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Superior Court of California
County of Santa Barbara
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7 Attorneys for Plaintiff
8 SEBASTIAN GUPTA

9 **SUPERIOR COURT OF CALIFORNIA**
10 **COUNTY OF SANTA BARBARA**

11 SEBASTIAN GUPTA, individually, and on
12 behalf of a class of similarly situated
13 individuals,

14 Plaintiffs,

15 v.

16 MAZDA MOTOR OF AMERICA, INC.,
17 a California corporation; and
18 DOES 1 through 40, inclusive,

19 Defendants.

Case No. 18CV03967

CLASS ACTION COMPLAINT FOR:

- UNFAIR COMPETITION
- VIOLATION OF CONSUMER LEGAL REMEDIES ACT
- BREACH OF IMPLIED WARRANTY
- UNJUST ENRICHMENT
- FRAUD BY CONCEALMENT
- PRODUCT LIABILITY
- STRICT LIABILITY DESIGN DEFECT
- NEGLIGENCE

DEMAND FOR JURY TRIAL

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INTRODUCTION

1. This action arises from Defendant's marketing, distribution, sale, leasing, and servicing of Mazda vehicles equipped with a dangerously defective airbag system that inadvertently and spontaneously deploys while the vehicle is being driven under normal conditions.

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PARTIES

2. Plaintiff Sebastian Gupta is, and at all relevant times herein mentioned was, a citizen of the State of California.

3. Defendant Mazda Motor of America, Inc. is a corporation organized in and existing under the laws of the State of California and is registered with the California Secretary of State's Office to conduct business in California. On information and belief, Mazda Motor of America, Inc. and its affiliates designs, manufactures, markets, distributes, services, repairs, sells, and leases passenger vehicles, including the Class Vehicles, nationwide and in California, and is the warrantor and distributor of the Class Vehicles in the United States.

4. At all relevant times herein, on information and belief, Defendant is and has been engaged in the business of designing, manufacturing, constructing, assembling, marketing, distributing, and selling automobiles, other motor vehicles, and motor vehicle components in the State of California.

5. Plaintiff does not now know the true names and capacities of Does 1 through 40, inclusive, and therefore sue these defendants by these fictitious names. Each Doe defendant contributed to Plaintiff's damages. Plaintiff will amend this Complaint to state the Doe defendants' true names and capacities when ascertained.

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JURISDICTION

6. This Court has jurisdiction over this action pursuant to California Code of Civil Procedure § 410.10. Personal jurisdiction over Mazda is proper because Mazda has purposefully availed itself of the privilege of conducting business activities in California, including, but not limited to, designing, marketing, distributing, and/or selling Class Vehicles to Plaintiff and prospective class members.

7. This class action is brought pursuant to California Code of Civil Procedure § 382. Plaintiff is a California resident, as are all prospective class members. The monetary damages and restitution sought by Plaintiff and the prospective class members exceed the minimal jurisdiction limits of the Superior Court and will be established according to proof at trial.

VENUE

8. Venue is proper in this Court pursuant to California Code of Civil Procedure §§ 395, 395.5, and California Civil Code § 1780, because Plaintiff resides in the County of Santa Barbara, California and Defendant markets, distributes, sells, leases, and services Mazda vehicles to consumers in the County of Santa Barbara.

CLASS ACTION ALLEGATIONS

9. Plaintiff brings this lawsuit as a class action on behalf of himself and all others similarly situated as members of the proposed Plaintiff Class under California Code of Civil Procedure § 382.

10. The Plaintiff Class consists of, and is defined as, all natural persons in the State of California who own or lease a Mazda vehicle equipped with a factory installed airbag system (the

1 “Class Vehicles”) between April 13, 2016 and April 13, 2018. The aforementioned class is
2 referred to herein as the Plaintiff Class.

3 11. **Numerosity.** Defendants have sold or leased tens of thousands of Class Vehicles
4 in the State of California. Accordingly, members of the Plaintiff Class are so numerous that their
5 individual joinder in this action is impracticable. Class members may be notified of the pendency
6 of this action by mail, supplemented by published notice if deemed necessary or appropriate by
7 the Court.

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9 12. **Commonality.** Common questions of law and fact exist as to all members of the
10 Plaintiff Class and predominate over questions affecting only individuals. These common
11 questions include the following:

- 12 (a) Whether Class Vehicles suffer from a defect in the airbag system;
13 (b) Whether the defect constitutes an unreasonable safety risk;
14 (c) Whether Defendant is aware of the defect;
15 (d) When Defendant first became aware of the defect;
16 (e) Whether Defendant failed to notify owners and lessees of Class Vehicles about the
17 presence of the defect;
18 (f) Whether Defendant had a duty to notify owners and lessees of Class Vehicles about the
19 presence of the defect;
20 (g) Whether Defendant failed to disclose the defect to prospective purchasers or lessees of
21 Class Vehicles;
22 (h) Whether Defendant had a duty to disclose the defect to prospective purchasers or lessees
23 of Class Vehicles;
24 (i) Whether Defendant made or issued misleading statements about the existence of the
25 defect;
26 (j) Whether Defendant had a policy of refusing to reimburse consumers whose Class
27 Vehicles experienced an inadvertent airbag deployment for the costs of repairing their
28 damaged property;
(k) Whether Defendant has engaged in unlawful, unfair, and/or fraudulent business
practices in violation of the California Unfair Competition Law, California Business &
Professions Code § 17200, et seq., as alleged in this Complaint;
(l) Whether Defendant has violated the California Consumer Legal Remedies Act,

1 California Civil Code § 1750, et seq., as alleged in this Complaint; and

2 (m) Whether Plaintiff and the Plaintiff Class are entitled to equitable relief, including, but
3 not limited to, a preliminary and/or permanent injunction.

4 13. **Typicality.** Each Plaintiff's claims are typical of the claims of the Plaintiff Class,
5 because, among other things, each Plaintiff is the owner of a Class Vehicle that contains the same
6 defective airbag system found in all other Class Vehicles.

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8 14. **Adequate Representation.** Plaintiff is an adequate representative of the
9 Plaintiff Class because his interests do not conflict with the interests of the members of the class he
10 seeks to represent; Plaintiff has retained counsel competent and experienced in complex class
11 action litigation, and Plaintiff intends to prosecute this action vigorously. The interests of
12 members of the class will be fairly and adequately protected by Plaintiff and his counsel.

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

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26 16. Additionally, the Plaintiff Class may be certified because:
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1 (a) The litigation of separate actions by the individual members of the Plaintiff Class
2 creates a risk of inconsistent or varying adjudications which would establish incompatible
3 standards of conduct for Defendant;

4 (b) Adjudication with respect to individual members of the Plaintiff Class which would, as
5 a practical matter, be dispositive of the interests of the other members not parties to the
6 adjudication or substantially impair or impede their ability to protect their interests; and
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8 (c) Defendant has acted or refused to act on grounds generally applicable to the Plaintiff
9 Class, thereby making appropriate final injunctive relief or corresponding declaratory
10 relief with respect to the Plaintiff Class as a whole.
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12 **ALLEGATIONS COMMON TO ALL CAUSES OF ACTION**

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14 17. Defendant manufactures, markets, distributes, leases, and sells Mazda vehicles to
15 consumers in the State of California, including in the County of Santa Barbara.

16 18. Plaintiff is informed and believe, and based on that information and belief alleges
17 that the design and testing of the airbag system occurred at Defendant's research and
18 development sites located within the State of California.

19 19. Defendant's advertising campaign includes advertisements in national and regional
20 newspapers, national magazines, and television commercials that touts the safety devices equipped
21 in its vehicles, including the airbag system.
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23 20. Plaintiff is informed and believes, and based on that information and belief alleges
24 that Defendant developed its advertising campaign at its corporate headquarters located in the
25 State of California, and that Defendant hired advertising agencies located within the State of
26 California to create the print, television, and internet advertising for Defendant's campaign.
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1 21. Plaintiff is the owner of a 2016 Mazda Miata equipped with a factory installed
2 airbag system. On August 13, 2016, Plaintiff was driving her Mazda Miata on an interstate
3 highway when the driver's side side airbag inadvertently and spontaneously deployed.
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5 22. Plaintiff's vehicle had not collided with any object, nor did any object strike the
6 vehicle immediately prior to the inadvertent deployment. No other vehicle was involved.

7 23. The sound and sight of the airbag unexpectedly inflating and exploding frightened
8 Plaintiff, and caused him to lose control of the vehicle until the car struck the curb and came to a
9 stop.

10 24. The explosion of the airbag required Plaintiff to be taken the Emergency
11 Department at Cottage Hospital in Santa Barbara, California, where he was found to be bleeding
12 internally and suffered contusions to his ribcage. He was evaluated and monitored over a 10-hour
13 period for possible abdominal surgery, but the internal bleeding stopped without surgical
14 intervention. Plaintiff was discharged with instructions for follow up and continued monitoring
15 and pain management.
16

17 25. The inadvertent airbag deployment also caused extensive damage to Plaintiff's
18 vehicle.

19 26. Plaintiff and his father took the Mazda Miata to Perry Mazda of Santa Barbara to
20 find out the reason for the airbag's deployment. They also spoke to Brittney Benton, a customer
21 service representative for Defendant.
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23 27. Defendant refused to conduct any forensic investigation or otherwise determine
24 the cause of the airbag deployment. It denied that the inadvertent airbag deployment was caused
25 by a defect in the airbag system.
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1 35. Defendant's business acts and omissions alleged herein constitute unlawful, unfair,
2 and/or fraudulent trade practices, in violation of the Unfair Competition Law, California
3 Business & Professions Code § 17000, et seq.

4 36. Defendant, as set forth in this Complaint, supra, engages in unlawful, unfair, and
5 fraudulent business practices, consisting of acts and omissions that include, but are not limited to:
6

- 7 a. Fraudulent concealment of material facts, when Defendant had an affirmative duty to
8 disclose those facts to consumers, including Plaintiff and the Plaintiff Class;
- 9 b. Failure to disclose to consumers that the airbag system contains a dangerous defect and
10 may inadvertently deploy while consumers are driving the Class Vehicles;
- 11 c. Failure to truthfully respond to inquiries by consumers, including Plaintiff, about the
12 defects in the airbag system;
- 13 d. Violating the Consumer Legal Remedies Act, Cal. Civ. Code § 1750, et seq.; and
14
- 15 e. Disseminating false and misleading statements regarding the defects in the airbag
16 system.

17 37. As a direct and proximate result of these acts and omissions, Plaintiff and the
18 Plaintiff Class are informed and believe, and based upon that information and belief allege, that
19 the Defendant was able to unfairly compete with other automobile manufacturers.

20 38. Plaintiff and the Plaintiff Class are informed and believe, and based upon that
21 information and belief allege, that Defendant performed the above-mentioned acts with the intent
22 of gaining an unfair competitive advantage and thereby injuring the Plaintiff, the Plaintiff Class,
23 other competitors, and the general public.

24 39. The benefit to Defendant in obtaining higher profits is outweighed by the immoral,
25 unethical, oppressive, unscrupulous, and substantially injurious practice of marketing and selling
26 vehicles equipped with a defective airbag system. Had Defendant honestly disclosed its practices,
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1 consumers, including Plaintiff and the Plaintiff Class, would have had the opportunity to freely
2 choose another vehicle.

3 40. Plaintiff and the Plaintiff Class suffered monetary injury in fact as a direct result of
4 Defendant's wrongful conduct. Specifically, Plaintiff and the Plaintiff Class suffered monetary
5 injury when they paid the price for a non-defective Mazda vehicle, while receiving a vehicle worth
6 less money as the result of the dangerous defect in the air bag system.
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8 41. As a result of Defendant's unlawful, unfair, fraudulent, and/or deceptive acts
9 and/or omissions, the unlawful profits there from will not be completely and fully restored to the
10 rightful owners without equitable orders of injunction and restitution, as properly determined
11 pursuant to statute, including California Business & Professions Code § 17203, and other
12 applicable law.
13

14 42. Plaintiff and the Plaintiff Class are entitled to equitable relief, including
15 disgorgement of all profits Defendant earned because of its unlawful, unfair, and fraudulent
16 practices, attorneys' fees and costs, and declaratory relief.

17 43. Pursuant to California Business & Professions Code § 17203, Plaintiff and the
18 Plaintiff Class seek a judicial order directing Defendant to notify all identifiable owners and lessees
19 of Mazda vehicles equipped with a factory installed airbag system of the danger of an inadvertent
20 airbag deployment; to make a full and complete disclosure to potential purchasers or lessees of
21 Mazda vehicles equipped with a factory installed airbag system of the danger of an airbag
22 deployment; and to recall and repair all Mazda vehicles equipped with a factory installed airbag
23 system.
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SECOND CAUSE OF ACTION

VIOLATION OF CONSUMER LEGAL REMEDIES ACT

[Cal. Bus. & Prof. Code § 1750, et seq.]

(Against All Defendants)

44. Plaintiffs incorporate Paragraphs 1 through 43.

45. Plaintiff brings this claim for relief on behalf of himself and the members of the Plaintiff Class.

46. Each Defendant is a “person” as defined by section 1761(c) of the California Civil Code, and each Plaintiff and member of the Plaintiff Class is a “consumer,” as defined by section 1761(d) of the California Civil Code.

47. The Class Vehicles are “goods,” as defined by section 1761(a) of the California Civil Code, and the sale or lease of the Class Vehicles to Plaintiff and the members of the Plaintiff Class constitutes a “transaction,” as defined by section 1761(e) of the California Civil Code.

48. Defendant, as set forth in this Complaint, supra, engaged in practices proscribed under the Consumers Legal Remedies Act by, among other things: (a) representing that the Class Vehicles have characteristics, uses, or benefits that they do not have; (b) representing that the Class Vehicles were of a particular standard or quality, when in fact they were of a lesser standard or quality; (c) advertising the Class Vehicles with intent not to sell them as advertised; and (d) representing that the Class Vehicles were been supplied in accordance with a previous representation when they were not.

49. Defendant further violated the Consumers Legal Remedies Act by failing to disclose to potential purchasers or lessees of Class Vehicles that the airbag system is defective. Plaintiff and the members of the Plaintiff Class would not have purchased or leased the Class

1 Vehicles if Defendant had adequately disclosed information about the dangerous defect in the
2 airbag system.

3 50. Pursuant to the provisions of section 1780 of the California Civil Code, Plaintiff
4 and the Plaintiff Class seek an order enjoining Defendant from the unlawful practices described
5 herein, a declaration that Defendant' conduct violates the Consumers Legal Remedies Act, and
6 attorneys' fees and costs of litigation.
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9 **THIRD CAUSE OF ACTION**

10 **Breach of Implied Warranty Pursuant to Song-Beverly Consumer Warranty Act**

11 **[California Civil Code §§ 1792 and 1791.1, et seq.]**

12 **(Against All Defendants)**

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14 51. Plaintiff incorporates Paragraphs 1 through 50.

15 52. Plaintiff brings this cause of action against Defendant on behalf of himself and on
16 behalf of the members of the Plaintiff Class.

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

20 54. Defendant provided Plaintiff and Plaintiff Class with an implied warranty that the
21 Class Vehicles and their components and parts are merchantable and fit for the ordinary purposes
22 for which they were sold. However, the Class Vehicle is not fit for its ordinary purpose of
23 providing reasonably reliable and safe transportation because, inter alia, the Class Vehicles
24 suffered from an inherent defect in their airbag systems and therefore are not fit for their
25 particular purpose of providing safe and reliable transportation.
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1 55. Defendant impliedly warranted that the Class Vehicles were of merchantable
2 quality and fit for such use. This implied warranty included, among other things: (i) a warranty
3 that the Class Vehicles manufactured, supplied, distributed, and/or sold by Mazda were safe and
4 reliable for providing transportation; and (ii) a warranty that the Class Vehicles would be fit for
5 their intended use while the Class Vehicles were being operated.
6

7 56. Contrary to the applicable implied warranties, the Class Vehicles, at the time of
8 sale and thereafter, were not fit for their ordinary and intended purpose of providing Plaintiff and
9 Plaintiff Class with reliable, durable, and safe transportation. Instead, the Class Vehicles are
10 defective, including, but not limited to, the defective design and/or manufacture of their airbag
11 systems.
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13 57. As a result of Defendant's breach of the applicable implied warranties, owners
14 and/or lessees of the Class Vehicles suffered an ascertainable loss of money, property, and/or
15 value of their Class Vehicles. Additionally, as a result of the defect in the airbag systems, Plaintiffs
16 and Plaintiff Class were harmed and suffered actual damages.
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18 58. Defendant's actions, as complained of herein, breached the implied warranty that
19 the Class Vehicles were of merchantable quality and fit for such use in violation of California Civil
20 Code §§ 1792 and 1791.1.
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1 **FOURTH CAUSE OF ACTION**

2 **UNJUST ENRICHMENT**

3 **[California Civil Code §§ 1792 and 1791.1, et seq.]**

4 **(Against All Defendants)**

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6 59. Plaintiff incorporates Paragraphs 1 through 58.

7 60. Plaintiff brings this cause of action on behalf of himself and on behalf of all Class
8 Members against Defendant.

9 61. As a direct and proximate result of Defendant's failure to disclose known defects
10 and material misrepresentations regarding known defects, Defendant has profited through the
11 sale and lease of said vehicles. Although these vehicles are purchased through Defendant's agents,
12 the money from the vehicle sales flows directly back to Defendant.

13 62. Defendant has therefore been unjustly enriched due to the known defects in the
14 Class Vehicles through the use of funds that earned interest or otherwise added to Defendant's
15 profits when said money should have remained with Plaintiff and the Plaintiff Class.

16 63. As a result of the Defendant's unjust enrichment, Plaintiffs and the Plaintiff Class
17 have suffered damages.
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20 **FIFTH CAUSE OF ACTION**

21 **FRAUD BY CONCEALMENT**

22 **(Against All Defendants)**

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24 64. Plaintiff incorporates Paragraphs 1 through 63.

25 65. Plaintiff brings this cause of action on behalf of himself and on behalf of all Class
26 Members against Defendant.
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1 66. As described above, Defendant made material omissions and affirmative
2 misrepresentations regarding the Class Vehicles.

3 67. The Defendant knew these representations were false when made.

4 68. The Class Vehicles were in fact, defective, unsafe and unreliable.

5 69. The Defendant had a duty to disclose that these vehicles were defective, unsafe and
6 unreliable.
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8 70. Plaintiff and the Plaintiff Class relied on the Defendant's representations that the
9 Class Vehicles were safe.

10 71. The aforementioned concealment was material because if it had been disclosed,
11 Plaintiff and the Plaintiff Class would not have bought, leased or retained their vehicles, or would
12 have paid less for the vehicles.

13 72. The aforementioned representations were also material because they were facts
14 that would typically be relied on by a person purchasing, leasing or retaining a new or used motor
15 vehicle. The Defendant knew or recklessly disregarded that their representations were false
16 because they knew that people had been injured as the result of the Class Vehicles' defective
17 airbag systems. The Defendant intentionally made the false statements in order to sell vehicles
18 and avoid the expense and public relations nightmare of a recall.
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20 73. Plaintiff and Plaintiff Class relied on the Defendant's reputation, in addition to its
21 failure to disclose defects in its airbag systems and the Defendant's affirmative assurance that its
22 vehicles and/or airbags were safe and reliable and other similar false statements, in purchasing,
23 leasing or retaining the Class Vehicles.
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25 74. As a result of their reliance, Plaintiff and the Plaintiff Class have been injured in an
26 amount to be proven at trial, including, but not limited to, their lost benefit of the bargain and
27 overpayment at the time of purchase and/or the diminished value of their vehicles.
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1 damages, and losses. Defendant engaged in conduct amounting to malice, fraud, and oppression
2 entitling Plaintiff to punitive damages.

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4 **SEVENTH CAUSE OF ACTION**
5 **STRICT LIABILITY DESIGN DEFECT**
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7 **(Against All Defendants)**

8 82. Plaintiff incorporates Paragraphs 1 through 80.

9 83. Plaintiff and the Plaintiff Class were harmed by Defendant's defective airbag
10 systems. Defendant's airbag systems failed to perform as Plaintiff and a reasonable consumer
11 would expect the airbag system, to perform when used in an intended or reasonably foreseeable
12 way.

13 84. As a further direct and proximate result of Defendant's negligence, manufacturing
14 and design defects, Plaintiff and Plaintiff Class incurred losses and damages for personal injury
15 and property damage.

16 85. Defendant should be held strictly liable for the design defects in its airbag systems.

17 86. The Defendant's conduct was willful, wanton, reckless, malicious and/or exhibited
18 a gross indifference to, and a callous disregard for human life, safety and the rights of others, and
19 more particularly, the rights, life and safety of the Plaintiff and the Plaintiff Class; and was
20 motivated by consideration of profit, financial advantage, monetary gain, economic
21 aggrandizement and/or cost avoidance, to the virtual exclusion of all other considerations.
22 Defendant's defective airbag systems were substantial factors in causing Plaintiff's injuries,
23 damages, and losses. Defendant engaged in conduct amounting to malice, fraud, and oppression
24 entitling Plaintiff to punitive damages.
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1 **EIGHTH CAUSE OF ACTION**

2 **NEGLIGENCE**

3 **(Against All Defendants)**

4 87. Plaintiff incorporates Paragraphs 1 through 85.

5 88. Defendant owed a legal duty to Plaintiff and the Plaintiff Class.

6 89. The Defendant breached that legal duty by acting or failing to act in the ways
7 alleged above.

8 90. The Defendant's breach caused injuries to Plaintiff and the Plaintiff Class. The
9 injuries were foreseeable.

10 **RELIEF REQUESTED**

11 Plaintiff, on behalf of himself and all others similarly situated, requests the Court to enter
12 judgment against Defendant, as follows:

13 (a) An order certifying the proposed Class, designating Plaintiff as named
14 representative of the Class, and designating the undersigned as Class Counsel;

15 (b) A declaration that Defendant is financially responsible for notifying all Class
16 Members about the defective nature of the Class Vehicles equipped with the Mazda airbag
17 system;

18 (c) An order enjoining Defendant from further deceptive distribution, sales, and lease
19 practices with respect to Class Vehicles; compelling Defendant to issue a recall for the Class
20 Vehicles pursuant to the applicable NHTSA guidelines; compelling Defendant to remove, repair,
21 and/or replace the Class Vehicles' components causing the Airbag System Defect with suitable
22 alternative product(s) that do not contain the defects alleged herein; enjoining Defendant from
23 selling the Class Vehicles with the misleading information; and/or compelling Defendant to
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1 reform their warranty, in a manner deemed to be appropriate by the Court, to cover the injury
2 alleged and to notify all Class Members that such warranty has been reformed;

3 (d) A declaration requiring Defendant to comply with the various provisions of the
4 Song-Beverly Act alleged herein and to make all the required disclosures;

5 (e) An award to Plaintiffs and the Plaintiff Class for compensatory, exemplary, and
6 statutory damages, including interest, in an amount to be proven at trial;

7 (f) Any and all remedies provided pursuant to the California Consumer Legal
8 Remedies Act;

9 (g) Any and all remedies provided pursuant to the Song-Beverly Act, including
10 California Civil Code section 1794;

11 (h) A declaration that Defendant must disgorge, for the benefit of the Class, all or
12 part of the ill-gotten profits they received from the sale or lease of its Class Vehicles, or make full
13 restitution to Plaintiffs and Class Members;

14 (i) An award of attorneys' fees and costs, as allowed by law;

15 (j) An award of attorneys' fees and costs pursuant to California Code of Civil
16 Procedure § 1021.5;

17 (k) An award of pre-judgment and post-judgment interest, as provided by law;

18 (l) Leave to amend the Complaint to conform to the evidence produced at trial; and

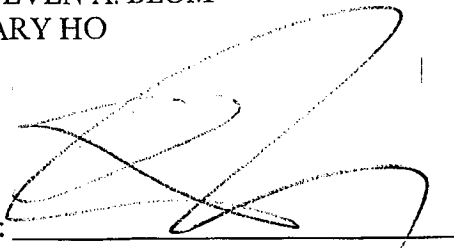
19 (m) Such other relief as may be appropriate under the circumstances.
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22 **DEMAND FOR JURY TRIAL**

23 Plaintiffs demand a trial by jury of any and all issues in this action so triable.
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BLUM COLLINS LLP
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GARY HO

By: 

Gary Ho
Attorney for Plaintiff
SEBASTIAN GUPTA