

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS
EASTERN DIVISION**

**DANIEL MCCABE, individually and on behalf
of all others similarly situated,**

Plaintiffs,

v.

FORD MOTOR COMPANY,

Defendant.

Case No.

COMPLAINT

Demand for Jury Trial

CLASS ACTION COMPLAINT

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INTRODUCTION

1. Plaintiff Daniel McCabe (“Plaintiff”), by and through counsel, bring this Class Action Complaint against Defendant Ford Motor Company (“Defendant” or “Ford”), individually and on behalf of all others similarly situated, and allege, upon personal knowledge as to their own actions and their counsel’s investigations, and upon information and belief as to all other matters, as follows:

I. NATURE OF THE CASE

2. Plaintiff brings this case individually and on behalf of all similarly situated persons (“Class Members”) who purchased or leased a Ford vehicle equipped with a 10R80 10-speed transmission (“10R80” or “Transmission”) that were designed, manufactured, distributed, marketed, sold, and leased by Defendant or Defendant’s parent, subsidiary, or affiliates thereof.

3. Defendant designed, manufactured, distributed, marketed, sold, and leased Ford Expeditions, Mustangs, Rangers, F-150s, and Navigators equipped with the 10R80 from at least 2017 to present (“Class Vehicles” or “Vehicles”).

4. Defendant knew or should have known that the Vehicles contain one or more design and/or manufacturing defects, including but not limited to defects contained in the Vehicles’ 10R80, a 10-speed automatic transmission that can shift harshly and erratically, causing the vehicle to jerk, lunge, clunk, and hesitate between gears. Some consumers have even reported experiencing a sudden loss of power while driving their vehicle.

5. An automatic transmission is essentially an automatic gear shifter. Instead of manually shifting the gears with a clutch, the automatic transmission shifts gears on its own. The transmission acts as a powertrain to convert the vehicle engine’s force into a controlled source of

power. Accordingly, drivers need a properly functioning automatic transmission in order to safely and reliably accelerate and decelerate their Vehicles.

6. A common design and/or manufacturing defect in Ford's 10R80 transmissions is a potentially life-threatening safety issue, and Ford has refused to recall or replace the defective Transmissions.

7. Ford's warranty states that "dealers will, without charge, repair, replace, or adjust all parts on your vehicle that malfunction or fail during normal use during the applicable coverage period due to a manufacturing defect in factory-supplied materials or factory workmanship."¹

8. Upon information and belief, and based on interactions between Plaintiff and Ford authorized dealers, Ford refuses to replace or repair the Transmissions and merely states that the abrupt and harsh shifting is normal.

9. Prior to purchasing or leasing the Class Vehicles, Plaintiff and other Class Members did not know that the Class Vehicles would abruptly and harshly shift due to the Transmission Defect and cause their vehicle to unexpectedly surge, hesitate, and jerk.

10. Upon information and belief, Plaintiff alleges that Defendant knew or should have known that the Class Vehicles are defective and suffer from the Transmission Defect and are not fit for their intended purpose of providing consumers with safe and reliable transportation. Nevertheless, Defendant failed to disclose this defect to Plaintiff and Class Members at the time of purchase or lease and thereafter.

11. Had Plaintiff and Class Members known about the Transmission Defect at the time of sale or lease, as well as the associated costs related to the Transmission Defect, Plaintiff and

¹Source: Ford 2021 Model Year Ford Warranty Guide, at 9.
https://www.ford.com/cmslibs/content/dam/brand_ford/en_us/brand/resources/general/pdf/guides/2021-Ford-Car-LT-Truck-Hybrid-Warranty-version-2_frdwa_EN-US_07_2020.pdf (last viewed February 27, 2023).

the Class Members would not have purchased the Class Vehicles or would have paid less for them.

12. As a result of their reliance on Defendant's omissions and/or misrepresentations, Plaintiff and other owners and/or lessees of the Class Vehicles have suffered ascertainable loss of money, property, and/or loss in value of their Class Vehicles.

13. The first priority of an auto manufacturer should be to ensure that its vehicles are safe and operate as intended to prevent or minimize the threat of death or serious bodily harm. In addition, an auto manufacturer must take all reasonable steps to ensure that, once a vehicle is running, it operates safely, and its mechanical systems (such as the transmission) work properly. Moreover, an auto manufacturer that is aware of dangerous design defects that cause its vehicles to jerk, hesitate, surge, or slip gears must promptly disclose and remedy such defects.

14. This case arises from Defendant's breach of its obligations and duties, including Defendant's omissions and failure to disclose that, as a result of the Transmission Defect, Class Vehicles may shift harshly, slip gears, hesitate, or surge, creating an unreasonable risk of serious bodily harm and death.

15. To the extent warranted by the developing facts, Plaintiff will further supplement the list of Class Vehicles to include additional Ford vehicles that have the Transmission Defect.

16. The Transmission Defect makes the Class Vehicles unreasonably dangerous. Because of the Defect, the Class Vehicles are likely to suffer serious damages and potentially catch fire if accidents occur, and there is an unreasonable and extreme risk of serious bodily harm or death to the vehicle's occupants and others in the vicinity.

II. PARTIES

17. Plaintiff Daniel McCabe is a Massachusetts citizen who lives in Braintree, located in Norfolk County, Massachusetts. Mr. McCabe leased a 2019 Ford Ranger with the 10R80 10-speed transmission. This vehicle was designed, manufactured, sold, distributed, advertised, marketed, and/or warranted by Ford Motor Company.

18. Defendant Ford Motor Company is a publicly traded corporation organized under the laws of the State of Delaware with The Corporation Trust Company, Corporation Trust Center, 1209 Orange Street, Wilmington, Delaware 19801 as its registered agent. Ford's principal place of business is at One American Road, Dearborn, Michigan 48126.

19. Ford, through its various entities, designs, manufactures, markets, distributes, and sells its vehicles in this District and many other locations in the United States and worldwide. Ford and/or its agents designed, manufactured, and installed the Ford transmissions in the Class Vehicles. Ford also developed and disseminated the owner's manuals, warranty booklets, advertisements, and other promotional materials pertaining to Class Vehicles.

III. JURISDICTION AND VENUE

20. The Court has subject matter jurisdiction over this action under the Class Action Fairness Act ("CAFA"), 28 U.S.C. § 1332(d). There are at least 100 members in the proposed class, the aggregated claims of the individual Class Members exceed the sum or value of \$5,000,000.00 exclusive of interest and costs, and Plaintiff and Class Members are citizens of states different from Defendant.

21. The Court has personal jurisdiction over Ford because, through its business of distributing, selling, and leasing the Class Vehicles in this District, Ford has established sufficient contacts in this District such that personal jurisdiction is appropriate.

22. Venue is proper in this District under 28 U.S.C. § 1391(a) because a substantial part of the events or omissions giving rise to Plaintiff McCabe's claims occurred in this District. Specifically, Plaintiff McCabe's Vehicle was leased in this District.

FACTUAL ALLEGATIONS

IV. THE NATURE OF THE TRANSMISSION DEFECT

23. Ford has designed, manufactured, advertised, sold, and leased its popular Ford Ranger pickup trucks since 1983.²

24. On its website, Ford touts the Ranger's smooth driving capabilities:

BUILT FORD TOUGH.®

Built Ford Tough isn't just a slogan. It's the way we've made Ranger® pickups for decades. Tested under conditions so extreme, your gnarliest trail day will feel like a Sunday drive. Go ahead. Set a date for adventure. Ranger is ready.

25. In terms of power, Ford states the Ranger's 2.3L Ecoboost engine "beats other has powered pickups in its class," and is also "the most fuel-efficient gas-powered midsize pickup in America,"³:

THE ALL-NEW 2019 FORD RANGER HAS BEST-IN-CLASS GAS TORQUE* AND THE MOST FUEL EFFICIENT GAS-POWERED MIDSIZE PICKUP IN AMERICA.**

Raw torque rules when you're powering up, over and through rugged all-terrain conditions. And the new Ford Ranger with potent 2.3L EcoBoost® beats other gas-powered pickups in its class with a torque rating of 310 lb.-ft.* And with all that muscle, the Ranger is also the most fuel-efficient gas-powered midsize pickup in America.**

26. Ford further highlights its "innovative, class-exclusive 10-speed automatic transmission" as shown below⁴:

²Source: <https://www.jdpower.com/cars/history/ford/ranger> (last viewed February 27, 2023).

³Source: <https://www.ford.com/trucks/ranger/?gnav=vhpnav-overview> (last viewed March 1, 2023).

⁴Source: <https://web.archive.org/web/20180302164740/https://www.ford.com/trucks/ranger/2019/> (last viewed March 2, 2023)

TOUGH. POWER. PERFECTED.

The proven 2.3L EcoBoost[®] engine with Auto Start-Stop technology is designed to optimize power and efficiency using turbocharging and direct gasoline injection. It's also paired with the innovative, class-exclusive 10-speed automatic transmission.

27. Ford offers a “New Vehicle Limited Warranty” for three years or 36,000 miles, whichever occurs first.⁵⁶⁷⁸⁹

28. Ford also offers extended warranty coverage for Powertrain components for five years or 60,000 miles, whichever occurs first. This extended warranty coverage includes the transmission and all internal parts, clutch cover, seals and gaskets, torque converter, transfer case (including all internal parts), transmission case, and transmission mounts.¹⁰

29. Despite being one of the best-selling trucks in the United States, Ford’s Ranger has not been without its problems. In recent years, Ford has issued 7 separate recalls related to the 2019 Ford Ranger.

⁵ Source: 2018 Model Year Ford Warranty Guide at 8;
https://www.ford.com/cmslibs/content/dam/brand_ford/en_us/brand/resources/general/pdf/warranty/2018-Ford-Car-Lt-Truck-Warranty-version-3_frdwa_EN-US_08_2017.pdf (last viewed April 12, 2023).

⁶ Source: 2019 Model Year Ford Warranty Guide at 8;
https://www.ford.com/cmslibs/content/dam/brand_ford/en_us/brand/resources/general/pdf/warranty/2019-Ford-Car-Truck-Warranty-version-1_frdwa_EN-US_04_2018.pdf (last viewed March 1, 2023).

⁷ Source: 2020 Model Year Ford Warranty Guide, at 8;
https://www.ford.com/cmslibs/content/dam/brand_ford/en_us/brand/resources/general/pdf/guides/2020-Ford-Car-LT-Truck-Warranty-version-1_frdwa_EN-US_04_2019.pdf (last viewed April 12, 2023).

⁸ Source: 2021 Model Year Ford Warranty Guide, at 8;
https://www.ford.com/cmslibs/content/dam/brand_ford/en_us/brand/resources/general/pdf/guides/2021-Ford-Car-LT-Truck-Hybrid-Warranty-version-2_frdwa_EN-US_07_2020.pdf (last viewed April 12, 2023).

⁹ Source: 2022 Model Year Ford Warranty Guide, at 8;
https://www.ford.com/cmslibs/content/dam/brand_ford/en_us/brand/resources/general/pdf/warranty/2022-Ford-Car-Lt-Truck-Hybrid-Warranty-version-2_frdwa_EN-US_12_2020.pdf (last viewed April 12, 2023).

¹⁰ *Id.* at 10-11.

30. In February 2019, Ford issued a recall which covered select 2019 Ford Ranger vehicles with 10-speed automatic transmissions. In that recall, approximately 3,000 Ford Rangers had a defect that can cause the truck to shift out of park without the brake being applied causing accidents and injury to drivers.¹¹

31. In May 2019, Ford issued a recall which covered select 2019 Ford Ranger vehicles with 10-speed automatic transmissions. In that recall, approximately 2,500 Ford Rangers had a defect that can cause the driver to think their vehicle is safely in the "park" position when it is not and may roll unexpectedly causing accidents and injury.¹²

32. More recently, Ford recalled nearly 68,000 vehicles (model year 2020 F-150, Ranger, and Expedition) with 10-speed automatic transmissions. In that recall, a clip connecting the gearshift cable and transmission was not properly seated which meant it was possible for a driver to put the shifter in park, but the transmission remained in drive, potentially causing accidents and injury to drivers.¹³

33. Ford introduced the 10R80 10-speed automatic transmission into its Ford Expedition in 2018 touting its “wide 7.4:1 gear ratio span helps smooth out the steps between gears – delivering the engine’s power consistently for an enjoyable driving experience.”¹⁴

¹¹Source: <https://www.caranddriver.com/news/a26183115/2019-ford-ranger-recall-shifter/> (last viewed March 1, 2023).

¹²Source: <https://www.freep.com/story/money/cars/ford/2019/05/15/ford-recall-ranger-fusion-transmission/3677845002/> (last viewed March 1, 2023).

¹³Source: <https://www.caranddriver.com/news/a32065729/2020-ford-f-150-ranger-expedition-recall/> (last viewed March 1, 2023).

¹⁴ Source: <https://cdn.dealereprocess.org/cdn/brochures/ford/2018-expedition.pdf> (last viewed April 12, 2023).

ACCELERATE YOUR ADVENTURES

With 375 hp² and 470 lb.-ft. of torque,² the twin-turbocharged, port-and-direct-fuel-injected 3.5L EcoBoost® engine delivers responsive acceleration, and is teamed with a new 10-speed SelectShift® automatic transmission. Its wide 7.4:1 gear ratio span helps smooth out the steps between gears – delivering the engine's power consistently for an enjoyable driving experience.

34. Ford's luxury vehicle line, the Lincoln Navigator introduced the 10R80 10-speed automatic transmission in 2018. Highlighting that the new 10-speed transmission is "designed to adapt in real-time. Using input from a dozen sensors, it determines what you want, then engages the right gear at the right time to deliver the performance you seek."¹⁵

Knowing where you're headed in life – and how you'll get there – instills you with a calm confidence. Navigator reinforces that feeling with a new Twin-Turbocharged 3.5-liter V6 engine that produces best-in-class² horsepower and torque. It also has an EPA-estimated rating of 23 hwy mpg.² Plus, the new 10-speed SelectShift® automatic transmission is designed to adapt in real-time. Using input from a dozen sensors, it determines what you want, then engages the right gear at the right time to deliver the performance you seek.

Imagine yourself gliding along – blissfully at peace. Adaptive Suspension® helps get you there smoothly by isolating the vehicle from road imperfections, while enhanced sound-absorbing materials and Active Noise Control help keep road noise at bay. The result is a relaxing atmosphere conducive to quiet contemplation or pleasant conversation. The best interior quietness in the class.



35. Ford introduced the 10R80 10-speed automatic transmission as an alternative to the 6-speed manual transmission starting in the 2018 Ford Mustang, advertising that the 10R80 “improves responsiveness and all-around performance.”¹⁶

¹⁵ Source: <https://cdn.dealereprocess.org/cdn/brochures/lincoln/2018-navigator.pdf> (last viewed April 12, 2023).

¹⁶ Source: <https://cdn.dealereprocess.org/cdn/brochures/ford/2018-mustang.pdf> (last viewed April 12, 2023).

MORE HORSEPOWER, MORE TORQUE, MORE MUSTANG

Increased torque on the 2.3L EcoBoost® engine encourages wide-open throttle acceleration. The upgraded 5.0L V8 revs higher than any Mustang GT before, and improvements to the 6-speed manual allow it to handle more torque. A new 10-speed SelectShift® automatic transmission² improves responsiveness and all-around performance for both engines.

36. Plaintiff and Class Members allege a common transmission defect in their Class Vehicles with 10-speed transmissions. As discussed herein, numerous Ford drivers have complained that their transmissions slip gears, jerk, lunge, clunk, and/or shift roughly. In one NHTSA complaint, a vehicle lost all power while accelerating through an intersection and the transmission failed to shift up or down.

37. Due to the Transmission Defect, drivers have reported whiplash due to harsh shifting. Finally, many drivers have stated in NHTSA complaints that they do not feel safe driving the Class Vehicles in normal traffic conditions.

38. In response to customer complaints, Ford has issued several Technical Service Bulletins (“TSBs”) addressing the Transmission Defect. While the TSBs were meant to address harsh or bumpy transmission shifting, Ford advised that issues were normal and did not offer to repair or replace the Transmissions.

39. Due to Ford’s unwillingness to acknowledge the Transmission Defect and refusal to repair the Class Vehicles, Plaintiff and Class Members continue to drive defective and unsafe vehicles.

V. PLAINTIFFS’ EXPERIENCES

A. Plaintiff Daniel McCabe

40. Mr. McCabe was shopping for a safe and reliable vehicle to serve as both his personal vehicle that could fit his family and use while traveling around the Northeast for work.

As a result of his research, in September 2019, he leased a brand new 2019 Ford Ranger with a 10-speed transmission from Sentry Ford in Medford, Massachusetts (an authorized Ford dealership).

41. At the time of Mr. McCabe's lease, Ford knew that its 10-speed automatic transmissions were defective, but the Ford sales representative did not disclose the Defect to Mr. McCabe when discussing the features, components, and performance of the Vehicle prior to leasing. In reliance on these material omissions and misrepresentations, Mr. McCabe leased and operated the Vehicle on the reasonable but incorrect belief that his Vehicle's transmission would operate properly as warranted. Had Mr. McCabe been informed of the Transmission Defect prior to or at the time of lease, he would not have leased the Vehicle or else would have paid significantly less for the Vehicle.

42. Approximately 7 months after leasing the Vehicle, Mr. McCabe started to notice the Transmission held gears much longer than it should. He felt as though the car was "lethargic" and that the car was not responsive to the pedal. He often felt like the vehicle was hunting for the proper gear and skipping gears while driving. Sometimes he would hear a loud "clunk" once the gear was finally put in place.

43. Neither Ford nor any of its agents, dealers, or representatives informed Mr. McCabe of the Transmission Defect prior to his lease of the Vehicle.

44. Had Mr. McCabe been advised of the Transmission Defect at or before the point of lease, he would not have leased his Vehicle or else would have paid significantly less for the Vehicle. Mr. McCabe did not receive the benefit of his bargain.

B. Putative Class Members

45. Putative Class Members have had similar problematic experiences in the Class Vehicles as a result of the Transmission Defect as noted through NHTSA complaints.

46. Hundreds, if not thousands, of purchasers and lessees of the Class Vehicles have experienced the Transmission Defect. Complaints filed by consumers with the NHTSA and posted on the Internet demonstrate that the Transmission Defect is widespread. Not only have consumers complained about harsh and bumpy shifting, but this defect has often led to potentially life-threatening situations. These complaints illuminate Putative Class Members' experiences with the Transmission Defect and its potential danger (note that spelling and grammar mistakes remain as found in the original).

FORD RANGER

Model Year 2019

NHTSA Complaint dated December 25, 2022: This truck we have had in the shop for the transmission 5 different times the truck at all different speeds jerks like the gear is not igniting in then starts to shake the shop has reported that it does not shift properly then yesterday Dec 24th, 2022 the trucks wrench came on the breaks locked up and the power train locked up I have all documents we purchased the truck in March 2022 and have been having this transmission issue since I have contacted Ford numerous times and also emailed numerous times the dealership we purchased the truck from has done nothing except keep reprogramming the computer in the system which is not the issue the transmission is under warranty to 60000 miles and we have been having this issue since June 2022. Now that everything locked up on the vehicle we are not safe to even take the truck out on the road we do not want to get injured no the defective issue causing an accident and someone else getting injured. Ford has done nothing to fix or solve the issue at this point the vehicle has 59105.3 miles on it should not be having these issues and the dealership automotive repair shop not fixing the issue at this point need to buy this vehicle back and not sell it it is to dangerous and can cause injuries. We have been trying since June 2022 to get this truck fixed. 3 months after purchasing it and sales rep that sold it to us at Parkway Nissan, Ford Chrysler just says have to take it to their shop which has not done a thing to fix the issue. 12/24/2022 the power train wrench light came on breaks locked up we had a hard time to even start the truck then the breaks was not properly working and started making a noise. (ID No. 11498780)

NHTSA Complaint dated June 1, 2022: The 10r80 10 speed Transmission will slip, shutter, stall, jump in and out of gear, slam into gear, and often times will wait till you are at a complete stop to downshift into 1st gear which makes the entire truck lunge forward almost like you've been rear ended. I've been to 2 different ford dealerships, had my truck in the shop multiple times and all I hear is them telling me that it's normal and they get these complaints a lot. Long Lewis ford of 12une12erati Alabama will play dumb and hold my truck in their parking lot for a few days then say they found nothing wrong. Collier ford of 12une12era Alabama told me over the phone that the symptoms I'm experiencing are normal and they they will not touch my truck unless it

has a wrench light on. A \$36,000 truck should not have these issues and it be deemed “normal” or even “acceptable”. (ID No. 11466891)

NHTSA Complaint dated November 5, 2021: 2019 Ford Ranger. Consumer writes in regards to shifting problems with vehicle. The consumer stated the vehicle would violently jerk when coming to a stop. The vehicle would also jerk when accelerating and switching to higher gear. The vehicle experiences loss of power and no engaged gears. The truck engine would rev up and shift hard. The manufacturer was notified, but did not offer any assistance. (ID No. 11439465)

NHTSA Complaint dated January 27, 2023: Purchased this vehicle (2019 Ford Ranger XLT), in 2019. Over the last month or so, started developing a shimmy when starting out, bad shimmy when slowing down. Had the brakes checked, no issue. Continued it get worse, developing harder shimmy when starting and braking, began feeling a delay in shifting gears. Dropped it off where I purchased it, Priority Ford Norfolk, was told that the transmission needed to be replaced. 3 year old truck, transmission went bad. After during research, these particular transmissions (10 speed) was installed in Rangers, F150s, Explorers etc. This transmission issue poses a risk to safety when driving. When slowing down, it had major difficulty down shifting and coming to a smooth stop, it would feel like it was locking up. (ID No. 11504058)

NHTSA Complaint dated November 5, 2022: This 2019 Ranger is experiencing jerky and erratic shifting. At low RPM’s (parking lots) it requires excessive RPM’s and resulting speeds to shift between gears. It also clunks when downshifting, feeling like the vehicle was hit by another car. (ID No. 11492414)

Model Year 2020

NHTSA Complaint dated October 4, 2022: The transmission has several issues, hard shifting, shuddering and shaking but the one issue I know is a safety issue is the lunging. When moving the shifter from Park to drive, my truck has lunges, 3 different times now. If my foot wasn’t securely and pressing firmly on the brake I could of been propelled into other objects. I have not visited a dealer for any of the transmission problems. I am just starting to research the issues and I see many transmission complaints. Plus it will cost me time and money to take it to a dealer. And I don’t feel confident anything will be done. No warning lights have come on. (ID No. 11487925)

NHTSA Complaint dated November 9, 2022: Since purchase I have been experiencing problems due due a poorly built transmission. The 10R80 transmission has been the opposite of what I expected when purchasing a new vehicle. I have experienced extremely harsh up-shifting and downshifting, as well as slipping gears while in motion which causes a loss of power while the vehicle is in motion. The most concerning of these is when the gear seems to slip while driving and when the accelerator is depressed the engine will only rev for a few seconds and then harshly clunk into a gear which will cause a jolt in the forward motion which has cause me to lock up my brakes in order to avoid hitting another vehicle. In addition to these I have also experienced harsh clunking and jolting forward or backwards when selecting gears. All of these are of great concern to me of course. I have tried contacting numerous Ford dealerships and shops to try and fix this

problem and I continue to get the run around. I have since looked up recalls and I have found recalls for 2020 Rangers made in the Michigan plant from February 28 to March 18 of 2020 have been issued a recall but somehow my Ranger doesn't even though the VIN states it was made in March of 2020. All of the servicing has been done according to Ford's specifications. (ID No. 11492939)

NHTSA Complaint dated February 16, 2023: The 10-speed automatic transmission experiences rough shifting, particularly when the vehicle has been sitting for a period (e.g., overnight), including when shifting from park and into gear as well as shifting into gears 2 and 4. There have been no warning messages or indicators. Ford has attempted to diagnose this issue on at least one occasion – and is scheduled to examine the vehicle again – but, to date, has failed to acknowledge, duplicate or resolve the issue. This has been ongoing for more than a year. Based on simple internet search, this appears to be a known issue with Ford 10-speed automatic transmission vehicles. (ID No. 11507611)

Model Year 2021

NHTSA Complaint dated January 2, 2023: On multiple occasions the transmission has slipped when changing gears. This has happened when trying to merge into traffic . One time almost causing someone to rear-end me. It also fails to downshift some times when stopping, causing me to brake much harder than normal . I will be taking it to the dealer soon , to see if this can be fixed . These issues can be a little scary at times. There have been no warning lights or messages. This has happened at least a dozen times now. The first incident with the transmission I think started in 10/2022. It was sporadic at first, but seems to happen almost daily now. (ID No. 11499822)

Model Year 2022

NHTSA Complaint dated February 3, 2023: The transmission and or converter on the vehicle continue to have harsh vibrations in all gears. The unit has a difficult time finding the right gear for the traveling speed. Some times accelerates slightly from a stopped position which requires excessive force on the brake. At highway speeds downshifts are very slow and sometimes not at all when trying to pass slower vehicles. Employee's refuse to drive this vehicle due to excessive vibration felt through the steering wheel and foot pedal's when coming to a stop. They don't feel that the vehicle is going to come to a stop. I would agree. It's as if the transmission does not start downshifting as the vehicle slows, and then drops into first very hard as the vehicle is coming to a stop. The vehicle started doing this at 220 mil's and continues to get worse. It has been to the Dealer four times, with the first being a driveshaft shim placement to the driveshaft per a TSB. Second visit, the dealer states there is nothing wrong with the vehicle. Third visit, complete drive shaft and components replaced, with no remedy. Fourth visit, an engineer from Ford came to the dealership and determined there is nothing wrong with the vehicle. These problems have been occurring since the vehicle had 220 miles on it. The vehicle has 1700 miles and note being driven very much. (ID No. 11505415)

FORD EXPEDITION

Model Year 2018

NHTSA Complaint dated November 12, 2019: The vehicle has an issue down shifting from 5th gear to 4th gear. It causes the vehicle to actually shake and feels as if the vehicle was jarred. It is worse when you have the break applied to come to a stop. The dealership informed that this is an issue with the new 10 speed transmission and it's functioning normally. However it's very alarming when this happens and startles passengers in the vehicle. (ID. No. 11279694).

NHTSA Complaint dated April 13, 2020: Transmission shift very hard and bangs. Transmission is currently out and been at the dealer for 2 weeks. (ID No. 11321024)

NHTSA Complaint dated November 10, 2022: Something is going on with the transmission we got it at dealer now it shifts funny 3 to 4 and 6to8 and sometimes you go to pull out and it revs up to 3000 rpm and don't move then it slam in gear and move and not all the time but sometimes you slow down you hear a crunching noises under expedition. If you stop fast it down shifts hard and if you go to move again it's like it's in a high gear it never shifted down .it's a 2018 10 speed transmission and if you read online ford has problems with them so why is it not a safety recall on this transmission before someone pulls out somewhere and gets kill because it won't move . It's a problem not a accident. (ID No. 11493052).

NHTSA Complaint dated September 12, 2022: my transmission shifted from first gear to second gear very hard causing the vehicle to lunge. My daughter is a new driver and it scared her so much that she stopped in traffic at a stop sign and I thought the vehicle was hit. My dash cam even recorded it as a possible collision (no one hit us just jerked that bad). I have only owned it for a month and when I took it to the dealer that I bought it from they said Ford knows they have a problem and it sucks. (dealerships words) I had no lamps or warnings come on at the time of the event. When I changed driving modes the vehicle went completely out of gear and would not go back into gear until I shut it down and started it back up. (ID No. 11484078).

Model Year 2019

NHTSA Complaint dated November 4, 2022: The vehicle started to rough shift. Then it started to not shift into gear, and the engine will rev as if in neutral instead of in gear. This has resulted in abrupt loss of power and the vehicle actually shutting down completely requiring restart. I called my Ford dealer (Columbia, TN) when it started shifting rough. They told me it was 2mos out for transmission issues. I called another Ford dealer in Franklin, TN whom also said months before they could see it. They referred me to a local transmission shop. That shop Coleman transmission, said these transmission in 2018&2019 are notorious for failing and were redesigned by 2020, that he had many just like mine awaiting rebuild. So I started researching, and I'm not alone, and many have had this exact same extremely dangerous situation of losing power, and car shutting down repeatedly. (ID No. 11492233).

NHTSA Complaint dated November 15, 2022: Transmission failure 4 occurrences after dealer repair under warranty. The transmission issues are very well documented and dealer has returned

vehicle to parent with kids in vehicle..within 20 miles vehicle stooped on I-40 traffic endangering lives 3rd failure. Returned vehicle to dealer and when told vehicle was ready it made 15 miles prior to overheating and ceasing to accelerate out of traffic endangering lives. These are the last 2 times vehicle was returned. 2 prior when we were told the vehicle was ok and loss of acceleration, grinding, jerking were normal. Vehicle currently at dealer. Communication with Ford with little assistance. Prior to these failures were cam phasers with 4 similar failures and almost burned my garage down. This vehicle and many others are not safe and should be addressed. (ID No. 11493712).

NHTSA Complaint dated September 2, 2022: On multiple occasions while driving at freeway speeds, there have been sudden episodes of power loss and rapid loss of speed associated with harsh transmission downshifts. These events sometimes occurred on slight uphill grades and also on flat highway. At other times, the transmission will fail to shift into higher gear and seem to slip, resulting in loss of speed. A warning indicator appeared on the last occasion (8/27/22) with a wrench icon, and the FordPass app told me to have vehicle serviced. Vehicle is at dealer now. (ID No. 11482525).

NHTSA Complaint dated August 14, 2022: The 2019 Expedition 10 Speed Transmission went into neutral during acceleration from third gear, skipped 4th and finally reengaged in 5th with a huge jolt. This happened a second time after leaving the next stop sign. During the neutral period (16une16er. 3 or 4 seconds) engine RPM's increased dramatically with loss of forward motion and speed. My reaction was to remove my foot from the gas pedal before the engine red-lined. This issue could have caused vehicles behind to rear end our 2019 Ford Expedition. The transmission was at full temperature as the expedition had been driven for 16une16er. 30 minutes prior to the issues. We then parked the expedition for about an hour and then started the drive home and the neutral issue occurred once again. The transmission hard shifting issues were first noticed in March/April 2022 had been reprogramed in June, 2022 which didn't resolve the problem. It was then serviced late July 2022 by rebuilding a control module(?). We were told to drive the vehicle for a couple of weeks while the transmission learned how we drive and everything would return to normal. Currently have returned the Expedition to the dealer as this is a serious safety issue. Hard shifting or even jumping a gear with a jolt isn't going be a danger, but losing power and control of the Expedition could have caused an accident and possible injury to us and others. (ID No. 11479373).

NHTSA Complaint dated July 25, 2022: The first incident I was travelling on the highway at 16une16er 60-70 mph and attempting to overtake a slower car by switching lanes. As I changed lanes and hit the gas, my Expedition became stuck between gears and lost power until I let off the accelerator and the rpm's came down. This happened on several occasions with similar circumstances. The other times it's been stuck between gears are typically when I am turning left. The loss of power and basically b'ing in neutral while on the highway or turning left is a specific safety hazard that needs prompt attention. I am dropping it off at the dealership tomorrow and I'm sure they will be "unable to recreate the problem" and I'll have to wait until the recall for it to be fixed. (ID No. 11475816).

Model Year 2020

NHTSA Complaint dated August 9, 2022: Automatic transmission making abrupt and lurching gear changes (even coming out of Park) in addition to mechanical sounds. Safety has not been an issue, so far. The situation has not been inspected by dealer or any other mechanic. Vehicle still under warranty with less than 8,000 miles. No warning messages have surfaced. Never involved in crash or flooding. (ID No. 11478323).

NHTSA Complaint dated July 11, 2022: When 17une17erating in 5th, or6th gear trans slips out hard and car wont accelerate for 1 to 2 seconds. It displays being in 1st while this happens before it goes back into precious gear and starts driving. (ID No. 11473465).

NHTSA Complaint dated April 29, 2022: Transmission is slipping very bad. Really shifts hard between gears, especially from 4th to 5th gear. Went to pass a vehicle, on acceleration the transmission slipped and the engine rpm's went very high. I let off the accelerator and the gear caught. I thought the transmission was done at that time. (ID No. 11462774).

Model Year 2021

NHTSA Complaint dated September 27, 2022: I am concerned about the shifting or transmission in my new 21 expedition. Purchased new less than a year ago, currently less than 20k miles but the vehicle shifts gears hard, sometimes it seems it wants to up shift while in park or braking. The shift is shaky at times and I now put in park when stopped at a drive through because the last time I went to the bank while waiting with brake applied the car felt as if it was going to just drive off, I immediately put in park. This is scary because my kids rode with me and I dont want the gears to shift incorrectly and cause us to wreck. Dealer asked me to schedule a time when I can leave my vehicle for an unknown amount of time. In order to get a loaner the first available date to drop it off is November 17,22 which is over a month away. (ID No. 114867797).

FORD MUSTANG

Model Year 2018

NHTSA Complaint dated June 13, 2020: Vehicle experiences random non repeatable periods of hard shifting, refusal to go into gear, grinding gears, jerkiness and what feels occasionally like transmission slips. When it occurs it mostly happens under heavy acceleration such as trying to get up to speed on an on ramp or trying to get to highway speeds but not always. Recently while traveling in a 45mph zone i attempted to shift into 3rd gear. Clutch was fully depressed and noticeable gear grinding happened and an immediate second attempt resulted in same result. Had to shift to 4th causing vehicle to be in unacceptable gear range for current speed. Service appointment at dealership made 17une 10th 2020. Issue has happened several times previously but seems to be getting worse. Last known incident happened 17une 11 2020 at approximately 3:30 pm est one day after making appointment with dealership. *TR (ID No. 11328620)

NHTSA Complaint dated May 19, 2021: 10 speed transmission did not engage then failed less than a second later while pulling into an intersection. This caused the car to enter the intersection

but fail to go forward more than a few feet. The problem resolved after three attempts to go forward by pumping the gas peddle. The transmission also was jerking or jumping from 1st through 3rd gear as if the car could not find the correct gear to be in while going forward. The problem resolved after the first mile of driving. This is a recurrent but sporadic issue. The issue has caused near miss collision by another driver thinking my car was going to accelerate when the forward motion stopped but there were no brake lights in indicate the car was not going forward. The jerking and jumping has made it hard to control the car during turns and on slippery road. I have an appointment scheduled for service at a Ford Dealer for them to see if the issue is able to be address. (ID No. 11417731)

NHTSA Complaint dated October 27, 2021: 10 speed Ecoboost transmission, doesn't stay in gear and delayed shifts causing acceleration problems. Hard shifts, jerking, and hard lunge forward when shifted into Drive. The forward lunge is unstoppable even with the brake fully engaged. Transmission slip when changing gears while driving. Yes, it's available for inspection. Yes, mine and others safety risk are at risk. Yes, the problem has been reproduced and confirmed by a dealer. Inspected by an authorized dealer/manufacture. NO other warning lamps or messages. (ID No. 11419724)

Model Year 2019

NHTSA Complaint dated December 19, 2019: 2019 Ford Mustang gt 5.0l with 10 speed automatic transmission milage: 14,000 -engine stalls when car comes to a stop (happened more than 10 times). -harsh transmission shifting from 4th to 5th. -dipping and irritating rpm when idle. -exhaust sound valve squeaking noise (like the sound when the metal has corrosion squeaking sound) while the valve changes from quite to normal or from normal to track. -wheel wining noise shows on or above 40mph (like wheel hub bearing humming sound). -dash and rear driver side rattling noises. -front end bushings squeaking noises (especially can be heard while passing on car parking bumps) (ID No. 11290162)

Model Year 2020

NHTSA Complaint dated August 10, 2022: Caught in stop and go traffic at night for 45 minutes. Car started moving forward even though my foot was only on the brake pedal. My first thought was I'd accidentally pressed both the brake and gas pedals, but I could see my foot on the brake pedal since the under-dash area is lit in the Premium model. It happened for about one minute the first time, then happened again a couple minutes later. I hit the bumper of a tour bus during the second instance at about two mph. The tour bus driver apparently didn't notice the hit and changed lanes a few minutes later. I didn't see any damage to the tour bus, but my license plate bracket and license plate were bent, and the middle part of my bumper didn't snap back together correctly. The Ford dealer was unable to duplicate the problem, and the brakes and vacuum pressure module didn't show any leaks. The service advisor said it was impossible for the transmission to engage without pressing the gas pedal, but I suspect the 10-speed transmission since the engine rpm didn't appear to change. There were no warning lights before or after the incident and the service advisor said no codes had been set. In retrospect I should have tried putting the transmission in neutral, used the emergency brake, or turned off the ignition (but a tractor trailer was about ten feet behind me). (ID No. 11478710)

Model Year 2021

NHTSA Complaint dated December 30, 2022: After slight acceleration and then light braking vehicle wants to lunge forward and is a outright safety hazard in 3 separate incidents it almost caused an accident and one was a pedestrian, for is well aware of this vehicles incidents and well documented by text from dealer acknowledging such incidents (ID No. 11499594)

NHTSA Complaint dated November 3, 2022: Vehicle bucks at low speed after putting in drive and when driving during downshift, on 4 occasions I almost hit my wife's vehicle during low speed bucking with the trans (ID No. 11492196)

Model Year 2022

NHTSA Complaint dated February 6, 2023: Powertrain – The transmission when coming to a stop lurches the vehicle forward. Along with the lurching forward when slowing down it makes a loud clunk noise and makes the car and my person move forward. Propulsion – When turning into traffic the car sometimes has no power and takes about 3 seconds to get power back to the vehicle, almost causing accident. (ID No. 11505763)

FORD LINCOLN NAVIGATOR

Model Year 2018

NHTSA Complaint dated January 12, 2023: Transmission will randomly stop shifting or jolt. Poses a safety concern when you have to accelerate or slow down to merge, switch lanes, cross an intersection, etc. This is a common problem with this year and model that everyone is complaining about. (ID No. 11501540)

NHTSA Complaint dated June 14, 2019: Starting at 20,000 miles i started asking the dealer to check the transmission on my vehicle. Very often the transmission shifts very hard to the point you hear and you feel like someone hit your car (usually from 1st to 3rd gear) and also when you shift it to reverse it slips. Dealer keeps saying theres no codes coming out on their computer. This always happens in motion on a city street. (ID No. 11220142)

Model Year 2019

NHTSA Complaint dated March 21, 2022: The contact owns a 2019 Lincoln Navigator. The contact stated that while driving at various speeds, the vehicle would not properly accelerate while depressing the accelerator pedal. The RPM's would suddenly increase before the speed was drastically reduced. The vehicle was taken to the local dealer for service however, the failure persisted. No further information was available. The manufacturer was notified of the failure. The failure mileage was 31,000. (ID No. 11457693)

Model Year 2021

NHTSA Complaint dated July 14, 2021: Within one week of delivery of this new vehicle, the transmission began slipping out of gear and the car loses power for 30-40 seconds in the middle of driving. Shift System Fault, Transmission failure, and PowerTrain Malfunction are the errors coming up on the screen- even after the vehicle was in Service for 2 weeks and they replaced the transmission valve system. Very dangerous to completely lose power on the highway. (ID No. 11424748)

FORD F-150

Model Year 2021

NHTSA Complaint dated September 15, 2022: No part failure confirmed by Ford. Transmission has very hard downshift at highway speeds from 10th gear to 8th gear under moderate throttle causing the rear wheels to chirp. Had this happened during cold months it could have caused me to spin out. Ford states transmission is normal yet previous TSBs show consistent issues with the 10r80 transmission from My 2018 and up in regards to harsh, delayed shifts. No warning lamp other than traction/stability control flashed. I have had the dealer look but was told it is normal as with other drivers. I can't understand how chirping the tires on a down shift under moderate throttle can be considered normal. (ID No. 11484683).

NHTSA Complaint dated April 5, 2022: This vehicle has a transmission problem relating to how it shifts gears at low speeds. This results in delayed shifts, missed gears, and sometimes a jerk and loud "clunk" when the shift occurs. This is not only distracting (the first time I literally looked back to see if I had hit something, or if something had broken off). This will likely contribute to premature wear and failure which could happen at an inopportune time. (ID No. 11459730).

NHTSA Complaint dated July 9, 2021: Transmission in truck shudders and does not down shift in maneuvers required to avoid some near miss situations. (ID. No. 11424095).

VI. DEFENDANT KNEW OR SHOULD HAVE KNOWN OF THE TRANSMISSION
DEFECT PRIOR TO PLAINTIFF'S PURCHASES

A. Ford Knew of and Refused to Remedy the Transmission Defect.

47. Since the 10R80 transmission was introduced and equipped in the Class Vehicles, drivers have repeatedly complained about difficulty shifting and vehicle lunging and/or jerking to Ford. During the class period there was an unusually large number of complaints of harsh and belabored transmission shifting such that Ford was put on notice of a specific problem.

48. Namely, as the consumer complaints below indicate, Ford was aware, or should have been aware, that the Transmission Defect was present dating back to before March 2018,

the date Ford issued its first Technical Service Bulletin (“TSB”) related to the 10-speed transmission. Prior to that date, it is logical to assume that Ford had to open an internal investigation that led to its TSB.

49. Thus, by early 2018, Ford knew or should have known through sufficient product testing, consumer complaints, or other methods, that the Class Vehicles contained the Transmission Defect.

50. Upon information and belief, the Class Vehicles contain one or more defects in materials, components, construction or design, including but not limited to, the Transmission Defect, as described herein.

51. Upon information and belief, faced with the fact that Class Vehicles were not properly shifting due to the Transmission Defect, Ford has issued multiple TSBs addressing the shifting problems.

52. Ford first introduced the 10R80 10-speed automatic transmission in its 2017 F-150.

53. Soon after its introduction in the F150, on March 2, 2018, Ford released TSB 18-2079 which stated that “[s]ome” Model 2017 150’s “may exhibit harsh or delayed shifts.”¹⁷ The TSB advised technicians to reprogram the Powertrain Control Module (“PCM”) and to “advise the customer that this vehicle is equipped with an adaptive transmission shift strategy which allows the vehicle’s computer to learn the transmission’s unique parameters and improve shift quality. When the adaptive strategy is reset, the computer will begin a re-learning process. This re-learning process may result in firmer than normal upshifts and downshifts for several days.”¹⁸

¹⁷ Source: <https://static.nhtsa.gov/odi/tsbs/2018/MC-10137068-9999.pdf> (last viewed April 12, 2023).

¹⁸ *Id.*

54. On September 7, 2018, Ford released TSB 18-2274 stating that “[s]ome” 2018 F-150’s with the 10-speed transmission vehicles “may exhibit harsh/bumpy upshift, downshift and/or engagement concerns.”¹⁹ The TSB advised the same technician procedure as the March 2, 2018 TSB: reprogramming the PCM.

55. Despite the ongoing concerns, Ford continued to release the 10R80 in the remainder of the Class Vehicles. Similar to the F-150, Ford began releasing TSBs addressing the shifting problems customers experienced.

56. On August 24, 2020, Ford released TSB 20-2083 (superseded by TSB 20-2198 adding additional vehicles and model years) which stated that “[s]ome” 2019-2020 Ranger and 2020 F-150/Mustang vehicles equipped with a 10R80 transmission “may exhibit a high-pitched whine coming from the transmission at low speeds during light acceleration or coasting.”²⁰ The TSB advised technicians to service the vehicle but noted that “[l]imits/policies/prior approvals are not altered by a TSB.”²¹

57. On September 24, 2020, Ford released TSB 20-2339 which stated that “[s]ome 2019 Ranger vehicles may exhibit a vehicle buck/surge during low speed operation and/or an engine that runs rough after cold start.”²² The TSB advised technicians to reprogram the Powertrain Control Module (“PCM”) and to “advise the customer that this vehicle is equipped with an adaptive transmission shift strategy which allows the vehicle’s computer to learn the transmission’s unique parameters and improve shift quality. When the adaptive strategy is reset,

¹⁹ Source: <https://static.nhtsa.gov/odi/tsbs/2018/MC-10149749-9999.pdf> (last viewed April 12, 2023).

²⁰ Source: <https://www.tsbsearch.com/Ford/20-2198> (last viewed March 1, 2023).

²¹ *Id.*

²² Source: <https://www.tsbsearch.com/Ford/20-2339> (last viewed March 1, 2023).

the computer will begin a relearning process. This relearning process may result in firmer than normal upshifts and downshifts for several days.”²³

58. On April 30, 2020, Ford released TSB 20-2277 stating that “[s]ome” 2019-2020 Ranger vehicles with the 10-speed transmission vehicles “may exhibit a shudder/vibration when accelerating from a stop.”²⁴ The TSB advised technicians to service the vehicle but noted that “[l]imits/policies/prior approvals are not altered by a TSB.”²⁵

59. On September 27, 2021, Ford released TSB 21-2315 which stated that 2018-2021 Expeditions, 2017-2020 F-150s, 2018-2021 Mustangs, 2019-2021 Rangers, and 2018-2021 Navigators equipped with their 10-speed transmission “may exhibit a harsh engagement/harsh shift/delayed shift...[t]his may be due to incompatibility of the adaptive calibration to adapt to hardware wear-in over time.”²⁶ The TSB directed technicians to “[r]eprogram the transmission strategy download into the PCM/TCM. Perform the adaptive learning drive cycle.”²⁷ If the vehicle continued to have the shifting problems, the TSB further instructed technicians to “[o]verhaul the main control valve body and road test vehicle following the adaptive learning cycle.”²⁸

60. On April 21, 2022, Ford released TSB 22-2139. This latest TSB updated the list of affected vehicles to include 2022 Expeditions, Mustangs, Rangers, and Navigators.

61. Upon information and belief, and the actual experience of Plaintiff, Ford’s TSB recommendations fail to remedy the Transmission’s shifting problems reported in Class Vehicles.

62. Despite this knowledge, Ford took no further steps to remedy this issue, leaving Plaintiff and the other Class Members with knowingly defective Class Vehicles.

²³ *Id.*

²⁴ Source: <https://www.tsbsearch.com/Ford/20-2277> (last viewed March 1, 2023).

²⁵ *Id.*

²⁶ Source: <https://static.nhtsa.gov/odi/tsbs/2021/MC-10201905-0001.pdf> (last viewed December 8, 2022).

²⁷ *Id.*

²⁸ *Id.*

B. Customers Repeatedly Complained About Harsh and Erratic Shifting and Vehicle Lunging, Hesitation, and Jerking.

63. These complaints were not new to Ford. After Ford released the 10R80 10-speed automatic transmission in the 2017 F-150, purchasers and lessees began filing complaints with the NHTSA almost immediately, beginning with the original 2017 model year vehicle. These complaints demonstrate Ford's awareness of the Transmission Defect from the onset and its potential danger (note that spelling and grammar mistakes remain as found in the original).

FORD F-150

Model Year 2017

NHTSA Complaint dated May 20, 2019: original problem was transmission slamming into gear and slipping when accelerating. the truck was kept at agency for 2 1/2 weeks. service manager told me that ford instructed him to quit working on it. problem of slipping still exist and recently the vehicle jumped out of gear when i was merging onto the interstate, i do not feel safe driving this vehicle. (ID No. 11208720).

NHTSA Complaint dated April 12, 2019: transmission will stick and not change gears. like a dead spot and truck would not go faster. this has happened several times. (ID No. 11195806)

NHTSA Complaint dated April 8, 2019: traveling down my driveway, coming to a stop and the transmission gets stuck in 3rd gear. it won't down shift into 1st gear so it won't move forward. i put the shifter into reverse and i am able to back up. put shifter into drive and still stuck in 3rd gear. back up to my house and park the truck not able to go anywhere. go into the house wait a couple of hours and then try it again and everything is okay. this has happened to me 3 other times. (ID No. 11195452)

NHTSA Complaint dated March 14, 2019: vehicle lost all power while accelerating thru an intersection. the orange wrench illuminated on the dash with "check manual". i noticed the transmission not shifting down and up smoothly. it tried to start the truck off in 5th gear from a stop. after being shut down for an hour, the issue went away. dealer scanned it this morning and said no code was stored. (ID No. 11079161)

Model Year 2018

NHTSA Complaint dated May 13, 2019: intermittent transmission hesitation under acceleration, while pulling into traffic from a side street. without warning the truck completely cuts out. the engine is still running but there is no forward acceleration from the truck. this lasts about 10 seconds. two incidents so far. also very heavy, abrupt shifting, jerking shifting. also intermittent when shifting the truck into reverse while stationary there is a loud heavy clunk from the transmission. (ID No. 11207153)

NHTSA Complaint dated April 17, 2019: with 2018 f-150 10 speed transmission is shifting hard an down shifts hard getting whiplash. downstairs too hard been at the dealership today is the second time they constantly act like there's nothing wrong with the vehicle av to reset it once before still having major problems with that new transmission. so basically in inner-city driving is somebody was to jump in front of the vehicle with downshift quickly giving driver or any passengers whiplash stop the vehicle not a very safe or practical build can cause accidents and give major problems if anybody has bad backs or necks was not disclosed at time of sale of a hard shifting transmissions. (ID No. 11196876)

NHTSA Complaint dated April 11, 2019: my truck has 15,000 miles on it. the acceleration will run away frequently (press the pedal and there is a severe lag and lack of power). there will be random engine noise when decelerating around 45 miles per hour. also, acceleration will be rough when going from 20-30 miles per hour just before the it shifts into a higher gear. i took this to the ford dealer and they said there are no error codes on the trucks computer system. also, the steering will be stiff or unaligned at random times. please assist in getting these issues corrected. (ID No. 11195550)

NHTSA Complaint dated March 26, 2019: tl* the contact owns a 2018 ford f-150. while driving various speeds, the vehicle hesitated to accelerate while depressing the accelerator pedal. also, a clunking noise was present when the transmission switched gears and the vehicle felt different. the vehicle was not diagnosed or repaired. nye ford (1555 upper lennix ave, onye, ny) and the manufacturer were notified of the failure. the vin was not available. the failure mileage was 14,000. (ID No. 11191541)

NHTSA Complaint dated March 4, 2019: since purchasing the truck, the 10 speed automatic transmission doesn't seem to shift smoothly in many gears. it seems to lurch when shifting at often times and will skip gears when sifting quite frequently. for a new vehicle it doesn't shift smoothly at all. it's been serviced at an authorized ford dealer where they told me the transmission was reprogrammed due to a technical service bulletin but even since then it still doesn't shift smoothly. it happens pretty much everyday or every time i drive it since it was purchased. (ID No. 11184182).

NHTSA Complaint dated February 20, 2019: this vehicle generally exhibits harsh upshifts (3rd-to-4th) and downshifts (4th-to-3rd) as indicated on the driver's ip. i have experienced multiple occasions when the vehicle will "miss" the shift from 3rd to 4th, normally when cold and under light to moderate throttle conditions. the gear indicator briefly shows 1st gear, however, i was able to apply full throttle (100% accel pedal), but had no power to the wheels (drive is not engaged), engine speed rose to approximately 3000 rpm. this condition lasted for about 2-3 secs before it shifted to 4th, the revs settled to normal/expected range and drive to the wheels was re-engaged. this is an extremely dangerous condition that leaves me without power to safely accelerate, or merge with traffic. (ID No. 11181413).

NHTSA Complaint dated February 20, 2019: tl* the contact owns a 2018 ford f-150. while driving various speeds, the transmission downshifted on its own. the vehicle was taken to joel confer ford (2935 penns valley pike, centre hall, bellfornte, pa) on several occasions for the same failure and the transmission control module was reprogrammed; however, the failures continued. the

manufacturer was notified of the failures, but no assistance was offered. the vin was not available. the failure mileage was 10,000. *tt*jb (ID No. 11181310).

NHTSA Complaint dated February 13, 2019: transmission downshifts hard, delays of power to rear wheels, clunking noise, shuddering. been to dealership, 3 times for transmission. dealership said i need to drive the truck until transmission gets worse before they can fix it. dealership said im wasting their time with warranty work. ford will not take action to help. transmission problems make the truck unsafe to drive along with its severe steering problems. please someone please help me before myself or my kids or someone else gets injured due to this unsafe truck and negligent dealership and ford (ID No. 11179963).

NHTSA Complaint dated February 9, 2019: 10-speed transmission hesitates/randomly shifts constantly during driving. when stopping at traffic lights, after being completely stopped, the vehicle lurches and an audible clunk can be heard from the transmission. it has always been sluggish when accelerating, today that has gotten far worse and the transmission light is on. i had a 45 minute drive home and the truck struggled to get up to 40 mph. this erratic transmission behavior makes it dangerous to drive in any kind of traffic or on the highway because you can't predict how the vehicle will behave when pushing the gas pedal. (ID No. 11175904).

NHTSA Complaint dated January 18, 2019: the transmission can not decide which gear to be in creating pauses of power distribution to the rear wheels. the transmission shifts hard and pulls the vehicle back and forth creating loud clunking noises and rattling the passengers. the poor operation of the transmission creates unsafe driving conditions. (ID No. 11170881)

NHTSA Complaint dated January 18, 2019: vehicle will sometimes hesitate during acceleration and transmission will slip - engine rpms will rise to about 2000 and then transmission will engage with a heavy clunk in the drive train. this issues has happened when engine is cold and at normal operating temp. the vehicle currently has 9000 miles on the odometer and has happened five(5) times already. took to local dealer and they are unable to doplicate (ID No. 11166063)

NHTSA Complaint dated December 13, 2018: my truck occasionally does not accelerate from a stop at the correct speed. the rpms go way up but the truck barely moves. i described it to the dealer as being in 1/2 of 1st gear, but even then it does not feel totally connected between engine and transmission. it was much worse during hot weather. (ID No. 11161192)

NHTSA Complaint dated November 8, 2018: while driving 60mph up a slight incline on the interstate, the truck stopped decelerating. the engine rpms jumped up. fortunately i was in the right hand lane and pulled to the shoulder and out of traffic. i was able to rev the rpms and no acceleration, while the gear indicator continued to read "d." it appeared the transmission slipped out of all gears. i coasted to a stop and apologized to my friend for the language as i was on a handsfree call. i placed the gear selector in park, noticed that there were no warning indicators on the dash, and shut off the truck. i pulled out the manual and tried to think of what to do next. finding no solutions, a friend suggested before i call a tow truck, to start it up and try to put it in drive. i did, and it went into gear normally. it has not happened again, however it has had a few unusually aggressive gear changes. i do not trust this truck with the coyote v-8 engine and 10-speed transmission combination. (ID No. 11161177)

NHTSA Complaint dated December 7, 2018: tl* the contact owns a 2018 ford f-150. the contact stated that the transmission shifted unevenly in the first three gears. when the vehicle was started initially, the rpms increased and decreased. the contact called koons sterling ford (46869 harry byrd hwy, sterling, va 20164, (703) 430-7700) and was informed that there was no recall for the failure. a diagnostic appointment was scheduled for a recall that was unrelated to the failure. the manufacturer was not contacted. the failure mileage was 13,000. (ID No. 11156801)

NHTSA Complaint dated December 7, 2018: 10 speed automatic transmission. transmission makes noise, shifts hard when cold, bucks and surges at lower speeds, downshifts are harsh. dealer states this is all normal behavior for this transmission. worst automatic i have ever owned. (ID No. 11156896)

NHTSA Complaint dated November 17, 2018: 10 speed transmission has been an ongoing issue, was hopeful it would resolve itself once the 5k mile break-in period was surpassed. transmission is awkward, clumsy and spends too much time hunting between gear shifts. my 2013 f150 with 105k miles on it drives noticeably smoother. ford dealer ok with no real explanation for customers. (ID No. 11152174)

NHTSA Complaint dated October 8, 2018: transmission has intermittent slipping and very rough up and down shifting. it also has intermittent rough hot start (truck kicks forward as if it wants to take off during start up). the truck also has problems shifting while on “sport” mode in which it will not shift up to the next gear even as it reaches the red line in the tachometer. these problems have progressively increased since i bought the truck back in november 2017. i have brought up these concerns to two separate ford dealers and both stated i had to get used to the shifting in this new 10 speed transmission. both dealers also stated that they’ve had lots of costumer complaints regarding my concern but have not received any direction from ford. my concern is that the transmission might lock up, seize or have a catastrophic failure in which fluid would spill on the roadway and cause me to loose control of the truck. i have looked into several forums and found lots of people with similar complains regarding this 10 speed transmission. please help...thank you. (ID No. 11139060).

NHTSA Complaint dated September 6, 2018: same issues I’m reading here. vehicle frequently makes a loud bang when started. shifts gears extremely rough to the point where you’re jerked around. no power when trying to accelerate from a stop which is extremely dangerous when cars are behind you or trying to accelerate merging onto the freeway. my truck has been to dealer twice now. the first time it was because my fuel injector went out at 4,500 miles! it doesn’t run much better now. when i took it in they just blew me off and said it was “normal behavior for the vehicle. reading all these issues here, ford really needs to take action! extremely dangerous!! (ID No. 11124723)

NHTSA Complaint dated August 23, 2018: 10-speed transmission: the transmission shifts very badly. jerky shifting and often times the truck is sluggish when starting from a stop, often times to the point of acting like the engine is about to die. the only way to partially correct this issues is to drive aggressively and take off from a start with more throttle than one would normally want to. occasionally you can hear/feel a knock from under the truck - underneath the driver's seat when

you start the truck and place the transmission in drive. other times when you start the truck and quickly place the transmission in drive the engine will cut off all while your right foot is still on the brake pedal. on one occasion while i was driving through an intersection on a highway at a slow speed (3 - 5 mph?) behind a car which made a right hand turn, i started accelerating and a very loud bang noise occurred that sounded like two cars hitting one another and a hard shake was felt. i checked my mirrors because i thought someone had rear-ended me. just this terrible 10-speed transmission. all of what i have described is after taking the truck to 2 different ford dealerships. all they have done so far is to re-install software. i plan to take it back to a dealership for the third time hoping that maybe someone might test drive it and actually drop the transmission oil pan and actually look at the transmission. maybe if i am lucky the transmission will self-destruct. (ID No. 11121927).

NHTSA Complaint dated August 4, 2018: truck downshifts very erratically and harsh from 6th to 5th gear while braking, causing the brake pedal to be pushed down at various pressures due to the truck lunging forward because of the erratic and harsh downshift from 6th to 5th gear. truck does not feel safe, the downshift is so erratic and harsh that it feels as if you are being rear ended. i have allowed time for the transmission to "learn" as stated in the manual but it has not changed. (ID No. 11119910)

NHTSA Complaint dated April 20, 2018: 10 speed transmission hazards: when braking the transmission lunges into to lower gears and surges forward erratically requiring varying brake pressure to stop. acceleration is also erratic, sometimes delayed, sometimes immediate. the ford dealership does not have a solution and ford will not responds to calls. the erratic behavior of the transmission makes the vehicle dangerous. (ID No. 11089179)

NHTSA Complaint dated April 9, 2018: tl* the contact owns a 2018 ford f-150. while driving approximately 10 mph with the vehicle in first gear, the vehicle shifted into neutral. a few seconds later, the vehicle shifted into second gear. the contact stated that the failure recurred fifteen times. the vehicle was taken to the dealer (moberly motors ford in moberly, missouri, 660-263-6000) determined that the vehicle performed normally. the vehicle was not repaired. the manufacturer was notified of the failure. the approximate failure mileage was 521. (ID No. 11084065)

NHTSA Complaint dated February 14, 2018: my truck since day one 12-08-2017 has had drivetrain issues erratic shifting , clunking in rear and front drive trains. This morning went pull out it felt like it pop out of gear then in thumped back into gear this happened twice.

Before today the dealer has reprogrammed the firmware with thee 2 tsb
Tsb 17-2262.
Tsb 17-2272.

lit helped some but not getting better it is very erratic and i am concerned that it is going to become a safety issue (ID No. 11072824)

Model Year 2019

NHTSA Complaint dated August 9, 2020: From 4th to 10th gear the transmission is hunting / surging. This is worse in a downshift from 10th to 9th and from 9th to 8th. It is extremely aggravating to purchase a new vehicle and have so many problems. The dealership says it is the transmission acting different to my driving style because it is adapted to how my wife drives. That's a terrible excuse for all ford employees to use because ford hasn't given them a clear answer. This design flaw should be rectified. This is the dream truck my wife and i have always wanted. We decided to spend a little more than we should have to get what we wanted and we have been entirely let down. Please fix this, ford. Do the right thing. (ID No. 11344203)

NHTSA Complaint dated July 16, 2020: I bought new in june 2019 the following month the transmission upshifts downshifts extremely harsh from gears 3,4,5,6 transmission also over revs like clutch is held in when upshifting. Vehicle will drop down 5 gears from highway speeds. When coming to stops it sometimes lurches forward fast almost rear ending cars multiple times. It has been reprogrammed, serviced multiple times, transmission valve body was replaced and still to this day problem getting worse. My ford shop put a flight recorder in and verified all the issues. Waiting for ford engineers to fix this issue. 2 other issues that started almost day one was rear differential leaked, four wheel drive solenoids replaced along with 4x4 wheel hubs. My ford mechanics are great but it's ford moco that is the issue. My ford repair shop is waiting for them to provide a solution. I don't hall or tow anything in this truck. It's used like a car. (ID No. 11339695).

NHTSA Complaint dated May 28, 2020: I recently just purchased my 2019 ford f150 with the 10 speed transmission. Ever since i bought this truck the transmission has been making this clunking sound and jerks very hard. These trucks are very expensive to have them clunk and shift hard and jerk. Ford needs to find a solution to fix these issues with this transmission. It also lurches when its downshifting which could potentially cause an accident. *tr (ID No. 11326425).

NHTSA Complaint dated February 20, 2020: 10R80 10-speed automatic transmission / driveshaft makes loud bang or clunk noise when first starting the engine.the clunking noise continues when you accelerate (light or heavy) and take your foot off throttle the clucks/ bangs are so strong you feel like someone reared you. The automatic transmission jerks and slipped when shifting gears up or down. When city driving transmission / driveshaft clucks/ bangs more because of stop and go. On the highway transmission downshifts and up shifts for no reason and 4 to 6 second delay in throttle response. Have had it to dealership 5 times. First time dealer reset tcm program to "relearn" shifts. Didn't fix problem. Second time checked grease in yolk. Grease full. Still not fixed. 3rd, 4th, and 5th time dealership called ford "hotline" for repair or fix. No call back or fix from ford to date. (ID No. 11310260).

NHTSA Complaint dated January 19, 2020: transmission make a loud bang when starting vehicle. Upon acceleration at highway speeds when transmission shifts from 10th to 6th gear it is so violent it feels like i have been rear ended by another car. Sometimes transmission will have a 3-4 second delay to go into reverse and then makes a loud bang when reverse engages. Spermatic hard shifting. All these problems started at about 20,000 miles. (ID No. 11300268)

NHTSA Complaint dated December 26, 2019: The 10 speed transmission is inconsistent in shifting especially when cold ... Also grabs and clunks if slightly rolling backwards when moved to drive (inconsistent). Creates unpredictable driving situations. (ID No. 11291388)

Model Year 2020

NHTSA Complaint dated May 25, 2020: After 6 weeks of ownership and 1000 miles of usage, i had a few examples of potential transmission issues. First i had a couple of examples of clunks when beginning to drive immediately after start up. A couple days ago i had the worst experience yet. After pulling into a parking spot to wait for a curbside pickup, i turned off the engine for about 5 minutes. Upon restart, i shifted into drive and gave a little gas as i pulled away from spot going forward. There was a loud clunk and the truck jerked before driving normally. Even my wife noticed and made a comment on the severity of this instance. A little while later, still driving after the start up from parking spot, i experienced a hesitation when pulling away from stop light and slowed down to make a quick left turn. After turning, there was a noticeable hesitation before resuming normal driving conditions. Today once again i noticed a slight hesitation pulling from a stop light though not as sever as last time. (ID No. 11325906)


64. Ford failed to disclose the Transmission Defect or to conduct sufficient testing or research that would have revealed and/or allowed Ford to resolve the Defect prior to sale of the Class Vehicles. As a result, Ford has caused Ford drivers to spend money and time at its dealerships or other third-party repair facilities and/or take other remedial measures related to the Transmission Defect in the Class Vehicles.

65. As evidenced by the customer complaints, Ford was put on sufficient notice regarding harsh and abnormal shifting and loss of vehicle power.

C. Ford Misrepresented and Actively Concealed the Defect.

66. Beginning in 2017 and continuing to the present, Ford has misrepresented the safety, performance and reliability of the 10R80 10-speed transmission, through its website, multimedia advertisements, brochures, and in-person statements by its employees, authorized dealers, agents, sales representatives and/or repair technicians—touting the defective

transmission's safety, reliability, enhanced responsiveness and performance with statements such as:²⁹

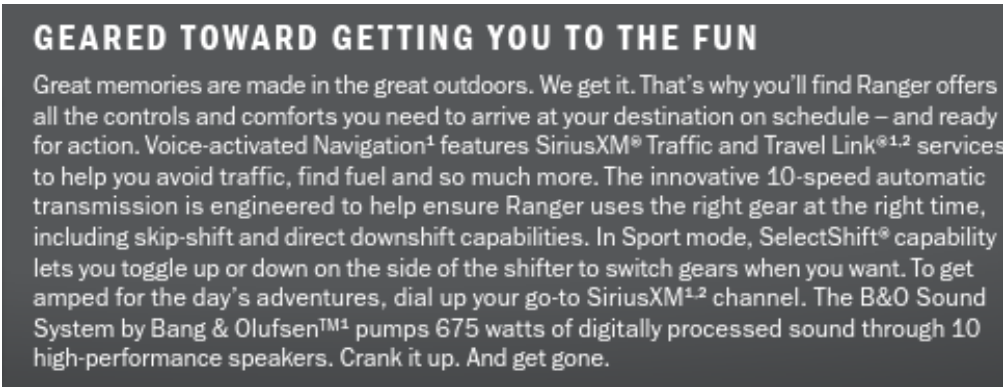


1. **10- SPEED TRANSMISSION**

2. Standard with five F-150 engines for 2019, the innovative 10-speed automatic transmission with SelectShift® capability helps deliver higher average power for acceleration – improving responsiveness and performance. With optimized gear spacing, including 3 overdrive gears, the 10-speed gearbox helps maximize shift points and gear ratios to optimize power, low-rpm torque and fuel efficiency. For proof, see the Engines charts on the previous page.

3. 10 speeds, plus progressive range select and tow/haul mode, enhance

³⁰ (2019 F-150 Ad)



GEARED TOWARD GETTING YOU TO THE FUN

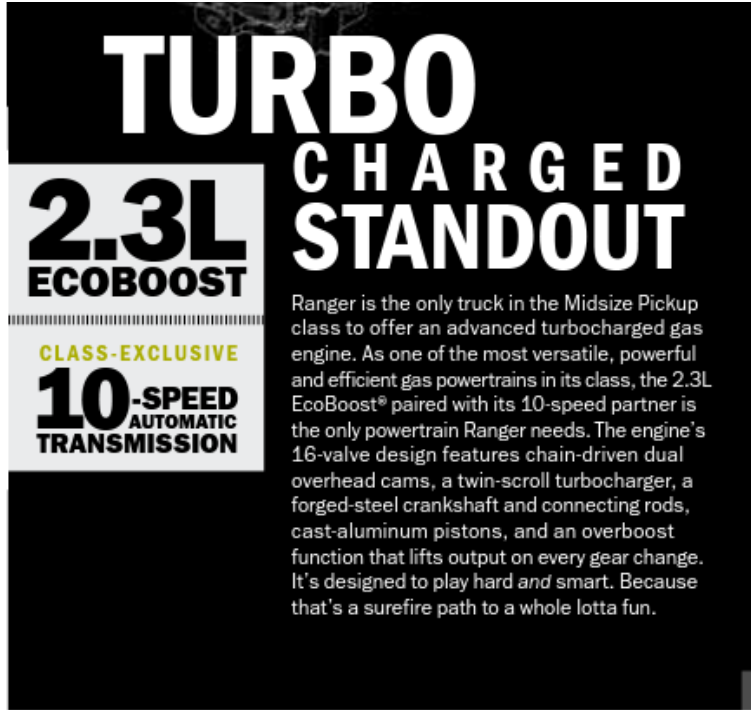
Great memories are made in the great outdoors. We get it. That's why you'll find Ranger offers all the controls and comforts you need to arrive at your destination on schedule – and ready for action. Voice-activated Navigation¹ features SiriusXM® Traffic and Travel Link^{®1,2} services to help you avoid traffic, find fuel and so much more. The innovative 10-speed automatic transmission is engineered to help ensure Ranger uses the right gear at the right time, including skip-shift and direct downshift capabilities. In Sport mode, SelectShift® capability lets you toggle up or down on the side of the shifter to switch gears when you want. To get amped for the day's adventures, dial up your go-to SiriusXM^{1,2} channel. The B&O Sound System by Bang & Olufsen^{TM1} pumps 675 watts of digitally processed sound through 10 high-performance speakers. Crank it up. And get gone.

³¹ (2019 Ranger Ad)

²⁹ Source: 2019 Ford Ranger brochure, available at: <https://cdn.dealereprocess.org/cdn/brochures/ford/2019-ranger.pdf> (last visited March 1, 2023).

³⁰ Source: 2019 Ford F-150 brochure, available at: <https://cdn.dealereprocess.org/cdn/brochures/ford/2019-f150.pdf> (last visited March 1, 2023).

³¹ Source: 2019 Ford Ranger brochure, available at: <https://cdn.dealereprocess.org/cdn/brochures/ford/2019-ranger.pdf> (last visited March 1, 2023).



TURBO
2.3L
ECOBOOST

**CHARGED
STANDOUT**

**CLASS-EXCLUSIVE
10-SPEED
AUTOMATIC
TRANSMISSION**

Ranger is the only truck in the Midsize Pickup class to offer an advanced turbocharged gas engine. As one of the most versatile, powerful and efficient gas powertrains in its class, the 2.3L EcoBoost® paired with its 10-speed partner is the only powertrain Ranger needs. The engine's 16-valve design features chain-driven dual overhead cams, a twin-scroll turbocharger, a forged-steel crankshaft and connecting rods, cast-aluminum pistons, and an overboost function that lifts output on every gear change. It's designed to play hard *and* smart. Because that's a surefire path to a whole lotta fun.

³² (2019 Ranger Ad)



**TURBOCHARGED
ADVENTURE MACHINE.**

As one of the most versatile and powerful gas powertrains in the Midsize Pickup class, the 2.3L EcoBoost® paired with its 10-speed partner is the only powertrain Ranger needs. The engine's 16-valve design features chain-driven dual overhead cams, a twin-scroll turbocharger, and an overboost function that lifts output on every gear change. The 10-speed SelectShift® automatic, featuring Ford patented technology, optimizes gear progressions and delivers smooth, quick shifting up and down the gearbox.

Class-best 310 lb.-ft. of gas torque gives Ranger serious get-up-and-go – besting even the V6 engines in its class. It also features class-exclusive Auto Start-Stop Technology that helps it get impressive mpg ratings.³ And an EPA-estimated driving range of 414 miles per tank helps you explore the wilderness.⁴

³³ (2020 Ranger Ad)

³² *Id.*

³³ <https://cdn.dealereprocess.org/cdn/brochures/ford/2020-ranger.pdf> (last visited March 1, 2023).

While designers strengthened its iconic look, a passionate team of Mustang engineers beefed up just about everything else. 2.3L EcoBoost® engine upgraded for optimal torque. 10-speed automatic²: new, with quick shift times and exceptional low-speed tip-in response to help heighten already legendary performance. Shock absorbers and innovative stabilizer bars: new, to help improve responsiveness and ride control. MagneRide® Damping System¹: now available on EcoBoost and GT models, to optimize ride and handling in all situations. Hood vents: new to EcoBoost, and functional, of course. Just another sign that every Mustang is built for speed.

³⁴ (2018 Mustang Brochure)

Fun-to-row 6-speed manual. Smooth-shifting 10-speed SelectShift® automatic.¹ Cloth or leather-trimmed¹ front buckets. Six unique instrument panel trim¹ choices. Mustang EcoBoost® delivers on style. And performance. “Regardless of which mode you prefer or how you dial in the settings, there’s no denying the EcoBoost Mustang is damn quick on a back road,” says *Motor Trend*. Upgrade to the Carbon Sport Interior Package to cover the instrument panel and shift knob with sleek carbon fiber, while Alcantara® inserts enhance the door-trim panels and Ebony leather-trimmed seats.

³⁵ (2019 Mustang

Brochure)

67. Ford has never disclosed the Transmission Defect to consumers. Instead, from 2017 to the present, Ford has attempted to squelch public recognition of the Transmission Defect by propagating the falsehood that the harsh and bumpy shifting in Class Vehicles was “normal,” through statements made to consumers and the general public by Ford employees, authorized dealers, agents, sales representatives and/or repair technicians, and through TSBs which sought to normalize the poor performance and safety issues, as described herein.

³⁴ <https://cdn.dealereprocess.org/cdn/brochures/ford/2018-mustang.pdf> (last visited March 1, 2023).

³⁵ <https://cdn.dealereprocess.org/cdn/brochures/ford/2019-mustang.pdf> (last visited March 1, 2023).

TECHNICAL SERVICE BULLETIN
10R80 - Harsh Engagement/Harsh Shift/Delayed Shift With Or Without
DTCs

21-2315
 27 September
 2021

Model:

Ford 2018-2021 Expedition	Transmission/Transaxle: (10R80)
2017-2020 F-150	Transmission/Transaxle: (10R80)
2018-2021 Mustang	Transmission/Transaxle: (10R80)
2019-2021 Ranger	Transmission/Transaxle: (10R80)
Lincoln 2018-2021 Navigator	Transmission/Transaxle: (10R80)

Issue: Some 2017-2020 F-150, 2018-2021 Expedition/Navigator/Mustang and 2019-2021 Ranger vehicles equipped with a 10R80 automatic transmission may exhibit a harsh engagement/harsh shift/delayed shift. It is possible the vehicle may also have an illuminated malfunction indicator lamp (MIL) or diagnostic trouble codes (DTC) P0751, P0752, P0756, P0757, P0761, P0762, P0766, P0767, P0771, P0772, P2700, P2701, P2702, P2703, P2704, P2705, P2707, P2708, P0729, P0731, P0732, P0733, P0734, P0735, P0736, P076F, P07D9, P07F6 and/or P07F7 stored in the powertrain control module (PCM) or transmission control module (TCM). This may be due to incompatibility of the adaptive calibration to adapt to hardware wear-in over time. To correct the condition, follow the Service Procedure steps to overhaul the main control valve body and/or perform an adaptive learning drive cycle.

36

NOTE: Advise the customer this vehicle is equipped with an adaptive transmission shift strategy which allows the vehicle's computer to learn the transmission's unique parameters and improve shift quality. When the adaptive strategy is reset, the computer will begin a relearning process. This relearning process may result in firmer than normal upshifts and downshifts for several days.

37

68. Ford has allowed Plaintiff and Class Members to continue to drive the Class Vehicles, despite knowing that they are prone to harsh or abrupt shifting, hesitation, and surging.

69. Despite its knowledge since well before March 2018, Ford has not recalled the Class Vehicles to repair the Transmission Defect and has not offered to reimburse Class Vehicle owners and lessees who incurred costs relating to the transmission problems.

70. Plaintiff and Class Members are reasonable consumers who reasonably expect their Class Vehicles will not harshly and abruptly shift and will not experience sudden and unexpected power surges and losses.

³⁶ Source: Ford TSB 21-2315. <https://www.tsbsearch.com/Ford/21-2315>

³⁷ *Id.*

71. Plaintiff and Class Members reasonably expected that Ford would not sell or lease Class Vehicles with known defects, including the Transmission Defect, and that it would disclose any such defects to its customers before they purchased or leased Class Vehicles. Plaintiff and Class Members did not expect Ford to conceal the Transmission Defect, or to continually deny its existence.

72. Consequently, Plaintiff and Class Members have not received the benefit for which they bargained when they purchased or leased the Class Vehicles.

73. As a result of the Transmission Defect, the value of the Class Vehicles has diminished, including without limitation the resale value of the Class Vehicles.

74. Plaintiff's claims presented herein rise to the level of plausibility set forth in *Bell Atlantic Corp. v. Twombly* by asserting the who, what, when, where and how of the misconduct which caused Plaintiff's damages: the "who" (Defendant, through its employees, authorized dealers, agents, sales representatives and/or repair technicians); the "what" (misrepresentations regarding the safety, performance, and reliability of Ford's 10R80 10-speed transmission and concealment of material information regarding the Transmission Defect and the performance and quality of Class Vehicles); the "when" (between 2017 to the present); the "where" (Ford's website, Ford print and multimedia advertisements, its brochures, TSBs, and in-person by Ford employees, authorized dealers, agents, sales representatives and/or repair technicians); and the "how" (by misrepresenting that Ford's 10R80 10-speed transmission was safe, reliable and "delivers improved overall performance, with enhanced acceleration" and by actively concealing the Transmission Defect by failing to disclose it and propagating the falsehood that the harsh and bumpy shifting in Class Vehicles was "normal."). *See generally Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 545 (2007).

VII. TOLLING OF THE STATUTE OF LIMITATIONS

A. Discovery Rule Tolling

75. Plaintiff and Class Members could not have discovered through the exercise of reasonable diligence that their Class Vehicles were defective within the time period of any applicable statutes of limitation.

76. Among other things, neither Plaintiff nor the other Class Members knew or could have known that the Class Vehicles are equipped with 10R80 transmissions with the Transmission Defect, which causes those transmissions to harshly shift causing gear slippage, vehicle surging, and hesitation.

77. Further, Plaintiff and Class Members had no knowledge of the Defect and it occurred in a part of the vehicle that was not visible to consumers. Ford attempted to squelch public recognition of the Transmission Defect by propagating the falsehood that the harsh shifting that drivers of the Class Vehicles were experiencing was “normal” and that the Transmissions would, in time, correct themselves. Accordingly, any applicable statute of limitation is tolled.

B. Fraudulent Concealment Tolling

78. Throughout the time period relevant to this action, Ford concealed from and failed to disclose to Plaintiff and the other Class Members vital information about the Transmission Defect described herein.

79. Ford kept Plaintiff and the other Class Members ignorant of vital information essential to the pursuit of their claims. As a result, neither Plaintiff nor the other Class Members could have discovered the Defect, even upon reasonable exercise of diligence.

80. Throughout the Class Period, Ford has been aware that the transmissions it designed, manufactured, and installed in the Class Vehicles contained the Transmission Defect,

resulting in harsh shifting, gear slippage, and vehicle surging and hesitation, placing Plaintiff and other drivers in unsafe situations.

81. Despite its knowledge of the Defect, Ford failed to disclose and concealed, and continues to conceal, this critical information from Plaintiff and the other Class Members, even though, at any point in time, it could have disclosed the Transmission Defect through individual correspondence, media release, a recall, or by other means.

82. Plaintiff and the other Class Members justifiably relied on Ford to disclose the Transmission Defect in the Class Vehicles that they purchased or leased, because the Defect was hidden and not discoverable through reasonable efforts by Plaintiff and the other Class Members.

83. Thus, the running of all applicable statutes of limitation have been suspended with respect to any claims that Plaintiff and the other Class Members have sustained as a result of the Defect, by virtue of the fraudulent concealment doctrine.

C. Estoppel

84. Ford was under a continuous duty to disclose to Plaintiff and the other Class Members the true character, quality, and nature of the unsafe and defective Transmissions.

85. Ford knowingly concealed the true nature, quality, and character of the defective Transmissions from consumers.

86. Based on the foregoing, Ford is estopped from relying on any statutes of limitations in defense of this action.

CLASS ACTION ALLEGATIONS

87. Plaintiff brings this lawsuit individually and as a class action on behalf of all others similarly situated pursuant to Federal Rules of Civil Procedure 23(a), (b)(2), and/or (b)(3). This

action satisfies the numerosity, commonality, typicality, adequacy, predominance, and superiority requirements of Rule 23.

88. The Class is defined as:

All persons in the United States and its territories who formerly or currently own or leased one or more vehicles with a 10R80 10-speed automatic transmission.³⁸

89. The Massachusetts Subclass is defined as:

All persons in Massachusetts who formerly or currently own or leased one or more vehicles with a 10R80 10-speed automatic transmission.

90. Excluded from the Class and Subclasses are Defendant and its subsidiaries and affiliates, any class that is certified in *O'Connor, et al. v. Ford* Case No. 1:19-cv-05045 (N.D. Ill.), Defendant's executives, board members, legal counsel, the judges and all other court personnel to whom this case is assigned, their immediate families, and those who purchased Class Vehicles for the purpose of resale.

91. Plaintiff reserves the right to amend or modify the Class and Subclass definitions after they have had an opportunity to conduct discovery.

92. Numerosity: Fed. R. Civ. P. 23(a)(1). The Class is so numerous that the joinder of all members is unfeasible and not practicable. While the precise number of Class Members has not been determined at this time, Plaintiff is informed and believes that thousands of consumers have purchased or leased the Class Vehicles in Massachusetts.

93. Commonality: Fed. R. Civ. P. 23(a)(2) and (b)(3). There are questions of law and fact common to the Class, which predominate over any questions affecting only individual Class Members. These common questions of law and fact include, without limitation:

³⁸ Plaintiff reserves the right to amend or modify their Class and Subclass definitions to include or exclude model years of Vehicles with a 10R80 10-speed automatic transmissions after they have had an opportunity to conduct discovery related to changes made to the 10R80 transmission in each model year, if any.

- a. whether the Class Vehicles and their transmissions are defectively designed or manufactured such that they are not suitable for their intended use;
- b. whether the fact that the Class Vehicles suffer from the Transmission Defect would be considered material to a reasonable consumer;
- c. whether, as a result of Ford's concealment or failure to disclose material facts, Plaintiff and Class Members acted to their detriment by purchasing Class Vehicles manufactured by Ford;
- d. whether Ford was aware of the Transmission Defect;
- e. whether the Transmission Defect constitutes an unreasonable safety risk;
- f. whether Ford breached express and/or implied warranties with respect to the Class Vehicles;
- g. whether Ford violated consumer protection laws for failing to notify the Transmission Defect to Plaintiff and Class Members;
- h. whether Ford has a duty to disclose the defective nature of the Class Vehicles and the Transmission Defect to Plaintiff and Class Members;
- i. whether Plaintiff and Class Members are entitled to equitable relief, including but not limited to a preliminary and/or permanent injunction; and
- j. Whether Ford violated the Magnuson-Moss Warranty Act when it sold to consumer Class Vehicles that suffered from the Transmission Defect.

94. Adequate Representation: Plaintiff will fairly and adequately protect the interests of Class Members. Plaintiff has retained attorneys experienced in the prosecution of class actions, including consumer and product defect class actions, and Plaintiff intends to prosecute this action vigorously.

95. Predominance and Superiority: Plaintiff and Class Members have all suffered and will continue to suffer harm and damages as a result of Ford's unlawful and wrongful conduct. A class action is superior to other available methods for the fair and efficient adjudication of the controversy. Absent a class action, Class Members would likely find the cost of litigating their claims prohibitively high and would therefore have no effective remedy at law. Because of the relatively small size of Class Members' individual claims, it is likely that few Class Members

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

CAUSES OF ACTION

VIII. FIRST CAUSE OF ACTION

BREACH OF EXPRESS WARRANTY

U.C.C. § 2-313

(Massachusetts: Mass. Gen. Laws ch. 106 § 2-313)

(Plaintiff individually, and on behalf of the Class and Subclasses)

96. Plaintiff incorporates by reference and re-allege the preceding paragraphs as if fully set forth herein.

97. Plaintiff brings this cause of action individually and on behalf of the Class and Subclasses.

98. Plaintiff and Class members are "buyers" within the meaning of each applicable warranty statute.

99. The Class Vehicles are "consumer goods" within the meaning of each applicable warranty statute.

100. Ford is a "manufacturer" within the meaning of the warranty statutes.

101. Plaintiff and Class Members bought or leased Ford vehicles equipped with Ford's defective 10R80 10-speed transmission.

102. Ford made express warranties to Plaintiff and Class members within the meaning of the warranty statutes.

103. In the course of selling and leasing the Class Vehicles, Ford expressly warranted in writing that the vehicles were covered by certain warranties in Ford’s “New Vehicle Limited Warranty” as described herein. This express warranty states that “authorized Ford Motor Company dealers will, without charge, repair, replace, or adjust all parts on your vehicle that malfunction or fail during normal use during the applicable coverage period due to a manufacturing defect in the factory-supplied materials or factory workmanship.”³⁹

104. As evidenced by the TSB 22-2139 from April 21, 2022, the Transmission Defect is covered by New Vehicle Limited Warranty.

105. The New Vehicle Limited Warranty as described was made part of the basis of the bargain when Plaintiff and Class Members bought or leased the Class Vehicles.

106. Ford breached its express warranties to repair defects in materials and workmanship of any part supplied by Ford. Ford has not repaired, and has been unwilling to reasonably repair, the Transmission Defect.

107. Furthermore, the express warranties to repair defective parts fail in their essential purpose because the contractual remedy is insufficient to make Plaintiff and Class Members whole and because Ford has failed and/or has refused to adequately provide the promised remedies within a reasonable time.

108. Accordingly, recovery by Plaintiff and the Class is not limited to the express warranties of repair to parts defective in materials or workmanship, and Plaintiff seeks all remedies as allowed by law.

³⁹Source: 2019 Ford Warranty Guide at 9.

https://www.ford.com/cmslibs/content/dam/brand_ford/en_us/brand/resources/general/pdf/warranty/2019-Ford-Car-Truck-Warranty-version-1_frdwa_EN-US_04_2018.pdf (last viewed March 1, 2023).

109. Ford was provided with notice of these issues by numerous customer complaints regarding the Transmission Defect before or within a reasonable amount of time after the allegations of the Defect became public.

110. In addition, the Plaintiff named in this complaint has provided Ford with notice of claims they make on behalf of themselves and similarly situated consumers. Although Ford responded to most of the notice letters, in each case it suggests only a possibility of individual resolution rather than class wide relief. Ford's responses make clear that the Plaintiff's efforts for early resolution were futile.

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

112. Plaintiff and other Class members are entitled to statutory damages and other legal and equitable relief including, at their election, the purchase price of or a buyback of their Ford vehicles, or the overpayment or diminution in value of their Class Vehicles.

113. Plaintiff and Class members are also entitled to costs and reasonable attorneys' fees.

IX. SECOND CAUSE OF ACTION

BREACH OF IMPLIED WARRANTY

U.C.C. § 2-314

(Massachusetts: Mass. Gen. Laws ch. 106, 2-314 and 2-315)
(Plaintiff individually, and on behalf of the Class and Subclasses)

114. Plaintiff incorporates by reference and realleges the preceding paragraphs as if fully set forth herein.

115. Plaintiff brings this cause of action individually and on behalf of the Class and applicable Subclasses.

116. Ford is and was at all relevant times a merchant with respect to the Class Vehicles.

117. Ford was and is in actual or constructive privity with Plaintiff and all Class Members.

- a. Plaintiff had and continue to have sufficient direct dealings with Ford and/or its authorized dealers, franchisees, representatives, and agents to establish any required privity of contract. Ford's authorized dealers, franchisees, representatives, and agents were not intended to be the ultimate consumers of the Class Vehicles and have no rights under the warranty agreements provided with the Class Vehicles. The warranty agreements were designed for and intended to benefit only the ultimate purchasers and lessees of the Class Vehicles, *i.e.*, Plaintiff and Class Members.
- b. Privity is not required to assert this claim because Plaintiff and the Class Members are intended third-party beneficiaries of contracts between Ford and its dealers, franchisees, representatives, and agents.
- c. By extending express written warranties to end-user purchasers and lessees, brought itself into privity with Plaintiff and all Class Members.

118. At all times relevant hereto, applicable law imposed upon Ford a duty that the Transmissions installed in the Class Vehicles be fit for the ordinary purposes for which transmissions are used and that they pass without objection in the trade under the contract description.

119. Ford has not validly disclaimed, excluded, or modified the implied warranties or duties described above, and any attempted disclaimer or exclusion of the implied warranties was and is ineffectual.

120. The Transmissions installed in the Class Vehicles were defective at the time they left the possession of Ford, as set forth above. Ford knew of this defect at the time the purchase and lease transactions occurred. Thus, the Transmissions installed in the Class Vehicles, when sold and at all times thereafter, were not in merchantable condition or quality because they are not fit for their ordinary intended purpose and they do not pass without objection in the trade under the contract description.

121. Plaintiff and Class Members used the Transmissions installed in the Class Vehicles in a manner consistent with their intended use and performed each and every duty required under the terms of the warranties, except as may have been excused or prevented by the conduct of Ford or by operation of law in light of Ford's unconscionable conduct.

122. Ford had actual knowledge of, and received timely notice regarding, the Defect at issue in this litigation and, notwithstanding such notice, failed and refused to offer an effective remedy.

123. In addition, Ford received, on information and belief, numerous consumer complaints and other notices from customers advising of the Defect associated with the Transmissions installed in the Class Vehicles.

124. By virtue of the conduct described herein and throughout this Complaint, Ford breached the implied warranty of merchantability.

125. As a direct and proximate result of Ford's breach of warranties, Plaintiff and Class members suffered economic damage, including loss attributable to the diminished value of their

Class Vehicles, loss of use of their Class Vehicles and other tangible property, as well as the monies spent and to be spent to repair and/or replace their Transmissions.

X. THIRD CAUSE OF ACTION

VIOLATION OF MAGNUSON-MOSS WARRANTY ACT
(15 U.S.C. § 2301, *et seq.*)
(Plaintiff, individually, and on behalf of the Class)

126. Plaintiff incorporates by reference and realleges the preceding paragraphs as if fully set forth herein.

127. Plaintiff brings this cause of action individually and on behalf of the Class.

128. Plaintiff and Class Members are “consumers” within the meaning of 15 U.S.C. § 2301(6).

129. Defendant is a “supplier” and “warrantor” within the meaning of 15 U.S.C. § 2301(6).

130. The Class Vehicles are “consumer products” within the meaning of 15 U.S.C. § 2301(6).

131. This Court has original jurisdiction over this matter under CAFA, and therefore can assert supplemental jurisdiction over this claim.

132. Ford’s express warranties are each a “written warranty” within the meaning of 15 U.S.C. § 2301(6).

133. As discussed herein, Ford extended a three-year/36,000 mile New Vehicle Limited Warranty with the purchase or lease of the Class Vehicles, thereby warranting to repair or replace any part defective in material or workmanship at no cost to the owner or lessee. Ford further extended a five-year/60,000 mile Powertrain Warranty with the purchase or lease of the Class Vehicles.

134. Ford breached each of these express warranties by:

- a. Selling and leasing Class Vehicles with transmissions that were defective in material and workmanship, requiring repair or replacement within the warranty period; and
- b. Refusing and/or failing to honor the express warranties by repairing or replacing, free of charge, any defective component parts.

135. Ford's breach of express warranty has deprived Plaintiff and Class Members of the benefit of their bargain.

136. The matter in controversy exceeds the sum or value of \$5,000,000.00 exclusive of interest and costs, and there are over 100 Class Members.

137. Ford has been afforded a reasonable opportunity to cure its breach of written warranties, including when Ford consumers brought their vehicles in for diagnosis and repair of the Transmission Defect.

138. As a direct and proximate cause of Ford's breach of written warranties, Plaintiff and Class Members sustained damages and other losses in an amount to be determined at trial. Ford's conduct damaged Plaintiff and Class Members, who are entitled to recover actual damages, consequential damages, specific performance, diminution of value, costs, including statutory attorneys' fees and/or other relief as appropriate.

XI. FOURTH CAUSE OF ACTION

NEGLIGENCE

(Plaintiff individually, and on behalf of the Class)

139. Plaintiff incorporates by reference and realleges the preceding paragraphs as if fully set forth herein.

140. Plaintiff brings this cause of action individually and on behalf of the Class.

141. Ford had a duty to design and manufacture a product that would be safe for its intended and foreseeable uses and users, including the use to which its products were put by Plaintiff and the Class Members. Ford breached its duties to Plaintiff and the Class Members because they were negligent in the design, development, manufacture, and testing of the Transmissions installed in the Class Vehicles, and Ford is responsible for this negligence.

142. Ford was negligent in the design, development, manufacture, and testing of the Transmissions installed in the Class Vehicles because they knew, or in the exercise of reasonable care should have known, that the vehicles equipped with defective transmissions pose an unreasonable risk of serious bodily injury to Plaintiff and Class Members, passengers, other motorists, pedestrians, and the public at large, because they are susceptible to shifting harshly and erratically, causing the vehicle to jerk, lunge, and hesitate between gears, which can, among other things, distract drivers and cause them to lose control over their vehicles.

143. Ford owed Plaintiff and the Class a duty to provide thorough notice of known safety defects, such as the Transmissions' shifting difficulties.

144. Once it discovered the Transmission Defect, Ford also owed Plaintiff and the Class Members a duty to ensure that an appropriate repair procedure was developed and made available to consumers.

145. Ford owed also Plaintiff and the proposed Class a duty not to engage in fraudulent or deceptive conduct, including the knowing concealment of material information such as the transmission's shifting problems. This duty is independent of any contractual duties Ford may owe or have owed.

146. Under the TREAD Act, Ford owed an independent duty to send notice to Plaintiff and Class Vehicle owners, purchasers, and dealers whenever it "learns the vehicle or equipment

contains a defect and decides in good faith that the Defect is related to motor vehicle safety.” 49 U.S.C. § 30118(c). Despite Ford’s awareness of the Transmission’s safety defect, it failed to timely notify owners, purchasers, and dealers. This duty is independent of any contractual duties Ford may owe or have owed to them.

147. A finding that Ford owed a duty to Plaintiff and the Class would not significantly burden Ford. Ford has the means to efficiently notify drivers of Class Vehicles about dangerous defects. The cost borne by Ford for these efforts is insignificant in light of the dangers posed to Plaintiff and the Class by Ford’s failure to disclose the Transmission Defect and provide appropriate notice and repair.

148. Ford’s failure to disclose the Defect in Class Vehicles to consumers and the NHTSA is a departure from the reasonable standard of care. Accordingly, Ford breached its duties to Plaintiff and the Class.

149. Ford’s conduct was contrary to public policy favoring the disclosure of defects that may affect customer safety; these policies are embodied in the TREAD Act, and the notification requirements in 49 C.F.R. § 573.1, *et seq.*

150. As a direct, reasonably foreseeable, and proximate result of Ford’s failure to exercise reasonable care to inform Plaintiff and the Class about the Defect or to provide appropriate repair procedures for it, Plaintiff and the Class Members have suffered damages in that they spent more money than they otherwise would have on Class Vehicles which are of diminished value.

151. Plaintiff and the Class Members could not have prevented the damages caused by Ford’s negligence through the exercise of reasonable diligence. Neither Plaintiff nor the Class

Members contributed in any way to Ford's failure to provide appropriate notice and repair procedures.

152. Plaintiff and the Class seek to recover the damages caused by Ford. Because Ford acted fraudulently and with wanton and reckless misconduct, Plaintiff also seeks an award of punitive damages.

XII. FIFTH CAUSE OF ACTION

FRAUD/FRAUDULENT CONCEALMENT (Plaintiff individually, and on behalf of the Class)

153. Plaintiff incorporates by reference and realleges the preceding paragraphs as if fully set forth herein.

154. This claim is brought by Plaintiff individually and on behalf of Class Members.

155. Ford concealed and suppressed material facts concerning the performance and quality of the Class Vehicles—namely, the Transmission Defect—and the quality of the Ford brand. Specifically, Ford knew (or should have known of) the Transmission Defect but failed to disclose it prior to or at the time it sold or leased Class Vehicles to consumers. Ford did so to boost sales and leases of Class Vehicles.

156. Plaintiff and Class Members had no way of knowing that Ford's representations were false and gravely misleading, or that Ford had omitted imperative details. Plaintiff and Class Members did not, and could not, unravel Ford's deception on their own.

157. Ford had a duty to disclose the true performance of Class Vehicles and the Transmission Defect because knowledge thereof and the details related thereto were known and/or accessible only to Ford; Ford had superior knowledge and access to the facts; and knew the facts were not known to, or reasonably discoverable, by Plaintiff and the Class. Ford also had

a duty to disclose because they made many general affirmative representations about the qualities of the Class Vehicles.

158. On information and belief, Ford still has not made full and adequate disclosures, and continues to defraud consumers by concealing material information regarding the Defect and the performance and quality of Class Vehicles.

159. Plaintiff and the Class 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, in that they would not have purchased or leased the Class Vehicles. The actions of Plaintiff and Class Members were justified. Ford was in exclusive control of the material facts and such facts were not known to the public, Plaintiff, or Class Members.

160. Plaintiff and the Class relied upon Ford's representations and omissions regarding the quality of Class Vehicles and the Defect in deciding to purchase or lease Class Vehicles.

161. Because of the concealment and/or suppression of the facts, Plaintiff and the Class sustained damage because they did not receive the value of the price paid for their Class Vehicles. Plaintiff and Class Members would have paid less for Class Vehicles had they known about the Transmission Defect, or they would not have purchased or leased Class Vehicles at all.

162. Accordingly, Ford is liable to Plaintiff and Class Members for damages in an amount to be proven at trial.

163. Ford's actions and omissions were done maliciously, oppressively, deliberately, with intent to defraud, and in reckless disregard of Plaintiff's and the Class's rights and well-being, to enrich Ford. Defendants' conduct warrants an assessment of punitive damages in an amount sufficient to deter such conduct in the future, which amount is to be determined according to proof.

164. Furthermore, as the intended and expected result of its fraud and conscious wrongdoing, Ford has profited and benefited from Plaintiff's and Class Members' purchase of Class Vehicles containing the Transmission Defect. Ford has voluntarily accepted and retained these profits and benefits with full knowledge and awareness that, as a result of Ford's misconduct alleged herein, Plaintiff and Class Members were not receiving trucks of the quality, nature, fitness, or value that had been represented by Ford, and that a reasonable consumer would expect.

165. Ford has been unjustly enriched by its fraudulent, deceptive, and otherwise unlawful conduct in connection with the sale and lease of Class Vehicles and by withholding benefits from Plaintiff and Class Members at the expense of these parties. Equity and good conscience militate against permitting Ford to retain these profits and benefits, and Ford should be required to make restitution of its ill-gotten gains resulting from the conduct alleged herein.

XIII. SIXTH CAUSE OF ACTION

UNJUST ENRICHMENT

(Plaintiff individually, and on behalf of the Class)

166. Plaintiff incorporates by reference and realleges the preceding paragraphs as if fully set forth herein.

167. Plaintiff brings this cause of action individually and on behalf of the Class.

168. Ford has long known that its 10R80, 10-speed automatic transmissions have a propensity to shift harshly and erratically, causing the vehicle to jerk, lunge, and hesitate between gears, posing a serious safety risk, which it concealed and failed to disclose to Plaintiff and the proposed Class Members. By late-2017, complaints were being lodged on NHTSA's safer car website, and Ford issued its first TSB addressing this issue as early as March 2018.

169. As a result of its fraudulent acts and omissions related to the defective Transmissions, Ford obtained monies which rightfully belong to Plaintiff and the Class Members to the detriment of Plaintiff and the proposed Class Members.

170. Ford appreciated, accepted, and retained the non-gratuitous benefits conferred by Plaintiff and the proposed Class Members who, without knowledge of the Defect, paid a higher price for their vehicles which actually had lower values. Ford also received monies for vehicles and transmissions that Plaintiff and the proposed Class Members would not have otherwise purchased or leased.

171. It would be inequitable and unjust for Ford to retain these wrongfully obtained profits.

172. Ford's retention of these wrongfully obtained profits would violate the fundamental principles of justice, equity, and good conscience.

173. Plaintiff and the Class are entitled to restitution of the profits unjustly obtained plus interest.

XIV. SEVENTH CAUSE OF ACTION

BREACH OF IMPLIED WARRANTY OF MERCHANTABILITY

(Mass. Gen. Laws ch. 106, 2-314)

(Plaintiff individually, and on behalf of the Massachusetts Subclass)

174. Plaintiff incorporates by reference and realleges the preceding paragraphs as if fully set forth herein.

175. Plaintiff brings this cause of action individually and on behalf of the Massachusetts Subclass.

176. Ford is and was at all relevant times a merchant with respect to the Class Vehicles.

177. Ford was an is in actual or constructive privity with Plaintiff and all Massachusetts Subclass Members.

178. Pursuant to Mass. Gen. Laws ch. 106, § 2-314, the Class Vehicles owned or leased by Plaintiff and Massachusetts Subclass Members were defectively designed and manufactured and posed a serious and immediate safety risk to consumers and the public. The Class Vehicles were subject to an implied warranty of merchantability, did not comply with the warranty in that they were defective at the time of sale, and as a proximate result of the defect the Plaintiff and Massachusetts Subclass Members sustained damages.

179. The Class Vehicles left Ford's facilities and control with a Defect caused by defective design incorporated into the manufacture of the Class Vehicles. The Defect puts the consumers at a safety risk upon driving the Class Vehicles. At all times relevant hereto, there was a duty imposed by law which requires that a manufacturer or seller's product be reasonably fit for the ordinary purposes for which such products are used, and that the product be acceptable in trade for the product description. This implied warranty of merchantability is part of the basis of the bargain between Ford, on the one hand, and Plaintiff and Massachusetts Subclass Members, on the other.

180. Notwithstanding its duty, at the time of delivery Ford breached the implied warranty of merchantability in that the Class Vehicles transmissions were defective and posed a serious safety risk at the time of sale, would not pass without objection, are not fit for the ordinary purposes for which such goods are used, and failed to conform to the standard performance of like products used in the trade.

181. Ford knew, or should have known, that the Class Vehicles posed a safety risk and were defective and knew, or should have known, of these breaches of implied warranties prior to sale or lease of the Class Vehicles to Plaintiff and Massachusetts Subclass Members.

182. As a direct and proximate result of Ford's breaches of its implied warranties, Plaintiff and Massachusetts Subclass Members bought the Class Vehicles without knowledge of the Defect or their serious safety risks and purchased unsafe products which could not be used for their intended use.

183. As a direct and proximate result of Ford's breach of its implied warranties, Plaintiff and Massachusetts Subclass Members have suffered damages and Ford was unjustly enriched by keeping the profits for its unsafe products while never having to incur the cost of repair, replacement or a recall.

XV. EIGHTH CAUSE OF ACTION

BREACH OF IMPLIED WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE (Mass. Gen. Laws ch. 106, 2-315) (Plaintiff individually, and on behalf of the Massachusetts Subclass)

184. Plaintiff incorporates by reference and realleges the preceding paragraphs as if fully set forth herein.

185. Pursuant to the Mass. Gen. Laws ch. 106, § 2-315, at the time Plaintiff and Massachusetts Subclass members purchased or leased the Class Vehicles, they intended to use the goods for the particular purpose of safely driving the Class Vehicles on and off roadways for personal, family, or work purposes. At the time of purchase of the Class Vehicles, Ford had reason to know of these particular purposes and this implied warranty of fitness for a particular purpose was part of the basis of the bargain between Ford, on the one hand, and Plaintiff and

Massachusetts Subclass Members, on the other hand. Indeed, Ford sold or leased the Class Vehicles for such purposes.

186. Plaintiff and Massachusetts Subclass members relied on Ford's skill and judgment to design and manufacture Class Vehicles suitable for this particular purpose. At the time of purchase, Ford had reason to know that Plaintiff and Massachusetts Subclass members relied on its skill and judgment. The Class Vehicles, however, when sold or leased to Plaintiff and Massachusetts Subclass members, and at all times thereafter, were not fit for their particular purpose of safely being driven. Specifically, the Class Vehicles owned by Plaintiff and Massachusetts Subclass members were defectively designed and manufactured and left Ford's facilities and control with a Defect incorporated into the manufacture of the Class Vehicles and posed a serious risk to safety immediately upon purchase.

187. As a direct and proximate result of Ford's breach of the warranty of merchantability, Plaintiff and Massachusetts Subclass members bought the Class Vehicles without knowledge of the Defect or their serious safety risks and purchased unsafe products which could not be used for their intended use. Plaintiff and the Massachusetts Subclass members suffered, and will continue to suffer, an ascertainable loss of money, property, and/or value of their Class Vehicles. Additionally, as a result of the Transmission Defect, Plaintiff and the Massachusetts Subclass members were harmed and suffered actual damages in that the Class Vehicles' transmissions are substantially certain to fail before their expected useful life has run.

188. Plaintiff and the other Massachusetts Subclass Members have been damaged in an amount to be proven at trial.

XVI. NINTH CAUSE OF ACTION

MASSACHUSETTS CONSUMER PROTECTION LAW

(Mass. Gen. Laws ch. 93A *et seq.*)

(Plaintiff individually, and on behalf of the Massachusetts Subclass)

189. Plaintiff incorporates by reference and realleges the preceding paragraphs as if fully set forth herein.

190. Plaintiff brings this cause of action individually and on behalf of the Massachusetts Subclass.

191. Plaintiff asserts a claim under the Massachusetts Consumer Protection Law (“MCPL”) (“Chapter 93A”), which makes it unlawful to engage in any “[u]nfair methods of competition or deceptive acts or practices in the conduct of any trade or commerce.” Mass. Gen. Laws ch. 92A, § 2(a).

192. Ford developed, manufactured, marketed and sold the defective Class Vehicles containing the Defective Transmissions as alleged herein. Ford developed, manufactured, marketed and sold the Class Vehicles despite knowledge of the Defect and that the Class Vehicles posed a serious safety risk to consumers like Plaintiff and Massachusetts Subclass members.

193. Ford’s actions and omissions in selling and leasing its Class Vehicles as safe for the road despite knowing that the Class Vehicles posed a serious safety risk to consumers, failing to disclose the Defect and safety risks known to Ford but hidden from the consumer, and Ford’s knowing concealment of the defective Class Vehicles’ unreasonable safety risks, are misrepresentations, omissions and concealments of material fact that constitute unfair and/or deceptive trade practices in violation of the MCPL. Ford’s unfair and deceptive practices alleged herein constitute unfair and deceptive acts or practices in or affecting commerce pursuant to 940 C.M.R. § 6.04(1)-(2). Ford’s practices are illegal, unfair or deceptive acts or practices in the

conduct of trade or commerce and are inherently deceptive. Ford's practices alleged herein offend public policy and are immoral, unethical, oppressive, and unscrupulous.

194. Ford violated the MCPL not only when it sold the Class Vehicles as safe for use by consumers, but also when it failed to disclose to Plaintiff and Massachusetts Subclass members that the Class Vehicles had a Defect that posed a serious safety risk to consumers and the public, despite Ford's knowledge that the Class Vehicles posed such a risk to Plaintiff and Massachusetts Subclass members.

195. Ford engaged in deceptive trade practices, in violation of the MCPL, including selling a product for personal or household use that was unsafe to use, holding out to the public that its product could be driven safely on the road, and failing to warn consumers that the Class Vehicles contained a Defect that posed a serious safety risk to consumers and the public.

196. Ford's deceptive trade practices were designed to induce Plaintiff and Massachusetts Subclass members to purchase the Class Vehicles containing the Defect and to avoid the cost of replacing, repairing or recalling the Class Vehicles already in use across the United States. Ford's violations of the MCPL were designed to conceal, and Ford failed to disclose, material facts about the Defect and unreasonable safety risks in the Class Vehicles in order to induce Plaintiff and Massachusetts Subclass members to purchase the Class Vehicles and in order to avoid the business cost of replacing, repairing and/or recalling the Class Vehicles.

197. By engaging in the unfair and deceptive conduct described herein, Ford actively concealed and failed to disclose material facts about the defective Class Vehicles.

198. The omissions set forth above regarding the Class Vehicles are omissions of material facts that a reasonable person would have considered important in deciding whether or not to purchase a Class Vehicle. Indeed, no reasonable consumer would have knowingly bought

or leased a Class Vehicle for use on the road, or otherwise, if that consumer had known that the product had a serious Defect that posed a safety risk and that the Defect caused the Class Vehicles to lose power in the normal course of use.

199. Ford's acts were intended to be deceptive and/or fraudulent, namely to market, distribute and sell the Class Vehicles and to avoid the expense of replacing, repairing and/or recalling Class Vehicles across the United States.

200. Plaintiff and Massachusetts Subclass members suffered injury in-fact as a direct result of Ford's violations of the MCPL in that they have paid a premium for Class Vehicles that are equipped with Ford's defective 10R80 10-speed automatic transmission and that pose an immediate safety risk to consumers and the public. Plaintiff and Massachusetts Subclass members did not receive the benefit of the bargain they made when purchasing or leasing their Class Vehicles.

201. Plaintiff and Massachusetts Subclass members have also been denied the use of their Class Vehicles, expended money on replacement and repairs, and suffered unreasonable diminution in value of their Class Vehicles as a result of Ford's conduct alleged herein.

202. Had Ford disclosed the true quality, nature and defects of the Class Vehicles, Plaintiff and Massachusetts Subclass members would not have purchased the Class Vehicles or would have paid less.

203. To this day, Ford continues to violate the MCPL by concealing the defective nature of the Class Vehicles in failing to notify customers, in failing to issue a recall, and in collecting the profits from costly repairs and replacements.

204. Prior to filing this Complaint, on March 14, 2023, Plaintiff served a demand letter on Ford, notifying Ford of Plaintiff's damages and the Transmission Defect in his Class Vehicle

and demanding relief, in compliance with Mass. Gen. Laws ch. 93A, § 9(3). Ford responded but did not offer classwide relief as requested.

205. Plaintiff and Massachusetts Subclass Members have been damaged by these violations of the MCPL. The damages should be trebled, and Plaintiff and Massachusetts Subclass members should be allowed to recover attorneys' fees pursuant to Mass. Gen. Laws ch. 93A § 9.

REQUESTS FOR RELIEF

206. WHEREFORE, Plaintiff, individually and on behalf of the other members of the Class and Subclasses proposed in this Complaint, respectfully request that the Court enter judgment in their favor and against Ford, as follows:

- a. Declaring that this action is a proper class action, certifying the Class as requested herein, designating Plaintiff as Class and Subclass Representatives and appointing the undersigned counsel as Class Counsel;
- b. Ordering Ford to pay actual damages (and no less than the statutory minimum damages) and equitable monetary relief to Plaintiff and the other members of the Class and Subclasses;
- c. Ordering Ford to pay punitive damages, as allowable by law, to Plaintiff and the other members of the Class and Subclasses;
- d. Ordering Ford to pay statutory damages, as allowable by the statutes asserted herein, to Plaintiff and the other members of the Class and Subclasses;
- e. Awarding injunctive relief as permitted by law or equity, including enjoining Ford from continuing the unlawful practices as set forth herein, and ordering Defendant to engage in a corrective recall campaign;
- f. Ordering Ford to pay attorneys' fees and litigation costs incurred by Plaintiff for the benefit of the Class and Subclasses;
- g. Ordering Ford to pay both pre- and post-judgement interest on any amounts awarded; and
- h. Ordering such other and further relief as may be just and proper.

DEMAND FOR JURY TRIAL

207. Plaintiff, individually and all others similarly situated, hereby demand a trial by jury as to all matters so triable.

Dated: April 17, 2023

Respectfully submitted,

/s/ Alex R. Straus

Alex R. Straus

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