



**PLEASE TAKE FURTHER NOTICE** that any responses or objections to this Objection must be in writing, shall conform to the Federal Rules of Bankruptcy Procedure and the Local Rules of the Bankruptcy Court, and shall be filed with the Bankruptcy Court (a) electronically in accordance with General Order M-399 (which can be found at [www.nysb.uscourts.gov](http://www.nysb.uscourts.gov)) by registered users of the Bankruptcy Court's filing system, and (b) by all other parties in interest, on a CD-ROM or 3.5 inch disk, in text-searchable portable document format (PDF) (with a hard copy delivered directly to Chambers), in accordance with the customary practices of the Bankruptcy Court and General Order M-399, to the extent applicable, and served in accordance with General Order M-399 and on (i) Weil, Gotshal & Manges LLP, attorneys for the Debtors, 767 Fifth Avenue, New York, New York 10153 (Attn: Harvey R. Miller, Esq., Stephen Karotkin, Esq., and Joseph H. Smolinsky, Esq.); (ii) the Debtors, c/o Motors Liquidation Company, 401 South Old Woodward Avenue, Suite 370, Birmingham, Michigan 48009 (Attn: Ted Stenger); (iii) General Motors, LLC, 400 Renaissance Center, Detroit, Michigan 48265 (Attn: Lawrence S. Buonomo, Esq.); (iv) Cadwalader, Wickersham & Taft LLP, attorneys for the United States Department of the Treasury, One World Financial Center, New York, New York 10281 (Attn: John J. Rapisardi, Esq.); (v) the United States Department of the Treasury, 1500 Pennsylvania Avenue NW, Room 2312, Washington, D.C. 20220 (Attn: Joseph Samarias, Esq.); (vi) Vedder Price, P.C., attorneys for Export Development Canada, 1633 Broadway, 47th Floor, New York, New York 10019 (Attn: Michael J. Edelman, Esq. and Michael L. Schein, Esq.); (vii) Kramer Levin Naftalis & Frankel LLP, attorneys for the statutory committee of unsecured creditors, 1177 Avenue of the Americas, New York, New York 10036 (Attn: Thomas Moers Mayer, Esq., Robert Schmidt, Esq., Lauren Macksoud, Esq., and Jennifer Sharret, Esq.); (viii) the Office of the United States Trustee for the Southern District of

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**PLEASE TAKE FURTHER NOTICE** that if no response is timely filed and served with respect to the Objection, the Debtors may, on or after the Response Deadline, submit to the Bankruptcy Court an order substantially in the form of the proposed order annexed to the Objection, which order may be entered with no further notice or opportunity to be heard offered to any party.

Dated: New York, New York  
December 17, 2010

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**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

-----X  
: **Chapter 11 Case No.**  
: **09-50026 (REG)**  
: **(Jointly Administered)**  
: **Debtors.**  
: **(Jointly Administered)**  
: **(Jointly Administered)**  
: **(Jointly Administered)**  
-----X

**THE DEBTORS' (I) OBJECTION TO PROOF OF CLAIM  
NO. 19633 FILED BY LARONDA HUNTER AND ROBIN GONZALES AND, IN  
THE ALTERNATIVE, (II) MOTION TO ESTIMATE PROOF OF CLAIM NO. 19633**

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Solving Old Problems and Dealing with “New Style” Litigation*,  
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TO THE HONORABLE ROBERT E. GERBER,  
UNITED STATES BANKRUPTCY JUDGE:

Motors Liquidation Company (f/k/a General Motors Corporation) (“**MLC**”) and its affiliated debtors, as debtors in possession (collectively, the “**Debtors**”) respectfully represent:

**Relief Requested**

1. The Debtors file this objection (the “**Objection**”) pursuant to section 502 of title 11 of the United States Code (the “**Bankruptcy Code**”), Rule 3007(d) of the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”), and this Court’s Order Pursuant to Section 502(b)(9) of the Bankruptcy Code and Bankruptcy Rule 3003(c)(3) Establishing the Deadline for Filing Proofs of Claim (Including Claims Under Bankruptcy Code Section 503(b)(9)) and Procedures Relating Thereto and Approving the Form and Manner of Notice Thereof (the “**Bar Date Order**”) [ECF No. 4079], establishing November 30, 2009, as the bar date (the “**Bar Date**”). Through this Objection, the Debtors seek entry of an order disallowing and expunging Proof of Claim No. 19633 (the “**Putative Class Claim**”) filed by LaRonda Hunter and Robin Gonzales (collectively, the “**Plaintiffs**”), individually and on behalf of a class that consists of California sub-class members (the “**Putative California Sub-Class**”) and nationwide sub-class members (the “**Putative Nationwide Sub-Class**”) (collectively, the “**Putative Classes**”). A copy of the Putative Class Claim is annexed hereto as **Exhibit “A.”**

2. Attached to the Putative Class Claim is the Fourth Amended Complaint For: (1) Violation of California’s Consumer Legal Remedies Act (“**CLRA**”), Civil Code § 1750 et seq.; and (2) Violation of California’s Unfair Competition Act (“**UCL**”), Bus. & Prof. Code § 17200 et seq. (the “**Putative Class Complaint**”) on behalf of the Putative Classes. The Putative



Class Complaint alleges causes of action for violation of the CLRA and violation of the UCL. (See Putative Class Compl. ¶¶ 104-44.)

3. These claims purportedly arise from the Debtors' marketing and sale of certain 1999-2005 model year trucks and sport utility vehicles containing allegedly defective parking brake systems (the "**Debtors' Products**"). (See *id.* ¶ 5.) The Putative Class Complaint alleges that Debtors' Products were defective and that despite having knowledge of this fact, the Debtors made false, misleading, and unlawful representations to consumers, including Plaintiffs and others similarly situated, about the parking brakes installed in certain of MLC's trucks and utility vehicles. (See *id.* ¶¶ 1-3.)

4. Ultimately, Plaintiffs seek, through the Putative Class Complaint, *inter alia*, (1) to certify the Putative Classes, (2) actual damages, (3) restitution and disgorgement, (4) statutory damages, (5) injunctive relief, and (6) punitive damages. (See *id.* at 52.) The Putative Class Claim states that the amount of the claim is "unknown," and the Putative Class Complaint does not allege an estimated amount of damages or monetary relief sought. (See *generally id.*; Putative Class Claim at 1.) The Putative Classes were not certified before June 1, 2009 (the "**Commencement Date**"), when each of the Debtors commenced a case under chapter 11 of the Bankruptcy Code in the Bankruptcy Court for the Southern District of New York (the "**Bankruptcy Court**"), and Plaintiffs have not sought class certification from this Court.

5. As discussed below, whether to permit a class claim to proceed lies within the sound discretion of the Court. In exercising their discretion, courts consider, among other things, whether (i) the claim satisfies the strict requirements of Rule 23 of the Federal Rules of Civil Procedure ("**Rule 23**"), and (ii) the benefits that generally support class certification in civil litigation are realizable in the bankruptcy case.

6. Here, the Putative Class Claim should be disallowed in its entirety because, *inter alia*, (i) Plaintiffs have failed to satisfy the basic procedural requirements of Bankruptcy Rule 9014, (ii) the Putative Classes do not satisfy Rule 23, (iii) even if the Putative Classes did satisfy Rule 23, the benefits that generally support class certification in civil litigation are not realizable in these chapter 11 cases, and (iv) certain of claims have been settled and released. Among other reasons, the Putative Class Claim does not satisfy Rule 23 because Plaintiffs are neither typical of the Putative Classes nor adequate class representatives. Although Plaintiffs seek to represent persons who purchased vehicles with two distinct parking brake systems – the PBR and TRW Systems (defined below) – they lack standing to represent those with TRW Systems because neither Plaintiff had a vehicle with a TRW System. Further, Plaintiffs’ claims on behalf of those they arguably might have standing to represent – the members of the Putative Classes with PBR Systems and automatic transmissions – have been largely mooted by the prior class action settlement between the Debtors and Boyd Bryant, individually and as class representative of a class of persons with 1999-2002 1500 series trucks and pickups with automatic transmissions and PBR Systems (the “**Bryant Settlement**”). In addition, the need for injunctive relief has been mooted and would provide no deterrent effect here, as the Debtors no longer operate a business and are liquidating.

7. Further, despite notice by publication of the Bar Date to the putative class members encompassed by the Putative Class Claim, other than the claim filed by Plaintiffs, and the claims filed in connection with the Bryant Settlement, there have been no claims filed in this Court seeking damages or requesting relief in connection with the Debtors’ Products.<sup>1</sup> Because

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<sup>1</sup> Because the Putative Classes were not certified before Commencement Date, the members of the Putative Classes could not rely on the Putative Class Claim to absolve them from compliance with the Bar Date Order to preserve their claims. *See In re Jamesway Corp.*, No. 95 B 44821 (JLG), 1997 WL 327105, at \*10 (Bankr. S.D.N.Y. June 12, 1997) (denying motion for class certification of class claim where “[n]o class was pre-certified such that purported

the Debtors have provided such notice, it would be unfair and unnecessary to burden the Debtors' estates with the additional cost and associated delay of providing these potential claimants with a second opportunity to assert claims as class claimants. Further, litigation of the Putative Class Claim would further deplete the pool of assets available for distribution to the Debtors' creditors. As a result, the Court should (i) disallow the Putative Class Claim in its entirety, or (ii) in the alternative, allow the Putative Class Claim to proceed only as an individual claim on behalf of Plaintiffs and not as a class claim.

### **Jurisdiction**

8. This Court has jurisdiction to consider this matter pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b).

### **Relevant Factual Background to the Putative Class Claim**

#### **A. The Bar Date Order**

9. On September 16, 2009, this Court entered the Bar Date Order which, among other things, established November 30, 2009, as the Bar Date and set forth specific procedures for filing proofs of claims. The Bar Date Order requires, among other things, that a proof of claim must "set forth with specificity" the legal and factual basis for the alleged claim and include supporting documentation or an explanation as to why such documentation is not available. (Bar Date Order at 2.)

#### **B. The Putative Class Claim**

10. On November 4, 2009, LaRonda Hunter and Robin Gonzales filed a proof of claim attaching the Putative Class Complaint. The Putative Class Complaint sets forth causes of action for violations of the California's CLRA and UCL on behalf of the Putative Classes,

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class members who did not choose to file a proof of claim should or could have had any reasonable expectation that they need not comply with the Bar Date Order").

which consist of a Putative California Sub-Class and a Putative Nationwide Sub-Class. (*See* Putative Class Compl. ¶ 95.) Specifically, the sub-classes are defined as:

**“Putative California Sub-Class”**: The California Class that Plaintiffs seek to represent [] consists of all persons and entities who purchased or leased, or will purchase or lease, a Subject Vehicle in California.

**“Putative National Sub-Class”**: The National Class that Plaintiffs seek to represent [] is defined to include all persons and entities who purchased or leased, or will purchase or lease, a Subject Vehicle in the United States.<sup>2</sup>

(*Id.*)

11. The Subject Vehicles<sup>3</sup> include at least ten different models of manual and automatic transmission vehicles from varying ranges of model years, but all between model years 1999-2004, and involve two different brands of parking brake systems: (1) those designed and manufactured by supplier PBR International (the “**PBR System**”), and (2) those utilizing parking brake systems designed by supplier TRW Automotive (the “**TRW Systems**”). (*See id.* ¶ 22.) The Putative Class Complaint alleges that the PBR and TRW Systems are defective because they are subject to premature wear, which could cause premature parking brake failure. (*See id.* ¶ 26.) Notably, the PBR and TRW Systems were designed independently from one another by different suppliers, were used in different vehicles, and employ distinct configurations

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<sup>2</sup> The Putative California Sub-Class and Putative National Sub-Class specifically exclude (i) “any claims seeking damages for personal injuries or property damage resulting from defects,” (ii) “Defendants, any parent, subsidiary, affiliate, or controlled person of Defendants, as well as the officers, directors, agents, servants, or employees of Defendants, and the immediate family member of any such person,” and (iii) “any judge in this case who may preside over this case.” (*Id.*)

<sup>3</sup> Plaintiffs allege the “**Subject Vehicles**” include “at least the following: 2002-2003 Cadillac Escalade, Escalade EXIST, 2003 Cadillac Escalade ESV, 1998-2003 Chevrolet Blazer, 1999-2003 Chevrolet Silverado 1500 Series (trucks), 2000-2003 Chevrolet Suburban, Tahoe (1500 Series), 2002-2003 Chevrolet TrailBlazer, Trailblazer EXIST, 1998-2003 GMC Jimmy, 1999-2003 GMC Sierra 1500 Series, 2000-2003 GMC Yukon 1500 Series, 2002-2003 GMC Envoy, Envoy XL, 2002-2003 Chevrolet Avalanche 1500 Series Models, and 1998-2003 Oldsmobile Bravada.” (*See id.* ¶ 5.)

to effectuate vehicle immobilization. Neither of the named Plaintiffs owns a vehicle with the TRW System.

12. The Putative Class Complaint asserts that the Debtors violated the CLRA by (i) misrepresenting that the subject vehicles conform to all applicable U.S. Federal Motor Vehicle Safety Standards; (ii) representing that the subject vehicles have characteristics and benefits that they do not have; (iii) representing that the subject vehicles are of a particular standard, quality, or grade that they are not; (iv) advertising the subject vehicles with an intent not to sell them as advertised; (v) misrepresenting that a transaction confers or involves legal rights, obligations, or remedies of Plaintiffs and other members of the Putative Classes concerning the Subject Vehicles when they do not; (vi) representing that the Subject Vehicles were supplied in accordance with previous representations when they were not; and (vii) inserting an unconscionable provision in the contract/warranty that was provided along with the sale of each Subject Vehicle. (*See id.* ¶ 108.) The Putative Class Complaint also alleges that these acts, omissions, and misrepresentations resulted in violations of California’s UCL, as they constitute “unlawful, unfair, fraudulent, untrue and/or deceptive” advertising. (*See id.* ¶ 131.)

13. Plaintiffs seek, through the Putative Class Complaint, *inter alia*, (1) to certify the Putative Classes, (2) actual damages, (3) restitution and disgorgement, (4) statutory damages, (5) an order enjoining the Debtors from “continuing to falsely market and advertise, conceal material information and conduct business via the unlawful and unfair business acts and practices complained of herein, and ordering [the Debtors] to engage in corrective notice,” (6) punitive damages, (7) attorneys’ fees and costs, and (8) pre-judgment interest. (*See id.* at 52.)

### **C. Procedural History**

14. The original complaint was filed on November 14, 2004, in the Superior Court of California, in the County of Los Angeles, Central District (the “**California Court**”). It

was amended four times, and the Putative Class Complaint is the live pleading in that action (the “**Lawsuit**”). Plaintiffs filed a motion for class certification on January 28, 2009. GM filed a response in opposition to the motion for class certification on February 16, 2009, and Plaintiffs filed their reply on March 2, 2009.

15. The California Court, however, never ruled on the issue of class certification. In recognition of a parallel Arkansas state court case that included a class definition that significantly overlapped with the definition of the Putative Classes, on March 3, 2009, the California Court stayed the Lawsuit with respect to all PBR System-related claims, and on April 3, 2009, vacated the trial setting. Shortly thereafter, on June 8, 2009, the Lawsuit was stayed pursuant to the automatic stay.

16. Thus, the Putative Classes were not certified before the Commencement Date, and Plaintiffs have not sought class certification from this Court.

#### **D. Plaintiffs’ Experience**

17. Ms. LaRonda Hunter. In February 2002, Ms. Hunter purchased a 2001 Chevrolet Yukon 1500 Series with an automatic transmission from Justice Auto, a used car dealer formerly located in Carson, California. (*See* Deposition of LaRonda Hunter (“**Hunter Dep.**”) at 30:17-32:23, annexed hereto as **Exhibit “B.”**) Ms. Hunter admits that she did not see or hear any of the purported misrepresentations alleged in the Putative Class Complaint. (*Id.* 36:20-23; 37:7-13, 49:23-50:3, 58:5-19.) Although Ms. Hunter asserted during discovery in the Lawsuit that she bought her vehicle “new” with only 1,800 miles, she later produced a title certificate reflecting that the vehicle had 19,255 miles when she purchased it used. (*Id.* 32:19-20; Certificate of Title, annexed hereto as **Exhibit “C.”**; Supp’l Resp. to First Set of Special Interrog. at 5, annexed hereto as **Exhibit “D.”**) Thus, Ms. Hunter has paid no money to GM or the Debtors, directly or indirectly, in connection with her vehicle purchase.

18. Ms. Hunter has testified that as of the time she filed suit, she had not experienced any problem with the PBR System in her vehicle. (*See id.* at 76:17-22.) She further testified that it was not her idea to start the underlying lawsuit, and that she never saw the original complaint, or the first, second, or third amended complaints. (*See id.* 103:3-104:11; 119:19-20; 122:6-9.)

19. After filing suit, Ms. Hunter sent a letter to General Motors Corporation (“GM”) and demanded that it repair her vehicle. (*See* Ltr. from I. Spiro to R. Lutz dated Jan. 12, 2005 at 2, annexed hereto as **Exhibit “E.”**) On February 10, 2005, in response, GM offered to inspect Ms. Hunter’s vehicle, repair it if necessary, and provide a loaner vehicle during the inspection and repair, free of charge. (*See* Ltr. from K. Landan to I. Spiro, dated Feb. 10, 2005 at 2, annexed hereto as **Exhibit “F.”**) Ms. Hunter ignored GM’s offer.

20. Thereafter, in April 2005, Ms. Hunter claims the ABS and parking light in her vehicle came on, and that caused her to take the vehicle to a mechanic for repair. (*See* Hunter Dep. at 77:18-78:9, 80:5-14.) Ms. Hunter testified that she had not experienced any problem with the parking brake, just that the ABS and parking brake lights were allegedly activated. (*Id.* 76:17-77:21.) Ms. Hunter testified that she incurred costs of \$260 to have her vehicle repaired by an automotive facility not affiliated with GM, (*id.* at 106:14-18), rather than notifying GM or taking advantage of GM’s offer to inspect and potentially repair her vehicle free of charge. Further, she admits that Power Chevrolet (an independent dealer) repaired the ABS in her vehicle on several occasions before and after she filed suit, but claims Power Chevrolet would not fix the parking brake, or explain to her whether anything was wrong with it, and, if so, why they would not fix it. (*Id.* at 77:22-80:4.)

21. Ms. Hunter claims that it was not until December 2008, after she had the

allegedly defective parking brake replaced and more than four years after she filed suit, that she allegedly first experienced her vehicle “roll” with the parking brake set. (*Id.* at 84:2-85:2.)<sup>4</sup>

22. Ms. Robin Gonzales. Ms. Gonzales purchased a 2001 Chevy Silverado with a PBR System and an automatic transmission in July 2001 from Anaheim Chevrolet, an independent GM dealer. (*See* Deposition of Robin Gonzales (“**Gonzales Dep.**”) at 48:3-16, 58:10-13, annexed hereto as **Exhibit “G.”**) Ms. Gonzales testified that she did not talk to the dealer about the brakes on the truck before buying it, and that nothing that the salesperson said induced her to buy it. (*Id.* at 49:8-18, 52:9-17.) Ms. Gonzales never saw any ads or other representations from GM related to the parking brake, and she did not read the Owner’s Manual when she bought the truck. (*Id.* at 121:6-9, 121:21-122:4.) When asked if she would buy a different truck if she knew what she knows now, Ms. Gonzales testified that she would not. (*Id.* 45:8-11.)

23. At some point in 2004 or 2005, after her three-year warranty expired, Ms. Gonzales claims that she experienced parking brake failure when she conducted an experiment in her driveway at home. (*Id.* at 59:10-23.) Ms. Gonzales testified that for reasons she could not recall, she decided to put her automatic transmission in neutral in her driveway and engage the parking brake (which is not a recommended way of immobilizing the vehicle). (*Id.* at 61:1-62:20, 63:16-64:3.) Ms. Gonzales never had a problem with the parking brake when used as directed in her Owner’s Manual with the transmission in park. (*Id.* at 64:3-6.)

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<sup>4</sup> When asked to describe how far the vehicle allegedly “rolled” when this happened, Ms. Hunter gestured several inches. (*Id.* at 85:5-11, 92:1-9.) Ms. Hunter’s description is not consistent with the “roll away” concerns that have been investigated in the past by the National Highway Traffic Safety Administration.



24. When Ms. Gonzales had her parking brake replaced in November 2005, it was her attorneys who recommended the repair shop where she took her vehicle, and her attorneys paid the \$417 to repair her parking brake. (*Id.* at 90:11-91:1, 92:18-20, 93:9-94:4.)

#### **E. The Bryant Settlement**

25. On November 3, 2010, this Court entered a judgment (the “**Judgment**”) approving the Bryant Settlement between the Debtors and Boyd Bryant, individually and as class representative of a class of persons with 1999-2002 1500 series trucks and pickups with automatic transmissions and PBR Systems (the “**Bryant Settlement Class**”). (*See* Judgment [ECF No. 70], *Bryant v. Motors Liquidation Co., et al.*, Adversary No. 09-00508 (REG) (S.D.N.Y. Nov. 3, 2010).) The class definition in the Bryant Settlement overlaps with the definitions of the Putative Classes, as both include persons who owned 1999-2002 1500 series pickups and trucks with automatic transmissions and PBR Systems. (*Compare* Judgment ¶ 3 *with* Putative Class Compl. ¶ 5.) Pursuant to the Bryant Settlement and the Court’s Judgment, the members of the Bryant Settlement Class have settled and released their claims against the Debtors. (*See* Judgment ¶¶ 12-15.)

#### **The Relief Requested by the Debtors Should Be Approved by the Court**

##### **I. As an Initial Matter, Certain Members of the Putative Classes Have Settled and Released Their Claims**

26. Preliminarily, to the extent Plaintiffs seek to represent members of the Bryant Settlement Class, these claims have been settled and released. Pursuant to this Court’s Judgment, notice of the Bryant Settlement has been provided to the members of the Bryant Settlement Class, and any members of the Bryant Settlement Class who submitted claim forms have released their claims against the Debtors.

## II. Application of Bankruptcy Rule 7023 to a Class Proof of Claim Is Discretionary and Should Be Denied In This Case

27. There is no absolute right to file a class proof of claim under the Bankruptcy Code. See *In re Bally Total Fitness of Greater N.Y., Inc.*, 402 B.R. 616, 619 (Bankr. S.D.N.Y.), *aff'd*, 411 B.R. 142 (S.D.N.Y. 2009); *In re Sacred Heart Hosp. of Norristown*, 177 B.R. 16, 22 (Bankr. E.D. Pa. 1995) (noting that class action device may be utilized in appropriate contexts, but should be used sparingly). Application of Bankruptcy Rule 7023 to class proofs of claim<sup>5</sup> lies within the *sound discretion* of the court.<sup>6</sup> In determining whether to exercise discretion and permit a class proof of claim, courts primarily look at (i) whether the class claimant moved to extend the application of Rule 23 to its proof of claim; (ii) whether the benefits derived from the use of the class claim device are consistent with the goals of bankruptcy; and (iii) whether the claims which the proponent seeks to certify fulfill the requirements of Rule 23. See *In re Bally Total Fitness*, 402 B.R. at 620; *In re Woodward*, 205 B.R. at 369; *see also In re Ephedra Prods. Liab. Litig.*, 329 B.R. 1, 5 (S.D.N.Y. 2005) (“In

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<sup>5</sup> Part VII of the Bankruptcy Rules, which includes Bankruptcy Rule 7023, only applies to adversary proceedings. See Fed. R. Bankr. P. 7001. Bankruptcy Rule 9014, however, adopts certain of the rules from Part VII for application in contested matters. Bankruptcy Rule 7023 is not among them. See Fed. R. Bankr. P. 9014. Thus, plaintiffs seeking the application of Bankruptcy Rule 7023 (and by implication, Rule 23) to a class proof of claim are required to *move* under Bankruptcy Rule 9014 for a court to apply the rules in Part VII. Fed. R. Bankr. P. 9014; *accord In re Woodward & Lothrop Holdings, Inc.*, 205 B.R. 365, 369 (Bankr. S.D.N.Y. 1997) (stating that “[f]or a Class Claim to proceed . . . the bankruptcy court must direct Rule 23 to apply”). See, e.g., *Reid v. White Motor Corp.*, 886 F.2d 1462, 1470 (6th Cir. 1989), *cert. denied*, 494 U.S. 1080 (1990); *In re Charter Co.*, 876 F.2d 866, 876 (11th Cir. 1989), *cert. dismissed*, 496 U.S. 944 (1990) (holding that proof of claim filed on behalf of class of claimants is valid, but that “does not mean that the appellants may proceed, without more, to represent a class in their bankruptcy action. Under the bankruptcy posture of this case, Bankruptcy Rule 7023 and class action procedures are applied at the discretion of the bankruptcy judge.”).

<sup>6</sup> See, e.g., *In re Bally Total Fitness*, 402 B.R. at 620 (“[C]ourts may exercise their discretion to extend Rule 23 to allow the filing of a class proof of claim.”); *In re Thomson McKinnon Sec. Inc.*, 133 B.R. 39, 40 (Bankr. S.D.N.Y. 1991) (Bankruptcy Rule 7023 and Rule 23 “give the court substantial discretion to consider the benefits and costs of class litigation”) (citing *In re Am. Reserve Corp.*, 840 F.2d 487, 488 (7th Cir. 1988)), *aff'd*, 141 B.R. 31 (S.D.N.Y. 1992); *accord In re United Cos. Fin. Corp.*, 277 B.R. 596, 601 (Bankr. D. Del. 2002) (“Whether to certify a class claim is within the discretion of the bankruptcy court.”); *In re Kaiser Group Int’l, Inc.*, 278 B.R. 58, 62 (Bankr. D. Del. 2002) (same); *Reid*, 886 F.2d at 1469-70 (stating that “Rule 9014 authorizes bankruptcy judges, within their discretion, to invoke Rule 7023, and thereby Fed. R. Civ. P. 23, the class action rule, to ‘any stage’ in contested matters, including, class proofs of claim.”); *In re Charter Co.*, 876 F.2d at 876 (“[u]nder the bankruptcy posture of this case Bankruptcy Rule 7023 and class action procedures are applied at the discretion of the bankruptcy judge.”).

exercising that discretion, the bankruptcy court first decides under Rule 9014 whether or not to apply Rule 23, Fed. R. Civ. P., to a ‘contested matter,’ *i.e.*, the purported class claim; if and only if the court decides to apply Rule 23, does it then determine whether the requirements of Rule 23 are satisfied.”).

28. When evaluating these requirements, courts have considered a variety of factors, including, *inter alia*:

- ***whether claimants are in “compliance with the Bankruptcy procedures regulating the filing of class proofs of claim in a bankruptcy case,”*** *see, e.g., In re Thomson*, 133 B.R. at 41 (disallowing class proof of claim where named plaintiff failed to file Rule 9014 motion requesting that Rule 7023 apply);
- ***whether the debtor intends to liquidate,*** *see In re Thomson*, 133 B.R. at 41 (noting that context of liquidating chapter 11 plan supports rejection of class proofs of claim);
- ***whether or not a purported class was previously certified,*** *see, e.g., In re Bally Total Fitness*, 402 B.R. at 620 (refusing to allow class proof of claim where class was not certified pre-petition); *In re Sacred Heart Hosp.*, 177 B.R. at 23 (classes certified pre-petition are “best candidates” for class proof of claim);
- ***whether the class claim device will result in “increased efficiency, compensation to injured parties, and deterrence of future wrongdoing by the debtor,”*** *see In re Woodward*, 205 B.R. at 376; *accord In re Thomson*, 133 B.R. at 40 (“Manifestly, the bankruptcy court’s control of the debtor’s affairs might make class certification unnecessary.”);
- ***whether the entertainment of class claims would subject the administration of the bankruptcy case to undue delay,*** *see, e.g., In re Ephedra Prods. Liab. Litig.*, 329 B.R. at 5 (“[A] court sitting in bankruptcy may decline to apply Rule 23 if doing so would . . . ‘gum up the works’ of distributing the estate.”); and
- ***whether or not adequate notice of the bar date was afforded to potential class members,*** *see In re Jamesway Corp.*, 1997 WL 327105, at \*10 (refusing to certify class where adequate notice of bar date was afforded to potential class members, and thus to certify class would be “unwarranted, unfair, and possibly violate

the due process rights of other creditors”) (internal quotations omitted).

“If application of Bankruptcy Rule 7023 is rejected by the bankruptcy court in an exercise of discretion . . . the result will be that class claims will be denied and expunged.” *In re Thomson*, 133 B.R. at 40-41. As set forth below, the Court should exercise its discretion to reject the application of Bankruptcy Rule 7023 and to disallow the Putative Class Claim.

**A. Plaintiffs Failed to Comply With Bankruptcy Rule 9014**

29. A plaintiff who seeks to bring a class proof of claim must comply with the applicable procedural requirements. *See, e.g., In re Am. Reserve Corp.*, 840 F.2d at 494 (noting the applicability of Bankruptcy Rule 9014 and its procedural requirements); *see In re Ephedra Prods. Liab. Litig.*, 329 B.R. at 6-7 (same). These procedural requirements are not complicated. Because a claim “cannot be allowed as a class claim until the bankruptcy court directs that Rule 23 apply,” the putative class representative must file a motion with the bankruptcy court requesting the application of Rule 23. *In re Woodward*, 205 B.R. at 368, 370. (“Rule 23 does not say who must make a timely motion, but the duty ordinarily falls on the proponent of the class action.”).

30. The requirement that a class claimant timely move under Bankruptcy Rule 9014 to incorporate Rule 23 is intended to protect a debtors’ estate from undue delay of the debtors’ plan process. *See In re Thomson McKinnon Sec., Inc.*, 150 B.R. 98, 101 (Bankr. S.D.N.Y. 1992). In *In re Woodward*, another case in which there was no pre-bankruptcy class certification, the court stated that the class claim should be disallowed if the putative class representative did not expeditiously move in the bankruptcy case for certification of its class claim, as a lengthy certification battle could delay the administration and distribution of the bankruptcy estate. *See In re Woodward*, 205 B.R. at 370; *see also In re Ephedra Prods. Liab.*

*Litig.*, 329 B.R. at 5 (disallowing class products liability claim because “it is simply too late in the administration of this Chapter 11 case to ask the Court to apply Rule 23 to class proofs of claim”). As of the date hereof, approximately a year and a half after the Commencement Date and more than a year after the Bar Date, Plaintiffs have not sought permission of the Court to file a class proof of claim or moved for certification of the class. The Debtors have already filed their proposed plan, the disclosure statement has been approved, and a confirmation hearing is planned to occur soon. If allowed to proceed, the Putative Class Claim will unduly delay the administration of the Debtors’ estates and the Debtors’ ability to consummate a plan of liquidation (“**Plan**”) because the adjudication of the claim and its attendant class-certification issues could take months to conclude. *See In re Sacred Heart Hosp. of Norristown*, 177 B.R. at 24 (disallowing class claim where allowance would cause “very substantial and apparently unwarranted disruption to the administration of the Debtor’s bankruptcy case, in which there is presently a plan before us for imminent confirmation”); *In re Ephedra Prods. Liab. Litig.*, 329 B.R. at 5 (disallowing class claim where liquidating plan was already submitted and “[a]pplying Rule 23 to class claims now would initiate protracted litigation that might delay distribution of the estate for years”); *In re Musicland Holding Corp.*, 362 B.R. 644, 656 (Bankr. S.D.N.Y. 2007) (Bernstein, J.) (refusing to allow class claim where it would “seriously delay the administration of the case” because debtors had already filed confirmation motion and court had approved disclosure statement); *see also In re Tronox Inc.*, No. 09-10156 (ALG), 2010 WL 1849394, at \*3 (Bankr. S.D.N.Y. Mar. 6, 2010) (Gropper, J.) (refusing to enlarge time to file class proof of claim where such claim could “likely result in substantial delay and expense and compromise the parties’ efforts to formulate a plan on the present timeline”). Accordingly, this Court should enforce these procedural requirements and disallow the Putative Class Claim. *See, e.g., In re*

*Woodward*, 205 B.R. at 369-71; *In re Thomson*, 150 B.R. at 100-01; *In re Thomson*, 133 B.R. at 41; *In re Zenith Labs., Inc.*, 104 B.R. 659, 664 (D.N.J. 1989); *In re Ephedra Prods. Liab. Litig.*, 329 B.R. at 6-7.

**B. Allowing the Putative Class Claim to Proceed as a Class Action Will Not Be Effective or Efficient**

31. For a class action to proceed, “the benefits that generally support class certification in civil litigation must be realizable in the bankruptcy case.” *In re Woodward*, 205 B.R. at 369 (citing *In re Mortg. & Realty Trust*, 125 B.R. 575, 580 (Bankr. C.D. Cal. 1991)). In this case, neither the purported class nor the Court would benefit from recognizing a class proof of claim and allowing a class action to proceed.

32. The Putative Class Claim does not provide for the most effective or efficient means of determining the rights of the members of the Putative Classes. First, a class proof of claim is not appropriate if individual issues of fact predominate over questions common to the members of the purported class. Here, the Putative Classes allege claims for deceptive and fraudulent advertising and misrepresentation. (See Putative Class Compl. ¶ 108.) The court in *In re Woodward*, in considering putative class claims for false advertising and misrepresentation, found that a class action is “generally not appropriate to resolve claims based upon common law fraud.” *In re Woodward*, 205 B.R. at 371.

33. Second, in general, the Bankruptcy Code and Bankruptcy Rules can provide the same benefits and serve the same purposes as class action procedures in normal civil litigation. *See id.* at 376 (“a bankruptcy proceeding offers the same procedural advantages as the class action because it concentrates all the disputes in one forum”); 6 Herbert Newberg & Alba Conte, *Newburg on Class Actions* § 20.1 at 581 (4th ed. 2002) (commenting that “bankruptcy proceedings are already capable of handling group claims, which operate essentially as statutory

class actions”); *see also In re Standard Metals Corp.*, 817 F.2d 625, 632 (10th Cir.), *reh’g granted*, 839 F.2d 1383 (10th Cir. 1987), *cert. dismissed*, 488 U.S. 881 (1988). Although members of the Putative Classes can no longer file their claims because the Bar Date has passed, they had ample notice of the Bar Date and opportunity to take advantage of these bankruptcy procedures.

34. Third, the bankruptcy claims process is, in some respects, superior to class action procedures. As the court observed in *In re Woodward*:

[W]hile the class action ordinarily provides compensation that cannot otherwise be achieved by aggregating small claims, the bankruptcy creditor can, with a minimum of effort, file a proof of claim and participate in distributions. In addition, there may be little economic justification to object to a modest claim, even where grounds exist. Hence, a creditor holding such a claim may not have to do anything more to prove his case or vindicate his rights.

205 B.R. at 376 (citations omitted). Here, notwithstanding the chance to do so, none of the members of the Putative Classes, save for the named Plaintiffs, filed a claim against the Debtors.

35. The facts of the instant case are similar to the facts of *In re Woodward*, where the Honorable Judge Bernstein exercised his discretion to deny the class claim, finding that “the class claim will not deter an insolvent, non-operating debtor’s management or shareholders, or induce them to police future conduct [where] . . . the debtor has . . . a liquidating plan that wipes out equity. The managers have moved on to other jobs – the debtor has closed its doors – and the prosecution of the class action will [] not affect how they act in the future.” 205 B.R. at 376. Here, the Debtors have discontinued the sale of the Debtors’ Products and have subsequently sold substantially all their assets. The Debtors are no longer operating a business. For these reasons, the benefits that generally support class certification are not present here, and the Court should deny application of Bankruptcy Rule 7023.

**C. The Putative Class Claim Was Not Certified Prior to the Commencement Date**

36. A number of courts have held that class proofs of claim are generally inappropriate where a class representative was not certified prepetition in a non-bankruptcy forum. *See, e.g., In re Trebol Motors Distrib. Corp.*, 220 B.R. 500, 502 (B.A.P. 1st Cir. 1998); *In re Sacred Heart Hosp.*, 177 B.R. at 23; *In re Ret. Builders, Inc.*, 96 B.R. 390, 391 (Bankr. S.D. Fla. 1988); *In re Ephedra Prods. Liab. Litig.*, 329 B.R. at 5. The court in *Sacred Heart Hospital* held that use of the class proof of claim device in bankruptcy cases may be appropriate in certain contexts, but “such contexts should be chosen most sparingly.” *In re Sacred Heart Hosp.*, 177 B.R. at 22. Specifically, the *Sacred Heart Hospital* court noted that cases where (i) a class has been certified prepetition by a nonbankruptcy court, or (ii) a class action has been filed and allowed to proceed as a class action in a nonbankruptcy forum for a considerable time prepetition, may present appropriate contexts for recognizing a class proof of claim. *See id.* ***However, the Debtors have been unable to find a single case within the Second Circuit in which a pre-bankruptcy certification class claim was allowed.***

37. The Putative Classes were not certified at the time of the Debtors’ chapter 11 filing, and they remain uncertified today. For this reason alone, the Putative Class Claim should be disallowed and expunged.

**D. Adequate Notice of the Bankruptcy Case and the Bar Date Was Provided to the Putative Classes**

38. One of the principal goals of the Bankruptcy Code is to ensure that creditors of equal rank receive equal treatment in the distribution of a debtor’s assets. The Bankruptcy Code and Bankruptcy Rules, therefore, require creditors to file proofs of claim before a bar date. *See* 11 U.S.C. § 502(b)(9); Fed. R. Bankr. P. 3003(c)(3). Regardless of how worthy their claims may be, claimants who fail to file before an applicable bar date “shall not be



treated as a creditor with respect to such claim for the purposes of voting and distribution.” Fed. R. Bankr. P. 3003(c)(2). These same procedural hurdles must be met by all creditors.

39. In determining whether a class proof of claim should be allowed, courts consider whether adequate notice of the bar date was afforded to potential class members. *See In re Jamesway Corp.*, 1997 WL 327105, at \*8. As that court stated:

The proper inquiry is whether [the debtor] acted reasonably in selecting means likely to inform persons affected by the Bar Date and these chapter 11 proceedings, not whether each claimant actually received notice . . . [a]s to those plaintiffs who might not have received actual notice of the Bar Date, we find that by complying with the terms of the Bar Date Order, mailing a Claim Package to every known creditor and publishing notice of the Bar Date, [the Debtor’s] actions satisfy due process.

*Id.* (internal citations omitted).

40. In this case, the members of the Putative Classes received proper notice of the Debtors’ chapter 11 cases and the Bar Date in accordance with the provisions of the Bar Date Order. At great expense to their estates, the Debtors published notice of the Bar Date nationwide in *The Wall Street Journal* (Global Edition – North America, Europe, and Asia), *The New York Times* (National), *USA Today* (Monday through Thursday, National), *Detroit Free Press*, *Detroit News*, *LeJournal de Montreal* (French), *Montreal Gazette* (English), *The Globe and Mail*, (Canada), and *The National Post*. (See Bar Date Order at 7.) Providing individual notice to all owners of the Debtors’ Products would be impossible or, at minimum, prohibitively expensive, as customers regularly resell their vehicles and the Debtors would have no way to know the identities of the current owners of their products. Providing notice of the Debtors’ bankruptcy cases and the Bar Date by publication, however, constituted a viable alternative to the impracticability, or perhaps even impossibility, of identifying and providing individual notice to each of the consumer purchasers of the Debtors’ Products. Additionally, in this case, in

particular, one would be hard-pressed to find a handful of Americans who were not aware of the chapter 11 filing of General Motors Corporation.

41. No member of the Putative Classes (save for Plaintiffs and those related to the Bryant Settlement) has filed a claim, and members of the Putative Classes who failed to file proofs of claim could not be said to have relied on the filing of the Putative Class Claim because the Putative Classes were not certified as of the Commencement Date. *See In re Jamesway Corp.*, 1997 WL 327105, at \*10 (denying motion for class certification of class claim where “[n]o class was pre-certified such that purported class members who did not choose to file a proof of claim should or could have had any reasonable expectation that they need not comply with the Bar Date Order”). Further, no similar suits have been filed in California since the inception of the underlying litigation in 2004. Moreover, there is significant overlap between the Putative Classes and the class involved in the adversary proceeding styled *Boyd Bryant v. Motors Liquidation Co., et al.*, Adversary No. 09-00508 (REG), which involves purchasers of model year 1999-2002 1500 Series trucks and pickups with automatic transmissions and PBR Systems, which has been settled with the Debtors.

42. Because the Debtors have provided notice by publication to the members of the Putative Classes encompassed by the Putative Class Claim, it would be unfair and unnecessary to burden the Debtors’ estates with the additional cost and associated delay of providing potential claimants with a second notice. Further, the only type of notice the Debtors could reasonably provide today would be another publication notice, effectively duplicating the notice they have already provided and extending the Bar Date for a particular sub-group of general unsecured creditors who are not entitled to special treatment under the Bankruptcy Code. Since not a single member of the alleged Putative Classes filed an individual claim, it is highly

unlikely that many, if any at all, would file claims if given a second opportunity, but the estate would suffer greatly from the unnecessary costs of duplicative notice.

### **III. The Putative Class Claim Cannot Satisfy the Requirements of Rule 23**

43. Even if this Court were to permit Plaintiffs to file class claims, the Putative Class Claim would not satisfy Rule 23. To proceed as a class claim, the Putative Class Claim must meet all four requirements of subsection (a) of Rule 23, as made applicable to bankruptcy cases by Bankruptcy Rule 7023. *See Moore v. PaineWebber, Inc.*, 306 F.3d 1247, 1252 (2d Cir. 2002); *In re Woodward*, 205 B.R. at 371. Rule 23(a) provides:

- (a) Prerequisites to Class Action. One or more members of a class may sue or be sued as representative parties on behalf of all only if:
  - (1) the class is so numerous that joinder of all members is impracticable;
  - (2) there are questions of law or fact common to the class;
  - (3) the claims or defenses of the representative parties are typical of the claims or defenses of the class; and
  - (4) the representative parties will fairly and adequately protect the interests of the class.

Fed. R. Civ. P. 23(a).

44. In addition, to proceed as a class claim, the Putative Class Claim must satisfy subsections (b)(2) and (b)(3) of Rule 23, as the Putative Class Claim seeks injunctive relief and monetary damages. *See In re Drexel Burnham Lambert Group, Inc.*, 960 F.2d 285, 290 (2d Cir. 1992), *cert. dismissed*, 506 U.S. 1088 (1993). (*See Putative Class Compl.* at 52.) Rule 23(b)(2) provides, in relevant part:

- (2) the party opposing the class has acted or refused to act on grounds that apply generally to the class, so that final injunctive relief or corresponding declaratory relief is appropriate respecting the class as a whole.

Fed. R. Civ. P. 23(b)(2). In addition, Rule 23(b)(3) provides, in relevant part:

- (3) the court finds that the questions of law or fact common to the members of the class predominate over any questions affecting only individual members, and that a class action is superior to other available methods for the fair and efficient adjudication of the controversy.

Fed. R. Civ. P. 23(b)(3).

45. As set forth below, numerous individual issues of fact would predominate over any common questions in the Putative Class Claim because Plaintiffs are neither typical of the members of the Putative Classes nor adequate class representatives. Further, class treatment is neither efficient nor superior in these circumstances. As discussed below, Plaintiffs' claims raise a host of individual issues of fact regarding each putative class member's right to recovery. These individual issues would require mini-trials as to each class member's right to relief, a result that courts have repeatedly found requires denial of class certification.<sup>7</sup>

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<sup>7</sup> Debtors anticipate that Plaintiffs will argue that their Putative Classes should be certified because they are a subset of the class that was certified in the parallel Arkansas state court case subject to the Bryant Settlement, and since that court certified the case, this Court should too. *See Gen. Motors Corp. v. Bryant*, 285 S.W. 3d 634 (Ark. 2008), *cert. denied*, 129 S. Ct. 901 (2009). But the class in *Bryant* was certified under Arkansas law pursuant to Arkansas Rule of Civil Procedure 23. While the Arkansas class certification requirements are facially similar to their federal counterparts, the certification analysis conducted by federal courts is significantly more stringent than that employed by Arkansas state courts. Specifically, federal courts are required to conduct a "rigorous analysis" of whether the requirements for class certification are met. *Gen. Tel. Co. of Sw. v. Falcon*, 457 U.S. 147, 161 (1982); *In re Initial Pub. Offering Sec. Litig.*, 471 F.3d 24, 33 (2d Cir. 2006), *decision clarified on denial of reh'g*, 483 F.3d 70 (2d Cir. 2007). The Arkansas State Court was not required, and expressly declined, to conduct a "rigorous analysis" to determine if the Arkansas Action was appropriate for class certification. (*See Findings of Fact and Conclusions of Law Regarding Class Certification, and Order Certifying Class*, dated Jan. 11, 2007 (the "**Certification Order**") ¶ 27 ("Importantly, the Arkansas Supreme Court requires no such rigorous analysis . . . GM's attempt to engraft a rigorous analysis requirement on to the elements of class certification under Ark. R. Civ. P. 23 is not well taken and is rejected.") (internal quotes omitted), annexed hereto as **Exhibit "H."**) Despite the likelihood that the class in *Bryant* would require application of the laws of many, if not all, states, which would render a class action unmanageable and uncertifiable, the Arkansas state court declined to undertake a choice of law analysis, relying heavily on the fact that courts have broad discretion to decertify class actions. (*See Certification Order* ¶ 31.)

On June 19, 2008, the Arkansas Supreme Court affirmed the Certification Order. Although the Arkansas Supreme Court acknowledged that "it is possible that other states' laws might be applicable to the class members' claims," it held that a choice of law analysis is not a prerequisite to certifying a multi-state class action because, among other things, "*a class can always be decertified at a later date* if necessary." *See Bryant*, 285 S.W.3d at 641 (emphasis added). The Arkansas Supreme Court also concluded that requiring a choice of law analysis prior to class certification would require Arkansas state courts to conduct the "rigorous analysis" only required under federal class action law. *Id.* at 638.

**A. Neither “Commonality” nor “Typicality”  
Can Be Established by Plaintiffs**

46. To proceed as a class claim, Rule 23(a)(2) and Rule 23(a)(3) require that the putative class representative also demonstrate commonality and typicality. To establish typicality, Plaintiffs must show that they are situated similarly to class members.<sup>8</sup> The Court cannot “presume” that Plaintiffs’ claims are typical of other claims. *See Gen. Tel. Co. of Sw.*, 457 U.S. at 158, 160 (“actual, not presumed, conformance with Rule 23(a) remains, however, indispensable”).

47. First, neither Ms. Hunter nor Ms. Gonzales own a vehicle with a TRW System, so they do not have standing to represent owners of vehicles equipped with that parking brake, nor are their claims typical of them, because the issues surrounding the PBR- and TRW-designed systems are distinct. *See Gonzalez v. Proctor & Gamble Co.*, 247 F.R.D. 616, 622 (S.D. Cal. 2007) (denying certification where hair product purchaser did not have claims typical of purchasers of 28 other products); *Deiter v. Microsoft Corp.*, 436 F.3d 461, 465-68 (4th Cir. 2006) (plaintiffs’ claims were atypical of portions of putative class that had purchased a different

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Accordingly, the Arkansas court’s Certification Order in *Bryant* has no bearing on this Court’s determination to certify the Putative Classes under Rule 23. *Cf. Reid*, 886 F.2d at 1470-71 (upholding bankruptcy court’s refusal to certify a class under Rule 23 that had previously been certified in state court); *In re Friedman’s, Inc.*, 363 B.R. 629, 634 (Bankr. S.D. Ga. 2007) (decertifying class action and noting “the fact that a state court rendered the class certification order in 2004 does not curtail this Court’s authority to reassess the matter today under Rule 23(c)(1)(C)”; *E. Maine Baptist Church v. Union Planters Bank, N.A.*, 244 F.R.D. 538, 540-41 (E.D. Mo. 2007) (analyzing class certification under Federal Rule 23 and partially granting decertification motion where state court had originally certified class pursuant to state rule of civil procedure); *In re Worldcom, Inc.*, 343 B.R. 412, 418, 427-28 (Bankr. S.D.N.Y. 2006) (Gonzalez, J.) (“This Court has previously held that the Court should not rely on the state court’s certification and must make its own determination whether to certify the class” and decertifying nationwide class asserting state-law based claims because of significant variations in the laws of the applicable states).

<sup>8</sup> *See Marisol A. by Forbes v. Giuliani*, 126 F.3d 372, 376 (2d Cir. 1997) (typicality “requires that the claims of the class representative be typical of those of the class, and ‘is satisfied when each class member’s claim arises from the same course of events, and each member makes similar arguments to prove the defendant’s liability’”) (quoting *In re Drexel*, 960 F.2d at 291); *see, e.g., Mace v. Van Ru Credit Corp.*, 109 F.3d 338, 341 (7th Cir. 1997) (“The typicality and commonality requirements of the Federal Rules ensure that only those plaintiffs or defendants who can advance the same factual and legal arguments may be grouped together as a class”).

type of software than named plaintiffs); *In re Worldcom, Inc.*, 343 B.R. at 420 n.8 (subscriber to a single long-distance calling plan lacked standing to represent subscribers to other plans on misrepresentation claims, and failed typicality and commonality tests as to other plans).

48. Second, neither Ms. Hunter nor Ms. Gonzales gave pre-litigation notice to GM of their CLRA claims for damages. Accordingly, neither is an appropriate representative of a class asserting CLRA claims. *See* CAL. CIV. CODE § 1782(a).

49. Third, Plaintiffs fail to satisfy the typicality requirement because they are subject to unique defenses. *See Dunnigan v. Metro. Life Ins. Co.*, 214 F.R.D. 125, 137 (S.D.N.Y. 2003) (“[C]lass certification is inappropriate where a putative class representative is subject to unique defenses which threaten to become the focus of the litigation.”) (quotations and citations omitted); *Kaczmarek v. Int’l Bus. Machs. Corp.*, 186 F.R.D. 307, 313 (S.D.N.Y. 1999) (representative plaintiffs fail to satisfy typicality requirement because of unique defenses defendant may have against them). Specifically, Ms. Hunter’s claims are not typical of even the PBR System vehicle owners. Ms. Hunter bought her vehicle secondhand from a used car dealer – she had no dealings with GM or any GM dealer with respect to her purchase, fatally undermining her omissions theory of liability. (*See* Hunter Dep. at 30:17-32:23.) Likewise, GM has no money of Ms. Hunters’ to “restore” to her – eliminating any chance of recovery on her UCL claim. What is more, even if Ms. Hunter could have asserted a claim under the CLRA, she is subject to a unique defense in that she ignored GM’s offer to inspect and repair her vehicle free of charge. And, Ms. Hunter testified that she never actually experienced the defect alleged in the complaint – instead, her vehicle allegedly first “rolled” several inches years *after* she had the purportedly defective parts replaced.

50. Ms. Gonzales's claims are not typical for several other reasons. To demonstrate causation on behalf of the class, Plaintiffs will have to demonstrate that the alleged omission was material. *Buckland v. Threshold Enters., Ltd.*, 155 Cal. App. 4th 798, 809 (2007).<sup>9</sup> Materiality is judged by a "reasonable consumer" standard. *Belton v. Comcast Cable Holdings, LLC*, 151 Cal. App. 4th 1224, 1241 (2007). However, Ms. Gonzales admitted at her deposition that the parking brake problem *would not have changed her decision to purchase the car.* (*Id.* 45:8-11.) By definition, then, the alleged omission was immaterial. *Caro v. Procter & Gamble Co.*, 18 Cal. App. 4th 644, 668 (1993) (citing *Lacher v. Superior Court*, 230 Cal. App. 3d 1038, 1049 (1991) ("A misrepresentation of fact is material if it induced the plaintiff to alter his position to his detriment.")). Additionally, Ms. Gonzales has no damages – her lawyers paid to have her parking brakes replaced – making her claims atypical for yet another reason. And, having been on notice of the issues with her parking brake since she purchased her truck in July 2001, both of her claims are barred by the statutes of limitations, as the case was filed in November 2004 and she joined in December 2005. *See* CAL. CIV. CODE § 1783; CAL. BUS. & PROF. CODE § 17208.

51. Fourth, each Plaintiff's claim arises from certain of the Debtors' Products that Plaintiffs claim to have purchased allegedly in reliance upon defendants' representations regarding the parking brake system. (*See* Putative Class Compl. at 5-8.) Yet, the Putative Classes would include plaintiffs who witnessed *different* representations about the parking brake system; had *different* information regarding the parking brake system at the time they purchased

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<sup>9</sup> Nor are Hunter or Gonzales typical with respect to any alleged misrepresentation claims on behalf of a class – neither of them saw or heard any alleged misrepresentations. (Gonzales Dep. at 121:6-9, 121:21-122:4; Hunter Dep. at 36:20-22, 37:7-13, 49:23-50:3, 58:5-19); *In re Paxil Litig.*, 218 F.R.D. 242, 246-47 (C.D. Cal. 2003) (a person "who has not been affected in any way" by allegedly deceptive statements cannot adequately prosecute an action to enjoin such statements).

their vehicle; and who purchased vehicles under a variety of *different* factual circumstances. *See, e.g., Lundquist v. Sec. Pac. Auto. Fin. Servs. Corp.*, 993 F.2d 11, 14 (2d Cir.), *cert. denied*, 510 U.S. 959 (1993) (typicality defeated by plaintiff’s broad definition of class as all individuals who signed similar automobile lease agreements).

52. Finally, Plaintiffs’ claims cannot be typical of those of all members of the Putative Classes because the bases of the unfair and deceptive trade practices claims vary greatly. The claims are based on a variety of allegedly deceptive marketing practices, including, but not limited to, the Debtors’ representations that the vehicles at issue “had a “technically advanced braking system,” “were ‘Engineer[ed] [] to the highest standard,” and were “the most dependable, longest lasting trucks on the road \*\* Dependability based on longevity,” “were ‘Certified’ to comply with ‘all applicable U.S. Federal Motor Vehicle Safety Standards,’” “[were] designed and tested with top-quality GM brake parts,” “were equipped with a “complex” “braking system,” and had “tough technology, designed to bring you a more dependable, longer lasting truck.” (Putative Class Compl. at 2-3.) Each member of the Putative Classes might base his or her unfair and deceptive trade practice claim on one or more of the foregoing assertions, might have seen or been induced to purchase by one or a combination of statements, and might have considered some, all, or none of the foregoing assertions to be material. On the face of the Putative Class Claim, there could be no “typical” plaintiff for the unlimited permutations of factual predicates for the claims alleged.

#### **B. Plaintiffs Are Not Adequate Representatives**

53. To establish that they will adequately represent the proposed class, Plaintiffs must have common interests with the unnamed members of the class, and it must appear that Plaintiffs will vigorously prosecute the interests of the class through qualified counsel. *See, e.g., Edwards v. McCormick*, 196 F.R.D. 487, 495 (S.D. Ohio 2000). The required



elements that the plaintiffs have “claims or defenses typical of the class” and that they can “adequately represent and protect the interests of other members of the class” are intertwined: “to be an adequate representative, plaintiff must show that his claims are typical of the claims of the class.” *Caro*, 18 Cal. App. 4th at 669 (“[T]o be an adequate representative, plaintiff must show that his claims are typical of the claims of the class.”) (quoting *Stephens v. Montgomery Ward*, 193 Cal. App. 3d 411, 422 (1987)). Here, as described above, there can be no “typical” plaintiff and, thus, no adequate representative for the Putative Classes.

54. Additionally, Plaintiffs have demonstrated a lack of adequate understanding of, and control over, the Lawsuit, such that they do not qualify as adequate representatives for the Putative Classes. For example, Ms. Hunter admitted at her deposition that it was not her idea to start the Lawsuit; she did not recognize any of the first three complaints; and she does not know what claims are being made against the Debtors or GM. (*See* Hunter Dep. at 117:23-118:22, 122:6-7, 122:19-20, 123:1-5, 103:14-104:11, 105:11-14.) She further has a false sense of her stakes in claim: she testified in the Lawsuit that she hopes to recover \$260 in repairs and “the \$33,000 that I paid for the vehicle.” (*Id.* 106:4-18.) More importantly, Ms. Hunter has already given false testimony during discovery, initially claiming that she bought her vehicle new with 1,800 miles, when in reality she bought a used vehicle that had been driven for nearly 20,000 miles. Saddling the Putative Classes with a representative whose credibility will be an issue does not serve the interests of any of the members of the Putative Classes. Similarly, Ms. Gonzales testified that she had never seen the complaint prior to her deposition. (Gonzales Dep. at 159:20-24.) She had her parking brake replaced shortly before joining the case at a mechanic recommended by counsel, and her lawyers paid for her repairs; as a result, she

personally has incurred no loss with respect to the alleged defect in this case. (*Id.* at 90:11-91:1, 93:9-94:4.)

55. Moreover, the burden to move expeditiously for class certification and recognition within a bankruptcy proceeding, in compliance with Rule 23(c)(1), falls on the class representative and “the class representative’s failure to move for class certification is a strong indication that he will not fairly and adequately represent the interests of the class.” *In re Woodward*, 205 B.R. at 370. As the Putative Class Claim fails to meet the requirements of Rule 23, the Court should not allow it to proceed as a class claim, and it should be disallowed.

### **C. The Members of the Putative Classes Are Not Properly Identifiable**

56. Finally, inherent in Rule 23 is the requirement that a proposed class be “identifiable” or ascertainable. *In re Methyl Tertiary Butyl Ether (“MTBE”) Prods. Liab. Litig.*, 209 F.R.D. 323, 336-37 (S.D.N.Y. 2002). This requirement is not satisfied if a court must conduct a merits inquiry merely to determine who is included in the proposed class. Courts have determined that proposed classes are not identifiable when class definitions are “overly broad, amorphous or vague.” *In re Fosamax Prods. Liab. Litig.*, 248 F.R.D. 389, 396-97 (S.D.N.Y. 2008) (rejecting class certification because class was defined too broadly) (citing *Perez v. Metabolife Int’l, Inc.*, 218 F.R.D. 262, 269 (S.D. Fla. 2003)); *see also In re Ford Motor Co. Ignition Switch Prods. Liab. Litig.*, 194 F.R.D. 484, 490-91 (D.N.J. 2000) (class member cannot succeed on product liability-based claim unless that specific class member suffered damages as a result of the alleged defect), *reconsideration denied*, No. Civ. A. 96-1814 (JBS), 2001 WL 1869820 (D.N.J. Feb. 8, 2001); *Sanneman v. Chrysler Corp.*, 191 F.R.D. 441, 449-50 (E.D. Pa. 2000) (same). Here, the Putative Classes are too broad to be identifiable as they seek to include all owners of any 1999-2005 model year vehicle sold or leased in the United States equipped with PBR or TRW parking brake systems, and impermissibly includes persons: (i) who have

never experienced the alleged defect and therefore have no claim, (ii) who had their vehicles repaired under warranty, (iii) who as lessees, do not own their vehicles and therefore cannot be harmed by any alleged diminishment in their residual value, (iv) who are not “consumers” under the CLRA because they acquired their vehicle for business rather than “for personal, family, or household purposes,”<sup>10</sup> and (v) who are purchasers of used vehicles or who received their vehicles as a gift.<sup>11</sup> (See Putative Class Compl. at 33-34.) Plaintiffs’ class definitions also inappropriately extend to every single purchaser and lessee within a vehicle’s chain of title. See, e.g., *Commander Props. Corp. v. Beech Aircraft Corp.*, 164 F.R.D. 529, 534 (D. Kan. 1995) (“Class certification is definitely not appropriate for a class which includes all owners in the chain of title.”).

57. Moreover, in order to determine class membership for the Putative Classes, the Court would, thus, need to first determine: (i) whether each individual’s vehicle has the subject parking brake system; (ii) whether any repair of the parking brake system was paid for by MLC in full or in part; (iii) whether the class member properly maintained the parking brake equipment; (iv) whether the class member actually received a representation regarding the parking brake equipment, the details regarding that representation, where the representation was made, and whether it was made by a person with authority to legally bind MLC; (v) whether the class member reasonably relied on MLC’s alleged misrepresentations regarding the parking brake equipment; (vi) whether such alleged misrepresentations were material; and (vii) whether a

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<sup>10</sup> See CAL. CIV. CODE § 1761(d).

<sup>11</sup> These individuals paid no money to GM for their vehicles, and therefore could not have relied on alleged misrepresentations by GM. Nor may they recover restitutionary damages under the UCL, as restitution is only available under § 17200 when the defendant acquired money or property from the plaintiff. See *Korea Supply Co. v. Lockheed Martin Corp.*, 29 Cal. 4th 1134, 1149 (2003).

class member's claims are barred by the statute of limitations or other affirmative defenses such as comparative negligence.

58. Accordingly, the members of the Putative Classes are not properly ascertainable under Rule 23, and the Putative Class Claim should be disallowed. *See In re Vioxx Prods. Liab. Litig.*, No. 05-1657, 2008 WL 4681368, at \*9-10 (E.D. La. Oct. 21, 2008) (“Where it is facially apparent from the pleadings that there is no ascertainable class, a district court may dismiss the class action on the pleadings.”), *aff'd*, 300 F. App'x 261 (5th Cir. 2008); *Brazil v. Dell Inc.*, 585 F. Supp. 2d 1158, 1167 (N.D. Cal. 2008); *Barasich v. Shell Pipeline Co., LP*, No. Civ. A. 05-4180, 2008 WL 6468611, at \*4 (E.D. La. June 19, 2008).

**D. The Injunctive Relief Sought by the Putative Class Claim Under Rule 23(b)(2) Is Mooted by the Debtors' Liquidation**

59. First, the Putative Class Claim cannot meet the requirements of Rule 23(b)(2), as any claim for injunctive relief is mooted because the Debtors do not presently operate a business and are liquidating. *See In re Ephedra Prods. Liab. Litig.*, 329 B.R. at 9 n.5 (“Insofar as the class claims seek injunctive relief against Twinlabs under Rule 23(b)(2), they are moot now that Twinlabs has gone out of business and existence.”). As a result, the Debtors cannot be compelled to, *inter alia*, issue corrective notices, repair or replace the allegedly defective brake parts, or be permanently enjoined from the alleged “wrongful acts and practices” or their alleged “unlawful, unfair, fraudulent, and deceitful activity” as sought by Plaintiffs. (*See Putative Class Compl.* ¶¶ 120, 141, 145.)

**E. Numerous Individual Issues Predominate Over Any Common Questions**

60. Plaintiffs also fail to satisfy Rule 23(b)(3) because individual issues predominate over common questions and a class action is not a superior method of adjudicating the Putative Class Claim.

a. **Variations in the Law of 51 Jurisdictions Defeat Predominance**

61. Federal courts have made it clear time and again that before a court can analyze whether the factors under Federal Rule 23 are satisfied, the court must determine which state's or states' substantive law governs the underlying claims. *See, e.g., In re Prempro Prods. Liab. Litig.*, 230 F.R.D. 555, 561 (E.D. Ark. 2005) ("Not only must the choice-of-law issue be addressed at the class certification stage – it must be tackled at the front end since it pervades every element of [Federal Rule] 23."); *Chin v. Chrysler Corp.*, 182 F.R.D. 448, 457 (D.N.J. 1998). This is logical because it would be impossible to determine whether there are questions of law common to the class, for example, without first determining the substance of the applicable law. Both federal case law and the Constitution mandate that this Court perform a choice-of-law analysis before determining whether this case is properly certified as a class action. *See Phillips Petroleum Co. v. Shutts*, 472 U.S. 797, 821 (1985), *remanded to*, 732 P.2d 1286 (Kan. 1987), *cert. denied*, 487 U.S. 1223 (1988).<sup>12</sup>

62. This requirement begets the question of which state's or states' law should apply to the class claims when a class is comprised of individuals living, and allegedly injured by the defendant's conduct, in every state in the nation. Federal courts in this jurisdiction and across the country have consistently answered this question by holding that where a purported class action would involve class members from more than one state "the court will apply the law of each of the states from which plaintiffs hail." *In re Ford Motor Co. Ignition Switch Prods.*

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<sup>12</sup> As discussed *supra*, the Arkansas court in *Bryant* declined to undertake a choice of law analysis because Arkansas state law, unlike federal law, does not require a "rigorous analysis" with respect to class certification requirements. This Court has previously noted the differing approach federal courts take from some state courts in certifying class actions. In *In re Worldcom*, 343 B.R. at 418, n.3, this Court cited Schwartz, Behrens and Lorber, *Tort Reform Past, Present and Future: Solving Old Problems and Dealing with "New Style" Litigation*, 27 Wm. Mitchell L. Rev. 237, 264 (2000) for the observation that "[f]ederal courts are required to perform a rigorous analysis of requests for class certification. State courts on the other hand, often take a laissez-faire attitude toward certifying statewide or even nationwide-classes."

*Liab. Litig.*, 174 F.R.D. 332, 348 (D.N.J. 1997); *In re Rezulin Prods. Liab. Litig.*, 210 F.R.D. 61, 70-71 (S.D.N.Y. 2002), *reconsideration denied*, 224 F.R.D. 346 (S.D.N.Y. 2004); *Kaczmarek*, 186 F.R.D. at 312-13; *Feinstein v. Firestone Tire & Rubber Co.*, 535 F. Supp. 595, 605 (S.D.N.Y. 1982). To hold otherwise and apply only the forum state's substantive law to the class certification analysis would violate Constitutional principles of due process and federalism. *See Allstate Ins. Co. v. Hague*, 449 U.S. 302, 312-13, 335-36 (1981), *reh'g denied*, 450 U.S. 971 (1981).<sup>13</sup> This is particularly applicable here, where the Putative Class Claim asserts causes of action based on the California UCL<sup>14</sup> and CLRA on behalf of a nationwide class. California courts have determined that a nationwide class cannot be certified for UCL and CLRA claims arising from conduct that occurred outside of California. *See Cohen v. DIRECTV, Inc.*, 101 Cal. Rptr. 3d 37, 42, 47 (2009) (citing *Norwest Mortg., Inc. v. Superior Court*, 85 Cal. Rptr. 2d 18 (1999)).

63. Compliance with the Constitutional requirement of applying every state's law to the claims in a nationwide class action is fatal to class certification when the applicable laws differ from state to state. This Court and countless others have repeatedly held that "the need of a court to apply diverse laws and varied burdens of proof to the individual class

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<sup>13</sup> The Supreme Court expressly admonished a state court for applying its state's substantive law to a nationwide class action filed within its borders, noting that the state "may not take a transaction with little or no relationship to the forum and apply the law of the forum in order to satisfy the procedural requirement that there be a 'common question of law.'" *Phillips Petroleum Co.*, 472 U.S. at 821. The *Phillips Petroleum* Court concluded that the forum state's "lack of 'interest' in claims unrelated to that State and the substantive conflict with" other jurisdictions rendered the application of the forum state's law to every claim in the nationwide class action "sufficiently arbitrary and unfair as to exceed constitutional limits." *Id.* at 822.

<sup>14</sup> The Purported Class Complaint alleges that predicate unlawful acts in violation of the UCL include the violation of brake laws of the states (excluding Hawaii and the District of Columbia). (Purported Class Complaint at 46-48.) However, the various laws cited differ greatly in what is required and what standards are applied, reinforcing the failure of predominance. *Compare* Mich. Comp. Laws § 257.705 ("The same brake drums, brake shoes, and lining assemblies, brake shoe anchors, and mechanical brake shoe actuation mechanism normally associated with the wheel brake assemblies may be used for both the service brakes and parking brakes.") *with* Cal. Veh. Code § 26451 (no regulation regarding the same).

members' claims defeats the predominance requirement of Federal Rule 23(b)(3).” *In re Worldcom, Inc.*, 343 B.R. at 427; *In re Laser Arms Corp. Sec. Litig.*, 794 F. Supp. 475, 495 (S.D.N.Y. 1989) (“In the absence of a single state law governing each entire common law claim, common questions of law would not predominate over individual questions.”), *aff’d*, 969 F.2d 15 (2d Cir. 1992); *In re Bridgestone/Firestone, Inc.*, 288 F.3d 1012, 1015 (7th Cir. 2002), *cert. denied*, 537 U.S. 1105 (2003) (“No class action is proper unless all litigants are governed by the same legal rules.”); *Henry Schein, Inc. v. Stromboe*, 102 S.W.3d 675, 698-99 (Tex. 2002) (citing dozens of federal and state cases that have “rejected class certification when multiple states’ laws must be applied”).

64. Plaintiffs have the burden of establishing that variations in the laws of the jurisdictions do not “swamp any common issues and defeat predominance.” *Castano v. Am. Tobacco Co.*, 84 F.3d 734, 741 (5th Cir. 1996). Here, Plaintiffs cannot meet this burden as courts have repeatedly determined that variations in the causes of action at issue in this case – *inter alia*, violations of various state consumer protection statutes – have made certification of nationwide class actions impermissible.

65. Courts have repeatedly denied certification of nationwide classes based on multiple states’ consumer fraud statutes because “state consumer-protection laws vary considerably.” *In re Bridgestone/Firestone*, 288 F.3d at 1018 (recognizing that “state consumer-protection laws vary considerably” and holding that “because [the plaintiffs’ consumer fraud] claims must be adjudicated under the law of so many jurisdictions, a single nationwide class is not manageable”); *see In re McDonald’s French Fries Litig.*, 257 F.R.D. 669, 671, 674 (N.D. Ill. 2009) (denying class certification of claims of “violations of various states’ consumer protection statutes” because “[n]umerous courts, including the Seventh Circuit, have dealt with this

question. Overwhelmingly, those courts have found material conflicts among the fifty states' laws on the claims plaintiffs bring in this case and have denied class certification, at least in part, on that basis."); *Pilgrim v. Universal Health Card, LLC*, No. 5:09CV879, 2010 WL 1254849, at \*4 (N.D. Ohio Mar. 25, 2010) ("[T]he Court agrees with the extensive analysis put forth by [defendant] demonstrating that consumer laws and the law on unjust enrichment vary significantly from state to state. Courts have likewise accepted this argument."); *cf. Schnall v. AT & T Wireless Servs., Inc.*, 225 P.3d 929, 935 (Wash. 2010) ("Based primarily on the burden of applying multiple states' laws, an overwhelming number of federal courts have denied certification of nationwide state-law class actions.") (internal quotation marks omitted).

66. Because the Court must apply the substantive laws of all jurisdictions from which the members of the Putative Classes hail, and such application results in conflicting laws, the Putative Class Claim cannot be allowed.

**b. Necessity of Individual Fact Determinations Destroys Predominance**

67. Courts also deny certification where "individualized issues of fact abound." *In re MTBE*, 209 F.R.D. at 349; *see also In re Worldcom, Inc.*, 343 B.R. at 427, n.26 ("the need to evaluate factual differences along with divergent legal issues defeats the predominance requirement under Rule 23(b)(3)") (internal quotes and citations omitted). Courts have specifically held that class actions alleging motor vehicle product liability claims and seeking economic loss damages should not be certified because individual questions of fact will predominate:

. . . the need to establish injury and causation with respect to each class member will necessarily require a detailed factual inquiry including physical examination of each vehicle, a mind-boggling concept that is preclusively costly in both time and money. We will not certify a class that will result in an administrative process lasting for untold years, where individual threshold questions will overshadow common issues regarding



Defendant's alleged conduct. Accordingly, we conclude that Plaintiff has not adequately shown that common issues predominate over individual issues. . . . *Courts are hesitant to certify classes in litigation where individual use factors present themselves, such as cases involving allegedly defective motor vehicles and parts.* The administrative burdens are frequently too unmanageable for a class action to make sense in such cases.

*Sanneman*, 191 F.R.D. at 449 (emphasis added).

68. The “preclusively costly” “administrative burdens” warned about in the *Sanneman* case would certainly be present here, where the Putative Classes consist of, among other things, all owners or lessees of any General Motors vehicle containing a PBR or TRW System for a more than six-year period, not simply those owners or lessees whose vehicles experienced a malfunctioning parking brake. Thus, the issue of whether a particular class member's parking brake malfunctioned as a result of the alleged defect would alone lead to a sharp divergence in the factual underpinnings of each claim, especially considering that the Subject Vehicles include at least ten different models of manual and automatic transmission vehicles. Such an individualized analysis is crucial because a class member cannot succeed on a product liability-based claim unless that specific class member suffered damages as a result of the alleged defect. *See In re Ford Motor Co. Ignition Switch Prods. Liab. Litig.*, 174 F.R.D. at 490-91, *Sanneman*, 191 F.R.D. at 449-50. Individualized factual inquiries would need to be performed to address the issues of if, or when, any parking brake malfunctioned; the cause of any malfunction; whether the parking brake was covered by warranty; whether the parking brake had already been repaired by MLC (or someone else); whether MLC and/or the consumer had knowledge of the alleged parking brake malfunction; whether the class member relied on MLC's alleged misrepresentations/omissions regarding the parking brake; whether such alleged misrepresentations/omissions were material; whether a class member's claims are barred by the

statute of limitations or other affirmative defenses such as comparative negligence; and what the appropriate remedy should be for any particular class member.

69. The individualized fact inquiries will further include facts related to individual vehicle usage and maintenance, which are the primary influence over whether a parking brake will experience excessive wear. Factors that may cause or contribute to excessive wear of parking brakes may include: lack of inspection and maintenance, improper service of the vehicle, use on rough road conditions, driving habits that include sharp turns at excessive speeds, overloading the vehicle beyond the rear gross axle rating, failing to disengage the parking brake before moving the vehicle, using the parking brake as a service brake while in motion, excessive dirt and debris entering into the brake, and owner modification to raise the truck. These *nonexclusive* lists provides a mere sampling of the myriad of factual differences that will “overshadow common issues.” See *In re MTBE*, 209 F.R.D. at 349. When coupled with the variations in law relevant to determining the foregoing facts, Plaintiffs cannot meet their burden of satisfying the predominance requirement and, thus, the class fails to meet the requirements of Rule 23.

70. Moreover, courts in the Second Circuit and elsewhere have specifically held that the predominance requirement cannot be satisfied for fraud or misrepresentation based claims because the several issues, including reliance and causation, are not susceptible to generalized proof and require an individualized inquiry. See, e.g., *McLaughlin v. Am. Tobacco Co.*, 522 F.3d 215, 223-30 (2d Cir. 2008); *Kottler v. Deutsche Bank AG*, No. 08 Civ. 7773 (PAC), 2010 WL 1221809, at \*3 (S.D.N.Y. Mar. 29, 2010) (finding predominance not satisfied because varied misrepresentations preclude class certification in a fraud claim); *Sikes v. Teleline, Inc.*, 281 F.3d 1350, 1362-66 (11th Cir.) (certification of fraud class action vacated because

individual issues of reliance and causation predominated), *reh'g denied*, 35 F. App'x 859 (11th Cir.), *cert. denied*, 537 U.S. 884 (2002); *Andrews v. Am. Tel. & Tel. Co.*, 95 F.3d 1014, 1024-25 (11th Cir.), *reh'g denied*, 104 F.3d 373 (11th Cir. 1996) (same); *Castano*, 84 F.3d at 737, 745 (denying certification in action where claims included “violation of state consumer protection statutes” and “disgorge[ment]” of profits, holding that class action “cannot be certified when individual reliance will be an issue”); *In re Rezulin Prods. Liab. Litig.*, 210 F.R.D. at 68-69 (individual issues would predominate on claim for restitution of purchase price arising from alleged undisclosed product dangers); *Chin*, 182 F.R.D. at 455-57 (denying class certification in case asserting latent product defect in light of many individual issues of fact, including ascertainable injury, causation, reliance and privity); *In re Ford Motor Co. Bronco II Prod. Liab. Litig.*, 177 F.R.D. 360, 372-75 (E.D. La.), *reconsideration denied*, No. Civ. A. MDL 991, 1997 WL 191488 (E.D. La. Apr. 17, 1997) (same); *In re Ford Motor Co. Ignition Switch Prods. Liab. Litig.*, 174 F.R.D. at 342-44 (same); *Truckway, Inc. v. Gen. Elec.*, No. Civ. A. 91-0122, 1992 WL 70575, at \*\*5, 7 (E.D. Pa. Mar. 30, 1992) (individual issues predominated in state consumer fraud action “[b]ecause not all members of the class would have relied on the alleged fraudulent material omissions and misrepresentation . . . and because a determination of whether each member of the class was defrauded . . . would require each class member to individually prove the issue of reliance and fraud on a case by case basis”); *see also Hurd v. Monsanto Co.*, 164 F.R.D. 234, 240 n.3 (S.D. Ind. 1995) (“The necessity of proving reliance by each class member upon the alleged fraudulent misrepresentations causes individual issues to predominate.”); *Sunbird Air Servs., Inc. v. Beech Aircraft Corp.*, Civ. A. No. 89-2181-V, 1992 WL 193661, at \*5 (D. Kan. July 15, 1992) (“individual issues of causation and reliance as to each class member would predominate over the common issues of liability”); *Strain v. Nutri/System, Inc.*, No. Civ.

A. 90-2772, 1990 WL 209325, at \*6 (E.D. Pa. Dec. 12, 1990) (class certification denied where “each class member [would have] to narrate a story which includes individualized proof of which advertisements he saw and whether they indeed enrolled in reliance of those advertisements”).

71. Looking just at the issues related to the Putative Class Claim based, in part, on misrepresentation, it is evident that individual fact issues defeat predominance. Those questions raise a host of individual issues of fact that render class treatment wholly unmanageable, including individual questions as to: the fact of product purchase or ownership; the differing marketing or statements; whether each class member was exposed to allegedly deceptive marketing or statements; whether each class member purchased products as a result of such marketing or statements; the details regarding that representation, where the representation was made, and whether it was made by a person with authority to legally bind MLC; whether the class member relied on MLC’s alleged misrepresentations regarding the parking brake; and whether such alleged misrepresentations were material. *See In re Woodward*, 205 B.R. at 372 (holding issue of fraud as common question of law or fact under Rule 23(b)(3) would require a showing of reliance on the part of each class member, and “[l]acking in this case [where reliance on an advertisement is at issue] is the single set of operative facts that can be applied on a class wide basis . . . . Because the incidents did not occur in a single place, at the same time, or under identical conditions, individualized issues of causation arise.”). Accordingly, individualized issues regarding reliance alone would prohibit certification.

72. Further, given the absence of any objective evidence of who purchased such products or relied upon any of the Debtors’ alleged misrepresentations, the Court would be required, at the threshold, to make a series of individual credibility determinations as to who is and is not a member of the Putative Classes. *See In re Phenylpropanolamine (PPA) Prods. Liab.*

*Litig.*, 214 F.R.D. 614, 618 (W.D. Wash. 2003) (motion to certify class asserting consumer fraud claims on behalf of non-injured consumers of PPA products denied primarily because of difficulty in determining who had even purchased products at issue). The need for individualized proof is evident from Plaintiffs' own testimony; both testified – contrary to the allegations in the Putative Class Complaint – that they had not heard specific representations about parking brakes and did not review their Owner's Manuals. (*See* Gonzales Dep. at 121:6-9, 121:21-122:4, 124:15-24; Hunter Dep. at 36:20-22, 37:7-13, 49:23-50:3, 58:5-19.)

73. Numerous individual issues also exist as to whether any alleged misrepresentation caused each particular class member to purchase any product, precluding class certification. For this reason, courts routinely reject class certification of cases claiming unfair trade practices and other claims similar to those alleged here—including in cases in which plaintiffs allege a cause of action based on a misrepresentation—because of the overwhelming number of *individual issues* relating to reliance, causation, and materiality. *See Kottler*, 2010 WL 1221809, at \*3 (finding predominance not satisfied because varied misrepresentations preclude class certification in a fraud claim); *Castano*, 84 F.3d at 737, 745 (denying certification in action where claims included “violation of state consumer protection statutes” and “disgorge[ment]” of profits, holding that class action “cannot be certified when individual reliance will be an issue”); *Truckway*, 1992 WL 70575, at \*5, \*7 (individual issues predominated in state consumer fraud action).

74. Finally, determination of whether each class member suffered “actual injury,” would require an individualized inquiry into the degree of efficacy of the product for that particular class member—an inquiry that would, once again, swamp any common issues and render class treatment wholly unmanageable.

**F. Plaintiffs Cannot Establish that a Class Action Is Superior to Other Available Methods for Fairly and Efficiently Adjudicating this Controversy**

75. In addition to the requirement that common questions of law or fact must predominate over individual issues, Plaintiffs must also establish “that a class action is superior to other available methods for fairly and efficiently adjudicating the controversy.” Fed. R. Civ. P. 23(b)(3). Given the vast number of individual variations of law and fact that would be involved in allowing this case to proceed as a nationwide class action, the action would be unmanageable as a single trial. The issue of MLC’s liability would have to be litigated in thousands of trials which, even if logistically feasible, would violate the constitutional mandate that “entitles parties to have fact issues decided by one jury, and prohibits a second jury from reexamining those facts and issues.” *Castano*, 84 F.3d at 750 (denying certification for lack of superiority); *see also In re Rhone-Poulenc Rorer, Inc.*, 51 F.3d 1293, 1303 (7th Cir.), *cert. denied*, 516 U.S. 867 (1995) (same); *In re Masonite Corp. Hardboard Siding Prods. Liab. Litig.*, 170 F.R.D. 417, 427 (E.D. La. 1997) (same). Given that a class action is not manageable in this case, it is not superior to other available methods for fairly and efficiently adjudicating the controversy, and thus, the class cannot meet the requirements of Rule 23.

**IV. Alternatively, If the Putative Class Claim Is Not Expunged, It Should Be Subject to an Immediate Estimation Proceeding**

**A. Estimation of Claims**

76. In the event that the Court finds it appropriate to permit the Putative Class Claim to proceed as a class claim in whole or in part, the Debtors request an expedited procedure be established in this Court to quickly liquidate the unliquidated claims of the Putative Classes and an expedited hearing to estimate the Putative Class Claim pursuant to section 502(c) of the Bankruptcy Code.

77. Section 502(c) of the Bankruptcy Code *mandates* the estimation of all contingent or unliquidated claims which, if otherwise fixed or liquidated, would unduly delay administration of a debtor's case. 11 U.S.C. § 502(c) ("There *shall* be estimated for purposes of allowance under this section – (1) any contingent or unliquidated claim, the fixing or liquidation of which, as the case may be, would unduly delay the administration of the case...") (emphasis added); *see also In re Chateaugay Corp.*, 10 F.3d 944, 957 (2d Cir. 1993); *In re Thomson McKinnon Sec., Inc.*, 143 B.R. 612, 619 (Bankr. S.D.N.Y. 1992). The estimation process is an expedient method for setting the amount of a claim that may receive a distributive share from the estate. *In re Thomson*, 143 B.R. at 619 (citing *In re Brints Cotton Mktg., Inc.*, 737 F.2d 1338, 1341 (5th Cir. 1984); *Bittner v. Borne Chem. Co., Inc.*, 691 F.2d 134, 135-37 (3d Cir. 1982); *In re Interco, Inc.*, 137 B.R. 993, 995 (Bankr. E.D. Mo. 1992). Section 502(c) of the Bankruptcy Code is designed to (1) avoid the need to await resolution of pending lawsuits to determine issues of liability or the amount owed by means of anticipating and estimating the likely outcomes of these actions, and (2) promote fair distribution to creditors through the realistic assessment of uncertain claims. *See In re S. Cinemas, Inc.*, 256 B.R. 520, 533 (Bankr. M.D. Fla. 2000) (citing *In re Ford*, 967 F.2d 1047, 1053 (5th Cir.), *reh'g denied*, 974 F.2d 1337 (5th Cir. 1992)).

78. Bankruptcy Code section 502(c), thus, contains two requirements before a bankruptcy court must proceed to estimate a claim: (1) the court must determine that the claim is either contingent or unliquidated, and (2) the court must determine that the time necessary to fix or liquidate the claim would unduly delay administration of the case. *In re Apex Oil Co.*, 107 B.R. 189, 193 (Bankr. E.D. Mo. 1989). Section 502(c)(1) is drafted in the disjunctive. *See* 11 U.S.C. § 502(c) ("There shall be estimated for purposes of allowance under this section – (1) any

contingent or unliquidated claim...”) (emphasis added).<sup>15</sup> “‘Liquidated’ denotes the ability to readily and precisely compute the amount due; the test is whether the amount ‘is capable of ascertainment by ... a simple computation.’” *Id.* Congress deliberately included unliquidated claims in the Bankruptcy Code’s definition of a claim and made provision for their estimation to permit the broadest possible relief in the bankruptcy court and to ensure that virtually all obligations to pay money would be amenable to treatment in bankruptcy. *See In re CD Realty Partners*, 205 B.R. 651, 655-56 (Bankr. D. Mass. 1997).

79. Some courts simply assume that a trial will unduly delay administration of the case and proceed to estimate the creditors’ unliquidated claims. *See, e.g., In re Poole Funeral Chapel, Inc.*, 63 B.R. 527, 528-32 (Bankr. N.D. Ala. 1986). Other courts examine the size and magnitude of a debtor’s contingent and unliquidated claims to determine if a full trial on the claims would unduly delay the chapter 11 cases. *See, e.g., In re Johns-Manville Corp.*, 45 B.R. 823, 826 (S.D.N.Y. 1984). Other factors considered by courts include whether discovery in the underlying matter had commenced and the anticipated length of a trial process, including appeals. *See In re Baldwin-United Corp.*, 55 B.R. 885, 888 (Bankr. S.D. Ohio 1985).

80. A court may authorize the estimation and approximation of the allowed amount of a contingent or unliquidated claim using “whatever method is best suited to the circumstances” at issue and recognizing that absolute certainty is not possible. *In re Thomson*, 143 B.R. at 619; *In re Brints Cotton Mktg.*, 737 F.2d at 1341. Additionally, Section 105 of the Bankruptcy Code provides that a bankruptcy court “may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of [the Bankruptcy Code].” *See* 11

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<sup>15</sup> Courts have defined contingent claims as claims where liability attaches and is dependent upon the happening of some future event. *See, e.g., In re Mazzeo*, 131 F.3d 295, 300 (2d Cir. 1997) (“A claim is not contingent if it has come into existence and is capable of being enforced at the time the petition is filed.”).



U.S.C. § 105. Although a court is bound by the legal rules that govern the ultimate value of the claim, it has wide discretion in establishing the method to be used to arrive at an estimate of the value of a claim or claims.<sup>16</sup> Whatever procedure the Court chooses to estimate a claim, it must be consistent with the policy underlying chapter 11 that the process be “accomplished quickly and efficiently.” *See Bittner*, 691 F.2d at 137 (citing 124 Cong. Rec. H. 11101- H. 11102 (daily ed. Sept. 28, 1978)).

**B. The Putative Class Claim Must Be Estimated If the Claim Is Not Expunged**

81. The Putative Class Claim is contingent and unliquidated because its value is not a matter of a simple computation. As filed, the Putative Classes seek damages of an “unknown” amount, (*see* Putative Class Claim (Ex. A)), and the Debtors dispute the validity of the Putative Class Claim.<sup>17</sup> Due to the potential magnitude of the Putative Class Claim, the Plan cannot be confirmed until the Putative Class Claim is liquidated. Liquidating the Putative Class Claim by methods other than estimation proceedings pursuant to section 502(c) of the Bankruptcy Code would undoubtedly severely delay administration of the Debtors’ cases.

82. Thus, unless the Putative Class Claim is disallowed in its entirety, estimation is mandatory. Further, given the large number of potential members of the Putative Classes, Plaintiffs should be required to monetize their claims.

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<sup>16</sup> *In re Brints Cotton Mktg.*, 737 F.2d at 1341; *see, e.g., In re Windsor Plumbing Supply Co.*, 170 B.R. 503 (Bankr. E.D.N.Y. 1994) (claim estimated based on review of the documents submitted); *In re Nova Real Estate Inv. Trust*, 23 B.R. 62 (Bankr. E.D. Va. 1982) (claim estimated based on review of pleadings, briefs, and a one-day hearing); *In re Baldwin-United Corp.*, 55 B.R. at 885 (approximate \$300 million claim estimated at zero in the context of summary trial); *In re Lane*, 68 B.R. 609, 612 (Bankr. D. Ha. 1986) (\$5 million claim estimated at \$550,000 solely on pleadings and briefs); *In re Seaman Furniture Co. of Union Square, Inc.*, 160 B.R. 40, 42 (S.D.N.Y. 1993) (\$50 million claim estimated at \$749.07 based on non-binding prepetition arbitration decision); *In re White Farm Equip. Co.*, 38 B.R. 718 (N.D. Ohio 1984) (products liability claim estimated by special master rather than jury).

<sup>17</sup> The Debtors reserve all rights to object to the Putative Class Claim on substantive and procedural grounds, including, but not limited to, their failure to state a claim for relief.

**Notice**

83. Notice of this Motion has been provided to counsel for Plaintiffs and to the parties in interest in accordance with the Fourth Amended Order Pursuant to 11 U.S.C. § 105(a) and Fed. R. Bankr. P. 1015(c) and 9007 Establishing Notice and Case Management Procedures, dated August 24, 2010 [ECF No. 6750]. The Debtors submit that such notice is sufficient and no other or further notice need be provided.

84. No previous request for the relief sought herein has been made by the Debtors to this or any other Court.

85. WHEREFORE the Debtors respectfully request entry of an order granting the relief requested herein and such other and further relief as is just.<sup>18</sup>

Dated: New York, New York  
December 17, 2010

/s/ Joseph H. Smolinsky  
Harvey R. Miller  
Stephen Karotkin  
Joseph H. Smolinsky

WEIL, GOTSHAL & MANGES LLP  
767 Fifth Avenue  
New York, New York 10153  
Telephone: (212) 310-8000  
Facsimile: (212) 310-8007

Attorneys for Debtors  
and Debtors in Possession

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<sup>18</sup> Should the Court find it appropriate to permit the Putative Class Claim to proceed as a class claim in whole or in part, the Debtors reserve their rights to request that an expedited procedure be established in this Court to quickly liquidate such claims and an expedited hearing to estimate the Putative Class Claim pursuant to section 502(c) of the Bankruptcy Code. *See* 11 U.S.C. § 502(c) (“There **shall** be estimated for purposes of allowance under this section— (1) any contingent or unliquidated claim, the fixing or liquidation of which, as the case may be, would unduly delay the administration of the case...”) (emphasis added); *see also In re Chateaugay Corp.*, 10 F.3d at 957; *In re Thomson McKinnon Sec., Inc.*, 143 B.R. at 619. Further, should an estimation proceeding go forward, Plaintiffs should be required to provide substantial documentation to support the alleged nature of their claim.

**Exhibit A**  
**Proof of Claim No. 19633**



**UNITED STATES BANKRUPTCY COURT FOR THE SOUTHERN DISTRICT OF NEW YORK** **PROOF OF CLAIM**

Name of Debtor (Check Only One) Case No  
 Motors Liquidation Company (f/k/a General Motors Corporation) 09-50026 (REG)  
 MLCS, LLC (f/k/a Saturn, LLC) 09-50027 (REG)  
 MLCS Distribution Corporation (f/k/a Saturn Distribution Corporation) 09-50028 (REG)  
 MLC of Harlem Inc. (f/k/a Chevrolet Saturn of Harlem Inc.) 09-13558 (REG)

NOTE: This form should not be used to make a claim for an administrative expense arising after the commencement of the case, but may be used for purposes of asserting a claim under 11 U.S.C. § 503(b)(9) (see Item # 5). All other requests for payment of an administrative expense should be filed pursuant to 11 U.S.C. § 503.

Name of Creditor (the person or other entity to whom the debtor owes money or property) **LaRonda Hunter, Robin Gonzales\***  Check this box to indicate that this claim amends a previously filed claim

Name and address where notices should be sent  
**Ira Spiro, Mark Moore, Spiro Moss LLP**  
**11377 Olympic Bl Los Angeles CA 90064**  
 Telephone number **310-235-2468**  
 E-mail address **mark@spirosmoss.com**

Court Claim Number \_\_\_\_\_  
 (If known)  
 Filed on \_\_\_\_\_

Name and address where payment should be sent (if different from above)  
**\*Hunter & Gonzales for class of all who bought or leased GM vehicles in attached 4th amended complaint, case BC324622**  
 Telephone number \_\_\_\_\_

Check this box if you are aware that anyone else has filed a proof of claim relating to your claim. Attach copy of statement giving particulars.  
 Check this box if you are the debtor or trustee in this case.

1 Amount of Claim as of Date Case Filed, June 1, 2009 **unknown**  
 If all or part of your claim is secured, complete item 4 below, however, if all of your claim is unsecured, do not complete item 4. If all or part of your claim is entitled to priority, complete item 5. If all or part of your claim is asserted pursuant to 11 U.S.C. § 503(b)(9), complete item 5.  
 Check this box if claim includes interest or other charges in addition to the principal amount of claim. Attach itemized statement of interest or charges.

2 Basis for Claim **defective brakes, case BC324622 CA Superior Ct LA**  
(See instruction #2 on reverse side)

3 Last four digits of any number by which creditor identifies debtor \_\_\_\_\_  
 3a Debtor may have scheduled account as \_\_\_\_\_  
(See instruction #3a on reverse side)

4 Secured Claim (See instruction #4 on reverse side.)  
 Check the appropriate box if your claim is secured by a lien on property or a right of setoff and provide the requested information.

Nature of property or right of setoff  Real Estate  Motor Vehicle  Equipment  Other  
 Describe \_\_\_\_\_  
 Value of Property \$ \_\_\_\_\_ Annual Interest Rate % \_\_\_\_\_  
 Amount of arrearage and other charges as of time case filed included in secured claim, if any \$ \_\_\_\_\_  
 Basis for perfection \_\_\_\_\_  
 Amount of Secured Claim \$ \_\_\_\_\_ Amount Unsecured \$ \_\_\_\_\_

6 Credits The amount of all payments on this claim has been credited for the purpose of making this proof of claim.  
 7 Documents Attach redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. You may also attach a summary. Attach redacted copies of documents providing evidence of perfection of a security interest. You may also attach a summary. (See instruction 7 and definition of redacted on reverse side.)  
**DO NOT SEND ORIGINAL DOCUMENTS. ATTACHED DOCUMENTS MAY BE DESTROYED AT THE SCANNING.**  
 If the documents are not available, please explain in an attachment.

**Your Claim is Scheduled As Follows.**  
**FILED - 19633**  
**MOTORS LIQUIDATION COMPANY**  
**F/K/A GENERAL MOTORS CORP**  
**SDNY # 09-50026 (REG)**



If an amount is identified above, you have a claim scheduled by one of the Debtors as shown. (This scheduled amount of your claim may be an amendment to a previously scheduled amount.) If you agree with the amount and priority of your claim as scheduled by the Debtor, and you have no other claim against the Debtor, you do not need to file this proof of claim form. EXCEPT AS FOLLOWS: If the amount shown is listed as DISPUTED, UNLIQUIDATED or CONTINGENT, a proof of claim MUST be filed in order to receive any distribution in respect of your claim. If you have already filed a proof of claim in accordance with the attached instructions, you need not file again.

5 Amount of Claim Entitled to Priority under 11 U.S.C. § 507(a)  
 If any portion of your claim falls in one of the following categories, check the box and state the amount.  
 Specify the priority of the claim:  
 Domestic support obligations under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B)  
 Wages, salaries, or commissions (up to \$10,950\*) earned within 180 days before filing of the bankruptcy petition or cessation of the debtor's business, whichever is earlier - 11 U.S.C. § 507(a)(4)  
 Contributions to an employee benefit plan - 11 U.S.C. § 507(a)(5)  
 Up to \$2,425\* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use - 11 U.S.C. § 507(a)(7)  
 Taxes or penalties owed to governmental units - 11 U.S.C. § 507(a)(8)  
 Value of goods received by the Debtor within 20 days before the date of commencement of the case - 11 U.S.C. § 503(b)(9) (§ 507(a)(2))  
 Other - Specify applicable paragraph of 11 U.S.C. § 507(a)(\_\_\_\_)  
**Amount entitled to priority**  
 \$ \_\_\_\_\_  
\* Amounts are subject to adjustment on 4/1/10 and every 3 years thereafter, with respect to cases commenced on or after the date of adjustment.

Date **11/3/09** Signature The person filing this claim must sign it. Sign and print name and title, if any, of the creditor or other person authorized to file this claim and state address and telephone number if different from the notice address above. Attach copy of power of attorney, if any.  
**IRA SPIRO**  
**Atty for claimants and putative class**

**FOR COURT USE ONLY**

**INSTRUCTIONS FOR PROOF OF CLAIM FORM**

The instructions and definitions below are general explanations of the law. In certain circumstances, such as bankruptcy cases not filed voluntarily by the debtor, there may be exceptions to these general rules. The attorneys for the Debtors and their court-appointed claims agent, The Garden City Group Inc., are not authorized and are not providing you with any legal advice.

**A SEPARATE PROOF OF CLAIM FORM MUST BE FILED AGAINST EACH DEBTOR**

PLEASE SEND YOUR ORIGINAL, COMPLETED CLAIM FORM AS FOLLOWS: BY MAIL: THE GARDEN CITY GROUP INC. ATTN: MOTORS LIQUIDATION COMPANY CLAIMS PROCESSING, P.O. BOX 9366, DUBLIN, OH 43017-4286. BY HAND OR OVERTNIGHT COURIER: THE GARDEN CITY GROUP INC. ATTN: MOTORS LIQUIDATION COMPANY CLAIMS PROCESSING, 5151 BLAZER PARKWAY SUITE A, DUBLIN, OH 43017. ANY PROOF OF CLAIM SUBMITTED BY FACSIMILE OR E-MAIL WILL NOT BE ACCEPTED.

**THE GENERAL BAR DATE IN THESE CHAPTER 11 CASES IS NOVEMBER 30, 2009 AT 5:00 P.M. (PREVAILING EASTERN TIME)**

**Court Name of Debtor and Case Number**

These Chapter 11 cases were commenced in the United States Bankruptcy Court for the Southern District of New York on June 1, 2009. You should select the debtor against which you are asserting your claim.

**A SEPARATE PROOF OF CLAIM FORM MUST BE FILED AGAINST EACH DEBTOR**

**Creditor's Name and Address**

Fill in the name of the person or entity asserting a claim and the name and address of the person who should receive notices issued during the bankruptcy case. Please provide us with a valid email address. A separate space is provided for the payment address if it differs from the notice address. The creditor has a continuing obligation to keep the court informed of its current address. See Federal Rule of Bankruptcy Procedure (FRBP) 2002(g).

**1. Amount of Claim as of Date Case Filed**

State the total amount owed to the creditor on the date of the bankruptcy filing. Follow the instructions concerning whether to complete items 4 and 5. Check the box if interest or other charges are included in the claim.

**2. Basis for Claim**

State the type of debt or how it was incurred. Examples include goods sold, money loaned, services performed, personal injury/wrongful death, car loan, mortgage note, and credit card. If the claim is based on the delivery of health care goods or services, limit the disclosure of the goods or services so as to avoid embarrassment or the disclosure of confidential health care information. You may be required to provide additional disclosure if the debtor, trustee, or another party in interest files an objection to your claim.

**3. Last Four Digits of Any Number by Which Creditor Identifies Debtor**

State only the last four digits of the debtor's account or other number used by the creditor to identify the debtor, if any.

**3a. Debtor May Have Scheduled Account As**

Use this space to report a change in the creditor's name, a transferred claim, or any other information that clarifies a difference between this proof of claim and the claim as scheduled by the debtor.

**4. Secured Claim**

Check the appropriate box and provide the requested information if the claim is fully or partially secured. Skip this section if the claim is entirely unsecured. (See DEFINITIONS below.) State the type and the value of property that secures the claim, attach copies of lien documentation, and state annual interest rate and the amount past due on the claim as of the date of the bankruptcy filing.

**5. Amount of Claim Entitled to Priority Under 11 U.S.C. § 507(a)**

If any portion of your claim falls in one or more of the listed categories, check the appropriate box(es) and state the amount entitled to priority. (See DEFINITIONS below.) A claim may be partly priority and partly non-priority. For example, in some of the categories, the law limits the amount entitled to priority.

For claims pursuant to 11 U.S.C. § 503(b)(9), indicate the amount of your claim arising from the value of any goods received by the debtor within 20 days before June 1, 2009, the date of commencement of these cases. (See DEFINITIONS below.) Attach documentation supporting such claim.

**6. Credits**

An authorized signature on this proof of claim serves as an acknowledgment that when calculating the amount of the claim, the creditor gave the Debtor credit for any payments received toward the debt.

**7. Documents**

Attach to this proof of claim form redacted copies documenting the existence of the debt and of any lien securing the debt. You may also attach a summary. You must also attach copies of documents that evidence perfection of any security interest. You may also attach a summary FRBP 3001(c) and (d). If the claim is based on the delivery of health care goods or services, see instruction 2. Do not send original documents, as attachments may be destroyed after scanning.

**Date and Signature**

The person filing this proof of claim must sign and date it. FRBP 9011. If the claim is filed electronically, FRBP 5005(a)(2) authorizes courts to establish local rules specifying what constitutes a signature. Print the name and title of any of the creditor or other person authorized to file this claim. State the filer's address and telephone number if it differs from the address given on the top of the form for purposes of receiving notices. Attach a complete copy of any power of attorney. Criminal penalties apply for making a false statement on a proof of claim.

**DEFINITIONS**

**INFORMATION**

**Debtor**

A debtor is the person, corporation, or other entity that has filed a bankruptcy case. The Debtors in these Chapter 11 cases are:

- Motors Liquidation Company  
(f/k/a General Motors Corporation) 09-50026 (RTG)
- MLCS LLC  
(f/k/a Saturn LLC) 09-50027 (RTG)
- MLCS Distribution Corporation  
(f/k/a Saturn Distribution Corporation) 09-50028 (RTG)
- MIC of Harley Inc.  
(f/k/a Chevrolet Saturn of Harley Inc.) 09-13558 (RTG)

**Creditor**

A creditor is the person, corporation, or other entity owed a debt by the debtor on the date of the bankruptcy filing.

**Claim**

A claim is the creditor's right to receive payment on a debt that was owed by the Debtor on the date of the bankruptcy filing. See 11 U.S.C. § 101(5). A claim may be secured or unsecured.

**Proof of Claim**

A proof of claim is a form used by the creditor to indicate the amount of the debt owed by the debtor on the date of the bankruptcy filing. The creditor must file the form with The Garden City Group Inc., as described in the instructions above and in the Bar Date Notice.

**Secured Claim Under 11 U.S.C. § 506(a)**

A secured claim is one backed by a lien on property of the debtor. The claim is secured so long as the creditor has the right to be

paid from the property prior to other creditors. The amount of the secured claim cannot exceed the value of the property. Any amount owed to the creditor in excess of the value of the property is an unsecured claim. Examples of liens on property include a mortgage on real estate or a security interest in a car. A lien may be voluntarily granted by a debtor or may be obtained through a court proceeding. In some states, a court judgment is a lien. A claim also may be secured if the creditor owes the debtor money (has a right to setoff).

**Section 503(b)(9) Claim**

A Section 503(b)(9) claim is a claim for the value of any goods received by the debtor within 20 days before the date of commencement of a bankruptcy case in which the goods have been sold to the debtor in the ordinary course of such debtor's business.

**Unsecured Claim**

An unsecured claim is one that does not meet the requirements of a secured claim. A claim may be partly secured if the amount of the claim exceeds the value of the property on which the creditor has a lien.

**Claim Entitled to Priority Under 11 U.S.C. § 507(a)**

Priority claims are certain categories of unsecured claims that are paid from the available money or property in a bankruptcy case before other unsecured claims.

**Redacted**

A document has been redacted when the person filing it has masked, edited out, or otherwise deleted certain information. A creditor should redact and use only the last four digits of any social-security individual's

tax-identification or financial-account number, all but the initials of a minor's name, and only the year of any person's date of birth.

**Evidence of Perfection**

Evidence of perfection may include a mortgage lien certificate of title, financing statement, or other document showing that the lien has been filed or recorded.

**Acknowledgment of Filing of Claim**

To receive acknowledgment of your filing from The Garden City Group Inc., please provide a self-addressed stamped envelope and a copy of this proof of claim when you submit the original claim to The Garden City Group, Inc.

**Offers to Purchase a Claim**

Certain entities are in the business of purchasing claims for an amount less than the face value of the claims. One or more of these entities may contact the creditor and offer to purchase the claim. Some of the written communications from these entities may easily be confused with official court documentation or communications from the debtor. These entities do not represent the bankruptcy court or the debtor. The creditor has no obligation to sell its claim. However, if the creditor decides to sell its claim, any transfer of such claim is subject to FRBP 3001(c), any applicable provisions of the Bankruptcy Code (11 U.S.C. § 103 et seq.) and any applicable orders of the bankruptcy court.

**Additional Information**

If you have any questions with respect to this claim form, please contact Alex Partners at 1 (800) 414-9607 or by e-mail at [claims@motorsliquidation.com](mailto:claims@motorsliquidation.com).

1 Adam Voyles - (Admitted *Pro Hac Vice*)  
HEARD, ROBINS, CLOUD & LUBEL, LLP  
2 One Allen Center, 500 Dallas, Suite 3100  
Houston, Texas 77002  
3 (832) 214-4839, fax (713) 650-1400  
4 Ira Spiro - State Bar No 67641  
Dennis F. Moss - State Bar No. 77512  
5 René L. Barge - State Bar No 182317  
David M. Arbogast - State Bar No. 167571  
6 SPIRO MOSS BARNES HARRISON & BARGE, LLP  
11377 W. Olympic Boulevard, Fifth Floor  
7 Los Angeles, CA 90064-1683  
(310) 235-2468, fax (310) 235-2456  
8

9 Attorneys for Plaintiffs La Ronda Hunter,  
Rosana N Pulgarin, Robin Gonzales and all others Similarly Situated

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
11 COUNTY OF LOS ANGELES, CENTRAL DISTRICT  
12

13 La RONDA HUNTER, ROSANA N.  
14 PULGARIN, and ROBIN GONZALES on  
15 behalf of themselves and on behalf of all  
16 others similarly situated and the general  
17 public,

18 Plaintiffs,

19 v

20 GENERAL MOTORS CORPORATION  
21 and DOES 1 through 100,

22 Defendants.  
23  
24  
25  
26  
27  
28

CASE NO. BC 324 622

CLASS ACTION

[Assigned to the Hon. Carl J. West, Dept 311]

FOURTH AMENDED COMPLAINT FOR:

- (1) VIOLATION OF CALIFORNIA'S CONSUMER LEGAL REMEDIES ACT ("CLRA"), Civil Code § 1750 *et seq.*; and
- (2) VIOLATION OF CALIFORNIA'S UNFAIR COMPETITION ACT ("UCL"), Bus. & Prof. Code § 17200 *et seq.*

DEMAND FOR JURY TRIAL

ORIGINAL FILM

DEC 9 9 2005

RECEIVED  
DEC - 9 2005  
Dept. 311

I.

INTRODUCTION

1  
2  
3 1 Defendant General Motors Corporation ("GM") admits that it designed, manufactured,  
4 marketed, advertised, distributed, sold and delivered certain vehicles that are defective. Specifically, GM  
5 admits that all the PBR and TRW parking brake systems in 1999 - 2005 model year trucks and sport utility  
6 vehicles ("SUV's") manufactured, marketed and sold by it are defective.

7 **"General Motors has decided that a defect, which relates to motor vehicle safety, exists**  
8 **in certain 1999-2002 C/K 1500 Series (PBR parking brake system) and 2001-2005 C/K**  
9 **2500 and 3500 Series (TRW parking brake system) pickups with manual**  
10 **transmissions"**

11 2 These parking brake systems are not only defective, they present an unreasonable public risk  
12 of motor vehicle accidents resulting in serious bodily injury and/or death. By way of one example among  
13 many, it was reported by NHTSA, the National Highway Traffic Safety Administration, that in June 2004,  
14 a California resident and mother of two exited her vehicle (one of the Subject Vehicles) after engaging the  
15 parking brake and placing the automatic transmission in Park. The vehicle began to roll and in attempting  
16 to save her two children trapped in the run away vehicle, she was run over by her own vehicle. She  
17 sustained severe bodily injury and her vehicle violently struck a tree, injuring her two children, and causing  
18 extensive damage to the vehicle and property.

19 3 Despite this admission, and its knowledge, awareness and responsibility for the defect, GM  
20 made false, misleading, unfair, deceptive, unlawful and fraudulent representations to consumers, including  
21 Plaintiffs Ms. Hunter, Ms. Pulgarin, and Ms. Gonzales, about the quality, safety and braking systems of its  
22 defective vehicles. For example, GM made the following representations, among others, to Ms. Hunter,  
23 Ms. Pulgarin, Ms. Gonzales, and others similarly situated, that the Subject Vehicles (as defined below)

- 24 • had a "TECHNICALLY ADVANCED BRAKING SYSTEM",  
25 • "new braking systems that increase brake pad life by up to four times that of current  
26 models" and "the brake pad life can last up to four times longer than the previous design"  
27 • brake systems meeting regional legal requirements"  
28

- 1 • “vehicles [] engineered for excellent durability [and] Perhaps most noteworthy, redesigned
- 2 braking [] systems ”
- 3 • were “ENGINEER[ED] [ ] TO THE HIGHEST STANDARD”,
- 4 • were “CERTIFIED” to comply with “ALL APPLICABLE U.S FEDERAL MOTOR
- 5 VEHICLE SAFETY STANDARDS”
- 6 • “WAS DESIGNED AND TESTED WITH TOP-QUALITY GM BRAKE PARTS”
- 7 • “At GMC we believe that safe driving begins by avoiding collisions, and the Yukon and
- 8 Yukon XL are engineered to help you do exactly that ”
- 9 • “engineered to meet our toughest standards”
- 10 • “the most dependable, longest-lasting trucks on the road ”
- 11 • were equipped with “PROFESSIONAL BRAKE ENGINEERING. ”
- 12 • were equipped with a “COMPLEX” . “braking system”
- 13 • were “PRECISION-ENGINEERED AND BUILT TO [GM’S] HIGH QUALITY
- 14 STANDARDS”
- 15 • “tough technology, designed to bring you a more dependable, longer-lasting truck
- 16 • excellent breaking power and minimal brake fade ”
- 17 • “the most dependable, longest lasting trucks on the road \* \* Dependability based on
- 18 longevity ”
- 19 • “Repairs made to correct any vehicle defect”
- 20 • “brake systems requires meeting regional legal requirements”
- 21 • “an even higher level of safety and security features than the previous generation And it does
- 22 your safety and security are always a top priority – even in the things you may not readily
- 23 notice Your safety and security In the all-new Tahoe, it’s what really matters to us ”
- 24 • “we began redesigning the full-size SUVs by extensively researching the needs of our
- 25 customers establishing new benchmarks in Yukon’s performance ”

26 Each of these representations (and other representations) made by GM to Ms Hunter, Ms Pulgarin, and Ms  
 27 Gonzales, and others similarly situated were false and GM knew they were false when they made them GM  
 28 knew these representations were false because at the time they were made to Plaintiffs, GM knew that the





1 bought their vehicles occurred in Los Angeles County The undersigned declares under penalty of perjury  
2 under the laws of the State of California that the preceding sentence is true and correct and was executed  
3 at Los Angeles, on the date set forth at his signature

4 **III.**

5 **PARTIES**

6 8. Plaintiff La Ronda Hunter is a Los Angeles County, California resident Ms. Hunter  
7 purchased and owns one of the Subject Vehicles, a 2001 GMC Yukon 1500 Series Model, which was  
8 designed, manufactured, tested, evaluated, inspected, certified, marketed, advertised, distributed, sold and  
9 delivered to her with a defective parking brake system Ms Hunter's vehicle has the PBR parking brake  
10 system that GM admits is defective Ms Hunter made efforts to have GM correct, repair, replace or  
11 otherwise rectify the unsafe and defective parking brake system on her 2001 GMC Yukon, which GM  
12 refused to do Ms Hunter expended her own funds, approximately \$260 00 in parts and labor, to have the  
13 defective brakes replaced Additionally, Ms. Hunter has suffered damages and lost money in an amount  
14 equal to the difference between what was represented, a vehicle with a parking brake system that would  
15 work as an immobilization device, and what she received, a vehicle with a defective parking brake system  
16 that would not immobilize the vehicle when required

17 9 Ms Hunter appears in this action on behalf of herself and on behalf of all others similarly  
18 situated pursuant to Business and Professions Code §§17200 *et seq* Ms Hunter also appears on behalf of  
19 the General Public in her capacity as a private attorney general

20 10 Plaintiff Rosana N Pulgarin is a Los Angeles County, California resident Ms Pulgarin  
21 purchased and owns one of the Subject Vehicles, a 2001 Chevrolet Tahoe, which was designed,  
22 manufactured, tested, evaluated, inspected, certified, marketed, advertised, distributed, sold and delivered  
23 to her with a defective parking brake system Ms Pulgarin's vehicle also has the PBR parking brake system  
24 that GM admits is defective. Ms Pulgarin made efforts to have GM correct, repair, replace or otherwise  
25 rectify the unsafe and defective parking brake system on her 2001 Chevrolet Tahoe which GM refused to  
26 do In particular, in response to GM's representations as alleged herein, Ms Pulgarin has at all times  
27 maintained her customer loyalty with the same GM dealership where she purchased her Subject Vehicle,  
28 new Ms Pulgarin has faithfully returned to that same GM dealership every 3,000 miles for routine

1 maintenance, oil changes and inspections, and taken her vehicle to that GM dealership for GM's "Scheduled  
2 Maintenance" at "7,500 Miles (12 500 km)," "15,000 Miles (25 000 km)," "22,500 Miles (37 500 km)," and  
3 "30,000 Miles (50 000 km)" as instructed by her GM "Owner's Manual " To date, Ms Pulgarin has spent  
4 hundreds of dollars on GM's claimed "Quality Service," yet at no time, during any of these periodic and/or  
5 GM "Scheduled Maintenance" visits has GM informed her that her parking brake system on the Subject  
6 Vehicle is defective and/or repaired the defects as alleged herein As a result, Ms Pulgarin has conferred  
7 an economic benefit on GM, by returning to the Dealership where she purchased her vehicle and at all times  
8 relevant, GM has failed to live up to their end of the bargain and performed the "repairs made to correct any  
9 vehicle defect" as represented and as warranted by GM As a direct and proximate result, Ms Pulgarin has  
10 suffered damages and lost money in an amount equal to the difference between what was represented, a  
11 vehicle with a parking brake system that would work as an immobilization device, and what she received,  
12 a vehicle with a defective parking brake system that would not immobilize the vehicle when required and  
13 conferred a monetary benefit to GM which is unjust for GM to retain all or a portion of those monies  
14 Plaintiff has paid GM The defective parking brake system on Ms Pulgarin's vehicle manifested itself by  
15 showing abnormal and premature wear on the linings of the rear parking brake requiring repair Therefore,  
16 the defective parking brakes on her vehicle are malfunctioning and/or are failing before the end of their  
17 expected useful life

18 11 Ms Pulgarin appears in this action on behalf of herself and on behalf of all others similarly  
19 situated pursuant to Business and Professions Code §§17200 *et seq* Ms Pulgarin also appears on behalf  
20 of the General Public in her capacity as a private attorney general

21 12 Plaintiff Robin Gonzales is a Los Angeles County, California resident Ms Gonzales  
22 purchased and owns one of the Subject Vehicles, a 2001 Chevrolet Silverado, which was designed,  
23 manufactured, tested, evaluated, inspected, certified, marketed, advertised, distributed, sold and delivered  
24 to her with a defective parking brake system Ms Gonzales' vehicle has the PBR parking brake system that  
25 GM admits is defective Ms Gonzales made numerous efforts to have GM correct, repair, replace or  
26 otherwise rectify the unsafe and defective parking brake system on her 2001 Chevrolet Silverado which GM  
27 refused to do Specifically, Ms Gonzales presented her Subject Vehicle to an authorized GM service and  
28 repair center for periodic service and repair and for GM's "Scheduled Maintenance" at "7,500 Miles (12 500

1 km)." "15,000 Miles (25 000 km)," "22,500 Miles (37 500 km)," and "30,000 Miles (50 000 km)" as  
2 instructed by her GM "Owner's Manual " In particular, within GM's warranty period, at approximately  
3 29,000 miles, Ms Gonzales took her 2001 Chevrolet Silverado to an authorized GM Dealer for service and  
4 repair of a number of defects and/or problems, which include a defect and/or problem with her parking  
5 brakes not working and/or otherwise being inoperable Upon return of the Subject Vehicle to Ms Gonzales,  
6 the authorized GM Dealer provided a written summary of repairs, and buried within that summary was the  
7 following notation "COMMENTS . PARKING BRAKE INOP " Shortly thereafter, Ms Gonzales  
8 confronted GM's authorized service and/or repair representatives and requested that GM repair and/or make  
9 the parking brake operable. In response to Ms Gonzales' requests, GM represented that Ms Gonzales does  
10 not need parking brakes and has refused to repair the defective parking brakes and/or otherwise make them  
11 operable as warranted and as represented To this day, GM has never warned or advised Ms Gonzales and  
12 others similarly situated of the safety related design defect that has at all times relevant existed in the parking  
13 brake system on her vehicle To date, Ms. Gonzales has spent hundreds of dollars on GM's claimed  
14 "Quality Service," yet at no time, during any of Ms Gonzales' numerous periodic and/or GM "Scheduled  
15 Maintenance" visits has GM ever notified her that the defect(s) in her parking brake system on the Subject  
16 Vehicle present an unreasonable public risk of motor vehicle accidents resulting in serious bodily injury  
17 and/or death nor has GM at any time offered to or corrected the defective parking brake system on the  
18 Subject Vehicle free of charge, as warranted and as represented As a result, Ms Gonzales has conferred  
19 an economic benefit on GM by returning to the GM authorized Dealerships and service centers for service  
20 and repair of her vehicle and GM has failed to live up to their end of the bargain and has not performed the  
21 "repairs made to correct any vehicle defect" and/or as represented and as warranted by GM

22 13 Ms Gonzales expended her own funds, approximately \$417 00 in parts and labor, to have  
23 the defective brakes on her 2001 Chevrolet Silverado replaced Further, as a direct and proximate result of  
24 GM's misconduct alleged herein. Ms Gonzales has also been injured and lost money in an amount equal  
25 to the difference between what was represented, a vehicle with a parking brake system that would work as  
26 an immobilization device, and what she received, a vehicle with a defective parking brake system that would  
27 not immobilize the vehicle when required and conferred a monetary benefit to GM which is unjust for GM  
28 to retain all or a portion of those monies Plaintiff gave GM

1           14     Ms Gonzales appears in this action on behalf of herself and on behalf of all others similarly  
2 situated pursuant to Business and Professions Code §§17200 *et seq* Ms Gonzales also appears on behalf  
3 of the General Public in her capacity as a private attorney general.

4           15     GM is a Delaware corporation doing business in California and throughout the United States  
5 GM does business in Los Angeles County, California and at all relevant times designed, manufactured,  
6 promoted, marketed, distributed, and/or sold the Subject Vehicles throughout California and the rest of the  
7 United States GM has significant contacts with Los Angeles County and the activities complained of herein  
8 occurred in whole or in part, in Los Angeles County

9           16     Plaintiffs are informed and believe and thereon allege that Defendants Does 1 through 100  
10 are corporations, or are other business entities or organizations of a nature unknown to Plaintiff

11           17     Plaintiffs are unaware of the true names of Defendants Does 1 through 100 Plaintiffs sue  
12 said defendants by said fictitious names, and will amend this complaint when the true names and capacities  
13 are ascertained or when such facts pertaining to liability are ascertained, or as permitted by law or by the  
14 Court Plaintiffs are informed and believe that each of the fictitiously named defendants is in some manner  
15 responsible for the events and allegations set forth in this complaint

16           18     Plaintiffs are informed, believe, and thereon allege that at all relevant times, each defendant  
17 was a developer, designer, manufacturer, distributor and/or seller of trucks, was the principal agent, partner,  
18 joint venturer, officer, director, controlling shareholder, subsidiary, affiliate, parent corporation, successor  
19 in interest and/or predecessor in interest of some or all of the other Defendants, and was engaged with some  
20 or all of the other defendants in a joint enterprise for profit, and bore such other relationships to some or all  
21 of the other defendants so as to be liable for their conduct with respect to the matters alleged in this  
22 complaint Plaintiffs are further informed and believe and thereon allege that each defendant acted pursuant  
23 to and within the scope of the relationships alleged above, and that at all relevant times, each defendant knew  
24 or should have known about, authorized, ratified, adopted, approved, controlled, aided and abetted the  
25 conduct of all other defendants As used in this complaint, "Defendants" means "Defendants and each of  
26 them," and refers to the Defendants named in the particular cause of action in which the word appears and  
27 includes GM and Does 1 through 100

28           19     At all times mentioned herein, each Defendant was the co-conspirator, agent, servant,

1 employee, and/or joint venturer of each of the other defendants and was acting within the course and scope  
2 of said conspiracy, agency, employment, and/or joint venture and with the permission and consent of each  
3 of the other Defendants

4 20 Plaintiffs make the allegations in this complaint without any admission that, as to any  
5 particular allegation, plaintiffs bear the burden of pleading, proving, or persuading, and plaintiffs reserve  
6 all of plaintiffs rights to plead in the alternative

7 **IV.**

8 **FACTS COMMON TO ALL CAUSES OF ACTION**

9 **A. General Motors Corporation – The World's Largest Automaker**

10 21 GM is the world's largest automaker and has been the global industry sales leader since 1931  
11 Founded in 1908, GM has manufacturing operations in 32 countries and its vehicles are sold in 200  
12 countries In 2004, GM sold nearly 9 million cars and trucks globally, the second-highest total in the  
13 company's history GM's automotive brands include Buick, Cadillac, Chevrolet, GMC, Holden, HUMMER,  
14 Opel, Pontiac, Saab, Saturn and Vauxhall GM Parts and accessories are sold under the GM, GM  
15 Goodwrench and ACDelco brands through GM Service and Parts Operations, which supplies GM  
16 dealerships and distributors worldwide

17 **B. GM's Defective Parking Brake System**

18 22 In 1998, GM introduced several models of trucks and SUVs based on their GMT800  
19 platform The GMT800 platform vehicles were equipped with a newly designed parking brake system called  
20 a drum-in-hat or Banksia Style parking brake system This parking brake system is identified by GM as the  
21 PBR parking brake system and as the TRW parking brake system It is referred to herein as the "PBR/TRW  
22 parking brake system " The PBR and TRW parking brake systems are substantially identical, the difference  
23 being that the PBR parking brake system was installed on 1500 Series vehicles and the TRW parking brake  
24 system was installed on 2500/3500 Series vehicles Both the PBR and the TRW parking brake systems were  
25 designed, intended and described by GM to be a "life of the vehicle part" with an expected life span of well  
26 over 200,000 miles

27 23 The PBR/TRW parking brake system on each of the vehicles is identical and consists of a  
28 small cable-actuated non-service drum brake contained within the "hat" portion of the rear disc brake rotors

1 This drum-in-hat or Banksia-style parking brake system contains a single brake shoe inside each of the rear  
2 wheel drums (2 per vehicle) and does not contain any provision or mechanism for actively self-centering  
3 the brake shoe within the "hat" portion of the brake drum. This drum-in-hat parking brake system was  
4 originally designed, manufactured and sold with a single hold down clip to maintain the concentric location  
5 of the parking brake shoe within the parking brake drum. However, due to the excessive hold down force  
6 of the single retainer clip mechanism as originally designed, the parking brake shoe, upon its first  
7 engagement allowed the parking brake shoe to rotate out of alignment and remain in contact with the parking  
8 brake drum. Due to the fact that this parking brake system contained no provision for self centering the  
9 brake shoe within the "hat" portion of the drum, causing the parking brake shoes to sustain prolonged  
10 contact with the brake drum while driving, causing and/or contributing to the parking brake linings to fail  
11 and/or wearing out failing prematurely which GM has estimated at an average of 24 months in service.  
12 However, in a substantial number of these vehicles, the parking brakes never worked at all upon delivery  
13 and/or sale to the consumer.

14         24         At all times relevant, GM intended and reasonably expected the parking brakes on these  
15 vehicles to last the life of the vehicle and not wear out and fail before the end of the useful life absent a  
16 defect as alleged herein which causes the parking brake shoe or lining to move off center and contact the  
17 rear brake drum while the vehicles are being driven. This contact between the parking brake linings and the  
18 rear brake drums while the vehicle is moving is directly and proximately caused by the defect as alleged  
19 herein.

20         25         These vehicles manufactured and/or equipped with the "drum-in-hat" parking brake system  
21 or Banksia-style parking brake system were defective at the time of delivery and soon after these vehicles  
22 were sold to the public, GM received complaint and warranty information that the parking brake linings were  
23 wearing out very early in the life of the vehicles (at an average of 24 months in service), reducing the parking  
24 brakes effectiveness to immobilize the vehicles, the intended purpose for which the parking brake system  
25 was designed to do.

26         26         In October of 2002, GM described the defect in a Technical Service Bulletin ("TSB") wherein  
27 it acknowledged the defect and alerted its dealers that the defect was applicable to all of the vehicles with  
28 the PBR and TRW parking brake systems. GM described the defective condition as "the parking brake shoe

1 contacting the drum in hat rotor without the parking brake being applied, causing premature wear on the  
2 shoe lining” What GM failed to also disclose in its TSB was that the defective design not only caused  
3 premature parking brake failure, but that it also caused certain of the affected vehicles parking brakes to fail  
4 altogether and/or not work from the minute the affected vehicles rolled off the assembly line

5         27         It is now known that all of the following vehicles have the defective PBR/TRW parking brake  
6 system: 2002-2003 Cadillac Escalade, Escalade EXIST, 2003 Cadillac Escalade ESV, 1998-2003 Chevrolet  
7 Blazer, 1999-2003 Chevrolet Silverado 1500 Series (trucks); 2000-2003 Chevrolet Suburban, Tahoe (1500  
8 Series), 2002-2003 Chevrolet TrailBlazer, Trailblazer EXIST, 1998-2003 GMC Jimmy, 1999-2003 GMC  
9 Sierra 1500 Series, 2000-2003 GMC Yukon 1500 Series, 2002-2003 GMC Envoy, Envoy XL, 2002-2003  
10 Chevrolet Avalanche 1500 Series Models, and 1998-2003 Oldsmobile Bravada (defined *supra* as the  
11 “Subject Vehicles”)

12         28         The PBR/TRW parking brake system on the Subject Vehicles are, remain, and have always  
13 been defective. The defect causes the Subject Vehicles’ parking brake systems not to work, fail, and/or are  
14 substantially certain to fail prematurely, which is exactly the case with Ms Hunter, Ms Pulgarin, Ms  
15 Gonzales, and millions of other owners and lessees of the Subject Vehicles. A PBR/TRW parking brake  
16 system engineering report from GM to NHTSA discusses the consequences of GM’s defective PBR/TRW  
17 parking brake system - IT DOES NOT HOLD THE VEHICLE. The report states that PBR/TRW parking  
18 brake system vehicles “the parking brake friction linings may wear to an extent where the parking brake can  
19 become ineffective in immobilizing a parked vehicle.” The report goes on to emphasize this point:

20                 **“Consequence: IF THE PARKING BRAKE DOES NOT HOLD, UNATTENDED**  
21                 **VEHICLE MOVEMENT COULD OCCUR, WHICH COULD RESULT IN A**  
22                 **CRASH.”**

23         29         Accordingly, it is without question that the PBR/TRW parking brake systems are, remain and  
24 have always been defective and it is unquestionable that as a result of the defect, the parking brake systems  
25 on the Subject Vehicles do not hold or stop the vehicles, which is the only purpose for parking brakes. Not  
26 only does this defect cause the Subject Vehicles to be unsuitable and unsafe for their intended use, it has and  
27 will continue to create serious dangers for drivers, passengers and pedestrians. This fact is underscored by  
28 the hundreds of complaints lodged with NHTSA and the scores of injuries as well as deaths described in the



1 NHTSA database as being caused by the defective PBR/TRW parking brake systems.

2 **C. GM's Knowledge of the Defect that Existed in the Subject Vehicles**

3 30 Almost immediately after the launch of the trucks and SUVs equipped with the defective  
4 PBR/TRW parking brake systems, GM became aware and knew that these parking brake systems were  
5 defective, would not work as intended, and would definitely not last the life of the vehicle, *i.e.*, over 200,000  
6 miles

7 31 It is also now known from GM documents disclosed to NHTSA as a part of its investigation  
8 that GM knew by September 18, 2000, and likely much earlier, that the parking brake systems on the Subject  
9 Vehicles were defective

10 On Monday, September 18, 2000, Steve Love, Brand Quality Manager for the GMT800  
11 Pickups, Sierra and Silverado trucks and SUVs sent a letter to GM's dealer partners stating  
12 that the drum-in-hat parking brake system found on these vehicles "is not self-adjusting  
13 ... requir[ing] frequent adjustments[.]"

14 And, that around this same time in 2000, GM was receiving numerous reports of parking brake failures --  
15 prompting NHTSA to initiate an investigation in 2001

16 32 According to the GM documents produced in response to NHTSA's investigation of the  
17 defective parking brake system on the Subject Vehicles, it was not until late 2001 that GM first began  
18 investigating solutions to fix the defect, and did so without (i) providing any notice or disclosure of the  
19 known defect, or the inherent dangers caused by it, to the current or would-be owners and lessees of the  
20 Subject Vehicles, and without (ii) curtailing or modifying the express representations it was making to the  
21 public about the quality, safety and functionality of the parking brake systems on the Subject Vehicles

22 33 The GM documents disclosed to NHTSA also reveal that GM secretly initiated its first step  
23 towards addressing the defect in October 2001 by issuing "[a]n Engineering Work Order (EWO) to release  
24 a spring clip retainer with lower retaining force" for the defective brake systems. These GM records also  
25 reveal that after initiating the EWO, GM then waited two years before it began implementing this EWO in  
26 the 2003 model year Subject Vehicles. In the interim, however, upon information and belief, not wanting  
27 to let its own engineering incompetence get in the way of profits, GM issued a Technical Service Bulletin  
28 ("TSB") offering dealers and repair centers a Brake Kit which they in turn could sell to unwitting (and

1 uninformed) consumers to allegedly fix the defect. However, this only compounded the inferior quality of  
2 the PBR/TRW parking brake system, because neither the Brake Kit nor the EWO fixed the defect, which  
3 GM later acknowledged in a letter forwarded to NHTSA. GM, therefore, not only sold Plaintiffs and others  
4 similarly situated a defective and malfunctioning parking brake system in the Subject Vehicles, but profited  
5 from doing so via the sale of an ineffective aftermarket Brake Kit, which did not even fix the problem.

6         34         The GM documents disclosed to NHTSA also suggest that GM waited until October of 2004  
7 before it conducted any durability testing on the PBR/TRW parking brake system. GM waited four years  
8 despite becoming aware as early as 2000, as evidenced by these GM records, that (i) there was an  
9 extraordinarily significant number of reports of brake failures, (ii) there was an impending NHTSA  
10 investigation, (iii) crashes and wrecks were caused by the defect, and (iv) GM's own internal engineering  
11 reports chronicled the failures. Upon information and belief, it was only as result of the GM's own  
12 durability test data that it realized it could no longer continue to ignore the PBR/TRW parking brake  
13 system defect.

14         35         In 2005 (more than 4 years after GM first became aware of the defect), GM actually corrected  
15 the defect. GM did so by redesigning the parking brake system for new vehicles sold beginning sometime  
16 in 2005, "to accommodate two low-force spring clip retainers," replacing, among other things, the original  
17 and inferior one spring clip design. This correction on new vehicles, however, obviously did not help the  
18 current owners and lessees of the Subject Vehicles previously manufactured.

19         36         It was also in 2005, in conjunction with its parking brake system redesign, and, upon  
20 information and belief, in response to a mounting outcry of consumer complaints, numerous injuries,  
21 pressure from NHTSA, and the initial filing of this lawsuit, when GM finally announced a safety recall  
22 (albeit it limited and incomplete), providing free braking system repair and replacement of the defective  
23 PBR/TRW parking brake systems only for those vehicles with manual transmissions. Without explanation  
24 or rational justification, GM limited its recall to only a small percentage of the 4.1 million defective  
25 PBR/TRW parking brake systems sold, and only provided notice, recall, and free repair and replacement for  
26 vehicles with manual transmissions. At no point during any of this time leading up to the recall did GM ever  
27 notify the existing or would-be Subject Vehicle owners and lessees about the defect or that the  
28 representations it had made regarding the quality, safety and functionality of the parking brake systems on

1 the Subject Vehicles was false. Again, after countless opportunities to cure the defect(s) by providing  
2 owners and lessees with a repair and replacement remedy, GM instead chose to remain silent, concealing  
3 the true facts concerning these defects, and knowingly and willfully continued to certify the Subject  
4 Vehicles, partially disclosing some information touting the quality, safety, functionality and/or reliability  
5 of the parking brakes, but at all relevant times failing to disclose other relevant material facts concerning the  
6 defect(s) in the parking brakes all the while knowing that Plaintiffs and others similarly situated had no  
7 knowledge of the serious safety related defect in these parking brake systems in order to continue to sell  
8 these vehicles and maximize their profits

9       37       At all relevant times, GM has been aware of the PBR/TRW parking brake system defect on  
10 the Subject Vehicles, and has consciously disregarded the rights and safety of Plaintiffs, members of the  
11 Class and the General Public, in that numerous complaints about the defective parking brake system in the  
12 Subject Vehicles have been lodged with GM, including injury incidents and deaths caused by the defective  
13 parking brake systems failure to immobilize these vehicles. The misconduct of GM as alleged in this  
14 complaint has resulted in injury to Plaintiffs, members of the Class and the General Public, was done with  
15 malice, fraud, and oppression and in willful and conscious disregard of the rights and safety of Plaintiffs and  
16 others. Specifically, GM and Defendants DOES 1 through 100, through their officers, directors and/or  
17 managing agents, authorized, directed, conducted, or ratified each of the following acts and engaged in the  
18 following conduct:

19           (a)       Before marketing the Subject Vehicles, GM knew, based on its own experience and  
20 testing, that many consumers would be injured and/or killed if the vehicles were marketed with ineffective  
21 and/or inoperable parking brakes. Nevertheless, GM chose to market the Subject Vehicles with defective  
22 and/or inoperable parking brakes, substantially likely to result, and has resulted in severe and/or substantial  
23 injuries to consumers,

24           (b)       Based on information and belief, GM failed to perform adequate tests and studies,  
25 and/or performed such tests and studies and knew, by 2000, and very likely much earlier, that the parking  
26 brake system on the Subject Vehicles was defective and as a result, would require frequent adjustments and  
27 were substantially certain to fail, become inoperable and/or ineffective as an immobilization device, and thus  
28 were extremely dangerous and potentially deadly. Further, no later than 2002, GM had designed and

1 manufactured a replacement "low-force spring clip retainer" to cure the defect(s) and released these products  
2 for sale to the public for approximately \$165 00 per vehicle. However, it was not until 2005 that all of the  
3 Subject Vehicles were designed, manufactured and built with the necessary modifications for an effective  
4 (operable) parking brake system on these vehicles. To this day, GM has not installed the replacement  
5 parking brake parts on the Subject Vehicles, nor has GM warned its consumers of the necessity for the  
6 replacement parking brake kit.

7 (c) GM intentionally did not install the replacement parking brake kit or redesigned hold  
8 down clip in order to save money, knowing it was putting American consumers at great risk. GM knew  
9 statistically that a number of these vehicles would be involved in collisions and crashes that would result  
10 in people being maimed or killed as a result of the failure of the defective parking brakes failure to properly  
11 function and operate an immobilization device. With that knowledge, Plaintiffs are informed and believe  
12 that GM calculated that it would be less costly to pay for wrongful death and injury claims that might result  
13 than to install the replacement parking brake kit and/or redesigned hold down clips.

14 (d) Plaintiffs are informed and believe, and based on that information and belief allege,  
15 that GM has engaged in other acts and conduct, including attempted "cover-ups" of its knowledge and  
16 activities regarding the lack of effective and operable parking brakes on the Subject Vehicles, and has  
17 engaged in willful suppression of that evidence. Plaintiffs will seek leave to amend this complaint to allege  
18 such further acts and conduct undertaken in willful and conscious disregard of the rights and safety of  
19 Plaintiffs and others at such time as they become known, or at the time of trial.

20 (e) In engaging in the conduct described in this complaint, Defendants, and each of them,  
21 acted in willful and conscious disregard of the rights and safety of Plaintiffs and others, thereby committing  
22 acts of malice or oppression so as to entitle Plaintiffs to punitive damages in an amount sufficient to punish  
23 or make an example of these defendants.

24 (f) As a direct result of GM's willful and malicious conduct, Plaintiffs and the Class have  
25 suffered substantial damages and injuries in an amount to be determined by proof at the time of trial.

26 38 GM failed to provide adequate warnings and use instructions with the Subject Vehicles and  
27 component parts, because of their desire to place profits over safety. At all times relevant, GM valued its  
28 company profits over the personal safety of the owners and lessees of the Subject Vehicles and others.

1 similarly situated and the General Public

2       39     Based on information and belief, Plaintiffs allege that GM failed to perform adequate tests  
3 and studies, and/or performed such tests and studies and fraudulently concealed those results from  
4 consumers, including but not limited to Plaintiffs, and fraudulently concealed the unreasonable risk of injury  
5 occurring as a result of the defective design of the PBR/TRW parking brake system. On information and  
6 belief, this was because Defendants believed that if such tests and studies were conducted, or the results of  
7 them, if conducted, became known, they would be used against Defendants in subsequent lawsuits by  
8 persons harmed by the Subject Vehicles.

9       40     Defendants' placing of their corporate and/or individual profits over the safety of others is  
10 particularly vile, base, contemptible, and wretched and said acts and/or omissions were performed on the  
11 part of officers, directors, and/or managing agents of each corporate defendant and/or taken with the advance  
12 knowledge of the officers, directors, and/or managing agents who authorized and/or ratified said acts and/or  
13 omissions. Defendants thereby acted with malice and complete indifference to and/or conscious disregard  
14 for the safety of others, including Plaintiffs and the General Public.

15       41.    At all times herein mentioned, Defendants knew, or in the exercise of reasonable care, should  
16 have known, that the PBR/TRW parking brake systems were of such a nature that if they were not properly  
17 designed, manufactured, examined, tested, inspected, labeled, marketed, distributed and sold they were either  
18 not going to work or otherwise fail or malfunction prematurely.

19       42     *The PBR/TRW parking brake systems on the Subject Vehicles with automatic transmissions*  
20 are identical to those installed on vehicles with manual transmissions for which GM has planned to offer some  
21 prospective repair and replacement, free of charge. GM's own October 2002 TSB confirms that the defect  
22 and the associated problems caused by it applies to all of the parking brakes that are at risk (not just those  
23 with manual transmissions), and directs its dealers to treat the problem the same regardless of whether they  
24 have a manual transmission or not. Inexplicably and unfairly, only those owners and lessees of the Subject  
25 Vehicles with manual transmissions will receive notice that they have defective parking brakes. Owners and  
26 lessees with automatic transmissions will still be left in the dark about their defective brakes.

27       43     To this day, GM continues to withhold important safety, quality, and performance related  
28 information concerning the PBR/TRW parking brake systems from owners and lessees of the Subject

1 Vehicles Additionally, GM has failed and continues to fail to offer reimbursement to Subject Vehicle  
2 owners and lessees who have already expended money purchasing the GM replacement kits, or paid to have  
3 these kits installed at authorized GM dealerships, or paid for replacement, repair or other expenses caused  
4 by the PBR/TRW parking brake system

5 **D. GM's Misrepresentations and Omissions to Plaintiffs and the General Public about the Safety,  
6 Quality and Function of the Parking Brake System on the Subject Vehicles**

7 44 GM made false, misleading, unfair, deceptive, unlawful and fraudulent representations to  
8 consumers, including Plaintiffs Ms Hunter, Ms Pulgarn, and Ms Gonzales, about the quality, safety and  
9 braking systems of its defective vehicles Those false, misleading, unfair, deceptive, unlawful and fraudulent  
10 representations are as follows, among others

11 **(1) Federal Motor Vehicle Safety Act ("FMVSA") Certification**

12 45 Each of the Subject Vehicles manufactured and sold during the Class period came equipped  
13 with an identical defective parking brake system and GM knowingly and intentionally permanently affixed  
14 on each of the Subject Vehicles, in a prominent location, the Certification label or tag representing that

15 **This Vehicle Conforms to All Applicable U.S. Federal Motor Vehicle  
16 Safety Standards in Effect on the Date of Manufacture Show above**

17 46 This representation made by GM to consumers, including Plaintiffs Ms Hunter, Ms Pulgarn  
18 and Ms Gonzales, was false and GM knew it was false when it was made

19 **(2) GM's Pre-Delivery Inspection and Certification Procedure**

20  
21 47 At all times relevant, GM maintained a Pre-Delivery Inspection Procedure for Passenger Cars  
22 and Light Duty Trucks, such as the Subject Vehicles at issue GM's Pre-Delivery Inspection Procedure  
23 requires its authorized dealers to thoroughly test and inspect each of the Subject Vehicles before they were  
24 delivered to Plaintiffs and others similarly situated After the vehicle is tested and inspected according to  
25 GM's protocol and procedure, a GM authorized "Pre-Delivery Inspection" form is filled out, affirmatively  
26 checking each box that the vehicle has been tested, inspected and is in working order The GM "Pre-  
27 Delivery Inspection" form affirmatively states that a certified GM service representative has conducted a  
28 "Road Test" of the vehicle and affirmatively represents that the vehicle, and its component parts, including

1 the parking brake system is in working order. The GM "Pre-Delivery Inspection Procedure" form states,  
2 in pertinent part

3 "Deficiencies must be called to Service Management's attention"

4 "INSPECT, PERFORM, VERIFY PROPER OPERATION, ASSEMBLY

5 AND ROUTING OF THE FOLLOWING:

6  ROAD TEST

7 Drive on a legal roadway with road conditions permitting evaluation for  
8 squeaks, rattles and wind noise. Before, during and after this test, check  
9 all standard equipment, options and accessories for proper operation, as  
10 applicable:

11 Before

12 During

13 After

14 • Parking Brake

15  UNDER VEHICLE

16 • Fuel System, brake system and oil cooler lines for leaks"

17 48 The GM "Pre-Delivery Inspection Procedure" then requires the GM authorized representative  
18 to sign, date and "certify" that the GM "Pre-Delivery Inspection has been completed." This written  
19 representation of GM's certification of compliance was given to all purchasers of the Subject Vehicles at  
20 issue.

21 49 This written representation of certification given by GM to consumers, including Plaintiffs  
22 Ms Hunter, Ms Pulgarin, and Ms Gonzales, was false and GM knew it was false when it was made

23 (3) GM's "Completely Satisfied - New Vehicle Delivery System" Procedure

24 50 In accordance with GM's "Completely Satisfied - New Vehicle Delivery System" procedure,  
25 each of the Subject Vehicles that were purchased new from one of the Dealers within GM's authorized dealer  
26 network were required to be "inspected, explained, and demonstrated."

27 51 The GM "New Vehicle Delivery System" procedure requires that the GM authorized sales  
28 representative complete a GM authorized form. The form is filled out by the GM authorized representative

1 in three stages (1) "Pre-Delivery Check (Sales consultant performs these checks prior to delivery date)," 2 (2) "Consultation at Delivery," and (3) "Vehicle Presentation with Customer (Utilizing owner's manual and 3 applicable reference guides."

4 52 The GM mandated "Completely Satisfied - New Vehicle Delivery System" states in pertinent 5 part:

6 "Pre-Delivery Check (Sales consultant performs these checks prior to delivery date)  
7  Review completed GM Pre-Delivery Inspection Form

8  Vehicle Presentation with Customer (Utilizing owner's manual and 9 applicable reference guides"

10  Review and demonstrate all vehicle features and controls

11  Safety features " ( under the section "Vehicle Presentation with Customer ")

12 See also GM's specific reference to "parking brakes" in the related "GM Pre-Delivery Inspection 13 Procedure" form stated above in paragraph no 's 44 and 45 above

14 53 These representations made by GM to consumers, including Plaintiffs Ms Hunter, Ms 15 Pulgarn, and Ms Gonzales, were false and GM knew they were false when they were made

16 (4) The GM Owner's Manual That Went along with the Sale of Each of the Subject Vehicles

17 54 The GM Owner's manual that was specifically mentioned in GM's Pre-Delivery Inspection 18 Procedure and that came with each of the Subject Vehicles at issue makes the following representations

19 20 **"This manual includes the latest information at the time it was printed**  
21 . Please keep this manual in your vehicle, so it will be there if you ever need  
22 it when you're on the road If you sell your vehicle, please leave this manual  
in it so that the new owner can use it "

23 **"Parking Brake**  
24 **To set the parking brake, hold the regular brake pedal down with your**  
**right foot "**

25 "To release the parking brake, hold the regular brake pedal down Pull the  
26 bottom edge of the lever, located above the parking brake pedal, marked  
BRAKE RELEASE, to release the parking brake "

27 **"It can be dangerous to get out of your vehicle if the shift lever is not**  
28 **fully in PARK (P) with the parking brake firmly set Your vehicle can**  
roll You or others could be injured To be sure your vehicle won't move,  
even when you're on fairly level ground, use the steps that follow "



1 **"Leaving Your Vehicle With the Engine Running**

2 **CAUTION:**

3 **It can be dangerous to leave your vehicle with the engine running. Your**  
4 **vehicle can move suddenly if the shift lever is not fully in PARK (P) with**  
5 **the parking brake firmly set. If you have four-wheel drive and your**  
6 **transfer case is in NEUTRAL, your vehicle will be free to roll, even if your**  
7 **shift lever is in PARK (P). So, be sure the transfer case is in a drive gear – not**  
8 **in NEUTRAL. And, if you leave the vehicle with the engine running, it could**  
9 **overheat and even catch fire. You or others could be injured. Don't leave**  
10 **your vehicle with the engine running unless you have to.**

11 **If you have to leave your vehicle with the engine running, be sure your**  
12 **vehicle is in PARK (P) and the parking brake is firmly set before you**  
13 **leave it. After you move the shift lever into PARK (P), hold the regular**  
14 **brake pedal down. Then, see if you can move the shift lever away from**  
15 **PARK (P) without first pulling it toward you. If you can, it means the shift**  
16 **lever wasn't fully locked into PARK (P)."**

17 **"To prevent torque lock, set the parking brake and then shift into PARK**  
18 **(P) properly before you leave the driver's seat."**

19 **"It can be dangerous to get out of your vehicle if the shift lever is not**  
20 **fully in PARK (P) with the parking brake fully set. Your vehicle can roll.**  
21 **Don't leave your vehicle with the engine is running unless you have to. If**  
22 **you've left the engine running, the vehicle can move suddenly. You or others**  
23 **could be injured. To be sure your vehicle won't move, even when you're on**  
24 **fairly level ground, always set your parking brake and move the shift lever**  
25 **to PARK (P)."**

26 **"Four-wheel drive vehicles with the transfer case in NEUTRAL will allow**  
27 **the vehicle to roll, even if your shift lever is in PARK (P). So, be sure the**  
28 **transfer case is in a drive gear – not in NEUTRAL. Always set your**  
29 **parking brake."**

30 **"The Instrument Panel - Your Information System**

31 **The main components of the instrument panel are the following**

32 **O Parking Brake Release**

33 **Brake System Warning Light**

34 **With the ignition on, the brake system warning light will flash when you set**  
35 **the parking brake. The light will flash if the parking brake doesn't release**  
36 **fully. If you try to drive with the parking brake engaged, a chime will sound**  
37 **when the vehicle is greater than 3 mph (5 km/h)."**

38 **"Section 4 Your Driving and the Road**

39 **Q: Suppose, after stalling, I try to back down the hill and decide I just**  
40 **can't do it. What should I do?**

41 **A: Set the parking brake, put your transmission in PARK (P) and turn the**  
42 **engine off. Leave the vehicle and go get some help. Exit on the uphill side.**

1 and stay clear of the path of the vehicle would take if rolled downhill Do not  
2 shift the transfer case to NEUTRAL when you leave the vehicle Leave it in  
some gear ”

3 **“Four-Wheel-Drive Vehicles**

4 **CAUTION:**

5 Shifting the transfer case into NEUTRAL can cause your vehicle to roll even  
6 if the transmission is in PARK (P), for an automatic transmission You and  
others could be injured **Make sure the parking brake is firmly set** before  
you shift the transfer case into NEUTRAL.”

7 “Use the following procedure to tow your vehicle

8 **1 Firmly set the parking brake**

9 **5 Release the parking brake only after the vehicle being towed is firmly**  
attached to the towing vehicle ”

10 **“Parking on Hills**

11 **CAUTION:**

12 Always put the shift lever fully in PARK (P) **with the parking brake firmly**  
set ”

13 **“When You Are Ready to Leave After Parking on a Hill**

14 **Release the parking brake ”**

15 **“Changing a Flat Tire**

16 **CAUTION**

17 **Changing a tire can cause an injury. The vehicle can slip off the jack**  
and roll over you or other people. You and they could be badly injured.  
To help prevent the vehicle from moving:

18 **1. Set the parking brake firmly ”**

19 **“Replacing Brake System Parts**

20 The braking system on a vehicle is complex Its many parts have to be of top  
21 quality and work well together if the vehicle is to have really good braking  
Your vehicle was designed and tested with top-quality GM brake parts.  
22 When you replace parts of your braking system – for example, when your  
brake linings wear down and you have to have new ones put in – be sure you  
23 get new approved GM replacement parts If you don't, your brakes may no  
longer work properly For example, if someone puts in brake linings that are  
24 wrong for your vehicle, the balance between your front and rear brakes can  
change – for the worse The braking performance you've come to expect can  
change in many other ways ”

25 **“Starter Switch Check**

26 **CAUTION**

27 When you are doing this check, the vehicle could move suddenly If it does,  
you or others could be injured Follow the steps below

28 **2 Firmly apply both the parking brake and the regular brake. See**  
“Parking Brake” in the Index if necessary ”

1 "Automatic Transmission Shift Lock Control System Check

2 CAUTION

3 When you are doing this check, the vehicle could move suddenly. If it does,  
4 you or others could be injured. Follow the steps below.

5 **2. Firmly apply both the parking brake and the regular brake. See**  
6 **"Parking Brake" in the Index if necessary."**

7 "Parking Brake and Automatic Transmission PARK (P) Mechanism Check

8 CAUTION

9 When you are doing this check, your vehicle could begin to move. You or  
10 others could be injured and property could be damaged. Make sure there is  
11 room in front of your vehicle in case it begins to roll. Be ready to apply the  
12 regular brake at once should the vehicle begin to move."

13 "Park on a fairly steep hill, with the vehicle facing downhill. Keep your foot  
14 on the regular brake, **set the parking brake."**

15 "• To check the parking brake's holding ability: With the engine running and  
16 transmission in NEUTRAL (N), slowly remove foot pressure from the regular  
17 brake pedal. **Do this until the vehicle is held by the parking brake only."**

18 "• To check the PARK (P) mechanism's holding ability: With the engine  
19 running, shift to PARK (P). **Then release the parking brake followed by**  
20 **the regular brake."**

21 55 The representations made by GM in connection with its Pre-Delivery Inspection Procedure  
22 and its Owner's Manual to consumers, including Plaintiffs Ms. Hunter, Ms. Pulgarin, and Ms. Gonzales,  
23 were false, and GM knew they were false when they were made.

24 **(5) GM's Brochures that Were Provided to Each of the New Car Purchasers**

25 56 GM distributed throughout its authorized dealer network and provided to all new and would  
26 be new car purchasers product brochures containing the following representations:

- 27 • "designed and engineered to meet the toughest standards in the world – yours and ours."
- 28 • "The brake pad life can last up to four times longer than the previous design."
- "WE'RE WITH YOU, EVERY MILE OF THE WAY
- WHAT IS COVERED FOR 3 YEARS OR 36,000 MILES
- Repairs made to correct any vehicle defect"
- "the most dependable, longest-lasting [truck]"
- "Sure, being counted on by so many is an incredible responsibility. But as long as there's a job  
to do, as long as there are people depending on us, we'll be there."
- "engineered to meet our toughest standards"

- 1 • "exceeds your expectations designed with the features you really need"
- 2 • "features which add up to one well-equipped [truck]"
- 3 • All of us at Chevrolet know that we must earn your trust every day, year after year, one vehicle
- 4 at a time That's why we provide you with Genuine Customer Care This comprehensive owner
- 5 Protection plan means that we'll be there, with the largest dealer network in the U.S., whenever
- 6 you need us, no matter where your travels take you. That's a promise "
- 7 • "brake systems meeting regional legal requirements"
- 8 • "the most dependable, longest-lasting trucks on the road.\* Built rugged to take what the
- 9 world can dish out Built dependable, because we know that people are counting on us
- 10 \*Dependability based on longevity . "
- 11 • "strength you need to get the job done Strength you can count on . Built to handle the toughest
- 12 jobs"
- 13 • "Base model has a lot of standard features that let you handle a tough job or a fun family
- 14 adventure"
- 15 • "brake systems . Easy and safe trailering requires a properly equipped vehicle . requires
- 16 meeting regional legal requirements"
- 17 • "advanced technology built to meet our tough standards "
- 18 • "Repairs made to correct any vehicle defect We have tried to make this brochure
- 19 comprehensive and factual"
- 20 • "Underneath the exterior of Chevy Tahoe there are literally dozens of impressive engineering
- 21 features . No matter where you're headed, you can feel confident in the knowledge Tahoe is
- 22 from the family of Chevy Trucks – the most dependable, longest lasting trucks on the road \* \*
- 23 Dependability based on longevity "
- 24 • "TAHOE SAFETY MATTERS By Glen Zuchmewicz, GM Safety Engineer
- 25 At General Motors, it wasn't enough to design Tahoe as a tough durable sport utility vehicle It also
- 26 had to have an even higher level of safety and security features than the previous generation.
- 27 And it does As our engineers continue to develop new and exciting features for the Chevy Truck
- 28 lineup, your safety and security are always a top priority – even in the things you may not
- readily notice Your safety and security In the all-new Tahoe, it's what really matters to us
- See the Owner's Manual for more safety information"
- "Based on 98 years of professional grade experience, GMC knows a lot about what drivers want
- in a full-size SUV. We also know that if we listen, we can always learn more. That's why we
- began redesigning the full-size SUVs by extensively researching the needs of our customers
- Your answers – your needs — determined what the all-new Yukon and Yukon XL would be
- establishing new benchmarks in Yukon's performance – all the while remaining true to the
- century-long GMC heritage of focusing exclusively on designing professional grade trucks to
- meet the needs of the most demanding drivers"
- "vehicles [] engineered for excellent durability [and] Perhaps most noteworthy, redesigned
- braking [] systems "
- "TECHNOLOGY DEDICATED TO CONTROL new braking systems that increase brake

1 pad life by up to four times that of current models, to their wealth of advanced- performance  
2 features, they are designed and engineered ... to keep you in control in a variety of road and  
3 whether conditions”

- 3 • **“STAYING SAFE BEGINS BY STAYING IN CONTROL**  
4 **At GMC we believe that safe driving begins by avoiding collisions, and the Yukon and Yukon**  
5 **XL are engineered to help you do exactly that A variety of advanced features – anti-lock**  
6 **brakes help you keep your family safe Our commitment even extends to the time before and**  
7 **after your driving ”**
- 6 • **“Yukon safety features to keep you and your family safe in a variety of road conditions**  
7 **See the Owner’s manual for more safety information ”**
- 8 • **“excellent breaking power and minimal brake fade ”**
- 8 • **“STANDARD SAFETY EQUIPMENT - BRAKES”**
- 9 • **“Yukon Has Many Standard Safety and Security Features See Owner’s Manual for more safety**  
10 **information”**
- 11 • **“A Word About this Brochure We have tried to make this brochure comprehensive and factual”**
- 12 • **“DO ONE THING. DO IT WELL - Over the course of nearly a century, GMC trucks have earned**  
13 **a reputation as professional-grade vehicles that serious truck owners recognize as, quite simply,**  
14 **the right tools for the job.”**
- 14 • **“Professional grade vehicles With more features and more innovations than you’d expect ”**

15 57 These representations made by GM to consumers, including Plaintiffs Ms Hunter, Ms  
16 Pulgarin, and Ms Gonzales, were false, and GM knew they were false when they were made

17 **(6) GM’s Advertising, TV, Radio and Print Ads**

18 58 At all times relevant, and for many years prior, GM widely disseminated, in its national  
19 advertising campaigns numerous and repeated representations stressing the quality, safety and performance  
20 of their products, including the Subject Vehicles During the Class period, GM made the following  
21 representations in its advertising, by television, radio, print and Internet

- 22 • **“Professional Brake Engineering ”**
- 23 • **“WE ARE PROFESSIONAL GRADE - IT’S NOT A PROMOTION. IT’S A PROMISE.”**
- 24 • **“SAFETY - DESIGNED TO PROTECT”**
- 25 • **“RECENTLY OUR ACHIEVEMENTS IN SAFETY WERE RECOGNIZED BY A**  
26 **LEADINGMAGAZINE, A LEADING INSURANCE COMPANY, AND A ONE-YEAR OLD**  
27 **FROM SOUTH CAROLINA”**
- 28 • **“EFFECTIVE SAFETY INNOVATIONS”**

- 1 • "TRUSTED - CHEVY - WE'LL BE THERE"
- 2 • "A little security in an insecure world BLAZER - LIKE A ROCK"
- 3 • "tough technology, designed to bring you a more dependable, longer-lasting truck "
- 4 • "precision-engineered and built to our high quality standards"
- 5 • "Commitment is anything but a short program Chevy - We'll be there"
- 6 • "AS DEPENDABLE AS THANKSGIVING FALLING ON A THURSDAY - WE ARE PROFESSIONAL GRADE"
- 7 • "WE REDESIGNED THE GMC SUBURBAN SO COMPLETELY, EVERYTHING WORKED"
- 8 • "DESIGNED TO MEET EXPECTATIONS YOU DON'T EVEN HAVE - GMC Do one thing Do it well <sup>TM</sup>"
- 9 • "we specialize in trucks GMC Do one thing Do it well "
- 10 • "These vehicles met GM's tough standards when they were first built. Now they have to again, or they won't be certified Everything from the exhaust system to the cup holders is inspected and repaired, if necessary If the vehicle doesn't pass, it will not be certified Following is the inspection checklist 8 Braking . 31 Parking Brake . 38 Brake System 47 Brake Pads, Shoes 60 Parking Brake Cables"

14 59 At all times relevant, as a part of GM's national advertising campaigns, through its nationally  
 15 controlled dealership network, GM widely disseminated and/or distributed to the Class members numerous  
 16 pamphlets, brochures and specification sheets which emphasized or focused on the quality, safety and  
 17 functionality of the Subject Vehicles here at issue

18 60 The written materials distributed and widely disseminated by GM in their numerous  
 19 advertising campaigns represented that the Subject Vehicles are reliable, safe and are free from inherent risk  
 20 of failure, particularly with regard to safety In particular, GM made numerous representations in its print  
 21 ads and media that if a defect existed in one of its vehicles, including the Subject Vehicles, GM would repair  
 22 the defect

23 "WE'RE WITH YOU, EVERY MILE OF THE WAY

24 **Repairs made to correct any vehicle defect"**

25 61 In its marketing and promotional material, product brochures, pamphlets, media and through  
 26 public statements, GM widely disseminated the following representations, that the Subject Vehicles are "the  
 27 most dependable, longest-lasting trucks on the road," "GM Tough," "Best in Class," "Best in the World,"  
 28 "Professional Grade," "the ultimate expression of professional grade engineering" and GM's express

1 "commitment to a higher standard of innovative engineering, design, and performance" and were made in  
2 conjunction with statements such as

- 3 • **"TECHNICALLY ADVANCED BRAKING SYSTEM"**
- 4 • "new braking systems that increase brake pad life by up to four times that of current models, the  
5 brake pad life can last up to four times longer than the previous design"
- 6 • "brake systems meeting regional legal requirements"
- 7 • "vehicles [] engineered for excellent durability . . [and] Perhaps most noteworthy, redesigned  
8 braking [] systems "
- 9 • "were **"ENGINEER[ED] [...] TO THE HIGHEST STANDARD"**
- 10 • were "CERTIFIED" to comply with "ALL APPLICABLE US FEDERAL MOTOR VEHICLE  
11 SAFETY STANDARDS"
- 12 • **"WAS DESIGNED AND TESTED WITH TOP-QUALITY GM BRAKE PARTS"**
- 13 • "engineered to meet our toughest standards"
- 14 • "the most dependable, longest-lasting trucks on the road "
- 15 • equipped with **"PROFESSIONAL BRAKE ENGINEERING. "**
- 16 • were **"PRECISION-ENGINEERED AND BUILT TO [GM'S] HIGH QUALITY STANDARDS"**
- 17 • "tough technology, designed to bring you a more dependable, longer-lasting truck "
- 18 • "excellent breaking power and minimal brake fade "
- 19 • **"the most dependable, longest lasting trucks on the road \* \* Dependability based on  
20 longevity "**
- 21 • **"your safety and security are always a top priority"**

22 62 These widely disseminated advertisements, due to the national scope and extent of GM's  
23 multi-media campaign, were uniformly made to all members of the class Class members' acts of  
24 purchasing the Subject Vehicles were consistent with basing such purchasing decisions upon such  
25 advertisements, and thus formed part of the basis for the transactions at issue

26 63 The representations made by GM in its advertisements to consumers, including Plaintiffs Ms  
27 Hunter, Ms Pulgarin, and Ms Gonzales, were false, and GM knew they were false when they were made

28 64 At all relevant times, GM has not fully disclosed to purchasers or lessees of the Subject  
Vehicles, information regarding the high incidence of premature failures of the parking brakes on the Subject  
Vehicles as detailed herein, nor has it disclosed the true facts that (1) GM either knew or recklessly or

1 negligently disregarded the existence and reasons for the defect(s) for years; and (2) starting with model year  
2 2004, GM made design changes and manufactured a newer reduced force hold-down clip to facilitate brake  
3 shoe disengagement from the drum surface which has caused and/or contributed to the premature parking  
4 brake liner failures

5 65 Plaintiffs are further informed and believe and thereon allege that in not correcting or warning  
6 of this defect, GM has violated its own internal procedures as specified in GM's Automotive Defect Analysis  
7 Procedure manuals, which requires prompt investigation and thorough analysis of all potential inherent  
8 safety defects and notification to vehicle owners and lessees describing the defect and a statement of the  
9 safety risks involved, as well as instructions relating to the correction of the defect if a defect is determined  
10 to exist

11 66 At all times relevant, GM possessed full information and knowledge concerning the true facts  
12 concerning the defects in the parking brake system on the Subject Vehicles, GM had full and exclusive  
13 access to product testing, test results, files and documents concerning the design, manufacture, and expected  
14 in-use performance, and lack of durability and failure to function and perform as intended, a life of the  
15 vehicle part with an expected life span of over 200,000 miles

16 67 GM issued numerous internal memorandums concerning the defective parking brakes, the  
17 existence of a replacement parking brake kit to repair the defect, yet instructed its dealer network and  
18 authorized service centers not to perform the repairs and/or replacement of parts unless the consumer paid  
19 for such replacement parts and service thus presenting a total inability to repair the defective safety related  
20 defect, free of charge, and without notice to consumers Said misconduct created a situation where the a  
21 safety related design defect existed, yet the consumer was at all times unaware of the defect because of GM's  
22 failure to disclose and concealment of its exclusive knowledge of the defect(s) to Plaintiffs and others  
23 similarly situated

24 68 Yet, despite GM's knowledge, awareness and responsibility for the defect, GM took steps,  
25 implemented policies and procedures, and made affirmative representations to actively mislead consumers,  
26 including Plaintiffs Ms Hunter, Ms Pulgarin, and Ms Gonzales, about the quality, safety and functionality  
27 of the braking systems of the Subject Vehicles Additionally, GM failed, refused and continues to refuse  
28 to notify the owners and lessees of the Subject Vehicles of the defects or the false information it previously



1 knowingly disseminated GM refuses to notify owners and lessees of the Subject Vehicles despite having  
2 obligated itself and assumed the duty to notify its customers of important safety related defects, as set forth  
3 in its Warranty and Owner's Manual

4 **E. GM's Violation of the Federal Motor Vehicle Safety Standards (FMVSS)**

5 69 The National Highway Traffic Safety Administration has a legislative mandate under Title  
6 49 of the United States Code, Chapter 301, Motor Vehicle Safety, to issue Federal Motor Vehicle Safety  
7 Standards (FMVSS) and Regulations to which manufacturers of motor vehicle and equipment items must  
8 conform and certify compliance The Federal safety standards are regulations written in terms of minimum  
9 safety performance requirements for motor vehicles or items of motor vehicle equipment The requirements  
10 are specified in such a manner "that the public is protected against unreasonable risk of crashes occurring  
11 as a result of the design, construction, or performance of motor vehicles and is also protected against  
12 unreasonable risk of death or injury in the event crashes do occur "

13 70 GM had a duty to properly design, manufacture, test, inspect, and certify each of the Subject  
14 Vehicles prior to placing them into the stream of commerce in the United States Federal Motor Vehicle  
15 Safety Standard 105 and/or 135 requires that all passenger vehicles (and trucks) sold in the United States  
16 are equipped with a parking brake system to ensure safe braking performance under normal conditions and  
17 emergency conditions Automobile manufacturers are required to certify that the vehicle complies with all  
18 Federal Motor Vehicle Standards, including Standard 105 and/or 135 **The Manufacturer's Certificate**  
19 **of Compliance "must be shown by a label or tag permanently fixed to the vehicle" and an automobile**  
20 **manufacturer may not issue the certificate if, in exercising reasonable care, the manufacturer has**  
21 **reason to know the certificate is false or misleading in a material respect**

22 71 At all times relevant, GM made a written representation that each of the Subject Vehicles  
23 complied with Federal Motor Vehicle Standard 105 and/or 135 by permanently affixing a compliance label  
24 or tag on each vehicle prior to their delivery and sale to Plaintiffs and the Class GM's written representation  
25 certified that each of the Subject Vehicles were equipped with a parking brake system to ensure safe braking  
26 performance so that consumers, such as Plaintiffs and the General Public would be protected against  
27 unreasonable risk of crashes occurring as a result of the defective design, construction, or performance of  
28 motor vehicles and to protect against unreasonable risk of death or injury in the event of a crash

1           72     The Subject Vehicles manufactured and/or equipped with the PBR/TRW parking brake  
2 systems were defective at the time of delivery And, at all times relevant, GM knew that the parking brake  
3 systems on the Subject Vehicles would not work, fail or wear-out prematurely (at an average of 24 months  
4 in service), eliminating the parking brake's effectiveness to immobilize the vehicle, the intended purpose  
5 for which the parking brake system was designed to do

6           73     The failure of the PBR/TRW parking brake systems on the Subject Vehicles is directly and  
7 proximately caused by, *inter alia*, the parking brake systems' failure to recenter the brake lining within the  
8 brake drum or "hat " The defective design causes the parking brakes to either altogether fail to work or  
9 results in contact between the brake lining and drum during normal foreseeable use, causing the brake linings  
10 on the Subject Vehicles to fail, malfunction and/or wear-out and become ineffective as an immobilization  
11 device for the vehicle thereby unnecessarily subjecting Plaintiffs, members of the class and the general  
12 public to the serious risk of bodily injury and/or death

13           74     GM's placing the written Compliance Certification label it permanently affixed to each of  
14 the Subject Vehicles at issue that the vehicle complied with Federal Motor Vehicle Safety Standard 105 was  
15 knowingly false, or in the exercise of reasonable care, GM should have known that said Certifications were  
16 false and/or misleading in that defendants were aware, or in the exercise of reasonable care, should have  
17 been aware that (1) the parking brakes on the Subject Vehicles were defective in that they did not work,  
18 would fail, and/or were substantially certain to fail well before the end of the expected life of the vehicle (at  
19 an average of 24 months of service), (2) that the parking brakes on the Subject Vehicles did not meet the  
20 minimum safety performance requirements for motor vehicles or items of motor vehicle equipment (failed  
21 its essential function as an immobilization device), and (3) that the presence of the defect as alleged herein  
22 created an unreasonable risk of crashes occurring as a result of this design defect and/or failed to protect the  
23 public against the unreasonable risk of death or injury as a result of an likely unattended vehicle would roll  
24 and cause a crash

25           75     Plaintiffs claims herein are based solely on the laws of the State of California and it is averred  
26 that any allegations in this Complaint referring to any failure to comply with the laws of the United States  
27 of America, including any compliance and certification requirements of the United States Department of  
28 Transportation, National Highway Traffic Safety Administration, and/or Federal Motor Vehicle Safety

1 Standards and Regulations, are solely applicable insofar as they give rise to violations of the laws of the  
2 State of California

3 **F. GM's Violation of California's Secret Warranty Law**

4 76 GM's conduct violates California Civil Code § 1795.90 *et seq* (California's Secret Warranty  
5 Law) which was enacted to abolish "secret" warranties and practices as alleged herein. The term "secret  
6 warranty" is used herein to describe the practice by which an automaker, such as GM, establishes a policy  
7 to pay for the repair of that defect without making the defect or the policy known to the public at large. A  
8 secret warranty is usually created when the automaker, such as GM, realizes that a large number of its  
9 customers are experiencing a defect not otherwise covered by a factory warranty, and decides to offer  
10 warranty coverage to individual customers only if the customer complains about the problem first. The  
11 warranty is therefore considered "secret" because all owners and lessees are not notified of it. Instead, the  
12 automaker usually issues a service bulletin to its regional offices and/or dealers on how to deal with the  
13 defect. Because owners and lessees are kept in the dark about the cost-free repair, the automaker only has  
14 to reimburse those customers who complain loudly enough, the quiet consumer pays to fix the defect his or  
15 herself.

16 77 Section 1795.92 of the California Secret Warranty Law imposes several duties on  
17 automakers, including GM, each of which is designed to do away with secret warranties.

18 78 Specifically, the California Secret Warranty law requires automakers to notify all eligible  
19 owners and lessees ("consumers") by first-class mail, within 90 days of adoption, whenever they enact "any  
20 program or policy that expands or extends the consumer's warranty beyond its stated limit or under which  
21 [the] manufacturer offers to pay for all or any part of the cost of repairing, or to reimburse consumers for  
22 all or any part of the cost of repairing, any condition that may substantially affect vehicle durability,  
23 reliability, or performance[ ]"

24 79 The California Secret Warranty Law also requires automakers, including GM, to provide the  
25 New Motor Vehicle Board with a copy of the notice described in the preceding paragraph, so the public can  
26 view, inspect, or copy that notice.

27 80 Additionally, the California Secret Warranty Law requires automakers, including GM, to  
28 advise their dealers, in writing, of the terms and conditions of any warranty extension, adjustment, or

1 reimbursement program

2 81 The California Secret Warranty Law also requires an automaker, such as GM, to "implement  
3 procedures to assure reimbursement of each consumer eligible under an adjustment program who incurs  
4 expenses for repair of a condition subject to the program prior to acquiring knowledge of the program "

5 82 As stated above, on or about October 2002, GM issued a service bulletin that describes a  
6 problem with the drum-in-hat parking brake system installed on the Subject Vehicles In that bulletin, GM  
7 describes the problem or defect as being " due to the parking brake shoe contacting the drum in hat rotor  
8 without the parking brake being applied, causing premature wear on the shoe lining " This GM service  
9 bulletin also explains that the problem or defect may be corrected by installing the GM Parking Brake Kit  
10 which contains a re-designed spring clip retainer and describes, in detail how to install these corrective  
11 replacement parts

12 83 At all relevant times, GM has taken the position that repair and replacement of the parking  
13 brake components are a part of a consumer's "duty" to maintain his or her vehicle As a result, GM does not  
14 typically pay for the replacement and installation of the Parking Brake Kit or its re-designed spring clip  
15 retainer under its new car warranty (or any other warranty)

16 84 Plaintiffs are informed and believe and thereon allege that GM has, when the customers have  
17 complained loudly enough, offered to pay for all or any part of the cost of repairing the problem in the  
18 Subject Vehicles and therefore, GM is obligated to comply with the provisions of the California Secret  
19 Warranty Law, but has not done so Moreover, by extending its new car warranty to cover replacement and  
20 installation of the Parking Brake Kit and/or the re-designed spring clip retainer to some customers and not  
21 others, GM has expanded or extended the consumer's express warranty beyond its stated limit

22 85 Specifically, GM did not notify Plaintiff, or any of the other owners or lessees of the Subject  
23 Vehicles of their right to seek a free repair, replacement or retrofit of the Parking Brake Kit or its re-designed  
24 spring clip retainer, or to be reimbursed for the cost of repairing the parking brakes installed in these  
25 vehicles

26 86 At all times relevant, plaintiffs are informed and believe, and thereon allege that GM has not,  
27 and did not comply with the dealer-notification provisions of the California Secret Warranty Law nor has  
28 GM sent a copy of its Service Bulletin to the New Motor Vehicle Board

1 87 At all times relevant, Plaintiffs are informed and believe, and thereon allege that GM has  
2 refused to provide the free repair, replacement or retrofitting of the GM Parking Brake Kit or its re-designed  
3 spring clip retainer to owners and lessees of the affected vehicles who have specifically requested it and has  
4 refused to reimburse consumers who have paid to have the Parking Brake Kit and/or the re-designed spring  
5 clip retainer installed in their vehicles except for some who complained enough

6 88 Knowing the truth and motivated by profit and market share, GM has knowingly and willfully  
7 engaged in the acts and/or omissions to mislead and/or deceive Plaintiffs and others similarly situated

8 89 The defective rear brake system on the Subject Vehicles has resulted and will continue to  
9 result in significant loss and damage to the class members, including but not limited to reduced fair market  
10 value

11 90 The claims of the named Plaintiffs are for damages less than \$75,000 each, including all  
12 restitution, punitive, compensatory or statutory damages, interest, attorneys' fees and costs

13  
14 V.

15 **TOLLING OF STATUTE OF LIMITATIONS AND ESTOPPEL**

16 91. Any applicable statutes of limitation have been equitably tolled by GM's affirmative acts of  
17 fraud, fraudulent concealment, suppression and denial of the true facts regarding the existence of the defect  
18 braking systems in the Subject Vehicles. GM knew of the defects. However, rather than disclosing the  
19 defects, GM made affirmative representations, discussed *supra*, to Plaintiffs and others similarly situated  
20 about the quality, safety and parking brake systems of the Subject Vehicles that it knew were false when  
21 made. In addition to making affirmative representations that were false, GM also fraudulently concealed  
22 material facts about the defective parking brake systems on the Subject Vehicles from Plaintiffs and others  
23 similarly situated. GM's acts of fraudulent concealment include, but are not limited to intentionally covering  
24 up and refusing to publically disclose critical internal memoranda, design plans, studies, Notices of Action,  
25 Problem Detail Reports and other reports of failure and injury. Through such acts of fraudulent  
26 concealment, GM was able to actively conceal from the public for years the truth about the defective design  
27 and manufacture of the parking brake systems on the Subject Vehicles otherwise known as the drum-in-hat  
28 or Banksia-style of parking brake system, thereby tolling the running of any applicable statute of limitations



1 a Subject Vehicle in California. The class specifically does not include any claims seeking  
2 damages for personal injuries or property damage resulting from defects as alleged herein  
3 Excluded from the Class are Defendants, any parent, subsidiary, affiliate, or controlled  
4 person of Defendants, as well as the officers, directors, agents, servants, or employees of  
5 Defendants, and the immediate family member of any such person. Also excluded is any  
6 judge in this case who may preside over this case.

7 (2) National Class. The National Class that Plaintiffs seek to represent (the "National Class")  
8 is defined to include all persons and entities who purchased or leased, or will purchase or  
9 lease, a Subject Vehicle in the United States. The class specifically does not include any  
10 claims seeking damages for personal injuries or property damage resulting from defects as  
11 alleged herein. Excluded from the National Class are Defendants, any parent, subsidiary,  
12 affiliate, or controlled person of Defendants, as well as the officers, directors, agents,  
13 servants, or employees of Defendants, and the immediate family member of any such person.  
14 Also excluded is any judge in this case who may preside over this case.

15 96 This action has been brought and may be properly maintained as a class action pursuant to  
16 the provisions of California Code of Civil Procedure § 382, California Civil Code § 1781, and other  
17 applicable law.

18 97 Numerosity of the Class - Code of Civ. Proc. § 382, Civ. Code § 1781(b)(2). Members of  
19 the class or classes are so numerous that their individual joinder is impracticable. Plaintiffs estimate that  
20 there are hundreds of thousands if not millions of class members. The precise number of class members and  
21 their addresses are unknown to Plaintiffs, but can be obtained from the Defendants' records. Class members  
22 may be notified of the pendency of this action by electronic mail, the Internet, other mail, or published  
23 notice.

24 98 Existence of Predominance of Common Questions of Fact and Law - Code of Civ. Proc.  
25 § 382, Civ. Code § 1781(b)(2). Common questions of law and fact exist as to all members of the Class.  
26 These questions predominate over any questions affecting only individual class members. These common  
27 legal and factual questions include:

28 (1) Whether the parking brake system on the Subject Vehicles are defective,

- 1 (2) Whether the parking brake system on the Subject Vehicles have a safety-related defect,
- 2 (3) Whether the parking brake system on the Subject Vehicles contain any means for actively
- 3 self-centering the brake shoe within the brake drum during use,
- 4 (4) Whether the defect in the parking brake system on the Subject Vehicles caused and/or
- 5 contributed to the brake lining(s) to sustain prolonged contact with the brake drum(s),
- 6 (5) Whether the defect in the parking brake system on the Subject Vehicles caused the parking
- 7 brakes not to work at all, not to work properly, and/or to wear-out or fail prematurely,
- 8 (6) Whether Defendants knew or should have known or was reckless in not knowing that
- 9 parking brakes on the Subject Vehicles are defective,
- 10 (7) Whether Defendants knew or should have known or was reckless in not knowing that the
- 11 parking brake systems on the Subject Vehicles would prematurely wear out and fail before
- 12 the end of the expected useful life of the vehicles,
- 13 (8) When Defendants became aware of the defect(s) in the parking brake system on the Subject
- 14 Vehicles as alleged herein,
- 15 (9) Whether Defendants had a duty to Plaintiffs and the Class to disclose the defective nature of
- 16 the parking brake system on the Subject Vehicles,
- 17 (10) Whether Defendants concealed and/or failed to disclosed material facts concerning the nature
- 18 and existence of the defect(s) to Plaintiffs and the Class
- 19 (11) Whether the representations made by Defendants were and are false and/or had and have had
- 20 a tendency to deceive, by either failing to disclose the existence of the defect known to GM,
- 21 and known to Plaintiffs and others similarly situated or by misrepresenting that the Subject
- 22 Vehicles contained no safety-related defects,
- 23 (12) Whether GM had exclusive knowledge of material facts concerning the defect(s) alleged
- 24 herein, not known to Plaintiffs and others similarly situated,
- 25 (13) Whether GM made partial representations concerning the quality, safety and/or functionality
- 26 of the parking brake systems on the Subject Vehicles, all the while concealing material facts
- 27 concerning the nature and existence of the defect(s) as alleged herein,
- 28 (14) Whether Defendants failed to adequately warn and/or notify class members and the General



1 Public regarding the hazards of the parking brakes on the Subject Vehicles wearing out  
2 and/or failing prematurely due to their safety related design defect,

3 (15) Whether Defendants continued to sell the Subject Vehicles with the defective parking brake  
4 system as alleged herein despite its knowledge and/or reckless or negligent disregard of the  
5 defect(s) alleged herein,

6 (16) Whether Defendants violated California consumer protection statutes, including but not  
7 limited to California Consumers Legal Remedies Act Civil Code §§ 1750 *et seq* , and  
8 California Business and Professions Code §§ 17200 *et seq* and California Civil Code §§  
9 1795 90 *et seq* ,

10 (17) Whether Defendants have failed to notify Subject Vehicle owners or lessees of the defect(s)  
11 here at issue and repair or correct (or offer to repair or correct) defective parking brake  
12 systems on the Subject Vehicles at no cost to the owners or lessees;

13 (18) Whether Defendants are obligated to inform the Class of their right to obtain, free of charge,  
14 repair and replacement of the defective components to the defective parking brake system  
15 on the Subject Vehicles,

16 (19) Whether Defendants adequately informed Dealers of the Parking Brake Shoe Kit (and re-  
17 designed spring clip retainer replacement) and secret warranty as required by the California  
18 Secret Warranty Law,

19 (20) Whether Defendants were required to provide the New Motor Vehicle Board with a copy of  
20 GM's Service Bulletin(s) concerning the Replacement Parking Brake Shoe Kit (or the  
21 information contained in the bulletin(s)) so that the public could have access to it,

22 (21) Whether Defendants committed an unlawful, unfair and/or "fraudulent" business act or  
23 practice within the meaning of the Business and Professions Code §§ 17200 *et seq* ,

24 (22) Whether the class members are entitled to damages, for the cost of repair and other attendant  
25 costs and/or the difference between what was represented, a vehicle equipped with a parking  
26 brake that would work as an immobilization device, and what they received, a vehicle with  
27 a parking brake that would not immobilize the vehicle when required,

28 (23) Whether the class members are entitled to restitution,

1 (24) Whether the class members are entitled to disgorgement of profits wrongfully obtained as  
2 a result of the misconduct as alleged herein, and

3 (25) Whether, as a result of Defendants' misconduct, Plaintiffs and the classes are entitled to  
4 damages, restitution, equitable relief and other relief, and the nature and amount of such  
5 relief

6 99 **Typicality** Plaintiffs' claims are typical of the claims of the members of the Class because  
7 Plaintiffs each purchased and owned one of the Subject Vehicles containing the defective parking brakes  
8 alleged herein Plaintiffs and the members of the Class sustained the same types of damages and losses

9 100 **Adequacy** Plaintiffs are adequate representatives of the Class because their interests do not  
10 conflict with the interests of the members of the Class Plaintiffs seek to represent Plaintiffs have retained  
11 counsel competent and experienced in complex class action litigation and Plaintiffs intend to prosecute this  
12 action vigorously The interests of members of the Class will be fairly and adequately protected by  
13 Plaintiffs and their counsel

14 101 **Superiority and Substantial Benefit** The class action is superior to other available means  
15 for the fair and efficient adjudication of Plaintiffs and the Class members' claims The damages suffered  
16 by each individual Class member may be limited Damages of such magnitude are small given the burden  
17 and expense of individual prosecution of the complex and extensive litigation necessitated by defendants'  
18 conduct Further, it would be virtually impossible for the Class members to individually to redress the  
19 wrongs done to them Even if members of the Class themselves could afford such individual litigation, the  
20 court system could not Individualized litigation increases the delay and expense to all parties and the court  
21 system, due to the complex 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 scale, and  
23 comprehensive supervision by a single court

24 102 In the alternative, the Class should be certified because

25 (a) the prosecution of separate actions by individual members of the Class would  
26 create a risk of inconsistent or varying adjudications with respect to individual Class members which would  
27 establish incompatible standards of conduct for defendants,

28 (b) the prosecution of separate actions by individual members of the Class would

1 create a risk of adjudications with respect to them, which would, as a practical matter, be dispositive of the  
2 interests of the other Class members not parties to the adjudications, or substantially impair or impede their  
3 ability to protect their interests, and

4 (c) Defendants have acted or refused to act on grounds generally applicable to the  
5 Class, and/or the General Public, thereby making appropriate final and injunctive relief with respect to the  
6 classes as a whole

7  
8 **VII.**

9 **PRIVATE ATTORNEY GENERAL ALLEGATIONS**

10 103 In addition to asserting class action claims in this action, Plaintiffs assert claims as private  
11 attorney generals on behalf of the members of the General Public pursuant to Business and Professions Code  
12 section 17204. The purpose of such claims is to require Defendants to disgorge and restore all monies  
13 wrongfully obtained by Defendants through their unfair business acts and practices. A private attorney  
14 general action is necessary and appropriate because Defendants have engaged in the wrongful acts and false  
15 advertising described herein as a general business practice

16  
17 **VIII.**

18 **FIRST CAUSE OF ACTION**

19 **Violation of California's Consumer Legal Remedies Act, Civil Code § 1750 et. seq.**  
20 **(Against All Defendants)**

21 104 Plaintiff incorporates all preceding paragraphs as if fully set forth herein

22 105 Defendants are "persons" as defined by Civil Code § 1761(c)

23 106 Plaintiffs and each member of the Class are "consumers" within the meaning of Civil Code  
24 § 1761(d)

25 107 The Consumer Legal Remedies Act ("CLRA"), California Civil Code § 1750 *et seq* applies  
26 to Defendants' actions and conduct described herein because it extends to transactions that are intended to  
27 result, or which have resulted, in the sale or lease of goods or services to consumers

28 ///

1 108 GM and Defendants DOES 1 through 100 have violated the CLRA in at least the following  
2 respects

- 3 (a) In violation of Section 1770(a)(3), Defendants have misrepresented that the Subject  
4 Vehicles are Certified that they Conform to All Applicable U S Federal Motor  
5 Vehicle Safety Standards when they do not conform to Standard 105 and/or 135 as  
6 set forth above in paragraph no 44, and paragraph no 's 60-66,
- 7 (b) In violation of Section 1770(a)(5), Defendants have represented that the Subject  
8 Vehicles have characteristics and benefits that they do not have, as alleged herein and  
9 as set forth in ¶ 105(d) below,
- 10 (c) In violation of Section 1770(a)(7), Defendants have represented that the Subject  
11 Vehicles are of a particular standard, quality, or grade when they are not, as alleged  
12 herein and as set forth in ¶ 105(d) below,
- 13 (d) In violation of Section 1770(a)(9), Defendants have advertised the Subject Vehicles  
14 with an intent not to sell them as advertised, As stated above in greater detail in  
15 paragraphs No 's 1-5, 19-65, 71, and 73-85, GM widely disseminated, broadcasted  
16 and represented throughout the Class period, and for many years prior, that the  
17 parking brake system on the Subject Vehicles "Conforms to All Applicable U S  
18 Federal Motor Vehicle Safety Standards " including Standard 105 and/or 135, that  
19 the Subject Vehicles would have "brake systems meeting regional legal  
20 requirements," and were "designed and tested with top-quality GM brake parts," have  
21 a "Technically Advanced Breaking System," and were "engineered for excellent  
22 durability [with] redesigned braking [] systems " In addition, GM made numerous  
23 references to the function, purpose and intended use of the parking brakes on the  
24 Trucks in the Owner's manuals that accompanied the sale of each of these vehicle for  
25 owners and lessees to use the parking brakes in a wide variety of situations, such as  
26 using the parking brake when "Parking on Hills," or when "Changing a Flat Tire"  
27 and to "Set the parking brake firmly" each of which either expressly or by  
28 implication affirmatively represented that Plaintiffs would have a fully functional

1 parking brake system and that if a defect existed, GM would perform "Repairs made  
2 to correct any defect" These representations were false, deceptive and/or  
3 misleading because the parking brake system on the Subject Vehicles were in fact  
4 defective at the time of manufacture, delivery and sale, and have substantially failed  
5 to perform their intended function as an immobilization device for the Subject  
6 Vehicles as alleged in paragraphs 1-5, 19-65, 71, and 73-85 As a result, Plaintiffs  
7 and others similarly situated did not receive a vehicle with the characteristics and  
8 benefits of having a properly functioning immobilization device on these vehicles,  
9 were not "top-quality," "Professional Grade," and were in fact of poor, substandard  
10 quality, and at all times relevant, GM advertised the Subject Vehicles with intent not  
11 to sell the Subject Vehicles as advertised thus violating Section 1770(a)(5), (a)(7) and  
12 (a)(9)

13 (e) In violation of Section 1770(a)(14), Defendants have misrepresented that a  
14 transaction confers or involves legal rights, obligations, or remedies of plaintiffs and  
15 other members of the Class concerning the Subject Vehicles when they were not As  
16 stated above in greater detail in paragraphs no 's 3, 42-61, 66-72, at all times  
17 relevant, GM's standard, written Warranty and Owner's Manual accompanied the  
18 sale of each of the Subject Vehicles at issue representing that GM would provide a  
19 legal right for consumers to have the defective parking brakes repaired, free of  
20 charge, "Repairs made to correct any defect" and "See Owner's Manual", that GM  
21 was obligated and assumed the duty to notify consumers of the important safety  
22 related defects, such as the defects in the parking brake system at issue, and that the  
23 remedies and repairs promised in GM's Warranty and Owner's Manual would be  
24 honored, when they were not, and at all times relevant, GM failed to provide  
25 adequate notice and repair of the defects and the remedies provided under its  
26 warranty as alleged in paragraphs 3, 42-61, 66-72,

27 (f) In violation of Section 1770(a)(16), Defendants have represented that the Subject  
28 Vehicles were supplied in accordance with previous representations when they were

1 not As stated above in greater detail in paragraphs no 's 3, 42-61, 66-72, at all times  
2 relevant, GM represented that the Subject Vehicles were supplied, delivered and  
3 Certified to comply with the Federal Motor Vehicle Safety Standards, Standard 105  
4 and/or 135 and/or otherwise free of any "defect in performance, construction, a  
5 component, or material of a motor vehicle or motor vehicle equipment" and/or  
6 otherwise meet the "minimum standard for motor vehicle or motor vehicle equipment  
7 performance," "in a way that protects the public against unreasonable risk of  
8 accidents occurring because of the design " in accordance with 49 U S C § 30102  
9 and GM's own internal "Pre-Delivery Inspection" and/or "Completely Satisfied -  
10 New Vehicle Delivery System" and/or other similar GM policies and procedures As  
11 alleged herein, at all times relevant, GM knew, or in the exercise of reasonable care  
12 should have know of the defects alleged herein, concealed and failed to disclose the  
13 existence of these defects and/or partially disclosed information concerning the  
14 parking brake system on the Subject Vehicles but failed to disclose important, safety  
15 related information concerning the defect(s) that existed in the parking brakes, and  
16 thus, the Subject Vehicles were not supplied in accordance with GM's  
17 representations and Certification of the Subject Vehicles in violation of Section  
18 1770(a)(16), and

- 19 (g) In violation of Section 1770(a)(19), in that GM has inserted an unconscionable  
20 provision in the contract/warranty that was provided along with the sale of each of  
21 the Subject Vehicles at issue At all relevant times, GM has explained, interpreted,  
22 represented and/or attempted to insert an unconscionable provision in its claimed,  
23 Limited Warranty, a clause, the object of which is to directly or indirectly, exempt  
24 GM from its responsibility for its fraudulent, deceptive and/or misleading acts and  
25 practices as alleged herein and/or seeks to limit its liability for its willful injury to  
26 Plaintiffs and others similarly situated, or for its violations of the laws, including  
27 California's consumer protection statutes as alleged herein, regardless of whether its  
28 misconduct is deemed willful or negligent, and is therefore against the policy of the

1 laws of the State of California, are void and in violation of Section 1770(a)(10), To  
2 the extent that GM disclaims any responsibility or liability for the misconduct as  
3 alleged herein, either in its alleged "Limited Warranty," its Owner's Manual, and or  
4 any other writing created and prepared by GM or otherwise GM required consumers  
5 to sign, such disclaimers are invalid a violates the CLRA in that said limitations of  
6 liability were not conspicuous, are ambiguous, unclear, indefinite, lacks specificity,  
7 and are unconscionable, both procedurally and substantively, and that said warranty  
8 and/or warranties to which GM has made have failed their essential purpose to  
9 provide repair and replacement, free of charge, and/or otherwise contradict its  
10 affirmative representations in its Owner's Manual, that "Repairs [would] be made to  
11 correct any vehicle defect" within the warranty period" when at all times relevant,  
12 GM denied all such claims during its claimed warranty period as alleged herein  
13 Further, at all times relevant, GM has unreasonably delayed and/or their existed a  
14 total inability of GM to repair the known defects as alleged herein Accordingly,  
15 GM's denials and disclaiming of said warranty and/or warranties and/or its insertion  
16 of any such unconscionable clause(s) are invalid and, in and of themselves, a  
17 violation of Section 1770(a)(10), Further, at all times relevant, GM's standardized  
18 "Limited Warranty" that was provided along with the sale of each of the Subject  
19 Vehicles unlawfully, unfairly and unconscionably seeks to limit its responsibility, by  
20 virtue of its superior position as the world's largest automaker resulting in a gross  
21 inequality in bargaining power and which resulted in no real negotiation and absence  
22 of meaningful choice for consumers and therefore is, and was, at all times relevant,  
23 oppressive Moreover, any such clauses GM may assert have been buried in its  
24 prolix pre-printed form warranty drafted and prepared by GM, also in violation of  
25 Section 1770(a)(10)

26 109. At all times relevant, GM failed to diligently make the repairs to the parking brake systems  
27 on the Subject Vehicles when owners and lessees presented the vehicles for repairs and/or service, that such  
28 repairs and replacement of the defective components on the parking brake systems would have cured the

1 defects, in that GM knew, and had researched and re-designed replacement components, and that losses and  
2 injuries to Plaintiffs, others similarly situated and the General Public would be substantial, including but not  
3 limited to serious bodily injury and/or death

4 110 GM's misconduct and/or deceptive acts alleged herein occurred in the course of selling a  
5 consumer product and Defendant has done so continuously through the filing of this complaint

6 111 As a direct and proximate result of GM's violation of Civil Code Section 1770, *et seq*,  
7 Plaintiffs and other Class members have suffered irreparable harm and monetary damages entitling them to  
8 both injunctive relief and restitution Plaintiffs, on behalf of themselves and on behalf of the Class, seek  
9 damages and all other relief allowable under the CLRA

10 112 At all times relevant, GM knew, or in the exercise of reasonable care, should have known,  
11 that the parking brake systems on the Subject Vehicles were, and remain defective, and GM concealed these  
12 material facts from Plaintiffs and others similarly and/or failed to disclose (omissions) of material facts,  
13 when GM had exclusive knowledge of the material facts concerning the existence of the extremely important  
14 safety related issue, that at all times relevant, were not known by Plaintiffs and others similarly situated,  
15 and/or by virtue of GM's partial representations concerning the quality, safety and performance of the  
16 parking brakes, as alleged herein, and at all time relevant concealing the true nature of the defects at issue

17 113 As alleged herein, soon after the Subject Vehicles were placed into the stream of commerce,  
18 GM's received numerous complaints, including complaints of serious personal injuries and deaths directly  
19 and proximately caused by defective parking brakes on the Subject Vehicles, and at all relevant times, GM  
20 remained silent, failed and refused to warn consumers about these defects in the parking brakes on these  
21 vehicles and to this day, GM continues to conceal this material, important safety related information from  
22 consumers, that (a) the parking brakes on the Subject Vehicles do not work, fail or malfunction without  
23 exception, (b) the parking brakes on the Subject Vehicles are defective and the defects are substantially  
24 certain to cause the parking brakes on the Subject Vehicles not to work and/or malfunction well before the  
25 end of the useful life of the vehicles (over 200,000 miles), and (c) that each of the parking brakes on the  
26 Subject Vehicles have either failed and/or are substantially certain to fail and cease to function as an  
27 immobilization device, long before the end of the expected life of the vehicles (over 200 000 miles)

28 114 At all times relevant, GM has also actively misrepresented the cause of the malfunctions and



1 premature failures of the parking brakes on the Subject Vehicles, blaming the cause of the defects on alleged  
2 normal wear and tear, or on the users and/or consumers of the Subject Vehicles when GM knew that these  
3 malfunctions and failures were caused by the design defects as alleged herein To this day, GM has neither  
4 provided proper notice of these defects nor offered to provide repair or replacement of the defective parking  
5 brakes at no cost to Plaintiffs and others similarly situated

6 115 As a result of the misconduct as alleged herein, Plaintiffs and each Class member have been  
7 damaged – damages being the difference between the value of what was represented a Subject Vehicle with  
8 a parking brake system that would function and operate as an immobilization device, and what they received,  
9 a Subject Vehicle that would not immobilize the vehicle when required

10 116 Knowing the truth and motivated by profit and market share, GM has knowingly and willfully  
11 engaged in the acts and/or omissions to mislead and/or deceive Plaintiffs and others similarly situated  
12 GM's wrongful conduct, as alleged herein, was willful, oppressive, immoral, unethical, unscrupulous,  
13 substantially injurious and malicious Accordingly, Plaintiffs, and others similarly situated, seek punitive  
14 damages against defendants in an amount to deter defendants from similar conduct in the future, pursuant  
15 to Civil Code § 1780 (a)(4)

16 117 The facts which GM has misrepresented and concealed as alleged in the preceding  
17 paragraphs, were material to the decisions about whether to purchase the Subject Vehicles in that Plaintiffs  
18 and others similarly situated would not have purchased these defective and unsafe vehicles but for  
19 Defendants' misrepresentations and concealment of material facts and/or paid more for the vehicles as  
20 represented, instead of as delivered As a direct and proximate result of the misconduct alleged herein,  
21 Plaintiffs and all others similarly situated paid hundred, if not thousands of dollars more for these vehicles  
22 than they were worth at the time of delivery and/or sale

23 118 Pursuant to Civil Code Section 1782, Plaintiffs provided notice to Defendants at least thirty  
24 days prior to amending this action to include a prayer for damages

25 119 This amendment to the complaint was made because the Defendants failed to make the  
26 showing required by Civil Code Section 1782(c)

27 120 As a result, Plaintiffs seek actual and punitive damages for violation of the CLRA In  
28 addition, pursuant to Civil Code Section 1782(a)(2), Plaintiffs and members of the class are entitled to an

1 order enjoining the above-described wrongful acts and practices of defendants, providing restitution to  
2 Plaintiffs and the class, ordering payment of costs and attorneys' fees, and any other relief deemed  
3 appropriate and proper by the Court under Civil Code Section 1780

4 121 WHEREFORE, pursuant to the provisions of California Civil Code § 1780, Plaintiffs are  
5 entitled to actual and punitive damages plus interest thereon, restitution and other appropriate equitable  
6 relief, an order enjoining defendants from the unlawful practices described herein, as well as recovery of  
7 attorneys' fees and costs of litigation

8  
9 IX.

10 **SECOND CAUSE OF ACTION**

11 **Violation of California's Unfair Competition Law, Bus. & Prof. Code § 17200 *et seq.***

12 **(Against All Defendants)**

13 122 Plaintiff incorporates by reference all preceding paragraphs as if fully set forth herein

14 123 Plaintiffs bring this claim on behalf of themselves and others similarly situated in their  
15 representative capacity as a private attorney general against Defendant GM and Does 1 through 100, for their  
16 unlawful, unfair, fraudulent, untrue and/or deceptive business acts and/or practices pursuant to California  
17 Business & Professions Code section 17200 *et seq* ("UCL") which prohibits all unlawful, unfair and/or  
18 fraudulent business acts and/or practices

19 124 Plaintiffs assert these claims as they are representatives of an aggrieved group and as a private  
20 attorney general on behalf of the general public and other persons who have expended funds that the  
21 Defendants should be required to pay or reimburse under the restitutionary remedy provided by California  
22 Business & Professions Code §§ 17200, *et seq*

23 125 Defendant's acts, omissions, misrepresentations, practices and non-disclosures of as alleged  
24 herein constitute unlawful, unfair and/or fraudulent business acts and/or practices within the meaning of  
25 California Business & Professions Code §§ 17200, *et seq*

26 126 Defendant's unlawful business acts and/or practice as alleged herein have violated numerous  
27 laws and/or regulations - federal and/or state, statutory and/or common law - and said predicate acts are  
28 therefore *per se* violations of §17200, *et seq* These predicate unlawful business acts and/or practices

1 include, but are not limited to the following: violations of the Federal Motor Vehicle Safety Act  
 2 ("FMVSA"), 49 USCA § 30101 et seq , Federal Trade Commission Act ("FTC Act"), 15 U S C §§ 41-58,  
 3 and the Lanham Trade-Mark Act ("Lanham Act"), 15 U S C §§ 1051-1127, California Civil Code § 1795 90  
 4 *et seq* (the "California Secret Warranty Law"), California Civil Code §§ 1572 (Actual Fraud), 1573  
 5 (Constructive Fraud), 1710 (Deceit), California Civil Code § 1668 (Contracts contrary to policy of law),  
 6 California Commercial Code § 2313 (breach of express warranty), California Civil Code §§ 1790, the Song-  
 7 Beverly Consumer Warranty Act ("Act"), and Civil Code § 17500, California's False Advertising Act In  
 8 addition, GM has violated, and/or caused the owners and lessees of the Subject Vehicles to violate California  
 9 Vehicle Code §§ 26450, 26451, and/or the brake related laws of the states, which include:

10 11 12	Alabama	Ala Admin Code r 760-X-1- 09 Defining The Adequacy Of Brakes, And Prescribing The Performance Standards Thereof, Of Motor Vehicles Using The Highways Of The State Of Alabama Ala.Code 1975 § 32-5-212 Brakes
13	Alaska	Alaska Admin Code tit. 13, § 04 205 BRAKES AND OTHER EQUIPMENT
14	Arizona	A R S § 28-952 Required brake equipment
15	Arkansas	A C A § 27-37-501 Brakes generally
16 17	California	CA Veh Code § 26450 Required brake system, CA Veh Code § 26451 Parking brake system
18	Colorado	C R.S.A § 42-4-223 Brakes
19	Connecticut	C G S A § 14-80h Brake equipment of motor vehicles
20	Delaware	21 Del C § 4303 Brakes -- General requirements
21	Florida	F S A § 316 261 Brake equipment required
22	Geogia	Ga Code Ann , § 40-8-52 Parking brakes
23	Idaho	I C § 49-933 Brakes
24	Illinois	625 ILCS 5/12-301 Brakes
25	Indiana	IC 9-19-3-1 Safety requirements, means of applying brakes
26	Iowa	I C A § 321 430 Brake, hitch and control requirements
27 28	Kansas	K S A § 8-1734 Braking systems for motor vehicles and combinations of vehicles, performance requirements, additional braking systems, when, antique vehicles exempted

1	Kentucky	KRS § 189 090. Brakes
2	Louisiana	LSA-R S 32.341 Brake equipment required
3	Maine	29-A M R.S.A § 1902. Brakes
4	Maryland	MD Code, Transportation, § 22-301.Necessary brake equipment
5	Massachusetts	M G.L A 90 § 7 Brakes, braking systems, mufflers, horns, lights, audible
6		warning systems, and other equipment, compliance with safety standards,
7		stickers and emblems
8	Michigan	M C L A 257 705 Brakes
9	Minnesota	M S A § 169 67 Brakes
10	Mississippi	Miss Code Ann § 63-7-51 Brakes, and Miss Code Ann § 63-7-53 Brake
11		Standards
12	Missouri	V A M S 307 170 Other equipment of motor vehicles
13	Montana	MCA 61-9-303 Parking brakes--adequacy, MCA 61-9-301 Brake equipment
14		required, and MCA 61-9-302 Service brakes--adequacy
15	Nebraska	Neb R St § 60-6,244 Motor vehicles, brakes, requirements
16	Nevada	N R S § 484 593 Equipment required
17	New Hampshire	N H Rev Stat § 266 27-a Parking Brakes Required
18		N H. Rev Stat § 266 27 Brakes Required
19	New Jersey	N J S A § 39 3-67 Brake equipment required
20	New Mexico	N M S A 1978, § 66-3-840 Brakes
21	New York	McKinney's Vehicle and Traffic Law § 375 Equipment
22	North Carolina	N C G S A § 20-124 Brakes
23	North Dakota	NDCC, 39-21-32 Brake equipment required
24	Ohio	R C § 4513 20 Brake equipment
25	Oklahoma	47 Okl St Ann § 12-301 Brake equipment required
26	Oregon	O R S § 815 125 Brakes, requirements and standards
27	Pennsylvania	75 Pa C S A § 4502 General requirements for braking systems
28	Rhode Island	Gen Laws 1956, § 31-23-4 Brake equipment required
	South Carolina	Code 1976 § 56-5-4850 Brake equipment

1	South Dakota	SDCL § 32-18-14 Capability of parking brake-Parking brake assisted by
2		service brake, SDCL § 32-18-13 Parking brakes--Violation as misdemeanor,
3		and SDCL § 32-18-1 Brakes required on particular vehicles--Violation as
4		misdemeanor
5	Tennessee	T C A § 55-9-204 Brakes
6	Texas	V T C A , Transportation Code § 547 404 Parking Brakes Required, and
7		V T C A , Transportation Code § 547 401. Brakes Required
8	Utah	U C A 1953 § 41-6a-1623 Braking systems required--Adoption of
9		performance requirements by department
10	Vermont	23 V S A § 1307 Brake equipment required
11	Virginia	Va Code Ann § 46 2-1066 Brakes, and Va Code Ann § 46 2-1068
12		Emergency or parking brakes
13	Washington	West's RCWA 46 37 340 Braking equipment required
14	West Virginia	W Va Code, § 17C-15-31 Brakes-generally
15	Wisconsin	W S A 347 35 Brakes
16	Wyoming	W S 1977 § 31-5-950 General braking requirements

16           127    Defendant's misconduct as alleged in this action constitutes negligence and other tortious  
17 conduct and this misconduct gave Defendant's an unfair competitive advantage over their competitors

18           128    The harm, the risk of serious injury to persons and/or property, including serious bodily injury  
19 and/or death resulting from the failure and substantial likely hood that these defective parking brakes on the  
20 Subject Vehicles will fail to function and operate as an immobilization device, far outweighs any benefit for  
21 allowing GM and Defendants DOES 1 through 100 to continue its acts and practices of misrepresenting the  
22 quality, safety and functionality and/or withholding and failing to disclose to owners and lessees of these  
23 vehicles important safety related information concerning a defect that, at all time relevant, Defendants knew,  
24 or in the exercise of reasonable care should have known since the date of manufacture and sale of each of  
25 the Subject Vehicles at issue

26           129    As a result of Defendant's acts, omissions, misrepresentations, practices and non-disclosures  
27 as alleged herein, members of the public are likely to be deceived and/or have lead to consumer confusion  
28

1 that the Subject Vehicles contain and/or are equipped with a fully functional and operational parking brake  
2 system to use as an immobilization device to prevent the vehicle from unintended rolling, when: (1) parking  
3 on a hill or incline, (2) jacking up the vehicle to replace a wheel or tire, particularly in case of a roadside  
4 emergency such as a tire blow out or other common event that drivers are likely to experience, and (3) to  
5 immobilize the vehicle when it is required to leave the vehicle unattended with the engine running Said  
6 acts, omissions, misrepresentations, practices and non-disclosures as alleged herein therefor constitute  
7 fraudulent business acts and/or practices within the meaning of California Business & Professions Code §§  
8 17200, *et seq*

9 130 As alleged herein, GM has for many years, conducted national advertising of its various  
10 products, stressing the excellence and reliability of its products, including but not limited to the Subjects  
11 Trucks, quality, safety, functionality and/or performance

12 131 At all relevant times, as alleged herein, GM has aggressively promoted and advertised the  
13 Subject Vehicles in an unlawful, unfair, fraudulent, untrue and/or deceptive manner that is and was likely  
14 to deceive the public

15 132 Defendant's misconduct, as fully described herein, constitutes acts of untrue and misleading  
16 advertising and are, by definition, violations of California Business & Professions Code § 17200 *et seq*

17 133 The acts, omissions, misrepresentations, practices, non-disclosures and/or concealment of  
18 material facts, and/or deception alleged in the preceding paragraphs occurred in connection with Defendant's  
19 conduct of trade and commerce in California

20 134 Defendants' misconduct as alleged in this action constitutes negligence and other tortious  
21 conduct and this misconduct gave these Defendants an unfair competitive advantage over their competitors

22 135 As a direct and proximate result of the aforementioned acts, Defendants, and each of them,  
23 received monies expended by Plaintiffs and others Similarly Situated who purchased the Subject Vehicles

24 136 Plaintiffs further allege that the monies paid by them for the purchase of their Subject  
25 Vehicles conferred a monetary benefit on Defendant GM, as without such purchases, GM would not have  
26 been able to sell the Subject Vehicles through any third party distributors or retailers Thus, the monies  
27 obtained by GM through their sale of the Subject Vehicles were obtained as a result of monies paid by  
28 Plaintiffs and the putative class, Plaintiffs have a vested interest in this money, and Plaintiffs are entitled to

1 restitution of such ill gotten gains

2 137 Defendants' conduct constitutes unfair acts or practices conducted in the course of defendants'  
3 respective businesses, and thereby constitutes violations of California Business and Professions Code  
4 sections 17200, *et seq* Such conduct offends the established public policy of the State of California and is  
5 immoral, unethical, oppressive, unscrupulous and substantially injurious

6 138 As a direct and proximate result of Defendants' unlawful, unfair and fraudulent business  
7 practices as alleged herein, Defendants have. (a) sold more vehicles than it otherwise could have, (b) charged  
8 inflated prices for the Subject Vehicles measured by the difference between what was represented a vehicle  
9 with a parking brake system that would function and operate as an immobilization device, and what the  
10 Class members received, a vehicle with a defective parking brake system that would not immobilize the  
11 vehicle when required, unjustly enriching itself thereby; and (c) charged and retained fees for providing  
12 repair and other services that they otherwise would not have been able to charge or retain

13 139 The unlawful, unfair, deceptive and/or fraudulent business practices and/or false and  
14 misleading advertising of defendants, as fully described herein, present a continuing threat to members of  
15 the public to be injured by the Subject Vehicles as alleged herein Pursuant to Section 17203 of the UCL,  
16 Plaintiffs seek an order of this Court enjoining Defendants from continuing to engage in unlawful, unfair  
17 or fraudulent business practices, and any other act prohibited by the UCL Plaintiffs also seek an order  
18 requiring Defendants to fully disclose the true nature of its misrepresentations and omissions, and engage  
19 in a corrective notice and/or advertising campaign to fully disclose true nature of the defects in the parking  
20 brakes on the Subject Vehicles as alleged herein and offer free replacement and repair of the parking brakes  
21 on the Subject Vehicles in order to correct the misrepresentations and omissions made by Defendants

22 140 Defendants' conduct constitutes unfair acts or practices conducted in the course of Defendants  
23 respective businesses, and thereby constitutes violations of California Business and Professions Code  
24 sections 17200, *et seq* Defendants' conduct and intent to widely market the Subject Vehicles to California  
25 consumers involved false and misleading advertising Such conduct offends the established public policy  
26 of the State of California and is immoral, unethical, oppressive, unscrupulous and substantially injurious

27 141 Pursuant to Section 17203 of the UCL, Plaintiff seeks an order of this Court enjoining GM  
28 from continuing to engage in unlawful, unfair or fraudulent business practices, and any other act prohibited

1 by the UCL Plaintiff also seeks an order requiring GM to comply with the terms of the California Secret  
2 Warranty Law by (a) notifying Class Members of the secret parking brake warranty, (b) providing free  
3 installation of the Parking Brake Kit (in installation of the re-designed spring clip retainer) to Class  
4 Members, (c) notifying dealers of the facts underlying the parking brake problem and the terms of the secret  
5 parking brake warranty, (d) notifying the New Motor Vehicle Board of the secret parking brake warranty,  
6 and (e) identifying and reimbursing Class Members who have paid for the Parking Brake Kit (including the  
7 re-designed spring clip retainer) to be installed. Plaintiff also seeks an order (i) enjoining GM from failing  
8 and refusing to make full restitution of all moneys wrongfully obtained and (ii) disgorging all ill-gotten  
9 revenues and/or profits earned or retained as a result of GM's violations of the California Secret Warranty  
10 Law

11 142 As set forth, above, GM has violated the California Secret Warranty Law, Civil Code §§  
12 1795 90 *et seq*. As a proximate result of GM's conduct, GM obtained secret profits by which it became  
13 unjustly enriched at Plaintiff and the Class Members' expense

14 143 Plaintiffs also seek an order establishing GM as a constructive trustee of the secret profits  
15 that served to unjustly enrich GM, together with interest during the period in which GM has retained such  
16 funds, and requiring GM to disgorge those funds in a manner to be determined by the Court and in addition  
17 to the relief requested in the Prayer below, Plaintiffs seek the imposition of a constructive trust over, and  
18 restitution of, the monies collected and profits realized by Defendants

19 144 The unlawful, unfair, deceptive and/or fraudulent business practices and/or false and  
20 misleading advertising of Defendants, as fully described herein, present a continuing threat to members of  
21 the public to be injured by the Subject Vehicles equipped with the defective parking brake systems as alleged  
22 herein

23 145 WHEREFORE, Plaintiffs and the Class members are entitled to equitable relief, including  
24 restitution, disgorgement of all profits accruing to Defendant because of its unlawful, unfair, fraudulent and  
25 deceptive practices, attorney fees and costs, declaratory relief, and a permanent injunction enjoining  
26 Defendant from its unlawful, unfair, fraudulent and deceitful activity

27 ///

28 ///



1 X.

2 PRAYER

3 WHEREFORE, Plaintiffs, on behalf of themselves and all others similarly situated and as to the  
4 Fourth Cause of Action, also on behalf of the general public, pray for judgment against Defendants as  
5 follows

- 6 A An order certifying this case as a class action and appointing Plaintiffs and their counsel to  
7 represent the class;
- 8 B For actual damages for injuries suffered by Plaintiffs and the Class pursuant to California Civil  
9 Code § 1780(a)(1),
- 10 C For an order awarding restitution and disgorgement of monies Defendants wrongfully acquired  
11 through the sales of the Subject Vehicles as a result of Defendants unlawful, unfair, and  
12 deceptive acts and/or practices, together with interest thereon to the date of payment to the  
13 victims of such violations,
- 14 D For statutory damages in an amount of not less than \$1,000 per Plaintiff or class member  
15 pursuant to California Civil Code § 1780(a)(1),
- 16 E For an order requiring Defendants to immediately cease its wrongful conduct as set forth  
17 above, enjoining Defendants from continuing to falsely market and advertise, conceal material  
18 information and conduct business via the unlawful and unfair business acts and practices  
19 complained of herein, and ordering Defendants to engage in corrective notice,
- 20 F For punitive damages in an amount to deter Defendants from similar conduct in the future  
21 pursuant to California Civil Code § 1780(a)(4),
- 22 G For reasonable attorneys' fees and the costs of this action pursuant to California Code of Civil  
23 Procedure §§ 1021.5 and 1033.5(a)(10)(B), and attorney fees pursuant to California Civil Code  
24 § 1780(d), and/or from the common fund and for all costs associated with administration of  
25 the common fund and the costs of this action,
- 26 H For pre-judgment interest at the maximum legal rate, and
- 27 I For such other relief as this Court may deem just and proper
- 28

XI

**DEMAND FOR JURY TRIAL**

Plaintiffs demand a trial by jury for themselves and the class on all claims so triable

December 9, 2005

SPIRO MOSS BARNES HARRISON & BARGE LLP

By 

DAVID M ARBOGAST

Attorneys for Plaintiffs La Ronda Hunter,  
Rosana N Pulgarin, Robin Gonzales and all others  
Similarly Situated

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**Exhibit B**  
**Deposition of LaRonda Hunter**

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF LOS ANGELES

LaRONDA HUNTER, ROSANA N.  
PULGARIN, and ROBIN GONZALES,  
on behalf of themselves and  
on behalf of all others  
similarly situated and the  
general public,

Plaintiffs,

vs.

No. BC324622

GENERAL MOTORS CORPORATION and  
DOES 1 through 100,  
Defendants.

DEPOSITION OF LA RONDA HUNTER  
Los Angeles, California  
Tuesday, December 16, 2008

Reported by:  
DENISE BARDSLEY  
CSR No. 11241  
JOB No. 101996

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2

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1 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
2 COUNTY OF LOS ANGELES

3 LaRONDA HUNTER, ROSANA N.  
4 PULGARIN, and ROBIN GONZALES,  
5 on behalf of themselves and  
6 on behalf of all others  
7 similarly situated and the  
8 general public,

Plaintiffs,

vs.

No. BC324622

9 GENERAL MOTORS CORPORATION and  
10 DOES 1 through 100,  
11 Defendants.

12 Deposition of LA RONDA HUNTER, taken on behalf of  
13 Defendant General Motors Corporation, at 777 South  
14 Figueroa Street, Los Angeles, California, beginning at  
15 10:10 a.m. and ending at 3:25 p.m. on Tuesday,  
16 December 16, 2008, before DENISE BARDSLEY, Certified  
17 Shorthand Reporter No. 11241.

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1 LA RONDA HUNTER,  
2 having been first placed under oath, was examined and  
3 testified as follows:  
4  
5 THE VIDEOGRAPHER: You may proceed.  
6  
7 EXAMINATION  
8 BY MS. GUZMAN:  
9 Q Good morning, Ms. Hunter. I am Kelly Guzman,  
10 and I represent General Motors.  
11 Would you please state your name for the  
12 record.  
13 A My name is La Ronda Hunter.  
14 Q And I would like to go through a few basic  
15 rules for the procedure, ground rules, and then give  
16 you a chance to ask any questions you have about how  
17 this is going to go.  
18 First of all, you understand that you're  
19 under oath, correct?  
20 A Yes.  
21 Q And that means that you must answer all of  
22 the questions I ask you truthfully and honestly and to  
23 the best of your ability.  
24 A Yes.  
25 Q You must also answer the questions audibly so

10:10  
10:11

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1 Los Angeles, California, Tuesday, December 16, 2008  
2 10:10 a.m. - 3:25 p.m.  
3  
4 THE VIDEOGRAPHER: Good morning, today is  
5 December 16, 2008. We are on the record at 10 past  
6 10:00. We're here for the deposition of La Ronda  
7 Hunter in the matter of Hunter, et al., versus General  
8 Motors, Case Number BC324622, pending before Superior  
9 Court, State of California, County of Los Angeles.  
10 This deposition is being taken on behalf of  
11 the Defendant. We are at the offices of Krikland &  
12 Ellis, located at 777 South Figueroa Street, Los  
13 Angeles, California.  
14 My name is Bruno Sere, appearing on behalf of  
15 Sarnoff Court Reporters and Legal Technologies located  
16 in Los Angeles, California.  
17 Would counsel please introduce themselves and  
18 state their affiliation.  
19 MS. GUZMAN: Kelly Guzman, counsel for GM.  
20 MS. YASHAR: Pantea Yashar counsel for GM.  
21 MR. SPIRO: Ira Spiro, S-p-i-r-o, counsel for  
22 plaintiff.  
23 THE VIDEOGRAPHER: You may swear in the  
24 witness.  
25

10:09  
10:10

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1 that the court reporter can take them down.  
2 A Yes.  
3 Q It's difficult for her to transcribe a nod of  
4 the head or an uh-huh, so anytime you can, please  
5 answer a clear yes or no.  
6 For the purposes of this deposition, when I  
7 refer to GM, I mean General Motors Corporation and all  
8 of its divisions, affiliates, et cetera. Okay?  
9 A Okay.  
10 Q Please tell me if you do not understand a  
11 question that I ask you. Okay?  
12 A Okay.  
13 Q If you answer, I will assume that you  
14 understood the question. Is that fair?  
15 A Yes.  
16 Q We're going to take a break every hour and  
17 for lunch. Is that all right?  
18 A Yes.  
19 Q And if you need a break, that's fine, just  
20 let me know. I just ask that if there is a question  
21 pending, you finish answering it before we take a  
22 break. Is that okay?  
23 A Yes.  
24 Q Are you taking any medication or are you  
25 under the influence of alcohol or any drugs today?

10:11  
10:11

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1 MR. SPIRO: Don't answer quite yet. Any  
 2 medication, Counsel? There is a right to privacy  
 3 there.  
 4 Any medication that would affect her  
 5 testimony would be okay. I'll let her answer that.  
 6 BY MS. GUZMAN:  
 7 Q Okay. Are you taking any medication that  
 8 affects your ability to testify today?  
 9 A No.  
 10:12 10 Q Are you under the influence of alcohol or any  
 11 drugs today?  
 12 A No.  
 13 Q Is there any other reason at all that your  
 14 memory might be impaired or you might be unable to  
 15 understand my questions today?  
 16 A No.  
 17 Q Finally, please understand that all we are  
 18 interested in here is your truthful, honest testimony.  
 19 Okay?  
 10:12 20 A Okay.  
 21 Q Now, do you have any questions about this or  
 22 the basic format of the deposition?  
 23 A No.  
 24 Q Ms. Hunter, what is your age?  
 25 A 39.

1 A One.  
 2 Q How old is your child?  
 3 A 18 years old.  
 4 Q Does anyone depend on you for support?  
 5 A My daughter.  
 6 Q Anyone else?  
 7 A No.  
 8 Q Who lives in your household now?  
 9 A Me and my daughter and my sister.  
 10:14 10 Q Has anyone else lived in your household in  
 11 the past?  
 12 A No. In the past, as far as the new address,  
 13 no.  
 14 Q Are you currently employed?  
 15 A I'm retired.  
 16 Q Where did you work?  
 17 A United States Postal Service.  
 18 Q And how long did you work there?  
 19 A 14 years. Approximately 14 years.  
 10:14 20 Q What was your position at the United States  
 21 Postal Service?  
 22 A Equipment operator.  
 23 Q How long did you hold that position?  
 24 A About two years.  
 25 Q Who was your supervisor at that position?

1 Q What is your date of birth?  
 2 A 03/26/1969.  
 3 Q Where were you born?  
 4 A California.  
 5 Q Where in California?  
 6 A Los Angeles.  
 7 Q Where do you live?  
 8 A In Los Angeles, California.  
 9 Q Can you give me your address?  
 10:13 10 A 4125 Marine Ave.  
 11 Q How long have you lived at that address?  
 12 A Two years.  
 13 Q Where did you live before then?  
 14 A 15014 Eastwood.  
 15 Q Also in Los Angeles?  
 16 A In Lawndale.  
 17 Q In Lawndale?  
 18 A Uh-huh, yes.  
 19 Q How long did you live at that address?  
 10:13 20 A About 14 years, 15 -- 14, 15 years.  
 21 Q Are you married?  
 22 A No.  
 23 Q Do you have any children?  
 24 A Yes.  
 25 Q How many?

1 A Estban Goitia.  
 2 Q Could you spell that name.  
 3 A E-s-t-b-a-n G-o-i-t-i-a.  
 4 Q And what were your duties and  
 5 responsibilities at that position?  
 6 A Duties of an equipment operator is to operate  
 7 a forklift.  
 8 Q What did you do before you were equipment  
 9 operator?  
 10:15 10 A Mail handler.  
 11 Q How long were you at that position?  
 12 A Twelve.  
 13 Q And who was your supervisor at that position?  
 14 A It varied.  
 15 Q Just to clarify, you mean 12 years?  
 16 A Uh-huh, yes.  
 17 Q Can you remember any of your supervisor's  
 18 names at that position?  
 19 A Girtha Hollman, G-i-r-t-h-a, H-o-l-l-m-a-n.  
 10:15 20 Q Any others?  
 21 A Glenn Hooks.  
 22 Q Any others?  
 23 A No.  
 24 Q What were your duties and responsibilities at  
 25 that position?

1 A To process mail.  
 2 Q How long were you at the United States Postal  
 3 Service total?  
 4 A From 1994 to 2008.  
 5 Q Do you have a high school diploma?  
 6 A Yes.  
 7 Q And do you have a college degree?  
 8 A Yes, associate.  
 9 Q Is that a two-year associate's degree?  
 10:16 10 A Yes.  
 11 Q What is it in?  
 12 A Computers.  
 13 Q Can you be any more specific than that?  
 14 A Information technology.  
 15 Q Have you been -- do you consider yourself an  
 16 expert in anything?  
 17 A No.  
 18 Q Do you have any training or experience in  
 19 engineering?  
 10:17 20 MR. SPIRO: Counsel, excuse me, I should have  
 21 objected to the question about expert as vague, calls  
 22 for a legal conclusion, so I move to strike the  
 23 answer.  
 24 MS. GUZMAN: Okay. Your objection's noted.  
 25 I'm going to still ask the question.

1 A Yes.  
 2 Q Are you aware that there has already been  
 3 discovery in this case?  
 4 A Yes.  
 5 Q You're aware that you have served discovery  
 6 requests and GM has served discovery requests?  
 7 A Yes.  
 8 Q And are you aware that GM has served document  
 9 requests and interrogatories about you?  
 10:18 10 A Yes.  
 11 Q Who told you this?  
 12 A My attorney.  
 13 MR. SPIRO: Move to strike, attorney-client.  
 14 So if your answers -- if the question -- if  
 15 your answers to the question, La Ronda, would require  
 16 you to say something about communications between you  
 17 and your lawyers, then say so, and you don't have to  
 18 answer that.  
 19 THE WITNESS: Okay.  
 10:18 20 BY MS. GUZMAN:  
 21 Q Are you aware that you have provided written  
 22 responses to GM's document requests and  
 23 interrogatories?  
 24 A Yes.  
 25 Q Did you draft these responses?

1 Q Do you consider yourself an expert in  
 2 anything?  
 3 A No.  
 4 Q Do you have any training or experience in  
 5 engineering?  
 6 A No.  
 7 Q Do you have any training or experience in  
 8 automotive repair or work?  
 9 A No.  
 10:17 10 Q Do you have any training or experience in  
 11 automotive sales, leasing, rental?  
 12 A No.  
 13 Q Do you have any training or experience at all  
 14 in the automotive industry?  
 15 A No.  
 16 Q Do you have any training or experience in  
 17 insurance?  
 18 A No.  
 19 Q Do you have any training or experience in  
 10:17 20 advertising?  
 21 A No.  
 22 Q Do you have any training or experience in  
 23 drafting warranties?  
 24 A No.  
 25 Q Do you know what discovery is?

1 MR. SPIRO: Vague.  
 2 THE WITNESS: Vague.  
 3 BY MS. GUZMAN:  
 4 Q Did you draft the responses that you  
 5 submitted to GM's document requests and  
 6 interrogatories?  
 7 MR. SPIRO: Vague and compound, actually.  
 8 BY MS. GUZMAN:  
 9 Q Ms. Hunter, did you draft your responses to  
 10:19 10 GM's document requests?  
 11 MR. SPIRO: Vague and compound -- yeah,  
 12 vague.  
 13 BY MS. GUZMAN:  
 14 Q You can answer.  
 15 MR. SPIRO: If you know.  
 16 THE WITNESS: You said that I did what?  
 17 BY MS. GUZMAN:  
 18 Q Did you draft your answers to GM's document  
 19 request?  
 10:19 20 A That's attorney-client privilege.  
 21 MR. SPIRO: Counsel, the problem is the word  
 22 "draft."  
 23 BY MS. GUZMAN:  
 24 Q Did you write the answers to GM's document  
 25 requests?

1 MR. SPIRO: Still vague.  
 2 THE WITNESS: Privileged.  
 3 BY MS. GUZMAN:  
 4 Q Did you see your responses to GM's document  
 5 requests?  
 6 A Yes.  
 7 Q Ms. Hunter, what is your answer to my  
 8 question, "Did you draft the written responses to GM's  
 9 document requests?"  
 10:20 10 MR. SPIRO: Vague.  
 11 It is asked and answered -- asked and  
 12 responded to three times. The question is vague, it's  
 13 also compound. It's not a fair question.  
 14 BY MS. GUZMAN:  
 15 Q Do you need me to ask the question again or  
 16 can you answer?  
 17 A I'm not going to answer.  
 18 Q Why not?  
 19 A Because the same -- because I've already  
 10:20 20 answered once. You asked me three times.  
 21 Q What is your answer?  
 22 MR. SPIRO: No, she's -- what do you mean  
 23 what is her answer? She's already answered three  
 24 times.  
 25 MS. GUZMAN: Are you instructing her not to

1 are -- actually are typed.  
 2 Q Do you know who did?  
 3 A No, I don't.  
 4 Q You do not know who wrote the responses to  
 5 GM's document requests?  
 6 MR. SPIRO: She answered that. Don't harass  
 7 the witness. She answered your question. She said  
 8 no.  
 9 MS. GUZMAN: Make your objection, if you  
 10:21 10 would like, but I would still like an answer to the  
 11 question.  
 12 MR. SPIRO: No, she's not going to answer it  
 13 twice. She answered.  
 14 MS. GUZMAN: Are you instructing her not to  
 15 answer the question?  
 16 MR. SPIRO: Yes, yes --  
 17 THE REPORTER: I can only get one person.  
 18 This won't be on the record.  
 19 MS. GUZMAN: Are you instructing the witness  
 10:22 20 not to answer.  
 21 MR. SPIRO: Yes, because you're harassing.  
 22 (Instruction not to answer.)  
 23 BY MS. GUZMAN:  
 24 Q Ms. Hunter, did you type the responses to  
 25 GM's interrogatories?

1 answer?  
 2 MR. SPIRO: No, I'm objecting. I don't know  
 3 what your question is. She's answered three times.  
 4 Which one are you talking about?  
 5 MS. GUZMAN: I would like her clear answer as  
 6 to whether she's drafted the written responses to GM's  
 7 document request.  
 8 MR. SPIRO: That's impossible for --  
 9 MS. GUZMAN: That's a yes-or-no answer.  
 10:21 10 MR. SPIRO: No, it isn't, because I don't  
 11 know what you mean by the word "draft" and neither  
 12 does she.  
 13 BY MS. GUZMAN:  
 14 Q Mrs. Hunter, what do you think I mean by the  
 15 word "draft"?  
 16 A You have to explain it.  
 17 Q By "draft," I mean write. Did you write the  
 18 responses --  
 19 MR. SPIRO: It is still unclear. You mean  
 10:21 20 with her own hand or what?  
 21 BY MS. GUZMAN:  
 22 Q Yes, I mean with your own hand. Did you  
 23 write with your own hand the responses to GM's  
 24 document requests?  
 25 A I did not write any answers. The answers

1 A No.  
 2 Q Do you know who did?  
 3 A No.  
 4 Q Did you see the responses to GM's document  
 5 requests?  
 6 A Which document request? Are you talking  
 7 about the discovery?  
 8 Q Yes, the document requests about you.  
 9 A Yes, I see -- yes, I saw them.  
 10:22 10 Q Who showed those to you?  
 11 A My attorney.  
 12 Q When did you see them?  
 13 A When they were first produced.  
 14 Q Did you review those written responses and  
 15 check to see that they were accurate?  
 16 A Yes.  
 17 Q Did you edit or correct anything in them?  
 18 A I --  
 19 MR. SPIRO: Vague -- vague and compound.  
 10:23 20 THE WITNESS: How could I edit and correct  
 21 something when they were typed?  
 22 BY MS. GUZMAN:  
 23 Q Did you ask your attorney to change anything  
 24 in those responses before they were submitted?  
 25 MR. SPIRO: Attorney-client.



1 Don't answer.  
 2 (Instruction not to answer.)  
 3 BY MS. GUZMAN:  
 4 Q Did you see the responses to GM's  
 5 interrogatories?  
 6 A To me, yes.  
 7 Q When did you see those?  
 8 A When they were first produced.  
 9 Q Did you review the responses to GM's  
 10:23 10 interrogatories and check to see that they were  
 11 accurate?  
 12 A Yes.  
 13 Q Did you authorize your attorney to file those  
 14 responses to interrogatories?  
 15 MR. SPIRO: Attorney-client.  
 16 Don't answer.  
 17 (Instruction not to answer.)  
 18 BY MS. GUZMAN:  
 19 Q Do you think that -- I'm sorry, strike that.  
 10:24 20 As a class representative, do you think that  
 21 you have an obligation to review interrogatory  
 22 responses to make sure they are accurate before they  
 23 are filed with the court?  
 24 MR. SPIRO: Compound, calls for a legal  
 25 conclusion.

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1 Go ahead.  
 2 They are not filed with the court, Counsel.  
 3 That's misleading the witness.  
 4 MS. GUZMAN: I'll rephrase.  
 5 Q As a class representative, do you think that  
 6 you have an obligation to review interrogatory  
 7 responses to make sure that they are accurate before  
 8 they are submitted in litigation?  
 9 A Yes.  
 10:24 10 MR. SPIRO: That's compound.  
 11 Go ahead -- okay.  
 12 BY MS. GUZMAN:  
 13 Q Ms. Hunter, I'm handing you your responses to  
 14 GRM's form interrogatories, which will be marked as  
 15 Deposition -- sorry, Defendants' Exhibit 1.  
 16 (Deposition Exhibit 1 marked.)  
 17 BY MS. GUZMAN:  
 18 Q Do you recognize this document?  
 19 A Yes, I do.  
 10:25 20 Q How do you recognize it?  
 21 MR. SPIRO: Vague.  
 22 BY MS. GUZMAN:  
 23 Q How do you recognize it, Ms. Hunter?  
 24 A It is sitting in front of me.  
 25 Q How do you know what it is?

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1 MR. SPIRO: Vague.  
 2 BY MS. GUZMAN:  
 3 Q Have you seen it before?  
 4 A Yes..  
 5 Q What is this?  
 6 A Plaintiff La Ronda Hunter Responses to Form  
 7 Interrogatories Set One.  
 8 Q Did you review this form interrogatory  
 9 response completely before you authorized your  
 10:26 10 attorney to submit it?  
 11 A Yes.  
 12 Q And can you verify that the answers in this  
 13 form interrogatory are complete and correct?  
 14 MR. SPIRO: Compound, vague as to the word  
 15 "verify." And it is grossly compound.  
 16 Go ahead. You can answer, if you can.  
 17 BY MS. GUZMAN:  
 18 Q Ms. Hunter, can you turn to the third-to-the-  
 19 last page of this document. Is this your signature  
 10:26 20 that appears on this page -- oh, I'm sorry, you're not  
 21 there yet.  
 22 Is this your signature that appears on this  
 23 page?  
 24 A Yes.  
 25 Q Did you sign the statement verifying that

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1 your answers are true and correct?  
 2 A Yes.  
 3 Q And are the responses contained in your  
 4 responses to GM's form interrogatories still complete  
 5 and correct?  
 6 A Yes.  
 7 MR. SPIRO: I move to strike. It misstated  
 8 the verification and her previous testimony. She  
 9 didn't say anything about complete, nor does the  
 10:27 10 verification.  
 11 BY MS. GUZMAN:  
 12 Q Ms. Hunter, are your answers to these form  
 13 interrogatories complete?  
 14 A Yes.  
 15 MR. SPIRO: Move to strike. The question was  
 16 compound, extremely.  
 17 BY MS. GUZMAN:  
 18 Q Ms. Hunter, I'm going to hand you another  
 19 document marked as Deposition Exhibit 2.  
 10:28 20 (Deposition Exhibit 2 marked.)  
 21 BY MS. GUZMAN:  
 22 Q Do you recognize this document?  
 23 A Yes, I do.  
 24 Q What is it?  
 25 A La Ronda Hunter responses to defendant first

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1 set of interrogatories, set one.  
 2 Q Is this a true and accurate copy of your  
 3 responses?  
 4 MR. SPIRO: Do you want -- how would she  
 5 know?  
 6 MS. GUZMAN: Well, she can review it.  
 7 MR. SPIRO: Okay. Review it page by page,  
 8 then, if you need to. As much as you need to do to  
 9 answer this question, or maybe we can stipulate to  
 10:28 10 that once I look at it.  
 11 I think these are not complete. The third-  
 12 to-the-last page, I guess, or fourth-to-the-last says  
 13 pages 7 of 8. Now, maybe these are configured wrong,  
 14 but it gives me some reason to think they are not. I  
 15 could check my own and see.  
 16 My own copy has the same, 7 of 8.  
 17 Do you want me to say anything about whether  
 18 they are complete?  
 19 MS. GUZMAN: Only if you need to for your  
 10:31 20 client to answer.  
 21 THE WITNESS: I hope you wouldn't give me any  
 22 incomplete documents.  
 23 BY MS. GUZMAN:  
 24 Q Is there any reason you think this is not a  
 25 true and accurate copy of your responses to

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1 BY MS. GUZMAN:  
 2 Q You can answer.  
 3 A Can I tell you the answers accurate? They  
 4 are the same answers that I gave, They are the exact  
 5 same answers.  
 6 Q So they are still true?  
 7 A Yes.  
 8 Q And are these responses still complete?  
 9 A Yes.  
 10:32 10 MR. SPIRO: Compound, facts not in evidence.  
 11 BY MS. GUZMAN:  
 12 Q I'm sorry, your answer was "Yes"?  
 13 A (No audible response.)  
 14 Q Ms. Hunter, I'm handing you a copy of your  
 15 responses to defendants' request for production. It  
 16 is being marked as Deposition Exhibit Number 3.  
 17 (Deposition Exhibit 3 marked.)  
 18 BY MS. GUZMAN:  
 19 Q Do you recognize this document?  
 10:33 20 A Yes.  
 21 Q What is it?  
 22 A Plaintiff's La Ronda Hunter's responses to  
 23 defendant first set of request of production of  
 24 documents.  
 25 Q Is this a true and accurate copy of your

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1 defendants' first set of interrogatories?  
 2 A No.  
 3 Q Did you review these responses completely  
 4 before you authorized your attorney to submit them?  
 5 A Yes, I verified my responses.  
 6 Q I'm sorry, Ms. Hunter, my question was  
 7 slightly different. It was did you review these  
 8 responses before you authorized your attorney to file  
 9 them -- or, sorry, to submit them?  
 10:31 10 A Did I review them?  
 11 Q Did you review them, did you read them?  
 12 A What do you mean by -- yes, I read them.  
 13 Q I'm going to ask you again to turn to the  
 14 third-to-the-last page. Is that your signature on  
 15 this page?  
 16 A Yes.  
 17 Q And did you verify that the responses are  
 18 true?  
 19 A Yes, I did.  
 10:32 20 Q Are these responses still accurate?  
 21 MR. SPIRO: Compound.  
 22 BY MS. GUZMAN:  
 23 Q Ms. Hunter, can you tell me whether the  
 24 responses are still accurate?  
 25 MR. SPIRO: Compound.

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1 discovery responses?  
 2 A Yes.  
 3 Q Did you review these responses completely  
 4 before you authorized your attorney to submit them?  
 5 A Yes.  
 6 Q Did you sign the verification page at the  
 7 end?  
 8 A Yes.  
 9 Q Did you verify that your answers are true?  
 10:34 10 A Yes, I did. I reviewed them, read them,  
 11 signed the verification and turned them over.  
 12 Q Are your responses still complete?  
 13 MR. SPIRO: Vague, compound.  
 14 THE WITNESS: Vague, compound.  
 15 BY MS. GUZMAN:  
 16 Q I need you to still answer my question,  
 17 Ms. Hunter.  
 18 A You said --  
 19 Q Are the responses contained in this document  
 10:34 20 still complete?  
 21 A The answers are the same. They are the same  
 22 as it was when I submitted them 8/27/28 -- 2008.  
 23 Q When you submitted them on 8/27/2008, were  
 24 they complete answers to the questions?  
 25 A Yes.

Page 28

1 Q And they still are?  
 2 A Yes.  
 3 Q Ms. Hunter, can you tell me the make, model  
 4 and year of your vehicle?  
 5 A GMC Yukon, 2001.  
 6 Q Do you know the vehicle identification  
 7 number?  
 8 A No.  
 9 Q I'm going to refer you to your response to  
 10:35 10 interrogatory number 1.  
 11 MR. SPIRO: Which set?  
 12 MS. GUZMAN: The regular interrogatories, not  
 13 the form interrogatories.  
 14 MR. SPIRO: Exhibit 2?  
 15 MS. GUZMAN: Yes.  
 16 MR. SPIRO: That's 2.  
 17 THE WITNESS: My arm hurt. I can barely put  
 18 my coat on, on the arm.  
 19 BY MS. GUZMAN:  
 10:35 20 Q On page 5 of this document, your response to  
 21 interrogatory number 1, you state that your vehicle  
 22 identification number is 1GKEC13T71J201855.  
 23 Is that correct?  
 24 A Yes.  
 25 Q Are you the registered owner of your vehicle?  
 Page 29

1 A Yes.  
 2 Q Are you the principal driver of the 2001 GMC  
 3 Yukon?  
 4 A Yes.  
 5 Q Does anyone other than you drive the vehicle?  
 6 A No.  
 7 Q What purpose do you use the car for, mainly?  
 8 A Before I retired, I was using it to go back  
 9 and forth to work.  
 10:36 10 Q Now what do you use it for?  
 11 A It's sitting in the driveway because the  
 12 parking brake is to the floor and it's --  
 13 Q So you don't use it for anything now?  
 14 A (No audible response.)  
 15 Q You still own the 2001 Yukon?  
 16 A Yes.  
 17 Q How did you come to purchase your 2001 Yukon?  
 18 A How did I come to purchase it?  
 19 Q Uh-huh.  
 10:37 20 A I needed a new car and I went and looked for  
 21 one. I seen it and I liked it.  
 22 Q Where did you see it?  
 23 A Justice Auto.  
 24 Q What's that?  
 25 A Justice Auto.  
 Page 30

1 Q Is that a dealership?  
 2 A They were working with the postal employees,  
 3 so, no, it is not, actually, a dealership.  
 4 Q Did you buy it through work?  
 5 A Yes.  
 6 Q Can you explain to me how that works?  
 7 A They teamed up with postal credit union  
 8 and --  
 9 Q Who teamed up with --  
 10:37 10 A Justice Auto.  
 11 Q Justice Auto teamed up with the postal credit  
 12 union?  
 13 A Uh-huh.  
 14 Q And they make vehicles available for purchase  
 15 by the employees --  
 16 A Yes.  
 17 Q -- of --  
 18 Do they give any special deals on the cars?  
 19 A No, not that I know of, no.  
 10:38 20 Q So how did you buy the car? Did you go to a  
 21 dealership or did you order it somehow?  
 22 A I knew that I wanted a Yukon, a GMC Yukon, so  
 23 I basically told them what I wanted and they went and  
 24 found it and they brought it back.  
 25 Q Who did you tell what you wanted?  
 Page 31

1 A Justice Auto.  
 2 Q And when you say they went and found it and  
 3 brought it back, what do you mean?  
 4 A They went -- I told them I wanted a white GMC  
 5 Yukon, and they went and got a white GMC Yukon and let  
 6 me look at it. And they said, "Is this what you  
 7 want?" I said "Yes," and I purchased it.  
 8 Q Where did they bring it?  
 9 A To Justice Auto.  
 10:38 10 Q Where is Justice Auto located?  
 11 A In Carson, California.  
 12 Q I'm sorry, just for the sake of the court  
 13 reporter, let me finish my question and then give your  
 14 answer and I'll do the same and not interrupt you so  
 15 she can take us both down separately.  
 16 Where is Justice Auto located?  
 17 A Carson, California.  
 18 Q Thank you.  
 19 Did you buy the car new?  
 10:39 20 A It was a demo and it had 1,800 miles on it.  
 21 Q What do you mean it was a demo?  
 22 A It was -- it was -- one of those cars that  
 23 you show.  
 24 Q That Justice Auto showed?  
 25 A I don't have no idea. I know it was a demo.  
 Page 32

1 Q How do you know it was a demo?  
 2 A Because they told me.  
 3 Q Justice Auto told you it was a demo?  
 4 A Yes.  
 5 Q Did they explain what they meant by that?  
 6 A No, they didn't have to explain a demo. A  
 7 demo is something that a dealership demo, a floor  
 8 demo.  
 9 Q Ms. Hunter, when did you buy this car?  
 10:40 10 A When did I buy the car? In 2002.  
 11 Q Do you know when in 2002?  
 12 A January -- or January of 2002 or 2001. I  
 13 don't know. I don't know the exact year.  
 14 Q And you bought it at Justice Auto?  
 15 A Yes.  
 16 Q Was it a lease or a purchase?  
 17 A Purchase.  
 18 Q What was the purchase price?  
 19 A 33,000.  
 10:41 20 Q How was it financed?  
 21 A Through Priority One Credit Union.  
 22 Q Did you have monthly payments on the car  
 23 after that?  
 24 A Yes.  
 25 Q For how many years?

1 BY MS. GUZMAN:  
 2 Q As far as you know --  
 3 MR. SPIRO: Objection, not a motion to  
 4 strike. Sorry.  
 5 BY MS. GUZMAN:  
 6 Q Do you need me to repeat the question,  
 7 Ms. Hunter?  
 8 A What is it?  
 9 Q As far as you know, the price of your car was  
 10:43 10 unconnected to the fact that it was a demo?  
 11 A I don't know. I can't -- I don't know.  
 12 Q Okay. Do you know the relationship between  
 13 Justice Auto and GM?  
 14 A No.  
 15 Q How did you know that you wanted a 2001 GMC  
 16 Yukon?  
 17 A Because I seen it and I liked it.  
 18 Q Where did you first see it?  
 19 A On TV.  
 10:43 20 Q When was that?  
 21 A When they first came out.  
 22 Q Can you give me that date?  
 23 A I don't know the exact date they first came  
 24 out.  
 25 Q Do you know the month?

1 A Five.  
 2 Q Do you remember what your monthly payments  
 3 were?  
 4 A Yes.  
 5 Q How much was your monthly payment?  
 6 A 579, or something like that. 579. It might  
 7 have been six years.  
 8 Q What is the car's mileage today?  
 9 A 91,000 miles.  
 10:42 10 Q Have you been in any accidents with your 2001  
 11 Yukon?  
 12 A No.  
 13 Q Did you get a special deal because your car  
 14 was a demo?  
 15 A No, I don't know.  
 16 Q You don't know whether you got a different  
 17 price because your car was a demo?  
 18 MR. SPIRO: That's vague.  
 19 THE WITNESS: They told me the price of the  
 10:42 20 car, and that's what I purchased it for.  
 21 BY MS. GUZMAN:  
 22 Q So as far as you know, the price of the car  
 23 was unconnected to the fact that it was a demo?  
 24 MR. SPIRO: Move to strike. Mischaracterized  
 25 her testimony. It is also vague.

1 A I don't -- I don't know.  
 2 Q Do you know the year?  
 3 A It was 2000 -- 2000 when I first seen them.  
 4 Q After you saw it on the TV advertisement,  
 5 where did you next see it?  
 6 A Where did I next -- on the road.  
 7 Q What do you mean by "on the road"? Other  
 8 people driving?  
 9 A Yes.  
 10:44 10 Q Did you consider any other cars than the 2001  
 11 Yukon?  
 12 A No.  
 13 Q When you went to purchase the 2001 Yukon,  
 14 what did you know about it?  
 15 A Nothing. I just knew it was a car, you can  
 16 drive it.  
 17 Q Did you do any research or investigation on  
 18 the 2001 Yukon before you purchased it?  
 19 A No.  
 10:45 20 Q What did you see or hear about this  
 21 particular model on the TV?  
 22 A Actually, I didn't hear anything. I just  
 23 seen it and I liked it.  
 24 Q What did you like about it?  
 25 A Spacious.

1 Q Anything else?  
 2 A No.  
 3 Q Other than that TV advertisement, had you  
 4 seen any other advertisements before buying your 2001  
 5 Yukon?  
 6 A No.  
 7 Q And the TV advertisement you saw was for the  
 8 2001 Yukon specifically?  
 9 A No. It was a GM advertisement of all the  
 10:46 10 trucks.  
 11 Q Did you hear any statements about the car  
 12 during that advertisement?  
 13 A No.  
 14 Q What were your primary considerations in  
 15 purchasing your Yukon?  
 16 A Primary considerations, like what? What are  
 17 you talking about? What do you mean by "primary  
 18 considerations"?  
 19 Q What were the main reasons you bought the  
 10:47 20 2001 Yukon?  
 21 A Spacious.  
 22 Q Did the price matter to you?  
 23 A Of course it did. I can't buy something I  
 24 can't afford.  
 25 Q Well, what other than its spaciousness and  
 Page 37

1 its price mattered to you?  
 2 A I just like the car and I purchased it, and I  
 3 know I could afford it.  
 4 MS. GUZMAN: Ms. Hunter, I'm handing you a  
 5 copy of the fourth amended complaint. It is being  
 6 marked as Exhibit 4.  
 7 (Deposition Exhibit 4 marked.)  
 8 BY MS. GUZMAN:  
 9 Q Do you recognize this document?  
 10:48 10 A Yes.  
 11 Q What is it?  
 12 A Fourth Amended Complaint for Violation of  
 13 California's Consumer Legal Remedies Act, CLRA, and  
 14 Violation of California's Unfair Competition Act.  
 15 THE REPORTER: Make sure your coat isn't on  
 16 the microphone. Thank you.  
 17 MR. SPIRO: Do you want to put it on, the  
 18 coat?  
 19 THE WITNESS: I'm going to be hot. I forgot  
 10:49 20 to bring the sleeve thing.  
 21 BY MS. GUZMAN:  
 22 Q Ms. Hunter, did you review this fourth  
 23 amended complaint before you authorized your attorney  
 24 to file it?  
 25 A Yes.  
 Page 38

1 Q When you reviewed it, did you make sure  
 2 everything in it was true and correct?  
 3 A Yes.  
 4 Q In paragraph 58 you state, "At all times  
 5 relevant, and for many years prior, GM widely  
 6 disseminated in its nationally advertising campaign  
 7 numerous and repeated representations stressing the  
 8 quality, safety and performance of their products,  
 9 including the subject vehicles. During the class  
 10:50 10 period GM made the following representations in its  
 11 advertising by television, radio, print and Internet."  
 12 MR. SPIRO: Counsel, could you tell us what  
 13 page that's on?  
 14 MS. GUZMAN: Page 24, paragraph 58.  
 15 THE WITNESS: Because I don't know what 58  
 16 is.  
 17 MR. SPIRO: Paragraph 58, apparently it  
 18 starts at page 24. There it is. Page 24, starts at  
 19 line -- well, between lines 18 and 19.  
 10:51 20 THE WITNESS: I'm looking and going to 28.  
 21 BY MS. GUZMAN:  
 22 Q I'll repeat the beginning of my question.  
 23 In paragraph 58 you state, "At all times  
 24 relevant, and for many years prior, GM widely  
 25 disseminated in its national advertising campaign  
 Page 39

1 numerous and repeated representations stressing the  
 2 quality, safety and performance of their products,  
 3 including the subject vehicles. During the class  
 4 period GM made the following representations in its  
 5 advertising by television, radio, print and Internet."  
 6 Can you tell me where you saw or heard each  
 7 of the statements listed after that in the bullet  
 8 points?  
 9 MR. SPIRO: Compound.  
 10:52 10 BY MS. GUZMAN:  
 11 Q I'll rephrase, Ms. Hunter. Let's take the  
 12 first statement by the bullet point that says  
 13 "Professional Brake Engineering."  
 14 Do you see where I am?  
 15 A Yeah.  
 16 Q Did you ever personally see or hear that  
 17 statement?  
 18 A I'm quite sure I did.  
 19 Q Do you know when?  
 10:52 20 A If had to be in 2000 during the commercials.  
 21 Q Can you be any more specific than 2000?  
 22 A No, I can't.  
 23 Q On what occasion did you hear this statement?  
 24 A I don't know. I don't know.  
 25 Q Was it a television, radio, print or Internet  
 Page 40

1 ad?  
 2 A I stated before I seen it on TV.  
 3 Q Where were you when you saw the statement on  
 4 TV?  
 5 A Home.  
 6 Q Let's take the next statement. "We are  
 7 professional grade - it's not a promotion, it's a  
 8 promise."  
 9 Did you personally hear or see this  
 10:53 10 statement?  
 11 A As stated, the answer is the same as the  
 12 answer I gave before.  
 13 Q Ms. Hunter, I'm going to need you to answer  
 14 the questions for each statement for the record. So  
 15 did you personally see or hear the statement "We are  
 16 professional grade - it's not a promotion, it's a  
 17 promise?"  
 18 A I'm quite sure I did see it in a TV  
 19 commercial.  
 10:54 20 Q How did you know you saw this statement?  
 21 A Because they had a commercial.  
 22 Q You know the statement was on the commercial?  
 23 A I'm not sure. I can't remember right now.  
 24 Q This is the same commercial that you were  
 25 talking about before?

1 THE WITNESS: I'm on page 25, the last one.  
 2 MR. SPIRO: You can go backwards, if you  
 3 want, but - but you have to go one by one, otherwise  
 4 it is unfair to try and answer.  
 5 What I mean is --  
 6 MS. GUZMAN: Mr. Spiro, I'm sorry, if you  
 7 have an objection, you can make it, but I would like  
 8 the witness to answer my question as I've asked it.  
 9 MR. SPIRO: Well, then, she's not going to  
 10:56 10 answer it.  
 11 MS. GUZMAN: Are you instructing her not to  
 12 answer?  
 13 MR. SPIRO: Yes. She's going to answer it  
 14 one by one or not at all.  
 15 MS. GUZMAN: On what basis are you  
 16 instructing her --  
 17 MR. SPIRO: Compound and it's harassing. You  
 18 can't try and get a witness to answer eight questions  
 19 in one answer. It is more than eight, it is like 12.  
 10:56 20 It is unfair, it is a trick.  
 21 BY MS. GUZMAN:  
 22 Q Ms. Hunter, I'm asking you --  
 23 A It is 15.  
 24 MR. SPIRO: So answer -- look at the next  
 25 one, which is this one, and then answer.

1 A Yes.  
 2 Q Is there -- there's only one TV commercial  
 3 that you saw about the 2001 Yukon?  
 4 A Yes.  
 5 Q What about the next statement, "Safety -  
 6 designed to protect," did you personally see or hear  
 7 that statement?  
 8 A I don't recall.  
 9 Q What about the rest of these statements in  
 10:55 10 paragraph 58, the bullet points?  
 11 MR. SPIRO: Still compound.  
 12 BY MS. GUZMAN:  
 13 Q Can you tell me whether you personally saw or  
 14 heard any of these statements in paragraph 58?  
 15 MR. SPIRO: Compound. Oh, gosh, there's a  
 16 dozen of them. Compound.  
 17 If you are going to do that, go one by one.  
 18 THE WITNESS: Do what? I didn't make the  
 19 commercial, so -- I was only -- my only thing was --  
 10:55 20 MR. SPIRO: No, hold on: I'm not asking you  
 21 questions, so you don't answer my questions. I'm just  
 22 telling you, if you are going to answer her question,  
 23 go one by one.  
 24 So you left off at page 24, the previous,  
 25 you're not on it.

1 MS. GUZMAN: Mr. Spiro, state your objection,  
 2 if necessary, otherwise, let your witness try to  
 3 answer my question.  
 4 MR. SPIRO: I am, but I instructed her in how  
 5 to answer, and I am entitled to do that because your  
 6 question is a trick question.  
 7 MS. GUZMAN: You're not entitled to be able  
 8 to instruct her how to answer a question.  
 9 MR. SPIRO: In the manner -- yes, I am in  
 10:57 10 this situation where you're asking her a trick  
 11 question. Or else not, you take your choice.  
 12 BY MS. GUZMAN:  
 13 Q Ms. Hunter, are there any statements in  
 14 paragraph 58 that you know, you personally saw or  
 15 heard?  
 16 MR. SPIRO: Go one by one, please.  
 17 Look at each one and answer.  
 18 THE WITNESS: Well, I've already answered the  
 19 question basically for all of them. And, just like I  
 10:57 20 said, I'm not trying to make the commercial with GM or  
 21 memorize anything that they said or done. I liked the  
 22 truck and that's why I purchased it.  
 23 BY MS. GUZMAN:  
 24 Q So you don't know whether you personally saw  
 25 or heard any of these specific statements listed in

1 paragraph 58 of your complaint?  
 2 MR. SPIRO: Mischaracterizes her testimony  
 3 and is extremely compound. It is asking her about  
 4 18 --  
 5 BY MS. GUZMAN:  
 6 Q Go ahead and answer --  
 7 MR. SPIRO: Hold on. Don't interrupt my  
 8 objection.  
 9 MS. GUZMAN: If you make a form objection,  
 10:58 10 that's a fine, but speaking objections are against the  
 11 rules.  
 12 MR. SPIRO: Yeah, and I'm making a form  
 13 objection, it is compound and asking 18 questions.  
 14 MS. GUZMAN: "Compound" will be sufficient,  
 15 thank you.  
 16 MR. SPIRO: No, it is not sufficient. I am  
 17 entitled to do more than say one word, Counsel.  
 18 BY MS. GUZMAN:  
 19 Q Ms. Hunter, do you need me to repeat the  
 10:58 20 question?  
 21 A Yes, go ahead.  
 22 Q Do you personally know whether you saw or  
 23 heard any of the statements listed in paragraph 58 of  
 24 your complaint?  
 25 MR. SPIRO: All right. Compound, harassing  
 Page 45

1 Q What was the answer you stated before?  
 2 MR. SPIRO: No, she's not going to repeat her  
 3 answer. You can look at the record if you want.  
 4 MS. GUZMAN: Are you instructing her not to  
 5 answer?  
 6 MR. SPIRO: Yes. You're harassing her trying  
 7 to get her to answer what she answered before.  
 8 (Instruction not to answer.)  
 9 BY MS. GUZMAN:  
 10:00 10 Q Let's go one by one. Let's look at the  
 11 fourth paragraph on the list in paragraph 58. Would  
 12 you read that statement to me, Ms. Hunter.  
 13 A What page are you on? 25 or 24?  
 14 Q 24. It is the one that begins with  
 15 "Recently."  
 16 Would you read the statement.  
 17 A I've already read it.  
 18 Q You're right. I didn't specify. Thank you.  
 19 So I'll read it out loud.  
 11:00 20 "Recently our achievements in safety were  
 21 recognized by a leading magazine, a leading insurance  
 22 company and a one-year-old from South Carolina."  
 23 Did you personally see or hear this  
 24 statement?  
 25 A I - I - I don't know. I don't know.  
 Page 47

1 the witness because she's already answered it and --  
 2 MS. GUZMAN: I will ask this question as many  
 3 times as I need to to get an answer.  
 4 MR. SPIRO: Go ahead. You got an answer,  
 5 Counsel. You got an answer. She already answered  
 6 your question. You're trying to get another answer,  
 7 so I'll keep objecting, and I'm not yet having her  
 8 stop -- refuse to answer. So I'll complete my  
 9 objection.  
 10:59 10 It's compound, it's asked and answered, it's  
 11 harassing. She's already answered. And there are 18  
 12 questions, and she's also answered specifically on  
 13 three of them.  
 14 BY MS. GUZMAN:  
 15 Q Do you need me to repeat the question,  
 16 Ms. Hunter?  
 17 MR. SPIRO: For the record, my objections  
 18 will be the same.  
 19 Go ahead, Counsel.  
 10:59 20 BY MS. GUZMAN:  
 21 Q Do you know whether you personally saw or  
 22 heard any of the statements listed in paragraph 58 of  
 23 your complaint?  
 24 A As I previously stated before, the answer is  
 25 the same, and it is not going to change.  
 Page 46

1 Q Do you contend that it is false?  
 2 MR. SPIRO: Don't answer that. She's not  
 3 required to answer about her contentions.  
 4 MS. GUZMAN: Are you instructing her not to  
 5 answer?  
 6 MR. SPIRO: Yes.  
 7 (Instruction not to answer.)  
 8 MS. GUZMAN: On what basis?  
 9 MR. SPIRO: Based on the Rifkind case and  
 10 other cases that follow it.  
 11:01 10 BY MS. GUZMAN:  
 11 Q Ms. Hunter, I'd like to move to the next  
 12 statement, "Effective Safety Innovations" --  
 13 MR. SPIRO: It is harassing. I'm sorry, I  
 14 need to explain that further. It is harassing, it is  
 15 an unfair question.  
 16 BY MS. GUZMAN:  
 17 Q Ms. Hunter, is your answer going to be the  
 18 same for every statement in this list?  
 19 A Yes.  
 11:01 20 Q Okay.  
 21 MR. SPIRO: No -- okay.  
 22 MS. GUZMAN: Take a break. We're going to  
 23 take a 10-minute break and then -- and go off the  
 24 record.  
 25  
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1 THE VIDEOGRAPHER: We're going off the record  
 2 at 11:02. We are off the record.  
 3 (Recess.)  
 4 THE VIDEOGRAPHER: We are back on the record  
 5 at 11:29.  
 6 BY MS. GUZMAN:  
 7 Q Ms. Hunter, how many different dealers did  
 8 you visit before you purchased your Yukon?  
 9 A I only went to the credit union.  
 11:29 10 Q Did you go to Justice Auto?  
 11 A Yes, I did.  
 12 Q How many times did you visit Justice Auto?  
 13 A Once.  
 14 Q Did you speak with anyone there about  
 15 purchasing this car?  
 16 A Did I speak to anyone? Where?  
 17 Q At Justice Auto.  
 18 A Yes.  
 19 Q Do you recall any of your conversations?  
 11:29 20 A No.  
 21 Q Do you know who you spoke with?  
 22 A No, I can't remember his name.  
 23 Q Did you ask him any questions about the  
 24 parking brake?  
 25 A No.

1 A No.  
 2 Q Knowing what you know now, would you have  
 3 purchased any other vehicle than the Yukon you did  
 4 purchase?  
 5 MR. SPIRO: Vague, confusing.  
 6 THE WITNESS: Explain it.  
 7 BY MS. GUZMAN:  
 8 Q Did you ask me to explain it?  
 9 A Uh-huh.  
 11:31 10 Q Okay. Would you have purchased any other  
 11 vehicle than the Yukon you bought, knowing what you  
 12 know now?  
 13 A In 2000 -- you're asking me in 2001 would I  
 14 would have purchased it if I knew what I knew now?  
 15 Q Yes.  
 16 A No.  
 17 Q Why not?  
 18 A Why not? Because their parking brake is  
 19 unsafe.  
 11:31 20 Q Any other reasons?  
 21 A No.  
 22 Q What do you mean by "unsafe"?  
 23 A What do I mean by "unsafe"?  
 24 Q Yes.  
 25 A The parking brakes are defective.

1 Q Do you remember any of the other questions  
 2 that you asked?  
 3 A No.  
 4 Q Do you remember if it was a male or female?  
 5 A It was a male.  
 6 Q Did you ever talk to any other Yukon owner  
 7 about the car?  
 8 A No.  
 9 Q Did you compare the Yukon with other vehicles  
 11:30 10 before buying it?  
 11 A No.  
 12 Q Did you have a sense of GM's reputation  
 13 before you bought your Yukon?  
 14 A Did I have a sense of reputation?  
 15 MR. SPIRO: Vague.  
 16 THE WITNESS: You want me to answer?  
 17 BY MS. GUZMAN:  
 18 Q Uh-huh.  
 19 A Did I have a sense of reputation? I knew  
 11:30 20 that they built good cars.  
 21 Q Did you have any prior experience with GM?  
 22 A No.  
 23 Q Have you ever owned a GM car before?  
 24 A No.  
 25 Q Did you know the reputation of Justice Auto?

1 Q What do you mean by "defective"?  
 2 A They have to be replaced.  
 3 Q Do you recall seeing any documents before you  
 4 purchased your Yukon?  
 5 A No.  
 6 Q Do you recall seeing any documents while you  
 7 purchased your Yukon?  
 8 A Any documents of -- what are you talking  
 9 about?  
 11:32 10 Q Did you have to sign any documents?  
 11 A Sign what kind of documents?  
 12 Q Any documents at all in order to purchase  
 13 your Yukon.  
 14 A Yes, I had to sign the loan documents.  
 15 Q What are the law documents?  
 16 A The loan documents.  
 17 Q Oh, sorry.  
 18 What are the loan documents?  
 19 A They are documents agreeing to pay back the  
 11:33 20 money I borrowed.  
 21 Q Did you sign any other documents?  
 22 A No.  
 23 Q Did you receive any other documents?  
 24 A Did I receive any documents from who?  
 25 Q From the sales representative you spoke with



1 at Justice Auto.  
 2 A No.  
 3 Q Ms. Hunter, would you turn to page -- I'm  
 4 sorry., It is in the fourth amended complaint.  
 5 MR. SPIRO: That's what's in front of you.  
 6 BY MS. GUZMAN:  
 7 Q On page 22, paragraph 56. Let me know when  
 8 you're there.  
 9 A I'm here.  
 11:34 10 Q At line 18 and continuing, you state, "GM  
 11 distributed throughout its authorized dealer network  
 12 and provided to all new and would-be new car  
 13 purchasers product brochures containing the following  
 14 representations."  
 15 Did you receive any product brochures?  
 16 A I received the owner's manual with the car.  
 17 Q Anything else?  
 18 A No.  
 19 Q You never received or saw any brochures  
 11:34 20 containing the representations contained in paragraph  
 21 56?  
 22 A No.  
 23 Q Now if you could turn to paragraph 47. It is  
 24 on page 17 at line 21.  
 25 Let me know when you're there, please.

1 A No, I don't.  
 2 Could you explain it?  
 3 Q Did --  
 4 A Explain what GM's predelivery inspection  
 5 procedure -- after they didn't deliver it.  
 6 Q That's something you'll probably have to talk  
 7 to your counsel about, Ms. Hunter. That was my  
 8 question for you. But since you don't know, I'll move  
 9 on to my next question.  
 11:37 10 Can you please turn to paragraph 50 of the  
 11 complaint.  
 12 A What page?  
 13 MR. SPIRO: What page is that?  
 14 BY MS. GUZMAN:  
 15 Q Page 18, about line 23.  
 16 A You mean between 23 and 24?  
 17 Q Yes.  
 18 A Number 50.  
 19 Q Yes.  
 11:37 20 A "In accordance with GM's 'Completely  
 21 Satisfied - New Vehicle Delivery System' procedure,  
 22 each of the subject vehicles that were purchased new  
 23 from one dealer within GM's authorized dealer network  
 24 were required to be 'inspected, explained and  
 25 demonstrated.'"

1 A I'm here.  
 2 Q And paragraph 47 --  
 3 MR. SPIRO: Oh, I'm sorry, I turned to the  
 4 wrong page. Excuse me. Okay. Thank you.  
 5 BY MS. GUZMAN:  
 6 Q In paragraph 47 at the second sentence I'll  
 7 begin. You state, "GM's predelivery and inspection  
 8 procedure requires its authorized dealers to  
 9 thoroughly test and inspect each of the subject  
 11:35 10 vehicles before they were delivered to plaintiffs and  
 11 others similarly situated. After the vehicle is  
 12 tested and inspected, according to GM's protocol and  
 13 procedure, a GM authorized predelivery inspection form  
 14 is filled out affirmatively checking each box that the  
 15 vehicle has been tested, inspected, and is in working  
 16 order."  
 17 What document are you referring to when you  
 18 say "predelivery inspection form"?  
 19 MR. SPIRO: I object, the use of the phrase  
 11:36 20 "you," she didn't write this complaint. It misstates  
 21 the evidence and it's confusing.  
 22 THE WITNESS: No, because I don't know.  
 23 BY MS. GUZMAN:  
 24 Q You don't know what a predelivery inspection  
 25 form is?

1 Q On what do you base this allegation in  
 2 paragraph 50?  
 3 MR. SPIRO: You don't have to answer that.  
 4 Don't answer.  
 5 MS. GUZMAN: Are you instructing your witness  
 6 not to answer?  
 7 MR. SPIRO: Let me think about that.  
 8 I'll object that it is compound, and the  
 9 "you" is confusing because she didn't write the  
 11:38 10 complaint, but I'll let her answer.  
 11 BY MS. GUZMAN:  
 12 Q Go ahead.  
 13 A Okay. "In accordance with GM's 'Completely  
 14 Satisfied - New Vehicle Delivery System' procedure,  
 15 each of the subject vehicles that were purchased new  
 16 from one dealer within GM's authorized dealer network  
 17 were required to be 'inspected, explained and  
 18 demonstrated.'"  
 19 The dealer didn't explain, did not  
 11:38 20 demonstrate, and it is unknown if it was inspected.  
 21 Q Did not what?  
 22 A This is within GM's authorized dealer  
 23 network.  
 24 Q Are you saying that the --  
 25 A I don't know who their authorized dealer

1 network is.  
 2 Q What about the dealer that you visited, did  
 3 they explain and demonstrate the features and controls  
 4 to you?  
 5 A No, they didn't.  
 6 Q Do you know whether they inspected them?  
 7 A No, I don't.  
 8 Q In paragraph 51, the very next paragraph, you  
 9 state that "The GM 'New Delivery Vehicle System'  
 11:39 10 procedure requires that the GM authorized sales  
 11 representative complete a GM authorized form."  
 12 Do you know what form that refers to?  
 13 A No.  
 14 Q Did you receive any form from the GM  
 15 authorized sales representative?  
 16 A No.  
 17 Q Ms. Hunter, I'm handing you what's been  
 18 previously Bates-labeled as GM HUNTER 2998 ending at  
 19 page GM HUNTER 3416. And I'm going to mark it as  
 11:40 20 Deposition Exhibit -- what number are we at now?  
 21 THE REPORTER: 5.  
 22 THE WITNESS: 5.  
 23 MS. GUZMAN: Thank you.  
 24 (Deposition Exhibit 5 marked.)  
 25 BY MS. GUZMAN:

1 representations," and then you list some  
 2 representations.  
 3 Do you think that any of the instructions in  
 4 the owner's manual are false?  
 5 MR. SPIRO: Don't -- vague, compound.  
 6 If you're going to answer that, go one by  
 7 one, look at each one, give an answer to each one.  
 8 And I mean each paragraph. Read it to  
 9 yourself, out loud, whatever you want, and then answer  
 11:43 10 the question.  
 11 This is really a harassing question. This  
 12 thing goes on for two pages.  
 13 THE WITNESS: Three -- one, two, three --  
 14 MR. SPIRO: You're right.  
 15 THE WITNESS: -- almost four.  
 16 MR. SPIRO: Wow, I think it is like three,  
 17 but, anyway.  
 18 So start with the first --  
 19 THE WITNESS: I'm not an auto mechanic, so I  
 11:43 20 don't know nothing about a brake.  
 21 MR. SPIRO: Well, there's --  
 22 THE WITNESS: So what -- what are you looking  
 23 for? What do you want me to tell you? I can read you  
 24 all of what the owner's manual say?  
 25 BY MS. GUZMAN:

1 Q Do you recognize Deposition Exhibit 5?  
 2 A Yes.  
 3 Q What is it?  
 4 A Owner's manual.  
 5 Q Did you receive a copy of the owner's manual?  
 6 A Yes.  
 7 Q When did you receive this copy -- a copy of  
 8 the owner's manual?  
 9 A It was with the purchase of the vehicle.  
 11:41 10 Q Did you receive it before or after you  
 11 purchased the car?  
 12 A Did I receive it before or after? It had to  
 13 be after I gave them the check for the car that I  
 14 realized I had the owner's manual with the car.  
 15 Q Did you read it?  
 16 A No.  
 17 Q Did the owner's manual affect your decision  
 18 to purchase the car?  
 19 A No.  
 11:41 20 Q I'm going to ask you to turn to page 19 of  
 21 the fourth amended complaint. In paragraph 54 between  
 22 lines 17 and 18 you state, "The GM owner's manual that  
 23 was specifically mentioned in GM's predelivery  
 24 inspection procedure and that came with each of the  
 25 subject vehicles at issue makes the following

1 Q Do you need to have the question repeated?  
 2 A Yes, go ahead.  
 3 MS. GUZMAN: Court reporter, will you please  
 4 read back the question.  
 5 (Record read as follows:  
 6 "Q Do you think that any of  
 7 the instructions in the owner's  
 8 manual are false?")  
 9 MR. SPIRO: Well, I also object to that, but  
 11:44 10 there's nothing to show there are any instructions in  
 11 this. It says "representations." Misquoting the  
 12 evidence, Counsel.  
 13 THE WITNESS: That's not, parking brake to  
 14 set the parking brake -- okay.  
 15 MR. SPIRO: La Ronda, please, I want you to  
 16 go one by one. Maybe you are. Are you on the first  
 17 paragraph there?  
 18 THE WITNESS: Uh-huh.  
 19 MR. SPIRO: All right.  
 11:44 20 THE WITNESS: She asked me is there anything  
 21 false --  
 22 MR. SPIRO: Right.  
 23 THE WITNESS: About the -- in the owner's  
 24 manual --  
 25 MR. SPIRO: No.

1 THE WITNESS: -- or in the instructions.  
 2 MS. GUZMAN: Counsel, I'm going to ask you  
 3 again, for the record, to please state your objections  
 4 and refrain from making any other speeches. This is  
 5 not an opportunity for you to coach your witness.  
 6 MR. SPIRO: I'm not coaching my witness. You  
 7 know very well I'm not.  
 8 BY MS. GUZMAN:  
 9 Q Ms. Hunter, would you please answer the  
 11:45 10 question.  
 11 A To set the parking --  
 12 MR. SPIRO: You mean the 27 questions?  
 13 THE REPORTER: I can only get one person at a  
 14 time.  
 15 MR. SPIRO: All right. Go ahead.  
 16 THE WITNESS: Okay. This is an instruction:  
 17 "Parking Brake. To set the parking brake, hold the  
 18 regular brake pedal down with your right foot."  
 19 That's not false.  
 11:45 20 MR. SPIRO: Hold on, excuse me --  
 21 THE WITNESS: "This manual includes the" --  
 22 MR. SPIRO: -- you skipped the first  
 23 paragraph.  
 24 THE WITNESS: That's not an instruction,  
 25 though.

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1 MR. SPIRO: I know it isn't. But that's why  
 2 the question is vague.  
 3 Do you want her to answer on each -- do you  
 4 want her to skip the ones that aren't instructions,  
 5 Counsel, or do you want her to answer as to each of  
 6 those paragraphs?  
 7 MS. GUZMAN: I want her to answer however she  
 8 needs in order to answer --  
 9 MR. SPIRO: No, you have to clarify your  
 11:46 10 question. Do you want her to go on each paragraph  
 11 there or do you want her to skip the ones that don't  
 12 appear to be instructions? I need to know that and so  
 13 does she. And don't try and trick her --  
 14 THE WITNESS: I --  
 15 MS. GUZMAN: I asked her about instructions.  
 16 She can answer about the instructions.  
 17 MR. SPIRO: Yeah, so which ones, in your  
 18 view, are instructions? You have to make that clear  
 19 to her.  
 11:46 20 BY MS. GUZMAN:  
 21 Q Ms. Hunter, do you understand the question?  
 22 A Yes, I do.  
 23 MR. SPIRO: No --  
 24 BY MS. GUZMAN:  
 25 Q Would you please answer it.

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1 MR. SPIRO: -- I'm sorry, even though she  
 2 said that, you are asking a trick question. I want  
 3 you to tell her which ones you're referring to. If  
 4 you don't do that, she's not answering, Counsel.  
 5 MS. GUZMAN: Counsel, it's not a trick  
 6 question and she said she understands it.  
 7 MR. SPIRO: It doesn't matter, because you  
 8 might think instructions mean something different from  
 9 what she thinks, the jury might think instructions  
 11:46 10 mean something different from what she thinks, the  
 11 judge might think it is something different.  
 12 So you're trying to trick her, you know that  
 13 you are. I want you to tell her which paragraphs you  
 14 want her to answer about, otherwise she's not going to  
 15 answer.  
 16 MS. GUZMAN: Are you instructing her not to  
 17 answer the question as it's been stated?  
 18 MR. SPIRO: If she'll go through each  
 19 paragraph, then, no, I'm not instructing her then.  
 11:47 20 But she needs to go through each paragraph. I'm  
 21 instructing her to do that. Whether it is a quote,  
 22 instruction paragraph or not, because nobody knows  
 23 whether it is for sure.  
 24 BY MS. GUZMAN:  
 25 Q Go ahead, Ms. Hunter.

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1 A Okay.  
 2 MR. SPIRO: Please start at the first  
 3 paragraph.  
 4 THE WITNESS: "The manual includes the latest  
 5 information at the time it was printed. Please keep  
 6 this manual in your vehicle so it will be there if you  
 7 ever need it when you're on the road. If you sell  
 8 your vehicle, please leave this manual in it so that  
 9 the new owner can use it."  
 11:47 10 MR. SPIRO: What's the question, Counsel?  
 11 BY MS. GUZMAN:  
 12 Q Do you think that statement is false?  
 13 MR. SPIRO: I object. That's vague and  
 14 ridiculous. An instruction can't be true or false.  
 15 It's an instruction.  
 16 THE WITNESS: "Parking brake. To set the  
 17 parking brake" --  
 18 BY MS. GUZMAN:  
 19 Q I'm sorry, Ms. Hunter, can I have the answer  
 11:48 20 to the question I just asked?  
 21 MR. SPIRO: It is compound, too.  
 22 THE WITNESS: It is instructing me to leave  
 23 the manual in if I sell the car.  
 24 MR. SPIRO: How can that be true or false,  
 25 Counsel?

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1 BY MS GUZMAN:  
 2 Q Is there anything --  
 3 A So that the new owner can use it. It is  
 4 telling me -- basically it is instructing me to leave  
 5 it -- is it true or false? I can't say whether it is  
 6 true or false because I don't know.  
 7 BY MS. GUZMAN:  
 8 Q Is there anything misleading about that  
 9 statement to you?  
 11:48 10 A I don't know what "misleading" mean?  
 11 The next one, park brake -- "Parking  
 12 brake" --  
 13 Q I'm sorry, Ms. Hunter, I still need the  
 14 answer to the question.  
 15 MR. SPIRO: She answered.  
 16 THE WITNESS: I don't know what "misleading"  
 17 mean.  
 18 BY MS. GUZMAN:  
 19 Q Is there anything confusing about that  
 11:48 20 statement to you?  
 21 A No, but this manual -- it's -- I don't know  
 22 what's true or false about leaving -- it is telling me  
 23 to leave a manual in so the new owner can use it, so I  
 24 don't know what's true or false about it.  
 25 Q Is that confusing?

1 Q What about the next one, "To release the  
 2 parking brake, hold the regular brake pedal down, pull  
 3 the bottom edge of the lever located above the parking  
 4 brake pedal marked 'Brake Release' to release the  
 5 parking brake." Is that, in fact, how you release the  
 6 parking brake in your Yukon?  
 7 A Yes.  
 8 Q Is there anything confusing about that  
 9 instruction to you?  
 11:50 10 A No.  
 11 Q What about the next one, "It can be dangerous  
 12 to get out of your vehicle if the shift lever is not  
 13 fully in park with the parking brake firmly set. Your  
 14 vehicle can roll. You or others can be injured. To  
 15 be sure your vehicle won't move even when you're on  
 16 fairly level ground, use the steps that follow."  
 17 Would you review the steps that follow that.  
 18 They would be lines 1 through 18 of page 20.  
 19 A "It can be dangerous to set your vehicle" --  
 11:51 20 "your vehicle can roll. You or others can be injured.  
 21 To be sure your vehicle will move when" -- "use the  
 22 steps as follows."  
 23 MR. SPIRO: What follows there is not the  
 24 steps that's being referred to, Counsel.  
 25 Don't answer that. It misstates what this

1 A No.  
 2 Q How about the next instruction, "To set the  
 3 parking brake, hold the regular brake down with your  
 4 right foot," is that, in fact, how you set the parking  
 5 brake in your Yukon?  
 6 A No. To set the parking brake, hold the  
 7 regular with your right foot?  
 8 Q How do you set the parking brake in your  
 9 Yukon?  
 11:49 10 A I'm a lefty.  
 11 Q What does that mean?  
 12 A Everything is done with my left side.  
 13 Q So you hold the regular brake pedal down with  
 14 your left foot?  
 15 A Depends. Depends on the situation.  
 16 Q What do you mean by that?  
 17 A Well, if the right leg is broke, I have no  
 18 choice to use but the left foot.  
 19 Q But you hold the regular brake pedal down  
 11:50 20 with whatever foot you use?  
 21 MR. SPIRO: Argumentative.  
 22 BY MS. GUZMAN:  
 23 Q Is there anything confusing about that  
 24 instruction to you?  
 25 A No.

1 document says.  
 2 MS. GUZMAN: Are you instructing your witness  
 3 not to answer?  
 4 MR. SPIRO: What's the question again?  
 5 BY MS. GUZMAN:  
 6 Q Are any of the instructions that follow  
 7 confusing?  
 8 MR. SPIRO: That wasn't the question -- oh,  
 9 what are they, Counsel? Yeah, don't answer that  
 11:52 10 because we don't know what you're talking about.  
 11 BY MS. GUZMAN:  
 12 Q Okay. Ms. Hunter, would you read lines 1  
 13 through 18 and let me know if anything in there is  
 14 confusing or misleading to you.  
 15 MR. SPIRO: Which one, Counsel? That's  
 16 compound. Confusing and misleading. It is compound;  
 17 I don't know how she can answer.  
 18 THE WITNESS: "Leaving your vehicle with the  
 19 engine running" --  
 11:52 20 MR. SPIRO: It is multiple compound because  
 21 it is about 40 lines --  
 22 THE WITNESS: -- "It can be dangerous to  
 23 leave your vehicle" --  
 24 THE REPORTER: I can only get one person at a  
 25 time.

1 MR. SPIRO: It is about 30 lines of typing  
 2 and there's two questions as to each line -- as to  
 3 each statement, or whatever.  
 4 BY MS. GUZMAN:  
 5 Q Have you reviewed lines 1 through 18?  
 6 A No.  
 7 Q Can you answer my question?  
 8 A What's the question?  
 9 MR. SPIRO: How can she do that without  
 11:53 10 reading it, Counsel?  
 11 Don't answer the question without reading it.  
 12 What kind of thing is that?  
 13 MS. GUZMAN: I asked if she could.  
 14 Q Can you answer it --  
 15 MR. SPIRO: She said she hasn't read it. She  
 16 obviously can't answer it without reading it.  
 17 Don't answer without reading it.  
 18 BY MS. GUZMAN:  
 19 Q Go ahead and read it.  
 11:53 20 MR. SPIRO: Stop trying to harass my client.  
 21 This is preposterous.  
 22 THE WITNESS: Repeat the question so I can  
 23 read it. Repeat the question so I can read it.  
 24 MS. GUZMAN: Court reporter, can you please  
 25 read the question back.

1 MS. GUZMAN: Court reporter, would you mind  
 2 reading back the question.  
 3 THE WITNESS: Reading line 1 through 18 --  
 4 MR. SPIRO: Yeah, she wanted you to do that  
 5 but she had a question. Counsel had a question which  
 6 I think was confusing and misleading, but the court  
 7 reporter will read it back.  
 8 (Record read as follows:  
 9 "Q Okay. Ms. Hunter, would  
 11:56 10 you read lines 1 through 18 and let  
 11 me know if anything in there is  
 12 confusing or misleading to you."  
 13 THE WITNESS: Yes, it is. What should I do?  
 14 BY MS. GUZMAN:  
 15 Q What line is that at?  
 16 A I guess number 26. My car is not a  
 17 four-wheel drive -- my car is not a four-wheel drive,  
 18 it is a two-wheel drive.  
 19 Q But in lines 1 through 18, was there anything  
 11:57 20 that was confusing to you?  
 21 A 20--  
 22 MR. SPIRO: Don't answer that without going  
 23 through each sentence and giving a separate answer for  
 24 each sentence, please.  
 25 THE WITNESS: Well, that was line 26.

1 (Record read as follows:  
 2 "Q Okay. Ms. Hunter, would  
 3 you read lines 1 through 18 and let  
 4 me know if anything in there is  
 5 confusing or misleading to you.")  
 6 MR. SPIRO: You asked her to read it,  
 7 Counsel; she's entitled to read it.  
 8 La Ronda, before you answer, I want you to go  
 9 through each one and give a separate answer to each  
 11:55 10 paragraph -- or, actually, those paragraphs are rather  
 11 long. Try each sentence.  
 12 THE WITNESS: The one says suppose after  
 13 stalling I try to back down the hill and decide I just  
 14 can't do it, what shall I do.  
 15 MR. SPIRO: Start from the top and --  
 16 THE WITNESS: I'm not going to answer that  
 17 one.  
 18 MR. SPIRO: All right.  
 19 THE WITNESS: Use common sense for that one.  
 11:56 20 MR. SPIRO: The question is confusing or  
 21 misleading?  
 22 BY MS. GUZMAN:  
 23 Q Ms. Hunter, do you need me to read back the  
 24 question?  
 25 A Yes, go ahead.

1 MR. SPIRO: You're going below where she  
 2 wanted you to.  
 3 THE WITNESS: Oh, 1 through 18.  
 4 MR. SPIRO: Start at 1 --  
 5 THE WITNESS: Okay. I've already said  
 6 leaving your vehicle with the engine running, that's  
 7 confusing.  
 8 Why would I want to leave my vehicle with the  
 9 engine running? We live in L.A. They are going to  
 11:57 10 steal it.  
 11 BY MS. GUZMAN:  
 12 Q Are you saying that that line is confusing to  
 13 you?  
 14 MR. SPIRO: She just said it, yes.  
 15 THE WITNESS: "Caution, it can be dangerous  
 16 to leave your vehicle with the engine running. Your  
 17 vehicle can move suddenly if the shift lever is not  
 18 put in park with the parking brake firmly set."  
 19 If you have four-wheel drive -- like I stated  
 11:58 20 before, I don't have a four-wheel drive, I have a  
 21 two-wheel drive, and this refers to a four-wheel  
 22 drive.  
 23 MR. SPIRO: Stop and answer what you've read  
 24 so far in that paragraph is confusing or misleading to  
 25 you.

1 THE WITNESS: Yeah, it is confusing and  
 2 misleading because I don't have a four-wheel drive, I  
 3 have a two-wheel drive, and this is what it states.  
 4 BY MS. GUZMAN:  
 5 Q What's confusing about that?  
 6 A It is telling me if I have a four-wheel  
 7 drive --  
 8 Q But you don't have a four-wheel drive, do  
 9 you?  
 11:58 10 A No. It can be dangerous leaving your vehicle  
 11 with the engine running.  
 12 Q But you don't have a four-wheel drive.  
 13 MR. SPIRO: Argumentative. That isn't a  
 14 question. Don't answer it.  
 15 (Instruction not to answer.)  
 16 MS. GUZMAN: Are you instructing your witness  
 17 not to answer?  
 18 MR. SPIRO: If you ask a question, then  
 19 you'll get an answer, but saying, "You don't have a  
 11:59 20 four-wheel drive" is not a question.  
 21 BY MS. GUZMAN:  
 22 Q My question is: You don't have a four-wheel  
 23 drive, do you?  
 24 A No, I don't have a four-wheel drive, Kelly.  
 25 Q So then a statement that begins, "If you have

1 A It doesn't say that. "If you continue to  
 2 leave your vehicle running, if the shift lever is not  
 3 fully in park with the parking brake fully set" --  
 4 Q I'm sorry, Ms. Hunter, you're going to have  
 5 speak up so I can hear what you're saying.  
 6 A It says, "Caution. It can be dangerous to  
 7 leave your vehicle with the engine running. Your  
 8 vehicle can move suddenly if the shift lever is not  
 9 fully in park with the parking brake firmly set."  
 12:00 10 You asked me was that misleading and  
 11 confusing. As stated previously, the answer is still  
 12 the same, it is not going to change. Can we move on?  
 13 Q Do you think that is confusing?  
 14 A Yes, it's confusing. As I just -- I --  
 15 Q Now, Ms. Hunter, I'm going to ask you a  
 16 slightly different question. What is confusing to you  
 17 about that statement?  
 18 A I don't have -- I have a two-wheel drive.  
 19 Q Where does that statement say anything about  
 12:01 20 two-wheel drive?  
 21 A It don't.  
 22 Q Then what part of that statement is  
 23 confusing?  
 24 A I just told you previously.  
 25 Q Ms. Hunter, did you have any communication

1 a four-wheel drive," doesn't apply to you, does it?  
 2 MR. SPIRO: Argumentative.  
 3 THE WITNESS: It says, "Caution, it can be  
 4 dangerous to leave your vehicle with the engine  
 5 running. Your vehicle can move suddenly if the shift  
 6 lever is not fully parked with your parking brake  
 7 firmly set," in bold letters first.  
 8 BY MS. GUZMAN:  
 9 Q That didn't answer my question. My question  
 11:59 10 was --  
 11 A I did answer your question.  
 12 Q I'm sorry, you didn't answer exactly my  
 13 question.  
 14 MR. SPIRO: Don't argue with my client,  
 15 please.  
 16 BY MS. GUZMAN:  
 17 Q My question was --  
 18 A You want to know if it is misleading or  
 19 confusing? Yes it is.  
 11:59 20 Q And what about that is misleading or  
 21 confusing?  
 22 A I just stated as previously stated.  
 23 Q You're confused by the sentence, "If you have  
 24 four-wheel drive and your transfer case is in neutral  
 25 your vehicle will be free to roll?"

1 with General Motors?  
 2 A No.  
 3 Q Now, on April 6th, 2008 you had the parking  
 4 brake on your car repaired; is that correct?  
 5 A No.  
 6 Q What is incorrect about that?  
 7 A It is the wrong year.  
 8 Q What year did you have it repaired?  
 9 A 2005 of April.  
 12:01 10 Q How many miles did your car have on it when  
 11 it was repaired?  
 12 A I don't know. I don't know right now.  
 13 Q Was it more than 20,000?  
 14 A I don't know. I would have to look at the  
 15 document and see. It's on the document.  
 16 Q Okay. We'll get to the document later, then.  
 17 Why did you have your parking brake repaired?  
 18 A Because it went out.  
 19 Q What was -- when was the first time that it  
 12:02 20 went out?  
 21 A When is the first time it went out? April  
 22 2005.  
 23 Q Do you know what day?  
 24 A I don't recall the exact day.  
 25 Q What do you mean --

1 A I took it to get -- it got repaired.  
 2 Q What do you mean by "went out"?  
 3 A The light came on.  
 4 Q Did it still hold the vehicle?  
 5 A Unknown.  
 6 Q What was that?  
 7 A I don't know. Unknown, unknown, did it hold  
 8 the vehicle.  
 9 Q Did the parking brake work?  
 12:03 10 A You can push it all the way down to the  
 11 floor.  
 12 Q What does that mean?  
 13 A When you push it down with your feet -- when  
 14 I pushed it down with my left foot, and it goes all  
 15 the way to the floor.  
 16 Q Did it hold the car when you did that?  
 17 A I'm going to say yes. Yes.  
 18 Q So you took it to get repaired just because  
 19 you saw the light go on?  
 12:03 20 A Yeah, every time a light come on in my car, I  
 21 take it to be repaired.  
 22 Q Where did you take it?  
 23 A To Power Chevrolet, Hawthorne, California.  
 24 Q Why did you take it there?  
 25 A That's where I always take my car.

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1 Q Why do you always take your car there?  
 2 A Why do I always take my car there? Because  
 3 that's where I always take it.  
 4 Q When you took your car to Power Chevrolet in  
 5 April of 2005, did you speak with anyone?  
 6 A To the mechanic.  
 7 Q What did you say?  
 8 A I told him that my ABS and my parking light  
 9 was on.  
 12:04 10 Q What did he say?  
 11 A He would do a diagnosis on it.  
 12 Q Did he do that diagnosis?  
 13 A Yes.  
 14 Q And what were the results of that diagnosis?  
 15 A I don't know. I have no idea. I don't know.  
 16 I'm not a mechanic. I don't know. He just told me  
 17 how much it would cost to get it fixed and repair the  
 18 vehicle.  
 19 Q Did you speak with anyone else?  
 12:05 20 A No.  
 21 Q Was anyone else present while you were  
 22 speaking with the mechanic?  
 23 A No.  
 24 Q Ms. Hunter, can you turn to your form  
 25 interrogatories, Exhibit A that's attached at the end

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1 of that document.  
 2 MR. SPIRO: Which exhibit number is it?  
 3 MS. GUZMAN: The form interrogatories are  
 4 Exhibit Number 1.  
 5 MR. SPIRO: Thank you.  
 6 What's the matter?  
 7 THE WITNESS: There is a bug flying.  
 8 MR. SPIRO: A bug.  
 9 BY MS. GUZMAN:  
 12:06 10 Q Do you recognize this document that's marked  
 11 Exhibit A?  
 12 A Yes.  
 13 Q What is it?  
 14 A It's where I took my truck to go get repaired  
 15 because GM refused to fix it.  
 16 Q I--  
 17 A They fixed the ABS, but they wouldn't fix the  
 18 parking brake.  
 19 Q Okay. And that was at Power Chevrolet that  
 12:06 20 they wouldn't fix the parking brake?  
 21 A Yes.  
 22 Q Did they say anything about the power brake  
 23 to you?  
 24 A No, everything was a secret. Everything is  
 25 still a secret.

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1 Q Did you ask them to fix it?  
 2 A Yes, I did.  
 3 Q Did they tell you why they wouldn't?  
 4 A No.  
 5 Q So you went to Dagher Automotive?  
 6 A Uh-huh -- yes.  
 7 Q Who did you speak with at Dagher Automotive?  
 8 A I don't know his name.  
 9 Q Just one person?  
 12:07 10 A Yes.  
 11 Q What did you say to him?  
 12 A That my parking brake light was on.  
 13 Q And what did he say to you?  
 14 A Okay. He'll fix it.  
 15 Q Did he tell you what was wrong with the  
 16 parking brake?  
 17 A No.  
 18 Q It says on this document, "Customer supply  
 19 all the parts."  
 12:07 20 Did you supply the parts for that repair?  
 21 A Yes.  
 22 Q Where did you get those parts?  
 23 A Across the street.  
 24 Q What is across the street?  
 25 A A little automotive part place from my job.

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1 This is by my job.  
 2 Q How did you know what parts to get?  
 3 A I requested for 2001 GM brakes.  
 4 Q At the place across the street?  
 5 A Uh-huh.  
 6 Q Do you know the name of that place?  
 7 A No, I don't.  
 8 Q Do you remember who you spoke with there?  
 9 A No. I don't even know if it still exists.  
 12:08 10 Q Did you ask the person you spoke with there  
 11 for -- sorry, let me rephrase that.  
 12 What did you ask the person you spoke with  
 13 there for?  
 14 A 2001 brakes.  
 15 Q That's it?  
 16 A That's it.  
 17 Q You just said "2001 brakes"?  
 18 A Uh-huh. And I left it in the care of the  
 19 guy at the -- the one who fixed it.  
 12:08 20 Q At Dagher Automotive?  
 21 A Yes, and with the work. So what happened in  
 22 between, I don't know. What happened then in  
 23 between --  
 24 MR. SPIRO: She's not asking you anything.  
 25 You answered the question.

1 A It rolled with the parking brake --  
 2 Q What does that mean --  
 3 A -- as it rolls now with the parking brake  
 4 down.  
 5 MR. SPIRO: Hold on. Could you read me back  
 6 the answer because I want to make sure you -- it was  
 7 accurate -- I want to make sure it was accurately  
 8 taken down. No offense.  
 9 THE REPORTER: The first one or the second  
 10 one.  
 11 MR. SPIRO: Both.  
 12 (Record read as follows:  
 13 "Q Did your parking brake  
 14 ever fail to hold your car?  
 15 "A It rolled with the parking  
 16 brake --  
 17 "Q What does that mean --  
 18 "A -- as it rolls now with  
 19 the parking brake down.")  
 12:10 20 BY MS. GUZMAN:  
 21 Q When was the first time that your car rolled  
 22 with the parking brake set?  
 23 A It's been awhile ago. I don't know.  
 24 Q Do you know what year?  
 25 A I can't recall what year, but I know now in

1 BY MS. GUZMAN:  
 2 Q How did you know those were the right parking  
 3 brakes for your 2001 GM Yukon?  
 4 A How did I know they were the right? Common  
 5 sense.  
 6 Q What do you mean by "Common sense"?  
 7 A If I got a 2001 GMC Yukon, of course common  
 8 sense would tell me to request for 2001 brakes, right?  
 9 I wouldn't want 2002 brake shoes, unless it was made  
 12:09 10 the same. I don't know. I don't know what you're  
 11 talking about. It is just common sense.  
 12 Q Well, how did you know they were right for  
 13 the make and model of your vehicle?  
 14 A I don't know if it was right.  
 15 Q Can you identify any specific component of  
 16 your parking brake system that you believe is  
 17 defective?  
 18 MR. SPIRO: What?  
 19 THE WITNESS: Can I identify --  
 12:09 20 MR. SPIRO: Vague.  
 21 THE WITNESS: -- any components? No, I  
 22 can't, I'm not a mechanic.  
 23 BY MS. GUZMAN:  
 24 Q Did your parking brake ever fail to hold your  
 25 car?

1 2008 it is to the floor.  
 2 Q How many times did your car roll with the  
 3 parking brake set?  
 4 A I don't -- I don't know.  
 5 Q Was it more than one?  
 6 A Of my experience? Yes. My experience, yes.  
 7 But, like I said, I don't know how many times it  
 8 rolled. I don't sit in the car at 24 hours so I don't  
 9 know.  
 12:11 10 Q Did it roll before the light came on?  
 11 A No.  
 12 Q How soon after the light came on did you take  
 13 your car to the Power Chevrolet dealer?  
 14 A I don't -- I can't recall, I don't know. I  
 15 know the light came on and I -- every time the  
 16 light -- something on -- every time the light come on  
 17 in my car, I take it to the dealership in the morning  
 18 before I could go to work, but I don't know.  
 19 Q Did the car --  
 12:12 20 A When the light come on, it means something is  
 21 wrong with it.  
 22 Q Did the car roll after you had the parking  
 23 brake replaced at Dagher Automotive?  
 24 A Yeah, that's why I don't drive it now.  
 25 Q When was the last time the car rolled with



1 the parking brake set?  
 2 A December 2008.  
 3 Q What do you mean by "roll"?  
 4 A The definition of roll?  
 5 Q Not the definition. What do you mean by  
 6 "roll"?  
 7 A It rolled.  
 8 Q How far?  
 9 A I don't know. It wasn't no feet or nothing  
 12:13 10 like that, but I don't know how far. I can't estimate  
 11 how far.  
 12 Q How fast?  
 13 A I can't estimate the speed of miles per hour.  
 14 Q I'm not asking you to estimate. Ms. Hunter,  
 15 I would like to know whether you know how far or how  
 16 fast it rolled?  
 17 MR. SPIRO: Excuse me, you did ask her how  
 18 fast and she said she didn't know.  
 19 MS. GUZMAN: Okay.  
 12:14 20 MR. SPIRO: She also said she can't estimate.  
 21 BY MS. GUZMAN:  
 22 Q Was it less than a foot?  
 23 A I already said -- I already answered the  
 24 question.  
 25 Q You actually haven't answered the question

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1 supposed law you just quoted me. It is not the law.  
 2 BY MS. GUZMAN:  
 3 Q Ms. Hunter, have you made any other attempts  
 4 to get the parking brake repaired?  
 5 A No.  
 6 Q When you discovered this issue with your  
 7 parking brake, did you notify the dealer?  
 8 A When I discovered the issue with the parking  
 9 brake -- the light came on and I took it to the  
 12:15 10 dealership. And they didn't fix it, so I took it here  
 11 and they fixed it.  
 12 Q Now, you said that after you fixed it, it  
 13 continued to roll, correct?  
 14 A I said December 2000 -- you asked me when the  
 15 last time, I said December 2008.  
 16 Q So it continued to roll?  
 17 A If you say so.  
 18 Q I'm asking what you're saying.  
 19 MR. SPIRO: She already told you, Counsel,  
 12:16 20 twice, at least.  
 21 THE WITNESS: I've already answered the  
 22 question.  
 23 BY MS. GUZMAN:  
 24 Q Ms. Hunter, is it your position that the  
 25 repair that Dagher Automotive did did not work?

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1 "Was it less than a foot?"  
 2 A Did I say that. I said I don't know how  
 3 many -- it wasn't feet and I don't know. I mean, how  
 4 many, I don't know. I can't estimate how -- if I can  
 5 get a measuring tape and go out there and come back  
 6 and do it, I'll tell you.  
 7 Q So you don't know how far your car rolled  
 8 with the parking brake set?  
 9 MR. SPIRO: Don't answer that you. She  
 12:14 10 already said it twice.  
 11 (Instruction not to answer.)  
 12 MS. GUZMAN: Are you instructing your witness  
 13 not to answer?  
 14 MR. SPIRO: Yes. You are harassing her.  
 15 MS. GUZMAN: On what basis?  
 16 MR. SPIRO: Because you're harassing her.  
 17 She answered you twice and then you ask her to say it  
 18 again. What is that?  
 19 MS. GUZMAN: Counsel, you're only entitled to  
 12:14 20 instruct your witness not to answer on the grounds of  
 21 privilege.  
 22 MR. SPIRO: That's not true.  
 23 MS. GUZMAN: Are you still instructing her  
 24 not to answer?  
 25 MR. SPIRO: Yes. It is not true, the

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1 MR. SPIRO: Don't answer that. She's asking  
 2 you for a contention.  
 3 (Instruction not to answer.)  
 4 MS. GUZMAN: Counsel, are you instructing the  
 5 witness not to answer?  
 6 MR. SPIRO: That's right. You can ask a  
 7 different way and get the answer.  
 8 MS. GUZMAN: On what basis?  
 9 MR. SPIRO: Because it is improper to ask a  
 12:16 10 witness what her contentions are -- it is improper to  
 11 ask a party what her contentions are. There is case  
 12 law to that effect, and it is not fair, says the case.  
 13 BY MS. GUZMAN:  
 14 Q Did the repair that Dagher Automotive do on  
 15 your car work?  
 16 A I have no idea.  
 17 Q You don't know whether the repair worked?  
 18 A It stopped until -- and now it is to the  
 19 floor, so what is the problem, I don't know. I don't  
 12:16 20 know what the problem is right now.  
 21 Q Ms. Hunter, I'm sorry, but I just don't  
 22 understand your answer.  
 23 A I just don't understand your question,  
 24 either, because you're asking me something -- you're  
 25 asking me did it work, did it work or did it did not

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1 work.  
 2 Q Did Dagher Automotive --  
 3 A The brakes work but the pedal still goes down  
 4 to the floor. If I took it in for a diagnosis, no I  
 5 haven't. If I can go leave and go --  
 6 MR. SPIRO: No, she hasn't -- isn't asking  
 7 you that. Don't answer questions that aren't asked.  
 8 THE WITNESS: But I don't know what's wrong  
 9 with it now.  
 12:17 10 BY MS. GUZMAN:  
 11 Q Why do you think something is wrong with it  
 12 now?  
 13 A Because it is not supposed to go to the  
 14 floor.  
 15 Q The pedal is not supposed to go to the floor?  
 16 A Yes.  
 17 Q But does the parking brake hold the car?  
 18 A It is supposed to.  
 19 Q Does it?  
 12:17 20 A It's on level ground, so --  
 21 Q Do you know whether the parking brake holds  
 22 the car?  
 23 A I don't know. I don't know.  
 24 Q Did the parking brake ever fail to hold the  
 25 car?

1 MR. SPIRO: Now, that's it --  
 2 THE WITNESS: No.  
 3 MR. SPIRO: -- she's already answered this  
 4 four times.  
 5 BY MS. GUZMAN:  
 6 Q Did the car roll less than 10 feet?  
 7 A 10 feet, I can't estimate how many --  
 8 Q Did the car roll --  
 9 A If you can let me go and get a measuring tape  
 10 and do it, I'll come back and tell you.  
 11 Q I'm asking for what you saw when you saw your  
 12 car roll with the parking brake set.  
 13 A I don't know. I can't estimate, Kelly.  
 14 Q Can you recall any specific occasion where  
 15 the car rolled with the parking brake set?  
 16 MR. SPIRO: She's answered this.  
 17 THE WITNESS: I answered that already.  
 18 Could you go back and give her the answer to  
 19 the questions that she's giving me -- I mean, that she  
 12:19 20 keep asking me?  
 21 THE REPORTER: I can't answer.  
 22 BY MS. GUZMAN:  
 23 Q Ms. Hunter, I'm sorry, but you need to just  
 24 answer my questions.  
 25 A Oh, okay.

1 MR. SPIRO: She just answered this -- well,  
 2 go ahead.  
 3 She's answered this --  
 4 MS. GUZMAN: Counsel, I'm attempting to  
 5 clarify her testimony.  
 6 MR. SPIRO: You are?  
 7 MS. GUZMAN: Please allow me to do so.  
 8 THE WITNESS: You said did the parking brake  
 9 ever fail to hold the car? Evidently it did. In the  
 12:18 10 previous answer you asked me did it roll, I told you  
 11 it did, but how many feet or foot or whatever, I don't  
 12 know.  
 13 BY MS. GUZMAN:  
 14 Q Well, you said less than a foot before; isn't  
 15 that right?  
 16 A No, I told you I can't estimate.  
 17 MR. SPIRO: No, that's not right.  
 18 BY MS. GUZMAN:  
 19 Q Were you there when the car was rolling?  
 12:18 20 A I guess I was there. It lives at home with  
 21 me.  
 22 Q Did you ever personally observe the car roll  
 23 with the parking brake set?  
 24 A Yes.  
 25 Q And you can't tell me how far the car rolled?

1 Q Can you show me with your hands how far the  
 2 car rolled?  
 3 A I'll show you, it do this like. I did that  
 4 in the beginning. It did like this.  
 5 MS. GUZMAN: For the record, the witness just  
 6 moved her finger several inches across the table.  
 7 THE WITNESS: That's not -- I don't know  
 8 because I can't estimate how many feet or foot. She  
 9 asked how it rolled. I don't know.  
 12:20 10 BY MS. GUZMAN:  
 11 Q Apart from estimating --  
 12 A I already answered the question. I don't  
 13 know. I don't know.  
 14 Q Was the car on a slope when it rolled?  
 15 A In my driveway, no.  
 16 Q Did you ever see the car roll with a parking  
 17 brake set anywhere other than your driveway?  
 18 A No.  
 19 Q And your driveway is a flat surface?  
 12:21 20 A Yes.  
 21 Q After you went to Dagher Automotive on April  
 22 6th of 2005, did the car still roll after that?  
 23 A I just told you it rolled December 2008.  
 24 Q Was that the only time it rolled after the  
 25 repair at Dagher automotive?

1 A I don't live in the car 24 hours, I don't  
 2 know.  
 3 Q Was that the only time it rolled?  
 4 MR. SPIRO: She just answered you, Counsel.  
 5 MS. GUZMAN: She did not, actually, answer my  
 6 specific question.  
 7 THE WITNESS: I don't live in the car for 24  
 8 hours, so I don't know.  
 9 BY MS. GUZMAN:  
 10 Q Ms. Hunter, I'm not asking whether you live  
 11 in the car, I'm only asking --  
 12 MR. SPIRO: She said "I don't know."  
 13 BY MS. GUZMAN:  
 14 Q You don't know whether December 2008 was the  
 15 only time the car rolled?  
 16 A No, I don't know.  
 17 Q Can you recall any other times, other than  
 18 December 2008, when the car rolled after you had it  
 19 repaired at Dagher Automotive?  
 12:21 20 A I can't recall. Not right now, I can't  
 21 recall.  
 22 Q When the car rolled in December 2008, did you  
 23 notify the dealer that time?  
 24 A No, I didn't notify the dealer. I don't know  
 25 what's wrong with it.

1 like?  
 2 MR. SPIRO: I don't know.  
 3 MS. GUZMAN: Can we put on the record how  
 4 long the break is going to be so that I know when to  
 5 come back to this room?  
 6 MR. SPIRO: No. No.  
 7 MS. GUZMAN: You just want an indefinite  
 8 break?  
 9 MR. SPIRO: No.  
 10 MS. GUZMAN: About how long would you like  
 11 the break to be?  
 12 MR. SPIRO: It won't be more than 20 minutes.  
 13 It might be less.  
 14 MS. GUZMAN: Okay. We'll take a 20-minute  
 15 break and go off the record.  
 16 THE VIDEOGRAPHER: We are going off the  
 17 record at 12:25. This concludes media number 1.  
 18 And we are off the record. Thank you.  
 19 (Recess.)  
 01:20 20 THE VIDEOGRAPHER: We are back on the record  
 21 at 1:22.  
 22 This is the beginning of media number 2 in  
 23 the deposition of La Ronda Hunter.  
 24 BY MS. GUZMAN:  
 25 Q Ms. Hunter, when you had the parking brake

1 Q Did you --  
 2 A I told you I don't know what's wrong with the  
 3 car. I didn't do a diagnosis on it.  
 4 Q Did you notify --  
 5 A I didn't notify anyone.  
 6 Q When you went to Dagher Automotive to have it  
 7 fixed, did you get a second opinion?  
 8 A No.  
 9 Q Has anyone ever told you what is wrong with  
 10 your car?  
 11 A Has anyone told me what was wrong with my  
 12 car?  
 13 MR. SPIRO: Don't repeat anything your  
 14 lawyers might have told you.  
 15 THE WITNESS: Somebody told me a lot of stuff  
 16 was wrong with my car. They told me it was dirty, so  
 17 what are you asking? They told me --  
 18 BY MS. GUZMAN:  
 19 Q I'll rephrase for you.  
 12:23 20 MR. SPIRO: Counsel. It has been an hour so  
 21 we should take a break.  
 22 MS. GUZMAN: Okay. We'll take a 10-minute  
 23 break. And we'll be back in 10 minutes this time.  
 24 MR. SPIRO: It might not be 10 minutes.  
 25 MS. GUZMAN: How long of a break would you

1 system on your Yukon repaired in April of 2005, did  
 2 you document it in any way?  
 3 A No.  
 4 Q You didn't take any photos?  
 5 A No.  
 6 Q You didn't take a video of it?  
 7 A No, not that I know of.  
 8 Q Have you taken any pictures of your parking  
 9 brake system prior to having it repaired?  
 01:21 10 A No.  
 11 Q Did you contact GM before you had it  
 12 repaired --  
 13 A No.  
 14 Q -- so they could inspect the vehicle?  
 15 A No.  
 16 Q Did you keep the old parking brake system so  
 17 it could be inspected later on?  
 18 A No, I didn't.  
 19 Q Have you had your car appraised since  
 01:22 20 replacing the parking system?  
 21 A No.  
 22 Q Did you have your car appraised before  
 23 replacing the parking brake system?  
 24 A No.  
 25 Q I'm going to hand you and your counsel a copy

1 of – a stack of photos, and it is going to be marked  
2 defendants' group Exhibit Hunter 6.  
3 (Deposition Exhibit 6 marked.)  
4 MR. SPIRO: Wait a minute. These are not  
5 numbered – okay.  
6 BY MS. GUZMAN:  
7 Q Do you recognize Hunter group Exhibit 6,  
8 Ms. Hunter?  
9 A No, I don't.  
01:23 10 Q Okay. You've never seen them before?  
11 A No, I haven't.  
12 Q Now I'm going to hand you and your counsel  
13 specific photos from that stack. The first will be  
14 marked Hunter 7.  
15 (Deposition Exhibit 7 marked.)  
16 BY MS. GUZMAN:  
17 Q Do you recognize what's depicted in that  
18 photograph, Hunter 7?  
19 A No.  
01:24 20 Q Do you recognize that license plate?  
21 A No.  
22 Q That's not your license plate?  
23 A No.  
24 MS. GUZMAN: Now I'm marking Hunter Exhibit  
25 8.

1 A I don't know nothing about VIN, none of that.  
2 Q Do you see where in the middle of the label  
3 underneath the words "manufacture shown above," there  
4 are the letters – sorry, the numbers and letters  
5 IGKEC –  
6 A Okay, yes.  
7 Q That?  
8 A Yes.  
9 Q Do you recognize that as your vehicle  
01:28 10 identification number?  
11 A I only recognize my VIN number when I'm  
12 standing right next to it and writing it down.  
13 Q Do you want to refer to your response to  
14 interrogatory number 1?  
15 A No.  
16 Q Would you, please.  
17 A I really don't.  
18 MR. SPIRO: Which exhibit is it?  
19 MS. GUZMAN: 2, I believe.  
01:28 20 THE WITNESS: Which page is that? What page  
21 is that?  
22 BY MS. GUZMAN:  
23 Q 5.  
24 A Okay.  
25 Q Have you ever seen this label – oh, sorry.

1 (Deposition Exhibit 8 marked.)  
2 BY MS. GUZMAN:  
3 Q Do you recognize what's depicted in that  
4 photograph, Hunter 8?  
5 A A car – two cars.  
6 Q Do you recognize the car as your own?  
7 A No.  
8 MS. GUZMAN: And I'm handing you the last  
9 picture that will be marked Hunter Exhibit 9.  
01:26 10 (Deposition Exhibit 9 marked.)  
11 BY MS. GUZMAN:  
12 Q Do you recognize that photograph?  
13 A No, I don't.  
14 Q Do you know what it is a picture of?  
15 A No.  
16 Q Do you see in the picture where the VIN, the  
17 vehicle identification number appears?  
18 A No, because I don't know what I'm looking  
19 for.  
01:27 20 Q Do you see a vehicle identification number  
21 anywhere on that picture?  
22 A If it don't say VIN and then the number – I  
23 don't know because I don't know nothing about  
24 vehicles.  
25 Q Okay.

1 Sorry.  
2 So does the vehicle identification number in  
3 your response to interrogatories match the vehicle  
4 identification number in the picture I just showed  
5 you?  
6 A Yes.  
7 Q Have you ever seen this label on your car?  
8 A I can't recall. I don't know if I've ever  
9 seen it before.  
01:29 10 Q Do you understand what it means?  
11 A No. It says, "The vehicle safety standards  
12 in effect on the date of manufacture shown above."  
13 Q Your answer is "No"?  
14 A No, I don't know what it is. But it said –  
15 GM states right here, "This vehicle" – "applicable  
16 use federal motor vehicle safety." Whatever they say  
17 it is, that's what it is.  
18 Q Does it mean anything to you?  
19 A No.  
01:30 20 Q Are you aware that there are federal safety  
21 standards for cars and trucks?  
22 A Yes.  
23 Q Are you aware that the Federal Motor Vehicle  
24 Safety Standards provide safety standards for brake  
25 systems, specifically, as well?

1 A No.  
 2 Q Do you have any information that your 2001  
 3 Yukon brake system does not meet the Federal Motor  
 4 Vehicle Safety Standards?  
 5 A You asked me do I have any -- do I have any  
 6 information that -- no one provided me with any  
 7 information.  
 8 Q Do you have any information that your 2001  
 9 Yukon brake system fails to conform to any other  
 01:31 10 industry or governmental standards?  
 11 MR. SPIRO: Hold on.  
 12 Yeah, I'll object to that one and I'll move  
 13 to strike the answer to the previous one on the  
 14 grounds of -- on the grounds that it is asking the  
 15 witness to give facts or information to support a  
 16 contention. It is an improper deposition question.  
 17 THE WITNESS: I've already answered it.  
 18 MR. SPIRO: Yeah, you have.  
 19 THE WITNESS: Yeah, I answered it.  
 01:31 20 MR. SPIRO: Oh, yeah.  
 21 THE WITNESS: I did.  
 22 BY MS. GUZMAN:  
 23 Q You answered me the first question. My  
 24 second one was slightly different.  
 25 A I answered your second question too. You

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1 asked me that and I said, "No," I don't understand  
 2 that  
 3 Q I'm not asking whether you understand, I'm  
 4 sorry. I'm asking do you have any information that  
 5 your 2001 Yukon brake system failed to conform to any  
 6 industry or governmental standards?  
 7 A No, I--  
 8 MR. SPIRO: Also compound.  
 9 BY MS. GUZMAN:  
 01:32 10 Q I'm sorry, Ms. Hunter, you're going to have  
 11 to give your answer again because counsel was speaking  
 12 over you.  
 13 MR. SPIRO: I was objecting. Give me a  
 14 chance to object before you answer.  
 15 Now you can try to answer.  
 16 THE WITNESS: No, I don't.  
 17 BY MS. GUZMAN:  
 18 Q Since you don't know that you've ever seen  
 19 this label on your car, you didn't rely on it when you  
 01:32 20 were purchasing your car, correct?  
 21 MR. SPIRO: What? That makes no sense.  
 22 Argumentative, confusing, unfair.  
 23 THE WITNESS: Why would I want to rely on  
 24 this to purchase a car? It is a bunch of numbers and  
 25 alphabets. I wouldn't use alphabets and numbers just

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1 to purchase a car.  
 2 BY MS. GUZMAN:  
 3 Q Ms. Hunter, I'm going to hand you a copy of  
 4 the original complaint in this action. It is being  
 5 marked Hunter Exhibit 10.  
 6 (Deposition Exhibit 10 marked.)  
 7 MR. SPIRO: You handed me two, Counsel, I  
 8 think.  
 9 MS. GUZMAN: Did I?  
 01:33 10 THE WITNESS: Let me get some of this stuff  
 11 out of the way.  
 12 BY MS. GUZMAN:  
 13 Q Do you recognize Hunter Deposition  
 14 Exhibit 10?  
 15 A No. I've never seen that before.  
 16 Q Are you finished answering?  
 17 A No, I don't recognize it.  
 18 Q Okay. I'm handing you a second amended  
 19 complaint, Hunter Exhibit 11.  
 01:34 20 (Deposition Exhibit 11 marked.)  
 21 BY MS. GUZMAN:  
 22 Q Do you recognize Hunter Exhibit 11?  
 23 A Nope.  
 24 Q Have you looked through all the pages?  
 25 A I'm looking through them right now.

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1 Q I'm sorry, now you've looked through all the  
 2 pages?  
 3 A Yes.  
 4 Q And you still don't recognize it?  
 5 A No. I don't recognize it.  
 6 Q Okay. I'm handing you a third amended  
 7 complaint that's being marked as Hunter Exhibit 12.  
 8 (Deposition Exhibit 12 marked.)  
 9 BY MS. GUZMAN:  
 01:36 10 Q Do you recognize Hunter Exhibit 12?  
 11 A Okay. I think it is -- no.  
 12 Q Okay. We're back to the fourth amended  
 13 complaint, which you do recognize.  
 14 Can you describe to me in your own words what  
 15 this lawsuit is about?  
 16 A Which one? Exhibit who?  
 17 Q The fourth amended complaint.  
 18 MR. SPIRO: Exhibit 4.  
 19 BY MS. GUZMAN:  
 01:37 20 Q You actually don't need to refer to the  
 21 document at all. I just asked whether you can  
 22 describe to me in your own words what this lawsuit is  
 23 about.  
 24 A Class action.  
 25 Q Can you give any more detail?

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1 A Violation of consumer legal remedy act -- I  
 2 have no idea what it is. Violation of California  
 3 Unfair Competition Act, UCL. I don't know what it is.  
 4 Q Ms. Hunter, you don't need to explain the  
 5 California Legal Remedies Act or the Unfair  
 6 Competition law to me. I just want to know in your  
 7 own words what you think this lawsuit is about.  
 8 A It is a class action. That's my answer.  
 9 Q Can you give me any more detail than that?  
 01:38 10 A That's my answer, that's my final answer.  
 11 Q Can you describe what claims are being made  
 12 against GM?  
 13 A I have the slightest idea of what the claims  
 14 are being against. I don't know.  
 15 Q It was your lawyers who came up with the  
 16 allegations in this lawsuit, right?  
 17 MR. SPIRO: Vague, argumentative, asks for  
 18 attorney-client.  
 19 THE WITNESS: It's privileged.  
 01:39 20 BY MS. GUZMAN:  
 21 Q Did you come up with the allegations in this  
 22 lawsuit?  
 23 MR. SPIRO: Vague, "come up with."  
 24 THE WITNESS: Did I come up with this, the  
 25 allegations?

1 Q What states that?  
 2 A I can't go back and recall -- I read it, but  
 3 I can't go back and recall. I read it a while back  
 4 ago, maybe eight -- a long time ago.  
 5 Q You don't know where you read it?  
 6 A No. I read so much.  
 7 Q Did you only read it in one place or more  
 8 than one place?  
 9 A I read it one place.  
 01:41 10 Q Did you read it before buying your vehicle?  
 11 A No.  
 12 Q Okay. Would you please refer to the first  
 13 set of interrogatories, Exhibit 2. And it would be  
 14 Exhibit A attached at the end of the interrogatories.  
 15 A What page are you on?  
 16 Q It actually doesn't have a page number. It's  
 17 after the interrogatories, and it is marked as  
 18 "Exhibit A." That's it.  
 19 Do you recognize Exhibit A?  
 01:42 20 A Yes.  
 21 Q Is this the document where you read that your  
 22 parking brake system was intended to be a life-of-the-  
 23 vehicle part?  
 24 A Yes.  
 25 Q Can you tell me where you read that?

1 BY MS. GUZMAN:  
 2 Q Yes.  
 3 A No.  
 4 Q What do you hope to recover if you win this  
 5 lawsuit?  
 6 MR. SPIRO: Vague.  
 7 Go ahead.  
 8 THE WITNESS: My losses.  
 9 BY MS. GUZMAN:  
 01:40 10 Q Do you mean money?  
 11 A Yes.  
 12 Q Anything else?  
 13 A No.  
 14 Q What are your losses?  
 15 A The repairs for the brakes.  
 16 Q How much money is that?  
 17 A It was like 260 bucks. And the 33,000 that I  
 18 paid for the vehicle.  
 19 Q You state in the complaint that "GM intended  
 01:40 20 your parking brake system to be a life-of-the-vehicle  
 21 part."  
 22 Did anybody ever represent to you that the  
 23 parking brake was intended by GM to be a life-of-the-  
 24 vehicle part?  
 25 A It states that.

1 A In the summary project wear out.  
 2 MR. SPIRO: I didn't hear.  
 3 What was that last, Madam Reporter?  
 4 (Record read as follows:  
 5 "A In the summary project  
 6 wear out.")  
 7 THE WITNESS: Summary, the projected wear  
 8 out.  
 9 BY MS. GUZMAN:  
 01:43 10 Q Does the summary say the "life of the  
 11 vehicle" anywhere?  
 12 A No.  
 13 Q When did you first see this document?  
 14 A I don't recall when I first seen it.  
 15 Q Who gave it to you?  
 16 MR. SPIRO: She didn't say anybody gave it to  
 17 her.  
 18 THE WITNESS: Who gave it to me? It was --  
 19 MR. SPIRO: In other words, assumes facts not  
 01:44 20 in evidence; that's my objection.  
 21 THE WITNESS: It is a group of papers. I  
 22 seen this with some other documents.  
 23 BY MS. GUZMAN:  
 24 Q Where did you get those documents?  
 25 A Where did I get those documents?

1 Q Where did they come from?  
 2 A I seen this in -- I seen this through my  
 3 attorney.  
 4 Q Do you know who created this document?  
 5 A No, I don't.  
 6 Q Do you base your statement that "GM intended  
 7 the parking brake system to be a life-of-the-vehicle  
 8 part" on anything else other than this document?  
 9 MR. SPIRO: Now, that one, she's not  
 01:44 10 answering. That violates the California law in what  
 11 you can ask at a deposition. In the words of the  
 12 court of appeal, unfair.  
 13 Don't answer. I instruct.  
 14 (Instruction not to answer.)  
 15 MS. GUZMAN: You're instructing your client  
 16 not to answer?  
 17 MR. SPIRO: Right, because she shouldn't have  
 18 to answer an unfair question. It is harassing the  
 19 witness.  
 01:45 20 BY MS. GUZMAN:  
 21 Q Have you seen any other documents that make  
 22 you think GM intended the parking brake system on your  
 23 Yukon to be a life-of-the-vehicle part?  
 24 A No.  
 25 Q Has anybody ever made any statements to you

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1 that GM intended the parking brake vehicle -- the  
 2 parking brake system on your vehicle to be a life-of-  
 3 the-vehicle part?  
 4 A Have I heard anybody making a statement? No.  
 5 Q In other words, in case that question was  
 6 unclear, has anybody ever told you that GM intended  
 7 the parking brake system to be a life-of-the-vehicle  
 8 part?  
 9 A No.  
 01:46 10 Q Do you have any other reason to believe that  
 11 the parking brake system on your Yukon was intended by  
 12 GM to be a life-of-the-vehicle part?  
 13 MR. SPIRO: Counsel, you don't have to say a  
 14 question I already instructed her not to answer. So  
 15 don't. Same grounds.  
 16 (Instruction not to answer.)  
 17 MS. GUZMAN: You're instructing the witness  
 18 not to answer that question on the basis it is unfair?  
 19 MR. SPIRO: According to the court of appeal,  
 01:46 20 yes, which amounts to harassment.  
 21 BY MS. GUZMAN:  
 22 Q Ms. Hunter, I'm handing you and your counsel  
 23 a 2001 GM warranty booklet. It is marked Hunter  
 24 Exhibit 13.  
 25 (Deposition Exhibit 13 marked.)

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1 BY MS. GUZMAN:  
 2 Q Do you recognize this document?  
 3 A No.  
 4 Q Are you sure?  
 5 A Yes.  
 6 Q Did you receive a warranty booklet like it  
 7 when you purchased your car?  
 8 A I don't know.  
 9 Q You don't know whether you received a  
 01:48 10 warranty booklet when you purchased your car?  
 11 A I don't remember.  
 12 Q So you haven't read the warranty on your car?  
 13 A No, I haven't. I don't even remember when  
 14 the warranty went out.  
 15 Q Okay. Would you turn to the page that's  
 16 marked 30589 in the very bottom right corner. It  
 17 looks like it is page 7 of the warranty booklet.  
 18 A Okay.  
 19 Q Can you read to me the section that says  
 01:49 20 "Bumper-to-Bumper Coverage" out loud.  
 21 A "The complete vehicle is covered for three  
 22 years or 36,000 miles, whichever comes first, except  
 23 for other coverage listed hereunder, what is covered  
 24 and those items listed under what is not covered on  
 25 page 9, 10 and 11."

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1 Q And can you read the section called "Repairs  
 2 Covered" out loud.  
 3 A "The warranty covers repairs to correct any  
 4 vehicle defect related to materials or workmanship  
 5 occurring during the warranty period. Needed repairs  
 6 will be performed using new or manufactured parts."  
 7 Q Did anybody ever make any statement, promise,  
 8 representation or warranty of any kind to you that's  
 9 not in this warranty booklet?  
 01:50 10 MR. SPIRO: Calls for a legal conclusion,  
 11 it's compound.  
 12 May I hear that again, or the reporter can  
 13 read it back.  
 14 (Record read as follows:  
 15 "Q Did anybody ever make any  
 16 statement, promise, representation  
 17 or warranty of any kind to you  
 18 that's not in this warranty  
 19 booklet?")  
 01:51 20 MR. SPIRO: It's also vague.  
 21 THE WITNESS: I said previous, I don't know.  
 22 I haven't -- I don't -- I don't know if I had this  
 23 book or not, so I don't know.  
 24 BY MS. GUZMAN:  
 25 Q Were you aware when you purchased your car

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1 that it was warranted against defects?  
 2 A I would hope -- I hope there is a warranty  
 3 under defect.  
 4 Q Did you think that yours was?  
 5 A That didn't even come to mind.  
 6 Q I'm going to call your attention now to  
 7 paragraph 60 of the fourth amended complaint. That  
 8 happens to be on page 25 at line 18.  
 9 A Exhibit 4?  
 01:52 10 Q The fourth amended complaint.  
 11 MR. SPIRO: That's not what she asked.  
 12 MS. GUZMAN: Is that Exhibit 4?  
 13 MR. SPIRO: Yeah, it is.  
 14 BY MS. GUZMAN:  
 15 Q It is page 25. Do you see at line 20 where  
 16 it says, "In particular, GM made numerous  
 17 representations in its print ads and media that if a  
 18 defect existed in one of its vehicles, including the  
 19 subject vehicles, GM would repair the defect," quote,  
 01:53 20 "We're with you, every mile of the way. Repairs made  
 21 to correct any material defect," end quote.  
 22 Do you see that part?  
 23 A Line 20? Would that be in 60?  
 24 Q Yes, that's paragraph 60.  
 25 A Yeah, okay. Written materials -- okay, yes,  
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1 MR. SPIRO: All right.  
 2 BY MS. GUZMAN:  
 3 Q It will be 37, subsection (d).  
 4 A Okay.  
 5 Q Subsection (d) at about line 14, you state,  
 6 "Plaintiffs are informed and believe, and based on  
 7 that information and belief allege, that GM is engaged  
 8 in other acts and conduct, including attempted  
 9 coverups of its knowledge and activities regarding the  
 01:56 10 lack of effective and operable parking brakes on the  
 11 subject vehicles and has engaged in willful  
 12 suppression of that evidence."  
 13 On what do you base this statement?  
 14 MR. SPIRO: Hold on, object, misstates the  
 15 evidence. She, the witness, Ms. Hunter, did not state  
 16 it.  
 17 BY MS. GUZMAN:  
 18 Q Do you believe that GM has engaged in the  
 19 willful suppression of evidence?  
 01:56 20 A Do I believe?  
 21 Q Yes.  
 22 MR. SPIRO: It asks for a legal conclusion.  
 23 THE WITNESS: I don't know what to believe.  
 24 BY MS. GUZMAN:  
 25 Q Do you know what willful suppression of the  
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1 I see it.  
 2 Q Can you tell me what specific print ads or  
 3 media you saw with this statement on it?  
 4 MR. SPIRO: It is vague, the question is  
 5 vague.  
 6 THE WITNESS: I just read it in the warranty  
 7 book.  
 8 BY MS. GUZMAN:  
 9 Q You read this statement in the warranty book?  
 01:54 10 A It said that it would fix the cars.  
 11 Q Did you see it anywhere else?  
 12 A I seen commercials that --  
 13 Q Do you remember any specific commercials you  
 14 saw with this statement?  
 15 A If I did, I can't recall right now.  
 16 MR. SPIRO: Vague.  
 17 BY MS. GUZMAN:  
 18 Q Would you turn to paragraph 37.  
 19 MR. SPIRO: What page is it, please?  
 01:55 20 MS. GUZMAN: I'm looking.  
 21 MR. SPIRO: I thought maybe you had it open.  
 22 I'm sorry.  
 23 It's 14, page 14.  
 24 MS. GUZMAN: Actually 15, the part of 37 that  
 25 I'm referring to is on 15.  
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1 evidence is?  
 2 A No.  
 3 Q Do you have any idea what this paragraph is  
 4 referring to?  
 5 A A belief.  
 6 Q Anything more specific than that?  
 7 A No.  
 8 Q When did you first decide to sue General  
 9 Motors?  
 01:57 10 A I think it was 2005.  
 11 Q Why did you decide to sue General Motors?  
 12 A Why did I decide to sue General Motors?  
 13 Q Yes.  
 14 A Because I had to replace my brakes and they  
 15 wouldn't replace them.  
 16 Q What gave you the idea of suing General  
 17 Motors?  
 18 MR. SPIRO: She just answered that question.  
 19 Asked and answered, harassing the witness,  
 01:58 20 argumentative.  
 21 THE WITNESS: You said what?  
 22 MS. GUZMAN: Ms. Bardsley, would you please  
 23 read back my question.  
 24 (Record read as follows:  
 25 "Q What gave you the idea of  
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1 suing General Motors?")  
 2 THE WITNESS: What gave me the idea? I don't  
 3 think it was an idea. It was based on my belief.  
 4 BY MS. GUZMAN:  
 5 Q Why did you decide to sue GM as opposed to  
 6 getting it repaired again?  
 7 A They refused to fix the parking brake when I  
 8 took it in. I had to pay for it myself.  
 9 Q So when you decided to sue GM, how did you go  
 01:59 10 about doing that?  
 11 MR. SPIRO: What? Vague.  
 12 THE WITNESS: When I decided to sue GM, how  
 13 did I go about doing it? I didn't go about -- I  
 14 didn't do nothing. I didn't go about nothing.  
 15 BY MS. GUZMAN:  
 16 Q Well, after you decided to sue GM, what was  
 17 the first thing you did?  
 18 A What was the first thing I did? I can't  
 19 recall right now.  
 01:59 20 Q If somebody else wanted to sue someone, what  
 21 would you tell them to do?  
 22 A That is their own prerogative.  
 23 Q How did you meet your attorneys in this  
 24 lawsuit?  
 25 A How did I meet them? I met Adam in Texas,

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1 Adam's law firm, when I was in Texas for a funeral,  
 2 and, actually, my manager, who I used to date.  
 3 Q I'm sorry, I just didn't hear your answer.  
 4 MR. SPIRO: Could you repeat it, then, Madam  
 5 Reporter.  
 6 (Record read as follows:  
 7 "Q How did you meet your  
 8 attorneys in this lawsuit?  
 9 "A How did I meet them? I  
 10 met Adam in Texas, Adam's law firm,  
 11 when I was in Texas for a funeral,  
 12 and, actually, my manager, who I  
 13 used to date.")  
 14 BY MS. GUZMAN:  
 15 Q Who is Adam?  
 16 A Adam? He's a friend of my manager.  
 17 Q Who is your manager?  
 18 A Henry Stephson.  
 19 Q Where was Henry your manager?  
 02:00 20 A At the post office.  
 21 Q So you met Adam through Henry at a funeral?  
 22 A Through mutual conversation at his house.  
 23 Q And Adam is a lawyer?  
 24 A Yes.  
 25 Q At what law firm?

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1 A I have no idea.  
 2 Q You don't know the name of Adam's law firm?  
 3 A No.  
 4 Q Did you approach Adam about suing GM?  
 5 A No.  
 6 Q Did he approach you?  
 7 A No.  
 8 Q How did Adam bring you to meet your attorneys  
 9 in this lawsuit?  
 02:01 10 A How did Adam bring me to meet --  
 11 MR. SPIRO: Adam is his (sic) attorney in the  
 12 lawsuit. It is vague, confusing.  
 13 BY MS. GUZMAN:  
 14 Q Is Adam your attorney now?  
 15 A He's involved in the lawsuit.  
 16 MR. SPIRO: He's the attorney of record,  
 17 Counsel.  
 18 BY MS. GUZMAN:  
 19 Q So did you ask Adam about suing GM?  
 02:02 20 A No, I didn't.  
 21 MR. SPIRO: Don't answer that.  
 22 Attorney-client.  
 23 (Instruction not to answer.)  
 24 BY MS. GUZMAN:  
 25 Q And you say you met him at a funeral?

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1 A No, I met him --  
 2 Q No, through mutual conversation?  
 3 A Through Henry Stephson's house and it is a  
 4 mutual conversation.  
 5 Q When did you meet him?  
 6 A I first met him in October of 2004.  
 7 Q Where did you meet him?  
 8 A At Henry's house.  
 9 Q Where is that?  
 02:02 10 A Texas.  
 11 Q What was the occasion?  
 12 A I said I was out there for a funeral.  
 13 Q Did you have any experience with Adam before  
 14 this lawsuit?  
 15 A No.  
 16 Q Did you consider or meet with any other  
 17 attorneys with respect to this lawsuit?  
 18 A Yes.  
 19 Q How many?  
 02:03 20 A Two.  
 21 Q Who were they?  
 22 A Matter of fact, it was three. Ira, Adam and  
 23 David.  
 24 Q Since the time that you filed this lawsuit,  
 25 are there any other lawyers that you have met or dealt

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1 with in connection with this lawsuit?  
 2 A No.  
 3 MR. SPIRO: Vague -- move to strike, the term  
 4 "dealt with."  
 5 BY MS. GUZMAN:  
 6 Q Ira, Adam and David are all attorneys of  
 7 record in this case; is that correct?  
 8 MR. SPIRO: Legal conclusion, but it is  
 9 correct.  
 02:03 10 THE WITNESS: Yes.  
 11 BY MS. GUZMAN:  
 12 Q Can you give me their last names?  
 13 A I don't know their last names. I know Ira's  
 14 last name is Spiro. Adam last name is -- it started  
 15 with a "V," but I don't know his exact last name.  
 16 Q Did you meet with any other attorneys, other  
 17 than Ira, Adam and David, about this case?  
 18 A No -- yeah, you.  
 19 Q Do you know what a class action is?  
 02:04 20 A No --  
 21 MR. SPIRO: Legal conclusion.  
 22 THE WITNESS: I just know it is a group of  
 23 people. That's it.  
 24 BY MS. GUZMAN:  
 25 Q Do you know that this lawsuit is a class

1 Q Ms. Hunter, you just told me that it was not  
 2 your idea to start this lawsuit?  
 3 MR. SPIRO: She also told you she didn't know  
 4 whose idea it was, Counsel, you know that.  
 5 THE WITNESS: I can't start a lawsuit.  
 6 BY MS. GUZMAN:  
 7 Q Do you have any previous involvement in class  
 8 action lawsuits?  
 9 A No.  
 02:06 10 Q Have you been a party to any other lawsuit?  
 11 A No.  
 12 Q Are you involved in any other pending  
 13 litigation now?  
 14 MR. SPIRO: Vague.  
 15 You mean pending lawsuits?  
 16 MS. GUZMAN: Yes.  
 17 THE WITNESS: No.  
 18 BY MS. GUZMAN:  
 19 Q Have you ever given a deposition before?  
 02:06 20 A No.  
 21 Q Have you ever testified at trial before?  
 22 A No.  
 23 Q You mentioned that you're personal friends  
 24 with Adam. Are you friends with any of the other  
 25 plaintiffs' lawyers or staff?

1 action?  
 2 A Yes.  
 3 Q Do you know why this lawsuit was filed as a  
 4 class action?  
 5 A No.  
 6 Q Was it your idea to start this lawsuit?  
 7 A No.  
 8 Q Whose idea was it?  
 9 A I don't know.  
 02:04 10 Q Who first approached you about starting this  
 11 lawsuit?  
 12 A No one.  
 13 Q Then how did you get involved?  
 14 MR. SPIRO: Don't -- argumentative. It is  
 15 also asked and answered.  
 16 You can answer, if you can.  
 17 THE WITNESS: How did I get involved?  
 18 BY MS. GUZMAN:  
 19 Q How did you get involved?  
 02:05 20 A Through mutual conversation.  
 21 Q Whose idea was it to sue GM?  
 22 MR. SPIRO: You asked her that.  
 23 Don't answer. Counsel is harassing you.  
 24 (Instruction not to answer.)  
 25 BY MS. GUZMAN:

1 MR. SPIRO: She didn't say that.  
 2 THE WITNESS: I'm not personal friends with  
 3 Adam.  
 4 BY MS. GUZMAN:  
 5 Q Have you --  
 6 A I'm personal friends with Henry Stephson. I  
 7 don't live in Texas. Adam hangs at Henry's house, so  
 8 I don't know what type of relationship they had. I  
 9 don't know.  
 02:06 10 Q How would you characterize your relationship  
 11 with Adam?  
 12 A How would I characterize my relationship?  
 13 Q Yes.  
 14 A Him being a man and me being a woman.  
 15 Q Is he a stranger to you?  
 16 A Would he be a stranger to me? He would be  
 17 Adam, a man.  
 18 Q How well do you know him?  
 19 A I don't know him well.  
 02:07 20 Q Do you know him through anything other than  
 21 his relationship to you as your attorney in this  
 22 lawsuit?  
 23 A Do I know him -- I know of him from being  
 24 over at Henry's house.  
 25 Q So you socialized with him?

1 A That day I did.  
 2 Q Have you socialized with him on any other  
 3 occasions?  
 4 A No.  
 5 Q Have you ever been in personal communication  
 6 with him outside of this lawsuit?  
 7 A One time.  
 8 Q When was that?  
 9 A When I met him up at the office.  
 02:07 10 Q Can you give me a date?  
 11 A I don't know the exact date.  
 12 Q What did you say?  
 13 A I can't remember what I said, too long ago.  
 14 MR. SPIRO: Can we stop a minute?  
 15 THE VIDEOGRAPHER: On the sweater.  
 16 MS. GUZMAN: Do you want to take a break?  
 17 MR. SPIRO: No. The reporter -- the  
 18 videographer was telling me where to put my mike.  
 19 MS. GUZMAN: Sorry.  
 02:08 20 MR. SPIRO: Sorry.  
 21 BY MS. GUZMAN:  
 22 Q So you socialized with Adam one other time, -  
 23 but you don't remember anything you talked about?  
 24 A I can't recall right now.  
 25 Q Okay. Do you know what class notice is?

1 potential member of any certified class.  
 2 A Why would I be obligated to pay?  
 3 Q I'm just asking if you would be willing to  
 4 personally pay the cost of having that done?  
 5 A But -- no, I don't even know what you are  
 6 talking about. Whatever it is, no. I don't have no  
 7 money to pay nobody.  
 8 Q Have your attorneys agreed to reimburse you  
 9 for the cost of class notice?  
 02:09 10 A No.  
 11 MR. SPIRO: Wait a minute, she -- I object to  
 12 that. It misstates the evidence. In fact, this  
 13 deliberately misstates the evidence, Counsel.  
 14 You know she just said that she's not going  
 15 to pay it. How can we reimburse her?  
 16 BY MS. GUZMAN:  
 17 Q Do you have understanding of what it would  
 18 cost to prosecute this lawsuit as a class action?  
 19 A No, I don't.  
 02:10 20 Q Are you aware that you might have to hire  
 21 expert witnesses?  
 22 MR. SPIRO: She doesn't have to hire expert  
 23 witnesses. Don't state it as a fact. This is going  
 24 to stop.  
 25 MS. GUZMAN: Counsel, if you have an

1 A No, I don't.  
 2 Q Did you know that you might give individual  
 3 notice to each potential member of any certified class  
 4 about this lawsuit?  
 5 MR. SPIRO: That's false. She doesn't have  
 6 to do such a thing.  
 7 MS. GUZMAN: She can answer my question.  
 8 MR. SPIRO: You phrased it in terms of a  
 9 fact. It is not a fact.  
 02:09 10 THE WITNESS: I don't know how to give  
 11 anybody nothing. What do I have to give them?  
 12 MR. SPIRO: Just to be particular about  
 13 the --  
 14 THE WITNESS: What I got to give them?  
 15 MR. SPIRO: Hold on.  
 16 Objection; it is assuming facts not in  
 17 evidence. In fact, it is misstating the facts.  
 18 BY MS. GUZMAN:  
 02:09 19 Q Are you willing to personally pay the cost of  
 20 giving individual written notice to each potential  
 21 member of any certified class about this lawsuit?  
 22 A Am I willing to pay?  
 23 Q Yes.  
 24 A What am I paying? What am I paying?  
 25 Q The cost of giving written notice to each

1 objection, state the objection.  
 2 MR. SPIRO: I have an objection and you are  
 3 harassing the witness and you are misstating the  
 4 facts, you are misstating the law, and you are asking  
 5 the witness to answer about misstates. I'm not going  
 6 to let this go on very much more, Counsel.  
 7 MS. GUZMAN: Please do not raise your voice  
 8 to me. You're doing that right now, and I find it  
 9 personally harassing.  
 02:10 10 MR. SPIRO: Well, I find it really repulsive  
 11 the way you're asking these questions. It's a trick,  
 12 it's a gimmick and it is really kind of disgusting.  
 13 If you want an answer of what she knows about  
 14 the real situations, go ahead, but don't try and trick  
 15 her.  
 16 MS. GUZMAN: Counsel, you've been doing this  
 17 all morning. I'm going to ask you one more time, for  
 18 the sake of the record, if you have an objection,  
 19 please state it. Don't make any speeches after that.  
 02:11 20 Let your witness answer the question unless you're  
 21 going to instruct her not to on the grounds of  
 22 privilege.  
 23 MR. SPIRO: If you start fooling around with  
 24 my witness like that, I will tell you so, and you're  
 25 doing it.

1 BY MS. GUZMAN:  
 2 Q Ms. Hunter, do you need me to restate the  
 3 question?  
 4 A I'm not paying -- no, I'm not, the answer is  
 5 no.  
 6 Q If you did have to hire expert witnesses,  
 7 would you be willing to pay that amount personally in  
 8 order to prosecute this lawsuit?  
 9 A No.  
 02:11 10 Q How much do you estimate you personally will  
 11 spend in prosecuting this lawsuit?  
 12 A I don't know.  
 13 Q Please just let me finish my question so the  
 14 court reporter can get it down and then give your  
 15 answer.  
 16 A Okay.  
 17 Q Thank you.  
 18 A You're welcome.  
 19 Q How much do you estimate you personally will  
 02:12 20 spend in prosecuting this lawsuit?  
 21 A I don't know.  
 22 Q How much time are you willing to spend  
 23 prosecuting this lawsuit?  
 24 MR. SPIRO: Vague.  
 25 THE WITNESS: I don't know.

1 Q If you were offered all the relief that you  
 2 are seeking personally, would you withdraw from the  
 3 lawsuit?  
 4 A I don't know.  
 5 MR. SPIRO: Right. Vague.  
 6 BY MS. GUZMAN:  
 7 Q In this case if your attorneys wanted to  
 8 pursue a particular strategy or a course of conduct  
 9 with which you disagree, would you defer to them?  
 02:13 10 MR. SPIRO: Vague.  
 11 THE WITNESS: Can you repeat that again?  
 12 MS. GUZMAN: Ms. Bardsley, would you mind  
 13 reading the question back.  
 14 (Record read as follows:  
 15 "Q In this case if your  
 16 attorneys wanted to pursue a  
 17 particular strategy or a course of  
 18 conduct with which you disagree,  
 19 would you defer to them?")  
 02:14 20 THE WITNESS: I don't know nothing about  
 21 strategy and legal.  
 22 BY MS. GUZMAN:  
 23 Q Have you given the attorneys complete  
 24 discretion and power to make decisions affecting this  
 25 lawsuit?

1 BY MS. GUZMAN:  
 2 Q Do know what a class representative is?  
 3 A Yes.  
 4 Q Can you tell me in your own words what is  
 5 your understanding of what a class representative is?  
 6 MR. SPIRO: Asks for a legal conclusion.  
 7 THE WITNESS: It represents a class of  
 8 people.  
 9 BY MS. GUZMAN:  
 02:12 10 Q Anything else?  
 11 A No.  
 12 Q Are you seeking to be a class representative  
 13 in any other lawsuit?  
 14 A No.  
 15 Q Have you ever been a class representative  
 16 before?  
 17 A No.  
 18 Q Would you put your own personal interests  
 19 ahead of the interests of the class? For instance,  
 02:13 20 are you willing to settle your claims personally  
 21 regardless of what other members of the putative class  
 22 may decide or desire to do?  
 23 MR. SPIRO: Compound.  
 24 THE WITNESS: No.  
 25 BY MS. GUZMAN:

1 MR. SPIRO: Well, vague, asks for a legal  
 2 conclusion.  
 3 THE WITNESS: I don't know nothing about that  
 4 stuff you are talking about.  
 5 BY MS. GUZMAN:  
 6 Q Can you define the class for me?  
 7 MR. SPIRO: Vague.  
 8 THE WITNESS: Define -- define the class?  
 9 No, I can't define the class.  
 02:14 10 BY MS. GUZMAN:  
 11 Q Do you know how many people are in the class?  
 12 A No, I don't. I know it's a large group of  
 13 people. But how many as in numbers, no, I don't.  
 14 Q Do you also seek to represent corporations or  
 15 other organizations that own vehicles, like rental car  
 16 companies or companies with delivery vehicles?  
 17 A No.  
 18 Q Have you left the scope of the class to your  
 19 attorneys?  
 02:15 20 MR. SPIRO: Vague.  
 21 THE WITNESS: Yes.  
 22 BY MS. GUZMAN:  
 23 Q You do not know personally whether the  
 24 members of the putative class you seek to represent  
 25 are so numerous that joinder is impractical, right?

1 MR. SPIRO: Vague, calls for a legal  
 2 conclusion.  
 3 THE WITNESS: I don't know.  
 4 BY MS. GUZMAN:  
 5 Q What knowledge do you have that each of the  
 6 people in the class that you seek to represent have  
 7 the same claims that you do?  
 8 MR. SPIRO: Don't answer that. It violates  
 9 the California law against asking a party to state the  
 02:16 10 facts that support her contentions.  
 11 (Instruction not to answer.)  
 12 MS. GUZMAN: You're instructing your witness  
 13 not to answer?  
 14 MR. SPIRO: Right, because it is unfair,  
 15 according to our courts here and it is harassing.  
 16 BY MS. GUZMAN:  
 17 Q Ms. Hunter, you don't claim to represent  
 18 owners or lessees who are not at the substantial risk  
 19 of serious injury or death, do you?  
 02:16 20 MR. SPIRO: Vague, confusing.  
 21 THE WITNESS: I don't plan to do what?  
 22 BY MS. GUZMAN:  
 23 Q Claim to represent owners or lessees who are  
 24 not at a substantial risk of serious injury or death.  
 25 A I have no idea what you are talking about.

1 BY MS. GUZMAN:  
 2 Q Do you claim to represent people who do that?  
 3 A Nobody in the state of California wouldn't do  
 4 it either. It would be a war.  
 5 Q So you don't claim to represent people who  
 6 purchased their vehicles while already knowing about  
 7 the alleged defect?  
 8 MR. SPIRO: Calls for a legal conclusion.  
 9 THE WITNESS: You said what?  
 02:18 10 BY MS. GUZMAN:  
 11 Q You don't claim to represent owners who  
 12 purchased their vehicles while already knowing about  
 13 the alleged defect?  
 14 MR. SPIRO: Calls for a legal conclusion and  
 15 it is vague.  
 16 THE WITNESS: No.  
 17 BY MS. GUZMAN:  
 18 Q Are you relying on any family member for  
 19 advice or counsel in this lawsuit?  
 02:18 20 A No.  
 21 Q Does anyone besides you and your attorneys  
 22 have control over this lawsuit?  
 23 A I am unaware. I don't know.  
 24 Q Have you had any discussions with family  
 25 members about this lawsuit?

1 Q Do you know whether other drivers of vehicles  
 2 that you allege to be class vehicles are at a  
 3 substantial risk of injury in a moderate rear-end  
 4 collision?  
 5 MR. SPIRO: Vague --  
 6 THE WITNESS: I don't know -- I don't know  
 7 what you are talking about.  
 8 BY MS. GUZMAN:  
 9 Q To be clear, do you not know the answer to  
 02:17 10 the question or do you not understand what I'm asking?  
 11 A I don't have an answer for that question.  
 12 Q You don't know the driving habits of the  
 13 other members of the putative class, do you?  
 14 A No, I don't.  
 15 Q You don't know their personal circumstances,  
 16 do you?  
 17 A No, I don't.  
 18 Q You don't claim to represent people who  
 19 purchased their vehicles while already knowing about  
 02:17 20 the alleged defect, do you?  
 21 MR. SPIRO: Vague, calls for a legal  
 22 conclusion.  
 23 THE WITNESS: No, I don't -- I don't -- I  
 24 would hope that no one would purchase the car if they  
 25 know that something is wrong with it. I wouldn't.

1 A I talked to my sister.  
 2 Q When?  
 3 A When?  
 4 Q When did you speak to your sister about the  
 5 lawsuit?  
 6 A This morning when I told her to drop my  
 7 daughter off at school because I had to come down here  
 8 for this.  
 9 Q Any other times?  
 02:19 10 A I can't recall.  
 11 Q What did you tell your sister this morning  
 12 about this lawsuit?  
 13 A To drop Sequoia off at school and I had to go  
 14 for a deposition for the GMC case. That's it.  
 15 Q Have you had any discussions with friends  
 16 regarding this lawsuit?  
 17 A No.  
 18 Q Who first suggested that you get involved in  
 19 this lawsuit?  
 02:19 20 A Myself.  
 21 MR. SPIRO: It was asked and answered, so  
 22 this was the third time, I believe.  
 23 BY MS. GUZMAN:  
 24 Q Do you agree that you do not personally know  
 25 whether there are common issues of law and fact

1 present in this litigation?  
 2 A I don't know law.  
 3 Q Do you agree that you do not personally know  
 4 whether your claims are typical of the claims of the  
 5 class you seek to represent?  
 6 A I don't know what "typical" means.  
 7 Q What does "typical" mean to you?  
 8 A I don't know.  
 9 MR. SPIRO: She just said she doesn't know  
 02:20 10 what it means, Counsel.  
 11 THE WITNESS: I don't know what "typical"  
 12 mean in a lawsuit.  
 13 BY MS. GUZMAN:  
 14 Q What about in common sense, what does  
 15 "typical" mean?  
 16 A Typical. Typical, that's my answer.  
 17 Q So you understand the word as it's commonly  
 18 used?  
 19 A Yes, commonly used, but not used in lawsuits.  
 02:20 20 I don't know what "typical" mean in lawsuits, so I  
 21 don't know.  
 22 Q Well, what about just in common  
 23 understanding, do you know personally whether your  
 24 claims are typical of the claims of the class you seek  
 25 to represent?

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1 methods for the fair and efficient adjudication of  
 2 this controversy?  
 3 A I don't know.  
 4 MR. SPIRO: Vague, legal conclusion.  
 5 MS. GUZMAN: Can we take one more quick  
 6 break, and I think I can do the rest of my questions  
 7 after that.  
 8 MR. SPIRO: Do you need us to leave?  
 9 MS. GUZMAN: I can, but is 10 minutes okay?  
 02:22 10 MR. SPIRO: Yes.  
 11 THE VIDEOGRAPHER: We are going off the  
 12 record at 2:23. We are off the record.  
 13 (Recess.)  
 14 THE VIDEOGRAPHER: We are back on the record  
 15 at 2:49.  
 16 BY MS. GUZMAN:  
 17 Q All right, Ms. Hunter, I am handing you a  
 18 document that's going to be marked as Hunter  
 19 Exhibit 14. I'm handing a copy to your counsel as  
 02:49 20 well.  
 21 (Deposition Exhibit 14 marked.)  
 22 BY MS. GUZMAN:  
 23 Q Once you've had a chance to look that over,  
 24 can you let me know whether you recognize it or not?  
 25 A Yes, I did.

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1 MR. SPIRO: Don't answer that. That is  
 2 harassing.  
 3 (Instruction not to answer.)  
 4 MS. GUZMAN: Can I just finish my question  
 5 before you both interrupt?  
 6 MR. SPIRO: I thought you were done.  
 7 BY MS. GUZMAN:  
 8 Q So with your common understanding --  
 9 MR. SPIRO: Wait a minute, are you starting a  
 02:21 10 new question? Are you?  
 11 MS. GUZMAN: I'm restating the question  
 12 because you interrupted me in the last one.  
 13 MR. SPIRO: All right.  
 14 BY MS. GUZMAN:  
 15 Q With your common understanding of what  
 16 "typical" usually means to you, you don't personally  
 17 know whether your claims are typical of the claims of  
 18 the class you seek to represent, right?  
 19 A I don't know.  
 02:21 20 Q Have you done any investigation to find out  
 21 whether others in this class you seek to represent  
 22 have claims that are similar to yours?  
 23 A No.  
 24 Q Do you agree that you do not personally know  
 25 whether a class action is superior to other available

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1 Q Can you tell me what it is?  
 2 A A receipt.  
 3 Q A receipt for what?  
 4 A For having my car serviced.  
 5 Q What is the date on the receipt?  
 6 A 2/22/06.  
 7 Q Did you bring your car in for service on that  
 8 day?  
 9 A Yes, I did.  
 02:50 10 Q And why did you bring your car in that day?  
 11 A Why did I bring it in? It needed to be  
 12 fixed.  
 13 Q What was wrong with it?  
 14 A It says -- what does the paper -- "customer  
 15 states idle is low."  
 16 Q Is that the only reason that you brought it  
 17 in?  
 18 A "Customer state exhaust rattles in gear."  
 19 Q Were those two things wrong with your vehicle  
 02:51 20 when you brought this?  
 21 A Yes.  
 22 Q Was there anything else wrong with your  
 23 vehicle?  
 24 A It says that, "Service department will  
 25 perform 27 point vehicle inspection. After inspection

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1 will" -- "will pro-" -- wait a minute.  
 2 "Customer may chose to perform repairs or  
 3 reschedule."  
 4 Q Did you have any repairs done on your parking  
 5 brakes at this time?  
 6 A No.  
 7 Q Did they make any representations to you  
 8 about your brakes at Power Chevrolet at this time?  
 9 A No.  
 02:52 10 Q I am handing you and your counsel another  
 11 document previously Bates-labeled as P3020 and now  
 12 marked Hunter Exhibit 15.  
 13 (Deposition Exhibit 15 marked.)  
 14 THE WITNESS: Thank you,  
 15 MS. GUZMAN: I'm trying to find the other  
 16 copy, Counsel.  
 17 Q Ms. Hunter, when you've had a chance to look  
 18 it over would you let me know if you recognize this  
 19 document?  
 02:52 20 A Yes, I do.  
 21 Q What is it?  
 22 A It states it is a vehicle inspection sheet.  
 23 Q When did you first see this document?  
 24 A After I paid for my vehicle being in service.  
 25 Q When was that?

1 car in that day?  
 2 A No.  
 3 Q On October 25th, 2004, did they do any work  
 4 on your parking brake?  
 5 A I don't know what they did. I don't know.  
 6 Q Did you ask them to do any work on your  
 7 parking brake?  
 8 A I can't recall -- no.  
 9 Q Was there anything wrong with your parking  
 02:55 10 brake when you brought your car in that day?  
 11 MR. SPIRO: Beyond her personal -- no, forget  
 12 it.  
 13 THE WITNESS: I don't know.  
 14 BY MS. GUZMAN:  
 15 Q And now I'm handing you another document  
 16 Bates labeled 3015, P3015. It is being marked as  
 17 Hunter Exhibit 17.  
 18 (Deposition Exhibit 17 marked.)  
 19 BY MS. GUZMAN:  
 02:56 20 Q Do you recognize this?  
 21 A Uh-huh.  
 22 Q What is it?  
 23 A It's -- ABS light again.  
 24 Q Is it an estimate or a receipt or an invoice?  
 25 A It's an estimate.

1 A I have no idea. I'm assuming it came with  
 2 this. I'm assuming it came with the 2/22/06 bill.  
 3 Q Are you certain of that?  
 4 A No, I don't know.  
 5 Q I'm handing you another document previously  
 6 Bates-labeled P3014. I'll give a copy to your counsel  
 7 as well. It is being marked Hunter Exhibit 16.  
 8 (Deposition Exhibit 16 marked.)  
 9 BY MS. GUZMAN:  
 02:54 10 Q Do you recognize this document?  
 11 A Yes, I do.  
 12 Q What is it?  
 13 A It's a -- it looks like an estimate when I  
 14 pulled it in, I stated what was wrong with the car.  
 15 Q Have you seen it before?  
 16 A Yes.  
 17 Q When?  
 18 A I'm seeing it right now.  
 19 Q When have you seen it before now?  
 02:54 20 A I've seen it when -- the day when I went in.  
 21 Q What day was that?  
 22 A It was 11 -- I mean 10/25/04.  
 23 Q Why did you bring your car in that day?  
 24 A The ABS light was on.  
 25 Q Was there any other reason you brought your

1 Q What's the date?  
 2 A I don't know. I see one date 1/5/04, I  
 3 think.  
 4 Q Is it --  
 5 A I don't know the date. I don't see it.  
 6 Q Is there also an October 25th, 2004 date on  
 7 there?  
 8 A Yeah, I see it right here.  
 9 Q Does this refer to the same ABS light problem  
 02:57 10 that Hunter Exhibit 16 did?  
 11 A (No audible response.)  
 12 Q Do you know, Ms. Hunter?  
 13 A Do I know what?  
 14 Q I'm sorry. My question was whether this  
 15 document refers to the same problem with the ABS light  
 16 that the previous document, Hunter Exhibit 16, did.  
 17 MR. SPIRO: Vague.  
 18 THE WITNESS: To be honest, I really don't  
 19 know, but they both have the same date, so apparently  
 02:58 20 they are -- they are together. They have the same  
 21 date on them. I don't know if the ABS light came on,  
 22 I took it in and they repaired it.  
 23 BY MS. GUZMAN:  
 24 Q Now I'm handing you another document Bates  
 25 page numbers Bates-labeled P3016 through P3018. And,

1 actually, it should be through P3019. Sorry. There  
 2 is an extra page on there.  
 3 MS. GUZMAN: And it is being marked Hunter  
 4 Exhibit 17.  
 5 THE REPORTER: 18.  
 6 MS. GUZMAN: 18. Sorry.  
 7 (Deposition Exhibit 18 marked.)  
 8 BY MS. GUZMAN:  
 9 Q Do you recognize this document, Ms. Hunter?  
 02:59 10 A Yes.  
 11 Q What is it?  
 12 A An invoice.  
 13 Q Did you bring your car in on July 22nd, 2008?  
 14 A Yes.  
 15 Q Why did you bring your car in that day?  
 16 A ABS light.  
 17 Q Was there any other reason?  
 18 A No.  
 19 Q Does this invoice reflect any repairs to your  
 03:00 20 parking brake system?  
 21 A No.  
 22 Q Did you ask for any repairs to be made to  
 23 your parking brake system at that time?  
 24 A No.  
 25 Q Was April of 2005 the only time you asked

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1 Q When was that?  
 2 A I can't recall the exact day.  
 3 Q What about the year, do you recall the year?  
 4 A It was either 2004, 2005 when I met Adam at  
 5 the office.  
 6 Q Do you remember what season it was?  
 7 A It took me like five hours to get there. It  
 8 was the rainy season. It did, it took me like five  
 9 hours. I was stuck in traffic. It was raining. I  
 03:03 10 know it was raining.  
 11 Q Okay. What office did you meet him at?  
 12 A I met him at Ira Spiro's office, their  
 13 office.  
 14 Q Did you discuss a strategy for this  
 15 litigation at that meeting?  
 16 MR. SPIRO: Hold on a second. You can answer  
 17 that "Yes" or "No."  
 18 THE WITNESS: No.  
 19 BY MS. GUZMAN:  
 03:03 20 Q Did you discuss this litigation at all at  
 21 that meeting?  
 22 MR. SPIRO: Answer that "Yes" or "No." It is  
 23 also vague, but go ahead.  
 24 THE WITNESS: No.  
 25 BY MS. GUZMAN:

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1 G-- you asked for repairs to be made to your parking  
 2 brake system?  
 3 A That I can recall, yes.  
 4 Q Ms. Hunter, do you recall what year it was  
 5 that you first spoke with Adam Voyles at the funeral  
 6 in Texas?  
 7 A I didn't speak to him at a funeral.  
 8 Q You spoke to him at Henry's house?  
 9 A Yes.  
 03:01 10 Q And that was in Texas?  
 11 A Yes.  
 12 Q And you were in Texas because of the funeral?  
 13 A Uh-huh -- yes.  
 14 Q Do you recall what year that was?  
 15 A It was in 2004.  
 16 Q Do you remember what month?  
 17 A I think it was October 2004.  
 18 Q Do you remember what part of the month?  
 19 A No.  
 03:01 20 Q After that first conversation with  
 21 Adam Voyles, counsel of record in this case, what was  
 22 your next contact with him?  
 23 A My next contact with Adam? It would -- it's  
 24 been so long ago. It was when I met him at the  
 25 office.

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1 Q You did not discuss this case at all at your  
 2 next meeting with Adam Voyles?  
 3 A We discussed other things.  
 4 MR. SPIRO: Hold on -- go ahead. Don't say  
 5 what it was. Go ahead. You can answer that question  
 6 "Yes" or "No," in other words.  
 7 THE WITNESS: Oh, okay.  
 8 Yeah, we discussed other things.  
 9 BY MS. GUZMAN:  
 03:04 10 Q Now, you mentioned that you were retired.  
 11 What do you rely on for income?  
 12 A Disability retired.  
 13 Q Do you have any other source of income?  
 14 A No.  
 15 Q Do you have a savings account?  
 16 MR. SPIRO: Just answer "Yes" or "No."  
 17 THE WITNESS: Yes. It's personal.  
 18 MR. SPIRO: That's all right.  
 19 BY MS. GUZMAN:  
 03:05 20 Q Have you ever been divorced?  
 21 A No.  
 22 Q Do you file state and federal tax returns?  
 23 A Yes.  
 24 Q Are you willing to produce them to us?  
 25 MR. SPIRO: No.

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1 THE WITNESS: No.  
 2 BY MS. GUZMAN:  
 3 Q Do you know what your approximate net worth  
 4 is?  
 5 MR. SPIRO: Don't answer that.  
 6 THE WITNESS: No.  
 7 BY MS. GUZMAN:  
 8 Q Do you know the value of your home?  
 9 MR. SPIRO: Don't answer that.  
 03:05 10 THE WITNESS: No.  
 11 MR. SPIRO: All right. The objection is  
 12 privacy, right to privacy.  
 13 BY MS. GUZMAN:  
 14 Q Are you instructing the witness not to  
 15 answer?  
 16 MR. SPIRO: She already answered.  
 17 BY MS. GUZMAN:  
 18 Q Do you know -- do you have any stocks, bonds  
 19 or IRAs?  
 03:05 20 MR. SPIRO: Don't answer.  
 21 MS. GUZMAN: Are you instructing her not to  
 22 answer?  
 23 MR. SPIRO: She can answer "Yes" or "No."  
 24 THE WITNESS: No.  
 25 BY MS. GUZMAN:

1 overall?  
 2 A As far as the motor?  
 3 Q Overall, all the parts together.  
 4 A All the parts together, giving it a 1 out of  
 5 10, I give it a -- I give it a 5.  
 6 Q Does it take you from point A to point B?  
 7 A Yes.  
 8 Q Would you call it reliable?  
 9 A Yes.  
 03:07 10 Q Would you call it dependable?  
 11 A No.  
 12 Q Why not?  
 13 A Because the brakes have -- the brakes have a  
 14 default in them.  
 15 Q Has your Yukon safely transported you so far?  
 16 A Yes.  
 17 Q Have you had any other repairs made to your  
 18 Yukon apart from the ones that we've talked about  
 19 today?  
 03:08 20 A No, not -- no, not that I can recall.  
 21 Q Ms. Hunter, you said that your parking brake  
 22 had a defect. When did you first hear the term  
 23 "defect"?  
 24 A When did I first hear the term "defect"? I  
 25 don't recall, I really don't.

1 Q Do you have any loans from anyone?  
 2 A No.  
 3 Q Have you made any loans to anyone?  
 4 A No.  
 5 Q Have you ever declared bankruptcy?  
 6 A No.  
 7 Q Do you own any GM stock?  
 8 A I wish back then I did. But right now, no.  
 9 Q Just to be clear, you've never owned GM  
 03:06 10 stock?  
 11 A I bet they made pretty good on their stocks.  
 12 Q But you never owned any, correct?  
 13 A No.  
 14 Q Okay.  
 15 A We wish we all could make money off they  
 16 stocks, and anybody else's.  
 17 Q Have you ever been audited?  
 18 A No.  
 19 Q Have you ever been sued for bad debts or  
 03:06 20 failure to pay debts?  
 21 A No.  
 22 Q Have you ever gotten in an accident in your  
 23 vehicle?  
 24 A No.  
 25 Q How would you describe your vehicle functions

1 Q Do you recall --  
 2 A I know that is a word that I use all the  
 3 time, so it's common for me to use "defect." That's a  
 4 word that I use for a lot of stuff.  
 5 Q What did you do to prepare for your  
 6 deposition today?  
 7 MR. SPIRO: Don't answer that.  
 8 You can ask her if she looked at anything to  
 9 refresh her recollection.  
 03:10 10 (Instruction not to answer.)  
 11 BY MS. GUZMAN:  
 12 Q When did you prepare for your deposition  
 13 today?  
 14 A I just went over my discovery.  
 15 MR. SPIRO: She said when, I thought.  
 16 THE WITNESS: When?  
 17 BY MS. GUZMAN:  
 18 Q This time I did.  
 19 A We just did it today, sitting here in the  
 03:10 20 deposition, but I read the discovery.  
 21 Q Did you meet with anyone to prepare?  
 22 A Did I meet with anyone?  
 23 Q Yes.  
 24 A No, no.  
 25 Q Did you meet with your lawyers to prepare for

1 the deposition?  
 2 A Yeah.  
 3 Q When did you meet with them to prepare for  
 4 the deposition?  
 5 A Today and --  
 6 (Interruption in the proceedings.)  
 7 MR. SPIRO: Hang on one second.  
 8 MS. GUZMAN: Off the record.  
 9 THE VIDEOGRAPHER: We are going off the  
 03:11 10 record at 3:12. We are off the record.  
 11 (Recess.)  
 12 THE VIDEOGRAPHER: We are back on the record  
 13 at 3:13.  
 14 MS. GUZMAN: For the record, we just went off  
 15 the record so counsel could answer a phone call.  
 16 MR. SPIRO: Thank you.  
 17 BY MS. GUZMAN:  
 18 Q Was today the only time you met with your  
 19 lawyers to prepare for this deposition?  
 03:13 20 A No.  
 21 Q How many times have you met with them?  
 22 A Once.  
 23 Q When was that?  
 24 A I can't give you the exact date. December  
 25 11th. I can.

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1 A Sleep.  
 2 Q Did you talk to anyone else about the  
 3 deposition?  
 4 A No.  
 5 Q Ms. Hunter, have you ever had your driver's  
 6 license revoked?  
 7 A No.  
 8 Q Have you ever been convicted of a crime,  
 9 other than a minor traffic offense?  
 03:15 10 A No.  
 11 Q Are there any documents other than the ones  
 12 that we've talked about today that you rely on to  
 13 support the claims you make in the fourth amended  
 14 complaint?  
 15 MR. SPIRO: Don't answer that.  
 16 It violates the rule against for asking what  
 17 facts and documents support the contention. It's  
 18 unfair, according to our courts, and need not be  
 19 answered, according to our courts.  
 03:15 20 (Instruction not to answer.)  
 21 MS. GUZMAN: You're instructing your witness  
 22 not to answer?  
 23 MR. SPIRO: Correct.  
 24 MS. GUZMAN: Those are all the questions that  
 25 I have, but I would like to state for the record that

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1 Q How long did you meet for?  
 2 A I think about an hour and 30 minutes.  
 3 Q Can you list everybody who was present at  
 4 that meeting?  
 5 A Me and Ira.  
 6 Q Is that all?  
 7 A Yes.  
 8 Q Was anyone present by phone?  
 9 A No.  
 03:14 10 Q Did you tell anyone about your preparation  
 11 session?  
 12 A No.  
 13 Q Were you shown any documents during that  
 14 deposition preparation session with counsel?  
 15 MR. SPIRO: Don't answer that -- well,  
 16 actually, you can. Go ahead.  
 17 THE WITNESS: Yes, I was.  
 18 BY MS. GUZMAN:  
 19 Q What documents were those?  
 03:14 20 A Just my discovery.  
 21 Q And by "discovery," you mean your responses?  
 22 A Yes.  
 23 Q Anything else?  
 24 A No.  
 25 Q What else did you do to prepare?

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1 we are leaving the deposition open as to all of the  
 2 questions that plaintiff's counsel improperly  
 3 instructed Ms. Hunter not to answer, particularly the  
 4 ones that were not based on privilege.  
 5 MR. SPIRO: So there are no -- it is not  
 6 being held open for anything, then.  
 7 THE REPORTER: Stipulation on where to send  
 8 the original or who is keeping the original?  
 9 (Discussion off the record.)  
 03:17 10 THE VIDEOGRAPHER: We are going off the  
 11 record at 3:18. This concludes media number 2 and we  
 12 are off the record.  
 13 (Discussion off the record.)  
 14 MR. SPIRO: I propose that the original of  
 15 the transcript be sent to counsel for General Motors;  
 16 and that the witness, Ms. Hunter, have until a certain  
 17 amount of days, which we'll get to in a minute, to  
 18 sign and make any corrections to the deposition  
 19 transcript and notify counsel for GM in writing of the  
 03:18 20 corrections. And if it's not signed and notified by  
 21 that period of time, then the deposition or any copy  
 22 of it, can be used as if it were an original; that the  
 23 witness can sign it under penalty of perjury as  
 24 opposed to before a notary. And I think that's all.  
 25 Let's decide on how much time.

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1 (Discussion off the record.)  
 2 MS. GUZMAN: We've stipulated that we will --  
 3 the plaintiff will have until the 31st to make  
 4 corrections and sign the transcript.  
 5 MR. SPIRO: Presuming that we get the  
 6 deposition on the 18th, right.  
 7 MS. GUZMAN: On the 18th.  
 8 So stipulated.  
 9 MR. SPIRO: Yes.  
 03:26 10 (Discussion off the record.)  
 11 MS. GUZMAN: I would just like to state for  
 12 the record that named plaintiff Robin Gonzales has  
 13 been present for the entirety of Ms. Hunter's  
 14 deposition today. That's all.  
 15 (It was agreed in the  
 16 deposition of Robin Gonsales that  
 17 the original deposition of Ms.  
 18 Hunter should go to Mr. Spiro for  
 19 obtaining signature of the witness  
 20 and that the original will then be  
 21 returned to Kirkland & Ellis.)  
 22 //  
 23 //  
 24  
 25

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1  
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 7  
 8  
 9 I, LA RONDA HUNTER, do hereby declare under  
 10 penalty of perjury that I have read the foregoing  
 11 transcript; that I have made any corrections as appear  
 12 noted, in ink, initialed by me, or attached hereto;  
 13 that my testimony as contained herein, as corrected,  
 14 is true and correct.  
 15  
 16 EXECUTED this \_\_\_\_\_ day of \_\_\_\_\_  
 17 20\_\_\_\_, at \_\_\_\_\_  
 (City) (State)  
 18  
 19  
 20  
 \_\_\_\_\_  
 LA RONDA HUNTER  
 21  
 22  
 23  
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 25

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1 I, the undersigned, a Certified Shorthand  
 2 Reporter of the State of California, do hereby  
 3 certify:  
 4 That the foregoing proceedings were taken  
 5 before me at the time and place herein set forth; that  
 6 any witnesses in the foregoing proceedings, prior to  
 7 testifying, were duly sworn; that a record of the  
 8 proceedings was made by me using machine shorthand  
 9 which was thereafter transcribed under my direction;  
 10 that the foregoing transcript is a true record of the  
 11 testimony given.  
 12 Further, that if the foregoing pertains to  
 13 the original transcript of a deposition in a Federal  
 14 Case, before completion of the proceedings, review of  
 15 the transcript [ ] was [ ] was not required.  
 16 I further certify I am neither financially  
 17 interested in the action nor a relative or employee of  
 18 any attorney or party to this action.  
 19 IN WITNESS WHEREOF, I have this date  
 20 subscribed my name.  
 21  
 22 Dated: \_\_\_\_\_  
 23  
 24  
 \_\_\_\_\_  
 DENISE BARDSLEY  
 CSR No. 11241  
 25

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