







1 **V. UNINTENDED ACCELERATION**

2 **5.1.** According to the National Highway Traffic Safety Administration (hereinafter  
3 referred to as “NHTSA”), the federal agency primarily responsible for maintaining motor  
4 vehicle safety in the United States, unintended acceleration generally “refers to the occurrence  
5 of any degree of acceleration that the vehicle driver did not purposely cause to occur.”  
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7 **5.2.** Recent government studies into the possible causes of unintended acceleration  
8 in all vehicles, including Toyota vehicles, indicate that driver error (through pedal  
9 misapplication) and mechanical issues (such as “floor mat entrapment” of the accelerator pedal  
10 and the “sticky pedal” phenomenon) are the primary causes of reports of unintended  
11 acceleration.  
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13 **VI. TOYOTA RECALLS OF 2009 AND 2010**

14 **6.1.** Reports of unintended acceleration in Toyota vehicles first prompted NHTSA’s  
15 investigations in 2003.

16 **6.2.** Between July 2003 and April 2009, NHTSA opened eight separate unintended  
17 acceleration-related investigations into Toyota vehicles.  
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19 **6.3.** One of the above-referenced NHTSA investigations resulted in a voluntary  
20 equipment recall of 55,000 all-weather floor mats for Lexus vehicles (“floor mat entrapment”  
21 recall, NHTSA campaign no. 09V-388). NHTSA determined that if the all-weather floor mats  
22 were not installed correctly, the floor mat may interfere with, or entrap, the accelerator pedal,  
23 causing a condition called “wide open throttle” – where the vehicle could potentially accelerate  
24 uncontrollably.  
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1           **6.4.** As a result of a separate NHTSA investigation conducted in January 2009,  
2 Toyota agreed to voluntarily recall 26,501 of the 2004 Model Year Sienna minivans to replace  
3 a retention clip and floor carpet cover in or near the Sienna's center console trim panel (the  
4 Sienna "Safety Improvement Campaign," NHTSA campaign no. 09V-023). Prior to the recall,  
5 the design of the center console and a missing retention clip could have resulted in accelerator  
6 "pedal interference" – which could have caused instances of unintended acceleration.  
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8           **6.5.** In August 2009, a tragic and fatal crash killed four members of the Saylor  
9 family in Santee, California. According to a NHTSA report on the crash, 911 calls, and the  
10 subsequent investigation by local law enforcement and NHTSA, the crash was likely caused  
11 when an improperly installed floor mat in the Lexus vehicle the Saylor were driving entrapped  
12 the accelerator pedal. California Highway Patrol Officer Mark Saylor, the driver of the Saylor  
13 vehicle, and a highly trained and experienced driver, used his best efforts to slow the vehicle,  
14 but was unsuccessful. The floor mat entrapment, in conjunction with a push-button start  
15 ignition system in the vehicle, made stopping the vehicle impossible, despite obvious  
16 application of the brakes by Officer Saylor.  
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18           **6.6.** Soon after the Saylor crash, on September 29, 2009, Toyota issued a consumer  
19 advisory regarding the potential floor mat entrapment of the accelerator pedal.  
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21           **6.7.** At NHTSA's request, on October 5, 2009, Toyota informed NHTSA that the  
22 company would recall affected vehicles to address the potential floor mat entrapment safety  
23 issue.  
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25           **6.8.** On November 2, 2009, Toyota announced that it would recall 3.8 million  
26 vehicles worldwide to address the floor mat entrapment safety concern 09V-388 ("floor mat



1           7.3.     According to NHTSA, Toyota knew of the “sticky pedal” safety defect on  
2 September 29, 2009, if not before, when it notified distributors in thirty-one European  
3 countries and Canada of the potential issue and provided repair procedures to address the issue.  
4 Despite having knowledge that consumers in the United States were experiencing the same  
5 phenomena, Toyota waited until January 2010 to notify NHTSA of the “sticky pedal” issue  
6 and begin the recall process in the United States.  
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8           7.4.     On December 20, 2010, NHTSA announced they would demand Toyota pay a  
9 second statutory maximum fine of \$16.375 million for the failure to timely notify the agency of  
10 the dangers of floor mat entrapment in certain Toyota and Lexus model vehicles.  
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12           7.5.     According to NHTSA, Toyota at least became aware of the dangers of floor  
13 mat entrapment of the accelerator pedal on September 26, 2007, if not before, when it initially  
14 recalled 55,000 all-weather floor mats to address entrapment issues in certain Lexus models.  
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16           7.6.     On December 20, 2010, NHTSA announced that Toyota faced a third statutory  
17 maximum penalty of \$16.050 million for failure to timely notify the agency of a safety defect  
18 that Toyota found and addressed in certain model trucks sold in Japan in 2004, which could  
19 result in a loss of steering control. Despite Toyota’s 2004 recall in Japan to fix steering relay  
20 rods in the Hilux trucks that were prone to failure, Toyota failed to notify NHTSA that  
21 consumers in the United States had filed similar complaints regarding equivalent models of the  
22 Hilux trucks sold in the United States. Although Toyota notified NHTSA in 2005 of a  
23 voluntary recall of 1 million United States model trucks to address the same steering relay rod  
24 issue, NHTSA did not learn of the complaints from consumers in the United States until 2010.  
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1 **VIII. THE "SLATER PANEL" REPORT**

2 **8.1.** Shortly after the massive recalls of 2009 and 2010, and the announcement of  
3 one of NHTSA's record-setting fines against Toyota, Toyota announced the creation of the  
4 "Toyota North American Quality Advisory Panel" (hereinafter "Panel"). On April 29, 2010,  
5 Toyota announced the Panel members and indicated that the Panel would be chaired by  
6 Rodney Slater, who was the United States Secretary of Transportation from 1997 through  
7 2001.

9 **8.2.** Toyota tasked the Panel to conduct an independent review of Toyota's safety  
10 and quality processes and to review the company's management structure.

11 **8.3.** According to the Panel, Toyota granted Panel members full cooperation and  
12 was responsive to requests for information and assistance from Panel members.

14 **8.4.** In May 2011, the Panel issued their report summarizing their findings upon  
15 completion of the first year of their two-year term.

16 **8.5.** The Slater Panel Report, as it became known, included several observations  
17 regarding Toyota's management structure and decision-making process that, in the Panel's  
18 view, may have contributed to the delay in identifying and resolving safety issues. To wit,

19 **8.5.1.** Toyota's policy of "global centralization" – that is, maximizing control  
20 by TMC in Japan – "contributed to several of Toyota's quality and safety issues in  
21 North America." This "global centralization" policy hindered information-sharing and  
22 "delayed response time to quality and safety issues;"

24 **8.5.2.** Toyota does not treat feedback from sources external to Toyota (such as  
25 consumer complaints or NHTSA concerns) in the same positive manner that it treats  
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1 internal feedback; and

2 **8.5.3.** Toyota conflates safety with quality, when these should be treated as  
3 separate qualities of a motor vehicle.

4 **8.6.** The Slater Panel Report also included several recommendations to improve  
5 Toyota's "safety and quality processes." According to the Panel, Toyota should  
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7 **8.6.1.** Consider appointing one North American chief executive to oversee all  
8 North American operations;

9 **8.6.2.** Include North American executives in decisions regarding product  
10 recalls;

11 **8.6.3.** Strengthen communications and decision-making between regions;

12 **8.6.4.** Seek out external feedback, including the creation of a "Consumer  
13 Representative Team" and integrate it into the decision-making processes;  
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15 **8.6.5.** Work cooperatively with NHTSA and other regulators;

16 **8.6.6.** Appoint a new "Chief Safety Technology Officer;" and

17 **8.6.7.** Simplify the downloading and decoding of Electronic Data Recorder  
18 ("EDR") data.

19 **IX. VIOLATIONS OF LAW**  
20 **CONSUMER PROTECTION ACT**  
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22 **9.1.** The State incorporates by reference and re-alleges each allegation contained in  
23 paragraphs 1.1-8.6.

24 **9.2.** All of the acts and practices engaged in and employed by the Defendants as  
25 alleged herein, are unfair or deceptive acts or practices as defined in chapter 19.86 RCW  
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1 affecting the conduct of any trade or commerce in Washington, which are declared unlawful.

2 Specifically, Defendants

3           **9.2.1.**    Failed to Warn of a Known Danger: Defendants failed to disclose to  
4 consumers and regulators known safety risks associated with operation of Toyota motor  
5 vehicles and motor vehicle equipment;

6           **9.2.2.**    Misrepresented Safety and Reliability: Defendants misrepresented,  
7 directly or by implication, Toyota motor vehicles and motor vehicle equipment as safe  
8 and reliable;

9           **9.2.3.**    Failed to Perform Consistent with Contract Obligations Imposed by  
10 Express and Implied Warranties: Defendants failed to timely diagnose and repair  
11 Toyota motor vehicles and motor vehicle equipment that were the subject of consumer  
12 complaints related to sudden unintended acceleration as required pursuant to express  
13 and implied warranty representations and terms and as required by state warranty and  
14 Lemon Laws; and

15           **9.2.4.**    Failed to Share Critical Safety Related Information and Decision  
16 Making Between Japan and North American Toyota Officials: Defendant TMC  
17 withheld safety related decision making authority and critical safety data, information,  
18 engineering/design changes and safety repairs from TMNA.

19           **9.3.**    Each and every unfair or deceptive act or practice engaged in by Defendants, as  
20 recited above, constitutes a separate violation of the Consumer Protection Act as provided by  
21 chapter 19.86 RCW.

