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Attorneys for Plaintiffs
GABRIELLA TATUM and JAMIE MEYER

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

GABRIELLA TATUM and JAMIE MEYER, on behalf of themselves and all others similarly situated,

Civil Action No.

Plaintiff,

**CLASS ACTION COMPLAINT and
DEMAND FOR JURY TRIAL**

v.

CHRYSLER GROUP LLC.,
Defendant.

Plaintiffs Gabriella Tatum and Jamie Meyer, on behalf of themselves and all others similarly situated, alleges as follows:

NATURE OF THE CASE

1. This case involves the defective design and false advertising of the 2009 and 2010 Dodge Journey (“Class Vehicles”). This vehicle was Dodge’s first attempt at building and

selling what is popularly referred to as a cross-over vehicle. In its advertising Dodge touts the Journey as having the convenience of a mini-van, the ruggedness of an SUV and the handling of a sedan. The Braking System, however, is inadequate for the size and weight of the Journey. Specifically, it has been widely reported that the brake pads and rotors are too small and thin to handle the braking duties required by the size and weight of the Journey. The result is a significant increase in brake wear commencing from the date of purchase. It is not uncommon for the brakes on the Journey to fail at barely 12,000 miles requiring replacement of the pads and often shaving or resurfacing of the rotors, which can cost Class members as much as \$400.

2. Dodge (a registered trademark of Chrysler Group LLC and hereafter referred to as “Dodge”) became aware of this defect from countless owner complaints and dealer records. Despite this knowledge, Dodge has done nothing systematically to remedy the defect or to provide notification to owners or lessees of the Journey. Instead Dodge has selectively provided some class members with company “goodwill” in the form of free or reduced cost repairs.

3. The Journey’s performance is contrary to Dodge’s advertising and affirmative statements proclaiming the Journey as safe, reliable and durable. Such statements are false and misleading in light of the vehicle’s performance which typically limits the useful life of the Brake System (i.e., brake rotors, pads, linings, and calipers) to a mere 12,000 miles or less. Moreover, Dodge’s systematic denial of warranty coverage of the Brake System is at odds with consumer expectations, Dodge’s marketing materials, and generalized representations to consumers of the Class Vehicle.

4. As a result of Dodge’s practices, Plaintiffs and other members of the class have suffered injury in fact, including economic damages, and have lost money or property. Plaintiffs bring suit under the New Jersey Consumer Fraud Act (N.J.C.F.A.), N.J.S.A 56:8-1 *et seq.*,

California Consumers Legal Remedies Act (CLRA), Cal. Civ. Code § 1750 *et seq.*, California Unfair Competition Law (UCL), Cal. Bus. & Prof. Code § 17200 *et seq.* and Magnuson-Moss Warranty Act, 15 U.S.C. § 2301 *et seq.*, and for breach of express warranty.

PARTIES

5. Plaintiff Jamie Meyer is a citizen of the State of New Jersey, residing in Highland Lakes, New Jersey.

6. Plaintiff Gabriella Tatum is a citizen of the State of California, residing in San Diego County, California.

7. Defendant Chrysler Group LLC is a Delaware limited liability company, with its principal place of business in Auburn Hills, Michigan. Upon information and belief, Chrysler Group LLC's members are the United Auto Workers Voluntary Employee Beneficiary Association, Fiat S.p.A, an Italian corporation, the government of the United States and the government of Canada.

JURISDICTION AND VENUE

8. This Court has jurisdiction over this action under 28 U.S.C. § 1332(d). The aggregated claims of the individual Class members exceed the sum or value of \$5,000,000, exclusive of interests and costs, and this is a class action in which more than two-thirds of the proposed plaintiff class, on the one hand, and Defendant Chrysler Group, LLC, on the other, are citizens of different states.

9. This Court has jurisdiction over Defendant because it is registered to conduct business in New Jersey; has sufficient minimum contacts in New Jersey; or otherwise intentionally avails itself of the markets within Jersey through the promotion, sale, marketing, and distribution of its vehicles to render the exercise of jurisdiction by this Court proper and

necessary. Moreover, Defendant's wrongful conduct (as described herein) foreseeably affects consumers in New Jersey.

10. Venue is proper in this District under 28 U.S.C. § 1391(a) because a substantial part of the events or omissions giving rise to Plaintiff's claims occurred in this District.

SUBSTANTIVE ALLEGATIONS

11. Dodge manufactures, markets, distributes, and warrants its cross-over SUV, Journey, in the United States.

The Design Defect

12. The 2009 Dodge Journey was sold for the first time in March of 2008. The 2009 Journeys have a curb weight of nearly 2 tons (3,801 lbs. when completely empty) and far exceed 2 tons when loaded with people and cargo. The Brake System (i.e., the brake pads and rotors) suffers from a fundamental design defect. The pads are too small, creating a "swept" area that fails prematurely and fails to operate the vehicle properly over a longer period of time. In essence, the Journey is too heavy for the Braking system designed and installed by defendant.

13. Automobile brakes are tasked with the critical job of slowing and eventually stopping a vehicle. This goal is achieved by converting the kinetic energy of a moving vehicle into heat energy through the use of friction. When a driver depresses the brake pedal, force is indirectly applied to the brake pads, which in turn press on the rotor, which slows the wheel and eventually stops the car. The area of the pad that comes in contact with the rotor is known as the "swept area". The size of the swept area is an integral measurement in determining whether the heat created in the braking process is properly and evenly distributed across the entire brake pad. If the swept area is insufficient, heat energy will be insufficiently disbursed across the brake pad

causing overheating and significant wear at a more rapid pace than would a pad of similar material with a larger swept area.

14. When compared to vehicles of similar size, weight, and function, the Journey's swept area is insufficient.

Vehicle	Curb Weight	Swept Area of Front Brake (in²)	Ratio *100
2009 Dodge Journey	3802	55	1.45
2010 Accura MDX	4550	81.7	1.78
2009 Cadillac SRX	4224	179.4	4.24
2008 Saturn Vue	1735	67	3.86
2010 Mitsubishi Outlander	3540	230	6.49

This design insufficiency results in the premature brake pad wear and rotor damage experienced by Plaintiffs and other Journey owners.

Misleading Advertising

15. Dodge's advertisements for the Journey claim that the car is safe and reliable. A predominant theme of the Journey's marketing campaign is its fitness for the long haul. This theme is specifically highlighted in two of its television commercials: (1) Dodge claims the Journey is the perfect car for taking the kids to soccer practice – if practice is in Peru; and (2) the US Women's soccer team should not think twice about driving the Journey from Los Angeles, California, to Rio De Janiero, Brazil. Although these television spots are not meant to be taken literally, consumers are nonetheless regaled with the concept that the Journey is a reliable, durable car. This affirmative representation is false and inconsistent with the facts.

16. Plaintiffs have suffered injury in fact, including economic damages relating to constant repairs of the Journey's brakes and rotors. Plaintiff Tatum spent over \$650 on brake-related repairs since she bought her Journey just 26 months ago. Plaintiff Meyer spent over \$587.19 in brake repairs since January of 2009, and required two repairs on her front brakes in less than two years. Given that there are an estimated 100,000 Class Vehicles currently on American roads, the class members have collectively paid millions of dollars in repairs to their defective Dodge Journeys.

The Impact on Class Members

17. The Brake System -- unlike a torn seat, faulty radio, or underpowered air conditioner -- is essential to a vehicle's safe operation. Given that Defendant markets and sells the Class Vehicle as a family vehicle, consumers face dissatisfaction and continuing worry about their family's safety due to the Journey's Brake System defect.

18. The following complaints regarding the Braking System in the Class Vehicles registered by consumers on numerous internet websites. These consumer complaints reflect the abnormally premature failure of the brake pads, the repeated, unexpected repair costs, and Dodge's refusal to take responsibility for the defect:

- I own [a] 09 dodge journey in which I had to replace the front brake pads at 12,800 miles, just after warranty. At 19,800 I felt my steering wheel shake when I applied the brakes. Upon inspection I realized my rear brakes pads and rotors were shot. When I contacted the dealer I was told by their service clerk that the ceramic pads originally installed at the manufacturer are wearing prematurely and that they are being replaced by a totally different pad with "extended life". In most cases they are being replace in "good will"(free of charge). A service tech also confirmed this but told me he could not promise that this service would be free until further inspection. When we dropped the car off at the dealer our chief complaint was the rear brakes and rotors. We asked (in writing) that they be replaced in "good will" and that they also inspect the front brakes and rotors because they were replaced at 12,800 with the same ceramic pads that are causing all the problems. The dealership called and said they would replace the front pads and cut the rotors free of charge but

would not replace the rear pads and rotors. The tech said they were already doing enough “good will” repairs on the car and that if we wanted the rear brakes repaired it would cost us \$370. NICE! Just to note: THIS IS THE 2nd TIME MY FRONT PADS HAVE BEEN REPLACED WITHIN IN UNDER 20,000 MILES!!!

- I replaced the front brakes and rotors at 24,000 miles and then the back brakes shortly after that. This was in June and November of 2009. I have had constant noise coming from the brakes ever since. I took the car back in December of 2009 and nothing could be found. They are now so loud that I need to return once again to have them checked. I also have a loud noise coming from the front end while the car is in motion. I have also had two motors go out in the doors on the left side. I am sick of needing to have repairs done on a vehicle that I bought brand new. These repairs started just after one year of ownership and brakes are not covered under my regular warranty or my extended one and the [rotors] are \$100 deductibles each. It is ridiculous!!!!
- I put on 350-500 miles on my 2009 Journey per week on the highway (little-to-no in-town). The car has less than 36K miles and I was told I need new brake pads and rotors. The second thing they told me is that this is normal. For a Dodge this may be normal, for any other car, no.
- What a joke . All these people complaining and Dodge does nothing. I’ve filed with a complaint with them and you get the typical “we’ll look into it.” I’m going later today to chew out the service manager (hopefully there will be a crowd). If they don’t take care of this, I will no longer deal with them. I will also tell everyone I know not to use this dealership and not to buy a Dodge Journey. I will also let everyone know that Dodge customer service does absolutely nothing but take your information and process it with a case number.
- My Chevy uplander pads lasted over fifty thousand miles before replacement. If Dodge thinks 20,000 miles is reasonable wear for pads, then this is the last Dodge I will ever own. I have never bought a foreign vehicle and never will, but if this is how Dodge takes care of their customers, it looks like it will be Fords and GMs for now on.
- After 12,100 miles we had to replace our front brakes. After another 12,500 miles we needed to do it again. Now at 35,000 miles we need to replace our rear brakes and rotors. Unfortunately by the time you could hear the brakes squeak, the rotors were bad too. Thank God for sensors on the front! This is ridiculous

- My vehicle was not even a year old with 25000 miles and the front brakes were shot. My husband owns a 2004 Chevy and it still has same brakes. My father owns a 2006 Chevy and still has same brakes. I have owned a Suzuki Forenza, Chevy Caviliar, and [another] Dodge and none required early brakes replacements and I owned them no less than two years a piece with mileages over 100,000. I owned my Chevy for 6 years and only replaced the brakes once. Is this something I am going to have to do every 30,000 miles? If so, I would rather sell my car and buy another safer model, not dodge. This is something Dodge needs to address immediately. I have 4 children and I would like the comfort of knowing my vehicle is safe. I have read many reviews with the same concerns so I know I am not alone.

PLAINTIFFS' EXPERIENCE WITH THEIR DODGE JOURNEYS

Jamie Meyer

19. Plaintiff Meyer bought her 2009 Dodge Journey in January 2009 from the Franklin Sussex Auto Mall. In making her decision to buy the Dodge Journey, she and her husband, Steve Meyer, considered the purported safety, reliability and convenience of the Journey.

20. Just twelve months after purchase, and less than 12,800 miles, Plaintiff Meyer was on a trip through central Pennsylvania when the Journey experienced brake failure. When the local dealership refused to repair the brakes under warranty (the Journey had over 12,000 miles on it), Plaintiff Meyer tried to find a shop that could repair the brakes for a reasonable rate. Several mechanics told Plaintiff Meyers that they simply did not stock pads for her vehicle as it was so new that brake pad repairs were unexpected. Finally, Plaintiff Tatum found the Midas Auto Service in Lancaster which replaced the front brakes for \$202.79. The mechanic that helped them noted that the shop has already made similar replacements (at low mileage) on several other Dodge Journeys.

21. Only seven months later, with only 19,961 miles on the odometer, Plaintiff Meyer's Journey was again having brake problems. This time Plaintiff Meyer was at home in New Jersey and took her Journey to the dealership at which she purchased the Journey. The rear

brake repairs (replacing the pads and rotors) cost \$384.40. Upon Plaintiff Meyer's request, the dealership inspected the front brakes, and determined they also required service. Because the front brakes were serviced only 7,000 miles earlier, the dealership made the front brake repairs (replacing the front pads and rotors) under Dodge's "goodwill" program.

Gabriella Tatum

22. Plaintiff Tatum bought her 2009 Dodge Journey on May 23, 2008 at Hilton Head Chrysler Jeep-dodge in Hardeeville, South Carolina. Shortly after purchasing the vehicle, her husband, and active member of the United States military, was transferred to San Diego, California. The couple packed up their things and drove cross-country to San Diego. Partly as a result of this long drive, the couple's Journey reached 11,731 miles by December, 2008.

23. In December, 2008 – just seven months after purchasing the Class Vehicle – the Journey's brakes began to squeak. Plaintiff Tatum took the car to her Dodge dealer who noted the need for brake replacement and rotor repair but quoted Ms. Tatum a prohibitively high price for repairs. Ms. Tatum therefore took her vehicle to the local Firestone repair shop on January 13th, 2009 where she had her tires rotated at a cost of \$20. By April 2009, Plaintiff Tatum was dealing with squeaking brakes again. Such worn brakes caused Tatum to fear for the safety of her young son and the rest of her family when driving her Journey. She again went to the dealer to get a quote for repairs. The cost of repair was prohibitively high. Plaintiff Tatum's husband, therefore, bought the brake pads and made the repairs on all 4 wheels himself for a total cost of \$180.

24. A mere five months later in early September, 2009, Plaintiff Tatum's brakes were squeaking again. Plaintiff, having only bought the car a year ago, having moved across country, and already having replaced the brakes and resurfaced the rotors, could not afford to replace the

brake pads immediately. She waited until February 2010 and went back the dodge dealer. She was quoted a price in excess of \$400 for her repairs. Instead, Plaintiff went to her local Firestone repair shop where she paid \$366.29 to have the front brake pads and rotors replaced. The Firestone technician noted that Plaintiff's rear brakes were "okay" at this point.

25. Just over a month later, on March 22, 2010, Plaintiff once again needed to resurface her Journey's front rotors. Because her new brakes had been installed so recently and the Firestone shop was surprised at the rapid rate of wear, the rotors were resurfaced as a courtesy.

26. In June 2010, Plaintiff Tatum had the rear brake pads and calipers in her Class Vehicle replaced at a cost of \$71.18.

27. Most recently, on July 26th, 2010, Plaintiff had her front and rear rotors resurfaced at her Firestone dealer to reduce "vehicle shaking". Fortunately for Ms. Tatum, This repair was done as a courtesy at the Firestone shop.

28. The Tatum family considered many vehicles before purchasing the Dodge Journey. As part of their preliminary research, Plaintiff Tatum relied on Dodge's reputation and its advertised claims of safety and dependability.

29. Specifically, Dodge produced numerous television commercials extolling the Journey's durability and capacity to make long family hauls. Unfortunately, a trip from South Carolina to California proved to be too much for the supposedly reliable Journey. Plaintiff Tatum also relied on claims of safety. Dodge produced a television commercial claiming that the Journey received an "Insurance Institute for Highway Safety Top Pick Award". Presumably, this meant it was a safe and reliable car. Unfortunately, without properly functioning brakes, the Journey's award is rendered useless.

Class Action Allegations

30. Plaintiffs brings this action on behalf of themselves and a class of persons initially defined as follows:

All (i) current owners or lessees of a 2009 or 2010 Dodge Journey in New Jersey or California; and (ii) former owners or lessees of a 2009 or 2010 Journey in New Jersey or California who paid for a repair related to the Braking System (the "Class").

31. Excluded from the Class are Chrysler Group LLC; any affiliate, parent, or subsidiary of Chrysler Group LLC.; any entity in which Chrysler Group LLC has a controlling interest; any officer, director, or employee of Chrysler Group LLC; any successor or assign of Chrysler Group LLC; anyone employed by counsel for Plaintiffs in this action; any Judge to whom this case is assigned as well as his or her immediate family and staff; and anyone who purchased a Class Vehicle for the purpose of resale.

32. This action has been brought and may properly be maintained on behalf of the Class proposed above under the criteria of Federal Rule of Civil Procedure Rule 23.

33. **Numerosity.** Members of the Class are so numerous that their individual joinder herein is impracticable. Approximately one hundred thousand Class Vehicles have been sold or leased in the United States, with a substantial portion of those sales occurring in California. Class members may be notified of the pendency of this action by mail, supplemented (if deemed necessary or appropriate by the Court) by published notice.

34. **Existence and predominance of common questions.** Common questions of law and fact exist as to all members of the Class and predominate over questions affecting only individual Class members. These common questions include the following:

- a. Whether the Journey's Braking System is defective by design;

- b. Whether the size and thickness of the Braking System's component parts are sufficient to operate properly throughout Dodge's standard warranty;
- c. What causes the brake rotors to require re-surfacing (and or shaving) often at or about 12,000 miles
- d. Whether the fact that the Braking System requires brake pad replacement every 12,000 to 15,000 miles would be considered material by a reasonable consumer;
- e. Whether the fact that the Braking System requires rotor replacement or repair (including re-surfacing or shaving) every 12,000 to 15,000 miles would be considered material by a reasonable consumer;
- f. Whether Dodge has a duty to disclose the Braking System defect to Plaintiff and other Class members;
- g. Whether Dodge has violated the New Jersey Consumer Fraud Act 56:8-1 *et seq.*, as alleged in this complaint;
- h. Whether Dodge has violated the California Consumers Legal Remedies Act, Cal. Civ. Code § 1750 *et seq.*, as alleged in this complaint;
- i. Whether Dodge has engaged in unlawful, unfair, or fraudulent business practices in violation of California Business and Professions Code section 17200 *et seq.*, as alleged in this complaint;
- j. Whether Dodge breached the express warranty by refusing to provide warranty coverage for the Braking System or any of its component parts;

- k. Whether Plaintiff and the other Class members are entitled to equitable relief, including but not limited to restitution or a preliminary and/or permanent injunction; and
- l. Whether Plaintiff and the other Class members are entitled to damages and other monetary relief.

35. **Typicality.** Plaintiffs' claims are typical of the claims of the Class, because, among other things, Plaintiffs purchased a Class Vehicle, which contains the same defective Braking System found in all other Class Vehicles.

36. **Adequacy.** Plaintiffs are adequate representatives of the Class because their interests do not conflict with the interests of the members of the Class she seeks to represent. Plaintiffs have retained counsel competent and experienced in complex class action litigation, and Plaintiffs intend to prosecute this action vigorously. The interests of members of the Class will be fairly and adequately protected by Plaintiffs and their counsel.

37. **Superiority.** The class action is superior to other available means for the fair and efficient adjudication of this dispute. The injury suffered by each Class member, while meaningful on an individual basis, is not of such magnitude as to make the prosecution of individual actions against Dodge economically feasible. Even if Class members themselves could afford such individualized litigation, the court system could not. In addition to the burden and expense of managing myriad actions arising from the Braking System defect, individualized litigation presents a potential for inconsistent or contradictory judgments. Individualized litigation increases the delay and expense to all parties and the court system presented by the legal and factual issues of the case. By contrast, the class action device presents far fewer

management difficulties and provides the benefits of single adjudication, economy of scale, and comprehensive supervision by a single court.

38. In the alternative, the Class may be certified because:

- a. the prosecution of separate actions by the individual members of the Class would create a risk of inconsistent or varying adjudication with respect to individual Class members which would establish incompatible standards of conduct for Dodge;
- b. the prosecution of separate actions by individual Class members would create a risk of adjudications with respect to them which would, as a practical matter, be dispositive of the interests of other Class members not parties to the adjudications, or substantially impair or impede her ability to protect her interests; and
- c. Dodge has acted or refused to act on grounds generally applicable to the Class, thereby making appropriate final and injunctive relief with respect to the members of the Class as a whole.

FIRST COUNT (New Jersey Class Members)
(Violation of the New Jersey Consumer Fraud Act, N.J.S.A. 56:8-1, *et seq.*)

39. On behalf of herself and all others similarly situated, Plaintiff Meyer realleges as if fully set forth, each and every allegation set forth herein.

40. Plaintiff Meyer, the class members and Defendant are “persons” within the meaning of N.J.S.A. 56:8-1.

41. At all relevant times, Defendant conducted trade and commerce within the meaning of the N.J.C.F.A.

42. The N.J.C.F.A. is a cumulative remedy such that remedies under its provisions can be awarded in addition to those provided under separate statutory and common law schemes.

43. Dodge's practices, acts, and conduct as described above, were intended to induce and did induce, Plaintiff Meyer and other Class members to purchase or lease the Class Vehicles with defective Brake Systems and to prevent legitimate claims for reimbursement for necessary repairs to the Brake Systems or otherwise to minimize Dodge's financial exposure resulting from the defect.

44. Dodge's practices, acts, and conduct violated the N.J.C.F.A in that:

- a. Dodge actively concealed from Plaintiff Meyer and other Class members that the Brake Systems were defective in that they were too small for the Journey, and they caused uneven wear on the brake rotors, the foreseeable result of which was premature wear of the Brake System components;
- b. Dodge failed to give adequate warnings and notices regarding the defect to Plaintiff Meyer and other Class members;
- c. Dodge failed to disclose to Plaintiff Meyer and other Class members and/or actively concealed the fact that the Brake System was defective and prone to premature wear of component parts;
- d. Dodge intentionally made such concealment, and failed to make such disclosures, with the intent to defraud consumers like Plaintiff Meyer and other Class members.

45. Plaintiff and other Class members have suffered ascertainable loss in the form of payments for brake repairs and other costs attendant to the kinds of brake failure which is consequent to the defect in the Brake System, including diminished value of the Journey.

SECOND COUNT (California Class Members)
(Violation of the Consumers Legal Remedies Act, Cal. Civ. Code § 1750, et. seq.)

46. On behalf of herself and all others similarly situated, Plaintiff Tatum realleges as if fully set forth, each and every allegation set forth herein.

47. Dodge is a “person” under Cal. Civ. Code section 1761(c).

48. Plaintiff Tatum and the other Class members are “consumers” under Cal. Civ. Code section 1761(d).

49. Plaintiff Tatum and the other Class members engaged in “transactions” under Cal. Civ. Code section 1761(e), including the purchase or lease of Class Vehicles from Dodge and the presentation of Class Vehicles for repair or replacement of the Braking System to Dodge.

50. As set forth herein, Dodge’s acts, policies, and practices undertaken in transactions intended to result and which did result in the sale or lease of Class Vehicles, violate sections 1770(a)(5), (a)(7), (a)(9), (a)(14), and (a)(16) of the CLRA in that: (a) Dodge represents that its goods have sponsorship, approval, characteristics, uses, or benefits which they do not have; (b) Dodge represents that its goods are of a particular standard, quality, or grade, but are of another; (c) Dodge advertises its goods with intent not to sell them as advertised; (d) Dodge represents that a transaction confers or involves rights, remedies, or obligations which it does not have or involve; and (e) Dodge represents that its goods have been supplied in accordance with a previous representation when they have not.

51. The existence of the defect in the Braking System is a material fact. Plaintiff Tatum and other Class members were unaware of the defective Braking System when they purchased the Class Vehicles. Consumers value reliability and dependability of automobiles and automobile parts, especially concerning vital safety mechanisms such as the Braking System in the Class Vehicles. Had they known that the Braking System was defective, Plaintiff and other

Class members would not have purchased or leased the Class Vehicles, or would have done so at lower prices.

52. Reasonable consumers expect, among other things:

- a. New vehicles, including Class Vehicles, to be equipped with safe and reliable brakes and to not be sold with undisclosed safety defects;
- b. New vehicles, including Class Vehicles, to function properly for the duration of the warranty and that defects will be covered under warranty; and
- c. New vehicles, including Class Vehicles, will not require replacement of the brake pads within 15,000 to 20,000 miles of purchase or lease, or every 15,000 to 20,000 miles for the life of the vehicle.

53. Dodge had a duty to disclose the Braking System's defect in the Class Vehicles for various reasons, including that:

- a. The existence of the defect poses an unreasonable risk to the safety of the Plaintiff and other Class members;
- b. The defect's existence is contrary to Dodge's representations and consumers' expectations;
- c. Dodge's concealment of the defect and/or Dodge's failure to disclose the defect was likely to deceive reasonable consumers;
- d. Dodge intentionally concealed the defect with the intent to defraud consumers;
- e. Dodge's concealment of the defect harmed the Plaintiff and other Class members; and

- f. Dodge never intended to fulfill its warranty obligation to repair or replace the defect in the Braking System or any of the damage caused thereby.

54. As a result of Dodge's practices, Plaintiff Tatum and the other Class members have suffered harm.

55. Pursuant to the provisions of Cal. Civ. Code § 1780, Plaintiff Tatum seeks an order enjoining Dodge from the unlawful practices described herein, a declaration that Dodge's conduct violates the CLRA, and attorneys' fees and costs of litigation.

THIRD COUNT (California Class Members)
(For unlawful, unfair, and fraudulent business practices under California Business and Professions Code § 17200 et seq.)

56. Plaintiff Tatum, on behalf of herself and all others similarly situated, realleges as if fully set forth, each and every allegation set forth herein.

57. Dodge's acts and practices, as alleged in this complaint, constitute unlawful, unfair and/or fraudulent business practices, in violation of the Unfair Competition Law, Cal. Bus. & Prof. Code § 17200, *et seq.*

58. The business practices engaged in by Dodge that violate the Unfair Competition Law include failing to disclose at the point of sale, the point of repair, or otherwise, that the Braking System is defective.

59. Dodge engaged in unlawful business practices by violating the Consumers Legal Remedies Act, Cal. Civ. Code § 1750 *et seq.*; the Magnuson-Moss Warranty Act, 15 U.S.C. § 2301 *et seq.*; and by engaging in conduct, as alleged herein, that breaches the express warranty.

60. Dodge engaged in unfair business practices by, among other things:

- a. Engaging in conduct that is immoral, unethical, oppressive, unscrupulous, or substantially injurious to Plaintiff and other members of the Class;

- b. Engaging in conduct that undermines or violates the stated policies underlying the CLRA and the Magnuson-Moss Warranty Act, each of which seeks to protect consumers against unfair and sharp business practices and to promote a basic level of honesty and reliability in the marketplace; and
- c. Engaging in conduct that causes a substantial injury to consumers, not outweighed by any countervailing benefits to consumers or to competition, which the consumers could not have reasonably avoided.

61. Dodge engaged in fraudulent business practices by engaging in conduct that was and is likely to deceive consumers acting reasonably under the circumstances.

62. As a direct and proximate result of Dodge's unfair and fraudulent business practices as alleged herein, Plaintiff Tatum suffered injury in fact and lost money or property, in that they purchased a vehicle they otherwise would not have purchased, paid for Braking System diagnoses, repairs, and replacements, and are left with Class Vehicles of diminished value and utility because of the defective Braking System. Meanwhile, Dodge has sold and leased more Class Vehicles and Braking System parts than it otherwise could have and charged inflated prices for Class Vehicles, unjustly enriching itself thereby.

63. Plaintiff and Class members are entitled to equitable relief including restitution of all fees, restitutionary disgorgement of all profits accruing to Dodge because of its unfair, fraudulent, and deceptive practices, attorneys' fees and costs, declaratory relief, and a permanent injunction enjoining Dodge from its unfair, fraudulent, and deceitful activity.

FOURTH COUNT (All Class Members)
(For Breach of Written Warranty Under the Magnuson-Moss Warranty Act, 15 U.S.C. § 2301 *et seq.*)

64. Plaintiffs Tatum and Meyer, on behalf of themselves and all others similarly situated, reallege as if fully set forth, each and every allegation set forth herein.

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

66. Dodge is a “supplier” and “warrantor” within the meaning of sections 2301(4)-(5).

67. The Class Vehicles are “consumer products” within the meaning of section 2301(1).

68. Dodge’s express warranty is a “written warranty” within the meaning of section 2301(6).

69. Dodge breached the express warranty by:

- a. Extending a 1 year/12,000 mile for brake rotors, brake pads, brake linings, and brake drums, with the purchase or lease of the Class Vehicles, thereby warranting to repair or replace any part defective in material or workmanship at no cost to the owner or lessee; while during that period the Braking System was insufficient in size and capability thereby resulting in a failure to operate properly and causing premature and uneven wear on the brake pads and rotors.
- b. Selling and leasing Class Vehicles with Braking Systems that were defective in material and workmanship, requiring repair or replacement within the warranty period; and

- c. Refusing to honor the express warranty by repairing or replacing, free of charge, the Braking System or any of its component parts and instead charging for repair and replacement parts.

70. Dodge's breach of the express warranty has deprived Plaintiffs and the other Class members of the benefit of her bargain.

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

72. Plaintiffs notified Dodge of the breach within a reasonable time and they failed to cure the defect. Specifically, Plaintiffs brought their vehicles in for brake service to registered Dodge dealership. Defendant failed to cure the defect but instead serviced the vehicles as if there were no underlying defect in the Brake Systems, which merely masked the defect for a few more months. Dodge was also on notice of the defect from the complaints and service requests it received from Class members, from repairs and/or replacements of the Braking System or a component thereof, and through its own maintenance records.

73. Dodge has been afforded a reasonable opportunity to cure its breach of written warranty, including when Plaintiffs and other Class members brought their vehicles in for diagnoses and repair of their Braking Systems.

74. As a direct and proximate cause of Dodge's breach of written warranty, Plaintiffs and Class members sustained damages and other losses in an amount to be determined at trial. Dodge's conduct damaged Plaintiff and Class members damages, who are entitled to recover

damages, consequential damages, specific performance, diminution in value, costs, attorneys' fees, rescission, and/or other relief as appropriate.

FIFTH COUNT (All Class Members)
(For Breach of Express Warranty)

75. Plaintiffs Tatum and Meyer, on behalf of themselves and all others similarly situated, reallege as if fully set forth, each and every allegation set forth herein.

76. Dodge provided all purchasers and lessees of the Class Vehicles with the express warranty described herein, which became part of the basis of the bargain. Accordingly, Dodge's express warranty is an express warranty under California law.

77. The Braking System and its component parts were manufactured and/or installed by Dodge in the Class Vehicles and are covered by the express warranty.

78. Dodge breached the express warranty by:

- a. Extending a 1 year/12,000 mile for brake rotors, brake pads, brake linings, and brake drums, with the purchase or lease of the Class Vehicles, thereby warranting to repair or replace any part defective in material or workmanship at no cost to the owner or lessee; while during that period the Braking System was insufficient in size and capability thereby resulting in a failure to operate properly and causing premature and uneven wear on the brake pads and rotors.
- b. Selling and leasing Class Vehicles with Braking Systems that were defective in material and workmanship, requiring repair or replacement within the warranty period; and

- c. Refusing to honor the express warranty by repairing or replacing, free of charge, the Braking System or any of its component parts and instead charging for repair and replacement parts.

79. Plaintiffs notified Dodge of the breach within a reasonable time and they failed to cure the defect. Specifically, Plaintiffs brought their vehicles in for brake service to registered Dodge dealership. Defendant failed to cure the defect but instead serviced the vehicles as if there were no underlying defect in the Brake Systems, which merely masked the defect for a few more months. Dodge was also on notice of the defect from the complaints and service requests it received from Class members, from repairs and/or replacements of the Braking System or a component thereof, and through its own maintenance records.

80. As a direct and proximate cause of Dodge's breach, Plaintiffs and the other Class members have suffered damages and continue to suffer damages, including economic damages at the point of sale or lease, that is, the difference between the value of the vehicle as promised and the value of the vehicle as delivered. Additionally, Plaintiffs and the other Class members either have incurred or will incur economic damages at the point of repair in the form of the cost of repair.

81. Plaintiffs and the other Class members are entitled to legal and equitable relief against Dodge, including damages, consequential damages, specific performance, rescission, attorneys' fees, costs of suit, and other relief as appropriate.

WHEREFORE, Plaintiffs, on their own behalf and on behalf of the Class, prays for judgment as follows:

- A. For an order certifying the plaintiff Class and appointing Plaintiffs and their counsel to represent the Class;

B. For an order awarding Plaintiffs and the members of the Class damages, consequential damages, specific performance, and/or rescission;

C. For an order awarding Plaintiffs and the members of the Class restitution, or other equitable relief as the Court deems proper;

D. For an order enjoining Defendant from continuing to engage in unlawful business practices as alleged herein;

E. For an order awarding Plaintiffs and the members of the Class pre-judgment and post-judgment interest;

F. For an order awarding Plaintiffs and the members of the Class reasonable attorneys' fees and costs of suit, including expert witness fees; and

G. For an order awarding such other and further relief as this Court may deem just and proper.

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Attorneys for Plaintiffs

By: /s/ James E. Cecchi
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Dated: August 19, 2010

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