

Matthew Melamed, CSB # 260272  
mmelamed@kellerrohrback.com  
KELLER ROHRBACK L.L.P.  
180 Grand Avenue, Suite 1380  
Oakland, CA 94612  
Telephone: (510) 463-3900  
Fax: (510) 463-3901

*Counsel for Plaintiffs*

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA  
SACRAMENTO DIVISION

FRANKLIN HUFFMAN, DANIELLE BULS,  
CLAUDIA DIEZ, AND MATTHEW KULL,

Plaintiffs,

v.

SUBARU OF AMERICA, INC.,

Defendant.

No.

**COMPLAINT**

**JURY TRIAL DEMANDED**

# TABLE OF CONTENTS

I.	INTRODUCTION .....	1
II.	JURISDICTION AND VENUE.....	2
A.	Subject Matter Jurisdiction.....	2
B.	Personal Jurisdiction .....	2
C.	Venue .....	3
D.	Divisional Assignment .....	3
III.	PARTIES .....	3
A.	Plaintiffs .....	3
B.	Defendant .....	4
IV.	FACTUAL ALLEGATIONS.....	4
A.	Development and Production of the Class Vehicles.....	4
B.	The Battery Defect.....	5
C.	Subaru Knew or Should Have Known About the Battery Defect .....	9
D.	Plaintiffs’ Experiences .....	12
1.	Danielle Buls.....	12
2.	Claudia Diez.....	14
3.	Franklin Huffman.....	16
4.	Matthew Kull .....	17
V.	CLASS ACTION ALLEGATIONS.....	19
VI.	ANY APPLICABLE STATUTES OF LIMITATION ARE TOLLED .....	21
A.	Discovery Rule .....	21
B.	Equitable Estoppel .....	22
VII.	CAUSES OF ACTION.....	22
A.	Claims Brought on Behalf of the Nationwide Class .....	22

1	COUNT ONE — COMMON LAW FRAUD – FRAUD BY OMISSION .....	22
2	COUNT TWO — UNJUST ENRICHMENT .....	23
3	B.    Claims Brought on Behalf of the California Subclass .....	24
4	COUNT THREE — VIOLATION OF THE CONSUMER LEGAL REMEDIES	
5	ACT (“CLRA”) (CAL. CIV. CODE § 1750, <i>ET SEQ.</i> ).....	24
6	COUNT FOUR — VIOLATION OF THE CALIFORNIA UNFAIR	
7	COMPETITION LAW (CAL. BUS. & PROF. CODE § 17200).....	26
8	COUNT FIVE — VIOLATION OF THE CALIFORNIA FALSE	
9	ADVERTISING LAW (CAL. BUS. & PROF. CODE § 17500, <i>ET SEQ.</i> ).....	27
10	COUNT SIX — BREACH OF EXPRESS WARRANTY (CAL. COM. CODE §§	
11	2313 AND 10210).....	29
12	COUNT SEVEN — BREACH OF THE IMPLIED WARRANTY OF	
13	MERCHANTABILITY (CAL. COM. CODE §§ 2314 AND 10212) .....	31
14	COUNT EIGHT — VIOLATIONS OF THE SONG-BEVERLY ACT –	
15	BREACH OF EXPRESS WARRANTY (CAL. CIV. CODE §§ 1791.2 &	
16	1793.2(D)).....	33
17	COUNT NINE — VIOLATIONS OF THE SONG-BEVERLY ACT – BREACH	
18	OF THE IMPLIED WARRANTY OF MERCHANTABILITY (CAL.	
19	CIV. CODE §§ 1792, 1791.1, <i>ET SEQ.</i> ) .....	35
20	COUNT TEN — FRAUD BY CONCEALMENT.....	36
21	C.    Claims Brought on Behalf of the New Jersey Subclass.....	37
22	COUNT ELEVEN — VIOLATION OF NEW JERSEY CONSUMER FRAUD	
23	ACT (N.J. STAT. ANN. § 56:8-1, <i>ET SEG.</i> ) .....	37
24	COUNT TWELVE — BREACH OF EXPRESS WARRANTY (N.J. STAT.	
25	ANN. §§ 12A:2-313, 12A:2-305, <i>ET SEG.</i> ).....	39
26	COUNT THIRTEEN — BREACH OF IMPLIED WARRANTY OF	
27	MERCHANTABILITY (N.J. STAT. ANN. §§ 12A:2-314 AND 12A:2A-	
28	212).....	42
	COUNT FOURTEEN — FRAUD BY OMISSION AND CONCEALMENT .....	44
	COUNT FIFTEEN — UNJUST ENRICHMENT.....	46
	D.    Claims Brought on Behalf of the New York Subclass.....	46

1	COUNT SIXTEEN — VIOLATIONS OF NEW YORK GENERAL BUSINESS	
2	LAW § 349 (N.Y. GEN. BUS. LAW § 349).....	46
3	COUNT SEVENTEEN — VIOLATIONS OF NEW YORK GENERAL	
4	BUSINESS LAW § 350 (N.Y. GEN. BUS. LAW § 350).....	48
5	COUNT EIGHTEEN — BREACH OF EXPRESS WARRANTY (N.Y. U.C.C.	
6	LAW §§ 2-313 AND 2A-210) .....	49
7	COUNT NINETEEN — BREACH OF THE IMPLIED WARRANTY OF	
8	MERCHANTABILITY (N.Y. U.C.C. LAW §§ 2-314 AND 2A-212).....	52
9	COUNT TWENTY — FRAUD BY CONCEALMENT .....	53
10	COUNT TWENTY-ONE — UNJUST ENRICHMENT.....	55
11	E. Claims Brought on Behalf of the Washington Subclass .....	55
12	COUNT TWENTY-TWO — VIOLATIONS OF THE CONSUMER	
13	PROTECTION ACT (REV. CODE WASH. ANN. §§ 19.86.010, <i>ET</i>	
14	<i>SEQ.</i> ).....	55
15	COUNT TWENTY-THREE — BREACH OF EXPRESS WARRANTY (REV.	
16	CODE WASH. § 62A.2-313 AND 62A.2A-210).....	57
17	COUNT TWENTY-FOUR — BREACH OF THE IMPLIED WARRANTY OF	
18	MERCHANTABILITY (REV. CODE WASH. § 62A.2-314/315).....	58
19	COUNT TWENTY-FIVE — FRAUD BY CONCEALMENT .....	59
20	COUNT TWENTY-SIX — UNJUST ENRICHMENT .....	61
21	VIII. PRAYER FOR RELIEF .....	62
22	IX. DEMAND FOR JURY TRIAL.....	63

## I. INTRODUCTION

1. Plaintiffs Franklin Huffman, Danielle Bulls, Claudia Diez, and Matthew Kull, (collectively, “Plaintiffs”), by and through their undersigned counsel, bring this action on behalf of themselves and all others similarly situated against Defendant Subaru of America, Inc. (“Subaru”). All allegations made in this complaint are based on investigation of counsel and information and belief, except those allegations that pertain to Plaintiffs’ vehicles, which are based on personal knowledge.

2. This putative class action arises out of Subaru’s failure to disclose and then adequately repair a uniform and widespread defect in the battery charging systems of certain electric vehicles that causes the 12-volt batteries to repeatedly lose their charge completely. This renders the vehicles unable to start and drive, and also damages the 12-volt batteries and causes them to die completely and require premature replacement. The result is that Plaintiffs and class members are left with vehicles that are not fit for ordinary use: the batteries die without warning, potentially stranding their drivers and passengers. This defect—hereinafter referred to as the Battery Defect—also results in considerable expenditure of time and out-of-pocket funds by Plaintiffs and class members, who must jumpstart their vehicles or arrange for them to be towed, wait for dealerships to charge or replace batteries, arrange separate transportation to school, work, medical appointments, and so on.

3. While some Plaintiffs and some class members have had their 12-volt batteries replaced under warranty to date, Subaru has not made any permanent fix available, which means the problem persists: the 12-volt batteries will simply die and require replacement yet again, indefinitely, because the charging systems in the vehicles are inherently defective. Many class members have been through multiple 12-volt batteries in mere months and at 10,000 or fewer miles, even though 12-volt batteries ordinarily last several years and tens or hundreds of thousands of miles.

4. Had the true nature of the Battery Defect been made known to Plaintiffs and class members at the time of purchase, they would not have purchased or leased the vehicles, or would have paid much less for them than they did.

5. The vehicles at issue (hereinafter “Class Vehicles” or “Vehicles”) are the 2023–2025 model year Subaru Solterra. These vehicles are plug-in electric crossovers that were developed together, are based on the same platform and powertrain, and are manufactured by Toyota in Japan, but are sold in the United States by both Toyota (as the bZ4x model) and Subaru (as the Solterra model). There are slight differences between the models, but they are largely cosmetic; on information and belief, the systems at issue in this Complaint are essentially identical, and all of the models suffer from the Battery Defect.

## II. JURISDICTION AND VENUE

### A. Subject Matter Jurisdiction

6. This Court has subject matter jurisdiction pursuant to the Class Action Fairness Act, 28 U.S.C. § 1332(d), because this is a class action in which the aggregate amount in controversy exceeds \$5,000,000, exclusive of interests and costs, and there are 100 or more class members who are citizens of different states than Defendant.

7. This Court has supplemental jurisdiction over Plaintiffs' state law claims under 28 U.S.C. § 1367.

## B. Personal Jurisdiction

8. This Court has general personal jurisdiction over Subaru because it has conducted substantial business in this judicial district and intentionally and purposefully placed Class Vehicles into the stream of commerce within the state of California and throughout the United States.

9. There are numerous authorized Subaru dealerships in this District and throughout the state of California. Together, these authorized dealers sold a significant number of Class Vehicles. California leads the nation in electric vehicle sales, including sales of the Class Vehicles.

10. Additionally, while Subaru's primary places of business in the United States are in New Jersey and Indiana, it conducts substantial operations in California. Subaru of America, Inc. is registered in California, and has Field Offices and Regional Distribution Centers in California, and, on information

1 and belief, imports vehicles and parts manufactured abroad via ports for distribution throughout the  
2 United States through ports located in California. Subaru conducts considerable business in California,  
3 as it markets, distributes, and oversees warranty service of the many thousands of Subaru vehicles that  
4 are sold, leased, and operated in California.

5 **C. Venue**

6 11. Venue is proper in this District pursuant to 28 U.S.C. § 1391 because a substantial part of  
7 the events or omissions giving rise to Plaintiffs' claims occurred in this District. Subaru has marketed,  
8 advertised, and sold the affected vehicles in this District, and otherwise conducted extensive business in  
9 this District.

10 **D. Divisional Assignment**

11 12. Because Plaintiff Huffman resides in El Dorado County and a substantial part of the  
12 events or omissions giving rise to Plaintiff's claims occurred there, this action is commenced in the  
13 Sacramento Division.

14 **III. PARTIES**

15 **A. Plaintiffs**

16 13. Franklin Huffman is a citizen of the State of California and resides in Placerville,  
17 California. Placerville is located in El Dorado County, California.

18 14. Danielle Buls is a citizen of the State of Washington and resides in Brush Prairie,  
19 Washington. Brush Prairie is located in Clark County, Washington.

20 15. Claudia Diez is a citizen of the State of New York and resides in New York City, New  
21 York, in the county of New York.

22 16. Matthew Kull is a citizen of the State of New Jersey and resides in West Orange, New  
23 Jersey. West Orange is located in Essex County, New Jersey.

**B. Defendant**

17. Defendant Subaru of America, Inc., is a New Jersey corporation with its principal place of business in Camden, New Jersey. Subaru of America is a wholly-owned U.S. sales and marketing subsidiary of Subaru Corporation, a Japanese corporation. Subaru of America advertises, markets, distributes, leases, warrants, and services Subaru vehicles in the United States through Subaru's network of more than 600 dealerships.

**IV. FACTUAL ALLEGATIONS**

**A. Development and Production of the Class Vehicles**

18. Subaru is a major multinational automaker, and it has engaged in several joint ventures over the last twenty years with another major multinational automaker, Toyota. In fact, Toyota's Japanese parent corporation has owned a substantial part of Subaru Corporation since 2005. Since then the two companies have cooperated to manufacture both companies' vehicles in one another's facilities, beginning with an effort to assemble Toyota Camry vehicles for the United States market at a Subaru plant in Indiana.

19. Toyota and Subaru also jointly developed a small sports car, which used a Subaru engine and was built at a Subaru manufacturing plant. This vehicle came to market in the United States in 2012, and was sold by Subaru as the BRZ model and by Toyota, initially as the FR-S (under Toyota's Scion brand), and later as the Toyota GR86.

20. More recently, the two companies have shared hybrid vehicle technology primarily developed by Toyota, with Subaru using a Toyota-derived hybrid powertrain in its first plug-in hybrid vehicle, a variant of the Crosstrek crossover.



1           21.     When the time came for these frequent collaborators to enter the fully electric vehicle  
2 (“EV”) market, they again worked together. In 2019, Toyota and Subaru announced that they would  
3 jointly develop a new SUV model that would be based on a new electric-vehicle platform.<sup>1</sup>  
4

5           22.     The resulting electric SUV came to market for the 2023 model year. It was and is sold by  
6 Subaru as the Solterra, and by Toyota as the bZ4X.

7           23.     The two vehicles have some minor differences, such as very slightly different exterior  
8 and interior styling to match each brand’s other models, and some different options intended to appeal to  
9 their respective customers. For example, the Solterra has slightly higher ground clearance and comes  
10 with all-wheel drive as a standard feature, along with Subaru’s proprietary traction management system,  
11 consistent with Subaru’s outdoors-focused brand identity. Meanwhile, the bZ4x is optimized more for  
12 city driving and commuting, so all-wheel drive is an optional extra.  
13

14           24.     But other than those minor differences, the two vehicles are, on information and belief,  
15 substantially identical. They use the same chassis architecture, the same EV battery, the same EV  
16 motors, and so on.

17           25.     They also use the same electrical and charging systems. The Class Vehicles are wholly  
18 electric, so drivers must plug them in to recharge the EV battery. The EV batteries in the Class Vehicles  
19 are lithium-ion battery packs consisting of numerous rechargeable battery cells that store electricity to  
20 power the electric motors.  
21

## 22     **B.     The Battery Defect**

23           26.     In addition to the EV batteries that are an integral part of their powertrain, the Class  
24 Vehicles are equipped with the type of battery that drivers of cars with traditional internal combustion  
25 engines are more familiar with: a 12-volt lead-acid battery.  
26  
27  
28

---

<sup>1</sup> <https://www.caranddriver.com/news/a27785342/toyota-subaru-ev-platform-electric-suv/>

1           27.     The 12-volt battery in the Class Vehicles, even though they are EVs, operates many of  
2 the same functions as a 12-volt battery does in an internal combustion vehicle: accessories like  
3 windshield wipers, lights, powered windows and seats, heating and cooling fans, and the radio. This  
4 makes sense: an EV can be equipped with the same accessory systems as a manufacturer's internal  
5 combustion vehicles are, and there is no need to reengineer these systems to work differently in an EV if  
6 the EV is equipped with a 12-volt battery.

7  
8           28.     Also like a traditional internal combustion vehicle, the 12-volt battery is involved in  
9 starting the motor. Rather than power a starter motor that begins rotating the moving parts of an internal  
10 combustion engine, the 12-volt battery in the Class Vehicles instead operates a switch between the EV  
11 battery and the drive motors that allows electricity to begin flowing to the to the motors.

12  
13           29.     Much like in a traditional internal combustion vehicle, if the 12-volt battery does not  
14 have an adequate charge to operate that starting switch, the Class Vehicles cannot start their motors.  
15 Thus, the Class Vehicles must charge their 12-volt batteries while driving.

16           30.     However, the 12-volt charging and battery systems in the Class Vehicles are defective,  
17 and as a result, the 12-volt batteries: (i) are not adequately recharged while driving; and (ii) drain until  
18 empty prematurely when the vehicle is not in operation.

19           31.     Consumers report online that their Class Vehicles (Subaru Solterra) can have their 12-  
20 volt battery drained as quickly as a few weeks or even days with little to no driving. Subaru itself  
21 mentions the dangers of so-called 'parasitic draw' (wherein a vehicle's 12-volt battery drains when the  
22 car is seemingly otherwise not in use), noting that Subaru disables some functions at the factory in order  
23 "to reduce parasitic current draw during transit" and storage and requiring dealership staff to re-enable  
24 certain functionality before the multimedia systems in a vehicle can be used.<sup>2</sup>

25  
26           32.     The Battery Defect has four deleterious effects:  
27  
28

---

<sup>2</sup> <https://static.nhtsa.gov/odi/tsbs/2023/MC-10231294-0001.pdf>

1           A.       First, the 12-volt batteries often lack sufficient charge to start the vehicle when  
2 needed, rendering the Class Vehicles unable to start because even if the EV battery is charged, it  
3 cannot be connected to the drive motors to begin the flow of electricity without the 12-volt  
4 battery. This is similar to the experience a driver of an internal combustion vehicle would have if  
5 their 12-volt battery were discharged and unable to start the vehicle.  
6

7           B.       The second problem the Battery Defect causes is unlike an internal combustion  
8 vehicle, however. Because EVs use electric motors that directly drive the axles or wheels rather  
9 than routing their power through a transmission that can easily be physically placed in neutral,  
10 allowing the wheels to rotate freely, the electric system of the Class Vehicles is necessary to  
11 engage or disengage the drive motors and allow the vehicle to move. This means that if it cannot  
12 be started, it also cannot roll freely, which means that Plaintiff and Class members whose Class  
13 Vehicles require towing because they cannot start—because the 12-volt battery is discharged—  
14 must arrange for specialized tow equipment. In combination with the first problem—the too-  
15 frequent situation in which the Class Vehicles cannot start—Plaintiff and Class members may be  
16 stranded by their vehicles when, without warning, they are unable to start because the 12-volt  
17 batteries are discharged.  
18

19           C.       The third problem is that because the 12-volt batteries operate many of the  
20 accessory systems in the Class Vehicles—including the computer systems required to manage  
21 the EV battery and drive motors—the Class Vehicles may shut down suddenly, even while  
22 driving, when the 12-volt battery is discharged. This presents an unacceptable safety risk.  
23

24           D.       The fourth problem is that repeated cycles of inadequate charging ultimately  
25 destroy the 12-volt batteries, requiring their premature replacement. Ultimately, fully discharging  
26 a 12-volt lead-acid battery causes the lead-acid medium to crystallize, such that it can no longer  
27 hold a charge. 12-volt batteries typically have a useful life of several years and hundreds or  
28

1 thousands of charge cycles over tens or hundreds of thousands of miles. The Battery Defect  
2 shortens that useful life.

3 33. It is possible to jump-start a Class Vehicle—just like an internal combustion vehicle, an  
4 external power source can be connected to the 12-volt battery to provide power to the 12-volt electrical  
5 system, and the vehicle can then be started. However, jump-starting requires carrying the proper  
6 equipment, may require the presence of another vehicle, and can itself damage the 12-volt battery.  
7

8 34. If a Plaintiff or Class member jump-starts their vehicle rather than tows the car, a dealer  
9 may be unwilling to test or replace the 12-volt battery, either because the battery is not dead upon arrival  
10 to the dealer, or because the 12-volt battery could theoretically have been damaged by jump-starting  
11 rather than by the defective charging system. This imposes a further burden, and a difficult and unfair  
12 choice, on a driver who has just been stranded by their vehicle—they can engage in self-help in order to  
13 get the vehicle to their destination or the dealer, only to be told that the dealer cannot or will not help, or  
14 they can arrange and wait for specialized towing, fail to reach their destination, and be left without an  
15 even semi-functional vehicle.  
16

17 35. To Plaintiffs' knowledge, Subaru has never acknowledged the existence of the Battery  
18 Defect, and has not offered any permanent or effective fix. Subaru failed to disclose the Battery Defect  
19 at the time of purchase and has concealed it, or at least failed to disclose it, thereafter.  
20

21 36. At best, dealers may replace failed 12-volt batteries under warranty, but without a  
22 permanent repair for the defective charging system, those batteries will inevitably fail prematurely  
23 again. That is not a tenable solution.

24 37. Plaintiffs and Class members have experienced numerous battery failures and have had to  
25 prematurely replace their 12-volt batteries. Even if those batteries are replaced under warranty, the  
26 defective charging system means that the new batteries will simply fail again after another few thousand  
27 miles, potentially stranding Plaintiffs or Class members yet again.  
28

**C. Subaru Knew or Should Have Known About the Battery Defect**

38. Subaru is aware of the Battery Defect. Subaru learned of the Battery Defect through pre-release testing including with respect to the battery charging systems, as they are an integral part of any vehicle. Subaru's pre-sale testing of the Class Vehicles would have necessarily revealed the Battery Defect.

39. Subaru's knowledge of the Battery Defect is also supported by numerous consumer complaints about the issue. Instances of the battery failures are widespread, and Subaru is aware of them, not only because Plaintiffs and Class members brought them to Defendant's notice by bringing their vehicles to Subaru's authorized dealers but also because of the many complaints lodged by consumers with NHTSA, with Subaru directly, and in online fora that Subaru, on information and belief, monitors.

40. NHTSA maintains a database of motor-vehicle consumer complaints submitted since January 2000. Subaru, like other large automakers, regularly reviews these complaints and communicates directly with NHTSA.

41. Consumers are able to submit complaints online or by phone in which they provide information that includes the make, model, and model year of the vehicle, the approximate incident date, the mileage at which the incident occurred, and a description of the incident. Below are examples and excerpts from NHTSA, Subaru's online forums, and YouTube videos that illustrates consumers' experiences with the Battery Defect in the Subaru Solterra, and the severity and safety risk of the defect:

Complaint from a 2023 Subaru Solterra Driver, January 3, 2025<sup>3</sup>

I finally got completely fed up with the 12V aux battery on my 2023 (post-recall build that didn't sit for long). It was obvious that the battery was toast. Charge it on a 4.5A charger from 12.11V and after 90 minutes it's "completely" charged. Wait a day and the battery drops from 12.6-ish (full charge) back to the 12.11-ish range. So obviously it's no longer a 45AH actual capacity.

<sup>3</sup> <https://www.solterraforum.com/threads/12v-battery-questions.2668/>  
COMPLAINT - 9

Complaint from a 2023 Subaru Solterra Driver, April 23, 2024<sup>4</sup>

Hey guys quick question, my Subaru SOLTERRA 2023, its battery died for the first time . If I jump start it should I drive it after the jump start ? Is that under warranty? Should I go to the dealer? Can anyone tell me

Complaint from a 2024 Subaru Solterra Driver, March 8, 2025<sup>5</sup>

I have had the car since December of 2024, the car was a new lease. The battery has failed twice once in January, and again last week. This has left me stranded twice, the battery failure occurs with no warning, it is running one hour, and the next it is dead. When I took it to the dealership, they said they replaced the battery, the new battery is now doing the same thing. The car also misleads the driver - upon putting the car on the charger, the car notifies how many hours it will take to charge, the data is wrong, it takes many hours longer that what the car says it will take to reach a full charge.

Complaint from a 2024 Subaru Solterra Driver, April 2, 2025<sup>6</sup>

The detailed story...I recently took my Solterra to my local Subaru dealership for service due to my 12-volt battery being discharged to failure 3 times since January when I first took my car in for service for this issue. The result of that service visit in January was that they replaced the factory battery with a new battery. They did not identify or address the excessive current draw that was causing the battery to drain so fast. When I took my Solterra to the dealership the second time, I presented them with data that I collected by using a Ancel BM300 Pro battery voltage monitor. With this data in hand, they took me seriously. After two weeks trying to investigate the problem, they returned the car to me with an acknowledgement that there is a known issue with Solterra Connect causing excessive current draw from the 12 volt battery. They deleted my Solterra Connect account and reset the Solterra Connect configuration in my car. They told me to install the V 2.0.0 version of the app and start from scratch. They were told by a higher tier of support that this should correct the issue and they passed that on to me. It did not correct the issue.

Complaint from a 2024 Subaru Solterra Driver, May 18, 2024<sup>7</sup>

After 8 months 12 volt battery went dead, 31 % battery life left. Got warning alert take to dealer...Replacing battery, but they don't have one, getting a SOLTERRA loaner.

<sup>4</sup> <https://www.facebook.com/groups/subarusolterra/posts/1847689062371375/>

<sup>5</sup> <https://www.nhtsa.gov/?nhtsaId=11648175>

<sup>6</sup> <https://www.solterraforum.com/threads/solterra-connect-and-12-volt-battery-drain.2955/>

<sup>7</sup> [https://www.reddit.com/r/Solterra/comments/11e9ai2/12v\\_battery\\_issues\\_has\\_anyone\\_had\\_to/](https://www.reddit.com/r/Solterra/comments/11e9ai2/12v_battery_issues_has_anyone_had_to/)

Complaint from a 2024 Subaru Solterra Driver, January 2, 2025<sup>8</sup>

I have 2024 Solterra touring that I purchased in July. We were out of town over Christmas week and I left car in garage and plugged in (programmed to charge to 80%). When we got home I used the car the next morning for quick errands without issue but then plugged car back in for a short road trip. While it was plugged in and I was finishing up packing I turned car on to preheat and thus conserve battery. When I was ready to go I got error message on dash "Parking break unavailable" and in general the car just seemed confused and wouldn't turn on/allow me to put car into Drive/neutral. Eventually the headlights started flashing and 12V battery clearly dead despite traction battery being charged to 100%. Does anybody understand how the 12v is charged? Is it when driving only and that's why I had issue after car sitting for a week?? It wasn't particularly cold and while I understand it isn't ideal for a car to sit not being used I hope I don't need to plan for a 'car sitter' to take it for spin every few days anytime we go away for a week. would love any insight folks have!! thanks

ps first tow truck attempted to jump battery but it wouldn't take any charge. Few days later 2nd tow truck was able to successfully jump 12V and car is now at dealership and everything looks fine on their end. Plan is for them to keep it few more days to make sure battery doesn't do anything weird...

Complaint from a 2024 Subaru Solterra Driver, January 1, 2025<sup>9</sup>

I signed the lease for this car in April 2024 and I am quickly nearing full regret. Today marks the third time my 12v has died in the short time I've had this car. What am I doing wrong? I charge at home overnight when my battery is down to 50-80 miles depending on where I'm going the next day. I do frequently use the remote start, but not when the battery is low. I have been using it daily since it's cold af out here in NJ. It was 8° F this morning.

Complaint from a 2025 Subaru Solterra Driver, April 2, 2025<sup>10</sup>

Our Solterra sat for 3 weeks no problem. Checked the battery with Carscanner and the 12 volt was fine. Traction battery at 96%. I went out to hook up the internet in the garage and then disconnected the internet. I think the Solterra kept looking to talk to the router. I had connected the car to the router in the settings. I had turned the car off I was pretty sure. A week later the 12 volt is dead. Took it out and noticed one cell is a little low on fluid. Charged it up and the battery is ok. I will have to watch to see how much data is being used with the car talking to the fob or the phone. We typically do not use the remote on the phone at all.

---

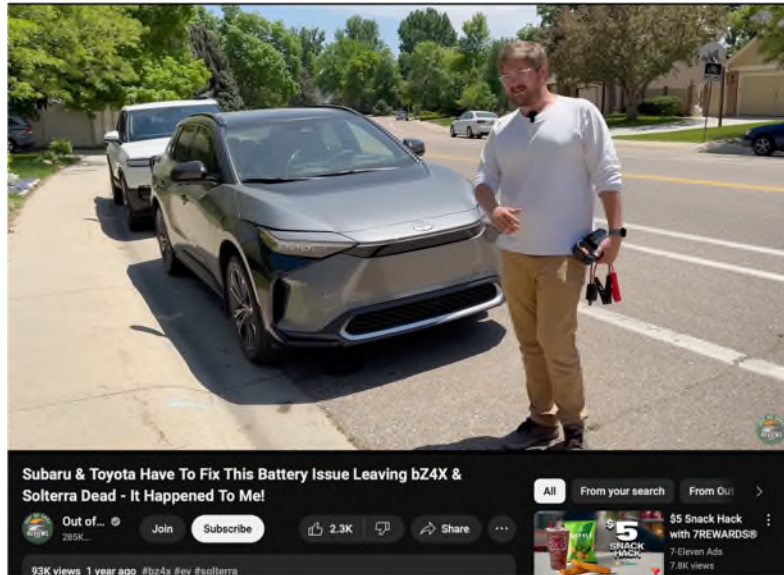
<sup>8</sup> <https://www.solterraforum.com/threads/12v-battery-questions.2668/>

<sup>9</sup> [https://www.reddit.com/r/Solterra/comments/1i6mfw/2024\\_12v\\_keeps\\_dying/#](https://www.reddit.com/r/Solterra/comments/1i6mfw/2024_12v_keeps_dying/#)

<sup>10</sup> <https://www.solterraforum.com/threads/5-months-and-dead-battery.1960/>



Video, @Out Of Spec Reviews, YouTube, May 27, 2023<sup>11</sup>



42. Despite knowing about these problems with the battery charging system, Subaru continued to include the defective charging systems in the Class Vehicles and continued to sell and lease these vehicles without eliminating the Battery Defect and without disclosing it to Plaintiffs and Class members in warranty manuals, on Subaru's website, in advertisements, on Monroney stickers, or elsewhere.

#### **D. Plaintiffs' Experiences**

##### **1. Danielle Buls**

43. In or around November 2024, Plaintiff Danielle Buls leased a 2024 Subaru Solterra from Dick Hannah Subaru in Vancouver, Washington.

44. Based on Subaru's representations touting the quality of its vehicles, Plaintiff Buls considered Subaru to be a quality company with a strong reputation for producing reliable vehicles. Also based on Subaru's marketing and promotion, Plaintiff Buls decided on the Subaru Solterra because she believed it was a high-quality and highly reliable vehicle.

<sup>11</sup> <https://www.youtube.com/watch?v=scnQuiWFxdU>



1           45.     The 12-volt battery in Plaintiff Buls's vehicle died approximately three weeks after the  
2 start of her lease, in December 2024. Plaintiff Buls then had to use a different vehicle to take her son to  
3 school and go to work. It was not until Plaintiff Buls's husband used jumper cables to trickle charge the  
4 battery - which took approximately four hours – that Plaintiff Buls resumed driving the vehicle.

5           46.     Plaintiff Buls experienced the Battery Defect again later the same month, December  
6 2024. Plaintiff contacted her Subaru dealership, who directed her to have the vehicle towed to the  
7 dealership. The tow company had to jumpstart the vehicle to place it on the tow truck. Plaintiff's Subaru  
8 dealership replaced the battery with an upgraded battery. The dealership returned Plaintiff Buls's vehicle  
9 the following day.

10           47.     Plaintiff Buls experienced the Battery Defect again approximately one month later, in  
11 January 2025. Plaintiff Buls again contacted her Subaru dealership, who told her to trickle charge or  
12 jumpstart her vehicle.

13           48.     The 12-volt battery in Plaintiff Buls's vehicle died yet again in approximately two weeks  
14 later, in February 2025. Plaintiff Buls had started her vehicle to warm it up before using it, and when she  
15 went back to the vehicle, it was off. When Plaintiff Buls restarted the vehicle, various warning lights  
16 flashed, including an indicator that she needed to press the brake and push the start button, another  
17 indicating that the brakes were not available, and another stating Plaintiff Buls needed to press the park  
18 button before exiting the vehicle. Plaintiff Buls again had to use a different vehicle to take her son to  
19 school and go to work. When Plaintiff Buls returned home, she had the vehicle towed to her Subaru  
20 dealership.

21           49.     Plaintiff Buls's dealership refused to perform work on the vehicle until she deleted the  
22 Subaru application from her phone. Plaintiff Buls then contacted Subaru regarding the Battery Defect.  
23 Subaru informed her that it opened an internal case regarding the issue.

24           50.     Plaintiff Buls deleted the Subaru application from her phone so that her Subaru  
25 dealership would work on her vehicle. The dealership replaced the battery again and, after testing, found  
26

1 that there was still a power draw on the battery. After approximately nine days, the dealership told  
2 Plaintiff Buls that she could pick up her vehicle.

3 51. Defendant Subaru at first advised Plaintiff Buls to leave her vehicle at the dealership  
4 while the internal case was pending. Defendant Subaru later advised her to use her vehicle, claiming it  
5 had been fixed. Plaintiff Buls picked up her vehicle that day.  
6

7 52. The 12-volt battery equipped in Plaintiff Buls's 2024 Subaru Solterra has failed four  
8 times after only about 3,800 miles of driving the vehicle. The 12-volt battery in Plaintiff Buls's vehicle  
9 has also been replaced twice since November 2024.

10 53. Plaintiff Buls has never been informed of any recalls or defects related to her vehicle's  
11 battery by anyone affiliated with Subaru but has discovered and reviewed similar claims and complaints  
12 of the Battery Defect plaguing Class Vehicles on social media and vehicle forums.  
13

14 54. Plaintiff Buls has visited her dealership on multiple occasions in order to address the  
15 Battery Defect. To date, Plaintiff's dealership has been unable to identify the underlying issue with the  
16 Battery. Plaintiff Buls has similarly contacted Defendant Subaru directly concerning the Battery Defect,  
17 who has likewise to date been unable to identify the issue with Plaintiff's battery.

18 55. Due to Defendant Subaru's lack of transparency in the quality of its Vehicles and its  
19 components, namely the defective 12-volt battery and charging system, Plaintiff Buls and similarly  
20 situated consumers have spent time and money addressing the Battery Defect without sufficient redress,  
21 compensation, or concern from Subaru. Had she been aware of the Battery Defect before leasing her  
22 vehicle, Plaintiff would not have done so or would have paid significantly less for it than she did.  
23

24 **2. Claudia Diez**

25 56. In or around August 2024, Plaintiff Claudia Diez leased a 2024 Subaru Solterra from  
26 Brewster Subaru in Brewster, New York.

27 57. Based on Subaru's representations touting the quality of its vehicles, Plaintiff Diez  
28 considered Subaru to be a quality company with a strong reputation for producing reliable vehicles. In

1 addition to Subaru's marketing and promotion, Plaintiff Diez decided on the Subaru Solterra because  
2 she believed it was a high-quality and highly reliable vehicle.

3 58. The 12-volt battery in Plaintiff Diez's vehicle died approximately four months following  
4 her lease. Plaintiff Diez had to wait approximately eight hours for roadside assistance to arrive and  
5 jumpstart the vehicle. Plaintiff Diez is a doctor and had to cancel four patients' appointments throughout  
6 the day while monitoring her vehicle and waiting for roadside assistance.

7  
8 59. Plaintiff Diez experienced the Battery Defect again the following day. Plaintiff Diez  
9 contacted roadside assistance, who again came and jumpstarted the vehicle and advised Plaintiff to drive  
10 it for service herself. Plaintiff Diez took her vehicle to Koeppel's Subaru Service Center in Queens, New  
11 York, who told Plaintiff that the battery charge was low, and charged it up while Plaintiff Diez waited.  
12 Plaintiff Diez again had to cancel patient appointments.

13  
14 60. Plaintiff Diez experienced the Battery Defect yet again approximately two months later,  
15 in February 2025. Plaintiff Diez again contacted roadside assistance, who again jumpstarted her vehicle.  
16 Plaintiff Diez was late to and missed patients' appointments.

17 61. Two days after that incident, Plaintiff Diez experienced the Battery Defect yet again.  
18 Plaintiff Diez called roadside assistance but was able to jumpstart the vehicle herself. Plaintiff Diez  
19 made an appointment at her Subaru dealership to have the battery checked, which was scheduled for  
20 three days later.

21  
22 62. Plaintiff Diez took her vehicle to her Subaru dealership and received a loaner car. After  
23 Plaintiff asked the dealership to check the 12-volt battery, the dealership replaced the battery.

24 63. After the Battery replacement, Plaintiff Diez's battery died again on May 9, 2025. The  
25 12-volt battery equipped in Plaintiff Diez's 2024 Subaru Solterra has failed five times, after only  
26 approximately 5,000 miles of driving since new. The 12-volt battery in Plaintiff Diez's vehicle has  
27 already been replaced once since August 2024.  
28

1           64. Plaintiff Diez has never been informed of any recalls or defects related to her vehicle's  
2 battery by anyone affiliated with Subaru but has discovered and reviewed similar complaints about the  
3 Battery Defect plaguing Class Vehicles on social media and vehicle forums.

4           65. Plaintiff Diez has visited her dealership on multiple occasions in order to attempt to  
5 address the Battery Defect. To date, Plaintiff's dealership has been unable to identify the underlying  
6 issue with the Battery. Plaintiff Diez has also contacted Defendant Subaru directly concerning the  
7 Battery Defect. Subaru has to date been unable to identify or disclose the issue affecting Plaintiff's  
8 battery.

9  
10           66. Due to Subaru's lack of transparency in the quality of its Vehicles and its components,  
11 namely the defective 12-volt battery and charging system, Plaintiff Diez and similarly situated  
12 consumers have spent time and money addressing the Battery Defect without sufficient redress,  
13 compensation, or concern from Subaru. Had she been aware of the Battery Defect before leasing her  
14 vehicle, Plaintiff Diez would not have done so or would have paid significantly less for it than she did.

15  
16           **3. Franklin Huffman**

17           67. In July 2024, Plaintiff Huffman leased a 2024 Subaru Solterra from Shingle Springs  
18 Nissan Subaru Inc. in Shingle Springs, California.

19           68. Based on Subaru's representations touting the quality of its vehicles, Plaintiff Huffman  
20 considered Subaru to be a quality company with a strong reputation for producing reliable vehicles. In  
21 addition to Subaru's marketing and promotion, Plaintiff Huffman decided on the Subaru Solterra  
22 because he believed it was a high-quality and highly reliable vehicle.

23  
24           69. The 12-volt battery equipped in Plaintiff Huffman's Subaru Solterra died for the first  
25 time approximately three months after the beginning of his lease, and three more times over the next  
26 month. Plaintiff Huffman jumpstarted or charged the battery with a home charger after each occurrence.

27           70. After the third time the battery died, Plaintiff Huffman contacted his Subaru dealership  
28 and was told that if the battery died again, he should contact the dealership. A few days later, Plaintiff

1 Huffman's battery died again, and again he contacted his Subaru dealership. At that time, Plaintiff  
2 Huffman had driven the car only about 3,500 miles.

3 71. After the fourth time his 12-volt battery died, the dealership replaced the battery. Plaintiff  
4 Huffman drove a loaner car from the dealership for several days while they diagnosed the issue.

5 72. After the Battery replacement, Plaintiff Huffman's battery has died twice more. In total,  
6 the 12-volt battery equipped in Plaintiff Huffman's 2024 Subaru Solterra has died 6 times after only  
7 approximately 7,000 miles of driving the vehicle. The 12-volt battery in Plaintiff Huffman's vehicle has  
8 been replaced once since the start of the lease.  
9

10 73. Plaintiff Huffman has never been informed of any recalls or defects related to his  
11 vehicle's battery by anyone affiliated with Subaru but has discovered and reviewed similar claims and  
12 complaints of the Battery Defect plaguing Class Vehicles on social media and vehicle forums.  
13

14 74. Plaintiff Huffman has visited his dealership on multiple occasions in order to address the  
15 Battery Defect. To date, Plaintiff's dealership has been unable to identify the issue with the Battery.  
16

17 75. Due to Defendant Subaru's lack of transparency in the quality of its Vehicles and its  
18 components, namely the defective 12-volt battery and charging system, Plaintiff Huffman and similarly  
19 situated consumers have spent time and money addressing the Battery Defect without sufficient redress,  
20 compensation, or concern from Subaru. Had Plaintiff Huffman been aware of the Battery Defect before  
21 entering into the lease, he would not have done so or would have paid significantly less for it than he  
22 did.

23 **4. Matthew Kull**

24 76. In or around April 2024, Plaintiff Kull leased a 2024 Subaru Solterra from Open Road  
25 Subaru in Union, New Jersey.

26 77. Based on Subaru's representations touting the quality of its vehicles, Plaintiff Kull  
27 considered Subaru to be a quality company with a strong reputation for producing reliable vehicles. In  
28

1 addition to Subaru's marketing and promotion, Plaintiff Kull decided on the Subaru Solterra because he  
2 believed it was a high-quality and highly reliable vehicle.

3 78. The 12-volt battery in Plaintiff Kull's vehicle died approximately seven months  
4 following the start of his lease. Plaintiff jumpstarted his vehicle and took it to his dealership for  
5 assessment, but was told there were no problems with the Battery.  
6

7 79. Plaintiff Kull experienced the Battery Defect again in early December 2024. Plaintiff  
8 Kull jumpstarted his vehicle and drove it to his Subaru dealership in order to address the Battery Defect.  
9 The Subaru dealership replaced Plaintiff's Battery and told Plaintiff that if the battery died again, not to  
10 jumpstart the vehicle. Plaintiff Kull waited for approximately three hours for the battery replacement,  
11 and drove his vehicle home.  
12

13 80. The battery died again in Plaintiff Kull's car in January 2025. Plaintiff Kull contacted  
14 roadside assistance to have his car towed to his Subaru dealership because he was told not to jumpstart  
15 it. Plaintiff Kull's car remained at the dealership, and he was unable to drive it for over one month.

16 81. The 12-volt battery equipped in Plaintiff Kull's 2024 Subaru Solterra has failed three  
17 times after only approximately 5,500 miles of driving the vehicle, and it has been replaced once since  
18 April 2024.

19 82. Plaintiff Kull has never been informed of any recalls or defects related to his vehicle's  
20 battery by anyone affiliated with Subaru but has discovered and reviewed similar claims and complaints  
21 of the Battery Defect plaguing Class Vehicles on social media and vehicle forums.  
22

23 83. Plaintiff Kull has visited his dealership on multiple occasions in order to address the  
24 Battery Defect. To date, Plaintiff Kull's dealership has been unable to identify the issue with the Battery.  
25 Plaintiff has similarly contacted Defendant Subaru directly concerning the Battery Defect, who has  
26 likewise to date been unable to identify the issue with Plaintiff's battery.  
27

28 84. Due to Defendant Subaru's lack of transparency in the quality of its Vehicles and its  
components, namely the defective 12-volt battery, Plaintiff Kull and similarly situated consumers have

1 spent time and money addressing the Battery Defect without sufficient redress, compensation, or  
2 concern from Subaru. Had he been aware of the Battery Defect before leasing his vehicle, Plaintiff Kull  
3 would not have done so or would have paid significantly less for it than he did.

4  
5 **V. CLASS ACTION ALLEGATIONS**

6 85. Plaintiffs bring this action as a class action under Rule 23 of the Federal Rules of Civil  
7 Procedure, on behalf of a proposed nationwide class (the “Class”), defined as:

8 Any person in the United States who purchased or leased, other than for resale, a Class  
9 Vehicle.

10 86. Class Vehicle is defined as follows:

11 2023, 2024, and 2025 model year Toyota bZ4x and Subaru Solterra.

12 87. In addition, state subclasses are defined as follows:

13 **California Subclass:** All persons in the state of California who bought or leased, other  
14 than for resale, a Class Vehicle.

15 **New Jersey Subclass:** All persons in the state of New Jersey who bought or leased, other  
16 than for resale, a Class Vehicle.

17 **New York Subclass:** All persons in the state of New York who bought or leased, other  
18 than for resale, a Class Vehicle.

19 **Washington Subclass:** All persons in the state of Washington who bought or leased,  
20 other than for resale, a Class Vehicle.

21 88. The Class and these Subclasses satisfy the prerequisites of Federal Rule of Civil  
22 Procedure 23(a) and the requirements of Rule 23(b)(3).

23 89. **Numerosity and Ascertainability:** Plaintiffs do not know the exact size of the Class or  
24 identity of the Class members, since such information is the exclusive control of Defendant.  
25 Nevertheless, the Class encompasses tens of thousands of individuals dispersed throughout the United  
26 States. The number of Class members is so numerous that joinder of all Class members is impracticable.  
27 The names, addresses, and phone numbers of Class members are identifiable through documents  
28 maintained by Defendant.

1           90.     **Commonality and Predominance:** This action involves common questions of law and  
2 fact which predominate over any question solely affecting individual Class members. These common  
3 questions include:

- 4           i.     whether Defendant engaged in the conduct alleged herein;
- 5           ii.    whether Defendant had knowledge of the Battery Defect in the Class Vehicles when  
6               it placed Class Vehicles into the stream of commerce in the United States;
- 7           iii.   whether Defendant should have had knowledge of the Battery Defect in the Class  
8               Vehicles when it placed Class Vehicles into the stream of commerce in the United  
9               States;
- 10          iv.    when Defendant became aware of the Battery Defect in the Class Vehicles;
- 11          v.     whether Defendant knowingly failed to disclose the existence and cause of this defect  
12               in the Class Vehicles;
- 13          vi.    whether Defendant knowingly concealed the defect in the Class Vehicles;
- 14          vii.   whether Defendant's conduct as alleged herein violates consumer protection laws;
- 15          viii.  whether Defendant's conduct as alleged herein violates warranty laws;
- 16          ix.    whether Defendant's conduct as alleged herein violates other laws asserted herein;
- 17          x.     whether Plaintiffs and Class members overpaid for their Class Vehicles as a result of  
18               the defect;
- 19          xi.    whether Plaintiffs and Class members have suffered an ascertainable loss as a result  
20               of the defect;
- 21          xii.   and whether Plaintiffs and Class members are entitled to damages and equitable  
22               relief.

23           91.     **Typicality:** Plaintiffs' claims are typical of the other Class members' claims because all  
24 Class members were comparably injured through Defendant's substantially uniform misconduct as  
25 described above. The Plaintiffs representing the Class are advancing the same claims and legal theories



1 on behalf of themselves and all other members of the Class that they represent, and there are no defenses  
2 that are unique to Plaintiffs. The claims of Plaintiffs and Class members arise from the same operative  
3 facts and are based on the same legal theories.

4  
5 92. **Adequacy:** Plaintiffs are adequate Class representatives because their interests do not  
6 conflict with the interests of the other members of the Class they seek to represent; Plaintiffs have  
7 retained counsel competent and experienced in complex class action litigation; and Plaintiffs intend to  
8 prosecute this action vigorously. The Class's interest will be fairly and adequately protected by Plaintiffs  
9 and their counsel.

10 93. **Superiority:** A class action is superior to any other available means for the fair and  
11 efficient adjudication of this controversy, and no unusual difficulties are likely to be encountered in the  
12 management of this class action. The damages and other detriment suffered by Plaintiffs and the other  
13 Class members are relatively small compared to the burden and expense that would be required to  
14 individually litigate their claims against Defendant, so it would be virtually impossible for the Class  
15 members to individually seek redress for Defendant's wrongful conduct. Even if Class members could  
16 afford individual litigation, the court system could not; individualized litigation creates a potential for  
17 inconsistent or contradictory judgments, increases the delay and expense to the parties, and increases the  
18 expense and burden to the court system. By contrast, the class action device presents far fewer  
19 management difficulties and provides the benefits of single adjudication, economy of scale, and  
20 comprehensive supervision by this Court.  
21  
22

## 23 VI. ANY APPLICABLE STATUTES OF LIMITATION ARE TOLLED

### 24 A. Discovery Rule

25 94. Plaintiffs and Class members did not discover, and could not have discovered through the  
26 exercise of reasonable diligence, that the Class Vehicles had one or more design and/or manufacturing  
27 defects that caused the Class Vehicle batteries to lose charge and/or require premature replacement.  
28

1           95.     Plaintiffs and Class members had no realistic ability to discover the extent of the design  
2 and/or manufacturing defects until their Class Vehicles' 12-volt batteries suddenly died, potentially  
3 leaving them stranded, and requiring jump-starting, towing, and/or battery replacement. Plaintiffs and  
4 Class members would have had no reason to individually believe that the problems with their Vehicles  
5 were the result of a widespread design and/or manufacturing defect. Any statutes of limitation otherwise  
6 applicable to any claims asserted herein have thus been tolled by the discovery rule.  
7

8     **B.     Equitable Estoppel**

9           96.     Defendant is equitably estopped from asserting the statutes of limitations. Defendant  
10 misrepresented that the Class Vehicles were safe and free from defects. Defendant knew that the Class  
11 Vehicles were unsafe and unable to perform as advertised without risking battery failures. Plaintiffs and  
12 Class members, by contrast, were unaware of the true nature of the Class Vehicles and relied upon  
13 Defendant's misrepresentations and omissions. Plaintiffs and Class members will be prejudiced if  
14 Defendant is not estopped.  
15

16                     **VII.   CAUSES OF ACTION**

17     **A.     Claims Brought on Behalf of the Nationwide Class**

18                     **COUNT ONE — COMMON LAW FRAUD – FRAUD BY OMISSION**

19           97.     Plaintiffs and the Class incorporate by reference each preceding and succeeding  
20 paragraph as though fully set forth at length herein.

21           98.     Plaintiffs assert this claim on behalf of themselves and the Nationwide Class or, in the  
22 alternative, on behalf of the California State Subclass, New Jersey State Subclass, New York State  
23 Subclass, and Washington State Subclass.  
24

25           99.     The Class Vehicles that Plaintiffs and Class members purchased or leased were defective  
26 because the charging system inadequately charges the 12-volt batteries, leading to sudden and premature  
27 battery failures.  
28

1           100. Defendant failed to disclose the Battery Defect and acted with reckless disregard for the  
2 truth when it failed to disclose that the Battery Defect would render the Class Vehicles prone to sudden  
3 and premature battery failures. Further, even after Defendant became aware of the Battery Defect, it still  
4 failed to disclose it.

5           101. Defendant had a duty to disclose this material information to Plaintiffs and Class  
6 members because Defendant was in a superior position to know about the existence, nature, cause, and  
7 results of the Battery Defect; Plaintiffs and Class members could not reasonably have been expected to  
8 learn or discover the Battery Defect; and Defendant knew that Plaintiffs and Class members could not  
9 reasonably have been expected to learn about or discover the Battery Defect.  
10

11           102. Plaintiffs and Class members did not know about the Battery Defect and could not have  
12 discovered it through reasonably diligent investigation.  
13

14           103. But for Defendant's fraudulent omissions of material information, Plaintiffs and Class  
15 members would not have purchased or leased the Class Vehicles, or would have paid less for them.  
16 Plaintiffs and Class members have sustained damage because they purchased or leased Vehicles that  
17 were not as represented. Accordingly, Defendant is liable to Plaintiffs and Class members for damages  
18 in an amount to be proven at trial for their lost benefit of the bargain and overpayment at the time of  
19 purchase or lease, and/or for the diminished value of the Class Vehicles.  
20

21           104. Defendant's acts were done wantonly, deliberately, with intent to defraud, in reckless  
22 disregard of the rights of Plaintiffs and Class members, and to enrich itself. Defendant's misconduct  
23 warrants an assessment of punitive damages in an amount sufficient to deter such conduct in the future,  
24 which amount shall be determined according to proof at trial.

25                           **COUNT TWO — UNJUST ENRICHMENT**

26           105. Plaintiffs and the Class incorporate by reference each preceding and succeeding  
27 paragraph as though fully set forth at length herein.  
28

1           106. Plaintiffs bring this claim on behalf of themselves and on behalf of the Nationwide Class  
2 or, in the alternative, on behalf of the California State Subclass, New Jersey State Subclass, New York  
3 State Subclass, and Washington State Subclass.

4           107. Plaintiffs and Class members paid Defendant the value of non-defective, fully operational  
5 Class Vehicles with the ability to operate without fear of premature battery failure. In exchange,  
6 Defendant provided Plaintiffs and Class members with defective Vehicles that are prone to battery  
7 failures that leave them unable to start, may cause them to suddenly stop while driving, and require  
8 premature battery replacements.  
9

10           108. As such, Plaintiffs and Class members conferred value upon Defendant which would be  
11 unjust for Defendant to retain.  
12

13           109. As a direct and proximate result of Defendant's unjust enrichment, Plaintiffs and Class  
14 members have suffered and continue to suffer various injuries. As such, they are entitled to damages,  
15 including but not limited to restitution of all amounts by which Defendant was enriched through their  
16 misconduct.  
17

18 **B. Claims Brought on Behalf of the California Subclass**

19 **COUNT THREE — VIOLATION OF THE CONSUMER LEGAL REMEDIES ACT ("CLRA")**  
20 **(CAL. CIV. CODE § 1750, *ET SEQ.*)**

21           110. Plaintiffs and the Class incorporate by reference each preceding and succeeding  
22 paragraph as though fully set forth at length herein.

23           111. Plaintiff Huffman (for purposes of this section, "California Plaintiff") brings this claim  
24 on behalf of himself and on behalf of the members of the California Subclass.

25           112. Defendant is a "person" as that term is defined in California Civil Code § 1761(c).

26           113. California Plaintiff and the California Subclass members are "consumers" as that term is  
27 defined in California Civil Code §1761(d).  
28

1 114. Defendant engaged in unfair and deceptive acts in violation of the CLRA by the practices  
2 described above, and by knowingly and intentionally concealing from California Plaintiff and California  
3 Subclass members that the Class Vehicles suffer from a defect(s) (and the costs, risks, and diminished  
4 value of the vehicles as a result of this problem).

5 115. Defendant's acts and practices violated the CLRA by: (i) Representing that goods or  
6 services have sponsorships, characteristics, uses, benefits, or quantities which they do not have; (ii)  
7 Representing that goods or services are of a particular standard, quality, or grade, or that goods are of a  
8 particular style or model, if they are of another; (iii) Advertising goods and services with the intent not  
9 to sell them as advertised; and (iv) Representing that the subject of a transaction has been supplied in  
10 accordance with a previous representation when it has not.

11 116. Defendant's unfair or deceptive acts or practices occurred repeatedly in its trade or  
12 business, were capable of deceiving a substantial portion of the purchasing public, and imposed a  
13 serious safety risk on the public.

14 117. Defendant knew that the charging systems were defectively designed or manufactured,  
15 would fail prematurely, and were not suitable for their intended use.

16 118. Defendant had a duty to California Plaintiff and the California Subclass members to  
17 disclose the Battery Defect and the defective nature of the Class Vehicles because:

18 A. Defendant was in a superior position to know the true state of facts about  
19 the Defect and its associated costs;

20 B. California Plaintiff and the California Subclass members could not  
21 reasonably have been expected to learn or discover that the Class Vehicles had defects  
22 until those defects became manifest;

23 C. Defendant knew that California Plaintiff and the California Subclass  
24 members could not reasonably have been expected to learn about or discover the Battery  
25 Defect and the effect it would have on the Class Vehicles' operability.  
26  
27  
28

1 119. In failing to disclose the Battery Defect, Defendant has knowingly and intentionally  
2 concealed material facts and breached its duty to disclose.

3 120. The facts Defendant concealed or did not disclose to California Plaintiff and the  
4 California Subclass members are material in that a reasonable consumer would have considered them to  
5 be important in deciding whether to purchase the Class Vehicles or pay a lesser price. Had California  
6 Plaintiff and the California Subclass members known the Class Vehicles were defective, they would not  
7 have purchased the Class Vehicles or would have paid less for them.  
8

9 121. California Plaintiff provided Defendant with notice of its CLRA violations on May 21,  
10 2025 and currently seeks injunctive relief. California Plaintiff hereby reserves his right to amend this  
11 complaint to seek monetary damages under the CLRA after the 30-day notice period expires.  
12

13 122. Defendant's fraudulent and deceptive business practices proximately caused injuries to  
14 California Plaintiff and the members of the California Subclass.

15 123. Pursuant to Cal. Civ. Code § 1780, Plaintiff seeks injunctive and declaratory relief and  
16 reasonable attorneys' fees and costs.

17 **COUNT FOUR — VIOLATION OF THE CALIFORNIA UNFAIR COMPETITION LAW**  
18 **(CAL. BUS. & PROF. CODE § 17200)**

19 124. Plaintiffs and the Class incorporate by reference each preceding and succeeding  
20 paragraph as though fully set forth at length herein.

21 125. California Plaintiff brings this claim on behalf of himself and on behalf of the members  
22 of the California Subclass.

23 126. The California Unfair Competition Law ("UCL") prohibits acts of "unfair competition,"  
24 including any "unlawful, unfair or fraudulent business act or practice" and "unfair, deceptive, untrue or  
25 misleading advertising." Cal. Bus. & Prof. Code § 17200.  
26

27 127. Defendant has engaged in unfair competition and unfair, unlawful, or fraudulent business  
28 practices by the conduct, statements, and omissions described above, and by knowingly and

1 intentionally concealing the Battery Defect from California Plaintiff and other California Subclass  
2 members. Defendant should have disclosed this information because it was in a superior position to  
3 know the true facts related to the defect, and California Plaintiff and California Subclass members could  
4 not have been reasonably expected to learn or discover these true facts.

5  
6 128. The Battery Defect constitutes a safety issue for automobile owners, drivers, and  
7 passengers, thus requiring Defendant to disclose its existence to past and future owners and lessees.

8 129. By its acts and practices, Defendant has deceived Plaintiffs and is likely to have deceived  
9 the public. In failing to disclose the Battery Defect and suppressing other material facts, Defendant  
10 breached its duty to disclose these facts, violated the UCL, and caused injuries to California Plaintiff and  
11 the California Subclass members. Defendant's omissions and acts of concealment pertained to  
12 information material to California Plaintiff and other California Subclass members, as it would have  
13 been to all reasonable consumers.

14  
15 130. The injuries California Plaintiff and the California Subclass members suffered outweigh  
16 any potential countervailing benefit to consumers or to competition, and they are not injuries that  
17 California Plaintiff and the California Subclass members could or should have reasonably avoided.

18 131. Defendant's acts and practices are unlawful because they violate California Civil Code  
19 §§ 1668, 1709, 1710, and 1750 *et seq.*, and California Commercial Code § 2313.

20  
21 132. Plaintiffs seek to enjoin Defendant from further unlawful, unfair, and/or fraudulent acts  
22 or practices, to obtain restitutionary disgorgement of all monies and revenues Defendant has generated  
23 as a result of such practices, and all other relief allowed under California Business & Professions Code §  
24 17200.

25 **COUNT FIVE — VIOLATION OF THE CALIFORNIA FALSE ADVERTISING LAW**  
26 **(CAL. BUS. & PROF. CODE § 17500, *ET SEQ.*)**

27 133. Plaintiffs and the Class incorporate by reference each preceding and succeeding  
28 paragraph as though fully set forth at length herein.

1 134. California Plaintiff brings this claim on behalf of himself and on behalf of the members  
2 of the California Subclass.

3 135. California Business & Professions Code § 17500 states: “It is unlawful for any . . .  
4 corporation . . . with intent directly or indirectly to dispose of real or personal property . . . to induce the  
5 public to enter into any obligation relating thereto, to make or disseminate or cause to be made or  
6 disseminated . . . from this state before the public in any state, in any newspaper or other publication, or  
7 any advertising device, . . . or in any other manner or means whatever, including over the Internet, any  
8 statement . . . which is untrue or misleading, and which is known, or which by the exercise of reasonable  
9 care should be known, to be untrue or misleading.  
10

11 136. Defendant caused to be made or disseminated through California and the United States,  
12 through advertising, marketing, and other publications, statements that were untrue or misleading, and  
13 which were known, or which by the exercise of reasonable care Defendant should have known to be  
14 untrue and misleading to consumers, including California Plaintiff and other California Subclass  
15 members.  
16

17 137. Defendant violated Section 17500 because their misrepresentations and omissions  
18 regarding the safety, reliability, and functionality of the Class Vehicles were material and likely to  
19 deceive a reasonable consumer.  
20

21 138. California Plaintiff and the other California Subclass members have suffered injuries in  
22 fact, including the loss of money or property, resulting from Defendant’s unfair, unlawful, and/or  
23 deceptive practices. In purchasing or leasing their Class Vehicles, California Plaintiff and the other  
24 California Subclass members relied on Defendant’s misrepresentations and/or omissions with respect to  
25 the Class Vehicles’ safety and reliability. Defendant’s representations were untrue because they  
26 distributed the Class Vehicles with the Battery Defect. Had California Plaintiff and the other California  
27 Subclass members known this, they would not have purchased or leased the Class Vehicles or would not  
28



1 have paid as much for them. Accordingly, California Plaintiff and the California Subclass members did  
2 not receive the benefit of their bargain.

3 139. All of the wrongful conduct alleged herein occurred, and continues to occur, in the  
4 conduct of Defendant's business. Defendant's wrongful conduct is part of a pattern or generalized  
5 course of conduct that is still perpetuated and repeated, both in the state of California and nationwide.  
6

7 140. California Plaintiff, individually and on behalf of the other California Subclass members,  
8 requests that the Court enter such orders or judgments as may be necessary to enjoin Defendant from  
9 continuing its unfair, unlawful, and/or deceptive practices, and restore to California Plaintiff and the  
10 other California Subclass members any money Defendant acquired by unfair competition, including  
11 restitution and/or restitutionary disgorgement, and for such other relief set forth below.  
12

13 **COUNT SIX — BREACH OF EXPRESS WARRANTY**  
14 **(CAL. COM. CODE §§ 2313 AND 10210)**

15 141. Plaintiffs and the Class incorporate by reference each preceding and succeeding  
16 paragraph as though fully set forth at length herein.

17 142. California Plaintiff brings this claim on behalf of himself and on behalf of the members  
18 of the California Subclass.

19 143. Defendant is and was at all relevant times a "merchant" with respect to motor vehicles  
20 under California Commercial Code §§ 2104(1) and 10103(c), and a "seller" of motor vehicles under §  
21 2103(1)(d).

22 144. The Class Vehicles are and were at all relevant times "goods" within the meaning of  
23 California Commercial Code §§ 2105(1) and 10103(a)(8).

24 145. Defendant provided all purchasers and lessees of the Class Vehicles with the express  
25 warranties described herein, which became part of the basis of the parties' bargain. Accordingly,  
26 Defendant's warranties are express warranties under state law.  
27  
28

1           146. Specifically, the Class Vehicles are covered by Defendant's new vehicle limited  
2 warranties, the powertrain warranty on electric propulsion components, including the battery  
3 components, charging systems, and electric drive components.

4           147. Furthermore, Defendant expressly warranted—through statements and advertisements—  
5 that the vehicles were of high quality, and at a minimum, would work properly and safely.  
6

7           148. Defendant distributed the defective parts causing the Battery Defect in the Class  
8 Vehicles, and those parts are covered by Defendant's warranties granted to all Class Vehicle purchasers  
9 and lessors.

10           149. Defendant breached these warranties by selling and leasing Class Vehicles with the  
11 Battery Defect, requiring repair or replacement within the applicable warranty periods, and refusing to  
12 honor the warranties by providing free repairs or replacements during the applicable warranty periods  
13 sufficient for the Class Vehicles to be restored to their advertised qualities within a reasonable time.  
14

15           150. California Plaintiff notified Defendant of its breach within a reasonable time, and/or was  
16 not required to do so because affording Defendant a reasonable opportunity to cure its breaches would  
17 have been futile. In any event, Defendant knows about the defect but has concealed it as a means of  
18 avoiding compliance with its warranty obligations. Moreover, Defendant was given notice of these  
19 issues within a reasonable amount of time by the complaints it received directly from customers and  
20 became aware of online.  
21

22           151. Any attempt to disclaim or limit these express warranties vis-à-vis consumers is  
23 unconscionable and unenforceable under the circumstances here. Specifically, Defendant's warranty  
24 limitations are unenforceable because Defendant knowingly sold a defective product to California  
25 Plaintiff and the California Subclass.

26           152. The time limits contained in Defendant's warranty period were also unconscionable and  
27 inadequate to protect California Plaintiff and California Subclass members. Among other things,  
28 California Plaintiff and the California Subclass members had no meaningful choice in determining these

1 time limitations, the terms of which unreasonably favored Defendant. A gross disparity in bargaining  
2 power existed between Defendant and the Class members because Defendant knew or should have  
3 known that the Class Vehicles were defective at the time of sale and would experience battery failures  
4 well before the end of their useful lives.

5  
6 153. Furthermore, the limited warranty promising to repair and/or correct a manufacturing  
7 defect fails in its essential purpose because the contractual remedy is insufficient to make California  
8 Plaintiff and the other California Subclass members whole and because Defendant has failed and/or  
9 refused to adequately provide a permanent repair within a reasonable time.

10 154. California Plaintiff and the California Subclass members have complied with all  
11 obligations under the warranty, or otherwise have been excused from performance of said obligations as  
12 a result of Defendant's conduct.

13  
14 155. As a direct and proximate cause of Defendant's breach, California Plaintiff and the  
15 California Subclass members bought or leased Class Vehicles they otherwise would not have, overpaid  
16 for their vehicles, did not receive the benefit of their bargain, and their Class Vehicles suffered a  
17 diminution in value.

18 **COUNT SEVEN — BREACH OF THE IMPLIED WARRANTY OF MERCHANTABILITY**  
19 **(CAL. COM. CODE §§ 2314 AND 10212)**

20 156. Plaintiffs and the Class incorporate by reference each preceding and succeeding  
21 paragraph as though fully set forth at length herein.

22 157. California Plaintiff brings this claim on behalf of himself and the California Subclass.

23 158. Defendant is and was at all relevant times a "merchant" with respect to motor vehicles  
24 under California Commercial Code §§ 2104(1) and 10103(c), and a "seller" of motor vehicles under §  
25 2103(1)(d).  
26

27 159. With respect to leases, Defendant is and was at all relevant times relevant a "lessor" of  
28 motor vehicles under Cal. Com. Code § 10103(a)(16).

1           160. The Class Vehicles are and were at all relevant times “goods” within the meaning of  
2 California Commercial Code §§ 2105(1) and 10103(a)(8).

3           161. Defendant was at all relevant times the manufacturer, distributor, warrantor, and/or seller  
4 of the Class Vehicles. Defendant knew or had reason to know of the specific use for which the Class  
5 Vehicles were purchased.  
6

7           162. A warranty that the Class Vehicles were in merchantable condition and fit for the  
8 ordinary purpose for which vehicles are used is implied by law pursuant to California Commercial Code  
9 §§ 2314 and 10212.

10           163. Defendant provided California Plaintiff and the members of the California Subclass with  
11 an implied warranty that the Class Vehicles, and any parts thereof, are merchantable and fit for the  
12 ordinary purposes for which they were sold. Defendant impliedly warranted that the Class Vehicles were  
13 of merchantable quality and fit for such use. This implied warranty included, among other things: (i) a  
14 warranty that the vehicles Defendant manufactured, supplied, distributed, and/or sold were safe and  
15 reliable for providing transportation, and would not experience premature failure; and (ii) a warranty  
16 that the Class Vehicles would be fit for their intended use while being operated.  
17

18           164. However, the Class Vehicles at the time of sale and thereafter were and are not vehicles  
19 are not fit for their ordinary purpose of providing reasonably reliable and safe transportation at the time  
20 of sale or thereafter because the Battery Defect can manifest and result in spontaneous failure to start,  
21 spontaneous shutdown, and the premature and permanent failure of 12-volt batteries equipped in the  
22 Class Vehicles.  
23

24           165. Therefore, the Class Vehicles are not fit for their particular purpose of providing safe and  
25 reliable transportation.

26           166. California Plaintiff notified Defendant of its breach within a reasonable time, and/or was  
27 not required to do so because affording Defendant a reasonable opportunity to cure its breaches would  
28 have been futile. In any event, Defendant knows about the defect but instead chose to conceal it as a

1 means of avoiding compliance with their warranty obligations. Moreover, Defendant was provided  
2 notice of these issues within a reasonable amount of time by the numerous complaints they received  
3 from various sources, including through the NHTSA database, other online sources, and directly from  
4 consumers.

5  
6 167. California Plaintiff and the California Subclass members have had sufficient dealings  
7 with Defendant or its agents to establish privity of contract. Privity is not required in this case, however,  
8 because California Plaintiff and the California Subclass members are intended third-party beneficiaries  
9 of contracts between Defendant and its authorized dealers and are intended beneficiaries of Defendant's  
10 implied warranties. The dealers were not intended to be the ultimate consumers of Class Vehicles, and  
11 the warranties were designed for and intended to benefit the ultimate consumers only.

12  
13 168. As a direct and proximate result of the breach of said implied warranty, California  
14 Plaintiff and the California Subclass sustained the damages herein set forth.

15  
16 169. California Plaintiff and the California Subclass members are, therefore, entitled to  
damages in an amount to be proven at trial.

17 **COUNT EIGHT — VIOLATIONS OF THE SONG-BEVERLY ACT – BREACH OF EXPRESS**  
18 **WARRANTY**  
19 **(CAL. CIV. CODE §§ 1791.2 & 1793.2(D))**

20  
21 170. Plaintiffs and the Class incorporate by reference each preceding and succeeding  
paragraph as though fully set forth at length herein.

22  
23 171. California Plaintiff brings this claim on behalf of himself and on behalf of the members  
of the California Subclass.

24  
25 172. California Plaintiff and the California Subclass members are “buyers” within the meaning  
of Cal. Civ. Code § 1791(b).

26  
27 173. The Class Vehicles are “consumer goods” within the meaning of Cal. Civ. Code §  
28 1791(a).

1           174. Defendant is a “manufacturer” of the Class Vehicles within the meaning of Cal. Civ.  
2 Code § 1791(j).

3           175. California Plaintiff and the other California Subclass members bought/leased new motor  
4 vehicles manufactured by Defendant. Defendant made express warranties to California Plaintiff and the  
5 other California Subclass members within the meaning of Cal. Civ. Code §§ 1791.2 and 1793.2, as  
6 described above. These warranties became part of the basis of the parties’ bargain. Accordingly,  
7 Defendant’s warranties are express warranties under state law.  
8

9           176. Specifically, the Class Vehicles are covered by Defendant’s new vehicle and powertrain  
10 warranties, including electric propulsion components, the battery components, charging system, and  
11 electric drive components.  
12

13           177. Furthermore, Defendant expressly warranted—through statements and advertisements—  
14 that the vehicles were of high quality, and at a minimum, would work properly and safely.

15           178. California Plaintiff and California Subclass members experienced defects within the  
16 warranty period. Despite the existence of warranties, Defendant failed or refused to permanently fix the  
17 Battery Defect.

18           179. California Plaintiff and California Subclass members gave Defendant or its authorized  
19 repair facilities opportunities to fix the defects unless only one repair attempt was possible, and  
20 Defendant or their authorized repair facility refused to attempt any permanent repair. Defendant did not  
21 promptly replace or buy back the Class Vehicles of California Plaintiff and the other Class members.  
22

23           180. Pursuant to Cal. Civ. Code §§ 1793.2 & 1794, California Plaintiff and the other  
24 California Subclass members are entitled to damages and other legal and equitable relief including, at  
25 their election, the purchase price of their Class Vehicles, or the overpayment or diminution in value of  
26 their Class Vehicles.  
27  
28

**COUNT NINE — VIOLATIONS OF THE SONG-BEVERLY ACT – BREACH OF THE  
IMPLIED WARRANTY OF MERCHANTABILITY  
(CAL. CIV. CODE §§ 1792, 1791.1, *ET SEQ.*)**

181. Plaintiffs and the Class incorporate by reference each preceding and succeeding paragraph as though fully set forth at length herein.

182. California Plaintiff brings this claim on behalf of himself and on behalf of the members of the California Subclass.

183. At all relevant times hereto, Defendant was a manufacturer, distributor, warrantor, and/or seller of the Class Vehicles. Defendant knew or should have known of the specific use for which the Class Vehicles were purchased.

184. Defendant provided California Plaintiff and the California Subclass members with an implied warranty that the Class Vehicles, and any parts thereof, are merchantable and fit for the ordinary purposes for which they were sold. The Class Vehicles, however, are not fit for their ordinary purpose because, inter alia, the Class Vehicles suffered from an inherent Battery Defect at the time of sale.

185. The Class Vehicles are not fit for the purpose of providing safe and reliable transportation because of the defect.

186. Defendant impliedly warranted that the Class Vehicles were of merchantable quality and fit for such use. This implied warranty included, inter alia, the following: (i) a warranty that the Class Vehicles manufactured, supplied, distributed, and/or sold by Defendant were safe and reliable for providing transportation and would not prematurely fail; and (ii) a warranty that the Class Vehicles would be fit for their intended use—i.e., providing safe and reliable transportation—while the Class Vehicles were being operated.

187. Contrary to the applicable implied warranties, the Class Vehicles were not fit for their ordinary and intended purpose. Instead, the Class Vehicles are defective.

1 188. Defendant's actions, as complained of herein, breached the implied warranty that the  
2 Class Vehicles were of merchantable quality and fit for such use in violation of California Civil Code  
3 §§ 1792 and 1791.1.

4 **COUNT TEN — FRAUD BY CONCEALMENT**

5 189. Plaintiffs and the Class incorporate by reference each preceding and succeeding  
6 paragraph as though fully set forth at length herein.

7 190. California Plaintiff brings this claim on behalf of himself and on behalf of the members  
8 of the California Subclass.

9 191. Defendant made material omissions concerning a presently existing or past fact in that,  
10 for example, Defendant did not fully and truthfully disclose to its customers the true nature of the  
11 Battery Defect, which was not readily discoverable by California Plaintiff or California Subclass  
12 members until well after purchase or lease of the Class Vehicles. These facts, and other facts as set forth  
13 above, were material because reasonable people attach importance to their existence or nonexistence in  
14 deciding which vehicle to purchase.

15 192. Defendant was under a duty to disclose these omitted facts, because where one does  
16 speak one must speak the whole truth and not conceal any facts which materially qualify those facts  
17 stated. One who volunteers information must be truthful, and the telling of a half-truth calculated to  
18 deceive is fraud.

19 193. In addition, Defendant had a duty to disclose these omitted material facts because they  
20 were known and/or accessible only to Defendant, who had superior knowledge and access to the facts,  
21 and Defendant knew they were not known to or reasonably discoverable by California Plaintiff and the  
22 California Subclass members. These omitted facts were material because they directly impact the safety  
23 and reliability of the Class Vehicles.

24 194. Defendant was in exclusive control of the material facts and such facts were not known to  
25 the public or the California Subclass members. Defendant also possessed exclusive knowledge of the



1 Battery Defect and the fact that it rendered the Class Vehicles inherently more dangerous and unreliable  
2 than similar vehicles.

3 195. Defendant actively concealed and/or suppressed these material facts, in whole or in part,  
4 with the intent to induce California Plaintiff and the California Subclass members to purchase the Class  
5 Vehicles at a price higher than their true value.  
6

7 196. California Plaintiff and the California Subclass members were unaware of these omitted  
8 material facts and would not have acted as they did if they had known of the concealed and/or  
9 suppressed facts. The actions of California Plaintiff and the California Class members were justified.

10 197. California Plaintiff and the California Subclass members reasonably relied on  
11 Defendant's omissions and suffered damages as a result.  
12

13 198. As a result of these omissions and concealments, California Plaintiff and the California  
14 Subclass members incurred damages including, but not limited to, their lost benefit of the bargain and  
15 overpayment at the time of purchase or lease and/or the diminished intrinsic value of their Class  
16 Vehicles.  
17

18 199. Defendant's acts were done maliciously, oppressively, deliberately, with intent to  
19 defraud, and in reckless disregard of the rights of California Plaintiff and the California Class members.  
20 Defendant's conduct warrants an assessment of punitive damages in an amount sufficient to deter such  
21 conduct in the future.

22 **C. Claims Brought on Behalf of the New Jersey Subclass**

23 **COUNT ELEVEN — VIOLATION OF NEW JERSEY CONSUMER FRAUD ACT (N.J. STAT.**  
24 **ANN. § 56:8-1, *ET SEQ.*)**

25 200. Plaintiffs and the Class incorporate by reference each preceding and succeeding  
26 paragraph as though fully set forth at length herein.

27 201. Plaintiff Kull (for purposes of this section, "New Jersey Plaintiff") brings this claim on  
28 behalf of himself and on behalf of the New Jersey Subclass against Defendant.

1           202. Defendant is a “person” within the meaning of N.J. Stat. Ann. § 56:8-1(d).

2           203. The Class Vehicles are “merchandise” within the meaning of N.J. Stat. Ann. § 56:8-1(c).

3           204. Defendant violated the New Jersey CFA by engaging in the practices described above,  
4 and by knowingly and intentionally misrepresenting, omitting, concealing, and/or failing to disclose  
5 material facts regarding the reliability, safety, and performance of the Class Vehicles.  
6

7           205. Defendant had the duty to New Jersey Plaintiff and New Jersey Subclass members to  
8 disclose the Battery Defect and the defective nature of the Class Vehicles and to refrain from unfair or  
9 deceptive practices under the New Jersey CFA because:

10                   A. Defendant was in a superior position to know the true state of facts about  
11 the Defect and its associated costs;

12                   B. New Jersey Plaintiff and New Jersey Subclass members could not  
13 reasonably have been expected to learn or discover that the Class Vehicles had defects  
14 until those defects became manifest;  
15

16                   C. Defendant knew that New Jersey Plaintiff and New Jersey Subclass  
17 members could not reasonably have been expected to learn about or discover the Battery  
18 Defect and the effect it would have on the Class Vehicles’ operability.  
19

20           206. In failing to disclose the Battery Defect, Defendant knowingly and intentionally  
21 concealed material facts and breached its duty to disclose.

22           207. By misrepresenting the Class Vehicles as safe and reliable and by failing to disclose the  
23 Battery Defect and the defective nature of the Class Vehicles, Defendant engaged in one or more of the  
24 following unfair or deceptive business practices prohibited by N.J. Stat. Ann. § 56:8-2: using or  
25 employing deception, fraud, false pretense, false promise or misrepresentation, or the concealment,  
26 suppression or omission of a material fact with intent that others rely upon such concealment,  
27 suppression or omission, in connection with the advertisement and sale/lease of the Class Vehicles.  
28

208. The facts Defendant concealed or did not disclose to New Jersey Plaintiff and New Jersey Subclass members are material in that a reasonable consumer would have considered them to be important in deciding whether to purchase the Class Vehicles or pay a lesser price. Had New Jersey Plaintiff and New Jersey Subclass members known the Class Vehicles were defective, they would not have purchased the Class Vehicles or would have paid less for them.

209. New Jersey Plaintiff and New Jersey Subclass members suffered ascertainable losses and actual damages through their overpayment at the time of purchase and lease for Class Vehicles with an undisclosed Battery Defect as a direct and proximate result of Defendant's concealment, misrepresentations, and/or failure to disclose material information.

210. Defendant's violations present a continuing risk to New Jersey Plaintiff and New Jersey Subclass members, as well as to the general public, because the Class Vehicles remain unsafe due to the Battery Defect. Additionally, their unlawful acts and practices complained of herein affect the public interest.

211. Pursuant to N.J. Stat. Ann. § 56:8-19, New Jersey Plaintiff and New Jersey Subclass members seek an order enjoining Defendant's unfair or deceptive acts or practices and awarding damages and any other just and proper relief available under the New Jersey CFA.

**COUNT TWELVE — BREACH OF EXPRESS WARRANTY (N.J. STAT. ANN. §§ 12A:2-313, 12A:2-305, *ET SEG*)**

212. Plaintiffs and the Class incorporate by reference each preceding and succeeding paragraph as though fully set forth at length herein.

213. New Jersey Plaintiff brings this claim on behalf of himself and on behalf of the New Jersey Subclass.

214. Defendant is and was at all relevant times a merchant with respect to motor vehicles under N.J. Stat. Ann. §§ 12A:2-104(1) and 12A:2A-103(3), and a “seller” of motor vehicles under § 12A:2-103(1)(d).

1           215. With respect to leases, Defendant is and was at all relevant times a “lessor” of motor  
2 vehicles under N.J. Stat. Ann. § 12A:2A-103(1)(p).

3           216. All New Jersey Subclass members who purchased Class Vehicles in New Jersey are  
4 “buyers” within the meaning of N.J. Stat. Ann. § 12A:2-103(1)(a).

5           217. All New Jersey Subclass members who leased Class Vehicles in New Jersey are  
6 “lessees” within the meaning of N.J. Stat. Ann. § 12A:2A-103(1)(n).

7           218. The Class Vehicles are and were at all relevant times “goods” within the meaning of N.J.  
8 Stat. Ann. §§ 12A:2-105(1) and 2A-103(1)(h).

9           219. Plaintiff and the other New Jersey Class members bought and/or leased new motor  
10 vehicles manufactured by Defendant. Defendant made express warranties to Plaintiff and New Jersey  
11 Subclass members within the meaning of N.J. Stat. Ann. § 12A:2-313, as described above. These  
12 warranties became part of the basis of the parties’ bargain. Accordingly, Defendant’s warranties are  
13 express warranties under state law.  
14

15           220. Specifically, the Class Vehicles are covered by Defendant’s new vehicle and powertrain  
16 warranties, including electric propulsion components, the battery components, charging system, and  
17 electric drive components.  
18

19           221. Furthermore, Defendant expressly warranted—through statements and advertisements—  
20 that the vehicles were of high quality, and at a minimum, would work properly and safely.  
21

22           222. Defendant distributed the defective parts causing the Battery Defect in the Class  
23 Vehicles, and those parts are covered by Defendant’s warranties granted to all Class Vehicle purchasers  
24 and lessors.

25           223. New Jersey Plaintiff and New Jersey Subclass members experienced defects within the  
26 warranty period. Despite the existence of warranties, Defendant failed or refused to permanently fix the  
27 Battery Defect which is covered by Defendant’s warranties granted to all Class Vehicle purchasers and  
28 lessors.

1           224. New Jersey Plaintiff and New Jersey Subclass members gave Defendant or its authorized  
2 repair facilities opportunities to fix the defects, unless only one repair attempt was possible, and  
3 Defendant or its authorized repair facility refused to attempt any permanent repair. Defendant did not  
4 promptly replace or buy back the Class Vehicles of New Jersey Plaintiff and New Jersey Subclass  
5 members.  
6

7           225. New Jersey Plaintiff notified Defendant of its breach within a reasonable time, and/or  
8 was not required to do so because affording Defendant a reasonable opportunity to cure its breaches  
9 would have been futile. Moreover, Defendant was provided notice of these issues within a reasonable  
10 amount of time by the numerous complaints it received from various sources, including through the  
11 NHTSA database, other online sources, and directly from consumers.  
12

13           226. Any attempt to disclaim or limit these express warranties vis-à-vis consumers is  
14 unconscionable and unenforceable under the circumstances here. Specifically, Defendant's warranty  
15 limitations are unenforceable because it knowingly sold a defective product without giving notice of the  
16 Battery Defect to New Jersey Plaintiff or members of the New Jersey Subclass.  
17

18           227. The time limits contained in Defendant's warranty period were also unconscionable and  
19 inadequate to protect New Jersey Plaintiff or New Jersey Subclass members. Among other things,  
20 neither New Jersey Plaintiff nor New Jersey Subclass members had a meaningful choice in determining  
21 these time limitations, the terms of which unreasonably favored Defendant. A gross disparity in  
22 bargaining power existed between Defendant and the Class members because Defendant knew or should  
23 have known that the Class Vehicles were defective at the time of sale and would fail well before their  
24 useful lives.  
25

26           228. Furthermore, the limited warranty promising to repair and/or correct a manufacturing  
27 defect fails in its essential purpose because the contractual remedy is insufficient to make New Jersey  
28 Plaintiff and New Jersey Subclass members whole and because Defendant has failed and/or have refused  
to adequately provide the promised remedies within a reasonable time.

1           229. New Jersey Plaintiff and New Jersey Subclass members have complied with all  
2 obligations under the warranty, or otherwise have been excused from performance of said obligations as  
3 a result of Defendant's conduct.

4           230. As a direct and proximate cause of Defendant's breach, New Jersey Plaintiff and the  
5 other New Jersey Subclass members bought or leased Class Vehicles they otherwise would not have,  
6 overpaid for their vehicles, did not receive the benefit of their bargain, and their Class Vehicles suffered  
7 a diminution in value.

8  
9 **COUNT THIRTEEN — BREACH OF IMPLIED WARRANTY OF MERCHANTABILITY (N.J.**  
10 **STAT. ANN. §§ 12A:2-314 AND 12A:2A-212)**

11           231. Plaintiffs and the Class incorporate by reference each preceding and succeeding  
12 paragraph as though fully set forth at length herein.

13           232. New Jersey Plaintiff brings this claim on behalf of himself and on behalf of the New  
14 Jersey Subclass.

15           233. Defendant is and was at all relevant times a merchant with respect to motor vehicles  
16 under N.J. Stat. Ann. §§ 12A:2-104(1) and 12A:2A-103(3), and a "seller" of motor vehicles under §  
17 12A:2-103(1)(d).

18           234. With respect to leases, Defendant is and was at all relevant times a "lessor" of motor  
19 vehicles under N.J. Stat. Ann. § 12A:2A-103(1)(p).

20           235. All New Jersey Subclass members who purchased Class Vehicles in New Jersey are  
21 "buyers" within the meaning of N.J. Stat. Ann. § 12A:2-103(1)(a).

22           236. All New Jersey Subclass members who leased Class Vehicles in New Jersey are  
23 "lessees" within the meaning of N.J. Stat. Ann. § 12A:2A-103(1)(n).

24           237. The Class Vehicles are and were at all relevant times "goods" within the meaning of N.J.  
25 Stat. Ann. §§ 12A:2-105(1) and 2A-103(1)(h).

1           238. At all relevant times hereto, each Defendant was a manufacturer, distributor, warrantor,  
2 and/or seller of the Class Vehicles. Defendant knew or should have known of the specific use for which  
3 the Class Vehicles were purchased.

4           239. Defendant provided New Jersey Plaintiff and New Jersey Subclass members with an  
5 implied warranty that the Class Vehicles, and any parts thereof, are merchantable and fit for the ordinary  
6 purposes for which they were sold.

7           240. However, the Class Vehicles at the time of sale and thereafter were and are not vehicles  
8 are not fit for their ordinary purpose of providing reasonably reliable and safe transportation at the time  
9 of sale or thereafter because the Battery Defect can manifest and result in spontaneous failure to start,  
10 spontaneous shutdown, and the premature and permanent failure of 12-volt batteries equipped in the  
11 Class Vehicles.

12           241. Therefore, the Class Vehicles are not fit for their particular purpose of providing safe and  
13 reliable transportation.

14           242. Defendant impliedly warranted that the Class Vehicles were of merchantable quality and  
15 fit for such use. This implied warranty included, inter alia, the following: (i) a warranty that the Class  
16 Vehicles manufactured, supplied, distributed, and/or sold by Defendant were safe and reliable for  
17 providing transportation and would not prematurely fail; and (ii) a warranty that the Class Vehicles  
18 would be fit for their intended use—i.e., providing safe and reliable transportation—while the Class  
19 Vehicles were being operated.

20           243. Contrary to the applicable implied warranties, the Class Vehicles were not fit for their  
21 ordinary and intended purpose. Instead, the Class Vehicles are defective.

22           244. New Jersey Plaintiff and New Jersey Subclass members gave the Defendant or its  
23 authorized repair facilities opportunities to fix the defects, unless only one repair attempt was possible,  
24 and Defendant or its authorized repair facility refused to attempt any permanent repair. Defendant did  
25  
26  
27  
28

1 not promptly replace or buy back the Class Vehicles of New Jersey Plaintiff and the other Class  
2 members.

3 245. New Jersey Plaintiff notified Defendant of its breach within a reasonable time, and/or  
4 was not required to do so because affording Defendant a reasonable opportunity to cure its breaches  
5 would have been futile. Moreover, Defendant was provided notice of these issues within a reasonable  
6 amount of time by the numerous complaints it received from various sources, including through the  
7 NHTSA database, other online sources, and directly from consumers.  
8

9 246. As a direct and proximate cause of Defendant's breach, New Jersey Plaintiff and New  
10 Jersey Subclass members bought or leased Class Vehicles they otherwise would not have, overpaid for  
11 their vehicles, did not receive the benefit of their bargain, and their Class Vehicles suffered a diminution  
12 in value.  
13

14 **COUNT FOURTEEN — FRAUD BY OMISSION AND CONCEALMENT**

15 247. Plaintiffs and the Class incorporate by reference each preceding and succeeding  
16 paragraph as though fully set forth at length herein.

17 248. New Jersey Plaintiff brings this claim on behalf of himself and on behalf of the New  
18 Jersey Subclass against Defendant.

19 249. Defendant is liable for both fraudulent concealment and non-disclosure. *See, e.g.,*  
20 Restatement (Second) of Torts §§ 550-51 (1977).  
21

22 250. Defendant made material omissions concerning a presently existing or past fact in that,  
23 for example, Defendant did not fully and truthfully disclose to its customers the true nature of the  
24 Battery Defect, which was not readily discoverable by New Jersey Plaintiff or New Jersey Subclass  
25 members until well after purchase or lease of the Class Vehicles. These facts, and other facts as set forth  
26 above, were material because reasonable people attach importance to their existence or nonexistence in  
27 deciding which vehicle to purchase.  
28



1           251. Defendant was under a duty to disclose these omitted facts, because where one does  
2 speak one must speak the whole truth and not conceal any facts which materially qualify those facts  
3 stated. One who volunteers information must be truthful, and the telling of a half-truth calculated to  
4 deceive is fraud.

5           252. In addition, Defendant had a duty to disclose these omitted material facts because they  
6 were known and/or accessible only to Defendant, who had superior knowledge and access to the facts  
7 and Defendant knew that those facts were not known to or reasonably discoverable by New Jersey  
8 Plaintiff and New Jersey Subclass members. These omitted facts were material because they directly  
9 impact the safety and reliability of the Class Vehicles.  
10

11           253. Defendant was in exclusive control of the material facts and such facts were not known to  
12 the public or New Jersey Subclass members. Defendant also possessed exclusive knowledge of the  
13 Battery Defect that renders Class Vehicles inherently more dangerous and unreliable than similar  
14 vehicles.  
15

16           254. Defendant actively concealed and/or suppressed these material facts, in whole or in part,  
17 with the intent to induce New Jersey Plaintiff and New Jersey Subclass members to purchase the Class  
18 Vehicles at a higher price for the vehicles, which did not match the vehicles' true value.

19           255. New Jersey Plaintiff and New Jersey Subclass members were unaware of these omitted  
20 material facts and would not have acted as they did if they had known of the concealed and/or  
21 suppressed facts. The actions of New Jersey Plaintiff and New Jersey Subclass members were justified.  
22

23           256. New Jersey Plaintiff and New Jersey Subclass members reasonably relied on these  
24 omissions and suffered damages as a result.

25           257. As a result of these omissions and concealments, New Jersey Plaintiff and New Jersey  
26 Subclass members incurred damages including, but not limited to, their lost benefit of the bargain and  
27 overpayment at the time of purchase or lease and/or the diminished intrinsic value of their Class  
28 Vehicles.

258. Defendant's acts were done maliciously, oppressively, deliberately, with intent to defraud, and in reckless disregard of the rights of New Jersey Plaintiff and New Jersey Subclass members. Defendant's conduct warrants an assessment of punitive damages in an amount sufficient to deter such conduct in the future, which amount is to be determined according to proof.

**COUNT FIFTEEN — UNJUST ENRICHMENT**

259. Plaintiffs and the Class incorporate by reference each preceding and succeeding paragraph as though fully set forth at length herein.

260. New Jersey Plaintiff brings this claim on behalf of himself and on behalf of the New Jersey Subclass against Defendant.

261. New Jersey Plaintiff and New Jersey Subclass members paid Defendant the value of non-defective, fully operational Class Vehicles with the ability to operate without fear of premature battery failure. In exchange, Defendant provided New Jersey Plaintiff and New Jersey Subclass members with defective Vehicles that are prone to battery failures that leave them unable to start, may cause them to suddenly stop while driving, and require premature battery replacements.

262. As such, New Jersey Plaintiff and New Jersey Subclass members conferred value upon Defendant which would be unjust for Defendant to retain.

263. As a direct and proximate result of Defendant's unjust enrichment, Plaintiff and New Jersey Subclass members have suffered and continue to suffer various injuries. As such, they are entitled to damages, including but not limited to restitution of all amounts by which Defendant was enriched through their misconduct.

**D. Claims Brought on Behalf of the New York Subclass**

**COUNT SIXTEEN — VIOLATIONS OF NEW YORK GENERAL BUSINESS LAW § 349  
(N.Y. GEN. BUS. LAW § 349)**

264. Plaintiffs and the Class incorporate by reference each preceding and succeeding paragraph as though fully set forth at length herein.

1           265. Plaintiff Diez (for purposes of this section, “New York Plaintiff”) brings this claim on  
2 behalf of herself and on behalf of the New York Subclass.

3           266. Plaintiff and Defendant are “persons” within the meaning of the New York General  
4 Business Law (“GBL”). N.Y. Gen. Bus. Law § 349(h).

5           267. Under GBL section 349, “[d]eceptive acts or practices in the conduct of any business,  
6 trade or commerce” are unlawful. N.Y. Gen. Bus. Law § 349.

7           268. In the course of Defendant’s business, they willfully failed to disclose and actively  
8 concealed the Battery Defect with the intent that consumers rely on that concealment in deciding  
9 whether to purchase a Class Vehicle.  
10

11           269. By concealing the Battery Defect while advertising the Class Vehicles as capable,  
12 reliable and safe, Defendant engaged in deceptive acts or practices in violation of GBL section 349.  
13

14           270. Defendant’s deceptive acts or practices were materially misleading. Defendant’s conduct  
15 was likely to and did deceive reasonable consumers, including New York Plaintiff and the New York  
16 Subclass members, about the Class Vehicles’ true performance and value.

17           271. New York Plaintiff and New York Subclass members were unaware of, and lacked a  
18 reasonable means of discovering, the material facts Defendant suppressed.

19           272. Defendant’s misleading conduct concerns the safety of widely purchased consumer  
20 products and affects the public interest.  
21

22           273. Defendant’s actions set forth above occurred in the conduct of its business, trade, or  
23 commerce.

24           274. New York Plaintiff and New York Subclass members suffered ascertainable loss as a  
25 direct and proximate result of Defendant’s GBL violations. New York Plaintiff and New York Subclass  
26 members overpaid for their Class Vehicles, and their Class Vehicles suffered a diminution in value  
27 resulting from the Defective Batteries. These injuries are the direct and natural consequence of  
28 Defendant’s material misrepresentations and omissions.

1           275. New York Plaintiff and New York Subclass members request that this Court enter such  
2 orders or judgments as may be necessary to enjoin Defendant from continuing its unfair and deceptive  
3 practices. Under the GBL, New York Plaintiff and New York Subclass members are entitled to recover  
4 their actual damages or \$50, whichever is greater. Additionally, because Defendant acted willfully or  
5 knowingly, New York Plaintiff and New York Subclass members are entitled to recover three times  
6 their actual damages. New York Plaintiff is also entitled to reasonable attorneys' fees. N.Y. Gen. Bus.  
7 Law § 349(h).

9           **COUNT SEVENTEEN — VIOLATIONS OF NEW YORK GENERAL BUSINESS LAW § 350**  
10           **(N.Y. GEN. BUS. LAW § 350)**

11           276. Plaintiffs and the Class incorporate by reference each preceding and succeeding  
12 paragraph as though fully set forth at length herein.

13           277. New York Plaintiff brings this claim on behalf of herself and on behalf of the New York  
14 Subclass.

15           278. GBL section 350 makes unlawful “[f]alse advertising in the conduct of any business,  
16 trade or commerce....” N.Y. Gen. Bus. Law § 350. False advertising includes “advertising, including  
17 labeling, of a commodity...if such advertising is misleading in a material respect,” taking into account  
18 “not only representations made by statement, word, design, device, sound or any combination thereof,  
19 but also the extent to which the advertising fails to reveal facts material in the light of such  
20 representations with respect to the commodity...to which the advertising relates under the conditions  
21 prescribed in said advertisement, or under such conditions as are customary or usual.” N.Y. Gen. Bus.  
22 Law § 350-a.

23           279. Defendant caused or made to be disseminated through New York, through advertising,  
24 marketing, and other publications, statements that were untrue or misleading, and which were known, or  
25 which by the exercise of reasonable care should have been known to Defendant, to be untrue and  
26 misleading to consumers, including New York Plaintiff and New York Subclass members.  
27  
28

1           280. Defendant violated GBL Section 350 because the misrepresentations and omissions  
2 regarding the safety, reliability, and functionality of the Class Vehicles were material and deceived  
3 reasonable consumers, including New York Plaintiff and New York Subclass members, about the true  
4 performance and value of the Class Vehicles.

5           281. New York Plaintiff and New York Subclass members suffered ascertainable loss as a  
6 direct and proximate result of Defendant's violations. In purchasing or leasing their Class Vehicles, New  
7 York Plaintiff and New York Subclass members relied on Defendant's representations and omissions  
8 with respect to safety, performance, reliability, and value of the Class Vehicles. Defendant's  
9 representations turned out to be untrue because they distributed the Class Vehicles with the Battery  
10 Defect. Had Plaintiff or New York Subclass members known this, they would not have purchased or  
11 leased their Class Vehicles or would have paid less money for them.

12           282. New York Plaintiff and New York Subclass members overpaid for their Class Vehicles  
13 and their Class Vehicles suffered a diminution in value resulting from the Battery Defect. These injuries  
14 are the direct and natural consequence of Defendant's material misrepresentations and omissions.

15           283. New York Plaintiff and New York Subclass members request that this Court enter such  
16 orders or judgments as may be necessary to enjoin Defendant from continuing its unfair, unlawful, and  
17 deceptive practices of false advertising. Under the GBL, New York Plaintiff and New York Subclass  
18 members are entitled to recover their actual damages or \$500, whichever is greater. Additionally,  
19 because Defendant acted willfully or knowingly, New York Plaintiff and New York Subclass members  
20 are entitled to recover three times their actual damages, up to \$10,000. New York Plaintiff is also  
21 entitled to reasonable attorneys' fees. N.Y. Gen. Bus. Law § 350-e.

22  
23  
24  
25           **COUNT EIGHTEEN — BREACH OF EXPRESS WARRANTY**  
26           **(N.Y. U.C.C. LAW §§ 2-313 AND 2A-210)**

27           284. Plaintiffs and the Class incorporate by reference each preceding and succeeding  
28 paragraph as though fully set forth at length herein.

1           285. New York Plaintiff brings this claim on behalf of herself and on behalf of the members of  
2 the New York Subclass.

3           286. Defendant is, and was, at all relevant times a “merchant” with respect to motor vehicles  
4 under N.Y. UCC Law § 2-104(1) and “seller” of motor vehicles under § 2-103(1)(d).

5           287. The Class Vehicles are and were at all relevant times “goods” within the meaning of N.Y.  
6 UCC Law §§ 2-105(1) and 2A-103(1)(h).

7           288. Defendant provided all purchasers and lessees of the Class Vehicles with the express  
8 warranties described herein, which became part of the basis of the parties’ bargain. Accordingly,  
9 Defendant’s warranties are express warranties under state law.  
10

11           289. Specifically, the Class Vehicles are covered by Defendant’s new vehicle limited  
12 warranties, the powertrain warranty on electric propulsion components, including the battery  
13 components, charging systems, and electric drive components.  
14

15           290. Furthermore, Defendant expressly warranted—through statements and advertisements—  
16 that the vehicles were of high quality, and at a minimum, would work properly and safely.

17           291. Defendant distributed the defective parts causing the Battery Defect in the Class  
18 Vehicles, and those parts are covered by Defendant’s warranties granted to all Class Vehicle purchasers  
19 and lessors.  
20

21           292. New York Plaintiff and New York subclass members experienced defects within the  
22 warranty period. Despite the existence of warranties, Defendant failed or refused to permanently fix the  
23 Battery Defect which is covered by Defendant’s warranties granted to all Class Vehicle purchasers and  
24 lessors.

25           293. Defendant breached these warranties by selling and leasing Class Vehicles with the  
26 Battery Defect, requiring repair or replacement within the applicable warranty periods, and refusing to  
27 honor the warranties by providing free repairs or replacements during the applicable warranty periods  
28 sufficient for the Class Vehicles to be restored to their advertised qualities within a reasonable time.

1           294. New York Plaintiff notified Defendant of its breach within a reasonable time, and/or was  
2 not required to do so because affording Defendant a reasonable opportunity to cure its breaches would  
3 have been futile. Moreover, Defendant was provided notice of these issues within a reasonable amount  
4 of time by the numerous complaints it received from various sources, including through the NHTSA  
5 database, other online sources, and directly from consumers.  
6

7           295. Any attempt to disclaim or limit these express warranties vis-à-vis consumers is  
8 unconscionable and unenforceable under the circumstances here. Specifically, Defendant's warranty  
9 limitations are unenforceable because it knowingly sold a defective product without giving notice of the  
10 Battery Defect to New York Plaintiff or New York Subclass members.  
11

12           296. The time limits contained in Defendant's warranty period were also unconscionable and  
13 inadequate to protect New York Plaintiff or New York Subclass members. Among other things, neither  
14 New York Plaintiff nor New York Subclass members had a meaningful choice in determining these time  
15 limitations, the terms of which unreasonably favored Defendant. A gross disparity in bargaining power  
16 existed between Defendant and the Class members because Defendant knew or should have known that  
17 the Class Vehicles were defective at the time of sale and would fail well before their useful lives.  
18

19           297. Furthermore, the limited warranty promising to repair and/or correct a manufacturing  
20 defect fails in its essential purpose because the contractual remedy is insufficient to make New York  
21 Plaintiff and New York Subclass members whole and because Defendant has failed and/or have refused  
22 to adequately provide the promised remedies within a reasonable time.  
23

24           298. New York Plaintiff and New York Subclass members have complied with all obligations  
25 under the warranty, or otherwise have been excused from performance of said obligations as a result of  
26 Defendant's conduct.  
27

28           299. As a direct and proximate cause of Defendant's breach, New York Plaintiff and New  
York Subclass members bought or leased Class Vehicles they otherwise would not have, overpaid for

1 their vehicles, did not receive the benefit of their bargain, and their Class Vehicles suffered a diminution  
2 in value.

3 **COUNT NINETEEN — BREACH OF THE IMPLIED WARRANTY OF MERCHANTABILITY**  
4 **(N.Y. U.C.C. LAW §§ 2-314 AND 2A-212)**

5 300. Plaintiffs and the Class incorporate by reference each preceding and succeeding  
6 paragraph as though fully set forth at length herein.

7 301. New York Plaintiff brings this claim on behalf of herself and on behalf of the members of  
8 the New York Subclass.

9 302. Defendant is, and was, at all relevant times a “merchant” with respect to motor vehicles  
10 under N.Y. UCC Law § 2-104(1) and “sellers” of motor vehicles under § 2-103(1)(d).

11 303. The Class Vehicles are and were at all relevant times “goods” within the meaning of N.Y.  
12 UCC Law §§ 2-105(1) and 2A-103(1)(h).

13 304. A warranty that the Class Vehicles were in merchantable condition and fit for the  
14 ordinary purpose for which vehicles are used is implied by law pursuant to N.Y. UCC Law §§ 2-314 and  
15 2A-212.  
16

17 305. Defendant impliedly warranted that the Class Vehicles were of merchantable quality and  
18 fit for such use. This implied warranty included, among other things: (i) a warranty that the vehicles  
19 Defendant manufactured, supplied, distributed, and/or sold were safe and reliable for providing  
20 transportation, and would not experience premature failure; and (ii) a warranty that the Class Vehicles  
21 would be fit for their intended use while being operated.  
22

23 306. However, the Class Vehicles at the time of sale and thereafter were and are not vehicles  
24 fit for their ordinary purpose of providing reasonably reliable and safe transportation at the time of sale  
25 or thereafter because the Battery Defect can manifest and result in spontaneous failure to start,  
26 spontaneous shutdown, and the premature and permanent failure of 12-volt batteries equipped in the  
27 Class Vehicles.  
28



1           307. Therefore, the Class Vehicles are not fit for their particular purpose of providing safe and  
2 reliable transportation.

3           308. Defendant breached the implied warranty of merchantability in that the Class Vehicles  
4 were not in merchantable condition when they were sold or leased to New York Plaintiff and New York  
5 Subclass members and said vehicles were and are unfit for the ordinary purposes for which such  
6 vehicles are used because they pose a serious safety risk to the occupants and are an unreliable means of  
7 transportation.  
8

9           309. Defendant has been provided notice of these issues by numerous complaints, as alleged  
10 herein.

11           310. As a direct and proximate result of breaches of the implied warranty of merchantability,  
12 New York Plaintiff and New York Subclass members have suffered damages, including but not limited  
13 to incidental and consequential damages.  
14

15                           **COUNT TWENTY — FRAUD BY CONCEALMENT**

16           311. Plaintiffs and the Class incorporate by reference each preceding and succeeding  
17 paragraph as though fully set forth at length herein.

18           312. New York Plaintiff brings this claim on behalf of herself and on behalf of the members of  
19 the New York Subclass.

20           313. Defendant made material omissions concerning a presently existing or past fact in that,  
21 for example, Defendant did not fully and truthfully disclose to its customers the true nature of the  
22 Battery Defect, which was not readily discoverable by New York Plaintiff or New York Subclass  
23 members until well after purchase or lease of the Class Vehicles. These facts, and other facts as set forth  
24 above, were material because reasonable people attach importance to their existence or nonexistence in  
25 deciding which vehicle to purchase.  
26

27           314. Defendant was under a duty to disclose these omitted facts, because where one does  
28 speak one must speak the whole truth and not conceal any facts which materially qualify those facts

1 stated. One who volunteers information must be truthful, and the telling of a half-truth calculated to  
2 deceive is fraud.

3 315. In addition, Defendant had a duty to disclose these omitted material facts because they  
4 were known and/or accessible only to Defendant, who had superior knowledge and access to the facts  
5 and Defendant knew that those facts were not known to or reasonably discoverable by New York  
6 Plaintiff and New York Subclass members. These omitted facts were material because they directly  
7 impact the safety and reliability of the Class Vehicles.  
8

9 316. Defendant was in exclusive control of the material facts and such facts were not known to  
10 the public or New York Subclass members. Defendant also possessed exclusive knowledge of the  
11 Battery Defect and that it renders Class Vehicles inherently more dangerous and unreliable than similar  
12 vehicles.  
13

14 317. Defendant actively concealed and/or suppressed these material facts, in whole or in part,  
15 with the intent to induce New York Plaintiff and New York Subclass members to purchase the Class  
16 Vehicles at a higher price for the vehicles, which did not match the vehicles' true value.

17 318. New York Plaintiff and New York Subclass members were unaware of these omitted  
18 material facts and would not have acted as they did if they had known of the concealed and/or  
19 suppressed facts. The actions of New York Plaintiff and New York Subclass members were justified.  
20

21 319. New York Plaintiff and New York Subclass members reasonably relied on these  
22 omissions and suffered damages as a result.

23 320. As a result of these omissions and concealments, New York Plaintiff and New York  
24 Subclass members incurred damages including, but not limited to, their lost benefit of the bargain and  
25 overpayment at the time of purchase or lease and/or the diminished intrinsic value of their Class  
26 Vehicles.  
27

28 321. Defendant's acts were done maliciously, oppressively, deliberately, with intent to  
defraud, and in reckless disregard of the rights of New York Plaintiff and New York Subclass members.

1 Defendant's conduct warrants an assessment of punitive damages in an amount sufficient to deter such  
2 conduct in the future, which amount is to be determined according to proof.

3 **COUNT TWENTY-ONE — UNJUST ENRICHMENT**

4 322. Plaintiffs and the Class incorporate by reference each preceding and succeeding  
5 paragraph as though fully set forth at length herein.

6 323. New York Plaintiff brings this cause of action on behalf of herself and the New York  
7 Subclass.

8 324. New York Plaintiff and New York Subclass members paid Defendant the value of non-  
9 defective, fully operational Class Vehicles with the ability to operate without fear of premature battery  
10 failure. In exchange, Defendant provided New York Plaintiff and New York Subclass members with  
11 defective Vehicles that are prone to battery failures that leave them unable to start, may cause them to  
12 suddenly stop while driving, and require premature battery replacements.

13 325. As such, New York Plaintiff and New York Subclass members conferred value upon  
14 Defendant which would be unjust for Defendant to retain.

15 326. As a direct and proximate result of Defendant's unjust enrichment, Plaintiff and Class  
16 members have suffered and continue to suffer various injuries. As such, they are entitled to damages,  
17 including but not limited to restitution of all amounts by which Defendant was enriched through its  
18 misconduct.

19 **E. Claims Brought on Behalf of the Washington Subclass**

20 **COUNT TWENTY-TWO — VIOLATIONS OF THE**  
21 **CONSUMER PROTECTION ACT**  
22 **(REV. CODE WASH. ANN. §§ 19.86.010, ET SEQ.)**

23 327. Plaintiffs and the Class incorporate by reference each preceding and succeeding  
24 paragraph as though fully set forth at length herein.

25 328. Plaintiff Buls (for purposes of this section, "Washington Plaintiff") bring this claim on  
26 behalf of herself and on behalf of the members of the Washington Subclass.

1           329. Defendant's conduct as set forth herein constitutes unfair or deceptive acts or practices,  
2 including, but not limited to, by knowingly and intentionally concealing from Plaintiff and Class  
3 members that the Class Vehicles suffer from a defect(s) (and the costs, risks, and diminished value of  
4 the vehicles as a result of this problem), which Defendant failed to adequately investigate, disclose and  
5 remedy, and its misrepresentations and omissions regarding the safety, reliability, and range of the Class  
6 Vehicles.

7  
8           330. Defendant's actions as set forth above occurred in the conduct of trade or commerce.

9           331. Defendant's actions impact the public interest because Washington Plaintiff was injured  
10 in the same way as tens of thousands of others purchasing and/or leasing Defendant's vehicles as a result  
11 of Defendant's generalized course of deception. All of the wrongful conduct alleged herein occurred,  
12 and continues to occur, in the conduct of Defendant's business.

13  
14           332. Washington Plaintiff and Washington Subclass members were injured as a result of  
15 Defendant's conduct. Washington Plaintiffs and Washington Subclass overpaid for the Class Vehicles  
16 and did not receive the benefit of their bargain, and thus the Class Vehicles have suffered a diminution  
17 in value.

18           333. Defendant's conduct proximately caused injuries to Washington Plaintiff and  
19 Washington Subclass members.

20           334. Defendant is liable to Washington Plaintiff and Washington Subclass Members for  
21 damages in amounts to be proven at trial, including attorneys' fees, costs, and treble damages.

22           335. Pursuant to Wash. Rev. Code. Ann. § 19.86.095, Washington Plaintiff will serve the  
23 Washington Attorney General with a copy of this complaint as Washington Plaintiff and the Washington  
24 Subclass members seek injunctive relief.  
25  
26  
27  
28

**COUNT TWENTY-THREE — BREACH OF EXPRESS WARRANTY  
(REV. CODE WASH. § 62A.2-313 AND 62A.2A-210)**

336. Plaintiffs and the Class incorporate by reference each preceding and succeeding paragraph as though fully set forth at length herein.

337. Washington Plaintiff brings this claim on behalf of herself and on behalf of the members of the Washington Subclass against Defendant.

338. Defendant is and was at all relevant times a merchant with respect to motor vehicles.

339. In the course of selling its vehicles, Defendant expressly warranted in writing that the Class Vehicles were covered by a new vehicle limited warranty.

340. Specifically, the Class Vehicles are covered by Defendant's new vehicle limited warranties, the powertrain warranty on electric propulsion components, including the battery components, charging systems, and electric drive components.

341. Washington Plaintiff notified Defendant of its breach within a reasonable time, and/or was not required to do so because affording Defendant a reasonable opportunity to cure its breaches would have been futile. Moreover, Defendant was provided notice of these issues within a reasonable amount of time by the numerous complaints filed against them.

342. In addition to this new vehicle limited warranty, Defendant expressly warranted several attributes, characteristics and qualities, as set forth above.

343. Furthermore, the limited warranty of repair and/or adjustments to defective parts, fails in its essential purpose because the contractual remedy is insufficient to make the Washington Plaintiff and Washington Subclass members whole and because Defendant has failed and/or have refused to adequately provide the promised remedies within a reasonable time.

344. Accordingly, Washington Plaintiff's and Washington Subclass members' recovery is not limited to the limited warranty of repair or adjustments to parts defective in materials or workmanship, and Plaintiffs seeks all remedies as allowed by law.

1           345. Also, at the time Defendant warranted and sold the Class Vehicles, Defendant wrongfully  
2 and fraudulently misrepresented and/or concealed material facts regarding the Class Vehicles.  
3 Washington Plaintiff and Washington Subclass members were therefore induced to purchase the Class  
4 Vehicles under false and/or fraudulent pretenses.

5           346. The damages flowing from the Class Vehicles cannot be resolved through the limited  
6 remedy of “replacement or adjustments,” and any limitation on available remedies would be insufficient  
7 to make Washington Plaintiff and Washington Subclass members.  
8

9           347. Finally, as a result of Defendant’s breach of warranties as set forth herein, Washington  
10 Plaintiff and Washington Subclass members assert as an additional and/or alternative remedy, as set  
11 forth in Rev. Code Wash. § 62A.2-608, for a revocation of acceptance of the goods, and for a return to  
12 Washington Plaintiff and to Washington Subclass members the purchase price of all Class Vehicles  
13 currently owned.  
14

15           348. As a direct and proximate result of Defendant’s breach of express warranties,  
16 Washington Plaintiff and Washington Subclass members have been damaged in an amount to be  
17 determined at trial.

18                   **COUNT TWENTY-FOUR — BREACH OF THE IMPLIED WARRANTY OF**  
19                   **MERCHANTABILITY**  
20                   **(REV. CODE WASH. § 62A.2-314/315)**

21           349. Plaintiffs and the Class incorporate by reference each preceding and succeeding  
22 paragraph as though fully set forth at length herein.

23           350. Washington Plaintiff brings this claim on behalf of herself and on behalf of the members  
24 of the Washington Subclass.

25           351. Defendant is and was at all relevant times a merchant with respect to motor vehicles.

26           352. A warranty that the Class Vehicles were in merchantable condition is implied by law in  
27 the instant transactions.  
28

1           353. Defendant impliedly warranted that the Class Vehicles were of merchantable quality and  
2 fit for such use. This implied warranty included, inter alia, the following: (i) a warranty that the Class  
3 Vehicles manufactured, supplied, distributed, and/or sold by Defendant were safe and reliable for  
4 providing transportation and would not prematurely fail; and (ii) a warranty that the Class Vehicles  
5 would be fit for their intended use—i.e., providing safe and reliable transportation—while the Class  
6 Vehicles were being operated.

7  
8           354. The Class Vehicles, when sold and at all times thereafter, were not in merchantable  
9 condition and are not fit for the ordinary purpose for which cars are used. Specifically, the Class  
10 Vehicles are inherently defective in that the Battery Defect can manifest and result in spontaneous  
11 failure to start, spontaneous shutdown, and the premature and permanent failure of 12-volt batteries  
12 equipped in the Class Vehicles.

13  
14           355. Privity is not required in this case because Washington Plaintiff and Washington Subclass  
15 members are intended third-party beneficiaries of contracts between Defendant and its dealers;  
16 specifically, they are the intended beneficiaries of Defendant's implied warranties. The dealers were not  
17 intended to be the ultimate consumers of the Class Vehicles and have no rights under the warranty  
18 agreements provided with the Class Vehicles; the warranty agreements were designed for and intended  
19 to benefit the ultimate consumers only.

20  
21           356. As a direct and proximate result of Defendant's breach of the warranties of  
22 merchantability, Washington Plaintiff and Washington Subclass members have been damaged in an  
23 amount to be proven at trial.

24                   **COUNT TWENTY-FIVE — FRAUD BY CONCEALMENT**

25           357. Plaintiffs and the Class incorporate by reference each preceding and succeeding  
26 paragraph as though fully set forth at length herein.

27           358. Washington Plaintiff brings this claim on behalf of herself and on behalf of the members  
28 of the Washington Subclass.

1           359. As set forth above, Defendant concealed and/or suppressed material facts concerning the  
2 safety of the Class Vehicles.

3           360. Defendant made material omissions concerning a presently existing or past fact in that,  
4 for example, Defendant did not fully and truthfully disclose to its customers the true nature of the  
5 Battery Defect, which was not readily discoverable by the Washington Plaintiff or Washington Subclass  
6 members until well after purchase or lease of the Class Vehicles. These facts, and other facts as set forth  
7 above, were material because reasonable people attach importance to their existence or nonexistence in  
8 deciding which vehicle to purchase.  
9

10           361. Defendant actively concealed and/or suppressed these material facts, in whole or in part,  
11 with the intent to induce Washington Plaintiffs and Washington Subclass members to purchase the Class  
12 Vehicles at a higher price, which did not match their true value.  
13

14           362. Defendant was under a duty to disclose these omitted facts, because where one does  
15 speak one must speak the whole truth and not conceal any facts which materially qualify those facts  
16 stated. One who volunteers information must be truthful, and the telling of a half-truth calculated to  
17 deceive is fraud.

18           363. In addition, Defendant had a duty to disclose these omitted material facts because they  
19 were known and/or accessible only to Defendant, who had superior knowledge and access to the facts,  
20 and Defendant knew they were not known to or reasonably discoverable by Washington Plaintiff and  
21 Washington Subclass members. These omitted facts were material because they directly impact the  
22 safety and reliability of the Class Vehicles.  
23

24           364. Defendant still has not made full and adequate disclosure and continue to defraud  
25 Washington Plaintiff and Washington Subclass members.

26           365. Washington Plaintiff and Washington Subclass members were unaware of these omitted  
27 material facts and would not have acted as they did if they had known of the concealed and/or  
28 suppressed facts. Washington Plaintiff and Washington Subclass members' actions were justified.



1           366. Defendant was in exclusive control of the material facts and such facts were not known to  
2 the public or Washington Subclass members. Defendant also possessed exclusive knowledge of the  
3 Battery Defect and the fact that it rendered the Class Vehicles inherently more dangerous and unreliable  
4 than similar vehicles.

5           367. As a result of the concealment and/or suppression of the facts, Washington Plaintiff and  
6 Washington Subclass members sustained damage. For those Plaintiffs and Washington Subclass  
7 members who elect to affirm the sale, these damages, include the difference between the actual value of  
8 that which Washington Plaintiff and Washington Subclass members paid and the actual value of that  
9 which they received, together with additional damages arising from the sales transaction, amounts  
10 expended in reliance upon the fraud, compensation for loss of use and enjoyment of the property, and/or  
11 lost profits. Any Washington Plaintiff or Washington Subclass member who wants to rescind their  
12 purchase is entitled to restitution and consequential damages.

13           368. Defendant's acts were done maliciously, oppressively, deliberately, with intent to  
14 defraud, and in reckless disregard of Washington Plaintiff's and Washington Subclass members' rights  
15 and well-being to enrich Defendant. Defendant's conduct warrants an assessment of punitive damages in  
16 an amount sufficient to deter such conduct in the future, which amount is to be determined according to  
17 proof.

18  
19  
20  
21           **COUNT TWENTY-SIX — UNJUST ENRICHMENT**

22           369. Plaintiffs and the Class incorporate by reference each preceding and succeeding  
23 paragraph as though fully set forth at length herein.

24           370. Washington Plaintiff brings this cause of action on behalf of herself and the Washington  
25 Subclass.

26           371. As a result of Defendant's wrongful and fraudulent acts and omissions, as set forth above,  
27 Washington Plaintiff and Washington Subclass members paid Defendant the value of non-defective,  
28 fully operational Class Vehicles with the ability to operate without fear of premature battery failure. In

1 exchange, Defendant provided Plaintiff and Class members with defective Vehicles that are prone to  
2 battery failures that leave them unable to start, may cause them to suddenly stop while driving, and  
3 require premature battery replacements.

4 372. As such, Washington Plaintiff and Washington Subclass members conferred value upon  
5 Defendant which would be unjust for Defendant to retain.

6 373. Defendant enjoyed the benefit of increased financial gains, to the detriment of  
7 Washington Plaintiff and Washington Subclass members, who paid a higher price for vehicles which  
8 actually had lower values. It would be inequitable and unjust for Defendant to retain these wrongfully  
9 obtained profits.

10 374. As a direct and proximate result of Defendant's unjust enrichment, Washington Plaintiff  
11 and Washington Subclass members have suffered and continue to suffer various injuries. As such, they  
12 are entitled to damages, including but not limited to restitution of all amounts by which Defendant was  
13 enriched through their misconduct.

14 375. Washington Plaintiff and Washington Subclass members therefore seek an order  
15 establishing Defendant as a constructive trustee of the profits unjustly obtained, plus interest.

#### 16 **VIII. PRAYER FOR RELIEF**

17 WHEREFORE, Plaintiffs, on behalf of themselves and the Class and each of the Subclasses,  
18 pray that this Court:

19 A. Determine that the claims alleged herein may be maintained as a class action under Rule  
20 23 of the Federal Rules of Civil Procedure, and issue an order certifying the Nationwide Class and State  
21 Subclasses as defined above;

22 B. Appoint Plaintiffs as representatives of the Nationwide Class and applicable State Classes  
23 and their counsel as Class Counsel;

24 C. Award all actual, general, special, incidental, consequential, punitive, and exemplary  
25 damages and restitution to which Plaintiffs and Class members are entitled;

D. Award pre- and post-judgment interest on any monetary relief;

E. Grant appropriate injunctive relief against Subaru, including an order requiring Subaru to permanently and completely repair the Class Vehicles pursuant to its obligations under the terms of the Warranty;

F. Determine that Subaru is financially responsible for all Class notice and administration of Class relief;

G. Award reasonable attorney fees and costs; and

H. Grant such further relief that this Court deems appropriate.

### IX. DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury.

RESPECTFULLY SUBMITTED this 23RD DAY OF MAY, 2025.

KELLER ROHRBACK L.L.P.

By /s/ Matthew Melamed

Matthew Melamed, CSB # 260272  
mmelamed@kellerrohrback.com  
180 Grand Avenue, Suite 1380  
Oakland, CA 94612  
(510) 463-3900, Fax (510) 463-3901

Ryan McDevitt (pro hac vice forthcoming)  
rmcdevitt@kellerrohrback.com  
1201 Third Avenue, Suite 3400  
Seattle, WA 98101-3268  
(206) 623-1900, Fax (206) 623-3384

Norjmoo Battulga, CSB # 337188  
nbattulga@kellerrohrback.com  
601 SW 2nd Ave, Suite 1900  
Portland, OR 97204  
(971) 253-4600, Fax (206) 623-3384

Jonathan Shub (CSB # 237708)  
Benjamin F. Johns (pro hac vice forthcoming)  
Samantha E. Holbrook (pro hac vice forthcoming)

SHUB JOHNS & HOLBROOK LLP  
Four Tower Bridge  
200 Barr Harbor Drive, Suite 400  
Conshohocken, PA 19428  
Phone: (610) 477-8380  
bjohns@shublawyers.com  
sholbrook@shublawyers.com

Ethan D. Roman (pro hac vice forthcoming)  
WITTELS MCINTURFF PALIKOVIC  
305 Broadway, 7<sup>th</sup> Floor  
New York, NY 10007  
Phone: (914) 775-8862  
edr@wittelslaw.com

*Attorneys for Plaintiffs*

## CIVIL COVER SHEET

Case 2:25-at-00658 Document 1-1 Filed 05/23/25 Page 1 of 1

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

## I. (a) PLAINTIFFS

FRANKLIN HUFFMAN, DANIELLE BULS, CLAUDIA DIEZ, and MATTHEW KULL

(b) County of Residence of First Listed Plaintiff Placer County  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Matthew Melamed, CSB # 260272  
Keller Rohrbach L.L.P., 180 Grand Ave., Ste. 1380,  
Oakland, CA 94612 // (510) 463-3900

## DEFENDANTS

SUBARU OF AMERICA, INC.

County of Residence of First Listed Defendant \_\_\_\_\_  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF  
THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

## II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☐ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

## III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   | PTF                                   | DEF                        |   | PTF                        | DEF                                   |
|---|---------------------------------------|----------------------------|---|----------------------------|---------------------------------------|
| Citizen of This State                   | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4            |
| Citizen of Another State                | <input type="checkbox"/> 2            | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input checked="" type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3            | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6            |

## IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input checked="" type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<b>PERSONAL INJURY</b> <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>INTELLECTUAL PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <input type="checkbox"/> 880 Defend Trade Secrets Act of 2016 <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692) <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	<b>PRISONER PETITIONS</b> <b>Habeas Corpus:</b> <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <b>Other:</b> <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

## V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (specify) ☐ 6 Multidistrict Litigation - Transfer ☐ 8 Multidistrict Litigation - Direct File

## VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):  
28 U.S.C. § 1332(d)

Brief description of cause:

Defendants' failure to disclose and then adequately repair a uniform and widespread defect in the battery charging systems of certain electric vehicle

## VII. REQUESTED IN COMPLAINT:

☒ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

## VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE Chief District Judge Troy L. Nunley

DOCKET NUMBER 2:25-cv-01071-TLN-CKD

DATE

May 23, 2025

SIGNATURE OF ATTORNEY OF RECORD

/s/ Matthew Melamed

FOR OFFICE USE ONLY

RECEIPT # \_\_\_\_\_ AMOUNT \_\_\_\_\_ APPLYING IFP \_\_\_\_\_ JUDGE \_\_\_\_\_ MAG. JUDGE \_\_\_\_\_

Matthew Melamed, CSB # 260272  
mmelamed@kellerrohrback.com  
KELLER ROHRBACK L.L.P.  
180 Grand Avenue, Suite 1380  
Oakland, CA 94612  
Telephone: (510) 463-3900  
Fax: (510) 463-3901

*Counsel for Plaintiff*

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA  
SACRAMENTO DIVISION

FRANKLIN HUFFMAN, DANIELLE BULS,  
CLAUDIA DIEZ, AND MATTHEW KULL,  
Plaintiffs

v.

SUBARU OF AMERICA, INC.,  
Defendant.

No.

**CLRA VENUE AFFIDAVIT OF PLAINTIFF  
FRANKLIN HUFFMAN**

I, Franklin Huffman, hereby declare and state as follows:

1. I am over the age of 18 and a Plaintiff in this action. The facts contained in this declaration are based on my personal knowledge and information that I have gathered and is available to me, and if called upon to do so, I would testify to the matters stated herein.

2. I make this affidavit as required by California Civil Code § 1780(d).

3. The complaint in this action is filed in the proper place for trial of this action because I reside within the Sacramento Division of the Eastern District of California, because defendant Subaru of America, Inc. does business within the Eastern District of California, and because a substantial portion

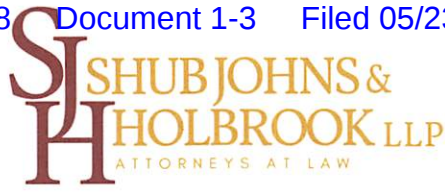
1 of the events, acts and omissions that give rise to my claims in this matter occurred within the Eastern  
2 District of California, Sacramento Division.

3 I declare under penalty of perjury under the laws of the State of California and the United States  
4 that the foregoing is true and correct.

5 Executed this 23 th day of May, 2025 at Placerville, California.

6  
7   
Franklin Huffman (May 23, 2025 09:53 PDT)  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
Franklin Huffman





JONATHAN SHUB<sup>†</sup>\*  
BENJAMIN F. JOHNS\*  
SAMANTHA E. HOLBROOK\*  
ANDREA L. BONNER\*

\* ADMITTED IN PENNSYLVANIA AND NEW JERSEY

<sup>†</sup> ADMITTED IN NEW YORK, WASHINGTON, D.C., AND CALIFORNIA

May 21, 2025

**VIA CERTIFIED MAIL 9589 0710 5270 2273 0468 50**

Subaru of America, Inc.  
Attn: Legal Department  
One Subaru Drive  
Camden, NJ 081034

Re: **Demand Letter and Notice of Violations Pursuant to the California  
Consumer Legal Remedies Act, Cal. Civ. Code § 1750, et seq.**

To Whom It May Concern:

I am writing on behalf of our client, Franklin Huffman, and all similarly situated individuals who purchased 2023, 2024 and 2025 Subaru Solterra vehicles (collectively the “Class Vehicles”), to provide Subaru of America, Inc. (“Subaru”) with notice of violations and a demand pursuant to the California Consumer Legal Remedies Act, Cal. Civ. Code § 1750, *et seq.* (“CLRA”).

It has come to our attention that the Subaru Solterra vehicles identified above are equipped with a defective battery charging system that causes their 12-Volt Batteries to repeatedly lose their charge. The battery drain defect (hereinafter, the “Defect”) renders the vehicle unable to start and unable to drive. It also likewise damages the 12-volt battery itself.

Mr. Huffman, a resident of Placer County, California, acquired his 2024 Subaru Solterra in or around July 2024 from Shingle Springs Nissan Subaru Inc. in Shingle Springs, California. Within a few months, the 12-volt battery Mr. Huffman’s vehicle had lost its charge. This occurred in or around October 2024. Mr. Huffman jump-started his vehicle to continue using it. Over the next month, with the Vehicle’s approximate mileage at 3,500 miles, the 12-volt battery died four more times, leading Mr. Huffman to have the Subaru dealership address the Defect. The dealership replaced the 12-volt battery. After this replacement, the vehicle experienced this Defect twice more. Since July 2024, and after only approximately 7,000

Four Tower Bridge  
200 Barr Harbor Drive  
Suite 400  
Conshohocken, PA 19428



Subaru of America, Inc.  
May 21, 2025  
Page 2

miles, Mr. Huffman's Solterra has experienced a battery drain six times and has required one battery replacement. The existence of the Defect was not disclosed to Mr. Huffman when he purchased his vehicle.

In light of the foregoing, Subaru has violated the CLRA by engaging in unfair, false, misleading, or deceptive acts or practices in the sale or lease of Class Vehicles containing the undisclosed Defect. This letter provides notice of our client's claims under the California Consumer Legal Remedies Act ("CLRA"), Cal. Civ. Code § 1750, *et seq.*

### **CLRA Claim**

The CLRA is a comprehensive statutory scheme to protect consumers against unfair and deceptive business practices in connection with the conduct of businesses providing goods, property or services to consumers primarily for personal, family, or household use. Pursuant to Cal. Civ. Code § 1782(a) this letter serves as notice of Subaru's alleged violations of the CLRA, for which Mr. Huffman and those similarly situated to him may recover their actual and/or statutory damages, punitive damages, injunctive relief, and any other relief that the court deems proper if Subaru's actions are not cured. *See* Cal. Civ. Code § 1780(a).

Mr. Huffman specifically alleges that Subaru violated the CLRA by knowingly failing to disclose the existence of the Defect in Subaru's 2023 – 2025 Solterra vehicles, including in his 2024 Subaru Solterra. *See* Cal. Civ. Code § 1770(a)(5). Subaru also violated the CLRA by representing that the Class Vehicles is of a particular standard, quality, or grade, when it is not. *See* Cal. Civ. Code § 1770(a)(7); *see also* Cal. Civ. Code § 1770(a)(9), (16).

### **Demand for Mr. Huffman and Members of the Proposed Class**

Subaru has violated and breached warranties under the CLRA by selling Subaru Solterras – including to Mr. Huffman – that contain a defect without disclosing that material information, and by failing to provide a suitable fix or remedy. Mr. Huffman and those similarly situated have suffered damages by virtue of, *inter alia*, the devaluation of their vehicles, having incurred out of pockets, and by overpaying for them in the first place. Had Mr. Huffman been aware of the Defect, he would not have purchased his vehicle or would have paid significantly less for it than he did.

Mr. Huffman accordingly demands, on behalf of himself and all other similarly situated consumers, that Subaru:

- (a) Award actual damages representing, with interest, the ascertainable loss of out-of-pocket moneys and/or value suffered or to be suffered as a result of Subaru's omissions and/or misrepresentations related to the 2023-2025 Solterras;
- (b) Disseminate injunctive and/or equitable relief, including the following:

1. Issue a warranty extension to allow Class Vehicles time to receive repairs;
  2. Issue a Technical Service Bulletin addressing and fully resolving the remedy; and
  3. Agree that future service appointments relating to the issue and repairs will be at no charge to Class Members, regardless of warranty status.
- (c) Provide treble and punitive damages as provided for by statute;
- (d) Award reasonable attorneys' fees and expenses to Claimant's counsel; and
- (e) Award additional appropriate relief as deemed necessary or proper.

Please notify me if you plan to cure these violations. We, of course, hope that you will act immediately to rectify this situation and stand ready to discuss a reasonable resolution of this matter on the terms outlined above or on similar terms acceptable to Mr. Huffman and similarly situated persons.

If you have any questions, require any additional information or would like to discuss these matters further, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "B. Johns", written in a cursive style.

Benjamin F. Johns