

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN**

ROSALYNDA GARZA and JEFFREY
QUIZHPI, individually, and on behalf of
others similarly situated,

Plaintiffs,

vs.

FORD MOTOR COMPANY,

Defendant.

No.

**CLASS ACTION
COMPLAINT**

JURY TRIAL DEMAND

Plaintiffs Rosalynda Garza and Jeffrey Quizhpi (“Plaintiffs”) on behalf of themselves and all others similarly situated, by the undersigned counsel, allege, against Defendant, Ford Motor Company (“Ford” or “Defendant”), the following based upon counsel’s investigation of various publicly available sources:

INTRODUCTION

1. This is a class action lawsuit brought by Plaintiffs individually and on behalf of all current and former Ford vehicle owners and lessees of model years 2017-2019 that were marketed and sold with overstated fuel economy (the “Class Vehicles”), who purchased or leased their class vehicles in Texas or Washington.

2. On February 21, 2019 Ford announced that its fuel economy testing procedures, which it performs in order to receive official Environmental Protection Agency (“EPA”) fuel economy ratings, were not accurate and, as a result of those inaccuracies, the Class Vehicles’ fuel economy had been overstated.

3. These EPA fuel economy ratings, calculated from mandated tests outlined and specified in federal law, exist to help foster realistic metrics for consumers to use in comparing vehicles of various manufacturers for purchase or lease. These metrics are one of the most important factors in a new-car buyers' purchase decisions.

4. The EPA fuel economy ratings, which Defendant represented as accurate on each of its Class Vehicles' federally mandated windows stickers and in its various advertising statements regarding such vehicles, materially overstated the Class Vehicles' real mileage per gallon ("MPG") and fuel economy which Defendant represented was based on the required accurate testing pursuant to federal mandate.

5. Plaintiffs each purchased a car with stated EPA fuel economy ratings and advertised fuel efficiency ratings that were inaccurate, thereby making their Class Vehicles appear more efficient and economical in terms of gas mileage than they actually were.

6. Thus, Defendant conducted inadequate and inaccurate EPA fuel economy testing on Class Vehicle models which did not follow proper testing procedures. These shortcomings resulted in the overstatement of Class Vehicles' miles-per-gallon EPA fuel economy ratings. Had proper testing procedures been followed, compliant federal testing results would have revealed true and correct

actual miles-per-gallon, the EPA fuel economy ratings which would have been materially different and less favorable to consumers than the false fuel economy ratings Defendant represented as accurate on each Class Vehicle's window sticker and in other advertising. Ford has now admitted that its testing methods were incorrect and, as a result, produced artificially high fuel economy ratings. These misstatements are material because the EPA numbers provide a necessary tool for vehicle comparison which consumers rely on when evaluating vehicles to lease or purchase.

7. Ford represented to consumers that the Class Vehicles had achieved specific MPG fuel economy estimates. Fuel economy of an automobile relates the distance traveled by a vehicle to the amount of fuel consumed over that distance. This is typically expressed in terms of gallons of gasoline consumed to distance traveled in miles.¹ MPG is calculated by dividing the number of miles traveled by the amount of gasoline consumed to travel such miles (miles driven ÷ gallons used = mpg).

8. The EPA testing methods are required by federal law, but Ford's testing methods were flawed and insufficient as shown in greater detail below. Thus, Ford's methods produced inaccurate fuel economy ratings that did not comply with federal regulations.

¹ https://en.wikipedia.org/wiki/Fuel_economy_in_automobiles (last accessed September 13, 2019).

9. Ford knows that consumers are concerned with vehicles' fuel economy and rising fuel prices and markets its inflated fuel economy claims to entice consumers to buy or lease Ford vehicles instead of those of its competitors.

10. Ford knew or should have known facts indicating the inaccuracies in the advertised MPG of the Class Vehicles. Defendant consciously or recklessly disregarded facts that indicated that Ford's fuel economy ratings were misstated and overstated. Ford's failure to correct its false advertised MPG estimates, and concomitant failure to disclose the defects in its fuel economy testing, constitutes actionable misrepresentations, unfair, unlawful, fraudulent, and deceptive business practices in violation of the consumer protection laws of Texas and Washington, and a breach of Ford's express and implied warranties.

11. This action seeks relief for the injuries sustained as the result of the inaccurate testing methods used by Ford to ascertain the fuel economy ratings of their vehicles and the resulting material misstatements of fuel economy used in the marketing and sales of the Class Vehicles.

12. Plaintiffs and the Classes have been damaged by Ford's misrepresentations, concealment, and non-disclosure of the MPG metrics, and, as a result, were misled into leasing or purchasing Class Vehicles which were of a different quality than they were promised, and thus paying higher fuel costs they would not otherwise have paid.

JURISDICTION AND VENUE

13. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1332(a)(1) because at least one Class member is of diverse citizenship from the Defendant; there are more than one hundred (100) Class members; the matter in controversy, exclusive of interest and costs, exceeds the sum or value of \$5,000,000; and this action is a class action in which members of the Class (as defined below) are citizens of states different from Defendant. Subject-matter jurisdiction also arises under the Magnuson-Moss Warranty Act claims asserted by Plaintiffs under 15 U.S.C. § 2301, *et seq.*

14. This Court has jurisdiction over supplemental state law claims pursuant to 20 U.S.C. § 1367.

15. This Court has personal jurisdiction over Plaintiffs who are United States citizens and submit to the Court's jurisdiction. This Court has personal jurisdiction over Ford because Ford purposely availed itself of the laws of this state by conducting a substantial amount of its business in the state, including designing, testing, manufacturing, and/or distributing Ford vehicles, including the Class Vehicles, in this state and District. Ford also developed, prepared, and disseminated warranty materials for the Class Vehicles within and from its headquarters in this District.

16. Venue properly lies in this District pursuant to 28 U.S.C. § 1391(a) and (c) because a substantial part of the events and/or omissions giving rise to Plaintiffs' claims occurred in this District. Ford's headquarters and principal place of business are in this District. Ford has marketed, warranted, sold, and leased the Class Vehicles, and otherwise conducted extensive business within this District. The design, development, and testing of Class Vehicles took place in significant part within this District, including at Ford's headquarters in Dearborn, MI.

THE PARTIES

17. Plaintiffs and putative class and subclass members have purchased or leased a Class Vehicle with inflated fuel economy claims.

18. Plaintiff Rosalynda Garza ("Garza") is a citizen of the State of Texas residing in Helotes, Texas. Plaintiff Garza purchased a 2018 Ford F-150 in or about June 2018 at Red McCombs dealership in San Antonio, Texas. The 2018 Ford F-150 window sticker specifically stated that the Class Vehicle's fuel economy MPG was: 19 city, 24 highway and 21 combined city/highway. Plaintiff Garza has never received fuel economy even close to these advertised numbers in her Ford Class Vehicle. Plaintiff Garza has experienced real world fuel economy below the ratings claimed by the Defendant. Had the Plaintiff Garza known the

truth about her vehicle's fuel economy, she would not have made the choice to purchase the vehicle.

19. Plaintiff Jeffrey Quizhpi ("Quizhpi") is currently a citizen of the State of Texas residing in El Paso, Texas. Plaintiff Quizhpi purchased a 2018 Ford F-150 on January 29, 2019 at the Titus-Will Ford dealership in Tacoma, Washington while he was residing in Washington. The 2018 Ford F-150 window sticker specifically stated that the Class Vehicle's fuel economy MPG was: 19 city; 24 highway and 21 combined city/hwy. Plaintiff Quizhpi has never received fuel economy even close to these advertised numbers in her Ford Class Vehicle. Plaintiff Quizhpi has experienced real world fuel economy below the ratings claimed by the Defendant. Had Plaintiff Quizhpi known the truth about his vehicle's fuel economy, he would not have made the choice to purchase the vehicle.

20. Defendant Ford is a Delaware corporation, with its principal place of business and national headquarters located at One American Road in Dearborn, Michigan. The Ford Class Vehicles are advertised, distributed and sold at multiple places of business throughout the United States through a network of Ford dealers, among other places. Defendant engages in continuous and substantial business in all states in the United States, including Texas and Washington.

21. Whenever reference is made to any act by Defendant or its subsidiaries, affiliates, and other related entities, such allegation shall be deemed to mean that the principals, officers, directors, employees, agents, and/or representatives of Defendant committed, knew of, performed, authorized, ratified and/or directed that act or transaction for Defendant while engaged in the scope of their duties.

FACTUAL ALLEGATIONS

22. Since the mid-1970s, window stickers containing vehicle MPG estimates have been displayed on vehicles pursuant to the Energy Policy and Conservation Act. The EPA is responsible for providing the fuel economy data that appears on the window sticker. The EPA/DOT Fuel Economy and Environment window sticker contains MPG estimates that are based on standardized laboratory test procedures to ensure that the MPG estimates are “reliable, repeatable, and fair across different car models.”² This allows the consumer to accurately compare the fuel efficiency among various vehicles. Periodically, the EPA updates its methodology to determine fuel economy in an effort to reflect the modernization of vehicles and improved vehicle testing.³

² <https://nepis.epa.gov/Exe/ZyPDF.cgi/P100IENB.PDF?Dockey=P100IENB.PDF> (last accessed September 13, 2019).

³ <https://www.epa.gov/fueleconomy/history-fuel-economy-labeling> (last accessed September 13, 2019).

23. In 2017 the EPA updated some of the calculations which manufacturers can use to determine EPA fuel economy to better reflect newer more fuel-efficient vehicles.⁴

24. Manufacturers are responsible for testing their own vehicles with the EPA's standardized laboratory test procedures and are then required to report the results to the EPA.⁵ Manufacturers are not required to test every vehicle but only "one representative vehicle—typically a preproduction prototype—for each combination of loaded vehicle weight class, transmission class, and basic engine."⁶

25. In fact, the EPA only reviews and confirms the results of about 15-20% of the vehicles with their own testing,⁷ leaving the majority of vehicle fuel economy testing and reporting to the honor system of the manufacturers.

26. Manufacturers estimate MPG with controlled laboratory tests where the vehicles' drive wheels are placed on a dynamometer ("Dyno") that simulates the driving environment.⁸ The car is run through standardized driving routines on the Dyno. The settings of the Dyno take place in two stages where first, actual on-

⁴ <https://www.epa.gov/fueleconomy/basic-information-fuel-economy-labeling> (last accessed September 13, 2019).

⁵ https://www.fueleconomy.gov/feg/how_tested.shtml (last accessed September 13, 2019).

⁶ https://www.fueleconomy.gov/feg/which_tested.shtml (last accessed September 13, 2019).

⁷ https://www.fueleconomy.gov/feg/how_tested.shtml (last accessed September 13, 2019).

⁸ *Id.*

road operation must be characterized and then second, a measurement called “road load” is used to simulate friction, aerodynamic drag, and tire-related losses.⁹

27. An EPA guidance letter to car manufacturers, dated February 23, 2015, the purpose of which was to clarify the procedures used in establishing road-load force and dynamometer settings, stated that:

The method a manufacturer elects to use to characterize the road-load force is optional; however, the manufacturer is responsible for the accuracy of the road-load force specification and dynamometer settings. It is also the manufacturer’s responsibility to ensure that the vehicles it produces conform to the road-load specification reported in the application for certification and used for certification and fuel economy testing.¹⁰

28. Ford has consistently promoted the fuel economy of its vehicles. In fact, Ford boasted of the 2019 Ford Ranger’s fuel efficiency with a stated EPA-estimated fuel economy rating of 21 mpg in the city, 26 on the highway and 23 combined for its two-wheel drive truck.¹¹ Ford’s four-wheel drive Rangers rated 20 mpg city, 24 highway and 22 mpg combined.¹² “This is best-in-class EPA-estimated city fuel economy rating of any gasoline-powered four-wheel-drive midsize pickup,” Ford stated.¹³ Ford also promoted its vehicles’ fuel economy on

⁹ <https://www.consumerreports.org/fuel-economy-efficiency/ford-emissions-under-criminal-investigation/> (last accessed September 13, 2019).

¹⁰ https://iaspub.epa.gov/otaqpub/display_file.jsp?docid=34102&flag=1 (last accessed September 13, 2019).

¹¹ <https://www.freep.com/story/money/cars/2018/12/11/ford-ranger-fuel-economy-midsize-trucks/22671> (last accessed September 13, 2019).

¹² *Id.*

¹³ *Id.*

its website. In fact, on Ford.com, Ford touts the fuel economy of the 2019 Ranger stating it's the "BEST-IN-CLASS EPA-ESTIMATED GAS MPG."¹⁴ On Ford.com today, Ford advertises that the 2019 Ford Ranger is "THE MOST FUEL EFFICIENT GAS-POWERED MIDSIZE PICKUP IN AMERICA."¹⁵

29. These fuel economy ratings also appeared on the window sticker of the vehicles where consumers use them to compare material vehicle qualities to help make informed choices about the cars they purchase or lease.

30. Ford is aware of the importance of fuel economy to consumers and that consumers rely on car manufacturers' advertising campaigns and gas mileage claims when making decisions in their vehicle purchases.

31. On February 21, 2019, the same day of the filing of Ford's Form 10-K for its fiscal year ending December 31, 2018, Ford issued a press release stating that "[i]n September, a handful of employees raised a concern through our Speak Up employee reporting channel regarding the analytical modeling that is part of our U.S. fuel economy and emissions compliance process." The release further stated that Ford had hired an outside firm to investigate the vehicle road load specifications used in Ford's testing of emission and fuel economy and that they

¹⁴https://www.ford.com/trucks/ranger/features/?searchid=1686695161|68389309809|402087311489|&ef_id=CjwKCAjw3azoBRAXEiwA-_64Oj8QnJck1LlnS37RY-sps-eRj9IRnphumx1PWuRyfFojqJUeVN9oBoCv88QAvD_BwE:G:s&s_kwid=AL!2519!3!336803889107!e!!g!!2019%20ford%20ranger%20fuel%20economy (last accessed June 25, 2019).

¹⁵ <https://www.ford.com/trucks/ranger/> (last accessed September 13, 2019).

would be “evaluating potential changes to our road-load modeling process, including engineering, technical and governance components.”

32. On the same day, in response to Ford’s announcement, the EPA said that information from Ford’s investigation is “too incomplete for EPA to reach any conclusions. [The EPA] take[s] the potential issues seriously and [is] following up with the company to fully understand the circumstances behind this disclosure.”¹⁶

33. Ford is no stranger to fuel economy error, having previously faced problems relating to errors in fuel economy claims. For instance, in 2013, Ford overstated the fuel economy for “its C-Max hybrid model by seven miles per gallon and in 2014 lowered fuel economy ratings for six other models and offered compensation to customers.”¹⁷

34. Ford has engaged in willful conduct intending that consumers rely on its advertised MPG estimates while knowing they are not the actual MPG estimates.

CLASS ACTION ALLEGATIONS

35. Plaintiffs bring this action pursuant to Federal Rules of Civil Procedure 23(a)(1)-(4) and 23(b)(1), (b)(2) or (b)(3) individually and as a class action on behalf of the following proposed National Class and State Subclasses:

¹⁶ <https://ca.reuters.com/article/businessNews/idCAKCN1QA2U0-OCABS> (last accessed September 13, 2019).

¹⁷ <https://www.reuters.com/article/us-autos-ford-emissions/u-s-opens-criminal-probe-into-ford-emissions-certification-idUSKCN1S21BD> (last accessed September 13, 2019).

National Class: All persons in the United States who purchased or leased a Class Vehicle (the “Nationwide Class”).

Texas Subclass: All persons who purchased or leased a Class Vehicle in the State of Texas (the “Texas Subclass”).

Washington Subclass: All persons who purchased or leased a Class Vehicle in the State of Washington (the “Washington Subclass”).

36. Excluded from the Classes are Defendant, its parents, subsidiaries and affiliates, directors and officers, and members of their immediate families, and the Judge(s) assigned to this case. Plaintiffs reserve the right to modify, change, or expand the Nationwide Class and the Subclass definitions if discovery and/or further investigation reveals that they should be expanded or otherwise modified.

37. Plaintiffs reserve the right to establish subclasses where appropriate.

38. **Numerosity:** The Class and Subclasses are so numerous that joinder of all their members is impracticable. Although the precise number of such persons is unknown, and the facts are presently within the sole possession of Defendant and obtainable by Plaintiffs only through the discovery process, Plaintiffs believe hundreds of thousands of Class Vehicles have been sold and leased throughout the United States and well as by members of the Subclasses.

39. **Commonality and Predominance:** There are questions of law or fact common to the Classes that predominate over any questions affecting individual members. Those questions include but are not limited to the following:

- a. whether Ford engaged in conduct alleged herein;
- b. whether Ford designed, advertised, marketed, distributed, leased, sold, or otherwise placed Class Vehicles into the stream of commerce in the United States;
- c. whether Ford designed, manufactured, marketed, distributed, leased, sold or otherwise placed Class Vehicles into the stream of commerce in the United States when it knew, or should have known, that the fuel-economy ratings of the Class Vehicles were false;
- d. whether Ford knowingly failed to disclose that the fuel-economy ratings of the Class Vehicles were false;
- e. whether the Defendant violated Texas' Deceptive Trade Practices and Consumer Protection Act;
- f. whether the Defendant violated Washington's Consumer Protection Act;
- g. whether, Plaintiffs and members of the Classes have suffered ascertainable loss of moneys and/or property and/or value as a result of Defendant's omissions and/or misrepresentations of material facts related to the Class Vehicles' fuel economy;
- h. whether Plaintiffs and members of the Classes are entitled to monetary damages and/or other remedies, and if so the nature of any such relief;
- i. whether Ford was unjustly enriched at the expense of the Classes and Subclasses; and
- j. whether Plaintiffs and the other members of the Classes and Subclasses are entitled to equitable relief or other injunctive relief and, if so, in what form.

40. **Typicality**: Plaintiffs' claims are typical of the claims of the Classes since Plaintiffs each leased or purchased a Class Vehicle with a false fuel economy rating, as did each member of the Classes. Furthermore, Plaintiffs and all members

of the Classes sustained monetary and economic injuries including, but not limited to, ascertainable loss arising out of Defendant's wrongful conduct. Plaintiffs are advancing the same claims and legal theories on behalf of themselves and all absent Class members.

41. **Adequacy**: Plaintiffs will fairly and adequately protect the interests of the Classes and have retained counsel experienced in pursuing complex class action litigation and they intend to prosecute this action vigorously. The interests of the Classes will be fairly and adequately protected by Plaintiffs and their counsel.

42. **Superiority**: Class action treatment is superior to all other available means of fair and efficient adjudication of the claims of Plaintiffs and members of the Classes. The injury suffered by each individual Class member is relatively small in comparison to the burden and expense of individual prosecution of the complex and extensive litigation necessitated by Defendant's conduct. It would be virtually impossible for members of the Classes to effectively redress the wrongs committed against them on individual bases. Even if the members of the Classes could afford such individual litigation, the court system could not. Individualized litigation presents a potential for inconsistent or contradictory judgments. Individualized litigation increases the delay and expense to all parties, and to the court system, presented by the complex legal and factual issues of the case. By

contrast, the class action device presents far fewer management difficulties, and provides the benefits of single adjudication, economy of scale, and comprehensive supervision by a single court. Upon information and belief, members of the Classes can be readily identified and notified based on, *inter alia*, Defendant's vehicle identification numbers, warranty claims and registration records.

43. Defendant has acted, and refused to act, on grounds generally applicable to the Classes, thereby making final equitable relief appropriate with respect to the Classes as a whole.

44. Without a class action, Defendant will likely retain the benefit of its wrongdoing and will continue a course of action which will result in further damages to Plaintiffs and the members of the Classes.

TOLLING OF STATUTES OF LIMITATION

45. Any applicable statutes of limitations have been tolled by Ford's knowing and active concealment, denial, and misleading actions, as alleged herein. Plaintiffs and members of the Classes defined above were kept ignorant of critical information required for the prosecution of their claims, without any fault or lack of diligence on their part. Plaintiffs and members of the Classes could not have reasonably discovered that the fuel economy ratings were not accurate until Ford had disclosed this information which was publicly released shortly before this class action litigation was commenced.

46. Ford is under a continuous duty to disclose to Plaintiffs and members of the Classes the true character, quality and nature of the Class Vehicles, and to disclose the truth regarding the fuel economy ratings. Ford knowingly, affirmatively and actively concealed the true fuel economy ratings of the Class Vehicles. Plaintiffs and members of the Classes reasonably relied upon Ford's knowing, affirmative and active concealment. Based on the foregoing, Ford should be estopped from relying on any statutes of limitation as a defense in this action.

47. Plaintiffs and members of the Classes could not have known that the Class Vehicles were marketed, sold and leased with false fuel economy ratings, as a result of Ford's fraudulent concealment of the true MPG and EPA fuel economy ratings of the Class Vehicles. Plaintiffs and members of the Classes did not discover, and could not have discovered, through the exercise of reasonable diligence, the true nature of the fuel economy of the Class Vehicles.

VIOLATIONS ALLEGED

COUNT I

VIOLATIONS OF THE MAGNUSON-MOSS WARRANTY ACT **(On Behalf of the Nationwide Class Pursuant to 15 U.S.C. §2310(d)(1)(A))**

48. Plaintiffs hereby incorporate by reference the allegations contained in all preceding paragraphs of this Complaint as though set forth fully herein.

49. This Court has jurisdiction to decide claims brought under 15 U.S.C. § 2301 by virtue of 28 U.S.C. § 1332(a) and (d).

50. Plaintiffs bring this Count individually and on behalf of all Class Members.

51. Defendant is a “supplier” and “warrantor” within the meaning of the Magnuson Moss Warranty Act, 15 U.S.C. § (4)-(5).

52. The Class Vehicles are “consumer products” within the meaning of the Magnuson-Moss Warranty Act, 15 U.S.C. § 2301(1).

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

54. 15 U.S.C. § 2310(d) (1) provides a cause of action for any consumer who is damaged by the failure of a warrantor to comply with a written or implied warranty.

55. As described above, Defendant expressly warranted in advertisements that the Class Vehicles would attain a certain fuel economy efficiency. These written warranties fall within the meaning of the Magnuson-Moss Warranty Act, 15 U.S.C. § 2301(6).

56. Under 15 U.S.C. § 2301(7), Defendant created implied warranties for the Class Vehicles.

57. With respect to Class members’ purchases or leases of the Class Vehicles, the terms of Ford’s express and implied warranties became part of the basis of the bargains between the parties.

58. Ford breached these warranties as described in more detail above. Without limitation, the Class Vehicles experience less MPG than represented by Ford.

59. Plaintiffs and members of the Classes are in privity with Defendant in that Defendant is the warrantor of its representations to Plaintiffs and the Class.

60. It is unnecessary and futile to afford Ford a reasonable opportunity to cure their breach of written warranties. Ford knew or should have known of the misrepresentations concerning the Class Vehicles' fuel economy ratings at the time of sale or lease of each Class Vehicle, and failed to rectify those misrepresentations. Consequently, the remedies available under any informal settlement procedure would be inadequate, and any requirement that Plaintiffs or Class members resort to an informal dispute resolution procedure and/or afford Ford a reasonable opportunity to cure its breach of warranties is excused and thus deemed satisfied.

61. As a direct and proximate result of Ford's breaches of its Limited Warranty and the implied warranty of merchantability, Plaintiffs and the members of the proposed Classes have sustained damages in an amount to be determined at trial.

62. All jurisdictional prerequisites have been satisfied.

63. Plaintiffs, individually and on behalf of the Nationwide Class, seek all damages permitted by law, including diminution in the value of their vehicles, in an amount to be proven at trial.

COUNT II
TEXAS DECEPTIVE TRADE PRACTICES AND CONSUMER
PROTECTION ACT,
TEX. BUS. & COM. CODE § 17.41, et seq.
(On Behalf of the Texas Subclass)

64. Plaintiff Garza (“Plaintiff” for purposes of this Count only) hereby incorporates by reference the allegations contained in all preceding paragraphs of this Complaint as though set forth fully herein. Plaintiff Garza asserts this cause of action on behalf of herself and the Texas Subclass.

65. Defendant’s business acts and practices alleged herein constitute unfair, unconscionable, and deceptive methods, acts, and practices under the Texas Deceptive Trade Practices and Consumer Protection Act, Tex. Bus. & Com. Code § 17.41 *et seq.* (“TDTPA”).

66. At all relevant times, Plaintiff and the Texas Subclass were “consumers” within the meaning of the TDTPA.

67. Defendant’s conduct, as set forth herein, occurred in the conduct of “trade or commerce” within the meaning of the TDTPA.

68. The practices of Defendant, described above, violate the TDTPA for, *inter alia*, one or more of the following reasons:

- a) Defendant provided, disseminated, marketed, and otherwise distributed uniform false and misleading advertisements to consumers regarding the fuel economy of the Class Vehicles;
- b) Defendant engaged in unconscionable commercial practices in failing to reveal material facts and information about the inaccuracies of the fuel economy ratings for Class Vehicles, which did, or tended to, mislead Plaintiff and the Texas Subclass about facts that could not otherwise reasonably be known by the consumer;
- c) Defendant failed to reveal facts that were material to the transactions in light of representations of fact made in a positive manner;
- d) Defendant failed to reveal material facts to Plaintiff and the Texas Subclass with the intent that Plaintiff and the Texas Subclass rely upon the omission; and
- e) Defendant made material representations and statements of fact to Plaintiff and the Texas Subclass that resulted in Plaintiff and the Texas Subclass reasonably believing that the represented fuel

economy ratings of the Class Vehicles were of a standard other than what they actually were.

69. Defendant intended that Plaintiff and the Texas Subclass rely on their misrepresentations and omissions.

70. Defendant's actions impact the public interest because Plaintiff and the Texas Subclass were, and continue to be, injured in the same way as thousands of others as a result of and pursuant to Defendant's generalized course of deception as described throughout the Complaint.

71. As a direct and proximate result of Defendant's deceptive trade practices, Plaintiff and the Texas Subclass suffered, and continue to suffer, an ascertainable loss of money or property, real or personal, as described above

72. The above unfair and deceptive practices and acts by Defendant were immoral, unethical, oppressive, and unscrupulous. These acts caused substantial injury to consumers that these consumers could not have reasonably avoided; this substantial injury outweighed any benefits to consumers or to competition.

73. Defendant knew or should have known that it had not been accurately testing the fuel economy of the Class Vehicles. Defendant's actions in engaging in the above-named unfair practices and deceptive acts were negligent,

knowing, and willful, and/or wanton and reckless with respect to the rights of Plaintiff and the Texas Subclass.

74. Defendant knew or should have known that it had not been accurately testing the fuel economy of the Class Vehicles. Defendant's actions in engaging in the unfair practices and deceptive acts described above were negligent, knowing, and willful, and/or wanton and reckless with respect to the rights of Plaintiff and the Texas Subclass.

75. Plaintiff Garza, on September 19, 2019, sent a pre-suit demand letter to Ford by Certified Mail, Return Receipt Requested, providing it with written notice of its alleged violations of the TDTPA and requested that Defendant correct or agree to correct the violations enumerated therein and reimburse Plaintiff and the Texas subclass for any damages suffered. Plaintiff intends to amend the complaint as of right (or otherwise seek leave to amend the complaint) to include compensatory, restitution, disgorgement, monetary damages and punitive damages, under the TDTPA pursuant to the pre-suit letter, if after sixty (60) days the relief requested herein is not granted by Defendant.

76. If Defendant fails to provide the requested relief within sixty (60) days of the date thereof, Plaintiff may amend the Complaint to demonstrate that further tolling of this claim shall end and the TDTPA claim go forward.

COUNT III
VIOLATION OF THE WASHINGTON CONSUMER PROTECTION ACT
(On Behalf of the Washington Subclass Class)

77. Plaintiff Quizhpi (“Plaintiff” for purposes of this Count only) hereby incorporates by reference the allegations contained in all preceding paragraphs of this Complaint as though set forth fully herein and asserts this cause of action on his behalf and on behalf of the Washington Subclass.

78. Washington’s Consumer Protection Act, RCW §§ 19.86.010, *et seq.* (“CPA”), protects both consumers and competitors by promoting fair competition in commercial markets for goods and services.

79. To achieve that goal, the CPA prohibits any person from using “unfair methods of competition or unfair or deceptive acts or practices in the conduct of any trade or commerce. . . .” RCW § 19.86.020. An unfair or deceptive business practice is one that is likely to deceive a substantial portion of the public or otherwise affect public interest.

80. Plaintiff Quizhpi and Washington Subclass members are “consumers” within the meaning of the CPA.

81. The practices of Defendant Ford, described above, violate the CPA for, *inter alia*, one or more of the following reasons:

- a) Defendant provided, disseminated, marketed, and otherwise distributed uniform false and misleading advertisements to consumers regarding the fuel economy of the Class Vehicles;
- b) Defendant engaged in unconscionable commercial practices in failing to reveal material facts and information about the inaccuracies of the fuel economy ratings, which did, or tended to, mislead Plaintiff and the Washington Subclass about facts that could not reasonably be known by the consumer; Defendant failed to reveal facts that were material to the transactions in light of representations of fact made in a positive manner;
- c) Defendant failed to reveal material facts to Plaintiff and the Washington Subclass with the intent that Plaintiff and the Washington Subclass rely upon the omission; and
- d) Defendant made material representations and statements of fact to Plaintiff and the Washington Subclass that resulted in Plaintiff and the Washington Subclass reasonably believing that the represented fuel economy ratings of the Class Vehicles were of a standard other than what they actually were.

82. Defendant intended that Plaintiff and the Washington Subclass rely on their misrepresentations and omissions.

83. Defendant's actions impacted the public interest because Plaintiff and the Washington Subclass were, and continue to be, injured in the same way as thousands of others as a result of and pursuant to Defendant's generalized course of deception as described throughout the Complaint.

84. As a direct and proximate result of Defendant's deceptive trade practices, Plaintiff and the Washington Subclass suffered, and continue to suffer, an ascertainable loss of money or property, real or personal, as described above

85. The above unfair and deceptive practices and acts by Defendant were immoral, unethical, oppressive, and unscrupulous. These acts caused substantial injury to consumers that these consumers could not reasonably avoid; this substantial injury outweighed any benefits to consumers or to competition.

86. Defendant knew or should have known that it had not been accurately testing the fuel economy of Class Vehicles. Defendant's actions in engaging in the above-named unfair practices and deceptive acts were negligent, knowing, willful, and/or wanton and reckless with respect to the rights of Plaintiff and the Washington Subclass.

87. Defendant knew or should have known that it had not been accurately testing the fuel economy of the Class Vehicles. Defendant's actions in engaging in the unfair practices and deceptive acts described above were negligent,

knowing, willful, and/or wanton and reckless with respect to the rights of Plaintiff and the Washington Subclass.

COUNT IV
BREACH OF EXPRESS WARRANTY
(On Behalf of the Nationwide Class or, Alternatively, each of the Subclasses)

88. Plaintiffs hereby incorporate by reference the allegations contained in all preceding paragraphs of this Complaint as though set forth fully herein.

89. Defendant at all times was a merchant with respect to Class Vehicles.

90. In selling Class Vehicles, Defendant expressly warranted in advertisements, including in the stickers affixed to the windows of their vehicles, that their vehicles experienced a favorable fuel economy of specific MPGs, depending on the vehicle.

91. These affirmations and promises were part of the basis of the bargain between the parties.

92. Defendant breached these express warranties arising from their advertisements, including window stickers, because the fuel economy ratings for Class Vehicles are inaccurate.

93. As a direct and proximate result of Defendant's breach of express warranties, Plaintiffs and members of the Classes have been damaged in an amount to be determined at trial.

COUNT V
COMMON LAW FRAUD

(On Behalf of the Nationwide Class or, Alternatively, each of the Subclasses)

94. Plaintiffs hereby incorporate by reference the allegations contained in all preceding paragraphs of this Complaint as though set forth fully herein. Defendant made material misrepresentations and omissions concerning a presently existing or past fact. For example, Defendant did not fully and truthfully disclose to its customers accurate fuel economy ratings of the Class Vehicles. As a result, Plaintiffs and the Class members were fraudulently induced to lease and/or purchase Class Vehicles based on false fuel economy ratings.

95. These omissions and statements were made by Defendant with knowledge of their falsity, and with the intent that Plaintiffs and Class members rely on them.

96. Defendant affirmatively misrepresented and concealed material facts concerning the fuel economy of the Class Vehicles.

97. Defendant had a duty to disclose the true fuel economy based on their superior knowledge and affirmative misrepresentations to the contrary.

98. Defendant affirmatively misrepresented and/or actively concealed material facts, in whole or in part, intending to induce Plaintiffs and members of the Classes to purchase their vehicles and/or purchase their vehicles at a higher price than they otherwise would have.

99. Plaintiffs and the members of the Classes were unaware of these omitted material facts and would not have acted as they did if they had known of the concealed and/or suppressed facts.

100. Ford made the omissions and concealment of material facts discussed above with knowledge of the effect of concealing these material facts. Ford knew that by misleading consumers, Ford would sell or lease more Class Vehicles.

101. Plaintiffs and Class members justifiably relied upon Ford's knowing, affirmative and active concealment. By concealing material information about the Class Vehicles' fuel economy ratings, Ford intended to induce Plaintiffs and putative class members into purchasing or leasing the Class Vehicles.

102. As a direct and proximate result of Ford's omissions and active concealment of material facts, Plaintiffs and Class members have been damaged in an amount to be proven at trial.

COUNT VI
UNJUST ENRICHMENT

(On Behalf of the Nationwide Class or, Alternatively, each of the Subclasses)

103. Plaintiffs hereby incorporate by reference the allegations contained in all preceding paragraphs of this Complaint as though set forth fully herein. Defendant distributed the Class Vehicles into the stream of commerce with the knowledge that these vehicles would be purchased or leased by consumers based on a reasonable expectation that its representations relating to fuel economy ratings were accurate.

104. Defendant distributed the Class Vehicles with the knowledge that the fuel economy ratings were false which made the Class Vehicles worth less than the price being paid for them.

105. Because of its wrongful acts and omissions, Defendant charged a higher price for Class Vehicles than the vehicles' true value and Defendant obtained monies which rightfully belongs to Plaintiffs and putative class members.

106. Defendant received an economic benefit at the expense of the consumers of the Class Vehicles.

107. In the circumstances, principles of equity and good conscience make it unjust for Defendant to retain the benefit conferred on it by consumers of the Class Vehicles and Defendant should be required to pay for this benefit.

COUNT VII
BREACH OF CONTRACT

(On Behalf of the Nationwide Class or, Alternatively, each of the Subclasses)

108. Plaintiffs hereby incorporate by reference the allegations contained in all preceding paragraphs of this Complaint as though set forth fully herein.

109. Defendant has expressly and unambiguously sold the Class Vehicles claiming false and inflated fuel economy ratings as more fully set forth herein. Plaintiffs and the Class Members purchased the Class Vehicles which constitute valid contracts with the Defendant.

110. The fuel economy ratings of the Class Vehicles as claimed in Defendant's marketing and advertising, constitute terms or representations which form the basis of the contract for the Plaintiffs and the other Class Members with the Defendant.

111. The Defendant failed to perform as required by the contracts and breached the contracts by delivering the Class Vehicles with markedly less fuel economy than advertised.

112. As a result of the foregoing, Plaintiffs and the Class Members are entitled to compensatory damages, plus interest, costs and such additional relief as the Court may deem appropriate or to which Plaintiffs and the Class may be entitled.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs, on behalf of themselves and the Class and Subclass members, respectfully requests that this Court grant the following relief:

A. Allow this action to proceed as a class action under Rule 23 for all claims alleged, designate Plaintiffs as the representatives of the class and the undersigned counsel as counsel for the class;

B. Enter judgment against Defendant in favor of Plaintiffs and each member of the Classes, in the amount of actual and compensatory damages, and pre-and post-judgment interest as allowed by law and enjoin Defendant from future violations;

C. Award all actual, general, special, incidental, statutory, treble, punitive, and consequential damages to which Plaintiffs and members of the Classes are entitled;

D. Grant appropriate injunctive and/or declaratory relief, including, without limitation, an order that requires Defendant to notify all Class Members about the inaccurate fuel economy ratings of the Class Vehicles and provide correct fuel economy ratings;

E. Award Plaintiffs and the Class Members attorney's fees and costs incurred in this litigation; and

F. Grant Plaintiffs such further relief that this Court deems just and proper.

DEMAND FOR JURY TRIAL

Plaintiffs, by their counsel, hereby demand a trial by jury on all claims and issues so triable.

Dated: October 3, 2019

By: /s/ Paul F. Novak

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This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Texas Consumers Hit Ford with Class Action Lawsuit Over Allegedly Overstated Fuel Economy Ratings](#)
