

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE**

CHEYNE NORMAN, PATRICIA WECKWERTH, and SOPHIA WESCOTT, individually, and on behalf of a class of similarly situated individuals,)	No. _____
)	
Plaintiffs,)	COMPLAINT—CLASS ACTION
)	
v.)	JURY TRIAL DEMANDED
)	
NISSAN NORTH AMERICA, INC. and NISSAN MOTOR COMPANY, LTD.,)	
)	
Defendants.)	

CLASS ACTION COMPLAINT

1. Plaintiffs Cheyne Norman, Patricia Weckwerth and Sophia Wescott (“Plaintiffs”) bring this action for themselves and on behalf of all persons in the United States who purchased or leased any 2013-2017 Nissan Versa, 2013-2017 Nissan Versa Note or 2013-2017 Nissan Juke equipped with an Xtronic Continuously Variable Transmission¹ (“Class Vehicles”) designed, manufactured, marketed, distributed, sold, warranted, and/or serviced by Nissan North America, Inc., and Nissan Motor Company, LTD., (“Nissan” or “Defendants”). Plaintiffs allege as follows:

INTRODUCTION

2. This is a consumer class action concerning a failure to disclose material facts and a safety concern to consumers.
3. Nissan marketed and sold the Class Vehicles without disclosing that the Class Vehicles’ Xtronic Continuously Variable Transmission (“CVT”) was defective.

¹ On information and belief, the Class Vehicles are equipped with the Jatco CVT7 Transmission (a/k/a RE0F11A).

4. Specifically, Plaintiffs are informed and believe, and based thereon allege, that the CVT transmission contains one or more design and/or manufacturing defects. The CVT is defective in the following ways (collectively, the “CVT Defect”): it causes sudden, unexpected shaking and violent jerking (commonly referred to as “juddering” or shuddering”) when drivers attempt to accelerate their vehicles; it causes the vehicle to lag or delay when the driver tries to accelerate, causing an unsafe, unpredictable acceleration; it exhibits a hard deceleration or “clunk” when drivers either slow down or accelerate at low speeds; it causes complete transmission failure in the middle of roadways² and it suffers catastrophic failure, necessitating replacement.

5. Nissan sold the Class Vehicles with a 5-year, 60,000-mile powertrain warranty that purports to cover the CVT. However, consumers have complained that their CVTs failed and required replacement just outside the 60,000-mile warranty period. As Class members have reported to the National Highway Traffic Safety Administration (“NHTSA”), Nissan’s authorized dealerships are replacing transmissions both within, and just outside, the 60,000-mile warranty period. See, e.g., ¶ 71(b), *infra* (transmission replaced at 20,000 miles); ¶ 71(c) (transmission replaced at 60,933 miles); ¶ 71(e) (transmission replaced within warranty period, then failed again 6 months later, outside the warranty period); ¶ 71(f) (transmission failure at 65,000 miles); ¶ 71(i) (transmission replacement needed at 62,000 miles); ¶ 71(p) (transmission replacement required at 71,000 miles); ¶ 71(ff) (transmission replacement needed at 66,000 miles, at a cost to the customer of \$3,800); ¶ 71(ff)(transmission replacement needed at a cost

² See, e.g., ¶ 71(i), *infra*, where a class member complains to the National Highway Traffic Safety Administration: “DRIVING ON THE HIGHWAY AT 65 MILES PER HOUR. THE VEHICLE SUDDENLY LOST POWER. BY THE GRACE OF GOD, I WAS ABLE TO MANEUVER OFF THE HIGHWAY WITHOUT BEING RUN OVER BY THE SEMI TRUCKS TRAVELING THE HIGHWAY WITH ME. I HAD THE VEHICLE TOWED TO A NISSAN DEALERSHIP WHERE I WAS TOLD THE TRANSMISSION WAS “DEFECTIVE” AND WOULD NEED TO BE REPLACED.”

to the customer of \$4,000, mileage unspecified); ¶71(oo) (transmission replacement needed at a cost to the customer of \$4,000, mileage unspecified); ¶71(qq) (transmission replaced at 27,711 miles).

6. The CVT Defect is inherent in each Class Vehicle and was present at the time of sale.

7. Plaintiffs are informed and believe that since 2013, if not earlier, Nissan has been aware that the CVT installed in the Class Vehicles would require frequent replacement, including replacements just outside of warranty, that the replacement transmissions installed would be equally defective as the originals, and that the CVT would cause the symptoms of the CVT Defect described above (juddering, lag when attempting to accelerate, hard deceleration, complete failure and other symptoms), and that the Class Vehicles' CVT would require frequent repair, yet Nissan continued to install the defective CVT. Moreover, Nissan not only refused to disclose the problem to consumers, but it also actively concealed, and continues to conceal, its knowledge concerning the CVT Defect.

8. Nissan undertook affirmative measures to conceal CVT failures and other malfunctions through, among other things, Technical Service Bulletins ("TSB") issued to its authorized repair facilities only.

9. Nissan had superior and/or exclusive knowledge of material facts regarding the CVT Defect as a result of its pre-production testing, design failure mode analysis, customer complaints made to NHTSA, and customer complaints made to dealers.

10. As a result of Nissan's failure to disclose material facts regarding the CVT Defect to its customers, the Class has incurred significant and unexpected repair costs. Nissan's omission at the time of purchase of the CVT's marked tendency to fail just outside of warranty is material because no reasonable consumer expects to spend thousands of dollars to

repair or replace essential transmission components in the early years of owning their vehicles.

11. The CVT Defect is also material to consumers because it presents an unreasonable safety risk. Transmission malfunctions can impair any driver's ability to control his or her vehicle and greatly increase the risk of collision. For example, turning left across traffic in a vehicle with delayed and unpredictable acceleration is plainly unsafe. In addition, these conditions can make it difficult to safely change lanes, merge into traffic, turn, accelerate from stop light/sign, and accelerate onto highways or freeways. See ¶ 71, *infra*.

12. Nissan's failure to disclose the alleged defect has caused Plaintiffs and putative class members to lose use of their vehicles and/or incur costly repairs that have conferred an unjust substantial benefit upon Nissan.

13. Had Nissan disclosed the CVT Defect to Plaintiffs and Class Members, they would not have purchased the Class Vehicles, would have paid less for them, or would have required Nissan to replace or pay for the replacement of the defective CVT with a non-defective version before their warranty periods expired.

THE PARTIES

Plaintiff Cheyne Norman

14. Plaintiff Cheyne Norman is a citizen of Louisiana, residing in Walker, Louisiana. While previously living in Beaumont, California, Mr. Norman purchased his new 2013 Nissan Juke, VIN JN8AF5MV1DT212243, from Raceway Nissan in Riverside, California on January or February 2013.

15. Prior to purchasing his vehicle, Mr. Norman visited and reviewed the Nissan website and read information about the Juke touting the vehicle's attributes and benefits. Mr. Norman also test drove the vehicle at Raceway Nissan with a Nissan sales representative in

the vehicle, who also touted the vehicle's attributes and benefits, including the smooth ride of the CVT, which the sales representative recommended over a manual transmission. He also reviewed the "Monroney" sticker or window sticker on the vehicle. He reviewed materials that discussed the vehicle's warranty program, discussed the warranty with a Nissan sales representative, and ultimately purchased an extended warranty when purchasing his vehicle.

16. Shortly after he purchased his vehicle, Mr. Norman observed performance problems with his transmission. In 2014, with approximately 13,000 miles on his vehicle, Mr. Norman visited Pedder Nissan in Hemet, CA, to receive recall service for his vehicle's timing chain. During that visit, Mr. Norman told the Pedder Nissan employee about the problems with his transmission, but Pedder Nissan did not repair the transmission.

17. Mr. Norman returned to Pedder Nissan in early-January 2015, with 24,271 miles on his vehicle, to again complain about the performance of his vehicle's transmission, including that the vehicle would not properly shift gears and that the tachometer would indicate that the RPMs would spike randomly and improperly. A Pedder Nissan employee test drove the vehicle, but failed to diagnose the defect in the transmission and did not make any repairs.

18. Mr. Norman also took his vehicle to Pedder Nissan in mid-August 2015 with 30,512 miles on his vehicle. Mr. Norman informed a Pedder Nissan employee that his vehicle made a loud whining noise, lost all power, and would not go over 20 miles per hour. A Pedder Nissan employee test drove the vehicle, but failed to diagnose the defect in the transmission and did not make any repairs.

19. Approximately one month later, Mr. Norman again took his vehicle to Pedder Nissan and informed an employee that, after his vehicle was warmed up, it would lose power, not go over 2000 RPMs, and felt like it was in limp mode. A Pedder Nissan employee test

drove the vehicle, but failed to diagnose the defect in the transmission, and did not make any repairs.

20. Mr. Norman visited Pedder Nissan numerous additional times to seek a diagnosis and repair of this vehicle's transmission's defect. Because Pedder Nissan had been unable to duplicate the symptoms of the CVT Defect, Mr. Norman recorded videos showing the symptoms of the defect, including showing his vehicle failing to accelerate when Mr. Norman pressed the gas pedal and the vehicle's RMPs fluctuating wildly. Mr. Norman showed these videos to employees at Pedder Nissan, but they continued to fail to diagnose the CVT Defect. When possible, Mr. Norman would also take his vehicle to Pedder Nissan immediately after he observed the symptoms of the CVT Defect, in hopes that they could inspect his vehicle while it was in the condition that produced the symptoms. But Pedder Nissan employees often refused to inspect his vehicle at those times.

21. On one occasion, a Pedder Nissan service advisor confirmed Mr. Norman's complaint that his vehicle would not shift, that the RPMs were inconsistent, and that the vehicle lacked power. Specifically, on August 8, 2017, with 63,201 miles on Mr. Norman's vehicle, a Pedder Nissan employee wrote "CONFIRMED COMPLAINT FOUND OVER HEAT CODES AND CAN COMM CODES FOUND CVT HAS FAILED." Despite confirming the defect that Mr. Norman has been complaining about since 2014, Pedder Nissan wrongfully denied Mr. Norman's warranty claim due to an unrelated after-market modification to the vehicle. At the time, Mr. Norman explained to the Pedder Nissan employee that he was told by another Pedder Nissan employee, possibly Jeremy Deleon, that the after-market modification, a cold air intake, would not impact his warranty coverage. The after-market modification had no impact on the vehicle's transmission. In fact, Mr. Norman was having problems with his CVT, and complaining to this dealership about the problems,

long before any after-market parts were installed on his vehicle.

22. Mr. Norman attempted a final time to obtain repair of his vehicle's defect by taking the vehicle to Metro Nissan in Redlands California in early-October 2017. Mr. Norman informed Redlands Nissan that his vehicle would not go over 2000 RPMs unless he turned the vehicle off and let it sit. Mr. Norman also complained that his vehicle was making a whining noise. A Metro Nissan employee test drove Mr. Norman's vehicle, but could not duplicate the symptoms. The employee exchanged and re-filled fluid in the vehicle but did not repair the vehicle.

23. Mr. Norman continues to experience the symptoms of his vehicle's defect. His vehicle has gone into "limp mode"—where the vehicle's computer issues warnings to the driver and drastically slows the vehicle down—at least twenty different times, and issued warnings even more often. When the vehicle enters limp mode, Mr. Norman has to shut the vehicle off, and leave it sitting for 20-30 minutes, in order to allow the CVT to cool down enough to be drivable.

24. At all times, Mr. Norman has driven his vehicle in a foreseeable manner and in the manner in which it was intended to be used.

Plaintiff Sophie M. Wescott

25. Plaintiff Sophia M. Wescott is a citizen of New Jersey and resides in Wenonah, NJ. On or about September 28, 2015, she leased a new model year 2015 Nissan Juke (VIN JN8AF5MVXFT557077) for a three-year term from Nissan of Turnersville for about \$490 per month.

26. Prior to leasing her 2015 Juke, on two separate occasions, Ms. Wescott interacted with and received information from a sales representative at an authorized Nissan dealership regarding the Nissan Juke. Ms. Wescott and the Nissan dealership representative

discussed the features and benefits of the 2015 Nissan Juke on each of those two occasions.

27. Ms. Wescott believed something was wrong with her 2015 Juke soon after taking possession of the vehicle. She called Nissan of Turnersville a number of times to complain about the car's transmission and its sluggish behavior. In one call she told the dealer about a burning smell emanating from the vehicle that would not go away even after weeks of driving it. The dealer told her that she just had not driven the car enough and that the smell would eventually go away. She continued to call the dealer to complain since she lives about 30 minutes away and could not easily drive the car to the dealership.

28. A few months after the lease started, Ms. Wescott was backing out of her driveway in February 2016 when the vehicle stalled with the entire vehicle sitting in the roadway. She had placed the vehicle in all-wheel-drive ("AWD") due to the wintery weather, but this seemed to stall the car rather than help it navigate the slippery roads. She then shut off the car and started it again to see if the car would move after engaging the transmission. It would not. After attempting this on/off cycle several more times, she was finally able to move the car from the roadway and get it back up the driveway with her husband pushing the vehicle. At that time, she parked it. She drove her husband's car to the store instead, fearing that the Juke would stall again and put her in danger.

29. She took the car to Nissan of Turnersville on February 22, 2016 with just 1,392 miles on the vehicle. The technician could not duplicate the problem during a road test and could not find any diagnostic codes or any related information on the Nissan techline. Plaintiff Wescott had to return home without any remedy.

30. The problems with the vehicle continued. Ms. Wescott returned to the Nissan dealer on October 24, 2016 with 4,454 miles on the car and complained that "the vehicle feels like it wants to stall out" and is more pronounced when the air conditioning is engaged, it "has

no giddy up” and it “feels like it boggs [sic] down.” The Nissan service technician found no problem and could find no diagnostic codes revealing any issue with the CVT and wrote that the “vehicle feels fine at this time.” He did, however, find an issue with the electronic control module (“ECM”) per Nissan’s TSB# NTB16-073 under a voluntary safety recall. Plaintiff Wescott left with no remedy for the issues she was experiencing with her vehicle and its transmission.

31. After more months of frustration with the vehicle’s transmission and performance, Ms. Wescott returned to the Nissan dealer on May 8, 2017 with 7,313 miles on the vehicle and complained that the transmission “will not downshift at times” with the RPMs continuing to rise and the engine racing up to around 5,000 to 6,000 RPMs, which is approaching the red line. She told the technician that this “condition happens at all speeds...[and]... feels like [the] vehicle is sluggish.” She also stated that this happens as well during acceleration whereby the RPMs would increase markedly, but there is no shifting by the transmission up to the next stage. The result in situations like this was that the engine almost reached red line RPMs while the vehicle was travelling at speeds greater than 30 MPH in a lower shift point, but the transmission would not shift out of that lower shift point. The dealer service record also noted that Ms. Wescott saw no warning lights during any of these encounters. The technician, however, failed to duplicate any problem and he also failed to find any TSBs on these issues from Nissan. Yet again, Plaintiff Wescott was sent away without any remedy.

32. On December 11, 2017, Plaintiff Wescott returned to the same Nissan dealer with 10,384 miles on the vehicle but with different complaints about the car’s electronics, which only added to her frustration with the vehicle.

33. Plaintiff Wescott seldom drives her 2015 Juke for fear the vehicle will stall and

place her in danger as it has since the start of the lease. The vehicle now mostly sits in their driveway and she plans to end the lease with roughly 11,000 miles on the odometer or about 3,400 miles driven per year, well below the normal annual mileage on any car and well below the 12,000 miles allowed per year in the lease.

34. Ms. Wescott characterizes her overall experience with her Juke as a “nightmare.”

35. At all times, Ms. Wescott has driven her vehicle in a foreseeable manner and in the manner in which it was intended to be used.

Plaintiff Patricia Weckwerth

36. Plaintiff Patricia Weckwerth is a citizen of Georgia. She resided in Tallahassee, FL, until April 28, 2018, at which time she moved to Marietta, GA, where she currently resides. She purchased her new 2014 Nissan Versa SV, VIN 3N1CN7AP6EL804271, from Kraft Nissan in Tallahassee, FL, on April 29, 2014. As of May 31, 2018, the mileage on the vehicle was 28,416.

37. Prior to purchasing her car, Ms. Weckwerth visited and reviewed the Nissan website and read information about the Versa. She also was exposed to internet and television advertising about the Versa that touted the vehicle’s attributes and benefits. She also test-drove the vehicle at the Kraft Nissan dealership with a Nissan sales representative, who also touted the vehicle’s attributes and benefits, including the smooth ride and effectiveness of the CVT transmission. She also reviewed the “Monroney” window sticker on the vehicle. She reviewed materials that discussed the car’s warranty program as well as the warranty itself, which impacted her decision to purchase the vehicle.

38. After she purchased her car, on several occasions she felt the car buck or jerk forward, accelerating on its own when she was not applying any pressure to the gas pedal.

She also experienced a loss of power and difficulty shifting. When her car was idling, the tachometer would indicate that the RPMs would jump from 1,000 to 3,000 within seconds without her applying any pressure to the gas pedal.

39. On July 1, 2016, while driving her car in traffic in downtown Atlanta, she intermittently experienced the car losing power and also jerking forward. This occurred three or four times. When it jerked forward, she had to keep her foot pressed on the brake pedal to avoid hitting cars in front of her.

40. On July 1, 2016, while driving her car on I-75 just north of Atlanta, approximately two hours later, her car completely shut down and became inoperable in the middle lane of this five-lane highway. The car had under 19,000 miles on its odometer at the time. She immediately called 911 to alert the authorities of her disabled vehicle and the danger she was in.

41. After approximately four attempts, her car restarted. She was able to pull her car over to an exit lane near an exit ramp. Her car promptly again completely shut down and become inoperable. She remained on the phone with the 911 operator throughout this ordeal.

42. After approximately two attempts, her car restarted and she was able to proceed to her destination, approximately 10 miles away.

43. Later that day, she phoned Town Center Nissan, 2310 Barrett Lakes Blvd, Kennesaw, GA 30144, to relate her incident and complain about the vehicle. She was told to bring her car to that dealership the next day, July 2. On July 2, she drove her car to Town Center Nissan for service and waited in line there for 30 minutes to speak with a service representative. She was told by that representative that there was no computer technician on site to perform a diagnostic test on her car.

44. On July 5, 2018, she drove her car from Georgia back to Tallahassee, FL, and

drove straight to Kraft Nissan. She was told she could leave her car for service, which she could not do since she had no other means of transportation, or make an appointment to return for service, which she did.

45. On July 9, 2018, she returned to Kraft Nissan to have her vehicle serviced. Kraft Nissan found “DE97AA REPROGRAM ENGINE CONTROL MODULE – ECM” and performed the following service: “18979 FOUND DTC P0116. VEHICLE FELL UNDER YSB NTB15-029. REPROGRAMMED ENGINE CONTROL MODULE PER TSB”.

46. On or about August 6, 2016, she wrote a detailed letter to Nissan that she sent through email via www.nissanusa.com, “Contact Us,” “send us a message”, complaining about her car (and its transmission) and her experience with it. She never received a response.

47. Ms. Weckwerth has continued to experience issues with her vehicle’s transmission, such as issues with poor acceleration, a long lag time between pressing on the gas pedal and the car accelerating, and bucking and jerking.

48. At all times, Ms. Weckwerth has driven her vehicle in a foreseeable manner and in the manner in which it was intended to be used.

Nissan

49. Nissan North America, Inc. (“NNA”) is a corporation with its headquarters in Franklin, Tennessee. It is organized and in existence under the laws of the State of California and registered to do business in the State of Tennessee. On information and belief, at all relevant times herein, Nissan North America, Inc. was engaged in the business of designing, manufacturing, marketing, distributing, and/or selling automobiles and other motor vehicles and motor vehicle components in California, Tennessee, Florida, New Jersey and throughout the United States of America.

50. Founded in 1933 and headquartered in Yokohama, Japan, Defendant Nissan

Motor Co., Ltd. (“NML”) is a corporation organized under the laws of Japan. NML manufactures and distributes automobiles and related parts. It also provides financing services. NML delivers a comprehensive range of products under various brands that are manufactured in Japan, the United States, Mexico, the United Kingdom and many other countries. NML is the parent and owns 100% of NNA.

51. At all relevant times, Nissan was engaged in the business of designing, manufacturing, constructing, assembling, marketing, distributing, and/or selling automobiles and motor vehicle components in California, Tennessee, Florida, New Jersey and throughout the United States of America.

JURISDICTION

52. This is a class action.

53. Members of the proposed Class are citizens of states different from the home state of Defendants.

54. On information and belief, aggregate claims of individual Class Members exceed \$5,000,000.00 in value, exclusive of interest and costs.

55. Jurisdiction is proper in this Court pursuant to 28 U.S.C. § 1332(d).

VENUE

56. Nissan North America, Inc. (and NML, which is the parent corporation and owns 100% of NNA), through its business of distributing, selling, and leasing the Class Vehicles, and maintaining its national headquarters in the district, has established sufficient contacts in this district such that personal jurisdiction is appropriate. Defendants are deemed to reside in this district pursuant to 28 U.S.C. § 1391(a).

57. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b) because Nissan North America, Inc.’s principal place of business is in this judicial district, and because a

substantial part of the events or omissions giving rise to the claims alleged herein occurred in this judicial district.

FACTUAL ALLEGATIONS

58. Nissan is known throughout the United States as a major manufacturer of automobiles and related products, which are sold under the Nissan brand.

59. Nissan designed, manufactured, imported, distributed, and/or marketed the Class Vehicles in the United States, including in Tennessee, California, New Jersey, and Florida. Nissan also provides sales, repair and maintenance services for the Class Vehicles through its nationwide network of authorized dealers and service providers.

60. On information and belief, the only method Nissan makes available for the purchase of Class Vehicles is through its nationwide network of authorized dealers.

61. The CVT is an automatic transmission that uses two variable-diameter pulleys with a steel belt running between them to change speed, instead of a gearbox and clutch system. Rather than relying on the fixed gear ratios of the traditional automatic transmission, the pulleys can adjust their width to make the belt turn faster or slower, depending on the speed of the vehicle and the torque needed. The CVT thus “simultaneously adjusts the diameter of the ‘drive pulley’ that transmits torque from the engine and the ‘driven pulley’ that transfers torque to the wheels” to allow for an infinite number of gear ratios.³ In theory, the CVT chooses the gear ratio optimum for driving conditions.

62. The CVT, allegedly offering more efficient power delivery and better fuel economy, is standard in the Class Vehicles.

63. The illustration in figure one, below, depicts the way the CVT’s belt and pulley

³ Nissan Motor Corporation, *XTRONIC CVT*, <http://www.nissan-global.com/EN/TECHNOLOGY/OVERVIEW/cvt.html>.

system adjusts the gear ratio to change speed:



Figure one – Xtronic CVT belt and pulley system

64. Consumers complain that their vehicles take an inordinately long time to accelerate from a stop or low speed, exhibit a hard deceleration or “clunk” when drivers either slow down or accelerate at low speeds, shudder and shake or make a loud clunking or knocking sound when the CVT finally selects the appropriate gear ratio, and completely fail to accelerate. Consumers also frequently complain of unusually high RPMs or a loud whining once they achieve speed and which exceeds their reasonable expectations for noise from the CVT. Finally, in addition to hesitations, slow response, and loud noises, the lifespan of the CVT in the Class Vehicles is unreasonably short.

65. Nissan sold the class vehicles with a 5-year, 60,000-mile powertrain warranty that purports to cover the CVT. However, consumers have complained that their CVTs failed and required replacement just outside the 60,000-mile warranty period. As Class members have reported to the National Highway Traffic Safety Administration (“NHTSA”), Nissan’s authorized dealerships are replacing transmissions both within, and just outside, the 60,000-mile warranty period. See, e.g., ¶ 71(b), *infra* (transmission replaced at 20,000 miles); ¶ 71(c) (transmission replaced at 60,933 miles); ¶ 71(e) (transmission replaced within warranty period, then failed again 6 months later, outside the warranty period); ¶ 71(f) (transmission failure at 65,000 miles); ¶ 71(i) (transmission replacement needed at 62,000 miles); ¶ 71(p) (transmission

replacement required at 71,000 miles); ¶71(ff) (transmission replacement needed at 66,000 miles, at a cost to the customer of \$3,800); ¶71(ff)(transmission replacement needed at a cost to the customer of \$4,000, mileage unspecified); ¶71(oo) (transmission replacement needed at a cost to the customer of \$4,000, mileage unspecified); ¶71(qq) (transmission replaced at 27,711 miles).

66. The CVT Defect alleged is inherent in and the same for all Class Vehicles.

67. On information and belief, dating back to at least 2013, Nissan was aware of material facts regarding the CVT Defect, but failed to disclose them to consumers. As a result of this failure, Plaintiffs and Class Members have been damaged.

The CVT Defect Poses an Unreasonable Safety Hazard

68. The CVT Defect poses an unreasonable safety hazard. Hesitations, slow/no responses, hard braking or catastrophic transmission failure impair drivers' control over their vehicles, which significantly increases the risk of accidents. For example, turning left across traffic in a vehicle with delayed and unpredictable acceleration is unsafe. In addition, these conditions can make it difficult to safely change lanes, merge into traffic, turn, brake slowly or accelerate from stop light/sign, and accelerate onto highways or freeways. See ¶ 71, *infra*.

A. Complaints Lodged with NHTSA

69. Federal law requires automakers like Nissan to be in close contact with NHTSA regarding potential auto defects, including imposing a legal requirement (backed by criminal penalties) compelling the confidential disclosure of defects and related data by automakers to NHTSA, including field reports, customer complaints, and warranty data. See TREAD Act, Pub. L. No. 106-414, 114 Stat. 1800 (2000).

70. Automakers have a legal obligation to identify and report emerging safety-related defects to NHTSA under the Early Warning Report requirements. *Id.* Similarly,

automakers monitor NHTSA databases for consumer complaints regarding their automobiles as part of their ongoing obligation to identify potential defects in their vehicles, including safety-related defects. *Id.* Thus, Nissan knew or should have known of the many complaints about the CVT Defect logged by NHTSA’s Office of Defects Investigation (“ODI”), and the content, consistency, and large number of those complaints alerted, or should have alerted, Nissan to the CVT Defect.

71. For years, owners of Nissan Versa/Juke/Note models have publicly complained to the United States government about the CVT Defect in Class Vehicles. The ODI is an office within NHTSA. ODI conducts defect investigations and administers safety recalls to support the NHTSA’s mission to improve safety on the Nation’s highways. All automobile manufacturers routinely monitor and analyze NHTSA complaints because this information is used in determining if a recall should be issued. *See* <https://www-odi.nhtsa.dot.gov/recalls/recallprocess.cfm> (last visited Dec. 08, 2017). Indeed, automobile manufacturers are required by law to report any potential safety defects to the United States government.

72. The following complaints made to NHTSA and elsewhere online demonstrate that the defect is widespread and dangerous and that it manifests without warning. The complaints also indicate Nissan’s awareness of the problems with the CVT and Defect, including how dangerous they are for drivers. These safety complaints relate to the CVT Defect (spelling and grammar mistakes remain as found in the original) (Safecar.gov, *Search for Safety Issues* (November 2017).

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2013 Nissan Versa

- a. **DATE OF INCIDENT:** March 4, 2014
DATE COMPLAINT FILED: March 6, 2014
NHTSA/ODI ID: 10567709
SUMMARY: TL* THE CONTACT OWNS A 2013 NISSAN VERSA. THE CONTACT STATED THAT WHILE DRIVING APPROXIMATELY 50 MPH, THE VEHICLE SUDDENLY STALLED. THE VEHICLE WAS RESTARTED AND OPERATED NORMALLY FOR APPROXIMATELY 5 MILES BEFORE STALLING A SECOND TIME. THE CONTACT INDICATED THAT THE FAILURE WAS RECURRING. THE VEHICLE WAS TAKEN TO THE DEALER BUT THE DEFECT COULD NOT BE DUPLICATED AND NO REPAIRS WERE PERFORMED. THE CONTACT ALSO STATED THAT THE TRANSMISSION ERRONEOUSLY ENGAGED INTO NEUTRAL. THE MANUFACTURER WAS NOT CONTACTED. THE FAILURE MILEAGE WAS 3000. *TR
- b. **DATE OF INCIDENT:** April 9, 2014
DATE COMPLAINT FILED: June 12, 2015
NHTSA/ODI ID: 10811142
SUMMARY: TL* THE CONTACT OWNS A 2013 NISSAN VERSA. WHILE DRIVING AT VARIOUS SPEEDS, THE VEHICLE CHANGED INTO DIFFERENT GEARS AND THE BRAKE PEDAL EXTENDED TO THE FLOORBOARD WHEN IT WAS DEPRESSED. THERE WERE NO WARNING LIGHTS ILLUMINATED. THE DEALER DIAGNOSED THAT THE TRANSMISSION NEEDED TO BE REPLACED. THE VEHICLE WAS REPAIRED WITH A NEW TRANSMISSION, BUT THE FAILURE PERSISTED. THE MANUFACTURER WAS NOTIFIED OF THE FAILURE. THE FAILURE MILEAGE WAS 20,000.
- c. **DATE OF INCIDENT:** November 4, 2015
DATE COMPLAINT FILED: November 10, 2015
NHTSA/ODI ID: 10789688
SUMMARY: CVT TRANS INTERNAL FAILURE @60,933 MI. , TRANS MADE A LOUD CLUNKING SOUND BEFORE BECOMING INOPERABLE, REQUIRED A TOW TRUCK TO GET TO DEALER. NOW HAS NEW CVT TRANS @ NO COST BECAUSE CAR WAS COVERED BY WARRANTY VEHICLE DIED ON HWY EXIT RAMP.
- d. **DATE OF INCIDENT:** January 19, 2016
DATE COMPLAINT FILED: April 23, 2016
NHTSA/ODI ID: 10861088
SUMMARY: I PURCHASED A USED CAR FROM MR. BILL MOTOR CO IN ARLINGTON, TX ON PIONEER PARKWAY. THE VEHICLE STARTED TO OVERHEAT. I CALLED TO INFORM MR. BILL MOTORS AND I WAS

TOLD THEY WOULD SEND IT OUT TO BE LOOKED AT AND LET ME KNOW WHEN IT WAS READY FOR PICK UP. IT WAS TAKEN TO DG'S PERFORMANCE ON PIONEER PARKWAY FOR REPAIRS. ABOUT A WEEK LATER THE CAR RESUMED OVERHEATING, I CONTACTED MR. BILL MOTORS AGAIN AND THEY SAID THEY WOULD SEND THE VEHICLE OUT FOR REPAIR. THEY SENT IT TO LONGHORN TRANSMISSIONS. AS MY DAUGHTER WAS HEADED TO SCHOOL AFTER THE REPAIRS WERE COMPLETED ON I-20 IN ARLINGTON, TX THE CAR STARTS TO OVERHEAT AND STOPS ON HER, SHE COULD NOT DRIVE THE CAR. SHE CALLS LONGHORN AND THEY SEND A TOW TO GET HER. SHE WAS TOLD THEY DID NOT PLACE THE CAP ON THE TRANSMISSION WHEN THEY ADDED FLUID TO IT SO THEY WOULD TAKE CARE OF IT. TWO DAYS LATER THE CAR IS HEATING AGAIN. I CONTACT MR. BILL MOTORS AGAIN IN PERSON SO THEY COULD SEE AND WITH A VIDEO OF WHAT THE CAR HAD BEEN DOING, THEY TELL ME THEY WILL WORK ON IT THE NEXT DAY. I COULD NOT DRIVE THE CAR FROM THE LOT, THE ENGINE LIGHT WAS ON AND I ROLLED INTO THE STREET. TWO SALES MEN HAD TO PUSH THE CAR UNTO THE PROPERTY FROM THE STREET. TWO DAYS GO BY AND I AM TOLD THAT IT IS A TRANSMISSION ISSUE THAT WILL COST ME \$1500 AND TAKE A WEEK TO REPAIR FROM SCOTT AND HE STATES THAT MATT ANOTHER MANAGER IS PRESENT WITH HIM. I CALLED TO DISCUSS STATUS UPDATE, MISSING ITEMS FROM THE CAR TO FIND OUT THEY WERE CHARGING ME \$235 FOR THE TOW THAT LONGHORN TRANSMISSION BILLED THEM. I EXPLAINED THAT I HAD NO KNOWLEDGE OF THIS CHARGE, NOR DO I FEEL RESPONSIBLE FOR THE CHARGE. THEY DID NOT PUT THE CAP ON THEY SHOULD BE RESPONSIBLE FOR THE CHARGE AND THAT YOU DO NOT CHARGE ANYONE WITHOUT DISCUSSING THE AMOUNT WITH THE PERSON. I ASKED FOR THE TOTAL COST OF THE REPAIR AND I STATED I WANTED TO SPEAK TO THE REPAIR PLACE. I WAS GIVEN A NUMBER FOR JEFF.

e. **DATE OF INCIDENT:** December 15, 2016

DATE COMPLAINT FILED: December 18, 2015

NHTSA/ODI ID: 10947231

SUMMARY: THIS NISSAN VEHICLE'S CVT TRANSMISSION FAILED UNDER WARRANTY AND WAS REPLACED. THAT TRANSMISSION FAILED AGAIN IN LESS THAN SIX MONTHS AND BECAUSE IT WAS OUTSIDE THE REPLACEMENT TRANSMISSION'S WARRANTY, THE DEALER NOR NISSAN WILL REPLACE THE DEFECTIVE TRANSMISSION. I DON'T WANT TO REPLACE THE TRANSMISSION FOR A THIRD TIME WITH WHAT APPEARS TO BE A DEFECTIVE PRODUCT THAT WILL LIKELY FAIL AGAIN AND IS A SERIOUS SAFETY ISSUE THAT NISSAN WILL NOT ACCEPT RESPONSIBILITY FOR.

- f. **DATE OF INCIDENT:** February 7, 2017
DATE COMPLAINT FILED: February 7, 2017
NHTSA/ODI ID: 10950138
SUMMARY: TRANSMISSION FAILURE AT 65000, 5K BEYOND WARRENTY. TRANSMISSION IS SLIPPING BETWEEN GEARS AROUND 35-40 MPH
- g. **DATE OF INCIDENT:** August 25, 2017
DATE COMPLAINT FILED: August 28, 2017
NHTSA/ODI ID: 11020026
SUMMARY: NISSAN CVT TRANSMISSION EXPERIENCING ISSUES, BEING VERY UNSAFE. WHILE DRIVING DOWN THE ROAD NORMALLY, THE CAR STARTED REVVING VERY HIGH. AFTER PULLING OVER AND TURNING THE CAR OFF, THEN TURNING IT BACK ON, IT CONTINUED TO REV OVER 3,000 RPM AT ABOUT 10-15 MPH AND NEVER "SHIFT" INTO HIGHER GEAR. THIS HAS HAPPENED TWICE BEFORE, AND TURNING THE CAR OFF AND ON SOLVED THE ISSUE. IT WAS SERVICED BY THE DEALERSHIP WITH NEW CVT FLUID, BUT NOW THE PROBLEM HAS PERSISTED AND HAS NOT GONE AWAY WITH SHUTTING THE VEHICLE OFF AND ON. IT MOST RECENTLY HAPPENED WHILE DRIVING, LUCKILY THERE WERE NO OTHER CARS NEARBY, AND I HAD TO HAVE THE VEHICLE TOWED.
- h. **DATE OF INCIDENT:** September 4, 2017
DATE COMPLAINT FILED: September 13, 2017
NHTSA/ODI ID: 11023375
SUMMARY: IT HAS A PROBLEM WITH THE TRANSMISSION IN THE DEALER TOLD ME THAT I HAVE TO BUY A NEW TRANSMISSION AND ONLY HAS 85700 MILES
- i. **DATE OF INCIDENT:** November 7, 2017
DATE COMPLAINT FILED: November 16, 2017
NHTSA/ODI ID: 11046595
SUMMARY: I RECENTLY PURCHASED THIS 4 YEAR OLD VEHICLE WITH 62000 MILES ON IT. DRIVING ON THE HIGHWAY AT 65 MILES PER HOUR, THE VEHICLE SUDDENLY LOST POWER. BY THE GRACE OF GOD, I WAS ABLE TO MANEUVER OFF THE HIGHWAY WITHOUT BEING RUN OVER BY THE SEMI TRUCKS TRAVELING THE HIGHWAY WITH ME. I HAD THE VEHICLE TOWED TO A NISSAN DEALERSHIP WHERE I WAS TOLD THE TRANSMISSION WAS "DEFECTIVE" AND WOULD NEED TO BE REPLACED. AFTER LOOKING INTO THIS ISSUE, I FIND THOUSANDS OF PEOPLE WITH THE EXACT SAME COMPLAINT AND ONE CLASS ACTION LAW SUIT ALREADY SETTLED OVER THE SAME ISSUE. HOW CAN A MANUFACTURER BE ALLOWED TO CONTINUE USING A FAULTY TRANSMISSION AND NOT BE MADE RESPONSIBLE FOR ITS CORRECTION? THESE VEHICLES ARE NOT CHEAP, AND THOSE OF US PAYING FOR THEM DID NOT PURCHASE A DISPOSABLE VEHICLE!

- j. **DATE OF INCIDENT:** January 19, 2018
DATE COMPLAINT FILED: January 20, 2018
NHTSA/ODI ID: 11063898
SUMMARY: 01/19/2018- MY CAR NO LONGER MOVED FORWARD- AS IF STUCK IN NEUTRAL.....
- k. **DATE OF INCIDENT:** January 26, 2018
DATE COMPLAINT FILED: February 22, 2018
NHTSA/ODI ID: 11074342
SUMMARY: TL* THE CONTACT OWNS A 2013 NISSAN VERSA. WHILE DRIVING 45 MPH, THE RPMS INCREASED TO 5,000. THE ACCELERATOR PEDAL WAS APPLIED, BUT FAILED TO RESPOND WITHOUT WARNING. THE VEHICLE WAS TAKEN TO AN INDEPENDENT MECHANIC AND INFORMED THE CONTACT TO TAKE THE VEHICLE TO A LOCAL DEALER. THE VEHICLE WAS TOWED TO A LOCAL DEALER (ALAN WEBB NISSAN, LOCATED AT 3608 NE AUTO MALL DR, VANCOUVER, WA 98662) WHERE IT WAS DIAGNOSED THAT THE CTV TRANSMISSION NEEDED TO BE REPLACED. THE VEHICLE WAS REPAIRED, BUT THE FAILURE RECURRED. THE VEHICLE WAS TAKEN BACK TO THE LOCAL DEALER, BUT THEY WERE UNABLE TO DUPLICATE THE FAILURE. THE MANUFACTURER WAS NOTIFIED OF THE ISSUE AND OPENED CASE NUMBER: 29733173 BUT NO FURTHER ASSISTANCE WAS PROVIDED. THE FAILURE MILEAGE WAS 104,000.
- l. **DATE OF INCIDENT:** February 12, 2018
DATE COMPLAINT FILED: March 22, 2018
NHTSA/ODI ID: 11080976
SUMMARY: DRIVING MY NISSAN SINCE COUPLES WEEKS BEFORE I START FEALING LOOSING POWER KEEP DRIVING TOOK IT TO THE MECHANIC AND TOLD THE PROVLEM MUST BE THE TRANSMISSION I ALWAYS DRIVE AT 78 WEST FRONT ELIZABTH NJ TO EXIT 12 AND NEVER HAVE ANY ISSUE LIKE THIS I ONLY HAVE THIS CAR FOR NO MAR THAN 2 YEARS ITS SAD THAT THR CAR GET BROKEN THE TRANSMISSION SO SOON
- m. **DATE OF INCIDENT:** December 4, 2017
DATE COMPLAINT FILED: March 22, 2018
NHTSA/ODI ID: 11080979
SUMMARY: THE TRANSMISSION WENT OUT AT 85,000 MILES, TOOK IT TO A NISSAN DEALERSHIP AND THE SERVICE MANAGER SAID THAT HE DEALS WITH IT ALL TIME AND IS A VERY COMMON PROBLEM WITH THOSE TRANSMISSIONS AND DIDNT UNDERSTAND WHY NISSAN STILL USED THEM. SPOKE TO NISSAN USA AND THEY WANTED TO FIGHT TO PAY FOR THE COST AND WANTED TO REBUILD THE TRANSMISSION. THE SERVICE TECH LAUGHED AND SAID YOU COULDN'T REBUILD IT BECAUSE ITS A CLOSED SYSTEM. ONLY OWNERS OF THE CAR AND HAD TO REPLACE THE

TRANSMISSION WITH 85,000 MILES ON IT.

- n. **DATE OF INCIDENT:** April 30, 2018
DATE COMPLAINT FILED: May 3, 2018
NHTSA/ODI ID: 11091469
SUMMARY: I DRIVE A 2013 NISSAN VERSA. I'VE HAD IT ABOUT 4 YEARS, THE CAR HAS ABOUT 40,000 MILES. RECENTLY, MY CAR STARTED SHUTTERING (VIBRATING) AS I ACCELERATE. I'VE TAKEN MY CAR TO THE DEALERSHIP TWICE (THIRD TIME WILL BE EITHER TOMORROW OR TUESDAY) AND THEY CANNOT FIGURE OUT WHAT'S GOING ON WITH IT. I DON'T KNOW IF THIS IS DANGEROUS OR NOT AND NOT ONLY DO I DEPEND ON THIS CAR, BUT I DRIVE AN 82 YEAR OLD WOMAN AROUND TO DR APPOINTMENTS. NISSAN ITSELF DOESN'T WANT TO DO ANYTHING ABOUT THIS PROBLEM (YOU KNOW, LIKE FINDING OUT WHY THIS IS HAPPENING.) THIS IS RIDICULOUS AND THE NHTSA NEEDS TO NOT ONLY HOLD THEM ACCOUNTABLE, BUT ALSO FORCE NISSAN TO FIX THIS PROBLEM. I'M PAYING A BOAT LOAD OF MONEY AND TIME TRYING TO GET TO THE BOTTOM OF THIS ISSUE

2013 Nissan Juke

- o. **DATE OF INCIDENT:** September 14, 2015
DATE COMPLAINT FILED: October 12, 2015
NHTSA/ODI ID: 10781447
SUMMARY: WHEN DRIVING MY NISSAN JUKE THE SPEED STARTED TO DECREASE. AS I PRESSED ON THE GAS PEDAL, IT WOULD NOT GO ANY FASTER. I EVEN PRESSED THE GAS PEDAL ALL THE WAY TO THE FLOOR AND IT STILL WOULD NOT INCREASE IN SPEED. FROM 70 MPH IT DECREASES TO BETWEEN 40 AND 50 MPH ON THE INTERSTATE. THIS IS EXTREMELY DANGEROUS. I COULD HAVE GOTTEN HIT AND ROAD RAGE IS QUITE REAL. IT TOOK AT LEAST, AND I MEAN AT THE LEAST, 30 MINUTES TO WHERE IT WOULD INCREASE IN SPEED. I THOUGHT IT WAS GOING TO STOP ON THE MIDDLE OF THE INTERSTATE. VERY SCARY AND VERY REAL. MY JUKE WAS ALSO MAKING A BUZZING/HISSING NOISE UNDER THE HOOD. ESPECIALLY WHEN PRESSING THE GAS PEDAL.
- p. **DATE OF INCIDENT:** December 24, 2017
DATE COMPLAINT FILED: April 18, 2017
NHTSA/ODI ID: 10979093
SUMMARY: TL* THE CONTACT OWNS A 2013 NISSAN JUKE. WHILE DRIVING 70 MPH, THE ACCELERATOR PEDAL WAS DEPRESSED, BUT THE VEHICLE FAILED TO ACCELERATE. THE VEHICLE LOST POWER AND SLOWED DOWN WITHOUT WARNING. THE FAILURE OCCURRED ON SEVERAL OCCASIONS WHEN THE VEHICLE WAS BEING DRIVEN FOR LONG PERIODS OF TIME. THE VEHICLE WAS TAKEN TO A DEALER WHERE IT WAS DIAGNOSED THAT THE TRANSMISSION WAS

OVERHEATING AND GOING INTO A SAFETY MODE, WHICH CAUSED THE TRANSMISSION TO SHUT DOWN. THE CONTACT WAS INFORMED THAT THE TRANSMISSION NEEDED TO BE REPLACED. THE VEHICLE WAS NOT REPAIRED. THE MANUFACTURER WAS NOT NOTIFIED OF THE FAILURE. THE FAILURE MILEAGE WAS 71,000. ..UPDATED 05/15/17 *BF

UPDATED 10/19/2017*JS

2014 Nissan Versa

- q. **DATE OF INCIDENT:** October 7, 2013
DATE COMPLAINT FILED: October 7, 2013
NHTSA/ODI ID: 10546976
SUMMARY: INTERMITTENT LACK OF ACCELERATION. HAPPENED 4 TIMES IN 6 DAYS. TRIED ACCELERATING FROM STOP TO ENTER CROSS STREET AND FOUND NO ACCELERATION AND NO ENGINE INCREASE. TRAVELED 50 FEET AT 6 TO 10 MPH BEFORE A RESPONSE WITH PEDAL TO THE FLOOR. TURNED INTO DEALER, BUT THERE WAS NO RESOLUTION. THIS IS A POSSIBLE DEADLY PROBLEM. *TR
- r. **DATE OF INCIDENT:** January 27, 2014
DATE COMPLAINT FILED: December 29, 2013
NHTSA/ODI ID: 10561585
SUMMARY: PULLING AWAY FROM A TOLL BOOTH ON I-80, CAR WOULD NOT ACCELERATE. CHECK ENGINE LIGHT. TOWED TO DEALER AT OWNER'S EXPENSE, PULLED TRAN CODES P0500, P1574, P1715, P1720 AND P0720. ONLY HAD CAR FOR 5 DAYS. AFTER 17 DAYS AT DEALER, REPLACED 2 SENSORS, 31935-1XF00 SENSOR ASMY-REV (N/C) 1 31935-1XF01 SENSOR ASMY-REV AT RECOMMENDATION OF NISSAN TECH LINE. DEALER WAS UNABLE TO REPLICATE THE PROBLEM PRIOR TO REPAIR. THIS WAS A LIFE THREATENING OCCURRENCE, CAR WOULD NOT ACCELERATE WHILE PULLING INTO TRAFFIC. *TR
- s. **DATE OF INCIDENT:** March 18, 2014
DATE COMPLAINT FILED: April 10, 2014
NHTSA/ODI ID: 10578933
SUMMARY: THE CVT WILL SHIFT INTO A LOWER GEAR WHILE STOPPED WITH CONSTANT BRAKE PRESSURE. 3 TO 10 SECONDS AFTER A COMPLETE STOP.

THIS "LOWER SHIFTING" CAUSES THE CAR TO MOVE FORWARD WITHOUT THE KNOWLEDGE OF THE DRIVER SHOULD THE DRIVER THINK HE/SHE IS STOPPED AND PERFORMING OTHER NORMAL TASKS (I.E SETTING NAVIGATION OR RADIO,)

THIS HAS THE POSSIBILITY OF CAUSING VEHICLE DAMAGE OR

PEDESTRIAN INJURY; WITHOUT THE KNOWLEDGE OF THE DRIVER.

I CAN EASILY MAKE A VIDEO OF THIS PROBLEM AVAILABLE. *TR

t. **DATE OF INCIDENT:** March 5, 2014

DATE COMPLAINT FILED: April 22, 2014

NHTSA/ODI ID: 10584277

SUMMARY: TL* THE CONTACT OWNS A 2014 NISSAN VERSA. THE CONTACT STATED THAT WHILE TURNING AT VARIOUS SPEEDS, THE VEHICLE LOST ACCELERATION POWER. THE VEHICLE WAS TAKEN TO THE DEALER BUT THE FAILURE COULD NOT BE DUPLICATED OR DIAGNOSED. THE MANUFACTURER WAS NOT NOTIFIED OF THE FAILURE. THE FAILURE MILEAGE WAS 560. UPDATED 06/10/14 MA

THE CONSUMER STATED THERE WAS A HESITATION WHEN ACCELERATING FROM A STOPPED POSITION OR WHEN SLOWLY ACCELERATING. UPDATED 07/23/14

u. **DATE OF INCIDENT:** July 24, 2014

DATE COMPLAINT FILED: July 24, 2014

NHTSA/ODI ID: 10616071

SUMMARY: 2014 NISSAN VERSA NOTE WITH 9501 MILES AT TIME OF LAST INCIDENT.

WHEN THE PROBLEM OCCURS THE CAR SHIFTS ROUGH AT LOW SPEEDS (10 MPH) TO MEDIUM SPEEDS (45 MPH). WHILE THE CAR IS SHIFTING ROUGH THE RPMS OF THE ENGINE MAINTAINS A NORMAL FLUX IN RPM BUT NOTHING DRASTIC LIKE AN ENGINE THAT IS STRUGGLING TO STAY RUNNING. ONCE THE CAR COMES OUT OF THE ROUGH SHIFTING THEN THE CAR QUICKLY STALLS. WHEN THE CAR STALLS IT DOES NOT SPIT AND SPUTTER LIKE A CAR HAVING PROBLEMS RUNNING. THIS HAS HAPPENED 3 TIMES WITHIN THE 9501 MILE THAT WE HAVE DRIVEN THE CAR. THIS HAS HAPPENED AT 45 MPH WHILE DRIVING IN TRAFFIC AND WHILE MOVING THROUGH A PARKING LOT AT ABOUT 10 MPH BACK TO BACK WITHIN A MIN OF EACH STALLING AT ABOUT 10 MPH.

THE OWNERS MANUAL SAYS TO USE AT LEAST 87 AKI AND THE LOWEST RATING IN OUR STATE IS 87. WE HAVE ALWAYS USED AT LEAST THE LOW GRADE AND AT TIMES USED MID-GRADE 89.

NISSAN DEALERSHIP ONLY SUGGESTION IS TO USE PREMIUM GAS.

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- v. **DATE OF INCIDENT:** July 21, 2014
DATE COMPLAINT FILED: August 3, 2014
NHTSA/ODI ID: 10618427
SUMMARY: CAR SURGES FORWARD AFTER STOPPING. ITS LIKE THE TRANSMISSION HAS JUMPED FORWARD. IF YOUR FOOT ISN'T FIRMLY ON THE BRAKE, IT COULD HIT A CAR IN FRONT. IT DOES IT ALMOST ALL THE TIME.

WINDSHIELD WASHERS AIM VERY LOW, WITH NO ADJUSTMENT TO RAISE THEM UP. *TR

- w. **DATE OF INCIDENT:** August 30, 2014
DATE COMPLAINT FILED: November 10, 2014
NHTSA/ODI ID: 10653912
SUMMARY: I PURCHASED THIS CAR BRAND NEW AND HAVE BEEN UNSATISFIED EVER SINCE. THE CAR SEEMS TO HAVE A TRANSMISSION PROBLEM. THE TRANSMISSION IS LOUD AND SEEMS TO LAG WHEN I'M ATTEMPTING TO ACCELERATE. EVEN AT LOW SPEEDS, IT'S LOUD. I ALSO SMELL COOLANT ON A REGULAR BASIS AND THE CAR SHIFTER MAKES A LOUD CLUNKING SOUND WHEN REVERSING WHETHER I'M ON A FLAT SURFACE OR IN THE DRIVE WAY. THIS IS NOT CHARACTERISTIC OF A "BRAND NEW" VEHICLE AND IT NEEDS TO BE LOOKED INTO AND RECALLED. *TR

- x. **DATE OF INCIDENT:** July 24, 2014
DATE COMPLAINT FILED: April 27, 2015
NHTSA/ODI ID: 10713214
SUMMARY: I PURCHASED A 2014 NISSAN VERSA FROM MAITA NISSAN IN SACRAMENTO (NOW CALLED SACRAMENTO NISSAN) ON SEPTEMBER 12, 2014 AND I'M JUST NOT SATISFIED. THE VIN NUMBER IS 3N1CN7AP8EK445673 I PURCHASED A 2014 NISSAN VERSA FROM MAITA NISSAN IN SACRAMENTO (NOW CALLED SACRAMENTO NISSAN) AND I'M JUST NOT SATISFIED. THIS CAR DOES NOT AT ALL SOUND LIKE A NEW CAR. I DROVE IT OFF THE LOT WITH 9 MILES ON IT, BUT IMMEDIATELY NOTICED HOW DIFFICULT IT IS FOR THE TRANSMISSION TO SMOOTHLY GET INTO GEAR. IT'S LOUD AND ALMOST SOUNDS LIKE IT'S COMPLETELY BROKEN. WHEN I PUT THE CAR IN REVERSE I HEAR A LOUD CLUNKING SOUND WHETHER IT'S ON A FLAT SURFACE OR IN THE DRIVEWAY. I'VE DISCUSSED HEARING THIS SOUND BEFORE 4 DIFFERENT TIMES AND ALSO WENT TO THE NISSAN SERVICE DEPARTMENT 4 TIMES. I'M BEING TOLD NOTHING IS WRONG. I DIDN'T PURCHASE A "BRAND NEW" CAR TO HAVE ALL OF THESE PROBLEMS. I CALLED NISSAN CONSUMER AFFAIRS AND ADVISED THEM ABOUT THE ISSUES AND REQUESTED A BUY BACK. AFTER WAITING 3 WEEKS FOR AN ANSWER, THEY ADVISED ME ON 4/9/15 THAT THEY ARE NOT GOING TO ACCOMMODATE MY REQUEST.

I FEEL THIS CAR HAS AN UNSAFE TRANSMISSION AND BRAKING SYSTEM. PLEASE INVESTIGATE THIS ISSUE.

- y. **DATE OF INCIDENT:** April 22, 2016
DATE COMPLAINT FILED: April 23, 2016
NHTSA/ODI ID: 10861064
SUMMARY: CVT STARTED SLIPPING AS SEEN BY TACHOMETER JUMPING UP AND HEARING THE ENGINE REV UP AS I WENT UP A SMALL HILL (MUCH LIKE IF I HAD A CLUTCH TO PUSH IN ON A REGULAR TRANSMISSION) LATER THAT DAY ON THE WAY HOME ON THE INTERSTATE ON LEVEL ROAD DID THE SAME THING. PULLING UP A SMALL HILL AS I PROCEED TO THE DEALERSHIP AND GIVING IT GAS TO GET UP THAT HILL, CVT MADE A VERY LOUD 'THUMP' (LIKE I POPPED THE CLUTCH). CAR IS NOT SAFE TO DRIVE NOW. CAR HAS ONLY 51,000 MILES ON IT.

- z. **DATE OF INCIDENT:** October 11, 2016
DATE COMPLAINT FILED: October 13, 2016
NHTSA/ODI ID: 10915678
SUMMARY: ON 10/11/2016 MY CARS CHECK ENGINE LIGHT CAME ON FOR THE FIRST TIME EVER SINCE I BOUGHT THE CAR, WHILE I WAS DRIVING HOME FROM WORK ON THE FREEWAY, MY CAR WOULD SHIFT HARD TRYING TO GET INTO A HIGHER GEAR AND THEN WHEN I PRESSED ON THE GAS PEDAL YOU COULD HEAR THE CAR ACCELERATE BUT IT WOULD NOT SHIFT AND ASIDE OF THE CHECK ENGINE LIGHT COMING ON THAT IS WHY I BROUGHT IT INTO THE DEALERSHIP AND THEY DIAGNOSED IT AS WELL AS FOUND OUT THERE WAS AN OUTSTANDING RECALL ON THE CVT PROGRAM IN THAT YEAR MAKE AND MODEL OF CAR.

- aa. **DATE OF INCIDENT:** December 2, 2016
DATE COMPLAINT FILED: December 7, 2016
NHTSA/ODI ID: 10930328
SUMMARY: WHEN ACCELERATING FROM A STOP MY CAR WILL SHUTTER AND ALMOST STALL. THIS IS ESPECIALLY UNNERVING WHEN TURNING LEFT. THIS HAPPENS ALMOST EVERY TIME.

- bb. **DATE OF INCIDENT:** February 28, 2017
DATE COMPLAINT FILED: March 6, 2017
NHTSA/ODI ID: 10958889
SUMMARY: CVT SLIPS, THROTTLES, MAKE CLUNKING NOISE.

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cc. **DATE OF INCIDENT:** February 28, 2017
DATE COMPLAINT FILED: March 6, 2017
NHTSA/ODI ID: 10958892
SUMMARY:... THE DEALERSHIP WANTS TO "FIX" THE CVT PROBLEM AT \$ 4000.00!

EVERYONE IS AWARE OF THE CVT PROGRAMMING PROBLEM WITH THIS MODEL. EVEN NISSAN ISSUED A SERVICE BULLETIN TO TRY TO FIX IT.! AT NO AVAIL.

MY ADVICE, STAY AWAY FROM NISSAN VEHICLES!.

dd. **DATE OF INCIDENT:** May 26, 2017
DATE COMPLAINT FILED: May 29, 2017
NHTSA/ODI ID: 10992042
SUMMARY: IN MOTION. THIS CAR WOULD VIBRATE WHILE STEERING (TURNING) AND ACCELERATING, FORCING THE RMPs TO FLEX UP WITHOUT GAIN OF POWER. THE RMP WOULD RANDOMLY FLEX UP AND DOWN WHILE DRIVING AT A MAINTAINED SPEED. THEN A DAY AT A STORE I TURN THE CAR ON, WENT TO PUT IT IN DRIVE AN IT STALLED OUT- 5 TIMES TO GET TO TO MOVE. THEN IT WOULD STALL OUT WHILE COMING TO A STOP/AT A STOP/STILL IN GEAR (DRIVE) SO I WOULD HAVE TO SLAM IT INTO NEUTRAL WHEN SLOWING DOWN FOR A STOP OR AT A STOP. UNTIL ONE DAY AS I WAS DRIVING I DIDN'T NEED TO COMPLETELY STOP AS I TURNED TO ANOTHER ROAD BC NO ONE WAS COMING, AS I USED THE ACCELERATOR TO GAIN MY SPEED THE RMP FLEXED UP AND DOWN BUT MY SPEED DECREASED LEADING TO THE CAR STALLING OUT ON SIDE OF ROAD. I TURNED IT OFF THEN TRIED TO START IT AND TO PUT IT IN GEAR IT AGAIN STALLED OUT, AFTER THAT IT WOULDN'T TURN OVER AN IT GOT TOWED TO MY PLACE WHERE IT SITS AND DOESN'T START OR MOVE, IT HAS 3 RECALLS COME TO FIND OUT AN I CONTACTED NISSAN WHICH TOLD ME TO CONTACT THE NEAREST NISSAN DEALERSHIP THAT TOLD ME TO GO CALL NISSAN. SO PRETTY MUCH I'VE GOTTEN ZERO INFORMATION AN A RUN AROUND. THIS CAR IS A SAFETY HAZARD. I'M LUCKY I WASN'T DRIVING 60MPH OR MORE AND THE ENGINE SHUTS OFF AND EVERYTHING LOCKS UP. WILL BE TRYING TO START THIS CAR TO DETERMINE IF IT SHOULD NEED TO BE TOWED 3 HOURS AWAY FROM THE NEAREST NISSAN DEALERSHIP.

ee. **DATE OF INCIDENT:** July 13, 2017
DATE COMPLAINT FILED: September 14, 2017
NHTSA/ODI ID: 11023479
SUMMARY: TL* THE CONTACT OWNS A 2014 NISSAN VERSA. WHILE DRIVING ON SEVERAL OCCASIONS, THE ENGINE STALLED AND LOST POWER. THERE WERE NO WARNING INDICATORS ILLUMINATED. THE VEHICLE WAS TAKEN TO HAYWARD NISSAN

(24644 MISSION BLVD, HAYWARD, CA 94544 (510) 372-2800) WHERE NO DIAGNOSTIC FAILURE CODES WERE FOUND AND THE FAILURE COULD NOT BE REPLICATED. THE VEHICLE WAS TAKEN TO AUTOCOM NISSAN OF CONCORD (1290 CONCORD AVE, CONCORD, CA 94520 (925) 275-5634) WHERE IT WAS DIAGNOSED THAT THE CVT TRANSMISSION NEEDED TO BE REPLACED. THE VEHICLE WAS NOT REPAIRED. THE MANUFACTURER WAS NOTIFIED OF THE FAILURE, BUT DID NOT OFFER ANY ASSISTANCE. THE APPROXIMATE FAILURE MILEAGE WAS 140,000.

ff. **DATE OF INCIDENT:** November 1, 2017

DATE COMPLAINT FILED: November 20, 2017

NHTSA/ODI ID: 11047405

SUMMARY: THE CVT TRANSMISSION LEFT MY DAUGHTER STRANDED IN ORLANDO FL. SHE LIVES IN JACKSONVILLE FL. 2.5 HOURS AWAY. THE CAR WOULD NOT ACCELERATE WHEN SHE TRIED TO GET ON THE HIGHWAY TO HEAD HOME AFTER CLASS. WENT DOWN TO ORLANDO WITH MY TRUCK, RENTED A TOW DOLLY FROM U-HAUL AND TOWED THE CAR BACK TO JACKSONVILLE FL. I AM A ASE CERTIFIED TECHNICIAN. I CONNECTED MY (\$600.00) LAUNCH CR129 PRO SCANNER. IT DOES OBDII, ABS, SRS, TRANSMISSION. NO CODES NO MATTER HOW IT DROVE. AFTER 3 DAYS OF TROUBLESHOOTING I DECIDED TO TAKE IT TO THE DEALER. THEY DIAGNOSED IT AS THE CVT TRANSMISSION AND IT NEEDS A NEW ONE AT THE COST OF \$3800.00. THE CAR HAS 66,000 MILES AND IS A 2014. FILED A COMPLAINT WITH NISSAN AND WAS TURNED DOWN FOR ANY HELP. THIS IS A MAJOR PROBLEM WITH JATCO TRANSMISSIONS, THE MANUFACTURER KNOWS IT, NISSAN KNOWS IT, MITSUBISHI & SUBARU BOTH USE THE SAME JATCO TRANSMISSION AND HAVE SIMILAR PROBLEMS. THE ISSUES ARE WIDE SPREAD OVER MULTIPLE CAR MANUFACTURERS AND ALL OF THEM ARE NOT TAKING RESPONSIBILITY FOR THE PROBLEMS. A 2014 WITH 66000 MILES SHOULD NOT NEED A TRANSMISSION. IT IS A SAFETY HAZARD PLAIN AND SIMPLE.

gg. **DATE OF INCIDENT:** January 3, 2018

DATE COMPLAINT FILED: January 4, 2018

NHTSA/ODI ID: 11058497

SUMMARY: BOUGHT THIS VERSA BRAND NEW IN 2014. HAD CVT RECALL WORK DONE IN 2016. SHORTLY AFTER WORK WAS COMPLETED, VEHICLE STARTED TO EXPERIENCE EXTREME SHUDDERING AFTER A COMPLETE STOP AND DURING TAKE OFF. VEHICLE SHIFTS FROM GEAR TO GEAR HARD AND WITH A JERK. IT WILL BARELY ACCELERATE AFTER A STOP. TOOK TO MECHANIC TO HAVE TRANSMISSION FLUSHED, HOPING THIS WOULD HELP AND WAS NOTIFIED THAT THERE WERE TRANSMISSION ISSUES THAT A FLUSH WOULD NOT HELP. TAKING TO A NISSAN MECHANIC

FOR A DIAGNOSTIC. VEHICLE HAS 106,000 MILES, BUT IS USED ONLY FOR LONG STRETCHES OF HIGHWAY COMMUTES. THE VEHICLE HAS BEEN TAKEN CARE OF VERY WELL, WITH ALL SCHEDULED MAINTENANCE AT APPROPRIATE INTERVALS. IT SHOULD NOT BE EXPERIENCING TRANSMISSION ISSUES THIS EARLY. IT FEELS LIKE THIS CAR IS A THROWAWAY VEHICLE.

hh. **DATE OF INCIDENT:** December 9, 2017
DATE COMPLAINT FILED: January 15, 2018
NHTSA/ODI ID: 11062796
SUMMARY: I WENT TO PICK UP MY DAUGHTER FROM DAYCARE ON DAY IN DECEMBER 2017. I STOPPED AT A STOPLIGHT AND WHEN IT TURNED GREEN I WENT TO ACCELERATE AND MY CAR WOULD BARELY CREEP, I BARELY MADE IT THROUGH A TURN LIGHT AND CLOSE TO GETTING HIT. I COULD BARELY GET UP TO 15MPH. I ENDED UP TAKING IT TO A SHOP AND WAS TOLD A PULLEY BROKE ON THE TRANSMISSION! IT SUPPOSEDLY CAUSED SHRAPNEL TO SHOOT INTO THE TRANSMISSION AND TOLD COULD OF GOTTEN INTO THE MOTOR! SO I WAS TOLD \$4000 FOR A REBUILT TRANSMISSION.

ii. **DATE OF INCIDENT:** January 10, 2018
DATE COMPLAINT FILED: January 5, 2018
NHTSA/ODI ID: 11062823
SUMMARY: DRIVING CAR AT HIGHWAY SPEEDS AND LOST THE ABILITY TO MAINTAIN SPEED. HAD TO PULL ALONGSIDE ROAD. HAD CAR TOWED TO MY MECHANIC WHERE IT WAS DETERMINED THE TRANSMISSION FAILED.

jj. **DATE OF INCIDENT:** October 20, 2017
DATE COMPLAINT FILED: April 17, 2018
NHTSA/ODI ID: 11088641
SUMMARY: THE CVT TRANSMISSION IS FAILING LOSS OF POWER WHILE DRIVING

CAN'T DRIVE CAR OVER 55 MPH

TRANSMISSION OIL LEAKS

SLIPPING AND JERKING

THE RPM OF THE ENGINE CAN FLUCTUATE A LOT WHILE DRIVING, ESPECIALLY WHEN ACCELERATING.

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kk. **DATE OF INCIDENT:** March 1, 2018
DATE COMPLAINT FILED: May 16, 2018
NHTSA/ODI ID: 11094061
SUMMARY: I PURCHASED A 2014 NISSAN VERSA IN 2016 AND TWO YEARS LATER, THE TRANSMISSION IS SHOT. THE DEALER CONFIRMED IT WAS THE TRANSMISSION.

Other Class Vehicle CVT Complaints

ll. **DATE OF INCIDENT:** April 22, 2017
DATE COMPLAINT FILED: April 25, 2017
NHTSA/ODI ID: 10980349
SUMMARY: WHILE DRIVING MY 2014 NISSAN JUKE IT WENT FROM 70 TO 20 ON THE INTERSTATE AND I WAS ALMOST RAN OVER BY LARGE TRUCKS THAT WERE UNABLE TO STOP. THIS HAS HAPPENED MULTIPLE TIMES. WHILE DRIVING TO WORK THIS TIME, IT DROPPED IN SPEED AGAIN AND THE RPMS WENT OVER 6 BUT THE CAR WOULD NOT MOVE. I PUSH THE GAS TO THE FLOOR AND NOTHING HAPPENS. I AM AFRAID TO DRIVE MY CAR HOME FROM WORK DUE TO IMPENDING DEATH CONCERNS.

mm. **DATE OF INCIDENT:** January 2, 2015
DATE COMPLAINT FILED: May 21, 2015
NHTSA/ODI ID: 10717622
SUMMARY: THIS CAR HESITATES. I PUSH THE ACCELERATOR ALL THE WAY DOWN AND NOTHING HAPPENS. I JUST ROLL. WHEN I MAKE A LEFT TURN - I HAVE CARS BEHIND ME HONKING AT ME TO GET MOVING, BUT NOTHING WORKS. THEN, SUDDENLY THE CAR SHOOTS FORWARD. THIS DOESN'T HAPPEN ALL THE TIME AND NOT ONLY ON LEFT TURNS, BUT THEY ARE THE WORST. BEFORE MAKING A LEFT TURN, EVERYONE MAKES SURE THERE IS NO CAR APPROACHING. BUT, EVERY LEFT TURN IS A REAL ISSUE FOR ME, BECAUSE I NEVER KNOW IF THE CAR IS GOING TO MOVE. I HAVE TAKEN MY CAR TO THE DEALER TWICE, ONLY TO BE TOLD IT WAS FINE WHEN THEY TESTED IT AND BRING IT BACK WHEN IT DOESN'T WORK RIGHT. I WAS EVEN TOLD THAT THE BRAKE AND GAS PEDALS ARE CLOSE TOGETHER AND MAYBE I WAS PUSHING BOTH OF THEM AT THE SAME TIME. SO, IT WAS A WOMAN'S CRAZY PROBLEM SHE WAS CREATING HERSELF. I DON'T KNOW WHAT ELSE TO DO.

nn. **DATE OF INCIDENT:** May 29, 2015
DATE COMPLAINT FILED: July 24, 2015
NHTSA/ODI ID: 10736198
SUMMARY: ...THE VEHICLE ALSO EXPERIENCED DELAYED ACCELERATION AND DECELERATION. BOTH THE DEALER AND MANUFACTURER WERE NOT MADE AWARE OF THE FAILURES. THE VEHICLE WAS NOT REPAIRED. THE VIN WAS NOT AVAILABLE. THE FAILURE MILEAGE WAS 65.

oo. **DATE OF INCIDENT:** January 6, 2017

DATE COMPLAINT FILED: February 8, 2017

NHTSA/ODI ID: 10950261

SUMMARY: " TAKATA RECALL" MY 2015 NISSAN VERSA IS DRIVING SLOW AND THERE IS NO EXCELARATION, THE CAR WONT DRIVE OVER 35 MILES AND THE CAR IS CONSTANTLY DRIVING SLOW. I AM ABLE TO TAKE THE CAR TO O'REILYS BY HOME AND THEY WERE ABLE TO COMPLETE A DIAGNOSTICS ON THE CAR AND THEY ADVISE ME THAT IS WAS A TRANSMISSION ISSUE. I HAD A PRIVATE MECHANIC TO COME TO HOME AND HE ADVISE THE SAME. I CHECK NISSAN OF NORTH AMERICA WEBSITE AND I SEE THERE WAS A RECALL FOR THE NISSAN VERSA BUT THAT WAS IN 2015 FOR THE CVT-TRANSMISSION AND THIS HAPPEN TO MY CAR IN JAN 2017. I DIDNOT HAVE ANY WARNINGS ON MY DASH BOARDS, AND I WAS IN TRAFFIC WHEN IT HAPPEND. I FIRST BROUGHT THE CAR IN TO THE DEALERSHIP IN JAN 2015 FOR THE FOOT PEDAL AND THE CAR STAYED THERE ALMOST 2 MONTHS BEFORE THEY FINALLY FIXED IT CORRECTLY AND THEN I NOTICE A RECALL AFTER THAT. I BOUGHT MY CAR BRAND NEW IN DEC 2014 AND THE CAR IS NOT EVEN 2 YEARS OLD FOR THE TRANSMISSION TO BE GONE. I DO NOT HAVE AN EXTENDED WARRANTY AND WHY SHOULD I SINCE IT IS A BRAND NEW CAR. WHEN THE CAR WAS DRIVING SLOW ON THE EXPRESSWAY I HAD MY CHILDREN IN THE CAR AND IT COULD HAVE PLAY OUT WORST. I WAS ABLE TO PULL THE CAR OVER TO THE SIDE LET IT SIT AND THEN I STARTED IT BACK AGAIN DRIVING WITH MY HAZARD LIGHTS ON AND THE CAR KEPT JERKING AND NEVER GOING OVER 35 MILES, THE CAR REVS ON ITS OWN WITHOUT STEPPING ON THE FOOT PEDAL. WHEN I DRIVE THE CAR NOW I DO NOT GO FURTHER THAN 3 MILES FROM MY HOME FOR FEAR THE CAR WILL STOP AGAIN OR I CAN BE IN A SERIOUS ACCIDENT. I LIVE BY 2 MAJOR EXPRESSWAYS THAT TRUCK USE AND I CANT AFFORD TO TAKE THE CHANCE WITH GETTING HIT FROM BEHIND. TRYING TO MAKE 1 TURN OFF MY STREET THE CAR JUST REVS AND THEN IT SLOWS DOWN AND THEN ALL OF SUDDEN THE CAR WILL SPEED OFF ON IT OWN TO ABOUT 35 MILES.I CALLED THE DEALERSHIP AND THEY WANT TO CHARGE ME 4,000.00 TO PUT A BRAND NEW TRANSMISSION WHICH I DONT HAVE.

pp. **DATE OF INCIDENT:** February 2, 2018

DATE COMPLAINT FILED: February 4, 2018

NHTSA/ODI ID: 11066861

SUMMARY: MY 2015 NISSAN VERSA TRANSMISSION HAS GONE OUT AND IT ONLY HAS 79K MILES I PURCHASED IT BRAND NEW IN OCT OF 2015. I AM JUST CHECKING TO SEE IF THE TRANSMISSION WAS INSTALLED IN 2014 SINCE THOSE TRANSMISSIONS WERE RECALLED ON THE 2014 VERSAS WERE USED IN THE 2015 VERSAS. THE TRANSMISSION SHOULD NOT HAVE FAILED WITH THAT MILEAGE. I

AM SURE NISSAN IS AWARE OF THIS ISSUE WITH CUSTOMERS, AS I HAVE FOUND SEVERAL COMPLAINTS FROM NISSAN VERSA OWNERS. WE NEED A RECALL ON THESE VEHICLES CONSUMERS SIMPLY CANNOT PAY THOUSANDS OF DOLLARS TO HAVE THEM REPLACED THIS IS A MANUFACTURERS DEFECT AND NISSAN SHOULD BE MADE TO PAY FOR THE TOTAL REPAIRS TO REPLACE THESE TRANSMISSIONS ON ALL THE 2015 VERSAS, MAYBE YOU COULD LOOK INTO THIS. MY CAR IS AT THE DEALERSHIP WAITING TO BE INSPECTED AS THEY ARE TWO WEEKS BEHIND AND NOW I HAVE TO RENT A VEHICLE TO GET TO WORK. PLEASE TAKE THIS COMPLAINT INTO SERIOUS CONSIDERATION.

qq. **DATE OF INCIDENT:** December 2, 2017
DATE COMPLAINT FILED: April 9, 2018
NHTSA/ODI ID: 11084044

SUMMARY: OUR NISSAN VERSA HAS HAD TO HAVE ITS TRANSMISSION REPLACED AT 24,711 MILES. WHILE DRIVING TO WORK, THE CAR COMPLETELY DIED WHILE I WAS DRIVING IN TRAFFIC. THE TRANSMISSION WAS REPLACED AT THE NISSAN DEALERSHIP. NOW AT 33,XXX MILES IT SOUNDS LIKE IT IS GOING BAD AGAIN.

B. Customer Complaints on Third-Party Websites

73. Consumers similarly complained about the defect on various online forums.

Below are some examples.

- a. **June 29, 2015** - Just wondering how many versa owners out there have cvt transmission shudder issues. My car now has 37500k miles and i'd say this issue started around 5-6 k miles ago. It seems to shudder during the first fluctuation in rpms. I called nissan and was told this issue is normal however my car hasnt always had an issue. Should i be concerned about this? Is this an indication that my tran is starting to fall apart? (*Available at* <http://www.nissanversaforums.com/general-technical-electrical/25385-2014-nissan-versa-sv-cvt-shudder.html>) (Emphasis Added)
- b. **October 28, 2015** - My wife's 2014 Versa SV Sedan does the exact same thing. It didn't operate that way when we first purchased it. We had the dealership take a look at it when we brought it in for an oil change, they performed a software update on the transmission which made the transmission behave differently but did not resolve the issue. They also supposedly replaced the front wheel bearings as they were supposedly bad. Issue started at around 15,000 miles after an oil change at the dealership. Our issue seems to manifest only after the car has been running for a bit, if you slow down to a stop or near stop then accelerate, it will hesitate, shudder, then go.

2014 model isn't covered by the extended warranty that was given to 2008-2012 owners, so it's the standard 60,000-mile powertrain warranty. If the behavior continues, we'll trade it in for a Kia before the expiration of the warranty. I don't want

to be stuck with a \$3,000 repair bill to have them swap it for a rebuilt CVT transmission. Supposedly these JACO transmissions have a lot of problems.

I will update here every few months whenever there is any service performed, etc. I expect to have them look at it again at the next oil change. (*Id.*)

- c. **December 13, 2015:** My 2014 Versa does the same thing. I took it in for the recall on the CVT software update a couple of weeks ago, hoping that it would be fixed. It didn't fix it. It actually only changed the point when it shudders. It was doing it around 20-30mph or somewhere around there after taking off, now it happens as soon as I hit the gas to take off. It doesn't do it all of the time, but it is annoying. Not sure if I'm going to bother with the hassle of taking it back in or just hoping it holds out until I can trade it off. (*Id.*)
- d. **October 19, 2016:** Resurrecting this old thread as I had posted on it before. The software upgrade didn't help on ours. As of today, the dealership has told us that we will be receiving a new transmission as the CVT in our 2014 SV has failed at 45,000 miles.

Thankfully covered by warranty, I'm not sure we will buy another Nissan with a CVT ever again. We certainly will get rid of the car before the 60,000-mile power train warranty expires. (*Id.*)

Nissan Had Superior and Exclusive Knowledge of the CVT Defect

74. Nissan had superior and exclusive knowledge of the CVT Defect and knew or should have known that the defect was not known or reasonably discoverable by Plaintiffs and Class Members before they purchased or leased the Class Vehicles.

75. Plaintiffs are informed and believe and based thereon allege that before Plaintiffs purchased their respective Class Vehicles, and since 2013, Nissan knew about the CVT Defect through sources in its exclusive and/or superior knowledge, including pre-release testing data, early consumer complaints to Nissan and its dealers who are their agents for vehicle repairs, testing conducted in response to those complaints, high failure rates and replacement part sales data, consumer complaints to NHTSA (which Nissan monitors), by developing technical service bulletins in an effort to address the CVT Defect, and through other aggregate data from Nissan dealers about the problem.

76. Nissan is experienced in the design and manufacture of consumer vehicles. As

an experienced manufacturer, Nissan conducts tests, including pre-sale durability testing, on incoming components, including the Xtronic CVT, to verify the parts are free from defect and align with Nissan's specifications.⁴ Thus, Nissan knew or should have known the CVT was defective and prone to put drivers in a dangerous position due to the inherent risk of the defect.

77. Additionally, on information and belief, Nissan knew of the impact of this defect from the sheer number of reports received from dealerships. Nissan's customer relations department, which interacts with individual dealerships to identify potential common defects, has received numerous reports regarding the defect, which led to the release of the TSBs. Nissan's customer relations department also collects and analyzes field data including, but not limited to, repair requests made at dealerships, technical reports prepared by engineers who have reviewed vehicles for which warranty coverage is being requested, parts sales reports, and warranty claims data.

78. Nissan's warranty department similarly analyzes and collects data submitted by its dealerships in order to identify trends in its vehicles. It is Nissan's policy that when a repair is made under warranty the dealership must provide Nissan with detailed documentation of the problem and the fix employed to correct it. Dealerships have an incentive to provide detailed information to Nissan, because they will be reimbursed for any repairs if the justification is sufficiently detailed.

79. In fact, James ("Jim") Blenkarn, Nissan's Senior Manger, Systems Quality

⁴ Akweli Parker, *How Car Testing Works*, HOWSTUFFWORKS.COM, <http://auto.howstuffworks.com/car-driving-safety/safety-regulatory-devices/car-testing.htm> ("The idea behind car testing is that it allows manufactures to work out all the kinks and potential problems of a model before it goes into full production.") (last viewed September 11, 2017).

Improvement, has publicly confirmed Plaintiffs' allegations. Mr. Blenkarn, in response to a question "On how Nissan monitors quality after a vehicle is launched" stated:

"For the first six months, sometimes longer, of every new product, we have a team that focuses strictly on the product and examines every claim that comes in for that vehicle model. Our engineers have to target reporting something if it is a 0.5 incident rate. That's our threshold."⁵

80. On August 13, 2015, Nissan issued Service Campaign Bulletin SB-10058399-9756 for the Class Vehicles. SB10058399-9756 was entitled "Voluntary Service Campaign 2013-2014 Sentra, 2012-2014 Versa Sedan, and 2014 Versa Note; CVT Reprogramming." This campaign was issued to address noise, vibration and poor acceleration caused by belt slippage in the CVT transmission. The repair provided through campaign is a reprogramming of the Transmission Control Module ("TCM").

81. On April 7, 2016, Nissan issued Technical Service Bulletin ("TSB") NTB14-118b for the Class Vehicles. The TSB was issued to address "Judder on Deceleration Under 15 MPH." Specifically, the TSB was released to correct "judder or shake (pulsing sensation, or fore/aft sensation) ... while slowing to a stop." The repair procedure provided was a reprogramming of the TCM. On information and belief, the problem persisted and TSB NTB14-118b was superseded on October 13, 2017 by NTB14-118c, which addressed the same complaint but expanded the TSB to additional model years and further reprogrammed the TCM. NTB14-118b superseded NTB14-118a, which on information and belief was issued by Nissan on or before May of 2015.

⁵ "5 Minutes with... Jim Blenkarn, senior manager, systems quality improvement, Nissan North America" Richard Truett, April 16, 2018 *Automotive News*. <http://www.autonews.com/article/20180416/RETAIL05/180419990/5-minutes-with-jim-blenkarn-senior-manager-systems-quality>

82. On April 11, 2017, Nissan issued TSB NTB15-087a for the Nissan Juke (and other vehicles). This TBS was entitled “CVT With 4 Cylinder Engine Valve Body Replacement With Confirmed DTC.” The repair procedure listed on the TSB is a replacement of the CVT valve body assembly with a new one. On information and belief, the same repair procedure was issued for the other Class Vehicles, on or before June of 2015, and identified as NTB15-037. NTB15-037 was superseded multiple times, with the currently operative iteration being NTB15-037d issued October 11, 2017.

83. On November 20, 2017, Nissan issued TSB NTB17-034d for the Class Vehicles. This TSB is entitled “2014-201 Nissan Sentra, Versa Sedan, 2017 Versa Note; CVT Judder and/or P0746/P0965 Stored. The TSB was intended to address customer reports of transmission judder (shake, shudder, single or multiple bumps or vibration), hesitation on acceleration, lack of power or RPM Flare. The repair procedure involved a reprogram of the TCM.

84. On September 28, 2017, Nissan issued TSB NTB15-069a for the Class Vehicles. This TSB is entitled “Voluntary Service Campaign 2012-2014 Sentra, 2012-2014 Versa Sedan, and 214 Versa Note; CVT Reprogramming.” The TSB was intended to reprogram the TCM to address customer complaints with the CVT. On information and belief, NTB15-069a superseded NTB15-069, which was originally released on or before September of 2015.

85. On February 1, 2018, Nissan issued TSB NTB17-034e for the Class Vehicles. This TSB is entitled “2013-2017 Sentra and Versa Sedan, and 214-2017 Versa Note; CVT Judder and/or P0746/P0965 Stored.” The TSB was intended to address customer reports of transmission judder (shake, shudder, single or multiple bumps or vibration), hesitation on acceleration, lack of power or RPM Flare. The repair procedure involved a reprogram of the

TCM. On information and belief, it was a revision to NTB17-034d.

86. On information and believe, each TSB issued by Nissan was approved by manager, directors, and/or executives at Nissan. Therefore, on information and belief, Nissan's managers, directors, and/or executives knew, or should have known, about the CVT Defect, but refused to disclose the CVT Defect to prospective purchaser and owners, and/or actively concealed the CVT Defect.

87. The existence of the CVT Defect is a material fact that a reasonable consumer would consider when deciding whether to purchase or lease a Class Vehicle. Had Plaintiffs and other Class Members known that the Class Vehicles were equipped with transmission subject to premature failure, they would have paid less for the Class Vehicles or would not have purchased or leased them.

88. Reasonable consumers, like Plaintiffs, reasonably expect that a vehicle's transmission is safe, will function in a manner that will not pose a safety risk, and is free from defects. Plaintiffs and Class Members further reasonably expect that Nissan will not sell or lease vehicles with known safety defects, such as the CVT Defect, and will disclose any such defects to its consumers when it learns of them. They did not expect Nissan to fail to disclose the CVT Defect to them and to continually deny it.

Nissan Has Actively Concealed the CVT Defect

89. Despite its knowledge of the CVT Defect in the Class Vehicles, Nissan actively concealed the existence and nature of the defect from Plaintiffs and Class Members. Specifically, Nissan failed to disclose or actively concealed at and after the time of purchase, lease, or repair:

- (a) all known material defects or material nonconformity of the Class Vehicles, including the defects pertaining to the CVT;

- (b) that the Class Vehicles, including the CVT, were not in good in working order, were defective, and were not fit for their intended purposes; and
- (c) that the Class Vehicles and the CVT were defective, despite the fact that Nissan learned of such defects as early as 2013.

90. When consumers present their Class Vehicles to an authorized Nissan dealer for CVT repairs, rather than repair the problem under warranty, Nissan dealers either inform consumers that their vehicles are functioning properly or conduct repairs that merely mask the CVT Defect.

91. Nissan has caused Plaintiffs and Class Members to expend money and/or time at its dealerships to diagnose, repair or replace the Class Vehicles' CVT and/or related components, despite Nissan's knowledge of the CVT Defect.

Nissan Has Unjustly Retained a Substantial Benefit

92. On information and belief, Plaintiffs allege that Nissan unlawfully failed to disclose the alleged defect to induce them and other putative Class Members to purchase or lease the Class Vehicles.

93. Plaintiffs allege further that Nissan thus engaged in deceptive acts or practices pertaining to all transactions involving the Class Vehicles, including Plaintiffs'.

94. As discussed above, therefore, Plaintiffs allege that Nissan unlawfully induced them to purchase their respective Class Vehicles by concealing a material fact (the defective CVT) and that they would have paid less for the Class Vehicles, or not purchased them at all, had they known of the defect.

95. Accordingly, Nissan's ill-gotten gains, benefits accrued in the form of increased sales and profits resulting from the material omissions that did - and likely will continue to - deceive consumers, should be disgorged.

CLASS ACTION ALLEGATIONS

96. Plaintiffs bring this lawsuit as a class action on behalf of themselves and all others similarly situated as members of the proposed Class pursuant to Federal Rules of Civil Procedure 23(a) and 23(b)(3). This action satisfies the numerosity, commonality, typicality, adequacy, predominance, and superiority requirements of those provisions.

97. The Class and Sub-Class are defined as:

Class: All individuals in the United States who purchased or leased any 2013-2017 Nissan Versa, Versa Note or Juke equipped with an Xtronic CVT (the “Nationwide Class” or “Class”).

CLRA Sub-Class: All members of the California Sub-Class who are “consumers” within the meaning of California Civil Code § 1761(d).

California Sub-Class: All members of the Nationwide Class who purchased or leased their vehicles in the State of California.

New Jersey Sub-Class: All members of the Nationwide Class who purchased or leased their Class Vehicles in the State of New Jersey.

Florida Sub-Class: All members of the Nationwide Class who purchased or leased their Class Vehicles in the state of Florida.

98. Excluded from the Class and Sub-Classes are: (1) Nissan, any entity or division in which Nissan has a controlling interest, and their legal representatives, officers, directors, assigns, and successors; (2) the Judge to whom this case is assigned and the Judge’s staff; (3) any Judge sitting in the presiding state and/or federal court system who may hear an appeal of any judgment entered; and (4) those persons who have suffered personal injuries as a result of the facts alleged herein. Plaintiffs reserve the right to amend the Class and Sub-Class definitions if discovery and further investigation reveal that the Class and Sub-Class should be expanded or otherwise modified.

99. **Numerosity:** Although the exact number of Class Members is uncertain and

can only be ascertained through appropriate discovery, the number is great enough such that joinder is impracticable. The disposition of the claims of these Class Members in a single action will provide substantial benefits to all parties and to the Court. The Class Members are readily identifiable from information and records in Nissan's possession, custody, or control, as well as from records kept by the Department of Motor Vehicles.

100. Typicality: Plaintiffs' claims are typical of the claims of the Class in that Plaintiffs, like all Class Members, purchased or leased a Class Vehicle designed, manufactured, and distributed by Nissan. The representative Plaintiffs, like all Class Members, has been damaged by Nissan's misconduct in that they have incurred or will incur the cost of repairing or replacing the defective CVT and/or its components. Furthermore, the factual bases of Nissan's misconduct are common to all Class Members and represent a common thread resulting in injury to the Class.

101. Commonality: There are numerous questions of law and fact common to Plaintiffs and the Class that predominate over any question affecting Class Members individually. These common legal and factual issues include the following:

- (a) Whether Class Vehicles suffer from defects relating to the CVT;
- (b) Whether the defects relating to the CVT constitute an unreasonable safety risk;
- (c) Whether Nissan knows about the defects pertaining to the CVT and, if so, how long Nissan has known of the defect;
- (d) Whether the defective nature of the CVT constitutes a material fact;
- (e) Whether Nissan has a duty to disclose the defective nature of the CVT to Plaintiffs and Class Members;
- (f) Whether Plaintiffs and the other Class Members are entitled to equitable

- relief, including a preliminary and/or permanent injunction;
- (g) Whether Nissan knew or reasonably should have known of the defects pertaining to the CVT before it sold and leased Class Vehicles to Class Members;
 - (h) Whether Nissan should be declared financially responsible for notifying the Class Members of problems with the Class Vehicles and for the costs and expenses of repairing and replacing the defective CVT and/or its components;
 - (i) Whether Nissan is obligated to inform Class Members of their right to seek reimbursement for having paid to diagnose, repair, or replace their defective CVT and/or its components;
 - (j) Whether Nissan breached the implied warranty of merchantability pursuant to the Magnuson-Moss Act; and
 - (k) Whether Nissan breached the implied warranty of merchantability pursuant to the Song-Beverly Act.

102. Adequate Representation: Plaintiffs will fairly and adequately protect the interests of the Class Members. Plaintiffs have retained attorneys experienced in the prosecution of class actions, including consumer and product defect class actions involving cars, and they intend to prosecute this action vigorously.

103. Predominance and Superiority: Plaintiffs and Class Members have all suffered and will continue to suffer harm and damages as a result of Nissan's unlawful and wrongful conduct. A class action is superior to other available methods for the fair and efficient adjudication of the controversy. Absent a class action, most Class Members would likely find the cost of litigating their claims prohibitively high and would therefore have no effective

remedy. Because of the relatively small size of the individual Class Members' claims, it is likely that only a few Class Members could afford to seek legal redress for Nissan's misconduct. Absent a class action, Class Members will continue to incur damages, and Nissan's misconduct will continue without remedy or relief. Class treatment of common questions of law and fact would also be a superior method to multiple individual actions or piecemeal litigation in that it will conserve the resources of the courts and the litigants and promote consistency and efficiency of adjudication.

FIRST CAUSE OF ACTION

(Violation of California's Consumers Legal Remedies Act,

California Civil Code § 1750, *et seq.*)

104. Plaintiffs incorporate by reference the allegations contained in paragraphs 1 through 103 as though fully set forth herein.

105. Plaintiff Cheyne Norman brings this cause of action on behalf of himself and the CLRA Sub-Class.

106. Defendants are "persons" as defined by California Civil Code § 1761(c).

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

108. By failing to disclose and concealing the defective nature of the CVT from Plaintiffs and prospective Class Members, Nissan violated California Civil Code § 1770(a), as it represented that the Class Vehicles and their CVT had characteristics and benefits that they do not have and represented that the Class Vehicles and their CVT were of a particular standard, quality, or grade when they were of another. *See* Cal. Civ. Code §§ 1770(a)(5) & (7).

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

110. Nissan knew that the Class Vehicles and their CVT suffered from an inherent defect, were defectively designed, and were not suitable for their intended use.

111. As a result of their reliance on Nissan's omissions, owners and/or lessees of the Class Vehicles, including Plaintiff, suffered an ascertainable loss of money, property, and/or value of their Class Vehicles. Additionally, as a result of the CVT Defect, Plaintiff and Class Members were harmed and suffered actual damages in that the Class Vehicles' CVT and its components are substantially certain to fail before their expected useful life has run.

112. Nissan was under a duty to Plaintiff and Class Members to disclose the defective nature of the CVT and/or the associated repair costs because:

- (a) Nissan was in a superior position to know the true state of facts about the safety defect in the Class Vehicles' CVT;
- (b) Plaintiff and Class Members could not reasonably have been expected to learn or discover that their CVT had a dangerous safety defect until it manifested; and
- (c) Nissan knew that Plaintiff and Class Members could not reasonably have been expected to learn of or discover the safety defect.

113. In failing to disclose the defective nature of CVT, Nissan knowingly and intentionally concealed material facts and breached its duty not to do so.

114. The facts Nissan concealed from or failed to disclose to Plaintiff and Class Members are material in that a reasonable consumer would have considered them to be important in deciding whether to purchase or lease the Class Vehicles or pay less. Had

Plaintiff and Class Members known that the Class Vehicles' CVT was defective, they would not have purchased or leased the Class Vehicles or would have paid less for them.

115. Plaintiff and Class Members are reasonable consumers who do not expect the transmission installed in their vehicles to exhibit problems such as loss of power and premature failure.

116. This is the reasonable and objective consumer expectation relating to a vehicle's transmission.

117. As a result of Nissan's conduct, Plaintiff and Class Members were harmed and suffered actual damages in that, on information and belief, the Class Vehicles experienced and will continue to experience problems such as loss of power, premature wear, and frequent replacement or repair.

118. As a direct and proximate result of Nissan's unfair or deceptive acts or practices, Plaintiffs and Class Members suffered and will continue to suffer actual damages.

119. Plaintiff and the Class are entitled to equitable relief.

120. Plaintiff provided Nissan with notice of its violations of the CLRA pursuant to California Civil Code § 1782(a). If Nissan fails to provide appropriate relief for their violations of the CLRA within 30 days, Plaintiff will seek monetary, compensatory, and punitive damages, in addition to the injunctive and equitable relief he seeks now.

SECOND CAUSE OF ACTION

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

121. Plaintiffs incorporate by reference the allegations contained in the other paragraphs of this Complaint.

122. Plaintiff Norman brings this cause of action on behalf of himself and the California Sub-Class.

123. As a result of their reliance on Nissan's omissions, owners and/or lessees of the Class Vehicles, including Plaintiffs, suffered an ascertainable loss of money, property, and/or value of their Class Vehicles. Additionally, as a result of the CVT Defect, Plaintiff and Class Members were harmed and suffered actual damages in that the Class Vehicles' CVT and/or its components are substantially certain to fail before their expected useful life has run.

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

125. Plaintiff and Class Members are reasonable consumers who do not expect their transmission to exhibit problems such as loss of power, premature wear, and frequent replacement or repair.

126. Nissan knew the Class Vehicles and their CVT, were defectively designed or manufactured, would fail prematurely, and were not suitable for their intended use.

127. In failing to disclose the CVT Defect, Nissan has knowingly and intentionally concealed material facts and breached its duty not to do so.

128. Nissan was under a duty to Plaintiff and Class Members to disclose the defective nature of the Class Vehicles and their CVT because:

- (a) Nissan was in a superior position to know the true state of facts about the safety defect in the Class Vehicles' CVT; and
- (b) Nissan actively concealed the defective nature of the Class Vehicles and their CVT from Plaintiff and the Class Members.

129. The facts Nissan concealed from or not disclosed to Plaintiff and Class Members are material in that a reasonable person would have considered them to be important in deciding whether to purchase or lease Class Vehicles. Had they known that the Class

Vehicles' CVT was defective and posed a safety hazard, then Plaintiff and Class Members would have paid less for Class Vehicles equipped with the CVT or would not have purchased or leased them at all.

130. Nissan continued to conceal the defective nature of the Class Vehicles and their CVT even after Class Members began to report problems.

131. Nissan's conduct was and is likely to deceive consumers.

132. Nissan's acts, conduct, and practices were unlawful, in that they constituted:

- (a) Violations of California's Consumers Legal Remedies Act;
- (b) Violations of the Song-Beverly Consumer Warranty Act;
- (c) Breach of Express Warranty under California Civil Code section 2313, et seq.

133. By its conduct, Nissan has engaged in unfair competition and unlawful, unfair, and fraudulent business practices.

134. Nissan's unfair or deceptive acts or practices occurred repeatedly in Nissan's trade or business, and were capable of deceiving a substantial portion of the purchasing public.

135. As a direct and proximate result of Nissan's unfair and deceptive practices, Plaintiffs and Class Members have suffered and will continue to suffer actual damages.

136. Nissan has been unjustly enriched and should be required to make restitution to Plaintiffs and the Class pursuant to §§ 17203 and 17204 of the Business & Professions Code.

THIRD CAUSE OF ACTION

(Breach of Implied Warranty Pursuant to Song-Beverly

Consumer Warranty Act, California Civil Code §§ 1792 and 1791.1, *et seq.*)

137. Plaintiffs incorporate by reference the allegations contained in paragraphs 1 through 103 as though fully set forth herein.

138. Plaintiff Norman brings this cause of action against Nissan on behalf of himself and the California Sub-Class.

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

140. Nissan provided Plaintiff and Class Members with an implied warranty that the Class Vehicles and their components and parts are merchantable and fit for the ordinary purposes for which they were sold. However, the Class Vehicles are not fit for their ordinary purpose of providing reasonably reliable and safe transportation because, *inter alia*, the Class Vehicles and their CVT suffered from an inherent defect at the time of sale and thereafter and are not fit for their particular purpose of providing safe and reliable transportation.

141. Nissan impliedly warranted that the Class Vehicles were of merchantable quality and fit for their intended use. This implied warranty included, among other things: (i) a warranty that the Class Vehicles and their CVT were manufactured, supplied, distributed, and/or sold by Nissan would provide safe and reliable transportation; and (ii) a warranty that the Class Vehicles and their CVT would be fit for their intended use.

142. Contrary to the applicable implied warranties, the Class Vehicles and their CVT at the time of sale and thereafter were not fit for their ordinary and intended purpose of

providing Plaintiff and Class Members with reliable, durable, and safe transportation. Instead, the Class Vehicles are defective, including the defective design of their CVT.

143. The alleged CVT Defect is inherent and was present in each Class Vehicle at the time of sale.

144. As a result of Nissan's breach of the applicable implied warranties, owners and/or lessees of the Class Vehicles suffered an ascertainable loss of money, property, and/or value of their Class Vehicles. Additionally, as a result of the CVT Defect, Plaintiff and Class Members were harmed and suffered actual damages in that the Class Vehicles' CVT and/or its components are substantially certain to fail before their expected useful life has run.

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

FOURTH CAUSE OF ACTION

(Breach of Express and Implied Warranty under the Magnuson-Moss Warranty Act,

15 U.S.C. §§ 2303 *et seq.*)

146. Plaintiffs incorporate by reference the allegations contained in paragraphs 1 through 103 as though fully set forth herein.

147. Plaintiffs bring this cause of action on behalf of themselves and the Class, or, in the alternative, on behalf of the California, New Jersey, and Florida Sub-Classes.

148. The Class Vehicles are a "consumer product" within the meaning of the Magnuson-Moss Warranty Act, 15 U.S.C. § 2301(1).

149. Plaintiffs and Class Members are "consumers" within the meaning of the Magnuson-Moss Warranty Act, 15 U.S.C. § 2301(3).

150. Nissan is a "supplier" and "warrantor" within the meaning of the Magnuson-

Moss Warranty Act, 15 U.S.C. § 2301(4)-(5).

151. Every class vehicle is backed by a New Vehicle Limited Warranty (“Warranty”). Nissan’s Warranty covers any repairs needed to correct defects in materials or workmanship of covered parts. The basic coverage period lasts 36 months or 36,000 miles, whichever comes first, and the powertrain coverage lasts 60 months or 60,000 miles, whichever comes first. The powertrain coverage specifically applies to the engine, transmission and transaxle, drivetrain, and restraint system. Nissan explicitly extended the Warranty to all purchasers, lessees, and subsequent purchasers and lessees of class vehicles throughout the United States. The Warranty assured consumers that Nissan would repair any defect in materials or workmanship under normal use.

152. On information and belief, Nissan breached the express warranties by purporting to repair the transmission and its component parts by replacing the defective or damaged transmission components with the same defective components and/or instituting temporary fixes, on information and belief, to ensure that the CVT Defect manifests outside of the Class Vehicles’ express warranty period.

153. Plaintiff gave Nissan notice of its breach by presenting their vehicles to Nissan dealerships for repairs that were not made.

154. However, Plaintiffs were not required to notify Nissan of the breach and/or were not required to do so because affording Nissan a reasonable opportunity to cure its breach of written warranty would have been futile. Nissan was also on notice of the defect from the complaints and service requests it received from Class Members, from repairs and/or replacements of the transmission or a component thereof, and through other internal sources.

155. Additionally, Nissan breached the express warranty by performing illusory repairs. Rather than repairing the vehicles pursuant to the express warranty, Nissan falsely

informed class members that there was no problem with their vehicle, performed ineffective software flashes, or replaced defective components in the CVT Transmissions with equally defective components, without actually repairing the vehicles.

156. Moreover, Nissan impliedly warranted that the Class Vehicles were of merchantable quality and fit for use. This implied warranty included, among other things: (i) a warranty that the Class Vehicles and their CVT were manufactured, supplied, distributed, and/or sold by Nissan would provide safe and reliable transportation; and (ii) a warranty that the Class Vehicles and their CVT would be fit for their intended use while the Class Vehicles were being operated.

157. Contrary to the applicable implied warranties, the Class Vehicles and their CVTs at the time of sale and thereafter were not fit for their ordinary and intended purpose of providing Plaintiffs and Class Members with reliable, durable, and safe transportation. Instead, the Class Vehicles are defective, including the defective design of their CVT.

158. Nissan's breach of express and implied warranties has deprived Plaintiffs and Class Members of the benefit of their bargain.

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

160. Nissan has been afforded a reasonable opportunity to cure its breaches, including when Plaintiffs and Class Members brought their vehicles in for diagnoses and repair of the CVT.

161. As a direct and proximate cause of Nissan's breach of express and implied warranties, Plaintiffs and Class Members sustained damages and other losses in an amount to

be determined at trial. Nissan's conduct damaged Plaintiffs and Class Members, who are entitled to recover actual damages, consequential damages, specific performance, diminution in value, costs, attorneys' fees, and/or other relief as appropriate.

162. As a result of Nissan's violations of the Magnuson-Moss Warranty Act as alleged herein, Plaintiffs and Class Members have incurred damages.

FIFTH CAUSE OF ACTION

(For Breach of Express Warranty Under Cal. Comm. Code § 2313)

163. Plaintiffs incorporate by reference the allegations set forth in paragraphs 1 through 103 as though fully set forth herein.

164. Plaintiffs Norman brings this cause of action on behalf of the California Sub-Class.

165. As a result of Nissan's breach of the applicable express warranties, owners and/or lessees of the Class Vehicles suffered an ascertainable loss of money, property, and/or value of their Class Vehicles. Additionally, as a result of the CVT Defect, Plaintiffs and Class Members were harmed and suffered actual damages in that the Class Vehicles' transmissions are substantially certain to fail before their expected useful life has run.

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

167. Nissan manufactured and/or installed the transmission and its component parts in the Class Vehicles, and the transmission and its component parts are covered by the express warranty.

168. Nissan provided all purchasers and lessees of the Class Vehicles with a New Vehicle Basic Limited Warranty for three (3) year sand 36,000 miles, and a Powertrain

Warranty for five (5) years and 60,000 miles.

169. On information and belief, Nissan breached the express warranty by purporting to repair the transmission and its component parts by replacing the defective or damaged transmission components with the same defective components and/or instituting temporary fixes, on information and belief, to ensure that the CVT Defect manifests outside of the Class Vehicles' express warranty period.

170. Plaintiff gave Nissan notice of its breach by presenting their vehicles to Nissan dealerships for repairs that were not made.

171. However, Plaintiffs were not required to notify Nissan of the breach and/or were not required to do so because affording Nissan a reasonable opportunity to cure its breach of written warranty would have been futile. Nissan was also on notice of the defect from the complaints and service requests it received from Class Members, from repairs and/or replacements of the transmission or a component thereof, and through other internal sources.

172. As a direct and proximate cause of Nissan's breach, Plaintiffs and Class Members suffered, and continue to suffer, damages, including economic damages at the point of sale or lease. Additionally, Plaintiffs and Class Members either have incurred or will incur economic damages at the point of repair in the form of the cost of repair.

173. Additionally, Nissan breached the express warranty by performing illusory repairs. Rather than repairing the vehicles pursuant to the express warranty, Nissan falsely informed class members that there was no problem with their vehicle, performed ineffective software flashes, or replaced defective components in the CVT Transmissions with equally defective components, without actually repairing the vehicles.

174. Plaintiffs and Class Members are entitled to legal and equitable relief against Nissan, including actual damages, consequential damages, specific performance, attorneys'

fees, costs of suit, and other relief as appropriate.

SIXTH CAUSE OF ACTION

(Violations of the New Jersey Consumer Fraud Act, N.J. Stat. Ann. §§ 56:8-1, *et seq.*)

175. Plaintiffs incorporate by reference the allegations contained in paragraphs 1 through 103 as though fully set forth herein.

176. Plaintiff Wescott bring this cause of action on behalf of herself and on behalf of the New Jersey Sub-Class.

177. The New Jersey Consumer Fraud Act, N.J. STAT. ANN. §§ 56:8-1, *et seq.* (“NJCFA”) protects consumers against “any unconscionable commercial practice, deception, fraud, false pretense, false promise, misrepresentation, or the knowing, concealment, suppression, or omission of any material fact with intent that others rely upon such concealment, suppression or omission, in connection with the sale or advertisement of any merchandise...” N.J.S.A. 56:8-2.

178. Plaintiff and Class Members are consumers who purchased and/or leased Vehicles for personal, family or household use.

179. In the course of Nissan’s business, it failed to disclose and actively concealed the dangerous risk of the CVT Defect in the Vehicles as described above. Accordingly, Nissan has engaged in unfair and deceptive trade practices, including representing that the Vehicles have characteristics, uses, benefits, and qualities which they do not have; representing that the Vehicles are of a particular standard and quality when they are not; advertising the Vehicles with the intent to not sell them as advertised in violation of N.J.S.A. 56:8-2.2; and otherwise engaging in conduct likely to deceive in violation of N.J.S.A. 56:8-2.

180. Nissan’s acts and practices, as described herein, offend established public policy because of the harm they cause to consumers, motorists, and pedestrians outweighs any

benefit associated with such practices, and because Nissan concealed the defective nature of the Vehicles from consumers.

181. Nissan's actions as set forth above occurred in the conduct of trade or commerce.

182. Defendants' conduct caused Plaintiff and Class Members to suffer an ascertainable loss. In addition to direct monetary losses, Plaintiff and Class Members have suffered an ascertainable loss by receiving less than what was promised.

183. Plaintiff and Class Members were injured as a result of Nissan's conduct in that Plaintiff and Class Members overpaid for their Vehicles and did not receive the benefit of their bargain, they incurred costs for transmission repairs, and their Vehicles suffered a diminution in value.

184. A causal relationship exists between Defendants' unlawful conduct and the ascertainable losses suffered by Plaintiff and Class Members. Had the defective vehicle design in the vehicles been disclosed, consumers would not have purchased them or would have paid less for the vehicles had they decided to purchase them.

185. Pursuant to N.J. STAT. ANN. § 56:8-20, Plaintiffs will serve the New Jersey Attorney General with a copy of this Complaint.

SEVENTH CAUSE OF ACTION

(Breach of Implied Warranty of Merchantability Pursuant to N.J.S.A. § 12A:2-314)

186. Plaintiffs incorporate by reference the allegations contained in paragraphs 1 through 103 as though fully set forth herein.

187. Plaintiff Sophia Wescott brings this cause of action on behalf of herself and on behalf of the New Jersey Sub-Class.

188. Nissan is a "merchant" with respect to motor vehicles.

189. A warranty that the Vehicles were in merchantable condition was implied by New Jersey law in the transactions when Plaintiffs purchased their Vehicles.

190. The Vehicles, when sold and at all times thereafter, were not merchantable and are not fit for the ordinary purpose for which cars are used due to the CVT Defect.

191. Plaintiffs gave Nissan notice of its breach by presenting their vehicle to Nissan dealerships for repairs that were not made.

192. As a direct and proximate result of Defendants' breach of the warranties of merchantability, Plaintiffs and the Class have been damaged in an amount to be proven at trial.

193. Defendants' attempt to disclaim or limit the implied warranty of merchantability vis-à-vis consumers is unconscionable and unenforceable here. Specifically, Defendants' warranty limitation is unenforceable because they knowingly sold a defective product without informing consumers about the defect.

194. The time limits contained in Defendants' warranty period were also unconscionable and inadequate to protect Plaintiff and Class Members. Among other things, Plaintiff and Class Members had no meaningful choice in determining these time limitations, the terms of which unreasonably favored Defendants. A gross disparity in bargaining power existed between Nissan and Class members, and Nissan knew or should have known that the Vehicles were defective at the time of sale and would fail well before their useful lives.

195. Plaintiffs and Class members have complied with all obligations under the warranty, or otherwise have been excused from performance of said obligations as a result of Defendants' conduct described herein.

EIGHTH CAUSE OF ACTION

(Breach of the Duty of Good Faith and Fair Dealing)

196. Plaintiffs incorporate by reference the allegations contained in paragraphs 1 through 103 as though fully set forth herein.

197. Plaintiff Sophia Wescott brings this cause of action on behalf of herself and on behalf of the New Jersey Sub-Class.

198. Every contract in New Jersey contains an implied covenant of good faith and fair dealing. The implied covenant of good faith and fair dealing is an independent duty and may be breached even if there is no breach of a contract's express terms.

199. Defendants breached the covenant of good faith and fair dealing by, *inter alia*, failing to notify Plaintiffs and Class members of the CVT Defect in the Vehicles, and failing to fully and properly repair this defect.

200. Defendants acted in bad faith and/or with a malicious motive to deny Plaintiff and the Class members some benefit of the bargain originally intended by the parties, thereby causing them injuries in an amount to be determined at trial.

201. Plaintiffs and Class members have complied with all obligations under the warranty, or otherwise have been excused from performance of said obligations as a result of Defendants' conduct described herein.

NINTH CAUSE OF ACTION

(Violation of the Florida Deceptive and Unfair Trade Practice Act, §§ 501.201, *et seq.*, Florida Statutes)

202. Plaintiffs incorporate by reference the allegations contained in paragraphs 1 through 103 as though fully set forth herein.

203. Plaintiff Patricia Weckwerth brings this cause of action on behalf of herself and

on behalf of the members of the Florida Sub-Class.

204. Plaintiff and Class Members are “consumers” as defined by Florida Statute §501.203(7), and the subject transactions are “trade or commerce” as defined by Florida Statute §501.203(8).

205. Nissan manufactures Nissan vehicles, which are “goods” within the meaning of FDUPTA.

206. FDUPTA was enacted to protect the consuming public and legitimate business enterprises from those who engage in unfair methods of competition, or unconscionable, deceptive, or unfair acts or practices in the conduct of any trade or commerce.

207. For the reasons discussed herein, Nissan violated and continues to violate FDUPTA by engaging in the herein described unconscionable, deceptive, unfair acts or practices proscribed by Florida Statute §§ 501.201, *et seq.* Nissan’s omissions and practices described herein were likely to, and did in fact, deceive and mislead members of the public, including consumers acting reasonably under the circumstances, to their detriment. By failing to disclose and concealing the defective nature of the transmission from Plaintiffs and prospective Class Members, Nissan violated FDUPTA, as it represented that the Class Vehicles and their transmissions had characteristics and benefits that they do not have, and represented that the Class Vehicles and their transmissions were of a particular standard, quality, or grade when they were of another.

208. Nissan’s unfair and deceptive acts or practices occurred repeatedly in Nissan’s trade or business, were capable of deceiving a substantial portion of the purchasing public, and imposed a serious safety risk on the public.

209. Nissan knew that the Class Vehicles and their transmissions suffered from an inherent defect and were not suitable for their intended use.

210. As a result of their reliance on Nissan's omissions, owners and/or lessees of the Class Vehicles suffered an ascertainable loss of money, property, and/or value of their Class Vehicles. Additionally, as a result of the defective transmissions, Plaintiff and Class Members were harmed and suffered actual damages in that the Class Vehicles' transmissions are defective.

211. Nissan was under a duty to Plaintiff and Class Members to disclose the defective nature of the transmissions and/or the associated repair costs because:

- (a) Nissan was in a superior position to know the true state of facts about the safety defect in the Class Vehicles' transmissions;
- (b) Plaintiff and Class Members could not reasonably have been expected to learn or discover that their transmissions had a dangerous safety defect until it manifested; and
- (c) Nissan knew that Plaintiff and Class Members could not reasonably have been expected to learn of or discover the safety defect.

212. In failing to disclose the defective nature of the transmissions, Nissan knowingly and intentionally concealed material facts and breached its duty not to do so.

213. The facts Nissan concealed from or failed to disclose to Plaintiff and Class Members are material in that a reasonable consumer would have considered them to be important in deciding whether to purchase or lease the Class Vehicles or pay less. Had Plaintiff and Class Members known that the Class Vehicles' transmissions were defective, they would not have purchased or leased the Class Vehicles or would have paid less for them.

214. Plaintiff and Class Members are reasonable consumers who do not expect the transmissions installed in their vehicles to exhibit the problems described herein. This is the

reasonable and objective consumer expectation relating to vehicle transmissions.

215. As a result of Nissan's conduct, Plaintiff and Class Members were harmed and suffered actual damages in that, on information and belief, the Class Vehicles experienced and will continue to experience transmissions problems.

216. As a direct and proximate result of Nissan's unfair or deceptive acts or practices alleged herein, Plaintiff and Class Members suffered and will continue to suffer actual damages and are entitled to recover actual damages to the extent permitted by law, including class action rules, in an amount to be proven at trial. In addition, Plaintiff and Class Members seek equitable and injunctive relief against Nissan on terms that the Court considers reasonable, and reasonable attorneys' fees.

TENTH CAUSE OF ACTION

(Breach of Express Warranty [Florida])

217. Plaintiffs incorporate by reference the allegations contained in paragraphs 1 through 103 as though fully set forth herein.

218. Plaintiff Patricia Weckwerth brings this cause of action on behalf of herself and on behalf of the members of the Florida Sub-Class.

219. For each Class Vehicle sold by Nissan, an express written warranty was issued that covered the vehicle, including, but not limited to, the CVT, and which warranty the vehicle to be free of defects at the time of delivery.

220. Nissan breached its warranties by offering for sale and selling defective vehicles that were defective and unsafe, thereby subjecting the occupants of the Class Vehicles to damages and risks of loss and injury.

221. Plaintiffs gave Nissan notice of its breach by presenting their vehicles to Nissan dealerships for repairs that were not made.

222. On information and belief, Nissan also breached the express warranty by purporting to repair the transmission and its component parts by replacing the defective or damaged transmission components with the same defective components and/or instituting temporary fixes, on information and belief, to ensure that the CVT Defect manifests outside of the Class Vehicles' express warranty period.

223. Additionally, Nissan breached the express warranty by performing illusory repairs. Rather than repairing the vehicles pursuant to the express warranty, Nissan falsely informed class members that there was no problem with their vehicle, performed ineffective software flashes, or replaced defective components in the CVT Transmissions with equally defective components, without actually repairing the vehicles.

224. As a result of Nissan's breach of the applicable express warranties, owners and/or lessees of the Class Vehicles suffered an ascertainable loss of money, property, and/or value of their Class Vehicles. Additionally, as a result of the CVT Defect, Plaintiff and Class Members were harmed and suffered actual damages in that the Class Vehicles' CVT and/or its components are substantially certain to fail before their expected useful life has run.

ELEVENTH CAUSE OF ACTION

(Breach of Implied Warranty [Florida])

225. Plaintiffs incorporate by reference the allegations contained in paragraphs 1 through 103 as though fully set forth herein.

226. Plaintiff Patricia Weckwerth brings this cause of action on behalf of herself and on behalf of the members of the Florida Sub-Class.

227. Nissan impliedly warranted that the Class Vehicles, which it designed, manufactured, sold, or leased to Plaintiffs and members of the Florida Sub-Class, were merchantable, fit and safe for their ordinary use, not otherwise injurious to consumers, and

would come with adequate safety warnings.

228. Because the Class Vehicles are equipped with the defective CVT, the vehicles purchased or leased and used by Plaintiff and Class Members are unsafe, unfit for use when sold, threaten injury to their occupants, and are not merchantable. Nissan breached the implied warranty of merchantability in the sale or lease of the Class Vehicles to Plaintiff and members of the Florida Sub-Class in that the vehicles were not fit for their ordinary purpose and not merchantable.

229. Plaintiffs gave Nissan notice of its breach by presenting their vehicles to Nissan dealerships for repairs that were not made.

230. As a result of Nissan's breach of the applicable implied warranties, owners and/or lessees of the Class Vehicles suffered an ascertainable loss of money, property, and/or value of their Class Vehicles. Additionally, as a result of the CVT Defect, Plaintiff and Class Members were harmed and suffered actual damages in that the Class Vehicles' CVT and/or its components are substantially certain to fail before their expected useful life has run.

TWELFTH CAUSE OF ACTION

(For Unjust Enrichment)

231. Plaintiffs incorporate by reference the allegations contained in paragraphs 1 through 103 as though fully set forth herein.

232. Plaintiffs bring this cause of action on behalf of themselves and the Class, or, in the alternative, on behalf of the California, New Jersey, and Florida Sub-Classes.

233. As a direct and proximate result of Nissan's failure to disclose known defects, Nissan has profited through the sale and lease of the Class Vehicles. Although these vehicles are purchased through Nissan's agents, the money from the vehicle sales flows directly back to Nissan.

234. Additionally, as a direct and proximate result of Nissan's failure to disclose known defects in the Class Vehicles, Plaintiffs and Class Members have vehicles that require repeated, high-cost repairs that can and therefore have conferred an unjust substantial benefit upon Nissan.

235. Nissan has been unjustly enriched due to the known defects in the Class Vehicles through the use money paid that earned interest or otherwise added to Nissan's profits when said money should have remained with Plaintiffs and Class Members.

236. As a result of the Nissan's unjust enrichment, Plaintiffs and Class Members have suffered damages.

THIRTEENTH CAUSE OF ACTION

(Declaratory Judgment Act, 28 U.S.C. § 2201, et seq. and Fed. R. Civ. P. 57)

229. Plaintiffs incorporate by reference the allegations contained in paragraphs 1 through 103 as though fully set forth herein.

230. Plaintiffs bring this cause of action on behalf of themselves and the Class, or, in the alternative, on behalf of the California, New Jersey, and Florida Sub-Classes.

Declaratory relief is intended to minimize "the danger of avoidable loss and unnecessary accrual of damages." 10B Charles Alan Wright, Arthur R. Miller & Mary Kay Kane, *Federal Practice and Procedure* § 2751 (3d ed. 1998).

231. There is an actual controversy between Nissan and Plaintiffs concerning whether the Vehicles' defect creates an unreasonable safety hazard.

232. Pursuant to 28 U.S.C. § 2201, the Court may "declare the rights and legal relations of any interested party seeking such declaration, whether or not further relief is or could be sought."

233. Despite long knowing the nature of the Vehicles' defect and its likelihood of

placing Plaintiffs, the Classes and the public at risk of grave injury, Nissan refuses to publicly acknowledge the Vehicles' dangerous defect. Instead, Nissan has unsuccessfully attempted to remediate the defect without advising its consumers and other members of the public of the defect.

234. Accordingly, based on Nissan's failure to act, Plaintiffs seek a declaration that the Vehicles are defective, as alleged herein. The defective nature of the Vehicles is material and requires disclosure to all persons who own them.

235. The declaratory relief requested herein will generate common answers that will settle the controversy related to the alleged defective nature of the Vehicles and the reasons for their repeated failure. There is an economy to resolving these issues as they have the potential to eliminate the need for continued and repeated litigation.

RELIEF REQUESTED

236. Plaintiffs, on behalf of themselves and all others similarly situated, request the Court to enter judgment against Nissan, as follows:

- (a) An order certifying the proposed Class and Sub-Classes, designating Plaintiffs as named representative of the Class, and designating the undersigned as Class Counsel;
- (a) A declaration that Nissan is financially responsible for notifying all Class Members about the defective nature of the CVT, including the need for periodic maintenance;
- (b) An order enjoining Nissan from further deceptive distribution, sales, and lease practices with respect to Class Vehicles; compelling Nissan to issue a voluntary recall for the Class Vehicles pursuant to 49 U.S.C. § 30118(a); compelling Nissan to remove, repair, and/or replace the

Class Vehicles' defective CVT and/or its components with suitable alternative product(s) that do not contain the defects alleged herein; enjoining Nissan from selling the Class Vehicles with the misleading information; and/or compelling Nissan 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 Nissan 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;
- (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 Nissan must disgorge, for the benefit of 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

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

Respectfully Submitted,

/s/ Caroline Ramsey Taylor

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**Motion for pro hac vice admission forthcoming*