

Shana E. Scarlett (SBN 217895)
HAGENS BERMAN SOBOL SHAPIRO LLP
715 Hearst Avenue, Suite 202
Berkeley, CA 94710
Telephone: (510) 725-3000
Facsimile: (510) 725-3001
Email: shanas@hbsslaw.com

Steve W. Berman (*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
Email: steve@hbsslaw.com

Christopher A. Seeger (*pro hac vice* pending)
SEEGER WEISS LLP
77 Water Street, 26th Floor
New York, NY 10005
Telephone: (212) 584-0700
Facsimile: (212) 584-0799
Email: cseeger@seegerweiss.com

Counsel for Plaintiffs and the Proposed Classes

[Additional Counsel Listed on Signature Page]

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

RON ALUL, MARK GERSTLE, WILLIAM
KENAR, YUN-FEI LOU, ARPAN
SRIVASTAVA, and MELISSA YEUNG,
individually and on behalf of all others similarly
situated,

Plaintiffs,

v.

AMERICAN HONDA MOTOR COMPANY,
INC.,

Defendant.

No.

CLASS ACTION COMPLAINT

JURY TRIAL DEMANDED

TABLE OF CONTENTS

	<u>Page</u>
I. INTRODUCTION	1
II. JURISDICTION & VENUE	2
III. PARTIES	2
A. Plaintiffs	2
1. California Plaintiff	2
2. Arizona Plaintiff	4
3. Delaware Plaintiff	5
4. Missouri Plaintiff	7
5. New Hampshire Plaintiff	8
6. Virginia Plaintiff	9
B. Defendant	10
IV. FACTUAL BACKGROUND	11
A. Defendant's HandsFreeLink™ System	11
B. The Defective HandsFreeLink™ System Strains (and Drains) the Electric System	13
C. Consumer Harm as a Result of the Defective HandsFreeLink™ System	14
D. Safety Hazard of a Defective HandsFreeLink™ System	15
E. Complaints to the National Highway Traffic Safety Administration Confirm the Safety Dangers of the Defective HandsFreeLink™ System	16
F. Defendant's Exclusive Knowledge and Concealment of the Defective HandsFreeLink™ System	30
G. Exclusive Knowledge, Concealment, and Safety Defect Allegations	31
V. TOLLING OF THE STATUTE OF LIMITATIONS	34
A. Discovery Rule	34
B. Fraudulent Concealment	34
C. Estoppel	34

1	VI. CLASS ALLEGATIONS	35
2	VII. CAUSES OF ACTION ON BEHALF OF THE NATIONAL CLASS	37
3	COUNT I VIOLATIONS OF THE CALIFORNIA CONSUMER LEGAL	
4	REMEDIES ACT (CAL. CIV. CODE § 1750, <i>ET SEQ.</i>)	37
5	COUNT II VIOLATIONS OF CALIFORNIA'S UNFAIR BUSINESS	
6	PRACTICES ACT (CAL. BUS. & PROF. CODE § 17200, <i>ET SEQ.</i>)	40
7	COUNT III FRAUD BY CONCEALMENT (BASED ON CALIFORNIA LAW)	42
8	COUNT IV BREACH OF EXPRESS WARRANTY (CAL. COM. CODE § 2313,	
9	<i>ET SEQ.</i> ; CAL. CIVIL CODE § 1791.2, <i>ET SEQ.</i>)	45
10	COUNT V BREACH OF IMPLIED WARRANTY OF MERCHANTABILITY	
11	(CAL. COM. CODE § 2314)	46
12	COUNT VI VIOLATIONS OF THE MAGNUSON-MOSS WARRANTY ACT	
13	(15 U.S.C. § 2301, <i>ET SEQ.</i>)	48
14	COUNT VII UNJUST ENRICHMENT (BASED ON CALIFORNIA LAW)	49
15	VIII. CAUSES OF ACTION ON BEHALF OF THE ALTERNATE CLASSES	50
16	A. Claims Brought on Behalf of the Alternate Arizona Class	50
17	COUNT I VIOLATIONS OF THE CONSUMER FRAUD ACT (ARIZ. REV.	
18	STAT. § 44-1521, <i>ET SEQ.</i>)	50
19	COUNT II FRAUDULENT CONCEALMENT (BASED ON ARIZONA LAW)	52
20	COUNT III BREACH OF EXPRESS WARRANTY (ARIZ. REV. STAT.	
21	§ 47-2313)	55
22	COUNT IV BREACH OF THE IMPLIED WARRANTY OF	
23	MERCHANTABILITY (ARIZ. REV. STAT. § 47-2314)	57
24	COUNT V VIOLATIONS OF THE MAGNUSON-MOSS WARRANTY ACT	
25	(15 U.S.C. § 2301, <i>ET SEQ.</i>)	59
26	COUNT VI UNJUST ENRICHMENT (BASED ON ARIZONA LAW)	60
27	B. Claims Brought on Behalf of the Alternate Delaware Class	61
28	COUNT I VIOLATIONS OF THE DELAWARE CONSUMER FRAUD ACT	
	(DEL. CODE ANN. TIT. 6 § 2511, <i>ET SEQ.</i>)	61
	COUNT II FRAUDULENT CONCEALMENT (BASED ON DELAWARE	
	LAW)	63
	COUNT III BREACH OF EXPRESS WARRANTY (6 DEL. C. § 2-313)	66
	COUNT IV BREACH OF THE IMPLIED WARRANTY OF	
	MERCHANTABILITY (6 DEL. C. § 2-314)	67

1	COUNT V VIOLATIONS OF THE MAGNUSON-MOSS WARRANTY ACT	
2	(15 U.S.C. § 2301, <i>ET SEQ.</i>).....	69
3	COUNT VI UNJUST ENRICHMENT (BASED ON DELAWARE LAW).....	70
4	C. Claims Brought on Behalf of the Alternate Missouri Class.....	71
5	COUNT I VIOLATIONS OF THE MISSOURI MERCHANDISING	
6	PRACTICES ACT (MO. REV. STAT. § 407.010, <i>ET SEQ.</i>)	71
7	COUNT II FRAUDULENT CONCEALMENT (BASED ON MISSOURI LAW).....	74
8	COUNT III BREACH OF EXPRESS WARRANTY (MO. REV. STAT. § 400.2-	
9	313).....	77
10	COUNT IV BREACH OF IMPLIED WARRANTY (MO. REV. STAT. § 400.2-	
11	314).....	78
12	COUNT V VIOLATIONS OF THE MAGNUSON-MOSS WARRANTY ACT	
13	(15 U.S.C. § 2301, <i>ET SEQ.</i>).....	80
14	COUNT VI UNJUST ENRICHMENT (BASED ON MISSOURI LAW)	81
15	D. Claims Brought on Behalf of the Alternate New Hampshire Class.....	82
16	COUNT I VIOLATIONS OF NEW HAMPSHIRE CONSUMER PROTECTION	
17	ACT (N.H.R.S.A. § 358-A, <i>ET SEQ.</i>).....	82
18	COUNT II FRAUDULENT CONCEALMENT (BASED ON NEW	
19	HAMPSHIRE LAW).....	84
20	COUNT III BREACH OF EXPRESS WARRANTY (N.H. REV. STAT. ANN.	
21	§ 382-A: 2-313)	86
22	COUNT IV BREACH OF IMPLIED WARRANTY (N.H. REV. STAT. ANN.	
23	§ 382-A: 2-314)	88
24	COUNT V VIOLATIONS OF THE MAGNUSON-MOSS WARRANTY ACT	
25	(15 U.S.C. § 2301, <i>ET SEQ.</i>).....	90
26	COUNT VI UNJUST ENRICHMENT (BASED ON NEW HAMPSHIRE LAW)	91
27	E. Claims Brought on Behalf of the Alternate Texas Class.....	92
28	COUNT I VIOLATIONS OF THE TEXAS DECEPTIVE TRADE PRACTICES	
	AND CONSUMER PROTECTION ACT (TEX. BUS. & COM. CODE	
	§ 17.4, <i>ET SEQ.</i>).....	92
	COUNT II FRAUDULENT CONCEALMENT (BASED ON TEXAS LAW)	94
	COUNT III BREACH OF EXPRESS WARRANTY (TEX. BUS. & COM.	
	CODE ANN. § 2.313)	97
	COUNT IV BREACH OF IMPLIED WARRANTY (TEX. BUS. & COM. CODE	
	ANN. § 2.314)	99

1	COUNT V VIOLATIONS OF THE MAGNUSON-MOSS WARRANTY ACT	
2	(15 U.S.C. § 2301, <i>ET SEQ.</i>).....	100
3	COUNT VI UNJUST ENRICHMENT (BASED ON TEXAS LAW)	102
4	F. Claims Brought on Behalf of the Alternate Virginia Class	102
5	COUNT I VIOLATIONS OF THE VIRGINIA CONSUMER PROTECTION	
6	ACT (VA. CODE ANN. § 59.1-196, <i>ET SEQ.</i>).....	102
7	COUNT II FRAUDULENT CONCEALMENT (BASED ON VIRGINIA LAW)	103
8	COUNT III BREACH OF EXPRESS WARRANTY (VA. CODE ANN. § 8.2-	
9	313).....	106
10	COUNT IV BREACH OF IMPLIED WARRANTY OF MERCHANTABILITY	
11	(VA. CODE ANN. § 8.2-314).....	108
12	COUNT V VIOLATIONS OF THE MAGNUSON-MOSS WARRANTY ACT	
13	(15 U.S.C. § 2301, <i>ET SEQ.</i>).....	110
14	COUNT VI UNJUST ENRICHMENT (BASED ON VIRGINIA LAW)	111
15	REQUEST FOR RELIEF.....	112
16	DEMAND FOR JURY TRIAL	112

1 Plaintiffs Ron Alul, Mark Gerstle, William Kenar, Yun-Fei Lou, Arpan Srivastava, and
2 Melissa Yeung, individually and on behalf of all others similarly situated (the “Class members”),
3 allege the following through their counsel:

4 **I. INTRODUCTION**

5 1. Acura is the luxury vehicle marque of Japanese automaker Honda, which operates in
6 the United States as American Honda Motor Company, Inc. (“Honda” or “Defendant”). Honda first
7 launched the Class Vehicles in the United States in March 1986 as luxury and high-performance
8 vehicles.

9 2. A necessary feature for luxury cars by the mid-2000s was “hands-free” calling, where
10 owners “pair” cell phones with the car using Bluetooth® technology. Honda was in the lead of this
11 cutting edge technology, being the first to offer “hands-free” calling with its HandsFreeLink™
12 system starting with 2004 model year Acura vehicles (“Class Vehicles”).

13 3. Unfortunately, in its effort to beat out the competition, Honda failed to develop the
14 most basic feature for any electric device like the HandsFreeLink™ unit—reliably switching off
15 when not in use. The HandsFreeLink™ unit will get stuck “on” even if not in use and even after the
16 car’s ignition switch is turned off. Once stuck “on,” the HandsFreeLink™ unit creates a constant
17 and substantial parasitic electric drain on the electric system, leading to drained and dead batteries,
18 recurring battery replacement, and premature failure of other essential electric components such as
19 alternators. Owners of Class Vehicles with the HandsFreeLink™ system find themselves with cars
20 that will not start after a short period of non-use and electrical systems prone to fail even when the
21 car is in operation. (Hereinafter, the “Defect”). Ultimately, these owners find themselves with cars
22 that are less valuable than comparable cars with properly functioning “hands-free” systems.

23 4. Acura owners are faced with the choice of expensive replacement of the
24 HandsFreeLink™ unit (in excess of \$1,000.00), with no promise that the replacement also will not
25 get stuck “on,” or disabling the HandsFreeLink™ system by disconnecting the HandsFreeLink™
26 unit from the car. Despite knowing about the issue with its HandsFreeLink™ since at least 2005,
27 Honda has merely issued internal Service Bulletins to its dealers over the years, notifying only the
28 dealers about the problem, but offering no meaningful solution, warranty coverage, or recall.

1 The design defect allows the HandsFreeLink™ unit to drain the battery even after the vehicle is
2 turned off.

3 11. Upon returning to California and under California law, Plaintiff Gerstle was required
4 to pay California taxes related to his purchase of his Acura and pass additional smog and inspections
5 tests imposed by the state of California to register the vehicle.

6 12. Starting the year of his purchase of the Acura, Plaintiff Gerstle began a repeating
7 cycle of battery replacements and related electric gremlins that would not cease and continue to this
8 day.

9 13. On August 20, 2006, he was left stranded on the side of the freeway after his car
10 suddenly died. He was forced to contact Acura roadside assistance, which replaced his battery.
11 When Plaintiff Gerstle presented his vehicle to the Acura dealership, Ed Voyles Acura, they told him
12 the replacement was “no big deal” because Acura OEM batteries “were not that great.”

13 14. On July 18, 2007, Acura of Pleasanton replaced his HandsFreeLink™ system free of
14 charge when he reported that it was not pairing with his phone.

15 15. On June 6, 2010, his battery died again and was replaced at a Costco at a cost of
16 \$75.72.

17 16. And yet again, on March 12, 2012, his car would not start and he had to have his car
18 towed to a local repair facility where he paid \$642.56 for a replacement starter and new battery.

19 17. Again in 2013, Plaintiff Gerstle was forced to purchase another replacement battery.
20 He specifically chose a battery with an extended warranty period because of the electrical problems
21 he had experienced. He purchased an Interstate-branded battery that carried a 72-month warranty.
22 But only one year later, the Interstate-brand battery needed to be replaced yet again because of the
23 parasitic electrical drain of the HandsFreeLink™ system. Because of the fast decay of the battery, he
24 was issued a small pro-rated warranty credit, but he still had to pay \$68.91 for the replacement
25 battery.

26 18. Throughout this same time, Mr. Gerstle has had odd electrical failures that he believes
27 may be linked to the defect in the HandsFreeLink™ system. For example, in October 2012, his
28 electronic throttle completely stopped working in the middle of the freeway and just before entering

1 a tunnel. Very recently, in June 2016, Plaintiff Gerstle's check engine light went on. Suspecting that
2 the ongoing electrical gremlins owing to the parasitic loss from the HandsFreeLink™ system were to
3 blame, he chose to have his battery replaced yet again on June 4, 2016, at a cost of \$148.91 at
4 AutoZone. Upon replacing his battery (and since that time), the check engine light has not
5 reappeared.

6 19. Ordinary wear and tear on even the cheapest-quality batteries carry 12-month/12,000-
7 mile warranties. Thus, the constant reoccurrence of the battery failures experienced by Mr. Gerstle
8 were not and could not have been by mere coincidence of faulty car battery after car battery. Rather,
9 the Defect is to blame.

10 20. Throughout this time, Plaintiff Gerstle did not understand that the problems he had
11 encountered could have been caused by the hidden and undisclosed defect in the HandsFreeLink™
12 system.

13 **2. Arizona Plaintiff**

14 21. Plaintiff William Kenar is a resident of Arizona domiciled in Glendale, Arizona. On
15 August 15, 2014, Plaintiff bought a used 2006 Acura TL from a private seller in Arizona. Plaintiff
16 based his decision to purchase the 2006 Acura TL in reliance on the features offered by the vehicle—
17 including its inclusion of the HandsFreeLink™—and Defendant's reputation and statements about
18 the safety, reliability, luxury, and quality of Class Vehicles. He wanted a reliable vehicle with the
19 kinds of features offered only with luxury vehicles like an Acura. Plaintiff Kenar believed his 2006
20 Acura TL would be a good value because of its reputation for luxury, reliability, safety, and
21 convenience. Plaintiff Kenar still owns his 2006 Acura TL and has paired his HandsFreeLink™ unit
22 with both iPhone and Samsung smartphones.

23 22. Unknown to Plaintiff Kenar at the time the vehicle was purchased, the vehicle was
24 equipped with a HandsFreeLink™ unit that is defectively designed. The design defect allows the
25 HandsFreeLink™ unit to drain the battery even after the vehicle is turned off.

26 23. Immediately after buying the car, Plaintiff Kenar experienced problems disconnecting
27 his smartphone from the HandsFreeLink™ unit. He would have to turn off his phone or take out his
28 phone battery to get it disconnected.

1 24. Plaintiff Kenar also began experiencing issues with the car's battery. The battery will
2 die and require a jump start if the car is not used for a day or two. As a result of these issues,
3 Plaintiff Kenar has purchased and replaced his battery twice, once in September 2015 and the other
4 time in June 2016, for approximately \$169 per battery. He also replaced his alternator in September
5 2015 for approximately \$427, including parts and labor.

6 25. Honda's unfair, unlawful, and deceptive conduct in designing, manufacturing,
7 marketing, and selling vehicles equipped with the HandsFreeLink™ unit has caused Plaintiff Kenar
8 out-of-pocket losses, future attempted repairs, loss of warranty value, and diminished value of his
9 vehicle. Honda knew about, manipulated, or recklessly disregarded the fact that the
10 HandsFreeLink™ unit could lead to vehicles that do not start reliably and electrical components that
11 might fail while the vehicle is in operation. But Honda did not disclose this defect to Plaintiff, so
12 Plaintiff Kenar purchased the vehicle on the reasonable, but mistaken, belief that the 2006 Acura TL
13 was utile and safe to operate as designed. Had Honda disclosed that the HandsFreeLink™ could lead
14 to vehicles that fail to start at a much higher level than a reasonable consumer would expect or
15 contain electrical components that might fail while the vehicle is in operation, Plaintiff Kenar would
16 not have purchased the vehicle or would have paid less for it.

17 **3. Delaware Plaintiff**

18 26. Plaintiff Yun-Fei Lou is a resident of Delaware domiciled in Newark, Delaware. On
19 April 21, 2011, Plaintiff Lou bought a new 2011 Acura RDX at Price Acura at 4585 S. Dupont Hwy,
20 Dover, Delaware 19901. Plaintiff Lou still owns his 2011 Acura RDX and has paired his
21 HandsFreeLink™ unit with both iPhone and Samsung Galaxy smartphones. Unknown to Plaintiff
22 Lou at the time the vehicle was purchased, the vehicle was equipped with a HandsFreeLink™ unit
23 that is defectively designed. The design defect allows the HandsFreeLink™ unit to continue to drain
24 the battery even after the vehicle is turned off, resulting in dead batteries. As a result, Plaintiff Lou
25 had to have his car jumped by AAA and others on several occasions because his vehicle's battery
26 was drained by the HandsFreeLink™ unit. The failure to disclose the potential defect also caused
27 Plaintiff Lou to be late to work and miss important meetings on multiple occasions, including a job
28 interview.

1 27. Plaintiff Lou first presented his vehicle for repair for what he thought was a low
2 battery issue sometime around December 2011 or January 2012. He also received several
3 complimentary battery checks for the next few years from the dealership. At no point did the
4 dealership or Honda disclose that the HandsFreeLink™ unit was the reason for the low battery
5 phenomenon, nor did they ever fix the defect.

6 28. Plaintiff Lou is a volunteer firefighter. In 2012, there was a fire emergency in the fire
7 district where Plaintiff Lou volunteers and he was unable to respond due to his 2011 Acura RDX not
8 being able start.

9 29. Around March 2013, Plaintiff Lou had to get a jump start at the fire station on the
10 University of Delaware Campus.

11 30. Around May 2013, Plaintiff Lou's 2011 Acura RDX would not start, rendering him
12 stranded around 10:00 PM, and he had to call Acura Roadside Assistance for a jump start.

13 31. In 2014, Plaintiff Lou had to pay for Rangers LLC to jump start his 2011 Acura RDX.

14 32. To mitigate the consequences of becoming stranded unexpectedly, Plaintiff Lou has
15 paid approximately \$40 for a roadside kit and pays for a premium monthly membership with the
16 Automotive Association of America (AAA).

17 33. Honda's unfair, unlawful, and deceptive conduct in designing, manufacturing,
18 marketing, and selling vehicles equipped with the HandsFreeLink™ unit has caused Plaintiff Lou
19 out-of-pocket losses, future attempted repairs, loss of warranty value, and diminished value of his
20 vehicle. Honda knew about, manipulated, or recklessly disregarded the fact that the
21 HandsFreeLink™ unit could lead to vehicles that do not start reliably and electrical components that
22 might fail while the vehicle is in operation. But Honda did not disclose this defect to Plaintiff Lou,
23 so Plaintiff Lou purchased the vehicle on the reasonable, but mistaken, belief that the 2011 Acura
24 RDX was utile and safe to operate as designed. Plaintiff Lou selected and ultimately purchased the
25 car, in part, because of its reputation for luxury, reliability, safety, and convenience, consistent with
26 his review of Honda's advertising messaging regarding luxury, reliability, safety, and
27 convenience. Plaintiff Lou believed his 2011 Acura RDX would be a good value because of its
28 reputation for luxury, reliability safety, and convenience. Had Honda disclosed that the

HandsFreeLink™ could lead to vehicles that fail to start at a much higher level than a reasonable consumer would expect or contain electrical components that might fail while the vehicle is in operation, Plaintiff Lou would not have purchased the vehicle or would have paid less for it.

4. Missouri Plaintiff

34. Plaintiff Ron Alul is a resident of Missouri domiciled in St. Louis, Missouri. On or about May 12, 2005, Plaintiff Alul bought a new 2005 Acura TL at Mungenast St. Louis Acura at 13720 Manchester Rd., Ballwin, MO. Plaintiff Alul's 2005 Acura TL included the defective HandsFreeLink™ unit. Plaintiff Alul elected and ultimately purchased the car, in part, because of its reputation for luxury, reliability, safety, and convenience, consistent with his review of Honda's advertising messaging regarding luxury, reliability, safety, and convenience. Plaintiff Alul still owns his Acura TL and has paired his HandsFreeLink™ unit with both iPhone and Samsung smartphones.

35. Unknown to Plaintiff Alul at the time the vehicle was purchased, the vehicle was equipped with a HandsFreeLink™ unit that is defectively designed. The design defect allows the HandsFreeLink™ unit to continue to drain the battery even after the vehicle is turned off. As a result, Plaintiff Alul has had to pay to replace his battery on multiple occasions.

36. Plaintiff Alul brought the vehicle to Jensen Tire & Auto 24, located at 11342 S. 96th Street Papillion, Nebraska 68046, on December 7, 2011. The technician attempted to jump start the vehicle two times. These attempts were unsuccessful. Plaintiff purchased a new battery. Plaintiff Alul brought his vehicle into Mungenast St. Louis Acura for service relating to this defect on December 23, 2014. He was informed that his battery was weak and the cost to repair would be \$165. Plaintiff also brought his vehicle into Mungenast St. Louis Acura on March 12, 2016. He replaced his battery with a new battery that came with a 100-month limited warranty from Acura. These repairs were unsuccessful.

37. Honda's unfair, unlawful, and deceptive conduct in designing, manufacturing, marketing, and selling vehicles equipped with the HandsFreeLink™ unit has caused Plaintiff Alul out-of-pocket losses, future attempted repairs, loss of warranty value, and diminished value of his vehicle. Honda knew about, manipulated, or recklessly disregarded the fact that the HandsFreeLink™ unit could lead to vehicles that do not start reliably and electrical components that

1 might fail even while the vehicle is in operation. But Honda did not disclose this defect to Plaintiff
2 Alul, so Plaintiff Alul purchased the vehicle on the reasonable, but mistaken, belief that the Acura
3 TL was utile and safe to operate as designed.

4 38. Plaintiff Alul believed his Acura TL would be a good value because of its reputation
5 for luxury, reliability, safety, and convenience. Had Honda disclosed that the HandsFreeLink™
6 could lead to vehicles that fail to start at a much higher level than a reasonable consumer would
7 expect or contain electrical components that might fail while the vehicle is in operation, Plaintiff
8 Alul would not have purchased the vehicle or would have paid less for it.

9 **5. New Hampshire Plaintiff**

10 39. Plaintiff Melissa Yeung is a resident of New Hampshire domiciled in Nashua, New
11 Hampshire. On September 27, 2007, Plaintiff Yeung bought a new 2008 Acura TL at Sunnyside
12 Acura at 482 Amherst St., Nashua, New Hampshire 03063. Plaintiff Yeung selected and ultimately
13 purchased the car, in part, because of its reputation for luxury, reliability, safety, and convenience,
14 consistent with her review of Honda's advertising messaging regarding luxury, reliability, safety, and
15 convenience. Plaintiff Yeung still owns her 2008 Acura TL and has paired her HandsFreeLink™
16 unit with both iPhone and Blackberry smartphones.

17 40. Unknown to Plaintiff Yeung at the time the vehicle was purchased, the vehicle was
18 equipped with a HandsFreeLink™ unit that is defectively designed. The design defect allows the
19 HandsFreeLink™ unit to continue to drain the battery even after the vehicle is turned off. As a
20 result, Plaintiff Yeung has had to pay to replace her battery three times. The first battery
21 replacement was covered under warranty, but the second two were out-of-pocket and cost
22 approximately \$160. Plaintiff Yeung also had to have her car jumped by AAA on several occasions
23 because her vehicle's battery was drained by the HandsFreeLink™ unit. Plaintiff Yeung brought her
24 vehicle into a dealership sometime before 2010, and to a local mechanic at least two times after
25 2010, for service relating to this defect. The defect was not repaired.

26 41. Honda's unfair, unlawful, and deceptive conduct in designing, manufacturing,
27 marketing, and selling vehicles equipped with the HandsFreeLink™ unit has caused Plaintiff Yeung
28 out-of-pocket losses, future attempted repairs, loss of warranty value, and diminished value of her

1 vehicle. Honda knew about, manipulated, or recklessly disregarded the fact that the
2 HandsFreeLink™ unit could lead to vehicles that do not start reliably and electrical components that
3 might fail while the vehicle is in operation. But Honda did not disclose this defect to Plaintiff, so
4 Plaintiff Yeung purchased the vehicle on the reasonable, but mistaken, belief that the 2008 Acura TL
5 was utile and safe to operate as designed.

6 42. Plaintiff Yeung believed her 2008 Acura TL would be a good value because of its
7 reputation for luxury, reliability, safety, and convenience. Had Honda disclosed that the
8 HandsFreeLink™ could lead to vehicles that fail to start at a much higher level than a reasonable
9 consumer would expect or contain electrical components that might fail while the vehicle is in
10 operation, Plaintiff Yeung would not have purchased the vehicle or would have paid less for it.

11 **6. Virginia Plaintiff**

12 43. Plaintiff Arpan Srivastava is a resident of Virginia domiciled in Glen Allen, Virginia.
13 On or about March 22, 2010, Plaintiff Srivastava bought a used 2005 Acura 3.2 TL at Frank Leta
14 Honda at 500 Auto Mall Dr., O'Fallon MO. Plaintiff's 2005 Acura 3.2 TL included the defective
15 HandsFreeLink™ unit. Plaintiff Srivastava selected and ultimately purchased the car, in part,
16 because of its reputation for luxury, reliability, safety, and convenience, consistent with his review of
17 Honda's advertising messaging regarding luxury, reliability, safety, and convenience. Plaintiff
18 Srivastava still owns his Acura TL and has paired his HandsFreeLink™ unit with iPhone
19 smartphones.

20 44. Unknown to Plaintiff Srivastava at the time the vehicle was purchased, the vehicle
21 was equipped with a HandsFreeLink™ unit that is defectively designed. The design defect allows
22 the HandsFreeLink™ unit to continue to drain the battery even after the vehicle is turned off. As a
23 result, Plaintiff Srivastava has had to pay to replace his battery on multiple occasions. Plaintiff
24 Srivastava brought his vehicle to Frank Leta Acura in St. Louis for service relating to this defect on
25 May 6, 2010, September 24, 2011, and October 2011. The repairs were unsuccessful. Plaintiff
26 Srivastava also brought his vehicle to Crown Acura of Richmond for service relating to this defect on
27 June 13, 2012, which warned him the battery could fail at any moment. Plaintiff Srivastava
28 purchased a battery from Wal-Mart in July 2012.

1 45. Honda's unfair, unlawful, and deceptive conduct in designing, manufacturing,
2 marketing, and selling vehicles equipped with the HandsFreeLink™ unit has caused Plaintiff
3 Srivastava out-of-pocket losses, future attempted repairs, loss of warranty value, and diminished
4 value of his vehicle. Honda knew about, manipulated, or recklessly disregarded the fact that the
5 HandsFreeLink™ unit could lead to vehicles that do not start reliably and electrical components that
6 might fail while the vehicle is in operation. But Honda did not disclose this defect to Plaintiff
7 Srivastava, so Plaintiff Srivastava purchased the vehicle on the reasonable, but mistaken, belief that
8 the Acura 3.2 TL was utile and safe to operate as designed.

9 46. Plaintiff Srivastava believed his Acura 3.2 TL would be a good value because of its
10 reputation for luxury, reliability, safety, and convenience. Had Honda disclosed that the
11 HandsFreeLink™ could lead to vehicles that fail to start at a much higher level than a reasonable
12 consumer would expect or contain electrical components that might fail while the vehicle is in
13 operation, Plaintiff Srivastava would not have purchased the vehicle or would have paid less for it.

14 **B. Defendant**

15 47. Defendant American Honda Motor Company, Inc. (hereinafter "Honda" or
16 "Defendant") is a California corporation, and is a North American subsidiary of Honda Motor
17 Company, Ltd. Defendant is headquartered in Torrance, California, maintaining central operations
18 and a rich history in California.

19 48. Defendant first opened in the United States as a storefront selling Honda motorcycles
20 in Los Angeles, California in 1959. By 1968, Defendant had sold its millionth motorcycle. Starting
21 in 1969, Defendant began marketing and selling automobiles, with its operations still centered in
22 California.

23 49. By 1991, Defendant added production to its U.S. operations and oversaw all aspects
24 of production, including research and development, from its headquarters in California. As a center-
25 point of Honda's global operations, Defendant made nearly \$2 Billion in capital investments in
26 California and exported hundreds of millions of dollars in vehicles and other technology from its
27 exclusive port facilities on the West Coast, at Port Hueneme, California, in 2015.

50. In 1986, Defendant established its first luxury name marque, Acura. By 2006, Defendant established research and development facilities dedicated solely to its Class Vehicles in Torrance, California with related facilities dedicated solely to the creation of “future Honda and Acura automobile and mobility design concepts” in downtown Los Angeles, California.

51. From its headquarters in Torrance, Defendant combines product sales, service, and coordinating functions for Honda in North America, and is responsible for the manufacture, development, distribution, marketing, sales, and servicing of Acura-brand automobiles. The decisions regarding the marketing and sale of the HandsFreeLink™ system, the development of the internal Service Bulletins relating to the HandsFreeLink™ system, and decisions regarding the disclosure or non-disclosure of the defect were in whole or substantial part made by Defendant in California and were purposefully emanated by Defendant in California.

IV. FACTUAL BACKGROUND

A. Defendant’s HandsFreeLink™ System

52. Beginning with the 2004 model year Class Vehicles, Honda was one of the first car companies to introduce Bluetooth® “hands-free” telephone technology, calling its “hands-free” interface the HandsFreeLink™ system. With a “hands-free” interface like Defendant’s HandsFreeLink™, drivers can use their phones without using their hands. Drivers “pair” a smartphone with the car, allowing calls to be made using a microphone and the speakers in the car and enabling the phone to receive voice commands through the car’s system to dial certain numbers or places, like by saying “call home” or “call my office.”

53. Beyond mere luxury and convenience, a “hands-free” interface makes for safer driving, allowing a driver to make calls with both hands on the wheel and eyes on the road. Indeed, in many states, including California, a driver is not permitted to use a phone while driving unless they are making calls “hands-free.”

54. While the technology is now fairly ubiquitous, until recently, it was an important selling point among luxury manufacturers and remains a key part of the premium price charged for these vehicles in both the new and resale car markets.

1 55. In a 2003 press release for the new 2004 model year Class Vehicles, Honda
2 introduced its HandsFreeLink™ technology, stating that Acura was again leading the way among its
3 peers in technology, performance and safety:

4 This prestigious marque was created to bring stimulating performance,
5 elegant styling, state of the art Technology and engineering and an
6 unprecedented level of customer service to the luxury import
7 market. . . .

8 Among many of Acura's firsts: . . . The first standard Bluetooth hands-
9 free phone system

10 In addition, the . . . new HandsFreeLink™ system delivers hands-free
11 phone capabilities that allow drivers to keep their hands on the wheel
12 while making and receiving calls from their mobile phone.

13 56. Further announcing the "First North American Vehicle to Feature a Standard Hands-
14 Free Phone System" in another 2013 Press Release, Defendant went further, stating:

15 The 2004 Acura TL performance luxury sedan will feature a Bluetooth
16 hands-free phone system as standard equipment when it goes on sale in
17 October at Acura dealers nationwide. The HandsFreeLink™ system
18 enables a Bluetooth wireless connection between compatible mobile
19 phones and the TL, allowing hands-free calls to be made and received
20 from the car. With legislation pending in many states to ban the use of
21 hand-held mobile phones while driving, the HandsFreeLink system is a
22 timely addition to the TL's already considerable list of standard luxury
23 features.

24 "We think the HandsFreeLink system is the most effective, most
25 convenient hands-free vehicle phone system available," said Tom
26 Elliott, Executive Vice President, Auto Operations. "And we are
27 proud to offer it as standard equipment on all TLs."

28 57. Following these early marketing statements, Honda would repeat, time and again,
how the "hands-free" in the HandsFreeLink™ system embodied the luxury, convenience, and safety
of Class Vehicles. For example, in one of the first commercials about HandsFreeLink™, a sequence
of people are driving their Acuras through a variety of roads and weather patterns (sun, rain, and
snow) with both hands confidently on the wheel while speaking aloud commands to the car,
including commands to make calls home, to the office, or a restaurant to make reservations. *See*
https://www.youtube.com/watch?v=PxFsbnm2B_k.

58. Through to the present, the HandsFreeLink™ system remains one of the key features emphasized by Defendant in its Acura marketing materials:

The [Acura] offers a formidable list of standard equipment including items such as a leather trimmed interior, power moonroof, power windows, leather-wrapped multi-function steering wheel with racing-inspired paddle shifters, an auto-dimming rearview mirror with integrated rear view camera and a tri-zone climate control system with humidity control. Also included are numerous high-tech features such as Bluetooth® HandsFreeLink™ wireless telephone interface, a Multi-Information Display (MID) that allows access to multiple electronic functions and LED backlit instrumentation.

See, e.g., <http://hondainamerica.com/news/2012-acura-mdx-continues-to-deliver-benchmark-performance-comfort-and-control/>.

B. The Defective HandsFreeLink™ System Strains (and Drains) the Electric System

59. Defendant, however, never publicly disclose or warn that the HandsFreeLink™ system “has an internal problem which creates a ‘parasitic current draw’ that continues even after the car is turned off.” This parasitic drain strains the electric system, hastening failure of the battery and other essential components in the electrical system, particularly the alternator. As a result of this defect, owners of Class Vehicles are left with cars that do not start reliably, failed electrical components requiring expensive repairs and replacements, and compromised electric components that can fail even when the vehicles are in operation. In other words, this safety feature created unsafe conditions for the owners, and this feature of convenience and luxury turned out to generate expensive maintenance costs.

60. As Defendant admitted as early as June 29, 2005 in an internal Technical Service Bulletin (“TSB”) (distributed only to Acura dealers) for the 2004 model year, the HandsFreeLink™ system will get “locked up” in an “on” position. Defendant stated in that Service Bulletin, which was distributed only to Acura dealers, that the HandsFreeLink™ “system staying on may cause a dead or low battery while the vehicle’s ignition switch is off.” Defendant provided no special warranty coverage for replacement of the HandsFreeLink™ unit and directed dealers to use the same type of HandsFreeLink™ unit for replacement.

1 61. Compounding the problem is that the defect effectively eludes diagnosis. Once the
2 HandsFreeLink™ defect compromises the battery, the system can “reset,” hiding the problem until
3 the system gets stuck again. As Defendant stated in that same June 2005 Service Bulletin: “If the
4 battery’s state of charge goes low enough, or if the battery cables are removed, the system may reset,
5 causing the problem to appear intermittent.” Accordingly, the symptoms of the defect (failed
6 components in the electrical system, like batteries and alternators) are usually mistaken to be the only
7 problem—a bad battery or alternator needing replacement.

8 62. In a subsequent, internal Technical Service Bulletin from December 6, 2008,
9 distributed only to Acura dealers, Defendant admitted that other more recent models had the same
10 defect in their HandsFreeLink™ systems. Defendant stated that the HandsFreeLink™ “control unit
11 has an internal problem, which creates a parasitic current draw of 250mA.” One of the symptoms for
12 the problem was that the battery would be so drained that it could not start the vehicle.

13 63. The HandsFreeLink™ system does not even have to be used by an owner—ever—to
14 get stuck “on.” The defect is inherent in the HandsFreeLink™ unit that is always operational, and
15 always draws a parasitic battery drain.

16 64. It is no surprise that modern vehicles use electronics. Cars include many components
17 that will continue to draw power from the battery even when a car is off—for example to save preset
18 radio stations, power security devices and run clocks. However, the draw for these ordinary
19 purposes is minimal, typically amounting to no more than a total trickle of 25 to 40 milliamperes
20 (mA). Such devices are, for example, short-range wireless receivers to unlock the doors. With such
21 ordinary and expected draw, a battery will last weeks or months without ever being recharged and
22 the regular life and operation of the battery and wider electrical system are not compromised. The
23 parasitic draw of 250mA created in an Acura vehicle by the defective HandsFreeLink™ system,
24 however, places upwards of ten times the drain and strain on the electric system than experienced by
25 all other devices combined.

26 **C. Consumer Harm as a Result of the Defective HandsFreeLink™ System**

27 65. The excessive and constant battery draw detailed above will drain batteries in only
28 hours or days if the vehicle is not used rather than over the typical course of weeks or months. This

1 constant strain compromises the battery, hastening the ultimate failure of the battery and other
2 essential electrical components, particularly the alternator that recharges the vehicle's battery.
3 Because of the defect, the alternator in an Acura vehicle is pressed into extra service to compensate
4 for the compromised battery while continuing regular operation of the electrical systems when the
5 vehicle is in operation. Like the battery, the alternator will fail at an accelerated rate and may fail
6 suddenly as a result of the defect.

7 66. As detailed in all of the above-listed internal Technical Service Bulletins, the only fix
8 was a replacement of the HandsFreeLink™ systems, in total, which may or may not solve the
9 problem and still may result in the same problem later to “appear intermittent[ly].”

10 67. Compounding this problem for consumers, each time the HandsFreeLink™ system is
11 replaced, besides the inconvenience, lost time, and often unreimbursed costs, as described in the
12 Technical Service Bulletins, “[a]ll of the client’s stored phone numbers will be lost when the . . . unit
13 is replaced.” In other words, another layer of grief is added on: consumers and the class must
14 reprogram their HandsFreeLink™ system with all of their phone contacts in order for the system to
15 retain the functionality that it did prior to the battery drain.

16 68. Moreover, consumers pay a premium price for high-end features like the (defective)
17 HandsFreeLink™ system, and do so for the added promise of safety and convenience. In sum,
18 consumers are stuck with not only the inconvenience of repeat service visits but they are also stuck
19 with the bill for a laundry list of other costs, including but not limited to battery replacements,
20 alternator and starter replacements (because of the added strain on them due to constant re-charging
21 of the battery), the added cost of the HandsFreeLink™ hardware itself, and the time lost in
22 reprogramming the HandsFreeLink™ system with his/her phone contacts after each (ineffective)
23 replacement.

24 **D. Safety Hazard of a Defective HandsFreeLink™ System**

25 69. The Defect in the HandsFreeLink™ system creates a safety hazard. Compromised
26 batteries may fail to start the Class Vehicles at any time and any place whether or not the owner is far
27 from home or needs the car in the midst of an emergency. In addition, the compromised alternator
28 (which needs to compensate for the compromised) is subject to premature and sudden failure. With

1 a compromised battery and a failed alternator, the Class Vehicles can be left suddenly without any
 2 electric power even when the vehicle is in use. At that time, a vehicle in operation will, stall, lose
 3 power (including to power assisted features like brakes and steering), lose headlights, trigger
 4 multiple warning lights on the dashboard, and/or otherwise operate poorly or erratically.

5 70. The HandsFreeLink™ system is such a crucial safety feature for these luxury vehicles
 6 that Honda created a website dedicated solely to the HandsFreeLink™ feature. *See*
 7 <http://handsfreelink.acura.com/Acura/en-US/US>. At the HandsFreeLink™ website, Defendant extols
 8 the virtues of its HandsFreeLink™ technology and it explains that using it can prevent car
 9 malfunctions by allowing for remote diagnostics, potentially avoiding dangerous on-road situations:

10 **Data Connection for AcuraLink Diagnostics**

11 Ability to connect and transmit data to the Acura Server for the purpose of AcuraLink™ communication. AcuraLink™
 12 Diagnostic Info provides a deeper analysis of what caused the malfunction in any one of the many systems in your
 13 vehicle.

14 This can sometimes prevent the need for an unnecessary visit to your dealer. The system can notify you via AcuraLink™
 15 when you have service needs that are indicated by the remote diagnosis system. You must have a compatible phone with
 16 an active Data Plan.

17 *See* <http://handsfreelink.acura.com/Acura/en-US/US/AdvancedFeatures>.

18 71. Consumers visiting the Acura website today, shopping for a new 2017 Acura, are still
 19 told about the safety of the HandsFreeLink™ system: “Check in with the office without taking your
 20 eyes off the road. The Bluetooth® HandsFreeLink™ system works with most Bluetooth-enabled
 21 cell phones to let you initiate and receive calls using the RDX audio system.” *See*
 22 <http://www.acura.com/Features.aspx?model=RDX&modelYear=2017&context=Interior#~pKriC7t592dI0j>.

23 **E. Complaints to the National Highway Traffic Safety Administration Confirm the Safety
 24 Dangers of the Defective HandsFreeLink™ System**

25 72. Complaints to the National Highway Transportation Safety Administration
 26 (“NHTSA”) confirm that the defect in the HandsFreeLink™ system creates a safety hazard for
 27 drivers. For example:

28 WHILE DRIVING 65 MPH, THE VEHICLE [A 2007 ACURA TL]
 STALLED AND ALL OF THE WARNING LAMPS
 ILLUMINATED. THE VEHICLE WAS TOWED TO THE
 DEALER. THE TECHNICIAN DIAGNOSED THAT THE HANDS

1 FREE LINK FAILED, CAUSING THE BATTERY TO DRAIN. AS
2 A RESULT, THE ALTERNATOR AND HANDS FREE LINK
3 NEEDED TO BE REPLACED. THE MANUFACTURER WAS
MADE AWARE OF THE FAILURE. . . .

4 THE HANDS FREE LINK SYSTEM IN THE 2004-2008 ACURA TL
5 IS CREATING A DRAIN ON THE BATTERY RESULTING IN
6 COMPLETE ELECTRICAL FAILURE OF THE AUTOMOBILE.
7 THE INCIDENCE OF FAILURE IS MOST COMMON
8 IMMEDIATELY AFTER PERIODS OF AT LEAST 10 HOURS OF
9 NON-USE OR SHORTLY AFTER STARTING. AS A RESULT
10 FROM [sic] THIS ISSUE I EXPERIENCED THIS ELECTRICAL
11 PROBLEM FOR THE PAST YEAR, FROM GOING THROUGH
12 MULTIPLE BATTERIES AND BEING IN THE UNSAFE
13 SITUATION OF MY ACURA TL LOSING ITS POWER IN A VERY
BUSY INTERSECTION. THIS PROBLEM HAS BEEN REPORTED
EXTENSIVELY ON MULTIPLE ACURA OWNER'S
WEBSITES/BLOGS AND HAS BEEN CONFIRMED BY THE
LOCAL DEALERSHIP. GIVEN THE POSSIBILITY OF IN-USE
ELECTRICAL FAILURE, A RECALL SHOULD BE ISSUED. ARE
WE WAITING FOR SOMEONE TO BE KILLED OR SERIOUSLY
INJURED BEFORE A RECALL IS REALLY ISSUED?

14 WHEN I STARTED THE VEHICLE [2006 ACURA TL], IT HAD A
15 MOANING SOUND. I CONTINUED DRIVING AND THE
16 BATTERY LIGHT, AIRBAG LIGHT, CSV LIGHT, ALL CAME ON
17 JUST BEFORE THE DASH LIGHTS FLICKERED ON AND OFF,
18 THEN TOTALLY WENT OUT AND THE CAR ENGINE SHUT
19 OFF. WHEN I TRIED TO JUMPSTART THE CAR, THE CAR
20 STARTED AFTER A FEW MINUTES BUT WHEN THE JUMPER
21 CABLES WERE REMOVED, THE CAR INSTANTLY SHUT
22 DOWN. THE CAR WAS IN THE MIDDLE OF THE ROAD AND
HAD TO BE TOWED TO MY HOUSE. THREE MONTHS AGO,
THE CAR WOULD NOT START. I GOT IT JUMPSTARTED AND
IT RAN PERFECTLY UNTIL THE ABOVE INCIDENT
OCCURRED. THIS IS THE THIRD BATTERY THIS CAR HAS
HAD. . . .

23 SEVERAL TIMES, THE ELECTRICAL SYSTEM SHUTS OFF
24 WHILE DRIVING. I WAS LUCKY TO BE IN THE
25 NEIGHBORHOOD AND NOT ON A HIGHWAY. THE DEALER
26 STATED THERE IS A PROBLEM WITH THE BLUETOOTH [THE
HANDSFREELINK™ SYSTEM] . . . THIS IS THE SECOND TIME
27 THIS HAS OCCURRED. THE FIRST TIME IT HAPPENED, THE
28 BLUETOOTH WAS UNDER ACURA WARRANTY AND THE
DEALER SUGGESTED WE DISCONNECT IT TO AVOID THE
SAME ISSUE HAPPENING AGAIN. BUT THAT IS THE REASON
I HAD BOUGHT THE CAR [2007 ACURA MDX] IN 2007. IT HAD

1 AN INTEGRATED BLUETOOTH. THE TIMES THE CAR [SHUT]
2 OFF WHILE DRIVING LUCKILY WAS AT A TRAFFIC LIGHT
3 AND IN OUR NEIGHBORHOOD. I JUST HOPE THAT IT DOES
NOT HAPPEN WHILE WE ARE ON THE HIGHWAY. . . .

4 RELATED TO THE HANDS FREE LINK WHICH HASN'T
5 WORKED IN TWO YEARS. I HAVE REPLACED THE BATTERY
6 SEVERAL TIMES (ONCE TWICE ONE WEEK, UNDER
7 WARRANTY). I REPLACED THE BATTERY A WEEK AGO AND
8 ASK THEM TO PLEASE RESET THE HANDS FREE LINK . . .
9 .AND MY CAR [ACURA MDX] NAV FLICKERS NOW. TWO
DAYS AGO THE CAR MOMENTARILY LOST POWER WHILE I
WAS DRIVING IN TOWN!!!! I WAS FORTUNATE TO BE ON
[A] STREET WITH 35MPH SPEED LIMIT AND NO OTHER
CARS. IT WAS TERRIFYING.

10 73. Other complaints to NHTSA and elsewhere from owners of Class Vehicles confirm,
11 time and again, the existence of the defect:

12 IF THE CAR PARKED FOR 2 OR MORE DAYS IT WILL NOT
13 START. THERE IS DRAIN IN THE SYSTEM. APPARENTLY THIS
14 IS VERY COMMON PROBLEM WITH ACURA. DEALER SAID
15 THAT HE COULD TRY TO DISCONNECT BLUETOOTH
16 (HANDSFREE LINK) FOR \$150-200. MY FAMILY WAS STUCK
17 IN COLD WINTER NIGHTS IN THE PARKING LOT WITH NO
PEOPLE, WHICH WAS NOT PLEASANT. I THINK ACURA
SHOULD HAVE A RECALL AND DISCONNECT OR REPLACE
DEFECTIVE UNITS FOR FREE. WE REPLACED BATTERY A
COUPLE OF TIMES WITHOUT ANY AFFECT.

18 CAR CONSTANTLY LOSES POWER OR GET WARNING LIGHT
19 STATING I NEED TO CHECK MY STARTING SYSTEM. HAVE
20 REPLACED THE BATTERY 3 TIMES THIS YEAR, REPLACED
21 THE ALTERNATOR TWICE AND HAVE REPLACED THE
22 STARTER ONCE. SOMETIMES CAR DOES NOT LOSE POWER
23 ALL THE WAY, BUT WILL LOSE FUNCTIONALITY OF
24 WINDOWS, TURN SIGNALS, WINDSHIELD WIPERS, RADIO,
25 AC AND ANY OTHER FUNCTION ALTHOUGH CAR WILL
26 STILL DRIVE. INSIDE THE ARM REST IS USUALLY
27 EXTREMELY HOT WHEN THIS HAPPENS. SO HOT THAT IT
28 BURNS YOUR HAND TO THE TOUCH. AFTER READING OVER
20 COMPLAINTS ON THIS SAME TYPE OF ISSUE, IT SEEMS
TO BE CAUSED BY THE HANDSFREE LINK IN THE CAR,
WHICH I HAVE NOT BEEN ABLE TO USE BECAUSE IT
STOPPED WORKING COMPLETELY BACK IN MARCH 2014.
THIS ISSUE NEEDS TO BE RECALLED BEFORE SOMEONE IS
SERIOUSLY INJURED OR WORSE!

1 BATTERY IN OUR 2007 ACURA MDX HAS HAD TO BE
2 REPLACED 3 TIMES IN THE PAST COUPLE OF MONTHS!
3 TURNS OUT THAT THE HANDSFREE LINK MODULE WAS
4 DRAINING THE BATTERY AND CAUSING IT HAVING TO BE
5 REPLACED NUMEROUS TIMES. THIS COULD CAUSE A FIRE
6 WHICH CAN POSE AS A DEADLY RESULT ESPECIALLY IF
7 THE CAR IS PARKED INSIDE OF A GARAGE. THIS NEEDS TO
8 BE REPLACED BY ACURA FREE OF CHARGE ASAP! I
9 DISCONNECTED IT RATHER THAN REPLACING IT AFTER
10 READING THE NUMEROUS COMPLAINTS ON THIS MATTER!
11 *JS

12 VEHICLE'S BATTERY DRAINED WHILE SITTING FOR 2
13 WEEKS WITHOUT DRIVING IT. TOWED TO DEALER. DEALER
14 DIAGNOSED A BATTERY DRAIN COMING FROM THE
15 HANDSFREE LINK UNIT. PART WAS \$350+. DEALER
16 EXPLAINED THAT THE LABOR WAS \$150+ WHETHER THEY
17 DEACTIVATED THE FAULTY UNIT OR WHETHER THEY
18 REPLACED IT WITH A NEW UNIT. I OPTED FOR THE NEW
19 UNIT. TOTAL BILL WAS -\$800 WHICH INCLUDED
20 LUDICROUS "DEALER-COMPLIANT" TOWING COMPANY.
21 DEALER ALSO REPLACED BATTERY AT THIS TIME (UNDER
22 WARRANTY BECAUSE I'D HAD A SIMILAR PROBLEM 4
23 MONTHS EARLIER - HOWEVER IT WAS NOT DIAGNOSED AT
24 THAT TIME AS HFL UNIT). CAR SAT AGAIN FOR 1 WEEK.
25 BRAND NEW BATTERY IS NOW COMPLETELY DEAD AGAIN.
26 *TR

27 BATTERY IN OUR 2007 ACURA MDX HAS HAD TO BE
28 REPLACED 3 TIMES IN THE PAST COUPLE OF MONTHS!
TURNS OUT THAT THE HANDSFREE LINK MODULE WAS
DRAINING THE BATTERY AND CAUSING IT HAVING TO BE
REPLACED NUMEROUS TIMES. THIS COULD CAUSE A FIRE
WHICH CAN POSE AS A DEADLY RESULT ESPECIALLY IF
THE CAR IS PARKED INSIDE OF A GARAGE. THIS NEEDS TO
BE REPLACED BY ACURA FREE OF CHARGE ASAP! *TR

BATTERY WAS FOUND TO BE COMPLETELY DRAINED ON A
FEW OCCASIONS AFTER SITTING OFF OVERNIGHT. AFTER
EXAMINING POSSIBLE CULPRITS WHEN THE BATTER WAS
FOUND DRAINED IT WAS FOUND THAT THE HANDSFREE
MODULE LOCATED IN THE REAR OF THE CENTER CONSOLE
WAS HOT TO THE TOUCH. AFTER REMOVING THE MODULE
COMPLETELY AND RECHARGING THE BATTERY THIS
INCIDENT OF BATTERY DRAINAGE HAS NOT OCCURRED IN
3 MONTHS. THE HANDSFREE MODULE THAT OPERATES THE
BLUETOOTH AND HANDFREE FUNCTIONS OF THE CAR IS
DEFECTIVE TO THE POINT THAT IT PULLS A CONSTANT

1 LOAD FROM THE BATTERY EVEN WHEN THE CAR IS SHUT
2 OFF AND KEYS ARE NOT IN THE IGNITION. SEARCHING THE
3 INTERNET FINDS MANY OTHER OWNERS OF THE SAME
4 MODEL TO HAVE THE SAME PROBLEM. THIS MODULE
5 SHOULD BE REPLACED BY THE MANUFACTURER FREE OF
6 CHARGE BECAUSE IT CAN LEAD TO A DEAD BATTERY
7 WITH NO WAY TO START THE CAR, AS WELL AS POSSIBLE
8 FIRE FROM THE AMOUNT OF HEAT BUILT UP IN THE
9 FAULTY MODULE. *TR

10 MY BATTERY FAILED FOR THE SECOND TIME IN A COUPLE
11 OF MONTHS AND REQUIRED A JUMP IN ORDER FOR THE
12 CAR TO START. I TOOK IT TO AN ACURA DEALERSHIP
13 WHERE THEY DETERMINED THAT THE HANDSFREE LINK
14 SYSTEM WAS ELECTRICALLY FAULTY AND WAS STAYING
15 ON CONTINUOUSLY, WHETHER THE CAR WAS RUNNING OR
16 NOT. HENCE, THERE WAS A CONSTANT DRAW ON THE
17 BATTERY. TO (HOPEFULLY) RESOLVE THE PROBLEM, I HAD
18 THE DEALERSHIP REPLACE THE BATTERY AND THE
19 HANDSFREE LINK SYSTEM. *TR

20 HFL ON MY 2006 MDX STOPPED WORKING A WHILE BACK.
21 WHEN YOU PRESS THE TALK SWITCH, NOTHING HAPPENS.
22 OCCASIONALLY, IT COMES ON, BUT NOT OPERATIONAL.
23 WHAT I MEAN IS IT PROMPTS AND I CAN GO THROUGH THE
24 MAIN MENU. BUT WHEN I TRY TO PAIR MY PHONE IT GOES
25 INTO A NEVER ENDING SCANNING LOOP. IT DOESN'T
26 APPEAR THAT ANY HANDSHAKING WITH THE PHONE IS
27 ESTABLISHED. THIS SAME PHONE WORKS FINE WITH
28 BLUETOOTH IN MY OTHER CAR AND OTHER DEVICES. SO,
IT'S NOT THE PHONE. FOR ALMOST AN YEAR, THE BATTERY
ON THE MDX KEEP DRAINING AND I WOULD REQUIRE A
JUMP START IF I DON'T USE IT FOR 2-3 DAYS. IT LOOKS LIKE
THE FAULTY BLUETOOTH HFL IS CAUSING THE BATTERY
DRAIN. MANY PEOPLE OUT THERE HAVE THE SAME
PROBLEM, NOT ONLY WITH 2006 ACURA MDX, BUT ALSO
WITH SOME DIFFERENT ACURA MODELS.

PARASITIC BATTERY DRAIN. BATTERY (5 MO OLD)--NO
BLUETOOTH. BATTERY TESTED BY SHOP-OK. ACURA LINK
SITE SAID SINCE 2005, ACURA HFL (HANDS FREE LINK)
MODULE DEFECTIVE, CAUSING A SHORT IN SYSTEM, THUS
DRAINING THE BATTERY. THERE IS ALSO A SERVICE
BULLETIN FOR THIS ISSUE. TO ME, THIS IS NOT ONLY A
SAFETY HAZARD (DEAD BATTERY) BUT A RECALL ITEM (IT
HAS BEEN ONGOING PROBLEM THAT HASN'T BEEN FIXED).
THE MODULE IS LOCATED IN THE ROOF, WHICH SEES
EXTREME TEMPERATURES. THE DEALER KNOWS ABOUT

1 THIS PROBLEM AND CHARGES \$700-\$900 TO REPLACE THE
2 MODULE. THE MODULE GOES FROM \$285 TO \$200 ON-LINE
3 AND THE DESIGN HAS NOT CHANGED (JOHNSON
4 CONTROLS). THE TIME IT TAKES TO R&R THE MODULE
5 (UNPLUG AND PLUG IN) IS 10MIN. I ORDERED THE PART
6 AND INSTALLED MYSELF. PLEASE REVIEW THIS AS A
7 RECALL FOR ALL THE ACURA OWNERS WHO PAID
8 ABSORBENT COSTS TO HAVE IT REPLACED BY THE DEALER
9 AND THOSE OF US INCONVENIENCED WITH OUT OF
10 POCKET \$, DEAD BATTERY AND NO BLUETOOTH. I PAID A
11 BUNDLE FOR THE CAR ORIGINALLY BECAUSE IT WAS
12 GOING TO BE THE LAST CAR I WAS EVER GOING TO BUY.
13 NOW I AM SELLING THE CAR TO PREVENT THE NEXT
14 COSTLY REPAIR.

15 AFTER BEING PARKED FOR ABOUT 2 WEEKS THE BATTERY
16 STARTED FINE. I DROVE 10 MILES, TURNED OFF THE CAR
17 FOR 1 HOUR, TRIED TO START THE CAR AGAIN AND THE
18 ENGINE WOULD NOT TURN OVER. THE INSIDE LIGHTS
19 WERE ON BUT THE HEADLIGHTS WERE DIM. AFTER TRYING
20 TO START THE CAR SEVERAL TIMES BOTH THE INSIDE
21 LIGHTS AND THE HEADLIGHTS WERE COMPLETELY OUT. I
22 HAD TO CALL AAA FOR A JUMP BECAUSE THE BATTERY
23 WAS DEAD. I THOUGHT THIS WAS ODD BUT THEN I
24 REMEMBERED A FRIEND OF MINE HAS A 2008 TL AND HE
25 HAS TO JUMP HIS BATTERY WEEKLY. SO I DID AN
26 INTERNET SEARCH AND LEARNED THAT THOUSANDS OF
27 ACURA OWNERS ARE HAVING THE SAME PROBLEM AND
28 MOST ATTRIBUTE THE PROBLEM TO THE HANDS FREE LINK
SYSTEMS (HFL). SO I CALLED ACURA AND THEY
CONFIRMED THAT THE CAUSE IS MOST LIKELY DUE TO
HANDS FREE LINK SYSTEM. WHY HASN'T THIS BEEN A
RECALL? IS ACURA WAITING FOR SOME TO DIE FIRST? THIS
IS SAFETY ISSUE AND A RACKET! THE DEALER CHARGES
NEARLY \$200 TO DIAGNOSE THE PROBLEM AND SEVERAL
HUNDRED MORE DOLLARS TO FIX IT. A RECALL IS
WARRANTED!!!

MY CAR SAT AT AIRPORT FOR APPROXIMATELY A WEEK
AND WOULD NOT START UPON RETURN. GOT A JUMP AND
WAS OK FOR ABOUT A WEEK WHEN AGAIN IT WOULD NOT
START AFTER SITTING IN THE GARAGE FOR 3 DAYS. I TOOK
THE BATTERY TO THE STORE FOR A REPLACEMENT. HE
TESTED THIS 2 YEAR OLD BATTERY AND IT WAS PERFECT. I
WENT ON-LINE TO SEARCH FOR THIS PROBLEM AND THE
YEARS 2004 THROUGH 2007 HAVE A LARGE NUMBER OF
INCIDENCES EXACTLY LIKE MINE. THE PROBLEM THAT

1 THE ON-LINE AUDIENCE HAS FOUND IS THAT OVER TIME A
2 PARTIAL SHORT CIRCUIT IN THE HFL (HANDS FREE LINK)
3 MODULE APPEARS. THIS IS CLEARLY A LATENT DEFECT IN
4 THIS MODULE. I WROTE TO ACURA CUSTOMER SERVICE
5 AND THEIR RESPONSE DID NOT ADDRESS THE SPECIFIC
6 PROBLEM. I GOT A "COOK- BOOK" RESPONSE THAT I
7 SHOULD BRING IT TO THE DEALER FOR THEM TO CHECK IT
8 OUT. IS THERE ANYTHING YOU CAN DO REGARDING SUCH
9 LATENT DEFECTS FOR OUT-OF-WARRANTY VEHICLES?

10 BATTERY FAILURE AFTER 18 MONTHS/17,000 MILES. WAS
11 ADVISED BY SERVICE DEPT. REPRESENTATIVE THAT CAR'S
12 BLUETOOTH FEATURE ACTS AS A "VAMPIRE" DRAIN ON
13 THE BATTERY EVEN WHEN THE ENGINE IS OFF. SAID IT'S A
14 KNOWN PROBLEM WITH 2005 AND 2006 MODELS.

15 THE HANDSFREE LINK (BLUETOOTH) MODULE FAILED. I'VE
16 READ THAT THIS IS A COMMON OCCURRENCE FROM THE
17 WEBSITE I BELONG TO ACURAZINE.COM (A WEBSITE FOR
18 ACURA OWNERS/ENTHUSIASTS). I CONSIDER IT A SAFETY
19 ISSUE SINCE IT ALLOWS YOU TO USE YOUR CELLPHONE
20 WHILE DRIVING WITHOUT HAVING TO USE YOUR
21 HANDSET. THE CAR'S STEREO SPEAKER SYSTEM AND A
22 BUILT-IN MICROPHONE ALLOWS YOU TO CONDUCT A
23 PHONE CALL. I HAVE READ IT IS A POOR DESIGN CHOICE
24 ON ACURA'S PART PLACING THE BLUETOOTH MODULE IN
25 THE CAR CEILING NEAR THE ROOF. SITTING IN THE SUN,
26 THE MODULE "FRIES" AND EVENTUALLY FAILS. ACURA
27 REFUSES TO DO ANYTHING ABOUT IT STATING THAT IT IS
28 OUT OF WARRANTY. THEY WANT TO CHARGE \$110 JUST TO
DIAGNOSE IT AND OVER \$700 TO INSTALL A NEW DEVICE. I
HOPE ACURA OWNERS COMPLAIN AND WRITE LETTERS TO
ACURA ABOUT THIS ISSUE. I FEEL A SAFETY RECALL
SHOULD BE ISSUED AND PERHAPS EVEN RELOCATING THE
MODULE OUT OF THE HEAT FROM THE SUN.

MY CAR BATTERY KEPT DYING EVERY 3 MONTHS, I EVEN
GOT A NEW BATTERY AND MY CAR WAS STILL DYING. I
WAS STRANDED AT THE BANK IN A PARKING LOT, MY
DRIVEWAY, AND AT WORK. AFTER IT DIED AGAIN AND
WOULDN'T START WITH A NEW BATTERY I CALLED THE
DEALERSHIP. THEY STATED IT IS MY BLUE TOOTH, WHICH
HADN'T BEEN WORKING, THAT IS DRAINING MY BATTERY
AND THEY HAVE SEEN IT IN MY MODEL AND YEAR. I HAD
TO PAY \$100 TO HAVE IT DISCONNECTED AND THEY WANT
TO CHARGE ME \$400 TO HAVE IT REPLACED. I REPLACED IT
AND NOW THEY WONT REIMBURSE ME. THIS SHOULD BE A
RECALL AND IT IS A SAFETY ISSUE BEING STRANDED WITH

1 YOUR CAR NOT STARTING. I HAVE A BABY THAT IS NOT OK
2 WITH ME TO WONDER IF MY CAR WILL START. PLEASE
3 HELP ACURA NEEDS TO BE ACCOUNTABLE FOR THIS
4 FAULTY PART AND THE SAFETY OF PEOPLE DRIVING THEIR
5 CARS.

6 THE HANDS FREE LINK SYSTEM IN MY 2006 ACURA TL IS
7 CREATING A DRAIN ON THE BATTERY RESULTING IN
8 COMPLETE ELECTRICAL FAILURE OF THE AUTOMOBILE.
9 THE INCIDENCE OF FAILURE IS MOST COMMON
10 IMMEDIATELY AFTER PERIODS OF AT LEAST 10 HOURS OF
11 NON-USE OR SHORTLY AFTER STARTING. IF NOT FOR AAA,
12 I WOULD HAVE BEEN LEFT STRANDED 300 MILES AWAY
13 FROM MY HOME.. I HAVE REPLACED 2 BATTERIES
14 THINKING THAT WAS THE CAUSE WITHIN THE LAST 3
15 YEARS. SOMETHING NEEDS TO BE DONE! RECALL!!!

16 THE HANDS FREE LINK SYSTEM THAT USES BLUETOOTH TO
17 CONNECT TO YOUR CELLULAR PHONE IS DEFECTIVE. IT
18 KILLS THE CAR BATTERY, ALWAYS DRAWING CURRENT
19 FROM THE BATTERY EVEN WHEN THE CAR IS PARKED AND
20 NOT RUNNING. HAD BATTERY REPLACED ALL READY.
21 MANUFACTURER SUGGESTED REPAIR IS TO DISCONNECT
22 THE HANDS FREE LINK FROM THE VEHICLE. I FEEL THIS IS
23 UNSAFE . I T WOULD CAUSE PEOPLE TO USE THERE CELL
24 PHONES WITHOUT THE HANDS FREE FEATURE WHILE
25 DRIVING, WHICH IN TURN COULD CAUSE AN ACCIDENT. SO
26 THIS IS A MAJOR SAFETY ISSUE AND I FEEL ACURA
27 SHOULD RESOLVE THE PROBLEM. I HAVE RESEARCHED
28 THIS ISSUE AND HAVE FOUND THAT THIS PROBLEM IS
WIDESPREAD THROUGHOUT AT LEAST TWO MODELS OF
ACURA (ACURA MDX AND ACURA TL), AND
APPROXIMATELY YEARS 2004 THROUGH 2008.

BATTERY KEPT GOING DEAD AND STRANDING ME IN
MULTIPLE PLACES. HAD TO PURCHASE A PORTABLE CAR
STARTER IN ORDER TO KEEP RESTARTING THE CAR.
COULDN'T FIND ANY OFFICIAL REASONS BEHIND IT FROM
ANY ACURA SOURCES. AFTER SOME INTERNET SEARCHING
I FOUND OUT THAT THE HFL BLUETOOTH MODULE WAS
CAUSING A BATTERY DRAIN FOR MANY OTHER OWNERS.
SOLUTION WAS TO REMOVE THE MODULE. AFTER THAT
THE PROBLEM WENT AWAY. WAS STRANDED MULTIPLE
TIMES -- VERY UNSAFE!! ALSO HAD TO PURCHASE CAR
STARTER AND NEW BATTERY! ACURA DEALERS REFUSED
TO PAY FOR THE NEW HFL REPLACEMENT. THIS IS A
SAFETY ISSUE THAT HAS AFFECTED MANY DRIVERS.
COULD BE VERY DANGEROUS.

1 I HAVE THE SAME CAR AND MY HFL [HANDSFREELINK]
2 WENT OUT ABOUT 2 WEEKS AGO. I HAVE LEARNED QUITE
3 A BIT IN THE PAST FEW DAYS. THIS IS DEFINITELY A BIG
4 PROBLEM. THE REPAIR PLACE I TALKED TO TOLD ME THAT
5 THE SUPPLIER HAS AT LEAST 3 IN STOCK. IF SUPPLIERS
6 ARE CARRYING EXPENSIVE ITEMS LIKE THE HFL THEN
7 THEY EXPECT TO BE SELLING ABOUT 1 PER WEEK. HE HAS
8 REPLACED MANY OF THEM AND FEELS HONDA SHOULD BE
9 REPLACING THEM AT NO COST GIVEN HOW MANY HE HAS
10 HAD TO REPLACE. HE ALSO SAID COUNSELED AGAINST
11 BUYING A USED ONE -- FOR OBVIOUS REASONS.

12 BE CAREFUL ABOUT AN ANCILLARY PROBLEM--
13 YESTERDAY MY CAR WOULDN'T START. I WAS TOLD BY
14 THE ACURA DEALER AND THE 3RD PARTY REPAIR
15 FACILITY THAT THE BROKEN UNITS DRAIN YOUR
16 BATTERY. YOU HAVE NOT CHOICE BUT TO SHELL OUT THE
17 \$700-\$800 -- SAME COST WHETHER YOU HAVE THE NAVI OR
18 NOT. I ASKED IF THEY COULD JUST DISCONNECT IT AND
19 THE DEALER SAID NO, THEY WERE NOT ALLOWED TO.

20 IN MY OPINION, THIS IS A RECALL ITEM BUT WILL THEY
21 RECALL SOMETHING THAT IS NOT A "SAFETY" ISSUE? IF
22 NOT, FROM WHAT I'VE HEARD AND WHAT I'VE JUST READ,
23 THIS SEEMS TO BE A CLASS ACTION ISSUE.

24 LOOKS LIKE I AM JOINING THE CLUB.... THE HFL ON MY
25 2006 DIED ON ME THIS WEEK AS WELL. AND THIS MORNING
26 MY BATTERY WAS DEAD SO I THINK I AM EXPERIENCING
27 THE DISCHARGE ISSUE FROM THE BAD MODULE.

28 I GOING TO TRY TO UNPLUG THE MODULE THIS WEEKEND
TO SEE IF THAT HELPS. NO WAY I AM PUTTING OUT THE \$\$\$
TO ACURA FOR A NEW MODULE!

I HAVE BEEN HAVING PROBLEMS WITH MY HFL FOR A
COUPLE MONTHS AND HAVE JUST BEEN MAKING DUE
WITHOUT IT. HOWEVER NOW, MY BATTERY KEEPS DYING
BECAUSE APPARENTLY THE HFL IS DRAINING IT.

I TOOK THE CAR INTO MY LOCAL ACURA DEALER (ACURA
OF PLEASANTON, CA) AND THEY WANT \$150 JUST TO
DIAGNOSE IT AND ANOTHER \$500 IF IT NEEDS
REPLACEMENT. COULD YOU SEND ME WHATEVER
INFORMATION YOU WERE ABLE TO GATHER? ALSO DID
YOU JUST REPLACE THE MODULE YOURSELF OR DID YOU
HAVE THE DEALERSHIP TAKE CARE OF IT FOR YOU?

1 THANKS FOR THE HELP!

2 MY 2005 ACURA TL WOULD NOT START THIS MORNING. I
3 REPLACED THE BATTERY IN JULY. WHEN TRYING TO
4 START THE CAR, I HAD LIGHTS BUT THE BATTERY WOULD
5 NOT TURN OVER THE MOTOR. AFTER JUMPING THE
6 BATTERY, THE CAR STARTED. READING ALL OF THESE
7 BLOGS I SUSPECT AN HFL ISSUE. MY HFL STOPPED
8 WORKING IN APRIL AND I DID NOT THINK ABOUT HAVING
9 IT FIXED. AFTER READING THESE BLOGS, IT MAKES SENSE.
10 ALSO, I NOTICED THAT THERE IS SOMETHING IN THE
11 ELECTRICAL SYSTEM THAT IS DRAWING ENERGY FROM
12 THE BATTERY WHILE THE CAR IS NOT ON. THE ACURA
13 STEALERSHIP WANTS \$120 AN HOUR TO DIAGNOSE AN
14 ELECTRICAL PROBLEM AND SAY IT WILL TAKE 2-3 HOURS
15 TO DIAGNOSE. I HAVE READ THE BLOGS AND FOUND THE
16 SERVICE BULLETIN AS WELL AS REPLACEMENT HFL.

17 I'VE HAD NO PROBLEMS WITH THE HFL, UNTIL RECENTLY...
18 TOOK IT TO MY REGULAR SERVICE GUY, AFTER MY
19 BATTERY WOULD DRAIN WHEN SITTING FOR A VERY
20 SHORT PERIOD OF TIME. BATTERY IS BRAND NEW, AND
21 THE CHARGING SYSTEM IS WORKING PROPERLY. THERE IS,
22 HOWEVER, BETWEEN A 2.5 AND 5 AMP DRAW ON THE
23 BATTERY WHEN IT SITS. THEY'VE TRACKED IT BACK TO
24 WHAT THEY THINK IS THE HFL.

25 MY BLUETOOTH STOPPED OPERATING ON MY ACURA TL
26 05, UNAWARE SINCE I DIDN'T USE IT FOR MY LAST PHONE I
27 PURCHASED...A COUPLE OF MONTHS AGO MY CAR
28 BATTERY DIED A FEW TIMES AND LEFT ME STRANDED THE
29 FEW TIMES LONG STORY SHORT CALLED MY ACURA
30 DEALERSHIP WHOM I'VE BEEN A LOYAL CUSTOMER FOR
31 5YRS TOLD ME IT WAS THE BLUETOOTH CAUSING A
32 PARASITIC DRAW ON MY BATTERY AND THAT THEY
33 WOULD DISCONNECT IT FOR FREE (SINCE I DIDN'T HAVE
34 \$550 TO REPLACE BLUETOOTH MODULE)...AFTER A COUPLE
35 OF WEEKS BATTERY KEPT DYING WENT BACK TO ACURA
36 AND THEY DID A PARASITIC TEST (\$135.00) AND TOLD ME
37 THAT IT SEEMS I NEED A NEW MULTIPLEX UNIT \$950+ TO
38 REPLACE AND THAT MAYBE THAT'LL SOLVE MY
39 PROBLEM... I REFUSED AND WENT FOR A SECOND OPINION.
40 LOW AND BEHOLD THE EINSTEIN AT ACURA THAT WAS
41 SUPPOSED TO HAVE DISCONNECTED THE BLUETOOTH
42 DIDN'T UNPLUG IT CORRECTLY (UNKNOWINGLY OR
43 KNOWINGLY) AND DISCONNECTED MY MAP LIGHTS
44 INSTEAD SINCE ITS HOUSED IN THE SAME COMPARTMENT
45 ...EITHER WAY I FEEL THAT THEY WERE TAKING

1 ADVANTAGE OF ME AND WENT PARASITIC IN MY POCKET
2 FOR MORE (\$)...MY SECOND OPINION UNPLUGGED THE HFL
3 MODULE AND HAVEN'T HAD A PROBLEM SINCE..BE
4 CAREFUL PEOPLE DO YOUR RESEARCH FIRST...YOU CAN
5 BUY THE PART AND DO IT YOURSELF IF YOU FOLLOW THE
6 ACURA BULLETIN 05-020 OR JUST UNPLUG THE
7 BLUETOOTH AND THE DRAW WILL GO AWAY IF YOU DON'T
8 WANT TO REPLACE IT...I'M GOING AFTER ACURA FOR MY
9 PARASITIC DRAW TEST FEE, SINCE ALL ALONG THEY WERE
10 LYING TO ME, AT THIS POINT AND AFTER MANY
11 STRANDED NIGHTS THEY SHOULD HAD REPLACED IT FOR
12 FREE!

13 MY 2006 ACURA TL HAS STARTED DOING THE EXACT SAME
14 THING. FIRST THE HANDSFREELINK STOPPED WORKING
15 COMPLETELY. DON'T EVEN GET A RESPONSE WHEN I PUSH
16 THE BUTTON. THEN LAST WEEK MY BATTERY WENT
17 COMPLETE DEAD AS A DOORNAIL. AFTER SEEING YOUR
18 POST, I AM WONDERING IF THE 2 ARE RELATED. DO YOU
19 BY ANY CHANCE REMEMBER THE EXACT NAME OF THE
20 PART THAT YOU REPLACED AND WHAT WEBSITE YOU
21 BOUGHT IT FROM? I WOULD HAVE TO REPLACE IT MYSELF
22 ALSO BUT AM ENCOURAGED THAT YOU WERE ABLE TO DO
23 IT.

24 I HAVE A 2008 ACURA TL TYPE S 49,000 KM. THIS MONDAY
25 NOV 19 THE HANDS-FREE LINK STOP WORKING (BOOTING
26 UP MESSAGE ON THE SCREEN). I REMOVED FUSE NUMBER 7
27 AND 10 AND THE HANDSFREE WORKS FOR 10 MINUTE AND
28 DIED AGAIN. I CALLED ACURA OFFICE AND THEY TOLD ME
THERE IS NO RECALL ABOUT THIS ISSUE BECAUSE IT IS
NOT A SAFETY ISSUE. THEY TOLD ME TO TAKE IT TO THE
DEALER. LAST YEAR THE HFL DRAINS MY BATTERY AND I
HAVE TO PAY.

1 I HAVE 08TL. I HAD IT'S FOURTH BATTERY INSTALLED IN
2 NOV.,2012. IT HAS JUST GONE DEAD. WHEN I TALKED TO
3 AUTO-ZONE ABOUT REPLACING IT, THEY SAID TO HAVE
4 THE ALTERNATOR CHECKED EVEN THO ITS NUMBERS
5 WERE IN THE NORMAL RANGE. WHEN I TALKED TO THE
6 SERVICE MANAGER AT MY ACURA DEALERSHIP. WITHOUT
7 HESITATION HE SAID BRING IT IN. HE DISCONNECTED THE
8 BLUETOOTH CONNECTION AND SAID I SHOULD. HAVE NO
9 MORE BATTERY PROBLEMS. BUT NO BLUETOOTH. HE SAID
10 WE WOULD DISCUSS THE OPTIONS LATER. IF YOURS WAS A
11 PREOWNED CAR THEY MAY HAVE DISCONNECTED THE
12 BLUETOOTH.

1 SO, MY WIFE HAS A 2007 TL. WE HAVENT HAD ANY MAJOR
2 MAINTENANCE ISSUES WITH THE CAR, ONLY THE NORMAL
3 ROUTINE OIL, TIRES. ABOUT 2 YEARS AGO WE HAD THE
4 BATTERY REPLACED UNDER THE WARRANTY. TODAY THE
5 BATTERY IS SLUGGISH TURNING THE VEHICLE ON, SO I
6 TAKE IT OVER TO ACURA AND THEY TELL ME I NEED A
7 NEW BATTERY, BUT NOW THIS ONE IS NOT UNDER
8 WARRANTY. ANYWAY... A COUPLE DAYS AGO MY WIFES
9 BLUETOOTH STOPPED WORKING ON HER TL. I DECIDED TO
10 SEE IF THERE WAS ANYTHING ONLINE TO SHOW HOW TO
11 FIX IT, FINDING THESE POSTS. I READ A LOT OF POSTS
12 ABOUT DISCONNECTING THE BLUETOOTH TO NOT HAVE
13 ANY BATTERY ISSUES. MY QUESTION IS, IF ITS NOT
14 WORKING NOW, DOES THAT MEAN ITS ALREADY
15 DISCONNECTED? OR DO I HAVE TO DO SOMETHING ELSE
16 TO DISCONNECT IT? AND, ANY AFTERMARKET BLUETOOTH
17 RECOMMENDATIONS?

18
19 ADD ME TO THE GROWING LIST OF ANGRY ACURA TL
20 OWNERS WITH A HAND FREE LINK PROBLEMS AND AN
21 EXTREMELY POOR CUSTOMER SERVICE EXPERIENCE.

22
23 WITH SUCH A WIDE SPREAD FAILURE RATE ACURA
24 SHOULD RECALL THIS UNIT AND/OR MAKE THE REPAIR
25 REASONABLE. THE REPAIR COST IS OUTRAGEOUS FOR A
26 MAJOR SAFETY ISSUE.

27
28 ACURA HAS BEEN REPLACING BATTERIES IN THIS VEHICLE
FREE OF CHARGE SINCE 15,189 MILES. EACH BATTERY
LASTED FEWER MONTHS. NO ONE AT ACURA LOOKED INTO
THE CAUSE OF THE REPEATED FAILURES. I WAS LED TO
BELIEVE THE BATTERIES WERE LEMONS AND THE VEHICLE
WAS FINE WHEN IT WAS THE OTHER WAY AROUND.

NOW THE VEHICLE IS OUT OF WARRANTY AND ACURA
CUSTOMER SERVICE ACTS LIKE THEY HAVE NEVER HEARD
OF THE THIS PROBLEM!

PLEASE ALERT THE NATIONAL HIGHWAY
TRANSPORTATION SAFETY AUTHORITY AND ALL ACURA
DRIVERS THAT THERE IS A MAJOR SAFETY ISSUE WITH THE
ACURA TL AND THE HAND FREE LINK. WE NEED TO
SPREAD THE WORD.

I HAVE OWNED 6 ACURAS AND 2 HONDAS AND MY PAST
EXPERIENCE WITH ACURA/HONDA HAS BEEN THAT THEY
STAND BEHIND THEIR PRODUCT. NOT SO ANYMORE, AND I

1 WILL NEVER BUY ANOTHER ACURA. THIS EXPERIENCE HAS
2 TARNISHED MY IMAGE OF THE ACURA BRAND.

3 I TOO HAVE A HFL BLUETOOTH THAT NO LONGER WORKS
4 AND JUST REPLACED BATTERY AFTER TAKING IT TO THE
5 DEALERSHIP. THEY TOLD ME THAT THE BATTERY HAD A
6 BAD CELL. THE BATTERY WAS REPLACED IN 2010 WHEN
7 THE CAR WAS STILL UNDER WARRANTY. THE DEALER
8 TOLD ME THAT I WOULD HAVE TO PAY FULL PRICE FOR
9 THE BATTERY (\$160). I EXPLAINED TO THEM THAT I HAD A
10 BAD BLUETOOTH AND I THOUGHT THAT IT WAS PULLING
11 ON THE BATTERY. THEY TESTED THE ELECTRICAL AND
12 TOLD ME THAT EVERYTHING WAS FINE.....MEANING
13 NOTHING WAS DRAWING ON THE BATTERY. I DECIDED TO
14 GET A BATTERY FROM ANOTHER SOURCE.

15 BOY, I WISH I HAD DISCOVERED THESE POSTS PRIOR TO
16 TAKING MY CAR TO THE DEALER.

17 CAN ANYONE GIVE ME STEP BY STEP INSTRUCTIONS ON
18 DISCONNECTING THE BLUETOOTH SO THAT IT DOES NOT
19 DRAW DOWN MY NEW BATTERY?

20 HI, I HAVE OWNED AN 2008 MDX SINCE NEW AND AFTER
21 PAYING TO REPLACE BATTERY, HFL FAILED, THEN A FEW
22 MONTHS LATER BATTERY WAS FLAT IN MORNING. DEALER
23 SAID "DON'T BOTHER CAUSE IT'LL COST \$800 TO REPLACE
24 HFL" NOT ONCE ADVISING ME ON THE RAMIFICATIONS. SO,
25 AFTER READING SOME FORUMS ONLINE I DISCONNECTED
26 THE HFL MYSELF(THANK THE UNIVERSE FOR THE
27 INTERNET AND THOSE WHO'VE HAD THIS PROBLEM
28 BEFORE ME). I DON'T KNOW HOW MUCH THE PART WOULD
COST IN CANADA, BUT I ORDERED THE SAME PART(WITH A
SLIGHTLY DIFFERENT PART NUMBER, I GUESS CAUSE IT
HAS SPANISH VS FRANCAIS) FROM EBAY(ACURA OF
TEMPE).

THIS FAULTY HANDS FREE LINK ISSUE IS ABSOLUTELY
UNACCEPTABLE, ESPECIALLY SINCE ACURA HAS
ALLOWED IT TO PROLIFERATE FOR SO MANY YEARS AND
VICTIMIZE ALL OF YOU HERE WHO HAVE SPENT SO MUCH
TIME AND MONEY ON THIS! IN FACT, ACURA MUST BE ONE
OF THE WORST LUXURY AUTO BRANDS AFTER ALL OF THE
ISSUES I'VE DEALT WITH.

I HAVE A 2007 ACURA TL THAT WAS SERVICED MULTIPLE
TIMES WHILE UNDER WARRANTY FOR ISSUES SUCH AS A
"MYSTERIOUS POWER DRAW" AND STICKING SIDE VIEW

1 MIRROR. THE DEALER'S SERVICE DEPT STATED THEY
2 COULDN'T FIND THE SOURCE OF THE POWER DRAIN, SO
3 THEY SIMPLY PUT IN A NEW BATTERY AS IF THAT WAS AN
4 ANSWER. AND THE STICKING SIDE MIRROR STILL GETS
5 STUCK.

6 AS SOON AS THE WARRANTY RAN OUT, THEY GAVE ME
7 THE COLD SHOULDER. MY ACURA TL NOW WON'T START
8 AFTER ONLY THREE DAYS OF NON-USE BECAUSE ITS
9 BATTERY GETS COMPLETELY DRAINED. THE BATTERY IS
10 NEW, THE ALTERNATOR PASSED TESTS, AND ONLINE
11 FORUMS ALL INDICATE A KNOWN ACURA SERVICE
12 BULLETIN FOR THE CULPRIT BEING THE FAULTY HFL
13 MODULE. ACURA SERVICE DEPTS WANT TO CHARGE JUST
14 TO LOOK AT IT, AND ACURA CUSTOMER RELATIONS
15 REFUSES GOODWILL SERVICE AND TOLD ME TO PAY FOR
16 THE REPAIR MYSELF! THIS IS OUTRAGEOUS!

17 I WANT TO AT LEAST BE ABLE TO DRIVE MY CAR, SO I
18 REMOVED THE HFL MODULE MYSELF, WHICH WAS EASY.
19 THAT MODULE WAS HOT TO THE TOUCH LIKE A
20 SMARTPHONE AFTER PLAYING A LONG MOVIE! AND THE
21 CAR HADN'T BEEN DRIVEN FOR TWO DAYS! GUESS WHAT?
22 MY CAR'S BATTERY NO LONGER GETS DRAINED.

23 I HAVE A 2006 TL. LAST WEEK, IT WAS SLUGGISH TO START.
24 I WAS TOLD THAT IT HAD A FAULTY HFL CONNECTION
25 THAT WAS DRAINING MY BATTERY (A BATTERY THAT WAS
26 REPLACED 4 MONTHS AGO). I TOLD THEM THAT I HAVE
27 NEVER USED THE DARN THING AND I'VE HAD THE CAR FOR
28 7 YEARS! IT COST \$400...I JUST NOW CAME ACROSS THIS
FORUM AND LEARNED THAT IT COULD BE
DISCONNECTED...ACURA DID NOT TELL ME THAT!! TODAY,
MY CAR DID NOT START AT ALL. I HAD TO GET IT TOWED
TO ACURA FOR THEM TO TELL ME THAT MY STARTER WAS
KAPUT! NOW, I AM THINKING MAYBE IT WAS THE STARTER
ALL ALONG. UNTIL, NOW I USED TO LOVE MY CAR...BUT
ALMOST \$1000 IN SEVEN DAYS!!!! THIS IS APPALLING! I
SENT AN E-MAIL TO ACURA CLIENT RELATIONS.
SOMETHING NEEDS TO BE DONE ABOUT THIS!

I HAVE AN ACURA 2008 MDX, I HAVE THE SAME DEAD
BATTERY ISSUE OTHERS HAVE REPORTED. I HAVE GONE
THROUGH 4 BATTERIES OVER THE PAST 5 YEARS. MOST
RECENT NEW BATTERY WAS INSTALLED A MONTH AGO,
YESTERDAY WENT OUT TO THE CAR AND IT WAS DEAD. I
CONTACTED THE MECHANIC WHO INSTALLED THE NEW
BATTERY.

HE SAID THEY RAN A TEST AND FOUND A MALFUNCTIONING CIRCUIT THAT POWERS THE BLUETOOTH HANDS-FREE LINK. SAID THAT THE HFL WAS DRAWING CURRENT FROM THE BATTERY WHILE THE CAR WAS OFF. IT WASN'T DRAWING A LOT OF CURRENT, BUT ENOUGH TO KILL A BATTERY OVER THE COURSE OF A FEW WEEKS.

F. Defendant's Exclusive Knowledge and Concealment of the Defective HandsFreeLink™ System

74. Without knowing about the defect in the HandsFreeLink™ system, owners have replaced one battery after another experiencing only the symptom of the defect and have incurred other costs as discussed herein, but because consumers were and remain ignorant of the actual source of the problem, they continue to suffer ongoing harm. Some owners report dissatisfaction with batteries that were only a few months old when they needed to be replaced, not knowing that the HandsFreeLink™ system was parasitically straining the electric system. Others report that they thought that a battery or other essential electrical component that was several years old just needed to be replaced a little sooner than expected, never understanding that the HandsFreeLink™ system was defective or the cause. Without understanding why, owners incur hundreds or thousands of dollars in costs paid for repeated jump starts for drained batteries, buying replacement electrical components, including batteries and alternators, and covering other costs related to the defect in the HandsFreeLink™ system.

75. As a consequence of Defendant's exclusive knowledge and concealment about the defect, Acura owners will not discover the real cause of the problem until after several encounters with the symptoms of the problem (drained batteries, failing electric components, etc.), if they discovery the root cause at all. Accordingly, Acura owners are not likely to learn about the defect in the HandsFreeLink™ unit until after warranty coverage has passed.

76. Replacement of the HandsFreeLink™ system is the course of action recommended by Defendant in its internal Service Bulletins. It offers no extended or special warranty coverage for this known defect which will typically be diagnosed after the regular manufacturer's warranty has expired. However, the parts and labor for the replacement of the HandsFreeLink™ unit are upwards of \$1,000.00, if not more. Moreover, Defendant is not using different HandsFreeLink™ units, but

rather the standard HandsFreeLink™ unit for these replacements. Accordingly, owners who have had their HandsFreeLink™ systems replaced have reported that the new system also gets stuck “on”, causing the same harm and creating the same safety hazard. Accordingly, once owners discover that the HandsFreeLink™ system is at the bottom of the recurring costs and inconvenience, many simply opt to disconnect the unit, disabling an important feature in their luxury vehicles and rendering their Class Vehicles less valuable than comparable cars with properly functioning “hands-free” systems.

G. Exclusive Knowledge, Concealment, and Safety Defect Allegations

77. Absent discovery, Plaintiffs are unaware of, and unable through reasonable investigation to obtain, the true names and identities of those individuals associated with Honda responsible for disseminating false and misleading marketing materials (*i.e.*, the marketing materials with material omissions) regarding its vehicles with the Defective HandsFreeLink™ system. Honda is necessarily in possession of all of this information.

78. Plaintiffs’ claims arise out of Honda’s exclusive knowledge of and/or concealed material information regarding the defect and the safety hazard it poses. There is no one document or communication, and no one interaction, upon which Plaintiffs base their claims. Plaintiffs allege that at all relevant times, specifically at the time they purchased or leased their Affected Vehicles, Honda knew the safety dangers of the defect, namely the battery-drain and myriad of associated repercussions. Honda was under a duty to disclose the defect based upon its exclusive knowledge of and/or concealed material information regarding the defect; Honda failed to disclose the defect to Plaintiffs, other Class members, or the public at any time or place or in any manner such that it could (and would) have affected Plaintiffs’ and Class members’ pre-sale decision to purchase and/or lease their HandsFreeLink™ system-equipped vehicles.

79. Plaintiffs make the following specific fraud allegations with as much specificity as possible absent access to the information necessarily available only to Honda:

(a) **Who:** Honda had and has exclusive knowledge of the Defect and failed to disclose to Plaintiffs and/or concealed material information regarding the defect from Plaintiffs. Honda similarly failed to disclose the Defect’s dangerous safety risks in its HandsFreeLink™

1 system-equipped vehicles. Plaintiffs were unaware of, and therefore unable to identify, the true
2 names and identities of those specific individuals responsible for such decisions.

3 (b) **What:**

4 (i) Honda failed to disclose that its Affected Vehicles contain the Defect.
5 Honda has and had exclusive knowledge of and/or concealed material information that its Affected
6 Vehicles contain the Defect. Yet Honda failed to disclose the same in any pre-sale materials.

7 (ii) Honda could have, but failed to, disclose to consumers the risks of
8 vehicles Defective HandsFreeLink™ system. An exemplar of a simple but effective disclosure that
9 was omitted from any and all of its pre-sale materials is:

10 WARNING: This vehicle is equipped with a HandsFreeLink™
11 Bluetooth wireless connectivity system. Even if the engine is not
12 started or the vehicle is not placed in accessory mode, the
13 HandsFreeLink™ system may continue to parasitically drain the
14 battery. If left parked, the vehicle will not start because the car battery
15 will have drained. Even if used in an ongoing manner, the parasitic
16 loss will result in increased load on other electrical systems in the
17 vehicle, resulting in increased wear on electronic components.

18 With a compromised battery and/or a failed alternator, your vehicle
19 can be left suddenly without any electric power even when the vehicle
20 is in use.

21 Acura technicians can disconnect the HandsFreeLink™ system, but
22 you will no longer be able to take advantage of the benefits of this
23 system, including hands-free calling and the remote vehicle
24 diagnostics, which benefits potentially avoid dangerous on-road
25 situations.

26 (c) **When:** Honda had exclusive knowledge of and/or concealed material
27 information regarding the Defect starting no later than the date of its first internal Technical Service
28 Bulletin (distributed only to Acura dealers) dated June 2005, but necessarily had knowledge in
advance of that Bulletin.

(d) **Where:** Honda concealed material information regarding the true nature of the
Defect in every pre-sale communication they had with Plaintiffs and other Class members. Despite
counsel's review and analysis of pre-sale marketing materials, sales brochures, and other pre-sale
enticements to purchase each of its HandsFreeLink™-equipped vehicles, Plaintiffs are aware of no
document, communication, or other place or thing, in which Honda disclosed the truth about the
Defect to consumers.

(e) **How:**

(i) Honda had exclusive knowledge of and/or concealed material information about the Defect and failed to disclose the Defect to Plaintiffs and Class members in any pre-sale materials—the time at which Plaintiffs and Class members could have acted. Honda had exclusive knowledge of and/or actively concealed the truth about the existence and nature of the Defect from Plaintiffs and Class members at all times, even though Honda knew about the Defect and knew that information about the Defect would be important to a reasonable consumer.

(ii) Honda has still failed to disclose the truth about the Defect in its HandsFreeLink™-equipped vehicles to consumers and general public. Thus, Honda has never taken any action to inform consumers about the true nature of the Defect in its Affected Vehicles despite the fact that Honda has (and had) exclusive knowledge of and/or actively concealed the truth about the existence and nature of the Defect.

(iii) Instead, Honda stealthily issued one internal Technical Service Bulletin after another, admitting that the Defect will “cause a dead or low battery while the vehicle’s ignition switch is off” and had the potential to re-“appear intermittent[ly]” later, even if Honda’s “fix” of replacing the HandsFreeLink™ system was implemented.

(f) **Why:** Honda concealed and/or had exclusive knowledge of material information about the Defect in its HandsFreeLink™-equipped vehicles, yet failed to disclose the Defect in order to induce Plaintiffs and Class members to purchase or lease its vehicles rather than competitors’ vehicles. It wanted to be first to market with an integrated Bluetooth car-connectivity system. Had Honda disclosed the truth, Plaintiffs (and reasonable consumers) either 1) would have paid less for the vehicles by not purchasing the optional HandsFreeLink™ system technology, 2) would not have purchased or leased the HandsFreeLink™-equipped vehicles at all, or 3) otherwise would have paid less for the HandsFreeLink™-equipped vehicles.

(g) **Safety Defect:** Honda, like all automakers, is under a duty to disclose a known defect in a vehicle when there are safety concerns associated with the vehicle’s use—*i.e.*, where the failure to disclose implicates a safety issue. Manufacturers may be held liable for their failure to disclose a defect when such an omission pertains to a safety issue. In this case, as stated above, Honda knew about the Defect, and the Defect poses a physical threat to Plaintiffs’ own safety or the safety of others. Nevertheless, Honda failed to disclose the Defect to all owners of Affected Vehicles.

V. TOLLING OF THE STATUTE OF LIMITATIONS

A. Discovery Rule

80. Class members had no way of knowing about the hidden Defect in the HandsFreeLink™ system. Defendant concealed its knowledge of the Defect while continuing to market and sell the HandsFreeLink™ as a safety feature in its luxury cars.

81. Within any applicable statutes of limitation, Class members could not have discovered through the exercise of reasonable diligence that Acura was concealing the conduct complained of herein and misrepresenting the true qualities of the vehicles.

82. Class members did not know facts that would have caused a reasonable person to suspect that there was a Defect in Defendant's HandsFreeLink™ system and an ordinary person would be unable to appreciate that the HandsFreeLink™ system was defective.

83. For these reasons, all applicable statutes of limitation have been tolled by operation of the discovery rule with respect to the claims in this litigation.

B. Fraudulent Concealment

84. Due to Defendant's knowing and active concealment throughout the time period relevant to this action, all applicable statutes of limitation have been tolled.

85. Instead of publicly disclosing the defect in the HandsFreeLink™, Defendant kept owners in the dark about the failure in their electrical systems, most notably the repeated battery and alternator failures.

C. Estoppel

86. Defendant was under a continuous duty to disclose to Class members the existence of the Defect in the HandsFreeLink™ system, including the related failure of the electric systems.

87. Defendant knowingly, affirmatively, and actively concealed or recklessly disregarded the true nature, quality, and character of the HandsFreeLink™ system.

88. Based on the foregoing, Defendant is estopped from relying on any statutes of limitation in defense of this action.

VI. CLASS ALLEGATIONS

89. Plaintiffs bring this action on behalf of themselves and as a class action, pursuant to the provisions of Rules 23(a), (b)(2), and (b)(3) of the Federal Rules of Civil Procedure, on behalf of the following Class:

All persons who purchased or leased an Acura with a HandsFreeLink™ system.

90. As an alternative Class, if California law does not apply to all owners, Plaintiffs bring this action on behalf of themselves and the following classes (collectively, the “Classes”):

All persons who purchased or leased an Acura with a HandsFreeLink™ system in the State of Arizona.

All persons who purchased or leased an Acura with a HandsFreeLink™ system in the State of California.

All persons who purchased or leased an Acura with a HandsFreeLink™ system in the State of Delaware.

All persons who purchased or leased an Acura with a HandsFreeLink™ system in the State of Missouri.

All persons who purchased or leased an Acura with a HandsFreeLink™ system in the State of New Hampshire.

All persons who purchased or leased an Acura with a HandsFreeLink™ system in the State of Virginia.

91. Excluded from the Classes are Defendant and its parents, subsidiaries, and affiliates; all persons who properly elect to be excluded from the Classes; governmental entities; and the Judge to whom this case is assigned and his/her immediate family.

92. Certification of Plaintiffs’ claims for class-wide treatment is appropriate because Plaintiffs and Class members can prove the elements of their claims on a class-wide basis using the same evidence as would be used to prove those elements in individual actions alleging the same claim.

93. This action has been brought and may be properly maintained on behalf of the Classes proposed herein under Federal Rule of Civil Procedure 23.

94. **Numerosity.** Federal Rule of Civil Procedure 23(a)(1): The members of the Classes are so numerous and geographically dispersed that individual joinder of all Class members is

impracticable. While Plaintiffs are informed and believe that there are at least thousands of members of the Classes, the precise number of Class members is unknown to Plaintiffs, but may be ascertained from Defendant's books and records. Class members may be notified of the pendency of this action by recognized, Court-approved notice dissemination methods, which may include U.S. mail, electronic mail, Internet postings, and/or published notice.

95. **Commonality and Predominance**: Federal Rule of Civil Procedure 23(a)(2) and 23(b)(3): This action involves common questions of law and fact, which predominate over any questions affecting individual Class members, including, without limitation:

- i. Whether Defendant engaged in the conduct alleged herein;
- ii. Whether Defendant's HandsFreeLink™ system has the Defect alleged herein;
- iii. Whether Defendant had a duty to disclose the existence of the Defect alleged herein;
- iv. Whether Defendant's conduct violates consumer protection statutes and other laws as asserted herein;
- v. Whether Plaintiffs and the other Class members are entitled to equitable relief, including, but not limited to, restitution or injunctive relief; and
- vi. Whether Plaintiffs and the other Class members are entitled to damages and other monetary relief and, if so, in what amount.

96. **Typicality**: Federal Rule of Civil Procedure 23(a)(3): Plaintiffs' claims are typical of the other Class members' claims because, among other things, all Class members were comparably injured through Defendant's wrongful conduct as described above.

97. **Adequacy**: Federal Rule of Civil Procedure 23(a)(4): Plaintiffs are adequate Class representatives because their interests do not conflict with the interests of the other members of the Classes they seek to represent, Plaintiffs have retained counsel competent and experienced in complex class action litigation, and Plaintiffs intend to prosecute this action vigorously. The Classes' interests will be fairly and adequately protected by Plaintiffs and their counsel.

98. **Superiority**: Federal Rule of Civil Procedure 23(b)(3): A class action is superior to any other available means for the fair and efficient adjudication of this controversy, and no unusual difficulties are likely to be encountered in the management of this class action. The damages or other financial detriment suffered by Plaintiffs and the other Class members are relatively small

1 compared to the burden and expense that would be required to individually litigate their claims
 2 against Defendant, so it would be impracticable for the members of the Classes to individually seek
 3 redress for Defendant's wrongful conduct. Even if Class members could afford individual litigation,
 4 the court system could not. Individualized litigation creates a potential for inconsistent or
 5 contradictory judgments, and increases the delay and expense to all parties and the court system. By
 6 contrast, the class action device presents far fewer management difficulties, and provides the benefits
 7 of single adjudication, economy of scale, and comprehensive supervision by a single court.

8 **VII. CAUSES OF ACTION ON BEHALF OF THE NATIONAL CLASS**

9 **COUNT I** 10 **VIOLATIONS OF THE CALIFORNIA CONSUMER** 11 **LEGAL REMEDIES ACT** 12 **(CAL. CIV. CODE § 1750, *ET SEQ.*)**

13 99. Plaintiffs incorporate by reference all preceding allegations as though fully set forth
 14 herein.

15 100. Plaintiffs bring this claim as part of the National Class.

16 101. California's Consumers Legal Remedies Act ("CLRA"), Cal. Civ. Code § 1750, *et*
 17 *seq.*, proscribes "unfair methods of competition and unfair or deceptive acts or practices undertaken
 18 by any person in a transaction intended to result or which results in the sale or lease of goods or
 19 services to any consumer."

20 102. The Class Vehicles are "goods" as defined in Cal. Civ. Code § 1761(a).

21 103. Plaintiffs and the other Class members are "consumers" as defined in Cal. Civ. Code
 22 § 1761(d), and Plaintiffs, the other Class members, and Honda are "persons" as defined in Cal. Civ.
 23 Code § 1761(c).

24 104. As alleged herein, Honda made misleading representations and omissions concerning
 25 the benefits, performance, and safety of the Class Vehicles, including the HandsFreeLink™ system.

26 105. In purchasing or leasing the Class Vehicles, Plaintiffs and other Class members were
 27 deceived by Honda's failure to disclose its knowledge of the Defect in its HandsFreeLink™ system,
 28 which caused a parasitic electric drain even when the vehicle's ignition switch is off. Defendant

1 further concealed the hidden nature of the problem with the HandsFreeLink™ system, causing the
 2 problem to appear intermittent and unrelated to any defect in the HandsFreeLink™ system.

3 106. Honda's conduct as described herein was and is in violation of the CLRA. Honda's
 4 conduct violates at least the following enumerated CLRA provisions:

- 5 i. Cal. Civ. Code § 1770(a)(5): Representing that goods have sponsorship,
 approval, characteristics, uses, benefits, or quantities that they do not have.
- 6 ii. Cal Civ. Code § 1770(a)(7): Representing that goods are of a particular
 7 standard, quality, or grade if they are of another.
- 8 iii. Cal. Civ. Code § 1770 (a)(9): Advertising goods with intent not to sell them as
 advertised.
- 9 iv. Cal Civ. Code § 1770 (a)(16): Representing that goods have been supplied in
 10 accordance with a previous representation when they have not.

11 107. Honda intentionally and knowingly misrepresented and omitted material facts
 12 regarding the Class Vehicles, specifically regarding the HandsFreeLink™ system, with an intent to
 13 mislead Plaintiffs and Class members.

14 108. In purchasing or leasing the Class Vehicles, Plaintiffs and other Class members were
 15 deceived by Honda's failure to disclose its knowledge of the Defect in its HandsFreeLink™ system.

16 109. Plaintiffs and other Class members had no way of knowing Honda's representations
 17 were false, misleading, and incomplete or knowing the true nature of the HandsFreeLink™ system.
 18 As alleged herein, Honda engaged in a pattern of deception and public silence in the face of a known
 19 defect with its HandsFreeLink™ system. Plaintiffs and other Class members did not, and could not,
 20 unravel Honda's deception on their own.

21 110. Honda knew or should have known its conduct violated the CLRA.

22 111. Honda owed Plaintiffs and the Class members a duty to disclose the truth about its
 23 faulty HandsFreeLink™ system because the Defect created a safety hazard and Honda:

- 24 i. Possessed exclusive knowledge of the defect in the HandsFreeLink™ system,
 25 which caused parasitic electricity drain that would repeatedly deplete the car's
 battery;
- 26 ii. Intentionally concealed the foregoing from Plaintiffs and Class members;
 27 and/or

1 iii. Made incomplete representations in advertisements and on its website, failing
2 to warn the public or to publicly admit that the HandsFreeLink™ system was
3 defective.

4 112. Honda had a duty to disclose that the HandsFreeLink™ system in the Class Vehicles
5 was fundamentally flawed as described herein, because the Defect created a safety hazard, and
6 Plaintiffs and the other Class members relied on Honda's material misrepresentations and omissions
7 regarding the features of the Class Vehicles and HandsFreeLink™ system.

8 113. Honda's conduct proximately caused injuries to Plaintiffs and the other Class
9 members that purchased the Class Vehicles and suffered harm as alleged herein.

10 114. Plaintiffs and the other Class members were injured and suffered ascertainable loss,
11 injury-in-fact, and/or actual damage as a proximate result of Honda's conduct in that Plaintiffs and
12 the other Class members incurred costs related the parasitic drain caused by the Defect, including
13 replacements of electrical components and service costs, and overpaid for their Class Vehicles that
14 have suffered a diminution in value.

15 115. Honda's violations cause continuing injuries to Plaintiffs and other Class members.
16 Honda's unlawful acts and practices complained of herein affect the public interest.

17 116. Honda knew of the defective design and/or manufacture of the HandsFreeLink™
18 system, and that the Class Vehicles were materially compromised by such defects.

19 117. The facts concealed and omitted by Honda from Plaintiffs and other Class members
20 are material in that a reasonable consumer would have considered them to be important in deciding
21 whether to purchase an Acura vehicle or pay a lower price. Had Plaintiffs and the other Class
22 members known about the defective nature of the Class Vehicles, they would not have purchased the
23 Class Vehicles or would not have paid the prices they paid.

24 118. Plaintiffs' and the other Class members' injuries were proximately caused by Honda's
25 unlawful and deceptive business practices.

26 119. Pursuant to CLRA § 1780(a), Plaintiffs seek an order enjoining Honda from engaging
27 in the methods, acts, or practices alleged herein, including further concealment of the Defect in the
28 HandsFreeLink™ unit and denial of warranty coverage for repairs related to that Defect.

120. Plaintiffs sent out a notice letter on August 3, 2016.

121. Pursuant to CLRA § 1782, if Defendant does not rectify its conduct within 30 days, Plaintiffs intend to amend this Complaint to add claims under the CLRA for:

- i. Actual damages;
- ii. Restitution of money to Plaintiffs and Class members, and the general public;
- iii. Punitive damages;
- iv. An additional award of up to \$5,000 to each Plaintiffs and any Class member who is a “senior citizen”;
- v. Attorneys’ fees and costs; and
- vi. Other relief that this Court deems proper.

COUNT II
VIOLATIONS OF CALIFORNIA’S UNFAIR BUSINESS PRACTICES ACT
(CAL. BUS. & PROF. CODE § 17200, *ET SEQ.*)

122. Plaintiffs incorporate by reference all preceding allegations as though fully set forth herein.

123. Plaintiffs bring this claim on behalf of the National Class.

124. California’s Unfair Competition Law (“UCL”), Cal. Bus. & Prof. Code § 17200, *et seq.*, proscribes acts of unfair competition, including “any unlawful, unfair or fraudulent business act or practice and unfair, deceptive, untrue, or misleading advertising.”

125. Honda’s conduct, as described herein, was and is in violation of the UCL. Honda’s conduct violates the UCL in at least the following ways:

- i. By failing to disclose that the HandsFreeLink™ system in the Class Vehicles was defective and prone to create parasitic electricity drain;
- ii. By selling and leasing Class Vehicles that suffer from such defects without providing special warranty coverage for this Defect;
- iii. By knowingly and intentionally concealing from Plaintiffs and the other Class members that the HandsFreeLink™ system was defective;
- iv. By marketing Class Vehicles as safe, convenient, and defect free, with cutting-edge technology, all while knowing of the Defect related to the HandsFreeLink™ system; and
- v. By violating other California laws, including California consumer protection laws.

1 126. Honda intentionally and knowingly misrepresented and omitted material facts
2 regarding the Class Vehicles with intent to mislead Plaintiffs and the other Class members.

3 127. In purchasing or leasing the Class Vehicles, Plaintiffs and the other Class members
4 were deceived by Honda's failure to disclose the Defect related to the HandsFreeLink™ system.

5 128. Plaintiffs and the other Class members reasonably relied upon Honda's false
6 misrepresentations and omissions. They had no way of knowing that Honda's representations were
7 false, misleading, and incomplete. As alleged herein, Honda engaged in a pattern of deception and
8 public silence in the face of a known defect with its HandsFreeLink™ system. Plaintiffs and the
9 other Class members did not, and could not, unravel Honda's deception on their own.

10 129. Honda knew or should have known that its conduct violated the UCL.

11 130. Honda owed Plaintiffs and the other Class members a duty to disclose the truth about
12 its HandsFreeLink™ system because the Defect created a safety hazard and Honda:

- 13 i. Possessed exclusive knowledge of the Defect in the HandsFreeLink™ system;
14 ii. Intentionally concealed the foregoing from Plaintiffs and the other Class
15 members; and/or
16 iii. Made incomplete representations by failing to warn the public or to publicly
admit that the HandsFreeLink™ system was defective.

17 131. Honda had a duty to disclose that the HandsFreeLink™ system in the Class Vehicles
18 was fundamentally flawed as described herein, because Plaintiffs and the other Class members relied
19 on Honda's material misrepresentations and omissions.

20 132. Honda's conduct proximately caused injuries to Plaintiffs and the other Class
21 members that purchased the Class Vehicles and suffered harm as alleged herein.

22 133. Plaintiffs and the other Class members were injured and suffered ascertainable loss,
23 injury-in-fact, and/or actual damage as a proximate result of Honda's conduct in that Plaintiffs and
24 the other Class members incurred costs related the parasitic drain caused by the Defect, including
25 replacement of electrical components and service costs, and overpaid for their Class Vehicles that
26 have suffered a diminution in value.

27 134. Honda's violations cause continuing injuries to Plaintiffs and Class members.
28 Honda's unlawful acts and practices complained of herein affect the public interest.

1 135. Honda's misrepresentations and omissions alleged herein caused Plaintiffs and the
2 other Class members to make their purchases of their Class Vehicles. Absent those misrepresent-
3 ations and omissions, Plaintiffs and the other Class members would not have purchased these
4 vehicles, would not have purchased these Class Vehicles at the prices they paid, and/or would have
5 purchased less expensive alternative vehicles that did not contain defective HandsFreeLink™
6 systems that failed to live up to industry standards.

7 136. Accordingly, Plaintiffs and the other Class members have suffered injury-in-fact,
8 including lost money or property, as a result of Honda's misrepresentations and omissions.

9 137. Plaintiffs request that this Court enter such orders or judgments as may be necessary
10 to restore to Plaintiffs and Class members any money it acquired by unfair competition, including
11 restitution and/or restitutionary disgorgement, as provided in Cal. Bus. & Prof. Code § 17203 and
12 Cal. Civ. Code § 3345; and for such other relief as may be appropriate.

13 **COUNT III**
14 **FRAUD BY CONCEALMENT**
 (BASED ON CALIFORNIA LAW)

15 138. Plaintiffs incorporate by reference all preceding allegations as though fully set forth
16 herein.

17 139. Plaintiffs bring this claim on behalf of the National Class.

18 140. Honda intentionally concealed that the HandsFreeLink™ system is defective, and
19 prone to create a parasitic electricity drain that would strain the electrical system and repeatedly
20 deplete the car's battery, leaving owners with cars that would not start, premature battery death, and
21 damage to other components in the electric system. Honda concealed the fact that once the
22 HandsFreeLink™ system Defect compromises the battery, the system "resets," hiding the problem
23 until the system gets stuck again.

24 141. Honda further affirmatively misrepresented to Plaintiffs in advertising and other
25 forms of communication, including standard and uniform material provided with each car and on its
26 website, that the Class Vehicles it was selling had no significant defects, that the HandsFreeLink™
27 system was a safety feature, reliable, and would perform and operate properly.
28

1 142. Honda knew about the Defect in the HandsFreeLink™ system when these
2 representations were made.

3 143. The Class Vehicles purchased by Plaintiffs and the other Class members contained
4 defective HandsFreeLink™ system.

5 144. Honda had a duty to disclose that the HandsFreeLink™ system contained a
6 fundamental defect as alleged herein, because the Defect created a safety hazard and Plaintiffs and
7 the other Class members relied on Honda's material representations.

8 145. As alleged herein, at all relevant times, Honda has held out the Class Vehicles to be
9 free from defects such as the Defect related to the HandsFreeLink™ system. Honda touted and
10 continued to tout the many benefits and advantages of the HandsFreeLink™ system, but nonetheless
11 failed to disclose important facts related to the Defect. This made Honda's other disclosures about
12 the HandsFreeLink™ system deceptive.

13 146. The truth about the defective HandsFreeLink™ system was known only to Honda;
14 Plaintiffs and the other Class members did not know of these facts and Honda actively concealed
15 these facts from Plaintiffs and Class members.

16 147. Plaintiffs and the other Class members reasonably relied upon Honda's deception.
17 They had no way of knowing that Honda's representations were false, misleading, or incomplete. As
18 consumers, Plaintiffs and Class members did not, and could not, unravel Honda's deception on their
19 own. Rather, Honda intended to deceive Plaintiffs and Class members by concealing the true facts
20 about the Class Vehicles' HandsFreeLink™ systems.

21 148. Honda's false representations and omissions were material to consumers because they
22 concerned qualities of the Class Vehicles that played a significant role in the value of the vehicles.

23 149. Honda had a duty to disclose the HandsFreeLink™ system Defect and violations with
24 respect to the Class Vehicles because details of the true facts were known and/or accessible only to
25 Honda, because Honda had exclusive knowledge as to such facts, and because Honda knew these
26 facts were not known to or reasonably discoverable by Plaintiffs or Class members.

27 150. Honda also had a duty to disclose because it made general affirmative representations
28 about the technological and safety innovations included with its vehicles, without telling consumers

1 that one of the features had a fundamental defect that would affect the safety, quality, and
2 performance of the vehicle.

3 151. Honda's disclosures were misleading, deceptive, and incomplete because they failed
4 to inform consumers of the additional facts regarding the Defect in the HandsFreeLink™ system as
5 set forth herein. These omitted and concealed facts were material because they directly impact the
6 value of the Class Vehicles purchased by Plaintiffs and Class members.

7 152. Honda has still not made full and adequate disclosures, and continues to defraud
8 Plaintiffs and Class members by concealing material information regarding the Defect in the
9 HandsFreeLink™ system.

10 153. Plaintiffs and Class members were unaware of the omitted material facts referenced
11 herein, and they would not have acted as they did if they had known of the concealed and/or
12 suppressed facts, in that they would not have purchased or paid as much for cars with faulty
13 technology, and/or would have taken other affirmative steps in light of the information concealed
14 from them. Plaintiffs' and Class members' actions were justified. Honda was in exclusive control of
15 the material facts, and such facts were not generally known to the public, Plaintiffs, or Class
16 members.

17 154. Because of the concealment and/or suppression of facts, Plaintiffs and Class members
18 sustained damage because they own(ed) vehicles that are diminished in value as a result of Honda's
19 concealment of the true quality of those vehicles' HandsFreeLink™ systems. Had Plaintiffs and
20 Class members been aware of the defect in the HandsFreeLink™ systems installed in the Class
21 Vehicles, and the Company's disregard for the truth, Plaintiffs and Class members who purchased an
22 Acura vehicle would have paid less for their vehicles or would not have purchased them at all.

23 155. The value of Plaintiffs' and Class members' vehicles has diminished as a result of
24 Honda's fraudulent concealment of the defective HandsFreeLink™ system of the Class Vehicles,
25 which has made any reasonable consumer reluctant to purchase any of the Class Vehicles, let alone
26 pay what otherwise would have been fair market value for the vehicles.

27 156. Accordingly, Honda is liable to Plaintiffs and Class members for damages in an
28 amount to be proven at trial.

157. Honda's acts were done wantonly, maliciously, oppressively, deliberately, with intent to defraud, and in reckless disregard of Plaintiffs' and Class members' rights and the representations that Honda made to them, in order to enrich Honda. Honda'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 EXPRESS WARRANTY
(CAL. COM. CODE § 2313, *ET SEQ.*; CAL. CIVIL CODE § 1791.2, *ET SEQ.*)**

158. Plaintiffs incorporate by reference all preceding allegations as though fully set forth herein.

159. Plaintiffs bring this claim on behalf of the National Class.

160. As an express warrantor and manufacturer and merchant, Defendant had certain obligations under Cal. Com. Code § 2313, *et seq.* and Cal. Civ. Code § 1791.2, *et seq.* to conform the Class Vehicles to their express warranties.

161. Honda marketed the Class Vehicles as safe and reliable luxury vehicles. Such representations formed the basis of the bargain in Plaintiffs' and Class members' decisions to purchase the Class Vehicles.

162. In connection with the purchase or lease of each of the Class Vehicles, Honda provided warranty coverage for the Class Vehicles for 4 years or 50,000 miles, which obliges Honda to repair or replace any part that is defective under normal use.

163. Honda's warranty formed a basis of the bargain that was reached when Plaintiffs and other Class members purchased their Class Vehicles.

164. Plaintiffs and other Class members owned Class Vehicles with defective HandsFreeLink™ units within the warranty period but had no knowledge of the existence of the defect, which was known and concealed by Honda.

165. Despite the existence of the warranty, Honda failed to inform Plaintiffs and other Class members that the Class Vehicles contained the defective HandsFreeLink™ units during the warranty periods, and, thus, wrongfully transferred the costs of repair or replacement to Plaintiffs and other Class members.

1 174. Defendant is and was at all relevant times a merchant with respect to motor vehicles
2 under Cal. Com. Code § 2104.

3 175. A warranty that the Class Vehicles were in merchantable condition was implied by
4 law in the instant transaction, pursuant to Cal. Com. Code § 2314.

5 176. Honda marketed the Class Vehicles as safe and reliable luxury vehicles. Such
6 representations formed the basis of the bargain in Plaintiffs' and Class members' decisions to
7 purchase the Class Vehicles.

8 177. Plaintiffs and other Class members purchased or leased the Class Vehicles from
9 Honda, through Honda's authorized agents for retail sales, through private sellers, or were otherwise
10 expected to be the eventual purchasers of the Class Vehicles when bought from a third party. At all
11 relevant times, Honda was the manufacturer, distributor, warrantor, and/or seller of the Class
12 Vehicles.

13 178. Honda knew or had reason to know of the specific use for which the Class Vehicles
14 were purchased or leased.

15 179. Because of the Defect in the HandsFreeLink™ system, the Class Vehicles were not in
16 merchantable condition when sold and are not fit for the ordinary purpose of providing safe and
17 reliable transportation.

18 180. Honda knew about the Defect in the HandsFreeLink™ unit, allowing Honda to cure
19 their breach of its warranty if it chose.

20 181. Honda's attempt to disclaim or limit the implied warranty of merchantability vis-à-vis
21 consumers is unconscionable and unenforceable here. Specifically, Honda's warranty limitation is
22 unenforceable because they knowingly sold or leased a defective product without informing
23 consumers about the defect. The time limits contained in Honda's warranty periods were also
24 unconscionable and inadequate to protect Plaintiffs and other Class members. Among other things,
25 Plaintiffs and other Class members had no meaningful choice in determining these time limitations,
26 the terms of which unreasonably favored Honda. A gross disparity in bargaining power existed
27 between Honda and other Class members, and Honda knew of the Defect at the time of sale.
28

182. Plaintiffs and Class members have complied with all obligations under the warranty, or otherwise have been excused from performance of said obligations as a result of Honda's conduct described herein. Affording Honda a reasonable opportunity to cure the breach of written warranties therefore would be unnecessary and futile.

183. Accordingly, Honda is liable to Plaintiffs and Class members for damages in an amount to be proven at trial.

**COUNT VI
VIOLATIONS OF THE MAGNUSON-MOSS
WARRANTY ACT
(15 U.S.C. § 2301, *ET SEQ.*)**

184. Plaintiffs incorporate by reference all preceding allegations as though fully set forth herein.

185. Plaintiffs bring this claim on behalf of the National Class.

186. Plaintiffs satisfy the Magnuson-Moss Warranty Act ("MMWA") jurisdictional requirement because they allege diversity jurisdiction under the Class Action Fairness Act ("CAFA"), 28 U.S.C. § 1332(d)(2).

187. Plaintiffs and other Class members are "consumers" within the meaning of the Magnuson-Moss Warranty Act, 15 U.S.C. § 2301(3).

188. Honda is a "supplier" and "warrantor" within the meaning of the Magnuson-Moss Warranty Act, 15 U.S.C. § 2301(4)-(5).

189. The Class Vehicles are "consumer products" within the meaning of the Magnuson-Moss Warranty Act, 15 U.S.C. § 2301(1).

190. The MMWA provides a cause of action for any consumer who is damaged by the failure of a warrantor to comply with a written or implied warranty. *See* 15 U.S.C. § 2310(d)(1).

191. Defendant provided Plaintiffs and other Class members with an express warranty, which is covered under 15 U.S.C. § 2301(6).

192. The Class Vehicles' implied warranties are covered under 15 U.S.C. § 2301(7).

193. Defendant breached these warranties by misrepresenting the standard, quality, or grade of the Class Vehicles and failing to disclose and fraudulently concealing the existence of the Defect in the HandsFreeLink™ units.

194. Through their issuance of internal Technical Service Bulletins, Honda has acknowledged that the Class Vehicles are not of the standard, quality, or grade that Defendant represented.

195. Plaintiffs and other Class members have had sufficient direct dealings with Honda or its agents (dealerships) to establish privity of contract between Honda, on the one hand, and Plaintiffs and other Class members on the other hand.

196. Nonetheless, privity is not required here because Plaintiffs and other Class members are intended third-party beneficiaries of contracts between Honda and its dealers, and specifically, of its implied warranties.

197. Affording Honda a reasonable opportunity to cure the breach of written warranties would be unnecessary and futile. Under the circumstances, the remedies available under any informal settlement procedure would be inadequate and any requirement that Plaintiffs and Class members resort to an informal dispute resolution procedure and/or afford Honda a reasonable opportunity to cure their breach of warranties is excused and thereby deemed satisfied.

198. The amount in controversy of Plaintiffs' and Class members' 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.

199. Accordingly, Honda is liable to Plaintiffs and Class members for damages in an amount to be proven at trial.

**COUNT VII
UNJUST ENRICHMENT
(BASED ON CALIFORNIA LAW)**

200. Plaintiffs incorporate by reference all preceding allegations as though fully set forth herein.

201. Plaintiffs bring this claim on behalf of the National Class.

202. Honda has benefitted and been enriched by the conduct alleged herein. Honda has generated revenue from the unlawful conduct described herein. Honda has knowledge and appreciation of this benefit, which was conferred upon it by and at the expense of Plaintiffs and Class members.

203. Honda has voluntarily accepted and retained this benefit.

204. The circumstances, as described herein, are such that it would be inequitable for Honda to retain the ill-gotten benefit without paying the value thereof to Plaintiffs and Class members.

205. Plaintiffs and Class members are entitled to the amount of Honda's ill-gotten gains, including interest, resulting from their unlawful, unjust, unfair, and inequitable conduct as alleged herein.

VIII. CAUSES OF ACTION ON BEHALF OF THE ALTERNATE CLASSES

A. Claims Brought on Behalf of the Alternate Arizona Class

COUNT I VIOLATIONS OF THE CONSUMER FRAUD ACT (ARIZ. REV. STAT. § 44-1521, *ET SEQ.*)

206. Plaintiff William Kenar ("Plaintiff" for purposes of all Alternate Arizona Class Counts) incorporates by reference all paragraphs as though fully set forth herein.

207. This claim is brought on behalf of the Alternate Arizona Class.

208. Plaintiff, Class members, and Honda are each "persons" as defined by Ariz. Rev. Stat. § 44-1521(6). The Class Vehicles are "merchandise" as defined by Ariz. Rev. Stat. § 44-1521(5).

209. The Arizona Consumer Fraud Act declares as an unlawful practice "[t]he act, use or employment by any person of any deception, deceptive act or practice, fraud, false pretense, false promise, 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 or advertisement of any merchandise whether or not any person has in fact been misled, deceived or damaged thereby." Ariz. Rev. Stat. § 44-1522(A).

210. By failing to disclose and actively concealing the Defect in the HandsFreeLink™ systems in the Class Vehicles, Honda engaged in unlawful deceptive business practices prohibited by

1 the Arizona Consumer Fraud Act, Ariz. Rev. Stat. § 44-1522(A), including engaging in acts or
2 practices which are unfair, misleading, false, or deceptive to the consumer.

3 211. In purchasing or leasing the Acura vehicles, Plaintiff and Class members were
4 deceived by Honda's failure to disclose its knowledge of the defect in the HandsFreeLink™ system,
5 which caused a parasitic drain even when the vehicle's ignition switch is off. Defendant further
6 concealed the hidden nature of the problem with the HandsFreeLink™ system, causing the problem
7 to appear intermittent and unrelated to any defect with the HandsFreeLink™ system. Each of these
8 omissions contributed to the deceptive context of Honda's unlawful advertising and representations
9 as a whole.

10 212. Plaintiff and Class members reasonably relied upon Honda's false misrepresentations
11 and omissions. They had no way of knowing that Honda's representations were false, misleading,
12 and incomplete. As alleged herein, Honda engaged in a pattern of deception and public silence in the
13 face of a known defect with its HandsFreeLink™ system. Plaintiff and Class members did not, and
14 could not, unravel Honda's deception on their own.

15 213. Honda's actions as set forth above occurred in the conduct of trade or commerce.

16 214. Honda's unfair or deceptive acts or practices were likely to and did in fact deceive
17 reasonable consumers.

18 215. Honda knew that the HandsFreeLink™ systems in the Class Vehicles were
19 defectively designed or manufactured, and prone to create a parasitic electricity drain.

20 216. Honda intentionally and knowingly misrepresented material facts regarding the Acura
21 vehicles with intent to mislead Plaintiff and Class members.

22 217. Honda knew or should have known that its conduct violated Ariz. Rev. Stat. § 44-
23 1521.

24 218. Honda owed Plaintiff and Class members a duty to disclose the truth about its faulty
25 HandsFreeLink™ system because the defect created a safety hazard and Honda:

- 26 i. Possessed exclusive knowledge of the defect in the HandsFreeLink™ system;
- 27 ii. Intentionally concealed the foregoing from Plaintiff and the Class; and/or

1 HandsFreeLink™ system defect compromises the battery, the system “resets,” hiding the problem
2 until the system gets stuck again.

3 227. Honda further affirmatively misrepresented to Plaintiff in advertising and other forms
4 of communication, including standard and uniform material provided with each car and on its
5 website, that the Class Vehicles it was selling had no significant defects, that the HandsFreeLink™
6 was a safety feature, reliable, and would perform and operate properly.

7 228. Honda knew about the Defect in the HandsFreeLink™ system when these
8 representations were made.

9 229. The Class Vehicles purchased by Plaintiff and the other Class members contained a
10 defective HandsFreeLink™ system.

11 230. Honda had a duty to disclose that the HandsFreeLink™ system contained a
12 fundamental defect as alleged herein, because the defect created a safety hazard and Plaintiff and the
13 other Class members relied on Honda’s material representations.

14 231. As alleged herein, at all relevant times, Honda has held out the Class Vehicles to be
15 free from defects such as the defect related to the HandsFreeLink™ system. Honda touted and
16 continued to tout the many benefits and advantages of the HandsFreeLink™ system, but nonetheless
17 failed to disclose important facts related to the defect. This made Honda’s other disclosures about
18 the HandsFreeLink™ system deceptive.

19 232. The truth about the defective HandsFreeLink™ system was known only to Honda;
20 Plaintiff and the other Class members did not know of these facts and Honda actively concealed
21 these facts from Plaintiff and Class members.

22 233. Plaintiff and the other Class members reasonably relied upon Honda’s deception.
23 They had no way of knowing that Honda’s representations were false, misleading, or incomplete. As
24 consumers, Plaintiff and Class members did not, and could not, unravel Honda’s deception on their
25 own. Rather, Honda intended to deceive Plaintiff and Class members by concealing the true facts
26 about the Class Vehicles’ HandsFreeLink™ systems.

27 234. Honda’s false representations and omissions were material to consumers because they
28 concerned qualities of the Class Vehicles that played a significant role in the value of the vehicles.

1 235. Honda had a duty to disclose the HandsFreeLink™ system Defect and violations with
2 respect to the Class Vehicles because details of the true facts were known and/or accessible only to
3 Honda, because Honda had exclusive knowledge as to such facts, and because Honda knew these
4 facts were not known to or reasonably discoverable by Plaintiff or Class members.

5 236. Honda also had a duty to disclose because it made general affirmative representations
6 about the technological and safety innovations included with its vehicles, without telling consumers
7 that one of the features had a fundamental defect that would affect the safety, quality and
8 performance of the vehicle.

9 237. Honda's disclosures were misleading, deceptive, and incomplete because they failed
10 to inform consumers of the additional facts regarding the Defect in the HandsFreeLink™ system as
11 set forth herein. These omitted and concealed facts were material because they directly impact the
12 value of the Class Vehicles purchased by Plaintiff and Class members.

13 238. Honda has still not made full and adequate disclosures, and continues to defraud
14 Plaintiff and Class members by concealing material information regarding the Defect in the
15 HandsFreeLink™ system.

16 239. Plaintiff and Class members were unaware of the omitted material facts referenced
17 herein, and they would not have acted as they did if they had known of the concealed and/or
18 suppressed facts, in that they would not have purchased or paid as much for cars with faulty
19 technology, and/or would have taken other affirmative steps in light of the information concealed
20 from them. Plaintiff's and Class members' actions were justified. Honda was in exclusive control of
21 the material facts, and such facts were not generally known to the public, Plaintiff, or Class
22 members.

23 240. Because of the concealment and/or suppression of facts, Plaintiff and Class members
24 sustained damage because they own(ed) vehicles that are diminished in value as a result of Honda's
25 concealment of the true quality of those vehicles' HandsFreeLink™ systems. Had Plaintiff and
26 Class members been aware of the Defect in the HandsFreeLink™ systems installed in the Class
27 Vehicles, and the Company's disregard for the truth, Plaintiff and Class members who purchased an
28 Acura vehicle would have paid less for their vehicles or would not have purchased them at all.

241. The value of Plaintiff's and Class members' vehicles has diminished as a result of Honda's fraudulent concealment of the defective HandsFreeLink™ system of the Class Vehicles, which has made any reasonable consumer reluctant to purchase any of the Class Vehicles, let alone pay what otherwise would have been fair market value for the vehicles.

242. Accordingly, Honda is liable to Plaintiff and Class members for damages in an amount to be proven at trial.

243. Honda's acts were done wantonly, maliciously, oppressively, deliberately, with intent to defraud, and in reckless disregard of Plaintiff's and Class members' rights and the representations that Honda made to them, in order to enrich Honda. Honda'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 EXPRESS WARRANTY
(ARIZ. REV. STAT. § 47-2313)

244. Plaintiff incorporates by reference all preceding allegations as though fully set forth herein.

245. Plaintiff brings this claim on behalf of the Alternate Arizona Class.

246. Honda is and was at all relevant times a merchant with respect to motor vehicles under Ariz. Rev. Stat. § 47.2104(A).

247. Honda marketed the Class Vehicles as safe and reliable luxury vehicles. Such representations formed the basis of the bargain in Plaintiff's and Class members' decisions to purchase the Class Vehicles.

248. In connection with the purchase or lease of each of the Class Vehicles, Honda provided warranty coverage for the Class Vehicles for 4 years or 50,000 miles, which obliges Honda to repair or replace any part that is defective under normal use.

249. Honda's warranty formed a basis of the bargain that was reached when Plaintiff and other Class members purchased their Class Vehicles.

1 250. Plaintiff and other Class members owned Class Vehicles with defective
2 HandsFreeLink™ units within the warranty period but had no knowledge of the existence of the
3 Defect, which was known and concealed by Honda.

4 251. Despite the existence of the warranty, Honda failed to inform Plaintiff and other Class
5 members that the Class Vehicles contained the defective HandsFreeLink™ units during the warranty
6 periods, and, thus, wrongfully transferred the costs of repair or replacement to Plaintiff and other
7 Class members.

8 252. Honda breached the express warranty promising to repair and correct a manufacturing
9 defect or defect in materials or workmanship of any parts they supplied.

10 253. Honda knew about the Defect in the HandsFreeLink™ unit, allowing Honda to cure
11 their breach of its warranty if it chose.

12 254. However, Honda concealed the Defect and, on information and belief, has refused to
13 repair or replace the HandsFreeLink™ unit free of charge outside of the warranty periods despite the
14 Defect's existence at the time of sale or lease of the Class Vehicles.

15 255. Any attempt by Honda to disclaim or limit recovery to the terms of the express
16 warranties is unconscionable and unenforceable here. Specifically, Honda's warranty limitation is
17 unenforceable because they knowingly sold or leased a defective product without informing
18 consumers about the defect. The time limits contained in Honda's warranty periods were also
19 unconscionable and inadequate to protect Plaintiff and other Class members. Among other things,
20 Plaintiff and other Class members had no meaningful choice in determining these time limitations,
21 the terms of which unreasonably favored Honda. A gross disparity in bargaining power existed
22 between Honda and other Class members, and Honda knew that the HandsFreeLink™ units were
23 defective at the time of sale.

24 256. Further, the limited warranty promising to repair and/or correct a manufacturing
25 defect fails in its essential purpose because the contractual remedy is insufficient to make Plaintiff
26 and other Class members whole because the replacement part used by Honda contains the same
27 defect. Affording Honda a reasonable opportunity to cure the breach of written warranties therefore
28 would be unnecessary and futile.

257. Finally, due to Honda's breach of warranties as set forth herein, Plaintiff and the other Class members assert as an additional and/or alternative remedy, as set forth in Ariz. Rev. Stat. § 47-2711, for a revocation of acceptance of the goods, and for a return to Plaintiff and Class members the purchase price of all Class Vehicles currently owned and for such other incidental and consequential damages as allowed under Ariz. Rev. Stat. §§ 47-2711 and 47-2608.

258. Honda was provided notice of these issues by the instant complaint, and by numerous individual letters and communications sent by Plaintiff and the other Class members before or within a reasonable amount of time after Honda issued the TSBs and the allegations of Class Vehicle defects became public.

259. As a direct and proximate result of Honda's breach of express warranties, Plaintiff and the other Class members have been damaged in an amount to be determined at trial.

260. Accordingly, Honda is liable to Plaintiff and Class members for damages in an amount to be proven at trial.

**COUNT IV
BREACH OF THE IMPLIED WARRANTY
OF MERCHANTABILITY
(ARIZ. REV. STAT. § 47-2314)**

261. Plaintiff incorporates by reference all preceding allegations as though fully set forth herein.

262. Plaintiff brings this claim on behalf of the Alternate Arizona Class.

263. Honda was at all relevant times a merchant with respect to motor vehicles under Ariz. Rev. Stat. § 47-2014.

264. A warranty that the Class Vehicles were in merchantable condition was implied by law in the instant transactions, pursuant to Ariz. Rev. Stat. § 47-2314.

265. Honda marketed the Class Vehicles as safe and reliable luxury vehicles. Such representations formed the basis of the bargain in Plaintiff's and Class members' decisions to purchase the Class Vehicles.

266. Plaintiff and other Class members purchased or leased the Class Vehicles from Honda, through Honda's authorized agents for retail sales, through private sellers, or were otherwise

1 expected to be the eventual purchasers of the Class Vehicles when bought from a third party. At all
2 relevant times, Honda was the manufacturer, distributor, warrantor, and/or seller of the Class
3 Vehicles.

4 267. Honda knew or had reason to know of the specific use for which the Class Vehicles
5 were purchased or leased.

6 268. Honda impliedly warranted that the Class Vehicles were in merchantable condition
7 and fit for the ordinary purpose for which vehicles are used.

8 269. Because of the Defect in the HandsFreeLink™ system, the Class Vehicles were not in
9 merchantable condition when sold and are not fit for the ordinary purpose of providing safe and
10 reliable transportation.

11 270. Honda knew about the Defect in the HandsFreeLink™ unit, allowing Honda to cure
12 their breach of its warranty if it chose.

13 271. Honda's attempt to disclaim or limit the implied warranty of merchantability vis-à-vis
14 consumers is unconscionable and unenforceable here. Specifically, Honda's warranty limitation is
15 unenforceable because they knowingly sold or leased a defective product without informing
16 consumers about the defect. The time limits contained in Honda's warranty periods were also
17 unconscionable and inadequate to protect Plaintiff and other Class members. Among other things,
18 Plaintiff and other Class members had no meaningful choice in determining these time limitations,
19 the terms of which unreasonably favored Honda. A gross disparity in bargaining power existed
20 between Honda and other Class members, and Honda knew of the Defect at the time of sale.

21 272. Plaintiff and Class members have complied with all obligations under the warranty, or
22 otherwise have been excused from performance of said obligations as a result of Honda's conduct
23 described herein. Affording Honda a reasonable opportunity to cure the breach of written warranties
24 therefore would be unnecessary and futile.

25 273. Accordingly, Honda is liable to Plaintiff and Class members for damages in an
26 amount to be proven at trial.

COUNT V
VIOLATIONS OF THE MAGNUSON-MOSS
WARRANTY ACT
(15 U.S.C. § 2301, ET SEQ.)

274. Plaintiff incorporates by reference all preceding allegations as though fully set forth herein.

275. Plaintiff brings this claim on behalf of the Alternate Arizona Class.

276. Plaintiff satisfies the Magnuson-Moss Warranty Act (“MMWA”) jurisdictional requirement because he alleges diversity jurisdiction under CAFA, 28 U.S.C. § 1332(d)(2).

277. Plaintiff and other Class members are “consumers” within the meaning of the Magnuson-Moss Warranty Act, 15 U.S.C. § 2301(3).

278. Honda is a “supplier” and “warrantor” within the meaning of the Magnuson-Moss Warranty Act, 15 U.S.C. § 2301(4)-(5).

279. The Class Vehicles are “consumer products” within the meaning of the Magnuson-Moss Warranty Act, 15 U.S.C. § 2301(1).

280. The MMWA provides a cause of action for any consumer who is damaged by the failure of a warrantor to comply with a written or implied warranty. *See* 15 U.S.C. § 2310(d)(1).

281. Defendant provided Plaintiff and other Class members with an express warranty, which is covered under 15 U.S.C. § 2301(6).

282. The Class Vehicles’ implied warranties are covered under 15 U.S.C. § 2301(7).

283. Defendant breached these warranties by misrepresenting the standard, quality, or grade of the Class Vehicles and failing to disclose and fraudulently concealing the existence of the Defect in the HandsFreeLink™ units.

284. Through their issuance of internal Technical Service Bulletins, Honda has acknowledged that the Class Vehicles are not of the standard, quality, or grade that Defendant represented.

285. Plaintiff and other Class members have had sufficient direct dealings with Honda or its agents (dealerships) to establish privity of contract between Honda, on the one hand, and Plaintiff and other Class members on the other hand.

286. Nonetheless, privity is not required here because Plaintiff and other Class members are intended third-party beneficiaries of contracts between Honda and its dealers, and specifically, of its implied warranties.

287. Affording Honda a reasonable opportunity to cure the breach of written warranties would be unnecessary and futile. Under the circumstances, the remedies available under any informal settlement procedure would be inadequate and any requirement that Plaintiff and Class members resort to an informal dispute resolution procedure and/or afford Honda a reasonable opportunity to cure their breach of warranties is excused and thereby deemed satisfied.

288. The amount in controversy of Plaintiff's and Class members' 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.

289. Accordingly, Honda is liable to Plaintiff and Class members for damages in an amount to be proven at trial.

**COUNT VI
UNJUST ENRICHMENT
(BASED ON ARIZONA LAW)**

290. Plaintiff incorporates by reference all preceding allegations as though fully set forth herein.

291. Plaintiff brings this claim on behalf of the Alternate Arizona Class.

292. Honda has benefitted and been enriched by the conduct alleged herein. Honda has generated substantial revenue from the unlawful conduct described herein. Honda has knowledge and appreciation of this benefit, which was conferred upon it by and at the expense of Plaintiff and Class members.

293. Honda has voluntarily accepted and retained this benefit.

294. The circumstances, as described herein, are such that it would be inequitable for Honda to retain the ill-gotten benefit without paying the value thereof to Plaintiff and Class members.

295. Plaintiff and Class members are entitled to the amount of Honda's ill-gotten gains, including interest, resulting from their unlawful, unjust, unfair, and inequitable conduct as alleged herein.

B. Claims Brought on Behalf of the Alternate Delaware Class

**COUNT I
VIOLATIONS OF THE DELAWARE CONSUMER FRAUD ACT
(DEL. CODE ANN. TIT. 6 § 2511, *ET SEQ.*)**

296. Plaintiff Yun-Fei Lou ("Plaintiff" for purposes of all Alternate Delaware Class Counts) incorporates by reference all paragraphs as though fully set forth herein.

297. Plaintiff brings this claim on behalf of the Alternate Delaware Class.

298. Defendant has violated the Delaware Consumer Fraud Act, Del. Code Ann. tit. 6 § 2511, *et seq.* (2002), by intentionally and/or negligently acting, using, or employing deception, fraud, false pretense, false promise, or misrepresentation, and the concealment, suppression, or omission of a material fact, in connection with the sale, lease or advertisement of merchandise.

299. Plaintiff, Class members, and Honda are considered "persons" within the meaning of Del. Code Ann. tit. 6 § 2511(4)(2002).

300. The Class Vehicles are "merchandise" within the meaning of Del. Code Ann. tit. 6 § 2511(4).

301. Honda is engaged in "sales" within the meaning of Del. Code Ann. tit. 6 § 2511(6).

302. Defendant's unlawful practices as herein alleged were gross, oppressive, and aggravated.

303. In purchasing or leasing the Acura vehicles, Plaintiff and Class members were deceived by Honda's failure to disclose its knowledge of the defect in the HandsFreeLink™ system, which caused a parasitic drain even when the vehicle's ignition switch is off. Defendant further concealed the hidden nature of the problem with the HandsFreeLink™ system, causing the problem to appear intermittent and unrelated to any defect with the HandsFreeLink™ system. Each of these omissions contributed to the deceptive context of Honda's unlawful advertising and representations as a whole.

1 304. Plaintiff and Class members reasonably relied upon Honda's false misrepresentations
2 and omissions. They had no way of knowing that Honda's representations were false, misleading,
3 and incomplete. As alleged herein, Honda engaged in a pattern of deception and public silence in the
4 face of a known defect with its HandsFreeLink™ system. Plaintiff and Class members did not, and
5 could not, unravel Honda's deception on their own.

6 305. Honda's actions as set forth above occurred in the conduct of trade or commerce.

7 306. Honda's unfair or deceptive acts or practices were likely to and did in fact deceive
8 reasonable consumers.

9 307. Honda knew that the HandsFreeLink™ systems in the Class Vehicles were
10 defectively designed or manufactured, and prone to create a parasitic electricity drain.

11 308. Honda intentionally and knowingly misrepresented material facts regarding the Acura
12 vehicles with intent to mislead Plaintiff and Class members.

13 309. Honda knew or should have known that its conduct violated the Delaware Consumer
14 Fraud Act.

15 310. Honda owed Plaintiff and Class members a duty to disclose the truth about its faulty
16 HandsFreeLink™ system because the defect created a safety hazard and Honda:

- 17 i. Possessed exclusive knowledge of the Defect in the HandsFreeLink™ system;
- 18 ii. Intentionally concealed the foregoing from Plaintiff and the Class; and/or
- 19 iii. Made incomplete representations in advertisements and on its website, failing
20 to warn the public or to publicly admit that the HandsFreeLink™ system was
defective.

21 311. Honda had a duty to disclose that the HandsFreeLink™ system in the Acura vehicles
22 was fundamentally flawed as described herein, because the Defect created a safety hazard and
23 Plaintiff and Class members relied on Honda's material misrepresentations and omissions regarding
24 the technology, benefits, efficiency, convenience, performance, and safety features of the
25 HandsFreeLink™ system.

26 312. Honda's conduct proximately caused injuries to Plaintiff and Class members that
27 purchased the Acura vehicles and suffered harm as alleged herein.

1 321. Honda had a duty to disclose that the HandsFreeLink™ system contained a
2 fundamental defect as alleged herein, because the defect created a safety hazard and Plaintiff and the
3 other Class members relied on Honda's material representations.

4 322. As alleged herein, at all relevant times, Honda has held out the Class Vehicles to be
5 free from defects such as the defect related to the HandsFreeLink™ system. Honda touted and
6 continued to tout the many benefits and advantages of the HandsFreeLink™ system, but nonetheless
7 failed to disclose important facts related to the defect. This made Honda's other disclosures about
8 the HandsFreeLink™ system deceptive.

9 323. The truth about the defective HandsFreeLink™ system was known only to Honda;
10 Plaintiff and the other Class members did not know of these facts and Honda actively concealed
11 these facts from Plaintiff and Class members.

12 324. Plaintiff and the other Class members reasonably relied upon Honda's deception.
13 They had no way of knowing that Honda's representations were false, misleading, or incomplete. As
14 consumers, Plaintiff and Class members did not, and could not, unravel Honda's deception on their
15 own. Rather, Honda intended to deceive Plaintiff and Class members by concealing the true facts
16 about the Class Vehicles' HandsFreeLink™ systems.

17 325. Honda's false representations and omissions were material to consumers because they
18 concerned qualities of the Class Vehicles that played a significant role in the value of the vehicles.

19 326. Honda had a duty to disclose the HandsFreeLink™ system Defect and violations with
20 respect to the Class Vehicles because details of the true facts were known and/or accessible only to
21 Honda, because Honda had exclusive knowledge as to such facts, and because Honda knew these
22 facts were not known to or reasonably discoverable by Plaintiff or Class members.

23 327. Honda also had a duty to disclose because it made general affirmative representations
24 about the technological and safety innovations included with its vehicles, without telling consumers
25 that one of the features had a fundamental defect that would affect the safety, quality and
26 performance of the vehicle.

27 328. Honda's disclosures were misleading, deceptive, and incomplete because they failed
28 to inform consumers of the additional facts regarding the Defect in the HandsFreeLink™ system as

1 set forth herein. These omitted and concealed facts were material because they directly impact the
2 value of the Class Vehicles purchased by Plaintiff and Class members.

3 329. Honda has still not made full and adequate disclosures, and continues to defraud
4 Plaintiff and Class members by concealing material information regarding the Defect in the
5 HandsFreeLink™ system.

6 330. Plaintiff and Class members were unaware of the omitted material facts referenced
7 herein, and they would not have acted as they did if they had known of the concealed and/or
8 suppressed facts, in that they would not have purchased or paid as much for cars with faulty
9 technology, and/or would have taken other affirmative steps in light of the information concealed
10 from them. Plaintiff's and Class members' actions were justified. Honda was in exclusive control of
11 the material facts, and such facts were not generally known to the public, Plaintiff, or Class
12 members.

13 331. Because of the concealment and/or suppression of facts, Plaintiff and Class members
14 sustained damage because they own(ed) vehicles that are diminished in value as a result of Honda's
15 concealment of the true quality of those vehicles' HandsFreeLink™ systems. Had Plaintiff and
16 Class members been aware of the Defect in the HandsFreeLink™ systems installed in the Class
17 Vehicles, and the Company's disregard for the truth, Plaintiff and Class members who purchased an
18 Acura vehicle would have paid less for their vehicles or would not have purchased them at all.

19 332. The value of Plaintiff's and Class members' vehicles has diminished as a result of
20 Honda's fraudulent concealment of the defective HandsFreeLink™ system of the Class Vehicles,
21 which has made any reasonable consumer reluctant to purchase any of the Class Vehicles, let alone
22 pay what otherwise would have been fair market value for the vehicles.

23 333. Accordingly, Honda is liable to Plaintiff and Class members for damages in an
24 amount to be proven at trial.

25 334. Honda's acts were done wantonly, maliciously, oppressively, deliberately, with intent
26 to defraud, and in reckless disregard of Plaintiff's and Class members' rights and the representations
27 that Honda made to them, in order to enrich Honda. Honda's conduct warrants an assessment of
28

1 punitive damages in an amount sufficient to deter such conduct in the future, which amount is to be
2 determined according to proof.

3 **COUNT III**
4 **BREACH OF EXPRESS WARRANTY**
5 **(6 DEL. C. § 2-313)**

6 335. Plaintiff incorporates by reference all preceding allegations as though fully set forth
7 herein.

8 336. Plaintiff brings this claim on behalf of the Alternate Delaware Class.

9 337. Honda marketed the Class Vehicles as safe and reliable luxury vehicles. Such
10 representations formed the basis of the bargain in Plaintiff's and Class members' decisions to
11 purchase the Class Vehicles.

12 338. Honda was at all relevant times a "merchant" of motor vehicles as defined by 6 Del.
13 C. § 2-104.

14 339. The Class Vehicles are and were at all relevant times "goods" as defined by 6 Del. C.
15 § 2-105.

16 340. In connection with the purchase or lease of each of the Class Vehicles, Honda
17 provided warranty coverage for the Class Vehicles for 4 years or 50,000 miles, which obliges Honda
18 to repair or replace any part that is defective under normal use.

19 341. Honda's warranty formed a basis of the bargain that was reached when Plaintiff and
20 other Class members purchased their Class Vehicles.

21 342. Plaintiff and other Class members owned Class Vehicles with defective
22 HandsFreeLink™ units within the warranty period but had no knowledge of the existence of the
23 Defect, which was known and concealed by Honda.

24 343. Despite the existence of the warranty, Honda failed to inform Plaintiff and other Class
25 members that the Class Vehicles contained the defective HandsFreeLink™ units during the warranty
26 periods, and, thus, wrongfully transferred the costs of repair or replacement to Plaintiff and other
27 Class members.

28 344. Honda breached the express warranty promising to repair and correct a manufacturing
defect or defect in materials or workmanship of any parts they supplied.

1 345. Honda knew about the Defect in the HandsFreeLink™ unit, allowing Honda to cure
2 their breach of its warranty if it chose.

3 346. However, Honda concealed the Defect and, on information and belief, has refused to
4 repair or replace the HandsFreeLink™ unit free of charge outside of the warranty periods despite the
5 Defect's existence at the time of sale or lease of the Class Vehicles.

6 347. Any attempt by Honda to disclaim or limit recovery to the terms of the express
7 warranties is unconscionable and unenforceable here. Specifically, Honda's warranty limitation is
8 unenforceable because they knowingly sold or leased a defective product without informing
9 consumers about the defect. The time limits contained in Honda's warranty periods were also
10 unconscionable and inadequate to protect Plaintiff and other Class members. Among other things,
11 Plaintiff and other Class members had no meaningful choice in determining these time limitations,
12 the terms of which unreasonably favored Honda. A gross disparity in bargaining power existed
13 between Honda and other Class members, and Honda knew that the HandsFreeLink™ units were
14 defective at the time of sale.

15 348. Further, the limited warranty promising to repair and/or correct a manufacturing
16 defect fails in its essential purpose because the contractual remedy is insufficient to make Plaintiff
17 and other Class members whole because the replacement part used by Honda contains the same
18 defect. Affording Honda a reasonable opportunity to cure the breach of written warranties therefore
19 would be unnecessary and futile.

20 349. Accordingly, Honda is liable to Plaintiff and Class members for damages in an
21 amount to be proven at trial.

22 **COUNT IV**
23 **BREACH OF THE IMPLIED WARRANTY**
24 **OF MERCHANTABILITY**
25 **(6 DEL. C. § 2-314)**

26 350. Plaintiff incorporates by reference all preceding allegations as though fully set forth
27 herein.

28 351. Plaintiff brings this claim on behalf of the Alternate Delaware Class.

1 352. Honda marketed the Class Vehicles as safe and reliable luxury vehicles. Such
2 representations formed the basis of the bargain in Plaintiff's and Class members' decisions to
3 purchase the Class Vehicles.

4 353. Honda was at all relevant times a "merchant" of motor vehicles as defined by 6 Del.
5 C. § 2-104.

6 354. The Class Vehicles are and were at all relevant times "goods" as defined by 6 Del. C.
7 § 2-105.

8 355. Plaintiff and other Class members purchased or leased the Class Vehicles from
9 Honda, through Honda's authorized agents for retail sales, through private sellers, or were otherwise
10 expected to be the eventual purchasers of the Class Vehicles when bought from a third party. At all
11 relevant times, Honda was the manufacturer, distributor, warrantor, and/or seller of the Class
12 Vehicles.

13 356. Honda knew or had reason to know of the specific use for which the Class Vehicles
14 were purchased or leased.

15 357. Honda impliedly warranted that the Class Vehicles were in merchantable condition
16 and fit for the ordinary purpose for which vehicles are used.

17 358. Because of the Defect in the HandsFreeLink™ system, the Class Vehicles were not in
18 merchantable condition when sold and are not fit for the ordinary purpose of providing safe and
19 reliable transportation.

20 359. Honda knew about the Defect in the HandsFreeLink™ unit, allowing Honda to cure
21 their breach of its warranty if it chose.

22 360. Honda's attempt to disclaim or limit the implied warranty of merchantability vis-à-vis
23 consumers is unconscionable and unenforceable here. Specifically, Honda's warranty limitation is
24 unenforceable because they knowingly sold or leased a defective product without informing
25 consumers about the defect. The time limits contained in Honda's warranty periods were also
26 unconscionable and inadequate to protect Plaintiff and other Class members. Among other things,
27 Plaintiff and other Class members had no meaningful choice in determining these time limitations,
28

1 the terms of which unreasonably favored Honda. A gross disparity in bargaining power existed
2 between Honda and other Class members, and Honda knew of the Defect at the time of sale.

3 361. Plaintiff and Class members have complied with all obligations under the warranty, or
4 otherwise have been excused from performance of said obligations as a result of Honda's conduct
5 described herein. Affording Honda a reasonable opportunity to cure the breach of written warranties
6 therefore would be unnecessary and futile.

7 362. Accordingly, Honda is liable to Plaintiff and Class members for damages in an
8 amount to be proven at trial.

9 **COUNT V**
10 **VIOLATIONS OF THE MAGNUSON-MOSS**
11 **WARRANTY ACT**
(15 U.S.C. § 2301, ET SEQ.)

12 363. Plaintiff incorporates by reference all preceding allegations as though fully set forth
13 herein.

14 364. Plaintiff brings this claim on behalf of the Alternate Delaware Class.

15 365. Plaintiff satisfies the Magnuson-Moss Warranty Act ("MMWA") jurisdictional
16 requirement because he alleges diversity jurisdiction under CAFA, 28 U.S.C. § 1332(d)(2).

17 366. Plaintiff and other Class members are "consumers" within the meaning of the
18 Magnuson-Moss Warranty Act, 15 U.S.C. § 2301(3).

19 367. Honda is a "supplier" and "warrantor" within the meaning of the Magnuson-Moss
20 Warranty Act, 15 U.S.C. § 2301(4)-(5).

21 368. The Class Vehicles are "consumer products" within the meaning of the Magnuson-
22 Moss Warranty Act, 15 U.S.C. § 2301(1).

23 369. The MMWA provides a cause of action for any consumer who is damaged by the
24 failure of a warrantor to comply with a written or implied warranty. *See* 15 U.S.C. § 2310(d)(1).

25 370. Defendant provided Plaintiff and other Class members with an express warranty,
26 which is covered under 15 U.S.C. § 2301(6).

27 371. The Class Vehicles' implied warranties are covered under 15 U.S.C. § 2301(7).
28

373. Through their issuance of internal Technical Service Bulletins, Honda has acknowledged that the Class Vehicles are not of the standard, quality, or grade that Defendant represented.

374. Plaintiff and other Class members have had sufficient direct dealings with Honda or its agents (dealerships) to establish privity of contract between Honda, on the one hand, and Plaintiff and other Class members on the other hand.

375. Nonetheless, privity is not required here because Plaintiff and other Class members are intended third-party beneficiaries of contracts between Honda and its dealers, and specifically, of its implied warranties.

376. Affording Honda a reasonable opportunity to cure the breach of written warranties would be unnecessary and futile. Under the circumstances, the remedies available under any informal settlement procedure would be inadequate and any requirement that Plaintiff and Class members resort to an informal dispute resolution procedure and/or afford Honda a reasonable opportunity to cure their breach of warranties is excused and thereby deemed satisfied.

377. The amount in controversy of Plaintiff's and Class members' 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.

378. Accordingly, Honda is liable to Plaintiff and Class members for damages in an amount to be proven at trial.

**COUNT VI
UNJUST ENRICHMENT
(BASED ON DELAWARE LAW)**

379. Plaintiff incorporates by reference all preceding allegations as though fully set forth herein.

380. Plaintiff brings this claim on behalf of the Alternate Delaware Class.

381. Honda has benefitted and been enriched by the conduct alleged herein. Honda has generated substantial revenue from the unlawful conduct described herein. Honda has knowledge and appreciation of this benefit, which was conferred upon it by and at the expense of Plaintiff and Class members.

382. Honda has voluntarily accepted and retained this benefit.

383. The circumstances, as described herein, are such that it would be inequitable for Honda to retain the ill-gotten benefit without paying the value thereof to Plaintiff and Class members.

384. Plaintiff and Class members are entitled to the amount of Honda's ill-gotten gains, including interest, resulting from their unlawful, unjust, unfair, and inequitable conduct as alleged herein.

C. Claims Brought on Behalf of the Alternate Missouri Class

**COUNT I
VIOLATIONS OF THE MISSOURI MERCHANDISING
PRACTICES ACT
(MO. REV. STAT. § 407.010, *ET SEQ.*)**

385. Plaintiff Ron Alul ("Plaintiff" for purposes of all Alternate Missouri Class Counts) incorporates by reference all paragraphs as though fully set forth herein.

386. Plaintiff brings this claim on behalf of the Alternate Missouri Class.

387. Honda, Plaintiff, and Class members are "persons" within the meaning of Mo. Rev. Stat. § 407.010(5).

388. Honda engaged in "trade" or "commerce" in the State of Missouri within the meaning of Mo. Rev. Stat. § 407.010(7).

389. 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.

390. By failing to release material facts about the Defect, Honda curtailed or reduced the ability of consumers to take notice of material facts about their vehicle, and/or it affirmatively

1 operated to hide or keep those facts from consumers. Mo. Code Regs. Ann. tit. 15, § 60-9.110.
2 Moreover, Honda has otherwise engaged in activities with a tendency or capacity to deceive. Honda
3 also engaged in unlawful trade practices by employing deception, deceptive acts or practices, fraud,
4 misrepresentations, unfair practices, and/or concealment, suppression or omission of any material
5 fact with intent that others rely upon such concealment, suppression or omission, in connection with
6 the sale of Class Vehicles.

7 391. Honda knew it had installed a defective HandsFreeLink™ system since at least 2005,
8 when they issued the Technical Service Bulletin discussed herein.

9 392. By failing to disclose and by actively concealing the defect in the HandsFreeLink™
10 system, by marketing its vehicles as safe, reliable and of high quality, and by presenting itself as a
11 reputable manufacturer that valued safety and reliability and stood behind its vehicles after they were
12 sold, Honda engaged in deceptive business practices in violation of the Missouri MPA.

13 393. In the course of Honda's business, it willfully failed to disclose and actively
14 concealed the defect in the HandsFreeLink™ system discussed herein. Honda compounded the
15 deception by repeatedly asserting Class Vehicles were safe, reliable, and of high quality, and by
16 claiming to be a reputable manufacturer that valued safety, and stood behind its vehicles once they
17 are on the road.

18 394. Honda's unfair or deceptive acts or practices, including these concealments,
19 omissions, and suppressions of material facts, had a tendency or capacity to mislead, tended to create
20 a false impression in consumers, and did in fact deceive reasonable consumers, including Plaintiff
21 and Class members, about true reliability of Class Vehicles and the ability to use the
22 HandsFreeLink™ system without compromising their batteries

23 395. Honda intentionally and knowingly misrepresented material facts regarding the Class
24 Vehicles with an intent to mislead Plaintiff and Class members, including without limitation by
25 failing to disclose the defects in light of circumstances under which the omitted facts were necessary
26 in order to correct the assumptions, inferences or representations being made by Honda about the
27 reliability and safety of its vehicles. Consequently, the failure to disclose such facts amounts to
28 misleading statements pursuant to Mo. Code Regs. Ann. tit. 15, § 60-9.090.

1 396. Because Honda knew or believed that its statements regarding the reliability and
2 safety of its vehicles were not in accord with the facts and/or had no reasonable basis for such
3 statements in light of its knowledge of these defects, Honda engaged in fraudulent misrepresentations
4 pursuant to Mo. Code Regs. Ann. tit. 15, § 60-9.100.

5 397. Honda's conduct as described herein is unethical, oppressive, or unscrupulous and/or
6 it presented a risk of substantial injury to consumers. Such acts are unfair practices in violation of
7 Mo. Code Regs. Ann. tit. 15, § 60-8.020.

8 398. Honda knew or should have known that its conduct violated the Missouri MPA.

9 399. As alleged above, Honda made material statements about the reliability and safety of
10 the Class Vehicles and the Honda brand that were either false, misleading, and/or half-truths in
11 violation of the Missouri MPA.

12 400. Honda owed Plaintiff and Class members a duty to disclose the truth about its faulty
13 HandsFreeLink™ system because the defect created a safety hazard and Honda:

- 14 i. Possessed exclusive knowledge of the Defect in the HandsFreeLink™ system,
15 which caused parasitic electricity drain that would repeatedly deplete the car's
battery;
- 16 ii. Intentionally concealed the foregoing from Plaintiff and Class members;
17 and/or
- 18 iii. Made incomplete representations in advertisements and on its website, failing
19 to warn the public or to publicly admit that the HandsFreeLink™ system was
defective.

20 401. Honda's fraudulent use of the HandsFreeLink™ system and its concealment of the
21 true defective nature of the system were material to Plaintiff and Class members.

22 402. Plaintiff and Class members suffered ascertainable loss caused by Honda's
23 misrepresentations and its concealment of and failure to disclose material information. Class
24 members who purchased the Class Vehicles either would have paid less for their vehicles or would
25 not have purchased or leased them at all but for Honda's violations of the Missouri MPA.

26 403. Honda had an ongoing duty to all its customers to refrain from unfair and deceptive
27 practices under the Missouri MPA. All owners of Class Vehicles suffered ascertainable loss in the
28

1 form of the diminished value of their vehicles as a result of Honda's deceptive and unfair acts and
2 practices made in the course of Honda's business.

3 404. Honda's violations present a continuing risk to Plaintiff and Class members as well as
4 to the general public. Honda's unlawful acts and practices complained of herein affect the public
5 interest.

6 405. As a direct and proximate result of Honda's violations of the Missouri MPA, Plaintiff
7 and Class members have suffered injury-in-fact and/or actual damage.

8 406. Honda is liable to Plaintiff and Class members for damages in amounts to be proven
9 at trial, including attorneys' fees, costs, and punitive damages, as well as injunctive relief enjoining
10 Honda's unfair and deceptive practices, and any other just and proper relief under Mo. Rev. Stat.
11 § 407.025

12 **COUNT II**
13 **FRAUDULENT CONCEALMENT**
(BASED ON MISSOURI LAW)

14 407. Plaintiff incorporates by reference all preceding allegations as though fully set forth
15 herein.

16 408. Plaintiff brings this claim on behalf of the Alternate Missouri Class.

17 409. Honda intentionally concealed that the HandsFreeLink™ system is defective, and
18 prone to create a parasitic electricity drain that would strain the electrical system and repeatedly
19 deplete the car's battery, leaving owners with cars that would not start, premature battery death, and
20 damage to other components in the electric system. Honda concealed the fact that once the
21 HandsFreeLink™ system defect compromises the battery, the system "resets," hiding the problem
22 until the system gets stuck again.

23 410. Honda further affirmatively misrepresented to Plaintiff in advertising and other forms
24 of communication, including standard and uniform material provided with each car and on its
25 website, that the Class Vehicles it was selling had no significant defects, that the HandsFreeLink™
26 was a safety feature, reliable, and would perform and operate properly.

27 411. Honda knew about the Defect in the HandsFreeLink™ system when these
28 representations were made.

1 412. The Class Vehicles purchased by Plaintiff and the other Class members contained a
2 defective HandsFreeLink™ system.

3 413. Honda had a duty to disclose that the HandsFreeLink™ system contained a
4 fundamental defect as alleged herein, because the defect created a safety hazard and Plaintiff and the
5 other Class members relied on Honda's material representations.

6 414. As alleged herein, at all relevant times, Honda has held out the Class Vehicles to be
7 free from defects such as the defect related to the HandsFreeLink™ system. Honda touted and
8 continued to tout the many benefits and advantages of the HandsFreeLink™ system, but nonetheless
9 failed to disclose important facts related to the defect. This made Honda's other disclosures about
10 the HandsFreeLink™ system deceptive.

11 415. The truth about the defective HandsFreeLink™ system was known only to Honda;
12 Plaintiff and the other Class members did not know of these facts and Honda actively concealed
13 these facts from Plaintiff and Class members.

14 416. Plaintiff and the other Class members reasonably relied upon Honda's deception.
15 They had no way of knowing that Honda's representations were false, misleading, or incomplete. As
16 consumers, Plaintiff and Class members did not, and could not, unravel Honda's deception on their
17 own. Rather, Honda intended to deceive Plaintiff and Class members by concealing the true facts
18 about the Class Vehicles' HandsFreeLink™ systems.

19 417. Honda's false representations and omissions were material to consumers because they
20 concerned qualities of the Class Vehicles that played a significant role in the value of the vehicles.

21 418. Honda had a duty to disclose the HandsFreeLink™ system Defect and violations with
22 respect to the Class Vehicles because details of the true facts were known and/or accessible only to
23 Honda, because Honda had exclusive knowledge as to such facts, and because Honda knew these
24 facts were not known to or reasonably discoverable by Plaintiff or Class members.

25 419. Honda also had a duty to disclose because it made general affirmative representations
26 about the technological and safety innovations included with its vehicles, without telling consumers
27 that one of the features had a fundamental defect that would affect the safety, quality and
28 performance of the vehicle.

1 420. Honda's disclosures were misleading, deceptive, and incomplete because they failed
2 to inform consumers of the additional facts regarding the Defect in the HandsFreeLink™ system as
3 set forth herein. These omitted and concealed facts were material because they directly impact the
4 value of the Class Vehicles purchased by Plaintiff and Class members.

5 421. Honda has still not made full and adequate disclosures, and continues to defraud
6 Plaintiff and Class members by concealing material information regarding the Defect in the
7 HandsFreeLink™ system.

8 422. Plaintiff and Class members were unaware of the omitted material facts referenced
9 herein, and they would not have acted as they did if they had known of the concealed and/or
10 suppressed facts, in that they would not have purchased or paid as much for cars with faulty
11 technology, and/or would have taken other affirmative steps in light of the information concealed
12 from them. Plaintiff's and Class members' actions were justified. Honda was in exclusive control of
13 the material facts, and such facts were not generally known to the public, Plaintiff, or Class
14 members.

15 423. Because of the concealment and/or suppression of facts, Plaintiff and Class members
16 sustained damage because they own(ed) vehicles that are diminished in value as a result of Honda's
17 concealment of the true quality of those vehicles' HandsFreeLink™ systems. Had Plaintiff and
18 Class members been aware of the Defect in the HandsFreeLink™ systems installed in the Class
19 Vehicles, and the Company's disregard for the truth, Plaintiff and Class members who purchased an
20 Acura vehicle would have paid less for their vehicles or would not have purchased them at all.

21 424. The value of Plaintiff's and Class members' vehicles has diminished as a result of
22 Honda's fraudulent concealment of the defective HandsFreeLink™ system of the Class Vehicles,
23 which has made any reasonable consumer reluctant to purchase any of the Class Vehicles, let alone
24 pay what otherwise would have been fair market value for the vehicles.

25 425. Accordingly, Honda is liable to Plaintiff and Class members for damages in an
26 amount to be proven at trial.

27 426. Honda's acts were done wantonly, maliciously, oppressively, deliberately, with intent
28 to defraud, and in reckless disregard of Plaintiff's and Class members' rights and the representations

1 that Honda made to them, in order to enrich Honda. Honda's conduct warrants an assessment of
2 punitive damages in an amount sufficient to deter such conduct in the future, which amount is to be
3 determined according to proof.

4 **COUNT III**
5 **BREACH OF EXPRESS WARRANTY**
6 **(MO. REV. STAT. § 400.2-313)**

7 427. Plaintiff incorporates by reference all preceding allegations as though fully set forth
8 herein.

9 428. Plaintiff brings this claim on behalf of the Alternate Missouri Class.

10 429. Honda marketed the Class Vehicles as safe and reliable luxury vehicles. Such
11 representations formed the basis of the bargain in Plaintiff's and Class members' decisions to
12 purchase the Class Vehicles.

13 430. Honda was at all relevant times a "merchant" of motor vehicles as defined by Mo.
14 Rev. Stat. § 400.2-104.

15 431. In connection with the purchase or lease of each of the Class Vehicles, Honda
16 provided warranty coverage for the Class Vehicles for 4 years or 50,000 miles, which obliges Honda
17 to repair or replace any part that is defective under normal use.

18 432. Honda's warranty formed a basis of the bargain that was reached when Plaintiff and
19 other Class members purchased their Class Vehicles.

20 433. Plaintiff and other Class members owned Class Vehicles with defective
21 HandsFreeLink™ units within the warranty period but had no knowledge of the existence of the
22 Defect, which was known and concealed by Honda.

23 434. Despite the existence of the warranty, Honda failed to inform Plaintiff and other Class
24 members that the Class Vehicles contained the defective HandsFreeLink™ units during the warranty
25 periods, and, thus, wrongfully transferred the costs of repair or replacement to Plaintiff and other
26 Class members.

27 435. Honda breached the express warranty promising to repair and correct a manufacturing
28 defect or defect in materials or workmanship of any parts they supplied.

436. Honda knew about the Defect in the HandsFreeLink™ unit, allowing Honda to cure their breach of its warranty if it chose.

437. However, Honda concealed the Defect and, on information and belief, has refused to repair or replace the HandsFreeLink™ unit free of charge outside of the warranty periods despite the Defect's existence at the time of sale or lease of the Class Vehicles.

438. Any attempt by Honda to disclaim or limit recovery to the terms of the express warranties is unconscionable and unenforceable here. Specifically, Honda's warranty limitation is unenforceable because they knowingly sold or leased a defective product without informing consumers about the defect. The time limits contained in Honda's warranty periods were also unconscionable and inadequate to protect Plaintiff and other Class members. Among other things, Plaintiff and other Class members had no meaningful choice in determining these time limitations, the terms of which unreasonably favored Honda. A gross disparity in bargaining power existed between Honda and other Class members, and Honda knew that the HandsFreeLink™ units were defective at the time of sale.

439. Further, the limited warranty promising to repair and/or correct a manufacturing defect fails in its essential purpose because the contractual remedy is insufficient to make Plaintiff and other Class members whole because the replacement part used by Honda contains the same defect. Affording Honda a reasonable opportunity to cure the breach of written warranties therefore would be unnecessary and futile.

440. Accordingly, Honda is liable to Plaintiff and Class members for damages in an amount to be proven at trial.

COUNT IV
BREACH OF IMPLIED WARRANTY
(MO. REV. STAT. § 400.2-314)

441. Plaintiff incorporates by reference all preceding allegations as though fully set forth herein.

442. Plaintiff brings this claim on behalf of the Alternate Missouri Class.

1 443. Honda marketed the Class Vehicles as safe and reliable luxury vehicles. Such
2 representations formed the basis of the bargain in Plaintiff's and Class members' decisions to
3 purchase the Class Vehicles.

4 444. Honda was at all relevant times a merchant of motor vehicles as defined by Mo. Rev.
5 Stat. § 400.2-104.

6 445. Plaintiff and other Class members purchased or leased the Class Vehicles from
7 Honda, through Honda's authorized agents for retail sales, through private sellers, or were otherwise
8 expected to be the eventual purchasers of the Class Vehicles when bought from a third party. At all
9 relevant times, Honda was the manufacturer, distributor, warrantor, and/or seller of the Class
10 Vehicles.

11 446. Honda knew or had reason to know of the specific use for which the Class Vehicles
12 were purchased or leased.

13 447. Honda impliedly warranted that the Class Vehicles were in merchantable condition
14 and fit for the ordinary purpose for which vehicles are used.

15 448. Because of the Defect in the HandsFreeLink™ system, the Class Vehicles were not in
16 merchantable condition when sold and are not fit for the ordinary purpose of providing safe and
17 reliable transportation.

18 449. Honda knew about the Defect in the HandsFreeLink™ unit, allowing Honda to cure
19 their breach of its warranty if it chose.

20 450. Honda's attempt to disclaim or limit the implied warranty of merchantability vis-à-vis
21 consumers is unconscionable and unenforceable here. Specifically, Honda's warranty limitation is
22 unenforceable because they knowingly sold or leased a defective product without informing
23 consumers about the defect. The time limits contained in Honda's warranty periods were also
24 unconscionable and inadequate to protect Plaintiff and other Class members. Among other things,
25 Plaintiff and other Class members had no meaningful choice in determining these time limitations,
26 the terms of which unreasonably favored Honda. A gross disparity in bargaining power existed
27 between Honda and other Class members, and Honda knew of the Defect at the time of sale.
28

1 463. Through their issuance of internal Technical Service Bulletins, Honda has
2 acknowledged that the Class Vehicles are not of the standard, quality, or grade that Defendant
3 represented.

4 464. Plaintiff and other Class members have had sufficient direct dealings with Honda or
5 its agents (dealerships) to establish privity of contract between Honda, on the one hand, and Plaintiff
6 and other Class members on the other hand.

7 465. Nonetheless, privity is not required here because Plaintiff and other Class members
8 are intended third-party beneficiaries of contracts between Honda and its dealers, and specifically, of
9 its implied warranties.

10 466. Affording Honda a reasonable opportunity to cure the breach of written warranties
11 would be unnecessary and futile. Under the circumstances, the remedies available under any
12 informal settlement procedure would be inadequate and any requirement that Plaintiff and Class
13 members resort to an informal dispute resolution procedure and/or afford Honda a reasonable
14 opportunity to cure their breach of warranties is excused and thereby deemed satisfied.

15 467. The amount in controversy of Plaintiff's and Class members' individual claims meets
16 or exceeds the sum of \$25. The amount in controversy of this action exceeds the sum of \$50,000,
17 exclusive of interest and costs, computed on the basis of all claims to be determined in this lawsuit.

18 468. Accordingly, Honda is liable to Plaintiff and Class members for damages in an
19 amount to be proven at trial.

20 **COUNT VI**
21 **UNJUST ENRICHMENT**
 (BASED ON MISSOURI LAW)

22 469. Plaintiff incorporates by reference all preceding allegations as though fully set forth
23 herein.

24 470. Plaintiff brings this claim on behalf of the Alternate Missouri Class.

25 471. Honda has benefitted and been enriched by the conduct alleged herein. Honda has
26 generated substantial revenue from the unlawful conduct described herein. Honda has knowledge
27 and appreciation of this benefit, which was conferred upon it by and at the expense of Plaintiff and
28 Class members.

1 472. Honda has voluntarily accepted and retained this benefit.

2 473. The circumstances, as described herein, are such that it would be inequitable for
3 Honda to retain the ill-gotten benefit without paying the value thereof to Plaintiff and Class
4 members.

5 474. Plaintiff and Class members are entitled to the amount of Honda's ill-gotten gains,
6 including interest, resulting from their unlawful, unjust, unfair, and inequitable conduct as alleged
7 herein.

8 **D. Claims Brought on Behalf of the Alternate New Hampshire Class**

9 **COUNT I**
10 **VIOLATIONS OF NEW HAMPSHIRE CONSUMER**
11 **PROTECTION ACT**
12 **(N.H.R.S.A. § 358-A, ET SEQ.)**

13 475. Plaintiff Melissa Yeung ("Plaintiff" for purposes of all Alternate New Hampshire
14 Class Counts) incorporates by reference all paragraphs as though fully set forth herein.

15 476. Plaintiff brings this claim on behalf of the Alternate New Hampshire Class.

16 477. Section 358A-1 of the New Hampshire Consumer Protection Act states, "It shall be
17 unlawful for any person to use any unfair method of competition or any unfair or deceptive act or
18 practice in the conduct of any trade or commerce within this state."

19 478. As detailed herein, by not disclosing the defective nature of the HandsFreeLink™
20 system Honda has willfully and knowingly engaged in an unfair and deceptive acts in the conduct of
21 trade and commerce within the State of New Hampshire.

22 479. In purchasing or leasing the Class Vehicles, Plaintiff and the other Class members
23 were deceived by Honda's failure to disclose that the HandsFreeLink™ system in the Class Vehicles
24 was defective.

25 480. Plaintiff and Class members reasonably relied upon Honda's false misrepresentations
26 and omissions. They had no way of knowing that Honda's representations were false, misleading,
27 and incomplete. As alleged herein, Honda willfully and knowingly engaged in a pattern of deception
28 and public silence in the face of a known defect with its HandsFreeLink™ system. Plaintiff and
Class members did not, and could not, unravel Honda's deception on their own.

1 481. Honda's actions as set forth above occurred in the conduct of trade or commerce.

2 482. Honda's unfair or deceptive acts or practices were likely to and did in fact deceive
3 reasonable consumers.

4 483. Honda willfully and knowingly misrepresented material facts regarding the Class
5 Vehicles with intent to mislead Plaintiff and Class members.

6 484. Honda knew or should have known that its conduct violated the New Hampshire
7 Consumer Protection Act.

8 485. Honda owed Plaintiff and Class members a duty to disclose the truth about its faulty
9 HandsFreeLink™ system because the defect created a safety hazard and Honda:

- 10 i. Possessed exclusive knowledge of the defect in the HandsFreeLink™ system;
11 ii. Intentionally concealed the foregoing from Plaintiff and Class members;
12 and/or
13 iii. Made incomplete representations in advertisements and on its website, failing
14 to warn the public or to publicly admit that the HandsFreeLink™ system was
15 defective.

16 486. Honda had a duty to disclose that the HandsFreeLink™ system in the Class Vehicles
17 was fundamentally flawed as described herein, because the Defect created a safety hazard and
18 Plaintiff and the other Class members relied on Honda's material misrepresentations and omissions
19 regarding the technology, benefits, efficiency, convenience, performance, and safety features of the
20 HandsFreeLink™ system.

21 487. Honda's conduct proximately caused injuries to Plaintiff and the other Class members
22 that purchased the Class Vehicles and suffered harm as alleged herein.

23 488. Plaintiff and the other Class members were injured and suffered ascertainable loss,
24 injury-in-fact, and/or actual damage as a proximate result of Honda's conduct in that Plaintiff and the
25 other Class members incurred costs related the parasitic drain caused by the Defect, including
26 replacement of electrical components and service costs, and overpaid for their Class Vehicles that
27 have suffered a diminution in value.

28 489. Honda's violations cause continuing injuries to Plaintiff and Class members. Honda's
unlawful acts and practices complained of herein affect the public interest.

491. Plaintiff and Class members also seek court costs and attorneys' fees.

491. Plaintiff and Class members also seek court costs and attorneys' fees.

COUNT II
FRAUDULENT CONCEALMENT
(BASED ON NEW HAMPSHIRE LAW)

492. Plaintiff incorporates by reference all preceding allegations as though fully set forth herein.

493. Plaintiff brings this claim on behalf of the Alternate New Hampshire Class.

494. Honda intentionally concealed that the HandsFreeLink™ system is defective, and prone to create a parasitic electricity drain that would strain the electrical system and repeatedly deplete the car's battery, leaving owners with cars that would not start, premature battery death, and damage to other components in the electric system. Honda concealed the fact that once the HandsFreeLink™ system defect compromises the battery, the system "resets," hiding the problem until the system gets stuck again.

495. Honda further affirmatively misrepresented to Plaintiff in advertising and other forms of communication, including standard and uniform material provided with each car and on its website, that the Class Vehicles it was selling had no significant defects, that the HandsFreeLink™ was a safety feature, reliable, and would perform and operate properly.

496. Honda knew about the Defect in the HandsFreeLink™ system when these representations were made.

497. The Class Vehicles purchased by Plaintiff and the other Class members contained a defective HandsFreeLink™ system.

498. Honda had a duty to disclose that the HandsFreeLink™ system contained a fundamental defect as alleged herein, because the defect created a safety hazard and Plaintiff and the other Class members relied on Honda's material representations.

499. As alleged herein, at all relevant times, Honda has held out the Class Vehicles to be free from defects such as the defect related to the HandsFreeLink™ system. Honda touted and continued to tout the many benefits and advantages of the HandsFreeLink™ system, but nonetheless

1 failed to disclose important facts related to the defect. This made Honda's other disclosures about
2 the HandsFreeLink™ system deceptive.

3 500. The truth about the defective HandsFreeLink™ system was known only to Honda;
4 Plaintiff and the other Class members did not know of these facts and Honda actively concealed
5 these facts from Plaintiff and Class members.

6 501. Plaintiff and the other Class members reasonably relied upon Honda's deception.
7 They had no way of knowing that Honda's representations were false, misleading, or incomplete. As
8 consumers, Plaintiff and Class members did not, and could not, unravel Honda's deception on their
9 own. Rather, Honda intended to deceive Plaintiff and Class members by concealing the true facts
10 about the Class Vehicles' HandsFreeLink™ systems.

11 502. Honda's false representations and omissions were material to consumers because they
12 concerned qualities of the Class Vehicles that played a significant role in the value of the vehicles.

13 503. Honda had a duty to disclose the HandsFreeLink™ system Defect and violations with
14 respect to the Class Vehicles because details of the true facts were known and/or accessible only to
15 Honda, because Honda had exclusive knowledge as to such facts, and because Honda knew these
16 facts were not known to or reasonably discoverable by Plaintiff or Class members.

17 504. Honda also had a duty to disclose because it made general affirmative representations
18 about the technological and safety innovations included with its vehicles, without telling consumers
19 that one of the features had a fundamental defect that would affect the safety, quality and
20 performance of the vehicle.

21 505. Honda's disclosures were misleading, deceptive, and incomplete because they failed
22 to inform consumers of the additional facts regarding the Defect in the HandsFreeLink™ system as
23 set forth herein. These omitted and concealed facts were material because they directly impact the
24 value of the Class Vehicles purchased by Plaintiff and Class members.

25 506. Honda has still not made full and adequate disclosures, and continues to defraud
26 Plaintiff and Class members by concealing material information regarding the Defect in the
27 HandsFreeLink™ system.
28

1 513. Plaintiff and Class members bring this claim on behalf of the Alternate New
2 Hampshire Class.

3 514. Honda marketed the Class Vehicles as safe and reliable luxury vehicles. Such
4 representations formed the basis of the bargain in Plaintiff's and Class members' decisions to
5 purchase the Class Vehicles.

6 515. Honda was at all relevant times a "merchant" as defined by N.H. Rev. Stat. Ann.
7 § 382-A:2-104.

8 516. The Class Vehicles are and were at all relevant times "goods" as defined by N.H. Rev.
9 Stat. Ann. § 382-A:2-105.

10 517. In connection with the purchase or lease of each of the Class Vehicles, Honda
11 provided warranty coverage for the Class Vehicles for 4 years or 50,000 miles, which obliges Honda
12 to repair or replace any part that is defective under normal use.

13 518. Honda's warranty formed a basis of the bargain that was reached when Plaintiff and
14 other Class members purchased their Class Vehicles.

15 519. Plaintiff and other Class members owned Class Vehicles with defective
16 HandsFreeLink™ units within the warranty period but had no knowledge of the existence of the
17 Defect, which was known and concealed by Honda.

18 520. Despite the existence of the warranty, Honda failed to inform Plaintiff and other Class
19 members that the Class Vehicles contained the defective HandsFreeLink™ units during the warranty
20 periods, and, thus, wrongfully transferred the costs of repair or replacement to Plaintiff and other
21 Class members.

22 521. Honda breached the express warranty promising to repair and correct a manufacturing
23 defect or defect in materials or workmanship of any parts they supplied.

24 522. Honda knew about the Defect in the HandsFreeLink™ unit, allowing Honda to cure
25 their breach of its warranty if it chose.

26 523. However, Honda concealed the Defect and, on information and belief, has refused to
27 repair or replace the HandsFreeLink™ unit free of charge outside of the warranty periods despite the
28 Defect's existence at the time of sale or lease of the Class Vehicles.

1 532. The Class Vehicles are and were at all relevant times “goods” as defined by N.H. Rev.
2 Stat. Ann. § 382-A:2-105.

3 533. Plaintiff and other Class members purchased or leased the Class Vehicles from
4 Honda, through Honda’s authorized agents for retail sales, through private sellers, or were otherwise
5 expected to be the eventual purchasers of the Class Vehicles when bought from a third party. At all
6 relevant times, Honda was the manufacturer, distributor, warrantor, and/or seller of the Class
7 Vehicles.

8 534. Honda knew or had reason to know of the specific use for which the Class Vehicles
9 were purchased or leased.

10 535. Honda impliedly warranted that the Class Vehicles were in merchantable condition
11 and fit for the ordinary purpose for which vehicles are used.

12 536. Because of the Defect in the HandsFreeLink™ system, the Class Vehicles were not in
13 merchantable condition when sold and are not fit for the ordinary purpose of providing safe and
14 reliable transportation.

15 537. Honda knew about the Defect in the HandsFreeLink™ unit, allowing Honda to cure
16 their breach of its warranty if it chose.

17 538. Honda’s attempt to disclaim or limit the implied warranty of merchantability vis-à-vis
18 consumers is unconscionable and unenforceable here. Specifically, Honda’s warranty limitation is
19 unenforceable because they knowingly sold or leased a defective product without informing
20 consumers about the defect. The time limits contained in Honda’s warranty periods were also
21 unconscionable and inadequate to protect Plaintiff and other Class members. Among other things,
22 Plaintiff and other Class members had no meaningful choice in determining these time limitations,
23 the terms of which unreasonably favored Honda. A gross disparity in bargaining power existed
24 between Honda and other Class members, and Honda knew of the Defect at the time of sale.

25 539. Plaintiff and Class members have complied with all obligations under the warranty, or
26 otherwise have been excused from performance of said obligations as a result of Honda’s conduct
27 described herein. Affording Honda a reasonable opportunity to cure the breach of written warranties
28 therefore would be unnecessary and futile.

540. Accordingly, Honda is liable to Plaintiff and Class members for damages in an amount to be proven at trial.

COUNT V
VIOLATIONS OF THE MAGNUSON-MOSS
WARRANTY ACT
(15 U.S.C. § 2301, *ET SEQ.*)

541. Plaintiff incorporates by reference all preceding allegations as though fully set forth herein.

542. Plaintiff brings this claim on behalf of the Alternate New Hampshire Class.

543. Plaintiff satisfies the Magnuson-Moss Warranty Act (“MMWA”) jurisdictional requirement because she alleges diversity jurisdiction under CAFA, 28 U.S.C. § 1332(d)(2).

544. Plaintiff and other Class members are “consumers” within the meaning of the Magnuson-Moss Warranty Act, 15 U.S.C. § 2301(3).

545. Honda is a “supplier” and “warrantor” within the meaning of the Magnuson-Moss Warranty Act, 15 U.S.C. § 2301(4)-(5).

546. The Class Vehicles are “consumer products” within the meaning of the Magnuson-Moss Warranty Act, 15 U.S.C. § 2301(1).

547. The MMWA provides a cause of action for any consumer who is damaged by the failure of a warrantor to comply with a written or implied warranty. *See* 15 U.S.C. § 2310(d)(1).

548. Defendant provided Plaintiff and other Class members with an express warranty, which is covered under 15 U.S.C. § 2301(6).

549. The Class Vehicles' implied warranties are covered under 15 U.S.C. § 2301(7).

550. Defendant breached these warranties by misrepresenting the standard, quality, or grade of the Class Vehicles and failing to disclose and fraudulently concealing the existence of the Defect in the HandsFreeLink™ units.

551. Through their issuance of internal Technical Service Bulletins, Honda has acknowledged that the Class Vehicles are not of the standard, quality, or grade that Defendant represented.

561. The circumstances, as described herein, are such that it would be inequitable for Honda to retain the ill-gotten benefit without paying the value thereof to Plaintiff and Class members.

562. Plaintiff and Class members are entitled to the amount of Honda's ill-gotten gains, including interest, resulting from their unlawful, unjust, unfair, and inequitable conduct as alleged herein.

E. Claims Brought on Behalf of the Alternate Texas Class

**COUNT I
VIOLATIONS OF THE TEXAS DECEPTIVE TRADE
PRACTICES AND CONSUMER PROTECTION ACT
(TEX. BUS. & COM. CODE § 17.4, *ET SEQ.*)¹**

563. Plaintiff Mark Gerstle ("Plaintiff" for purposes of all Alternate Texas Class Counts) incorporates by reference all paragraphs as though fully set forth herein.

564. Plaintiff brings this Count on behalf of the Alternate Texas Class.

565. Plaintiff and the Alternate Class are individuals 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.

566. The Texas Deceptive Trade Practices-Consumer Protection Act ("Texas DTPA") provides a private right of action to a consumer where the consumer suffers economic damage as the result of either (i) the use of false, misleading, or deceptive act or practice specifically enumerated in Tex. Bus. & Com. Code § 17.46(b); or (ii) "an unconscionable action or course of action by any person." Tex. Bus. & Com. Code § 17.50(a)(2) & (3). The Texas 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 "(9) advertising goods or services with intent not to sell them as advertised." An "unconscionable action or course of action," means "an act or

¹ Pursuant to Tex. Bus. & Com. Code § 17.505(b), Plaintiff will provide written notice to defendant within 60 business days of service of this complaint.

1 practice which, to a consumer's detriment, takes advantage of the lack of knowledge, ability,
 2 experience, or capacity of the consumer to a grossly unfair degree." Tex. Bus. & Com. Code
 3 § 17.45(5). As detailed herein, Honda has engaged in an unconscionable action or course of action
 4 and thereby caused economic damages to the Class.

5 567. In purchasing or leasing the Acura vehicles, Plaintiff and the other Class members
 6 were deceived by Honda's failure to disclose that the HandsFreeLink™ system in the Acura vehicles
 7 was defective.

8 568. Plaintiff and Class members reasonably relied upon Honda's false misrepresentations
 9 and omissions. They had no way of knowing that Honda's representations were false, misleading,
 10 and incomplete. As alleged herein, Honda engaged in a pattern of deception and public silence in the
 11 face of a known defect with its HandsFreeLink™ system. Plaintiff and Class members did not, and
 12 could not, unravel Honda's deception on their own.

13 569. Honda's actions as set forth above occurred in the conduct of trade or commerce.

14 570. Honda's unfair or deceptive acts or practices were likely to and did in fact deceive
 15 reasonable consumers.

16 571. Honda intentionally and knowingly misrepresented material facts regarding the Acura
 17 vehicles with intent to mislead Plaintiff and the other Class members.

18 572. Honda knew or should have known that its conduct violated the Texas DTPA.

19 573. Honda owed Plaintiff and the other Class members a duty to disclose the truth about
 20 its faulty HandsFreeLink™ system because the defect created a safety hazard and Honda:

- 21 i. Possessed exclusive knowledge of the Defect in the HandsFreeLink™ system;
- 22 ii. Intentionally concealed the foregoing from Plaintiff and the other Class
- 23 members; and/or
- 24 iii. Made incomplete representations in advertisements and on its website, failing
- 25 to warn the public or to publicly admit that the HandsFreeLink™ system was
- 26 defective.

27 574. Honda had a duty to disclose that the HandsFreeLink™ system in the Acura vehicles
 28 was fundamentally flawed as described herein, because the Defect created a safety hazard and
 Plaintiff and the other Class members relied on Honda's material misrepresentations and omissions

1 regarding the technology, benefits, efficiency, convenience, performance, and safety features of the
2 HandsFreeLink™ system.

3 575. Honda's conduct proximately caused injuries to Plaintiff and the other Class members
4 that purchased the Acura vehicles and suffered harm as alleged herein.

5 576. Plaintiff and the other Class members were injured and suffered ascertainable loss,
6 injury-in-fact, and/or actual damage as a proximate result of Honda's conduct in that Plaintiff and the
7 other Class members incurred costs related the parasitic drain caused by the Defect, including
8 replacement of electrical components and service costs, and overpaid for their Acura vehicles that
9 have suffered a diminution in value.

10 577. Honda's violations cause continuing injuries to Plaintiff and the other Class members.
11 Honda's unlawful acts and practices complained of herein affect the public interest.

12 578. Plaintiff and the other Class members seek damages and treble damages for Honda's
13 knowing violations.

14 **COUNT II**
15 **FRAUDULENT CONCEALMENT**
(BASED ON TEXAS LAW)

16 579. Plaintiff incorporates by reference all preceding allegations as though fully set forth
17 herein.

18 580. Plaintiff brings this Count on behalf of the Alternate Texas Class.

19 581. Honda intentionally concealed that the HandsFreeLink™ system is defective, and
20 prone to create a parasitic electricity drain that would strain the electrical system and repeatedly
21 deplete the car's battery, leaving owners with cars that would not start, premature battery death, and
22 damage to other components in the electric system. Honda concealed the fact that once the
23 HandsFreeLink™ system defect compromises the battery, the system "resets," hiding the problem
24 until the system gets stuck again.

25 582. Honda further affirmatively misrepresented to Plaintiff in advertising and other forms
26 of communication, including standard and uniform material provided with each car and on its
27 website, that the Acura vehicles it was selling had no significant defects, that the HandsFreeLink™
28 was a safety feature, reliable, and would perform and operate properly.

1 583. Honda knew about the Defect in the HandsFreeLink™ system when these
2 representations were made.

3 584. The Acura vehicles purchased by Plaintiff and the other Class members contained a
4 defective HandsFreeLink™ system.

5 585. Honda had a duty to disclose that the HandsFreeLink™ system contained a
6 fundamental defect as alleged herein, because the defect created a safety hazard and Plaintiff and the
7 other Class members relied on Honda's material representations.

8 586. As alleged herein, at all relevant times, Honda has held out the Acura vehicles to be
9 free from defects such as the defect related to the HandsFreeLink™ system. Honda touted and
10 continued to tout the many benefits and advantages of the HandsFreeLink™ system, but nonetheless
11 failed to disclose important facts related to the defect. This made Honda's other disclosures about
12 the HandsFreeLink™ system deceptive.

13 587. The truth about the defective HandsFreeLink™ system was known only to Honda;
14 Plaintiff and the other Class members did not know of these facts and Honda actively concealed
15 these facts from Plaintiff and the other Class members.

16 588. Plaintiff and the other Class members reasonably relied upon Honda's deception.
17 They had no way of knowing that Honda's representations were false, misleading, or incomplete. As
18 consumers, Plaintiff and the other Class members did not, and could not, unravel Honda's deception
19 on their own. Rather, Honda intended to deceive Plaintiff and Class members by concealing the true
20 facts about the Acura vehicles' HandsFreeLink™ systems.

21 589. Honda's false representations and omissions were material to consumers, because
22 they concerned qualities of the Acura vehicles which played a significant role in the value of the
23 vehicles.

24 590. Honda had a duty to disclose the HandsFreeLink® system defect and violations with
25 respect to the Acura vehicles because details of the true facts were known and/or accessible only to
26 Honda, because Honda had exclusive knowledge as to such facts, and because Honda knew these
27 facts were not known to or reasonably discoverable by Plaintiff or Class members.
28

1 591. Honda also had a duty to disclose because it made general affirmative representations
2 about the technological and safety innovations included with its vehicles, without telling consumers
3 that one of the features had a fundamental defect that would affect the safety, quality and
4 performance of the vehicle.

5 592. Honda's disclosures were misleading, deceptive, and incomplete because they failed
6 to inform consumers of the additional facts regarding the Defect in the HandsFreeLink® system as
7 set forth herein. These omitted and concealed facts were material because they directly impact the
8 value of the Acura vehicles purchased by Plaintiff and Class members.

9 593. Honda has still not made full and adequate disclosures, and continues to defraud
10 Plaintiff and Class members by concealing material information regarding the defect in the
11 HandsFreeLink® system.

12 594. Plaintiff and Class members were unaware of the omitted material facts referenced
13 herein, and they would not have acted as they did if they had known of the concealed and/or
14 suppressed facts, in that they would not have purchased or paid as much for cars with faulty
15 technology, and/or would have taken other affirmative steps in light of the information concealed
16 from them. Plaintiff's and Class members' actions were justified. Honda was in exclusive control of
17 the material facts, and such facts were not generally known to the public, Plaintiff, or Class
18 members.

19 595. Because of the concealment and/or suppression of facts, Plaintiff and the other Class
20 members sustained damage because they own(ed) vehicles that are diminished in value as a result of
21 Honda's concealment of the true quality of those vehicles' HandsFreeLink® systems. Had Plaintiff
22 and the other Class members been aware of the defect in the HandsFreeLink® systems installed in
23 the Acura vehicles, and the Company's disregard for the truth, Plaintiff and Class members who
24 purchased an Acura vehicle would have paid less for their vehicles or would not have purchased
25 them at all.

26 596. The value of Plaintiff's and Class members' vehicles has diminished as a result of
27 Honda's fraudulent concealment of the defective HandsFreeLink® system of the Acura vehicles,
28

1 which has made any reasonable consumer reluctant to purchase any of the Acura vehicles, let alone
2 pay what otherwise would have been fair market value for the vehicles.

3 597. Accordingly, Honda is liable to Plaintiff and Class members for damages in an
4 amount to be proven at trial.

5 598. Honda's acts were done wantonly, maliciously, oppressively, deliberately, with intent
6 to defraud, and in reckless disregard of Plaintiff's and Class members' rights and the representations
7 that Honda made to them, in order to enrich Honda. Honda's conduct warrants an assessment of
8 punitive damages in an amount sufficient to deter such conduct in the future, which amount is to be
9 determined according to proof.

10 **COUNT III**
11 **BREACH OF EXPRESS WARRANTY**
(TEX. BUS. & COM. CODE ANN. § 2.313)

12 599. Plaintiff incorporates by reference all preceding allegations as though fully set forth
13 herein.

14 600. Plaintiff brings this Count on behalf of the Alternate Texas Class.

15 601. Honda marketed the Acura vehicles as safe and reliable luxury vehicles. Such
16 representations formed the basis of the bargain in Plaintiff's and Class Members' decisions to
17 purchase the Acura vehicles.

18 602. Honda was at all relevant times a "merchant" of motor vehicles as defined by Tex.
19 Bus. & Com. Code Ann. § 2.104.

20 603. The Acura vehicles are and were at all relevant times goods as defined by Tex. Bus. &
21 Com. Code Ann. § 2.105.

22 604. In connection with the purchase or lease of each of the Class Vehicles, Honda
23 provided warranty coverage for the Class Vehicles for 4 years or 50,000 miles, which obliges Honda
24 to repair or replace any part that is defective under normal use.

25 605. Honda's warranty formed a basis of the bargain that was reached when Plaintiff and
26 other Class members purchased their Acura vehicles.

1 606. Plaintiff and other Class members owned Acura vehicles with defective
2 HandsFreeLink™ units within the warranty period but had no knowledge of the existence of the
3 defect, which was known and concealed by Honda.

4 607. Despite the existence of the warranty, Honda failed to inform Plaintiff and other Class
5 members that the Acura vehicles contained the defective HandsFreeLink™ units during the warranty
6 periods, and, thus, wrongfully transferred the costs of repair or replacement to Plaintiff and other
7 Class members.

8 608. Honda breached the express warranty promising to repair and correct a manufacturing
9 defect or defect in materials or workmanship of any parts they supplied.

10 609. Honda knew about the Defect in the HandsFreeLink™ unit, allowing Honda to cure
11 their breach of its warranty if it chose.

12 610. However, Honda concealed the Defect and, on information and belief, has refused to
13 repair or replace the HandsFreeLink™ unit free of charge outside of the warranty periods despite the
14 Defect's existence at the time of sale or lease of the Acura vehicles.

15 611. Any attempt by Honda to disclaim or limit recovery to the terms of the express
16 warranties is unconscionable and unenforceable here. Specifically, Honda's warranty limitation is
17 unenforceable because they knowingly sold or leased a defective product without informing
18 consumers about the defect. The time limits contained in Honda's warranty periods were also
19 unconscionable and inadequate to protect Plaintiff and other Class members. Among other things,
20 Plaintiff and other Class members had no meaningful choice in determining these time limitations,
21 the terms of which unreasonably favored Honda. A gross disparity in bargaining power existed
22 between Honda and other Class members, and Honda knew that the HandsFreeLink™ units were
23 defective at the time of sale.

24 612. Further, the limited warranty promising to repair and/or correct a manufacturing
25 defect fails in its essential purpose because the contractual remedy is insufficient to make Plaintiff
26 and other Class members whole because the replacement part used by Honda contains the same
27 defect.

624. Honda's attempt to disclaim or limit the implied warranty of merchantability vis-à-vis consumers is unconscionable and unenforceable here. Specifically, Honda's warranty limitation is unenforceable because they knowingly sold or leased a defective product without informing consumers about the defect. The time limits contained in Honda's warranty periods were also unconscionable and inadequate to protect Plaintiff and other Class members. Among other things, Plaintiff and other Class members had no meaningful choice in determining these time limitations, the terms of which unreasonably favored Honda. A gross disparity in bargaining power existed between Honda, Plaintiff and other Class members, and Honda knew of the Defect at the time of sale.

625. Plaintiff and Class members have complied with all obligations under the warranty, or otherwise have been excused from performance of said obligations as a result of Honda's conduct described herein.

626. Accordingly, Honda is liable to Plaintiff and Class members for damages in an amount to be proven at trial.

COUNT V
VIOLATIONS OF THE MAGNUSON-MOSS
WARRANTY ACT
(15 U.S.C. § 2301, ET SEQ.)

627. Plaintiff incorporates by reference all preceding allegations as though fully set forth herein.

628. Plaintiff brings this Count on behalf of the Alternate Texas Class.

629. Plaintiff satisfies the Magnuson-Moss Warranty Act ("MMWA") jurisdictional requirement because he alleges diversity jurisdiction under CAFA, 28 U.S.C. § 1332(d)(2).

630. Plaintiff and other Class members are "consumers" within the meaning of the Magnuson-Moss Warranty Act, 15 U.S.C. § 2301(3).

631. Honda is a "supplier" and "warrantor" within the meaning of the Magnuson-Moss Warranty Act, 15 U.S.C. § 2301(4)-(5).

632. The Class Vehicles are "consumer products" within the meaning of the Magnuson-Moss Warranty Act, 15 U.S.C. § 2301(1).

1 633. The MMWA provides a cause of action for any consumer who is damaged by the
2 failure of a warrantor to comply with a written or implied warranty. *See* 15 U.S.C. § 2310(d)(1).

3 634. Defendant provided Plaintiff and other Class members with an express warranty,
4 which is covered under 15 U.S.C. § 2301(6).

5 635. The Acura vehicles' implied warranties are covered under 15 U.S.C. § 2301(7).

6 636. Defendant breached these warranties by misrepresenting the standard, quality, or
7 grade of the Class Vehicles and failing to disclose and fraudulently concealing the existence of the
8 Defect in the HandsFreeLink™ units.

9 637. Through their issuance of internal Technical Service Bulletins, Honda has
10 acknowledged that the Acura vehicles are not of the standard, quality or grade that Defendant
11 represented.

12 638. Plaintiff and other Class members have had sufficient direct dealings with Honda or
13 its agents (dealerships) to establish privity of contract between Honda, on the one hand, and Plaintiff
14 and other Class members on the other hand.

15 639. Nonetheless, privity is not required here because Plaintiff and other Class members
16 are intended third-party beneficiaries of contracts between Honda and its dealers, and specifically, of
17 its implied warranties.

18 640. Affording Honda a reasonable opportunity to cure the breach of written warranties
19 would be unnecessary and futile. Under the circumstances, the remedies available under any
20 informal settlement procedure would be inadequate and any requirement that Plaintiff resort to an
21 informal dispute resolution procedure and/or afford Honda a reasonable opportunity to cure their
22 breach of warranties is excused and thereby deemed satisfied.

23 641. The amount in controversy of Plaintiff's individual claims meets or exceeds the sum
24 of \$25. The amount in controversy of this action exceeds the sum of \$50,000, exclusive of interest
25 and costs, computed on the basis of all claims to be determined in this lawsuit.

26 642. Accordingly, Honda is liable to Plaintiff and Class members for damages in an
27 amount to be proven at trial.
28

**COUNT VI
UNJUST ENRICHMENT
(BASED ON TEXAS LAW)**

643. Plaintiff incorporates by reference all preceding allegations as though fully set forth herein.

644. Plaintiff brings this Count on behalf of the Alternate Texas Class.

645. Honda has benefitted and been enriched by the conduct alleged herein. Honda has generated substantial revenue from the unlawful conduct described herein. Honda has knowledge and appreciation of this benefit, which was conferred upon it by and at the expense of Plaintiff and Class members.

646. Honda has voluntarily accepted and retained this benefit.

647. The circumstances, as described herein, are such that it would be inequitable for Honda to retain the ill-gotten benefit without paying the value thereof to Plaintiff and the Class members.

648. Plaintiff and the Class members are entitled to the amount of Honda's ill-gotten gains, including interest, resulting from their unlawful, unjust, unfair, and inequitable conduct as alleged herein.

F. Claims Brought on Behalf of the Alternate Virginia Class

**COUNT I
VIOLATIONS OF THE VIRGINIA CONSUMER
PROTECTION ACT
(VA. CODE ANN. § 59.1-196, *ET SEQ.*)**

649. Plaintiff Arpan Srivastava ("Plaintiff" for purposes of all Alternate Virginia Class Counts) incorporates by reference all paragraphs as though fully set forth herein.

650. Plaintiff brings this claim on behalf of the Alternate Virginia Class.

651. The Virginia Consumer Protection prohibits "(14) using any . . . deception, fraud, false pretense, false promise, or misrepresentation in connection with a consumer transaction[.]" Va. Code Ann. § 59.1-200(A).

652. Honda is a "person" as defined by Va. Code Ann. § 59.1-198. The transactions between Plaintiff and the other Class members on one hand and Honda on the other, leading to the

1 purchase or lease of the Class Vehicles by Plaintiff and the other Class members, are “consumer
2 transactions” as defined by Va. Code Ann. § 59.1-198, because the Class Vehicles were purchased or
3 leased primarily for personal, family or household purposes.

4 653. In the course of Honda’s business, it willfully failed to disclose and actively
5 concealed the fact that the HandsFreeLink™ system in the Class Vehicles was fundamentally flawed
6 as described herein, because the Defect created a safety hazard and Plaintiff and the other Class
7 members relied on Honda’s material misrepresentations and omissions regarding the technology,
8 benefits, efficiency, convenience, performance, and safety features of the HandsFreeLink™ system.
9 Accordingly, Honda engaged in acts and practices violating Va. Code Ann. § 59.1-200(A), including
10 engaging in conduct likely to deceive.

11 654. Honda’s actions as set forth above occurred in the conduct of trade or commerce.

12 655. Honda’s conduct proximately caused injuries to Plaintiff and the other Class
13 members.

14 656. Plaintiff and the other Class members were injured as a result of Honda’s conduct in
15 that Plaintiff and the other Class members overpaid for their Class Vehicles and did not receive the
16 benefit of their bargain, and their Class Vehicles have suffered a diminution in value. These injuries
17 are the direct and natural consequence of Ford’s omissions.

18 657. Honda actively and willfully concealed and/or suppressed the material facts regarding
19 the defective and unreasonably dangerous nature of the HandsFreeLink™ system and the Class
20 Vehicles, in whole or in part, with the intent to deceive and mislead Plaintiff and the other Class
21 members and to induce Plaintiff and the other Class members to purchase or lease Class Vehicles at
22 a higher price, which did not match the Class Vehicles’ true value. Plaintiff and the other Class
23 members therefore seek treble damages.

24 658. Plaintiff and Class members also seek court costs and attorneys’ fees.

25 **COUNT II**
26 **FRAUDULENT CONCEALMENT**
(BASED ON VIRGINIA LAW)

27 659. Plaintiff incorporates by reference all preceding allegations as though fully set forth
28 herein.

1 660. Plaintiff brings this claim on behalf of the Alternate Virginia Class.

2 661. Honda intentionally concealed that the HandsFreeLink™ system is defective, and
3 prone to create a parasitic electricity drain that would strain the electrical system and repeatedly
4 deplete the car's battery, leaving owners with cars that would not start, premature battery death, and
5 damage to other components in the electric system. Honda concealed the fact that once the
6 HandsFreeLink™ system defect compromises the battery, the system "resets," hiding the problem
7 until the system gets stuck again.

8 662. Honda further affirmatively misrepresented to Plaintiff in advertising and other forms
9 of communication, including standard and uniform material provided with each car and on its
10 website, that the Class Vehicles it was selling had no significant defects, that the HandsFreeLink™
11 was a safety feature, reliable, and would perform and operate properly.

12 663. Honda knew about the Defect in the HandsFreeLink™ system when these
13 representations were made.

14 664. The Class Vehicles purchased by Plaintiff and the other Class members contained a
15 defective HandsFreeLink™ system.

16 665. Honda had a duty to disclose that the HandsFreeLink™ system contained a
17 fundamental defect as alleged herein, because the defect created a safety hazard and Plaintiff and the
18 other Class members relied on Honda's material representations.

19 666. As alleged herein, at all relevant times, Honda has held out the Class Vehicles to be
20 free from defects such as the defect related to the HandsFreeLink™ system. Honda touted and
21 continued to tout the many benefits and advantages of the HandsFreeLink™ system, but nonetheless
22 failed to disclose important facts related to the defect. This made Honda's other disclosures about
23 the HandsFreeLink™ system deceptive.

24 667. The truth about the defective HandsFreeLink™ system was known only to Honda;
25 Plaintiff and the other Class members did not know of these facts and Honda actively concealed
26 these facts from Plaintiff and Class members.

27 668. Plaintiff and the other Class members reasonably relied upon Honda's deception.
28 They had no way of knowing that Honda's representations were false, misleading, or incomplete. As

1 consumers, Plaintiff and Class members did not, and could not, unravel Honda's deception on their
2 own. Rather, Honda intended to deceive Plaintiff and Class members by concealing the true facts
3 about the Class Vehicles' HandsFreeLink™ systems.

4 669. Honda's false representations and omissions were material to consumers because they
5 concerned qualities of the Class Vehicles that played a significant role in the value of the vehicles.

6 670. Honda had a duty to disclose the HandsFreeLink™ system Defect and violations with
7 respect to the Class Vehicles because details of the true facts were known and/or accessible only to
8 Honda, because Honda had exclusive knowledge as to such facts, and because Honda knew these
9 facts were not known to or reasonably discoverable by Plaintiff or Class members.

10 671. Honda also had a duty to disclose because it made general affirmative representations
11 about the technological and safety innovations included with its vehicles, without telling consumers
12 that one of the features had a fundamental defect that would affect the safety, quality and
13 performance of the vehicle.

14 672. Honda's disclosures were misleading, deceptive, and incomplete because they failed
15 to inform consumers of the additional facts regarding the Defect in the HandsFreeLink™ system as
16 set forth herein. These omitted and concealed facts were material because they directly impact the
17 value of the Class Vehicles purchased by Plaintiff and Class members.

18 673. Honda has still not made full and adequate disclosures, and continues to defraud
19 Plaintiff and Class members by concealing material information regarding the Defect in the
20 HandsFreeLink™ system.

21 674. Plaintiff and Class members were unaware of the omitted material facts referenced
22 herein, and they would not have acted as they did if they had known of the concealed and/or
23 suppressed facts, in that they would not have purchased or paid as much for cars with faulty
24 technology, and/or would have taken other affirmative steps in light of the information concealed
25 from them. Plaintiff's and Class members' actions were justified. Honda was in exclusive control of
26 the material facts, and such facts were not generally known to the public, Plaintiff, or Class
27 members.
28

1 683. The Class Vehicles are and were at all relevant times “goods” as defined by Va. Code
2 Ann. § 8.2-105.

3 684. In connection with the purchase or lease of each of the Class Vehicles, Honda
4 provided warranty coverage for the Class Vehicles for 4 years or 50,000 miles, which obliges Honda
5 to repair or replace any part that is defective under normal use.

6 685. Honda’s warranty formed a basis of the bargain that was reached when Plaintiff and
7 other Class members purchased their Class Vehicles.

8 686. Plaintiff and other Class members owned Class Vehicles with defective
9 HandsFreeLink™ units within the warranty period but had no knowledge of the existence of the
10 Defect, which was known and concealed by Honda.

11 687. Despite the existence of the warranty, Honda failed to inform Plaintiff and other Class
12 members that the Class Vehicles contained the defective HandsFreeLink™ units during the warranty
13 periods, and, thus, wrongfully transferred the costs of repair or replacement to Plaintiff and other
14 Class members.

15 688. Honda breached the express warranty promising to repair and correct a manufacturing
16 defect or defect in materials or workmanship of any parts they supplied.

17 689. Honda knew about the Defect in the HandsFreeLink™ unit, allowing Honda to cure
18 their breach of its warranty if it chose.

19 690. However, Honda concealed the Defect and, on information and belief, has refused to
20 repair or replace the HandsFreeLink™ unit free of charge outside of the warranty periods despite the
21 Defect’s existence at the time of sale or lease of the Class Vehicles.

22 691. Any attempt by Honda to disclaim or limit recovery to the terms of the express
23 warranties is unconscionable and unenforceable here. Specifically, Honda’s warranty limitation is
24 unenforceable because they knowingly sold or leased a defective product without informing
25 consumers about the defect. The time limits contained in Honda’s warranty periods were also
26 unconscionable and inadequate to protect Plaintiff and other Class members. Among other things,
27 Plaintiff and other Class members had no meaningful choice in determining these time limitations,
28 the terms of which unreasonably favored Honda. A gross disparity in bargaining power existed

1 between Honda and other Class members, and Honda knew that the HandsFreeLink™ units were
2 defective at the time of sale.

3 692. Further, the limited warranty promising to repair and/or correct a manufacturing
4 defect fails in its essential purpose because the contractual remedy is insufficient to make Plaintiff
5 and other Class members whole because the replacement part used by Honda contains the same
6 defect. Affording Honda a reasonable opportunity to cure the breach of written warranties therefore
7 would be unnecessary and futile.

8 693. Finally, due to Honda's breach of warranties as set forth herein, Plaintiff and the other
9 Class members assert as an additional and/or alternative remedy, as set forth in Va. Code Ann. § 8.2-
10 608, for a revocation of acceptance of the goods, and for a return to Plaintiff and Class members the
11 purchase price of all Class Vehicles currently owned for such other incidental and consequential
12 damages as allowed under Va. Code Ann. §§ 8.2-711 and 8.2-608.

13 694. Honda was provided notice of these issues by the instant complaint, and by numerous
14 individual letters and communications sent by Plaintiff and the other Class members before or within
15 a reasonable amount of time after Honda issued the TSBs and the allegations of Class Vehicle
16 defects became public.

17 695. As a direct and proximate result of Ford's breach of express warranties, Plaintiff and
18 the other Class members have been damaged in an amount to be determined at trial.

19 **COUNT IV**
20 **BREACH OF IMPLIED WARRANTY**
21 **OF MERCHANTABILITY**
22 **(VA. CODE ANN. § 8.2-314)**

23 696. Plaintiff incorporates by reference all preceding allegations as though fully set forth
24 herein.

25 697. Plaintiff brings this claim on behalf of the Alternate Virginia Class.

26 698. Honda was at all relevant times a "merchant" of motor vehicles as defined by Va.
27 Code Ann. § 8.2-104.

28 699. The Class Vehicles are and were at all relevant times "goods" as defined by Va. Code
Ann. § 8.2-105.

1 700. Honda marketed the Class Vehicles as safe and reliable luxury vehicles. Such
2 representations formed the basis of the bargain in Plaintiff's and Class members' decisions to
3 purchase the Class Vehicles.

4 701. Plaintiff and other Class members purchased or leased the Class Vehicles from
5 Honda, through Honda's authorized agents for retail sales, through private sellers, or were otherwise
6 expected to be the eventual purchasers of the Class Vehicles when bought from a third party. At all
7 relevant times, Honda was the manufacturer, distributor, warrantor, and/or seller of the Class
8 Vehicles.

9 702. Honda knew or had reason to know of the specific use for which the Class Vehicles
10 were purchased or leased.

11 703. Honda impliedly warranted that the Class Vehicles were in merchantable condition
12 and fit for the ordinary purpose for which vehicles are used.

13 704. Because of the Defect in the HandsFreeLink™ system, the Class Vehicles were not in
14 merchantable condition when sold and are not fit for the ordinary purpose of providing safe and
15 reliable transportation.

16 705. Honda knew about the Defect in the HandsFreeLink™ unit, allowing Honda to cure
17 their breach of its warranty if it chose.

18 706. Honda's attempt to disclaim or limit the implied warranty of merchantability vis-à-vis
19 consumers is unconscionable and unenforceable here. Specifically, Honda's warranty limitation is
20 unenforceable because they knowingly sold or leased a defective product without informing
21 consumers about the defect. The time limits contained in Honda's warranty periods were also
22 unconscionable and inadequate to protect Plaintiff and other Class members. Among other things,
23 Plaintiff and other Class members had no meaningful choice in determining these time limitations,
24 the terms of which unreasonably favored Honda. A gross disparity in bargaining power existed
25 between Honda and other Class members, and Honda knew of the Defect at the time of sale.

26 707. Plaintiff and Class members have complied with all obligations under the warranty, or
27 otherwise have been excused from performance of said obligations as a result of Honda's conduct
28

described herein. Affording Honda a reasonable opportunity to cure the breach of written warranties therefore would be unnecessary and futile.

708. Accordingly, Honda is liable to Plaintiff and Class members for damages in an amount to be proven at trial.

COUNT V
VIOLATIONS OF THE MAGNUSON-MOSS
WARRANTY ACT
(15 U.S.C. § 2301, *ET SEQ.*)

709. Plaintiff incorporates by reference all preceding allegations as though fully set forth herein.

710. Plaintiff brings this claim on behalf of the Alternate Virginia Class.

711. Plaintiff satisfies the Magnuson-Moss Warranty Act (“MMWA”) jurisdictional requirement because he alleges diversity jurisdiction under CAFA, 28 U.S.C. § 1332(d)(2).

712. Plaintiff and other Class members are “consumers” within the meaning of the Magnuson-Moss Warranty Act, 15 U.S.C. § 2301(3).

713. Honda is a “supplier” and “warrantor” within the meaning of the Magnuson-Moss Warranty Act, 15 U.S.C. § 2301(4)-(5).

714. The Class Vehicles are “consumer products” within the meaning of the Magnuson-Moss Warranty Act, 15 U.S.C. § 2301(1).

715. The MMWA provides a cause of action for any consumer who is damaged by the failure of a warrantor to comply with a written or implied warranty. *See* 15 U.S.C. § 2310(d)(1).

716. Defendant provided Plaintiff and other Class members with an express warranty, which is covered under 15 U.S.C. § 2301(6).

717. The Class Vehicles’ implied warranties are covered under 15 U.S.C. § 2301(7).

718. Defendant breached these warranties by misrepresenting the standard, quality, or grade of the Class Vehicles and failing to disclose and fraudulently concealing the existence of the Defect in the HandsFreeLink™ units.

1 719. Through their issuance of internal Technical Service Bulletins, Honda has
2 acknowledged that the Class Vehicles are not of the standard, quality, or grade that Defendant
3 represented.

4 720. Plaintiff and other Class members have had sufficient direct dealings with Honda or
5 its agents (dealerships) to establish privity of contract between Honda, on the one hand, and Plaintiff
6 and other Class members on the other hand.

7 721. Nonetheless, privity is not required here because Plaintiff and other Class members
8 are intended third-party beneficiaries of contracts between Honda and its dealers, and specifically, of
9 its implied warranties.

10 722. Affording Honda a reasonable opportunity to cure the breach of written warranties
11 would be unnecessary and futile. Under the circumstances, the remedies available under any
12 informal settlement procedure would be inadequate and any requirement that Plaintiff and Class
13 members resort to an informal dispute resolution procedure and/or afford Honda a reasonable
14 opportunity to cure their breach of warranties is excused and thereby deemed satisfied.

15 723. The amount in controversy of Plaintiff's and Class members' individual claims meets
16 or exceeds the sum of \$25. The amount in controversy of this action exceeds the sum of \$50,000,
17 exclusive of interest and costs, computed on the basis of all claims to be determined in this lawsuit.

18 724. Accordingly, Honda is liable to Plaintiff and Class members for damages in an
19 amount to be proven at trial.

20 **COUNT VI**
21 **UNJUST ENRICHMENT**
 (BASED ON VIRGINIA LAW)

22 725. Plaintiff incorporates by reference all preceding allegations as though fully set forth
23 herein.

24 726. Plaintiff brings this claim on behalf of the Alternate Virginia Class.

25 727. Honda has benefitted and been enriched by the conduct alleged herein. Honda has
26 generated substantial revenue from the unlawful conduct described herein. Honda has knowledge
27 and appreciation of this benefit, which was conferred upon it by and at the expense of Plaintiff and
28 Class members.

1 DATED: August 3, 2016

HAGENS BERMAN SOBOL SHAPIRO LLP

2 By /s/ Shana E. Scarlett

3 Shana E. Scarlett (SBN 217895)
4 715 Hearst Avenue, Suite 202
5 Berkeley, CA 94710
6 Telephone: (510) 725-3000
7 Facsimile: (510) 725-3001
8 Email: shanas@hbsslaw.com

9 Steve W. Berman (*pro hac vice pending*)
10 HAGENS BERMAN SOBOL SHAPIRO LLP
11 1918 Eighth Avenue, Suite 3300
12 Seattle, WA 98101
13 Telephone: (206) 623-7292
14 Facsimile: (206) 623-0594
15 Email: steve@hbsslaw.com

16 Christopher A. Seeger (*pro hac vice pending*)
17 Scott Alan George (*pro hac vice pending*)
18 Daniel R. Leathers (*pro hac vice pending*)
19 SEEGER WEISS LLP
20 77 Water Street, New York,
21 New York, NY 10005
22 Telephone: (212) 584-0700
23 Facsimile: (212) 584-0799
24 Email: cseeger@seegerweiss.com
25 Email: sgeorge@seegerweiss.com
26 Email: dleathers@seegerweiss.com

27 James E. Cecchi (*pro hac vice pending*)
28 CARELLA, BYRNE, CECCHI, OLSTEIN,
BRODY & AGNELLO, P.C.
5 Becker Farm Road
Roseland, NJ 07068
Telephone: (973) 994-1700
Facsimile: (973) 994-1744
Email: jcecchi@carellabyrne.com

Roland K. Tellis (SBN 186269)
Mark P. Pifko (SBN 228412)
BARON & BUDD, P.C.
15910 Ventura Blvd, Suite 1600
Encino, CA 91436
Telephone: (818) 839-2320
Facsimile: (818) 986-9698
Email: rtellis@baronbudd.com
Email: mpifko@baronbudd.com

Attorneys for Plaintiffs and the Proposed Classes