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11 and the Putative Class

**FILED**  
Clerk of the Superior Court

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By Adrian  
DEPUTY CLERK

EMFF 311386 #1,435-

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

9 **COUNTY OF SOLANO**

**BY FAX**

10 **JANELLE HORNE**, individually and on behalf  
11 of all others similarly situated,

12 Plaintiff,

13 v.

14 **NISSAN NORTH AMERICA, INC.**, a  
15 Delaware corporation and **NISSAN MOTOR**  
16 **CO., LTD.**, a Delaware corporation,

17 Defendants.

Case No: FOSC48206

**CLASS ACTION COMPLAINT FOR:**

1. **VIOLATION OF CAL. BUS. & PROF. CODE §§ 17500, et seq.;**
2. **VIOLATION OF CAL. CIV. CODE §§ 1750, et seq.;**
3. **VIOLATION OF CAL. BUS. & PROF. CODE §§ 17200, et seq.**
4. **BREACH OF EXPRESS WARRANTY**
5. **BREACH OF IMPLIED WARRANTY**

**JURY TRIAL DEMANDED**

1 Plaintiff Janelle Horne ("Plaintiff") individually and on behalf of all others similarly situated,  
2 based on the investigation of counsel and her own individual knowledge as to Plaintiff's own  
3 circumstances, hereby complain against defendants Nissan North America, Inc. and Nissan Motor  
4 Co., Ltd. (together, "Defendants" or "Nissan" or "Infiniti") as follows:

5 **I. INTRODUCTION**

6 1. Larger panoramic style automobile sunroofs, which span a large section of the roof,  
7 are aesthetically pleasing, and thus command a premium price, but also pose new and significant  
8 engineering challenges. Replacing metal roofs with large plates of glass requires precision in the  
9 strengthening, attachment, and stabilization of the glass. Several manufacturers have failed to meet  
10 these demands, with at least three manufacturers issuing safety recalls because their panoramic  
11 sunroofs made of tempered glass were spontaneously shattering.

12 2. Moreover, larger non-panoramic sunroofs made of tempered glass, such as the one on  
13 Plaintiff's vehicle, also fail to meet safety demands and are prone to spontaneously shattering. Just  
14 as the panoramic sunroofs, the standard sunroofs on many larger vehicles (such as SUVs or large  
15 sedans) have been increased in size and therefore run into the same strength failures as the full  
16 blown panoramic sunroofs.

17 3. Several Nissan and Infiniti (Nissan's luxury line of vehicles) models have the same  
18 problem. More than sixty Nissan and/or Infiniti drivers have complained that their sunroofs  
19 shattered suddenly and without warning. The shattering occurs so powerfully that some startled  
20 drivers have compared the sound to a gunshot followed by shards of glass hitting the vehicle's occupants.  
21 Nonetheless, Nissan not only refuses to warn drivers of the danger, but also continues to sell and lease its  
22 vehicles without disclosing the defect to consumers.

23 4. Nissan's conduct violates federal law, the California False Advertising Law ("FAL"),  
24 CAL. BUS. & PROF. CODE § 17501, the California Consumer Legal Remedies Act ("CLRA"), CAL.  
25 CIV. CODE §§ 1770, *et seq.*, and California Unfair Competition Law ("UCL"), CAL. BUS. & PROF.  
26 CODE §§ 17000, *et seq.* Accordingly, Plaintiff, on behalf of the Class, seeks restitution, injunctive,  
27 and other equitable relief as may be deemed proper by the Court.

1       **II.     JURISDICTION AND VENUE**

2           5.       This Court has jurisdiction over this civil action pursuant to, without limitation, the  
3 California Constitution, Article VI, Section 10, and the California Code of Civil Procedure §410.10.  
4 Jurisdiction is also proper under the California Business and Professions Code §§ 17200 *et seq.*, the  
5 California Business and Professions Code §§ 17500 *et seq.*, and the California Civil Code §§ 1750 *et*  
6 *seq.*

7           6.       This Court has personal jurisdiction over Defendants because: (1) Defendants have  
8 purposely availed themselves of the privilege of conducting business activities in California; (2)  
9 Defendants currently maintain systematic and continuous business contacts with this State; (3)  
10 Defendants have hundreds of thousands of customers who are residents of this State; and (4)  
11 Defendants maintain offices and retail locations in this State.

12           7.       Venue is proper in the Solano County Superior Court, under California Code of Civil  
13 Procedure § 395, because at all relevant times: (1) Defendants engage and perform business  
14 activities in the County of Solano; (2) Plaintiff entered into a lease agreements to lease Defendants'  
15 vehicle in the County of Solano; and (3) a substantial portion of the conduct complained of herein  
16 occurred in the County of Solano; and (4) Defendants are authorized to conduct (and conduct)  
17 business in the County of Solano.

18       **III.    PARTIES**

19           8.       Plaintiff Janelle Horne is, and at all times relevant hereto was, a resident of California  
20 and a citizen of California. Plaintiff Horne leased Defendants' Infiniti QX80 vehicle on or about  
21 September 25, 2016 from Momentum Infiniti in Fairfield, California.

22           9.       Defendant Nissan North America, Inc. is a California corporation with its  
23 headquarters and principal place of business in Franklin, Tennessee. Nissan North America, Inc.  
24 was created to coordinate all of Nissan's various activities in North America (including with respect  
25 to its Infiniti luxury line of vehicles) to enhance the design, development, manufacturing, and  
26 marketing of Nissan and Infiniti vehicles. Its operations include automotive styling, engineering,  
27 consumer and corporate financing, sales and marketing, distribution and manufacturing for the  
28 United States, Canada, and Mexico. It has manufacturing facilities in Smyrna and Decherd,

1 Tennessee, and Canton, Mississippi, where is manufactures both its Nissan and Infiniti line of  
2 vehicles.

3 10. Defendant Nissan Motor Company, Ltd., is the Japanese parent company to Nissan  
4 North America, Inc. with its headquarters located in Yokohama, Japan. Nissan Motor Company,  
5 Ltd., along with its subsidiaries, develops, manufactures, and sells automotive vehicles worldwide.

6 **IV. SUBSTANTIVE ALLEGATIONS**

7 **A. The Nissan Sunroof Defect**

8 11. Nissan manufactures, markets, and distributes mass produced automobiles in the  
9 United States under the Nissan and Infiniti brand names. The Nissan and Infiniti automobile models  
10 that are the subject of this case are all Nissan and Infiniti models, model years 2008-present, with  
11 factory-installed sunroofs made of tempered glass (collectively, the "Class Vehicles"). Plaintiff  
12 anticipates modifying this list once Nissan responds to discovery in this litigation.

13 12. Starting in at least the 2008 model year, Nissan introduced vehicles with an optional  
14 upgrade of a factory-installed sunroof. At that time, larger sunroofs (including "panoramic"  
15 sunroofs) were relatively new; these sunroofs are both wider and longer than traditional sunroofs,  
16 often covering most of the vehicle's roof. The larger style sunroofs in all of Nissan's models  
17 (including Infiniti models) are substantially similar in design and manufacture.

18 13. Nissan generally markets these larger sunroofs as a luxury upgrade and charges  
19 several thousand dollars for the upgrade. The actual material cost of the panoramic sunroofs is  
20 relatively low, making the option one of the most profitable features in the automotive industry.

21 14. These larger sunroofs are made of tempered or laminated glass that attaches to tracks,  
22 which in turn are set within a frame attached to the vehicle. Most sunroofs, including those offered  
23 by Nissan, include a retractable sunshade. Examples of these larger sunroofs appear in the  
24 photographs below:

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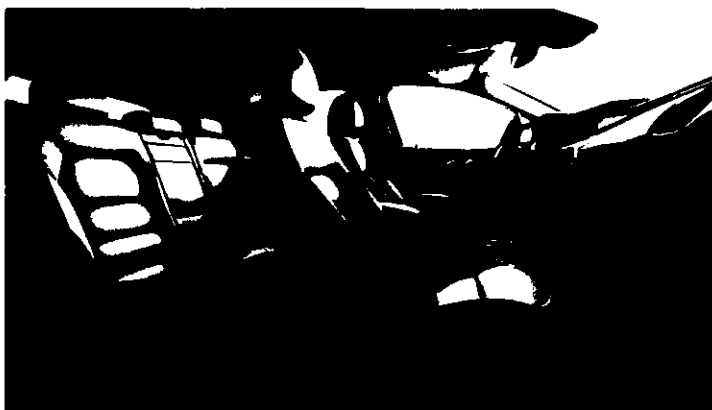
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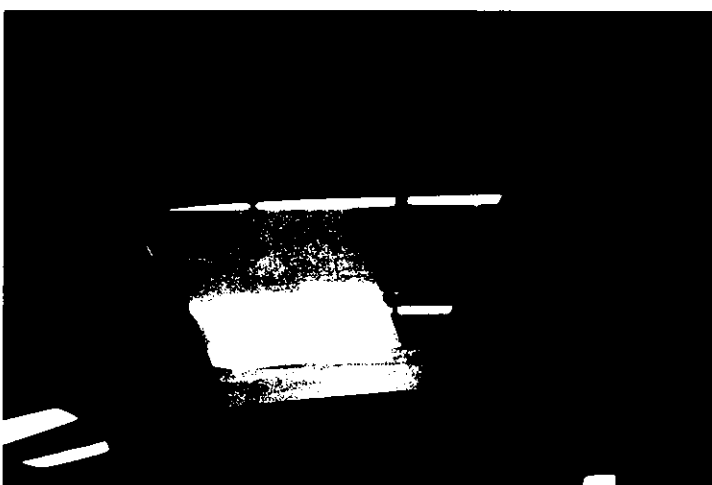
**Infiniti QX60**



**Infiniti QX30**



**Infiniti QX80**



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**2015 Nissan Rogue**



**2012 Nissan Maxima**



**2015 Nissan Murano**



1           15. Large style sunroofs present manufacturing, design, and safety challenges for  
2 manufacturers because the large plates of glass take up a larger area of the vehicle's roof.

3           16. One aspect of the challenge is the material make-up of the glass. Whereas some  
4 manufacturers, such as Volvo and Honda, have used a laminated glass, other manufacturers, such as  
5 Nissan, Ford, Kia, Hyundai, and Volkswagen, have opted to install sunroofs with tempered glass that  
6 feature large areas of ceramic paint.

7           17. In the automotive industry, tempered or toughened glass is made generally in the  
8 same manner: a piece of annealed glass is shaped and cut as to original equipment manufacturing  
9 ("OEM") standards. Tempered glass is heated and then rapidly cooled. The tempering process  
10 creates an outer layer of compression shrink-wrapped around the middle of the glass that is  
11 constantly pressing outwards, otherwise known as causing tension or tensile force. The compressive  
12 and tensile layers create a stronger piece of glass as compared to non-tempered glazing. If the  
13 compressive layer is compromised, however, the entire piece of glass fails catastrophically, and  
14 often explosively.

15           18. The problems with larger sunroofs are compounded by automakers' use of thinner  
16 glass. Automobile manufacturers like Nissan use thinner glass in their larger sunroofs to save  
17 weight and thus improve fuel efficiency. Thinner glass, however, is even more difficult to temper  
18 properly (especially when thicknesses are 4mm or less) as the compressive layers are thinner,  
19 allowing greater probability of compromise.

20           19. Additionally, the tempered glass used in the Class Vehicles utilizes a ceramic paint  
21 applied prior to tempering. Automotive ceramic paint or ceramic enamels are composed of fine  
22 powders of low melting glass frit fluxes (ground glass), pigments, and other additive oxides,  
23 sulfides, or metals. After application of the ceramic enamel, the glass is then tempered, as described  
24 above. These ceramic enamels are applied on the top around the edges of panoramic sunroof glazing  
25 and serve aesthetic and functional purposes. The ceramic paint area appears as a "black band" along  
26 the edge of the glass.

27           20. Ceramic enamels are known "adulterants" in automotive glass tempering and these  
28 adulterants significantly weaken the structural strength and integrity of the Class Vehicles' tempered

1 sunroof glazing. Among other factors, ceramic enamels compromise glass strength because: (1) the  
2 enamels have different thermal expansion coefficients than the glass substrates (the glass and the  
3 paint expand at different rates), resulting in residual stress between the ceramic enamel and the glass  
4 substrate and (2) the glass frit will ion exchange with the glass substrate lessening or eliminating the  
5 compressive layer above the tensile region thereby significantly weakening it.

6 21. The ceramic paint area was relatively small in conventional sunroofs, but ceramic  
7 paint areas have become larger with the advent of larger sunroofs and the result is that the glass has  
8 become progressively weaker, more likely to spontaneously burst or explode and, for the  
9 unsuspecting driver and passengers, has become dangerous.

10 22. In 2013, the Korea Automobile Testing & Research Institute ("KATRI"), a vehicle  
11 safety testing institute, concluded that the enamel used for ceramic paint areas in panoramic sunroofs  
12 like those installed in Nissan vehicles impairs the strength of the glass, making the glass not only  
13 less durable than the usual toughened glass, but also less durable than ordinary glass.

14 23. Following KATRI's report, an Informal Working Group on Panoramic Sunroof  
15 Glazing was established by the United Nations Economic Commission for Europe to evaluate the  
16 safety of panoramic sunroofs. The Working Group is chaired by a representative from KATRI and  
17 is considering whether to amend the UN regulations on safety glazing.

18 24. Another challenge presented by the larger sunroofs is the need to ensure the sunroof  
19 glass is fastened to the vehicle with a sufficient degree of tightness. Nissan and other manufacturers  
20 seek to fasten the sunroof in a manner that reduces road and wind noise, as well as to make the  
21 sunroofs less susceptible to leaking rainwater. At the same time, the sunroof may be weakened with  
22 the application of pressure, as flexing and vibration caused in ordinary driving can impose stress and  
23 ultimately shattering of the glass.

24 25. In the Nissan models (including its Infiniti models) at issue, the compromised  
25 tempered glass cannot withstand the pressures and flexing that the sunroof frame and vehicle  
26 demand, even when the vehicle and sunroof are brand new. The consequence is that under ordinary  
27 driving conditions the glass spontaneously shatters.



1           **B. Consumer Complaints Reveal the Magnitude of the Defect**

2           26. The video located at <https://www.youtube.com/watch?v=imx6gyhgQII> shows an  
3 Infiniti QX56, the model that later became the QX80 (which is the model leased by Plaintiff),  
4 driving down the freeway when suddenly its sunroof explodes. As with Plaintiff's experience, there  
5 was no falling debris or overcrossings from which debris could even fall from, yet the glass still  
6 exploded. Moreover, the video shows the glass exploding outward, towards the sky, which indicates  
7 that nothing hit the sunroof. Had the explosion been caused by a rock or other debris impacting the  
8 sunroof at a horizontal or downward angle, the explosion would have caused the glass to travel  
9 inward, toward the interior of the car. This is one of many videos online regarding exploding  
10 sunroofs.

11           27. Below are just a few examples of the numerous complaints lodged with the NHTSA.  
12 Few, if any, of the drivers who have contacted the federal government have reported that the  
13 shattering occurred because of an external object striking their vehicle. The complaints are also  
14 viewable online at [www.safercar.gov](http://www.safercar.gov).<sup>1</sup>

15                   2013 Infiniti G37: While driving on Sept 15 from Raleigh, NC to  
16 Charleston, SC the sunroof on my Infiniti G37 shattered. It was a  
17 clear sunny day with a temp about 80 degrees and to the best of my  
18 knowledge there was no foreign object that hit the car. I purchased the  
19 car new from the Infiniti dealer in January 2015, the car has 3,200  
20 miles and is kept in the garage at home and in a parking garage at  
21 work.

22                   (NHTSA ID: 10764026 – Date Complaint Filed: 9/15/2015)

23                   2014 Infiniti Q60: Sunroof glass spontaneously exploded n shattered  
24 into small pieces shards and glass dust without impact from anything.

25                   (NHTSA ID: 10758959 – Date Complaint Filed: 8/24/2015)

26                   2014 Infiniti Q60: I was driving on a highway and all of a sudden I  
27 hear a loud boom, as if a gun was fired right by my ear. I almost ran  
28 into another car because it startled me so. I pulled off onto a median  
and inspected the car. I looked at my car and when I looked at the roof,  
I realized that my sunroof was shattered. I was shocked! I was very  
fortunate to not have gotten into an accident. My son, who was with

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<sup>1</sup> These customer complaints are reproduced verbatim, and include uncorrected spelling and grammatical errors in the original.

1 me was also very scared. He was worried about the other windows  
2 exploding. It was very frightening.

(NHTSA ID: 10716086 – Date Complaint Filed: 5/12/2015)

3 2014 Infiniti Q60 Hybrid: While driving approximately 65 miles an  
4 hour in my 2 week old Infiniti Q60 I was startled by the sound of what  
5 I thought was a gunshot. My husband instructed me to pull off to the  
6 side of the road as he thought perhaps a tire had blown. To our surprise  
7 the sunroof had exploded. This resulted in a large hole with glass  
8 facing upward. Luckily no one was injured by the glass that entered  
9 the vehicle. \*TR

(NHTSA ID: 10621687 – Date Complaint Filed: 8/12/2014)

8 2015 Infiniti QX60: I found out on Saturday morning, that my sunroof  
9 was broken(looks like explode from the inside out), I checked from  
10 any stones or any debris(that could hit my car around my driveway,  
11 but there were nothing around the car and there were no marks on the  
12 roof as well).

(NHTSA ID: 10903626 – Date Complaint Filed: 9/5/2016)

12 2015 Infiniti Q70 Hybrid: TL\* The contact owns a 2015 Infiniti Q70  
13 Hybrid. While driving approximately 70 mph, the contact heard a loud  
14 pop noise. The contact pulled over and observed that the sunroof  
15 exploded. The vehicle was not taken to a dealer or diagnosed. The  
16 manufacturer was not made aware of the failure. The failure mileage  
17 was 1,000.

(NHTSA ID: 10760620 – Date Complaint Filed: 9/1/2015)

17 2008 Nissan Rogue: Glass from moonroof exploded/shattered to  
18 pieces while driving. Temperature was 50 degrees, speed of 60 mph,  
19 nothing hit the glass to cause it to break. Took delivery of the car 1  
20 week prior to incident. Dealer replaced glass and said it was defective.

(NHTSA ID: 10230496 – Date Complaint Filed: 06/10/2008)

20 2008 Nissan Altima: On March 22, 2008 at approximately 1:30 PM I  
21 was driving my 2008 Nissan Altima down Knik-Goose Bay RD in  
22 Wasilla Alaska when my moon/sun roof blow out. I had just speed up  
23 to about 50 MPH and had no other vehicles in my immediate vicinity  
24 when I heard a loud pop and glass falling on me. After the glass had  
25 fallen on me I reached over and felt my cheek where I noticed a ¼ inch  
26 gash in my face with blood pouring out of it. Luckily I was able to  
27 keep my composure and keep my vehicle on the road. The dealership  
28 nor Nissan USA could and still has not given me an explanation on  
why or how this could have happened.

(NHTSA ID: 10222188 – Date Complaint Filed: 03/24/2008)<sup>2</sup>

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<sup>2</sup> The narrative for this consumer complaint is taken from a document accompanying the NHTSA complaint.

1                    2009 Nissan Murano: Sunroof exploded out while traveling at  
2 highway speed (70 mph) at approximately 0930 am. Weather  
3 conditions: clear and sunny. Road conditions: dry and smooth, no  
4 debris. No other vehicles to the front or sides so it is impossible to be  
5 road debris damage such as rocks or other debris. Appears to be a  
6 product or design defect.

(NHTSA ID: 10410329 – Date Complaint Filed: 07/03/2011)

6                    2009 Nissan Murano: My sunroof over driver and passenger seats  
7 literally exploded while driving on interstate – sunny 38 degree day,  
8 not under a bridge or near other cars. The noise was deafening, and  
9 glass came crashing on my (the driver) head and on the children in the  
10 back seat. The roof was exploded upward like a volcano. Nothing hit  
11 the roof, as we were shaken but able to pull over and check the car for  
12 any evidence of something crashing into sunroof. But the roof  
13 exploded upward and outward as it became obvious that a large chunk  
14 of glass from roof was missing. The sunroof was closed, but the sun  
15 shade was open. Reported the problem to Nissan, but they have yet to  
16 get back to me. This is a major problem and a huge safety concern.  
17 This problem seems to stem from a pressure problem within the  
18 Murano. This is extremely dangerous!! Sunroof is being replaced, but  
19 I'm now terrified to drive my car, seeing as how this can happen again,  
20 and we may not be as fortunate to pull over safely and make it to the  
21 side of road! Nissan must deal with this problem! This can potentially  
22 be a fatal flaw on the Murano.

(NHTSA ID: 10683749C – Complaint Filed: 02/17/2015)

17                    2009 Nissan Altima: I have a 2009 Nissan Altima with just over 13000  
18 miles on it. Last week as I was driving to work at about 65 mph I  
19 heard what sounded like a shotgun blast over my head. The sunroof  
20 glass had shattered (more like exploded) leaving about a 2 foot circular  
21 hole in the glass. At first I thought something must have hit me but  
22 when I pulled over I could obviously see that the glass was  
23 mushroomed out as if it had exploded from the inside out, not pushed  
24 in. I took the car to my Nissan dealer and they agreed that that there  
25 was no evidence that anything had hit the glass and that it had simply  
26 spontaneously shattered. They also pointed out chips in the paint on  
27 the roof and trunk lid caused by the pieces of broken glass. After first  
28 denying any coverage, Nissan now has agreed to pay for the new glass  
as a “goodwill repair” but they still refuse to pay for installation or the  
paint damage. The dealership picked up the installation and my  
insurance company is covering the \$2500 of paint damage. I did  
contact Nissan consumer affairs to appeal their decision but was very  
curtly denied again.

(NHTSA ID: 10379898 – Date Complaint Filed: 02/01/2011)

1            2009 Nissan Rogue: I was driving on the highway nothing more than  
2            50 mph. and my sunroof exploded on the highway with out notice. The  
3            glass cut my skin on my hand. And was a loud exploding sound. As I  
4            done research on my exploding sound roof incident on google on the  
5            internet. I found out I was not the only one that has experienced this  
6            sunroof glass exploding while driving. Nothing fell on my car. But  
7            caused glass to fall on me and almost a accident from shock of this  
8            happening. I am begging you to please make the 2009 Nissan Rogue  
9            sunroofs a recall. Because I was lucky enough not to die. But there  
10           may not be someone else that is luck. I just got glass cuts. I spoke to  
11           Nissan and they told me 800 dollars to fix a manufacture defect.  
12           (NHTSA ID: 10596713 – Date Complaint Filed: 06/06/2014)

13           2010 Nissan Murano: 2010 Nissan Murano. While driving on  
14           highway, the glass of the sunroof suddenly and spontaneously  
15           shattered into bits. It was not hit by any object, as traffic was clear on  
16           the highway and there was no overpass in the area. Nissan said they  
17           found no manufacturer’s defect, and my insurance would not cover it  
18           as glass. I paid for repair out of pocket.  
19           (NHTSA ID: 10363977 – Date Complaint Filed: 11/04/2010)

20           2010 Nissan Murano: For the second time in 6 months, my sunroof  
21           exploded. The first time was in July, 2012, and I will file a separate  
22           report for that incident.. Both times the dealer said they were not  
23           responsible. Out of the blue, it sounded like a gun shot, it was so loud.  
24           The glass was pushed up with the force, with a big circle of glass  
25           missing. I was not following another car and there was no stone kicked  
26           up as claimed by the dealer. With the cold air outside, the glass was  
27           pushed up with the pressure. The first time it happened was in the  
28           summer, and with the pressure the glass was pushed inward. This  
             seems to be a design flaw, as many others on the internet have claimed  
             the same problem, even though the dealers claim they have not heard  
             of this probem. This problem should not be ignored, as sooner or later  
             this issue will result in serious accidents, possibly a fatality, and it  
             would be difficult for Nissan to say they were not aware of this  
             problem. It is outrageous that I am afraid to drive this car when at any  
             time, the sun roof may once again explode for no apparent reason. This  
             dangerous situation is not what I signed up for when I bought this car  
             and I am upset that this problem is not being acknowledged by Nissan.  
             (NHTSA ID: 10493536 – Date Complaint Filed: 01/20/2013)

2011 Nissan Murano: Sunroof of my 2011 Nissan Murano exploded  
             suddenly while driving down the highway on a clear day and no other  
             cars in the area. The malfunction of the sunroof exploding caused the  
             sunroof glass to protrude outward into a dome shape while glass pieces  
             shattered into the cabin of the Murano. Upon contacting the Nissan  
             dealer, they referred me to the national Nissan customer service  
             number, but after 4 days I am still waiting on a call back from the

1 regional Nissan office. This is a major safety issue that Nissan must  
2 take responsibility for correcting as soon as possible.

(NHTSA ID: 10641082 – Date Complaint Filed: 10/03/2014)

3 2011 Nissan Maxima: The rear glass panel of sunroof “exploded” with  
4 chunks of glass coming off the panel and over the next few hours the  
5 entire panel exhibited major cracking throughout. Sunroof was closed  
6 at the time and outside temperature was about 45 degrees. Wife was  
7 slowing on highway to turn into driveway. She stated the nearest  
8 vehicle was over ¼ mile ahead of her so no possibility of rock being  
9 thrown from their tires. Sounded like a shotgun blast in the car when it  
10 occurred. Since it was the back panel no glass fell into the car that we  
11 could see.

(NHTSA ID: 10689956 – Date Complaint Filed: 02/23/2015)

9 2012 Nissan Murano: I was traveling on the interstate at 75mph when I  
10 heard a loud boom. I looked around and discovered that the moonroof  
11 had shattered. It was a sunny day and there was no traffic around. The  
12 glass is brokern around the edges of the glass. There is no sign of  
13 impact anywhere on the glass.

(NHTSA ID: 10682170 – Date Complaint Filed: 02/09/2015)

13 2012 Nissan Sentra: My sunroof exploded on my 2012 Nissan Sentra.  
14 It was parked in my driveway and all the sudden it just exploded.  
15 There was no reason for this to happen. No one was around it, no  
16 rocks, limbs, hail, no bad weather, or anything.

(NHTSA ID: 10652611 – Date Complaint Filed: 11/04/2014)

17 2012 Nissan Sentra: Spouse parked and waiting in the car at airport  
18 arrival curb around 8:30PM. As I was walking toward the car, I heard  
19 a loud explosion, sounded like a gunshot. Then I noticed the car  
20 sunroof pieces shattered all over. No cars passing by. Temp around  
21 90F. Luckily no passengers close by to the car. Spouse was in shock  
22 and luckily the sunroof cover was closed. I could not find a cause other  
23 than suspecting this is a vehicle manufacturing defect. The only  
24 damage part was sunroof itself. This is a serious safety issue that deem  
25 a safety recall of sunroof replacement. Luckily no one was injured.  
26 Reported the issue to Nissan Consumer Affair and waiting to hear  
27 back from them.

(NHTSA ID: 10640510 – Date Complaint Filed: 10/01/2014)

24 2013 Nissan Pathfinder: On June 9, 2014, at approximately 9:15 AM  
25 while driving down Crain Hwy on Route 5 with my sunroom retracted.  
26 Without warning I heard this loud explosion. I thought I had a blown  
27 tire or someone shot at me. I kept driving for about a half a mile until I  
28 got to a traffic light. While waiting for the light to turn green, I looked  
up and saw that there was noise coming from my 2013 Nissan  
Pathfinder Platinum sunroof. I closed the sunroof slide because I

1 didn't want any glass to fall on me or into my vehicle. Once I arrived  
2 at church, I pulled my sunroof forward to see what was going on. The  
3 sunroof exploded outward and all the glass landed inside the headliner  
4 because my sunroof was retracted, there weren't any cars in front of  
5 me for a rock or some other hard object to hit the sunroof, and there  
6 wasn't an overpass for something to fall down from up top. On June  
7 11th, I brought my SUV into Tischer Nissan Service Manager so they  
8 could see my vehicle and repair the damaged sunroof. My vehicle has  
9 23,200 miles on it. I showed him stacks of complaints about this  
10 sunroof defect and safety issue. I was told that Nissan Regional  
11 Manager decided that Nissan wasn't going to pay for my damaged  
12 sunroof. The justification was maybe a semi truck may have kicked a  
13 rock inside the sunroof and over a period of time, the rock put pressure  
14 on the pressure point of the glass which caused the glass to explode.  
15 He told me to contact my insurance company. Quite frankly that is an  
16 insult to my intelligence. On June 11th, I contacted Nissan Consumer  
17 Affairs. I was given a case #. On June 17th, I was informed that my  
18 sunroof damage would not be covered under warranty because there  
19 are no known defects, something hard must have hit it, it is temper glass,  
20 and to contact my insurance. (NHTSA ID: 10599068 – Date  
21 Complaint Filed: 06/18/2014)

22 2013 Nissan Altima: The contact owns a 2013 Nissan Altima. The  
23 contact stated that while driving at approximately 65 MPH, the  
24 sunroof exploded and small particles of glass shattered outside of the  
25 vehicle. The sunroof sliding cover was closed when the failure  
26 occurred. The vehicle was maneuvered to the side of the road. The  
27 vehicle was taken to the dealer where the entire sunroof was replaced.  
28 The manufacturer was notified of the failure. The approximate failure  
mileage was 49,000.  
(NHTSA ID: 10816880 – Date Complaint Filed: 12/29/2015)

2013 Nissan Juke: The vehicle was parked. Driver got in and closed  
the door. After hearing an odd sound of something raining down on  
the roof area, driver got out and discovered that the sunroof had  
shattered. Since the sunroof shade was closed, the glass did not enter  
the vehicle.  
(NHTSA ID: 10641939 – Date Complaint Filed: 10/07/2014)

2014 Nissan Maxima: I was driving along the highway on a sunny  
day, about 75 degrees Fahrenheit, going approximately 65 MPH when  
I heard a loud exploding type of noise. The next thing I know I hear  
rattling overhead. I don't live far from where the incident happened so  
continued to drive .25 miles approximately to my residence and  
immediately get out to inspect my vehicle. The sunroof was shattered  
into a million pieces and there was a huge hole right in the middle of  
it. I had not opened the sunroof while driving so the visor was  
thankfully closed when it broke.

**C. Nissan’s Knowledge of the Defect**

28. Nissan has long known that its larger sunroofs are prone to unexpected and dangerous shattering.

29. Even before the introduction of larger sunroofs, Nissan was aware of the danger created by shattering sunroofs. Nissan’s “Skyview” sunroof, a precursor to panoramic sunroofs, was introduced in the 2003 model year Nissan Maxima. Due to shattering glass, Nissan issued a recall of 2004 Maxima models in order to replace the “Skyview” sunroof (NHTSA Campaign #04V3260000).

30. NHTSA has requested information from Nissan regarding exploding sunroofs for vehicles in model years 2006 through 2016, but it is likely that Nissan knew of the defect well before the NHTSA request. A survey of the driver complaints, for example, shows that the sunroofs often shatter within weeks or months of purchase, and the complaints to the NHTSA, above, show that drivers were reporting the problem as early as 2008. Nissan monitors the NHTSA website for emerging problems with its vehicles.

31. Nissan also uses a variety of other means to track data about how its vehicles are performing in the days, weeks, and months after they are sold. Nissan collects information from drivers and dealerships, including through complaints, warranty claims, replacement parts data, and other aggregated data sources. Even earlier, Nissan studies and tracks potential vehicle defects through exhaustive pre-release testing. Given the speed and frequency with which the defect becomes apparent, it is not plausible that these various sources of data did not alert Nissan early on to the defect. Moreover, Nissan has nearly exclusive access to much of this information.

32. Nissan is also aware that other manufacturers whose vehicles with similarly designed sunroofs and similar shattering problems have voluntarily initiated safety recalls to notify drivers of the danger and repair the sunroofs free of cost.

33. Nissan claims its sunroofs shatter only as a result of impact from objects on the roadway. Rocks or other objects thrown up by cars and trucks on the roadway would not impact the

1 sunroof with sufficient force to cause it to shatter, let alone to shatter outward, a fact Nissan is aware  
2 of. Moreover, driver reports specifically contradict Nissan's position.

3 **D. The Dangers Posed to Class Vehicle Occupants**

4 34. In addition to NHTSA, KATRI and various manufacturers have acknowledged that  
5 the sudden shattering of a sunroof endangers drivers, passengers, and others on the road. Sunroofs,  
6 which are intended to last the life of the vehicle, are also an expensive upgrade option that can cost  
7 thousands of dollars to replace. A reasonable person considering whether to purchase or lease a  
8 Nissan vehicle would therefore want to be informed about the sunroof defect so that he or she could  
9 opt against paying the thousands of dollars for a "luxury upgrade" or simply forego purchasing or  
10 leasing the vehicle altogether.

11 35. When the Nissan sunroofs shatter, they make a sudden and extremely loud noise,  
12 followed by shards of glass raining down onto the driver and passengers (unless they are lucky to  
13 have the sun shade closed at the time). Drivers report that the falling shards of glass have cut them  
14 and their passengers and have also caused damage to the interior of the vehicles. Drivers have also  
15 reported a number of near-miss accidents that occurred after they were startled or distracted by the  
16 shattering. Likewise, both Nissan and the NHTSA have received reports of injuries resulting from  
17 Nissan sunroofs shattering.

18 36. When Volkswagen initiated a safety recall for shattering sunroofs, for example, it  
19 acknowledged that drivers "could be injured by falling glass," and that "[i]f the glass panel were to  
20 break while the vehicle is in motion, it could cause driver distraction, increasing the risk of a crash."<sup>3</sup>  
21 And when Hyundai initiated its recall, it too acknowledged that the shattering of sunroofs "relates to  
22 motor vehicle safety," including by posing a risk of cutting vehicle occupants.

23 37. In connection with the Hyundai recall, the NHTSA wrote that the breaking of the  
24 sunroof could lead "to personal injury or a vehicle crash." In connection with an Audi recall, the  
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26 <sup>3</sup> Jenna Reed, VW Recalls Certain Beetle Models Over Potential Panoramic Sunroof Issue,  
27 glassBYTEs.com (Dec. 11, 2014), <http://www.glassbytes.com/2014/12/vw-recalls-certain-beetle-models-over-potential-panoramic-sunroof-issue/>; Volkswagen of America, Inc., Volkswagen Issues  
28 Voluntary Recall (Dec. 7, 2014), <https://media.vw.com/release/856/>.



1 NHTSA stated that “the breaking glass could injure the vehicle's occupants, increasing driver  
2 distraction and potentially causing an accident.”<sup>4</sup>

3 38. KATRI likewise concluded that the sudden shattering of a sunroof while driving may  
4 cause “abrasions due to shattered glass” and also cause the “risk of secondary accidents.”

5 39. In December 2012, KATRI launched an investigation into exploding panoramic  
6 sunroofs of numerous automotive manufacturers, including Nissan. KATRI’s investigation  
7 culminated in November 2013, when it met with numerous car manufacturers in Seoul, South Korea,  
8 and announced its finding that the ceramic tint in panoramic sunroofs substantially weakens the glass  
9 and compromises the safety of the glass. KATRI recommended widespread recalls. KATRI’s  
10 recommendations went unheeded by Nissan.

11 **E. Nissan Refuses to Warn Drivers**

12 40. Despite the high number of complaints and the danger posed by the defect, Nissan  
13 continues to conceal its existence from current drivers and potential customers alike. Nissan has not  
14 warned consumers at the point of sale or lease or when drivers who have experienced a shattered  
15 sunroof bring their vehicle in for repairs (or instructed its dealerships to do so) and has made no  
16 effort to alert drivers to the risk.

17 41. Nissan continues to conceal the defect even though it knows that the defect is not  
18 reasonably discoverable by drivers unless they experience the defect first-hand and are thus exposed  
19 to the attendant safety risks.

20 42. Nissan remains silent even as it continues to receive complaints from frightened  
21 drivers and has received an inquiry from NHTSA.

22 43. As a result of Nissan’s inaction and silence, many drivers are unaware that they  
23 purchased or leased a vehicle which has a defective sunroof from the point of sale, and continue to  
24 drive these unsafe and unreliable vehicles. In addition, drivers who have experienced an exploding  
25 sunroof and bring their vehicles to a dealership for repairs are not told that a sunroof with the same  
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27 <sup>4</sup> Autoblog.com, 1012 Audi Q5 Models Recalled Over Shattering Sunroofs, autoblog.com (July  
28 2, 2012), <http://www.autoblog.com/2012/07/02/2012-audi-q5-models-recalled-over-shattering-sunroofs/>.

1 danger has been installed on their vehicles. Nissan knows of the defect yet continues to profit from  
2 the sale and lease of vehicles to unwitting consumers.

3 44. Some manufacturers who have had vehicles with similar sunroof problems—Audi,  
4 Hyundai, and Volkswagen—have all voluntarily initiated safety recalls as a result, notifying drivers  
5 of the danger and offering to repair the sunroofs free of cost.

6 **F. Nissan's Deceptive Warranty Process**

7 45. Nissan advertises that “[e]very Nissan is backed by a 36-month/36,000-mile limited  
8 vehicle coverage and a 5-year/60,000-mile limited powertrain coverage” and that “[e]very new  
9 Infiniti comes with the peace of mind of Standard Infiniti Limited Warranties: 4-year/60,000-mile  
10 Basic coverage . . . [and] 6-year/70,000-mile Powertrain coverage.” Nissan’s marketing and  
11 advertising campaign touts the “Nissan Safety Shield” philosophy as a comprehensive approach to  
12 safety and claim that Nissan and Infiniti vehicles are of “high quality.” Nissan warrants to correct  
13 defects in materials or workmanship in all parts and components of new Nissan and Infiniti vehicles.

14 46. The relevant terms of the warranties for each of the model years of the Class Vehicles  
15 are identical or substantially similar.

16 47. Plaintiff and the Class members experienced damage from the sunroof defect within  
17 the warranty periods of their vehicles. Plaintiff and the Class reasonably expected that any and all  
18 damage that resulted from the sunroof defect would be covered under the warranty, and that they  
19 would not be charged for such repairs.

20 48. Nissan has systematically denied coverage with respect to the defective sunroofs.  
21 Numerous class members have been forced to incur substantial repair bills in cases in which the  
22 sunroofs of their vehicles spontaneously shattered.

23 **V. PLAINTIFF'S EXPERIENCE**

24 49. In September of 2016, Mrs. Home leased a new 2016 Infiniti QX80 with a sunroof  
25 option from Momentum Infiniti in Fairfield, California. The lease contract required a down payment  
26 of \$7,000, with 39 monthly payments of \$759.

27 50. Mrs. Home did a significant amount of research and was willing to and did spend  
28 substantial money on a car that she believed at the time of the lease was reliable and also provided