

FEB 08 2023



S 230948

NO. _____
VANCOUVER REGISTRY

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

[REDACTED]

PLAINTIFF

AND:

FORD MOTOR COMPANY and
FORD MOTOR COMPANY OF CANADA, LIMITED/
FORD DU CANADA LIMITEE

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,
- © 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. Introduction - Overview

1. The within proposed consumer product liability multi-jurisdictional class proceeding involves certain Affected Class Vehicles, as defined below, designed, manufactured, assembled, tested, marketed, advertised, distributed, supplied, sold and/or leased by the Defendants, FORD MOTOR COMPANY ("FORD US") and FORD MOTOR COMPANY OF CANADA, LIMITED/FORD DU CANADA LIMITEE ("FORD CANADA"), in Canada, including the Province of British Columbia, containing a safety defect that creates a serious risk for spontaneous fire. Specifically, the Affected Class Vehicles contain a defective engine that leaks highly flammable oil fluids and fuel vapors ("Engine Defect"), which pool or accumulate near hot surfaces in the engine bay and exhaust system resulting in under-hood smoke and fire during operation or while parked, all of which poses an imminent and substantial risk of harm or injury to vehicle occupants, bystanders, damage to Affected

Class Vehicles and/or nearby property ("Spontaneous Fire Risk").

2. Affected Class Vehicles include, but are not limited to, the following model year Ford vehicles designed, manufactured, assembled, tested, marketed, advertised, distributed, supplied, sold and/or leased by the Defendants, FORD US and/or FORD CANADA, in Canada, including the Province of British Columbia, containing defective 2.5-liter hybrid electric vehicle ("HEV") and 2.5- liter plug-in hybrid electric vehicle ("PHEV") engines:

<u>Defendant, Vehicle Manufacturer</u>	<u>Model</u>	<u>Model Year ("MY")</u>
FORD US	Escape	2020-2022
FORD US	Maverick	2022
FORD US	Lincoln Corsair	2021-2022

3. The Defendants, FORD US and FORD CANADA, knew or should have known of the Spontaneous Fire Risk prior to launching the Affected Class Vehicles, but failed to promptly warn owners and/or lessees of such, rather waiting over a year to announce a safety recall. Although the Defendants, FORD US and FORD CANADA, are now implementing a "fix" to prevent these Affected Class Vehicles from catching on fire, they have chosen not to design or issue a *bona fide* fix or remedy that addresses the leaking engine blocks. Instead, the Defendants, FORD US and FORD CANADA, have focused only on mitigating the risk that highly flammable fluids and fuel vapors leaked from the defective engines will ignite, while leaving the highly flammable fluids and fuel vapors themselves to run onto the roadways, or onto vehicle owners' and/or lessees' driveways and garages. The Defendants', FORD US and FORD CANADA, perfunctory "fix" creates new safety, environmental, and performance issues that they have not addressed.
4. The Spontaneous Fire Risk exposes putative class members to an unreasonable risk of accident, injury, death and/or property damage if their Affected Class Vehicle leaks such highly flammable fluids and fuel vapors or catches fire while in operation. The Spontaneous Fire Risk also exposes passengers, other drivers on the road, and bystanders to an unreasonable risk of accident, injury, death, and/or property damage.

5. The Spontaneous Fire Risk was known or should have been known to the Defendants, FORD US and FORD CANADA, and is still unremedied by them. Not only did the Defendants, FORD US and FORD CANADA, fail to disclose the Engine Defect, and resulting Spontaneous Fire Risk, to consumers both before and after their purchases and/or leases, of the Affected Class Vehicles, but they also misrepresented the vehicles' safety, reliability, functionality, and quality by this omission. The Defendants, FORD US and FORD Canada, also omitted the consequences, including the serious safety hazards and monetary harm caused by the Spontaneous Fire Risk—e.g., damage to a vehicle and injury or death to persons in the vehicle or another vehicle in proximity should the Affected Class Vehicle catch on fire and/or damage to property from highly flammable engine oil and fuel vapor leaking onto roadways and driveways, and into garages.
6. Warranty claims relating to the Engine Defect were made to the Defendants, FORD US and FORD CANADA, as early as April 5, 2021. Yet the Defendants, FORD US and FORD CANADA, continued to sell and/or lease the Affected Class Vehicles and did nothing to warn purchasers and/or lessees of the Spontaneous Fire Risk until they issued a stop-sale order on June 8, 2022.
7. To date, the Defendants, FORD US and/or FORD CANADA, have admitted that there have been at least 23 reports of under-hood fires or smoke in the recall vehicle population. The fires have all occurred in the engine compartment of the Affected Class Vehicles.
8. The Defendants, FORD US and FORD CANADA, have recalled the Affected Class Vehicles and instituted a "fix," however, the fix being used to resolve the Spontaneous Fire Risk does not address the manufacturing defect in the 2.5L HEV and PHEV engines. Rather, the Defendants', FORD US and FORD CANADA, solution is to drill drainage holes in the Affected Class Vehicles' under-engine shields and to remove four blinds from the vehicles' active grille shutter systems to allow highly flammable pooled oil fluids and fuel vapors to escape from the Affected Class Vehicles' engine compartments. A blind is a segment of the grille shutter system that opens and closes to change air flow through the engine. The Defendants, FORD US and FORD CANADA, have not even attempted to resolve the underlying engine issue.

9. To enable their authorized dealers to perform this “fix,” the Defendants, FORD US and FORD CANADA, sent a detailed letter to their authorized dealers explaining the modifications required on all Affected Class Vehicles.
10. One half of the “fix,” as described in this letter, requires authorized dealers to remove the under-engine shield, drill a series of five holes measuring one-and three-quarters of an inch in diameter, and cut out one slightly larger section from near the center of the shield. These modifications are highlighted in the image below



Figure 1: Image from the Defendants', FORD US and/or FORD Canada, letter to its dealers demonstrating the under-engine shield modification, with additional drainage holes highlighted in blue, as part of the required “fix” on all Affected Class Vehicles.

11. The other half of the “fix” requires authorized dealers to remove four shutter blinds from the active grille shutter system by bending the blinds at the center, pulling them toward the front of the vehicle, and removing the side tabs to dislodge the blinds. The images below show an active shutter grille system before and after the four blinds are removed, as well as a closer view of the blinds removed from one Affected Class Vehicle.

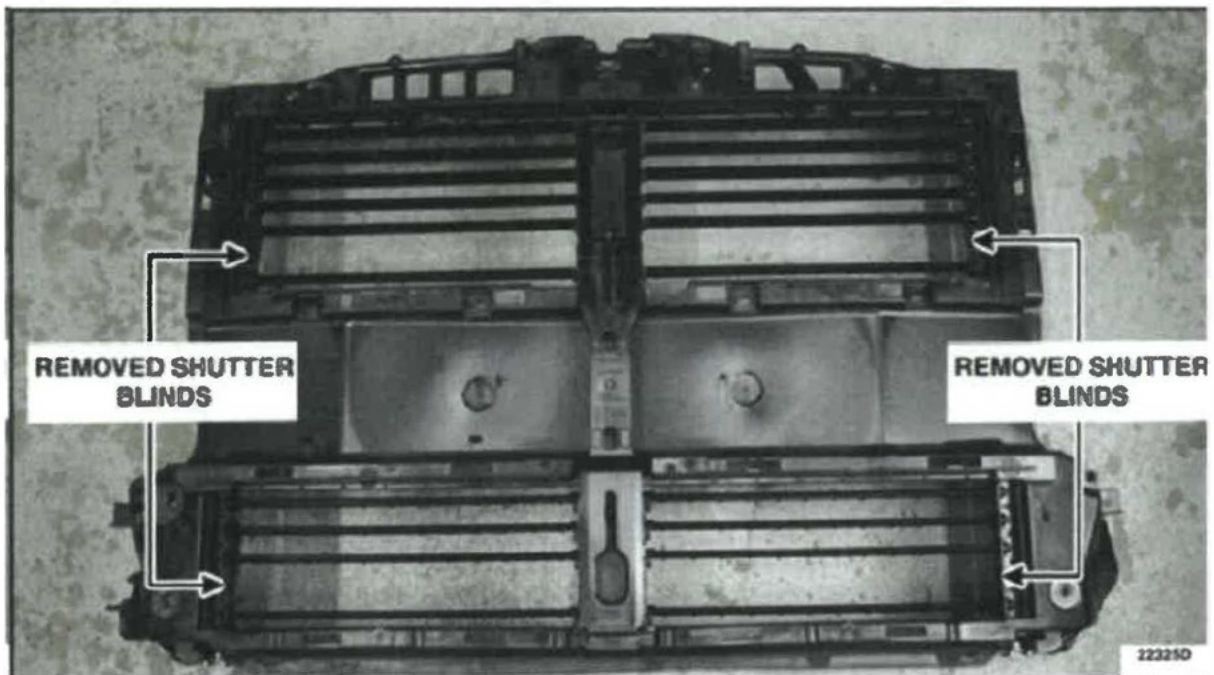
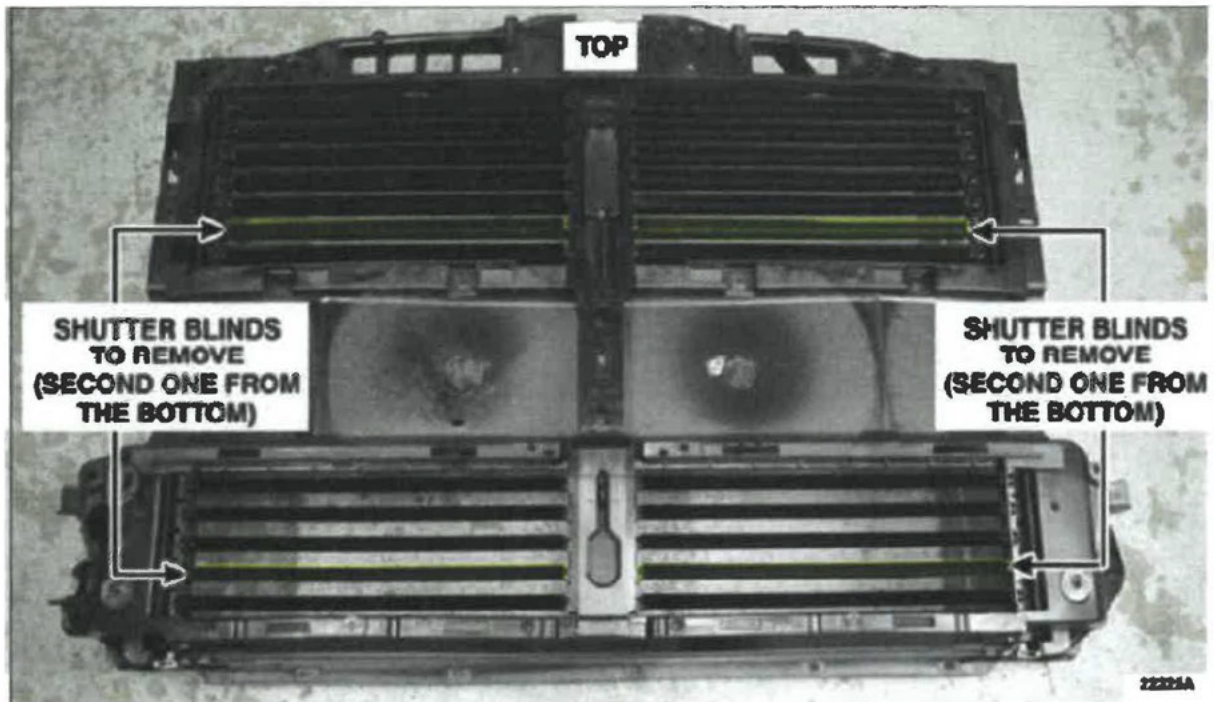


Figure 2: Images from the Defendants', FORD US and/OR FORD CANADA, letter to its dealers showing the Active Grille Shutter System before and after four blinds are removed

as part of the "fix."



Figure 3: Image of four blinds removed from a Ford Maverick active grille shutter system as part of the Defendants', FORD US and FORD CANADA, "fix" for the Affected Class Vehicles.

12. Aside from being an inadequate solution, the Defendants', FORD US and FORD CANADA, "fix" creates new problems. First, allowing highly flammable fluids and fuel vapors to leak out of the Affected Class Vehicles creates an environmental hazard and sets the stage for future property damage and/or injury. Furthermore, removing several of the blinds from the active grille shutter increases aerodynamic drag on the vehicles, resulting in decreased fuel efficiency.
13. A vehicle that has a risk of spontaneously catching on fire while in operation is not fit for its intended and ordinary purpose. And a "fix" that does nothing to actually address an underlying issue, and in fact creates additional problems, is not a fix at all. The Defendants, FORD US and FORD CANADA, are placing an unfair burden on putative class members whose Affected Class Vehicles are still powered by engines that may leak highly flammable fluids and fuel vapors, and who may now additionally face the risk of highly flammable fluids and fuel vapors leaking onto their garages or driveways. Moreover, putative class members must also contend with paying for additional gas to make up for the lost fuel efficiency from removing the active grille shutters.
14. The Defendants, FORD US and FORD CANADA, knew or should have known about the Engine Defect, and resulting Spontaneous Fire Risk, before the Affected Class Vehicles went to market. At the very least, the Defendants, FORD US and FORD CANADA, certainly knew about the Spontaneous Fire Risk well before it issued their recall, as evidenced by: (1) the rigorous pre-launch testing of the Affected Class Vehicles; (2) direct and public reports of smoke or fires in 23 Affected Class Vehicles; and (3) their own internal investigation(s) of fires in the Affected Class Vehicles.
15. The Defendants, FORD US and/or FORD CANADA, acknowledge the existence of the Engine Defect and the attendant fire safety risks, yet they advise putative class members that they can continue driving their vehicles even if a *bona fide* repair to the 2.5L HEV and PHEV engines is not being made. For their own vehicles, however, the Defendants, FORD US and/or FORD CANADA, instruct their authorized dealerships not to use any new Affected Class Vehicles for demonstrations or to deliver them to customers until the Engine Defect, and resulting Spontaneous Fire Risk, is fixed pursuant to their stop-sale order.

16. The Defendants', FORD US and/or FORD CANADA, marketing of their vehicles as safe, dependable and reliable is pervasive across North America as characterized by their longstanding ubiquitous slogan: "Built Ford Tough".
17. No reasonable consumer expects to purchase a vehicle with a concealed defect that presents a substantial and real catastrophic danger to vehicle occupants and/or property as a result of fire. The Engine Defect, and resulting Spontaneous Fire Risk, is material to the Plaintiff and putative class members because when they purchased and/or leased their Affected Class Vehicle they reasonably relied on the reasonable expectation that the Affected Class Vehicles would be free from defects and the risk of fire. Had the Plaintiff and putative class members known of the Engine Defect, and resulting Spontaneous Fire Risk, at the time of purchase and/or lease of the Affected Class Vehicles, they would not have purchased and/or leased the Affected Class Vehicles or would have paid substantially less for them.
18. The Defendants, FORD US and/or FORD CANADA, knowingly omitted, concealed and/or suppressed material facts regarding the Engine Defect, and resulting Spontaneous Fire Risk, and misrepresented the safety standard, quality, or grade of the Affected Class Vehicles, all at the time of purchase and/or lease or otherwise, which directly caused harm or loss to the Plaintiff and putative class members. As a direct result of the Defendants', FORD US and/or FORD CANADA, unfair, deceptive and/or fraudulent business practices and wrongful conduct, the Plaintiff and putative class members have suffered ascertainable losses or damages, including, *inter alia*: (1) out-of-pocket expenses for repair of the Engine Defect; (2) costs for future repairs; (3) damage to property; (4) sale of their vehicles at a loss; and/or (5) diminished value of their vehicles.
19. The Defendants, FORD US and FORD CANADA, have failed to provide a *bona fide* remedy for the Engine Defect, and resulting Spontaneous Fire Risk, and further, refused to provide putative class members with loaner vehicles or offer to reimburse owners and/or lessees of the Affected Class Vehicles for car payments, towing charges, rental vehicles, property damage, time off work, loss of use, and other miscellaneous costs while they wait for the Defendants, FORD US and FORD CANADA, to find a fix or remedy for the Engine Defect, and resulting Spontaneous Fire Risk. And putative class members whose Affected Class

Vehicles have undergone the Defendants, FORD US and FORD CANADA, "fix" may now additionally need to contend with property damage due to leaked highly flammable fluids and fuel vapors.

20. The Plaintiff seeks relief for all other owners and/or lessees of the Affected Class Vehicles with the Engine Defect, and resulting Spontaneous Fire Risk, including, *inter alia*, recovery of damages and/or repair under various provincial consumer protection legislation, breach of express warranty, breach of implied warranty or condition of merchantability, statutory and equitable claims and reimbursement of all expenses associated with the repair and/or replacement of the Affected Class Vehicles.

B. The Parties

The Representative Plaintiff

21. The Plaintiff [REDACTED] has an address for service c/o 405 - 4603 Kingsway, Burnaby, British Columbia, Canada, V4H 4M4.
22. On or about November 24, 2022, the Plaintiff purchased a new 2022 Ford Escape containing the Engine Defect, an Affected Class Vehicle, primarily for personal, family or household use, from Magnuson Ford Sales Ltd., a Ford dealership, located in Abbotsford, British Columbia, Canada.
23. Prior to purchasing his Ford Escape, the Plaintiff reviewed the Defendants', FORD US and/or FORD CANADA, websites and marketing materials regarding the Ford Escape, which failed to disclose the presence of the Engine Defect, and resulting Spontaneous Fire Risk, in the Ford Escape.
24. The Plaintiff was aware of the Defendants', FORD US and/or FORD CANADA, uniform and nationwide marketing message that their vehicles were "Built Ford Tough", safe, dependable and reliable, which was material to his decision to purchase his Ford Escape. When he purchased his Ford Escape, he believed, based on the Defendants', FORD US

and/or FORD CANADA, marketing message, that he would be in a safe, dependable and reliable vehicle, one that is safer than a vehicle that is not marketed as safe, dependable and reliable. At no point before the Plaintiff purchased his vehicle did the Defendants, FORD US and/or FORD CANADA, disclose to him that his vehicle was not safe, dependable or reliable, or that it suffered from the Engine Defect, which creates a serious fire safety risk.

25. The Plaintiff did not receive the benefit of his bargain when he purchased his Ford Escape. He purchased a vehicle that is of a lesser standard, grade, and quality than represented, and he did not receive a vehicle that met ordinary and reasonable consumer expectations regarding safe and reliable operation. The Engine Defect, and resulting Spontaneous Fire Risk, has significantly diminished the value of the Ford Escape as it is not safe, dependable and reliable as represented by the Defendants, FORD US and/or FORD CANADA, and poses a substantial and real danger of harm, injury and/or death in the event of a fire.
26. The Plaintiff does not accept that drilling additional holes into his vehicle's under-engine shield or removing blinds from his vehicle's active grill shutter is an adequate "fix" because these changes do not address the underlying manufacturing defect with the 2.5L HEV and PHEV engines. If a manufacturing issue renders the engine of Plaintiff's vehicle susceptible to leaking highly flammable fluids and fuel vapors, then the Defendants', FORD US and FORD CANADA, fix should remedy that issue, and it should not just provide an escape route for those highly flammable fluids and fuel vapors to end up on the roadway or on the floor of Plaintiff's garage. The Plaintiff also alleges that this "fix" is inappropriate because it results in decreased fuel efficiency.
27. Had the Plaintiff been aware of the Spontaneous Fire Risk and the Defendants', FORD and FORD CANADA, proposed "fix," he would not have purchased his Ford Escape, or he would have paid less for the vehicle.

The Defendants

28. The Defendant, FORD US, 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, The

Corporation Trust Company, at the Corporation Trust Center, 1209 Orange Street, Wilmington, Delaware, United States of America, 19801.

29. The Defendant, FORD CANADA, is a company duly incorporated pursuant to the laws of Canada, registered within British Columbia under number A0058695, and has a attorney for service, Ian Giroday, at DuMoulin Boskovich, Mailbox 12173, Suite 1301 - 808 Nelson Street, Vancouver, British Columbia, V6Z 2H2, Canada.
30. At all material times to the cause of action herein, the Defendant, FORD US, is an American automobile manufacturer that, *inter alia*, designs, manufacturers, assembles, markets, advertises, distributes, supplies and/or sells Ford vehicles, including the Affected Class Vehicles, as averred to in paragraph two herein, containing the Engine Defect, and resulting Spontaneous Fire Risk, at an automobile plant located in the State of Kentucky, United States of America, and elsewhere, for distribution and/or sale in the United States of America and Canada, including the Province of British Columbia.
31. At all material times to the cause of action herein, the Defendant, FORD US, markets, advertises, distributes, supplies and/or sells Ford vehicles, including the Affected Class Vehicles, as averred to in paragraph two herein, containing the Engine Defect, and resulting Spontaneous Fire Risk, through, *inter alia*, its related subsidiaries, affiliates and/or operating units, including the Defendant, FORD CANADA, independent retailers and authorized dealerships in the United States of America and Canada, and within the Province of British Columbia. The Defendant, FORD US, also provides all the technical information for the purposes of designing, manufacturing, servicing and/or repairing its Affected Class Vehicles to its subsidiaries, affiliates and/or operating units, including the Defendant, FORD CANADA.
32. At all material times to the cause of action herein, the Defendant, FORD CANADA, was, and is, a wholly owned subsidiary of the Defendant, FORD US, which, *inter alia*, designs, manufacturers, assembles, markets, advertises, distributes, supplies, sells and/or repairs, Ford vehicles, including the Affected Class Vehicles, as averred to in paragraph two herein, containing the Engine Defect, and resulting Spontaneous Fire Risk, in Canada, and within the Province of British Columbia. The Defendant, FORD CANADA, was the sole distributor

of the Affected Class Vehicles in Canada, including the Province of British Columbia. It sold and/or leased the Affected Class Vehicles through its dealer and retailer network, which were controlled by the Defendants, FORD CANADA and/or FORD US, and were their agents.

33. At all material times to the cause of action herein, the Defendants, FORD US and FORD CANADA, shared the common purpose of, *inter alia*, designing, developing, manufacturing, assembling, marketing, distributing, supplying, leasing, selling, servicing and/or repairing Ford vehicles, including the Affected Class Vehicles, as averred to in paragraph two herein, containing the Engine Defect, and resulting Spontaneous Fire Risk, in Canada, and within the Province of British Columbia. Further, the business and interests of the Defendants, FORD US and FORD CANADA, are inextricably interwoven with that of the other as to the Engine Defect, and resulting Spontaneous Fire Risk, in the Affected Class Vehicles, as averred to in paragraph two herein, such that each is the agent of the other.
34. Hereinafter, the Defendants, FORD US and FORD CANADA, are collectively referred to as the Defendant, "FORD", and/or the "Defendants", unless referred to individually or otherwise.

C. The Class

35. This action is brought on behalf of members of a class consisting of the Plaintiff, all British Columbia residents, and all other persons resident in Canada, excluding the Province of Quebec, who own, owned, lease and/or leased an Affected Class Vehicle ("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. Motor Vehicle Safety Standards

36. 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 National Highway Traffic Safety Administration ("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*.
37. 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.
38. 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.

ii. The Engine Defect poses a serious fire safety risk to vehicle occupants, bystanders and property

2022 NHTSA Recall

39. On July 7, 2022, the Defendant, FORD US, issued a recall as to the Engine Defect (Manufacturer Recall No. 22S47, NHTSA Campaign No. 22V-484, "Engine Compartment Fire Risk") which impacted 100,689 Ford vehicles equipped with the 2.5L HEV or PHEV engines. Specifically, the recalled vehicles included MY 2020-2022 Escape, MY 2022 Maverick and MY 2021-2022 Corsair.
40. In its Part 573 Safety Recall Report ("573 Report") filed with NHTSA, the Defendant, FORD US, provided the following description as to the Engine Defect:

Description of the Defect:

In the event of an engine failure, significant quantities of engine oil and/or fuel vapor may be released into the under hood environment and may migrate to and/or accumulate near ignition sources resulting in potential under hood fire, localized melting of components, or smoke.

41. The Defendant, FORD US, acknowledged the fire safety risk created by the Engine Defect and stated the following in the 573 Report:

Description of the Safety Risk

Engine oil and/or fuel vapor that accumulates near a sufficiently hot surface If the below the combustion initiation flame speed, may ignite resulting in an under hood fire, and increasing the risk of injury.

42. The Defendant, FORD US, stated the following in the 573 Report as to the description of the cause of the Engine Defect:

Isolated engine manufacturing issues have resulted in 2.5L HEV/PHEV engine failures involving engine block or oil pan breach. The fluid dynamics induced by the Under Engine Shield and Active Grille Shutter system could increase the likelihood of engine oil and/or fuel vapor expelled during an engine block or oil pan breach accumulating near sources of ignition, primarily expected to be the exhaust system.

43. As to the proposed "fix" for the Engine Defect, the Defendant, FORD US, stated the following in the 573 Report:

The Under Engine Shield and Active Grille Shutter are modified to redirect and/or purge the engine compartment of engine oil and/or fuel vapor from known ignition sources to reduce the opportunity for under hood fire. The Under Engine Shield modification adds additional drain holes. The Active Grille Shutter modification ensures purge air flow through the engine compartment and reduced under hood temperatures during forward motion and/or cooling fan operation.

2022 Transport Canada Recall

44. On July 7, 2022 Transport Canada issued a nearly identical recall (Recall #2022-366) with respect to 22,950 Ford MY 2020-2022 Escape, MY 2022 Maverick and MY 2021-2022 Corsair vehicles and described the Engine Defect, fire safety risk and corrective actions as follows:

Issue:

On certain hybrid vehicles, an engine failure can cause a significant buildup of engine oil and/or fuel vapour under the hood. In some cases, this could cause a fire. Note: This recall only affects certain vehicles equipped with a 2.5L HEV or PHEV engine.

Safety Risk:

A buildup of engine oil and/or fuel vapour after an engine failure could cause a fire.

Corrective Actions:

Ford will notify owners by mail and instruct you to take your vehicle to a dealership to modify the under-engine shield and active grille shutter. To reduce the safety risk, Ford recommends that you shut off the engine as soon as possible if you hear unusual engine noises, see smoke from the engine compartment, or believe the engine has failed.

45. As of June 22, 2022, the Defendant, FORD, reported 23 warranty and field reports globally of under-hood fire or smoke in 2.5L HEV or PHEV engines after a suspected engine block or oil pan breach. The date range of identified reports is April 5, 2021, through May 19, 2022.
46. The Defendant, FORD, admits that the Affected Class Vehicles suffer from engine manufacturing issues that can cause engine failures involving engine block or oil pan breach. However, the Defendant, FORD's, fix is wholly silent as to this admittedly affected component. The Defendant, FORD, is leaving the engines exactly as they are and instead drilling holes into the under-engine shield and removing blinds from the active grille shutter to prevent oil and gas from pooling in the vehicle. This "fix" is inadequate as the engines in the Affected Class Vehicles may still leak highly flammable fluids and fuel vapors—a problem that the Defendant, FORD, does not address.
47. The Defendant, FORD, knows that the "fix" it is implementing with its recall will not resolve the engine manufacturing defect that is causing the leak of highly flammable fluids and fuel vapors from the engines of the Affected Class Vehicles. The Defendant, FORD, also knew or should have known that its "fix" would actually cause additional problems, including potential property damage or personal injury from highly flammable fluids or fuel vapors that escape from the Affected Class Vehicles, and that the "fix" would reduce the vehicles' fuel efficiency.
48. The Defendant, FORD, knew or should have known the Affected Class Vehicles contained the Spontaneous Fire Risk and should have warned and/or disclosed this fact to the Plaintiff and putative class members before selling and/or leasing the Affected Class Vehicles.

iii. The Defendant, FORD, knew or should have known of the Spontaneous Fire Risk before it disclosed the risk to putative Class Members

49. The Defendant, FORD, knew or should have known about the Spontaneous Fire Risk before the Affected Class Vehicles went to market. At the very least, the Defendant, FORD, knew of the Spontaneous Fire Risk well before it issued its recall, as evidenced by: (1) the rigorous pre-launch testing of the Affected Class Vehicles; (2) direct and public reports of under-hood fires or smoke in 23 Affected Class Vehicles; and (3) its own investigation of fires in the Affected Class Vehicles.

(a) The Defendant, FORD's, durability testing should have uncovered the Spontaneous Fire Risk

50. The Defendant, FORD, claims to conduct comprehensive and rigorous testing on all of its vehicles. Its comprehensive lineup of testing facilities around the world puts vehicles through everything from the extreme, to the everyday, to ensure that only world-class vehicles roll off its production line.

51. According to the Defendant, FORD, at its testing facilities its vehicles and components are "shaken, rattled and rolled" in a variety of tests, some conducted in temperatures ranging from minus 40 degrees Celsius to over 50 degrees Celsius. These tests include stresses on the engines, moving parts, suspension, and electrical components.

52. The Defendant, FORD, puts its vehicles through a Total Durability Cycle, a sped-up evaluation which runs around the clock, 24 hours, to simulate 10 years, or 240,000 kilometers, of severe customer usage in just a few weeks. Gravel roads, cobblestones, pot-holes, curbs and water baths are features of this grueling test, including environmental factors like dust, water and mud. Dynamometers are also used to simulate towing heavy loads in traffic and over mountain passes.

53. The Affected Class Vehicles were put through similar durability testing or were designed and built in accordance with the findings of such durability testing. In fact, the Defendant, FORD, specifically advertised to Maverick consumers with the promise that the Maverick pickup architecture had endured 19 million miles of customer equivalent durability testing

in the real world, lab and proving ground environments. The Defendant, FORD, claims that the pickup had been tested in extreme weather, taken over off-road durability tests and endured harsh chassis turning. The Ford Escape and Lincoln Corsair were put through equally stringent testing.

54. Based on such durability testing, the Defendant, FORD, uncovered the Spontaneous Fire Risk before the Affected Class Vehicles were sold to the Plaintiff and putative Class Members.

- (b) The Defendant, FORD, knew about the Spontaneous Fire Risk from warranty claims for the Affected Class Vehicles and its own internal investigation(s)

55. According to the Defendant, FORD's, 573 Report recall chronology, an issue pertaining to 2.5L HEV and PHEV under-hood fires was brought to its Critical Concern Review Group ("Review Group") for review on May 4, 2022. During the Review Group's analysis from May 4 through June 8, 2022, the Review Group included data from 19 field reports of under-hood fire or smoke for 2.5L HEV and PHEV vehicles.
56. The Defendant, FORD's, investigation continued up until the July 7, 2022 recall and uncovered four more reports of under-hood smoke or fires in the Affected Class Vehicles.
57. The Defendant, FORD, did not disclose the dates of the 23 fires in the Affected Class Vehicles, although it had learned of at least some of these fires on or before the May 4, 2022 investigation launch.
58. All vehicle manufacturers, including the Defendant, FORD, also routinely monitor and analyze Transport Canada and NHTSA consumer complaints to determine whether vehicles or components should be recalled due to safety concerns. The Defendant, FORD, has knowledge of all Transport Canada and NHTSA consumer complaints filed concerning the vehicles it manufactures, including the Affected Class Vehicles.
59. The Defendant, FORD, also receives complaints directly from consumers and its dealers, and as such, it has knowledge of all complaints lodged to it or its agents regarding the

Affected Class Vehicles, including the Spontaneous Fire Risk.

60. However, the Defendant, FORD, has yet to address the manufacturing defect associated with the 2.5L HEV and PHEV engines involving engine block or oil pan breach. Rather, the Defendant, FORD, has directed that the under-engine shield and active grille shutter of Affected Class Vehicles be modified to redirect and/or purge the engine compartment of the highly flammable fluid or fuel vapor. After the modifications are complete, putative Class Members will be left with vehicles that can still leak highly flammable fluids and fuel vapors if their engines succumb to the manufacturing defect identified. Further, the Defendant, FORD, is not offering to buy back the vehicles or even provide loaner or rental vehicles until it can actually fix the manufacturing defect.

61. As the Affected Class Vehicles have a manufacturing defect that can cause the engines to leak highly flammable fluids and fuel vapors and the Defendant, FORD, is not fixing this and is instead decreasing the fuel efficiency of the Affected Class Vehicles and creating the further risk that highly flammable fluids and fuel vapors will leak into garages, roadways and the environment, all owners and/or lessees of the Affected Class Vehicles have suffered ascertainable loss.

iv. After instituting the “fix” the Defendant, FORD, failed to conduct new mileage tests to ensure that its mileage estimates were not adversely affected

62. As described above, the Defendant, FORD, knew that active grille shutters reduce aerodynamic drag on its vehicles and improve fuel efficiency. As such, in removing four blinds from the Affected Class Vehicles’ active grille shutters as part of the “fix,” the Defendant, FORD, knew the vehicles’ estimated gas mileage could be reduced. But despite this knowledge, the Defendant, FORD, did not conduct new mileage tests to ensure that the mileage (kilometers) estimates it reported to Environment Canada and the United States Environmental Protection Agency (“EPA”) were accurate, as it was required to do. Environment Canada and the EPA require vehicle manufacturers to change or update their miles/kilometers per gallon values on fuel economy labels (window stickers) if information comes to light that show that the values are too high.

63. By failing to conduct new mileage/kilometer tests to ensure that the touted

mileage/kilometers of the Affected Class Vehicles remains accurate even after the "fix," the Defendant, FORD, is actively concealing information from putative Class Members about the actual fuel efficiency of their Affected Class Vehicles.

v. Putative Class Members could have been made aware of the Spontaneous Fire Risk at the point of sale

64. The Plaintiff and all putative Class Members were necessarily exposed to the Defendant, FORD's, omissions before purchasing the Affected Class Vehicles because they each interacted with an authorized Ford dealer at the point of sale. These dealers could have disclosed the omitted information to each putative Class Member, but they failed to do so.

vi. The Defendant, FORD, marketed the Affected Class Vehicles as safe, reliable, and fuel-efficient, and knew that these attributes were material to consumers

65. The Affected Class Vehicles are marketed to consumers as safe, reliable vehicles, and the Defendant, FORD, knew these qualities were material to consumers in marketing them in this manner. These qualities were in fact material to putative Class Members and the Defendant, FORD, had the opportunity when describing safety features in sales material to be truthful.
66. For example, in the sales brochure for the MY 2020 Ford Escape, the Defendant, FORD, touted various safety features like pre-collision assist, blind spot alerts, lanekeeping system, and rear-view cameras in the Affected Class Vehicles because it knew safety was material to the average customer.

MAKE YOUR WAY. CONFIDENTLY.

Changing lanes. Keeping your distance. Parallel and perpendicular parking. Our extensive well-rounded collection of standard and available Ford Co-Pilot360™ Technology features can help you with these everyday situations and so many more. Our advanced technologies are about supplementing your driving skills. Helping you feel confidently in command on the road.

FORD CO-PILOT360™ TECHNOLOGY

FORD CO-PILOT360

Standard on every 2022 Ford Escape® SUV

- Pre-Collision Assist with Automatic Emergency Braking (AEB)
- BLIS® (Blind Spot Information System) with Cross-Traffic Alert
- Lane-Keeping System
- Auto High-Beam Headlamps
- Rear View Camera
- Autolamp (Automatic On/Off Headlamps)
- Post-Collision Braking

FORD CO-PILOT360 ASSIST+

*Standard on Titanium;
Available on SE and SEL*

- Intelligent Adaptive Cruise Control with Stop-and-Go and Lane Centering includes Speed Sign Recognition
- Evasive Steering Assist
- Voice-Activated Touchscreen Navigation System



SCAN TO LEARN MORE
or visit
[Ford.com/Technology](https://ford.com/Technology)
Data rates may apply.



CONFIDENCE.

FORD CO-PILOT360™ TECHNOLOGY.

FORD CO-PILOT360
Standard on Ford EcoBoost®

Changing lanes, keeping you focused, helping you respond to critical events. Ford's FORD CO-PILOT360 system follows you, helping you stay in control, and it's always on the lookout for potential hazards, so you can respond and drive with confidence. You'll feel confident in command.

- PRE-COLLISION ASSIST WITH ADAPTIVE CRUISE CONTROL
- LANE-KEEPING ASSIST
- BLIS™ PLUS™ INFORMATION SYSTEM WITH CROSS TRAFFIC ALERT
- AUTO-HIGH-BEAM HEADLAMPS
- REAR VIEW CAMERA

FORD CO-PILOT360 ASSIST+
Optional on Ford EcoBoost®

Helps you stay in control, and it's always on the lookout for critical events. Ford's FORD CO-PILOT360 ASSIST+ system follows you, helping you stay in control, and it's always on the lookout for potential hazards, so you can respond and drive with confidence. You'll feel confident in command.

- WITH ADAPTIVE CRUISE CONTROL
- BLIS™ PLUS™ INFORMATION SYSTEM WITH CROSS TRAFFIC ALERT
- AUTO-HIGH-BEAM HEADLAMPS
- REAR VIEW CAMERA

AVAILABLE TECHNOLOGY

From the power windows and power door locks to the power windows, Ford's FORD CO-PILOT360 ASSIST+ system follows you, helping you stay in control, and it's always on the lookout for potential hazards, so you can respond and drive with confidence. You'll feel confident in command.

- ACTIVE PARK ASSIST 2.0
Standard on Ford EcoBoost®
- PARK SENSING RANGE-EXTENDING WHEELS
Standard on Ford EcoBoost®
- REMOTE START SYSTEM
Standard on EcoBoost® and Ford EcoBoost®
- BLIS™ PLUS™ INFORMATION SYSTEM WITH CROSS TRAFFIC ALERT
Standard on EcoBoost® and Ford EcoBoost®

67. In the sales brochure for the MY 2022 Ford Maverick, the Defendant, FORD, again focused on safety features. Knowing safety is material to putative Class Members, it told consumers that the Maverick's built-in Ford Co-Pilot 360 Technology can help drivers "feel confidently in command behind the wheel."



CONFIDENCE. MILE AFTER MILE.

With their ability to monitor situations and conditions, this well-rounded collection of available Ford Co-Pilot360™ Technology driver-assist features¹ can supplement your driving skills, helping you feel confidently in command behind the wheel.

FORD CO-PILOT360™ TECHNOLOGY

STANDARD FEATURES

- Auto High-Beam Headlamps
- Autolamp (Automatic On/Off Headlamps)
- Pre-Collision Assist with Automatic Emergency Braking
- Post-Collision Braking
- Rear View Camera



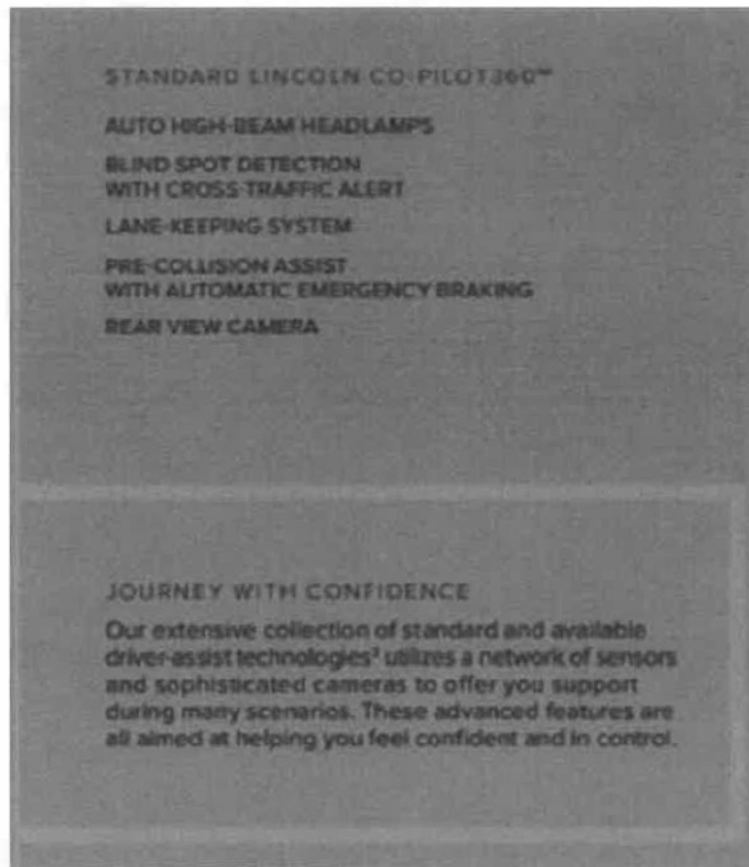
68. In the brochure given to dealership personnel to inform consumers about the vehicle, the Defendant, FORD, noted among the available safety features the inclusion of a LATCH system (lower anchors and tether anchors for children), which is specifically designed to safely secure children's car seats in the vehicle, because it knew the safety of customers' children was material to the average consumer.

69. The Defendant, FORD, also emphasizes the Maverick's overall reliability, noting the truck is "engineered for extremes" and has undergone "durability testing" because it knew that reliability is material to the average consumer.

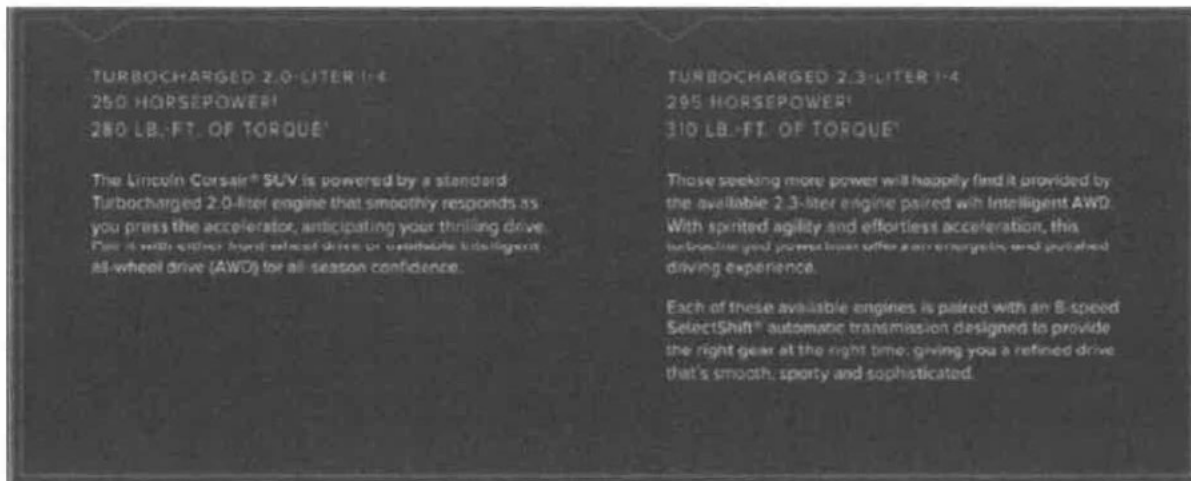
ENGINEERED FOR EXTREMES

The Maverick™ pickup architecture has endured 19 million miles of customer equivalent durability testing in real world, lab and proving ground environments. It's been tested in extreme weather, taken over off-road durability tests, endured harsh chassis tuning, and much more. After these tests, it's more than ready for yours.

70. The Defendant, FORD, makes similar claims about safety and reliability in its sales brochures for the MY 2021–2022 Lincoln Corsairs. As with the Ford Maverick, the Lincoln Corsair safety features list includes a LATCH system, appealing to consumers with young children whose car seats need to be safely secured in the vehicle, because it knew the safety of customers' children was material to the average consumer.
71. Both the MY 2021 and 2022 sales brochures for the Ford Maverick highlight a host of other safety features, including blind spot detection, a lanekeeping system, pre-collision assist, and a rearview camera, because the Defendant, FORD, knew safety was material to the average customer. The MY 2022 brochure further boasts that drivers will experience "all-season confidence."



72. As with the Escape and the Maverick, the defendant, FORD, also highlights the Corsair's engine's performance and reliability. The MY 2022 brochure notes that even the base model "smoothly responds" and offers a "thrilling drive," leading consumers to believe that the engine is of high quality and reliable.

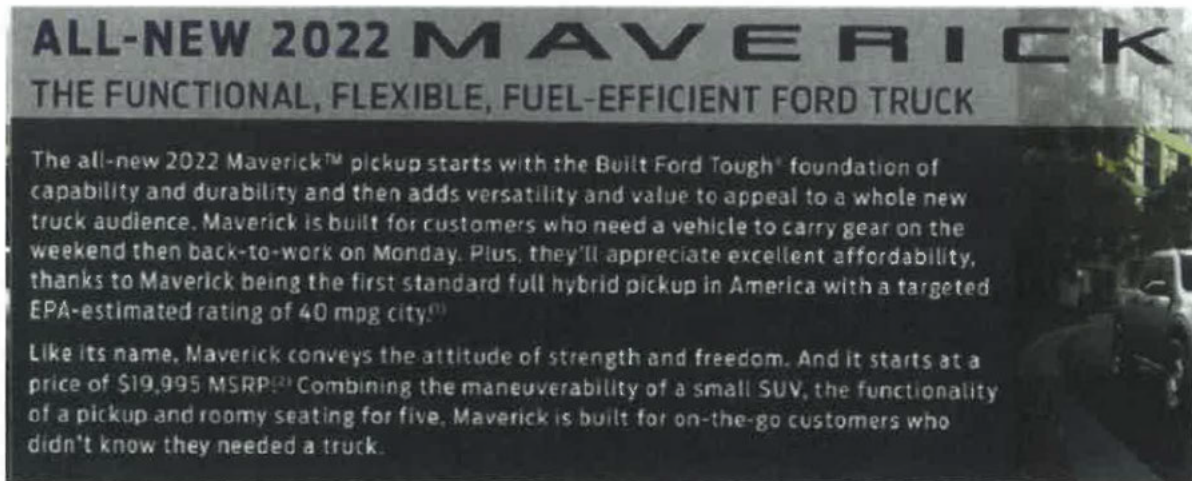


vii. The Defendant, FORD, marketed the Affected Class Vehicles as fuel-efficient, and it knew this attribute was material to consumers

73. The Affected Class Vehicles are marketed to consumers as fuel-efficient, and the Defendant, FORD, knew this quality was material to consumers in marketing the vehicles in this manner. This quality was in fact material to putative Class Members.
74. For example, in the sales brochure for the MY 2020 Ford Escape HEV, the Defendant, FORD, noted that customers could expect to achieve a combined average (city and highway) of 100 kilometers per-5.9 liters of gas.



75. The Defendant, FORD, similarly advertised the fuel economy of the MY 2021–2022 Ford Escapes HEV (up to 100 kilometers-per-5.9 liters of gas), and it emphasized the MY 2021–2022 Lincoln Corsairs’ hybrid capabilities.
76. In advertising the MY 2022 Ford Maverick, the Defendant, FORD, noted that customers could expect to achieve a combined average (city and highway) of 100 kilometers per-6.3 liters of gas. The Defendant, FORD, also referred to the vehicle as having “excellent affordability” thanks to its high fuel efficiency.

An advertisement for the 2022 Ford Maverick pickup truck. The top half features a dark background with the text "ALL-NEW 2022 MAVERICK" in large, bold, white letters, followed by "THE FUNCTIONAL, FLEXIBLE, FUEL-EFFICIENT FORD TRUCK" in smaller white letters. Below this, there are two paragraphs of white text. The right side of the advertisement shows a partial view of the truck's front and side, parked on a street.

ALL-NEW 2022 MAVERICK
THE FUNCTIONAL, FLEXIBLE, FUEL-EFFICIENT FORD TRUCK

The all-new 2022 Maverick™ pickup starts with the Built Ford Tough® foundation of capability and durability and then adds versatility and value to appeal to a whole new truck audience. Maverick is built for customers who need a vehicle to carry gear on the weekend then back-to-work on Monday. Plus, they'll appreciate excellent affordability, thanks to Maverick being the first standard full hybrid pickup in America with a targeted EPA-estimated rating of 40 mpg city.⁽¹⁾

Like its name, Maverick conveys the attitude of strength and freedom. And it starts at a price of \$19,995 MSRP.⁽²⁾ Combining the maneuverability of a small SUV, the functionality of a pickup and roomy seating for five, Maverick is built for on-the-go customers who didn't know they needed a truck.

77. Furthermore, the Defendant, FORD, specifically advertised that its MY 2020–2022 Ford Escapes and MY 2021–2022 Lincoln Corsairs were equipped with active grille shutters. The Defendant, FORD, explains on its website that active grille shutters reduce aerodynamic drag on its vehicles and improve fuel efficiency.

ACTIVE GRILLE SHUTTER

Engines aren't the only way to deliver fuel savings. Our engineers look at the whole vehicle, including reducing aerodynamic 'drag'. Active Grille Shutter limits how much air passes through the grille, while still keeping your engine cool.

78. As the Defendant, FORD, notes, aerodynamic drag is reduced when the grille is closed or partially closed, as air cannot flow through the grille into the vehicle.

viii. The Defendant, FORD's, warranties

79. The Defendant, FORD's, New Vehicle Limited Warranty for MY 2020, 2021, and 2022 of the Ford Escape provides "bumper-to-bumper" coverage for 3 years/60,000 kilometers, whichever comes first. The Defendant, FORD's Powertrain Warranty for the Escape provides coverage for 5 years/100,000 kilometers, whichever comes first. This warranty coverage includes manufacturing issues like the Spontaneous Fire Risk in the Affected

Class Vehicles.

80. The Defendant, FORD's New Vehicle Limited Warranty for the MY 2022 Ford Maverick provides "bumper-to-bumper" coverage for 3 years/60,000 kilometers, whichever comes first. The Defendant, FORD's, Powertrain Warranty for the Maverick provides coverage for 5 years/100,000 kilometers, whichever comes first. This warranty coverage includes manufacturing issues like the Spontaneous Fire Risk in the Affected Class Vehicles.
81. The Defendant, FORD's, New Vehicle Limited Warranty for MY 2021 and 2022 of the Lincoln Corsair provides "bumper-to-bumper" coverage for 4 years/80,000 kilometers, whichever comes first. The Defendant, FORD's, Powertrain Warranty for the Escape provides coverage for 6 years/110,000 kilometers, whichever comes first. This warranty coverage includes manufacturing issues like the Spontaneous Fire Risk in the Affected Class Vehicles.
82. As the Affected Class Vehicles are all MY 2020, 2021, or 2022 vehicles sold and/or leased to putative Class Members in the fall of 2019 or later, virtually all Affected Class Vehicles, including the Plaintiff's Ford Escape—are still covered under the Defendant, FORD's, new vehicle and powertrain warranties.

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

83. The Defendants as the vehicle manufacturers and/or distributors, impliedly or expressly acknowledged that Ford authorized dealerships are their sales agents, the dealers have accepted that undertaking, they have the ability to control authorized Ford dealers, and they act as the principal in that relationship, as is shown by the following:
 - (a) The Defendants can terminate the relationship with their dealers at will;
 - (b) The relationships are indefinite;
 - (c) The Defendants are in the business of selling vehicles as are their dealers;

- (d) The Defendants provide tools and resources for Ford dealers to sell vehicles;
- (e) The Defendants supervise their dealers regularly;
- (f) Without the Defendants the relevant Ford dealers would not exist;
- (g) The Defendants as the principal require the following of their dealers:
 - (I) Reporting of sales;
 - (ii) Computer network connection with the Defendants;
 - (iii) Training of dealers' 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 Ford dealerships;
 - (vii) Certification of Defendants pre-owned vehicles;
 - (viii) Reporting to the Defendants with respect to vehicle delivery, including reporting Plaintiffs' names, addresses, preferred titles, primary and business phone numbers, e-mail addresses, vehicle VIN numbers, delivery date, type of sale, lease/finance terms, factory incentive coding, if applicable, vehicles' odometer readings, extended service contract sale designations, if any, and names of delivering dealership employees; and
 - (ix) Displaying the Defendants' logos on signs, literature, products, and brochures within Ford dealerships.
- (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 their dealers with respect to:
 - (i) Financial incentives given to Ford dealer employees;
 - (ii) Locations of dealers;
 - (iii) Testing and certification of dealership personnel to ensure compliance with the Defendants policies and procedures; and
 - (iv) Customer satisfaction surveys, pursuant to which the Defendants allocate the number of their vehicles to each dealer, thereby directly controlling dealership profits.
- (j) Ford dealers sell 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 Defendants brand names, use its logos in advertising and on warranty repair orders, post Ford brand signs for the public to see, and enjoy a franchise to sell the Defendants products, including the Affected Class Vehicles.
- (i) The Defendants require Ford dealers to follow the rules and policies of the Defendants in conducting all aspects of dealer business, including the delivery of the Defendants warranties described above, and the servicing of defective vehicles such as the Affected Class Vehicles.
- (m) The Defendants require their dealers 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 Ford 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 Ford dealers 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 Ford dealers 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 dealers' service and repair employees to be trained by the Defendants in the methods of repair of Ford-brand vehicles.
- (r) The Defendants audit Ford dealerships' sales and service departments and directly contact the customers of said dealers to determine their level of satisfaction with the sale and repair services provided by the dealers; dealers are then granted financial incentives or reprimanded depending on the level of satisfaction.
- (s) The Defendants require their dealers to provide it with monthly statements and records pertaining, in part, to dealers' sales and servicing of the Defendants vehicles.
- (t) The Defendants provides technical service bulletins and messages to their dealers detailing chronic defects present in product lines, and repair procedures to be followed for chronic defects.
- (u) The Defendants provide their dealers with specially trained service and repair consultants with whom dealers are required by the Defendants to consult when dealers are unable to correct a vehicle defect on their own.
- (v) The Defendants require Ford-brand vehicle owners to go to authorized Ford dealers to obtain servicing under the Defendants warranties.
- (w) Ford dealers are required to notify the Defendants whenever a vehicle is sold or put into

warranty service.

Part 2: RELIEF SOUGHT

1. The Plaintiff, on his own behalf and on behalf of putative Class Members, claims against the Defendants, FORD US and FORD CANADA, jointly and severally, as follows:
 - (a) an order certifying this action as a class proceeding and appointing the Plaintiff as the named representative;
 - (b) a declaration that the Affected Class Vehicles contain the Engine Defect, and resulting Spontaneous Fire Risk;
 - (c) a declaration that the Defendants, FORD US and/or FORD CANADA, were negligent in the design and/or manufacturing of the Affected Class Vehicles containing the Engine Defect, and resulting Spontaneous Fire risk, causing the Plaintiff and putative Class Members to suffer damages;
 - (d) a declaration that the Defendants, FORD US and/or FORD CANADA:
 - (i) breached their duty of care to the Plaintiff and putative Class Members;
 - (ii) breached express warranties as to the Affected Class Vehicles and are consequently liable to the Plaintiff and putative 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 putative Class Members for damages pursuant to sections 18(a),(b) and 56 of the *Sale of Goods Act*, R.S.B.C. 1996 ("SGA"), 410; sections 16(2), (4) and 52 of the *Sale of Goods Act*, RSA 2000, c. S-2; sections 16(1), (2) and 52 of the *Sale of Goods Act*, RSS 1978, c. S-1; sections 16(a), (b) and 54 of *The Sale of Goods Act*, CCSM 2000, c. S10; sections 15(1), (2) and 51 of the *Sale of Goods Act*, RSO 1990, c. S.1; sections 16(a), © and 54 of the *Sale of Goods Act*, RSNL 1990, c. S-6 ; sections 17(a),(b) and 54 of the *Sale of Goods Act*, RSNS 1989,

- c. 408; sections 20(a),(b) and 67 of the *Sale of Goods Act*, RSNB 2016, c. 110; sections 16(a), (b) and 53 of the *Sale of Goods Act*, RSPEI 1988, c. S-1; sections 15(a), (b) and 60 of the *Sale of Goods Act*, RSY 2002, c. 198; sections 18(a),(b) and 60 of the *Sale of Goods Act*, RSNWT 1988, c. S-2; and sections 18(a),(b) and 60 of the *Sale of Goods Act*, RSNWT (Nu) 1988, c. S-2; 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*, RSA 2000, c. C-26.3; Sections 6 and 7 of *The Consumer Protection and Business Practices Act*, SS, 2014, c C-30.2; Sections 2 and 3 of *The Business Practices Act*, CCSM c B120; Sections 14(1) and (2) of the *Consumer Protection Act*, 2002, SO 2002, c 30, Sch A and Section 4 (1) of the *Consumer Product Warranty and Liability Act*, SNB 1978, c C-18.1, and are consequently liable to the Plaintiff and putative Class Members for damages;
- (e) a declaration that it is not in the interests of justice to require that notice be given, where applicable, under the *BPCPA*; *Consumer Protection Act*, RSA 2000, c. C-26.3; *The Consumer Protection and Business Practices Act*, SS, 2014, c C-30.2; *The Business Practices Act*, CCSM c B120; *Consumer Protection Act*, 2002, SO 2002, c 30, Sch A; *Consumer Product Warranty and Liability Act*, and SNB 1978, c C-18.1, and waiving any such applicable notice provisions;
- (f) an Order for the statutory remedies available under the *BPCPA*; *Consumer Protection Act*, RSA 2000, c. C-26.3; *The Consumer Protection and Business Practices Act*, SS, 2014, c C-30.2; *The Business Practices Act*, CCSM c B120; *Consumer Protection Act*, 2002, SO 2002, c 30, Sch A; *Consumer Product Warranty and Liability Act*, SNB 1978, c C-18.1, including damages, cancellation and/or rescission of the purchase and/or lease of the Affected Class Vehicles;
- (g) an order directing the Defendants, FORD US and/or FORD CANADA, to advertise any adverse findings against them pursuant to section 172(3)© of the *BPCPA*; Section 19 of the *Consumer Protection Act*, RSA 2000, c. C-26.3; Section 93(1)(f) of *The Consumer Protection and Business Practices Act*, SS, 2014, c C-30.2; Section 23(2)(f)

of *The Business Practices Act*, CCSM c B120; Section 18(11) of the *Consumer Protection Act*, 2002, SO 2002, c 30, Sch A and Section 15 of the *Consumer Product Warranty and Liability Act*, SNB 1978, c C-18.1;

- (h) a declaration that the Defendants, FORD US and/or FORD CANADA, breached sections 36 and/or 52 of the *Competition Act*, R.S.C 1985, c. C-34 and are consequently liable to the Plaintiff and putative Class Members for damages;
- (l) a declaration that the Defendants, FORD US and/or FORD CANADA, fraudulently concealed the Engine Defect, and resulting Spontaneous Fire Risk, in the Affected Class Vehicles from the Plaintiff and putative Class Members;
- (j) a declaration that the Defendants, FORD US and/or FORD CANADA, were unjustly enriched at the expense of the Plaintiff and putative Class Members;
- (k) an order enjoining the Defendants, FORD US and/or FORD CANADA, from continuing the unlawful and unfair business practices as alleged herein;
- (l) injunctive and/or declaratory relief requiring the Defendants, FORD US and/or FORD CANADA, to recall, repair and/or replace the 2.5L HEV and PHEV engines or component(s) that cause under-hood fire in the Affected Class Vehicles containing the Engine Defect and/or buy back all Affected Class Vehicles and to fully reimburse and make whole all putative Class Members for all costs and economic losses associated therewith;
- (m) an order pursuant to section 29 of the *Class Proceeding Act*, R.S.B.C. 1996, c.50 ("*CPA*") directing an aggregate assessment of damages;
- (n) costs of notice and administering the plan of distribution of the recovery in this action plus applicable taxes pursuant to section 24 of the *CPA*;
- (o) damages, including actual, compensatory, incidental, statutory and/or consequential damages;

- (p) special damages;
- (q) punitive damages;
- (r) costs of investigation pursuant to section 36 of the *Competition Act*;
- (s) pre-judgment and post-judgment interest pursuant to the *Court Order Interest Act*, R.S.B.C. 1996, c. 79; and
- (t) such further and other relief as to this Honourable Court may seem just.

Part 3: LEGAL BASIS

Jurisdiction

1. There is a real and substantial connection between British Columbia and the facts alleged in this proceeding. The Plaintiff and proposed 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 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 (l) 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
- (l) is a claim for an injunction ordering a party to do or refrain from doing anything in British Columbia.

Causes of Action

Negligence

2. The Plaintiff and putative Class Members hereby incorporate by reference the allegations contained in the preceding paragraphs of this Notice of Civil Claim.
3. At all material times to the cause of action herein, the Plaintiff and putative Class Members were using the Affected Class Vehicles for the purposes and manner for which they were intended. The Defendants as vehicle manufacturers and distributors, at all material times, owed a duty of care to the Plaintiff and putative Class Members to provide a product that did not have a design and/or manufacturing defect. The Affected Class Vehicles pose a substantial risk of harm or injury to putative Class Members on account of the Engine Defect, and resulting Spontaneous Fire Risk.
4. The Defendants as the designer, engineer, manufacturer, promoter, marketer and/or distributor of the Affected Class Vehicles, intended for use by ordinary consumers, owed a duty of care to the Plaintiff and putative Class Members to ensure that the Affected Class Vehicles were reasonably safe for use.
5. The Defendants owed a duty of care to the putative Class. This duty of care was breached by the Defendants' failure to design and/or manufacture an engine in the Affected Class Vehicles that did not leak highly flammable oil fluids and fuel vapour which pools or accumulates near hot surfaces in the engine bay and exhaust system resulting in under-hood smoke and fire during operation or while parked, all of which poses an imminent and substantial risk of harm or injury to vehicle occupants, bystanders, damage to Affected Class Vehicles and/or nearby property
6. At all material times to the cause of action herein, the Defendants owed a duty of care to the

Plaintiff and putative Class Members and breached that standard of care expected in the circumstances. They knew of the Engine Defect, and resulting Spontaneous Fire Risk, yet they continued to manufacture, produce and/or distribute the Affected Class Vehicles containing the Engine Defect, and resulting Spontaneous Fire Risk.

7. The Defendants owed the Plaintiff and putative Class Members a duty to carefully monitor the safety and/or post-market performance of the 2.5L HEV and PHEV engines in the Affected Class Vehicles. The Defendants had a duty to warn or promptly warn the Plaintiff and putative Class Members of the dangers associated with the use of the Affected Class Vehicles. They failed to promptly, or at all, recall all of the Affected Class Vehicles from the Canadian market upon discovering the Engine Defect, and resulting Spontaneous Fire Risk, which could cause an imminent and/or substantial risk of harm or injury to vehicle occupants, bystanders and/or damage to the Affected Class Vehicles and/or nearby property, in conditions of ordinary use and which otherwise reduced the value of the Affected Class Vehicles and resulted in costs associated with the loss of use of the Affected Class Vehicles, expensive repairs, towing charges, car rentals, property damage and other consequential costs.
8. The circumstances of the Defendants being in the business of designing, manufacturing and placing the Affected Class Vehicles into the Canadian stream of commerce are such that the Defendants are in a position of legal proximity to the Plaintiff and putative Class Members, and therefore are under an obligation to be fully aware of safety when designing, manufacturing, assembling and selling a product such as the Affected Class Vehicles.
9. It was reasonably foreseeable that a failure by the Defendants to design and/or manufacturer an engine in the Affected Class Vehicles that did not leak highly flammable oil fluids and fuel vapour which pools or accumulates near hot surfaces in the engine bay and exhaust system resulting in under-hood smoke and fire during operation or while parked, would pose an imminent and substantial risk of harm or injury to vehicle occupants, bystanders, damage to Affected Class Vehicles and/or nearby property
10. The Plaintiff and putative Class Members had no knowledge of the Engine Defect, and resulting Spontaneous Fire Risk, in the Affected Class Vehicles and had no reason to suspect the Engine Defect, and resulting Spontaneous Fire Risk.

11. The Defendants knew or ought to have known that the Affected Class Vehicles containing the Engine Defect, and resulting Spontaneous Fire Risk, which, in the absence of reasonable care in the design, manufacture and/or assembly of the 2.5L HEV and PHEV engines in the Affected Class Vehicles, presented a real and substantial danger of harm or injury to vehicle occupants, bystanders and/or property damage, from the risk of spontaneous combustion.
12. As such, the Defendants through their employees, officers, directors, and agents, failed to meet the reasonable standard of care or conduct expected in the circumstances in that:
 - (a) they knew, or ought to have known, about the Engine Defect, and resulting Spontaneous Fire Risk, in the Affected Class Vehicles and should have timely warned the Plaintiff and putative Class Members;
 - (b) they designed, developed, manufactured, tested, assembled, marketed, advertised, distributed, supplied and/or sold vehicles containing a defective engine or component(s) that cause under-hood fire in the Affected Class Vehicles;
 - (c) they failed to timely warn the Plaintiff, putative Class Members and/or consumers about the Engine Defect, and resulting Spontaneous Fire Risk, in the Affected Class Vehicles, which presented a real and substantial danger of harm or injury to vehicle occupants, bystanders and/or property damage;
 - (d) they failed to change the design, manufacture and/or assembly of the defective 2.5L HEV and PHEV engine or component(s) in the Affected Class Vehicles containing the Engine Defect, and resulting Spontaneous Fire Risk, in a reasonable and timely manner;
 - (e) they failed to properly inspect and test the 2.5L HEV and PHEV or component(s) in the Affected Class Vehicles containing the Engine Defect, and resulting Spontaneous Fire Risk;
 - (f) they knew, or ought to have known, about the Engine Defect, and resulting Spontaneous Fire, in the Affected Class Vehicles but failed to disclose it;

- (g) they failed to timely issue and implement safety, repair and/or replacement recalls of the Affected Class Vehicles containing the Engine Defect, and resulting Spontaneous Fire Risk;
 - (h) the Engine Defect presented a real and substantial danger of harm or injury to vehicle occupants, bystanders and/or property damage from the risk of spontaneous combustion;
 - (i) notwithstanding that they foresaw serious personal injury to vehicle occupants of the Affected Class Vehicles and bystanders, they failed or failed to promptly eliminate or correct the Engine Defect, and resulting Spontaneous Fire Risk, in the Affected Class Vehicles; and
 - (j) failed to exercise reasonable care and judgment in matters of design, manufacture, materials, workmanship and/or quality of a product which would reasonably be expected of them as an automobile manufacturer.
13. As a result of the Engine Defect, and resulting Spontaneous Fire Risk, in the Affected Class Vehicles by reason of the Defendants' negligence and their failure to disclose and/or adequately warn of the Engine Defect, and resulting Spontaneous Fire Risk, the Plaintiff and putative Class Members have suffered damages and will continue to suffer damages. The value of each of the Affected Class Vehicles is reduced. The Plaintiff and each putative Class Member must expend the time to have his/her vehicle repaired and/or recalled and be without their vehicle. The Defendants should compensate the Plaintiff and each putative Class Member for their incurred out-of-pocket expenses for, *inter alia*, car payments, rental car charges, towing costs and/or property damage as a result of the Engine Defect, and resulting Spontaneous Fire Risk.

Breach of Express Warranty

14. The Plaintiff and putative Class Members hereby incorporate by reference the allegations contained in the preceding paragraphs of this Notice of Civil Claim.
15. As an express warrantor and manufacturer and merchant, the Defendants had certain

obligations to conform the 2.5L HEV and PHEV engines contained in the Affected Class Vehicles to their express warranties.

16. The Defendants marketed, distributed and/or sold the Affected Class Vehicles in Canada, including the Province of British Columbia, as safe and reliable vehicles through independent retail dealers and/or authorized dealerships. Such representations formed the basis of the bargain in the Plaintiff's and putative Class Members' decisions to purchase and/or lease the Affected Class Vehicles.
17. When the Plaintiff and putative Class Members purchased and/or leased their vehicles with the Engine Defect, and resulting Spontaneous Fire Risk, (either as new vehicles or as used vehicles with remaining warranty coverage), the Defendants expressly warranted under their warranties that they would correct any vehicle defect found within the warranty period, and cover all towing, parts, and labor needed to correct the defect.
18. The warranties of the Defendants formed a basis of the bargain that was reached when the Plaintiff and putative Class Members purchased and/or leased the Affected Class Vehicles.
19. The Engine Defect at issue in this litigation was present at the time vehicles equipped with the defective 2.5L HEV and PHEV engines were sold and/or leased to the Plaintiff and putative Class Members.
20. The Defendants breached their express warranties (and continue to breach these express warranties) because they did not and have not corrected the Engine Defect, and resulting Spontaneous Fire Risk, in the Affected Class Vehicles.
21. Pursuant to their express warranties, the Defendants were obligated to correct any defect in the 2.5L HEV and PHEV engines contained in the Affected Class Vehicles owned and/or leased by the Plaintiff and putative Class Members.
22. Although the Defendants were obligated to correct the defective 2.5L HEV and PHEV engines in the Affected Class Vehicles, none of the purported, attempted fixes to the Engine Defect are adequate under the terms of the warranty, as they did not cure the Engine Defect, and resulting Spontaneous Fire Risk.

23. The Defendants and their agent dealers have failed and refused to conform the defective 2.5 L HEV and PHEV engines to their express warranties. The Defendants conduct, as averred to herein, has voided any attempt on their part to disclaim liability for their actions.
24. In particular, the Defendants breached their express warranties by:
 - (a) knowingly providing the Plaintiff and putative Class Members with the Affected Class Vehicles containing defects in material or components that were never disclosed to the Plaintiff and putative Class Members;
 - (b) failing to repair or replace the Affected Class Vehicles containing the defective 2.5L HEV and PHEV engines contained in the Affected Class Vehicles at no cost within the warranty period;
 - (c) ignoring, delaying responses to and denying warranty claims in bad faith; and
 - (d) supplying products and materials that failed to conform to their representations.
25. The Plaintiff and putative Class Members have performed each and every duty required of them under the terms of the warranties, except as may have been excused or prevented by the conduct of the Defendants or by operation of law in light of the Defendants, conduct as described herein.
26. The Plaintiff and putative Class Members have given the Defendants a reasonable opportunity to cure their breach of express warranties or, alternatively, were not required to do so because such an opportunity would be unnecessary and futile given that the repairs and/or replacements offered by the Defendants can neither cure the Engine Defect, and resulting Spontaneous Fire Risk, in the Affected Class Vehicles nor resolve the incidental and consequential damages flowing therefrom.
27. The Defendants received timely notice regarding the Engine Defect from the Plaintiff and putative Class Members when they brought their vehicles to their dealerships. The Defendants also received notice through complaints made by other consumers, NHTSA and to Transport Canada. Notwithstanding such notice, the Defendants have failed and refused to offer an

effective remedy.

28. In their capacity as a supplier and/or warrantor, and by the conduct described herein, any attempt by the Defendants to limit their express warranties would be unconscionable. The Defendants' warranties were adhesive, and did not permit negotiation, or the inclusion of design and/or manufacturing defects. The Defendants possessed superior knowledge of the defects in the 2.5L HEV and PHEV engines prior to offering the Affected Class Vehicles for sale. The Defendants concealed and did not disclose the Engine Defect, and resulting Spontaneous Fire Risk, and the Defendants, did not remedy the defect prior to sale (or afterward). Any effort to otherwise limit liability for the manufacturing and/or design defect is null and void.
29. Further, because the Defendants have been unable to remedy the Engine Defect, the limitation on remedies included in the warranty fails its essential purpose and is null and void.
30. The Plaintiff and putative Class Members have suffered damages caused by the Defendants' breach of their express warranties and are entitled to recover damages, including but not limited to diminution of value

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

31. The Plaintiff and putative Class Members hereby incorporate by reference the allegations contained in the preceding paragraphs of this Notice of Civil Claim.
- 32.. The Defendants are a "seller" with respect to motor vehicles within the meaning of the SGA, *Sale of Goods Act*, RSA 2000, c. S-2; *Sale of Goods Act*, RSS 1978, c. S-1; *The Sale of Goods Act*, CCSM 2000, c. S10; *Sale of Goods Act*, RSO 1990, c. S.1; *Sale of Goods Act*, RSNL 1990, c. S-6 ; *Sale of Goods Act*, RSNS 1989, c. 408; *Sale of Goods Act*, RSNB 2016, c. 110; *Sale of Goods Act*, RSPEI 1988, c. S-1; *Sale of Goods Act*, RSY 2002, c. 198; *Sale of Goods Act*, RSNWT 1988, c. S-2; and *Sale of Goods Act*, RSNWT (Nu) 1988, c. S-2, pursuant to their agency relationship with their authorized dealers, distributors, resellers, retailers and/or intermediaries.

33. The Defendants are, and were, at all relevant times a seller with respect to Affected Class Vehicles containing the Engine Defect, and resulting Spontaneous Fire Risk. The Defendants directly sold and marketed vehicles with a defective engine or component(s) in the Affected Class Vehicles containing the Engine Defect, and resulting Spontaneous Fire Risk, to customers through authorized dealers, like those from whom putative Class Members bought and/or leased their vehicles, for the intended purpose of consumers purchasing the vehicles. The Defendants knew that the Affected Class Vehicles containing the Engine Defect, and resulting Spontaneous Fire Risk, would and did pass unchanged from the authorized dealers to putative Class Members, with no modification to the 2.5L HEV and PHEV engines in the Affected Class Vehicles.
34. A warranty that the Affected Class Vehicles were in merchantable condition was implied by law pursuant to sections 18(a) and/or (b) of the SGA, sections 16(2) and/or (4) of the *Sale of Goods Act*, RSA 2000, c. S-2; sections 16(1) and (2) of the *Sale of Goods Act*, RSS 1978, c. S-1; sections 16(a) and/or (b) of *The Sale of Goods Act*, CCSM 2000, c. S10; sections 15(1) and/or (2) of the *Sale of Goods Act*, RSO 1990, c. S.1; sections 16(a) and/or © of the *Sale of Goods Act*, RSNL 1990, c. S-6 ; sections 17(a) and/or (b) of the *Sale of Goods Act*, RSNS 1989, c. 408; sections 20(a) and/or (b) of the *Sale of Goods Act*, RSNB 2016, c. 110; sections 16(a) and/or (b) of the *Sale of Goods Act*, RSPEI 1988, c. S-1; sections 15(a) and/or (b) of the *Sale of Goods Act*, RSY 2002, c. 198; sections 18(a) and/or (b) of the *Sale of Goods Act*, RSNWT 1988, c. S-2; and sections 18(a) and (b) of the *Sale of Goods Act*, RSNWT (Nu) 1988, c. S-2,
35. The Defendants marketed, distributed and/or sold the Affected Class Vehicles in Canada, including the Province of British Columbia, as safe, durable and reliable vehicles through independent retail dealers and/or authorized dealerships. Such representations formed the basis of the bargain in putative Class Members' decisions to purchase and/or lease the Affected Class Vehicles.
36. Affected Class Vehicles containing the Engine Defect, and resulting Spontaneous Fire Risk, were defective at the time they left the possession of the Defendants. The Defendants knew of this defect at the time these transactions occurred. Thus, Affected Class Vehicles containing the Engine Defect, and resulting Spontaneous Fire Risk, when sold and/or leased and at all times thereafter, were not in merchantable condition or quality and were not fit for their ordinary

intended purpose.

37. The Plaintiff and putative Class Members purchased and/or leased the Affected Class Vehicles from the Defendants through their subsidiaries, authorized agents for retail sales, through private sellers or were otherwise expected to be the eventual purchasers and/or lessees of the Affected Class Vehicles when bought and/or leased from a third party. At all relevant times, the Defendants were the manufacturers, distributors, warrantors and/or sellers of the Affected Class Vehicles. As such, there existed privity and/or vertical privity of contract between the Plaintiff and putative Class Members and the Defendants, as to their Affected Class Vehicles. Alternatively, privity of contract need not be established nor is it required because putative Class Members are intended third-party beneficiaries of contracts between the Defendants and their resellers, authorized dealers and/or distributors and, specifically, of the Defendants' implied warranties.
38. The Defendants' resellers, authorized dealers and/or distributors are intermediaries between the Defendants and consumers. These intermediaries sell and/or lease the Affected Class Vehicles to consumers and are not, themselves, consumers of the Affected Class Vehicles and, therefore, have no rights against the Defendants with respect to the Plaintiff's and putative Class Members' acquisition of the Affected Class Vehicles. The Defendants' warranties were designed to influence consumers who purchased and/or leased the Affected Class Vehicles.
39. The Defendants knew or had reason to know of the specific use for which the Affected Class Vehicles were purchased and/or leased.
40. As a result of the Engine Defect, and resulting Spontaneous Fire Risk, the Affected Class Vehicles were not in merchantable condition when sold and/or leased and are not fit for the ordinary purpose of providing safe, durable and reliable transportation.
41. The Defendants knew about the Engine Defect, and resulting Spontaneous Fire Risk, in the Affected Class Vehicles, allowing them to cure their breach of warranty if they chose.
42. At all times that the Defendants warranted and sold their Affected Class Vehicles, they knew or ought to have known that their warranties were false and yet they did not disclose the truth or stop manufacturing or selling their Affected Class Vehicles and, instead, continued to issue

false warranties and continued to insist the products were safe. The Affected Class Vehicles were defective when the Defendants delivered them to their resellers, authorized dealers and/or distributors which sold the Affected Class Vehicles and the Affected Class Vehicles were, therefore, still defective when they reached putative Class Members.

43. The Defendants' attempts to disclaim or limit the implied warranty of merchantability vis-à-vis the Plaintiff, putative Class Members and/or consumers is unconscionable and unenforceable. Specifically, the Defendants' warranty limitation is unenforceable because they knowingly sold and/or leased a defective product without informing the Plaintiff, putative Class Members and/or consumers about the Engine Defect, and resulting Spontaneous Fire Risk, in the Affected Class Vehicles. A gross disparity in bargaining power existed between the Defendants and the Plaintiff and putative Class Members, and the Defendants knew that the Affected Class Vehicles contain a defective engine that leaks highly flammable oil fluids and fuel vapors which pool or accumulate near hot surfaces in the engine bay and exhaust system resulting in under-hood smoke and fire during operation or while parked, all of which poses an imminent and substantial risk of harm or injury to vehicle occupants, bystanders, damage to Affected Class Vehicles and/or nearby property.
44. The Plaintiff and putative Class Members have complied with all obligations under the warranty or otherwise have been excused from performance of said obligations as a result of the Defendants' conduct alleged herein. Affording the Defendants a reasonable opportunity to cure their breach of written warranties, therefore, would be unnecessary and futile.
45. As a direct and proximate result of the Defendants' breach of implied warranties or conditions of merchantability, the Plaintiff and putative Class Members have suffered loss, diminution and/or damage as a result of the Engine Defect, and resulting Spontaneous Fire Risk, in the Affected Class Vehicles pursuant to sections 56 of the *SGA*, section 52 of the *Sale of Goods Act*, RSA 2000, c. S-2; section 52 of the *Sale of Goods Act*, RSS 1978, c. S-1; section 54 of *The Sale of Goods Act*, CCSM 2000, c. S10; section 51 of the *Sale of Goods Act*, RSO 1990, c. S.1; section 54 of the *Sale of Goods Act*, RSNL 1990, c. S-6 ; section 54 of the *Sale of Goods Act*, RSNS 1989, c. 408; section 67 of the *Sale of Goods Act*, RSNB 2016, c. 110; section 53 of the *Sale of Goods Act*, RSPEI 1988, c. S-1; section 60 of the *Sale of Goods Act*, RSY 2002, c. 198; section 60 of the *Sale of Goods Act*, RSNWT 1988, c. S-2; and section 60 of the *Sale of Goods Act*, RSNWT (Nu) 1988, c. S-2

Violation of *BPCPA* and Parallel Provincial Consumer Protection Legislation

46. The Plaintiff and putative Class Members in British Columbia hereby incorporate by reference the allegations contained in the preceding paragraphs of this Notice of Civil Claim.
47. The Defendants are in British Columbia for the purposes of the *BPCPA*, and in provinces with parallel consumer protection legislation, as described in Schedule "A".
48. The Affected Class Vehicles are consumer "goods" within the meaning of section 1(1) of the *BPCPA*, and parallel provincial consumer protection legislation, as described in Schedule "A".
49. The Plaintiff and putative 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 parallel provincial consumer protection legislation, as described in Schedule "A".
50. The purchase and/or lease of the Affected Class Vehicles by the Plaintiff and putative 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 parallel provincial consumer protection legislation, as described in Schedule "A".
51. The Defendants are a "supplier" within the meaning of section 1(1) of the *BPCPA*, and parallel provincial consumer protection legislation, as described in Schedule "A", as they carried on business in British Columbia and who in the course of business participated in a consumer transaction by: (i) supplying goods to a consumer, or (ii) soliciting, offering, advertising or promoting with respect to a consumer transaction, whether or not privity of contract exists between that person and the consumer, and includes an assignee of, any rights or obligations of the supplier under the *BPCPA*. The Defendants are the vehicle manufacturers of the Affected Class Vehicles and distribute, market and/or supply such vehicles to consumers including putative Class Members in British Columbia. At all relevant times, the Defendants were a supplier and/or seller of the Affected Class Vehicles as their resellers, authorized dealers and/or distributors were acting as the agents of the Defendants.

52. By failing to disclose and actively concealing the Engine Defect, and resulting Spontaneous Fire Risk, in the Affected Class Vehicles, the Defendants engaged in unfair and deceptive trade practices prohibited by sections 4 and 5 of the *BPCPA*, and parallel provincial consumer protection legislation, as described in Schedule "A". The Defendants knew that the Affected Class Vehicles leaked highly flammable oil fluids and fuel vapour which pool or accumulate near hot surfaces in the engine bay and exhaust system resulting in under-hood smoke and fire during operation or while parked, all of which posed an imminent and substantial risk of harm or injury to vehicle occupants, bystanders, damage to Affected Class Vehicles and/or nearby property, but yet failed to adequately warn consumers
53. As alleged herein, the Defendants made misleading representations and omissions concerning the safety, durability and/or reliability of the 2.5L HEV and PHEV engines in the Affected Class Vehicles.
54. In purchasing and/or leasing the Affected Class Vehicles, the Plaintiff and putative Class Members were deceived by the Defendants' failure to disclose their knowledge of the Engine Defect and associated fire safety risk.
55. In particular, the Defendants engaged in a pattern of unfair or deceptive acts or practices in failing to warn or disclose to the Plaintiff and putative Class Members that the Affected Class Vehicles leaked highly flammable oil fluids and fuel vapour which pool or accumulate near hot surfaces in the engine bay and exhaust system resulting in under-hood smoke and fire during operation or while parked, all of which posed an imminent and substantial risk of harm or injury to vehicle occupants, bystanders, damage to Affected Class Vehicles and/or nearby property, as follows:
 - (a) failing to disclose that the Affected Class Vehicles, including the 2.5L HEV and PHEV engines, were not of a particular standard, quality, or grade;
 - (b) failing to disclose before, during and/or after the time of purchase, lease and/or repair, any and all known material defects or material nonconformity of the Affected Class Vehicles, including the Engine Defect, and resulting Spontaneous Fire Risk;
 - (c) failing to disclose at the time of purchase and/or lease that the Affected Class

Vehicles, including the 2.5L HEV and PHEV engines, were defective, not fit for their intended, and ordinary purpose, and created a serious and imminent risk of danger or harm to occupants of the Affected Class Vehicles;

- (d) failing to give adequate warnings and/or notices regarding the use, defects, and problems with the 2.5L HEV and PHEV engines in the Affected Class Vehicles' to consumers who purchased and/or leased the Affected Class Vehicles, even though the Defendants possessed exclusive knowledge of the inherent Engine Defect, and resulting Spontaneous Fire Risk, in the Affected Class Vehicles before and at the time of purchase and/or lease;
 - (e) failing to disclose, either through warnings and/or timely recall notices, and/or actively concealing the fact that the 2.5L HEV and PHEV engines in the Affected Class Vehicles were defective, even though the Defendants knew about the Engine Defect and resulting Spontaneous Fire Risk; and
 - (f) representing that the Engine Defect, and resulting Spontaneous Fire Risk, in the Affected Class Vehicles would be covered under its warranty program.
56. In purchasing and/or leasing the Affected Class Vehicles, the Plaintiff and putative Class Members in British Columbia were deceived by the Defendants failure to disclose their exclusive knowledge of the Engine Defect such that the Affected Class Vehicles leaked highly flammable oil fluids and fuel vapour which pool or accumulate near hot surfaces in the engine bay and exhaust system resulting in under-hood smoke and fire during operation or while parked, all of which posed an imminent and substantial risk of harm or injury to vehicle occupants, bystanders, damage to Affected Class Vehicles and/or nearby property.
57. By failing to disclose and actively concealing the Engine Defect, and resulting Spontaneous Fire Risk, the Defendants engaged in unfair or deceptive acts or practices prohibited by sections 4 and 5 of the *BPCPA*, and parallel provincial consumer protection legislation, as described in Schedule "A".
58. Further, as alleged herein, the Defendants made misleading representations and/or omissions concerning the safety, durability and/or reliability of the Affected Class Vehicles, in particular

as to the 2.5L HEV and PHEV engines in the Affected Class Vehicles by:

- (a) publishing product brochures and/or owners' manuals that made materially misleading omissions concerning vehicle safety and purported performance which uniformly omitted any warning to consumers that the Affected Class Vehicles leaked highly flammable oil fluids and fuel vapour which pool or accumulate near hot surfaces in the engine bay and exhaust system resulting in under-hood smoke and fire during operation or while parked, all of which posed an imminent and substantial risk of harm or injury to vehicle occupants, bystanders, damage to Affected Class Vehicles and/or nearby property;
- (b) advertisements which uniformly omitted any information about the Engine Defect, and resulting Spontaneous Fire Risk, and which misled consumers into believing that the Affected Class Vehicles did not leak highly flammable oil fluids and fuel vapour which pool or accumulate near hot surfaces in the engine bay and exhaust system resulting in under-hood smoke and fire during operation or while parked, all of which posed an imminent and substantial risk of harm or injury to vehicle occupants, bystanders, damage to Affected Class Vehicles and/or nearby property; and
- (c) emphasizing and extolling in brochures the safety, durability and performance of the Affected Class Vehicles.

59. The Defendants' conduct as alleged herein was, and is, in violation of sections 4 and 5 of the *BPCPA*, and parallel provincial consumer protection legislation, as described in Schedule "A", in particular, by:

- (a) representing that the Affected Class Vehicles, including the 2.5L HEV and PHEV engines contained, were defect-free and did not pose a fire safety hazard, which it did not;
- (b) representing that the Affected Class Vehicles, including the 2.5L HEV and PHEV engines contained therein, were of a particular standard, quality or grade, when they were not;

- (c) advertising the Affected Class Vehicles, including the 2.5L HEV and PHEV engines contained therein, with intent not to sell them as advertised; and
 - (d) representing that the Affected Class Vehicles, including the 2.5L HEV and PHEV engines contained therein, have been supplied in accordance with a previous representation as to safety, durability and/or reliability, when they have not.
60. In purchasing and/or leasing the Affected Class Vehicles, the Plaintiff and putative Class Members in British Columbia were deceived by the Defendants failure to disclose their exclusive knowledge of the Engine Defect, and resulting Spontaneous Fire Risk, and/or their representations made as to the safety, durability and/or reliability of the Affected Class Vehicles in their sales brochure materials, manuals, press releases and/or websites.
61. The Defendants intentionally and knowingly misrepresented and omitted material facts regarding their Affected Class Vehicles, specifically regarding the Engine Defect, and resulting Spontaneous Fire Risk, with an intent to mislead the Plaintiff and proposed Class Members.
62. In purchasing and/or leasing the Affected Class Vehicles, the Plaintiff and putative Class Members were deceived by the Defendants' failure to disclose their knowledge of the Engine Defect and associated fire safety risk.
63. The Plaintiff and putative Class Members had no way of knowing of the Defendants' representations were false, misleading and incomplete or knowing the true nature of the Engine Defect, and resulting Spontaneous Fire Risk, in the Affected Class Vehicles. As alleged herein, the Defendants engaged in a pattern of deception in the face of a known engine defect in the Affected Class Vehicles. The Plaintiff and putative Class Members did not, and could not, unravel the Defendants' deception on their own.
64. The Defendants knew, or ought to have known, that their conduct violated sections 4 and 5 of the *BPCPA*, and parallel provincial consumer protection legislation, as described in Schedule "A".
65. The Defendants owed the Plaintiff and putative Class Members a duty to disclose the truth

about the Engine Defect, and resulting Spontaneous Fire Risk, in the Affected Class Vehicles as it created a serious fire safety hazard and the Defendants:

- (a) possessed exclusive knowledge of the Engine Defect, and resulting Spontaneous Fire Risk, in the Affected Class Vehicles;
- (b) intentionally concealed the foregoing from the Plaintiff and putative Class Members; and/or
- (c) failed to warn consumers or to publicly admit that the Affected Class Vehicles had an engine defect that made them susceptible to a risk of spontaneous combustion.

- 66. The Defendants had a duty to disclose that the 2.5L HEV and PHEV engines in the Affected Class Vehicles were fundamentally flawed as described herein because it created a serious fire safety hazard and the Plaintiff and putative Class Members relied on the Defendants' material misrepresentations and omissions regarding the Affected Class Vehicles and the Engine Defect, and resulting Spontaneous Fire Risk.
- 67. The Defendants' conduct proximately caused damages to the Plaintiff and putative Class Members that purchased and/or leased the Affected Class Vehicles and suffered harm as alleged herein.
- 68. The Plaintiff and putative Class Members were injured and suffered ascertainable loss, injury-in-fact and/or actual damage as a proximate result of the Defendants' conduct in that the Plaintiff and putative Class Members incurred costs related to the Engine Defect, and resulting Spontaneous Fire Risk, including repair, service and/or replacement costs, rental car costs, towing costs, car payments, property damage and overpaid for their Affected Class Vehicles that have suffered a diminution in value.
- 69. The Defendants' violations cause continuing damages to putative Class Members. The Defendants' unlawful acts and practices complained of herein affect the public interest.
- 70. The Defendants knew of the defective 2.5L HEV and PHEV engines and that the Affected Class Vehicles were materially compromised by the Engine Defect, and resulting

Spontaneous Fire Risk.

71. The facts concealed and omitted by the Defendants from the Plaintiff and putative Class Members are material in that a reasonable consumer would have considered them to be important in deciding whether to purchase an Affected Class Vehicle or pay a lower price. Had the Plaintiff and putative Class Members known about the defective 2.5L HEV and PHEV engines in the Affected Class Vehicles, they would not have purchased and/or leased the Affected Class Vehicles or would not have paid the prices they paid.
72. The Plaintiff and putative Class Members' damages were directly or proximately caused by the Defendants' unlawful and deceptive business practices.
73. As a result of the Defendants' conduct as alleged herein, putative Class Members in British Columbia are entitled to a declaration under section 172(1)(a) of the *BPCPA* that an act or practice engaged in by the Defendants in respect to the purchase and/or lease of the Affected Class Vehicles contravenes the *BPCPA*, an injunction under section 172(1)(b) of the *BPCPA* to restrain such conduct and/or damages under section 171 of the *BPCPA*, and to such remedies under parallel provincial consumer protection legislation, as described in Schedule "A".
74. Putative Class Members in British Columbia are entitled, to the extent necessary, a waiver of any notice requirements under section 173(1) the *BPCPA*, and parallel provincial consumer protection legislation, as described in Schedule "A", as a result of the Defendants' failure to disclose and/or actively conceal the Engine Defect, and resulting Spontaneous Fire Risk, from putative Class Members in British Columbia and their misrepresentations as to the benefits, performance and/or safety of the Affected Class Vehicles.

Breach of the *Competition Act*

75. The Plaintiff and putative Class Members hereby incorporate by reference the allegations contained in the preceding paragraphs of this Notice of Civil Claim.
76. By making representations to the public as to the safety, durability, reliability, quality, character and/or performance of the Affected Class Vehicles, in particular as to their 2.5L

HEV and PHEV engines, the Defendants breached sections 36 and/or 52 of the *Competition Act*, in that their representations:

- (a) were made to the public in the form of advertising product brochures, statements and/or other standardized statements claiming the safety, durability, quality, character and/or performance of the Affected Class Vehicles;
 - (b) were made to promote the supply or use of a product or for the purpose of promoting its business interests;
 - (c) stated safety of the Affected Class Vehicles; and
 - (d) were false and misleading in a material respect.
77. At all relevant times, the Defendants were the seller and/or supplier of the Affected Class Vehicles. As such, there existed contractual privity and/or vertical privity of contract between putative Class Members and the Defendants as to the Affected Class Vehicles as their resellers, authorized dealers and/or distributors at all material times were acting as the agents of the Defendants.
78. The Defendants engaged in unfair competition and unfair or unlawful business practices through the conduct, statements and omissions described herein and by knowingly and intentionally concealing the Engine Defect, and resulting Spontaneous Fire Risk, in the Affected Class Vehicles from the Plaintiff and putative Class Members, along with concealing the fire safety risks, costs, and monetary damage resulting from the Engine Defect. The Defendants should have disclosed this information because they were in a superior position to know the true facts related to the Engine Defect, and resulting Spontaneous Fire risk, and the Plaintiff and putative Class Members could not reasonably be expected to learn or discover the true facts related to the Engine Defect.
79. The Engine Defect, and resulting Spontaneous Fire Risk, in the Affected Class Vehicles constitutes a serious safety issue. The Defendants knew that the Affected Class Vehicles leaked highly flammable oil fluids and fuel vapour which pool or accumulate near hot surfaces in the engine bay and exhaust system resulting in under-hood smoke and fire during

operation or while parked, all of which posed an imminent and substantial risk of harm or injury to vehicle occupants, bystanders, damage to Affected Class Vehicles and/or nearby property, which triggered the Defendants' duty to disclose the safety issue to consumers.

80. These acts and practices have deceived the Plaintiff and putative Class Members. In failing to disclose the Engine Defect, and resulting Spontaneous Fire risk, and suppressing other material facts from the Plaintiff and putative Class Members, the Defendants breached their duty to disclose these facts, violated the *Competition Act* and caused damages to the Plaintiff and putative Class Members. The Defendants' omissions and concealment pertained to information that was material to the Plaintiff and putative Class Members, as it would have been to all reasonable consumers.
81. Further, putative Class Members relied upon the Defendants' misrepresentations as to the safety, durability and/or reliability of the Affected Class Vehicles to their detriment in purchasing and/or leasing the Affected Class Vehicles so as to cause loss and/or damage to putative Class Members.
82. The Plaintiff and putative Class Members have, therefore, suffered damages and are entitled to recover damages pursuant to section 36(1) and/or 52 of the *Competition Act*.

Fraudulent Concealment

83. The Plaintiff and putative Class Members hereby incorporate by reference the allegations contained in the preceding paragraphs of this Notice of Civil Claim.
84. The Defendants had a duty to disclose material facts in connection with the purchase and/or lease of the Affected Class Vehicles. They knowingly made false representations concerning material information, knowingly concealed material information and knowingly failed to disclose material information in connection with the purchase and/or lease of the Affected Class Vehicles. As a result of the Defendants misconduct the Plaintiff and putative Class members suffered damages.
85. The Defendants sold and/or leased the Affected Class Vehicles to the Plaintiff and putative Class Members without disclosing the Engine Defect, and resulting Spontaneous Fire Risk,

and concealed and suppressed the defect from government regulators and consumers.

86. The Defendants concealed and suppressed the Engine Defect, and resulting Spontaneous Fire Risk, with the intent to deceive the Plaintiff and putative Class Members.
87. The Defendants did so to falsely assure owners and/or lessees of the Affected Class Vehicles that the vehicles they were purchasing and/or leasing were safe, dependable and reliable and would live up to the characteristics associated with the Ford brand, and then to avoid the cost and negative publicity of a recall. They concealed information that was material to consumers, both because it concerned the safety, dependability and reliability of the Affected Class Vehicles and because the information would have significantly decreased the value and sales price of the vehicles.
88. The Defendants had a duty to disclose the Engine Defect, and resulting Spontaneous Fire risk, because it was known and only known to them. The Defendants had superior knowledge and access to the facts and knew the facts were not known to, or reasonably discoverable by, the Plaintiff and putative Class Members. The Defendants also had a duty to disclose because they made many affirmative representations about the safety, durability, and reliability of the Affected Class Vehicles, as set forth herein. These representations were misleading, deceptive, and incomplete without the disclosure of the Engine Defect, and resulting Spontaneous Fire Risk. Finally, once the Affected Class Vehicles were on the road, the Defendants had a duty to monitor the Affected Class Vehicles under the *MVSA* and *Regulations*, including the duty to promptly notify consumers of known safety defects.
89. The Defendants concealed and/or suppressed these material facts, in whole or in part, to protect their profits and avoid recalls that would hurt their image, and it did so at the expense of the Plaintiff and putative Class Members.
90. The Defendants still have not made full and adequate disclosure and continue to defraud putative Class Members and conceal material information regarding the Engine Defect, and resulting spontaneous Fire Risk.
91. Putative Class Members were unaware of these omitted material facts and would not have purchased and/or leased the Affected Class Vehicles had they known of the concealed

and/or suppressed facts. The Defendants were in exclusive control of the material facts and such facts were not known to putative Class Members.

92. As a result of the concealment and/or suppression of the facts, putative Class Members sustained damage. In purchasing and/or leasing the Affected Class Vehicles putative Class Members did not receive the benefit of their bargain as such vehicles were worth less than it would have been without the Engine Defect, and resulting Spontaneous Fire Risk, and further, the Affected Class Vehicles have diminished in value as a result of the Defendants concealment of, and failure to timely disclose and remedy the Engine Defect, and resulting Spontaneous Fire Risk. Had putative Class Members been aware of the concealed engine defects that existed in the Affected Class Vehicles, they would have paid less for their vehicles or would not have purchased them at all.
93. The Defendants' acts were done maliciously, oppressively, deliberately, with intent to defraud, and in reckless disregard of the rights of putative Class Members. The Defendants' misconduct warrants an assessment of punitive damages in an amount sufficient to deter such misconduct in the future.
94. The particulars of the Defendants' fraudulent concealment of the Engine Defect, and resulting Spontaneous Fire Risk, are in the possession of the Defendants and which will be subject to pre-trial disclosure and at trial.

Unjust Enrichment

95. The Plaintiff and putative Class Members hereby incorporate by reference the allegations contained in the preceding paragraphs of this Notice of Civil Claim.
96. The Defendants have unjustly profited from the Engine Defect, and resulting Spontaneous Fire Risk, in the Affected Class Vehicles whose value was inflated by their active concealment and the Plaintiff and putative Class Members have overpaid for the Affected Class Vehicles.
97. The Defendants have received and retained unjust benefits from the Plaintiff and putative Class Members and an inequity has resulted. It is inequitable and unconscionable for the

Defendants to retain these benefits.

98. As a result of the Defendants' fraud, misrepresentations, deception and/or failure to disclose, the Plaintiff and putative Class Members were not aware of the true facts concerning the Engine Defect, and resulting Spontaneous Fire Risk, in the Affected Class Vehicles and did not benefit from the Defendants' misconduct.
99. The Defendants knowingly accepted the unjust benefits of its misconduct. There is no juristic reason why the amount of its unjust enrichment should not be disgorged and returned to the Plaintiff and putative Class Members, in an amount to be proven at Trial.
100. Further, the purchase of both new and/or used Affected Class Vehicles from authorized or affiliated dealerships of the Defendants or third party sellers conferred a benefit on the Defendants as such vehicles required use of the Defendants' parts as called for in the Defendants' recall or repair of the Engine Defect, and resulting Spontaneous Fire Risk, in the Affected Class Vehicles.

Tolling of the *Limitation Act*, S.B.C. 2012, c. 13

101. The Plaintiff and putative Class Members had no way of knowing about the Engine Defect, and resulting Spontaneous Fire Risk, in the Affected Class Vehicles. The Defendants concealed their knowledge of the Engine Defect, and resulting Spontaneous Fire Risk, while continuing to market, sell and/or lease the Affected Class Vehicles.
102. Within the *Limitation Act*, and to parallel legislative provisions in the rest of Canada as described in Schedule "B", the Plaintiff and putative 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 to their 2.5L HEV and PHEV engines.
103. The Plaintiff and putative Class Members not know facts that would have caused a reasonable person to suspect or appreciate that there was an engine defect contained in the Affected Class Vehicles.

104. For these reasons, the *Limitation Act*, and to parallel legislative provisions in the rest of Canada, as described in Schedule "B", has been tolled by operation of the discovery rule with respect to the claims in this proposed class proceeding.
105. Further, due to Defendants knowing and active concealment of the Engine Defect, and resulting Spontaneous Fire Risk, throughout the time period relevant to this proposed class proceeding, the *Limitation Act*, and to parallel legislative provisions in the rest of Canada as described in Schedule "B" has been tolled.
106. Instead of publicly disclosing the Engine Defect, and resulting Spontaneous Fire Risk, in the Affected Class Vehicles, the Defendants kept the Plaintiff and putative Class Members in the dark as to the Engine Defect and the serious fire safety hazard it presented.
107. The Defendants were under a continuous duty to disclose to the Plaintiff and proposed Class Members the existence of the Engine Defect, and resulting Spontaneous Fire Risk, in the Affected Class Vehicles.
108. The Defendants knowingly, affirmatively and actively concealed or recklessly disregarded the true nature, quality and character of the Affected Class Vehicles, in particular to their 2.5L HEV and PHEV engines.
109. As such, the Defendants are estopped from relying on the *Limitation Act*, and parallel legislative provisions in the rest of Canada as described in Schedule "B", in defense of this proposed class proceeding.

Plaintiff's(s') address for service:

Garcha & Company
Barristers & Solicitors
#405 - 4603 Kingsway
Burnaby, BC V5H 4M4
Canada

Fax number address for service (if any):

604-435-4944

E-mail address for service (if any):

none

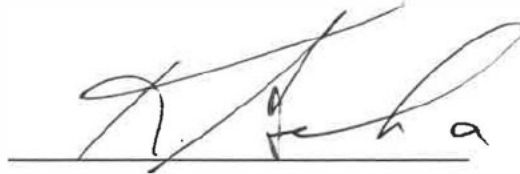
Place of trial:

Vancouver, BC, Canada

The address of the registry is:

800 Smithe Street
Vancouver, BC V6Z 2E1
Canada

Dated: February 7, 2023

A handwritten signature in black ink, appearing to read 'K.S. Garcha', is written over a horizontal line.

Signature of K.S. Garcha
lawyer for the plaintiff

Schedule "A"

Consumer Protection Legislation Across Canada

Province or Territory	Legislation
Alberta	<i>Consumer Protection Act</i> , RSA 2000, c. C-26.3 "Goods"- Section 1(1)(e)(I); "Consumers"- Section 1(1)(b)(I); "Consumer Transaction" - Section 1(1)(c)(I); "Supplier" - Section 1(1)(i),(ii) and/or (iii); "Unfair Practices" - Sections 5 and 6; Statutory Remedies - Sections 13(1), (2) and 142.1; and Waiver of Notice - Section 7.1(1)
Saskatchewan	<i>The Consumer Protection and Business Practices Act</i> , SS 2014, c. C-30.2 "Goods" - Section 2(e); "Consumer" - Section 2(b); "Supplier" - Section 2(l); "Unfair Practices" - Sections 6 and 7; and Statutory Remedies - Section 93
Manitoba	<i>Consumer Protection Act</i> , CCSM c. C200 "Goods" - Section 1; "Consumer" - Section 1; "Consumer Transaction" - Section 1; "Supplier" - Section 1; "Unfair Business Practices" - Sections 2(1) and (3); and Statutory Remedies - 23(2)(a) and (b)
Ontario	<i>Consumer Protection Act</i> , 2002, SO 2002, c. 30, Sch. A "Goods" - Section 1; "Consumer" - Section 1; "Supplier" - Section 1; "Unfair Practices"- Sections 14(1) and (2); Statutory Remedies - Sections 18(1) and (2); and Waiver of Notice - Sections 18(3) and (15)
New Brunswick	<i>Consumer Product Warranty and Liability Act</i> , SNB 1978, c. C-18.1 "Consumer Product" - Section 1(1); "Buyer" - Section 1(1); "Contract for the sale or supply of a consumer product" - Section 1(1); and "Seller" - Section 1(1);

Schedule "B"

Limitation Act Legislation Across Canada

Province or Territory	Legislation
Alberta	<i>Limitations Act</i> , RSA 2000, c. L-12
Saskatchewan	<i>The Limitations Act</i> , SS 2004, c. L-16.1
Manitoba	<i>The Limitation of Actions Act</i> , CCSM c. L150
Ontario	<i>Limitations Act</i> , 2002, SO 2002, c. 24, Sch. B
Newfoundland and Labrador	<i>Limitations Act</i> , SNL 1995, c. L-16.1
Nova Scotia	<i>Limitation of Actions Act</i> , SNS 2014, c. 35
New Brunswick	<i>Limitation of Actions Act</i> , SNB 2009, c. L-8.5
Prince Edward Island	<i>Statute of Limitations</i> , RSPEI 1988, c. S-7
Yukon	<i>Limitation of Actions Act</i> , RSY 2002, c. 139
Northwest Territories	<i>Limitation of Actions Act</i> , RSNWT 1988, c. L-8
Nunavut	<i>Limitation of Actions Act</i> , RSNWT (Nu) 1988, c. L-8

**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)(l), (iii)(a) & (b), (f), (g), (h) and (l) of the *CJPTA* because this proceeding:

- (e)(l) 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;
- (l) 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 proposed multi-jurisdictional class proceeding involves certain Affected Class Vehicles designed, manufactured, assembled, tested, marketed, distributed, supplied, leased and/or sold by the Ford Defendants in Canada whose engines contain a design and/or manufacturing defect such that they leak highly flammable oil fluids and fuel vapors, which pool or accumulate near hot surfaces in the engine bay and exhaust system resulting in under-hood smoke and fire during operation or while parked, all of which poses an imminent and substantial risk of harm or injury to vehicle occupants, bystanders, damage to Affected Class Vehicles and/or nearby property.

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*, RSA

2000, c. C-26.3; *The Consumer Protection and Business Practices Act*, SS, 2014, c C-30.2; *The Business Practices Act*, CCSM c B120; *Consumer Protection Act*, 2002, SO 2002, c 30, Sch A;

Consumer Product Warranty and Liability Act, and SNB 1978, c C-18.1

4. *Sale of Goods Act*, R.S.B.C 1996, c. 410; *Sale of Goods Act*, RSA 2000, c. S-2; *Sale of Goods Act*, RSS 1978, c. S-1; *The Sale of Goods Act*, CCSM 2000, c. S10; *Sale of Goods Act*, RSO 1990, c. S.1; *Sale of Goods Act*, RSNL 1990, c. S-6 ;*Sale of Goods Act*, RSNS 1989, c. 408; *Sale of Goods Act*, RSNB 2016, c. 110; *Sale of Goods Act*, RSPEI 1988, c. S-1; *Sale of Goods Act*, RSY 2002, c. 198; *Sale of Goods Act*, RSNWT 1988, c. S-2; and *Sale of Goods Act*, RSNWT (Nu) 1988, c. S-2,

5. *Motor Vehicle Safety Act* , R.S.C. 1993, c.16

6. *Motor Vehicle Safety Regulations*, C.R.C., c. 1038

7. Federal Motor Vehicle Safety Standard, United States *Code of Federal Regulations*, Title 49, Part 571

8. *Court Order Interest Act*, R.S.B.C., c. 79

9. *Competition Act*, R.S.C 1985, c. C-34

10. *Limitation Act*, S.B.C. 2012, c.13; *Limitations Act*, RSA 2000, c. L-12; *The Limitations Act*, SS 2004, c. L-16.1; *The Limitations Act*, SS 2004, c. L-16.1; *The Limitation of Actions Act*, CCSM c. L150; *Limitations Act*, 2002, SO 2002, c. 24, Sch. B; *Limitations Act*, SNL 1995, c. L-16.1; *Limitation of Actions Act*, SNS 2014, c. 35; *Limitation of Actions Act*, SNB 2009, c. L-8.5; *Statute of Limitations*, RSPEI 1988, c. S-7; *Limitation of Actions Act*, RSY 2002, c. 139; *Limitation of Actions Act*, RSNWT 1988, c. L-8; *Limitation of Actions Act*, RSNWT (Nu) 1988, c. L-8

[REDACTED]