigation.* In the latter, Mr. Matt assisted with client liaison responsibilities, working closely with assistant attorneys general in Oregon, Ohio, Arizona, Alaska and New York, as well as assisting in all litigation matters.

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| | **ATTACHMENT I**<br>**Offeror Response Form**<br>SOLICITATION NO: **AAGO15-00004552** | **Office of the Attorney General**<br>1275 W Washington<br>Phoenix, AZ<br>85007-2926 |

| **1. Name of Individual** | **2. Title** |
|---|---|
| Andrew M. Volk | Partner |
| **3. Area(s) of Expertise**<br>Complex litigation; class actions; special counsel to Attorneys General | **4. Proposed Project Role**<br>Help coordinate and pursue litigation strategy; assist with key briefing; work on discovery |
| **5. Education**<br>Cornell Law School, J.D.<br>Columbia University, B.A., English | |

**6. Employment History**

| | Firms Name | Start Date | End Date |
|---|---|---|---|
| 1. | Legal Aid Society-Criminal Appeals Bureau, New York City | September 1991 | July 1994 |
| 2. | University of Oregon Law School-Legal Writing Instructor | August 1994 | May 1996 |
| 3. | Hagens Berman | May 1996 | present |
| 4. | | | |

**7. Executive Summary describing this individual's suitability for a project of this nature. Include similar cases the individual was involved in and their role.**

Mr. Volk is a partner in Hagens Berman's Seattle office, where he focuses his practice on consumer litigation, including automobile defect litigation against General Motors and Kia. He also works on hotel tax collection cases against the major online travel companies. To date, the firm has achieved settlements on behalf of Brevard County, Fla., and the Village of Rosemont, Ill., and a finding against the defendants in administrative proceedings on behalf of the City of Denver, Colo. that is currently on appeal. He is actively supporting and assisting Mr. Berman in the *General Motors LLC Ignition Switch Litigation.*

Mr. Volk is also extensively involved in ERISA cases for breach of fiduciary duties, including settlements of claims on behalf of employees of Enron, Washington Mutual Bank, General Motors, the Montana Power Company and Sterling Savings Bank.

Mr. Volk has worked on litigation against Expedia on behalf of a nationwide class of consumers who purchased hotel reservations and paid excessive "taxes and fees" charges. That case resulted in summary judgment in Plaintiffs' favor and an eventual settlement for cash and credits totaling $134 million. Other notable cases on which Mr. Volk has worked include:

- Tobacco Litigation on behalf of States (resolved in $206 billion settlement)
- Enron ERISA Litigation ($265 million settlement)
- Washington Mutual Bank ERISA Litigation ($49 million settlement)
- General Motors ERISA Litigation ($37.5 million settlement)

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| | **ATTACHMENT I**<br>**Offeror Response Form**<br>SOLICITATION NO: **AAGO15-00004552** | **Office of the Attorney General**<br>1275 W Washington<br>Phoenix, AZ<br>85007-2926 |

**Method of Approach**

Provide the requested information and a brief description of your proposed approach to this case.

1. Designate the lead counsel and indicate that individual's availability to undertake the proposed litigation.

   Steve W. Berman and Robert B. Carey. Both are available to undertake this matter on behalf of the State of Arizona. Mr. Carey would be available as much as needed and would devote whatever time is required. Mr. Carey would also be available to the Office for reports and in-person discussions whenever requested. Mr. Berman could also devote time to the interests of Arizona and would bring enormous institutional knowledge because his role as lead counsel in the MDL, which would permit him to bring those insights—as well as those cultivated from HB's extensive consumer and auto practice—immediately and without delay to the State of Arizona's case.

2. Name the Attorneys who will be principally responsible for this case.

   Steve Berman, Robert B. Carey, Leonard B. Aragon, Rachel E. Freeman, Sean Matt, and Andrew Volk.

3. Show the levels of support staff required for this project.

   Besides the attorneys listed above, Hagens Berman employs other attorneys, paralegals, and administrative support staff who can be used as needed. We anticipate using 3-4 attorneys from our Seattle office working on the GM MDL as-needed. Locally, we can reach whatever scale is necessary on coding and indexing of documents by using our established arrangements with skilled coders.

4. Develop an organizational chart along with a description on how you would staff this project. Include all resources required, both internal and external to your Office.

   Steve Berman would direct legal strategy. Robert Carey would be responsible for case oversight, day-to-day litigation management, court appearances, liaising with the AGO, and settlement negotiations. Sean Matt, Andrew Volk, Leonard Aragon, and Rachel Freeman will also handle the day-to-day aspects, including pleadings and discovery, and working with expert witnesses. Other lawyers will be brought in for expertise and assistance.

5. Indicate the financial capacity of your firm to initiate and maintain to conclusion litigation of this size and scope.

   Hagens Berman Sobol Shapiro LLP has achieved some of the largest recoveries for plaintiffs in litigation history including in the *Tobacco Litigation* and *In Re Toyota Motor Corp. Unintended Acceleration Marketing, Sales Practices, and Products Liability Litigation*. Hagens Berman remains one of the foremost and successful firms representing plaintiffs today. Hagens Berman

possesses the financial capacity to initiate this matter and bring it to a successful conclusion. Besides funding all of the lawyering expenses against Toyota in the unintended acceleration case, and having nearly thirty lawyers working on it, Hagens Berman also fronted out-of-pocket expenses of $4.2 million for that case alone.

6. Identify and describe any type of matter, litigation and otherwise, in which your firm is involved with against the State of Arizona or any of its agencies and a concise statement of how your firm proposes to resolve any conflicts of interest with the State of Arizona.

Hagens Berman is currently not involved in any type of matter against the State of Arizona or any of its agencies.

7. Provide an outline of the litigation plan, with estimates of the amount of time projected for each stage of the litigation. The plan should address each task listed in the Scope of Work of this Request for Proposal.

a. **Evaluation of Legality of Practices.** Since Hagens Berman has been representing other consumers and agencies for this litigation, much of this phase is already in process and we anticipate little additional time necessary for this phase. See attached complaints (Tabs 6 & 7) for a complete recitation of the legality of practices.

b. **Decision Process.** Same as (a) above, except we would review Arizona-specific issues and then brief the AG and AGO staff, make recommendations, and execute on the strategy decided by the AZ GM team.

c. **Pre-Litigation Activities**. We are and will continue to actively monitor the activities in the other litigation occurring on GM issues and complete our investigation into the potentially greater scope of the harm caused by GM's conduct. The conduct likely extends beyond the ignition issue and stems from wholly improper conduct affecting a wide range of Arizona consumers, including non-ignition vehicles. We would develop state-specific data on class vehicles, impact of the conduct on the brand for those vehicles owned by Arizonans, investigate and estimate the effect of the conduct on the dealerships' repair efforts and other ancillary harms caused by GM's conduct. This phase would occur pre-filing but would continue after filing and is not a prerequisite to filing. As it stands, we have amassed ample evidence of consumer protection violations by GM.

d. **Litigation, including all appeals**. The amount of time to be expended in this category is highly variable depending on the course of developments in the litigation.

e. **Litigation Support**. See response to (3) above.

f. **Post-Litigation Support**. Not applicable.

8. Indicate the potential remedies to be sought in the lawsuit.

All statutory penalties available to the State, restitution to the consumers, costs of suit and investigation, attorneys' fees, any other available remedies and relief based on the evidence. Primarily, this matter is about recovering and assessing the proper civil penalty for the multitude of violations that occurred during many years in the sale, leasing, and repair of cars, and in litigation relating to those cars. Determining the universe of vehicles affected is critical and in progress.

9. Provide any additional information about your firm you feel we should consider to select a firm for this project.

Hagens Berman's stock-in-trade is the litigation of complex class actions, government actions, and MDLs on behalf of plaintiffs throughout the country. We have been appointed lead or co-lead counsel in many of the largest consumer fraud, product liability, securities, and antitrust cases in history. In consumer protection claims, we know this area of law as well as or better than any other firm, and we understand our role in working with AGOs and how to conduct ourselves. We have successfully litigated such cases across a range of defective products. Our firm abides a rule developed from years of leading complex class actions: vigorous and efficient prosecution with a nimble leadership team that takes its direction from the client establishes clear lines of responsibility, and commits from the outset to "live and breathe" a case. We know Arizona, its courts, its laws, and its Attorney General's Office. We would be proud to be the partner of the AZ AGO and would do all we could to help the State achieve its goals.

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| | **ATTACHMENT I**<br>**Offeror Response Form**<br>SOLICITATION NO: **AAGO15-00004552** | **Office of the Attorney General**<br>1275 W Washington<br>Phoenix, AZ<br>85007-2926 |

| **Contingency Fee Compensation** | | |
|---|---|---|
| The contingency fee received by this state's private attorney shall not exceed fifty million dollars, except for reasonable costs and expenses and regardless of the number of lawsuits filed or the number of private attorneys retained to achieve the recovery. | | |
| **Item #** | **Description** | **Percentage Offered** |
| 1 | Not to exceed Twenty-five per cent of the initial recovery of less than ten million dollars. | 25% |
| 2 | Not to exceed Twenty per cent of that portion of any recovery of ten million dollars or more but less than fifteen million dollars. | 18% |
| 3 | Not to exceed Fifteen per cent of that portion of any recovery of fifteen million dollars or more but less than twenty million dollars. | 13% |
| 4 | Not to exceed Ten per cent of that portion of any recovery of twenty million dollars or more but less than twenty-five million dollars. | 8% |
| 5 | Not to exceed Five per cent of any recovery of twenty-five million dollars or more. | 5% |

| | | |
|---|---|---|
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| **Hourly Rate Schedule**<br>The Hourly Rate Schedule shall be governed by the provisions of Paragraph 2.4 of the Request for Proposal. | | |
|---|---|---|
| **Item** | **Description** | **Hourly Rate[1]<br>(Not to Exceed Rate)** |
| 1 | Partner | $400 |
| 2 | Associate | $250 |
| 3 | Paralegal | $125 |

[1] Our normal Arizona rates are as follows: Partners ($460-$900); Associates ($295-$550); and Paralegals ($150). We are offering rates significantly lower than our market rates in recognition of our desire to be selected by the State to represent it in this matter.

Hagens Berman is a national leader in class-action litigation driven by a team of legal powerhouses. With a tenancious spirit, we are motivated to make a positive difference in people's lives.

# Table of Contents

# The Firm

Hagens Berman Sobol Shapiro LLP was founded in 1993 with one purpose: to help victims with claims of fraud and negligence that adversely impact a broad group of people. The firm initially focused on class action and other types of complex, multi-party litigation always representing plaintiffs/victims. As the firm grew, it expanded its scope while staying true to its mission of taking on important cases that implicate the public interest, and now represents plaintiffs including investors, consumers, inventors, workers, the environment, governments, whistleblowers and others.

*We are one of the nation's leading class action law firms, and have earned an international reputation for excellence and innovation in ground-breaking litigation against large corporations.*

**OUR FOCUS.** Our main focus is to represent plaintiffs/victims in securities and investment fraud, product liability, tort, antitrust, consumer fraud, employment, whistleblower, intellectual property, environmental, and employee pension protection cases. Our firm is particularly skilled at managing multi-state and nationwide class actions through an organized, coordinated approach that implements an efficient and aggressive prosecutorial strategy in order to place maximum pressure on the defendant.

**WE WIN.** We believe excellence stems from a commitment to try each case, vigorously represent the best interests of our clients, and obtain the maximum recovery. Our opponents know we are determined and tenacious and they respect our skills and recognize our track record of achieving top results.

**WHAT MAKES US DIFFERENT.** We achieve results—our track record proves it. While many class action or individual plaintiff cases result in large legal fees and no meaningful result for the client, Hagens Berman finds ways to return real value.

**A NATIONWIDE REACH.** The scope of our practice is truly nationwide. We have flourished through our network of offices in nine cities across the United States, including Seattle, Boston, Chicago, Colorado Springs, Los Angeles, New York, Phoenix, San Francisco, and Washington, D.C. Our reach is not limited to the cities where we maintain offices. We have cases pending in courts across the country, with substantial activity in California, New York, Washington, Arizona, Illinois, and Idaho.

# Locations

**SEATTLE**
1918 8th Avenue
Suite 3300
Seattle, WA 98101
(206) 623-7292 phone
(206) 623-0594 fax

**BOSTON**
55 Cambridge Parkway
Suite 301
Cambridge, MA 02142
(617) 482-3700 phone
(617) 482-3003 fax

**CHICAGO**
1144 W. Lake Street
Suite 400
Oak Park, IL 60301
(708) 628-4949 phone
(708) 628-4950 fax

**COLORADO SPRINGS**
2301 E. Pikes Peak Avenue
Colorado Springs, CO 80909
719.635.0377 phone
719.635.2920 fax

**LOS ANGELES**
301 North Lake Avenue
Suite 203
Pasadena, CA 91101
(213) 330-7150 phone
(213) 330-7152 fax

**NEW YORK**
One Penn Plaza
36th Floor
New York, NY 10119
(212) 752-5455 phone
(917) 210-3980 fax

**PHOENIX**
11 West Jefferson Street
Suite 1000
Phoenix, AZ 85003
(602) 840-5900 phone
(602) 840-3012 fax

**SAN FRANCISCO**
715 Hearst Avenue
Suite 202
Berkeley, CA 94710
510.725.3000 phone
510.725.3001 fax

**WASHINGTON, D.C.**
1701 Pennsylvania Ave. NW
Suite 300
Washington, D.C. 20006
(202) 248-5403 phone
(202) 580-6559 fax

> …the track record of Hagens Berman['s] **Steve Berman is… impressive**, having racked… a $1.6 billion settlement in the Toyota Unintended Acceleration Litigation and a substantial number of really outstanding big-ticket results.

— *Milton I. Shadur, Senior U.S. District Judge, naming Hagens Berman Interim Class Counsel in Stericycle Pricing MDL*

> Class counsel has **consistently demonstrated extraordinary skill and effort.**

— *U.S. District Judge James Selna, Central Distict of California, In re Toyota Motor Corp. Unintended Acceleration Marketing, Sales Practices and Products Liability Litigation*

> Berman is considered **one of the nation's top class-action lawyers**.

— *Associated Press*

## The Plaintiffs' Hot List: The Year's Hottest Firms, 2006, 2007, 2009, 2010, 2011, 2012 and 2013.

— *The National Law Journal*

> **Landmark consumer cases are business as usual** for Steve Berman.

— *The National Law Journal, naming Steve Berman one of the 100 most influential attorneys in the nation for the third time in a row*

> [A] **clear choice** emerges. That choice is the Hagens Berman firm.

— *United States District Court for the Northern District of California, In re Optical Disk Drive Products Antitrust Litigation (appointing the firm lead counsel)*

> All right, I think I can conclude on the basis with my five years with you all, watching this litigation progress and seeing it wind to a conclusion, that **the results are exceptional**… You did an exceptionally good job at organizing and managing the case…

— *United States District Court for the Northern District of California, In re Dynamic Random Access Memory Antitrust Litigation (Hagens Berman was co-lead counsel and helped achieve the $325 million class settlement)*

VISA-MASTERCARD ANTITRUST LITIGATION

The firm served as co-lead counsel in what was then the largest antitrust settlement in history – valued at $**27 billion**.

MCKESSON DRUG LITIGATION

Hagens Berman was lead counsel in these racketeering cases against McKesson for drug pricing fraud that settled for more than **$444 million** on the eve of trials.

STATE OF WASHINGTON, ET AL. V. PHILIP MORRIS, ET AL.

## Hagens Berman represented 13 states in the largest recovery in litigation history – **$206B**.

DRAM ANTITRUST LITIGATION

The firm was co-lead counsel, and the case settled for **$345 million** in favor of purchasers of dynamic random access memory chips (DRAM).

ENRON ERISA LITIGATION

Hagens Berman was co-lead counsel in this ERISA litigation, which recovered in excess of **$250 million**, the largest ERISA settlement in history.

CHARLES SCHWAB SECURITIES LITIGATION

The firm was lead counsel in this action alleging fraud in the management of the Schwab YieldPlus mutual fund; a **$235 million** class settlement was approved by the court.

AVERAGE WHOLESALE PRICE DRUG LITIGATION

Hagens Berman is co-lead counsel in this ground-breaking drug pricing case against the world's largest pharmaceutical companies, resulting in a victory at trial. The court approved a total of **$338 million** in settlements.

LUPRON CONSUMER LITIGATION

A **$150 million** settlement on behalf of patients using Lupron for prostate cancer.

EXPEDIA HOTEL TAXES AND FEES LITIGATION

Hagens Berman obtained summary judgment in this class action to recover deceptive service fees and settled the case for **$123.4 million**.

# Practice Areas

**PRACTICE AREAS**

# Investor Fraud - Individual and Class Action Litigation

Investing is a speculative business involving assessment of a variety of risks that can only be properly weighed with full disclosure of accurate information. No investor should suffer undue risk or incur losses due to misrepresentations related to their investment decisions.

Our attorneys work for institutional and individual investors defrauded by unscrupulous corporate insiders and mutual funds. The firm vigorously pursues fraud recovery litigation, forcing corporations and mutual funds to answer to deceived investors.

Hagens Berman is one of the country's leading securities litigation firms advising clients in both individual and class-action cases. The firm has experience, dedication and a team with the horsepower required to drive complex cases to exemplary outcomes. Our attorneys are authorities in an array of issues unique to federal and state securities statutes and related laws. We use a variety of highly experienced experts as an integral part of our prosecution team. Successes on behalf of our investor clients include:

### Charles Schwab Securities Litigation

Lead counsel, alleging fraud in the management of the Schwab YieldPlus mutual fund.

**RESULT:** $235 million class settlement for investors.

### Oppenheimer

Additional counsel for lead plaintiffs in class action alleging Oppenheimer misled investors regarding its Champion and Core Bond Funds.

**RESULT:** $100 million for the classes.

### Tremont

Co-lead counsel in a case alleging Tremont Group Holdings breached its fiduciary duties by turning over $3.1 billion to Bernard Maddoff.

**RESULT:** $100 million settlement between investors, Tremont and its affiliates.

### Enron

Co-lead counsel in ERISA litigation.

**RESULT:** More than $250 million, the largest ERISA settlement in history.

### Boeing

Uncovered critical production problems with the 777 airliner documented internally by Boeing, but swept under the rug until a pending merger with McDonnell Douglas was completed.

**RESULT:** Record-breaking settlement of more than $92.5 million.

### J.P. Morgan – Madoff

Case alleges that banking and investment giant J.P. Morgan was complicit in aiding Bernard Madoff's Ponzi scheme. Investors claim that J.P. Morgan operated as Bernard L. Madoff Investment Securities LLC's primary banker for more than 20 years.

**RESULT:** $218 million settlement amount for the class and a total of $2.2 billion paid from JPMorgan that will benefit victums of Madoff's Ponzi scheme.

**PRACTICE AREAS**

# Investor Fraud - Individual and Class Action Litigation

### Morrison Knudsen

Filed a shareholder class action, alleging that MK's senior officers concealed hundreds of millions in losses.

RESULT: More than $63 million for investors.

### Raytheon/Washington Group

Charged Raytheon with deliberately misrepresenting the true financial condition of Raytheon Engineers & Constructors division in order to sell this division to the Washington Group at an artificially inflated price.

RESULT: $39 million settlement.

### U.S. West

Represented shareholders of U.S. West New Vector in a challenge to the proposed buyout of minority shareholders by U.S. West.

RESULT: The proposed buyout was stayed, and a settlement was achieved, resulting in a $63 million increase in the price of the buyout.

Some of our current cases include:

### Life Partners Holdings

Lead counsel representing investors who purchased Life Partners stock. The case alleges that Life Partners artificially inflated revenue while knowingly underestimating the life expectancies of people whose policies its customers invest in.

### China MediaExpress

Represents investors in this case alleging that the owner of an advertising network on buses in China misled investors regarding the scope of its operations in a classic "pump and dump" scheme.

**WHISTLEBLOWERS**

In an effort to curb Wall Street excesses, Congress passed the Dodd-Frank Wall Street Reform and Consumer Protection Act, which built vigorous whistleblower protections into the legislation known as the "Wall Street Tip-Off Law."

The law empowers the U.S. Securities and Exchange Commission to award between 10 and 30 percent of any monetary sanctions recovered in excess of $1 million to whistleblowers who provide information leading to a successful SEC enforcement. It also provides similar rewards for whistleblowers reporting fraud in the commodities markets.

Hagens Berman represents whistleblowers with claims involving violations of the Securities Exchange Act and the Commodities Exchange Act.

Unlike traditional whistleblower firms who have pivoted into this area, Hagens Berman has a strong background and history of success in securities, antitrust and other areas of fraud enforcement, making us an ideal partner for these cases. Our matters before the SEC/CFTC include a range of claims, including market manipulation and fraudulent financial statements.

**PRACTICE AREAS**

# Investor Fraud - Institutional Investor Portfolio Monitoring and Recovery Services

Hagens Berman is a leading provider of specialized securities litigation services to public, private and Taft-Hartley pension funds. We offer proprietary and unparalleled asset protection and recovery services to both foreign and domestic institutions. Our institutional services provide participants with the ability to identify, investigate and react to potential wrongdoing by companies in which the institution invests.

**PORTFOLIO MONITORING.** Timely information and analysis are the critical ingredients of a successful fraud recovery program. Institutions must receive quick, reliable determinations concerning the source and extent of their losses, the likelihood of recoupment and the best manner for pursuing it. Our Portfolio Monitoring Service provides these services at no cost to participating institutions. The Hagens Berman Portfolio Monitoring Service has three primary components:

**TRACKING.** Alerts clients of any significant portfolio losses due to suspected fraud.

**ANALYSIS.** Provide clients with necessary legal and factual analyses regarding possible recovery options, removing from the institution any burden connected with scrutinizing myriad instances of potential wrongdoing and attempt to decipher whether direct, recoverable injuries have resulted.

**REPORTING.** Attorneys and forensic accounting fraud experts deliver a concise monthly report that furnishes comprehensive answers to these inquiries. On a case-by-case basis, the report specifies each of the securities in which the client lost a significant amount of money, and matches those securities with an analysis of potential fraud likelihood, litigation options and an expert recommendation on how best to proceed for maximum recovery.

Our Portfolio Monitoring Service performs its functions with almost no inconvenience to participating institutions. A client's custodian bank provides us with records detailing the client's transactions from the prior several years and on a regular basis thereafter. Importantly, none of the institution's own personnel is required to share in this task, as we acquire the information directly from the custodian bank.

We provide our Portfolio Monitoring service with no strings attached and allow our clients to act without cost or commitment. In instances where a litigation opportunity arises, we believe our skills make us the ideal choice for such a role, although the client is free to choose others.

When a portfolio loses money because of corporate deception, our litigation services seek to recover a substantial percentage of those losses, thereby increasing a fund's performance metric. As fiduciaries, money managers may not have the ability or desire to risk funds on uncertain litigation using typical hourly-rate law firms. Hagens Berman seeks to minimize the burden on the money manager by pursuing cases on a contingent-fee basis.

**PRACTICE AREAS**

# ERISA/Retirement Plan Protection

Hagens Berman has long been a leader in protecting the rights of working men, women and their families through its ERISA and retirement plan protection practice and has represented some of the largest cases in the history of ERISA law.

The federal Employee Retirement Income Security Act of 1974 (ERISA) spells out the duties that plan administrators, trustees and other fiduciaries owe to participants and beneficiaries in retirement programs including Employee Stock Ownership Plans (ESOPs), 401(k) plans, healthcare and pension plans.

Our firm has substantial experience in recovering retirement funds lost by employees as the result of imprudent and disloyal conduct by plan fiduciaries, and in otherwise safeguarding the rights of ERISA plan participants.

Courts have recognized our aptitude in handling large ERISA cases and appointed our firm as co-lead counsel in a number of such cases, including the groundbreaking Enron ERISA litigation. Enron produced $220 million in settlements for the benefit of former Enron employees, making it the largest ERISA settlement to date.

Hagens Berman served as co-lead in the GM ERISA litigation, which resulted in a proposed settlement for $37.5 million and substantial injunctive relief for the benefit of a class of 401(k) plan participants. The firm was counsel to former Washington Mutual employees who lost hundreds of millions of dollars in retirement savings invested in company stock and the Washington Mutual 401(k) plan, resulting in a $49 million settlement. Hagens Berman represented participants in the Sterling Bank 401(k) Plan for losses in their retirement savings account, for which the court approved a $3,025,000 settlement in 2013. We also served in ERISA cases on behalf of employees of IPALCO, the Montana Power Company and United Airlines.

In addition to using ERISA to protect retirement plans, the firm's ERISA practice also seeks to protect other employee benefit plans such as health insurance. Hagens Berman pioneered the discovery of fraud in "discounts" provided to employee health plans, and led a case that broke new ground in the coverage of contraceptives.

**PRACTICE AREAS**

# Antitrust

Hagens Berman works to preserve healthy marketplace competition and fair trade by protecting consumers and businesses that purchase goods and services from price fixing, market allocation agreements, monopolistic schemes and other trade restraints. The firm's lawyers have earned an enviable reputation as experts in this often confusing and combative area of commercial litigation. Our attorneys have a deep understanding of the legal and economic issues within the marketplace, allowing us to employ groundbreaking market theories that shed light on restrictive, anti-competitive practices.

Hagens Berman represents millions of consumers in several high-profile class-action lawsuits, and takes on major antitrust litigation to improve market conditions for consumers, businesses and investors. We have represented plaintiffs in markets as diverse as debit and credit card services, personal computer components, electric and gas power, airlines, and internet services, and we have prevailed against some of the world's largest corporations.

The firm has also generated substantial recoveries on behalf of health plans and consumers in antitrust involving pharmaceutical companies abusing patent rights to block generic drugs from coming to market. Hagens Berman has served as lead or co-lead counsel in landmark litigation challenging anti-competitive practices, in the Paxil Direct Purchaser Litigation ($100 million), Relafen Antitrust Litigation ($75 million), Tricor Indirect Purchaser Antitrust Litigation ($65.7 million), and Augmentin Antitrust Litigation ($29 million). Representative antitrust successes on behalf of our clients include:

### Visa/MasterCard

Helped lead this record-breaking antitrust case against credit card giants Visa and MasterCard, that challenged charges imposed in connection with debit cards.

**RESULT:** $3.05 billion settlement and injunctive relief valued at more than $20 billion.

### DRAM

Claiming DRAM (Dynamic Random Access Memory) manufacturers secretly agreed to reduce the supply of DRAM, a necessary component in a wide variety of electronics including personal computers, cellular telephones, digital cameras and many other devices, which artificially raised prices. The class included equipment manufacturers, franchise distributors and smaller-volume purchasers.

**RESULT:** $375 million settlement.

### EA Madden

Class action claimed that video game giant Electronic Arts used exclusive licensing agreements with various football organizations to nearly double the price of several of its games.

**RESULT:** $27 million settlement and imposed limits on EA's ability to pursue exclusive licensing agreements.

### AC Nielsen

Represented Information Resources, Inc. ("IRI"), in a suit claiming that AC Nielsen's anti-competitive practices caused IRI to suffer significant losses.

**RESULT:** $55 million settlement.

**PRACTICE AREAS**

# Consumer Protection - General Class Litigation

Hagens Berman is a leader in protecting consumers, representing millions in large-scale cases that challenge unfair, deceptive, and fraudulent practices.

We realize that often-voiceless consumers suffer the brunt of corporate wrongdoing and have little power to hold companies responsible or to change those tactics.

Hagens Berman pursues class litigation on behalf of clients to confront fraudulent practices that consumers alone cannot effectively dispute. We make consumers' concerns a priority, collecting consumer complaints against suspected companies and exploring all avenues for prosecution.

Hagens Berman's legacy of protecting consumer rights reflects the wide spectrum of scams that occur in the marketplace. The cases that we have led have challenged a variety of practices such as:

- False, deceptive advertising of consumer products and services
- False billing and over-charging by credit card companies, banks, telecommunications providers, power companies, hospitals, insurance plans, shipping companies, airlines and Internet companies
- Deceptive practices in selling insurance and financial products and services such as life insurance and annuities
- Predatory and other unfair lending practices, and fraudulent activities related to home purchases

A few case examples are:

- **Expedia Hotel Taxes and Service Fees Litigation**
  Led a nationwide class-action suit arising from bundled "taxes and service fees" that Expedia collects when its consumers book hotel reservations. Plaintiffs alleged that by collecting exorbitant fees as a flat percentage of the room rates, Expedia violated both the Washington Consumer Protection Act and its contractual commitment to charge as service fees only "costs incurred in servicing" a given reservation.
  **RESULT:** Summary judgment in the amount of $184 million. The case settled for cash and consumer credits totaling $123.4 million.

- **Blue Rhino**
  Lead counsel in this case alleging that Ferrellgas, wanting to avoid a price increase, reduced the amount of propane in its tanks from 17 to 15 pounds without informing consumers.
  **RESULT:** $25 million settlement.

- **Tenet Healthcare**
  In a pioneering suit filed by Hagens Berman, plaintiffs alleged that Tenet Healthcare charged excessive prices to uninsured patients at 114 hospitals owned and operated by Tenet subsidiaries in 16 different states.
  **RESULT:** Tenet settled and agreed to refund to class members amounts paid in excess of certain thresholds over a four-and-a-half year period.

**PRACTICE AREAS**

# Consumer Protection - General Class Litigation

### Carrier IQ

This privacy case stemmed from a video blog posted by software engineer Trevor Eckhart. In the video, Trevor claimed that software developed by Carrier IQ and used on a number of smartphones, intercepts incoming text messages and captures keystrokes in emails and outgoing text messages, as well as information sent to secure websites. Hagens Berman has filed suit under the Federal Wiretap Act on behalf of smartphone owners whose private information may have been compromised. A recent court decision allowed class members to continue the case, denying arbitration.

### Consumer Insurance Litigation

Hagens Berman has pioneered theories to ensure that in first- and third-party contexts consumers and health plans always receive the treatment and benefits to which they are entitled. Many of our cases have succeeded in expanding coverage owed and providing more benefits; recovering underpayments of benefits; and returning uninsured/underinsured premiums from the misleading tactics of the insurer.

### Hyundai Kia

Hagens Berman sued Hyundai and Kia on behalf of owners after the car manufacturers overstated the MPG fuel economy ratings on 900,000 of its cars. The suit seeks to give owners the ability to recover a lump-sum award for the lifetime extra fuel costs, rather than applying every year for that year's losses. The result was a lump-sum payment plan worth $400 million on a cash basis, and worth even more if owners opt for store credit (150% of cash award) or new car discount (200% of cash award) options.

**PRACTICE AREAS**

# Consumer Protection - Defective Product Litigation

When a product fails to meet accepted or advertised standards, the results can be costly, hazardous or even deadly. In such cases, consumers deserve relief. Hagens Berman is nationally recognized for successful prosecution of lawsuits involving a wide range of such defective products, from faulty building and home products to defective cars, computers, software, electronics, and toys.

The federal court overseeing the massive multi-district litigation against Toyota appointed the firm to co-lead one of the largest consolidations of class-action cases in U.S. history. The litigation combined more than 300 state and federal suits concerning acceleration defects tainting Toyota vehicles. Hagens Berman and its two co-lead firms were selected from more than 70 law firms applying for the role. Select firm successes representing consumers in defective product class litigation include:

### Toyota Sudden, Unintended Acceleration

Co-lead counsel for the economic loss class in this lawsuit filed on behalf of Toyota owners alleging a defect causes their vehicles to undergo sudden, unintended acceleration. In addition to safety risks, consumers suffered economic losses from the plummeted value of Toyota vehicles following media coverage of the alleged defect.

**RESULT:** Settlement package valued at up to $1.6 billion.

### Louisiana-Pacific Siding Litigation

Served as co-lead counsel in a nationwide case involving defective siding installed on 800,000 homes that soaked up moisture, resulting in swelling and cracking.

**RESULT:** More than 130,000 claims have been paid exceeding $500 million in total.

### Polybutylene Pipe Litigation

This litigation charged Shell Oil Company, E. I. du Pont de Nemours and Hoescht Celanese with manufacturing and marketing defective polybutylene pipes and plumbing systems. Hagens Berman served as co-lead counsel for the class.

**RESULT:** A settlement providing a minimum of $950 million, which, at the time, was the largest class-action settlement of its kind.

### Nissan Quest Accelerator Litigation

Represented Nissan Quest minivan owners who alleged that their vehicles developed deposits in a part of the engine, causing drivers to apply increased pressure to push the accelerator down.

**RESULT:** Settlement providing reimbursement for cleanings or replacements and applicable warranty coverage.

### Hyundai Horsepower Litigation

Co-lead counsel in a class-action lawsuit against Hyundai that claimed the company overstated the horsepower of 1.3 million vehicles and inflated the value of certain Hyundai models.

**RESULT:** Owners of each vehicle will receive up to $225 in cash or up to $325 in credit with Hyundai dealers. The cost of the settlement to Hyundai ranges from $76 million to $127 million.

The firm's current cases involving product defects include:

### General Motors

Hagens Berman has filed suit on behalf of millions of owners of recalled GM vehicles affected by a safety defect liked to 12 fatalities and more than 300 crashes. The suit alleges that GM did not take appropriate measures to prevent the defect, despite having prior knowledge.

**PRACTICE AREAS**

# Consumer Protection - Drug and Supplement Litigation

Hagens Berman aggressively pursues pharmaceutical industry litigation, fighting against waste, fraud and abuse in healthcare. For decades, brand-name prescription drug makers have been among the most profitable companies in America. While pharma companies become richer, consumers, health plans and insurers pay higher costs for prescription drugs. We shine a light of public scrutiny on this industry's practices and represent individuals, third-party payors and the nation's most forward-thinking public-interest groups.

The firm's pharmaceutical and dietary supplement litigation practice is second to none in the nation in terms of expertise, commitment and landmark results. The firm's attorneys have argued suits against dozens of major drug companies. Hagens Berman's aggressive prosecution of pharmaceutical industry litigation has recovered more than $1 billion in gross settlement funds.

## RECENT ANTITRUST RESOLUTIONS

Recently, Hagens Berman – as lead or co-lead class counsel – has garnered significant settlements in several antitrust cases involving prescription drugs. In each case, the plaintiffs alleged that a manufacturer of a brand-name drug violated federal or state antitrust laws by delaying generic competitors from coming to market, forcing purchasers to buy the more expensive brand name version instead of the generic equivalent. Examples of our recent successes include:

### Flonase Antitrust Litigation

Represented purchasers in this case alleging pharmaceutical giant GlaxoSmithKline filed petitions to prevent the emergence of generic competitors to its drug Flonase. The suit claimed GlaxoSmithKline did this to enable it to overcharge consumers for the drug, which would have been priced lower had a generic competitor been allowed to come to market.

RESULT: The case settled for $150 million.

### Wellbutrin XL Antitrust Litigation

Represented purchasers with defendant Biovail on behalf of those who bought the antidepressant Wellbutrin XL from defendant GlaxoSmithKline.

RESULT: $37.5 million partial settlement

## FRAUDULENT DRUG PRICING RESOLUTIONS

Hagens Berman has led many complex cases that take on fraud and inflated drug prices throughout the U.S. This includes sweeping manipulation of the average wholesale price benchmark used to set prices for prescription drugs nationwide, fraudulent marketing of prescription drugs and the rampant use of co-pay subsidy cards that drive up healthcare costs. These efforts have led to several significant settlements:

### McKesson and First DataBank Drug Litigation

The firm discovered a far-reaching fraud by McKesson and became lead counsel in this RICO case against McKesson and First DataBank, alleging the companies fraudulently inflated prices of more than 400 prescription drugs.

RESULT: $350 million settlement and a four percent rollback on the prices of 95 percent of the nation's retail branded drugs, the net impact of which could be in the billions of dollars. The states and federal government then used Hagens Berman's work to bring additional suits. Hagens Berman represented several states and obtained settlements three to seven times more than that of the Attorneys General. Almost $1 billion was recovered from the McKesson fraud.

**PRACTICE AREAS**

# Consumer Protection - Drug and Supplement Litigation

### Average Wholesale Price Drug Litigation

Co-lead consel and lead trial counsel in this sprawling litigation against most of the nation's largest pharma companies, which alleges defendants artificially inflated Average Wholesale Price.

**RESULT:** Approximately $338 million in class settlements. Hagens Berman's work in this area led to many state governments filing suit and hundreds of millions in additional recovery.

## FRAUDULENT MARKETING RESOLUTIONS

Hagens Berman also litigates against drug companies that fraudulently promote drugs for uses not approved by the Food and Drug Administration (FDA), commonly known as "off-label" uses. We also litigate cases against dietary supplement manufacturers for making false claims about their products. Recent successes include:

### Neurontin Third-Party Payor Litigation

Co-lead trial counsel in this case alleging that Pfizer fraudulently and unlawfully promoted the drug Neurontin for uses unapproved by the FDA.

**RESULT:** A jury returned a $47 million verdict in favor of a single third-party payor plaintiff, automatically trebled to $142 million.

### Vioxx Third-Party Payor Marketing and Sales Practices Litigation

Lead counsel for third-party payors in the Vioxx MDL, alleging that Merck & Co. misled physicians, consumers and health benefit providers when it touted Vioxx as a superior product to other non-steroidal anti-inflammatory drugs. According to the lawsuit, the drug had no benefits over less expensive medications, but carried increased risk of causing cardiovascular events.

**RESULT:** An $80 million settlement resulted.

### Serono Drug Litigation

Negotiated a settlement to reimburse a class of consumers and third-party payors for part or all of purchases of the AIDS drug Serostim. The suit alleged that global biotechnology company Serono, Inc. schemed to substantially increase Serostim sales by duping patients diagnosed with HIV into believing they suffered from AIDS-wasting and needed the drug to treat that condition.

**RESULT:** $24 million settlement.

**PRACTICE AREAS**

# Employment Litigation

Hagens Berman takes special interest in protecting workers from exploitation or abuse. We take on race and gender discrimination, immigrant worker issues, hour and wage issues, on-the-job injury settlements and other crucial workplace issues.

Often, employees accept labor abuses or a curbing of their rights because they don't know the law, respect their superiors or fear for their jobs. We act on behalf of employees who may lack the individual power to bring about meaningful change in the workplace. We take a comprehensive approach to rooting out systemic employee abuses through in-depth investigation, knowledgeable experts and fervent exploration of prosecution strategies. Hagens Berman is a firm well-versed in taking on complicated employee policies and bringing about significant results. Representative cases include:

### CB Richard Ellis Sexual Harassment Litigation

Filed a class action against CB Richard Ellis, Inc., on behalf of 16,000 current and former female employees who alleged that the company fostered a climate of severe sexual harassment and discriminated against female employees by subjecting them to a hostile, intimidating and offensive work environment, also resulting in emotional distress and other physical and economic injuries to the class.

**RESULT:** An innovative and unprecedented settlement requiring changes to human resources policies and procedures, as well as the potential for individual awards of up to $150,000 per class member. The company agreed to increase supervisor accountability, address sexually inappropriate conduct in the workplace, enhance record-keeping practices and conduct annual reviews of settlement compliance by a court appointed monitor.

### Costco Wholesale Corporation Wage & Hour Litigation

Filed a class action against Costco Wholesale Corporation on behalf of 2,000 current and former ancillary department employees, alleging that the company misclassified them as "exempt" executives, denying these employees overtime compensation, meal breaks and other employment benefits.

**RESULT:** $15 million cash settlement on behalf of the class.

### Washington State Ferry Workers Wage Litigation

Represented "on-call" seamen who alleged that they were not paid for being "on call" in violation of federal and state law.

**RESULT:** Better working conditions for the employees and rearrangement in work assignments and the "on-call" system.

### SunDance Rehabilitation Corporation

Filed a class action against SunDance challenging illegal wage manipulation, inconsistent contracts and other compensation tricks used to force caregivers to work unpaid overtime.

**RESULT:** $3 million settlement of stock to be distributed out of the company's bankruptcy estate.

Some of the firm's current cases in this area include:

### Swift Transportation

Hagens Berman filed suit against national trucking company Swift Transportation, alleging that it shortchanged its drivers by not paying them on the actual miles traveled when driving.

### Schneider National Carriers

The firm filed suit against Schneider National Carriers, claiming that the company failed to pay its workers for all wages due and required long hours with few breaks.

**PRACTICE AREAS**

# Civil and Human Rights

Hagens Berman has represented individuals and organizations in difficult civil rights challenges that have arisen in the past two decades. In doing so, we have managed cases presenting complex legal and factual issues that are often related to highly charged political and historical events. Our clients have included such diverse communities as World War II prisoners of war, conscripted civilians and entire villages.

In this cutting-edge practice area, the firm vigilantly keeps abreast of new state and national legislation and case-law developments. We achieve positive precedents by zealously prosecuting in our clients' interests. Some examples of our work in this area include:

### World Trade Organization Protests

During the 1999 World Trade Organization (WTO) protests in Seattle, tens of thousands of Seattle citizens became targets after Seattle officials banned all forms of peaceful protest. Seattle police attacked anyone found in the designated "no protest" zones with rubber bullets and tear gas. Hundreds of peaceful protesters were arrested and incarcerated without probable cause for up to four days. The firm won a jury trial on liability and ultimately secured a settlement from Seattle officials after filing a class action alleging violations of the First and Fourth Amendments.

### Hungarian Gold Train

Following the firm's representation of former forced and enslaved laborers for German companies in the Nazi Slave Labor Litigation, Hagens Berman led a team of lawyers against the U.S. on behalf of Hungarian Holocaust survivors in the Hungarian Gold Train case. The suit claimed that, during the waning days of World War II, the Hungarian Nazi government loaded plaintiffs' valuable personal property onto a train, which the U.S. Army later seized, never returning the property to its owners and heirs.

### Dole Bananas

Hagens Berman filed suit against the Dole Food Company, alleging that it misled consumers about its environmental record. The complaint alleged that Dole purchased bananas from a grower in Guatemala that caused severe environmental damage and health risks to local residents. Dole ultimately agreed to take action to improve environmental conditions, collaborating with a non-profit group on a water filtration project for local communities.

### Chiquita Bananas

Hagens Berman filed suit against Chiquita Brands International, alleging that it also misled consumers about its environmental record. The complaint alleges that Chiquita purchased bananas from a grower in Guatemala that caused severe environmental damage and health risks to local residents.

### Rio Tinto

Hagens Berman filed suit against Rio Tinto, a mining company, on behalf of Papua New Guinea. The complaint alleged that Rio Tinto engaged in acts of war and other criminal actions against residents of Papua New Guinea who opposed its massive mining operations in that country.

**PRACTICE AREAS**

# Whistleblower Litigation

Hagens Berman represents whistleblowers under various programs at both the state and federal levels. All of these whistleblower programs reward private citizens who blow the whistle on fraud. In many cases, whistleblowers report fraud committed against the government and may sue those individuals or companies responsible, helping the government recover losses.

Our depth and reach as a leading national plaintiffs' firm with significant success in varied litigation against industry leaders in finance, health care, consumer products, and other fields causes many whistleblowers to seek us to represent them in claims alleging fraud against the government.

Our firm also has several former prosecutors and other government attorneys in its ranks and has a long history of working with governments, including close working relationships with attorneys at the United States Department of Justice. The whistleblower programs under which Hagens Berman pursues cases include:

## FALSE CLAIMS ACT

Under the federal False Claims Act, and more than 30 similar state laws, a whistleblower reports fraud committed against the government, and under the law's *Qui Tam* provision, may file suit on its behalf to recover lost funds. False claims acts are one of the most effective tools in fighting Medicare and Medicaid fraud, defense contractor fraud, financial fraud, under-payment of royalties, fraud in general services contracts and other types of fraud perpetrated against governments.

The whistleblower initially files the case under seal, giving it only to the government and not to the defendant, which permits the government to investigate. After the investigation, the government may take over the whistleblower's suit, or it may decline. If the government declines, the whistleblower can proceed alone on his or her behalf. In successful suits, the whistleblower normally receives between 15 and 30 percent of the government's recovery as a reward.

Since 1986, federal and state false claims act recoveries have totaled more than $22 billion. Some examples of our cases brought under the False Claims Act include:

- **In U.S. ex rel. Lagow v. Bank of America**
  - Represented former manager at Landsafe, Countrywide Financial's appraisal arm, who alleged systematic abuse of appraisal guidelines as a means of inflating mortgage values.
  RESULT: The case was successful, and our client received a substantial reward.

- **In U.S. ex rel. Mackler v. Bank of America**
  - Represented a whistleblower who alleged that Bank of America failed to satisfy material conditions of its government contract to provide homeowners mortgage relief under the HAMP program.
  RESULT: That case was successful, resulting in an award to our client.

- **In U.S. ex rel. Horwitz v. Amgen**
  - Represented Dr. Marshall S. Horwitz, who played a key role in uncovering an illegal scheme to manipulate the scientific record regarding two of Amgen's blockbuster drugs.
  RESULT: $762 million in criminal and civil penalties levied by the U.S. Department of Justice.

## SECURITIES AND EXCHANGE COMMISSION / COMMODITY FUTURES TRADING COMMISSION

Since implementation of the SEC/CFTC Dodd Frank whistleblower programs in 2011, Hagens Berman has naturally transitioned into representation of whistleblowers with claims involving violations of the Securities Exchange Act and the Commodities Exchange Act.

**PRACTICE AREAS**

# Whistleblower Litigation

Unlike the False Claims Act, whistleblowers with these new programs do not initially file a sealed lawsuit. Instead, they provide information directly to the SEC or the CFTC regarding violations of the federal securities or commodities laws. If the whistleblower's information leads to an enforcement action, they may be entitled to between 10 and 30 percent of the recovery.

Hagens Berman has worked alongside government officials and regulators, establishing the credibility necessary to bring a case to the SEC or CFTC. When Hagens Berman brings a claim, we work hard to earn their respect and regulators pay attention.

**INTERNAL REVENUE SERVICE**

Hagens Berman also represents whistleblowers under the IRS whistleblower program enacted with the Tax Relief and Health Care Act of 2006.

The IRS program offers rewards to those who come forward with information about persons, corporations or any other entity that cheats on its taxes. In the event of a successful recovery of government funds, a whistleblower can be rewarded with up to 30 percent of the overall amount collected in taxes, penalties and legal fees.

Hagens Berman helps IRS whistleblowers present specific, credible tax fraud information to the IRS. Unlike some traditional False Claims Act firms, Hagens Berman has experience representing governments facing lost tax revenue due to fraud, making us well-positioned to prosecute these cases.

**PRACTICE AREAS**

# Governmental Representation

Hagens Berman has been selected by public officials to represent government agencies and bring civil law enforcement and damage recoupment actions designed to protect citizens and the treasury. We understand the needs of elected officials and the obligation to impartially and zealously represent the interests of the public, are often chosen after competitive bidding and have been hired by officials from across the political spectrum.

Hagens Berman has assisted governments in recovering billions of dollars in damages and penalties from corporate wrongdoers and, in the process, helped reform how some industries do business. In serving government, we are often able to leverage the firm's expertise and success in related private class-action litigation. Successes on behalf of government clients include:

### Big Tobacco

We represented 13 states in landmark Medicaid-recoupment litigation against the country's major tobacco companies. Only two states took cases to trial – Washington and Minnesota. The firm served as trial counsel for the state of Washington, becoming only one of two private firms in the entire country to take a state case to trial.

Hagens Berman was instrumental in developing what came to be accepted as the predominant legal tactic to use against the tobacco industry: emphasizing traditional law enforcement claims such as state consumer protection, antitrust and racketeering laws. This approach proved to be nearly universally successful at the pleading stage, leaving the industry vulnerable to a profits-disgorgement remedy, penalties and double damages. The firm also focused state legal claims on the industry's deplorable practice of luring children to tobacco use.

**RESULT:** $206 billion for state programs, the largest settlement in the history of civil litigation in the U.S.

### McKesson Average Wholesale Price Litigation

This litigation is yet another example of fraudulent drug price inflation impacting not just consumers and private health plans, but public health programs such as Medicaid and local government-sponsored plans as well.

**RESULT:** Hagens Berman has started the AWP class action, which resulted in many states filing cases. HB represented several of those states in successful litigation.

### McKesson Government Litigation

On the heels of Hagens Berman's class action against McKesson, the firm led lawsuits by states (Connecticut, Utah, Virginia, Montana, Arizona).

**RESULT:** These states obtained recoveries three to seven times larger than states settling in the multi-state Attorneys General settlement. In addition, the firm obtained $12.5 million for the City of San Francisco and $82 million for a nationwide class of public payors.

### Zyprexa Marketing & Sales Practices Litigation - Connecticut

Hagens Berman served as outside counsel to then-Attorney General Richard Blumenthal in litigation alleging that Lilly engaged in unlawful offlabel promotion of the atypical antipsychotic Zyprexa. The litigation also alleged that Lilly made significant misrepresentations about Zyprexa's safety and efficacy, resulting in millions of dollars in excess pharmaceutical costs borne by the State and its taxpayers.

**RESULT:** $25 million settlement.

**PRACTICE AREAS**

# Personal Injury and Abuse

Not all personal injury cases are the same. To successfully litigate personal injury cases, attorneys must have a deep understanding of the medical and legal issues of that particular case. The attorneys at Hagens Berman have extensive knowledge and experience across the spectrum of personal injury practice areas, assuring that our clients will receive the highest level of legal counsel.

Hagens Berman has a long record of accomplishment in personal injury litigation, including catastrophic injury cases involving wrongful death, brain injury, auto accidents, defective products, construction accidents and police and emergency vehicle collisions.

We also have unparalleled experience in very specific areas of abuse law, recovering damages on behalf of some of the most vulnerable people in our society, as profiled below.

**Sexual Abuse Litigation** Hagens Berman has represented a wide spectrum of individuals who have been the victims of sexual abuse, including children and developmentally disabled adults. We treat each case individually, with compassion and attention to detail. In the area of sexual abuse, our attorneys have obtained record-breaking verdicts, including the largest personal injury verdict ever upheld by an appellate court in the state of Washington.

**Nursing Home Negligence** Nursing home negligence is a growing problem throughout the nation. As our population ages, reports of elder abuse and nursing home negligence continue to rise. Our attorneys have secured record-breaking settlements in this area of the law and have committed to holding nursing homes accountable.

**Social Work Negligence** Social workers play a critical role in the daily lives of our nation's most vulnerable citizens. Social workers, assigned to protect children, developmentally disabled adults and elderly adults, are responsible for critical aspects in the lives of tens of thousands of citizens who are unable to protect themselves. Many social workers do a fine job. Tragically, many do not, and the results are often catastrophic. All too often, the failure to protect a child or disabled citizen leads to injury or sexual victimization by predators. With more than $40 million in recoveries on behalf of vulnerable citizens who were neglected by social workers, Hagens Berman is the most experienced, successful and knowledgeable group of attorneys in this dynamic area of the law.

**Pharmaceutical Cases** Cases alleging that drug companies failed to fulfill their duty to warn and protect patients from serious or even deadly side effects. The firm's ongoing cases of this nature include:

**NECC** Following reports that New England Compounding Company (NECC) manufactured and sold tainted steroidal injections, the Centers for Disease Control spotted a wave of meningitis cases across the United States. Hagens Berman filed a number of lawsuits on behalf of victims, alleging that the tainted injections caused serious health problems, including meningitis, and that NECC was negligent in the operation of its facilities, where the drugs were manufactured. The case resulted in a $100 million settlement for victims.

**Fresenius and DaVita Healthcare** Hagens Berman filed suits against DaVita Healthcare, one of the nation's largest providers of dialysis services, and Fresenius Medical Care North America, a manufacturer of dialysis products. The suits claim that both companies were negligent in failing to prevent two products, NaturaLyte and GranuFlo, from causing serious health conditions in patients.

**Thalidomide** Hagens Berman has filed a number of suits against German drug company Grunenthal and several American drug companies alleging that they misled the American people and government about the extent of Thalidomide use in the United States in the late 1950s and early 1960s. Thalidomide caused an

**PRACTICE AREAS**

# Personal Injury and Abuse

epidemic of birth defects in Europe, but it was previously thought that America was spared from the drug's impact. However, according to the lawsuits, new documentary and medical evidence suggests that more than 2.5 million doses of the drug were distributed in the United States.

**PRACTICE AREAS**

# Intellectual Property

The Hagens Berman intellectual property team has deep experience in all aspects of intellectual property litigation. We specialize in complex and significant damages cases against some of the world's largest corporations.

The firm is primarily engaged in patent infringement litigation at this time. We seek to represent intellectual property owners, including inventors, universities, non-practicing entities, and other groups whose patent portfolios represents a significant creative and capital investment.

A number of patent and other intellectual property cases are currently in various phases of litigation. Some examples include:

### Oracle

The firm represents Thought Inc. against Oracle Corporation in a suit alleging infringement of seven patents covering middleware providing object-oriented application to relational database mapping. The Thought patents cover key technologies for accessing and saving data used in enterprise level businesses and the Internet. Thought makes and sells software covered by the patents and is the owner of the asserted patents.

### Salesforce

Hagens Berman represents Applications in Internet Time in patent infringement litigation against salesforce.com. The suit alleges that our client's patents cover the core architecture of salesforce's platform for developing, customizing, and updating cloud-based software applications.

### Nintendo

The firm represents Japan-based Shinsedai Company in patent infringement litigation against Nintendo. Our client was an early innovator in the development and sale of motion-controlled sports games including tennis, table tennis, baseball, and boxing. The suit alleges that our client's patents are infringed by various sports games for the Nintendo Wii.

### EA Madden

Hagens Berman represents the original software developer of the NFL Madden Football video game, who is owed royalties on derivative products, including current EA Madden NFL titles. The firm prevailed in two trials against EA, and the verdicts were designated as the Top Verdict of the Year (2013) by The Daily Journal. The case is on appeal and if successful will return for a final damages phase.

### Samsung, LG, Apple

Hagens Berman represents FlatWorld Interactives in a series of cases against defendants including Samsung, LG and Apple. The cases allege that the defendants' mobile handsets, tablets and other devices infringe a FlatWorld patent covering the use of certain gestures to control touchscreen and other devices. The accused gestures were developed by university professor and co-founder of FlatWorld, Dr. Milekic, more than ten years before those features became ubiquitous in smart phones and tablets.

*Unlike other intellectual property firms, Hagens Berman only represents plaintiffs. This reduces the risk of potential conflicts of interest which often create delays in deciding whether or not to take a case at larger firms.*

**PRACTICE AREAS**

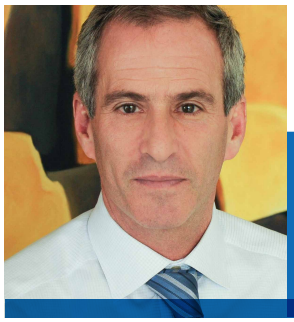
# Intellectual Property

### Alnylam, MIT, Max Planck Institute

The firm represents the University of Utah in a suit seeking to correct inventorship to add Dr. Brenda Bass, a University of Utah distinguished professor, to patents covering discoveries in gene therapy that may lead to cures for many genetic diseases. Hagens Berman recently defeated a motion to dismiss the case at the district court, Federal Circuit Court of Appeals, and the Supreme Court.

Hagens Berman is also skilled in other aspects of intellectual property law, including trademark, trade dress, trade secret and copyright litigation.

# Legal Team



**MANAGING PARTNER**

# Steve W. Berman

*Served as lead counsel for the largest settlement in world history against Big Tobacco, the largest antitrust settlement, the largest ERISA settlement and, at the time, the largest U.S. securities settlement in U.S. history.*

**CONTACT**
1918 8th Avenue
Suite 3300
Seattle, WA 98101

(206) 623-7292 office
(206) 623-0594 fax
steve@hbsslaw.com

**YEARS OF EXPERIENCE**
- 34

**PRACTICE AREAS**
- Antitrust/Trade Law
- Consumer Protection
- Securities/Investment Fraud
- Whistleblower/*Qui Tam*
- Patent Litigation

**BAR ADMISSIONS**
- Washington
- Illinois

**EDUCATION**
- University of Chicago Law School, J.D., 1980
- University of Michigan, B.A., 1976

Steve Berman represents consumers, investors and employees in large, complex litigation held in state and federal courts. Berman's trial experience has earned him significant recognition and led *The National Law Journal* to name him one of the 100 most powerful lawyers in the nation, and to repeatedly name Hagens Berman one of the top 10 plaintiffs' firms in the country.

Berman co-founded Hagens Berman in 1993 after his prior firm refused to represent several young children who consumed fast food contaminated with E. coli—Steve knew he had to help. In that case, Steve proved that the poisoning was the result of Jack in the Box's cost cutting measures along with gross negligence. He was further inspired to build a firm that vociferously fought for the rights of those unable to fight for themselves. Berman's innovative approach, tenacious conviction and impeccable track record have earned him an excellent reputation and numerous historic legal victories. He is considered one of the most successful class-action attorneys in the nation.

## CURRENT ROLE

- Managing Partner, Hagens Berman Sobol Shapiro

## RECENT SUCCESS

- Toyota
  - $1.6 billion settlement with 20 million class members.
- Big Oil
  - Represented clients against Exxon Mobil affected by the 10 million gallons of oil spilled off the coast of Alaska by the Exxon Valdez (multi-million dollar award)
- Big Pharma
  - Represented clients against Big Pharma in various actions ranging from price-fixing schemes to antitrust activities (more than $1 billion in aggregate settlements)
- Wall Street
  - Class-action securities case against Charles Schwab ($235 million settlement)
  - Represented Enron employees who had their retirement accounts wiped out by Enron's fraud (largest ERISA settlement in U.S. history)
  - Represented Bernard L. Madoff investors in a suit filed against JPMorgan Chase Bank, one of the largest banks in the world (approved $218 million settlement)

## RECOGNITION

- Voted one of the 100 most influential attorneys in America by *The National Law Journal* three times
- Voted most powerful lawyer in the state of Washington by *The National Law Journal*
- Hagens Berman named one of the top 10 plaintiffs' firms in the country, *The National Law Journal*
- Selected as a Finalist for *Public Justice's* 2014 Trial Lawyer of the Year

**MANAGING PARTNER**

# Steve W. Berman

## NOTABLE CASES

- *State Tobacco Litigation*
  Lead counsel for 13 states in cases that led to the largest settlement in world history.
- *WPPSS Securities Litigation*
  Member of trial team that led to the then largest securities case settlement.
- *McKesson Drug Litigation*
  Lead counsel in an action that led to a rollback of benchmark prices of hundreds of brand name drugs, and a $350 million settlement for third-party payers and insurers.
- *Average Wholesale Price Litigation*
  Steve served as lead trial counsel, securing trial verdicts against three drug companies that paved the way for a settlement of $338 million.
- *McKesson Governmental Entity Litigation*
  Steve was lead counsel for a nationwide class of local governments that resulted in an $82 million settlement for drug price-fixing claims.
- *State and Governmental Drug Litigation*
  Steve served as outside counsel for the state of New York for its Vioxx claims, several states for AWP claims and several states for claims against McKesson.
- *E-Books Antitrust Litigation*
  Serving as lead counsel in a challenge to Apple and publishers alleged price-fixing of e-books.
- *Optical-Disc Price Fixing Litigation*
  Lead counsel in action on behalf of consumers in more than two dozen states against the manufacturers of optical disk drives. The plaintiffs allege defendants conspired to increase the price of ODDs that were sold to original equipment manufacturers. Defendants' conduct allegedly caused millions of consumer electronics products, such as computers, to be sold at illegally inflated prices.
- *Electronic Arts Video Games Litigation*
  Nationwide certified class of consumers who bought interactive football video games. Plaintiffs allege Electronic Arts entered into a series of exclusive licenses with football intellectual property owners, such as the NFL, in order to lock up the market, brought on behalf of a national class of consumers who purchased the football video games. A $27 million settlement in the case has been agreed to by the parties, but awaits approval by the court.
- *Bank of America Home Affordable Modification Program (HAMP) Contract Litigation*
  Berman served as lead counsel in action on behalf of homeowners to whom the defendant allegedly promised mortgage modifications as part of a federal program but failed to provide.

**MANAGING PARTNER**

# Steve W. Berman

- *Toyota Unintended Acceleration Litigation*

  Lead counsel in the largest automobile defect case in U.S. history, returning $1.6 billion to Toyota drivers after a spate of unintended acceleration cases were reported by drivers across the country.

- *Boeing Securities Litigation*

  Berman served as lead counsel in a $92 million settlement of a securities action concerning Boeing's merger with McDonald Douglas.

- *Charles Schwab Securities Litigation*

  Lead counsel in securities case resulting in $235 million settlement and 45 percent and 82 percent recoveries for the class, high percentages for securities cases.

- *Enron Pension Protection Litigation*

  Lead counsel for Enron employees whose retirement accounts were wiped out by Enron's fraud. Settlement was the largest ERISA settlement in U.S. history.

- *Thalidomide Litigation*

  Steve is leading the case for U.S. based thalidomide victims who have recently discovered that their injuries were caused by their mother's exposure to thalidomide and the role of certain drug companies in the distribution of thalidomide in the U.S.

- *NCAA Concussions*

  Steve is lead counsel in a class action seeking to protect NCAA student athletes in all sports.

- *NCAA Grant-In-Aid Litigation*

  Steve is lead counsel in a case challenging the NCAA's collusion in refusing to allow student athletes to receive the full cost of attending school.

- *Orange County and Santa Clara County Opioid Litigation*

  Opioid abuse is one of our nation's leading health disasters. Steve is leading the first litigation seeking to recover public costs resulting from the opioid manufacturer's deceptive marketing.

- *General Motors*

  Steve is actively involved in seeking to obtain compensation from the millions of GM car owners whose cars have diminished in value.

**PARTNER, EXECUTIVE COMMITTEE MEMBER**

# Thomas M. Sobol

*Voted Massachusetts Ten Leading Litigators —The National Law Journal*


**CONTACT**

55 Cambridge Parkway
Suite 301
Cambridge, MA 02142

(617) 475-1950 office
(617) 482-3003 fax
tom@hbsslaw.com


**YEARS OF EXPERIENCE**

- 31

**PRACTICE AREAS**

- Pharmaceutical Fraud
- Consumer Protection
- Antitrust Litigation

**BAR ADMISSIONS**

- Commonwealth of Massachusetts
- Rhode Island
- First Circuit Court of Appeals
- Second Circuit Court of Appeals
- Supreme Court of the United States

**EDUCATION**

- Boston University School of Law, J.D., Cum Laude, 1983
- Clark University, B.A., Summa Cum Laude, Phi Beta Kappa, 1980

## CURRENT ROLE

- Partner & Executive Committee Member, Hagens Berman Sobol Shapiro
- Leads Hagens Berman's Boston office.
- Leader in drug pricing litigation efforts against numerous pharmaceutical and medical device companies.
- Lead negotiator in court-approved settlements totaling over two billion dollars
- Currently court-appointed lead counsel for *In re Skelaxin Antitrust Litigation*, *In re Nexium Antitrust Litigation*, *In re Lipitor Antitrust Litigation*, *In re Effexor Antitrust Litigation*, and *In re Wellbutrin XL Antitrust Litigation*
- Appointed lead counsel in MDL No. 2149: *In re New England Compounding Pharmacy Litigation Multidistrict Litigation*, representing more than 700 victims who contracted fungal meningitis or other serious health problems as a result of receiving contaminated products produced by NECC
- Lead counsel to the *Prescription Access Litigation (PAL)* project, the largest coalition of health care advocacy groups that fight illegal, loophole-based overpricing by pharmaceutical companies

## RECENT SUCCESS

- *Neurontin class action marketing settlement* ($325 million)
- *Flonase direct purchaser litigation settlement* ($150 million)
- *Wellbutrin XL direct purchaser litigation* ($37.5 million)
- *First Databank litigation* (4% price reduction of most retail drugs)
- *McKesson litigation* ($350 million)
- *Zyprexa litigation on behalf of the State of Connecticut* ($25 million)
- *Vioxx third party payor litigation* ($80 million)
- *Paxil direct purchaser litigation* ($150 million)
- *Co-lead trial counsel in the Neurontin MDL* ($142 million RICO jury verdict)

## RECOGNITION

- Massachusetts Ten Leading Litigators, *The National Law Journal*

## EXPERIENCE

- Seventeen years in large Boston firm handling large complex civil litigation
- Special Assistant Attorney General for the Commonwealth of Massachusetts and the states of New Hampshire and Rhode Island
- Private counsel for Massachusetts and New Hampshire in ground breaking litigation against tobacco industry (Significant injunctive relief and recovery of more than $10 billion)
- Judicial clerk for Chief Justice Allan M. Hale, Massachusetts Appeals Court, 1983-1984
- Board Chairman, New England Shelter for Homeless Veterans, 1995-2002

**PARTNER, EXECUTIVE COMMITTEE MEMBER**

# Thomas M. Sobol

## NOTABLE CASES

### $142 Million Civil RICO Jury Verdict in Massachusetts Over Neurontin

On March 25, 2010, following a four-and-a-half week trial and two days of deliberations, a jury in the United States District Court for Massachusetts returned a $142 million RICO verdict against Pfizer, Warner Lambert and Parke Davis in a suit related to Pfizer's fraudulent and unlawful promotion of the drug Neurontin. The jury also found, in an advisory capacity, that Defendants violated the California Unfair Competition Law. HBSS served as co-lead trial counsel for Plaintiffs Kaiser Foundation Health Plans and Kaiser Foundation Hospitals. HBSS attorneys played a pivotal role in preparing the case for trial. Thomas Sobol, managing partner of the HBSS Boston office, examined seven economic and scientific experts and presented the evidence of Defendants' decade-long campaign of fraudulent and deceptive actions in his closing argument that resulted in the RICO verdict. Post-trial briefing is underway and a final judgment has not yet been entered.

*Kaiser Foundation Health Plan, et al v. Pfizer, Inc., et al, D.Mass., Civil Action No. 04-cv-10739 (PBS).*

### $150 Million Settlement for Consumers and TPPs for Purchases of Lupron

In late 2004, HBSS announced a proposed resolution on behalf of consumers and third-party payors of Lupron in the amount of $150 million. The litigation alleged widespread fraudulent marketing and sales practices against TAP Pharmaceuticals, a joint venture between Abbott Laboratories and Takeda Pharmaceuticals, Inc., and followed TAP's agreement to pay $875 million in combined criminal and civil penalties regarding marketing and sales practices for the prostate cancer drug Lupron. HBSS served as court-appointed Co-Lead and Liaison Counsel.

*In re Lupron Marketing and Sales Practices Litigation, D.Mass., MDL No. 1430.*

### $150 Million Resolution on Behalf of Direct Purchasers of Paxil

HBSS announced a $150 million resolution of claims in 2004 in litigation on behalf of direct purchasers of the "blockbuster" selective serotonin reuptake inhibitor Paxil, manufactured by GlaxoSmithKline Corporation. The suit alleged that GSK engaged in sham litigation with respect to certain patents, all in an effort to delay competition from the entry of a generic form of the drug. HBSS served as court-appointed Co-Lead Counsel.

*In re Paxil Direct Purchaser Litigation, E.D.Pa., Civil Action No. 03-4578.*

### The Major First Databank Price Rollback

The First Circuit Court of Appeals recently affirmed the approval of a settlement reached between plaintiff health benefit plans and consumers in a class action against defendants First DataBank, Inc. and Medi-Span, two leading drug pricing publishers. The settlement resulted in a rollback of benchmark prices of some of the most common prescription medications and which could save consumers and other purchasers hundreds of millions of dollars. The settlement stems from a 2005 class-action lawsuit brought on behalf of health benefit plans and consumers against First DataBank ("FDB") and McKesson Corporation, a large pharmaceutical wholesaler. Plaintiffs claimed that beginning in 2001, FDB and McKesson secretly agreed to raise the markup between the Wholesale Acquisition Cost ("WAC") and the Average Wholesale Price ("AWP") from 20 to 25 percent for more than 400 drugs, resulting in higher profits for retail pharmacies at the expense of consumers and payors.

**PARTNER, EXECUTIVE COMMITTEE MEMBER**

# Thomas M. Sobol

On June 6, 2007, Judge Patti B. Saris of the District of Massachusetts preliminarily approved a settlement between the parties whereby FDB agreed to roll back pricing by five basis points, from 1.25 to 1.20, on the drugs included in the lawsuit as well as hundreds of other drugs, which should create cost-savings on a much broader range of prescription medications. An alphabet soup of associations representing pharmacies and pharmacy benefit managers fought the proposed rollback before federal trial and appellate courts, claiming either that small pharmacies would be put out of business through implementation of the rollback or that the savings to health plans and consumers would not be enough to justify the settlement. The courts rejected these claims and in a ruling on Sept. 4, 2009, the First Circuit Court of Appeals affirmed the approval of the settlement.

*New England Carpenters Health Benefits Fund et al v. First DataBank, Inc. and McKesson Corp., D.Mass., Civil Action No. 05-cv-11148-PBS; District Council 37 Health and Security Plan et al v. Medi-Span, D.Mass., Civil Action No. 07-cv-10988-PBS.*

### $75 Million Resolution Against GSK and Its Predecessors for Relafen

HBSS was court-appointed liaison counsel and the firm has helped spearhead this litigation against GlaxoSmithKline Corporation and its predecessors, alleging that GSK fraudulently obtained a patent to prevent a generic version of Relafen, a frequently prescribed brand name pharmaceutical, from coming to market. Litigated for 12 to 18 months, HBSS announced a proposed $75 million resolution of end-payor claims in 2004.

*In re Relafen Antitrust Litigation, D.Mass., Master File No. 01-12239-WGY.*

### $25 Million for the State of Connecticut for Zyprexa Fraud

On Oct. 5, 2009, Judge Jack B. Weinstein, United States District Court Judge in the Eastern District of New York, entered an Order for Entry of Final Judgment in State of Connecticut v. Eli Lilly and Co., approving the $25 million settlement reached by the parties to conclude the State's Zyprexa litigation. HBSS served as outside counsel to Attorney General Richard Blumenthal in the litigation that alleged Lilly engaged in unlawful off-label promotion of the atypical antipsychotic Zyprexa and made significant misrepresentations about Zyprexa's safety and efficacy, resulting in millions of dollars in excess pharmaceutical costs borne by the State and its taxpayers.

*State of Connecticut v. Eli Lilly & Co., E.D.N.Y., Civil Action No. 08-cv-955-JBW.*

### $65.7 Million Recovery in Antitrust Action Concerning Tricor

On Oct. 29, 2009, Chief Judge Sue Robinson of the District of Delaware approved a $65.7 million recovery for consumers and third party payors who sued Abbott Laboratories and Fournier Industries in an antitrust action concerning the cholesterol drug Tricor. Plaintiffs alleged Abbott and Fournier manipulated the statutory framework regulating the market for pharmaceuticals by instituting baseless patent litigation against generic manufacturers, and manipulative switching of dosage strengths and forms, which resulted in delayed entry of generics and thus lower prices into the market. HBSS served as Co-Lead Class Counsel in the case.

*In re Tricor Indirect Purchaser Antitrust Litigation, D.Del., Civil Action No. 05-cv-360.*

**PARTNER, EXECUTIVE COMMITTEE MEMBER**

# Anthony D. Shapiro

*Mr. Shapiro has handled hundreds of personal injury matters securing results in excess of one million dollars for his clients numerous times.*

**CONTACT**
1918 8th Avenue
Suite 3300
Seattle, WA 98101

(206) 268-9352 office
(206) 623-0594 fax
tony@hbsslaw.com

**YEARS OF EXPERIENCE**
- 32

**PRACTICE AREAS**
- Antitrust Litigation
- Personal Injury Litigation

**BAR ADMISSIONS**
- Washington State Bar

**EDUCATION**
- Georgetown University Law Center, J.D., 1982
- Colgate University, B.A., History, 1979

## CURRENT ROLE

- Partner & Executive Committee Member, Hagens Berman Sobol Shapiro
- Leads Personal Injury Group including wrongful death, brain injury, and catastrophic personal injury matters resulting from construction site, workplace, automobile accidents, product liability and nursing home negligence
- Prominent role in many of the firm's notable antitrust class actions

## RECENT SUCCESS

- Lead counsel in *In re DRAM Antitrust Litigation* (more than $400 million)
- Plaintiffs' executive committee in a number of prominent antitrust class actions including *In re LCD Antitrust Litigation* ($500 million)

## RECOGNITION

- Earned AV rating by Martindale-Hubbell, the highest rating a lawyer can obtain, indicating a very high to preeminent legal ability and exceptional ethical standards as established by confidential opinions from members of the Bar
- Washington Super Lawyer, 2000-2014

## EXPERIENCE

- King County, Washington Prosecuting Attorney's Office, where he represented the state in more than 50 serious felony jury trials, including some of the state's most high-profile cases
- Founding Partner, Rohan Goldfarb & Shapiro
- Schweppe Krug & Tausend

## LEGAL ACTIVITIES

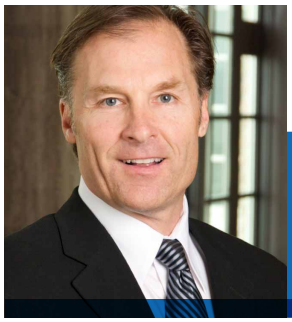
- Instructor, National Institute of Trial Advocacy
- Adjunct Professor, University of Washington Law School

**PARTNER, EXECUTIVE COMMITTEE MEMBER**

# Anthony D. Shapiro

## NOTABLE CASES

- *Mantria Class Action*
- *Air Cargo Antitrust Litigation*
- *Baby Food Antitrust Litigation*
- *Brand Name Prescription Drug Antitrust Litigation*
- *Bromine Antitrust Litigation*
- *Carbon Dioxide Antitrust Litigation*
- *Carpet Antitrust Litigation*
- *Commercial Tissue Products Antitrust Litigation*
- *Compressors Antitrust Litigation*
- *Concrete Antitrust Litigation*
- *Containerboard Antitrust Litigation*
- *CRT Antitrust Litigation*
- *DRAM Antitrust Litigation*
- *Exxon Valdez Oil Spill Litigation*
- *Fasteners Antitrust Litigation*
- *Flat Glass Antitrust Litigation*
- *Forced Place Insurance – Wind Antitrust Litigation*
- *High Fructose Corn Syrup Antitrust Litigation*
- *Infant Formula Antitrust Litigation*
- *Lease Oil Antitrust Litigation*
- *Linerboard Antitrust Litigation*
- *LCD Antitrust Litigation*
- *Magazine Paper Antitrust Litigation*
- *Medical X-Ray Film Antitrust Litigation*
- *OSB Antitrust Litigation*
- *Polyurethane Antitrust Litigation*
- *Scouring Pads Antitrust Litigation*
- *SRAM Antitrust Litigation*
- *Steel Antitrust Litigation*
- *Toilet Nut Product Defect Litigation*
- *Wire Harness Antitrust Litigation*



**PARTNER, EXECUTIVE COMMITTEE MEMBER**

# Robert B. Carey

*Rob added to HB's office a built-in mock courtroom, complete with jury box, audio-visual equipment to record witnesses and lawyers, and separate deliberation rooms for two juries. download photo »*


**CONTACT**

11 West Jefferson St.
Suite 1000
Phoenix, AZ 85003

(602) 840-5900 office
(602) 840-3012 fax
rob@hbsslaw.com


**YEARS OF EXPERIENCE**

- 27

**PRACTICE AREAS**

- Class-action Litigation
- Personal Injury Litigation
- Insurance Bad Faith
- Breach of Contract Claims

**BAR ADMISSIONS**

- State of Arizona
- State of Colorado
- United States Supreme Court
- U.S. Court of Appeals, Fifth Circuit
- U.S. Court of Appeals, Eighth Circuit
- U.S. Court of Appeals, Ninth Circuit
- U.S. Court of Appeals, Tenth Circuit
- Various federal district courts

**EDUCATION**

- University of Denver, M.B.A., J.D., 1986
- Arizona State University, B.S., 1983
- Harvard University, John F. Kennedy School of Government, State & Local Government Program, 1992

## CURRENT ROLE

- Partner & Executive Committee Member, Hagens Berman Sobol Shapiro
- Leads Hagens Berman's Phoenix and Colorado Springs offices
- Practice focuses on class-action lawsuits, including auto defect, insurance, right of publicity, and fraud cases
- Routinely handles jury trials for high-value cases

## RECENT SUCCESS

- Helped start HB's efforts against GM for its ignition system and other recall problems, which is now in the MDL with Hagens Berman leading the litigation
- Helped originate the Toyota Sudden Unintended Acceleration case, filing the initial Hagens Berman's complaints for a case that eventually settled for $1.6 billion
- Prevailed in a jury trial in a copyright case about the iconic Madden NFL video game, with two jury verdicts against Electronic Arts. The effort was selected by The Daily Journal, a leading legal publication, as a Top Trial Verdict of 2013
- Led Hagens Berman's efforts on the $400 million settlement with Hyundai and Kia corporations over misrepresentations about MPG ratings
- Helped secure a first-ever ($60M) settlement for collegiate student-athletes (Keller, consolidated with O'Bannon) from Electronic Arts (EA) and the NCAA for the misappropriation of the student-athletes' likenesses and images for the EA college football video game series. This ground-breaking suit went up to the U.S. Supreme Court before a settlement was reached, providing student-athletes, even current ones, with cash recoveries for the use of their likenesses without permission.
- Numerous jury verdicts in trials, including complex matters, phasing of threshold issues, liability and damages, trials with over $75M at stake, and recoveries of treble and punitive damages
- While serving as Arizona Chief Deputy Attorney General:
  - Helped secure a $4 billion divestiture and a landmark $165 million antitrust settlement
  - Helped revise Arizona's criminal code and authored the section of the federal Prisoner Litigation Reform Act of 1995 that virtually eliminated frivolous prisoner lawsuits

## RECOGNITION

- Recognized by the judges of the Superior Court of Arizona in Maricopa County for outstanding contributions to the justice system
- U.S. Department of Justice, recognized for Victims' Rights efforts

**PARTNER, EXECUTIVE COMMITTEE MEMBER**

# Robert B. Carey

- Listed on Arizona's Finest Lawyers and National Trial Lawyers Top 100 Trial Lawyers, since 2008
- For his work with the HB Toyota Team, Mr. Carey was selected as a Finalist for Public Justice's 2014 Trial Lawyer of the Year

## EXPERIENCE

- Arizona Chief Deputy Attorney General
- Adjunct Professor, Sandra Day O'Connor College of Law
- Judge Pro Tempore, Maricopa County Superior Court

## LEGAL ACTIVITIES

- Member and Former Chairman, Arizona State Bar Class Action and Derivative Suits Committee

## PUBLICATIONS

- Co-author of the Arizona chapter of the ABA's "A Practitioner's Guide to Class Actions"

## NOTABLE CASES

- *Toyota Unintended Acceleration Litigation*
- *NCAA Student-Athlete Name and Likeness Licensing Litigation*
- *Swift Truckers Litigation*
- *Hyundai Subframe Defect Litigation*
- *Hyundai Occupant Classification System / Airbag Litigation*
- *Hyundai Horsepower Litigation*
- *Arizona v. McKesson False Claims and Consumer Protection Litigation* (representing State of Arizona)
- *Student-Athlete Likeness Litigation* against CBS Sports and Printroom
- *Student-Athlete Likeness Litigation* against T3 Media
- *LifeLock Sales and Marketing Litigation*
- *Rexall Sundown Cellasene Litigation*
- Insurance bad faith against major carriers and personal injury cases, including dozens of seven-figure verdicts and settlements

**PARTNER**

# Leonard W. Aragon

*Before attending college, Mr. Aragon fulfilled his dream as a scout for the 2/68 Armored Tank Battalion.*


**CONTACT**

11 West Jefferson St.
Suite 1000
Phoenix, AZ 85003

(602) 840-5900 office
(602) 840-3012 fax
leonard@hbsslaw.com


**YEARS OF EXPERIENCE**

- 13

**PRACTICE AREAS**

- Class Actions
- Commercial Litigation
- Mass Tort
- Appellate Advocacy
- Personal Injury

**BAR ADMISSIONS**

- U.S. District Court, District of Arizona
- U.S. District Court, District of Colorado

**EDUCATION**

- Stanford Law School, J.D., 2001
- Arizona State University, B.A., History and Political Science, Summa Cum Laude, 1998

## CURRENT ROLE

- Partner, Hagens Berman Sobol Shapiro
- Practice focuses on nationwide class actions and other complex litigation
- Currently counsel for plaintiffs in the highly publicized cases *Keller v. Electronic Arts* and *In re NCAA Student-Athlete Name and Likeness Licensing Litigation* which alleges that video game manufacturer Electronic Arts, the National Collegiate Athletic Association, and the Collegiate Licensing Company used the names, images and likenesses of student athletes in violation of state right of publicity laws and the NCAA's contractual agreements with the student athletes. The plaintiffs reached a settlement with EA and the CLC in May for $40,000,000 and reached a settlement in June with the NCAA for $20,000,000. The parties are in the process of seeking approval from the Court for the two settlements.

## RECENT SUCCESS

- Multi-million dollar jury verdict believed to be the largest in Columbiana County, Ohio history
- Multi-million dollar class action settlement on behalf of a nationwide class of student-athletes whose images were used on a website affiliated with CBS Interactive without their permission or compensation
- Obtained two jury verdicts in favor of the original developer of the Madden Football videogame franchise in phased trial over unpaid royalties.

## LEGAL ACTIVITIES

- Adjunct Professor, Sandra Day O'Connor College of Law, Arizona State University
- State Bar of Arizona Bar Leadership Institute Class I
- Super Lawyers, Rising Star: Class Action/Mass Tort
- Pro bono work in insurance, immigration, family and contract law

## NOTABLE CASES

- *In re NCAA Student-Athlete Name and Likeness Licensing Litigation*
- *Keller v. Electronic Arts Inc.*
- *Antonick v. Electronic Arts Inc.*
- *In re Swift Transportation Co., Inc.*
- *Hunter v. Hyundai Motor America*
- *Jim Brown v. NCAA; Liebich v. Maricopa County Community College District*

**PARTNER**

# Lauren Guth Barnes

*Ms. Barnes was recently honored with a 2013 Excellence in the Law Up & Coming Lawyer award by the Massachusetts Bar Association and Mass Lawyers Weekly.*


**CONTACT**

55 Cambridge Parkway
Suite 301
Cambridge, MA 02142

(617) 482-3700 office
(617) 482-3003 fax
lauren@hbsslaw.com


**YEARS OF EXPERIENCE**

- 9

**PRACTICE AREAS**

- Antitrust Litigation
- Class Actions
- Consumer Protection
- Mass Torts
- Medical Devices
- Pharmaceuticals/Health Care Fraud

**BAR ADMISSIONS**

- Commonwealth of Massachusetts
- U.S. District Court, District of Massachusetts
- United States Court of Appeals, Second Circuit, Eleventh Circuit
- Supreme Court of the United States

**EDUCATION**

- Boston College Law School, J.D., Cum Laude, Articles Editor, Boston College Law Review, 2005
- Williams College, B.A., International Relations, Cum Laude, 1998

## CURRENT ROLE

- Partner, Hagens Berman Sobol Shapiro
- Practice focuses on antitrust, consumer protection, and fraud litigation against drug and medical device manufacturers, in complex class actions and personal injury cases for consumers, large and small health plans, direct purchasers, and state governments
- Co-lead class counsel for direct purchasers in In re *Niaspan Antitrust Litigation*
- Liaison counsel for *In re Fresenius Granuflo/Naturalyte Dialysate Products Liability Litigation*
- Represents direct purchasers in numerous other matters, including the *Skelaxin*, *Suboxone*, and *Solodyn* MDLs
- Represents health benefit providers in the firm's Ketek and copay subsidies class litigation, and individuals harmed by pharmaceuticals such as Yaz, Actos, and Granuflo and medical devices including pelvic mesh

## RECOGNITION

- Massachusetts Academy of Trial Attorneys President's Award, 2014
- Massachusetts Bar Association Up & Coming Lawyer Award, 2013
- AAJ Wiedemann & Wysocki Award, 2012, 2013
- AAJ New Lawyers Division Above and Beyond Award, 2012
- AAJ New Lawyers Division Excellence Award, 2010, 2011

## EXPERIENCE

- Active in the fights against forced arbitration federal preemption of consumer rights, working to ensure the public maintains access to the civil justice system and the ability to seek remedies when companies violate the law
- Co-authored an amicus brief to the Supreme Court in *Pliva v. Mensing* on this issue on behalf of practitioners and professors who teach and write on various aspects of pharmaceutical regulation and the delivery of healthcare
- Conflict Management Group where she worked with members of the United Nations High Commissioner for Refugees on a pilot project in Bosnia-Herzegovina designed to ease tensions and encourage reconciliation in post-conflict societies and contributed to Imagine Coexistence, a book developed out of the collaboration

**PARTNER**

# Lauren Guth Barnes

## LEGAL ACTIVITIES

- American Association for Justice (AAJ)
  - Board of Governors, Member (2012-2013)
  - Women Trial Lawyers Caucus, Chair (2012-2013)
  - Class Action Litigation Group, Former Co-Chair (2011-2012)
  - New Lawyers Division, Board of Governors (2009 to present)
  - Committees (various), Member
  - AAJ Forward and AAJ Trial Lawyers Care Task Forces, Member (2012-2013)
- Massachusetts Academy of Trial Attorneys
  - Executive Committee, Member (2012-2013)
  - Board of Governors, Member (2011-2013)
  - Women's Caucus, Co-Chair (2008 to present)
- Public Justice
  - Member, Class Action Preservation Project

## NOTABLE CASES

- Skelaxin Antitrust

  Although metaxalone, a prescription muscle relaxant, has been sold under the brand name Skelaxin since 1962, the original compound patent for it expired in 1979, and other manufacturers began applying to market generic metaxalone in 2002, generic competitors remained foreclosed from marketing generic metaxalone until 2010. HBSS serves as lead counsel for direct purchasers in litigation alleging Skelaxin's manufacturer colluded with one of the would-be generic competitors and fraudulently delayed generic competition, leading to higher prices paid by consumers and third party payors.
  *In re Skelaxin (Metaxalone) Antitrust Litigation, E.D.TN., Civil Action No. 1:12-md-2343*

- Health care coverage for 40,000 legal immigrants in Massachusetts

  On Jan. 5, 2012, the Massachusetts Supreme Judicial Court ruled unanimously that a state law barring 40,000 low-income legal immigrants from the state's universal health care program unconstitutionally violates those immigrants' rights to equal protection under the law and must be struck down. HBSS served as pro bono counsel in this successful challenge to the Commonwealth of Massachusetts' exclusion of legal immigrants from the state's universal health care program.
  *Finch v. Commonwealth Health Insurance Connector Authority, Mass., Civil Action No. SJC-11025*

- $25 million for the State of Connecticut for Zyprexa fraud

  On Oct. 5, 2009, Judge Jack B. Weinstein, United States District Court Judge in the Eastern District of New York, entered an Order for Entry of Final Judgment in *State of Connecticut v. Eli Lilly and Co.*, approving the $25 million settlement reached by the parties to conclude the State's *Zyprexa litigation*. Hagens Berman served as outside counsel to Attorney General Richard Blumenthal in the litigation that alleged Lilly engaged in unlawful off-label promotion of the atypical antipsychotic Zyprexa and made significant misrepresentations about Zyprexa's safety and efficacy, resulting in millions of dollars in excess pharmaceutical costs borne by the State and its taxpayers.
  *State of Connecticut v. Eli Lilly & Co., E.D.N.Y., Civil Action No. 08-cv-955-JBW*

**PARTNER**

# Peter Borkon

*Providing institutional investors practical advice and solutions.*


**CONTACT**

715 Hearst Ave.
Suite 202
Berkeley, CA 94710

(510) 725-3033 office
(510) 725-3001 fax
peterb@hbsslaw.com


**YEARS OF EXPERIENCE**

- 18

**PRACTICE AREAS**

- Complex Class-action Litigation
- Securities Litigation
- Antitrust Litigation

**BAR ADMISSIONS**

- Supreme Court of the United States
- District of Colorado
- Eastern District of Wisconsin
- Northern District of California
- State Bar of Illinois
- State Bar of California
- Northern District of Illinois
- Central District of California
- U.S. Court of Appeals, Ninth Circuit
- Western District of Wisconsin

**EDUCATION**

- Southern Illinois University at Carbondale, J.D., 1996
- DePauw University, B.A., 1992

## CURRENT ROLE

- Partner, Hagens Berman Sobol Shapiro
- Practice is focused on complex civil litigation, particularly securities and antitrust class actions and shareholder derivative suits

## RECENT SUCCESS

- Key team member in *In re Homestore Securities Litigation* (more than $100 million settlement)
- Team member in several securities class actions including:
  - *In re Northwest Biotherapeutics Securities Litigation* ($1 million settlement)
  - *In re BigBand Networks Securities Litigation* ($11 million settlement)
  - *In re Charles Schwab Corp. Securities Litigation* ($235 million settlement)
  - *In re Reserve YieldPlus Fund Securities Litigation* (currently in mediation)
  - *In re JP Morgan Madoff Litigation* ($218 million settlement)
  - *In re Oppenheimer Core v. Champion Bond Funds* ($100 million settlement)

## RECOGNITION

- Northern California Rising Star, *Super Lawyers Magazine*, 2010 and 2011
- Super Lawyer, *Super Lawyers Magazine*, 2012
- Steinberg Leadership Fellow with the Anti-Defamation League

## EXPERIENCE

- Clerk, Chief Judge of the Southern District of Illinois
- Staff Attorney, Ninth Circuit Court of Appeals

## LEGAL ACTIVITIES

- Member, Council of Institutional Investors (CII)
- Member and Speaker, Michigan Association of Public Employee Retirement Systems (MAPERS)
- Member, State Association of County Retirement Systems (SACRS)
- Member, California Association of Public Retirement Systems (CALAPRS)
- Member, Illinois Public Pension Fund Association (IPPFA)
- Member, Georgia Association of Public Pension Trustees (GAPPT)
- Member, Alternative Investments and SEC working groups, National Association of Public Pension Attorneys (NAPPA)
- Member and Speaker, International Foundation of Employee Benefit Plans (IFEBP)
- Member and Speaker, National Conference on Public Employee Retirement Systems (NCPERS)
- Co-Chair of the Board of Directors of the AIDS Legal Referral Panel
- Co-Chair of the Bay Area Lawyers for Individual Freedom's Judiciary Committee

**PARTNER**

# Peter Borkon

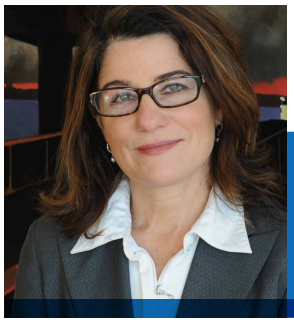
- Trained to serve as a Judge Pro Tem in San Mateo County
- Member, Federal Bar Association, Northern District of California Chapter

## PRESENTATIONS

- "Securities Litigation: A Panel Discussion," MAPERS 2014 Spring Conference ,May 2014
- "Who Wants To Be A Fiduciary?," NCPERS, Trustee Educational Seminar, April 2014
- Annual Securities Litigation & Enforcement 2014 Update Panel Discussion, April 2014
- "A Different Kind of Income Pick-Up Strategy," CFA Society of New Mexico, December 2013
- "SEC Announces Its 'Top Priorities' Include Enforcement Against States Issuing Municipal Bonds; Are County Issuers Next?," CACTTC, Annual Conference, June 2013
- "Avoiding a Front Page Scandal at Your Pension Fund: Learning by Example," NCPERS, Annual Conference, May 2013
- Board Ethics Training at the Ohio Police and Fire Pension Fund, April 2013
- "International Investment after Morrison," GAPPT, Annual Conference, September 2012
- Legal Round Table, MAPERS, Spring Conference, May 2012
- "Opportunities to Recover Fund Assets Using Securities Litigation," IPPFA, Spring Conference, May 2012
- "The Good, the Bad and the Ugly –The Safety Pension Edition," NCPERS, TEDS Conference, May 2012
- "Occupy Wall Street through Reform of the Securities Law," NCPERS, Legislative Conference, February 2012
- "The Good, the Bad and the Ugly – The Safety Pension Edition," NCPERS, Public Safety Employee Pension & Benefit Conference, October 2011
- "Protection vs. Interference – What the New Federal Regulations Mean to Institutional Investors," NCPERS, Annual Conference, May 2011
- "The Immediate Need for Congress to Act on Investor Friendly Legislation," NCPERS, Annual Conference, May 2010

## PUBLICATIONS

- "SEC's Message: Bond Issuers Must Provide Full, Accurate and Timely Information About Their Financial Condition or Face Prosecution," Hagens Berman, HBSS Securities News, November 2013
- "Court Limits SEC's Foreign Reach," Hagens Berman, HBSS Securities News, May 2013
- "Say-On-Pay – More Bark Than Bite?," Hagens Berman, HBSS Securities News, November 2012
- "Citizens United and the Assault on Public Pensions," NCPERS, PERSist Article, Summer 2012, Volume 25, Number 3, August 2012
- "Citizens United and The Assault on Public Pensions, Marin County Association of Retired Employees / A member of CRCEA-California Retired County Employees Association, Keeping in Touch Letter", June 2012
- "Citizens United and the Assault on Public Pensions, Hagens Berman, HBSS Securities News, May 2012
- "Investors Need Private Enforcement of Securities Law," Hagens Berman, HBSS Securities News, November 2011
- "Balancing Sensible Governance Against Failed Principles: Is this the End to the Wild West of Investing?," NAPPA, The NAPPA Report, October 2008



**PARTNER**

# Jeniphr A.E. Breckenridge

*Ms. Breckenridge has practiced with the firm since its founding in 1993.*

**CONTACT**
1918 8th Avenue
Suite 3300
Seattle, WA 98101

(206) 268-9325 office
(206) 623-0594 fax
jeniphr@hbsslaw.com

**YEARS OF EXPERIENCE**
- 25

**PRACTICE AREAS**
- Securities / Investor Fraud
- Consumer Protection
- Products Liability

**BAR ADMISSIONS**
- Supreme Court of Washington
- USDC, Western District of Washington
- U.S. Court of Appeals, Third Circuit

**EDUCATION**
- University of Maryland Law School, J.D., Notes and Comments Editor, Maryland Law Review
- Georgetown University, B.A.

## CURRENT ROLE

- Partner, Hagens Berman Sobol Shapiro, where she has practiced since the firm's founding.
- Practice concentrates on class actions, including consumer, automobile defects, securities litigation fraud, and wage and hour claims

## NOTABLE CASES

- *Metropolitan Securities Litigation*
- *Boeing Securities Litigation*
- *Raytheon Securities Litigation*
- *Average Wholesale Price Litigation*
- *In re Pet Food Products Liability Litigation*
- *Toyota Unintended Acceleration Litigation*
- State Tobacco cases

**PARTNER**

# Elaine T. Byszewski

*Involved in firm's representation of the City of Los Angeles and other municipalities in litigation against major banks for discriminating against minority borrowers.*


**CONTACT**

301 North Lake Ave.
Suite 203
Pasadena, CA 91101

(213) 330-7149 office
(213) 330-7152 fax
elaine@hbsslaw.com


**YEARS OF EXPERIENCE**

- 12

**PRACTICE AREAS**

- Consumer Protection
- *Qui Tam*
- Antitrust Litigation
- Appellate

**BAR ADMISSIONS**

- U.S. District Court, Central District of California
- U.S. District Court, Northern District of California
- U.S. District Court, Southern District of California
- U.S. District Court, Eastern District of California
- United States Court of Appeals, Ninth Circuit

**EDUCATION**

- Harvard Law School, J.D., Cum Laude, 2002
- University of Southern California, B.S., Public Policy, Summa Cum Laude, 1999

## CURRENT ROLE

- Partner, Hagens Berman Sobol Shapiro
- Litigated a number of complex class actions including Toyota, AstraZeneca Pharmaceuticals, Berkeley Premium Nutraceuticals, Solvay Pharmaceuticals, Costco, Apple and KB Homes
- Involved in multi-state deceptive sales practices cases against Ford and EquiTrust Life Insurance Company; a multi-state antitrust action against major dairy cooperatives for colluding in the premature slaughter of a half a million cows to drive up the price of milk; and a false advertising case against SunRun, Inc.
- Involved in firm's representation of the City of Los Angeles and other municipalities in litigation against major banks for discriminating against minority borrowers

## RECENT SUCCESS

- Part of the *Toyota Unintended Acceleration Litigation* team ($1.6 billion settlement)

## EXPERIENCE

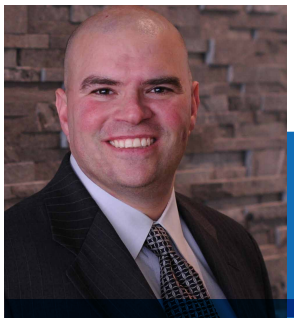
- Labor & Employment Associate, Jones Day, 2002-2004
- Summer Associate, Jones Day, 2001
- Trial Division Law Clerk, Attorney General's Office of Massachusetts, Spring and Fall 2001
- Law Clerk, Legal Services Program For Pasadena, Summer 2000

## PUBLICATIONS

- "Valuing Companion Animals in Wrongful Death Cases: A Survey of Current Court and Legislative Action and A Suggestion for Valuing Loss of Companionship," Animal Law Review, 2003
- "What's in the Wine? A History of FDA's Role," Food and Drug Law Journal, 2002
- "ERISA and RICO: New Tools for HMO Litigators," Journal of Law, Medicine & Ethics, 2000

## NOTABLE CASES

- *LA Lending Discrimination Litigation*
- *Miami Lending Discrimination Litigation*
- *Dairy Cooperatives Antitrust Litigation*
- *Toyota Unintended Acceleration*
- *EquiTrust Litigation*
- *SunRun, Inc. Advertising Litigation*
- *AstraZeneca Pharmaceuticals (Nexium) Litigation*
- *Merck (Vioxx) Litigation*
- *Berkeley Nutraceuticals (Enzyte) Litigation*
- *Solvay Pharmaceuticals (Estratest) Litigation*
- *Apple iPod Litigation*
- *Costco Wage and Hour Litigation*



**PARTNER**

# Ari Brown

*In the course of litigating cases involving predatory lending, Mr. Brown has aided in establishing significant legal precedent that has helped inform the law regarding consumer rights used throughout the country.*

**CONTACT**
1918 8th Avenue
Suite 3300
Seattle, WA 98101

(206) 623-7292 office
(206) 623-0594 fax
ari@hbsslaw.com

**YEARS OF EXPERIENCE**
- 15

**PRACTICE AREAS**
- Class-action Litigation
- Consumer Protection
- Environmental Litigation
- Civil RICO

**BAR ADMISSIONS**
- Supreme Court of Washington
- U.S. District Court, Eastern District of Washington
- U.S. District Court, Western District of Washington
- United States Court of Appeals, Ninth Circuit

**EDUCATION**
- Seattle University School of Law, J.D., Magna Cum Laude, 1999
- Grinnell College, B.A., History, 1991

## CURRENT ROLE

- Partner, Hagens Berman Sobol Shapiro
- Practice focuses on class actions involving consumer-related claims
- Represents home mortgage borrowers who have been subjected to predatory practices at the hands of lenders, mortgage brokers, title insurers and escrow companies
- Pursues claims against banks for manipulating transactions and charging overdraft fees and against credit card companies for deceptive marketing practices
- Pursues claims on behalf of people harmed by pollution from neighboring power-plants

## EXPERIENCE

- Represented people pursuing their rights as consumers and, in particular, as home mortgage borrowers. In the course of litigating cases involving predatory lending, Mr. Brown has helped establish significant legal precedent that has helped inform the law regarding consumer rights used throughout the country.
- Combat tank gunner in the Israeli Defense Force
- Coach and social worker with homeless youth in New York

## PUBLICATIONS

- "Obscured by Smoke: Medicinal Marijuana and the Need for Representation Reinforcement Review," 22 Seattle University L. Rev. 176 (1999)
- "What makes Mortgages Predatory and Actionable," Seattle University School of Law, October 2007

## NOTABLE CASES

- *In re Bank of America Home Affordable Modification Program (HAMP) Contract Litigation, No. 1:10-md-02193 RWZ (D. Mass.)*: an action on behalf of homeowners to whom the defendant allegedly promised mortgage modifications as part of a federal program
- *In re Checking Account Overdraft Litigation No. 1:09-MD-02036-JLK (S.D. Fla)*: an action on behalf of banking customers against whose accounts were allegedly charged repeated overdraft fees based on the way the banks manipulated transactions
- *Pierce v. Novastar Mortg., Inc. 238 F.R.D. 624, 2006 WL 3422064 (W.D.WA 2006)*: Certifying a class on behalf of Washington State borrowers based on a lender's alleged failure to disclose a yield spread premium paid in addition to up-front closing costs

**PARTNER**

# Ari Brown

- *Brazier v. Security Pacific Mort., Inc., 245 F. Supp. 2d 1136 (W.D. WA 2003)*: establishing for the first time in Washington that a mortgage broker's late disclosure of loan terms, including a yield spread premium, constituted an unfair and deceptive practice for purposes of the Washington Consumer Protection Act
- *Anderson v. Wells Fargo Home Mortg., 259 F. Supp. 2d 1143 (W.D. WA 2003)*: ruling that broker acted unfairly inducing a borrower to sign closing documents immediately following major surgery and cancer treatment and providing inadequate written disclosures of mortgage terms that led to borrower facing foreclosure after mortgage payments nearly tripled
- *Little et. al. v. Louisville Gas & Electric Co. No. 3:13-cv-01214-JHM-JDM (W.D. KY)*: an action on behalf of residents living next to a coal fired power plant that has been emitting coal ash and dust containing toxic metals in violation of state regulations and federal law

**PARTNER**

# Jennifer Fountain Connolly

*Successfully litigates complex fraud cases involving all types of industries.*

**CONTACT**
1701 Pennsylvania Ave. NW
Suite 300
Washington, D.C. 20006

(202) 248-5403 office
(202) 580-6559 fax
jenniferc@hbsslaw.com

**YEARS OF EXPERIENCE**
- 16

**PRACTICE AREAS**
- *Qui Tam*
- Antitrust Litigation
- Consumer Protection

**BAR ADMISSIONS**
- Colorado
- Illinois
- District of Columbia

**EDUCATION**
- University of Denver College of Law, J.D., 1998
- University of Chicago, B.A., High Honors, Special Honors in English, 1993

## CURRENT ROLE

- Partner, Hagens Berman Sobol Shapiro
- Leads Hagens Berman's Washington D.C. office
- Practice focuses on pharmaceutical pricing fraud cases, *qui tam* litigation, antitrust class actions and other types of complex litigation
- Specializes in cases with complex factual or procedural questions, many of which have related proceedings pending in multiple jurisdictions

## RECENT SUCCESS

- Significant role in litigation against McKesson Corporation alleging the company engaged in a scheme that raised the prices of more than 400 brand-name prescription drugs ($350 million settlement)
- Public payor case for municipalities throughout the United States ($82 million settlement)
- Represented numerous state attorneys general in similar claims against McKesson
- Key member of the Hagens Berman-led team that successfully tried the *Average Wholesale Price litigation* against four pharmaceutical company defendants, obtaining a verdict that was subsequently affirmed in all respects by the First Circuit Court of Appeals

## EXPERIENCE

- Partner, Wexler Wallace LLP
- Associate, Netzorg McKeever Koclanes & Bernhardt LLP (now Sherman & Howard, L.L.C.)
- Assistant Attorney General, Business Regulation Unit, Colorado Attorney General's Office

## NOTABLE CASES

- *McKesson Corporation Litigation*
  - Private class action ($350 million settlement)
  - Municipal class action ($82 million settlement)
  - Multiple state attorney general actions were successfully resolved
- *AWP Litigation* representing classes of consumers and third-party payors in ground-breaking pharmaceutical fraud case ($338 million in settlements)
- *Nextel Malpractice Litigation*, a putative class action against Nextel (now Sprint) alleging that it bribed law firm Leeds, Morelli & Brown, P.C. to quickly and privately resolve employment discrimination claims
- Currently working on numerous *qui tam* matters that are under seal in multiple jurisdictions

**PARTNER**

# Elizabeth A. Fegan

*"I have found working with you on this case one of the more interesting, challenging and, at some level, uplifting things that I have been able to do..." – Hon. Wayne Andersen (Ret.) at final approval of a nationwide sexual harassment settlement on behalf of 16,000 women.*

**CONTACT**
1144 W. Lake Street
Suite 400
Oak Park, IL 60301

(708) 628-4960 office
(708) 628-4950 fax
beth@hbsslaw.com

**YEARS OF EXPERIENCE**
- 19

**PRACTICE AREAS**
- Antitrust
- Insurance Fraud
- Consumer Protection
- Employment Discrimination
- Products Liability

**BAR ADMISSIONS**
- Second, Third, Seventh, Eighth and Ninth Circuit Courts of Appeals
- U.S. District Court, Northern, Central and Southern Districts of Illinois
- District of Colorado

**EDUCATION**
- Loyola University Chicago School of Law, J.D., Editor of Loyola Law Journal

## CURRENT ROLE

- Partner, Hagens Berman Sobol Shapiro
- Leads Hagens Berman's Chicago office
- Practice focuses on complex commercial class-action cases in the areas of antitrust, consumer protection and product liability

## RECENT SUCCESS

- *American Equity Senior Annuities Fraud* ($129 million settlement)
- *Midland Senior Annuities Fraud* ($79.5 million settlement)
- *Baby Products Antitrust Settlement* ($35 million settlement)
- *Pre-Filled Propane Tank Marketing And Sales Practices* ($35 million settlement);
- *Bayer Combination Aspirin Consumer Fraud* ($15 million settlement);
- *Aurora Dairy Organic Milk Consumer Fraud* ($7.5 million settlement);
- *"Thomas the Tank Engine" Toys Lead Paint Products Liability* ($30 million settlement of federal and state cases)

## EXPERIENCE

- Partner, The Wexler Firm
- Associate, Shefsky & Froelich Ltd.
  - Appointed Special Assistant Corporation Counsel on behalf of the City of Chicago, the Chicago Park District, and the Public Building Commission of Chicago
  - Appointed to the Special Master teams in *In re Waste Mgmt. Sec. Litig. (N.D. Ill.)* and *Wolens et al. v. American Airlines (Cir. Ct. Cook County, Ill.)*
- Legal Writing Instructor, Loyola University Chicago School of Law

## PUBLICATIONS

- Contributing Editor, 2013 Annual Review of Antitrust Law Developments (ABA 2014) and 2007 Annual Review of Antitrust Law Developments (ABA 2008)
- Newsletter Editor, Civil Rights Section of the American Trial Lawyers Association (n/k/a American Association for Justice) (2005-06) and received an award for Outstanding Section Newsletter of the Year

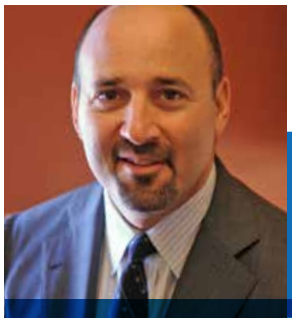
**PARTNER**

# Elizabeth A. Fegan

- "Home Rule Hits the Road in Illinois: American Telephone & Telegraph Company v. Village of Arlington Heights," 25 Loy. U. Chi. L.J. 577 (1994)
- Editor, Loyola University Chicago Law Journal (1994-95)

## NOTABLE CASES

- *NCAA Student-Athlete Concussion Litigation*
- *NCAA Student-Athlete Scholarship Cap Antitrust Litigation*
- Nationwide class action alleging sexual harassment on behalf of 16,000 current and former female employees of a commercial property brokerage firm (Settlement required changes to human resource policies and a streamlined claims process that provided the potential for individual awards up to $150,000 per class member)
- Multiple cases against annuities insurers for targeting seniors with deferred annuities that lock seniors' savings up for their lifetimes
- *Actiq Off-Label Marketing Fraud*



**PARTNER**

# Jeff D. Friedman

*Mr. Friedman is extensively involved in the firm's representation of government entities, successfully recovering hundreds of millions of dollars.*

**CONTACT**
715 Hearst Ave.
Suite 202
Berkeley, CA 94710

(510) 725-3000 office
(510) 725-3001 fax
jefff@hbsslaw.com

**YEARS OF EXPERIENCE**
- 20

**PRACTICE AREAS**
- Class-action Litigation
- Consumer Protection
- Antitrust Litigation
- Privacy Rights
- Securities Litigation

**BAR ADMISSIONS**
- State of California
- Central District of California
- Northern District of California
- United States Court of Appeals for the Ninth Circuit

**EDUCATION**
- Santa Clara University School of Law, J.D., Magna Cum Laude, 1994
- University of Washington, B.A., Political Science, 1991

## CURRENT ROLE

- Partner, Hagens Berman Sobol Shapiro
- Specializing in class actions against some of the largest companies in the United States, Mr. Friedman litigates cases involving securities fraud, consumer protection and antitrust violations including litigation against technology companies and cutting-edge competition policy issues
- Extensively involved in the firm's representation of government entities, successfully recovering hundreds of millions of dollars
- Licensed to practice law in California and admitted in the Central and Northern Districts of Federal court and the United States Court of Appeals for the Ninth Circuit
- Involved in firm's position as lead counsel on behalf of purchasers of millions of electronics products, including lap top computers and cell phones, against several multi-national corporations alleged to have fixed the prices of lithium ion battery cells for more than a decade

## RECOGNITION

- Northern District of California Super Lawyer, 2013, 2014

## EXPERIENCE

- General Counsel, public fiber-optic component company in Silicon Valley
- Assistant United States Attorney, Criminal Division, Central District of California (Los Angeles)
- Clerk for the Honorable Manuel L. Real, United States District Court Judge, Central District of California

## NOTABLE CASES

- *In re Electronic Books Antitrust Litig., No. 11-md-02293 (DLC) (S.D.N.Y.)*
  A nationwide class of eBook consumers allege five of the largest book publishers in the United States and Apple conspired to raise the prices of eBooks and restrain competition.
- *In re Optical Disk Drive Prods. Antitrust Litig., No. 3:10-md-2143 RS (N.D. Cal.)*
  An action on behalf of consumers in more than two dozen states against the manufacturers of optical disk drives. The plaintiffs allege defendants conspired to increase the price of ODDs that were sold to original equipment manufacturers. Defendants' conduct allegedly caused millions of consumer electronics products, such as computers, to be sold at illegally inflated prices.
- *Pecover et al. v. Electronic Arts Inc., No. 3:08-cv-02820-CW (N.D. Cal.)*
  A nationwide certified class of consumers who bought interactive football video games. Plaintiffs allege Electronic Arts entered into a series of exclusive licenses with football intellectual property owners,

**PARTNER**

# Jeff D. Friedman

such as the NFL, in order to lock-up the market. A $27 million settlement in the case has been agreed to by the parties, but awaits approval by the court.

- *San Francisco Health Plan v. McKesson Corp., No. 1:08-CV-10843-PBS (D. Mass.)*; *State of Utah v. McKesson Corp., No. CV 10-04743 SI (N.D. Cal.)*; *The Commonwealth of Virginia v. McKesson Corp. et al., No. CV-11-02782 SI (N.D. Cal.)*; *State of Oregon v. McKesson Corp., No. CV-11-5384-SI (N.D. Cal.)*
- *In re eBay Seller Antitrust Litigation*, action on behalf of millions of eBay sellers, claiming eBay monopolized the online auction market and attempted to monopolize the person-to-persons payment systems market (Paypal)
- *Dell Inc. Bait-And-Switch Sales Litigation*, negotiated multi-million dollar settlement on behalf of nearly one million consumers

**PARTNER**

# Lee Gordon

*Mr. Gordon's casework reflects his broad experience in diverse practice areas and his effectiveness playing a lead role in class action litigation.*

**CONTACT**
301 North Lake Ave.
Suite 203
Pasadena, CA 91101

(213) 330-7136 office
(213) 330-7152 fax
lee@hbsslaw.com

**YEARS OF EXPERIENCE**
- 16

**PRACTICE AREAS**
- Employment Law
- Class-action Litigation
- Securities Litigation
- Antitrust Litigation
- Investor Protection
- Consumer Protection

**BAR ADMISSIONS**
- State of California

**EDUCATION**
- Anderson Graduate School of Management at UCLA, M.B.A., with Honors, 2002
- Harvard Law School, J.D., with honors, 1994
- University of California at Los Angeles, B.A., Philosophy, Summa Cum Laude, 1990

## CURRENT ROLE

- Partner, Hagens Berman Sobol Shapiro
- Practic focuses on on complex class actions including securities litigation, unfair competition and deceptive business practice cases against investment companies, antitrust litigation, consumer class actions against product manufacturers and retailers, and employee protection class actions
- Experience includes litigation in a number of cases on behalf of employees and consumers resulting in multi-million dollar settlements, including cases against Costco Wholesale Corporation, Solvay Pharmaceuticals, Inc., Apple, Inc. and Citibank, N.A.
- Represents class members who invested in funds managed by Tremont Group Holdings, Inc., funds that were allegedly decimated as a result of the now-infamous Madoff Ponzi scheme. Mr. Gordon also represents investors against TD Ameritrade and The Reserve for various securities violations and breaches of fiduciary duty.

## EXPERIENCE

- Prior to joining Hagens Berman in 2005, Mr. Gordon's practice covered a broad spectrum of complex litigation matters. He represented and advised clients in antitrust litigation, employment litigation, class actions, breach of contract and breach of warranty litigation, intellectual property cases, real estate and land use disputes, and matters involving challenges to government regulations.
- Early work included race discrimination, wrongful termination, disability discrimination and compensation disputes. His class action work included complex securities and unfair business practices litigation involving multi-million dollar claims against major public financial institutions.
- Associate, Howard Rice Nemerovski Canady Falk & Rabkin
- Associate, Gibson, Dunn & Crutcher

## NOTABLE CASES

- *Tremont Group Holdings, Inc. Litigation*
  Representing investors whose funds were allegedly decimated in the Madoff Ponzi scheme
- *Solvay Pharmaceuticals, Inc., Litigation*
  Represented consumers against a drug company that allegedly wrongly marketed a hormone drug as "FDA-approved"
- *Costco Wholesale Corporation Litigation*
  Represented a certified class of California employees who claim they were wrongly denied overtime compensation, breaks, and other benefits
- *Schneider National Carriers, Inc., Litigation*
  Representing two certified classes of California employees (truck drivers and mechanics) in separate cases seeking to address alleged unfair pay schemes

**PARTNER**

# Kristen A. Johnson

*Public Justice nominated Ms. Johnson and the rest of the Neurontin trial team for Trial Lawyer of the Year for securing a $142 million verdict against Pfizer for suppressing and manipulating results of scientific studies.*


**CONTACT**

55 Cambridge Parkway
Suite 301
Cambridge, MA 02142

(617) 475-1961 office
(617) 482-3003 fax
kristenjp@hbsslaw.com


**YEARS OF EXPERIENCE**

- 7

**PRACTICE AREAS**

- Class-action Litigation
- Consumer Fraud
- RICO
- Antitrust

**BAR ADMISSIONS**

- Commonwealth of Massachusetts
- U.S. District Court, District of Massachusetts
- First Circuit Court of Appeals

**EDUCATION**

- Boston College Law School, J.D.
- Dartmouth College, Cum Laude, B.A.

## CURRENT ROLE

- Partner, Hagens Berman Sobol Shapiro
- Practice focuses on suing drug companies for defrauding the public, violating antitrust laws, and injuring patients
- Personally appointed as alternate lead counsel in the *In re New England Compounding Pharmacy Litigation Multidistrict Litigation (MDL 2419)*. During the nascent stages of the MDL, Ms. Johnson was appointed liaison counsel to speak for the hundreds of victims who contracted fungal meningitis or suffered other serious health problems as a result of receiving contaminated products produced by NECC.
- Actively involved in *In re Nexium Antitrust Litigation (D. Mass., MDL No. 2409)*; *In re Loestrin Antitrust Litigation (D.R.I., MDL No. 2472)*; *In re Effexor XR Antitrust Litigation (D.N.J., No. 11-cv-5479)*; and *In re Prograf Antitrust Litigation (D. Mass., MDL No. 2242)*

## RECENT SUCCESS

- Represents victims who contracted fungal infections from contaminated steroids compounded by New England Compounding Center ($100+ million settlement)
- Instrumental in the recent *Flonase* ($150 million), *Wellbutrin XL* ($37.5 million partial settlement), and *Wellbutrin SR* ($21.5 million) antitrust settlements

## RECOGNITION

- In 2011, Public Justice nominated Ms. Johnson and the rest of the Neurontin trial team for Trial Lawyer of the Year for their work in securing a $142 million verdict against Pfizer for suppressing and manipulating the results of scientific studies that showed Neurontin did not work to treat the off-label indications Pfizer was heavily promoting.

## LEGAL ACTIVITIES

- Public Justice, Class Action Preservation Committee
- American Association for Justice

## NOTABLE CASES

- *Neurontin class action marketing settlement* ($325 million)
- *Pfizer Neurontin RICO Litigation* ($142 million jury verdict)
- *In re Flonase Antitrust Litigation* ($150 million settlement)
- *In re Nexium Antitrust Litigation* (trial October 2014)
- *In re Prograf Antitrust Litigation* (trial fall 2014)

**PARTNER**

# Reed R. Kathrein

*Mr. Kathrein represents institutional, government and individual investors in securities fraud, and corporate governance cases.*


**CONTACT**

715 Hearst Ave.
Suite 202
Berkeley, CA 94710

(510) 725-3000 office
(510) 725-3001 fax
reed@hbsslaw.com


**YEARS OF EXPERIENCE**

- 37

**PRACTICE AREAS**

- Securities Litigation
- Complex Class-action Litigation

**BAR ADMISSIONS**

- State of California
- State of Illinois
- State of Florida
- Northern District of California
- Eastern District of California
- Southern District of California
- Northern District of Illinois
- Southern District of Florida
- Western District of Michigan
- District of Minnesota
- District of Colorado
- Sixth Circuit Court of Appeals
- Seventh Circuit Court of Appeals
- Eighth Circuit Court of Appeals
- Ninth Circuit Court of Appeals

**EDUCATION**

- University of Miami, J.D., 1977
- University of Miami, B.A., 1974

## CURRENT ROLE

- Partner, Hagens Berman Sobol Shapiro
- Regular public speaker on securities, class action and consumer law issues.

## EXPERIENCE

- Litigated over 100 securities fraud class actions
- Worked behind the scenes in shaping the Private Securities Litigation Reform Act, the Securities Litigation Uniform Standards Act and the Sarbanes-Oxley Act
- Lawyer Representative, Ninth Circuit Court of Appeals
- Lawyer Representative, United States District Court for the Northern District of California, 2008-2011
- Chaired the Magistrate Judge Merit Selection Panel, United States District Court, Northern District of California, 2006-2008
- Co-chaired the Securities Rules Advisory Committee, United States District Court, Northern District of California, 2004-2006

## LEGAL ACTIVITIES

- Member, National Association of Public Pension Attorneys (NAPPA)
- Member and Speaker, National Conference on Public Employee Retirement Systems (NCPERS)
- Member, Council of Institutional Investors (CII)
- Member, Standing Committee on Professional Conduct, United States District Court, Northern District of California (Term expires 2017)
- Expedited Trial Rules Committee, United States District Court, Northern District of California, 2010-2012
- Lawyer Representative to the Ninth Circuit Court of Appeals, United States District Court, Northern District of California, 2008-2011
- Chair/ Member, Magistrate Judge Merit Selection Panel, United States District Court, Northern District of California, 2006-2008

## PUBLICATIONS

- "Is Your Fund Prepared for Halliburton?," March 2014
- "O Securities Fraud, Where Art Thou?, Enter Robocop," Hagens Berman, HBSS Securities News, November 2013

**PARTNER**

# Reed R. Kathrein

- "Professor Coffee to SEC: Hire Plaintiffs Bar!," Hagens Berman, HBSS Securities News, May 2013
- "SEC Action Necessary, But Not Sufficient to Protect Investors," Hagens Berman, HBSS Securities News, November 2012
- "Are You Watching Your Private Equity Valuations?" Hagens Berman, HBSS Securities News, May 2012
- "What Do Trustees Need to Know When Investing In Foreign Equities?," Hagens Berman, HBSS Securities News, November 2011

## PRESENTATIONS

- "Occupy Wall Street through Reform of the Securities Law," NCPERS, Legislative Conference, February 2012
- "Legal Issues Facing Public Pensions," Opal, Public Funds Summit, January 2012
- "Protection vs. Interference – What the New Federal Regulations Mean to Institutional Investors," NCPERS, Annual Conference, May 2011
- "The Immediate Need for Congress to Act on Investor Friendly Legislation," NCPERS, Annual Conference, May 2010
- "Investor Friendly Legislation in Congress," NCPERS, Legislative Conference, February 2010

## NOTABLE CASES

- Litigated over 100 securities fraud class actions including cases against 3Com, Adaptive Broadband, Abbott Laboratories, Bank of America, Capital Consultants, CBT, Ceridian, Commtouch, Covad, CVXT, ESS, Harmonics, Intel, Leasing Solutions, Nash Finch, Northpoint, Oppenheimer, Oracle, Pemstar, Retek, Schwab Yield Plus Fund, Secure Computing, Sun Microsystems, Tremont (Bernard Madoff), Titan, Verifone, Whitehall, and Xoma
- Litigated many consumer, employment and privacy law cases including AT&T Wiretapping Litigation, Costco Employment, Solvay Consumer, Google/Yahoo Internet Gambling, Vonage Spam, Apple Nano Consumer, Ebay Consumer, LA Cellular Consumer, AOL Consumer, Tenet Consumer and Napster Consumer

PARTNER

# Thomas E. Loeser

*Mr. Loeser obtained judgments in cases that have returned tens of millions of dollars to hundreds of thousands of consumers and more than $100 million to the government.*


**CONTACT**

1918 8th Avenue
Suite 3300
Seattle, WA 98101

(206) 268-9337 office
(206) 623-0594 fax
toml@hbsslaw.com


**YEARS OF EXPERIENCE**

- 15

**PRACTICE AREAS**

- Class-Action
- Consumer Protection
- False Claims Act/*Qui Tam*
- Government Fraud
- Corporate Fraud
- Data Breach/Identity Theft and Privacy

**BAR ADMISSIONS**

- State of Washington
- State of California
- U.S. District Court:
  - District of Columbia
  - Northern District of Calif.
  - Southern District of Calif.
  - Central District of Calif.
  - Western District of Wash.
- Ninth Circuit Court of Appeals

**EDUCATION**

- Duke University School of Law, J.D., Magna Cum Laude, Order of the Coif, Articles Editor Law and Contemporary Problems, 1999
- University of Washington, M.B.A., Cum Laude, Beta Gamma Sigma, 1994
- Middlebury College, B.A., Physics with Minor in Italian, 1988

## CURRENT ROLE

- Partner, Hagens Berman Sobol Shapiro
- Practice focuses on class actions, False Claims Act (FCA) and other whistleblower cases, consumer protection and data breach/identity-theft/privacy cases
- Successfully litigated class-action lawsuits against mortgage lenders, appraisal management companies, national banks, home builders, hospitals, medical imaging companies, title insurers, technology companies and data processors
- Currently prosecuting consumer protection class-action cases against several banks, lenders, loan servicing companies, technology companies, national retailers, payment processors and handling False Claims Act whistleblower suits now under seal
- Obtained judgments in cases that have returned tens of millions of dollars to hundreds of thousands of consumers and more than $100 million to the government

## EXPERIENCE

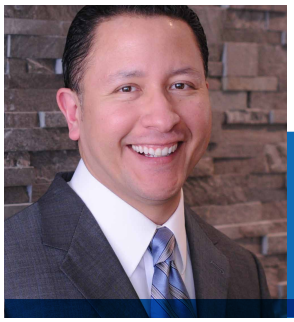
- Experience trying cases in federal and state courts in San Francisco, Los Angeles and Seattle
- Served as lead or co-lead counsel in 12 federal jury trials and has presented over a dozen cases to the Ninth Circuit Court of Appeals
- As a federal prosecutor in Los Angeles, Mr. Loeser was a member of the Cyber and Intellectual Property Crimes Section and regularly appeared in the Central District trial courts and the Ninth Circuit Court of Appeals
- Assistant United States Attorney, United States Department of Justice
- Wilson Sonsini Goodrich & Rosati

## NOTABLE CASES

- *New Jersey Medicare Outlier Litigation*
- *Center for Diagnostic Imaging Qui Tam Litigation*
- *Countrywide FHA Fraud Qui Tam Litigation*
- *Chicago Title Insurance Co. Litigation*
- *KB Homes Captive Escrow Litigation*
- *Aurora Loan Modification Litigation*
- *Wells Fargo HAMP Modification Litigation*
- *JPMorgan Chase Force-Placed Flood Insurance Litigation*
- *Wells Fargo Force-Placed Insurance Litigation*
- *Target Data Breach Litigation*
- *Cornerstone Advisors Derivative Litigation*
- *Honda Civic Hybrid Litigation*
- *Hyundai MPG Litigation*

## LANGUAGES

- Italian
- French



**PARTNER**

# Robert F. Lopez

*Mr. Lopez continues practice on qui tam matters at the firm, representing whistleblowers in cases involving violations of federal and state laws that prohibit the making of false claims for government payments.*

**CONTACT**
1918 8th Avenue
Suite 3300
Seattle, WA 98101

(206) 268-9304 office
(206) 623-0594 fax
robl@hbsslaw.com

**YEARS OF EXPERIENCE**
- 24

**PRACTICE AREAS**
- Complex Commercial Litigation
- Health Care & Pharmaceuticals Litigation
- Intellectual Property Litigation
- Privacy Litigation
- Antitrust Litigation
- Securities Litigation
- *Qui Tam* Litigation

**BAR ADMISSIONS**
- State of Washington
- Western District of Washington
- Eastern District of Washington
- U.S. Court of Appeals for the Ninth Circuit

**EDUCATION**
- Gonzaga University, B.A., English Literature; Arnold Scholar
- University of Washington School of Law, J.D.

## CURRENT ROLE

- Partner, Hagens Berman Sobol Shapiro
- Offers a broad range of legal experience in the fields of:
  - complex commercial litigation
  - health care and pharmaceuticals litigation
  - product defect litigation
  - False Claims Act litigation
  - intellectual property litigation
  - privacy litigation
  - securities litigation
  - antitrust litigation
  - creditor-debtor litigation
- Member of firm's *In re Carrier IQ, Inc. Consumer Privacy Litigation team*
- Member of the firm's team representing the plaintiffs and proposed class in F*eitelson v. Google Inc.*, an antitrust case based on allegations that Google uses certain contracts with device manufacturers in the maintenance and furtherance of its monopoly in Internet search
- Continues practice on *qui tam* matters at the firm, representing whistleblowers in cases involving violations of federal and state laws that prohibit the making of false claims for government payments

## EXPERIENCE

- Experienced in prosecuting and defending appeals in the federal and state courts of appeal; representing institutions and consumers in nationwide class-action lawsuits, including in the federal multidistrict litigation setting; advising clients in non-litigation settings with respect to trademark, trade-name, copyright, and Internet-communications law
- Member of firm's team representing one of the relators in the 2012 settlement with Amgen Inc., in which the company agreed to pay $612 million to the U.S. and various state governments in order to resolve claims that it caused false claims to be submitted to Medicare, Medicaid, and other government insurance programs
- Member of the firm's team that prosecuted *In re Charles Schwab Corp. Securities Litigation*
- Experienced in class-action litigation against DaimlerChrysler Corporation relating to product defects in its Neon automobiles, nationwide class-action cases against Trex Company, Inc. and Fiber Composites, Inc.
- Founding Member and Partner, Socius Law Group PLLC
- Partner, Betts, Patterson & Mines, P.S.

**PARTNER**

# Robert F. Lopez

## NOTABLE CASES

- *In re Pharmaceutical Industry Average Wholesale Price Litigation*
- *Amgen Inc. Qui Tam Litigation*
- *In re Metropolitan Securities Litigation*
- *In re Charles Schwab Corp. Securities Litigation*
- *In re Carrier IQ, Inc. Consumer Privacy Litigation*

**PARTNER**

# Barbara Mahoney

*Ms. Mahoney received her doctorate in philosophy from the Universität Freiburg (Germany), where she graduated Magna Cum Laude.*


**CONTACT**
1918 8th Avenue
Suite 3300
Seattle, WA 98101

(206) 268-9308 office
(206) 623-0594 fax
barbaram@hbsslaw.com


**YEARS OF EXPERIENCE**
- 13

**PRACTICE AREAS**
- Civil RICO
- Consumer protection
- State false claims

**BAR ADMISSIONS**
- Washington
- U.S. District Court, Western District of Washington
- U.S. District Court, Eastern District of Washington
- Ninth Circuit Court of Appeals

**EDUCATION**
- University of Washington, J.D., 2001
- Universität Freiburg, PhD, philosophy, Magna Cum Laude, 1993

## CURRENT ROLE

- Partner, Hagens Berman Sobol Shapiro
- Focused primarily on national class actions and pharmaceutical litigation
- Extensively involved in several lawsuits against McKesson Corporation relating to allegations that the company engaged in a scheme that raised the prices of over 400 brand-name prescription drugs. That litigation has resulted in two separate national class-action settlements for $350 million and $82 million and several settlements by individual Medicaid agencies. Ms. Mahoney is currently involved in related litigation on behalf of the Commonwealth of Virginia and the State of Arizona.

## RECOGNITION

- Rising Star, Washington Law & Politics, 2005

## EXPERIENCE

- Worked in several areas of commercial litigation, including unlawful competition, antitrust, securities, trademark, CERCLA, RICO, FLSA as well as federal aviation and maritime law
- Associate, Calfo Harrigan Leyh & Eakes LLP (formerly Danielson Harrigan Leyh & Tollefson)
- Law Clerk, Justice Sanders, Washington Supreme Court
- Law Clerk, Judge Saundra Brown Armstrong, U.S. District Court, N.D. California

## LEGAL ACTIVITIES

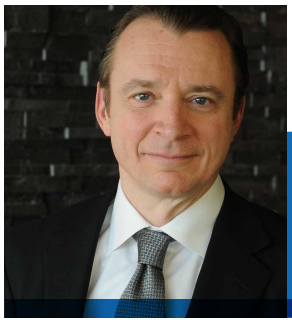
- Downtown Neighborhood Legal Clinic
- Q Law
- Cooperating Attorney with American Civil Liberties Union of Washington

## NOTABLE CASES

- *New England Carpenters v. First DataBank* ($350 million class-action settlement)
- *Douglas County v. McKesson* ($82 million class-action settlement)

## LANGUAGES

- Fluent in German
- Reads Swedish and French



**PARTNER**

# Sean R. Matt

*Leads the firm's innovation in organizing and prosecuting individual class cases across many states involving the same defendants and similar factual and legal issues, an approach that continues to be a key factor in the firm's success.*

**CONTACT**
1918 8th Avenue
Suite 3300
Seattle, WA 98101

(206) 268-9327 office
(206) 623-0594 fax
sean@hbsslaw.com

**YEARS OF EXPERIENCE**
- 22

**PRACTICE AREAS**
- Securities Litigation
- Class-action Litigation
- Consumer Protection
- Antitrust Litigation
- Insurance
- Products

**BAR ADMISSIONS**
- Supreme Court of Washington
- United States District Court, Western District of Washington
- United States District Court, District of Colorado
- Ninth Circuit United States Court of Appeals

**EDUCATION**
- Indiana University, B.S., Finance, Highest Distinction, 1988
- University of Oregon School of Law, J.D., Order of the Coif (top 10%), Associate Editor of the Law Review, 1992

## CURRENT ROLE

- Partner, Hagens Berman Sobol Shapiro, since its founding in 1993
- Practice focuses on multi-state and nationwide class actions and complex commercial litigation encompassing securities and finance, consumer, antitrust, insurance and products
- Diverse experience in most of the firm's practice areas, involving appearances in state and federal courts across the country at both the trial and appellate levels
- Key member of the firm's securities litigation team, most recently co-leading the prosecution and settlement of the *In re Charles Schwab Securities Litigation*, the *In re Oppenheimer Champion Income Fund Securities Class Actions*, and the *Oppenheimer Core Bond Fund Class Action Litigation*
- Key member of the firm's pharmaceutical litigation team that confronts unfair and deceptive pricing and marketing practices in the drug and dietary supplement industries including Average Wholesale Price Litigation, the *First Databank/McKesson Pricing Fraud Litigation* and the *Enzyte Litigation*
- Key member of the firm's automobile defect litigation team

## RECOGNITION

- In 2014, Public Justice nominated Mr. Matt and the *In re Toyota Motor Corp. Sudden, Unintended Acceleration* team for their work in securing a $1.6 billion settlement of car owners

## PUBLICATIONS

- Providing a Model Responsive to the Needs of Small Businesses at Formation: A Focus on Ex Ante Flexibility and Predictability, 71 Oregon Law Review 631, 1992

## NOTABLE CASES

- *In re Charles Schwab Securities Litigation* ($235 million settlement)
- *In re Oppenheimer Champion Income Fund Securities Fraud Class Actions* ($52.5 million proposed settlement)
- *Oppenheimer Core Bond Fund Class Action Litigation* ($47.5 million settlement)
- *Morrison Knudsen and Costco Wholesale Corp. Securities Litigation*
- *In re Pharmaceutical Industry Average Wholesale Price Litigation* ($338 million settlement)
- *In re Toyota Motor Corp. Unintended Acceleration Marketing, Sales Practices, and Products Liability Litigation*
- *In re Checking Account Overdraft* cases pending against many of the country's largest banks
- *Washington State Ferry Litigation*, which resulted in one of the most favorable settlements in class litigation in the history of the State of Washington

**PARTNER**

# Sean R. Matt

- *Microsoft Consumer Antitrust* cases
- State Attorneys General *Tobacco Litigation*, assisted with client liaison responsibilities, working closely with assistant attorneys general in Oregon, Ohio, Arizona, Alaska and New York, as well as assisting in all litigation matters

**PARTNER**

# David P. Moody

*Mr. Moody has successfully secured many multi-million dollar recoveries on behalf of vulnerable citizens who have been abused, neglected or exploited.*

**CONTACT**
1918 8th Avenue
Suite 3300
Seattle, WA 98101

(206) 268-9323 office
(206) 623-0594 fax
davidm@hbsslaw.com

**YEARS OF EXPERIENCE**
- 21

**PRACTICE AREAS**
- Personal Injury Litigation
- Civil Rights

**BAR ADMISSIONS**
- State of Washington
- United States Supreme Court
- U.S. Court of Appeals, Ninth Circuit

**EDUCATION**
- George Washington University School of Law, J.D., 1993
- University of Washington, B.A., 1990

## CURRENT ROLE

- Partner, Hagens Berman Sobol Shapiro
- A trial attorney with a passion for representing children, the disabled, elderly and incapacitated citizens

## NOTABLE CASES

- Mr. Moody has secured many multi-million dollar recoveries on behalf of vulnerable citizens who have been abused, neglected or exploited, including:
  - Largest jury verdict ever upheld against the State of Washington, DSHS ($17.8 million)
  - Largest single-plaintiff settlement against the State of Washington, DSHS ($8.8 million)
  - Largest recovery on behalf of three foster children ($7.3 million)
  - Largest single-plaintiff settlement on behalf of a child in Snohomish County, Washington ($5 million)
  - Largest judgment on behalf of an incapacitated child in Spokane County, Washington ($4 million)
  - Judgment for a disabled woman in Santa Clara County, California ($4 million)
  - Largest judgment ever obtained against Eastern State Hospital ($3 million)
  - Largest judgment ever obtained against the State of Washington, Child Study and Treatment Center ($3 million)
  - Judgment for a boy neglected and abused in Snohomish County, Washington ($2.85 million)
  - Judgment for a girl neglected and abused in Pierce County, Washington ($2.85 million)
  - Settlement on behalf of brain-injured infant abused in day care setting ($2.84 million)
  - Largest single-plaintiff jury verdict on behalf of an incapacitated adult in Kitsap County, Washington ($2.6 million)
  - Judgment in the amount of $2.5 million for a client abused at Eastern State Hospital
  - Largest single-plaintiff settlement on behalf of a developmentally disabled male in eastern Washington ($2.25 million)
  - Several additional settlements in excess of $1 million

**PARTNER**

# David S. Nalven

*Extensive experience in prosecution of antitrust, fraudulent marketing, and unfair pricing claims against manufacturers of pharmaceutical products and medical devices, representing prescription drug wholesalers and retailers, health insurers, and consumers in these matters.*

**CONTACT**
55 Cambridge Parkway
Suite 301
Cambridge, MA 02142

(617) 482-3700 office
(617) 482-3003 fax
davidn@hbsslaw.com

**YEARS OF EXPERIENCE**
- 29

**PRACTICE AREAS**
- Pharmaceuticals and Medical Devices
- Antitrust Litigation
- Class-action Litigation
- Consumer Protection
- Securities Litigation

**BAR ADMISSIONS**
- Commonwealth of Massachusetts
- State of New York

**EDUCATION**
- New York University School of Law, J.D., 1985; Senior Research Editor, Annual Survey of American Law; Recipient, Philip Cohen award for greatest contribution by an editor to Annual Survey of American Law
- University of Pennsylvania, B.A., English, Magna Cum Laude, 1980

## CURRENT ROLE

- Partner, Hagens Berman Sobol Shapiro
- Practice focuses on prosecution of federal and multi-state class actions involving the pharmaceutical and medical device industries
- Served in leadership roles in nationwide antitrust class actions against the manufacturers of Ovcon 35, OxyContin, Tricor, Wellbutrin XL, Toprol XL, Norvir, Doryx, Prograf, Nexium, and others
- Prosecuted fraudulent marketing class actions against the manufacturers of Serostim, Nexium, Actimmune, and Zyprexa, as well as substantial matters against medical device manufacturers DePuy Spine, Inc. and Becton Dickinson
- Worked extensively on the nationwide Average Wholesale Price Litigation and in the representation of the State of Connecticut in multiple prescription drug pricing matters

## EXPERIENCE

- Chief of Business and Labor Protection Bureau, Massachusetts Attorney General's Office, Commonwealth of Massachusetts, 1999-2004
- Partner, Prince, Lobel & Tye, LLP, Boston, MA, 1991-1999
- Private practice representing plaintiffs and defendants in civil and criminal business litigation, New York and Massachusetts, 1986-1991
- Clerk to John R. Gibson, United States Court of Appeals for the Eighth Circuit, 1985-1986

## NOTABLE CASES

- *Average Wholesale Price Litigation*
- *Tricor Antitrust Litigation*
- *Wellbutrin XL Antitrust Litigation*
- *DePuy Spine Artificial Disc Litigation*

PARTNER

# Christopher A. O'Hara

*Plays key role in working with notice and claims administrators on all the firm's class settlements and class notice programs.*


**CONTACT**
1918 8th Avenue
Suite 3300
Seattle, WA 98101

(206) 268-9351 office
(206) 623-0594 fax
chriso@hbsslaw.com


**YEARS OF EXPERIENCE**
- 27

**PRACTICE AREAS**
- Antitrust Litigation
- Consumer Protection
- Tax Law
- Securities Litigation
- Pharmaceutical Fraud

**BAR ADMISSIONS**
- State of Washington
- State of Arizona
- U.S. Court of Appeals, Ninth Circuit

**EDUCATION**
- University of Washington, B.A., Political Science, French Language and Literature, 1987
- Seattle University School of Law, J.D., Cum Laude, 1993

## CURRENT ROLE

- Partner, Hagens Berman Sobol Shapiro
- Practice focuses on antitrust, consumer, tax and securities class actions
- Serves as plaintiffs' counsel in Hotel Occupancy Tax litigation against major online travel companies in various jurisdictions across the country
- Active member of firm's Microsoft defense team negotiating claims administration policy and processing rules in twenty consumer and antitrust class-action state settlements around the country
- Key role in working with claims administrators on all class settlements and class notice programs

## RECENT SUCCESS

- Worked on related litigation against Expedia on behalf of a nationwide class of consumers who purchased hotel reservations and paid excessive "taxes and fees" charges. That case resulted in summary judgment in Plaintiffs' favor and an eventual settlement for cash and credits totaling $134 million. Mr. O'Hara also played a leading role for the firm on the $235 million settlement of *In re Charles Schwab Securities Litigation* and the $1.6 billion settlement of *In re Toyota Motor Corp. Unintended Acceleration Marketing, Sales Practices, and Products Liability Litigation*
- Mr. O'Hara deposed more than a dozen of big tobacco's expert witnesses, research scientists and marketing executives for the tobacco litigation, focusing predominantly on the State of Arizona case. Coordinated Arizona's national and local expert witnesses, while contributing to all aspects of discovery and motion practice. Mr. O'Hara played a leading role in the firm's successful defense of the state of Arizona against claims brought by several Arizona Counties in the aftermath of the state's tobacco litigation

## RECOGNITION

- Rising Star, Washington Law and Politics, 2003

## EXPERIENCE

- Crowell & Moring, Paralegal, 1988-1990
- Cozen & O'Connor, Associate, 1993-1997

## NOTABLE CASES

- *Tobacco Litigation* ($206 billion multi-state settlement)
- *Expedia Litigation* ($134 million settlement)
- *Charles Schwab Yieldplus Funds Litigation* ($235 million settlement)
- *Toyota Unintended Acceleration Litigation* ($1.6 billion settlement)
- *Microsoft Antitrust Litigation*

## LANGUAGES

- French

**PARTNER**

# Shana E. Scarlett

*Northern California Super Lawyer, 2013 & 2014*


**CONTACT**

715 Hearst Ave.
Suite 202
Berkeley, CA 94710

(510) 725-3000 office
(510) 725-3001 fax
shanas@hbsslaw.com


**YEARS OF EXPERIENCE**

- 13

**PRACTICE AREAS**

- Antitrust Litigation
- Consumer Protection
- Securities Litigation

**BAR ADMISSIONS**

- State of California
- U.S. District Court
  - Northern District of California
  - Southern District of California
  - Eastern District of California
  - Central District of California
- U.S. Court of Appeals
  - Second Circuit
  - Ninth Circuit
  - Federal Circuit

**EDUCATION**

- Stanford Law School, J.D.
- University of British Columbia, B.A.

## CURRENT ROLE

- Partner, Hagens Berman Sobol Shapiro
- Practice is devoted entirely to representing plaintiffs in complex litigation, and primarily in the areas of antitrust and unfair competition
- One of the team of litigators representing indirect purchaser plaintiffs in the *In re Optical Disk Drive Antitrust Litigation*, alleging a price-fixing conspiracy to stabilize the prices of optical disk drives throughout the United States, in violation of federal and state antitrust laws
- One of the team of co-lead counsel representing indirect purchaser plaintiffs in the *In re Lithium Ion Batteries Antitrust Litigation*
- Represents a class of consumers in the *In re Electronic Books Antitrust Litigation*, pending in the Southern District of New York, where attorneys from Hagens Berman Sobol Shapiro have worked closely with numerous State Attorneys General in representing the rights of consumers

## RECOGNITION

- Northern District of California Super Lawyer, 2013, 2014
- Rising Star Award for Northern California, Super Lawyers, 2009, 2010, 2011

## EXPERIENCE

- Extensive experience representing shareholders in securities matters throughout the country
- Represented investors against defendants in a variety of industries, such as pharmaceutical manufacturers, *(In re Impax Sec. Litig., In re CV Therapeutics, Inc. Sec. Litig., In re Alkermes Sec. Litig.)*, Internet companies (including *In re Verisign, Inc.* and *In re Northpoint Communications Group, Inc. Sec. Litig.)* and other manufactured products (*Ryan v. Flowserve Corp.*)

## LEGAL ACTIVITIES

- Serves on executive committee of the Antitrust Section of the Bar Association of San Francisco

## NOTABLE CASES

- *In re Optical Disk Drive Antitrust Litigation, MDL No. 2143*
- *In re Electronic Books Antitrust Litigation, MDL No. 2293*
- *Pecover v. Electronic Arts, Inc., MDL No. 2420*

**PARTNER**

# Craig R. Spiegel

*After helping obtain recent substantial settlements in cases against drug companies for deceptive marketing, now helping in the firm's attempt to obtain justice for thalidomide victims.*

**CONTACT**
1918 8th Avenue
Suite 3300
Seattle, WA 98101

(206) 268-9328 office
(206) 623-0594 fax
craigs@hbsslaw.com

**YEARS OF EXPERIENCE**
- 35

**PRACTICE AREAS**
- Consumer Protection

**BAR ADMISSIONS**
- California State Bar Association
- Illinois State Bar Association
- Washington State Bar Association

**EDUCATION**
- Harvard Law School, J.D., Cum Laude, 1979
- St. Olaf College, B.A., Summa Cum Laude, 1975

## CURRENT ROLE

- Partner, Hagens Berman Sobol Shapiro
- Practice primarily focuses on class actions concerning unfair pricing of pharmaceutical drugs. Recent cases include actions against AstraZeneca and Merck

## NOTABLE CASES

- Helped obtain a substantial settlement for the State of New York and New York City in their litigation against Merck for losses suffered from deceptive marketing of the prescription drug Vioxx
- Instrumental in obtaining a settlement for a class of Massachusetts consumers and third party payors in their litigation against AstraZeneca, in which the class claimed that AstraZeneca deceptively marketed the prescription drug Nexium as superior to Prilosec
- Deeply involved in the firm's lawsuits on behalf of thalidomide victims, who suffered severe personal injuries when their mothers ingested thalidomide during their pregnancies in the late 1950s and early 1960s, without knowing that thalidomide had not been approved by the FDA

**PARTNER**

# Ronnie Seidel Spiegel

*Ms. Spiegel has played a key role in litigating some of the largest antitrust cases in history, working on all aspects of these cases from filing through trial.*

**CONTACT**
1918 8th Avenue
Suite 3300
Seattle, WA 98101

(206) 268-9343 office
(206) 623-0594 fax
ronnie@hbsslaw.com

**YEARS OF EXPERIENCE**
- 15

**PRACTICE AREAS**
- Antitrust Litigation

**BAR ADMISSIONS**
- State of Washington
- State of Pennsylvania
- U.S. District Court, Eastern District of Pennsylvania
- U.S. District Court, Western District of Washington

**EDUCATION**
- Temple University Beasley School of Law, J.D., Temple Law Review (Research Editor), 1994
- Boston University, B.A., International Relations, 1990

## CURRENT ROLE

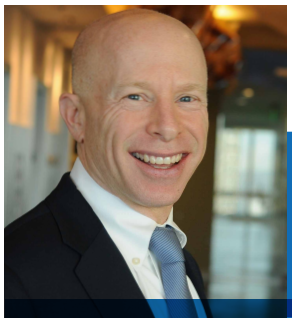
- Partner, Hagens Berman Sobol Shapiro
- Extensive complex litigation experience with a particular focus on antitrust price-fixing cases
- Specializes in managing large-scale and foreign discovery
- Member of the American Bar Association's Antitrust Section

## EXPERIENCE

- Lead Antitrust Attorney and Manager of firm's North Carolina office, Spector Roseman Kodroff & Willis, Philadelphia, PA, Attorney, 1994-2000
- Central Piedmont Community College, Charlotte, NC, Business Law Instructor, 2000-2001

## NOTABLE CASES

- *In re DRAM Antitrust Litigation*
- *In re SRAM Antitrust Litigation*
- *In re Cathode Ray Tube (CRT) Antitrust Litigation*
- *In re TFT-LCD (Flat Panel) Antitrust Litigation*
- *In re Lithium Ion Batteries Antitrust Litigation*
- *In re Brand Name Prescription Drugs Antitrust Litigation*
- *In re NASDAQ Market-Makers Antitrust Litigation*
- *In re Vitamins Antitrust Litigation*
- *In re High Fructose Corn Syrup Antitrust Litigation*
- *In re Commercial Tissue Paper Antitrust Litigation*
- *In re Flat Glass Antitrust Litigation*
- *In re Linerboard Antitrust Litigation*
- *In re Automotive Parts Antitrust Litigation*
- *In re Air Cargo Antitrust Litigation*
- *In re Fasteners Antitrust Litigation*
- *In re Korean Air Antitrust Litigation*
- *In re Polyether Polyols Antitrust Litigation*
- *In re OSB Antitrust Litigation*



**PARTNER**

# Jeffrey T. Sprung

*Mr. Sprung led the fight to pass laws in Washington rewarding whistleblowers for recovering taxpayer money stolen by private companies, resulting in the 2012 enactment of the Washington Medicaid Fraud False Claims Act.*

**CONTACT**
1918 8th Avenue
Suite 3300
Seattle, WA 98101

(206) 268-9329 office
(206) 623-0594 fax
jeffs@hbsslaw.com

**YEARS OF EXPERIENCE**
- 33

**PRACTICE AREAS**
- False Claims Act
- Antitrust Litigation

**BAR ADMISSIONS**
- State of Washington
- District of Columbia

**EDUCATION**
- University of Michigan, B.A., Magna Cum Laude, 1981
- University of Chicago Law School, J.D., 1984

## CURRENT ROLE

- Partner, Hagens Berman Sobol Shapiro
- Specializes in government fraud *qui tam* suits brought under the False Claims Act, representing whistleblowers serving as private Attorneys General
- Key expertise in prosecuting antitrust class actions involving claims of price-fixing
  - $120 million recovered for purchasers of oriented-strand board
  - $139 million recovered for purchasers of polyether polyols
- Key expertise in prosecuting cases against pharmaceutical manufacturers and national health care companies for health care fraud; a major bank for fraud in the securitization of mortgage loans; an ambulance company that resulted in what at the time was the second-largest recovery in the ambulance industry's history; a big-four accounting firm for defrauding the U.S. Department of Justice; contractors for the U.S. Department of Energy concerning accounting fraud at the nuclear clean-up site in Hanford, Washington; and military contractors for procurement fraud

## EXPERIENCE

- Assistant U.S. Attorney, U.S. Attorney's Office for the District of Columbia
  - Specialized in civil fraud matters
  - Won first civil suit for mail, wire and bank fraud brought in the District of Columbia, the first civil suit brought by the government to punish insider trading in the mortgage-backed securities market

## LEGAL ACTIVITIES

- Presented on the False Claims Act to various law schools, including the University of Washington School of Law, and at meetings of Seattle and national bar associations
- Past editor and contributing author of a leading practitioners' guide on civil legal remedies in United States courts for hate crimes
- Current board vice president of Planned Parenthood Votes Northwest
- Past president of Seattle non-profit the Kavana Cooperative
- Member of the Washington Progress Alliance

## PRESENTATIONS

- "How To Represent Whistleblowers Under Washington's New *Qui Tam* Law," Washington State Association for Justice, May 2012
- Testimony before the Judiciary Committee of the Washington State House of Representatives on House Bill 2246, Proposed Washington State Medicaid Fraud False Claims Act, January 2012
- Testimony before the Health and Long Term Care Committee of the Washington State Senate on Senate Bill 5978, Proposed Washington State Medicaid Fraud False Claims Act, December 2012

**PARTNER**

# Jeffrey T. Sprung

- Testimony before the Judiciary Committee of the Washington State House of Representatives on Proposed Washington State Medicaid Fraud False Claims Act, December 2012
- "What To Say If A Whistleblower Calls," WSAJ Roundtable, November 2011

## PUBLICATIONS

- "State could recoup millions under Fraud False Claims Act," The Olympian, March 2012 *download »*
- "'Obamacare' is constitutional. But will the Supreme Court care?," Crosscut.com, September 2011) *download »*
- Striking Back At Bigotry: Remedies Under Federal and State Law for Violence Motivated by Racial, Religious, and Ethnic Prejudice," National Institute Against Prejudice & Violence, 1986

## NOTABLE CASES

- *Amgen*
  Whistleblower played a key role in uncovering an alleged illegal scheme organized by pharmaceutical giant Amgen. The whistleblower, a research scientist and medical doctor, alerted authorities that Amgen was manipulating the scientific record regarding two of its blockbuster drugs, triggering prescriptions for off-label uses of the drugs. ($762 million recovered)
- *Sound Physicians*
  Brought on behalf of former regional vice president of operations for Sound Physicians, a leading provider of primary care physicians. Whistleblower claimed that Sound senior management was aware of significant upcoding of patient bills, causing Medicare to overpay for services by tens of millions of dollars. ($14.5 million settlement)
- *OSB*
  Suit alleged that the manufacturers of oriented strand board (OSB) conspired in violation of federal antitrust law to restrict the supply of OSB structural panel products and raise prices. ($120.7 millions settlement)
- *Polyether Polyols*
  Complaint alleged that the defendant manufacturers unlawfully agreed to fix, raise, maintain, or stabilize the prices of, and allocate the customers and markets for, Polyether Polyol Products sold in the United States and its territories between Jan 1, 1999 and Dec 31, 2004, in violation of the federal antitrust laws. The case is ongoing, with settlements to date of $139.3 million. In May 2013, after trial, Dow Chemical Co. was ordered to pay $1.2 billion in damages. That order is currently on appeal.

**PARTNER**

# Shayne C. Stevenson

*Since fighting against sweatshops and the exploitation of undocumented workers with the workers' rights organization he founded at Yale, Shayne has focused his legal career on prosecuting cases against individuals and businesses who victimize others by violence, deception, and fraud.*

**CONTACT**
1918 8th Avenue
Suite 3300
Seattle, WA 98101

(206) 268-9340 office
(206) 623-0594 fax
shaynes@hbsslaw.com

**YEARS OF EXPERIENCE**
- 14

**PRACTICE AREAS**
- Whistleblower Law (False Claims Act, SEC, IRS, CFTC)
- Class Action
- Appellate Litigation
- Human Rights/Public Interest Law

**BAR ADMISSIONS**
- State of Washington

**EDUCATION**
- Yale Law School, J.D., 2000
- Gonzaga University, B.A., Philosophy and Political Science, Truman Scholar, Summa Cum Laude (first-in-class), 1996

## CURRENT ROLE

- Partner, Hagens Berman Sobol Shapiro
- Leads the firm's whistleblower practice
- Litigated and argued cases in federal district courts and at the courts of appeal across the country and is handling whistleblower and other matters in several jurisdictions
- His whistleblower practice includes, among other areas of focus, off-label promotion of drugs and medical devices, illegal kickbacks, Medicare and Medicaid reimbursement and coding abuse, home health care and hospice fraud, financial fraud, various forms of market manipulation, securities and bond market fraud, mortgage fraud, tax fraud, education fraud, defense industry and other government contractor fraud
- Experienced in handling False Claims Act and other whistleblower cases against some of America's largest financial companies, medical device and pharmaceutical companies, hospitals, mortgage companies and others
- Currently handling *qui tam* litigation under the False Claims Act in several federal and state courts, while also handling whistleblower actions under the SEC, CFTC and IRS whistleblower programs
- Litigates select human rights and other public interest matters, including litigation against the Rio Tinto mining conglomerate that reached the Supreme Court in 2013 in a suit under the Alien Tort Statute for war crimes and genocide on the island of Bougainville, in Papua New Guinea
- Litigated and settled class-action cases on behalf of consumers and workers, and was previously a prosecutor who successfully tried several felony cases to juries and argued several cases in trial and appellate courts

## RECENT SUCCESS

- Mr. Stevenson handled the settlement of both False Claims Act whistleblower cases against Bank of America that culminated in the historic $1 billion settlement between the Department of Justice and Bank of America addressing mortgage fraud. First, whistleblower client Mr. Kyle Lagow (in *U.S. ex rel. Lagow v. Countrywide Financial Corp.*) received $14,625,000 million for his help in sparking a Department of Justice investigation of Countrywide and Bank of America's fraudulent mortgage origination and appraisal practices. Second, whistleblower client Mr. Gregory Mackler (in *U.S. ex rel. Mackler v. Bank of America*) helped the Department of Treasury recover several million dollars from Bank of America for allegedly violating its agreement with the Department to properly administer the Home Affordable Mortgage Program (HAMP) for struggling homeowners.

**PARTNER**

# Shayne C. Stevenson

## EXPERIENCE

- King County Prosecuting Attorney's Office, Felony Prosecutor
- United States Attorney's Office, District of Connecticut, Intern

## PUBLICATIONS

- Author, "The Honorable Betty B. Fletcher: A Tribute to a Legal Trailblazer," Federal Bar Association, November 2012

## PRESENTATIONS

- "Human Rights Law After Kiobel," University of Washington School of Law, November 2013
- "Financial Fraud Enforcement," False Claims Act: All Points of View, National Conference, April 2013
- "Strategy After Kiobel and Bauman," International Human Rights Seminar, University of Washington School of Law, 2013
- "Alien Tort Statute and Human Rights Litigation," University of Washington School of Law, November 2012
- "Protecting Whistleblowers, Protecting the Public," Whistleblowing: Law, Compliance, & the Public Interest. American Whistleblower Tour Presented by the Government Accountability Project, March 2012

## MEDIA INTERVIEWS

- With $2B J&J Deal, FCA Proves It's Still The Anti-Fraud King *view »*
- Reuters: Bank of America Fraud Trial Spotlights Whistleblower Awards *view »*
- Law 360: SEC's 2nd Whistleblower Award Is Tip Of The Iceberg *view »*
- Law 360: 5 Tips for Building Bridges with Whistleblower Clients *view »*
- Wall Street Journal: Exchanges Get Closer Inspection *view »*
- Reuters: Analysis: Complaints rise over complex U.S. stock orders *view »*
- Wall Street Journal: For Superfast Stock Traders, a Way to Jump Ahead in Line *view »*
- ABC News: Bank of America, Countrywide Whistleblower Kept 3-year Secret *view »*
- CNN: UBS Whistleblower Nets $104 Million Reward *view »*
- Reuters: A BofA Whistleblower Emerges from the Shadows *view »*
- CNN Money: Whistleblowers Win $46.5 Million in Foreclosure Settlement *view »*
- Houston Chronicle: The Price of Courage *view »*
- Reuters: Bank of America Whistleblower Receives $14.5 Million in Mortgage Case *view »*
- Wall Street Journal: Lawsuit Hits Marketing by Medtronic *view »*

## NOTABLE CASES

- *U.S. ex rel. Lagow v. Bank of America, Eastern District of New York* (False Claims Act – FHA fraud)
- *U.S. ex rel. Mackler v. Bank of America, Eastern District of New York* (False Claims Act – HAMP fraud)
- *U.S. ex rel. Nowak v. Medtronic, Inc., District of Massachusetts* (False Claims Act – off-label marketing)
- *U.S. ex rel. Kite v. Besler Consulting, et al., District of New Jersey* (False Claims Act – Medicare "outlier" fraud)

**PARTNER**

# Shayne C. Stevenson

- *U.S. ex rel. Polansky v. Pfizer, Inc., Eastern District of New York (*False Claims Act – off-label marketing)
- *Sarei v. Rio Tinto, Central District of California* (Alien Tort Statute – international human rights litigation)
- *Tittle v. United States Postal Service, Western District of Washington* (Privacy Act – employee class action)
- *Hutchinson v. British Airways Plc, Eastern District of New York* (Montreal Convention – consumer class action)

**PARTNER**

# Ivy Arai Tabbara

*Ms. Tabbara worked on a multi-million dollar settlement for uninsured individuals against Tenet Healthcare.*

**CONTACT**
1918 8th Avenue
Suite 3300
Seattle, WA 98101

(206) 268-9358 office
(206) 623-0594 fax
ivy@hbsslaw.com

**YEARS OF EXPERIENCE**
- 12

**PRACTICE AREAS**
- Antitrust
- Consumer Protection
- Environmental Law
- Employment Law
- Intellectual Property

**BAR ADMISSIONS**
- State of Washington

**EDUCATION**
- Georgetown University Law Center, J.D., Georgetown International Environment Law Review, 2000
- Princeton University, B.A., History, Certificate African-American Studies, Cum Laude, 1997

## CURRENT ROLE

- Partner, Hagens Berman Sobol Shapiro
- Practice focuses on complex class-action lawsuits in the areas of antitrust, consumer protection, employment, environmental and product liability
- Also specializes in patent litigation

## EXPERIENCE

- Extern to Judge Thomas S. Zilly, U.S. District Court for the Western District of Washington, 1998

## PUBLICATIONS

- "The Silent Significant Minority: Japanese-American Women, Evacuation, and Internment During World War II," in *Women and War in the Twentieth Century: Enlisted with or Without Consent*, 1999

### Recent success

- Baby Products Antitrust ($35 million settlement)
- Bayer Combination Aspirin Consumer Fraud ($15 million settlement)
- "Thomas the Tank Engine" Toys Lead Paint Products Liability ($30 million settlement of federal and state cases)
- Tenet Healthcare Cases II for uninsured patients nationwide (recovered multi-millions and significant non-monetary relief including discounted rates, financial counseling, reasonable payment schedules and uniform collection policies)

## LEGAL ACTIVITIES

- Member, Federal Bar Association of the Western District of Washington and Civil Rights Legal Clinic, 2009-present; Trustee, 2009-2010

## NOTABLE CASES

- *Domestic Drywall Antitrust Litigation* representing indirect and direct purchasers of wallboard in the United States
- *Checking Account Overdraft Litigation* representing banking customers whose accounts were allegedly charged repeated overdraft fees
- Patent litigation representing inventors in *Shinsedai v. Nintendo* (patent involving sports-themed motion control games in several Nintendo Wii games) and *Flatworld v. Apple* (patent involving the swipe function of all Apple products)
- *Optical Disk Drive Antitrust Litigation*
- *DRAM Antitrust Litigation*

**PARTNER**

# Andrew M. Volk

*Worked extensively on consumer claims against Expedia resulting in the largest summary judgment award in Washington State history.*

**CONTACT**
1918 8th Avenue
Suite 3300
Seattle, WA 98101

(206) 268-9371 office
(206) 623-0594 fax
andrew@hbsslaw.com

**YEARS OF EXPERIENCE**
- 23

**PRACTICE AREAS**
- Patent Litigation
- ERISA Litigation
- Hotel Tax Litigation

**BAR ADMISSIONS**
- State of New York
- State of Oregon
- State of Washington

**EDUCATION**
- Cornell Law School, J.D., Cum Laude, Articles Editor for Cornell International Law Review, 1991
- Columbia University, B.A., English, 1986

## CURRENT ROLE

- Partner, Hagens Berman Sobol Shapiro.
- Practice focuses on consumer litigation, including automobile defect litigation against General Motors and Kia
- Works on hotel tax collection cases against the major online travel companies (OTC). To date, the firm has achieved settlements on behalf of Brevard County, Fla., and the Village of Rosemont, Ill., and a finding against the OTCs in administrative proceedings on behalf of the City of Denver, Colo. that is currently on appeal.
- Extensively involved in ERISA cases for breach of fiduciary duties, including settlements of claims on behalf of employees of Enron, Washington Mutual Bank, General Motors, the Montana Power Company and Sterling Savings Bank

## RECENT SUCCESS

- Worked on litigation against Expedia on behalf of a nationwide class of consumers who purchased hotel reservations and paid excessive "taxes and fees" charges. That case resulted in summary judgment in Plaintiffs' favor and an eventual settlement for cash and credits totaling $134 million.

## EXPERIENCE

- Mr. Volk was extensively involved in the tobacco litigation in the late 1990s
- Legal Writing and Research, University of Oregon School of Law, Instructor
- Attorney, Legal Aid Society, New York City

## NOTABLE CASES

- *Expedia Litigation* ($134 million settlement)
- *Tobacco Litigation* on behalf of States (resolved in $206 billion settlement)
- *Enron ERISA Litigation* ($265 million settlement)
- *Washington Mutual Bank ERISA Litigation* ($49 million settlement)
- *General Motors ERISA Litigation* ($37.5 million settlement)

**PARTNER**

# Tyler S. Weaver

*Tyler has successfully represented clients and classes as far-ranging as securities investors, homeowners, patent holders, business owners, and protestors.*

**CONTACT**
1918 8th Avenue
Suite 3300
Seattle, WA 98101

(206) 268-9355 office
(206) 623-0594 fax
tyler@hbsslaw.com

**YEARS OF EXPERIENCE**
- 15

**PRACTICE AREAS**
- Consumer Protection
- Patent Litigation
- Antitrust Litigation
- Securities / Investor Fraud

**BAR ADMISSIONS**
- State of Washington
- State of Oregon

**EDUCATION**
- University of California – Berkeley, Boalt Hall School of Law, J.D., 1996
- University of Oregon, B.A., English, Cum Laude, 1992

## CURRENT ROLE

- Partner, Hagens Berman Sobol Shapiro
- Litigates in a wide variety of practice areas; his cases have varied from litigation over the civil rights of protesters to securities-fraud cases on behalf of investors to consumer-protection litigation to patent litigation
- Admitted to practice in Washington and Oregon, and has made numerous appearances in United States district courts and appellate courts, as well as the trial and appellate courts of the State of Washington

## EXPERIENCE

- Clerk, Honorable Justin L. Quackenbush in the United States District Court for the Eastern District of Washington, 1999-2001

## NOTABLE CASES

- *Bank of America Mortgage Modification Litigation* (ongoing litigation)
- *Metropolitan Securities Litigation* (recovered $38 million)
- *Raytheon Securities Litigation* (recovered $39 million)
- *Diamond Parking Litigation* (recovered $2.2 million)
- *WTO Wrongful Arrest Litigation* (recovered $1 million and non-monetary relief)

**PARTNER**

# Jason A. Zweig

*Mr. Zweig was a key member in the High Fructose Corn Syrup Antitrust Litigation which resulted in a $531 million recovery—one of the largest antitrust and securities class actions in history.*

**CONTACT**
555 Fifth Avenue
Suite 1700
New York, NY 10017

(212) 856-7227 office
(917) 210-3980 fax
jasonz@hbsslaw.com

**YEARS OF EXPERIENCE**
- 16

**PRACTICE AREAS**
- Complex Litigation
- Securities Litigation
- Antitrust Litigation
- Consumer Protection

**BAR ADMISSIONS**
- State of New York
- U.S. District Court
  - Southern District of New York
  - Eastern District of New York
  - Eastern District of Michigan
  - Eastern District of Wisconsin
- U.S. Court of Appeals
  - Second Circuit
  - Third Circuit

**EDUCATION**
- Columbia Law School, J.D., Executive Editor for Columbia Journal of Environmental Law, 1998
- Indiana University, B.S., 1995

## CURRENT ROLE

- Partner, Hagens Berman Sobol Shapiro
- Leads the firm's New York office
- Extensively experienced in representing plaintiffs in antitrust, securities, consumer and other complex litigation
- Experience representing large entities in opt-out litigation, as well as plaintiffs in class-action litigation
- Key member in some of the largest antitrust and securities class actions in history including the *High Fructose Corn Syrup Antitrust Litigation* which resulted in a $531 million recovery
- Leads the firm's representation of a number of airlines and other merchants who have opted out of the class in *In re Payment Card Interchange Fee and Merchant Discount Litigation, MDL No. 1720 (E.D.N.Y.)*
- Leads the firm's efforts in the *New Jersey Tax Sales Certificates Antitrust Litigation*, an antitrust class action in which the firm has been appointed co-interim class counsel (more than $8 million recovered)
- Co-led the firm's representation of payphone owners who sued a large national telecommunications carrier, over unpaid dial-around compensation

## EXPERIENCE

- Partner, Kaplan Fox & Kilsheimer LLP in New York, 2003-2010
- Associate, Proskauer Rose LLP in New York where he practiced in all areas of civil and criminal litigation
- Judicial intern to the Honorable Jed S. Rakoff, U.S. District Court Judge for the Southern District of New York

## RECOGNITION

- Rising Star, New York Super Lawyers Magazine, 2011 & 2013

## PRESENTATIONS

- "Class Action Settlements and Attorneys' Fees," Presentation to the Cleveland Metropolitan Bar Association, October 2008
- "Class Actions in the Wake of AT&T v. Concepcion," Presentation to the New Jersey Association for Justice November 2011

**PARTNER**

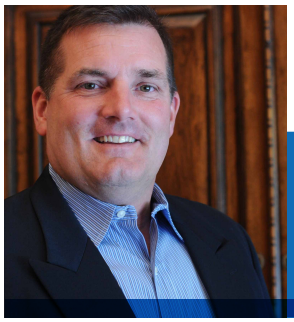
# Jason A. Zweig

## LEGAL ACTIVITIES

- The Association of the Bar of the City of New York
- The American Bar Association Sections of Litigation, Antitrust Law, and International Law
- Advisory Board of the Cartel and Criminal Practice Committee of the ABA Section of Antitrust Law
- The New York State Bar Association
- The Indiana University Student Foundation Board of Associates
- The Jewish Board of Family and Children's Services, Children & Adolescents in Residence Divisional Board
- Former Co-Chair of the Young Lawyer's Division of the UJA Federation-New York

## NOTABLE CASES

- H*ill v. J.P. Morgan - Madoff-related Litigation* ($218 million recovered)
- *High Fructose Corn Syrup Antitrust Litigation* ($531 million recovered)
- *In re Air Cargo Antitrust Litigation* (Over $500 million recovered—case still pending)
- *In re Polyether Polyols Antitrust Litigation* (Over $150 million recovered—case still pending)
- H*ydrogen Peroxide Antitrust Litigation* ($97 million recovered)
- Plastics Additives Antitrust Litigation ($46 million recovered)
- *NBR Antitrust Litigation* ($34 million recovered)
- *Linens Antitrust Litigation* ($11 million recovered)
- *In re Merrill Lynch & Co., Inc. Securities, Derivative & ERISA Litigation* ($475 million recovered)
- *Merrill Lynch Research Reports Securities Litigation* ($125 million recovered)
- *Salomon Analyst Metromedia Litigation* ($35 million recovered)



**OF COUNSEL**

# Gregory Arnold

*Led efforts on behalf of three law firms protecting the interests of more than 25,000 asbestos sufferers, resulting in the denial of the debtors' proposed plan of reorganization and a substantial payment to the claimants.*

**CONTACT**
55 Cambridge Parkway
Suite 301
Cambridge, MA 02142

(617) 475-1954 office
(617) 482-3003 fax
grega@hbsslaw.com

**YEARS OF EXPERIENCE**
- 18

**PRACTICE AREAS**
- Antitrust Litigation
- Personal Injury Litigation

**BAR ADMISSIONS**
- Massachusetts
- U.S. District Court, District of Massachusetts
- Court of Appeals, 2nd Circuit

**EDUCATION**
- Fairfield University, B.S., Marketing, 1991
- Villanova University School of Law, J.D., 1996 (served on Law Review)

## CURRENT ROLE

- Of Counsel, Hagens Berman Sobol Shapiro
- Practice focuses on prosecution of large-scale, nationwide class actions, primarily against the pharmaceutical industry
- Works on behalf of large health care providers, seeking recoveries from tortfeasors associated with payments the providers make as a result of the harm they have caused
- Works on the Direct Purchaser Class Action cases in Lipitor and Effexor

## RECENT SUCCESS

- Represented a variety of states, including the Commonwealth of Massachusetts, in their cases against the tobacco industry
- Led efforts on behalf of three law firms protecting the interests of more than 25,000 asbestos sufferers, resulting in the denial of the debtors' proposed plan of reorganization and a substantial payment to the claimants
- Prior bankruptcy experience included representing an Ad Hoc Committee of Trade Creditors in the *In re WorldCom* matter, resulting in a near 50% increase in the clients' recovery
- Represented large groups of investors in litigation brought against offshore hedge funds, pursuing the recovery of hundreds of millions of dollars
- Represented national and international clients on a full range of patent litigation issues, including proceedings before the International Trade Commission
- Successful eminent domain trials, representing companies and individuals on a variety of labor and employment issues including non-compete agreements and various intellectual property matters

## EXPERIENCE

- Income Partner, Litigation Department for a large Boston-based law firm

## NOTABLE CASES

- Bankruptcy-related litigation
  - Lead efforts on behalf of three law firms protecting the interests of more than 25,000 claimants suffering from asbestos-related diseases, to block a proposed plan of reorganization. During more than 5 years of litigation, succeeded in forcing numerous changes to the proposed plan, including the voting methodology, amount of contribution and distributions. Pursued several interlocutory appeals throughout the case. Oversaw and managed all aspects of this complex litigation, culminating in a successful 20-day bench trial conducted in the Bankruptcy Court for the Southern District of New

**OF COUNSEL**

# Gregory Arnold

York, after which the Court rejected the proposed bankruptcy plan, thereby securing a substantial benefit for the clients.

- One of a team of lawyers representing the interests of The Ad Hoc Committee of Trade Creditors in the *In re* WorldCom matter, resulting in increasing our clients' recoveries by nearly 50%.

› *Mass Torts/Class Actions*

- Played pivotal role in representing the Commonwealth of Massachusetts in landmark litigation against the Tobacco Industry, including establishing personal jurisdiction in Massachusetts over the United Kingdom-based parent company to Brown & Williamson. This work product, as well as the resulting Court decision, was relied upon by Attorneys General throughout the country in their cases against the Tobacco Industry.

- Following the Commonwealth of Massachusetts' action, lead Brown Rudnick's efforts in pursuing a Successfully defended a class action case brought against a major credit card issuer, obtaining a denial of class certification and dismissal of individual's claims.

› *Complex Financial Litigation*

- Successfully represented a group of more than 65 investors in offshore hedge funds, pursuing recoveries for over $600 million of invested capital lost due to fraudulent practices of hedge fund manager.

› *General Commercial Litigation*

- Represented former attorney whose malpractice insurer had refused defense and indemnity after an office worker embezzled millions of dollars in client funds. Following a five-week Superior Court trial, secured a verdict in favor of the client, holding the insurance company responsible for more than $2 million in liability to the insured's former client. Successfully defended insurer's appeal of the trial court decision in the Appeals Court. Subsequently brought a case against the insurance company under Chapter 93a, resulting in a multi-million dollar recovery for the client.

- Obtained a substantial recovery for a client whose intellectual property was wrongfully assigned to a third-party. Achieved a pre-trial settlement with the assigning party while pursuing a bench trial in Middlesex Superior Court against the party using the software.

- Served as "first chair" in a complex, multi-week bench trial in federal court over breach of multi-million dollar commercial contract concerning sale of radiology equipment, including prevailing on counter-claim seeking to impose multi-million dollar liability.

› *Patent Litigation*

- Represented national and international clients on a full range of patent litigation issues, including trials. Successful litigator before the United States International Trade Commission, including obtaining favorable outcome for a client protecting their intellectual property rights against an infringer based in Sweden.

› *Labor and Employment Litigation*

- Defended client interests in a variety of matters, including those involving non-competition agreements, wrongful terminations, and harassment claims.

- Successfully represented companies enforcing non-compete agreements against former employees, as well as new employers/former employees in avoiding the terms of non-compete agreements.

**OF COUNSEL**

# Gregory Arnold

Handled trials before administrative bodies, including the United States Department of Labor, including defending a client against claims made under the Surface Transportation Assistance Act ("STAA") following the termination of an employee/truck driver.

› *Other Litigation*

- Represented client in an eminent domain trial, resulting in a jury award more than 10 times the Commonwealth's pro tanto offer.

**OF COUNSEL**

# Karl Barth

*Key member on firm's securities fraud cases against companies such as Boeing, Einstein Noah Bagel Corp., Pepsi Puerto Rico Bottling Co., PriceCostco, Templeton Vietnam Opportunities Fund and Wall Data.*

**CONTACT**
1918 8th Avenue
Suite 3300
Seattle, WA 98101

(206) 623-7292 office
(206) 623-0594 fax
karlb@hbsslaw.com

**YEARS OF EXPERIENCE**
- 19

**PRACTICE AREAS**
- Securities Litigation
- Investor Rights

**BAR ADMISSIONS**
- State of Washington

**EDUCATION**
- Georgetown University Law Center, J.D.
- University of Virginia, B.S. Accounting, Certified Public Accountant

## CURRENT ROLE

- Of Counsel, Hagens Berman Sobol Shapiro
- Previously with the firm from 1994 through 2004 before he rejoined in 2010
- Key member on firm's securities fraud cases against companies such as Boeing, Einstein Noah Bagel Corp., Identix, Midcom Communications, MidiSoft, Oppenheimer Delta Partners, Pepsi Puerto Rico Bottling Co., PriceCostco, Templeton Vietnam Opportunities Fund and Wall Data
- Represents investors seeking to protect assets and recover investment losses from companies engaged in securities and accounting wrongdoing

## EXPERIENCE

- Certified Public Accountant
- Certified Fraud Examiner
- Certified in Financial Forensics
- Consultant at a national financial consulting firm specializing in expert witness testimony on accounting and financial issues
- Graduated from Georgetown University Law Center, and from the University of Virginia with a B.S. in Accounting

**OF COUNSEL**

# Nicholas S. Boebel

*Rising Star in Intellectual Property Litigation —Minnesota Law and Politics, 2010-2013*

**CONTACT**
1918 8th Avenue
Suite 3300
Seattle, WA 98101

(206) 268-9324 office
(206) 623-0594 fax
nickb@hbsslaw.com

**YEARS OF EXPERIENCE**
- 14

**PRACTICE AREAS**
- Intellectual Property
- Complex Litigation

**BAR ADMISSIONS**
- Supreme Court of Minnesota
- District of Minnesota
- Eastern District of Wisconsin
- Federal Circuit Court of Appeals

**EDUCATION**
- University of Minnesota Law School, J.D., Magna Cum Laude
- Carlton College

## CURRENT ROLE

- Of Counsel, Hagens Berman Sobol Shapiro
- Practice focuses on intellectual property litigation involving patents, copyrights and trade secrets
- Successfully represented individuals and businesses in complex IP claims against large corporations

## RECOGNITION

- Rising Star in intellectual property litigation, Minnesota Law and Politics in 2010, 2011, 2012, & 2013

## EXPERIENCE

- Founding Partner, Myers, Boebel & MacLeod LLP
- Associate, Robins, Kaplan, Miller & Ciresi LLP

## NOTABLE CASES

- *TV Interactive Data Corporation v. Microsoft Corp.*
- *Telluride Asset Management LLC v. Eric Falkenstein*
- *St. Clair Intellectual Property Consultants, Inc. v. Canon, Inc. et al.*
- *St. Clair Intellectual Property Consultants, Inc. v. Sony Corp.*
- *Eolas Technologies, Inc. and The Regents of the University of California v. Microsoft Corporation*

**OF COUNSEL**

# Mark S. Carlson

*Mr. Carlson is an active member of the legal community frequently making presentations to legal forums and industry groups on intellectual property law.*

**CONTACT**
1918 8th Avenue
Suite 3300
Seattle, WA 98101

(206) 268-9346 office
(206) 623-0594 fax
markc@hbsslaw.com

**YEARS OF EXPERIENCE**
- 27

**PRACTICE AREAS**
- Patent Infringement
- Trademark and Trade Dress Infringement
- Trade Secret Misappropriation
- Complex Litigation

**BAR ADMISSIONS**
- State of Washington
- United States District Court, Western District of Washington
- United States Court of Appeals, Federal Circuit
- Numerous other jurisdictions pro hac vice

**EDUCATION**
- University of Puget Sound School of Law, J.D., Cum Laude, 1987
- University of Washington, B.A., History, 1984

## CURRENT ROLE

- Of Counsel, Hagens Berman Sobol Shapiro
- Working in intellectual property since 1987, handling a full range of intellectual property litigation focused primarily on patent infringement disputes
- Currently representing FlatWorld Interactives in patent infringement litigation against Apple, Samsung and LG involving touch screen gesture recognition technology in the iOS and Android operating systems, Thought Inc. against Oracle involving software application data persistence technology, and the University of Utah in patent infringement litigation regarding RNA interference therapies for genetic diseases
- Active member of the legal community making presentations in legal forums and industry groups on intellectual property law
- Active participant in the Seattle Intellectual Property Inn of Court and Washington State Patent Law Association

## RECENT CASES

- Twice litigated against AT&T on wireless handset, network and telematics patents
- Twice litigated on behalf of The Nautilus Group in patent, trademark, false advertising and unfair competition cases involving the BowFlex exercise machine and other exercise equipment
- Represented the owner of tradedress rights to the Stanley Classic vacuum bottle in trade dress litigation against Thermos
- Represented a software patent licensor in litigation against Microsoft over the scope of a license for relational database technology

## EXPERIENCE

- Dorsey & Whitney, Patent Litigation Group
- Bogle & Gates, Intellectual Property Litigation Group

## PUBLICATIONS/PRESENTATIONS

- "The European Privacy Directive for Personal Data," American Electronics Association Newsline for the Washington State Council
- "Recovery of Pure Economic Loss in Product Liability Actions: An Economic Comparison of Three Legal Rules," University of Puget Sound Law Review
- "Patent Litigation and the Non-Practicing Entity," ITRI IP Executives Conference, University of Washington Foster School of Business, 2012

**OF COUNSEL**

# Mark S. Carlson

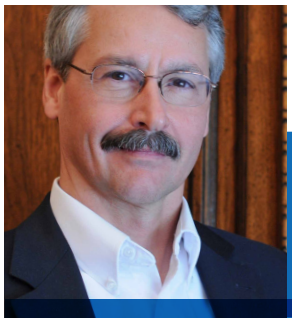
- "Vernor v. Autodesk, the Future, or Demise, of the First Sale and Essential Step Defenses in Copyright," Seattle Intellectual Property Inn of Court, 2011
- "What Are My Odds? A Disciplined Approach to Assessing Case Value and Litigation Risk," Seattle Intellectual Property Inn of Court, 2010
- "Medimmune v. Genentech: Consequences for Patent Licenses, Litigation and Settlements," 2009
- "E-Discovery and the New Federal Rules," 2008
- "Recent Developments in Pharmaceutical Patents," 2008

## LEGAL ACTIVITIES

- Seattle Intellectual Property Inn of Court
- Washington State Patent Law Association
- American Intellectual Property Law Association

## NOTABLE CASES

- *Thought v. Oracle*
- *FlatWorld v. Apple; v. Samsung; v. LG*
- *University of Utah v. Max Planck Institute, et al.*
- *Airbiquity v. AT&T, et al.*
- *Timeline v. Microsoft; v. Oracle; v. Sagent*
- *The Nautilus Group v. Icon Health and Fitness*



**OF COUNSEL**

# Leif Garrison

*Mr. Garrison takes on such notable defendants as America Online, Bristol-Myers Squibb, PepsiCo, Inc., Texaco, Inc., Toyota USA, Liberty Mutual, and Prudential.*


**CONTACT**

2301 E. Pikes Peak Avenue
Colorado Springs, CO
80909

(719) 327-5829 office
(719) 635-2920 fax
leifg@hbsslaw.com


**YEARS OF EXPERIENCE**

- 29

**PRACTICE AREAS**

- Complex Civil Litigation
- Insurance
- Class-action Litigation
- Personal Injury
- Pharmaceuticals
- Consumer Protection

**BAR ADMISSIONS**

- Colorado Supreme Court
- U.S. Court of Appeals, 10th Circuit
- U.S. District Court, District of Colorado

**EDUCATION**

- Southern Illinois University School of Law, J.D., Magna Cum Laude, 1984, Notes and Comments Editor for the Law Journal, Moot Court Board
- University of Iowa, B.S., Political Science, 1980

## CURRENT ROLE

- Of Counsel, Hagens Berman Sobol Shapiro
- Practice focuses on complex civil litigation
- Notable defendants include:
  - America Online
  - Bristol-Myers Squibb
  - Colorado Department of Human Services
  - Hoffmann-La Roche, Inc.
  - PepsiCo, Inc.
  - Texaco, Inc.
  - Toyota USA
  - U-Haul Corporation
  - Uniden, Inc.

  Insurance Companies:
  - Allstate
  - American Family
  - Farmers
  - Liberty Mutual
  - Prudential
  - Progressive
  - State Farm

## EXPERIENCE

- Before joining Hagens Berman, practice focused on complex insurance, products liability, consumer protection, pharmaceutical, class-action and personal injury litigation

## LEGAL ACTIVITIES

- Faculty of Federal Advocates
- Board of Directors and legal education seminar speaker, Colorado Trial Lawyers Association
- Law Library Board of Directors, El Paso County Bar Association

## PUBLICATIONS

- "The Illinois Business Takeover Act," Southern Illinois University Law Journal, 1983

## NOTABLE CASES

- *Thornton v. DaVita Healthcare Partners Inc.*, a class action on behalf of injured dialysis patients
- *In re Fresenius Granuflo/Naturalyte Dialysate Products Liability Litigation*, an MDL case involving thousands of injured dialysis patients
- *NFL Concussion Litigation*
- *In re Accutane Litigation*, a NJ mass tort action involving over 8,000 people injured by the acne medication Accutane

**OF COUNSEL**

# Jon T. King

*Mr. King has represented individual and corporate plaintiffs in numerous high-profile matters, including antitrust and right of publicity cases, class actions, and other complex litigation.*

**CONTACT**
715 Hearst Ave.
Suite 202
Berkeley, CA 94710

(510) 725-3034 office
(510) 725-3001 fax
jonk@hbsslaw.com

**YEARS OF EXPERIENCE**
- 22

**PRACTICE AREAS**
- Antitrust

**BAR ADMISSIONS**
- California
- U.S. Court of Appeals, Ninth Circuit
- U.S. District Court, Central District of California
- U.S. District Court, Eastern District of California
- U.S. District Court, Northern District of California

**EDUCATION**
- University of California, Hastings College of the Law, J.D., 1999, Cum Laude
- Santa Clara University, B.S., 1992

## CURRENT ROLE

- Of Counsel, Hagens Berman Sobol Shapiro
- Represented plaintiffs in dozens of direct and indirect purchaser antitrust class actions that have resulted in hundreds of millions of dollars in settlements

## EXPERIENCE

- Partner, Law Offices of Jon T. King, Walnut Creek, CA, 2012-2013
- Partner, Hausfeld LLP, San Francisco, CA, 2008-2012
- Associate, Cohen Milstein Hausfeld & Toll PLLC, San Francisco, CA, 2008
- Associate, The Furth Firm LLP, San Francisco, CA, 2000-2008
- Associate, Skadden, Arps, Slate, Meagher & Flom LLP, Los Angeles, CA, 1999-2000

## PRESENTATIONS

- Panelist, 2010, American Bar Association's National Convention, "From Music, Film and Art to Motorcycles and Other Sports: Hot Issues and Disputes in Entertainment, Art and Sports Licensing Deals"
- Panelist, March 2011, Harvard Law School's Sports Law Symposium, regarding NCAA litigation
- Panelist, 2010 and 2012, Santa Clara University's Sports Law Symposium, regarding NCAA litigation
- Panelist, 2010, Florida Coastal University's Sports Law Panel, "Exploitation of the Student Athletes? Evaluating Bloom, Oliver, O'Bannon and Keller"

## NOTABLE CASES

- *In re* NCAA Student-Athlete Name & Likeness Licensing Litigation, where he served as one of the lead attorneys for the antitrust plaintiffs
- Represented putative classes of current and former NCAA men's Division I basketball and football players who contend that the NCAA, Electronic Arts, and others unlawfully used the players' images and likenesses in television rebroadcasts and video games
- Represented retired NFL players in a right of publicity class action against the NFL, captioned *Dryer v. NFL*, in which the plaintiffs contend that the NFL wrongfully used retired players' images in NFL Films productions
- Represented the Golden Gate Bridge, Highway and Transportation District as one of the plaintiffs in *In re Insurance Brokerage Antitrust Litigation, MDL No. 1663 (D.N.J.)* ($220 million in settlements)

**OF COUNSEL**

# Michella A. Kras

*State Bar of Arizona President's Volunteer Service Award, 2010*

**CONTACT**
11 West Jefferson St.
Suite 1000
Phoenix, AZ 85003

(602) 224-2627 office
(602) 840-3012 fax
michellak@hbsslaw.com

**YEARS OF EXPERIENCE**
- 11

**PRACTICE AREAS**
- Class Action
- Commercial Litigation
- Complex Civil Litigation

**BAR ADMISSIONS**
- State of Arizona
- United States District Court for the District of Arizona

**EDUCATION**
- Arizona State University College of Law, J.D., Magna Cum Laude, 2003
- Arizona State University, B.A., 1997

## CURRENT ROLE

- Of Counsel, Hagens Berman Sobol Shapiro
- Practice focuses on class actions and complex litigation
- Extensive expertise in complex litigation in a variety of commercial contexts, including actions involving various contractual breaches, RICO violations, securities fraud, negligent and intentional torts, and federal and state employment law

## RECENT RECOGNITION

- State Bar of Arizona President's Volunteer Service Award, 2010
- Rising Star, Southwest Super Lawyers, 2014

## EXPERIENCE

- Member of the commercial and securities litigation group in the Phoenix office of an international law firm where she worked on complex litigation matters involving private securities offerings, private lending, asset purchase agreements, shareholder and member disputes, and federal and state wage and hour disputes
- Associate, Steptoe & Johnson LLP, 2007-2013
- Associate, Gammage & Burnham, work included civil litigation, employment law, election law, health care law and estate planning, 2004-2007
- Judicial Law Clerk, Arizona Supreme Court, work consisted of a variety of appeals, including civil cases, criminal actions and attorney discipline, 2003-2004

## LEGAL ACTIVITIES

- Consistent commitment to pro bono work. She's worked on several pro bono matters, including obtaining Special Juvenile Immigrant Status for a teenager that was brought to the United States as a toddler and later abandoned by her parent
- Volunteer and member of the steering committee for Wills for Heroes, an organization that provides free estate planning for Arizona's first responders

## NOTABLE CASES

- Successfully litigated and obtained summary judgment on multiple matters involving breach of contract, conversion, intentional interference and breach of fiduciary duty, even successfully piercing the corporate veil

**OF COUNSEL**

# Bernadette Lee

**CONTACT**
1918 8th Avenue
Suite 3300
Seattle, WA 98101

(206) 623-7292 office
(206) 623-0594 fax
bernadettel@hbsslaw.com

**YEARS OF EXPERIENCE**
- 22

**PRACTICE AREAS**
- Intellectual Property

**BAR ADMISSIONS**
- California

**EDUCATION**
- University of Colorado, Colorado Springs, M.S., Computer Science
- Santa Clara University School of Law, J.D.
- University of California, San Diego, B.S., Computer Engineering

## CURRENT ROLE

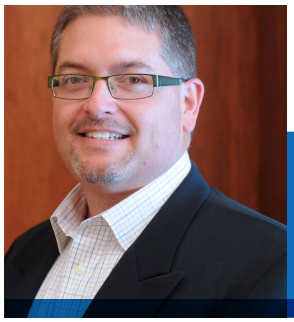
- Of Counsel, Hagens Berman Sobol Shapiro
- Practice focuses on intellectual property

## EXPERIENCE

- Prior to joining Hagens Berman, Ms. Lee worked on patent prosecution for seven years

## NOTABLE CASES

- *Thought v. Oracle*: patent infringement case involving seven patents relating to data persistence
- *Brixham v. Juniper*: patent infringement case involving four patents relating to router redundancy
- *AIT v. Force.com*: patent infringement involving two patents relating to platforms that enable users to build customized web applications



**OF COUNSEL**

# Ed Notargiacomo

*Mr. Notargiacomo is involved in a number of large class-action suits against large pharmaceutical manufacturers in both the consumer protection and antitrust areas.*

**CONTACT**
55 Cambridge Parkway
Suite 301
Cambridge, MA 02142

(617) 482-3700 x1960 office
(617) 482-3003 fax
ed@hbsslaw.com

**YEARS OF EXPERIENCE**
- 25

**PRACTICE AREAS**
- Consumer Protection
- Complex Commercial
- Antitrust Litigation
- Class Actions

**BAR ADMISSIONS**
- State of Massachusetts
- U.S. District Court, District of Massachusetts

**EDUCATION**
- Boston University, J.D., with Honors, 1994, served on the Boston University Public Interest Law Review
- Brown University, B.A., 1989

## CURRENT ROLE

- Of Counsel, Hagens Berman Sobol Shapiro
- Practice focuses on complex consumer, commercial and antitrust litigation

## RECENT SUCCESS

- Relafen Antitrust Litigation ($85 million settlement)
- *In re Lupron Marketing and Sales Practices Litigation* ($150 million settlement)
- *In re Pharmaceutical Manufacturers Average Wholesale Price Litigation* ($300 million in settlements)
- *In re Vytorin/Zetia Marketing, Sales Practices, and Products Liability Litigation* ($80 million settlement)
- *In re Flonase Antitrust Litigation* ($150 million settlement)
- *In re Wellbutrin Antitrust Litigation* ($21 million settlement)
- *In re Skelaxin Antitrust Litigation* (settlement pending)

## EXPERIENCE

- Served as Special Assistant Attorney General for Massachusetts in its suit against the tobacco industry to recoup funds expended to treat smoking-related illnesses
- Helped represent Rhode Island, New Hampshire and Maine in their suits against the tobacco industry
- Represented the city of Boston in its suit against gun manufacturers and distributors in order to force them to take responsibility for violence perpetrated with firearms that they negligently and illegally distributed in cities like Boston
- Experience also includes consumer class actions against predatory lenders and employment litigation against a major retail chain, as well as intense involvement in high-profile impact litigation against cigarette manufacturers and the firearms industry
- Lieff, Cabraser, Heimann & Bernstein, LLP, Boston, MA
  Litigation of consumer class actions to redress major corporate misconduct. Co-lead effort on behalf of the City of Boston and the Boston Public Health Commission in suit against major firearms manufacturers in an effort to recover the cost of gun violence to the City of Boston and its citizens. Heavily involved in extended negotiations to settle municipal gun suits on behalf of the City of Boston. Engaged in the litigation of several suits against major pharmaceutical manufacturers for illegal activities that artificially inflate the price of prescription drugs paid by consumers.
- Law Offices of Edward Notargiacomo, Boston, MA
  Primary focus in civil litigation, including construction and contract claims, employment disputes as well as some personal injury. Represented clients in commercial and residential real estate conveyancing as well as advised clients on land use and zoning issues. Experience with mediation, arbitration and negotiation and settlement of a wide range of disputes. Drafted and negotiated contracts, commercial

**PARTNER**

# Ed Notargiacomo

leases and settlement agreements. Provided aggressive representation to clients in construction and contract disputes, copyright actions, zoning and land use matters, and commercial and residential lease disputes.

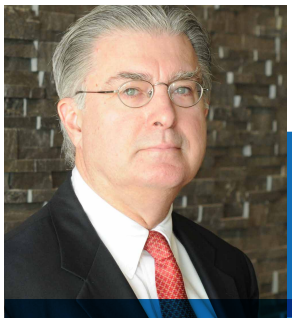
- Brown, Rudnick, Freed & Gesmer, P.C., Boston, MA
  Experience in real estate conveyancing and finance, including representation of international investment funds seeking to acquire investment grade commercial property in the United States. Provided legal representation in a wide range of practice areas including real estate development and complex real estate finance, zoning regulations, and commercial lease negotiation. Two years concentrating in commercial litigation, representing a wide range of business clients in state and federal courts.

## PUBLICATIONS

- Boston University Public Interest Law Review, 1994

## NOTABLE CASES

- *In re Relafen Antitrust Litigation* ($85 million settlement)
- *In re Lupron Marketing and Sales Practices Litigation* ($150 million settlement)
- *In re Pharmaceutical Manufacturers Average Wholesale Price Litigation* ($300 million in settlements)
- *State of Connecticut v. Eli Lilly* ($25 million settlement)
- Pfizer Neurontin Promotions Litigation (jury verdict and judgment for $142 million)
- *In re Wellbutrin SR Antitrust Litigation*
- *In re Vytorin/Zetia Marketing, Sales Practices and Products Liability Litigation*
- *In re Flonase Antitrust Litigation*



**OF COUNSEL**

# George W. Sampson

*Mr. Sampson has either taken or defended the deposition of nearly every leading antitrust economist, whether at the class certification stage or the liability and damages phases of complex antitrust class actions.*

**CONTACT**
1918 8th Avenue
Suite 3300
Seattle, WA 98101

(206) 268-9345 office
(206) 623-0594 fax
george@hbsslaw.com

**YEARS OF EXPERIENCE**
- 37

**PRACTICE AREAS**
- Antitrust Litigation

**BAR ADMISSIONS**
- Washington
- New York
- U.S. District Court
  - Eastern District of New York
  - Southern District of New York
  - Western District of Washington
  - Northern District of California
- U.S. Court of Appeals
  - Second Circuit
  - Eighth Circuit
  - Ninth Circuit
  - Eleventh Circuit
- U.S. Supreme Court

**EDUCATION**
- New York University School of Law, J.D., 1977
- Cornell University, B.A., Economics, 1973

## CURRENT ROLE

- Of Counsel, Hagens Berman Sobol Shapiro
- Practice focuses on antitrust class actions, and served as co-lead counsel in the Disposable Contact Lens Litigation and the Visa/MasterCard debit card cases
- Principal role at the firm is to assist expert witnesses in antitrust cases

## EXPERIENCE

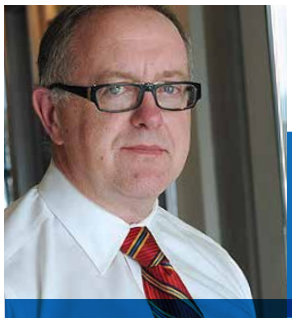
- Chief, New York Attorney General's Office, Antitrust Bureau where he oversaw a 22-person staff, served as attorney general liaison to the federal-state Executive Working Group-Antitrust and was involved in a heavy trial practice, primarily in federal courts and often in conjunction with several states
- Helped develop antitrust claims in the *Tobacco Litigation*
- As Special Assistant Attorney General for the State of West Virginia, Mr. Sampson won a $16.2 million settlement against Visa and MasterCard which funded several sales tax holidays for West Virginia consumers

## LEGAL ACTIVITIES

- American Bar Association Antitrust Section, Member
- Washington State Bar, Executive Committee of the Antitrust and Consumer Protection
- American Antitrust Institute, Advisory Board Member

## NOTABLE CASES

- *Visa/MasterCard Debit Litigation* ($3 billion settlement)
- *Visa/MasterCard State Litigation* ($16.2 million settlement)
- *Disposable Contact Lens Litigation* ($92 million after seven weeks of trial)
- *DRAM Antitrust Litigation*
- *SRAM Antitrust Litigation*
- *Babies R Us Resale Price Maintenance Litigation*
- *LCD Antitrust Litigation*
- *Optical Disk Drive (ODD) Antitrust Litigation*
- *Highway bid rigging trial* ($7.8 million jury verdict)
- *Insurance antitrust litigation*, lead counsel for New York ($30 million settlement)
- *Resale price maintenance settlement with Nintendo* ($15 million return to consumers)



**OF COUNSEL**

# Nick Styant-Browne

*Served as lead counsel in the trial against Australia's major newspaper publishers, including "News," which resulted in the deregulation of the system of distribution of newspapers and magazines throughout Australia.*

**CONTACT**
1918 8th Avenue
Suite 3300
Seattle, WA 98101

(206) 268-9373 office
(206) 623-0594 fax
nick@hbsslaw.com

**YEARS OF EXPERIENCE**
- 22

**PRACTICE AREAS**
- Human Rights
- Environmental Protection
- Consumer Rights

**BAR ADMISSIONS**
- Washington State Bar Association
- Australian State Bars including Victoria, NSW, and WA
- Supreme Court of Papua New Guinea

**EDUCATION**
- University of Melbourne

## CURRENT ROLE

- Of Counsel, Hagens Berman Sobol Shapiro
- Practiced class-action and multi-plaintiff litigation since 2001
- Current projects include Rio Tinto Litigation for human rights and environmental abuses at the Panguna mine on the Pacific island of Bougainville
- Has been lead counsel in both bench and jury class action trials in Federal Court

## EXPERIENCE

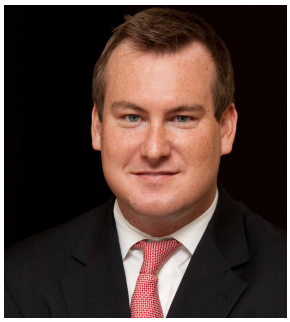
- Senior partner (one of five) at Australia's largest plaintiff law firm working on class actions, environmental litigation and antitrust litigation

## LEGAL ACTIVITIES

- Past elected member, Council of Greenpeace, Australia

## NOTABLE CASES

- Served as co-counsel on Australia's then-largest class action against a wholly owned subsidiary of Exxon, arising out of a gas plant explosion which shut down the gas supply to Melbourne and most of the State of Victoria for 10 days
- *Rio Tinto Litigation*
  Mr. Styant-Browne's practice has involved several projects in the Pacific Rim, acting principally on behalf of the indigenous peoples of poor developing Pacific nations claiming environmental and human rights abuses. His successes and passion for the causes of indigenous peoples have led to him being retained by the national governments of Pacific States including Tuvalu and the Kingdom of Tonga
- *BHP Environmental Litigation*
  Mr. Styant-Browne's meticulous outlining of the environmental devastation caused by the Ok Tedi mine in Papua New Guinea helped force mining companies adopt stricter environmental standards in developing countries
- *Toyota Unintended Acceleration Litigation*
- *Thalidomide Drug Litigation*



**ASSOCIATE**

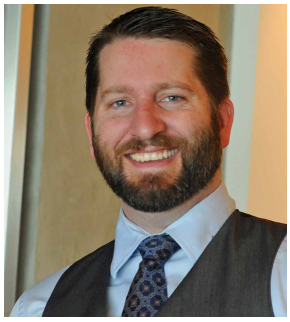
## Thomas E. Ahlering

1144 W. Lake St., Suite 400
Oak Park, IL 60301
(708) 628-4961
toma@hbsslaw.com

Thomas E. Ahlering is an associate in Hagens Berman's Chicago office where he focuses his practice in nationwide class action and antitrust litigation. Tom's current and primary work includes litigating against the NCAA, to improve its concussion policies and establish a medical monitoring program for college athletes who have suffered mild traumatic brain injury during collegiate athletics, in *Arrington v. NCAA, 11-cv-06356 (N.D. IL. 2011)*. Tom's current work also includes (1) contesting North American Company for Life and Health Insurance Company's deferred annuity sales practices which impact senior citizens; (2) prosecuting claims against Iowa companies for conspiring to fix the price of school lunch food at Iowa elementary schools; (3) acting as lead counsel in cases against the Mortgage Electronic Registration System ("MERS") for failure to record mortgages as required by state law; and (4) representing qui tam litigation under the False Claims Act against some of America's largest companies in cases currently under seal.

Prior to joining Hagens Berman, Tom was a litigation associate in the Chicago office of a national law firm where he gained invaluable experience and insight into the defense side of litigation as a member of the firm's White-Collar Crime/Internal Investigations and Litigation practice groups.

While in law school, Tom received various academic scholarships, served as a staff member and editor for the John Marshall Law Review, and clerked at the Chicago Mercantile Exchange and with the Honorable Richard J. Elrod.



**ASSOCIATE**

## Gregory W. Albert

1918 Eighth Ave., Suite 3300
Seattle, WA 98101
(206) 268-9335
gregalbert@hbsslaw.com

Gregory Albert proudly joined Hagens Berman in early 2012. Greg began plaintiff's practice in 2008, representing victims of First Amendment violations at a public interest firm. Since that time, Greg has prosecuted many class action and personal injury cases in areas of antitrust price-fixing, police excessive force, government liability, and insurance bad faith. Greg has developed successful novel legal theories in First Amendment jurisprudence, third-party liability, and class action mootness law. Greg also serves as an advisor on the University of Washington Department of Philosophy advisory board.

Albert's career representing plaintiffs began with early successes in government liability and personal injury litigation. A few weeks out of law school, he was tasked with developing a novel legal theory to rescue an insurance bad faith claim from an expected loss to summary judgment. He received his bar license just in time to orally argue and win the motion, resulting in a settlement outside of policy limits. In response to his early achievements, Mr. Albert's firm trusted him to argue dispositive motions in diversity of cases and to chair a superior court trial only a few months after passing the bar exam.

**ASSOCIATE**

## Ian Bauer

1918 Eighth Ave., Suite 3300
Seattle, WA 98101
(206) 268-9377
ianb@hbsslaw.com

Mr. Bauer is an associate at Hagens Berman's Seattle office, joining the firm in 2013. Previously, he served in the Washington State Attorney General's Office, beginning in 2004 as Assistant Attorney General in the Office's Social & Health Services Division. While in this role, Mr. Bauer advised and represented the Department of Social and Health Services (DSHS) in complex litigation concerning the operation and funding of state public assistance programs, the foster care system and mental health system.

After a brief stint in private practice, Mr. Bauer joined the Attorney General's Office's Torts Division in 2008, where he represented DSHS, the Washington State Department of Transportation (WSDOT), the Washington State Patrol (WSP) and other state agencies in numerous high-profile tort, civil rights and employment cases. In addition to carrying his own caseload, Mr. Bauer served as a Team Leader for the Division's DSHS and WSDOT/WSP Teams. In this role, Mr. Bauer coordinated the defense of civil rights and tort litigation against DSHS, WSDOT, WSP and other state agencies, and supervised two teams of highly-experienced attorneys and professional staff. Mr. Bauer also routinely advised executive-level agency staff and state risk managers on a wide variety of complex legal issues, including tactical litigation decisions, the implications of legislative, judicial, political and policy decisions, and emergent situations involving the risk of significant tort exposure. During this period, Mr. Bauer was selected as a "Rising Star" by Washington Law & Politics Magazine

**ASSOCIATE**

## Ashley Bede

1918 Eighth Ave., Suite 3300
Seattle, WA 98101
(206) 268-9388
ashleyb@hbsslaw.com

Ashley Locke Bede is an associate at Hagens Berman's Seattle office, where she focuses on antitrust class actions and consumer protection cases. Prior to joining Hagens Berman, Ms. Bede was a litigation associate at Perkins Coie for five years, focusing on antitrust and consumer protection, product liability, internet law, and intellectual property.

Ms. Bede maintains an active pro bono practice, including repeated successful representation of domestic violence survivors in obtaining protection orders and dissolutions. Additionally, Ms. Bede was the key drafter of an amicus curiae brief in the Ninth Circuit Court of Appeals case M*cCormack v. Hiedeman* in September 2012, on behalf of Legal Voice and other organizations. The Ninth Circuit adopted her analysis and research directly into its published opinion.

**ASSOCIATE**

## John DeStefano

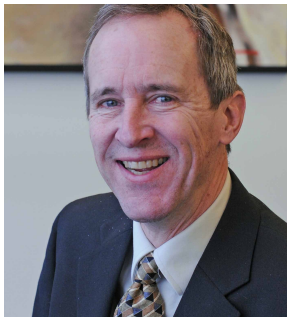
11 West Jefferson St., Suite 1000
Phoenix, AZ 85003
(602) 224-2628
johnd@hbsslaw.com

John M. DeStefano is an associate at Hagens Berman where he focuses on consumer class actions and complex litigation. He works in the firm's Phoenix office, helping support its growing caseload in the American Southwest and California.

Before joining Hagens Berman, Mr. DeStefano was a member of the commercial litigation group at the largest law firm in Arizona. While there, he gained extensive experience with disputes in state and federal court, with a particular focus on complex motions, case strategy, and cutting-edge issues relating to the financial crisis and the financial services industry.

Mr. DeStefano has also undertaken significant pro bono efforts. He obtained a published reversal of a deportation order in a hotly disputed immigration appeal before the U.S. Court of Appeals for the Ninth Circuit. More recently, he represented an international human rights organization as amicus curiae in the U.S. Supreme Court case *Moloney v. United States*, opposing the enforcement of a foreign law enforcement subpoena for confidential academic research in the U.S.

From 2007 to 2009, Mr. DeStefano served as a federal law clerk at the trial and appellate levels.



**ASSOCIATE**

## Steve W. Fimmel

1918 Eighth Ave., Suite 3300
Seattle, WA 98101
(206) 268-9362
stevef@hbsslaw.com

Steve W. Fimmel joined Hagens Berman in 2006, bringing more than 13 years of experience working on high-value, document-intensive cases. He worked for five years at Oles, Morrison, Rinker & Baker where he was a key member of the litigation team that won a judgment in Idaho Federal District Court involving claims exceeding $400 million. The court sustained an unprecedented termination for default against the Lockheed-Martin Corporation for breach of contract to remediate a nuclear waste site at the Idaho National Engineering Laboratory.

Prior to his work at Oles, Morrison, Rinker & Baker, Mr. Fimmel was an associate for seven years representing Hanford downwinders at the Hanford Litigation Office in Seattle.

**ASSOCIATE**

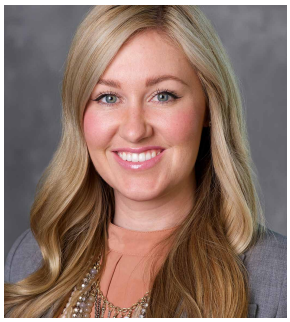
## Catherine Gannon

1918 Eighth Ave., Suite 3300
Seattle, WA 98101
(206) 268-9319
catherineg@hbsslaw.com

Catherine Y.N. Gannon is an associate at Hagens Berman. Her practice focuses mostly on securities and antitrust matters, as well as nationwide consumer protection cases involving large corporations. She has extensive experience working with expert witnesses, often in economic and other highly technical areas.

Prior to joining Hagens Berman, Ms. Gannon worked at leading law firms in both New York City and Toronto, Canada. She also gained government experience while on special assignment with Canada's Department of Finance, where she assisted with economic and trade negotiations at the G-20, IMF, and the Paris Club.

In addition, Ms. Gannon has developed a broad pro bono practice with an emphasis on healthcare and disability rights. She has successfully served as lead counsel seeking access to specialized education programs for autistic students in the New York City public school district and has repeatedly advocated for prisoners with mental health needs. She is also fluent in French.



**ASSOCIATE**

## Rachel E. Freeman

11 West Jefferson St., Suite 1000
Phoenix, AZ 85003
(602) 224-2636
rachelf@hbsslaw.com

Ms. Freeman is an associate at Hagens Berman's Phoenix office, where she has worked since late 2011. Her practice focuses on complex civil litigation and nationwide class actions, including consumer fraud and mass tort. In March 2012, Ms. Freeman was a member of the trial team responsible for a $5.25 million dollar jury verdict on behalf of an Ohio plaintiff who was badly burned while trying to rescue her paraplegic son from his burning home. The verdict is believed to be the largest in Columbiana County, Ohio history.

Ms. Freeman worked on behalf of student-athlete plaintiffs in the highly publicized cases *Keller v. Electronic Arts* and *In re NCAA Student-Athlete Name and Likeness Licensing Litigation*. The cases allege that video game manufacturer Electronic Arts, the National Collegiate Athletic Association, and the Collegiate Licensing Company violated state right of publicity laws and the NCAA's contractual agreements with student-athletes by using the names, images, and likenesses of the student athletes in EA's NCAA-themed football and basketball video games.

Prior to pursuing a legal career, Ms. Freeman spent three years as a professional NFL cheerleader for the Arizona Cardinals, and traveled with the squad to Iraq, Kuwait, and the United Arab Emirates to perform for troops stationed overseas.

**ASSOCIATE**

## Anthea D. Grivas

1918 Eighth Ave., Suite 3300
Seattle, WA 98101
(206) 268-9307
antheag@hbsslaw.com

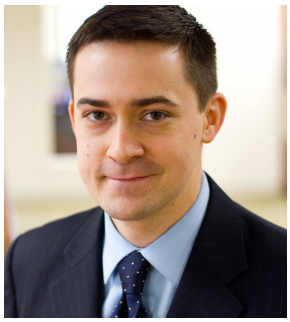
Anthea Grivas is an associate at Hagens Berman where she has practiced since 2009. She focuses her practice primarily on antitrust matters and nationwide consumer protection cases against large corporations. Ms. Grivas also has over a decade of in-depth eDiscovery experience, including planning and management, collection, processing, review, training, and development of improved methodology.

**ASSOCIATE**

## Heidi Hansen Kalscheur

715 Hearst Ave., Suite 202
Berkeley, CA 94710
(510) 725-3038 office
heidik@hbsslaw.com

Heidi Hansen Kalscheur is an associate with the firm and a 2012 graduate of the University of California, Hastings College of the Law. Heidi was a member of the Moot Court Board and the Hastings Appellate Project. She was also a Senior Editor of the Hastings Constitutional Law Quarterly and authored 'About "Face": Using Moral Rights to Increase Copyright Enforcement in China' 39 Hastings Const. L.Q. 513 (2012). While at Hastings, she was part of a national championship moot court team and a member of Law Students for Reproductive Justice. Heidi received her Master's degree in Art History from the Courtauld Institute of Art, London, and her undergraduate degree in Art History from the University of Wisconsin. She was a summer extern for the Honorable Carla Woehrle of the United States District Court in Los Angeles. Heidi is admitted to the California Bar.



**ASSOCIATE**

## Daniel J. Kurowski

1144 W. Lake St., Suite 400
Oak Park, IL 60301
(708) 628-4963
dank@hbsslaw.com

Daniel J. Kurowski is an associate at Hagens Berman's Chicago office, where he has worked since 2006. His current work with the firm includes a number of large class actions, including: (1) litigating against the National Collegiate Athletic Association to improve its concussion policies for student-athletes; (2) contesting North American Company for Life and Health Insurance Company's deferred annuity sales practices, particularly as those practices impact senior citizens; (3) suing on behalf of a putative class of third-party payors of the prescription cancer pain drug Actiq, allegedly marketed and sold by Cephalon, Inc. for non-cancer uses; and (4) challenging Family Video Movie Club, Inc.'s alleged violations of the Fair Labor Standards Act and similar state laws for failing to pay hourly employees for "off-the-clock" work and miscalculating overtime pay. His practice also includes representing individual student-athletes suffering concussion injuries in suits alleging negligence and other claims against their schools.

While in law school, Mr. Kurowski received various academic scholarships, served as a staff member and Lead Articles Editor for The John Marshall Law Review, and received an award for an appellate brief he submitted in connection with a national moot court competition. Along with his studies, Mr. Kurowski worked in the private and governmental legal sectors, including interning with the U.S. Department of Housing and Urban Development's Office of Fair Housing and Equal Opportunity, the U.S. Attorney's Office for the Northern District of Illinois, and working with Hon. Ronald A. Guzman and his staff, a judge sitting with the U.S. District Court for the Northern District of Illinois. Before joining Hagens Berman, Mr. Kurowski worked as a judicial law clerk with Hon. Maria Valdez and Hon. Paul E. Plunkett.

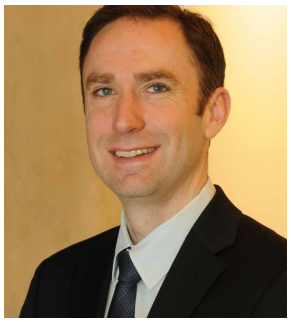
**ASSOCIATE**

## Jeffrey A. Lang

1918 Eighth Ave., Suite 3300
Seattle, WA 98101
(206) 268-9357
jeffl@hbsslaw.com

Jeffrey A. Lang is an associate at Hagens Berman. Since joining the firm in 2005, he has worked on document intensive cases involving the firm's consumer protection, antitrust and investor fraud litigation.. Mr. Lang has several years of experience across a variety of practice areas.

Prior to joining Hagens Berman, he was a special project attorney at Preston Gates Ellis, where he was involved in the Microsoft Antitrust Litigation. He also gained experience in land-use, SEPA, and zoning and building compliance through his positions with Whalen & Company and the Law Offices of Dan Clawson.



**ASSOCIATE**

## Martin D. McLean

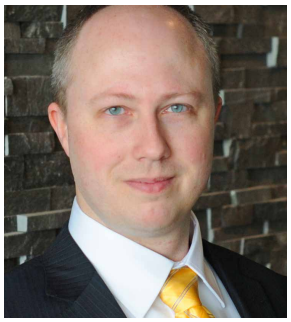
1918 Eighth Ave., Suite 3300
Seattle, WA 98101
(206) 268-9359
martym@hbsslaw.com

Martin D. McLean is an associate at Hagens Berman, where he has worked since 2007.

Mr. McLean represents individuals who have suffered catastrophic personal injury or loss. Mr. McLean's clientele includes a wide range of individuals, from children who have suffered harm while in state care, to vulnerable elderly residents who have experienced neglect in care facilities.

In addition, Mr. McLean has been at the forefront of litigation involving the Washington Public Records Act. In November 2011, Mr. McLean obtained the largest Public Records Act judgment ever awarded against the State of Washington. Two years prior, Mr. McLean obtained what is now the third largest Public Records Act judgment ever awarded against the State of Washington.

As a member of the Hagens Berman personal injury group, Mr. McLean has also contributed to several lawsuits resulting in multi-million dollar recoveries on behalf of the firm's clients.



**ASSOCIATE**

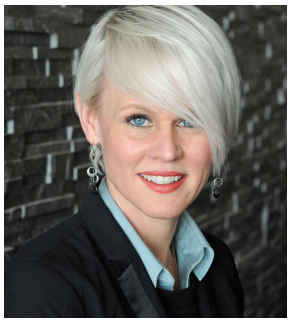
## Ryan B. Meyer

1918 Eighth Ave., Suite 3300
Seattle, WA 98101
(206) 268-9366
ryanm@hbsslaw.com

Ryan Meyer is an associate at Hagens Berman's Seattle office, where he focuses on intellectual property litigation, including patent, trademark, copyright and trade secret cases. He has experience handling a wide range of intellectual property matters for local and international clients.

Prior to working at Hagens Berman, Mr. Meyer was an associate at Dorsey & Whitney LLP from 2008-2012. At Dorsey, Mr. Meyer specialized in patent cases involving pharmaceuticals, medical devices, telecommunications, software and mechanical devices.

Before pursuing a legal career, Mr. Meyer worked as an associate scientist for Combimatrix Corporation in the molecular biology and organic chemistry departments.



**ASSOCIATE**

## Shelby R. Smith

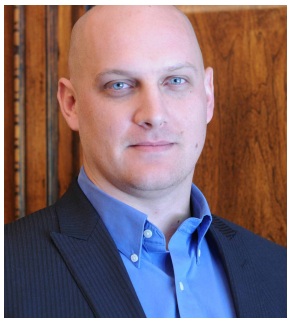
1918 Eighth Ave., Suite 3300
Seattle, WA 98101
(206) 268-9370
shelby@hbsslaw.com

Shelby began her career as a deputy prosecutor for the King County Prosecutor's office in 2000. She tried over 100 cases including numerous high-profile domestic violence, sexual assault, and violent felonies. She has dedicated her career to serving vulnerable victims of violent crimes.

Ms. Smith previously worked as a litigation associate at Williams Kastner, where she planned and executed a civil caseload involving defense of physicians, hospitals, dentists and other healthcare providers. While at Williams Kastner, Ms. Smith developed successful litigation strategies, handled case discoveries, secured depositions, managed trial preparation, drafted and argued legal motions, and conducted voir dire and jury trials.

Ms. Smith currently represents victims who have suffered severe personal injuries due to their mothers ingesting thalidomide during pregnancy in the late 1950's and early 1960's without knowing that the drug had not been approved by the FDA.

She continues to represent victims of domestic violence and sexual assault to obtain protection orders so that their abusers cannot have any contact with them. She also represents crime victims who wish to keep their counseling records private during criminal proceedings.



**ASSOCIATE**

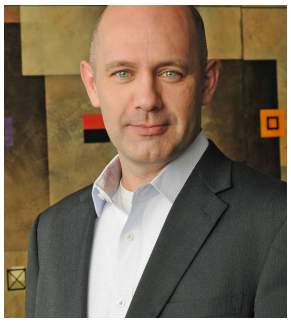
## Craig Valentine

2301 E. Pikes Peak Ave.
Colorado Springs, CO 80909
(719) 327-5825
craigv@hbsslaw.com

Craig Valentine is an associate at Hagens Berman's Colorado Springs office, where he has worked since 2010. He specializes in complex consumer protection, pharmaceutical, and personal injury cases. Mr. Valentine currently devotes the majority of his practice to class cases against major insurance companies as well as other consumer protection class actions.

Mr. Valentine is actively involved in his community. He volunteers through a number of charitable organizations and currently serves as a Commissioner on the Colorado Springs Independent Ethics Commission.

Mr. Valentine received a B.S. from Brigham Young University. He received his law degree from Washington University in St. Louis School of Law, where he received awards for both academic excellence and public service.



**ASSOCIATE**

# Garth Wojtanowicz

1918 Eighth Ave., Suite 3300
Seattle, WA 98101
(206) 268-9326
garthw@hbsslaw.com

Garth Wojtanowicz is an associate at Hagens Berman's Seattle office where he works on consumer protection cases. He is currently focused on cases against Fresenius Medical Care, N.A., and DaVita, Inc., the first and second largest dialysis companies in the United States, relating to those companies' use of GranuFlo. He is also working on a nationwide class action against medical waste disposal company Stericycle, Inc., challenging that company's pricing practices which resulted in hundreds of millions of dollars in over-charges to doctor's offices, dentist offices, hospitals and similar businesses.

Mr. Wojtanowicz worked on the Toyota Sudden, Unintended Acceleration (SUA) class-action lawsuit on behalf of Toyota owners and lessees, which resulted in an historic settlement recovery valued at $1.6 billion.

Mr. Wojtanowicz volunteers his time as a non-profit director for Girls Giving Back and the Blossoming Hill Montessori School and has worked as a volunteer attorney for the Northwest Immigrant Rights Project.

Mr. Wojtanowicz was named a "Rising Star" by Super Lawyers Magazine in 2006, 2007 and 2010, and is admitted to practice in both Washington and California. He graduated with a B.A. in English from the University of Washington (U.W.) in 1997 and received his law degree from the U.W. School of Law in 2000.

Client#: 569834 HAGENBER

# ACORD™ CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 10/13/2014

**THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.**

**IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).**

| PRODUCER | CONTACT NAME: | |
|---|---|---|
| Kibble & Prentice, a USI Co SC<br>601 Union Street, Suite 1000<br>Seattle, WA 98101 | PHONE (A/C, No, Ext): 206 441-6300 | FAX (A/C, No): 610-362-8503 |
| | E-MAIL ADDRESS: Select@KPcom.com | |

| INSURER(S) AFFORDING COVERAGE | NAIC # |
|---|---|
| INSURER A : Travelers Indemnity Co of CT | 25682 |
| INSURER B : Travelers Indemnity Company | 25658 |
| INSURER C : Travelers Prop Cas Co of Americ | 36161 |
| INSURER D : | |
| INSURER E : | |
| INSURER F : | |

INSURED
Hagens Berman Sobol Shapiro LLP
1918 Eighth Ave, Suite 3300
Seattle, WA 98101

**COVERAGES** **CERTIFICATE NUMBER:** **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

| INSR LTR | TYPE OF INSURANCE | ADDL INSR | SUBR WVD | POLICY NUMBER | POLICY EFF (MM/DD/YYYY) | POLICY EXP (MM/DD/YYYY) | LIMITS | |
|---|---|---|---|---|---|---|---|---|
| A | GENERAL LIABILITY | x | x | 6809427H26A1442 | 03/01/2014 | 03/01/2015 | EACH OCCURRENCE | $2,000,000 |
| | X COMMERCIAL GENERAL LIABILITY | | | | | | DAMAGE TO RENTED PREMISES (Ea occurrence) | $300,000 |
| | CLAIMS-MADE X OCCUR | | | | | | MED EXP (Any one person) | $5,000 |
| | | | | | | | PERSONAL & ADV INJURY | $2,000,000 |
| | | | | | | | GENERAL AGGREGATE | $4,000,000 |
| | GEN'L AGGREGATE LIMIT APPLIES PER: | | | | | | PRODUCTS - COMP/OP AGG | $4,000,000 |
| | X POLICY PRO-JECT LOC | | | | | | | $ |
| A | AUTOMOBILE LIABILITY | x | x | BA1863L25614SEL | 03/01/2014 | 03/01/2015 | COMBINED SINGLE LIMIT (Ea accident) | $1,000,000 |
| | ANY AUTO | | | | | | BODILY INJURY (Per person) | $ |
| | ALL OWNED AUTOS / SCHEDULED AUTOS | | | | | | BODILY INJURY (Per accident) | $ |
| | X HIRED AUTOS / X NON-OWNED AUTOS | | | | | | PROPERTY DAMAGE (Per accident) | $ |
| | | | | | | | | $ |
| B | X UMBRELLA LIAB X OCCUR | x | x | CUP3286Y6241442 | 03/01/2014 | 03/01/2015 | EACH OCCURRENCE | $5,000,000 |
| | EXCESS LIAB CLAIMS-MADE | | | | | | AGGREGATE | $5,000,000 |
| | DED X RETENTION $5,000 | | | | | | | $ |
| C | WORKERS COMPENSATION AND EMPLOYERS' LIABILITY Y / N | N / A | | IJUB9621H63314 | 03/01/2014 | 03/01/2015 | WC STATU-TORY LIMITS / OTH-ER | |
| | ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? N | | | | | | E.L. EACH ACCIDENT | $500,000 |
| | (Mandatory in NH) | | | | | | E.L. DISEASE - EA EMPLOYEE | $500,000 |
| | If yes, describe under DESCRIPTION OF OPERATIONS below | | | | | | E.L. DISEASE - POLICY LIMIT | $500,000 |

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

**The General Liability policy include an automatic Additional Insured endorsement that provides Additional Insured status to The State of Arizona, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees, only when there is a written contract or written agreement between the named insured and the certificate holder and with regard to work performed on behalf of the named insured. The General Liability policy provide a Blanket Waiver of Subrogation in favor of the same, when required by written contract.**

**CERTIFICATE HOLDER**

The State of Arizona
Office of the Attorney General
1275 W Washington
Phoenix, AZ 85007-2926

**CANCELLATION**

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

Angela D. Jonson

TRAVELERS

One Tower Square, Hartford, Connecticut 06183

**CHANGE ENDORSEMENT**

**INSURING COMPANY:**
THE TRAVELERS INDEMNITY COMPANY OF CONNECTICUT

| | |
|---|---|
| **Named Insured:** | HAGENS BERMAN SOBOL SHAPIRO, LLP |
| **Policy Number:** | I-680-9427H26A-TCT-13 |
| **Policy Effective Date:** | 03-01-13 |
| **Policy Expiration Date:** | 03-01-14 |
| **Issue Date:** | 02-12-14 |
| ADDITIONAL **Premium $** | 38.00 |

Effective from 11-15-13 at the time of day the policy becomes effective.

THIS INSURANCE IS AMENDED AS FOLLOWS:

UNDER THE COMMERCIAL GENERAL LIABILITY COVERAGE PART, WHO IS AN INSURED IS CHANGED TO INCLUDE SCHEDULED CONTRACTORS ADDITIONAL INSUREDS AS PROVIDED UNDER THE ATTACHED ENDORSEMENT.

THE FOLLOWING FORMS AND/OR ENDORSEMENTS IS/ARE INCLUDED WITH THIS CHANGE. THESE FORMS ARE ADDED TO THE POLICY OR REPLACE FORMS ALREADY EXISTING ON THE POLICY:

CG D2 47 08 05

NAME AND ADDRESS OF AGENT OR BROKER

KIBBLE & PRENTICE FL408
PO BOX 370
SEATTLE WA 98111

Countersigned by

_____
Authorized Representative

DATE: _____



Office: SEATTLE

**POLICY NUMBER:** I-680-9427H26A-TCT-13
**EFFECTIVE DATE:** 03-01-13
**ISSUE DATE:** 02-12-14

LISTING OF FORMS, ENDORSEMENTS AND SCHEDULE NUMBERS

THIS LISTING SHOWS THE NUMBER OF FORMS, SCHEDULES AND ENDORSEMENTS BY LINE OF BUSINESS.

IL T0 07 09 87 CHANGE ENDORSEMENT
IL T8 01 01 01 FORMS, ENDORSEMENTS AND SCHEDULE NUMBERS

COMMERCIAL GENERAL LIABILITY

CG D2 47 08 05 ADDITIONAL INSURED ( CONTRACTORS)

# GENERAL LIABILITY

# GENERAL LIABILITY

COMMERCIAL GENERAL LIABILITY

POLICY NUMBER: I-680-9427H26A-TCT-13 ISSUE DATE: 02-12-14

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

# ADDITIONAL INSURED (CONTRACTORS)

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

**SCHEDULE**

**NAME OF PERSON(S) OR ORGANIZATION(S):**

THE STATE OF ARIZONA, ITS DEPARTMENTS,
AGENCIES, BOARDS, COMMISSIONS,
UNIVERSITIES AND ITS OFFICERS, OFFICIALS
AGENTS AND EMPLOYEES
1275 WEST WASHINGTON STREET
PHOENIX, AZ 85007

**PROJECT/LOCATION OF COVERED OPERATIONS:**

COUNSEL

1. WHO IS AN INSURED – (Section II) is amended to include the person or organization shown in the Schedule above, but:
   a) Only with respect to liability for "bodily injury", "property damage" or "personal injury"; and
   b) If, and only to the extent that, the injury or damage is caused by acts or omissions of you or your subcontractor in the performance of "your work" on or for the project, or at the location, shown in the Schedule. The person or organization does not qualify as an additional insured with respect to the independent acts or omissions of such person or organization.
2. The insurance provided to the additional insured by this endorsement is limited as follows:
   a) In the event that the Limits of Insurance of this Coverage Part shown in the Declarations exceed the limits of liability required by a "written contract requiring insurance" for that additional insured, the insurance provided to the additional insured shall be limited to the limits of liability required by that "written contract requiring insurance". This endorsement shall not increase the limits of insurance described in Section III – Limits Of Insurance.
   b) The insurance provided to the additional insured does not apply to "bodily injury", "property damage" or "personal injury" arising out of the rendering of, or failure to render, any professional architectural, engineering or surveying services, including:
      i. The preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders or change orders, or the preparing, approving, or failing to prepare or approve, drawings and specifications; and
      ii. Supervisory, inspection, architectural or engineering activities.
   c) The insurance provided to the additional insured does not apply to "bodily injury" or "property damage" caused by "your work" and included in the "products-completed operations hazard" unless a "written contract requiring insurance" specifically requires you to provide such coverage for that additional insured, and then the insurance provided to the additional insured applies only to such "bodily injury" or "property damage" that occurs before the end of the period of time for which the "written contract requiring insurance" requires you to provide such coverage

or the end of the policy period, whichever is earlier.

3. The insurance provided to the additional insured by this endorsement is excess over any valid and collectible "other insurance", whether primary, excess, contingent or on any other basis, that is available to the additional insured for a loss we cover under this endorsement. However, if a "written contract requiring insurance" for that additional insured specifically requires that this insurance apply on a primary basis or a primary and non-contributory basis, this insurance is primary to "other insurance" available to the additional insured which covers that person or organization as a named insured for such loss, and we will not share with that "other insurance". But the insurance provided to the additional insured by this endorsement still is excess over any valid and collectible "other insurance", whether primary, excess, contingent or on any other basis, that is available to the additional insured when that person or organization is an additional insured under such "other insurance".

4. As a condition of coverage provided to the additional insured by this endorsement:

   a) The additional insured must give us written notice as soon as practicable of an "occurrence" or an offense which may result in a claim. To the extent possible, such notice should include:

      i. How, when and where the "occurrence" or offense took place;

      ii. The names and addresses of any injured persons and witnesses; and

      iii. The nature and location of any injury or damage arising out of the "occurrence" or offense.

   b) If a claim is made or "suit" is brought against the additional insured, the additional insured must:

      i. Immediately record the specifics of the claim or "suit" and the date received; and

      ii. Notify us as soon as practicable.

      The additional insured must see to it that we receive written notice of the claim or "suit" as soon as practicable.

   c) The additional insured must immediately send us copies of all legal papers received in connection with the claim or "suit", cooperate with us in the investigation or settlement of the claim or defense against the "suit", and otherwise comply with all policy conditions.

   d) The additional insured must tender the defense and indemnity of any claim or "suit" to any provider of "other insurance" which would cover the additional insured for a loss we cover under this endorsement. However, this condition does not affect whether the insurance provided to the additional insured by this endorsement is primary to "other insurance" available to the additional insured which covers that person or organization as a named insured as described in paragraph **3.** above.

5. The following definition is added to SECTION V. – DEFINITIONS:

   "Written contract requiring insurance" means that part of any written contract or agreement under which you are required to include a person or organization as an additional insured on this Coverage Part, provided that the "bodily injury" and "property damage" occurs and the "personal injury" is caused by an offense committed:

      a. After the signing and execution of the contract or agreement by you;

      b. While that part of the contract or agreement is in effect; and

      c. Before the end of the policy period.

TRAVELERS

# IMPORTANT INFORMATION FOR MASTER PAC POLICYHOLDERS

Dear Policyholder:

Enclosed is your Travelers Master Pac Renewal Certificate. An asterisk on the Listing of Forms, Endorsements and Schedule Numbers, IL T8 01, indicates forms that are included with this year's renewal. Any forms previously attached to your policy that are not shown on that listing no longer apply.

Please put the Certificate and the attached forms with your policy as soon as possible. If you have misplaced your policy, please contact your agent for a copy.

HAGEBER-01 AFLEEGE

# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
10/13/2014

**THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.**

**IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).**

| | |
|---|---|
| PRODUCER **License # 0C36861**<br>**Chicago-Alliant Insurance Services, Inc.**<br>**200 S Wacker Dr Ste 3030**<br>**Chicago, IL 60606** | CONTACT NAME: **Craig Howser**<br>PHONE (A/C, No, Ext): **(312) 207-0011** FAX (A/C, No):<br>E-MAIL ADDRESS: |
| | INSURER(S) AFFORDING COVERAGE — NAIC # |
| | INSURER A : **AXIS Surplus Insurance Company** — **26620** |
| INSURED<br>**Hagens Berman Sobol Shapiro LLP**<br>**1918 8th Avenue**<br>**Ste 3300**<br>**Seattle, WA 98101** | INSURER B : |
| | INSURER C : |
| | INSURER D : |
| | INSURER E : |
| | INSURER F : |

**COVERAGES** **CERTIFICATE NUMBER:** **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

| INSR LTR | TYPE OF INSURANCE | ADDL INSD | SUBR WVD | POLICY NUMBER | POLICY EFF (MM/DD/YYYY) | POLICY EXP (MM/DD/YYYY) | LIMITS | |
|---|---|---|---|---|---|---|---|---|
| | **COMMERCIAL GENERAL LIABILITY** | | | | | | EACH OCCURRENCE | $ |
| | CLAIMS-MADE OCCUR | | | | | | DAMAGE TO RENTED PREMISES (Ea occurrence) | $ |
| | | | | | | | MED EXP (Any one person) | $ |
| | | | | | | | PERSONAL & ADV INJURY | $ |
| | GEN'L AGGREGATE LIMIT APPLIES PER: | | | | | | GENERAL AGGREGATE | $ |
| | POLICY PRO-JECT LOC | | | | | | PRODUCTS - COMP/OP AGG | $ |
| | OTHER: | | | | | | | $ |
| | **AUTOMOBILE LIABILITY** | | | | | | COMBINED SINGLE LIMIT (Ea accident) | $ |
| | ANY AUTO | | | | | | BODILY INJURY (Per person) | $ |
| | ALL OWNED AUTOS / SCHEDULED AUTOS | | | | | | BODILY INJURY (Per accident) | $ |
| | HIRED AUTOS / NON-OWNED AUTOS | | | | | | PROPERTY DAMAGE (Per accident) | $ |
| | | | | | | | | $ |
| | **UMBRELLA LIAB** OCCUR | | | | | | EACH OCCURRENCE | $ |
| | **EXCESS LIAB** CLAIMS-MADE | | | | | | AGGREGATE | $ |
| | DED RETENTION $ | | | | | | | $ |
| | **WORKERS COMPENSATION AND EMPLOYERS' LIABILITY** Y / N | | | | | | PER STATUTE OTH-ER | |
| | ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? **(Mandatory in NH)** | N / A | | | | | E.L. EACH ACCIDENT | $ |
| | If yes, describe under DESCRIPTION OF OPERATIONS below | | | | | | E.L. DISEASE - EA EMPLOYEE | $ |
| | | | | | | | E.L. DISEASE - POLICY LIMIT | $ |
| **A** | **Prof Liability** | | | **ENN762349/01/2014** | **08/18/2014** | **08/18/2015** | **See Description** | |

**DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)**

**Insurer B: Nautilus Insurance Company Policy No: PLP_1000190_P-4 NAIC No: 17370**
**Insurer C: ProSight Syndicate 1110 at Lloyd's Policy No: PL2014LPL90082 NAIC No: AA1120105**

**Limit of Liability in excess of $10,000,000 per Claim/$20,000,000 Aggregate**

**Claims-made coverage afforded on a subscription basis by Insurers A-C.**
**Full prior acts coverage is afforded for work performed on behalf of the Insured**
**SEE ATTACHED ACORD 101**

**CERTIFICATE HOLDER**

**Arizona Office of the Attorney General**
**Attn: Jerry Connolly**
**1275 W Washington St**
**Phoenix, AZ 85007**

**CANCELLATION**

**SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.**

**AUTHORIZED REPRESENTATIVE**

AGENCY CUSTOMER ID: HAGEBER-01 AFLEEGE

LOC #:

# ADDITIONAL REMARKS SCHEDULE



| AGENCY | License # 0C36861 | NAMED INSURED |
|---|---|---|
| Chicago-Alliant Insurance Services, Inc. | | Hagens Berman Sobol Shapiro LLP<br>1918 8th Avenue<br>Ste 300<br>Seattle, WA 98101 |
| POLICY NUMBER | | |
| SEE PAGE 1 | | |
| CARRIER | NAIC CODE | |
| SEE PAGE 1 | SEE P 1 | EFFECTIVE DATE: SEE PAGE 1 |

**ADDITIONAL REMARKS**

THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,

FORM NUMBER: ACORD 25 FORM TITLE: Certificate of Liability Insurance

**Description of Operations/Locations/Vehicles:**

**Solicitation Number: AAGO15-00004552**

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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| | |
|---|---|
| IN RE: | 14-MD-2543 (JMF) |
| GENERAL MOTORS LLC IGNITION SWITCH LITIGATION | **CONSOLIDATED COMPLAINT CONCERNING ALL GM-BRANDED VEHICLES THAT WERE ACQUIRED JULY 11, 2009 OR LATER** |
| *This Document Relates to All Actions* | |

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## TABLE OF CONTENTS

**Page**

This Consolidated and Amended Complaint ("Complaint") is filed as a civil action in this Court and is intended to serve as the Plaintiffs' Master Class Action Complaint for purposes of discovery, pre-trial motions and rulings (including for choice of law rulings relevant to Rule 23 of the Federal Rules of Civil Procedure, and class certification itself), and trial of certified claims or common questions in these multi-district litigation ("MDL") proceedings. This pleading, consistent with Fed. R. Civ. P. 1's directive to secure the "just, speedy and inexpensive determinations of every action and proceeding," extensively details New GM's unprecedented abrogation of basic standards of safety, truthfulness, and accountability to the detriment of tens-of-millions of consumers and the public at large. This Complaint draws upon an array of sources, including a careful review of the documents produced to date (including tens-of-thousands of pages of unheeded consumer complaints), New GM's own public concessions, and other extensive materials. Notwithstanding the foregoing, certain claims or issues for certain parties may, consistent with 28 U.S.C. § 1407 and the case law thereunder, be matters for determination on remand by transferor courts.

This pleading neither waives nor dismisses any claims for relief against any defendant not included in this pleading that are asserted by any other plaintiffs in actions that have been or will be made part of this MDL proceeding, except by operation of the class notice and (with respect to any Rule 23(b)(3) class) any opt-out provisions on claims or common questions asserted in this Complaint and certified by this Court.

## I. INTRODUCTION

1. Rule No. 1: Manufacturers of any product—from toys to automobiles—must manufacture and sell products that are, above all else, safe to use. Not only is safety essential to long-term brand value and corporate success, it's also required by law.

2. Rule No. 2: Manufacturers must also tell the complete truth about the safety of their products. When a safety defect does occur, manufacturers must initiate some form of recall to address the problem.

3. New GM violated both of these rules. It manufactured and sold over 27 million vehicles that were not safe. New GM also failed to disclose the truth about its ability to manufacture and sell safe and reliable vehicles, and failed to remedy the defects in millions of GM-branded vehicles that were on the road.

4. New GM led consumers in the United States and worldwide to believe that, after bankruptcy, it was a new company. For example, in numerous public announcements and public filings, such as in its 2012 Annual Report, New GM repeatedly proclaimed that it was a company committed to innovation, safety, and maintaining a strong brand. An example from its 2012 Annual Report:

TO OUR STOCKHOLDERS:

Last year, I closed my letter to you by talking about how GM was changing its processes and culture in order to build the best vehicles in the world much more efficiently and profitably. This year, I want to pick up where I left off, and articulate what success looks like for you as stockholders, and for everyone else who depends on us. »

5. New GM was successful in selling its "processes and culture change" and building "the best vehicles in the world" story. Sales of all New GM models went up, and New GM became profitable. As far as the public knew, a new General Motors was born, and the GM brand once again stood strong in the eyes of consumers.

6. New GM's brand image was an illusion given New GM's egregious failure to disclose, and the affirmative concealment of, ignition switch defects and a plethora of other safety defects in GM-branded vehicles. New GM concealed the existence of the many known safety defects plaguing many models and years of GM-branded vehicles, and New GM valued cost-cutting over safety, while concurrently marketing New GM vehicles as "safe" and "reliable," and claiming that it built the "world's best vehicles." Consequently, New GM enticed Plaintiffs and all GM-branded vehicle purchasers to buy or lease vehicles that have now diminished in value, as the truth about the New GM brand has come out and a stigma has attached to all GM-branded vehicles.

7. A vehicle made by a reputable manufacturer of safe and reliable vehicles is worth more than an otherwise similar vehicle made by a disreputable manufacturer that is known to devalue safety and to conceal serious defects from consumers and regulators. New GM vehicle Safety Chief, Jeff Boyer, recently highlighted the heightened materiality to consumers of safety: "Nothing is more important than the safety of our customers in the vehicles they drive." Yet New GM failed to live up to this commitment, instead choosing to conceal at least 60 serious defects in over 27 million GM-branded vehicles sold in the United States. And the value of all GM-branded Vehicles has diminished as a result of the widespread publication of those defects and New GM's corporate culture of ignoring and concealing safety defects.

8. The systematic concealment of known defects was deliberate, as New GM followed a consistent pattern of endless "investigation" and delay each time it became aware of a given defect. Recently revealed documents show that New GM valued cost-cutting over safety, trained its personnel to ***never*** use the word "defect," "stall," or other words suggesting that any GM-branded vehicles are defective, routinely chose the cheapest part supplier without regard to safety, and discouraged employees from acting to address safety issues.

9. In addition, GM was plagued by what CEO Mary Barra calls "transactional decision making," in which GM employees "color[] inside the lines of their own precise job description without thinking independently or holistically," *i.e.*, without looking at the larger issue of safety.[1]

10. In light of New GM's systemic devaluation of safety issues, it is not surprising that, from the date of its inception, New GM itself produced a grossly inordinate number of vehicles with serious safety defects. Until this year, New GM was successful in concealing both its disregard of safety and the myriad defects that resulted from that disregard.

11. According to the administrator of the National Highway Traffic Safety Administration ("NHTSA"), New GM worked to hide documents from NHTSA and created firewalls to prevent people within New GM from "connecting the dots" with respect to safety issues and defects. New GM did so to keep information about safety issues and defects secret.

12. The array of concealed defects is astounding and goes far beyond the ignition switch defects, the belated revelation of which sparked GM's 2014 serial recalls. The defects affected virtually every safety system in GM-branded vehicles, including but by no means limited to the airbags, seatbelts, brakes, brake lights, electronic stability control, windshield

[1] TIME MAGAZINE, October 6, 2014, p. 36.

wipers, sensing and diagnostic modules, and warning chimes. This defect list includes at least the following parts, many of which effect the vehicle's safety: (1) ignition switch, (2) power steering, (3) airbags, (4) brake lights, (5) shift cables, (6) safety belts, (7) ignition lock cylinders, (8) key design, (9) ignition key, (10) transmission oil cooler lines, (11) power management mode software defect, (12) substandard front passenger airbags, (13) light control modules, (14) front axle shafts, (15) brake boosts, (16) low-beam headlights, (17) vacuum line brake boosters, (18) fuel gauges, (19) accelerator, (20) flexible flat cable airbags, (21) windshield wipers, (22) brake rotors, (23) passenger-side airbags, (24) electronic stability control, (25) steering tie-rods, (26) automatic transmission shift cable adjusters, (27) fuse blocks, (28) diesel transfer pumps, (29) radio warning chimes, (30) shorting bars, (31) front passenger airbag end caps, (32) sensing and diagnostic modules ("SDM"), (33) sonic turbine shafts, (34) electrical systems, and (35) the seatbelt tensioning system.

13. New GM has received reports of crashes, deaths, injuries, and safety concerns expressed by GM's customers that put New GM on notice of the serious safety issues presented by many of these defects. Given the continuity of engineers, corporate counsel, and other key personnel from Old GM to New GM, New GM knew and was fully aware of the now infamous ignition switch defect (and many other serious defects in numerous models of GM-branded vehicles) ***from the very date of its inception on July 10, 2009***. New GM was not born innocent, and its public commitment to culture and process change remain entirely hollow.

14. New GM's claims that the defects were known only to lower level engineers is false. For example, current CEO Mary Barra, while head of product development, was informed in 2011 of a safety defect in the electronic power steering of several models. Despite 4,800

consumer complaints and more than 30,000 warranty repairs, GM waited until 2014 to disclose this defect.

15. Despite the dangerous nature of many of the defects and their effects on critical safety systems, New GM concealed the existence of the defects, created new defects, and failed to begin to remedy the problems from the date of its inception until this year.

16. New GM's now highly publicized campaign of deception in connection with the ignition switch defect first revealed in February 2014 sent shockwaves throughout the country and jump-started the ever-burgeoning erosion of consumer confidence in the New GM brand. Unfortunately for all owners of vehicles sold by New GM, the ignition switch defect announced in February 2014 was only one of a seemingly never-ending parade of recalls in 2014—many concerning safety defects that had been long known to New GM.

17. On May 16, 2014, New GM entered into a Consent Order with NHTSA in which it admitted that it violated the TREAD Act by not disclosing the ignition switch defect that gave rise to the February and March 2014 recalls, and agreed to pay the maximum available civil penalties for its violations.

18. New GM's CEO, Mary Barra, has admitted in a video message that: "Something went wrong with our process…, and terrible things happened." But that admission is cold comfort for Plaintiffs and the Class, whose vehicles have diminished in value as a result of New GM's deception.

19. New GM systematically and repeatedly breached its obligations and duties to its customers to make truthful and full disclosures concerning its vehicles—particularly, the safety and reliability of its vehicles and the importance of safety to the Company. New GM's false representations and/or omissions concerning the safety and reliability of its vehicles, and its

concealment of a plethora of known safety defects plaguing its vehicles and its brand, caused Plaintiffs and the Class to purchase GM-branded vehicles under false pretenses.

20. Plaintiffs and the Class have been damaged by New GM's conduct, misrepresentations, concealment, and non-disclosure of the numerous defects plaguing over 27 million GM-branded vehicles. Now that the truth is emerging, and consumers are aware that New GM concealed known safety defects in many models and years of its vehicles, and that the Company de-valued safety and systemically encouraged its employees to conceal serious defects, the entire New GM brand is greatly tarnished by the revelation that the Company is untrustworthy and does not stand behind its vehicles. The value of GM-branded vehicles has therefore diminished because of New GM's failure to timely disclose and remedy the many serious defects in GM-branded vehicles after the truth of New GM's safety record and culture of deceit was exposed. Examples: The 2010 and the 2011 Chevrolet Camaro have both seen a diminished value of $2,000 when compared to the value of comparable vehicles; the 2009 Pontiac Solstice has diminished $2,900 in value; the 2010 Cadillac STS diminished in value by $1,235 in September 2014; and the 2010 Buick LaCrosse by $649 in that same month. New GM's egregious and widely publicized conduct and the never-ending and piecemeal nature of New GM's recalls has so tarnished GM-branded vehicles that no reasonable consumer would have paid the price they did when the New GM brand supposedly meant safety and success.

21. Plaintiffs pursue their claims on behalf of a Class generally and initially defined as all persons who purchased or leased a GM-branded between July 11, 2009, and July 3, 2014 (the "Affected Vehicles") and who (i) still own or lease an Affected Vehicle, (ii) sold an Affected Vehicle on or after February 14, 2014, and/or (iii) purchased or leased an Affected Vehicle that was declared a total loss after an accident on or after February 14, 2014. Plaintiffs

assert claims for a nationwide class applying Michigan law for claims of fraudulent concealment, unjust enrichment, the implied warranty of merchantability, and the Magnuson-Moss Warranty Act. Plaintiffs also assert claims based upon the laws of all fifty states and the District of Columbia for a class in each jurisdiction for damages, statutory penalties, and declaratory, equitable and injunctive relief against New GM for, among other things, violations of state unfair and deceptive trade practice acts, as more specifically set forth in the claims for relief asserted below.

## II. JURISDICTION AND VENUE

22. This Court has diversity jurisdiction over this action under 28 U.S.C. §§ 1332(a) and (d) because the amount in controversy for the Class exceeds $5,000,000, and Plaintiffs and other Class members are citizens of a different state than Defendant.

23. This Court has personal jurisdiction over Plaintiffs because Plaintiffs submit to the Court's jurisdiction. This Court has personal jurisdiction over New GM because New GM conducts substantial business in this District, and some of the actions giving rise to the complaint took place in this District.

24. Venue is proper in this District under 28 U.S.C. § 1391 because New GM, as a corporation, is deemed to reside in any judicial district in which it is subject to personal jurisdiction. Additionally, New GM transacts business within the District, and some of the events establishing the claims arose in this District.

## III. PARTIES

25. Pursuant to the Court's instructions that Plaintiffs could file directly in the MDL court and reserve the right to have filed in another district, this Complaint is filed by each new Plaintiff as if they had filed in the district in which they reside.

### A. Plaintiffs

26. Unless otherwise indicated, each Plaintiff purchased or leased his or her GM-branded vehicle primarily for personal, family, or household use.

**1. Melissa Cave—Alabama**

27. Plaintiff and proposed Nationwide and Alabama State Class Representative Melissa Cave is a resident and citizen of New Hope, Alabama. Ms. Cave purchased a used 2006 Chevrolet Cobalt on February 15, 2013, at High Country Toyota in Scottsboro, Alabama for approximately $7,000. Her vehicle was not covered by a warranty. Ms. Cave drives 23 miles to work and during her drive she has known her Cobalt to shut off more than 50 times in a trip. On June 21, 2014, Ms. Cave totaled her car after it shut off while she was driving approximately 35-40 miles per hour. She sustained injuries to her knee, bruising from the seatbelt, and chemical burns to her thumb and hand from the airbag. Had she known about the problems with her GM-branded vehicle, she would not have purchased the car.

**2. Valeria Glenn—Alabama**

28. Plaintiff Valeria Glenn resides in Alabaster, Alabama. She purchased a used 2006 Pontiac Solstice in February 2013 in Pelham, Alabama for $13,000. The vehicle has a 100,000 mile warranty. Ms. Glenn has experienced shut downs and locking of her steering wheel while driving her vehicle. Ms. Glenn had her ignition switch replaced pursuant to the recall. Since that time, the air conditioning in her vehicle is no longer working, although it worked fine before the replacement. Knowing what she now knows about the safety defects in many GM-branded vehicles, and the Solstice in particular, she would not have purchased the vehicle and does not feel safe driving the vehicle.

**3. Barbara Hill—Arizona**

29. Plaintiff and proposed Nationwide and Arizona State Class Representative Barbara Hill is a resident and citizen of Mesa, Arizona. Ms. Hill purchased a used 2007

Chevrolet Cobalt on July 9, 2012, for approximately $12,000 at the Auto Nation in Tempe, Arizona. Ms. Hill purchased the Cobalt after performing research about vehicles and, based on that research, believing the Cobalt to be a safe and reliable vehicle. She no longer feels safe driving the vehicle. Ms. Hill had her ignition switch replaced in May 2014, but she does not trust that the replacement will resolve the vehicle's safety defect. Had she known about the problems with her GM-branded vehicle, she would he would not have purchased the car.

**4. Courtney Williams—Arkansas**

30. Plaintiff and proposed Nationwide and Arkansas State Class Representative Courtney Williams is a resident and citizen of West Memphis, Arkansas. Mr. Williams purchased a used 2011 Chevrolet Camaro on or about April 15, 2013, at Frank Fletcher Dodge in Sherwood, Arkansas for over $33,585. Mr. Williams experienced at least one complete shutdown of the Camaro on or about September 17, 2014, after driving over a bump in the road. He has also experienced difficulty in steering his vehicle. Mr. Williams has not yet had his car repaired under the recall because New GM informed him the parts are not yet available. Mr. Williams believes he suffered a diminution of value in his vehicle due to the ignition switch defects, the recalls and the surrounding publicity. He would not have purchased the Camaro, or he would have paid less for it, had he known about these defects.

**5. Nettleton Auto Sales, Inc.—Nationwide Dealer and Arkansas Class Representative**

31. Plaintiff and proposed Nationwide and Arkansas State Class Representative Nettleton Auto Sales, Inc. maintains its principal place of business in Jonesboro, Arkansas. Nettleton Auto Sales, Inc. purchased the following GM-branded vehicles with the intention to resale same:

- Vehicle #1: used 2009 Chevy HHR on March 27, 2014, in Nashville, Tennessee for $10,865, plus $1,268.32 in shipping costs;
- Vehicle #2: used 2011 Chevy HHR on February 14, 2014, in Jonesboro, Arkansas for $5,850, plus $1,079.49 in shipping and repair costs; and
- Vehicle #3: used 2010 Chevy HHR on March 12, 2014, in Jonesboro, Arkansas for $6,000, plus $5,028.13 in additional shipping and repair costs.

32. The 2009 HHR is still in the possession of Nettleton Auto Sales, Inc. The other two have been sold to Arkansas consumers. The 2011 HHR is currently covered by a warranty, while the other two are not. The 2011 HHR had its ignition switch replaced on June 30, 2014, and the other two vehicles have not had the repair performed. Nettleton Auto Sales, Inc. continues to try and sell the 2009 HHR. The 2011 HHR was sold to consumers on June 28, 2014, in fair condition for $8,500 with mileage of 126,682. The 2010 HHR was sold to consumers on June 4, 2014, in fair condition for $12,900 with 86,960 in mileage. Nettleton Auto Sales, Inc. believes the value of its vehicle have been diminished as a result of the defects. It would not have purchased these cars if New GM had been honest about the safety defects.

**6. Anna Andrews—California**

33. Plaintiff and proposed Nationwide and California State Class Representative Anna Andrews is a resident and citizen of La Quinta, CA. She purchased a used 2010 Buick LaCrosse in Cathedral City, California on August 25, 2011, for $36,686.86. Ms. Andrews purchased her LaCrosse, in part, because she wanted a safely designed and manufactured vehicle. She further believed that New GM was a reputable manufacturer of safe and reliable vehicles and that the Company stands behind its vehicles once they are on the road. Plaintiff did not learn of the many defects in GM-branded vehicles until shortly before filing this lawsuit.

Had New GM disclosed the many defects in GM-branded vehicles, Plaintiff would either not have purchased her LaCrosse, or would have paid less than she did.

**7. Marc Koppelman—California**

34. Plaintiff and proposed Nationwide and California State Class Representative Marc Koppelman is a resident and citizen of Torrance, California. Mr. Koppelman purchased a certified used 2010 Chevy HHR in 2012 in California for approximately $12,900.00. The 2010 Chevy HHR was still covered under the original factory warranty, and the dealership provided an additional 1-year warranty as part of the purchase price. Mr. Koppelman's decision to buy the car was influenced by the perceived safety associated with the car's airbag system and advertising touting the car's reliability. This was important to Mr. Koppelman because his wife was going to be the principal driver. In June 2012, about 4 months after he purchased the vehicle, while driving in Maryland on a residential street, the HHR lost power and lost power steering. Mr. Koppelman managed to pump the brakes and get the car safely off the road. When he received his recall notice, Mr. Koppelman called his GM dealership and they told him that he should reduce the weight on his keychain. Mr. Koppelman had to wait for the dealer to receive the new parts so that his HHR would be repaired under the recall. In August 2014, the recall repair work was completed. After the GM dealers gave him "the run-around" with regard to getting the new part installed, he and his wife considered selling the vehicle. In late May or early June 2014, Mr. Koppelman researched his car on Kelley Blue Book and it was valued at approximately $9,200. He went to his local dealer, Martin Chevrolet in Torrance, California, and they only offered him $6,100 to trade it in. Mr. Koppelman was shocked at the low number so he declined to sell it. He then took the vehicle to another GM dealer in Long Beach, California and they quoted him a similar value as the last dealership. They told him that due to the recalls, the HHR's value had declined, and they were even lowering the retail prices on their

own vehicles for sale. In mid-July 2014, Mr. Koppelman checked Kelley Blue Book again and saw that his car value dropped to approximately $8,400. He remembers comparable HHRs were selling for $12,000-14,000 retail at the time the recalls were first announced, but now the retail price has dropped to approximately $10,000. Mr. Koppelman was a loyal GM-brand owner, having previously owned Corvettes, Buicks, and Cadillacs, but now he says he will never purchase a GM-branded vehicle again. Mr. Koppelman would not have purchased this vehicle had New GM been honest about the safety defects.

**8. David Padilla—California**

35. Plaintiff and proposed Nationwide and California State Class Representative David Padilla is a resident and citizen of Stockton, California. Mr. Padilla purchased a new 2010 Chevy Cobalt in April 2010 in Stockton, California for $21,690.27. The vehicle was under warranty when he purchased it. On one occasion, Mr. Padilla was backing out of his garage when his vehicle inexplicably shut off. As a result, Mr. Padilla was afraid to drive his vehicle. Those fears increased once he learned of the ignition switch recall and the risks posed by the defects. Mr. Padilla had the ignition switch replaced under the recall repair program. He believes the value of his vehicle has been diminished as a result of the defects. Mr. Padilla would not have purchased this car if New GM had been honest about the safety defects.

**9. Daniel Ratzlaff—California**

36. Plaintiff and proposed Nationwide and California State Class Representative Daniel Ratzlaff is a resident and citizen of Quartz Hill, California. Mr. Ratzlaff purchased a used a 2005 Chevy Equinox in October 2013 in Palmdale, California for $10,000. The vehicle was under warranty when he purchased it, and he also purchased an extended warranty which expires in 2015. Mr. Ratzlaff chose the Equinox, in part, because he wanted a safely designed and manufactured vehicle. He saw advertisements for GM-branded vehicles before he purchased the

Equinox and, although he does not recall the specifics of the advertisements, he does recall that safety and quality were consistent themes across the advertisements he saw. These representations about safety and quality influenced Mr. Ratzlaff's decision to purchase the Equinox. Mr. Ratzlaff experienced the ignition switch defect described by the General Motors recall. On several occasions, he remembers all electrical systems turning off, including air bags and dash-signaling monitor information. He would have to consistently turn the ignition switch on and off until the condition resolved, and felt that he was in danger. He did not learn of the ignition switch defects until about March 2014. Had he known about the ignition switch defects, he would not have purchased his Equinox, or would have paid less than he did, and would not have retained the vehicle.

**10. Randall Pina—California**

37. Plaintiff Randall Pina resides in Soledad, California. On or about April 25, 2011, Mr. Pina purchased a new 2011 Chevrolet HHR in Fresno, California for $23,270.99. Mr. Pina still owns the 2011 Chevrolet HHR, which is under extended warranty until April 25, 2018. Mr. Pina's vehicle is one of the cars recently identified by New GM as a Defective Vehicle. He believes that he overspent on a lower quality product and acquired a vehicle that posed an undisclosed risk to his health and safety. One of New GM's main selling points has been the efficiency, cost effectiveness, and safety of its vehicles. Plaintiff's purchase was based, in significant part, on these representations and assertions by New GM. New GM failed to disclose that most of its models over the last few years have contained defective ignition switches that pose a serious risk of injury and death to the driver and occupants, as well as other motorists and pedestrians on the road. If New GM had disclosed the nature and extent of its problems, Plaintiff would not have purchased a vehicle from New GM, or would not have purchased that the vehicle for the price paid.

**11. Nathan Terry—Colorado**

38. Plaintiff and proposed Nationwide and Colorado State Class Representative Nathan Terry is a resident and citizen of Loveland, Colorado. Mr. Terry purchased a used 2007 Pontiac G5 GT on January 4, 2011, in Westminster, Colorado for $10,589.49. He also purchased a three-year warranty on the vehicle. Mr. Terry decided to purchase this GM-branded vehicle after a thorough investigation, including online advertisements and reviews, regarding the brand and model's safety, reliability, and quality. Mr. Terry's car inadvertently shut down on him twice while driving. In one instance, he was in high traffic on the highway when the vehicle lost power and he had to force the car over to the shoulder of the road, a task made more difficult by the fact that his power steering had also shut down. Mr. Terry learned of the ignition switch defects in March 2014. The recall repairs were performed thereafter, after waiting for the parts to arrive. In the last month or two, in preparation to sell his car, Mr. Terry checked Kelley Blue Book against his vehicle, which was in excellent condition with low mileage and fully-equipped, and it was valued at $7,041. He then checked thirteen other 2007 Pontiac G5 GT models for sale at dealerships in his vicinity, and their advertised sale prices ranged from $7,367 to $9,000. Finally, he checked four models for sale by private owners, with sale prices ranging from $6,800 to $7,840. Several dozen private buyers contacted Mr. Terry about his vehicle, and three visited him to test drive it. All three potential buyers seemed to like the car, but were aware of the numerous GM recalls, including the ignition switch recalls pertaining to the model. Even though he listed his car at the $7,041 Kelley Blue Book price, the average offer for the car was $4,500. His bargaining value was noticeably impeded, as all potential buyers repeatedly referred to the recalls in their negotiations. It was clear to Mr. Terry that the potential buyers knew about these recalls and used it to their advantage. As he browsed dealerships at the same time, he also found the trade-in value was grossly hurt by the recalls. Again, all dealerships mentioned the safety

and recall issues, and out of six trade-in offers, the highest was $2,634. Because of the negative effects of the recalls on his vehicle value, Mr. Terry was eventually forced to sell the vehicle to CarMax at nearly half his vehicle's Kelley Blue Book value. Mr. Terry would not have purchased this GM-branded vehicle, or any GM-branded vehicle, had he known about its safety defects and New GM's deception. He will never purchase a GM-branded vehicle again.

**12. LaTonia Tucker—Delaware**

39. Plaintiff and proposed Nationwide and Delaware State Class Representative LaTonia Tucker is a resident and citizen of Dover, Delaware. Ms. Tucker purchased a used HHR in Dover, Delaware, in October 2013 for $8,000. She purchased the vehicle with a six month warranty. Ms. Tucker purchased the HHR because she drives long distances on the highway to and from work and wanted a safe vehicle. Ms. Tucker experienced a stall while driving her vehicle on a highway; she was able to stop the car at the side of the road. It took several tries before she was able to restart the vehicle. After this event, she took her car to a mechanic, but the mechanic was unable to determine the cause of the stall. Even after having her ignition switch replaced pursuant to the recall, Ms. Tucker feels unsafe driving her vehicle. The vehicle also now has a noise it did not have before the ignition switch was replaced, but the dealership told her it is unable to find anything wrong with her vehicle. She has grandchildren, and does not feel safe allowing them as passengers in her vehicle. Had she known about the problems with her GM-branded vehicle, she would not have purchased the car.

**13. Pajja Jackson—District of Columbia**

Plaintiff and proposed Nationwide and District of Columbia State Class Representative Pajja Jackson is a resident and citizen of Washington, D.C. Mr. Jackson's grandmother purchased a new 2011 Buick Regal on August 23, 2010, in Mississippi for $31,393.40. The vehicle was covered under the standard manufacturer's warranty when she purchased it. After

his grandmother fell ill last year, Mr. Jackson took possession of the car and assumed its payments. Over the course of 2013, he paid the remaining $10,000 owed on the note and had the car re-titled in his name. Ever since he began driving the vehicle, Mr. Jackson has experienced the brakes locking up on him a handful of times. The worst incident occurred when he was driving at the airport. He was driving regularly and touched on his brakes when they seized up unexpectedly. He repeatedly pumped the brakes and they eventually unlocked. Then, this summer, the car's battery exploded and its acidic vapors infiltrated the car. Mr. Jackson took the vehicle into a GM dealership to have the battery issue repaired. This prompted Mr. Jackson to investigate the problems with his vehicle and the GM-brand in general. This investigation led him to the ignition switch defect, as well as the myriad of other recalls and problems associated with GM vehicles. Mr. Jackson also recently researched the value of his vehicle via the Internet and learned that his car was only selling for approximately $15,000. Because of his concern for both the safety of his vehicle and its dropping value, he has considered trying to sell it. But Mr. Jackson has refrained from doing so because his vehicle is paid off and he does not wish to incur a new car payment. As a father of two sons, ages one and four, Mr. Jackson is worried about the safety of driving his vehicle with his kids in the car. He no longer trusts the GM brand. Had he known about the safety defects and risks posed by his car and the GM-brand, he would not have purchased this car, but rather would have chosen another manufacturer.

**14. Kim Genovese—Florida**

40. Plaintiff and proposed Nationwide and Florida State Class Representative Kim Genovese is a resident and citizen of Lake Worth, Florida. Ms. Genovese purchased a used 2005 Saturn Ion in late 2009 in Boynton Beach, Florida for $5,500. She also purchased a 90-day warranty on the vehicle. She purchased because she believed that it was a reliable and safe vehicle with a good engine, and because it was a small, fuel efficient vehicle. Ms. Genovese has

experienced over 20 shutdown incidents with her vehicle. On many of these occasions, her vehicle would stop in the middle of the road and, sometimes, in the middle of an intersection; to restart her vehicle she would have to turn the key from the off position back to the on position. She also experienced issues with the vehicle not starting on multiple occasions. Upon hearing of the recall, Ms. Genovese stopped driving her vehicle and purchased another vehicle that she hopes is safer. On June 5, 2014, Ms. Genovese's Saturn Ion's ignition switch was replaced pursuant to the recall. Her husband still drives the vehicle because she doubts that anyone would purchase the vehicle given the widespread knowledge about the recalls. Knowing what Ms. Genovese now knows about the safety defect of her Saturn Ion, she would not have purchased the vehicle.

**15. Rhonda Haskins—Florida**

41. Plaintiff and proposed Nationwide and Florida State Class Representative Rhonda Haskins is a resident and citizen of Ocala, Florida. Ms. Haskins purchased a used 2007 Chevy Cobalt on November 15, 2013, in Ocala, Florida for $8,473.00. The vehicle was under a 30-day or 1,000 mile warranty when she purchased it. Approximately two or three times, Ms. Haskins' vehicle has shut-off while she was sitting idle in her Cobalt and her knee touched the ignition switch or key area. Ms. Haskins is concerned about her ongoing safety in driving the vehicle and believes its value is now greatly diminished as a result of the ignition switch defects. Ms. Haskins did not learn about the ignition switch defects until March 2014. She would not have purchased this vehicle had she known about the safety defects.

**16. Joni Ferden-Precht—Florida**

Plaintiff and proposed Nationwide and Florida State Class Representative Joni Ferden-Precht is a resident and citizen of Miami Lakes, Florida. Ms. Ferden-Precht purchased a new 2011 Chevy Traverse on May 27, 2011, in Miami Lakes, Florida for $33,262.17. The vehicle

was covered by the manufacturer's standard warranty when she purchased it. In deciding to buy this vehicle, Ms. Ferden-Precht consulted Chevy's advertising materials for the Traverse and also conducted many Internet searches on the vehicle model. She also saw TV advertisements and Miami Lakes Auto Mall newspaper advertisements about the Traverse. These advertisements and representations mentioned the safety and reliability of the Traverse, which influenced her decision to purchase the vehicle. Ms. Ferden-Precht experienced an airbag service light illuminating intermittently in her vehicle on multiple occasions before having her vehicle repaired under the airbag recall. She was concerned for her safety so she stopped driving her vehicle during these times, and because she did not receive a loaner vehicle, she was forced to car pool and find alternative means of transportation. Ms. Ferden-Precht would not have purchased this vehicle had she known about the safety defects.

**17. Nykea Fox—Georgia**

42. Plaintiff and proposed Nationwide and Georgia State Class Representative Nykea Fox is a resident and citizen of Marietta, Georgia. Ms. Fox purchased a used 2010 Chevrolet HHR in December 2012, from Steve Raymond Chevrolet in Smyrna, Georgia for approximately $17,000. Her vehicle was covered by a warranty at the time of purchase and she believes it may still be covered by a warranty. At the time, Internet searches showed that the vehicle appeared to have a good reputation for safety and reliability, with few negative comments. This fact and New GM's reputation as a quality brand—at the time—influenced her decision to buy the vehicle. Ms. Fox believed her vehicle was safe and defect free when she purchased it.
Ms. Fox's vehicle has shut off spontaneously several times in 2013. On one occasion, it shut off spontaneously while she was driving near her home. The vehicle gearshift was in "drive" and the ignition key was in the "run" position. On several other occasions at the end of a period of driving, the vehicle turned off when she attempted to move the vehicle into "park" mode.

Ms. Fox also experienced other problems with the ignition. On several occasions in 2013, the key got stuck in the ignition. Plaintiff Fox was ultimately successful in removing the key from the ignition, but it took a great deal of effort each time. Ms. Fox's ignition switch was replaced in the summer of 2014 in connection with the recalls. At the same time, New GM replaced other vehicle parts in connection with a separate power-steering recall. Ms. Fox sent the car in for ignition switch repairs in May of 2014 and received the vehicle back in August of 2014. Had New GM disclosed the defects in its vehicles, Ms. Fox would either not have purchased the vehicle, or would have paid less.

**18. Barry Wilborn—Georgia**

43. Plaintiff and proposed Nationwide and Georgia State Class Representative Barry Wilborn is a resident and citizen of Milner, Georgia. He purchased a used 2007 Chevrolet Cobalt in 2013 in Canton, Georgia in a private sale for $4,000. The car was not under warranty at the time of purchase. Within months of purchasing the vehicle, he experienced multiple shut downs while driving. The most recent shut down occurred while driving 60 mph on the highway; he had to veer to the right to avoid hitting another vehicle, went down an embankment and had to have his vehicle towed home. Following the last shut down, he substantially reduced his use of the vehicle because he thought it unsafe. Once he learned of the recall, he stopped driving the vehicle altogether. Mr. Wilborn purchased the vehicle because he believed New GM's representations that the vehicle was safe and reliable, and also based on its mileage rating. Mr. Wilborn's had his ignition switch replaced after his vehicle was at the dealership for over one month. Knowing what he now knows about the safety defects in many GM-branded vehicles, he would not have purchased the vehicle.

**19. Patrick Painter—Illinois**

44. Plaintiff and proposed Nationwide and Illinois State Class Representative Patrick Painter is a resident and citizen of Monee, Illinois. Mr. Painter purchased a new 2010 Chevy Cobalt in April 2011 at a GM dealership in Joliet, Illinois for approximately $21,000. His car was under warranty at the time he purchased it. In the summer of 2012, Mr. Painter had the ignition replaced because the vehicle would not turn off and the key could not be removed from the ignition. He recently received the ignition switch recall notice in the mail, but has not yet had the recall repairs performed. Mr. Painter believes the value of his vehicle has diminished, and he would either not have purchased the vehicle, or would have paid less for it, had New GM disclosed the defects in its vehicles.

**20. Karen Rodman—Indiana**

45. Plaintiff and proposed Nationwide and Indiana State Class Representative Karen Rodman is a resident and citizen of Kendallville, Indiana. Ms. Rodman purchased a used 2004 Saturn Ion in 2013 in Fort Wayne, Indiana, for $6,000. The vehicle did not have a warranty. Ms. Rodman purchased the vehicle because she thought it was safe and reliable. Since purchasing the vehicle, however, she has experienced many stalling incidents. On one occasion, she was going to the doctor and stopped at a red light. The car shut down and would not restart, and she had to have the vehicle towed. Ms. Rodman had the ignition switch replaced pursuant to the recall in or around June 2014. She continues to have the same stalling problems since the replacement that she had before the ignition switch was replaced. Ms. Rodman is afraid to drive her vehicle, but it is her only form of transportation; she would like a different vehicle that is safe to drive. Had she known about the problems with her GM-branded vehicle, she would not have purchased the car.

**21. Alphonso Wright—Indiana**

46. Plaintiff and proposed Nationwide and Indiana State Class Representative Alphonso Wright is a resident and citizen of Fishers, Indiana. Mr. Wright purchased a used 2005 Chevrolet Cobalt on August 16, 2012, in Indianapolis, Indiana for $9,727.99. His vehicle was not covered by a written warranty at the time of purchase. On two separate occasions, in January 2013 and April 2014, Mr. Wright's vehicle shut down while he was driving over train tracks. The steering locked on both occasions as well. After waiting approximately one month for the parts to arrive, Mr. Wright's vehicle had the recall repair done on June 5, 2014. Mr. Wright was truly frightened by his two inadvertent shut down experiences, and would not have purchased his car if he had known about the defects in his GM-branded vehicle.

**22. Charles David Loterbour—Iowa**

47. Plaintiff and proposed Nationwide and Iowa State Class Representative Charles David Loterbour is a resident and citizen of Des Moines, Iowa. He purchased a used 2010 HHR in October 2011 in Iowa City for $15,274. He purchased the vehicle with the original manufacturer's warranty, along with Reliant Repair Protection. He purchased the HHR over other vehicles because of New GM representations that it is rated higher for safety and fuel mileage than many other vehicles. The dealership also touted the multiple airbag system and the traction control system in the HHR. Mr. Loterbour experienced problems with his vehicle beginning in September 2012, including problems disengaging the ignition key, being unable to turn the vehicle off without disconnecting the battery, and a loss of power steering. The dealership replaced the ignition switch in 2012 in response to these problems. Since the recall announcement, the dealership informed Mr. Loterbour that it replaced the ignition switch in 2012 with an "old style" ignition switch, and he would need it replaced under the recall. Knowing what he now knows about the safety defects in many GM-branded vehicles, he would not have

purchased the vehicle and will never again purchase another GM-branded vehicle. He would trade in his vehicle if the opportunity arises, but he doubts that will happen with the current recalls.

**23. Trina & John Marvin Brutche Jr.—Kansas**

48. Plaintiffs and proposed Nationwide and Kansas Class Representatives Trina and John Marvin Brutche, Jr., husband and wife, are residents and citizens of Goodland, Kansas. The Brutches purchased a used 2009 Impala LTZ on June 14, 2014, in Grand Junction, Colorado for $15,471. They did not purchase any warranty other than the manufacturer's warranty. John is a longtime Chevrolet fan, and he has preferred to purchase them because he believes, based on advertising he has seen over the years, that Chevrolets are excellent quality, reliable family cars. The Brutches purchased the Impala just two weeks before its recall was announced. Several times, John experienced the steering on the Impala becoming tight or heavy. He continues to drive the Impala on a daily basis, but he would like to get the recall repairs performed. He called about the recall, and New GM directed him to his local dealer to schedule the maintenance. When John called his local dealer, they acted as if New GM's referral for service did not make sense. The dealer reported that the recall parts were not available, so no repair has been performed yet. The Brutches would not have purchased their vehicle, or they would have paid less for it, had they known about these defects.

**24. Phyllis Hartzell—Kansas**

49. Plaintiff and proposed Nationwide and Kansas State Class Representative Phyllis Hartzell is a resident and citizen of Burlingame, Kansas. Ms. Hartzell purchased a used 2006 Saturn Ion in 2011 in Burlingame, Kansas. The vehicle had a 30-day dealer warranty. Ms. Hartzell purchased the vehicle because she thought it was safe and reliable and would be a good vehicle for transporting her grandchildren. She no longer feels safe driving the vehicle and

will no longer drive her grandchildren in the car. As of September 2014, Ms. Hartzell is still awaiting replacement of her ignition switch; she contacts her dealership regularly, and they continue to tell her they do not have parts but should have them soon. Had she known about the problems with her GM-branded vehicle, she would not have purchased the car and will never again purchase a GM-branded vehicle.

**25. Elizabeth Stewart—Kentucky**

50. Plaintiff and proposed Nationwide and Kentucky State Class Representative Elizabeth Stewart is a resident and citizen of Raceland, Kentucky. She purchased a used 2010 Chevrolet Cobalt in February 2012 from a dealer in Paintsville, Kentucky for $14,000. Ms. Stewart's Chevrolet Cobalt was under factory warranty when she purchased it, and she also purchased an extended bumper-to-bumper warranty. The factory warranty and extended warranty have both expired. Around the time of her purchase, Ms. Stewart recalls seeing several commercials in which GM touted the Cobalt's safety and stated that it is the best vehicle in its class. She believed the vehicle was safe and defect free when she purchased it. Just two-and-a-half months after buying the car, in April 2012, Ms. Stewart experienced her first inadvertent shut down. She was driving in Kentucky when the engine suddenly shut off while the key was still turned and the transmission was in "drive." The loss of power made the steering wheel almost impossible to turn. Ms. Stewart managed to get to the side of the road and, thankfully, was not injured. She was also thankful that her children were not in the vehicle at the time, especially given that she purchased it primarily for use as the family car. Ms. Stewart experienced many similar shut downs between the purchase date of February 2012 and July 2014, when the ignition switch was replaced under the recall. Even post-recall "repair," Ms. Stewart has issues with the car indicative of power loss, where the headlights dim and the steering wheel locks up. GM should have disclosed these defects when Ms. Stewart purchased

the vehicle. Had New GM disclosed the defects in its vehicles, Ms. Stewart would either not have purchased the vehicle, or would have paid less.

**26. Lisa West—Louisiana**

51. Plaintiff and proposed Nationwide and Louisiana State Class Representative Lisa West is a resident and citizen of Baton Rouge, Louisiana. Ms. West purchased a used 2008 Chevrolet Cobalt on August 3, 2010 from All Star Hyundai in Baton Rouge for $9,621. Her vehicle was covered by a warranty at the time of purchase. It expired last year. At the time she purchased it, the GM dealer told her it was a very safe vehicle. Had New GM disclosed the defects in its vehicles, Ms. West would either not have purchased the vehicle, or would have paid less.

**27. Michelangelo De Ieso—Maine**

52. Plaintiff and proposed Nationwide and Maine State Class Representative Michelangelo De Ieso is a resident and citizen of Dover-Foxcroft, Maine. Mr. De Ieso purchased a used 2008 Pontiac Solstice on June 20, 2013, in Auburn, Massachusetts for $20,250.00. The vehicle was not under warranty when he purchased it. Mr. De Ieso did not learn about the ignition switch defects until March 2014. Mr. De Ieso is concerned about his safety in driving the vehicle and believes its value is now greatly diminished as a result of the ignition switch defects. As a precaution, Mr. De Ieso has not driven his vehicle since June 2014 and continues to wait to have the recall work performed on his vehicle. In fact, he purchased another non-GM vehicle to drive in the interim. In addition, he has tried to sell his Solstice privately but has been unsuccessful. He would not have purchased this vehicle had he known about the safety defects.

**28. Harry Albert—Maryland**

53. Plaintiff and proposed Nationwide and Maryland State Class Representative Harry Albert is a resident and citizen of Montgomery Village, Maryland. Mr. Albert purchased a

new 2012 Chevrolet Camaro from Ourisman's Rockmont Chevrolet in Rockville, Maryland, in October 2012 for $34,000. On at least three occasions, the power in Mr. Albert's Camaro failed during normal vehicle operation. During the second of these incidents, on May 13, 2014, Mr. Albert was operating his vehicle on a roadway at the posted speed when his power failed. Mr. Albert was nearly rear-ended by the vehicle traveling behind him, but the vehicle swerved and avoided a collision. Mr. Albert's knees did not impact the ignition key during this event. He was able to restart the Camaro and immediately took it to the Ourisman Rockmont dealership for testing. The dealership tested the vehicle, but could find nothing wrong. Less than one month later, Mr. Albert's vehicle experienced another power failure when he was turning into a parking lot. Again, he was almost rear-ended. This time, Ourisman Rockmont provided Mr. Albert with a loaner car while it attempted to determine the source of the problem. Shortly thereafter, New GM publicly announced the recall of the Camaro vehicles, but Mr. Albert did not learn of the ignition switch defect in his vehicle until June 2014. He took it back to the Ourisman Rockmont dealership, and they removed the blade from the ignition key fob and put it on a keychain and returned the vehicle to him. Mr. Albert was nonetheless so afraid to drive his Camaro that he traded it in for a used 2013 Chevy Impala in July 2014 in Germantown, Maryland. He received $27,000 for his Camaro, and paid $17,999 for the Impala. At the time of his trade-in, Mr. Albert did not yet know about the ignition switch recall out on his Impala. He would not have purchased the Camaro had he known about the safety defects, and now he is concerned about the safety of his Impala.

**29. Bryan Mettee—Maryland**

54. Plaintiff and proposed Nationwide and Maryland State Class Representative Bryan Mettee is a resident and citizen of Jarrettsville, Maryland. Mr. Mettee purchased a used 2006 Chevy Cobalt in 2012 from a dealership in Maryland for $10,000. He also purchased a

"bumper to bumper" warranty for the lifetime of the car, as well as an extended warranty. Mr. Mettee has experienced his ignition shutting down at least ten separate times during normal driving conditions. The first incident occurred in September 2013 while he was going approximately 35-40 miles per hour. He had to use the emergency brake to stop the car. In all instances he knows his knee did not bump into the ignition switch or keys when the car shut off. He visited the dealership no less than three times to attempt to resolve the shutdown issues, but in all cases the problem resumed after the dealer purported to fix it, and all were out of pocket repair costs. It was only after all this hassle that he received the recall notice. His ignition switch was repaired shortly after he received the recall notice. Had New GM disclosed the defects in its vehicles, Mr. Mettee would either not have purchased the vehicle, or would have paid less for it.

**30. Richard Leger—Massachusetts**

55. Plaintiff and proposed Nationwide and Massachusetts State Class Representative Richard Leger is a resident and citizen of Franklin, Massachusetts. Mr. Leger purchased a used Pontiac G5 in Attleboro, Massachusetts, in 2013 for $8,000. He purchased the vehicle with a 90-day warranty. Mr. Leger purchased the vehicle because he thought it was safe. Mr. Leger's vehicle started experiencing stalling in November 2013. The first time was at a traffic light, when the car just shut down. That happened several more times. He also experienced loss and/or locking of the power steering. He does not feel safe driving the car, nor does he feel safe having his children drive it. Mr. Leger has attempted to have the ignition switch replaced several times, but each time he went to the dealership the part was not available. As of September 2014, he has not had his ignition switch replaced pursuant to the recall. Had he known about the problems with his GM-branded vehicle, he would not have purchased the car.

**31. Rafael Lanis—Michigan**

56. Plaintiff and proposed Nationwide and Michigan State Class Representative Rafael Lanis is a resident and citizen of Birmingham, Michigan. Mr. Lanis purchased a used 2006 Chevy Cobalt in July 2011 at auction at Westland Auto Care in Michigan for $2,800. His car was no longer under warranty at the time he purchased it. Mr. Lanis has experienced his ignition shutting down approximately ten separate times after starting his car and then removing his hand from the key. It also shut down once while sitting idle at a traffic light. His ignition switch was repaired approximately one month after he received the recall notice, in April 2014. But his car was affected by further recalls and when he tried to secure a loaner from New GM before repairing his ignition switch, they refused. Mr. Lanis tried to sell his vehicle over the last 4-5 months but has been unsuccessful. He noted that the Kelley Blue Book value of his car has dropped from $4,700 to $4,000 since announcement of the recalls. Had New GM disclosed the defects in its vehicles, Mr. Lanis would either not have purchased the vehicle, or would have paid less for it.

**32. Sheree Anderson—Michigan**

57. Plaintiff and proposed Nationwide and Michigan State Class Representative Sheree Anderson is a resident and citizen of Detroit, Michigan. Ms. Anderson purchased a used 2008 Chevy HHR on November 15, 2011, in Michigan for approximately $16,500. The vehicle had a warranty on it when she purchased it. Ms. Anderson chose the HHR in part because she desired a safe vehicle. Ms. Anderson did not learn about the ignition switch defects until March 2014. Although Ms. Anderson has not experienced her vehicle shutting down while driving, she is concerned for her safety as a result of the ignition switch defects. She must continue to drive her vehicle, however, because it is her main form of transportation, and she must drive it to work every day. Ms. Anderson's HHR received the ignition switch recall repair work on June 10,

2014. She believes the value of her vehicle is now greatly diminished as a result of the ignition switch defects. Had she known about the ignition switch defects, she would either not have purchased the HHR or would have paid less for it.

**33. Anna Allhouse—Minnesota**

58. Plaintiff and proposed Nationwide and Minnesota State Class Representative Anna Allhouse is a resident and citizen of Clarks Grove, Minnesota. Ms. Allhouse purchased a used 2007 Chevy HHR in 2012 in Minnesota for approximately $12,000. Her car was under warranty when she purchased it, and she also purchased an extended warranty and gap insurance from the dealership at the same time. The car is currently under warranty. Ms. Allhouse experienced one incident related to the car shutting off on its own. In the winter of 2013, she was backing out of her driveway, and the car suddenly turned off. She was able to restart the car and was not involved in an accident. After receiving the recall notice, Ms. Allhouse took her car to the GM dealer. They told her there was nothing wrong with her ignition. Ms. Allhouse still owes approximately $9,800 on the vehicle. Recently, she tried to trade it in for a new vehicle at the same dealership but was told they would only offer $2,000 for the car. Ms. Allhouse has two small children and wanted a safe, reliable vehicle. She would never have purchased a GM-branded vehicle if she knew about the defects.

**34. Elizabeth D. Johnson—Mississippi**

59. Plaintiff and proposed Nationwide and Mississippi State Class Representative Elizabeth D. Johnson is a resident and citizen of Jackson, Mississippi. Ms. Johnson purchased a used 2007 Chevrolet Cobalt on March 27, 2012, from Bond Auto Sales, Jackson, Mississippi for $7,200.00. Ms. Johnson twice had her vehicle shut down and on one occasion was in an accident as a result, her airbags did not deploy. Her car was totaled and she has lost value as a result.

Ms. Johnson would not have purchased the vehicle, or paid as much, if she had known the vehicle was a safety hazard.

**35. Linda Wright—Mississippi**

60. Plaintiff and proposed Nationwide and Mississippi State Class Representative Linda Wright is a resident and citizen of Greenwood, Mississippi. Ms. Wright purchased a used 2007 Chevrolet Cobalt on July 8, 2013, in Greenwood, Mississippi for $4,300. At the time she purchased her vehicle, it was not covered by a warranty. On two occasions, on November 13, 2013, and May 18, 2014, Ms. Wright experienced her engine shutting down while operating the vehicle under normal driving conditions at 25-40 miles per hour. Each time, she was forced to try and steer the car to the side of the road before restarting the engine. The steering also locked up in both instances. Her vehicle had the ignition switch repair done at a dealership in Greenwood, Mississippi. Had New GM disclosed the defects in its vehicles, Ms. Wright would either not have purchased the vehicle, or would have paid less.

**36. Cynthia Hawkins—Missouri**

61. Plaintiff and proposed Nationwide and Missouri State Class Representative Cynthia Hawkins is a resident and citizen of Pevely, Missouri. Ms. Hawkins purchased a used 2010 Chevy Cobalt on July 23, 2013, in Missouri for approximately $13,000. The car was not under warranty when she purchased it. She believed the car was a good family car and one that a teenager could drive. Ms. Hawkins did not receive a recall notice, but rather heard about it on the news and immediately contacted her GM dealer. The dealer told her the parts were not available. Ms. Hawkins could not drive her vehicle from April 7, 2014, to August 29, 2014, while she awaited the recall repair parts to come in and be installed in her car. Since announcement of the recalls, she believes her car's value has decreased significantly, and it

prevents her from re-selling it for a fair price. Ms. Hawkins would not have purchased this GM-branded vehicle had she known about these defects.

**37. Ronald Robinson—Missouri**

62. Plaintiff and proposed Nationwide and Missouri State Class Representative Ronald Robinson is a resident and citizen of Bridgeton, Missouri. Mr. Robinson purchased a used 2010 Chevy Impala in June 2010 in Missouri for approximately $16,000. He purchased an extended warranty that expires on March 16, 2015, or at 82,000 miles. Before purchasing, Mr. Robinson viewed email advertising highlighting the quality of the GM product, and this positively impacted his decision to buy the car. Mr. Robinson first heard about the recalls in the summer of 2014. He contacted his local dealer to inquire about his Impala, and they told him his specific make and model was not being recalled. Then just a few months later in August 2014, he received a notice in the mail about his car being recalled for the ignition switch defect. Mr. Robinson's vehicle has still not been repaired, however, because the GM dealership told him the parts are not available—and they do not know when they will become available. He believes his car's value has diminished and he is worried about trying to sell the car now because he does not believe he can get a fair price for it. Mr. Robinson would not have purchased this GM-branded vehicle had he known about these defects, and under no circumstances would he have even considered buying the car for a lesser price.

**38. Patricia Backus—Montana**

63. Plaintiff and proposed Nationwide and Montana State Class Representative Patricia Backus is a resident and citizen of Bigfork, Montana. Ms. Backus purchased a used 2006 HHR in 2012 in Idaho for $10,900. Ms. Backus purchased a short-term warranty, which she cancelled shortly after purchasing the vehicle. Ms. Backus purchased the HHR because she believed it reliable and safe. Within six months of purchasing the vehicle, she experienced a stall

while approaching a traffic light. She had three additional shut downs while driving. During these incidents, she had no control of the steering, and, on at least one of the occasions, her steering locked. It took Ms. Backus several attempts for her vehicle to turn back on. She no longer feels safe driving the vehicle even though the ignition switch was replaced, and since learning about the recall she is angry towards New GM for keeping the safety defect a secret. Ms. Backus had her ignition switch replaced in August 2014. Since the replacement, the radio in her vehicle turns off. Had she known about the problems with her GM-branded vehicle, she would not have purchased the car. She will never purchase another GM-branded vehicle.

**39. Susan Rangel—Nebraska**

64. Plaintiff and proposed Nationwide and Nebraska Class Representative Susan Rangel is a resident and citizen of North Platte, Nebraska. She purchased a used 2008 Chevrolet Cobalt in the fall of 2009 at Jerry Remus Chevrolet in North Platte, Nebraska, for $14,000. At the time of purchase, the vehicle had the original manufacturer's warranty. Ms. Rangel purchased the vehicle believing it to be safe and reliable. When she learned about the recall, she requested a rental/loaner vehicle because she did not believe the vehicle was safe to drive, but she was informed by New GM that she would not be given a loaner vehicle. The dealership replaced the ignition switch in June 2014 pursuant to the recall. Nevertheless, Ms. Rangel does not believe the vehicle is safe for her family to drive and has attempted to sell the vehicle. As of September 2014, those efforts have been unsuccessful. Had she known about the problems with her GM-branded vehicle, she would he would not have purchased the car and will never again purchase another GM-branded vehicle.

**40. Sandra Horton—Nevada**

65. Plaintiff and proposed Nationwide and Nevada State Class Representative Sandra Horton is a resident and citizen of Las Vegas, Nevada. Ms. Horton purchased a used 2007

Pontiac Solstice in October 2013 in Nevada for $10,000. Her car was not under warranty at the time of purchase. On several occasions she has experienced issues with her vehicle that are consistent with the ignition switch defects. Her vehicle was repaired under the recall, but only after waiting four months for the parts to arrive. New GM did not provide her with a loaner vehicle during this waiting period. Ms. Horton would not have purchased her GM-branded vehicle had she known about its safety defects.

**41. Gene Reagan—New Jersey**

66. Plaintiff and proposed Nationwide and New Jersey State Class Representative Gene Reagan is a resident and citizen of South Amboy, New Jersey. Mr. Reagan purchased a new 2010 HHR in December 2009, at a dealership in Middletown, New Jersey, for approximately $20,000. His vehicle had a standard warranty, but he does not recall its details. Mr. Reagan purchased a GM-branded vehicle because he believed that New GM stood for safety and reliability. Mr. Reagan has experienced several safety problems with his vehicle, including his ignition locking and inability to turn the key to the "on" position, requiring the car to be towed to the dealership. Because of his ignition problems, Mr. Reagan had his ignition replaced approximately three years ago. That did not solve the problems he was experiencing with his vehicle. As of September 2014, Mr. Reagan is still awaiting replacement of his ignition switch pursuant to the recall and feels nervous driving it in its current defective condition. Had he known about the problems with his GM-branded vehicle, and particularly that New GM was building vehicles plagued with defects and not committed to safety and reliability, he would he would not have purchased the car. Mr. Reagan will never purchase another GM-branded vehicle.

**42. Lorraine De Vargas—New Mexico**

67. Plaintiff and proposed Nationwide and New Mexico State Class Representative Lorraine De Vargas is a resident and citizen of Santa Fe, New Mexico. Ms. De Vargas purchased a used 2005 Saturn Ion on November 25, 2009, in Santa Fe, New Mexico for $5,000. There was no warranty on the vehicle when Ms. De Vargas purchased it. Ms. De Vargas bought her Ion in part because of her desire for a safe vehicle. Ms. De Vargas was involved in an accident on December 14, 2012. While Ms. De Vargas was driving her Ion, the vehicle shut down unexpectedly and caused her to collide with a fence at 25-30 miles per hour. Her airbags failed to deploy. The vehicle damage has been repaired, and while she is thankful to have survived the accident with no injuries, Ms. De Vargas must continue to drive her Ion to work every day. She is concerned about the safety of her vehicle, the impact the defects have had on the value of her vehicle, and the costs she has incurred in fixing the vehicle previously. Ms. De Vargas did not learn of the ignition switch defects until March 2014. She believes that New GM withheld information about the safety of its vehicles.

**43. Javier Delacruz—New Mexico**

68. Plaintiff and proposed Nationwide and Alabama State Class Representative Javier Delacruz is a resident and citizen of Albuquerque, New Mexico. Mr. Delacruz purchased a new 2009 Chevy Cobalt in September 2009 in Albuquerque, New Mexico for $20,698. The vehicle was under warranty when he purchased it. In 2011, Mr. Delacruz could not shut-off his vehicle and the ignition switch was replaced. Mr. Delacruz fears driving his vehicle due to the ignition switch recall and the risks posed by the defects. Mr. Delacruz had the ignition switch replaced, again, this year as a result of the recall. He believes the value of his vehicle has been diminished as a result of the defects. Mr. Delacruz would not have purchased this car if New GM had been honest about the safety defects.

**44. Renate Glyttov—New York**

69. Plaintiff and proposed Nationwide and New York State Class Representative Renate Glyttov is a resident and citizen of New Windsor, New York. Ms. Glyttov purchased a used 2009 Chevrolet HHR on March 28, 2012 from Barton Birks Chevrolet in Newburgh, New York for $15,995. Ms. Glyttov's vehicle was covered by a certified pre-owned limited warranty that expired on March 28, 2013, as well as a standard maintenance plan that was effective from her purchase date until March 28, 2014. Ms. Glyttov has purchased many GM-branded vehicles, believing that they were safe and reliable vehicles based on the strength of the brand name. Operating under the belief that GM was a quality brand and that the vehicle would be safe and reliable and defect-free, she purchased her HHR. Ms. Glyttov's vehicle regularly shut off spontaneously on many occasions in 2012 and 2013 while traveling around New Windsor, New York; Newburgh, New York; Wallkill, New York; and in Pennsylvania when driving onto an off ramp of I-84. The vehicle would shut off when Ms. Glyttov drove on bumpy roads or hit a pothole. On each occasion, the vehicle gearshift was in "drive" and the ignition key was in the "run" position. Ms. Glyttov also experienced other problems with the ignition. On several occasions in 2012 and 2013, she put the key in the ignition, but the key would not turn and would then get stuck in the ignition. Eventually the key would move after attempting to turn the ignition on for several minutes. On May 16, 2012, Ms. Glyttov's ignition lock cylinder was replaced during a routine oil change. Plaintiff Glyttov experienced numerous shut off events after this replacement. Ms. Glyttov's ignition switch was replaced in connection with the recalls initiated in response to the ignition switch defects. First, Ms. Glyttov's ignition key was replaced on April 16, 2014, and then her ignition switch was replaced on June 11, 2014. Ms. Glyttov would not have purchased the vehicle had she known of the defects.

**45. Nicole Mason—New York**

70. Plaintiff and proposed Nationwide and New York State Class Representative Nicole Mason is a resident and citizen of Rochester, New York. Ms. Mason purchased a new 2010 Chevrolet Cobalt on May 17, 2010, from Bob Johnson Chevrolet in Rochester, New York for $22,010.47. Ms. Mason purchased an extended warranty that covers the vehicle for 72 months or 48,000 miles. Ms. Mason reviewed advertisements for the Cobalt that ran in her local newspaper, the *Democrat & Chronicle*, and her decision to buy the vehicle was influenced by these advertisements. Ms. Mason believed the Chevrolet Cobalt was a safe and reliable vehicle. Ms. Mason's vehicle has spontaneously shut off on at least three occasions. The vehicle first shut off on September 3, 2010, near Emerson and Glide streets in Rochester, New York when Ms. Mason's daughter, Jessica Mason, was driving it home from a test to get her drivers' license. The vehicle shut off a second time on September 16, 2010, in Rochester, New York when Jessica Mason was traveling on Britton Road. Most recently, on September 4, 2014, the vehicle shut off while Ms. Mason was driving it in Myrtle Beach, South Carolina. On each shutdown occasion, the vehicle lost power for no apparent reason. Ms. Mason and her daughter were not driving on a bumpy road and did not hit the ignition switch with their knees. On each occasion, the vehicle gearshift was in "drive" and the ignition key was in the "run" position. On the September 16, 2010 incident, Jessica Mason was forced to use the emergency break to get the vehicle to stop and avoid an accident. The vehicle would not turn back on immediately and had to be towed to Ms. Mason's home. Ms. Mason took the vehicle to a GM dealer after the September 16, 2010 incident, but the dealer could not identify a cause for the shut off and made no repairs to the vehicle. Ms. Mason's ignition switch was replaced in June 2014 in connection with the recalls initiated in response to the ignition switch defect. Had New GM disclosed the defects in its vehicles, Ms. Mason would either not have purchased the vehicle, or would have paid less.

**46. Steven Sileo—New York**

71. Plaintiff and proposed Nationwide and New York State Class Representative Steven Sileo is a resident and citizen of Skillman, New York. Mr. Sileo purchased a used 2009 Chevy Cobalt in July 2010 in Burlington, New Jersey for $10,000. The vehicle was under warranty when he purchased it. Although Mr. Sileo has not experienced any issues with his Cobalt, he fears driving his vehicle after learning of the ignition switch recall and the risks posed by the defects. Mr. Sileo is still waiting for the recall repair work to be completed on his vehicle. He is eager to sell the vehicle but cannot honestly market it without the ignition switch being replaced. Also, he believes the value of his vehicle has been diminished as a result of the defects and the stigma with the GM brand. Mr. Sileo would not have purchased this car if New GM was honest about the safety defects.

**47. Dawn Tefft—New York**

72. Plaintiff and proposed Nationwide and New York State Class Representative Dawn Tefft is a resident and citizen of Mt. Upton, New York. Ms. Tefft purchased a used 2010 Chevy Cobalt on June 21, 2011, in Sidney, New York for $13,695.50. There was no warranty on the vehicle when Ms. Tefft purchased it. Ms. Tefft bought her Cobalt in part because of her desire for a safe vehicle. Ms. Tefft was involved in a serious accident on October 24, 2013, while driving to work. While Ms. Tefft was driving her Cobalt, the vehicle shut down unexpectedly and caused her to collide head-on with a bridge at 40-45 miles per hour. The airbags failed to deploy, and the vehicle was totaled as a result of the accident. Ms. Tefft did not learn about the ignition switch defects until March 2014. Had she been aware of the ignition switch defects, Ms. Tefft would either not have purchased her Cobalt or would have paid less for it.

**48. Silas Walton—North Carolina**

73. Plaintiff and proposed Nationwide and North Carolina State Class Representative Silas Walton is a resident and citizen of Fayetteville, North Carolina. Mr. Walton purchased a used 2008 Chevrolet Cobalt in 2010 in Clarksville, Tennessee for between $14,000 and $15,000. The vehicle was under warranty, but he does not recall the warranty terms. Mr. Walton purchased the vehicle because he thought it was a reliable and safe vehicle. Mr. Walton often experienced problems with starting the vehicle and turning the key to any position. On at least one occasion, he experienced a shutdown in his vehicle, which caused the steering wheel to lock. This occurred while he was driving downhill on a highway. At first, he was unable to control the car, but eventually he was able to maneuver it to the side of the road. After about ten minutes, he was able to restart the vehicle. Mr. Walton had the ignition switch replaced in the summer of 2014; however, his key continues to stick in the ignition. He remains concerned about driving the vehicle. Had he known about the problems with his GM-branded vehicle, he would not have purchased the car and will never again trust New GM.

**49. Jolene Mulske—North Dakota**

74. Plaintiff and proposed Nationwide and North Dakota State Class Representative Jolene Mulske is a resident and citizen of Gladstone, North Dakota. Ms. Mulske purchased a used 2005 Chevrolet Cobalt in 2010 in Dickinson, North Dakota, for approximately $10,000. Ms. Mulske purchased the vehicle because she wanted a safe and reliable vehicle for her daughter to drive. Ms. Mulske had the ignition switch replaced in the summer of 2014, but she and her daughter are afraid to drive it now. Had she known about the problems with her GM-branded vehicle, she would not have purchased the car and will never again purchase a New GM vehicle.

**50. Peggy Robinson—Ohio**

75. Plaintiff and proposed Nationwide and Ohio State Class Representative Peggy Robinson is a resident and citizen of Cincinnati, Ohio. Ms. Robinson purchased a used 2004 Saturn Ion in 2013 in Cincinnati, Ohio for $4,999. Ms. Robinson purchased the Ion because she thought it was safe. Within six months of purchasing the vehicle, she began experiencing shut downs while driving. The shut downs occurred two or three times per week on average. She no longer feels safe driving the vehicle, especially because she has children. Ms. Robinson had her ignition switch replaced in August 2014, and she has experienced two shut downs since then. Had she known about the problems with her GM-branded vehicle, she would he would not have purchased the car.

**51. Jerrile Gordon—Oklahoma**

76. Plaintiff and proposed Nationwide and Oklahoma State Class Representative Jerrile Gordon is a resident and citizen of Del City, Oklahoma. Mr. Gordon purchased a used 2006 Chevy Cobalt on September 3, 2011, in Oklahoma City, Oklahoma for $14,950. Mr. Gordon chose the Cobalt, in part, because he wanted a safely designed and manufactured car. Mr. Gordon's vehicle has shut down on four separate occasions between December 2011 and July 2012. In two instances, he was driving on the highway when the shut downs occurred, and he had to steer his vehicle to the side of the road to restart. On the other two occasions, his car shut off while driving over a bump in the road. Mr. Gordon did not learn of the ignition switch defects until March 2014. Had he been aware of the ignition switch defects, Mr. Gordon would either not have purchased his Cobalt or would have paid less for it than he did.

**52. Bruce and Denise Wright—Oklahoma**

77. Plaintiffs and proposed Nationwide and Oklahoma State Class Representatives Bruce and Denise Wright, husband and wife, are residents and citizens of Enid, Oklahoma. If

not for this MDL, the Wrights would have filed a class action in the United States District Court for the Western District of Oklahoma. The Wrights purchased a new 2011 Chevrolet Camaro on March 18, 2011, in Norman, Oklahoma for $31,000. The vehicle was covered by a standard three year, 36,000 mile warranty. Prior to buying, they saw television, print, and billboard ads regarding the vehicle's five star rating and safety. Ms. Wright drove the vehicle daily to and from her and Mr. Wright's places of work. The Wrights learned of the June 30, 2014 recall affecting their Camaro in July 2014 through the news media, and they called the local GM dealership to confirm the recall and the safety concerns relating to recall. Afterwards, Ms. Wright was no longer comfortable driving the Camaro, so they proceeded to dispose of the vehicle as quickly as practical. They traded the car to a local Ford dealership on August 9, 2014. The Wrights believe they suffered a diminution of value in their vehicle due to the ignition switch defects and the surrounding publicity, and that they could have received more for their Camaro but for the defect. Had New GM disclosed the defects in its vehicles, Plaintiff would either not have purchased the vehicle, or would have paid less.

**53. Jennifer Reeder—Oklahoma**

78. Plaintiff and proposed Nationwide and Oklahoma State Class Representative Jennifer Reeder is a resident and citizen of Oklahoma City, Oklahoma. If not for the MDL, Ms. Reeder would have filed a class action in the Unites States District Court for the Western District of Oklahoma. Ms. Reeder purchased a used 2012 Chevrolet Impala on August 30, 2013, in Norman, Oklahoma, from David Stanley Chevrolet for $18,595. Ms. Reeder also purchased an extended warranty for the vehicle from David Stanley Chevrolet at the time of purchase. On or about July 26, 2014, Ms. Reeder was unable to remove the key from the ignition, and the steering and brakes would not lock. After 30 minutes of manipulating the key in an effort to remove it from the ignition, she was forced to leave the key in the ignition overnight; her

husband was able to remove the key from the ignition the following day. Ms. Reeder was unaware of any recall notice affecting her Impala until, some time shortly after the key became stuck in the ignition overnight, a neighbor informed her about the recall covering Impalas. Ms. Reeder watched the television concerning the recalls and researched the vehicle recalls online, but she never received a written recall notice in the mail regarding her Impala. Ms. Reeder and her son, both of whom drive the Impala to and from work, would have liked to discontinue driving the Impala until the ignition system was repaired, but they were unable to do so because it would have left her family with a single means of transportation among herself, her husband, and her son due to their other vehicle, a Chevrolet Cobalt, already being totaled in a defect-related crash. The family could not afford to pay for a rental car. Finally, on September 16, 2014, a GM dealership notified her that it was ready to repair the Impala. The repair was performed on September 22, 2014, and the dealership provided her with a loaner or rental vehicle that day while the repairs were performed. At the time the repair was performed, Ms. Reeder reported to the dealership that the Impala's engine light sometimes comes on unexpectedly and, occasionally, the vehicle will not start at all. Replacing the battery has not eliminated the problem. The dealership reported that there were no recalls related to such electrical problems, and they did not do anything to fix it. The electrical problem has recurred since the ignition recall repair. Ms. Reeder believes she has suffered a diminution of value in her vehicle due to the ignition switch defects, recalls, and surrounding publicity.

79. Ms. Reeder also purchased a used 2010 Chevrolet Cobalt on or about February 5, 2014, in Del City, Oklahoma, from Ricks Auto Sales for $9,595. Ms. Reeder purchased an extended warranty for the Cobalt from Ricks Auto Sales at the same time. Ms. Reeder purchased the vehicle primarily for Anthony Reeder, her son, for his personal, family, and household use.

On May 19, 2014, Anthony Reeder was driving in bumper-to-bumper traffic when the vehicle suddenly shut off, the brakes became ineffective, the steering wheel stopped operating, and he struck the vehicle in front of him, totaling the Cobalt and injuring Anthony. Ms. Reeder and Mr. Reeder were unaware of any recall on the Cobalt until after the accident when they learned of the recall from a neighbor. They had never received any recall notice in the mail. After the accident, Ms. Reeder and her son have been and are currently sharing Ms. Reeder's 2012 Chevrolet Impala, because they cannot afford another car due to the balance remaining on the financing note of the Cobalt. From sharing the Impala, they have increased the miles accumulated on it so much that they have used up its extended warranty. A combined total of 45,000 miles were added to the Impala since the crash of the Cobalt, and they had to pay the $2,500 deductible not paid by the insurance company for the totaled Ion. Ms. Reeder also claims damages for the decreased value of the Impala because of its increased usage in the absence of the Cobalt, the difference in the amount of the cost of gasoline between Mr. Reeder using the Impala and using the better-mileage Cobalt, the value of the extended warranty on the Impala used up by the excess of miles, and the increase in her auto insurance premiums as a result of the accident caused by the Cobalt's defective design being attributed to Mr. Reeder. The difference between the settlement paid to Ms. Reeder by her insurance company, Geico, on the Cobalt after the wreck and her loan for the vehicle left her with an outstanding balance of more than $1,500. In valuing the Cobalt, Geico took into account values of vehicles on dates after the July 13, 2014 announcement of the ignition recall on Cobalts and other GM Vehicles received wide publicity. The valuation Geico thus arrived at was lower than it would have been had the defect not been present in the Cobalt and other models. Geico's valuation explicitly noted the existence of the recalls complained of herein.

**54. Deneise Burton—Oklahoma**

80. Plaintiff and proposed Nationwide and Oklahoma State Class Representative Deneise Burton is a resident and citizen of Warr Acres, Oklahoma. Ms. Burton purchased a used 2007 Saturn Ion on September 8, 2012 in Oklahoma for $11,995. She also purchased a limited warranty for 24 months or 24,000 miles. Once, in April 2013, her engine shut off while backing out of her driveway after her knee bumped the ignition switch area, knocking her keys from the ignition. Her ignition switch was repaired after she received the recall notice. In two attempts before GM agreed to provide her a loaner vehicle so as not to risk her and her children's lives while using the car and waiting for the repair parts to arrive. She has tried to sell her vehicle since the recalls were announced, but the value of her vehicle is now too low. Ms. Burton would not have purchased her vehicle, or she would have paid less for it, had she known about these defects.

**55. Janice Bagley—Pennsylvania**

81. Plaintiff and proposed Nationwide and Pennsylvania State Class Representative Janice Bagley is a resident and citizen of Patton, Pennsylvania. Ms. Bagley purchased a used 2007 Chevrolet Cobalt in 2013 in Carroltown, Pennsylvania, for approximately $6,000. The vehicle had a 30-day warranty at the time of purchase. Ms. Bagley purchased the Cobalt because she had owned GM-branded vehicles in the past, thought her previous vehicles to be safe and reliable, and believed the Cobalt also would be safe and reliable. She also thought it would be a safe, reliable vehicle for her 19 year old daughter to drive. Within the first 30 days of owning the vehicle, she experienced two stalling events; a few weeks later she had a third stalling incident. Each time she took the vehicle to a mechanic because she was concerned she would be stranded one day. In February 2014, she was involved in an accident when a deer ran in front of her; she was driving 35 miles per hour yet her airbags did not deploy. Following the recall, she

made the connection between the frontal collision and airbag failure and the safety recall. Ms. Bagley had her ignition switch replaced in June or July of 2014. Had she known about the problems with her GM-branded vehicle, she would not have purchased the car and will never again purchase any GM-branded vehicle.

**56. Janelle Davis—South Dakota**

82. Plaintiff and proposed Nationwide and South Dakota State Class Representative Janelle Davis is a resident and citizen of South Sunburst, South Dakota. Ms. Davis purchased a used 2006 Chevrolet Cobalt in 2011 in Sioux Falls, South Dakota, for $7,200. Ms. Davis purchased the vehicle because she thought it was a reliable and safe vehicle and also because it has good mileage ratings. When Ms. Davis learned about the recall, she contacted the dealership about a loaner vehicle because she has a one year old daughter and did not feel safe driving her in a vehicle with a safety defect. She was denied a loaner and/or rental vehicle, even though she told the dealership about her fear of driving her one year old daughter in an unsafe vehicle, because she had not experienced shut downs or stalls. Ms. Davis had her ignition switch replaced pursuant to the recall in the summer of 2014. Had she known about the problems with her GM-branded vehicle, she would not have purchased the car.

**57. Louise Tindell—Tennessee**

83. Plaintiff and proposed Nationwide and Tennessee State Class Representative Louise Tindell is a resident and citizen of Murfeesboro, Tennessee. Ms. Tindell purchased a used 2007 Saturn Ion in 2010 in Murfeesboro, Tennessee, for approximately $10,000. The vehicle was under warranty; she believes there were two years remaining on the warranty at the time she purchased the car. When Ms. Tindell believed that the Ion was a safe and reliable vehicle. Within seven months of purchasing the vehicle, Ms. Tindell's vehicle shut down while she was driving. She veered to the right, came to a stop, and waited before turning her car back

on. On another occasion, her vehicle shut down on her way to church. These events make her afraid to drive her car, and, since learning about the recall, she is angry towards New GM for keeping the safety defect a secret. Ms. Tindell had her ignition switch replaced in approximately June 2014. Since the replacement, she has experienced problems with her seat belts. She no longer trusts the Ion; she will never feel safe regardless of repairs or replacement parts. She continues to fear she will experience more shut downs. Had Ms. Tindell known about the problems with her GM-branded vehicle, she would not have purchased the car. She now tries to drive as infrequently as possible, and when she does she is fearful.

**58. Michael Graciano—Texas**

84. Plaintiff and proposed Nationwide and Texas State Class Representative Michael Graciano is a resident and citizen of Arlington, Texas. On October 17, 2011, Mr. Graciano purchased a used 2007 Chevrolet Cobalt from a dealership in Arlington, Texas, for $22,197.20. Prior to March 4, 2014, his fiancé and her daughter had experienced the car stalling on numerous occasions with a corresponding loss of power steering. They had the car looked at by family members experienced in car repair and one independent repair shop, but no one was able to diagnose the problem. Mr. Graciano received a safety recall notice pertaining to his vehicle in March 2014. After receiving the notice, Mr. Graciano and his fiancé, fearful for her daughter's safety, instructed her not to drive the car any more. Mr. Graciano's fiancé called a local Chevrolet dealer in Colorado twice in March 2014 about having the recall repair performed and each time she was told the dealer did not have the necessary parts, and each time the dealer failed to offer a loaner vehicle. The car was eventually serviced under the recall by AutoNation Chevrolet North in Denver, Colorado, and Mr. Graciano's fiancé's daughter was provided with a rental car as a loaner vehicle. While Mr. Graciano waited on repair of the Cobalt, his fiancé's daughter moved to Texas to go to college, bringing the rental car with her. Finally, in

approximately mid-June, the dealer called to say the recall repair had been made, some two months after the car was left with the dealer. Had New GM disclosed the defects in its vehicles, Mr. Graciano would not have purchased the Cobalt.

**59. Keisha Hunter—Texas**

85. Plaintiff and proposed Nationwide and Texas State Class Representative Keisha Hunter is a resident and citizen of Fort Worth, Texas. Ms. Hunter purchased a used 2006 Chevy Cobalt on March 22, 2013, in Arlington, Texas for $24,965.01. Ms. Hunter chose the Cobalt in part because she wanted a safe vehicle. Ms. Hunter is concerned for her safety and the diminished value of her vehicle as a result of the ignition switch defects. Ms. Hunter did not learn of the ignition switch defects until March 2014. Had she been aware of the of the ignition switch defects, Ms. Hunter would either not have purchased her Cobalt or would have paid less for it than she did.

**60. Alexis Crockett—Utah**

86. Plaintiff and proposed Nationwide and Utah State Class Representative Alexis Crockett is a resident and citizen of Eagle Mountain, Utah. Ms. Crockett purchased a used 2005 Chevrolet Cobalt in 2013 in Oehi, Utah, for $5,200. The vehicle did not have a warranty. Ms. Crockett experienced problems turning the vehicle on and off on numerous occasions; she also had difficulty removing the key from the ignition. In some weeks, the key would get stuck in the ignition several times. She also has experienced stalling when reversing out of her driveway. Ms. Crockett has not had her ignition switch replaced pursuant to the recall as of September 2014. She regularly calls the dealership and is told that the part is not ready; she has been told by another dealership that her vehicle is not on the recall list. Ms. Crockett is afraid to drive her vehicle, especially when she has to transport her siblings to see her father which requires highway driving. She would like to sell her vehicle but has to pay more than the car is now

worth, so cannot afford to sell it. Had she known about the problems with her GM-branded vehicle, she would not have purchased the car.

**61. Ashlee Hall-Abbott—Virginia**

Plaintiff and proposed Nationwide and Virginia State Class Representative Ashlee Hall-Abbott is a resident and citizen of Hampton, Virginia. Ms. Hall-Abbott and her husband Brian Abbott purchased a new 2014 Chevy Silverado in March 2014 at Hampton Chevrolet in Hampton, Virginia for $38,204.19. Her vehicle is currently covered by GM's two-year, 100,000-mile warranty and an unlimited lifetime warranty through Hampton Chevrolet. Ever since purchasing the truck earlier this year, Ms. Hall-Abbott's vehicle has been repaired under at least three or four separate recalls, and she just recently received what she believes is the fifth recall notice in the mail. She and her husband recently went to the GM dealership to inquire about trading in the Silverado for a Chevy Tahoe. The dealership finance manager immediately declined the offer, however, saying the dealership would be upside down in negative equity if they accepted. Had Ms. Hall-Abbott and her husband known about the safety defects and problems associated with their Silverado, they would have purchased another vehicle.

**62. Michael Garcia—Washington**

87. Plaintiff and proposed Nationwide and Washington State Class Representative Michael Garcia is a resident and citizen of Yakima, Washington. Mr. Garcia purchased a used 2010 Chevy Cobalt in June 2011 in Mt. Vernon, Washington for $16,470. The vehicle was under warranty when he purchased it. Mr. Garcia fears driving his vehicle due to the ignition switch recall and the risks posed by the defects. Mr. Garcia had the ignition switch replaced under the recall repair program. He believes the value of his vehicle has been diminished as a result of the defects. Mr. Garcia would not have purchased this car had New GM been honest about the safety defects.

**63. Tony Hiller—Washington**

88. Plaintiff and proposed Nationwide and Washington State Class Representative Tony Hiller is a resident and citizen of Sumner, Washington. He purchased a used 2009 Chevrolet HHR in March of 2013 in Puyallup, Washington for $10,965.50. The car was not under warranty at the time of purchase. After learning of the recall, Mr. Hiller simulated a shutdown incident. He pulled lightly on his key and the vehicle shut off. On July 23, 2014, Mr. Hiller's ignition switch was replaced pursuant to the recall. Mr. Hiller traded in his HHR on August 8, 2014 because he does not believe the vehicle is safe to drive. He believes he received less in trade in value due to the recall and the safety defects in the vehicle. Knowing what he now knows about the safety defects in many GM-branded vehicles, he would not have purchased the vehicle.

**64. Melinda Graley—West Virginia**

89. Plaintiff and proposed Nationwide and West Virginia State Class Representative Melinda Graley is a resident of Alum Creek, West Virginia. Ms. Graley purchased a used 2003 Saturn Ion in March 2012 in Charleston, West Virginia for $13,000. The car was not under warranty at the time of purchase. In February, Ms. Graley's husband was driving the car when it inadvertently shut down, causing him to crash into an embankment. Ms. Graley also experienced steering lock-up events with her car. In one instance, it locked up on her while she was driving up a hill in the mountains, causing her car to drift left into the oncoming lane. She narrowly avoided colliding with a coal truck. The vehicle was serviced under an ignition switch recall in June 2014. During those three months her dealership called on multiple instances, insisting she return the loaner vehicle because there was "nothing wrong" with her ignition switch and that her vehicle never failed. With the assistance of her counsel, Ms. Graley was able to refuse these demands and retain her loaner through June when her car was finally repaired.

Ms. Graley attempted to sell her car to a dealership, CNO Motors, in August 2014. They only offered her $1,000 for the car, however, so she decided not to sell it. Had GM disclosed the defects in its vehicles, Ms. Graley would either not have purchased the vehicle, or would have paid less.

**65. Nancy Bellow—Wisconsin**

90. Plaintiff and proposed Nationwide and Wisconsin State Class Representative Nancy Bellow is a resident and citizen of Oconto Falls, Wisconsin. She purchased a used 2007 Chevrolet Cobalt in late March or early April 2012 at King Buick in Oconto, Wisconsin for $10,000. The car was not under warranty at the time of purchase. She purchased the vehicle after reading advertisements about the Cobalt on the Internet. Her ignition switch was not repaired under the recall until September 18, 2014, and she was never offered a loaner car during this waiting period. Knowing what she now knows about the safety defects in many GM-branded manufactured vehicles, she would not have purchased the vehicle.

**66. Henry Redic—Wisconsin**

91. Plaintiff and proposed Nationwide and Wisconsin State Class Representative Henry Redic is a resident and citizen of Milwaukee, Wisconsin. Mr. Redic purchased a used 2008 Buick Lucerne on September 19, 2011, from Joe Van Horn Chevrolet Inc. in Milwaukee, Wisconsin for $15,876. Mr. Redic's vehicle was covered by a written warranty and is currently covered by two extended warranties: the Advantage Contract # AD40 473150 and the Advantage Wrap Plan. Mr. Redic has owned six Buicks and has long favored this vehicle model. He purchased the vehicle at issue based on his belief that the GM brand was a trusted name and that the Buick was a safe and reliable vehicle. Mr. Redic believed his vehicle was safe and defect free when he purchased it. Mr. Redic's vehicle has spontaneously shut off on six different occasions. The first shut off occurred on July 13, 2013, in Chicago, Illinois. Mr. Redic

was driving over railroad tracks in heavy traffic when his vehicle suddenly shut off. He attempted to pull the vehicle over without causing an accident but was unable to do so and side-swiped a utility pole. The second incident occurred in Milwaukee, Wisconsin on September 1, 2013, when the vehicle shut off after hitting a pothole. The remaining four shut off incidents also occurred in Milwaukee, Wisconsin after hitting potholes, but Mr. Redic does not recall the precise dates of those incidents. Aside from the incident on July 13, 2013, Mr. Redic was able pull the vehicle to the side of the road and allow it to coast until he was able to get it to stop. Mr. Redic would not have purchased the vehicle had he known of the defects.

**67. Scott Schultz—Wisconsin**

92. Plaintiff and proposed Nationwide and Wisconsin State Representative Scott Schultz is a resident and citizen of Medford, Wisconsin. Mr. Schultz purchased a used 2006 Saturn Ion in 2011 from a Chevy dealership in Wisconsin for $5,000-6,000. The vehicle was not covered by a warranty. Mr. Schultz's vehicle has shut off on him approximately ten times. The worst incident occurred in March or April 2014 when the car shut off and he had to maneuver to avoid an incoming vehicle and ditch. The power steering and brakes were also disabled when the vehicle shut off. Other times the car shut off while driving on gravel roads or railroad tracks. It is possible his knee hit the ignition switch on some occasions, but he does not recall. He only kept two keys on his key fob. His car first shut down about six months after purchasing it, and the most recent time occurred in the spring of 2014. In all instances, it took all his strength to turn the steering wheel and apply the brakes. The ignition switch on his vehicle has not been repaired under the recall because he got tired of waiting for the parts and traded it in around August 2014. Mr. Schultz also tried selling his vehicle in a private sale but no one was interested due to the recall issues on the vehicle. He checked the car's value on Kelley Blue Book and it was $3,700-4,700 for trade in value. When he traded the car in around August 2014, he only got

$3,500 for it. Mr. Schultz believes the value of his vehicle has been diminished and would not have purchased the car, or would have at least paid less for it, had he known about these defects.

**68. Bedford Auto Sales, Inc.—Nationwide Dealer and Ohio State Class Representative**

93. Nationwide Class and Ohio State Class representative Bedford Auto Sales, Inc. maintains its principal place in Bedford, Ohio. Plaintiff Bedford Auto Sales, Inc. purchased the following vehicles with the intention to resale same:

| YEAR | MAKE | MODEL | VIN # | DATE PURCHASED |
|---|---|---|---|---|
| 2005 | COBALT | CBT | 1G1AK12F657528414 | 2/13/2014 |
| 2005 | COBALT | CBT | 1G1AK52F757653669 | 2/13/2014 |
| 2007 | COBALT | BLT | 1G1AL15F277386297 | 12/16/2013 |
| 2005 | COBALT | BLT | 1G1AZ54F357576386 | 12/12/2013 |
| 2007 | COBALT | BLS | 1G1AK55FX77285373 | 4/7/2014 |
| 2006 | COBALT | BLS | 1G1AK55F967690011 | 12/5/2013 |
| 2007 | COBALT | BLT | 1G1AL55F677243540 | 2/13/2014 |
| 2006 | COBALT | BLT | 1G1AL15FX67834767 | 6/10/2013 |
| 2006 | COBALT | BLT | 1G1AL55F967662819 | 3/15/2014 |
| 2006 | COBALT | BLS | 1G1AK55F567673559 | 10/28/2013 |
| 2007 | COBALT | BLT | 1G1AL55F777398968 | 4/11/2014 |
| 2006 | COBALT | BLS | 1G1AK15F767730210 | 4/7/2014 |
| 2005 | COBALT | BLS | 1G1AL54F757575811 | 3/27/2014 |
| 2005 | COBALT | BLS | 1G1AL52F257540483 | 3/21/2014 |
| 2005 | COBALT | BLS | 1G1AL12FX57605136 | 4/12/2014 |
| 2006 | COBALT | BSS | 1G1AM18B367638417 | 3/28/2014 |
| 2006 | COBALT | BLS | 1G1AK55F567809334 | 3/24/2014 |
| 2005 | COBALT | BLS | 1G1AL14F357618727 | 2/21/2014 |
| 2006 | COBALT | BLS | 1G1AK55F967759635 | 4/14/2014 |
| 2006 | HHR | HHR | 3GNDA23P46S533920 | 9/30/2013 |
| 2003 | SATURN | SI2 | 1G8AJ52F43Z164264 | 3/15/2014 |
| 2003 | SATURN | SI3 | 1G8AL52F83Z104269 | 2/21/2014 |
| 2004 | SATURN | SI1 | 1G8AG52F64Z111307 | 3/24/2014 |
| 2006 | SATURN | SI2 | 1G8AN15FZ6Z130753 | 1/28/2014 |
| 2007 | SATURN | SI3 | 1G8AL55F57Z113173 | 4/9/2014 |
| 2007 | SATURN | SI2 | 1G8AJ55F97Z120648 | 2/24/2014 |
| 2007 | SATURN | SI2 | 1G8AJ55F57Z171497 | 1/15/2014 |
| 2007 | SATURN | SI2 | 1G8AJ55F57Z199235 | 3/3/2014 |

94. At the time the transactions for the purchase of these vehicles were made, Plaintiff Bedford Auto Sales, Inc. did not know the vehicles were defective. Plaintiff Bedford Auto Sales, Inc. relied on GM to produce a safely designed and manufactured vehicle.

95. Plaintiff Bedford Auto Sales, Inc. continues to pay interest on these vehicles that sit on the lot. Plaintiff Bedford Auto has attempted to have the vehicles repaired through Jay Buick GMC in Bedford, Ohio on four occasions, and was informed the dealership did not have the parts to perform the repairs. Plaintiff Bedford Auto Sales, Inc. has been unable to sell these vehicles, or had to sell the vehicles at a discounted rate, given the safety recall.

96. As a result of the vehicle defect and subsequent recalls, Plaintiff Bedford Auto Sales, Inc. has been unable to re-sell these vehicles, or had to sell the vehicles at a discounted rate, and is incurring considerable expense, financial loss, and economic damage as a result.

**B. Defendant**

97. Defendant General Motors LLC ("New GM") is a Delaware limited liability company with its principal place of business located at 300 Renaissance Center, Detroit, Michigan, and is a citizen of the States of Delaware and Michigan. The sole member and owner of General Motors LLC is General Motors Holding LLC. General Motors Holdings LLC is a Delaware limited liability company with its principal place of business in the State of Michigan. The sole member and owner of General Motors Holdings LLC is General Motors Company, which is a Delaware Corporation with its principal place of business in the State of Michigan, and is a citizen of the States of Delaware and Michigan. New GM was incorporated in 2009 and, effective on July 10, 2009, acquired substantially all assets and assumed certain liabilities of General Motors Corporation through a Section 363 sale under Chapter 11 of the U.S. Bankruptcy Code.

Among the liabilities and obligations expressly assumed by New GM are the following:

> From and after the Closing, Purchaser [New GM] shall comply with the certification, reporting and recall requirements of the National Traffic and Motor Vehicle Act, the Transportation Recall Enhancement, Accountability and Documentation Act, the Clean Air Act, the California Health and Safety Code, and similar laws, in each case, to the extent applicable in respect of vehicles and vehicle parts manufactured or distributed by [Old GM].

## IV. FACTUAL ALLEGATIONS

### A. New GM Falsely Promoted All of Its Vehicles as Safe, Reliable, and High-Quality

98. New GM was financially successful in emerging from the Old GM bankruptcy. Sales of all its models went up, and New GM became profitable. New GM claimed to have turned over a new leaf in the bankruptcy—a new GM was born, and the GM brand once again stood strong in the eyes of consumers—or so the world thought.

99. In 2010, New GM sold 4.26 million vehicles globally, an average of one every 7.4 seconds. Joel Ewanick, New GM's global chief marketing officer at the time, described the success of one of its brands in a statement to the press: "Chevrolet's dedication to compelling designs, quality, durability and great value is a winning formula that resonates with consumers around the world."[2]

100. New GM repeatedly proclaimed to the world and U.S. consumers that, once it emerged from bankruptcy in 2009, it was a new and improved company committed to innovation, safety, and maintaining a strong brand:

[2] https://media.gm.com/media/us/en/gm/news.detail/content/Pages/news/us/en/2011/Jan/0117_chev_ global.


General Motors Company 2010 Annual Report, cover page.

101. In New GM's 2010 Annual Report, New GM proclaimed its products would "improve safety and enhance the overall driving experience for our customers:"

> As we regain our financial footing, we expect the number of new product launches to steadily rise over the next several years. And these new products will increasingly embrace advanced technology to reduce fuel consumption and emissions, improve safety and enhance the overall driving experience for our customers.

General Motors Company 2010 Annual Report, pp. 4, 10.

102. New GM claimed it would create vehicles that would define the industry standard:

> BUILDING THE NEW GM
>
> We are moving with increased speed and agility, and implementing change faster than ever before. We are becoming a company with the capability, resources and confidence to play offense, not defense. Instead of creating new vehicles that are just better than their predecessors, we're working to design, build and sell vehicles that define the industry standard.

General Motors Company 2010 Annual Report, p. 5.

103. In its 2010 Annual Report, New GM told consumers that it built the world's best vehicles:

> *We truly are building a new GM, from the inside out. Our vision is clear: to design, build, and sell the world's best vehicles, and we have a new business model to bring that vision to life. We have a lower cost structure, a stronger balance sheet, and a dramatically lower risk profile. We have a new leadership team – a strong mix of executive talent from outside the industry and automotive veterans – and a passionate, rejuvenated workforce.*

> *"Our plan is to steadily invest in creating world-class vehicles, which will continuously drive our cycle of great design, high quality and higher profitability."*

General Motors Company 2010 Annual Report, p. 2.

104. New GM represented that it was building vehicles with design excellence, quality, and performance:

> *And across the globe, other GM vehicles are gaining similar acclaim for design excellence, quality, and performance, including the Holden Commodore in Australia. Chevrolet Agile in Brazil, Buick LaCrosse in China, and many others.*
>
> *The company's progress is early evidence of a new business model that begins and ends with great vehicles. We are leveraging our global resources and scale to maintain stringent cost management while taking advantage of growth and revenue opportunities around the world, to ultimately deliver sustainable results for all of our shareholders.*

General Motors Company 2010 Annual Report, p. 3.

105. These themes were repeatedly put forward as the core message about New GM's Brand:

The new General Motors has one clear vision: to design, build and sell the world's best vehicles. Our new business model revolves around this vision, focusing on fewer brands, compelling vehicle design, innovative technology, improved manufacturing productivity and streamlined, more efficient inventory processes. The end result is products that delight customers and generate higher volumes and margins—and ultimately deliver more cash to invest in our future vehicles.

## A New Vision, a New Business Model

Our vision is simple, straightforward and clear: to design, build and sell the world's best vehicles. That doesn't mean just making our vehicles better than the ones they replace. We have set a higher standard for the new GM—and that means building the best.

Our vision comes to life in a continuous cycle that starts, ends and begins again with great vehicle designs. To accelerate the momentum we've already created, we reduced our North American portfolio from eight brands to four: Chevrolet, Buick, Cadillac and GMC. Worldwide, we're aggressively developing and leveraging global vehicle architectures to maximize our talent and resources and achieve optimum economies of scale.

Across our manufacturing operations, we have largely eliminated overcapacity in North America while making progress in Europe, and we're committed to managing inventory with a new level of discipline. By using our manufacturing capacity more efficiently and maintaining leaner vehicle inventories, we are reducing the need to offer sales incentives on our vehicles. These moves, combined with offering attractive, high-quality vehicles, are driving healthier margins—and at the same time building stronger brands.

Our new business model creates a self-sustaining cycle of reinvestment that drives continuous improvement in vehicle design, manufacturing discipline, brand strength, pricing and margins, because we are now able to make money at the bottom as well as the top of the industry cycles.

We are seeing positive results already. In the United States, for example, improved design, content and quality have resulted in solid gains in segment share, average transaction prices and projected residual values for the Chevrolet Equinox, Buick LaCrosse and Cadillac SRX. This is just the beginning.

General Motors Company 2010 Annual Report, p. 6.

106. New GM represented that it had a world-class lineup in North America:

# A World-Class Lineup in North America

**Chevrolet Cruze**
Global success is no surprise for the new Chevrolet Cruze, which is sold in more than 60 countries around the world. In addition to a 42 mpg Eco model (sold in North America), Cruze's globally influenced design is complemented by its exceptional quietness, high quality and attention to detail not matched by the competition.

**Buick Regal**
The sport-injected Buick Regal is the brand's latest addition, attracting a whole new demographic for the Buick brand. The newly designed Buick lineup, which saw 52 percent volume growth in 2010 in the United States alone, is appealing to a broader spectrum of buyers.

**Chevrolet Equinox**
The Chevrolet Equinox delivers best-in-segment 32-mpg highway fuel economy in a sleek, roomy new package. With the success of the Equinox and other strong-selling crossovers, GM leads the U.S. industry in total unit sales for the segment.

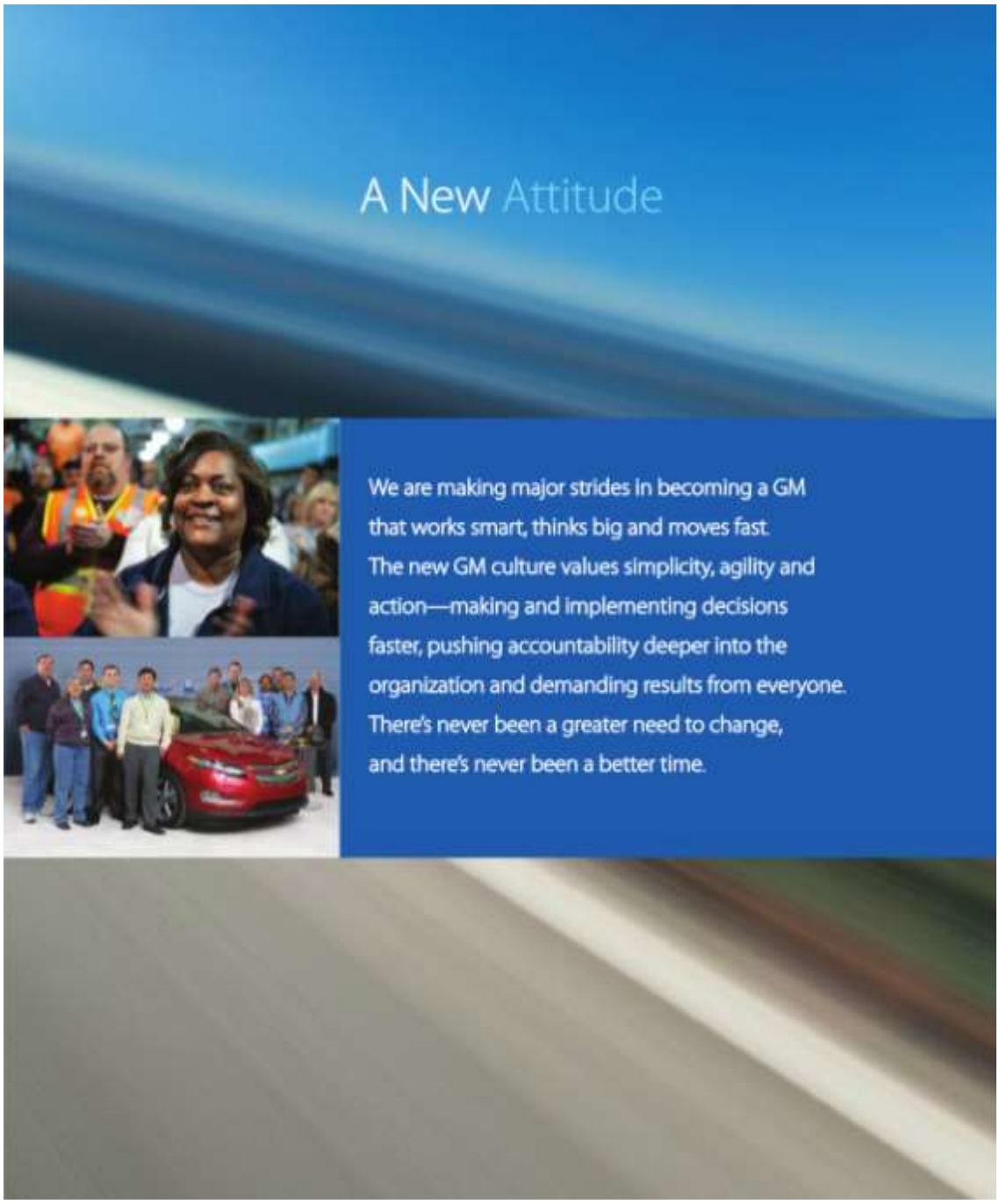
**Chevrolet Sonic**
Stylish four-door sedan and sporty five-door hatchback versions of the Chevrolet Sonic will be in U.S. showrooms in fall 2011. Currently the only small car built in the United States, it will be sold as the Aveo in other parts of the world.

**Buick LaCrosse**
Buick builds on the brand's momentum in the United States and China with the fuel-efficient LaCrosse. With eAssist technology, the LaCrosse achieves an expected 37 mpg on the highway.

**Buick Verano**
The all-new Buick Verano, which will be available in late 2011, appeals to customers in the United States, Canada and Mexico who want great fuel economy and luxury in a smaller but premium package.


General Motors Company 2010 Annual Report, pp. 12-13.

107. New GM boasted of its new "culture":

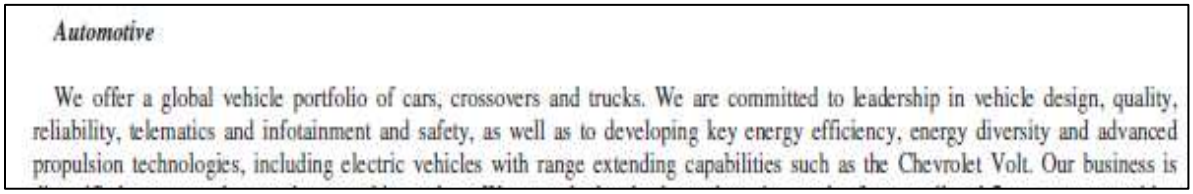



General Motors Company 2010 Annual Report, p. 16.

108. In its 2011 Annual Report, New GM proclaimed that it was putting its customers first:


General Motors Company 2011 Annual Report, p. 1.

109. New GM also announced that it is committed to leadership in vehicle safety:


***Automotive***

We offer a global vehicle portfolio of cars, crossovers and trucks. We are committed to leadership in vehicle design, quality, reliability, telematics and infotainment and safety, as well as to developing key energy efficiency, energy diversity and advanced propulsion technologies, including electric vehicles with range extending capabilities such as the Chevrolet Volt. Our business is

General Motors Company 2011 Annual Report, p. 11.

110. In a "Letter to Stockholders" contained in its 2011 Annual Report, New GM noted that its brand had grown in value and that it designed the "World's Best Vehicles":

*Dear Stockholder:*

*Your company is on the move once again. While there were highs and lows in 2011, our overall report card shows very solid marks, including record net income attributable to common stockholders of $7.6 billion and EBIT-adjusted income of $8.3 billion.*

- *GM's overall momentum, including a 13 percent sales increase in the United States, created new jobs and drove investments. We have announced investments in 29 U.S. facilities totaling more than $7.1 billion since July 2009, with more than 17,500 jobs created or retained.*

*Design, Build and Sell the World's Best Vehicles*

*This pillar is intended to keep the customer at the center of everything we do, and success is pretty easy to define. It means creating vehicles that people desire, value and are proud to own. When we get this right, it transforms our reputation and the company's bottom line.*

General Motors Company 2011 Annual Report, p. 2.

*Strengthen Brand Value*

*Clarity of purpose and consistency of execution are the cornerstones of our product strategy, and two brands will drive our global growth. They are Chevrolet, which embodies the qualities of value, reliability, performance, and expressive design; and Cadillac, which creates luxury vehicles that are provocative and powerful. At the same time the Holden, Buick, GMC, Baojun, Opel and Vauxhall brands are being carefully cultivated to satisfy as many customers as possible in select regions.*

*Each day the cultural change underway at GM becomes more striking. The old internally focused, consensus-driven and overly complicated GM is being reinvented brick by brick, by truly accountable executives who know how to take calculated risks and lead global teams that are committed to building the best vehicles in the world as efficiently as we can.*

*That's the crux of our plan. The plan is something we can control. We like the results we're starting to see and we're going to stick to it – always.*

General Motors Company 2011 Annual Report, p. 3.

These themes continued in GM's 2012 Annual Report:

DANIEL F. AKERSON
Chairman & Chief Executive Officer
*with the 2014 Cadillac CTS*

**TO OUR STOCKHOLDERS:**

Last year, I closed my letter to you by talking about how GM was changing its processes and culture in order to build the best vehicles in the world much more efficiently and profitably. This year, I want to pick up where I left off, and articulate what success looks like for you as stockholders, and for everyone else who depends on us. >>



General Motors Company 2012 Annual Report, p. 3.

111. New GM boasted of its "focus on the customer" and its desire to be "great" and produce "quality" vehicles:

> *What is immutable is our focus on the customer, which requires us to go from "good" today to "great" in everything we do, including product design, initial quality, durability, and service after the sale.*

General Motors Company 2012 Annual Report, p. 4.

112. New GM also indicated it had changed its structure to create more "accountability" which, as shown below, was a blatant falsehood:

> *That work continues, and it has been complemented by changes to our design and engineering organization that have flattened the structure and created more accountability for produce execution, profitability and customer satisfaction.*

General Motors Company 2012 Annual Report, p. 10.

113. And New GM represented that product quality was a key focus—another blatant falsehood:

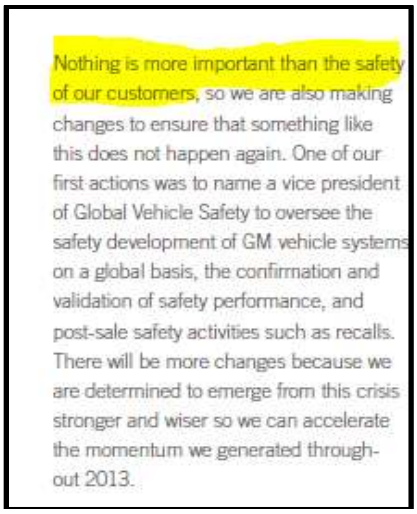
> *Product quality and long-term durability are two other areas that demand our unrelenting attention, even though we are doing well on key measures.*

General Motors Company 2012 Annual Report, p. 10.

114. New GM's 2013 Annual Report stated, "Today's GM is born of the passion of our people to bring our customers the finest cars and trucks we've ever built":

General Motors Company 2013 Annual Report, inside front cover dual page, (unnumbered).

115. Most importantly given its inaccuracy and the damage wrought in this case, New GM proclaimed, "Nothing is more important than the safety of our customers":



Nothing is more important than the safety of our customers, so we are also making changes to ensure that something like this does not happen again. One of our first actions was to name a vice president of Global Vehicle Safety to oversee the safety development of GM vehicle systems on a global basis, the confirmation and validation of safety performance, and post-sale safety activities such as recalls. There will be more changes because we are determined to emerge from this crisis stronger and wiser so we can accelerate the momentum we generated throughout 2013.

General Motors Company 2013 Annual Report, p. 4.

**B. New GM's Advertising and Marketing Literature Falsely Claimed that GM Placed Safety and Quality First**

116. In May of 2014, New GM sponsored the North American Conference on Elderly Mobility. Gay Kent, director of New GM global vehicle safety and a presenter at the conference, proclaimed the primacy of safety within New GM's new company culture: "The safety of all our customers is our utmost concern."[3]

117. New GM vigorously incorporated this messaging into its public-facing communications. In advertisements and company literature, New GM consistently promoted all its vehicles as safe and reliable, and presented itself as a responsible manufacturer that stands behind GM-branded vehicles after they are sold. Examples of New GM's misleading claims of safety and reliability made in public statements, advertisements, and literature provided with its vehicles follow.

118. An online ad for "GM certified" used vehicles that ran from July 6, 2009, until April 5, 2010, stated that "GM certified means no worries."

[3] https://media.gm.com/media/us/en/gm/news.detail./content/Pages/news/us/en/2014/May/0514-cameras.

119. In April 2010, General Motors Company Chairman and CEO Ed Whitacre starred in a video commercial on behalf of New GM. In it, Mr. Whitacre acknowledged that not all Americans wanted to give New GM a second chance, but that New GM wanted to make itself a company that "all Americans can be proud of again" and "exceed every goal [Americans] set for [General Motors]." He stated that New GM was "designing, building, and selling the best cars in the world." He continued by saying that New GM has "unmatched lifesaving technology" to keep customers safe. He concluded by inviting the viewer to take a look at "the new GM."[4]


120. A radio ad that ran from New GM's inception until July 16, 2010, stated that "[a]t GM, building quality cars is the most important thing we can do."

121. On November 10, 2010, New GM published a video that told consumers that New GM actually prevents any defects from reaching consumers. The video, entitled "Andy Danko: The White Glove Quality Check," explains that there are "quality processes in the plant that prevent any defects from getting out." The video also promoted the ideal that, when a customer buys a New GM vehicle, they "drive it down the road and they never go back to the dealer."[5]

[4] https://www.youtube.com/watch?v=jbXpV0aqEM4.

[5] https://www.youtube.com/watch?v=JRFO8UzoNho&list=UUxN-Csvy_9sveql5HJviDjA.


122. In 2010, New GM ran a television advertisement for its Chevrolet brand that implied its vehicles were safe by showing parents bringing their newborn babies home from the hospital, with the tagline "as long as there are babies, there will be Chevys to bring them home."[6]

123. Another 2010 television ad informed consumers that "Chevrolet's ingenuity and integrity remain strong, exploring new areas of design and power, while continuing to make some of the safest vehicles on earth."

124. New GM's 2010 brochure for the Chevy Cobalt states, "Chevy Cobalt is savvy when it comes to standard safety" and "you'll see we've thought about safety so you don't have to." It also states "[w]e're filling our cars and trucks with the kind of thinking, features and craftsmanship you'd expect to pay a lot more for."[7]

[6] https://www.youtube.com/watch?v=rb28vTN382g.

[7] https://www.auto-brochures.com/makes/Chevrolet/Cobalt/Chevrolet_US%20Cobalt_2010.pdf.



125. New GM's 2010 Chevy HHR brochure proclaims, "PLAY IT SAFE" and "It's easier to have fun when you have less to worry about."[8]


[8] https://www.auto-brochures.com/makes/Chevrolet/HHR/Chevrolet_US%20HHR_2010.pdf.

126. New GM's brochure for the 2011 Chevrolet Silverado states, "Silverado – the most dependable, long-lasting full size pickups on the road." It goes on to say, "There are three stages of safety. Silverado takes every one as seriously as you do."[9]



127. The brochure for the 2011 Cadillac DTS and STS states, "Passenger safety is a primary consideration throughout the engineering process," and "[t]he STS and DTS were carefully designed to provide a host of features to help you from getting into a collision in the first place."[10]

[9] https://www.auto-brochures.com/makes/Chevrolet/Silverado/Chevrolet_US%20Silverado_2011.pdf.

[10] https://www.auto-brochures.com/makes/Cadillac/Cadillac_US%20STS-DTS_2011.pdf.


128. On August 29, 2011, New GM's website advertised: "Chevrolet provides consumers with fuel-efficient, safe and reliable vehicles that deliver high quality, expressive design, spirited performance and value."[11]

129. On September 29, 2011, New GM announced on the "News" portion of its website the introduction of front center airbags. The announcement included a quote from Gay Kent, New GM Executive Director of Vehicle Safety and Crashworthiness, who stated that: "This technology is a further demonstration of New GM's above-and-beyond commitment to provide continuous occupant protection before, during and after a crash."[12]

130. On December 27, 2011, Gay Kent was quoted in an interview on New GM's website as saying: "Our safety strategy is about providing continuous protection for our customers before, during and after a crash."[13]

[11] https://media.gm.com/media/us/en/gm/news.detail/content/Pages/news/us/en/2014/Jul/0731-mpg.

[12] https://media.gm.com/media/us/en/gm/news.detail/content/Pages/news/us/en/2011/Sep/0929_airbag.

[13] https://media.gm.com/media/us/en/gm/news.detail/content/Pages/news/us/en/2011/Dec/1227_safety.

131. New GM's brochure for the 2012 Chevrolet Impala proclaims: "A safety philosophy that RUNS DEEP," and that "if a moderate to severe collision does happen, Impala is designed to respond quickly":[14]

A safety philosophy that

RUNS DEEP

BEFORE

What's the best safety philosophy? Avoid a collision in the first place. That's why we've equipped Impala with advanced safety systems like the STABILITRAK ELECTRONIC STABILITY CONTROL SYSTEM with TRACTION CONTROL. On slippery surfaces, StabiliTrak helps you stay the course by detecting the difference between the path being steered and the direction the vehicle is actually going. It then uses the brakes and, if necessary, adjusts engine torque to help you keep your Impala on track. What's more, FOUR-WHEEL ANTI-LOCK BRAKES help maintain control and stability during hard braking, by preventing wheel lockup. Other advancements you can count on, including DAYTIME RUNNING LAMPS and a TIRE PRESSURE MONITOR, are just some of the forward-thinking ways we try to help you avoid trouble on the road.

DURING

Sometimes, however, trouble finds you. And if a moderate to severe collision does happen, Impala is designed to respond quickly. Sensors throughout the vehicle determine how many of the SIX STANDARD AIR BAGS — including head-curtain side-impact air bags — deploy. Adding to this protection, the cabin is reinforced with HIGH-STRENGTH STEEL throughout. Meanwhile, front and rear "crush zones" are designed to compress in a controlled manner, helping absorb and channel energy away from the cabin and engine. But our protective measures don't end there.

AFTER

Should a collision occur, crucial information can be instantly relayed to the OnStar command center via ONSTAR AUTOMATIC CRASH RESPONSE.† There, trained OnStar Advisors utilize GPS technology to pinpoint your exact location and can request that assistance be sent right away — even if you're unable to respond. It's part of ONSTAR DIRECTIONS & CONNECTIONS† standard for six months, which also includes STOLEN VEHICLE ASSISTANCE, REMOTE DOOR UNLOCK and REMOTE HORN AND LIGHTS. All this because nothing is more important than your safety.

132. New GM's brochure for the 2012 Cadillac CTS announces, "At Cadillac, we believe the best way to survive a collision is to avoid one in the first place," and "Active safety begins with a responsive engine, powerful brakes, and an agile suspension."[15]

[14] https://www.chevrolet.com/content/dam/Chevrolet/northamerica/usa/nscwebsite/en/Home/Help%20Center/Download%20a%20Brochure/02_PDFs/2012_Impala_eBrochure.pdf.

[15] https://www.auto-brochures.com/makes/Cadillac/CTS/Cadillac_US%20CTS_2012.pdf.


133. On January 3, 2012, Gay Kent, New GM Executive Director of Vehicle Safety, was quoted on New GM's website as saying: "From the largest vehicles in our lineup to the smallest, we are putting overall crashworthiness and state-of-the-art safety technologies at the top of the list of must-haves."[16]

134. An online national ad campaign for New GM in April 2012 stressed "Safety. Utility. Performance."

135. On June 5, 2012, New GM posted an article on its website announcing that its Malibu Eco had received top safety ratings from the National Highway Traffic Safety Administration and the Insurance Institute for Highway Safety. The article includes the following quotes: "With the Malibu Eco, Chevrolet has earned seven 2012 TOP SAFETY PICK awards," said IIHS President Adrian Lund. "The IIHS and NHTSA results demonstrate GM's commitment to state-of-the-art crash protection." And, "We are now seeing the results from our commitment to design the highest-rated vehicles in the world in safety performance," said Gay Kent, New GM Executive Director of Vehicle Safety. "Earning these top safety ratings

[16] https://media.gm.com/media/us/en/gm/news.detail/content/Pages/news/us/en/2012/Jan/0103_sonic.

demonstrates the strength of the Malibu's advanced structure, overall crashworthiness and effectiveness of the vehicle's state-of-the-art safety technologies."[17]

136. On June 5, 2012, New GM posted an article on its website entitled "Chevrolet Backs New Vehicle Lineup with Guarantee," which included the following statement: "We have transformed the Chevrolet lineup, so there is no better time than now to reach out to new customers with the love it or return it guarantee and very attractive, bottom line pricing," said Chris Perry, Chevrolet global vice president of marketing. "We think customers who have been driving competitive makes or even older Chevrolets will be very pleased by today's Chevrolet designs, easy-to-use technologies, comprehensive safety and the quality built into all of our cars, trucks and crossovers."[18]

137. On November 5, 2012, New GM published a video to advertise its "Safety Alert Seat" and other safety sensors. The video described older safety systems and then added that new systems "can offer drivers even more protection." A Cadillac Safety Engineer added that "are a variety of crash avoidance sensors that work together to help the driver avoid crashes." The engineer then discussed all the sensors and the safety alert seat on the Cadillac XTS, leaving the viewer with the impression safety was a top priority at Cadillac.[19]

[17] https://media.gm.com/media/us/en/gm/news.detail/content/Pages/news/us/en/2012/Jun/0605_malibu safety.

[18] https://media.gm.com/media/us/en/gm/news.detail/content/Pages/news/us/en/2012/Jul/0710_ confidence.

[19] https://www.youtube.com/watch?v=CBEvflZMTeM.


138. New GM's brochure for the 2013 Chevrolet Traverse states, "Traverse provides peace of mind with an array of innovative safety features," and "[i]t helps protect against the unexpected."[20]


139. A national print ad campaign in April 2013 states that, "[w]hen lives are on the line, you need a dependable vehicle you can rely on. Chevrolet and GM … for power, performance and safety."

[20] https://www.auto-brochures.com/makes/Chevrolet/Traverse/Chevrolet_US%20Traverse_2013.pdf.

140. On November 8, 2013, New GM posted a press release on its website regarding GMC, referring to it as "one of the industry's healthiest brands":[21]

**About GMC**

**GMC** has manufactured trucks since 1902, and is one of the industry's healthiest brands. Innovation and engineering excellence is built into all GMC vehicles and the brand is evolving to offer more fuel-efficient trucks and crossovers, including the Terrain small SUV and Acadia crossover. The 2014 Sierra half-ton pickup boasts all-new powertrains and design, and the Sierra Heavy Duty pickups are the most capable and powerful trucks ever built by GMC. Every retail GMC model, including Yukon and Yukon XL full-size SUVs, is now available in Denali luxury trim. Details on all GMC models are available at http://www.gmc.com/, on Twitter at @thisisgmc or at http://www.facebook.com/gmc.

141. A December 2013 New GM testimonial ad stated that "GM has been able to deliver a quality product that satisfies my need for dignity and safety."

142. In 2013, New GM proclaimed on its website, https://www.gm.com, the company's passion for building and selling the world's best vehicles as "the hallmark of our customer-driven culture":[22]


[21] https://media.gm.com/media/us/en/gm/news.detail/content/Pages/news/us/en/2013/Nov/1108-truck-lightweighting.

[22] https://www.gm.com/company/aboutGM/our_company.

143. On the same website in 2013, New GM stated: "At GM, it's about getting everything right for our customers – from the way we design, engineer and manufacture our vehicles, all the way through the ownership experience."[23]

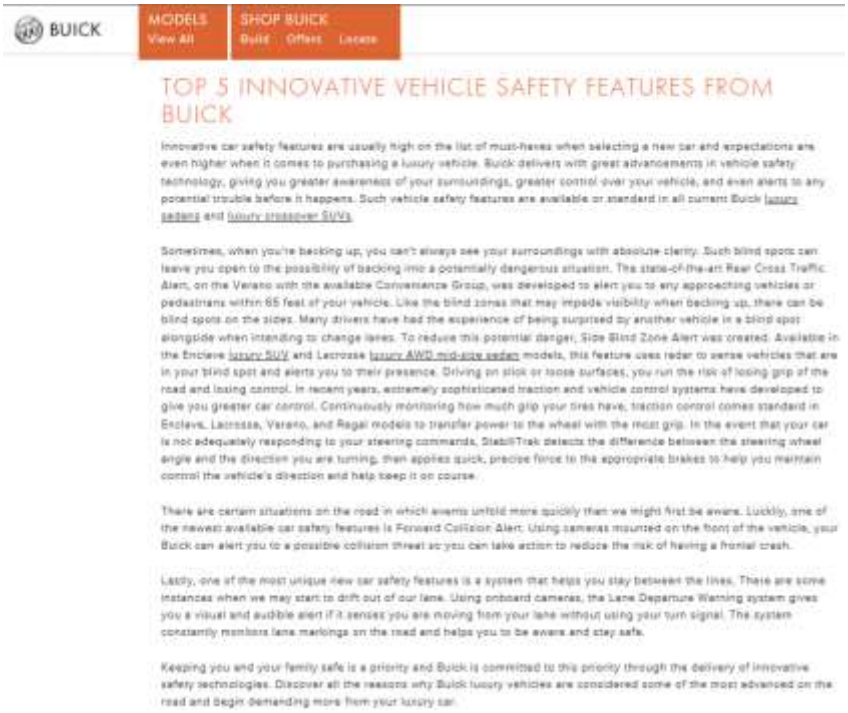

144. On its website, Chevrolet.com, New GM promises that it is "Putting safety ON TOP," and that "Chevy Makes Safety a Top Priority":[24]


145. On its website, Buick.com, New GM represents that "Keeping you and your family safe is a priority":[25]

[23] https://www.gm.com/vision/quality_safety/it_begins_with_a_commitment_to_Quality.

[24] https://www.chevrolet.com/culture/article/vehicle-safety-preparation.

[25] https://www.buick.com/top-vehicle-safety-features.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TOP 5 INNOVATIVE VEHICLE SAFETY FEATURES FROM BUICK

Innovative car safety features are usually high on the list of must-haves when selecting a new car and expectations are even higher when it comes to purchasing a luxury vehicle. Buick delivers with great advancements in vehicle safety technology, giving you greater awareness of your surroundings, greater control over your vehicle, and even alerts to any potential trouble before it happens. Such vehicle safety features are available or standard in all current Buick luxury sedans and luxury crossover SUVs.

Sometimes, when you're backing up, you can't always see your surroundings with absolute clarity. Such blind spots can leave you open to the possibility of backing into a potentially dangerous situation. The state-of-the-art Rear Cross Traffic Alert, on the Verano with the available Convenience Group, was developed to alert you to any approaching vehicles or pedestrians within 65 feet of your vehicle. Like the blind zones that may impede visibility when backing up, there can be blind spots on the sides. Many drivers have had the experience of being surprised by another vehicle in a blind spot alongside when intending to change lanes. To reduce this potential danger, Side Blind Zone Alert was created. Available in the Enclave luxury SUV and Lacrosse luxury AWD mid-size sedan models, this feature uses radar to sense vehicles that are in your blind spot and alerts you to their presence. Driving on slick or loose surfaces, you run the risk of losing grip of the road and losing control. In recent years, extremely sophisticated traction and vehicle control systems have developed to give you greater car control. Continuously monitoring how much grip your tires have, traction control comes standard in Enclave, Lacrosse, Verano, and Regal models to transfer power to the wheel with the most grip. In the event that your car is not adequately responding to your steering commands, StabiliTrak detects the difference between the steering wheel angle and the direction you are turning, then applies quick, precise force to the appropriate brakes to help you maintain control the vehicle's direction and help keep it on course.

There are certain situations on the road in which events unfold more quickly than we might first be aware. Luckily, one of the newest available car safety features is Forward Collision Alert. Using cameras mounted on the front of the vehicle, your Buick can alert you to a possible collision threat so you can take action to reduce the risk of having a frontal crash.

Lastly, one of the most unique new car safety features is a system that helps you stay between the lines. There are some instances when we may start to drift out of our lane. Using onboard cameras, the Lane Departure Warning system gives you a visual and audible alert if it senses you are moving from your lane without using your turn signal. The system constantly monitors lane markings on the road and helps you to be aware and stay safe.

Keeping you and your family safe is a priority and Buick is committed to this priority through the delivery of innovative safety technologies. Discover all the reasons why Buick luxury vehicles are considered some of the most advanced on the road and begin demanding more from your luxury car.

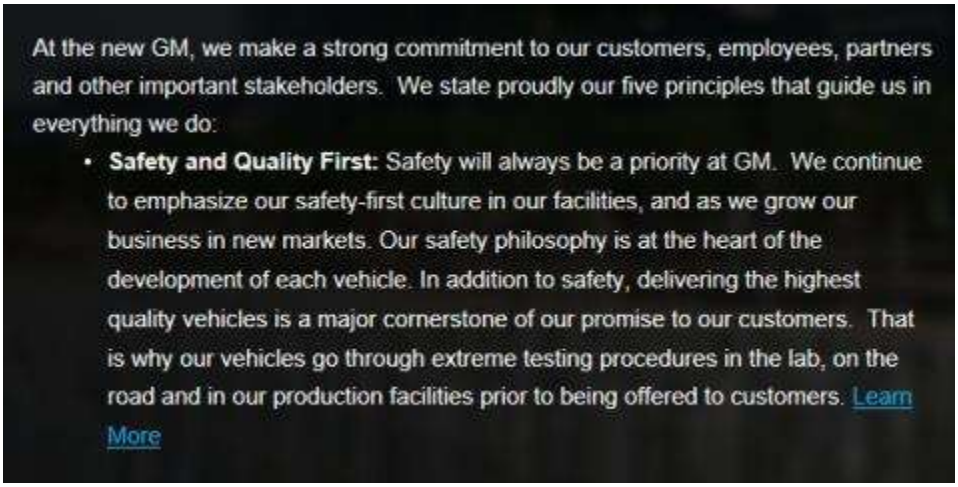
146. New GM's website currently touts its purported "Commitment to Safety," which is "at the top of the agenda at GM:"[26]

> *Innovation: Quality & Safety; GM's Commitment to Safety; Quality and safety are at the top of the agenda at GM, as we work on technology improvements in crash avoidance and crashworthiness to augment the post-event benefits of OnStar, like advanced automatic crash notification.*
>
> *Understanding what you want and need from your vehicle helps GM proactively design and test features that help keep you safe and enjoy the drive. Our engineers thoroughly test our vehicles for durability, comfort, and noise minimization before you think about them. The same quality process ensures our safety technology performs when you need it.*

147. New GM's website further promises "Safety and Quality First: Safety will always be a priority at New GM. We continue to emphasize our safety-first culture in our facilities," and that, "[i]n addition to safety, delivering the highest quality vehicles is a major cornerstone of our promise to our customers":[27]

[26] https://www.gm.com/vision/quality_safety/gms_commitment_tosafety.

[27] https://www.gm.com/company/aboutGM/our_company.




148. New GM's current website states that "leading the way is our seasoned leadership team who set high standards for our company so that we can give you the best cars and trucks. This means that we are committed to delivering vehicles with compelling designs, flawless quality, and reliability, and leading safety, fuel economy and infotainment features…"[28]

149. In its 2011 10-K SEC filing, New GM stated "We are a leading global automotive company. Our vision is to design, build and sell the world's best vehicles. We seek to distinguish our vehicles through superior design, quality, reliability, telematics (wireless voice and data) and infotainment and safety within their respective segments." General Motors 2011 Form 10-K, p. 50.[29]

150. New GM made these and similar representations to boost vehicle sales while knowing that millions of GM-branded vehicles, across numerous models and years, were plagued with serious and concealed safety defects. New GM was well aware of the impact vehicle recalls, and their timeliness, have on its brand image. In its 2010 Form 10-K submitted to the United States Securities and Exchange Commission ("SEC"), New GM admitted that "Product recalls can harm our reputation and cause us to lose customers, particularly if those

[28] https://www.gm.com/company/aboutGM/our_company.

[29] https://www.sec.gov/Archives/edgar/data/1467858/000119312511051462/d10k.htm.

recalls cause consumers to question the safety or reliability of our products. Any costs incurred or lost sales caused by future product recalls could materially adversely affect our business." General Motors 2010 Form 10-K, p. 31.[30] This is precisely why New GM decided to disregard safety issues and conceal them.

### C. Contrary to its Barrage of Representations about Safety and Quality, New GM Concealed and Disregarded Safety Issues as a Way of Doing Business

151. Ever since its inception, New GM possessed vastly superior (if not exclusive) knowledge and information to that of consumers about the design and function of GM-branded vehicles and the existence of the defects in those vehicles.

152. Recently revealed information presents a disturbing picture of New GM's approach to safety issues—both in the design and manufacturing stages, and in discovering and responding to defects in GM-branded vehicles that have already been sold.

153. New GM made very clear to its personnel that cost-cutting was more important than safety, deprived its personnel of necessary resources for spotting and remedying defects, trained its employees not to reveal known defects, and rebuked those who attempted to "push hard" on safety issues.

154. In stark contrast to New GM's public mantra that "Nothing is more important than the safety of our customers" and similar statements, a prime "directive" at New GM was "cost is everything."[31] The messages from top leadership at New GM to employees, as well as their actions, were focused on the need to control cost.[32]

[30] https://www.sec.gov/Archives/edgar/data/1467858/000119312510078119/d10k.htm#toc85733_4.

[31] Valukas Report at 249.

[32] *Id.* at 250.

155. One New GM engineer stated that emphasis on cost control at New GM "permeates the fabric of the whole culture."[33]

156. According to Mark Reuss (President of GMNA from 2009-2013 before succeeding Mary Barra as Executive Vice President for Global Product Development, Purchasing and Supply Chain in 2014), cost and time-cutting principles known as the "Big 4" at New GM "emphasized timing over quality."[34]

157. New GM's focus on cost-cutting created major disincentives to personnel who might wish to address safety issues. For example, those responsible for a vehicle were responsible for its costs, but if they wanted to make a change that incurred cost and affected other vehicles, they also became responsible for the costs incurred in the other vehicles.

158. As another cost-cutting measure, parts were sourced to the lowest bidder, even if they were not the highest quality parts.[35]

159. Because of New GM's focus on cost-cutting, New GM engineers did not believe they had extra funds to spend on product improvements.[36]

160. New GM's focus on cost-cutting also made it harder for New GM personnel to discover safety defects, as in the case of the "TREAD Reporting team."

161. New GM used its TREAD database (known as "TREAD") to store the data required to be reported quarterly to NHTSA under the TREAD Act.[37] From the date of its

[33] *Id.*

[34] *Id.*

[35] *Id.* at 251.

[36] *Id.*

[37] *Id.* at 306.

inception in 2009, TREAD has been the principal database used by New GM to track incidents related to its vehicles.[38]

162. From 2003-2007 or 2008, the TREAD Reporting team had eight employees who would conduct monthly searches and prepare scatter graphs to identify spikes in the number of accidents or complaints with respect to various GM-branded vehicles. The TREAD Reporting team reports went to a review panel and sometimes spawned investigations to determine if any safety defect existed.[39]

163. In or around 2007-08, Old GM reduced the TREAD Reporting team from eight to three employees, and pared down the monthly data mining process.[40] In 2010, New GM restored two people to the team, but they did not participate in the TREAD database searches.[41] Moreover, until 2014, the TREAD Reporting team did not have sufficient resources to obtain any of the advanced data mining software programs available in the industry to better identify and understand potential defects.[42]

164. By starving the TREAD Reporting team of the resources it needed to identify potential safety issues, New GM helped to insure that safety issues would not come to light.

165. "[T]here was resistance or reluctance to raise issues or concerns in the GM culture." The culture, atmosphere and supervisor response at New GM "discouraged individuals from raising safety concerns."[43]

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[38] *Id*.

[39] *Id*. at 307.

[40] *Id*.

[41] *Id*. at 307-308.

[42] *Id*. at 208.

[43] *Id*. at 252.

166. New GM CEO, Mary Barra, experienced instances where New GM engineers were "unwilling to identify issues out of concern that it would delay the launch" of a vehicle.[44]

167. New GM supervisors warned employees to "never put anything above the company" and "never put the company at risk."[45]

168. New GM systematically "pushed back" on describing matters as safety issues and, as a result, "GM personnel failed to raise significant issues to key decision-makers."[46]

169. So, for example, New GM discouraged the use of the word "stall" in Technical Service Bulletins ("TSBs") that it sometimes sent to dealers about issues in GM-branded vehicles. According to Steve Oakley, who drafted a Technical Service Bulletin in connection with the ignition switch defects, "the term 'stall' is a 'hot' word that GM generally does not use in bulletins because it may raise a concern about vehicle safety, which suggests GM should recall the vehicle, not issue a bulletin."[47] Other New GM personnel confirmed Oakley on this point, stating that "there was concern about the use of 'stall' in a TSB because such language might draw the attention of NHTSA."[48]

170. Oakley further noted that "he was reluctant to push hard on safety issues because of his perception that his predecessor had been pushed out of the job for doing just that."[49]

171. Many New GM employees "did not take notes at all at critical safety meetings because they believed New GM lawyers did not want such notes taken."[50]

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[44] *Id.*

[45] *Id.* at 252-253.

[46] *Id.* at 253.

[47] *Id.* at 92.

[48] *Id.* at 93.

[49] *Id.*

[50] *Id.* at 254.

172. A New GM training document released by NHTSA as an attachment to its Consent Order sheds further light on the lengths to which New GM went to ensure that known defects were concealed. It appears that the defects were concealed pursuant to a company policy that New GM inherited from Old GM. The document consists of slides from a 2008 Technical Learning Symposium for "designing engineers," "company vehicle drivers," and other employees at Old GM. On information and belief, the vast majority of employees who participated in this webinar presentation continued on in their same positions at New GM after July 10, 2009.

173. The presentation focused on recalls and the "reasons for recalls."

174. One major component of the presentation was captioned "Documentation Guidelines," and focused on what employees should (and should not say) when describing problems in vehicles. Employees were instructed to "[w]rite smart," and to "[b]e factual, not fantastic" in their writing. In practice, "factual" was a euphemism for avoiding facts and relevant details.

175. New GM vehicle drivers were given examples of comments to avoid, including the following: "This is a safety and security issue"; "I believe the wheels are too soft and weak and could cause a serious problem"; and "Dangerous … almost caused accident."

176. In documents used for reports and presentations, employees were advised to avoid a long list of words, including: "bad," "dangerous," "defect," "defective," "failed," "flawed," "life-threatening," "problem," "safety," "safety-related," and "serious."

177. In truly Orwellian fashion, the company advised employees to use the words (1) "Issue, Condition [or] Matter" instead of "Problem"; (2) "Has Potential Safety Implications" instead of "Safety"; (3) "Broke and separated 10 mm" instead of "Failed"; (4)

"Above/Below/Exceeds Specification" instead of "Good [or] Bad"; and (5) "Does not perform to design" instead of "Defect/Defective."

178. As NHTSA's Acting Administrator Friedman noted at the May 16, 2014 press conference announcing the Ignition Switch Defect Consent Order, it was New GM's company policy to avoid using words that might suggest the existence of a safety defect:

> *GM must rethink the corporate philosophy reflected in the documents we reviewed, including training materials that explicitly discouraged employees from using words like 'defect,' 'dangerous,' 'safety related,' and many more essential terms for engineers and investigators to clearly communicate up the chain when they suspect a problem.*

179. Thus, New GM trained its employees to conceal the existence of known safety defects from consumers and regulators. Indeed, it is nearly impossible to convey the potential existence of a safety defect without using the words "safety" or "defect" or similarly strong language that was forbidden at New GM.

180. So institutionalized was the "phenomenon of avoiding responsibility" at New GM that the practice was given a name: "the 'GM salute,'" which was "a crossing of the arms and pointing outward towards others, indicating that the responsibility belongs to someone else, not me."[51]

181. CEO Mary Barra described a related phenomenon, "known as the 'GM nod," which was "when everyone nods in agreement to a proposed plan of action, but then leaves the room with no intention to follow through, and the nod is an empty gesture."[52]

182. According to the New GM Report prepared by Anton R. Valukas (known as the "Valukas Report"), part of the failure to properly correct the ignition switch defect was due to

[51] GM Report at 255.

[52] *Id.* at 256.

problems with New GM's organizational structure[53] and a corporate culture that did not care enough about safety.[54] Other culprits included a lack of open and honest communication with NHTSA regarding safety issues,[55] and the improper conduct and handling of safety issues by lawyers within New GM's Legal Staff.[56] On information and belief, all of these issues independently and in tandem helped cause the concealment of, and failure to remedy, the many defects that have led to the spate of recalls in 2014.

183. An automobile manufacturer has a duty to promptly disclose and remedy defects. New GM knowingly concealed information about material safety hazards from the driving public, its own customers, and the Class, thereby allowing unsuspecting vehicle owners and lessees to continue unknowingly driving patently unsafe vehicles that posed a mortal danger to themselves, their passengers and loved ones, other drivers, and pedestrians.

184. Not only did New GM take far too long in failing to address or remedy the defects, it deliberately worked to cover-up, hide, omit, fraudulently conceal, and/or suppress material facts from the Class who relied upon it to the detriment of the Class.

## D. New GM's Deceptions Continued In Its Public Discussions of the Ignition Switch Recalls

185. From the CEO on down, GM has once again embarked on a public relations campaign to convince consumers and regulators that, ***this time***, New GM has sincerely reformed.

186. On February 25, 2014, New GM North America President Alan Batey publicly apologized and again reiterated New GM's purported commitment to safety: "Ensuring our

[53] *Id*. at 259-260.

[54] *Id*. at 260-61.

[55] *Id*. at 263.

[56] *Id*. at 264.

customers' safety is our first order of business. We are deeply sorry and we are working to address this issue as quickly as we can."[57]

187. In a press release on March 18, 2014, New GM announced that Jeff Boyer had been named to the newly created position of Vice President, Global Vehicle Safety. In the press release, New GM quoted Mr. Boyer as stating that: "Nothing is more important than the safety of our customers in the vehicles they drive. Today's GM is committed to this, and I'm ready to take on this assignment."[58]

188. On May 13, 2014, New GM published a video to defend its product and maintain that the ignition defect will never occur when only a single key is used. Jeff Boyer addressed viewers and told them New GM's Milford Proving Ground is one of "the largest and most comprehensive testing facilities in the world." He told viewers that if you use a New GM single key that there is no safety risk.[59]


189. As of July 2014, New GM continues to praise its safety testing. It published a video entitled "90 Years of Safety Testing at New GM's Milford Proving Ground." The narrator describes New GM's testing facility as "one of the world's top automotive facilities" where data

[57] https://media.gm.com/media/us/en/gm/news.detail/content/Pages/news/us/en/2014/Feb/0225-ion.

[58] https://media.gm.com/media/us/en/gm/news.detail/content/Pages/news/us/en/2014/mar/0318-boyer.

[59] https://www.youtube.com/watch?v=rXO7F3aUBAY.

is "analyzed for customer safety." The narrator concludes by saying, "[o]ver the past ninety years one thing remained unchanged, GM continues to develop and use the most advanced technologies available to deliver customers the safest vehicles possible."[60]


190. On July 31, 2014, Jack Jensen, the New GM engineering group manager for the "Milford Proving Ground" dummy lab, told customers that "[w]e have more sophisticated dummies, computers to monitor crashes and new facilities to observe different types of potential hazards. All those things together give our engineers the ability to design a broad range of vehicles that safely get our customers where they need to go."[61]

191. As discussed in this Complaint, these most recent statements from New GM personnel contrast starkly with New GM's wholly inadequate response to remedy the defects in its vehicles, including the ignition switch defect.

## E. There Are Serious Safety Defects in Millions of GM-Branded Vehicles Across Many Models and Years and, Until Recently, New GM Concealed Them from Consumers

192. Over the first nine-months of 2014, New GM announced at least 60 recalls for more than 60 separate defects affecting over 27 million GM-branded vehicles sold in the United

[60] https://www.youtube.com/watch?v=BPQdlJZvZhE&list=UUxN-Csvy_9sveql5HJviDjA.

[61] https://media.gm.com/media/us/en/gm/news.detail/content/Pages/news/us/en/2014/Jul/0731-mpg.

States from model years 1997-2014. The numbers of recalls and serious safety defects are unprecedented, and can only lead to one conclusion: New GM was concealing the fact that it was incapable of building safe vehicles free from defects. For context, in 2013, the whole auto industry in the United States issued recalls affecting 23 million vehicles, and the record for the whole industry in a given year is 31 million (in 2004). Thus, New GM's recalls just 10 months into this year impacts more vehicles than the ***entire industry's*** recalls did last year and is approaching the ***industry-wide*** record for a single year.

193. Even more disturbingly, the available evidence shows a common pattern: From its inception in 2009, New GM knew about an ever-growing list of serious safety defects in millions of GM-branded vehicles, but concealed them from consumers and regulators in order to cut costs, boost sales, and avoid the cost and publicity of recalls.

194. Unsurprisingly in light of New GM's systemic devaluation of safety issues, the evidence also shows that New GM has manufactured and sold a grossly inordinate number of vehicles with serious safety defects.

195. New GM inherited from Old GM a company that valued cost-cutting over safety, actively discouraged its personnel from taking a "hard line" on safety issues, avoided using "hot" words like "stall" that might attract the attention of NHTSA and suggest that a recall was required, and trained its employees to not use words such as "defect" or "problem" that might flag the existence of a safety issue. New GM did nothing to change these practices.

196. The Center for Auto Safety recently stated that it has identified 2,004 death and injury reports filed by New GM with federal regulators in connection with vehicles that have

recently been recalled.[62] Most or all of these deaths and injuries would have been avoided had New GM complied with its TREAD Act obligations over the past five years.

197. The many defects concealed and/or created by New GM affect important safety systems in GM-branded vehicles, including the ignition, power steering, airbags, brake lights, gearshift systems, and seatbelts.

198. The available evidence shows a consistent pattern: New GM learned about a particular defect and, often only at the prodding of regulatory authorities, "investigated" the defect and decided upon a "root cause." New GM then took minimal action—such as issuing a carefully worded "Technical Service Bulletin" to its dealers, or even recalling a limited number of the vehicles with the defect. All the while, the true nature and scope of the defects were kept under wraps, vehicles affected by the defects remained on the road, New GM continued to create new defects in new vehicles, and New GM enticed Class members to purchase its vehicles by touting the safety, quality, and reliability of its vehicles, and presenting itself as a manufacturer that stands behind its products.

199. Many of the most significant defects are discussed below.

## F. The Ignition Switch System Defects

200. More than 13 million GM-branded vehicles contain a uniformly designed ignition switch and cylinder, which is substantially similar for all the vehicles, with the key position of the lock module located low on the steering column, in close proximity to a driver's knee. The ignition switch in these vehicles, the "Defective Ignition Switch Vehicles," is prone to fail during ordinary and foreseeable driving situations. New GM initially recalled 2.1 million of these Defective Ignition Switch Vehicles in February and March of 2014, and it was this initial recall

[62] *See Thousands of Accident Reports Filed Involving Recalled GM Cars: Report*, Irvin Jackson (June 3, 2014).

that set in motion the avalanche of recalls that is described in this Complaint. In June and July of 2014, New GM recalled an additional 11 million vehicles, ostensibly for distinct safety defects involving the ignition and ignition key. As set forth below, however, each of these recalls involves a defective ignition switch, and the consequences of product failure in each of the recalled vehicles is substantially similar, if not identical. Because the defects and the safety consequences are so similar, it is likely (and Plaintiffs hereby allege) that each of the defects involves a defective ignition switch that is placed in an unreasonable position on the steering cylinder and that is capable of disabling the airbag system in normal and foreseeable driving circumstances.

201. More specifically, the ignition switch can inadvertently move from the "run" to the "accessory" or "off" position at any time during normal and proper operation of the Defective Ignition Switch Vehicles. The ignition switch is most likely to move when the vehicle is jarred or travels across a bumpy road; if the key chain is heavy; if a driver inadvertently touches the ignition key with his or her knee; or for a host of additional reasons. When the ignition switch inadvertently moves out of the "run" position, the vehicle suddenly and unexpectedly loses engine power, power steering, and power brakes, and certain safety features are disabled, including the vehicle's airbags. This leaves occupants vulnerable to crashes, serious injuries, and death.

202. The ignition switch systems at issue are defective in at least three major respects. First, the switches are simply weak; because of a faulty "detent plunger," the switch can inadvertently move from the "run" to the "accessory" position. Second, because the ignition switch is placed low on the steering column, the driver's knee can easily bump the key (or the hanging fob below the key) and cause the switch to inadvertently move from the "run" to the

"accessory" or "off" position. Third, when the ignition switch moves from the "run" to the "accessory" or "off" position, the vehicle's power is disabled. This also immediately disables the airbags. Thus, when power is lost during ordinary operation of the vehicle, a driver is left without the protection of the airbag system even if he or she is traveling at high speeds.

203. Vehicles with defective ignition switches are therefore unreasonably prone to be involved in accidents, and those accidents are unreasonably likely to result in serious bodily harm or death to the drivers and passengers of the vehicles.

204. Indeed, New GM itself has acknowledged that the defective ignition switches pose an "increas[ed] risk of injury or fatality" and has linked the ignition switch defect to at least 13 deaths and over 50 crashes. Ken Feinberg, who was hired by New GM to settle wrongful death claims arising from the ignition switch defects, has already linked the defect to 21 deaths, and has over 100 potential wrongful death claims still to review. The Center for Auto Safety studied collisions in just two vehicle makes, and linked the defect to over 300 accidents. There is every reason to believe that as more information is made public, these numbers will continue to grow.

205. Alarmingly, New GM knew of the deadly ignition switch defects and their dangerous consequences from the date of its creation on July 10, 2009, but concealed its knowledge from consumers and regulators. To this day, New GM continues to conceal material facts regarding the extent and nature of this safety defect, as well as what steps must be taken to remedy the defect.

206. While New GM has instituted a recall of millions vehicles for defective ignition switches, it knew—***and its own engineering documents reflect***—that the defects transcend the design of the ignition switch and also include the placement of the ignition switch on the steering

column, a lack of adequate protection of the ignition switch from forces of inadvertent driver contact, and the need to redesign the airbag system so that it is not immediately disabled when the ignition switch fails in ordinary and foreseeable driving situations. To fully remedy the problem and render the Defective Ignition Switch Vehicles safe and of economic value to their owners again, New GM must address these additional issues (and perhaps others).

207. Further, and as set forth more fully below, New GM's recall of the Defective Ignition Switch Vehicles has been, to date, incomplete and inadequate, and it underscores New GM's ongoing fraudulent concealment and fraudulent misrepresentation of the nature and extent of the defects. New GM has long known of and understood the ignition switch defects, and its failure to fully remedy the problems associated with this defect underscores the necessity of this class litigation.

**1. New GM learns of the defective ignition switch.**

208. On July 10, 2009, the United States Bankruptcy Court approved the sale of General Motors Corporation, which was converted into General Motors, LLC, or New GM. From its creation, New GM, which retained the vast majority of Old GM's senior level executives and engineers, knew that Old GM had manufactured and sold millions of vehicles afflicted with the ignition switch defects.

209. In setting forth the knowledge of Old GM in connection with the ignition switch and other defects set forth herein, Plaintiffs ***do not*** seek to hold New GM liable for the actions of Old GM. Instead, the knowledge of Old GM is important and relevant because it is ***directly attributable*** to New GM. In light of its knowledge of the ignition switch defects, and the myriad other defects, New GM had (and breached) its legal obligations to Plaintiffs and the Class.

210. In part, New GM's knowledge of the ignition switch defects arises from the fact that key personnel with knowledge of the defects were employed by New GM when Old GM

ceased to exist. Moreover, many of these employees held managerial and decision making authority in Old GM, and accepted similar positions with New GM. For example, the design research engineer who was responsible for the rollout of the defective ignition switch in the Saturn Ion was Ray DeGiorgio. Mr. DeGiorgio continued to serve as an engineer at New GM until April 2014, when he was suspended (and ultimately fired) as a result of his involvement in the ignition switch crisis.

211. Mr. DeGiorgio was hardly the only employee who retained his Old GM position with New GM. Other Old GM employees who were retained and given decision making authority in New GM include: current CEO Mary T. Barra; director of product investigations Carmen Benavides; Program Engineering Manager Gary Altman; engineer Jim Federico; vice presidents for product safety John Calabrese and Alicia Boler-Davis; vice president of regulatory affairs Michael Robinson; director of product investigations Gay Kent; general counsel and vice president Michael P. Milliken; and in-house product liability lawyer William Kemp.

212. Indeed, on or around the day of its formation as an entity, New GM acquired notice and full knowledge of the facts set forth below.

213. In 2001, during pre-production testing of the 2003 Saturn Ion, GM engineers learned that the vehicle's ignition switch could unintentionally move from the "run" to the "accessory" or "off" position. GM further learned that where the ignition switch moved from "run" to "accessory" or "off," the vehicle's engine would stall and/or lose power.

214. Delphi Mechatronics ("Delphi"), the manufacturer of many of the defective ignition switches in the Defective Ignition Switch Vehicles, informed Old GM that the ignition switch did not meet Old GM's design specifications. Rather than delay production of the Saturn Ion in order to ensure that the ignition switch met specifications, Old GM's design release

engineer, Ray DeGiorgio, simply lowered the specification requirements and approved use of ignition switches that he knew did not meet Old GM's specifications.

215. In 2004, Old GM engineers reported that the ignition switch on the Saturn Ion was so weak and the ignition placed so low on the steering column that the driver's knee could easily bump the key and turn off the vehicle.

216. This defect was sufficiently serious for an Old GM engineer to conclude, in January 2004, that "[t]his is a basic design flaw and should be corrected if we want repeat sales."

217. A July 1, 2004 report by Siemens VDO Automotive analyzed the relationship between the ignition switch in GM-branded vehicles and the airbag system. The Siemens report concluded that when a GM-branded vehicle experienced a power failure, the airbag sensors were disabled. The Siemens report was distributed to at least five Old GM engineers. The Chevrolet Cobalt was in pre-production at this time.

218. In 2004, Old GM began manufacturing and selling the 2005 Chevrolet Cobalt. Old GM installed the same ignition switch in the 2005 Cobalt as it did in the Saturn Ion.

219. During testing of the Cobalt, Old GM engineer Gary Altman observed an incident in which a Cobalt suddenly lost engine power because the ignition switch moved out of the "run" position during vehicle operation.

220. In late 2004, while testing was ongoing on the Cobalt, Chief Cobalt Engineer Doug Parks asked Mr. Altman to investigate a journalist's complaint that he had turned off a Cobalt vehicle by hitting his knee against the key fob.

221. Old GM opened an engineering inquiry known as a Problem Resolution Tracking System "Problem Resolution" to evaluate a number of potential solutions to this moving engine stall problem. At this time, Problem Resolution issues were analyzed by a Current Production

Improvement Team ("Improvement Team"). The Improvement Team that examined the Cobalt issue beginning in late 2004 included a cross-section of business people and engineers, including Altman and Lori Queen, Vehicle Line Executive on the case.

222. Doug Parks, Chief Cobalt Engineer, was also active in Problem Resolution. On March 1, 2005, he attended a meeting whose subject was "vehicle can be keyed off with knee while driving." Parks also attended a June 14, 2005 meeting that included slides discussing a NEW YORK TIMES article that described how the Cobalt's engine could cut out because of the ignition switch problem.

223. In 2005, Parks sent an email with the subject, "Inadvertent Ign turn-off." In the email, Parks wrote, "For service, can we come up with a 'plug' to go into the key that centers the ring through the middle of the key and not the edge/slot? This appears to me to be the only real, quick solution."

224. After considering this and a number of other solutions (including changes to the key position and measures to increase the torque in the ignition switch), the CPIT examining the issue decided to do nothing.

225. Old and New GM engineer Gary Altman recently admitted that engineering managers (including himself and Ray DeGiorgio) knew about ignition switch problems in the Cobalt that could cause these vehicles to stall, and disable power steering and brakes, but launched the vehicle anyway because they believed that the vehicles could be safely coasted off the road after a stall. Mr. Altman insisted that "the [Cobalt] was maneuverable and controllable" with the power steering and power brakes inoperable.

226. On February 28, 2005, Old GM issued a bulletin to its dealers regarding engine-stalling incidents in 2005 Cobalts and 2005 Pontiac Pursuits (the Canadian version of the Pontiac G5).

227. In the February 28, 2005 bulletin, Old GM provided the following recommendations and instructions to its dealers—but not to the public in general:

> There is potential for the driver to inadvertently turn off the ignition due to low key ignition cylinder torque/effort. The concern is more likely to occur if the driver is short and has a large heavy key chain.
>
> In the case this condition was documented, the driver's knee would contact the key chain while the vehicle was turning. The steering column was adjusted all the way down. This is more likely to happen to a person that is short as they will have the seat positioned closer to the steering column.
>
> In cases that fit this profile, question the customer thoroughly to determine if this may be the cause. The customer should be advised of this potential and to take steps, such as removing unessential items from their key chains, to prevent it.
>
> Please follow this diagnosis process thoroughly and complete each step. If the condition exhibited is resolved without completing every step, the remaining steps do not need to be performed.

228. On June 19, 2005, the NEW YORK TIMES reported that Chevrolet dealers were advising some Cobalt owners to remove items from heavy key rings so that they would not inadvertently move the ignition into the "off" position. The article's author reported that his wife had bumped the steering column with her knee while driving on the freeway and the engine "just went dead."

229. The NEW YORK TIMES contacted Old GM and Alan Adler, manager for safety communications, provided the following statement:

> In rare cases when a combination of factors is present, a Chevrolet Cobalt driver can cut power to the engine by inadvertently bumping the ignition key to the accessory or off position while the

> car is running. Service advisers are telling customers they can virtually eliminate the possibility by taking several steps, including removing nonessential material from their key rings.

230. Between February 2005 and December 2005, Old GM opened multiple Problem Resolution inquiries regarding reports of power failure and/or engine shutdown in Defective Ignition Switch Vehicles.

231. One of these, opened by quality brand manager Steve Oakley in March 2005, was prompted by Old GM engineer Jack Weber, who reported turning off a Cobalt with his knee while driving. After Oakley opened the PRTS, Gary Altman advised that the inadvertent shut down was not a safety issue.

232. As part of Problem Resolution, Oakley asked William Chase, an Old GM warranty engineer, to estimate the warranty impact of the ignition switch defect in the Cobalt and Pontiac G5 vehicles. Chase estimated that for Cobalt and G5 vehicles on the road for 26 months, 12.40 out of every 1,000 vehicles would experience inadvertent power failure while driving.

233. In September 2005, Old GM received notice that Amber Marie Rose, a 16 year old resident of Clinton, Maryland, was killed in an accident after her 2005 Chevrolet Cobalt drove off the road and struck a tree head-on. During Old GM's investigation, it learned that the ignition switch in Amber's Cobalt was in the "accessory" or "off" position at the time of the collision. Upon information and belief, Old GM subsequently entered into a confidential settlement agreement with Amber's mother.

234. In December 2005, Old GM issued Technical Service Bulletin 05-02-35-007. The Bulletin applied to 2005-2006 Chevrolet Cobalts, 2006 Chevrolet HHRs, 2005-2006 Pontiac Pursuits, 2006 Pontiac Solstices, and 2003-2006 Saturn Ions. The Bulletin explained that "[t]here is potential for the driver to inadvertently turn off the ignition due to low ignition key cylinder torque/effort."

235. What Old GM failed to say in this Technical Service Bulletin was that it knew that there had been fatal incidents involving vehicles with the ignition switch defect. On November 17, 2005—shortly after Amber's death and immediately before Old GM issued the December Bulletin—a Cobalt went off the road and hit a tree in Baldwin, Louisiana. The front airbags did not deploy in this accident. Old GM received notice of the accident, opened a file, and referred to it as the "Colbert" incident.

236. On February 10, 2006, in Lanexa, Virginia—shortly after Old GM issued the Technical Service Bulletin—a 2005 Cobalt flew off of the road and hit a light pole. As with the Colbert incident (above), the frontal airbags failed to deploy in this incident as well. The download of the SDM (the vehicle's "black box") showed the key was in the "accessory/off" position at the time of the crash. Old GM received notice of this accident, opened a file, and referred to it as the "Carroll" incident.

237. On March 14, 2006, in Frederick, Maryland, a 2005 Cobalt traveled off the road and struck a utility pole. The frontal airbags did not deploy in this incident. The download of the SDM showed the key was in the "accessory/off" position at the time of the crash. Old GM received notice of this incident, opened a file, and referred to it as the "Oakley" incident.

238. In April 2006, Old GM design engineer Ray DeGiorgio approved a design change for the Chevrolet Cobalt's ignition switch, as proposed by Delphi. The changes included a new detent plunger and spring and were intended to generate greater torque values in the ignition switch. These values, though improved, were still consistently below Old GM's design specifications. Despite its redesign of the ignition switch, Old GM did not change the part number for the switch.

239. In congressional testimony in 2014, New GM CEO Mary Barra acknowledged that Old GM should have changed the part number when it redesigned the ignition switch, and that its failure to do so did not meet industry standard behavior. (Old GM's failure to change the part number constituted an act of concealment of the defect.)

240. In October 2006, Old GM updated Technical Service Bulletin 05-02-35-007 to include additional model years: the 2007 Saturn Ion and Sky, 2007 Chevrolet HHR, 2007 Cobalt, and 2007 Pontiac Solstice and G5. These vehicles had the same safety-related defects in the ignition switch systems as the vehicles in the original Bulletin.

241. On December 29, 2006, in Sellenville, Pennsylvania, a 2005 Cobalt drove off the road and hit a tree. The frontal airbags failed to deploy in this incident. Old GM received notice of this incident, opened a file, and referred to it as the "Frei" incident.

242. On February 6, 2007, in Shaker Township, Pennsylvania, a 2006 Cobalt sailed off the road and struck a truck. Despite there being a frontal impact in this incident, the frontal airbags failed to deploy. The download of the SDM showed the key was in the "accessory/off" position. Old GM received notice of this incident, opened a file, and referred to it as the "White" incident.

243. On August 6, 2007, in Cross Lanes, West Virginia, a 2006 Cobalt rear-ended a truck. The frontal airbags failed to deploy. Old GM received notice of this incident, opened a file, and referred to it as the "McCormick" incident.

244. On September 25, 2007, in New Orleans, Louisiana, a 2007 Cobalt lost control and struck a guardrail. Despite there being a frontal impact in this incident, the frontal airbags failed to deploy. Old GM received notice of this incident, opened a file, and referred to it as the "Gathe" incident.

245. On October 16, 2007, in Lyndhurst, Ohio, a 2005 Cobalt traveled off road and hit a tree. The frontal airbags failed to deploy. Old GM received notice of this incident, opened a file, and referred to it as the "Breen" incident.

246. On April 5, 2008, in Sommerville, Tennessee, a 2006 Cobalt traveled off the road and struck a tree. Despite there being a frontal impact in this incident, the frontal airbags failed to deploy. The download of the SDM showed the key was in the "accessory/off" position. Old GM received notice of this incident, opened a file, and referred to it as the "Freeman" incident.

247. On May 21, 2008, in Argyle, Wisconsin, a 2007 G5 traveled off the road and struck a tree. Despite there being a frontal impact in this incident, the frontal airbags failed to deploy. The download of the SDM showed the key was in the "accessory/off" position. Old GM received notice of this incident, opened a file, and referred to it as the "Wild" incident.

248. On May 28, 2008, in Lufkin, Texas, a 2007 Cobalt traveled off the road and struck a tree. Despite there being a frontal impact in this incident, the frontal airbags failed to deploy. Old GM received notice of this incident, opened a file, and referred to it as the "McDonald" incident.

249. On September 13, 2008, in Lincoln Township, Michigan, a 2006 Cobalt traveled off the road and struck a tree. Despite there being a frontal impact in this incident, the frontal airbags failed to deploy. Old GM received notice of this incident, opened a file, and referred to it as the "Harding" incident.

250. On November 29, 2008, in Rolling Hills Estates, California, a 2008 Cobalt traveled off the road and hit a tree. Despite there being a frontal impact in this incident, the frontal airbags failed to deploy. Old GM received notice of this incident, opened a file, and referred to it as the "Dunn" incident.

251. On December 6, 2008, in Lake Placid, Florida, a 2007 Cobalt traveled off the road and hit a utility pole. Despite there being a frontal impact in this incident, the frontal airbags failed to deploy. The download of the SDM showed the key was in the "accessory/off" position. Old GM received notice of this incident, opened a file, and referred to it as the "Grondona" incident.

252. In February 2009, Old GM opened another Problem Resolution regarding the ignition switches in the Defective Ignition Switch Vehicles. Old GM engineers decided at this time to change the top of the Chevrolet Cobalt key from a "slot" to a "hole" design, as had originally been suggested in 2005. The new key design was produced for the 2010 model year. Old GM did not provide these redesigned keys to the owners or lessees of any of the vehicles implicated in prior Technical Service Bulletins, including the 2005-2007 Cobalts.

253. Just prior to its bankruptcy sale, Old GM met with Continental Automotive Systems US, its airbag supplier for the Cobalt, Ion, and other Defective Ignition Switch Vehicles. Old GM requested that Continental download SDM data from a 2006 Chevrolet Cobalt accident where the airbags failed to deploy. In a report dated May 11, 2009, Continental analyzed the SDM data and concluded that the SDM ignition state changed from "run" to "off" during the accident. According to Continental, this, in turn, disabled the airbags. Old GM did not disclose this finding to NHTSA, despite its knowledge that NHTSA was interested in airbag non-deployment incidents in Chevrolet Cobalt vehicles.

**2. New GM continues to conceal the ignition switch defect.**

254. In March 2010, New GM recalled nearly 1.1 million Cobalt and Pontiac G5 vehicles for faulty power steering issues. In recalling these vehicles, New GM recognized that loss of power steering, standing alone, was grounds for a safety recall. Yet, incredibly, New GM claims it did not view the ignition switch defect as a "safety issue," but only a "customer

convenience issue." Despite its knowledge of the ignition switch defect, New GM did not include the ignition switch defect in this recall. Further, although the Saturn Ion used the same steering system as the Cobalt and Pontiac G5 (and had the same ignition switch defect), New GM did not recall any Saturn Ion vehicles at this time.

255. On March 10, 2010, Brooke Melton was driving her 2005 Cobalt on a two-lane highway in Paulding County, Georgia. While she was driving, her key turned from the "run" to the "accessory/off" position causing her engine to shut off. After her engine shut off, she lost control of her Cobalt, which traveled into an oncoming traffic lane, where it collided with an oncoming car. Brooke was killed in the crash. New GM received notice of this incident.

256. On December 31, 2010, in Rutherford County Tennessee, a 2006 Cobalt traveled off the road and struck a tree. Despite there being a frontal impact in this incident, the frontal airbags failed to deploy. The download of the SDM showed the key was in the "accessory/off" position. New GM received notice of this incident, opened a file, and referred to it as the "Chansuthus" incident.

257. On December 31, 2010, in Harlingen, Texas, a 2006 Cobalt traveled off the road and struck a curb. Despite there being a frontal impact in this incident, the frontal airbags failed to deploy. New GM received notice of this incident, opened a file, and referred to it as the "Najera" incident.

258. On March 22, 2011, Ryan Jahr, a New GM engineer, downloaded the SDM from Brooke Melton's Cobalt. The information from the SDM download showed that the key in Brooke's Cobalt turned from the "run" to the "accessory/off" position 3-4 seconds before the crash. On June 24, 2011, Brooke Melton's parents, Ken and Beth Melton, filed a lawsuit against New GM.

259. In August 2011, New GM assigned Engineering Group Manager Brian Stouffer to assist with a Field Performance Evaluation that it had opened to investigate frontal airbag non-deployment incidents in Chevrolet Cobalts and Pontiac G5s.

260. On December 18, 2011, in Parksville, South Carolina, a 2007 Cobalt traveled off the road and struck a tree. Despite there being a frontal impact in this incident, the frontal airbags failed to deploy. The download of the SDM showed the key was in the "accessory/off" position. New GM received notice of this incident, opened a file, and referred to it as the "Sullivan" incident.

261. In early 2012, Mr. Stouffer asked Jim Federico, who reported directly to Mary Barra, to oversee the Field Performance Evaluation investigation into frontal airbag non-deployment incidents. Federico was named the "executive champion" for the investigation to help coordinate resources.

262. In May 2012, New GM engineers tested the torque on numerous ignition switches of 2005-2009 Chevrolet Cobalt, 2009 Pontiac G5, 2006-2009 HHR, and 2003-2007 Saturn Ion vehicles that were parked in a junkyard. The results of these tests showed that the torque required to turn the ignition switches from the "run" to the "accessory" or "off" position in most of these vehicles did not meet GM's minimum torque specification requirements. These results were reported to Mr. Stouffer and other members of the Field Performance Evaluation team.

263. In September 2012, Stouffer requested assistance from a "Red X Team" as part of the Field Performance Evaluation investigation. The Red X Team was a group of engineers within New GM assigned to find the root cause of the airbag non-deployments in frontal accidents involving Chevrolet Cobalts and Pontiac G5s. By that time, however, it was clear that

the root cause of the airbag non-deployments in a majority of the frontal accidents was the defective ignition switch and airbag system.

264. Indeed, Mr. Stouffer acknowledged in his request for assistance that the Chevrolet Cobalt could experience a power failure during an off-road event, or if the driver's knee contacted the key and turned off the ignition. Mr. Stouffer further acknowledged that such a loss of power could cause the airbags not to deploy.

265. At this time, New GM did not provide this information to NHTSA or the public.

266. Acting NHTSA Administrator David Friedman recently stated, "at least by 2012, GM staff was very explicit about an unreasonable risk to safety" from the ignition switches in the Defective Ignition Switch Vehicles.

267. Mr. Friedman continued: "GM engineers knew about the defect. GM lawyers knew about the defect. But GM did not act to protect Americans from the defect."

268. There is significant evidence that multiple in-house attorneys also knew of and understood the ignition switch defect. These attorneys, including Michael Milliken, negotiated settlement agreements with families whose loved ones had been killed and/or injured while operating a Defective Ignition Switch Vehicle. In spite of this knowledge, New GM's attorneys concealed their knowledge and neglected to question whether the Defective Ignition Switch Vehicles should be recalled. This quest to keep the ignition switch defect secret delayed its public disclosure and contributed to increased death and injury as a result of the ignition switch defect.

269. During the Field Performance Evaluation process, New GM determined that, although increasing the detent in the ignition switch would reduce the chance that the key would

inadvertently move from the "run" to the "accessory" or "off" position, it would not be a total solution to the problem.

270. Indeed, the New GM engineers identified several additional ways to actually fix the problem. These ideas included adding a shroud to prevent a driver's knee from contacting the key, modifying the key and lock cylinder to orient the key in an upward facing orientation when in the run position, and adding a push button to the lock cylinder to prevent it from slipping out of "run." New GM rejected each of these ideas.

271. The photographs below are of a New GM engineer in the driver's seat of a Cobalt during the investigation of Cobalt engine stalling incidents:

272. These photographs show the dangerous position of the key in the lock module on the steering column, as well as the key with the slot, which allow the key fob to hang too low off the steering column. New GM engineers understood that the key fob can be impacted and pinched between the driver's knee and the steering column, and that this will cause the key to inadvertently turn from the "run" to the "accessory" or "off" position. The photographs show that the New GM engineers understood that increasing the detent in the ignition switch would

not be a total solution to the problem. They also show why New GM engineers believed that additional changes (such as the shroud) were necessary to fix the defects with the ignition switch.

273. The New GM engineers clearly understood that increasing the detent in the ignition switch alone was not a solution to the problem. But New GM concealed—and continues to conceal—from the public the full nature and extent of the defects.

274. On October 4, 2012, there was a meeting of the Red X Team during which Mr. Federico gave an update of the Cobalt airbag non-deployment investigation. According to an email from Mr. Stouffer on the same date, the "primary discussion was on what it would take to keep the SDM active if the ignition key was turned to the accessory mode." Despite this recognition by New GM engineers that the SDM should remain active if the key is turned to the "accessory" or "off" position, New GM took no action to remedy the ignition switch defect or notify customers that the defect existed.

275. During the October 4, 2012 meeting, Mr. Stouffer and other members of the Red X Team also discussed "revising the ignition switch to increase the effort to turn the key from Run to Accessory."

276. On October 4, 2012, Mr. Stouffer emailed Ray DeGiorgio and asked him to "develop a high level proposal on what it would take to create a new switch for service with higher efforts." On October 5, 2012, DeGiorgio responded:

> Brian,
>
> In order to provide you with a HIGH level proposal, I need to understand what my requirements are. what is the TORQUE that you desire?
>
> Without this information I cannot develop a proposal.

277. On October 5, Stouffer responded to DeGiorgio's email, stating:

> Ray,

> As I said in my original statement, I currently don't know what the torque value needs to be. Significant work is required to determine the torque. What is requested is a high level understanding of what it would take to create a new switch.

278. DeGiorgio replied to Stouffer the following morning:

> Brian,
>
> Not knowing what my requirements are I will take a SWAG at the Torque required for a new switch. Here is my level proposal
>
> **Assumption is 100 N cm Torque.**
>
> • New switch design = Engineering Cost Estimate approx. $300,000
>
> • Lead Time = 18 – 24 months from issuance of GM Purchase Order and supplier selection.
>
> Let me know if you have any additional questions.

279. Stouffer later admitted in a deposition that DeGiorgio's reference to "SWAG" was an acronym for "Silly Wild-Ass Guess."

280. DeGiorgio's cavalier attitude exemplifies New GM's approach to the safety-related defects that existed in the ignition switch and airbag system in the Defective Ignition Switch Vehicles. Rather than seriously addressing the safety-related defects, DeGiorgio's emails show he understood the ignition switches were contributing to the crashes and fatalities and he could not care less.

281. It is also obvious from this email exchange that Stouffer, who was a leader of the Red X Team, had no problem with DeGiorgio's cavalier and condescending response to the request that he evaluate the redesign of the ignition switches.

282. In December 2012, in Pensacola, Florida, Ebram Handy, a New GM engineer, participated in an inspection of components from Brooke Melton's Cobalt, including the ignition switch. At that inspection, Handy, along with Mark Hood, a mechanical engineer retained by the

Meltons, conducted testing on the ignition switch from Brooke Melton's vehicle, as well as a replacement ignition switch for the 2005 Cobalt.

283. At that inspection, Handy observed that the results of the testing showed that the torque performance on the ignition switch from Brooke Melton's Cobalt was well below Old GM's minimum torque performance specifications. Handy also observed that the torque performance on the replacement ignition switch was significantly higher than the torque performance on the ignition switch in Brooke Melton's Cobalt.

284. On April 29, 2013, Ray DeGiorgio, the chief design engineer for the ignition switches in these Defective Ignition Switch Vehicles, was deposed. At his deposition, Mr. DeGiorgio was questioned about his knowledge of differences in the ignition switches in early model-year Cobalts and the switches installed in later model-year Cobalts:

> Q. And I'll ask the same question. You were not aware before today that GM had changed the spring – the spring on the ignition switch had been changed from '05 to the replacement switch?
>
> MR. HOLLADAY: Object to the form. Lack of predicate and foundation. You can answer.
>
> THE WITNESS: I was not aware of a detent plunger switch change. We certainly did not approve a detent plunger design change.
>
> Q. Well, suppliers aren't supposed to make changes such as this without GM's approval, correct?
>
> A. That is correct.
>
> Q. And you are saying that no one at GM, as far as you know, was aware of this before today?
>
> MR. HOLLADAY: Object. Lack of predicate and foundation. You can answer.
>
> THE WITNESS: I am not aware about this change.

285. When Mr. DeGiorgio testified, he knew that he personally had authorized the ignition switch design change in 2006, but he stated unequivocally that no such change had occurred.

**3. New GM receives complaints of power failures in Defective Ignition Switch Vehicles.**

286. Throughout the entirety of its corporate existence, New GM received numerous and repeated complaints of moving engine stalls and/or power failures. These complaints are yet more evidence that New GM was fully aware of the ignition switch defect and should have timely announced a recall much sooner than it did.

287. New GM was aware of these problems year after year and nationwide, as reflected not only by the internal documents reflecting knowledge and cover-up at high levels, but in the thousands of customer complaints, some of which are reflected in the common fact patterns presented by the experiences of the named plaintiffs (as discussed above), but also, and not by way of limitation, by the records of their internal complaint logs and documents.

288. To demonstrate the pervasiveness and consistency of the problems, and by way of examples, New GM received and reviewed complaints of safety issues from Class members with Defective Ignition Switch Vehicles in Puerto Rico and in the States of Alaska, Arkansas, Connecticut, Delaware, Hawaii, Indiana, Kansas, Massachusetts, Montana, Nebraska, Nevada, New Hampshire, North Dakota, Oregon, Rhode Island, South Dakota, Tennessee, Utah, Virginia, and Vermont. Documents produced by New GM pursuant to Order No. 12 (Sept. 10, 2014, ECF No. 296) show that New GM was aware of customer complaints of stalling Defective Ignition Switch Vehicles in all of these states and territories. New GM opened at least 38 complaint files between September 2009 and February 2014. Further, in December 2010, GM closed at least 40 complaint files—which Old GM had opened before the bankruptcy sale in July 2009—without

disclosing the safety defect to the customers, thus indicating that Old GM's knowledge of these Defective Ignition Switch Vehicles carried over to New GM.

289. During the years 2010 to the present, GM's Technical Assistance Center received hundreds, if not thousands, of complaints concerning stalling or misperforming vehicles due to ignition issues, including "heavy key chains."

290. Within the complaint files which GM closed after the bankruptcy sale—those opened both before and after the bankruptcy sale—at least six customers complained they did not feel safe in their vehicles because of the stalling. Three customers described accidents caused by stalling. The airbags did not deploy in one of these accidents.

291. Another customer, who contacted New GM in February 2014, complained that he was aware that people were dying from this defect and that he refused to risk the lives of himself, his wife, and his children. He was nearly rear-ended when his vehicle stalled at 60 mph.

292. Finally, a customer contacted New GM in January 2011 complaining that he had read various online forums describing the stalling problem and expressing his outrage that New GM had done nothing to solve the problem. This customer's car stalled at 65 mph on the Interstate.

**4. New GM recalls 2.1 million vehicles with defective ignition switches.**

293. Under continuing pressure to produce high-ranking employees for deposition in the Melton litigation, New GM's Field Performance Review Committee and Executive Field Action Decision Committee ("Decision Committee") finally ordered a recall of ***some*** vehicles with defective ignition switches on January 31, 2014.

294. Initially, the Decision Committee ordered a recall of only the Chevrolet Cobalt and Pontiac G5 for model years 2005-2007.

295. After additional analysis, the Decision Committee expanded the recall on February 24, 2014 to include the Chevrolet HHR and Pontiac Solstice for model years 2006 and 2007, the Saturn Ion for model years 2003-2007, and the Saturn Sky for model year 2007.

296. Public criticism in the wake of these recalls was withering. On March 17, 2014, Mary Barra issued an internal video, which was broadcast to employees. In the video, Ms. Barra admits:

> Scrutiny of the recall has expanded beyond the review by the federal regulators at NHTSA, the National Highway Traffic Safety Administration. As of now, two congressional committees have announced that they will examine the issue. And it's been reported that the Department of Justice is looking into this matter. . . . These are serious developments that shouldn't surprise anyone. After all, something went wrong with our process in this instance and terrible things happened.

297. The public backlash continued and intensified. Eventually, GM expanded the ignition switch recall yet again on March 28, 2014. This expansion covered all model years of the Chevrolet Cobalt and HHR, the Pontiac G5 and Solstice, and the Saturn Ion and Sky. The expanded recall brought the total number of vehicles recalled for defective ignition switches to 2,191,146.

298. Several high-ranking New GM employees were summoned to testify before Congress, including Ms. Barra and executive vice president and in-house counsel Michael Milliken. Further, in an effort to counter the negative backlash, New GM announced that it had hired Anton R. Valukas to conduct an internal investigation into the decade-long concealment of the ignition switch defect.

299. As individuals came forward who had been injured and/or whose loved ones were killed in the Defective Ignition Switch Vehicles, the public criticism continued. Under intense, continuing pressure, New GM agreed in April 2014 to hire Ken Feinberg to design and

administer a claims program in order to compensate certain victims who were injured or killed in the Defective Ignition Switch Vehicles. Ms. Barra explained to Congress: "[W]e will make the best decisions for our customers, recognizing that we have legal obligations and responsibilities as well as moral obligations. We are committed to our customers, and we are going to work very hard to do the right thing for our customers."

300. New GM's compensation of such individuals, however, was limited to the protocol set forth in the Feinberg Compensation Fund. In the courts, New GM has taken the position that any accident that occurred prior to its bankruptcy is barred by the bankruptcy sale order. In addition, New GM has argued that it has no responsibility whatsoever for the manufacture and sale of any vehicle prior to July 10, 2009. This position is obviously inconsistent with the statements Ms. Barra provided to Congress and the public at large.

**5. New GM recalls over 10 million additional vehicles for ignition switch defects in June and July of 2014.**

301. By actively concealing the ignition switch defects in the Defective Ignition Switch Vehicles, and by continuing to manufacture and sell millions of such vehicles for years after it acquired knowledge of the defects, New GM engaged in unlawful and fraudulent practices in violation of the law.

302. Following the waves of negative publicity surrounding New GM's recall of the first 2.1 million Defective Ignition Switch Vehicles, New GM was forced to issue a series of additional recalls for more than 10 million additional Defective Ignition Switch Vehicles, as summarized below.

303. Even so, safety regulators received dozens of complaints of moving stalls and/or power failures in the vehicles covered by New GM's June and July 2014 recalls; New GM still did nothing.

304. NHTSA's website contains more than 100 complaints about vehicle stalls for the 2006-2009 Impalas alone. In one 2012 complaint, an Impala stalled in the middle of a large intersection. The owner took it to a dealer four times but could not get it repaired. The complainant stated, "I'm fearful I will be the one causing a fatal pile-up."

305. New GM admits knowing that ignition switch defects have been linked to at least three deaths and eight injuries in the vehicle model years covered by its June and July recalls. The fatal accidents occurred in 2003 and 2004 Chevrolet Impalas in which the airbags failed to deploy.

**a. June 19, 2014 Recall—Camaro Recall**

306. On June 19, 2014, New GM recalled 464,712 model year 2010 through 2014 Chevrolet Camaro vehicles in the United States (NHTSA Recall Number 14V-346).

307. The great majority of the defective Camaros were sold by New GM, though some indeterminate number of the 117,959 model year 2010 Camaros were manufactured by Old GM, and some smaller number were sold by Old GM.

308. According to the recall notice, the driver of an affected Camaro may accidentally hit the ignition key with his or her knee, unintentionally knocking the key out of the "run" position and turning off the engine. If the key is not in the "run" position, the airbags may not deploy during a collision. Additionally, when the key is moved out of the "run" position, the vehicle will experience a loss of engine power, loss of power steering, and loss of power brakes.

309. Between 2010 and 2014, NHTSA received numerous complaints of power failures in 2010-2014 Camaros. These complaints started as early as January 2010, months after New GM's formation.

310. One complainant described an incident in which his model year 2010 Camaro lost all power while he was driving 55-65 mph down a mountain road in heavy traffic. The

complainant was able to stop the vehicle by jamming it into a guardrail. He stated that he was lucky he was not killed. When he notified his dealership, however, they told him there was nothing wrong with the vehicle.

311. Another complainant, in May 2010, described several instances in which his moving Camaro's power failed, including one instance in which he was driving on the highway at 70 mph. This complainant concluded his report by asking, "Will I have a head[-]on collision while trying to pass another car?"

312. Between 2010 and 2014, NHTSA received numerous complaints reporting engine stalls during normal and regular Camaro operations.

313. For example, on May 3, 2010, New GM became aware of a complaint filed with NHTSA involving a 2010 Camaro in which the following was reported:

> WHILE DRIVING TO THE DEALERSHIP IN BROOKDALE, MN. ON FREEWAY APPROX 70MPH WHEN CAR COMPLETELY GOES DEAD. QUICKLY I PUT IT IN NEUTRAL AND TURNED IT BACK ON AND COMPLAINED TO DEALER. DRIVING IN ST CLOUD,MN AT INTOWN SPEEDS WHEN THE CAR SHUTS DOWN AGAIN. THEN IT ALSO SHUT DOWN TWICE ON ME IN BRAINERD, MN AT A SPEED OF 50MPH WHILE DRIVING NORMAL. THEN ON 3 MAY 2010 I WAS GOING AROUND A CURVE WITH 2 FRIENDS WHEN IT AGAIN SHUT DOWN AT APPROXIMATELY 60 MPH. THIS TIME WHILE ON THE CURVE I WENT INTO THE DITCH AND HIT A MAIL BOX. THUS CAUSING DAMAGE TO THE RIGHT FRONT OF THE CAR. THE CAR WAS TOWED AND IS PRESENTLY AT THE DEALERSHIP IN BRAINERD, MN. THIS CAR IS TO DANGEROUS TO DRIVE; WILL I HAVE A HEAD[-]ON COLLISION WHILE TRYING TO PASS ANOTHER CAR?

314. On October 20, 2010, New GM became aware of a complaint filed with NHTSA involving a 2010 Camaro in which the following was reported:

> 2010 CHEVROLET CHEVY CAMARO V6, SUDDEN LOSS OF POWER, COMPLETE ELECTRICAL FAILURE, AND ENGINE SHUTDOWN WHILE DRIVING 30 MPH IN SUBDIVISION.

> PULLED TO SIDE OF ROAD. TURNED CAR "OFF" AND BACK ON. DROVE TO DEALER WHO SAID THEY COULD FIND NO PROBLEM AND NOTHING RECORDED IN CAR'S COMPUTER. GOOGLED RECALL OF V8 TO SHOW DEALER, BUT DEALER SAID THIS WAS UNRELATED.

315. On March 6, 2012, New GM became aware of a complaint filed with NHTSA involving a 2010 Camaro in which the following was reported:

> WHILE DRIVING VEHICLE FIRST SHUT OFF AT A RED LIGHT FOR NO REASON ON FEB 28 2012 SAME INCIDENT ON MARCH 1ST SHUT OFF A RED LIGHT THIRD TIME IT WAS WHILE DRIVING 10 MPH MAKING A TURN IN A PARKING SPOT. WAS ABLE TO TURN BACK CAR ON WITH NO PROBLEMS BUT IT IS OF GREAT CONCERN NOW IF THIS SHOULD HAPPEN AT A HIGH SPEED I AM SURE CAR CAN CAUSE INJURIES TO OTHERS AS WELL AS MYSELF.

316. On October 9, 2012, New GM became aware of a complaint filed with NHTSA involving a 2012 Camaro in which the following was reported:

> THE CONTACT OWNS A 2012 CHEVROLET CAMARO. THE CONTACT STATED THAT WHILE DRIVING 50 MPH, THE VEHICLE STALLED WITHOUT WARNING. THE CONTACT WAS ABLE TO RESTART THE VEHICLE. THE MANUFACTURER WAS CONTACTED AND HAD THE VEHICLE TOWED TO A LOCAL DEALER. THE DEALER RESET THE COMPUTER BUT THE REPAIR DID NOT REMEDY THE ISSUE. THE CONTACT TOOK THE VEHICLE BACK TO THE DEALER WHERE THE DEALER RESET THE COMPUTER A SECOND TIME. THE DEALER ALSO DROVE THE VEHICLE FOR ONE HUNDRED MILES AND COULD NOT DUPLICATE THE STALLING ISSUE. THE VEHICLE CONTINUED TO STALL SPORADICALLY. THE FAILURE MILEAGE WAS 4,200.

317. On July 3, 2013, New GM became aware of a complaint filed with NHTSA involving a 2013 Camaro in which the following was reported:

> THE CONTACT OWNS A 2013 CHEVROLET CAMARO. THE CONTACT STATED THAT WHILE DRIVING APPROXIMATELY 55 MPH, THE VEHICLE STALLED WITHOUT WARNING. THE CONTACT MENTIONED THAT

> THE FAILURE WOULD RECUR INTERMITTENTLY. THE VEHICLE WAS TAKEN TO A DEALER FOR A DIAGNOSTIC WHERE THE FAILURE WAS UNABLE TO BE REPLICATED. THE MANUFACTURER WAS NOTIFIED OF THE FAILURE. THE APPROXIMATE FAILURE MILEAGE WAS 1,460 AND THE CURRENT MILEAGE WAS 1,800.

318. On August 4, 2013, New GM became aware of a complaint filed with NHTSA involving a 2010 Camaro in which the following was reported:

> I PURCHASED MY 2010 CHEVY CAMARO 2SS, IN FEBRUARY OF 2012. IT HAD 4,400 MILES ON IT. ABOUT A MONTH OR TWO, AFTER I BOUGHT IT, IT COMPLETELY SHUT OFF ON ME, ON A MAJOR HIGHWAY, WHILE DOING 65 MPH. I THREW IT INTO NEUTRAL AND TURNED THE KEY AND IT STARTED RIGHT BACK UP. ABOUT A MONTH AFTER THAT, I WAS DOING ABOUT 20MPH ON A BACK ROAD AND IT DID THE SAME EXACT THING. JUST RECENTLY, ABOUT 2 WEEKS AGO, I WAS IN 6TH GEAR, ON CRUISE DOING 60MPH AND I FELT THE CAR "JERK" OR BUCK" A LITTLE BIT. FOLLOWED IMMEDIATELY BY THE CAR DECELERATING. I DOWN-SHIFTED TO 4TH GEAR AND WAS GIVING IT GAS, BUT STILL WOULDN'T SPEED UP. IT FELL DOWN TO ABOUT 40MPH, BEFORE FINALLY CATCHING ITSELF AND SPEEDING BACK UP. ABOUT A MILE LATER, I GOT OFF MY EXIT AND WAS COMING DOWN TO THE STOP SIGN,WHEN ALL THE INDICATOR LIGHTS CAME ON FOR ABOUT 10 SECONDS. THEY WENT OFF AND I MADE A LEFT HAND TURN AND WENT ABOUT A MILE UP THE ROAD. AT THAT POINT, THE CAR COMPLETELY SHUT OFF DOING ABOUT 35MPH. THERE WAS HEAVY TRAFFIC, SO I PULLED OVER AND STARTED IT BACK UP. I CALLED THE CHEVY DEALERSHIP, WHERE I BOUGHT IT FROM, AND THEY HAD NO OPENINGS FOR A WEEK. SO I TOOK IT LAST WEEK TO GET IT CHECKED AND THEY FOUND NOTHING THAT COULD HAVE CAUSED IT, THEY SAY. I AM VERY UPSET, BUT VERY THANKFUL THAT MY TWO CHILDREN WERE NOT WITH ME WHEN IT HAPPENED. I AM CURRENTLY CONTEMPLATING TRADING IT IN, CUZ I AM WORRIED THAT IF IT HAPPENS AGAIN,AND MY CHILDREN ARE IN THE CAR, THAT IT MIGHT SHUT OFF IN VERY CONGESTED BUMPER TO BUMPER TRAFFIC, ON THE HIGHWAY AT NIGHT, AND A TRACTOR TRAILER IS BEHIND ME AND I CAN'T GET IT STARTED OR SOMEONE

> DOESN'T SEE ME CUZ MY LIGHTS WOULD BE OFF. THE THOUGHT OF THAT COMPLETELY SCARES ME.

319. On September 28, 2013, New GM became aware of a complaint filed with NHTSA involving a 2010 Camaro in which the following was reported:

> THE CONTACT OWNS A 2010 CHEVROLET CAMARO. THE CONTACT STATED THAT WHILE DRIVING 5 MPH AND MAKING A TURN, THE VEHICLE STALLED WITHOUT WARNING. THE CONTACT WAS ABLE TO RESTART THE VEHICLE BUT THE FAILURE RECURRED. THE VEHICLE WAS TAKEN TO A DEALER WHO PERFORMED A DIAGNOSTIC AND REPLACED A COMPONENT TO CORRECT THE FAILURE. THE CONTACT WAS UNABLE TO DETERMINE THE EXACT COMPONENT HOWEVER, THE FAILURE RECURRED WITHOUT WARNING. THE VEHICLE WAS TAKEN TO DEALER HOWEVER, NO FAILURE WAS DETERMINED. THE MANUFACTURER WAS MADE AWARE OF THE ISSUE AND AN INCIDENT RECORDER WAS INSTALLED ON THE VEHICLE TO DETERMINE ANY FUTURE FAILURES. THE FAILURE MILEAGE WAS 23,000. THE CURRENT MILEAGE WAS 24,000.

320. On October 2, 2013, New GM became aware of a complaint filed with NHTSA involving a 2010 Camaro in which the following was reported:

> I REACHED OUT TO [XXX], GM CEO ON MAY 24, 2013 WITH A STRONG CONCERNS OF POWER FAILURE FOR THE 2ND TIME WHILE DRIVING THE VEHICLE; CAUSING ME NOT TO HAVE CONTROL WHILE THE VEHICLE WAS DRIVEN. THUS IT WAS ALSO NOTED THAT I ORIGINALLY REACHED OUT TO GM TO REQUEST A REPLACED VEHICLE WHILE MY VEHICLE WAS UNDER WARRANTY DUE TO THE VEHICLE LOSING POWER ON A MAJOR FREEWAY; WHICH WAS LIFE THREATENING; HOWEVER THE RESPONSE BACK FROM GM WAS A DECLINED LETTER THAT I RECEIVED ENSURING ME THAT THE VEHICLE WAS SAFE TO DRIVE. I TRAVEL MAJOR FREEWAYS AS PART OF CAREER SO HAVING A RELIABLE VEHICLE IS IMPERATIVE AS FOR I VALUE MY LIFE. [XXX], SENIOR VICE PRESIDENT OF GLOBAL QUALITY & CUSTOMER EXPERIENCE HAS NOT RETURNED MY CALLS AND NOW GM IS ALSO NOT HONORING THE WARRANTY TOO. AFTER ASSISTING ME

> WITH MY CAR FOR 5 MONTHS .PLEASE NOT MY 2010 CAMARO SS IS PARK AS FOR IT'S NOT SAFE TO DRIVE. GM OFFER ME A CONTRACT TO SIGN THAT WOULD GUARANTEE "NO FAULT TO GM ". I COULDN'T NOT DUE THEM SHOULD MY CAMARO HARM MYSELF OR OTHERS WHILE DRIVING IT. ADDITIONALLY, I WAS TOLD THAT GM KNOWS THERE IS A PROBLEM WITH THE CAMARO BUT CAN'T FIND THE PROBLEM. IT'S HAS BEEN NOTED THAT THE CORRECTIONS THAT I NEED TO HAVE MADE IN ORDER TO BE SAFE IN THE GM VEHICLE CANNOT BE OBTAINED AS FOR MY VEHICLE HAS BEEN KEEP CHEVY FOR SHOP 5 MONTHS. ….

321. On October 16, 2013, New GM became aware of a complaint filed with NHTSA concerning a 2013 Camaro, in which the following was reported:

> THE CONTACT OWNS A 2013 CHEVROLET CAMARO. THE CONTACT STATED THAT WHILE MAKING A U-TURN, THE VEHICLE STALLED WITHOUT WARNING. THE VEHICLE WAS NOT TAKEN TO A DEALER FOR DIAGNOSIS OF THE FAILURE. THE MANUFACTURER WAS NOT NOTIFIED OF THE FAILURE. THE VEHICLE WAS NOT REPAIRED. THE APPROXIMATE FAILURE AND CURRENT MILEAGE WAS 830.

322. On April 20, 2014, New GM became aware of a complaint filed with NHTSA concerning a 2014 Camaro, in which the following was reported:

> AS I WAS TURNING THE CORNER ON TO WOODWARD AVENUE MY CAR JUST SHUT DOWN. THE CAR WENT TOTALLY BLACK AND SHUT DOWN IN THE MIDDLE OF THE TURN ON THIS VERY BUSY-MAIN THOROUGHFARE.

323. On April 30, 2014, New GM became aware of a complaint filed with NHTSA concerning a 2014 Camaro, in which the following was reported:

> WITHIN TWO WEEKS AFTER PURCHASING MY CAR IT STALLED TWICE--BOTH WHEN STOPPED AT RED LIGHTS. I TOOK CAR TO DEALERSHIP AND THEY DID A ROAD TEST BUT COULD NOT REPLICATE. ON 4/9/2014 I WAS MAKING A RIGHT HAND TURN AND THE CAR STALLED IN THE MIDDLE OF THE INTERSECTION. I RESTARTED THE CAR, DROVE TO MY OFFICE AND THE CAR STALLED WHEN TURNING INTO THE PARKING GARAGE AND

> AGAIN WHEN TURNING INTO THE PARKING SPACE. TOOK TO THE DEALERSHIP THE FOLLOWING DAY AND THEY KEPT FOR AN EXTENDED TEST DRIVE BUT COULD NOT REPLICATE THE PROBLEM. SINCE THERE WERE NOT ANY CODES THE CAR WAS RETURNED TO ME.

324. On May 6, 2014, New GM became aware of a complaint filed with NHTSA concerning a 2014 Camaro, in which the following was reported:

> DRIVING ON CRUISE CONTROL. KNEE BUMPED KEY, ENGINE TURNED OFF AT 60 MPH. POWER STEERING AND BRAKES STILL WORKED, BUT ENGINE WAS OFF.

325. On May 9, 2014, New GM became aware of a complaint filed with NHTSA involving a 2013 Camaro, in which the following was reported:

> THE CONTACT INDICATED WHILE TRAVELING 60 MPH ON A MAJOR HIGHWAY, THE VEHICLE STALLED WITHOUT WARNING. THE CONTACT WAS ABLE TO MOVE THE VEHICLE OVER TO THE SHOULDER AND AFTER SEVERAL ATTEMPTS THE VEHICLE WAS ABLE TO RESTART. THE VEHICLE WAS TO BE FURTHER INSPECTED, DIAGNOSED AND REPAIRED BY AN AUTHORIZED DEALER BUT IT WAS NOT REPAIRED. THE CONTACT WAS NOTIFIED OF NHTSA CAMPAIGN ID NUMBER: 14V346000 (ELECTRICAL SYSTEM) AFTER EXPERIENCING THE FAILURE MULTIPLE TIMES AND WAS WAITING FOR PARTS TO GET THE VEHICLE REPAIRED. THE MANUFACTURER WAS NOTIFIED OF THE FAILURE. THE APPROXIMATE FAILURE MILEAGE WAS 28,000.

326. On May 19, 2014, New GM became aware of a complaint filed with NHTSA involving a 2013 Camaro, in which the following was reported:

> WHILE DRIVING DOWN I 75 IN OCALA FLORIDA CAR STALLED IN MIDDLE OF HIGHWAY . I PULLED OVER TO SHOULDER AND HAD TO RESTART CAR. I TOOK IT IN TO A DEALER AND THEY SAID THEY COULD NOT FIND ANY THING WRONG. THEY SAID TAKE THE CAR.

327. On May 20, 2014, New GM became aware of a complaint filed with NHTSA involving a 2012 Camaro, in which the following was reported:

> WHEN THE IGNITION SWITCH/ KEY IS SLIGHTLY BUMPED WITH KNEE, THE CAR SHUTS OFF. THREE TIMES NOW. DEALERSHIP NOT RESPONSIVE. TAUGHT MY TEEN DRIVERS WHAT TO DO IF THIS HAPPENS AND THIS SAVED MY DAUGHTER'S LIFE WHEN IT HAPPENED TO HER.

328. Astoundingly, the *sole* remedy provided by New GM in its recall will be to "remove the key blade from the original flip key/RKE transmitter assemblies provided with the vehicle, and provide two new keys and two key rings per key."

329. The proposed "remedy" is insufficient, because it does not address (i) the poor placement of the ignition switch such that the keys are vulnerable to being "kneed" by the driver; (ii) the airbag algorithm that can render the airbags inoperable *even when the vehicles are travelling at a high speed*; and (iii) the possible need for a new switch with higher torque.

330. Indeed, on July 31, 2014, after the recall was announced, New GM became aware of a complaint filed with NHTSA involving a 2014 Camaro, in which the following was reported:

> I WAS TURNING ONTO THE HIGHWAY THAT THE SPEED LIMIT IS 65 MPH FROM A SIDE ROAD. I WAITED FOR ONCOMING TRAFFIC TO PASS AND THEN PULLED OUT. AS I PULLED OUT, TURNING RIGHT, MY CAR HAD A SUDDEN LOSS OF POWER. I TRIED TO RESTART AND IT WOULD NOT RESTART. I HAD DIFFICULTY PULLING OVER TO THE SIDE OF THE ROAD DUE TO THE STEERING WHEEL BEING STIFF AND HARD TO HANDLE. AFTER I GOT TO THE SIDE OF THE ROAD, I WAS ABLE TO RESTART MY CAR. I ***DID NOT BUMP THE IGNITION SWITCH WHEN THIS HAPPENED EITHER***. [Emphasis added.]

**b. June 20, 2014 recall—ignition key slot defect.**

331. On June 20, 2014, New GM recalled 3,141,731 vehicles in the United States for ignition switch, or ignition key slot, defects (NHTSA Recall Number 14V- 355). New GM announced to NHTSA and the public that the recall concerns an ignition key slot defect.

332. 2,349,095 of the vehicles subject to this recall were made by Old GM. 792,636 vehicles were made and/or sold by New GM.

333. The following vehicles were included in the June 20, 2014 recall: 2005-2009 Buick Lacrosse, 2006-2014 Chevrolet Impala, 2000-2005 Cadillac Deville, 2004-2011 Cadillac DTS, 2006-2011 Buick Lucerne, 2004-2005 Buick Regal LS and RS, and 2006-2008 Chevrolet Monte Carlo.

334. The recall notice states, "In the affected vehicles, the weight on the key ring and/or road conditions or some other jarring event may cause the ignition switch to move out of the run position, turning off the engine."

335. Further, "[i]f the key is not in the run position, the air bags may not deploy if the vehicle is involved in a crash, increasing the risk of injury. Additionally, a key knocked out of the run position could cause loss of engine power, power steering, and power braking, increasing the risk of a vehicle crash."

336. During its existence GM has received hundreds of complaints at its Technical Assistance Center in which the weight of the key chain was identified as a source of the problem.[63]

337. The vehicles included in this recall were built on the same platform and their defective ignition switches are likely due to weak detent plungers, just like the Cobalt and other Defective Ignition Switch Vehicles recalled in February and March of 2014.

338. New GM was aware of the ignition switch defect in these vehicles from the date of its inception on July 10, 2009, as it acquired on that date all of the knowledge possessed by Old GM given the continuity in personnel, databases, and operations from Old GM to New GM.

[63] *See, e.g.*, GM-MDL-254300011834-35.

In addition, New GM acquired additional information thereafter. The information, all of which was known to New GM, included the following facts:

a. On August 30, 2005, Ms. Andres sent an email to Old GM employee Jim Zito and copied ten other Old GM employees, including Ray DeGiorgio. Ms. Andres, in her email, stated, "I picked up the vehicle from repair. No repairs were done. . . . The technician said there is nothing they can do to repair it. He said it is just the design of the switch. He said other switches, like on the trucks, have a stronger detent and don't experience this."

b. Ms. Andres' email continued: "I think this is a serious safety problem, especially if this switch is on multiple programs. I'm thinking big recall. I was driving 45 mph when I hit the pothole and the car shut off and I had a car driving behind me that swerved around me. I don't like to imagine a customer driving with their kids in the back seat, on I-75 and hitting a pothole, in rush-hour traffic. I think you should seriously consider changing this part to a switch with a stronger detent."

c. Ray DeGiorgio, who reportedly designed the ignition switches installed in the 2006 Chevrolet Impala vehicles, replied to Ms. Andres' email, stating that he had recently driven a 2006 Impala and "did not experience this condition."

339. On or after July 10, 2009, senior executives and engineers at New GM knew that some of the information relayed to allay Ms. Andres' concerns was inaccurate. For example, Ray DeGiorgio knew that there had been "issues with detents being too light." Instead of relaying those "issues," Mr. DeGiorgio falsely stated that there were no such "issues."

340. Plaintiffs are informed and believe that New GM has tried to characterize the recall of these 3.14 million vehicles as being different than the recall for the ignition switch defect in the Cobalts and other Defective Ignition Switch Vehicles when in reality and for all

practical purposes it is for exactly the same defect that creates exactly the same safety risks. New GM has attempted to label and describe the ignition key slot defect as being different in order to provide it with cover and an explanation for why it did not recall these 3.14 million vehicles much earlier, and why it is not providing a new ignition switch for the 3.14 million vehicles.

341. From 2001 to the present, Old GM and New GM received numerous reports from consumers regarding complaints, crashes, injuries, and deaths linked to this safety defect. The following are examples of just a few of the many reports and complaints regarding the defect.

342. On January 23, 2001, Old GM became aware of a complaint filed with NHTSA involving a 2000 Cadillac Deville and an incident that occurred on January 23, 2001, in which the following was reported:

> COMPLETE ELECTRICAL SYSTEM AND ENGINE SHUTDOWN WHILE DRIVING. HAPPENED THREE DIFFERENT TIMES TO DATE. DEALER IS UNABLE TO DETERMINE CAUSE OF FAILURE. THIS CONDITION DEEMED TO BE EXTREMELY HAZARDOUS BY OWNER. NHTSA ID Number: 739850.

343. On June 12, 2001, Old GM became aware of a complaint filed with NHTSA involving a 2000 Cadillac Deville and an incident that occurred on June 12, 2001, in which the following was reported:

> INTERMITTENTLY AT 60MPH VEHICLE WILL STALL OUT AND DIE. MOST TIMES VEHICLE WILL START UP IMMEDIATELY AFTER. DEALER HAS REPLACED MAIN CONSOLE 3 TIMES, AND ABS BRAKES. BUT, PROBLEM HAS NOT BEEN CORRECTED. MANUFACTURER HAS BEEN NOTIFIED.*AK NHTSA ID Number: 890227.

344. On January 27, 2003, Old GM became aware of a complaint filed with NHTSA involving a 2001 Cadillac Deville and an incident that occurred on January 27, 2003, in which the following was reported:

> WHILE DRIVING AT HIGHWAY SPEED ENGINE SHUT DOWN, CAUSING AN ACCIDENT. PLEASE PROVIDE ANY ADDITIONAL INFORMATION.*AK NHTSA ID Number: 10004759.

345. On September 18, 2007, Old GM became aware of a complaint filed with NHTSA involving a 2006 Chevrolet Impala and an incident that occurred on September 15, 2006, in which it was reported that:

> TL*THE CONTACTS SON OWNS A 2006 CHEVROLET IMPALA. WHILE DRIVING APPROXIMATELY 33 MPH AT NIGHT, THE CONTACTS SON CRASHED INTO A STALLED VEHICLE. HE STRUCK THE VEHICLE ON THE DRIVER SIDE DOOR AND NEITHER THE DRIVER NOR THE PASSENGER SIDE AIR BAGS DEPLOYED. THE DRIVER SUSTAINED MINOR INJURIES TO HIS WRIST. THE VEHICLE SUSTAINED MAJOR FRONT END DAMAGE. THE DEALER WAS NOTIFIED AND STATED THAT THE CRASH HAD TO HAVE BEEN A DIRECT HIT ON THE SENSOR. THE CURRENT AND FAILURE MILEAGES WERE 21,600. THE CONSUMER STATED THE AIR BAGS DID NOT DEPLOY. THE CONSUMER PROVIDED PHOTOS OF THE VEHICLE. UPDATED 10/10/07 *TR NHTSA ID Number: 10203350.

346. On April 02, 2009, GM became aware of a complaint filed with NHTSA involving a 2005 Buick LaCrosse and an incident that occurred on April 02, 2009, in which the following was reported:

> POWER STEERING WENT OUT COMPLETELY, NO WARNING JUST OUT. HAD A VERY HARD TIME STEERING CAR. LUCKY KNOW ONE WAS HURT. *TR NHTSA ID Number: 10263976.

347. The reports regarding the defect continued to be reported to New GM. For example, on February 15, 2010, New GM became aware of a complaint filed with NHTSA involving a 2008 Buick LaCrosse and an incident that occurred on February 13, 2010, in which a driver reported:

> WHILE DRIVING AT 55MPH I RAN OVER A ROAD BUMP AND MY 2008 BUICK LACROSSE SUPER SHUT

> OFF(STALLED). I COASTED TO THE BURM, HIT BRAKES TO A STOP. THE CAR STARTED ON THE FIRST TRY. CONTINUED MY TRIP WITH NO INCIDENCES. TOOK TO DEALER AND NO CODES SHOWED IN THEIR COMPUTER. CALLED GM CUSTOMER ASSISTANCE AND THEY GAVE ME A CASE NUMBER. NO BULLETINS. SCARY TO DRIVE. TRAFFIC WAS LIGHT THIS TIME BUT MAY NOT BE THE NEXT TIME. *TR. NHTSA ID Number: 10310692.

348. On April 21, 2010, New GM became aware of a complaint filed with NHTSA involving a 2006 Buick Lucerne and an incident that occurred on March 22, 2010, in which the following was reported:

> 06 BUICK LUCERNE PURCHASED 12-3-09, DIES OUT COMPLETELY WHILE DRIVING AT VARIOUS SPEEDS. THE CAR HAS SHUT OFF ON THE HIGHWAY 3 TIMES WITH A CHILD IN THE CAR. IT HAS OCCURRED A TOTAL OF 7 TIMES BETWEEN 1-08-10 AND 4-17-10. THE CAR IS UNDER FACTORY WARRANTY AND HAS BEEN SERVICED 7 TIMES BY 3 DIFFERENT BUICK DEALERSHIPS. *TR NHTSA ID Number: 10326754.

349. On April 29, 2010, New GM became aware of a complaint filed with NHTSA involving a 2005 Buick LaCrosse and an incident that occurred on March 21, 2010, in which it was reported that:

> TRAVELING ON INTERSTATE 57 DURING DAYTIME HOURS. WHILE CRUISING AT 73 MILES PER HOUR IN THE RIGHT HAND LANE, THE VEHICLE SPUTTERED AND LOST ALL POWER. I COASTED TO A STOP OFF THE SIDE OF THE ROAD. I RESTARTED THE VEHICLE AND EVERYTHING SEEMED OK, SO I CONTINUED ON. A LITTLE LATER IT SPUTTERED AGAIN AND STARTED LOSING POWER. THE POWER CAME BACK BEFORE IT CAME TO A COMPLETE STOP. I CALLED ON STAR FOR A DIAGNOSTIC CHECK AND THEY TOLD ME I HAD A FUEL SYSTEM PROBLEM AND THAT IF THE CAR WOULD RUN TO CONTINUE THAT IT WAS NOT A SAFETY ISSUE. THEY TOLD ME TO TAKE IT TO A DEALER FOR REPAIRS WHEN I GOT HOME. I TOOK THE CAR WORDEN-MARTEN SERVICE CENTER FOR REPAIRS ON MARCH 23RD. TO REPAIR THE CAR THEY: 1.REPLACED CAT CONVERTER AND OXYGEN SENSOR 125CGMPP- $750.47 A SECOND

> INCIDENT OCCURRED WHILE TRAVELING ON INTERSTATE 57 DURING DAYTIME HOURS. I WAS PASSING A SEMI TRACTOR TRAILER WITH THREE CARS FOLLOWING ME WHILE CRUISING AT 73 MILES PER HOUR WHEN THE VEHICLE SPUTTERED AND LOST ALL POWER PUTTING ME IN A VERY DANGEROUS SITUATION. THE VEHICLE COASTED DOWN TO ABOUT 60 MILES PER HOUR BEFORE IT KICKED BACK IN. I IN THE MEAN TIME HAD DROPPED BACK BEHIND THE SEMI WITH THE THREE CARS BEHIND ME AND WHEN I COULD I PULLED BACK INTO THE RIGHT HAND LANE. THIS WAS A VERY DANGEROUS SITUATION FOR ME AND MY WIFE. I CALLED ON STAR FOR A DIAGNOSTIC CHECK AND THEY TOLD ME THAT EVERYTHING WAS OK. I TOOK THE CAR WORDEN-MARTEN SERVICE CENTER FOR REPAIRS AGAIN ON APRIL 19TH TO REPAIR THE CAR THEY: 1.REPLACED MASS -AIR FLOW UNIT AND SENSOR $131.39 WHO KNOWS IF IT IS FIXED RIGHT THIS TIME? THIS WAS A VERY DANGEROUS SITUATION TO BE IN FOR THE CAR TO FAIL. *TR NHTSA ID Number: 10328071.

350. On June 2, 2010, New GM became aware of a complaint filed with NHTSA involving a 2007 Buick LaCrosse and an incident that occurred on March 1, 2010, in which the following was reported:

> 2007 BUICK LACROSSE SEDAN. CONSUMER STATES MAJOR SAFETY DEFECT. CONSUMER REPORTS WHILE DRIVING THE ENGINE SHUT DOWN 3 TIMES FOR NO APPARENT REASON *TGW NHTSA ID Number: 10334834.

351. On February 20, 2014, New GM became aware of a complaint filed with NHTSA involving a 2006 Chevrolet Monte Carlo and an incident that occurred on January 16, 2014, in which the following was reported:

> I WAS DRIVING GOING APPROXIMATELY 45 MPH, I HIT A POT HOLE AND MY VEHICLE CUT OFF. THIS HAS HAPPENED THREE TIMES SINCE JANUARY. THE SAME THING HAPPENED THE SECOND TIME. THE LAST TIME IT OCCURRED WAS TUESDAY, FEBRUARY 18. THIS TIME I WAS ON THE EXPRESSWAY TRAVELING APPROXIMATELY 75 MPH, HIT A BUMP AND IT CUT OFF. THE CAR STARTS BACK UP WHEN I PUT IT IN NEUTRAL. *TR NHTSA ID Number: 10565104.

352. On March 3, 2014, New GM became aware of a complaint filed with NHTSA involving a 2006 Chevrolet Impala and an incident that occurred on February 29, 2012, in which the following was reported:

> I WAS DRIVING MY COMPANY ASSIGNED CAR DOWN A STEEP HILL WHEN THE ENGINE STALLED WITHOUT WARNING. THIS HAS HAPPENED 5 OTHER TIMES WITH THIS VEHICLE. THIS WAS THE FIRST TIME I WAS TRAVELING FAST THOUGH. IT'S LIKE THE ENGINE JUST TURNS OFF. THE LIGHTS ARE STILL ON BUT I LOSE THE POWER STEERING AND BRAKES. IT WAS TERRIFYING AND EXTREMELY DANGEROUS. THIS PROBLEM HAPPENS COMPLETELY RANDOMLY WITH NO WARNING. IT HAS HAPPENED TO OTHERS IN MY COMPANY WITH THEIR IMPALAS. I LOOKED ONLINE AND FOUND NUMEROUS OTHER INSTANCES OF CHEVY IMPALAS OF VARIOUS MODEL YEARS DOING THE SAME THING. IT IS CURRENTLY IN THE REPAIR SHOP AND THE MECHANIC CAN'T DUPLICATE THE PROBLEM. I TOLD THEM ITS RANDOM AND OCCURS ABOUT EVERY 4 MONTHS OR SO. I AM AFRAID I WILL HAVE TO GET BACK IN THIS DEATH TRAP DUE TO MY EMPLOYER MAKING ME. PLEASE HELP- I DON'T WANT TO DIE BECAUSE CHEVROLET HAS A PROBLEM WITH THEIR ELECTRICAL SYSTEMS IN THEIR CARS. *TR NHTSA ID Number: 10567458.

353. On March 11, 2014, New GM became aware of a complaint filed with NHTSA involving a 2007 Cadillac DTS and an incident that occurred on January 27, 2013, in which the following was reported:

> ENGINE STOPPED. ALL POWER EQUIPMENT CEASED TO FUNCTION. I WAS ABLE TO GET TO THE SIDE OF THE FREEWAY. PUT THE CAR IN NEUTRAL, TURNED THE KEY AND THE CAR STARTED AND CONTINUED FOR THE DURATION OF THE 200 MILE TRIP. THE SECOND TIME APPROXIMATELY THREE WEEKS AGO MY WIFE WAS DRIVING IN HEAVY CITY TRAFFIC WHEN THE SAME PROBLEM OCCURRED AND SHE LOST THE USE OF ALL POWER EQUIPMENT. SHE WAS ABLE TO PUT THE CAR IN PARK AND GET IT STARTED AGAIN WITHOUT INCIDENT. I CALLED GM COMPLAINT DEPARTMENT. THEY INSTRUCTED ME TO TAKE THE CAR TO A DEALERSHIP

> AND HAVE A DIAGNOSTIC TEST DONE ON IT. THIS WAS DONE AND NOTHING WAS FOUND TO BE WRONG WITH THE VEHICLE. I AGAIN CALLED CADILLAC COMPLAINT DEPARTMENT AND OPENED A CASE. THIS TIME I WAS TOLD TO TAKE THE CAR BACK TO THE DEALERSHIP AND ASK THE SERVICE DEPARTMENT TO RECHECK IT. I INFORMED THEM I HAVE THE DIAGNOSTIC REPORT SHOWING NOTHING WRONG WAS FOUND. THEY SUGGESTED I TAKE IT BACK AND HAVE THE SERVICE PEOPLE DRIVE THE CAR. THIS DIDN'T MAKE ANY SENSE BECAUSE I DON'T KNOW WHEN AND WHERE THE PROBLEM WILL OCCUR AGAIN. WHAT WAS I TO DO FOR A CAR WHILE THE DEALERSHIP HAD MINE? I INQUIRED OF THE CADILLAC REPRESENTATIVE IF THIS CAR MAY HAVE THE SAME IGNITION AS THE CARS CURRENTLY BEING RECALLED BY GM. THEY WERE UNABLE TO ANSWER THAT QUESTION. THEY FINALLY STATED THE ONLY REMEDY WAS TO TAKE IT BACK TO THE DEALERSHIP. IF THIS PROBLEM OCCURS AGAIN SOMEONE COULD EASILY GET INJURED OR KILLED. I WOULD APPRECIATE ANY ASSISTANCE YOU CAN GIVE ME ON HOW TO RESOLVE THIS MATTER. NHTSA ID Number: 10568491.

354. On March 19, 2014, New GM became aware of a complaint filed with NHTSA involving a 2006 Buick LaCrosse and an incident that occurred on March 15, 2014, in which the following was reported:

> WHILE DRIVING UP A LONG INCLINE ON I-10 VEHICLE BEHAVED AS IF THE IGNITION HAD BEEN TURNED OFF AND KEY REMOVED. IE: ENGINE OFF, NO LIGHTS OR ACCESSORIES, NO WARNING LIGHTS ON DASH. TRAFFIC WAS HEAVY AND MY WIFE WAS FORTUNATE TO SAFELY COAST INTO SHOULDER. INCIDENT RECORDED WITH BUICK, HAVE REFERENCE NUMBER. *TR NHTSA ID Number: 10573586.

355. On June 20, 2014, New GM became aware of a complaint filed with NHTSA involving a 2008 Buick LaCrosse and an incident that occurred on August 30, 2013, in which the following was reported:

> THE IGNITION CONTROL MODULE (NOT THE IGNITION SWITCH) FAILED SUDDENLY WHILE DRIVING ON THE

> HIGHWAY, CAUSING THE ENGINE TO SHUT OFF SUDDENLY AND WITHOUT WARNING. THE CAR WAS TRAVELING DOWNHILL, SO THE INITIAL INDICATION WAS LOSS OF POWER STEERING. I WAS ABLE TO PULL ONTO THE SHOULDER AND THEN REALIZED THAT THE ENGINE HAD DIED AND WOULD NOT RESTART. WHILE NO CRASH OR INJURY OCCURRED, THE POTENTIAL FOR A SERIOUS CRASH WAS QUITE HIGH. NHTSA ID Number: 10604820.

356. On July 1, 2014, New GM became aware of a complaint filed with NHTSA involving a 2006 Buick LaCrosse and an incident that occurred on October 25, 2012, in which the following was reported:

> TRAVELING 40 MPH ON A FOUR LANE ABOUT TO PASS A TRUCK. MOTOR STOPPED, POWER STEERING OUT, POWER BRAKES OUT, MANAGED TO COAST ACROSS THREE LANES TO SHOULDER TO PARK. WALKED 1/4 MILES TO STORE CALLED A LOCAL GARAGE. CAR STILL WOULD NOT START, TOWED TO HIS GARAGE. CHECKED GAS, FUEL PRESSURE OKAY BUT NO SPARK. MOVED SOME CONNECTORS AROUND THE STARTING MODULE AND CAR STARTED. HAVE NOT HAD ANY PROBLEMS SINCE, HAVE THE FEAR THAT I WILL BE ON A CHICAGO TOLL ROAD AND IT WILL STOP AGAIN. NHTSA ID Number: 10607535.

357. On July 12, 2014, New GM became aware of a complaint filed with NHTSA involving a 2009 Chevrolet Impala and an incident that occurred on March 19, 2010, in which the following was reported:

> I HAD JUST TURNED ONTO THIS ROAD, HAD NOT EVEN GONE A MILE. NO SPEED, NO BLACK MARKS, CAR SHUT DOWN RAN OFF THE ROAD AND HIT A TREE STUMP. TOTAL THE CAR. THE STEERING WHEEL WAS BENT ALMOST IN HALF. I HAVE PICTURES OF THE CAR. I GOT THIS CAR NEW, SO ALL MILES WE'RE PUT ON IT BY ME. I BROKE MY HIP, BACK, KNEE, DISLOCATED MY ELBOW, CRUSHED MY ANKLE AND FOOT. HAD A HEAD INJURY, A DEFLATED LUNG. I WAS IN THE HOSPITAL FOR TWO MONTHS AND A NURSING HOME FOR A MONTH. I HAVE HAD 14 SURGERIES. STILL NOT ABLE TO WORK OR DO A LOT OF THINGS FOR MY SELF. WITH THE RECALLS

> SHOWING THE ISSUES OF THE ENGINE SHUTTING OFF, I NEED THIS LOOKED INTO. NHTSA ID Number: 10610093.

358. On July 24, 2014, New GM became aware of a complaint filed with NHTSA involving a 2008 Buick LaCrosse and an incident that occurred on July 15, 2014, in which the following was reported:

> WHILE DRIVING NORTH ON ALTERNATE 69 HIGHWAY AT 65 MPH AT 5:00 P.M., MY VEHICLE ABRUPTLY LOSS POWER EVEN THOUGH I TRIED TO ACCELERATE. THE ENGINE SHUT OFF SUDDENLY AND WITHOUT WARNING. VEHICLE SLOWED TO A COMPLETE STOP. I WAS DRIVING IN THE MIDDLE LANE AND WAS UNABLE TO GET IN THE SHOULDER LANE BECAUSE I HAD NO PICKUP (UNABLE TO GIVE GAS TO ACCELERATE) SO MY HUSBAND AND I WERE CAUGHT IN FIVE 5:00 TRAFFIC WITH CARS WHIPPING AROUND US ON BOTH SIDES AND MANY EXCEEDING 65 MPH. I PUT ON MY EMERGENCY LIGHTS AND IMMEDIATELY CALLED ON-STAR. I WAS UNABLE TO RESTART THE ENGINE. THANK GOD FOR ON-STAR BECAUSE FROM THAT POINT ON, I WAS IN TERROR WITNESSING CARS COMING UPON US NOT SLOWING UNTIL THEY REALIZED I WAS AT A STAND STILL WITH LIGHTS FLASHING. THE CARS WOULD SWERVE TO KEEP FROM HITTING US. IT TOOK THE HIGHWAY PATROL AND POLICE 15 MINUTES TO GET TO US BUT DURING THAT TIME, I RELIVED VISIONS OF US BEING KILLED ON THE HIGHWAY. I CANÂ€™T DESCRIBE THE HORROR, LOOKING OUT MY REAR VIEW MIRROR, WITNESSING OUR DEMISE TIME AFTER TIME. THOSE 15 MINUTES SEEMED LIKE AN ETERNITY. WHEN THE HIGHWAY PATROL ARRIVED THEY CLOSED LANES AND ASSISTED IN PUSHING CAR OUT OF THE HIGHLY TRAFFIC LANES. IT TOOK MY HUSBAND AND I BOTH TO TURN THE STEERING WHILE IN NEUTRAL. THE CAR WAS TOWED TO CONKLIN FANGMAN KC DEALERSHIP AND I HAD TO REPLACE IGNITION COIL AND MODULE THAT COST ME $933.16. THEY SAID THESE PARTS WERE NOT ON THE RECALL LIST, WHICH I HAVE FOUND OUT SINCE THEN GM HAS PUT DEALERSHIPS ON NOTICE OF THIS PROBLEM. IT HAS SOMETHING TO DO WITH SUPPLYING ENOUGH MANUFACTURED PARTS TO TAKE CARE OF RECALL. IF I COULD AFFORD TO PURCHASE ANOTHER CAR I WOULD BECAUSE I DONÂ€™T FEEL SAFE ANY LONGER IN THIS CAR. EMOTIONALLY I AM STILL

> SUFFERING FROM THE TRAUMA. NHTSA ID Number: 10604820.

359. Notwithstanding New GM's recall, the reports and complaints relating to this defect have continued to pour into New GM. Such complaints and reports indicate that New GM's proffered recall "fix" does not work.

360. For example, on August 2, 2014, New GM became aware of a complaint filed with NHTSA involving a 2006 Buick LaCrosse and an incident that occurred on July 12, 2014, in which the following was reported:

> WHILE TRAVELING IN THE FAST LANE ON THE GARDEN STATE PARKWAY I HIT A BUMP IN THE ROAD, THE AUTO SHUT OFF.WITH A CONCRETE DIVIDER ALONG SIDE AND AUTOS APPROACHING AT HIGH SPEED, MY WIFE AND DAUGHTER SCREEMING I MANAGED TO GET TO THE END OF THE DIVIDER WERE I COULD TURN OFF THE AUTO RESTARTED ON 1ST TRY BUT VERY SCARY. NHTSA ID Number: 10618391.

361. On August 18, 2014, New GM became aware of a complaint filed with NHTSA involving a 2007 Buick LaCrosse and an incident that occurred on August 18, 2014, in which the following was reported:

> TL* THE CONTACT OWNS A 2007 BUICK LACROSSE. THE CONTACT STATED WHILE DRIVING APPROXIMATELY 60 MPH, SHE HIT A POT HOLE AND THE VEHICLE STALLED. THE VEHICLE COASTED TO THE SHOULDER OF THE ROAD. THE VEHICLE WAS RESTARTED AND THE CONTACT WAS ABLE TO DRIVE THE VEHICLE AS NORMAL. THE CONTACT RECEIVED A RECALL NOTICE UNDER NHTSA CAMPAIGN NUMBER: 14V355000 (ELECTRICAL SYSTEM), HOWEVER THE PARTS NEEDED FOR THE REPAIRS WAS UNAVAILABLE. THE VEHICLE WAS NOT REPAIRED. THE MANUFACTURER WAS NOT NOTIFIED OF THE FAILURE. THE APPROXIMATE FAILURE MILEAGE WAS 110,000. NHTSA ID Number: 10626067.

362. On August 20, 2014, New GM became aware of a complaint filed with NHTSA involving a 2007 Chevrolet Impala and an incident that occurred on August 6, 2014, in which it was reported that:

> TL* THE CONTACT OWNS A 2007 CHEVROLET IMPALA. THE CONTACT STATED THAT WHILE DRIVING 25 MPH, THE VEHICLE STALLED WITHOUT WARNING. THE CONTACT RECEIVED A NOTIFICATION FOR RECALL NHTSA CAMPAIGN NUMBER: 14V355000 (ELECTRICAL SYSTEM). THE VEHICLE WAS TAKEN TO AN INDEPENDENT MECHANIC WHERE THE TECHNICIAN ADVISED THE CONTACT TO REMOVE THE KEY FOB AND ANY OTHER OBJECTS. THE VEHICLE WAS NOT REPAIRED. THE MANUFACTURER WAS MADE AWARE OF THE FAILURE. THE FAILURE MILEAGE WAS 79,000. NHTSA ID Number: 10626659.

363. On August 27, 2014, New GM became aware of the following complaint filed with NHTSA involving a 2008 Chevrolet Impala and an incident that occurred on August 27, 2014, in which it was reported that:

> TL-THE CONTACT OWNS A 2008 CHEVROLET IMPALA. THE CONTACT STATED WHILE DRIVING APPROXIMATELY 50 MPH, THE VEHICLE LOST POWER AND THE STEERING WHEEL SEIZED WITHOUT WARNING. AS A RESULT, THE CONTACT CRASHED INTO A POLE AND THE AIR BAGS FAILED TO DEPLOY. THE CONTACT SUSTAINED A CONCUSION, SPRAINED NECK, AND WHIPLASH WHICH REQUIRED MEDICAL ATTENTION. THE POLICE WAS NOT FILED. THE VEHICLE WAS TOWED TO A TOWING COMPANY. THE CONTACT RECEIVED NOTIFICATION OF NHTSA CAMPAIGN ID NUMBER: 14V355000 (ELECTRICAL SYSTEM), HOWEVER THE PARTS ARE NOT AVAILABLE TO PERFORM THE REPAIRS. THE VEHICLE WAS NOT REPAIRED. THE MANUFACTURER WAS NOT NOTIFIED OF THE FAILURE. THE APPROXIMATE FAILURE MILEAGE WAS 70,000. MF. NHTSA ID Number: 10628704.

364. Old GM and later New GM knew that this serious safety defect existed for years yet did nothing to warn the public or even attempt to correct the defect in these vehicles until late June of 2014 when New GM finally made the decision to implement a recall.

365. The "fix" that New GM plans as part of the recall is to modify the ignition key from a "slotted" key to "hole" key. This is insufficient and does not adequately address the safety risks posed by the defect. The ignition key and switch remain prone to inadvertently move from the "run" to the "accessory" position. Simply changing the key slot or taking other keys and fobs off of key rings is New GM's attempt to make consumers responsible for the safety of GM-branded vehicles and to divert its own responsibility to make GM-branded vehicles safe. New GM's "fix" does not adequately address the inherent dangers and safety threats posed by the defect in the design.

366. In addition, New GM is not addressing the other design issues that create safety risks in connection with this defect. New GM is not altering the algorithm that prevents the airbags from deploying when the ignition leaves the "run" position even when the vehicle is moving at high speed. And New GM is not altering the placement of the ignition switch in an area where the driver's knees may inadvertently cause the ignition to move out of the "run" position.

**c. July 2 and 3, 2014 recalls—unintended ignition rotation defect.**

367. On July 2, 2014, New GM recalled 554,328 vehicles in the United States for ignition switch defects (Recall Number 14V-394). The July 2 recall applied to the 2003-2014 Cadillac CTS and the 2004-2006 Cadillac SRX.

368. The recall notice explains that the weight on the key ring and/or road conditions or some other jarring event may cause the ignition switch to move out of the "run" position,

turning off the engine. Further, if the key is not in the "run" position, the airbags may not deploy in the event of a collision, increasing the risk of injury.

369. On July 3, 2014, New GM recalled 6,729,742 additional vehicles in the United States for ignition switch defects (Recall No. 14V-400).

370. The following vehicles were included in this recall: 1997-2005 Chevrolet Malibu, 2000-2005 Chevrolet Impala, 2000-2005 Chevrolet Monte Carlo, 2000-2005 Pontiac Grand Am, 2004-2008 Pontiac Grand Prix, 1998-2002 Oldsmobile Intrigue, and 1999-2004 Oldsmobile Alero.

371. The recall notice states that the weight on the key and/or road conditions or some other jarring event may cause the ignition switch to move out of the "run" position, turning off the engine. If the key is not in the "run" position, the airbags may not deploy if the vehicle is involved in a collision, increasing the risk of injury.

372. In both of these recalls, New GM notified NHTSA and the public that the recall was intended to address a defect involving unintended or "inadvertent key rotation" within the ignition switch of the vehicles. As with the ignition key defect announced June 20, however, the defects for which these vehicles have been recalled is directly related to the ignition switch defect in the Cobalt and other Defective Ignition Switch Vehicles and involves the same safety risks and dangers.

373. 7,175,896 of the recalled vehicles were manufactured by Old GM. 108,174 of the vehicles were manufactured and sold by New GM.

374. Once again, the unintended ignition rotation defect is substantially similar to and relates directly to the other ignition switch defects, including the defects that gave rise to the initial recall of 2.1 million Cobalts and other vehicles in February and March of 2014. Like the

other ignition switch defects, the unintended ignition key rotation defect poses a serious and dangerous safety risk because it can cause a vehicle to stall while in motion by causing the key in the ignition to inadvertently move from the "on" or "run" position to "off" or "accessory" position. Like the other ignition switch defects, the unintended ignition key rotation defect can result in a loss of power steering, power braking, and increase the risk of a crash. And as with the other ignition switch defects, if a crash occurs, the airbags will not deploy because of the unintended ignition key rotation defect.

375. The unintended ignition key rotation defect involves several problems, and they are identical to the problems in the other Defective Ignition Switch Vehicles: a weak detent plunger, the low positioning of the ignition on the steering column, and the algorithm that renders the airbags inoperable when the vehicle leaves the "run" position.

376. The 2003-2006 Cadillac CTS and the 2004-2006 Cadillac SRX use the same Delphi switch and have inadequate torque for the "run"-"accessory" direction of the key rotation. This was known to Old and New GM, and was the basis for a change that was made to a stronger detent plunger for the 2007 and later model years of the SRX model. The 2007 and later CTS vehicles used a switch manufactured by Dalian Alps.

377. In 2010, New GM changed the CTS key from a "slot" to a "hole" design to "reduce an observed nuisance" of the key fob contacting the driver's leg. But in 2012, a New GM employee reported two running stalls of a 2012 CTS that had a "hole" key and the stronger detent plunger switch. When New GM did testing in 2014 of the "slot" versus "hole" keys, it confirmed that the weaker detent plunger-equipped switches used in the older CTS and SRX could inadvertently move from "run" to "accessory" or "off" when the "vehicle goes off road or experience some other jarring event."

378. Plaintiffs are informed and believe that New GM has tried to characterize the recall of these 7.3 million vehicles as being different than the other ignition switch defects that gave rise to the February recall ***even though*** these recalls are aimed at addressing the same defects and safety risks as those that gave rise to the other ignition switch defect recalls. New GM has attempted to portray the unintended ignition key rotation defect as being different from the other ignition switch defects in order to deflect attention from the severity and pervasiveness of the ignition switch defect and to try to provide a story and plausible explanation for why it did not recall these 7.3 million vehicles much earlier, and to avoid providing new, stronger ignition switches as a remedy.

379. Further, New GM acquired knowledge of the defects in these vehicles on July 10, 2009. On that date, it acquired knowledge of the following facts, as well as others not pleaded herein:

a. In January of 2003, Old GM opened an internal investigation after it received complaints from a Michigan GM dealership that a customer had experienced a power failure while operating his model year 2003 Pontiac Grand Am.

b. During the investigation, Old GM's Brand Quality Manager for the Grand Am visited the dealership and requested that the affected customer demonstrate the problem. The customer was able to recreate the shutdown event by driving over a speed bump at approximately 30-35 mph.

c. The customer's key ring was allegedly quite heavy. It contained approximately 50 keys and a set of brass knuckles.

d. In May 2003, Old GM issued a voicemail to dealerships describing the defective ignition condition experienced by the customer in the Grand Am. Old GM identified

the relevant population of the Affected Vehicles as the 1999-2003 Chevrolet Malibu, Oldsmobile Alero, and Pontiac Grand Am.

e. Old GM did not recall these vehicles. Nor did it provide owners and/or lessees with notice of the defective condition. Instead, its voicemail directed dealerships to pay attention to the key size and mass of the customer's key ring.

f. On July 24, 2003, Old GM issued an engineering work order to increase the detent plunger force on the ignition switch for the 1999-2003 Chevrolet Malibu, Oldsmobile Alero, and Pontiac Grand Am vehicles. Old GM engineers allegedly increased the detent plunger force and changed the part number of the ignition switch. The new parts were installed beginning in the model year 2004 Malibu, Alero, and Grand Am vehicles.

g. Old GM issued a separate engineering work order in March 2004 to increase the detent plunger force on the ignition switch in the Pontiac Grand Prix. Old GM engineers did not change the part number for the new Pontiac Grand Prix ignition switch.

h. Then-Old GM design engineer Ray DeGiorgio signed the work order in March 2004 authorizing the part change for the Grand Prix ignition switch. Ray DeGiorgio maintained his position as design engineer with New GM.

i. On or around August 25, 2005, Laura Andres, an Old GM design engineer (who remains employed with New GM), sent an email describing ignition switch issues that she experienced while operating a 2006 Chevrolet Impala on the highway. Ms. Andres' email stated, "While driving home from work on my usual route, I was driving about 45 mph, where the road changes from paved to gravel & then back to paved, some of the gravel had worn away, and the pavement acted as a speed bump when I went over it. The car shut off. I took the car in for

repairs. The technician thinks it might be the ignition detent, because in a road test in the parking lot it also shut off."

j. Old GM employee Larry S. Dickinson, Jr. forwarded Ms. Andres' email on August 25, 2005 to four Old GM employees. Mr. Dickinson asked, "Is this a condition we would expect to occur under some impacts?"

k. On August 29, 2005, Old GM employee Jim Zito forwarded the messages to Ray DeGiorgio and asked, "Do we have any history with the ignition switch as far as it being sensitive to road bumps?"

l. Mr. DeGiorgio responded the same day, stating, "To date there has never been any issues with the detents being too light."

380. From 2002 to the present, Old GM and New GM received numerous reports from consumers regarding complaints, crashes, injuries, and deaths linked to this safety defect. The following are just a handful of examples of some of the reports known to Old GM and New GM.

381. On September 16, 2002, Old GM became aware of a complaint filed with NHTSA regarding a 2002 Oldsmobile Intrigue involving an incident that occurred on March 16, 2002, in which the following was reported:

> WHILE DRIVING AT 30 MPH CONSUMER RAN HEAD ON INTO A STEEL GATE, AND THEN HIT THREE TREES. UPON IMPACT, NONE OF THE AIR BAGS DEPLOYED. CONTACTED DEALER. PLEASE PROVIDE FURTHER INFORMATION. *AK **NHTSA ID Number:** 8018687.

382. On November 22, 2002, Old GM became aware of a complaint filed with NHTSA involving a 2003 Cadillac CTS involving an incident that occurred on July 1, 2002, in which it was reported that:

> THE CAR STALLS AT 25 MPH TO 45 MPH, OVER 20 OCCURANCES, DEALER ATTEMPTED 3 REPAIRS. DT NHTSA ID Number: 770030.

383. On January 21, 2003, Old GM became aware of a complaint filed with NHTSA involving a 2003 Cadillac CTS, in which the following was reported:

> WHILE DRIVING AT ANY SPEED,THE VEHICLE WILL SUDDENLY SHUT OFF. THE STEERING WHEEL AND THE BRAKE PEDAL BECOMES VERY STIFF. CONSUMER FEELS ITS VERY UNSAFE TO DRIVE. PLEASE PROVIDE ANY FURTHER INFORMATION. NHTSA ID Number: 10004288.

384. On June 30, 2003, Old GM became aware of a complaint filed with NHTSA regarding a 2001 Oldsmobile Intrigue which involved the following report:

> CONSUMER NOTICED THAT WHILE TRAVELING DOWN HILL AT 40-45 MPH BRAKES FAILED, CAUSING CONSUMER TO RUN INTO THREES AND A POLE. UPON IMPACT, AIR BAGS DID NOT DEPLOY. *AK NHTSA ID Number: 10026252.

385. On March 11, 2004, Old GM became aware of a complaint filed with NHTSA involving a 2004 Cadillac CTS involving an incident that occurred on March 11, 2004, in which the following was reported:

> CONSUMER STATED WHILE DRIVING AT 55-MPH VEHICLE STALLED, CAUSING CONSUMER TO PULL OFF THE ROAD. DEALER INSPECTED VEHICLE SEVERAL TIMES, BUT COULD NOT DUPLICATE OR CORRECT THE PROBLEM. *AK NHTSA ID Number: 10062993.

386. On March 11, 2004, Old GM became aware of a complaint with NHTSA regarding a 2003 Oldsmobile Alero incident that occurred on July 26, 2003, in which the following was reported:

> THE VEHICLE DIES. WHILE CRUISING AT ANY SPEED, THE HYDRAULIC BRAKES & STEERING FAILED DUE TO THE ENGINE DYING. THERE IS NO SET PATTERN, IT MIGHT STALL 6 TIMES IN ONE DAY, THEN TWICE THE NEXT DAY. THEN GO 4 DAYS WITH NO OCURRENCE, THEN IT WILL STALL ONCE A DAY FOR 3 DAYS. THEN GO A WEEK WITH NO OCURRENCE, THEN STALL 4 TIMES A DAY FOR 5 DAYS, ETC., ETC. IN EVERY OCURRENCE, IT TAKES APPROXIMATELY 10 MINUTES BEFORE IT WILL

> START BACK UP. AT HIGH SPEEDS, IT IS EXTREMELY TOO DANGEROUS TO DRIVE. WE'VE TAKEN IT TO THE DEALER, UNDER EXTENDED WARRANTY, THE REQUIRED 4 TIMES UNDER THE LEMON LAW PROCESS. THE DEALER CANNOT ASCERTAIN, NOR FIX THE PROBLEM. IT HAPPENED TO THE DEALER AT LEAST ONCE WHEN WE TOOK IT IN. I DOUBT THEY WILL ADMIT IT, HOWEVER, MY WIFE WAS WITNESS. THE CAR IS A 2003. EVEN THOUGH I BOUGHT IT IN JULY 2003, IT WAS CONSIDERED A USED CAR. GM HAS DENIED OUR CLAIM SINCE THE LEMON LAW DOES NOT APPLY TO USED CARS. THE CAR HAS BEEN PERMANENTLY PARKED SINCE NOVEMBER 2003. WE WERE FORCED TO BUY ANOTHER CAR. THE DEALER WOULD NOT TRADE. THIS HAS RESULTED IN A BADLUCK SITUATION FOR US. WE CANNOT AFFORD 2 CAR PAYMENTS / 2 INSURANCE PREMIUMS, NOR CAN WE AFFORD $300.00 PER HOUR TO SUE GM. I STOPPED MAKING PAYMENTS IN DECEMBER 2003. I HAVE KEPT THE FINANCE COMPANY ABREAST OF THE SITUATION. THEY HAVE NOT REPOSSED AS OF YET. THEY WANT ME TO TRY TO SELL IT. CAN YOU HELP ?*AK NHTSA ID Number: 10061898.

387. On July 20, 2004, Old GM became aware of a complaint filed with NHTSA involving a 2004 Cadillac SRX, involving an incident that occurred on July 9, 2004, in which the following was reported:

> THE CAR DIES AFTER TRAVELING ON HIGHWAY. IT GOES FROM 65 MPH TO 0. THE BRAKES, STEERING, AND COMPLETE POWER DIES. YOU HAVE NO CONTROL OVER THE CAR AT THIS POINT. I HAVE ALMOST BEEN HIT 5 TIMES NOW. ALSO, WHEN THE CARS DOES TURN BACK ON IT WILL ONLY GO 10 MPH AND SOMETIMES WHEN YOU TURN IT BACK ON THE RPM'S WILL GO TO THE MAX. IT SOUNDS LIKE THE CAR IS GOING TO EXPLODE. THIS CAR IS A DEATH TRAP. *LA NHTSA ID Number: 10082289.

388. In August 2004, Old GM became aware of a complaint filed with NHTSA regarding a 2004 Chevrolet Malibu incident that occurred on June 30, 2004, in which it was reported that:

> WHILE TRAVELING AT ANY SPEED VEHICLE STALLED. WITHOUT CONSUMER HAD SEVERAL CLOSE CALLS OF BEING REAR ENDED. VEHICLE WAS SERVICED SEVERAL TIMES, BUT PROBLEM RECURRED. *AK. NHTSA ID Number: 10089418.

389. Another report in August of 2004 which Old GM became aware of involved a 2004 Chevrolet Malibu incident that occurred on August 3, 2004, in which it was reported that:

> WHEN DRIVING, THE VEHICLE TO CUT OFF. THE DEALER COULD NOT FIND ANY DEFECTS. *JB. NHTSA ID Number: 10087966.

390. On October 23, 2004, Old GM became aware of a complaint with NHTSA regarding a 2003 Chevrolet Monte Carlo, in which the following was reported:

> VEHICLE CONTINUOUSLY EXPERIENCED AN ELECTRICAL SYSTEM FAILURE. AS A RESULT, THERE'WAS AN ELECTRICAL SHUT DOWN WHICH RESULTED IN THE ENGINE DYING/ STEERING WHEEL LOCKING UP, AND LOSS OF BRAKE POWER.*AK NHTSA ID Number: 10044624.

391. On April 26, 2005, Old GM became aware of a complaint filed with NHTSA involving a 2005 Pontiac Grand Prix, pertaining to an incident that occurred on December 29, 2004, in which the following was reported:

> 2005 PONTIAC GRAND PRIX GT SEDAN VIN #[XXX] PURCHASED 12/16/2004. INTERMITTENTLY VEHICLE STALLS/ LOSS OF POWER IN THE ENGINE. WHILE DRIVING THE VEHICLE IT WILL SUDDENLY JUST LOSES POWER. YOU CONTINUE TO PRESS THE ACCELERATOR PEDAL AND THEN THE ENGINE WILL SUDDENLY TAKE BACK OFF AT A GREAT SPEED. THIS HAS HAPPENED WHILE DRIVING NORMALLY WITHOUT TRYING TO ACCELERATE AND ALSO WHILE TRYING TO ACCELERATE. THE CAR HAS LOST POWER WHILE TRYING TO MERGE IN TRAFFIC. THE CAR HAS LOST POWER WHILE TRYING TO CROSS HIGHWAYS. THE CAR HAS LOST POWER WHILE JUST DRIVING DOWN THE ROAD. GMC HAS PERFORMED THE FOLLOWING REPAIRS WITHOUT FIXING THE PROBLEM. 12/30/2004 [XXX]- MODULE, POWERTRAIN CONTROL-ENGINE

> REPROGRAMMING. 01/24/2005 [XXX]-SOLENOID,PRESSURE CONTROL-REPLACED. 02/04/2005 [XXX]-MODULE, PCM/VCM-REPLACED. 02/14/2005 [XXX]-PEDAL,ACCELERATOR-REPLACED. DEALERSHIP PURCHASED FROM CAPITAL BUICK-PONTIAC-GMC 225-293-3500. DEALERSHIP HAS ADVISED THAT THEY DO NOT KNOW WHAT IS WRONG WITH THE CAR. WE HAVE BEEN TOLD THAT WE HAVE TO GO DIRECT TO PONTIAC WITH THE PROBLEM. HAVE BEEN IN CONTACT WITH PONTIAC SINCE 02/15/05. PONTIAC ADVISED THAT THEY WERE GOING TO RESEARCH THE PROBLEM AND SEE IF ANY OTHER GRAND PRI WAS REPORTING LIKE PROBLEMS. SO FAR THE ONLY ADVICE FROM PONTIAC IS THEY WANT US TO COME IN AND TAKE ANOTHER GRAND PRIX OFF THE LOT AND SEE IF WE CAN GET THIS CAR TO DUPLICATE THE SAME PROBLEM. THIS DID NOT IMPRESS ME AT ALL. SO AFTER WAITING FOR 2-1/2 MONTHS FOR PONTIAC TO DO SOMETHING TO FIX THE PROBLEM, I HAVE DECIDED TO REPORT THIS TO NHTSA. *AK *JS INFORMATION REDACTED PURSUANT TO THE FREEDOM OF INFORMATION ACT (FOIA), 5 U.S.C. 552(B)(6) NHTSA ID Number: 10118501.

392. In May 2005, Old GM became aware of a complaint filed with NHTSA regarding a 2004 Chevrolet Malibu incident that occurred on July 18, 2004, in which it was reported that:

> THE CAR CUT OFF WHILE I WAS DRIVING AND IN HEAVY TRAFFIC MORE THAN ONCE. THERE WAS NO WARNING THAT THIS WOULD HAPPEN. THE CAR WAS SERVICED BEFORE FOR THIS PROBLEM BUT IT CONTINUED TO HAPPEN. I HAVE HAD 3 RECALLS, THE HORN FUSE HAS BEEN REPLACED TWICE, AND THE BLINKER IS CURRENTLY OUT. THE STEERING COLLAR HAS ALSO BEEN REPLACED. THIS CAR WAS SUPPOSED TO BE A NEW CAR. NHTSA ID Number: 10123684.

393. On June 2, 2005, Old GM became aware of a complaint with NHTSA regarding a 2004 Pontiac Grand Am incident that occurred on February 18, 2005, in which the following was reported:

> 2004 PONTIAC GRAND PRIX SHUTS DOWN WHILE DRIVING AND THE POWER STEERING AND BRAKING ABILITY ARE LOST.*MR *NM. NHTSA ID Number: 10124713.

394. On August 12, 2005, Old GM became aware of a complaint filed with NHTSA involving a 2003 Cadillac CTS, regarding an incident that occurred on January 3, 2005, in which it was reported that:

> DT: VEHICLE LOST POWER WHEN THE CONSUMER HIT THE BRAKES. THE TRANSMISSION JOLTS AND THEN THE ENGINE SHUTS OFF. IT HAS BEEN TO THE DEALER 6 TIMES SINCE JANUARY. THE DEALER TRIED SOMETHING DIFFERENT EVERY TIME SHE TOOK IT IN. MANUFACTURER SAID SHE COULD HAVE A NEW VEHICLE IF SHE PAID FOR IT. SHE WANTED TO GET RID OF THE VEHICLE.*AK THE CHECK ENGINE LIGHT ILLUMINATED. *JB NHTSA ID Number: 10127580.

395. On August 26, 2005, Old GM became aware of a complaint with NHTSA regarding a 2004 Pontiac Grand Am incident that occurred on August 26, 2005, in which the following was reported:

> WHILE DRIVING MY 2004 PONTIAC GRAND AM THE CAR FAILED AT 30 MPH. IT COMPLETELY SHUT OFF LEAVING ME WITH NO POWER STEERING AND NO WAY TO REGAIN CONTROL OF THE CAR UNTIL COMING TO A COMPLETE STOP TO RESTART IT. ONCE I HAD STOPPED IT DID RESTART WITHOUT INCIDENT. ONE WEEK LATER THE CAR FAILED TO START AT ALL NOT EVEN TURNING OVER. WHEN THE PROBLEM WAS DIAGNOSED AT THE GARAGE IT WAS FOUND TO BE A FAULTY "IGNITION CONTROL MODULE" IN THE CAR. AT THIS TIME THE PART WAS REPLACED ONLY TO FAIL AGAIN WITHIN 2 MONTHS TIME AGAIN WHILE I WAS DRIVING THIS TIME IN A MUCH MORE HAZARDOUS CONDITION BEING THAT I WAS ON THE HIGHWAY AND WAS TRAVELING AT 50 MPH AND HAD TO TRAVEL ACROSS TWO LANES OF TRAFFIC TO EVEN PULL OVER TO TRY TO RESTART IT. THE CAR CONTINUED TO START AND SHUT OFF ALL THE WAY TO THE SERVICE GARAGE WHERE IT WAS AGAIN FOUND TO BE A FAULTY "IGNITION CONTROL MODULE". IN ANOTHER TWO WEEKS TIME THE CAR FAILED TO START AND WHEN DIAGNOSED THIS TIME IT WAS SAID TO HAVE "ELECTRICAL PROBLEMS" POSSIBLE THE "POWER CONTROL MODULE". AT THIS TIME THE CAR IS STILL UNDRIVEABLE AND UNSAFE FOR TRAVEL. *JB NHTSA ID Number: 10134303.

396. On September 22, 2005, Old GM became aware of a complaint filed with NHTSA involving a 2005 Cadillac CTS, concerning an incident that occurred on September 16, 2005, in which the following was reported:

> DT: 2005 CADILLAC CTS – THE CALLER'S VEHICLE WAS INVOLVED IN AN ACCIDENT WHILE DRIVING AT 55 MPH. UPON IMPACT, AIR BAGS DID NOT DEPLOY. THE VEHICLE WENT OFF THE ROAD AND HIT A TREE. THIS WAS ON THE DRIVER'S SIDE FRONT. THERE WERE NO INDICATOR LIGHTS ON PRIOR TO THE ACCIDENT. THE VEHICLE HAS NOT BEEN INSPECTED BY THE DEALERSHIP, AND INSURANCE COMPANY TOTALED THE VEHICLE. THE CALLER SAW NO REASON FOR THE AIR BAGS NOT TO DEPLOY. . TWO INJURED WERE INJURED IN THIS CRASH. T A POLICE REPORT WAS TAKEN. THERE WAS NO FIRE. *AK NHTSA ID Number: 10137348.

397. On September 29, 2006, Old GM became aware of a complaint filed with NHTSA involving a 2004 Cadillac CTS and an incident that occurred on September 29, 2006, in which the following was reported:

> DT*: THE CONTACT STATED AT VARIOUS SPEEDS WITHOUT WARNING, THE VEHICLE LOST POWER AND WOULD NOT ACCELERATE ABOVE 20 MPH. ALSO, WITHOUT WARNING, THE VEHICLE STALLED ON SEVERAL OCCASIONS, AND WOULD NOT RESTART. THE VEHICLE WAS TOWED TO THE DEALERSHIP, WHO REPLACED THE THROTTLE TWICE AND THE THROTTLE BODY ASSEMBLY HARNESS, BUT THE PROBLEM PERSISTED. *AK UPDATED 10/25/2006 – *NM NHTSA ID Number: 10169594.

398. On April 18, 2007, Old GM became aware of a complaint filed with NHTSA involving a 2004 Cadillac SRX, regarding an incident that occurred on April 13, 2007, in which it was reported that:

> TL*THE CONTACT OWNS A 2004 CADILLAC SRX. THE ENGINE STALLED WITHOUT WARNING AND CAUSED ANOTHER VEHICLE TO CRASH INTO THE VEHICLE. THE VEHICLE WAS ABLE TO RESTART A FEW MINUTES

> AFTER THE CRASH. THE DEALER AND MANUFACTURER WAS UNABLE TO DIAGNOSE THE FAILURE. THE MANUFACTURER HAD THE VEHICLE INSPECTED BY A CADILLAC SPECIALIST WHO WAS UNABLE TO DIAGNOSE THE FAILURE. THE DEALER UPDATED THE COMPUTER FOUR TIMES, BUT THE ENGINE CONTINUED TO STALL. THE CURRENT AND FAILURE MILEAGES WERE 48,000. NHTSA ID Number: 10188245.

399. On September 20, 2007, Old GM became aware of a complaint filed with NHTSA involving a 2007 Cadillac CTS, in connection with an incident that occurred on January 1, 2007, in which it was reported that:

> TL*THE CONTACT OWNS A 2007 CADILLAC CTS. WHILE DRIVING 40 MPH, THE VEHICLE SHUT OFF WITHOUT WARNING. THE FAILURE OCCURRED ON FIVE SEPARATE OCCASIONS. THE DEALER WAS UNABLE TO DUPLICATE THE FAILURE. AS OF SEPTEMBER 20, 2007, THE DEALER HAD NOT REPAIRED THE VEHICLE. THE POWERTRAIN WAS UNKNOWN. THE FAILURE MILEAGE WAS 2,000 AND CURRENT MILEAGE WAS 11,998. NHTSA ID Number: 10203516.

400. On September 24, 2007, Old GM became aware of a complaint filed with NHTSA involving a 2004 Cadillac SRX, regarding an incident that occurred on January 1, 2005, in which the following was reported:

> TL*THE CONTACT OWNS A 2004 CADILLAC SRX. WHILE DRIVING 5 MPH OR GREATER, THE VEHICLE WOULD SHUT OFF WITHOUT WARNING. THE DEALER STATED THAT THE BATTERY CAUSED THE FAILURE AND THEY REPLACED THE BATTERY. APPROXIMATELY EIGHT MONTHS LATER, THE FAILURE RECURRED. THE DEALER STATED THAT THE BATTERY CAUSED THE FAILURE AND REPLACED IT A SECOND TIME. APPROXIMATELY THREE MONTHS LATER, THE FAILURE OCCURRED AGAIN. SHE WAS ABLE TO RESTART THE VEHICLE. THE DEALER WAS UNABLE TO DUPLICATE THE FAILURE, HOWEVER, THEY REPLACED THE CRANK SHAFT SENSOR. THE FAILURE CONTINUES TO PERSIST. AS OF SEPTEMBER 24, 2007, THE DEALER HAD NOT REPAIRED THE VEHICLE. THE POWERTRAIN WAS UNKNOWN. THE

> FAILURE MILEAGE WAS 8,000 AND CURRENT MILEAGE WAS 70,580. NHTSA ID Number: 10203943.

401. On June 18, 2008, Old GM became aware of a complaint filed with NHTSA involving a 2006 Cadillac CTS and an incident that occurred on June 17, 2008, in which it was reported that:

> TL*THE CONTACT OWNS A 2006 CADILLAC CTS. WHILE DRIVING 60 MPH AT NIGHT, THE VEHICLE SHUT OFF AND LOST TOTAL POWER. WHEN THE FAILURE OCCURRED, THE VEHICLE CONTINUED TO ROLL AS IF IT WERE IN NEUTRAL. THERE WERE NO WARNING INDICATORS PRIOR TO THE FAILURE. THE CONTACT FEELS THAT THIS IS A SAFETY HAZARD BECAUSE IT COULD HAVE RESULTED IN A SERIOUS CRASH. THE VEHICLE WAS TAKEN TO THE DEALER TWICE FOR REPAIR FOR THE SAME FAILURE IN FEBURARY OF 2008 AND JUNE 17, 2008. THE FIRST TIME THE CAUSE OF THE FAILURE WAS IDENTIFIED AS A GLITCH WITH THE COMPUTER SWITCH THAT CONTROLS THE TRANSMISSION. AT THE SECOND VISIT, THE SHOP EXPLAINED THAT THEY COULD NOT IDENTIFY THE FAILURE. IT WOULD HAVE TO RECUR IN ORDER FOR THEM TO DIAGNOSE THE FAILURE PROPERLY. THE CURRENT AND FAILURE MILEAGES WERE 43,000. NHTSA ID Number: 10231507.

402. On October 14, 2008, Old GM became aware of a complaint filed with NHTSA involving a 2008 Cadillac CTS and an incident that occurred on April 5, 2008, in which it was reported that:

> WHILE DRIVING MY 2008 CTS, WITH NO ADVANCE NOTICE, THE ENGINE JUST DIED. IT SEEMED TO RUN OUT OF GAS. MY FUEL GAUGE READ BETWEEN 1/2 TO 3/4 FULL. THIS HAPPENED 3 DIFFERENT OCCASIONS. ALL 3 TIMES I HAD TO HAVE IT TOWED BACK TO THE DEALERSHIP THAT I PURCHASED THE CAR FROM. ALL 3 TIMES I GOT DIFFERENT REASONS IT HAPPENED, FROM BAD FUEL PUMP IN GAS TANK, TO SOME TYPE OF BAD CONNECTION, ETC. AFTER THIS HAPPENED THE 3RD TIME, I DEMANDED A NEW CAR, WHICH I RECEIVED. I HAVE HAD NO PROBLEMS WITH THIS CTS, RUNS GREAT. *TR NHTSA ID Number: 10245423.

403. On November 13, 2008, Old GM became aware of a complaint with NHTSA regarding a 2001 Oldsmobile Intrigue, in which the following was reported:

> L*THE CONTACT OWNS A 2001 OLDSMOBILE INTRIGUE. WHILE DRIVING 35 MPH, THE VEHICLE CONTINUOUSLY STALLS AND HESITATES. IN ADDITION, THE INSTRUMENT PANEL INDICATORS WOULD ILLUMINATE AT RANDOM. THE VEHICLE FAILED INSPECTION AND THE CRANKSHAFT SENSOR WAS REPLACED, WHICH HELPED WITH THE STALLING AND HESITATION; HOWEVER, THE CHECK ENGINE INDICATOR WAS STILL ILLUMINATED. DAYS AFTER THE CRANKSHAFT SENSOR WAS REPLACED, THE VEHICLE FAILED TO START. HOWEVER, ALL OF THE INSTRUMENT PANEL INDICATORS FLASHED ON AND OFF. AFTER NUMEROUS ATTEMPTS TO START THE VEHICLE, HE HAD IT JUMPSTARTED. THE VEHICLE WAS THEN ABLE TO START. WHILE DRIVING HOME, ALL OF THE LIGHTING FLASHED AND THE VEHICLE SUDDENLY SHUT OFF. THE VEHICLE LOST ALL ELECTRICAL POWER AND POWER STEERING ABILITY. THE CONTACT MANAGED TO PARK THE VEHICLE IN A PARKING LOT AND HAD IT TOWED THE FOLLOWING DAY TO A REPAIR SHOP. THE VEHICLE IS CURRENTLY STILL IN THE SHOP. THE VEHICLE HAS BEEN RECALLED IN CANADA AND HE BELIEVES THAT IT SHOULD ALSO BE RECALLED IN THE UNITED STATES. THE FAILURE MILEAGE WAS UNKNOWN AND THE CURRENT MILEAGE WAS 106,000. NHTSA ID Number: 10248694.

404. On December 10, 2008, Old GM became aware of a complaint filed with NHTSA regarding a 2004 Oldsmobile Alero and an incident that occurred on December 10, 2008, in which the following was reported:

> I WAS DRIVING DOWN THE ROAD IN RUSH HOUR GOING APPROX. 55 MPH AND MY CAR COMPLETELY SHUT OFF, THE GAUGES SHUT DOWN, LOST POWER STEERING. HAD TO PULL OFF THE ROAD AS SAFELY AS POSSIBLE, PLACE VEHICLE IN PARK AND RESTART CAR. MY CAR HAS SHUT DOWN PREVIOUSLY TO THIS INCIDENT AND FEEL AS THOUGH IT NEEDS SERIOUS INVESTIGATION. I COULD HAVE BEEN ON THE HIGHWAY AND BEEN KILLED. THIS ALSO HAS HAPPENED WHEN IN A SPIN

> OUT AS WELL THOUGH THIS PARTICULAR INCIDENT WAS RANDOM. *TR NHTSA ID Number: 10251280.

405. On March 31, 2009, Old GM became aware a complaint filed with NHTSA regarding a 2005 Chevrolet Malibu incident that occurred on May 30, 2008, in which it was reported that:

> TL*THE CONTACT OWNS A 2005 CHEVROLET MALIBU. THE CONTACT STATED THAT THE POWER WINDOWS, LOCKS, LINKAGES, AND IGNITION SWITCH SPORADICALLY BECOME INOPERATIVE. SHE TOOK THE VEHICLE TO THE DEALER AND THEY REPLACED THE IGNITION SWITCH AT THE COST OF $495. THE MANUFACTURER STATED THAT THEY WOULD NOT ASSUME RESPONSIBILITY FOR ANY REPAIRS BECAUSE THE VEHICLE EXCEEDED ITS MILEAGE. ALL REMEDIES AS OF MARCH 31, 2009 HAVE BEEN INSUFFICIENT IN CORRECTING THE FAILURES. THE FAILURE MILEAGE WAS 45,000 AND CURRENT MILEAGE WAS 51,000. NHTSA ID Number: 10263716.

406. The defects did not get any safer and the reports did not stop when Old GM ceased to exist. To the contrary, New GM continued receiving the same reports involving the same defects. For example, on August 11, 2010, New GM became aware of the following complaint filed with NHTSA involving a 2005 Cadillac CTS, the incident occurred on May 15, 2010, in which it was reported:

> TL*THE CONTACT OWNS A 2005 CADILLAC CTS. WHILE DRIVING 40 MPH, ALL OF THE SAFETY LIGHTS ON THE DASHBOARD ILLUMINATED WHEN THE VEHICLE STALLED. THE VEHICLE WAS TURNED BACK ON IT BEGAN TO FUNCTION NORMALLY. THE FAILURE OCCURRED TWICE. THE DEALER WAS CONTACTED AND THEY STATED THAT SHE NEEDED TO BRING IT IN TO HAVE IT DIAGNOSED AGAIN. THE DEALER PREVIOUSLY STATED THAT THEY WERE UNABLE TO DUPLICATE THE FAILURE. THE VEHICLE WAS NOT REPAIRED. THE FAILURE MILEAGE WAS 4100 AND THE CURRENT MILEAGE WAS 58,000. NHTSA ID Number: 10348743.

407. On April 16, 2012, New GM became aware of a complaint filed with NHTSA involving a 2005 Cadillac SRX and an incident that occurred on March 31, 2012, in which the following was reported:

> TL* THE CONTACT OWNS A 2005 CADILLAC SRX. WHILE DRIVING APPROXIMATELY 45 MPH, THE CONTACT STATED THAT THE STEERING BECAME DIFFICULT TO MANEUVER AND HE LOST CONTROL OF THE VEHICLE. THERE WERE NO WARNING LIGHTS ILLUMINATED ON THE INSTRUMENT PANEL. THE CONTACT THEN CRASHED INTO A HIGHWAY DIVIDER AND INTO ANOTHER VEHICLE. THERE WERE NO INJURIES. THE VEHICLE WAS TOWED TO AN AUTO CENTER AND THE MECHANIC STATED THAT THERE WAS A RECALL UNDER NHTSA CAMPAIGN ID NUMBER 06V125000 (SUSPENSION:REAR), THAT MAY BE RELATED TO THE FAILURE. THE MANUFACTURER WAS MADE AWARE OF THE FAILURE AND STATED THAT THE VIN WAS NOT INCLUDED IN THE RECALL. THE VEHICLE WAS NOT REPAIRED. THE APPROXIMATE FAILURE MILEAGE WAS 46,000. NHTSA ID Number: 10455394.

408. On March 20, 2013, New GM became aware of a complaint filed with NHTSA regarding a 2003 Chevrolet Impala incident that occurred on March 1, 2013, in which it was reported that:

> CAR WILL SHUT DOWN WHILE DRIVING AND SECURITY LIGHT WILL FLASH. HAS DONE IT NUMEROUS TIMES, WORRIED IT WILL CAUSE AN ACCIDENT. THERE ARE MULTIPLE CASES OF THIS PROBLEM ON INTERNET. *TR NHTSA ID Number: 10503840.

409. On May 12, 2013, New GM became aware of the following complaint filed with NHTSA regarding a 2005 Chevrolet Malibu incident that occurred on May 11, 2012, in which the following was reported:

> I WAS AT A STOP SIGN WENT TO PRESS GAS PEDAL TO TURN ONTO ROAD AND THE CAR JUST SHUT OFF NO WARNING LIGHTS CAME ON NOR DID IT SHOW ANY CODES. GOT OUT OF CAR POPPED TRUNK PULLED RELAY FUSE OUT PUT IT BACK IN AND IT CRANKED

> UP,THEN ON MY WAY HOME FROM WORK,GOING ABOUT 25 MPH AND IT JUST SHUT DOWN AGAIN,I REPEATED PULLING OUT RELAY FUSE AND PUT IT BACK IN THEN WAITED A MINUTE THEN IT CRANKED AND I DROVE STRAIGHT HOME. *TR NHTSA ID Number: 10458198.

410. On February 26, 2014, New GM became aware of a complaint filed with NHTSA involving a 2004 Pontiac Grand Prix, concerning an incident that occurred on May 10, 2005, in which it was reported that:

> TL – THE CONTACT OWNS A 2004 PONTIAC GRAND PRIX. THE CONTACT STATED THAT WHILE DRIVING AT VARIOUS SPEEDS AND GOING OVER A BUMP, THE VEHICLE WOULD STALL WITHOUT WARNING. THE VEHICLE WAS TAKEN TO THE DEALER. THE TECHNICIAN WAS UNABLE TO DIAGNOSE THE FAILURE. THE MANUFACTURER WAS MADE AWARE OF THE FAILURE. THE VEHICLE WAS NOT REPAIRED. THE VIN WAS NOT AVAILABLE. THE FAILURE MILEAGE WAS 12,000 AND THE CURRENT MILEAGE WAS 82,000. KMJ NHTSA ID Number: 10566118.

411. On March 13, 2014, New GM became aware of a complaint filed with NHTSA involving a 2006 Pontiac Grand Prix and an incident that occurred on February 27, 2014, in which a driver reported:

> I WAS DRIVING HOME FROM WORK AND WHEN I TURNED A CORNER, THE ENGINE CUT OUT. I BELIEVE IT WAS FROM THE KEY FLIPPING TO ACCESSORY. I'VE HEARD THAT THIS HAS CAUSED CRASHES THAT HAVE KILLED PEOPLE AND WOULD LIKE THIS FIXED. THIS IS THE FIRST TIME IT HAPPENED, BUT NOW I'M WORRIED EVERY TIME I DRIVE IT THAT THIS IS GOING TO HAPPEN AND I DON'T FEEL SAFE LETTING MY WIFE DRIVE THE CAR NOW. WHY ARE THE 2006 PONTIAC GRAND PRIX VEHICLES NOT PART OF THE RECALL FROM GM? *TR NHTSA ID Number: 10569215.

412. On April 1, 2014, New GM became aware of a complaint filed with NHTSA involving a 2003 Cadillac CTS and an incident that occurred on January 1, 2008, in which the following was reported:

> TL* THE CONTACT OWNS A 2003 CADILLAC CTS. THE CONTACT STATED THAT THE VEHICLE EXHIBITED A RECURRING STALLING FAILURE. THE VEHICLE WAS TAKEN TO THE DEALER NUMEROUS TIMES WHERE SEVERAL UNKNOWN REPAIRS WERE PERFORMED ON THE VEHICLE BUT TO NO AVAIL. THE FAILURE MILEAGE WAS 59,730 AND THE CURRENT MILEAGE WAS 79,000. UPDATED 06/30/14 MA UPDATED 07/3/2014 *JS NHTSA ID Number: 10576468.

413. On April 1, 2014, New GM became aware of a complaint with NHTSA regarding a 2003 Chevrolet Monte Carlo and an incident that occurred on September 16, 2013, in which the following was reported:

> WHILE DRIVING AT ANY SPEED THE IGNITION SYSTEM WOULD RESET LIGHTING UP THE DISPLAY CLUSTER JUST AS IF THE KEY WAS TURNED OFF AND BACK ON. THIS WOULD CAUSE A MOMENTARY SHUTDOWN OF THE ENGINE. THE PROBLEM SEEMED TO BE MORE PREVAILANT WHILE TURNING THE WHEEL FOR A CURVE OR TURN OFF THE ROAD. THE TURN SIGNAL UNIT WAS FIRST SUSPECT SINCE IT SEEMED TO CORRELATE WITH APPLYING THE TURN SIGNAL AND TURNING THE WHEEL. THE CONDITION WORSENED TO THE IGNITION SHUTDOWN FOR LONGER PERIODS SHUTTING DOWN THE ENGINE CAUSING STEERING AND BRAKING TO BE SHUT DOWN AND FINALLY DIFFICULTY STARTING THE CAR. AFTER 2 VISITS TO A GM SERVICE CENTER THE PROBLEM WAS FOUND TO BE A FAULTY IGNITION THAT WAS REPLACED AND THE PROBLEM HAS NOT RECURRED. NHTSA ID Number: 10576201.

414. On April 8, 2014, New GM became aware of a complaint with NHTSA regarding a 2003 Chevrolet Impala and an incident that occurred on August 14, 2011 and the following was reported:

> I HAVE HAD INCIDENTS SEVERAL TIMES OVER THE YEARS WHERE I WOULD HIT A BUMP IN THE ROAD AND MY CAR WOULD COMPLETLY SHUT OFF. I HAVE ALSO HAD SEVERAL INCIDENTS WHERE I WAS TRAVELING DOWN THE EXPRESSWAY AND MY CAR TURNED OFF ON ME. I HAD TO SHIFT MY CAR INTO NEUTRAL AND RESTART IT TO CONTINUE GOING. I WAS FORTUNATE NOT TO HAVE AN ACCIDENT. NHTSA ID Number: 10578158.

415. On May 14, 2014, New GM became aware of a complaint filed with NHTSA regarding a 2004 Chevrolet Impala incident that occurred on April 5, 2013 and was reported that:

> CHEVY IMPALA 2004 LS- THE VEHICLE IS STOPPING COMPLETELY WHILE DRIVING OR SITTING AT INTERSECTION. THERE IS NO WARNING, NO MESSAGE, IT JUST DIES. THE STEERING GOES WHEN THIS HAPPENS SO I CANNOT EVEN GET OFF THE ROAD. THEN THERE ARE TIMES THAT THE CAR WILL NOT START AT ALL AND I HAVE BEEN STRANDED. EVENTUALLY AFTER ABOUT 20 MINUTES THE CAR WILL START- I HAVE ALREADY REPLACED THE STARTER BUT THE PROBLEM STILL EXISTS. I HAVE HAD THE CAR CHECKED OUT AT 2 DIFFERENT SHOPS (FIRESTONE) AND THEY CANNOT FIND THE PROBLEM. THERE ARE NO CODES COMING UP. THEY ARE COMPLETELY PERPLEXED. CHEVY STATES THEIR MECHANICS ARE BETTER. ALSO THE CLUSTER PANEL IS GONE AND CHEVY IS AWARE OF THE PROBLEM BUT THEY ONLY RECALLED CERTAIN MODELS AND DID NOT INCLUDE THE IMPALAS. I HAVE 2 ESTIMATES REGARDING FIXING THIS PROBLEM BUT THE QUOTES ARE $500.00. I DO NOT FEEL THAT I SHOULD HAVE TO PAY FOR THIS WHEN CHEVY KNEW THEY HAD THIS PROBLEM WITH CLUSTER PANELS AND OMITTED THE IMPALAS IN THEIR RECALL. SO, TO RECAP: THE CAR DIES IN TRAFFIC (ALMOST HIT TWICE), I DO NOT KNOW HOW MUCH GAS I HAVE, HOW FAST I AM GOING, OR IF THE CAR IS OVERHEATING. IN DEALING WITH CHEVY I WAS TOLD TO TAKE THE CAR TO A CHEVY DEALERSHIP. THEY GAVE ME A PLACE THAT IS 2 1/2 HOURS HOUSE AWAY FROM MY HOME. I WAS ALSO TOLD THAT I WOULD HAVE THE HONOR OF PAYING FOR THE DIAGNOSTICS. IN RESEARCHING THIS PROBLEM, I HAVE PULLED UP SEVERAL COMPLAINTS FROM OTHER CHEVY IMPALA 2004 OWNERS THAT ARE EXPERIENCING THE SAME MULTIPLE PROBLEMS. I ALSO

> NOTICED THAT MOST OF THE COMPLAINTS ARE STATING THAT THE SAME ISSUES OCCURRED AT APPROX. THE SAME MILEAGE AS MINE. I HAVE DISCUSSED THIS WITH CHEVY CUSTOMER SERVICE AND BASICALLY THAT WAS IGNORED. THIS CAR IS HAZARDOUS TO DRIVE AND POTENTIALLY WILL CAUSE BODILY HARM. DEALING WITH CHEVY IS POINTLESS. ALL THEY CAN THINK OF IS HOW MUCH MONEY THEIR DEFECTS WILL BRING IN. *TR NHTSA ID Number: 10512006.

416. New GM has publicly admitted that it was aware of at least seven (7) crashes, eight (8) injuries, and three (3) deaths linked to this serious safety defect before deciding to finally implement a recall. However, in reality, the number of reports and complaints is much higher.

417. Moreover, notwithstanding years of notice and knowledge of the defect, on top of numerous complaints and reports from consumers, including reports of crashes, injuries, and deaths, New GM delayed and did not implement a recall involving this defect until July of 2014.

418. New GM replicated the "knee to key" report in 2012 causing inadvertent key rotation and a running stall. New GM recalled all of the CTS and SRX and gave out new keys to those that did not have "hole" keys, and two key rings so the fob could be kept on one, and the ignition key on another. New GM's supposed recall fix does not address the defect or the safety risks that it poses, including insufficient amount of torque to resist rotation from the "run" to "accessory" position under reasonably foreseeable conditions, and puts the burden on drivers to alter their behavior and carry their ignition keys separately from their other keys, and even from their remote fob. The real answer must include the replacement of all the switches with ones that have sufficient torque to resist foreseeable rotational forces. The consequences of an unwanted rotation from the "run" to "accessory" position are the same in all these cars: loss of power

(stalling), loss of power steering, loss of power brakes after one or two depressions of the brake pedal, and suppression of seat belt pretensioners and airbag deployments.

419. In addition, New GM is not addressing the other design issues that create safety risks in connection with this defect. New GM is not altering the algorithm that prevents the airbags from deploying when the ignition leaves the "run" position, even when the vehicle is moving. And New GM is not altering the placement of the ignition in an area where the driver's knees may inadvertently cause the ignition to move out of the "run" position. Moreover, notwithstanding years of notice and knowledge of the defect, on top of numerous complaints and reports from consumers, including reports of crashes, injuries, and deaths, New GM delayed and did not implement a recall involving this defect until July of 2014.

**6. Yet another ignition switch recall is made on September 4, 2014.**

420. On September 4, 2014, New GM recalled 46,873 MY 2011-2013 Chevrolet Caprice and 2008-2009 Pontiac G8 vehicles for yet another ignition switch defect (NHTSA Recall Number 14-V-510).

421. New GM explains that, in these Defective Ignition Switch Vehicles, "there is a risk, under certain conditions, that some drivers may bump the ignition key with their knee and unintentionally move the key away from the 'run' position." New GM admits that, when this happens, "engine power, and power braking will be affected, increasing the risk of a crash." Moreover, "[t]he timing of the key movement out of the 'run' position, relative to the activation of the sending algorithm of the crash event, may result in the airbags not deploying, increasing the potential for occupant injury in certain kinds of crashes."[64]

[64] New GM's Part 573 Safety Recall Report, Sept. 4, 2014.

422. This recall is directly related to the other ignition switch recalls and involves the same safety risks and dangers. The defect poses a serious and dangerous safety risk because the key in the ignition switch can rotate and consequently cause the ignition to switch from the "on" or "run" position to the "off" or "accessory" position, which causes the loss of engine power, stalling, loss of speed control, loss of power steering, loss of power braking, and increases the risk of a crash. Moreover, as with the ignition switch torque defect, if a crash occurs, the airbags may not deploy.

423. According to New GM, in late June 2014, "GM Holden began investigating potential operator knee-to-key interference in Holden-produced vehicles consistent with Safety's learning from" earlier ignition switch recalls, NHTSA recall nos. 14V-346 and 14V-355.[65]

424. New GM "analyzed vehicle test results, warranty data, TREAD data, NHTSA Vehicle Owner Questionnaires, and other data."[66] This belated review, concerning vehicles that were sold as long as six years earlier, led to the August 27, 2014 decision to conduct a safety recall.[67]

425. Once again, a review of NHTSA's website shows that New GM was long on notice of ignition switch issues in the vehicles subject to the September 4 recall.

426. For example, on February 10, 2010, New GM became aware of an incident involving a 2009 Pontiac G8 that occurred on November 23, 2009, and again on January 26, 2010, in which the following was reported to NHTSA:

> FIRST OCCURRED ON 11/23/2009. ON THE INTERSTATE IT LOSES ALL POWER, ENGINE SHUTS DOWN, IGNITION STOPS, POWER STEERING STOPS, BRAKES FAIL - COMPLETE VEHICLE STOPPAGE AND FULL OPERATING

[65] *Id.*

[66] *Id.*

[67] *Id.*

> SYSTEMS SHUT DOWN WITHOUT WARNING AT 70 MPH, TWICE! SECOND OCCURRENCE WAS 1/26/2010.

8. On May 22, 2013, New GM became aware of an incident involving a 2008 Pontiac G8 that occurred on May 18, 2013, in which the following was reported:

> THE CONTACT OWNS A 2008 PONTIAC G8. THE CONTACT STATED THAT WHILE DRIVING 50 MPH, THE VEHICLE STALLED WITHOUT WARNING. THE FAILURE RECURRED TWICE. THE VEHICLE WAS TOWED TO THE DEALER FOR DIAGNOSIS, BUT THE DEALER WAS UNABLE TO DUPLICATE THE PROBLEM. THE VEHICLE WAS NOT REPAIRED. THE MANUFACTURER WAS NOT NOTIFIED. THE APPROXIMATE FAILURE MILEAGE WAS 60,000.

427. Consistent with its pattern in the June and July recalls, New GM's proposed remedy is to provide these Defective Ignition Switch Vehicle owners with a "revised key blade and housing assembly, in which the blade has been indexed by 90 degrees."[68] Until the remedy is provided, New GM asserts, "it is very important that drivers adjust their seat and steering column to allow clearance between their knee and the ignition key."[69] New GM sent its recall notice to NHTSA one week later, on September 4, 2014.

428. New GM's supposed fix does not address the defect or the safety risks that the defect poses, including the apparent insufficient torque to resist rotation from the "run" to the "accessory" position under reasonably foreseeable driving conditions, and puts the burden on drivers to alter their behavior and carry their ignition keys separately from their other keys, and even from their remote fob. The real answer must include the replacement of all the switches with ones that have sufficient torque to resist foreseeable rotational forces.

429. In addition, New GM is not addressing the other design issues that create safety risks in connection with this defect. New GM is not altering the algorithm that prevents the

[68] New GM's Part 573 Safety Recall Report, Sept. 4, 2014.

[69] *Id.*

airbags from deploying when the ignition leaves the "run" position, even when the vehicle is moving. And New GM is not altering the placement of the ignition in an area where the driver's knee may inadvertently cause the ignition to move out of the "run" position.

430. The September 4 recall is, like the earlier defective ignition switch recalls, too little and too late.

**7. The ignition switch recalls are inadequate and poorly conducted.**

431. New GM sent its first recall notices to the owners of vehicles with defective ignition switches in late February and early March of 2014. New GM's recall letter minimized the risk of the ignition switch defect, indicating that ignition problems would occur only "under certain circumstances." New GM's recall notification emphasized that the risk of power failure increased if the "key ring is carrying added weight . . . or your vehicle experiences rough road conditions."

432. To repair the Defective Ignition Switch Vehicles, New GM is replacing the defective ignition switch with a new, presumably improved, ignition switch. At the time it announced the recall of these Defective Ignition Switch Vehicles, however, New GM did not have replacement switches ready. New GM CEO Mary Barra told Congress that New GM would start replacing ignition switches beginning in April of 2014.

433. New GM later revised its timeline, notifying NHTSA that all replacement switches would be ready by October 4, 2014.

434. New GM's repair of the defective switches has proceeded painfully slowly. As of August 5, 2014, New GM had repaired only 683,196 of the 2.1 million Defective Ignition Switch Vehicles.

435. On September 8, 2014, Ms. Barra told CNBC radio that the repair process was "substantially complete." Nonetheless, at that time, New GM had repaired only 1 million vehicles.

436. Meanwhile, dealerships across the country have struggled to implement New GM's repair process. One dealership in Kalamazoo, Michigan, hired a "recall concierge" simply to deal with the myriad issues raised by the recall repair process.

437. Although New GM has touted to courts around the country that it is offering to provide any concerned driver with a temporary loaner vehicle while he or she awaits a replacement part (for some over five months and counting), GM's recall letter failed to inform vehicle owners whether temporary loaner vehicles would be made available while they awaited replacement parts. The letter also provided no time frame in which repairs would be completed.

438. To add insult to injury, the New GM recall is fraught with problems for consumers. Many consumers are unable to obtain a loaner vehicle despite New GM's promise to provide them with one pending repair. When individuals have been fortunate enough to obtain a loaner, they often experience problems associated with the loaner program. Even worse, many consumers continue to experience safety problems with the Defective Ignition Switch Vehicles, even after the ignition switch has been replaced pursuant to the recall.

**a. New GM failed to alert drivers of recalled vehicles to the possibility of obtaining a loaner vehicle, and when consumers are aware, they often find that loaner vehicles are not available.**

439. One common problem consumers have faced and continue to face is the difficulty, if not impossibility, of obtaining a rental or loaner vehicle while awaiting the replacement part for their Defective Ignition Switch Vehicle pursuant to the recall. Yet since it announced the recall, New GM has represented to the government and courts across the country

that it is offering consumers temporary loaner vehicles, free of charge, while those consumers wait for their Defective Ignition Switch Vehicle to be repaired.

440. New GM did not make this information easily accessible for consumers. Shortly after the recall was announced, for example, New GM published a website at gmignitionupdate.com. The front page of that website does not inform consumers that they are eligible to obtain a temporary replacement vehicle.

441. Indeed, consumers must click on the Frequently Asked Questions page to learn about New GM's offer. Even there, the information is not included in a section entitled, "What will GM do?" Neither is it included in a section entitled, "What should you do if you have an affected vehicle?"

442. To learn that New GM is offering temporary loaner vehicles, a class member must click on a section under the heading, "Parts Availability & Repair Timing." A subsection entitled, "Who is eligible for a rental vehicle?" states that "[a]ny affected customer who is concerned about operating their vehicle may request courtesy transportation. Dealership service management is empowered to place the customer into a rental or loaner vehicle until parts are available to repair the customer's vehicle."

443. Numerous owners and/or lessees of Defective Ignition Switch Vehicles were unaware that New GM was offering temporary loaner vehicles. As a result, many class members driving one of the Defective Ignition Switch Vehicles and who are rightfully fearful of continuing to drive their vehicles in light of the now-disclosed safety defect are denied an alternate vehicle pre-repair. They either are forced to drive their unsafe Defective Ignition Switch Vehicles out of necessity, and fear every time they sit behind the wheel they could be involved in an accident that will injure them or an innocent bystander, or to park their vehicles

while awaiting the replacement part for their vehicles and seek alternative means of transportation.

444. Upon information and belief, New GM also did not widely distribute its temporary loaner vehicle guarantee to dealerships across the country. Many dealerships do not know and have not been informed about New GM's promise to provide rental/loaner vehicles to owners of vehicles awaiting the ignition switch replacement part.

445. Further, licensed New GM dealerships aware of the loaner program quickly exhausted their supply of loaner vehicles early into the recall. Numerous dealerships then refused interested consumers. Because New GM's ignition repair website only states that "[d]ealership service management" is empowered to provide a temporary loaner vehicle, many such class members reasonably believed that their sole avenue for relief was foreclosed when their dealership refused.

446. Even where class members have inquired directly with New GM for provision of a temporary loaner vehicle, numerous Class members have been refused.

447. Such refusals not only violate New GM's representations but also cause Class members substantial inconvenience and expense, such as:

a. Class members who cannot perform their jobs because they are denied a loaner/rental, despite repeated requests to both the dealership and the New GM hotline; and

b. Class members who are denied a rental/loaner vehicle because they have only property loss or property damage insurance coverage on their Defective Ignition Switch Vehicle rather than full coverage.

448. Further, even when a loaner vehicle is provided, consumers experience varied and numerous problems with the program. Among the problems encountered:

a. Class members incur substantially increased gasoline expenses with their loaner vehicles because the loaner is far less fuel efficient than the Defective Ignition Switch Vehicle;

b. Class members incur substantially increased monthly insurance premium—up to hundreds more per month—than they pay for their Defective Ignition Switch Vehicle because the loaner vehicle is newer and more expensive; and

c. Class members are threatened with charges for the loaner vehicle if they do not pick up their Defective Ignition Switch Vehicle immediately when it is repaired. Class members have experienced these threats even when their Defective Ignition Switch Vehicle sat idle for months at a dealership awaiting repair and the dealership provided no notice that it would repair the vehicle until the repair was complete.

**b. The repair is inadequate and/or results in new vehicle defects.**

449. Yet another common problem with the recall that plaintiffs are experiencing is the replacement part is not remedying the safety defect. Numerous class members report repeated stalls and shut downs ***after*** their vehicles are purportedly repaired pursuant to the recall. Indeed, the most common complaint is that the vehicle continues to have unintended stalls while driving, the very safety defect the recall is intended to correct. What is more, dealerships and New GM have been known to accuse vehicle owners who report stalls and shut downs following their ignition switch being replaced of lying.

450. Yet from its inception, New GM has known that simply replacing the ignition switches on the Defective Ignition Switch Vehicles is not a solution to the potential for the key to inadvertently turn from the "run" to the "accessory/off" position in these vehicles. The necessary modifications New GM is undertaking with respect to the Defective Ignition Switch

Vehicles' ignition switches and keys are insufficient to make the Defective Ignition Switch Vehicles safe or to restore their value.

451. New GM's recall fails to address the design defect that causes the key fob/chain to hang too low on the steering column. During testing of the Defective Ignition Switch Vehicles, Old GM and New GM engineers repeatedly observed that the Defective Ignition Switch Vehicle's ignition switch could be moved to the "accessory/off" position when a driver touched the ignition key with his or her knee during ordinary and foreseeable driving conditions. New GM's recall repairs fail to address such occurrences. New GM's recall is thus inadequate to remedy the defective product.

452. Further, New GM's recall fails to address the defective airbag system, which disables the airbag immediately when the engine shuts off. The loss of airbags is a serious safety condition, especially because it can happen when the Defective Ignition Switch Vehicle is traveling at highway speeds.

453. Following replacement of the ignition switch pursuant to the recall, problems occurring with the Defective Ignition Switch Vehicles include, but are not limited to: (i) stalls and shut down on roads and highways; (ii) the ignition key does not fully turn to the "off" position and, instead, becomes stuck in the "accessory" position; (iii) the ignition key cannot be removed when the engine is off; (iv) power steering fails; and (v) cars are returned following replacement of the ignition switch with new parts in non-working order that were in working order prior to the "repair," such as airbag light remaining on, horn not working, broken door locking mechanism, and locking steering wheel.

454. Among the specific problems experienced in connection with the recall are:

a. Accidents in Defective Ignition Switch Vehicles as a result of unintended shut downs or stalls, ***after*** the ignition switch has been replaced pursuant to the recall;

b. Class members have been threatened with charges for leaving Defective Ignition Switch Vehicles at the dealership once the replacement part is installed pursuant to the recall, even in circumstances where the Defective Ignition Switch Vehicle has been at the dealership for months awaiting the repair and the dealership did not provide timely notice of the repair's completion;

c. Class members have been charged the costs of a replacement battery when their Defective Ignition Switch Vehicle's battery dies on the dealership lot while waiting for months for the ignition switch replacement parts;

d. Class members' Defective Ignition Switch Vehicles, following replacement of the ignition switch pursuant to the recall, often are returned without the ability to turn the ignition key to the "off" position and, instead, the key becomes stuck in the "accessory" position, and/or the driver is unable to remove the key at all; and

e. When Defective Ignition Switch Vehicles are returned after months of storage at the dealership (pursuant to New GM's instruction to the dealerships to store the vehicles while they await repair), new damages have appeared on the vehicle and/or additional mileage has appeared on the odometer.

**c. The recall is untimely.**

455. At the time it announced the first ignition switch recalls, New GM acknowledged that it was not prepared to begin replacing defective ignition switches with presumably non-defective switches.

456. New GM informed NHTSA that it would complete 100% of the ignition switch replacements on or before October 4, 2014. New GM has not met that deadline.

457. The recall is delayed even further because even the replacement ignition switches are sometimes defective. Various news outlets have reported on New GM's delivery of faulty replacement switches. The DETROIT NEWS reported on July 9, 2014, that New GM notified dealerships that it had delivered 542 ignition switch kits with faulty tabs. Those switches, some of which were delivered to a dealership in New York, were sent back to New GM.

458. The recall causes continuing problems to the class members, including:

a. Class members must wait months for Defective Ignition Switch Vehicles to be repaired and, while the Defective Ignition Switch Vehicle sits on the dealership's lot, the Vehicle's registration expires;

b. Class members have experienced unintended stalls and power failures in Defective Ignition Switch Vehicles while they await repair of their vehicle and were refused a loaner vehicle in the interim, or did not know loaner vehicles were available;

c. Class members have been involved in accidents when they experienced an unintended stall in the Defective Ignition Switch Vehicle while waiting for replacement parts and repair; and

d. Class members who have only their Defective Ignition Switch Vehicle face daily inconveniences and additional expenses to obtain alternate transportation, but refuse to drive their Defective Ignition Switch Vehicle.

459. These delays have real and significant consequences for members of the Class. As one illustrative example of the worst, yet entirely foreseeable, outcome of this common problem known to New GM, on September 27, 2014, the NEW YORK TIMES reported that Laura Gass, a 27-year-old owner of a 2006 Saturn Ion, was killed just days after she received her recall notice. That notice informed her that replacement parts were not yet

available. The notice also did not inform Ms. Gass that she was eligible to obtain a loaner vehicle should she not wish to drive her defective Saturn. Ms. Gass needed transportation, and was unaware that New GM was prepared to provide temporary transportation to replace her defective automobile. As a result, she continued to drive her defective Ion, a turn of events that had disastrous consequences. On March 18, 2014, the ignition switch in Ms. Gass's Saturn slipped to the "accessory" or "off" position, the power to the vehicle failed, and she was unable to control the vehicle as it collided with a truck on the interstate. Ms. Gass was killed, but the tragedy should have been prevented.

**d. The repair of the other ignition switch defects.**

460. The repair of the vehicles recalled for ignition switch-related problems in June and July 2014—the Camaro recall, the ignition key slot recall, and the unintended key rotation recall—is also proceeding in a problematic fashion.

461. Owners of these vehicles—more than 10 million—have been notified that their vehicle is defective, but no replacement parts are available. New GM has not provided a timeline within which it will repair these vehicles.

462. Further, because New GM claims that the defect afflicting these vehicles is distinct from the ignition switch defect affecting the 2.1 million vehicles in its initial recall of Defective Ignition Switch Vehicles, it has offered owners significantly less safe alternatives. New GM has not offered loaner vehicles to owners of these ten million vehicles. It has simply advised them to remove everything from the key chain.

463. Of course, the recall notice for each of these 10 million vehicles notes the possibility that the vehicle may experience a moving stall and/or power failure by traveling across a bumpy roadway or when a driver's knee inadvertently contacts the ignition key.

464. What is more, New GM's proposed repair of these vehicles is wholly inadequate. New GM will modify the ignition key for all the affected vehicles so that the key is less susceptible to movement. New GM's proposed remedy, however, does nothing to prevent one from impacting the ignition key with one's knee during ordinary and foreseeable driving conditions. It does nothing to ensure that the airbag system is not disabled if and when the ignition switch moves into the "accessory" or "off" position. And it does not address the fact that many of the affected vehicles contain ignition switches with inadequate "detent plungers."

465. New GM's proposed repairs are an attempt to rid itself of safety problems on the cheap. Indeed, New GM is not offering temporary rental vehicles to those affected customers driving the vehicles recalled in June and early July. Nor will GM reimburse owners for any previous repairs aimed at preventing inadvertent power failure in these subject vehicles.

466. According to New GM spokesperson Alan Adler, and despite the fact that the June and July recalls are aimed at safety problems that are substantially similar, if not identical, to those present in the February and March ignition switch recalls, the recall of more than 10 million vehicles in June and July was to remedy "key issues," not because the vehicles contain bad ignition switches.

467. This statement is belied by the facts on the ground. Many Class members have experienced power failures and engine stalls, and many individuals have been in accidents attributable to such failures. Court supervision and involvement is required in order to force New GM to provide its customers with a repair that will truly make the Defective Ignition Switch Vehicles safe for ordinary and foreseeable driving conditions.

**G. Other Safety and Important Defects Affecting Numerous GM-branded Vehicles**

468. As if the plethora of recalls for ignition switch defects was not enough to taint New GM's brand and put the lie to New GM's repeated statements that it values safety and

reliability above all else, New GM has been forced to issue scores of other recalls this year involving myriad serious safety defects in a wide range of GM-branded vehicles—many of which defects were known to New GM for years.

469. Moreover, New GM's ongoing and systemic devaluation of safety issues has given rise to a host of new Defective Ignition Switch Vehicles created by New GM.

470. Many (but by no means all) of the serious defects revealed in New GM's never-ending series of recalls are discussed below.

**1. Other safety defects affecting the ignition in GM-branded vehicles.**

**a. Ignition lock cylinder defect in vehicles also affected by the ignition switch defect that gave rise to the first recall of 2.1 million defective ignition switch vehicles.**

471. On April 9, 2014, New GM recalled 2,191,014 GM-branded vehicles with faulty ignition lock cylinders.[70] Though the vehicles are the same as those affected by the ignition switch torque defect,[71] the lock cylinder defect is distinct.

472. In these vehicles, faulty ignition lock cylinders can allow removal of the ignition key while the engine is not in the "off" position. If the ignition key is removed when the ignition is not in the "off" position, unintended vehicle motion may occur. That could cause a crash and injury to the vehicle's occupants or pedestrians. Some of the vehicles with faulty ignition lock cylinders may fail to conform to Federal Motor Vehicle Safety Standard number 114, "*Theft Prevention and Rollaway Prevention*."[72]

473. According to New GM's Chronology that it submitted to NHTSA on April 23, 2014, the ignition lock cylinder defect arose out of New GM's notorious recalls for defective

[70] New GM Letter to NHTSA dated April 9, 2014.

[71] Namely, MY 2005-2010 Chevrolet Cobalts, 2006-2011 Chevrolet HHRs, 2007-2010 Pontiac G5s, 2003-2007 Saturn Ions, and 2007-2010 Saturn Skys. *See id.*

[72] New GM Notice to NHTSA dated April 9, 2014, at 1.

ignition switch systems in the Chevrolet Cobalt, Chevrolet HHR, Pontiac G5, Pontiac Solstice, Saturn ION, and Saturn Sky vehicles. Those three recalls occurred in February and March of 2014.[73]

474. In late February or March 2014, New GM personnel participating in the ignition switch recalls observed that the keys could sometimes be removed from the ignition cylinders when the ignition was not in the "off" position. This led to further investigation.

475. After investigation, New GM's findings were presented at a Decision Committee meeting on April 3, 2014. New GM noted several hundred instances of potential key pullout issues in vehicles covered by the previous ignition switch recalls, and specifically listed 139 instances identified from records relating to customer and dealer reports to GM call centers, 479 instances identified from warranty repair data, one legal claim, and six instances identified from NHTSA VOQ information. New GM investigators also identified 16 roll-away instances associated with the key pullout issue from records relating to customer and dealer reports to GM call centers and legal claims information.

476. New GM noted that excessive wear to ignition tumblers and keys may be the cause of the key pullout issue. New GM also considered the possibility that some vehicles may have experienced key pullout issues at the time they were manufactured, based on information that included the following: (a) a majority of instances of key pullouts that had been identified in the recall population were in early-year Saturn Ion and Chevrolet Cobalt vehicles, and in addition, repair order data indicated vehicles within that population had experienced a repair potentially related to key pullout issues as early as 47 days from the date on which the vehicle was put into service; and (b) an engineering inquiry known within New GM as a Problem

[73] *See* Attachment B to New GM's letter to NHTSA dated April 23, 2014 ("Chronology").

Resolution related to key pullout issues was initiated in June 2005, which resulted in an engineering work order to modify the ignition cylinder going forward.

477. A majority of the key pullout instances identified involved 2003-2004 model year Saturn Ion and 2005 model year Chevrolet Cobalt vehicles. An April 3 New GM PowerPoint identified 358 instances of key pullouts involving those vehicles.

478. In addition, with respect to early-year Saturn Ion and Chevrolet Cobalt vehicles, the April 3 PowerPoint materials discussed the number of days that elapsed between the "In Service Date" of those vehicles (the date they first hit the road) and the "Repair Date." The April 3 PowerPoint stated that, with respect to the 2003 model year Saturn Ion, a vehicle was reported as experiencing a potential key pullout repair as early as 47 days from its "In Service Date;" with respect to the 2004 model year Saturn Ion, a vehicle was reported as experiencing a potential key pullout repair as early as 106 days from its "In Service Date;" with respect to the 2005 model year Chevrolet Cobalt, a vehicle was reported as experiencing a potential key pullout repair as early as 173 days from its "In Service Date;" and with respect to the 2006 model year Chevrolet Cobalt, a vehicle was reported as experiencing a potential key pullout repair as early as 169 days from its "In Service Date." The length of time between the "In Service Date" and the "Repair Date" suggested that these vehicles were defective at the time of manufacture.

479. The PowerPoint at the April 3 Decision Committee meeting also discussed a Problem Resolution that was initiated in June 2005 which related to key pullout issues in the Chevrolet Cobalt (PRTS N 183836). According to PRTS N 183836: "Tolerance stack up condition permits key to be removed from lock cylinder while driving." The "Description of Root Cause Investigation Progress and Verification" stated, "[a]s noted a tolerance stack up exists in between the internal components of the cylinder." According to a "Summary," "A

tolerance stack up condition exists between components internal to the cylinder which will allow some keys to be removed." Problem Resolution identified the following "Solution": "A change to the sidebar of the ignition cylinder will occur to eliminate the stack-up conditions that exist in the cylinder."

480. In response to PRTS N 183836, New GM issued an engineering work order to "[c]hange shape of ignition cylinder sidebar top from flat to crowned."

481. According to the work order: "Profile and overall height of ignition cylinder sidebar [will be] changed in order to assist in preventing key pullout on certain keycodes. Profile of sidebar to be domed as opposed to flat and overall height to be increased by 0.23mm."

482. According to PRTS N 183836, this "solution fix[ed] the problem" going forward. An entry in Problem Resolution made on March 2, 2007 stated: "There were no incidents of the key coming out of the ignition cylinder in the run position during a review of thirty vehicles…." A "Summary" in Problem Resolution stated: "Because there were no incidents of the key coming out of the ignition cylinder in the run position during a review of thirty vehicles[,] this PRTS issue should be closed." PRTS N 183836 was the only PRTS discussed at the April 3, 2014, Decision Committee meeting, although it is not the only engineering or field report relating to potential key pullout issues.

483. This data led the Decision Committee to conclude that 2003-2004 model year Saturn Ion vehicles and 2005 and some 2006 model year Chevrolet Cobalt vehicles failed to conform to FMVSS 114. In addition, the Decision Committee concluded that a defect related to motor vehicle safety existed, and decided to recall all vehicles covered by the first, second, and third ignition switch torque recalls to prevent unintended vehicle motion potentially caused by key pullout issues that could result in a vehicle crash and occupant or pedestrian injuries. For

vehicles that were built with a defective ignition cylinder that have not previously had the ignition cylinder replaced with a redesigned part, the recall called for dealers to replace the ignition cylinder and provide two new ignition/door keys for each vehicle.

**b. Ignition lock cylinder defect affecting over 200,000 additional GM-branded vehicles.**

484. On August 7, 2014, New GM recalled 202,155 MY 2002-2004 Saturn Vue vehicles.[74] In the affected vehicles, the ignition key can be removed when the vehicle is not in the "off" position.[75] If this happens, the vehicle can roll away, increasing the risk for a crash and occupant or pedestrian injuries.[76]

485. Following New GM's April 9, 2014 recall announcement regarding ignition switch defects, New GM reviewed field and warranty data for potential instances of ignition cylinders that permit the operator to remove the ignition key when the key is not in the "off" position in other vehicles outside of those already recalled.[77] New GM identified 152 reports of vehicle roll away and/or ignition keys being removed when the key is not in the "off" position in the 2002-2004 MY Saturn Vue vehicles.[78]

486. After reviewing this data with NHTSA on June 17, 2014, July 7, 2014, and July 24, 2014, GM instituted a safety recall on July 31, 2014.[79]

[74] *See* August 7, 2014 Letter from New GM to NHTSA.

[75] *Id.*

[76] *Id.*

[77] *Id.*

[78] *Id.*

[79] *Id.*

**2. Defects affecting the occupant safety restraint system in GM-branded vehicles.**

**a. Safety defects of the airbag systems of GM-branded vehicles.**

**(1) Wiring harness defect.**

487. On March 17, 2014, New GM recalled nearly 1.2 million model year 2008-2013 Buick Enclave, 2009-2013 Chevrolet Traverse, 2008-2013 GMC Acadia, and 2008-2010 Saturn Outlook vehicles for a dangerous defect involving airbags and seatbelt pretensioners.

488. The affected vehicles were sold with defective wiring harnesses. Increased resistance in the wiring harnesses of driver and passenger seat-mounted, side-impact airbag in the affected vehicles may cause the side impact airbags, front center airbags, and seat belt pretensioners to not deploy in a crash. The vehicles' failure to deploy airbags and pretensioners in a crash increases the risk of injury and death to the drivers and front-seat passengers.

489. Once again, New GM knew of the dangerous airbag defect long before it took anything approaching the requisite remedial action.

490. As the wiring harness connectors in the side impact airbags corrode or loosen over time, resistance will increase. The airbag sensing system will interpret this increase in resistance as a fault, which then triggers illumination of the "SERVICE AIR BAG" message on the vehicle's dashboard. This message may be intermittent at first and the airbags and pretensioners will still deploy. But over time, the resistance can build to the point where the SIABs, pretensioners, and front center airbags will not deploy in the event of a collision.[80]

491. The problem apparently arose when Old GM made the change from using gold-plated terminals to connect its wire harnesses to cheaper tin terminals in 2007.

[80] *See* New GM Notice to NHTSA dated March 17, 2014, at 1.

492. In June 2008, Old GM noticed increased warranty claims for airbag service on certain of its vehicles and determined it was due to increased resistance in airbag wiring. After analysis of the tin connectors in September 2008, Old GM determined that corrosion and wear to the connectors was causing the increased resistance in the airbag wiring. It released a technical service bulletin on November 25, 2008, for 2008-2009 Buick Enclave, 2009 Chevy Traverse, 2008-2009 GMC Acadia, and 2008-2009 Saturn Outlook models, instructing dealers to repair the defect by using Nyogel grease, securing the connectors, and adding slack to the line. Old GM also began the transition back to gold-plated terminals in certain vehicles. At that point, Old GM suspended all investigation into the defective airbag wiring and took no further action.[81]

493. In November 2009, New GM learned of similar reports of increased airbag service messages in 2010 Chevy Malibu and 2010 Pontiac G6 vehicles. After investigation, New GM concluded that corrosion and wear in the same tin connector was the root of the airbag problems in the Malibu and G6 models.[82]

494. In January 2010, after review of the Malibu and G6 airbag connector issues, New GM concluded that ignoring the service airbag message could increase the resistance such that a side impact airbag might not deploy in a side impact collision. On May 11, 2010, New GM issued a Customer Satisfaction Bulletin for the Malibu and G6 models and instructed dealers to secure both front seat-mounted, side-impact airbag wire harnesses and, if necessary, reroute the wire harness.[83]

495. From February to May 2010, New GM revisited the data on vehicles with faulty harness wiring issues, and noted another spike in the volume of the airbag service warranty

[81] *See* New GM Notification Campaign No. 14V-118 dated March 31, 2014, at 1-2.

[82] *Id.* at 2.

[83] *Id.*

claims. This led New GM to conclude that the November 2008 bulletin was "not entirely effective in correcting the [wiring defect present in the vehicles]." On November 23, 2010, New GM issued another Customer Satisfaction Bulletin for certain 2008 Buick Enclave, 2008 Saturn Outlook, and 2008 GMC Acadia models built from October 2007 to March 2008, instructing dealers to secure side impact airbag harnesses and re-route or replace the side impact airbag connectors.[84]

496. New GM issued a revised Customer Service Bulletin on February 3, 2011, requiring replacement of the front seat-mounted side-impact airbag connectors in the same faulty vehicles mentioned in the November 2010 bulletin. In July 2011, New GM again replaced its connector, this time with a Tyco-manufactured connector featuring a silver-sealed terminal.[85]

497. But in 2012, New GM noticed another spike in the volume of warranty claims relating to side impact airbag connectors in vehicles built in the second half of 2011. After further analysis of the Tyco connectors, it discovered that inadequate crimping of the connector terminal was causing increased system resistance. In response, New GM issued an internal bulletin for 2011-2012 Buick Enclave, Chevy Traverse, and GMC Acadia vehicles, recommending dealers repair affected vehicles by replacing the original connector with a new sealed connector.[86]

498. The defect was still uncured, however, because in 2013 New GM again noted an increase in service repairs and buyback activity due to illuminated airbag service lights. On October 4, 2013, New GM opened an investigation into airbag connector issues in 2011-2013

[84] *See id.* at 3.

[85] *See id.*

[86] *See id.* at 4.

Buick Enclave, Chevy Traverse, and GMC Acadia models. The investigation revealed an increase in warranty claims for vehicles built in late 2011 and early 2012.[87]

499. On February 10, 2014, New GM concluded that corrosion and crimping issues were again the root cause of the airbag problems.[88]

500. New GM initially planned to issue a less-urgent Customer Satisfaction Program to address the airbag flaw in the 2010-2013 vehicles. But it wasn't until a call with NHTSA on March 14, 2014, that New GM finally issued a full-blown safety recall on the vehicles with the faulty harness wiring—years after it first learned of the defective airbag connectors, after four investigations into the defect, and after issuing at least six service bulletins on the topic. The recall as first approved covered only 912,000 vehicles, but on March 16, 2014, it was increased to cover approximately 1.2 million vehicles.[89]

501. On March 17, 2014, New GM issued a recall for 1,176,407 vehicles potentially afflicted with the defective airbag system. The recall instructs dealers to remove driver and passenger SIAB connectors and splice and solder the wires together.[90]

**(2) Driver-side airbag shorting-bar defect.**

502. On June 5, 2014, New GM issued a safety recall of 38,636 MY 2012 Chevrolet Cruze, 2012 Chevrolet Camaro, 2012 Chevrolet Sonic, and 2012 Buick Verano vehicles with a driver's airbag shorting bar defect.

503. In the affected vehicles, the driver side frontal airbag has a shorting bar which may intermittently contact the airbag terminals. If the bar and terminals are contacting each other at the time of a crash, the airbag will not deploy, increasing the driver's risk of injury. New

[87] *See id.*

[88] *See id.* at 5.

[89] *See id*.

[90] *See id*.

GM admits awareness of one crash with an injury where the relevant diagnostic trouble code was found at the time the vehicle was repaired. New GM is aware of other crashes involving these vehicles where airbags did not deploy but claims not to know if they were related to this defect.

504. New GM knew about the driver's airbag shorting bar defect in 2012. In fact, New GM conducted two previous recalls in connection with the shorting bar defect condition involving 7,116 vehicles—one on October 31, 2012, and one on January 24, 2013.[91] Yet it would take New GM nearly two years to finally order a broader recall.

505. On May 31, 2013, after New GM's two incomplete recalls, NHTSA opened an investigation into reports of allegations of the non-deployment of air bags. New GM responded to this investigation on September 13, 2013.

506. On November 1, 2013, NHTSA questioned New GM about: (i) the exclusion of 390 vehicles which met the criteria for the two previous safety recalls; (ii) the 30-day in-service cutoff used for the recall population of one previous recall; and (iii) twelve additional build days which, as of the June 2013 data pull in the investigation, had an elevated warranty rate. In response to NHTSA's concerns, New GM added additional vehicles to the recall.

507. After announcement of the initial ignition switch torque defect in February and March of 2014, New GM re-examined its records relating to the driver's airbag shorting defect. This review finally prompted New GM to expand the recall population on May 29, 2014—***long after the problem should have been remedied.***

**(3) Driver-side airbag inflator defect.**

508. On June 25, 2014, New GM recalled 29,019 MY 2013-2014 Chevrolet Cruze vehicles with a driver-side airbag inflator defect.

[91] *See* New GM's Letters to NHTSA dated 10/31/2012 and 1/24/2013, respectively.

509. In the affected vehicles, the driver's front airbag inflator may have been manufactured with an incorrect part. In the event of a crash necessitating deployment of the driver-side airbag, the airbag's inflator may rupture and the airbag may not inflate. The rupture could cause metal fragments to strike and injure the vehicle's occupants. Additionally, if the airbag does not inflate, the driver will be at increased risk of injury.[92]

510. New GM was named in a lawsuit on or about May 1, 2014 involving a 2013 Chevrolet Cruze and an improperly deployed driver-side airbag that caused an injury to the driver.[93] The lawsuit prompted an inspection of "the case vehicle," the assignment of a New GM Product Investigations engineer, and discussions with NHTSA.[94]

511. Meanwhile, the airbag supplier, Takata Corporation/TK Holdings Inc., conducted its own analysis. New GM removed airbags with "build dates near the build date of the case vehicle," and sent them to Takata.[95] Subsequently, on June 20, 2014, Takata informed New GM it had "discovered [the] root cause" of the driver-side airbag defect through analysis of one of the airbags sent by New GM.[96]

512. Shortly thereafter, on June 23, 2014, New GM decided to conduct a safety recall.[97]

**(4) Roof-rail airbag defect.**

513. On June 18, 2014, New GM recalled 16,932 MY 2011 Cadillac CTS vehicles with a roof-rail airbag defect.

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[92] *See* New GM's Letter to NHTSA dated June 25, 2014.

[93] *Id.*

[94] *Id.*

[95] *Id.*

[96] *Id.*

[97] *Id.*

514. In the affected vehicles, vibrations from the drive shaft may cause the vehicle's roll over sensor to command the roof rail airbags to deploy. If the roof rail airbags deploy unexpectedly, there is an increased risk of crash and injury to the occupants.[98]

515. According to New GM, the defect is caused by a loss of grease from the center constant velocity joint; the loss of grease causes vibrations of the propeller shaft that are transferred to the roll over sensor in the vehicle floor above the shaft. The vibrations can cause the deployment of the roof rail airbags.[99]

516. On October 28, 2010, a new supplier began shipping propeller shafts for MY 2011 Cadillac CTS vehicles; these propeller shafts used a metal gasket from the constant velocity joint (as opposed to the liquid sealing system used by the previous supplier).[100] ***This new metal gasket design was not validated or approved by New GM***.[101]

517. On June 27, 2011, a Problem Resolution Tracking System (PRTS) was opened concerning this defect. The PRTS resulted in the "purge" of the metal gasket design.[102] Then, on August 1, 2011, New GM issued an Engineering Work Order banning the metal gasket design, and mandating the use of the liquid sealing system. Yet New GM "closed the investigation without action in October 2012."[103]

518. Inexplicably, New GM waited until June of 2014 before finally recalling the affected vehicles.

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[98] *See* June 18, 2014 New GM Letter to NHTSA.

[99] *Id.*

[100] *Id.*

[101] *Id.*

[102] *Id.*

[103] *Id.*

**(5) Passenger-side airbag defect.**

519. On May 16, 2014, GM recalled 1,953 MY 2015 Cadillac Escalade and Escalade ESV vehicles with a passenger-side airbag defect.

520. The affected vehicles do not conform to Federal Motor Vehicle Safety Standard number 208, "Occupant Crash Protection." In these vehicles, the airbag module is secured to a chute adhered to the backside of the instrument panel with an insufficiently heated infrared weld. As a result, the front passenger-side airbag will only partially deploy in the event of crash, and this will increase the risk of occupant injury.[104]

521. On April 28, 2014, during product validation testing of the "Platinum" Escalade (a planned interim 2015 model), the passenger-side front airbag did not properly deploy.[105] New GM then obtained information from the supplier Johnson Controls Inc. concerning the portion of the Escalade instrument panel through which the frontal airbag deploys.[106] In particular, New GM requested information on chute weld integrity.[107]

522. On May 13, 2014, Johnson Controls informed New GM engineering that it had modified its infrared weld process on April 2, 2014 and "corrected" that process on April 29, 2014. New GM claims that it was unaware of the changes until May 13, 2014.[108]

523. On May 14, 2014, the Decision Committee decided to conduct a "noncompliance recall." On May 16, 2014, GM obtained a list of suspected serial numbers from Johnson Controls, which GM then matched to VINs through records obtained from the scanning process

[104] *See* May 16, 2014 Letter from New GM to NHTSA.

[105] *See* May 27, 2014 Letter from New GM to NHTSA.

[106] *Id.*

[107] *Id.*

[108] *Id.*

used during instrument panel sub-assembly.[109] A recall notice was issued on May 16, 2014 for 1,953 vehicles, each of which will have the Johnson Controls part replaced.[110]

524. Subsequently, GM discovered errors in the scanning process, and decided to expand the recall population to include any VINs that could have received parts bearing the suspect Johnson Controls serial numbers.[111] GM therefore issued a second recall notice on May 27, 2014. With respect to this second set of 885 vehicles, they will be inspected to see if they were made with Johnson Controls parts bearing suspect serial numbers. If they are, the part will be replaced.[112]

**(6) Sport seat side-impact airbag defect.**

525. On June 18, 2014, New GM issued a safety recall for 712 MY 2014 Chevrolet Corvette vehicles with a sport seat side-impact airbag defect.

526. The affected vehicles do not meet a Technical Working Group Side Airbag Injury Assessment Reference Value specifications for protecting unbelted, out-of-position young children from injury. In a crash necessitating side impact airbag deployment, an unbelted, out-of-position three-year-old child may be at an increased risk of neck injury.

**(7) Passenger-side airbag inflator defect.**

527. On June 5, 2014, New GM recalled 61 MY 2013 Chevrolet Spark and 2013 Buick Encore vehicles with a passenger side airbag inflator defect.

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[109] *Id.*

[110] *Id.*

[111] *Id.*

[112] *Id.*

528. In the affected vehicles, because of an improper weld, the front passenger airbag end cap could separate from the airbag inflator. This can prevent the airbag from deploying properly, and creates an increased risk of injury to the front passenger.[113]

529. New GM was alerted to this issue on July 10, 2013, when a customer brought an affected vehicle into a dealership with "an airbag readiness light 'ON' condition."[114] After replacing the side frontal airbag, the dealer shipped the original airbag to New GM for warranty analysis.

530. In September 2013, New GM "noted" the "weld condition of the end cap." New GM then sent the airbag to the airbag supplier, S&T Motive, who sent it on to the inflator supplier, ARC Automotive Inc., for "root cause" analysis.[115] S&T and ARC did not conclude their analysis until April 2014.[116]

531. Based upon the information provided by S&T and ARC, in May 2014 New GM Engineering linked the defect to inflators produced on December 17, 2012. ARC records show that on that date, an inflator end cap separated during testing, but that ARC nonetheless shipped quarantined inflators to S&T where they were used in passenger side frontal airbags beginning on December 29, 2012.[117]

532. On May 29, 2014—nearly one year after being presented with a faulty airbag—New GM's Safety Field Action Committee finally decided to conduct a safety recall.[118]

[113] *See* June 5, 2014 Letter from New GM to NHTSA.

[114] *Id.*

[115] *Id.*

[116] *Id.*

[117] *Id.*

[118] *Id.*

**(8) Front passenger airbag defect.**

533. On March 17, 2014, New GM issued a noncompliance recall of 303,013 MY 2009-2014 GMC Savana vehicles with a passenger-side instrument panel defect.[119]

534. In the affected vehicles, in certain frontal impact collisions below the airbag deployment threshold, the panel covering the airbag may not sufficiently absorb the impact of the collision. These vehicles therefore do not meet the requirements of Federal Motor Vehicle Safety Standard number 201, "Occupant Protection in Interior Impact."[120]

535. The defect apparently arose in early 2009, when the passenger-side airbag housing was changed from steel to plastic.[121] Inexplicably, New GM did not act to remedy this defect until March of 2014.

**b. Safety defects of the seat belt systems in GM-branded vehicles.**

**(1) Seat belt connector cable defect.**

536. On May 20, 2014, New GM issued a safety recall for nearly 1.4 million model year 2009-2014 Buick Enclave, 2009-2014 Chevrolet Traverse, 2009-2014 GMC Acadia, and 2009-2010 Saturn Outlook vehicles with a dangerous safety belt defect.

537. In the affected vehicles, "[t]he flexible steel cable that connects the safety belt to the vehicle at the outside of the front outside of the front outboard seating positions can fatigue and separate over time as a result of occupant movement into the seat. In a crash, a separated cable could increase the risk of injury to the occupant."[122]

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[119] *See* March 31, 2014 Letter from New GM to NHTSA.

[120] *Id.*

[121] *Id.*

[122] *See* New GM Notice to NHTSA dated May 19, 2014, at 1.

538. New GM waited more than two years after learning about this defect before disclosing it or remedying it.[123] This delay is consistent with New GM's long period of concealment of the other defects as set forth above.

539. New GM first learned of the seat belt defect no later than February 10, 2012, when a dealer reported that a seat belt buckle separated from the anchor at the attaching cable in a 2010 GMC Acadia.[124] On March 7, 2012, after notification and analysis of the returned part, the supplier determined the problem was caused by fatigue of the cable.[125]

540. On April 20, 2012, New GM received another part exhibiting the defect from a dealership.[126] New GM also did a warranty analysis that turned up three additional occurrences of similar complaints.[127] But New GM did not order a field review until June 4, 2012.[128] The review, on June 11, 2012, covered just 68 vehicles, and turned up no cable damage.[129]

541. New GM received another part exhibiting the defect on August 28, 2013, from GM Canada Product Investigations.[130] After further testing in October 2013, New GM duplicated the defect condition, determining that, in some seat positions, the sleeve can present the buckle in a manner that can subject the cable to bending during customer entry into the vehicle.[131] New GM duplicated the condition again in a second vehicle in November 2013.[132] And then just a month later, on December 18, 2013, New GM received another part exhibiting

[123] *See* New GM Notice to NHTSA dated May 30, 2014, at 1-3.

[124] *Id.* at 1.

[125] *Id.* at 2.

[126] *Id.*

[127] *Id.*

[128] *Id.*

[129] *Id.*

[130] *Id.*

[131] *Id.*

[132] *Id.*

the condition from GM Canada Product Investigations.[133] But still New GM did not issue a safety recall.

542. Further testing between February and April 2014 confirmed the defect resulted from fatigue of the cable.[134] This was the same root cause New GM identified as early as March 7, 2012. Finally, on April 14, 2014, these findings were turned over to New GM Product Investigations and assigned an investigation number.[135]

543. On May 19, 2014, New GM decided to conduct a recall of the affected vehicles.[136]

**(2) Seat belt retractor defect.**

544. On June 11, 2014, New GM recalled 28,789 MY 2004-2011 Saab 9-3 Convertible vehicles with a seat belt retractor defect.

545. In the affected vehicles, the driver's side front seat belt retractor may break, causing the seat belt webbing spooled out by the user not to retract.[137] In the event of a crash, a seat belt that has not retracted may not properly restrain the seat occupant, increasing the risk of injury to the driver.[138]

546. By September of 2009 New GM was aware of an issue with seat belt retractors in MY 2004 Saab 9-3 vehicles; at that time, NHTSA informed New GM that it received 5 Vehicle Owner Questionnaires "alleging that the driver seat belt will no longer retract on 2004 Saab 0-3

[133] *Id.*

[134] *Id.*

[135] *Id.*

[136] New GM Notice to NHTSA dated May 19, 2014, at 1.

[137] *See* New GM's June 11, 2013 Letter to NHTSA.

[138] *See id.*

vehicles built after September 30, 2003."[139] In December 2009-January 2010, New GM conducted a survey "of customers who had a retractor replaced to determine how many were due" to a break in the Automatic Tensioning System that causes "webbing spooled out by the user not to retract."[140]

547. On February 9, 2010, New GM issued a recall for the driver side retractor, but only in certain MY 2004 Saab 9-3 sedans—some 14,126 vehicles.[141] New GM would wait another four years before attempting to address the full scope of the seatbelt retractor defect in Saab 9-3 vehicles.

548. New GM finally opened an investigation into the seat belt retractor defect in other Saab 9-3 vehicles in February of this year, and that was "in response to NHTSA Vehicle Owner Questionnaires claiming issues with the driver side front seat belt retractor" in the affected vehicles.[142] As a result, New GM eventually recalled 28,789 MY 2004-2011 Saab 9-3 convertible vehicles on June 11, 2014.

**(3) Frontal lap-belt pretensioner defect.**

549. On August 7, 2014, New GM recalled 48,059 MY 2013 Cadillac ATS and 2013 Buick Encore vehicles with a defect in the front lap-belt pretensioners.[143]

550. In the affected vehicles, the driver and passenger lap-belt pretensioner cables may not lock in a retracted position; that allows the seat belts to extend when pulled upon.[144] If the

[139] *See* New GM's February 9, 2010 Letter to NHTSA.

[140] *Id.*

[141] *Id.*

[142] *See* New GM's June 11, 2013 Letter to NHTSA.

[143] *See* August 7, 2014 Letter from New GM to NHTSA.

[144] *Id.*

seat belts do not remain locked in the retracted position, the seat occupant may not be adequately restrained in a crash, increasing the risk of injury.[145]

551. In July 2012, GM Korea learned that the lap-belt pretensioner cable and seat belt webbing slipped out after being retracted.[146] Several months later, New GM changed the rivet position on the pretensioner bracket and the design of the pretension mounting bolt.[147] This change was made after New GM started production on the 2013 MY Buick Encore.[148]

552. In October 2012, New GM testing on a pre-production 2014 MY Cadillac CTS revealed that the driver side front seat belt anchor pretensioner cables retracted upon deployment to pull in the lap-belt webbing, as intended, but did not lock in that position; that allowed the retracted webbing to return ("pay out") to its original position under loading, which was not intended.[149]

553. On November 13, 2012, New GM modified the design of the lap-belt pretensioner for the Cadillac CTS, Cadillac ATS, and Cadillac ELR vehicles to include a modified bolt, relocation of a rivet in the cam housing to reposition the locking cam, and a change in torque of the lap-belt pretensioner bolt to seat.[150] These changes were implemented in the 2014 MY Cadillac CTS and Cadillac ELR, but not in the 2013 MY Cadillac ATS.[151]

554. Despite making these adjustments to later MY vehicles only, New GM did not launch an investigation into the performance of the lap-belt pretensioners in the 2013 MY Buick

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[145] *Id.*

[146] *See* August 21, 2014 Letter from New GM to NHTSA.

[147] *Id.*

[148] *Id.*

[149] *Id.*

[150] *Id.*

[151] *Id.*

Encore and Cadillac ATS until mid-April, 2013.[152] New GM claims that during this year-long investigation period it found no issues potentially relating to the pay out of the lap-belt pretensioners.[153]

555. Nonetheless, New GM decided to issue a safety recall for the affected vehicles on July 31, 2014.[154] It later expanded the recall by 55 additional vehicles, to a total population of 48,114, on August 19, 2014.[155]

**3. Safety defects affecting seats in GM-branded vehicles.**

556. On July 22, 2014, New GM issued a safety recall of 414,333 MY 2010-2012 Chevrolet Equinox, MY 2011-2012 Chevrolet Camaro, MY 2010-2012 Cadillac SRX, MY 2010-2012 GMC Terrain, MY 2011-2012 Buick Regal, and MY 2011-2012 Buick LaCrosse vehicles with a power height adjustable seats defect.[156]

557. In the affected vehicles, the bolt that secures the height adjuster in the driver and front passenger seats may become loose or fall out. If the bolt falls out, the seat will drop suddenly to the lowest vertical position. The sudden drop can affect the driver's ability to safely operate the vehicle, and can increase the risk of injury to the driver and the front-seat passenger if there is an accident. New GM admits to knowledge of at least one crash caused by this defect.[157]

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[152] *Id.*

[153] *Id.*

[154] *Id.*

[155] *Id.*

[156] *See* July 22, 2014 Letter from New GM to NHTSA.

[157] *Id.*

558. New GM was aware of this defect by July 10, 2013 when the crash occurred, and by July 22, 2013, New GM was aware that the crash was caused when the bolt on the height adjuster fell out.[158]

559. By September 5, 2013, New GM was aware of 27 cases of loose or missing height adjuster bolts in Camaro vehicles.[159] Yet New GM waited until July 15, 2014 before it made the decision to conduct a safety recall.

**4. Safety defects affecting the brakes in GM-branded vehicles.**

**a. Brake light defect.**

560. On May 14, 2014, New GM issued a safety recall of approximately 2.4 million model year 2004-2012 Chevrolet Malibu, 2004-2007 Malibu Maxx, 2005-2010 Pontiac G6, and 2007-2010 Saturn Aura vehicles with a dangerous brake light defect.

561. In the affected vehicles, the brake lamps may fail to illuminate when the brakes are applied or illuminate when the brakes are not engaged; the same defect can disable cruise control, traction control, electronic stability control, and panic brake assist operation, thereby increasing the risk of collisions and injuries.[160]

562. Once again, New GM knew of the dangerous brake light defect for years before it took anything approaching the requisite remedial action. In fact, although the brake light defect has caused at least 13 crashes since 2008, New GM did not recall all 2.4 million vehicles with the defect until May 2014.

563. According to New GM, the brake defect originates in the Body Control Module connection system. "Increased resistance can develop in the [Body Control Module] connection

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[158] *Id.*

[159] *Id.*

[160] *See* New GM Notification Campaign No. 14V-252 dated May 28, 2014, at 1.

system and result in voltage fluctuations or intermittency in the Brake Apply Sensor (BAS) circuit that can cause service brakes lamp malfunction."[161] The result is brake lamps that may illuminate when the brakes are not being applied and may not illuminate when the brakes are being applied.[162]

564. The same defect can also cause the vehicle to get stuck in cruise control if it is engaged, or cause cruise control to not engage, and may also disable the traction control, electronic stability control, and panic-braking assist features.[163]

565. New GM now acknowledges that the brake light defect "may increase the risk of a crash."[164]

566. As early as September 2008, NHTSA opened an investigation for MY 2005-2007 Pontiac G6 vehicles involving allegations that the brake lights may turn on when the driver does not depress the brake pedal and may ***not*** turn on when the driver ***does*** depress the brake pedal.[165]

567. During its investigation of the brake light defect in 2008, Old GM found elevated warranty claims for the brake light defect for MY 2005 and 2006 vehicles built in January 2005, and found "fretting corrosion in the [Body Control Module] C2 connector was the root cause" of the problem.[166] Old GM and its part supplier Delphi decided that applying dielectric grease to the [Body Control Module] C2 connector would be "an effective countermeasure to the fretting

[161] *Id.*

[162] *Id.*

[163] *Id.*

[164] *Id.*

[165] *Id.* at 2.

[166] *Id.*

corrosion."[167] Beginning in November of 2008, the Company began applying dielectric grease in its vehicle assembly plants.[168]

568. On December 4, 2008, Old GM issued a Technical Service Bulletin recommending the application of dielectric grease to the Body Control Module C2 connector for the MY 2005-2009 Pontiac G6, 2004-2007 Chevrolet Malibu/Malibu Maxx, 2008 Malibu Classic, and 2007-2009 Saturn Aura vehicles.[169] One month later, in January 2009, Old GM recalled only a small subset of the vehicles with the brake light defect—8,000 MY 2005-2006 Pontiac G6 vehicles built during the month of January 2005.[170]

569. Not surprisingly, the brake light problem was far from resolved.

570. In October 2010, New GM released an updated Technical Service Bulletin regarding "intermittent brake lamp malfunctions," and added MY 2008-2009 Chevrolet Malibu/Malibu Maxx vehicles to the list of vehicles for which it recommended the application of dielectric grease to the Body Control Module C2 connector.[171]

571. In September of 2011, New GM received an information request from Canadian authorities regarding brake light defect complaints in vehicles that had not yet been recalled. Then, in June 2012, NHTSA provided New GM with additional complaints "that were outside of the build dates for the brake lamp malfunctions on the Pontiac G6" vehicles that had been recalled.[172]

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[167] *Id.*

[168] *Id* at 3.

[169] *Id.* at 2.

[170] *Id.*

[171] *Id.*

[172] *Id.*

572. In February of 2013, NHTSA opened a "Recall Query" in the face of 324 complaints "that the brake lights do not operate properly" in Pontiac G6, Malibu, and Aura vehicles that had not yet been recalled.[173]

573. In response, New GM asserts that it "investigated these occurrences looking for root causes that could be additional contributors to the previously identified fretting corrosion," but that it continued to believe that "fretting corrosion in the [Body Control Module] C2 connector" was the "root cause" of the brake light defect.[174]

574. In June of 2013, NHTSA upgraded its "Recall Query" concerning brake light problems to an "Engineering Analysis."[175]

575. In August 2013, New GM found an elevated warranty rate for Body Control module C2 connectors in vehicles built *after* Old GM had begun applying dielectric grease to Body Control Module C2 connectors at its assembly plants in November of 2008.[176] In November of 2013, New GM concluded that "the amount of dielectric grease applied in the assembly plant starting November 2008 was insufficient…."[177]

576. Finally, in March of 2014, "[New] GM engineering teams began conducting analysis and physical testing to measure the effectiveness of potential countermeasures to address fretting corrosion. As a result, New GM determined that additional remedies were needed to address fretting corrosion."[178]

577. On May 7, 2014, New GM finally decided to conduct a safety recall.

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[173] *Id.* at 3.

[174] *Id.*

[175] *Id.*

[176] *Id.*

[177] *Id.*

[178] *Id.* at 4.

578. According to New GM, "Dealers are to attach the wiring harness to the [Body Control Module] CM with a spacer, apply dielectric lubricant to both the [Body Control Module] CR and harness connector, and on the BAS and harness connector, and relearn the brake pedal home position."[179]

579. New GM sat on and concealed its knowledge of the brake light defect for years, and did not even consider available countermeasures (other than the application of grease that had proven ineffective) until March of this year.

**b. Brake booster pump defect.**

580. On March 17, 2014, New GM issued a safety recall of 63,903 MY 2013-2014 Cadillac XTS vehicles with a brake booster pump defect.

581. In the affected vehicles, a cavity plug on the brake boost pump connector may dislodge and allow corrosion of the brake booster pump relay connector. This can have an adverse impact on the vehicle's brakes and increase the risk of collision. This same defect can also cause a fire in the vehicle resulting from the electrical shore in the relay connector.

582. In June of 2013, New GM learned that a fire occurred in a 2013 Cadillac XTS vehicle while it was being transported between car dealerships. Upon investigation, New GM determined that the fire originated near the brake booster pump relay connector, but could not determine the "root cause" of the fire.

583. A second vehicle fire in a 2013 Cadillac XTS occurred in September of 2013. In November 2013, the same team of New GM investigators examined the second vehicle, but, again, could not determine the "root cause" of the fire.

[179] *Id.*

584. In December 2013, New GM identified two warranty claims submitted by dealers related to complaints by customers about vibrations in the braking system of their vehicles. The New GM team investigating the two prior 2013 Cadillac XTS fires inspected these parts and discovered the relay connector in both vehicles had melted.

585. In January 2014, New GM determined that pressure in the relay connector increased when the brake booster pump vent hose was obstructed or pinched. Further testing revealed that pressure from an obstructed vent hose could force out the cavity plugs in the relay connector, and in the absence of the plugs, water, and other contaminants can enter and corrode the relay connector, causing a short and leading to a fire or melting.

586. On March 11, 2014, New GM issued a safety recall for the affected vehicles.

**c. Hydraulic boost assist defect.**

587. On May 13, 2014, New GM recalled 140,067 model year 2014 Chevrolet Malibu vehicles with a hydraulic brake boost assist defect.[180]

588. In the affected vehicles, the "hydraulic boost assist" may be disabled; when that happens, slowing or stopping the vehicle requires harder brake pedal force, and the vehicle will travel a greater distance before stopping. Therefore, these vehicles do not comply with Federal Motor Vehicle Safety Standard number 135, "Light Vehicle Brake Systems," and are at increased risk of collision.[181]

**d. Brake rotor defect.**

589. On May 7, 2014, New GM recalled 8,208 MY 2014 Chevrolet Malibu and Buick LaCrosse vehicles with a brake rotor defect.

[180] *See* May 13, 2014 Letter from New GM to NHTSA.

[181] *Id.*

590. In the affected vehicles, New GM may have accidentally installed rear brake rotors on the front brakes. The rear rotors are thinner than the front rotors, and the use of rear rotors in the front of the vehicle may result in a front brake pad detaching from the caliper. The detachment of a break pad from the caliper can cause a sudden reduction in braking which lengthens the distance required to stop the vehicle and increases the risk of a crash.

**e. Reduced brake performance defect.**

591. On July 28, 2014, New GM recalled 1,968 MY 2009-2010 Chevrolet Aveo and 2009 Pontiac G3 vehicles.[182] Affected vehicles may contain brake fluid which does not protect against corrosion of the valves inside the anti-lock brake system module, affecting the closing motion of the valves.[183] If the anti-lock brake system valve corrodes it may result in longer brake pedal travel or reduced performance, increasing the risk of a vehicle crash.[184]

592. New GM was aware of this defect as far back as August 2012, when it initiated a customer satisfaction campaign.[185] The campaign commenced in November 2012, and New GM estimates that, to date, approximately 34% of Chevrolet Aveo and Pontiac G3 vehicles included in the customer satisfaction campaign are not yet repaired.[186] On July 19, 2014, New GM decided to conduct a safety recall for vehicles that had been included in the customer satisfaction program but had not had the service repair performed.[187]

[182] *See* July 28, 2014 Letter from New GM to NHTSA.

[183] *Id.*

[184] *Id.*

[185] *Id.*

[186] *Id.*

[187] *Id.*

**f. Parking brake defect.**

593. On September 20, 2014, GM recalled more than 221,000 MY 2014-15 Chevrolet Impala and 2013-15 model Cadillac XTS vehicles because of a parking-brake defect.

594. In the affected vehicles, the brake pads can stay partly engaged, which can lead to "excessive brake heat that may result in a fire," according to documents posted on the NHTSA website.

595. NHTSA said the fire risk stemmed from the rear brakes generating "significant heat, smoke and sparks." The agency also warned that drivers of the Affected Vehicles might experience "poor vehicle acceleration, undesired deceleration, excessive brake heat and premature wear to some brake components."

**5. Safety defects affecting the steering in GM-branded vehicles.**

**a. Sudden power-steering failure defect.**

596. Between 2003 and 2010, over 1.3 million GM-branded vehicles in the United States were sold with a safety defect that causes the vehicle's electric power steering ("power steering") to suddenly fail during ordinary driving conditions and revert back to manual steering, requiring greater effort by the driver to steer the vehicle and increasing the risk of collisions and injuries.

597. The affected vehicles are MY 2004-2006 and 2008-2009 Chevrolet Malibu, 2004-2006 Chevrolet Malibu Maxx, 2009-2010 Chevrolet HHR, 2010 Chevrolet Cobalt, 2005-2006 and 2008-2009 Pontiac G6, 2004-2007 Saturn Ion, and 2008-2009 Saturn Aura vehicles.

598. As with the ignition switch defects and many of the other defects, New GM was aware of the power steering defect long before it took anything approaching full remedial action.

599. When the power steering fails, a message appears on the vehicle's dashboard, and a chime sounds to inform the driver. Although steering control can be maintained through manual steering, greater driver effort is required, and the risk of an accident is increased.

600. In 2010, New GM first recalled Chevy Cobalt and Pontiac G5 models for these power steering issues, yet it did *not* recall the many other vehicles that had the very same power steering defect.

601. Documents released by NHTSA show that New GM waited years to recall nearly 335,000 Saturn Ions for power-steering failure—despite receiving nearly 4,800 consumer complaints and more than 30,000 claims for warranty repairs. That translates to a complaint rate of 14.3 incidents per thousand vehicles and a warranty claim rate of 9.1 percent. By way of comparison, NHTSA has described as "high" a complaint rate of 250 complaints per 100,000 vehicles.[188] Here, the rate translates to 1,430 complaints per 100,000 vehicles.

602. In response to the consumer complaints, in September 2011, NHTSA opened an investigation into the power-steering defect in Saturn Ions.

603. NHTSA database records show complaints from Ion owners as early as June 2004, with the first injury reported in May 2007.

604. NHTSA has linked approximately 12 crashes and two injuries to the power-steering defect in the Ions.

605. In September 2011, after NHTSA began to make inquiries about the safety of the Saturn Ion, GM acknowledged that it had received almost 3,500 customer reports claiming a sudden loss of power steering in 2004-2007 Ion vehicles.

[188] *See* https://www-odi.nhtsa.dot.gov/cars/problems/defect/-results.cfm?action_number=EA06002&Search Type= QuickSearch&summary=true.

606. The following month, New GM engineer Terry Woychowski informed current CEO Mary Barra—then head of product development—that there was a serious power-steering issue in Saturn Ions, and that it may be the same power steering issue that plagued the Chevy Cobalt and Pontiac G5. Ms. Barra was also informed of the ongoing NHTSA investigation. At the time, NHTSA reportedly came close to concluding that Saturn Ions should have been included in New GM's 2010 steering recall of Cobalt and G5 vehicles.

607. Instead of recalling the Saturn Ion, GM sent dealers a service bulletin in May of 2012 identifying complaints about the steering system in the vehicle.

608. By the time GM finally recalled the Saturn Ion—four years later, in March 2014—NHTSA had received more than 1,200 complaints about the vehicle's power steering. Similar complaints resulted in over 30,000 warranty claims with GM.

609. After announcing the March 31, 2014 recall, Jeff Boyer, New GM's Vice President of Global Vehicle Safety, acknowledged that New GM recalled some of these same vehicle models previously for the ***same issue***, but that New GM "did not do enough."

610. According to an analysis by the NEW YORK TIMES published on April 20, 2014, New GM has "repeatedly used technical service bulletins to dealers and sometimes car owners as stopgap safety measures instead of ordering a timely recall."

611. Former NHTSA head Joan Claybrook echoed this conclusion, stating, "There's no question that service bulletins have been used where recalls should have been."

612. NHTSA has recently criticized New GM for issuing service bulletins on at least four additional occasions in which a recall would have been more appropriate and in which New GM later, in fact, recalled the subject vehicles.

613. These inappropriate uses of service bulletins prompted Frank Borris, the top defect investigator for NHTSA, to write to New GM's product investigations director, Carmen Benavides, in July 2013, complaining that "GM is slow to communicate, slow to act, and, at times, requires additional effort . . . that we do not feel is necessary with some of [GM's] peers."

614. Mr. Borris' correspondence was circulated widely among New GM's top executives. Upon information and belief, the following employees received a copy: John Calabrese and Alicia Boler-Davis, two vice presidents for product safety; Michael Robinson, vice president of regulatory affairs; engineer Jim Federico; Gay Kent, director of product investigations who had been involved in safety issues with the Cobalt since 2006; and William Kemp, an in-house product liability lawyer.

**b. Power steering hose clamp defect.**

615. On June 18, 2014, New GM issued a safety recall of 57,192 MY 2015 Chevrolet Silverado 2500/3500 HD and 2015 GMC Sierra 2500/3500 HD vehicles with a power steering hose clamp defect.

616. In the affected vehicles, the power steering hose clamp may disconnect from the power steering pump or gear, causing a loss of power steering fluid. A loss of power steering fluid can result in a loss of power steering assist and power brake assist, increasing the risk of a crash.

**c. Power steering control module defect.**

617. On July 22, 2014, New GM recalled 57,242 MY 2014 Chevrolet Impala vehicles with a Power Steering Control Module defect.

618. Drivers of the affected vehicles may experience reduced or no power steering assist at start-up or while driving due to a poor electrical ground connection to the Power Steering Control Module. If power steering is lost, the vehicle will revert to manual steering

mode. Manual steering requires greater driver effort and increases the risk of accident. New GM acknowledges one crash related to this condition.

619. On May 17, 2013, New GM received a report of a 2014 Impala losing communication with the Power Steering Control Module. On or about May 24, 2013, New GM determined the root cause was a poor electrical connection at the Power Steering Control Module grounding stud wheelhouse assembly.

620. But New GM's initial efforts to implement new procedures and fix the issue were unsuccessful. In January 2014, New GM reviewed warranty data and discovered 72 claims related to loss of assist or the Service Power Steering message after implementation of New GM's process improvements.

621. Then, on February 25, 2014, New GM received notice of a crash involving a 2014 Impala that was built in 2013. The crash occurred when the Impala lost its power steering, and crashed into another vehicle as a result.

622. In response, New GM monitored field and warranty data related to this defect and, as of June 24, 2014, it identified 253 warranty claims related to loss of power steering assist or Service Power Steering messages.

623. On July 15, 2014, New GM finally issued a safety recall for the vehicles, having been unsuccessful in its efforts to minimize and conceal the defect.

**d. Lower control arm ball joint defect.**

624. On July 18, 2014, New GM issued a safety recall of 1,919 MY 2014-2015 Chevrolet Spark vehicles with a lower control arm ball joint defect.

625. The affected vehicles were assembled with a lower control arm bolt not fastened to specification. This can cause the separation of the lower control arm from the steering

knuckle while the vehicle is being driven, and result in the loss of steering control. The loss of steering control in turn creates a risk of accident.[189]

**e. Steering tie-rod defect.**

626. On May 13, 2014, New GM issued a safety recall of 477 MY 2014 Chevrolet Silverado, 2014 GMC Sierra, and 2015 Chevrolet Tahoe vehicles with a steering tie-rod defect.

627. In the affected vehicles, the tie-rod threaded attachment may not be properly tightened to the steering gear rack. An improperly tightened tie-rod attachment may allow the tie-rod to separate from the steering rack and greatly increases the risk of a vehicle crash.[190]

**f. Joint fastener torque defect.**

628. On June 30, 2014, New GM issued a safety recall of 106 MY 2014 Chevrolet Camaro, 2014 Chevrolet Impala, 2014 Buick Regal, and 2014 Cadillac XTS vehicles with a joint fastener torque defect.

629. In the affected vehicles, joint fasteners were not properly torqued to specification at the assembly plant. As a result of improper torque, the fasteners may "back out" and cause a "loss of steering," increasing the risk of a crash.[191]

630. New GM claims that it was alerted to the problem by a warranty claim filed on December 23, 2013, at a California dealership for a Chevrolet Impala built at New GM's Oshawa car assembly plant in Ontario, Canada. Yet the Oshawa plant was not informed of the issue until March 4, 2014.[192]

631. Between March 4 and March 14, 2014, the Oshawa plant conducted a "root cause" investigation and concluded that the problem was caused by an improperly fastened

[189] *See* July 18, 2014 Letter from New GM to NHTSA.

[190] *See* May 27, 2014 Letter from New GM to NHTSA.

[191] *See* July 2, 2014 Letter from New GM to NHTSA.

[192] *Id.*

"Superhold" joint. Though the Impala was electronically flagged for failing to meet the requisite torque level, the employee in charge of correcting the torque level failed to do so.[193]

632. On or about March 14, 2014, New GM learned of two more warranty claims concerning improperly fastened Superhold joints. Both of the vehicles were approved by the same employee who had approved the corrective action for the joint involved in the December 23, 2013 warranty claim. The two additional vehicles were also flagged for corrective action, but the employee failed to correct the problem.[194]

633. On March 20, 2014, New GM concluded the derelict employee had approved 112 vehicles after they were flagged for corrective action to the Superhold joint.[195]

634. Yet New GM waited until June 25, 2014 before deciding to conduct a safety recall.

**6. Safety defects affecting the powertrain in GM-branded vehicles.**

**a. Transmission shift cable defect affecting 1.1 million Chevrolet and Pontiac vehicles.**

635. On May 19, 2014, New GM issued a safety recall for more than 1.1 million MY 2007-2008 Chevrolet Saturn, 2004-2008 Chevrolet Malibu, 2004-2007 Chevrolet Malibu Maxx, and 2005-2008 Pontiac G6 vehicles with dangerously defective transmission shift cables.

636. In the affected vehicles, the shift cable may fracture at any time, preventing the driver from switching gears or placing the transmission in the "park" position. According to New GM, "[i]f the driver cannot place the vehicle in park, and exits the vehicle without applying the park brake, the vehicle could roll away and a crash could occur without prior warning."[196]

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[193] *Id.*

[194] *Id.*

[195] *Id.*

[196] *See* New GM letter to NHTSA Re: NHTSA Campaign No. 14V-224 dated May 22, 2014, at 1.

637. Yet again, New GM knew of the shift cable defect long before it issued the recent recall of more than 1.1 million vehicles with the defect.

638. In May of 2011, NHTSA informed New GM that it had opened an investigation into failed transmission cables in 2007 model year Saturn Aura vehicles. In response, New GM noted "a cable failure model in which a tear to the conduit jacket could allow moisture to corrode the interior steel wires, resulting in degradation of shift cable performance, and eventually, a possible shift cable failure."[197]

639. Upon reviewing these findings, New GM's Executive Field Action Committee conducted a "special coverage field action for the 2007-2008 MY Saturn Aura vehicles equipped with 4 speed transmissions and built with Leggett & Platt cables." New GM apparently chose that cut-off date because, on November 1, 2007, Kongsberg Automotive replaced Leggett & Platt as the cable provider.[198]

640. New GM did not recall any of the vehicles with the shift cable defect at this time, and limited its "special coverage field action" to the 2007-2008 Aura vehicles even though "the same or similar Leggett & Platt cables were used on … Pontiac G6 and Chevrolet Malibu (MMX380) vehicles."

641. In March 2012, NHTSA sent New GM an Engineering Assessment request to investigate transmission shift cable failures in 2007-2008 MY Aura, Pontiac G6, and Chevrolet Malibu.[199]

642. In responding to the Engineering Assessment request, New GM for the first time "noticed elevated warranty rates in vehicles built with Kongsberg shift cables." Similar to their

[197] *Id.* at 2.

[198] *Id.*

[199] *Id.*

predecessor vehicles built with Leggett & Platt shift cables, in the vehicles built with Kongsberg shift cables "the tabs on the transmission shift cable end may fracture and separate without warning, resulting in failure of the transmission shift cable and possible unintended vehicle movement."[200]

643. On September 13, 2012, the Decision Committee decided to conduct a safety recall. This initial recall was limited to 2008-2010 MY Saturn Aura, Pontiac G6, and Chevrolet Malibu vehicles with 4-speed transmission built with Kongsberg shifter cables, as well as 2007-2008 MY Saturn Aura and 2005-2007 MY Pontiac G6 vehicles with 4-speed transmissions which may have been serviced with Kongsberg shift cables.[201]

644. But the shift cable problem was far from resolved.

645. In March of 2013, NHTSA sent New GM a second Engineering Assessment concerning allegations of failure of the transmission shift cables on all 2007-2008 MY Saturn Aura, Chevrolet Malibu, and Pontiac G6 vehicles.[202]

646. New GM continued its standard process of "investigation" and delay. But by May 9, 2014, New GM was forced to concede that "the same cable failure mode found with the Saturn Aura 4-speed transmission" was present in a wide population of vehicles.[203]

647. Finally, on May 19, 2014, New GM decided to conduct a safety recall of more than 1.1 million vehicles with the shift cable defect.

**b. Transmission shift cable defect affecting Cadillac vehicles.**

648. On June 18, 2014, New GM issued a safety recall of 90,750 MY 2013-2014 Cadillac ATS and 2014 Cadillac CTS vehicles with a transmission shift cable defect.

[200] *Id.*

[201] *Id.*

[202] *Id.*

[203] *Id.*

649. In the affected vehicles, the transmission shift cable may detach from either the bracket on the transmission shifter or the bracket on the transmission. If the cable detaches while the vehicle is being driven, the transmission gear selection may not match the indicated gear and the vehicle may move in an unintended or unexpected direction, increasing the risk of a crash. Furthermore, when the driver goes to stop and park the vehicle, the transmission may not be in "PARK" even though the driver has selected the "PARK" position. If the vehicle is not in the "PARK" position, there is a risk the vehicle will roll away as the driver and other occupants exit the vehicle or anytime thereafter. A vehicle rollaway causes a risk of injury to exiting occupants and bystanders.

650. On March 20, 2014, a New GM dealership contacted an assembly plant about a detached transmission shift cable. The assembly plant investigated and discovered one additional detached shift cable in the plant.

651. New GM assigned a product investigation engineer was assigned, and from March 24 to June 2, 2014, New GM examined warranty claims and plant assembly procedures and performed vehicle inspections. Based on these findings, New GM issued a safety recall on June 11, 2014.

**c. Transmission oil cooler line defect.**

652. On March 31, 2014, New GM issued a safety recall of 489,936 MY 2014 Chevy Silverado, 2014 GMC Sierra, 2014 GMC Yukon, 2014 GMC Yukon XL, 2015 Chevy Tahoe, and 2015 Chevy Suburban vehicles with a transmission oil cooler line defect.

653. In the affected vehicles, the transmission oil cooler lines may not be securely seated in the fitting. This can cause transmission oil to leak from the fitting, where it can contact a hot surface and cause a vehicle fire.

654. On September 4, 2013, a New GM assembly plant in Silao, Mexico experienced two instances in which a transmission oil cooler line became disconnected from the thermal bypass valve in 2014 pick-up trucks on the K2XX platform during pressure tests. As a result, New GM required the supplier of the transmission oil cooler lines and thermal bypass valve assembly (collectively the "transmission oil cooler assembly") for these vehicles to issue a Quality Alert for its facility concerning the transmission oil cooler assemblies. The supplier sorted the over 3,000 TOC assemblies at its facility, performed manual pull checks and visual inspections, and found no defects.

655. New GM also conducted manual pull checks and visual inspections on the transmission oil cooler assemblies in the two New GM assembly plants responsible for the K2XX platform at the time (Silao, Mexico and Fort Wayne, Indiana), and identified no defects.

656. On September 19, 2013, the supplier provided New GM with a plan to ensure that the transmission oil cooler lines were properly connected to the thermal bypass valve going forward. In addition to continuing its individual pull tests to verify that these connections were secure, the supplier planned to add a manual alignment feature to the three machines that it used to connect the transmission oil cooler lines to the thermal bypass valve boxes. The supplier completed these upgrades on October 28, 2013.

657. On January 2, 2014, New GM's Product Investigations, Field Performance Assessment, and K2XX program teams received an investigator's report concerning a 2014 Chevrolet Silverado that caught fire during a test drive from a dealer in Gulfport, Mississippi on December 16, 2013. New GM's on-site investigation of the vehicle revealed that a transmission oil cooler line had disconnected from the thermal bypass valve box. The build date for this vehicle was October 10, 2013, and the build date for the transmission oil cooler assembly was

September 28, 2013, prior to the supplier's October 28, 2013 completion of its machinery upgrades.

658. On January 3, 2014, New GM issued a Quality Alert to its assembly plants for K2XX vehicles, advising them to manually inspect the transmission oil cooler assemblies from the supplier to ensure that the transmission oil cooler lines were securely connected. New GM also informed the supplier of the Mississippi event.

659. On January 15, 2014, New GM learned that a 2014 Chevrolet Silverado had recently caught fire while being driven by a dealer salesperson. New GM's investigation of the incident determined that one of the vehicle's transmission oil cooler lines was disconnected from the thermal bypass valve box. The vehicle was built on November 12, 2013.

660. On January 29, after completing its investigation, New GM followed up with its K2XX assembly plants, and found no additional cases involving disconnected transmission oil cooler lines after the January 3 Quality Alert.

661. On January 31, 2014, a team from New GM traveled to the supplier's facility to work with the supplier on its thermal valve assembly process. By February 27, 2014, the supplier added pressure transducers to the machine fixtures used to connect the transmission oil cooler lines to the thermal bypass valve boxes to directly monitor the delivery of air pressure to the pull-test apparatus.

662. On March 23, 2014, a 2015 GMC Yukon caught fire during a test drive from a dealership in Anaheim, California. On March 24, 2014, New GM formed a team to investigate the incident; the team was dispatched to Anaheim that afternoon. On the morning of March 25, 2014, the New GM team examined the vehicle in Anaheim and determined that the incident was caused by a transmission oil cooler line that was disconnected from the thermal bypass valve

box. The assembly plants for K2XX vehicles were placed on hold and instructed to inspect all transmission oil cooler assemblies in stock, as well as those in completed vehicles. A team from New GM also traveled to the supplier on March 25, 2014, to further evaluate the assembly process.

663. On March 26, 2014, New GM personnel along with personnel from the supplier examined the transmission oil cooler assembly from the Anaheim vehicle. The group concluded that a transmission oil cooler line had not been properly connected to the thermal bypass valve box. The build date for the thermal valve assembly in the Anaheim vehicle was determined to be January 16, 2014, after the supplier's October 28, 2013 machinery upgrades, but before its February 27, 2014 process changes.

664. On March 27, 2014, the Product Investigator assigned to this matter received a list of warranty claims relating to transmission fluid leaks in K2XX vehicles, which he had requested on March 24. From that list, he identified five warranty claims, ranging from August 30, 2013, to November 20, 2013, that potentially involved insecure connections of transmission oil cooler lines to the thermal bypass valve box, none of which resulted in a fire. All five vehicles were built before the supplier completed its machinery upgrades on October 28, 2013.

665. Also on March 27, 2014, following discussions with New GM, the supplier began using an assurance cap in connecting the transmission oil cooler lines to the thermal bypass valve boxes to ensure that the transmission oil cooler lines are properly secured.

666. On March 28, 2014, New GM decided to initiate a recall of vehicles built on the K2XX platform so that they can be inspected to ensure that the transmission oil cooler lines are properly secured to the thermal bypass valve box.

**d. Transfer case control module software defect.**

667. On June 26, 2014, New GM issued a safety recall of 392,459 MY 2014-2015 Chevrolet Silverado, 2015 Chevrolet Tahoe, 2015 Chevrolet Suburban, 2014-2015 GMC Sierra, 2015 GMC Yukon, and 2015 GMC Yukon XL vehicles with a transfer case control module software defect.

668. In the affected vehicles, the transfer case may electronically switch to neutral without input from the driver. If the transfer case switches to neutral while the vehicle is parked and the parking brake is not in use, the vehicle may roll away and cause injury to bystanders. If the transfer case switches to neutral while the vehicle is being driven, the vehicle will lose drive power, increasing the risk of a crash.

669. New GM first observed this defect on February 14, 2014, when a 2015 model year development vehicle, under slight acceleration at approximately 70 mph, shifted into a partial neutral position without operator input. When the vehicle shifted into neutral, the driver lost power, could not shift out of neutral, and was forced to stop driving. Once the vehicle stopped, the transfer case was in a complete neutral state and could not be moved out of neutral.

670. On or about February 17, 2014, New GM contacted Magna International Inc., the supplier of the transfer case and the Transfer Case Control Module ("TCCM") hardware and software, to investigate the incident. Magna took the suspect TCCM for testing.

671. From mid-February through mid-March, Magna continued to conduct testing. On March 18, Magna provided its first report to New GM but at that time, Magna had not fully identified the root cause.

672. On March 27, Magna provided an updated report that identified three scenarios that could cause a transfer case to transfer to neutral.

673. Between late March and April, New GM engineers continued to meet with Magna to identify additional conditions that would cause the unwanted transfer to neutral. New GM engineers also analyzed warranty information to identify claims for similar unwanted transfer conditions.

674. Two warranty claims for unwanted transfers were identified that appeared to match the conditions exhibited on February 14, 2014. Those warranty claims were submitted on March 3 and March 18, 2014. On April 23, 2014, a Product Investigation engineer was assigned. A Problem Resolution case was initiated on May 20, 2014.

675. The issue was presented to Open Investigation Review on June 16, 2014, and on June 18, 2014, New GM decided to conduct a safety recall.

**e. Acceleration-lag defect.**

676. On April 24, 2014, New GM issued a safety recall of 50,571 MY 2013 Cadillac SRX vehicles with an acceleration-lag defect.

677. In the affected vehicles, there may be a three to four-second lag in acceleration due to faulty transmission control module programming. That can increase the risk of a crash.

678. On October 24, 2013, New GM's transmission calibration group learned of an incident involving hesitation in a company owned vehicle. New GM obtained the vehicle to investigate and recorded one possible event showing a one second hesitation.

679. In early December 2013, New GM identified additional reports of hesitation from the New GM company-owned vehicle driver fleet, as well as NHTSA VOQs involving complaints of transmission hesitation in the 2013 SRX vehicles.

680. In mid-February 2014, the transmission calibration team obtained additional company vehicles and repurchased customer vehicles that were reported to have transmission hesitation in order to install data loggers and attempt to reproduce the defect. On February 20,

2014, and February 27, 2014, New GM captured two longer hesitation events consistent with customer reports.

681. In response to the investigation, New GM issued a safety recall for the affected vehicles on April 17, 2014.

**f. Transmission turbine shaft fracture defect.**

682. On June 11, 2014, New GM recalled 21,567 MY 2012 Chevrolet Sonic vehicles equipped with a 6 Speed Automatic Transmission and a 1.8L Four Cylinder Engine suffering from a turbine shaft fracture defect.

683. In the affected vehicles, the transmission turbine shaft may fracture. If the transmission turbine shaft fracture occurs during vehicle operation in first or second gear, the vehicle will not upshift to the third through sixth gears, limiting the vehicle's speed. If the fracture occurs during operation in third through sixth gear, the vehicle will coast until it slows enough to downshift to first or second gear, increasing the risk of a crash.[204]

684. The turbine shafts at issue were made by Sundram Fasteners Ltd.[205] In November 2013, New GM learned of two broken turbine shafts in the affected vehicles when transmissions were returned to New GM's Warranty Parts Center. New GM sent the shafts to Sundram, but Sundram did not identify any "non-conformities."[206] But "[s]ubsequent investigation by GM identified a quality issue" with the Sundram turbine shafts.[207]

685. By late January 2014, 5 or 6 more transmissions "were returned to the WPC for the same concern." That prompted a warranty search for related claims by New GM's "Quality Reliability Durability (QRD) lead for Gears and Shafts and Validation Engineer for Global Front

[204] *See* June 11, 2014 Letter from New GM to NHTSA.

[205] *Id.*

[206] *Id.*

[207] *Id.*

Wheel 6 Speed Transmission…." That search revealed "a clear increase in incidents for 2012 Sonic built with 6T30 turbine shaft[s] during late February to June of 2012."[208]

686. In March of 2014, New GM engineers found that turbine shafts made "in the suspect window were found to have a sharp corner and not a smooth radius in the spline." Testing done in April of 2014 apparently showed a lower life expectancy for "shafts with sharp corners" as opposed to "shafts with smooth radii."[209]

687. On June 4, 2014, New GM "decided to conduct a safety recall," and New GM did so on June 11, 2014.[210]

**g. Automatic transmission shift cable adjuster.**

688. On February 20, 2014, New GM issued a noncompliance recall of 352 MY 2014 Buick Enclave, Buick LaCrosse, Buick Regal, Buick Verano, Chevrolet Cruze, Chevrolet Impala, Chevrolet Malibu, Chevrolet Traverse, and GMC Acadia vehicles with defective automatic transmission shift cable adjusters.[211]

689. In the affected vehicles, one end of the transmission shift cable adjuster body has four legs that snap over a ball stud on the transmission shift lever. One or more of these legs may have been fractured during installation. If any of the legs are fractured, the transmission shift cable adjuster may disengage from the transmission shift lever. When that happens, the driver may be unable to shift gears, and the indicated gear position may not be accurate. If the adjuster is disengaged when the driver attempts to stop and park the vehicle, the driver may be able to shift the lever to the "PARK" position but the vehicle transmission may not be in the

[208] *Id.*

[209] *Id.*

[210] *Id.*

[211] *See* February 20, 2014 Letter from New GM to NHTSA.

"PARK" gear position. That creates the risk that the vehicle will roll away as the driver and other occupants exit the vehicle, or anytime thereafter.[212]

690. These vehicles may not conform with Federal Motor Vehicle Safety Standard 102 for Transmission Shift Lever Sequence Starter Interlock and Transmission Braking Effect, or Federal Motor Vehicle Safety Standard 114 for Theft Protection and Rollaway Prevention.

**7. Other serious defects affecting GM-branded vehicles.**

**a. Power management mode software defect.**

691. On January 13, 2014, New GM issued a safety recall of 324,970 MY 2014 Chevy Silverado and GMC Sierra Vehicles with a Power Management Mode software defect.[213]

692. In the affected vehicles, the exhaust components can overheat, melt nearby plastic parts, and cause an engine fire. GM acknowledges that the Power Management Mode software defect is responsible for at least six fires in the affected vehicles.[214]

**b. Light control module defect.**

693. On May 16, 2014, New GM issued a safety recall of 217,578 model year 2004-2008 Chevrolet Aveo vehicles with a light control module defect.[215]

694. In the vehicles, heat generated within the daytime running lamp module in the center console in the instrument panel may melt the module and cause a vehicle fire.[216] New GM first became aware of this issue when two Suzuki Forenza vehicles suffered interior fires in

[212] *Id.*

[213] *See* New GM Letter to NHTSA dated January 23, 2014.

[214] *Id.*

[215] *See* May 30, 2014 Letter from New GM to NHTSA.

[216] *Id.*

March of 2012; an investigation conducted by GM North America found evidence that the fires emanated from the connection of the wiring at the module.[217]

695. New GM took no remedial action at this time.

696. Then in May of 2012, New GM conducted a TREAD data and NHTSA VOQ search for "thermal issues" related. The search uncovered 13 customer claims and two VOQs "that implied the DRL as the source of the issue."[218]

697. Finally, on May 16, 2014, New GM decided to conduct a safety recall.

698. New GM does not provide adequate explanation for why it took more than two years for it to remedy the problem it was aware of by March of 2012.

699. On May 16, 2014, GM recalled 218,214 MY 2004-2008 Chevrolet Aveo (subcompact) and 2004-2008 Chevrolet Optra (subcompact) vehicles. In these vehicles, heat generated within the light control module in the center console in the instrument panel may melt the module and cause a vehicle fire.

**c. Electrical short in driver's door module defect.**

700. On June 30, 2014, New GM issued a safety recall of 181,984 model year 2005-2007 Chevrolet Trailblazer, 2006 Chevrolet Trailblazer EXT, 2005-2007 Buick Rainier, 2005-2007 GMC Envoy, 2006 GMC Envoy XL, 2005-2007 Isuzu Ascender, and 2005-2007 Saab 9-7x vehicles with a defect that can cause an electrical short in the driver's door module.[219]

701. In the affected vehicles, an electrical short in the driver's door module may occur that can disable the power door lock and window switches and overheat the module. The overheated module can then cause a fire in the affected vehicles.

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[217] *Id.*

[218] *Id.*

[219] *See* July 2, 2014 Letter from New GM to NHTSA.

702. The defect apparently arose from an earlier "repair" provided by New GM for certain vehicles which consisted of applying a "protective coating" to the modules. The "repair" allowed fluids to enter the driver's door module, and a short could result.[220]

703. New GM finally identified this issue, and issued a safety recall on June 30, 2014.

**d. Front axle shaft defect.**

704. On March 28, 2014, New GM issued a safety recall of 174,046 model year 2013-2014 Chevrolet Cruze vehicles with dangerous front axle shaft defect.[221]

705. In the affected vehicles, the right front axle shaft may fracture and separate. If this happens while the vehicle is being driven, the vehicle will lose power and coast to a halt. If a vehicle with a fractured shaft is parked and the parking brake is not applied, the vehicle may move unexpectedly and cause accident and injury.[222]

706. New GM admits to knowledge of "several dozen" half-shaft fractures through its warranty data.[223]

707. The several dozen instances could have been prevented. Indeed, in September of 2013, New GM conducted a safety recall of model year 2013-2014 Chevrolet Cruze vehicles, but limited the recall to (i) vehicles built between January 24, 2013-August 1, 2013 and (ii) had manual transmission.[224] New GM did so even though both manual and automatic Cruze vehicles used "half shafts containing tubular bars manufactured by GM's second-tier supplier, Korea Delphi Automotive Systems Corporation."[225]

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[220] *Id.*

[221] *See* March 28, 2014 Letter from New GM to NHTSA.

[222] *Id.*

[223] "GM recalls 172,000 Chevrolet Cruze Sedans over front axle half-shaft," *Bloomberg*, March 31, 2014.

[224] *See* April 11, 2014 Letter from New GM to NHTSA.

[225] *Id.*

708. The 2013 recall was inadequate. By February of 2014, New GM was aware of at least 47 claims of fractured tubular bars in model year 2013-2014 Cruze vehicles with automatic transmission. New GM also learned that some of the manual Cruze vehicles that were "repaired" in the 2013 recall had ***subsequently*** suffered fractured half shafts. Finally, New GM learned of fractured half-shaft in Cruze vehicles that were built ***after*** the August 1, 2013 build-date cutoff for the 2013 recall.[226]

709. Finally, on March 26, 2014, New GM issued a safety recall that included (i) broader "build-date" coverage; (ii) both manual and automatic Cruze vehicles, and (iii) some manual Cruze vehicles that had been improperly repaired in the 2013 recall.

**e. Seat hook weld defect.**

710. On July 22, 2014, New GM recalled 124,007 model year 2014 Chevrolet SS, 2014 Chevrolet Caprice, 2014 Chevrolet Caprice PPC, 2014 Chevrolet Silverado 1500, 2015 Chevrolet Silverado 2500/3500 HD, 2013-2014 Buick Encore, 2013-2014 Cadillac ATS, 2014 Cadillac CTS, 2014 Cadillac ELR, 2014 GMC Sierra 1500, and 2015 GMC Sierra 2500/3500 HD vehicles with a seat hook weld defect.[227]

711. In the affected vehicles, as the result of an incomplete weld on the seat hook bracket assembly, in a "high load" situation, "the hook may separate from the seat track, increasing the risk of occupant injury in a crash."[228]

**f. Front turn signal bulb defect.**

712. On July 21, 2014, New GM recalled 120,426 model year 2013 Chevrolet Malibu and 2011-2013 Buick Regal vehicles with a front turn signal bulb defect.

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[226] *Id.*

[227] *See* July 22, 2014 Letter from New GM to NHTSA.

[228] *Id.*

713. In the affected vehicles, the driver will see a rapidly flashing turn signal arrow in the instrument cluster if both bulbs in one turn signal are burned out; but if only one bulb on either side burns out, there will be no signal to the driver. The failure to properly warn the driver that a turn signal is inoperable increases the risk of accident.

714. New GM first learned of the defect on September 6, 2012, when it conducted a read-across review on turn signal bulb outage and discovered that when one of the two front turn signal bulbs on either side burns out, there was no indication to the driver, and that the remaining functioning bulb did not likely meet the photometric requirements for turn signal lamps under Federal Motor Vehicle Safety Standards. On September 26, 2012, New GM confirmed these vehicles did not comply with federal standards.

715. However, New GM attempted to categorize this noncompliance as "inconsequential as it relate[s] to motor vehicle safety" by submitting a petition for exemption from the notification and remedy requirements of the Motor Vehicle Safety Act on October 25, 2012. On July 15, 2014, New GM's petition was denied, and the company was forced to issue a recall.

**g. Low-beam headlight defect.**

716. On May 14, 2014, New GM issued a safety recall of 103,158 MY 2005-2007 Chevrolet Corvette vehicles with a low-beam headlight defect.

717. In the affected vehicles, the underhood bussed electrical center housing can expand and cause the headlamp low beam relay control circuit wire to bend. When the wire is repeatedly bent, it can fracture and cause a loss of low-beam headlamp illumination. The loss of illumination decreases the driver's visibility and the vehicle's conspicuity to other motorists, increasing the risk of a crash.

718. In May of 2013, prompted by 30 reports from drivers of the affected vehicles, NHTSA opened a preliminary evaluation of allegations of simultaneous loss of both low-beam headlights without warning in the affected vehicles. The preliminary investigation looked at the low-beam headlights and all associated components, including but not limited to, switches, fuses and fuse box, and wiring and connectors. New GM did not respond to the preliminary evaluation until June 27, 2013.

719. On August 23, 2013, NHTSA upgraded the preliminary evaluation to an engineering analysis and expanded the vehicle scope to include MY 2005-2013 Chevrolet Corvette vehicles. NHTSA provided New GM with Vehicle Owners' Questionnaires related to customer complaints of loss of low-beam headlamps.

720. On January 14, 2014, New GM responded to the engineering analysis and had ongoing discussions with NHTSA through February 2014 regarding the Corvette vehicle.

721. But New GM did nothing further until May 1, 2014, when it finally reviewed and analyzed warranty data and other records accumulated since NHTSA's August 2013 data request. At this time NHTSA also provided New GM additional Vehicle Owners' Questionnaires received since January 2014. After New GM analyzed the data received by model year for the affected vehicles, it presented its findings to the Field Performance Evaluation Review Committee on May 5, 2014, and on May 7, 2014, New GM decided to conduct a safety recall to remedy the low-beam headlight defect.

**h. Radio chime defect.**

722. On June 5, 2014, New GM issued a noncompliance recall of 57,512 MY 2014 Chevrolet Silverado LD, 2015 Chevrolet Silverado HD, 2015 Chevrolet Suburban, 2015 Chevrolet Tahoe, 2014 GMC Sierra LD, and 2015 GMC Sierra HD vehicles with a radio chime defect.

723. In the affected vehicles, the radios may become inoperative; when that happens, there is no audible chime to notify the driver if the door is opened with the key in the ignition and no audible seat belt warning indicating that the seat belts are not buckled. These vehicles fail to comply with the requirements of FMVSS numbers 114, "Theft Protection and Rollaway Prevention," and 208, "Occupant Crash Protection." Without an audible indicator, the driver may not be aware that the driver's door is open while the key is in the ignition, and that creates a risk of a vehicle rollaway. Additionally, there will be no reminder that the driver's or front seat passenger's seat belt is not buckled, which increases the risk of injury in a crash.

724. New GM ordered a vehicle stop-shipment on April 28, 2014. From April 30, 2014, through May 6, 2014, affected base radios were re-flashed with updated software at assembly plants, and on May 21, 2014, a service bulletin was issued with instructions to update the software in the affected vehicles.

725. But New GM's efforts did not comply with the FMVSS, as it learned on May 28, 2014, after consulting its regulatory engineers. New GM issued a noncompliance recall on May 29, 2014.

**i. Fuel gauge defect.**

726. On April 29, 2014, New GM issued a safety recall of 51,460 MY 2014 Chevrolet Traverse, GMC Acadia, and Buick Enclave vehicles with a fuel gauge defect.

727. In the affected vehicles, the engine control module software may cause inaccurate fuel gauge readings. An inaccurate fuel gauge may result in the vehicle unexpectedly running out of fuel and stalling, and thereby increases the risk of accident.

728. In July 2013, New GM began producing the 2014 MY Buick Enclave, Chevrolet Traverse, and GMC Acadia vehicles with a revised software calibration to better predict fuel

levels. The revised calibration takes into account actions such as refueling events, sloshing of fuel during operation, and consumption rates to better predict fuel level readings.

729. But in August 2013, New GM received feedback from rental fleet customers regarding errors in gauge readings predominantly at the "full" end of the range. Many rental customers complained they were charged a fuel surcharge for vehicles that had been refueled but were still reading less than full. In response, on September 23, 2013, New GM switched back to using the 2013 MY fuel gauge software and calibration in new productions and issued a service bulletin to address the issue in vehicles already out in the market.

730. On November 19, 2013, New GM was put on notice of a quality concern regarding inaccurate fuel gauge readings and warranty claims indicating "running out of fuel." It conducted further searches and, as of December 6, 2013, discovered approximately 1,000 complaints of inaccurate fuel gauge readings, with the majority of these reading less than full, and 62 related to running out fuel.

731. On January 9, 2014, New GM proposed only a customer satisfaction field action. NHTSA took the matter under consideration to provide additional feedback, and returned with information supporting a safety recall in lieu of a customer satisfaction field action.

732. Hence, New GM finally decided to recall the affected vehicles on April 22, 2014.

**j. Windshield wiper system defect.**

733. On May 14, 2014, New GM recalled 19,225 MY 2014 Cadillac CTS vehicles with a windshield wiper system defect.

734. In the affected vehicles, a defect leaves the windshield wiper system prone to failure; though the windshield wipers systems are particularly prone to failure after a vehicle jump start occurs while the wipers are on and restricted by snow and ice, "an unstable voltage in

the vehicle can reproduce this condition without an external jump start." Inoperative windshield wipers can decrease the driver's visibility and increase the risk of a crash.[229]

735. On January 17, 2014, New GM received a warranty claim and an inoperative wiper module from an affected vehicle. The supplier, BOSCH, examined the module and determined that the MOSFET (metal-oxide-semiconductor field-effect transistor) "Trench 4" was damaged. (A "Trench" is a design style of a MOSFET). New GM engineering and BOSCH then investigated possible causes of MOSFET damage from the part manufacturing through the vehicle assembly processes.[230]

736. On February 26, 2014, BOSCH began using MOSFET Trench 3 instead of Trench 4.

737. On April 15, 2014, "GM was able to reproduce electrical overstress inputs that could create a damaged MOSFET failure in a vehicle with restricted wipers during a jumpstart. GM tested the MOSFET Trench 3 for electrical overstress and they did not exhibit the same failure." BOSCH then "duplicated the MOSFET [Trench] electrical overstress condition on a bench without a vehicle jumpstart."[231]

738. On May 7, 2014, New GM decided to conduct a safety recall, and the recall notice was issued on May 14, 2014.

**k. Console bin door latch defect.**

739. On August 7, 2014, New GM issued a safety recall of 14,940 MY 2014-2015 Chevrolet Impala vehicles with a console bin door latch defect.[232]

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[229] *See* May 28, 2014 Letter to NHTSA.

[230] *Id.*

[231] *Id.*

[232] *See* August 7, 2014 Letter from New GM to NHTSA.

740. In the affected vehicles, the inertia latch on the front console bin compartment door may not engage in the event of a rear collision and the front console compartment door may open, increasing the risk of occupant injury.[233] These vehicles fail to comply with the requirements of FMVSS No. 201, "Occupant Protection In Interior Impact."[234]

**l. Driver door wiring splice defect.**

741. On June 11, 2014, New GM recalled 14,765 MY 2014 Buick LaCrosse vehicles with a driver door wiring splice defect.

742. In the affected vehicles, a wiring splice in the driver's door may corrode and break, resulting in the absence of an audible chime to notify the driver if the door is opened while the key is in the ignition. Additionally, the Retained Accessory Power module may stay active for ten minutes allowing the operation of the passenger windows, rear windows, and sunroof. As such, these vehicles fail to comply with the requirements of FMVSS numbers 114, "Theft Protection and Rollaway Prevention," and 118, "Power-Operated Window, Partition, and Roof Panel Systems." Without an audible indicator, the driver may not be aware that the driver's door is open while the key is in the ignition, increasing the risk of a vehicle rollaway. If the passenger windows, rear windows, and sunroof can function when the vehicle is turned off and the driver is not in the vehicle, there is an increased risk of injury if an unsupervised occupant operates the power closures.

743. New GM first learned of this defect on August 21, 2013, when a test fleet vehicle reported an inoperable driver window swift. New GM added the issue to Problem Resolution.

744. But New GM did not perform a warranty analysis until nearly eight months later in April 2014. The warranty analysis identified additional claims for this condition for harnesses

[233] *Id.*

[234] *Id.*

produced July 2013 through September 2013. On April 21, 2014, the issue was reviewed and a New GM engineer identified "two FMVSS standards, 114 and 118, that may be impacted."

745. A Product Investigations Engineer was assigned to investigate further. On May 8, 2014, a review of TREAD data and additional warranty files revealed additional related claims.

746. New GM finally issued a safety recall on June 4, 2014.

**m. Overloaded feed defect.**

747. On July 2, 2014, New GM recalled 9,371 MY 2007-2011 Chevrolet Silverado and 2007-2011 GMC Sierra HD vehicles with an overloaded feed defect.

748. In the affected vehicles, an overload in the feed may cause the underhood fusible link to melt due to electrical overload, resulting in potential smoke or flames that could damage the electrical center cover and/or the nearby wiring harness conduit.

749. Sometime prior to January 2012, New GM received reports of four underhood fires resulting from an auxiliary battery fusible link wire melting, opening circuit, and contacting surrounding components. On January 19, 2012, New GM initiated a Customer Satisfaction Program to close a product investigation into the reported fires. New GM states a design change had already been implemented into production in June 2011.

750. More than two years later, on May 5, 2014, the Engineering Analysis department requested that Product Investigations conduct an investigation to confirm the complete population was included in the Customer Satisfaction Program and that the remedy was effective. From May 20 to May 23, 2014, data was reviewed from a recent pull of New GM reports and warranty. The investigation revealed that while all identified vehicles reported to have an incident were included in the original investigation and vehicle population, two vehicles involved in the Customer Satisfaction Program experienced incidents, including one fire,

subsequent to the Customer Satisfaction Program. Both of these vehicles had not had the repair performed.

751. After review during an Open Investigation Review on June 23, 2014, and on June 25, 2014, New GM issued a safety recall for vehicles not yet repaired under the Customer Satisfaction Program.

**n. Windshield wiper module assembly defect.**

752. On June 26, 2014, New GM recalled 4,794 MY 2013-2014 Chevrolet Caprice and 2014 Chevrolet SS vehicles with a windshield wiper module assembly defect.

753. In the affected vehicles, the motor gear teeth may become stripped and the wipers inoperable. Inoperable wipers increase the risk of accident in inclement conditions.

754. After noting an increase in warranty claims, New GM requested that dealers return parts related to wiper motor warranty claims on February 14, 2014.

755. Nearly three months later, on May 1, 2014, New GM held a meeting with the supplier of the wiper motor and learned that the supplier had used unauthorized grease in the motors built from January 15, 2013 to August 5, 2013. The supplier changed back to the authorized grease after a July 24, 2013 lot test revealed the gear teeth stripping. New GM claims that, prior to May 1, 2014, it was unaware of the grease changes or the gear stripping condition.

756. A root cause investigation between May 7, 2014, and June 3, 2014, conducted by the supplier with New GM Engineering participation, determined the source of the problem was the unauthorized grease and its improper application to the wiper motor gear teeth.

757. On June 19, 2014, New GM decided to conduct a safety recall.

**o. Engine block heater power cord insulation defect.**

758. On July 2, 2014, New GM issued a safety recall of 2,990 MY 2013-2014 Chevrolet Cruze, 2012-2014 Chevrolet Sonic, 2013-2014 Buick Encore, and 2013-2014 Buick Verano vehicles with an engine block heater power cord insulation defect.

759. In the affected vehicles the insulation on the engine block heater cord can be damaged, exposing the wires. Exposed wires increase the risk of electrical shock and personal injury if the cord is handled while plugged in.

**p. Rear shock absorber defect.**

760. On June 27, 2014, New GM issued a safety recall of 1,939 MY 2014 Chevrolet Corvette vehicles with a rear shock absorber defect.

761. In the affected vehicles, an insufficient weld in the rear shocks can cause the shock absorber tube to separate from the shock absorber bracket. That separation may cause a sudden change in vehicle handling behavior that can startle drivers and increase the risk of a crash.[235]

**q. Electronic stability control defect.**

762. On March 26, 2014, New GM issued a safety recall for 656 MY 2014 Cadillac ELR vehicles with an electronic stability control defect.

763. In the affected vehicles, the electronic stability control system software may inhibit certain diagnostics and fail to alert the driver that the electronic stability control system is partially or fully disabled. Therefore, these vehicles fail to conform to FMVSS number 126, "Electronic Stability Control Systems." A driver who is not alerted to an electronic stability

[235] *See* June 26, 2014 Letter from New GM to NHTSA.

control system malfunction may continue driving with a disabled system. That may result in the loss of directional control, greatly increasing the risk of a crash.[236]

**r. Unsecured floor mat defect.**

764. On June 18, 2014, New GM issued a safety recall of 184 MY 2014 Chevrolet Silverado LD and 2014 GMC Sierra LD vehicles with an unsecured floor mat defect.

765. The affected vehicles built with the optional vinyl flooring option and equipped with the optional All-Weather Floor Mats do not have the retention features necessary to properly secure the floor mat on the driver's side. The driver's floor mat can shift such that it interferes with the accelerator pedal, and thus increases the risk of a crash.[237]

766. On January 20, 2014, a New GM dealership informed New GM marketing that vehicles in affected class of vehicles have no floor mat retention features. Accordingly, New GM should not have permitted that combination of options (the vinyl floor and All-Weather Floor Mats). On January 22, 2014, New GM revised its systems to prevent vehicles being ordered with that combination.[238]

767. New GM waited another month before cancelling all orders for the vinyl flooring and All-Weather Floor Mats on February 24, 2014. Then, on February 25, 2014, New GM instructed its Accessory Distribution Centers not to ship All-Weather Floor Mats to vehicles with the vinyl flooring option.[239] New GM informed dealerships with affected vehicles, and advised them to remove and destroy any floor mats installed in the vehicles. New GM also issued an

[236] *See* March 26, 2014 Letter from New GM to NHTSA.

[237] *See* June 18, 2014 Letter from New GM to NHTSA.

[238] *Id.*

[239] *Id.*

Engineering Work Order to restrict orders for All-Weather Floor Mats to vehicles with the carpet floor covering option.[240]

768. Inexplicably, though New GM presented this issue to the Field Performance Evaluation group on February 25, 2014, it was not until June 11, 2014 that New GM decided to conduct a safety recall.[241]

**s. Fuse block defect.**

769. On May 23, 2014, New GM issued a safety recall of 58 MY 2015 Chevrolet Silverado HD and GMC Sierra HD vehicles with a fuse block defect.

770. In the affected vehicles, the retention clips that attach the fuse block to the vehicle body can become loose allowing the fuse block to move out of position. When this occurs, exposed conductors in the fuse block may contact the mounting studs or other metallic components, which in turn causes a "short to ground" event. That can result in an arcing condition, igniting nearby combustible materials and starting an engine fire.[242]

771. New GM became aware of this issue by January 30, 2014, when the fuse block became disconnected and resulted in the fiber wheel liner catching fire during testing of an affected vehicle at the Flint Assembly Plant. New GM put a hold on all vehicles with suspect fuse block, and assigned an internal investigator to the issue.[243]

772. On February 3, 2014, New GM issued a Stop Delivery Order on all of the vehicles with the suspect fuse block and informed NHTSA of the issue. At the time, New GM

[240] *Id.*

[241] *Id.*

[242] *See* May 30, 2014 Letter from New GM to NHTSA.

[243] *Id.*

claims, only one of the affected vehicles had been sold; New GM contacted that customer and repaired the sold vehicle.[244]

773. New GM issued a Service Update Bulletin (SUB 14034) for all unsold vehicles with the defective fuse blocks, and provided its dealership with repair kits in February of 2014.[245] New GM revised the repair after it discovered a susceptibility to corrosion during a March 2014 durability test—but only used the enhanced kit for the vehicles that had not already been repaired by May of 2014.[246]

774. On May 7, 2014, New GM found that there were 58 affected vehicles that had not been repaired. Inexplicably, 20 of the 58 vehicles had been sold—even though New GM had known about the defect prior to the sales.[247]

775. On May 19, 2014, New GM decided to conduct a safety recall of all 58 affected vehicles.[248]

**t. Diesel transfer pump defect.**

776. On April 24, 2014, New GM issued a safety recall of 51 MY 2015 GMC Sierra HD and 2015 Chevrolet Silverado HD vehicles.

777. In the affected vehicles, the fuel pipe tube nuts on both sides of the diesel fuel transfer pump may not be tightened to the properly torque. That can result in a diesel fuel leak, which can cause a vehicle fire.[249]

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[244] *Id.*

[245] *Id.*

[246] *Id.*

[247] *Id.*

[248] *Id.*

[249] *See* April 24, 2014 Letter from New GM to NHTSA.

**u. Rear suspension toe adjuster link defect.**

778. On September 17, 2014, New GM issued a safety recall for 290,241 MY 2010-2015 Cadillac SRX and 2011-2012 Saab 9-4x vehicles with a rear suspension toe adjuster link defect that can cause vehicles to sway or wander on the road.[250]

779. According to New GM, in the affected vehicles, "the jam nut in the rear suspension toe adjuster link may not be torqued to the proper specification. A loose toe adjuster link can cause the vehicle to sway or wander at highway speed, activate the vehicle's electronic stability control system, and cause excessive wear to the threads in the link….If the threads in the link become worn, the link may separate."[251] If the link separates, that "would create sudden vehicle instability, increasing the risk of a crash."[252]

780. Once again, New GM should have picked up on this defect years earlier. In fact, in 2011, New GM conducted a safety recall of Cadillac CTS vehicles with a similar rear suspension toe adjuster link defect.[253]

781. New GM claims that, ever since 2011, it had been "monitor[ing] warranty data associated with the suspension systems in Cadillac SRX vehicles, which utilized similar rear suspension components" to the Cadillac CTS vehicles that were recalled in 2011.[254] "As of July 2014, [New] GM had received 83 warranty claims, 14 TREAD reports, and two NHTSA VOQs relating to the rear suspension system on 2010 through 2012 MY Cadillac SRX vehicles."[255]

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[250] *See* New GM's Sept. 17, 2014 Part 573 Safety Report.

[251] *Id.*

[252] *Id.*

[253] *Id.*

[254] *Id.*

[255] *Id.*

782. Between July 14 and early September 2014, GM "determined that the rear suspension adjuster link jam nuts in some 2010-2015 MY Cadillac SRX vehicles may not have been torqued to the proper specification"[256]—***just as in the case of the Cadillac CTS vehicles that had been recalled several years earlier.***

783. Finally, on September 10, 2014, New GM decided to conduct a safety recall of the Cadillac SRX vehicles.

784. New GM offers no explanation as to why it took so long to finally expand the recall to cover vehicles sharing the same components and the same defects with vehicles that had been recalled several years earlier.

**v. Hood latch defect**

785. On September 23, 2014, New GM recalled 89,294 MY 2013-2015 Chevrolet Spark vehicles with a hood latch defect.[257]

786. According to New GM, the affected vehicles "were manufactured with a secondary hood latch that may prematurely corrode at the latch pivot causing the striker to get stuck out of position and preventing the striker from properly engaging the hood latch."[258] If this happens, "the vehicle's hood may open unexpectedly," and that will "likely" impair the driver's vision and increase the risk of a collision.[259]

787. In November 2013, the secondary hood latch in the affected vehicles "failed a 10-year component level corrosion test." By February 2014, New GM determined that "the anti-

[256] *Id.*

[257] *See* New GM's September 23, 2014 Part 573 Safety Recall Report.

[258] *Id.*

[259] *Id.*

corrosion coating applied to the secondary hood latch was deficient and did not meet" the company's requirements.[260]

788. New GM commenced a search for the "root cause" of the defect from March 24 through September 18, 2014. New GM found that, in the earlier MY Chevrolet Sparks, "all secondary hood latches were coated with an 'ED' coat (electro deposition of zinc phosphate) rather than the required 'MFC-A' coat (e.g., a phosphate and oil based corrosion protection coat)." As of July 31, 2014, MFC-A coating was used for the Sparks.[261]

789. New GM's investigation found 10 warranty cases in the U.S. for premature corrosion of the hood latches.[262]

790. On September 18, 2014, New GM decided to conduct a safety recall.

**w. Electrical short defect.**

791. On October 2, 2014, New GM announced a recall of 117,652 MY 2013-2014 Chevrolet Tahoe, 2013-2014 Chevrolet Suburban, 2013-2014 GMC Yukon, 2013-2014 GMC Yukon, 2013-2014 Cadillac Escalade, 2013-2014 Cadillac CTS, 2014 Chevrolet Traverse, 2014 GMC Acadia, 2014 Buick Enclave, 2014 Chevrolet Express, 2014 GMC Savana, 2014 Chevrolet Silverado, and 2014 GMC Sierra vehicles with a defect that can cause an electrical short.[263]

792. In the affected vehicles, due to a defect in the chassis control module, metal slivers can cause an electrical short that results in the vehicle stalling or not starting.[264] This creates a serious risk of accident.

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[260] *Id.*

[261] *Id.*

[262] *Id.*

[263] *See "GM recalls 117,651 vehicles for potential electrical short issue*," Reuters (Oct. 2, 2014).

[264] *Id.*

793. As of this writing, New GM has not yet released further information about this defect or the recall.

**H. New GM's Deception Recalls Has Harmed Plaintiffs and the Class**

794. New GM was well aware that vehicle recalls, especially untimely ones, can taint its brand image and the value of GM vehicles. In its 2010 Form 10-K submitted to the SEC, New GM admitted that "Product recalls can harm our reputation and cause us to lose customers, particularly if those recalls cause consumers to question the safety or reliability of our products. Any costs incurred or lost sales caused by future product recalls could materially adversely affect our business."[265]

795. Unfortunately for owners of GM-branded vehicles, New GM was correct. It is difficult to find a brand whose reputation has taken as great a beating as has the New GM brand starting in February 2014 when the first ignition switch recall occurred.

796. In fact, the public outcry has been significant in response to the ongoing revelations of the massive number of defects New GM concealed, and the massive number of defective vehicles New GM has sold. The following are illustrative examples of the almost constant beating the New GM brand has taken ever since the first ignition switch recall was announced on July 13, 2014.

797. After the announcement the first ignition switch recall the media was highly critical of GM. For example, a CBS February 27, 2014, news report headlined:

By AIMEE PICCHI / MONEYWATCH / February 27, 2014, 1:42 PM

**Did GM wait too long to issue its recall?**

[265] General Motors 2010 Form 10-K, p. 31, available at https:llwww.sec.gov/Archives/edgar/data/1467858/000119312510078119/dlOk.htm#toc85733 4.

798. The CBS report had a video link:[266]

Play VIDEO

**13 deaths now linked to GM faulty ignition switches, recall expanded**

799. On March 13, 2014 a CNN report was entitled:

**Feds demand answers from GM on recall defect**

By **Mike M. Ahlers, CNN**

updated 7:51 AM EDT, Thu March 13, 2014

800. On March 16, 2014, Reuters reported as follows:

## Owners of recalled GM cars feel angry, vindicated

(Reuters) – As details emerge about how General Motors Co dealt with faulty ignition switches in some of its models, car owners are increasingly angry after learning that the automaker knowingly allowed them to drive defective vehicles.

Saturn Ion owner Nancy Bowman of Washington, Michigan, said she is outraged that GM allowed her to drive a "death trap." She said her car had so many ignition problems she was afraid to resell it to an innocent buyer.

She bought the 2004 model car new and still drives it after extensive repairs and multiple run-ins with a Saturn dealer she called dismissive.

[266] http://www.cbsnews.com/news/did-general-motors-wait-too-long -to-issue-its-recall/.

"Five times the car died right out from under me after hitting a bump in the road," she wrote in a 2013 posting on a complaint website, arfc.org, that says it sends information to the National Highway Traffic Safety Administration (NHTSA).

Every time I brought it in they said it was an isolated incident. Couldn't find the problem, so they acted like I was an idiot.

801. On March 24, 2014, the NEW YORK TIMES issued an article entitled:

BUSINESS DAY

**General Motors Misled Grieving Families on a Lethal Flaw**

By HILARY STOUT, BILL VLASIC, DANIELLE IVORY and REBECCA R. RUIZ MARCH 24, 2014

802. It contained a troublesome account of GM's conduct:

It was nearly five years ago that any doubts were laid to rest among engineers at General Motors about a dangerous and faulty ignition switch. At a meeting on May 15, 2009, they learned that data in the black boxes of Chevrolet Cobalts confirmed a potentially fatal defect existed in hundreds of thousands of cars.

But in the months and years that followed, as a trove of internal documents and studies mounted, G.M. told the families of accident victims and other customers that it did not have enough evidence of any defect in their cars, interviews, letters and legal documents show. Last month, G.M. recalled 1.6 million Cobalts and other small cars, saying that if the switch was bumped or weighed down it could shut off the engine's power and disable air bags.

In one case, G.M. threatened to come after the family of an accident victim for reimbursement of legal fees if the family did not withdraw its lawsuit. In another instance, it dismissed a family with a terse, formulaic letter, saying there was no basis for claims.

* * *

Since the engineers' meeting in May 2009, at least 23 fatal crashes have involved the recalled models, resulting in 26 deaths. G.M. reported the accidents to the government under a system called Early Warning Reporting, which requires automakers to disclose claims they receive blaming vehicle defects for serious injuries or deaths.

A New York Times review of 19 of those accidents – where victims were identified through interviews with survivors, family members, lawyers and law enforcement officials – found that G.M.

pushed back against families in at least two of the accidents, and reached settlements that required the victims to keep the discussions confidential.

* * *

In other instances, G.M. ignored repeated calls, families said. "We did call G.M.," said Leslie Dueno, whose 18-year-old son, Christopher Hamberg, was killed on June 12, 2009 – not quite a month after the critical May 15 meeting of G.M. engineers about the ignition data – driving his 2007 Cobalt home before dawn in Houston. He lost control at 45 miles per hour and hit a curb, then a tree, the police report said. "Nobody ever called me. They never followed up. Ever."

Last month's recalls of the Cobalt and five other models encompassed model years 2003 through 2007. G.M. faces numerous investigations, including one by the Justice Department looking into the company's disclosures in its 2009 bankruptcy filing as well as what it told regulators.

"We are conducting an unsparing, comprehensive review of the circumstances leading to the ignition switch recall," G.M. said in a statement on Monday. "As part of that review we are examining previous claims and our response to them. If anything changes as a result of our review, we will promptly bring that to the attention of regulators."

G.M. has said it has evidence of 12 deaths tied to the switch problem, but it has declined to give details other than to say that they all occurred in 2009 or earlier. It says it has no conclusive evidence of more recent deaths tied to the switch.

* * *

It was unclear how many of the 26 deaths since the 2009 meeting were related to the faulty ignition, but some appeared to fit patterns that reflected the problem, such as an inexplicable loss of control or air bags that did not deploy. In some cases, the drivers had put themselves at risk, including having high blood-alcohol levels or texting.

Still, by the time Benjamin Hair, 20, crashed into a tree in Charlottesville, Va., on Dec. 13, 2009, while driving a Pontiac G5 home, G.M. had conducted five internal studies about the ignition problem, its records indicate.

…

Consumer complaints and claims came to the company in a variety of ways – through lawsuits, calls, letters and emails, warranty claims, or insurance claims. G.M.'s legal staff was the recipient of lawsuits, insurance information, accident reports and any other litigation-related paperwork. But warranty claims and customer calls were routed through the sales and service division – a vast bureaucracy that occupies most of one tower at G.M.'s headquarters in Detroit. Because the legal staff reports to the chief executive, and the sales department to the head of G.M. North America, it is unclear whether they share information related to a specific car, like the Cobalt.

803. NPR ran a story on March 31, 2014:

Timeline: A History Of GM's Ignition Switch Defect

by TANYA BASU

March 31, 2014 4:33 PM ET

804. The NPR story raised questions about GM's candor:

NPR looked into the timeline of events that led to the recall. It's long and winding, and it presents many questions about how GM handled the situation: How long did the company know of the problem? Why did the company not inform federal safety officials of the problem sooner? Why weren't recalls done sooner? And did GM continue to manufacture models knowing of the defect?

805. On May 11, 2014, the CHICAGO TRIBUNE ran an article entitled:

*GM ranked worst automaker by U.S. suppliers: survey*

DETROIT (Reuters) – General Motors Co, already locked in a public relations crisis because of a deadly ignition defect that has triggered the recall of 2.6 million vehicles, has a new perception problem on its hands.

The U.S. company is now considered the worst big automaker to deal with, according to a new survey of top suppliers to the car industry in the United States.

Those so-called "Tier 1" suppliers say GM is now their least favorite big customer, according to the rankings, less popular even than Chrysler, the unit of Fiat Chrysler Automobiles FIA.MI, which since 2008 had consistently earned that dubious distinction.

Suppliers gave GM low marks on all kinds of key measures, including its overall trustworthiness, its communication skills, and its protection of intellectual property.

806. On May 25, 2014, an article reported on a 2.4 million vehicle recall:

> # When Will GM's Recall Mess End?
>
> **General Motors** (NYSE: GM) on Tuesday said it is recalling about 2.4 million additional vehicles in four separate recalls for a variety of problems, including faulty seat belts and gearshift troubles.
>
> This announcement came on the heels of another set of GM recalls, announced last Thursday, covering 2.7 million vehicles. Including the four recalls announced on Tuesday, GM has issued a total of 30 recalls in the U.S. so far in 2014, encompassing about 13.8 million vehicles.
>
> That's a stupendous number.[267]

807. On May 26, 2014, the NEW YORK TIMES ran an article:

BUSINESS DAY

*13 Deaths, Untold Heartache, From G.M. Defect*

By REBECCA R. RUIZ, DANIELLE IVORY and HILARY STOUT MAY 26, 2014

808. The article once again pointed blame at GM:

> BEN WHEELER, Tex. – For most of the last decade, Candice Anderson has carried unspeakable guilt over the death of her boyfriend. He was killed in 2004 in a car accident here, and she was at the wheel. At one point, Ms. Anderson, who had a trace of Xanax in her blood, even faced a manslaughter charge. She was 21.
>
> All these years, Ms. Anderson – now engaged and a mother – has been a devoted visitor to his grave. She tidies it every season, sweeping away leaves and setting down blue daisies with gold glitter for his birthday, miniature lit trees for Christmas, stones with etched sayings for the anniversary of their accident.
>
> "It's torn me up," Ms. Anderson said of the death of Gene Mikale Erickson. "I've always wondered, was it really my fault?"

[267] http://www.fool.com/investing/general/2014/05/25/when-will-gms-recall-mess-end.aspx.

> Last week, she learned it was not.
>
> * * *
>
> Inside G.M., the nation's largest automaker, some of the 13 victims appear on charts and graphs with a date and a single word: "fatal."

809. News of GM's misconduct and of the recalls made the front page of every major newspaper and was the lead story on every major television news program in the country.

810. The congressional hearings where GM executives were subject to harsh questioning and criticism were widely reported in every type of media.

811. In June 2014 GM recalled another 8.2 million vehicles and again these recalls received widespread attention in the press. The stories often included charts and graphs depicting the ever-growing list of vehicles recalled:

> **GM to recall 8.2 million more vehicles over ignition-switch defect**
>
> *POSTED AT 3:21 PM ON JUNE 30, 2014*
>
> The recall blues continue at GM, as does the scope of their previously hidden ignition-switch defect. The world's largest automaker added 8.45 million more vehicles to its list, with some models going back to 1997. This puts GM over the 28-million mark for cars recalled on a global basis in 2014, and over 26 million domestic.[268]

812. The coverage did not simply die down as often happens. On July 15, 2014, the NEW YORK TIMES ran an article entitled, "Documents Show General Motors Kept Silent on Fatal Crashes."

813. By August 2, 2014, the press was reporting that New GM used vehicles were losing value:

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[268] http://hotair.com/archives/2014/06/30/gm-to-recall-8-2-million-more-vehicles-over-ignition-switch-defect-8-45-million-overall/.

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**SECTION:** BRIEFING; Pg. 10

**LENGTH:** 80 words

**HEADLINE:** GM vehicles' resale values are taking a hit as safety recalls mount

**BODY:**

Although General Motors' sales remained solid in the midst of its recent record recalls, some vehicles experienced significant drops in their resale values.

In an analysis of more than 11 million used cars for sale between March and June of this year, iSeeCars.com found that the resale values of the main vehicles in GM's recalls dropped 14 percent from the same period last year.

814. An August 5, 2014 article also reported that used GM vehicles were suffering loss in value due to the recalls:[269]

AUTOS GM

# Used GM cars affected by recall getting hurt in the marketplace

by Doron Levin @FortuneMagazine AUGUST 5, 2014, 2:25 PM EDT

Ignition recall caused resale values to take a hit—some Pontiac, Saturn and Chevy models were most affected.

General Motors Co. GM -0.41% has been fortunate to avoid a collapse of new-vehicle sales since the ignition-switch safety crisis blew up in January, engulfing the automaker in litigation, a federal criminal probe and Congressional inquiries.

Used GM vehicles – models affected by the recall – meanwhile have taken a substantial hit in value, according to a study by iSeeCars.com, an online search engine. GM's new-vehicles sales

[269] Doron Levin, FORTUNE MAGAZINE, August 5, 2014.

are up 3.5% in the U.S. through July in a market that has risen 5% in terms of unit sales.

(Holders of GM stock have gotten whacked as well since January, the value of shares falling nearly 18%, compared with a S&P 500 Index that has risen 4% during the period.)

The operators of the search engine said they created an algorithm to determine the market value of six GM cars affected by the recall, based on asking prices of used vehicles on dealer lots from March to June 2013, compared to a year later. The change in value also was compared to the dropping value of all used cars in the U.S., which has been occurring for the past few months. The sample size was 11 million cars.

The average price of the recalled GM models dropped 14% from March to June 2014, compared to a year earlier and adjusted for inflation. The drop in value of all similar models was 6.7% during the same period.

Phong Ly, chief executive and co-founder of iSeeCars.com said "recalls are playing a role in motivating sellers to sell their used cars and at a lower price point than they otherwise would." His company provides free information to car shoppers and sells sales leads to dealers.

815. The crisis that affected the GM Brand was so significant that GM stock has been battered. A September 22, 2014 report observed:[270]

# GM Falls Deeper Into The Abyss

Sep. 22, 2014 7:55 AM ET | About: General Motors Company (GM)

**Summary**

- GM has been in a rut since the ignition switch recalls.
- More and more, GM is coming off as a perpetually troubled business.
- We continue to avoid General Motors stock.

[270] *See* http://seekingalpha.com/article/2511545-gm-falls-deeper-into-the-abyss.

> We previously wrote about GM (NYSE:GM) and placed a $31 price target on it here. Our basic argument was that GM was going to have trouble presenting itself into the mainstream as a reputable brand to buy after the ignition switch recall.
>
> Late Sunday, it was announced that GM was recalling 222,500 vehicles due to brake pad malfunction. This number towers over the amount of normal recalls that come during the course of business. It's also involving vehicles that were made from 2013 to 2015, a clear indicator that these vehicles (manufactured by the post-bankruptcy GM) should have had a renewed focus of safety on them from the beginning.

816. The impact on the value of GM-brand is also evidenced by the decline in GM's stock price which hit a 52 week low on October 10, 2014.

817. New GM's unprecedented concealment of a large number of serious defects, and its irresponsible approach to safety, quality, and reliability issues, has caused damage to Plaintiffs and the Class.

818. A vehicle made by a reputable manufacturer of safe, high quality, and reliable vehicles who stands behind its vehicles after they are sold is worth more than an otherwise similar vehicle made by a disreputable manufacturer known for selling defective vehicles and for concealing and failing to remedy serious defects after the vehicles are sold.

819. A vehicle purchased or leased under the reasonable assumption that it is safe and reliable is worth more than a vehicle of questionable safety, quality, and reliability due to the manufacturer's recent history of concealing serious defects from consumers and regulators.

820. Purchasers and lessees of GM-branded vehicles after the July 10, 2009 inception of New GM paid more for the vehicles than they would have had New GM disclosed the many defects it had a duty to disclose in GM-branded vehicles, and disclosed that GM's culture and business model was such that it did not produce safe, high quality, and reliable vehicles. Because New GM concealed the defects and the fact that it was a disreputable brand that valued

cost-cutting over safety, Plaintiffs and the Class did not receive the benefit of their bargain. And the value of all their vehicles has diminished as the result of New GM's deceptive conduct.

821. On information and belief, an estimate of the diminished value in class vehicles not subject to the ignition switch recall is illustrated by way of example as follows for a few Model Year 2013 vehicles:

| | | |
|---|---|---|
| GMC | Terrain | September Diminished Value: $1,052 |
| GMC | Sierra 1500 | September Diminished Value: $325 |
| Buick | Lacrosse | September Diminished Value: $954 |
| Chevrolet | Suburban | September Diminished Value: $854 |
| Cadillac | CTS | September Diminished Value: $867 |
| Cadillac | XTS | September Diminished Value: $1,722 |

822. Another example is the diminished value of illustrative 2011 models:

| | | |
|---|---|---|
| GMC | Terrain | September Diminished Value: $891 |
| Buick | Lacrosse | September Diminished Value: $1,017 |

823. GM-branded vehicles not involved in the ignition switch recall experienced declines in value when the ignition switch recalls occurred due to the impact on the perception of buyers concerning New GM's promises of safety and reliability. As news of New GM's culture of deceit grew, so did diminished value. The following estimates are examples:

| | Diminished Value as of 03/2014 | Diminished Value as of 09/2014 |
|---|---|---|
| 2008 Cadillac STS | $249 | $1,243 |
| 2008 GMC Acadia | $730 | $1,011 |
| 2010 GMC Terrain | $403 | $912 |

824. GM vehicles subject to the ignition switch recall also have suffered diminished value by way of example:

| | Diminished Value as of 03/2014 | Diminished Value as of 09/2014 |
|---|---|---|
| 2008 Cobalt | $256 | $357 |
| 2008 HHR | $162 | $477 |
| 2009 Sky | $173 | $429 |

825. If New GM had timely disclosed the many defects as required by the TREAD Act, the law of fraudulent concealment, and consumer laws set forth below, Class members' vehicles would be considerably more valuable than they are now and/or Class members would have paid less than they did. Because of New GM's now highly publicized campaign of deception, and its belated, piecemeal and ever-expanding recalls, so much stigma has attached to the New GM brand that no rational consumer would pay what otherwise would have been fair market value for the Affected Vehicles.

## V. TOLLING OF THE STATUTES OF LIMITATION

### A. Discovery Rule Tolling

826. Within the time period of any applicable statutes of limitation, Plaintiffs and the other Class members could not have discovered through the exercise of reasonable diligence that New GM was concealing scores of defects and misrepresenting the Company's true position on safety issues.

827. Plaintiffs and the other Class members did not discover, and did not know of facts that would have caused a reasonable person to suspect, that New GM did not report information within its knowledge to federal authorities (including NHTSA), its dealerships or consumers, nor would a reasonable and diligent investigation have disclosed that New GM had information in its

possession about the existence and dangerousness of numerous defects and opted to conceal that information until shortly before this action was filed, and nor would such an investigation have disclosed that New GM valued cost-cutting over safety and actively discouraged its personnel from uncovering or raising safety issues.

828. All applicable statutes of limitation have been tolled by operation of the discovery rule.

**B. Fraudulent Concealment Tolling**

829. All applicable statutes of limitation have also been tolled by New GM's knowing and active fraudulent concealment and denial of the facts alleged herein throughout the time period relevant to this action.

830. Instead of disclosing the myriad safety defects and disregard of safety of which it was aware, New GM falsely represented that its vehicles were safe, reliable, and of high quality, and that it was a reputable manufacturer that stood behind GM-branded vehicles after they were sold.

**C. Estoppel**

831. New GM was under a continuous duty to disclose to Plaintiffs and the other Class members the true character, quality, and nature of the Defective Ignition Switch Vehicles.

832. New GM knowingly, affirmatively, and actively concealed the true nature, quality, and character of the Defective Ignition Switch Vehicles from consumers.

833. New GM was also under a continuous duty to disclose to Plaintiffs and the Class that scores of other defects plagued GM-branded vehicles, and that it systematically devalued safety.

834. Based on the foregoing, New GM is estopped from relying on any statutes of limitations in defense of this action.

## VI. CHOICE OF LAW ALLEGATIONS

835. Plaintiffs allege that Michigan law applies nationwide to Plaintiffs' claims for fraudulent concealment, unjust enrichment, breach of the implied warranty of merchantability, and the Magnuson-Moss Warranty Act based in part on the following allegations.

836. New GM is headquartered in Detroit, Michigan.

837. New GM does substantial business in Michigan, with a significant portion of the proposed Nationwide Class located in Michigan.

838. On information and belief, Michigan hosts a significant number of New GM's U.S. operations.

839. In addition, the conduct that forms the basis for each and every Class members' claims against New GM emanated from New GM's headquarters in Detroit, Michigan.

840. New GM personnel responsible for customer communications are located at GM's Michigan headquarters, and the core decision not to disclose the array of defects to consumers was made and implemented from there.

841. The Red X team, an engineering team whose purpose is to find the cause of an engineering design defect, is located in Detroit, Michigan.

842. Some or all of the marketing campaigns falsely promoting New GM cars as safe and reliable were conceived and designed in Michigan.

843. New GM personnel responsible for managing New GM's customer service division are located at the New GM Michigan headquarters. The "Customer Assistance Centers" directs customers to call the following numbers: 1-800-222-1020 (Chevrolet), 1-800-521-7300 (Buick), 1-800-462-8782 (GMC), 1-800-458-8006 (Cadillac), 1-800-762-2737 (Pontiac), 1-800-732-5493 (HUMMER), and 1-800-553-6000 (Saturn), which are landlines in Detroit, Michigan. Customers are directed to send correspondence to GM Company, P.O. Box 33170,

Detroit, MI 48232-5170. In addition, personnel from New GM in Detroit, Michigan, also communicate via e-mail with customers concerned about the ignition switch and other safety defects.

844. Many of the key Michigan personnel with knowledge of the array of defects remained in their same positions once New GM took over Old GM. For example, the Design Research Engineer who was responsible for the rollout of the defective ignition switch in 2003 was Ray DeGiorgio. Mr. DeGiorgio continued to serve as an engineer at New GM until April 2014.

845. GM's presence is more substantial in Michigan than any other state.

## VII. CLASS ALLEGATIONS

### A. The Nationwide Class

846. Under Rules 23(a), 23(b)(2), and/or 23(b)(3) of the Federal Rules of Civil Procedure, Plaintiffs bring this action on behalf of themselves and a Class initially defined as follows for claims under Michigan law (the "Nationwide Class"):

> All persons in the United States who purchased or leased a GM-branded vehicle between July 11, 2009 and July 3, 2014 (the "Affected Vehicles") and who (i) still own or lease an Affected Vehicle, (ii) sold an Affected Vehicle on or after February 14, 2014, and/or (iii) purchased or leased an Affected Vehicle that was declared a total loss after an accident on or after February 14, 2014.

847. Excluded from the Nationwide Class are New GM, its employees, co-conspirators, officers, directors, legal representatives, heirs, successors and wholly or partly owned subsidiaries or affiliates of New GM, New GM Dealers; Class Counsel and their employees; and the judicial officers and their immediate family members and associated court staff assigned to this case, and all persons within the third degree of relationship to any such persons.

848. The following vehicles, if sold or leased between July 11, 2009 and July 3, 2014, are among the Affected Vehicles for the Nationwide Class (in addition to Old GM vehicles sold as used during that same time period):

| MY 2009 | | | | | | | |
|---|---|---|---|---|---|---|---|
| CHEVROLET | BUICK | GMC | CADILLAC | SATURN | PONTIAC | HUMMER | SAAB |
| Avalanche | Enclave | Acadia | CTS | Aura | G3 | H2 | 9-3 |
| Aveo | LaCrosse | Canyon | CTS-V | Aura Hybrid | G6 | H3 | 9-5 |
| Colorado | Lucerne | Envoy | DTS | Outlook | G8 | | 9-7X |
| Corvette | | Savana Cargo Van | Escalade | VUE | Solstice | | |
| Equinox | | Sierra 1500 | Escalade ESV | VUE Hybrid | Torrent | | |
| Express Cargo Van | | Sierra 2500HD | Escalade EXT | | Vibe | | |
| Express Passenger | | Sierra 3500HD | Escalade Hybrid | | | | |
| Impala | | Yukon | SRX | | | | |
| Malibu | | Yukon XL | STS | | | | |
| Silverado 1500 | | | STS-V | | | | |
| Silverado 1500 Hybrid | | | XLR | | | | |
| Silverado 3500HD | | | XLR-V | | | | |
| Suburban | | | | | | | |
| Tahoe | | | | | | | |
| Tahoe Hybrid | | | | | | | |
| Trailblazer | | | | | | | |
| Traverse | | | | | | | |
| Impala Police | | | | | | | |

| MY 2010 | | | | | | | |
|---|---|---|---|---|---|---|---|
| CHEVROLET | BUICK | GMC | CADILLAC | SATURN | PONTIAC | HUMMER | SAAB |
| Avalanche | Enclave | Acadia | CTS Sedan | Aura | G6 | H2 | 9-3 |
| Aveo | LaCrosse | Canyon | CTS-V | Outlook | Vibe | H3 SUV | 9-5 |
| Camaro | Lucerne | Savana Cargo Van | CTS Wagon | VUE | | H3T | |
| Colorado | | Sierra 1500 | DTS | | | | |
| Corvette | | Sierra 2500HD | Escalade | | | | |
| Equinox | | Sierra 3500HD | Escalade ESV | | | | |
| Express Cargo Van | | Terrain | Escalade EXT | | | | |
| Express Passenger | | Yukon | Escalade Hybrid | | | | |
| Impala | | Yukon XL | SRX | | | | |

| MY 2010 | | | | | | | |
|---|---|---|---|---|---|---|---|
| CHEVROLET | BUICK | GMC | CADILLAC | SATURN | PONTIAC | HUMMER | SAAB |
| Malibu | | | STS | | | | |
| Malibu Hybrid | | | | | | | |
| Silverado 1500 | | | | | | | |
| Silverado 1500 Hybrid | | | | | | | |
| Silverado 2500HD | | | | | | | |
| Silverado 3500HD | | | | | | | |
| Suburban | | | | | | | |
| Tahoe | | | | | | | |
| Tahoe Hybrid | | | | | | | |
| Traverse | | | | | | | |

| MY 2011 | | | | | | | |
|---|---|---|---|---|---|---|---|
| CHEVROLET | BUICK | GMC | CADILLAC | SATURN | PONTIAC | HUMMER | SAAB |
| Avalanche | Enclave | Acadia | CTS Coupe | N/A | N/A | N/A | N/A |
| Aveo | LaCrosse | Canyon | CTS Sedan | | | | |
| Camaro | Lucerne | Savana Cargo Van | CTS Wagon | | | | |
| Caprice Police Patrol Vehicle | Regal | Sierra 1500 | CTS-V Coupe | | | | |
| Caprice | | | | | | | |
| Colorado | | Sierra 2500HD | CTS-V Sedan | | | | |
| Corvette | | Sierra 3500HD | CTS-V Wagon | | | | |
| Cruze | | Terrain | DTS | | | | |
| Equinox | | Yukon | Escalade | | | | |
| Express Cargo Van | | Yukon XL | Escalade ESV | | | | |
| Express Passenger | | | Escalade EXT | | | | |
| Impala | | | Escalade Hybrid | | | | |
| Malibu | | | SRX | | | | |
| Silverado 1500 | | | STS | | | | |
| Silverado 1500 Hybrid | | | | | | | |
| Silverado 2500HD | | | | | | | |
| Silverado 3500HD | | | | | | | |
| Suburban | | | | | | | |
| Tahoe | | | | | | | |
| Tahoe Hybrid | | | | | | | |

| MY 2011 | | | | | | | |
|---|---|---|---|---|---|---|---|
| CHEVROLET | BUICK | GMC | CADILLAC | SATURN | PONTIAC | HUMMER | SAAB |
| Traverse | | | | | | | |
| Volt | | | | | | | |
| Impala Police | | | | | | | |

| MY 2012 | | | | | | | |
|---|---|---|---|---|---|---|---|
| CHEVROLET | BUICK | GMC | CADILLAC | SATURN | PONTIAC | HUMMER | SAAB |
| Avalanche | Enclave | Acadia | CTS Coupe | N/A | N/A | N/A | N/A |
| Camaro | LaCrosse | Canyon | CTS Sedan | | | | |
| Captiva Sport Fleet | Regal | Savana Cargo Van | CTS Wagon | | | | |
| Caprice | | | | | | | |
| Colorado | Verano | Sierra 1500 | CTS-V Coupe | | | | |
| Corvette | | Sierra 2500HD | CTS-V Sedan | | | | |
| Cruze | | Sierra 3500HD | CTS-V Wagon | | | | |
| Equinox | | Terrain | Escalade | | | | |
| Express Cargo Van | | Yukon | Escalade ESV | | | | |
| Express Passenger | | Yukon XL | Escalade EXT | | | | |
| Impala | | | Escalade Hybrid | | | | |
| Malibu | | | SRX | | | | |
| Silverado 1500 | | | | | | | |
| Silverado 1500 Hybrid | | | | | | | |
| Silverado 2500HD | | | | | | | |
| Silverado 3500HD | | | | | | | |
| Sonic | | | | | | | |
| Suburban | | | | | | | |
| Tahoe | | | | | | | |
| Tahoe Hybrid | | | | | | | |
| Traverse | | | | | | | |
| Volt | | | | | | | |

| MY 2013 | | | | | | | |
|---|---|---|---|---|---|---|---|
| CHEVROLET | BUICK | GMC | CADILLAC | SATURN | PONTIAC | HUMMER | SAAB |
| Avalanche | Enclave | Acadia | ATS | N/A | N/A | N/A | N/A |
| Camaro | Encore | Savana Cargo Van | CTS Coupe | | | | |
| Captiva Sport Fleet | LaCrosse | Sierra 1500 | CTS Sedan | | | | |

| MY 2013 | | | | | | | |
|---|---|---|---|---|---|---|---|
| **CHEVROLET** | **BUICK** | **GMC** | **CADILLAC** | **SATURN** | **PONTIAC** | **HUMMER** | **SAAB** |
| Caprice | | | | | | | |
| Corvette | Regal | Sierra 2500HD | CTS Wagon | | | | |
| Cruze | Verano | Sierra 3500HD | CTS-V Coupe | | | | |
| Equinox | | Terrain | CTS-V Sedan | | | | |
| Express Cargo Van | | Yukon | CTS-V Wagon | | | | |
| Express Passenger | | Yukon XL | Escalade | | | | |
| Impala | | | Escalade ESV | | | | |
| Malibu | | | Escalade EXT | | | | |
| Silverado 1500 | | | Escalade Hybrid | | | | |
| Silverado 1500 Hybrid | | | SRX | | | | |
| Silverado 2500HD | | | XTS | | | | |
| Silverado 3500HD | | | | | | | |
| Sonic | | | | | | | |
| Spark | | | | | | | |
| Suburban | | | | | | | |
| Tahoe | | | | | | | |
| Tahoe Hybrid | | | | | | | |
| Traverse | | | | | | | |
| Volt | | | | | | | |

| MY 2014 | | | | | | | |
|---|---|---|---|---|---|---|---|
| **CHEVROLET** | **BUICK** | **GMC** | **CADILLAC** | **SATURN** | **PONTIAC** | **HUMMER** | **SAAB** |
| Camaro | Enclave | Acadia | ATS | N/A | N/A | N/A | N/A |
| Captiva Sport Fleet | Encore | Savana Cargo Van | CTS Coupe | | | | |
| Corvette Stingray | LaCrosse | Sierra 1500 | CTS Sedan | | | | |
| Cruze | Regal | Sierra 2500HD | CTS Wagon | | | | |
| Equinox | Verano | Sierra 3500HD | CTS-V Coupe | | | | |
| Express Cargo Van | | Terrain | CTS-V Sedan | | | | |
| Express Passenger | | Yukon | CTS-V Wagon | | | | |
| Impala | | Yukon XL | ELR | | | | |
| Impala Limited | | | Escalade | | | | |
| Malibu | | | Escalade ESV | | | | |
| Silverado 1500 | | | SRX | | | | |

| MY 2014 | | | | | | | |
|---|---|---|---|---|---|---|---|
| CHEVROLET | BUICK | GMC | CADILLAC | SATURN | PONTIAC | HUMMER | SAAB |
| Silverado 2500HD | | | XTS | | | | |
| Silverado 3500HD | | | | | | | |
| Sonic | | | | | | | |
| Spark | | | | | | | |
| Spark EV | | | | | | | |
| SS | | | | | | | |
| Suburban | | | | | | | |
| Tahoe | | | | | | | |
| Traverse | | | | | | | |
| Volt | | | | | | | |

| MY 2015 | | | | | | | |
|---|---|---|---|---|---|---|---|
| CHEVROLET | BUICK | GMC | CADILLAC | SATURN | PONTIAC | HUMMER | SAAB |
| Camaro | Enclave | Acadia | ATS Coupe | N/A | N/A | N/A | N/A |
| Captiva Sport Fleet | LaCrosse | Savana Cargo Van | ATS Sedan | | | | |
| City Express Cargo Van | Regal | Sierra 2500HD | CTS Sedan | | | | |
| Equinox | | Sierra 3500HD | CTS-V Coupe | | | | |
| Express Cargo Van | | Terrain | ELR | | | | |
| Express Passenger | | Yukon | Escalade | | | | |
| Impala | | Yukon XL | Escalade ESV | | | | |
| Impala Limited | | | SRX | | | | |
| Malibu | | | XTS | | | | |
| Silverado 2500HD | | | | | | | |
| Silverado 3500HD | | | | | | | |
| Spark | | | | | | | |
| Spark EV | | | | | | | |
| Suburban | | | | | | | |
| Tahoe | | | | | | | |
| Traverse | | | | | | | |
| Volt | | | | | | | |

849. Under Rules 23(a), 23(b)(2), and 23(b)(3) of the Federal Rules of Civil Procedure, Plaintiffs New Bedford Auto Sales and Nettleton Auto Sales bring this action on behalf of

themselves and a Dealer Class initially defined as follows for claims under Michigan law (the "Nationwide Dealer Class"):

> All non-GM car dealerships in the United States that, on or after February 14, 2014, have sold or leased an Affected Vehicle or retained an Affected Vehicle in their inventory, when such Affected Vehicle was purchased by the dealership between July 11, 2009 and July 3, 2014.

850. Under Rules 23(a), (b)(2) and/or 23(b)(3) of the Federal Rules of Civil Procedure, Plaintiffs bring this action on behalf of themselves and a Subclass initially defined as follows (the Nationwide Ignition Switch Defect Subclass):

> All persons in the United States who either (i) own or lease a Defective Ignition Switch Vehicle that was sold or leased as a new vehicle by New GM between July 11, 2009 and July 3, 2014, (ii) sold such a vehicle on or after February 14, 2014, and/or (iii) purchased or leased a Defective Ignition Switch Vehicle that was declared a total loss after an accident on or after February 14, 2014.

851. The following vehicles are included in the Nationwide Ignition Switch Defect Subclass if they were sold or leased as a new vehicle between July 11, 2009 and July 3, 2014:

| RECALL | VEHICLES AFFECTED |
|---|---|
| **Ignition Switch Torque Performance:** | · 2009-2010 Chevy Cobalt |
| | · 2009-2011 Chevy HHR |
| | · 2009-2010 Pontiac G5 |
| | · 2009-2010 Pontiac Solstice |
| | · 2009-2010 Saturn Sky |
| | |
| **Ignition Cylinder:** | · 2009-2010 Chevy Cobalt |
| | · 2009-2011 Chevy HHR |
| | · 2009-2010 Pontiac G5 |
| | · 2009-2010 Pontiac Solstice |
| | · 2009-2010 Saturn Sky |
| | |
| **Key FOB/Ignition Switch Placement:** | · 2010-2014 Chevy Camaro |
| | |

| RECALL | VEHICLES AFFECTED |
|---|---|
| **Ignition Switch/Weighted Key Ring/Key Hole Replacement:** | · 2009 Buick LaCrosse |
| | · 2009-2011 Buick Lucerne |
| | · 2009-2011 Cadillac DTS |
| | · 2009-2014 Chevy Impala |
| | 2011-2013 Chevy Caprice |
| | 2009 Pontiac G8 |
| | |

**B. State Law Classes**

852. Plaintiffs allege claims, under the laws of each state and the District of Columbia, for the following Statewide Classes:

> All persons who purchased or leased a GM-branded vehicle between July 11, 2009 and July 3, 2014 (the "Affected Vehicles") and (i) who still own or lease an Affected Vehicle, (ii) who sold an Affected Vehicle on or after February 14, 2014, and/or (iii) purchased or leased an Affected Vehicle that was declared a total loss after an accident on or after February 14, 2014.

853. Plaintiffs also allege claims, under the laws of each state and the District of Columbia, for the following Statewide Ignition Switch Defect Subclasses:

> All persons who either (i) own or lease a Defective Ignition Switch Vehicle that was sold or leased as a new vehicle by New GM between July 11, 2009 and July 3, 2014, (ii) sold such a vehicle on or after February 14, 2014, and/or (iii) purchased or leased a Defective Ignition Switch Vehicle that was declared a total loss after an accident on or after February 14, 2014.

854. Excluded from each of the Classes and Subclasses are New GM, its employees, co-conspirators, officers, directors, legal representatives, heirs, successors and wholly or partly owned subsidiaries or affiliates of New GM; New GM Dealers; Class Counsel and their employees; and the judicial officers and their immediate family members and associated court staff assigned to this case, and all persons within the third degree of relationship to any such persons.

**C. The Classes and Subclasses Meet Rule 23 Requirements**

855. Plaintiffs are informed and believe that there are over 10 million Affected Vehicles nationwide and hundreds-of-thousands of the Affected Vehicles in each state, and over 2 million Defective Ignition Switch Vehicles owned or leased by members of the National Ignition Switch Defect Subclass. Individual joinder of all Class members is impracticable.

856. The Class can be readily identified using registration records, sales records, production records, and other information kept by New GM or third parties in the usual course of business and within their control.

857. Questions of law and fact are common to each of the Classes and Subclasses and predominate over questions affecting only individual members, including the following:

a. Whether numerous GM-branded vehicles suffer from serious defects;

b. Whether New GM was aware of many or all of the defects, and concealed the defects from regulators, Plaintiffs, and the Class;

c. Whether New GM misrepresented to Affected Vehicle purchasers that GM-branded vehicles are safe, reliable, and of high quality;

d. Whether New GM misrepresented itself as a reputable manufacturer that values safety and stands behind its vehicles after they are sold;

e. Whether New GM actively encouraged the concealment of known defects from regulators and consumers;

f. Whether New GM engaged in fraudulent concealment;

g. Whether New GM engaged in unfair, deceptive, unlawful, and/or fraudulent acts or practices in trade or commerce by failing to disclose that many GM-branded vehicles had serious defects;

h. Whether New GM violated various state consumer protection statutes;

i. Whether the Defective Ignition Switch Vehicles were unfit for the ordinary purposes for which they were used, in violation of the implied warranty of merchantability;

j. Whether New GM's unlawful, unfair, fraudulent, and/or deceptive practices harmed Plaintiffs and the members of the Class;

k. Whether New GM has been unjustly enriched;

l. Whether Plaintiffs and the members of the Class are entitled to equitable and/or injunctive relief;

m. What aggregate amounts of statutory penalties, as available under the laws of Michigan and other States, are sufficient to punish and deter New GM and to vindicate statutory and public policy, and how such penalties should most equitably be distributed among Class members; and

n. Whether any or all applicable limitations periods are tolled by acts of fraudulent concealment.

858. Plaintiffs' claims are typical of the claims of the Class members, and arise from the same course of conduct by New GM. The relief Plaintiffs seek is typical of the relief sought for the absent Class members.

859. Plaintiffs will fairly and adequately represent and protect the interests of all absent Class members. Plaintiffs are represented by counsel competent and experienced in product liability, consumer protection, and class action litigation.

860. A class action is superior to other available methods for the fair and efficient adjudication of this controversy, since joinder of all the individual Class members is impracticable. Because the damages suffered by each individual Class member may be

relatively small, the expense and burden of individual litigation would make it very difficult or impossible for individual Class members to redress the wrongs done to each of them individually, and the burden imposed on the judicial system would be enormous. Rule 23 provides the Court with authority and flexibility to maximize the benefits of the class mechanism and reduce management challenges. The Court may, on motion of Plaintiffs or on its own determination, utilize the processes of Rule 23(C)(4) and/or (C)(5) certify common questions of fact or law and to designate subclasses.

861. The prosecution of separate actions by the individual Class members would create a risk of inconsistent or varying adjudications for individual Class members, which would establish incompatible standards of conduct for New GM. The conduct of this action as a class action presents far fewer management difficulties, conserves judicial resources and the parties' resources, and protects the rights of each Class member.

862. Plaintiffs are not aware of any obstacles likely to be encountered in the management of this action that would preclude its maintenance as a class action. Plaintiffs anticipate providing appropriate notice to be approved by the Court after discovery into the size and nature of the Class.

863. Absent a class action, most Class members would likely find the cost of litigating their claims prohibitively high and would therefore have no effective remedy at law. Because of the relatively small size of the individual Class members' claims, it is likely that only a few Class members could afford to seek legal redress for Defendant's misconduct. Absent a class action, Class members will continue to incur damages, and Defendant's misconduct will continue without remedy.

## VIII. CLAIMS FOR RELIEF

## A. Nationwide Class Claims

### COUNT I

### FRAUDULENT CONCEALMENT
### (BY NATIONWIDE AND NATIONWIDE DEALER CLASSES)

864. Plaintiffs and the Class incorporate by reference each preceding and following paragraph as though fully set forth at length herein.

865. This claim is brought on behalf of the Nationwide and Nationwide Dealer Classes, under Michigan law or alternatively, under the law of all states because there is no material difference in the law of fraudulent concealment.

866. New GM concealed and suppressed material facts concerning the quality of its vehicles and the GM brand.

867. New GM concealed and suppressed material facts concerning the culture of New GM—a culture characterized by an emphasis on cost-cutting, the studious avoidance of safety issues, and a shoddy design process.

868. New GM concealed and suppressed material facts concerning the many serious defects plaguing GM-branded vehicles, and that it valued cost-cutting over safety and took steps to ensure that its employees did not reveal known safety defects to regulators or consumers.

869. New GM did so in order to boost confidence in its vehicles and falsely assure purchasers and lessors of its vehicles that New GM was a reputable manufacturer that stands behind its vehicles after they are sold and that its vehicles are safe and reliable. The false representations were material to consumers, both because they concerned the quality and safety of the Affected Vehicles and because they played a significant role in the value of the vehicles.

870. New GM had a duty to disclose the many defects in GM-branded vehicles because they were known and/or accessible only to New GM who had superior knowledge and

access to the facts, and New GM knew the facts were not known to or reasonably discoverable by Plaintiffs and the Nationwide and Nationwide Dealer Classes. These omitted and concealed facts were material because they directly impact the value of the Affected Vehicles purchased or leased by Plaintiffs and the Nationwide and Nationwide Dealer Classes. Whether a manufacturer's products are safe and reliable, and whether that manufacturer stands behind its products, are material concerns to a consumer.

871. New GM actively concealed and/or suppressed these material facts, in whole or in part, to protect its profits and avoid recalls that would hurt the brand's image and cost New GM money, and it did so at the expense of Plaintiffs and the Nationwide and Nationwide Dealer Classes.

872. On information and belief, New GM has still not made full and adequate disclosure and continues to defraud Plaintiffs and the Nationwide and Nationwide Dealer Classes and conceal material information regarding defects that exist in GM-branded vehicles.

873. Plaintiffs and the Nationwide Class and Nationwide Dealer Class were unaware of these omitted material facts and would not have acted as they did if they had known of the concealed and/or suppressed facts. Plaintiffs' and the Nationwide and Nationwide Dealer Classes' actions were justified. New GM was in exclusive control of the material facts and such facts were not known to the public, Plaintiffs, or the Nationwide and Nationwide Dealer Classes.

874. Because of the concealment and/or suppression of the facts, Plaintiffs and the Nationwide and Nationwide Dealer Classes sustained damage because they own vehicles that diminished in value as a result of New GM's concealment of, and failure to timely disclose, the serious defects in millions of GM-branded vehicles and the serious safety and quality issues engendered by New GM's corporate policies. Had they been aware of the many defects that

existed in GM-branded vehicles, and the company's callous disregard for safety, Plaintiffs either would have paid less for their vehicles or would not have purchased or leased them at all. Plaintiffs did not receive the benefit of their bargain as a result of New GM's fraudulent concealment.

875. The value of all Nationwide and Nationwide Dealer Class members' vehicles has diminished as a result of New GM's fraudulent concealment of the many defects and its systemic safety issues which has greatly tarnished the New GM brand and made any reasonable consumer reluctant to purchase any of the Affected Vehicles, let alone pay what otherwise would have been fair market value for the vehicles.

876. Accordingly, New GM is liable to the Nationwide and Nationwide Dealer Classes for their damages in an amount to be proven at trial.

877. New GM's acts were done maliciously, oppressively, deliberately, with intent to defraud, and in reckless disregard of Plaintiffs' and the Nationwide and Nationwide Dealer Classes' rights and well-being to enrich New GM. New GM's conduct warrants an assessment of punitive damages in an amount sufficient to deter such conduct in the future, which amount is to be determined according to proof.

## COUNT II

## UNJUST ENRICHMENT
## (BY NATIONWIDE AND NATIONWIDE DEALER CLASSES)

878. Plaintiffs reallege and incorporate by reference all paragraphs as though fully set forth herein.

879. This claim for unjust enrichment is brought on behalf of the Nationwide Dealer classes under Michigan law. If Michigan law does not apply, it is brought in the alternative under the laws of the states where Plaintiffs and Class members reside.

880. New GM has received and retained a benefit from the Plaintiffs and inequity has resulted.

881. New GM was benefitted from selling defective cars for more than they were worth, at a profit, and Plaintiffs have overpaid for the cars and been forced to pay other costs.

882. It is inequitable for New GM to retain these benefits.

883. As a result of New GM's conduct, the amount of its unjust enrichment should be disgorged, in an amount according to proof.

**COUNT III**

**VIOLATION OF THE MAGNUSON-MOSS WARRANTY ACT**
**15 U.S.C. § 2301, *et seq.***

884. Plaintiffs reallege and incorporate by reference all paragraphs as though fully set forth herein.

885. Plaintiffs bring this Count on behalf of members of the Nationwide Ignition Switch Defect Subclass who are residents of the following States: Alaska, Arkansas, California, Colorado, Delaware, District of Columbia, Hawaii, Indiana, Kansas, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Texas, Utah, Virginia, West Virginia and Wyoming (the "Class," for the purposes of this Count).

886. This Court has jurisdiction to decide claims brought under 15 U.S.C. § 2301 by virtue of 28 U.S.C. § 1332 (a)-(d).

887. The Defective Ignition Switch Vehicles are "consumer products" within the meaning of the Magnuson-Moss Warranty Act, 15 U.S.C. § 2301(1).

888. Plaintiffs are "consumers" within the meaning of the Magnuson-Moss Warranty Act, 15 U.S.C. § 2301(3). They are consumers because they are persons entitled under applicable state law to enforce against the warrantor the obligations of its implied warranties.

889. New GM is a "supplier" and "warrantor" within the meaning of the Magnuson-Moss Warranty Act, 15 U.S.C. § 2301(4)-(5).

890. 15 U.S.C. § 2310(d)(1) provides a cause of action for any consumer who is damaged by the failure of a warrantor to comply with an implied warranty.

891. New GM provided Plaintiffs and the other Class members with an implied warranty of merchantability in connection with the purchase or lease of their vehicles that is an "implied warranty" within the meaning of the Magnuson-Moss Warranty Act, 15 U.S.C. § 2301(7). As a part of the implied warranty of merchantability, New GM warranted that the Defective Ignition Switch Vehicles were fit for their ordinary purpose as safe passenger motor vehicles, would pass without objection in the trade as designed, manufactured, and marketed, and were adequately contained, packaged, and labeled.

892. New GM breached its implied warranties, as described in more detail above, and is therefore liable to Plaintiffs and the Class pursuant to 15 U.S.C. § 2310(d)(1). Without limitation, the Defective Ignition Switch Vehicles share common design defects in that they are equipped with defective ignition switch systems that can suddenly fail during normal operation, leaving occupants of the Defective Ignition Switch Vehicles vulnerable to crashes, serious injury, and death. New GM has admitted that the Defective Ignition Switch Vehicles are defective in issuing its recalls, but the recalls are woefully insufficient to address each of the defects.

893. In its capacity as a warrantor, New GM had knowledge of the inherent defects in the Defective Ignition Switch Vehicles. Any effort by New GM to limit the implied warranties

in a manner that would exclude coverage of the Defective Ignition Switch Vehicles is unconscionable, and any such effort to disclaim, or otherwise limit, liability for the Defective Ignition Switch Vehicles is null and void.

894. Any limitations New GM might seek to impose on its warranties are procedurally unconscionable. There was unequal bargaining power between New GM and Plaintiffs and the other Class members, as, at the time of purchase and lease, Plaintiffs and the other Class members had no other options for purchasing warranty coverage other than directly from New GM.

895. Any limitations New GM might seek to impose on its warranties are substantively unconscionable. New GM knew that the Defective Ignition Switch Vehicles were defective and would continue to pose safety risks after the warranties purportedly expired. New GM failed to disclose these defects to Plaintiffs and the other Class members. Thus, New GM's enforcement of the durational limitations on those warranties is harsh and shocks the conscience.

896. Plaintiffs and each of the other Class members have had sufficient direct dealings with either New GM or its agents (dealerships) to establish privity of contract between New GM, on the one hand, and Plaintiffs and each of the other Class members, on the other hand. Nonetheless, privity is not required here because Plaintiffs and each of the other Class members are intended third-party beneficiaries of contracts between New GM and its dealers, and specifically, of New GM's implied warranties. The dealers were not intended to be the ultimate consumers of the Defective Ignition Switch Vehicles and have no rights under the warranty agreements provided with the Defective Ignition Switch Vehicles; the warranty agreements were designed for and intended to benefit consumers. Finally, privity is also not required because the

Defective Ignition Switch Vehicles are dangerous instrumentalities due to the aforementioned defects and nonconformities.

897. Pursuant to 15 U.S.C. § 2310(e), Plaintiffs are entitled to bring this class action and are not required to give New GM notice and an opportunity to cure until such time as the Court determines the representative capacity of Plaintiffs pursuant to Rule 23 of the Federal Rules of Civil Procedure.

898. Plaintiffs and the other Class members would suffer economic hardship if they returned their Defective Ignition Switch Vehicles but did not receive the return of all payments made by them. Because New GM is refusing to acknowledge any revocation of acceptance and return immediately any payments made, Plaintiffs and the other Class members have not re-accepted their Defective Ignition Switch Vehicles by retaining them.

899. The amount in controversy of Plaintiffs' individual claims meets or exceeds the sum of $25. The amount in controversy of this action exceeds the sum of $50,000, exclusive of interest and costs, computed on the basis of all claims to be determined in this lawsuit. Plaintiffs, individually and on behalf of the other Class members, seek all damages permitted by law, including diminution in value of their vehicles, in an amount to be proven at trial. In addition, pursuant to 15 U.S.C. § 2310(d)(2), Plaintiffs and the other Class members are entitled to recover a sum equal to the aggregate amount of costs and expenses (including attorneys' fees based on actual time expended) determined by the Court to have reasonably been incurred by Plaintiffs and the other Class members in connection with the commencement and prosecution of this action.

900. Further, Plaintiffs and the Class are also entitled to equitable relief under 15 U.S.C. § 2310(d)(1). Based on New GM's continuing failures to fix the known dangerous

defects, Plaintiffs seek a declaration that New GM has not adequately implemented its recall commitments and requirements and general commitments to fix its failed processes, and injunctive relief in the form of judicial supervision over the recall process is warranted. Plaintiffs also seek the establishment of the New GM-funded program for Plaintiffs and Class members to recover out of pocket costs incurred in attempting to rectify the Ignition Switch Defects in their vehicles.

**COUNT IV**

**BREACH OF IMPLIED WARRANTY**

901. Plaintiffs reallege and incorporate by reference all paragraphs as if full set forth herein.

902. Plaintiffs bring this Count on behalf of the Nationwide Ignition Switch Defect Subclass under Michigan law.

903. New GM was a merchant with respect to motor vehicles within the meaning of MICH. COMP. LAWS § 440.2314(1).

904. Under MICH. COMP. LAWS § 440.2314, a warranty that the Defective Ignition Switch Vehicles were in merchantable condition was implied by law in the transactions when Plaintiffs purchased their Defective Ignition Switch Vehicles.

905. These vehicles, when sold and at all times thereafter, were not merchantable and are not fit for the ordinary purpose for which cars are used. Specifically, the Defective Ignition Switch Vehicles are inherently defective in that there are defects in the ignition switch systems that permit sudden unintended shutdown to occur, with the attendant shut down of power steering and power brakes and the nondeployment of airbags in the event of a collision.

906. New GM was provided notice of these issues by numerous complaints filed against it, internal investigations, and by numerous individual letters and communications sent

by Plaintiffs and the Nationwide Ignition Switch Defect Subclass before or within a reasonable amount of time after New GM issued the recall and the allegations of vehicle defects became public.

907. As a direct and proximate result of New GM's breach of the implied warranty of merchantability, Plaintiffs and the Nationwide Ignition Switch Defect Subclass have been damaged in an amount to be proven at trial.

**COUNT V**

**NEGLIGENCE**

**(On Behalf of the Arkansas, Louisiana, Maryland, and Ohio State Ignition Switch Defect Subclasses)**

908. Plaintiffs bring this Count on behalf of members of the Ignition Switch Defect Subclass who reside in Arkansas, Louisiana, Maryland, and Ohio ("Negligence Subclasses").

909. New GM has designed, manufactured, sold, or otherwise placed in the stream of commerce Defective Ignition Switch Vehicles, as set forth above.

910. New GM had a duty to design and manufacture a product that would be safe for its intended and foreseeable uses and users, including the use to which its products were put by Plaintiffs and the other members of the Negligence Subclasses. New GM breached its duties to Plaintiffs and the other members of the Negligence Subclasses because they were negligent in the design, development, manufacture, and testing of the Defective Ignition Switch Vehicles, and New GM is responsible for this negligence.

911. New GM was negligent in the design, development, manufacture, and testing of the Defective Ignition Switch Vehicles because they knew, or in the exercise of reasonable care should have known, that the vehicles equipped with defective ignition systems pose an unreasonable risk of death or serious bodily injury to Plaintiffs and the other members of the

Negligence Subclasses, passengers, other motorists, pedestrians, and the public at large, because they are susceptible to incidents in which brakes, power steering, and airbags are all rendered inoperable.

912. Whereupon Plaintiffs, individually and on behalf of the other members of the Negligence Subclasses, respectfully rely upon the **RESTATEMENT (SECOND) OF TORTS** § 395.

913. New GM further breached its duties to Plaintiffs and the other members of the Negligence Subclasses by supplying directly or through a third person defective vehicles to be used by such foreseeable persons as Plaintiffs and the other members of the Negligence Subclasses when:

a. Old GM and New GM knew or had reason to know that the vehicles were dangerous or likely to be dangerous for the use for which they were supplied; and

b. Old GM and New GM failed to exercise reasonable care to inform customers of the dangerous condition or of the facts under which the vehicles are likely to be dangerous.

914. New GM had a continuing duty to warn and instruct the intended and foreseeable users of its vehicles, including Plaintiffs and the other members of the Negligence Subclasses, of the defective condition of the vehicles and the high degree of risk attendant to using the vehicles. Plaintiffs and the other members of the Negligence Subclasses were entitled to know that the vehicles, in their ordinary operation, were not reasonably safe for their intended and ordinary purposes and uses.

915. New GM knew or should have known of the defects described herein, New GM breached its duty to Plaintiffs and the other members of the Negligence Subclasses because it

failed to warn and instruct the intended and foreseeable users of its vehicles of the defective condition of the Vehicles and the high degree of risk attendant to using the vehicles.

916. As a direct and proximate result of New GM's negligence, Plaintiffs and the other members of the Negligence Subclasses suffered damages.

**B. State Class Claims**

917. The following state law class claims are asserted in addition to the Nationwide Classes.

**ALABAMA**

**COUNT I**

**VIOLATION OF ALABAMA DECEPTIVE TRADE PRACTICES ACT**

**(ALA. CODE § 8-19-1, *et seq.*)**

918. Plaintiffs reallege and incorporate by reference all paragraphs as though fully set forth herein.

919. This claim is brought solely on behalf of Nationwide Class members who are Alabama residents (the "Alabama Class").

920. Plaintiffs and the Alabama Class are "consumers" within the meaning of ALA. CODE § 8-19-3(2).

921. Plaintiffs, the Alabama Class, and New GM are "persons" within the meaning of ALA. CODE § 8-19-3(5).

922. The Affected Vehicles are "goods" within the meaning of ALA. CODE § 8-19-3(3).

923. New GM was and is engaged in "trade or commerce" within the meaning of ALA. CODE § 8-19-3(8).

924. The Alabama Deceptive Trade Practices Act ("Alabama DTPA") declares several specific actions to be unlawful, including: "(5) Representing that goods or services have

sponsorship, approval, characteristics, ingredients, uses, benefits, or qualities that they do not have," "(7) Representing that goods or services are of a particular standard, quality, or grade, or that goods are of a particular style or model, if they are of another," and "(27) Engaging in any other unconscionable, false, misleading, or deceptive act or practice in the conduct of trade or commerce." ALA. CODE § 8-19-5. By systematically devaluing safety and concealing a plethora of defects in GM-branded vehicles, New GM engaged in deceptive business practices prohibited by the Alabama DTPA, including: representing that Affected Vehicles have characteristics, uses, benefits, and qualities which they do not have; representing that Affected Vehicles are of a particular standard, quality, and grade when they are not; advertising Affected Vehicles with the intent not to sell or lease them as advertised; representing that the subject of a transaction involving Affected Vehicles has been supplied in accordance with a previous representation when it has not; and engaging in any other unconscionable, false, misleading, or deceptive act or practice in the conduct of trade or commerce.

925. New GM also engaged in unlawful trade practices by employing deception, deceptive acts or practices, fraud, misrepresentations, or concealment, suppression or omission of any material fact with intent that others rely upon such concealment, suppression or omission, in connection with the sale of the Affected Vehicles.

926. From the date of its inception on July 10, 2009, New GM knew of many serious defects affecting many models and years of GM-branded vehicles, both because of the knowledge of Old GM personnel who remained at New GM and continuous reports, investigations, and notifications from regulatory authorities. New GM became aware of other serious defects and systemic safety issues years ago, but concealed all of that information until recently.

927. New GM was also aware that it valued cost-cutting over safety, selected parts from the cheapest supplier regardless of quality, and actively discouraged employees from finding and flagging known safety defects, and that this approach would necessarily cause the existence of more defects in the vehicles it designed and manufactured and the failure to disclose and remedy defects in all GM-branded vehicles. New GM concealed this information as well.

928. According to one report from the Center for Auto Safety, some 2,004 deaths and injuries are connected with recently recalled GM-branded vehicles, and New GM should have recalled the vehicles years ago.

929. By failing to disclose and by actively concealing the many defects in GM-branded vehicles, by marketing its vehicles as safe, reliable, and of high quality, and by presenting itself as a reputable manufacturer that valued safety and stood behind its vehicles after they were sold, New GM engaged in deceptive business practices in violation of the Alabama DTPA.

930. In the course of New GM's business, it willfully failed to disclose and actively concealed the dangerous risk posed by the many safety issues and serious defects discussed above. New GM compounded the deception by repeatedly asserting that the Affected Vehicles were safe, reliable, and of high quality, and by claiming to be a reputable manufacturer that valued safety and stood behind its vehicles once they are on the road.

931. New GM's unfair or deceptive acts or practices were likely to and did in fact deceive reasonable consumers, including Plaintiffs, about the true safety and reliability of GM-branded vehicles, the quality of the GM brand, the devaluing of safety at New GM, and the true value of the Affected Vehicles.

932. New GM intentionally and knowingly misrepresented material facts regarding the Affected Vehicles with an intent to mislead Plaintiffs and the Alabama Class.

933. New GM knew or should have known that its conduct violated the Alabama DTPA.

934. As alleged above, New GM made material statements about the safety and reliability of the Affected Vehicles that were either false or misleading.

935. New GM owed Plaintiffs a duty to disclose the true safety and reliability of the Affected Vehicles and the devaluing of safety at New GM, because New GM:

a. Possessed exclusive knowledge that it valued cost-cutting over safety, selected parts from the cheapest supplier regardless of quality, and actively discouraged employees from finding and flagging known safety defects, and that this approach would necessarily cause the existence of more defects in the vehicles it designed and manufactured;

b. Intentionally concealed the foregoing from Plaintiffs; and/or

c. Made incomplete representations about the safety and reliability of the Affected Vehicles generally, and the ignition switch in particular, while purposefully withholding material facts from Plaintiffs that contradicted these representations.

936. Because New GM fraudulently concealed the many defects in GM-branded vehicles, resulting in a raft of negative publicity once the defects finally began to be disclosed, the value of the Affected Vehicles has greatly diminished. In light of the stigma attached to those vehicles by New GM's conduct, they are now worth significantly less than they otherwise would be.

937. New GM's systemic devaluation of safety and its concealment of a plethora of defects in GM-branded vehicles were material to Plaintiffs and the Alabama Class. A vehicle made by a reputable manufacturer of safe vehicles is worth more than an otherwise comparable vehicle made by a disreputable manufacturer of unsafe vehicles that conceals defects rather than promptly remedies them.

938. Plaintiffs and the Alabama Class suffered ascertainable loss caused by New GM's misrepresentations and its failure to disclose material information. Had they been aware of the many defects that existed in GM-branded vehicles, and the company's callous disregard for safety, Plaintiffs either would have paid less for their vehicles or would not have purchased or leased them at all. Plaintiffs did not receive the benefit of their bargain as a result of New GM's misconduct.

939. New GM's violations present a continuing risk to Plaintiffs as well as to the general public. New GM's unlawful acts and practices complained of herein affect the public interest.

940. As a direct and proximate result of New GM's violations of the Alabama DTPA, Plaintiffs and the Alabama Class have suffered injury-in-fact and/or actual damage.

941. Pursuant to ALA. CODE § 8-19-10, Plaintiffs and the Alabama Class seek monetary relief against New GM measured as the greater of (a) actual damages in an amount to be determined at trial and (b) statutory damages in the amount of $100 for each Plaintiff and each Alabama Class member.

942. Plaintiffs also seek an order enjoining New GM's unfair, unlawful, and/or deceptive practices, attorneys' fees, and any other just and proper relief available under the ALA. CODE § 8-19-1, *et seq.*

943. On October 8, 2014, certain Plaintiffs sent a letter complying with ALA. CODE § 8-19-10(e). Plaintiffs presently do not claim relief under the Alabama DTPA until and unless New GM fails to remedy its unlawful conduct within the requisite time period, after which Plaintiffs seek all damages and relief to which Plaintiffs and the Alabama Class are entitled.

**COUNT II**

**FRAUD BY CONCEALMENT**

944. Plaintiffs reallege and incorporate by reference all paragraphs as though fully set forth herein.

945. In the event the Court declines to certify a Nationwide Class under Michigan law, this claim is brought only on behalf of Nationwide Class members who are Alabama residents (the "Alabama Class").

946. New GM concealed and suppressed material facts concerning the quality of its vehicles and the GM brand.

947. New GM concealed and suppressed material facts concerning the culture of New GM—a culture characterized by an emphasis on cost-cutting, the studious avoidance of safety issues, and a shoddy design process.

948. New GM concealed and suppressed material facts concerning the many serious defects plaguing GM-branded vehicles, and that it valued cost-cutting over safety and took steps to ensure that its employees did not reveal known safety defects to regulators or consumers.

949. New GM did so in order to boost confidence in its vehicles and falsely assure purchasers and lessors of its vehicles that New GM was a reputable manufacturer that stands behind its vehicles after they are sold and that its vehicles are safe and reliable. The false representations were material to consumers, both because they concerned the quality and safety of the Affected Vehicles and because they played a significant role in the value of the vehicles.

950. New GM had a duty to disclose the many defects in GM-branded vehicles because they were known and/or accessible only to New GM who had superior knowledge and access to the facts, and New GM knew the facts were not known to or reasonably discoverable by Plaintiffs and the Alabama Class. These omitted and concealed facts were material because

they directly impact the value of the Affected Vehicles purchased or leased by Plaintiffs and the Alabama Class. Whether a manufacturer's products are safe and reliable, and whether that manufacturer stands behind its products, are material concerns to a consumer.

951. New GM actively concealed and/or suppressed these material facts, in whole or in part, to protect its profits and avoid recalls that would hurt the brand's image and cost New GM money, and it did so at the expense of Plaintiffs and the Alabama Class.

952. On information and belief, New GM has still not made full and adequate disclosure and continues to defraud Plaintiffs and the Alabama Class and conceal material information regarding defects that exist in GM-branded vehicles.

953. Plaintiffs and the Alabama Class were unaware of these omitted material facts and would not have acted as they did if they had known of the concealed and/or suppressed facts. Plaintiffs' and the Class's actions were justified. New GM was in exclusive control of the material facts and such facts were not known to the public, Plaintiffs, or the Alabama Class.

954. Because of the concealment and/or suppression of the facts, Plaintiffs and the Alabama Class sustained damage because they own vehicles that diminished in value as a result of New GM's concealment of, and failure to timely disclose, the serious defects in millions of GM-branded vehicles and the serious safety and quality issues engendered by New GM's corporate policies. Had they been aware of the many defects that existed in GM-branded vehicles, and the company's callous disregard for safety, Plaintiffs either would have paid less for their vehicles or would not have purchased or leased them at all. Plaintiffs did not receive the benefit of their bargain as a result of New GM's fraudulent concealment.

955. The value of all Alabama Class members' vehicles has diminished as a result of New GM's fraudulent concealment of the many defects and its systemic safety issues which has

greatly tarnished the GM brand and made any reasonable consumer reluctant to purchase any of the Affected Vehicles, let alone pay what otherwise would have been fair market value for the vehicles.

956. Accordingly, New GM is liable to the Alabama Class for their damages in an amount to be proven at trial.

957. New GM's acts were done maliciously, oppressively, deliberately, with intent to defraud, and in reckless disregard of Plaintiffs' and the Alabama Class's rights and well-being to enrich New GM. New GM's conduct warrants an assessment of punitive damages in an amount sufficient to deter such conduct in the future, which amount is to be determined according to proof.

**ALASKA**

**COUNT I**

**VIOLATION OF THE ALASKA UNFAIR TRADE PRACTICES AND CONSUMER PROTECTION ACT**

**(ALASKA STAT. ANN. § 45.50.471, *et seq.*)**

958. Plaintiffs reallege and incorporate by reference all paragraphs as though fully set forth herein.

959. This claim is brought only on behalf of Nationwide Class members who are Alaska residents (the "Alaska Class").

960. The Alaska Unfair Trade Practices And Consumer Protection Act ("Alaska CPA") declares unfair methods of competition and unfair or deceptive acts or practices in the conduct of trade or commerce unlawful, including: "(4) representing that goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits, or quantities that they do not have or that a person has a sponsorship, approval, status, affiliation, or connection that the person

does not have;" "(6) representing that goods or services are of a particular standard, quality, or grade, or that goods are of a particular style or model, if they are of another;" "(8) advertising goods or services with intent not to sell them as advertised;" or "(12) using or employing deception, fraud, false pretense, false promise, misrepresentation, or knowingly concealing, suppressing, or omitting a material fact with intent that others rely upon the concealment, suppression or omission in connection with the sale or advertisement of goods or services whether or not a person has in fact been misled, deceived or damaged." ALASKA STAT. ANN. § 45.50.471.

961. New GM systematically devalued safety and concealed a plethora of defects in GM-branded vehicles in violation of the Alaska CPA. New GM also engaged in unlawful trade practices by representing that the Affected Vehicles have characteristics, uses, benefits, and qualities which they do not have; representing that the Affected Vehicles are of a particular standard and quality when they are not; advertising the Affected Vehicles with the intent not to sell them as advertised; and omitting material facts in describing the Affected Vehicles.

962. From the date of its inception on July 10, 2009, New GM knew of many serious defects affecting many models and years of GM-branded vehicles, both because of the knowledge of Old GM personnel who remained at New GM and continuous reports, investigations, and notifications from regulatory authorities. New GM became aware of other serious defects and systemic safety issues years ago, but concealed all of that information until recently.

963. New GM was also aware that it valued cost-cutting over safety, selected parts from the cheapest supplier regardless of quality, and actively discouraged employees from finding and flagging known safety defects, and that this approach would necessarily cause the

existence of more defects in the vehicles it designed and manufactured and the failure to disclose and remedy defects in all GM-branded vehicles. New GM concealed this information as well.

964. According to one report from the Center for Auto Safety, some 2,004 deaths and injuries are connected with recently recalled GM-branded vehicles, and New GM should have recalled the vehicles years ago.

965. By failing to disclose and by actively concealing the many defects in GM-branded vehicles, by marketing its vehicles as safe, reliable, and of high quality, and by presenting itself as a reputable manufacturer that valued safety and stood behind its vehicles after they were sold, New GM engaged in unfair or deceptive business practices in violation of the Alaska CPA.

966. In the course of GM's business, it willfully failed to disclose and actively concealed the dangerous risk posed by the many safety issues and serious defects discussed above. GM compounded the deception by repeatedly asserting that the Affected Vehicles were safe, reliable, and of high quality, and by claiming to be a reputable manufacturer that valued safety and stood behind its vehicles once they are on the road.

967. GM's unfair or deceptive acts or practices were likely to and did in fact deceive reasonable consumers, including Plaintiffs, about the true safety and reliability of GM-branded vehicles, the quality of the GM brand, the devaluing of safety at New GM, and the true value of the Affected Vehicles.

968. New GM intentionally and knowingly misrepresented material facts regarding the Affected Vehicles with an intent to mislead Plaintiffs and the Alaska Class.

969. New GM knew or should have known that its conduct violated the Alaska CPA.

970. As alleged above, New GM made material statements about the safety and reliability of the Affected Vehicles that were either false or misleading.

971. New GM owed Plaintiffs a duty to disclose the true safety and reliability of the Affected Vehicles and the devaluing of safety at New GM, because New GM:

a. Possessed exclusive knowledge that it valued cost-cutting over safety, selected parts from the cheapest supplier regardless of quality, and actively discouraged employees from finding and flagging known safety defects, and that this approach would necessarily cause the existence of more defects in the vehicles it designed and manufactured;

b. Intentionally concealed the foregoing from Plaintiffs; and/or

c. Made incomplete representations about the safety and reliability of the Affected Vehicles generally, and the ignition switch in particular, while purposefully withholding material facts from Plaintiffs that contradicted these representations.

972. Because New GM fraudulently concealed the many defects in GM-branded vehicles, resulting in a raft of negative publicity once the defects finally began to be disclosed, the value of the Affected Vehicles has greatly diminished. In light of the stigma attached to those vehicles by New GM's conduct, they are now worth significantly less than they otherwise would be.

973. New GM's systemic devaluation of safety and its concealment of a plethora of defects in GM-branded vehicles were material to Plaintiffs and the Alaska Class. A vehicle made by a reputable manufacturer of safe vehicles is worth more than an otherwise comparable vehicle made by a disreputable manufacturer of unsafe vehicles that conceals defects rather than promptly remedies them.

974. Plaintiffs and the Alaska Class suffered ascertainable loss caused by New GM's misrepresentations and its failure to disclose material information. Had they been aware of the many defects that existed in GM-branded vehicles, and the company's callous disregard for safety, Plaintiffs either would have paid less for their vehicles or would not have purchased or

leased them at all. Plaintiffs did not receive the benefit of their bargain as a result of New GM's misconduct.

975. New GM's violations present a continuing risk to Plaintiffs as well as to the general public. New GM's unlawful acts and practices complained of herein affect the public interest.

976. As a direct and proximate result of New GM's violations of the Alaska CPA, Plaintiffs and the Alaska Class have suffered injury-in-fact and/or actual damage.

977. Pursuant to ALASKA STAT. ANN. § 45.50. 535(b)(1), Plaintiffs and the Alaska Class seek monetary relief against New GM measured as the greater of (a) three times the actual damages in an amount to be determined at trial and (b) statutory damages in the amount of $500 for each Plaintiff and each Alaska Class member.

978. Plaintiffs also seek an order enjoining New GM's unfair, unlawful, and/or deceptive practices, attorneys' fees, and any other just and proper relief available under the Alaska CPA.

979. On October 8, 2014, certain Plaintiffs sent a letter complying with ALASKA STAT. ANN. § 45.50. 535(b)(1). Plaintiffs presently do not claim injunctive relief under the Alaska CPA until and unless New GM fails to remedy its unlawful conduct within the requisite time period, after which Plaintiffs seek all injunctive relief to which Plaintiffs and the Alaska Class are entitled.

**COUNT II**

**FRAUD BY CONCEALMENT**

980. Plaintiffs reallege and incorporate by reference all paragraphs as though fully set forth herein.

981. In the event the Court declines to certify a Nationwide Class under Michigan law, this claim is brought only on behalf of Nationwide Class members who are Alaska residents (the "Alaska Class").

982. New GM concealed and suppressed material facts concerning the quality of its vehicles and the GM brand.

983. New GM concealed and suppressed material facts concerning the culture of New GM—a culture characterized by an emphasis on cost-cutting, the studious avoidance of safety issues, and a shoddy design process.

984. New GM concealed and suppressed material facts concerning the many serious defects plaguing GM-branded vehicles, and that it valued cost-cutting over safety and took steps to ensure that its employees did not reveal known safety defects to regulators or consumers.

985. New GM did so in order to boost confidence in its vehicles and falsely assure purchasers and lessors of its vehicles that New GM was a reputable manufacturer that stands behind its vehicles after they are sold and that its vehicles are safe and reliable. The false representations were material to consumers, both because they concerned the quality and safety of the Affected Vehicles and because they played a significant role in the value of the vehicles.

986. New GM had a duty to disclose the many defects in GM-branded vehicles because they were known and/or accessible only to New GM who had superior knowledge and access to the facts, and New GM knew the facts were not known to or reasonably discoverable by Plaintiffs and the Alaska Class. These omitted and concealed facts were material because they directly impact the value of the Affected Vehicles purchased or leased by Plaintiffs and the Alaska Class. Whether a manufacturer's products are safe and reliable, and whether that manufacturer stands behind its products, are material concerns to a consumer.

987. New GM actively concealed and/or suppressed these material facts, in whole or in part, to protect its profits and avoid recalls that would hurt the brand's image and cost New GM money, and it did so at the expense of Plaintiffs and the Alaska Class.

988. On information and belief, New GM has still not made full and adequate disclosure and continues to defraud Plaintiffs and the Alaska Class and conceal material information regarding defects that exist in GM-branded vehicles.

989. Plaintiffs and the Alaska Class were unaware of these omitted material facts and would not have acted as they did if they had known of the concealed and/or suppressed facts. Plaintiffs' and the Alaska Class's actions were justified. New GM was in exclusive control of the material facts and such facts were not known to the public, Plaintiffs, or the Alaska Class.

990. Because of the concealment and/or suppression of the facts, Plaintiffs and the Alaska Class sustained damage because they own vehicles that diminished in value as a result of New GM's concealment of, and failure to timely disclose, the serious defects in millions of GM-branded vehicles and the serious safety and quality issues engendered by New GM's corporate policies. Had they been aware of the many defects that existed in GM-branded vehicles, and the company's callous disregard for safety, Plaintiffs either would have paid less for their vehicles or would not have purchased or leased them at all. Plaintiffs did not receive the benefit of their bargain as a result of New GM's fraudulent concealment.

991. The value of all Alaska Class members' vehicles has diminished as a result of New GM's fraudulent concealment of the many defects and its systemic safety issues which has greatly tarnished the New GM brand and made any reasonable consumer reluctant to purchase any of the Affected Vehicles, let alone pay what otherwise would have been fair market value for the vehicles.

992. Accordingly, New GM is liable to the Alaska Class for their damages in an amount to be proven at trial.

993. New GM's acts were done maliciously, oppressively, deliberately, with intent to defraud, and in reckless disregard of Plaintiffs' and the Alaska Class's rights and well-being to enrich New GM. New GM's conduct warrants an assessment of punitive damages in an amount sufficient to deter such conduct in the future, which amount is to be determined according to proof.

**COUNT III**

**BREACH OF THE IMPLIED WARRANTY OF MERCHANTABILITY**

**(ALASKA STAT. § 45.02.314)**

994. Plaintiffs reallege and incorporate by reference all paragraphs as though fully set forth herein.

995. In the event the Court declines to certify a Nationwide Ignition Switch Defect Subclass under the Magnuson-Moss Warranty Act or Michigan law, this claim is brought only on behalf of Alaska residents who are members of the Ignition Switch Defect Subclass (the "Alaska Ignition Switch Defect Subclass").

996. New GM was a merchant with respect to motor vehicles within the meaning of ALASKA STAT. § 45.02.104(a).

997. Under ALASKA STAT. § 45.02.314, a warranty that the Defective Ignition Switch Vehicles were in merchantable condition was implied by law in the transactions when Plaintiffs purchased their Defective Ignition Switch Vehicles.

998. These vehicles, when sold and at all times thereafter, were not merchantable and are not fit for the ordinary purpose for which cars are used. Specifically, the Defective Ignition Switch Vehicles are inherently defective in that there are defects in the ignition switch systems

that permit sudden unintended shutdown to occur, with the attendant shut down of power steering and power brakes and the nondeployment of airbags in the event of a collision.

999. New GM was provided notice of these issues by numerous complaints filed against it, internal investigations, and by numerous individual letters and communications sent by Plaintiffs and the Alaska Ignition Switch Defect Subclass before or within a reasonable amount of time after New GM issued the recalls and the allegations of vehicle defects became public.

1000. As a direct and proximate result of New GM's breach of the implied warranty of merchantability, Plaintiffs and the Alaska Ignition Switch Defect Subclass have been damaged in an amount to be proven at trial.

**ARIZONA**

**COUNT I**

**VIOLATIONS OF THE CONSUMER FRAUD ACT**

**(ARIZONA REV. STAT. § 44-1521, *et seq.*)**

1001. Plaintiffs reallege and incorporate by reference all paragraphs as though fully set forth herein.

1002. This claim is brought only on behalf of Class members who are Arizona residents (the "Arizona Class").

1003. New GM, Plaintiffs, and the Arizona Class are "persons" within the meaning of the Arizona Consumer Fraud Act ("Arizona CFA"), ARIZ. REV. STAT. § 44-1521(6).

1004. The Affected Vehicles are "merchandise" within the meaning of ARIZ. REV. STAT. § 44-1521(5).

1005. The Arizona CFA provides that "[t]he act, use or employment by any person of any deception, deceptive act or practice, fraud, . . . misrepresentation, or concealment,

suppression or omission of any material fact with intent that others rely upon such concealment, suppression or omission, in connection with the sale . . of any merchandise whether or not any person has in fact been misled, deceived or damaged thereby, is declared to be an unlawful practice." ARIZ. REV. STAT. § 44-1522(A).

1006. In the course of its business, New GM systematically devalued safety and concealed a plethora of defects in GM-branded vehicles as described herein and otherwise engaged in activities with a tendency or capacity to deceive. New GM also engaged in unlawful trade practices by employing deception, deceptive acts or practices, fraud, misrepresentations, or concealment, suppression or omission of any material fact with intent that others rely upon such concealment, suppression or omission, in connection with the sale of the Affected Vehicles.

1007. From the date of its inception on July 10, 2009, New GM knew of many serious defects affecting many models and years of GM-branded vehicles, both because of the knowledge of Old GM personnel who remained at New GM and continuous reports, investigations, and notifications from regulatory authorities. New GM became aware of other serious defects and systemic safety issues years ago, but concealed all of that information until recently.

1008. New GM was also aware that it valued cost-cutting over safety, selected parts from the cheapest supplier regardless of quality, and actively discouraged employees from finding and flagging known safety defects, and that this approach would necessarily cause the existence of more defects in the vehicles it designed and manufactured and the failure to disclose and remedy defects in all GM-branded vehicles. New GM concealed this information as well.

1009. According to one report from the Center for Auto Safety, some 2,004 deaths and injuries are connected with recently recalled GM-branded vehicles, and New GM should have recalled the vehicles years ago.

1010. By failing to disclose and by actively concealing the many defects in GM-branded vehicles, by marketing its vehicles as safe, reliable, and of high quality, and by presenting itself as a reputable manufacturer that valued safety and stood behind its vehicles after they were sold, New GM engaged in deceptive business practices in violation of the Arizona CFA.

1011. In the course of New GM's business, it willfully failed to disclose and actively concealed the dangerous risk posed by the many safety issues and serious defects discussed above. New GM compounded the deception by repeatedly asserting that the Affected Vehicles were safe, reliable, and of high quality, and by claiming to be a reputable manufacturer that valued safety and stood behind its vehicles once they are on the road.

1012. New GM's unfair or deceptive acts or practices were likely to and did in fact deceive reasonable consumers, including Plaintiffs, about the true safety and reliability of GM-branded vehicles, the quality of the New GM brand, the devaluing of safety at New GM, and the true value of the Affected Vehicles.

1013. New GM intentionally and knowingly misrepresented material facts regarding the Affected Vehicles with an intent to mislead Plaintiffs and the Arizona Class.

1014. New GM knew or should have known that its conduct violated the Arizona CFA.

1015. As alleged above, New GM made material statements about the safety and reliability of the Affected Vehicles that were either false or misleading.

1016. New GM owed Plaintiffs a duty to disclose the true safety and reliability of the Affected Vehicles and the devaluing of safety at New GM, because New GM:

a. Possessed exclusive knowledge that it valued cost-cutting over safety, selected parts from the cheapest supplier regardless of quality, and actively discouraged employees from finding and flagging known safety defects, and that this approach would necessarily cause the existence of more defects in the vehicles it designed and manufactured;

b. Intentionally concealed the foregoing from Plaintiffs; and/or

c. Made incomplete representations about the safety and reliability of the Affected Vehicles generally, and the ignition switch in particular, while purposefully withholding material facts from Plaintiffs that contradicted these representations.

1017. Because New GM fraudulently concealed the many defects in GM-branded vehicles, resulting in a raft of negative publicity once the defects finally began to be disclosed, the value of the Affected Vehicles has greatly diminished. In light of the stigma attached to those vehicles by New GM's conduct, they are now worth significantly less than they otherwise would be.

1018. New GM's systemic devaluation of safety and its concealment of a plethora of defects in GM-branded vehicles were material to Plaintiffs and the Arizona Class. A vehicle made by a reputable manufacturer of safe vehicles is worth more than an otherwise comparable vehicle made by a disreputable manufacturer of unsafe vehicles that conceals defects rather than promptly remedies them.

1019. Plaintiffs and the Arizona Class suffered ascertainable loss caused by New GM's misrepresentations and its failure to disclose material information. Had they been aware of the many defects that existed in GM-branded vehicles, and the company's callous disregard for safety, Plaintiffs either would have paid less for their vehicles or would not have purchased or leased them at all. Plaintiffs did not receive the benefit of their bargain as a result of New GM's misconduct.

1020. New GM's violations present a continuing risk to Plaintiffs as well as to the general public. New GM's unlawful acts and practices complained of herein affect the public interest.

1021. The recalls and repairs instituted by New GM have not been adequate.

1022. As a direct and proximate result of New GM's violations of the Arizona CFA, Plaintiffs and the Arizona Class have suffered injury-in-fact and/or actual damage.

1023. Plaintiffs and the Arizona Class seek monetary relief against New GM in an amount to be determined at trial. Plaintiffs and the Arizona Class also seek punitive damages because New GM engaged in aggravated and outrageous conduct with an evil mind.

1024. Plaintiffs also seek an order enjoining New GM's unfair, unlawful, and/or deceptive practices, attorneys' fees, and any other just and proper relief available under the Arizona CFA.

**COUNT II**

**FRAUD BY CONCEALMENT**

1025. Plaintiffs reallege and incorporate by reference all paragraphs as though fully set forth herein.

1026. In the event the Court declines to certify a Nationwide Class under Michigan law, this claim is brought only on behalf of Class members who are Arizona residents (the "Arizona Class").

1027. New GM concealed and suppressed material facts concerning the quality of its vehicles and the New GM brand.

1028. New GM concealed and suppressed material facts concerning the culture of New GM—a culture characterized by an emphasis on cost-cutting, the studious avoidance of safety issues, and a shoddy design process.

1029. New GM concealed and suppressed material facts concerning the many serious defects plaguing GM-branded vehicles, and that it valued cost-cutting over safety and took steps to ensure that its employees did not reveal known safety defects to regulators or consumers.

1030. New GM did so in order to boost confidence in its vehicles and falsely assure purchasers and lessors of its vehicles that New GM was a reputable manufacturer that stands behind its vehicles after they are sold and that its vehicles are safe and reliable. The false representations were material to consumers, both because they concerned the quality and safety of the Affected Vehicles and because they played a significant role in the value of the vehicles.

1031. New GM had a duty to disclose the many defects in GM-branded vehicles because they were known and/or accessible only to New GM who had superior knowledge and access to the facts, and New GM knew the facts were not known to or reasonably discoverable by Plaintiffs and the Arizona Class. These omitted and concealed facts were material because they directly impact the value of the Affected Vehicles purchased or leased by Plaintiffs and the Arizona Class. Whether a manufacturer's products are safe and reliable, and whether that manufacturer stands behind its products, are material concerns to a consumer.

1032. New GM actively concealed and/or suppressed these material facts, in whole or in part, to protect its profits and avoid recalls that would hurt the brand's image and cost New GM money, and it did so at the expense of Plaintiffs and the Arizona Class.

1033. On information and belief, New GM has still not made full and adequate disclosure and continues to defraud Plaintiffs and the Arizona Class and conceal material information regarding defects that exist in GM-branded vehicles.

1034. Plaintiffs and the Arizona Class were unaware of these omitted material facts and would not have acted as they did if they had known of the concealed and/or suppressed facts.

Plaintiffs' and the Arizona Class's actions were justified. New GM was in exclusive control of the material facts and such facts were not known to the public, Plaintiffs, or the Arizona Class.

1035. Because of the concealment and/or suppression of the facts, Plaintiffs and the Arizona Class sustained damage because they own vehicles that diminished in value as a result of New GM's concealment of, and failure to timely disclose, the serious defects in millions of GM-branded vehicles and the serious safety and quality issues engendered by New GM's corporate policies. Had they been aware of the many defects that existed in GM-branded vehicles, and the company's callous disregard for safety, Plaintiffs either would have paid less for their vehicles or would not have purchased or leased them at all. Plaintiffs did not receive the benefit of their bargain as a result of New GM's fraudulent concealment.

1036. The value of all Arizona Class members' vehicles has diminished as a result of New GM's fraudulent concealment of the many defects and its systemic safety issues which has greatly tarnished the New GM brand and made any reasonable consumer reluctant to purchase any of the Affected Vehicles, let alone pay what otherwise would have been fair market value for the vehicles.

1037. Accordingly, New GM is liable to the Arizona Class for their damages in an amount to be proven at trial.

1038. New GM's acts were done maliciously, oppressively, deliberately, with intent to defraud, and in reckless disregard of Plaintiffs' and the Arizona Class's rights and well-being to enrich New GM. New GM's conduct warrants an assessment of punitive damages in an amount sufficient to deter such conduct in the future, which amount is to be determined according to proof.

## ARKANSAS

## COUNT I

## VIOLATIONS OF THE DECEPTIVE TRADE PRACTICE ACT

**(ARK. CODE ANN. § 4-88-101, *et seq*.)**

1039. Plaintiffs reallege and incorporate by reference all paragraphs as though fully set forth herein.

1040. This claim is brought only on behalf of Class members who are Arkansas residents (the "Arkansas Class").

1041. New GM, Plaintiffs, and the Arkansas Class are "persons" within the meaning of Arkansas Deceptive Trade Practices Act ("Arkansas DTPA"), ARK. CODE ANN. § 4-88-102(5).

1042. The Affected Vehicles are "goods" within the meaning of ARK. CODE ANN. § 4-88-102(4).

1043. The Arkansas DTPA prohibits "[d]eceptive and unconscionable trade practices," which include, but are not limited to, a list of enumerated items, including "[e]ngaging in any other unconscionable, false, or deceptive act or practice in business, commerce, or trade[.]" ARK. CODE ANN. § 4-88-107(a)(10). The Arkansas DTPA also prohibits the following when utilized in connection with the sale or advertisement of any goods: "(1) The act, use, or employment by any person of any deception, fraud, or false pretense; or (2) The concealment, suppression, or omission of any material fact with intent that others rely upon the concealment, suppression, or omission." ARK. CODE ANN. § 4-88-108. New GM violated the Arkansas DTPA and engaged in deceptive and unconscionable trade practices by, among other things, systematically devaluing safety and concealing a plethora of defects in GM-branded vehicles and otherwise engaging in activities with a tendency or capacity to deceive.

1044. New GM also engaged in unlawful trade practices by employing deception, deceptive acts or practices, fraud, misrepresentations, or concealment, suppression or omission of any material fact with intent that others rely upon such concealment, suppression or omission, in connection with the sale of the Affected Vehicles.

1045. New GM's actions as set forth above occurred in the conduct of trade or commerce.

1046. From the date of its inception on July 10, 2009, New GM knew of many serious defects affecting many models and years of GM-branded vehicles, both because of the knowledge of Old GM personnel who remained at New GM and continuous reports, investigations, and notifications from regulatory authorities. New GM became aware of other serious defects and systemic safety issues years ago, but concealed all of that information until recently.

1047. New GM was also aware that it valued cost-cutting over safety, selected parts from the cheapest supplier regardless of quality, and actively discouraged employees from finding and flagging known safety defects, and that this approach would necessarily cause the existence of more defects in the vehicles it designed and manufactured and the failure to disclose and remedy defects in all GM-branded vehicles. New GM concealed this information as well.

1048. According to one report from the Center for Auto Safety, some 2,004 deaths and injuries are connected with recently recalled GM-branded vehicles, and New GM should have recalled the vehicles years ago.

1049. By failing to disclose and by actively concealing the many defects in GM-branded vehicles, by marketing its vehicles as safe, reliable, and of high quality, and by presenting itself as a reputable manufacturer that valued safety and stood behind its vehicles after they were sold,

New GM engaged in deceptive and unconscionable business practices in violation of the Arkansas DTPA.

1050. In the course of New GM's business, it willfully failed to disclose and actively concealed the dangerous risk posed by the many safety issues and serious defects discussed above. New GM compounded the deception by repeatedly asserting that the Affected Vehicles were safe, reliable, and of high quality, and by claiming to be a reputable manufacturer that valued safety and stood behind its vehicles once they are on the road.

1051. New GM's unfair or deceptive acts or practices were likely to and did in fact deceive reasonable consumers, including Plaintiffs, about the true safety and reliability of GM-branded vehicles, the quality of the New GM brand, the devaluing of safety at New GM, and the true value of the Affected Vehicles.

1052. New GM intentionally and knowingly misrepresented material facts regarding the Affected Vehicles with an intent to mislead Plaintiffs and the Arkansas Class.

1053. New GM knew or should have known that its conduct violated the Arkansas DTPA.

1054. As alleged above, New GM made material statements about the safety and reliability of the Affected Vehicles that were either false or misleading.

1055. New GM owed Plaintiffs a duty to disclose the true safety and reliability of the Affected Vehicles and the devaluing of safety at New GM, because New GM:

a. Possessed exclusive knowledge that it valued cost-cutting over safety, selected parts from the cheapest supplier regardless of quality, and actively discouraged employees from finding and flagging known safety defects, and that this approach would necessarily cause the existence of more defects in the vehicles it designed and manufactured;

b. Intentionally concealed the foregoing from Plaintiffs; and/or

c. Made incomplete representations about the safety and reliability of the Affected Vehicles generally, and the ignition switch in particular, while purposefully withholding material facts from Plaintiffs that contradicted these representations.

1056. Because New GM fraudulently concealed the many defects in GM-branded vehicles, resulting in a raft of negative publicity once the defects finally began to be disclosed, the value of the Affected Vehicles has greatly diminished. In light of the stigma attached to those vehicles by New GM's conduct, they are now worth significantly less than they otherwise would be.

1057. New GM's systemic devaluation of safety and its concealment of a plethora of defects in GM-branded vehicles were material to Plaintiffs and the Arkansas Class. A vehicle made by a reputable manufacturer of safe vehicles is worth more than an otherwise comparable vehicle made by a disreputable manufacturer of unsafe vehicles that conceals defects rather than promptly remedies them.

1058. Plaintiffs and the Arkansas Class suffered ascertainable loss caused by New GM's misrepresentations and its failure to disclose material information. Had they been aware of the many defects that existed in GM-branded vehicles, and the company's callous disregard for safety, Plaintiffs either would have paid less for their vehicles or would not have purchased or leased them at all. Plaintiffs did not receive the benefit of their bargain as a result of New GM's misconduct.

1059. New GM's violations present a continuing risk to Plaintiffs as well as to the general public. New GM's unlawful acts and practices complained of herein affect the public interest.

1060. As a direct and proximate result of New GM's violations of the Arkansas DTPA, Plaintiffs and the Arkansas Class have suffered injury-in-fact and/or actual damage.

1061. Plaintiffs and the Arkansas Class seek monetary relief against New GM in an amount to be determined at trial. Plaintiffs and the Arkansas Class also seek punitive damages because New GM acted wantonly in causing the injury or with such a conscious indifference to the consequences that malice may be inferred.

1062. Plaintiffs also seek an order enjoining New GM's unfair, unlawful, and/or deceptive practices, attorneys' fees, and any other just and proper relief available under the Arkansas DTPA.

**COUNT II**

**FRAUD BY CONCEALMENT**

1063. Plaintiffs reallege and incorporate by reference all paragraphs as though fully set forth herein.

1064. In the event the Court declines to certify a Nationwide Class under Michigan law, this claim is brought only on behalf of Class members who are Arkansas residents (the "Arkansas Class").

1065. New GM concealed and suppressed material facts concerning the quality of its vehicles and the GM brand.

1066. New GM concealed and suppressed material facts concerning the culture of New GM—a culture characterized by an emphasis on cost-cutting, the studious avoidance of safety issues, and a shoddy design process.

1067. New GM concealed and suppressed material facts concerning the many serious defects plaguing GM-branded vehicles, and that it valued cost-cutting over safety and took steps to ensure that its employees did not reveal known safety defects to regulators or consumers.

1068. New GM did so in order to boost confidence in its vehicles and falsely assure purchasers and lessors of its vehicles that New GM was a reputable manufacturer that stands

behind its vehicles after they are sold and that its vehicles are safe and reliable. The false representations were material to consumers, both because they concerned the quality and safety of the Affected Vehicles and because they played a significant role in the value of the vehicles.

1069. New GM had a duty to disclose the many defects in GM-branded vehicles because they were known and/or accessible only to New GM who had superior knowledge and access to the facts, and New GM knew the facts were not known to or reasonably discoverable by Plaintiffs and the Arkansas Class. These omitted and concealed facts were material because they directly impact the value of the Affected Vehicles purchased or leased by Plaintiffs and the Arkansas Class. Whether a manufacturer's products are safe and reliable, and whether that manufacturer stands behind its products, are material concerns to a consumer.

1070. New GM actively concealed and/or suppressed these material facts, in whole or in part, to protect its profits and avoid recalls that would hurt the brand's image and cost New GM money, and it did so at the expense of Plaintiffs and the Arkansas Class.

1071. On information and belief, New GM has still not made full and adequate disclosure and continues to defraud Plaintiffs and the Arkansas Class and conceal material information regarding defects that exist in GM-branded vehicles.

1072. Plaintiffs and the Arkansas Class were unaware of these omitted material facts and would not have acted as they did if they had known of the concealed and/or suppressed facts. Plaintiffs' and the Arkansas Class's actions were justified. New GM was in exclusive control of the material facts and such facts were not known to the public, Plaintiffs, or the Arkansas Class.

1073. Because of the concealment and/or suppression of the facts, Plaintiffs and the Arkansas Class sustained damage because they own vehicles that diminished in value as a result of New GM's concealment of, and failure to timely disclose, the serious defects in millions of

GM-branded vehicles and the serious safety and quality issues engendered by New GM's corporate policies. Had they been aware of the many defects that existed in GM-branded vehicles, and the company's callous disregard for safety, Plaintiffs either would have paid less for their vehicles or would not have purchased or leased them at all. Plaintiffs did not receive the benefit of their bargain as a result of New GM's fraudulent concealment.

1074. The value of all Arkansas Class members' vehicles has diminished as a result of New GM's fraudulent concealment of the many defects and its systemic safety issues which has greatly tarnished the GM brand and made any reasonable consumer reluctant to purchase any of the Affected Vehicles, let alone pay what otherwise would have been fair market value for the vehicles.

1075. Accordingly, New GM is liable to the Arkansas Class for their damages in an amount to be proven at trial.

1076. New GM's acts were done maliciously, oppressively, deliberately, with intent to defraud, and in reckless disregard of Plaintiffs' and the Arkansas Class's rights and well-being to enrich New GM. New GM's conduct warrants an assessment of punitive damages in an amount sufficient to deter such conduct in the future, which amount is to be determined according to proof.

## COUNT III

## BREACH OF THE IMPLIED WARRANTY OF MERCHANTABILITY

## (ARK. CODE ANN. § 4-2-314)

1077. Plaintiffs reallege and incorporate by reference all paragraphs as though fully set forth herein.

1078. In the event the Court declines to certify a Nationwide Ignition Switch Defect Subclass under the Magnuson-Moss Warranty Act or Michigan law, this claim is brought only

on behalf of Ignition Switch Defect Subclass members who are Arkansas residents (the "Arkansas Ignition Switch Defect Subclass").

1079. New GM was a merchant with respect to motor vehicles within the meaning of ARK. CODE ANN. § 4-2-104(1).

1080. Under ARK. CODE ANN. § 4-2-314, a warranty that the Defective Ignition Switch Vehicles were in merchantable condition was implied by law in the transactions when Plaintiffs purchased their Defective Ignition Switch Vehicles.

1081. These vehicles, when sold and at all times thereafter, were not merchantable and are not fit for the ordinary purpose for which cars are used. Specifically, the Defective Ignition Switch Vehicles are inherently defective in that there are defects in the ignition switch systems that permit sudden unintended shutdown to occur, with the attendant shut down of power steering and power brakes and the nondeployment of airbags in the event of a collision.

1082. New GM was provided notice of these issues by numerous complaints filed against it, internal investigations, and by numerous individual letters and communications sent by Plaintiffs and the Arkansas Ignition Switch Defect Subclass before or within a reasonable amount of time after New GM issued the recall and the allegations of vehicle defects became public.

1083. As a direct and proximate result of New GM's breach of the implied warranty of merchantability, Plaintiffs and the Arkansas Ignition Switch Defect Subclass have been damaged in an amount to be proven at trial.

## CALIFORNIA

## COUNT I

## VIOLATIONS OF THE CONSUMER LEGAL REMEDIES ACT

## (CAL. CIV. CODE § 1750, *et seq.*)

1084. Plaintiffs reallege and incorporate by reference all paragraphs as though fully set forth herein.

1085. This claim is brought only on behalf of Nationwide Class members who are California residents.

1086. New GM is a "person" under CAL. CIV. CODE § 1761(c).

1087. Plaintiffs and the California Class are "consumers," as defined by CAL. CIVIL CODE § 1761(d), who purchased or leased one or more Affected Vehicles.

1088. The California Legal Remedies Act ("CLRA") prohibits "unfair or deceptive acts or practices undertaken by any person in a transaction intended to result or which results in the sale or lease of goods or services to any consumer[.]" CAL. CIV. CODE § 1770(a). New GM has engaged in unfair or deceptive acts or practices that violated CAL. CIV. CODE § 1750, *et seq.*, as described above and below, by among other things, representing that Affected Vehicles have characteristics, uses, benefits, and qualities which they do not have; representing that Affected Vehicles are of a particular standard, quality, and grade when they are not; advertising Affected Vehicles with the intent not to sell or lease them as advertised; and representing that the subject of a transaction involving Affected Vehicles has been supplied in accordance with a previous representation when it has not.

1089. In the course of its business, New GM systematically devalued safety and concealed a plethora of defects in GM-branded vehicles as described herein and otherwise engaged in activities with a tendency or capacity to deceive. New GM also engaged in unlawful

trade practices by employing deception, deceptive acts or practices, fraud, misrepresentations, or concealment, suppression or omission of any material fact with intent that others rely upon such concealment, suppression or omission, in connection with the sale of the Affected Vehicles.

1090. From the date of its inception on July 10, 2009, New GM knew of many serious defects affecting many models and years of GM-branded vehicles, both because of the knowledge of Old GM personnel who remained at New GM and continuous reports, investigations, and notifications from regulatory authorities. New GM became aware of other serious defects and systemic safety issues years ago, but concealed all of that information until recently.

1091. New GM was also aware that it valued cost-cutting over safety, selected parts from the cheapest supplier regardless of quality, and actively discouraged employees from finding and flagging known safety defects, and that this approach would necessarily cause the existence of more defects in the vehicles it designed and manufactured and the failure to disclose and remedy defects in all GM-branded vehicles. New GM concealed this information as well.

1092. According to one report from the Center for Auto Safety, some 2,004 deaths and injuries are connected with recently recalled GM-branded vehicles, and New GM should have recalled the vehicles years ago.

1093. By failing to disclose and by actively concealing the many defects in GM-branded vehicles, by marketing its vehicles as safe, reliable, and of high quality, and by presenting itself as a reputable manufacturer that valued safety and stood behind its vehicles after they were sold, New GM engaged in unfair and deceptive business practices in violation of the CLRA.

1094. In the course of New GM's business, it willfully failed to disclose and actively concealed the dangerous risk posed by the many safety issues and serious defects discussed

above. New GM compounded the deception by repeatedly asserting that the Affected Vehicles were safe, reliable, and of high quality, and by claiming to be a reputable manufacturer that valued safety and stood behind its vehicles once they are on the road.

1095. New GM's unfair or deceptive acts or practices were likely to and did in fact deceive reasonable consumers, including Plaintiffs, about the true safety and reliability of GM-branded vehicles, the quality of the GM brand, the devaluing of safety at New GM, and the true value of the Affected Vehicles.

1096. New GM intentionally and knowingly misrepresented material facts regarding the Affected Vehicles with an intent to mislead Plaintiffs and the California Class.

1097. New GM knew or should have known that its conduct violated the CLRA.

1098. As alleged above, New GM made material statements about the safety and reliability of the Affected Vehicles that were either false or misleading.

1099. New GM owed Plaintiffs a duty to disclose the true safety and reliability of the Affected Vehicles and the devaluing of safety at New GM, because New GM:

a. Possessed exclusive knowledge that it valued cost-cutting over safety, selected parts from the cheapest supplier regardless of quality, and actively discouraged employees from finding and flagging known safety defects, and that this approach would necessarily cause the existence of more defects in the vehicles it designed and manufactured;

b. Intentionally concealed the foregoing from Plaintiffs; and/or

c. Made incomplete representations about the safety and reliability of the Affected Vehicles generally, and the ignition switch in particular, while purposefully withholding material facts from Plaintiffs that contradicted these representations.

1100. Because New GM fraudulently concealed the many defects in GM-branded vehicles, resulting in a raft of negative publicity once the defects finally began to be disclosed,

the value of the Affected Vehicles has greatly diminished. In light of the stigma attached to those vehicles by New GM's conduct, they are now worth significantly less than they otherwise would be.

1101. New GM's systemic devaluation of safety and its concealment of a plethora of defects in GM-branded vehicles were material to Plaintiffs and the California Class. A vehicle made by a reputable manufacturer of safe vehicles is worth more than an otherwise comparable vehicle made by a disreputable manufacturer of unsafe vehicles that conceals defects rather than promptly remedies them.

1102. Plaintiffs and the California Class suffered ascertainable loss caused by New GM's misrepresentations and its failure to disclose material information. Had they been aware of the many defects that existed in GM-branded vehicles, and the company's callous disregard for safety, Plaintiffs either would have paid less for their vehicles or would not have purchased or leased them at all. Plaintiffs did not receive the benefit of their bargain as a result of New GM's misconduct.

1103. New GM's violations present a continuing risk to Plaintiffs as well as to the general public. New GM's unlawful acts and practices complained of herein affect the public interest.

1104. As a direct and proximate result of New GM's violations of the CLRA, Plaintiffs and the California Class have suffered injury-in-fact and/or actual damage.

1105. Under CAL. CIV. CODE § 1780(a), Plaintiffs and the California Class seek monetary relief against New GM measured as the diminution of the value of their vehicles caused by New GM's violations of the CLRA as alleged herein.

1106. Under CAL. CIV. CODE § 1780(b), Plaintiffs seek an additional award against New GM of up to $5,000 for each California Class member who qualifies as a "senior citizen" or "disabled person" under the CLRA. New GM knew or should have known that its conduct was directed to one or more California Class members who are senior citizens or disabled persons. New GM's conduct caused one or more of these senior citizens or disabled persons to suffer a substantial loss of property set aside for retirement or for personal or family care and maintenance, or assets essential to the health or welfare of the senior citizen or disabled person. One or more California Class members who are senior citizens or disabled persons are substantially more vulnerable to New GM's conduct because of age, poor health or infirmity, impaired understanding, restricted mobility, or disability, and each of them suffered substantial physical, emotional, or economic damage resulting from New GM's conduct.

1107. Plaintiffs also seek punitive damages against New GM because it carried out reprehensible conduct with willful and conscious disregard of the rights and safety of others, subjecting Plaintiffs and the California Class to potential cruel and unjust hardship as a result. New GM intentionally and willfully deceived Plaintiffs on life-or-death matters, and concealed material facts that only New GM knew. New GM's unlawful conduct constitutes malice, oppression, and fraud warranting punitive damages under CAL. CIV. CODE § 3294.

1108. Plaintiffs further seek an order enjoining New GM's unfair or deceptive acts or practices, restitution, punitive damages, costs of court, attorneys' fees under CAL. CIV. CODE § 1780(e), and any other just and proper relief available under the CLRA.

1109. Certain Plaintiffs have sent a letter complying with CAL. CIV. CODE § 1780(b).

## COUNT II

## VIOLATION OF THE CALIFORNIA UNFAIR COMPETITION LAW

### (CAL. BUS. & PROF. CODE § 17200, *et seq.*)

1110. Plaintiffs reallege and incorporate by reference all paragraphs as though fully set forth herein.

1111. This claim is brought only on behalf of Nationwide Class members who are California residents (the "California Class").

1112. California Business and Professions Code § 17200 prohibits any "unlawful, unfair, or fraudulent business act or practices." New GM has engaged in unlawful, fraudulent, and unfair business acts and practices in violation of the UCL.

1113. New GM violated the unlawful prong of § 17200 by the following:

a. violations of the CLRA, CAL. CIV. CODE § 1750, *et seq.*, as set forth in Count I by the acts and practices set forth in this Complaint.

b. violation of the common-law claim of negligent failure to recall, in that New GM knew or should have known that the Defective Ignition Switch Vehicles, and many other vehicles suffering myriad other defects, were dangerous and/or were likely to be dangerous when used in a reasonably foreseeable manner; New GM became aware of the attendant risks after the Defective Ignition Switch Vehicles and other defective vehicles were sold; continued to gain information further corroborating the ignition switch defects and many other defects; and failed to adequately recall the Defective Ignition Switch Vehicles and many other vehicles in a timely manner, which failure was a substantial factor in causing Plaintiffs and the Class harm, including diminished value and out-of-pocket costs.

c. violation of the National Traffic and Motor Vehicle Safety Act of 1996, codified at 49 U.S.C. §§ 30101-30170, and its regulations. Federal Motor Vehicle Safety Standard ("FMVSS") 573 governs a motor vehicle manufacturer's responsibility to notify NHTSA of a motor vehicle defect within five days of determining that the defect is safety

> related. *See* 49 C.F.R. § 573.6. New GM violated these reporting requirements by failing to report the myriad defects discussed herein within the required time, and failing to timely recall all impacted vehicles.

1114. New GM also violated the unfair and fraudulent prong of section 17200 by systematically devaluing safety and concealing a plethora of defects in GM-branded vehicles, information that was material to a reasonable consumer.

1115. New GM also violated the unfair prong of section 17200 because the acts and practices set forth in the Complaint, including systematically devaluing safety and concealing a plethora of defects in GM-branded vehicles, offend established public policy, and also because the harm New GM caused consumers greatly outweighs any benefits associated with those practices. New GM's conduct has also impaired competition within the automotive vehicles market and has prevented Plaintiffs and the California Class from making fully informed decisions about whether to lease, purchase and/or retain the Affected Vehicles.

1116. From the date of its inception on July 10, 2009, New GM knew of many serious defects affecting many models and years of GM-branded vehicles, both because of the knowledge of Old GM personnel who remained at New GM and continuous reports, investigations, and notifications from regulatory authorities. New GM became aware of other serious defects and systemic safety issues years ago, but concealed all of that information until recently.

1117. New GM was also aware that it valued cost-cutting over safety, selected parts from the cheapest supplier regardless of quality, and actively discouraged employees from finding and flagging known safety defects, and that this approach would necessarily cause the existence of more defects in the vehicles it designed and manufactured and the failure to disclose and remedy defects in all GM-branded vehicles. New GM concealed this information as well.

1118. According to one report from the Center for Auto Safety, some 2,004 deaths and injuries are connected with recently recalled GM-branded vehicles, and New GM should have recalled the vehicles years ago.

1119. By failing to disclose and by actively concealing the many defects in GM-branded vehicles, by marketing its vehicles as safe, reliable, and of high quality, and by presenting itself as a reputable manufacturer that valued safety and stood behind its vehicles after they were sold, New GM engaged in unlawful, unfair, or fraudulent business act or practices in violation of the UCL.

1120. In the course of New GM's business, it willfully failed to disclose and actively concealed the dangerous risk posed by the many safety issues and serious defects discussed above. New GM compounded the deception by repeatedly asserting that the Affected Vehicles were safe, reliable, and of high quality, and by claiming to be a reputable manufacturer that valued safety and stood behind its vehicles once they are on the road.

1121. New GM's unfair or deceptive acts or practices were likely to and did in fact deceive reasonable consumers, including Plaintiffs, about the true safety and reliability of GM-branded vehicles, the quality of the GM brand, the devaluing of safety at New GM, and the true value of the Affected Vehicles.

1122. New GM intentionally and knowingly misrepresented material facts regarding the Affected Vehicles with an intent to mislead Plaintiffs and the California Class.

1123. New GM knew or should have known that its conduct violated the UCL.

1124. As alleged above, New GM made material statements about the safety and reliability of the Affected Vehicles that were either false or misleading.

1125. New GM owed Plaintiffs a duty to disclose the true safety and reliability of the Affected Vehicles and the devaluing of safety at New GM, because New GM:

a. Possessed exclusive knowledge that it valued cost-cutting over safety, selected parts from the cheapest supplier regardless of quality, and actively discouraged employees from finding and flagging known safety defects, and that this approach would necessarily cause the existence of more defects in the vehicles it designed and manufactured;

b. Intentionally concealed the foregoing from Plaintiffs; and/or

c. Made incomplete representations about the safety and reliability of the Affected Vehicles generally, and the ignition switch in particular, while purposefully withholding material facts from Plaintiffs that contradicted these representations.

1126. Because New GM fraudulently concealed the many defects in GM-branded vehicles, resulting in a raft of negative publicity once the defects finally began to be disclosed, the value of the Affected Vehicles has greatly diminished. In light of the stigma attached to those vehicles by New GM's conduct, they are now worth significantly less than they otherwise would be.

1127. New GM's systemic devaluation of safety and its concealment of a plethora of defects in GM-branded vehicles were material to Plaintiffs and the California Class. A vehicle made by a reputable manufacturer of safe vehicles is worth more than an otherwise comparable vehicle made by a disreputable manufacturer of unsafe vehicles that conceals defects rather than promptly remedies them.

1128. Plaintiffs and the California Class suffered ascertainable loss caused by New GM's misrepresentations and its failure to disclose material information. Had they been aware of the many defects that existed in GM-branded vehicles, and the company's callous disregard for safety, Plaintiffs either would have paid less for their vehicles or would not have

purchased or leased them at all. Plaintiffs did not receive the benefit of their bargain as a result of New GM's misconduct.

1129. New GM's violations present a continuing risk to Plaintiffs as well as to the general public. Its unlawful acts and practices complained of herein affect the public interest.

1130. As a direct and proximate result of New GM's violations of the UCL, Plaintiffs and the California Class have suffered injury-in-fact and/or actual damage.

1131. Plaintiffs request that this Court enter such orders or judgments as may be necessary, including a declaratory judgment that New GM has violated the UCL; an order enjoining New GM from continuing its unfair, unlawful, and/or deceptive practices; an order supervising the recalls; an order and judgment restoring to the California Class members any money lost as the result of New GM's unfair, unlawful, and deceptive trade practices, including restitution and disgorgement of any profits New GM received as a result of its unfair, unlawful, and/or deceptive practices, as provided in CAL. BUS. & PROF. CODE § 17203, CAL CIV. PROC. § 384 and CAL. CIV. CODE § 3345; and for such other relief as may be just and proper.

**COUNT III**

**FRAUD BY CONCEALMENT**

1132. Plaintiffs reallege and incorporate by reference all paragraphs as though fully set forth herein.

1133. In the event the Court declines to certify a Nationwide Class under Michigan law, this claim is brought only on behalf of Nationwide Class members who are California residents (the "California Class").

1134. New GM concealed and suppressed material facts concerning the quality of its vehicles and the New GM brand.

1135. New GM concealed and suppressed material facts concerning the culture of New GM—a culture characterized by an emphasis on cost-cutting, the studious avoidance of safety issues, and a shoddy design process.

1136. New GM concealed and suppressed material facts concerning the many serious defects plaguing GM-branded vehicles, and that it valued cost-cutting over safety and took steps to ensure that its employees did not reveal known safety defects to regulators or consumers.

1137. New GM did so in order to boost confidence in its vehicles and falsely assure purchasers and lessors of its vehicles that New GM was a reputable manufacturer that stands behind its vehicles after they are sold and that its vehicles are safe and reliable. The false representations were material to consumers, both because they concerned the quality and safety of the Affected Vehicles and because they played a significant role in the value of the vehicles.

1138. New GM had a duty to disclose the many defects in GM-branded vehicles because they were known and/or accessible only to New GM who had superior knowledge and access to the facts, and New GM knew the facts were not known to or reasonably discoverable by Plaintiffs and the California Class. These omitted and concealed facts were material because they directly impact the value of the Affected Vehicles purchased or leased by Plaintiffs and the California Class. Whether a manufacturer's products are safe and reliable, and whether that manufacturer stands behind its products, are material concerns to a consumer.

1139. New GM actively concealed and/or suppressed these material facts, in whole or in part, to protect its profits and avoid recalls that would hurt the brand's image and cost New GM money, and it did so at the expense of Plaintiffs and the California Class.

1140. On information and belief, New GM has still not made full and adequate disclosure and continues to defraud Plaintiffs and the California Class and conceal material information regarding defects that exist in GM-branded vehicles.

1141. Plaintiffs and the California Class were unaware of these omitted material facts and would not have acted as they did if they had known of the concealed and/or suppressed facts. Plaintiffs' and the California Class's actions were justified. New GM was in exclusive control of the material facts and such facts were not known to the public, Plaintiffs, or the California Class.

1142. Because of the concealment and/or suppression of the facts, Plaintiffs and the California Class sustained damage because they own vehicles that diminished in value as a result of New GM's concealment of, and failure to timely disclose, the serious defects in millions of GM-branded vehicles and the serious safety and quality issues engendered by New GM's corporate policies. Had they been aware of the many defects that existed in GM-branded vehicles, and the company's callous disregard for safety, Plaintiffs either would have paid less for their vehicles or would not have purchased or leased them at all. Plaintiffs did not receive the benefit of their bargain as a result of New GM's fraudulent concealment.

1143. The value of all California Class members' vehicles has diminished as a result of New GM's fraudulent concealment of the many defects and its systemic safety issues which has greatly tarnished the New GM brand and made any reasonable consumer reluctant to purchase any of the Affected Vehicles, let alone pay what otherwise would have been fair market value for the vehicles.

1144. Accordingly, New GM is liable to the California Class for their damages in an amount to be proven at trial.

1145. New GM's acts were done maliciously, oppressively, deliberately, with intent to defraud, and in reckless disregard of Plaintiffs' and the California Class's rights and well-being to enrich New GM. New GM's conduct warrants an assessment of punitive damages in an amount sufficient to deter such conduct in the future, which amount is to be determined according to proof.

**COUNT IV**

**VIOLATION OF SONG-BEVERLY CONSUMER WARRANTY ACT FOR BREACH OF IMPLIED WARRANTY OF MERCHANTABILITY**

**(CAL. CIV. CODE §§ 1791.1 & 1792)**

1146. Plaintiffs reallege and incorporate by reference all paragraphs as though fully set forth herein.

1147. In the event the Court declines to certify a Nationwide Ignition Switch Defect Subclass under the Magnuson-Moss Warranty Act or Michigan law, this claim is brought only on behalf of California residents who are members of the Ignition Switch Defect Subclass (the "California Ignition Switch Defect Subclass").

1148. Plaintiffs and California Ignition Switch Defect Subclass members are "buyers" within the meaning of CAL. CIV. CODE § 1791(b).

1149. The Defective Ignition Switch Vehicles are "consumer goods" within the meaning of CIV. CODE § 1791(a).

1150. New GM was a "manufacturer" of the Defective Ignition Switch Vehicles within the meaning of CAL. CIV. CODE § 1791(j).

1151. New GM impliedly warranted to Plaintiffs and the California Ignition Switch Defect Subclass that its Defective Ignition Switch Vehicles were "merchantable" within the meaning of CAL. CIV. CODE §§ 1791.1(a) & 1792; however, the Defective Ignition Switch

Vehicles do not have the quality that a buyer would reasonably expect, and were therefore not merchantable.

1152. CAL. CIV. CODE § 1791.1(a) states:

> "Implied warranty of merchantability" or "implied warranty that goods are merchantable" means that the consumer goods meet each of the following:
>
> (1) Pass without objection in the trade under the contract description.
>
> (2) Are fit for the ordinary purposes for which such goods are used.
>
> (3) Are adequately contained, packaged, and labeled.
>
> (4) Conform to the promises or affirmations of fact made on the container or label.

1153. The Defective Ignition Switch Vehicles would not pass without objection in the automotive trade because of the ignition switch defects that cause the Defective Ignition Switch Vehicles to inadvertently shut down during ordinary driving conditions, leading to an unreasonable likelihood of accident and an unreasonable likelihood that such accidents will cause serious bodily harm or death to vehicle occupants.

1154. Because of the ignition switch defects, the Defective Ignition Switch Vehicles are not safe to drive and thus not fit for ordinary purposes.

1155. The Defective Ignition Switch Vehicles are not adequately labeled because the labeling fails to disclose the ignition switch defects and does not advise Class members to avoid attaching anything to their vehicle key rings. New GM failed to warn about the dangerous safety defects in the Defective Ignition Switch Vehicles.

1156. New GM breached the implied warranty of merchantability by selling Defective Ignition Switch Vehicles containing defects leading to the sudden and unintended shut down of

the vehicles during ordinary driving conditions. These defects have deprived Plaintiffs and the California Ignition Switch Defect Subclass of the benefit of their bargain and have caused the Defective Ignition Switch Vehicles to depreciate in value.

1157. Notice of breach is not required because Plaintiffs and California Ignition Switch Defect Subclass members did not purchase their automobiles directly from New GM.

1158. As a direct and proximate result New GM's breach of its duties under California's Lemon Law, Plaintiffs and California Ignition Switch Defect Subclass members received goods whose dangerous condition substantially impairs their value. Plaintiffs and the California Ignition Switch Defect Subclass have been damaged by the diminished value of New GM's products, the product's malfunctioning, and the nonuse of their Defective Ignition Switch Vehicles.

1159. Under CAL. CIV. CODE §§ 1791.1(d) & 1794, Plaintiffs and California Ignition Switch Defect Subclass members are entitled to damages and other legal and equitable relief including, at their election, the purchase price of their Defective Ignition Switch Vehicles, or the overpayment or diminution in value of their Defective Ignition Switch Vehicles.

1160. Under CAL. CIV. CODE § 1794, Plaintiffs and California Ignition Switch Defect Subclass members are entitled to costs and attorneys' fees.

**COUNT V**

**NEGLIGENT FAILURE TO RECALL**

1161. Plaintiffs reallege and incorporate by reference all paragraphs as though fully set forth herein.

1162. This claim is brought only on behalf of California residents who are members of the Ignition Switch Defect Subclass (the "California Ignition Switch Defect Subclass").

1163. New GM manufactured, distributed, and sold Defective Ignition Switch Vehicles.

1164. New GM knew or reasonably should have known that the Defective Ignition Switch Vehicles were dangerous and/or were likely to be dangerous when used in a reasonably foreseeable manner.

1165. New GM either knew of the ignition switch defects before the vehicles were sold, or became aware of the ignition switch defects and their attendant risks after the vehicles were sold.

1166. New GM continued to gain information further corroborating the ignition switch defects and their risks from its inception until this year.

1167. New GM failed to adequately recall the Defective Ignition Switch Vehicles in a timely manner.

1168. Purchasers of the Defective Ignition Switch Vehicles, including the California Ignition Switch Defect Subclass, were harmed by New GM's failure to adequately recall all the Defective Ignition Switch Vehicles in a timely manner and have suffered damages, including, without limitation, damage to other components of the Defective Ignition Switch Vehicles caused by the Ignition Switch Defects, the diminished value of the Defective Ignition Switch Vehicles, the cost of modification of the defective ignition switch systems, and the costs associated with the loss of use of the Defective Ignition Switch Vehicles.

1169. New GM's failure to timely and adequately recall the Defective Ignition Switch Vehicles was a substantial factor in causing the purchasers' harm, including that of Plaintiffs and the California Ignition Switch Defect Subclass.

## COLORADO

### COUNT I

### VIOLATIONS OF THE COLORADO CONSUMER PROTECTION ACT

### (COL. REV. STAT. § 6-1-101, *et seq.*)

1170. Plaintiffs reallege and incorporate by reference all paragraphs as though fully set forth herein.

1171. This claim is brought only on behalf of Nationwide Class members who are Colorado residents (the "Colorado Class").

1172. New GM is a "person" under § 6-1-102(6) of the Colorado Consumer Protection Act ("Colorado CPA"), COL. REV. STAT. § 6-1-101, *et seq*.

1173. Plaintiffs and Colorado Class members are "consumers" for purposes of COL. REV. STAT § 6-1-113(1)(a) who purchased or leased one or more Affected Vehicles.

1174. The Colorado CPA prohibits deceptive trade practices in the course of a person's business. New GM engaged in deceptive trade practices prohibited by the Colorado CPA, including: (1) knowingly making a false representation as to the characteristics, uses, and benefits of the Affected Vehicles that had the capacity or tendency to deceive Colorado Class members; (2) representing that the Affected Vehicles are of a particular standard, quality, and grade even though New GM knew or should have known they are not; (3) advertising the Affected Vehicles with the intent not to sell them as advertised; and (4) failing to disclose material information concerning the Affected Vehicles that was known to New GM at the time of advertisement or sale with the intent to induce Colorado Class members to purchase, lease or retain the Affected Vehicles.

1175. In the course of its business, New GM systematically devalued safety and concealed a plethora of defects in GM-branded vehicles as described herein and otherwise

engaged in activities with a tendency or capacity to deceive. New GM also engaged in unlawful trade practices by employing deception, deceptive acts or practices, fraud, misrepresentations, or concealment, suppression or omission of any material fact with intent that others rely upon such concealment, suppression or omission, in connection with the sale of the Affected Vehicles.

1176. New GM's actions as set forth above occurred in the conduct of trade or commerce.

1177. From the date of its inception on July 10, 2009, New GM knew of many serious defects affecting many models and years of GM-branded vehicles, both because of the knowledge of Old GM personnel who remained at New GM and continuous reports, investigations, and notifications from regulatory authorities. New GM became aware of other serious defects and systemic safety issues years ago, but concealed all of that information until recently.

1178. New GM was also aware that it valued cost-cutting over safety, selected parts from the cheapest supplier regardless of quality, and actively discouraged employees from finding and flagging known safety defects, and that this approach would necessarily cause the existence of more defects in the vehicles it designed and manufactured and the failure to disclose and remedy defects in all GM-branded vehicles. New GM concealed this information as well.

1179. According to one report from the Center for Auto Safety, some 2,004 deaths and injuries are connected with recently recalled GM-branded vehicles, and New GM should have recalled the vehicles years ago.

1180. By failing to disclose and by actively concealing the many defects in GM-branded vehicles, by marketing its vehicles as safe, reliable, and of high quality, and by presenting itself

as a reputable manufacturer that valued safety and stood behind its vehicles after they were sold, New GM engaged in deceptive business practices in violation of the Colorado CPA.

1181. In the course of New GM's business, it willfully failed to disclose and actively concealed the dangerous risk posed by the many safety issues and serious defects discussed above. New GM compounded the deception by repeatedly asserting that the Affected Vehicles were safe, reliable, and of high quality, and by claiming to be a reputable manufacturer that valued safety and stood behind its vehicles once they are on the road.

1182. New GM's unfair or deceptive acts or practices were likely to and did in fact deceive reasonable consumers, including Plaintiffs, about the true safety and reliability of GM-branded vehicles, the quality of the GM brand, the devaluing of safety at New GM, and the true value of the Affected Vehicles.

1183. New GM intentionally and knowingly misrepresented material facts regarding the Affected Vehicles with an intent to mislead Plaintiffs and the Colorado Class.

1184. New GM knew or should have known that its conduct violated the Colorado CPA.

1185. As alleged above, New GM made material statements about the safety and reliability of the Affected Vehicles that were either false or misleading.

1186. New GM owed Plaintiffs a duty to disclose the true safety and reliability of the Affected Vehicles and the devaluing of safety at New GM, because New GM:

a. Possessed exclusive knowledge that it valued cost-cutting over safety, selected parts from the cheapest supplier regardless of quality, and actively discouraged employees from finding and flagging known safety defects, and that this approach would necessarily cause the existence of more defects in the vehicles it designed and manufactured;

b. Intentionally concealed the foregoing from Plaintiffs; and/or

c. Made incomplete representations about the safety and reliability of the Affected Vehicles generally, and the ignition switch in particular, while purposefully withholding material facts from Plaintiffs that contradicted these representations.

1187. Because New GM fraudulently concealed the many defects in GM-branded vehicles, resulting in a raft of negative publicity once the defects finally began to be disclosed, the value of the Affected Vehicles has greatly diminished. In light of the stigma attached to those vehicles by New GM's conduct, they are now worth significantly less than they otherwise would be.

1188. New GM's systemic devaluation of safety and its concealment of a plethora of defects in GM-branded vehicles were material to Plaintiffs and the Colorado Class. A vehicle made by a reputable manufacturer of safe vehicles is worth more than an otherwise comparable vehicle made by a disreputable manufacturer of unsafe vehicles that conceals defects rather than promptly remedies them.

1189. Plaintiffs and the Colorado Class suffered ascertainable loss caused by New GM's misrepresentations and its failure to disclose material information. Had they been aware of the many defects that existed in GM-branded vehicles, and the company's callous disregard for safety, Plaintiffs either would have paid less for their vehicles or would not have purchased or leased them at all. Plaintiffs did not receive the benefit of their bargain as a result of New GM's misconduct.

1190. Plaintiffs and Colorado Class members risk irreparable injury as a result of New GM's act and omissions in violation of the Colorado CPA, and these violations present a continuing risk to Plaintiffs as well as to the general public. New GM's unlawful acts and practices complained of herein affect the public interest.

1191. As a direct and proximate result of New GM's violations of the Colorado CPA, Plaintiffs and the Colorado Class have suffered injury-in-fact and/or actual damage.

1192. Pursuant to COLO. REV. STAT. § 6-1-113, Plaintiffs individually and on behalf of the Colorado Class, seek monetary relief against New GM measured as the greater of (a) actual damages in an amount to be determined at trial and discretionary trebling of such damages, or (b) statutory damages in the amount of $500 for each Plaintiff and each Colorado Class member.

1193. Plaintiffs also seek an order enjoining New GM's unfair, unlawful, and/or deceptive practices, declaratory relief, attorneys' fees, and any other just and proper relief available under the Colorado CPA.

**COUNT II**

**FRAUD BY CONCEALMENT**

1194. Plaintiffs reallege and incorporate by reference all paragraphs as though fully set forth herein.

1195. In the event the Court declines to certify a Nationwide Class under Michigan law, this claim is brought only on behalf of Nationwide Class members who are Colorado residents (the "Colorado Class").

1196. New GM concealed and suppressed material facts concerning the quality of its vehicles and the GM brand.

1197. New GM concealed and suppressed material facts concerning the culture of New GM—a culture characterized by an emphasis on cost-cutting, the studious avoidance of safety issues, and a shoddy design process.

1198. New GM concealed and suppressed material facts concerning the many serious defects plaguing GM-branded vehicles, and that it valued cost-cutting over safety and took steps to ensure that its employees did not reveal known safety defects to regulators or consumers.

1199. New GM did so in order to boost confidence in its vehicles and falsely assure purchasers and lessors of its vehicles that New GM was a reputable manufacturer that stands behind its vehicles after they are sold and that its vehicles are safe and reliable. The false representations were material to consumers, both because they concerned the quality and safety of the Affected Vehicles and because they played a significant role in the value of the vehicles.

1200. New GM had a duty to disclose the many defects in GM-branded vehicles because they were known and/or accessible only to New GM who had superior knowledge and access to the facts, and New GM knew the facts were not known to or reasonably discoverable by Plaintiffs and the Colorado Class. These omitted and concealed facts were material because they directly impact the value of the Affected Vehicles purchased or leased by Plaintiffs and the Colorado Class. Whether a manufacturer's products are safe and reliable, and whether that manufacturer stands behind its products, are material concerns to a consumer.

1201. New GM actively concealed and/or suppressed these material facts, in whole or in part, to protect its profits and avoid recalls that would hurt the brand's image and cost New GM money, and it did so at the expense of Plaintiffs and the Colorado Class.

1202. On information and belief, New GM has still not made full and adequate disclosure and continues to defraud Plaintiffs and the Colorado Class and conceal material information regarding defects that exist in GM-branded vehicles.

1203. Plaintiffs and the Colorado Class were unaware of these omitted material facts and would not have acted as they did if they had known of the concealed and/or suppressed facts. Plaintiffs' and the Colorado Class's actions were justified. New GM was in exclusive control of the material facts and such facts were not known to the public, Plaintiffs, or the Colorado Class.

1204. Because of the concealment and/or suppression of the facts, Plaintiffs and the Colorado Class sustained damage because they own vehicles that diminished in value as a result of New GM's concealment of, and failure to timely disclose, the serious defects in millions of GM-branded vehicles and the serious safety and quality issues engendered by New GM's corporate policies. Had they been aware of the many defects that existed in GM-branded vehicles, and the company's callous disregard for safety, Plaintiffs either would have paid less for their vehicles or would not have purchased or leased them at all. Plaintiffs did not receive the benefit of their bargain as a result of New GM's fraudulent concealment.

1205. The value of all Colorado Class members' vehicles has diminished as a result of New GM's fraudulent concealment of the many defects and its systemic safety issues which has greatly tarnished the GM brand and made any reasonable consumer reluctant to purchase any of the Affected Vehicles, let alone pay what otherwise would have been fair market value for the vehicles.

1206. Accordingly, New GM is liable to the Colorado Class for their damages in an amount to be proven at trial.

1207. New GM's acts were done maliciously, oppressively, deliberately, with intent to defraud, and in reckless disregard of Plaintiffs' and the Colorado Class's rights and well-being to enrich New GM. New GM's conduct warrants an assessment of punitive damages in an amount sufficient to deter such conduct in the future, which amount is to be determined according to proof.

**COUNT III**

**BREACH OF THE IMPLIED WARRANTY OF MERCHANTABILITY**

**(COL. REV. STAT. § 4-2-314)**

1208. Plaintiffs reallege and incorporate by reference all paragraphs as though fully set forth herein.

1209. In the event the Court declines to certify a Nationwide Ignition Switch Defect Subclass under the Magnuson-Moss Warranty Act or Michigan law, this claim is brought only on behalf of Colorado residents who are members of the Ignition Switch Defect Subclass (the "Colorado Ignition Switch Defect Subclass").

1210. New GM was a merchant with respect to motor vehicles.

1211. Under COL. REV. STAT. § 4-2-314, a warranty that the Defective Ignition Switch Vehicles were in merchantable condition was implied by law in the transactions when Plaintiffs purchased their Defective Ignition Switch Vehicles.

1212. These vehicles, when sold and at all times thereafter, were not merchantable and are not fit for the ordinary purpose for which cars are used. Specifically, the Defective Ignition Switch Vehicles are inherently defective in that there are defects in the ignition switch systems that permit sudden unintended shutdown to occur, with the attendant shut down of power steering and power brakes and the nondeployment of airbags in the event of a collision.

1213. New GM was provided notice of these issues by numerous complaints filed against it, internal investigations, and by numerous individual letters and communications sent by Plaintiffs and the Colorado Ignition Switch Defect Subclass before or within a reasonable amount of time after New GM issued the recall and the allegations of vehicle defects became public.

1214. As a direct and proximate result of New GM's breach of the implied warranty of merchantability, Plaintiffs and the Colorado Ignition Switch Defect Subclass have been damaged in an amount to be proven at trial.

**CONNECTICUT**

**COUNT I**

**VIOLATION OF CONNECTICUT UNLAWFUL TRADE PRACTICES ACT**

**(CONN. GEN. STAT. § 42-110A, *et seq*.)**

1215. Plaintiffs reallege and incorporate by reference all paragraphs as though fully set forth herein.

1216. This claim is brought only on behalf of Class members who are Connecticut residents (the "Connecticut Class").

1217. The Connecticut Unfair Trade Practices Act ("Connecticut UTPA") provides: "No person shall engage in unfair methods of competition and unfair or deceptive acts or practices in the conduct of any trade or commerce." CONN. GEN. STAT. § 42-110b(a).

1218. New GM is a "person" within the meaning of CONN. GEN. STAT. § 42-110a(3). New GM is in "trade" or "commerce" within the meaning of CONN. GEN. STAT. § 42-110a(4).

1219. New GM participated in deceptive trade practices that violated the Connecticut UTPA as described herein. In the course of its business, New GM systematically devalued safety and concealed a plethora of defects in GM-branded vehicles as described herein and otherwise engaged in activities with a tendency or capacity to deceive. New GM also engaged in unlawful trade practices by employing deception, deceptive acts or practices, fraud, misrepresentations, or concealment, suppression or omission of any material fact with intent that others rely upon such concealment, suppression or omission, in connection with the sale of the Affected Vehicles.

1220. From the date of its inception on July 10, 2009, New GM knew of many serious defects affecting many models and years of GM-branded vehicles, both because of the knowledge of Old GM personnel who remained at New GM and continuous reports, investigations, and notifications from regulatory authorities. New GM became aware of other serious defects and systemic safety issues years ago, but concealed all of that information until recently.

1221. New GM was also aware that it valued cost-cutting over safety, selected parts from the cheapest supplier regardless of quality, and actively discouraged employees from finding and flagging known safety defects, and that this approach would necessarily cause the existence of more defects in the vehicles it designed and manufactured and the failure to disclose and remedy defects in all GM-branded vehicles. New GM concealed this information as well.

1222. According to one report from the Center for Auto Safety, some 2,004 deaths and injuries are connected with recently recalled GM-branded vehicles, and New GM should have recalled the vehicles years ago.

1223. By failing to disclose and by actively concealing the many defects in GM-branded vehicles, by marketing its vehicles as safe, reliable, and of high quality, and by presenting itself as a reputable manufacturer that valued safety and stood behind its vehicles after they were sold, New GM engaged in unfair and deceptive business practices in violation of the Connecticut UTPA.

1224. In the course of New GM's business, it willfully failed to disclose and actively concealed the dangerous risk posed by the many safety issues and serious defects discussed above. New GM compounded the deception by repeatedly asserting that the Affected Vehicles

were safe, reliable, and of high quality, and by claiming to be a reputable manufacturer that valued safety and stood behind its vehicles once they are on the road.

1225. New GM's unfair or deceptive acts or practices were likely to and did in fact deceive reasonable consumers, including Plaintiffs, about the true safety and reliability of GM-branded vehicles, the quality of the GM brand, the devaluing of safety at New GM, and the true value of the Affected Vehicles.

1226. New GM intentionally and knowingly misrepresented material facts regarding the Affected Vehicles with an intent to mislead Plaintiffs and the Connecticut Class.

1227. New GM knew or should have known that its conduct violated the Connecticut UTPA.

1228. As alleged above, New GM made material statements about the safety and reliability of the Affected Vehicles that were either false or misleading.

1229. New GM owed Plaintiffs a duty to disclose the true safety and reliability of the Affected Vehicles and the devaluing of safety at New GM, because New GM:

a. Possessed exclusive knowledge that it valued cost-cutting over safety, selected parts from the cheapest supplier regardless of quality, and actively discouraged employees from finding and flagging known safety defects, and that this approach would necessarily cause the existence of more defects in the vehicles it designed and manufactured;

b. Intentionally concealed the foregoing from Plaintiffs; and/or

c. Made incomplete representations about the safety and reliability of the Affected Vehicles generally, and the ignition switch in particular, while purposefully withholding material facts from Plaintiffs that contradicted these representations.

1230. Because New GM fraudulently concealed the many defects in GM-branded vehicles, resulting in a raft of negative publicity once the defects finally began to be disclosed,

the value of the Affected Vehicles has greatly diminished. In light of the stigma attached to those vehicles by New GM's conduct, they are now worth significantly less than they otherwise would be.

1231. New GM's systemic devaluation of safety and its concealment of a plethora of defects in GM-branded vehicles were material to Plaintiffs and the Connecticut Class. A vehicle made by a reputable manufacturer of safe vehicles is worth more than an otherwise comparable vehicle made by a disreputable manufacturer of unsafe vehicles that conceals defects rather than promptly remedies them.

1232. Plaintiffs and the Connecticut Class suffered ascertainable loss caused by New GM's misrepresentations and its failure to disclose material information. Had they been aware of the many defects that existed in GM-branded vehicles, and the company's callous disregard for safety, Plaintiffs either would have paid less for their vehicles or would not have purchased or leased them at all. Plaintiffs did not receive the benefit of their bargain as a result of New GM's misconduct.

1233. New GM's violations present a continuing risk to Plaintiffs as well as to the general public. New GM's unlawful acts and practices complained of herein affect the public interest.

1234. As a direct and proximate result of New GM's violations of the Connecticut UTPA, Plaintiffs and the Connecticut Class have suffered injury-in-fact and/or actual damage.

1235. Plaintiffs and the Class are entitled to recover their actual damages, punitive damages, and attorneys' fees pursuant to CONN. GEN. STAT. § 42-110g.

1236. New GM acted with a reckless indifference to another's rights or wanton or intentional violation to another's rights and otherwise engaged in conduct amounting to a particularly aggravated, deliberate disregard of the rights and safety of others.

**COUNT II**

**FRAUDULENT CONCEALMENT**

1237. Plaintiffs reallege and incorporate by reference all paragraphs as though fully set forth herein.

1238. In the event the Court declines to certify a Nationwide Class under Michigan law, this claim is brought only on behalf of Class members who are Connecticut residents (the "Connecticut Class").

1239. New GM concealed and suppressed material facts concerning the quality of its vehicles and the GM brand.

1240. New GM concealed and suppressed material facts concerning the culture of New GM—a culture characterized by an emphasis on cost-cutting, the studious avoidance of safety issues, and a shoddy design process.

1241. New GM concealed and suppressed material facts concerning the many serious defects plaguing GM-branded vehicles, and that it valued cost-cutting over safety and took steps to ensure that its employees did not reveal known safety defects to regulators or consumers.

1242. New GM did so in order to boost confidence in its vehicles and falsely assure purchasers and lessors of its vehicles that New GM was a reputable manufacturer that stands behind its vehicles after they are sold and that its vehicles are safe and reliable. The false representations were material to consumers, both because they concerned the quality and safety of the Affected Vehicles and because they played a significant role in the value of the vehicles.

1243. New GM had a duty to disclose the many defects in GM-branded vehicles because they were known and/or accessible only to New GM who had superior knowledge and access to the facts, and New GM knew the facts were not known to or reasonably discoverable by Plaintiffs and the Connecticut Class. These omitted and concealed facts were material because they directly impact the value of the Affected Vehicles purchased or leased by Plaintiffs and the Connecticut Class. Whether a manufacturer's products are safe and reliable, and whether that manufacturer stands behind its products, are material concerns to a consumer.

1244. New GM actively concealed and/or suppressed these material facts, in whole or in part, to protect its profits and avoid recalls that would hurt the brand's image and cost New GM money, and it did so at the expense of Plaintiffs and the Connecticut Class.

1245. On information and belief, New GM has still not made full and adequate disclosure and continues to defraud Plaintiffs and the Connecticut Class and conceal material information regarding defects that exist in GM-branded vehicles.

1246. Plaintiffs and the Connecticut Class were unaware of these omitted material facts and would not have acted as they did if they had known of the concealed and/or suppressed facts. Plaintiffs' and the Connecticut Class's actions were justified. New GM was in exclusive control of the material facts and such facts were not known to the public, Plaintiffs, or the Connecticut Class.

1247. Because of the concealment and/or suppression of the facts, Plaintiffs and the Connecticut Class sustained damage because they own vehicles that diminished in value as a result of New GM's concealment of, and failure to timely disclose, the serious defects in millions of GM-branded vehicles and the serious safety and quality issues engendered by New GM's corporate policies. Had they been aware of the many defects that existed in GM-branded

vehicles, and the company's callous disregard for safety, Plaintiffs either would have paid less for their vehicles or would not have purchased or leased them at all. Plaintiffs did not receive the benefit of their bargain as a result of New GM's fraudulent concealment.

1248. The value of all Connecticut Class members' vehicles has diminished as a result of New GM's fraudulent concealment of the many defects and its systemic safety issues which has greatly tarnished the GM brand and made any reasonable consumer reluctant to purchase any of the Affected Vehicles, let alone pay what otherwise would have been fair market value for the vehicles.

1249. Accordingly, New GM is liable to the Connecticut Class for their damages in an amount to be proven at trial.

1250. New GM's acts were done maliciously, oppressively, deliberately, with intent to defraud, and in reckless disregard of Plaintiffs' and the Connecticut Class's rights and well-being to enrich New GM. New GM's conduct warrants an assessment of punitive damages in an amount sufficient to deter such conduct in the future, which amount is to be determined according to proof.

**DELAWARE**

**COUNT I**

**VIOLATION OF THE DELAWARE CONSUMER FRAUD ACT**

**(6 DEL. CODE § 2513, *et seq*.)**

1251. Plaintiffs reallege and incorporate by reference all paragraphs as though fully set forth herein.

1252. This claim is brought only on behalf of Nationwide Class members who are Delaware residents (the "Delaware Class").

1253. New GM is a "person" within the meaning of 6 DEL. CODE § 2511(7).

1254. The Delaware Consumer Fraud Act ("Delaware CFA") prohibits the "act, use or employment by any person of any deception, fraud, false pretense, false promise, misrepresentation, or the concealment, suppression, or omission of any material fact with intent that others rely upon such concealment, suppression or omission, in connection with the sale, lease or advertisement of any merchandise, whether or not any person has in fact been misled, deceived or damaged thereby." 6 DEL. CODE § 2513(a).

1255. New GM participated in deceptive trade practices that violated the Delaware CFA as described herein. In the course of its business, New GM systematically devalued safety and concealed a plethora of defects in GM-branded vehicles as described herein and otherwise engaged in activities with a tendency or capacity to deceive. New GM also engaged in unlawful trade practices by employing deception, deceptive acts or practices, fraud, misrepresentations, or concealment, suppression or omission of any material fact with intent that others rely upon such concealment, suppression or omission, in connection with the sale of the Affected Vehicles.

1256. From the date of its inception on July 10, 2009, New GM knew of many serious defects affecting many models and years of GM-branded vehicles, both because of the knowledge of Old GM personnel who remained at New GM and continuous reports, investigations, and notifications from regulatory authorities. New GM became aware of other serious defects and systemic safety issues years ago, but concealed all of that information until recently.

1257. New GM was also aware that it valued cost-cutting over safety, selected parts from the cheapest supplier regardless of quality, and actively discouraged employees from finding and flagging known safety defects, and that this approach would necessarily cause the

existence of more defects in the vehicles it designed and manufactured and the failure to disclose and remedy defects in all GM-branded vehicles. New GM concealed this information as well.

1258. According to one report from the Center for Auto Safety, some 2,004 deaths and injuries are connected with recently recalled GM-branded vehicles, and New GM should have recalled the vehicles years ago.

1259. By failing to disclose and by actively concealing the many defects in GM-branded vehicles, by marketing its vehicles as safe, reliable, and of high quality, and by presenting itself as a reputable manufacturer that valued safety and stood behind its vehicles after they were sold, New GM engaged in deceptive business practices in violation of the Delaware CFA.

1260. In the course of New GM's business, it willfully failed to disclose and actively concealed the dangerous risk posed by the many safety issues and serious defects discussed above. New GM compounded the deception by repeatedly asserting that the Affected Vehicles were safe, reliable, and of high quality, and by claiming to be a reputable manufacturer that valued safety and stood behind its vehicles once they are on the road.

1261. New GM's unfair or deceptive acts or practices were likely to and did in fact deceive reasonable consumers, including Plaintiffs, about the true safety and reliability of GM-branded vehicles, the quality of the New GM brand, the devaluing of safety at New GM, and the true value of the Affected Vehicles.

1262. New GM intentionally and knowingly misrepresented material facts regarding the Affected Vehicles with an intent to mislead Plaintiffs and the Delaware Class.

1263. New GM knew or should have known that its conduct violated the Delaware CFA.

1264. As alleged above, New GM made material statements about the safety and reliability of the Affected Vehicles that were either false or misleading.

1265. New GM owed Plaintiffs a duty to disclose the true safety and reliability of the Affected Vehicles and the devaluing of safety at New GM, because New GM:

a. Possessed exclusive knowledge that it valued cost-cutting over safety, selected parts from the cheapest supplier regardless of quality, and actively discouraged employees from finding and flagging known safety defects, and that this approach would necessarily cause the existence of more defects in the vehicles it designed and manufactured;

b. Intentionally concealed the foregoing from Plaintiffs; and/or

c. Made incomplete representations about the safety and reliability of the Affected Vehicles generally, and the ignition switch in particular, while purposefully withholding material facts from Plaintiffs that contradicted these representations.

1266. Because New GM fraudulently concealed the many defects in GM-branded vehicles, resulting in a raft of negative publicity once the defects finally began to be disclosed, the value of the Affected Vehicles has greatly diminished. In light of the stigma attached to those vehicles by New GM's conduct, they are now worth significantly less than they otherwise would be.

1267. New GM's systemic devaluation of safety and its concealment of a plethora of defects in GM-branded vehicles were material to Plaintiffs and the Delaware Class. A vehicle made by a reputable manufacturer of safe vehicles is worth more than an otherwise comparable vehicle made by a disreputable manufacturer of unsafe vehicles that conceals defects rather than promptly remedies them.

1268. Plaintiffs and the Delaware Class suffered ascertainable loss caused by New GM's misrepresentations and its failure to disclose material information. Had they been

aware of the many defects that existed in GM-branded vehicles, and the company's callous disregard for safety, Plaintiffs either would have paid less for their vehicles or would not have purchased or leased them at all. Plaintiffs did not receive the benefit of their bargain as a result of New GM's misconduct.

1269. New GM's violations present a continuing risk to Plaintiffs as well as to the general public. New GM's unlawful acts and practices complained of herein affect the public interest.

1270. As a direct and proximate result of New GM's violations of the Delaware CFA, Plaintiffs and the Delaware Class have suffered injury-in-fact and/or actual damage.

1271. Plaintiffs seek damages under the Delaware CFA for injury resulting from the direct and natural consequences of New GM's unlawful conduct. *See, e.g.*, *Stephenson v. Capano Dev., Inc.*, 462 A.2d 1069, 1077 (Del. 1983). Plaintiffs also seek an order enjoining New GM's unfair, unlawful, and/or deceptive practices, declaratory relief, attorneys' fees, and any other just and proper relief available under the Delaware CFA.

1272. New GM engaged in gross, oppressive or aggravated conduct justifying the imposition of punitive damages.

## COUNT II

## VIOLATION OF THE DELAWARE DECEPTIVE TRADE PRACTICES ACT

### (6 DEL. CODE § 2532, *et seq.*)

1273. Plaintiffs reallege and incorporate by reference all paragraphs as though fully set forth herein.

1274. This claim is brought only on behalf of Nationwide Class members who are Delaware residents (the "Delaware Class").

1275. New GM is a "person" within the meaning of 6 DEL. CODE § 2531(5).

1276. Delaware's Deceptive Trade Practices Act ("Delaware DTPA") prohibits a person from engaging in a "deceptive trade practice," which includes: "(5) Represent[ing] that goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits, or quantities that they do not have, or that a person has a sponsorship, approval, status, affiliation, or connection that the person does not have"; "(7) Represent[ing] that goods or services are of a particular standard, quality, or grade, or that goods are of a particular style or model, if they are of another"; "(9) Advertis[ing] goods or services with intent not to sell them as advertised"; or "(12) Engag[ing] in any other conduct which similarly creates a likelihood of confusion or of misunderstanding."

1277. New GM engaged in deceptive trade practices in violation of the Delaware DTPA by systematically devaluing safety and concealing a plethora of defects in GM-branded vehicles as described above. New GM also engaged in deceptive trade practices in violation of the Delaware DTPA by representing that the Affected Vehicles have characteristics, uses, benefits, and qualities which they do not have; representing that the Affected Vehicles are of a particular standard and quality when they are not; advertising the Affected Vehicles with the intent not to sell them as advertised; and otherwise engaging in conduct likely to deceive.

1278. From the date of its inception on July 10, 2009, New GM knew of many serious defects affecting many models and years of GM-branded vehicles, both because of the knowledge of Old GM personnel who remained at New GM and continuous reports, investigations, and notifications from regulatory authorities. New GM became aware of other serious defects and systemic safety issues years ago, but concealed all of that information until recently.

1279. New GM was also aware that it valued cost-cutting over safety, selected parts from the cheapest supplier regardless of quality, and actively discouraged employees from finding and flagging known safety defects, and that this approach would necessarily cause the existence of more defects in the vehicles it designed and manufactured and the failure to disclose and remedy defects in all GM-branded vehicles. New GM concealed this information as well.

1280. According to one report from the Center for Auto Safety, some 2,004 deaths and injuries are connected with recently recalled GM-branded vehicles, and New GM should have recalled the vehicles years ago.

1281. By failing to disclose and by actively concealing the many defects in GM-branded vehicles, by marketing its vehicles as safe, reliable, and of high quality, and by presenting itself as a reputable manufacturer that valued safety and stood behind its vehicles after they were sold, New GM engaged in deceptive business practices in violation of the Delaware DTPA.

1282. In the course of New GM's business, it willfully failed to disclose and actively concealed the dangerous risk posed by the many safety issues and serious defects discussed above. New GM compounded the deception by repeatedly asserting that the Affected Vehicles were safe, reliable, and of high quality, and by claiming to be a reputable manufacturer that valued safety and stood behind its vehicles once they are on the road.

1283. New GM's unfair or deceptive acts or practices were likely to and did in fact deceive reasonable consumers, including Plaintiffs, about the true safety and reliability of GM-branded vehicles, the quality of the New GM brand, the devaluing of safety at New GM, and the true value of the Affected Vehicles.

1284. New GM intentionally and knowingly misrepresented material facts regarding the Affected Vehicles with an intent to mislead Plaintiffs and the Delaware Class.

1285. New GM knew or should have known that its conduct violated the Delaware DTPA.

1286. As alleged above, New GM made material statements about the safety and reliability of the Affected Vehicles that were either false or misleading.

1287. New GM owed Plaintiffs a duty to disclose the true safety and reliability of the Affected Vehicles and the devaluing of safety at New GM, because New GM:

a. Possessed exclusive knowledge that it valued cost-cutting over safety, selected parts from the cheapest supplier regardless of quality, and actively discouraged employees from finding and flagging known safety defects, and that this approach would necessarily cause the existence of more defects in the vehicles it designed and manufactured;

b. Intentionally concealed the foregoing from Plaintiffs; and/or

c. Made incomplete representations about the safety and reliability of the Affected Vehicles generally, and the ignition switch in particular, while purposefully withholding material facts from Plaintiffs that contradicted these representations.

1288. Because New GM fraudulently concealed the many defects in GM-branded vehicles, resulting in a raft of negative publicity once the defects finally began to be disclosed, the value of the Affected Vehicles has greatly diminished. In light of the stigma attached to those vehicles by New GM's conduct, they are now worth significantly less than they otherwise would be.

1289. New GM's systemic devaluation of safety and its concealment of a plethora of defects in GM-branded vehicles were material to Plaintiffs and the Delaware Class. A vehicle made by a reputable manufacturer of safe vehicles is worth more than an otherwise comparable vehicle made by a disreputable manufacturer of unsafe vehicles that conceals defects rather than promptly remedies them.

1290. Plaintiffs and the Delaware Class suffered ascertainable loss caused by New GM's misrepresentations and its failure to disclose material information. Had they been aware of the many defects that existed in GM-branded vehicles, and the company's callous disregard for safety, Plaintiffs either would have paid less for their vehicles or would not have purchased or leased them at all. Plaintiffs did not receive the benefit of their bargain as a result of New GM's misconduct.

1291. New GM's violations present a continuing risk to Plaintiffs as well as to the general public. New GM's unlawful acts and practices complained of herein affect the public interest.

1292. As a direct and proximate result of New GM's violations of the Delaware DTPA, Plaintiffs and the Delaware Class have suffered injury-in-fact and/or actual damage.

1293. Plaintiff seeks injunctive relief and, if awarded damages under Delaware common law or Delaware DTPA Act, treble damages pursuant to 6 DEL. CODE § 2533(c).

1294. New GM engaged in gross, oppressive or aggravated conduct justifying the imposition of punitive damages.

**COUNT III**

**FRAUD BY CONCEALMENT**

1295. Plaintiffs reallege and incorporate by reference all paragraphs as though fully set forth herein.

1296. In the event the Court declines to certify a Nationwide Class under Michigan law, this claim is brought only on behalf of Nationwide Class members who are Delaware residents (the "Delaware Class").

1297. New GM concealed and suppressed material facts concerning the quality of its vehicles and the GM brand.

1298. New GM concealed and suppressed material facts concerning the culture of New GM—a culture characterized by an emphasis on cost-cutting, the studious avoidance of safety issues, and a shoddy design process.

1299. New GM concealed and suppressed material facts concerning the many serious defects plaguing GM-branded vehicles, and that it valued cost-cutting over safety and took steps to ensure that its employees did not reveal known safety defects to regulators or consumers.

1300. New GM did so in order to boost confidence in its vehicles and falsely assure purchasers and lessors of its vehicles that New GM was a reputable manufacturer that stands behind its vehicles after they are sold and that its vehicles are safe and reliable. The false representations were material to consumers, both because they concerned the quality and safety of the Affected Vehicles and because they played a significant role in the value of the vehicles.

1301. New GM had a duty to disclose the many defects in GM-branded vehicles because they were known and/or accessible only to New GM who had superior knowledge and access to the facts, and New GM knew the facts were not known to or reasonably discoverable by Plaintiffs and the Delaware Class. These omitted and concealed facts were material because they directly impact the value of the Affected Vehicles purchased or leased by Plaintiffs and the Delaware Class. Whether a manufacturer's products are safe and reliable, and whether that manufacturer stands behind its products, are material concerns to a consumer.

1302. New GM actively concealed and/or suppressed these material facts, in whole or in part, to protect its profits and avoid recalls that would hurt the brand's image and cost New GM money, and it did so at the expense of Plaintiffs and the Delaware Class.

1303. On information and belief, New GM has still not made full and adequate disclosure and continues to defraud Plaintiffs and the Delaware Class and conceal material information regarding defects that exist in GM-branded vehicles.

1304. Plaintiffs and the Delaware Class were unaware of these omitted material facts and would not have acted as they did if they had known of the concealed and/or suppressed facts. Plaintiffs' and the Delaware Class's actions were justified. New GM was in exclusive control of the material facts and such facts were not known to the public, Plaintiffs, or the Delaware Class.

1305. Because of the concealment and/or suppression of the facts, Plaintiffs and the Delaware Class sustained damage because they own vehicles that diminished in value as a result of New GM's concealment of, and failure to timely disclose, the serious defects in millions of GM-branded vehicles and the serious safety and quality issues engendered by New GM's corporate policies. Had they been aware of the many defects that existed in GM-branded vehicles, and the company's callous disregard for safety, Plaintiffs either would have paid less for their vehicles or would not have purchased or leased them at all. Plaintiffs did not receive the benefit of their bargain as a result of New GM's fraudulent concealment.

1306. The value of all Delaware Class members' vehicles has diminished as a result of New GM's fraudulent concealment of the many defects and its systemic safety issues which has greatly tarnished the New GM brand and made any reasonable consumer reluctant to purchase any of the Affected Vehicles, let alone pay what otherwise would have been fair market value for the vehicles.

1307. Accordingly, New GM is liable to the Delaware Class for their damages in an amount to be proven at trial.

1308. New GM's acts were done maliciously, oppressively, deliberately, with intent to defraud, and in reckless disregard of Plaintiffs' and the Delaware Class's rights and well-being to enrich New GM. New GM's conduct warrants an assessment of punitive damages in an amount sufficient to deter such conduct in the future, which amount is to be determined according to proof.

**COUNT IV**

**BREACH OF THE IMPLIED WARRANTY OF MERCHANTABILITY**

**(6 DEL. CODE § 2-314)**

1309. Plaintiffs reallege and incorporate by reference all paragraphs as though fully set forth herein.

1310. In the event the Court declines to certify a Nationwide Ignition Switch Defect Subclass under the Magnuson-Moss Warranty Act or Michigan law, this claim is brought only on behalf of Delaware residents who are members of the Ignition Switch Defect Subclass (the "Delaware Ignition Switch Defect Subclass").

1311. New GM was a merchant with respect to motor vehicles within the meaning of 6 DEL. CODE § 2-104(1).

1312. Under 6 DEL. CODE § 2-314, a warranty that the Defective Ignition Switch Vehicles were in merchantable condition was implied by law in the transactions when Plaintiffs purchased their Defective Ignition Switch Vehicles.

1313. These vehicles, when sold and at all times thereafter, were not merchantable and are not fit for the ordinary purpose for which cars are used. Specifically, the Defective Ignition Switch Vehicles are inherently defective in that there are defects in the ignition switch systems that permit sudden unintended shutdown to occur, with the attendant shut down of power steering and power brakes and the nondeployment of airbags in the event of a collision.

1314. New GM was provided notice of these issues by numerous complaints filed against it, internal investigations, and by numerous individual letters and communications sent by Plaintiffs and the Delaware Ignition Switch Defect Subclass before or within a reasonable amount of time after New GM issued the recall and the allegations of vehicle defects became public.

1315. As a direct and proximate result of New GM's breach of the implied warranty of merchantability, Plaintiffs and the Delaware Ignition Switch Defect Subclass have been damaged in an amount to be proven at trial.

**DISTRICT OF COLUMBIA**

**COUNT I**

**VIOLATION OF THE CONSUMER PROTECTION PROCEDURES ACT**

**(D.C. CODE § 28-3901, *et seq*.)**

1316. Plaintiffs reallege and incorporate by reference all paragraphs as if fully set forth herein.

1317. This claim is brought only on behalf of Nationwide Class members who are District of Columbia residents (the "District of Columbia Class").

1318. New GM is a "person" under the Consumer Protection Procedures Act ("District of Columbia CPPA"), D.C. CODE § 28-3901(a)(1).

1319. Class members are "consumers," as defined by D.C. CODE § 28-3901(1)(2), who purchased or leased one or more Affected Vehicles.

1320. New GM's actions as set forth herein constitute "trade practices" under D.C. CODE § 28-3901.

1321. New GM participated in unfair or deceptive acts or practices that violated the District of Columbia CPPA. By systematically devaluing safety and concealing a plethora of

defects in GM-branded vehicles, New GM engaged in unfair or deceptive practices prohibited by the District of Columbia CPPA, D.C. CODE § 28-3901, *et seq.*, including: (1) representing that the Affected Vehicles have characteristics, uses, benefits, and qualities which they do not have; (2) representing that the Affected Vehicles are of a particular standard, quality, and grade when they are not; (3) advertising the Affected Vehicles with the intent not to sell them as advertised; (4) representing that the subject of a transaction involving the Affected Vehicles has been supplied in accordance with a previous representation when it has not; (5) misrepresenting as to a material fact which has a tendency to mislead; and (6) failing to state a material fact when such failure tends to mislead.

1322. In the course of its business in trade or commerce, New GM systematically devalued safety and concealed a plethora of defects in GM-branded vehicles as described herein and otherwise engaged in activities with a tendency or capacity to deceive. New GM also engaged in unlawful trade practices by employing deception, deceptive acts or practices, fraud, misrepresentations, or concealment, suppression or omission of any material fact with intent that others rely upon such concealment, suppression or omission, in connection with the sale of the Affected Vehicles.

1323. From the date of its inception on July 10, 2009, New GM knew of many serious defects affecting many models and years of GM-branded vehicles, both because of the knowledge of Old GM personnel who remained at New GM and continuous reports, investigations, and notifications from regulatory authorities. New GM became aware of other serious defects and systemic safety issues years ago, but concealed all of that information until recently.

1324. New GM was also aware that it valued cost-cutting over safety, selected parts from the cheapest supplier regardless of quality, and actively discouraged employees from finding and flagging known safety defects, and that this approach would necessarily cause the existence of more defects in the vehicles it designed and manufactured and the failure to disclose and remedy defects in all GM-branded vehicles. New GM concealed this information as well.

1325. According to one report from the Center for Auto Safety, some 2,004 deaths and injuries are connected with recently recalled GM-branded vehicles, and New GM should have recalled the vehicles years ago.

1326. By failing to disclose and by actively concealing the many defects in GM-branded vehicles, by marketing its vehicles as safe, reliable, and of high quality, and by presenting itself as a reputable manufacturer that valued safety and stood behind its vehicles after they were sold, New GM engaged in unfair and deceptive business practices in violation of the District of Columbia CCPA.

1327. In the course of New GM's business, it willfully failed to disclose and actively concealed the dangerous risk posed by the many safety issues and serious defects discussed above. New GM compounded the deception by repeatedly asserting that the Affected Vehicles were safe, reliable, and of high quality, and by claiming to be a reputable manufacturer that valued safety and stood behind its vehicles once they are on the road.

1328. New GM's unfair or deceptive acts or practices were likely to and did in fact deceive reasonable consumers, including Plaintiffs, about the true safety and reliability of GM-branded vehicles, the quality of the GM brand, the devaluing of safety at New GM, and the true value of the Affected Vehicles.

1329. New GM intentionally and knowingly misrepresented material facts regarding the Affected Vehicles with an intent to mislead Plaintiffs and the District of Columbia Class.

1330. New GM knew or should have known that its conduct violated the District of Columbia CPPA.

1331. As alleged above, New GM made material statements about the safety and reliability of the Affected Vehicles that were either false or misleading.

1332. New GM owed Plaintiffs a duty to disclose the true safety and reliability of the Affected Vehicles and the devaluing of safety at New GM, because New GM:

a. Possessed exclusive knowledge that it valued cost-cutting over safety, selected parts from the cheapest supplier regardless of quality, and actively discouraged employees from finding and flagging known safety defects, and that this approach would necessarily cause the existence of more defects in the vehicles it designed and manufactured;

b. Intentionally concealed the foregoing from Plaintiffs; and/or

c. Made incomplete representations about the safety and reliability of the Affected Vehicles generally, and the ignition switch in particular, while purposefully withholding material facts from Plaintiffs that contradicted these representations.

1333. Because New GM fraudulently concealed the many defects in GM-branded vehicles, resulting in a raft of negative publicity once the defects finally began to be disclosed, the value of the Affected Vehicles has greatly diminished. In light of the stigma attached to those vehicles by New GM's conduct, they are now worth significantly less than they otherwise would be.

1334. New GM's systemic devaluation of safety and its concealment of a plethora of defects in GM-branded vehicles were material to Plaintiffs and the District of Columbia Class. A vehicle made by a reputable manufacturer of safe vehicles is worth more than an otherwise

comparable vehicle made by a disreputable manufacturer of unsafe vehicles that conceals defects rather than promptly remedies them.

1335. Plaintiffs and the District of Columbia Class suffered ascertainable loss caused by New GM's misrepresentations and its failure to disclose material information. Had they been aware of the many defects that existed in GM-branded vehicles, and the company's callous disregard for safety, Plaintiffs either would have paid less for their vehicles or would not have purchased or leased them at all. Plaintiffs did not receive the benefit of their bargain as a result of New GM's misconduct.

1336. New GM's violations present a continuing risk to Plaintiffs as well as to the general public. New GM's unlawful acts and practices complained of herein affect the public interest.

1337. As a direct and proximate result of New GM's violations of the District of Columbia CPPA, Plaintiffs and the District of Columbia Class have suffered injury-in-fact and/or actual damage.

1338. Plaintiff and the District of Columbia Class are entitled to recover treble damages or $1,500, whichever is greater, punitive damages, reasonable attorneys' fees, and any other relief the Court deems proper, under D.C. CODE § 28-3901.

1339. Plaintiffs seek punitive damages against New GM because New GM's conduct evidences malice and/or egregious conduct. New GM maliciously and egregiously misrepresented the safety and reliability of the Affected Vehicles, deceived Class members on life-or-death matters, and concealed material facts that only it knew, all to avoid the expense and public relations nightmare of correcting deadly flaws in vehicles and repeatedly promised Class

members that all vehicles were safe. New GM's unlawful conduct constitutes malice warranting punitive damages.

**COUNT II**

**FRAUD BY CONCEALMENT**

1340. Plaintiffs reallege and incorporate by reference all paragraphs as if fully set forth herein.

1341. In the event the Court declines to certify a Nationwide Class under Michigan law, this claim is brought only on behalf of Nationwide Class members who are District of Columbia residents (the "District of Columbia Class").

1342. New GM concealed and suppressed material facts concerning the quality of its vehicles and the GM brand.

1343. New GM concealed and suppressed material facts concerning the culture of New GM—a culture characterized by an emphasis on cost-cutting, the studious avoidance of safety issues, and a shoddy design process.

1344. New GM concealed and suppressed material facts concerning the many serious defects plaguing GM-branded vehicles, and that it valued cost-cutting over safety and took steps to ensure that its employees did not reveal known safety defects to regulators or consumers.

1345. New GM did so in order to boost confidence in its vehicles and falsely assure purchasers and lessors of its vehicles that New GM was a reputable manufacturer that stands behind its vehicles after they are sold and that its vehicles are safe and reliable. The false representations were material to consumers, both because they concerned the quality and safety of the Affected Vehicles and because they played a significant role in the value of the vehicles.

1346. New GM had a duty to disclose the many defects in GM-branded vehicles because they were known and/or accessible only to New GM who had superior knowledge and

access to the facts, and New GM knew the facts were not known to or reasonably discoverable by Plaintiffs and the District of Columbia Class. These omitted and concealed facts were material because they directly impact the value of the Affected Vehicles purchased or leased by Plaintiffs and the District of Columbia Class. Whether a manufacturer's products are safe and reliable, and whether that manufacturer stands behind its products, are material concerns to a consumer.

1347. New GM actively concealed and/or suppressed these material facts, in whole or in part, to protect its profits and avoid recalls that would hurt the brand's image and cost New GM money, and it did so at the expense of Plaintiffs and the District of Columbia Class.

1348. On information and belief, New GM has still not made full and adequate disclosure and continues to defraud Plaintiffs and the District of Columbia Class and conceal material information regarding defects that exist in GM-branded vehicles.

1349. Plaintiffs and the District of Columbia Class were unaware of these omitted material facts and would not have acted as they did if they had known of the concealed and/or suppressed facts. Plaintiffs' and the District of Columbia Class's actions were justified. New GM was in exclusive control of the material facts and such facts were not known to the public, Plaintiffs, or the District of Columbia Class.

1350. Because of the concealment and/or suppression of the facts, Plaintiffs and the District of Columbia Class sustained damage because they own vehicles that diminished in value as a result of New GM's concealment of, and failure to timely disclose, the serious defects in millions of GM-branded vehicles and the serious safety and quality issues engendered by New GM's corporate policies. Had they been aware of the many defects that existed in GM-branded vehicles, and the company's callous disregard for safety, Plaintiffs either would have

paid less for their vehicles or would not have purchased or leased them at all. Plaintiffs did not receive the benefit of their bargain as a result of New GM's fraudulent concealment.

1351. The value of all District of Columbia Class members' vehicles has diminished as a result of New GM's fraudulent concealment of the many defects and its systemic safety issues which has greatly tarnished the New GM brand and made any reasonable consumer reluctant to purchase any of the Affected Vehicles, let alone pay what otherwise would have been fair market value for the vehicles.

1352. Accordingly, New GM is liable to the District of Columbia Class for their damages in an amount to be proven at trial.

1353. New GM's acts were done maliciously, oppressively, deliberately, with intent to defraud, and in reckless disregard of Plaintiffs' and the District of Columbia Class's rights and well-being to enrich New GM. New GM's conduct warrants an assessment of punitive damages in an amount sufficient to deter such conduct in the future, which amount is to be determined according to proof.

**COUNT III**

**BREACH OF IMPLIED WARRANTY OF MERCHANTABILITY**

**(D.C. CODE § 28:2-314)**

1354. Plaintiffs reallege and incorporate by reference all paragraphs as if fully set forth herein.

1355. In the event the Court declines to certify a Nationwide Ignition Switch Defect Subclass under the Magnuson-Moss Warranty Act or Michigan law, this claim is brought only on behalf of District of Columbia residents who are members of the Ignition Switch Defect Subclass (the "D.C. Ignition Switch Defect Subclass").

1356. New GM was a merchant with respect to motor vehicles within the meaning of D.C. CODE § 28:2-104(1).

1357. Under D.C. CODE § 28:2-314, a warranty that the Defective Ignition Switch Vehicles were in merchantable condition was implied by law in the transactions when Plaintiffs purchased their Defective Ignition Switch Vehicles.

1358. These vehicles, when sold and at all times thereafter, were not merchantable and are not fit for the ordinary purpose for which cars are used. Specifically, the Defective Ignition Switch Vehicles are inherently defective in that there are defects in the ignition switch systems that permit sudden unintended shutdown to occur, with the attendant shut down of power steering and power brakes and the nondeployment of airbags in the event of a collision.

1359. New GM was provided notice of these issues by numerous complaints filed against it, internal investigations, and by numerous individual letters and communications sent by Plaintiffs and the D.C. Ignition Switch Defect Subclass before or within a reasonable amount of time after New GM issued the recalls and the allegations of vehicle defects became public.

1360. As a direct and proximate result of New GM's breach of the implied warranty of merchantability, Plaintiffs and the D.C. Ignition Switch Defect Subclass have been damaged in an amount to be proven at trial.

## FLORIDA

## COUNT I

## VIOLATION OF FLORIDA'S UNFAIR & DECEPTIVE TRADE PRACTICES ACT

**(FLA. STAT. § 501.201, *et seq.*)**

1361. Plaintiffs reallege and incorporate by reference all paragraphs as though fully set forth herein.

1362. This claim is brought only on behalf of Nationwide Class members who are Florida residents (the "Florida Class").

1363. Plaintiffs are "consumers" within the meaning of Florida Unfair and Deceptive Trade Practices Act ("FUDTPA"), FLA. STAT. § 501.203(7).

1364. New GM engaged in "trade or commerce" within the meaning of FLA. STAT. § 501.203(8).

1365. FUDTPA prohibits "[u]nfair methods of competition, unconscionable acts or practices, and unfair or deceptive acts or practices in the conduct of any trade or commerce …" FLA. STAT. § 501.204(1). New GM participated in unfair and deceptive trade practices that violated the FUDTPA as described herein.

1366. In the course of its business, New GM systematically devalued safety and concealed a plethora of defects in GM-branded vehicles as described herein and otherwise engaged in activities with a tendency or capacity to deceive. New GM also engaged in unlawful trade practices by employing deception, deceptive acts or practices, fraud, misrepresentations, or concealment, suppression or omission of any material fact with intent that others rely upon such concealment, suppression or omission, in connection with the sale of the Affected Vehicles.

1367. From the date of its inception on July 10, 2009, New GM knew of many serious defects affecting many models and years of GM-branded vehicles, both because of the knowledge of Old GM personnel who remained at New GM and continuous reports, investigations, and notifications from regulatory authorities. New GM became aware of other serious defects and systemic safety issues years ago, but concealed all of that information until recently.

1368. New GM was also aware that it valued cost-cutting over safety, selected parts from the cheapest supplier regardless of quality, and actively discouraged employees from finding and flagging known safety defects, and that this approach would necessarily cause the existence of more defects in the vehicles it designed and manufactured and the failure to disclose and remedy defects in all GM-branded vehicles. New GM concealed this information as well.

1369. According to one report from the Center for Auto Safety, some 2,004 deaths and injuries are connected with recently recalled GM-branded vehicles, and New GM should have recalled the vehicles years ago.

1370. By failing to disclose and by actively concealing the many defects in GM-branded vehicles, by marketing its vehicles as safe, reliable, and of high quality, and by presenting itself as a reputable manufacturer that valued safety and stood behind its vehicles after they were sold, New GM engaged in unfair, unconscionable, and deceptive business practices in violation of the FUDTPA.

1371. In the course of New GM's business, it willfully failed to disclose and actively concealed the dangerous risk posed by the many safety issues and serious defects discussed above. New GM compounded the deception by repeatedly asserting that the Affected Vehicles were safe, reliable, and of high quality, and by claiming to be a reputable manufacturer that valued safety and stood behind its vehicles once they are on the road.

1372. New GM's unfair or deceptive acts or practices were likely to and did in fact deceive reasonable consumers, including Plaintiffs, about the true safety and reliability of GM-branded vehicles, the quality of the GM brand, the devaluing of safety at New GM, and the true value of the Affected Vehicles.

1373. New GM intentionally and knowingly misrepresented material facts regarding the Affected Vehicles with an intent to mislead Plaintiffs and the Florida Class.

1374. New GM knew or should have known that its conduct violated the FUDTPA.

1375. As alleged above, New GM made material statements about the safety and reliability of the Affected Vehicles that were either false or misleading.

1376. New GM owed Plaintiffs a duty to disclose the true safety and reliability of the Affected Vehicles and the devaluing of safety at New GM, because New GM:

a. Possessed exclusive knowledge that it valued cost-cutting over safety, selected parts from the cheapest supplier regardless of quality, and actively discouraged employees from finding and flagging known safety defects, and that this approach would necessarily cause the existence of more defects in the vehicles it designed and manufactured;

b. Intentionally concealed the foregoing from Plaintiffs; and/or

c. Made incomplete representations about the safety and reliability of the Affected Vehicles generally, and the ignition switch in particular, while purposefully withholding material facts from Plaintiffs that contradicted these representations.

1377. Because New GM fraudulently concealed the many defects in GM-branded vehicles, resulting in a raft of negative publicity once the defects finally began to be disclosed, the value of the Affected Vehicles has greatly diminished. In light of the stigma attached to those vehicles by New GM's conduct, they are now worth significantly less than they otherwise would be.

1378. New GM's systemic devaluation of safety and its concealment of a plethora of defects in GM-branded vehicles were material to Plaintiffs and the Florida Class. A vehicle made by a reputable manufacturer of safe vehicles is worth more than an otherwise comparable

vehicle made by a disreputable manufacturer of unsafe vehicles that conceals defects rather than promptly remedies them.

1379. Plaintiffs and the Florida Class suffered ascertainable loss caused by New GM's misrepresentations and its failure to disclose material information. Had they been aware of the many defects that existed in GM-branded vehicles, and the company's callous disregard for safety, Plaintiffs either would have paid less for their vehicles or would not have purchased or leased them at all. Plaintiffs did not receive the benefit of their bargain as a result of New GM's misconduct.

1380. Plaintiffs and Florida Class members risk irreparable injury as a result of New GM's act and omissions in violation of the FUDTPA, and these violations present a continuing risk to Plaintiffs as well as to the general public. New GM's unlawful acts and practices complained of herein affect the public interest.

1381. As a direct and proximate result of New GM's violations of the FUDTPA, Plaintiffs and the Florida Class have suffered injury-in-fact and/or actual damage.

1382. Plaintiffs and the Florida Class are entitled to recover their actual damages under FLA. STAT. § 501.211(2) and attorneys' fees under FLA. STAT. § 501.2105(1).

1383. Plaintiffs also seek an order enjoining New GM's unfair, unlawful, and/or deceptive practices, declaratory relief, attorneys' fees, and any other just and proper relief available under the FUDTPA.

**COUNT II**

**FRAUD BY CONCEALMENT**

1384. Plaintiffs reallege and incorporate by reference all paragraphs as though fully set forth herein.

1385. In the event the Court declines to certify a Nationwide Class under Michigan law, this claim is brought only on behalf of Nationwide Class members who are Florida residents (the "Florida Class").

1386. New GM concealed and suppressed material facts concerning the quality of its vehicles and the GM brand.

1387. New GM concealed and suppressed material facts concerning the culture of New GM—a culture characterized by an emphasis on cost-cutting, the studious avoidance of safety issues, and a shoddy design process.

1388. New GM concealed and suppressed material facts concerning the many serious defects plaguing GM-branded vehicles, and that it valued cost-cutting over safety and took steps to ensure that its employees did not reveal known safety defects to regulators or consumers.

1389. New GM did so in order to boost confidence in its vehicles and falsely assure purchasers and lessors of its vehicles that New GM was a reputable manufacturer that stands behind its vehicles after they are sold and that its vehicles are safe and reliable. The false representations were material to consumers, both because they concerned the quality and safety of the Affected Vehicles and because they played a significant role in the value of the vehicles.

1390. New GM had a duty to disclose the many defects in GM-branded vehicles because they were known and/or accessible only to New GM who had superior knowledge and access to the facts, and New GM knew the facts were not known to or reasonably discoverable by Plaintiffs and the Florida Class. These omitted and concealed facts were material because they directly impact the value of the Affected Vehicles purchased or leased by Plaintiffs and the Florida Class. Whether a manufacturer's products are safe and reliable, and whether that manufacturer stands behind its products, are material concerns to a consumer.

1391. New GM actively concealed and/or suppressed these material facts, in whole or in part, to protect its profits and avoid recalls that would hurt the brand's image and cost New GM money, and it did so at the expense of Plaintiffs and the Florida Class.

1392. On information and belief, New GM has still not made full and adequate disclosure and continues to defraud Plaintiffs and the Florida Class and conceal material information regarding defects that exist in GM-branded vehicles.

1393. Plaintiffs and the Florida Class were unaware of these omitted material facts and would not have acted as they did if they had known of the concealed and/or suppressed facts. Plaintiffs' and the Florida Class's actions were justified. New GM was in exclusive control of the material facts and such facts were not known to the public, Plaintiffs, or the Florida Class.

1394. Because of the concealment and/or suppression of the facts, Plaintiffs and the Florida Class sustained damage because they own vehicles that diminished in value as a result of New GM's concealment of, and failure to timely disclose, the serious defects in millions of GM-branded vehicles and the serious safety and quality issues engendered by New GM's corporate policies. Had they been aware of the many defects that existed in GM-branded vehicles, and the company's callous disregard for safety, Plaintiffs either would have paid less for their vehicles or would not have purchased or leased them at all. Plaintiffs did not receive the benefit of their bargain as a result of New GM's fraudulent concealment.

1395. The value of all Florida Class members' vehicles has diminished as a result of New GM's fraudulent concealment of the many defects and its systemic safety issues which has greatly tarnished the New GM brand and made any reasonable consumer reluctant to purchase any of the Affected Vehicles, let alone pay what otherwise would have been fair market value for the vehicles.

1396. Accordingly, New GM is liable to the Florida Class for their damages in an amount to be proven at trial.

1397. New GM's acts were done maliciously, oppressively, deliberately, with intent to defraud, and in reckless disregard of Plaintiffs' and the Florida Class's rights and well-being to enrich New GM. New GM's conduct warrants an assessment of punitive damages in an amount sufficient to deter such conduct in the future, which amount is to be determined according to proof.

## GEORGIA

### COUNT I

### VIOLATION OF GEORGIA'S FAIR BUSINESS PRACTICES ACT

### (GA. CODE ANN. § 10-1-390, *et seq.*)

1398. Plaintiffs reallege and incorporate by reference all paragraphs as though fully set forth herein.

1399. This claim is brought only on behalf of Nationwide Class members who are Georgia residents (the "Georgia Class").

1400. The Georgia Fair Business Practices Act ("Georgia FBPA") declares "[u]nfair or deceptive acts or practices in the conduct of consumer transactions and consumer acts or practices in trade or commerce" to be unlawful, GA. CODE. ANN. § 10-1-393(a), including but not limited to "representing that goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits, or quantities that they do not have," "[r]epresenting that goods or services are of a particular standard, quality, or grade … if they are of another," and "[a]dvertising goods or services with intent not to sell them as advertised," GA. CODE. ANN. § 10-1-393(b).

1401. By systematically devaluing safety and concealing a plethora of defects in GM-branded vehicles, New GM engaged in unfair or deceptive practices prohibited by the FBPA, including: (1) representing that the Affected Vehicles have characteristics, uses, benefits, and qualities which they do not have; (2) representing that the Affected Vehicles are of a particular standard, quality, and grade when they are not; and (3) advertising the Affected Vehicles with the intent not to sell them as advertised. New GM participated in unfair or deceptive acts or practices that violated the Georgia FBPA.

1402. In the course of its business, New GM systematically devalued safety and concealed a plethora of defects in GM-branded vehicles as described herein and otherwise engaged in activities with a tendency or capacity to deceive. New GM also engaged in unlawful trade practices by employing deception, deceptive acts or practices, fraud, misrepresentations, or concealment, suppression or omission of any material fact with intent that others rely upon such concealment, suppression or omission, in connection with the sale of the Affected Vehicles.

1403. From the date of its inception on July 10, 2009, New GM knew of many serious defects affecting many models and years of GM-branded vehicles, both because of the knowledge of Old GM personnel who remained at New GM and continuous reports, investigations, and notifications from regulatory authorities. New GM became aware of other serious defects and systemic safety issues years ago, but concealed all of that information until recently.

1404. New GM was also aware that it valued cost-cutting over safety, selected parts from the cheapest supplier regardless of quality, and actively discouraged employees from finding and flagging known safety defects, and that this approach would necessarily cause the

existence of more defects in the vehicles it designed and manufactured and the failure to disclose and remedy defects in all GM -branded vehicles. New GM concealed this information as well.

1405. According to one report from the Center for Auto Safety, some 2,004 deaths and injuries are connected with recently recalled GM-branded vehicles, and New GM should have recalled the vehicles years ago.

1406. By failing to disclose and by actively concealing the many defects in GM-branded vehicles, by marketing its vehicles as safe, reliable, and of high quality, and by presenting itself as a reputable manufacturer that valued safety and stood behind its vehicles after they were sold, New GM engaged in unfair and deceptive business practices in violation of the Georgia FBPA.

1407. In the course of New GM's business, it willfully failed to disclose and actively concealed the dangerous risk posed by the many safety issues and serious defects discussed above. New GM compounded the deception by repeatedly asserting that the Affected Vehicles were safe, reliable, and of high quality, and by claiming to be a reputable manufacturer that valued safety and stood behind its vehicles once they are on the road.

1408. New GM's unfair or deceptive acts or practices were likely to and did in fact deceive reasonable consumers, including Plaintiffs, about the true safety and reliability of GM-branded vehicles, the quality of the GM brand, the devaluing of safety at New GM, and the true value of the Affected Vehicles.

1409. New GM intentionally and knowingly misrepresented material facts regarding the Affected Vehicles with an intent to mislead Plaintiffs and the Georgia Class.

1410. New GM knew or should have known that its conduct violated the Georgia FBPA.

1411. As alleged above, New GM made material statements about the safety and reliability of the Affected Vehicles that were either false or misleading.

1412. New GM owed Plaintiffs a duty to disclose the true safety and reliability of the Affected Vehicles and the devaluing of safety at New GM, because New GM:

a. Possessed exclusive knowledge that it valued cost-cutting over safety, selected parts from the cheapest supplier regardless of quality, and actively discouraged employees from finding and flagging known safety defects, and that this approach would necessarily cause the existence of more defects in the vehicles it designed and manufactured;

b. Intentionally concealed the foregoing from Plaintiffs; and/or

c. Made incomplete representations about the safety and reliability of the Affected Vehicles generally, and the ignition switch in particular, while purposefully withholding material facts from Plaintiffs that contradicted these representations.

1413. Because New GM fraudulently concealed the many defects in GM-branded vehicles, resulting in a raft of negative publicity once the defects finally began to be disclosed, the value of the Affected Vehicles has greatly diminished. In light of the stigma attached to those vehicles by New GM's conduct, they are now worth significantly less than they otherwise would be.

1414. New GM's systemic devaluation of safety and its concealment of a plethora of defects in GM-branded vehicles were material to Plaintiffs and the Georgia Class. A vehicle made by a reputable manufacturer of safe vehicles is worth more than an otherwise comparable vehicle made by a disreputable manufacturer of unsafe vehicles that conceals defects rather than promptly remedies them.

1415. Plaintiffs and the Georgia Class suffered ascertainable loss caused by New GM's misrepresentations and its failure to disclose material information. Had they been aware of the

many defects that existed in GM-branded vehicles, and the company's callous disregard for safety, Plaintiffs either would have paid less for their vehicles or would not have purchased or leased them at all. Plaintiffs did not receive the benefit of their bargain as a result of New GM's misconduct.

1416. New GM's violations present a continuing risk to Plaintiffs as well as to the general public. New GM's unlawful acts and practices complained of herein affect the public interest.

1417. As a direct and proximate result of New GM's violations of the Georgia FBPA, Plaintiffs and the Georgia Class have suffered injury-in-fact and/or actual damage.

1418. Plaintiff and the Georgia Class are entitled to recover damages and exemplary damages (for intentional violations) per GA. CODE. ANN § 10-1-399(a).

1419. Plaintiffs also seek an order enjoining New GM's unfair, unlawful, and/or deceptive practices, attorneys' fees, and any other just and proper relief available under the Georgia FBPA per GA. CODE. ANN § 10-1-399.

1420. On October 8, 2014, certain Plaintiffs sent a letter complying with GA. CODE. ANN § 10-1-399(b). Plaintiffs presently do not claim relief under the Georgia FBPA until and unless New GM fails to remedy its unlawful conduct within the requisite time period, after which Plaintiffs seek all damages and relief to which Plaintiffs and the Georgia Class are entitled.

**COUNT II**

**VIOLATION OF GEORGIA'S UNIFORM DECEPTIVE TRADE PRACTICES ACT**

**(GA. CODE ANN. § 10-1-370, *et seq.*)**

1421. Plaintiffs reallege and incorporate by reference all paragraphs as though fully set forth herein.

1422. This claim is brought only on behalf of Nationwide Class members who are Georgia residents (the "Georgia Class").

1423. New GM, Plaintiffs, and the Georgia Class are "persons' within the meaning of Georgia Uniform Deceptive Trade Practices Act ("Georgia UDTPA"), GA. CODE. ANN § 10-1-371(5).

1424. The Georgia UDTPA prohibits "deceptive trade practices," which include the "misrepresentation of standard or quality of goods or services," and "engaging in any other conduct which similarly creates a likelihood of confusion or of misunderstanding." GA. CODE. ANN § 10-1-372(a). By systematically devaluing safety and concealing a plethora of defects in GM-branded vehicles, New GM engaged in deceptive trade practices prohibited by the Georgia UDTPA.

1425. In the course of its business, New GM systematically devalued safety and concealed a plethora of defects in GM-branded vehicles as described herein and otherwise engaged in activities with a tendency or capacity to deceive. New GM also engaged in unlawful trade practices by employing deception, deceptive acts or practices, fraud, misrepresentations, or concealment, suppression or omission of any material fact with intent that others rely upon such concealment, suppression or omission, in connection with the sale of the Affected Vehicles.

1426. From the date of its inception on July 10, 2009, New GM knew of many serious defects affecting many models and years of GM-branded vehicles, both because of the knowledge of Old GM personnel who remained at New GM and continuous reports, investigations, and notifications from regulatory authorities. New GM became aware of other serious defects and systemic safety issues years ago, but concealed all of that information until recently.

1427. New GM was also aware that it valued cost-cutting over safety, selected parts from the cheapest supplier regardless of quality, and actively discouraged employees from finding and flagging known safety defects, and that this approach would necessarily cause the existence of more defects in the vehicles it designed and manufactured and the failure to disclose and remedy defects in all GM-branded vehicles. New GM concealed this information as well.

1428. According to one report from the Center for Auto Safety, some 2,004 deaths and injuries are connected with recently recalled GM-branded vehicles, and New GM should have recalled the vehicles years ago.

1429. By failing to disclose and by actively concealing the many defects in GM-branded vehicles, by marketing its vehicles as safe, reliable, and of high quality, and by presenting itself as a reputable manufacturer that valued safety and stood behind its vehicles after they were sold, New GM engaged in deceptive business practices in violation of the Georgia UDTPA.

1430. In the course of New GM's business, it willfully failed to disclose and actively concealed the dangerous risk posed by the many safety issues and serious defects discussed above. New GM compounded the deception by repeatedly asserting that the Affected Vehicles were safe, reliable, and of high quality, and by claiming to be a reputable manufacturer that valued safety and stood behind its vehicles once they are on the road.

1431. New GM's unfair or deceptive acts or practices were likely to and did in fact deceive reasonable consumers, including Plaintiffs, about the true safety and reliability of GM-branded vehicles, the quality of the GM brand, the devaluing of safety at New GM, and the true value of the Affected Vehicles.

1432. New GM intentionally and knowingly misrepresented material facts regarding the Affected Vehicles with an intent to mislead Plaintiffs and the Georgia Class.

1433. New GM knew or should have known that its conduct violated the Georgia UDTPA.

1434. As alleged above, New GM made material statements about the safety and reliability of the Affected Vehicles that were either false or misleading.

1435. New GM owed Plaintiffs a duty to disclose the true safety and reliability of the Affected Vehicles and the devaluing of safety at New GM, because New GM:

a. Possessed exclusive knowledge that it valued cost-cutting over safety, selected parts from the cheapest supplier regardless of quality, and actively discouraged employees from finding and flagging known safety defects, and that this approach would necessarily cause the existence of more defects in the vehicles it designed and manufactured;

b. Intentionally concealed the foregoing from Plaintiffs; and/or

c. Made incomplete representations about the safety and reliability of the Affected Vehicles generally, and the ignition switch in particular, while purposefully withholding material facts from Plaintiffs that contradicted these representations.

1436. Because New GM fraudulently concealed the many defects in GM-branded vehicles, resulting in a raft of negative publicity once the defects finally began to be disclosed, the value of the Affected Vehicles has greatly diminished. In light of the stigma attached to those vehicles by New GM's conduct, they are now worth significantly less than they otherwise would be.

1437. New GM's systemic devaluation of safety and its concealment of a plethora of defects in GM-branded vehicles were material to Plaintiffs and the Georgia Class. A vehicle made by a reputable manufacturer of safe vehicles is worth more than an otherwise comparable vehicle made by a disreputable manufacturer of unsafe vehicles that conceals defects rather than promptly remedies them.

1438. Plaintiffs and the Georgia Class suffered ascertainable loss caused by New GM's misrepresentations and its failure to disclose material information. Had they been aware of the many defects that existed in GM-branded vehicles, and the company's callous disregard for safety, Plaintiffs either would have paid less for their vehicles or would not have purchased or leased them at all. Plaintiffs did not receive the benefit of their bargain as a result of New GM's misconduct.

1439. New GM's violations present a continuing risk to Plaintiffs as well as to the general public. New GM's unlawful acts and practices complained of herein affect the public interest.

1440. As a direct and proximate result of New GM's violations of the Georgia UDTPA, Plaintiffs and the Georgia Class have suffered injury-in-fact and/or actual damage.

1441. Plaintiffs seek an order enjoining New GM's unfair, unlawful, and/or deceptive practices, attorneys' fees, and any other just and proper relief available under the Georgia UDTPA per GA. CODE. ANN § 10-1-373.

**COUNT III**

**FRAUD BY CONCEALMENT**

1442. Plaintiffs reallege and incorporate by reference all paragraphs as though fully set forth herein.

1443. In the event the Court declines to certify a Nationwide Class under Michigan law, this claim is brought only on behalf of Nationwide Class members who are Georgia residents (the "Georgia Class").

1444. New GM concealed and suppressed material facts concerning the quality of its vehicles and the GM brand.

1445. New GM concealed and suppressed material facts concerning the culture of New GM—a culture characterized by an emphasis on cost-cutting, the studious avoidance of safety issues, and a shoddy design process.

1446. New GM concealed and suppressed material facts concerning the many serious defects plaguing GM-branded vehicles, and that it valued cost-cutting over safety and took steps to ensure that its employees did not reveal known safety defects to regulators or consumers.

1447. New GM did so in order to boost confidence in its vehicles and falsely assure purchasers and lessors of its vehicles that New GM was a reputable manufacturer that stands behind its vehicles after they are sold and that its vehicles are safe and reliable. The false representations were material to consumers, both because they concerned the quality and safety of the Affected Vehicles and because they played a significant role in the value of the vehicles.

1448. New GM had a duty to disclose the many defects in GM-branded vehicles because they were known and/or accessible only to New GM who had superior knowledge and access to the facts, and New GM knew the facts were not known to or reasonably discoverable by Plaintiffs and the Georgia Class. These omitted and concealed facts were material because they directly impact the value of the Affected Vehicles purchased or leased by Plaintiffs and the Georgia Class. Whether a manufacturer's products are safe and reliable, and whether that manufacturer stands behind its products, are material concerns to a consumer.

1449. New GM actively concealed and/or suppressed these material facts, in whole or in part, to protect its profits and avoid recalls that would hurt the brand's image and cost New GM money, and it did so at the expense of Plaintiffs and the Georgia Class.

1450. On information and belief, New GM has still not made full and adequate disclosure and continues to defraud Plaintiffs and the Georgia Class and conceal material information regarding defects that exist in GM-branded vehicles.

1451. Plaintiffs and the Georgia Class were unaware of these omitted material facts and would not have acted as they did if they had known of the concealed and/or suppressed facts. Plaintiffs' and the Georgia Class's actions were justified. New GM was in exclusive control of the material facts and such facts were not known to the public, Plaintiffs, or the Georgia Class.

1452. Because of the concealment and/or suppression of the facts, Plaintiffs and the Georgia Class sustained damage because they own vehicles that diminished in value as a result of New GM's concealment of, and failure to timely disclose, the serious defects in millions of GM-branded vehicles and the serious safety and quality issues engendered by New GM's corporate policies. Had they been aware of the many defects that existed in GM-branded vehicles, and the company's callous disregard for safety, Plaintiffs either would have paid less for their vehicles or would not have purchased or leased them at all. Plaintiffs did not receive the benefit of their bargain as a result of New GM's fraudulent concealment.

1453. The value of all Georgia Class members' vehicles has diminished as a result of New GM's fraudulent concealment of the many defects and its systemic safety issues which has greatly tarnished the GM brand and made any reasonable consumer reluctant to purchase any of the Affected Vehicles, let alone pay what otherwise would have been fair market value for the vehicles.

1454. Accordingly, New GM is liable to the Georgia Class for their damages in an amount to be proven at trial.

1455. New GM's acts were done maliciously, oppressively, deliberately, with intent to defraud, and in reckless disregard of Plaintiffs' and the Georgia Class's rights and well-being to enrich New GM. New GM's conduct warrants an assessment of punitive damages in an amount sufficient to deter such conduct in the future, which amount is to be determined according to proof.

## HAWAII

### COUNT I

### UNFAIR AND DECEPTIVE ACTS IN VIOLATION OF HAWAII LAW

### (HAW. REV. STAT. § 480, *et seq.*)

1456. Plaintiffs reallege and incorporate by reference all paragraphs as though fully set forth herein.

1457. This claim is brought only on behalf of Nationwide Class members who are Hawaii residents (the "Hawaii Class").

1458. New GM is a "person" under HAW. REV. STAT. § 480-1.

1459. Class members are "consumer[s]" as defined by HAW. REV. STAT. § 480-1, who purchased or leased one or more Affected Vehicles.

1460. New GM's acts or practices as set forth above occurred in the conduct of trade or commerce.

1461. The Hawaii Act § 480-2(a) prohibits "unfair methods of competition and unfair or deceptive acts or practices in the conduct of any trade or commerce…." By systematically devaluing safety and concealing a plethora of defects in GM-branded vehicles, New GM engaged in unfair and deceptive trade practices prohibited by the Hawaii Act.

1462. In the course of its business, New GM systematically devalued safety and concealed a plethora of defects in GM-branded vehicles as described herein and otherwise

engaged in activities with a tendency or capacity to deceive. New GM also engaged in unlawful trade practices by employing deception, deceptive acts or practices, fraud, misrepresentations, or concealment, suppression or omission of any material fact with intent that others rely upon such concealment, suppression or omission, in connection with the sale of the Affected Vehicles.

1463. From the date of its inception on July 10, 2009, New GM knew of many serious defects affecting many models and years of GM-branded vehicles, both because of the knowledge of Old GM personnel who remained at New GM and continuous reports, investigations, and notifications from regulatory authorities. New GM became aware of other serious defects and systemic safety issues years ago, but concealed all of that information until recently.

1464. New GM was also aware that it valued cost-cutting over safety, selected parts from the cheapest supplier regardless of quality, and actively discouraged employees from finding and flagging known safety defects, and that this approach would necessarily cause the existence of more defects in the vehicles it designed and manufactured and the failure to disclose and remedy defects in all GM-branded vehicles. New GM concealed this information as well.

1465. According to one report from the Center for Auto Safety, some 2,004 deaths and injuries are connected with recently recalled GM-branded vehicles, and New GM should have recalled the vehicles years ago.

1466. By failing to disclose and by actively concealing the many defects in GM-branded vehicles, by marketing its vehicles as safe, reliable, and of high quality, and by presenting itself as a reputable manufacturer that valued safety and stood behind its vehicles after they were sold, New GM engaged in unfair and deceptive business practices in violation of the Hawaii Act.

1467. In the course of New GM's business, it willfully failed to disclose and actively concealed the dangerous risk posed by the many safety issues and serious defects discussed above. New GM compounded the deception by repeatedly asserting that the Affected Vehicles were safe, reliable, and of high quality, and by claiming to be a reputable manufacturer that valued safety and stood behind its vehicles once they are on the road.

1468. New GM's unfair or deceptive acts or practices were likely to and did in fact deceive reasonable consumers, including Plaintiffs, about the true safety and reliability of GM-branded vehicles, the quality of the GM brand, the devaluing of safety at New GM, and the true value of the Affected Vehicles.

1469. New GM intentionally and knowingly misrepresented material facts regarding the Affected Vehicles with an intent to mislead Plaintiffs and the Hawaii Class.

1470. New GM knew or should have known that its conduct violated the Hawaii Act.

1471. As alleged above, New GM made material statements about the safety and reliability of the Affected Vehicles that were either false or misleading.

1472. New GM owed Plaintiffs a duty to disclose the true safety and reliability of the Affected Vehicles and the devaluing of safety at New GM, because New GM:

a. Possessed exclusive knowledge that it valued cost-cutting over safety, selected parts from the cheapest supplier regardless of quality, and actively discouraged employees from finding and flagging known safety defects, and that this approach would necessarily cause the existence of more defects in the vehicles it designed and manufactured;

b. Intentionally concealed the foregoing from Plaintiffs; and/or

c. Made incomplete representations about the safety and reliability of the Affected Vehicles generally, and the ignition switch in particular, while purposefully withholding material facts from Plaintiffs that contradicted these representations.

1473. Because New GM fraudulently concealed the many defects in GM-branded vehicles, resulting in a raft of negative publicity once the defects finally began to be disclosed, the value of the Affected Vehicles has greatly diminished. In light of the stigma attached to those vehicles by New GM's conduct, they are now worth significantly less than they otherwise would be.

1474. New GM's systemic devaluation of safety and its concealment of a plethora of defects in GM-branded vehicles were material to Plaintiffs and the Hawaii Class. A vehicle made by a reputable manufacturer of safe vehicles is worth more than an otherwise comparable vehicle made by a disreputable manufacturer of unsafe vehicles that conceals defects rather than promptly remedies them.

1475. Plaintiffs and the Hawaii Class suffered ascertainable loss caused by New GM's misrepresentations and its failure to disclose material information. Had they been aware of the many defects that existed in GM-branded vehicles, and the company's callous disregard for safety, Plaintiffs either would have paid less for their vehicles or would not have purchased or leased them at all. Plaintiffs did not receive the benefit of their bargain as a result of New GM's misconduct.

1476. New GM's violations present a continuing risk to Plaintiffs as well as to the general public. New GM's unlawful acts and practices complained of herein affect the public interest.

1477. As a direct and proximate result of New GM's violations of the Hawaii Act, Plaintiffs and the Hawaii Class have suffered injury-in-fact and/or actual damage.

1478. Pursuant to HAW. REV. STAT. § 480-13, Plaintiffs and the Hawaii Class seek monetary relief against New GM measured as the greater of (a) $1,000 and (b) threefold actual damages in an amount to be determined at trial.

1479. Under HAW. REV. STAT. § 480-13.5, Plaintiffs seek an additional award against New GM of up to $10,000 for each violation directed at a Hawaiian elder. New GM knew or should have known that its conduct was directed to one or more Class members who are elders. New GM's conduct caused one or more of these elders to suffer a substantial loss of property set aside for retirement or for personal or family care and maintenance, or assets essential to the health or welfare of the elder. One or more Hawaii Class members who are elders are substantially more vulnerable to New GM's conduct because of age, poor health or infirmity, impaired understanding, restricted mobility, or disability, and each of them suffered substantial physical, emotional, or economic damage resulting from New GM's conduct.

**COUNT II**

**FRAUD BY CONCEALMENT**

1480. Plaintiffs reallege and incorporate by reference all paragraphs as though fully set forth herein.

1481. In the event the Court declines to certify a Nationwide Class under Michigan law, this claim is brought only on behalf of Nationwide Class members who are Hawaii residents (the "Hawaii Class").

1482. New GM concealed and suppressed material facts concerning the quality of its vehicles and the GM brand.

1483. New GM concealed and suppressed material facts concerning the culture of New GM—a culture characterized by an emphasis on cost-cutting, the studious avoidance of safety issues, and a shoddy design process.

1484. New GM concealed and suppressed material facts concerning the many serious defects plaguing GM-branded vehicles, and that it valued cost-cutting over safety and took steps to ensure that its employees did not reveal known safety defects to regulators or consumers.

1485. New GM did so in order to boost confidence in its vehicles and falsely assure purchasers and lessors of its vehicles that New GM was a reputable manufacturer that stands behind its vehicles after they are sold and that its vehicles are safe and reliable. The false representations were material to consumers, both because they concerned the quality and safety of the Affected Vehicles and because they played a significant role in the value of the vehicles.

1486. New GM had a duty to disclose the many defects in GM-branded vehicles because they were known and/or accessible only to New GM who had superior knowledge and access to the facts, and New GM knew the facts were not known to or reasonably discoverable by Plaintiffs and the Hawaii Class. These omitted and concealed facts were material because they directly impact the value of the Affected Vehicles purchased or leased by Plaintiffs and the Hawaii Class. Whether a manufacturer's products are safe and reliable, and whether that manufacturer stands behind its products, are material concerns to a consumer.

1487. New GM actively concealed and/or suppressed these material facts, in whole or in part, to protect its profits and avoid recalls that would hurt the brand's image and cost New GM money, and it did so at the expense of Plaintiffs and the Hawaii Class.

1488. On information and belief, New GM has still not made full and adequate disclosure and continues to defraud Plaintiffs and the Hawaii Class and conceal material information regarding defects that exist in GM-branded vehicles.

1489. Plaintiffs and the Hawaii Class were unaware of these omitted material facts and would not have acted as they did if they had known of the concealed and/or suppressed facts.

Plaintiffs' and the Hawaii Class's actions were justified. New GM was in exclusive control of the material facts and such facts were not known to the public, Plaintiffs, or the Hawaii Class.

1490. Because of the concealment and/or suppression of the facts, Plaintiffs and the Hawaii Class sustained damage because they own vehicles that diminished in value as a result of New GM's concealment of, and failure to timely disclose, the serious defects in millions of GM-branded vehicles and the serious safety and quality issues engendered by New GM's corporate policies. Had they been aware of the many defects that existed in GM-branded vehicles, and the company's callous disregard for safety, Plaintiffs either would have paid less for their vehicles or would not have purchased or leased them at all. Plaintiffs did not receive the benefit of their bargain as a result of New GM's fraudulent concealment.

1491. The value of all Hawaii Class members' vehicles has diminished as a result of New GM's fraudulent concealment of the many defects and its systemic safety issues which has greatly tarnished the New GM brand and made any reasonable consumer reluctant to purchase any of the Affected Vehicles, let alone pay what otherwise would have been fair market value for the vehicles.

1492. Accordingly, New GM is liable to the Hawaii Class for their damages in an amount to be proven at trial.

1493. New GM's acts were done maliciously, oppressively, deliberately, with intent to defraud, and in reckless disregard of Plaintiffs' and the Hawaii Class's rights and well-being to enrich New GM. New GM's conduct warrants an assessment of punitive damages in an amount sufficient to deter such conduct in the future, which amount is to be determined according to proof.

**COUNT III**

**BREACH OF THE IMPLIED WARRANTY OF MERCHANTABILITY**

**(HAW. REV. STAT. § 490:2-314)**

1494. Plaintiffs reallege and incorporate by reference all paragraphs as though fully set forth herein.

1495. In the event the Court declines to certify a Nationwide Ignition Switch Defect Subclass under the Magnuson-Moss Warranty Act or Michigan law, this claim is brought only on behalf of Hawaii residents who are members of the Ignition Switch Defect Subclass (the "Hawaii Ignition Switch Defect Subclass").

1496. New GM was a merchant with respect to motor vehicles within the meaning of HAW. REV. STAT. § 490:2-104(1).

1497. Under HAW. REV. STAT. § 490:2-314, a warranty that the Defective Ignition Switch Vehicles were in merchantable condition was implied by law in the transactions when Plaintiffs purchased their Defective Ignition Switch Vehicles.

1498. These vehicles, when sold and at all times thereafter, were not merchantable and are not fit for the ordinary purpose for which cars are used. Specifically, the Defective Ignition Switch Vehicles are inherently defective in that there are defects in the ignition switch systems that permit sudden unintended shutdown to occur, with the attendant shut down of power steering and power brakes and the nondeployment of airbags in the event of a collision.

1499. New GM was provided notice of these issues by numerous complaints filed against it, internal investigations, and by numerous individual letters and communications sent by Plaintiffs and the Hawaii Ignition Switch Defect Subclass before or within a reasonable amount of time after New GM issued the recall and the allegations of vehicle defects became public.

1500. As a direct and proximate result of New GM's breach of the implied warranty of merchantability, Plaintiffs and the Hawaii Ignition Switch Defect Subclass have been damaged in an amount to be proven at trial.

**IDAHO**

**COUNT I**

**VIOLATION OF THE IDAHO CONSUMER PROTECTION ACT**

**(IDAHO CIV. CODE § 48-601, *et seq.*)**

1501. Plaintiffs reallege and incorporate by reference all paragraphs as though fully set forth herein.

1502. This claim is brought only on behalf of Class members who are Idaho residents (the "Idaho Class").

1503. New GM is a "person" under the Idaho Consumer Protection Act ("Idaho CPA"), IDAHO CIV. CODE § 48-602(1).

1504. New GM's acts or practices as set forth above occurred in the conduct of "trade" or "commerce" under IDAHO CIV. CODE § 48-602(2).

1505. New GM participated in misleading, false, or deceptive acts that violated the Idaho CPA. By systematically devaluing safety and concealing a plethora of defects in GM-branded vehicles, New GM engaged in deceptive business practices prohibited by the Idaho CPA, including: (1) representing that the Affected Vehicles have characteristics, uses, and benefits which they do not have; (2) representing that the Affected Vehicles are of a particular standard, quality, and grade when they are not; (3) advertising the Affected Vehicles with the intent not to sell them as advertised; (4) engaging in acts or practices which are otherwise misleading, false, or deceptive to the consumer; and (5) engaging in any unconscionable method, act or practice in the conduct of trade or commerce. *See* IDAHO CIV. CODE § 48-603.

1506. In the course of its business, New GM systematically devalued safety and concealed a plethora of defects in GM-branded vehicles as described herein and otherwise engaged in activities with a tendency or capacity to deceive. New GM also engaged in unlawful trade practices by employing deception, deceptive acts or practices, fraud, misrepresentations, or concealment, suppression or omission of any material fact with intent that others rely upon such concealment, suppression or omission, in connection with the sale of the Affected Vehicles.

1507. From the date of its inception on July 10, 2009, New GM knew of many serious defects affecting many models and years of GM-branded vehicles, both because of the knowledge of Old GM personnel who remained at New GM and continuous reports, investigations, and notifications from regulatory authorities. New GM became aware of other serious defects and systemic safety issues years ago, but concealed all of that information until recently.

1508. New GM was also aware that it valued cost-cutting over safety, selected parts from the cheapest supplier regardless of quality, and actively discouraged employees from finding and flagging known safety defects, and that this approach would necessarily cause the existence of more defects in the vehicles it designed and manufactured and the failure to disclose and remedy defects in all GM-branded vehicles. New GM concealed this information as well.

1509. According to one report from the Center for Auto Safety, some 2,004 deaths and injuries are connected with recently recalled GM-branded vehicles, and New GM should have recalled the vehicles years ago.

1510. By failing to disclose and by actively concealing the many defects in GM-branded vehicles, by marketing its vehicles as safe, reliable, and of high quality, and by presenting itself

as a reputable manufacturer that valued safety and stood behind its vehicles after they were sold, New GM engaged in deceptive business practices in violation of the Idaho CPA.

1511. In the course of New GM's business, it willfully failed to disclose and actively concealed the dangerous risk posed by the many safety issues and serious defects discussed above. New GM compounded the deception by repeatedly asserting that the Affected Vehicles were safe, reliable, and of high quality, and by claiming to be a reputable manufacturer that valued safety and stood behind its vehicles once they are on the road.

1512. New GM's unfair or deceptive acts or practices were likely to and did in fact deceive reasonable consumers, including Plaintiffs, about the true safety and reliability of GM-branded vehicles, the quality of the GM brand, the devaluing of safety at New GM, and the true value of the Affected Vehicles.

1513. New GM intentionally and knowingly misrepresented material facts regarding the Affected Vehicles with an intent to mislead Plaintiffs and the Idaho Class.

1514. New GM knew or should have known that its conduct violated the Idaho CPA.

1515. As alleged above, New GM made material statements about the safety and reliability of the Affected Vehicles that were either false or misleading.

1516. New GM owed Plaintiffs a duty to disclose the true safety and reliability of the Affected Vehicles and the devaluing of safety at New GM, because New GM:

a. Possessed exclusive knowledge that it valued cost-cutting over safety, selected parts from the cheapest supplier regardless of quality, and actively discouraged employees from finding and flagging known safety defects, and that this approach would necessarily cause the existence of more defects in the vehicles it designed and manufactured;

b. Intentionally concealed the foregoing from Plaintiffs; and/or

c. Made incomplete representations about the safety and reliability of the Affected Vehicles generally, and the ignition switch in particular, while purposefully withholding material facts from Plaintiffs that contradicted these representations.

1517. Because New GM fraudulently concealed the many defects in GM-branded vehicles, resulting in a raft of negative publicity once the defects finally began to be disclosed, the value of the Affected Vehicles has greatly diminished. In light of the stigma attached to those vehicles by New GM's conduct, they are now worth significantly less than they otherwise would be.

1518. New GM's systemic devaluation of safety and its concealment of a plethora of defects in GM-branded vehicles were material to Plaintiffs and the Idaho Class. A vehicle made by a reputable manufacturer of safe vehicles is worth more than an otherwise comparable vehicle made by a disreputable manufacturer of unsafe vehicles that conceals defects rather than promptly remedies them.

1519. Plaintiffs and the Idaho Class suffered ascertainable loss caused by New GM's misrepresentations and its failure to disclose material information. Had they been aware of the many defects that existed in GM-branded vehicles, and the company's callous disregard for safety, Plaintiffs either would have paid less for their vehicles or would not have purchased or leased them at all. Plaintiffs did not receive the benefit of their bargain as a result of New GM's misconduct.

1520. New GM's violations present a continuing risk to Plaintiffs as well as to the general public. New GM's unlawful acts and practices complained of herein affect the public interest.

1521. As a direct and proximate result of New GM's violations of the Idaho CPA, Plaintiffs and the Idaho Class have suffered injury-in-fact and/or actual damage.

1522. Pursuant to IDAHO CODE § 48-608, Plaintiffs and the Idaho Class seek monetary relief against New GM measured as the greater of (a) actual damages in an amount to be determined at trial and (b) statutory damages in the amount of $1,000 for each Plaintiff and each Idaho Class member.

1523. Plaintiffs also seek an order enjoining New GM's unfair, unlawful, and/or deceptive practices, attorneys' fees, and any other just and proper relief available under the Idaho CPA.

1524. Plaintiffs and Idaho Class members also seek punitive damages against New GM because New GM's conduct evidences an extreme deviation from reasonable standards. New GM flagrantly, maliciously, and fraudulently misrepresented the safety and reliability of the Affected Vehicles, deceived Class members on life-or-death matters, and concealed material facts that only they knew, all to avoid the expense and public relations nightmare of correcting a deadly flaw in vehicles it repeatedly promised Class members were safe. New GM's unlawful conduct constitutes malice, oppression, and fraud warranting punitive damages.

**COUNT II**

**FRAUD BY CONCEALMENT**

1525. Plaintiffs reallege and incorporate by reference all paragraphs as though fully set forth herein.

1526. In the event the Court declines to certify a Nationwide Class under Michigan law, this claim is brought only on behalf of Nationwide Class members who are Idaho residents (the "Idaho Class").

1527. New GM concealed and suppressed material facts concerning the quality of its vehicles and the GM brand.

1528. New GM concealed and suppressed material facts concerning the culture of New GM—a culture characterized by an emphasis on cost-cutting, the studious avoidance of safety issues, and a shoddy design process.

1529. New GM concealed and suppressed material facts concerning the many serious defects plaguing GM-branded vehicles, and that it valued cost-cutting over safety and took steps to ensure that its employees did not reveal known safety defects to regulators or consumers.

1530. New GM did so in order to boost confidence in its vehicles and falsely assure purchasers and lessors of its vehicles that New GM was a reputable manufacturer that stands behind its vehicles after they are sold and that its vehicles are safe and reliable. The false representations were material to consumers, both because they concerned the quality and safety of the Affected Vehicles and because they played a significant role in the value of the vehicles.

1531. New GM had a duty to disclose the many defects in GM-branded vehicles because they were known and/or accessible only to New GM who had superior knowledge and access to the facts, and New GM knew the facts were not known to or reasonably discoverable by Plaintiffs and the Idaho Class. These omitted and concealed facts were material because they directly impact the value of the Affected Vehicles purchased or leased by Plaintiffs and the Idaho Class. Whether a manufacturer's products are safe and reliable, and whether that manufacturer stands behind its products, are material concerns to a consumer.

1532. New GM actively concealed and/or suppressed these material facts, in whole or in part, to protect its profits and avoid recalls that would hurt the brand's image and cost New GM money, and it did so at the expense of Plaintiffs and the Idaho Class.

1533. On information and belief, New GM has still not made full and adequate disclosure and continues to defraud Plaintiffs and the Idaho Class and conceal material information regarding defects that exist in GM-branded vehicles.

1534. Plaintiffs and the Idaho Class were unaware of these omitted material facts and would not have acted as they did if they had known of the concealed and/or suppressed facts. Plaintiffs' and the Idaho Class's actions were justified. New GM was in exclusive control of the material facts and such facts were not known to the public, Plaintiffs, or the Idaho Class.

1535. Because of the concealment and/or suppression of the facts, Plaintiffs and the Idaho Class sustained damage because they own vehicles that diminished in value as a result of New GM's concealment of, and failure to timely disclose, the serious defects in millions of GM-branded vehicles and the serious safety and quality issues engendered by New GM's corporate policies. Had they been aware of the many defects that existed in GM-branded vehicles, and the company's callous disregard for safety, Plaintiffs either would have paid less for their vehicles or would not have purchased or leased them at all. Plaintiffs did not receive the benefit of their bargain as a result of New GM's fraudulent concealment.

1536. The value of all Idaho Class members' vehicles has diminished as a result of New GM's fraudulent concealment of the many defects and its systemic safety issues which has greatly tarnished the New GM brand and made any reasonable consumer reluctant to purchase any of the Affected Vehicles, let alone pay what otherwise would have been fair market value for the vehicles.

1537. Accordingly, New GM is liable to the Idaho Class for their damages in an amount to be proven at trial.

1538. New GM's acts were done maliciously, oppressively, deliberately, with intent to defraud, and in reckless disregard of Plaintiffs' and the Idaho Class's rights and well-being to enrich New GM. New GM's conduct warrants an assessment of punitive damages in an amount sufficient to deter such conduct in the future, which amount is to be determined according to proof.

**ILLINOIS**

**COUNT I**

**VIOLATION OF ILLINOIS CONSUMER FRAUD AND DECEPTIVE BUSINESS PRACTICES ACT**

**(815 ILCS 505/1, *et seq*. and 720 ILCS 295/1A)**

1539. Plaintiffs reallege and incorporate by reference all paragraphs as though fully set forth herein.

1540. This claim is brought only on behalf of Nationwide Class members who are Illinois residents (the "Illinois Class").

1541. New GM is a "person" as that term is defined in 815 ILCS 505/1(c).

1542. Plaintiff and the Illinois Class are "consumers" as that term is defined in 815 ILCS 505/1(e).

1543. The Illinois Consumer Fraud and Deceptive Business Practices Act ("Illinois CFA") prohibits "unfair or deceptive acts or practices, including but not limited to the use or employment of any deception, fraud, false pretense, false promise, misrepresentation or the concealment, suppression or omission of any material fact, with intent that others rely upon the concealment, suppression or omission of such material fact . . . in the conduct of trade or commerce . . . whether any person has in fact been misled, deceived or damaged thereby." 815 ILCS 505/2.

1544. New GM participated in misleading, false, or deceptive acts that violated the Illinois CFA. By systematically devaluing safety and concealing a plethora of defects in GM-branded vehicles, New GM engaged in deceptive business practices prohibited by the Illinois CFA.

1545. In the course of its business, New GM systematically devalued safety and concealed a plethora of defects in GM-branded vehicles as described herein and otherwise engaged in activities with a tendency or capacity to deceive. New GM also engaged in unlawful trade practices by employing deception, deceptive acts or practices, fraud, misrepresentations, or concealment, suppression or omission of any material fact with intent that others rely upon such concealment, suppression or omission, in connection with the sale of the Affected Vehicles.

1546. From the date of its inception on July 10, 2009, New GM knew of many serious defects affecting many models and years of GM-branded vehicles, both because of the knowledge of Old GM personnel who remained at New GM and continuous reports, investigations, and notifications from regulatory authorities. New GM became aware of other serious defects and systemic safety issues years ago, but concealed all of that information until recently.

1547. New GM was also aware that it valued cost-cutting over safety, selected parts from the cheapest supplier regardless of quality, and actively discouraged employees from finding and flagging known safety defects, and that this approach would necessarily cause the existence of more defects in the vehicles it designed and manufactured and the failure to disclose and remedy defects in all GM-branded vehicles. New GM concealed this information as well.

1548. According to one report from the Center for Auto Safety, some 2,004 deaths and injuries are connected with recently recalled GM-branded vehicles, and New GM should have recalled the vehicles years ago.

1549. By failing to disclose and by actively concealing the many defects in GM-branded vehicles, by marketing its vehicles as safe, reliable, and of high quality, and by presenting itself as a reputable manufacturer that valued safety and stood behind its vehicles after they were sold, New GM engaged in unfair and deceptive business practices in violation of the Illinois CFA.

1550. In the course of New GM's business, it willfully failed to disclose and actively concealed the dangerous risk posed by the many safety issues and serious defects discussed above. New GM compounded the deception by repeatedly asserting that the Affected Vehicles were safe, reliable, and of high quality, and by claiming to be a reputable manufacturer that valued safety and stood behind its vehicles once they are on the road.

1551. New GM's unfair or deceptive acts or practices were likely to and did in fact deceive reasonable consumers, including Plaintiffs, about the true safety and reliability of GM-branded vehicles, the quality of the GM brand, the devaluing of safety at New GM, and the true value of the Affected Vehicles.

1552. New GM intentionally and knowingly misrepresented material facts regarding the Affected Vehicles with an intent to mislead Plaintiffs and the Illinois Class.

1553. New GM knew or should have known that its conduct violated the Illinois CFA.

1554. As alleged above, New GM made material statements about the safety and reliability of the Affected Vehicles that were either false or misleading.

1555. New GM owed Plaintiffs a duty to disclose the true safety and reliability of the Affected Vehicles and the devaluing of safety at New GM, because New GM:

a. Possessed exclusive knowledge that it valued cost-cutting over safety, selected parts from the cheapest supplier regardless of quality, and actively discouraged employees from finding and flagging known safety defects, and that this approach would necessarily cause the existence of more defects in the vehicles it designed and manufactured;

b. Intentionally concealed the foregoing from Plaintiffs; and/or

c. Made incomplete representations about the safety and reliability of the Affected Vehicles generally, and the ignition switch in particular, while purposefully withholding material facts from Plaintiffs that contradicted these representations.

1556. Because New GM fraudulently concealed the many defects in GM-branded vehicles, resulting in a raft of negative publicity once the defects finally began to be disclosed, the value of the Affected Vehicles has greatly diminished. In light of the stigma attached to those vehicles by New GM's conduct, they are now worth significantly less than they otherwise would be.

1557. New GM's systemic devaluation of safety and its concealment of a plethora of defects in GM-branded vehicles were material to Plaintiffs and the Illinois Class. A vehicle made by a reputable manufacturer of safe vehicles is worth more than an otherwise comparable vehicle made by a disreputable manufacturer of unsafe vehicles that conceals defects rather than promptly remedies them.

1558. Plaintiffs and the Illinois Class suffered ascertainable loss caused by New GM's misrepresentations and its failure to disclose material information. Had they been aware of the many defects that existed in GM-branded vehicles, and the company's callous disregard for safety, Plaintiffs either would have paid less for their vehicles or would not have purchased or leased them at all. Plaintiffs did not receive the benefit of their bargain as a result of New GM's misconduct.

1559. New GM's violations present a continuing risk to Plaintiffs as well as to the general public. New GM's unlawful acts and practices complained of herein affect the public interest.

1560. As a direct and proximate result of New GM's violations of the Illinois CFA, Plaintiffs and the Illinois Class have suffered injury-in-fact and/or actual damage.

1561. Pursuant to 815 ILCS 505/10a(a), Plaintiffs and the Illinois Class seek monetary relief against New GM in the amount of actual damages, as well as punitive damages because New GM acted with fraud and/or malice and/or was grossly negligent.

1562. Plaintiffs also seek an order enjoining New GM's unfair and/or deceptive acts or practices, punitive damages, and attorneys' fees, and any other just and proper relief available under 815 ILCS § 505/1 *et seq*.

**COUNT II**

**FRAUD BY CONCEALMENT**

1563. Plaintiffs reallege and incorporate by reference all paragraphs as though fully set forth herein.

1564. In the event the Court declines to certify a Nationwide Class under Michigan law, this claim is brought only on behalf of Nationwide Class members who are Illinois residents (the "Illinois Class").

1565. New GM concealed and suppressed material facts concerning the quality of its vehicles and the GM brand.

1566. New GM concealed and suppressed material facts concerning the culture of New GM—a culture characterized by an emphasis on cost-cutting, the studious avoidance of safety issues, and a shoddy design process.

1567. New GM concealed and suppressed material facts concerning the many serious defects plaguing GM-branded vehicles, and that it valued cost-cutting over safety and took steps to ensure that its employees did not reveal known safety defects to regulators or consumers.

1568. New GM did so in order to boost confidence in its vehicles and falsely assure purchasers and lessors of its vehicles that New GM was a reputable manufacturer that stands behind its vehicles after they are sold and that its vehicles are safe and reliable. The false representations were material to consumers, both because they concerned the quality and safety of the Affected Vehicles and because they played a significant role in the value of the vehicles.

1569. New GM had a duty to disclose the many defects in GM-branded vehicles because they were known and/or accessible only to New GM who had superior knowledge and access to the facts, and New GM knew the facts were not known to or reasonably discoverable by Plaintiffs and the Illinois Class. These omitted and concealed facts were material because they directly impact the value of the Affected Vehicles purchased or leased by Plaintiffs and the Illinois Class. Whether a manufacturer's products are safe and reliable, and whether that manufacturer stands behind its products, are material concerns to a consumer.

1570. New GM actively concealed and/or suppressed these material facts, in whole or in part, to protect its profits and avoid recalls that would hurt the brand's image and cost New GM money, and it did so at the expense of Plaintiffs and the Illinois Class.

1571. On information and belief, New GM has still not made full and adequate disclosure and continues to defraud Plaintiffs and the Illinois Class and conceal material information regarding defects that exist in GM-branded vehicles.

1572. Plaintiffs and the Illinois Class were unaware of these omitted material facts and would not have acted as they did if they had known of the concealed and/or suppressed facts.

Plaintiffs' and the Illinois Class's actions were justified. New GM was in exclusive control of the material facts and such facts were not known to the public, Plaintiffs, or the Illinois Class.

1573. Because of the concealment and/or suppression of the facts, Plaintiffs and the Illinois Class sustained damage because they own vehicles that diminished in value as a result of New GM's concealment of, and failure to timely disclose, the serious defects in millions of GM-branded vehicles and the serious safety and quality issues engendered by New GM's corporate policies. Had they been aware of the many defects that existed in GM-branded vehicles, and the company's callous disregard for safety, Plaintiffs either would have paid less for their vehicles or would not have purchased or leased them at all. Plaintiffs did not receive the benefit of their bargain as a result of New GM's fraudulent concealment.

1574. The value of all Illinois Class members' vehicles has diminished as a result of New GM's fraudulent concealment of the many defects and its systemic safety issues which has greatly tarnished the New GM brand and made any reasonable consumer reluctant to purchase any of the Affected Vehicles, let alone pay what otherwise would have been fair market value for the vehicles.

1575. Accordingly, New GM is liable to the Illinois Class for their damages in an amount to be proven at trial.

1576. New GM's acts were done maliciously, oppressively, deliberately, with intent to defraud, and in reckless disregard of Plaintiffs' and the Illinois Class's rights and well-being to enrich New GM. New GM's conduct warrants an assessment of punitive damages in an amount sufficient to deter such conduct in the future, which amount is to be determined according to proof.

**INDIANA**

**COUNT I**

**VIOLATION OF THE INDIANA DECEPTIVE CONSUMER SALES ACT**

**(IND. CODE § 24-5-0.5-3)**

1577. Plaintiffs reallege and incorporate by reference all paragraphs as though fully set forth herein.

1578. This claim is brought only on behalf of Nationwide Class members who are Indiana residents (the "Indiana Class").

1579. New GM is a "person" within the meaning of IND. CODE § 24-5-0.5-2(2) and a "supplier" within the meaning of IND. CODE § 24-5-.05-2(a)(3).

1580. Plaintiffs' and Indiana Class members' purchases of the Affected Vehicles are "consumer transactions" within the meaning of IND. CODE § 24-5-.05-2(a)(1).

1581. Indiana's Deceptive Consumer Sales Act ("Indiana DCSA") prohibits a person from engaging in a "deceptive trade practice," which includes representing: "(1) That such subject of a consumer transaction has sponsorship, approval, performance, characteristics, accessories, uses, or benefits that they do not have, or that a person has a sponsorship, approval, status, affiliation, or connection it does not have; (2) That such subject of a consumer transaction is of a particular standard, quality, grade, style or model, if it is not and if the supplier knows or should reasonably know that it is not; … (7) That the supplier has a sponsorship, approval or affiliation in such consumer transaction that the supplier does not have, and which the supplier knows or should reasonably know that the supplier does not have; … (b) Any representations on or within a product or its packaging or in advertising or promotional materials which would constitute a deceptive act shall be the deceptive act both of the supplier who places such a representation thereon or therein, or who authored such materials, and such suppliers who shall

state orally or in writing that such representation is true if such other supplier shall know or have reason to know that such representation was false."

1582. New GM participated in misleading, false, or deceptive acts that violated the Indiana DCSA. By systematically devaluing safety and concealing a plethora of defects in GM-branded vehicles, New GM engaged in deceptive business practices prohibited by the Indiana DCSA. New GM also engaged in unlawful trade practices by: (1) representing that the Affected Vehicles have characteristics, uses, benefits, and qualities which they do not have; (2) representing that the Affected Vehicles are of a particular standard and quality when they are not; (3) advertising the Affected Vehicles with the intent not to sell them as advertised; and (4) otherwise engaging in conduct likely to deceive.

1583. New GM's actions as set forth above occurred in the conduct of trade or commerce.

1584. In the course of its business, New GM systematically devalued safety and concealed a plethora of defects in GM-branded vehicles as described herein and otherwise engaged in activities with a tendency or capacity to deceive. New GM also engaged in unlawful trade practices by employing deception, deceptive acts or practices, fraud, misrepresentations, or concealment, suppression or omission of any material fact with intent that others rely upon such concealment, suppression or omission, in connection with the sale of the Affected Vehicles.

1585. From the date of its inception on July 10, 2009, New GM knew of many serious defects affecting many models and years of GM-branded vehicles, both because of the knowledge of Old GM personnel who remained at New GM and continuous reports, investigations, and notifications from regulatory authorities. New GM became aware of other

serious defects and systemic safety issues years ago, but concealed all of that information until recently.

1586. New GM was also aware that it valued cost-cutting over safety, selected parts from the cheapest supplier regardless of quality, and actively discouraged employees from finding and flagging known safety defects, and that this approach would necessarily cause the existence of more defects in the vehicles it designed and manufactured and the failure to disclose and remedy defects in all GM-branded vehicles. New GM concealed this information as well.

1587. According to one report from the Center for Auto Safety, some 2,004 deaths and injuries are connected with recently recalled GM-branded vehicles, and New GM should have recalled the vehicles years ago.

1588. By failing to disclose and by actively concealing the many defects in GM-branded vehicles, by marketing its vehicles as safe, reliable, and of high quality, and by presenting itself as a reputable manufacturer that valued safety and stood behind its vehicles after they were sold, New GM engaged in deceptive business practices in violation of the Indiana DCSA.

1589. In the course of New GM's business, it willfully failed to disclose and actively concealed the dangerous risk posed by the many safety issues and serious defects discussed above. New GM compounded the deception by repeatedly asserting that the Affected Vehicles were safe, reliable, and of high quality, and by claiming to be a reputable manufacturer that valued safety and stood behind its vehicles once they are on the road.

1590. New GM's unfair or deceptive acts or practices were likely to and did in fact deceive reasonable consumers, including Plaintiffs, about the true safety and reliability of GM-branded vehicles, the quality of the New GM brand, the devaluing of safety at New GM, and the true value of the Affected Vehicles.

1591. New GM intentionally and knowingly misrepresented material facts regarding the Affected Vehicles with an intent to mislead Plaintiffs and the Indiana Class.

1592. New GM knew or should have known that its conduct violated the Indiana DCSA.

1593. As alleged above, New GM made material statements about the safety and reliability of the Affected Vehicles that were either false or misleading.

1594. New GM owed Plaintiffs a duty to disclose the true safety and reliability of the Affected Vehicles and the devaluing of safety at New GM, because New GM:

a. Possessed exclusive knowledge that it valued cost-cutting over safety, selected parts from the cheapest supplier regardless of quality, and actively discouraged employees from finding and flagging known safety defects, and that this approach would necessarily cause the existence of more defects in the vehicles it designed and manufactured;

b. Intentionally concealed the foregoing from Plaintiffs; and/or

c. Made incomplete representations about the safety and reliability of the Affected Vehicles generally, and the ignition switch in particular, while purposefully withholding material facts from Plaintiffs that contradicted these representations.

1595. Because New GM fraudulently concealed the many defects in GM-branded vehicles, resulting in a raft of negative publicity once the defects finally began to be disclosed, the value of the Affected Vehicles has greatly diminished. In light of the stigma attached to those vehicles by New GM's conduct, they are now worth significantly less than they otherwise would be.

1596. New GM's systemic devaluation of safety and its concealment of a plethora of defects in GM-branded vehicles were material to Plaintiffs and the Indiana Class. A vehicle made by a reputable manufacturer of safe vehicles is worth more than an otherwise comparable

vehicle made by a disreputable manufacturer of unsafe vehicles that conceals defects rather than promptly remedies them.

1597. Plaintiffs and the Indiana Class suffered ascertainable loss caused by New GM's misrepresentations and its failure to disclose material information. Had they been aware of the many defects that existed in GM-branded vehicles, and the company's callous disregard for safety, Plaintiffs either would have paid less for their vehicles or would not have purchased or leased them at all. Plaintiffs did not receive the benefit of their bargain as a result of New GM's misconduct.

1598. New GM's violations present a continuing risk to Plaintiffs as well as to the general public. New GM's unlawful acts and practices complained of herein affect the public interest.

1599. As a direct and proximate result of New GM's violations of the Indiana DCSA, Plaintiffs and the Indiana Class have suffered injury-in-fact and/or actual damage.

1600. Pursuant to IND. CODE § 24-5-0.5-4, Plaintiffs and the Indiana Class seek monetary relief against New GM measured as the greater of (a) actual damages in an amount to be determined at trial and (b) statutory damages in the amount of $500 for each Plaintiff and each Indiana Class member, including treble damages up to $1,000 for New GM's willfully deceptive acts.

1601. Plaintiff also seeks punitive damages based on the outrageousness and recklessness of the New GM's conduct and New GM's high net worth.

1602. On October 8, 2014, certain Plaintiffs sent a letter complying with IND. CODE § 24-5-0.5-5(a). Plaintiffs presently do not claim relief under the Indiana DCSA for "curable" acts until and unless New GM fails to remedy its unlawful conduct within the requisite time

period, after which Plaintiffs seek all damages and relief to which Plaintiffs and the Indiana Class are entitled. Plaintiffs presently seek full relief for New GM's "incurable" acts.

**COUNT II**

**FRAUD BY CONCEALMENT**

1603. Plaintiffs reallege and incorporate by reference all paragraphs as though fully set forth herein.

1604. In the event the Court declines to certify a Nationwide Class under Michigan law, this claim is brought only on behalf of Nationwide Class members who are Indiana residents (the "Indiana Class").

1605. New GM concealed and suppressed material facts concerning the quality of its vehicles and the GM brand.

1606. New GM concealed and suppressed material facts concerning the culture of New GM—a culture characterized by an emphasis on cost-cutting, the studious avoidance of safety issues, and a shoddy design process.

1607. New GM concealed and suppressed material facts concerning the many serious defects plaguing GM-branded vehicles, and that it valued cost-cutting over safety and took steps to ensure that its employees did not reveal known safety defects to regulators or consumers.

1608. New GM did so in order to boost confidence in its vehicles and falsely assure purchasers and lessors of its vehicles that New GM was a reputable manufacturer that stands behind its vehicles after they are sold and that its vehicles are safe and reliable. The false representations were material to consumers, both because they concerned the quality and safety of the Affected Vehicles and because they played a significant role in the value of the vehicles.

1609. New GM had a duty to disclose the many defects in GM-branded vehicles because they were known and/or accessible only to New GM who had superior knowledge and

access to the facts, and New GM knew the facts were not known to or reasonably discoverable by Plaintiffs and the Indiana Class. These omitted and concealed facts were material because they directly impact the value of the Affected Vehicles purchased or leased by Plaintiffs and the Indiana Class. Whether a manufacturer's products are safe and reliable, and whether that manufacturer stands behind its products, are material concerns to a consumer.

1610. New GM actively concealed and/or suppressed these material facts, in whole or in part, to protect its profits and avoid recalls that would hurt the brand's image and cost New GM money, and it did so at the expense of Plaintiffs and the Indiana Class.

1611. On information and belief, New GM has still not made full and adequate disclosure and continues to defraud Plaintiffs and the Indiana Class and conceal material information regarding defects that exist in GM-branded vehicles.

1612. Plaintiffs and the Indiana Class were unaware of these omitted material facts and would not have acted as they did if they had known of the concealed and/or suppressed facts. Plaintiffs' and the Indiana Class's actions were justified. New GM was in exclusive control of the material facts and such facts were not known to the public, Plaintiffs, or the Indiana Class.

1613. Because of the concealment and/or suppression of the facts, Plaintiffs and the Indiana Class sustained damage because they own vehicles that diminished in value as a result of New GM's concealment of, and failure to timely disclose, the serious defects in millions of GM-branded vehicles and the serious safety and quality issues engendered by New GM's corporate policies. Had they been aware of the many defects that existed in GM-branded vehicles, and the company's callous disregard for safety, Plaintiffs either would have paid less for their vehicles or would not have purchased or leased them at all. Plaintiffs did not receive the benefit of their bargain as a result of New GM's fraudulent concealment.

1614. The value of all Indiana Class members' vehicles has diminished as a result of New GM's fraudulent concealment of the many defects and its systemic safety issues which has greatly tarnished the GM brand and made any reasonable consumer reluctant to purchase any of the Affected Vehicles, let alone pay what otherwise would have been fair market value for the vehicles.

1615. Accordingly, New GM is liable to the Indiana Class for their damages in an amount to be proven at trial.

1616. New GM's acts were done maliciously, oppressively, deliberately, with intent to defraud, and in reckless disregard of Plaintiffs' and the Indiana Class's rights and well-being to enrich New GM. New GM's conduct warrants an assessment of punitive damages in an amount sufficient to deter such conduct in the future, which amount is to be determined according to proof.

**COUNT III**

**BREACH OF IMPLIED WARRANTY OF MERCHANTABILITY**

**(IND. CODE § 26-1-2-314)**

1617. Plaintiffs reallege and incorporate by reference all paragraphs as though fully set forth herein.

1618. In the event the Court declines to certify a Nationwide Ignition Switch Defect Subclass under the Magnuson-Moss Warranty Act or Michigan law, this claim is brought only on behalf of Indiana residents who are members of the Ignition Switch Defect Subclass (the "Indiana Ignition Switch Defect Subclass").

1619. New GM was a merchant with respect to motor vehicles within the meaning of IND. CODE § 26-1-2-104(1).

1620. Under IND. CODE § 26-1-2-314, a warranty that the Defective Ignition Switch Vehicles were in merchantable condition was implied by law in the transactions when Plaintiffs purchased their Defective Ignition Switch Vehicles.

1621. These vehicles, when sold and at all times thereafter, were not merchantable and are not fit for the ordinary purpose for which cars are used. Specifically, the Defective Ignition Switch Vehicles are inherently defective in that there are defects in the ignition switch systems that permit sudden unintended shutdown to occur, with the attendant shut down of power steering and power brakes and the nondeployment of airbags in the event of a collision.

1622. New GM was provided notice of these issues by numerous complaints filed against it, internal investigations, and by numerous individual letters and communications sent by Plaintiffs and the Indiana Ignition Switch Defect Subclass before or within a reasonable amount of time after New GM issued the recall and the allegations of vehicle defects became public.

1623. As a direct and proximate result of New GM's breach of the implied warranty of merchantability, Plaintiffs and the Indiana Ignition Switch Defect Subclass have been damaged in an amount to be proven at trial.

## IOWA

## COUNT I

## VIOLATIONS OF THE PRIVATE RIGHT OF ACTION FOR CONSUMER FRAUDS ACT

**(IOWA CODE § 714H.1, *et seq.*)**

1624. Plaintiffs reallege and incorporate by reference all paragraphs as though fully set forth herein.

1625. This claim is brought only on behalf of Nationwide Class members who are Iowa residents (the "Iowa Class").

1626. New GM is "person" under IOWA CODE § 714H.2(7).

1627. Plaintiff and the Iowa Class are "consumers," as defined by IOWA CODE § 714H.2(3), who purchased or leased one or more Affected Vehicles.

1628. The Iowa Private Right of Action for Consumer Frauds Act ("Iowa CFA") prohibits any "practice or act the person knows or reasonably should know is an unfair practice, deception, fraud, false pretense, or false promise, or the misrepresentation, concealment, suppression, or omission of a material fact, with the intent that others rely upon the unfair practice, deception, fraud, false pretense, false promise, misrepresentation, concealment, suppression, or omission in connection with the advertisement, sale, or lease of consumer merchandise." IOWA CODE § 714H.3. New GM participated in misleading, false, or deceptive acts that violated the Iowa CFA. By systematically devaluing safety and concealing a plethora of defects in GM-branded vehicles, New GM engaged in deceptive business practices prohibited by the Iowa CFA.

1629. New GM's actions as set forth above occurred in the conduct of trade or commerce.

1630. In the course of its business, New GM systematically devalued safety and concealed a plethora of defects in GM-branded vehicles as described herein and otherwise engaged in activities with a tendency or capacity to deceive. New GM also engaged in unlawful trade practices by employing deception, deceptive acts or practices, fraud, misrepresentations, or concealment, suppression or omission of any material fact with intent that others rely upon such concealment, suppression or omission, in connection with the sale of the Affected Vehicles.

1631. From the date of its inception on July 10, 2009, New GM knew of many serious defects affecting many models and years of GM-branded vehicles, both because of the knowledge of Old GM personnel who remained at New GM and continuous reports, investigations, and notifications from regulatory authorities. New GM became aware of other serious defects and systemic safety issues years ago, but concealed all of that information until recently.

1632. New GM was also aware that it valued cost-cutting over safety, selected parts from the cheapest supplier regardless of quality, and actively discouraged employees from finding and flagging known safety defects, and that this approach would necessarily cause the existence of more defects in the vehicles it designed and manufactured and the failure to disclose and remedy defects in all GM-branded vehicles. New GM concealed this information as well.

1633. According to one report from the Center for Auto Safety, some 2,004 deaths and injuries are connected with recently recalled GM-branded vehicles, and New GM should have recalled the vehicles years ago.

1634. By failing to disclose and by actively concealing the many defects in GM-branded vehicles, by marketing its vehicles as safe, reliable, and of high quality, and by presenting itself as a reputable manufacturer that valued safety and stood behind its vehicles after they were sold, New GM engaged in unfair and deceptive business practices in violation of the Iowa CFA.

1635. In the course of New GM's business, it willfully failed to disclose and actively concealed the dangerous risk posed by the many safety issues and serious defects discussed above. New GM compounded the deception by repeatedly asserting that the Affected Vehicles were safe, reliable, and of high quality, and by claiming to be a reputable manufacturer that valued safety and stood behind its vehicles once they are on the road.

1636. New GM's unfair or deceptive acts or practices were likely to and did in fact deceive reasonable consumers, including Plaintiffs, about the true safety and reliability of GM-branded vehicles, the quality of the New GM brand, the devaluing of safety at New GM, and the true value of the Affected Vehicles.

1637. New GM intentionally and knowingly misrepresented material facts regarding the Affected Vehicles with an intent to mislead Plaintiffs and the Iowa Class.

1638. New GM knew or should have known that its conduct violated the Iowa CFA.

1639. As alleged above, New GM made material statements about the safety and reliability of the Affected Vehicles that were either false or misleading.

1640. New GM owed Plaintiffs a duty to disclose the true safety and reliability of the Affected Vehicles and the devaluing of safety at New GM, because New GM:

a. Possessed exclusive knowledge that it valued cost-cutting over safety, selected parts from the cheapest supplier regardless of quality, and actively discouraged employees from finding and flagging known safety defects, and that this approach would necessarily cause the existence of more defects in the vehicles it designed and manufactured;

b. Intentionally concealed the foregoing from Plaintiffs; and/or

c. Made incomplete representations about the safety and reliability of the Affected Vehicles generally, and the ignition switch in particular, while purposefully withholding material facts from Plaintiffs that contradicted these representations.

1641. Because New GM fraudulently concealed the many defects in GM-branded vehicles, resulting in a raft of negative publicity once the defects finally began to be disclosed, the value of the Affected Vehicles has greatly diminished. In light of the stigma attached to those vehicles by New GM's conduct, they are now worth significantly less than they otherwise would be.

1642. New GM's systemic devaluation of safety and its concealment of a plethora of defects in GM-branded vehicles were material to Plaintiffs and the Iowa Class. A vehicle made by a reputable manufacturer of safe vehicles is worth more than an otherwise comparable vehicle made by a disreputable manufacturer of unsafe vehicles that conceals defects rather than promptly remedies them.

1643. Plaintiffs and the Iowa Class suffered ascertainable loss caused by New GM's misrepresentations and its failure to disclose material information. Had they been aware of the many defects that existed in GM-branded vehicles, and the company's callous disregard for safety, Plaintiffs either would have paid less for their vehicles or would not have purchased or leased them at all. Plaintiffs did not receive the benefit of their bargain as a result of New GM's misconduct.

1644. New GM's violations present a continuing risk to Plaintiffs as well as to the general public. New GM's unlawful acts and practices complained of herein affect the public interest.

1645. As a direct and proximate result of New GM's violations of the Iowa CFA, Plaintiffs and the Iowa Class have suffered injury-in-fact and/or actual damage.

1646. Pursuant to IOWA CODE § 714H.5, Plaintiffs seek an order enjoining New GM's unfair and/or deceptive acts or practices; actual damages; in addition to an award of actual damages, statutory damages up to three times the amount of actual damages awarded as a result of New GM's willful and wanton disregard for the rights or safety of others; attorneys' fees; and such other equitable relief as the Court deems necessary to protect the public from further violations of the Iowa CFA.

**COUNT II**

**FRAUD BY CONCEALMENT**

1647. Plaintiffs reallege and incorporate by reference all paragraphs as though fully set forth herein.

1648. In the event the Court declines to certify a Nationwide Class under Michigan law, this claim is brought only on behalf of Nationwide Class members who are Iowa residents (the "Iowa Class").

1649. New GM concealed and suppressed material facts concerning the quality of its vehicles and the GM brand.

1650. New GM concealed and suppressed material facts concerning the culture of New GM—a culture characterized by an emphasis on cost-cutting, the studious avoidance of safety issues, and a shoddy design process.

1651. New GM concealed and suppressed material facts concerning the many serious defects plaguing GM-branded vehicles, and that it valued cost-cutting over safety and took steps to ensure that its employees did not reveal known safety defects to regulators or consumers.

1652. New GM did so in order to boost confidence in its vehicles and falsely assure purchasers and lessors of its vehicles that New GM was a reputable manufacturer that stands behind its vehicles after they are sold and that its vehicles are safe and reliable. The false representations were material to consumers, both because they concerned the quality and safety of the Affected Vehicles and because they played a significant role in the value of the vehicles.

1653. New GM had a duty to disclose the many defects in GM-branded vehicles because they were known and/or accessible only to New GM who had superior knowledge and access to the facts, and New GM knew the facts were not known to or reasonably discoverable by Plaintiffs and the Iowa Class. These omitted and concealed facts were material because they

directly impact the value of the Affected Vehicles purchased or leased by Plaintiffs and the Iowa Class. Whether a manufacturer's products are safe and reliable, and whether that manufacturer stands behind its products, are material concerns to a consumer.

1654. New GM actively concealed and/or suppressed these material facts, in whole or in part, to protect its profits and avoid recalls that would hurt the brand's image and cost New GM money, and it did so at the expense of Plaintiffs and the Iowa Class.

1655. On information and belief, New GM has still not made full and adequate disclosure and continues to defraud Plaintiffs and the Iowa Class and conceal material information regarding defects that exist in GM-branded vehicles.

1656. Plaintiffs and the Iowa Class were unaware of these omitted material facts and would not have acted as they did if they had known of the concealed and/or suppressed facts. Plaintiffs' and the Iowa Class's actions were justified. New GM was in exclusive control of the material facts and such facts were not known to the public, Plaintiffs, or the Iowa Class.

1657. Because of the concealment and/or suppression of the facts, Plaintiffs and the Iowa Class sustained damage because they own vehicles that diminished in value as a result of New GM's concealment of, and failure to timely disclose, the serious defects in millions of GM-branded vehicles and the serious safety and quality issues engendered by New GM's corporate policies. Had they been aware of the many defects that existed in GM-branded vehicles, and the company's callous disregard for safety, Plaintiffs either would have paid less for their vehicles or would not have purchased or leased them at all. Plaintiffs did not receive the benefit of their bargain as a result of New GM's fraudulent concealment.

1658. The value of all Iowa Class members' vehicles has diminished as a result of New GM's fraudulent concealment of the many defects and its systemic safety issues which has

greatly tarnished the GM brand and made any reasonable consumer reluctant to purchase any of the Affected Vehicles, let alone pay what otherwise would have been fair market value for the vehicles.

1659. Accordingly, New GM is liable to the Iowa Class for their damages in an amount to be proven at trial.

1660. New GM's acts were done maliciously, oppressively, deliberately, with intent to defraud, and in reckless disregard of Plaintiffs' and the Iowa Class's rights and well-being to enrich New GM. New GM's conduct warrants an assessment of punitive damages in an amount sufficient to deter such conduct in the future, which amount is to be determined according to proof.

**KANSAS**

**COUNT I**

**VIOLATIONS OF THE KANSAS CONSUMER PROTECTION ACT**

**(KAN. STAT. ANN. § 50-623, *et seq*.)**

1661. Plaintiffs reallege and incorporate by reference all paragraphs as though fully set forth herein.

1662. This claim is brought only on behalf of Nationwide Class members who are Kansas residents (the "Kansas Class").

1663. New GM is a "supplier" under the Kansas Consumer Protection Act ("Kansas CPA"), KAN. STAT. ANN. § 50-624(l).

1664. Kansas Class members are "consumers," within the meaning of KAN. STAT. ANN. § 50-624(b), who purchased or leased one or more Affected Vehicles.

1665. The sale of the Affected Vehicles to the Kansas Class members was a "consumer transaction" within the meaning of KAN. STAT. ANN. § 50-624(c).

1666. The Kansas CPA states "[n]o supplier shall engage in any deceptive act or practice in connection with a consumer transaction," KAN. STAT. ANN. § 50-626(a), and that deceptive acts or practices include: (1) knowingly making representations or with reason to know that "(A) Property or services have sponsorship, approval, accessories, characteristics, ingredients, uses, benefits or quantities that they do not have;" and "(D) property or services are of particular standard, quality, grade, style or model, if they are of another which differs materially from the representation;" "(2) the willful use, in any oral or written representation, of exaggeration, falsehood, innuendo or ambiguity as to a material fact;" and "(3) the willful failure to state a material fact, or the willful concealment, suppression or omission of a material fact." The Kansas CPA also provides that "[n]o supplier shall engage in any unconscionable act or practice in connection with a consumer transaction." KAN. STAT. ANN. § 50-627(a).

1667. New GM participated in misleading, false, or deceptive acts that violated the Kansas CPA. By systematically devaluing safety and concealing a plethora of defects in GM-branded vehicles, New GM engaged in deceptive business practices prohibited by the Kansas CPA. New GM also engaged in unlawful trade practices by: (1) representing that the Affected Vehicles have characteristics, uses, benefits, and qualities which they do not have; (2) representing that the Affected Vehicles are of a particular standard and quality when they are not; (3) advertising the Affected Vehicles with the intent not to sell them as advertised; (4) willfully using, in any oral or written representation, of exaggeration, falsehood, innuendo or ambiguity as to a material fact; (5) willfully failing to state a material fact, or the willfully concealing, suppressing or omitting a material fact; and (6) otherwise engaging in an unconscionable act or practice in connection with a consumer transaction.

1668. New GM's actions as set forth above occurred in the conduct of trade or commerce.

1669. In the course of its business, New GM systematically devalued safety and concealed a plethora of defects in GM-branded vehicles as described herein and otherwise engaged in activities with a tendency or capacity to deceive. New GM also engaged in unlawful trade practices by employing deception, deceptive acts or practices, fraud, misrepresentations, or concealment, suppression or omission of any material fact with intent that others rely upon such concealment, suppression or omission, in connection with the sale of the Affected Vehicles.

1670. From the date of its inception on July 10, 2009, New GM knew of many serious defects affecting many models and years of GM-branded vehicles, both because of the knowledge of Old GM personnel who remained at New GM and continuous reports, investigations, and notifications from regulatory authorities. New GM became aware of other serious defects and systemic safety issues years ago, but concealed all of that information until recently.

1671. New GM was also aware that it valued cost-cutting over safety, selected parts from the cheapest supplier regardless of quality, and actively discouraged employees from finding and flagging known safety defects, and that this approach would necessarily cause the existence of more defects in the vehicles it designed and manufactured and the failure to disclose and remedy defects in all GM-branded vehicles. New GM concealed this information as well.

1672. According to one report from the Center for Auto Safety, some 2,004 deaths and injuries are connected with recently recalled GM-branded vehicles, and New GM should have recalled the vehicles years ago.

1673. By failing to disclose and by actively concealing the many defects in GM-branded vehicles, by marketing its vehicles as safe, reliable, and of high quality, and by presenting itself as a reputable manufacturer that valued safety and stood behind its vehicles after they were sold, New GM engaged in deceptive business practices in violation of the Kansas CPA.

1674. In the course of New GM's business, it willfully failed to disclose and actively concealed the dangerous risk posed by the many safety issues and serious defects discussed above. New GM compounded the deception by repeatedly asserting that the Affected Vehicles were safe, reliable, and of high quality, and by claiming to be a reputable manufacturer that valued safety and stood behind its vehicles once they are on the road.

1675. New GM's unfair or deceptive acts or practices were likely to and did in fact deceive reasonable consumers, including Plaintiffs, about the true safety and reliability of GM-branded vehicles, the quality of the GM brand, the devaluing of safety at New GM, and the true value of the Affected Vehicles.

1676. New GM intentionally and knowingly misrepresented material facts regarding the Affected Vehicles with an intent to mislead Plaintiffs and the Kansas Class.

1677. New GM knew or should have known that its conduct violated the Kansas CPA.

1678. As alleged above, New GM made material statements about the safety and reliability of the Affected Vehicles that were either false or misleading.

1679. New GM owed Plaintiffs a duty to disclose the true safety and reliability of the Affected Vehicles and the devaluing of safety at New GM, because New GM:

a. Possessed exclusive knowledge that it valued cost-cutting over safety, selected parts from the cheapest supplier regardless of quality, and actively discouraged employees from finding and flagging known safety defects, and that this approach would necessarily cause the existence of more defects in the vehicles it designed and manufactured;

b. Intentionally concealed the foregoing from Plaintiffs; and/or

c. Made incomplete representations about the safety and reliability of the Affected Vehicles generally, and the ignition switch in particular, while purposefully withholding material facts from Plaintiffs that contradicted these representations.

1680. Because New GM fraudulently concealed the many defects in GM-branded vehicles, resulting in a raft of negative publicity once the defects finally began to be disclosed, the value of the Affected Vehicles has greatly diminished. In light of the stigma attached to those vehicles by New GM's conduct, they are now worth significantly less than they otherwise would be.

1681. New GM's systemic devaluation of safety and its concealment of a plethora of defects in GM-branded vehicles were material to Plaintiffs and the Kansas Class. A vehicle made by a reputable manufacturer of safe vehicles is worth more than an otherwise comparable vehicle made by a disreputable manufacturer of unsafe vehicles that conceals defects rather than promptly remedies them.

1682. Plaintiffs and the Kansas Class suffered ascertainable loss caused by New GM's misrepresentations and its failure to disclose material information. Had they been aware of the many defects that existed in GM-branded vehicles, and the company's callous disregard for safety, Plaintiffs either would have paid less for their vehicles or would not have purchased or leased them at all. Plaintiffs did not receive the benefit of their bargain as a result of New GM's misconduct.

1683. New GM's violations present a continuing risk to Plaintiffs as well as to the general public. New GM's unlawful acts and practices complained of herein affect the public interest.

1684. As a direct and proximate result of New GM's violations of the Kansas CPA, Plaintiffs and the Kansas Class have suffered injury-in-fact and/or actual damage.

1685. Pursuant to KAN. STAT. ANN. § 50-634, Plaintiffs and the Kansas Class seek monetary relief against New GM measured as the greater of (a) actual damages in an amount to be determined at trial and (b) statutory damages in the amount of $10,000 for each Plaintiff and each Kansas Class member

1686. Plaintiff also seeks an order enjoining New GM's unfair, unlawful, and/or deceptive practices, declaratory relief, attorneys' fees, and any other just and proper relief available under KAN. STAT. ANN § 50-623 *et seq*.

**COUNT II**

**FRAUD BY CONCEALMENT**

1687. Plaintiffs reallege and incorporate by reference all paragraphs as though fully set forth herein.

1688. In the event the Court declines to certify a Nationwide Class under Michigan law, this claim is brought only on behalf of Nationwide Class members who are Kansas residents (the "Kansas Class").

1689. New GM concealed and suppressed material facts concerning the quality of its vehicles and the GM brand.

1690. New GM concealed and suppressed material facts concerning the culture of New GM—a culture characterized by an emphasis on cost-cutting, the studious avoidance of safety issues, and a shoddy design process.

1691. New GM concealed and suppressed material facts concerning the many serious defects plaguing GM-branded vehicles, and that it valued cost-cutting over safety and took steps to ensure that its employees did not reveal known safety defects to regulators or consumers.

1692. New GM did so in order to boost confidence in its vehicles and falsely assure purchasers and lessors of its vehicles that New GM was a reputable manufacturer that stands behind its vehicles after they are sold and that its vehicles are safe and reliable. The false representations were material to consumers, both because they concerned the quality and safety of the Affected Vehicles and because they played a significant role in the value of the vehicles.

1693. New GM had a duty to disclose the many defects in GM-branded vehicles because they were known and/or accessible only to New GM who had superior knowledge and access to the facts, and New GM knew the facts were not known to or reasonably discoverable by Plaintiffs and the Kansas Class. These omitted and concealed facts were material because they directly impact the value of the Affected Vehicles purchased or leased by Plaintiffs and the Kansas Class. Whether a manufacturer's products are safe and reliable, and whether that manufacturer stands behind its products, are material concerns to a consumer.

1694. New GM actively concealed and/or suppressed these material facts, in whole or in part, to protect its profits and avoid recalls that would hurt the brand's image and cost New GM money, and it did so at the expense of Plaintiffs and the Kansas Class.

1695. On information and belief, New GM has still not made full and adequate disclosure and continues to defraud Plaintiffs and the Kansas Class and conceal material information regarding defects that exist in GM-branded vehicles.

1696. Plaintiffs and the Kansas Class were unaware of these omitted material facts and would not have acted as they did if they had known of the concealed and/or suppressed facts. Plaintiffs' and the Kansas Class's actions were justified. New GM was in exclusive control of the material facts and such facts were not known to the public, Plaintiffs, or the Kansas Class.

1697. Because of the concealment and/or suppression of the facts, Plaintiffs and the Kansas Class sustained damage because they own vehicles that diminished in value as a result of New GM's concealment of, and failure to timely disclose, the serious defects in millions of GM-branded vehicles and the serious safety and quality issues engendered by New GM's corporate policies. Had they been aware of the many defects that existed in GM-branded vehicles, and the company's callous disregard for safety, Plaintiffs either would have paid less for their vehicles or would not have purchased or leased them at all. Plaintiffs did not receive the benefit of their bargain as a result of New GM's fraudulent concealment.

1698. The value of all Kansas Class members' vehicles has diminished as a result of New GM's fraudulent concealment of the many defects and its systemic safety issues which has greatly tarnished the New GM brand and made any reasonable consumer reluctant to purchase any of the Affected Vehicles, let alone pay what otherwise would have been fair market value for the vehicles.

1699. Accordingly, New GM is liable to the Kansas Class for their damages in an amount to be proven at trial.

1700. New GM's acts were done maliciously, oppressively, deliberately, with intent to defraud, and in reckless disregard of Plaintiffs' and the Kansas Class's rights and well-being to enrich New GM. New GM's conduct warrants an assessment of punitive damages in an amount sufficient to deter such conduct in the future, which amount is to be determined according to proof.

## COUNT III

## BREACH OF IMPLIED WARRANTY OF MERCHANTABILITY

## (KAN. STAT. ANN. § 84-2-314)

1701. Plaintiffs reallege and incorporate by reference all paragraphs as though fully set forth herein.

1702. In the event the Court declines to certify a Nationwide Ignition Switch Defect Subclass under the Magnuson-Moss Warranty Act or Michigan law, this claim is brought only on behalf of Kansas residents who are members of the Ignition Switch Defect Subclass (the "Kansas Ignition Switch Defect Subclass").

1703. New GM was a merchant with respect to motor vehicles within the meaning of KAN. STAT. ANN. § 84-2-104(1).

1704. Under KAN. STAT. ANN. § 84-2-314, a warranty that the Defective Ignition Switch Vehicles were in merchantable condition was implied by law in the transactions when Plaintiffs purchased their Defective Ignition Switch Vehicles.

1705. These vehicles, when sold and at all times thereafter, were not merchantable and are not fit for the ordinary purpose for which cars are used. Specifically, the Defective Ignition Switch Vehicles are inherently defective in that there are defects in the ignition switch systems that permit sudden unintended shutdown to occur, with the attendant shut down of power steering and power brakes and the nondeployment of airbags in the event of a collision.

1706. New GM was provided notice of these issues by numerous complaints filed against it, internal investigations, and by numerous individual letters and communications sent by Plaintiffs and the Kansas Ignition Switch Defect Subclass before or within a reasonable amount of time after New GM issued the recall and the allegations of vehicle defects became public.

1707. As a direct and proximate result of New GM's breach of the implied warranty of merchantability, Plaintiffs and the Kansas Ignition Switch Defect Subclass have been damaged in an amount to be proven at trial.

**KENTUCKY**

**COUNT I**

**VIOLATION OF THE KENTUCKY CONSUMER PROTECTION ACT**

**(KY. REV. STAT. § 367.110, *et seq.*)**

1708. Plaintiffs reallege and incorporate by reference all paragraphs as though fully set forth herein.

1709. This claim is brought only on behalf of Nationwide Class members who are Kentucky residents (the "Kentucky Class").

1710. New GM, Plaintiffs, and the Kentucky Class are "persons" within the meaning of the KY. REV. STAT. § 367.110(1).

1711. New GM engaged in "trade" or "commerce" within the meaning of KY. REV. STAT. § 367.110(2).

1712. The Kentucky Consumer Protection Act ("Kentucky CPA") makes unlawful "[u]nfair, false, misleading, or deceptive acts or practices in the conduct of any trade or commerce …." KY. REV. STAT. § 367.170(1). Old GM and New GM both participated in misleading, false, or deceptive acts that violated the Kentucky CPA. By systematically devaluing safety and concealing a plethora of defects in GM-branded vehicles, New GM engaged in deceptive business practices prohibited by the Kentucky CPA.

1713. In the course of its business, New GM systematically devalued safety and concealed a plethora of defects in GM-branded vehicles as described herein and otherwise engaged in activities with a tendency or capacity to deceive. New GM also engaged in unlawful

trade practices by employing deception, deceptive acts or practices, fraud, misrepresentations, or concealment, suppression or omission of any material fact with intent that others rely upon such concealment, suppression or omission, in connection with the sale of the Affected Vehicles.

1714. From the date of its inception on July 10, 2009, New GM knew of many serious defects affecting many models and years of GM-branded vehicles, both because of the knowledge of Old GM personnel who remained at New GM and continuous reports, investigations, and notifications from regulatory authorities. New GM became aware of other serious defects and systemic safety issues years ago, but concealed all of that information until recently.

1715. New GM was also aware that it valued cost-cutting over safety, selected parts from the cheapest supplier regardless of quality, and actively discouraged employees from finding and flagging known safety defects, and that this approach would necessarily cause the existence of more defects in the vehicles it designed and manufactured and the failure to disclose and remedy defects in all GM-branded vehicles. New GM concealed this information as well.

1716. According to one report from the Center for Auto Safety, some 2,004 deaths and injuries are connected with recently recalled GM-branded vehicles, and New GM should have recalled the vehicles years ago.

1717. By failing to disclose and by actively concealing the many defects in GM-branded vehicles, by marketing its vehicles as safe, reliable, and of high quality, and by presenting itself as a reputable manufacturer that valued safety and stood behind its vehicles after they were sold, New GM engaged in deceptive business practices in violation of the Kentucky CPA.

1718. In the course of New GM's business, it willfully failed to disclose and actively concealed the dangerous risk posed by the many safety issues and serious defects discussed

above. New GM compounded the deception by repeatedly asserting that the Affected Vehicles were safe, reliable, and of high quality, and by claiming to be a reputable manufacturer that valued safety and stood behind its vehicles once they are on the road.

1719. New GM's unfair or deceptive acts or practices were likely to and did in fact deceive reasonable consumers, including Plaintiffs, about the true safety and reliability of GM-branded vehicles, the quality of the GM brand, the devaluing of safety at New GM, and the true value of the Affected Vehicles.

1720. New GM intentionally and knowingly misrepresented material facts regarding the Affected Vehicles with an intent to mislead Plaintiffs and the Kentucky Class.

1721. New GM knew or should have known that its conduct violated the Kentucky CPA.

1722. New GM made material statements about the safety and reliability of the Affected Vehicles that were either false or misleading.

1723. New GM owed Plaintiffs a duty to disclose the true safety and reliability of the Affected Vehicles and the devaluing of safety at New GM, because New GM:

a. Possessed exclusive knowledge that it valued cost-cutting over safety, selected parts from the cheapest supplier regardless of quality, and actively discouraged employees from finding and flagging known safety defects, and that this approach would necessarily cause the existence of more defects in the vehicles it designed and manufactured;

b. Intentionally concealed the foregoing from Plaintiffs; and/or

c. Made incomplete representations about the safety and reliability of the Affected Vehicles generally, and the ignition switch in particular, while purposefully withholding material facts from Plaintiffs that contradicted these representations.

1724. Because New GM fraudulently concealed the many defects in GM-branded vehicles, resulting in a raft of negative publicity once the defects finally began to be disclosed, the value of the Affected Vehicles has greatly diminished. In light of the stigma attached to those vehicles by New GM's conduct, they are now worth significantly less than they otherwise would be.

1725. New GM's systemic devaluation of safety and its concealment of a plethora of defects in GM-branded vehicles were material to Plaintiffs and the Kentucky Class. A vehicle made by a reputable manufacturer of safe vehicles is worth more than an otherwise comparable vehicle made by a disreputable manufacturer of unsafe vehicles that conceals defects rather than promptly remedies them.

1726. Plaintiffs and the Kentucky Class suffered ascertainable loss caused by New GM's misrepresentations and its failure to disclose material information. Had they been aware of the many defects that existed in GM-branded vehicles, and the company's callous disregard for safety, Plaintiffs either would have paid less for their vehicles or would not have purchased or leased them at all. Plaintiffs did not receive the benefit of their bargain as a result of New GM's misconduct.

1727. New GM's violations present a continuing risk to Plaintiffs as well as to the general public. New GM's unlawful acts and practices complained of herein affect the public interest.

1728. As a direct and proximate result of New GM's violations of the Kentucky CPA, Plaintiffs and the Kentucky Class have suffered injury-in-fact and/or actual damage.

1729. Pursuant to KY. REV. STAT. ANN. § 367.220, Plaintiffs and the Kentucky Class seek to recover actual damages in an amount to be determined at trial; an order enjoining

New GM's unfair, unlawful, and/or deceptive practices; declaratory relief; attorneys' fees; and any other just and proper relief available under KY. REV. STAT. ANN. § 367.220.

**COUNT II**

**FRAUD BY CONCEALMENT**

1730. Plaintiffs reallege and incorporate by reference all paragraphs as though fully set forth herein.

1731. In the event the Court declines to certify a Nationwide Class under Michigan law, this claim is brought only on behalf of Nationwide Class members who are Kentucky residents (the "Kentucky Class").

1732. New GM concealed and suppressed material facts concerning the quality of its vehicles and the GM brand.

1733. New GM concealed and suppressed material facts concerning the culture of New GM—a culture characterized by an emphasis on cost-cutting, the studious avoidance of safety issues, and a shoddy design process.

1734. New GM concealed and suppressed material facts concerning the many serious defects plaguing GM-branded vehicles, and that it valued cost-cutting over safety and took steps to ensure that its employees did not reveal known safety defects to regulators or consumers.

1735. New GM did so in order to boost confidence in its vehicles and falsely assure purchasers and lessors of its vehicles that New GM was a reputable manufacturer that stands behind its vehicles after they are sold and that its vehicles are safe and reliable. The false representations were material to consumers, both because they concerned the quality and safety of the Affected Vehicles and because they played a significant role in the value of the vehicles.

1736. New GM had a duty to disclose the many defects in GM-branded vehicles because they were known and/or accessible only to New GM who had superior knowledge and

access to the facts, and New GM knew the facts were not known to or reasonably discoverable by Plaintiffs and the Kentucky Class. These omitted and concealed facts were material because they directly impact the value of the Affected Vehicles purchased or leased by Plaintiffs and the Kentucky Class. Whether a manufacturer's products are safe and reliable, and whether that manufacturer stands behind its products, are material concerns to a consumer.

1737. New GM actively concealed and/or suppressed these material facts, in whole or in part, to protect its profits and avoid recalls that would hurt the brand's image and cost New GM money, and it did so at the expense of Plaintiffs and the Kentucky Class.

1738. On information and belief, New GM has still not made full and adequate disclosure and continues to defraud Plaintiffs and the Kentucky Class and conceal material information regarding defects that exist in GM-branded vehicles.

1739. Plaintiffs and the Kentucky Class were unaware of these omitted material facts and would not have acted as they did if they had known of the concealed and/or suppressed facts. Plaintiffs' and the Kentucky Class's actions were justified. New GM was in exclusive control of the material facts and such facts were not known to the public, Plaintiffs, or the Kentucky Class.

1740. Because of the concealment and/or suppression of the facts, Plaintiffs and the Kentucky Class sustained damage because they own vehicles that diminished in value as a result of New GM's concealment of, and failure to timely disclose, the serious defects in millions of GM-branded vehicles and the serious safety and quality issues engendered by New GM's corporate policies. Had they been aware of the many defects that existed in GM-branded vehicles, and the company's callous disregard for safety, Plaintiffs either would have paid less for their vehicles or would not have purchased or leased them at all. Plaintiffs did not receive the benefit of their bargain as a result of New GM's fraudulent concealment.

1741. The value of all Kentucky Class members' vehicles has diminished as a result of New GM's fraudulent concealment of the many defects and its systemic safety issues which has greatly tarnished the GM brand and made any reasonable consumer reluctant to purchase any of the Affected Vehicles, let alone pay what otherwise would have been fair market value for the vehicles.

1742. Accordingly, New GM is liable to the Kentucky Class for their damages in an amount to be proven at trial.

1743. New GM's acts were done maliciously, oppressively, deliberately, with intent to defraud, and in reckless disregard of Plaintiffs' and the Kentucky Class's rights and well-being to enrich New GM. New GM's conduct warrants an assessment of punitive damages in an amount sufficient to deter such conduct in the future, which amount is to be determined according to proof.

## LOUISIANA

### COUNT I

### VIOLATION OF THE LOUISIANA UNFAIR TRADE PRACTICES AND CONSUMER PROTECTION LAW

**(LA. REV. STAT. § 51:1401, *et seq.*)**

1744. Plaintiffs reallege and incorporate by reference all paragraphs as though fully set forth herein.

1745. This claim is brought only on behalf of Nationwide Class members who are Louisiana residents (the "Louisiana Class").

1746. New GM, Plaintiffs, and the Louisiana Class are "persons" within the meaning of the LA. REV. STAT. § 51:1402(8).

1747. Plaintiffs and the Louisiana Class are "consumers" within the meaning of LA. REV. STAT. § 51:1402(1).

1748. New GM engaged in "trade" or "commerce" within the meaning of LA. REV. STAT. § 51:1402(9).

1749. The Louisiana Unfair Trade Practices and Consumer Protection Law ("Louisiana CPL") makes unlawful "deceptive acts or practices in the conduct of any trade or commerce." LA. REV. STAT. § 51:1405(A). New GM both participated in misleading, false, or deceptive acts that violated the Louisiana CPL. By systematically devaluing safety and concealing a plethora of defects in GM-branded vehicles, New GM engaged in deceptive business practices prohibited by the Louisiana CPL.

1750. In the course of its business, New GM systematically devalued safety and concealed a plethora of defects in GM-branded vehicles as described herein and otherwise engaged in activities with a tendency or capacity to deceive. New GM also engaged in unlawful trade practices by employing deception, deceptive acts or practices, fraud, misrepresentations, or concealment, suppression or omission of any material fact with intent that others rely upon such concealment, suppression or omission, in connection with the sale of the Affected Vehicles.

1751. From the date of its inception on July 10, 2009, New GM knew of many serious defects affecting many models and years of GM-branded vehicles, both because of the knowledge of Old GM personnel who remained at New GM and continuous reports, investigations, and notifications from regulatory authorities. New GM became aware of other serious defects and systemic safety issues years ago, but concealed all of that information until recently.

1752. New GM was also aware that it valued cost-cutting over safety, selected parts from the cheapest supplier regardless of quality, and actively discouraged employees from finding and flagging known safety defects, and that this approach would necessarily cause the existence of more defects in the vehicles it designed and manufactured and the failure to disclose and remedy defects in all GM-branded vehicles. New GM concealed this information as well.

1753. According to one report from the Center for Auto Safety, some 2,004 deaths and injuries are connected with recently recalled GM-branded vehicles, and New GM should have recalled the vehicles years ago.

1754. By failing to disclose and by actively concealing the many defects in GM-branded vehicles, by marketing its vehicles as safe, reliable, and of high quality, and by presenting itself as a reputable manufacturer that valued safety and stood behind its vehicles after they were sold, New GM engaged in deceptive business practices in violation of the Louisiana CPL.

1755. In the course of New GM's business, it willfully failed to disclose and actively concealed the dangerous risk posed by the many safety issues and serious defects discussed above. New GM compounded the deception by repeatedly asserting that the Affected Vehicles were safe, reliable, and of high quality, and by claiming to be a reputable manufacturer that valued safety and stood behind its vehicles once they are on the road.

1756. New GM's unfair or deceptive acts or practices were likely to and did in fact deceive reasonable consumers, including Plaintiffs, about the true safety and reliability of GM-branded vehicles, the quality of the GM brand, the devaluing of safety at New GM, and the true value of the Affected Vehicles.

1757. New GM intentionally and knowingly misrepresented material facts regarding the Affected Vehicles with an intent to mislead Plaintiffs and the Louisiana Class.

1758. New GM knew or should have known that its conduct violated the Louisiana CPL.

1759. As alleged above, New GM made material statements about the safety and reliability of the Affected Vehicles that were either false or misleading.

1760. New GM owed Plaintiffs a duty to disclose the true safety and reliability of the Affected Vehicles and the devaluing of safety at New GM, because New GM:

a. Possessed exclusive knowledge that it valued cost-cutting over safety, selected parts from the cheapest supplier regardless of quality, and actively discouraged employees from finding and flagging known safety defects, and that this approach would necessarily cause the existence of more defects in the vehicles it designed and manufactured;

b. Intentionally concealed the foregoing from Plaintiffs; and/or

c. Made incomplete representations about the safety and reliability of the Affected Vehicles generally, and the ignition switch in particular, while purposefully withholding material facts from Plaintiffs that contradicted these representations.

1761. Because New GM fraudulently concealed the many defects in GM-branded vehicles, resulting in a raft of negative publicity once the defects finally began to be disclosed, the value of the Affected Vehicles has greatly diminished. In light of the stigma attached to those vehicles by New GM's conduct, they are now worth significantly less than they otherwise would be.

1762. New GM's systemic devaluation of safety and its concealment of a plethora of defects in GM-branded vehicles were material to Plaintiffs and the Louisiana Class. A vehicle made by a reputable manufacturer of safe vehicles is worth more than an otherwise comparable vehicle made by a disreputable manufacturer of unsafe vehicles that conceals defects rather than promptly remedies them.

1763. Plaintiffs and the Louisiana Class suffered ascertainable loss caused by New GM's misrepresentations and its failure to disclose material information. Had they been aware of the many defects that existed in GM-branded vehicles, and the company's callous disregard for safety, Plaintiffs either would have paid less for their vehicles or would not have purchased or leased them at all. Plaintiffs did not receive the benefit of their bargain as a result of New GM's misconduct.

1764. New GM's violations present a continuing risk to Plaintiffs as well as to the general public. New GM's unlawful acts and practices complained of herein affect the public interest.

1765. As a direct and proximate result of New GM's violations of the Louisiana CPL, Plaintiffs and the Louisiana Class have suffered injury-in-fact and/or actual damage.

1766. Pursuant to LA. REV. STAT. § 51:1409, Plaintiffs and the Louisiana Class seek to recover actual damages in an amount to be determined at trial; treble damages for New GM's knowing violations of the Louisiana CPL; an order enjoining New GM's unfair, unlawful, and/or deceptive practices; declaratory relief; attorneys' fees; and any other just and proper relief available under LA. REV. STAT. § 51:1409.

**COUNT II**

**FRAUD BY CONCEALMENT**

1767. Plaintiffs reallege and incorporate by reference all paragraphs as though fully set forth herein.

1768. In the event the Court declines to certify a Nationwide Class under Michigan law, this claim is brought only on behalf of Nationwide Class members who are Louisiana residents (the "Louisiana Class").

1769. New GM concealed and suppressed material facts concerning the quality of its vehicles and the GM brand.

1770. New GM concealed and suppressed material facts concerning the culture of New GM—a culture characterized by an emphasis on cost-cutting, the studious avoidance of safety issues, and a shoddy design process.

1771. New GM concealed and suppressed material facts concerning the many serious defects plaguing GM-branded vehicles, and that it valued cost-cutting over safety and took steps to ensure that its employees did not reveal known safety defects to regulators or consumers.

1772. New GM did so in order to boost confidence in its vehicles and falsely assure purchasers and lessors of its vehicles that New GM was a reputable manufacturer that stands behind its vehicles after they are sold and that its vehicles are safe and reliable. The false representations were material to consumers, both because they concerned the quality and safety of the Affected Vehicles and because they played a significant role in the value of the vehicles.

1773. New GM had a duty to disclose the many defects in GM-branded vehicles because they were known and/or accessible only to New GM who had superior knowledge and access to the facts, and New GM knew the facts were not known to or reasonably discoverable by Plaintiffs and the Louisiana Class. These omitted and concealed facts were material because they directly impact the value of the Affected Vehicles purchased or leased by Plaintiffs and the Louisiana Class. Whether a manufacturer's products are safe and reliable, and whether that manufacturer stands behind its products, are material concerns to a consumer.

1774. New GM actively concealed and/or suppressed these material facts, in whole or in part, to protect its profits and avoid recalls that would hurt the brand's image and cost New GM money, and it did so at the expense of Plaintiffs and the Louisiana Class.

1775. On information and belief, New GM has still not made full and adequate disclosure and continues to defraud Plaintiffs and the Louisiana Class and conceal material information regarding defects that exist in GM-branded vehicles.

1776. Plaintiffs and the Louisiana Class were unaware of these omitted material facts and would not have acted as they did if they had known of the concealed and/or suppressed facts. Plaintiffs' and the Louisiana Class's actions were justified. New GM was in exclusive control of the material facts and such facts were not known to the public, Plaintiffs, or the Louisiana Class.

1777. Because of the concealment and/or suppression of the facts, Plaintiffs and the Louisiana Class sustained damage because they own vehicles that diminished in value as a result of New GM's concealment of, and failure to timely disclose, the serious defects in millions of GM-branded vehicles and the serious safety and quality issues engendered by New GM's corporate policies. Had they been aware of the many defects that existed in GM-branded vehicles, and the company's callous disregard for safety, Plaintiffs either would have paid less for their vehicles or would not have purchased or leased them at all. Plaintiffs did not receive the benefit of their bargain as a result of New GM's fraudulent concealment.

1778. The value of all Louisiana Class members' vehicles has diminished as a result of New GM's fraudulent concealment of the many defects and its systemic safety issues which has greatly tarnished the GM brand and made any reasonable consumer reluctant to purchase any of the Affected Vehicles, let alone pay what otherwise would have been fair market value for the vehicles.

1779. Accordingly, New GM is liable to the Louisiana Class for their damages in an amount to be proven at trial.

1780. New GM's acts were done maliciously, oppressively, deliberately, with intent to defraud, and in reckless disregard of Plaintiffs' and the Louisiana Class's rights and well-being to enrich New GM. New GM's conduct warrants an assessment of punitive damages in an amount sufficient to deter such conduct in the future, which amount is to be determined according to proof.

## COUNT III

## BREACH OF IMPLIED WARRANTY OF MERCHANTABILITY/ WARRANTY AGAINST REDHIBITORY DEFECTS

### (LA. CIV. CODE ART. 2520, 2524)

1781. Plaintiffs reallege and incorporate by reference all paragraphs as though fully set forth herein.

1782. In the event the Court declines to certify a Nationwide Ignition Switch Defect Subclass under the Magnuson-Moss Warranty Act or Michigan law, this claim is brought only on behalf of Louisiana residents who are members of the Ignition Switch Defect Subclass (the "Louisiana Ignition Switch Defect Subclass").

1783. At the time Plaintiffs and the Louisiana Class acquired their Defective Ignition Switch Vehicles, those vehicles had a redhibitory defect within the meaning of LA. CIV. CODE ART. 2520, in that (a) the defective ignition switches rendered the use of the Defective Ignition Switch Vehicles so inconvenient that Plaintiffs either would not have purchased the Defective Ignition Switch Vehicles had they known of the defect, or, because the defective ignition switches so diminished the usefulness and/or value of the Defective Ignition Switch Vehicles such that it must be presumed that the Plaintiffs would have purchased the Defective Ignition Switch Vehicles, but for a lesser price.

1784. No notice of the defect is required under LA. CIV. CODE ART. 2520, since New GM had knowledge of a redhibitory defect in the Defective Ignition Switch Vehicles at the time they were sold to Plaintiffs and the Louisiana Ignition Switch Defect Subclass.

1785. Under LA. CIV. CODE ART. 2524, a warranty that the Defective Ignition Switch Vehicles were in merchantable condition, or fit for ordinary use, was implied by law in the transactions when Plaintiffs purchased their Defective Ignition Switch Vehicles.

1786. These vehicles, when sold and at all times thereafter, were not merchantable and are not fit for the ordinary purpose for which cars are used. Specifically, the Defective Ignition Switch Vehicles are inherently defective in that there are defects in the ignition switch systems that permit sudden unintended shutdown to occur, with the attendant shut down of power steering and power brakes and the nondeployment of airbags in the event of a collision.

1787. New GM was provided notice of these issues by numerous complaints filed against it, internal investigations, and by numerous individual letters and communications sent by Plaintiffs and the Louisiana Ignition Switch Defect Subclass before or within a reasonable amount of time after New GM issued the recall and the allegations of vehicle defects became public.

1788. As a direct and proximate result of New GM's sale of vehicles with redhibitory defects, and in violation of the implied warranty that the Defective Ignition Switch Vehicles were fit for ordinary use, Plaintiffs and the Louisiana Class are entitled to either rescission or damages in an amount to be proven at trial.

**MAINE**

**COUNT I**

**VIOLATION OF MAINE UNFAIR TRADE PRACTICES ACT**

**(ME. REV. STAT. ANN. TIT. 5 § 205-A, *et seq*.)**

1789. Plaintiffs reallege and incorporate by reference all paragraphs as though fully set forth herein.

1790. This claim is brought only on behalf of Nationwide Class members who are Maine residents (the "Maine Class").

1791. New GM, Plaintiffs, and the Maine Class are "persons" within the meaning of ME. REV. STAT. ANN. TIT. § 206(2).

1792. New GM is engaged in "trade" or "commerce" within the meaning of ME. REV. STAT. ANN. TIT. § 206(3).

1793. The Maine Unfair Trade Practices Act ("Maine UTPA") makes unlawful "[u]nfair methods of competition and unfair or deceptive acts or practices in the conduct of any trade or commerce…." ME. REV. STAT. ANN. TIT. 5 § 207. In the course of New GM's business, New GM engaged in unfair or deceptive acts or practices by systematically devaluing safety and concealing a plethora of defects in GM-branded vehicles. New GM participated in misleading, false, or deceptive acts that violated the Maine UTPA.

1794. In the course of its business, New GM systematically devalued safety and concealed a plethora of defects in GM-branded vehicles as described herein and otherwise engaged in activities with a tendency or capacity to deceive. New GM also engaged in unlawful trade practices by employing deception, deceptive acts or practices, fraud, misrepresentations, or concealment, suppression or omission of any material fact with intent that others rely upon such concealment, suppression or omission, in connection with the sale of the Affected Vehicles.

1795. From the date of its inception on July 10, 2009, New GM knew of many serious defects affecting many models and years of GM-branded vehicles, both because of the knowledge of Old GM personnel who remained at New GM and continuous reports, investigations, and notifications from regulatory authorities. New GM became aware of other serious defects and systemic safety issues years ago, but concealed all of that information until recently.

1796. New GM was also aware that it valued cost-cutting over safety, selected parts from the cheapest supplier regardless of quality, and actively discouraged employees from finding and flagging known safety defects, and that this approach would necessarily cause the existence of more defects in the vehicles it designed and manufactured and the failure to disclose and remedy defects in all GM-branded vehicles. New GM concealed this information as well.

1797. According to one report from the Center for Auto Safety, some 2,004 deaths and injuries are connected with recently recalled GM-branded vehicles, and New GM should have recalled the vehicles years ago.

1798. By failing to disclose and by actively concealing the many defects in GM-branded vehicles, by marketing its vehicles as safe, reliable, and of high quality, and by presenting itself as a reputable manufacturer that valued safety and stood behind its vehicles after they were sold, New GM engaged in unfair and deceptive business practices in violation of the Maine UTPA.

1799. In the course of New GM's business, it willfully failed to disclose and actively concealed the dangerous risk posed by the many safety issues and serious defects discussed above. New GM compounded the deception by repeatedly asserting that the Affected Vehicles were safe, reliable, and of high quality, and by claiming to be a reputable manufacturer that valued safety and stood behind its vehicles once they are on the road.

1800. New GM's unfair or deceptive acts or practices were likely to and did in fact deceive reasonable consumers, including Plaintiffs, about the true safety and reliability of GM-branded vehicles, the quality of the GM brand, the devaluing of safety at New GM, and the true value of the Affected Vehicles.

1801. New GM intentionally and knowingly misrepresented material facts regarding the Affected Vehicles with an intent to mislead Plaintiffs and the Maine Class.

1802. New GM knew or should have known that its conduct violated the Maine UTPA.

1803. As alleged above, New GM made material statements about the safety and reliability of the Affected Vehicles that were either false or misleading.

1804. New GM owed Plaintiffs a duty to disclose the true safety and reliability of the Affected Vehicles and the devaluing of safety at New GM, because New GM:

a. Possessed exclusive knowledge that it valued cost-cutting over safety, selected parts from the cheapest supplier regardless of quality, and actively discouraged employees from finding and flagging known safety defects, and that this approach would necessarily cause the existence of more defects in the vehicles it designed and manufactured;

b. Intentionally concealed the foregoing from Plaintiffs; and/or

c. Made incomplete representations about the safety and reliability of the Affected Vehicles generally, and the ignition switch in particular, while purposefully withholding material facts from Plaintiffs that contradicted these representations.

1805. Because New GM fraudulently concealed the many defects in GM-branded vehicles, resulting in a raft of negative publicity once the defects finally began to be disclosed, the value of the Affected Vehicles has greatly diminished. In light of the stigma attached to those vehicles by New GM's conduct, they are now worth significantly less than they otherwise would be.

1806. New GM's systemic devaluation of safety and its concealment of a plethora of defects in GM-branded vehicles were material to Plaintiffs and the Maine Class. A vehicle made by a reputable manufacturer of safe vehicles is worth more than an otherwise comparable vehicle made by a disreputable manufacturer of unsafe vehicles that conceals defects rather than promptly remedies them.

1807. Plaintiffs and the Maine Class suffered ascertainable loss caused by New GM's misrepresentations and its failure to disclose material information. Had they been aware of the many defects that existed in GM-branded vehicles, and the company's callous disregard for safety, Plaintiffs either would have paid less for their vehicles or would not have purchased or leased them at all. Plaintiffs did not receive the benefit of their bargain as a result of New GM's misconduct.

1808. New GM's violations present a continuing risk to Plaintiffs as well as to the general public. New GM's unlawful acts and practices complained of herein affect the public interest.

1809. As a direct and proximate result of New GM's violations of the Maine UTPA, Plaintiffs and the Maine Class have suffered injury-in-fact and/or actual damage.

1810. Pursuant to ME. REV. STAT. ANN. TIT. 5 § 213, Plaintiffs and the Maine Class seek an order enjoining New GM's unfair and/or deceptive acts or practices, damages, punitive damages, and attorneys' fees, costs, and any other just and proper relief available under the Maine UTPA.

1811. On October 8, 2014, certain Plaintiffs sent a letter complying with ME. REV. STAT. ANN. TIT. 5, § 213(1-A). Plaintiffs presently do not claim relief under the Maine UTPA until and unless New GM fails to remedy its unlawful conduct within the requisite time period,

after which Plaintiffs seek all damages and relief to which Plaintiffs and the Maine Class are entitled.

**COUNT II**

**FRAUD BY CONCEALMENT**

1812. Plaintiffs reallege and incorporate by reference all paragraphs as though fully set forth herein.

1813. In the event the Court declines to certify a Nationwide Class under Michigan law, this claim is brought only on behalf of Nationwide Class members who are Maine residents (the "Maine Class").

1814. New GM concealed and suppressed material facts concerning the quality of its vehicles and the GM brand.

1815. New GM concealed and suppressed material facts concerning the culture of New GM—a culture characterized by an emphasis on cost-cutting, the studious avoidance of safety issues, and a shoddy design process.

1816. New GM concealed and suppressed material facts concerning the many serious defects plaguing GM-branded vehicles, and that it valued cost-cutting over safety and took steps to ensure that its employees did not reveal known safety defects to regulators or consumers.

1817. New GM did so in order to boost confidence in its vehicles and falsely assure purchasers and lessors of its vehicles that New GM was a reputable manufacturer that stands behind its vehicles after they are sold and that its vehicles are safe and reliable. The false representations were material to consumers, both because they concerned the quality and safety of the Affected Vehicles and because they played a significant role in the value of the vehicles.

1818. New GM had a duty to disclose the many defects in GM-branded vehicles because they were known and/or accessible only to New GM who had superior knowledge and

access to the facts, and New GM knew the facts were not known to or reasonably discoverable by Plaintiffs and the Maine Class. These omitted and concealed facts were material because they directly impact the value of the Affected Vehicles purchased or leased by Plaintiffs and the Maine Class. Whether a manufacturer's products are safe and reliable, and whether that manufacturer stands behind its products, are material concerns to a consumer.

1819. New GM actively concealed and/or suppressed these material facts, in whole or in part, to protect its profits and avoid recalls that would hurt the brand's image and cost New GM money, and it did so at the expense of Plaintiffs and the Maine Class.

1820. On information and belief, New GM has still not made full and adequate disclosure and continues to defraud Plaintiffs and the Maine Class and conceal material information regarding defects that exist in GM-branded vehicles.

1821. Plaintiffs and the Maine Class were unaware of these omitted material facts and would not have acted as they did if they had known of the concealed and/or suppressed facts. Plaintiffs' and the Maine Class's actions were justified. New GM was in exclusive control of the material facts and such facts were not known to the public, Plaintiffs, or the Maine Class.

1822. Because of the concealment and/or suppression of the facts, Plaintiffs and the Maine Class sustained damage because they own vehicles that diminished in value as a result of New GM's concealment of, and failure to timely disclose, the serious defects in millions of GM-branded vehicles and the serious safety and quality issues engendered by New GM's corporate policies. Had they been aware of the many defects that existed in GM-branded vehicles, and the company's callous disregard for safety, Plaintiffs either would have paid less for their vehicles or would not have purchased or leased them at all. Plaintiffs did not receive the benefit of their bargain as a result of New GM's fraudulent concealment.

1823. The value of all Maine Class members' vehicles has diminished as a result of New GM's fraudulent concealment of the many defects and its systemic safety issues which has greatly tarnished the GM brand and made any reasonable consumer reluctant to purchase any of the Affected Vehicles, let alone pay what otherwise would have been fair market value for the vehicles.

1824. Accordingly, New GM is liable to the Maine Class for their damages in an amount to be proven at trial.

1825. New GM's acts were done maliciously, oppressively, deliberately, with intent to defraud, and in reckless disregard of Plaintiffs' and the Maine Class's rights and well-being to enrich New GM. New GM's conduct warrants an assessment of punitive damages in an amount sufficient to deter such conduct in the future, which amount is to be determined according to proof.

**COUNT III**

**BREACH OF IMPLIED WARRANTY OF MERCHANTABILITY**

**(ME. REV. STAT. ANN. TIT. 11 § 2-314)**

1826. Plaintiffs reallege and incorporate by reference all paragraphs as though fully set forth herein.

1827. In the event the Court declines to certify a Nationwide Ignition Switch Defect Subclass under the Magnuson-Moss Warranty Act or Michigan law, this claim is brought only on behalf of Maine residents who are members of the Ignition Switch Defect Subclass (the "Maine Ignition Switch Defect Subclass").

1828. New GM was a merchant with respect to motor vehicles within the meaning of ME. REV. STAT. ANN. TIT. 11 § 2-104(1).

1829. Under ME. REV. STAT. ANN. TIT. 11 § 2-314, a warranty that the Defective Ignition Switch Vehicles were in merchantable condition was implied by law in the transactions when Plaintiffs purchased their Defective Ignition Switch Vehicles.

1830. These vehicles, when sold and at all times thereafter, were not merchantable and are not fit for the ordinary purpose for which cars are used. Specifically, the Defective Ignition Switch Vehicles are inherently defective in that there are defects in the ignition switch systems that permit sudden unintended shutdown to occur, with the attendant shut down of power steering and power brakes and the nondeployment of airbags in the event of a collision.

1831. New GM was provided notice of these issues by numerous complaints filed against it, internal investigations, and by numerous individual letters and communications sent by Plaintiffs and the Maine Ignition Switch Defect Subclass before or within a reasonable amount of time after New GM issued the recall and the allegations of vehicle defects became public.

1832. As a direct and proximate result of New GM's breach of the implied warranty of merchantability, Plaintiffs and the Maine Ignition Switch Defect Subclass have been damaged in an amount to be proven at trial.

**MARYLAND**

**COUNT I**

**VIOLATIONS OF THE MARYLAND CONSUMER PROTECTION ACT**

**(MD. CODE COM. LAW § 13-101, *et seq.*)**

1833. Plaintiffs reallege and incorporate by reference all paragraphs as though fully set forth herein.

1834. This claim is brought only on behalf of Nationwide Class members who are Maryland residents.

1835. New GM, Plaintiffs, and the Maryland Class are "persons" within the meaning of MD. CODE COM. LAW § 13-101(h).

1836. The Maryland Consumer Protection Act ("Maryland CPA") provides that a person may not engage in any unfair or deceptive trade practice in the sale of any consumer good. MD. COM. LAW CODE § 13-303. New GM participated in misleading, false, or deceptive acts that violated the Maryland CPA. By systematically devaluing safety and concealing a plethora of defects in GM-branded vehicles, New GM engaged in deceptive business practices prohibited by the Maryland CPA.

1837. New GM's actions as set forth above occurred in the conduct of trade or commerce.

1838. In the course of its business, New GM systematically devalued safety and concealed a plethora of defects in GM-branded vehicles as described herein and otherwise engaged in activities with a tendency or capacity to deceive. New GM also engaged in unlawful trade practices by employing deception, deceptive acts or practices, fraud, misrepresentations, or concealment, suppression or omission of any material fact with intent that others rely upon such concealment, suppression or omission, in connection with the sale of the Affected Vehicles.

1839. From the date of its inception on July 10, 2009, New GM knew of many serious defects affecting many models and years of GM-branded vehicles, both because of the knowledge of Old GM personnel who remained at New GM and continuous reports, investigations, and notifications from regulatory authorities. New GM became aware of other serious defects and systemic safety issues years ago, but concealed all of that information until recently.

1840. New GM was also aware that it valued cost-cutting over safety, selected parts from the cheapest supplier regardless of quality, and actively discouraged employees from finding and flagging known safety defects, and that this approach would necessarily cause the existence of more defects in the vehicles it designed and manufactured and the failure to disclose and remedy defects in all GM-branded vehicles. New GM concealed this information as well.

1841. According to one report from the Center for Auto Safety, some 2,004 deaths and injuries are connected with recently recalled GM-branded vehicles, and New GM should have recalled the vehicles years ago.

1842. By failing to disclose and by actively concealing the many defects in GM-branded vehicles, by marketing its vehicles as safe, reliable, and of high quality, and by presenting itself as a reputable manufacturer that valued safety and stood behind its vehicles after they were sold, New GM engaged in unfair and deceptive business practices in violation of the Maryland CPA.

1843. In the course of New GM's business, it willfully failed to disclose and actively concealed the dangerous risk posed by the many safety issues and serious defects discussed above. New GM compounded the deception by repeatedly asserting that the Affected Vehicles were safe, reliable, and of high quality, and by claiming to be a reputable manufacturer that valued safety and stood behind its vehicles once they are on the road.

1844. New GM's unfair or deceptive acts or practices were likely to and did in fact deceive reasonable consumers, including Plaintiffs, about the true safety and reliability of GM-branded vehicles, the quality of the New GM brand, the devaluing of safety at New GM, and the true value of the Affected Vehicles.

1845. New GM intentionally and knowingly misrepresented material facts regarding the Affected Vehicles with an intent to mislead Plaintiffs and the Maryland Class.

1846. New GM knew or should have known that its conduct violated the Maryland CPA.

1847. As alleged above, New GM made material statements about the safety and reliability of the Affected Vehicles that were either false or misleading.

1848. New GM owed Plaintiffs a duty to disclose the true safety and reliability of the Affected Vehicles and the devaluing of safety at New GM, because New GM:

a. Possessed exclusive knowledge that it valued cost-cutting over safety, selected parts from the cheapest supplier regardless of quality, and actively discouraged employees from finding and flagging known safety defects, and that this approach would necessarily cause the existence of more defects in the vehicles it designed and manufactured;

b. Intentionally concealed the foregoing from Plaintiffs; and/or

c. Made incomplete representations about the safety and reliability of the Affected Vehicles generally, and the ignition switch in particular, while purposefully withholding material facts from Plaintiffs that contradicted these representations.

1849. Because New GM fraudulently concealed the many defects in GM-branded vehicles, resulting in a raft of negative publicity once the defects finally began to be disclosed, the value of the Affected Vehicles has greatly diminished. In light of the stigma attached to those vehicles by New GM's conduct, they are now worth significantly less than they otherwise would be.

1850. New GM's systemic devaluation of safety and its concealment of a plethora of defects in GM-branded vehicles were material to Plaintiffs and the Maryland Class. A vehicle made by a reputable manufacturer of safe vehicles is worth more than an otherwise comparable vehicle made by a disreputable manufacturer of unsafe vehicles that conceals defects rather than promptly remedies them.

1851. Plaintiffs and the Maryland Class suffered ascertainable loss caused by New GM's misrepresentations and its failure to disclose material information. Had they been aware of the many defects that existed in GM-branded vehicles, and the company's callous disregard for safety, Plaintiffs either would have paid less for their vehicles or would not have purchased or leased them at all. Plaintiffs did not receive the benefit of their bargain as a result of New GM's misconduct.

1852. New GM's violations present a continuing risk to Plaintiffs as well as to the general public. New GM's unlawful acts and practices complained of herein affect the public interest.

1853. As a direct and proximate result of New GM's violations of the Maryland CPA, Plaintiffs and the Maryland Class have suffered injury-in-fact and/or actual damage.

1854. Pursuant to MD. CODE COM. LAW § 13-408, Plaintiffs and the Maryland Class seek actual damages, attorneys' fees, and any other just and proper relief available under the Maryland CPA.

**COUNT II**

**FRAUD BY CONCEALMENT**

1855. Plaintiffs reallege and incorporate by reference all paragraphs as though fully set forth herein.

1856. In the event the Court declines to certify a Nationwide Class under Michigan law, this claim is brought only on behalf of Nationwide Class members who are Maryland residents.

1857. New GM concealed and suppressed material facts concerning the quality of its vehicles and the GM brand.

1858. New GM concealed and suppressed material facts concerning the culture of New GM—a culture characterized by an emphasis on cost-cutting, the studious avoidance of safety issues, and a shoddy design process.

1859. New GM concealed and suppressed material facts concerning the many serious defects plaguing GM-branded vehicles, and that it valued cost-cutting over safety and took steps to ensure that its employees did not reveal known safety defects to regulators or consumers.

1860. New GM did so in order to boost confidence in its vehicles and falsely assure purchasers and lessors of its vehicles that New GM was a reputable manufacturer that stands behind its vehicles after they are sold and that its vehicles are safe and reliable. The false representations were material to consumers, both because they concerned the quality and safety of the Affected Vehicles and because they played a significant role in the value of the vehicles.

1861. New GM had a duty to disclose the many defects in GM-branded vehicles because they were known and/or accessible only to New GM who had superior knowledge and access to the facts, and New GM knew the facts were not known to or reasonably discoverable by Plaintiffs and the Maryland Class. These omitted and concealed facts were material because they directly impact the value of the Affected Vehicles purchased or leased by Plaintiffs and the Maryland Class. Whether a manufacturer's products are safe and reliable, and whether that manufacturer stands behind its products, are material concerns to a consumer.

1862. New GM actively concealed and/or suppressed these material facts, in whole or in part, to protect its profits and avoid recalls that would hurt the brand's image and cost New GM money, and it did so at the expense of Plaintiffs and the Maryland Class.

1863. On information and belief, New GM has still not made full and adequate disclosure and continues to defraud Plaintiffs and the Maryland Class and conceal material information regarding defects that exist in GM-branded vehicles.

1864. Plaintiffs and the Maryland Class were unaware of these omitted material facts and would not have acted as they did if they had known of the concealed and/or suppressed facts. Plaintiffs' and the Maryland Class's actions were justified. New GM was in exclusive control of the material facts and such facts were not known to the public, Plaintiffs, or the Maryland Class.

1865. Because of the concealment and/or suppression of the facts, Plaintiffs and the Maryland Class sustained damage because they own vehicles that diminished in value as a result of New GM's concealment of, and failure to timely disclose, the serious defects in millions of GM-branded vehicles and the serious safety and quality issues engendered by New GM's corporate policies. Had they been aware of the many defects that existed in GM-branded vehicles, and the company's callous disregard for safety, Plaintiffs either would have paid less for their vehicles or would not have purchased or leased them at all. Plaintiffs did not receive the benefit of their bargain as a result of New GM's fraudulent concealment.

1866. The value of all Maryland Class members' vehicles has diminished as a result of New GM's fraudulent concealment of the many defects and its systemic safety issues which has greatly tarnished the GM brand and made any reasonable consumer reluctant to purchase any of the Affected Vehicles, let alone pay what otherwise would have been fair market value for the vehicles.

1867. Accordingly, New GM is liable to the Maryland Class for their damages in an amount to be proven at trial.

**COUNT III**

**BREACH OF IMPLIED WARRANTY OF MERCHANTABILITY**

**(MD. CODE COM. LAW § 2-314)**

1868. Plaintiffs reallege and incorporate by reference all paragraphs as though fully set forth herein.

1869. In the event the Court declines to certify a Nationwide Ignition Switch Defect Subclass under the Magnuson-Moss Warranty Act or Michigan law, this claim is brought only on behalf of Maryland residents who are members of the Ignition Switch Defect Subclass (the "Maryland Ignition Switch Defect Subclass").

1870. New GM was a merchant with respect to motor vehicles within the meaning of MD. COM. LAW § 2-104(1).

1871. Under MD. COM. LAW § 2-314, a warranty that the Defective Ignition Switch Vehicles were in merchantable condition was implied by law in the transactions when Plaintiffs purchased their Defective Ignition Switch Vehicles.

1872. These vehicles, when sold and at all times thereafter, were not merchantable and are not fit for the ordinary purpose for which cars are used. Specifically, the Defective Ignition Switch Vehicles are inherently defective in that there are defects in the ignition switch systems that permit sudden unintended shutdown to occur, with the attendant shut down of power steering and power brakes and the nondeployment of airbags in the event of a collision.

1873. New GM was provided notice of these issues by numerous complaints filed against it, internal investigations, and by numerous individual letters and communications sent by Plaintiffs and the Maryland Ignition Switch Defect Subclass before or within a reasonable amount of time after New GM issued the recall and the allegations of vehicle defects became public.

1874. As a direct and proximate result of New GM's breach of the implied warranty of merchantability, Plaintiffs and the Maryland Ignition Switch Defect Subclass have been damaged in an amount to be proven at trial.

**MASSACHUSETTS**

**COUNT I**

**DECEPTIVE ACTS OR PRACTICES PROHIBITED BY MASSACHUSETTS LAW**

**(MASS. GEN. LAWS CH. 93A, § 1, *et seq.*)**

1875. Plaintiffs reallege and incorporate by reference all paragraphs as though fully set forth herein.

1876. This claim is brought only on behalf of Nationwide Class members who are Massachusetts residents (the "Massachusetts Class").

1877. New GM, Plaintiffs, and the Massachusetts Class are "persons" within the meaning of MASS. GEN. LAWS ch. 93A, § 1(a).

1878. New GM engaged in "trade" or "commerce" within the meaning of MASS. GEN. LAWS ch. 93A, § 1(b).

1879. Massachusetts law (the "Massachusetts Act") prohibits "unfair or deceptive acts or practices in the conduct of any trade or commerce." MASS. GEN. LAWS ch. 93A, § 2. New GM both participated in misleading, false, or deceptive acts that violated the Massachusetts Act. By systematically devaluing safety and concealing a plethora of defects in GM-branded vehicles, New GM engaged in deceptive business practices prohibited by the Massachusetts Act.

1880. In the course of its business, New GM systematically devalued safety and concealed a plethora of defects in GM-branded vehicles as described herein and otherwise engaged in activities with a tendency or capacity to deceive. New GM also engaged in unlawful trade practices by employing deception, deceptive acts or practices, fraud, misrepresentations, or

concealment, suppression or omission of any material fact with intent that others rely upon such concealment, suppression or omission, in connection with the sale of the Affected Vehicles.

1881. From the date of its inception on July 10, 2009, New GM knew of many serious defects affecting many models and years of GM-branded vehicles, both because of the knowledge of Old GM personnel who remained at New GM and continuous reports, investigations, and notifications from regulatory authorities. New GM became aware of other serious defects and systemic safety issues years ago, but concealed all of that information until recently.

1882. New GM was also aware that it valued cost-cutting over safety, selected parts from the cheapest supplier regardless of quality, and actively discouraged employees from finding and flagging known safety defects, and that this approach would necessarily cause the existence of more defects in the vehicles it designed and manufactured and the failure to disclose and remedy defects in all GM-branded vehicles. New GM concealed this information as well.

1883. According to one report from the Center for Auto Safety, some 2,004 deaths and injuries are connected with recently recalled GM-branded vehicles, and New GM should have recalled the vehicles years ago.

1884. By failing to disclose and by actively concealing the many defects in GM-branded vehicles, by marketing its vehicles as safe, reliable, and of high quality, and by presenting itself as a reputable manufacturer that valued safety and stood behind its vehicles after they were sold, New GM engaged in unfair and deceptive business practices in violation of the Massachusetts Act.

1885. In the course of New GM's business, it willfully failed to disclose and actively concealed the dangerous risk posed by the many safety issues and serious defects discussed

above. New GM compounded the deception by repeatedly asserting that the Affected Vehicles were safe, reliable, and of high quality, and by claiming to be a reputable manufacturer that valued safety and stood behind its vehicles once they are on the road.

1886. New GM's unfair or deceptive acts or practices were likely to and did in fact deceive reasonable consumers, including Plaintiffs, about the true safety and reliability of GM-branded vehicles, the quality of the GM brand, the devaluing of safety at New GM, and the true value of the Affected Vehicles.

1887. New GM intentionally and knowingly misrepresented material facts regarding the Affected Vehicles with an intent to mislead Plaintiffs and the Massachusetts Class.

1888. New GM knew or should have known that its conduct violated the Massachusetts Act.

1889. As alleged above, New GM made material statements about the safety and reliability of the Affected Vehicles that were either false or misleading.

1890. New GM owed Plaintiffs a duty to disclose the true safety and reliability of the Affected Vehicles and the devaluing of safety at New GM, because New GM:

a. Possessed exclusive knowledge that it valued cost-cutting over safety, selected parts from the cheapest supplier regardless of quality, and actively discouraged employees from finding and flagging known safety defects, and that this approach would necessarily cause the existence of more defects in the vehicles it designed and manufactured;

b. Intentionally concealed the foregoing from Plaintiffs; and/or

c. Made incomplete representations about the safety and reliability of the Affected Vehicles generally, and the ignition switch in particular, while purposefully withholding material facts from Plaintiffs that contradicted these representations.

1891. Because New GM fraudulently concealed the many defects in GM-branded vehicles, resulting in a raft of negative publicity once the defects finally began to be disclosed, the value of the Affected Vehicles has greatly diminished. In light of the stigma attached to those vehicles by New GM's conduct, they are now worth significantly less than they otherwise would be.

1892. New GM's systemic devaluation of safety and its concealment of a plethora of defects in GM-branded vehicles were material to Plaintiffs and the Massachusetts Class. A vehicle made by a reputable manufacturer of safe vehicles is worth more than an otherwise comparable vehicle made by a disreputable manufacturer of unsafe vehicles that conceals defects rather than promptly remedies them.

1893. Plaintiffs and the Massachusetts Class suffered ascertainable loss caused by New GM's misrepresentations and its failure to disclose material information. Had they been aware of the many defects that existed in GM-branded vehicles, and the company's callous disregard for safety, Plaintiffs either would have paid less for their vehicles or would not have purchased or leased them at all. Plaintiffs did not receive the benefit of their bargain as a result of New GM's misconduct.

1894. New GM's violations present a continuing risk to Plaintiffs as well as to the general public. New GM's unlawful acts and practices complained of herein affect the public interest.

1895. As a direct and proximate result of New GM's violations of the Massachusetts Act, Plaintiffs and the Massachusetts Class have suffered injury-in-fact and/or actual damage.

1896. Pursuant to MASS. GEN. LAWS ch. 93A, § 9, Plaintiffs and the Massachusetts Class seek monetary relief against New GM measured as the greater of (a) actual damages in an

amount to be determined at trial and (b) statutory damages in the amount of $25 for each Plaintiff and each Massachusetts Class member. Because New GM's conduct was committed willfully and knowingly, Plaintiffs are entitled to recover, for each Plaintiff and each Massachusetts Class member, up to three times actual damages, but no less than two times actual damages.

1897. Plaintiffs also seek an order enjoining New GM's unfair and/or deceptive acts or practices, punitive damages, and attorneys' fees, costs, and any other just and proper relief available under the Massachusetts Act.

1898. On October 8, 2014, certain Plaintiffs sent a letter complying with MASS. GEN. LAWS ch. 93A, § 9(3). Plaintiffs presently do not claim relief under the Massachusetts Act until and unless New GM fails to remedy its unlawful conduct within the requisite time period, after which Plaintiffs seek all damages and relief to which Plaintiffs and the Massachusetts Class are entitled.

**COUNT II**

**FRAUD BY CONCEALMENT**

1899. Plaintiffs reallege and incorporate by reference all paragraphs as though fully set forth herein.

1900. In the event the Court declines to certify a Nationwide Class under Michigan law, this claim is brought only on behalf of Nationwide Class members who are Massachusetts residents (the "Massachusetts Class").

1901. New GM concealed and suppressed material facts concerning the quality of its vehicles and the GM brand.

1902. New GM concealed and suppressed material facts concerning the culture of New GM—a culture characterized by an emphasis on cost-cutting, the studious avoidance of safety issues, and a shoddy design process.

1903. New GM concealed and suppressed material facts concerning the many serious defects plaguing GM-branded vehicles, and that it valued cost-cutting over safety and took steps to ensure that its employees did not reveal known safety defects to regulators or consumers.

1904. New GM did so in order to boost confidence in its vehicles and falsely assure purchasers and lessors of its vehicles that New GM was a reputable manufacturer that stands behind its vehicles after they are sold and that its vehicles are safe and reliable. The false representations were material to consumers, both because they concerned the quality and safety of the Affected Vehicles and because they played a significant role in the value of the vehicles.

1905. New GM had a duty to disclose the many defects in GM-branded vehicles because they were known and/or accessible only to New GM who had superior knowledge and access to the facts, and New GM knew the facts were not known to or reasonably discoverable by Plaintiffs and the Massachusetts Class. These omitted and concealed facts were material because they directly impact the value of the Affected Vehicles purchased or leased by Plaintiffs and the Massachusetts Class. Whether a manufacturer's products are safe and reliable, and whether that manufacturer stands behind its products, are material concerns to a consumer.

1906. New GM actively concealed and/or suppressed these material facts, in whole or in part, to protect its profits and avoid recalls that would hurt the brand's image and cost New GM money, and it did so at the expense of Plaintiffs and the Massachusetts Class.

1907. On information and belief, New GM has still not made full and adequate disclosure and continues to defraud Plaintiffs and the Massachusetts Class and conceal material information regarding defects that exist in GM-branded vehicles.

1908. Plaintiffs and the Massachusetts Class were unaware of these omitted material facts and would not have acted as they did if they had known of the concealed and/or suppressed facts. Plaintiffs' and the Massachusetts Class's actions were justified. New GM was in exclusive control of the material facts and such facts were not known to the public, Plaintiffs, or the Massachusetts Class.

1909. Because of the concealment and/or suppression of the facts, Plaintiffs and the Massachusetts Class sustained damage because they own vehicles that diminished in value as a result of New GM's concealment of, and failure to timely disclose, the serious defects in millions of GM-branded vehicles and the serious safety and quality issues engendered by New GM's corporate policies. Had they been aware of the many defects that existed in GM-branded vehicles, and the company's callous disregard for safety, Plaintiffs either would have paid less for their vehicles or would not have purchased or leased them at all. Plaintiffs did not receive the benefit of their bargain as a result of New GM's fraudulent concealment.

1910. The value of all Massachusetts Class members' vehicles has diminished as a result of New GM's fraudulent concealment of the many defects and its systemic safety issues which has greatly tarnished the GM brand and made any reasonable consumer reluctant to purchase any of the Affected Vehicles, let alone pay what otherwise would have been fair market value for the vehicles.

1911. Accordingly, New GM is liable to the Massachusetts Class for their damages in an amount to be proven at trial.

1912. New GM's acts were done maliciously, oppressively, deliberately, with intent to defraud, and in reckless disregard of Plaintiffs' and the Massachusetts Class's rights and well-being to enrich New GM. New GM's conduct warrants an assessment of punitive damages in an amount sufficient to deter such conduct in the future, which amount is to be determined according to proof.

**COUNT III**

**BREACH OF IMPLIED WARRANTY OF MERCHANTABILITY**

**(ALM GL. CH. 106, § 2-314)**

1913. Plaintiffs reallege and incorporate by reference all paragraphs as though fully set forth herein.

1914. In the event the Court declines to certify a Nationwide Ignition Switch Defect Subclass under the Magnuson-Moss Warranty Act or Michigan law, this claim is brought only on behalf of Massachusetts residents who are members of the Ignition Switch Defect Subclass (the "Massachusetts Ignition Switch Defect Subclass").

1915. New GM was a merchant with respect to motor vehicles within the meaning of ALM GL CH. 106, § 2-104(1).

1916. Under ALM GL CH. 106, § 2-314, a warranty that the Defective Ignition Switch Vehicles were in merchantable condition was implied by law in the transactions when Plaintiffs purchased their Defective Ignition Switch Vehicles.

1917. These vehicles, when sold and at all times thereafter, were not merchantable and are not fit for the ordinary purpose for which cars are used. Specifically, the Defective Ignition Switch Vehicles are inherently defective in that there are defects in the ignition switch systems that permit sudden unintended shutdown to occur, with the attendant shut down of power steering and power brakes and the nondeployment of airbags in the event of a collision.

1918. New GM was provided notice of these issues by numerous complaints filed against it, internal investigations, and by numerous individual letters and communications sent by Plaintiffs and the Massachusetts Ignition Switch Defect Subclass before or within a reasonable amount of time after New GM issued the recall and the allegations of vehicle defects became public.

1919. As a direct and proximate result of New GM's breach of the implied warranty of merchantability, Plaintiffs and the Massachusetts Ignition Switch Defect Subclass have been damaged in an amount to be proven at trial.

**MICHIGAN**

**COUNT I**

**VIOLATION OF THE MICHIGAN CONSUMER PROTECTION ACT**

**(MICH. COMP. LAWS § 445.903, *et seq.*)**

1920. Plaintiffs reallege and incorporate by reference all paragraphs as though fully set forth herein.

1921. This claim is brought only on behalf of Nationwide Class members who are Michigan residents (the "Michigan Class").

1922. Plaintiffs and the Michigan Class members were "person[s]" within the meaning of the MICH. COMP. LAWS § 445.902(1)(d).

1923. At all relevant times hereto, New GM was a "person" engaged in "trade or commerce" within the meaning of the MICH. COMP. LAWS § 445.902(1)(d) and (g).

1924. The Michigan Consumer Protection Act ("Michigan CPA") prohibits "[u]nfair, unconscionable, or deceptive methods, acts, or practices in the conduct of trade or commerce . . . ." MICH. COMP. LAWS § 445.903(1). New GM engaged in unfair, unconscionable, or deceptive methods, acts or practices prohibited by the Michigan CPA, including: "(c) Representing that

goods or services have . . . characteristics . . . that they do not have . . . .;" "(e) Representing that goods or services are of a particular standard . . . if they are of another;" "(i) Making false or misleading statements of fact concerning the reasons for, existence of, or amounts of price reductions;" "(s) Failing to reveal a material fact, the omission of which tends to mislead or deceive the consumer, and which fact could not reasonably be known by the consumer;" "(bb) Making a representation of fact or statement of fact material to the transaction such that a person reasonably believes the represented or suggested state of affairs to be other than it actually is;" and "(cc) Failing to reveal facts that are material to the transaction in light of representations of fact made in a positive manner." MICH. COMP. LAWS § 445.903(1). By systematically devaluing safety and concealing a plethora of defects in GM-branded vehicles, New GM participated in unfair, deceptive, and unconscionable acts that violated the Michigan CPA.

1925. In the course of its business, New GM systematically devalued safety and concealed a plethora of defects in GM-branded vehicles as described herein and otherwise engaged in activities with a tendency or capacity to deceive. New GM also engaged in unlawful trade practices by employing deception, deceptive acts or practices, fraud, misrepresentations, or concealment, suppression or omission of any material fact with intent that others rely upon such concealment, suppression or omission, in connection with the sale of the Affected Vehicles.

1926. From the date of its inception on July 10, 2009, New GM knew of many serious defects affecting many models and years of GM-branded vehicles, both because of the knowledge of Old GM personnel who remained at New GM and continuous reports, investigations, and notifications from regulatory authorities. New GM became aware of other serious defects and systemic safety issues years ago, but concealed all of that information until recently.

1927. New GM was also aware that it valued cost-cutting over safety, selected parts from the cheapest supplier regardless of quality, and actively discouraged employees from finding and flagging known safety defects, and that this approach would necessarily cause the existence of more defects in the vehicles it designed and manufactured and the failure to disclose and remedy defects in all GM-branded vehicles. New GM concealed this information as well.

1928. According to one report from the Center for Auto Safety, some 2,004 deaths and injuries are connected with recently recalled GM-branded vehicles, and New GM should have recalled the vehicles years ago.

1929. By failing to disclose and by actively concealing the many defects in GM-branded vehicles, by marketing its vehicles as safe, reliable, and of high quality, and by presenting itself as a reputable manufacturer that valued safety and stood behind its vehicles after they were sold, New GM engaged in unfair, unconscionable, and deceptive business practices in violation of the Michigan CPA.

1930. In the course of New GM's business, it willfully failed to disclose and actively concealed the dangerous risk posed by the many safety issues and serious defects discussed above. New GM compounded the deception by repeatedly asserting that the Affected Vehicles were safe, reliable, and of high quality, and by claiming to be a reputable manufacturer that valued safety and stood behind its vehicles once they are on the road.

1931. New GM's unfair or deceptive acts or practices were likely to and did in fact deceive reasonable consumers, including Plaintiffs, about the true safety and reliability of GM-branded vehicles, the quality of the GM brand, the devaluing of safety at New GM, and the true value of the Affected Vehicles.

1932. New GM intentionally and knowingly misrepresented material facts regarding the Affected Vehicles with an intent to mislead Plaintiffs and the Michigan Class.

1933. New GM knew or should have known that its conduct violated the Michigan CPA.

1934. As alleged above, New GM made material statements about the safety and reliability of the Affected Vehicles that were either false or misleading.

1935. New GM owed Plaintiffs a duty to disclose the true safety and reliability of the Affected Vehicles and the devaluing of safety at New GM, because New GM:

a. Possessed exclusive knowledge that it valued cost-cutting over safety, selected parts from the cheapest supplier regardless of quality, and actively discouraged employees from finding and flagging known safety defects, and that this approach would necessarily cause the existence of more defects in the vehicles it designed and manufactured;

b. Intentionally concealed the foregoing from Plaintiffs; and/or

c. Made incomplete representations about the safety and reliability of the Affected Vehicles generally, and the ignition switch in particular, while purposefully withholding material facts from Plaintiffs that contradicted these representations.

1936. Because New GM fraudulently concealed the many defects in GM-branded vehicles, resulting in a raft of negative publicity once the defects finally began to be disclosed, the value of the Affected Vehicles has greatly diminished. In light of the stigma attached to those vehicles by New GM's conduct, they are now worth significantly less than they otherwise would be.

1937. New GM's systemic devaluation of safety and its concealment of a plethora of defects in GM-branded vehicles were material to Plaintiffs and the Michigan Class. A vehicle made by a reputable manufacturer of safe vehicles is worth more than an otherwise comparable

vehicle made by a disreputable manufacturer of unsafe vehicles that conceals defects rather than promptly remedies them.

1938. Plaintiffs and the Michigan Class suffered ascertainable loss caused by New GM's misrepresentations and its failure to disclose material information. Had they been aware of the many defects that existed in GM-branded vehicles, and the company's callous disregard for safety, Plaintiffs either would have paid less for their vehicles or would not have purchased or leased them at all. Plaintiffs did not receive the benefit of their bargain as a result of New GM's misconduct.

1939. New GM's violations present a continuing risk to Plaintiffs as well as to the general public. New GM's unlawful acts and practices complained of herein affect the public interest.

1940. As a direct and proximate result of New GM's violations of the Michigan CPA, Plaintiffs and the Michigan Class have suffered injury-in-fact and/or actual damage.

1941. Plaintiffs seek injunctive relief to enjoin New GM from continuing its unfair and deceptive acts; monetary relief against New GM measured as the greater of (a) actual damages in an amount to be determined at trial and (b) statutory damages in the amount of $250 for Plaintiffs and each Michigan Class member; reasonable attorneys' fees; and any other just and proper relief available under MICH. COMP. LAWS § 445.911.

1942. Plaintiffs also seek punitive damages against New GM because it carried out despicable conduct with willful and conscious disregard of the rights and safety of others. New GM intentionally and willfully misrepresented the safety and reliability of the Affected Vehicles, deceived Plaintiffs and Michigan Class members on life-or-death matters, and concealed material facts that only they knew, all to avoid the expense and public relations

nightmare of correcting a deadly flaw in vehicles it repeatedly promised Plaintiffs and Michigan Class members were safe. New GM's unlawful conduct constitutes malice, oppression, and fraud warranting punitive damages.

**COUNT II**

**FRAUD BY CONCEALMENT**

1943. Plaintiffs reallege and incorporate by reference all paragraphs as though fully set forth herein.

1944. In the event the Court declines to certify a Nationwide Class under Michigan law, this claim is brought only on behalf of Nationwide Class members who are Michigan residents (the "Michigan Class").

1945. New GM concealed and suppressed material facts concerning the quality of its vehicles and the GM brand.

1946. New GM concealed and suppressed material facts concerning the culture of New GM—a culture characterized by an emphasis on cost-cutting, the studious avoidance of safety issues, and a shoddy design process.

1947. New GM concealed and suppressed material facts concerning the many serious defects plaguing GM-branded vehicles, and that it valued cost-cutting over safety and took steps to ensure that its employees did not reveal known safety defects to regulators or consumers.

1948. New GM did so in order to boost confidence in its vehicles and falsely assure purchasers and lessors of its vehicles that New GM was a reputable manufacturer that stands behind its vehicles after they are sold and that its vehicles are safe and reliable. The false representations were material to consumers, both because they concerned the quality and safety of the Affected Vehicles and because they played a significant role in the value of the vehicles.

1949. New GM had a duty to disclose the many defects in GM-branded vehicles because they were known and/or accessible only to New GM who had superior knowledge and access to the facts, and New GM knew the facts were not known to or reasonably discoverable by Plaintiffs and the Michigan Class. These omitted and concealed facts were material because they directly impact the value of the Affected Vehicles purchased or leased by Plaintiffs and the Michigan Class. Whether a manufacturer's products are safe and reliable, and whether that manufacturer stands behind its products, are material concerns to a consumer.

1950. New GM actively concealed and/or suppressed these material facts, in whole or in part, to protect its profits and avoid recalls that would hurt the brand's image and cost New GM money, and it did so at the expense of Plaintiffs and the Michigan Class.

1951. On information and belief, New GM has still not made full and adequate disclosure and continues to defraud Plaintiffs and the Michigan Class and conceal material information regarding defects that exist in GM-branded vehicles.

1952. Plaintiffs and the Michigan Class were unaware of these omitted material facts and would not have acted as they did if they had known of the concealed and/or suppressed facts. Plaintiffs' and the Michigan Class's actions were justified. New GM was in exclusive control of the material facts and such facts were not known to the public, Plaintiffs, or the Michigan Class.

1953. Because of the concealment and/or suppression of the facts, Plaintiffs and the Michigan Class sustained damage because they own vehicles that diminished in value as a result of New GM's concealment of, and failure to timely disclose, the serious defects in millions of GM-branded vehicles and the serious safety and quality issues engendered by New GM's corporate policies. Had they been aware of the many defects that existed in GM-branded vehicles, and the company's callous disregard for safety, Plaintiffs either would have paid less

for their vehicles or would not have purchased or leased them at all. Plaintiffs did not receive the benefit of their bargain as a result of New GM's fraudulent concealment.

1954. The value of all Michigan Class members' vehicles has diminished as a result of New GM's fraudulent concealment of the many defects and its systemic safety issues which has greatly tarnished the GM brand and made any reasonable consumer reluctant to purchase any of the Affected Vehicles, let alone pay what otherwise would have been fair market value for the vehicles.

1955. Accordingly, New GM is liable to the Michigan Class for their damages in an amount to be proven at trial.

1956. New GM's acts were done maliciously, oppressively, deliberately, with intent to defraud, and in reckless disregard of Plaintiffs' and the Michigan Class's rights and well-being to enrich New GM. New GM's conduct warrants an assessment of punitive damages in an amount sufficient to deter such conduct in the future, which amount is to be determined according to proof.

**COUNT III**

**BREACH OF IMPLIED WARRANTY OF MERCHANTABILITY**

**(MICH. COMP. LAWS § 440.2314)**

1957. Plaintiffs reallege and incorporate by reference all paragraphs as though fully set forth herein.

1958. In the event the Court declines to certify a Nationwide Ignition Switch Defect Subclass under the Magnuson-Moss Warranty Act or Michigan law, this claim is brought only on behalf of Michigan residents who are members of the Ignition Switch Defect Subclass (the "Michigan Ignition Switch Defect Subclass").

1959. New GM was a merchant with respect to motor vehicles within the meaning of MICH. COMP. LAWS § 440.2314(1).

1960. Under MICH. COMP. LAWS § 440.2314, a warranty that the Defective Ignition Switch Vehicles were in merchantable condition was implied by law in the transactions when Plaintiffs purchased their Defective Ignition Switch Vehicles.

1961. These vehicles, when sold and at all times thereafter, were not merchantable and are not fit for the ordinary purpose for which cars are used. Specifically, the Defective Ignition Switch Vehicles are inherently defective in that there are defects in the ignition switch systems that permit sudden unintended shutdown to occur, with the attendant shut down of power steering and power brakes and the nondeployment of airbags in the event of a collision.

1962. New GM was provided notice of these issues by numerous complaints filed against it, internal investigations, and by numerous individual letters and communications sent by Plaintiffs and the Michigan Ignition Switch Defect Subclass before or within a reasonable amount of time after New GM issued the recall and the allegations of vehicle defects became public.

1963. As a direct and proximate result of New GM's breach of the implied warranty of merchantability, Plaintiffs and the Michigan Ignition Switch Defect Subclass have been damaged in an amount to be proven at trial.

**MINNESOTA**

**COUNT I**

**VIOLATION OF MINNESOTA PREVENTION OF CONSUMER FRAUD ACT**

**(MINN. STAT. § 325F.68, *et seq*.)**

1964. Plaintiffs reallege and incorporate by reference all paragraphs as though fully set forth herein.

1965. This claim is brought only on behalf of Nationwide Class members who are Minnesota residents (the "Minnesota Class").

1966. The Affected Vehicles constitute "merchandise" within the meaning of MINN. STAT. § 325F.68(2).

1967. The Minnesota Prevention of Consumer Fraud Act ("Minnesota CFA") prohibits "[t]he act, use, or employment by any person of any fraud, false pretense, false promise, misrepresentation, misleading statement or deceptive practice, with the intent that others rely thereon in connection with the sale of any merchandise, whether or not any person has in fact been misled, deceived, or damaged thereby . . ." MINN. STAT. § 325F.69(1). New GM participated in misleading, false, or deceptive acts that violated the Minnesota CFA. By systematically devaluing safety and concealing a plethora of defects in GM-branded vehicles, New GM engaged in deceptive business practices prohibited by the Minnesota CFA.

1968. New GM's actions as set forth above occurred in the conduct of trade or commerce.

1969. In the course of its business, New GM systematically devalued safety and concealed a plethora of defects in GM-branded vehicles as described herein and otherwise engaged in activities with a tendency or capacity to deceive. New GM also engaged in unlawful

trade practices by employing deception, deceptive acts or practices, fraud, misrepresentations, or concealment, suppression or omission of any material fact with intent that others rely upon such concealment, suppression or omission, in connection with the sale of the Affected Vehicles.

1970. From the date of its inception on July 10, 2009, New GM knew of many serious defects affecting many models and years of GM-branded vehicles, both because of the knowledge of Old GM personnel who remained at New GM and continuous reports, investigations, and notifications from regulatory authorities. New GM became aware of other serious defects and systemic safety issues years ago, but concealed all of that information until recently.

1971. New GM was also aware that it valued cost-cutting over safety, selected parts from the cheapest supplier regardless of quality, and actively discouraged employees from finding and flagging known safety defects, and that this approach would necessarily cause the existence of more defects in the vehicles it designed and manufactured and the failure to disclose and remedy defects in all GM-branded vehicles. New GM concealed this information as well.

1972. According to one report from the Center for Auto Safety, some 2,004 deaths and injuries are connected with recently recalled GM-branded vehicles, and New GM should have recalled the vehicles years ago.

1973. By failing to disclose and by actively concealing the many defects in GM-branded vehicles, by marketing its vehicles as safe, reliable, and of high quality, and by presenting itself as a reputable manufacturer that valued safety and stood behind its vehicles after they were sold, New GM engaged in deceptive business practices in violation of the Minnesota CFA.

1974. In the course of New GM's business, it willfully failed to disclose and actively concealed the dangerous risk posed by the many safety issues and serious defects discussed

above. New GM compounded the deception by repeatedly asserting that the Affected Vehicles were safe, reliable, and of high quality, and by claiming to be a reputable manufacturer that valued safety and stood behind its vehicles once they are on the road.

1975. New GM's unfair or deceptive acts or practices were likely to and did in fact deceive reasonable consumers, including Plaintiffs, about the true safety and reliability of GM-branded vehicles, the quality of the GM brand, the devaluing of safety at New GM, and the true value of the Affected Vehicles.

1976. New GM intentionally and knowingly misrepresented material facts regarding the Affected Vehicles with an intent to mislead Plaintiffs and the Minnesota Class.

1977. New GM knew or should have known that its conduct violated the Minnesota CFA.

1978. As alleged above, New GM made material statements about the safety and reliability of the Affected Vehicles that were either false or misleading.

1979. New GM owed Plaintiffs a duty to disclose the true safety and reliability of the Affected Vehicles and the devaluing of safety at New GM, because New GM:

a. Possessed exclusive knowledge that it valued cost-cutting over safety, selected parts from the cheapest supplier regardless of quality, and actively discouraged employees from finding and flagging known safety defects, and that this approach would necessarily cause the existence of more defects in the vehicles it designed and manufactured;

b. Intentionally concealed the foregoing from Plaintiffs; and/or

c. Made incomplete representations about the safety and reliability of the Affected Vehicles generally, and the ignition switch in particular, while purposefully withholding material facts from Plaintiffs that contradicted these representations.

1980. Because New GM fraudulently concealed the many defects in GM-branded vehicles, resulting in a raft of negative publicity once the defects finally began to be disclosed, the value of the Affected Vehicles has greatly diminished. In light of the stigma attached to those vehicles by New GM's conduct, they are now worth significantly less than they otherwise would be.

1981. New GM's systemic devaluation of safety and its concealment of a plethora of defects in GM-branded vehicles were material to Plaintiffs and the Minnesota Class. A vehicle made by a reputable manufacturer of safe vehicles is worth more than an otherwise comparable vehicle made by a disreputable manufacturer of unsafe vehicles that conceals defects rather than promptly remedies them.

1982. Plaintiffs and the Minnesota Class suffered ascertainable loss caused by New GM's misrepresentations and its failure to disclose material information. Had they been aware of the many defects that existed in GM-branded vehicles, and the company's callous disregard for safety, Plaintiffs either would have paid less for their vehicles or would not have purchased or leased them at all. Plaintiffs did not receive the benefit of their bargain as a result of New GM's misconduct.

1983. New GM's violations present a continuing risk to Plaintiffs as well as to the general public. New GM's unlawful acts and practices complained of herein affect the public interest.

1984. As a direct and proximate result of New GM's violations of the Minnesota CFA, Plaintiffs and the Minnesota Class have suffered injury-in-fact and/or actual damage.

1985. Pursuant to MINN. STAT. § 8.31(3a), Plaintiffs and the Minnesota Class seek actual damages, attorneys' fees, and any other just and proper relief available under the Minnesota CFA.

1986. Plaintiffs also seek punitive damages under MINN. STAT. § 549.20(1)(a) give the clear and convincing evidence that New GM's acts show deliberate disregard for the rights or safety of others.

**COUNT II**

**VIOLATION OF MINNESOTA UNIFORM DECEPTIVE TRADE PRACTICES ACT**

**(MINN. STAT. § 325D.43-48, *et seq*.)**

1987. Plaintiffs reallege and incorporate by reference all paragraphs as though fully set forth herein.

1988. This claim is brought only on behalf of Nationwide Class members who are Minnesota residents (the "Minnesota Class").

1989. The Minnesota Deceptive Trade Practices Act ("Minnesota DTPA") prohibits deceptive trade practices, which occur when a person "(5) represents that goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits, or quantities that they do not have or that a person has a sponsorship, approval, status, affiliation, or connection that the person does not have;" "(7) represents that goods or services are of a particular standard, quality, or grade, or that goods are of a particular style or model, if they are of another;" and "(9) advertises goods or services with intent not to sell them as advertised." MINN. STAT. § 325D.44. In the course of the New GM's business, it systematically devalued safety and concealed a plethora of defects in GM-branded vehicles and engaged in deceptive practices by representing that Affected Vehicles have sponsorship, approval, characteristics, ingredients, uses, benefits, or quantities that

they do not have; representing that Affected Vehicles are of a particular standard, quality, or grade, or that goods are of a particular style or model, if they are of another; and advertising Affected Vehicles with intent not to sell them as advertised. New GM participated in misleading, false, or deceptive acts that violated the Minnesota DTPA. By systematically devaluing safety and concealing a plethora of defects in GM-branded vehicles, New GM engaged in deceptive business practices prohibited by the Minnesota DTPA.

1990. New GM's actions as set forth above occurred in the conduct of trade or commerce.

1991. In the course of its business, New GM systematically devalued safety and concealed a plethora of defects in GM-branded vehicles as described herein and otherwise engaged in activities with a tendency or capacity to deceive. New GM also engaged in unlawful trade practices by employing deception, deceptive acts or practices, fraud, misrepresentations, or concealment, suppression or omission of any material fact with intent that others rely upon such concealment, suppression or omission, in connection with the sale of the Affected Vehicles.

1992. From the date of its inception on July 10, 2009, New GM knew of many serious defects affecting many models and years of GM-branded vehicles, both because of the knowledge of Old GM personnel who remained at New GM and continuous reports, investigations, and notifications from regulatory authorities. New GM became aware of other serious defects and systemic safety issues years ago, but concealed all of that information until recently.

1993. New GM was also aware that it valued cost-cutting over safety, selected parts from the cheapest supplier regardless of quality, and actively discouraged employees from finding and flagging known safety defects, and that this approach would necessarily cause the

existence of more defects in the vehicles it designed and manufactured and the failure to disclose and remedy defects in all GM-branded vehicles. New GM concealed this information as well.

1994. According to one report from the Center for Auto Safety, some 2,004 deaths and injuries are connected with recently recalled GM-branded vehicles, and New GM should have recalled the vehicles years ago.

1995. By failing to disclose and by actively concealing the many defects in GM-branded vehicles, by marketing its vehicles as safe, reliable, and of high quality, and by presenting itself as a reputable manufacturer that valued safety and stood behind its vehicles after they were sold, New GM engaged in deceptive business practices in violation of the Minnesota DTPA.

1996. In the course of New GM's business, it willfully failed to disclose and actively concealed the dangerous risk posed by the many safety issues and serious defects discussed above. New GM compounded the deception by repeatedly asserting that the Affected Vehicles were safe, reliable, and of high quality, and by claiming to be a reputable manufacturer that valued safety and stood behind its vehicles once they are on the road.

1997. New GM's unfair or deceptive acts or practices were likely to and did in fact deceive reasonable consumers, including Plaintiffs, about the true safety and reliability of GM-branded vehicles, the quality of the New GM brand, the devaluing of safety at New GM, and the true value of the Affected Vehicles.

1998. New GM intentionally and knowingly misrepresented material facts regarding the Affected Vehicles with an intent to mislead Plaintiffs and the Minnesota Class.

1999. New GM knew or should have known that its conduct violated the Minnesota DTPA.

2000. As alleged above, New GM made material statements about the safety and reliability of the Affected Vehicles that were either false or misleading.

2001. New GM owed Plaintiffs a duty to disclose the true safety and reliability of the Affected Vehicles and the devaluing of safety at New GM, because New GM:

a. Possessed exclusive knowledge that it valued cost-cutting over safety, selected parts from the cheapest supplier regardless of quality, and actively discouraged employees from finding and flagging known safety defects, and that this approach would necessarily cause the existence of more defects in the vehicles it designed and manufactured;

b. Intentionally concealed the foregoing from Plaintiffs; and/or

c. Made incomplete representations about the safety and reliability of the Affected Vehicles generally, and the ignition switch in particular, while purposefully withholding material facts from Plaintiffs that contradicted these representations.

2002. Because New GM fraudulently concealed the many defects in GM-branded vehicles, resulting in a raft of negative publicity once the defects finally began to be disclosed, the value of the Affected Vehicles has greatly diminished. In light of the stigma attached to those vehicles by New GM's conduct, they are now worth significantly less than they otherwise would be.

2003. New GM's systemic devaluation of safety and its concealment of a plethora of defects in GM-branded vehicles were material to Plaintiffs and the Minnesota Class. A vehicle made by a reputable manufacturer of safe vehicles is worth more than an otherwise comparable vehicle made by a disreputable manufacturer of unsafe vehicles that conceals defects rather than promptly remedies them.

2004. Plaintiffs and the Minnesota Class suffered ascertainable loss caused by New GM's misrepresentations and its failure to disclose material information. Had they been

aware of the many defects that existed in GM-branded vehicles, and the company's callous disregard for safety, Plaintiffs either would have paid less for their vehicles or would not have purchased or leased them at all. Plaintiffs did not receive the benefit of their bargain as a result of New GM's misconduct.

2005. New GM's violations present a continuing risk to Plaintiffs as well as to the general public. New GM's unlawful acts and practices complained of herein affect the public interest.

2006. As a direct and proximate result of New GM's violations of the Minnesota DTPA, Plaintiffs and the Minnesota Class have suffered injury-in-fact and/or actual damage.

2007. Pursuant to MINN. STAT. § 8.31(3a) and 325D.45, Plaintiffs and the Minnesota Class seek actual damages, attorneys' fees, and any other just and proper relief available under the Minnesota DTPA.

2008. Plaintiffs also seek punitive damages under MINN. STAT. § 549.20(1)(a) give the clear and convincing evidence that New GM's acts show deliberate disregard for the rights or safety of others.

**COUNT III**

**FRAUD BY CONCEALMENT**

2009. Plaintiffs reallege and incorporate by reference all paragraphs as though fully set forth herein.

2010. In the event the Court declines to certify a Nationwide Class under Michigan law, this claim is brought only on behalf of Nationwide Class members who are Minnesota residents (the "Minnesota Class").

2011. New GM concealed and suppressed material facts concerning the quality of its vehicles and the GM brand.

2012. New GM concealed and suppressed material facts concerning the culture of New GM—a culture characterized by an emphasis on cost-cutting, the studious avoidance of safety issues, and a shoddy design process.

2013. New GM concealed and suppressed material facts concerning the many serious defects plaguing GM-branded vehicles, and that it valued cost-cutting over safety and took steps to ensure that its employees did not reveal known safety defects to regulators or consumers.

2014. New GM did so in order to boost confidence in its vehicles and falsely assure purchasers and lessors of its vehicles that New GM was a reputable manufacturer that stands behind its vehicles after they are sold and that its vehicles are safe and reliable. The false representations were material to consumers, both because they concerned the quality and safety of the Affected Vehicles and because they played a significant role in the value of the vehicles.

2015. New GM had a duty to disclose the many defects in GM-branded vehicles because they were known and/or accessible only to New GM who had superior knowledge and access to the facts, and New GM knew the facts were not known to or reasonably discoverable by Plaintiffs and the Minnesota Class. These omitted and concealed facts were material because they directly impact the value of the Affected Vehicles purchased or leased by Plaintiffs and the Minnesota Class. Whether a manufacturer's products are safe and reliable, and whether that manufacturer stands behind its products, are material concerns to a consumer.

2016. New GM actively concealed and/or suppressed these material facts, in whole or in part, to protect its profits and avoid recalls that would hurt the brand's image and cost New GM money, and it did so at the expense of Plaintiffs and the Minnesota Class.

2017. On information and belief, New GM has still not made full and adequate disclosure and continues to defraud Plaintiffs and the Minnesota Class and conceal material information regarding defects that exist in GM-branded vehicles.

2018. Plaintiffs and the Minnesota Class were unaware of these omitted material facts and would not have acted as they did if they had known of the concealed and/or suppressed facts. Plaintiffs' and the Minnesota Class's actions were justified. New GM was in exclusive control of the material facts and such facts were not known to the public, Plaintiffs, or the Minnesota Class.

2019. Because of the concealment and/or suppression of the facts, Plaintiffs and the Minnesota Class sustained damage because they own vehicles that diminished in value as a result of New GM's concealment of, and failure to timely disclose, the serious defects in millions of GM-branded vehicles and the serious safety and quality issues engendered by New GM's corporate policies. Had they been aware of the many defects that existed in GM-branded vehicles, and the company's callous disregard for safety, Plaintiffs either would have paid less for their vehicles or would not have purchased or leased them at all. Plaintiffs did not receive the benefit of their bargain as a result of New GM's fraudulent concealment.

2020. The value of all Minnesota Class members' vehicles has diminished as a result of New GM's fraudulent concealment of the many defects and its systemic safety issues which has greatly tarnished the GM brand and made any reasonable consumer reluctant to purchase any of the Affected Vehicles, let alone pay what otherwise would have been fair market value for the vehicles.

2021. Accordingly, New GM is liable to the Minnesota Class for their damages in an amount to be proven at trial.

2022. New GM's acts were done maliciously, oppressively, deliberately, with intent to defraud, and in reckless disregard of Plaintiffs' and the Minnesota Class's rights and well-being to enrich New GM. New GM's conduct warrants an assessment of punitive damages in an amount sufficient to deter such conduct in the future, which amount is to be determined according to proof.

**COUNT IV**

**BREACH OF IMPLIED WARRANTY OF MERCHANTABILITY**

**(MINN. STAT. § 336.2-314)**

2023. Plaintiffs reallege and incorporate by reference all paragraphs as though fully set forth herein.

2024. In the event the Court declines to certify a Nationwide Ignition Switch Defect Subclass under the Magnuson-Moss Warranty Act or Michigan law, this claim is brought only on behalf of Minnesota residents who are members of the Ignition Switch Defect Subclass (the "Minnesota Ignition Switch Defect Subclass").

2025. New GM was a merchant with respect to motor vehicles within the meaning of MINN. STAT. § 336.2-104(1).

2026. Under MINN. STAT. § 336.2-314, a warranty that the Defective Ignition Switch Vehicles were in merchantable condition was implied by law in the transactions when Plaintiffs purchased their Defective Ignition Switch Vehicles.

2027. These vehicles, when sold and at all times thereafter, were not merchantable and are not fit for the ordinary purpose for which cars are used. Specifically, the Defective Ignition Switch Vehicles are inherently defective in that there are defects in the ignition switch systems that permit sudden unintended shutdown to occur, with the attendant shut down of power steering and power brakes and the nondeployment of airbags in the event of a collision.

2028. New GM was provided notice of these issues by numerous complaints filed against it, internal investigations, and by numerous individual letters and communications sent by Plaintiffs and the Minnesota Ignition Switch Defect Subclass before or within a reasonable amount of time after New GM issued the recall and the allegations of vehicle defects became public.

2029. As a direct and proximate result of New GM's breach of the implied warranty of merchantability, Plaintiffs and the Minnesota Ignition Switch Defect Subclass have been damaged in an amount to be proven at trial.

**MISSISSIPPI**

**COUNT I**

**VIOLATION OF MISSISSIPPI CONSUMER PROTECTION ACT**

**(MISS. CODE. ANN. § 75-24-1, *et seq.*)**

2030. Plaintiffs reallege and incorporate by reference all paragraphs as though fully set forth herein.

2031. This claim is brought only on behalf of Nationwide Class members who are Mississippi residents (the "Mississippi Class").

2032. The Mississippi Consumer Protection Act ("Mississippi CPA") prohibits "unfair or deceptive trade practices in or affecting commerce." MISS. CODE. ANN. § 75-24-5(1). Unfair or deceptive practices include, but are not limited to, "(e) Representing that goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits, or quantities that they do not have or that a person has a sponsorship, approval, status, affiliation, or connection that he does not have;" "(g) Representing that goods or services are of a particular standard, quality, or grade, or that goods are of a particular style or model, if they are of another;" and "(i) Advertising goods or services with intent not to sell them as advertised." New GM participated

in deceptive trade practices that violated the Mississippi CPA as described herein, including representing that Affected Vehicles have characteristics, uses, benefits, and qualities which they do not have; representing that Affected Vehicles are of a particular standard and quality when they are not; and advertising Affected Vehicles with the intent not to sell them as advertised.

2033. In the course of its business, New GM systematically devalued safety and concealed a plethora of defects in GM-branded vehicles as described herein and otherwise engaged in activities with a tendency or capacity to deceive. New GM also engaged in unlawful trade practices by employing deception, deceptive acts or practices, fraud, misrepresentations, or concealment, suppression or omission of any material fact with intent that others rely upon such concealment, suppression or omission, in connection with the sale of the Affected Vehicles.

2034. From the date of its inception on July 10, 2009, New GM knew of many serious defects affecting many models and years of GM-branded vehicles, both because of the knowledge of Old GM personnel who remained at New GM and continuous reports, investigations, and notifications from regulatory authorities. New GM became aware of other serious defects and systemic safety issues years ago, but concealed all of that information until recently.

2035. New GM was also aware that it valued cost-cutting over safety, selected parts from the cheapest supplier regardless of quality, and actively discouraged employees from finding and flagging known safety defects, and that this approach would necessarily cause the existence of more defects in the vehicles it designed and manufactured and the failure to disclose and remedy defects in all GM-branded vehicles. New GM concealed this information as well.

2036. According to one report from the Center for Auto Safety, some 2,004 deaths and injuries are connected with recently recalled GM-branded vehicles, and New GM should have recalled the vehicles years ago.

2037. By failing to disclose and by actively concealing the many defects in GM-branded vehicles, by marketing its vehicles as safe, reliable, and of high quality, and by presenting itself as a reputable manufacturer that valued safety and stood behind its vehicles after they were sold, New GM engaged in unfair and deceptive business practices in violation of the Mississippi CPA.

2038. In the course of New GM's business, it willfully failed to disclose and actively concealed the dangerous risk posed by the many safety issues and serious defects discussed above. New GM compounded the deception by repeatedly asserting that the Affected Vehicles were safe, reliable, and of high quality, and by claiming to be a reputable manufacturer that valued safety and stood behind its vehicles once they are on the road.

2039. New GM's unfair or deceptive acts or practices were likely to and did in fact deceive reasonable consumers, including Plaintiffs, about the true safety and reliability of GM-branded vehicles, the quality of the New GM brand, the devaluing of safety at New GM, and the true value of the Affected Vehicles.

2040. New GM intentionally and knowingly misrepresented material facts regarding the Affected Vehicles with an intent to mislead Plaintiffs and the Mississippi Class.

2041. New GM knew or should have known that its conduct violated the Mississippi CPA.

2042. As alleged above, New GM made material statements about the safety and reliability of the Affected Vehicles that were either false or misleading.

2043. New GM owed Plaintiffs a duty to disclose the true safety and reliability of the Affected Vehicles and the devaluing of safety at New GM, because New GM:

a. Possessed exclusive knowledge that it valued cost-cutting over safety, selected parts from the cheapest supplier regardless of quality, and actively discouraged employees from finding and flagging known safety defects, and that this approach would necessarily cause the existence of more defects in the vehicles it designed and manufactured;

b. Intentionally concealed the foregoing from Plaintiffs; and/or

c. Made incomplete representations about the safety and reliability of the Affected Vehicles generally, and the ignition switch in particular, while purposefully withholding material facts from Plaintiffs that contradicted these representations.

2044. Because New GM fraudulently concealed the many defects in GM-branded vehicles, resulting in a raft of negative publicity once the defects finally began to be disclosed, the value of the Affected Vehicles has greatly diminished. In light of the stigma attached to those vehicles by New GM's conduct, they are now worth significantly less than they otherwise would be.

2045. New GM's systemic devaluation of safety and its concealment of a plethora of defects in GM-branded vehicles were material to Plaintiffs and the Mississippi Class. A vehicle made by a reputable manufacturer of safe vehicles is worth more than an otherwise comparable vehicle made by a disreputable manufacturer of unsafe vehicles that conceals defects rather than promptly remedies them.

2046. Plaintiffs and the Mississippi Class suffered ascertainable loss caused by New GM's misrepresentations and its failure to disclose material information. Had they been aware of the many defects that existed in GM-branded vehicles, and the company's callous disregard for safety, Plaintiffs either would have paid less for their vehicles or would not have

purchased or leased them at all. Plaintiffs did not receive the benefit of their bargain as a result of New GM's misconduct.

2047. New GM's violations present a continuing risk to Plaintiffs as well as to the general public. New GM's unlawful acts and practices complained of herein affect the public interest.

2048. As a direct and proximate result of New GM's violations of the Mississippi CPA, Plaintiffs and the Mississippi Class have suffered injury-in-fact and/or actual damage.

2049. Plaintiffs' actual damages in an amount to be determined at trial any other just and proper relief available under the Mississippi CPA.

**COUNT II**

**FRAUD BY CONCEALMENT**

2050. Plaintiffs reallege and incorporate by reference all paragraphs as though fully set forth herein.

2051. In the event the Court declines to certify a Nationwide Class under Michigan law, this claim is brought only on behalf of Nationwide Class members who are Mississippi residents (the "Mississippi Class").

2052. New GM concealed and suppressed material facts concerning the quality of its vehicles and the GM brand.

2053. New GM concealed and suppressed material facts concerning the culture of New GM—a culture characterized by an emphasis on cost-cutting, the studious avoidance of safety issues, and a shoddy design process.

2054. New GM concealed and suppressed material facts concerning the many serious defects plaguing GM-branded vehicles, and that it valued cost-cutting over safety and took steps to ensure that its employees did not reveal known safety defects to regulators or consumers.

2055. New GM did so in order to boost confidence in its vehicles and falsely assure purchasers and lessors of its vehicles that New GM was a reputable manufacturer that stands behind its vehicles after they are sold and that its vehicles are safe and reliable. The false representations were material to consumers, both because they concerned the quality and safety of the Affected Vehicles and because they played a significant role in the value of the vehicles.

2056. New GM had a duty to disclose the many defects in GM-branded vehicles because they were known and/or accessible only to New GM who had superior knowledge and access to the facts, and New GM knew the facts were not known to or reasonably discoverable by Plaintiffs and the Mississippi Class. These omitted and concealed facts were material because they directly impact the value of the Affected Vehicles purchased or leased by Plaintiffs and the Mississippi Class. Whether a manufacturer's products are safe and reliable, and whether that manufacturer stands behind its products, are material concerns to a consumer.

2057. New GM actively concealed and/or suppressed these material facts, in whole or in part, to protect its profits and avoid recalls that would hurt the brand's image and cost New GM money, and it did so at the expense of Plaintiffs and the Mississippi Class.

2058. On information and belief, New GM has still not made full and adequate disclosure and continues to defraud Plaintiffs and the Mississippi Class and conceal material information regarding defects that exist in GM-branded vehicles.

2059. Plaintiffs and the Mississippi Class were unaware of these omitted material facts and would not have acted as they did if they had known of the concealed and/or suppressed facts. Plaintiffs' and the Mississippi Class's actions were justified. New GM was in exclusive control of the material facts and such facts were not known to the public, Plaintiffs, or the Mississippi Class.

2060. Because of the concealment and/or suppression of the facts, Plaintiffs and the Mississippi Class sustained damage because they own vehicles that diminished in value as a result of New GM's concealment of, and failure to timely disclose, the serious defects in millions of GM-branded vehicles and the serious safety and quality issues engendered by New GM's corporate policies. Had they been aware of the many defects that existed in GM-branded vehicles, and the company's callous disregard for safety, Plaintiffs either would have paid less for their vehicles or would not have purchased or leased them at all. Plaintiffs did not receive the benefit of their bargain as a result of New GM's fraudulent concealment.

2061. The value of all Mississippi Class members' vehicles has diminished as a result of New GM's fraudulent concealment of the many defects and its systemic safety issues which has greatly tarnished the GM brand and made any reasonable consumer reluctant to purchase any of the Affected Vehicles, let alone pay what otherwise would have been fair market value for the vehicles.

2062. Accordingly, New GM is liable to the Mississippi Class for their damages in an amount to be proven at trial.

2063. New GM's acts were done maliciously, oppressively, deliberately, with intent to defraud, and in reckless disregard of Plaintiffs' and the Mississippi Class's rights and well-being to enrich New GM. New GM's conduct warrants an assessment of punitive damages in an amount sufficient to deter such conduct in the future, which amount is to be determined according to proof.

## COUNT III

## BREACH OF IMPLIED WARRANTY OF MERCHANTABILITY

### (MISS. CODE ANN. § 75-2-314)

2064. Plaintiffs reallege and incorporate by reference all paragraphs as though fully set forth herein.

2065. In the event the Court declines to certify a Nationwide Ignition Switch Defect Subclass under the Magnuson-Moss Warranty Act or Michigan law, this claim is brought only on behalf of Mississippi residents who are members of the Ignition Switch Defect Subclass (the "Mississippi Ignition Switch Defect Subclass").

2066. New GM was a merchant with respect to motor vehicles within the meaning of MISS. CODE ANN. § 75-2-104(1).

2067. Under MISS. CODE ANN. § 75-2-314, a warranty that the Defective Ignition Switch Vehicles were in merchantable condition was implied by law in the transactions when Plaintiffs purchased their Defective Ignition Switch Vehicles.

2068. These vehicles, when sold and at all times thereafter, were not merchantable and are not fit for the ordinary purpose for which cars are used. Specifically, the Defective Ignition Switch Vehicles are inherently defective in that there are defects in the ignition switch systems that permit sudden unintended shutdown to occur, with the attendant shut down of power steering and power brakes and the nondeployment of airbags in the event of a collision.

2069. New GM was provided notice of these issues by numerous complaints filed against it, internal investigations, and by numerous individual letters and communications sent by Plaintiffs and the Mississippi Ignition Switch Defect Subclass before or within a reasonable amount of time after New GM issued the recall and the allegations of vehicle defects became public.

2070. As a direct and proximate result of New GM's breach of the implied warranty of merchantability, Plaintiffs and the Mississippi Ignition Switch Defect Subclass have been damaged in an amount to be proven at trial.

**MISSOURI**

**COUNT I**

**VIOLATION OF MISSOURI MERCHANDISING PRACTICES ACT**

**(MO. REV. STAT. § 407.010, *et seq.*)**

2071. Plaintiffs reallege and incorporate by reference all paragraphs as though fully set forth herein.

2072. This claim is brought only on behalf of Nationwide Class members who are Missouri residents (the "Missouri Class").

2073. New GM, Plaintiffs and the Missouri Class are "persons" within the meaning of MO. REV. STAT. § 407.010(5).

2074. New GM engaged in "trade" or "commerce" in the State of Missouri within the meaning of MO. REV. STAT. § 407.010(7).

2075. The Missouri Merchandising Practices Act ("Missouri MPA") makes unlawful the "act, use or employment by any person of any deception, fraud, false pretense, misrepresentation, unfair practice, or the concealment, suppression, or omission of any material fact in connection with the sale or advertisement of any merchandise." MO. REV. STAT. § 407.020.

2076. In the course of its business, New GM systematically devalued safety and, omitted, suppressed, and concealed a plethora of defects in GM-branded vehicles as described herein. By failing to disclose these defects or facts about the defects described herein known to it or that were available to New GM upon reasonable inquiry, New GM deprived consumers of

all material facts about the safety and functionality of their vehicle. By failing to release material facts about the defect, New GM curtailed or reduced the ability of consumers to take notice of material facts about their vehicle, and/or it affirmatively operated to hide or keep those facts from consumers. 15 MO. CODE OF SERV. REG. § 60-9.110. Moreover, New GM has otherwise engaged in activities with a tendency or capacity to deceive. New GM also engaged in unlawful trade practices by employing deception, deceptive acts or practices, fraud, misrepresentations, unfair practices, and/or concealment, suppression or omission of any material fact with intent that others rely upon such concealment, suppression or omission, in connection with the sale of the Affected Vehicles.

2077. From the date of its inception on July 10, 2009, New GM knew of many serious defects affecting many models and years of GM-branded vehicles, both because of the knowledge of Old GM personnel who remained at New GM and continuous reports, investigations, and notifications from regulatory authorities. New GM became aware of other serious defects and systemic safety issues years ago, but suppressed and/or concealed all of that information until recently.

2078. New GM was also aware that it valued cost-cutting over safety, selected parts from the cheapest supplier regardless of quality, and actively discouraged employees from finding and flagging known safety defects, and that this approach would necessarily cause the existence of more defects in the vehicles it designed and manufactured and the failure to disclose and remedy defects in all GM-branded vehicles. New GM omitted, suppressed, and/or concealed this information as well.

2079. According to one report from the Center for Auto Safety, some 2,004 deaths and injuries are connected with recently recalled GM-branded vehicles, and New GM should have

recalled the vehicles years ago. Failure to do so has been part of New GM's method, act, use, and/or practice to hide, keep, curtail, and/or reduce consumers' access to material facts.

2080. By failing to disclose and by actively concealing, suppressing, or omitting the many defects in GM-branded vehicles, by marketing its vehicles as safe, reliable, and of high quality, and by presenting itself as a reputable manufacturer that valued safety and stood behind its vehicles after they were sold, New GM engaged in unfair and/or deceptive business practices and concealed, suppressed, and/or omitted material facts from consumers in connection with the purchase of their vehicles—all in violation of the Missouri MPA.

2081. In the course of New GM's business, it willfully failed to disclose and actively concealed, suppressed, and omitted the dangerous risk posed by the many safety issues and serious defects discussed above. New GM compounded the deception by repeatedly asserting that the Affected Vehicles were safe, reliable, and of high quality, and by claiming to be a reputable manufacturer that valued safety and stood behind its vehicles once they are on the road.

2082. New GM's unfair or deceptive acts or practices, including these concealments, omissions, and suppressions of material facts, had a tendency or capacity to mislead, tended to create a false impression in consumers, and did in fact deceive reasonable consumers, including Plaintiffs, about the true safety and reliability of GM-branded vehicles, the quality of the GM brand, the devaluing of safety at New GM, and the true value of the Affected Vehicles.

2083. New GM intentionally and knowingly misrepresented material facts regarding the Affected Vehicles with an intent to mislead Plaintiffs and the Missouri Class, including without limitation by failing to disclose the defects in light of circumstances under which the omitted facts were necessary in order to correct the assumptions, inferences or representations being made by New GM about the safety or reliability of its vehicles. Consequently, the failure to

disclose such facts amounts to misleading statements pursuant to 15 MO. CODE OF SERV. REG. § 60-9.090.

2084. Because New GM knew or believed that its statements regarding safety and reliability of its vehicles were not in accord with the facts and/or had no reasonable basis for such statements in light of its knowledge of these defects, New GM engaged in fraudulent misrepresentations pursuant to 15 MO. CODE OF SERV. REG. 60-9.100.

2085. New GM's conduct as described herein is unethical, oppressive, or unscrupulous and/or it presented a risk of substantial injury to consumers whose vehicles were prone to fail at times and under circumstances that could have resulted in death. Such acts are unfair practices in violation of 15 MO. CODE OF SERV. REG. 60-8.020.

2086. New GM knew or should have known that its conduct violated the Missouri MPA.

2087. As alleged above, New GM made material statements about the safety and reliability of the Affected Vehicles that were either false, misleading, and/or half-truths in violation of the Missouri MPA.

2088. New GM owed Plaintiffs a duty to disclose the true safety and reliability of the Affected Vehicles and the devaluing of safety at New GM, because New GM:

a. Possessed exclusive knowledge that it valued cost-cutting over safety, selected parts from the cheapest supplier regardless of quality, and actively discouraged employees from finding and flagging known safety defects, and that this approach would necessarily cause the existence of more defects in the vehicles it designed and manufactured;

b. Intentionally concealed the foregoing from Plaintiffs; and/or

c. Made incomplete representations about the safety and reliability of the Affected Vehicles generally, and the ignition switch in particular, while purposefully

withholding material facts from Plaintiffs that contradicted these representations.

2089. Because New GM fraudulently concealed the many defects in GM-branded vehicles, and committed these other unlawful acts in violation of the Missouri MPA, resulting in a raft of negative publicity once the defects finally began to be disclosed, the value of the Affected Vehicles has greatly diminished. In light of the stigma attached to those vehicles by New GM's conduct, they are now worth significantly less than they otherwise would be.

2090. New GM's systemic devaluation of safety and its misleading statements, deception, and/or concealment, suppression, or omission of a plethora of defects in GM-branded vehicles were material to Plaintiffs and the Missouri Class. A vehicle made by a reputable manufacturer of safe vehicles is worth more than an otherwise comparable vehicle made by a disreputable manufacturer of unsafe vehicles that conceals defects rather than promptly remedies them.

2091. Plaintiffs and the Missouri Class suffered ascertainable loss caused by New GM's misrepresentations and its failure to disclose material information. Had they been aware of the many defects that existed in GM-branded vehicles, and the company's callous disregard for safety, Plaintiffs either would have paid less for their vehicles or would not have purchased or leased them at all. Plaintiffs did not receive the benefit of their bargain as a result of New GM's misconduct.

2092. New GM's violations present a continuing risk to Plaintiffs as well as to the general public. New GM's unlawful acts and practices complained of herein affect the public interest.

2093. As a direct and proximate result of New GM's violations of the Missouri MPA, Plaintiffs and the Missouri Class have suffered injury-in-fact and/or actual damage.

2094. New GM is liable to Plaintiffs and the Missouri Class for damages in amounts to be proven at trial, including attorneys' fees, costs, and punitive damages, as well as injunctive relief enjoining New GM's unfair and deceptive practices, and any other just and proper relief under MO. REV. STAT. § 407.025.

**COUNT II**

**FRAUD BY CONCEALMENT**

2095. Plaintiffs reallege and incorporate by reference all paragraphs as though fully set forth herein.

2096. In the event the Court declines to certify a Nationwide Class under Michigan law, this claim is brought only on behalf of Nationwide Class members who are Missouri residents (the "Missouri Class").

2097. New GM concealed and suppressed material facts concerning the quality of its vehicles and the New GM brand.

2098. New GM concealed and suppressed material facts concerning the culture of New GM—a culture characterized by an emphasis on cost-cutting, the studious avoidance of safety issues, and a shoddy design process.

2099. New GM concealed and suppressed material facts concerning the many serious defects plaguing GM-branded vehicles, and that it valued cost-cutting over safety and took steps to ensure that its employees did not reveal known safety defects to regulators or consumers.

2100. New GM did so in order to boost confidence in its vehicles and falsely assure purchasers and lessors of its vehicles that New GM was a reputable manufacturer that stands behind its vehicles after they are sold and that its vehicles are safe and reliable. The false representations were material to consumers, both because they concerned the quality and safety of the Affected Vehicles and because they played a significant role in the value of the vehicles.

2101. New GM had a duty to disclose the many defects in GM-branded vehicles because they were known and/or accessible only to New GM who had superior knowledge and access to the facts, and New GM knew the facts were not known to or reasonably discoverable by Plaintiffs and the Missouri Class. These omitted and concealed facts were material because they directly impact the value of the Affected Vehicles purchased or leased by Plaintiffs and the Missouri Class. Whether a manufacturer's products are safe and reliable, and whether that manufacturer stands behind its products, are material concerns to a consumer.

2102. New GM actively concealed and/or suppressed these material facts, in whole or in part, to protect its profits and avoid recalls that would hurt the brand's image and cost New GM money, and it did so at the expense of Plaintiffs and the Missouri Class.

2103. On information and belief, New GM has still not made full and adequate disclosure and continues to defraud Plaintiffs and the Missouri Class and conceal material information regarding defects that exist in GM-branded vehicles.

2104. Plaintiffs and the Missouri Class were unaware of these omitted material facts and would not have acted as they did if they had known of the concealed and/or suppressed facts. Plaintiffs' and the Missouri Class's actions were justified. New GM was in exclusive control of the material facts and such facts were not known to the public, Plaintiffs, or the Missouri Class.

2105. Because of the concealment and/or suppression of the facts, Plaintiffs and the Missouri Class sustained damage because they own vehicles that diminished in value as a result of New GM's concealment of, and failure to timely disclose, the serious defects in millions of GM-branded vehicles and the serious safety and quality issues engendered by New GM's corporate policies. Had they been aware of the many defects that existed in GM-branded vehicles, and the company's callous disregard for safety, Plaintiffs either would have paid less

for their vehicles or would not have purchased or leased them at all. Plaintiffs did not receive the benefit of their bargain as a result of New GM's fraudulent concealment.

2106. The value of all Missouri Class members' vehicles has diminished as a result of New GM's fraudulent concealment of the many defects and its systemic safety issues which has greatly tarnished the New GM brand and made any reasonable consumer reluctant to purchase any of the Affected Vehicles, let alone pay what otherwise would have been fair market value for the vehicles.

2107. Accordingly, New GM is liable to the Missouri Class for their damages in an amount to be proven at trial.

2108. New GM's acts were done maliciously, oppressively, deliberately, with intent to defraud, and in reckless disregard of Plaintiffs' and the Missouri Class's rights and well-being to enrich New GM. New GM's conduct warrants an assessment of punitive damages in an amount sufficient to deter such conduct in the future, which amount is to be determined according to proof.

**COUNT III**

**BREACH OF IMPLIED WARRANTY OF MERCHANTABILITY**

**(MO. REV. STAT. § 400.2-314)**

2109. Plaintiffs reallege and incorporate by reference all paragraphs as though fully set forth herein.

2110. In the event the Court declines to certify a Nationwide Ignition Switch Defect Subclass under the Magnuson-Moss Warranty Act or Michigan law, this claim is brought only on behalf of Missouri residents who are members of the Ignition Switch Defect Subclass (the "Missouri Ignition Switch Defect Subclass").

2111. New GM was a merchant with respect to motor vehicles within the meaning of MO. REV. STAT. § 400.2-314(1).

2112. Under MO. REV. STAT. § 400.2-314, a warranty that the Defective Ignition Switch Vehicles were in merchantable condition was implied by law in the transactions when Plaintiffs purchased their Defective Ignition Switch Vehicles.

2113. These vehicles, when sold and at all times thereafter, were not merchantable and are not fit for the ordinary purpose for which cars are used. Specifically, the Defective Ignition Switch Vehicles are inherently defective in that there are defects in the ignition switch systems that permit sudden unintended shutdown to occur, with the attendant shut down of power steering and power brakes and the nondeployment of airbags in the event of a collision.

2114. New GM was provided notice of these issues by numerous complaints filed against it, internal investigations, and by numerous individual letters and communications sent by Plaintiffs and the Missouri Ignition Switch Defect Subclass before or within a reasonable amount of time after New GM issued the recall and the allegations of vehicle defects became public.

2115. As a direct and proximate result of New GM's breach of the warranties of merchantability, Plaintiffs and the Missouri Ignition Switch Defect Subclass have been damaged in an amount to be proven at trial.

## MONTANA

## COUNT I

## VIOLATION OF MONTANA UNFAIR TRADE PRACTICES AND CONSUMER PROTECTION ACT OF 1973

**(MONT. CODE ANN. § 30-14-101, *et seq.*)**

2116. Plaintiffs reallege and incorporate by reference all paragraphs as though fully set forth herein.

2117. This claim is brought only on behalf of Nationwide Class members who are Montana residents (the "Montana Class").

2118. New GM, Plaintiffs and the Montana Class are "persons" within the meaning of MONT. CODE ANN. § 30-14-102(6).

2119. Montana Class members are "consumer[s]" under MONT. CODE ANN. § 30-14-102(1).

2120. The sale or lease of the Affected Vehicles to Montana Class members occurred within "trade and commerce" within the meaning of MONT. CODE ANN. § 30-14-102(8), and New GM committed deceptive and unfair acts in the conduct of "trade and commerce" as defined in that statutory section.

2121. The Montana Unfair Trade Practices and Consumer Protection Act ("Montana CPA") makes unlawful any "unfair methods of competition and unfair or deceptive acts or practices in the conduct of any trade or commerce." MONT. CODE ANN. § 30-14-103. By systematically devaluing safety and concealing a plethora of defects in GM-branded vehicles, New GM engaged in unfair and deceptive acts or practices in violation of the Montana CPA.

2122. In the course of its business, New GM systematically devalued safety and concealed a plethora of defects in GM-branded vehicles as described herein and otherwise

engaged in activities with a tendency or capacity to deceive. New GM also engaged in unlawful trade practices by employing deception, deceptive acts or practices, fraud, misrepresentations, or concealment, suppression or omission of any material fact with intent that others rely upon such concealment, suppression or omission, in connection with the sale of the Affected Vehicles.

2123. From the date of its inception on July 10, 2009, New GM knew of many serious defects affecting many models and years of GM-branded vehicles, both because of the knowledge of Old GM personnel who remained at New GM and continuous reports, investigations, and notifications from regulatory authorities. New GM became aware of other serious defects and systemic safety issues years ago, but concealed all of that information until recently.

2124. New GM was also aware that it valued cost-cutting over safety, selected parts from the cheapest supplier regardless of quality, and actively discouraged employees from finding and flagging known safety defects, and that this approach would necessarily cause the existence of more defects in the vehicles it designed and manufactured and the failure to disclose and remedy defects in all GM-branded vehicles. New GM concealed this information as well.

2125. According to one report from the Center for Auto Safety, some 2,004 deaths and injuries are connected with recently recalled GM-branded vehicles, and New GM should have recalled the vehicles years ago.

2126. By failing to disclose and by actively concealing the many defects in GM-branded vehicles, by marketing its vehicles as safe, reliable, and of high quality, and by presenting itself as a reputable manufacturer that valued safety and stood behind its vehicles after they were sold, New GM engaged in unfair and deceptive business practices in violation of the Montana CPA.

2127. In the course of New GM's business, it willfully failed to disclose and actively concealed the dangerous risk posed by the many safety issues and serious defects discussed above. New GM compounded the deception by repeatedly asserting that the Affected Vehicles were safe, reliable, and of high quality, and by claiming to be a reputable manufacturer that valued safety and stood behind its vehicles once they are on the road.

2128. New GM's unfair or deceptive acts or practices were likely to and did in fact deceive reasonable consumers, including Plaintiffs, about the true safety and reliability of GM-branded vehicles, the quality of the GM brand, the devaluing of safety at New GM, and the true value of the Affected Vehicles.

2129. New GM intentionally and knowingly misrepresented material facts regarding the Affected Vehicles with an intent to mislead Plaintiffs and the Montana Class.

2130. New GM knew or should have known that its conduct violated the Montana CPA.

2131. As alleged above, New GM made material statements about the safety and reliability of the Affected Vehicles that were either false or misleading.

2132. New GM owed Plaintiffs a duty to disclose the true safety and reliability of the Affected Vehicles and the devaluing of safety at New GM, because New GM:

a. Possessed exclusive knowledge that it valued cost-cutting over safety, selected parts from the cheapest supplier regardless of quality, and actively discouraged employees from finding and flagging known safety defects, and that this approach would necessarily cause the existence of more defects in the vehicles it designed and manufactured;

b. Intentionally concealed the foregoing from Plaintiffs; and/or

c. Made incomplete representations about the safety and reliability of the Affected Vehicles generally, and the ignition switch in particular, while purposefully withholding material facts from Plaintiffs that contradicted these representations.

2133. Because New GM fraudulently concealed the many defects in GM-branded vehicles, resulting in a raft of negative publicity once the defects finally began to be disclosed, the value of the Affected Vehicles has greatly diminished. In light of the stigma attached to those vehicles by New GM's conduct, they are now worth significantly less than they otherwise would be.

2134. New GM's systemic devaluation of safety and its concealment of a plethora of defects in GM-branded vehicles were material to Plaintiffs and the Montana Class. A vehicle made by a reputable manufacturer of safe vehicles is worth more than an otherwise comparable vehicle made by a disreputable manufacturer of unsafe vehicles that conceals defects rather than promptly remedies them.

2135. Plaintiffs and the Montana Class suffered ascertainable loss caused by New GM's misrepresentations and its failure to disclose material information. Had they been aware of the many defects that existed in GM-branded vehicles, and the company's callous disregard for safety, Plaintiffs either would have paid less for their vehicles or would not have purchased or leased them at all. Plaintiffs did not receive the benefit of their bargain as a result of New GM's misconduct.

2136. New GM's violations present a continuing risk to Plaintiffs as well as to the general public. New GM's unlawful acts and practices complained of herein affect the public interest.

2137. As a direct and proximate result of New GM's violations of the Montana CPA, Plaintiffs and the Montana Class have suffered injury-in-fact and/or actual damage.

2138. Because the New GM's unlawful methods, acts, and practices have caused Montana Class members to suffer an ascertainable loss of money and property, the Montana

Class seeks from New GM actual damages or $500, whichever is greater, discretionary treble damages, reasonable attorneys' fees, an order enjoining New GM's unfair, unlawful, and/or deceptive practices, and any other relief the Court considers necessary or proper, under MONT. CODE ANN. § 30-14-133.

**COUNT II**

**FRAUD BY CONCEALMENT**

2139. Plaintiffs reallege and incorporate by reference all paragraphs as though fully set forth herein.

2140. In the event the Court declines to certify a Nationwide Class under Michigan law, this claim is brought only on behalf of Nationwide Class members who are Montana residents (the "Montana Class").

2141. New GM concealed and suppressed material facts concerning the quality of its vehicles and the New GM brand.

2142. New GM concealed and suppressed material facts concerning the culture of New GM—a culture characterized by an emphasis on cost-cutting, the studious avoidance of safety issues, and a shoddy design process.

2143. New GM concealed and suppressed material facts concerning the many serious defects plaguing GM-branded vehicles, and that it valued cost-cutting over safety and took steps to ensure that its employees did not reveal known safety defects to regulators or consumers.

2144. New GM did so in order to boost confidence in its vehicles and falsely assure purchasers and lessors of its vehicles that New GM was a reputable manufacturer that stands behind its vehicles after they are sold and that its vehicles are safe and reliable. The false representations were material to consumers, both because they concerned the quality and safety of the Affected Vehicles and because they played a significant role in the value of the vehicles.

2145. New GM had a duty to disclose the many defects in GM-branded vehicles because they were known and/or accessible only to New GM who had superior knowledge and access to the facts, and New GM knew the facts were not known to or reasonably discoverable by Plaintiffs and the Montana Class. These omitted and concealed facts were material because they directly impact the value of the Affected Vehicles purchased or leased by Plaintiffs and the Montana Class. Whether a manufacturer's products are safe and reliable, and whether that manufacturer stands behind its products, are material concerns to a consumer.

2146. New GM actively concealed and/or suppressed these material facts, in whole or in part, to protect its profits and avoid recalls that would hurt the brand's image and cost New GM money, and it did so at the expense of Plaintiffs and the Montana Class.

2147. On information and belief, New GM has still not made full and adequate disclosure and continues to defraud Plaintiffs and the Montana Class and conceal material information regarding defects that exist in GM-branded vehicles.

2148. Plaintiffs and the Montana Class were unaware of these omitted material facts and would not have acted as they did if they had known of the concealed and/or suppressed facts. Plaintiffs' and the Montana Class's actions were justified. New GM was in exclusive control of the material facts and such facts were not known to the public, Plaintiffs, or the Montana Class.

2149. Because of the concealment and/or suppression of the facts, Plaintiffs and the Montana Class sustained damage because they own vehicles that diminished in value as a result of New GM's concealment of, and failure to timely disclose, the serious defects in millions of GM-branded vehicles and the serious safety and quality issues engendered by New GM's corporate policies. Had they been aware of the many defects that existed in GM-branded vehicles, and the company's callous disregard for safety, Plaintiffs either would have paid less

for their vehicles or would not have purchased or leased them at all. Plaintiffs did not receive the benefit of their bargain as a result of New GM's fraudulent concealment.

2150. The value of all Montana Class members' vehicles has diminished as a result of New GM's fraudulent concealment of the many defects and its systemic safety issues which has greatly tarnished the GM brand and made any reasonable consumer reluctant to purchase any of the Affected Vehicles, let alone pay what otherwise would have been fair market value for the vehicles.

2151. Accordingly, New GM is liable to the Montana Class for their damages in an amount to be proven at trial.

2152. New GM's acts were done maliciously, oppressively, deliberately, with intent to defraud, and in reckless disregard of Plaintiffs' and the Montana Class's rights and well-being to enrich New GM. New GM's conduct warrants an assessment of punitive damages in an amount sufficient to deter such conduct in the future, which amount is to be determined according to proof.

## COUNT III

## BREACH OF IMPLIED WARRANTY OF MERCHANTABILITY (MONT. CODE § 30-2-314)

2153. Plaintiffs reallege and incorporate by reference all paragraphs as though fully set forth herein.

2154. In the event the Court declines to certify a Nationwide Ignition Switch Defect Subclass under the Magnuson-Moss Warranty Act or Michigan law, this claim is brought only on behalf of Montana residents who are members of the Ignition Switch Defect Subclass (the "Montana Ignition Switch Defect Subclass").

2155. New GM was a merchant with respect to motor vehicles under MONT. CODE § 30-2-104(1) .

2156. Under MONT. CODE § 30-2-314, a warranty that the Defective Ignition Switch Vehicles were in merchantable condition was implied by law in the transactions when Plaintiffs purchased their Defective Ignition Switch Vehicles.

2157. These vehicles, when sold and at all times thereafter, were not merchantable and are not fit for the ordinary purpose for which cars are used. Specifically, the Defective Ignition Switch Vehicles are inherently defective in that there are defects in the ignition switch systems that permit sudden unintended shutdown to occur, with the attendant shut down of power steering and power brakes and the nondeployment of airbags in the event of a collision.

2158. New GM was provided notice of these issues by numerous complaints filed against it, internal investigations, and by numerous individual letters and communications sent by Plaintiffs and the Montana Ignition Switch Defect Subclass before or within a reasonable amount of time after New GM issued the recall and the allegations of vehicle defects became public.

2159. As a direct and proximate result of New GM's breach of the warranties of merchantability, Plaintiffs and the Montana Ignition Switch Defect Subclass have been damaged in an amount to be proven at trial.

**NEBRASKA**

**COUNT I**

**VIOLATION OF THE NEBRASKA CONSUMER PROTECTION ACT**

**(NEB. REV. STAT. § 59-1601, *et seq.*)**

2160. Plaintiff incorporates by reference all preceding and succeeding paragraphs as if set forth fully herein.

2161. This claim is brought only on behalf of Nationwide Class members who are Nebraska residents (the "Nebraska Class").

2162. New GM, Plaintiffs and Nebraska Class members are "person[s]" under the Nebraska Consumer Protection Act ("Nebraska CPA"), NEB. REV. STAT. § 59-1601(1).

2163. New GM's actions as set forth herein occurred in the conduct of trade or commerce as defined under NEB. REV. STAT. § 59-1601(2).

2164. The Nebraska CPA prohibits "unfair or deceptive acts or practices in the conduct of any trade or commerce." NEB. REV. STAT. § 59-1602. The conduct New GM as set forth herein constitutes unfair or deceptive acts or practices.

2165. In the course of its business, New GM systematically devalued safety and concealed a plethora of defects in GM-branded vehicles as described herein and otherwise engaged in activities with a tendency or capacity to deceive. New GM also engaged in unlawful trade practices by employing deception, deceptive acts or practices, fraud, misrepresentations, or concealment, suppression or omission of any material fact with intent that others rely upon such concealment, suppression or omission, in connection with the sale of the Affected Vehicles.

2166. From the date of its inception on July 10, 2009, New GM knew of many serious defects affecting many models and years of GM-branded vehicles, both because of the knowledge of Old GM personnel who remained at New GM and continuous reports, investigations, and notifications from regulatory authorities. New GM became aware of other serious defects and systemic safety issues years ago, but concealed all of that information until recently.

2167. New GM was also aware that it valued cost-cutting over safety, selected parts from the cheapest supplier regardless of quality, and actively discouraged employees from

finding and flagging known safety defects, and that this approach would necessarily cause the existence of more defects in the vehicles it designed and manufactured and the failure to disclose and remedy defects in all GM-branded vehicles. New GM concealed this information as well.

2168. According to one report from the Center for Auto Safety, some 2,004 deaths and injuries are connected with recently recalled GM-branded vehicles, and New GM should have recalled the vehicles years ago.

2169. By failing to disclose and by actively concealing the many defects in GM-branded vehicles, by marketing its vehicles as safe, reliable, and of high quality, and by presenting itself as a reputable manufacturer that valued safety and stood behind its vehicles after they were sold, New GM engaged in unfair and deceptive business practices in violation of the Nebraska CPA.

2170. In the course of New GM's business, it willfully failed to disclose and actively concealed the dangerous risk posed by the many safety issues and serious defects discussed above. New GM compounded the deception by repeatedly asserting that the Affected Vehicles were safe, reliable, and of high quality, and by claiming to be a reputable manufacturer that valued safety and stood behind its vehicles once they are on the road.

2171. New GM's unfair or deceptive acts or practices were likely to and did in fact deceive reasonable consumers, including Plaintiffs, about the true safety and reliability of GM-branded vehicles, the quality of the GM brand, the devaluing of safety at New GM, and the true value of the Affected Vehicles.

2172. New GM intentionally and knowingly misrepresented material facts regarding the Affected Vehicles with an intent to mislead Plaintiffs and the Nebraska Class.

2173. New GM knew or should have known that its conduct violated the Nebraska CPA.

2174. As alleged above, New GM made material statements about the safety and reliability of the Affected Vehicles that were either false or misleading.

2175. New GM owed Plaintiffs a duty to disclose the true safety and reliability of the Affected Vehicles and the devaluing of safety at New GM, because New GM:

a. Possessed exclusive knowledge that it valued cost-cutting over safety, selected parts from the cheapest supplier regardless of quality, and actively discouraged employees from finding and flagging known safety defects, and that this approach would necessarily cause the existence of more defects in the vehicles it designed and manufactured;

b. Intentionally concealed the foregoing from Plaintiffs; and/or

c. Made incomplete representations about the safety and reliability of the Affected Vehicles generally, and the ignition switch in particular, while purposefully withholding material facts from Plaintiffs that contradicted these representations.

2176. Because New GM fraudulently concealed the many defects in GM-branded vehicles, resulting in a raft of negative publicity once the defects finally began to be disclosed, the value of the Affected Vehicles has greatly diminished. In light of the stigma attached to those vehicles by New GM's conduct, they are now worth significantly less than they otherwise would be.

2177. New GM's systemic devaluation of safety and its concealment of a plethora of defects in GM-branded vehicles were material to Plaintiffs and the Nebraska Class. A vehicle made by a reputable manufacturer of safe vehicles is worth more than an otherwise comparable vehicle made by a disreputable manufacturer of unsafe vehicles that conceals defects rather than promptly remedies them.

2178. Plaintiffs and the Nebraska Class suffered ascertainable loss caused by New GM's misrepresentations and its failure to disclose material information. Had they been

aware of the many defects that existed in GM-branded vehicles, and the company's callous disregard for safety, Plaintiffs either would have paid less for their vehicles or would not have purchased or leased them at all. Plaintiffs did not receive the benefit of their bargain as a result of New GM's misconduct.

2179. New GM's violations present a continuing risk to Plaintiffs as well as to the general public. New GM's unlawful acts and practices complained of herein affect the public interest.

2180. As a direct and proximate result of New GM's violations of the Nebraska CPA, Plaintiffs and the Nebraska Class have suffered injury-in-fact and/or actual damage.

2181. Because New GM's conduct caused injury to Class members' property through violations of the Nebraska CPA, the Nebraska Class seeks recovery of actual damages, as well as enhanced damages up to $1,000, an order enjoining New GM's unfair or deceptive acts and practices, costs of Court, reasonable attorneys' fees, and any other just and proper relief available under NEB. REV. STAT. § 59-1609.

**COUNT II**

**FRAUD BY CONCEALMENT**

2182. Plaintiffs reallege and incorporate by reference all paragraphs as though fully set forth herein.

2183. In the event the Court declines to certify a Nationwide Class under Michigan law, this claim is brought only on behalf of Nationwide Class members who are Nebraska residents (the "Nebraska Class").

2184. New GM concealed and suppressed material facts concerning the quality of its vehicles and the GM brand.

2185. New GM concealed and suppressed material facts concerning the culture of New GM—a culture characterized by an emphasis on cost-cutting, the studious avoidance of safety issues, and a shoddy design process.

2186. New GM concealed and suppressed material facts concerning the many serious defects plaguing GM-branded vehicles, and that it valued cost-cutting over safety and took steps to ensure that its employees did not reveal known safety defects to regulators or consumers.

2187. New GM did so in order to boost confidence in its vehicles and falsely assure purchasers and lessors of its vehicles that New GM was a reputable manufacturer that stands behind its vehicles after they are sold and that its vehicles are safe and reliable. The false representations were material to consumers, both because they concerned the quality and safety of the Affected Vehicles and because they played a significant role in the value of the vehicles.

2188. New GM had a duty to disclose the many defects in GM-branded vehicles because they were known and/or accessible only to New GM who had superior knowledge and access to the facts, and New GM knew the facts were not known to or reasonably discoverable by Plaintiffs and the Nebraska Class. These omitted and concealed facts were material because they directly impact the value of the Affected Vehicles purchased or leased by Plaintiffs and the Nebraska Class. Whether a manufacturer's products are safe and reliable, and whether that manufacturer stands behind its products, are material concerns to a consumer.

2189. New GM actively concealed and/or suppressed these material facts, in whole or in part, to protect its profits and avoid recalls that would hurt the brand's image and cost New GM money, and it did so at the expense of Plaintiffs and the Nebraska Class.

2190. On information and belief, New GM has still not made full and adequate disclosure and continues to defraud Plaintiffs and the Nebraska Class and conceal material information regarding defects that exist in GM-branded vehicles.

2191. Plaintiffs and the Nebraska Class were unaware of these omitted material facts and would not have acted as they did if they had known of the concealed and/or suppressed facts. Plaintiffs' and the Nebraska Class's actions were justified. New GM was in exclusive control of the material facts and such facts were not known to the public, Plaintiffs, or the Nebraska Class.

2192. Because of the concealment and/or suppression of the facts, Plaintiffs and the Nebraska Class sustained damage because they own vehicles that diminished in value as a result of New GM's concealment of, and failure to timely disclose, the serious defects in millions of GM-branded vehicles and the serious safety and quality issues engendered by New GM's corporate policies. Had they been aware of the many defects that existed in GM-branded vehicles, and the company's callous disregard for safety, Plaintiffs either would have paid less for their vehicles or would not have purchased or leased them at all. Plaintiffs did not receive the benefit of their bargain as a result of New GM's fraudulent concealment.

2193. The value of all Nebraska Class members' vehicles has diminished as a result of New GM's fraudulent concealment of the many defects and its systemic safety issues which has greatly tarnished the GM brand and made any reasonable consumer reluctant to purchase any of the Affected Vehicles, let alone pay what otherwise would have been fair market value for the vehicles.

2194. Accordingly, New GM is liable to the Nebraska Class for their damages in an amount to be proven at trial.

## COUNT III

## BREACH OF IMPLIED WARRANTY OF MERCHANTABILITY

### (NEB. REV. STAT. NEB. § 2-314)

2195. Plaintiffs reallege and incorporate by reference all paragraphs as though fully set forth herein.

2196. In the event the Court declines to certify a Nationwide Ignition Switch Defect Subclass under the Magnuson-Moss Warranty Act or Michigan law, this claim is brought only on behalf of Nebraska residents who are members of the Ignition Switch Defect Subclass (the "Nebraska Ignition Switch Defect Subclass").

2197. New GM was a merchant with respect to motor vehicles within the meaning of NEB. REV. STAT. § 2-104(1).

2198. A warranty that the Defective Ignition Switch Vehicles were in merchantable condition was implied by law in the transactions when Plaintiffs purchased their Defective Ignition Switch Vehicles under NEB. REV. STAT. § 2-314.

2199. These vehicles, when sold and at all times thereafter, were not merchantable and are not fit for the ordinary purpose for which cars are used. Specifically, the Defective Ignition Switch Vehicles are inherently defective in that there are defects in the ignition switch systems that permit sudden unintended shutdown to occur, with the attendant shut down of power steering and power brakes and the nondeployment of airbags in the event of a collision.

2200. New GM was provided notice of these issues by numerous complaints filed against it, internal investigations, and by numerous individual letters and communications sent by Plaintiffs and the Nebraska Ignition Switch Defect Subclass before or within a reasonable amount of time after New GM issued the recall and the allegations of vehicle defects became public.

2201. As a direct and proximate result of New GM's breach of the warranties of merchantability, Plaintiffs and the Nebraska Ignition Switch Defect Subclass have been damaged in an amount to be proven at trial.

**NEVADA**

**COUNT I**

**VIOLATION OF THE NEVADA DECEPTIVE TRADE PRACTICES ACT**

**(NEV. REV. STAT. § 598.0903, *et seq*.)**

2202. Plaintiffs reallege and incorporate by reference all paragraphs as though fully set forth herein.

2203. This claim is brought only on behalf of Nationwide Class members who are Nevada residents (the "Nevada Class").

2204. The Nevada Deceptive Trade Practices Act ("Nevada DTPA"), NEV. REV. STAT. § 598.0903, *et seq.* prohibits deceptive trade practices. NEV. REV. STAT. § 598.0915 provides that a person engages in a "deceptive trade practice" if, in the course of business or occupation, the person: "5. Knowingly makes a false representation as to the characteristics, ingredients, uses, benefits, alterations or quantities of goods or services for sale or lease or a false representation as to the sponsorship, approval, status, affiliation or connection of a person therewith"; "7. Represents that goods or services for sale or lease are of a particular standard, quality or grade, or that such goods are of a particular style or model, if he or she knows or should know that they are of another standard, quality, grade, style or model"; "9. Advertises goods or services with intent not to sell or lease them as advertised"; or "15. Knowingly makes any other false representation in a transaction."

2205. New GM engaged in deceptive trade practices that violated the Nevada DTPA, including: knowingly representing that Affected Vehicles have uses and benefits which they do

not have; representing that Affected Vehicles are of a particular standard, quality, and grade when they are not; advertising Affected Vehicles with the intent not to sell or lease them as advertised; representing that the subject of a transaction involving Affected Vehicles has been supplied in accordance with a previous representation when it has not; and knowingly making other false representations in a transaction.

2206. New GM's actions as set forth above occurred in the conduct of trade or commerce.

2207. In the course of its business, New GM systematically devalued safety and concealed a plethora of defects in GM-branded vehicles as described herein and otherwise engaged in activities with a tendency or capacity to deceive. New GM also engaged in unlawful trade practices by employing deception, deceptive acts or practices, fraud, misrepresentations, or concealment, suppression or omission of any material fact with intent that others rely upon such concealment, suppression or omission, in connection with the sale of the Affected Vehicles.

2208. From the date of its inception on July 10, 2009, New GM knew of many serious defects affecting many models and years of GM-branded vehicles, both because of the knowledge of Old GM personnel who remained at New GM and continuous reports, investigations, and notifications from regulatory authorities. New GM became aware of other serious defects and systemic safety issues years ago, but concealed all of that information until recently.

2209. New GM was also aware that it valued cost-cutting over safety, selected parts from the cheapest supplier regardless of quality, and actively discouraged employees from finding and flagging known safety defects, and that this approach would necessarily cause the

existence of more defects in the vehicles it designed and manufactured and the failure to disclose and remedy defects in all GM-branded vehicles. New GM concealed this information as well.

2210. According to one report from the Center for Auto Safety, some 2,004 deaths and injuries are connected with recently recalled GM-branded vehicles, and New GM should have recalled the vehicles years ago.

2211. By failing to disclose and by actively concealing the many defects in GM-branded vehicles, by marketing its vehicles as safe, reliable, and of high quality, and by presenting itself as a reputable manufacturer that valued safety and stood behind its vehicles after they were sold, New GM engaged in deceptive business practices in violation of the Nevada DTPA.

2212. In the course of New GM's business, it willfully failed to disclose and actively concealed the dangerous risk posed by the many safety issues and serious defects discussed above. New GM compounded the deception by repeatedly asserting that the Affected Vehicles were safe, reliable, and of high quality, and by claiming to be a reputable manufacturer that valued safety and stood behind its vehicles once they are on the road.

2213. New GM's unfair or deceptive acts or practices were likely to and did in fact deceive reasonable consumers, including Plaintiffs, about the true safety and reliability of GM-branded vehicles, the quality of the GM brand, the devaluing of safety at New GM, and the true value of the Affected Vehicles.

2214. New GM intentionally and knowingly misrepresented material facts regarding the Affected Vehicles with an intent to mislead Plaintiffs and the Nevada Class.

2215. New GM knew or should have known that its conduct violated the Nevada DTPA.

2216. As alleged above, New GM made material statements about the safety and reliability of the Affected Vehicles that were either false or misleading.

2217. New GM owed Plaintiffs a duty to disclose the true safety and reliability of the Affected Vehicles and the devaluing of safety at New GM, because New GM:

a. Possessed exclusive knowledge that it valued cost-cutting over safety, selected parts from the cheapest supplier regardless of quality, and actively discouraged employees from finding and flagging known safety defects, and that this approach would necessarily cause the existence of more defects in the vehicles it designed and manufactured;

b. Intentionally concealed the foregoing from Plaintiffs; and/or

c. Made incomplete representations about the safety and reliability of the Affected Vehicles generally, and the ignition switch in particular, while purposefully withholding material facts from Plaintiffs that contradicted these representations.

2218. Because New GM fraudulently concealed the many defects in GM-branded vehicles, resulting in a raft of negative publicity once the defects finally began to be disclosed, the value of the Affected Vehicles has greatly diminished. In light of the stigma attached to those vehicles by New GM's conduct, they are now worth significantly less than they otherwise would be.

2219. New GM's systemic devaluation of safety and its concealment of a plethora of defects in GM-branded vehicles were material to Plaintiffs and the Nevada Class. A vehicle made by a reputable manufacturer of safe vehicles is worth more than an otherwise comparable vehicle made by a disreputable manufacturer of unsafe vehicles that conceals defects rather than promptly remedies them.

2220. Plaintiffs and the Nevada Class suffered ascertainable loss caused by New GM's misrepresentations and its failure to disclose material information. Had they been aware of the many defects that existed in GM-branded vehicles, and the company's callous disregard for safety, Plaintiffs either would have paid less for their vehicles or would not have purchased or

leased them at all. Plaintiffs did not receive the benefit of their bargain as a result of New GM's misconduct.

2221. New GM's violations present a continuing risk to Plaintiffs as well as to the general public. New GM's unlawful acts and practices complained of herein affect the public interest.

2222. As a direct and proximate result of New GM's violations of the Nevada DTPA, Plaintiffs and the Nevada Class have suffered injury-in-fact and/or actual damage.

2223. Accordingly, Plaintiffs and the Nevada Class seek their actual damages, punitive damages, an order enjoining New GM's deceptive acts or practices, costs of Court, attorney's fees, and all other appropriate and available remedies under the Nevada Deceptive Trade Practices Act. NEV. REV. STAT. § 41.600.

**COUNT II**

**FRAUD BY CONCEALMENT**

2224. Plaintiffs reallege and incorporate by reference all paragraphs as though fully set forth herein.

2225. In the event the Court declines to certify a Nationwide Class under Michigan law, this claim is brought only on behalf of Nationwide Class members who are Nevada residents (the "Nevada Class").

2226. New GM concealed and suppressed material facts concerning the quality of its vehicles and the GM brand.

2227. New GM concealed and suppressed material facts concerning the culture of New GM—a culture characterized by an emphasis on cost-cutting, the studious avoidance of safety issues, and a shoddy design process.

2228. New GM concealed and suppressed material facts concerning the many serious defects plaguing GM-branded vehicles, and that it valued cost-cutting over safety and took steps to ensure that its employees did not reveal known safety defects to regulators or consumers.

2229. New GM did so in order to boost confidence in its vehicles and falsely assure purchasers and lessors of its vehicles that New GM was a reputable manufacturer that stands behind its vehicles after they are sold and that its vehicles are safe and reliable. The false representations were material to consumers, both because they concerned the quality and safety of the Affected Vehicles and because they played a significant role in the value of the vehicles.

2230. New GM had a duty to disclose the many defects in GM-branded vehicles because they were known and/or accessible only to New GM who had superior knowledge and access to the facts, and New GM knew the facts were not known to or reasonably discoverable by Plaintiffs and the Nevada Class. These omitted and concealed facts were material because they directly impact the value of the Affected Vehicles purchased or leased by Plaintiffs and the Nevada Class. Whether a manufacturer's products are safe and reliable, and whether that manufacturer stands behind its products, are material concerns to a consumer.

2231. New GM actively concealed and/or suppressed these material facts, in whole or in part, to protect its profits and avoid recalls that would hurt the brand's image and cost New GM money, and it did so at the expense of Plaintiffs and the Nevada Class.

2232. On information and belief, New GM has still not made full and adequate disclosure and continues to defraud Plaintiffs and the Nevada Class and conceal material information regarding defects that exist in GM-branded vehicles.

2233. Plaintiffs and the Nevada Class were unaware of these omitted material facts and would not have acted as they did if they had known of the concealed and/or suppressed facts.

Plaintiffs' and the Nevada Class's actions were justified. New GM was in exclusive control of the material facts and such facts were not known to the public, Plaintiffs, or the Nevada Class.

2234. Because of the concealment and/or suppression of the facts, Plaintiffs and the Nevada Class sustained damage because they own vehicles that diminished in value as a result of New GM's concealment of, and failure to timely disclose, the serious defects in millions of GM-branded vehicles and the serious safety and quality issues engendered by New GM's corporate policies. Had they been aware of the many defects that existed in GM-branded vehicles, and the company's callous disregard for safety, Plaintiffs either would have paid less for their vehicles or would not have purchased or leased them at all. Plaintiffs did not receive the benefit of their bargain as a result of New GM's fraudulent concealment.

2235. The value of all Nevada Class members' vehicles has diminished as a result of New GM's fraudulent concealment of the many defects and its systemic safety issues which has greatly tarnished the GM brand and made any reasonable consumer reluctant to purchase any of the Affected Vehicles, let alone pay what otherwise would have been fair market value for the vehicles.

2236. Accordingly, New GM is liable to the Nevada Class for their damages in an amount to be proven at trial.

2237. New GM's acts were done maliciously, oppressively, deliberately, with intent to defraud, and in reckless disregard of Plaintiffs' and the Nevada Class's rights and well-being to enrich New GM. New GM's conduct warrants an assessment of punitive damages in an amount sufficient to deter such conduct in the future, which amount is to be determined according to proof.

**COUNT III**

**BREACH OF IMPLIED WARRANTY OF MERCHANTABILITY**

**(NEV. REV. STAT. § 104.2314)**

2238. Plaintiffs reallege and incorporate by reference all paragraphs as though fully set forth herein.

2239. In the event the Court declines to certify a Nationwide Ignition Switch Defect Subclass under the Magnuson-Moss Warranty Act or Michigan law, this claim is brought only on behalf of Nevada residents who are members of the Ignition Switch Defect Subclass (the "Nevada Ignition Switch Defect Subclass").

2240. New GM was a merchant with respect to motor vehicles within the meaning of NEV. REV. STAT. § 104.2104(1).

2241. A warranty that the Defective Ignition Switch Vehicles were in merchantable condition was implied by law in the transactions when Plaintiffs purchased their Defective Ignition Switch Vehicles.

2242. These vehicles, when sold and at all times thereafter, were not merchantable and are not fit for the ordinary purpose for which cars are used. Specifically, the Defective Ignition Switch Vehicles are inherently defective in that there are defects in the ignition switch systems that permit sudden unintended shutdown to occur, with the attendant shut down of power steering and power brakes and the nondeployment of airbags in the event of a collision.

2243. New GM was provided notice of these issues by numerous complaints filed against it, internal investigations, and by numerous individual letters and communications sent by Plaintiffs and the Nevada Ignition Switch Defect Subclass before or within a reasonable amount of time after New GM issued the recall and the allegations of vehicle defects became public.

2244. As a direct and proximate result of New GM's breach of the warranties of merchantability, Plaintiffs and the Nevada Ignition Switch Defect Subclass have been damaged in an amount to be proven at trial.

**NEW HAMPSHIRE**

**COUNT I**

**VIOLATION OF N.H. CONSUMER PROTECTION ACT**

**(N.H. REV. STAT. ANN. § 358-A:1, *et seq*.)**

2245. Plaintiffs reallege and incorporate by reference all paragraphs as though fully set forth herein.

2246. This claim is brought only on behalf of Nationwide Class members who are New Hampshire residents (the "New Hampshire Class").

2247. Plaintiffs, the New Hampshire Class, and New GM are "persons" under the New Hampshire Consumer Protection Act ("New Hampshire CPA"), N.H. REV. STAT. § 358-A:1.

2248. New GM's actions as set forth herein occurred in the conduct of trade or commerce as defined under N.H. REV. STAT. § 358-A:1.

2249. The New Hampshire CPA prohibits a person, in the conduct of any trade or commerce, from using "any unfair or deceptive act or practice," including "but … not limited to, the following: . . . (V) Representing that goods or services have … characteristics, … uses, benefits, or quantities that they do not have;" "(VII) Representing that goods or services are of a particular standard, quality, or grade, … if they are of another;" and "(IX) Advertising goods or services with intent not to sell them as advertised." N.H. REV. STAT. § 358-A:2.

2250. New GM participated in unfair or deceptive acts or practices that violated the New Hampshire CPA as described above and below. By systematically devaluing safety and concealing a plethora of defects in GM-branded vehicles, New GM engaged in deceptive

business practices prohibited by the CPA, including representing that Affected Vehicles have characteristics, uses, benefits, and qualities which they do not have; representing that Affected Vehicles are of a particular standard, quality, and grade when they are not; advertising Affected Vehicles with the intent not to sell or lease them as advertised; representing that the subject of a transaction involving Affected Vehicles has been supplied in accordance with a previous representation when it has not; and engaging in other unconscionable, false, misleading, or deceptive acts or practices in the conduct of trade or commerce.

2251. In the course of its business, New GM systematically devalued safety and concealed a plethora of defects in GM-branded vehicles as described herein and otherwise engaged in activities with a tendency or capacity to deceive. New GM also engaged in unlawful trade practices by employing deception, deceptive acts or practices, fraud, misrepresentations, or concealment, suppression or omission of any material fact with intent that others rely upon such concealment, suppression or omission, in connection with the sale of the Affected Vehicles.

2252. From the date of its inception on July 10, 2009, New GM knew of many serious defects affecting many models and years of GM-branded vehicles, both because of the knowledge of Old GM personnel who remained at New GM and continuous reports, investigations, and notifications from regulatory authorities. New GM became aware of other serious defects and systemic safety issues years ago, but concealed all of that information until recently.

2253. New GM was also aware that it valued cost-cutting over safety, selected parts from the cheapest supplier regardless of quality, and actively discouraged employees from finding and flagging known safety defects, and that this approach would necessarily cause the

existence of more defects in the vehicles it designed and manufactured and the failure to disclose and remedy defects in all GM-branded vehicles. New GM concealed this information as well.

2254. According to one report from the Center for Auto Safety, some 2,004 deaths and injuries are connected with recently recalled GM-branded vehicles, and New GM should have recalled the vehicles years ago.

2255. By failing to disclose and by actively concealing the many defects in GM-branded vehicles, by marketing its vehicles as safe, reliable, and of high quality, and by presenting itself as a reputable manufacturer that valued safety and stood behind its vehicles after they were sold, New GM engaged in unfair and deceptive business practices in violation of the New Hampshire CPA.

2256. In the course of New GM's business, it willfully failed to disclose and actively concealed the dangerous risk posed by the many safety issues and serious defects discussed above. New GM compounded the deception by repeatedly asserting that the Affected Vehicles were safe, reliable, and of high quality, and by claiming to be a reputable manufacturer that valued safety and stood behind its vehicles once they are on the road.

2257. New GM's unfair or deceptive acts or practices were likely to and did in fact deceive reasonable consumers, including Plaintiffs, about the true safety and reliability of GM-branded vehicles, the quality of the GM brand, the devaluing of safety at New GM, and the true value of the Affected Vehicles.

2258. New GM intentionally and knowingly misrepresented material facts regarding the Affected Vehicles with an intent to mislead Plaintiffs and the New Hampshire Class.

2259. New GM knew or should have known that its conduct violated the New Hampshire CPA.

2260. As alleged above, New GM made material statements about the safety and reliability of the Affected Vehicles that were either false or misleading.

2261. New GM owed Plaintiffs a duty to disclose the true safety and reliability of the Affected Vehicles and the devaluing of safety at New GM, because New GM:

a. Possessed exclusive knowledge that it valued cost-cutting over safety, selected parts from the cheapest supplier regardless of quality, and actively discouraged employees from finding and flagging known safety defects, and that this approach would necessarily cause the existence of more defects in the vehicles it designed and manufactured;

b. Intentionally concealed the foregoing from Plaintiffs; and/or

c. Made incomplete representations about the safety and reliability of the Affected Vehicles generally, and the ignition switch in particular, while purposefully withholding material facts from Plaintiffs that contradicted these representations.

2262. Because New GM fraudulently concealed the many defects in GM-branded vehicles, resulting in a raft of negative publicity once the defects finally began to be disclosed, the value of the Affected Vehicles has greatly diminished. In light of the stigma attached to those vehicles by New GM's conduct, they are now worth significantly less than they otherwise would be.

2263. New GM's systemic devaluation of safety and its concealment of a plethora of defects in GM-branded vehicles were material to Plaintiffs and the New Hampshire Class. A vehicle made by a reputable manufacturer of safe vehicles is worth more than an otherwise comparable vehicle made by a disreputable manufacturer of unsafe vehicles that conceals defects rather than promptly remedies them.

2264. Plaintiffs and the New Hampshire Class suffered ascertainable loss caused by New GM's misrepresentations and its failure to disclose material information. Had they been

aware of the many defects that existed in GM-branded vehicles, and the company's callous disregard for safety, Plaintiffs either would have paid less for their vehicles or would not have purchased or leased them at all. Plaintiffs did not receive the benefit of their bargain as a result of New GM's misconduct.

2265. New GM's violations present a continuing risk to Plaintiffs as well as to the general public. New GM's unlawful acts and practices complained of herein affect the public interest.

2266. As a direct and proximate result of New GM's violations of the New Hampshire CPA, Plaintiffs and the New Hampshire Class have suffered injury-in-fact and/or actual damage.

2267. Because New GM's willful conduct caused injury to New Hampshire Class members' property through violations of the New Hampshire CPA, the New Hampshire Class seeks recovery of actual damages or $1,000, whichever is greater, treble damages, costs and reasonable attorneys' fees, an order enjoining New GM's unfair and/or deceptive acts and practices, and any other just and proper relief under N.H. REV. STAT. § 358-A:10.

**COUNT II**

**FRAUD BY CONCEALMENT**

2268. Plaintiffs reallege and incorporate by reference all paragraphs as though fully set forth herein.

2269. In the event the Court declines to certify a Nationwide Class under Michigan law, this claim is brought only on behalf of Nationwide Class members who are New Hampshire residents (the "New Hampshire Class").

2270. New GM concealed and suppressed material facts concerning the quality of its vehicles and the GM brand.

2271. New GM concealed and suppressed material facts concerning the culture of New GM—a culture characterized by an emphasis on cost-cutting, the studious avoidance of safety issues, and a shoddy design process.

2272. New GM concealed and suppressed material facts concerning the many serious defects plaguing GM-branded vehicles, and that it valued cost-cutting over safety and took steps to ensure that its employees did not reveal known safety defects to regulators or consumers.

2273. New GM did so in order to boost confidence in its vehicles and falsely assure purchasers and lessors of its vehicles that New GM was a reputable manufacturer that stands behind its vehicles after they are sold and that its vehicles are safe and reliable. The false representations were material to consumers, both because they concerned the quality and safety of the Affected Vehicles and because they played a significant role in the value of the vehicles.

2274. New GM had a duty to disclose the many defects in GM-branded vehicles because they were known and/or accessible only to New GM who had superior knowledge and access to the facts, and New GM knew the facts were not known to or reasonably discoverable by Plaintiffs and the New Hampshire Class. These omitted and concealed facts were material because they directly impact the value of the Affected Vehicles purchased or leased by Plaintiffs and the New Hampshire Class. Whether a manufacturer's products are safe and reliable, and whether that manufacturer stands behind its products, are material concerns to a consumer.

2275. New GM actively concealed and/or suppressed these material facts, in whole or in part, to protect its profits and avoid recalls that would hurt the brand's image and cost New GM money, and it did so at the expense of Plaintiffs and the New Hampshire Class.

2276. On information and belief, New GM has still not made full and adequate disclosure and continues to defraud Plaintiffs and the New Hampshire Class and conceal material information regarding defects that exist in GM-branded vehicles.

2277. Plaintiffs and the New Hampshire Class were unaware of these omitted material facts and would not have acted as they did if they had known of the concealed and/or suppressed facts. Plaintiffs' and the New Hampshire Class's actions were justified. New GM was in exclusive control of the material facts and such facts were not known to the public, Plaintiffs, or the New Hampshire Class.

2278. Because of the concealment and/or suppression of the facts, Plaintiffs and the New Hampshire Class sustained damage because they own vehicles that diminished in value as a result of New GM's concealment of, and failure to timely disclose, the serious defects in millions of GM-branded vehicles and the serious safety and quality issues engendered by New GM's corporate policies. Had they been aware of the many defects that existed in GM-branded vehicles, and the company's callous disregard for safety, Plaintiffs either would have paid less for their vehicles or would not have purchased or leased them at all. Plaintiffs did not receive the benefit of their bargain as a result of New GM's fraudulent concealment.

2279. The value of all New Hampshire Class members' vehicles has diminished as a result of New GM's fraudulent concealment of the many defects and its systemic safety issues which has greatly tarnished the New GM brand and made any reasonable consumer reluctant to purchase any of the Affected Vehicles, let alone pay what otherwise would have been fair market value for the vehicles.

2280. Accordingly, New GM is liable to the New Hampshire Class for their damages in an amount to be proven at trial.

2281. New GM's acts were done maliciously, oppressively, deliberately, with intent to defraud, and in reckless disregard of Plaintiffs' and the New Hampshire Class's rights and well-being to enrich New GM. New GM's conduct warrants an assessment of punitive damages in an amount sufficient to deter such conduct in the future, which amount is to be determined according to proof.

**COUNT III**

**BREACH OF THE IMPLIED WARRANTY OF MERCHANTABILITY**

**(N.H. REV. STAT. ANN. § 382-A:2-314)**

2282. Plaintiffs reallege and incorporate by reference all paragraphs as though fully set forth herein.

2283. In the event the Court declines to certify a Nationwide Ignition Switch Defect Subclass under the Magnuson-Moss Warranty Act or Michigan law, this claim is brought only on behalf of New Hampshire residents who are members of the Ignition Switch Defect Subclass (the "New Hampshire Ignition Switch Defect Subclass").

2284. New GM was a merchant with respect to motor vehicles within the meaning of N.H. REV. STAT. ANN. § 382-A:2-104(1).

2285. A warranty that the Defective Ignition Switch Vehicles were in merchantable condition was implied by law in the transactions when Plaintiffs purchased their Defective Ignition Switch Vehicles under N.H. REV. STAT. ANN. § 382-A:2-314.

2286. These vehicles, when sold and at all times thereafter, were not merchantable and are not fit for the ordinary purpose for which cars are used. Specifically, the Defective Ignition Switch Vehicles are inherently defective in that there are defects in the ignition switch systems that permit sudden unintended shutdown to occur, with the attendant shut down of power steering and power brakes and the nondeployment of airbags in the event of a collision.

2287. New GM was provided notice of these issues by numerous complaints filed against it, internal investigations, and by numerous individual letters and communications sent by Plaintiffs and the New Hampshire Ignition Switch Defect Subclass before or within a reasonable amount of time after New GM issued the recall and the allegations of vehicle defects became public.

2288. As a direct and proximate result of New GM's breach of the warranties of merchantability, Plaintiffs and the New Hampshire Ignition Switch Defect Subclass have been damaged in an amount to be proven at trial.

**NEW JERSEY**

**COUNT I**

**VIOLATION OF NEW JERSEY CONSUMER FRAUD ACT**

**(N.J. STAT. ANN. § 56:8-1, *et seq.*)**

2289. Plaintiffs reallege and incorporate by reference all paragraphs as though fully set forth herein.

2290. This claim is brought only on behalf of Nationwide Class members who are New Jersey residents (the "New Jersey Class").

2291. Plaintiffs, the New Jersey Class, and New GM are or were "persons" within the meaning of N.J. STAT. ANN. § 56:8-1(d).

2292. New GM engaged in "sales" of "merchandise" within the meaning of N.J. STAT. ANN. § 56:8-1(c), (d).

2293. The New Jersey Consumer Fraud Act ("New Jersey CFA") makes unlawful "[t]he act, use or employment by any person of any unconscionable commercial practice, deception, fraud, false pretense, false promise, misrepresentation, or the knowing concealment, suppression or omission of any material fact with the intent that others rely upon such concealment,

suppression or omission, in connection with the sale or advertisement of any merchandise or real estate, or with the subsequent performance of such person as aforesaid, whether or not any person has in fact been misled, deceived or damaged thereby…" N.J. STAT. ANN. § 56:8-2. New GM engaged in unconscionable or deceptive acts or practices that violated the New Jersey CFA as described above and below, and did so with the intent that Class members rely upon their acts, concealment, suppression or omissions.

2294. In the course of its business, New GM systematically devalued safety and concealed a plethora of defects in GM-branded vehicles as described herein and otherwise engaged in activities with a tendency or capacity to deceive. New GM also engaged in unlawful trade practices by employing deception, deceptive acts or practices, fraud, misrepresentations, or concealment, suppression or omission of any material fact with intent that others rely upon such concealment, suppression or omission, in connection with the sale of the Affected Vehicles.

2295. From the date of its inception on July 10, 2009, New GM knew of many serious defects affecting many models and years of GM-branded vehicles, both because of the knowledge of Old GM personnel who remained at New GM and continuous reports, investigations, and notifications from regulatory authorities. New GM became aware of other serious defects and systemic safety issues years ago, but concealed all of that information until recently.

2296. New GM was also aware that it valued cost-cutting over safety, selected parts from the cheapest supplier regardless of quality, and actively discouraged employees from finding and flagging known safety defects, and that this approach would necessarily cause the existence of more defects in the vehicles it designed and manufactured and the failure to disclose and remedy defects in all GM-branded vehicles. New GM concealed this information as well.

2297. According to one report from the Center for Auto Safety, some 2,004 deaths and injuries are connected with recently recalled GM-branded vehicles, and New GM should have recalled the vehicles years ago.

2298. By failing to disclose and by actively concealing the many defects in GM-branded vehicles, by marketing its vehicles as safe, reliable, and of high quality, and by presenting itself as a reputable manufacturer that valued safety and stood behind its vehicles after they were sold, New GM engaged in deceptive business practices in violation of the New Jersey CFA.

2299. In the course of New GM's business, it willfully failed to disclose and actively concealed the dangerous risk posed by the many safety issues and serious defects discussed above. New GM compounded the deception by repeatedly asserting that the Affected Vehicles were safe, reliable, and of high quality, and by claiming to be a reputable manufacturer that valued safety and stood behind its vehicles once they are on the road.

2300. New GM's unfair or deceptive acts or practices were likely to and did in fact deceive reasonable consumers, including Plaintiffs, about the true safety and reliability of GM-branded vehicles, the quality of the GM brand, the devaluing of safety at New GM, and the true value of the Affected Vehicles.

2301. New GM intentionally and knowingly misrepresented material facts regarding the Affected Vehicles with an intent to mislead Plaintiffs and the New Jersey Class.

2302. New GM knew or should have known that its conduct violated the New Jersey CFA.

2303. As alleged above, New GM made material statements about the safety and reliability of the Affected Vehicles that were either false or misleading.

2304. New GM owed Plaintiffs a duty to disclose the true safety and reliability of the Affected Vehicles and the devaluing of safety at New GM, because New GM:

a. Possessed exclusive knowledge that it valued cost-cutting over safety, selected parts from the cheapest supplier regardless of quality, and actively discouraged employees from finding and flagging known safety defects, and that this approach would necessarily cause the existence of more defects in the vehicles it designed and manufactured;

b. Intentionally concealed the foregoing from Plaintiffs; and/or

c. Made incomplete representations about the safety and reliability of the Affected Vehicles generally, and the ignition switch in particular, while purposefully withholding material facts from Plaintiffs that contradicted these representations.

2305. Because New GM fraudulently concealed the many defects in GM-branded vehicles, resulting in a raft of negative publicity once the defects finally began to be disclosed, the value of the Affected Vehicles has greatly diminished. In light of the stigma attached to those vehicles by New GM's conduct, they are now worth significantly less than they otherwise would be.

2306. New GM's systemic devaluation of safety and its concealment of a plethora of defects in GM-branded vehicles were material to Plaintiffs and the New Jersey Class. A vehicle made by a reputable manufacturer of safe vehicles is worth more than an otherwise comparable vehicle made by a disreputable manufacturer of unsafe vehicles that conceals defects rather than promptly remedies them.

2307. Plaintiffs and the New Jersey Class suffered ascertainable loss caused by New GM's misrepresentations and its failure to disclose material information. Had they been aware of the many defects that existed in GM-branded vehicles, and the company's callous disregard for safety, Plaintiffs either would have paid less for their vehicles or would not have

purchased or leased them at all. Plaintiffs did not receive the benefit of their bargain as a result of New GM's misconduct.

2308. New GM's violations present a continuing risk to Plaintiffs as well as to the general public. New GM's unlawful acts and practices complained of herein affect the public interest.

2309. As a direct and proximate result of New GM's violations of the New Jersey CFA, Plaintiffs and the New Jersey Class have suffered injury-in-fact and/or actual damage.

2310. Plaintiffs and the New Jersey Class are entitled to recover legal and/or equitable relief including an order enjoining New GM's unlawful conduct, treble damages, costs and reasonable attorneys' fees pursuant to N.J. STAT. ANN. § 56:8-19, and any other just and appropriate relief.

**COUNT II**

**FRAUD BY CONCEALMENT**

2311. Plaintiffs reallege and incorporate by reference all paragraphs as though fully set forth herein.

2312. In the event the Court declines to certify a Nationwide Class under Michigan law, this claim is brought only on behalf of Nationwide Class members who are New Jersey residents (the "New Jersey Class").

2313. New GM concealed and suppressed material facts concerning the quality of its vehicles and the GM brand.

2314. New GM concealed and suppressed material facts concerning the culture of New GM—a culture characterized by an emphasis on cost-cutting, the studious avoidance of safety issues, and a shoddy design process.

2315. New GM concealed and suppressed material facts concerning the many serious defects plaguing GM-branded vehicles, and that it valued cost-cutting over safety and took steps to ensure that its employees did not reveal known safety defects to regulators or consumers.

2316. New GM did so in order to boost confidence in its vehicles and falsely assure purchasers and lessors of its vehicles that New GM was a reputable manufacturer that stands behind its vehicles after they are sold and that its vehicles are safe and reliable. The false representations were material to consumers, both because they concerned the quality and safety of the Affected Vehicles and because they played a significant role in the value of the vehicles.

2317. New GM had a duty to disclose the many defects in GM-branded vehicles because they were known and/or accessible only to New GM who had superior knowledge and access to the facts, and New GM knew the facts were not known to or reasonably discoverable by Plaintiffs and the New Jersey Class. These omitted and concealed facts were material because they directly impact the value of the Affected Vehicles purchased or leased by Plaintiffs and the New Jersey Class. Whether a manufacturer's products are safe and reliable, and whether that manufacturer stands behind its products, are material concerns to a consumer.

2318. New GM actively concealed and/or suppressed these material facts, in whole or in part, to protect its profits and avoid recalls that would hurt the brand's image and cost New GM money, and it did so at the expense of Plaintiffs and the New Jersey Class.

2319. On information and belief, New GM has still not made full and adequate disclosure and continues to defraud Plaintiffs and the New Jersey Class and conceal material information regarding defects that exist in GM-branded vehicles.

2320. Plaintiffs and the New Jersey Class were unaware of these omitted material facts and would not have acted as they did if they had known of the concealed and/or suppressed facts.

Plaintiffs' and the New Jersey Class's actions were justified. New GM was in exclusive control of the material facts and such facts were not known to the public, Plaintiffs, or the New Jersey Class.

2321. Because of the concealment and/or suppression of the facts, Plaintiffs and the New Jersey Class sustained damage because they own vehicles that diminished in value as a result of New GM's concealment of, and failure to timely disclose, the serious defects in millions of GM-branded vehicles and the serious safety and quality issues engendered by New GM's corporate policies. Had they been aware of the many defects that existed in GM-branded vehicles, and the company's callous disregard for safety, Plaintiffs either would have paid less for their vehicles or would not have purchased or leased them at all. Plaintiffs did not receive the benefit of their bargain as a result of New GM's fraudulent concealment.

2322. The value of all New Jersey Class members' vehicles has diminished as a result of New GM's fraudulent concealment of the many defects and its systemic safety issues which has greatly tarnished the GM brand and made any reasonable consumer reluctant to purchase any of the Affected Vehicles, let alone pay what otherwise would have been fair market value for the vehicles.

2323. Accordingly, New GM is liable to the New Jersey Class for their damages in an amount to be proven at trial.

2324. New GM's acts were done maliciously, oppressively, deliberately, with intent to defraud, and in reckless disregard of Plaintiffs' and the New Jersey Class's rights and well-being to enrich New GM. New GM's conduct warrants an assessment of punitive damages in an amount sufficient to deter such conduct in the future, which amount is to be determined according to proof.

**COUNT III**

**BREACH OF IMPLIED WARRANTY OF MERCHANTABILITY**

**(N.J. STAT. ANN. § 12A:2-314)**

2325. Plaintiffs reallege and incorporate by reference all paragraphs as though fully set forth herein.

2326. In the event the Court declines to certify a Nationwide Ignition Switch Defect Subclass under the Magnuson-Moss Warranty Act or Michigan law, this claim is brought only on behalf of New Jersey residents who are members of the Ignition Switch Defect Subclass (the "New Jersey Ignition Switch Defect Subclass").

2327. New GM was a merchant with respect to motor vehicles within the meaning of N.J. STAT. ANN. § 12A:2-104(1).

2328. A warranty that the Defective Ignition Switch Vehicles were in merchantable condition was implied by law in the transactions when Plaintiffs purchased their Defective Ignition Switch Vehicles under N.J. STAT. ANN. § 12A:2-104(1).

2329. These vehicles, when sold and at all times thereafter, were not merchantable and are not fit for the ordinary purpose for which cars are used. Specifically, the Defective Ignition Switch Vehicles are inherently defective in that there are defects in the ignition switch systems that permit sudden unintended shutdown to occur, with the attendant shut down of power steering and power brakes and the nondeployment of airbags in the event of a collision.

2330. New GM was provided notice of these issues by numerous complaints filed against it, internal investigations, and by numerous individual letters and communications sent by Plaintiffs and the New Jersey Ignition Switch Defect Subclass before or within a reasonable amount of time after New GM issued the recall and the allegations of vehicle defects became public.

2331. As a direct and proximate result of New GM's breach of the warranties of merchantability, Plaintiffs and the New Jersey Ignition Switch Defect Subclass have been damaged in an amount to be proven at trial.

**NEW MEXICO**

**COUNT I**

**VIOLATIONS OF THE NEW MEXICO UNFAIR TRADE PRACTICES ACT**

**(N.M. STAT. ANN. §§ 57-12-1, *et seq.*)**

2332. Plaintiffs reallege and incorporate by reference all paragraphs as though fully set forth herein.

2333. This claim is brought only on behalf of Nationwide Class members who are New Mexico residents (the "New Mexico Class").

2334. New GM, Plaintiffs and New Mexico Class members are or were "person[s]" under the New Mexico Unfair Trade Practices Act ("New Mexico UTPA"), N.M. STAT. ANN. § 57-12-2.

2335. New GM's actions as set forth herein occurred in the conduct of trade or commerce as defined under N.M. STAT. ANN. § 57-12-2.

2336. The New Mexico UTPA makes unlawful "a false or misleading oral or written statement, visual description or other representation of any kind knowingly made in connection with the sale, lease, rental or loan of goods or services … by a person in the regular course of the person's trade or commerce, that may, tends to or does deceive or mislead any person," including but not limited to "failing to state a material fact if doing so deceives or tends to deceive." N.M. STAT. ANN. § 57-12-2(D). New GM's acts and omissions described herein constitute unfair or deceptive acts or practices under N.M. STAT. ANN. § 57-12-2(D). In addition, New GM's actions constitute unconscionable actions under N.M. STAT. ANN. § 57-12-2(E), since they took

advantage of the lack of knowledge, ability, experience, and capacity of the New Mexico Class members to a grossly unfair degree.

2337. In the course of its business, New GM systematically devalued safety and concealed a plethora of defects in GM-branded vehicles as described herein and otherwise engaged in activities with a tendency or capacity to deceive. New GM also engaged in unlawful trade practices by employing deception, deceptive acts or practices, fraud, misrepresentations, or concealment, suppression or omission of any material fact with intent that others rely upon such concealment, suppression or omission, in connection with the sale of the Affected Vehicles.

2338. From the date of its inception on July 10, 2009, New GM knew of many serious defects affecting many models and years of GM-branded vehicles, both because of the knowledge of Old GM personnel who remained at New GM and continuous reports, investigations, and notifications from regulatory authorities. New GM became aware of other serious defects and systemic safety issues years ago, but concealed all of that information until recently.

2339. New GM was also aware that it valued cost-cutting over safety, selected parts from the cheapest supplier regardless of quality, and actively discouraged employees from finding and flagging known safety defects, and that this approach would necessarily cause the existence of more defects in the vehicles it designed and manufactured and the failure to disclose and remedy defects in all GM-branded vehicles. New GM concealed this information as well.

2340. According to one report from the Center for Auto Safety, some 2,004 deaths and injuries are connected with recently recalled GM-branded vehicles, and New GM should have recalled the vehicles years ago.

2341. By failing to disclose and by actively concealing the many defects in GM-branded vehicles, by marketing its vehicles as safe, reliable, and of high quality, and by presenting itself as a reputable manufacturer that valued safety and stood behind its vehicles after they were sold, New GM engaged in deceptive business practices in violation of the New Mexico UTPA.

2342. In the course of New GM's business, it willfully failed to disclose and actively concealed the dangerous risk posed by the many safety issues and serious defects discussed above. New GM compounded the deception by repeatedly asserting that the Affected Vehicles were safe, reliable, and of high quality, and by claiming to be a reputable manufacturer that valued safety and stood behind its vehicles once they are on the road.

2343. New GM's unfair or deceptive acts or practices were likely to and did in fact deceive reasonable consumers, including Plaintiffs, about the true safety and reliability of GM-branded vehicles, the quality of the New GM brand, the devaluing of safety at New GM, and the true value of the Affected Vehicles.

2344. New GM intentionally and knowingly misrepresented material facts regarding the Affected Vehicles with an intent to mislead Plaintiffs and the New Mexico Class.

2345. New GM knew or should have known that its conduct violated the New Mexico UTPA.

2346. As alleged above, New GM made material statements about the safety and reliability of the Affected Vehicles that were either false or misleading.

2347. New GM owed Plaintiffs a duty to disclose the true safety and reliability of the Affected Vehicles and the devaluing of safety at New GM, because New GM:

a. Possessed exclusive knowledge that it valued cost-cutting over safety, selected parts from the cheapest supplier regardless of quality, and actively discouraged employees from finding and flagging known safety defects, and that

this approach would necessarily cause the existence of more defects in the vehicles it designed and manufactured;

b. Intentionally concealed the foregoing from Plaintiffs; and/or

c. Made incomplete representations about the safety and reliability of the Affected Vehicles generally, and the ignition switch in particular, while purposefully withholding material facts from Plaintiffs that contradicted these representations.

2348. Because New GM fraudulently concealed the many defects in GM-branded vehicles, resulting in a raft of negative publicity once the defects finally began to be disclosed, the value of the Affected Vehicles has greatly diminished. In light of the stigma attached to those vehicles by New GM's conduct, they are now worth significantly less than they otherwise would be.

2349. New GM's systemic devaluation of safety and its concealment of a plethora of defects in GM-branded vehicles were material to Plaintiffs and the New Mexico Class. A vehicle made by a reputable manufacturer of safe vehicles is worth more than an otherwise comparable vehicle made by a disreputable manufacturer of unsafe vehicles that conceals defects rather than promptly remedies them.

2350. Plaintiffs and the New Mexico Class suffered ascertainable loss caused by New GM's misrepresentations and its failure to disclose material information. Had they been aware of the many defects that existed in GM-branded vehicles, and the company's callous disregard for safety, Plaintiffs either would have paid less for their vehicles or would not have purchased or leased them at all. Plaintiffs did not receive the benefit of their bargain as a result of New GM's misconduct.

2351. New GM's violations present a continuing risk to Plaintiffs as well as to the general public. New GM's unlawful acts and practices complained of herein affect the public interest.

2352. As a direct and proximate result of New GM's violations of the New Mexico UTPA, Plaintiffs and the New Mexico Class have suffered injury-in-fact and/or actual damage.

2353. New Mexico Class members seek punitive damages against New GM because New GM's conduct was malicious, willful, reckless, wanton, fraudulent and in bad faith. New GM fraudulently and willfully misrepresented the safety and reliability of GM-branded vehicles, deceived New Mexico Class members on life-or-death matters, and concealed material facts that only they knew, all to avoid the expense and public relations nightmare of correcting the myriad flaws in the GM-branded vehicles that New GM repeatedly promised New Mexico Class members were safe. Because New GM's conduct was malicious, willful, reckless, wanton, fraudulent and in bad faith, it warrants punitive damages.

2354. Because New GM's unconscionable, willful conduct caused actual harm to New Mexico Class members, the New Mexico Class seeks recovery of actual damages or $100, whichever is greater, discretionary treble damages, punitive damages, and reasonable attorneys' fees and costs, as well as all other proper and just relief available under N.M. STAT. ANN. § 57-12-10.

**COUNT II**

**FRAUD BY CONCEALMENT**

2355. Plaintiffs reallege and incorporate by reference all paragraphs as though fully set forth herein.

2356. In the event the Court declines to certify a Nationwide Class under Michigan law, this claim is brought only on behalf of Nationwide Class members who are New Mexico residents (the "New Mexico Class").

2357. New GM concealed and suppressed material facts concerning the quality of its vehicles and the GM brand.

2358. New GM concealed and suppressed material facts concerning the culture of New GM—a culture characterized by an emphasis on cost-cutting, the studious avoidance of safety issues, and a shoddy design process.

2359. New GM concealed and suppressed material facts concerning the many serious defects plaguing GM-branded vehicles, and that it valued cost-cutting over safety and took steps to ensure that its employees did not reveal known safety defects to regulators or consumers.

2360. New GM did so in order to boost confidence in its vehicles and falsely assure purchasers and lessors of its vehicles that New GM was a reputable manufacturer that stands behind its vehicles after they are sold and that its vehicles are safe and reliable. The false representations were material to consumers, both because they concerned the quality and safety of the Affected Vehicles and because they played a significant role in the value of the vehicles.

2361. New GM had a duty to disclose the many defects in GM-branded vehicles because they were known and/or accessible only to New GM who had superior knowledge and access to the facts, and New GM knew the facts were not known to or reasonably discoverable by Plaintiffs and the New Mexico Class. These omitted and concealed facts were material because they directly impact the value of the Affected Vehicles purchased or leased by Plaintiffs and the New Mexico Class. Whether a manufacturer's products are safe and reliable, and whether that manufacturer stands behind its products, are material concerns to a consumer.

2362. New GM actively concealed and/or suppressed these material facts, in whole or in part, to protect its profits and avoid recalls that would hurt the brand's image and cost New GM money, and it did so at the expense of Plaintiffs and the New Mexico Class.

2363. On information and belief, New GM has still not made full and adequate disclosure and continues to defraud Plaintiffs and the New Mexico Class and conceal material information regarding defects that exist in GM-branded vehicles.

2364. Plaintiffs and the New Mexico Class were unaware of these omitted material facts and would not have acted as they did if they had known of the concealed and/or suppressed facts. Plaintiffs' and the New Mexico Class's actions were justified. New GM was in exclusive control of the material facts and such facts were not known to the public, Plaintiffs, or the New Mexico Class.

2365. Because of the concealment and/or suppression of the facts, Plaintiffs and the New Mexico Class sustained damage because they own vehicles that diminished in value as a result of New GM's concealment of, and failure to timely disclose, the serious defects in millions of GM-branded vehicles and the serious safety and quality issues engendered by New GM's corporate policies. Had they been aware of the many defects that existed in GM-branded vehicles, and the company's callous disregard for safety, Plaintiffs either would have paid less for their vehicles or would not have purchased or leased them at all. Plaintiffs did not receive the benefit of their bargain as a result of New GM's fraudulent concealment.

2366. The value of all New Mexico Class members' vehicles has diminished as a result of New GM's fraudulent concealment of the many defects and its systemic safety issues which has greatly tarnished the New GM brand and made any reasonable consumer reluctant to

purchase any of the Affected Vehicles, let alone pay what otherwise would have been fair market value for the vehicles.

2367. Accordingly, New GM is liable to the New Mexico Class for their damages in an amount to be proven at trial.

2368. New GM's acts were done maliciously, oppressively, deliberately, with intent to defraud, and in reckless disregard of Plaintiffs' and the New Mexico Class's rights and well-being to enrich New GM. New GM's conduct warrants an assessment of punitive damages in an amount sufficient to deter such conduct in the future, which amount is to be determined according to proof.

**COUNT III**

**BREACH OF IMPLIED WARRANTY OF MERCHANTABILITY**

**(N.M. STAT. ANN. § 55-2-314)**

2369. Plaintiffs reallege and incorporate by reference all paragraphs as though fully set forth herein.

2370. In the event the Court declines to certify a Nationwide Ignition Switch Defect Subclass under the Magnuson-Moss Warranty Act or Michigan law, this claim is brought only on behalf of New Mexico residents who are members of the Ignition Switch Defect Subclass (the "New Mexico Ignition Switch Defect Subclass").

2371. New GM was a merchant with respect to motor vehicles within the meaning of N.M. STAT. ANN. § 55-2-104(1).

2372. A warranty that the Defective Ignition Switch Vehicles were in merchantable condition was implied by law in the transactions when Plaintiffs purchased their Defective Ignition Switch Vehicles under N.M. STAT. ANN. § 55-2-314.

2373. These vehicles, when sold and at all times thereafter, were not merchantable and are not fit for the ordinary purpose for which cars are used. Specifically, the Defective Ignition Switch Vehicles are inherently defective in that there are defects in the ignition switch systems that permit sudden unintended shutdown to occur, with the attendant shut down of power steering and power brakes and the nondeployment of airbags in the event of a collision.

2374. New GM was provided notice of these issues by numerous complaints filed against it, internal investigations, and by numerous individual letters and communications sent by Plaintiffs and the New Mexico Ignition Switch Defect Subclass before or within a reasonable amount of time after New GM issued the recall and the allegations of vehicle defects became public.

2375. As a direct and proximate result of New GM's breach of the warranties of merchantability, Plaintiffs and the New Mexico Ignition Switch Defect Subclass have been damaged in an amount to be proven at trial.

**NEW YORK**

**COUNT I**

**DECEPTIVE ACTS OR PRACTICES**

**(N.Y. GEN. BUS. LAW § 349 and 350)**

2376. Plaintiffs reallege and incorporate by reference all paragraphs as though fully set forth herein.

2377. This claim is brought only on behalf of Class members who are New York residents (the "New York Class").

2378. Plaintiffs and New York Class members are "persons" within the meaning of New York General Business Law ("New York GBL"), N.Y. GEN. BUS. LAW § 349(h).

2379. New GM is a "person," "firm," "corporation," or "association" within the meaning of N.Y. GEN. BUS. LAW § 349.

2380. The New York GBL makes unlawful "[d]eceptive acts or practices in the conduct of any business, trade or commerce." N.Y. GEN. BUS. LAW § 349. New GM's conduct, as described above and below, constitutes "deceptive acts or practices" within the meaning of the New York GBL. Furthermore, New GM's deceptive acts and practices, which were intended to mislead consumers who were in the process of purchasing and/or leasing the Affected Vehicles, was conduct directed at consumers.

2381. New GM's actions as set forth above occurred in the conduct of trade or commerce.

2382. In the course of its business, New GM systematically devalued safety and concealed a plethora of defects in GM-branded vehicles as described herein and otherwise engaged in activities with a tendency or capacity to deceive. New GM also engaged in unlawful trade practices by employing deception, deceptive acts or practices, fraud, misrepresentations, or concealment, suppression or omission of any material fact with intent that others rely upon such concealment, suppression or omission, in connection with the sale of the Affected Vehicles.

2383. From the date of its inception on July 10, 2009, New GM knew of many serious defects affecting many models and years of GM-branded vehicles, both because of the knowledge of Old GM personnel who remained at New GM and continuous reports, investigations, and notifications from regulatory authorities. New GM became aware of other serious defects and systemic safety issues years ago, but concealed all of that information until recently.

2384. New GM was also aware that it valued cost-cutting over safety, selected parts from the cheapest supplier regardless of quality, and actively discouraged employees from finding and flagging known safety defects, and that this approach would necessarily cause the existence of more defects in the vehicles it designed and manufactured and the failure to disclose and remedy defects in all GM-branded vehicles. New GM concealed this information as well.

2385. According to one report from the Center for Auto Safety, some 2,004 deaths and injuries are connected with recently recalled GM-branded vehicles, and New GM should have recalled the vehicles years ago.

2386. By failing to disclose and by actively concealing the many defects in GM-branded vehicles, by marketing its vehicles as safe, reliable, and of high quality, and by presenting itself as a reputable manufacturer that valued safety and stood behind its vehicles after they were sold, New GM engaged in deceptive business practices in violation of the New York GBL.

2387. In the course of New GM's business, it willfully failed to disclose and actively concealed the dangerous risk posed by the many safety issues and serious defects discussed above. New GM compounded the deception by repeatedly asserting that the Affected Vehicles were safe, reliable, and of high quality, and by claiming to be a reputable manufacturer that valued safety and stood behind its vehicles once they are on the road.

2388. New GM's unfair or deceptive acts or practices were likely to and did in fact deceive reasonable consumers, including Plaintiffs, about the true safety and reliability of GM-branded vehicles, the quality of the New GM brand, the devaluing of safety at New GM, and the true value of the Affected Vehicles.

2389. New GM intentionally and knowingly misrepresented material facts regarding the Affected Vehicles with an intent to mislead Plaintiffs and the New York Class.

2390. New GM knew or should have known that its conduct violated the New York GBL.

2391. As alleged above, New GM made material statements about the safety and reliability of the Affected Vehicles that were either false or misleading.

2392. New GM owed Plaintiffs a duty to disclose the true safety and reliability of the Affected Vehicles and the devaluing of safety at New GM, because New GM:

a. Possessed exclusive knowledge that it valued cost-cutting over safety, selected parts from the cheapest supplier regardless of quality, and actively discouraged employees from finding and flagging known safety defects, and that this approach would necessarily cause the existence of more defects in the vehicles it designed and manufactured;

b. Intentionally concealed the foregoing from Plaintiffs; and/or

c. Made incomplete representations about the safety and reliability of the Affected Vehicles generally, and the ignition switch in particular, while purposefully withholding material facts from Plaintiffs that contradicted these representations.

2393. Because New GM fraudulently concealed the many defects in GM-branded vehicles, resulting in a raft of negative publicity once the defects finally began to be disclosed, the value of the Affected Vehicles has greatly diminished. In light of the stigma attached to those vehicles by New GM's conduct, they are now worth significantly less than they otherwise would be.

2394. New GM's systemic devaluation of safety and its concealment of a plethora of defects in GM-branded vehicles were material to Plaintiffs and the New York Class. A vehicle made by a reputable manufacturer of safe vehicles is worth more than an otherwise comparable vehicle made by a disreputable manufacturer of unsafe vehicles that conceals defects rather than promptly remedies them.

2395. Plaintiffs and the New York Class suffered ascertainable loss caused by New GM's misrepresentations and its failure to disclose material information. Had they been aware of the many defects that existed in GM-branded vehicles, and the company's callous disregard for safety, Plaintiffs either would have paid less for their vehicles or would not have purchased or leased them at all. Plaintiffs did not receive the benefit of their bargain as a result of New GM's misconduct.

2396. New GM's violations present a continuing risk to Plaintiffs as well as to the general public. New GM's unlawful acts and practices complained of herein affect the public interest.

2397. As a direct and proximate result of New GM's violations of the New York GBL, Plaintiffs and the New York Class have suffered injury-in-fact and/or actual damage.

2398. New York Class members seek punitive damages against New GM because New GM's conduct was egregious. New GM misrepresented the safety and reliability of millions of GM-branded vehicles, concealed myriad defects in millions of GM-branded vehicles and the systemic safety issues plaguing the company, deceived Class members on life-or-death matters, and concealed material facts that only they knew, all to avoid the expense and public relations nightmare of correcting the serious flaw in its culture and in millions of GM-branded vehicles. New GM's egregious conduct warrants punitive damages.

2399. Because New GM's willful and knowing conduct caused injury to Class members, the New York Class seeks recovery of actual damages or $50, whichever is greater, discretionary treble damages up to $1,000, punitive damages, reasonable attorneys' fees and costs, an order enjoining New GM's deceptive conduct, and any other just and proper relief available under N.Y. GEN. BUS. LAW § 349.

**COUNT II**

**FRAUD BY CONCEALMENT**

2400. Plaintiffs reallege and incorporate by reference all paragraphs as though fully set forth herein.

2401. In the event the Court declines to certify a Nationwide Class under Michigan law, this claim is brought only on behalf of Class members who are New York residents (the "New York Class").

2402. New GM concealed and suppressed material facts concerning the quality of its vehicles and the GM brand.

2403. New GM concealed and suppressed material facts concerning the culture of New GM—a culture characterized by an emphasis on cost-cutting, the studious avoidance of safety issues, and a shoddy design process.

2404. New GM concealed and suppressed material facts concerning the many serious defects plaguing GM-branded vehicles, and that it valued cost-cutting over safety and took steps to ensure that its employees did not reveal known safety defects to regulators or consumers.

2405. New GM did so in order to boost confidence in its vehicles and falsely assure purchasers and lessors of its vehicles that New GM was a reputable manufacturer that stands behind its vehicles after they are sold and that its vehicles are safe and reliable. The false representations were material to consumers, both because they concerned the quality and safety of the Affected Vehicles and because they played a significant role in the value of the vehicles.

2406. New GM had a duty to disclose the many defects in GM-branded vehicles because they were known and/or accessible only to New GM who had superior knowledge and access to the facts, and New GM knew the facts were not known to or reasonably discoverable by Plaintiffs and the New York Class. These omitted and concealed facts were material because

they directly impact the value of the Affected Vehicles purchased or leased by Plaintiffs and the New York Class. Whether a manufacturer's products are safe and reliable, and whether that manufacturer stands behind its products, are material concerns to a consumer.

2407. New GM actively concealed and/or suppressed these material facts, in whole or in part, to protect its profits and avoid recalls that would hurt the brand's image and cost New GM money, and it did so at the expense of Plaintiffs and the New York Class.

2408. On information and belief, New GM has still not made full and adequate disclosure and continues to defraud Plaintiffs and the New York Class and conceal material information regarding defects that exist in GM-branded vehicles.

2409. Plaintiffs and the New York Class were unaware of these omitted material facts and would not have acted as they did if they had known of the concealed and/or suppressed facts. Plaintiffs' and the New York Class's actions were justified. New GM was in exclusive control of the material facts and such facts were not known to the public, Plaintiffs, or the New York Class.

2410. Because of the concealment and/or suppression of the facts, Plaintiffs and the New York Class sustained damage because they own vehicles that diminished in value as a result of New GM's concealment of, and failure to timely disclose, the serious defects in millions of GM-branded vehicles and the serious safety and quality issues engendered by New GM's corporate policies. Had they been aware of the many defects that existed in GM-branded vehicles, and the company's callous disregard for safety, Plaintiffs either would have paid less for their vehicles or would not have purchased or leased them at all. Plaintiffs did not receive the benefit of their bargain as a result of New GM's fraudulent concealment.

2411. The value of all New York Class members' vehicles has diminished as a result of New GM's fraudulent concealment of the many defects and its systemic safety issues which has greatly tarnished the GM brand and made any reasonable consumer reluctant to purchase any of the Affected Vehicles, let alone pay what otherwise would have been fair market value for the vehicles.

2412. Accordingly, New GM is liable to the New York Class for their damages in an amount to be proven at trial.

2413. New GM's acts were done maliciously, oppressively, deliberately, with intent to defraud, and in reckless disregard of Plaintiffs' and the New York Class's rights and well-being to enrich New GM. New GM's conduct warrants an assessment of punitive damages in an amount sufficient to deter such conduct in the future, which amount is to be determined according to proof.

**COUNT III**

**BREACH OF IMPLIED WARRANTY OF MERCHANTABILITY**

**(N.Y. U.C.C. § 2-314)**

2414. Plaintiffs reallege and incorporate by reference all paragraphs as though fully set forth herein.

2415. In the event the Court declines to certify a Nationwide Ignition Switch Defect Subclass under the Magnuson-Moss Warranty Act or Michigan law, this claim is brought only on behalf of New York residents who are members of the Ignition Switch Defect Subclass (the "New York Ignition Switch Defect Subclass").

2416. New GM was a merchant with respect to motor vehicles within the meaning of N.Y. U.C.C. § 2-104(1).

2417. A warranty that the Defective Ignition Switch Vehicles were in merchantable condition was implied by law in the transactions when Plaintiffs purchased their Defective Ignition Switch Vehicles under N.Y. U.C.C. § 2-314.

2418. These vehicles, when sold and at all times thereafter, were not merchantable and are not fit for the ordinary purpose for which cars are used. Specifically, the Defective Ignition Switch Vehicles are inherently defective in that there are defects in the ignition switch systems that permit sudden unintended shutdown to occur, with the attendant shut down of power steering and power brakes and the nondeployment of airbags in the event of a collision.

2419. New GM was provided notice of these issues by numerous complaints filed against it, internal investigations, and by numerous individual letters and communications sent by Plaintiffs and the New York Ignition Switch Defect Subclass before or within a reasonable amount of time after New GM issued the recall and the allegations of vehicle defects became public.

2420. As a direct and proximate result of New GM's breach of the warranties of merchantability, Plaintiffs and the New York Ignition Switch Defect Subclass have been damaged in an amount to be proven at trial.

**COUNT IV**

**VIOLATION OF NEW YORK'S FALSE ADVERTISING ACT**

**(N.Y. GEN. BUS. LAW § 350)**

2421. Plaintiffs reallege and incorporate by reference all paragraphs as though fully set forth herein.

2422. This claim is brought only on behalf of Class members who are New York residents (the "New York Class").

2423. New GM was and is engaged in the "conduct of business, trade or commerce" within the meaning of N.Y. GEN. BUS. LAW § 350.

2424. N.Y. GEN. BUS. LAW § 350 makes unlawful "[f]alse advertising in the conduct of any business, trade or commerce." False advertising includes "advertising, including labeling, of a commodity . . . if such advertising is misleading in a material respect," taking into account "the extent to which the advertising fails to reveal facts material in light of … representations [made] with respect to the commodity …." N.Y. GEN. BUS. LAW § 350-a.

2425. New GM caused to be made or disseminated through New York, through advertising, marketing and other publications, statements that were untrue or misleading, and that were known, or which by the exercise of reasonable care should have been known to New GM, to be untrue and misleading to consumers and the New York Class.

2426. New GM has violated § 350 because the misrepresentations and omissions regarding the defects, and New GM's systemic devaluation of safety, as set forth above, were material and likely to deceive a reasonable consumer.

2427. New York Class members have suffered an injury, including the loss of money or property, as a result of New GM's false advertising. In purchasing or leasing their vehicles, New York Plaintiffs and the New York Class relied on the misrepresentations and/or omissions of New GM with respect to the safety and reliability of the Affected Vehicles. New GM's representations were false and/or misleading because the concealed defects and safety issues seriously undermine the value of the Affected Vehicles. Had Plaintiffs and the New York Class known this, they would not have purchased or leased their Affected Vehicles and/or paid as much for them.

2428. Pursuant to N.Y. GEN. BUS. LAW § 350 e, the New York Class seeks monetary relief against New GM measured as the greater of (a) actual damages in an amount to be determined at trial and (b) statutory damages in the amount of $500 each for New York Class member. Because New GM's conduct was committed willfully and knowingly, New York members are entitled to recover three times actual damages, up to $10,000, for each New York Class member.

2429. The New York Class also seeks an order enjoining New GM's unfair, unlawful, and/or deceptive practices, attorneys' fees, and any other just and proper relief available under General Business Law §§ 349–350.

**NORTH CAROLINA**

**COUNT I**

**VIOLATION OF NORTH CAROLINA'S UNFAIR AND DECEPTIVE ACTS AND PRACTICES ACT**

**(N.C. GEN. STAT. § 75-1.1, *et seq.*)**

2430. Plaintiffs reallege and incorporate by reference all paragraphs as though fully set forth herein.

2431. This claim is brought only on behalf of Nationwide Class members who are North Carolina residents (the "North Carolina Class").

2432. New GM engaged in "commerce" within the meaning of N.C. GEN. STAT. § 75-1.1(b).

2433. The North Carolina Act broadly prohibits "unfair or deceptive acts or practices in or affecting commerce." N.C. GEN. STAT. § 75-1.1(a). As alleged above and below, New GM willfully committed unfair or deceptive acts or practices in violation of the North Carolina Act.

2434. In the course of its business, New GM systematically devalued safety and concealed a plethora of defects in GM-branded vehicles as described herein and otherwise engaged in activities with a tendency or capacity to deceive. New GM also engaged in unlawful trade practices by employing deception, deceptive acts or practices, fraud, misrepresentations, or concealment, suppression or omission of any material fact with intent that others rely upon such concealment, suppression or omission, in connection with the sale of the Affected Vehicles.

2435. From the date of its inception on July 10, 2009, New GM knew of many serious defects affecting many models and years of GM-branded vehicles, both because of the knowledge of Old GM personnel who remained at New GM and continuous reports, investigations, and notifications from regulatory authorities. New GM became aware of other serious defects and systemic safety issues years ago, but concealed all of that information until recently.

2436. New GM was also aware that it valued cost-cutting over safety, selected parts from the cheapest supplier regardless of quality, and actively discouraged employees from finding and flagging known safety defects, and that this approach would necessarily cause the existence of more defects in the vehicles it designed and manufactured and the failure to disclose and remedy defects in all GM-branded vehicles. New GM concealed this information as well.

2437. According to one report from the Center for Auto Safety, some 2,004 deaths and injuries are connected with recently recalled GM-branded vehicles, and New GM should have recalled the vehicles years ago.

2438. By failing to disclose and by actively concealing the many defects in GM-branded vehicles, by marketing its vehicles as safe, reliable, and of high quality, and by presenting itself as a reputable manufacturer that valued safety and stood behind its vehicles after they were sold,

New GM engaged in unfair and deceptive business practices in violation of the North Carolina Act.

2439. In the course of New GM's business, it willfully failed to disclose and actively concealed the dangerous risk posed by the many safety issues and serious defects discussed above. New GM compounded the deception by repeatedly asserting that the Affected Vehicles were safe, reliable, and of high quality, and by claiming to be a reputable manufacturer that valued safety and stood behind its vehicles once they are on the road.

2440. New GM's unfair or deceptive acts or practices were likely to and did in fact deceive reasonable consumers, including Plaintiffs, about the true safety and reliability of GM-branded vehicles, the quality of the New GM brand, the devaluing of safety at New GM, and the true value of the Affected Vehicles.

2441. New GM intentionally and knowingly misrepresented material facts regarding the Affected Vehicles with an intent to mislead Plaintiffs and the North Carolina Class.

2442. New GM knew or should have known that its conduct violated the North Carolina Act.

2443. As alleged above, New GM made material statements about the safety and reliability of the Affected Vehicles that were either false or misleading.

2444. New GM owed Plaintiffs a duty to disclose the true safety and reliability of the Affected Vehicles and the devaluing of safety at New GM, because New GM:

a. Possessed exclusive knowledge that it valued cost-cutting over safety, selected parts from the cheapest supplier regardless of quality, and actively discouraged employees from finding and flagging known safety defects, and that this approach would necessarily cause the existence of more defects in the vehicles it designed and manufactured;

b. Intentionally concealed the foregoing from Plaintiffs; and/or

c. Made incomplete representations about the safety and reliability of the Affected Vehicles generally, and the ignition switch in particular, while purposefully withholding material facts from Plaintiffs that contradicted these representations.

2445. Because New GM fraudulently concealed the many defects in GM-branded vehicles, resulting in a raft of negative publicity once the defects finally began to be disclosed, the value of the Affected Vehicles has greatly diminished. In light of the stigma attached to those vehicles by New GM's conduct, they are now worth significantly less than they otherwise would be.

2446. New GM's systemic devaluation of safety and its concealment of a plethora of defects in GM-branded vehicles were material to Plaintiffs and the North Carolina Class. A vehicle made by a reputable manufacturer of safe vehicles is worth more than an otherwise comparable vehicle made by a disreputable manufacturer of unsafe vehicles that conceals defects rather than promptly remedies them.

2447. Plaintiffs and the North Carolina Class suffered ascertainable loss caused by New GM's misrepresentations and its failure to disclose material information. Had they been aware of the many defects that existed in GM-branded vehicles, and the company's callous disregard for safety, Plaintiffs either would have paid less for their vehicles or would not have purchased or leased them at all. Plaintiffs did not receive the benefit of their bargain as a result of New GM's misconduct.

2448. New GM's violations present a continuing risk to Plaintiffs as well as to the general public. New GM's unlawful acts and practices complained of herein affect the public interest.

2449. As a direct and proximate result of New GM's violations of the North Carolina Act, Plaintiffs and the North Carolina Class have suffered injury-in-fact and/or actual damage.

2450. North Carolina Class members seek punitive damages against New GM because New GM's conduct was malicious, willful, reckless, wanton, fraudulent and in bad faith. New GM fraudulently and willfully misrepresented the safety and reliability of GM-branded vehicles, deceived North Carolina Class members on life-or-death matters, and concealed material facts that only they knew, all to avoid the expense and public relations nightmare of correcting the myriad flaws in the GM-branded vehicles it repeatedly promised Class members were safe. Because New GM's conduct was malicious, willful, reckless, wanton, fraudulent and in bad faith, it warrants punitive damages.

2451. Plaintiffs seek an order for treble their actual damages, an order enjoining New GM's unlawful acts, costs of Court, attorney's fees, and any other just and proper relief available under the North Carolina Act, N.C. GEN. STAT. § 75-16.

**COUNT II**

**FRAUD BY CONCEALMENT**

2452. Plaintiffs reallege and incorporate by reference all paragraphs as though fully set forth herein.

2453. In the event the Court declines to certify a Nationwide Class under Michigan law, this claim is brought only on behalf of Nationwide Class members who are North Carolina residents (the "North Carolina Class").

2454. New GM concealed and suppressed material facts concerning the quality of its vehicles and the GM brand.

2455. New GM concealed and suppressed material facts concerning the culture of New GM—a culture characterized by an emphasis on cost-cutting, the studious avoidance of safety issues, and a shoddy design process.

2456. New GM concealed and suppressed material facts concerning the many serious defects plaguing GM-branded vehicles, and that it valued cost-cutting over safety and took steps to ensure that its employees did not reveal known safety defects to regulators or consumers.

2457. New GM did so in order to boost confidence in its vehicles and falsely assure purchasers and lessors of its vehicles that New GM was a reputable manufacturer that stands behind its vehicles after they are sold and that its vehicles are safe and reliable. The false representations were material to consumers, both because they concerned the quality and safety of the Affected Vehicles and because they played a significant role in the value of the vehicles.

2458. New GM had a duty to disclose the many defects in GM-branded vehicles because they were known and/or accessible only to New GM who had superior knowledge and access to the facts, and New GM knew the facts were not known to or reasonably discoverable by Plaintiffs and the North Carolina Class. These omitted and concealed facts were material because they directly impact the value of the Affected Vehicles purchased or leased by Plaintiffs and the North Carolina Class. Whether a manufacturer's products are safe and reliable, and whether that manufacturer stands behind its products, are material concerns to a consumer.

2459. New GM actively concealed and/or suppressed these material facts, in whole or in part, to protect its profits and avoid recalls that would hurt the brand's image and cost New GM money, and it did so at the expense of Plaintiffs and the North Carolina Class.

2460. On information and belief, New GM has still not made full and adequate disclosure and continues to defraud Plaintiffs and the North Carolina Class and conceal material information regarding defects that exist in GM-branded vehicles.

2461. Plaintiffs and the North Carolina Class were unaware of these omitted material facts and would not have acted as they did if they had known of the concealed and/or suppressed

facts. Plaintiffs' and the North Carolina Class's actions were justified. New GM was in exclusive control of the material facts and such facts were not known to the public, Plaintiffs, or the North Carolina Class.

2462. Because of the concealment and/or suppression of the facts, Plaintiffs and the North Carolina Class sustained damage because they own vehicles that diminished in value as a result of New GM's concealment of, and failure to timely disclose, the serious defects in millions of GM-branded vehicles and the serious safety and quality issues engendered by New GM's corporate policies. Had they been aware of the many defects that existed in GM-branded vehicles, and the company's callous disregard for safety, Plaintiffs either would have paid less for their vehicles or would not have purchased or leased them at all. Plaintiffs did not receive the benefit of their bargain as a result of New GM's fraudulent concealment.

2463. The value of all North Carolina Class members' vehicles has diminished as a result of New GM's fraudulent concealment of the many defects and its systemic safety issues which has greatly tarnished the New GM brand and made any reasonable consumer reluctant to purchase any of the Affected Vehicles, let alone pay what otherwise would have been fair market value for the vehicles.

2464. Accordingly, New GM is liable to the North Carolina Class for their damages in an amount to be proven at trial.

2465. New GM's acts were done maliciously, oppressively, deliberately, with intent to defraud, and in reckless disregard of Plaintiffs' and the North Carolina Class's rights and well-being to enrich New GM. New GM's conduct warrants an assessment of punitive damages in an amount sufficient to deter such conduct in the future, which amount is to be determined according to proof.

**COUNT III**

**BREACH OF IMPLIED WARRANTY OF MERCHANTABILITY**

**(N.C. GEN. STAT. § 25-2-314)**

2466. Plaintiffs reallege and incorporate by reference all paragraphs as though fully set forth herein.

2467. In the event the Court declines to certify a Nationwide Ignition Switch Defect Subclass under the Magnuson-Moss Warranty Act or Michigan law, this claim is brought only on behalf of North Carolina residents who are members of the Ignition Switch Defect Subclass (the "North Carolina Ignition Switch Defect Subclass").

2468. New GM was a merchant with respect to motor vehicles within the meaning of N.C. GEN. STAT. § 25-2-104(1).

2469. A warranty that the Defective Ignition Switch Vehicles were in merchantable condition was implied by law in the transactions when Plaintiffs purchased their Defective Ignition Switch Vehicles under N.C. GEN. STAT. § 25-2-314.

2470. These vehicles, when sold and at all times thereafter, were not merchantable and are not fit for the ordinary purpose for which cars are used. Specifically, the Defective Ignition Switch Vehicles are inherently defective in that there are defects in the ignition switch systems that permit sudden unintended shutdown to occur, with the attendant shut down of power steering and power brakes and the nondeployment of airbags in the event of a collision.

2471. New GM was provided notice of these issues by numerous complaints filed against it, internal investigations, and by numerous individual letters and communications sent by Plaintiffs and the North Carolina Ignition Switch Defect Subclass before or within a reasonable amount of time after New GM issued the recall and the allegations of vehicle defects became public.

2472. As a direct and proximate result of New GM's breach of the warranty of merchantability, Plaintiffs and the North Carolina Ignition Switch Defect Subclass have been damaged in an amount to be proven at trial.

**NORTH DAKOTA**

**COUNT I**

**VIOLATION OF THE NORTH DAKOTA CONSUMER FRAUD ACT**

**(N.D. CENT. CODE § 51-15-02)**

2473. Plaintiffs reallege and incorporate by reference all paragraphs as though fully set forth herein.

2474. This claim is brought only on behalf of Nationwide Class members who are North Dakota residents (the "North Dakota Class").

2475. Plaintiffs, the North Dakota Class members, and New GM are "persons" within the meaning of N.D. CENT. CODE § 51-15-02(4).

2476. New GM engaged in the "sale" of "merchandise" within the meaning of N.D. CENT. CODE § 51-15-02(3), (5).

2477. The North Dakota Consumer Fraud Act ("North Dakota CFA") makes unlawful "[t]he act, use, or employment by any person of any deceptive act or practice, fraud, false pretense, false promise, or misrepresentation, with the intent that others rely thereon in connection with the sale or advertisement of any merchandise…." N.D. CENT. CODE § 51-15-02. As set forth above and below, New GM committed deceptive acts or practices, with the intent that Class members rely thereon in connection with their purchase or lease of the Affected Vehicles.

2478. In the course of its business, New GM systematically devalued safety and concealed a plethora of defects in GM-branded vehicles as described herein and otherwise

engaged in activities with a tendency or capacity to deceive. New GM also engaged in unlawful trade practices by employing deception, deceptive acts or practices, fraud, misrepresentations, or concealment, suppression or omission of any material fact with intent that others rely upon such concealment, suppression or omission, in connection with the sale of the Affected Vehicles.

2479. From the date of its inception on July 10, 2009, New GM knew of many serious defects affecting many models and years of GM-branded vehicles, both because of the knowledge of Old GM personnel who remained at New GM and continuous reports, investigations, and notifications from regulatory authorities. New GM became aware of other serious defects and systemic safety issues years ago, but concealed all of that information until recently.

2480. New GM was also aware that it valued cost-cutting over safety, selected parts from the cheapest supplier regardless of quality, and actively discouraged employees from finding and flagging known safety defects, and that this approach would necessarily cause the existence of more defects in the vehicles it designed and manufactured and the failure to disclose and remedy defects in all GM-branded vehicles. New GM concealed this information as well.

2481. According to one report from the Center for Auto Safety, some 2,004 deaths and injuries are connected with recently recalled GM-branded vehicles, and New GM should have recalled the vehicles years ago.

2482. By failing to disclose and by actively concealing the many defects in GM-branded vehicles, by marketing its vehicles as safe, reliable, and of high quality, and by presenting itself as a reputable manufacturer that valued safety and stood behind its vehicles after they were sold, New GM engaged in deceptive business practices in violation of the North Dakota CFA.

2483. In the course of New GM's business, it willfully failed to disclose and actively concealed the dangerous risk posed by the many safety issues and serious defects discussed above. New GM compounded the deception by repeatedly asserting that the Affected Vehicles were safe, reliable, and of high quality, and by claiming to be a reputable manufacturer that valued safety and stood behind its vehicles once they are on the road.

2484. New GM's unfair or deceptive acts or practices were likely to and did in fact deceive reasonable consumers, including Plaintiffs, about the true safety and reliability of GM-branded vehicles, the quality of the New GM brand, the devaluing of safety at New GM, and the true value of the Affected Vehicles.

2485. New GM intentionally and knowingly misrepresented material facts regarding the Affected Vehicles with an intent to mislead Plaintiffs and the North Dakota Class.

2486. New GM knew or should have known that its conduct violated the North Dakota CFA.

2487. As alleged above, New GM made material statements about the safety and reliability of the Affected Vehicles that were either false or misleading.

2488. New GM owed Plaintiffs a duty to disclose the true safety and reliability of the Affected Vehicles and the devaluing of safety at New GM, because New GM:

a. Possessed exclusive knowledge that it valued cost-cutting over safety, selected parts from the cheapest supplier regardless of quality, and actively discouraged employees from finding and flagging known safety defects, and that this approach would necessarily cause the existence of more defects in the vehicles it designed and manufactured;

b. Intentionally concealed the foregoing from Plaintiffs; and/or

c. Made incomplete representations about the safety and reliability of the Affected Vehicles generally, and the ignition switch in particular, while purposefully

withholding material facts from Plaintiffs that contradicted these representations.

2489. Because New GM fraudulently concealed the many defects in GM-branded vehicles, resulting in a raft of negative publicity once the defects finally began to be disclosed, the value of the Affected Vehicles has greatly diminished. In light of the stigma attached to those vehicles by New GM's conduct, they are now worth significantly less than they otherwise would be.

2490. New GM's systemic devaluation of safety and its concealment of a plethora of defects in GM-branded vehicles were material to Plaintiffs and the North Dakota Class. A vehicle made by a reputable manufacturer of safe vehicles is worth more than an otherwise comparable vehicle made by a disreputable manufacturer of unsafe vehicles that conceals defects rather than promptly remedies them.

2491. Plaintiffs and the North Dakota Class suffered ascertainable loss caused by New GM's misrepresentations and its failure to disclose material information. Had they been aware of the many defects that existed in GM-branded vehicles, and the company's callous disregard for safety, Plaintiffs either would have paid less for their vehicles or would not have purchased or leased them at all. Plaintiffs did not receive the benefit of their bargain as a result of New GM's misconduct.

2492. New GM's violations present a continuing risk to Plaintiffs as well as to the general public. New GM's unlawful acts and practices complained of herein affect the public interest.

2493. As a direct and proximate result of New GM's violations of the North Dakota CFA, Plaintiffs and the North Dakota Class have suffered injury-in-fact and/or actual damage.

2494. North Dakota Class members seek punitive damages against New GM because New GM's conduct was egregious. New GM misrepresented the safety and reliability of millions of GM-branded vehicles, concealed myriad defects in millions of GM-branded vehicles and the systemic safety issues plaguing the company, deceived North Dakota Class members on life-or-death matters, and concealed material facts that only New GM knew, all to avoid the expense and public relations nightmare of correcting the serious flaw in its culture and in millions of GM-branded vehicles. New GM's egregious conduct warrants punitive damages.

2495. Further, New GM knowingly committed the conduct described above, and thus, under N.D. CENT. CODE § 51-15-09, New GM is liable to Plaintiffs and the North Dakota Class for treble damages in amounts to be proven at trial, as well as attorneys' fees, costs, and disbursements. Plaintiffs further seek an order enjoining New GM's unfair and/or deceptive acts or practices, and other just and proper available relief under the North Dakota CFA.

**COUNT II**

**FRAUD BY CONCEALMENT**

2496. Plaintiffs reallege and incorporate by reference all paragraphs as though fully set forth herein.

2497. In the event the Court declines to certify a Nationwide Class under Michigan law, this claim is brought only on behalf of Nationwide Class members who are North Dakota residents (the "North Dakota Class").

2498. New GM concealed and suppressed material facts concerning the quality of its vehicles and the New GM brand.

2499. New GM concealed and suppressed material facts concerning the culture of New GM—a culture characterized by an emphasis on cost-cutting, the studious avoidance of safety issues, and a shoddy design process.

2500. New GM concealed and suppressed material facts concerning the many serious defects plaguing GM-branded vehicles, and that it valued cost-cutting over safety and took steps to ensure that its employees did not reveal known safety defects to regulators or consumers.

2501. New GM did so in order to boost confidence in its vehicles and falsely assure purchasers and lessors of its vehicles that New GM was a reputable manufacturer that stands behind its vehicles after they are sold and that its vehicles are safe and reliable. The false representations were material to consumers, both because they concerned the quality and safety of the Affected Vehicles and because they played a significant role in the value of the vehicles.

2502. New GM had a duty to disclose the many defects in GM-branded vehicles because they were known and/or accessible only to New GM who had superior knowledge and access to the facts, and New GM knew the facts were not known to or reasonably discoverable by Plaintiffs and the North Dakota Class. These omitted and concealed facts were material because they directly impact the value of the Affected Vehicles purchased or leased by Plaintiffs and the North Dakota Class. Whether a manufacturer's products are safe and reliable, and whether that manufacturer stands behind its products, are material concerns to a consumer.

2503. New GM actively concealed and/or suppressed these material facts, in whole or in part, to protect its profits and avoid recalls that would hurt the brand's image and cost New GM money, and it did so at the expense of Plaintiffs and the North Dakota Class.

2504. On information and belief, New GM has still not made full and adequate disclosure and continues to defraud Plaintiffs and the North Dakota Class and conceal material information regarding defects that exist in GM-branded vehicles.

2505. Plaintiffs and the North Dakota Class were unaware of these omitted material facts and would not have acted as they did if they had known of the concealed and/or suppressed

facts. Plaintiffs' and the North Dakota Class's actions were justified. New GM was in exclusive control of the material facts and such facts were not known to the public, Plaintiffs, or the North Dakota Class.

2506. Because of the concealment and/or suppression of the facts, Plaintiffs and the North Dakota Class sustained damage because they own vehicles that diminished in value as a result of New GM's concealment of, and failure to timely disclose, the serious defects in millions of GM-branded vehicles and the serious safety and quality issues engendered by New GM's corporate policies. Had they been aware of the many defects that existed in GM-branded vehicles, and the company's callous disregard for safety, Plaintiffs either would have paid less for their vehicles or would not have purchased or leased them at all. Plaintiffs did not receive the benefit of their bargain as a result of New GM's fraudulent concealment.

2507. The value of all North Dakota Class members' vehicles has diminished as a result of New GM's fraudulent concealment of the many defects and its systemic safety issues which has greatly tarnished the GM brand and made any reasonable consumer reluctant to purchase any of the Affected Vehicles, let alone pay what otherwise would have been fair market value for the vehicles.

2508. Accordingly, New GM is liable to the North Dakota Class for their damages in an amount to be proven at trial.

2509. New GM's acts were done maliciously, oppressively, deliberately, with intent to defraud, and in reckless disregard of Plaintiffs' and the North Dakota Class's rights and well-being to enrich New GM. New GM's conduct warrants an assessment of punitive damages in an amount sufficient to deter such conduct in the future, which amount is to be determined according to proof.

**COUNT III**

**BREACH OF IMPLIED WARRANTY OF MERCHANTABILITY**

**(N.D. CENT. CODE § 41-02-31)**

2510. Plaintiffs reallege and incorporate by reference all paragraphs as though fully set forth herein.

2511. In the event the Court declines to certify a Nationwide Ignition Switch Defect Subclass under the Magnuson-Moss Warranty Act or Michigan law, this claim is brought only on behalf of North Dakota residents who are members of the Ignition Switch Defect Subclass (the "North Dakota Ignition Switch Defect Subclass").

2512. New GM was a merchant with respect to motor vehicles.

2513. A warranty that the Defective Ignition Switch Vehicles were in merchantable condition was implied by law in the transactions when Plaintiffs purchased their Defective Ignition Switch Vehicles.

2514. These vehicles, when sold and at all times thereafter, were not merchantable and are not fit for the ordinary purpose for which cars are used. Specifically, the Defective Ignition Switch Vehicles are inherently defective in that there are defects in the ignition switch systems that permit sudden unintended shutdown to occur, with the attendant shut down of power steering and power brakes and the nondeployment of airbags in the event of a collision.

2515. New GM was provided notice of these issues by numerous complaints filed against it, internal investigations, and by numerous individual letters and communications sent by Plaintiffs and the North Dakota Ignition Switch Defect Subclass before or within a reasonable amount of time after New GM issued the recall and the allegations of vehicle defects became public.

2516. As a direct and proximate result of New GM's breach of the warranties of merchantability, Plaintiffs and the North Dakota Ignition Switch Defect Subclass have been damaged in an amount to be proven at trial.

**OHIO**

**COUNT I**

**VIOLATION OF OHIO CONSUMER SALES PRACTICES ACT**

**(OHIO REV. CODE ANN. § 1345.01, *et seq*.)**

2517. Plaintiffs reallege and incorporate by reference all paragraphs as though fully set forth herein.

2518. This claim is brought only on behalf of Nationwide Class members who are Ohio residents (the "Ohio Class").

2519. New GM is a "supplier" as that term is defined in OHIO REV. CODE § 1345.01(C).

2520. Plaintiffs and the Ohio Class are "consumers" as that term is defined in OHIO REV. CODE § 1345.01(D), and their purchases and leases of the Affected Vehicles are "consumer transactions" within the meaning of OHIO REV. CODE § 1345.01(A).

2521. The Ohio Consumer Sales Practices Act ("Ohio CSPA"), OHIO REV. CODE § 1345.02, broadly prohibits unfair or deceptive acts or practices in connection with a consumer transaction. Specifically, and without limitation of the broad prohibition, the Act prohibits suppliers from representing (i) that goods have characteristics or uses or benefits which they do not have; (ii) that their goods are of a particular quality or grade they are not; and (iii) the subject of a consumer transaction has been supplied in accordance with a previous representation, if it has not. *Id.* New GM's conduct as alleged above and below constitutes unfair and/or deceptive consumer sales practices in violation of OHIO REV. CODE § 1345.02.

2522. By systematically devaluing safety and concealing a plethora of defects in GM-branded vehicles, New GM engaged in deceptive business practices prohibited by the Ohio CSPA, including: representing that Affected Vehicles have characteristics, uses, benefits, and qualities which they do not have; representing that Affected Vehicles are of a particular standard, quality, and grade when they are not; representing that the subject of a transaction involving Affected Vehicles has been supplied in accordance with a previous representation when it has not; and engaging in other unfair or deceptive acts or practices.

2523. New GM's actions as set forth above occurred in the conduct of trade or commerce.

2524. In the course of its business, New GM systematically devalued safety and concealed a plethora of defects in GM-branded vehicles as described herein and otherwise engaged in activities with a tendency or capacity to deceive. New GM also engaged in unlawful trade practices by employing deception, deceptive acts or practices, fraud, misrepresentations, or concealment, suppression or omission of any material fact with intent that others rely upon such concealment, suppression or omission, in connection with the sale of the Affected Vehicles.

2525. From the date of its inception on July 10, 2009, New GM knew of many serious defects affecting many models and years of GM-branded vehicles, both because of the knowledge of Old GM personnel who remained at New GM and continuous reports, investigations, and notifications from regulatory authorities. New GM became aware of other serious defects and systemic safety issues years ago, but concealed all of that information until recently.

2526. New GM was also aware that it valued cost-cutting over safety, selected parts from the cheapest supplier regardless of quality, and actively discouraged employees from

finding and flagging known safety defects, and that this approach would necessarily cause the existence of more defects in the vehicles it designed and manufactured and the failure to disclose and remedy defects in all GM-branded vehicles. New GM concealed this information as well.

2527. According to one report from the Center for Auto Safety, some 2,004 deaths and injuries are connected with recently recalled GM-branded vehicles, and New GM should have recalled the vehicles years ago.

2528. By failing to disclose and by actively concealing the many defects in GM-branded vehicles, by marketing its vehicles as safe, reliable, and of high quality, and by presenting itself as a reputable manufacturer that valued safety and stood behind its vehicles after they were sold, New GM engaged in unfair and deceptive business practices in violation of the Ohio CSPA.

2529. In the course of New GM's business, it willfully failed to disclose and actively concealed the dangerous risk posed by the many safety issues and serious defects discussed above. New GM compounded the deception by repeatedly asserting that the Affected Vehicles were safe, reliable, and of high quality, and by claiming to be a reputable manufacturer that valued safety and stood behind its vehicles once they are on the road.

2530. New GM's unfair or deceptive acts or practices were likely to and did in fact deceive reasonable consumers, including Plaintiffs, about the true safety and reliability of GM-branded vehicles, the quality of the GM brand, the devaluing of safety at New GM, and the true value of the Affected Vehicles.

2531. New GM intentionally and knowingly misrepresented material facts regarding the Affected Vehicles with an intent to mislead Plaintiffs and the Ohio Class.

2532. New GM knew or should have known that its conduct violated the Ohio CSPA.

2533. As alleged above, New GM made material statements about the safety and reliability of the Affected Vehicles that were either false or misleading.

2534. New GM owed Plaintiffs a duty to disclose the true safety and reliability of the Affected Vehicles and the devaluing of safety at New GM, because New GM:

a. Possessed exclusive knowledge that it valued cost-cutting over safety, selected parts from the cheapest supplier regardless of quality, and actively discouraged employees from finding and flagging known safety defects, and that this approach would necessarily cause the existence of more defects in the vehicles it designed and manufactured;

b. Intentionally concealed the foregoing from Plaintiffs; and/or

c. Made incomplete representations about the safety and reliability of the Affected Vehicles generally, and the ignition switch in particular, while purposefully withholding material facts from Plaintiffs that contradicted these representations.

2535. Because New GM fraudulently concealed the many defects in GM-branded vehicles, resulting in a raft of negative publicity once the defects finally began to be disclosed, the value of the Affected Vehicles has greatly diminished. In light of the stigma attached to those vehicles by New GM's conduct, they are now worth significantly less than they otherwise would be.

2536. New GM's systemic devaluation of safety and its concealment of a plethora of defects in GM-branded vehicles were material to Plaintiffs and the Ohio Class. A vehicle made by a reputable manufacturer of safe vehicles is worth more than an otherwise comparable vehicle made by a disreputable manufacturer of unsafe vehicles that conceals defects rather than promptly remedies them.

2537. Plaintiffs and the Ohio Class suffered ascertainable loss caused by New GM's misrepresentations and its failure to disclose material information. Had they been aware of the

many defects that existed in GM-branded vehicles, and the company's callous disregard for safety, Plaintiffs either would have paid less for their vehicles or would not have purchased or leased them at all. Plaintiffs did not receive the benefit of their bargain as a result of New GM's misconduct.

2538. New GM's violations present a continuing risk to Plaintiffs as well as to the general public. New GM's unlawful acts and practices complained of herein affect the public interest.

2539. As a direct and proximate result of New GM's violations of the Ohio CSPA, Plaintiffs and the Ohio Class have suffered injury-in-fact and/or actual damage.

2540. Ohio Class members seek punitive damages against New GM because New GM's conduct was egregious. New GM misrepresented the safety and reliability of millions of GM-branded vehicles, concealed myriad defects in millions of GM-branded vehicles and the systemic safety issues plaguing New GM, deceived Class members on life-or-death matters, and concealed material facts that only New GM knew, all to avoid the expense and public relations nightmare of correcting the serious flaw in its culture and in millions of GM-branded vehicles. New GM's egregious conduct warrants punitive damages.

2541. Plaintiffs and the Ohio Class specifically do not allege herein a claim for violation of OHIO REV. CODE § 1345.72.

2542. New GM was on notice pursuant to OHIO REV. CODE § 1345.09(B) that its actions constituted unfair, deceptive, and unconscionable practices by, for example, *Mason v. Mercedes-Benz USA, LLC*, 2005 Ohio App. LEXIS 3911, at *33 (S.D. Ohio Aug. 18, 2005), and *Lilly v. Hewlett-Packard Co.*, 2006 U.S. Dist. LEXIS 22114, at *17-18 (S.D. Ohio Apr. 21, 2006). Further, New GM's conduct as alleged above constitutes an act or practice previously declared to

be deceptive or unconscionable by rule adopted under division (B)(2) of section 1345.05 and previously determined by Ohio courts to violate Ohio's Consumer Sales Practices Act and was committed after the decisions containing these determinations were made available for public inspection under division (A)(3) of O.R.C. § 1345.05. The applicable rule and Ohio court opinions include, but are not limited to: OAC 109:4-3-16; *Mason v. Mercedes-Benz USA, LLC*, 2005 Ohio 4296 (Ohio Ct. App. 2005); *Khouri v. Lewis*, Cuyahoga Common Pleas No. 342098 (2001); *State ex rel. Montgomery v. Canterbury*, Franklin App. No. 98CVH054085 (2000); and *Fribourg v. Vandemark* (July 26, 1999), Clermont App. No CA99-02-017, unreported (PIF # 10001874).

2543. As a result of the foregoing wrongful conduct of New GM, Plaintiffs and the Ohio Class have been damaged in an amount to be proven at trial, and seek all just and proper remedies, including, but not limited to, actual and statutory damages, an order enjoining New GM's deceptive and unfair conduct, treble damages, court costs and reasonable attorneys' fees, pursuant to OHIO REV. CODE § 1345.09, *et seq*.

**COUNT II**

**FRAUD BY CONCEALMENT**

2544. Plaintiffs reallege and incorporate by reference all paragraphs as though fully set forth herein.

2545. In the event the Court declines to certify a Nationwide Class under Michigan law, this claim is brought only on behalf of Nationwide Class members who are Ohio residents (the "Ohio Class").

2546. New GM concealed and suppressed material facts concerning the quality of its vehicles and the GM brand.

2547. New GM concealed and suppressed material facts concerning the culture of New GM—a culture characterized by an emphasis on cost-cutting, the studious avoidance of safety issues, and a shoddy design process.

2548. New GM concealed and suppressed material facts concerning the many serious defects plaguing GM-branded vehicles, and that it valued cost-cutting over safety and took steps to ensure that its employees did not reveal known safety defects to regulators or consumers.

2549. New GM did so in order to boost confidence in its vehicles and falsely assure purchasers and lessors of its vehicles that New GM was a reputable manufacturer that stands behind its vehicles after they are sold and that its vehicles are safe and reliable. The false representations were material to consumers, both because they concerned the quality and safety of the Affected Vehicles and because they played a significant role in the value of the vehicles.

2550. New GM had a duty to disclose the many defects in GM-branded vehicles because they were known and/or accessible only to New GM who had superior knowledge and access to the facts, and New GM knew the facts were not known to or reasonably discoverable by Plaintiffs and the Ohio Class. These omitted and concealed facts were material because they directly impact the value of the Affected Vehicles purchased or leased by Plaintiffs and the Ohio Class. Whether a manufacturer's products are safe and reliable, and whether that manufacturer stands behind its products, are material concerns to a consumer.

2551. New GM actively concealed and/or suppressed these material facts, in whole or in part, to protect its profits and avoid recalls that would hurt the brand's image and cost New GM money, and it did so at the expense of Plaintiffs and the Ohio Class.

2552. On information and belief, New GM has still not made full and adequate disclosure and continues to defraud Plaintiffs and the Ohio Class and conceal material information regarding defects that exist in GM-branded vehicles.

2553. Plaintiffs and the Ohio Class were unaware of these omitted material facts and would not have acted as they did if they had known of the concealed and/or suppressed facts. Plaintiffs' and the Ohio Class's actions were justified. New GM was in exclusive control of the material facts and such facts were not known to the public, Plaintiffs, or the Ohio Class.

2554. Because of the concealment and/or suppression of the facts, Plaintiffs and the Ohio Class sustained damage because they own vehicles that diminished in value as a result of New GM's concealment of, and failure to timely disclose, the serious defects in millions of GM-branded vehicles and the serious safety and quality issues engendered by New GM's corporate policies. Had they been aware of the many defects that existed in GM-branded vehicles, and the company's callous disregard for safety, Plaintiffs either would have paid less for their vehicles or would not have purchased or leased them at all. Plaintiffs did not receive the benefit of their bargain as a result of New GM's fraudulent concealment.

2555. The value of all Ohio Class members' vehicles has diminished as a result of New GM's fraudulent concealment of the many defects and its systemic safety issues which has greatly tarnished the GM brand and made any reasonable consumer reluctant to purchase any of the Affected Vehicles, let alone pay what otherwise would have been fair market value for the vehicles.

2556. Accordingly, New GM is liable to the Ohio Class for their damages in an amount to be proven at trial.

2557. New GM's acts were done maliciously, oppressively, deliberately, with intent to defraud, and in reckless disregard of Plaintiffs' and the Ohio Class's rights and well-being to enrich New GM. New GM's conduct warrants an assessment of punitive damages in an amount sufficient to deter such conduct in the future, which amount is to be determined according to proof.

**COUNT III**

**IMPLIED WARRANTY IN TORT**

2558. Plaintiffs reallege and incorporate by reference all paragraphs as though fully set forth herein.

2559. Plaintiffs bring this claim only on behalf of Ohio residents who are members of the Ignition Switch Defect Subclass (the "Ohio Ignition Switch Defect Subclass").

2560. The Defective Ignition Switch Vehicles contained a design defect, namely, a faulty ignition system that fails under reasonably foreseeable use, resulting in stalling, loss of brakes, power steering, and airbags, among other safety issues, as detailed herein more fully.

2561. The design, manufacturing, and/or assembly defects existed at the time the Defective Ignition Switch Vehicles containing the defective ignition systems left the possession or control of New GM.

2562. Based upon the dangerous product defects, New GM failed to meet the expectations of a reasonable consumer. The Defective Ignition Switch Vehicles failed their ordinary, intended use because the ignition systems in the vehicles do not function as a reasonable consumer would expect. Moreover, the defect presents a serious danger to Plaintiffs and the other members of the Ohio Ignition Defect Subclass that cannot be eliminated without significant cost.

2563. The design defects in the vehicles were the direct and proximate cause of economic damages to Plaintiffs, as well as damages incurred or to be incurred by each of the other Ohio Ignition Switch Defect Subclass members.

**OKLAHOMA**

**COUNT I**

**VIOLATION OF OKLAHOMA CONSUMER PROTECTION ACT**

**(OKLA. STAT. TIT. 15 § 751, *et seq.*)**

2564. Plaintiffs reallege and incorporate by reference each paragraph as if set forth fully herein.

2565. This claim is brought only on behalf of Nationwide Class members who are Oklahoma residents (the "Oklahoma Class").

2566. Plaintiffs and Oklahoma Class members are "persons" under the Oklahoma Consumer Protection Act ("Oklahoma CPA"), OKLA. STAT. TIT. 15 § 752.

2567. New GM is a "person," "corporation," or "association" within the meaning of OKLA. STAT. TIT. 15 § 15-751(1).

2568. The sale or lease of the Affected Vehicles to the Oklahoma Class members was a "consumer transaction" within the meaning of OKLA. STAT. TIT. 15 § 752, and New GM's actions as set forth herein occurred in the conduct of trade or commerce.

2569. The Oklahoma CPA declares unlawful, *inter alia*, the following acts or practices when committed in the course of business: "mak[ing] a false or misleading representation, knowingly or with reason to know, as to the characteristics …, uses, [or] benefits, of the subject of a consumer transaction," or making a false representation, "knowingly or with reason to know, that the subject of a consumer transaction is of a particular standard, style or model, if it is of another or "[a]dvertis[ing], knowingly or with reason to know, the subject of a consumer

transaction with intent not to sell it as advertised;" and otherwise committing "an unfair or deceptive trade practice." *See* OKLA. STAT. TIT. 15, § 753.

2570. By systematically devaluing safety and concealing a plethora of defects in GM-branded vehicles, New GM engaged in unfair and deceptive business practices prohibited by the Oklahoma CPA, including: representing that Affected Vehicles have characteristics, uses, benefits, and qualities which they do not have; representing that Affected Vehicles are of a particular standard, quality, and grade when they are not; and advertising Affected Vehicles with the intent not to sell or lease them as advertised; misrepresenting, omitting and engaging in other practices that have deceived or could reasonably be expected to deceive or mislead; and engaging in practices which offend established public policy or are immoral, unethical, oppressive, unscrupulous or substantially injurious to consumers.

2571. In the course of its business, New GM systematically devalued safety and concealed a plethora of defects in GM-branded vehicles as described herein and otherwise engaged in activities with a tendency or capacity to deceive. New GM also engaged in unlawful trade practices by employing deception, deceptive acts or practices, fraud, misrepresentations, or concealment, suppression or omission of any material fact with intent that others rely upon such concealment, suppression or omission, in connection with the sale of the Affected Vehicles.

2572. From the date of its inception on July 10, 2009, New GM knew of many serious defects affecting many models and years of GM-branded vehicles, both because of the knowledge of Old GM personnel who remained at New GM and continuous reports, investigations, and notifications from regulatory authorities. New GM became aware of other serious defects and systemic safety issues years ago, but concealed all of that information until recently.

2573. New GM was also aware that it valued cost-cutting over safety, selected parts from the cheapest supplier regardless of quality, and actively discouraged employees from finding and flagging known safety defects, and that this approach would necessarily cause the existence of more defects in the vehicles it designed and manufactured and the failure to disclose and remedy defects in all GM-branded vehicles. New GM concealed this information as well.

2574. According to one report from the Center for Auto Safety, some 2,004 deaths and injuries are connected with recently recalled GM-branded vehicles, and New GM should have recalled the vehicles years ago.

2575. By failing to disclose and by actively concealing the many defects in GM-branded vehicles, by marketing its vehicles as safe, reliable, and of high quality, and by presenting itself as a reputable manufacturer that valued safety and stood behind its vehicles after they were sold, New GM engaged in deceptive trade practices in violation of the Oklahoma CPA.

2576. In the course of New GM's business, it willfully failed to disclose and actively concealed the dangerous risk posed by the many safety issues and serious defects discussed above. New GM compounded the deception by repeatedly asserting that the Affected Vehicles were safe, reliable, and of high quality, and by claiming to be a reputable manufacturer that valued safety and stood behind its vehicles once they are on the road.

2577. New GM's unfair or deceptive acts or practices were likely to and did in fact deceive reasonable consumers, including Plaintiffs, about the true safety and reliability of GM-branded vehicles, the quality of the GM brand, the devaluing of safety at New GM, and the true value of the Affected Vehicles.

2578. New GM intentionally and knowingly misrepresented material facts regarding the Affected Vehicles with an intent to mislead Plaintiffs and the Oklahoma Class.

2579. New GM knew or should have known that its conduct violated the Oklahoma CPA.

2580. As alleged above, New GM made material statements about the safety and reliability of the Affected Vehicles that were either false or misleading.

2581. New GM owed Plaintiffs a duty to disclose the true safety and reliability of the Affected Vehicles and the devaluing of safety at New GM, because New GM:

a. Possessed exclusive knowledge that it valued cost-cutting over safety, selected parts from the cheapest supplier regardless of quality, and actively discouraged employees from finding and flagging known safety defects, and that this approach would necessarily cause the existence of more defects in the vehicles it designed and manufactured;

b. Intentionally concealed the foregoing from Plaintiffs; and/or

c. Made incomplete representations about the safety and reliability of the Affected Vehicles generally, and the ignition switch in particular, while purposefully withholding material facts from Plaintiffs that contradicted these representations.

2582. Because New GM fraudulently concealed the many defects in GM-branded vehicles, resulting in a raft of negative publicity once the defects finally began to be disclosed, the value of the Affected Vehicles has greatly diminished. In light of the stigma attached to those vehicles by New GM's conduct, they are now worth significantly less than they otherwise would be.

2583. New GM's systemic devaluation of safety and its concealment of a plethora of defects in GM-branded vehicles were material to Plaintiffs and the Oklahoma Class. A vehicle made by a reputable manufacturer of safe vehicles is worth more than an otherwise comparable vehicle made by a disreputable manufacturer of unsafe vehicles that conceals defects rather than promptly remedies them.

2584. Plaintiffs and the Oklahoma Class suffered ascertainable loss caused by New GM's misrepresentations and its failure to disclose material information. Had they been aware of the many defects that existed in GM-branded vehicles, and the company's callous disregard for safety, Plaintiffs either would have paid less for their vehicles or would not have purchased or leased them at all. Plaintiffs did not receive the benefit of their bargain as a result of New GM's misconduct.

2585. New GM's violations present a continuing risk to Plaintiffs as well as to the general public. New GM's unlawful acts and practices complained of herein affect the public interest.

2586. As a direct and proximate result of New GM's violations of the Oklahoma CPA, Plaintiffs and the Oklahoma Class have suffered injury-in-fact and/or actual damage.

2587. Oklahoma Class members seek punitive damages against New GM because New GM's conduct was egregious. New GM misrepresented the safety and reliability of millions of GM-branded vehicles, concealed myriad defects in millions of GM-branded vehicles and the systemic safety issues plaguing New GM, deceived Oklahoma Class members on life-or-death matters, and concealed material facts that only it knew, all to avoid the expense and public relations nightmare of correcting the serious flaw in its culture and in millions of GM-branded vehicles. New GM's egregious conduct warrants punitive damages.

2588. New GM's conduct as alleged herein was unconscionable because (1) New GM, knowingly or with reason to know, took advantage of consumers reasonably unable to protect their interests because of their age, physical infirmity, ignorance, illiteracy, inability to understand the language of an agreement or similar factor; (2) at the time the consumer transaction was entered into, New GM knew or had reason to know that price grossly exceeded

the price at which similar vehicles were readily obtainable in similar transactions by like consumers; and (3) New GM knew or had reason to know that the transaction New GM induced the consumer to enter into was excessively one-sided in favor of New GM.

2589. Because New GM's unconscionable conduct caused injury to Oklahoma Class members, the Oklahoma Class seeks recovery of actual damages, discretionary penalties up to $2,000 per violation, and reasonable attorneys' fees, under OKLA. STAT. TIT. 15 § 761.1. The Oklahoma Class further seeks an order enjoining New GM's unfair and/or deceptive acts or practices, and any other just and proper relief available under the Oklahoma CPA.

**COUNT II**

**FRAUD BY CONCEALMENT**

2590. Plaintiffs reallege and incorporate by reference all paragraphs as though fully set forth herein.

2591. In the event the Court declines to certify a Nationwide Class under Michigan law, this claim is brought only on behalf of Nationwide Class members who are Oklahoma residents (the "Oklahoma Class").

2592. New GM concealed and suppressed material facts concerning the quality of its vehicles and the GM brand.

2593. New GM concealed and suppressed material facts concerning the culture of New GM—a culture characterized by an emphasis on cost-cutting, the studious avoidance of safety issues, and a shoddy design process.

2594. New GM concealed and suppressed material facts concerning the many serious defects plaguing GM-branded vehicles, and that it valued cost-cutting over safety and took steps to ensure that its employees did not reveal known safety defects to regulators or consumers.

2595. New GM did so in order to boost confidence in its vehicles and falsely assure purchasers and lessors of its vehicles that New GM was a reputable manufacturer that stands behind its vehicles after they are sold and that its vehicles are safe and reliable. The false representations were material to consumers, both because they concerned the quality and safety of the Affected Vehicles and because they played a significant role in the value of the vehicles.

2596. New GM had a duty to disclose the many defects in GM-branded vehicles because they were known and/or accessible only to New GM who had superior knowledge and access to the facts, and New GM knew the facts were not known to or reasonably discoverable by Plaintiffs and the Oklahoma Class. These omitted and concealed facts were material because they directly impact the value of the Affected Vehicles purchased or leased by Plaintiffs and the Oklahoma Class. Whether a manufacturer's products are safe and reliable, and whether that manufacturer stands behind its products, are material concerns to a consumer.

2597. New GM actively concealed and/or suppressed these material facts, in whole or in part, to protect its profits and avoid recalls that would hurt the brand's image and cost New GM money, and it did so at the expense of Plaintiffs and the Oklahoma Class.

2598. On information and belief, New GM has still not made full and adequate disclosure and continues to defraud Plaintiffs and the Oklahoma Class and conceal material information regarding defects that exist in GM-branded vehicles.

2599. Plaintiffs and the Oklahoma Class were unaware of these omitted material facts and would not have acted as they did if they had known of the concealed and/or suppressed facts. Plaintiffs' and the Oklahoma Class's actions were justified. New GM was in exclusive control of the material facts and such facts were not known to the public, Plaintiffs, or the Oklahoma Class.

2600. Because of the concealment and/or suppression of the facts, Plaintiffs and the Oklahoma Class sustained damage because they own vehicles that diminished in value as a result of New GM's concealment of, and failure to timely disclose, the serious defects in millions of GM-branded vehicles and the serious safety and quality issues engendered by New GM's corporate policies. Had they been aware of the many defects that existed in GM-branded vehicles, and the company's callous disregard for safety, Plaintiffs either would have paid less for their vehicles or would not have purchased or leased them at all. Plaintiffs did not receive the benefit of their bargain as a result of New GM's fraudulent concealment.

2601. The value of all Oklahoma Class members' vehicles has diminished as a result of New GM's fraudulent concealment of the many defects and its systemic safety issues which has greatly tarnished the GM brand and made any reasonable consumer reluctant to purchase any of the Affected Vehicles, let alone pay what otherwise would have been fair market value for the vehicles.

2602. Accordingly, New GM is liable to the Oklahoma Class for their damages in an amount to be proven at trial.

2603. New GM's acts were done maliciously, oppressively, deliberately, with intent to defraud, and in reckless disregard of Plaintiffs' and the Oklahoma Class's rights and well-being to enrich New GM. New GM's conduct warrants an assessment of punitive damages in an amount sufficient to deter such conduct in the future, which amount is to be determined according to proof.

**COUNT III**

**BREACH OF IMPLIED WARRANTY OF MERCHANTABILITY**

**(12A OKLA. STAT. ANN. § 2-314)**

2604. Plaintiffs reallege and incorporate by reference all paragraphs as though fully set forth herein.

2605. In the event the Court declines to certify a Nationwide Ignition Switch Defect Subclass under the Magnuson-Moss Warranty Act or Michigan law, this claim is brought only on behalf of Oklahoma residents who are members of the Ignition Switch Defect Subclass (the "Oklahoma Ignition Switch Defect Subclass").

2606. New GM was a merchant with respect to motor vehicles.

2607. A warranty that the Defective Ignition Switch Vehicles were in merchantable condition was implied by law in the transactions when Plaintiffs purchased their Defective Ignition Switch Vehicles.

2608. These vehicles, when sold and at all times thereafter, were not merchantable and are not fit for the ordinary purpose for which cars are used. Specifically, the Defective Ignition Switch Vehicles are inherently defective in that there are defects in the ignition switch systems that permit sudden unintended shutdown to occur, with the attendant shut down of power steering and power brakes and the nondeployment of airbags in the event of a collision.

2609. New GM was provided notice of these issues by numerous complaints filed against it, internal investigations, and by numerous individual letters and communications sent by Plaintiffs and the Oklahoma Ignition Switch Defect Subclass before or within a reasonable amount of time after New GM issued the recall and the allegations of vehicle defects became public.

2610. As a direct and proximate result of New GM's breach of the warranties of merchantability, Plaintiffs and the Oklahoma Ignition Switch Defect Subclass have been damaged in an amount to be proven at trial.

**OREGON**

**COUNT I**

**VIOLATION OF THE OREGON UNLAWFUL TRADE PRACTICES ACT**

**(OR. REV. STAT. §§ 646.605, *et seq.*)**

2611. Plaintiffs reallege and incorporate by reference all paragraphs as though fully set forth herein.

2612. This claim is brought only on behalf of Nationwide Class members who are Oregon residents (the "Oregon Class").

2613. New GM is a person within the meaning of OR. REV. STAT. § 646.605(4).

2614. The Affected Vehicles at issue are "goods" obtained primarily for personal family or household purposes within the meaning of OR. REV. STAT. § 646.605(6).

2615. The Oregon Unfair Trade Practices Act ("Oregon UTPA") prohibits a person from, in the course of the person's business, doing any of the following: "(e) Represent[ing] that … goods … have … characteristics … uses, benefits, … or qualities that they do not have; (g) Represent[ing] that … goods … are of a particular standard [or] quality … if they are of another; (i) Advertis[ing] … goods or services with intent not to provide them as advertised;" and "(u) engag[ing] in any other unfair or deceptive conduct in trade or commerce." OR. REV. STAT. § 646.608(1).

2616. New GM engaged in unlawful trade practices, including representing that Affected Vehicles have characteristics, uses, benefits, and qualities which they do not have; representing that Affected Vehicles are of a particular standard and quality when they are not;

advertising Affected Vehicles with the intent not to sell them as advertised; and engaging in other unfair or deceptive acts.

2617. New GM also engaged in unlawful trade practices by employing deception, deceptive acts or practices, fraud, misrepresentations, or concealment, suppression or omission of any material fact with intent that others rely upon such concealment, suppression or omission, in connection with the sale of the Affected Vehicles.

2618. New GM's actions as set forth above occurred in the conduct of trade or commerce.

2619. From the date of its inception on July 10, 2009, New GM knew of many serious defects affecting many models and years of GM-branded vehicles, both because of the knowledge of Old GM personnel who remained at New GM and continuous reports, investigations, and notifications from regulatory authorities. New GM became aware of other serious defects and systemic safety issues years ago, but concealed all of that information until recently.

2620. New GM was also aware that it valued cost-cutting over safety, selected parts from the cheapest supplier regardless of quality, and actively discouraged employees from finding and flagging known safety defects, and that this approach would necessarily cause the existence of more defects in the vehicles it designed and manufactured and the failure to disclose and remedy defects in all GM-branded vehicles. New GM concealed this information as well.

2621. According to one report from the Center for Auto Safety, some 2,004 deaths and injuries are connected with recently recalled GM-branded vehicles, and New GM should have recalled the vehicles years ago.

2622. By failing to disclose and by actively concealing the many defects in GM-branded vehicles, by marketing its vehicles as safe, reliable, and of high quality, and by presenting itself as a reputable manufacturer that valued safety and stood behind its vehicles after they were sold, New GM engaged in deceptive business practices in violation of the Oregon UTPA.

2623. In the course of New GM's business, it willfully failed to disclose and actively concealed the dangerous risk posed by the many safety issues and serious defects discussed above. New GM compounded the deception by repeatedly asserting that the Affected Vehicles were safe, reliable, and of high quality, and by claiming to be a reputable manufacturer that valued safety and stood behind its vehicles once they are on the road.

2624. New GM's unfair or deceptive acts or practices were likely to and did in fact deceive reasonable consumers, including Plaintiffs, about the true safety and reliability of GM-branded vehicles, the quality of the GM brand, the devaluing of safety at New GM, and the true value of the Affected Vehicles.

2625. New GM intentionally and knowingly misrepresented material facts regarding the Affected Vehicles with an intent to mislead Plaintiffs and the Oregon Class.

2626. New GM knew or should have known that its conduct violated the Oregon UTPA.

2627. As alleged above, New GM made material statements about the safety and reliability of the Affected Vehicles that were either false or misleading.

2628. New GM owed Plaintiffs a duty to disclose the true safety and reliability of the Affected Vehicles, and the devaluing of safety at New GM, because New GM:

a. Possessed exclusive knowledge that it valued cost-cutting over safety, selected parts from the cheapest supplier regardless of quality, and actively discouraged employees from finding and flagging known safety defects, and that this approach would necessarily cause the existence of more defects in the vehicles it designed and manufactured;

b. Intentionally concealed the foregoing from Plaintiffs; and/or

c. Made incomplete representations about the safety and reliability of the Affected Vehicles generally, and the ignition switch in particular, while purposefully withholding material facts from Plaintiffs that contradicted these representations.

2629. Because New GM fraudulently concealed the many defects in GM-branded vehicles, resulting in a raft of negative publicity once the defects finally began to be disclosed, the value of the Affected Vehicles has greatly diminished. In light of the stigma attached to those vehicles by New GM's conduct, they are now worth significantly less than they otherwise would be.

2630. New GM's systemic devaluation of safety and its concealment of a plethora of defects in GM-branded vehicles were material to Plaintiffs and the Oregon Class. A vehicle made by a reputable manufacturer of safe vehicles is worth more than an otherwise comparable vehicle made by a disreputable manufacturer of unsafe vehicles that conceals defects rather than promptly remedies them.

2631. Plaintiffs and the Oregon Class suffered ascertainable loss caused by New GM's misrepresentations and its failure to disclose material information. Had they been aware of the many defects that existed in GM-branded vehicles, and the company's callous disregard for safety, Plaintiffs either would have paid less for their vehicles or would not have purchased or leased them at all. Plaintiffs did not receive the benefit of their bargain as a result of New GM's misconduct.

2632. New GM's violations present a continuing risk to Plaintiffs as well as to the general public. New GM's unlawful acts and practices complained of herein affect the public interest.

2633. As a direct and proximate result of New GM's violations of the Oregon UTPA, Plaintiffs and the Oregon Class have suffered injury-in-fact and/or actual damage.

2634. Plaintiffs and the Oregon Class are entitled to recover the greater of actual damages or $200 pursuant to OR. REV. STAT. § 646.638(1). Plaintiffs and the Oregon Class are also entitled to punitive damages because New GM engaged in conduct amounting to a particularly aggravated, deliberate disregard of the rights of others.

**COUNT II**

**FRAUD BY CONCEALMENT**

2635. Plaintiffs reallege and incorporate by reference all paragraphs as though fully set forth herein.

2636. In the event the Court declines to certify a Nationwide Class under Michigan law, this claim is brought only on behalf of Nationwide Class members who are Oregon residents (the "Oregon Class").

2637. New GM concealed and suppressed material facts concerning the quality of its vehicles and the GM brand.

2638. New GM concealed and suppressed material facts concerning the culture of New GM—a culture characterized by an emphasis on cost-cutting, the studious avoidance of safety issues, and a shoddy design process.

2639. New GM concealed and suppressed material facts concerning the many serious defects plaguing GM-branded vehicles, and that it valued cost-cutting over safety and took steps to ensure that its employees did not reveal known safety defects to regulators or consumers.

2640. New GM did so in order to boost confidence in its vehicles and falsely assure purchasers and lessors of its vehicles that New GM was a reputable manufacturer that stands behind its vehicles after they are sold and that its vehicles are safe and reliable. The false

representations were material to consumers, both because they concerned the quality and safety of the Affected Vehicles and because they played a significant role in the value of the vehicles.

2641. New GM had a duty to disclose the many defects in GM-branded vehicles because they were known and/or accessible only to New GM who had superior knowledge and access to the facts, and New GM knew the facts were not known to or reasonably discoverable by Plaintiffs and the Class. These omitted and concealed facts were material because they directly impact the value of the Affected Vehicles purchased or leased by Plaintiffs and the Oregon Class. Whether a manufacturer's products are safe and reliable, and whether that manufacturer stands behind its products, are material concerns to a consumer.

2642. New GM actively concealed and/or suppressed these material facts, in whole or in part, to protect its profits and avoid recalls that would hurt the brand's image and cost New GM money, and it did so at the expense of Plaintiffs and the Oregon Class.

2643. On information and belief, New GM has still not made full and adequate disclosure and continues to defraud Plaintiffs and the Oregon Class and conceal material information regarding defects that exist in GM-branded vehicles.

2644. Plaintiffs and the Oregon Class were unaware of these omitted material facts and would not have acted as they did if they had known of the concealed and/or suppressed facts. Plaintiffs' and the Class's actions were justified. New GM was in exclusive control of the material facts and such facts were not known to the public, Plaintiffs, or the Oregon Class.

2645. Because of the concealment and/or suppression of the facts, Plaintiffs and the Oregon Class sustained damage because they own vehicles that diminished in value as a result of New GM's concealment of, and failure to timely disclose, the serious defects in millions of GM-branded vehicles and the serious safety and quality issues engendered by New GM's corporate

policies. Had they been aware of the many defects that existed in GM-branded vehicles, and the company's callous disregard for safety, Plaintiffs either would have paid less for their vehicles or would not have purchased or leased them at all. Plaintiffs did not receive the benefit of their bargain as a result of New GM's fraudulent concealment.

2646. The value of all Oregon Class members' vehicles has diminished as a result of New GM's fraudulent concealment of the many defects and its systemic safety issues which has greatly tarnished the GM brand and made any reasonable consumer reluctant to purchase any of the Affected Vehicles, let alone pay what otherwise would have been fair market value for the vehicles.

2647. Accordingly, New GM is liable to the Oregon Class for their damages in an amount to be proven at trial.

2648. New GM's acts were done maliciously, oppressively, deliberately, with intent to defraud, and in reckless disregard of Plaintiffs' and the Oregon Class's rights and well-being to enrich New GM. New GM's conduct warrants an assessment of punitive damages in an amount sufficient to deter such conduct in the future, which amount is to be determined according to proof.

## PENNSYLVANIA

### COUNT I

### VIOLATION OF THE PENNSYLVANIA UNFAIR TRADE PRACTICES AND CONSUMER PROTECTION LAW

**(73 P.S. § 201-1, *et seq*.)**

2649. Plaintiffs reallege and incorporate by reference all paragraphs as though fully set forth herein.

2650. This claim is brought only on behalf of Nationwide Class members who are Pennsylvania residents (the "Pennsylvania Class").

2651. Plaintiffs purchased or leased their Affected Vehicles primarily for personal, family or household purposes within the meaning of 73 P.S. § 201-9.2.

2652. All of the acts complained of herein were perpetrated by New GM in the course of trade or commerce within the meaning of 73 P.S. § 201-2(3).

2653. The Pennsylvania Unfair Trade Practices and Consumer Protection Law ("Pennsylvania CPL") prohibits unfair or deceptive acts or practices, including: (i) "Representing that goods or services have … characteristics, …. Benefits or qualities that they do not have;" (ii) "Representing that goods or services are of a particular standard, quality or grade … if they are of another;:" (iii) "Advertising goods or services with intent not to sell them as advertised;" and (iv) "Engaging in any other fraudulent or deceptive conduct which creates a likelihood of confusion or misunderstanding." 73 P.S. § 201-2(4).

2654. New GM engaged in unlawful trade practices, including representing that Affected Vehicles have characteristics, uses, benefits, and qualities which they do not have; representing that Affected Vehicles are of a particular standard and quality when they are not; advertising Affected Vehicles with the intent not to sell them as advertised; and engaging in any other fraudulent or deceptive conduct which creates a likelihood of confusion or of misunderstanding.

2655. In the course of its business, New GM systematically devalued safety and concealed a plethora of defects in GM-branded vehicles as described herein and otherwise engaged in activities with a tendency or capacity to deceive. New GM also engaged in unlawful trade practices by employing deception, deceptive acts or practices, fraud, misrepresentations, or

concealment, suppression or omission of any material fact with intent that others rely upon such concealment, suppression or omission, in connection with the sale of the Affected Vehicles.

2656. From the date of its inception on July 10, 2009, New GM knew of many serious defects affecting many models and years of GM-branded vehicles, both because of the knowledge of Old GM personnel who remained at New GM and continuous reports, investigations, and notifications from regulatory authorities. New GM became aware of other serious defects and systemic safety issues years ago, but concealed all of that information until recently.

2657. New GM was also aware that it valued cost-cutting over safety, selected parts from the cheapest supplier regardless of quality, and actively discouraged employees from finding and flagging known safety defects, and that this approach would necessarily cause the existence of more defects in the vehicles it designed and manufactured and the failure to disclose and remedy defects in all GM-branded vehicles. New GM concealed this information as well.

2658. According to one report from the Center for Auto Safety, some 2,004 deaths and injuries are connected with recently recalled GM-branded vehicles, and New GM should have recalled the vehicles years ago.

2659. By failing to disclose and by actively concealing the many defects in GM-branded vehicles, by marketing its vehicles as safe, reliable, and of high quality, and by presenting itself as a reputable manufacturer that valued safety and stood behind its vehicles after they were sold, New GM engaged in unfair and deceptive business practices in violation of the Pennsylvania CPL.

2660. In the course of New GM's business, it willfully failed to disclose and actively concealed the dangerous risk posed by the many safety issues and serious defects discussed

above. New GM compounded the deception by repeatedly asserting that the Affected Vehicles were safe, reliable, and of high quality, and by claiming to be a reputable manufacturer that valued safety and stood behind its vehicles once they are on the road.

2661. New GM's unfair or deceptive acts or practices were likely to and did in fact deceive reasonable consumers, including Plaintiffs, about the true safety and reliability of GM-branded vehicles, the quality of the GM brand, the devaluing of safety at New GM, and the true value of the Affected Vehicles.

2662. New GM intentionally and knowingly misrepresented material facts regarding the Affected Vehicles with an intent to mislead Plaintiffs and the Pennsylvania Class.

2663. New GM knew or should have known that its conduct violated the Pennsylvania CPL.

2664. As alleged above, New GM made material statements about the safety and reliability of the Affected Vehicles that were either false or misleading.

2665. New GM owed Plaintiffs a duty to disclose the true safety and reliability of the Affected Vehicles and the devaluing of safety at New GM, because New GM:

a. Possessed exclusive knowledge that it valued cost-cutting over safety, selected parts from the cheapest supplier regardless of quality, and actively discouraged employees from finding and flagging known safety defects, and that this approach would necessarily cause the existence of more defects in the vehicles it designed and manufactured;

b. Intentionally concealed the foregoing from Plaintiffs; and/or

c. Made incomplete representations about the safety and reliability of the Affected Vehicles generally, and the ignition switch in particular, while purposefully withholding material facts from Plaintiffs that contradicted these representations.

2666. Because New GM fraudulently concealed the many defects in GM-branded vehicles, resulting in a raft of negative publicity once the defects finally began to be disclosed, the value of the Affected Vehicles has greatly diminished. In light of the stigma attached to those vehicles by New GM's conduct, they are now worth significantly less than they otherwise would be.

2667. New GM's systemic devaluation of safety and its concealment of a plethora of defects in GM-branded vehicles were material to Plaintiffs and the Pennsylvania Class. A vehicle made by a reputable manufacturer of safe vehicles is worth more than an otherwise comparable vehicle made by a disreputable manufacturer of unsafe vehicles that conceals defects rather than promptly remedies them.

2668. Plaintiffs and the Pennsylvania Class suffered ascertainable loss caused by New GM's misrepresentations and its failure to disclose material information. Had they been aware of the many defects that existed in GM-branded vehicles, and the company's callous disregard for safety, Plaintiffs either would have paid less for their vehicles or would not have purchased or leased them at all. Plaintiffs did not receive the benefit of their bargain as a result of New GM's misconduct.

2669. New GM's violations present a continuing risk to Plaintiffs as well as to the general public. New GM's unlawful acts and practices complained of herein affect the public interest.

2670. As a direct and proximate result of New GM's violations of the Pennsylvania CPL, Plaintiffs and the Pennsylvania Class have suffered injury-in-fact and/or actual damage.

2671. New GM is liable to Plaintiffs and the Pennsylvania Class for treble their actual damages or $100, whichever is greater, and attorneys' fees and costs. 73 P.S. § 201-9.2(a).

Plaintiffs and the Pennsylvania Class are also entitled to an award of punitive damages given that New GM's conduct was malicious, wanton, willful, oppressive, or exhibited a reckless indifference to the rights of others.

**COUNT II**

**FRAUD BY CONCEALMENT**

2672. Plaintiffs reallege and incorporate by reference all paragraphs as though fully set forth herein.

2673. In the event the Court declines to certify a Nationwide Class under Michigan law, this claim is brought only on behalf of Nationwide Class members who are Pennsylvania residents (the "Pennsylvania Class").

2674. New GM concealed and suppressed material facts concerning the quality of its vehicles and the GM brand.

2675. New GM concealed and suppressed material facts concerning the culture of New GM—a culture characterized by an emphasis on cost-cutting, the studious avoidance of safety issues, and a shoddy design process.

2676. New GM concealed and suppressed material facts concerning the many serious defects plaguing GM-branded vehicles, and that it valued cost-cutting over safety and took steps to ensure that its employees did not reveal known safety defects to regulators or consumers.

2677. New GM did so in order to boost confidence in its vehicles and falsely assure purchasers and lessors of its vehicles that New GM was a reputable manufacturer that stands behind its vehicles after they are sold and that its vehicles are safe and reliable. The false representations were material to consumers, both because they concerned the quality and safety of the Affected Vehicles and because they played a significant role in the value of the vehicles.

2678. New GM had a duty to disclose the many defects in GM-branded vehicles because they were known and/or accessible only to New GM who had superior knowledge and access to the facts, and New GM knew the facts were not known to or reasonably discoverable by Plaintiffs and the Pennsylvania Class. These omitted and concealed facts were material because they directly impact the value of the Affected Vehicles purchased or leased by Plaintiffs and the Pennsylvania Class. Whether a manufacturer's products are safe and reliable, and whether that manufacturer stands behind its products, are material concerns to a consumer.

2679. New GM actively concealed and/or suppressed these material facts, in whole or in part, to protect its profits and avoid recalls that would hurt the brand's image and cost New GM money, and it did so at the expense of Plaintiffs and the Pennsylvania Class.

2680. On information and belief, New GM has still not made full and adequate disclosure and continues to defraud Plaintiffs and the Pennsylvania Class and conceal material information regarding defects that exist in GM-branded vehicles.

2681. Plaintiffs and the Pennsylvania Class were unaware of these omitted material facts and would not have acted as they did if they had known of the concealed and/or suppressed facts. Plaintiffs' and the Pennsylvania Class's actions were justified. New GM was in exclusive control of the material facts and such facts were not known to the public, Plaintiffs, or the Pennsylvania Class.

2682. Because of the concealment and/or suppression of the facts, Plaintiffs and the Pennsylvania Class sustained damage because they own vehicles that diminished in value as a result of New GM's concealment of, and failure to timely disclose, the serious defects in millions of GM-branded vehicles and the serious safety and quality issues engendered by New GM's corporate policies. Had they been aware of the many defects that existed in GM-branded

vehicles, and the company's callous disregard for safety, Plaintiffs either would have paid less for their vehicles or would not have purchased or leased them at all. Plaintiffs did not receive the benefit of their bargain as a result of New GM's fraudulent concealment.

2683. The value of all Pennsylvania Class members' vehicles has diminished as a result of New GM's fraudulent concealment of the many defects and its systemic safety issues which has greatly tarnished the GM brand and made any reasonable consumer reluctant to purchase any of the Affected Vehicles, let alone pay what otherwise would have been fair market value for the vehicles.

2684. Accordingly, New GM is liable to the Pennsylvania Class for their damages in an amount to be proven at trial.

2685. New GM's acts were done maliciously, oppressively, deliberately, with intent to defraud, and in reckless disregard of Plaintiffs' and the Pennsylvania Class's rights and well-being to enrich New GM. New GM's conduct warrants an assessment of punitive damages in an amount sufficient to deter such conduct in the future, which amount is to be determined according to proof.

**COUNT III**

**BREACH OF THE IMPLIED WARRANTY OF MERCHANTABILITY**

**(13 PA. CONS. STAT. ANN. § 2314)**

2686. Plaintiffs reallege and incorporate by reference all paragraphs as though fully set forth herein.

2687. In the event the Court declines to certify a Nationwide Ignition Switch Defect Subclass under the Magnuson-Moss Warranty Act or Michigan law, this claim is brought only on behalf of Pennsylvania residents who are members of the Ignition Switch Defect Subclass (the "Pennsylvania Ignition Switch Defect Subclass").

2688. New GM is s a merchant with respect to motor vehicles.

2689. A warranty that the Defective Ignition Switch Vehicles were in merchantable condition was implied by law when New GM sold the Defective Ignition Switch Vehicles to Plaintiffs and the Pennsylvania Ignition Switch Defect Subclass.

2690. These vehicles, when sold and at all times thereafter, were not in merchantable condition and are not fit for the ordinary purpose for which cars are used. Specifically, the Defective Ignition Switch Vehicles are inherently defective in that there are defects in the ignition switch systems that permit sudden unintended stalling to occur during ordinary driving conditions; when the vehicles stall, the power brakes and power steering become inoperable and the vehicles' airbags will not deploy,

2691. New GM was provided notice of these issues by numerous complaints filed against it, by its own internal investigations, and by numerous individual letters and communications sent by Plaintiffs and the Pennsylvania Ignition Switch Defect Subclass before or within a reasonable amount of time after New GM issued the recall and the allegations of vehicle defects became public.

2692. As a direct and proximate result of New GM's breach of the warranties of merchantability, Plaintiffs and the Pennsylvania Ignition Switch Defect Subclass have been damaged in an amount to be proven at trial.

## RHODE ISLAND

## COUNT I

## VIOLATION OF THE RHODE ISLAND UNFAIR TRADE PRACTICES AND CONSUMER PROTECTION ACT

**(R.I. GEN. LAWS § 6-13.1, *et seq*.)**

2693. Plaintiffs reallege and incorporate by reference all paragraphs as though fully set forth herein.

2694. This claim is brought only on behalf of Nationwide Class members who are Rhode Island residents (the "Rhode Island Class").

2695. Plaintiffs are persons who purchased or leased one or more Affected Vehicles primarily for personal, family, or household purposes within the meaning of R.I. GEN. LAWS § 6-13.1-5.2(a).

2696. Rhode Island's Unfair Trade Practices and Consumer Protection Act ("Rhode Island CPA") prohibits "unfair or deceptive acts or practices in the conduct of any trade or commerce" including: "(v) Representing that goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits, or quantities that they do not have"; "(vii) Representing that goods or services are of a particular standard, quality, or grade …, if they are of another"; "(ix) Advertising goods or services with intent not to sell them as advertised"; "(xii) Engaging in any other conduct that similarly creates a likelihood of confusion or of misunderstanding"; "(xiii) Engaging in any act or practice that is unfair or deceptive to the consumer"; and "(xiv) Using any other methods, acts or practices which mislead or deceive members of the public in a material respect." R.I. GEN. LAWS § 6-13.1-1(6).

2697. New GM engaged in unlawful trade practices, including: (1) representing that the Affected Vehicles have characteristics, uses, benefits, and qualities which they do not have; (2)

representing that the Affected Vehicles are of a particular standard and quality when they are not; (3) advertising the Affected Vehicles with the intent not to sell them as advertised; and (4) otherwise engaging in conduct that is unfair or deceptive and likely to deceive.

2698. New GM's actions as set forth above occurred in the conduct of trade or commerce.

2699. In the course of its business, New GM systematically devalued safety and concealed a plethora of defects in GM-branded vehicles as described herein and otherwise engaged in activities with a tendency or capacity to deceive. New GM also engaged in unlawful trade practices by employing deception, deceptive acts or practices, fraud, misrepresentations, or concealment, suppression or omission of any material fact with intent that others rely upon such concealment, suppression or omission, in connection with the sale of the Affected Vehicles.

2700. From the date of its inception on July 10, 2009, New GM knew of many serious defects affecting many models and years of GM-branded vehicles, both because of the knowledge of Old GM personnel who remained at New GM and continuous reports, investigations, and notifications from regulatory authorities. New GM became aware of other serious defects and systemic safety issues years ago, but concealed all of that information until recently.

2701. New GM was also aware that it valued cost-cutting over safety, selected parts from the cheapest supplier regardless of quality, and actively discouraged employees from finding and flagging known safety defects, and that this approach would necessarily cause the existence of more defects in the vehicles it designed and manufactured and the failure to disclose and remedy defects in all GM-branded vehicles. New GM concealed this information as well.

2702. According to one report from the Center for Auto Safety, some 2,004 deaths and injuries are connected with recently recalled GM-branded vehicles, and New GM should have recalled the vehicles years ago.

2703. By failing to disclose and by actively concealing the many defects in GM-branded vehicles, by marketing its vehicles as safe, reliable, and of high quality, and by presenting itself as a reputable manufacturer that valued safety and stood behind its vehicles after they were sold, New GM engaged in unfair and deceptive business practices in violation of the Rhode Island CPA.

2704. In the course of New GM's business, it willfully failed to disclose and actively concealed the dangerous risk posed by the many safety issues and serious defects discussed above. New GM compounded the deception by repeatedly asserting that the Affected Vehicles were safe, reliable, and of high quality, and by claiming to be a reputable manufacturer that valued safety and stood behind its vehicles once they are on the road.

2705. New GM's unfair or deceptive acts or practices were likely to and did in fact deceive reasonable consumers, including Plaintiffs, about the true safety and reliability of GM-branded vehicles, the quality of the GM brand, the devaluing of safety at New GM, and the true value of the Affected Vehicles.

2706. New GM intentionally and knowingly misrepresented material facts regarding the Affected Vehicles with an intent to mislead Plaintiffs and the Rhode Island Class.

2707. New GM knew or should have known that its conduct violated the Rhode Island CPA.

2708. As alleged above, New GM made material statements about the safety and reliability of the Affected Vehicles that were either false or misleading.

2709. New GM owed Plaintiffs a duty to disclose the true safety and reliability of the Affected Vehicles and the devaluing of safety at New GM, because New GM:

a. Possessed exclusive knowledge that it valued cost-cutting over safety, selected parts from the cheapest supplier regardless of quality, and actively discouraged employees from finding and flagging known safety defects, and that this approach would necessarily cause the existence of more defects in the vehicles it designed and manufactured;

b. Intentionally concealed the foregoing from Plaintiffs; and/or

c. Made incomplete representations about the safety and reliability of the Affected Vehicles generally, and the ignition switch in particular, while purposefully withholding material facts from Plaintiffs that contradicted these representations.

2710. Because New GM fraudulently concealed the many defects in GM-branded vehicles, resulting in a raft of negative publicity once the defects finally began to be disclosed, the value of the Affected Vehicles has greatly diminished. In light of the stigma attached to those vehicles by New GM's conduct, they are now worth significantly less than they otherwise would be.

2711. New GM's systemic devaluation of safety and its concealment of a plethora of defects in GM-branded vehicles were material to Plaintiffs and the Rhode Island Class. A vehicle made by a reputable manufacturer of safe vehicles is worth more than an otherwise comparable vehicle made by a disreputable manufacturer of unsafe vehicles that conceals defects rather than promptly remedies them.

2712. Plaintiffs and the Rhode Island Class suffered ascertainable loss caused by New GM's misrepresentations and its failure to disclose material information. Had they been aware of the many defects that existed in GM-branded vehicles, and the company's callous disregard for safety, Plaintiffs either would have paid less for their vehicles or would not have

purchased or leased them at all. Plaintiffs did not receive the benefit of their bargain as a result of New GM's misconduct.

2713. New GM's violations present a continuing risk to Plaintiffs as well as to the general public. New GM's unlawful acts and practices complained of herein affect the public interest.

2714. As a direct and proximate result of New GM's violations of the Rhode Island CPA, Plaintiffs and the Rhode Island Class have suffered injury-in-fact and/or actual damage.

2715. Plaintiffs and the Rhode Island Class are entitled to recover the greater of actual damages or $200 pursuant to R.I. GEN. LAWS § 6-13.1-5.2(a). Plaintiffs also seek punitive damages in the discretion of the Court because of New GM's egregious disregard of consumer and public safety and its long-running concealment of the serious safety defects and their tragic consequences.

**COUNT II**

**FRAUD BY CONCEALMENT**

2716. Plaintiffs reallege and incorporate by reference all paragraphs as though fully set forth herein.

2717. In the event the Court declines to certify a Nationwide Class under Michigan law, this claim is brought only on behalf of Nationwide Class members who are Rhode Island residents (the "Rhode Island Class").

2718. New GM concealed and suppressed material facts concerning the quality of its vehicles and the GM brand.

2719. New GM concealed and suppressed material facts concerning the culture of New GM—a culture characterized by an emphasis on cost-cutting, the studious avoidance of safety issues, and a shoddy design process.

2720. New GM concealed and suppressed material facts concerning the many serious defects plaguing GM-branded vehicles, and that it valued cost-cutting over safety and took steps to ensure that its employees did not reveal known safety defects to regulators or consumers.

2721. New GM did so in order to boost confidence in its vehicles and falsely assure purchasers and lessors of its vehicles that New GM was a reputable manufacturer that stands behind its vehicles after they are sold and that its vehicles are safe and reliable. The false representations were material to consumers, both because they concerned the quality and safety of the Affected Vehicles and because they played a significant role in the value of the vehicles.

2722. New GM had a duty to disclose the many defects in GM-branded vehicles because they were known and/or accessible only to New GM who had superior knowledge and access to the facts, and New GM knew the facts were not known to or reasonably discoverable by Plaintiffs and the Rhode Island Class. These omitted and concealed facts were material because they directly impact the value of the Affected Vehicles purchased or leased by Plaintiffs and the Rhode Island Class. Whether a manufacturer's products are safe and reliable, and whether that manufacturer stands behind its products, are material concerns to a consumer.

2723. New GM actively concealed and/or suppressed these material facts, in whole or in part, to protect its profits and avoid recalls that would hurt the brand's image and cost New GM money, and it did so at the expense of Plaintiffs and the Rhode Island Class.

2724. On information and belief, New GM has still not made full and adequate disclosure and continues to defraud Plaintiffs and the Rhode Island Class and conceal material information regarding defects that exist in GM-branded vehicles.

2725. Plaintiffs and the Rhode Island Class were unaware of these omitted material facts and would not have acted as they did if they had known of the concealed and/or suppressed facts. Plaintiffs' and the Rhode Island Class's actions were justified. New GM was in exclusive control of the material facts and such facts were not known to the public, Plaintiffs, or the Rhode Island Class.

2726. Because of the concealment and/or suppression of the facts, Plaintiffs and the Rhode Island Class sustained damage because they own vehicles that diminished in value as a result of New GM's concealment of, and failure to timely disclose, the serious defects in millions of GM-branded vehicles and the serious safety and quality issues engendered by New GM's corporate policies. Had they been aware of the many defects that existed in GM-branded vehicles, and the company's callous disregard for safety, Plaintiffs either would have paid less for their vehicles or would not have purchased or leased them at all. Plaintiffs did not receive the benefit of their bargain as a result of New GM's fraudulent concealment.

2727. The value of all Rhode Island Class members' vehicles has diminished as a result of New GM's fraudulent concealment of the many defects and its systemic safety issues which has greatly tarnished the GM brand and made any reasonable consumer reluctant to purchase any of the Affected Vehicles, let alone pay what otherwise would have been fair market value for the vehicles.

2728. Accordingly, New GM is liable to the Rhode Island Class for their damages in an amount to be proven at trial.

2729. New GM's acts were done maliciously, oppressively, deliberately, with intent to defraud, and in reckless disregard of Plaintiffs' and the Rhode Island Class's rights and well-being to enrich New GM. New GM's conduct warrants an assessment of punitive damages in an amount sufficient to deter such conduct in the future, which amount is to be determined according to proof.

**COUNT III**

**BREACH OF THE IMPLIED WARRANTY OF MERCHANTABILITY**

**(R.I. GEN. LAWS § 6A-2-314)**

2730. Plaintiffs reallege and incorporate by reference all paragraphs as though fully set forth herein.

2731. In the event the Court declines to certify a Nationwide Ignition Switch Defect Subclass under the Magnuson-Moss Warranty Act or Michigan law, this claim is brought only on behalf of Rhode Island residents who are members of the Ignition Switch Defect Subclass (the "Rhode Island Ignition Switch Defect Subclass").

2732. New GM was a merchant with respect to motor vehicles.

2733. A warranty that the Defective Ignition Switch Vehicles were in merchantable condition was implied by law when Plaintiffs and the Class purchased their Defective Ignition Switch Vehicles.

2734. These vehicles, when sold and at all times thereafter, were not in merchantable condition and are not fit for the ordinary purpose for which cars are used. Specifically, the Defective Ignition Switch Vehicles are inherently defective in that there are defects in the ignition switch systems that permit sudden unintended stalling to occur during ordinary driving conditions; when the vehicles stall, the power brakes and power steering become inoperable and the vehicles' airbags will not deploy.

2735. New GM was provided notice of these issues by numerous complaints filed against it, by its own internal investigations, and by numerous individual letters and communications sent by Plaintiffs and the Rhode Island Ignition Switch Defect Subclass before or within a reasonable amount of time after New GM issued the recall and the allegations of vehicle defects became public.

2736. As a direct and proximate result of New GM's breach of the warranties of merchantability, Plaintiffs and the Rhode Island Ignition Switch Defect Subclass have been damaged in an amount to be proven at trial.

**SOUTH CAROLINA**

**COUNT I**

**VIOLATIONS OF THE SOUTH CAROLINA UNFAIR TRADE PRACTICES ACT**

**(S.C. CODE ANN. § 39-5-10, *et seq.*)**

2737. Plaintiffs reallege and incorporate by reference all paragraphs as though fully set forth herein.

2738. This claim is brought only on behalf of Nationwide Class members who are South Carolina residents (the "South Carolina Class").

2739. New GM is a "person" under S.C. CODE ANN. § 39-5-10.

2740. The South Carolina Unfair Trade Practices Act ("South Carolina UTPA") prohibits "unfair or deceptive acts or practices in the conduct of any trade or commerce . . . ." S.C. CODE ANN. § 39-5-20(a). New GM engaged in unfair and deceptive acts or practices and violated the South Carolina UTPA by systematically devaluing safety and concealing a plethora of defects in GM-branded vehicles.

2741. New GM's actions as set forth above occurred in the conduct of trade or commerce.

2742. In the course of its business, New GM systematically devalued safety and concealed a plethora of defects in GM-branded vehicles as described herein and otherwise engaged in activities with a tendency or capacity to deceive. New GM also engaged in unlawful trade practices by employing deception, deceptive acts or practices, fraud, misrepresentations, or concealment, suppression or omission of any material fact with intent that others rely upon such concealment, suppression or omission, in connection with the sale of the Affected Vehicles.

2743. From the date of its inception on July 10, 2009, New GM knew of many serious defects affecting many models and years of GM-branded vehicles, both because of the knowledge of Old GM personnel who remained at New GM and continuous reports, investigations, and notifications from regulatory authorities. New GM became aware of other serious defects and systemic safety issues years ago, but concealed all of that information until recently.

2744. New GM was also aware that it valued cost-cutting over safety, selected parts from the cheapest supplier regardless of quality, and actively discouraged employees from finding and flagging known safety defects, and that this approach would necessarily cause the existence of more defects in the vehicles it designed and manufactured and the failure to disclose and remedy defects in all GM-branded vehicles. New GM concealed this information as well.

2745. According to one report from the Center for Auto Safety, some 2,004 deaths and injuries are connected with recently recalled GM-branded vehicles, and New GM should have recalled the vehicles years ago.

2746. By failing to disclose and by actively concealing the many defects in GM-branded vehicles, by marketing its vehicles as safe, reliable, and of high quality, and by presenting itself as a reputable manufacturer that valued safety and stood behind its vehicles after they were sold, New GM engaged in unfair and deceptive business practices in violation of the South Carolina UTPA.

2747. In the course of New GM's business, it willfully failed to disclose and actively concealed the dangerous risk posed by the many safety issues and serious defects discussed above. New GM compounded the deception by repeatedly asserting that the Affected Vehicles were safe, reliable, and of high quality, and by claiming to be a reputable manufacturer that valued safety and stood behind its vehicles once they are on the road.

2748. New GM's unfair or deceptive acts or practices were likely to and did in fact deceive reasonable consumers, including Plaintiffs, about the true safety and reliability of GM-branded vehicles, the quality of the GM brand, the devaluing of safety at New GM, and the true value of the Affected Vehicles.

2749. New GM intentionally and knowingly misrepresented material facts regarding the Affected Vehicles with an intent to mislead Plaintiffs and the South Carolina Class.

2750. New GM knew or should have known that its conduct violated the South Carolina UTPA.

2751. As alleged above, New GM made material statements about the safety and reliability of the Affected Vehicles that were either false or misleading.

2752. New GM owed Plaintiffs a duty to disclose the true safety and reliability of the Affected Vehicles and the devaluing of safety at New GM, because New GM:

a. Possessed exclusive knowledge that it valued cost-cutting over safety, selected parts from the cheapest supplier

regardless of quality, and actively discouraged employees from finding and flagging known safety defects, and that this approach would necessarily cause the existence of more defects in the vehicles it designed and manufactured;

b. Intentionally concealed the foregoing from Plaintiff; and/or

c. Made incomplete representations about the safety and reliability of the Affected Vehicles, while purposefully withholding material facts from Plaintiffs and the Class that contradicted these representations.

2753. Because New GM fraudulently concealed the many defects in GM-branded vehicles, resulting in a raft of negative publicity once the defects finally began to be disclosed, the value of the Affected Vehicles has greatly diminished. In light of the stigma attached to those vehicles by New GM's conduct, they are now worth significantly less than they otherwise would be.

2754. New GM's systemic devaluation of safety and its concealment of a plethora of defects in GM-branded vehicles were material to Plaintiffs and the South Carolina Class. A vehicle made by a reputable manufacturer of safe vehicles is worth more than an otherwise comparable vehicle made by a disreputable manufacturer of unsafe vehicles that conceals defects rather than promptly remedies them.

2755. Plaintiffs and the South Carolina Class suffered ascertainable loss caused by New GM's misrepresentations and its failure to disclose material information. Had they been aware of the many defects that existed in GM-branded vehicles, and the company's callous disregard for safety, Plaintiffs either would have paid less for their vehicles or would not have purchased or leased them at all. Plaintiffs did not receive the benefit of their bargain as a result of New GM's misconduct.

2756. New GM's violations present a continuing risk to Plaintiffs as well as to the general public. New GM's unlawful acts and practices complained of herein affect the public interest.

2757. As a direct and proximate result of New GM's violations of the South Carolina UTPA, Plaintiffs and the South Carolina Class have suffered injury-in-fact and/or actual damage.

2758. Pursuant to S.C. CODE ANN. § 39-5-140(a), Plaintiffs seek monetary relief against New GM to recover for their economic losses. Because New GM's actions were willful and knowing, Plaintiffs' damages should be trebled. *Id.*

2759. Plaintiffs further allege that New GM's malicious and deliberate conduct warrants an assessment of punitive damages because New GM carried out despicable conduct with willful and conscious disregard of the rights and safety of others, subjecting Plaintiffs and the Class to cruel and unjust hardship as a result. New GM's intentionally and willfully misrepresented the safety and reliability of the Affected Vehicles, deceived Plaintiffs on life-or-death matters, and concealed material facts that only New GM knew, all to avoid the expense and public relations nightmare of correcting a deadly flaw in vehicles New GM repeatedly promised Plaintiffs was safe. New GM's unlawful conduct constitutes malice, oppression, and fraud warranting punitive damages.

2760. Plaintiffs further seek an order enjoining New GM's unfair or deceptive acts or practices.

## COUNT II

## VIOLATIONS OF THE SOUTH CAROLINA REGULATION OF MANUFACTURERS, DISTRIBUTORS, AND DEALERS ACT

**(S.C. CODE ANN. § 56-15-10, *et seq.*)**

2761. Plaintiffs reallege and incorporate by reference all paragraphs as though fully set forth herein.

2762. In the event the Court declines to certify a Nationwide Class under Michigan law, this claim is brought only on behalf of Nationwide Class members who are South Carolina residents (the "South Carolina Class").

2763. New GM was a "manufacturer" as set forth in S.C. CODE ANN. § 56-15-10, as it was engaged in the business of manufacturing or assembling new and unused motor vehicles.

2764. New GM committed unfair or deceptive acts or practices that violated the South Carolina Regulation of Manufacturers, Distributors, and Dealers Act ("Dealers Act"), S.C. CODE ANN. § 56-15-30.

2765. New GM engaged in actions which were arbitrary, in bad faith, unconscionable, and which caused damage to Plaintiffs, the South Carolina Class, and to the public.

2766. New GM's bad faith and unconscionable actions include, but are not limited to: (1) representing that Affected Vehicles have characteristics, uses, benefits, and qualities which they do not have, (2) representing that Affected Vehicles are of a particular standard, quality, and grade when they are not, (3) advertising Affected Vehicles with the intent not to sell them as advertised, (4) representing that a transaction involving Affected Vehicles confers or involves rights, remedies, and obligations which it does not, and (5) representing that the subject of a transaction involving Affected Vehicles has been supplied in accordance with a previous representation when it has not.

2767. New GM resorted to and used false and misleading advertisements in connection with its business. As alleged above, New GM made numerous material statements about the safety and reliability of the Affected Vehicles that were either false or misleading. Each of these statements contributed to the deceptive context of New GM's unlawful advertising and representations as a whole.

2768. Pursuant to S.C. CODE ANN. § 56-15-110(2), Plaintiffs bring this action on behalf of themselves and the South Carolina Class, as the action is one of common or general interest to many persons and the parties are too numerous to bring them all before the court.

2769. Plaintiffs and the South Carolina Class are entitled to double their actual damages, the cost of the suit, attorney's fees pursuant to S.C. CODE ANN. § 56-15-110. Plaintiffs also seek injunctive relief under S.C. CODE ANN. § 56-15-110. Plaintiffs also seek treble damages because New GM acted maliciously.

**COUNT III**

**BREACH OF THE IMPLIED WARRANTY OF MERCHANTABILITY**

**(S.C. CODE § 36-2-314)**

2770. Plaintiffs reallege and incorporate by reference all paragraphs as though fully set forth herein.

2771. In the event the Court declines to certify a Nationwide Ignition Switch Defect Subclass under the Magnuson-Moss Warranty Act or Michigan law, this claim is brought only on behalf of South Carolina residents who are members of the Ignition Switch Defect Subclass (the "South Carolina Ignition Switch Defect Subclass").

2772. New GM was a merchant with respect to motor vehicles under S.C. CODE § 36-2-314.

2773. Under S.C. CODE § 36-2-314, a warranty that the Defective Ignition Switch Vehicles were in merchantable condition was implied by law when Plaintiffs and the Class purchased the vehicles.

2774. These vehicles, when sold and at all times thereafter, were not in merchantable condition and are not fit for the ordinary purpose for which cars are used. Specifically, the Defective Ignition Switch Vehicles are inherently defective in that there are defects in the ignition switch systems that permit sudden unintended stalling to occur during ordinary driving conditions; when the vehicles stall, the power brakes and power steering become inoperable and the vehicles' airbags will not deploy.

2775. New GM was provided notice of these issues by numerous complaints filed against it, its own internal investigations, and by numerous individual letters and communications sent by Plaintiffs and the South Carolina Ignition Switch Defect Subclass before or within a reasonable amount of time after New GM issued the recall and the allegations of vehicle defects became public.

2776. As a direct and proximate result of New GM's breach of the warranty of merchantability, Plaintiffs and the South Carolina Ignition Switch Defect Subclass have been damaged in an amount to be proven at trial.

**COUNT IV**

**FRAUD BY CONCEALMENT**

2777. Plaintiffs reallege and incorporate by reference all paragraphs as though fully set forth herein.

2778. In the event the Court declines to certify a Nationwide Class under Michigan law, this claim is brought only on behalf of Nationwide Class members who are South Carolina residents (the "South Carolina Class").

2779. New GM concealed and suppressed material facts concerning the quality of its vehicles and the GM brand.

2780. New GM concealed and suppressed material facts concerning the culture of New GM—a culture characterized by an emphasis on cost-cutting, the studious avoidance of safety issues, and a shoddy design process.

2781. New GM concealed and suppressed material facts concerning the many serious defects plaguing GM-branded vehicles, and that it valued cost-cutting over safety and took steps to ensure that its employees did not reveal known safety defects to regulators or consumers.

2782. New GM did so in order to boost confidence in its vehicles and falsely assure purchasers and lessors of its vehicles that New GM was a reputable manufacturer that stands behind its vehicles after they are sold and that its vehicles are safe and reliable. The false representations were material to consumers, both because they concerned the quality and safety of the Affected Vehicles and because they played a significant role in the value of the vehicles.

2783. New GM had a duty to disclose the many defects in GM-branded vehicles because they were known and/or accessible only to New GM who had superior knowledge and access to the facts, and New GM knew the facts were not known to or reasonably discoverable by Plaintiffs and the South Carolina Class. These omitted and concealed facts were material because they directly impact the value of the Affected Vehicles purchased or leased by Plaintiffs and the South Carolina Class. Whether a manufacturer's products are safe and reliable, and whether that manufacturer stands behind its products, are material concerns to a consumer.

2784. New GM actively concealed and/or suppressed these material facts, in whole or in part, to protect its profits and avoid recalls that would hurt the brand's image and cost New GM money, and it did so at the expense of Plaintiffs and the South Carolina Class.

2785. On information and belief, New GM has still not made full and adequate disclosure and continues to defraud Plaintiffs and the South Carolina Class and conceal material information regarding defects that exist in GM-branded vehicles.

2786. Plaintiffs and the South Carolina Class were unaware of these omitted material facts and would not have acted as they did if they had known of the concealed and/or suppressed facts. Plaintiffs' and the South Carolina Class's actions were justified. New GM was in exclusive control of the material facts and such facts were not known to the public, Plaintiffs, or the South Carolina Class.

2787. Because of the concealment and/or suppression of the facts, Plaintiffs and the South Carolina Class sustained damage because they own vehicles that diminished in value as a result of New GM's concealment of, and failure to timely disclose, the serious defects in millions of GM-branded vehicles and the serious safety and quality issues engendered by New GM's corporate policies. Had they been aware of the many defects that existed in GM-branded vehicles, and the company's callous disregard for safety, Plaintiffs either would have paid less for their vehicles or would not have purchased or leased them at all. Plaintiffs did not receive the benefit of their bargain as a result of New GM's fraudulent concealment.

2788. The value of all South Carolina Class members' vehicles has diminished as a result of New GM's fraudulent concealment of the many defects and its systemic safety issues which has greatly tarnished the GM brand and made any reasonable consumer reluctant to purchase any of the Affected Vehicles, let alone pay what otherwise would have been fair market value for the vehicles.

2789. Accordingly, New GM is liable to the South Carolina Class for their damages in an amount to be proven at trial.

2790. New GM's acts were done maliciously, oppressively, deliberately, with intent to defraud, and in reckless disregard of Plaintiffs' and the South Carolina Class's rights and well-being to enrich New GM. New GM's conduct warrants an assessment of punitive damages in an amount sufficient to deter such conduct in the future, which amount is to be determined according to proof.

## SOUTH DAKOTA

## COUNT I

## VIOLATION OF THE SOUTH DAKOTA DECEPTIVE TRADE PRACTICES AND CONSUMER PROTECTION LAW

**(S.D. CODIFIED LAWS § 37-24-6)**

2791. Plaintiffs reallege and incorporate by reference all paragraphs as though fully set forth herein.

2792. This claim is brought only on behalf of Nationwide Class members who are South Dakota residents (the "South Dakota Class").

2793. The South Dakota Deceptive Trade Practices and Consumer Protection Law ("South Dakota CPL") prohibits deceptive acts or practices, which are defined for relevant purposes to include "[k]nowingly and intentionally act, use, or employ any deceptive act or practice, fraud, false pretense, false promises, or misrepresentation or to conceal, suppress, or omit any material fact in connection with the sale or advertisement of any merchandise, regardless of whether any person has in fact been misled, deceived, or damaged thereby [.]" S.D. CODIFIED LAWS § 37-24-6(1). The conduct of New GM as set forth herein constitutes deceptive acts or practices, fraud, false promises, misrepresentation, concealment, suppression and omission of material facts in violation of S.D. Codified Laws § 37-24-6 and 37-24-31, including, but not limited to, New GM's misrepresentations and omissions regarding the safety

and reliability of the Affected Vehicles, and New GM's misrepresentations concerning a host of other defects and safety issues.

2794. New GM's actions as set forth above occurred in the conduct of trade or commerce.

2795. In the course of its business, New GM systematically devalued safety and concealed a plethora of defects in GM-branded vehicles as described herein and otherwise engaged in activities with a tendency or capacity to deceive. New GM also engaged in unlawful trade practices by employing deception, deceptive acts or practices, fraud, misrepresentations, or concealment, suppression or omission of any material fact with intent that others rely upon such concealment, suppression or omission, in connection with the sale of the Affected Vehicles.

2796. From the date of its inception on July 10, 2009, New GM knew of many serious defects affecting many models and years of GM-branded vehicles, both because of the knowledge of Old GM personnel who remained at New GM and continuous reports, investigations, and notifications from regulatory authorities. New GM became aware of other serious defects and systemic safety issues years ago, but concealed all of that information until recently.

2797. New GM was also aware that it valued cost-cutting over safety, selected parts from the cheapest supplier regardless of quality, and actively discouraged employees from finding and flagging known safety defects, and that this approach would necessarily cause the existence of more defects in the vehicles it designed and manufactured and the failure to disclose and remedy defects in all GM-branded vehicles. New GM concealed this information as well.

2798. According to one report from the Center for Auto Safety, some 2,004 deaths and injuries are connected with recently recalled GM-branded vehicles, and New GM should have recalled the vehicles years ago.

2799. By failing to disclose and by actively concealing the many defects in GM-branded vehicles, by marketing its vehicles as safe, reliable, and of high quality, and by presenting itself as a reputable manufacturer that valued safety and stood behind its vehicles after they were sold, New GM engaged in deceptive business practices in violation of the South Dakota CPL.

2800. In the course of New GM's business, it willfully failed to disclose and actively concealed the dangerous risk posed by the many safety issues and serious defects discussed above. New GM compounded the deception by repeatedly asserting that the Affected Vehicles were safe, reliable, and of high quality, and by claiming to be a reputable manufacturer that valued safety and stood behind its vehicles once they are on the road.

2801. New GM's unfair or deceptive acts or practices were likely to and did in fact deceive reasonable consumers, including Plaintiffs, about the true safety and reliability of GM-branded vehicles, the quality of the New GM brand, the devaluing of safety at New GM, and the true value of the Affected Vehicles.

2802. New GM intentionally and knowingly misrepresented material facts regarding the Affected Vehicles with an intent to mislead Plaintiffs and the South Dakota Class.

2803. New GM knew or should have known that its conduct violated the South Dakota CPL.

2804. As alleged above, New GM made material statements about the safety and reliability of the Affected Vehicles that were either false or misleading.

2805. New GM owed Plaintiffs a duty to disclose the true safety and reliability of the Affected Vehicles and the devaluing of safety at New GM, because New GM:

a. Possessed exclusive knowledge that it valued cost-cutting over safety, selected parts from the cheapest supplier regardless of quality, and actively discouraged employees from finding and flagging known safety defects, and that this approach would necessarily cause the existence of more defects in the vehicles it designed and manufactured;

b. Intentionally concealed the foregoing from Plaintiffs; and/or

c. Made incomplete representations about the safety and reliability of the Affected Vehicles generally, and the ignition switch in particular, while purposefully withholding material facts from Plaintiffs that contradicted these representations.

2806. Because New GM fraudulently concealed the many defects in GM-branded vehicles, resulting in a raft of negative publicity once the defects finally began to be disclosed, the value of the Affected Vehicles has greatly diminished. In light of the stigma attached to those vehicles by New GM's conduct, they are now worth significantly less than they otherwise would be.

2807. New GM's systemic devaluation of safety and its concealment of a plethora of defects in GM-branded vehicles were material to Plaintiffs and the South Dakota Class. A vehicle made by a reputable manufacturer of safe vehicles is worth more than an otherwise comparable vehicle made by a disreputable manufacturer of unsafe vehicles that conceals defects rather than promptly remedies them.

2808. Plaintiffs and the South Dakota Class suffered ascertainable loss caused by New GM's misrepresentations and its failure to disclose material information. Had they been aware of the many defects that existed in GM-branded vehicles, and the company's callous disregard for safety, Plaintiffs either would have paid less for their vehicles or would not have

purchased or leased them at all. Plaintiffs did not receive the benefit of their bargain as a result of New GM's misconduct.

2809. New GM's violations present a continuing risk to Plaintiffs as well as to the general public. New GM's unlawful acts and practices complained of herein affect the public interest.

2810. As a direct and proximate result of New GM's violations of the South Dakota CPL, Plaintiffs and the South Dakota Class have suffered injury-in-fact and/or actual damage.

2811. Under S.D. CODIFIED LAWS § 37-24-31, Plaintiffs and the South Dakota Class are entitled to a recovery of their actual damages suffered as a result of New GM's acts and practices.

**COUNT II**

**FRAUD BY CONCEALMENT**

2812. Plaintiffs reallege and incorporate by reference all paragraphs as though fully set forth herein.

2813. In the event the Court declines to certify a Nationwide Class under Michigan law, this claim is brought only on behalf of Nationwide Class members who are South Dakota residents (the "South Dakota Class").

2814. New GM concealed and suppressed material facts concerning the quality of its vehicles and the GM brand.

2815. New GM concealed and suppressed material facts concerning the culture of New GM—a culture characterized by an emphasis on cost-cutting, the studious avoidance of safety issues, and a shoddy design process.

2816. New GM concealed and suppressed material facts concerning the many serious defects plaguing GM-branded vehicles, and that it valued cost-cutting over safety and took steps to ensure that its employees did not reveal known safety defects to regulators or consumers.

2817. New GM did so in order to boost confidence in its vehicles and falsely assure purchasers and lessors of its vehicles that New GM was a reputable manufacturer that stands behind its vehicles after they are sold and that its vehicles are safe and reliable. The false representations were material to consumers, both because they concerned the quality and safety of the Affected Vehicles and because they played a significant role in the value of the vehicles.

2818. New GM had a duty to disclose the many defects in GM-branded vehicles because they were known and/or accessible only to New GM who had superior knowledge and access to the facts, and New GM knew the facts were not known to or reasonably discoverable by Plaintiffs and the South Dakota Class. These omitted and concealed facts were material because they directly impact the value of the Affected Vehicles purchased or leased by Plaintiffs and the South Dakota Class. Whether a manufacturer's products are safe and reliable, and whether that manufacturer stands behind its products, are material concerns to a consumer.

2819. New GM actively concealed and/or suppressed these material facts, in whole or in part, to protect its profits and avoid recalls that would hurt the brand's image and cost New GM money, and it did so at the expense of Plaintiffs and the South Dakota Class.

2820. On information and belief, New GM has still not made full and adequate disclosure and continues to defraud Plaintiffs and the South Dakota Class and conceal material information regarding defects that exist in GM-branded vehicles.

2821. Plaintiffs and the South Dakota Class were unaware of these omitted material facts and would not have acted as they did if they had known of the concealed and/or suppressed

facts. Plaintiffs' and the South Dakota Class's actions were justified. New GM was in exclusive control of the material facts and such facts were not known to the public, Plaintiffs, or the South Dakota Class.

2822. Because of the concealment and/or suppression of the facts, Plaintiffs and the South Dakota Class sustained damage because they own vehicles that diminished in value as a result of New GM's concealment of, and failure to timely disclose, the serious defects in millions of GM-branded vehicles and the serious safety and quality issues engendered by New GM's corporate policies. Had they been aware of the many defects that existed in GM-branded vehicles, and the company's callous disregard for safety, Plaintiffs either would have paid less for their vehicles or would not have purchased or leased them at all. Plaintiffs did not receive the benefit of their bargain as a result of New GM's fraudulent concealment.

2823. The value of all South Dakota Class members' vehicles has diminished as a result of New GM's fraudulent concealment of the many defects and its systemic safety issues which has greatly tarnished the GM brand and made any reasonable consumer reluctant to purchase any of the Affected Vehicles, let alone pay what otherwise would have been fair market value for the vehicles.

2824. Accordingly, New GM is liable to the South Dakota Class for their damages in an amount to be proven at trial.

2825. New GM's acts were done maliciously, oppressively, deliberately, with intent to defraud, and in reckless disregard of Plaintiffs' and the South Dakota Class's rights and well-being to enrich New GM. New GM's conduct warrants an assessment of punitive damages in an amount sufficient to deter such conduct in the future, which amount is to be determined according to proof.

**COUNT III**

**BREACH OF THE IMPLIED WARRANTY OF MERCHANTABILITY**

**(S.D. CODIFIED LAWS § 57A-2-314)**

2826. Plaintiffs reallege and incorporate by reference all paragraphs as though fully set forth herein.

2827. In the event the Court declines to certify a Nationwide Ignition Switch Defect Subclass under the Magnuson-Moss Warranty Act or Michigan law, this claim is brought only on behalf of South Dakota residents who are members of the Ignition Switch Defect Subclass (the "South Dakota Ignition Switch Defect Subclass").

2828.. New GM was a merchant with respect to motor vehicles.

2829. South Dakota law imposed a warranty that the Defective Ignition Switch Vehicles were merchantable when Plaintiffs and the South Dakota Ignition Switch Defect Subclass purchased their Defective Ignition Switch Vehicles.

2830. These vehicles, when sold and at all times thereafter, were not merchantable and are not fit for the ordinary purpose for which cars are used. Specifically, the Defective Ignition Switch Vehicles are inherently defective in that there are defects in the ignition switch systems that permit sudden unintended shutdown to occur, with the attendant shut down of power steering and power brakes and the nondeployment of airbags in the event of a collision.

2831. As a direct and proximate result of New GM's breach of the implied warranty of merchantability, Plaintiffs and the South Dakota Ignition Switch Defect Subclass have been damaged in an amount to be proven at trial.

**TENNESSEE**

**COUNT I**

**VIOLATION OF TENNESSEE CONSUMER PROTECTION ACT**

**(TENN. CODE ANN. § 47-18-101, *et seq*.)**

2832. Plaintiffs reallege and incorporate by reference all paragraphs as though fully set forth herein.

2833. This claim is brought only on behalf of Nationwide Class members who are Tennessee residents (the "Tennessee Class").

2834. Plaintiffs and the Tennessee Class are "natural persons" and "consumers" within the meaning of TENN. CODE ANN. § 47-18-103(2).

2835. New GM is a "person" within the meaning of TENN. CODE ANN. § 47-18-103(2) (the "Act").

2836. New GM's conduct complained of herein affected "trade," "commerce" or "consumer transactions" within the meaning of TENN. CODE ANN. § 47-18-103(19).

2837. The Tennessee Consumer Protection Act ("Tennessee CPA") prohibits "[u]nfair or deceptive acts or practices affecting the conduct of any trade or commerce," including but not limited to: "Representing that goods or services have … characteristics, [or] … benefits … that they do not have…;" "Representing that goods or services are of a particular standard, quality or grade… if they are of another;" and "Advertising goods or services with intent not to sell them as advertised." TENN. CODE ANN. § 47-18-104. New GM violated the Tennessee CPA by engaging in unfair or deceptive acts, including representing that Affected Vehicles have characteristics or benefits that they did not have; representing that Affected Vehicles are of a particular standard, quality, or grade when they are of another; and advertising Affected Vehicles with intent not to sell them as advertised.

2838. In the course of its business, New GM systematically devalued safety and concealed a plethora of defects in GM-branded vehicles as described herein and otherwise engaged in activities with a tendency or capacity to deceive. New GM also engaged in unlawful trade practices by employing deception, deceptive acts or practices, fraud, misrepresentations, or concealment, suppression or omission of any material fact with intent that others rely upon such concealment, suppression or omission, in connection with the sale of the Affected Vehicles.

2839. From the date of its inception on July 10, 2009, New GM knew of many serious defects affecting many models and years of GM-branded vehicles, both because of the knowledge of Old GM personnel who remained at New GM and continuous reports, investigations, and notifications from regulatory authorities. New GM became aware of other serious defects and systemic safety issues years ago, but concealed all of that information until recently.

2840. New GM was also aware that it valued cost-cutting over safety, selected parts from the cheapest supplier regardless of quality, and actively discouraged employees from finding and flagging known safety defects, and that this approach would necessarily cause the existence of more defects in the vehicles it designed and manufactured and the failure to disclose and remedy defects in all GM-branded vehicles. New GM concealed this information as well.

2841. According to one report from the Center for Auto Safety, some 2,004 deaths and injuries are connected with recently recalled GM-branded vehicles, and New GM should have recalled the vehicles years ago.

2842. By failing to disclose and by actively concealing the many defects in GM-branded vehicles, by marketing its vehicles as safe, reliable, and of high quality, and by presenting itself

as a reputable manufacturer that valued safety and stood behind its vehicles after they were sold, New GM engaged in unfair and deceptive business practices in violation of the Tennessee CPA.

2843. In the course of New GM's business, it willfully failed to disclose and actively concealed the dangerous risk posed by the many safety issues and serious defects discussed above. New GM compounded the deception by repeatedly asserting that the Affected Vehicles were safe, reliable, and of high quality, and by claiming to be a reputable manufacturer that valued safety and stood behind its vehicles once they are on the road.

2844. New GM's unfair or deceptive acts or practices were likely to and did in fact deceive reasonable consumers, including Plaintiffs, about the true safety and reliability of GM-branded vehicles, the quality of the GM brand, the devaluing of safety at New GM, and the true value of the Affected Vehicles.

2845. New GM intentionally and knowingly misrepresented material facts regarding the Affected Vehicles with an intent to mislead Plaintiffs and the Tennessee Class.

2846. New GM knew or should have known that its conduct violated the Tennessee CPA.

2847. As alleged above, New GM made material statements about the safety and reliability of the Affected Vehicles that were either false or misleading.

2848. New GM owed Plaintiffs a duty to disclose the true safety and reliability of the Affected Vehicles and the devaluing of safety at New GM, because New GM:

a. Possessed exclusive knowledge that it valued cost-cutting over safety, selected parts from the cheapest supplier regardless of quality, and actively discouraged employees from finding and flagging known safety defects, and that this approach would necessarily cause the existence of more defects in the vehicles it designed and manufactured;

b. Intentionally concealed the foregoing from Plaintiffs; and/or

c. Made incomplete representations about the safety and reliability of the Affected Vehicles generally, and the ignition switch in particular, while purposefully withholding material facts from Plaintiffs that contradicted these representations.

2849. Because New GM fraudulently concealed the many defects in GM-branded vehicles, resulting in a raft of negative publicity once the defects finally began to be disclosed, the value of the Affected Vehicles has greatly diminished. In light of the stigma attached to those vehicles by New GM's conduct, they are now worth significantly less than they otherwise would be.

2850. New GM's systemic devaluation of safety and its concealment of a plethora of defects in GM-branded vehicles were material to Plaintiffs and the Tennessee Class. A vehicle made by a reputable manufacturer of safe vehicles is worth more than an otherwise comparable vehicle made by a disreputable manufacturer of unsafe vehicles that conceals defects rather than promptly remedies them.

2851. Plaintiffs and the Tennessee Class suffered ascertainable loss caused by New GM's misrepresentations and its failure to disclose material information. Had they been aware of the many defects that existed in GM-branded vehicles, and the company's callous disregard for safety, Plaintiffs either would have paid less for their vehicles or would not have purchased or leased them at all. Plaintiffs did not receive the benefit of their bargain as a result of New GM's misconduct.

2852. New GM's violations present a continuing risk to Plaintiffs as well as to the general public. New GM's unlawful acts and practices complained of herein affect the public interest.

2853. As a direct and proximate result of New GM's violations of the Tennessee CPA, Plaintiffs and the Tennessee Class have suffered injury-in-fact and/or actual damage.

2854. Pursuant to TENN. CODE § 47-18-109(a), Plaintiffs and the Tennessee Class seek monetary relief against New GM measured as actual damages in an amount to be determined at trial, treble damages as a result of New GM's willful or knowing violations, and any other just and proper relief available under the Tennessee CPA.

**COUNT II**

**FRAUD BY CONCEALMENT**

2855. Plaintiffs reallege and incorporate by reference all paragraphs as though fully set forth herein.

2856. In the event the Court declines to certify a Nationwide Class under Michigan law, this claim is brought only on behalf of Nationwide Class members who are Tennessee residents (the "Tennessee Class").

2857. New GM concealed and suppressed material facts concerning the quality of its vehicles and the GM brand.

2858. New GM concealed and suppressed material facts concerning the culture of New GM—a culture characterized by an emphasis on cost-cutting, the studious avoidance of safety issues, and a shoddy design process.

2859. New GM concealed and suppressed material facts concerning the many serious defects plaguing GM-branded vehicles, and that it valued cost-cutting over safety and took steps to ensure that its employees did not reveal known safety defects to regulators or consumers.

2860. New GM did so in order to boost confidence in its vehicles and falsely assure purchasers and lessors of its vehicles that New GM was a reputable manufacturer that stands behind its vehicles after they are sold and that its vehicles are safe and reliable. The false representations were material to consumers, both because they concerned the quality and safety of the Affected Vehicles and because they played a significant role in the value of the vehicles.

2861. New GM had a duty to disclose the many defects in GM-branded vehicles because they were known and/or accessible only to New GM who had superior knowledge and access to the facts, and New GM knew the facts were not known to or reasonably discoverable by Plaintiffs and the Tennessee Class. These omitted and concealed facts were material because they directly impact the value of the Affected Vehicles purchased or leased by Plaintiffs and the Tennessee Class. Whether a manufacturer's products are safe and reliable, and whether that manufacturer stands behind its products, are material concerns to a consumer.

2862. New GM actively concealed and/or suppressed these material facts, in whole or in part, to protect its profits and avoid recalls that would hurt the brand's image and cost New GM money, and it did so at the expense of Plaintiffs and the Tennessee Class.

2863. On information and belief, New GM has still not made full and adequate disclosure and continues to defraud Plaintiffs and the Tennessee Class and conceal material information regarding defects that exist in GM-branded vehicles.

2864. Plaintiffs and the Tennessee Class were unaware of these omitted material facts and would not have acted as they did if they had known of the concealed and/or suppressed facts. Plaintiffs' and the Tennessee Class's actions were justified. New GM was in exclusive control of the material facts and such facts were not known to the public, Plaintiffs, or the Tennessee Class.

2865. Because of the concealment and/or suppression of the facts, Plaintiffs and the Tennessee Class sustained damage because they own vehicles that diminished in value as a result of New GM's concealment of, and failure to timely disclose, the serious defects in millions of GM-branded vehicles and the serious safety and quality issues engendered by New GM's corporate policies. Had they been aware of the many defects that existed in GM-branded

vehicles, and the company's callous disregard for safety, Plaintiffs either would have paid less for their vehicles or would not have purchased or leased them at all. Plaintiffs did not receive the benefit of their bargain as a result of New GM's fraudulent concealment.

2866. The value of all Tennessee Class members' vehicles has diminished as a result of New GM's fraudulent concealment of the many defects and its systemic safety issues which has greatly tarnished the GM brand and made any reasonable consumer reluctant to purchase any of the Affected Vehicles, let alone pay what otherwise would have been fair market value for the vehicles.

2867. Accordingly, New GM is liable to the Tennessee Class for their damages in an amount to be proven at trial.

2868. New GM's acts were done maliciously, oppressively, deliberately, with intent to defraud, and in reckless disregard of Plaintiffs' and the Tennessee Class's rights and well-being to enrich New GM. New GM's conduct warrants an assessment of punitive damages in an amount sufficient to deter such conduct in the future, which amount is to be determined according to proof.

## TEXAS

## COUNT I

## VIOLATIONS OF THE TEXAS DECEPTIVE TRADE PRACTICES – CONSUMER PROTECTION ACT

**(TEX. BUS. & COM. CODE §§ 17.41, *et seq.*)**

2869. Plaintiffs reallege and incorporate by reference all paragraphs as though fully set forth herein.

2870. This claim is brought only on behalf of Nationwide Class members who are Texas residents (the "Texas Class").

2871. Plaintiffs and the Texas Class are individuals, partnerships and corporations with assets of less than $25 million (or are controlled by corporations or entities with less than $25 million in assets). *See* TEX. BUS. & COM. CODE § 17.41.

2872. The Texas Deceptive Trade Practices-Consumer Protection Act ("Texas DTPA") prohibits "[f]alse, misleading, or deceptive acts or practices in the conduct of any trade or commerce," TEX. BUS. & COM. CODE § 17.46(a), and an "unconscionable action or course of action," which means "an act or practice which, to a consumer's detriment, takes advantage of the lack of knowledge, ability, experience, or capacity of the consumer to a grossly unfair degree." TEX. BUS. & COM. CODE § 17.45(5); TEX. BUS. & COM. CODE § 17.50(a)(3). New GM has committed false, misleading, unconscionable, and deceptive acts or practices in the conduct of trade or commerce.

2873. New GM also violated the Texas DTPA by: (1) representing that the Affected Vehicles have characteristics, uses, benefits, and qualities which they do not have; (2) representing that the Affected Vehicles are of a particular standard, quality, and grade when they are not; (3) advertising the Affected Vehicles with the intent not to sell them as advertised; and (4) failing to disclose information concerning the Affected Vehicles with the intent to induce consumers to purchase or lease the Affected Vehicles.

2874. In the course of its business, New GM systematically devalued safety and concealed a plethora of defects in GM-branded vehicles as described herein and otherwise engaged in activities with a tendency or capacity to deceive. New GM also engaged in unlawful trade practices by employing deception, deceptive acts or practices, fraud, misrepresentations, or concealment, suppression or omission of any material fact with intent that others rely upon such concealment, suppression or omission, in connection with the sale of the Affected Vehicles.

2875. From the date of its inception on July 10, 2009, New GM knew of many serious defects affecting many models and years of GM-branded vehicles, both because of the knowledge of Old GM personnel who remained at New GM and continuous reports, investigations, and notifications from regulatory authorities. New GM became aware of other serious defects and systemic safety issues years ago, but concealed all of that information until recently.

2876. New GM was also aware that it valued cost-cutting over safety, selected parts from the cheapest supplier regardless of quality, and actively discouraged employees from finding and flagging known safety defects, and that this approach would necessarily cause the existence of more defects in the vehicles it designed and manufactured and the failure to disclose and remedy defects in all GM-branded vehicles. New GM concealed this information as well.

2877. According to one report from the Center for Auto Safety, some 2,004 deaths and injuries are connected with recently recalled GM-branded vehicles, and New GM should have recalled the vehicles years ago.

2878. By failing to disclose and by actively concealing the many defects in GM-branded vehicles, by marketing its vehicles as safe, reliable, and of high quality, and by presenting itself as a reputable manufacturer that valued safety and stood behind its vehicles after they were sold, New GM engaged in deceptive and unconscionable business practices in violation of the Texas DTPA.

2879. In the course of New GM's business, it willfully failed to disclose and actively concealed the dangerous risk posed by the many safety issues and serious defects discussed above. New GM compounded the deception by repeatedly asserting that the Affected Vehicles

were safe, reliable, and of high quality, and by claiming to be a reputable manufacturer that valued safety and stood behind its vehicles once they are on the road.

2880. New GM's unfair or deceptive acts or practices were likely to and did in fact deceive reasonable consumers, including Plaintiffs, about the true safety and reliability of GM-branded vehicles, the quality of the GM brand, the devaluing of safety at New GM, and the true value of the Affected Vehicles.

2881. New GM intentionally and knowingly misrepresented material facts regarding the Affected Vehicles with an intent to mislead Plaintiffs and the Texas Class.

2882. New GM knew or should have known that its conduct violated the Texas DTPA.

2883. As alleged above, New GM made material statements about the safety and reliability of the Affected Vehicles that were either false or misleading.

2884. New GM owed Plaintiffs a duty to disclose the true safety and reliability of the Affected Vehicles and the devaluing of safety at New GM, because New GM:

a. Possessed exclusive knowledge that it valued cost-cutting over safety, selected parts from the cheapest supplier regardless of quality, and actively discouraged employees from finding and flagging known safety defects, and that this approach would necessarily cause the existence of more defects in the vehicles it designed and manufactured;

b. Intentionally concealed the foregoing from Plaintiffs; and/or

c. Made incomplete representations about the safety and reliability of the Affected Vehicles generally, and the ignition switch in particular, while purposefully withholding material facts from Plaintiffs that contradicted these representations.

2885. Because New GM fraudulently concealed the many defects in GM-branded vehicles, resulting in a raft of negative publicity once the defects finally began to be disclosed, the value of the Affected Vehicles has greatly diminished. In light of the stigma attached to

those vehicles by New GM's conduct, they are now worth significantly less than they otherwise would be.

2886. New GM's systemic devaluation of safety and its concealment of a plethora of defects in GM-branded vehicles were material to Plaintiffs and the Texas Class. A vehicle made by a reputable manufacturer of safe vehicles is worth more than an otherwise comparable vehicle made by a disreputable manufacturer of unsafe vehicles that conceals defects rather than promptly remedies them.

2887. Plaintiffs and the Texas Class suffered ascertainable loss caused by New GM's misrepresentations and its failure to disclose material information. Had they been aware of the many defects that existed in GM-branded vehicles, and the company's callous disregard for safety, Plaintiffs either would have paid less for their vehicles or would not have purchased or leased them at all. Plaintiffs did not receive the benefit of their bargain as a result of New GM's misconduct.

2888. New GM's violations present a continuing risk to Plaintiffs as well as to the general public. New GM's unlawful acts and practices complained of herein affect the public interest.

2889. As a direct and proximate result of New GM's violations of the Texas DTPA, Plaintiffs and the Texas Class have suffered injury-in-fact and/or actual damage.

2890. Pursuant to TEX. BUS. & COM. CODE § 17.50(a)(1) and (b), Plaintiffs and the Texas Class seek monetary relief against New GM measured as actual damages in an amount to be determined at trial, treble damages for New GM's knowing violations of the Texas DTPA, and any other just and proper relief available under the Texas DTPA.

2891. For those Class members who wish to rescind their purchases, they are entitled under TEX. BUS. & COM. CODE § 17.50(b)(4) to rescission and other relief necessary to restore any money or property that was acquired from them based on violations of the Texas DTPA.

2892. Plaintiffs and the Class also seek court costs and attorneys' fees under § 17.50(d) of the Texas DTPA.

2893. On October 8, 2014, certain Plaintiffs sent a letter complying with TEX. BUS. & COM. CODE § 17.505(a). Plaintiffs presently do not claim relief for damages under the Texas DTPA until and unless New GM fails to remedy its unlawful conduct within the requisite time period, after which Plaintiffs seek all damages and relief to which Plaintiffs and the Texas Class are entitled.

**COUNT II**

**FRAUD BY CONCEALMENT**

2894. Plaintiffs reallege and incorporate by reference all paragraphs as though fully set forth herein.

2895. New GM concealed and suppressed material facts concerning the quality of its vehicles and the GM brand.

2896. New GM concealed and suppressed material facts concerning the culture of New GM—a culture characterized by an emphasis on cost-cutting, the studious avoidance of safety issues, and a shoddy design process.

2897. New GM concealed and suppressed material facts concerning the many serious defects plaguing GM-branded vehicles, and that it valued cost-cutting over safety and took steps to ensure that its employees did not reveal known safety defects to regulators or consumers.

2898. New GM did so in order to boost confidence in its vehicles and falsely assure purchasers and lessors of its vehicles that New GM was a reputable manufacturer that stands

behind its vehicles after they are sold and that its vehicles are safe and reliable. The false representations were material to consumers, both because they concerned the quality and safety of the Affected Vehicles and because they played a significant role in the value of the vehicles.

2899. New GM had a duty to disclose the many defects in GM-branded vehicles because they were known and/or accessible only to New GM who had superior knowledge and access to the facts, and New GM knew the facts were not known to or reasonably discoverable by Plaintiffs and the Texas Class. These omitted and concealed facts were material because they directly impact the value of the Affected Vehicles purchased or leased by Plaintiffs and the Texas Class. Whether a manufacturer's products are safe and reliable, and whether that manufacturer stands behind its products, are material concerns to a consumer.

2900. New GM actively concealed and/or suppressed these material facts, in whole or in part, to protect its profits and avoid recalls that would hurt the brand's image and cost New GM money, and it did so at the expense of Plaintiffs and the Texas Class.

2901. On information and belief, New GM has still not made full and adequate disclosure and continues to defraud Plaintiffs and the Texas Class and conceal material information regarding defects that exist in GM-branded vehicles.

2902. Plaintiffs and the Texas Class were unaware of these omitted material facts and would not have acted as they did if they had known of the concealed and/or suppressed facts. Plaintiffs' and the Texas Class's actions were justified. New GM was in exclusive control of the material facts and such facts were not known to the public, Plaintiffs, or the Texas Class.

2903. Because of the concealment and/or suppression of the facts, Plaintiffs and the Texas Class sustained damage because they own vehicles that diminished in value as a result of New GM's concealment of, and failure to timely disclose, the serious defects in millions of GM-

branded vehicles and the serious safety and quality issues engendered by New GM's corporate policies. Had they been aware of the many defects that existed in GM-branded vehicles, and the company's callous disregard for safety, Plaintiffs either would have paid less for their vehicles or would not have purchased or leased them at all. Plaintiffs did not receive the benefit of their bargain as a result of New GM's fraudulent concealment.

2904. The value of all Texas Class members' vehicles has diminished as a result of New GM's fraudulent concealment of the many defects and its systemic safety issues which has greatly tarnished the GM brand and made any reasonable consumer reluctant to purchase any of the Affected Vehicles, let alone pay what otherwise would have been fair market value for the vehicles.

2905. Accordingly, New GM is liable to the Texas Class for their damages in an amount to be proven at trial.

2906. New GM's acts were done maliciously, oppressively, deliberately, with intent to defraud, and in reckless disregard of Plaintiffs' and the Texas Class's rights and well-being to enrich New GM. New GM's conduct warrants an assessment of punitive damages in an amount sufficient to deter such conduct in the future, which amount is to be determined according to proof.

**COUNT III**

**BREACH OF THE IMPLIED WARRANTY OF MERCHANTABILITY**

**(TEX. BUS. & COM. CODE § 2.314)**

2907. Plaintiffs reallege and incorporate by reference all paragraphs as though fully set forth herein.

2908. In the event the Court declines to certify a Nationwide Ignition Switch Defect Subclass under the Magnuson-Moss Warranty Act or Michigan law, this claim is brought only

on behalf of Texas residents who are members of the Ignition Switch Defect Subclass (the "Texas Ignition Switch Defect Subclass").

2909. New GM was a merchant with respect to motor vehicles under TEX. BUS. & COM. CODE § 2.104.

2910. Under TEX. BUS. & COM. CODE § 2.314, a warranty that the Defective Ignition Switch Vehicles were in merchantable condition was implied by law in the transaction in which Plaintiffs and the Texas Ignition Switch Defect Subclass purchased their Defective Ignition Switch Vehicles.

2911. New GM impliedly warranted that the vehicles were of good and merchantable quality and fit, and safe for their ordinary intended use – transporting the driver and passengers in reasonable safety during normal operation, and without unduly endangering them or members of the public.

2912. These vehicles, when sold and at all times thereafter, were not merchantable and are not fit for the ordinary purpose for which cars are used. Specifically, the Defective Ignition Switch Vehicles are inherently defective in that there are defects in the ignition switch systems that permit sudden unintended shutdown to occur, with the attendant shut down of power steering and power brakes and the nondeployment of airbags in the event of a collision.

2913. As a direct and proximate result of New GM's breach of the implied warranty of merchantability, Plaintiffs and the Texas Ignition Switch Defect Subclass have been damaged in an amount to be proven at trial.

## UTAH

## COUNT I

## VIOLATION OF UTAH CONSUMER SALES PRACTICES ACT

**(UTAH CODE ANN. § 13-11-1, *et seq.*)**

2914. Plaintiffs reallege and incorporate by reference all paragraphs as though fully set forth herein.

2915. This claim is brought only on behalf of Nationwide Class members who are Utah residents (the "Utah Class").

2916. New GM is a "supplier" under the Utah Consumer Sales Practices Act ("Utah CSPA"), UTAH CODE ANN. § 13-11-3.

2917. Utah Class members are "persons" under UTAH CODE ANN. § 13-11-3.

2918. The sale of the Affected Vehicles to the Utah Class members was a "consumer transaction" within the meaning of UTAH CODE ANN. § 13-11-3.

2919. The Utah CSPA makes unlawful any "deceptive act or practice by a supplier in connection with a consumer transaction" under UTAH CODE ANN. § 13-11-4. Specifically, "a supplier commits a deceptive act or practice if the supplier knowingly or intentionally: (a) indicates that the subject of a consumer transaction has sponsorship, approval, performance characteristics, accessories, uses, or benefits, if it has not" or "(b) indicates that the subject of a consumer transaction is of a particular standard, quality, grade, style, or model, if it is not." UTAH CODE ANN. § 13-11-4. "An unconscionable act or practice by a supplier in connection with a consumer transaction" also violates the Utah CSPA. UTAH CODE ANN. § 13-11-5.

2920. New GM committed deceptive acts or practices in the conduct of trade or commerce, by, among other things, engaging in unconscionable acts, representing that the Affected Vehicles have characteristics, uses, benefits, and qualities which they do not have; and

representing that the Affected Vehicles are of a particular standard, quality, and grade when they are not

2921. In the course of its business, New GM systematically devalued safety and concealed a plethora of defects in GM-branded vehicles as described herein and otherwise engaged in activities with a tendency or capacity to deceive. New GM also engaged in unlawful trade practices by employing deception, deceptive acts or practices, fraud, misrepresentations, or concealment, suppression or omission of any material fact with intent that others rely upon such concealment, suppression or omission, in connection with the sale of the Affected Vehicles.

2922. From the date of its inception on July 10, 2009, New GM knew of many serious defects affecting many models and years of GM-branded vehicles, both because of the knowledge of Old GM personnel who remained at New GM and continuous reports, investigations, and notifications from regulatory authorities. New GM became aware of other serious defects and systemic safety issues years ago, but concealed all of that information until recently.

2923. New GM was also aware that it valued cost-cutting over safety, selected parts from the cheapest supplier regardless of quality, and actively discouraged employees from finding and flagging known safety defects, and that this approach would necessarily cause the existence of more defects in the vehicles it designed and manufactured and the failure to disclose and remedy defects in all GM-branded vehicles. New GM concealed this information as well.

2924. According to one report from the Center for Auto Safety, some 2,004 deaths and injuries are connected with recently recalled GM-branded vehicles, and New GM should have recalled the vehicles years ago.

2925. By failing to disclose and by actively concealing the many defects in GM-branded vehicles, by marketing its vehicles as safe, reliable, and of high quality, and by presenting itself as a reputable manufacturer that valued safety and stood behind its vehicles after they were sold, New GM engaged in deceptive business practices in violation of the Utah CSPA.

2926. In the course of New GM's business, it willfully failed to disclose and actively concealed the dangerous risk posed by the many safety issues and serious defects discussed above. New GM compounded the deception by repeatedly asserting that the Affected Vehicles were safe, reliable, and of high quality, and by claiming to be a reputable manufacturer that valued safety and stood behind its vehicles once they are on the road.

2927. New GM's unfair or deceptive acts or practices were likely to and did in fact deceive reasonable consumers, including Plaintiffs, about the true safety and reliability of GM-branded vehicles, the quality of the New GM brand, the devaluing of safety at New GM, and the true value of the Affected Vehicles.

2928. New GM intentionally and knowingly misrepresented material facts regarding the Affected Vehicles with an intent to mislead Plaintiffs and the Utah Class.

2929. New GM knew or should have known that its conduct violated the Utah CSPA.

2930. As alleged above, New GM made material statements about the safety and reliability of the Affected Vehicles that were either false or misleading.

2931. New GM owed Plaintiffs a duty to disclose the true safety and reliability of the Affected Vehicles and the devaluing of safety at New GM, because New GM:

a. Possessed exclusive knowledge that it valued cost-cutting over safety, selected parts from the cheapest supplier regardless of quality, and actively discouraged employees from finding and flagging known safety defects, and that this approach would necessarily cause the existence of more defects in the vehicles it designed and manufactured;

b. Intentionally concealed the foregoing from Plaintiffs; and/or

c. Made incomplete representations about the safety and reliability of the Affected Vehicles generally, and the ignition switch in particular, while purposefully withholding material facts from Plaintiffs that contradicted these representations.

2932. Because New GM fraudulently concealed the many defects in GM-branded vehicles, resulting in a raft of negative publicity once the defects finally began to be disclosed, the value of the Affected Vehicles has greatly diminished. In light of the stigma attached to those vehicles by New GM's conduct, they are now worth significantly less than they otherwise would be.

2933. New GM's systemic devaluation of safety and its concealment of a plethora of defects in GM-branded vehicles were material to Plaintiffs and the Utah Class. A vehicle made by a reputable manufacturer of safe vehicles is worth more than an otherwise comparable vehicle made by a disreputable manufacturer of unsafe vehicles that conceals defects rather than promptly remedies them.

2934. Plaintiffs and the Utah Class suffered ascertainable loss caused by New GM's misrepresentations and its failure to disclose material information. Had they been aware of the many defects that existed in GM-branded vehicles, and the company's callous disregard for safety, Plaintiffs either would have paid less for their vehicles or would not have purchased or leased them at all. Plaintiffs did not receive the benefit of their bargain as a result of New GM's misconduct.

2935. New GM's violations present a continuing risk to Plaintiffs as well as to the general public. New GM's unlawful acts and practices complained of herein affect the public interest.

2936. As a direct and proximate result of New GM's violations of the Utah CSPA, Plaintiffs and the Utah Class have suffered injury-in-fact and/or actual damage.

2937. Pursuant to UTAH CODE ANN. § 13-11-4, Plaintiffs and the Utah Class seek monetary relief against New GM measured as the greater of (a) actual damages in an amount to be determined at trial and (b) statutory damages in the amount of $2,000 for each Plaintiff and each Utah Class member, reasonable attorneys' fees, and any other just and proper relief available under the Utah CSPA.

**COUNT II**

**FRAUD BY CONCEALMENT**

2938. Plaintiffs reallege and incorporate by reference all paragraphs as though fully set forth herein.

2939. In the event the Court declines to certify a Nationwide Class under Michigan law, this claim is brought only on behalf of Nationwide Class members who are Utah residents (the "Utah Class").

2940. New GM concealed and suppressed material facts concerning the quality of its vehicles and the GM brand.

2941. New GM concealed and suppressed material facts concerning the culture of New GM—a culture characterized by an emphasis on cost-cutting, the studious avoidance of safety issues, and a shoddy design process.

2942. New GM concealed and suppressed material facts concerning the many serious defects plaguing GM-branded vehicles, and that it valued cost-cutting over safety and took steps to ensure that its employees did not reveal known safety defects to regulators or consumers.

2943. New GM did so in order to boost confidence in its vehicles and falsely assure purchasers and lessors of its vehicles that New GM was a reputable manufacturer that stands

behind its vehicles after they are sold and that its vehicles are safe and reliable. The false representations were material to consumers, both because they concerned the quality and safety of the Affected Vehicles and because they played a significant role in the value of the vehicles.

2944. New GM had a duty to disclose the many defects in GM-branded vehicles because they were known and/or accessible only to New GM who had superior knowledge and access to the facts, and New GM knew the facts were not known to or reasonably discoverable by Plaintiffs and the Utah Class. These omitted and concealed facts were material because they directly impact the value of the Affected Vehicles purchased or leased by Plaintiffs and the Utah Class. Whether a manufacturer's products are safe and reliable, and whether that manufacturer stands behind its products, are material concerns to a consumer.

2945. New GM actively concealed and/or suppressed these material facts, in whole or in part, to protect its profits and avoid recalls that would hurt the brand's image and cost New GM money, and it did so at the expense of Plaintiffs and the Utah Class.

2946. On information and belief, New GM has still not made full and adequate disclosure and continues to defraud Plaintiffs and the Utah Class and conceal material information regarding defects that exist in GM-branded vehicles.

2947. Plaintiffs and the Utah Class were unaware of these omitted material facts and would not have acted as they did if they had known of the concealed and/or suppressed facts. Plaintiffs' and the Utah Class's actions were justified. New GM was in exclusive control of the material facts and such facts were not known to the public, Plaintiffs, or the Utah Class.

2948. Because of the concealment and/or suppression of the facts, Plaintiffs and the Utah Class sustained damage because they own vehicles that diminished in value as a result of New GM's concealment of, and failure to timely disclose, the serious defects in millions of GM-

branded vehicles and the serious safety and quality issues engendered by New GM's corporate policies. Had they been aware of the many defects that existed in GM-branded vehicles, and the company's callous disregard for safety, Plaintiffs either would have paid less for their vehicles or would not have purchased or leased them at all. Plaintiffs did not receive the benefit of their bargain as a result of New GM's fraudulent concealment.

2949. The value of all Utah Class members' vehicles has diminished as a result of New GM's fraudulent concealment of the many defects and its systemic safety issues which has greatly tarnished the GM brand and made any reasonable consumer reluctant to purchase any of the Affected Vehicles, let alone pay what otherwise would have been fair market value for the vehicles.

2950. Accordingly, New GM is liable to the Utah Class members for their damages in an amount to be proven at trial.

2951. New GM's acts were done maliciously, oppressively, deliberately, with intent to defraud, and in reckless disregard of Plaintiffs' and the Utah Class's rights and well-being to enrich New GM. New GM's conduct warrants an assessment of punitive damages in an amount sufficient to deter such conduct in the future, which amount is to be determined according to proof.

**COUNT III**

**BREACH OF THE IMPLIED WARRANTY OF MERCHANTABILITY**

**(UTAH CODE ANN. § 70A-2-314)**

2952. Plaintiffs reallege and incorporate by reference all paragraphs as though fully set forth herein.

2953. In the event the Court declines to certify a Nationwide Ignition Switch Defect Subclass under the Magnuson-Moss Warranty Act or Michigan law, this claim is brought only

on behalf of Utah residents who are members of the Ignition Switch Defect Subclass (the "Utah Ignition Switch Defect Subclass").

2954. New GM was at all relevant times a merchant with respect to motor vehicles.

2955. New GM impliedly warranted that its vehicles were of good and merchantable quality and fit, and safe for their ordinary intended use – transporting the driver and passengers in reasonable safety during normal operation, and without unduly endangering them or members of the public.

2956. These vehicles, when sold and at all times thereafter, were not merchantable and are not fit for the ordinary purpose for which cars are used. Specifically, the Defective Ignition Switch Vehicles are inherently defective in that there are defects in the ignition switch systems that permit sudden unintended shutdown to occur, with the attendant shut down of power steering and power brakes and the nondeployment of airbags in the event of a collision.

2957. As a direct and proximate result of the New GM's breach of the implied warranty of merchantability, Plaintiffs and the Utah Ignition Switch Defect Subclass have been damaged in an amount to be proven at trial.

**VERMONT**

**COUNT I**

**VIOLATION OF VERMONT CONSUMER FRAUD ACT**

**(VT. STAT. ANN. TIT. 9, § 2451 *et seq*.)**

2958. Plaintiffs reallege and incorporate by reference all paragraphs as though fully set forth herein.

2959. This claim is brought only on behalf of Nationwide Class members who are Vermont residents (the "Vermont Class").

2960. New GM is a seller within the meaning of VT. STAT. ANN. TIT. 9, § 2451(a)(c).

2961. The Vermont Consumer Fraud Act ("Vermont CFA") makes unlawful "[u]nfair methods of competition in commerce, and unfair or deceptive acts or practices in commerce…." VT. STAT. ANN. TIT. 9, § 2453(a). New GM engaged in unfair and deceptive acts or practices in trade or commerce in violation of the Vermont CFA by systematically devaluing safety and concealing a plethora of defects in GM-branded vehicles.

2962. In the course of its business, New GM systematically devalued safety and concealed a plethora of defects in GM-branded vehicles as described herein and otherwise engaged in activities with a tendency or capacity to deceive. New GM also engaged in unlawful trade practices by employing deception, deceptive acts or practices, fraud, misrepresentations, or concealment, suppression or omission of any material fact with intent that others rely upon such concealment, suppression or omission, in connection with the sale of the Affected Vehicles.

2963. From the date of its inception on July 10, 2009, New GM knew of many serious defects affecting many models and years of GM-branded vehicles, both because of the knowledge of Old GM personnel who remained at New GM and continuous reports, investigations, and notifications from regulatory authorities. New GM became aware of other serious defects and systemic safety issues years ago, but concealed all of that information until recently.

2964. New GM was also aware that it valued cost-cutting over safety, selected parts from the cheapest supplier regardless of quality, and actively discouraged employees from finding and flagging known safety defects, and that this approach would necessarily cause the existence of more defects in the vehicles it designed and manufactured and the failure to disclose and remedy defects in all GM-branded vehicles. New GM concealed this information as well.

2965. According to one report from the Center for Auto Safety, some 2,004 deaths and injuries are connected with recently recalled GM-branded vehicles, and New GM should have recalled the vehicles years ago.

2966. By failing to disclose and by actively concealing the many defects in GM-branded vehicles, by marketing its vehicles as safe, reliable, and of high quality, and by presenting itself as a reputable manufacturer that valued safety and stood behind its vehicles after they were sold, New GM engaged in unfair and deceptive business practices in violation of the Vermont CFA.

2967. In the course of New GM's business, it willfully failed to disclose and actively concealed the dangerous risk posed by the many safety issues and serious defects discussed above. New GM compounded the deception by repeatedly asserting that the Affected Vehicles were safe, reliable, and of high quality, and by claiming to be a reputable manufacturer that valued safety and stood behind its vehicles once they are on the road.

2968. New GM's unfair or deceptive acts or practices were likely to and did in fact deceive reasonable consumers, including Plaintiffs, about the true safety and reliability of GM-branded vehicles, the quality of the GM brand, the devaluing of safety at New GM, and the true value of the Affected Vehicles.

2969. New GM intentionally and knowingly misrepresented material facts regarding the Affected Vehicles with an intent to mislead Plaintiffs and the Vermont Class.

2970. New GM knew or should have known that its conduct violated the Vermont CFA.

2971. As alleged above, New GM made material statements about the safety and reliability of the Affected Vehicles that were either false or misleading.

2972. New GM owed Plaintiffs a duty to disclose the true safety and reliability of the Affected Vehicles and the devaluing of safety at New GM, because New GM:

a. Possessed exclusive knowledge that it valued cost-cutting over safety, selected parts from the cheapest supplier regardless of quality, and actively discouraged employees from finding and flagging known safety defects, and that this approach would necessarily cause the existence of more defects in the vehicles it designed and manufactured;

b. Intentionally concealed the foregoing from Plaintiffs; and/or

c. Made incomplete representations about the safety and reliability of the Affected Vehicles generally, and the ignition switch in particular, while purposefully withholding material facts from Plaintiffs that contradicted these representations.

2973. Because New GM fraudulently concealed the many defects in GM-branded vehicles, resulting in a raft of negative publicity once the defects finally began to be disclosed, the value of the Affected Vehicles has greatly diminished. In light of the stigma attached to those vehicles by New GM's conduct, they are now worth significantly less than they otherwise would be.

2974. New GM's systemic devaluation of safety and its concealment of a plethora of defects in GM-branded vehicles were material to Plaintiffs and the Vermont Class. A vehicle made by a reputable manufacturer of safe vehicles is worth more than an otherwise comparable vehicle made by a disreputable manufacturer of unsafe vehicles that conceals defects rather than promptly remedies them.

2975. Plaintiffs and the Vermont Class suffered ascertainable loss caused by New GM's misrepresentations and its failure to disclose material information. Had they been aware of the many defects that existed in GM-branded vehicles, and the company's callous disregard for safety, Plaintiffs either would have paid less for their vehicles or would not have purchased or leased them at all. Plaintiffs did not receive the benefit of their bargain as a result of New GM's misconduct.

2976. New GM's violations present a continuing risk to Plaintiffs as well as to the general public. New GM's unlawful acts and practices complained of herein affect the public interest.

2977. As a direct and proximate result of New GM's violations of the Vermont CFA, Plaintiffs and the Vermont Class have suffered injury-in-fact and/or actual damage.

2978. Plaintiffs and the Vermont Class are entitled to recover "appropriate equitable relief" and "the amount of [their] damages, or the consideration or the value of the consideration given by [them], reasonable attorney's fees, and exemplary damages not exceeding three times the value of the consideration given by [them]" pursuant to VT. STAT. ANN. TIT. 9, § 2461(b).

**COUNT II**

**FRAUD BY CONCEALMENT**

2979. Plaintiffs reallege and incorporate by reference all paragraphs as though fully set forth herein.

2980. In the event the Court declines to certify a Nationwide Class under Michigan law, this claim is brought only on behalf of Nationwide Class members who are Vermont residents (the "Vermont Class").

2981. New GM concealed and suppressed material facts concerning the quality of its vehicles and the GM brand.

2982. New GM concealed and suppressed material facts concerning the culture of New GM—a culture characterized by an emphasis on cost-cutting, the studious avoidance of safety issues, and a shoddy design process.

2983. New GM concealed and suppressed material facts concerning the many serious defects plaguing GM-branded vehicles, and that it valued cost-cutting over safety and took steps to ensure that its employees did not reveal known safety defects to regulators or consumers.

2984. New GM did so in order to boost confidence in its vehicles and falsely assure purchasers and lessors of its vehicles that New GM was a reputable manufacturer that stands behind its vehicles after they are sold and that its vehicles are safe and reliable. The false representations were material to consumers, both because they concerned the quality and safety of the Affected Vehicles and because they played a significant role in the value of the vehicles.

2985. New GM had a duty to disclose the many defects in GM-branded vehicles because they were known and/or accessible only to New GM who had superior knowledge and access to the facts, and New GM knew the facts were not known to or reasonably discoverable by Plaintiffs and the Vermont Class. These omitted and concealed facts were material because they directly impact the value of the Affected Vehicles purchased or leased by Plaintiffs and the Vermont Class. Whether a manufacturer's products are safe and reliable, and whether that manufacturer stands behind its products, are material concerns to a consumer.

2986. New GM actively concealed and/or suppressed these material facts, in whole or in part, to protect its profits and avoid recalls that would hurt the brand's image and cost New GM money, and it did so at the expense of Plaintiffs and the Vermont Class.

2987. On information and belief, New GM has still not made full and adequate disclosure and continues to defraud Plaintiffs and the Vermont Class and conceal material information regarding defects that exist in GM-branded vehicles.

2988. Plaintiffs and the Vermont Class were unaware of these omitted material facts and would not have acted as they did if they had known of the concealed and/or suppressed facts. Plaintiffs' and the Vermont Class's actions were justified. New GM was in exclusive control of the material facts and such facts were not known to the public, Plaintiffs, or the Vermont Class.

2989. Because of the concealment and/or suppression of the facts, Plaintiffs and the Vermont Class sustained damage because they own vehicles that diminished in value as a result of New GM's concealment of, and failure to timely disclose, the serious defects in millions of GM-branded vehicles and the serious safety and quality issues engendered by New GM's corporate policies. Had they been aware of the many defects that existed in GM-branded vehicles, and the company's callous disregard for safety, Plaintiffs either would have paid less for their vehicles or would not have purchased or leased them at all. Plaintiffs did not receive the benefit of their bargain as a result of New GM's fraudulent concealment.

2990. The value of all Vermont Class members' vehicles has diminished as a result of New GM's fraudulent concealment of the many defects and its systemic safety issues which has greatly tarnished the GM brand and made any reasonable consumer reluctant to purchase any of the Affected Vehicles, let alone pay what otherwise would have been fair market value for the vehicles.

2991. Accordingly, New GM is liable to the Vermont Class for their damages in an amount to be proven at trial.

2992. New GM's acts were done maliciously, oppressively, deliberately, with intent to defraud, and in reckless disregard of Plaintiffs' and the Vermont Class's rights and well-being to enrich New GM. New GM's conduct warrants an assessment of punitive damages in an amount sufficient to deter such conduct in the future, which amount is to be determined according to proof.

**VIRGINIA**

**COUNT I**

**VIOLATION OF VIRGINIA CONSUMER PROTECTION ACT**

**(VA. CODE ANN. 15 §§ 59.1-196, *et seq.*)**

2993. Plaintiffs reallege and incorporate by reference all paragraphs as though fully set forth herein.

2994. This claim is brought only on behalf of Nationwide Class members who are Virginia residents (the "Virginia Class").

2995. New GM is a "supplier" under VA. CODE ANN. § 59.1-198.

2996. The sale of the Affected Vehicles to the Class members was a "consumer transaction" within the meaning of VA. CODE ANN. § 59.1-198.

2997. The Virginia Consumer Protection Act ("Virginia CPA") lists prohibited "practices" which include: "5. Misrepresenting that good or services have certain characteristics;" "6. Misrepresenting that goods or services are of a particular standard, quality, grade style, or model;" "8. Advertising goods or services with intent not to sell them as advertised, or with intent not to sell at the price or upon the terms advertised;" "9. Making false or misleading statements of fact concerning the reasons for, existence of, or amounts of price reductions;" and "14. Using any other deception, fraud, or misrepresentation in connection with a consumer transaction." VA. CODE ANN. § 59.1-200. New GM violated the Virginia CPA by misrepresenting that Affected Vehicles had certain quantities, characteristics, ingredients, uses, or benefits; misrepresenting that Affected Vehicles were of a particular standard, quality, grade, style, or model when they were another; advertising Affected Vehicles with intent not to sell them as advertised; and otherwise "using any other deception, fraud, false pretense, false promise, or misrepresentation in connection with a consumer transaction.

2998. In the course of its business, New GM systematically devalued safety and concealed a plethora of defects in GM-branded vehicles as described herein and otherwise engaged in activities with a tendency or capacity to deceive. New GM also engaged in unlawful trade practices by employing deception, deceptive acts or practices, fraud, misrepresentations, or concealment, suppression or omission of any material fact with intent that others rely upon such concealment, suppression or omission, in connection with the sale of the Affected Vehicles.

2999. From the date of its inception on July 10, 2009, New GM knew of many serious defects affecting many models and years of GM-branded vehicles, both because of the knowledge of Old GM personnel who remained at New GM and continuous reports, investigations, and notifications from regulatory authorities. New GM became aware of other serious defects and systemic safety issues years ago, but concealed all of that information until recently.

3000. New GM was also aware that it valued cost-cutting over safety, selected parts from the cheapest supplier regardless of quality, and actively discouraged employees from finding and flagging known safety defects, and that this approach would necessarily cause the existence of more defects in the vehicles it designed and manufactured and the failure to disclose and remedy defects in all GM-branded vehicles. New GM concealed this information as well.

3001. According to one report from the Center for Auto Safety, some 2,004 deaths and injuries are connected with recently recalled GM-branded vehicles, and New GM should have recalled the vehicles years ago.

3002. By failing to disclose and by actively concealing the many defects in GM-branded vehicles, by marketing its vehicles as safe, reliable, and of high quality, and by presenting itself

as a reputable manufacturer that valued safety and stood behind its vehicles after they were sold, New GM engaged in deceptive business practices in violation of the Virginia CPA.

3003. In the course of New GM's business, it willfully failed to disclose and actively concealed the dangerous risk posed by the many safety issues and serious defects discussed above. New GM compounded the deception by repeatedly asserting that the Affected Vehicles were safe, reliable, and of high quality, and by claiming to be a reputable manufacturer that valued safety and stood behind its vehicles once they are on the road.

3004. New GM's unfair or deceptive acts or practices were likely to and did in fact deceive reasonable consumers, including Plaintiffs, about the true safety and reliability of GM-branded vehicles, the quality of the GM brand, the devaluing of safety at New GM, and the true value of the Affected Vehicles.

3005. New GM intentionally and knowingly misrepresented material facts regarding the Affected Vehicles with an intent to mislead Plaintiffs and the Virginia Class.

3006. New GM knew or should have known that its conduct violated the Virginia CPA.

3007. As alleged above, New GM made material statements about the safety and reliability of the Affected Vehicles that were either false or misleading.

3008. New GM owed Plaintiffs a duty to disclose the true safety and reliability of the Affected Vehicles and the devaluing of safety at New GM, because New GM:

a. Possessed exclusive knowledge that it valued cost-cutting over safety, selected parts from the cheapest supplier regardless of quality, and actively discouraged employees from finding and flagging known safety defects, and that this approach would necessarily cause the existence of more defects in the vehicles it designed and manufactured;

b. Intentionally concealed foregoing from Plaintiffs; and/or

c. Made incomplete representations about the safety and reliability of the Affected Vehicles generally, and the

> ignition switch in particular, while purposefully withholding material facts from Plaintiffs that contradicted these representations.

3009. Because New GM fraudulently concealed the many defects in GM-branded vehicles, resulting in a raft of negative publicity once the defects finally began to be disclosed, the value of the Affected Vehicles has greatly diminished. In light of the stigma attached to those vehicles by New GM's conduct, they are now worth significantly less than they otherwise would be.

3010. New GM's systemic devaluation of safety and its concealment of a plethora of defects in GM-branded vehicles were material to Plaintiffs and the Virginia Class. A vehicle made by a reputable manufacturer of safe vehicles is worth more than an otherwise comparable vehicle made by a disreputable manufacturer of unsafe vehicles that conceals defects rather than promptly remedies them.

3011. Plaintiffs and the Virginia Class suffered ascertainable loss caused by New GM's misrepresentations and its failure to disclose material information. Had they been aware of the many defects that existed in GM-branded vehicles, and the company's callous disregard for safety, Plaintiffs either would have paid less for their vehicles or would not have purchased or leased them at all. Plaintiffs did not receive the benefit of their bargain as a result of New GM's misconduct.

3012. New GM's violations present a continuing risk to Plaintiffs as well as to the general public. New GM's unlawful acts and practices complained of herein affect the public interest.

3013. As a direct and proximate result of New GM's violations of the Virginia CPA, Plaintiffs and the Virginia Class have suffered injury-in-fact and/or actual damage.

3014. Pursuant to VA. CODE ANN. § 59.1-204, Plaintiffs and the Virginia Class seek monetary relief against New GM measured as the greater of (a) actual damages in an amount to be determined at trial and (b) statutory damages in the amount of $500 for each Plaintiff and each Virginia Class member. Because New GM's conduct was committed willfully and knowingly, Plaintiffs are entitled to recover, for each Plaintiff and each Virginia Class member, the greater of (a) three times actual damages or (b) $1,000.

3015. Plaintiffs also seek an order enjoining New GM's unfair and/or deceptive acts or practices, punitive damages, and attorneys' fees, and any other just and proper relief available under General Business Law § 59.1-204, *et seq*.

**COUNT II**

**FRAUD BY CONCEALMENT**

3016. Plaintiffs reallege and incorporate by reference all paragraphs as though fully set forth herein.

3017. In the event the Court declines to certify a Nationwide Class under Michigan law, this claims is brought only on behalf of Nationwide Class members who are Virginia residents (the "Virginia Class").

3018. New GM concealed and suppressed material facts concerning the quality of its vehicles and the New GM brand.

3019. New GM concealed and suppressed material facts concerning the culture of New GM—a culture characterized by an emphasis on cost-cutting, the studious avoidance of safety issues, and a shoddy design process.

3020. New GM concealed and suppressed material facts concerning the many serious defects plaguing GM-branded vehicles, and that it valued cost-cutting over safety and took steps to ensure that its employees did not reveal known safety defects to regulators or consumers.

3021. New GM did so in order to boost confidence in its vehicles and falsely assure purchasers and lessors of its vehicles that New GM was a reputable manufacturer that stands behind its vehicles after they are sold and that its vehicles are safe and reliable. The false representations were material to consumers, both because they concerned the quality and safety of the Affected Vehicles and because they played a significant role in the value of the vehicles.

3022. New GM had a duty to disclose the many defects in GM-branded vehicles because they were known and/or accessible only to New GM who had superior knowledge and access to the facts, and New GM knew the facts were not known to or reasonably discoverable by Plaintiffs and the Virginia Class. These omitted and concealed facts were material because they directly impact the value of the Affected Vehicles purchased or leased by Plaintiffs and the Virginia Class. Whether a manufacturer's products are safe and reliable, and whether that manufacturer stands behind its products, are material concerns to a consumer.

3023. New GM actively concealed and/or suppressed these material facts, in whole or in part, to protect its profits and avoid recalls that would hurt the brand's image and cost New GM money, and it did so at the expense of Plaintiffs and the Virginia Class.

3024. On information and belief, New GM has still not made full and adequate disclosure and continues to defraud Plaintiffs and the Virginia Class and conceal material information regarding defects that exist in GM-branded vehicles.

3025. Plaintiffs and the Virginia Class were unaware of these omitted material facts and would not have acted as they did if they had known of the concealed and/or suppressed facts. Plaintiffs' and the Virginia Class's actions were justified. New GM was in exclusive control of the material facts and such facts were not known to the public, Plaintiffs, or the Virginia Class.

3026. Because of the concealment and/or suppression of the facts, Plaintiffs and the Virginia Class sustained damage because they own vehicles that diminished in value as a result of New GM's concealment of, and failure to timely disclose, the serious defects in millions of GM-branded vehicles and the serious safety and quality issues engendered by New GM's corporate policies. Had they been aware of the many defects that existed in GM-branded vehicles, and the company's callous disregard for safety, Plaintiffs either would have paid less for their vehicles or would not have purchased or leased them at all. Plaintiffs did not receive the benefit of their bargain as a result of New GM's fraudulent concealment.

3027. The value of all Virginia Class members' vehicles has diminished as a result of New GM's fraudulent concealment of the many defects and its systemic safety issues which has greatly tarnished the GM brand and made any reasonable consumer reluctant to purchase any of the Affected Vehicles, let alone pay what otherwise would have been fair market value for the vehicles.

3028. Accordingly, New GM is liable to the Virginia Class for their damages in an amount to be proven at trial.

3029. New GM's acts were done maliciously, oppressively, deliberately, with intent to defraud, and in reckless disregard of Plaintiffs' and the Virginia Class's rights and well-being to enrich New GM. New GM's conduct warrants an assessment of punitive damages in an amount sufficient to deter such conduct in the future, which amount is to be determined according to proof.

**COUNT III**

**BREACH OF IMPLIED WARRANTY OF MERCHANTABILITY**

**(VA. CODE ANN. § 8.2-314)**

3030. Plaintiffs reallege and incorporate by reference all paragraphs as though fully set forth herein.

3031. In the event the Court declines to certify a Nationwide Ignition Switch Defect Subclass under the Magnuson-Moss Warranty Act or Michigan law, this claim is brought only on behalf of Virginia residents who are members of the Ignition Switch Defect Subclass (the "Virginia Ignition Switch Defect Subclass").

3032. New GM was at all relevant times a merchant with respect to motor vehicles.

3033. New GM impliedly warranted that its vehicles were of good and merchantable quality and fit, and safe for their ordinary intended use—transporting the driver and passengers in reasonable safety during normal operation, and without unduly endangering them or members of the public.

3034. These vehicles, when sold and at all times thereafter, were not merchantable and are not fit for the ordinary purpose for which cars are used. Specifically, the Defective Ignition Switch Vehicles are inherently defective in that there are defects in the ignition switch systems that permit sudden unintended shutdown to occur, with the attendant shut down of power steering and power brakes and the nondeployment of airbags in the event of a collision.

3035. As a direct and proximate result of the New GM's breach of the implied warranty of merchantability, Plaintiffs and the Virginia Ignition Switch Defect Subclass have been damaged in an amount to be proven at trial.

**WASHINGTON**

**COUNT I**

**VIOLATION OF THE CONSUMER PROTECTION ACT**

**(REV. CODE WASH. ANN. §§ 19.86.010, *et seq.*)**

3036. Plaintiffs reallege and incorporate by reference all paragraphs as though fully set forth herein.

3037. This claim is brought only on behalf of Nationwide Class members who are Washington residents (the "Washington Class").

3038. New GM committed the acts complained of herein in the course of "trade" or "commerce" within the meaning of WASH. REV. CODE. WASH. ANN. § 19.96.010.

3039. The Washington Consumer Protection Act ("Washington CPA") broadly prohibits "[u]nfair methods of competition and unfair or deceptive acts or practices in the conduct of any trade or commerce." WASH. REV. CODE. WASH. ANN. § 19.96.010. New GM engaged in unfair and deceptive acts and practices and violated the Washington CPA by systematically devaluing safety and concealing a plethora of defects in GM-branded vehicles.

3040. In the course of its business, New GM systematically devalued safety and concealed a plethora of defects in GM-branded vehicles as described herein and otherwise engaged in activities with a tendency or capacity to deceive. New GM also engaged in unlawful trade practices by employing deception, deceptive acts or practices, fraud, misrepresentations, or concealment, suppression or omission of any material fact with intent that others rely upon such concealment, suppression or omission, in connection with the sale of the Affected Vehicles.

3041. From the date of its inception on July 10, 2009, New GM knew of many serious defects affecting many models and years of GM-branded vehicles, both because of the knowledge of Old GM personnel who remained at New GM and continuous reports,

investigations, and notifications from regulatory authorities. New GM became aware of other serious defects and systemic safety issues years ago, but concealed all of that information until recently.

3042. New GM was also aware that it valued cost-cutting over safety, selected parts from the cheapest supplier regardless of quality, and actively discouraged employees from finding and flagging known safety defects, and that this approach would necessarily cause the existence of more defects in the vehicles it designed and manufactured and the failure to disclose and remedy defects in all GM-branded vehicles. New GM concealed this information as well.

3043. According to one report from the Center for Auto Safety, some 2,004 deaths and injuries are connected with recently recalled GM-branded vehicles, and New GM should have recalled the vehicles years ago.

3044. By failing to disclose and by actively concealing the many defects in GM-branded vehicles, by marketing its vehicles as safe, reliable, and of high quality, and by presenting itself as a reputable manufacturer that valued safety and stood behind its vehicles after they were sold, New GM engaged in unfair and deceptive business practices in violation of the Washington CPA.

3045. In the course of New GM's business, it willfully failed to disclose and actively concealed the dangerous risk posed by the many safety issues and serious defects discussed above. New GM compounded the deception by repeatedly asserting that the Affected Vehicles were safe, reliable, and of high quality, and by claiming to be a reputable manufacturer that valued safety and stood behind its vehicles once they are on the road.

3046. New GM's unfair or deceptive acts or practices were likely to and did in fact deceive reasonable consumers, including Plaintiffs, about the true safety and reliability of GM-

branded vehicles, the quality of the GM brand, the devaluing of safety at New GM, and the true value of the Affected Vehicles.

3047. New GM intentionally and knowingly misrepresented material facts regarding the Affected Vehicles with an intent to mislead Plaintiffs and the Washington Class.

3048. New GM knew or should have known that its conduct violated the Washington CPA.

3049. As alleged above, New GM made material statements about the safety and reliability of the Affected Vehicles that were either false or misleading.

3050. New GM owed Plaintiffs a duty to disclose the true safety and reliability of the Affected Vehicles and the devaluing of safety at New GM, because New GM:

a. Possessed exclusive knowledge that it valued cost-cutting over safety, selected parts from the cheapest supplier regardless of quality, and actively discouraged employees from finding and flagging known safety defects, and that this approach would necessarily cause the existence of more defects in the vehicles it designed and manufactured;

b. Intentionally concealed the foregoing from Plaintiffs; and/or

c. Made incomplete representations about the safety and reliability of the Affected Vehicles generally, and the ignition switch in particular, while purposefully withholding material facts from Plaintiffs that contradicted these representations.

3051. Because New GM fraudulently concealed the many defects in GM-branded vehicles, resulting in a raft of negative publicity once the defects finally began to be disclosed, the value of the Affected Vehicles has greatly diminished. In light of the stigma attached to those vehicles by New GM's conduct, they are now worth significantly less than they otherwise would be.

3052. New GM's systemic devaluation of safety and its concealment of a plethora of defects in GM-branded vehicles were material to Plaintiffs and the Washington Class. A vehicle made by a reputable manufacturer of safe vehicles is worth more than an otherwise comparable vehicle made by a disreputable manufacturer of unsafe vehicles that conceals defects rather than promptly remedies them.

3053. Plaintiffs and the Washington Class suffered ascertainable loss caused by New GM's misrepresentations and its failure to disclose material information. Had they been aware of the many defects that existed in GM-branded vehicles, and the company's callous disregard for safety, Plaintiffs either would have paid less for their vehicles or would not have purchased or leased them at all. Plaintiffs did not receive the benefit of their bargain as a result of New GM's misconduct.

3054. New GM's violations present a continuing risk to Plaintiffs as well as to the general public. New GM's unlawful acts and practices complained of herein affect the public interest.

3055. As a direct and proximate result of New GM's violations of the Washington Act, Plaintiffs and the Washington Class have suffered injury-in-fact and/or actual damage.

3056. New GM is liable to Plaintiffs and the Class for damages in amounts to be proven at trial, including attorneys' fees, costs, and treble damages, as well as any other remedies the Court may deem appropriate under REV. CODE. WASH. ANN. § 19.86.090.

**COUNT II**

**FRAUD BY CONCEALMENT**

3057. Plaintiffs reallege and incorporate by reference all paragraphs as though fully set forth herein.

3058. In the event the Court declines to certify a Nationwide Class under Michigan law, this claim is brought only on behalf of Nationwide Class members who are Washington residents (the "Washington Class").

3059. New GM concealed and suppressed material facts concerning the quality of its vehicles and the GM brand.

3060. New GM concealed and suppressed material facts concerning the culture of New GM—a culture characterized by an emphasis on cost-cutting, the studious avoidance of safety issues, and a shoddy design process.

3061. New GM concealed and suppressed material facts concerning the many serious defects plaguing GM-branded vehicles, and that it valued cost-cutting over safety and took steps to ensure that its employees did not reveal known safety defects to regulators or consumers.

3062. New GM did so in order to boost confidence in its vehicles and falsely assure purchasers and lessors of its vehicles that New GM was a reputable manufacturer that stands behind its vehicles after they are sold and that its vehicles are safe and reliable. The false representations were material to consumers, both because they concerned the quality and safety of the Affected Vehicles and because they played a significant role in the value of the vehicles.

3063. New GM had a duty to disclose the many defects in GM-branded vehicles because they were known and/or accessible only to New GM who had superior knowledge and access to the facts, and New GM knew the facts were not known to or reasonably discoverable by Plaintiffs and the Washington Class. These omitted and concealed facts were material because they directly impact the value of the Affected Vehicles purchased or leased by Plaintiffs and the Washington Class. Whether a manufacturer's products are safe and reliable, and whether that manufacturer stands behind its products, are material concerns to a consumer.

3064. New GM actively concealed and/or suppressed these material facts, in whole or in part, to protect its profits and avoid recalls that would hurt the brand's image and cost New GM money, and it did so at the expense of Plaintiffs and the Washington Class.

3065. On information and belief, New GM has still not made full and adequate disclosure and continues to defraud Plaintiffs and the Washington Class and conceal material information regarding defects that exist in GM-branded vehicles.

3066. Plaintiffs and the Washington Class were unaware of these omitted material facts and would not have acted as they did if they had known of the concealed and/or suppressed facts. Plaintiffs' and the Washington Class's actions were justified. New GM was in exclusive control of the material facts and such facts were not known to the public, Plaintiffs, or the Washington Class.

3067. Because of the concealment and/or suppression of the facts, Plaintiffs and the Washington Class sustained damage because they own vehicles that diminished in value as a result of New GM's concealment of, and failure to timely disclose, the serious defects in millions of GM-branded vehicles and the serious safety and quality issues engendered by New GM's corporate policies. Had they been aware of the many defects that existed in GM-branded vehicles, and the company's callous disregard for safety, Plaintiffs either would have paid less for their vehicles or would not have purchased or leased them at all. Plaintiffs did not receive the benefit of their bargain as a result of New GM's fraudulent concealment.

3068. The value of all Washington Class members' vehicles has diminished as a result of New GM's fraudulent concealment of the many defects and its systemic safety issues which has greatly tarnished the New GM brand and made any reasonable consumer reluctant to

purchase any of the Affected Vehicles, let alone pay what otherwise would have been fair market value for the vehicles.

3069. Accordingly, New GM is liable to the Washington Class for their damages in an amount to be proven at trial.

3070. New GM's acts were done maliciously, oppressively, deliberately, with intent to defraud, and in reckless disregard of Plaintiffs' and the Washington Class's rights and well-being to enrich New GM. New GM's conduct warrants an assessment of punitive damages in an amount sufficient to deter such conduct in the future, which amount is to be determined according to proof.

**WEST VIRGINIA**

**COUNT I**

**VIOLATIONS OF THE CONSUMER CREDIT AND PROTECTION ACT**

**(W. VA. CODE § 46A-1-101, *et seq.*)**

3071. Plaintiffs reallege and incorporate by reference all paragraphs as though fully set forth herein.

3072. This claim is brought only on behalf of Nationwide Class members who are West Virginia residents (the "West Virginia Class").

3073. New GM is a "person" under W.VA. CODE § 46A-1-102(31).

3074. Plaintiff and the West Virginia Class are "consumers," as defined by W.VA. CODE §§ and 46A-1-102(12) and 46A-6-102(2), who purchased or leased one or more Affected Vehicles.

3075. New GM engaged in trade or commerce as defined by W. VA. CODE § 46A-6-102(6).

3076. The West Virginia Consumer Credit and Protection Act ("West Virginia CCPA") prohibits "unfair or deceptive acts or practices in the conduct of any trade or commerce …." W. VA. CODE § 46A-6-104. Without limitation, "unfair or deceptive" acts or practices include:

> (I) Advertising goods or services with intent not to sell them as advertised;
>
> (K) Making false or misleading statements of fact concerning the reasons for, existence of or amounts of price reductions;
>
> (L) Engaging in any other conduct which similarly creates a likelihood of confusion or of misunderstanding;
>
> (M) The act, use or employment by any person of any deception, fraud, false pretense, false promise or misrepresentation, or the concealment, suppression or omission of any material fact with intent that others rely upon such concealment, suppression or omission, in connection with the sale or advertisement of any goods or services, whether or not any person has in fact been misled, deceived or damaged thereby;
>
> (N) Advertising, printing, displaying, publishing, distributing or broadcasting, or causing to be advertised, printed, displayed, published, distributed or broadcast in any manner, any statement or representation with regard to the sale of goods or the extension of consumer credit including the rates, terms or conditions for the sale of such goods or the extension of such credit, which is false, misleading or deceptive or which omits to state material information which is necessary to make the statements therein not false, misleading or deceptive;

W. VA. CODE § 46A-6-102(7).

3077. By systematically devaluing safety and concealing a plethora of defects in GM-branded vehicles, New GM engaged in deceptive business practices prohibited by the West Virginia CCPA, including: (1) representing that the Affected Vehicles have characteristics, uses,

benefits, and qualities which they do not have; (2) representing that the Affected Vehicles are of a particular standard, quality, and grade when they are not; (3) advertising the Affected Vehicles with the intent not to sell them as advertised; (4) representing that a transaction involving the Affected Vehicles confers or involves rights, remedies, and obligations which it does not; and (5) representing that the subject of a transaction involving the Affected Vehicles has been supplied in accordance with a previous representation when it has not.

3078. In the course of its business, New GM systematically devalued safety and concealed a plethora of defects in GM-branded vehicles as described herein and otherwise engaged in activities with a tendency or capacity to deceive. New GM also engaged in unlawful trade practices by employing deception, deceptive acts or practices, fraud, misrepresentations, or concealment, suppression or omission of any material fact with intent that others rely upon such concealment, suppression or omission, in connection with the sale of the Affected Vehicles.

3079. From the date of its inception on July 10, 2009, New GM knew of many serious defects affecting many models and years of GM-branded vehicles, both because of the knowledge of Old GM personnel who remained at New GM and continuous reports, investigations, and notifications from regulatory authorities. New GM became aware of other serious defects and systemic safety issues years ago, but concealed all of that information until recently.

3080. New GM was also aware that it valued cost-cutting over safety, selected parts from the cheapest supplier regardless of quality, and actively discouraged employees from finding and flagging known safety defects, and that this approach would necessarily cause the existence of more defects in the vehicles it designed and manufactured and the failure to disclose and remedy defects in all GM-branded vehicles. New GM concealed this information as well.

3081. According to one report from the Center for Auto Safety, some 2,004 deaths and injuries are connected with recently recalled GM-branded vehicles, and New GM should have recalled the vehicles years ago.

3082. By failing to disclose and by actively concealing the many defects in GM-branded vehicles, by marketing its vehicles as safe, reliable, and of high quality, and by presenting itself as a reputable manufacturer that valued safety and stood behind its vehicles after they were sold, New GM engaged in unfair and deceptive business practices in violation of the West Virginia CCPA.

3083. In the course of New GM's business, it willfully failed to disclose and actively concealed the dangerous risk posed by the many safety issues and serious defects discussed above. New GM compounded the deception by repeatedly asserting that the Affected Vehicles were safe, reliable, and of high quality, and by claiming to be a reputable manufacturer that valued safety and stood behind its vehicles once they are on the road.

3084. New GM's unfair or deceptive acts or practices were likely to and did in fact deceive reasonable consumers, including Plaintiffs, about the true safety and reliability of GM-branded vehicles, the quality of the New GM brand, the devaluing of safety at New GM, and the true value of the Affected Vehicles.

3085. New GM intentionally and knowingly misrepresented material facts regarding the Affected Vehicles with an intent to mislead Plaintiffs and the West Virginia Class.

3086. New GM knew or should have known that its conduct violated the West Virginia Act.

3087. As alleged above, New GM made material statements about the safety and reliability of the Affected Vehicles that were either false or misleading.

3088. New GM owed Plaintiffs a duty to disclose the true safety and reliability of the Affected Vehicles and the devaluing of safety at New GM, because New GM:

a. Possessed exclusive knowledge that it valued cost-cutting over safety, selected parts from the cheapest supplier regardless of quality, and actively discouraged employees from finding and flagging known safety defects, and that this approach would necessarily cause the existence of more defects in the vehicles it designed and manufactured;

b. Intentionally concealed the foregoing from Plaintiffs; and/or

c. Made incomplete representations about the safety and reliability of the Affected Vehicles generally, and the ignition switch in particular, while purposefully withholding material facts from Plaintiffs that contradicted these representations.

3089. Because New GM fraudulently concealed the many defects in GM-branded vehicles, resulting in a raft of negative publicity once the defects finally began to be disclosed, the value of the Affected Vehicles has greatly diminished. In light of the stigma attached to those vehicles by New GM's conduct, they are now worth significantly less than they otherwise would be.

3090. New GM's systemic devaluation of safety and its concealment of a plethora of defects in GM-branded vehicles were material to Plaintiffs and the West Virginia Class. A vehicle made by a reputable manufacturer of safe vehicles is worth more than an otherwise comparable vehicle made by a disreputable manufacturer of unsafe vehicles that conceals defects rather than promptly remedies them.

3091. Plaintiffs and the West Virginia Class suffered ascertainable loss caused by New GM's misrepresentations and its failure to disclose material information. Had they been aware of the many defects that existed in GM-branded vehicles, and the company's callous disregard for safety, Plaintiffs either would have paid less for their vehicles or would not have

purchased or leased them at all. Plaintiffs did not receive the benefit of their bargain as a result of New GM's misconduct.

3092. New GM's violations present a continuing risk to Plaintiffs as well as to the general public. New GM's unlawful acts and practices complained of herein affect the public interest.

3093. As a direct and proximate result of New GM's violations of the West Virginia CCPA, Plaintiffs and the West Virginia Class have suffered injury-in-fact and/or actual damage.

3094. Pursuant to W. VA. CODE § 46A-1-106, Plaintiffs seek monetary relief against New GM measured as the greater of (a) actual damages in an amount to be determined at trial and (b) statutory damages in the amount of $200 per violation of the West Virginia CCPA for each Plaintiff and each member of the West Virginia Class they seek to represent.

3095. Plaintiffs also seek punitive damages against New GM because New GM carried out despicable conduct with willful and conscious disregard of the rights and safety of others, subjecting Plaintiffs to cruel and unjust hardship as a result. New GM intentionally and willfully misrepresented the safety and reliability of the Affected Vehicles, deceived Plaintiffs on life-or-death matters, and concealed material facts that only New GM knew, all to avoid the expense and public relations nightmare of correcting a deadly flaw in the vehicles New GM repeatedly promised Plaintiffs were safe. New GM's unlawful conduct constitutes malice, oppression, and fraud warranting punitive damages.

3096. Plaintiffs further seek an order enjoining New GM's unfair or deceptive acts or practices, restitution, punitive damages, costs of Court, attorney's fees under W. VA. CODE § 46A-5-101, *et seq.*, and any other just and proper relief available under the West Virginia CCPA.

3097. On October 8, 2014, certain Plaintiffs sent a letter complying with W. VA. CODE § 46A-6-106(b). Plaintiffs presently do not claim relief under the West Virginia CCPA until and unless New GM fails to remedy its unlawful conduct within the requisite time period, after which Plaintiffs seek all damages and relief to which Plaintiffs and the West Virginia Class are entitled.

**COUNT II**

**FRAUD BY CONCEALMENT**

3098. Plaintiffs reallege and incorporate by reference all paragraphs as though fully set forth herein.

3099. In the event the Court declines to certify a Nationwide Class under Michigan law, this claim is brought only on behalf of Nationwide Class members who are West Virginia residents (the "West Virginia Class").

3100. New GM concealed and suppressed material facts concerning the quality of its vehicles and the GM brand.

3101. New GM concealed and suppressed material facts concerning the culture of New GM—a culture characterized by an emphasis on cost-cutting, the studious avoidance of safety issues, and a shoddy design process.

3102. New GM concealed and suppressed material facts concerning the many serious defects plaguing GM-branded vehicles, and that it valued cost-cutting over safety and took steps to ensure that its employees did not reveal known safety defects to regulators or consumers.

3103. New GM did so in order to boost confidence in its vehicles and falsely assure purchasers and lessors of its vehicles that New GM was a reputable manufacturer that stands behind its vehicles after they are sold and that its vehicles are safe and reliable. The false representations were material to consumers, both because they concerned the quality and safety of the Affected Vehicles and because they played a significant role in the value of the vehicles.

3104. New GM had a duty to disclose the many defects in GM-branded vehicles because they were known and/or accessible only to New GM who had superior knowledge and access to the facts, and New GM knew the facts were not known to or reasonably discoverable by Plaintiffs and the West Virginia Class. These omitted and concealed facts were material because they directly impact the value of the Affected Vehicles purchased or leased by Plaintiffs and the West Virginia Class. Whether a manufacturer's products are safe and reliable, and whether that manufacturer stands behind its products, are material concerns to a consumer.

3105. New GM actively concealed and/or suppressed these material facts, in whole or in part, to protect its profits and avoid recalls that would hurt the brand's image and cost New GM money, and it did so at the expense of Plaintiffs and the West Virginia Class.

3106. On information and belief, New GM has still not made full and adequate disclosure and continues to defraud Plaintiffs and the West Virginia Class and conceal material information regarding defects that exist in GM-branded vehicles.

3107. Plaintiffs and the West Virginia Class were unaware of these omitted material facts and would not have acted as they did if they had known of the concealed and/or suppressed facts. Plaintiffs' and the West Virginia Class's actions were justified. New GM was in exclusive control of the material facts and such facts were not known to the public, Plaintiffs, or the West Virginia Class.

3108. Because of the concealment and/or suppression of the facts, Plaintiffs and the West Virginia Class sustained damage because they own vehicles that diminished in value as a result of New GM's concealment of, and failure to timely disclose, the serious defects in millions of GM-branded vehicles and the serious safety and quality issues engendered by New GM's corporate policies. Had they been aware of the many defects that existed in GM-branded

vehicles, and the company's callous disregard for safety, Plaintiffs either would have paid less for their vehicles or would not have purchased or leased them at all. Plaintiffs did not receive the benefit of their bargain as a result of New GM's fraudulent concealment.

3109. The value of all West Virginia Class members' vehicles has diminished as a result of New GM's fraudulent concealment of the many defects and its systemic safety issues which has greatly tarnished the GM brand and made any reasonable consumer reluctant to purchase any of the Affected Vehicles, let alone pay what otherwise would have been fair market value for the vehicles.

3110. Accordingly, New GM is liable to the West Virginia Class for their damages in an amount to be proven at trial.

3111. New GM's acts were done maliciously, oppressively, deliberately, with intent to defraud, and in reckless disregard of Plaintiffs' and the West Virginia Class's rights and well-being to enrich New GM. New GM's conduct warrants an assessment of punitive damages in an amount sufficient to deter such conduct in the future, which amount is to be determined according to proof.

## COUNT III

## BREACH OF IMPLIED WARRANTY OF MERCHANTABILITY

## (W. VA. CODE § 46-2-314)

3112. Plaintiffs reallege and incorporate by reference all paragraphs as though fully set forth herein.

3113. In the event the Court declines to certify a Nationwide Ignition Switch Defect Subclass under the Magnuson-Moss Warranty Act or Michigan law, this claim is brought only on behalf of West Virginia residents who are members of the Ignition Switch Defect Subclass (the "West Virginia Ignition Switch Defect Subclass").

3114. New GM was at all relevant times a seller of motor vehicles under W. VA. CODE § 46-2-314, and was also a "merchant" as the term is used in W. VA. CODE § 46A-6-107 and § 46-2-314.

3115. Under W. VA. CODE § 46-2-314, a warranty that the Defective Ignition Switch Vehicles were in merchantable condition was implied by law when Plaintiffs and the Class purchased their Defective Ignition Switch Vehicles.

3116. These vehicles, when sold and at all times thereafter, were not in merchantable condition and are not fit for the ordinary purpose for which cars are used. Specifically, the Defective Ignition Switch Vehicles are inherently defective in that there are defects in the ignition switch systems that permit sudden unintended shutdown to occur, with the attendant shut down of power steering and power brakes and the nondeployment of airbags in the event of a collision.

3117. New GM was provided notice of these issues by numerous complaints filed against it, its own internal investigations, and by numerous individual letters and communications sent by Plaintiffs and the West Virginia Ignition Switch Defect Subclass before or within a reasonable amount of time after New GM issued the recall and the allegations of vehicle defects became public.

3118. As a direct and proximate result of New GM's breach of the warranty of merchantability, Plaintiffs and the West Virginia Ignition Switch Defect Subclass have been damaged in an amount to be proven at trial.

## WISCONSIN

## COUNT I

## VIOLATIONS OF THE WISCONSIN DECEPTIVE TRADE PRACTICES ACT

## (WIS. STAT. § 110.18)

3119. Plaintiffs reallege and incorporate by reference all paragraphs as though fully set forth herein.

3120. This claim is brought only on behalf of Nationwide Class members who are Wisconsin residents (the "Wisconsin Class").

3121. New GM is a "person, firm, corporation or association" within the meaning of WIS. STAT. § 100.18(1).

3122. Plaintiffs and Wisconsin Class members are members of "the public" within the meaning of WIS. STAT. § 100.18(1). Plaintiffs and Wisconsin Class members purchased or leased one or more Affected Vehicles.

3123. The Wisconsin Deceptive Trade Practices Act ("Wisconsin DTPA") prohibits a "representation or statement of fact which is untrue, deceptive or misleading." WIS. STAT. § 100.18(1). By systematically devaluing safety and concealing a plethora of defects in GM-branded vehicles, New GM engaged in unfair and deceptive acts and practices and violated the Wisconsin DTPA.

3124. In the course of its business, New GM systematically devalued safety and concealed a plethora of defects in GM-branded vehicles as described herein and otherwise engaged in activities with a tendency or capacity to deceive. New GM also engaged in unlawful trade practices by employing deception, deceptive acts or practices, fraud, misrepresentations, or

concealment, suppression or omission of any material fact with intent that others rely upon such concealment, suppression or omission, in connection with the sale of the Affected Vehicles.

3125. From the date of its inception on July 10, 2009, New GM knew of many serious defects affecting many models and years of GM-branded vehicles, both because of the knowledge of Old GM personnel who remained at New GM and continuous reports, investigations, and notifications from regulatory authorities. New GM became aware of other serious defects and systemic safety issues years ago, but concealed all of that information until recently.

3126. New GM was also aware that it valued cost-cutting over safety, selected parts from the cheapest supplier regardless of quality, and actively discouraged employees from finding and flagging known safety defects, and that this approach would necessarily cause the existence of more defects in the vehicles it designed and manufactured and the failure to disclose and remedy defects in all GM-branded vehicles. New GM concealed this information as well.

3127. According to one report from the Center for Auto Safety, some 2,004 deaths and injuries are connected with recently recalled GM-branded vehicles, and New GM should have recalled the vehicles years ago.

3128. By failing to disclose and by actively concealing the many defects in GM-branded vehicles, by marketing its vehicles as safe, reliable, and of high quality, and by presenting itself as a reputable manufacturer that valued safety and stood behind its vehicles after they were sold, New GM engaged in deceptive business practices in violation of the Wisconsin DTPA.

3129. In the course of New GM's business, it willfully failed to disclose and actively concealed the dangerous risk posed by the many safety issues and serious defects discussed above. New GM compounded the deception by repeatedly asserting that the Affected Vehicles

were safe, reliable, and of high quality, and by claiming to be a reputable manufacturer that valued safety and stood behind its vehicles once they are on the road.

3130. New GM's unfair or deceptive acts or practices were likely to and did in fact deceive reasonable consumers, including Plaintiffs, about the true safety and reliability of GM-branded vehicles, the quality of the GM brand, the devaluing of safety at New GM, and the true value of the Affected Vehicles.

3131. New GM intentionally and knowingly misrepresented material facts regarding the Affected Vehicles with an intent to mislead Plaintiffs and the Wisconsin Class.

3132. New GM knew or should have known that its conduct violated the Wisconsin DTPA.

3133. As alleged above, New GM made material statements about the safety and reliability of the Affected Vehicles that were either false or misleading.

3134. New GM owed Plaintiffs a duty to disclose the true safety and reliability of the Affected Vehicles and the devaluing of safety at New GM, because New GM:

a. Possessed exclusive knowledge that it valued cost-cutting over safety, selected parts from the cheapest supplier regardless of quality, and actively discouraged employees from finding and flagging known safety defects, and that this approach would necessarily cause the existence of more defects in the vehicles it designed and manufactured;

b. Intentionally concealed the foregoing from Plaintiffs; and/or

c. Made incomplete representations about the safety and reliability of the Affected Vehicles generally, and the ignition switch in particular, while purposefully withholding material facts from Plaintiffs that contradicted these representations.

3135. Because New GM fraudulently concealed the many defects in GM-branded vehicles, resulting in a raft of negative publicity once the defects finally began to be disclosed,

the value of the Affected Vehicles has greatly diminished. In light of the stigma attached to those vehicles by New GM's conduct, they are now worth significantly less than they otherwise would be.

3136. New GM's systemic devaluation of safety and its concealment of a plethora of defects in GM-branded vehicles were material to Plaintiffs and the Wisconsin Class. A vehicle made by a reputable manufacturer of safe vehicles is worth more than an otherwise comparable vehicle made by a disreputable manufacturer of unsafe vehicles that conceals defects rather than promptly remedies them.

3137. Plaintiffs and the Wisconsin Class suffered ascertainable loss caused by New GM's misrepresentations and its failure to disclose material information. Had they been aware of the many defects that existed in GM-branded vehicles, and the company's callous disregard for safety, Plaintiffs either would have paid less for their vehicles or would not have purchased or leased them at all. Plaintiffs did not receive the benefit of their bargain as a result of New GM's misconduct.

3138. New GM' violations present a continuing risk to Plaintiffs as well as to the general public. New GM's unlawful acts and practices complained of herein affect the public interest.

3139. As a direct and proximate result of New GM's violations of the Wisconsin DTPA, Plaintiffs and the Wisconsin Class have suffered injury-in-fact and/or actual damage.

3140. Plaintiffs and the Wisconsin Class are entitled to damages and other relief provided for under WIS. STAT. § 110.18(11)(b)(2). Because New GM's conduct was committed knowingly and/or intentionally, Plaintiffs` and the Wisconsin Class are entitled to treble damages.

3141. Plaintiffs and the Wisconsin Class also seek court costs and attorneys' fees under WIS. STAT. § 110.18(11)(b)(2).

**COUNT II**

**FRAUD BY CONCEALMENT**

3142. Plaintiffs reallege and incorporate by reference all paragraphs as though fully set forth herein.

3143. In the event the Court declines to certify a Nationwide Class under Michigan law, this claim is brought only on behalf of Nationwide Class members who are Wisconsin residents (the "Wisconsin Class").

3144. New GM concealed and suppressed material facts concerning the quality of its vehicles and the GM brand.

3145. New GM concealed and suppressed material facts concerning the culture of New GM—a culture characterized by an emphasis on cost-cutting, the studious avoidance of safety issues, and a shoddy design process.

3146. New GM concealed and suppressed material facts concerning the many serious defects plaguing GM-branded vehicles, and that it valued cost-cutting over safety and took steps to ensure that its employees did not reveal known safety defects to regulators or consumers.

3147. New GM did so in order to boost confidence in its vehicles and falsely assure purchasers and lessors of its vehicles that New GM was a reputable manufacturer that stands behind its vehicles after they are sold and that its vehicles are safe and reliable. The false representations were material to consumers, both because they concerned the quality and safety of the Affected Vehicles and because they played a significant role in the value of the vehicles.

3148. New GM had a duty to disclose the many defects in GM-branded vehicles because they were known and/or accessible only to New GM who had superior knowledge and

access to the facts, and New GM knew the facts were not known to or reasonably discoverable by Plaintiffs and the Wisconsin Class. These omitted and concealed facts were material because they directly impact the value of the Affected Vehicles purchased or leased by Plaintiffs and the Wisconsin Class. Whether a manufacturer's products are safe and reliable, and whether that manufacturer stands behind its products, are material concerns to a consumer.

3149. New GM actively concealed and/or suppressed these material facts, in whole or in part, to protect its profits and avoid recalls that would hurt the brand's image and cost New GM money, and it did so at the expense of Plaintiffs and the Wisconsin Class.

3150. On information and belief, New GM has still not made full and adequate disclosure and continues to defraud Plaintiffs and the Wisconsin Class and conceal material information regarding defects that exist in GM-branded vehicles.

3151. Plaintiffs and the Wisconsin Class were unaware of these omitted material facts and would not have acted as they did if they had known of the concealed and/or suppressed facts. Plaintiffs' and the Wisconsin Class's actions were justified. New GM was in exclusive control of the material facts and such facts were not known to the public, Plaintiffs, or the Wisconsin Class.

3152. Because of the concealment and/or suppression of the facts, Plaintiffs and the Wisconsin Class sustained damage because they own vehicles that diminished in value as a result of New GM's concealment of, and failure to timely disclose, the serious defects in millions of GM-branded vehicles and the serious safety and quality issues engendered by New GM's corporate policies. Had they been aware of the many defects that existed in GM-branded vehicles, and the company's callous disregard for safety, Plaintiffs either would have paid less

for their vehicles or would not have purchased or leased them at all. Plaintiffs did not receive the benefit of their bargain as a result of New GM's fraudulent concealment.

3153. The value of all Wisconsin Class members' vehicles has diminished as a result of New GM's fraudulent concealment of the many defects and its systemic safety issues which has greatly tarnished the GM brand and made any reasonable consumer reluctant to purchase any of the Affected Vehicles, let alone pay what otherwise would have been fair market value for the vehicles.

3154. Accordingly, New GM is liable to the Wisconsin Class for their damages in an amount to be proven at trial.

3155. New GM's acts were done maliciously, oppressively, deliberately, with intent to defraud, and in reckless disregard of Plaintiffs' and the Wisconsin Class's rights and well-being to enrich New GM. New GM's conduct warrants an assessment of punitive damages in an amount sufficient to deter such conduct in the future, which amount is to be determined according to proof.

## WYOMING

### COUNT I

### VIOLATION OF THE WYOMING CONSUMER PROTECTION ACT

### (WYO. STAT. §§ 40-12-105 *et seq.*)

3156. Plaintiffs reallege and incorporate by reference all paragraphs as though fully set forth herein.

3157. This claim is brought only on behalf of Nationwide Class members who are Wyoming residents (the "Wyoming Class").

3158. Plaintiffs, Wyoming Class members, and New GM are "persons" within the meaning of WYO. STAT. § 40-12-102(a)(i).

3159. The sales of the Affected Vehicles to Plaintiffs and the Wyoming Class were "consumer transactions" within the meaning of WYO. STAT. § 40-12-105.

3160. Under the Wyoming Consumer Protection Act ("Wyoming CPA"), a person engages in a deceptive trade practice when, in the course of its business and in connection with a consumer transaction it knowingly: "(iii) Represents that merchandise is of a particular standard, grade, style or model, if it is not"; "(v) Represents that merchandise has been supplied in accordance with a previous representation, if it has not…"; "(viii) Represents that a consumer transaction involves a warranty, a disclaimer of warranties, particular warranty terms, or other rights, remedies or obligations if the representation is false"; "(x) Advertises merchandise with intent not to sell it as advertised"; or "(xv) Engages in unfair or deceptive acts or practices." WYO. STAT. § 45-12-105.

3161. By systematically devaluing safety and concealing a plethora of defects in GM-branded vehicles as described above, New GM violated the Wyoming CPA. New GM engaged in deceptive trade practices, including (among other things) representing that the Affected Vehicles are of a particular standard and grade, which they are not; advertising the Affected Vehicles with the intent not to sell them as advertised; and overall engaging in unfair and deceptive acts or practices.

3162. In the course of its business, New GM systematically devalued safety and concealed a plethora of defects in GM-branded vehicles as described herein and otherwise engaged in activities with a tendency or capacity to deceive. New GM also engaged in unlawful trade practices by employing deception, deceptive acts or practices, fraud, misrepresentations, or concealment, suppression or omission of any material fact with intent that others rely upon such concealment, suppression or omission, in connection with the sale of the Affected Vehicles.

3163. From the date of its inception on July 10, 2009, New GM knew of many serious defects affecting many models and years of GM-branded vehicles, both because of the knowledge of Old GM personnel who remained at New GM and continuous reports, investigations, and notifications from regulatory authorities. New GM became aware of other serious defects and systemic safety issues years ago, but concealed all of that information until recently.

3164. New GM was also aware that it valued cost-cutting over safety, selected parts from the cheapest supplier regardless of quality, and actively discouraged employees from finding and flagging known safety defects, and that this approach would necessarily cause the existence of more defects in the vehicles it designed and manufactured and the failure to disclose and remedy defects in all GM-branded vehicles. New GM concealed this information as well.

3165. According to one report from the Center for Auto Safety, some 2,004 deaths and injuries are connected with recently recalled GM-branded vehicles, and New GM should have recalled the vehicles years ago.

3166. By failing to disclose and by actively concealing the many defects in GM-branded vehicles, by marketing its vehicles as safe, reliable, and of high quality, and by presenting itself as a reputable manufacturer that valued safety and stood behind its vehicles after they were sold, New GM engaged in deceptive business practices in violation of the Wyoming CPA.

3167. In the course of New GM's business, it willfully failed to disclose and actively concealed the dangerous risk posed by the many safety issues and serious defects discussed above. New GM compounded the deception by repeatedly asserting that the Affected Vehicles were safe, reliable, and of high quality, and by claiming to be a reputable manufacturer that valued safety and stood behind its vehicles once they are on the road.

3168. New GM's unfair or deceptive acts or practices were likely to and did in fact deceive reasonable consumers, including Plaintiffs, about the true safety and reliability of GM-branded vehicles, the quality of the GM brand, the devaluing of safety at New GM, and the true value of the Affected Vehicles.

3169. New GM intentionally and knowingly misrepresented material facts regarding the Affected Vehicles with an intent to mislead Plaintiffs and the Wyoming Class.

3170. New GM knew or should have known that its conduct violated the Wyoming CPA.

3171. As alleged above, New GM made material statements about the safety and reliability of the Affected Vehicles that were either false or misleading.

3172. New GM owed Plaintiffs a duty to disclose the true safety and reliability of the Affected Vehicles and the devaluing of safety at New GM, because New GM:

a. Possessed exclusive knowledge that it valued cost-cutting over safety, selected parts from the cheapest supplier regardless of quality, and actively discouraged employees from finding and flagging known safety defects, and that this approach would necessarily cause the existence of more defects in the vehicles it designed and manufactured;

b. Intentionally concealed the foregoing from Plaintiffs; and/or

c. Made incomplete representations about the safety and reliability of the Affected Vehicles generally, and the ignition switch in particular, while purposefully withholding material facts from Plaintiffs that contradicted these representations.

3173. Because New GM fraudulently concealed the many defects in GM-branded vehicles, resulting in a raft of negative publicity once the defects finally began to be disclosed, the value of the Affected Vehicles has greatly diminished. In light of the stigma attached to

those vehicles by New GM's conduct, they are now worth significantly less than they otherwise would be.

3174. New GM's systemic devaluation of safety and its concealment of a plethora of defects in GM-branded vehicles were material to Plaintiffs and the Wyoming Class. A vehicle made by a reputable manufacturer of safe vehicles is worth more than an otherwise comparable vehicle made by a disreputable manufacturer of unsafe vehicles that conceals defects rather than promptly remedies them.

3175. Plaintiffs and the Wyoming Class suffered ascertainable loss caused by New GM's misrepresentations and its failure to disclose material information. Had they been aware of the many defects that existed in GM-branded vehicles, and the company's callous disregard for safety, Plaintiffs either would have paid less for their vehicles or would not have purchased or leased them at all. Plaintiffs did not receive the benefit of their bargain as a result of New GM's misconduct.

3176. New GM's violations present a continuing risk to Plaintiffs as well as to the general public. New GM's unlawful acts and practices complained of herein affect the public interest.

3177. As a direct and proximate result of New GM's violations of the Wyoming CPA, Plaintiffs and the Wyoming Class have suffered injury-in-fact and/or actual damage.

3178. Pursuant to WYO. STAT. § 40-12-108(a), Plaintiffs and the Wyoming Class seek monetary relief against New GM measured as actual damages in an amount to be determined at trial, in addition to any other just and proper relief available under the Wyoming CPA.

3179. On October 8, 2014, certain Plaintiffs sent a letter complying with WYO. STAT. §§ 45-12-109. Plaintiffs presently do not claim relief under the Wyoming CPA until and unless

New GM fails to remedy its unlawful conduct within the requisite time period, after which Plaintiffs seek all damages and relief to which Plaintiffs and the Wyoming Class are entitled.

**COUNT II**

**FRAUD BY CONCEALMENT**

3180. Plaintiffs reallege and incorporate by reference all paragraphs as though fully set forth herein.

3181. In the event the Court declines to certify a Nationwide Class under Michigan law, this claim is brought only on behalf of Natiownwide Class members who are Wyoming residents (the "Wyoming Class").

3182. New GM concealed and suppressed material facts concerning the quality of its vehicles and the GM brand.

3183. New GM concealed and suppressed material facts concerning the culture of New GM—a culture characterized by an emphasis on cost-cutting, the studious avoidance of safety issues, and a shoddy design process.

3184. New GM concealed and suppressed material facts concerning the many serious defects plaguing GM-branded vehicles, and that it valued cost-cutting over safety and took steps to ensure that its employees did not reveal known safety defects to regulators or consumers.

3185. New GM did so in order to boost confidence in its vehicles and falsely assure purchasers and lessors of its vehicles that New GM was a reputable manufacturer that stands behind its vehicles after they are sold and that its vehicles are safe and reliable. The false representations were material to consumers, both because they concerned the quality and safety of the Affected Vehicles and because they played a significant role in the value of the vehicles.

3186. New GM had a duty to disclose the many defects in GM-branded vehicles because they were known and/or accessible only to New GM who had superior knowledge and

access to the facts, and New GM knew the facts were not known to or reasonably discoverable by Plaintiffs and the Wyoming Class. These omitted and concealed facts were material because they directly impact the value of the Affected Vehicles purchased or leased by Plaintiffs and the Wyoming Class. Whether a manufacturer's products are safe and reliable, and whether that manufacturer stands behind its products, are material concerns to a consumer.

3187. New GM actively concealed and/or suppressed these material facts, in whole or in part, to protect its profits and avoid recalls that would hurt the brand's image and cost New GM money, and it did so at the expense of Plaintiffs and the Wyoming Class.

3188. On information and belief, New GM has still not made full and adequate disclosure and continues to defraud Plaintiffs and the Wyoming Class and conceal material information regarding defects that exist in GM-branded vehicles.

3189. Plaintiffs and the Wyoming Class were unaware of these omitted material facts and would not have acted as they did if they had known of the concealed and/or suppressed facts. Plaintiffs' and the Wyoming Class's actions were justified. New GM was in exclusive control of the material facts and such facts were not known to the public, Plaintiffs, or the Wyoming Class.

3190. Because of the concealment and/or suppression of the facts, Plaintiffs and the Wyoming Class sustained damage because they own vehicles that diminished in value as a result of New GM's concealment of, and failure to timely disclose, the serious defects in millions of GM-branded vehicles and the serious safety and quality issues engendered by New GM's corporate policies. Had they been aware of the many defects that existed in GM-branded vehicles, and the company's callous disregard for safety, Plaintiffs either would have paid less for their vehicles or would not have purchased or leased them at all. Plaintiffs did not receive the benefit of their bargain as a result of New GM's fraudulent concealment.

3191. The value of all Wyoming Class members' vehicles has diminished as a result of New GM's fraudulent concealment of the many defects and its systemic safety issues which has greatly tarnished the GM brand and made any reasonable consumer reluctant to purchase any of the Affected Vehicles, let alone pay what otherwise would have been fair market value for the vehicles.

3192. Accordingly, New GM is liable to the Wyoming Class for their damages in an amount to be proven at trial.

3193. New GM's acts were done maliciously, oppressively, deliberately, with intent to defraud, and in reckless disregard of Plaintiffs' and the Wyoming Class's rights and well-being to enrich New GM. New GM's conduct warrants an assessment of punitive damages in an amount sufficient to deter such conduct in the future, which amount is to be determined according to proof.

**COUNT III**

**BREACH OF THE IMPLIED WARRANTY OF MERCHANTABILITY**

**(WYO. STAT. §§ 34.1-2-314)**

3194. Plaintiffs reallege and incorporate by reference all paragraphs as though fully set forth herein.

3195. In the event the Court declines to certify a Nationwide Ignition Switch Defect Subclass under the Magnuson-Moss Warranty Act or Michigan law, this claim is brought only on behalf of Wyoming residents who are members of the Ignition Switch Defect Subclass (the "Wyoming Ignition Switch Defect Subclass").

3196. New GM was at all relevant times a merchant with respect to motor vehicles.

3197. Under Wyoming law, a warranty that the Defective Ignition Switch Vehicles were in merchantable condition was implied when Class members purchased their Defective Ignition Switch Vehicles.

3198. These vehicles, when sold and at all times thereafter, were not in merchantable condition and are not fit for the ordinary purpose for which cars are used. Specifically, the Defective Ignition Switch Vehicles are inherently defective in that there are defects in the ignition switch systems that permit sudden unintended shutdown to occur, with the attendant shut down of power steering and power brakes and the nondeployment of airbags in the event of a collision.

3199. New GM was provided notice of these issues by numerous complaints filed against it, its own internal investigations, and by numerous individual letters and communications sent by Plaintiffs and the Wyoming Ignition Switch Defect Subclass before or within a reasonable amount of time after New GM issued the recall and the allegations of vehicle defects became public.

3200. As a direct and proximate result of New GM's breach of the warranty of merchantability, Plaintiffs and the Wyoming Ignition Switch Defect Subclass have been damaged in an amount to be proven at trial.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiffs, individually and on behalf all others similarly situated, respectfully request that this Court enter a judgment against New GM and in favor of Plaintiffs and the Classes and Subclasses, and grant the following relief:

A. Determine that this action may be maintained as a class action and certify it as such under Rule 23(b)(2) and/or 23(b)(3), or alternatively certify all issues and claims that are

appropriately certified; and designate and appoint Plaintiffs as Class Representatives and Plaintiffs' chosen counsel as Class Counsel;

B. Declare, adjudge, and decree the conduct of New GM as alleged herein to be unlawful, unfair, and/or deceptive and otherwise in violation of law, enjoin any such future conduct, and issue an injunction under which the Court will monitor New GM's response to problems with the recalls and efforts to improve its safety processes, and will establish by Court decree and administration under Court supervision a program funded by New GM under which claims can be made and paid for Ignition Switch Defect Subclass members' out-of-pocket expenses and costs;

C. Award Plaintiffs and Class members actual, compensatory damages or, in the alternative, statutory damages, as proven at trial;

D. Award Plaintiffs and the Class members exemplary damages in such amount as proven;

E. Award damages and other remedies, including but not limited to statutory penalties, as allowed by the consumer laws of the various states;

F. Award Plaintiffs and the Class members their reasonable attorneys' fees, costs, and pre-judgment and post-judgment interest;

G. Award Plaintiffs and Class members restitution and/or disgorgement of New GM's ill-gotten gains relating to the conduct described in this Complaint; and

H. Award Plaintiffs and the Class members such other further and different relief as the case may require or as determined to be just, equitable, and proper by this Court.

## IX. JURY TRIAL DEMAND

Plaintiffs request a trial by jury on the legal claims, as set forth herein.

DATED: October 14, 2014

HAGENS BERMAN SOBOL SHAPIRO LLP

By: */s/ Steve W. Berman*
Steve W. Berman
*steve@hbsslaw.com*
Sean R. Matt
*sean@hbsslaw.com*
Andrew M. Volk
*andrew@hbsslaw.com*
HAGENS BERMAN SOBOL SHAPIRO LLP
1918 Eighth Avenue, Suite 3300
Seattle, WA 98101
Telephone: (206) 623-7292
Facsimile: (206) 623-0594

DATED: October 14, 2014

LIEFF CABRASER HEIMANN & BERNSTEIN, LLP

By: */s/ Elizabeth J. Cabraser*
Elizabeth J. Cabraser
*ecabraser@lchb.com*
Steven E. Fineman
*sfineman@lchb.com*
Rachel Geman
*rgeman@lchb.com*
Annika K. Martin
*akmartin@lchb.com*
275 Battery St., 29th Floor
San Francisco, CA 94111
Telephone: (415) 956-1000
Facsimile: (415) 956-1008

*Co-Lead Counsel with Primary Focus on Economic Loss Cases*

DATED: October 14, 2014

HILLIARD MUÑOZ GONZALES L.L.P.

By: */s/ Robert Hilliard*
Robert Hilliard
*bobh@hmglawfirm.com*
719 S Shoreline Blvd, Suite #500
Corpus Christi, TX 78401
Telephone: (361) 882-1612
Facsimile: (361) 882-3015

*Co-Lead Counsel with Primary Focus on Personal Injury Cases*

WEITZ & LUXENBERG, PC
Robin L. Greenwald
James J. Bilsborrow
700 Broadway
New York, NY 10003
Telephone: (212) 558-5500

*Liaison Counsel*

BOIES, SCHILLER & FLEXNER LLP
David Boies
333 Main Street
Armonk, NY 10504
Telephone: (914) 749-8200

THE COOPER FIRM
Lance A. Cooper
531 Roselane St., Suite 200
Marietta, GA 30060
Telephone: (770) 427-5588

OTTERBOURG, STEINDLER, HOUSTON & ROSEN
Melanie Cyganowski
230 Park Avenue
New York, NY 10169-0075
Telephone: (212) 661-9100

GRANT & EISENHOFER, P.A.
Adam J. Levitt
John Tangren
30 N. LaSalle Street, Suite 1200
Chicago, IL 60602
Telephone: (312) 214-0000

NAST LAW LLC
Dianne M. Nast
1101 Market St., Suite 2801
Philadelphia, PA 19107
Telephone: (215) 923-9300

PODHURST ORSECK, P.A.
Peter Prieto
City National Bank Building
25 West Flagler Street, Suite 800
Miami, FL 33130
Telephone: (305) 358-2800

COTCHETT, PITRE & MCCARTHY, LLP
Frank Pitre
840 Malcolm Road, Suite 200
Burlingame, CA 94010
Telephone: (650) 697-6000

MOTLEY RICE LLC
Joseph F. Rice
28 Bridgeside Blvd.
Mt. Pleasant, SC 29464
Telephone: (843) 216-9159

ROBINSON CALCAGNIE ROBINSON
SHAPIRO DAVIS, INC.
Mark P. Robinson, Jr.
19 Corporate Plaza
Newport Beach, CA 92660
Telephone: (949) 720-1288

SUSMAN GODFREY, L.L.P.
Marc M. Seltzer
1901 Avenue of the Stars, Suite 950
Los Angeles, CA 90067
Telephone: (310) 789-3102

*Executive Committee*

BARRIOS, KINGSDORF & CASTEIX, LLP
Dawn M. Barrios
701 Poydras St., Suite 3650
New Orleans, LA 70139
Telephone: (504) 524-3300

*Federal / State Liaison Counsel*

BARON & BUDD, PC
Mark Philip Pifko
Roland K. Tellis
15910 Ventura Boulevard
Encino Plaza, Suite 1600
Encino, CA 91436
Telephone: 818-839-2333

BARRETT LAW GROUP, PA
Don Barrett
404 Court Square
Lexington, MS 39095
Telephone: 662-834-2488

BEASLEY, ALLEN, CROW, METHVIN, PORTIS & MILES, P.C.
W. Daniel "Dee" Miles
Jere L. Beasley
J. Cole Portis
D. Michael Andrews
Benjamin E. Baker
218 Commerce Street
Montgomery, AL 36104
Telephone: (800) 898-2034

BLOCK & LEVITON, LLP
Joel A. Fleming
155 Federal Street, Suite 1303
Boston, MA 02110
Telephone: 617-398-5600

CARNEY BATES & PULLIAM, PLLC
David Slade
James Allen Carney, Jr.
Joseph Henry Bates, III
Randall Keith Pulliam
11311 Arcade Drive, Suite 200
Little Rock, AR 72212
Telephone: 501-312-8500

CLIFFORD LAW OFFICES
Robert A. Clifford
Shannon M. McNulty
Kristofer S. Riddle
120 N. LaSalle, Suite 3100
Chicago, IL 60602
Telephone: 312-899-9090

CUNEO GILBERT & LADUCA LLP
Jonathan W. Cuneo
Pamela Gilbert
507 C Street NE
Washington, DC 20002
Telephone: 202-789-3960

EDWARD L. WHITE, PC
Edward L. White
853 E. 33rd Street
Edmond, OK 73013
Telephone: 405-810-8188

FINKELSTEIN BLANKINSHIP FREI-PEARSON & GARBER
Douglas Gregory Blankinship
1311 Mamaroneck Avenue, Suite 220
White Plains, NY 10605
Telephone: 914-298-3281

GRAY RITTER & GRAHAM
Don M. Downing
701 Market Street, Suite 800
St. Louis, MO 63101
Telephone: 314-241-5620

HAZZARD LAW, LLC
Brent Hazzard
P.O. Box 24382
Jackson, MS 39225
Telephone: 601-977-5253
mailto:ed@edwhitelaw.com
LACKEY HERSHMAN, LLP
Roger L. Mandel
3102 Oak Lawn Avenue, Suite 777
Dallas, TX 75219
Telephone: 214-560-2238

STUEVE SIEGEL HANSON, LLP
Patrick J. Stueve
Todd E. Hilton
Bradley T. Wilders
460 Nichols Road, Suite 200
Kansas City, MO 64112
Telephone: 816-714-7100

STUEVE SIEGEL HANSON, LLP
Jason S. Hartley
Jason M. Lindner
550 W. C Street, Suite 1750
San Diego, CA 92101
Telephone: 619-400-5822

*Counsel to Certain Plaintiffs*

# Exhibit 1

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----------x

IN RE:

GENERAL MOTORS LLC IGNITION SWITCH LITIGATION

This Document Relates to All Actions

----------x

14-MD-2543 (JMF)

DECLARATION OF MARC KOPPELMAN RE: VENUE

I, Marc Koppelman, hereby declare and state as follows:

1. I have personal knowledge of the facts stated herein and, if necessary, could competently testify thereto.

2. I am a Plaintiff in the above-entitled action.

3. Pursuant to Cal. Civ. Code § 1780(d), I make this declaration in support of the Class Action Complaint and the claim therein for relief under Cal. Civ. Code § 1780(a).

4. This action for relief under Cal. Civ. Code § 1780(a) has been properly commenced in this Court pursuant to the Court's direction that new plaintiffs can file directly in the MDL without first filing in the district in which they reside; hence, I am filing this action as if it had been filed in the Central District of California, in a county that is a proper place for trial of this action because Defendant does business there and throughout the State of California.

5. The Complaint filed in this matter contains causes of action for violations of the Consumers Legal Remedies Act against General Motors, LLC ("GM"), a Delaware limited liability company doing business nationwide, including California.

6. I own a 2010 Chevy HHR which I purchased used at a Chevrolet dealership in Glen Burnie, Maryland on March 17, 2012.

7. I declare under penalty of perjury under the laws of the State of California that the foregoing Declaration is true and correct, and was executed by me in the city of Torrance, California, on October 14, 2014.

By _____
Marc Koppelman

ORANGE COUNTY DISTRICT ATTORNEY
Tony Rackauckas, District Attorney
Joseph D'Agostino, Senior Assistant District Attorney
401 Civil Center Drive
Santa Ana, CA 92701-4575
Tel: (714) 834-3600
Fax: (714) 648-3636

*– In association with –*

Mark P. Robinson, Jr., SBN 05442
Kevin F. Calcagnie, SBN 108994
Scot D. Wilson, SBN 223367
ROBINSON CALCAGNIE ROBINSON SHAPIRO DAVIS, INC.
19 Corporate Plaza Drive
Newport Beach, CA 92660
Tel: (949) 720-1288
Fax: (949) 720-1292
mrobinson@rcrlaw.net

Steve W. Berman (*Pro Hac Vice* Pending)
Andrew Volk (*Pro Hac Vice* Pending)
HAGENS BERMAN SOBOL SHAPIRO LLP
1918 Eighth Avenue, Suite 3300
Seattle, WA 98101
Tel: (206) 623-7292
Fax: (206) 623-0594
steve@hbsslaw.com

*Attorneys for Plaintiff*
*THE PEOPLE OF THE STATE OF CALIFORNIA*

**SUPERIOR COURT OF THE STATE OF CALIFORNIA**

**IN AND FOR THE COUNTY OF ORANGE – COMPLEX LITIGATION DIVISION**

THE PEOPLE OF THE STATE OF CALIFORNIA, acting by and through Orange County District Attorney Tony Rackauckas,

Plaintiff,

v.

GENERAL MOTORS LLC

Defendant.

Case No. 30-2014-00731038-CU-BT-CXC

**FIRST AMENDED COMPLAINT FOR VIOLATIONS OF CALIFORNIA UNFAIR COMPETITION LAW AND FALSE ADVERTISING LAW**

## TABLE OF CONTENTS

**Page**

Plaintiff, the People of the State of California ("Plaintiff" or "the People"), by and through Tony Rackauckas, District Attorney for the County of Orange ("District Attorney"), alleges the following, on information and belief:

## I. INTRODUCTION

1. This is a law enforcement action which primarily seeks to protect the public safety and welfare, brought by a governmental unit in the exercise of and to enforce its police power. *City & Cnty. of San Francisco v. PG & E Corp.*, 433 F.3d 1115, 1124-1125 (9th Cir. 2006). The action is brought by Tony Rackauckas, District Attorney of the County of Orange, under California Business and Professions Code sections 17200 *et seq.*, the Unfair Competition Law ("UCL"), and 17500 *et seq.*, the False Advertising Law ("FAL"), and involves sales, leases, or other wrongful conduct or injuries occurring in California. The defendant is General Motors LLC ("Defendant" or "GM"), which is based in Detroit, Michigan.

2. This case arises from GM's egregious failure to disclose, and the affirmative concealment of, at least 35 separate known defects in vehicles sold by GM, and by its predecessor, "Old GM" (collectively, "GM-branded vehicles"). By concealing the existence of the many known defects plaguing many models and years of GM-branded vehicles and the fact that GM values cost-cutting over safety, and concurrently marketing the GM brand as "safe" and "reliable," GM enticed vehicle purchasers to buy GM vehicles under false pretenses.

3. This action seeks to hold GM liable only for its ***own*** acts and omissions ***after*** the July 10, 2009 effective date of the Sale Order and Purchase Agreement through which GM acquired virtually all of the assets and certain liabilities of Old GM.

4. A vehicle made by a reputable manufacturer of safe and reliable vehicles is worth more than an otherwise similar vehicle made by a disreputable manufacturer that is known to devalue safety and to conceal serious defects from consumers and regulators. GM Vehicle Safety Chief Jeff Boyer has recently stated that: "Nothing is more important than the safety of our customers in the vehicles they drive." Yet GM failed to live up to this commitment, instead choosing to conceal at least 35 serious defects in over 17 million GM-branded vehicles sold in the United States (collectively, the "Defective Vehicles").

5. The systematic concealment of known defects was deliberate, as GM followed a consistent pattern of endless "investigation" and delay each time it became aware of a given defect. In fact, recently revealed documents show that GM valued cost-cutting over safety, trained its personnel to ***never*** use the words "defect," "stall," or other words suggesting that any GM-branded vehicles are defective, routinely chose the cheapest part supplier without regard to safety, and discouraged employees from acting to address safety issues.

6. Under the Transportation Recall Enhancement, Accountability and Documentation Act ("TREAD Act")[1] and its accompanying regulations, when a manufacturer learns that a vehicle contains a safety defect, the manufacturer must promptly disclose the defect.[2] If it is determined that the vehicle is defective, the manufacturer may be required to notify vehicle owners, purchasers, and dealers of the defect, and may be required to remedy the defect.[3]

7. GM ***explicitly assumed*** the responsibilities to report safety defects with respect to all GM-branded vehicles as required by the TREAD Act. GM also had the same duty under California law.

8. When a manufacturer with TREAD Act responsibilities is aware of myriad safety defects and fails to disclose them as GM has done, that manufacturer's vehicles are not safe. And when that manufacturer markets and sells its new vehicles by touting that its vehicles are "safe," as GM has also done, that manufacturer is engaging in deception.

9. GM has recently been forced to disclose that it had been concealing a large number of known safety defects in GM-branded vehicles ever since its inception in 2009, and that other defects arose on its watch due in large measure to GM's focus on cost-cutting over safety, its discouragement of raising safety issues and its training of employees to avoid using language such as "stalls," "defect" or "safety issue" in order to avoid attracting the attention of regulators. As a result, GM has been forced to recall over 17 million vehicles in some 40 recalls covering 35 separate defects during the first five and a half months of this year –20 times more than during the

[1] 49 U.S.C. §§ 30101-30170.

[2] 49 U.S.C. § 30118(c)(1) & (2).

[3] 49 U.S.C. § 30118(b)(2)(A) & (B).

same period in 2013. The cumulative negative effect on the value of the vehicles sold by GM has been both foreseeable and significant.

10. The highest-profile defect concealed by GM concerns the ignition switches in more than 1.5 million vehicles sold by GM's predecessor (the "ignition switch defect"). The ignition switch defect can cause the affected vehicles' ignition switches to inadvertently move from the "run" position to the "accessory" or "off" position during ordinary driving conditions, resulting in a loss of power, vehicle speed control, and braking, as well as a failure of the vehicle's airbags to deploy. GM continued to use defective ignition switches in "repairs" of vehicles it sold after July 10, 2009.

11. For the past five years, GM received reports of crashes and injuries that put GM on notice of the serious safety issues presented by its ignition switch system. GM was aware of the ignition switch defects (and many other serious defects in numerous models of GM-branded vehicles) ***from the very date of its inception on July 10, 2009.***

12. Yet, despite the dangerous nature of the ignition switch defects and the effects on critical safety systems, GM concealed the existence of the defects and failed to remedy the problem from the date of its inception until February of 2014. In February and March of 2014, GM issued three recalls for a combined total of 2.19 million vehicles with the ignition switch defects.

13. On May 16, 2014, GM entered a Consent Order with NHTSA in which it admitted that it violated the TREAD Act by not disclosing the ignition switch defect, and agreed to pay the maximum available civil penalties for its violations.

14. Unfortunately for all owners of vehicles sold by GM, the ignition switch defect was only one of a seemingly never-ending parade of recalls in the first half of 2014 – many concerning safety defects that had been long known to GM.

15. Between 2003 and 2010, over 1.3 million GM-branded vehicles in the United States were sold with a safety defect that causes the vehicle's electric power steering ("EPS") to suddenly fail during ordinary driving conditions and revert back to manual steering, requiring greater effort by the driver to steer the vehicle and increasing the risk of collisions and injuries (the "power steering defect").

16. As with the ignition switch defect, GM was aware of the power steering defect from the date of its inception, and concealed the defect for years.

17. From 2007 until at least 2013, nearly 1.2 million GM-branded vehicles were sold in the United States with defective wiring harnesses. Increased resistance in the wiring harnesses of driver and passenger seat-mounted, side-impact air bag ("SIAB") in the affected vehicles may cause the SIABs, front center airbags, and seat belt pretensioners to not deploy in a crash (the "airbag defect"). The vehicles' failure to deploy airbags and pretensioners in a crash increases the risk of injury and death to the drivers and front-seat passengers.

18. Once again, GM knew of the dangerous airbag defect from the date of its inception on July 10, 2009, but chose instead to conceal the defect, and marketed its vehicles as "safe" and "reliable."

19. To take just one more example, between 2003 and 2012, 2.4 million GM-branded vehicles in the United States were sold with a wiring harness defect that could cause brake lamps to fail to illuminate when the brakes are applied or cause them to illuminate when the brakes are not engaged (the "brake light defect"). The same defect could also disable traction control, electronic stability control, and panic braking assist operations. Though GM received hundreds of complaints and was aware of at least 13 crashes caused by this defect, it waited until May of 2014 before finally ordering a full recall.

20. As further detailed in this First Amended Complaint, the ignition switch, power steering, airbag, and brake light defects are just 4 of the ***35*** separate defects that resulted in 40 recalls of GM-branded vehicles in the first five and a half months of 2014, affecting over 17 million vehicles. Most or all of these recalls are for safety defects, and many of the defects were apparently known to GM, but concealed for years.

21. This case arises from GM's breach of its obligations and duties, including but not limited to: (i) its concealment of, and failure to disclose that, as a result of a spate of safety defects, over 17 million Defective Vehicles were on the road nationwide – and many hundreds of thousands in California; (ii) its failure to disclose the defects despite its TREAD Act obligations; (iii) its failure to disclose that it devalued safety and systemically encouraged the concealment of known

defects; (iv) its continued use of defective ignition switches as replacement parts; (v) its sale of used "GM certified" vehicles that were actually plagued with a variety of known safety defects; and (vi) its repeated and false statements that its vehicles were safe and reliable, and that it stood behind its vehicles after they were purchased.

22. From its inception in 2009, GM has known that many defects exist in millions of GM-branded vehicles sold in the United States. But, to protect its profits and to avoid remediation costs and a public relations nightmare, GM concealed the defects and their sometimes tragic consequences.

23. GM violated the TREAD Act by failing to timely inform NHTSA of the myriad safety defects plaguing GM-branded vehicles and allowed the Defective Vehicles to remain on the road. In addition to violating the TREAD Act, GM fraudulently concealed the defects from owners and from purchasers of new and used vehicles sold after July 10, 2009, and even used defective ignition switches as replacement parts. These same acts and omissions also violated California law as detailed below.

24. GM's failure to disclose the many defects, as well as advertising and promotion concerning GM's record of building "safe" cars of high quality, violated California law.

## II. PLAINTIFF'S AUTHORITY

25. Tony Rackauckas, District Attorney of the County of Orange, acting to protect the public as consumers from unlawful, unfair, and fraudulent business practices, brings this action in the public interest in the name of the People of the State of California for violations of the Unfair Competition Law pursuant to California Business and Professions Code Sections 17200, 17204 and 17206, and for violations of the False Advertising Law pursuant to California Business and Professions Code Sections 17500, 17535 and 17536. Plaintiff, by this action, seeks to enjoin GM from engaging in the unlawful, unfair, and fraudulent business practices alleged herein, and seeks civil penalties for GM's violations of the above statutes.

## III. DEFENDANT

26. Defendant General Motors LLC ("GM") is a foreign limited liability company formed under the laws of Delaware with its principal place of business located at 300 Renaissance Center, Detroit, Michigan. GM was incorporated in 2009.

27. GM has significant contacts with Orange County, California, and the activities complained of herein occurred, in whole or in part, in Orange County, California.

28. At all times mentioned GM was engaged in the business of designing, manufacturing, distributing, marketing, selling, leasing, certifying, and warrantying the GM cars that are the subject of this First Amended Complaint, throughout the State of California, including in Orange County, California.

## IV. JURISDICTION AND VENUE

29. This Court has jurisdiction over this matter pursuant to the California Constitution, Article XI, section 10 and California Code of Civil Procedure ("CCP") section 410.10 because GM transacted business and committed the acts complained of herein in California, specifically in the County of Orange. The violations of law alleged herein were committed in Orange County and elsewhere within the State of California.

30. Venue is proper in Orange County, California, pursuant to CCP section 395 and because many of the acts complained about occurred in Orange County.

## V. FACTUAL BACKGROUND

### A. There Are Serious Safety Defects in Millions of GM Vehicles Across Many Models and Years, and, Until Recently, GM Concealed them from Consumers.

31. In the first five and a half months of 2014, GM announced some 40 recalls affecting over 17 million GM-branded vehicles from model years 2003-2014. The recalls concern 35 separate defects. The numbers of recalls and serious safety defects are unprecedented, and can only lead to one conclusion: GM and its predecessor sold a large number of unsafe vehicle models with myriad defects during a long period of time.

32. Even more disturbingly, the available evidence shows a common pattern: From its inception in 2009, GM knew about an ever-growing list of serious safety defects in millions of

GM-branded vehicles, but concealed them from consumers and regulators in order to boost sales and avoid the cost and publicity of recalls.

33. GM inherited from Old GM a company that valued cost-cutting over safety, actively discouraged its personnel from taking a "hard line" on safety issues, avoided using "hot" words like "stall" that might attract the attention of NHTSA and suggest that a recall was required, and trained its employees to avoid the use of words such as "defect" that might flag the existence of a safety issue. GM did nothing to change these practices.

34. The Center for Auto Safety recently stated that it has identified 2,004 death and injury reports filed by GM with federal regulators in connection with vehicles that have recently been recalled.[4] Many of these deaths and injuries would have been avoided had GM complied with its TREAD Act obligations over the past five years.

35. The many defects concealed by GM affected key safety systems in GM vehicles, including the ignition, power steering, airbags, brake lights, gear shift systems, and seatbelts.

36. The available evidence shows a consistent pattern: GM learned about a particular defect and, often at the prodding of regulatory authorities, "investigated" the defect and decided upon a "root cause." GM then took minimal action – such as issuing a carefully-worded "Technical Service Bulletin" to its dealers, or even recalling a very small number of affected vehicles. All the while, the true nature and scope of the defects were kept under wraps, vehicles affected by the defects remained on the road, and GM enticed consumers to purchase its vehicles by touting the safety, quality, and reliability of its vehicles, and presenting itself as a manufacturer that stands behind its products.

37. The nine defects affecting the greatest number of vehicles are discussed in some detail below, and the remainder are summarized thereafter.

[4] *See Thousands of Accident Reports Filed Involving Recalled GM Cars: Report*, Irvin Jackson (June 3, 2014).

**1. The ignition switch defects.**

38. The ignition switch defects can cause the vehicle's engine and electrical systems to shut off, disabling the power steering and power brakes and causing non-deployment of the vehicle's airbag and the failure of the vehicle's seatbelt pretensioners in the event of a crash.

39. The ignition switch systems at issue are defective in at least three major respects. The first is that the switches are simply weak; because of a faulty "detent plunger," the switch can inadvertently move from the "run" to the "accessory" or "off" position.

40. The second defect is that, due to the low position of the ignition switch, the driver's knee can easily bump the key (or the hanging fob below the key), and cause the switch to inadvertently move from the "run" to the "accessory" or "off" position.

41. The third defect is that the airbags immediately become inoperable whenever the ignition switch moves from the "run" to the "accessory" position. As NHTSA's Acting Administrator, David Friedman, recently testified before Congress, NHTSA is not convinced that the non-deployment of the airbags in the recalled vehicles is solely attributable to a mechanical defect involving the ignition switch:

> And it may be even more complicated than that, actually. And that's one of the questions that we actually have in our timeliness query to General Motors. It is possible that it's not simply that the – the power was off, but a much more complicated situation where the very specific action of moving from on to the accessory mode is what didn't turn off the power, but may have disabled the algorithm.
>
> That, to me, frankly, doesn't make sense. From my perspective, if a vehicle – certainly if a vehicle is moving, the airbag's algorithm should require those airbags to deploy. Even if the – even if the vehicle is stopped and you turn from 'on' to 'accessory,' I believe that the airbags should be able to deploy.
>
> So this is exactly why we're asking General Motors this question, to understand is it truly a power issue or is there something embedded in their [software] algorithm that is causing this, something that should have been there in their algorithm.[5]

[5] Congressional Transcript, Testimony of David Friedman, Acting Administrator of NHTSA (Apr. 2, 2014), at 19.

42. Vehicles with defective ignition switches are, therefore, unreasonably prone to be involved in accidents, and those accidents are unreasonably likely to result in serious bodily harm or death to the drivers and passengers of the vehicles.

43. Alarmingly, GM knew of the deadly ignition switch defects and at least some of their dangerous consequences from the date of its inception on July 10, 2009, but concealed its knowledge from consumers and regulators.

44. In part, GM's knowledge of the ignition switch defects arises from the fact that key personnel with knowledge of the defects remained in their same positions once GM took over from Old GM.

45. For example, the Old GM Design Research Engineer who was responsible for the rollout of the defective ignition switch in 2003 was Ray DeGiorgio. Mr. DeGiorgio continued to serve as an engineer at GM until April 2014 when he was suspended as a result of his involvement in the defective ignition switch problem. Later in 2014, in the wake of the GM Report,[6] Mr. DeGiorgio was fired.

46. In 2001, two years ***before*** vehicles with the defective ignition switches were ever available to consumers, Old GM privately acknowledged in an internal pre-production report for the model/year ("MY") 2003 Saturn Ion that there were problems with the ignition switch.[7] Old GM's own engineers had personally experienced problems with the ignition switch. In a section of the internal report titled "Root Cause Summary," Old GM engineers identified "two causes of failure," namely: "[l]ow contact force and low detent plunger force."[8] The report also stated that the GM person responsible for the issue was Ray DeGiorgio.[9]

47. Mr. DeGiorgio actively concealed the defect, both while working for Old GM ***and*** while working for GM.

[6] References to the "GM Report" are to the "*Report to Board of Directors of General Motors Company Regarding Ignition Switch Recalls*," Anton R. Valukas, Jenner & Block (May 29, 2014).

[7] GM Report/Complaint re "Electrical Concern" opened July 31, 2001, GMHEC000001980-90.

[8] *Id*. at GMHEC000001986.

[9] *Id*. at GMHEC000001981, 1986.

48. Similarly, Gary Altman was Old GM's program-engineering manager for the Cobalt, which is one of the models with the defective ignition switches and hit the market in MY 2005. He remained as an engineer at GM until he was suspended on April 10, 2014, by GM for his role in the ignition switch problem and then fired in the wake of the GM Report.

49. On October 29, 2004, Mr. Altman test-drove a Cobalt. While he was driving, his knee bumped the key and the vehicle shut down.

50. In response to the Altman incident, Old GM opened an engineering inquiry, known as a "Problem Resolution Tracking System inquiry" ("PRTS"), to investigate the issue. According to the chronology provided to NHTSA by GM in March 2014, engineers pinpointed the problem and were "able to replicate this phenomenon during test drives."

51. The PRTS concluded in 2005 that:

> There are two main reasons that we believe can cause a lower effort in turning the key:
>
> 1. A low torque detent in the ignition switch and
>
> 2. A low position of the lock module in the column.[10]

52. The 2005 PRTS further demonstrates the knowledge of Ray DeGiorgio (who, like Mr. Altman, worked for Old GM and continued until very recently working for GM), as the PRTS's author states that "[a]fter talking to Ray DeGiorgio, I found out that it is close to impossible to modify the present ignition switch. The switch itself is very fragile and doing any further changes will lead to mechanical and/or electrical problems."[11]

53. Gary Altman, program engineering manager for the 2005 Cobalt, recently admitted that Old GM engineering managers (including himself and Mr. DeGiorgio) knew about ignition switch problems in the vehicle that could disable power steering, power brakes, and airbags, but launched the vehicle anyway because they believed that the vehicles could be safely coasted off the road after a stall. Mr. Altman insisted that "the [Cobalt] was maneuverable and controllable" with the power steering and power brakes inoperable.

---

[10] Feb. 1, 2005 PRTS at GMHEC000001733.

[11] *Id.*

54. Incredibly, GM now claims that it and Old GM did not view vehicle stalling and the loss of power steering as a "safety issue," but only as a "customer convenience" issue.[12] GM bases this claim on the equally incredible assertion that, at least for some period of time, it was not aware that when the ignition switch moves to the "accessory" position, the airbags become inoperable – even though Old GM itself designed the airbags to not deploy under that circumstance.[13]

55. Even crediting GM's claim that some at the Company were unaware of the rather obvious connection between the defective ignition switches and airbag non-deployment, a stall and loss of power steering and power brakes is a serious safety issue under any objective view. GM ***itself*** recognized in 2010 that a loss of power steering ***standing alone*** was grounds for a safety recall, as it did a recall on such grounds.

56. In fact, as multiple GM employees confirm, GM ***intentionally*** avoids using the word "stall" "because such language might draw the attention of NHTSA" and "may raise a concern about safety, which suggests GM should recall the vehicle…."[14]

57. Rather than publicly admitting the dangerous safety defects in the vehicles with the defective ignition switches, GM attempted to attribute these and other incidents to "driver error." GM continued to receive reports of deaths in Cobalts involving steering and/or airbag failures from its inception up through at least 2012.

58. In April 2006, the GM design engineer who was responsible for the ignition switch in the recalled vehicles, Design Research Engineer Ray DeGiorgio, authorized part supplier Delphi to implement changes to fix the ignition switch defect.[15] The design change "was implemented to increase torque performance in the switch."[16] However, testing showed that, even with the proposed change, the performance of the ignition switch was ***still*** below original specifications.[17]

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[12] GM Report at 2.

[13] *Id.*

[14] GM Report at 92-93.

[15] General Motors Commodity Validation Sign-Off (Apr. 26, 2006), GMHEC000003201. *See also* GM Mar. 11, 2014 Ltr. to NHTSA, attached chronology at 2.

[16] *Id.*

[17] Delphi Briefing, Mar. 27, 2014.

59. Modified ignition switches – with greater torque – started to be installed in 2007 model/year vehicles.[18] In what a high-level engineer at Old GM now calls a "cardinal sin" and "an extraordinary violation of internal processes," Old GM changed the part design ***but kept the old part number***.[19] That makes it impossible to determine from the part number alone which GM vehicles produced after 2007 contain the defective ignition switches.

60. At a May 15, 2009 meeting, Old GM engineers (soon to be GM engineers) learned that data in the black boxes of Chevrolet Cobalts showed that the dangerous ignition switch defects existed in hundreds of thousands of Defective Vehicles. But still GM did not reveal the defect to NHTSA, Plaintiff, or consumers.

61. After the May 15, 2009 meeting, GM continued to get complaints of unintended shut down and continued to investigate frontal crashes in which the airbags did not deploy.

62. After the May 15, 2009 meeting, GM told the families of accident victims related to the ignition switch defects that it did not have sufficient evidence to conclude that there was any defect. In one case involving the ignition switch defects, GM threatened to sue the family of an accident victim for reimbursement of its legal fees if the family did not dismiss its lawsuit. In another, GM sent the victim's family a terse letter, saying there was no basis for any claims against GM. These statements were part of GM's campaign of deception.

63. In July 2011, GM legal staff and engineers met regarding an investigation of crashes in which the air bags did not deploy. The next month, in August 2011, GM initiated a Field Performance Evaluation ("FPE") to analyze multiple frontal impact crashes involving MY 2005-2007 Chevrolet Cobalt vehicles and 2007 Pontiac G5 vehicles, as well as a review of information related to the Ion, HHR, and Solstice vehicles, and airbag non-deployment.[20]

64. GM continued to conceal and deny what it privately knew – that the ignition switches were defective. For example, in May 2012, GM engineers tested the torque of the

[18] GM Mar. 11, 2014 Ltr. to NHTSA, attached chronology at 2.

[19] '"*Cardinal sin': Former GM engineers say quiet '06 redesign of faulty ignition switch was a major violation of protocol.*" *Automotive News* (Mar. 26, 2014).

[20] GM Mar. 11, 2014 Ltr. to NHTSA, attached chronology at 2.

ignition switches in numerous Old GM vehicles.[21] The results from the GM testing showed that the majority of the vehicles tested from the 2003 to 2007 model/years had torque performance at or below 10 Newton centimeters ("Ncm"), which was below the original design specifications required by GM.[22] Around the same time, high ranking GM personnel continued to internally review the history of the ignition switch issue.[23]

65. In September 2012, GM had a GM Red X Team Engineer (a special engineer assigned to find the root cause of an engineering design defect) examine the changes between the 2007 and 2008 Chevrolet Cobalt models following reported crashes where the airbags failed to deploy and the ignition switch was found in the "off" or "accessory" position.[24]

66. The next month, in October of 2012, Design Research Engineer Ray DeGiorgio (the lead engineer on the defective ignition switch) sent an email to Brian Stouffer of GM regarding the "2005-7 Cobalt and Ignition Switch Effort," stating: "If we replaced switches on ALL the model years, i.e., 2005, 2006, 2007 the piece price would be about $10.00 per switch."[25]

67. The October 2012 email makes clear that GM considered implementing a recall to fix the defective ignition switches in the Chevy Cobalt vehicles, but declined to do so in order to save money.

68. In April 2013, GM again ***internally*** acknowledged that it understood that there was a difference in the torque performance between the ignition switch parts in later model Chevrolet Cobalt vehicles compared with the 2003-2007 model/year vehicles.[26]

69. Notwithstanding what GM actually knew and privately acknowledged,[27] its public statements and position in litigation was radically different. For example, in May 2013, Brian Stouffer testified in deposition in a personal injury action (*Melton v. General Motors*) that the Ncm

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[21] GMHEC000221427; *see also* Mar. 11, 2014 Ltr. to NHTSA, attached chronology.

[22] *Id.*

[23] GMHEC000221438.

[24] Email from GM Field Performance Assessment Engineer to GM Red X Team Engineer (Sept. 6, 2012, 1:29:14 p.m., GMHEC000136204).

[25] GMHEC000221539.

[26] GM Mar. 11, 2014 Ltr. to NHTSA, attached chronology at 4.

[27] *See* GMHEC000221427.

performance (a measurement of the strength of the ignition switch) was ***not*** substantially different as between the early (*e.g.*, 2005) and later model year (*e.g.*, 2008) Chevrolet Cobalt vehicles.[28]

70. Similarly, a month before Mr. Stouffer's testimony, in April 2013, GM engineer Ray DeGiorgio denied the existence of any type of ignition switch defect:

> Q: Did you look at, as a potential failure mode for this switch, the ease of which the key could be moved from run to accessory?
>
> . . .
>
> THE WITNESS: No, because in our minds, moving the key from, I want to say, ***run to accessory is not a failure mode, it is an expected condition***. It is important for the customer to be able to rotate the key fore and aft, so as long as we meet those requirements, ***it's not deemed as a risk.***
>
> Q: Well, it's not expected to move from run to accessory when you're driving down the road at 55 miles an hour, is it?
>
> . . .
>
> THE WITNESS: ***It is expected for the key to be easily and smoothly transitioned from one state to the other*** without binding and without harsh actuations.
>
> Q: And why do you have a minimum torque requirement from run to accessory?
>
> . . .
>
> THE WITNESS: It's a design feature that is required. You don't want anything flopping around. You want to be able to control the dimensions and basically provide – one of the requirements in this document talks about having a smooth transition from detent to detent. One of the criticisms – I shouldn't say criticisms. One of the customer complaints we have had in the – and previous to this was he had cheap feeling switches, they were cheap feeling, they were higher effort, and the intent of this design was to provide a smooth actuation, provide a high feeling of a robust design. That was the intent.
>
> Q: I assume the intent was also to make sure that when people were using the vehicle under ordinary driving conditions, that if the key was in the run position, it wouldn't just move to the accessory position, correct?
>
> . . .

[28] GMHEC000146933. That said, "[t]he modified switches used in 2007-2011 vehicles were also approved by GM despite not meeting company specifications." Mar. 31, 2014 Ltr. to Mary Barra from H. Waxman, D. DeGette, and J. Schankowsky.

A: That is correct, but also – it was not intended – ***the intent was to make the transition to go from run to off with relative ease.***[29]

71. Brian Stouffer, in an email to Delphi regarding the ignition switch in the Chevy Cobalt, acknowledged that the ignition switch in early Cobalt vehicles – although bearing the same part number – was different than the ignition switch in later Cobalt vehicles.[30] Mr. Stouffer claimed that "[t]he discovery of the plunger and spring change was made aware to GM during a [sic] course of a lawsuit (*Melton v. GM*)."[31] Delphi personnel responded that GM had authorized the change back in 2006 but the part number had remained the same.[32]

72. Eventually, the defect could no longer be ignored or swept under the rug.

73. After analysis by GM's Field Performance Review Committee and the Executive Field Action Decision Committee ("EFADC"), the EFADC finally ordered a recall of ***some*** of the vehicles with defective ignition switches on January 31, 2014.

74. Initially, the EFADC ordered a recall of only the Chevrolet Cobalt and Pontiac G5 for model years 2005-2007.

75. After additional analysis, the EFADC expanded the recall on February 24, 2014, to include the Chevrolet HHR and Pontiac Solstice for model years 2006 and 2007, the Saturn Ion for model years 2003-2007, and the Saturn Sky for model year 2007.

76. Most recently, on March 28, 2014, GM expanded the recall a third time, to include Chevrolet Cobalts, Pontiac G5s and Solstices, Saturn Ions and Skys from the 2008 through 2010 model years, and Chevrolet HHRs from the 2008 through 2011 model years.

77. All told, GM has recalled some 2.19 million vehicles in connection with the ignition switch defect.

78. In a video message addressed to GM employees on March 17, 2014, CEO Mary Barra admitted that the Company had made mistakes and needed to change its processes.

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[29] GMHEC000138906 (emphasis added).

[30] GMHEC000003197.

[31] *Id*. *See also* GMHEC000003156-3180.

[32] *See* GMHEC000003192-93.

79. According to Ms. Barra, "[s]omething went terribly wrong in our processes in this instance, and terrible things happened." Barra went on to promise, "[w]e will be better because of this tragic situation if we seize this opportunity."[33]

80. Based on its egregious conduct in concealing the ignition switch defect, GM recently agreed to pay the maximum possible civil penalty in a Consent Order with the National Highway Traffic Safety Administration ("NHTSA") and admitted that it had violated its legal obligations to promptly disclose the existence of known safety defects.

**2. The power steering defect.**

81. Between 2003 and 2010, over 1.3 million GM-branded vehicles in the United States were sold with a safety defect that causes the vehicle's electric power steering ("EPS") to suddenly fail during ordinary driving conditions and revert back to manual steering, requiring greater effort by the driver to steer the vehicle and increasing the risk of collisions and injuries.

82. As with the ignition switch defects, GM was aware of the power steering defect long before it took anything approaching full remedial action.

83. When the power steering fails, a message appears on the vehicle's dashboard, and a chime sounds to inform the driver. Although steering control can be maintained through manual steering, greater driver effort is required, and the risk of an accident is increased.

84. In 2010, GM first recalled Chevy Cobalt and Pontiac G5 models for these power steering issues, yet it did ***not*** recall the many other vehicles that had the very same power steering defect.

85. Documents released by NHTSA show that GM waited years to recall nearly 335,000 Saturn Ions for power steering failure – despite receiving nearly 4,800 consumer complaints and more than 30,000 claims for warranty repairs. That translates to a complaint rate of 14.3 incidents per thousand vehicles and a warranty claim rate of 9.1 percent. By way of

[33] "*Something Went 'Very Wrong' at G.M., Chief Says.*" N.Y. TIMES (Mar. 18, 2014).

comparison, NHTSA has described as "high" a complaint rate of 250 complaints per 100,000 vehicles.[34] Here, the rate translates to 1430 complaints per 100,000 vehicles.

86. In response to the consumer complaints, in September 2011 NHTSA opened an investigation into the power steering defect in Saturn Ions.

87. NHTSA database records show complaints from Ion owners as early as June 2004, with the first injury reported in May 2007.

88. NHTSA linked approximately 12 crashes and two injuries to the power steering defect in the Ions.

89. In 2011, GM missed yet another opportunity to recall the additional vehicles with faulty power steering when CEO Mary Barra – then head of product development – was advised by engineer Terry Woychowski that there was a serious power steering issue in Saturn Ions. Ms. Barra was also informed of the ongoing NHTSA investigation. At the time, NHTSA reportedly came close to concluding that Saturn Ions should have been included in GM's 2005 steering recall of Cobalt and G5 vehicles.

90. Yet GM took no action for four years. It wasn't until March 31, 2014, that GM finally recalled the approximately 1.3 million vehicles in the United States affected by the power steering defect.

91. After announcing the March 31, 2014 recall, Jeff Boyer, GM's Vice President of Global Vehicle Safety, acknowledged that GM recalled some of these same vehicle models previously for the ***same issue***, but that GM "did not do enough."

**3. Airbag defect.[35]**

92. From 2007 until at least 2013, nearly 1.2 million GM-branded vehicles in the United States were sold with defective wiring harnesses. Increased resistance in the wiring harnesses of driver and passenger seat-mounted, side-impact air bag ("SIAB") in the affected vehicles may cause the SIABs, front center airbags, and seat belt pretensioners to not deploy in a crash. The

[34] *See* http://www-odi.nhtsa.dot.gov/cars/problems/defect/-results.cfm?action_number=EA06002&SearchType=QuickSearch&summary=true.

[35] This defect is distinct from the airbag component of the ignition switch defect discussed above and from other airbag defects affecting a smaller number of vehicles, discussed below.

vehicles' failure to deploy airbags and pretensioners in a crash increases the risk of injury and death to the drivers and front-seat passengers.

93. Once again, GM knew of the dangerous airbag defect long before it took anything approaching the requisite remedial action.

94. As the wiring harness connectors in the SIABs corrode or loosen over time, resistance will increase. The airbag sensing system will interpret this increase in resistance as a fault, which then triggers illumination of the "SERVICE AIR BAG" message on the vehicle's dashboard. This message may be intermittent at first and the airbags and pretensioners will still deploy. But over time, the resistance can build to the point where the SIABs, pretensioners, and front center airbags will not deploy in the event of a collision.[36]

95. The problem apparently arose when GM made the switch from using gold-plated terminals to connect its wire harnesses to cheaper tin terminals in 2007.

96. In June 2008, Old GM noticed increased warranty claims for airbag service on certain of its vehicles and determined it was due to increased resistance in airbag wiring. After analysis of the tin connectors in September 2008, Old GM determined that corrosion and wear to the connectors was causing the increased resistance in the airbag wiring. It released a technical service bulletin on November 25, 2008, for 2008-2009 Buick Enclaves, 2009 Chevy Traverse, 2008-2009 GMC Acadia, and 2008-2009 Saturn Outlook models, instructing dealers to repair the defect by using Nyogel grease, securing the connectors, and adding slack to the line. Old GM also began the transition back to gold-plated terminals in certain vehicles. At that point, Old GM suspended all investigation into the defective airbag wiring and took no further action.[37]

97. In November 2009, GM learned of similar reports of increased airbag service messages in 2010 Chevy Malibu and 2010 Pontiac G6 vehicles. After investigation, GM concluded that corrosion and wear in the same tin connector was the root of the airbag problems in the Malibu and G6 models.[38]

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[36] *See* GM Notice to NHTSA dated March 17, 2014, at 1.

[37] *See* GM Notification Campaign No. 14V-118 dated March 31, 2014, at 1-2.

[38] *See id.*, at 2.

98. In January 2010, after review of the Malibu and G6 airbag connector issues, GM concluded that ignoring the service airbag message could increase the resistance such that an SIAB might not deploy in a side impact collision. On May 11, 2010, GM issued a Customer Satisfaction Bulletin for the Malibu and G6 models and instructed dealers to secure both front seat-mounted, side-impact airbag wire harnesses and, if necessary, reroute the wire harness.[39]

99. From February to May 2010, GM revisited the data on vehicles with faulty harness wiring issues, and noted another spike in the volume of the airbag service warranty claims. This led GM to conclude that the November 2008 bulletin was "not entirely effective in correcting the [wiring defect present in the vehicles]." On November 23, 2010, GM issued another Customer Satisfaction Bulletin for certain 2008 Buick Enclave, 2008 Saturn Outlook, and 2008 GMC Acadia models built from October 2007 to March 2008, instructing dealers to secure SIAB harnesses and re-route or replace the SIAB connectors.[40]

100. GM issued a revised Customer Service Bulletin on February 3, 2011, requiring replacement of the front seat-mounted side-impact airbag connectors in the same faulty vehicles mentioned in the November 2010 bulletin. In July 2011, GM again replaced its connector, this time with a Tyco-manufactured connector featuring a silver-sealed terminal.[41]

101. But in 2012, GM noticed another spike in the volume of warranty claims relating to SIAB connectors in vehicles built in the second half of 2011. After further analysis of the Tyco connectors, it discovered that inadequate crimping of the connector terminal was causing increased system resistance. In response, GM issued an internal bulletin for 2011-12 Buick Enclave, Chevy Traverse, and GMC Acadia vehicles, recommending dealers repair affected vehicles by replacing the original connector with a new sealed connector.[42]

102. The defect was still uncured, however, because in 2013 GM again marked an increase in service repairs and buyback activity due to illuminated airbag service lights. On

[39] *See id.*

[40] *See id.*, at 3.

[41] *See id.*

[42] *See id.*, at 4.

October 4, 2013, GM opened an investigation into airbag connector issues in 2011-2013 Buick Enclave, Chevy Traverse, and GMC Acadia models. The investigation revealed an increase in warranty claims for vehicles built in late 2011 and early 2012.[43]

103. On February 10, 2014, GM concluded that corrosion and crimping issues were again the root cause of the airbag problems.[44]

104. GM initially planned to issue a less-urgent Customer Satisfaction Program to address the airbag flaw in the 2010-2013 vehicles. But it wasn't until a call with NHTSA on March 14, 2014, that GM finally issued a full-blown safety recall on the vehicles with the faulty harness wiring – years after it first learned of the defective airbag connectors, after four investigations into the defect, and after issuing at least six service bulletins on the topic. The recall as first approved covered only 912,000 vehicles, but on March 16, 2014, it was increased to cover approximately 1.2 million vehicles.[45]

105. On March 17, 2014, GM issued a recall for 1,176,407 vehicles potentially afflicted with the defective airbag system. The recall instructs dealers to remove driver and passenger SIAB connectors and splice and solder the wires together.[46]

**4. The brake light defect.**

106. Between 2004 and 2012, approximately 2.4 million GM-branded vehicles in the United States were sold with a safety defect that can cause brake lamps to fail to illuminate when the brakes are applied or to illuminate when the brakes are not engaged; the same defect can disable cruise control, traction control, electronic stability control, and panic brake assist operation, thereby increasing the risk of collisions and injuries.[47]

107. Once again, GM knew of the dangerous brake light defect for years before it took anything approaching the requisite remedial action. In fact, although the brake light defect has

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[43] *See id.*

[44] *See id.*, at 5.

[45] *See id*.

[46] *See id*.

[47] *See* GM Notification Campaign No. 14V-252 dated May 28, 2014, at 1.

caused at least 13 crashes since 2008, GM did not recall all 2.4 million vehicles with the defect until May 2014.

108. The vehicles with the brake light defect include the 2004-2012 Chevrolet Malibu, the 2004-2007 Malibu Maxx, the 2005-2010 Pontiac G6, and the 2007-2010 Saturn Aura.[48]

109. According to GM, the brake defect originates in the Body Control Module (BCM) connection system. "Increased resistance can develop in the [BCM] connection system and result in voltage fluctuations or intermittency in the Brake Apply Sensor (BAS) circuit that can cause service brakes lamp malfunction."[49] The result is brake lamps that may illuminate when the brakes are not being applied and may not illuminate when the brakes are being applied. [50]

110. The same defect can also cause the vehicle to get stuck in cruise control if it is engaged, or cause cruise control to not engage, and may also disable the traction control, electronic stability control, and panic-braking assist features.[51]

111. GM now acknowledges that the brake light defect "may increase the risk of a crash."[52]

112. As early as September 2008, NHTSA opened an investigation for model year 2005-2007 Pontiac G6 vehicles involving allegations that the brake lights may turn on when the driver had not depressed the brake pedal and may turn on when the brake pedal was depressed.[53]

113. During its investigation of the brake light defect in 2008, Old GM found elevated warranty claims for the brake light defect for MY 2005 and 2006 vehicles built in January 2005, and found "fretting corrosion in the BCM C2 connector was the root cause" of the problem.[54] Old GM and its part supplier Delphi decided that applying dielectric grease to the BCM C2 connector

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[48] *Id.*

[49] *Id.*

[50] *Id.*

[51] *Id.*

[52] *Id.*

[53] *Id.* at 2.

[54] *Id.*

would be "an effective countermeasure to the fretting corrosion."[55] Beginning in November of 2008, the company began applying dielectric grease in its vehicle assembly plants.[56]

114. On December 4, 2008, Old GM issued a TSB recommending the application of dielectric grease to the BCM C2 connector for the MY 2005-2009, Pontiac G6, 2004-2007 Chevrolet Malibu/Malibu Maxx and 2008 Malibu Classic and 2007-2009 Saturn Aura vehicles.[57] One month later, in January 2009, Old GM recalled only a small subset of the vehicles with the brake light defect – 8,000 MY 2005-2006 Pontiac G6 vehicles built during the month of January, 2005.[58]

115. Not surprisingly, the brake light problem was far from resolved.

116. In October 2010, GM released an updated TSB regarding "intermittent brake lamp malfunctions," and added MY 2008-2009 Chevrolet Malibu/Malibu Maxx vehicles to the list of vehicles for which it recommended the application of dielectric grease to the BCM C2 connector.[59]

117. In September of 2011, GM received an information request from Canadian authorities regarding brake light defect complaints in vehicles that had not yet been recalled. Then, in June 2012, NHTSA provided GM with additional complaints "that were outside of the build dates for the brake lamp malfunctions on the Pontiac G6" vehicles that had been recalled.[60]

118. In February of 2013, NHTSA opened a "Recall Query" in the face of 324 complaints "that the brake lights do not operate properly" in Pontiac G6, Malibu and Aura vehicles that had not yet been recalled.[61]

119. In response, GM asserts that it "investigated these occurrences looking for root causes that could be additional contributors to the previously identified fretting corrosion," but that

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[55] *Id.*

[56] *Id* at 3.

[57] *Id.* at 2.

[58] *Id.*

[59] *Id.*

[60] *Id.*

[61] *Id.* at 3.

it continued to believe that "fretting corrosion in the BCM C2 connector" was the "root cause" of the brake light defect.[62]

120. In June of 2013, NHTSA upgraded its "Recall Query" concerning brake light problems to an "Engineering Analysis."[63]

121. In August 2013, GM found an elevated warranty rate for BCM C2 connectors in vehicles built ***after*** Old GM had begun applying dielectric grease to BCM C2 connectors at its assembly plants in November of 2008.[64] In November of 2013, GM concluded that "the amount of dielectric grease applied in the assembly plant starting November 2008 was insufficient…."[65]

122. Finally, in March of 2014, "GM engineering teams began conducting analysis and physical testing to measure the effectiveness of potential countermeasures to address fretting corrosion. As a result, GM determined that additional remedies were needed to address fretting corrosion."[66]

123. On May 7, 2014, GM's Executive Field Action Decision Committee finally decided to conduct a safety recall.

124. According to GM, "Dealers are to attach the wiring harness to the BCM with a spacer, apply dielectric lubricant to both the BCM CR and harness connector, and on the BAS and harness connector, and relearn the brake pedal home position."[67]

125. Once again, GM sat on and concealed its knowledge of the brake light defect, and did not even consider available countermeasures (other than the application of grease that had proven ineffective) until March of this year.

**5. Shift cable defect**

126. From 2004 through 2010, more than 1.1 million GM-branded vehicles were sold throughout the United States with a dangerously defective transmission shift cable. The shift cable

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[62] *Id.*

[63] *Id.*

[64] *Id.*

[65] *Id.*

[66] *Id.* at 4.

[67] *Id.*

may fracture at any time, preventing the driver from switching gears or placing the transmission in the "park" position. According to GM, "[i]f the driver cannot place the vehicle in park, and exits the vehicle without applying the park brake, the vehicle could roll away and a crash could occur without prior warning."[68]

127. Yet again, GM knew of the shift cable defect long before it issued the recent recall of more than 1.1 million vehicles with the defect.

128. In May of 2011, NHTSA informed GM that it had opened an investigation into failed transmission cables in 2007 model year Saturn Aura vehicles. In response, GM noted "a cable failure model in which a tear to the conduit jacket could allow moisture to corrode the interior steel wires, resulting in degradation of shift cable performance, and eventually, a possible shift cable failure."[69]

129. Upon reviewing these findings, GM's Executive Field Action Committee conducted a "special coverage field action for the 2007-2008 MY Saturn Aura vehicles equipped with 4 speed transmissions and built with Leggett & Platt cables." GM apparently chose that cut-off date because, on November 1, 2007, Kongsberg Automotive replaced Leggett & Platt as the cable provider. [70]

130. GM did not recall any of the vehicles with the shift cable defect at this time, and limited its "special coverage field action" to the 2007-2008 Aura vehicles even though "the same or similar Leggett & Platt cables were used on … Pontiac G6 and Chevrolet Malibu (MMX380) vehicles."

131. In March 2012, NHTSA sent GM an Engineering Assessment request to investigate transmission shift cable failures in 2007-2008 MY Auras, Pontiac G6s, and Chevrolet Malibus.[71]

132. In responding to the Engineering Assessment request, GM for the first time "noticed elevated warranty rates in vehicles built with Kongsberg shift cables." Similar to their predecessor

[68] *See* GM letter to NHTSA Re: NHTSA Campaign No. 14V-224 dated May 22, 2014, at 1.

[69] *Id.* at 2.

[70] *Id.*

[71] *Id.*

vehicles built with Leggett & Platt shift cables, in the vehicles built with Kongsberg shift cables "the tabs on the transmission shift cable end may fracture and separate without warning, resulting in failure of the transmission shift cable and possible unintended vehicle movement."[72]

133. Finally, on September 13, 2012, the Executive Field Action Decision Committee decided to conduct a safety recall. This initial recall was limited to 2008-2010 MY Saturn Aura, Pontiac G6, and Chevrolet Malibu vehicles with 4-speed transmission built with Kongsberg shifter cables, as well as 2007-2008 MY Saturn Aura and 2005-2007 MY Pontiac G6 vehicles with 4-speed transmissions which may have been serviced with Kongsberg shift cables.[73]

134. But the shift cable problem was far from resolved.

135. In March of 2013, NHTSA sent GM a second Engineering Assessment concerning allegations of failure of the transmission shift cables on all 2007-2008 MY Saturn Aura, Chevrolet Malibu, and Pontiac G6 vehicles.[74]

136. GM continued its standard process of "investigation" and delay. But by May 9, 2014, GM was forced to concede that "the same cable failure mode found with the Saturn Aura 4-speed transmission" was present in a wide population of vehicles.[75]

137. Finally, on May 19, 2014, GM's Executive Field Actions Decision Committee decided to conduct a safety recall of more than 1.1 million vehicles with the defective shift cable issue, including the following models and years (as of May 23, 2014): MY 2007-2008 Chevrolet Saturn; MY 2004-2008 Chevrolet Malibu; MY 2004-2007 Chevrolet Malibu Maxx; and MY 2005-2008 Pontiac G6.

**6. Safety belt defect.**

138. Between the years 2008-2014, more than 1.4 million GM-branded vehicles were sold with a dangerous safety belt defect. According to GM, "[t]he flexible steel cable that connects the safety belt to the vehicle at the outside of the front outside of the front outboard seating

[72] *Id.*

[73] *Id.*

[74] *Id.*

[75] *Id.*

positions can fatigue and separate over time as a result of occupant movement into the seat. In a crash, a separated cable could increase the risk of injury to the occupant."[76]

139. On information and belief, GM knew of the safety belt defect long before it issued the recent recall of more than 1.3 million vehicles with the defect.

140. While GM has yet to submit its full chronology of events to NHTSA, suffice to say that GM has waited some five years before disclosing this defect. This delay is consistent with GM's long period of concealment of the other defects as set forth above.

141. On May 19, 2014, GM's Executive Field Action Decision Committee decided to conduct a recall of the following models and years in connection with the safety belt defect: MY 2009-2014 Buick Enclave; MY 2009-2014 Chevrolet Traverse; MY 2009-2014 GMC Acadia; and MY 2009-2010 Saturn Outlook.

**7. Ignition lock cylinder defect.**

142. On April 9, 2014, GM recalled 2,191,014 GM-branded vehicles to address faulty ignition lock cylinders.[77] Though the vehicles are the same as those affected by the ignition switch defect,[78] the lock cylinder defect is distinct.

143. In these vehicles, faulty ignition lock cylinders can allow removal of the ignition key while the engine is not in the "Off" position. If the ignition key is removed when the ignition is not in the "Off" position, unintended vehicle motion may occur. That could cause a vehicle crash and injury to the vehicle's occupants or pedestrians. As a result, some of the vehicles with faulty ignition lock cylinders may fail to conform to Federal Motor Vehicle Safety Standard number 114, "*Theft Prevention and Rollaway Prevention*."[79]

144. On information and belief, GM was aware of the ignition lock cylinder defect for years before finally acting to remedy it.

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[76] *See* GM Notice to NHTSA dated May 19, 2014, at 1.

[77] *See* GM Notice to NHTSA dated April 9, 2014.

[78] Namely, MY 2005-2010 Chevrolet Cobalts, 2005-2011 Chevrolet HHRs, 2007-2010 Pontiac G5s, 2003-2007 Saturn Ions, and 2007-2010 Saturn Skys.

[79] GM Notice to NHTSA dated April 9, 2014, at 1.

**8. The Camaro key-design defect.**

145. On June 13, 2014, GM recalled more than 500,000 MY 2010-2014 Chevrolet Camaros because a driver's knee can bump the key fob out of the "run" position and cause the vehicle to lose power. This issue that has led to at least three crashes. GM said it learned of the issue which primarily affects drivers who sit close to the steering wheel, during internal testing it conducted following its massive ignition switch recall earlier this year. GM knows of three crashes that resulted in four minor injuries attributed to this defect.

**9. The ignition key defect.**

146. On June 16, 2014, GM announced a recall of 3.36 million cars due to a problem with keys that can turn off ignitions and deactivate air bags, a problem similar to the ignition switch defects in the 2.19 million cars recalled earlier in the year.

147. The company said that keys laden with extra weight – such as additional keys or objects attached to a key ring – could inadvertently switch the vehicle's engine off if the car struck a pothole or crossed railroad tracks.

148. GM said it was aware of eight accidents and six injuries related to the defect.

149. As early as December 2000, drivers of the Chevrolet Impala and the other newly recalled cars began lodging complaints about stalling with the National Highway Traffic Safety Administration. "When foot is taken off accelerator, car will stall without warning," one driver of a 2000 Cadillac Deville told regulators in December 2000. "Complete electrical system and engine shutdown while driving," another driver of the same model said in January 2001. "Happened three different times to date. Dealer is unable to determine cause of failure."

150. The vehicles covered include the Buick Lacrosse, model years 2005-09; Chevrolet Impala, 2006-14; Cadillac Deville, 2000-05; Cadillac DTS, 2004-11; Buick Lucerne, 2006-11; Buick Regal LS and RS, 2004-05; and Chevrolet Monte Carlo, 2006-08.

**10. At least 26 other defects were revealed by GM in recalls during the first half of 2014.**

151. The nine defects discussed above – and the resultant 12 recalls – are but a subset of the 40 recalls ordered by GM in connection with 35 separate defects during the first five and one-

half months of 2014. The additional 26 defects are briefly summarized in the following paragraphs.

152. **Transmission oil cooler line defect:** On March 31, 2014, GM recalled 489,936 MY 2014 Chevy Silverado, 2014 GMC Sierra, 2014 GMC Yukon, 2014 GMC Yukon XL, 2015 Chevy Tahoe, and 2015 Chevy Suburban vehicles. These vehicles may have transmission oil cooler lines that are not securely seated in the fitting. This can cause transmission oil to leak from the fitting, where it can contact a hot surface and cause a vehicle fire.

153. **Power management mode software defect:** On January 13, 2014, GM recalled 324,970 MY 2014 Chevy Silverado and GMC Sierra Vehicles. When these vehicles are idling in cold temperatures, the exhaust components can overheat, melt nearby plastic parts, and cause an engine fire.

154. **Substandard front passenger airbags:** On March 17, 2014, GM recalled 303,013 MY 2009-2014 GMC Savana vehicles. In certain frontal impact collisions below the air bag deployment threshold in these vehicles, the panel covering the airbag may not sufficiently absorb the impact of the collision. These vehicles therefore do not meet the requirements of Federal Motor Vehicle Safety Standard number 201, "Occupant Protection in Interior Impact."

155. **Light control module defect**: On May 16, 2014, GM recalled 218,214 MY 2004-2008 Chevrolet Aveo (subcompact) and 2004-2008 Chevrolet Optra (subcompact) vehicles. In these vehicles, heat generated within the light control module in the center console in the instrument panel may melt the module and cause a vehicle fire.

156. **Front axle shaft defect:** On March 28, 2014, GM recalled 174,046 MY 2013-2014 Chevrolet Cruze vehicles. In these vehicles, the right front axle shaft may fracture and separate. If this happens while the vehicle is being driven, the vehicle will lose power and coast to a halt. If a vehicle with a fractured shaft is parked and the parking brake is not applied, the vehicle may move unexpectedly which can lead to accident and injury.

157. **Brake boost defect:** On May 13, 2014, GM recalled 140,067 MY 2014 Chevrolet Malibu vehicles. The "hydraulic boost assist" in these vehicles may be disabled; when that happens, slowing or stopping the vehicle requires harder brake pedal force, and the vehicle will

travel a greater distance before stopping. Therefore, these vehicles do not comply with Federal Motor Vehicle Safety Standard number 135, "Light Vehicle Brake Systems," and are at increased risk of collision.

158. **Low beam headlight defect**: On May 14, 2014, GM recalled 103,158 MY 2005-2007 Chevrolet Corvette vehicles. In these vehicles, the underhood bussed electrical center (UBEC) housing can expand and cause the headlamp low beam relay control circuit wire to bend. When the wire is repeatedly bent, it can fracture and cause a loss of low beam headlamp illumination. The loss of illumination decreases the driver's visibility and the vehicle's conspicuity to other motorists, increasing the risk of a crash.

159. **Vacuum line brake booster defect**: On March 17, 2014, GM recalled 63,903 MY 2013-2014 Cadillac XTS vehicles. In these vehicles, a cavity plug on the brake boost pump connector may dislodge and allow corrosion of the brake booster pump relay connector. This can have an adverse impact on the vehicle's brakes.

160. **Fuel gauge defect**: On April 29, 2014, GM recalled 51,460 MY 2014 Chevrolet Traverse, GMC Acadia and Buick Enclave vehicles. In these vehicles, the engine control module (ECM) software may cause inaccurate fuel gauge readings. An inaccurate fuel gauge may result in the vehicle unexpectedly running out of fuel and stalling, and thereby increases the risk of accident.

161. **Acceleration defect**: On April 24, 2014, GM recalled 50,571 MY 2013 Cadillac SRX vehicles. In these vehicles, there may be a three- to four-second lag in acceleration due to faulty transmission control module programming. That lag may increase the risk of a crash.

162. **Flexible flat cable airbag defect**: On April 9, 2014, GM recalled 23,247 MY 2009-2010 Pontiac Vibe vehicles. These vehicles are susceptible to a failure in the Flexible Flat Cable ("FFC") in the spiral cable assemble connecting the driver's airbag module. When the FFC fails, connectivity to the driver's airbag module is lost and the airbag is deactivated. The resultant failure of the driver's airbag to deploy increases the risk of injury to the driver in the event of a crash.

163. **Windshield wiper defect**: On May 14, 2014, GM recalled 19,225 MY 2014 Cadillac CTS vehicles. A defect leaves the windshield wipers in these vehicles prone to failure. Inoperative windshield wipers can decrease the driver's visibility and increase the risk of a crash.

164. **Brake rotor defect**: On May 7, 2014, GM recalled 8,208 MY 2014 Chevrolet Malibu and Buick LaCrosse vehicles. In these vehicles, GM may have accidentally installed rear brake rotors on the front brakes. The rear rotors are thinner than the front rotors, and the use of rear rotors in the front of the vehicle may result in a front brake pad detaching from the caliper. The detachment of a break pad from the caliper can cause a sudden reduction in braking which lengthens the distance required to stop the vehicle and increases the risk of a crash.

165. **Passenger-side airbag defect**: On May 16, 2014, GM recalled 1,402 MY 2015 Cadillac Escalade vehicles. In these vehicles, the airbag module is secured to a chute adhered to the backside of the instrument panel with an insufficiently heated infrared weld. As a result, the front passenger-side airbag may only partially deploy in the event of crash, and this will increase the risk of occupant injury. These vehicles do not conform to Federal Motor Vehicle Safety Standard number 208, "Occupant Crash Protection."

166. **Electronic stability control defect**: On March 26, 2014, GM recalled 656 MY 2014 Cadillac ELR vehicles. In these vehicles, the electronic stability control (ESC) system software may inhibit certain ESC diagnostics and fail to alert the driver that the ESC system is partially or fully disabled. Therefore, these vehicles fail to conform to Federal Motor Vehicle Safety Standard number 126, "Electronic Stability Control Systems." A driver who is not alerted to an ESC system malfunction may continue driving with a disabled ESC system. That may result in the loss of directional control, greatly increasing the risk of a crash.

167. **Steering tie-rod defect**: On May 13, 2014, GM recalled 477 MY 2014 Chevrolet Silverado, 2014 GMC Sierra and 2015 Chevrolet Tahoe vehicles. In these vehicles, the tie-rod threaded attachment may not be properly tightened to the steering gear rack. An improperly tightened tie-rod attachment may allow the tie-rod to separate from the steering rack and result in a loss of steering that greatly increases the risk of a vehicle crash.

168. **Automatic transmission shift cable adjuster**: On February 20, 2014, GM recalled 352 MY 2014 Buick Enclave, Buick LaCrosse, Buick Regal, Verano, Chevrolet Cruze, Chevrolet Impala, Chevrolet Malibu, Chevrolet Traverse, and GMC Acadia vehicles. In these vehicles, the transmission shift cable adjuster may disengage from the transmission shift lever. When that happens, the driver may be unable to shift gears, and the indicated gear position may not be accurate. If the adjuster is disengaged when the driver attempts to stop and park the vehicle, the driver may be able to shift the lever to the "PARK" position but the vehicle transmission may not be in the "PARK" gear position. That creates the risk that the vehicle will roll away as the driver and other occupants exit the vehicle, or anytime thereafter.

169. **Fuse block defect**: On May 19, 2014, GM recalled 58 MY 2015 Chevrolet Silverado HD and GMC Sierra HD vehicles. In these vehicles, the retention clips that attach the fuse block to the vehicle body can become loose allowing the fuse block to move out of position. When this occurs, exposed conductors in the fuse block may contact the mounting studs or other metallic components, which in turn causes a "short to ground" event. That can result in in an arcing condition, igniting nearby combustible materials and starting an engine compartment fire.

170. **Diesel transfer pump defect**: On April 24, 2014, GM recalled 51 MY 2014 GMC Sierra HD and 2015 Chevrolet Silverado HD vehicles. In these vehicles, the fuel pump connections on both sides of the diesel fuel transfer pump may not be properly torqued. That can result in a diesel fuel leak, which can cause a vehicle fire.

171. **Base radio defect:** On June 5, 2014, GM recalled 57,512 MY 2014 Chevrolet Silverado LD, 2014 GMC Sierra LD and model year 2015 Silverado HD, Tahoe and Suburban and 2015 GMC Sierra HD and Yukon and Yukon XL vehicles because the base radio may not work. The faulty base radio prevents audible warnings if the key is in the ignition when the driver's door is open, and audible chimes when a front seat belt is not buckled. Vehicles with the base radio defect are out of compliance with motor vehicle safety standards covering theft protection, rollaway protection and occupant crash protection.

172. **Shorting bar defect:** On June 5, 2014, GM recalled 31,520 MY 2012 Buick Verano and Chevrolet Camaro, Cruze, and Sonic compact cars for a defect in which the shorting

bar inside the dual stage driver's air bag may occasionally contact the air bag terminals. If contact occurs, the air bag warning light will illuminate. If the car and terminals are contacting each other in a crash, the air bag will not deploy. GM admits awareness of one crash with an injury where the relevant diagnostic trouble code was found at the time the vehicle was repaired. GM is aware of other crashes where air bags did not deploy but it does not know if they were related to this condition. GM conducted two previous recalls for this condition involving 7,116 of these vehicles with no confirmed crashes in which this issue was involved.

173. **Front passenger airbag end cap defect**: On June 5, 2014, GM recalled 61 model year 2013-2014 Chevrolet Spark and 2013 model year Buick Encore vehicles manufactured in Changwon, Korea from December 30, 2012 through May 8, 2013 because the vehicles may have a condition in which the front passenger airbag end cap could separate from the airbag inflator. In a crash, this may prevent the passenger airbag from deploying properly.

174. **Sensing and Diagnostic Model ("SDM") defect:** On June 5, 2014, GM recalled 33 model year 2014 Chevrolet Corvettes in the U.S. because an internal short-circuit in the sensing and diagnostic module (SDM) could disable frontal air bags, safety belt pretensioners and the Automatic Occupancy Sensing module.

175. **Sonic Turbine Shaft:** On June 11, 2014, GM recalled 21,567 Chevrolet Sonics due to a transmission turbine shaft that can malfunction.

176. **Electrical System defect:** On June 11, 2014, GM recalled 14,765 model year 2014 Buick LaCrosse sedans because a wiring splice in the driver's door can corrode and break, cutting power to the windows, sunroof, and door chime under certain circumstances.

177. **Seatbelt Tensioning System defect:** On June 11, 2014, GM recalled 8,789 model year 2004-11 Saab 9-3 convertibles because a cable in the driver's seatbelt tensioning system can break.

178. In light of GM's history of concealing known defects, there is little reason to think that either GM's recalls have fully addressed the 35 recently revealed defects or that GM has addressed each defect of which it is or should be aware.

**B. GM Valued Cost-Cutting Over Safety, and Actively Encouraged Employees to Conceal Safety Issues.**

179. Recently revealed information presents a disturbing picture of GM's approach to safety issues – both in the design and manufacture stages, and in discovering and responding to defects in GM-branded vehicles that have already been sold.

180. GM made very clear to its personnel that cost-cutting was more important than safety, deprived its personnel of necessary resources for spotting and remedying defects, trained its employees not to reveal known defects, and rebuked those who attempted to "push hard" on safety issues.

181. One "directive" at GM was "cost is everything."[80] The messages from top leadership at GM to employees, as well as their actions, were focused on the need to control cost.[81]

182. One GM engineer stated that emphasis on cost control at GM "permeates the fabric of the whole culture.'" [82]

183. According to Mark Reuss (President of GMNA from 2009-2013 before succeeding Mary Barra as Executive Vice President for Global Product Development, Purchasing and Supply Chain in 2014), cost and time-cutting principles known as the "Big 4" at GM "emphasized timing over quality."[83]

184. GM's focus on cost-cutting created major disincentives to personnel who might wish to address safety issues. For example, those responsible for a vehicle were responsible for its costs, but if they wanted to make a change that incurred cost and affected other vehicles, they also became responsible for the costs incurred in the other vehicles.[84]

185. As another cost-cutting measure, parts were sourced to the lowest bidder, even if they were not the highest quality parts.[85]

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[80] GM Report at 249.

[81] GM Report at 250.

[82] GM Report at 250.

[83] GM Report at 250.

[84] GM Report at 250.

[85] GM Report at 251.

186. Because of GM's focus on cost-cutting, GM Engineers did not believe they had extra funds to spend on product improvements.[86]

187. GM's focus on cost-cutting also made it harder for GM personnel to discover safety defects, as in the case of the "TREAD Reporting team."

188. GM used its TREAD database (known as "TREAD") to store the data required to be reported quarterly to NHTSA under the TREAD Act.[87] From the date of its inception in 2009, TREAD has been the principal database used by GM to track incidents related to its vehicles.[88]

189. From 2003-2007 or 2008, the TREAD Reporting team had eight employees, who would conduct monthly searches and prepare scatter graphs to identify spikes in the number of accidents or complaints with respect to various GM-branded vehicles. The TREAD Reporting team reports went to a review panel and sometimes spawned investigations to determine if any safety defect existed. [89]

190. In or around 2007-08, Old GM reduced the TREAD Reporting team from eight to three employees, and the monthly data mining process pared down.[90] In 2010, GM restored two people to the team, but they did not participate in the TREAD database searches.[91] Moreover, until 2014, the TREAD Reporting team did not have sufficient resources to obtain any of the advanced data mining software programs available in the industry to better identify and understand potential defects.[92]

191. By starving the TREAD Reporting team of the resources it needed to identify potential safety issues, GM helped to insure that safety issues would not come to light.

[86] GM Report at 251.
[87] GM Report at 306.
[88] GM Report at 306.
[89] GM Report at 307.
[90] GM Report at 307.
[91] GM Report at 307-308.
[92] GM Report at 208.

192. "[T]here was resistance or reluctance to raise issues or concerns in the GM culture." The culture, atmosphere and supervisor response at GM "discouraged individuals from raising safety concerns." [93]

193. GM CEO Mary Barra experienced instances where GM engineers were "unwilling to identify issues out of concern that it would delay the launch" of a vehicle.[94]

194. GM supervisors warned employees to "never put anything above the company" and "never put the company at risk."[95]

195. GM "pushed back" on describing matters as safety issues and, as a result, "GM personnel failed to raise significant issues to key decision-makers." [96]

196. So, for example, GM discouraged the use of the word "stall" in Technical Service Bulletins ("TSBs") it sometimes sent to dealers about issues in GM-branded vehicles. According to Steve Oakley, who drafted a TSB in connection with the ignition switch defects, "the term 'stall' is a 'hot' word that GM generally does not use in bulletins because it may raise a concern about vehicle safety, which suggests GM should recall the vehicle, not issue a bulletin."[97] Other GM personnel confirmed Oakley on this point, stating that "there was concern about the use of 'stall' in a TSB because such language might draw the attention of NHTSA."[98]

197. Oakley further noted that "he was reluctant to push hard on safety issues because of his perception that his predecessor had been pushed out of the job for doing just that."[99]

198. Many GM employees "did not take notes at all at critical safety meetings because they believed GM lawyers did not want such notes taken." [100]

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[93] GM Report at 252.

[94] GM Report at 252.

[95] GM Report at 252-253.

[96] GM Report at 253.

[97] GM Report at 92.

[98] GM Report at 93.

[99] GM Report at 93.

[100] GM Report at 254.

199. A GM training document released by NHTSA as an attachment to its Consent Order sheds further light on the lengths to which GM went to ensure that known defects were concealed. It appears that the defects were concealed pursuant to a company policy GM inherited from Old GM.

200. The document consists of slides from a 2008 Technical Learning Symposium for "designing engineers," "company vehicle drivers," and other employees at Old GM. On information and belief, the vast majority of employees who participated in this webinar presentation continued on in their same positions at GM after July 10, 2009.

201. The presentation focused on recalls, and the "reasons for recalls."

202. One major component of the presentation was captioned "Documentation Guidelines," and focused on what employees should (and should not say) when describing problems in vehicles.

203. Employees were instructed to "[w]rite smart," and to "[b]e factual, not fantastic" in their writing.

204. Company vehicle drivers were given examples of comments to avoid, including the following: "This is a safety and security issue"; "I believe the wheels are too soft and weak and could cause a serious problem"; and "Dangerous … almost caused accident."

205. In documents used for reports and presentations, employees were advised to avoid a long list of words, including: "bad," "dangerous," "defect," "defective," "failed," "flawed," "life-threatening," "problem," "safety," "safety-related," and "serious."

206. In truly Orwellian fashion, the Company advised employees to use the words (1) "Issue, Condition [or] Matter" instead of "Problem"; (2) "Has Potential Safety Implications" instead of "Safety"; (3) "Broke and separated 10 mm" instead of "Failed"; (4) "Above/Below/Exceeds Specification" instead of "Good [or] Bad"; and (5) "Does not perform to design" instead of "Defect/Defective."

207. As NHTSA's Acting Administrator Friedman noted at the May 16, 2014 press conference announcing the Consent Order concerning the ignition switch defect, it was GM's company policy to avoid using words that might suggest the existence of a safety defect:

> GM must rethink the corporate philosophy reflected in the documents we reviewed, including training materials that explicitly discouraged employees from using words like 'defect,' 'dangerous,' 'safety related,' and many more essential terms for engineers and investigators to clearly communicate up the chain when they suspect a problem.

208. GM appears to have trained its employees to conceal the existence of known safety defects from consumers and regulators. Indeed, it is nearly impossible to convey the potential existence of a safety defect without using the words "safety" or "defect" or similarly strong language that was verboten at GM.

209. So institutionalized at GM was the "phenomenon of avoiding responsibility" that the practice was given a name: "the 'GM salute,'" which was "a crossing of the arms and pointing outward towards others, indicating that the responsibility belongs to someone else, not me."[101]

210. CEO Mary Barra described a related phenomenon , "known as the 'GM nod," which was "when everyone nods in agreement to a proposed plan of action, but then leaves the room with no intention to follow through, and the nod is an empty gesture."[102]

211. According to the GM Report prepared by Anton R. Valukas, part of the failure to properly correct the ignition switch defect was due to problems with GM's organizational structure.[103] Part of the failure to properly correct the ignition switch defect was due to a corporate culture that did not care enough about safety.[104] Part of the failure to properly correct the ignition switch defect was due to a lack of open and honest communication with NHTSA regarding safety issues.[105] Part of the failure to properly correct the ignition switch defect was due to improper conduct and handling of safety issues by lawyers within GM's Legal Staff.[106] On information and belief, all of these issues also helped cause the concealment of and failure to remedy the many defects that have led to the spate of recalls in the first half of 2014.

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[101] GM Report at 255.

[102] GM Report at 256.

[103] GM Report at 259-260.

[104] GM Report at 260-261.

[105] GM Report at 263.

[106] GM Report at 264.

**C. The Ignition Switch Defects Have Harmed Consumers in Orange County and the State**

212. GM's unprecedented concealment of a large number of serious defects, and its irresponsible approach to safety issues, has caused damage to consumers in Orange County and throughout California.

213. A vehicle made by a reputable manufacturer of safe and reliable vehicles who stands behind its vehicles after they are sold is worth more than an otherwise similar vehicle made by a disreputable manufacturer known for selling defective vehicles and for concealing and failing to remedy serious defects after the vehicles are sold.

214. A vehicle purchased or leased under the reasonable assumption that it is safe and reliable is worth more than a vehicle of questionable safety and reliability due to the manufacturer's recent history of concealing serious defects from consumers and regulators.

215. Purchasers and lessees of new and used GM-branded vehicles after the July 10, 2009, inception of GM paid more for the vehicles than they would have had GM disclosed the many defects it had a duty to disclose in GM-branded vehicles. Because GM concealed the defects and the fact that it was a disreputable brand that valued cost-cutting over safety, these consumers did not receive the benefit of their bargain. And the value of all their vehicles has diminished as the result of GM's deceptive conduct.

216. If GM had timely disclosed the many defects as required by the TREAD Act and California law, California vehicle owners' GM-branded vehicles would be considerably more valuable than they are now. Because of GM's now highly publicized campaign of deception, and its belated, piecemeal and ever-expanding recalls, so much stigma has attached to the GM brand that no rational consumer would pay what otherwise would have been fair market value for GM-branded vehicles.

**D. Given GM's Knowledge of the Defects and the Risk to Public Safety, it Was Obliged to Promptly Disclose and Remedy the Defects.**

217. The National Traffic and Motor Vehicle Safety Act of 1966 (the "Safety Act") requires manufacturers of motor vehicles and motor vehicle equipment to submit certain information to the National Highway Traffic Safety Administration (NHTSA) in order "to reduce

traffic accidents and deaths and injuries resulting from traffic accidents." 49 U.S.C. § 30101 *et. seq*.

218. Under the Safety Act, the manufacturer of a vehicle has a duty to notify dealers and purchasers of a safety defect and remedy the defect without charge. 49 U.S.C. § 30118. In November 2000, Congress enacted the Transportation Recall Enhancement, Accountability and Documentation (TREAD) Act, 49 U.S.C. §§ 30101-30170, which amended the Safety Act and directed the Secretary of Transportation to promulgate regulation expanding the scope of the information that manufacturers are required to submit to NHTSA.

219. The Safety Act requires manufacturers to inform NHTSA within five days of discovering a defect. 49 CFR § 573.6 provides that a manufacturer "shall furnish a report to the NHTSA for each defect in his vehicles or in his items of original or replacement equipment that he or the Administrator determines to be related to motor vehicle safety, and for each noncompliance with a motor vehicle safety standard in such vehicles or items of equipment which either he or the Administrator determines to exist," and that such reports must include, among other things: identification of the vehicles or items of motor vehicle equipment potentially containing the defect or noncompliance, including a description of the manufacturer's basis for its determination of the recall population and a description of how the vehicles or items of equipment to be recalled differ from similar vehicles or items of equipment that the manufacturer has not included in the recall; in the case of passenger cars, the identification shall be by the make, line, model year, the inclusive dates (month and year) of manufacture, and any other information necessary to describe the vehicles; a description of the defect or noncompliance, including both a brief summary and a detailed description, with graphic aids as necessary, of the nature and physical location (if applicable) of the defect or noncompliance; a chronology of all principal events that were the basis for the determination that the defect related to motor vehicle safety, including a summary of all warranty claims, field or service reports, and other information, with their dates of receipt; a description of the manufacturer's program for remedying the defect or noncompliance; and a plan for reimbursing an owner or purchaser who incurred costs to obtain a remedy for the

problem addressed by the recall within a reasonable time in advance of the manufacturer's notification of owners, purchasers and dealers.

220. Manufacturers are also required to submit "early warning reporting" (EWR) data and information that may assist the agency in identifying safety defects in motor vehicles or motor vehicle equipment. *See* 49 U.S.C. § 30166(m)(3)(B). The data submitted to NHTSA under the EWR regulation includes: production numbers (cumulative total of vehicles or items of equipment manufactured in the year); incidents involving death or injury based on claims and notices received by the manufacturer; claims relating to property damage received by the manufacturer; warranty claims paid by the manufacturer (generally for repairs on relatively new products) pursuant to a warranty program (in the tire industry these are warranty adjustment claims); consumer complaints (a communication by a consumer to the manufacturer that expresses dissatisfaction with the manufacturer's product or performance of its product or an alleged defect); and field reports (prepared by the manufacturer's employees or representatives concerning failure, malfunction, lack of durability or other performance problem of a motor vehicle or item of motor vehicle equipment).

221. Regulations promulgated under the TREAD Act also require manufacturers to inform NHTSA of defects and recalls in motor vehicles in foreign countries. Under 49 CFR §§ 579.11 and 579.12 a manufacturer must report to NHTSA not later than five working days after a manufacturer determines to conduct a safety recall or other safety campaign in a foreign country covering a motor vehicle sold or offered for sale in the United States. The report must include, among other things: a description of the defect or noncompliance, including both a brief summary and a detailed description, with graphic aids as necessary, of the nature and physical location (if applicable) of the defect or noncompliance; identification of the vehicles or items of motor vehicle equipment potentially containing the defect or noncompliance, including a description of the manufacturer's basis for its determination of the recall population and a description of how the vehicles or items of equipment to be recalled differ from similar vehicles or items of equipment that the manufacturer has not included in the recall; the manufacturer's program for remedying the defect or noncompliance, the date of the determination and the date the recall or other campaign was commenced or will commence in each foreign country; and identify all motor vehicles that the

manufacturer sold or offered for sale in the United States that are identical or substantially similar to the motor vehicles covered by the foreign recall or campaign.

222. 49 CFR § 579.21 requires manufacturers to provide NHTSA quarterly field reports related to the current and nine preceding model years regarding various systems, including, but not limited to, vehicle speed control. The field reports must contain, among other things: a report on each incident involving one or more deaths or injuries occurring in the United States that is identified in a claim against and received by the manufacturer or in a notice received by the manufacturer which notice alleges or proves that the death or injury was caused by a possible defect in the manufacturer's vehicle, together with each incident involving one or more deaths occurring in a foreign country that is identified in a claim against and received by the manufacturer involving the manufacturer's vehicle, if that vehicle is identical or substantially similar to a vehicle that the manufacturer has offered for sale in the United States, and any assessment of an alleged failure, malfunction, lack of durability, or other performance problem of a motor vehicle or item of motor vehicle equipment (including any part thereof) that is originated by an employee or representative of the manufacturer and that the manufacturer received during a reporting period.

223. GM has known throughout the liability period that many GM-branded vehicles sold or leased in the State of California were defective – and, in many cases, dangerously so.

224. Since the date of GM's inception, many people have been injured or died in accidents relating to the ignition switch defects alone. While the exact injury and death toll is unknown, as a result of GM's campaign of concealment and suppression of the large number of defects plaguing over 17 million GM-branded vehicles, numerous other drivers and passengers of the Defective Vehicles have died or suffered serious injuries and property damage. All owners and lessees of GM-branded vehicles have suffered economic damage to their property due to the disturbingly large number of recently revealed defects that were concealed by GM. Many are unable to sell or trade their cars, and many are afraid to drive their cars.

## E. GM's Misrepresentations and Deceptive, False, Untrue and Misleading Advertising, Marketing and Public Statements

225. Despite its knowledge of the many serious defects in millions of GM-branded vehicles, GM continued to (1) sell new Defective Vehicles; (2) sell used Defective Vehicles as "GM certified"; and (3) use defective ignition switches to repair GM vehicles, all without disclosing or remedying the defects. As a result, the injury and death toll associated with the Defective Vehicles has continued to increase and, to this day, GM continues to conceal and suppress this information.

226. During this time period, GM falsely assured California consumers in various written and broadcast statements that its cars were safe and reliable, and concealed and suppressed the true facts concerning the many defects in millions of GM-branded vehicles, and GM's policies that led to both the manufacture of an inordinate number of vehicles with safety defects and the subsequent concealment of those defects once the vehicles are on the road. To this day, GM continues to conceal and suppress information about the safety and reliability of its vehicles.

227. Against this backdrop of fraud and concealment, GM touted its reputation for safety and reliability, and knew that people bought and retained its vehicles because of that reputation, and yet purposefully chose to conceal and suppress the existence and nature of the many safety defects. Instead of disclosing the truth about the dangerous propensity of the Defective Vehicles and GM's disdain for safety, California consumers were given assurances that their vehicles were safe and defect free, and that the Company stands behind its vehicles after they are on the road.

228. GM has consistently marketed its vehicles as "safe" and proclaimed that safety is one of its highest priorities.

229. It told consumers that it built the world's best vehicles:

> We truly are building a new GM, from the inside out. Our vision is clear: to design, build and sell the world's best vehicles, and we have a new business model to bring that vision to life. We have a lower cost structure, a stronger balance sheet and a dramatically lower risk profile. We have a new leadership team – a strong mix of executive talent from outside the industry and automotive veterans – and a passionate, rejuvenated workforce.
>
> "Our plan is to steadily invest in creating world-class vehicles, which will continuously drive our cycle of great design, high quality and higher profitability."

230. It represented that it was building vehicles with design excellence, quality and performance:

> And across the globe, other GM vehicles are gaining similar acclaim for design excellence, quality and performance, including the Holden Commodore in Australia. Chevrolet Agile in Brazil, Buick LaCrosse in China and many others.
>
> The company's progress is early evidence of a new business model that begins and ends with great vehicles. We are leveraging our global resources and scale to maintain stringent cost management while taking advantage of growth and revenue opportunities around the world, to ultimately deliver sustainable results for all of our shareholders.

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231. The theme below was repeated in advertisements, company literature, and material at dealerships as the core message about GM's Brand:

The new General Motors has one clear vision: to design, build and sell the world's best vehicles. Our new business model revolves around this vision, focusing on fewer brands, compelling vehicle design, innovative technology, improved manufacturing productivity and streamlined, more efficient inventory processes. The end result is products that delight customers and generate higher volumes and margins—and ultimately deliver more cash to invest in our future vehicles.

## A New Vision, a New Business Model

Our vision is simple, straightforward and clear; to design, build and sell the world's best vehicles. That doesn't mean just making our vehicles better than the ones they replace. We have set a higher standard for the new GM—and that means building the best.

Our vision comes to life in a continuous cycle that starts, ends and begins again with great vehicle designs. To accelerate the momentum we've already created, we reduced our North American portfolio from eight brands to four: Chevrolet, Buick, Cadillac and GMC. Worldwide, we're aggressively developing and leveraging global vehicle architectures to maximize our talent and resources and achieve optimum economies of scale.

Across our manufacturing operations, we have largely eliminated overcapacity in North America while making progress in Europe, and we're committed to managing inventory with a new level of discipline. By using our manufacturing capacity more efficiently and maintaining leaner vehicle inventories, we are reducing the need to offer sales incentives on our vehicles. These moves, combined with offering attractive, high-quality vehicles, are driving healthier margins—and at the same time building stronger brands.

Our new business model creates a self-sustaining cycle of reinvestment that drives continuous improvement in vehicle design, manufacturing discipline, brand strength, pricing and margins, because we are now able to make money at the bottom as well as the top of the industry cycles.

We are seeing positive results already. In the United States, for example, improved design, content and quality have resulted in solid gains in segment share, average transaction prices and projected residual values for the Chevrolet Equinox, Buick LaCrosse and Cadillac SRX. This is just the beginning.

232. It represented that it had a world-class lineup in North America:

**GMC Terrain**
The GMC Terrain delivers segment-leading fuel economy of 32 mpg highway, plus uncompromising content and premium technology, in a 5-passenger, compact SUV.

**Cadillac CTS *V*-Coupe**
Cadillac's new CTS *V*-Coupe is the complete package for the driving enthusiast—a 556 hp supercharged V-8 engine, stunning lines and performance handling.

**GMC Sierra Heavy Duty**
The GMC Sierra offers heavy-duty power and performance with the proven and powerful Duramax Diesel/Allison Transmission combination and a completely new chassis with improved capabilities and ride comfort.

**GMC Yukon Hybrid**
The GMC Yukon Hybrid is America's first full-sized SUV hybrid, with city fuel economy of 20 mpg—better than a standard 6-cylinder Honda Accord and 43 percent better than any full-size SUV in its class.

**Cadillac CTS Sport Wagon**
With an available advanced direct-injected V6 engine, the Cadillac CTS Sport Wagon sets a new standard for versatility, while offering excitement and purpose.

**Cadillac SRX**
The Cadillac SRX looks and performs like no other crossover, with a cockpit that offers utility and elegance and an optional 70-inch Ultraview sunroof.

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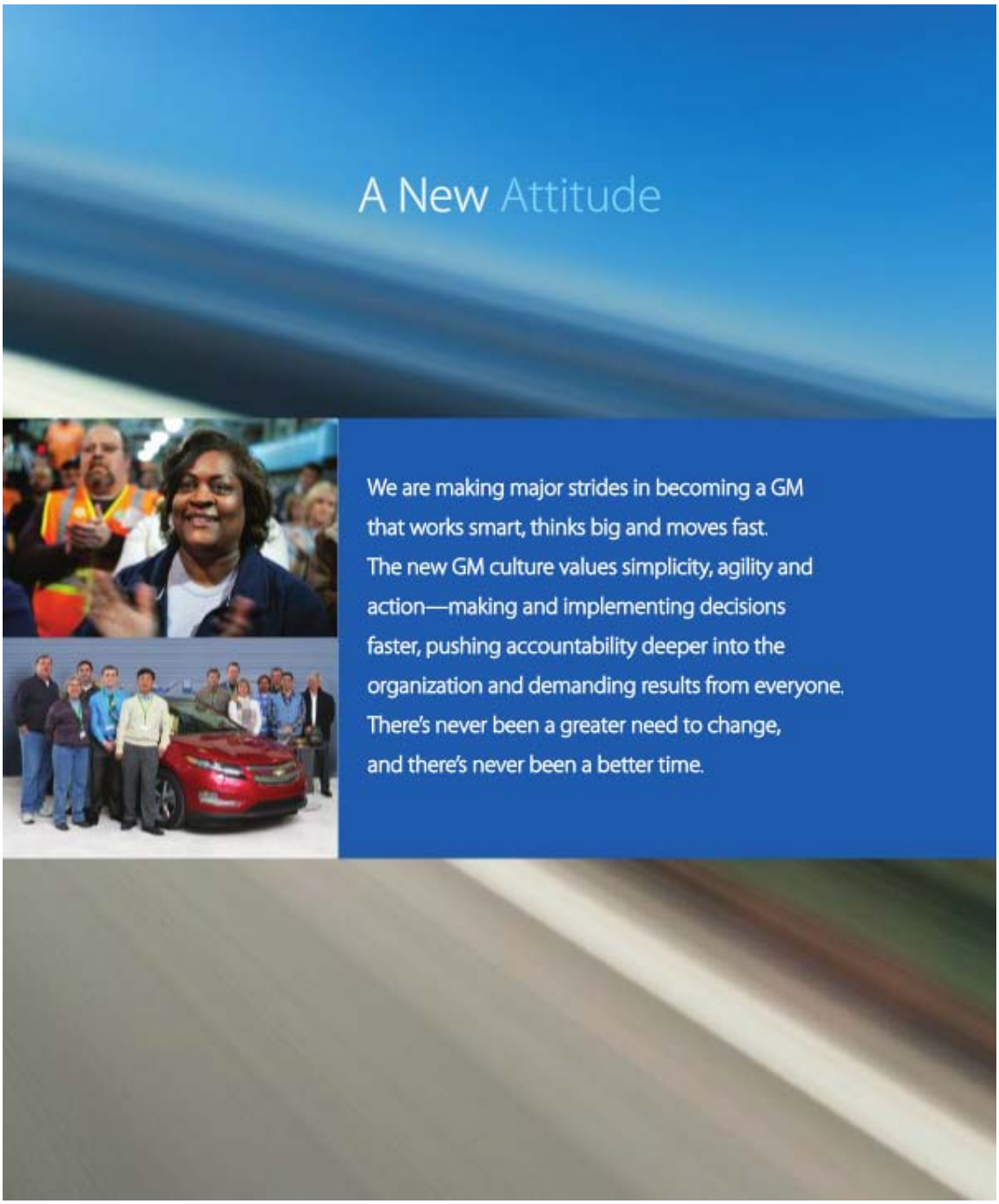
233. It boasted of its new "culture":




234. In its 2012 Annual Report, GM told the world the following about its brand:

> What is immutable is our focus on the customer, which requires us to go from "good" today to "great" in everything we do, including product design, initial quality, durability and service after the sale.

235. GM also indicated it had changed its structure to create more "accountability" which, as shown above, was a blatant falsehood:

> That work continues, and it has been complemented by changes to our design and engineering organization that have flattened the structure and created more accountability for produce execution, profitability and customer satisfaction.

236. And GM represented that product quality was a key focus – another blatant falsehood:

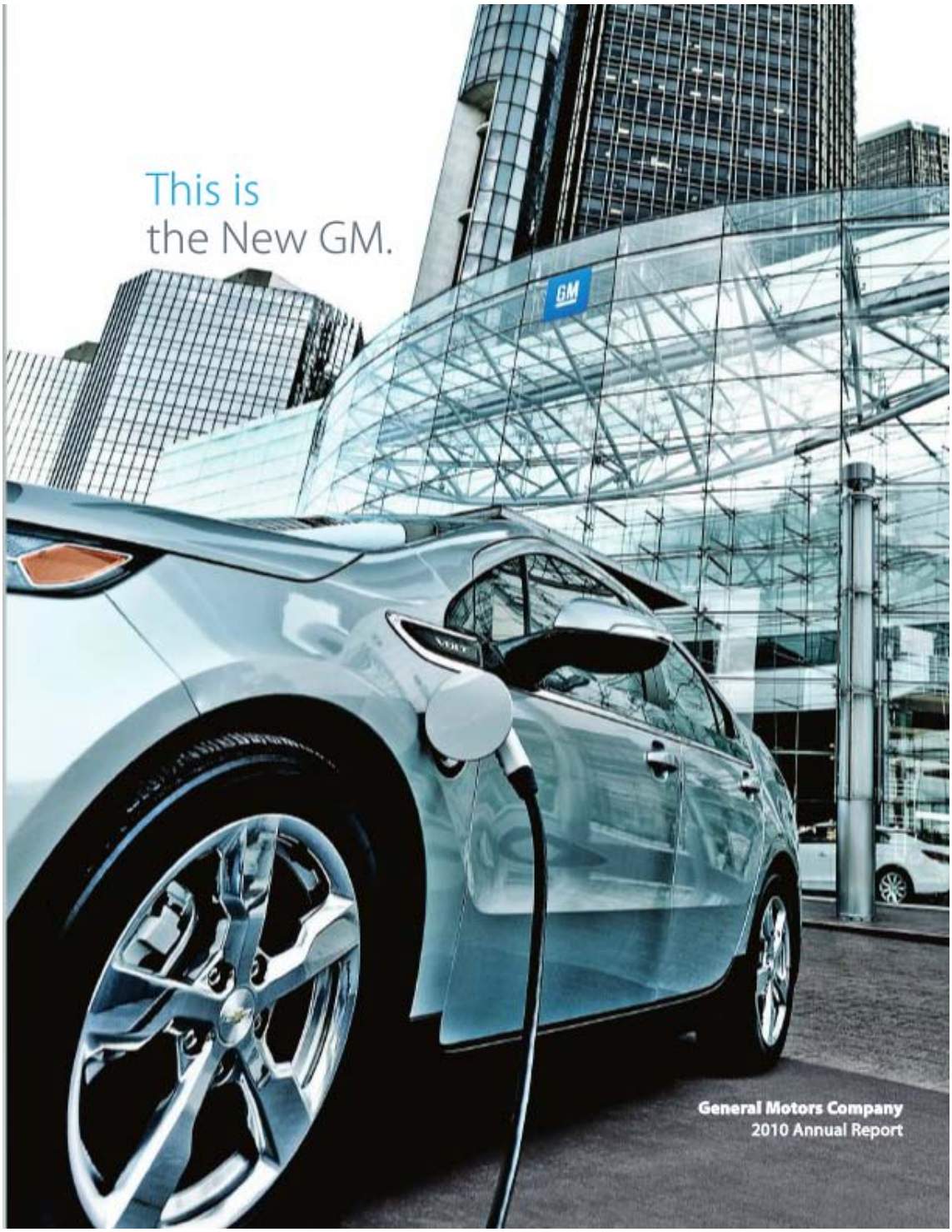
> Product quality and long-term durability are two other areas that demand our unrelenting attention, even though we are doing well on key measures.

237. In its 2013 Letter to Stockholders GM noted that its brand had grown in value and boasted that it designed the "World's Best Vehicles":

> Dear Stockholder:
>
> Your company is on the move once again. While there were highs and lows in 2011, our overall report card shows very solid marks, including record net income attributable to common stockholders of $7.6 billion and EBIT-adjusted income of $8.3 billion.
>
> - GM's overall momentum, including a 13 percent sales increase in the United States, created new jobs and drove investments. We have announced investments in 29 U.S. facilities totaling more than $7.1 billion since July 2009, with more than 17,500 jobs created or retained.
>
> Design, Build and Sell the World's Best Vehicles
>
> This pillar is intended to keep the customer at the center of everything we do, and success is pretty easy to define. It means creating vehicles that people desire, value and are proud to own. When we get this right, it transforms our reputation and the company's bottom line.
>
> Strengthen Brand Value
>
> Clarity of purpose and consistency of execution are the cornerstones of our product strategy, and two brands will drive our global growth. They are Chevrolet, which embodies the qualities of value, reliability, performance and expressive design; and Cadillac, which creates luxury vehicles that are provocative and powerful. At the same time the Holden, Buick, GMC, Baojun, Opel and Vauxhall brands are being carefully cultivated to satisfy as many customers as possible in select regions.
>
> Each day the cultural change underway at GM becomes more striking. The old internally focused, consensus-driven and overly complicated GM is being reinvented brick by brick, by truly accountable executives who know how to take calculated risks and lead global teams that are committed to building the best vehicles in the world as efficiently as we can.

> That's the crux of our plan. The plan is something we can control. We like the results we're starting to see and we're going to stick to it – always.

238. Once it emerged from bankruptcy, GM told the world it was a new and improved company:



239. A radio ad that ran from GM's inception until July 16, 2010, stated that "[a]t GM, building quality cars is the most important thing we can do."

240. An online ad for "GM certified" used vehicles that ran from July 6, 2009 until April 5, 2010, stated that "GM certified means no worries."

241. GM's Chevrolet brand ran television ads in 2010 showing parents bringing their newborn babies home from the hospital, with the tagline "[a]s long as there are babies, there'll be Chevys to bring them home."

242. Another 2010 television ad informed consumers that "Chevrolet's ingenuity and integrity remain strong, exploring new areas of design and power, while continuing to make some of the safest vehicles on earth."

243. An online national ad campaign for GM in April of 2012 stressed "Safety. Utility. Performance."

244. A national print ad campaign in April of 2013 states that "[w]hen lives are on the line, you need a dependable vehicle you can rely on. Chevrolet and GM … for power, performance and safety."

245. A December 2013 GM testimonial ad stated that "GM has been able to deliver a quality product that satisfies my need for dignity and safety."

246. GM's website, GM.com, states:

> Innovation: Quality & Safety; GM's Commitment to Safety; Quality and safety are at the top of the agenda at GM, as we work on technology improvements in crash avoidance and crashworthiness to augment the post-event benefits of OnStar, like advanced automatic crash notification. Understanding what you want and need from your vehicle helps GM proactively design and test features that help keep you safe and enjoy the drive. Our engineers thoroughly test our vehicles for durability, comfort and noise minimization before you think about them. The same quality process ensures our safety technology performs when you need it.

247. On February 25, 2014, GM North America President Alan Batey publically stated: "Ensuring our customers' safety is our first order of business. We are deeply sorry and we are working to address this issue as quickly as we can."

248. These proclamations of safety and assurances that GM's safety technology performs when needed were false and misleading because they failed to disclose the dangerous defects in millions of GM-branded vehicles, and the fact GM favored cost-cutting and concealment over safety. GM knew or should have known that its representations were false and misleading.

249. GM continues to make misleading safety claims in public statements, advertisements, and literature provided with its vehicles.

250. GM violated California law in failing to disclose and in actively concealing what it knew regarding the existence of the defects, despite having exclusive knowledge of material facts not known to the Plaintiff or to California consumers, and by making partial representations while at the same time suppressing material facts. *LiMandri v. Judkins* (1997) 52 Cal. App. 4th 326, 337, 60 Cal. Rptr. 2d 539. In addition, GM had a duty to disclose the information that it knew about the defects because such matters directly involved matters of public safety.

251. GM violated California law in failing to conduct an adequate retrofit campaign (*Hernandez v. Badger Construction Equip. Co.* (1994) 28 Cal. App. 4th 1791, 1827), and in failing to retrofit the Defective Vehicles and/or warn of the danger presented by the defects after becoming aware of the dangers after their vehicles had been on the market (*Lunghi v. Clark Equip. Co.* (1984) 153 Cal. App. 3d 485; *Balido v. Improved Machinery, Inc.* (1972) 29 Cal. App. 3d 633).

252. GM also violated the TREAD Act, and the regulations promulgated under the Act, when it failed to timely inform NHTSA of the defects and allowed cars to remain on the road with these defects. By failing to disclose and actively concealing the defects, by selling new Defective Vehicles and used "GM certified" Defective Vehicles without disclosing or remedying the defects, and by using defective ignition switches for "repairs," GM engaged in deceptive business practices prohibited by the CLRA, Cal. Civ. Code § 1750, *et seq.*, including (1) representing that GM vehicles have characteristics, uses, benefits, and qualities which they do not have; (2) representing that new Defective Vehicles and ignition switches and used "GM certified" vehicles are of a particular standard, quality, and grade when they are not; (3) advertising GM vehicles with the intent not to sell them as advertised; (4) representing that the subjects of transactions involving GM

vehicles have been supplied in accordance with a previous representation when they have not; and (5) selling Defective Vehicles in violation of the TREAD Act.

## VI. CAUSES OF ACTION

### FIRST CAUSE OF ACTION

### VIOLATION OF BUSINESS AND PROFESSIONS CODE SECTION 17200

253. Plaintiff realleges and incorporates by reference all preceding paragraphs.

254. GM has engaged in, and continues to engage in, acts or practices that constitute unfair competition, as that term is defined in section 17200 of the California Business and Professions Code.

255. GM has violated, and continues to violate, Business and Professions Code section 17200 through its unlawful, unfair, fraudulent, and/or deceptive business acts and/or practices. GM uniformly concealed, failed to disclose, and omitted important safety-related material information that was known only to GM and that could not reasonably have been discovered by California consumers. Based on GM's concealment, half-truths, and omissions, California consumers agreed to purchase or lease one or more (i) new or used GM vehicles sold on or after July 10, 2009; (ii) "GM certified" Defective Vehicles sold on or after July 10, 2009; (iii) and/or to have their vehicles repaired using GM's defective ignition switches. GM also repeatedly and knowingly made untrue and misleading statements in California regarding the purported reliability and safety of its vehicles, and the importance of safety to the Company. The true information about the many serious defects in GM-branded vehicles, and GM's disdain for safety, was known only to GM and could not reasonably have been discovered by California consumers.

256. As a direct and proximate result of GM's concealment and failure to disclose the many defects and the Company's institutionalized devaluation of safety, GM intended that consumers would be misled into believing that that GM was a reputable manufacturer of reliable and safe vehicles when in fact GM was an irresponsible manufacture of unsafe, unreliable and often dangerously defective vehicles.

**UNLAWFUL**

257. The unlawful acts and practices of GM alleged above constitute unlawful business acts and/or practices within the meaning of California Business and Professions Code section 17200. GM's unlawful business acts and/or practices as alleged herein have violated numerous federal, state, statutory, and/or common laws – and said predicate acts are therefore per se violations of section 17200. These predicate unlawful business acts and/or practices include, but are not limited to, the following: California Business and Professions Code section 17500 (False Advertising), California Civil Code section 1572 (Actual Fraud – Omissions), California Civil Code section 1573 (Constructive Fraud by Omission), California Civil Code section 1710 (Deceit), California Civil Code section 1770 (the Consumers Legal Remedies Act – Deceptive Practices), California Civil Code section 1793.2 *et seq.* (the Consumer Warranties Act), and other California statutory and common law; the National Traffic and Motor Vehicle Safety Act (49 U.S.C. § 30101 *et. seq*.), as amended by the Transportation Recall Enhancement, Accountability and Documentation TREAD Act, (49 U.S.C. §§ 30101-30170) including, but not limited to 49 U.S.C. §§ 30112, 30115, 30118 and 30166, Federal Motor Vehicle Safety Standard 124 (49 C.F.R. § 571.124), and 49 CFR §§ 573.6, 579.11, 579.12, and 579.21.

**UNFAIR**

258. GM's concealment, omissions, and misconduct as alleged in this action constitute negligence and other tortious conduct and gave GM an unfair competitive advantage over its competitors who did not engage in such practices. Said misconduct, as alleged herein, also violated established law and/or public policies which seek to promote prompt disclosure of important safety-related information. Concealing and failing to disclose the nature and extent of the numerous safety defects to California consumers, before (on or after July 10, 2009) those consumers (i) purchased one or more GM vehicles; (ii) purchased used "GM certified" Defective Vehicles; or (iii) had their vehicles repaired with defective ignition switches, as alleged herein, was and is directly contrary to established legislative goals and policies promoting safety and the prompt disclosure of such defects, prior to purchase. Therefore GM's acts and/or practices alleged herein were and are unfair within the meaning of Business and Professions Code section 17200.

259. The harm to California consumers outweighs the utility, if any, of GM's acts and/or practices as alleged herein. Thus, GM's deceptive business acts and/or practices, as alleged herein, were unfair within the meaning of Business and Professions Code section 17200.

260. As alleged herein, GM's business acts and practices offend established public policies, including, but not limited to, public policies against making partial half-truths and failing to disclose important material facts to consumers.

261. In addition, as alleged herein, GM intended that California consumers would be misled and/or deceived into believing that they would be purchasing a safe and reliable vehicle built by a reputable manufacturer that values safety and stands behind its vehicles after they are sold, when, in fact, they were in many cases obtaining a vehicle that had defects that had the potential to cause serious bodily injury and/or death, and, in every case, obtaining a vehicle made by an irresponsible manufacturer that does not value safety and was concealing myriad known safety defects in millions of GM-branded vehicles. This practice is and was immoral, unethical, oppressive, unscrupulous, or substantially injurious to consumers and thus unfair within the meaning of Business and Professions Code section 17200.

262. At all times relevant, GM's misconduct and omissions alleged herein: (a) caused substantial injury to the Public; (b) had no countervailing benefit to consumers or to competition that could possibly outweigh this substantial injury; and (c) caused injury that could not have been avoided or even discovered by ordinary consumers, because it resulted from GM's concealment, failure to disclose and/or omission of important safety related material information that only the Defendant knew or could have known. Thus, GM's acts and/or practices as alleged herein were unfair within the meaning of Business and Professions Code section 17200.

**FRAUDULENT**

263. GM's acts and practices, as alleged herein, were likely to, and did, deceive the Public. GM's concealment, material omissions, acts, practices and non-disclosures, as alleged herein, therefore constitute fraudulent business acts and/or practices within the meaning of California Business and Professions Code section 17200.

264. California consumers have been, and continue to be, deceived by GM's concealment and material omissions as alleged herein. California consumers have suffered injury and lost money as a direct result of the deceptive conduct as alleged herein. The unlawful, unfair, deceptive, and/or fraudulent business acts and practices of GM, as fully described herein, present a continuing threat to the citizens of California to be misled and/or deceived by GM as alleged herein, and/or to be substantially injured by these dangerously defective cars.

**SECOND CAUSE OF ACTION**

**VIOLATION OF BUSINESS AND PROFESSIONS CODE SECTION 17500**

265. Plaintiff realleges and incorporates by reference all preceding paragraphs.

266. California Business and Professions Code § 17500 states: "It is unlawful for any ... corporation ... with intent directly or indirectly to dispose of real or personal property ... to induce the public to enter into any obligation relating thereto, to make or disseminate or cause to be made or disseminated ... from this state before the public in any state, in any newspaper or other publication, or any advertising device, ... or in any other manner or means whatever, including over the Internet, any statement ... which is untrue or misleading, and which is known, or which by the exercise of reasonable care should be known, to be untrue or misleading."

267. GM caused to be made or disseminated through California and the United States, through advertising, marketing, and other publications, statements that were untrue or misleading, and which were known, or which by the exercise of reasonable care should have been known to GM, to be untrue and misleading to consumers.

268. GM has violated section 17500 because the misrepresentations and omissions regarding the safety and reliability of its vehicles and the importance of safety to the Company as set forth in this First Amended Complaint were material and likely to deceive a reasonable consumer.

269. California consumers were exposed to and saw advertisements for GM vehicles on television, in magazines, on billboards, in brochures at dealerships, and on the Internet before purchasing GM vehicles. Had those advertisements, window stickers, or any other materials disclosed that millions of GM-branded vehicles contained serious safety defects and that GM did

not value safety, consumers would not have purchased new GM vehicles on or after July 10, 2009 and would not have purchased "GM certified" Defective Vehicles on or after July 10, 2009.

270. Despite notice of the serious safety defects in so many its vehicles, GM did not disclose to consumers that its vehicles – which GM for years had advertised as "safe" and "reliable" – were in fact not as safe or reliable as a reasonable consumer expected due to the risks created by the many known defects, and GM's focus on cost-cutting at the expense of safety and the resultant concealment of numerous safety defects. GM never disclosed what it knew about the defects. Rather than disclose the truth, GM concealed the existence of the defects, and claimed to be a reputable manufacturer of safe and reliable vehicles.

271. GM, by the acts and misconduct alleged herein, violated Business & Professions Code section 17500, and GM has engaged in, and continues to engage in, acts or practices that constitute false advertising.

272. GM has violated, and continues to violate, Business and Professions Code section 17500 by disseminating untrue and misleading statements as defined by Business and Professions Code 17500. GM has engaged in acts and practices with intent to induce members of the public to purchase its vehicles by publicly disseminated advertising which contained statements which were untrue or misleading, and which GM knew, or in the exercise of reasonable care should have known, were untrue or misleading, and which concerned the real or personal property or services or their disposition or performance.

273. GM repeatedly and knowingly made untrue and misleading statements in California regarding the purported reliability and safety of its vehicles. The true information was known only to GM and could not reasonably have been discovered by California consumers. GM uniformly concealed, failed to disclose and omitted important safety-related material information that was known only to GM and that could not reasonably have been discovered by California consumers. Based on GM's concealment, half-truths, and omissions, California consumers agreed (on or after July 10, 2009) (i) to purchase GM vehicles; (ii) to purchase used "GM certified" Defective Vehicles; and/or (iii) to have their vehicles repaired using defective ignition switches,

274. As a direct and proximate result of GM's concealment and failure to disclose the many safety defects, GM intended that consumers would be misled into believing that they would be purchasing a safe and reliable vehicle built by a reputable manufacturer that values safety, when in fact they were purchasing vehicles that were in many cases dangerously defective and were in every case overpriced because they were in fact built by an irresponsible manufacturer that valued cost-cutting over safety and routinely concealed a myriad of serious defects from regulators and the public.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff prays for judgment against GM as follows:

A. Pursuant to Business and Professions Code sections 17203 and 17535, that GM, its employees, agents, representatives, successors, assigns, and all persons who act in concert with them be permanently enjoined from committing any acts of unfair competition, including the violations alleged herein.

B. Pursuant to Business and Professions Code sections 17206 and 17536, that GM be ordered to pay a civil penalty in the amount of Two Thousand Five Hundred dollars ($2,500.00) for each violation of Business and Professions Code section 17200 and for Five Thousand dollars ($5,000) for each violation of Business and Professions Code section 17500 by GM in an amount according to proof.

C. That Plaintiff recover its costs of suit, including costs of investigation.

D. For reasonable attorneys' fees pursuant to Code of Civil Procedure section 1021.5, or other applicable law; and

E. For such other equitable relief as is just and proper.

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Dated: July 1, 2014

Respectfully submitted,

TONY RACKAUCKAS, DISTRICT ATTORNEY
COUNTY OF ORANGE, STATE OF CALIFORNIA

By: Tony Rackauckas
TONY RACKAUCKAS
Joseph D'Agostino, Senior Assistant District Attorney
401 Civil Center Drive
Santa Ana, CA 92701-4575
Tel: (714) 834-3600
Fax: (714) 648-3636

Dated: July 1, 2014

ROBINSON, CALCAGNIE AND ROBINSON

By: Mark P. Robinson, Jr.
MARK P. ROBINSON, JR., SBN 05442
Kevin F. Calcagnie, SBN. 108994
Scot D. Wilson, SBN. 223367
ROBINSON CALCAGNIE ROBINSON
SHAPIRO DAVIS, INC.
19 Corporate Plaza Drive
Newport Beach, California 92660
Tel.: (949) 720-1288
Fax: (949) 720-1292
mrobinson@rcrlaw.net

Dated: July 1, 2014

HAGENS BERMAN SOBOL SHAPIRO LLP
Steve W. Berman (Pro Hac Vice Pending)
Andrew Volk (Pro Hac Vice Pending)
HAGENS BERMAN SOBOL
SHAPIRO LLP
1918 Eighth Avenue, Suite 3300
Seattle, WA 98101
Telephone: (206) 623-7292
Facsimile: (206) 623-0594
steve@hbsslaw.com

*Attorneys for Plaintiff*
*THE PEOPLE OF THE STATE OF CALIFORNIA*