

1 Jordan L. Lurie (SBN 130013)
Jordan.Lurie@capstonelawyers.com
2 Tarek H. Zohdy (SBN 247775)
Tarek.Zohdy@capstonelawyers.com
3 Cody R. Padgett (SBN 275553)
Cody.Padgett@capstonelawyers.com
4 Karen L. Wallace (SBN 272309)
Karen.Wallace@capstonelawyers.com
5 Capstone Law APC
1875 Century Park East, Suite 1000
6 Los Angeles, California 90067
Telephone: (310) 556-4811
7 Facsimile: (310) 943-0396

8 Attorneys for Plaintiffs
9 Ryan and Sarah Wildin

10 UNITED STATES DISTRICT COURT
11 SOUTHERN DISTRICT OF CALIFORNIA

12 RYAN and SARAH WILDIN,
13 individually, and on behalf of a class
14 of similarly situated individuals,

15 Plaintiffs,

16 v.

17 FCA US LLC, a Delaware limited
liability company,

18 Defendant.

Case No.: **'17CV2594 GPC MDD**

**CLASS ACTION COMPLAINT
FOR:**

- (1) Violations of California's
Consumers Legal Remedies Act
- (2) Violations of Unfair Competition
Law
- (3) Breach of Implied Warranty
pursuant to Song-Beverly
Consumer Warranty Act
- (4) Breach of Implied Warranty
pursuant to the Magnuson-Moss
Warranty Act
- (5) Unjust Enrichment

DEMAND FOR JURY TRIAL

1 **INTRODUCTION**

2 1. Plaintiffs Ryan and Sarah Wildin (“Plaintiffs”) bring this action for
3 themselves and on behalf of all persons in the United States who purchased or
4 leased any 2017-2018 Chrysler Pacifica vehicles equipped with a 3.6-liter V6
5 engine and a 9-Speed 948TE FWD Automatic Transmission (“Class Vehicles”)
6 designed, manufactured, marketed, distributed, sold, warranted and serviced by
7 FCA US LLC, a Delaware limited liability company (“FCA” or “Defendant”).

8 2. This case is brought by Plaintiffs on the basis that the Class
9 Vehicles contain a design defect that causes the vehicles to shut off or stall
10 without warning (“Stalling Defect”).

11 3. According to a petition to the National Highway Traffic Safety
12 Administration (“NHTSA”) for a defect investigation, filed by the Center for
13 Auto Safety, “[m]ore than 50 individuals have reported to NHTSA that their
14 2017 Chrysler Pacifica has lost all motive power without warning...at varying
15 speeds, ranging from while the vehicle has been sitting idle to traveling at 40
16 mph on municipal roads, to 60 miles per hour while driving in a tunnel.”¹

17 4. The owner’s manual for the 2017 Chrysler Pacifica expressly warns
18 against the dangers associated with operating the vehicle with the transmission in
19 neutral or the engine shut off: “Do not coast in NEUTRAL and never turn off the
20 ignition to coast down a hill. These are unsafe practices that limit your response
21 to changing traffic or road conditions. You might lose control of the vehicle and
22 have a collision.” (Manual at 340.) The manual also advises that “continued
23 operation” following any reduction of power to the electric power steering
24 system “could pose a safety risk to yourself and others.” (Manual at 343.)

25
26 ¹ See Adam J. Cohen, “Incoming Petition from Center for Auto Safety,”
27 Center for Auto Safety (Nov. 20, 2017), available at
28 <https://static.nhtsa.gov/odi/inv/2017/INBC-DP17003-70118.pdf> (NHTSA Action
Number: DP17003, “Open Investigation – Stall/Loss of Motive Power,” 2017
Chrysler Pacifica Van Investigations (Dec. 1, 2017).)

1 5. FCA is aware of the Stalling Defect in the Class Vehicles based on
2 consumer complaints. As Eric Mayne, a spokesman for Fiat Chrysler
3 Automobiles, stated in with respect to the petition, FCA is “continuing to
4 monitor [its] vehicles and collect data.... This is ongoing.”²

5 6. The Stalling Defect prevents the driver from operating the vehicle as
6 intended, which results in a range of unsafe conditions, including the inability to
7 change speed or steer, often while in traffic and at high rates of speed. For
8 example, according to one driver’s NHTSA complaint, the engine in his Class
9 Vehicle “stopped” while he was driving, and “[his] family was almost struck by
10 oncoming traffic.”³ And according to a recent news report about the problem,
11 another driver stated that his Chrysler Pacifica, with only 308 miles on the
12 odometer, “just died” while traveling 70 miles an hour on a busy highway, and
13 lost all electrical power, including the power steering, narrowly avoiding a
14 collision.⁴ Another driver who reported a similar experience, driving at about 20
15 miles per hour in traffic, explained that “[t]he car indicated that it was still on
16 and in drive but actually was ‘completely off’...The ‘screen said, ‘Car must be
17 in park to place in drive.’”⁵ The hazards presented – to the driver and others – by
18 the driver’s loss of control are unreasonable.

19 7. The 2017 Chrysler Pacifica is reportedly an updated version of the

20 ² Patrick Olsen, “Safety Group Urges Recall of 2017 Chrysler Pacifica
21 Minivans Over Stalling Issue,” Consumer Reports (Nov. 20, 2017),
22 [www.consumerreports.org/recalls/recall-urged-for-2017-chrysler-pacifica-
minivans-over-stall-issu/](http://www.consumerreports.org/recalls/recall-urged-for-2017-chrysler-pacifica-minivans-over-stall-issu/)

23 ³ See, 2017 Chrysler Pacifica 10/23/2017 complaint to NHTSA,
24 Safercar.gov, *Search for Safety Problems* [http://www-
odi.nhtsa.dot.gov/owners/SearchSafetyIssues](http://www-odi.nhtsa.dot.gov/owners/SearchSafetyIssues) (last visited Dec. 27, 2017).

25 ⁴ Neal E. Boudette, “Chrysler Pacifica Owners Say Minivans Suddenly
26 Shut Off,” The New York Times (Nov. 20, 2017),
27 www.nytimes.com/2017/11/20/business/chrysler-pacifica.html.

28 ⁵ David P. Willis, “Chrysler Pacifica stalling frightens Berkeley driver,”
USA Today (Dec. 1, 2017 at 1:59 pm),
[http://www.app.com/story/money/business/consumer/press-on-your-
side/2017/12/01/chrysler-pacifica-stall/909399001/](http://www.app.com/story/money/business/consumer/press-on-your-side/2017/12/01/chrysler-pacifica-stall/909399001/).

1 Chrysler Town & Country, with a 9 speed automatic transmission and a
2 “gearbox lifted from the Chrysler 200 sedan.”⁶ While the “Pacifica is built on an
3 entirely new platform, [it shares] an engine, transmission and a few parts with
4 other Fiat Chrysler automobiles.”⁷ As one reviewer noted, “Chrysler dropped the
5 well-known Town and Country name... not to confuse but to shift
6 expectations.”⁸

7 8. According to the owner’s manual, the nine-speed transmission,
8 controlled using a rotary electronic gear selector, was “developed to meet the
9 needs of current and future FWD/AWD vehicles. Software and calibration is
10 refined to optimize the customer’s driving experience and fuel economy.”
11 (Manual at 337.)

12 9. The Class Vehicles are also equipped with an automatic shutdown
13 feature called the Engine STOP/START System (ESS) intended to reduce fuel
14 consumption by stopping the engine “automatically during a vehicle stop if the
15 required conditions are met.”⁹ (Manual at 344-347.)

16 10. The Class Vehicles’ 9-Speed 948TE FWD Automatic Transmission
17 is manufactured by ZF Friedrichshafen AG. It has been in development since at
18

19
20 ⁶ Ron Sessions, “5 Interesting Things about the 2017 Chrysler Pacifica,”
21 Autobyte.com, <https://www.autobyte.com/minivans/car-buying-guides/5-interesting-things-about-the-2017-chrysler-pacifica-130656/> (last visited Dec. 29, 2017).

22 ⁷ Charles Fleming, “2017 Chrysler Pacifica: Return of the American van,”
23 Los Angeles Times (May 27, 2016 at 6:00 am),
<http://www.latimes.com/business/autos/la-fi-hy-chrysler-pacifica-review-20160519-snap-story.html>.

24 ⁸ Robert Duffer, “2017 Chrysler Pacifica minivan is king of the family car
25 hill,” Chicago Tribune (July 14, 2016, 9:00 am),
<http://www.chicagotribune.com/classified/automotive/sc-2017-chrysler-pacifica-autoreview-0714-20160713-story.html>.

26 ⁹ See, e.g., FCA US, “All-new 2017 Chrysler Pacifica Maintains Segment
27 Leadership for FCA US with Upgraded Gas-Powered Model and First Hybrid
28 Minivan,” Press Release (Jan. 11, 2016),
<http://media.fcanorthamerica.com/newsrelease.do?id=17218&mid=>.

1 least 2010 and was originally intended for Chrysler vehicles beginning in 2013.¹⁰
2 FCA has been plagued by consumers complaints about problems with the
3 transmission since the 9 speed's introduction in the 2014 Jeep Cherokee and
4 2015 Chrysler 200.¹¹ As Fiat Chrysler CEO Sergio Marchionne admitted in
5 2015, "[w]e have had to do an inordinate amount of intervention on that
6 transmission."¹² FCA has released numerous service bulletins pertaining to the
7 computer software that controls the 9 speed transmission. In fact, responding to
8 questions regarding "troubling consumer complaints" about the 9 speed
9 automatic transmission, Mr. Marchionne confirmed that "[FCA has] been
10 working our ass off with [designer ZF Friedrichshafen] on the nine speed [and]
11 There were some things that were built in as a technical solution that proved to
12 be, in hindsight, unwise, and so the remedial stuff has been put in place."¹³

13 11. Since at least March 2016, when the Chrysler Pacifica was released
14 and consumers began posting complaints publicly, Defendant knew or should
15 have known of the Stalling Defect that impairs operation of the Class Vehicles
16

17 ¹⁰ See, e.g., Drew Winter, "ZF to Supply 'Groundbreaking 9-speed FWD
18 Transmission to Chrysler," WardsAuto (Jan. 11, 2011),
19 [http://wardsauto.com/news-analysis/zf-supply-groundbreaking-9-speed-fwd-](http://wardsauto.com/news-analysis/zf-supply-groundbreaking-9-speed-fwd-transmission-chrysler)
20 [transmission-chrysler](http://wardsauto.com/news-analysis/zf-supply-groundbreaking-9-speed-fwd-transmission-chrysler); Manufacturing Group, "FCA US completes 1 millionth 9-
21 speed transmission," Today's Motor Vehicles (Sep. 11, 2015),
22 [http://www.todaysmotorvehicles.com/article/automotive-manufacturing-](http://www.todaysmotorvehicles.com/article/automotive-manufacturing-powertrain-transmission-fca-9-speed-091115/)
23 [powertrain-transmission-fca-9-speed-091115/](http://www.todaysmotorvehicles.com/article/automotive-manufacturing-powertrain-transmission-fca-9-speed-091115/); Larry P. Vellequette, "Another fix
24 for Jeep's troubled 9-speed: Software upgrades come after consumer complaints
25 pile up," Automotive News (Feb. 2, 2015 at 12:01 am),
26 [http://www.autonews.com/article/20150202/OEM01/302029930/another-fix-for-](http://www.autonews.com/article/20150202/OEM01/302029930/another-fix-for-jeeps-troubled-9-speed)
27 [jeeps-troubled-9-speed.](http://www.autonews.com/article/20150202/OEM01/302029930/another-fix-for-jeeps-troubled-9-speed)

28 ¹¹ See, e.g., Clifford Atiyeh, "Holy Shift: ZF 9-speed Automatic Problems
Mount, Chrysler Releases Third Software Update for Jeep Cherokee," Car and
Driver (Feb. 4, 2015 at 1:55 p.m.), [https://blog.caranddriver.com/holy-shift-zf-9-](https://blog.caranddriver.com/holy-shift-zf-9-speed-automatic-problems-mount-chrysler-releases-third-software-update-for-jeep-cherokee/)
[speed-automatic-problems-mount-chrysler-releases-third-software-update-for-](https://blog.caranddriver.com/holy-shift-zf-9-speed-automatic-problems-mount-chrysler-releases-third-software-update-for-jeep-cherokee/)
[jeep-cherokee/.](https://blog.caranddriver.com/holy-shift-zf-9-speed-automatic-problems-mount-chrysler-releases-third-software-update-for-jeep-cherokee/)

¹² Vellequette, "Another fix for Jeep's troubled 9-speed," *supra*.

¹³ Larry P. Vellequette, "Marchionne says FCA will continue to make V-
8s despite tightening regs," Automotive News (Sep. 14, 2015),
[http://www.autonews.com/article/20150914/OEM01/309149958/marchionne-](http://www.autonews.com/article/20150914/OEM01/309149958/marchionne-says-fca-will-continue-to-make-v-8s-despite-tightening)
[says-fca-will-continue-to-make-v-8s-despite-tightening.](http://www.autonews.com/article/20150914/OEM01/309149958/marchionne-says-fca-will-continue-to-make-v-8s-despite-tightening)

1 and creates significant safety risks as FCA, by its own admission, “routinely
2 monitors the performance of its vehicles using information from multiple data
3 streams.”¹⁴ On information and belief, FCA also monitors other sources of
4 customer complaints, including online owners’ forums.

5 12. Additionally, FCA knew or should have known about the Stalling
6 Defect through sources not available to consumers, including pre-market testing
7 data pertaining to the 9-Speed 948TE FWD Automatic Transmission, high
8 failure rates and replacement part sales data, consumer complaints to NHTSA
9 (which FCA monitors), and other, aggregate post-market data from FCA dealers
10 about the problem in the Class Vehicles.

11 13. On information and belief, FCA and its agents knew about the
12 Stalling Defect and failed to disclose it to Plaintiffs and Class Members.

13 14. Because FCA will not notify Class Members about the Stalling
14 Defect, Plaintiffs, Class Members, and the general public remain subject to
15 hazards that often arise without warning.

16 15. The Stalling Defect is inherent in each Class Vehicle and was
17 present in each Class Vehicle at the time of sale or lease.

18 16. FCA knew about and concealed the Stalling Defect and its attendant
19 hazards from Plaintiffs and Class Members, at the time of sale, lease, and repair
20 and thereafter. In fact, instead of repairing the Stalling Defect, FCA either
21 refused to acknowledge its existence or performed repairs that simply masked
22 symptoms.

23 17. If they had known about the Stalling Defect at the time of sale or
24 lease, Plaintiffs and Class Members would not have purchased or leased the
25 Class Vehicles or would have paid less for them.

26 18. As a result of their reliance on FCA’s omissions, owners and/or

27 ¹⁴ Boudette, “Chrysler Pacifica Owners Say Minivans Suddenly Shut Off,”
28 *supra*.

1 lessees of the Class Vehicles, including Plaintiffs, suffered an ascertainable loss
2 of money, property, and/or value of their Class Vehicles.

3 **THE PARTIES**

4 **Plaintiffs Ryan and Sarah Wildin**

5 19. Plaintiffs Ryan and Sarah Wildin are California citizens who reside
6 in Hemet, California.

7 20. In or around September 2016, Plaintiffs purchased a new 2017
8 Chrysler Pacifica from Carl Burger Dodge Chrysler Jeep Ram (“Carl Burger”),
9 an authorized FCA dealer in San Diego County.

10 21. Plaintiffs purchased their vehicle primarily for personal, family, or
11 household use. FCA manufactured, sold, distributed, advertised, marketed, and
12 warranted the vehicle.

13 22. Passenger safety and reliability were factors in Plaintiffs’ decision
14 to purchase the Chrysler Pacifica. Before purchasing their vehicle, Plaintiffs
15 spent time researching the Chrysler Pacifica on FCA’s corporate website, on
16 authorized dealership websites, and through general online searches using a web
17 browser (*i.e.* Google). Based on their research, Plaintiffs believed that the
18 Chrysler Pacifica would be safe and reliable. Plaintiffs also test drove the
19 vehicle with a dealership salesperson and inspected the window sticker before
20 buying.

21 23. Had FCA disclosed the Stalling Defect before Plaintiffs purchased
22 their vehicle, Plaintiffs would have seen such disclosures and been aware of
23 them. Indeed, FCA’s omissions were material to Plaintiffs. Like all Class
24 Members, Plaintiffs would not have purchased their Class Vehicle, or would
25 have paid less for it, had they known of the Stalling Defect.

26 24. Since purchasing their vehicle, Plaintiffs have experienced
27 symptoms of the Stalling Defect on multiple occasions. On or around December
28

1 11, 2017, for example, their Chrysler Pacifica stalled while they were driving on
2 the highway, and Plaintiffs were almost rear-ended by another vehicle. As a
3 result of such occurrences, Plaintiffs' vehicle returned their vehicle for repairs to
4 an authorized FCA repair facility on two occasions.

5 25. On December 6, 2017, at 44,363 miles, Plaintiffs delivered their
6 vehicle to Hemet Chrysler Dodge Jeep Ram complaining that the vehicle "died"
7 while they were driving at about 45 mph. The repair order stated simply that the
8 technician was unable to verify the complaint, and no repairs were performed.

9 26. On December 13, 2017, Plaintiffs complained again to Hemet
10 Chrysler Dodge Jeep Ram about symptoms of the Stalling Defect, stating that it
11 feels like the clutch in their Chrysler Pacifica is "going out," and it stalls when
12 they are driving over 65 mph. "The repair order states that, though the technician
13 was not able to detect any trouble codes or duplicate the problem, and a TCM
14 update was performed and the TCM memory reset.

15 27. Since their December 13, 2017 visit, the vehicle has continued to
16 exhibit the Stalling Defect and FCA has been unable, or unwilling, to repair it.

17 28. At all times, Plaintiffs, like all Class Members, have driven their
18 vehicle in a foreseeable manner and in the manner in which it was intended to be
19 used.

20 **Defendant**

21 29. Defendant FCA is a limited liability company organized and in
22 existence under the laws of the State of Delaware and registered to do business
23 in the State of California. FCA's Corporate Headquarters are located at 1000
24 Chrysler Drive, Auburn Hills, Michigan 48326. FCA designs, manufactures,
25 markets, distributes, services, repairs, sells, and leases passenger vehicles,
26 including the Class Vehicles, nationwide and in California. FCA is the
27 warrantor and distributor of the Class Vehicles in the United States.

28

1 leased the Class Vehicles. FCA has sold, directly or indirectly, through dealers
2 and other retail outlets, thousands of Class Vehicles in California and
3 nationwide. On information and belief, the only way to acquire a Class Vehicle
4 is through one of FCA's authorized dealerships.

5 39. As discussed above, the Class Vehicles contain a design defect that
6 causes an unexpected and complete shut down or stalling while driving, often at
7 high speeds.

8 40. The Stalling Defect causes a total loss of power, including power
9 steering, which prevents acceleration, deceleration, and steering and significantly
10 impairs drivers' control, increasing the risk of accidents.

11 41. FCA has confirmed similar symptoms in other vehicles, including
12 the 2015 Chrysler 200,¹⁵ and is aware of the Stalling Defect in the Chrysler
13 Pacifica based at least on customer complaints, to the extent that FCA is
14 "continuing to monitor [its] vehicles and collect data."¹⁶ For example, in October
15 7, 2015, FCA released service bulletin 21-053-15 in response to complaints
16 about erratic shifting in vehicles equipped with the 9 speed automatic
17 transmission. The bulletin provided technicians with "information on how to
18 perform the new scan tool based transmission Quick Learn procedure" and was
19 required to improve "concern[s] of poor shift quality" in the Jeep Cherokee, the
20 Chrysler 200, the Jeep Renegade, the Ram ProMaster City, and the Fiat 500X.¹⁷
21 Technicians were instructed to perform any applicable software updates to the
22 Transmission Control Module (TCM) and Powertrain Control Module (PCM).

23 ¹⁵ See, e.g., Clifford Atiyeh, "78,000 Chrysler 200 Sedans Recalled for
24 Stalling, Engaging Neutral," Car and Driver (Aug. 21, 2015 at 4:13 pm),
25 <https://blog.caranddriver.com/78000-chrysler-200-sedans-recalled-for-stalling-engaging-neutral/>.

26 ¹⁶ Olsen, "Safety Group Urges Recall of 2017 Chrysler Pacifica Minivans
Over Stalling Issue," *supra*.

27 ¹⁷ This service bulletin superseded an earlier version, 21-035-14 REV.A,
28 released on November 1, 2014. The bulletin was subsequently updated as 21-
013-16 on March 24, 2016.

1 42. Since June of 2016, because FCA, by its own admission, routinely
2 monitors “multiple data streams” for information regarding the performance of its
3 vehicles, including complaints filed with federal regulatory agencies,¹⁸
4 Defendant knew or should have known that a dangerous design defect causes the
5 Class Vehicles to shut down or stall at speed. In addition to customer complaints
6 to authorized dealerships, warranty and goodwill claims, and customer
7 complaints made directly to FCA, on information and belief, FCA also monitors
8 informal complaints made by owners online in forums.

9 43. FCA knew or should have known about the Stalling Defect through
10 sources not available to consumers, including pre-market testing data, early
11 consumer complaints to FCA and its dealers who are their agents for vehicle
12 repairs, testing conducted in response to those complaints, high failure rates and
13 replacement part sales data, consumer complaints to NHTSA, and other,
14 aggregate post-market data from FCA dealers about the problem.

15 44. On information and belief, Defendant’s corporate officers, directors,
16 or managers knew about the Stalling Defect and failed to disclose it to Plaintiffs
17 and Class Members, at the time of sale, lease, repair, and thereafter.

18 45. Because FCA will not notify Class Members of the Stalling Defect,
19 Plaintiffs, Class Members, and the general public remain subject without
20 warning to safety-related risks.

21 46. The alleged Stalling Defect is inherent in each Class Vehicle and
22 was present in each Class Vehicle at the time of sale.

23 47. At the time of sale, lease, and repair and thereafter, FCA knew about
24 and concealed from Plaintiffs and Class Members the Stalling Defect present in
25 every Class Vehicle and its attendant safety risks. In fact, instead of repairing
26 the Stalling Defect, FCA either refused to acknowledge its existence or

27 ¹⁸ Boudette, “Chrysler Pacifica Owners Say Minivans Suddenly Shut Off,”
28 *supra*.

1 performed repairs that simply masked them. Indeed, consistent with Plaintiffs'
2 experience, consumers frequently complain that their vehicles fail to detect any
3 failure or error codes and FCA-authorized dealers are unable to duplicate the
4 malfunctions.¹⁹

5 48. If they had known about the Stalling Defect at the time of sale or
6 lease, Plaintiffs and Class Members would not have purchased or leased the
7 Class Vehicles or would have paid less for them.

8 **The Stalling Defect Poses an Unreasonable Safety Hazard**

9 49. The Stalling Defect is dangerous, preventing drivers from changing
10 speed or steering, often while in traffic and at high rates of speed. The Stalling
11 Defect causes the Class Vehicles to shut down or stall, which severely impairs
12 the driver's control and increases the risk of collisions.

13 50. Many purchasers and lessees of the Class Vehicles have experienced
14 the Stalling Defect. Complaints filed by consumers with NHTSA demonstrate
15 that the defect is widespread and dangerous and that it manifests without
16 warning. The complaints also indicate FCA's awareness of the Stalling Defect
17 and the dangerous conditions it creates. The following are a sampling of some
18 complaints relating to the Stalling Defect and safety (spelling and grammar
19 mistakes remain as found in the original) (Safecar.gov, *Search for Safety Issues*
20 (December 27, 2017),

21 <http://www.odi.nhtsa.dot.gov/owners/SearchSafetyIssues/>):

- 22
- 23 a. (March 28, 2017) NHTSA ID No. 10968929: AFTER
24 PLACING THE VEHICLE IN REVERSE AND APPLYING
25 GAS THE VEHICLE WILL START TO REVERSE AS
26 INTENDED. HOWEVER, AFTER MOVING SEVERAL
27 FEET THE TRANSMISSION COMPLETELY FAILS AND
28 THE VEHICLE DOES NOT RESPOND TO ADDED
PRESSURE FROM THE GAS PEDAL. IT'S AS IF THE
TRANSMISSION SHIFTS TO NEUTRAL ON ITS OWN
AND THE ENGINE REVS ITS RPMS WITH NO RESULT.

¹⁹ See, e.g., Cohen, Center for Auto Safety NHTSA Petition, *supra*, at 2.

1 THIS HAS HAPPENED AT LEAST 3 TIMES ON A SLIGHT
2 INCLINE AND THE VEHICLE BEGINS TO ROLL
3 UNCONTROLLABLY. IT CREATES MOMENTS OF
4 CONFUSION FOR THE DRIVER SINCE THEY BELIEVE
5 THEY SHOULD BE MOVING BACKWARDS IN
6 REVERSE BUT THE TRANSMISSION LETS GO AND
7 STARTS TO ACTUALLY ROLL FORWARDS. THIS HAS
8 HAPPENED AT HOME IN THE DRIVE WAY AS WELL
9 AS IN A PUBLIC PARKING LOT. AFTER THE SCENARIO
10 HAPPENS, THE R ON THE SHIFTER BLINKS
11 UNCONTROLLABLY. THE ONLY WAY TO RESET THE
12 CAR IS TO TURN IT OFF AND RESTART IT. AT THAT
13 POINT IT APPEARS THE TRANSMISSION RE-ENGAGES.

14 b. (May 11, 2017) NHTSA ID No. 10984984: TL* THE
15 CONTACT OWNS A 2017 CHRYSLER PACIFICA. WHILE
16 ATTEMPTING TO ACCELERATE FROM A RED LIGHT,
17 THE VEHICLE FAILED TO ACCELERATE AND THE
18 ONBOARD COMPUTER DISPLAYED A TRANSMISSION
19 CODE. THE VEHICLE WAS TAKEN TO A DEALER. THE
20 MECHANIC STATED THAT THERE WAS NO
21 TRANSMISSION CODE AND THAT THE FAILURE WAS
22 DUE TO THE CONTACT FUELING THE VEHICLE
23 WHILE THE ENGINE WAS RUNNING. WHILE THE
24 CONTACT WAS TURNING LEFT AT AN INTERSECTION
25 AT 10 MPH, THE VEHICLE FAILED TO ACCELERATE
26 AGAIN AND STOPPED IN THE MIDDLE OF THE
27 INTERSECTION. AFTER 5-6 SECONDS, THE VEHICLE
28 JERKED FORWARD AND ACCELERATED AS THE
CHECK ENGINE INDICATOR ILLUMINATED. THE
VEHICLE WAS TAKEN TO THE DEALER AGAIN, BUT
WAS NOT DIAGNOSED OR REPAIRED. THE FAILURE
OCCURRED FOUR TIMES. THE MANUFACTURER WAS
NOT MADE AWARE OF THE FAILURES. THE
APPROXIMATE FAILURE MILEAGE WAS 7,000.

c. (May 23, 2017) NHTSA ID No. 10991282: VEHICLE STOP
RUNNING RANDOMLY.

STOPPED RUNNING WHILE ON ROAD.

HOW TO COMPLETELY STOP PUT IN PARK TO
RESTART PERIOD SAFETY ISSUE BIG TIME

d. (May 23, 2017) NHTSA ID No. 10991298: WHILE DRIVING
ON A BUSY STREET, MY 2017 CHRYSLER PACIFICA
SUDDENLY LOST THE ABILITY TO ACCELERATE. I
WAS IN AN INTERSECTION PUMPING THE GAS PEDAL
WITH NOTHING HAPPENING. THE WARNING
MESSAGE ON THE DASH READ "SHIFT VEHICLE TO
PARK" (OR SIMILAR). I COASTED TO A STOP WITH
CARS NEARLY MISSING ME, SHIFTED TO PARK,
TURNED THE CAR OFF, THEN TURNED IT BACK ON,
SHIFTED TO DRIVE AND PULLED DIRECTLY INTO A
PARKING LOT. I CALLED CHRYSLER ROADSIDE AND

1 WAS TOWED TO THE DEALERSHIP WHERE MY CAR IS
2 NOW. ACCORDING TO WHAT I'M SEEING ON
3 CHRYSLER FORUMS, THIS IS BEGINNING TO HAPPEN
4 ACROSS THE COUNTRY & CHRYSLER IS NOT
5 ADDRESSING THIS EXTREMELY SERIOUS SITUATION.
6 THANK YOU FOR YOUR TIME AND I LOOK FORWARD
7 TO A RESPONSE.

8
9 e. (June 2, 2017) NHTSA ID No. 11012731: WHILE STOPPED,
10 THE VEHICLE LOST POWER AND DISPLAYED A
11 MESSAGE "VEHICLE MUST BE IN PARK TO SHIFT" OR
12 SOMETHING ALONG THOSE LINES. LUCKILY THE
13 VEHICLE WAS STOPPED AND NOT MOVING WHEN IT
14 LOST POWER. THIS IS VERY SERIOUS BECAUSE ALL
15 PROPULSION FROM THE VEHICLE WAS LOST. THE
16 CAR DID RESTART AFTER IT WAS SHIFTED INTO P
17 AND THE START BUTTON WAS PUSHED (WITH A
18 FOOT ON THE BRAKE). CHRYSLER HAS KNOWN
19 ABOUT THIS ISSUE FOR MONTHS NOW VIA THE
20 ONLINE FORUM DISCUSSING THE ISSUE AND
21 APPEARS TO BE DOING NOTHING ABOUT IT
22 PROACTIVELY AND IS CERTAINLY NOT
23 COMMUNICATING ABOUT THE ISSUE WITH ITS
24 CUSTOMERS.UPDATED 11/03/17 *BF

25
26 UPDATED 11/07/2017*JS

27 f. (June 8, 2017) NHTSA ID No. 10993974: TRANSMISSION
28 FAILED ON US 3 TIMES. FIRST WAS BACKING OUT OF
A PARKING SPOT, TOTALLY LOCKED UP FOR 15
MINUTES. RESET AND RAN FINE. NEXT, WITH WIFE
AND 3 KIDS IN THE VAN, TRANSMISSION LOCKED UP
AT 45 MILES PER HOUR ALMOST CAUSING HER TO
CRASH AND GET HIT. ALL LIGHTS CAME ON AND
ELECTRONIC PARKING BRAKE ENGAGED.
DEALERSHIP TOOK 2 WEEKS TO FIX AND SAID IT
WAS FINE. NEXT, I WAS DRIVING AT 55 MPH AND
TRANSMISSION LOCKED UP. ALMOST DIED. NO A/A
BY THE GRACE OF GOD. ALL LIGHTS CAME ON AND
PARKING BRAKE ENGAGED AGAIN. NOW, CHRYSLER
IS REPLACING THE ENTIRE TRANSMISSION. WE
WON'T TAKE IT BACK. FAMILY ALMOST DIED
TWICE...UPDATED 07/20/17 *BF

g. (June 30, 2017) NHTSA ID No. 11011729: I WAS DRIVING
ON A HIGHWAY (WITH MY KIDS IN THE BACKSEATS)
AND SUDDENLY (FOR NO REASON) THE VEHICLE
LOST ALL ELECTRICITY (INCLUDING, POWER
STEERING, ENGINE, HEADLIGHTS, DASHBOARD
LIGHTING). THE DASHBOARD ONLY SAID "PUT CAR
INTO PARK AND RESTART." THANKFULLY, I WAS
ABLE TO PULL OVER PARTIALLY ONTO THE SIDE
AND RESTART THE CAR AFTER IT WAS IN PARK.
(THIS HAPPENED A SECOND TIME A FEW MINUTES
LATER BUT IN THAT CASE THE ELECTRICITY CAME

1 BACK ON ITSELF AFTER A FEW MOMENTS.) THIS
2 WAS A SCARY AND DANGEROUS
3 EXPERIENCE.....UPDATED 11/03/17 *BF

4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
UPDATED 11/09/2017*JS

h. (July 17, 2017) NHTSA ID No. 1011395 WHILE DRIVING
THE VEHICLE IT TURNS OFF AND COMES TO A
COMPLETE STOP. THE SCREEN ON THE DASH READS
MUST PLACE PARK IN P TO START. I HAVE TO THEN
PLACE THE CAR IN PARK TO START BACK UP AGAIN.
THIS HAS HAPPENED 3 TIMES IN 3 MONTHS. THE
VEHICLE LOSES ALL FORWARD MOTION AND SHUTS
OFF. EVERY TIME IT HAS DONE IT IT HAS BEEN
WHILE EXCELERATING FROM A STOP SIGN ON A
CITY STREET. THE CAUSE OF THIS SEEMS TO BE
WITH THE TRANSMISSION AS THE VEHICLE
STUTTERS JUST BEFORE IT STOPS.....UPDATED
11/03/17 *BF

UPDATED 11/9/2017*JS

i. (August 2, 2017) NHTA ID No. 11051158: MY WIFE
STOPPED AT AN INTERSECTION AND THE CAR
COMPLETELY SHUTOFF. A MESSAGE APPEARED
STATING PLEASE PUT CAR IN PARK TO START
VEHICLE. IT HAPPENED WITHIN TWO WEEKS OF
PURCHASING THE VEHICLE, AROUND 300 MILES
DRIVEN. WE ARE CONCERNED TO DRIVE IT AS WE
HAVE THREE SMALL CHILDREN. I TOOK IT BACK TO
THE DEALER AND THEY COULDN'T REPRODUCE IT
AND REFUSED TO TAKE THE CAR BACK. I
CONTACTED CHRYSLER AND THEY SAID THEY
WOULD NEED TO REPRODUCE IT SO WAIT UNTIL IT
HAPPENED AGAIN. THIS IS UNSATISFACTORY TO ME
AS IT IS PUTTING MY FAMILY AT RISK. IT APPEARS
THEY ARE WAITING FOR SOMEONE TO DIE TO DEAL
WITH THE ISSUE. AND EVEN AT THAT DEAD MEN
TELL NO TAILS, SO THEY PROBABLY WOULDN'T BE
ABLE TO ATTRIBUTE THE ACCIDENT TO THIS
STALLING ISSUE, AND NOTHING WILL BE
ADDRESSED. THIS NEEDS TO BE RECALLED OR
VEHICLES DISPLAYING THIS ISSUE SWAPPED OUT.

j. (August 10, 2017) NHTSA ID No. 11048090: MY CAR ON
OCCASION HAD BEEN FEELING LIKE IT WAS
CUTTING OUT, I THOUGHT I GOT SOME BAD GAS SO I
SWITCHED STATIONS AND NOTICED IT LESS. THEN
ABOUT A MONTH LATER, IT JUST TURNED OFF IN
ROUTE. I WAS AT A FOUR WAY STOP ACCELERATED
TO GO AND IT STARTED OUT, I MADE IT INTO THE
MIDDLE OF THE INTERSECTION AND THE CAR
TURNED OFF. IT GAVE A NOTICE BY STEERING
COLUMN THAT IT NEEDS TO BE IN PARK TO START
ENGINE OR SOMETHING. IT DID IT WITH ABOUT

1 13,000 MILES ON IT. I WAS ABLE TO START THE VAN
2 AFTER I PUT IT IN PARK WITH FOOT ON BRAKE AND
3 CONTINUE ON. IT HAPPENED SO FAST I WAS NOT
4 SURE WHAT WENT WRONG? NOW I READ THAT
5 MANY HAVE HAD THIS HAPPEN AS WELL. I AM
6 FEARFUL NOW IT WILL HAPPEN WHEN I AM GOING
7 HIGHER SPEEDS, ETC. THIS NEEDS TO BE FIXED!

8 k. (September 7, 2017) NHTSA ID No. 11025266: 2017
9 PACIFICA TOURING-L ENGINE SHUTDOWN
10 COMPLETELY WHEN DRIVING AT ABOUT 35-40 MPH
11 ON A CITY STREET WHEN I SLOWED DOWN FROM 45
12 MPH. THE VAN IS LESS THAN A YEAR OLD AND HAS
13 ABOUT 10000 MILES ON IT. SCREEN DISPLAYED
14 MESSAGE 'SHIFT TO PARK AND RESTART VEHICLE'. I
15 TRIED RESTARTING WITHOUT STOPPING THE CAR AS
16 THERE WERE CARS BEHIND ME AND I SAW THE
17 MESSAGE "TOO FAST TO SHIFT TO PARK" AND THE
18 POWER STEERING WAS ALSO CUT OFF BECAUSE IT IS
19 ELECTRONIC. I HAD TO PARK ON THE SHOULDER
20 AND RESTART AFTER A COMPLETE STOP.

21 CONTACTED MY CHRYSLER DEALER AND HE TOLD
22 ME THAT UNLESS THERE IS A CODE NO DIAGNOSIS
23 IS POSSIBLE. I'VE DROPPED MY CAR TODAY
24 MORNING - NO UPDATES AS YET. UPDATED 10/25/17
25 *BF

26 UPDATED 10/27/2017*JS UPDATED 12/04/17*BF

27 i. (October 6, 2017) NHTSA ID No. 1132132: CAR SHUTS
28 OFF WHILE DRIVING. WARNINGS TO PUT THE CAR IN
PARK AND ELECTRONIC STABILITY ISSUES MAY POP
UP. THE ENGINE MAKES A WEIRD NOISE AND THE
CAR WILL OFTEN NOT SHIFT TO PARK TO RESTART.
THIS HAS OCCURRED THREE SEPARATE OCCASIONS
FOR ME. EACH TIME I WAS LUCKILY DRIVING
SLOWLY PRIOR TO A TURN. I HAVE BROUGHT THE
CAR TO THE DEALER EACH TIME. THEY HAVE TRIED
REPLACING THE SHIFTER, UPDATED THE COMPUTER
SYSTEM AND CLEARED ERROR CODES. NOTHING
WORKS. THIS IS A HUGE SAFETY ISSUE FOR OUR
FAMILY AND THEY JUST KEEP RETURNING THE CAR
TO ME.

m. (October 23, 2017) NHTSA ID No. 11040294: WHILE
DRIVING, THE ENGINE STOPS AND THE DASHBOARD
AND SHIFTER LIGHTS START BLINKING. THE
MESSAGE "VEHICLE MUST BE IN PARK TO SHIFT
GEARS" DISPLAYS ON THE DASHBOARD. THIS IS
INCREDIBLY DANGEROUS AND HAS HAPPENED 3
TIMES NOW. OUR FAMILY WAS ALMOST STRUCK BY
ONCOMING TRAFFIC. UPDATED 11/9/2017*JS

n. (November 18, 2017) NHTSA ID No. 11051390: WHILE

1 DRIVING WITH MY FAMILY, INCLUDING THREE
2 SMALL CHILDREN, THE VEHICLE SHUT ITSELF OFF.
3 NO ELECTRICAL, POWER STEERING, POWER BRAKES
4 OR ENGINE. I WAS ABLE TO GET IT STARTED AGAIN
5 AFTER COMING TO A STOP. AFTERWARDS THE
6 SCREEN SAID THAT THE START/STOP SYSTEM WAS
7 DISABLED.

- 8 o. (November 25, 2017) NHTSA ID No. 11053322: CAR, WITH
9 NO WARNING, LOST ALL ACCELERATION WHILE
10 DRIVING APPROXIMATELY 35 MPH AND FLASHED
11 SEVERAL WARNING LIGHTS ON DASHBOARD
12 INCLUDING ELECTRONIC STABILITY CONTROL,
13 FORWARD COLLISION WARNING, SERVICE
14 FORWARD COLLISION WARNING, AND ELECTRONIC
15 PARK BRAKE FAILURE. IN ADDITION, THE SHIFTER
16 KNOB LIGHT BLINKS AND SWITCHES TO 'P'. AT THAT
17 POINT, I CAN ONLY DRIFT THE CAR TO A STOP. IN
18 MY CASE I WAS ABLE TO TURN THE CAR OFF, THEN
19 RESTART IT AND THE ISSUE DID NOT OCCUR AGAIN
20 FOR ANOTHER 4 DAYS. AFTER 4 DAYS, THE EXACT
21 SAME THING HAPPENED, THIS TIME WHILE I WAS
22 STOPPED AT A RED LIGHT. TOOK THE CAR IN FOR
23 SERVICE AND WAS TOLD THEY PERFORMED A
24 SOFTWARE UPDATE ON THE TRANSMISSION AND
25 THE CAR WAS FIXED. I GOT ABOUT 1 MILE FROM
26 THE DEALER AND THE EXACT SAME THING
27 HAPPENED WHILE DRIVING AT APPROXIMATELY 30
28 MILES PER HOUR. DROVE CAR BACK TO THE DEALER
AND THEY HAVE THE CAR NOW AGAIN TRYING TO
FIGURE OUT WHAT IS WRONG.
- p. (December 8, 2017) NHTSA ID No. 11053553: CAR SHUT
OFF DURING DRIVING AND TOLD ME TO SHIFT INTO
PARK AND THEN RESTARTED AND TOOK OFF FAST
FOR A FEW FEET
- q. (December 21, 2017) NHTSA ID No. 11056049: WE
PURCHASED A PACIFICA ON 12/21/2017. NOT EVEN AN
HOUR AFTER LEAVING THE DEALERSHIP THE
VEHICLE STALLED, LOSING ALL POWER, AND HAD
TO BE RESTARTED TO REGAIN POWER AND DRIVING
ABILITY AT A STOP LIGHT. WE WERE NOT HIT, BUT
IT IS VERY DANGEROUS TO HAVE A VEHICLE THAT
STALLS RANDOMLY.

51. Complaints posted informally by consumers in forums online further demonstrate that the defect is widespread and dangerous and that it manifests without warning. The complaints also indicate FCA's awareness of the Stalling Defect and its safety risks. The following are a small sampling of complaints relating to the Stalling Defect (spelling and grammar mistakes remain as found

1 in the original) (Pacifica Forums, [http://www.pacificaforums.com/forum/474-](http://www.pacificaforums.com/forum/474-chrysler-pacifica-minivan-issues-problems/2937-vehicle-shut-off-while-driving-4.html)
2 [chrysler-pacifica-minivan-issues-problems/2937-vehicle-shut-off-while-driving-](http://www.pacificaforums.com/forum/474-chrysler-pacifica-minivan-issues-problems/2937-vehicle-shut-off-while-driving-4.html)
3 [4.html](http://www.pacificaforums.com/forum/474-chrysler-pacifica-minivan-issues-problems/2937-vehicle-shut-off-while-driving-4.html) (last visited Dec. 27, 2017))

- 4
- 5 a. Posted on September 6, 2016 by laprincipessa: hi, I haven't seen
6 any posts on this yet, but the other day while I was driving, my
7 pacifica's engine returned off WHILE I WAS MOVING. I had no
8 warning, just that it stopped accelerating and the screen said that
9 car must be in park to put it in drive. Thankfully I had just turned
10 onto a residential street, however, due to the steering being
11 electronic, I had lost the power steering. I had to coast to a stop,
12 then put it in park and press the on button with foot on brake like
13 normal starting. The more I think about this, the more scared I am
14 to drive the van! What if it had happened anywhere else! I had an
15 appointment at the dealer the next morning already, so I told the
16 tech what had happened. They checked the car and it didn't have
17 any codes on it. As if it never happened. I am not sure what to do
18 at this point, I'm really nervous about driving it. The tech couldn't
19 tell me anything. I didn't have any warning, and nothing weird
20 happened with the vehicle before the shut off of the engine. The
21 tech checked to see if my car needed a software update to fix the
22 problem and there was none. My thought was that if a car needed
23 a software update to not shut off randomly while in operation,
24 maybe you shouldn't be selling the dang car!!! Any
25 advice/suggestions? I've never had an issue like this before!
- 26 b. Posted on November 3, 2016 by ChryslerCares, in response to a
27 post by Jtravis410: I have noticed several times, whether I'm
28 going 5 mph or 30 mph, that when I am accelerating it starts to
feel like the van wants to stall out and I have noticed at the times
it's happening the RPM's rev normal then start to jump really low
then back to normal then really low and so forth until I come to a
complete stop and accelerate again and it seems to go away.
Another thing I just started to notice is that after putting the van in
park on a flat service it rolls forward or backward, from whichever
direction I was going, about a foot sometimes more before
stopping.
Anyone notice these issues before

Hi Jtravis410,

1 Feel free to reach out if I can assist you in locating or making an
2 appointment at a certified dealer for a diagnosis of your vehicle. I
3 am happy to follow up for you. You are also welcome to visit
4 the Chrysler website to locate a local dealer Find a Dealer |
5 Chrysler Dealer Locator by Zip Code | Chrysler

6 Anna
7 ChryslerCares Social Media Specialist

8 52. In fact, FCA had notice of the Stalling Defect in the Class Vehicles
9 at least since March 2016, when consumers began posting complaints publicly
10 online (spelling and grammar mistakes remain as found in the original) (Car
11 Problem Zoo, <http://www.carproblemzoo.com/chrysler/pacifica/> (last visited
12 Dec. 29, 2017))

- 13 a. "Car Stall Problems of the 2017 Chrysler Pacifica," Failure Date
14 6/1/16: The contact owns a 2017 Chrysler Pacifica. While driving
15 35 mph, the vehicle stalled without warning and the "shift to park"
16 error message displayed. The contact stated that the vehicle lost
17 power completely, but was able to be restarted by shifting to park.
18 In addition, on several occasions, the vehicle hesitated to
19 accelerate and lurched forward while the accelerator pedal was
20 depressed. Hegg's Chrysler in masa, arizona reprogrammed the
21 computer and replaced the accelerator pedal sensor, but the failure
22 recurred. The dealer stated that the failure could not be duplicated.
23 The manufacturer was made aware of the failure. The failure
24 mileage was approximately 11,000. The VIN was not available.
- 25 b. "Engine Stall Problems of Chrysler Pacifica" Failure Date
26 5/21/17: Purchased a brand new Chrysler Pacifica vehicle 3 wks
27 ago on may 18 2017. We headed out on vacation on the 20th of
28 may. May 21 was the first incident on the interstate in chicago we
 stalled in the middle of traffic for approximately 10 minutes. May
 27 we pulled up to a stoplight and the engine stalled out on us that
 lasted approximately 3 minutes, the same day at a tollbooth we
 stalled out which lasted about 25 minutes before the car would
 start again we ended up calling for a towing service but the car we
 started and we canceled the tow service. May 30 we left the
 grocery store the screen switch to the app page and would not

1 switch back, the brakes locked and we lost engine power. That
2 lasted 20 mins before car would start. June 7 car would not start
3 after coming out of the grocery store waited 20 minutes then tried
4 again car started 30 seconds after the ignition button has been
5 pressed by itself. June 11 car stalled out pulling into the driveway.
6 Took less then a minute to restart this time. We have taken the car
7 into the dealer and the could find nothing and could not replicate.
8 We now have to drive back from PA to nd with a vehicle I am
9 afraid to drive with 6 kids. I am so upset and disappointed in this
10 Chrysler product.

- 11 c. "Car Stall Problems of Chrysler Pacifica," Failure Date: 5/6/17:
12 New 2017 Chrysler Pacifica hybrid with 270 miles stalled on a
13 busy intersection and won't turn on. The vehicle was in motion
14 when it lost power and came to a complete stop. The engine sign
15 is on and message says "press brake to prevent rollong". Turning
16 off and turning the it back on does not make the issue go away.

17 53. The Stalling Defect poses an unreasonable safety risk for Class
18 Members and everyone sharing the road with them by increasing the risk of
19 accidents.

20 **FCA Had Exclusive Knowledge of the Stalling Defect**

21 54. FCA had superior and exclusive knowledge of the Stalling Defect
22 and knew or should have known that the defect was not known to or reasonably
23 discoverable by Plaintiffs and Class Members before they purchased or leased
24 the Class Vehicles.

25 55. As discussed above, Plaintiffs are informed and believe and based
26 thereon allege that before Plaintiffs purchased their Class Vehicle, and since at
27 least June 2016, Defendant knew or should have known, based on FCA's routine
28 monitoring of complaints, that the Class Vehicles had a dangerous design defect
that adversely affects their drivability.²⁰

56. Additionally, FCA knew or should have known about the Stalling

²⁰ Boudette, "Chrysler Pacifica Owners Say Minivans Suddenly Shut Off,"
supra.

1 Defect through sources not available to consumers, including FCA's own
2 aggregate pre-market data and other aggregate post-market data from FCA-
3 authorized dealers.

4 57. The existence of the Stalling Defect is a material fact that a
5 reasonable consumer would consider when deciding whether to purchase or lease
6 a Class Vehicle. Had they known that the Class Vehicles were defective,
7 Plaintiffs and other Class Members would not have purchased or leased the Class
8 Vehicles or would have paid less for them.

9 58. Reasonable consumers, like Plaintiffs, expect that the vehicles will
10 be safe and free of defects. Plaintiffs and Class Members further reasonably
11 expect that FCA will not sell or lease vehicles with known safety-related defects,
12 such as the Stalling Defect, and will disclose any such defects to its consumers
13 when it learns of them. Plaintiffs and Class Members did not expect FCA to fail
14 to disclose and continually deny the Stalling Defect.

15 **FCA Has Actively Concealed the Stalling Defect**

16 59. While it has been fully aware of the Stalling Defect in the Class
17 Vehicles, FCA actively concealed the existence and nature of the alleged defect
18 from Plaintiffs and Class Members at the time of purchase, lease, or repair and
19 thereafter. Specifically, FCA failed to disclose or actively concealed at and after
20 the time of purchase, lease, or repair:

- 21 (a) any and all known material defects or material nonconformity
22 of the Class Vehicles, including the Stalling Defect;
23 (b) that the Class Vehicles, were not in good in working order,
24 were defective, and were not fit for their intended purposes;
25 and
26 (c) that the Class Vehicles were defective, despite FCA's
27 knowledge of such defects since at least June 2016 through
28

1 in the State of California.

2
3 65. Excluded from the Class and Sub-Classes are: (1) Defendant, any
4 entity or division in which Defendant has a controlling interest, and their legal
5 representatives, officers, directors, assigns, and successors; (2) the Judge to
6 whom this case is assigned and the Judge's staff; and (3) those persons who have
7 suffered personal injuries as a result of the facts alleged herein. Plaintiffs reserve
8 the right to amend the Class and Sub-Class definitions if discovery and further
9 investigation reveal that the Class and Sub-Class should be expanded or
10 otherwise modified.

11 66. Numerosity: Although the exact number of Class Members is
12 uncertain and can only be ascertained through appropriate discovery, the number
13 is great enough such that joinder is impracticable. The disposition of the claims
14 of these Class Members in a single action will provide substantial benefits to all
15 parties and to the Court. The Class Members are readily identifiable from
16 information and records in Defendant's possession, custody, or control, as well
17 as from records kept by the Department of Motor Vehicles.

18 67. Typicality: Plaintiffs' claims are typical of the claims of the Class
19 in that Plaintiffs, like all Class Members, purchased or leased a Class Vehicle
20 designed, manufactured, and distributed by FCA. The representative Plaintiffs,
21 like all Class Members, have been damaged by Defendant's misconduct in that
22 they purchased a vehicle they would not have purchased or would have paid less
23 for. Furthermore, the factual bases of FCA's misconduct are common to all Class
24 Members and represent a common thread resulting in injury to all Class
25 Members.

26 68. Commonality: There are numerous questions of law and fact
27 common to Plaintiffs and the Class that predominate over any question affecting
28 only individual Class Members. These common legal and factual issues include

1 the following:

- 2 (a) Whether Class Vehicles suffer from defects relating to the
3 Stalling Defect;
- 4 (b) Whether the symptoms of the Stalling Defect constitute an
5 unreasonable safety risk;
- 6 (c) Whether Defendant knows about the Stalling Defect and, if
7 so, how long Defendant has known of the defect and its
8 symptoms;
- 9 (d) Whether the defective nature of the Class Vehicles constitutes
10 a material fact;
- 11 (e) Whether Defendant has a duty to disclose the defective nature
12 of the Class Vehicles to Plaintiffs and Class Members;
- 13 (f) Whether Plaintiffs and the other Class Members are entitled
14 to equitable relief, including a preliminary and/or permanent
15 injunction;
- 16 (g) Whether Defendant knew or reasonably should have known of
17 the Stalling Defect before it sold and leased Class Vehicles to
18 Class Members;
- 19 (h) Whether Defendant should be declared financially responsible
20 for notifying all Class Members of the problems with the
21 Class Vehicles and for the costs and expenses of repairing the
22 Stalling Defect;
- 23 (i) Whether Defendant is obligated to inform Class Members of
24 their right to seek reimbursement for having paid to diagnose
25 or repair the Stalling Defect;
- 26 (j) Whether Defendant breached the implied warranty of
27 merchantability pursuant to the Magnuson-Moss Act; and
28

1 (k) Whether Defendant breached the implied warranty of
2 merchantability pursuant to the Song-Beverly Act;

3 69. Adequate Representation: Plaintiffs will fairly and adequately
4 protect the interests of the Class. Plaintiffs have retained attorneys experienced
5 in the prosecution of class actions, including consumer and product defect class
6 actions, and Plaintiffs intend to prosecute this action vigorously.

7 70. Predominance and Superiority: Plaintiffs and Class Members have
8 all suffered and will continue to suffer harm and damages as a result of
9 Defendant's unlawful conduct. A class action is superior to other available
10 methods for the fair and efficient adjudication of the controversy. Absent a class
11 action, most Class Members would likely find the cost of litigating their claims
12 prohibitively high and would therefore have no effective remedy at law. It is
13 likely that only a few Class Members could afford to seek legal redress for
14 Defendant's misconduct. Absent a class action, Class Members will continue to
15 incur damages, and Defendant's misconduct will continue without remedy.
16 Class treatment of common questions of law and fact would also be a superior
17 method to multiple individual actions or piecemeal litigation in that class
18 treatment will conserve the resources of the courts and the litigants, and will
19 promote consistency and efficiency of adjudication.

20 **FIRST CAUSE OF ACTION**

21 **(Violation of California's Consumers Legal Remedies Act,**
22 **California Civil Code § 1750, et seq.)**

23 71. Plaintiffs incorporate by reference the allegations contained in the
24 preceding paragraphs of this Complaint.

25 72. Plaintiffs bring this cause of action on behalf of themselves and the
26 Nationwide Class, or, in the alternative, the CLRA Sub-Class.

27 73. Defendant is a "person" as defined by California Civil Code
28

1 § 1761(c).

2 74. Plaintiffs and CLRA Sub-class Members are “consumers” within the
3 meaning of California Civil Code § 1761(d) because they purchased their Class
4 Vehicles primarily for personal, family, or household use.

5 75. By failing to disclose the Stalling Defect and concealing it from
6 Plaintiffs and Class Members, Defendant violated California Civil Code §
7 1770(a), as it represented that the Class Vehicles had characteristics and benefits
8 that they do not have, and represented that the Class Vehicles were of a
9 particular standard, quality, or grade when they were of another. *See* Cal. Civ.
10 Code §§ 1770(a)(5) & (7).

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

15 77. Defendant knew that the Class Vehicles suffered from an inherent
16 defect, were defectively designed, and were not suitable for their intended use.

17 78. As a result of their reliance on Defendant’s omissions, owners
18 and/or lessees of the Class Vehicles suffered an ascertainable loss of money,
19 property, and/or value of their Class Vehicles.

20 79. Defendant was under a duty to Plaintiffs and Class Members to
21 disclose the Stalling Defect and/or the associated repair costs because:

22 (a) Defendant was in a superior position to know the true state of
23 facts about the safety-related Stalling Defect in the Class
24 Vehicles;

25 (b) Plaintiffs and Class Members could not reasonably have been
26 expected to learn or discover that their Class Vehicles had a
27 dangerous defect until it manifested; and
28

1 (c) Defendant knew that Plaintiffs and Class Members could not
2 reasonably have been expected to learn of or discover the
3 safety-related defect.

4 80. In failing to disclose the defective nature of the Class Vehicles,
5 Defendant knowingly and intentionally concealed material facts and breached its
6 duty not to do so.

7 81. The facts Defendant concealed from or failed to disclose to
8 Plaintiffs and Class Members are material in that a reasonable consumer would
9 have considered them to be important in deciding whether to purchase or lease
10 the Class Vehicles or pay less. Had they known that the Class Vehicles were
11 defective, Plaintiffs and Class Members would not have purchased or leased the
12 Class Vehicles or would have paid less for them.

13 82. Plaintiffs and Class Members are reasonable consumers who do not
14 expect the Class Vehicles to shut down or stall while at speed without warning.
15 This is the reasonable and objective consumer expectation relating to vehicles.

16 83. As a result of Defendant's conduct, Plaintiffs and Class Members
17 were harmed and suffered actual damages in that, on information and belief, the
18 Class Vehicles experienced and will continue to experience problems such as the
19 vehicles dangerously stalling at speed.

20 84. As a direct and proximate result of Defendant's unfair or deceptive
21 acts or practices, Plaintiffs and Class Members suffered and will continue to
22 suffer actual damages.

23 85. Plaintiffs and the Class are entitled to equitable relief.

24 86. Plaintiffs provided Defendant with notice of its violations of the
25 CLRA pursuant to California Civil Code § 1782(a). If Defendant fails to provide
26 appropriate relief for their violations of the CLRA within 30 days, Plaintiffs will
27 seek monetary, compensatory, and punitive damages, in addition to the
28

1 injunctive and equitable relief they seek now.

2 **SECOND CAUSE OF ACTION**

3 **(Violation of California Business & Professions Code § 17200, et seq.)**

4 87. Plaintiffs incorporate by reference the allegations contained in the
5 preceding paragraphs of this Complaint.

6 88. Plaintiffs bring this cause of action on behalf of themselves and the
7 Nationwide class, or, in the alternative, the California Sub-Class.

8 89. As a result of their reliance on Defendant's omissions, owners
9 and/or lessees of the Class Vehicles suffered an ascertainable loss of money,
10 property, and/or value of their Class Vehicles.

11 90. California Business & Professions Code § 17200 prohibits acts of
12 "unfair competition," including any "unlawful, unfair or fraudulent business act
13 or practice" and "unfair, deceptive, untrue or misleading advertising."

14 91. Plaintiffs and Class Members are reasonable consumers who do not
15 expect their Class Vehicles to exhibit problems such as stalling at speed without
16 warning.

17 92. Defendant knew the Class Vehicles suffered from inherent defects,
18 were defectively designed or manufactured, would fail prematurely, and were not
19 suitable for their intended use.

20 93. In failing to disclose the Stalling Defect, Defendant has knowingly
21 and intentionally concealed material facts and breached its duty not to do so.

22 94. Defendant was under a duty to Plaintiffs and Class Members to
23 disclose the defective nature of the Class Vehicles:

- 24 (a) Defendant was in a superior position to know the true state of
25 facts about the safety-related defect in the Class Vehicles;
26 (b) Defendant made partial disclosures about the quality of the
27 Class Vehicles without revealing their defective nature; and
28

1 (c) Defendant actively concealed the defective nature of the Class
2 Vehicles from Plaintiffs and the Class.

3 95. The facts Defendant concealed from or failed to disclose to
4 Plaintiffs and Class Members are material in that a reasonable person would
5 have considered them to be important in deciding whether to purchase or lease
6 Class Vehicles. Had they known that the Class Vehicles were defective and
7 posed a safety hazard, then Plaintiffs and the other Class Members would not
8 have purchased or leased Class Vehicles or would have paid less for them.

9 96. Defendant continued to conceal the defective nature of the Class
10 Vehicles after Class Members began to report problems. Indeed, Defendant
11 continues to cover up and conceal the true nature of the Stalling Defect.

12 97. Defendant's conduct was and is likely to deceive consumers.

13 98. Defendant's acts, conduct and practices were unlawful, in that they
14 constituted:

15 (a) Violations of California's Consumers Legal Remedies Act;

16 (b) Violations of the Song-Beverly Consumer Warranty Act;

17 (c) Violations of the Magnuson-Moss Warranty Act.

18 99. By its conduct, Defendant has engaged in unfair competition and
19 unlawful, unfair, and fraudulent business practices.

20 100. Defendant's unfair or deceptive acts or practices occurred
21 repeatedly in Defendant's trade or business, and were capable of deceiving a
22 substantial portion of the purchasing public.

23 101. As a direct and proximate result of Defendant's unfair and deceptive
24 practices, Plaintiffs and the Class have suffered and will continue to suffer actual
25 damages.

26 102. Defendant has been unjustly enriched and should be required to
27 make restitution to Plaintiffs and the Class pursuant to §§ 17203 and 17204 of
28

1 the Business & Professions Code.

2 **THIRD CAUSE OF ACTION**

3 **(Breach of Implied Warranty Pursuant to Song-Beverly**
4 **Consumer Warranty Act, California Civil Code §§ 1792 and 1791.1, et seq.)**

5 103. Plaintiffs incorporate by reference the allegations contained in the
6 preceding paragraphs of this Complaint.

7 104. Plaintiffs bring this cause of action against Defendant on behalf of
8 themselves and the Implied Warranty Sub-Class.

9 105. Defendant was at all relevant times the manufacturer, distributor,
10 warrantor, and/or seller of the Class Vehicles. Defendant knew or had reason to
11 know of the specific use for which the Class Vehicles were purchased or leased.

12 106. Defendant provided Plaintiffs and Class Members with an implied
13 warranty that the Class Vehicles and their component parts are merchantable and
14 fit for the ordinary purposes for which they were sold. However, the Class
15 Vehicles are not fit for their ordinary purpose of providing reasonably reliable
16 and safe transportation because, *inter alia*, the Class Vehicles suffered from an
17 inherent defect at the time of sale and thereafter.

18 107. Defendant impliedly warranted that the Class Vehicles were of
19 merchantable quality and fit for such use. This implied warranty included,
20 among other things: (i) a warranty that the Class Vehicles manufactured,
21 supplied, distributed, and/or sold by FCA were safe and reliable for providing
22 transportation; and (ii) a warranty that the Class Vehicles would be fit for their
23 intended use while being operated.

24 108. Contrary to the applicable implied warranties, the Class Vehicles at
25 the time of sale and thereafter were not fit for their ordinary and intended
26 purpose of providing Plaintiffs and Class Members with reliable, durable, and
27 safe transportation. Instead, the Class Vehicles are defective.

28

1 supplied, distributed, and/or sold by FCA were safe and reliable for providing
2 transportation; and (ii) a warranty that the Class Vehicles would be fit for their
3 intended use while being operated.

4 119. Contrary to the applicable implied warranties, the Class Vehicles at
5 the time of sale and thereafter were not fit for their ordinary and intended
6 purpose of providing Plaintiffs and Class Members with reliable, durable, and
7 safe transportation. Instead, the Class Vehicles are defective.

8 120. Defendant's breach of implied warranties has deprived Plaintiffs
9 and Class Members of the benefit of their bargain.

10 121. The amount in controversy of Plaintiffs' individual claims meets or
11 exceeds the sum or value of \$25,000. In addition, the amount in controversy
12 meets or exceeds the sum or value of \$50,000 (exclusive of interests and costs)
13 computed based on all claims to be determined in this suit.

14 122. Defendant has been afforded a reasonable opportunity to cure its
15 breach, including when Plaintiffs and Class Members brought their vehicles in
16 for diagnoses and repair of the Stalling Defect.

17 123. As a direct and proximate cause of Defendant's breach of implied
18 warranties, Plaintiffs and Class Members sustained damages and other losses in
19 an amount to be determined at trial. Defendant's conduct damaged Plaintiffs and
20 Class Members, who are entitled to recover actual damages, consequential
21 damages, specific performance, diminution in value, costs, attorneys' fees,
22 and/or other relief as appropriate.

23 124. As a result of Defendant's violations of the Magnuson-Moss
24 Warranty Act as alleged herein Plaintiffs and Class Members have incurred
25 damages.

26
27
28

1 **FIFTH CAUSE OF ACTION**

2 **(For Unjust Enrichment)**

3 125. Plaintiffs incorporate by reference the allegations contained in the
4 preceding paragraphs of this Complaint.

5 126. Plaintiffs bring this cause of action on behalf of themselves and the
6 Nationwide Class against Defendant.

7 127. As a direct and proximate result of Defendant's failure to disclose a
8 known defect, Defendant has profited through the sale and lease of the Class
9 Vehicles. Although these vehicles are purchased through Defendant's agents,
10 the money from the vehicle sales flows directly back to Defendant.

11 128. Additionally, as a direct and proximate result of Defendant's failure
12 to disclose a known defect in the Class Vehicles, Plaintiffs and Class Members
13 have vehicles that require repeated, high-cost repairs that can and therefore have
14 conferred an unjust substantial benefit upon Defendant at Class Members'
15 expense.

16 129. Defendant has therefore been unjustly enriched due to the Stalling
17 Defect in the Class Vehicles through the use of funds that earned interest or
18 otherwise added to Defendant's profits when said money should have remained
19 with Plaintiffs and Class Members.

20 130. As a result of the Defendant's unjust enrichment, Plaintiffs and
21 Class Members have suffered damages.

22 **RELIEF REQUESTED**

23 131. Plaintiffs, on behalf of themselves and all others similarly situated,
24 request the Court to enter judgment against Defendant, as follows:

- 25 (a) An order certifying the proposed Class and Sub-Classes,
26 designating Plaintiffs as named representative of the Class
27 and designating the undersigned as Class Counsel;

28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

- (a) A declaration that Defendant is financially responsible for notifying all Class Members about the defective nature of the Class Vehicles;
- (b) An order enjoining Defendant from further deceptive distribution, sales, and lease practices with respect to Class Vehicles; declaring that the Stalling Defect is safety-related; compelling Defendant to remove, repair, and/or replace the Class Vehicles' with suitable alternative product(s) that do not contain the defects alleged herein; enjoining Defendant from selling the Class Vehicles with the misleading information; and/or compelling Defendant to reform its warranty, in a manner deemed to be appropriate by the Court, to cover the injury alleged and to notify all Class Members that such warranty has been reformed;
- (c) A declaration requiring Defendant to comply with the various provisions of the Song-Beverly Act alleged herein and to make all the required disclosures;
- (d) An award to Plaintiffs and the Class for compensatory, exemplary, and statutory damages, including interest, in an amount to be proven at trial, except at this time Plaintiff does not pray for any monetary damages as a result of Defendant's violation of the CLRA;
- (e) Any and all remedies provided pursuant to the Song-Beverly Act, including California Civil Code section 1794;
- (f) Any and all remedies provided pursuant to the Magnuson-Moss Warranty Act;
- (g) A declaration that Defendant must disgorge, for the benefit of

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

the Class, all or part of the ill-gotten profits it received from the sale or lease of its Class Vehicles, or make full restitution to Plaintiffs and Class Members;

- (h) An award of attorneys' fees and costs, as allowed by law;
- (i) An award of attorneys' fees and costs pursuant to California Code of Civil Procedure § 1021.5;
- (j) An award of pre-judgment and post-judgment interest, as provided by law;
- (k) Leave to amend the Complaint to conform to the evidence produced at trial; and
- (l) Such other relief as may be appropriate under the circumstances.

DEMAND FOR JURY TRIAL

132. Pursuant to Federal Rule of Civil Procedure 38(b) and Southern District of California Local Rule 38.1, Plaintiffs demand a trial by jury of any and all issues in this action so triable.

Dated: December 29, 2017

Respectfully submitted,
Capstone Law APC

By: /s/ Jordan L. Lurie
Jordan L. Lurie
Tarek H. Zohdy
Cody R. Padgett
Karen L. Wallace
Attorneys for Plaintiffs