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10 **UNITED STATES DISTRICT COURT**
11 **SOUTHERN DISTRICT OF CALIFORNIA**

12 ILIYA NECHEV, Individually and on
13 Behalf of All Others Similarly Situated,

14 Plaintiff,

15 vs.

16 FERRARI NORTH AMERICA, INC.,
17 a Delaware Corporation; FERRARI
18 S.P.A.; ROBERT BOSCH, LLC, a
19 Delaware Corporation; and ROBERT
20 BOSCH GMBH,

21 Defendants.

Civil Action No. '24CV0516 JO MSB

CLASS ACTION COMPLAINT

DEMAND FOR JURY TRIAL

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CLASS ACTION COMPLAINT

1
2 Plaintiff Iliya Nechev (“Plaintiff”), individually and on behalf of all others
3 similarly situated, brings this class action against Defendants Ferrari North America, Inc.
4 (“Ferrari NA”) and Ferrari S.p.A. (“Ferrari SpA”), collectively referred to as “Ferrari”),
5 Robert Bosch GmbH (“Bosch GmbH”), and its agent/alter ego Robert Bosch, LLC
6 (“Bosch LLC”, collectively referred to as “Bosch” or “Bosch GmbH”), (Bosch and
7 Ferrari collectively referred to as “Defendants”) to obtain damages, restitution, and/or
8 injunctive relief for himself and on behalf of the proposed Class as defined herein.
9 Plaintiff makes the following allegations upon information and belief, the investigation
10 of his counsel, and facts that are of public record, except as to his allegations, which are
11 made with personal knowledge.

I. INTRODUCTION

12
13 1. Ferrari is the world’s preeminent luxury sports car brand. The company has
14 developed a passionate following of automotive enthusiasts, investors, and collectors of
15 classic and exclusive models.¹

16 2. A Ferrari is also a commodity, limited in production and limited in terms of
17 access—with the most exclusive vehicles restricted to preferred customers.² This strategy
18 of exclusivity and aggressive brand protection is a bulwark to ensure a Ferrari is worth
19 more than the sum of its parts.³ Consumers who purchase a Ferrari are paying a premium
20 and are buying into Ferrari culture—with loyal consumers rewarded with more exclusive
21
22

23 ¹ Press Releases, *Brand Finance Global 500 Names Ferrari As The World’s Strongest Brand For*
24 *Second Consecutive Year*, Ferrari (Jan. 22, 2020), <https://www.ferrari.com/en-EN/corporate/articles/brand-finance-global-500-names-ferrari-as-the-worlds-strongest-brand-for-second-consecutive-year-corp>.

25 ² In a statement concerning Ferrari’s decision to “blacklist” certain celebrities, Ferrari stated it
26 “reserves the right to decide on special editions.” *See Ferrari responds if it banned Justin Bieber and*
27 *the Kardashians from buying its cars*, MARCA (May 17, 2022)
<https://www.marca.com/en/lifestyle/celebrities/2022/05/17/6283c08ce2704e70438b457e.html>.

28 ³ *The 15 Most Expensive Ferraris Ever Built*, Elite Traveler (Jan. 5, 2018),
<https://elitetraveler.com/luxury-transport/automotive/the-15-most-expensive-ferraris-ever-built>.

1 models that may appreciate in value.⁴ Ferrari goes to great lengths to protect its brand,
2 which played a significant role in Plaintiff’s and the Class Members’ decision to purchase
3 or lease a Ferrari.

4 3. Ferrari’s standing in the automotive world makes the facts of this case
5 particularly jarring and consequential. Ferrari has long known about a critical safety
6 defect in its vehicles. Although it may not always be detected due to the limited
7 recreational use of these vehicles, this does not diminish the severe, potentially fatal risks
8 it poses to the Plaintiff and Class Members. It appears that Ferrari has prioritized profits
9 and reputation over consumer safety, neglecting a defect in one of the most crucial
10 components of any high-performance sports car - the braking system.

11 4. After multiple reported brake failures attributed to a component
12 manufactured by Bosch GmbH, on October 28, 2021, Ferrari SpA directed Ferrari NA
13 to conduct a voluntary recall in the United States.⁵ In the initial recall, Ferrari NA
14 described the defect as follows: the “vehicles are equipped with a braking system that
15 could potentially leak brake fluid, which may lead to partial or total loss of braking
16 capability.”⁶ Ferrari NA identified the brake components as manufactured by Bosch and
17 installed in Class Vehicles (defined below) that Ferrari SpA manufactures.⁷ Ferrari NA
18 identified the defective component as the master cylinder/brake booster assembly—even
19 identifying the very same part number as defective that Plaintiff replaced when his brakes
20
21

22 ⁴ When it comes to owning a special Ferrari, the saying goes, “You don’t choose Ferrari. Ferrari
23 chooses you.” See Nadeem Sarwar, *The Reason Why Jay Leno Will Never Own A Ferrari*, SlashGear
24 (June 16, 2022), <https://www.slashgear.com/898761/the-reason-why-jay-leno-will-never-own-a-ferrari/>.

25 ⁵ As the recall was voluntary, the recall was made prior to any involvement by the National
Highway Traffic Safety Administration (“NHTSA”). NHTSA has not initiated an investigation or made
any determination into the adequacy of the recall.

26 ⁶ *Part 573 Safety Recall Report 21V-833*, NHTSA (2021), available at:
27 <https://static.nhtsa.gov/odi/rcl/2021/RCLRPT-21V833-4048.PDF>.

28 ⁷ Bosch GmbH and Ferrari SpA worked together to design, test, and approve the braking systems
present in the Class Vehicles.

1 failed.⁸

2 5. Defendants’ knowledge of the “Brake Defect” (defined below) likely
3 originated during extensive pre-production design and testing.⁹ At a minimum,
4 Defendants’ notice can be traced to a fatal accident on June 9, 2015, where, despite the
5 driver’s insistence on complete brake failure at his subsequent criminal trial, a Ferrari
6 SpA technician testified the braking systems at issue are “operative even in case of failure
7 of the brake booster vacuum”—testimony now contradicted by Ferrari’s disclosures to
8 the NHTSA.¹⁰ Ferrari’s knowledge can also be traced to litigation in Wisconsin following
9 a crash on July 7, 2017—a crash consistent with the failure mode described in the
10 recalls—even answering the litigation prior to Plaintiff’s Class Vehicle purchase.¹¹
11 Likewise, Defendants were involved in an action in the District of New Jersey on
12 December 30, 2021, precipitating Defendants’ second, broader recall, where plaintiffs
13 allege their Ferrari vehicles suffered from a dangerous safety defect involving the brake
14 system in the Class Vehicles.¹²

15 6. In the nine years since the 2015 incident, Defendants received substantial
16 evidence that there exists a severe issue in the braking system of the Class Vehicles,
17 including but not limited to: (1) testing conducted to remain in compliance with Federal
18 Motor Vehicle Safety Standard (“FMVSS”) regulations; (2) international and domestic

19 ⁸ Other owners have come forward online, claiming that Ferrari has long known that Component
20 Part Number 000244010 is defective, with one owner posting a maintenance record online from Ferrari
21 dated November 18, 2017 identifying this very same part number. *See Exhibit A* (reviewing consumer
complaints on FerrariChat).

22 ⁹ Each Ferrari takes nearly three months to complete and is designed to withstand strenuous racing
23 conditions—Ferrari even maintains a private racetrack for this very reason. *See Eleanor Peake, Inside
the top secret factory where new Ferraris are born* (WIRED, April 15, 2018)
<https://www.wired.co.uk/article/ferrari-car-factory-manufactured-italy-enzo-build-create>.

24 ¹⁰ *RC 80 Chronology*, NHTSA (2023), available at: <https://static.nhtsa.gov/odi/rcl/2022/RMISC-22V536-2774.pdf>.

25 ¹¹ *See Joel Saban, et al. vs. Ferrari North America, et al.*, Docket No. 2021CV000087 (Wis. Cir.
26 Ct. Mar. 10, 2021) (the “*Saban Action*”). The *Saban Action*—which Ferrari answered on November 5,
2020—together with the death of Ku Lap Chi, makes it clear Ferrari had notice of the Brake Defect
27 prior to Plaintiff’s Class Vehicle purchase in December 2020.

28 ¹² *See Rose vs. Ferrari N. Am., et al.*, No. 2:21-cv-20772 (D.N.J.) (class action bringing claims
under the laws of Georgia, New Jersey, and Texas).

1 litigation alleging defective brake boosters in the Class Vehicles; (3) complaints filed
2 directly with the NHTSA which Ferrari NA is legally obligated to monitor; (4) an
3 outpouring of discussion on Ferrari owner forums, such as FerrariChat, which is
4 sponsored by several authorized Ferrari dealerships (*see* Ex. A); (5) highly publicized
5 manifestations of brake failure in the Class Vehicles reported on by automotive news
6 outlets; (6) warranty claims submitted to Ferrari’s network of dealerships—potentially
7 the primary source of Ferrari’s knowledge and in its exclusive possession; (7) discussions
8 between customers and Ferrari executives, including those managing After Sales &
9 Operation at Ferrari NA; and (8) post-failure communications between Bosch GmbH and
10 Ferrari SpA concerning the root cause of any braking issues in the Class Vehicles,
11 including post-recall.¹³

12 7. On July 26, 2022, Ferrari NA greatly expanded its initial recall and began
13 offering a purported “remedy” involving replacing the brake fluid cap at the entry point
14 to the brake fluid reservoir component of the braking system.¹⁴ Yet in a later-filed
15 document, Ferrari identified two failure modes that can cause complete brake failure—
16 with only one failure mode affecting Part Number 000244010, which Ferrari previously
17 identified as the defective component.¹⁵ The first failure mode involves the rearmost seal
18 (or the isolation seal) twisting out of place, which causes the brake fluid to leak from the
19 master cylinder into the brake booster.¹⁶ The brake fluid leak depletes the fluid levels in
20 the primary brake circuit (front brakes), causing the primary circuit to lose braking
21 capabilities.¹⁷ According to Ferrari, “[w]hen this happens, the brake capability is limited
22 to the secondary circuit” (“Failure Mode One”).¹⁸ However, the Brake Defect may also

23 ¹³ Ferrari also admitted knowledge to at least twelve other incidents involving the loss of brake
24 fluid that may have resulted in the partial or total loss of braking capability. *See Infra* § IV.C; Ex. A;
RC 80 Chronology, *supra*, note 10.

25 ¹⁴ Part 573 Safety Recall Report 21V-833, *supra* note 6.

26 ¹⁵ RC 80 Chronology, *supra*, note 10.

27 ¹⁶ *Id.*

27 ¹⁷ *Id.*

28 ¹⁸ *Id.*

1 cause failure of the secondary circuit (rear brakes), making braking capabilities “almost
2 totally compromised.” Specifically, when the rearmost seal twists, ventilation is affected,
3 creating a vacuum inside the brake fluid reservoir that causes “the secondary circuit [to]
4 fail” (“Failure Mode Two”).¹⁹

5 8. As confirmed in Ferrari NA’s public filings, the recall remedy of replacing
6 the brake fluid cap only acts as an interim corrective measure for Failure Mode Two. It
7 also provides a warning system for Failure Mode One via a software update, should the
8 rearmost seal twist and brake fluid leak.²⁰ Despite Ferrari’s knowledge of Failure Mode
9 One, it has not released any countermeasure to remedy the failure mode or prevent the
10 twisting of the rearmost seal otherwise. Indeed, Ferrari NA admitted that “[d]espite
11 numerous tests conducted, Ferrari has not yet been able to reproduce the twisting of the
12 isolation lip seal and the movement out of its groove.”²¹ Together, the failure modes are
13 in direct violation of FMVSS 105 and 135, which provide, among other things, that a
14 loss of fluid from one compartment shall not result in a complete loss of brake fluid from
15 another compartment.²²

16 9. Despite this knowledge and in breach of their obligations to Plaintiff and the
17 Class, Ferrari and Bosch have failed to act. Defendants have not informed owners of the
18 full extent of the Brake Defect, only remedied one failure mode, and continue to sell (or
19 benefit from the sale) of thousands of cars containing this life-threatening defect.²³

21 ¹⁹ *Id.*

22 ²⁰ *Part 573 Safety Recall Report 22V-536*, NHTSA (2022), available at:
<https://static.nhtsa.gov/odi/rcl/2022/RCLRPT-22V536-4846.PDF>.

23 ²¹ RC 80 Chronology, *supra*, note 10.

24 ²² Even more concerning, Plaintiff has reason to believe that the cap replacement may have the
25 effect of making the vehicles more dangerous and more prone to brake failure. By way of example, at
least one complainant to NHTSA experienced a complete loss of braking capability and slammed into
a wall while driving, despite *having previously had the recall repair performed*. *Infra* § IV.C.3.

26 ²³ ‘Thousands of vehicles’ is the key metric here—this is not an action where millions of trucks or
27 cars were sold to and driven every day by the general public—most Ferraris are only driven a few
thousand miles per year, if at all. The fact that a statistically significant percentage of owners have
28 reported problems in such a small population size is staggering and highly indicative of the gravity of
this issue.

1 Ferrari’s recalls do not call for what is needed – *i.e.*, a replacement of the defective master
2 cylinders if brake fluid leaks are found (and, therefore, the rearmost seal has twisted and
3 is damaged).

4 10. Defendants omitted information concerning the Brake Defect from all
5 advertising, promotion, or other contacts with Plaintiff and Class members prior to their
6 purchase or lease of the Class Vehicles. Defendants also aided, abetted, and/or made
7 misleading statements about class vehicle safety and braking capability, including when
8 affixing or providing to each owner or lessee: (i) certification labels that uniformly
9 communicate compliance with motor vehicle safety standards in every Class Vehicle; (ii)
10 in-vehicle safety information, such as in the Owner’s Service Book, about brakes and
11 required maintenance of the braking system; and (iii) other consumer-facing marketing
12 up to and at the point of sale including the Monroney label. In short, Defendants had a
13 duty to disclose the Brake Defect because they were in a superior position to know of the
14 safety defect, actually knew about the defect, and Plaintiff and the Class could not have
15 reasonably discovered the defect until the brakes in the Class Vehicles failed.

16 11. Plaintiff brings this action on behalf of himself and all those similarly
17 situated for Defendants’ unlawful conduct under the laws of the State of California.
18 Plaintiff seeks damages for overpayment at the point of sale, diminution of value, the
19 cost of repair of the Class Vehicles, attorneys’ fees and costs, punitive damages, and any
20 other legal relief available for his claims. Had Defendants disclosed the Brake Defect at
21 the point of sale or lease, Plaintiff and Class Members would have seen such disclosures
22 and would not have bought or leased the Class Vehicles. Plaintiff and the Class have thus
23 been harmed and seek all available relief.

24 **II. PARTIES**

25 **Plaintiff**

26 12. Plaintiff Iliya Nechev (“Plaintiff”) is a citizen of the state of California,
27 residing in San Marcos, California. Plaintiff Nechev purchased a used 2010 Ferrari 458
28 Italia, VIN: ZFF67NFA1A0175749 (Plaintiff’s “Class Vehicle”), in December 2020

1 from Ferrari of Washington (“Ferrari Dealership”), an authorized Ferrari dealership,
2 located at 45235 Towlern Place, Sterling, Virginia 20166. Plaintiff purchased the Class
3 Vehicle with approximately 28,000 miles on it from his residence in California.

4 13. Plaintiff found a listing for the Class Vehicle through research online and
5 through Ferrari’s website, ultimately finding a listing for the Class Vehicle on
6 Autotrader.com. Plaintiff then emailed and called the Ferrari Dealership for additional
7 information.

8 14. Plaintiff discussed and communicated with sales representatives from the
9 Ferrari Dealership including Casey Francis, Steven Meyer, and James Pollack. The
10 Ferrari representatives provided Plaintiff with detailed paperwork and information
11 packets for the Class Vehicle.

12 15. Prior to the purchase of Plaintiff’s Class Vehicle, Plaintiff viewed and
13 inspected the Monroney label that informed him of the make and model of the vehicle
14 and provided detailed specifications concerning its braking system. The Monroney label
15 also informed Plaintiff that his vehicle was assembled in Maranello, Modena, Italy and
16 then imported to the United States by Ferrari NA. The Monroney label also stated that it
17 had been affixed by Ferrari NA pursuant to the requirements of 15 U.S.C. § 1231, *et seq.*,
18 which prohibited its “removal or alternation prior to delivery to the ultimate purchaser.”
19 A copy of said Monroney label is provided below:

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Ferrari
 Ferrari North America, Inc
 250 Sylvan Avenue
 Englewood Cliffs, NJ 07632

Model Year: 2010
Model Desc: 458 ITALIA
Color: TITANIUM / BLACK
Port of Importation: PORT NEWARK
Warehouse: NEWARK, NJ
Serial Number: ZFF67NFA1A0175749

DEALER TO WHOM DELIVERED
 FERRARI OF WASHINGTON
 45235 TOWLERN PLACE
 STERLING, VA 201660000
Mode of Transportation: VIA TRUCK

PARTS CONTENT INFORMATION FOR THIS VEHICLE
Final Assembly Point: Maranello, Modena, Italy
Country of Origin: Italy
Engine Parts: Italy
Transmission Parts: Italy

Standard Equipment Included in Suggested Retail Price *
 *4.5 L MID-MOUNTED V8 ENGINE PRODUCING 560 HP @ 9,000 RPM
 *7-SPEED F1 DUAL CLUTCH TRANSMISSION
 *ALUMINUM BODY SHELL AND CHASSIS
 *SCM2 MAGNETIC SUSPENSION DAMPING
 *DOUBLE WISHBONE FRONT SUSPENSION
 *MULTI LINK REAR SUSPENSION
 *E-DIFF3 ELECT. REAR DIFFERENTIAL
 *F-1 TRAC TRACTION CONTROL
 *CST-CONTROL STABILITY & TRACTION
 *CCMD-CARBON CERAMIC BRAKES
 *HIGH PERFORMANCE ABS WITH BRAKE PRE-FILL
 *MANETTINO-STEERING WHEEL MOUNTED F-1 SYSTEMS MODE CONTROL
 *DRIVER, PASSENGER & SIDE AIRBAGS
 *TIRE PRESSURE & TEMP. MONITOR
 *VEHICLE DYNAMIC ASSISTANCE (VDA)
 *INST. CLUSTER WITH 2 TFT SCREENS

Options
 AFS SYSTEM 1,889.00
 BRAKE CALIPERS ALLUMINIUM COL. 1,339.00
 CARBON FIBER DRIVER ZONE+LEDS 6,925.00
 INT UPHOLST. LEATHER/ALCANTARA 4,979.00
 FRONT SUSPENSION LIFT 4,407.00
 FERRARI IPOD 861.00
 *SCUDERIA FERRARI SHIELDS 1,542.00
 INN/OUT ELETTR.MIRROR+HOMELINK 1,574.00
 RADIONAVI SYSTEM + BLUETOOTH 3,305.00
 FRONT AND REAR PARKING SENSORS 2,203.00
 PAINTED 20" SPORT RIMS 5,509.00
 OTHER OPTIONS 8,869.00

Manufacturer's Suggested Port of Entry Retail Price \$225,325.00
Delivery, Process, Prep & Handling Fee 2,350.00

Tires PIRELLI P ZERO FRONT: 295/35 ZR20 REAR: 295/35 ZR20

Total Suggested Retail Price \$273,597.00

Warranty
 Refer to Warranty Info Book for Specific Limitations

GOVERNMENT SAFETY RATINGS
 This vehicle has not been rated by the government for frontal crash, side crash or rollover risk.
 Source: National Highway Traffic Safety Administration (NHTSA).
www.safercar.gov or 1-888-327-4236

EPA Fuel Economy Estimates
 These estimates reflect new EPA methods beginning with 2008 models.

City MPG 12
 Expected range for most drivers 9 to 15 mpg

Highway MPG 18
 Expected range for most drivers 14 to 22 mpg

Estimated Annual Fuel Cost \$2,999
 based on 15,000 miles at \$2.80 per gallon

Gas Guzzler Tax \$ 2,600.00

Combined Fuel Economy This Vehicle 14 TWOS

Your actual mileage will vary depending on how you drive and maintain your vehicle

*Gasoline, license and title fees, luxury, state and local taxes, dealer installed accessories are not included.
 This vehicle is equipped with a front bumper that has been tested at an impact speed of * mph and a rear bumper that has been tested at an impact speed of * mph, and has sustained no damage to the vehicle's body and minimal damage to the bumper and attachment hardware. Minimal damage to the bumper means damage that can be repaired with the use of common repair materials and without replacing any parts. The stronger the bumper, the less likely the car will require repair after a low speed collision. However, this vehicle is equipped with a bumper system that, under federal bumper standard test conditions and procedures, can withstand a frontal impact speed of 2.5 mph and a rear impact speed of 2.5 mph with no more damage than allowed by federal bumper standard. *Not tested to specifics of N.Y. Law.
 This label has been affixed to this vehicle pursuant to the requirements of U.S.C 15§ 1231 et seq., which prohibits its removal or alteration prior to delivery to the ultimate purchaser. THIS IS A COPY OF THE ORIGINAL MONROE LABEL.

16. Plaintiff, while residing in California, reviewed all materials sent to him by the Ferrari Dealership.

17. Plaintiff and the Ferrari Dealership also discussed the price of the Class Vehicle and reached an agreement on the price from Plaintiff's residence in California.

18. Plaintiff signed the purchase agreement for the Class Vehicle in California.

19. Plaintiff paid California sales tax for the Class Vehicle.

20. Prior to Plaintiff's acceptance of the Class Vehicle, Plaintiff also viewed and inspected the permanent certification label affixed by Ferrari SpA and dated July 2010, that stated: "[t]his vehicle conforms to all applicable Federal motor vehicle safety, bumper, and theft prevention standards in effect on the date of manufacture shown above." A copy of said certification label is provided below:



21. From the day Plaintiff received his Class Vehicle, he complained of brake issues whereby the Class Vehicle would experience partial or total loss of braking capability. Plaintiff came close to an accident several times. On one occasion, Plaintiff was driving downhill at approximately 50 miles per hour and while preparing to take a 90-degree right hand turn, Plaintiff pressed down on his brakes, but the Class Vehicle did not slow down, the brake pedal was hard, and despite down shifting, there was no brake pressure. Plaintiff complained of the issue to the Ferrari Dealership in early 2021 and was informed that this issue was “normal.”

22. Plaintiff attempted to have the vehicle repaired at Ferrari of San Diego but was informed there was nothing wrong with his Class Vehicle. Plaintiff was informed “Ferrari ceramic brakes feel different than other cars” brakes, that he “should just get used to them” and that “there was absolutely no issues with the brakes in any way.”

23. In or around April 2021, Plaintiff decided that the issue was too dangerous to leave unrepaired, so he ordered hoses with integrated check valves, along with a new brake booster and master cylinder. The interior of his engine and front compartment is shown below:



24. Plaintiff first replaced the vacuum line in his Class Vehicle, which had to be snaked behind the engine and around the alternator. Plaintiff attempted this repair first because the Ferrari 458 brake system is relatively straightforward and common automotive design, using vacuum pressure from the intake manifold to activate the brake servo (booster) which pushes the piston of the master cylinder delivering brake fluid at high pressure to the brakes. The hard lines from the intake have several check valves, and are generally known to fail over time by not providing enough vacuum to the brake booster. Plaintiff states this replacement was not an easy task, and it ultimately did not repair the issue in his Class Vehicle.

1 25. As the other point of failure is the master cylinder, Plaintiff then had to
2 disassemble the front end of his vehicle to reach the master cylinder/brake booster assembly
3 (shown below). According to Plaintiff, the master cylinder seal can leak brake fluid into
4 the brake booster, damaging the diaphragm inside.



16 26. After reaching the master cylinder/brake booster assembly, Plaintiff indeed
17 discovered a small pool of brake fluid, leaked by a failed master cylinder seal. Once those
18 parts were replaced, Plaintiff reassembled the front end of his Class Vehicle and went for
19 a test drive. Plaintiff found that after replacing the master cylinder/brake booster
20 assembly, he no longer experienced issues with braking capability. Ferrari did not
21 reimburse Plaintiff for any of the costs or damages associated with his Class Vehicle.





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13 27. After replacing the components in his Class Vehicle, Plaintiff submitted an
14 “invoice” with his expenses to Ferrari NA—as part of Ferrari’s recall campaign—and
15 did not receive reimbursement for his out-of-pocket expenses, even after providing
16 Ferrari NA and Ferrari SpA notice of his claims against them. *See Exhibits B and C.*

17 28. Through its dealer agreements and other methods, Ferrari NA has control
18 over the consumer-facing information and disclosures provided to consumers, such as
19 window stickers and other legally required notices. As a certified Ferrari dealership, the
20 Ferrari Dealership from which Plaintiff purchased his Class Vehicle, past and present,
21 acted as Defendants’ agent regarding the disclosures and other representations made to
22 consumers about the characteristics of its Class Vehicles, including to Plaintiff.

23 29. Bosch GmbH, through its agent/alter ego Bosch LLC, also omitted the
24 Brake Defect from technicians responsible for repairing or replacing defective
25 components in Ferrari Class Vehicles. Bosch GmbH offers specialized tools, Bosch
26 support and training to service/repair Bosch components to exotic motor vehicle
27 dealerships in California, and yet concealed any issues related to the Brake Defect. Upon
28 learning of a systemic defect in the Class Vehicles, Bosch GmbH had a duty to disclose

1 this known safety defect to Ferrari SpA, its technicians, or certified technicians in exotic
2 motor vehicle dealerships, which in turn had a duty to disclose the issue to Plaintiff and
3 the Class.

4 30. Defendants failed to disclose that the Class Vehicles suffer from the Brake
5 Defect and omitted the existence of the Brake Defect from the materials provided to the
6 general public and consumers of the Class Vehicles. Prior to purchase, Plaintiff reviewed
7 all paperwork provided by Ferrari and its dealerships or provided by private sellers'
8 documents created by Ferrari, including in advertising and promotional materials.
9 Plaintiff has been an avid Ferrari owner and fan for many years, researching vehicles on
10 Ferrari's website and on various forums that Ferrari monitors. However, despite
11 Defendants' knowledge of the Defect, Ferrari did not disclose the Brake Defect. As a
12 result of Defendants' omissions, at the time Plaintiff purchased his Class Vehicle,
13 Plaintiff believed it was safe and reliable.

14 31. Defendants acted in bad faith because Defendants knew, at the time, that
15 they designed, tested, validated, marketed, and sold Class Vehicles to consumers that
16 suffer from the Brake Defect. Notwithstanding that knowledge, Defendants concealed
17 the existence of the Brake Defect.

18 32. Had Plaintiff and Class Members, or any other reasonable person, known
19 the Class Vehicles suffered from the Brake Defect, they would not have purchased their
20 Class Vehicles.

21 **Defendants**

22 33. Defendant Ferrari S.p.A. ("Ferrari SpA") designs and manufactures sports
23 cars that are synonymous with luxury, speed, and performance. Ferrari SpA is based in
24 Maranello, Italy. Approximately 3,800 Ferraris are sold each year, with prices starting at
25 \$120,000. The Class Vehicles were designed and manufactured by Ferrari SpA.

26 34. Pursuant to 49 CFR §551.46, Ferrari SpA was required to designate an agent
27 for service of process in the United States as a foreign manufacturer of the Class Vehicles.
28 Ferrari NA, as Ferrari SpA's domestic subsidiary for the United States market, is the

1 proper agent to effectuate service on Ferrari SpA.

2 35. Defendant Ferrari North America, Inc. (“Ferrari NA”) is an automobile
3 distributor incorporated in Delaware with its principal place of business at 250 Sylvan
4 Avenue, Englewood Cliffs, New Jersey. Ferrari NA is the exclusive distributor and
5 warrantor of Ferrari automobiles, parts, and accessories manufactured by Ferrari SpA to
6 retail dealers in the United States. Ferrari NA distributed, sold, serviced, and/or
7 warranted thousands of Class Vehicles, directly or indirectly, to Plaintiff and Class
8 Members with the understanding and expectation that Class Vehicles would be sold,
9 operated, and fit for their intended purpose across the country, including California.

10 36. At all times relevant to this action, Ferrari NA sold and warranted the Class
11 Vehicles throughout the United States, and specifically in California. Ferrari SpA and/or
12 its agents, divisions, or subsidiaries designed and manufactured the Class Vehicles.
13 Together with Ferrari SpA, Ferrari NA developed and disseminated the owner’s manuals,
14 supplements, warranty booklets, advertisements, and other promotional materials
15 relating to the Class Vehicles. Ferrari NA, with the consent of Ferrari SpA, provided
16 these to its authorized dealers for the express purpose of having these dealers pass such
17 materials to potential purchasers at the point of sale. Ferrari NA and Ferrari SpA also
18 created, designed, and disseminated information about the quality of the Class Vehicles
19 and their braking components to agents of various publications for the express purpose
20 of having that information reach potential consumers.

21 37. Defendant Robert Bosch GmbH (“Bosch GmbH”) is a German
22 multinational engineering and electronics company headquartered in Gerlingen,
23 Germany. Bosch GmbH is the parent company of Robert Bosch LLC. Bosch GmbH, at
24 all material times, designed, manufactured, and supplied the defective brake components
25 to Ferrari. Bosch GmbH is subject to the personal jurisdiction of this Court because it has
26 availed itself of the laws of the United States through its management and control over
27 Robert Bosch LLC and over the design, development, manufacture, distribution, testing,
28 and sale of thousands of braking systems installed in the Class Vehicles sold or leased in

1 the United States. Employees of Bosch GmbH have collaborated on the concealment and
2 omission of the Brake Defect in this judicial district and have been present in this district.

3 38. Pursuant to 49 CFR §551.46, Bosch GmbH was required to designate an
4 agent for service of process in the United States as a foreign manufacturer of vehicle
5 equipment. Bosch LLC, as Bosch GmbH's agent/alter ego for the United States market,
6 is the proper agent to effectuate service on Bosch GmbH.

7 39. Defendant Robert Bosch LLC ("Bosch LLC") is a Delaware limited liability
8 company with its principal place of business located at 38000 Hills Tech Drive,
9 Farmington Hills, Michigan. Bosch LLC is wholly owned by Robert Bosch North
10 America Corporation, which in turn is wholly owned by Defendant Bosch GmbH. Bosch
11 LLC is also the United States authorized agent, representative, servant, employee, and/or
12 alter ego of Bosch GmbH and performs activities including, but not limited to, servicing
13 warranties, replacements and repairs, dissemination of technical information, and
14 monitoring the performance of vehicles containing parts designed, manufactured, sold,
15 repaired, and replaced by Bosch, including substantial activities that occurred within this
16 district. Bosch LLC is the agent/alter ego of Bosch GmbH for the following non-
17 exhaustive reasons, along with the reasons listed in the "Jurisdiction and Venue" Section:

18 (a) Bosch owns and operates a website, available in all states, including
19 California, which highlights the collective identity of the Bosch entities stating, "We are
20 Bosch" and "We are an international company . . . constantly extending our global
21 presence", and "our distinctive corporate culture is a common bond. We live by our
22 values and strive for continuous improvement. We are proud to work for Bosch."²⁴

23 (b) The president of Bosch LLC also holds a high-level management
24 position at Bosch GmbH;

25 (c) "[T]he board of management of Robert Bosch GmbH defines the
26 strategy for the entire company and leads the company as a whole."²⁵

27 ²⁴ *We are Bosch* (2024), available at: <https://wearebosch.com/index.en.html>

28 ²⁵ *Bosch Annual Report 2021*, available at: <https://www.bosch.com/company/annual-report/>

1 (d) “The Robert Bosch GmbH supervisory board appoints, monitors, and
2 advises the board of management.” Bosch GmbH exercises “management and control
3 over Bosch LLC.”;²⁶ and

4 (e) Bosch’s sworn witness provided testimony evidencing that “Bosch
5 GmbH has direct supervisory responsibility for the business functions of all business
6 entities, as all entities report up the chain to Bosch GmbH, and many business functions
7 transcend across multiple legal entities.”²⁷

8 **III. JURISDICTION AND VENUE**

9 40. This Court has subject matter jurisdiction pursuant to 28 U.S.C.
10 §1332(d)(2), as modified by the Class Action Fairness Act of 2005 because Plaintiff and
11 Defendants are citizens of different states; there are more than 100 members of the Class
12 (as defined herein); the aggregate amount in controversy exceeds \$5 million, exclusive
13 of attorneys’ fees, interest, and costs; and Class Members reside across the United States.
14 The citizenship of each party is described in more detail above in the “Parties” section
15 above. The Court also has supplemental jurisdiction under 28 U.S.C. §1367.

16 41. This Court has specific personal jurisdiction over Bosch GmbH and its
17 authorized agent, representative, servant, employee, and/or alter ego Bosch LLC, by their
18 purposeful availment and deliberate targeting of California consumers, including
19 Plaintiff. Personal jurisdiction over Bosch is also appropriate because (1) Bosch offers
20 training, support, specialized tools, and replacement parts to exotic vehicle technicians
21 in California who service brake components designed and manufactured by Bosch GmbH
22 in the Class Vehicles; (2) Plaintiff’s Class Vehicle was serviced at Ferrari of San Diego,
23 an authorized dealership that receives specialized tools, replacements parts and support
24 directly or indirectly from Bosch—and when the brakes in Plaintiff’s Class Vehicle failed
25 in California, Plaintiff replaced the Defective Master Cylinder/Brake Booster Assembly

26 ²⁶ *Id.*

27 ²⁷ *J.S.T. Corp. v. Robert Bosch LLC*, No. 15-13842, 2019 WL 1857088, at *5 (E.D. Mich. Apr. 23,
28 2019), *report and recommendation adopted*, No. 15-13842, 2019 WL 1790255 (E.D. Mich. Apr. 23,
2019)

1 with the same defective component designed and manufactured by Bosch GmbH; and
2 (3) subjecting Bosch GmbH and Bosch LLC to jurisdiction in California is reasonable
3 and in accordance with traditional notions of fair play and substantial justice because
4 Bosch has a significant presence in California including multiple offices for several
5 divisions of Bosch Global, pays California employment and property taxes, and
6 reasonably could be hauled into Court in California as the result of an injury it caused in
7 California.

8 42. Moreover, Bosch LLC is the agent/alter ego of Bosch GmbH, and
9 jurisdiction here is appropriate for the following reasons:

10 (a) Bosch GmbH designed and manufactured brake components for
11 Ferrari;

12 (b) Bosch GmbH is one of the largest suppliers of auto parts in the world,
13 including brake-related replacement parts;

14 (c) Bosch GmbH distributes replacement parts, including brake parts, in
15 the United States, including California, through both its distributor in the U.S., Bosch
16 LLC and through the Bosch Auto Parts website;²⁸

17 (d) The Bosch Auto Parts website encourages users to obtain assistance
18 from Bosch by contacting it with any questions. The website also provides a function
19 that allows users to search for particular auto parts that fit their needs by entering their
20 Vehicle Identification Number or the year, make, model, and engine type of their vehicle.
21 The Bosch Auto Parts website allows consumers to search for Bosch-manufactured parts
22 by name, model, or original equipment manufacturer number. The Bosh Auto Parts
23 website also provides various types of products for sale, including brake-related
24 replacement parts and brake fluid;

25 (e) Bosch also operates Bosch Automotive Service Solutions, which
26 “provides the aftermarket and workshops worldwide with a complete range of diagnostic
27

28 ²⁸ *Bosch Auto Parts* (2024), available at: <https://www.boschautoparts.com/>

1 and repair shop equipment and a wide range of spare parts for passenger cars and
2 commercial vehicles. Its product portfolio includes products made as Bosch original
3 equipment, as well as aftermarket products and services developed and manufactured in-
4 house”;²⁹

5 (f) Bosch offers specialized tools, support, and training to service/repair
6 Bosch components to exotic vehicle centers, including those servicing Ferrari Class
7 Vehicles in California;

8 (g) The defective brake components manufactured and sold by Bosch
9 were installed in Plaintiff’s Class Vehicle, subsequently sold and shipped to Plaintiff and
10 Class Members purchasing, leasing, or residing in California;

11 (h) The defective brake components manufactured and sold by Bosch
12 failed and caused injuries to Plaintiff in the State of California;

13 (i) The defective replacement brake components manufactured and sold
14 by Bosch were shipped to California and installed in Plaintiff’s Class Vehicle as
15 replacement parts.

16 (j) Bosch maintains the large offices for several key divisions of Bosch
17 Global in California including Robert Bosch Semiconductor LLC and Robert Bosch
18 Sensortec, and includes physical offices and employees such as below;

19 (k) Bosch has employees and agents in the State of California that are
20 subject to California taxes;

21 (l) Bosch GmbH’s website for its “mobility” services indicates that its
22 purpose is to provide comprehensive “connected” services for automobiles. The vehicle
23 management platform enables cloud-based services for all vehicle segments throughout
24 the life cycle of the vehicle. Drivers are provided with up-to-date information from the
25 “cloud,” such that the vehicle itself “becomes a central component of the Internet of
26
27

28 ²⁹ *About us*, Bosch (2024), available at: <https://boschautomotiveservicesolutions.com/about-us>

1 things.”³⁰

2 (m) There are at *least 10* “Robert Bosch” entities registered with the
3 California Secretary of State to operate within the state;

4 (n) There are *over 25* authorized “Bosch” automotive service centers
5 throughout the State of California;

6 (o) Privacy notices and cookies on Bosch GmbH’s “mobility” website
7 indicate that Bosch GmbH collects and processes personal data from online consumer
8 visits to its website;

9 (p) Bosch GmbH’s privacy notices on its websites further indicate that it
10 uses the data for “[a]n overriding legitimate interest on our part in direct marketing,”
11 “advertising,” “improvement of our products and services,” “[r]esponding to user
12 inquiries within the scope of the [online] contact form,” and “self-promotion and
13 promotion by others as well as market research and reach analysis;”³¹

14 (q) The privacy notices further state that, with respect to “[t]ransmission
15 of data to service providers,” “[w]e use external service providers for tasks such as
16 marketing purposes . . . and hotline services;”³²

17 (r) The privacy notices also state that Bosch GmbH “use[s] marketing
18 cookies and tracking mechanisms” if given the consumer’s consent. “By using marketing
19 cookies and tracking mechanisms, we and our partners are able to show you offerings
20 based on your interests, resulting from an analysis of your user behavior;”³³

21 (s) Bosch GmbH also uses social media platforms (*e.g.*, Instagram,
22 LinkedIn, YouTube) communication tools to process messages from consumers sent via
23 these social media platforms and to offer consumer support;

24
25 ³⁰ *Connected Service for Automobiles*, BOSCH (2023), available at <https://www.bosch-mobility.com/en/mobility-topics/connected-services/connected-services-for-automobiles/>

26 ³¹ *Privacy Statement Robert Bosch GmbH*, BOSCH (2023), available at <https://www.bosch-mobility.com/en/about-us/privacy-statement/?prevent-auto-open-privacy-settings>

27 ³² *Id.*

28 ³³ *Id.*

1 (t) Privacy notices of other affiliated Bosch companies, such as Bosch
2 Auto Service, indicate that it transfers personal information obtained from consumers
3 visiting its website to Bosch GmbH and that it shares such data with Bosch GmbH to
4 leverage shared services and improve its services;

5 (u) Bosch GmbH also operates car service centers on a worldwide basis,
6 including within the State of California. These involve a global network of 15,000 service
7 centers in 150 countries. Bosch GmbH's website encourages consumers to book a car
8 service by selecting the appropriate country in order to get in touch with a local Bosch
9 workshop or by directly booking an appointment at a Bosch Car Service nearby;

10 (v) Bosch Car Service offers various auto repair services, including brake
11 services. Bosch Auto Service also offers auto repair services through franchise
12 agreements with independent repair shops—and Bosch Auto Service repair services are
13 provided at various repair shops in California (which Bosch characterizes as Bosch
14 Service Centers);

15 (w) Bosch Car Service Centers receive parts, diagnostic equipment, and
16 training from Bosch. Automotive repair service entities that service Ferraris in California
17 have joined the Bosch family as a Bosch Service Center and have provided repair services
18 for Ferrari-equipped Bosch systems and components, including brake-related repairs;

19 (x) The Bosch Auto Service website (boschautoservice.com) contains the
20 “Bosch Global” logo and provides that “[i]n 1921, Bosch expanded the garage concept
21 out of Germany, creating a worldwide recognized name in automotive repair and service
22 workshops. Bosch Auto Service utilizes technology and expertise built within the Bosch
23 family to bring innovation to the workshop concept.” The Bosch Auto Service website
24 contains a privacy statement that indicates that it collects personal information from
25 website users for various purposes, including technical administration of Bosch and
26 Bosch affiliate websites, customer review and/or reports, improving Bosch and Bosch
27 affiliates’ mobile applications, products, and services in the U.S. for marketing and
28 analytic purposes, providing customer service, and responding to customer inquiries and

1 requests;

2 (y) The privacy notice also indicates that Bosch LLC may share or
3 transfer the obtained personal information with Bosch affiliated entities, including Bosch
4 GmbH, “to leverage shared services and improve our Services;” and

5 (z) In 2015, Bosch GmbH pled guilty and paid a \$57.8 million criminal
6 fine for conspiring to fix the prices for automotive parts sold in the United States.

7 43. This Court has personal jurisdiction over Ferrari NA and Ferrari SpA
8 through their purposeful availment and deliberate targeting of California residents. (1)
9 Ferrari NA and/or Ferrari SpA sell, warrant, transport, repair, and market Class Vehicles
10 in California, have authorized dealerships in California, and offer significant support for
11 their authorized dealerships in California, including ensuring compliance with Ferrari
12 standards, shipping parts, vehicles, and supplying personnel, and providing authorized
13 dealerships with financing, managerial, taxation and legal support; (2) Plaintiff’s action
14 is related directly or indirectly to Ferrari’s contacts with California as the Class Vehicle
15 was marketed and sold to Plaintiff in California, the Brake Defect manifested in
16 California causing injury to Plaintiff in California, and Plaintiff sought repair of his Class
17 Vehicle at Ferrari of San Diego; and (3) for these reasons subjecting Ferrari NA and
18 Ferrari SpA to jurisdiction in California is reasonable and in accordance with traditional
19 notions of fair play and substantial justice. Personal jurisdiction is also appropriate for
20 the reasons listed below:

21 (a) Ferrari NA’s authorized dealership sold and shipped Plaintiff’s Class
22 Vehicle to Plaintiff in California;

23 (b) The Ferrari Dealership was permitted access to Ferrari SpA’s
24 inventory when selling to Plaintiff in California;

25 (c) Ferrari NA is the exclusive distributor of Ferrari automobiles, parts,
26 and accessories manufactured by Ferrari SpA to retail dealers in the United States and
27 California;

28 (d) Ferrari NA distributed, sold, serviced, and/or warranted thousands of

1 Class Vehicles, directly or indirectly, to Plaintiff and Class Members with the
2 understanding and expectation that Class Vehicles would be sold, operated, and fit for
3 their intended purpose across the country, including California;

4 (e) Ferrari NA maintains a network of authorized dealerships in
5 California and provides training, leadership, financing, and warranting of Class Vehicles
6 sold or leased through the dealership;

7 (f) Ferrari SpA permits the sale of its vehicles under certain restrictions
8 and manufactures them according to specific orders placed by customers. Ferrari supplies
9 the vehicles it manufactures and related parts for distribution to Ferrari dealerships in
10 California and ultimately to consumers in California;

11 (g) Ferrari SpA shipped replacement parts and vehicles to authorized
12 dealerships in California;

13 (h) Ferrari authorized dealerships, such as Ferrari of San Diego, are, on
14 information and belief, permitted to utilize Ferrari SpA's dealership database in Italy,
15 accessing Ferrari.IT, to send options to residents and purchasers in California, including
16 Plaintiff;

17 (i) Ferrari SpA ships the vehicles it manufactures and the parts it supplies
18 to various ports of entry in the United States, which, upon information and belief, also
19 includes the Port of San Diego;

20 (j) Plaintiff serviced his vehicle at an authorized Ferrari dealership in
21 San Diego, and that dealership shared Plaintiff's service and ownership records with
22 Ferrari NA and Ferrari SpA;

23 (k) Plaintiff's injuries occurred in the State of California when driving
24 the Class Vehicle that was sold and licensed in the State of California, manufactured and
25 exported by Ferrari SpA, imported and warranted by Ferrari NA, and shipped to the
26 authorized Ferrari dealership where Plaintiff made the purchase;

27 (l) Ferrari SpA directly communicates with Class Members, including
28 delivering welcome letters to vehicle purchasers;

1 (m) Ferrari SpA directly communicated with all California residents who
2 are Ferrari owners in late 2023 when updating its Privacy Policies, including with
3 Plaintiff;

4 (n) Ferrari SpA maintains a database of marketing and contact
5 information of United States and California customers;

6 (o) Ferrari shares the data with Ferrari affiliates and subsidiaries (“Ferrari
7 Group Companies” or “Companies”) so that the Ferrari Group Companies can send
8 customers commercial or marketing communications on products or services that may
9 be of interest to such customers;

10 (p) Ferrari shares customers’ personal data with the Companies so that
11 the Companies can send customers, including Plaintiff, commercial or marketing
12 communications on products or services that may be of interest to them;

13 (q) Ferrari NA also collects the personal data of those consumers who
14 engage with it both online and in person;

15 (r) Ferrari NA’s privacy notice provides that it “may share personal
16 information with Ferrari and its subsidiaries and/or affiliates (‘Ferrari Group
17 Companies’) for legitimate business purposes and general business management;”³⁴ and

18 (s) Ferrari knew of the Brake Defect as alleged herein and concealed and
19 omitted information from all consumer-facing labels and marketing materials when
20 Plaintiff was purchasing the Class Vehicle in California and upon taking possession of
21 the Class Vehicle at his home in California.

22 44. Venue is proper in this Court under 28 U.S.C. §1391 for all the above
23 reasons availing Defendants of jurisdiction in California, and because (i) Plaintiff resides
24 in this District, purchased and received the Class Vehicle and services in this District,
25 and Plaintiff’s injury occurred in this District; (ii) Defendants conduct substantial
26 business in this District and have intentionally availed themselves of the laws and
27

28 ³⁴ Privacy Policy, Ferrari (2024), available at: <https://www.ferrari.com/en-EN/privacy-policy>

1 markets of the United States and this District; (iii) this action is brought on behalf of a
2 class of California purchasers and lessees, and is brought under the laws of the State of
3 California; and/or (iv) a significant portion of the acts and transactions giving rise to this
4 action occurred in this District.

5 **IV. FACTUAL BACKGROUND**

6 **A. Ferrari and Bosch Together Design and Manufacture the Braking**
7 **Systems in the Class Vehicles and the Defective Master Cylinder/Brake**
8 **Booster Assembly**

8 45. Ferrari SpA is responsible for the design, manufacture, global distribution,
9 supply chain, and investigations for the Class Vehicles and the Ferrari brand. Ferrari SpA
10 is ultimately responsible for all things Ferrari.

11 46. Ferrari SpA and Bosch GmbH together, designed, developed, and tested the
12 braking systems and the Defective Master Cylinder/Brake Booster Assembly in the Class
13 Vehicles.

14 47. Ferrari SpA and Bosch GmbH possessed exclusive access to and were in a
15 superior position to know the facts about the Brake Defect.

16 48. Ferrari NA is the wholly owned North American subsidiary of Ferrari SpA.
17 Ferrari NA is responsible for marketing, sales, distribution, repairs, replacements,
18 regulatory compliance, and management of Ferrari's authorized dealership network and
19 is responsible for all things Ferrari within the United States. Ferrari NA exchanged
20 information concerning the Defective Master Cylinder/Brake Booster Assembly with
21 Ferrari SpA.

1 49. The defective part was initially identified in Ferrari’s Part 573 Safety Recall
2 Report 21V-833 as Component Part Number 000244010 and identified as the “master
3 cylinder/brake booster assembly.”³⁵ Plaintiff replaced this part in his Class Vehicle
4 months prior to the Recalls. The defective component (“REF FERRARI 244010”), which
5 contains both Ferrari and Bosch identifiers, is pictured below:



20 50. Bosch GmbH and its subsidiaries are responsible for manufacturing the
21 braking assembly. Ferrari SpA then installs the defective braking system used in the
22 Class Vehicles it manufactures. Ferrari NA imports the Class Vehicles for marketing and
23 sale in the United States. Defendants, together, operate a complex, global enterprise
24 concerning all things “Ferrari.”
25
26
27

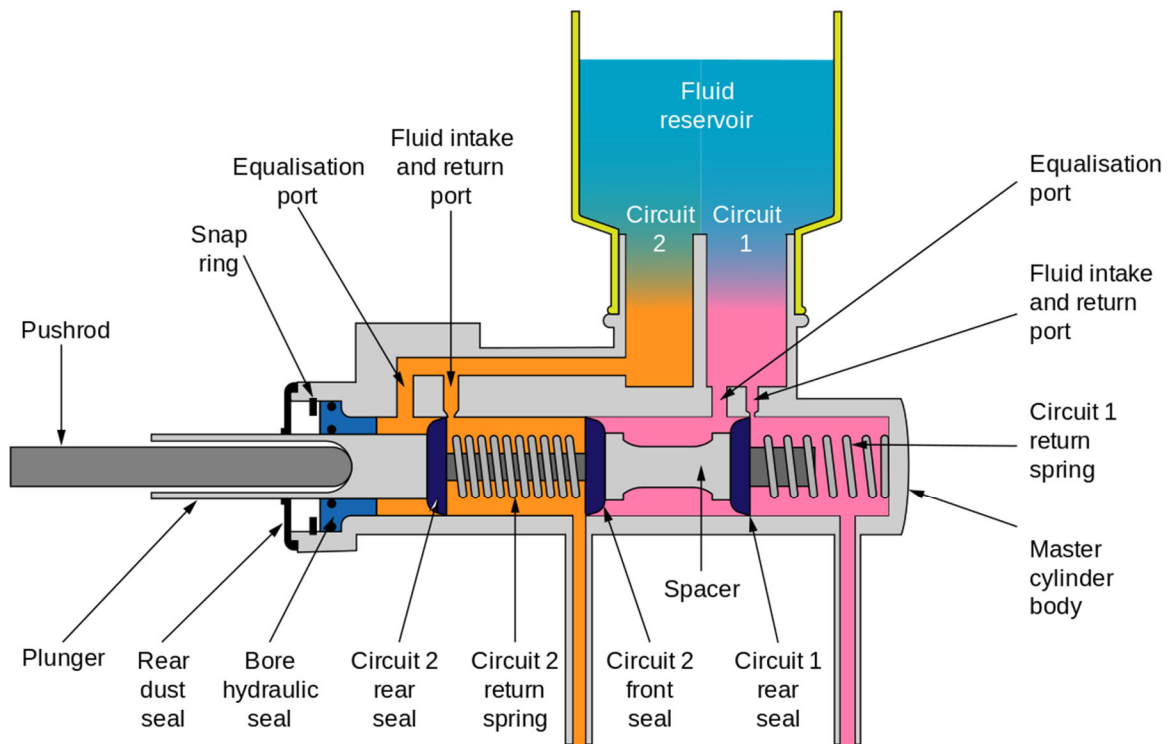
28 ³⁵ Part 573 Safety Recall Report 21V-833, *supra*, note 6.

B. The Class Vehicles Are Defective and Continue to Pose a Dangerous Safety Risk to Plaintiff and Members of the Class

1. A Simplified Explanation on the General Principles of the Operation of the Braking System

51. The Class Vehicles’ braking system uses hydraulic brake fluid. The brake fluid takes the force from the depressed brake pedal, translates it into pressure, and sends this pressure to the front and rear brakes to stop a vehicle.

52. For illustrative and explanatory purposes only, below is a diagram of a master cylinder—it is not alleged to be the same as those installed in Class Vehicles:



(a) In general, there are two separate hydraulic circuits in a master cylinder. Each circuit supplies pressure to the calipers at two wheels. Each circuit is hydraulically independent with the exception of drawing fluid from the reservoir when at rest;

(b) The seals for the pistons are exposed to hydraulic pressure when the brake pedal is applied. The seal at the rear end of the master cylinder for the plunger is only to retain brake fluid and is never exposed to hydraulic pressure. The rear surface of

1 the seal at the rear end of the master cylinder is usually exposed to vacuum from the
2 vacuum booster;

3 (c) When the brake pedal is pressed, the piston moves forward of both
4 ports and develops pressure to move the calipers, applying friction to the rotor. As the
5 piston moves forward, fluid enters the space behind the piston, and

6 (d) When the brake pedal is released, the spring returns the piston
7 rearward, and fluid enters the reservoir from behind the piston. This equalizes the
8 pressure throughout the braking system. There is no vacuum or pressurization in the
9 system after this occurs.

10 53. The braking system must compensate for brake friction material wear. As
11 the material wears, the space between the caliper and rotor is reduced because the friction
12 material becomes thinner. In order to keep the gap between the friction material and the
13 rotor the same, brake fluid must enter the master cylinder from the reservoir to take up
14 the extra volume created. When this happens, air must enter the volume of the reservoir
15 to replace the volume of brake fluid that was used to close the gap between the friction
16 material and the rotor. This replenishment process happens gradually over time and is
17 not a rapid process. Rapid replenishment is not required because the friction material
18 wears slowly.

19 54. As explained below, when brake fluid escapes from this braking system, the
20 result can be a partial or total loss of braking capability.

21 **2. The Definition of the Brake Defect, Cap and Warning Repair,**
22 **and the Defective Master Cylinder/Brake Booster Assembly**

23 55. The defect is defined as follows: Class Vehicles equipped with a braking
24 system that could potentially leak brake fluid, which may lead to partial or total loss of
25 braking capability. (The “Defect” or “Brake Defect”).

26 56. As initially identified in Ferrari’s Part 573 Safety Recall Report 21V-833,
27 one of the defective components, which Bosch GmbH manufactures, is identified as the
28 master cylinder/brake booster assembly (the “Defective Master Cylinder/Brake Booster

1 Assembly”).³⁶

2 57. Ferrari first described the Brake Defect as involving a Defective Master
3 Cylinder/Brake Booster Assembly that caused the loss of braking capability. Ferrari
4 observed brake fluid had leaked into the brake booster chamber. Ferrari further warned
5 that “[u]pon total loss of brake fluid, the vehicle would lose braking capability, which
6 may result in injury or death to vehicle occupants.”³⁷

7 **3. Defendants Have Not Remedied the Brake Defect in the Class**
8 **Vehicles and it Continues to Pose a Dangerous Safety Risk to**
9 **Plaintiff and Members of the Class**

10 58. On July 26, 2022, after an action was filed in the District of New Jersey
11 seeking an expansion of the recall, Ferrari recalled additional Ferrari vehicles (together
12 with the prior recall, referred to as the “Recalls”).³⁸ Ferrari also initiated recalls across
13 the globe, including in Germany, China, and Japan, among other countries. Remarkably,
14 the Recalls now include nearly every Ferrari sold in the United States since 2005.³⁹

15 59. Along with the expanded recall, Ferrari offered owners a purported
16 “remedy,” which involves replacing the brake fluid reservoir cap and providing a
17 software update. The repair provides owners with a brake fluid reservoir cap replacement
18 and an update to the software in the Class Vehicles. This update provides a different
19 warning message if the vehicle should lose sufficient brake fluid (“Cap and Warning
20 Repair”). Ferrari states that the remedy component differs from the recalled component
21 because “the venting of the brake fluid reservoir cap has been modified.”

22 60. Yet the venting of the reservoir cap was not at issue in Ferrari’s initial recall
23 notice, rather Ferrari NA specifically identified the failure mode as involving Component

24 ³⁶ The Defective Master Cylinder/Brake Booster Assembly involves Component Part Number:
25 000244010, for the following models: 488 GTB; 458 Speciale Aperta; 488 Spider; 458 Italia; 458
26 Spider; and 458 Speciale. Discovery will reveal: (1) what other components are involved in the Brake
27 Defect and; (2) the corresponding Component Part Number for other vehicle models.

28 ³⁷ Part 573 Safety Recall Report 21V-833, *supra*, note 6.

³⁸ *See e.g., id.*; Part 573 Recall Report 22V-536, *supra*, note 20.

³⁹ Sebastian Bell, *Ferrari Recalls Almost Every Car It Sold In The U.S. Since 2005*, CARSCOOPS
(Aug. 11, 2022) <https://www.carscoops.com/2022/08/ferrari-recalls-almost-every-car-it-sold-in-the-u-s-since-2005/> (last accessed July 31, 2023).

1 Part Number 000244010—a component unrelated to the regulation of atmospheric
2 pressure within the braking system.⁴⁰ Ferrari effectively identified two failure modes.

3 61. The first failure mode involves the rearmost seal (or the isolation seal)
4 twisting out of place, which causes the brake fluid to leak from the master cylinder into
5 the brake booster.⁴¹ The brake fluid leak depletes the fluid levels in the primary brake
6 circuit (front brakes), causing the primary circuit to lose braking capabilities.⁴²
7 According to Ferrari, “[w]hen this happens, the brake capability is limited to the
8 secondary circuit” (“Failure Mode One”).⁴³ However, the Brake Defect may also cause
9 failure of the secondary circuit (rear brakes), making braking capabilities “almost totally
10 compromised.” Specifically, when the rearmost seal twists, ventilation is affected,
11 creating a vacuum inside the brake fluid reservoir that causes “the secondary circuit [to]
12 fail” (“Failure Mode Two”).⁴⁴

13 62. Despite conducting numerous tests, Ferrari has not been able to reproduce
14 the twisting of the isolation lip seal and the movement out of its groove.

15 63. Even if the Cap and Warning Repair remedies Failure Mode Two, Ferrari
16 has only provided a warning notification for Failure Mode One—which is insufficient
17 considering that brake failure may occur suddenly, violently, and when the nearest
18 Ferrari dealership is hundreds of miles away. Plaintiff and Class Members would not
19 have purchased the Class Vehicles had they known braking capability could be partially
20 or totally impaired due to a component failure—a component that Ferrari has been
21 unwilling to repair or replace.

25 ⁴⁰ RC 80 Chronology, *supra*, note 10.

26 ⁴¹ *Id.*

27 ⁴² *Id.*

28 ⁴³ *Id.*

⁴⁴ *Id.*

1 **4. The Cap and Warning Repair Is Ineffective, Incomplete, Subject**
2 **to Delays, and May Make Class Vehicles More Dangerous**

3 64. Even more concerning, the Cap and Warning Repair may have the effect of
4 making the vehicles more dangerous and more prone to brake failure.

5 65. On information and belief, third-party exotic vehicle repair centers, such as
6 European Auto Group (“EAG”), are advising customers to retain their original brake
7 reservoir cap.⁴⁵ The replacement cap, which comes in black as opposed to the clear or
8 yellow caps of earlier models, is vented. The cap possesses a rubber gasket, appearing to
9 have a hole cut into its center, presumably with a sharp tool, and a relief slot cut into the
10 thread area of the plastic cap. An image comparing the original and replacement cap is



23 presented below for comparison purposes:

24 66. A recent analysis by EAG across a range of Ferrari vehicles showed a
25 noticeable variation in moisture content when the replacement cap was used compared
26 to older versions. According to EAG, Class Vehicles with the replacement cap

27

28 ⁴⁵ *Brake Reservoir Cap Recall*, FERRARICHAT (July 4, 2023) available at:
<https://www.ferrarichat.com/forum/threads/brake-reservoir-cap-recall.679582/>

1 consistently demonstrate a moisture content between six to eight percent.⁴⁶ On the other
2 hand, cars with the original cap show moisture levels ranging from one to three percent.⁴⁷
3 The latter is typically seen when the brake fluid has not been serviced for an extended
4 period.

5 67. EAG believes this discrepancy in moisture content is due to the vented
6 opening in the new cap design.⁴⁸ The design appears to expose the brake fluid to the
7 atmosphere inadvertently. Since brake fluid is hygroscopic, it tends to absorb moisture
8 from the environment when exposed. With increased moisture content, the brake fluid's
9 boiling point decreases. This can become a significant issue in hot weather or during
10 spirited driving, potentially causing the brake fluid to boil, which could result in reduced
11 braking performance or even total brake failure.

12 68. EAG observed a considerable number of Ferrari 360, 430, and 599 models
13 leaking brake fluid inside the cabins via the brake booster, observing that the master
14 cylinder/brake booster assembly is a common point of failure, leaking fluid into the
15 booster and subsequently into the cabin. EAG also stated it had replaced at least four
16 Defective Master Cylinder/Brake Booster Assemblies.⁴⁹

17 69. In sum, the Cap and Warning is an inexpensive "quick" fix⁵⁰ that replaces
18 one cap for another and accompanies a software update to, among other things, warn
19 Class members of fluid leakage in their Class Vehicle. Parts for the repair remain
20 unavailable, and some Class Members have complained of being unable to have the
21 repair conducted.⁵¹ And finally, those who have the Cap and Warning may still
22

23 ⁴⁶ *Id.*

24 ⁴⁷ *Id.*

25 ⁴⁸ *Id.*

26 ⁴⁹ *Id.*

27 ⁵⁰ Sayan Chakravarty, *Because of a faulty \$60 brake fluid reservoir cap, Ferrari is recalling more than 23,000 cars.*, LUXURYLAUNCHES (Aug. 5, 2022) <https://luxurylaunches.com/transport/because-of-a-faulty-60-brake-fluid-reservoir-cap-ferrari-is-recalling-more-than-23000-cars.php>

28 ⁵¹ *See* Ex. A.

1 nevertheless experience partial or total loss of braking capability.⁵² Ferrari's Recalls do
2 not call for what is needed – *i.e.*, a replacement of the defective master cylinders.

3 **C. Ferrari and Bosch Knew of the Brake Defect but Misrepresented**
4 **and/or Concealed Its Existence**

5 70. Defendants fraudulently, intentionally, negligently, and/or recklessly
6 concealed from Plaintiff and members of the Class the Brake Defect in the Class
7 Vehicles, even though Defendants knew or should have known of the Brake Defect in
8 Class Vehicles.

9 71. Knowledge and information regarding the Brake Defect was in the
10 exclusive and superior possession of Defendants and their dealers. That information was
11 not provided to Plaintiff and members of the Class. Based on pre-production testing and
12 design failure mode analysis, production failure mode analysis, early consumer
13 complaints made to Defendants' network of exclusive dealers, consumer complaints
14 made online and to NHTSA, media attention when the Defect manifests, testing
15 performed in response to consumer complaints, and a wrongful death action that Ferrari
16 SpA sent a top engineer to investigate, among other things, Defendants were aware (or
17 should have been aware) of the Brake Defect in the Class Vehicles and fraudulently
18 concealed the Defect and its significant safety risk from Plaintiff and members of the
19 Class. Defendants knew or should have known that the Brake Defect was material to
20 owners and lessees of the Class Vehicles and was not known or reasonably discoverable
21 by Plaintiff and members of the Class before they purchased or leased Class Vehicles.

22 72. Defendants have been, and continue to be, under a legal obligation through
23 federal law to monitor defects that can cause a safety issue and report them within five
24 (5) days of learning of them. Therefore, Defendants assiduously monitor the NHTSA–
25 ODI website and the complaints filed therein to comply with their reporting obligations
26 under federal law. *See* 49 CFR 573.6.

27
28 ⁵² *See Infra* §IV.C.3.

1 73. Defendants knew that any defect potentially leading to loss of braking
2 capability, such as the Brake Defect, presents a serious safety risk.

3 74. Notwithstanding Defendants' exclusive and superior knowledge of the
4 Brake Defect, Defendants failed to disclose the Defect to consumers at the time of
5 purchase or lease of the Class Vehicles (or any time after that). They continued to sell
6 Class Vehicles containing the Defect. Further, Ferrari failed to warn consumers and
7 thereby permitted the resale of the Class Vehicles at artificially inflated prices in the
8 secondary market. Defendants have intentionally concealed that the braking systems may
9 fail and present a safety risk rather than disclosing the Defect and risk to consumers,
10 including Plaintiff, members of the Class, and the public.

11 **1. Each Class Vehicle Is Certified to Be in Compliance with All
12 Federal Motor Vehicle Safety Standards, Undergoes an Extensive
13 Design and Manufacturing Process, and Is Subject to Rigorous
Pre-Production Testing**

14 75. Each Class Vehicle is painstakingly designed and manufactured at Ferrari's
15 factory in Maranello, Italy, where each vehicle undergoes extensive pre-production
16 testing, including in racing conditions. Before export to the United States, the Class
17 Vehicles are certified to comply with all statutory regulations in the United States.
18 Plaintiff and the Class relied on Ferrari's reputation, as well as the certifications and
19 representations of Ferrari SpA and Ferrari NA in making their purchasing decision.

20 76. After production and testing, when importing the Class Vehicles into the
21 United States, Ferrari must comply with the stringent requirements of NHTSA. Ferrari
22 must:

23 (a) Submit a letter to NHTSA designating an agent for service of process
24 and a letter from the agent accepting the designation if the manufacturer is not located in
25 the United States (49 CFR 551.45);

26 (b) Submit to NHTSA the information that the agency will need to
27 decipher the manufacturer's vehicle identification number or "VIN" format no later than
28 60 days prior to offering the first vehicle for sale in the United States (49 CFR Part 565,

1 “Vehicle Identification Number Requirements”);

2 (c) Submit a letter to NHTSA identifying the manufacturer’s name,
3 address, and the products it manufactures that are subject to the Federal motor vehicle
4 safety standards no later than 30 days after manufacturing begins (49 CFR Part 566,
5 “Manufacturer Identification”); and

6 (d) Permanently affix to the vehicle, in a prescribed location, a
7 certification label meeting the requirements of 49 CFR Part 567, the “Certification.”

8 77. These requirements include that Ferrari certify that the Class Vehicles meet
9 applicable braking regulations in the United States and that they are safe to drive by
10 consumers, which includes Plaintiff and the Class.

11 78. Federal regulations also require manufacturers like Ferrari to test their
12 components and systems to confirm they can meet specific minimal standards. The
13 regulations require testing of components and systems and mandate system redundancies
14 if and when brake systems fail.

15 79. Federal Motor Vehicle Safety Standard (“FMVSS”) 105 specifies minimum
16 performance requirements for hydraulic and electric service brake systems and
17 associated parking brake systems. The purpose of FMVSS No. 105 is “to insure safe
18 braking performance under normal and emergency conditions” and applies to “multi-
19 purpose passenger vehicles,” 49 CFR § 571.105, S2, S3.

20 80. FMVSS 105 states, “[e]ach vehicle must be equipped with a service brake
21 system acting on all wheels.” *Id.* at S5.1. Under S5.1.2 ***Partial failure***, in the event of
22 partial brake failure, each vehicle must:

23 S5.1.2.1 In vehicles manufactured with a split service brake system, in
24 the event of a rupture or leakage type of failure in a single
25 subsystem, other than a structural failure of a housing that is
26 common to two or more subsystems, the remaining portion(s)
of the service brake system shall continue to operate and shall
be capable of stopping a vehicle from 60 mph within the
corresponding distance specified in column IV of table II.

27 S. 5.1.2.2 In vehicles not manufactured with a split service brake system,
28 in the event of any one rupture or leakage type of failure in any
component of the service brake system the vehicle shall, by

1 operation of the service brake control, be capable of stopping
2 10 times consecutively from 60 mph within the corresponding
3 distance specified in column IV of table II.

4 81. Concerning the master cylinder component, FMVSS 105 also states under
5 S5.4.1 that “[a] master cylinder shall have a reservoir compartment for each service brake
6 subsystem serviced by the master cylinder. Loss of fluid from one compartment shall not
7 result in a complete loss of brake fluid from another compartment.” As described above,
8 the Brake Defect is subject to Failure Mode One and Failure Mode Two and is thus in
9 violation of FMVSS 105.

10 82. FMVSS 105, S5.6 states concerning “Brake System Integrity” that “[e]ach
11 vehicle shall be capable of completing all the performance requirements of S5 without—

12 (a) Detachment or fracture of any component of the braking system, such
13 as brake springs and brake shoe or disc pad facing, other than minor
14 cracks that do not impair attachment of the friction facing. All
15 mechanical components of the braking system shall be intact and
16 functional. Friction facing tearout (complete detachment of lining)
17 shall not exceed 10 percent of the lining on any single frictional
18 element.

19 (b) Any visible brake fluid or lubricant on the friction surface of the
20 brake, or leakage at the master cylinder or brake power unit reservoir
21 cover, seal and filler openings.”

22 83. Similarly, FMVSS 135 specifies requirements for service brakes and
23 associated parking brake systems. The purpose of FMVSS 135 is to ensure safe braking
24 49 CFR § 571.135, S1, S2. FMVSS 135 and FMVSS 105 are similar in many ways,
25 indeed, as described in an August 27, 2019, letter from Robert Bosch LLC⁵³ to the Deputy
26 Administrator of NHTSA:

27 FMVSS 135 and FMVSS 105 (Hydraulic and Electric Brake Systems):
28 Bosch would also like to highlight the inherent similarities between FMVSS
135 and FMVSS 105. Although the procedures and performance criteria of
each requirement differ in several ways, the barriers for the validation of an
ADS-DV are substantially similar. Each of the comments provided in this

⁵³ Although this letter was addressed from Robert Bosch LLC, the letter also states that Bosch is utilizing the intellectual property of “Robert Bosch GmbH, Germany.” This letter from Bosch provides feedback to NHTSA to develop a proposal to amend the Federal Motor Vehicle Safety Standards. Again, showing that Robert Bosch GmbH acts through its U.S. subsidiaries as its agents and alter egos to coordinate and comply with U.S. regulatory authorities.

1 response concerning the validation of FMVSS 135 will apply to vehicles
2 subjected to FMVSS 105.

3 84. FMVSS 135 states that in regard to Reservoirs, each vehicle shall:

4 S5.4.1. **Master cylinder reservoirs.** A master cylinder shall have a
5 reservoir compartment for each service brake subsystem
6 serviced by the master cylinder. Loss of fluid from one
7 compartment shall not result in a complete loss of brake fluid
8 from another compartment.

9 S5.4.2. **Reservoir capacity.** Reservoirs, whether for master cylinders
10 or other type systems, shall have a total minimum capacity
11 equivalent to the fluid displacement resulting when all the
12 wheel cylinders or caliper pistons serviced by the reservoirs
13 move from a new lining, fully retracted position (as adjusted
14 initially to the manufacturer's recommended setting) to a fully
15 worn, fully applied position, as determined in accordance with
16 S7.17(c) of this standard. Reservoirs shall have completely
17 separate compartments for each subsystem except that in
18 reservoir systems utilizing a portion of the reservoir for a
19 common supply to two or more subsystems, individual partial
20 compartments shall each have a minimum volume of fluid
21 equal to at least the volume displaced by the master cylinder
22 piston servicing the subsystem, during a full stroke of the
23 piston. Each brake power unit reservoir servicing only the
24 brake system shall have a minimum capacity equivalent to the
25 fluid displacement required to charge the system piston(s) or
26 accumulator(s) to normal operating pressure plus the
27 displacement resulting when all the wheel cylinders or caliper
28 pistons serviced by the reservoir or accumulator(s) move from
a new lining, fully retracted position (as adjusted initially to the
manufacturer's recommended setting) to a fully worn, fully
applied position.

85. Under FMVSS 135 S5.6, each vehicle must also maintain its brake system
integrity, stating that each vehicle shall meet the complete performance requirements of
this standard without:

- 22 (a) Detachment or fracture of any component of the braking system, such
23 as brake springs and brake shoes or disc pad facings other than minor
24 cracks that do not impair attachment of the friction facings. All
25 mechanical components of the braking system shall be intact and
26 functional. Friction facing tearout (complete detachment of lining)
27 shall not exceed 10 percent of the lining on any single frictional
28 element.
- (b) Any visible brake fluid or lubricant on the friction surface of the
brake, or leakage at the master cylinder or brake power unit reservoir
cover, seal, and filler openings.

1 **2. Ferrari Spa Sent a Technical Engineer to Examine a Failed**
2 **Vehicle in 2016 who Testified the Braking System in the Class**
3 **Vehicles Is Operative Even in Case of Failure of the Brake**
4 **Booster Vacuum, Ferrari NA Has Also Been Involved in**
5 **Domestic Litigation**

6 89. Multiple cases have arisen of crashes involving the Class Vehicles with
7 claims that the brakes failed, resulting in the loss of control over a Class Vehicle.

8 90. Most tragically, at about 7:48 a.m. on June 9, 2015, Robert Ebert, the former
9 head of equities for Asia Pacific at Deutsche Bank, reported a “catastrophic failure of the
10 brakes” when his 2012 Ferrari 458 Spider hit and killed Ku Lap-chi, 53, at the entrance
11 to a car park.⁵⁴ Mr. Ebert was driving from his home in the Peak District of Hong Kong
12 to his office at the International Commerce Centre on the day of the accident.

13 91. Mr. Ebert argued, in his defense, that he was a man with a clear record in
14 Hong Kong and the United Kingdom; he obtained his driving license in 1984, 32 years
15 ago at that time; he never had a speeding ticket nor had an accident; and that over the
16 years, he owned many high-performance sports cars. Mr. Ebert further argued that there
17 was a failure in his Ferrari’s brake booster system and that CCTV footage had captured
18 an image of his brake lights engaged prior to the crash—proving he was attempting to
19 slow the vehicle. Mr. Ebert further argued that if his brakes were working correctly, he
20 would have had plenty of time and distance to slow down to drive around the bend he
21 was approaching at about 25 km/hour—which was his intention. However, he could not
22 stop his vehicle, nor could he slow it down enough to safely negotiate the corner.

23 92. Upon learning of a death caused by an alleged “catastrophic failure of the
24 brakes,” Ferrari SpA was obligated to conduct an in-depth investigation into the claims
25 to determine the truth of the allegations. Any failure by Ferrari SpA to investigate would
26 have been willfully blind and/or reckless to severe allegations that threaten the lives and
27 safety of Plaintiff and Class Members. Notwithstanding this obligation, Ferrari SpA sent

28 ⁵⁴ *Bank executive arrested after wayward Ferrari kills guard in TST*, EJINSIGHT, June 10, 2015, <https://www.ejinsight.com/eji/article/id/1073304/20150610-bank-executive-arrested-after-wayward-ferrari-kills-guard-in-tst>; Chris Lau, *Brakes on Ferrari that fatally hit security guard worked fine*, *Hong Kong court hears*, SOUTH CHINA MORNING POST, July 27, 2016, <https://www.scmp.com/news/hong-kong/law-crime/article/1995539/brakes-ferrari-fatally-hit-security-guard-worked-fine-hong>

1 a Technical Engineer, Martino Casolari, to testify before the court in Hong Kong. In so
2 doing, Mr. Casolari submitted an expert report to the Court providing technical analysis
3 reports and homologation testing. The judge, relying on Mr. Casolari (who she found
4 “credible and reliable” and his reasoning and explanations “clear and convincing”),
5 found the brakes could not have been defective because the vehicles are tested to comply
6 with a regulation acting as a safeguard in the braking systems.⁵⁵

7 93. As necessary background, Hong Kong regulations mirror vehicle safety
8 standards set by the United Nations Economic Commission for Europe (“UNECE”). The
9 World Forum for Harmonization of Vehicle Regulations is a working party (“WP.29”)
10 of the Inland Transport Committee of the UNECE. The core of the WP.29’s work is
11 based around a 1958 Agreement, formally titled, “Agreement concerning the adoption of
12 uniform technical prescriptions for wheeled vehicles, equipment and parts which can be
13 fitted and/or be used on wheeled vehicles and the conditions for reciprocal recognition
14 of approvals granted on the basis of these prescriptions” (E/ECE/TRANS/505/Rev.2,
15 amended on October 16, 1995). This forms a legal framework wherein participating
16 countries agree on a standard set of technical prescriptions and protocols for type
17 approval of vehicles and components. These were formerly called, “UNECE
18 Regulations” or, less formally, “ECE Regulations” in reference to the Economic
19 Commission for Europe.

20
21 ⁵⁵ Similarly, on January 6, 2018, a Ferrari 458 Spider crashed in Bath, United Kingdom. Anthony
22 Bohana, an individual purporting to be the owner of that vehicle, corroborated Mr. Ebert’s testimony,
stating:

23 Same thing happened to me in my 458 Spider . . . this was the result
24 [https://www.bathchronicle.co.uk/news/bath-news/ferrari-worth-200000-crashes-](https://www.bathchronicle.co.uk/news/bath-news/ferrari-worth-200000-crashes-garden-1021566)
25 [garden-1021566](https://www.bathchronicle.co.uk/news/bath-news/ferrari-worth-200000-crashes-garden-1021566) Ferrari deny and deny it . . . BUT they know the truth, I actually think
26 myself lucky some poor guy I spoke to had the same problem but killed someone in
27 Hong Kong . . . he served 2 years in prison for it . . . yet he is adamant the brakes failed
and he could not stop the car . . . I 100% believe him after it happened to me.

28 *See Need advice on 458 braking issue, or lack thereof* FERRARICHAT
[https://www.ferrarichat.com/forum/threads/need-advice-on-458-braking-issue-or-lack-there-](https://www.ferrarichat.com/forum/threads/need-advice-on-458-braking-issue-or-lack-there-of.576984/)
[of.576984/](https://www.ferrarichat.com/forum/threads/need-advice-on-458-braking-issue-or-lack-there-of.576984/)

1 94. As reasons for the verdict in Mr. Ebert’s case, the trial judge had cited Mr.
2 Casolari’s expert report with respect to regulation ECE R 13 H, which she said was a
3 “safeguard in brake system that is operative even if the brake booster vacuum fails.” Mr.
4 Casolari, Ferrari SpA’s representative, said:

5 The vehicle braking system is operative even in case of failure of the brake
6 booster vacuum. This is a legal safety requirement based on homologation
7 regulation ECE R 13 H also valid in Hong Kong; according to the said
8 homologation regulation a minimum stopping distance must be granted.

9 During the homologation type – approval process of the brake system of the
10 458 Ferrari model has been tested to evaluate the behaviour of the vehicle
11 in case of failure. The said homologation test is aimed at measuring the
12 stopping distance.

13 In particular, in case of failure of the brake booster vacuum, the
14 homologation requirement prescribes that the vehicle must come to a full
15 stop within 168m – from a speed of 100 km/h by applying a force on the
16 brake pedal of 500 N.

17 In finding Mr. Ebert guilty, the Judge stated. “[t]here is no dispute the brake still
18 function even if the brake booster fails but only if the force on the brake pedal by a kick
19 or slam achieves a deceleration rate that is meaningful.” Yet, if the Class Vehicles are in
20 violation of these government standards, then the brakes *do not* function even if the brake
21 booster fails.

22 95. The U.S. FMVSS 105 and FMVSS 135 closely track ECE R13H, and
23 essentially, these requirements mandate that service brakes must be able to stop each
24 vehicle in a series of tests at certain distances, speeds, brake pedal forces, and
25 decelerations. Vehicles must be able to stop under partial failure of the service brake
26 system, inoperative brake power assist or brake power unit, anti-lock failure, variable
27 ratio valve failure, and with the engine off. As has now become publicly available in the
28 NHTSA database sometime after February 2023, Ferrari identified two failure modes
that can cause complete brake failure. When the rearmost seal (or the isolation seal) twists
out of place, which causes the brake fluid to leak from the master cylinder into the brake
booster, or when atmospheric pressure is affected within the system (Failures Modes One

1 and Two), in other words, Mr. Ebert’s Class Vehicle may have violated ECE R13H, just
2 as the Class Vehicles violate FMVSS 105 and FMVSS 135.

3 96. Domestic litigation that has directly implicated Defendants also ensued,
4 which should have put Defendants on notice of the Defect. *See e.g., Joel Saban, et al. vs.*
5 *Ferrari N. Am., et al.*, No. 2020CV000961 (Wis. Cir. Ct. Jul 07, 2020); *Joel Saban, et*
6 *al. vs. Ferrari N. Am., et al.*, No. 2021CV000087 (Wis. Cir. Ct. Mar 10, 2021). Ferrari
7 NA was involved in litigation in the State of Wisconsin, Circuit Court, Waukesha
8 County, in a case filed on July 20, 2020—and answered that complaint on November 5,
9 2020. Plaintiffs Joel Saban and The Travelers Home and Marine Insurance Company
10 brought suit to recover against Ferrari NA and others the costs associated with a 2010
11 Ferrari 458 Italia (VIN: ZFF67NFA8A0174372) purchased by Joel Saban. On July 7,
12 2017, plaintiff Joel Saban was operating this vehicle at Road America, Elkhart Lake, WI,
13 when the brakes in his vehicle failed, causing the vehicle to crash into a barrier at the
14 edge of the track, causing damage to the vehicle.⁵⁶

15 97. Plaintiffs in the *Saban* Action alleged that Ferrari NA failed to warn of the
16 defect and that it was Ferrari NA’s failure to warn that was a proximate cause of the
17 accident and resulting damage. Within ninety (90) days of Joel Saban receiving the recall
18 notice from Ferrari NA (“[C]lient [received] recall notice from Ferrari the day after
19 Expert deadline. Brake issue is consistent [with] what client claims he encountered.”),
20 the *Saban* Action was settled with a stipulation of dismissal.

21 98. Another example, in the fall of 2012, James Lee and his wife, Tan Siok Yin,
22 left Singapore to vacation in Las Vegas. Before leaving, the couple decided they wanted
23 to drive high-performance vehicles at high speeds while vacationing at a speedway. The
24 pair decided to rent a 2012 Ferrari 458 Italia, and they were paired with a professional
25 driving instructor, Brandon Grade.

26
27 ⁵⁶ Plaintiff purchased his vehicle after the date of the Wisconsin incident, and likely before The
28 Travelers Home and Marine Insurance Company engaged in an informal dispute resolution process on
its subrogation claim.

1 99. After entering the vehicle, Lee started the engine, accelerated towards the
2 track's first turn, and sped onto the second turn. As the turn approached, Lee hit the
3 brakes. But the brakes failed. Fortunately, the 2012 Ferrari 458 Italia was also equipped
4 with a passenger-side brake pedal. Grade, the professional driver, hit the brakes. But
5 again, the brakes failed. The wall drew closer. The vehicle crashed, and Lee was severely
6 injured. On August 8, 2013, Lee and his wife commenced a negligence action against the
7 professional driver and the rental company for the Ferrari. *See Sun v. Dreamdealers USA,*
8 *LLC*, No. 2:13-CV-1605-JCM-VCF (D. Nev.). Ferrari is likely to have learned of this
9 action through the rental company or monitoring of legal actions under sound practices
10 of liability monitoring.⁵⁷ This even occurring years prior to the incident in Hong Kong in
11 2015.

12 **3. Consumer Complaints to NHTSA.**

13 100. NHTSA provides a repository for motor vehicle owners to report complaints
14 relating to safety defects that pose a risk of accidents in vehicles manufactured or
15 imported in the United States, including safety defects relating to brake malfunctions.
16 The safety defect complaints are entered into the NHTSA consumer complaint automated
17 database, which is accessible to manufacturers and is routinely reviewed by Ferrari soon
18 after the submission of each complaint. NHTSA also provides these consumer
19 complaints to the vehicle manufacturers directly, including Ferrari. Given that the vast
20 majority of owners of Class Vehicles are not aware of NHTSA and/or its reporting
21 system, complaints received by NHTSA form only a tiny minority of the overall number
22 of complaints that have been made to Ferrari directly and/or through its authorized
23 dealerships, including through the form of warranty repairs.

24 101. Below, for illustrative purposes, are a sampling of complaints made to the
25 NHTSA:

26 ⁵⁷ A number of owners have also publicly claimed that they were engaged in domestic and
27 international litigation with Ferrari NA or Ferrari SpA, that either was litigated in state court, foreign
28 courts, or settled privately prior to filing a summons and complaint. Discovery will enable Plaintiff to
determine the number of actions that have been litigated concerning the Brake Defect.

1 Model/Year:2010 Ferrari 458 Italia
2 NHTSA ID: 11195454
3 Incident Date: December 29, 2018
4 Report Date:April 10, 2019
5 Location: San Jose, CA
6 VIN Number: ZFF67NFA0A0****

7
8 A few occurrences of applying the brake, but the brake pedal barely moves
9 further (hard brake feel) but the car does not slow down. Has occurred going
10 forward at slow speeds. However next brake application is normal. Perhaps
11 issue with brake boost[er]?

12
13
14

15 Model/Year:2018 Ferrari 488 GTB
16 NHTSA ID: 11433534
17 Incident Date: June 4, 2021
18 Report Date:September 19, 2021
19 Location: Unknown
20 VIN Number: ZFF79ALA2J0****

21 On 6/4/21, my 2018 Ferrari 488 GTB displayed a message in my left dash
22 instrument panel prior to complete brake failure in my driveway that read
23 "brake fluid low-drive to dealer slowly", that resulted in my Ferrari being
24 totaled by State Farm after I jumped out of the running and moving Ferrari
25 onto my rear lawn between 10 to 15 miles per hour before it went into a
26 pond behind my residence. Then, 6-weeks later the replacement 2018
27 Ferrari GTB VIN#[XXX] I purchased from Ferrari of Atlanta displayed the
28 same message in my left dash instrument panel that read "brake fluid low-
drive to dealer slowly before the brake pedal went completely to the floor
as I was pulling into my garage. After having the replacment Ferrari towed
into Continental Ferrari it was determined that the brake fluid had leaked
inside the brake booster that caused the brake failure on the replacement
Ferrari. The first Ferrari was taken to a company and sold as salvage. The
company name is Copart and their telephone number is (314) 291-8400.
None of the Ferrari service departments or sales departments that I contacted
had any record or knowledge of the brake failure problems that I
experienced within a 6-week period on 2 separate Ferrai 488 GTB's. I could
have been trapped inside my Ferrari that went into the pond behind my
residence and possibly killed. I could also have been injured or killed along
with other motorists in my replacment Ferrari that had the same brake failure
issue just 6-weeks later if I was unable to get the replacement Ferrari home
and safely inside [m]y garage before the brakes completely failed a second
time. I don't understand why Ferrari has the message "brake fluid low-drive
to dealer slowly" display[] that gives drivers a false sense of security that
the brakes will continue to work properly until you drive to the dealer.
That's a deadly warning and major safety concern to me. My cell number is
[XXX] and I live in the St. Louis area. Please call me! Information redacted
pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. 552(B)(6).

29
30

31 Model/Year:2018 Ferrari 488 Spider
32 NHTSA ID: 11435451
33 Incident Date: September 7, 2021
34 Report Date:October 4, 2021

1 Location: Vero Beach, FL
 2 VIN Number: ZFF80AMA0J0****

3 On 07 September 2021, I had been driving my 2018 Ferrari 488 Spider for
 4 8 to 10 miles when the car suddenly displayed the following message "Brake
 5 Fluid Low, Go to Dealer Slowly". (note: Dealer is 2 hours away at 60 mph).
 6 As I slowed the car from approximately 45 mph, the brakes felt minimal but
 7 with down-shifting and minimal brakes I was able to slow the car. I
 8 attempted to limp home at 5 to 10 mph however within 3 miles or so the
 9 brakes failed completely. With the pedal to the floor there was absolutely
 10 no effect on the vehicle. It was fortunate that I was able to slow the car prior
 11 to complete failure and did not hit anything or anyone. Once the brakes
 12 failed completely, I did end up running through a stop sign before I could
 13 pull off the road into a parking lot and only stopped the car by rolling into
 14 an uphill parking spot and hitting the concrete parking barrier with the tires.
 I found it was necessary to turn the car off in order to keep it from rolling
 backwards. The car does not have a classic emergency brake but rather an
 electronic hold function. When trying to activate this function to keep the
 car from rolling backwards the car displayed the following message (as best
 I can remember) "Depress Brake Pedal to Activate Hold". However, with
 the brake pedal fully depressed, the function would not activate even though
 it worked fine prior to the brake failure (and subsequent to repair). The car
 was towed to the dealer and repaired under warranty. The service manager
 reported that the Master Cylinder leaked into the vacuum booster. I had
 requested that the failed parts be returned to me however the service
 manager advised me that failed parts replaced under warranty are returned
 to Ferrari.

15 Model/Year:2018 Ferrari 488 GTB
 16 NHTSA ID: 11448032
 17 Incident Date: November 1, 2021
 18 Report Date:January 19, 2022
 Location: Reno, NV
 VIN Number: ZFF79ALAXK0****

19 The contact owns a 2019 Ferrari 488 GTB. The contact received notification
 20 of NHTSA Campaign Number: 21V833000 (Service Brakes, Hydraulic)
 21 however, the part to do the recall repair was unavailable. The contact called
 22 the local dealer and it was confirmed that parts were not yet available. The
 23 contact stated that the manufacturer had exceeded a reasonable amount of
 time for the recall repair. The contact stated that he was concerned about
 driving the vehicle. The manufacturer was not notified. The contact had not
 experienced a failure. Parts distribution disconnect.

24 Model/Year:2017 Ferrari 488 GTB
 25 NHTSA ID: 11482908
 Incident Date September 4, 2022
 Report Date: September 5, 2022
 26 Location: Austin, TX
 VIN Number: ZFF79ALA0H0****

27 On Sunday Sept 4th, while attending an Edge Addicts track day event at
 28 Circuit of the Americas in Austin, My 2017 488 was part[] of the run group,

1 2 laps were completed prior to the brake pedal failing completely to the floor
2 and causing my driver to loose all braking capability and slamming into a
3 wall. We have in car video from Go Pro footage, footage from another
4 vehicle from behind my 488 and also footage from the control room of the
5 track. This vehicle was purchased 3 months ago, the brake fluid is at the
6 correct level and the new "Recalled" Brake fluid cap is installed. There is
7 some sort of serious manufacturing defect with this system, this is a car
8 designed for this type of use. This needs a serious investigation before others
9 are hurt or killed.

10 102. Federal law requires automakers like Ferrari to be in close contact with
11 NHTSA regarding potential defects. *See* TREAD Act, Pub. L. No. 106-414, 114 Stat.
12 1800 (2000). Accordingly, Ferrari NA monitors NHTSA databases for consumer
13 complaints regarding their automobiles as part of their obligation to identify potential
14 defects in their vehicles, such as the Brake Defect. Ferrari NA communicates with Ferrari
15 SpA concerning any issues that arise in the Class Vehicles in order to design better
16 products, ensure customer satisfaction, and protect against legal liabilities. Ferrari SpA
17 and Bosch GmbH similarly correspond regarding defective components.

18 103. From its monitoring of NHTSA databases, Ferrari knew or should have
19 known of the Brake Defect complaints lodged, such as those quoted above.

20 **4. Ferrari Monitors and Reviews Consumer Feedback and**
21 **Customer Complaints, an Essential Practice in Maintaining a**
22 **Luxury Brand.**

23 104. Defendants knew about the Defect due to consumer complaints made online
24 and internally to their exclusive network of dealers, which Defendants monitor as part of
25 a continuous obligation to identify potential defects in their vehicles.

26 105. Defendants knew about the Brake Defect through monitoring complaints
27 identifying the Defect, which were posted before Plaintiff and Class Members purchased
28 or leased their Class Vehicles. These postings regarding the Brake Defect in the class
vehicles appeared in online forums, such as FerrariChat, which is part of Motorsport
Network LLP.

106. As FerrariChat is one of the most significant resources for Ferrari owners, a
number of authorized Ferrari dealerships (which as described herein are alter egos/agents
of Ferrari NA) are sponsors and advertisers for the website, including (1) Boardwalk

1 Ferrari, 6300 International Pkwy, Plano, TX 75093; (2) Continental Autosports, 420 E.
2 Ogden Ave. 006120, Hinsdale, Dupage, 60521, IL, US; (3) Ferrari Maserati of Fort
3 Lauderdale, 5750 N Federal Hwy, Fort Lauderdale, FL 33308; and (4) Prancing Horse
4 of Nashville, 2320 Knights of Columbus Blvd, Nashville, TN 37217.

5 107. These authorized dealerships advertise and sponsor FerrariChat because
6 they are aware it is a repository for customer complaints and recognize it as a meeting
7 place for consumers. A sampling of complaints made online in FerrariChat is annexed
8 hereto as Exhibit A to the Complaint.

9 **5. Highly Publicized Manifestations of the Defect in the Media**

10 108. Defendants are also aware of the Defect from highly publicized media
11 coverage that warranted investigation by the Ferrari Defendants.

12 109. On information and belief, Ferrari became aware of the incidents below
13 either through media coverage, warranty and insurance claims, industry knowledge,
14 and/or litigation and indemnifications. Ferraris are valuable and exclusive automotive
15 machines, and catastrophic incidents draw attention from the public and interested
16 parties. Below are three illustrative examples that drew media attention.

17 110. On April 8, 2018, a highly public crash occurred of Ferrari 488 GTB at
18 Autódromo Fernanda Pires da Silva in Estoril, Cascais, Portugal (“Estoril Circuit”).
19 Estoril Circuit was the home of the Formula One Portuguese Grand Prix from 1984 to
20 1996, and on information and belief, Ferrari SpA—as a world-renowned motorsport
21 company—is intimately familiar with the track and personnel there.

22 111. While participating at Estoril Circuit, the vehicle reportedly suffered
23 catastrophic brake failure at one of the circuit’s high-speed sectors and slammed into a
24 crash barrier.⁵⁸ Footage shows that as another vehicle on track begins to brake, the Ferrari
25 488 GTB continues to enter the corner at full speed, with the driver scrambling into the
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⁵⁸ Almeida, Lucio, *Ferrari Crash Estoril 8 Abril 2017* (2017), available at;
28 <https://www.youtube.com/watch?v=AmMckOZBlgY>

1 off-track area to avoid other cars.⁵⁹ The driver reportedly stated that he lost braking
2 capability in his vehicle—the organizers put out a statement blaming an unspecified
3 mechanical issue, as well as making a statement below:⁶⁰

4 **Estoril Experience Day – April 8**

5 Organization’s announcement

6 Yesterday’s track day was marked by a major accident at curve 1 of the
7 Estoril Circuit, caused by a technical problem in the vehicle that crashed
8 into the tire barrier at over 200km/h, of which we highlight the following
9 facts:

- 10 • The Estoril Circuit infrastructure, rails and tire barriers,
11 perfectly fulfilled their function by absorbing the impact of the
12 car;
- 13 • The ambulance and medical team arrived at the scene 1m30s
14 after the impact, observing the driver and occupant and then
15 taking them to the circuit’s medical centre, which is duly
16 equipped;
- 17 • Two vehicles from the Motor Clube do Estoril, out of several
18 present along the circuit, needed 10 seconds to reach the
19 accident site as they were meters from the accident site;
- 20 • A firefighters extrication team was also present in case it was
21 necessary to remove passengers from the vehicle;
- 22 • The team of stewards from Motor Clube do Estoril cleaned and
23 reconstructed the tire barrier in 40 minutes, thus ensuring the
24 continuity of the event.

23 ⁵⁹ This story was picked up by multiple news sources: Brad Anderson, *Ferrari 488 Wrecked In*
24 *High Speed Crash At Estoril Circuit*, CARSCOOPS, April 10, 2017
25 <https://www.carscoops.com/2017/04/ferrari-488-wrecked-in-high-speed-crash/#more>; James
26 Fossdyke, *Ferrari Driver’s Escape In Sickening Crash Shows Just How Safe Prancing Horses Are*,
27 SUPERUNLEADED, April 12, 2017 <http://superunleaded.com/sickening-ferrari-crash-shows-best-good-brakes/23347/> (last accessed: Jan. 17, 2024; Kyle Cheromcha, *Watch Separate Crashes Claim Two Ferrari 488s This Weekend*, THEDRIVE, April 9, 2017, <https://www.thedrive.com/news/9132/watch-separate-crashes-claim-two-ferrari-488s-this-weekend>.

28 ⁶⁰ <https://www.facebook.com/photo/?fbid=776215979203879&set=a.295524863939662.1073741830.284228151736000>



12 112. Similarly, on January 6, 2018, a Ferrari 458 Spider lost braking capability
13 and crashed into the front garden of a home in Bath, United Kingdom. The vehicle was
14 worth approximately £200,000. According to the owner of the house, who was awoken
15 by the sound of the crash, the driver said that he lost control of the vehicle, pictured
16 below. “My husband and son were awake and heard the crash . . . it woke me up and I
17 ran straight down, checked the driver was ok.”⁶¹ Police attended the scene, and the Ferrari
18 458 Spider was later recovered around 12.30 p.m.



27 ⁶¹ Andrew Baber, *Ferrari worth £200,000 crashes into garden of Bath home after driver*
28 *‘lost control’*, BATH CHRONICLE, Jan. 6, 2018, <https://www.bathchronicle.co.uk/news/bath-news/ferrari-worth-200000-crashes-garden-1021566>.

1 113. Anthony Bohana, an individual purporting to be the owner of that vehicle,
2 corroborated Mr. Ebert's testimony. Mr. Bohana stated:

3 Same thing happened to me in my 458 Spider . . . this was the result
4 [https://www.bathchronicle.co.uk/news/bath-news/ferrari-worth-200000-](https://www.bathchronicle.co.uk/news/bath-news/ferrari-worth-200000-crashes-garden-1021566)
5 [crashes-garden-1021566](https://www.bathchronicle.co.uk/news/bath-news/ferrari-worth-200000-crashes-garden-1021566) Ferrari deny and deny it . . . BUT they know the
6 truth, I actually think myself lucky some poor guy I spoke to had the same
7 problem but killed someone in Hong Kong . . . he served 2 years in prison
8 for it . . . yet he is adamant the brakes failed and he could not stop the car .
9 . . I 100% believe him after it happened to me.⁶²

10 114. Likewise, since the Recalls began, on July 21, 2022, a Ferrari 488 GTB was
11 involved in a catastrophic crash in Hanoi, Vietnam.⁶³ Local media reported that the
12 vehicle was part of the batch recalled by Ferrari due to braking failure and was supposed
13 to be repaired toward the end of September. The vehicle was driven by a Volvo Hanoi
14 technician, who test drives all sorts of vehicles before they get delivered to their
15 customers. The man appears to have lost control of the vehicle in Hanoi's Long Bien
16 District, and the Ferrari 488 GTB then climbed the curb and took out a tree that was
17 reinforced. A photo of the wreckage is provided below:

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25 ⁶² See *Need advice on 458 braking issue, or lack there of...* FERRARICHAT, Page 1,
26 Message Number 11 <https://www.ferrarichat.com/forum/threads/need-advice-on-458-braking-issue-or-lack-there-of.576984/>.

27 ⁶³ Gnaticov, Cristian, *Ferrari 488 GTB Takes Out Tree in Vietnam, Could've Been Due to*
28 *Braking System Failure*, AUTOEVOLUTION (Aug. 13, 2022), available at:
<https://www.autoevolution.com/news/ferrari-488-gtb-takes-out-tree-in-vietnam-could-ve-been-due-to-braking-system-failure-195556.html>.



6. Post-Failure Mode Analysis, Warranty Claims, and Reports from Authorized Dealerships

115. Ferrari SpA and Bosch GmbH go to great lengths to conduct post-failure analysis on failed vehicles and component parts. First and foremost, such analysis is crucial for a manufacturer to identify and understand the root cause of the failures. This information is vital for ensuring the safety and reliability of their products, as it allows them to address any design, manufacturing, or engineering flaws that may have led to the failures in the first place. By conducting post-failure analysis, manufacturers can take proactive measures to prevent similar incidents from occurring in the future, thus safeguarding their reputation and maintaining consumer trust.

116. Similarly, conducting analyses on warranty claims and reviewing dealership feedback is essential for successful business operations. Consider the vast amount of data that manufacturers receive from warranty claims every year, such as part or model numbers and manufacturing dates, and complaints or problem descriptions from customers. This valuable information is not only a rich source of potential insight into

1 how products function in the real world and what is not working for customers – but it
2 can ultimately be used to decrease the number of warranty claims.

3 117. Simply put, post-failure analysis, review of warranty claim data, and
4 oversight of dealership feedback are essential for complying with regulatory
5 requirements and industry standards. Automotive manufacturers are subject to strict
6 regulations and safety standards imposed by government agencies and industry
7 organizations. Conducting thorough analyses on failed vehicles allows manufacturers to
8 demonstrate compliance with these standards and helps avoid potential penalties or legal
9 consequences for non-compliance. By being proactive in identifying and rectifying
10 issues, manufacturers can continue selling their vehicles in the market.

11 118. On information and belief, Ferrari and Bosch became aware of the Brake
12 Defect through aggregation of the above information, part traceability reports, and
13 communications with one another and authorized dealerships. It is important and telling
14 that Ferrari NA has admitted that it was able to use this data to find evidence of similar
15 incidents involving the Brake Defect, including as follows: one case of brake fluid loss
16 on a Ferrari FF in December 2012, one case on a Ferrari FF in May 2020, one case on a
17 GTC4 Lusso in July 2020, one case on an 812 Superfast in July 2021, one case on a 488
18 Pista Spider in February 2022, one case on a 488 Pista in February 2022, one case on an
19 812 Superfast in February 2022, one case on an 812 Superfast in March, 2022 and one
20 case on a 812 Superfast in April, 2022.⁶⁴

21 **7. Ferrari and Bosch Monitored the Above Information and Knew**
22 **of the Existence of the Brake Defect**

23 119. As evidenced by the preceding paragraphs, the Defendants were aware of
24 the Brake Defect for many years before they issued the Recalls. Defendants also knew
25 that the Defect posed a severe safety risk to Class Members and the public at large, the
26 associated costly repair charges to the Class Vehicles, and the potential harm to their
27 reputations and brand should their fraud be uncovered.

28 ⁶⁴ RC 80 Chronology, *supra*, note 10.

1 120. Defendants’ deceptive acts, misrepresentations, and/or omissions regarding
2 the Brake Defect create a safety risk for drivers and occupants of the Class Vehicles as
3 well as members of the public who may be involved in accidents with Class Vehicles
4 that experience the Brake Defect while driving. The reasonable expectation that the Class
5 Vehicles are safe and reliable to drive is and was material to Plaintiff and members of
6 the Class at all relevant times.

7 121. Defendants monitored and saw the above-quoted consumer complaints for
8 three reasons:

- 9 (a) First, pursuant to the Transportation Recall Enhancement,
10 Accountability, and Documentation Act (the “TREAD Act”), 49 U.S.C.
11 § 30118, manufacturers are required to monitor reports submitted to
12 NHTSA and report information regarding internal customer complaints
13 and warranty claims to NHTSA, and federal law imposes criminal
14 penalties against manufacturers who fail to disclose known safety
15 defects.
- 16 (b) Second, car manufacturers, like Defendants, know that NHTSA is a
17 repository for complaints and, as such, provides an early warning
18 mechanism for responding to design or manufacturing defects that pose
19 a safety hazard. Hence, as courts have found, it is entirely reasonable to
20 assume that car manufacturers closely monitor and analyze complaints
21 made online and to NHTSA—mainly when they entail safety hazards.
- 22 (c) Third, online reputation management (commonly called “ORM” for
23 short) is now a standard business practice among most prominent
24 companies. It entails monitoring consumer forums, social media, and
25 other sources on the internet where consumers can review or comment
26 on products. “Specifically, [online] reputation management involves the
27 monitoring of the reputation of an individual or a brand on the internet,
28 addressing content which is potentially damaging to it, and using
customer feedback to try to solve problems before they damage the
individual’s or brand’s reputation.”⁶⁵ The growth of the internet and
social media and the advent of reputation management companies have
led to ORM becoming an integral part of many companies’ marketing
efforts. Defendants regularly monitored consumer complaints in
connection with their ORM activities because candid comments from
Ferrari owners provided valuable data regarding quality control issues
and customer satisfaction.

65 Moryt Milo, *Great Businesses Lean Forward, Respond Fast*, SILICON VALLEY BUSINESS JOURNAL (September 5, 2013), <http://www.bizjournals.com/sanjose/print-edition/2013/05/17/great-businesses-lean-forward-respond.html>

1 122. Moreover, Ferrari is a high-end brand. As such, every touch point of the
2 brand has an impact on customer perception, making any negative interaction a potential
3 reputational threat.

4 123. According to its May 21, 2020 prospectus, “Ferrari is among the world’s
5 leading luxury brands focused on the design, engineering, production and sale of the
6 world’s most recognizable luxury performance sports cars. The Ferrari brand symbolizes
7 exclusivity, innovation, state-of-the-art sporting performance, and Italian design and
8 engineering heritage.” Moreover, “[w]hilst broadening its product portfolio to target a
9 larger customer base, the Group continues to pursue a low volume production strategy in
10 order to maintain a reputation of exclusivity and scarcity among purchasers of its cars
11 and carefully manages its production volumes and delivery waiting lists to promote this
12 reputation.”⁶⁶ The “Ferrari” brand, therefore, also leads to significant revenues for Ferrari
13 SpA through merchandise and exclusivity.

14 124. Ferrari engages in extensive litigation in order to protect its brand. For
15 example, Ferrari requires consent prior to using its trademark and will litigate
16 unauthorized uses of its trademark in fashion shows or on social media.⁶⁷ Ferrari also
17 maintains a “list” of exclusive models to be sold only to those who respect the Ferrari
18 brand.⁶⁸

19 125. Ferrari also applies this aggressive approach in dealing with reputational
20 threats to investigate mechanical and ethical faults. Per the Ferrari “Code of Conduct,”
21 “[u]nder no circumstances should you independently investigate suspected or known
22

23 ⁶⁶ *May 21, 2020 Prospectus*, FERRARI N.V., available at
24 https://corporate.ferrari.com/sites/ferrari15ipo/files/drs_-_ferrari_n.v._-_prospectus_21_may_2020_final_approved_by_cbi_5.pdf.

25 ⁶⁷ See e.g., Totino, Serena, *Don't Mess with Ferrari: The Prancing Horse Legal Drama*,
26 NATIONAL LAW REVIEW (Nov. 6, 2020), available at: <https://www.natlawreview.com/article/don-t-mess-ferrari-prancing-horse-legal-drama>

27 ⁶⁸ In a statement concerning Ferrari’s decision to “blacklist” certain celebrities, Ferrari stated it
28 “reserves the right to decide on special editions.” See *Ferrari responds if it banned Justin Bieber and the Kardashians from buying its cars*, MARCA (May 2022)
<https://www.marca.com/en/lifestyle/celebrities/2022/05/17/6283c08ce2704e70438b457e.html>

1 violations of the Code.”⁶⁹ All investigations are to be conducted via an internal audit by
2 Ferrari’s legal team.⁷⁰ This process is reportedly done to protect the company first and
3 foremost.

4 126. To put this “Code of Conduct” into context, if a technician found a defect
5 with a car part, they would need to take the matter to a superior before searching for a
6 solution.⁷¹

7 127. The strategy of aggressive brand protection comes at a loss to consumer
8 safety, with service technicians encouraged to quietly resolve issues without submitting
9 warranty claims. Here, despite the Defendants’ knowledge of the Brake Defect,
10 ultimately, Ferrari chose to conceal the true nature of the Brake Defect from Plaintiff and
11 the Class.

12 **D. Ferrari Was Legally Required to Disclose the Brake Defect as a Known**
13 **Safety Defect and Failed to Do So**

14 128. Defendants had a duty to disclose the Brake Defect because they were in a
15 superior position to know of the safety defect, knew about the defect, and Plaintiff and
16 the Class could not have reasonably discovered the defect until the brakes in the Class
17 Vehicles failed.

18 129. Ferrari and Bosch knew of the Brake Defect but did not disclose it to
19 purchasers or lessees either before or after their transaction. Had Ferrari or Bosch
20 disclosed the Brake Defect, Plaintiff and Class members could have incorporated the
21 information in their purchase/lease decision.

22 130. Ferrari and Bosch could have, and should have, disclosed the Brake Defect
23 in their various communications at the point of sale but, instead, failed to do so.
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26 ⁶⁹ Ace Macneill, *10 Rules Every Ferrari Employee Has To Follow* (HOTCARS 2020)
27 <https://www.hotcars.com/ferrari-employee-rules/> (last accessed Dec. 5, 2022).

28 ⁷⁰ *Id.*

⁷¹ *Id.*

1 131. Ferrari concealed material facts of intrinsic qualities, *i.e.*, that the brakes
2 were defective, that Plaintiff and the Class could not discover by the exercise of ordinary
3 care.

4 132. Each Defendant has engaged in partial disclosures concerning the Recalls,
5 so there exists a duty to disclose the root cause of the Brake Defect. As described herein,
6 the Cap and Warning Repair fails to remedy the Brake Defect.

7 133. To this day, Defendants continue to omit material information concerning
8 the Brake Defect in the Class Vehicles from users, consumers, and the public. As a result,
9 consumers continue to operate Class Vehicles and continue to experience dangerous
10 failures of the defective braking system and are at an apparent increased risk for crashes
11 and bodily harm.

12 **E. Plaintiff and Class Members Would Not Have Purchased, the Class**
13 **Vehicles Had They Known of the Brake Defect**

14 134. No owner or lessee of a Class Vehicle would have purchased their vehicle
15 had they known that the braking system might suddenly and unexpectedly partially or
16 totally lose braking capability or had they known that Ferrari and Bosch would fail to fix
17 a known defect in the master cylinder/brake booster assembly.

18 135. As a result of the Brake Defect in Class Vehicles and the costs of repairs
19 required to ameliorate it, Plaintiff and all owners of Class Vehicles have suffered injury,
20 in fact, incurred damages, and have suffered harm as a result of both Ferrari's and
21 Bosch's acts and omissions. Plaintiff and Class members seek, among other things,
22 remedies under the consumer protection statutes of the states in which they reside and/or
23 purchased their Class Vehicles, and also seek recovery for Ferrari's breach of breach of
24 implied warranty, negligent misrepresentation, unjust enrichment, and fraudulent
25 concealment.

26 136. Plaintiff and each Class member suffered injury as they purchased their
27 Class Vehicle under the implied warranties that their vehicles would operate safely
28 throughout the useful life of such vehicles. A vehicle containing a Brake Defect does not

operate as warranted and for its intended purpose because it does not operate safely or reliably.

F. Allegations Establishing Agency Relationship Between Ferrari Na and Ferrari Dealerships in the United States

137. Ferrari maintains programs to train its employees and police its consumer base in order to ensure that Ferrari’s reputation for automotive excellence and luxury remains unblemished. This reputation is invaluable for Ferrari. Plaintiff and members of the Class relied on that reputation, which Ferrari cultivates, when determining to purchase their Class Vehicles. Plaintiff and members of the Class reasonably expected to receive a Class Vehicle free of a dangerous safety defect in their braking assemblies.

138. Ferrari SpA has a uniform program in place to train its representatives to sell the Class Vehicles. The program is designed to maximize the sale of Ferrari vehicles and to minimize the disclosure of facts that may deter future owners.

139. For example, Ferrari SpA maintains a Service Advisor program in Europe, which is a comprehensive, 3-year program that provides all apprentices with the support they need to develop skills to become knowledgeable and expertly trained apprentices who will become the Ferrari Service Technicians of the future.

140. That position is designed as an introduction to Ferrari products, enhancing customer service skills and developing advanced selling skills. As part of the program, representatives undertake on-the-job training while earning an academic qualification.

Year 1: 7 Week Residential Training

Week 1	Week 2	Week 3	Week 4	Week 5	Week 6	Week 7
Welcome to Ferrari Health & Safety Brand Introduction ERR Business Hierarchy	Ferrari Product Training An overview of Ferrari product	Vehicle Inspection Braking Systems Servicing PDI, 230, MOT Information Sourcing	Ferrari Genuine The range DAD Social Media Running a campaign Using MODISC	Chassis Introduction Steering, suspension Geometry, tyre changing Pirelli Trip to Carlisle (2 days)	Customer Service Skills Understand the customer Presentation skills CSI & FRI Mystery Shop Customer Journey Advanced Citnow	End of Year assessment Gateway 1 2,000 word work based project Professional discussion

Year 2: 7 Week Residential Training

Week 1	Week 2	Week 3	Week 4	Week 5	Week 6	Week 7
Retention Service Entry COP Warranty & Service Plan Ferrari with you Ferrari Approved	Service Culture Brand Customer delight Handling objections Effective communication Competitor culture exercise	Parts & Accessory Management Inventory management Ferrari composite	Selling Accessories Client understanding Genuine Citnow COP - managing opportunities to succeed Product updates	Marketing Segmentation The 5s of Marketing HPPS Creating a marketing plan Budgeting & ROI	Digital Marketing Campaigns Digital platforms Optimisation Marketing plan Budgeting & ROI	End of Year assessment Gateway 1 2,000 word assignment and work based project Professional discussion

Start an apprenticeship with Ferrari

> APPLY NOW

1 141. Upon information and belief, Ferrari NA also impliedly or expressly
2 acknowledged that Ferrari-authorized dealerships are its sales agents, the dealers have
3 accepted that undertaking, Ferrari NA can control authorized Ferrari dealers, and Ferrari
4 NA acts as the principal in that relationship, as is shown by the following:

- 5 i. Ferrari NA can terminate the relationship with its dealers at will;
- 6 ii. The relationships are indefinite;
- 7 iii. Ferrari NA is in the business of selling vehicles, as are its dealers;
- 8 iv. Ferrari NA provides tools and resources for Ferrari dealers to sell vehicles;
- 9 v. Ferrari NA supervises its dealers regularly;
- 10 vi. Without Ferrari NA, the relevant Ferrari dealers would not exist;
- 11 vii. Ferrari NA requires the following of its dealers:
 - 12 a. Reporting of sales;
 - 13 b. Computer network connection with Ferrari NA;
 - 14 c. Training of dealers' sales and technical personnel;
 - 15 d. Use of Ferrari NA-supplied computer software;
 - 16 e. Participation in Ferrari NA's training programs;
 - 17 f. Establishment and maintenance of service departments in Ferrari
18 dealerships;
 - 19 g. Certify Ferrari pre-owned vehicles;
 - 20 h. Reporting to Ferrari NA with respect to the vehicle delivery,
21 including reporting Class members' names, addresses, preferred
22 titles, primary and business phone numbers, e-mail addresses, vehicle
23 VINs, delivery date, type of sale, lease/finance terms, factory
24 incentive coding, if applicable, vehicles' odometer readings,
25 extended service contract sale designations, if any, and names of
26 delivering dealership employees; and
 - 27 i. Displaying Ferrari NA logos on signs, literature, products, and
28 brochures within Ferrari dealerships.

- 1 viii. Dealerships bind Ferrari NA with respect to:
- 2 a. Warranty repairs on the vehicles the dealers sell and
- 3 b. Issuing service contracts administered by Ferrari NA.
- 4 ix. Ferrari NA further exercises control over its dealers with respect to:
- 5 a. Financial incentives given to Ferrari dealer employees;
- 6 b. Locations of dealers;
- 7 c. Testing and certification of dealership personnel to ensure
- 8 compliance with Ferrari NA's policies and procedures; and
- 9 d. Customer satisfaction surveys, pursuant to which Ferrari NA
- 10 allocates the number of Ferrari cars to each dealer, thereby directly
- 11 controlling dealership profits.
- 12 x. Ferrari dealers sell Ferrari vehicles on Ferrari NA's behalf.
- 13 xi. Dealerships bear Ferrari's brand names, use Ferrari's logos in advertising
- 14 and on warranty repair orders, post Ferrari-brand signs for the public to see,
- 15 and enjoy a franchise to sell Ferrari NA's products, including the Class
- 16 Vehicles.
- 17 xii. Ferrari NA requires Ferrari dealers to follow the rules and policies of Ferrari
- 18 NA in conducting all aspects of dealer business, including the delivery of
- 19 Ferrari NA's warranties described above and the servicing of defective
- 20 vehicles such as the Class Vehicles.
- 21 xiii. Ferrari NA requires its dealers to post Ferrari's brand names, logos, and
- 22 signs at dealer locations, including dealer service departments, and to
- 23 identify themselves and to the public as authorized Ferrari dealers and
- 24 servicing outlets for Ferrari NA cars.
- 25 xiv. Ferrari NA requires its dealers to use service and repair forms containing
- 26 Ferrari NA's brand names and logos.
- 27 xv. Ferrari NA requires Ferrari dealers to perform Ferrari NA's warranty
- 28 diagnoses and repairs and to do the diagnoses and repairs according to the

1 procedures and policies set forth in writing by Ferrari NA.

2 xvi. Ferrari NA requires Ferrari dealers to use parts and tools either provided by
3 Ferrari NA or approved by Ferrari NA and to inform Ferrari when dealers
4 discover that unauthorized parts have been installed on one of Ferrari NA's
5 vehicles.

6 xvii. Ferrari NA requires dealers' service and repair employees to be trained by
7 Ferrari in the methods of repair for Ferrari-brand vehicles.

8 xviii. Ferrari NA audits Ferrari dealerships' sales and service departments and
9 directly contacts the customers of said dealers to determine their level of
10 satisfaction with the sale and repair services provided by the dealers; dealers
11 are then granted financial incentives or reprimanded depending on the level
12 of satisfaction.

13 xix. Ferrari NA requires its dealers to provide Ferrari with monthly statements
14 and records pertaining, in part, to dealers' sales and servicing of Ferrari
15 NA's vehicles.

16 xx. Ferrari NA provides technical service bulletins and messages to its dealers
17 detailing chronic defects present in product lines and repair procedures to
18 be followed for chronic defects.

19 xxi. Ferrari NA provides its dealers with specially trained service and repair
20 consultants, with whom Ferrari NA requires dealers to consult when dealers
21 are unable to correct a vehicle defect on their own.

22 xxii. Ferrari NA requires Ferrari-brand vehicle owners to go to authorized Ferrari
23 dealers to obtain servicing under Ferrari warranties.

24 xxiii. Ferrari dealers are required to notify Ferrari NA whenever a car is sold or
25 put into warranty service.

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1 **V. DEFENDANTS MADE MISLEADING STATEMENTS ABOUT CLASS**
2 **VEHICLE SAFETY AND BRAKING CAPABILITY**

3 **A. Each Class Vehicle Has Several “In-Vehicle” Safety Labels that**
4 **Misleadingly Assured Consumers that the Class Vehicles Contained a**
5 **Braking System that Functioned Properly**

6 142. Defendants know and have known, that a properly functioning braking
7 system and vehicle safety, in general, are essential attributes to consumers in deciding to
8 purchase or lease a vehicle. These attributes are especially true for the Class Vehicles,
9 which are symbols of status, investments by collectors, and expected to be tested in
10 rigorous driving conditions. This collective understanding informed Ferrari SpA’s
11 marketing strategy for and representations to consumers about the Class Vehicles, as
12 reflected throughout the informational labels and representations included in every Class
13 Vehicle.

14 143. As described in detail below, these safety representations include window
15 stickers affixed to each Class Vehicle at the point of sale or lease and made available
16 online; certification labels that uniformly communicate compliance with motor vehicle
17 safety standards in every Class Vehicle; and in-vehicle safety information, such as in the
18 Warranty Card and Owner’s Service Book, about brakes and required maintenance of the
19 braking system. Overall, these window stickers, safety labels, and information uniformly
20 and misleadingly communicated to consumers before they decided to purchase or lease
21 a Class Vehicle that the Class Vehicles were safe and had a properly functioning braking
22 system when, in fact, they did not.

23 **1. Ferrari NA Distributed Class Vehicles with Monroney Labels**
24 **that Had Misleading Assurances Regarding Safety**

25 144. In the United States, automobile dealers must sell or lease vehicles with
26 window stickers that provide essential information about a vehicle’s features, including
27 its safety features and performance characteristics. *See* 15 U.S. Code §1232. These
28 window stickers are commonly called “Monroney labels.”

1 145. Every Class Vehicle had a Monroney label affixed to it at the point of its
 2 original sale or lease at a dealership. The labels are large—approximately the size of a
 3 standard sheet of paper—and prominently displayed on the vehicles, typically taped to a
 4 window. The Monroney label for Plaintiff’s Class Vehicle is provided below:

Ferrari
 Ferrari North America, Inc.
 250 Sylvan Avenue
 Englewood Cliffs, NJ 07632

Model Year: 2010
Model Desc: 458 ITALIA
Color: TITANIUM / BLACK
Port of Importation: PORT NEWARK
Warehouse: NEWARK, NJ
Serial Number: ZFF67NFA1A0175749

DEALER TO WHOM DELIVERED
 FERRARI OF WASHINGTON
 45235 TOWLEYN PLACE
 STERLING, VA 201660000
Mode of Transportation: VIA TRUCK

PARTS CONTENT INFORMATION FOR THIS VEHICLE
Final Assembly Point: Maranello, Modena, Italy
Country of Origin: Italy
Engine Parts: Italy
Transmission Parts: Italy

Note: Parts content does not include final assembly, distribution, of other non-parts costs.

Standard Equipment Included in Suggested Retail Price*
 *4.5 L MID-MOUNTED V8 ENGINE
 PRODUCING 560 HP @ 9,000 RPM
 *7-SPEED F1 DUAL CLUTCH TRANSMISSION
 *ALUMINUM BODY SHELL AND CHASSIS
 *SCM2 MAGNETIC SUSPENSION DAMPING
 *DOUBLE WISHBONE FRONT SUSPENSION
 *MULTI LINK REAR SUSPENSION
 *E-DIFF3 ELECT. REAR DIFFERENTIAL
 *F-1 TRAC TRACTION CONTROL
 *CST-CONTROL STABILITY & TRACTION
 *CMD-CARBON CERAMIC BRAKES
 *HIGH PERFORMANCE ABS WITH BRAKE PRE-FILL
 *MANETIMO-STEERING WHEEL MOUNTED F-1 SYSTEMS MODE CONTROL
 *DRIVER, PASSENGER & SIDE AIRBAGS
 *TIRE PRESSURE & TEMP. MONITOR
 *VEHICLE DYNAMIC ASSISTANCE (VDA)
 *INST. CLUSTER WITH 2 TFT SCREENS

Manufacturer's Suggested Port of Entry Retail Price \$225,325.00
Delivery, Process, Prep & Handling Fee 2,350.00

Tires PIRELLI P ZERO FRONT: 295/35 ZR20 REAR: 295/35 ZR20

Options
 AFS SYSTEM 1,889.00
 BRAKE CALIPERS ALLUMINIUM COL. 1,339.00
 CARBON FIBER DRIVER ZONE+LEDS 6,925.00
 INT.UPHOLST. LEATHER/ALCANTARA 4,879.00
 FRONT SUSPENSION LIFT 4,407.00
 FERRARI IPOD 881.00
 SCUDERIA FERRARI SHIELDS 1,542.00
 IN/OUT ELETTR.MIRROR+HOMELINK 1,574.00
 RADONAVI SYSTEM + BLUETOOTH 3,305.00
 FRONT AND REAR PARKING SENSORS 2,203.00
 PAINTED 20" SPORT RIMS 5,509.00
 OTHER OPTIONS 8,869.00

Total Suggested Retail Price \$273,597.00

*Gasoline, license and title fees, luxury, state and local taxes, dealer installed accessories are not included.

Warranty
 Refer to Warranty Info Book for Specific Limitations

This vehicle is equipped with a front bumper that has been tested at an impact speed of * mph and a rear bumper that has been tested at an impact speed of * mph, and has sustained no damage to the vehicle's body and minimal damage to the bumper and attachment hardware. Minimal damage to the bumper means damage that can be repaired with the use of common repair materials and without replacing any parts. The stronger the bumper, the less likely the car will require repair after a low speed collision. However, this vehicle is equipped with a bumper system that, under federal bumper standard test conditions and procedures, can withstand a frontal impact speed of 2.5 mph and a rear impact speed of 2.5 mph with no more damage than allowed by federal bumper standard. *Not tested to specifics of N.Y. Law.

This label has been affixed to this vehicle pursuant to the requirements of U.S.C 15§ 1231 et seq., which prohibits its removal or alteration prior to delivery to the ultimate purchaser. THIS IS A COPY OF THE ORIGINAL MONRONEY LABEL.

GOVERNMENT SAFETY RATINGS
 This vehicle has not been rated by the government for frontal crash, side crash or rollover risk.
 Source: National Highway Traffic Safety Administration (NHTSA).
www.safercar.gov or 1-888-327-4236

EPA Fuel Economy Estimates
 These estimates reflect new EPA methods beginning with 2008 models.

City MPG 12
 Expected range for most drivers 9 to 15 mpg

Highway MPG 18
 Expected range for most drivers 14 to 22 mpg

Estimated Annual Fuel Cost \$2,999
 based on 15,000 miles at \$2.80 per gallon

Gas Guzzler Tax \$ 2,600.00

Combined Fuel Economy This Vehicle 14 TW@S

Your actual mileage will vary depending on how you drive and maintain your vehicle

See the FREE Fuel Economy Guide at dealers or www.fueleconomy.gov

18 146. Monroney labels are also essential resources for used vehicle purchasers
 19 because they can also be affixed to used cars at the point of sale, and they are readily
 20 available online, including at <https://monroneylabls.com>. Upon information and belief,
 21 used car dealers often provide printed Monroney labels to consumers when offering the
 22 vehicles for sale or lease. Given this standard practice, Monroney labels informed the
 23 sale or lease of used Class Vehicles as well.

24 147. Although dealers displayed the Class Vehicles with Monroney labels prior
 25 to sale and lease, they did not author the labels and had no control over or input in the
 26 contents of the Monroney labels. Instead, Ferrari NA controls the contents of the
 27 Monroney labels for his Class Vehicle. Specifically, Ferrari NA was responsible for
 28 drafting and approving the content of the Monroney labels for all Class Vehicles. On the

1 Monroney label for each Class Vehicle, the name and address of Ferrari NA is listed as
2 follows: “Ferrari North America, Inc. 250 Sylvan Avenue Englewood Cliffs, NJ 07632.”

3 148. Nor did the dealers themselves affix the labels to Class Vehicles. Instead,
4 Ferrari NA affixed the Monroney labels to their respective Class Vehicles before
5 shipping them across the United States to the dealers. Specifically, Ferrari NA affixed
6 Monroney labels to all Class Vehicles prior to shipping them to dealers.

7 149. When Ferrari NA shipped Class Vehicles with Monroney labels to dealers,
8 it knew that U.S. law prohibited automobile dealers from removing the Monroney labels
9 from the Class Vehicles, and that only consumers are allowed to remove the labels.
10 Specifically, Ferrari NA statutorily added the warning notice as follows: “[t]his label has
11 been affixed to this vehicle pursuant to the requirements of 15 U.S.C. §1231 *et seq.*,
12 which prohibits its removal or alteration prior to delivery to the ultimate purchaser.”

13 150. The dealerships were prohibited from removing the Monroney labels from
14 the Class Vehicles because it was Plaintiff and members of the Class who were the direct
15 or “ultimate” purchasers of the Class Vehicles.

16 151. Upon information and belief, Ferrari NA tells automobile dealers to display
17 Class Vehicles with Monroney labels that it approves.

18 152. Upon information and belief, this instruction is part of written policies or
19 contracts that Ferrari NA provides to the authorized dealers who sell or lease their
20 respective vehicle models. Although no law required them to do so, Ferrari NA
21 voluntarily chose to include information about the braking capability on all Monroney
22 labels for Class Vehicles, typically under a heading for “SAFETY” or “STANDARD
23 EQUIPMENT INCLUDED IN SUGGESTED RETAIL PRICE” Representative
24 examples are detailed below:

25 (a) On the Monroney labels for Plaintiff’s Class Vehicle, under
26 STANDARD EQUIPMENT INCLUDED IN SUGGESTED RETAIL PRICE, the
27 “CCMD-CARBON CERAMIC BRAKES” are featured, which are more expensive than
28

1 traditional brakes and made to withstand extreme temperatures from high-performance
2 demands of a racetrack;

3 (b) On the Monronev label for Plaintiff's Class Vehicle under
4 STANDARD EQUIPMENT INCLUDED IN SUGGESTED RETAIL PRICE, the "F-1
5 TRAC TRACTION CONTROL" is featured. In the Ferrari Manual, this feature is
6 described as faster and more accurate than traditional control systems and is capable of
7 delaying and minimizing engine torque adjustments as required, in order to ensure the
8 desired trajectory. The system estimates the maximum available grip in advance, by
9 continuously monitoring the relative wheel speed and using an auto-adaptive operation
10 logic;

11 (c) On the Monronev label for Plaintiff Nechev's Class Vehicle under
12 STANDARD EQUIPMENT INCLUDED IN SUGGESTED RETAIL PRICE, the "CST-
13 CONTROL STABILITY & TRACTION" is featured, which is a stability control system
14 used on Ferrari cars to optimize the operation of the anti-skid and traction control
15 systems, ABS, and the brake force distribution system; and

16 (d) On the Monronev label for Plaintiff's Class Vehicle under
17 STANDARD EQUIPMENT INCLUDED IN SUGGESTED RETAIL PRICE, the
18 "HIGH PERFORMANCE ABS WITH BRAKE PRE-FILL" is featured, this feature
19 quickens the response time of the brakes and help shorten stopping distances, by slightly
20 increasing the hydraulic pressure in the brake lines whenever the driver lifts off the
21 accelerator pedal.

22 153. These descriptions of components of the braking systems in the Class
23 Vehicles on Monronev labels were misleading to Plaintiff and Class Members because
24 they conveyed to any reasonable consumer that the Class Vehicles had a properly
25 functioning, indeed a high-performance, braking system that would engage during all
26 vehicle braking events during ordinary driving, when, in fact, the Class Vehicles have
27 defective braking systems that can partially or totally lose braking capability due to the
28 leakage of brake fluid.

1 154. Upon information and belief, Ferrari NA chose to include misleading
2 descriptions of the braking systems on their Monroney labels because it wanted to
3 encourage Class Members to purchase or lease the Class Vehicles and knew that braking
4 capability and vehicle safety are critically important to consumers when deciding to
5 purchase or lease a vehicle, especially in vehicles advertised as high-performance,
6 luxury, and racetrack-ready.

7 155. All Defendants knew that dealers sold or leased Class Vehicles with
8 Monroney labels with these kinds of misrepresentations about the braking systems and
9 vehicle safety because every significant participant in the automotive industry is familiar
10 with the standard practice of including this type of information on Monroney labels.

11 156. As a sophisticated and well-funded corporate entity that derives billions of
12 dollars in revenue from the sale and distribution of its vehicles to U.S.-based dealerships,
13 Ferrari SpA was explicitly aware that Ferrari NA distributed the Class Vehicles with
14 Monroney labels that included information about the braking systems and safety features
15 in the Class Vehicles.

16 157. As a sophisticated and well-funded corporate entity that generates billions
17 of dollars in annual revenue from work in the U.S. automotive industry, Bosch GmbH
18 was explicitly aware that Ferrari SpA distributed Class Vehicles with Monroney labels
19 that included information about braking systems and safety features.

20 158. As the above examples make clear, the Monroney labels for the Class
21 Vehicles uniformly and wrongly assured Plaintiff and Class members that the Class
22 Vehicles were safe and would meet or exceed ordinary braking performance. The
23 statements and information on the labels suggested to any reasonable consumer that the
24 Master Cylinder/Brake Booster Assembly did not suffer from a defect and would perform
25 its intended function of bringing the Class Vehicles to a complete stop in compliance
26 with FMVSS 105 and 135. This was false and misleading because the braking systems
27 installed in the Class Vehicles were, in fact, defective and posed an unreasonable risk to
28 the safety of vehicle occupants.

1 **2. Ferrari SpA Affixed Misleading Safety Certification Labels to the**
2 **Class Vehicles**

3 159. To sell the Class Vehicles in the United States, Ferrari SpA certified “that
4 the vehicle or equipment complies with applicable motor vehicle safety standards
5 prescribed.” 49 U.S.C. §30115. Vehicle manufacturers make this representation through
6 a label “permanently fixed to the vehicle[s]” that they make, sell and/or distribute. They
7 “may not issue the certificate if, in exercising reasonable care,” they have “reason to
8 know the certificate is false or misleading in a material respect.” 49 U.S.C. §30115; *see*
9 *also* 49 U.S.C. §30112.

10 160. Because the Class Vehicles could not have been lawfully sold or leased
11 without it, all Class Vehicles have a permanent label that certifies compliance with the
12 safety regulations prescribed by NHTSA under Chapter 301. As passenger vehicles, the
13 permanent label on each Class Vehicle must state: “This vehicle conforms to all
14 applicable Federal motor vehicle safety, bumper, and theft prevention standards in effect
15 on the date of manufacture shown above.” 49 CFR §567.4(g)(5).

16 161. As described further below, the false and misleading certification labels in
17 the Class Vehicles were drafted and placed—or directly approved for placement—in all
18 Class Vehicles by Ferrari SpA in Italy. Without Ferrari SpA placing or approving the



1 misleading certifications in the Class Vehicles, Plaintiff and Class members could not
2 have purchased or leased them. The certification expressly identified Ferrari SpA as the
3 certifying manufacturer, as demonstrated by the below picture of the certification from
4 Plaintiff's Class Vehicle made in Italy.

5 162. Upon information and belief, all major participants in the automotive
6 industry know that automobile manufacturers include certifications of compliance with
7 federal safety standards in every vehicle sold or leased in the United States because the
8 inclusion of such certifications is standard practice in the industry.

9 163. As a sophisticated and well-funded corporate entity whose primary
10 activities focused on the importation, distribution, and sale of vehicles in the U.S., Ferrari
11 NA and Bosch GmbH knew that Ferrari SpA placed permanent labels certifying
12 conformance to safety standards on U.S.-bound Class Vehicles.

13 164. The certification labels on the Class Vehicles were misleading because they
14 indicated to any reasonable consumer that the braking system would perform its intended
15 function during braking and did not suffer from a defect nor subject the vehicles to
16 multiple points of failure. See 49 CFR §§571.105, 571.135 (Federal motor vehicle safety
17 standards requiring, among other things, that a "master cylinder shall have a reservoir
18 compartment for each service brake subsystem serviced by the master cylinder. Loss of
19 fluid from one compartment shall not result in a complete loss of brake fluid from another
20 compartment."). This was not true because of the defective Master Cylinder/Brake
21 Booster Assembly and the risk of brake fluid leaking from multiple points of failure,
22 resulting in the partial or total loss of braking capability.

23 **3. Ferrari NA Provided Misleading In-Vehicle Safety Information,**
24 **Such as in the Warranty Card and Owner's Service Book, About**
25 **Brakes and Required Maintenance of the Braking System**

26 165. Ferrari NA also sold the Class Vehicles with an accompanying Warranty
27 Card and Owner's Service Book ("Owner's Manual"). The Owner's Manual contained
28 several misleading statements and/or omissions concerning the braking systems,
maintenance of the braking systems, and that the braking systems were free from defects.

1 166. Indeed, the Maintenance Schedule section of the Owner’s Manual, states
2 that “[t]he brake fluid reservoir should be checked every 15,000 miles. Fluid should be
3 replaced at least every 12 months.”

4 167. Yet the Owner’s Manual completely omits any information about the danger
5 of leaking brake fluid or that in the event of leaking brake fluid, the vehicles may partially
6 or totally lose all braking capability.

7 **B. Ferrari NA Imported Vehicles into the United States and Warranted**
8 **the Vehicles Complied with Federal Motor Vehicle Safety Standards**

9 168. To sell the Class Vehicles in the United States, Ferrari NA had to comply
10 with the U.S. Customs and Border Protection (“CBP”) when importing the Class
11 Vehicles into the United States from Italy. Ferrari NA and/or agents acting on its behalf,
12 as an Importer of Motor Vehicles, were required to submit a Form HS-7 at the time the
13 vehicle was imported to declare whether the vehicle complies with Department of
14 Transportation requirements. As a general rule, motor vehicles less than twenty-five
15 years old must comply with all applicable FMVSS standards in order to be imported
16 permanently into the United States. As stated above, vehicles manufactured to meet the
17 FMVSS will have a certification label affixed by the original vehicle manufacturer in the
18 area of the driver-side door.

19 169. When importing the Class Vehicles, Ferrari NA and/or agents acting on its
20 behalf did submit a Form HS-7, a Declaration of Importation of Motor Vehicles and
21 Motor Vehicle Equipment Subject to Federal Motor Vehicle Safety, Bumper and Theft
22 Prevention Standards, for each Class Vehicle. Ferrari NA and/or agents acting on its
23 behalf were required to declare as follows:

24 The vehicle or equipment item conforms to all applicable Federal Motor
25 Vehicle Safety Standards (or the vehicle does not conform solely because
26 readily attachable equipment items that will be attached to it before it is
27 offered for sale to the first purchaser for purposes other than resale are not
28 attached), and Bumper and Theft Prevention Standards, and bears a
certification label or tag to that effect permanently affixed by the original
manufacturer to the vehicle or affixed by the manufacturer to the equipment
item or to its delivery container in accordance with applicable National
Highway Traffic Safety Administration (NHTSA) regulations. [591.5(b)]

1 170. The declarant making the declaration was subject to the requirement that
2 “knowingly making a false declaration is subject to a fine of not more than \$10,000 or
3 imprisonment for not more than 5 years or both (18 U.S.C. 1001).”

4 171. When importing the Class Vehicles, Ferrari NA and/or agents acting on its
5 behalf were also required to identify, among other things, the Port of Entry, Customs Port
6 Code, Customers Entry Number, Entry Date, and VIN Number.

7 172. Upon information and belief, all major participants in the automotive
8 industry know that automobile manufacturers include certifications of compliance with
9 federal safety standards in every vehicle sold or leased in the United States because the
10 inclusion of such certifications is standard practice in the industry.

11 173. As sophisticated and well-funded corporate entities whose primary
12 activities focused on the importation, distribution, and sale of vehicles in the United
13 States, Ferrari SpA and Bosch GmbH knew that Ferrari NA was required to certify that
14 each Class Vehicle complied with FMVSS.

15 174. The Form HS-7 submitted for each of the Class Vehicles was false because
16 the Class Vehicle violated FMVSS requirements. See 49 CFR §§571.105, 571.135
17 (Federal motor vehicle safety standards requiring, among other things, that a “master
18 cylinder shall have a reservoir compartment for each service brake subsystem serviced
19 by the master cylinder. Loss of fluid from one compartment shall not result in a complete
20 loss of brake fluid from another compartment.”). This was not true because of the
21 defective Master Cylinder/Brake Booster Assembly and the risk of brake fluid leaking,
22 resulting in the partial or total loss of braking capability.

23 **C. Ferrari Spa and Ferrari NA Also Made False and Misleading**
24 **Statements About the Class Vehicles’ Safety in Their Consumer-Facing**
25 **Marketing**

26 175. Ferrari SpA and Ferrari NA also touted the Class Vehicles and the brake
27 systems as safe in national advertising directed at consumers through multiple marketing
28 channels. These advertisements (*see below*) uniformly indicated to any reasonable
consumer that the Class Vehicles were safe and had braking systems that would function

1 properly and reliably in ordinary and strenuous circumstances. These representations
2 about the Class Vehicles were false and misleading because of the Brake Defect in the
3 Class Vehicles and the risks of losing braking capability due to that defect.

4 176. As a sophisticated and well-funded corporate entity that generates billions
5 of dollars in annual revenue from work in the automotive industry Bosch GmbH was
6 aware that Ferrari SpA and Ferrari NA advertised the safety of the Class Vehicles to
7 consumers, including the braking system.

8 177. Ferrari SpA and Ferrari NA could have disclosed the Brake Defect and
9 informed Plaintiff and the Class about the safety hazard posed by the Brake Defect,
10 whether through its agents (certified Ferrari dealerships subject to its Dealer Agreements,
11 such as Plaintiff's dealership), through various communications available at the point of
12 sale, or other means available.

13 178. Yet in the numerous materials provided to Plaintiff and members of the
14 Class, Ferrari SpA and Ferrari NA ultimately failed to inform them of the Defect. Several
15 illustrative examples are listed below of advertisement brochures created by Ferrari SpA
16 and distributed to Ferrari NA for sales and marketing purposes:

17 The 458 Italia offers even more efficient braking than the 8-cylinders that
18 preceded it, delivering absolutely outstanding stopping distances (100-0
km/h in 32.5 metres; 200-0 Km/h in 128 metres).

19 These values are the combined the *development and optimisation of*
20 *braking system control logics in collaboration with Bosch®* to enhance
21 grip and help the ECU to prevent the wheels from locking and the car from
skidding . . .

22 See Ferrari 458 Italia Brochure, available at: [https://www.auto-](https://www.auto-brochures.com/ferrari.html)
23 brochures.com/ferrari.html (created on Sep. 20, 2010) (emphasis added).

24 To cope with the demands of the car's increased performance, all of the
25 components in the Brembo braking system have been evolved from the
26 solutions introduced on the LaFerrari. The 458 Speciale sports Extreme
27 Design calipers, new generation HT2 discs with a higher percentage of
28 silicon, and smaller front pads made from HY hybrid material for improved
heat dissipation which is also boosted by special channels in the bodywork
and is crucial in extreme driving situations. The result is shorter stopping
distances (100 – 0 km/h in 31 m) without any compromises in weight, and
more consistent performance under severe use.

1 See Ferrari 458 Speciale Brochure, available at: [https://www.auto-](https://www.auto-brochures.com/ferrari.html)
2 brochures.com/ferrari.html (created on Nov. 29, 2013).

3
4 The 458 Spider also delivers *absolutely outstanding braking distances*
5 (100-0 km/h in 32.8 metres; 200-0 km/h in 128.5). These superb figures
6 come as a result of the *development and optimisation of control logics and*
7 *systems in collaboration with Bosch*, the evolution of the Ferrari Pre-Fill
8 logic to minimise response times, specific ABS calibration for medium-high
9 grip situations, and the integration of E-DIFF3 and ABS control logics to
10 guarantee both more precise vehicle speed estimation in braking under ABS,
11 resulting in better control of braking torque, and greater stability. *The 458*
12 *Spider's tyres were also specially developed with a particular focus on grip*
13 *to bring them in line its superb braking system.*

14 See Ferrari 458 Spider Brochure, available at: [https://www.auto-](https://www.auto-brochures.com/ferrari.html)
15 brochures.com/ferrari.html (created on Dec. 8, 2011) (emphasis added).

16
17 *The 612 Scaglietti's braking system is particularly responsive and*
18 *efficient*, thanks to the fact that it uses CCM (Carbon Ceramic Material)
19 brake discs originally developed for use in Formula 1. Of course, Ferrari is
20 the first and only constructor in the world to offer this system on its entire
21 range. *The 612 Scaglietti's brakes are also highly resistant to fading and*
22 *thus exceptionally effective in high-stress driving situations.*

23 See Ferrari 612 Scaglietti Brochure, available at: [https://www.auto-](https://www.auto-brochures.com/ferrari.html)
24 brochures.com/ferrari.html (created on Mar. 1, 2008) (emphasis added).

25
26 *[B]y its effectiveness and its reliability, even under the most extreme*
27 *driving conditions.* Like all of the latest generation Ferraris, the Ferrari
28 California is equipped with CCM (Carbon Ceramic Material) disks. Originally
launched on the Enzo Ferrari supercar in 2002 and subsequently adopted on the
Challenge Stradale, Ferrari has built up years of experience in this technology,
accumulating know-how unique among sports car manufacturers. CCM brakes
guarantee higher vehicle performances, as they have shorter response times
and better performance consistency when the vehicle is used intensively. The
disks are larger in diameter, with specific brake pads, which allows for
higher thermal distribution and fatigue resistance, thus practically eliminating
the phenomenon of fading. The brakes have a longer life and therefore lower
running costs. Compared to a traditional system, the weight of the vehicle is
reduced around 15 kg, mainly affecting the unsuspended weight of the vehicle,
with as a result both improved handling and travelling comfort.

29 See Ferrari California Brochure, available at: [https://www.auto-](https://www.auto-brochures.com/ferrari.html)
30 brochures.com/ferrari.html (created on Sep. 17, 2010) (emphasis added).

1 This technology has already been successfully employed on its road cars,
2 starting with the Enzo Ferrari. The carbon ceramic discs are different
3 diameters front and rear - 380 x 34 mm at the front with 6-pot callipers, and
4 350 x 34 mm at the rear with 4-pot callipers. *Pedal travel is constant even
5 under repeated braking, and fade has been eliminated even under hard
6 track use.*

7 See Ferrari F430 Brochure, available at: <https://www.auto-brochures.com/ferrari.html>
8 (created on Nov. 7, 2005) (emphasis added).

9 179. Defendants had a duty to disclose the Brake Defect because they touted the
10 Class Vehicles' purported superior braking capabilities. This was a materially misleading
11 partial disclosure that created a duty for Defendants to disclose the inherent risk
12 associated with the defective braking systems.

13 180. Because Ferrari and Bosch did not warn Plaintiff or Class members of the
14 Brake Defect, Plaintiff and Class members purchased and/or leased their Class Vehicle
15 unaware of the Brake Defect.

16 181. If Plaintiff and Class Members had known of the Brake Defect, they would
17 not have purchased their Class Vehicle. In addition, because of the Defendants' exclusive
18 and superior knowledge of the Brake Defect, customers necessarily could not have
19 discovered the Brake Defect by the exercise of reasonable care. Accordingly, Ferrari had
20 a duty to disclose the existence of the Brake Defect from at least as early as the fatal crash
21 in Hong Kong.

22 **VI. FRAUDULENT OMISSION ALLEGATIONS**

23 182. Absent discovery, Plaintiff is unaware of and unable, through reasonable
24 investigation, to obtain the proper names and identities of those individuals at Ferrari and
25 Bosch responsible for disseminating unfair, deceptive, and misleading marketing
26 materials regarding the Class Vehicles. Defendants are necessarily in possession of all
27 this information. Plaintiff's claims arise out of, among other things, Defendants'
28 fraudulent omission of the Brake Defect.

183. Plaintiff alleges that at all relevant times, including specifically at the time
he and Class members purchased their Class Vehicles, Ferrari and Bosch knew, should

1 have known, or were reckless in not knowing of the Brake Defect; Ferrari and Bosch had
2 a duty disclose information material to a consumer, such as the Brake Defect, based upon
3 their exclusive knowledge especially concerning a safety defect; but Ferrari and Bosch
4 never disclosed the Brake Defect to Plaintiff, Class members, or the general public other
5 than their inadequate recall of the Class Vehicles which fails to remedy the Brake Defect.

6 184. Plaintiff makes the following allegations as specific as reasonably possible:

7 (a) **Who:** Ferrari NA, Ferrari SpA, Bosch GmbH, and Bosch LLC as the
8 agent/alter ego of Bosch GmbH, actively omitted the Brake Defect from Plaintiff and
9 Class Members at all relevant times, up to and including at the point of sale. Defendants'
10 agents should have and could have disclosed the Brake Defect due to their superior
11 knowledge of the Brake Defect, which was exclusively in the control of Defendants prior
12 to the Plaintiff and Class Members taking possession of their vehicles. As to Plaintiff
13 himself, Ferrari and its authorized dealerships should have and could have disclosed the
14 Brake Defect at the time of purchase or after that. The superior and exclusive knowledge
15 of the manufacturers, especially for a sophisticated, high-end vehicle like a Ferrari,
16 required the disclosure of important information about the safety and performance of the
17 vehicle, as such information is uniquely within the control of the manufacturer and its
18 agents and cannot be discovered until after purchase by the consumer. Defendants and
19 their agents further had a duty to disclose the Brake Defect because they made incomplete
20 representations about the safety and reliability of the Class Vehicles while purposefully
21 withholding material facts from Plaintiff and Class Members that contradicted these
22 representations.

23 (b) **What:** Ferrari and Bosch knew, should have known, or were reckless
24 in not knowing that the Class Vehicles contained the Brake Defect despite their
25 knowledge of the Brake Defect, which poses a safety threat to Plaintiff, Class Members,
26 and the public and substantially affects the value and desirability of the Class Vehicles,
27 Ferrari and Bosch failed to disclose the Brake Defect at the point of sale or after that and
28

1 Ferrari made affirmative statements regarding the safety and braking performance of the
2 Class Vehicles.

3 (c) **When:** Defendants' omissions began from the start of the Class
4 Period (defined below) and continue to this day. Ferrari and Bosch have backpedaled
5 following their initial disclosure that the Brake Defect concerns the braking assemblies
6 manufactured by Bosch—instead attributing the loss of braking capability to a cap. As
7 to Plaintiff himself, Defendants have continually omitted the true nature of the Brake
8 Defect for the entirety of the relevant time period, including at the point of sale.

9 (d) **Where:** Ferrari and Bosch's omissions occurred in every
10 communication they had with Plaintiff, Class members, and the general public. In fact,
11 Ferrari and Bosch's omissions continue to this day. As to Plaintiff himself, Defendants'
12 omissions occurred in every communication, including all communications that
13 happened before, at the point of, and after they purchased a Class Vehicle.

14 (e) **How:** Ferrari and Bosch omitted and failed to disclose the Brake
15 Defect to Plaintiff, Class members, or the general public at the point of sale or thereafter
16 via a press release, permanent warnings affixed to the vehicles, direct mail campaign, or
17 otherwise. As to Plaintiff himself, Ferrari and Bosch omitted and failed to disclose the
18 Brake Defect on the Monroney Sticker, Certification Label, and accompanying vehicle
19 documents or any other communication or point of sale document.

20 (f) **Why:** Ferrari omitted the Brake Defect in order to deceive Plaintiff,
21 Class Members, and the general public into buying Class Vehicles for a premium value
22 to maximize their profits and to avoid the significant expense of making the Class whole
23 through fulsome damages. Furthering their goal to maximize profits, Ferrari and Bosch
24 failed to notify Class members of the true nature of the Brake Defect to avoid expensive
25 warranty claims and expenses related to replacing every brake system in every Class
26 Vehicle.

27 (g) **Causation:** Because Ferrari nor Bosch never disclosed the Brake
28 Defect, despite their extensive knowledge, Plaintiff and Class members purchased or

1 leased Class Vehicles that did not or will not safely brake and, as such, are worth less
2 than one that does safely brake. Had Ferrari disclosed the Brake Defect, Plaintiff and
3 other Class members would not have purchased or leased their Class Vehicle. Ferrari's
4 omissions further devalue the Plaintiff's and Class Members' Class Vehicle and cause
5 them to pay out-of-pocket for a complete fix for the Brake Defect.

6 **VII. TOLLING OF STATUTES OF LIMITATIONS**

7 185. Defendants were and remain under a continuing duty to disclose to Plaintiff
8 and members of the Class the true character, quality, and nature of the Class Vehicles,
9 that the Brake Defect is based on a poor design and/or substandard materials, and that
10 the Brake Defect will require costly repairs by Bosch GmbH and Ferrari NA, poses a
11 safety concern, and diminishes the resale value of the Class Vehicles.

12 186. As a result of this active concealment by Defendants, any applicable statutes
13 of limitations otherwise applicable to the allegations herein have been tolled.

14 **A. Discovery Rule Tolling**

15 187. Class Members had no way of knowing about the Brake Defect and the other
16 information concealed by Defendants.

17 188. Within the time period of any applicable statutes of limitation, Plaintiff and
18 the Class Members could not have discovered through the exercise of reasonable
19 diligence that Defendants were concealing the Brake Defect.

20 189. Plaintiff and the Class did not discover and did not know of facts that would
21 have caused a reasonable person to suspect that Ferrari NA and Bosch GmbH, through
22 its agent/alter ego Bosch LLC, did not report information within their knowledge to
23 federal authorities (including NHTSA), their dealerships, repairs centers, or consumers,
24 nor would a reasonable and diligent investigation have disclosed that Defendants had
25 information in their possession about the existence and dangerousness of the Brake
26 Defect and opted to conceal that information until shortly before this action was filed.

27 190. All applicable statutes of limitation have been tolled by operation of the
28 discovery rule.

1 **B. Fraudulent Concealment Tolling**

2 191. All applicable statutes of limitation have also been tolled by Defendants’
3 knowing and active fraudulent concealment and denial of the facts alleged herein
4 throughout the time period relevant to this action.

5 192. Instead of disclosing the Brake Defect and disregard for the safety of which
6 it was aware, Defendants falsely represented that Class Vehicles were safe, reliable, and
7 of high quality and that they were a reputable manufacturer that stood behind the Class
8 Vehicles that were on the road.

9 **C. Estoppel**

10 193. Defendants were under a continuous duty to disclose to Plaintiff and the
11 other Class Members the true character, quality, and nature of the Brake Defect plaguing
12 the Class Vehicles.

13 194. Defendants knowingly, affirmatively, and actively concealed the true
14 nature, quality, and character of the Brake Defect from consumers.

15 195. Defendants were also under a continuous duty to disclose to Plaintiff and
16 the Class that numerous incidents involving the Brake Defect plagued the Class Vehicles
17 and that the Brake Defect systematically devalued the Class Vehicles and undermined
18 safety.

19 196. Based on the preceding, Defendants are estopped from relying on any
20 statutes of limitations in defense of this action.

21 **VIII. CLASS ACTION ALLEGATIONS**

22 197. The “Class Vehicles” are defined as follows: All Ferrari vehicles that are
23 equipped with a braking system that may rupture and/or be subject to a leakage type of
24 failure in any component of the service brake system, causing a partial or total loss of
25 braking capability, including, but not limited to (1) vehicles containing the Defective
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1 Master Cylinder/Brake Booster Assembly; or (2) vehicles subject to the Cap and
2 Warning Repair.⁷²

3 198. The “Class Period” is defined as from the initial production date of Class
4 Vehicles containing the Brake Defect to the present.

5 199. Plaintiff brings this action as a class action pursuant to Rule 23(2) and (b)(3)
6 of the Federal Rules of Civil Procedure on behalf of himself and the following Class:

7 **California Class**

8 All persons or entities in the state of California who purchased or leased a
9 Class Vehicle (“Class”).

10 Excluded from the Class are Defendants, their employees, officers, directors, legal
11 representatives, heirs, successors, and wholly or partly owned subsidiaries or affiliates of
12 Defendants, Defendants’ dealers, Class Counsel and their employees, and the judicial
13 officers and their immediate family members and associates court staff assigned to this
14 case.

15 200. **Numerosity—Fed. R. Civ. P. 23(a)(1).** The Class is comprised of
16 thousands of individuals who were Defendants’ customers, the joinder of which in one
17 action would be impracticable. The exact number or identification of the Class Members
18 is presently unknown. The identity of the Class Members is ascertainable and can be
19 determined based on Defendants’ records. For example, many Class Members received
20 a letter from Ferrari NA informing them of the Brake Defect, which was addressed to
21

22 ⁷² The Class Vehicles recalled to date include those from NHTSA Recall Nos. 21V-833 and 22V-
23 536, and include, but are not limited to, models: 2016-2019 Ferrari 488 Spider; 2019-2020 488 Pista
24 Spider; 2010-2015 Ferrari 458 Italia; 2014-2015 Ferrari 458 Speciale; 2008-2009 Ferrari 430 Scuderia;
25 2005-2009 Ferrari 430 Spider; 2022 Ferrari 812 Competizione; 2005-2009 Ferrari 430; 2005-2011
26 Ferrari 612 Scaglietti; 2009-2017 Ferrari California; 2010-2011 Ferrari 612; 2012-2016 Ferrari FF;
27 2013-2017 Ferrari F12 Berlinetta; 2013-2015 Ferrari LaFerrari; 2015-2017 Ferrari California T; 2016
28 Ferrari F60 America; 2017 Ferrari F12 TDF; 2020-2022 Ferrari F8; 2016-2019 Ferrari 488 GTB; 2012-
2015 Ferrari 458 Spider; 2015 Ferrari 458 Speciale Aperta; 2005-2009 Ferrari 430 Coupe; 2009 430
Scuderia Spider; 2005-2009 Ferrari 430 Spider; 2020-2022 Ferrari 812; 2018-2022 Ferrari 812
Superfast; 2020-2021 Ferrari 812 GTS; 2017 Ferrari LaFerrari Aperta; 2017-2020 Ferrari GTC4 Lusso;
2018-2020 Ferrari GTC4 Lusso T; 2019-2022 Ferrari Portofino; 2020-2022 Ferrari 812; 2019-2020
Ferrari 488 Pista; 2020-2022 Ferrari F8 Spider; 2020-2022 Ferrari F8 Tributo; and 2021-2022 Ferrari
Roma.

1 them, contained the VIN Number of their Class Vehicle, and was delivered to their home
2 address. Ferrari SpA also, as recently as 2023, contacted Class Members directly to
3 update each Class Member on the modification or update of Ferrari's privacy policies.

4 **201. Predominance of Common Questions—Fed. R. Civ. P. 23(a)(2),**
5 **23(b)(3).** The questions of law and fact common to the Class predominate over questions
6 affecting only individual Class Members and include, but are not limited to, the
7 following:

- 8 (a) Whether the Class Vehicles have the Brake Defect;
- 9 (b) Whether the Defendants have engaged in unfair and/or deceptive
10 trade practices by failing to disclose the material fact that the Class
11 Vehicles have the Brake Defect;
- 12 (c) Whether Defendants have engaged in unfair and/or deceptive trade
13 practices by selling the Class Vehicles with a Brake Defect;
- 14 (d) Whether Defendants knew or should have known about the Brake
15 Defect in the Class Vehicles before making the Class Vehicles
16 available for purchase and use by Plaintiff and the Class;
- 17 (e) Whether Defendants owed a duty to Plaintiff and the Class to exercise
18 reasonable and ordinary care in the testing, design, production,
19 manufacture, warranting, and marketing of the Class Vehicles;
- 20 (f) Whether Defendants breached their duties to Plaintiff and the Class
21 to exercise reasonable and ordinary care in the testing, design,
22 production, manufacturer, warranting, and marketing of the Class
23 Vehicles;
- 24 (g) Whether Defendants breached their duties to Plaintiff and the Class
25 by failing to promptly withdraw the Class Vehicles from the
26 marketplace or take other appropriate remedial action;
- 27 (h) Whether the Class Vehicles failed to perform in accordance with the
28 reasonable expectations of ordinary consumers such as Plaintiff and

1 the Class;

2 (i) Whether Defendants' Class Vehicles fail to perform as advertised or
3 warranted;

4 (j) Whether Plaintiff and the Class are entitled to compensatory and/or
5 actual damages, including but not limited to the cost to repair the
6 Class Vehicles, remove and replace the defective brakes, as well as
7 damages at the point of sale of the Class Vehicles;

8 (k) Whether Defendants concealed material facts from their
9 communications and disclosures to Plaintiff and the Class regarding
10 the Brake Defect in the Class Vehicles;

11 (l) Whether, as a result of Defendants' conduct, Plaintiff and the Class
12 have suffered damages and, if so, the appropriate amount thereof; and

13 (m) Whether Plaintiff and the Class are entitled to treble damages and/or
14 punitive damages or other relief.

15 202. **Typicality—Fed. R. Civ. P. 23(a)(3).** Plaintiff's claims are typical of those
16 of the Class in that Plaintiff, like all Class Members, overpaid for a Class Vehicle
17 containing the Brake Defect. Plaintiff and Class Members have experienced problems
18 with their Class Vehicles or damages from purchasing their Class Vehicles consistent
19 with those experienced by other Class Members. Plaintiff has suffered damages in the
20 form of costs to replace and repair brake components in his Class Vehicle, as well as
21 overpaying for his Class Vehicle at the point of sale, and such damages that are consistent
22 with those suffered by Class Members.

23 203. **Adequacy—Fed. R. Civ. P. 23(a)(4); 23(g)(1).** Plaintiff is an adequate
24 representative of the Class because he fits within the class definition and his interests do
25 not conflict with the interests of the members of the Class he seeks to represent. Plaintiff
26 is represented by experienced Class Counsel. Class Counsel has litigated numerous class
27 actions, and Plaintiff's counsel intends to prosecute this action vigorously for the benefit
28 of the entire Class. Plaintiff and Class Counsel can fairly and adequately protect the

1 interests of all Members of the Class.

2 204. **Superiority—Fed. R. Civ. P. 23(b)(3).** A class action is the best available
3 method for the efficient adjudication of this litigation because individual litigation of
4 Class Members’ claims would be impracticable, and individual litigation would be
5 unduly burdensome to the courts. Plaintiff and members of the Class have suffered
6 irreparable harm as a result of Defendants’ bad faith, fraudulent, deceitful, unlawful, and
7 unfair conduct. Because of the size of the individual Class Members’ claims, no Class
8 Member could afford to seek legal redress for the wrongs identified in this Complaint.
9 Without the class action vehicle, the Class would have no reasonable remedy and would
10 continue to suffer losses as Defendants continue to engage in bad faith, unlawful, unfair,
11 and deceptive conduct that is the subject of this Complaint, and Defendants would be
12 permitted to retain the proceeds of their violations of law. Further, individual litigation
13 has the potential to result in inconsistent or contradictory judgments. A class action, in
14 this case, presents fewer management problems and provides the benefits of single
15 adjudication, economies of scale, and comprehensive supervision by a single court.

16 205. Plaintiff and the Class do not anticipate any difficulty in the management of
17 this litigation.

18 **IX. COUNTS BASED ON CALIFORNIA COMMON LAW**

19 **COUNT 1: FRAUD BY CONCEALMENT OR OMISSION**
20 **AGAINST ALL DEFENDANTS**

21 206. Plaintiff realleges and incorporates by reference paragraphs 1 through 205
22 as though fully set forth herein.

23 207. Plaintiff brings this claim on behalf of himself and the Class under
24 California’s common law of fraudulent concealment. Defendants are liable for both
25 fraudulent concealment and non-disclosure.

26 208. Defendants knew or should have known the braking system in the Class
27 Vehicles was defective in design and that the Brake Defect can cause partial or complete
28 brake failure.

1 209. Defendants knew or should have known the Brake Defect is a dangerous
2 safety defect that can cause severe injury or death to Plaintiff and Class Members.

3 210. Defendants had exclusive and superior knowledge concerning the Brake
4 Defect that a reasonable consumer would be unable to discover after a reasonable
5 investigation. Defendants also knew that reasonable consumers expect vehicles to have
6 a fully functional braking system and would rely on that fact in deciding whether to
7 purchase or lease a new or used motor vehicle.

8 211. Defendants made incomplete representations about the safety and reliability
9 of the Class Vehicles while purposefully withholding material facts from Plaintiff and
10 Class Members that contradicted these representations.

11 212. Defendants have still not made complete and adequate disclosure and
12 continue to conceal material information regarding the Brake Defect.

13 213. Defendants' concealment and suppression of material facts, in whole or in
14 part, is to maintain a luxury market for their vehicles or a profitable partnership, to protect
15 their profits, and to avoid recalls that would damage the brands' reputation and have high
16 costs.

17 214. Through their omissions regarding the Brake Defect within the Class
18 Vehicles, Defendants intended to induce, and did induce, Plaintiff and the other members
19 of the Class to either purchase a Class vehicle that they otherwise would not have
20 purchased or pay more for a Class Vehicle than they otherwise would have paid.

21 215. Defendants are liable to Plaintiff and the Class for damages in an amount to
22 be proven at trial, including, but not limited to, their lost overpayment for the Class
23 Vehicles at the time of purchase or lease.

24 216. Defendants' misconduct warrants an assessment of punitive damages in an
25 amount sufficient to deter such conduct in the future, which amount shall be determined
26 according to proof at trial.

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**COUNT 2: NEGLIGENT MISREPRESENTATION
AGAINST FERRARI NA AND FERRARI SPA**

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2 217. Plaintiff realleges and incorporates by reference paragraphs 1 through 205
3 as though fully set forth herein.

4 218. Plaintiff asserts this Negligent Misrepresentation Count on behalf of himself
5 and the Class under California's common law of negligent misrepresentation.

6 219. Ferrari NA and Ferrari SpA knew or should have known the braking system
7 in the Class Vehicles was defective in design and that the Brake Defect can cause partial
8 or complete brake failure.

9 220. Ferrari NA and Ferrari SpA knew or should have known the Brake Defect
10 is a dangerous safety defect that can cause severe injury or death to Plaintiff and Class
11 Members.

12 221. Ferrari NA and Ferrari SpA had exclusive and superior knowledge
13 concerning the Brake Defect that a reasonable consumer would be unable to discover
14 after a reasonable investigation. Ferrari NA and Ferrari SpA also knew that reasonable
15 consumers expect vehicles to have a fully functional braking system and would rely on
16 that fact in deciding whether to purchase or lease a new or used motor vehicle.

17 222. Ferrari NA and Ferrari SpA made incomplete representations about the
18 safety and reliability of the Class Vehicles while purposefully withholding material facts
19 from Plaintiff and Class Members that contradicted these representations.

20 223. Ferrari NA and Ferrari SpA negligently misrepresented, in Monroney
21 Labels, certification labels, owners' manuals, maintenance schedules, online, to their
22 representatives and elsewhere, the standard, quality, or grade of the Class Vehicles and
23 the fact that the braking system installed in the Class Vehicles is defective.

24 224. Plaintiff and Class members justifiably relied upon Ferrari NA's and Ferrari
25 SpA's negligent misrepresentations of material facts.

26 225. Plaintiff and Class members would not have purchased the Class Vehicles
27 but for Ferrari NA's and Ferrari SpA's negligent misrepresentations of material facts
28

1 regarding the nature and quality of the Class Vehicles and the existence of the Brake
2 Defect and corresponding safety risk.

3 226. As a direct result of Ferrari NA's and Ferrari SpA's negligent conduct,
4 Plaintiff and Class members have suffered actual damages and ascertainable loss to be
5 determined at trial.

6 **COUNT 3: UNJUST ENRICHMENT**
7 **AGAINST ALL DEFENDANTS⁷³**

8 227. Plaintiff realleges and incorporates by reference paragraphs 1 through 205
9 as though fully set forth herein.

10 228. Plaintiff asserts this Unjust Enrichment Count on behalf of himself and the
11 Class under California's common law of unjust enrichment.

12 229. Plaintiff and Class Members directly or indirectly conferred a benefit on
13 Defendants by overpaying for Class Vehicles at prices that were artificially inflated by
14 Defendants' concealment of the Brake Defect and misrepresentations regarding the Class
15 Vehicles' safety.

16 230. As a result of Defendants' fraud and deception, Plaintiff and Class members
17 were not aware of the facts concerning the Class Vehicles and did not benefit from
18 Defendants' misconduct.

19 231. Defendants knowingly benefitted from their unjust conduct. They sold and
20 leased Class Vehicles equipped with a Brake Defect for more than what the vehicles were
21 worth, at the expense of Plaintiff and Class members.

22 232. Defendants readily accepted and retained these benefits from Plaintiff and
23 Class Members.

24 233. It is inequitable and unconscionable for Defendants to retain these benefits
25 because they misrepresented that the Class Vehicles were safe and intentionally
26 concealed, suppressed, and failed to disclose the Brake Defect to consumers.

27 _____
28 ⁷³ Plaintiff brings this count against Bosch GmbH, and Bosch LLC as the agent/alter ego of Bosch GmbH, based on its omissions and concealment of material facts only.

1 234. Plaintiff and Members of the Class would not have purchased the Class
2 Vehicles had they been informed of the Brake Defect.

3 235. Plaintiff and Class Members do not have an adequate remedy at law.

4 236. Equity cannot in good conscience permit the Defendants to retain the
5 benefits that they derived from Plaintiff and Class Members through unjust and unlawful
6 acts, and therefore, restitution or disgorgement of the amount of the Defendants' unjust
7 enrichment is necessary.

8 **X. COUNTS BASED ON CALIFORNIA STATUTORY LAW**

9 **COUNT 4: BREACH OF IMPLIED WARRANTY OF MERCHANTABILITY**
10 **CAL. COM. CODE §§ 2314 AND 10212**
11 **AGAINST FERRARI NA AND FERRARI SPA**

12 237. Plaintiff realleges and incorporates by reference paragraphs 1 through 205
13 as though fully set forth herein.

14 238. Plaintiff brings this count under California law, individually and on behalf
15 of the members of the Class.

16 239. The Class Vehicles are "goods" under Cal. Com. Code §§ 2105(1) and
17 10103(a)(8).

18 240. Plaintiff and Class Members are "buyers" and "lessees" of the Class
19 Vehicles under Cal. Com. Code §§ 2103(1)(a) and 10103(a)(14).

20 241. Ferrari NA and Ferrari SpA are "merchants," "sellers," and "lessors" under
21 Cal. Com. Code §§ 2104(1), 10103(c), and 10103(a)(16).

22 242. California law conferred an implied warranty that the Class Vehicles were
23 in merchantable condition and fit for the ordinary purpose for which they were to be used
24 pursuant to Cal. Com. Code §§ 2314 and 10212.

25 243. Plaintiff and Class Members purchased or leased Class Vehicles designed,
26 manufactured, warranted, marketed to them, and intended to be purchased or leased by
27 consumers such as them. At all relevant times, Ferrari NA and/or Ferrari SpA was the
28 merchant, manufacturer, warrantor, and/or seller of the Class Vehicles.

1 244. Ferrari NA and Ferrari SpA made affirmations of fact, including that its
2 Class Vehicles were durable, reliable, and dependable and that the braking system would
3 operate correctly. These affirmations created an implied warranty that the Class Vehicles
4 conformed to Ferrari’s affirmations of fact. The Class Vehicles, however, are not durable,
5 reliable, or dependable; instead, the Brake Defect, in reality, causes the vehicles to lose
6 braking capability during regular operation suddenly.

7 245. The Class Vehicles are not merchantable, and as such, Ferrari NA and
8 Ferrari SpA breached their implied warranties because at the time of sale and all times
9 thereafter:

- 10 (a) The Class Vehicles would not pass without objection in the
11 automotive trade given the Brake Defect;
- 12 (b) The Brake Defect renders the Class Vehicles unsafe to drive and unfit
13 for ordinary purposes;
- 14 (c) The Class Vehicles and the brake systems therein were inadequately
15 labeled as safe and reliable, and the labeling failed to disclose the
16 Brake Defect; and
- 17 (d) The Class Vehicles do not conform to their labeling, which represents
18 that the vehicles are safe and suitable for their intended use.

19 246. Plaintiff and Class Members timely provided Ferrari NA and Ferrari SpA
20 notice of the issues raised in this count and this Complaint and an opportunity to cure on
21 July 12, 2023. *See* Exs. B, C.

22 247. Alternatively, Plaintiff and Class Members were excused from providing
23 Ferrari NA and Ferrari SpA with notice and an opportunity to cure the breach because it
24 would have been futile. As alleged above, Ferrari NA and Ferrari SpA have long known
25 that the Class Vehicles contained the Brake Defect and that the Brake Defect has caused
26 brake systems to malfunction in crashes involving the Class Vehicles; however, to date,
27 Ferrari NA and Ferrari SpA have not instituted an adequate recall or any other repair
28

1 program with respect to the Defective Master Cylinder / Brake Booster Assembly or even
2 acknowledged that the Brake Defect exists in all of those Class Vehicles.

3 248. Plaintiff, individually and on behalf of Class Members, seeks all available
4 monetary damages (including actual, compensatory, and punitive damages), injunctive
5 and equitable relief, and attorneys' fees and costs.

6 **COUNT 5: VIOLATIONS OF THE SONG-BEVERLY CONSUMER**
7 **WARRANTY ACT**
8 **CAL. CIV. CODE § 1790, et seq.**
9 **AGAINST FERRARI NA AND FERRARI SPA**

10 249. Plaintiff realleges and incorporates by reference paragraphs 1 through 205
11 as though fully set forth herein.

12 250. Plaintiff brings this count under California law, individually and on behalf
13 of the members of the Class.

14 251. Cal. Civ. Code § 1792 provides that, unless properly disclaimed, every sale
15 of consumer goods is accompanied by an implied warranty of merchantability. Ferrari
16 NA and Ferrari SpA did not at any time properly disclaim the warranty.

17 252. The Class Vehicles are “consumer goods” under Cal. Civ. Code § 1791(a).

18 253. Plaintiff and Class Members are “buyers” and “lessees” under Cal. Civ.
19 Code §§ 1791(b) and (h). Ferrari NA and Ferrari SpA are the “manufacturers,” “sellers,”
20 and “lessors” of the Class Vehicles under Cal. Civ. Code §§ 1791(i), (j), and (l).

21 254. Ferrari NA and Ferrari SpA knew of the particular purposes for which the
22 Class Vehicles and the Brake Defect were intended and impliedly warranted to Plaintiff
23 and Class Members that the Class Vehicles (all of which were equipped with a Defective
24 Master Cylinder / Brake Booster Assembly) were “merchantable” under Cal. Civ. Code
25 §§ 1791.1(a) & 1792.

26 255. The Class Vehicles are not merchantable, and as such Ferrari NA and Ferrari
27 SpA breached their implied warranties, because:
28

- 1 (a) The Class Vehicles would not pass without objection in the
2 automotive trade because they are equipped with a Defective Master
3 Cylinder / Brake Booster Assembly;
- 4 (b) The Brake Defect renders the vehicles unsafe to drive and unfit for
5 ordinary purposes;
- 6 (c) The Class Vehicles and the brake systems therein were inadequately
7 labeled as safe and reliable, and the labeling failed to disclose the
8 Brake Defect; and
- 9 (d) The Class Vehicles do not conform to their labeling, which represents
10 that the vehicles are safe and suitable for their intended use.

11 256. Ferrari NA and Ferrari SpA breached the implied warranty at the time of
12 Plaintiff's presentment of his Class Vehicle at Ferrari of San Diego. Ferrari of San Diego
13 represented that Plaintiff's Class Vehicle was of a particular standard, quality, or grade,
14 *i.e.*, that the vehicle had properly functioning brakes, when it did not. As a result, Plaintiff
15 was harmed from the costs of repair, parts, and labor for his Class Vehicle by Ferrari NA
16 and Ferrari SpA's breach of warranty, in that he was forced to pay for the repairs to his
17 vehicle out-of-pocket.

18 257. Plaintiff and Class Members received the Class Vehicles in a condition
19 which substantially diminishes their value, and which prevents the vehicles from safely
20 and properly functioning. As a result of Ferrari NA's and Ferrari SpA's failure to comply
21 with their statutory obligations, Plaintiffs are entitled to damages and other legal and
22 equitable relief, including, at their election, the purchase price of their vehicles, costs of
23 repair, or the overpayment or diminution in value of their vehicles.

24 258. Plaintiff, individually and on behalf of Class Members, seeks all available
25 monetary damages (including actual, compensatory, and punitive damages), injunctive
26 and equitable relief, and attorneys' fees and costs.

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1 **COUNT 6: VIOLATIONS OF CALIFORNIA’S CONSUMER LEGAL**
2 **REMEDIES ACT**
3 **CAL. CIV. CODE § 1750, et seq.**
4 **AGAINST FERRARI NA AND FERRARI SPA**

5 259. Plaintiff realleges and incorporates by reference paragraphs 1 through 205
6 as though fully set forth herein.

7 260. Plaintiff brings this count under California law, individually and on behalf
8 of the members of the Class.

9 261. Ferrari NA and Ferrari SpA are “persons” under Cal. Civ. Code § 1761(c).

10 262. Plaintiff and Class Members are “consumers” under Cal. Civ. Code §
11 1761(d) because they purchased the Class Vehicles primarily for personal, family, or
12 household use or sought personal services from Ferrari authorized dealerships.

13 263. The purchase of the Class Vehicles and/or performance of the implied
14 warranties by Plaintiff and Class Members constitute “transactions” within the meaning
15 of Cal. Civ. Code § 1761(e).

16 264. The Class Vehicles are “goods” under Cal. Civ. Code § 1761(a).

17 265. Ferrari NA’s and Ferrari SpA’s violations of the CLRA occurred repeatedly
18 in their trade or practice—including the design, manufacture, distribution, marketing,
19 sale, and lease of the Defective Master Cylinder / Brake Booster Assembly and the Class
20 Vehicles.

21 266. Ferrari NA and Ferrari SpA, through their agents, employees, and/or
22 subsidiaries, violated the CLRA by knowingly and intentionally misrepresenting,
23 omitting, concealing, and/or failing to disclose material facts regarding the reliability,
24 safety, and performance of the Class Vehicles and the Brake Defect, as detailed above.

25 267. Ferrari NA and Ferrari SpA violated the CLRA at the time of Plaintiff’s
26 presentment of his Class Vehicle at Ferrari of San Diego. Ferrari of San Diego
27 represented that Plaintiff’s Class Vehicle was of a particular standard, quality, or grade,
28 *i.e.*, that the vehicle had properly functioning brakes, when it did not. As a result, Plaintiff
was harmed from the costs of repair, parts, and labor for his Class Vehicle by Ferrari NA

1 and Ferrari SpA's unfair or deceptive acts, in that he was forced to pay for the repairs to
2 his vehicle out-of-pocket.

3 268. Ferrari NA and Ferrari SpA also had an ongoing duty to Plaintiff and Class
4 Members to refrain from unfair or deceptive practices under the CLRA in the course of
5 their business. Specifically, Ferrari NA and Ferrari SpA owed Plaintiff and Class
6 Members a duty to disclose all the material facts concerning the Brake Defect in the Class
7 Vehicles because:

- 8 (a) Given Ferrari NA's and Ferrari SpA's role in the design,
9 manufacture, testing, and sale of Class Vehicles and Defective Master
10 Cylinder / Brake Booster Assembly, and their experience and
11 knowledge as experts and long-time veterans of the automotive
12 industry, they possessed exclusive access to and were in a superior
13 position to know the true facts about the Brake Defect;
- 14 (b) Given the Brake Defect's hidden and technical nature, Plaintiff and
15 Class Members lack the sophisticated expertise in vehicle
16 components and technology that would be necessary to discover the
17 Brake Defect on their own;
- 18 (c) Ferrari NA and Ferrari SpA knew that the Defective Master Cylinder
19 / Brake Booster Assembly gave rise to serious safety concerns for the
20 consumers who purchased and leased the Class Vehicles;
- 21 (d) The Brake Defect poses a severe risk of harm in that, among other
22 things, Class Vehicles may entirely lose braking capability, causing
23 severe and potentially fatal injuries;
- 24 (e) Ferrari NA and Ferrari SpA knew about and investigated the Brake
25 Defect, but then did not notify consumers about it, failed to
26 adequately disclose the Brake Defect to consumers and NHTSA, and
27 Ferrari NA and Ferrari SpA did not launch a comprehensive recall for
28 the Class Vehicles, all of which individually and together deprived

1 Plaintiffs of an opportunity that otherwise could have led them to
2 discover the truth about the Brake Defect in their Class Vehicles; and
3 (f) Ferrari NA and Ferrari SpA made, helped to make, or conspired to
4 make incomplete representations about the safety and reliability of
5 the Class Vehicles and their brakes, while purposefully withholding
6 material facts about a known safety defect. Because they volunteered
7 to provide information about the Class Vehicles that they marketed
8 and offered for sale and lease to consumers, Ferrari NA and Ferrari
9 SpA had the duty to disclose the whole truth.

10 269. By misrepresenting the Class Vehicles as safe and reliable and the brakes
11 installed in them as properly functioning and free from defects, and/or by failing to
12 disclose and actively concealing the dangers and risk posed by the Brake Defect to both
13 consumers and NHTSA, Ferrari NA and Ferrari SpA engaged in one or more of the
14 following unfair or deceptive business practices as defined in Cal. Civ. Code § 1770(a):

- 15 (a) Representing that the Class Vehicles and/or the Brake Defect had a
16 characteristic that they did not actually have—*i.e.*, that the vehicles
17 were safe and suitable for use on the road, when, in fact, they were
18 not because their braking systems were defectively designed such that
19 they had an unreasonably dangerous propensity to leak brake fluid
20 resulting in the partial or total loss of braking capability, causing
21 severe and fatal injuries;
- 22 (b) Representing that the Class Vehicles and the Defective Master
23 Cylinder / Brake Booster Assembly installed in them were of a
24 particular quality, grade, or standard when, in fact, they were not of
25 that quality, grade, or standard;
- 26 (c) Concealing and failing to disclose that the Class Vehicles' braking
27 systems were inherently defective, defectively designed, and not
28

1 suitable for their intended use despite advertising them as safe and
2 suitable for their intended function; and

3 (d) Failing to market, distribute, sell, and lease the Class Vehicles
4 equipped with a Defective Master Cylinder / Brake Booster Assembly
5 in accordance with Ferrari NA's and Ferrari SpA's previous
6 representations—i.e., that the Class Vehicles were safe and suitable
7 for their intended use, when, in fact, they were not because of the
8 Brake Defect.

9 Cal. Civ. Code §§ 1770(a)(5), (7), (9), and (16).

10 270. Ferrari NA's and Ferrari SpA's unfair or deceptive acts or practices,
11 including their misrepresentations, concealments, omissions, and/or suppressions of
12 material facts, were designed to mislead and had a tendency or capacity to mislead and
13 create a false impression in consumers that the Class Vehicles had properly-functioning
14 and reliable brake systems. Indeed, those misrepresentations, concealments, omissions,
15 and suppressions of material facts did in fact deceive reasonable consumers, including
16 Plaintiff and Class Members, about the true safety and reliability of the Class Vehicles
17 and/or the Defective Master Cylinder / Brake Booster Assembly installed in them, the
18 quality of the Class Vehicles, and the true value of the Class Vehicles.

19 271. Ferrari NA and Ferrari SpA intended for Plaintiff and Class Members to rely
20 on their misrepresentations, omissions, and concealment—which they did by purchasing
21 and leasing the Class Vehicles at the prices they paid believing that their vehicles would
22 not have a Brake Defect that would affect the quality, reliability, and safety of the Class
23 Vehicles and their brake systems.

24 272. Ferrari NA's and Ferrari SpA's misrepresentations, concealments,
25 omissions, and suppressions of material facts regarding the Brake Defect and true
26 characteristics of the Class Vehicles were material to the decisions of Plaintiff and Class
27 Members to purchase and lease those vehicles, as Ferrari NA and Ferrari SpA intended.
28 Plaintiff and Class Members were exposed to those misrepresentations, concealments,

1 omissions, and suppressions of material facts, and relied on Ferrari NA's and Ferrari
2 SpA's misrepresentations that the Class Vehicles and their brake systems were safe and
3 reliable in deciding to purchase and lease the Class Vehicles.

4 273. Plaintiffs' and Class Members' reliance was reasonable, as they had no way
5 of discerning that Ferrari NA's and Ferrari SpA's representations were false and
6 misleading, or otherwise learning the facts that Ferrari NA and Ferrari SpA had
7 concealed or failed to disclose. Plaintiff and Class Members did not, and could not,
8 unravel Ferrari NA's and Ferrari SpA's deception on their own.

9 274. Had they known the truth about the Brake Defect, Plaintiff and Class
10 Members would not have purchased or leased the Class Vehicles, or would have paid
11 significantly less for them.

12 275. As a direct and proximate result of Ferrari NA's and Ferrari SpA's deceptive
13 practices, Plaintiff and Class Members have sustained economic injury and loss—either
14 by purchasing a vehicle they otherwise would not have purchased or paying for the costs
15 of repair or paying more than they otherwise would have as a result of Ferrari NA's and
16 Ferrari SpA's actions and omissions alleged above—that first occurred at the time each
17 Class Vehicle was purchased or leased.

18 276. Ferrari NA's and Ferrari SpA's violations present a continuing risk to
19 Plaintiff and Class Members, as well as to the general public, because the Class Vehicles
20 remain unsafe due to the Brake Defect therein. Ferrari NA's and Ferrari SpA's unlawful
21 acts and practices complained of herein affect the public interest.

22 277. Plaintiff and Class Members timely provided Ferrari NA and Ferrari SpA
23 notice of the issues raised in this count and this Complaint and an opportunity to cure
24 pursuant to Cal. Civ. Code § 1782 on July 12, 2023. See Exs. B, C. Because Ferrari NA
25 and Ferrari SpA failed to adequately remedy their unlawful conduct within the requisite
26 time period, Plaintiff seeks all damages and relief to which Plaintiff and Class Members
27 are entitled.

28

1 278. Pursuant to Cal. Civ. Code § 1780(a), Plaintiff and Class Members seek an
2 order enjoining the above unfair or deceptive acts or practices and awarding actual
3 damages, treble damages, restitution, attorneys’ fees, and any other just and proper relief
4 available under the CLRA against all Ferrari NA and Ferrari SpA.

5 279. Attached hereto as Exhibit E is a venue affidavit required by the CLRA, Cal.
6 Civ. Code § 1780(d).

7 **COUNT 7: VIOLATIONS OF CALIFORNIA’S UNFAIR COMPETITION LAW**
8 **CAL. BUSINESS & PROFESSIONS CODE § 17200, *et seq.***
9 **AGAINST ALL DEFENDANTS⁷⁴**

10 280. Plaintiff realleges and incorporates by reference paragraphs 1 through 205
11 as though fully set forth herein.

12 281. Plaintiff brings this count under California law, individually and on behalf
13 of the members of the Class.

14 282. Defendants engaged in unlawful, unfair, and/or fraudulent conduct under
15 the California UCL, California Business & Professions Code § 17200, *et seq.*, by
16 omitting that the Class Vehicles contained the Brake Defect, whereby the Class Vehicles
17 do not meet reasonable consumer expectations for a motor vehicle marketed as luxury
18 and high-performance—nor reasonable consumer expectations for any motor vehicle—
19 when the brakes may fail in ordinary driving situations.

20 283. Defendants’ conduct is unlawful in that it violates the consumer protection
21 and common laws in California as described herein.

22 284. Defendants’ conduct is unfair in that it offends established public policy
23 and/or is immoral, unethical, oppressive, unscrupulous, and/or substantially injurious to
24 Plaintiff, and California consumers. The harm to Plaintiff arising from Defendants’
25 conduct outweighs any legitimate benefit Defendants derived from the conduct.

26
27
28 ⁷⁴ Plaintiff brings this count against Bosch GmbH, and Bosch LLC as the agent/alter ego of
Bosch GmbH, based on its omissions and concealment of material facts only.

1 285. Ferrari’s advertising actions and practices with regard to the Class Vehicles
2 constitute “fraudulent” business practices in violation of the UCL because, among other
3 things, they are likely to deceive reasonable consumers.

4 286. As a direct and proximate result of Defendants’ violations, Plaintiff suffered
5 injury in fact because he purchased a Ferrari Class Vehicle that contained the Brake
6 Defect.

7 287. Plaintiff seeks (a) injunctive relief in the form of an order requiring Ferrari
8 to cease the acts of unfair competition alleged here and to remedy the Brake Defect; (b)
9 the payment of Plaintiffs’ attorneys’ fees and costs pursuant to, *inter alia*, California
10 Code of Civil Procedure Section 1021.5; and (c) interest at the highest rate allowable by
11 law. Plaintiff also seeks restitution for himself and Class Members.

12 **XI. PRAYER FOR RELIEF**

13 WHEREFORE, Plaintiff, individually and on behalf of the Class, prays for
14 judgment against Defendants, granting the following relief:

15 a. An order certifying this case as a class action and appointing Plaintiff’s
16 counsel to represent the Class and Plaintiff as a representative of the Class;

17 b. All recoverable compensatory and other damages sustained by Plaintiff and
18 the Class;

19 c. Actual, treble, punitive, and/or statutory damages for injuries suffered by
20 Plaintiff and the Class in the maximum amount permitted by applicable law;

21 d. An order (1) requiring Defendants to cease their wrongful conduct as set
22 forth above immediately; (2) enjoining Defendants from continuing to conceal material
23 information about the Brake Defect of the Class Vehicles; and (3) requiring Defendants
24 to refund to Plaintiff and all members of the Class the funds paid to Defendants for the
25 Class Vehicles, and/or repairs resulting from the Brake Defect;

26 e. Payment of reasonable attorneys’ fees and costs, as may be allowable under
27 applicable law; and

28 f. Such other relief as the Court may deem just and proper.

XII. DEMAND FOR JURY TRIAL

Plaintiff demands a trial by jury on all causes of action so triable.

Dated: March 18, 2024

Respectfully submitted:

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ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Massive Ferrari Lawsuit Alleges Automaker Has 'Neglected' Life-Threatening Braking System Defect](#)
