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Attorneys for Plaintiffs

11 **UNITED STATES DISTRICT COURT**
12 **EASTERN DISTRICT OF CALIFORNIA**

13 STACIE ZAKSKORN, RACHELLE
SCHREIBER, and JAVIER HIDALGO, on
14 behalf of themselves and all others similarly
situated,

15 Plaintiffs,

16 v.

17 AMERICAN HONDA MOTOR CO., INC.,

18 Defendant.

Case Number: 11-cv-02610-KJM-KJN

**[PROPOSED] CONSOLIDATED
COMPLAINT**

(1) Violations of California Consumer Legal Remedies Act; (2) Violations of Unfair Business Practices Act; (3) Breach of Implied Warranty pursuant to Song-Beverly Consumer Warranty Act; (4) Breach of Written Warranty under the Magnuson-Moss Warranty Act, 15 U.S.C. § 2301 et seq.; (5) Breach of Express Warranty under CAL. COM. CODE § 2313; (6) Violations of Various States' Express Warranty Statutes; (7) Violation of Various States' Implied Warranty Statutes; and (8) Violations of Various States' Consumer Protection Statutes

1 Plaintiffs Stacie Zaskorn, Rachele Schreiber, and Javier Hidalgo (collectively
2 “Plaintiffs”) bring this action, on behalf of themselves and all others similarly situated, against
3 Defendants American Honda Motor Co., Inc. (“Honda” or “Defendant”), and allege as follows:

4 **NATURE OF THE CASE**

5 1. The braking system installed in the 2006-2011 Model Year Honda Civic vehicles
6 with rear drum brakes (“Class Vehicles”) suffers from one or more design and/or manufacturing
7 defects that causes the Class Vehicles’ front brake pads to wear out prematurely and require
8 replacement approximately every 7,500 to 15,000 miles, far more frequently than in a properly
9 functioning braking system (“Brake Defect”). Although defects in material, manufacturing and
10 workmanship are covered by Honda’s New Vehicle Limited Warranty, Honda has failed to repair
11 the Brake Defect under warranty.

12 2. Honda knows of the Brake Defect and knows that consumers do not anticipate
13 having to inspect or replace the Class Vehicles’ front brake pads every 7,500 to 15,000 miles.
14 Nevertheless, Honda has not informed current owners and lessees of Class Vehicles about the
15 Brake Defect, has not disclosed the Brake Defect to purchasers and lessors of Class Vehicles, and
16 continues to promote the braking system on the Class Vehicles.

17 3. The Class Vehicles present a safety hazard and are unreasonably dangerous to
18 consumers. The braking system is one of the most important mechanical components for vehicle
19 control and safe driving. A defective braking system can have serious consequences on handling,
20 braking, and the stability of the Class Vehicles while in operation, thereby contributing to car
21 accidents, which can cause personal injury or death.

22 4. In addition to these safety hazards, the cost to repair the Brake Defect can be
23 exorbitant because consumers will be required to pay hundreds, if not thousands, of dollars to
24 prematurely replace the brake pads, rotors, calipers and other brake related components as a result
25 of the Brake Defect. Indeed, as a result of the Brake Defect, the front brake pads must frequently
26 be replaced prematurely, in many cases after less than 15,000 miles.

1 Boulevard, Torrance, California 90501-2746. AHM is the U.S. sales, marketing, and distribution
2 subsidiary of its Japanese parent company, Honda Motor Co., Ltd. (“HMC”). AHM is
3 responsible for importing, marketing, advertising, distributing, selling, leasing, warranting and
4 servicing Honda vehicles in the United States.

5 **JURISDICTION AND VENUE**

6 12. This is a class action and the Defendants are collectively referred to as (“Honda”).

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

12 14. This Court has jurisdiction over Defendants because Honda maintains its principal
13 headquarters in California, is registered to conduct business in California, and has sufficient
14 minimum contacts in California. Defendants intentionally avail themselves of the California
15 consumer market through the promotion, sale, marketing, and distribution of its vehicles to
16 California residents. As a result, jurisdiction in this court is proper and necessary. Moreover,
17 Defendants’ wrongful conduct, as described herein, emanates from California and foreseeably
18 affects consumers in California and nationwide. Most, if not all, of the events complained of
19 below occurred in or emanated from Honda U.S.A.’s corporate headquarters located in Torrance,
20 California. Plaintiffs’ counsel’s Declaration, as required under California Civil Code section
21 1780(d), is attached as Exhibit 1.

22 15. Venue is proper in this District under 28 U.S.C. § 1391 (a)-(c) because, inter alia,
23 substantial parts of the events or omissions giving rise to the claim occurred, or a substantial part
24 of properly that is the subject of the action is situated.

SUBSTANTIVE ALLEGATIONS

1
2 16. For years, Honda has designed, manufactured, distributed, sold, and leased the
3 Class Vehicles. Upon information and belief, it has sold, directly or indirectly through dealers
4 and other retail outlets, tens of thousands of Class Vehicles in California and nationwide.

5 17. The Class Vehicles come equipped with a braking system, which consists of
6 braking components (rotors, calipers, master cylinder, and brake pads), an Electronic Brake
7 Distribution system, a Vehicle Stability Assist system, a Brake Assist system, and an anti-lock
8 braking system (collectively, the Class Vehicles’ “Braking System”).

9 18. Honda widely advertises the Class Vehicles’ Braking System. For example, on
10 September 14, 2007, Honda touted, “Every 2008 Honda Civic integrates a wide array of standard
11 safety technologies. Standard active safety features include an anti-lock brake system (ABS) with
12 brake assist and electronic brake distribution.”

13 19. Honda provides owners and lessees of Class Vehicles with a New Vehicle Limited
14 (“NVL”) Warranty. The NVL Warranty states that AHM will repair or replace, free of charge,
15 any part that is defective in material or workmanship under normal use for 3 years or 36,000
16 miles, whichever comes first.

17 20. The defect in the Class Vehicles’ Braking System causes the front brakes to wear
18 out prematurely, and require replacement approximately every 7,500 to 15,000 miles. In properly
19 functioning braking systems, front brake pads typically last for 30,000 miles or more.

20 21. Because the Brake Defect is caused by defects in material and/or workmanship,
21 AHM is obligated to cover repairs to the Braking System during the NVL warranty period.
22 AHM, however, refuses to repair consumers’ vehicles under the NVL Warranty, refuses to
23 replace the parts free of charge, and refuses to publicly acknowledge that the Brake Defect exists.
24 Honda’s refusal to honor the warranty harms the Plaintiffs and Class members by forcing them to
25 incur out-of-pocket costs on covered repairs and by forcing them to spend excessive time
26 replacing parts repeatedly damaged by the Brake Defect.

1 22. Numerous consumer complaints concerning the Braking System in Class Vehicles
2 have been lodged with the National Highway Traffic Safety Administration (NHTSA). These
3 complaints reflect the abnormally premature failure of the brake pads, the repeated, unexpected
4 repair costs, and Honda's refusal to honor its warranty or to take responsibility for the Brake
5 Defect. The complaints also demonstrate Honda's awareness of the defect and how potentially
6 dangerous the defective condition is (note that spelling and grammar mistakes remain as found in
7 the original):

- 8 • [2010 Honda Civic] WITH LESS THAN 12,000 MILES ON MY CAR, MY
9 BRAKE PADS NEED TO BE REPLACED. I WOULD HAVE NEVER
10 EXPECTED MY CAR TO NEED NEW BRAKES THIS EARLY, SO I ALMOST
11 DIDN'T TAKE MY CAR IN WHEN IT WAS MAKING A NOISE. I INPECTED
12 MY CAR TO SEE IF SOMETHINGW AS STUCK IN THE TIRES OR
13 SOMETHING LIKE THAT AND AM SHOCKED TO FIND OUT MY BRAKES
14 ARE ALREADY WORN. AFTER MUCH RESEARCH ONLINE, I SEE THAT
15 THIS IS A COMMON ISSUE FOR HONDAS.
- 16 • MY 2009 HONDA CIVIC LX NEEDED TO HAVE THE FRONT BRAKE
17 PADS REPLACED (WORN TO MINIMUM) AT 11K MILES AND NOW
18 AGAIN AT 23K. NORMAL USAGE, PREVIOUS 5 VEHICLES SERVICED AT
19 ~50K MILES UNDER SAME CONDITIONS. APPEARS TO BE DEFECT IN
20 BRAKE PAD LIFE TIME. *
- 21 • 2008 HONDA CIVIC'S HAVE A BRAKE SYSTEM PROBLEM. I HAD TO
22 REPLACE MY BRAKES ALL AROUND AT 12,935 MILES, THE FRONT
23 BRAKES HAD TO BE REPLACED AGAIN AT 22,885, AND THEN ALL
24 AROUND AGAIN AT 37,417. I PLACED A COMPLAINT WITH HONDA
25 AMERICA, THEY ARE UNWILLING TO ADMIT THAT THERE IS A BRAKE
26 SYSTEM PROBLEM. I WAS TOLD IT IS HOW I DRIVE THE CAR. THERE
27 HASN'T BEEN A FAILURE YET, I AM TRYING TO AVOID A FAILURE
28 AND WOULD LIKE TO HAVE THIS ISSUE CHECKED.
- 2008 HONDA CIVIC VIN#[XXX] ON JUNE 5, 2009, I PURCHASED A 2008
HONDA CIVIC FROM WHITE PLAINS HONDA LOCATED IN WHITE
PLAINS, NY FOR MY 21 – YEAR OLD SON. THE PURPOSE OF THIS
LETTER IS REGARDING THE ONGOING BRAKE PROBLEM HE IS
EXPERIENCING. ON OCTOBER 1, 2009 (WITH ONLY 17,223 MILES ON
THE CAR), MY SON'S CAR WAS SERVICED AT WHITE PLAINS HONDA
BECAUSE OF A GRINDING NOISE HE WAS EXPERIENCING EVERY
TIME HE WOULD STEP ON THE BRAKE. WHITE PLAINS HONDA
ADVISED MY SON THAT HE NEEDED FRONT BRAKE PADS AND
ROTORS. MY MECHANIC ADVISED ME THAT BRAKES SHOULD LAST
AT LEAST 30,000 MILES. ON THE SAME DAY, MY MECHANIC
REPLACED 1 SET OF FRONT DISC BRAKES AND 2 BRAKE ROTORS. ON
MARCH 26, 2010, MY SON'S CAR AGAIN NEEDED BRAKE REPAIR. AT
THE TIME OF SERVICE, THER WERE 31,425 MILES ON THE CAR WHICH
MEANT HE ADDED AN ADDITIONAL 14,202 MILES ON THE CAR SINCE
HIS LAST REPAIR. AGAIN, I HAVE CLARIFIED FROM A FEW
MECHANICS THAT BRAKES SHOULD LAST AT LEAST 30,000 MILES.

1 MY MECHANIC ME THAT THERE HAVE BEEN AT LEAST 4 HONDA
2 CIVICS HE HAS SERVICED IN HIS SHOP WITH THE SAME BRAKE
3 PROBLEMS. HE CAN'T FIGURE OUT WHY THERE IS A CONTINUOUS
4 PROBLEM WITH THE BRAKE WEARING OUT ON THE DRIVER'S SIDE. I
5 HAVE COPIES OF ALL THE REPAIR RECEIPTS. I BOUGHT A HONDA
6 BECAUSE I THOUGHT I WAS PURCHASING A REPUTABLE CAR FOR MY
7 SON. IN THIS ECONOMY, WHO CAN AFFORD TO REPLACE BRAKES
8 EVERY 14,000 MILES? INFORMATION REDACTED PURSUANT TO THE
9 FREEDOM OF INFORMATION ACT (FOIA) 5 U.S.C. 552(B)(6). *TR

- 6 • TL* THE CONTACT OWNS A 2008 HONDA CIVIC. THE CONTACT
7 STATED THAT THE VEHICLE WAS MAKING AN UNUSUALLY
8 GRINDING NOISE. THE DEALER INFORMED HER THAT THE BRAKE
9 PADS WERE CRYSTALLIZED. THE DEALER LUBRICATED THE BRAKE
10 PADS AND ADVISED THE CONTACT THAT THE FAILURE WOULD NOT
11 RECUR. HOWEVER, THE FAILURE RECURRED WITHIN TWO DAYS.
12 THE CONTACT CONFIRMED THAT THE FRONT BRAKE PADS ON HER
13 VEHICLE HAD BEEN REPLACED THREE TIMES IN TWO YEARS. THERE
14 WERE NO ADDITIONAL REPAIRS MADE TO THE VEHICLE. THE
15 FAILURE MILEAGE WAS APPROXIMATELY 10,258 AND CURRENT
16 MILEAGE WAS 23,000.
- 12 • A RUBBING, GRINDING, METAL ON METAL NOISE FROM THE FRONT
13 BRAKES AFTER A LITTLE OVER 19, 916 MILES. I HAD THE DEALERSHIP
14 PERFORM AN INSPECTION OF THE BRAKE SYSTEM AND WAS TOLD
15 THAT IT WAS NOT UNDER WARRANTY. THE PADS HAVE WORN
16 DOWN TO THE POINT WHERE METAL-TO-METAL CONTACT IS
17 OCCURRING, MY VEHICLE MAY NOT BE ABLE TO STOP SAFELY, AND
18 DAMAGE MAY OCCUR WHERE THE BRAKE ROTORS OR DRUMS NEED
19 TO BE REPLACED
- 17 • MY 2008 HONDA CIVIC LX SEDAN IS IN THE DEALER AGAIN FOR
18 BRAKES. THE FRONT BRAKES WERE REPLACED AT 18,000 MILES IN
19 MAY OF 2009 AND NOW AT 31,000 IT NEEDS THEM AGAIN. ROTORS
20 HAVE TO BE TURNED AGAIN AND BRAKE PADS REPLACED AGAIN.
21 OUR DRIVING IS MOSTLY HIGHWAY AND WE DON'T ABUSE OUR CAR.
22 BRAKES ARE UNDERSIZED FOR VEHICLE. HONDA AGREED AND
23 FIXED THE FIRST TIME, NOW ARE SAYING IT IS NOT THERE
24 PROBLEM. I HAVE OWNED 2 OTHER HONDA VEHICLES AND NEVER
25 PUT BRAKES ON EITHER ONE OF THEM. DEALER SAID THIS A
26 TYPICAL WEAR AND TEAR FOR VEHICLE MODEL. *TR
- 22 • 2008 HONDA CIVIC BRAKES WEARING OUT AFTER ONLY 16,000 MILES
23 OF USE. HONDA MOTORS STATES THAT THERE IS NOTHING WRONG
24 WITH THE BRAKES BUT WE WILL NEED TO BRING THE CIVIC IN FOR
25 BRAKE REPLACEMENT EVERY 15 – 17,000 MILES OR EVERY 18
26 MONTHS. *TR
- 25 • FRONT BRAKES WERE WORN DOWN OVER A VERY SHORT
26 DURATION. THE CAR DID NOT HAVE MANY MILES ON IT, NOR HAD
27 THE CAR BEEN DRIVEN ERRATICALLY, BUT THE BRAKES NEEDED TO
28 BE REPLACED.
- HONDA CIVIL LX – 17,000 MILES. NOISE FROM FRONT WHEN
BRAKING. DEALERSHIP SAID THAT FRONT BRAKES HAD TO BE

1 COMPLETELY REPLACED (PADS AND ROTORS). REFUSED TO COVER
2 UNDER WARRANTY CLAIMING THAT THIS WAS NORMAL WEAR.
3 COMPLAINED TO AMERICAN HONDA AND WAS TOLD THAT THIS NOT
4 UNDER WARRANTY AND CLEARLY DUE TO WEAR. THEY REFUSED
5 TO COMMENT WHEN I ASKED HOW 17,000 MILES FOR NEW FRONT
6 BRAKES COULD POSSIBLY BE CONSIDERED WEAR. MILES ARE ALL
7 HIGHWAY DRIVEN. *TR

- 8 • I BOUGHT MY 2008 HONDA CIVIC LX IN JUNE 2008. AT 15,000 MILES I
9 HAD A BUNCH OF BRAKE PROBLEMS (LOUD NOISES, DIFFICULTY
10 STOPPING). I BOUGHT THE CAR INTO THE DEALERSHIP WHERE I
11 BOUGHT IT AND WAS TOLD I HAD "CONTAMINATED" BRAKE PADS.
12 THEY REPLACED THEM FOR FREE. SIX MONTHS LATER, I WAS
13 HAVING THE SAME PROBLEM. TOOK IT IN AGAIN TO THE DEALER
14 AND THEY SAID NOTHING WAS WRONG. I HAVE CONTINUED TO
15 FEEL UNEASY ABOUT MY BRAKES AS THEY DON'T STOP LIKE THE
16 THREE OTHER CARS I HAVE HAD. NOW, AT 41K SCREECHING NOISES
17 HAVE STARTED AGAIN. THEY STARTED ON A FRIDAY AND I TOOK
18 THE CAR TO THE SAME DEALERSHIP MONDAY MORNING. THEY
19 TOLD ME I HAVE BARELY ANY BRAKE PADS LEFT AND IT MUST BE
20 DUE TO MY DRIVING. (INCORRECT AS I MAINLY DRIVING AND NOW
21 HAVE A 7 MINUTE COMMUTE TO WORK). THE DEALERSHIP WAS
22 ABSOLUTELY HORRIBLE, CLAIMING IT IS MY ISSUE AND THEY ARE
23 NOT RESPONSIBLE. *TR
- 24 • [2010 Honda Civic] PREMATURE BRAKE SYSTEM WEAR AFTER ONLY
25 15,000 MI OF CONSERVATIVE CITY DRIVING IN THE SPAN OF 12
26 MONTHS.
- 27 • [2010 Honda Civic] WITH LESS THAN 12,000 MILES ON MY CAR, MY
28 BRAKE PADS NEED TO BE REPLACED. I WOULD HAVE NEVER
EXPECTED MY CAR TO NEED NEW BRAKES THIS EARLY, SO I ALMOST
DIDN'T TAKE MY CAR IN WHEN IT WAS MAKING A NOISE. I INPECTED
MY CAR TO SEE IF SOMETHINGW AS STUCK IN THE TIRES OR
SOMETHING LIKE THAT AND AM SHOCKED TO FIND OUT MY BRAKES
ARE ALREADY WORN. AFTER MUCH RESEARCH ONLINE, I SEE THAT
THIS IS A COMMON ISSUE FOR HONDAS.
- I PURCHASED MY 2008 HONDA CIVIC LX BRAND NEW, AND LESS
THEN 6 MONTHS LATER, MY FRONT BRAKE PADS WORE OUT AND
HONDA GAVE ME A ONE TIME COURTESY REPLACEMENT. 6 MONTHS
AFTER THAT, THEY WERE METAL TO METAL AGAIN. I AM NOW
SCHEDULED TO BRING MY CAR INTO HONDA ON THURSDAY,
BECAUSE THE FRONT PADS ARE GRINDING METAL TO METAL, AND
THIS WILL BE THE FIFTH TIME THAT THE FRONT BRAKE PADS WILL
HAVE BEEN REPLACED ON A CAR THAT IS 2.5 YEARS OLD. THE LAST
TIME THE PADS WERE REPLACED (AT MIDAS) WAS 3 MONTHS AGO,
AND AT THAT TIME, THEY TOLD ME THAT THE ROTORS WERE SHOT
AND IT WOULD COST ME \$300 TO REPLACE THEM. I TOLD THEM NO
WAY, AND TOOK IT TO HONDA, AND THEY REPLACED THE ROTORS
FREE OF CHARGE, SINCE I WAS WITHIN WARRANTY. BUT
NONETHELESS, 3 MONTHS AGO I HAD NEW FRONT ROTORS AND NEW
FRONT PADS AND NOW THEY ARE AGAIN GRINDING METAL TO
METAL.

- 1 • WHY HASN'T HONDA RECALLED THEIR CIVICS? I HAVE HEARD THAT,
2 IN REDESIGNING THE CIVIC, THAT HONDA MADE THE BRAKE DISCS
3 BIGGER, BUT NEGLECTED TO PUT ON BIGGER PADS TO
4 COMPENSATE. THE RESULT, BRAKE PADS THAT GRIND DOWN TO
5 NOTHING IN 3 MONTHS. I MET A GUY WITH THE SAME YEAR CIVIC
6 THE OTHER DAY AND THE FIRST QUESTION HE ASKED ME WAS "DO
7 YOU HAVE ANY BRAKE PROBLEMS?"
- 8 • AT ABOUT 10,000 MILES MY 2008 HONDA CIVIC DEVELOPED
9 DEAFENING SCREECHING FROM THE FRONT BRAKES. IT WOULD
10 COME AND GO AT FIRST AND THEN DIDN'T STOP AT ALL. MADE APPT
11 WITH HONDA DEALER (80 MILES AWAY, CLOSEST ONE) AND TOOK IT
12 IN. THEY SAID BRAKE PADS WERE WORN OUT BUT THEY DIDN'T
13 HAVE ANY IN STOCK SO I HAD TO WAIT UNTIL THEY CAME IN. IT
14 TOOK 2 WEEKS! THEN WHEN I CAME IN THEY CLAIMED THEY WORE
15 OUT THAT FAST BECAUSE THERE WAS DIRT IN THEM AND ALSO
16 INSINUATED I MUST STOMP THE BRAKE A LOT, WHICH IS NOT THE
17 CASE. I'M A LITTLE OLD LADY, DRIVING-WISE AND
18 CHRONOLOGICALLY. (AND WHY WOULD IT BE DIRT ONE MINUTE,
19 AND ME STOMPING THEM THE NEXT?) I GOT TESTY AND THEY SAID
20 NO CHARGE, COURTESY, YADA YADA, BUT ALL THE WHILE ACTING
21 VERY SUPERIOR. ABOUT 6 WEEKS LATER DRIVING HOME AFTER
22 THANKSGIVING TRIP, BRAKES SCREAMED FOR HUNDREDS OF MILES.
23 AFTER REST IN GARAGE, NO NOISE, NEVER AGAIN. I CALLED HONDA
24 AT THAT POINT AND FILED A COMPLAINT. THEY CALLED ME AND
25 WERE EXTREMELY RUDE, ARROGANT, KEPT ASKING WHAT I
26 WANTED! WHAT I WANTED WAS BRAKES THAT DIDN'T MAKE NOISE,
27 EVER! ALSO, WHEN SPEAKING TO HONDA, THEY FOUND NO RECORD
28 OF THE FRONT BRAKE PADS HAVING BEEN REPLACED, HAD TO CALL
THE DEALERSHIP TO CONFIRM IT EVER HAPPENED. THEY REPORTED
I WORE THEM OUT AND WASN'T I LUCKY THEY REPLACED THEM
FREE OF CHARGE? THIS WHOLE EPISODE LEFT A VERY BAD TASTE
FOR HONDA IN GENERAL, MAKES ME REGRET THAT I SWITCHED
FROM HYUNDAIS TO HONDA FOR THE BETTER GAS MILEAGE.
- THIS IS MY THIRD HONDA. BY AND LARGE I COUNT MYSELF AS A
SATISFIED HONDA CUSTOMER, BUT HAVE BEEN SURPRISED BY HOW
OFTEN I'VE HAD TO REPLACE THE BRAKES ON THIS CAR. I FIRST HAD
TO REPLACE THE BRAKES ON THIS CAR AT THE 18,000 MILE POINT. I
WAS VERY SURPRISED! MY DEALER TOLD ME THE PROBLEM WAS
THAT I AM RIDING THE BRAKES--NO SURPRISE AND DEFINITELY
WRONG SINCE I DO NOT RIDE THE BRAKES. AT THIS POINT, MY CAR
HAS 43,000 MILES AND I AM HAVING TO CONSIDER REPLACING THE
BRAKES ON IT A THIRD TIME. I HAVE NOT BEEN HAPPY WITH THE
LEVEL OF CUSTOMER SERVICE AT THE DEALER, AND SO HAVE
STOPPED TAKING THIS CAR TO HIM FOR SERVICE OF ANY KIND.
- ASIDE FROM THAT, AND THE OCCASIONAL "CLUNK" FROM THIRD
GEAR INTO FIRST (WHEN I SLOW DOWN AT A STOP SIGN FOR
INSTANCE--APPARENTLY THAT'S NOT UNUSUAL FOR THIS CAR), I'VE
BEEN PRETTY SATISFIED WITH THE PERFORMANCE OF THIS CAR.
HONDA NEEDS TO TAKE CARE OF THIS PROBLEM THOUGH.
- PISSED BECAUSE MY BREAKS WERE SQUEAKING AND I THOUGHT I
COULDN'T POSSIBLY NEED NEW BREAKS BEING THAT MY CAR IS

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LESS THAN A YEAR OLD AND BARELY HAS 9,000 MILES. DEALERSHIP TOLD ME THE FRONT WAS WORN DOWN TO A 2.8 AND THE BACK BREAKS ARE AT A 4 (THOSE SHOULD BE REPLACED AT 3). OMG, I ALMOST LET THIS GO ANOTHER FEW WEEKS THINKING MAYBE IT WAS DUST OR SOMETHING. SO THEY TELL ME THAT HONDA IS AWARE OF THE PROBLEM AND WORKING OUT A FIX, THAT THEY AREN'T SURE WHY THEIR 08 AND 09 CIVICS AND ACCORDS BREAK PADS ARE WEARING DOWN SO FAST. WTF, I'M SO PISSED, I AM IN THE MIDST OF DEALING WITH THEM AND CALLING CONSUMER AFFAIRS BECAUSE I AM NOT ABOUT TO PAY TO KEEP REPLACING THE BREAKS ON MY NEW CAR OR EVERY 9K MILES. WHAT HAPPENS WHEN THE WARRANTY IS UP? SO THEY HAVEN'T TOUCHED THE BACK BREAKS BUT THOSE WILL NEED TO BE REPLACED WHAT IN A FEW WEEKS? I WANT TO KNOW IF ANYONE ELSE HAS HAD THIS PROBLEM AND HAD IT REMEDIED.

- I BOUGHT THIS HONDA CIVIC 2009 IN JULY 2009 AND AFTER A LITTLE OVER A YEAR WITH 14,752 MILES ONLY, THE FRONT BRAKES PREMATURELY WEAR. I HAD IT REPLACED ON MY EXPENSES BECAUSE I NEEDED TRANSPORTATION FOR MY DAILY WORK ROUTINE. LATER I SENT A LETTER OF COMPLAIN TO AMERICAN HONDA AUTOMOBILE CUSTOMER SERVICE AND REQUESTING A REIMBURSEMENT. A JONATHAN YU CALLED MY HOUSE AND LEFT A VOICE MESSAGE; I RETURNED HIS CALL A FEW TIMES AND LEFT VOICEMAIL MESSAGES, BUT NEVER GOT A CALL BACK. I CALLED THE HONDA AUTOMOBILE CUSTOMER SERVICE AND WAS ANSWERED BY A MICHAEL WHO RUDELY REFUSED TO GIVE ME HIS LAST NAME AND REFUSED TO LET ME TALK TO THEIR MANAGER.
- I'M GETTING NOWHERE WITH THIS COMPLAIN WITH HONDA'S UNPROFESSIONAL BUSINESS ETHICS. I AM PURSUING A COMPLAINT WITH THE CONSUMER AFFAIRS AND THE OFFICE OF DEFECTS INVESTIGATIONS OF NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION, AND POSSIBLY SUE HONDA.
- 2008 HONDA CIVIC VIN# [XXX] ON JUNE 5, 2009, I PURCHASED A 2008 HONDA CIVIC FROM WHITE PLAINS HONDA LOCATED IN WHITE PLAINS, NY FOR MY 21-YEAR OLD SON. THE PURPOSE OF THIS LETTER IS REGARDING THE ONGOING BRAKE PROBLEM HE IS EXPERIENCING. ON OCTOBER 1, 2009 (WITH ONLY 17,223 MILES ON THE CAR), MY SONS CAR WAS SERVICED AT WHITE PLAINS HONDA BECAUSE OF A GRINDING NOISE HE WAS EXPERIENCING EVERY TIME HE WOULD STEP ON THE BRAKE. WHITE PLAINS HONDA ADVISED MY SON THAT HE NEEDED FRONT BRAKE PADS AND ROTORS. MY MECHANIC ADVISED ME THAT BRAKES SHOULD LAST AT LEAST 30,000 MILES. ON THE SAME DAY, MY MECHANIC REPLACED 1 SET OF FRONT DISC BRAKES AND 2 BRAKE ROTORS. ON MARCH 26, 2010, MY SONS CAR AGAIN NEEDED BRAKE REPAIR. AT THE TIME OF SERVICE, THERE WERE 31,425 MILES ON THE CAR WHICH MEANT HE ADDED AN ADDITIONAL 14,202 MILES ON THE CAR SINCE HIS LAST REPAIR. AGAIN, I HAVE CLARIFIED FROM A FEW MECHANICS THAT BRAKES SHOULD LAST AT LEAST 30,000 MILES. MY MECHANIC ADVISED ME THAT THERE HAVE BEEN AT LEAST 4 HONDA CIVICS HE HAS SERVICED IN HIS SHOP WITH THE SAME BRAKE PROBLEMS. HE CAN'T FIGURE OUT WHY THERE IS A

1 CONTINUOUS PROBLEM WITH THE BRAKE WEARING OUT ON THE
2 DRIVER'S SIDE. I HAVE COPIES OF ALL THE REPAIR RECEIPTS. I
3 BOUGHT A HONDA BECAUSE I THOUGHT I WAS PURCHASING A
4 REPUTABLE CAR FOR MY SON. IN THIS ECONOMY, WHO CAN AFFORD
5 TO REPLACE BRAKES EVERY 14,000 MILES? INFORMATION
6 REDACTED PURSUANT TO THE FREEDOM OF INFORMATION ACT
7 (FOIA), 5 U.S.C. 552(B)(6).

- 8 • MY 2008 HONDA CIVIC LX SEDAN IS IN THE DEALER AGAIN FOR
9 BRAKES. THE FRONT BRAKES WERE REPLACED AT 18,000 MILES IN
10 MAY OF 2009 AND NOW AT 31,000 IT NEEDS THEM AGAIN. ROTORS
11 HAVE TO BE TURNED AGAIN AND BRAKE PADS REPLACED AGAIN.
12 OUR DRIVING IS MOSTLY HIGHWAY AND WE DON'T ABUSE OUR CAR.
13 BRAKES ARE UNDERSIZED FOR VEHICLE, HONDA AGREED AND
14 FIXED THE FIRST TIME, NOW ARE SAYING IT IS NOT THERE
15 PROBLEM. I HAVE OWNED 2 OTHER HONDA VEHICLES AND NEVER
16 PUT BRAKES ON EITHER ONE OF THEM. DEALER SAID THIS IS
17 TYPICAL WEAR AND TEAR FOR VEHICLE MODEL.
- 18 • 08 HONDA CIVIC, PURCHASED NEW AND HAVE HAD THE SAME
19 BRAKE PROBLEMS SINCE 7, 000 MILES; SQUEALING FOLLOWED BY
20 GRINDING. I THOUGHT SOMETHING GOT STUCK BETWEEN THE
21 BRAKE AND THE ROTOR, I WAS WRONG. FRONT DRIVER SIDE PAD
22 WAS WORN DOWN TO NOTHING, PASSENGER SIDE PADS WERE OKAY.
23 CALLED DEALSHIP AND THEY STATED, BRAKES WERE NOT COVERED
24 UNDER WARRANTY AS THEY WERE UDER NORMAL WEAR-AND-
25 TEAR. I EXPLAINED THAT THE INSIDE PISTON ON THE DRIVER
26 CALIPER MUST NOT BE RECOVERING AFTER APPLICATION CAUSING
27 PAD TO WEAR OUT PREMATURELY, THEY DID NOTHING. I REPLACED
28 MYSELF. 6, 000 MILE LATER I HAD CAR IN IN FOR INSPECTION AND
DEALER SAID I NEEDE BRAKES. I COMPLAINED AND THEY TOOK 1/2
OFF AFTER I ASKED THEM IF IT WAS THE FRONT INSIDE DRIVER SIDE
PAD THAT WAS WORN OUT AGAIN. I REPLACE THE BRAKES EVERY 6
TO 9, 000 MILES. IT IS ALWAYS THE SAME PAD THAT IS WEARING OUT
FIRST. HONDA DEALER REFUSES TO RELACE THE CALIPER.
- NIGHTMARE! I HAVE A 2010 HONDA CIVIC & HAVE HAD TO REPLACE
THE BRAKES AT ABOUT 6, 000 MILES. I HAD REALLY BAD GRINDING
& THEN SOME STRANGE RINGING WHICH SOUNDED VERY SCARY.
SURE ENOUGH EVERYTHING WAS SHOT AND HAD TO REPLACE
FRONT BRAKE PADS. THIS IS B.S!!!!

23. Honda tells its customers that they should inspect their vehicles' brakes pads when
the vehicles' on-board computer system, which Honda calls the "Maintenance Minder System,"
informs them that service is due. However, the Brake Defect causes the pads to wear at such an
accelerated rate that the vehicles' on-board computer system does not warn drivers that the brake
pads require inspection or are suffering from dangerous levels of brake pad wear. Moreover,
Consumers do not expect to have to inspect or replace the brake pads after only 7,500 to 15,000

1 miles. The undisclosed defect in the Braking System poses an unreasonable safety risk to
2 consumers.

3 24. Honda has long known that the Class vehicles have a defective Braking System.
4 Honda has exclusive access to information about the Brake Defect through its dealerships, pre-
5 release testing data, warranty data, customer complaint data, and replacement part sales data,
6 among other sources of aggregate information about the problem. In contrast, the Braking
7 System defect was not known or reasonably discoverable by Plaintiffs and Class members prior
8 to purchase and without experiencing the defect first hand and exposing themselves to an
9 unreasonable safety risk.

10 25. Honda has actively concealed the Brake Defect from consumers. Even when
11 vehicle owners specifically ask whether their vehicle suffers from a known problem, Honda's
12 policy is to deny that there is a known problem, continue concealing the Brake Defect, and to
13 assert that replacing brake pads every 7,500 to 15,000 miles is normal or that it is the consumers'
14 aggressive driving behavior that is causing the problem. Honda knew that potential car buyers
15 and lessees would deem the defect in the Braking System to be material such that reasonable
16 consumers who knew of the defect either would have paid less for the Class Vehicles or would
17 not have purchased or leased a Class Vehicle at all.

18 26. Honda has a duty to disclose the Brake Defect and the associated repair costs to
19 Class Vehicles owners, among other reasons, because the defect poses an unreasonable safety
20 hazard; because Honda has exclusive knowledge or access to material facts about the Class
21 Vehicles and their Braking System that are not known or reasonably discoverable by Plaintiffs
22 and Class Members; and because Honda has actively concealed the Brake Defect from its
23 customers.

24 27. As a result of Honda's practices, Plaintiffs and Class members purchased vehicles
25 they otherwise would not have purchased, paid more for those vehicles than they would have
26 paid, were subjected to an unreasonable risk to their safety, and unnecessarily paid, and will
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1 continue to pay, excessive, unreasonable, and unforeseeable repair costs as a result of the Brake
2 Defect.

3 **PLAINTIFF STACIE ZAKSKORN**

4 28. On or about August 24, 2009, Plaintiff Stacie Zaksorn purchased a new 2009
5 Honda Civic from Folsom Lake Honda in Rancho Cordova, California, which came with the
6 factory-installed Braking System. Honda did not inform Ms. Zaksorn before her purchase that
7 the Civic's Braking System was defective or that the vehicle would need to have its front brake
8 pads replaced every 7,500 to 15,000 miles. Like all class members, Ms. Zaksorn would not have
9 purchased the vehicle had she known these material facts, or would have paid less for it.

10 29. On February 6, 2010, Ms. Zaksorn brought her vehicle into Folsom Lake Honda
11 complaining of a high pitch squealing type noise. At the time Ms. Zaksorn's vehicle had 10,675
12 miles on the odometer. The technicians at Folsom Lake Honda claimed to be "unable to verify"
13 the complaint.

14 30. Then, in July 2010, when Ms. Zaksorn's vehicle had 20,451 miles on the
15 odometer, she brought her vehicle to Folsom Lake Honda for regular service. While performing
16 the Honda Multi-Point Vehicle Inspection, the technician noted that Ms. Zaksorn's left front
17 brake pad had 1.5 millimeters remaining and the right front brake pad had 4 millimeters
18 remaining. The technician also checked off the boxes indicating that Ms. Zaksorn's front brakes
19 required "immediate attention." Despite the fact that brake pads are a "wear item" not covered
20 under the NVL warranty, Folsom Lake Honda replaced Ms. Zaksorn's front brake pads free of
21 charge, calling it a "1 time good will."

22 31. On September 24, 2010, when Ms. Zaksorn had 25,249 miles on her odometer
23 she again brought her vehicle to Folsom Lake Honda complaining of brake problems.
24 Specifically, Ms. Zaksorn complained that she felt a vibration when she applied the brakes. The
25 technician road-tested her vehicle and confirmed that there was a "brake pulsation." Upon
26 inspection of her vehicle, the technician found that her front brake rotors were "slightly
27 discolored" and "slightly out of round." Despite the fact that brake pads and brake rotors are
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1 wear parts not covered under warranty, Folsom Lake Honda replaced the rotors free of charge
2 under warranty. On May 21, 2011, when Ms. Zakskorn's vehicle had 36,751 miles on the
3 Odometer (and approximately 16,000 on the front brake pads), she brought her vehicle to Shingle
4 Springs Honda complaining of a whining noise while driving. The technician found that her front
5 brake pads were again worn down to the sensors and needed to be replaced. However, they
6 refused to cover the cost of this replacement under warranty, and she was charged \$159.95 to
7 replace the front brake pads.

8 32. Ms. Zakskorn is concerned with the safety and reliability of her vehicle's Braking
9 System. Ms. Zakskorn is also upset because she will have to spend time and money replacing the
10 front brake pads at much shorter increments than she anticipated at the time of purchase resulting
11 in a significantly higher cost of ownership.

12 **PLAINTIFF RACHELLE SCHREIBER**

13 33. On or about May 15, 2009, Plaintiff Rachelle Schreiber purchased a new 2009
14 Honda Civic from Norm Reeves Honda in West Covina, California, which came with the factory-
15 installed Braking System. Honda did not inform Ms. Schreiber before her purchase that the
16 Civic's Braking System was defective or that the vehicle would need to have its front brake pads
17 replaced every 7,500 to 15,000 miles.

18 34. On September 25, 2009, when Ms. Schreiber's vehicle had 9,610 miles on the
19 odometer, she brought her vehicle to Norm Reeves Honda complaining of a "loud screeching
20 sound that comes from the front end." The technician inspected her vehicle and determined that
21 the "front brake pads [were] worn to the sensors causing screeching when driving." Despite the
22 fact that brake pads are a "wear item" not covered under the NVL warranty, Norm Reeves Honda
23 replaced Ms. Schreiber's front brake pads free of charge under the warranty and also verified that
24 the entire Brake System was "working good."

25 35. On November 27, 2009, when Ms. Schreiber's vehicle had 14,396 miles on the
26 odometer, she brought her vehicle to Norm Reeves Honda again complaining of issues with her
27 brakes. The technician inspected her vehicle and determined that her front brakes were already
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1 worn down to 5 millimeters. However, instead of acknowledging and fixing the Brake Defect,
2 AHM's agent blamed the premature wear on Ms. Schreiber, claiming to have found objective
3 evidence that she was "riding [her] brakes." No repair was performed and Ms. Schreiber was not
4 charged for the inspection.

5 36. On January 18, 2010, when Ms. Schreiber's vehicle had 18,062 miles on the
6 odometer, she brought her vehicle to Norm Reeves Honda again complaining that her brakes were
7 squealing. The technician inspected her Brake System and confirmed that her front brake pads
8 (which had been used for under 5,000 miles) were worn down to 1 millimeter and her front brake
9 rotors were worn down to 20 millimeters. The technician replaced the front brake pads and
10 resurfaced the front brake rotors. Ms. Schreiber was told that the repair would cost \$195.41 but
11 she was not advised about the Brake Defect in her vehicle. When Ms. Schreiber complained
12 about her persistent brake problems, Norm Reeves Honda and AHM agreed to give Ms. Schreiber
13 a "one time gesture of goodwill" under its "goodwill" program and covered part of the repair cost.
14 Ms. Schreiber paid \$99.76 for the repair.

15 37. On April 8, 2010, when Ms. Schreiber's vehicle had 23,231 miles on the
16 odometer, she brought her vehicle to Norm Reeves Honda again complaining that she was having
17 problems with her brakes. The technician inspected her Brake System and confirmed that her
18 front brake pads (which had been used for under 9,000 miles) were worn down to 3 millimeters.
19 The technician again replaced the front brake pads and resurfaced the rotors. Norman Reeves and
20 AHM performed this repair free of charge under Honda's "goodwill and in the interest of
21 customer satisfaction" program.

22 38. On June 18, 2010, when Ms. Schreiber's vehicle had 27,768 miles on the
23 odometer, she brought her vehicle to Norm Reeves Honda again complaining that her brakes were
24 making noise. The technician inspected her Brake System and confirmed that her front brake
25 pads were "still OK," but that her "front [brake] rotors were heat warped which is causing noise
26 when braking." The dealership recommended that Ms. Schreiber have her front brake rotors
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1 resurfaced to eliminate the noise, but advised that she would be responsible for the cost of such
2 repair. Ms. Schreiber declined that service.

3 39. On August 16, 2010, when Ms. Schreiber's vehicle had 30,499 miles on the
4 odometer, she brought her vehicle to Norm Reeves Honda requesting that they check her brakes.
5 The technician inspected her Brake System and found that her vehicle's "front brake rotors [were]
6 glazed causing noise – brake pads are okay at this time." No repairs were recommended. Ms.
7 Schreiber was charged \$1.22 for a "hazardous waste fee brake service."

8 40. On October 29, 2010, when Ms. Schreiber's vehicle had 33,976 miles on the
9 odometer, she brought her vehicle to Norm Reeves Honda requesting that they check her brakes.
10 The technician inspected her Brake System and found that her front brake pads (which had been
11 used for approximately 10,000 miles) were worn down to 1 millimeter. The dealership replaced
12 the front brake pads and resurfaced the front brake rotors and Ms. Schreiber was charged \$190.83
13 for this repair.

14 41. On June 10, 2011, when Ms. Schreiber's vehicle had 44,816 miles on the
15 odometer, she brought her vehicle to Norm Reeves Honda requesting that they check her brakes.
16 The technician inspected her Brake System and found that her front brake pads (which had been
17 used for approximately 11,000 miles) needed replacement and her front brake rotors needed to be
18 resurfaced. Despite the continuous premature front brake wear, the dealership noted that she was
19 experiencing "normal brake pad wear." The dealership replaced the front brake pads and
20 resurfaced the front brake rotors and Ms. Schreiber was charged \$192.03 for this repair.

21 **PLAINTIFF JAVIER HIDALGO**

22 42. Plaintiff Javier Hidalgo purchased a 2008 Honda Civic, LX model in May of 2008.
23 Within 15,000 miles, Plaintiff's vehicle began experiencing loud grinding and squeaking sounds,
24 ultimately requiring a replacement of the front brake pads and resurfacing of rotors at a cost of
25 approximately \$270.00. This repair was performed at an authorized Honda dealer. Mr. Hidalgo
26 was denied coverage under Honda's warranty.

1 may be notified of the pendency of this action by mail, supplemented (if deemed necessary or
2 appropriate by the Court) by published notice.

3 49. Existence and predominance of common questions: Common questions of law
4 and fact exist as to all members of the Class and predominate over questions affecting only
5 individual Class Members. These common questions include the following:

- 6 a. Whether Honda provided Plaintiffs and Class members with a vehicle
7 installed with a defective Braking System or defective component parts;
- 8 b. Whether the fact that the Braking System is defective and requires front
9 brake pad replacement every 7,500 to 15,000 miles would be considered
10 material by a reasonable consumer;
- 11 c. Whether Honda has a duty to disclose the Brake Defect to Plaintiffs and
12 other Class members;
- 13 d. Whether Honda has violated the Consumers Legal Remedies Act, CAL.
14 CIV. CODE § 1750 *et seq.*, as alleged in this complaint;
- 15 e. Whether Honda has engaged in unlawful, unfair, or fraudulent business
16 practices in violation of California Business and Professions Code' section
17 17200 *et seq.*, as alleged in this complaint;
- 18 f. Whether Honda's refusal to repair the Brake Defect breached the express
19 warranty;
- 20 g. Whether the replacement of brake pads, without addressing the underlying
21 Brake Defect that caused premature wearing of the brake pads, fulfilled
22 Honda's obligations under its express warranty;
- 23 h. Whether Plaintiffs and the other Class members are entitled to equitable
24 relief, including but not limited to restitution or a preliminary and/or
25 permanent injunction;
- 26 i. Whether Plaintiffs and the other Class members are entitled to damages
27 and other monetary relief; and
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1 j. Whether Honda breached the express warranty and implied warranty of
2 merchantability.

3 50. Typicality: Plaintiffs' claims are typical of the claims of the Class, because,
4 among other things, Plaintiffs purchased Class Vehicles, which contain the same defective
5 Braking System found in all other Class Vehicles.

6 51. Adequacy: Plaintiffs are adequate representatives of the Class because their
7 interests do not conflict with the interests of the members of the Class they seek to represent.
8 Plaintiffs have retained counsel competent and experienced in complex class action litigation, and
9 Plaintiffs intend to prosecute this action vigorously. The interests of the members of the Class
10 will be fairly and adequately protected by Plaintiffs and their counsel.

11 52. Superiority: The class action is superior to other available means for the fair and
12 efficient adjudication of this dispute. The injury suffered by each Class member, while
13 meaningful on an individual basis, is not of such magnitude as to make the prosecution of
14 individual actions against Honda economically feasible. Even if Class members themselves could
15 afford such individualized litigation, it would place an excessive and unnecessary burden on the
16 court system. In addition to the burden and expense of managing myriad actions arising from the
17 Braking System defect, individualized litigation presents a potential for inconsistent or
18 contradictory judgments. Individualized litigation increases the delay and expense to all parties
19 and the court system presented by the legal and factual issues of the case. By contrast, the class
20 action device presents far fewer management difficulties and provides the benefits of single
21 adjudication, economy of scale, and comprehensive supervision by a single court.

22 53. In the alternative, the Class may be certified under Rule 23(b)(1) and 23(b)(2)
23 because:

24 a. The prosecution of separate actions by the individual members of the Class
25 would create a risk of inconsistent or varying adjudication with respect to
26 individual Class members which would establish incompatible standards of
27 conduct for Honda;

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

FIRST CAUSE OF ACTION
(Violation of the Consumers Legal Remedies Act,
CAL. CIV. CODE § 1750, *et seq.*)

54. On behalf of themselves and all others similarly situated, Plaintiffs re-allege as if fully set forth, each and every allegation set forth herein.

55. Honda is a “person” under Cal. Civ. Code §1761(c).

56. Plaintiffs and the other Class members are “consumers” under Cal. Civ. Code §1761(d).

57. Plaintiffs and the other Class members engaged in “transactions” under Cal. Civ. Code §1761(e), including the purchase or lease of Class Vehicles and the presentation of Class Vehicles for repair or replacement of the Braking System to Honda dealerships.

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

1 59. The existence of the Brake Defect is a material fact.

2 60. Plaintiffs and other Class members were unaware of the defective Braking System
3 when they purchased the Class Vehicles. Consumers value reliability and dependability of
4 automobiles and automobile parts, especially concerning vital safety mechanisms such as the
5 Braking System in the Class Vehicles. Had they known that the Braking System was defective,
6 Plaintiffs, and other Class members, would not have purchased or leased the Class Vehicles, or
7 would have done so at lower prices.

8 61. Reasonable consumers expect, among other things:

- 9 a. That new vehicles, including Class Vehicles, would be equipped with safe
10 and reliable brakes and would not be sold with undisclosed safety defects;
- 11 b. That new vehicles, including Class Vehicles, would be manufactured in a
12 manner not to cause premature wear on “wear items” like brake pads,
13 which the consumer must pay to replace;
- 14 c. That new vehicles, including Class Vehicles, would function properly for
15 the duration of the warranty and that defects will be covered under the
16 warranty; and
- 17 d. That new vehicles, including Class Vehicles, would not require
18 replacement of the front brake pads within 7,500 to 15,000 miles of
19 purchase or lease, or every 7,500 to 15,000 miles thereafter, for the life of
20 the vehicle.

21 62. Honda had a duty to disclose the Braking System’s defect in the Class Vehicles for
22 various reasons, including that:

- 23 a. The existence of the defect poses an unreasonable risk to the safety of the
24 Plaintiffs and other Class members;
- 25 b. The defect’s existence is contrary to Honda’s representations and
26 consumers’ expectations;
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- 1 c. Honda's concealment of the defect and/or Honda's failure to disclose the
2 defect was likely to deceive reasonable consumers;
- 3 d. Honda intentionally concealed the defect with the intent to defraud
4 consumers;
- 5 e. Honda's concealment of the defect harmed the Plaintiffs and other Class
6 members; and
- 7 f. Honda never intended to fulfill its warranty obligation to repair or replace
8 the defect in the Braking System or any of the damage caused thereby.

9 63. In addition, Honda was under a duty to Plaintiffs and the Class to disclose the
10 defective nature of the Class Vehicles:

- 11 a. Honda was in a superior position to know the true state of facts about the
12 safety defect and associated repair costs in the Class Vehicles;
- 13 b. Plaintiffs and the Class Members could not reasonably have been expected
14 to learn or discover that the Class Vehicles had a dangerous safety defect
15 until after they purchased the Class Vehicles; and
- 16 c. Honda knew that Plaintiffs and the Class Members could not reasonably
17 have been expected to learn or discover the safety defect and the associated
18 repair costs that it causes.

19 64. In failing to disclose the Brake Defect and the associated repair costs, Honda has
20 knowingly and intentionally concealed material facts and breached its duty not to do so.

21 65. The facts concealed or not disclosed by Honda to Plaintiffs and the Class are
22 material in that a reasonable consumer would have considered them to be important in deciding
23 whether to purchase Defendant's Class Vehicles or pay a lesser price. Had Plaintiffs and the
24 Class known the defective nature of the Class Vehicles, they would not have purchased the Class
25 Vehicles or would have paid less for them.

26 66. As a result of Honda's practices, Plaintiffs and the other Class members have
27 suffered harm.

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1 which seeks to protect consumers against unfair and sharp business
2 practices and to promote a basic level of honesty and reliability in the
3 marketplace; and

4 c. Engaging in conduct that causes a substantial injury to consumers, not
5 outweighed by any countervailing benefits to consumers or to competition,
6 which the consumers could not have reasonably avoided.

7 74. Honda engaged in fraudulent business practices by engaging in conduct that was
8 and is likely to deceive consumers acting reasonably under the circumstances.

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

16 76. Plaintiffs and Class members are entitled to equitable relief including restitution of
17 all fees, restitutionary disgorgement of all profits accruing to Honda because of its unfair,
18 fraudulent, and deceptive practices, attorneys' fees and costs, declaratory relief, and a permanent
19 injunction enjoining Honda from its unfair, fraudulent, and deceitful activity.

20 **THIRD CAUSE OF ACTION**
21 **(For Breach of Written Warranty Under the Magnuson Moss**
22 **Warranty Act, 15 U.S.C. § 2301 et seq.)**

23 77. Plaintiffs, on behalf of themselves and all others similarly situated, re-alleges, as if
24 fully set forth, each and every allegation set forth herein.

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

27 79. Honda is a "supplier" and "warrantor" within the meaning of sections 2301(4)-(5).
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1 80. The Class Vehicles are “consumer products” within the meaning of section
2 2301(1).

3 81. Honda’s express warranty is a “written warranty” within the meaning of section
4 2301(6).

5 82. Honda breached the express warranty by:

- 6 a. Extending a 3 year/36,000 miles New Vehicle Limited Warranty with the
7 purchase or lease of the Class Vehicles, thereby warranting to repair or
8 replace any part defective in material or workmanship at no cost to the
9 owner or lessee;
- 10 b. Selling and leasing Class Vehicles with Braking Systems that were
11 defective in material and workmanship, requiring repair or replacement
12 within the warranty period; and
- 13 c. Refusing to honor the express warranty by repairing or replacing, free of
14 charge, the Braking System or any of its component parts and instead
15 charging for repair and replacement parts.

16 83. Honda’s breach of the express warranty has deprived the Plaintiffs and the other
17 Class members of the benefit of their bargain.

18 84. The amount in controversy of the Plaintiffs’ individual claims meet or exceeds the
19 sum or value of \$25. In addition, the amount in controversy meets or exceeds the sum or value of
20 \$50,000 (exclusive of interests and costs) computed on the basis of all claims to be determined in
21 this suit.

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

25 86. As a direct and proximate cause of Honda’s breach of written warranty, Plaintiffs
26 and Class members sustained damages and other losses in an amount to be determined at trial.
27 Honda’s conduct damaged Plaintiffs and Class members, who are entitled to recover actual
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1 damages, consequential damages, specific performance, diminution in value, costs, attorneys'
2 fees, rescission, and/or other relief as appropriate.

3 **FOURTH CAUSE OF ACTION**
4 **(For Breach of Express Warranty Under CAL. COMM. CODE § 2313)**

5 87. Plaintiffs, on behalf of themselves and all others similarly situated, re-allege, as if
6 fully set forth, each and every allegation set forth herein.

7 88. Honda provided all purchasers and lessees of the Class Vehicles with the express
8 warranty described herein, which became a material part of the bargain. Accordingly, Honda's
9 express warranty is an express warranty under California law.

10 89. The Braking System and its component parts were manufactured and/or installed
11 by Honda in the Class Vehicles and are covered by the express warranty.

12 90. Honda breached the express warranty by:

- 13 a. Extending a 3 year/36,000 miles New Vehicle Limited Warranty with the
14 purchase or lease of the Class Vehicles, thereby warranting to repair or
15 replace any part defective in material or workmanship at no cost to the
16 owner or lessee;
- 17 b. Selling and leasing Class Vehicles with Braking Systems that were
18 defective in material and workmanship, requiring repair or replacement
19 within the warranty period; and
- 20 c. Refusing to honor the express warranty by repairing or replacing, free of
21 charge, the Braking System or any of its component parts and instead
22 charging for repair and replacement parts.

23 91. Plaintiffs notified Honda of the breach within a reasonable time and/or was not
24 required to do so because affording Honda a reasonable opportunity to cure its breach of written
25 warranty would have been futile. Honda was also on notice of the defect from the complaints and
26 service requests it received from Class members, from repairs and/or replacements of the Braking
27 System or a component thereof, and through its own maintenance records and other internal data.

1 116. Plaintiffs hereby incorporate by reference the allegations contained in the
2 preceding paragraphs of this Complaint.

3 117. Plaintiffs bring this cause of action on behalf of themselves and on behalf of the
4 members of all Class Members.

5 118. Plaintiffs and Class Members are consumers who bought or leased the Class
6 Vehicles for personal, family, or household purposes.

7 119. The Class Vehicles and their parts and replacement parts are goods or
8 merchandise, and Plaintiffs' purchases and leases of the Class Vehicles constitute transactions.
9 Defendant's sale, leasing, and/or repair of Class Vehicles through its authorized dealers occur in
10 the regular course of Defendant's business.

11 120. By failing to disclose and concealing the defective nature of the Class Vehicles
12 and their braking system from Plaintiffs and prospective Class Members, Defendant has engaged
13 in deceptive, unfair, fraudulent, and misleading acts and practices in connection with consumer
14 transactions, as they represented that their Class Vehicles and their braking systems had
15 characteristics and benefits that they do not have, and represented that their Class Vehicles and
16 their braking system were of a particular standard, quality, or grade when they were of another.

17 121. Defendant's unfair and deceptive acts or practices occurred repeatedly in
18 Defendant's trade or business, were capable of deceiving a substantial portion of the purchasing
19 public, and imposed a serious safety risk on the public.

20 122. Defendant knew that their Class Vehicles and their braking system suffered from
21 an inherent defect, were defectively designed or manufactured, would fail prematurely, and were
22 not suitable for their intended use.

23 123. Defendant was under a duty to Plaintiffs and the Class Members to disclose the
24 defective nature of the Class Vehicles' and their braking system and/or the associated repair costs
25 because:

26 a. Defendant was in a superior position to know the true state of facts about
27 the safety defects contained in the Class Vehicles and their braking system;

- 1 a. For an order certifying the Class and appointing Plaintiffs and their counsel
- 2 to represent the Class;
- 3 b. For a declaration that Defendants are financially responsible for notifying
- 4 all Class Members about the defective nature of the Class Vehicles and
- 5 their braking system defect;
- 6 c. For an award to Plaintiffs and the Class of compensatory, exemplary, and
- 7 statutory damages, including interest, in an amount to be proven at trial;
- 8 d. For an order awarding Plaintiffs and the members of the Class restitution,
- 9 or other equitable relief as the Court deems proper;
- 10 e. For an order enjoining Honda from continuing to engage in unlawful
- 11 business practices as alleged herein;
- 12 f. For an order awarding Plaintiffs and the members of the Class pre-
- 13 judgment and post-judgment interest;
- 14 g. For an order awarding Plaintiffs and the members of the Class reasonable
- 15 attorneys' fees and costs of suit, including expert witness fees, as allowed
- 16 by law;
- 17 h. For an order awarding Plaintiffs and the members of the Class reasonable
- 18 attorneys' fees and costs of suit, including expert witness fees, pursuant to
- 19 California Code of Civil Procedure § 1021.5, the common fund theory, or
- 20 any other applicable statute, theory, or contract;
- 21 i. any and all remedies provided pursuant to the Song-Beverly Act, including
- 22 California Civil Code §1794; and
- 23 j. For an order awarding such other and further relief as this Court may deem
- 24 just and proper.

25 **DEMAND FOR JURY TRIAL**

26 Plaintiffs demand a trial by jury on all claims so triable.

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1 Dated: December 17, 2013

Respectfully submitted,

2 By: /s/ Michael A. Caddell

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