

SEAL
27-Mar-26

Vancouver
REGISTRY



NO. Court File No. **VLC-S-S-262289**
VANCOUVER REGISTRY

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:



PLAINTIFF

AND:

NISSAN MOTOR CO. LTD.,
NISSAN NORTH AMERICA INC., and
NISSAN CANADA INC.

DEFENDANTS

Brought under the *Class Proceedings Act*, R.S.B.C. 1996, c. 50

NOTICE OF CIVIL CLAIM

This action has been started by the plaintiff(s) for the relief set out in Part 2 below.

If you intend to respond to this action, you or your lawyer must

- (a) file a response to civil claim in Form 2 in the above-named registry of this court within the time for response to civil claim described below, and
- (b) serve a copy of the filed response to civil claim on the plaintiff.

If you intend to make a counterclaim, you or your lawyer must

- (a) file a response to civil claim in Form 2 and a counterclaim in Form 3 in the above-named registry of this court within the time for response to civil claim described below, and
- (b) serve a copy of the filed response to civil claim and counterclaim on the plaintiff and on any new parties named in the counterclaim.

JUDGMENT MAY BE PRONOUNCED AGAINST YOU IF YOU FAIL to file the response to

civil claim within the time for response to civil claim described below.

TIME FOR RESPONSE TO CIVIL CLAIM

A response to civil claim must be filed and served on the plaintiff(s),

- (a) if you reside anywhere in Canada, within 21 days after the date on which a copy of the filed notice of civil claim was served on you,
- (b) if you reside in the United States of America, within 35 days after the date on which a copy of the filed notice of civil claim was served on you,
- (c) if you reside elsewhere, within 49 days after the date on which a copy of the filed notice of civil claim was served on you, or
- (d) if the time for response to civil claim has been set by order of the court, within that time.

CLAIM OF THE PLAINTIFF(S)

Part 1: STATEMENT OF FACTS

A. Nature of Claim

1. The within proposed multi-jurisdictional automotive defect class proceeding involves 2019-2022 Nissan Leaf Electric Vehicles (“EVs”) (the “**Affected Class Vehicles**”) engineered, designed, developed, manufactured, assembled, tested, marketed, distributed, supplied, sold and/or leased by the Defendants, Nissan Motor Co., Ltd. (“**Nissan Japan**”), Nissan North America, Inc. (“**Nissan NA**”), and/or Nissan Canada Inc. (“**Nissan Canada**”), in Canada, including the Province of British Columbia, equipped with a defective high-voltage traction lithium-ion battery that is prone to overheating and short-circuiting, particularly during Level 3 Direct Current (DC) fast charging via the CHAdeMO connector, resulting in potential melting of charging components, electrical damage, and fire, so as to pose a real, substantial, and imminent risk of harm and/or injury to vehicle occupants, others on the road, and/or property damage (the “**Battery Defect**”).

2. In particular, the Battery Defect arises from the formation of excessive lithium deposits on the battery’s anode, which contributes to the unstable development of a byproduct known as the solid electrolyte interphase (“**SEI**”). Unstable SEI formation can lead to the growth of lithium dendrites, which can cause swelling of the battery cells and/or compromise the separator between

the anode and cathode. These conditions increase internal electrical resistance and can lead to internal heating or short-circuiting, particularly during Level 3 DC fast charging.

3. The Defendants' purported remedy for the Battery Defect is a software update that monitors high-voltage battery operating conditions, including the battery's state of charge and potential thermal events. The software update, which is still in development, is only offered to a select "focus group," and is not available to all owners and lessees of the Affected Class Vehicles, does not remedy or fix the Battery Defect. Rather, the update is intended only to detect certain hazardous battery operating conditions and, in some circumstances, may disable vehicle operation to prevent a thermal event.

4. The Defendants have instructed the Plaintiff and putative class members not to use Level 3 DC fast charging until the recall remedy is completed.

5. The software update does not remedy the Battery Defect, and the defect deprives the Plaintiff and putative class members of a key feature of the Affected Class Vehicles—Level 3 DC fast charging—for which they paid a premium. The only adequate remedy is the replacement of the defective high-voltage battery with a non-defective unit, or a buyback of the Affected Class Vehicles.

6. At all relevant times, the Defendants knew, or ought to have known, about the Battery Defect as evidenced by, *inter alia*: (i) consumer complaints lodged with American and Canadian government vehicle safety regulators, including the United States National Highway Traffic Safety Administration ("NHTSA"), Transport Canada, and elsewhere online; (ii) warranty claims, part sales, consumer complaints, and vehicle buyback requests lodged with the Defendants directly; (iii) safety recall campaigns relating to the Battery Defect issued by the Defendants; and (iv) the Defendants' own pre-sale durability testing of the Affected Class Vehicles.

7. The Defendants have exclusive knowledge of, and have been in exclusive possession of, facts and/or information pertaining to the Battery Defect, which were material to the Plaintiff and putative class members, who could not have reasonably known of the Battery Defect. Under the circumstances, the Defendants had an affirmative duty to disclose the Battery Defect at the point of sale and/or lease of the Affected Class Vehicles to putative class members and consumers.

8. Despite that knowledge and duty, the Defendants have repeatedly failed to disclose and actively concealed the Battery Defect from putative class members and consumers and continued to market and represent the Affected Class Vehicles as safe, durable, and reliable vehicles.

9. In engineering, designing, developing, manufacturing, assembling, testing, marketing, distributing, supplying, leasing and/or selling the Affected Class Vehicles, the Defendants have engaged in unfair, deceptive, and/or misleading consumer practices, and further have breached their express warranties.

10. The Plaintiff and putative class members expected that the Defendants would disclose, and not actively conceal, material facts about the existence of any defect that will result in expensive and non-ordinary repairs. The Defendants failed to do so.

11. As a direct and proximate result of the Defendants' unfair, misleading, deceptive, and/or fraudulent business practices in failing to disclose the Battery Defect, the Plaintiff and putative class members: (i) overpaid for the Affected Class Vehicles, either through a higher purchase price and/or lease payments; (ii) overpaid for the Affected Class Vehicles as the Battery Defect significantly diminishes the value of the Affected Class Vehicles; (iii) have Affected Class Vehicles that are unsafe, unreliable and dangerous in their operation; and (iv) have Affected Class Vehicles that have significantly reduced re-sale value.

12. The Plaintiff and putative class members purchased or leased Affected Class Vehicles that they would not have purchased and/or leased, or would have paid less for, had the Defendants disclosed the Battery Defect.

13. The Plaintiff brings this action on behalf of all owners and lessees of the Affected Class Vehicles seeking, *inter alia*, damages, rescission or restitution, and appropriate injunctive and declaratory relief, including repair or replacement of the defective high-voltage battery and reimbursement of costs associated with the Battery Defect.

B. The Parties

i. Representative Plaintiff

14. The Plaintiff [REDACTED]

██████████ has an address of service c/o 210-4603 Kingsway, Burnaby, British Columbia, V5H 4M4.

15. On or about July 9, 2025, the Plaintiff purchased a Certified Pre-Owned 2021 Nissan Leaf SV (the “**Nissan Leaf SV**”), with approximately 42,542 kilometers, from North Vancouver Nissan for a purchase price of approximately \$26,588.80, inclusive of taxes.

16. The Plaintiff purchased the Nissan Leaf SV for personal, family, and household use, including commuting and travel within the Lower Mainland and surrounding regions.

17. The Plaintiff selected the Nissan Leaf SV, in part, because it was marketed as an EV capable of Level 3 DC fast charging, which would enable efficient long-distance travel and reduce charging times.

18. Further, prior to purchasing the Nissan Leaf SV, the Plaintiff reviewed promotional materials and relied on representations from dealership representatives regarding the vehicle’s charging capabilities. The Plaintiff had also previously owned a new second-generation 2018 Nissan Leaf, which was purchased from North Vancouver Nissan on June 19, 2018.

19. The Plaintiff purchased the Nissan Leaf SV after her 2018 Nissan Leaf was accidentally damaged beyond repair while undergoing service at North Vancouver Nissan on June 9, 2025.

20. In or around October 2025, the Plaintiff received an owner notification letter from the Defendant, Nissan Canada, advising her of Transport Canada Recall No. 2025-523 and the associated manufacturer Recall R25C8, warning that certain Nissan Leaf vehicles were equipped with a high-voltage battery that could overheat during Level 3 DC fast charging.

21. As an interim measure, the Defendant, Nissan Canada, advised owners and lessees of the Affected Class Vehicles, including the Plaintiff, not to use Level 3 DC fast charging until a proposed software update repair became available.

22. Since receiving the owner notification letter, the Plaintiff has refrained from using Level 3 DC fast charging in accordance with the Defendant’s, Nissan Canada’s, instructions.

23. On or about March 17, 2026, the Plaintiff contacted Nissan Canada Customer Care and

was advised that no remedy was available and that there was no confirmed timeline for implementation of a remedy and/or fix for the Battery Defect.

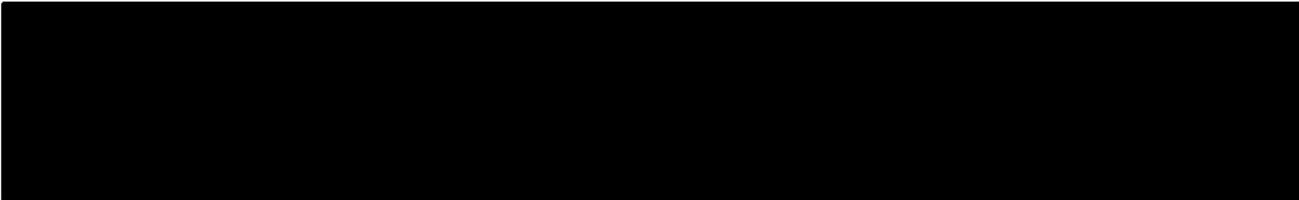
24. To date, the Defendant, Nissan Canada, has not offered any remedy and/or fix to the Plaintiff for the Battery Defect in her Nissan Leaf SV. Moreover, she has not received the Defendants' purported software remedy.

25. As a result of the inability to use Level 3 DC fast charging, the Plaintiff's use of the Nissan Leaf SV has been significantly restricted, including for trips requiring travel beyond the vehicle's practical driving range.

26. In the Plaintiff's experience, the Nissan Leaf SV has a driving range of approximately 160 to 190 kilometers, depending on speed, terrain, and temperature, such that return trips exceeding approximately 90 kilometers in one direction require intermediate charging.

27. While the Nissan Leaf SV can be charged using Level 1 and Level 2 charging systems, such charging methods require substantially longer charging times, making longer trips impractical or significantly delayed.

28. The inability to use Level 3 DC fast charging has impaired the Plaintiff's ability to undertake routine travel, including trips within the Lower Mainland and to Vancouver Island and surrounding regions.



31. The inability to use Level 3 DC fast charging has further caused concern regarding the risk of depleting the vehicle's battery during travel and the associated inconvenience and safety risks.

32. As a result of the Defendants' conduct and the Battery Defect, the Plaintiff has been deprived of a core feature of the Nissan Leaf SV, namely Level 3 DC fast charging, for which she paid a premium.

33. Further, despite the Nissan Leaf SV being under the manufacturer's warranty, the Defendant, Nissan Canada, has not replaced the vehicle's battery pursuant to the terms of its warranty.

34. The Battery Defect and the associated recall have also negatively affected the value, utility, and marketability of the Nissan Leaf SV.

35. The Plaintiff would not have purchased the Nissan Leaf SV, or would have paid less for it, had she known of the Battery Defect at the time of purchase.

36. The Plaintiff has suffered a concrete and ascertainable loss as a direct and proximate result of the Defendants' misconduct in that Plaintiff overpaid for her Nissan Leaf SV at the time of purchase, and the value of her Nissan Leaf SV has been diminished as a result of the Battery Defect.

ii. The Defendants

37. The Defendant, Nissan Japan, is a company duly incorporated pursuant to the laws of Japan and has an address for service at 1-1, Takashima 1-chome, Nishi-ku, Yokohama-shi, Kanagawa 220-8686, Japan.

38. The Defendant, Nissan NA, is a company duly incorporated pursuant to the laws of the State of Delaware, one of the United States of America, and has a registered agent, Corporation Service Company, at 251 Little Falls Drive, Wilmington, Delaware 19808, United States of America.

39. The Defendant, Nissan Canada, is a company duly incorporated pursuant to the laws of Canada, with its head office in Mississauga, Ontario, extraprovincially registered within British Columbia under number A0109859 and has an attorney of service, Gowling WLG Pacific Corporate Services Inc., at 2300-550 Burrard Street, Bentall 5, Vancouver, British Columbia V6C 2B5.

40. At all material times to the cause of action herein, the Defendant, Nissan Japan, designed, engineered, developed, manufactured, assembled, tested, marketed, distributed, supplied, leased, and/or sold Nissan-brand vehicles, including the Affected Class Vehicles equipped with the Battery Defect, through its related subsidiaries, operating units, affiliates, independent retailers, and authorized dealerships in Canada, including within the Province of British Columbia.

41. At all material times to the cause of action herein, the Defendant, Nissan NA, was a wholly owned American subsidiary and/or controlled affiliate of the Defendant, Nissan Japan, and was responsible for, *inter alia*, the assembling and/or manufacturing of the Affected Class Vehicles at its manufacturing plant located in Smyrna, Tennessee, United States of America.

42. At all material times to the cause of action herein, the Defendant, Nissan Canada, was a wholly owned Canadian subsidiary and/or controlled affiliate of the Defendant, Nissan Japan, and was responsible for, *inter alia*, the marketing, advertising, importation, distribution, servicing, warranty administration, and/or sale of the Affected Class Vehicles in Canada, including within the Province of British Columbia.

43. At all material times to the causes of action herein, the Defendant, Nissan Japan, engineered, designed, developed, manufactured, assembled, marketed, advertised, distributed, supplied, leased and/or sold vehicles under the brand names Nissan and Infiniti, including the Affected Class Vehicles, through its related subsidiaries, affiliates, agents, operating and/or organizational units, including the Defendants, Nissan NA and Nissan Canada, independent retail dealers and authorized dealerships in North America, including in Canada.

44. At all material times to the causes of action herein, the Defendant, Nissan Japan, exercised direct and/or indirect control and ownership over the Defendants, Nissan NA and Nissan Canada, including, *inter alia*, management policies, information governance policies, pricing, repair and/or warranty terms.

45. At all material times to the causes of action herein, the Defendants, Nissan Japan, Nissan NA and Nissan Canada, shared the common purpose of, *inter alia*, engineering, designing, developing, manufacturing, assembling, marketing, distributing, supplying, leasing and/or selling

the Affected Class Vehicles in Canada. Further, the business and interests of the Defendants, Nissan Japan, Nissan NA and Nissan Canada, are inextricably interwoven with that of the other such that each is the agent or alter ego of the other.

46. Hereinafter, the Defendants, Nissan Japan, Nissan NA and Nissan Canada, are collectively referred to as the “**Defendant, Nissan**” or “**Defendants**”, unless referred to individually or otherwise.

C. The Class

47. This action is brought on behalf of members of a class consisting of the Plaintiff, and all other persons and legal entities resident in Canada, excluding Québec, who own, owned, lease and/or leased any one or more of the Affected Class Vehicles (“**Class**” or “**Class Members**”), excluding employees, officers, directors, agents of the Defendants and their family members, class counsel, presiding judges and any person who has commenced an individual proceeding against or delivered a release to the Defendants concerning the subject of this proceeding, or such other class definition or class period as the Court may ultimately decide on the application for certification.

D. Factual Allegations

i. The Defendants’ EV technology

48. The Defendant, Nissan Japan, is a pioneer in automotive manufacturing and engages in extensive research and development of their manufacturing processes, and the technology and materials used to produce innovative and environmentally friendly vehicles. One such initiative has been the Defendant’s, Nissan Japan’s, development of their EVs, which began in 2010 with the production of the first-generation Nissan Leaf, the first fully electric mass-market vehicle.

49. Two years after introducing the first-generation Nissan Leaf, the Defendant, Nissan Japan, unveiled a system that allows consumers to share power between their homes and their vehicles, known as the Vehicle-to-Home (V2H) system. The V2H system enables Nissan Leaf owners to store energy in the vehicle’s high-voltage battery and feed that energy back to their homes when required.

50. The Defendant, Nissan Japan, continued development of the Nissan Leaf lineup with the introduction of the second-generation Nissan Leaf, including the Affected Class Vehicles, and subsequently announced a third-generation Nissan Leaf, commencing with the 2026 model year.

51. By approximately 2019, the Defendants had sold more than 400,000 Nissan Leaf vehicles globally.

52. The second-generation Nissan Leaf was introduced in September 2017, with production commencing for the 2018 model year, and became available for sale in North America in January 2018.

53. The second-generation Nissan Leaf featured a new electric powertrain with extended driving range compared to the first-generation model and was equipped with a new lithium-ion battery system.

54. The Affected Class Vehicles, which consists of the second-generation Nissan Leaf vehicles of 2019-2022 model years sold and/or leased in Canada, were manufactured and/or assembled at the Defendant's, Nissan NA's, manufacturing facility located in Smyrna, Tennessee, United States of America.

55. The Affected Class Vehicles came equipped with either a 40 kilowatt-hour ("kWh") or 62 kWh lithium-ion battery pack.

56. The 40 kWh and 62 kWh battery packs used in the Affected Class Vehicles are similar in design, architecture, and chemistry, differing primarily in the number of cells contained within the battery pack.

57. These battery packs were supplied by Automotive Energy Supply Corporation ("AES"), a manufacturer of lithium-ion batteries for EVs.

58. AES was established in 2007 as a joint venture between the Defendant, Nissan Japan, and TOKIN corporation, a Japanese electrical and electronic industrial and automotive parts manufacturing company.

59. As of June 2025, the Defendant, Nissan Japan, has introduced the third-generation

Nissan Leaf, which features a new liquid-cooled lithium-ion battery pack.

ii. The Battery Defect

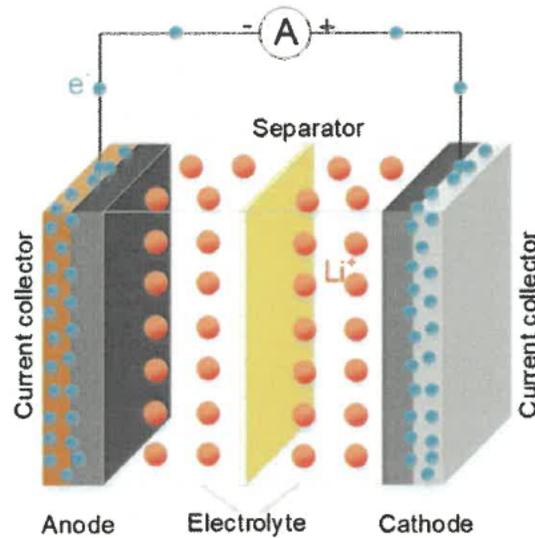
60. In EVs, the high-voltage battery is the primary component responsible for storing chemical energy and converting it into electrical energy to power the drive motor and propel the vehicle. The high-voltage battery also supplies power to various vehicle systems when the vehicle is not in operation, including security systems, onboard computers, and diagnostic modules.

61. Most EVs utilize lithium-ion battery technology as lithium-ion cells provide high energy density and long cycle life, allowing substantial energy storage within a relatively compact battery pack and enabling repeated charge and discharge cycles over time.

62. However, lithium-ion batteries also present known safety risks. As these batteries store significant amounts of energy in a confined space, any manufacturing defect or internal failure—such as conditions that promote lithium plating, separator damage, swelling of the battery cells, or internal short circuits—can result in rapid heat generation and thermal runaway, a dangerous, uncontrollable, self-heating state in lithium-ion batteries where a cell's internal temperature rises exponentially, creating a risk of fire or explosion.

63. The Battery Defect in the Affected Class Vehicles is physical and structural in nature, stemming from defects in manufacture and workmanship within the battery cells. As such, it cannot be remedied by software updates, including the Defendants' purported software remedy, as explained in detail below.

64. Each battery contains two electrodes, an anode and a cathode, separated by a thin separator and immersed in an electrolyte solution, as illustrated in the figure below. The anode and cathode are intended to maintain precise separation and operate within defined electrochemical parameters.



65. As mentioned above, the Battery Defect stems from the formation of excessive lithium deposits on the battery's anode, which contributes to the unstable development of the SEI.

66. A well-formed, stable SEI is critical for a long battery lifespan and high efficiency. If the SEI is unstable, the Battery Defect manifests, in part, through lithium plating, which occurs when lithium ions (Li^+) reduce to metallic lithium on the anode surface instead of intercalating (inserting) into the anode material (typically graphite).

67. In particular, unstable SEI formation can lead to the growth of lithium dendrites, which are microscopic, tree-like, or needle-shaped metallic structures that grow from the anode inside lithium-ion batteries during charging, driven by uneven lithium deposition, that can cause swelling of the battery cells and/or compromise the separator between the anode and cathode. These conditions increase internal electrical resistance and can lead to internal heating or short-circuiting, particularly during Level 3 DC fast charging.

68. Mechanisms contributing to the Battery Defects in the Affected Class Vehicles include, *inter alia*:

- Transport and Reduction: During charging, lithium ions move from the cathode through the electrolyte to the anode. When charging conditions exceed intercalation capacity of the anode, excess lithium ions are reduced on the anode surface, forming metallic lithium deposits in the form of dendrites.

- Unstable SEI Layers: The SEI is a passivation layer that naturally forms on the anode. Manufacturing defects can produce brittle or uneven SEI layers that crack under normal charging cycles, exposing fresh anode surfaces to further lithium deposition.
- Dendrite Formation: Uneven lithium deposition promotes needle-like or mossy structures, called dendrites, that can pierce the separator and create internal short circuits and/or electric arcing.

69. Factors that exacerbate the Battery Defect in the Affected Class Vehicles include:

- Rapid Charging: High current charging rates, for example, during Level 3 DC fast charging, accelerate lithium plating by exceeding the anode's intercalation capacity.
- Low Temperatures: Cold conditions slow lithium-ion diffusion, increasing the likelihood of surface plating.
- Overcharging: Excessive voltage forces lithium onto the anode surface, contributing to plating and dendrite formation.
- Anode-to-Cathode Capacity Imbalances: Manufacturing deviations in the relative capacities of anode and cathode materials increase the likelihood of lithium accumulation on the anode surface.

70. The consequences of unstable SEI layers, lithium plating and dendrite formation include, *inter alia*:

- Safety Hazards: Dendrites can penetrate the separator, causing internal short circuits, rapid heat generation, thermal runaway, and potential fire or explosion, even while the vehicle is parked or not in operation.
- Capacity Loss: Irreversible lithium deposition reduces the battery's total energy storage capacity.
- Increased Internal Resistance: Continued formation of lithium plating and unstable SEI layers increases impedance, negatively affecting battery performance and reliability.

- Swelling of the Cells: unstable SEI layers can lead to decomposition of the electrolyte, a process known as outgassing, accelerating gas production, which become trapped inside the cell's sealed pouch causing swelling.

71. The Battery Defect is latent, may occur without warning, and poses a real, substantial, and imminent risk of harm and/or injury to vehicle occupants, others on the road, and/or property damage. The defect is inherent to the manufacture of the high-voltage battery installed in the Affected Class Vehicles and cannot be remedied by software updates, warnings, or operational restrictions.

iii. The Defendants' knowledge and concealment of the Charging Defect

72. At all material times the cause of action herein, the Defendants knew, or ought to have known, about the Battery Defect as evidenced by, *inter alia*: (i) consumer complaints lodged with governmental vehicle safety regulators in the United States and Canada, including NHTSA and Transport Canada, as well as reports posted elsewhere online; (ii) numerous reports of vehicle fires across the United States and Canada (iii) warranty claims, part sales, and direct consumer complaints submitted to the Defendants; (iv) the Defendants' own pre-sale durability testing and internal evaluation of the Affected Class Vehicles; and (v) numerous recalls and/or safety advisories issued to owners and/or lessees relating to the fire risk posed by the Battery Defect.

73. Like all major automobile manufacturers, the Defendants employ extensive pre-production testing protocols designed to identify defects, including, but not limited to, testing at numerous global "proving grounds," where vehicles are subjected to extreme environmental and operational conditions, each of which would reveal, or ought to have revealed, the Battery Defect prior to vehicle release.

74. In addition to in-house pre-production testing, the Defendants impose strict compliance requirements on third-party component and parts suppliers. These components, including the high-voltage battery equipped in the Affected Class Vehicles, must meet these supplier standards before installation into any vehicle.

75. The Defendants require their electronic parts suppliers to comply with defined setups, limits, and acceptance criteria for vehicle architectures and safety strategies. This is especially

critical for EVs, where sensitive electrical components can potentially interfere with one another, and any undesired interferences—such as voltage stress—can cause malfunctions, compromising vehicle safety and usability

76. Given these testing standards, technical guidance to dealerships regarding battery storage and handling, and repeated consumer complaints, the Defendants knew, or ought to have known, of the Battery Defect, yet actively concealed it from the Plaintiff and Class Members.

NHTSA investigations and recalls

77. Beginning no later than 2023, the Defendant, Nissan NA, initiated and expanded a series of safety recalls filed with NHTSA concerning the high-voltage battery installed in the Affected Class Vehicles.

78. In recall documentation submitted to NHTSA, the Defendant, Nissan NA, outlined the chronology of its investigation into thermal incidents involving the high-voltage batteries in certain Nissan Leaf vehicles, as follows:

- September 5, 2023 – A thermal incident involving a Model Year (“MY”) 2020 Nissan Leaf occurred while the vehicle was undergoing Level 3 quick charging. Nissan inspected the vehicle and initially determined that the thermal event appeared to originate from within the battery pack. Nissan commenced an investigation in coordination with its battery supplier.
- September 2023 – October 2023 – A review of available charging data determined that there were no indications of charging equipment malfunction. Nissan’s investigation concluded that the thermal event resulted from a loose fastener inside the battery pack following a battery repair completed on September 1, 2023, which Nissan initially characterized as an isolated incident caused by improper repair.
- November 2023 – January 2024 – On November 7, 2023, Nissan received a report of another thermal incident involving a MY2020 Nissan Leaf while the vehicle was quick charging. Nissan and the battery supplier inspected the battery pack and observed evidence of an electrical short and identified a potential weld defect. Replication testing

was inconclusive and the investigation continued.

- February 2024 – May 2024 – On February 12, 2024, a thermal incident involving a MY2020 Nissan Leaf occurred during quick charging. While investigating that event, Nissan became aware on April 22, 2024 of a thermal incident involving a MY2019 Nissan Leaf during quick charging. On April 30, 2024, Nissan received a further report of a thermal incident involving another MY2020 Nissan Leaf during quick charging. Nissan inspected the vehicles involved and collected battery packs for supplier analysis. Nissan also initiated a “4M” investigation, a structured root cause analysis tool used in manufacturing and engineering to identify the causes of a problem by examining four key areas: Man, Machine, Material, and Method, of the battery supplier’s manufacturing process.

- June 2024 – July 2024 – The battery supplier conducted extensive analysis of the battery packs collected from the incident vehicles. The investigation identified records of state-of-charge fluctuations prior to certain thermal events. One of the analyzed battery packs exhibited excessive lithium deposits within specific battery cells. Nissan also received reports of two additional thermal incidents while quick charging: one on July 12, 2024 involving a MY2020 Nissan Leaf, and another on July 19, 2024 involving a MY2019 Nissan Leaf. Nissan subsequently initiated a warranty parts collection program to obtain additional battery packs for investigation.

- August 2024 – September 2024 – On August 13 and 14, 2024, Nissan received two additional reports of thermal incidents involving MY2020 Nissan Leaf vehicles during Level 3 quick charging. Third-party testing conducted on an incident battery pack identified excessive lithium deposits within certain battery cells. Subsequent disassembly of battery cells from certain MY2019 and MY2020 battery packs obtained through the warranty collection program also revealed the presence of excessive lithium deposits.

- Nissan further determined that Level 3 DC quick charging, which can charge the 40 kWh battery at rates up to 50 kW and the 62 kWh battery at rates up to 100 kW, can generate significant heat within the battery cells. By contrast, Level 1 and Level 2

charging, which operate at lower charging rates of approximately 3.3 kW and 6.6 kW, respectively, generate substantially less heat during charging.

- On September 3, 2024, Nissan received a further report of a thermal incident involving a MY2019 Nissan Leaf while the vehicle was undergoing Level 3 quick charging.
- On September 12, 2024, based on preliminary investigation results and out of an abundance of caution, Nissan initiated a voluntary safety recall for certain MY2019–2020 Nissan Leaf vehicles equipped with a quick-charge port. At the time of the recall decision, Nissan had confirmed nine incidents in the United States related to the subject condition.
- On September 30, 2024, Nissan received an additional report that a MY2020 Nissan Leaf experienced a thermal incident while using a Level 3 public charging station. Nissan’s investigation into this incident and the broader issue remained ongoing.
- In November 2024, Nissan identified a clerical error in the validation of the affected recall population. On November 7, 2024, Nissan corrected the error and added 1,817 additional Nissan Leaf vehicles to the recall population.
- Between November 2024 and September 2025, Nissan continued to develop a software remedy and implementation plan and continued its investigation into lithium deposits within battery cells. On September 30, 2025, Nissan issued Recall 25V-655, expanding the recall to potentially affected MY2021–2022 Nissan Leaf vehicles equipped with the quick-charge port.
- Nissan notified dealers of the recall on September 20, 2024, and mailed interim notification letters to affected owners.
- On October 10, 2024, Nissan mailed an interim owner notification letter instructing owners not to use Level 3 DC quick charging until a remedy became available, and advising that a software remedy was anticipated in November 2024.

- Following delays in software development, Nissan issued a second interim owner notification letter on November 22, 2024, advising that development of the remedy software was ongoing and that the anticipated remedy timing had been updated to Spring 2025. The letter again instructed owners not to use Level 3 DC quick charging.
- Due to further delays in testing and validation of the intended remedy, Nissan issued a third interim notification letter beginning June 20, 2025, advising owners that the software remedy was now anticipated to be available in the third quarter of 2025 and reiterating the instruction not to use Level 3 quick charging.
- On October 8, 2025, Nissan notified dealers that certain vehicles had been selected to receive the interim remedy software, instructing dealers to reprogram the Lithium Battery Controller (“LBC”) with updated software designed to monitor the battery’s state of charge and detect fluctuations.
- According to Nissan, if such fluctuations are detected, the software may display a “Service EV System – Power Reduced” message on the vehicle’s information display screen and may limit vehicle operation.

79. In particular, NHTSA issued the following recalls based on the corresponding manufacturer recalls.

80. On September 19, 2024, and subsequently revised on November 14, 2024, and November 18, 2025, NHTSA issued Part 573 Safety Recall Report 24V-700 for MY2019–2024 Nissan Leaf vehicles, corresponding to Defendants’ Recall Nos. R24BD, P4A38 and P5A22, which stated in part the following:

Descriptive Information:

Certain Model Year 2019-2020 Nissan LEAF vehicles equipped with the quick charge port (for Level 3 charging via CHAdEMO connector) and manufactured from August 29, 2018 to November 3, 2020 at the Nissan Smyrna plant.

Based on Nissan production records, this issue (as described in Section 5 below) can affect certain Model Year 2019 – 2020 LEAF vehicles during Level 3 quick charging.

Certain MY2021-2022 Nissan LEAF vehicles equipped with the quick charge port for Level 3 charging (via CHAdeMO connector) and manufactured from November 3, 2020 to May 23, 2022 at the Nissan Smyrna plant are subject to recall 25V655 for this issue.

There is no evidence other Nissan or INFINITI vehicles are affected.

Description of the defect or noncompliance:

Nissan is continuing to investigate this issue. Preliminarily, Nissan has determined the lithium-ion battery in affected vehicles may experience excessive lithium deposits within battery cells, increasing the electrical resistance and potentially causing a fluctuation in the state of charge.

Description of the safety risk, including crash, fire, death, injury:

While the vehicle is Level 3 quick charging, the increased electrical resistance could result in rapid heating of the battery. If quick charging continues, a battery fire may occur increasing the risk of injury.

Identification of any warning that can occur:

During Level 3 quick charging, the customer may notice smoke, noise, interrupted charging, or thermal odors coming from the vehicle's battery.

81. On October 1, 2025, and subsequently revised on November 18, 2025, NHTSA issued Part 573 Safety Recall Report 25V-655 for MY2021–2022 Nissan Leaf vehicles, corresponding to Defendants' Recall No. R24B8, which stated in part the following:

Descriptive Information:

Certain Model Year 2021 – 2022 Nissan LEAF vehicles equipped with the quick charge port (for Level 3 charging via CHAdeMO connector) and manufactured from November 3, 2020 to May 23, 2022 at the Nissan Smyrna plant.

Certain Model Year 2019-2020 Nissan LEAF vehicles equipped with the quick charge port (for Level 3 charging via CHAdeMO connector) and manufactured from August 29, 2018 to November 3, 2020 at the Nissan Smyrna plant are already subject to Recall 24V-700.

This vehicle population was determined based on Nissan production records. There is no evidence other Nissan or INFINITI vehicles are

affected.

Description of the defect or noncompliance:

Nissan has determined the lithium-ion battery in affected vehicles may experience excessive lithium deposits within battery cells, increasing the electrical resistance and potentially causing a fluctuation in the state of charge.

Description of the safety risk, including crash, fire, death, injury:

While the vehicle is Level 3 quick charging, the increased electrical resistance could result in rapid heating of the battery. If quick charging continues, a battery fire may occur increasing the risk of injury.

Identification of any warning that can occur:

There is no preceding warning to the customer.

Transport Canada recalls

82. In parallel with United States recall activity, the Defendant, Nissan Canada, issued multiple Notices of Defect and safety recalls filed with Transport Canada concerning the Battery Defect in the Affected Class Vehicles in Canada, including the Province of British Columbia.

83. In its disclosures to Transport Canada, the Defendant, Nissan Canada, similarly identified a risk of battery overheating, smoke, and vehicle fire, including events occurring while the vehicle is parked or not in use, attributable to internal battery cell failures.

84. Transport Canada recall notices describe internal short circuits within battery cells, resulting in localized overheating and thermal runaway, and acknowledge that such events may occur without prior warning to drivers.

85. As in the United States, the Defendant's, Nissan Canada's, initial Transport Canada recall remedies consisted primarily of software updates, along with operational restrictions, and consumer advisories instructing owners and lessees to stop using Level 3 DC fast charging.

86. In particular, Transport Canada issued the following recalls based on the corresponding manufacturer recalls.

87. On November 19, 2024, and subsequently updated on February 4, 2025, Transport Canada issued Recall 2024-542 for 6,188 MY2019–2020 Nissan Leaf vehicles, corresponding to the Defendants’ Recall No. R24B2, which stated in part the following:

Issue:

On certain vehicles, the high-voltage battery could overheat while using level 3 quick charging. As a result, the battery could create smoke or heat, which can melt or damage the battery and nearby parts.

Safety Risk:

A battery that overheats can create a fire risk.

Corrective Actions:

To reduce the safety risk, Nissan recommends not to use the level 3 quick charging until the recall repairs have been completed. Nissan will notify owners by mail and advise you to take your vehicle to a dealership to update the vehicle software.

88. On October 1, 2025, and subsequently updated on October 3, 2025, Transport Canada issued Recall 2025-523 for 1,355 MY2021–2022 Nissan Leaf vehicles, corresponding to the Defendants’ Recall No. R25C8, which stated in part the following:

Issue:

On certain vehicles, the high-voltage battery could overheat while using level 3 quick charging. As a result, the battery could create smoke or heat, which can melt or damage the battery and nearby parts.

Note: This recall is an expansion of Transport Canada recall 2024-542.

Safety Risk:

A battery that overheats can create a fire risk.

Corrective Actions:

To reduce the safety risk, Nissan recommends not to use the level 3 quick charging until the recall repairs have been completed. Nissan will notify owners by mail and advise you to take your vehicle to a dealership to update the vehicle software.

89. The Defendants also knew, or ought to have known, about the Battery Defect as numerous consumer complaints regarding the Battery Defect were made directly to the Defendants, or on online sources monitored by the Defendants.

90. The large number of complaints, and the consistency of their descriptions of the Battery Defect alerted, or ought to have alerted, the Defendants of the defect. Significantly, many such complaints were recorded as early as 2023, shortly after the Affected Class Vehicles were first made available for sale and/or lease.

iv. The Defendants' proposed remedy for the Battery Defect is inadequate

91. The service recall campaigns issued by the Defendants confirm that they identified and acknowledged the underlying defect within the high-voltage battery. Rather than implementing a proper hardware repair or replacement of the defective high-voltage battery with a non-defective unit, the Defendants issued a series of software-based measures instructing dealers to reprogram the LBC with updated software designed to monitor the battery's state of charge and detect fluctuations. These measures are inconsequential and served primarily to obscure, rather than to remedy and/or fix, the underlying hardware defect.

92. Furthermore, the Defendants' proposed software remedy was subject to delays, is largely localized to a select "focus group" and is not available to all owners and lessees of the Affected Class Vehicles.

93. The Defendants knew, or ought to have known, the proposed software remedy was still in its development stages, and is not an adequate fix for the Battery Defect.

94. Despite this knowledge, the Defendants compelled the Plaintiff and Class Members to rely on these temporary software "fixes." As a result, the Affected Class Vehicles continue to suffer from latent overheating risks, and consumers remain exposed to the same underlying safety hazard while depriving them of the charging capabilities they were promised and paid for.

95. In particular, in an attempt to circumvent the significant dangers arising from the Battery Defect, the Defendants implemented an improper and cost-saving remedial measure in the form of software updates.

v. The Defendants' representations regarding the safety, reliability and durability of the Affected Class Vehicles

96. As noted above, the first-generation Nissan Leaf was the first fully electric mass-market vehicle. Since its introduction, the Defendants have openly and publicly promoted in press kits

issued for the Nissan Leaf lineup of vehicles. The Defendants have further emphasized the safety, reliability, capability, and durability of this model.

97. For example, in a press release dated September 6, 2017, regarding the second-generation Nissan Leaf, the Defendant, Nissan Japan, states:

The Nissan LEAF has been completely reinvented, combining greater range with a dynamic new design and advanced technologies*, representing Nissan's technological leadership.

The new Nissan LEAF sets a new standard in the growing market for mainstream electric cars by offering customers greater range, advanced technologies* and a dynamic new design.

98. The Plaintiff and Class Members relied on such representations regarding safety, reliability, capability, and durability of the Affected Class Vehicles made by the Defendants in deciding to purchase and/or lease the vehicles.

vi. The warranties provided by the Defendants

99. The Defendants provide warranties directly to the Plaintiff and Class Members for the Affected Class Vehicles.

100. The Defendant, Nissan Canada, provides warranties for the Affected Class Vehicles that cover repairs including parts and labor, and to correct any defect in materials or workmanship.

101. In particular, the Defendant, Nissan Canada, provides the New Vehicle Limited Warranty, including:

BASIC WARRANTY

This warranty covers any repairs needed to correct defects in materials or workmanship of all parts and components of each new Nissan vehicle supplied by Nissan subject to the exclusions listed under the heading "WHAT IS NOT COVERED" or, if the part is covered by one of the separate coverages described in the following sections of this warranty, that specific coverage applies instead of the basic coverage.

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POWERTRAIN WARRANTY

The duration of POWERTRAIN Warranty is 60 months or 100,000 kilometres (whichever comes first). This warranty covers any repairs needed to correct defects in materials or workmanship. Powertrain coverage applies to the components listed below, supplied by Nissan, except for exclusions or items elsewhere under the caption "Limitations" and "What is Not Covered".

WHAT IS COVERED

Drive Train Drive shafts, final drive housing and all internal parts, universal joints, bearings, seals and gaskets.

Electric Vehicle (EV) System Coverage

The EV System coverage period is 60 months or 100,000 kilometres, whichever come first. This warranty covers any repairs needed to correct defects in materials or workmanship.

EV System Coverage applies to components listed below under the heading EV System, supplied by Nissan, subject to the exclusions listed under the heading WHAT IS NOT COVERED.

EV System

Motor, Inverter unit, VCM, Reduction gear, DC/DC converter, Onboard charger, Onboard charger connector, and Trickle charge cable.

Lithium-ion Battery Coverage

The Lithium-Ion coverage period is 96 months or 160,000 kilometres, whichever comes first. This warranty covers any repairs needed to correct defects in materials or workmanship subject to the exclusions listed under the heading WHAT IS NOT COVERED. This warranty period is 96 months or 160,000 kilometres, whichever comes first.

Lithium-ion Battery Capacity Coverage

In addition to the Lithium-Ion Battery Coverage for defects in materials or workmanship, the Lithium-Ion battery is also warranted against capacity loss below nine bars of capacity as shown on the vehicle's battery capacity level gauge for 96 months or 160,000 kilometers for vehicles equipped with the battery, whichever comes

first.

102. The warranty terms became part of the basis of the bargain when the Plaintiff and Class Members purchased and/or leased their Affected Class Vehicles.

vii. The Battery Defect renders the Affected Class Vehicles *per se* defective

103. In Canada, motor vehicle safety standards are governed by the *Motor Vehicle Safety Act*, S.C. 1993, c.16 (“*MVSA*”) and the *Motor Vehicle Safety Regulations*, C.R.C., c. 1038 (“*Regulations*”). The Minister of Transport has the power and authority to verify that companies and persons comply with the *MVSA*, *Regulations* and vehicle safety standards. Transport Canada is delegated the authority to oversee the *MVSA* and *Regulations*. In the United States, the NHTSA oversees, *inter alia*, vehicle safety standards, such as the *Federal Motor Vehicle Safety Standard* (“*FMVSS*”). Increasingly, the general approach to setting vehicle safety standards in Canada is to harmonize or analogize them with the *FMVSS* in the United States as much as possible. As such, vehicles designed or manufactured in the United States that comply with *FMVSS* may be imported and sold in Canada pursuant to the requirements of the *MVSA* and *Regulations*.

104. Vehicle manufacturers are required to file a report with Transport Canada and NHTSA within five days of identifying any safety related defects in their vehicles pursuant to the *MVSA* and *FMVSS*. The initial report is required to identify all vehicles potentially containing the defect and include a description of the manufacturer’s basis for its determination of the recall population and a description of how the vehicles or items of equipment to be recalled differ from similar vehicles or items of equipment that the manufacturer has not included in the recall. Additionally, the report must contain a “description of the defect” and identify and describe the risk to motor vehicle safety reasonably related to the defect.

105. The purpose of these government regulations is to facilitate the notification of owners of defective and noncomplying motor vehicles, and the remedy of such defects and noncompliance, by equitably apportioning the responsibility for safety-related defects and noncompliance with *MVSA* and *FMVSS* among vehicle manufacturers.

106. The Defendants have failed and/or neglected to comply with their mandatory obligations under the *MVSA* and *Regulations* to provide the Class Members with an adequate

remedy or fix for the Battery Defect in the Affected Class Vehicles. As such, Class Members are left to drive vehicles that pose a real, substantial and imminent risk of harm, injury and/or death.

viii. Regulatory compliance does not preclude liability

107. Any compliance by the Defendants with NHTSA, Transport Canada, or other regulatory reporting, recall, or remedial requirements does not absolve the Defendants of liability for the harms caused by the Battery Defect.

108. Regulatory approval of, or acquiescence in, a recall remedy—whether interim or permanent—does not constitute a determination that the Affected Class Vehicles are free from defects, safe for ordinary use, or reasonably fit for their intended purpose.

109. The Defendants' obligations under applicable consumer protection legislation, common law duties of care, contractual warranties, and duties to warn exist independently of, and in addition to, any regulatory compliance obligations.

110. The Defendants cannot rely on regulatory compliance as a defence where, as here, the recall remedies were inadequate, ineffective, and failed to eliminate the underlying safety hazard, and where the Defendants continued to expose consumers to an unreasonable risk of harm.

111. Further, regulatory compliance does not excuse the Defendants' failure to disclose material facts concerning the Battery Defect at the point of sale or lease, nor does it negate the Defendants' duty to provide an effective and permanent remedy for a known safety-related defect.

112. The Defendants' reliance on interim, software-based recall measures, and the continued issuance of follow-up recalls, demonstrates that regulatory compliance was treated as a minimum threshold, rather than as a substitute for fulfilling the Defendants' broader legal and consumer protection obligations.

113. To the extent the Defendants contend that their conduct was reasonable because it was undertaken in coordination with or approved by regulators, such contentions raise issues of fact and law that do not defeat the Plaintiff's claims and are not a bar to liability, including liability for damages, restitution, and punitive relief.

ix. Agency relationship between Defendants and their authorized dealerships as to the Affected Class Vehicles

114. The Defendants have expressly or impliedly acknowledged that Nissan-authorized dealerships (the “**Dealerships**”) are their sales agents. The Dealerships have accepted that undertaking, and the Defendants exercise the ability to control the Dealerships, thereby establishing a principal–agent relationship, as further detailed below:

- (a) The Defendants can terminate the relationship with the Dealerships at will;
- (b) The relationships are indefinite;
- (c) The Defendants are in the business of selling vehicles as are the Dealerships;
- (d) The Defendants provide tools and resources for the Dealerships to sell vehicles;
- (e) The Defendants supervise the Dealerships regularly;
- (f) Without the Defendants the Dealerships would not exist;
- (g) The Defendants as the principal require the following of the Dealerships:
 - (i) reporting of sales;
 - (ii) computer network connection with the Defendants;
 - (iii) training of their sales and technical personnel;
 - (iv) use of the Defendants-supplied computer software;
 - (v) participation in the Defendants’ training programs;
 - (vi) establishment and maintenance of service departments in the Dealerships;
 - (vii) certification of the Defendants’ pre-owned vehicles;
 - (viii) reporting to the Defendants with respect to vehicle delivery and sales,

including, but not limited to: the names, addresses, preferred titles, telephone numbers (primary and business), and e-mail addresses of owners and/or lessees; vehicle identification numbers; delivery dates; type of sale; lease or finance terms; applicable factory incentive coding; odometer readings at delivery; extended service contract sale designations, if any; and the names of the dealership employees involved in the delivery; and

(ix) displaying the Defendants' logos on signs, literature, products, and brochures within the vehicle showroom.

(h) Dealerships bind the Defendants with respect to:

(i) warranty repairs on the vehicles the dealers sell; and

(ii) issuing service contracts administered by the Defendants.

(i) The Defendants further exercise control over the Dealerships with respect to:

(i) financial incentives given to their employees;

(ii) locations of the Dealerships;

(iii) testing and certification of their personnel and technicians to ensure compliance with the Defendants' policies and procedures; and

(iv) customer satisfaction surveys, pursuant to which the Defendants allocate the number of their cars to the Dealerships, thereby directly controlling their profits.

(j) The Dealerships sell the Defendants' vehicles on the Defendants' behalf, pursuant to a "floor plan," and the Defendants do not receive payment for their vehicles until the Dealerships sell them.

(k) Dealerships bear the Defendant brand names, use their logos in advertising and on warranty repair orders, post Nissan brand signs for the public to see, and enjoy a franchise to sell the Defendants products, including the Affected Class Vehicles.

(l) The Defendants require the Dealerships to follow the rules and policies of the

Defendants in conducting all aspects of dealer business, including the delivery of the Defendants' warranties, and the servicing of defective vehicles such as the Affected Class Vehicles.

(m) The Defendants require the Dealerships to post the Defendants' brand names, logos, and signs at dealer locations, including dealer service departments, and to identify themselves and to the public as authorized Nissan dealers and servicing outlets for the Defendants' vehicles.

(n) The Defendants require their dealers to use service and repair forms containing its brand names and logos.

(o) The Defendants require the Dealerships to perform the Defendants' warranty diagnoses and repairs, and to do the diagnoses and repairs according to the procedures and policies set forth in writing by the Defendants.

(p) The Defendants require the Dealerships to use parts and tools either provided by the Defendants or approved by Defendants and to inform the Defendants when dealers discover that unauthorized parts have been installed on one of the Defendants' vehicles.

(q) The Defendants require the Dealerships' service and repair employees to be trained by the Defendants in the methods of repair of the Defendants' vehicles.

(r) The Defendants audit the Dealerships' sales and service departments and directly contact customers of the Dealerships to assess their level of satisfaction with sales and repair services. Based on these assessments, the Defendants provide financial incentives or impose reprimands on the Dealerships.

(s) The Defendants require the Dealerships to provide them with monthly statements and records pertaining, in part, the sales and servicing of the Defendants' vehicles.

(t) The Defendants provides technical service bulletins and messages to the Dealerships detailing chronic defects present in product lines, and repair procedures to

be followed for chronic defects.

(u) The Defendants provide the Dealerships with specially trained service and repair consultants with whom the Dealerships' personnel are required to consult when they are unable to correct a vehicle defect on their own.

(v) The Defendants require Nissan-brand vehicle owners or lessees to go to the Dealerships to obtain servicing under the Defendants' warranties.

(w) The Dealerships are required to notify the Defendants whenever a car is sold or put into warranty service.

Part 2: RELIEF SOUGHT

115. The Plaintiff, on her own behalf and on behalf of Class Members, claims against the Defendants, jointly and severally, as follows:

(a) an order certifying this action as a class proceeding pursuant to the *Class Proceedings Act*, R.S.B.C. 1996, c. 50 (the "*CPA*"), and appointing the Plaintiff as the representative plaintiff;

(b) a declaration that the Defendants:

(i) breached their duty of care to the Plaintiff and Class Members, and are consequently liable to the Plaintiff and Class Members for damages;

(ii) breached the terms of the express warranty, and are consequently liable to the Plaintiff and Class Members for damages;

(iii) breached implied warranties or conditions of merchantability as to the Affected Class Vehicles and are consequently liable to the Plaintiff and Class Members for damages pursuant to sections 18(a), (b) and 56 of the *Sale of Goods Act*, R.S.B.C. 1996, c. 410 ("*SGA*"); sections 16(2), (4) and 52 of the *Sale of Goods Act*, R.S.A. 2000, c. S-2; sections 16(1), (2) and 52 of the *Sale of Goods Act*, R.S.S. 1978, c. S-1; sections 16(a), (b) and 54 of *The Sale of*

Goods Act, C.C.S.M. 2000, c. S10; sections 15(1), (2) and 51 of the *Sale of Goods Act*, R.S.O. 1990, c. S.1; sections 16(a),(c) and 54 of the *Sale of Goods Act*, R.S.N.L. 1990, c. S-6 ; sections 17(a), (b) and 54 of the *Sale of Goods Act*, R.S.N.S. 1989, c. 408; sections 20(a), (b) and 67 of the *Sale of Goods Act*, R.S.N.B. 2016, c. 110; sections 16(a), (b) and 53 of the *Sale of Goods Act*, R.S.P.E.I. 1988, c. S-1; sections 15(a), (b) and 50 of the *Sale of Goods Act*, R.S.Y. 2002, c. 198; sections 18(a),(b) and 60 of the *Sale of Goods Act*, R.S.N.W.T. 1988, c. S-2; and sections 18(a), (b) and 60 of the *Sale of Goods Act*, R.S.N.W.T. (Nu) 1988, c. S-2 (collectively, the “**Provincial Sale of Goods Acts**,” unless otherwise referred to individually); and

(iv) engaged in unfair practices contrary to sections 4 and 5 of the *Business Practices and Consumer Protection Act*, S.B.C. 2004 (“**BPCPA**”); sections 5 and 6 of the *Consumer Protection Act*, R.S.A. 2000, c. C-26.3; sections 6 and 7 of *The Consumer Protection and Business Practices Act*, S.S., 2013, c C-30.2; sections 2 and 3 of *The Business Practices Act*, C.C.S.M. c B120; sections 14(1) and (2) of the *Consumer Protection Act*, 2002, S.O. 2002, c 30, Sch A; section 10 of the *Consumer Protection Act*, S.N.B. 2024, c 1; section 2 of *Business Practices Act*, R.S.P.E.I. 1988, c B-7; and section 7 of *Consumer Protection and Business Practices Act*, S.N.L. 2009, (collectively, the “**Parallel Consumer Protection Legislation**,” unless otherwise referred to individually), and are consequently liable to the Plaintiff and Class Members for damages;

(c) a declaration that it is not in the interests of justice to require that notice be given, where applicable, under the *BPCPA*, and the *Parallel Consumer Protection Legislation*, and waiving any such applicable notice provisions;

(d) an order for the statutory remedies available under the *BPCPA*, and the *Parallel Consumer Protection Legislation*, including damages, cancellation and/or rescission of the purchase of the Affected Class Vehicles;

(e) an order directing the Defendants to advertise any adverse findings against it pursuant to section 172(3)(c) of the *BPCPA*; section 19 of the *Consumer Protection*

Act, R.S.A. 2000, c. C-26.3; section 93(1)(f) of *The Consumer Protection and Business Practices Act*, S.S., 2013, c C-30.2; section 23(2)(f) of *The Business Practices Act*, C.C.S.M. c B120; section 18(11) of the *Consumer Protection Act*, 2002, S.O. 2002, c 30, Sch A; section 15 of the *Consumer Product Warranty and Liability Act*, S.N.B. 1978, c C-18.1; *Consumer Protection Act*, SNB 2024, c 1; *Business Practices Act*, R.S.P.E.I. 1988, c B-7; and section 7 of *Consumer Protection and Business Practices Act*, S.N.L. 2009, c C-31.1;

(f) a declaration that the Defendants breached s. 52 of the *Competition Act*, R.S.C 1985, c. C-34 ("***Competition Act***") and are consequently liable to the Plaintiff and Class Members for damages;

(g) an order enjoining the Defendants from continuing their unlawful and unfair business practices as alleged herein;

(h) a declaration that the Defendants fraudulently concealed the Battery Defect in the Affected Class Vehicles from the Plaintiff and Class Members;

(i) injunctive and/or declaratory relief requiring the Defendants to recall, repair and/or replace the high-voltage battery equipped in the Affected Class Vehicles and/or buy back all Affected Class Vehicles and to fully reimburse and make whole all Class Members for all costs and economic losses associated therewith;

(j) an order pursuant to s. 24 of the *CPA* requiring the Defendants to pay the costs of notice to the Class and the costs of administering any plan of distribution, together with applicable taxes;

(k) an order pursuant to s. 29 of the *CPA* directing an aggregate assessment of damages;

(l) damages, including actual, compensatory, incidental, statutory and consequential damages;

(m) punitive damages;

- (n) costs of investigation pursuant to section 36 of the *Competition Act*;
- (o) pre-judgment and post-judgment interest pursuant to the *Court Order Interest Act*, R.S.B.C. 1996, c. 79; and
- (p) such further and other relief as this Honorable Court may seem just.

Part 3: LEGAL BASIS

A. Jurisdiction

116. There is a real and substantial connection between British Columbia and the facts alleged in this proceeding. The Plaintiff and Class Members plead and rely upon the *Court Jurisdiction and Proceedings Transfer Act*, R.S.B.C. 2003, c.28 (“*CJPTA*”) in respect of the Defendants. Without limiting the foregoing, a real and substantial connection between British Columbia and the facts alleged in this proceeding exists pursuant to sections 10 (e)(i), (e)(iii)(A)(B), (f), (g), (h) and (i) of the *CJPTA* because this proceeding:

- (e)(i) concerns contractual obligations to a substantial extent, were to be performed in British Columbia;
- (e)(iii)(A)(B) the contract is for the purchase of property, services or both, for use other than in the course of the purchaser’s trade or profession, and resulted from a solicitation of business in British Columbia by or on behalf of the seller;
- (f) concerns restitutionary obligations that, to a substantial extent, arose in British Columbia;
- (g) concerns a tort committed in British Columbia;
- (h) concerns a business carried on in British Columbia; and
- (i) is a claim for an injunction ordering a party to do or refrain from doing anything in British Columbia.

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B. Causes of Action

i. Negligence

117. The Plaintiff and Class Members hereby incorporate by reference the allegations contained in the preceding paragraphs of this Notice of Civil Claim.

118. At all material times to the cause of action herein, the Defendants owed the Plaintiff and Class Members a duty of care to design, engineer, manufacture, assemble, test, market, distribute, and supply vehicles that were reasonably safe and free from defects.

119. In particular, the Defendants owed the Plaintiff and Class Members a duty to ensure that the high-voltage traction lithium-ion battery installed in the Affected Class Vehicles was not susceptible to internal cell failures, overheating, internal short-circuiting, thermal runaway, and fire, particularly during Level 3 DC fast charging and in other foreseeable operating conditions, thereby posing a real, substantial, and imminent risk of harm and/or injury to vehicle occupants, others on the road, and/or property damage.

120. The Defendants, as designers, engineers, manufacturers, promoters, marketers, distributors, and suppliers of the Affected Class Vehicles intended for use by ordinary consumers, owed a duty of care to the Plaintiff and Class Members to ensure that the vehicles were reasonably safe for their intended and foreseeable uses.

121. At all material times to the cause of action herein, the Defendants breached this duty of care. They knew, or ought to have known, that the high-voltage battery installed in the Affected Class Vehicles was susceptible to internal cell failures capable of causing overheating, thermal events, and vehicle fires, posing a real, substantial, and imminent risk of harm and/or injury to vehicle occupants, others on the road, and/or property damage. Despite such knowledge, the Defendants continued to manufacture, distribute, sell, lease, and/or place the Affected Class Vehicles into the stream of commerce.

122. The Defendants owed an ongoing duty to monitor the safety and post-market performance of the Affected Class Vehicles. They further owed a duty to warn, or promptly warn, the Plaintiff and Class Members of the battery-related fire risk, including the risk of spontaneous

thermal events occurring while vehicles are parked or not charging, but failed to do so in a timely and adequate manner.

123. By designing, manufacturing, distributing, selling, leasing, and/or placing the Affected Class Vehicles into the Canadian stream of commerce, the Defendants were in a position of legal proximity to the Plaintiff and Class Members and were under an obligation to be aware of, investigate, and address safety risks associated with the design, materials, manufacture, and performance of the high-voltage battery and associated systems.

124. In particular, the Defendants knew, or ought to have known, that the high-voltage battery installed in the Affected Class Vehicles was susceptible to excessive lithium deposits within battery cells, increased internal electrical resistance, overheating, internal short-circuiting, thermal events, and fire, especially during Level 3 DC fast charging, yet continued to design, manufacture, distribute, market, warrant, lease, and/or sell the Affected Class Vehicles.

125. It was reasonably foreseeable that the Defendants' failure to equip the Affected Class Vehicles with a high-voltage battery free from manufacturing defects, and their failure to adequately monitor post-sale incidents and implement effective corrective measures, would result in thermal events, fires, explosions, and consequent real, substantial, and imminent risk of harm and/or injury to vehicle occupants, others on the road, and/or property damage.

126. The Defendants further knew, or ought to have known, that the Battery Defect was physical and structural in nature and could not be adequately remedied through software-based monitoring, operational restrictions, warnings, or delayed interim recall measures alone.

127. Despite such knowledge, the Defendants failed to exercise reasonable care and skill expected of a manufacturer, distributor, and supplier of EVs in the circumstances.

128. The Defendants failed to meet the reasonable standard of care and were therefore negligent in that they:

- (a) designed, engineered, developed, manufactured, assembled, tested, inspected, marketed, distributed, supplied, leased, sold, and/or warranted the Affected Class Vehicles with the Battery Defect;

- (b) failed to ensure that the high-voltage battery installed in the Affected Class Vehicles were reasonably safe, free from dangerous defects, and fit for their intended and foreseeable use;
- (c) failed to implement adequate battery design, manufacturing, inspection, validation, and quality-control measures so as to prevent or detect the Battery Defect before the Affected Class Vehicles were placed into the stream of commerce;
- (d) failed to properly and timely investigate the root cause, nature, and scope of the Battery Defect once reports of thermal incidents, battery failures, and charging-related safety events emerged;
- (e) failed to timely disclose the Battery Defect and the full nature and extent of the associated safety risks to the Plaintiff, Class Members, regulators, dealers, and consumers;
- (f) failed to timely warn the Plaintiff and Class Members that the Affected Class Vehicles were unsafe for ordinary and intended use, including use involving Level 3 DC fast charging;
- (g) continued to market, distribute, sell, lease, and/or warrant the Affected Class Vehicles as safe, reliable, durable, and fit for ordinary use despite knowledge of the Battery Defect;
- (h) failed to timely implement an adequate and effective recall, repair, replacement, buy back, or other corrective measure capable of eliminating the Battery Defect;
- (i) implemented and/or proposed software-based measures that merely monitored battery conditions, restricted charging, and/or limited vehicle operation, but did not repair or remove the underlying Battery Defect;
- (j) instructed the Plaintiff and Class Members not to use Level 3 DC fast charging, thereby depriving them of a material feature of the Affected Class Vehicles, without providing an adequate permanent remedy within a reasonable time or at all;

- (k) failed to replace the defective high-voltage batteries with non-defective units, despite knowing or having reason to know that battery replacement was necessary to adequately address the Battery Defect;
- (l) failed to administer warranties, recalls, customer assistance measures, and post-sale remedial programs in a reasonable, timely, and adequate manner; and
- (m) otherwise failed to exercise reasonable care in the circumstances.

129. As a direct and proximate result of the Defendants' negligence, the Plaintiff and Class Members have suffered loss and damage, including, *inter alia*:

- (a) overpayment for the Affected Class Vehicles at the time of purchase and/or lease;
- (b) diminution in the value, utility, and marketability of the Affected Class Vehicles;
- (c) loss of use and enjoyment of the Affected Class Vehicles, including loss of Level 3 DC fast-charging capability;
- (d) out-of-pocket expenses, including expenses related to alternative transportation, vehicle rentals, loaner vehicles, towing, storage, charging inconvenience, and other incidental and consequential costs;
- (e) inconvenience, disruption, and loss associated with operational restrictions imposed by the Defendants;
- (f) costs and losses associated with delayed, inadequate, or ineffective recall and warranty measures; and
- (g) exposure to an ongoing, real, substantial, and imminent risk of harm and/or injury to vehicle occupants, others on the road, and/or property damage and the significant costs associated with eliminating such dangers.

130. The losses and damage suffered by the Plaintiff and Class Members were caused by the Defendants' negligence and were reasonably foreseeable.

ii. Breach of Express Warranty

131. The Plaintiff and Class Members hereby incorporate by reference the allegations contained in the preceding paragraphs of this Notice of Civil Claim.

132. At all material times to the cause of action herein, the Defendants, as manufacturers, distributors, suppliers, sellers, and/or warrantors, issued and provided express warranties in respect of the Affected Class Vehicles, including the high-voltage traction lithium-ion battery and associated systems.

133. The Defendants marketed, distributed, leased, and/or sold the Affected Class Vehicles in Canada, including in British Columbia, through authorized dealerships and other retail channels, and expressly represented that the Affected Class Vehicles were safe, reliable, durable, and suitable for ordinary consumer use.

134. The Defendants further expressly warranted that the Affected Class Vehicles, including their high-voltage battery and associated systems, would be free from defects in materials and workmanship and would conform to the terms of the written warranties issued in connection with the sale and/or lease of those vehicles.

135. In particular, the Defendants provided a written warranty for the lithium-ion battery installed in the Affected Class Vehicles for a period of 96 months or 160,000 kilometers, whichever occurred first, covering defects in materials or workmanship, subject to limited exclusions.

136. The Defendants also provided a separate battery capacity warranty. That warranty is distinct from the warranty covering defects in materials or workmanship.

137. The Battery Defect alleged herein is not a claim for ordinary, expected, or gradual battery-capacity degradation. Rather, it is a claim for defects in materials and/or workmanship within the high-voltage battery and battery cells, including internal failures that can cause excessive lithium deposits, increased electrical resistance, overheating, internal short-circuiting, thermal runaway, and fire.

138. The express warranties formed part of the basis of the bargain when the Plaintiff and

Class Members purchased and/or leased the Affected Class Vehicles.

139. Under the express warranties, the Defendants promised that if a defect in materials or workmanship arose within the applicable warranty period, the Defendants would repair or replace the defective high-voltage battery, its components, and/or associated systems within a reasonable time and without charge.

140. The Defendants also represented, expressly and by necessary implication, that the Affected Class Vehicles and their high-voltage batteries were of the quality, safety, durability, and reliability represented in the Defendants' written warranties, marketing materials, recall communications, and other communications to consumers.

141. The Battery Defect existed at the time the Affected Class Vehicles were manufactured, distributed, sold, and/or leased, and rendered the Affected Class Vehicles non-conforming to the Defendants' express warranties from the outset.

142. During the applicable warranty periods, the Plaintiff and Class Members experienced manifestations of the Battery Defect, including but not limited to loss of Level 3 DC fast-charging functionality, software warnings, charging restrictions, battery instability, reduced utility, diminished value, and exposure to overheating, thermal events, and fire risk.

143. Despite their warranty obligations, the Defendants failed to provide an effective repair or replacement capable of remedying the underlying Battery Defect within a reasonable time or at all.

144. Instead, the Defendants relied on software-based monitoring, warnings, and charging restrictions that merely detect or respond to certain battery conditions, but do not repair, remove, or replace the defective battery cells or otherwise remedy the Battery Defect.

145. Such software-based measures do not satisfy the Defendants' obligations under the express warranties to repair or replace defects in materials or workmanship.

146. The Defendants have therefore breached the express warranties by, *inter alia*:

- (a) selling and/or leasing Affected Class Vehicles equipped with a high-voltage battery that was defective in materials and/or workmanship;
- (b) failing to disclose that the high-voltage battery in the Affected Class Vehicles was defective and non-conforming at the time of sale and/or lease;
- (c) failing to repair or replace the defective high-voltage battery and associated systems within a reasonable time or at all;
- (d) offering software-based monitoring in lieu of an actual repair or replacement of the defective high-voltage battery;
- (e) depriving the Plaintiff and Class Members of a material feature of the Affected Class Vehicles, namely Level 3 DC fast charging, without providing a conforming remedy; and
- (f) otherwise failing to honor the terms of the express warranties.

147. The Defendants had notice of the Battery Defect through, *inter alia*, consumer complaints, warranty claims, parts analysis, internal investigations, recall investigations, regulator communications, thermal incident reports, and their own testing and analysis.

148. Any further opportunity to cure has been and remains futile because the Defendants have long known of the Battery Defect and have failed to provide a repair or replacement that eliminates the Battery Defect and associated safety risk.

149. Further, the limited software remedy, when and if available, fails to satisfy the terms of the express warranty as the Defendants have not provided the promised repair or replacement of the defective high-voltage battery within a reasonable time and have not restored the Affected Class Vehicles to a warranted condition.

150. The Plaintiff and Class Members had sufficient direct dealings with the Defendants, their authorized dealerships, and/or their agents to establish privity for the purpose of the express warranties. In the alternative, the Plaintiff and Class Members were the intended beneficiaries of the express warranties issued in connection with the purchase and/or lease of the Affected Class

Vehicles.

151. The Plaintiff and Class Members could not reasonably have discovered the Battery Defect at the time of purchase or lease, and any delay in seeking warranty relief was caused by the latent nature of the defect and the Defendants' concealment and non-disclosure of it.

152. Any attempt by the Defendants to restrict, limit, disclaim, or avoid their express warranty obligations in the circumstances is unconscionable, void, and/or unenforceable.

153. As a direct and proximate result of the Defendants' breaches of express warranty, the Plaintiff and Class Members have suffered loss and damage, including overpayment, diminution in value, loss of use, loss of the benefit of the bargain, out-of-pocket expenses, and other incidental and consequential damages.

154. By reason of the foregoing, the Plaintiff and Class Members are entitled to damages for breach of express warranty.

155. In the further alternative, and where permitted by law, the Plaintiff and Class Members seek revocation of acceptance, rescission, restitution of all or part of the purchase price and/or lease payments, and recovery of incidental and consequential damages.

iii. Breach of the Implied Warranties or Condition of Merchantability pursuant to SGA and Parallel Provincial Sale of Goods Legislation

156. The Plaintiff and Class Members hereby incorporate by reference the allegations contained in the preceding paragraphs of this Notice of Civil Claim.

157. At all material times to the cause of action herein, the Defendants were a "seller" with respect to the Affected Class Vehicles within the meaning of the *SGA*, and the *Provincial Sale of Goods Acts*, by virtue of their role in manufacturing, marketing, distributing, supplying, and/or selling the Affected Class Vehicles directly or through its authorized Canadian dealers, distributors, resellers, retailers, and/or intermediaries.

158. The Defendants marketed, sold and/or leased the Affected Class Vehicles for their ordinary and intended purpose, namely safe, reliable, and durable personal transportation, and

knew, or ought to have known, that such vehicles would pass through dealerships to end users, including the Plaintiff and Class Members, without substantial change.

159. Pursuant to sections 18(a) and (b) of the *SGA* and analogous provisions in the *Provincial Sale of Goods Acts*, there was an implied condition and/or warranty that the Affected Class Vehicles were of merchantable quality and reasonably fit for their ordinary purpose.

160. The Defendants further impliedly warranted that the Affected Class Vehicles, including the high-voltage lithium-ion battery, were free from latent defects rendering them unsafe, unreliable, or unfit for their intended use.

161. The Affected Class Vehicles were not of merchantable quality at the time they left the possession and control of the Defendants. The high-voltage battery contained a latent defect, including conditions that promote excessive lithium deposits, increased internal resistance, and internal instability, which can result in overheating, internal short-circuiting, thermal events, and fire, particularly during Level 3 DC fast charging.

162. As a result of the Battery Defect, the Affected Class Vehicles were not reasonably fit for their ordinary purpose. In particular, the vehicles:

- (a) are unsafe due to the risk of overheating and thermal events;
- (b) cannot be used as intended for Level 3 DC fast charging;
- (c) are subject to operational restrictions imposed by the Defendants; and
- (d) suffer from diminished utility, reliability, and value.

163. The inability to safely utilize Level 3 DC fast charging, a core and marketed feature of the Affected Class Vehicles, renders the vehicles unfit for their ordinary and intended use.

164. The Plaintiff and Class Members purchased and/or leased the Affected Class Vehicles directly or indirectly from the Defendants through authorized dealers, distributors, or other intermediaries, and were the intended end users and beneficiaries of the implied conditions and warranties.

165. Privity of contract exists between the Plaintiff and Class Members and the Defendants. In the alternative, vertical privity exists, or is not required, as the Plaintiff and Class Members are intended third-party beneficiaries of the sale transactions and associated implied warranties.

166. The Defendants knew, or ought to have known, of the Battery Defect at the time the Affected Class Vehicles were manufactured, distributed, and sold, including through pre-sale testing, internal investigations, warranty data, consumer complaints, and recall-related investigations.

167. Despite such knowledge, the Defendants placed the Affected Class Vehicles into the stream of commerce without disclosing the Battery Defect and without ensuring that the vehicles were of merchantable quality.

168. The Defendants failed to cure the breach of the implied warranties and conditions of merchantability. The purported recall measures, including software-based monitoring and operational restrictions, do not repair, replace, or remedy the underlying Battery Defect.

169. Any attempt by the Defendants to exclude, limit, or disclaim the implied conditions or warranties of merchantability is unconscionable, contrary to applicable law, and unenforceable, particularly in light of the latent and safety-related nature of the Battery Defect.

170. The Plaintiff and Class Members have performed all conditions precedent under the contracts of sale, or such performance has been waived, excused, or is otherwise not required due to the Defendants' conduct.

171. As a direct and proximate result of the Defendants' breach of the implied conditions and warranties of merchantability, the Plaintiff and Class Members have suffered loss and damage, including, *inter alia*:

- (a) overpayment for the Affected Class Vehicles;
 - (b) diminution in value of the Affected Class Vehicles;
 - (c) loss of use and enjoyment, including loss of Level 3 DC fast charging capability;
- and

(d) out-of-pocket expenses and incidental costs.

iv. Violation of *BPCPA* and Parallel Provincial Consumer Protection Legislation

172. The Plaintiff and Class Members in British Columbia hereby incorporate by reference the allegations contained in the preceding paragraphs of this Notice of Civil Claim.

173. At all material times to the cause of action herein, the Defendants carried on business in British Columbia for the purposes of the *BPCPA*, and in other provinces with the *Parallel Consumer Protection Legislation*.

174. The Affected Class Vehicles are consumer “goods” within the meaning of section 1(1) of the *BPCPA*, and the corresponding definitions under the *Parallel Consumer Protection Legislation*.

175. The Plaintiff and Class Members in British Columbia who purchased and/or leased the Affected Class Vehicles primarily for personal, family or household purposes, and not for resale or for the purposes of carrying on business, are “consumers” within the meaning of section 1(1) of the *BPCPA*, and in provinces with the *Parallel Consumer Protection Legislation*.

176. The purchase or lease of the Affected Class Vehicles by the Plaintiff and Class Members in British Columbia for personal, family or household purposes, and not for resale or for carrying on business constitutes a “consumer transaction” within the meaning of section 1(1) of the *BPCPA*, and in provinces with the *Parallel Consumer Protection Legislation*.

177. The Defendants are a “supplier” within the meaning of section 1(1) of the *BPCPA*, and in provinces with the *Parallel Consumer Protection Legislation*, as they carried on business in British Columbia and, in the course of business, participated in consumer transactions by supplying goods to consumers and/or soliciting, offering, advertising, marketing, or promoting consumer transactions, whether or not privity of contract existed between the Defendants and the consumers.

178. By failing to disclose and actively concealing the Battery Defect, the Defendants engaged in unfair and deceptive acts or practices prohibited by sections 4 and 5 of the *BPCPA* and the relevant provisions of the *Parallel Consumer Protection Legislation*.

179. The Defendants knew, or ought to have known, that the Affected Class Vehicles were equipped with a defective high-voltage battery containing manufacturing defects, which increase the likelihood of lithium plating, separator damage, internal short circuits, electrical arcing, and/or thermal runaway, all of which leads to vehicle fire or explosion.

180. As alleged herein, the Defendants made misleading representations and omissions concerning the safety, reliability and durability of the Affected Class Vehicles.

181. In purchasing or leasing the Affected Class Vehicles, the Plaintiff and Class Members were deceived by the Defendants' failure to disclose their knowledge of the Battery Defect and the associated safety risks.

182. In particular, the Defendants engaged in a pattern of unfair or deceptive acts or practices in failing to disclose to the Plaintiff and Class Members that the Affected Class Vehicles were equipped with a defective high-voltage battery susceptible to internal short circuiting and thermal runaway.

183. Without limitation, the Defendants engaged in unfair or deceptive acts or practices contrary to the *BPCPA*, and the *Parallel Consumer Protection Legislation*, by:

- (a) failing to disclose that the Affected Class Vehicles were not of a particular standard, quality, or grade;
- (b) failing to disclose known material defects or material non-conformities affecting the high-voltage battery;
- (c) failing to disclose that the Affected Class Vehicles were defective, not in good working order, and not fit for their ordinary and intended use, and created a real, substantial, and imminent risk of harm and/or injury to vehicle occupants, others on the road, and/or property damage;
- (d) failing to provide adequate warnings or notices regarding the Battery Defect and associated risks, despite possessing exclusive knowledge thereof;

- (e) failing to disclose, or actively concealing, the existence, nature, and/or scope of the Battery Defect; and
- (f) representing that the Affected Class Vehicles were safe, reliable and durable despite knowledge of the Battery Defect; and
- (g) representing that any defects in the high-voltage battery and associated systems would be covered under their warranty program.

184. The Defendants' failure to disclose their exclusive knowledge of the Battery Defect caused the Plaintiff and Class Members to enter into consumer transactions they otherwise would not have entered into, or would have entered into only at a substantially lower price.

185. By reason of the foregoing, the Defendants engaged in unfair or deceptive acts or practices prohibited by sections 4 and 5 of the *BPCPA*, and the relevant provisions of the *Parallel Consumer Protection Legislation*.

186. Further, as alleged herein, the Defendants made misleading representations and/or omissions concerning the safety, reliability and durability of the Affected Class Vehicles by:

- (a) publishing Owners' Manuals, and marketing and promotional materials, that made materially misleading omissions as to claims of safety, reliability and durability while omitting any warning that the Affected Class Vehicles were equipped with a defective high-voltage battery susceptible to internal short circuiting and thermal runaway;
- (b) disseminating advertisements and promotional materials that omitted material information regarding the Battery Defect; and
- (c) emphasizing claims of safety, reliability, and durability inconsistent with the true condition of the Affected Class Vehicles.

187. The Defendants' conduct, as alleged herein was, and is, in violation of sections 4 and 5 of the *BPCPA*, and the relevant provisions of the *Parallel Consumer Protection Legislation*, by:

- (a) representing that the Affected Class Vehicles were defect-free and safe when they were not;
- (b) representing that the Affected Class Vehicles were of a particular standard, quality, or grade when they were not;
- (c) advertising the Affected Class Vehicles in a manner that was materially misleading; and
- (d) representing that the Affected Class Vehicles conformed to prior representations regarding safety, reliability, and durability, when they did not.

188. Class Members could not have reasonably discovered the Battery Defect or the Defendants' misrepresentations prior to purchase or lease.

189. The Defendants intentionally or recklessly misrepresented and omitted material facts regarding the Affected Class Vehicles with the intent that consumers rely upon those misrepresentations and omissions.

190. Class Members reasonably relied on the Defendants' representations and omissions in purchasing or leasing the Affected Class Vehicles.

191. The Defendants knew, or ought to have known, that their conduct violated the *BPCPA* and the *Parallel Consumer Protection Legislation*.

192. The Defendants owed a duty to disclose the Battery Defect because it created serious safety risks, the Defendants possessed exclusive knowledge of the Defect, and consumers could not reasonably have discovered it.

193. The Defendants' conduct proximately caused loss and damage to the Plaintiff and Class Members.

194. Class Members suffered ascertainable loss and damage, including repair and replacement costs, loss of use, rental vehicle expenses, overpayment, and diminution in value of the Affected Class Vehicles.

195. The Defendants' conduct continues to cause harm and affects the public interest.

196. The facts concealed and omitted by the Defendants were material and would have been important to a reasonable consumer in deciding whether to purchase or lease an Affected Class Vehicle.

197. As a result of the Defendants' conduct as alleged herein, Class Members in British Columbia are entitled to: (i) a declaration under section 172(1)(a) of the *BPCPA* that the Defendants' acts or practices in respect of the purchase of the Affected Class Vehicles contravened the *BPCPA*; (ii) an injunction under section 172(1)(b) of the *BPCPA* restraining such conduct; and/or (iii) damages under section 171 of the *BPCPA*. Class Members in other provinces are likewise entitled to comparable remedies available under the *Parallel Consumer Protection Legislation*.

198. Class Members in British Columbia are entitled, to the extent necessary, a waiver of any notice requirements under section 173(1) of the *BPCPA*, and Class Members in other provinces are entitled to similar relief under the applicable provisions of the *Parallel Consumer Protection Legislation*, as a result of the Defendants' failure to disclose, and active concealment of, the Battery Defect, as well as their misrepresentations concerning the safety, reliability and durability of the Affected Class Vehicles.

v. Breach of the *Competition Act*

199. The Plaintiff and Class Members in British Columbia hereby incorporate by reference the allegations contained in the preceding paragraphs of this Notice of Civil Claim.

200. At all material times to the cause of action herein, the Defendants made representations to the public within the meaning of s. 52 of the *Competition Act*.

201. By making representations to the public concerning the safety, reliability, and durability of the Affected Class Vehicles, the Defendants breached s. 52 of the *Competition Act*, in that such representations:

- (a) were made to the public through advertising, promotional materials, owners' manuals, technical publications, statements, and other standardized representations;

(b) were made for the purpose of promoting the supply, use, or sale of the Affected Class Vehicles and advancing the Defendants' business interests; and

(c) were false or misleading in a material respect.

202. At all material times to the cause of action herein, the Defendants were the manufacturers, sellers, and/or suppliers of the Affected Class Vehicles. Contractual privity and/or vertical privity existed between the Plaintiff and Class Members and the Defendants, as the Defendants' authorized dealers and distributors acted as their agents in the marketing and sale of the Affected Class Vehicles.

203. The Defendants engaged in unfair competition and unlawful business practices by the acts, statements, and omissions described herein, including knowingly and intentionally concealing a material defect in the high-voltage battery, together with the associated safety risks, costs, and economic consequences. The Defendants were in a superior position to know the true facts relating to the Battery Defect, and the Plaintiff and Class Members could not reasonably have discovered those facts.

204. The Battery Defect constitutes a serious and material safety issue. The Defendants had a duty to disclose the existence, nature, and scope of the Battery Defect to consumers. Their failure to do so, while continuing to market the Affected Class Vehicles as safe, reliable, and durable was false or misleading in a material respect and contrary to s. 52 of the *Competition Act*.

205. These acts and practices deceived the Plaintiff and Class Members. The omitted and concealed information concerning the Battery Defect was material and would have been important to reasonable consumers in deciding whether to purchase or lease the Affected Class Vehicles, or the price they were prepared to pay.

206. The Plaintiff and Class Members relied upon the Defendants' representations concerning the safety, reliability, and durability of the Affected Class Vehicles to their detriment in purchasing or leasing the Affected Class Vehicles, thereby suffering loss and damage.

207. The Plaintiff and Class Members have suffered damages as a result of the Defendants' conduct and are entitled to recover damages pursuant to s. 36(1) of the *Competition Act*, together

with interest, investigation costs, and such further and other relief as this Honorable Court may deem just.

vi. Tolling of the *Limitation Act*, S.B.C. 2012, c. 13 (“*Limitation Act*”) and Parallel Provincial Limitation Period Legislation

208. The Plaintiff and Class Members had no way of knowing about the Battery Defect. The Defendants concealed their knowledge of the Battery Defect while continuing to market, sell and/or lease the Affected Class Vehicles.

209. Within the time limits prescribed in the *Limitation Act*, and the *Limitations Act*, R.S.A. 2000, c. L-12; *The Limitation of Actions Act*, C.C.S.M. c. L150; *Limitation of Actions Act*, S.N.B. 2009, c. L-8.5; *Limitations Act*, S.N.L. 1995, c. L-16.1; *Limitation of Actions Act*, R.S.N.W.T. 1988, c. L-8; *Limitation of Actions Act*, S.N.S. 2014, c. 35; *Limitation of Actions Act*, R.S.N.W.T. (Nu) 1988, c. L-8; *Limitations Act*, 2002, S.O. 2002, c. 24, Sch. B; *Statute of Limitations*, R.S.P.E.I. 1988, c. S-7; *The Limitations Act*, S.S. 2004, c. L-16.1; and *Limitation of Actions Act*, R.S.Y. 2002, c. 139 (collectively, the “***Provincial Limitation Period Legislation***”), the Plaintiff and Class Members could not have discovered through the exercise of reasonable diligence that the Defendants were concealing the conduct complained of herein and misrepresenting the true qualities of the Affected Class Vehicles, in particular the Battery Defect.

210. The Plaintiff and Class Members did not know facts that would have caused a reasonable person to suspect or appreciate that there was a defect in the high-voltage battery equipped in the Affected Class Vehicles.

211. For these reasons, the *Limitation Act* and the *Provincial Limitation Period Legislation* have been tolled by operation of the discovery rule with respect to the claims in this proposed class proceeding.

212. Further, due to Defendants’ knowledge and active concealment of the Battery Defect throughout the time period relevant to this proposed class proceeding, the *Limitation Act* and the *Provincial Limitation Period Legislation* have been tolled.

213. Instead of publicly disclosing the Battery Defect, the Defendants kept the Plaintiff and

Class Members in the dark as to the defect and the serious safety risks it presented.

214. The Defendants were under a continuous duty to disclose to the Plaintiff and Class Members the existence of the Battery Defect.

215. The Defendants knowingly, affirmatively and actively concealed or recklessly disregarded the safety, reliability and durability of the Affected Class Vehicles.

216. As such, the Defendants are estopped from relying on the *Limitation Act* and the *Provincial Limitation Period Legislation* in defense of this proposed class proceeding.

Plaintiff's address for service:

Dusevic & Garcha
Barristers & Solicitors
210-4603 Kingsway
Burnaby, BC V5H 4M4
Canada

Fax number address for service (if any):

604-436-3302

E-mail address for service (if any):

ksgarcha@dusevicgarchalaw.ca

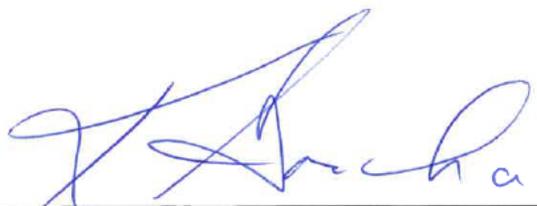
Place of trial:

Vancouver, BC, Canada

The address of the registry is:

800 Smithe Street
Vancouver, BC V6Z 2E1
Canada

Dated: March 27, 2026



Signature of K.S. Garcha
Lawyer for the Plaintiff

**ENDORSEMENT ON ORIGINATING PLEADING OR PETITION FOR SERVICE
OUTSIDE BRITISH COLUMBIA**

There is a real and substantial connection between British Columbia and the facts alleged in this proceeding. The Plaintiff and the Class Members plead and rely upon the *Court Jurisdiction and Proceedings Transfer Act* R.S.B.C. 2003 c.28 (the "*CJPTA*") in respect of these Defendants. Without limiting the foregoing, a real and substantial connection between British Columbia and the facts alleged in this proceeding exists pursuant to sections 10(e)(i), (iii)(a) & (b), (f), (g), (h) and (I) of the *CJPTA* because this proceeding:

- (e)(i) concerns contractual obligations to a substantial extent, were to be performed in British Columbia;
- (e) (iii)(a) & (b) the contract is for the purchase of property, services or both, for use other than in the course of the purchaser's trade or profession, and resulted from a solicitation of business in British Columbia by or on behalf of the seller;
- (f) concerns restitutionary obligations that, to a substantial extent, arose in British Columbia;
- (g) concerns a tort committed in British Columbia;
- (h) concerns a business carried on in British Columbia;
- (i) is a claim for an injunction ordering a party to do or refrain from doing anything in British Columbia.

Appendix

[The following information is provided for data collection purposes only and is of no legal effect.]

Part 1: CONCISE SUMMARY OF NATURE OF CLAIM:

The within proposed multi-jurisdictional automotive defect class proceeding involves 2019-2022 Nissan Leaf Electric Vehicles engineered, designed, developed, manufactured, assembled, tested, marketed, distributed, supplied, sold and/or leased by the Defendants, Nissan Motor Co., Ltd., Nissan North America, Inc., and/or Nissan Canada Inc., in Canada, including the Province of British Columbia, equipped with a defective high-voltage traction lithium-ion battery that is prone to overheating and short-circuiting, particularly during Level 3 Direct Current fast charging via the CHAdeMO connector, resulting in potential melting of charging components, electrical damage, and fire, so as to pose a real, substantial, and imminent risk of harm and/or injury to vehicle occupants, others on the road, and/or property damage.

Part 2: THIS CLAIM ARISES FROM THE FOLLOWING:

A personal injury arising out of:

- motor vehicle accident
- medical malpractice
- another cause

A dispute concerning:

- contaminated sites
- construction defects
- real property (real estate)
- personal property
- the provision of goods or services or other general commercial matters
- investment losses
- the lending of money
- an employment relationship
- a will or other issues concerning the probate of an estate
- a matter not listed here

Part 3: THIS CLAIM INVOLVES:

- a class action
- maritime law
- aboriginal law
- constitutional law
- conflict of laws
- none of the above
- do not know

//

Part 4:

1. *Class Proceedings Act*, R.S.B.C. 1996, c. 50
2. *Court Jurisdiction and Proceedings Transfer Act*, R.S.B.C. 2003 c. 28
3. *Business Practices and Consumer Protection Act*, S.B.C. 2004; *Consumer Protection Act*, R.S.A. 2000, c. C-26.3; *The Consumer Protection and Business Practices Act*, S.S., 2014, c C-30.2; *The Business Practices Act*, C.C.S.M. c B120; *Consumer Protection Act*, 2002, S.O. 2002, c 30, Sch A; *Consumer Product Warranty and Liability Act*, and SNB 1978, c C-18.1; *Consumer Protection Act*, S.N.B. 2024 c 1; *Business Practices Act*, R.S.P.E.I. 1988, c B-7; and *Consumer Protection and Business Practices Act*, S.N.L. 2009, c C-31
4. *Sale of Goods Act*, R.S.B.C 1996, c. 410; *Sale of Goods Act*, R.S.A. 2000, c. S-2; *Sale of Goods Act*, R.S.S. 1978, c. S-1; *The Sale of Goods Act*, C.C.S.M. 2000, c. S10; *Sale of Goods Act*, R.S.O. 1990, c. S.1; *Sale of Goods Act*, R.S.N.L. 1990, c. S-6 ;*Sale of Goods Act*, R.S.N.S. 1989, c. 408; *Sale of Goods Act*, R.S.N.B. 2016, c. 110; *Sale of Goods Act*, R.S.P.E.I. 1988, c. S-1; *Sale of Goods Act*, R.S.Y. 2002, c. 198; *Sale of Goods Act*, R.S.N.W.T. 1988, c. S-2; and *Sale of Goods Act*, R.S.N.W.T. (Nu) 1988, c. S-2
5. *Motor Vehicle Safety Act*, R.S.C. 1993, c. 16
6. *Court Order Interest Act*, R.S.B.C., c. 79
7. *Competition Act*, R.S.C 1985, c. C-34
8. *Limitation Act*, S.B.C. 2012, c.13; *Limitations Act*, R.S.A. 2000, c. L-12; *The Limitations Act*, S.S. 2004, c. L-16.1; *The Limitations Act*, S.S. 2004, c. L-16.1; *The Limitation of Actions Act*, C.C.S.M. c. L150; *Limitations Act*, 2002, S.O. 2002, c. 24, Sch. B; *Limitations Act*, S.N.L. 1995, c. L-16.1; *Limitation of Actions Act*, S.N.S. 2014, c. 35; *Limitation of Actions Act*, S.N.B. 2009, c. L-8.5; *Statute of Limitations*, R.S.P.E.I. 1988, c. S-7; *Limitation of Actions Act*, R.S.Y. 2002, c. 139; *Limitation of Actions Act*, R.S.N.W.T. 1988, c. L-8; and *Limitation of Actions Act*, R.S.N.W.T. (Nu) 1988, c. L-8