CANADA

PROVINCE OF QUEBEC
DISTRICT OF MONTREAL

NO: 500-06-001088-208

(Class Action)
SUPERIOR COURT

L. HAND

Plaintiff/ Class Representative

-vs.-

DENSO INTERNATIONAL AMERICA, INC., legal person duly constituted having its head office at 24777 DR Denso, City of Southfield, State of Michigan, 48033, U.S.A.

and

DENSO SALES CANADA, INC., legal person duly constituted having its head office at 195 Brunel Road, City of Mississauga, Province of Ontario, L4Z 1X3

and

TOYOTA CANADA INC., legal person duly constituted having its head office at One Toyota Place, City of Scarborough, Province of Ontario, M1H 1H9

and

HONDA CANADA INC., legal person duly constituted, having its principal place of business at 180 Honda Boulevard, City of Markham, Province of Ontario, L6C 0H9

and

SUBARU CANADA, INC., legal person duly constituted having its head office at 560 Suffolk Court, City of Mississauga, Province of Ontario, L5R 4J7

Defendants

APPLICATION TO INSTITUTE PROCEEDINGS
(Arts. 141 and following *C.C.P.*)

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TO ONE OF THE HONOURABLE JUSTICES OF THE SUPERIOR COURT, SITTING IN AND FOR THE DISTRICT OF MONTREAL, YOUR PLAINTIFF/ CLASS REPRESENTATIVE STATES AS FOLLOWS:

I. INTRODUCTION

1. This class action seeks redress for the misconduct of the Vehicle Manufacturer Defendants (Toyota, Honda, and Subaru) for having sold and leased the Subject Vehicles (defined below) to Class Members with a dangerously defective fuel pump, which was designed, manufactured and supplied by the DENSO Defendants and for having failed to timely and properly recall all Subject Vehicles;

2. The design defect is related to a fuel pump impeller that is manufactured with a substandard plastic that causes the fuel pump to become inoperative and the Subject Vehicles to systematically experience fuel system failures, which in turn causes vehicle stalling, experience rough engine running, engine no-start, vehicle stalling, engine shut-down, and failure to accelerate, all of which creates a substantial risk of injury and death for drivers, passengers, and the general public in the vicinity of the Subject Vehicle;

3. Fuel pumps are used as part of a vehicle's fuel injection system that serve to manage the flow of fuel from the fuel tank to the engine in order to maintain operability and to prevent engine stalling (when working properly);

4. The fuel injection system is one of the most basic safety features in every modern vehicle because it controls speed and keeps the engine running until the engine is turned off. If the fuel delivery system in a vehicle is defective, then it is unsafe to operate because it cannot predictably respond to operator input to accelerate and it could stall or completely lose power while in motion. The design defect in the Subject Vehicles is dangerous to drivers, vehicle occupants, and innocent bystanders;

5. The Vehicle Manufacturer Defendants initiated a series of recalls to which the Plaintiff alleges are inadequate for the following reasons: (i) they still do not include all Subject Vehicles containing the defective fuel pumps (fractioning to minimize cost), and (ii) they do not provide an adequate remedy for the design defect (band-aiding a ticking-time bomb);

6. By judgment dated April 28, 2023 (the "Authorization Judgment"), the Honourable Court of Appeal authorized the Plaintiff/ Class Representative to institute a class action against the Defendant on behalf of the following group:

> "All persons or entities resident in Quebec, who purchased and/or leased a vehicle from Toyota Sales Canada, Honda Canada Inc., or Subaru Canada Inc., equipped with a low-pressure fuel pump designed and manufactured by Denso which is equipped with a low-density impeller" (the "Subject Vehicles");[1]

[1] The Supreme Court of Canada denied leave to appeal on November 9, 2023 (No. 40802).

7. At present, it is presumed that Subject Vehicles include, but are not limited to (subject to discovery) all vehicles purchased or leased in Canada equipped with a defective Denso low-pressure fuel pump with part number prefixes 23220 or 23221 (Toyota and Lexus), 17045 (Honda and Acura), and 42022 (Subaru), including, but not limited to, the following vehicles known at present to be:

Make	Model	Year(s)
Toyota	4Runner	2014 - 2019
Toyota	86	2018 - 2019
Toyota	Avalon	2017 - 2020
Toyota	Avalon Hybrid	2019 - 2020
Toyota	Camry	2018 - 2020
Toyota	Camry Hybrid	2018 - 2020
Toyota	Corolla	2018 - 2020
Toyota	Corolla Hatchback	2018 - 2020
Toyota	FJ Cruiser	2014
Toyota	Highlander	2017 - 2019
Toyota	Highlander Hybrid	2017 - 2019
Toyota	Land Cruiser	2014 - 2019
Toyota	RAV4	2018 - 2020
Toyota	RAV4 Hybrid	2019 - 2020
Toyota	Sequoia	2017 - 2020
Toyota	Sienna	2017 - 2020
Toyota	Tacoma	2018 - 2020
Toyota	Tundra	2017 - 2020
Toyota	Yaris	2019 - 2020
Lexus	ES300h	2019 - 2020
Lexus	ES350	2017 - 2020
Lexus	GS200t	2017
Lexus	GS300	2018 - 2019
Lexus	GS350	2013 - 2019
Lexus	GS450h	2014 - 2015 & 2018
Lexus	GX460	2014 - 2019
Lexus	IS-F	2014
Lexus	IS200t	2017
Lexus	IS300	2017 - 2019
Lexus	IS350	2014 - 2016 & 2018 - 2019
Lexus	LC500	2018 - 2020
Lexus	LC500h (Hybrid)	2018 - 2020
Lexus	LS460	2013 - 2015
Lexus	LS500	2018 - 2019
Lexus	LS500h (Hybrid)	2018 - 2020
Lexus	LS600h	2013 - 2015
Lexus	LX570	2014 - 2019
Lexus	NX200t	2015 - 2019
Lexus	NX300	2015 - 2019

Lexus	RC200t	2017
Lexus	RC300	2018 - 2019
Lexus	RC350	2015 - 2019
Lexus	RX350	2017 - 2020
Lexus	RX350L	2018 - 2020
Lexus	RX450h	2017 - 2020
Lexus	RX450hL	2018 - 2020
Lexus	UX200	2019
Acura	ILX	2019
Acura	MDX	2016 - 2020
Acura	NSX	2018 - 2019
Acura	RDX	2019 - 2020
Acura	RLS	2019
Acura	RLX	2019
Acura	RLX Sport Hybrid	2019
Acura	TLX	2015 - 2020
Honda	Accord	2015 - 2020
Honda	Civic Coupe	2019
Honda	Civic Hatchback	2018 - 2020
Honda	Civic Sedan	2019
Honda	Civic Type R	2018 - 2020
Honda	CR-V	2018 - 2019
Honda	Fit	2019
Honda	HR-V	2018 - 2019
Honda	Insight	2019 - 2020
Honda	Odyssey	2019
Honda	Passport	2019
Honda	Pilot	2019
Honda	Ridgeline	2019
Subaru	Ascent	2019 - 2020
Subaru	BRZ	2018 - 2019
Subaru	Forester	2018
Subaru	Impreza	2018 - 2020
Subaru	WRX	2018 - 2019
Subaru	Legacy	2018 - 2020
Subaru	Outback	2018 - 2020

8. Should further investigation reveal that additional vehicles contain the same defective fuel pumps and assemblies, then the models identified as Subject Vehicles may be amended;

9. To date, 403,490 Canadian Subject Vehicles containing a defective fuel pump designed and manufactured by DENSO have been recalled by the named vehicle manufacturers, including, but not limited to Toyota (285,397), Honda (90,632), and Subaru (27,461) (the “Vehicle Manufacturer Defendants”);

10. The DENSO fuel pumps are defective in that the impeller is manufactured with a lower density, lower surface strength, and inadequately porous plastic material with inadequate heat resistance. The substandard plastic has a propensity to excessive fuel absorption, which causes it to warp or swell, creating mechanical friction. In addition, according to DENSO, the impeller could have been exposed to production solvent drying for a longer period of time, causing it to become cracked and deformed, which causes the fuel pump to become inoperative, in turn causing systematic fuel system failures, and causing rough engine running, engine no start, vehicle stalling, engines to shut down, and failure to accelerate (the "Design Defect" and the "Fuel Pump Defect");

11. The Vehicle Manufacturer Defendants manufactured, distributed, and/or sold the Subject Vehicles with the DENSO fuel pumps, which were plagued by serious, pervasive, and dangerous design and manufacturing defects, which place vehicle occupants at risk of serious injury and/or death;

12. In addition, the Applicant contends that the Defendants failed to disclose the Design Defect despite longstanding knowledge. The Defendants actively concealed the Design Defect and the fact that its existence would diminish both the intrinsic and the resale value of the Subject Vehicles;

13. DENSO only began to offer a proposed "repair" in July 2020 and this supposed "repair" fails to adequately resolve the defect and, worse yet, it risks causing additional damage to the fuel pump module, rendering the Subject Vehicles even more hazardous than they would have been absent the "repair";

14. In its judgment granting class action status, the Honourable Court of Appeal identified the principal issues or issues of fact and law to be treated collectively as the following:

    a) Did Denso manufacture faulty fuel pumps?

    b) Did the defendants delay, after learning of the damage, in informing the members?

    c) Did the defendants delay in repairing the pumps?

    d) Did the defendants make an inadequate and unsatisfactory remedy?

    e) Have the members suffered compensable damage as a result of:

        - repair costs?

        - towing costs?

        - costs of renting a replacement vehicle?

        - loss of use of their vehicle?

        - trouble and inconvenience?

f) Are the members entitled to a partial reimbursement of the purchase price or the rental price of their vehicle, in particular because of the defendants' false representations concerning the pumps?

g) Have members who are consumers (within the meaning of the Consumer Protection Act) suffered a loss in the resale value of the vehicle they own?

h) Are members who are consumers entitled to punitive damages?

i) In all cases, what are the damages?

II. THE DEFENDANTS

A. The DENSO[2] Defendants

15. Defendant DENSO International America, Inc. (hereinafter "DENSO International") is an American corporation with its head office in Southfield, Michigan. It is DENSO's North American regional headquarters and the parent company for its North American operations, which include designing, engineering, manufacturing, testing, validating, marketing, distributing, supplying, and selling fuel pumps, the whole as appears more fully from a copy of an extract from the *Registraire des entreprises* and from a copy of an extract from the DENSO website at www.denso.com, produced herein *en liasse* as **Exhibit P-1**;

16. Defendant DENSO Sales Canada, Inc. (hereinafter "DENSO Sales") is a Canadian corporation with its head office in Mississauga, Ontario. It is an automotive sales and distribution office of original equipment manufacturers and aftermarket components, the whole as appears more fully from a copy of an extract from the *Registraire des entreprises* and from copies of extracts from the DENSO website at www.denso.com, produced herein *en liasse* as **Exhibit P-2**;

17. Both DENSO Defendants are wholly-owned subsidiaries of DENSO Corporation, a global automotive components manufacturer headquartered in the city of Kariya, Aichi Prefecture, Japan. The trade-mark "DENSO" (TMA152331), which was filed on October 7, 1966 and that is owned by DENSO Corporation, describes DENSO as follows:

> Goods
>
> (1) Parts and accessories for automobiles, buses, trucks, and motorcycles, namely dynamos, alternators, starters, cell dynamos, distributors, breaking governors, regulators, coils, magnetos, A.C. dynamos, fuel pumps, wipers, washers, motor antennae, window regulating motors, power seat motors, ventilation motors, horns, combination meters, speed meters, tachometer, flashers, over-drive devices, auto-drive devices, buzzers, motor for air conditioners and heaters, relays, radiators, ventilators which may be used

[2] The name Denso (電装, *densō*) is a blend word of the Japanese terms for "electricity" (電気, *denki*) and "device" (装置, *sōchi*).

as a heater, air conditioners, oil coolers, sub-radiators, jet pumps, nozzles, pump testers, spark plugs, glow plugs, air filters and oil filters.

The whole as appears more fully from a copy of the trade-mark “DENSO” (TMA152331) from the CIPO website, produced herein as **Exhibit P-3**;

18. The DENSO Defendants comprise the world’s second largest tier 1 original equipment manufacturer (“OEM”), producing parts and products for vehicle manufacturers, including the defective fuel pumps to the Vehicle Manufacturer Defendants;

19. DENSO originated as the electrical equipment department of Toyota in 1935, to produce electrical equipment in-house. In 1949, DENSO (which was then called NIPPONDENSO) split off from Toyota, the whole as appears more fully from a copy of the 2022 DENSO annual report, produced herein as **Exhibit P-4**;

20. 33.33% of DENSO Corporation is owned by 2 Toyota entities; Toyota Motor Corporation and Toyota Industries Corporation, the whole as appears more fully from a copy of the 2019 DENSO annual report, produced herein as **Exhibit P-5**;

21. On May 20, 2019 and then on January 17, 2022, DENSO Corporation announced that it had agreed to transfer its fuel pump module business to Aisan Industry Co., Ltd. to take place on August 1, 2022, the whole as appears more fully from a copy of the news release entitled “DENSO and Aisan Start Studying the Possibility of Strengthening Competitiveness in Powertrain and Future Growth Areas” dated May 20, 2019, from a copy of the news release entitled “DENSO and Aisan Reach Agreement on Transfer of Fuel Pump Module Business” dated January 17, 2022, and from a copy of the new release entitled “Announcement regarding completion of the acquisition of fuel pump module business and equity interests” dated September 1, 2022, produced herein *en liasse* as **Exhibit P-6**;

22. During the Class Period, Defendants DENSO International and DENSO Sales (collectively, “DENSO”), either directly or through a wholly-owned subsidiary, agent or affiliate, designed, engineered, manufactured, tested, validated, marketed, distributed, supplied, and/or sold all the defective fuel pumps, which may have been recalled by the U.S. NHTSA and/or by Transport Canada and that are the subject of the present application for installation in the Subject Vehicles throughout Canada, including within the province of Quebec;

23. Given the close ties between the DENSO Defendants and considering the preceding, they are solidarily liable for the acts and omissions of the other;

B. The Vehicle Manufacturer Defendants

(a) Toyota

24. Defendant Toyota Canada Inc. (hereinafter "Toyota") is a Canadian corporation with its head office in Scarborough, Ontario that does business throughout Canada, including within the province of Quebec. It is an automotive manufacturer of *inter alia* Toyota and Lexus vehicles, the whole as appears more fully from a copy of an extract from the *Registraire des entreprises*, produced herein as **Exhibit P-7**;

25. Toyota Vehicles, including Lexus, that are sold in Canada contain defective fuel pumps manufactured by the DENSO Defendants and include, but are not limited to the following models:

Make	Model	Year(s)
Toyota	4Runner	2014 - 2019
Toyota	86	2018
Toyota	Avalon	2018 - 2020
Toyota	Camry	2018 - 2020
Toyota	Corolla	2018 - 2020
Toyota	Corolla Hatchback	2019
Toyota	FJ Cruiser	2014
Toyota	Highlander	2017 - 2019
Toyota	Land Cruiser	2014 - 2015, 2018 - 2019
Toyota	RAV4	2019 - 2020
Toyota	Sequoia	2018 - 2020
Toyota	Sienna	2017 - 2020
Toyota	Tacoma	2018 - 2020
Toyota	Tundra	2018 - 2020
Toyota	Yaris	2019 - 2020
Lexus	ES350	2018 - 2020
Lexus	GS200t	2017
Lexus	GS300	2018 - 2019
Lexus	GS350	2013 - 2015 & 2017 - 2019
Lexus	GX460	2014 - 2019
Lexus	IS-F	2014
Lexus	IS200t	2017
Lexus	IS300	2017 - 2019
Lexus	IS350	2014 - 2015 & 2018 - 2019
Lexus	LC500	2018 - 2020
Lexus	LC500h (Hybrid)	2018 - 2020
Lexus	LS460	2013 - 2015
Lexus	LS500	2018 - 2019
Lexus	LS500h (Hybrid)	2018 - 2020
Lexus	LX570	2014 - 2019
Lexus	NX200t	2015

Lexus	NX300	2018 - 2019
Lexus	RC300	2018 - 2019
Lexus	RC200t	2017
Lexus	RC350	2015, 2018 - 2019
Lexus	RX350	2017 - 2020
Lexus	RX350L	2018 - 2020
Lexus	UX200	2019

26. Defendant Toyota is the second largest automobile manufacturer in the world (behind Volkswagen), the whole as appears more fully from a copy of an extract from the manufacturing.net website entitled "The World's Largest Car Manufacturers" and from a copy of the 2019 Toyota annual report, produced herein *en liasse* as **Exhibit P-8**;

(b) <u>Honda</u>

27. Defendant Honda Canada Inc. (hereinafter "Honda") is a Canadian corporation with its head office in Markham, Ontario that does business throughout Canada, including within the province of Quebec, the whole as appears more fully from a copy of an extract from the *Registraire des entreprises*, produced herein as **Exhibit P-9**;

28. Honda Vehicles, including Acura, that are sold in Canada contain fuel pumps manufactured by the DENSO Defendants and include, but are not limited to the following models:

Make	Model	Year(s)
Acura	ILX	2019
Acura	MDX	2016 - 2020
Acura	NSX	2018 - 2019
Acura	RDX	2019 - 2020
Acura	RLS	2019
Acura	RLX	2019
Acura	RLX Sport Hybrid	2019
Acura	TLX	2015 - 2020
Honda	Accord	2015 - 2020
Honda	Civic Coupe	2019
Honda	Civic Hatchback	2018 - 2020
Honda	Civic Sedan	2019
Honda	Civic Type R	2018 - 2020
Honda	CR-V	2018 - 2019
Honda	Fit	2019
Honda	HR-V	2018 - 2019
Honda	Insight	2019 - 2020
Honda	Odyssey	2019
Honda	Passport	2019
Honda	Pilot	2019
Honda	Ridgeline	2019

29. Defendant Honda is the seventh largest automobile manufacturer in the world (Exhibit P-8), the whole as appears more fully from a copy of the 2019 Honda annual report, produced herein as **Exhibit P-10**;

(c) Subaru

30. Defendant Subaru Canada, Inc. (hereinafter "Subaru") is a Canadian corporation with its head office in Mississauga, Ontario that does business throughout Canada, including within the province of Quebec, the whole as appears more fully from a copy of an extract from the *Registraire des entreprises* and from a copy of the 2019 Subaru annual report, produced herein *en liasse* as **Exhibit P-11**;

31. Subaru Vehicles that are sold in Canada contain fuel pumps manufactured by the DENSO Defendants and include, but are not limited to the following models:

Make	Model	Year(s)
Subaru	Ascent	2019 - 2020
Subaru	BRZ	2018 - 2019
Subaru	Forester	2018
Subaru	Impreza	2018 - 2020
Subaru	WRX	2018 - 2019
Subaru	Legacy	2018 - 2020
Subaru	Outback	2018 - 2020

32. During the Class Period, Defendants Toyota, Honda, and Subaru (collectively, "the Vehicle Manufacturer Defendants"), either directly or through a wholly-owned subsidiary, agent or affiliate, manufactured, sold, and warranted the Subject Vehicles in Canada, including in Quebec and designed, manufactured, and installed (or had installed) the defective fuel delivery system in the Subject Vehicles;

III. THE SITUATION

A. The Operation of Fuel Injection Systems in General

33. One of the most significant advancements in the internal combustion engine over the last 40 years has been the widespread adoption of fuel injection systems instead of carburetors to supply fuel to a vehicle's engine. The fuel injection system uses fuel pumps to efficiently and effectively (when working correctly) manage the flow of fuel from the fuel tank to the engine where it is ignited in the combustion chamber and generates vehicle propulsion in order to maintain operability and to prevent engine stalling;

34. The fuel pump is critically important to the overall operation of a vehicle and is expected to last for the life of an automobile;

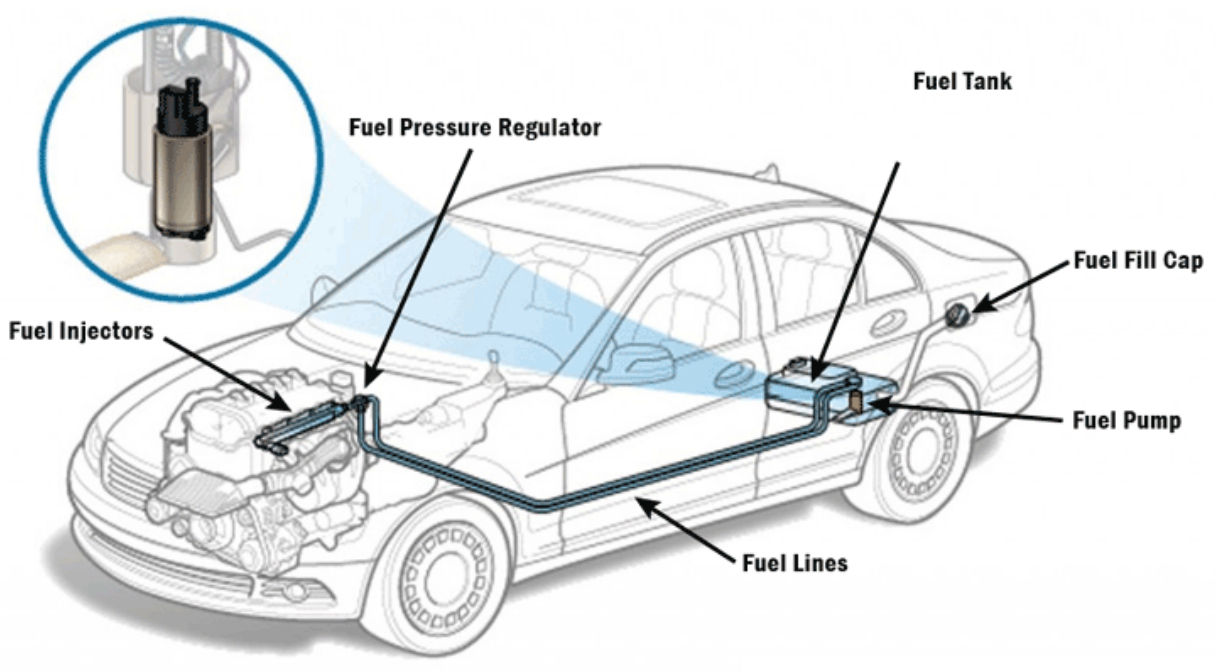
35. In petrol engines, fuel injection began to replace carburetors from the 1980s and onward. The primary difference between carburetion and fuel injection is that fuel

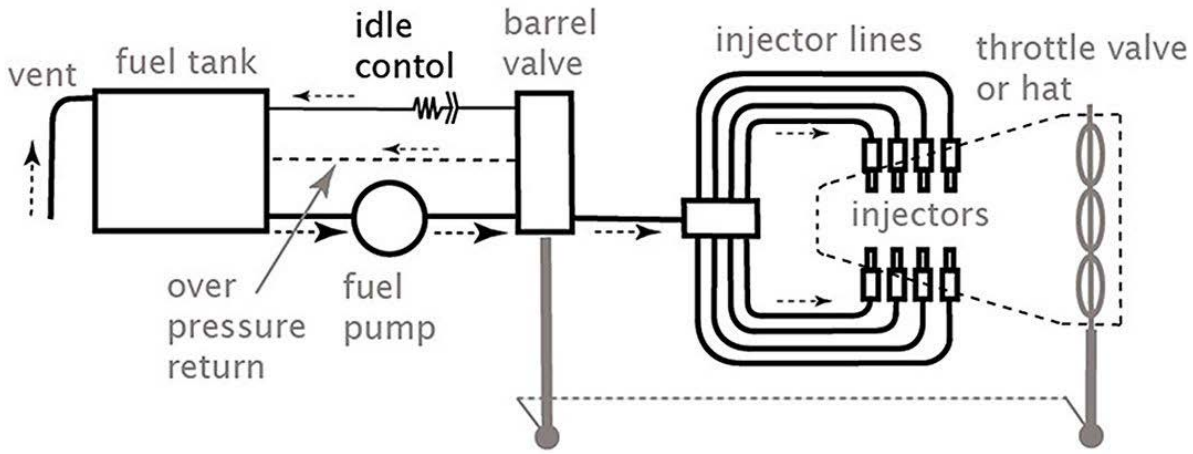
injection atomizes the fuel through a small nozzle under high pressure, while a carburetor relies on suction created by intake air accelerated through a Venturi tube to draw the fuel into the airstream, the whole as appears more fully from a copy of the article entitled “A Brief History of Aircraft Carburetors and Fuel Systems” dated August 2013 which was prepared for the Aircraft Engine Historical Society, produced herein as **Exhibit P-12**;

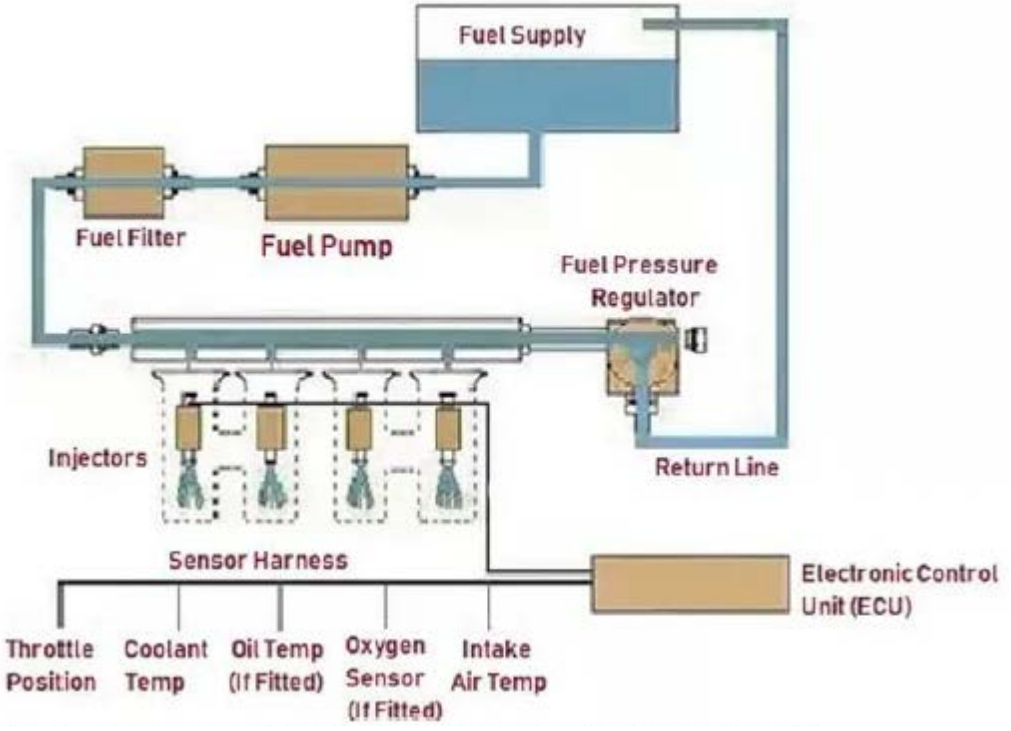
36. Carburetors are good for performance, but due to their vague nature, they can’t make great horsepower, get solid gas mileage, and pass an emission test, all with the same tune, they also had many mechanical parts that could become gummy over period. This meant they were more maintenance-intensive, with a carburetor rebuild often being part of a routine maintenance schedule, the whole as appears more fully from a copy of an extract from the Electricaldundablog.com website, produced herein as **Exhibit P-13**;

37. The components of a fuel injection system include injectors, fuel pump, fuel pressure regulator, engine control unit, wiring harness and various sensors. Fuel is transported from the fuel tank (via fuel lines) and pressurised using fuel pump(s);

38. Below are schematic representations of a fuel injection system:



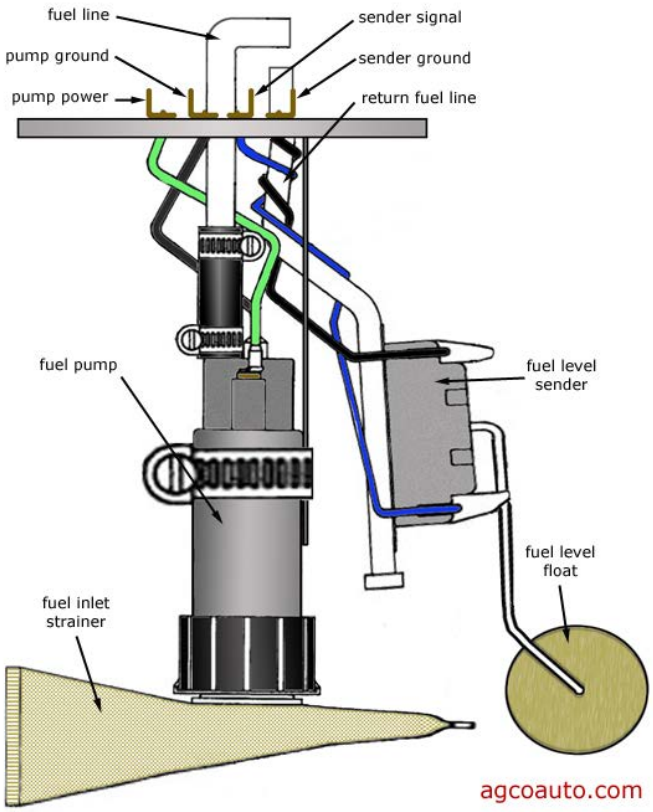


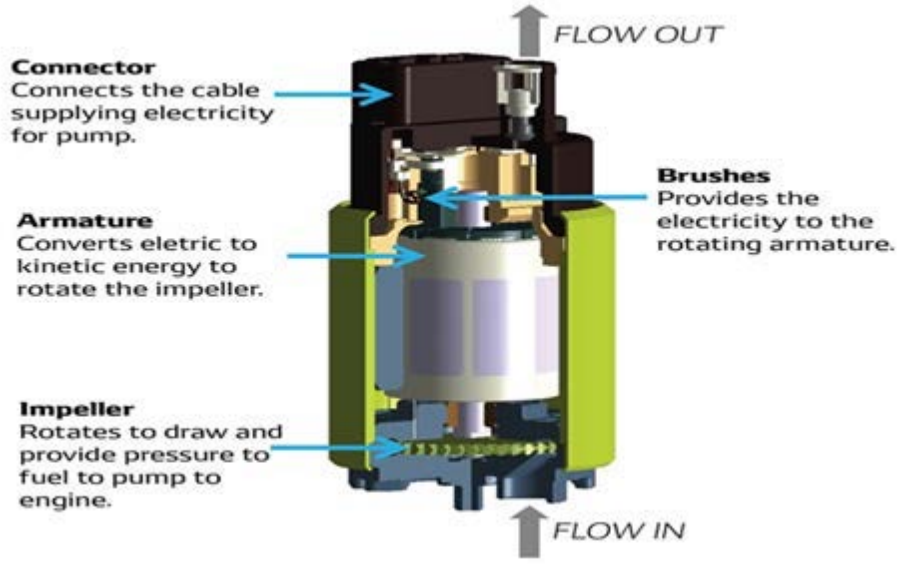


39. The fuel delivery system is one of the most basic safety features in every modern vehicle because it controls speed and keeps the engine running until the engine is turned off. If the fuel delivery system in a vehicle is defective, then it is unsafe to operate because it will not predictably respond to a driver's input to accelerate and it could stall or completely lose power while in motion;

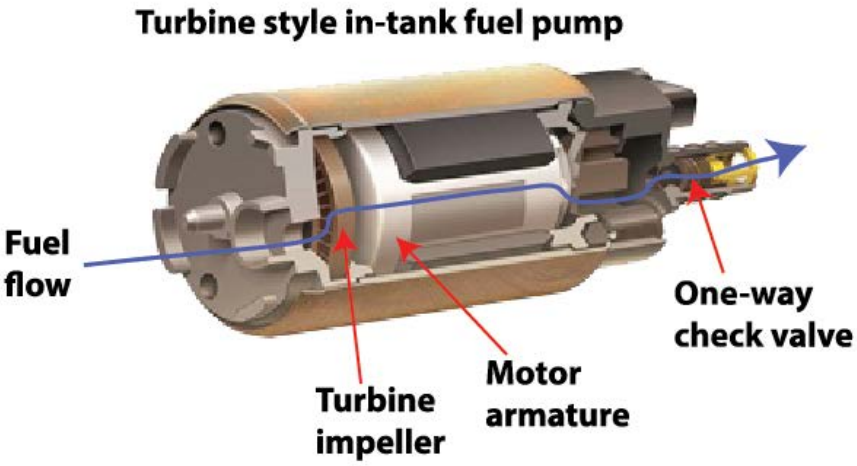
40. The fuel pump assembly is mounted inside of the fuel tank. The fuel pump assembly consists of a fuel intake strainer at one end and a fuel output line at the other. At the heart of the fuel pump assembly is an electric motor with a plastic impeller attached to a rotating shaft. The impeller is a plastic disk that rotates and draws in fuel and

pushes it up through the pump. The impeller is equipped with vanes or blades that, when spun, creates negative pressure which lifts the gasoline out of the fuel tank and sends it to the engine. Protruding from the side of the fuel pump assembly is a fuel level float and a fuel level sender, the whole as appears more fully from copies of extracts from the DENSO Defendants' websites at aftermarket.denso.com.sg and www.denso-am.co.uk, produced herein *en liasse* as **Exhibit P-14**;

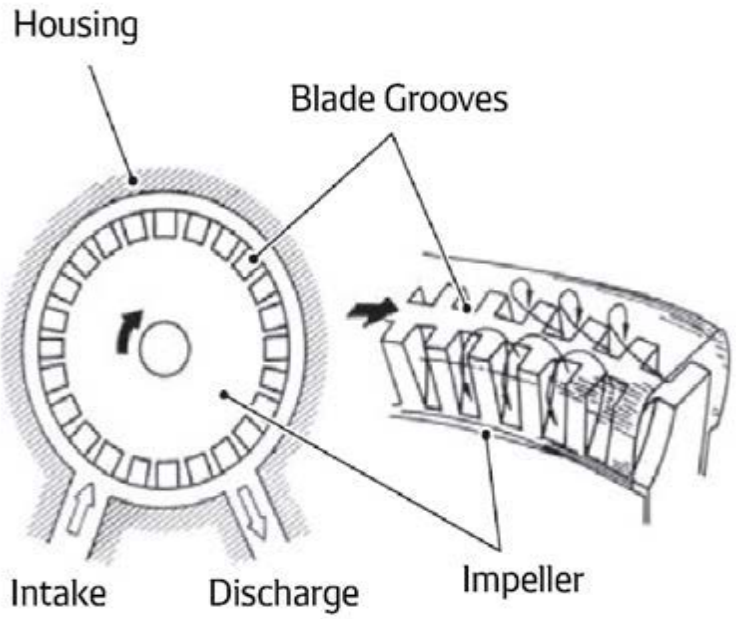




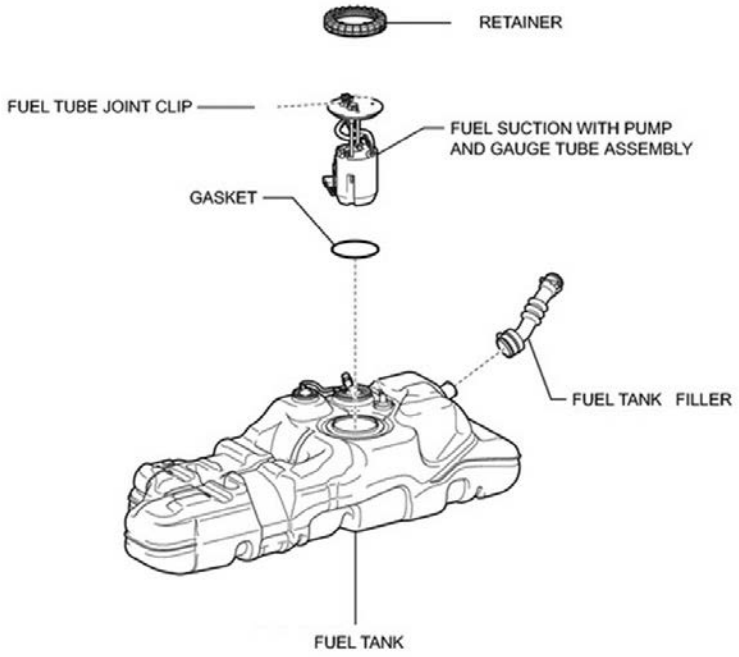
41. As the electric motor rotates, the impeller spins to generate negative pressure. The negative pressure pulls fuel into the pump housing where it passes through the electric motor assembly and exits through the output, into the fuel line and forward to the fuel filter. After exiting the fuel filter, the fuel flow is accelerated through a high-pressure pump which delivers pressurized fuel to injectors mounted in the engine. DENSO describes the operation of its intake fuel pump as "[w]hen the impeller of an in-tank [f]uel [p]ump rotates, the blade moves around the impeller, creating a swirling motion inside the pump to deliver fuel. The fuel then passes around the motor, forcing the check valve upwards to supply fuel to the fuel pipe", the whole as appears more fully from a copy of a DENSO product catalogue entitled "Engine Management Systems" dated 2018/2019, produced herein as **Exhibit P-15**;



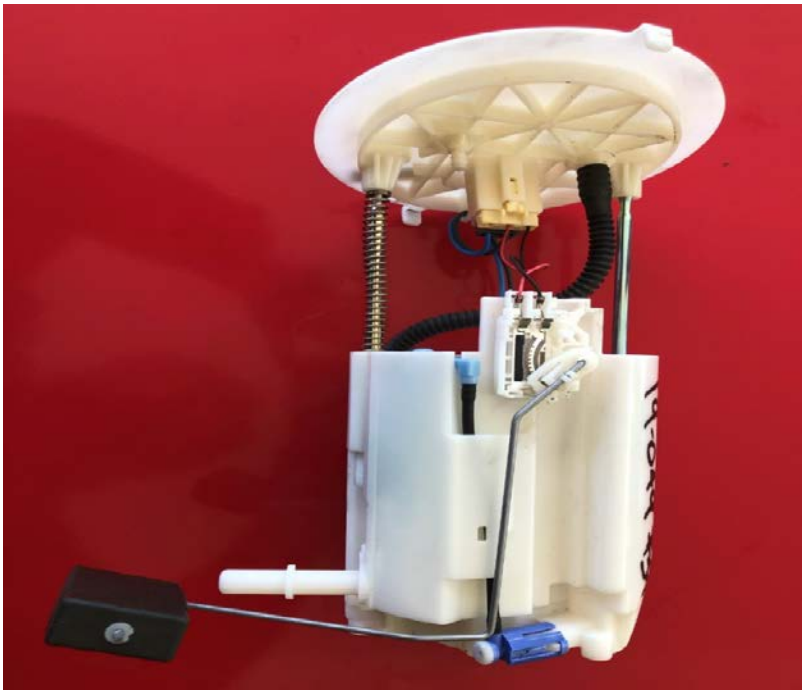
42. DENSO explains the role of the electric fuel pump as "deliver[ing] fuel from the tank to the engine, under high pressure, depending on the vehicle application's specific requirements. The fuel is transported to fuel injectors, which spray the fuel into the engine cylinders" (Exhibit P-15);



43. The fuel pump assembly and all its components are always exposed to gasoline within the fuel tank. Fuel pumps are designed to survive the harsh environment for at least 320,000 kms (200,000 miles). DENSO claims that its fuel pumps “offer more than triple the lifetime…”, the whole as appears more fully from a copy of the Autoblog article entitled “How Long Does a Fuel Pump Usually Last?” dated November 24, 2015 and from a copy of an extract from the DENSO Defendants’ website at densoautoparts.com, produced herein *en liasse* as **Exhibit P-16**;

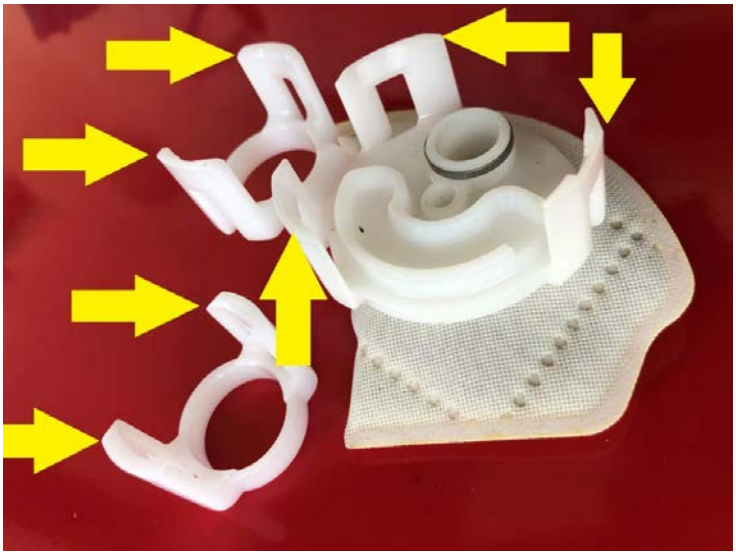


44. The fuel pump (i.e., the electric motor and impeller) is an internal component of the fuel pump module. The fuel pump module hosts the fuel pump, associated plumbing and the fuel gauge sending unit. The fuel pump module drops into the fuel tank through an access hole on the topside of the tank. A retainer ring ensures that the flange[3] and O-ring create a tight seal against the tank surface, preventing fuel escape:



[3] A flange is a method of connecting pipes, valves, pumps and other equipment to form a piping system.

45. The fuel pump module's housing protects the fragile internal components that fit together very specifically (like puzzle pieces) within the module and is held together with plastic tabs and clips:



46. As will be described more fully hereinbelow, fuel exposure weakens these plastic tabs and clips depleting durability and elasticity;

47. The fuel pump modules also contain numerous small and fragile parts, such as O-rings, that require precise installation. Disassembling the fuel pump module exposes these critical components to contamination, dislocation and breakage, thereby affecting vehicle performance:

48. Because of these concerns (and others), it is industry standard to replace the fuel pump module as a complete unit rather than remove and replace discrete failed internal components. Replacing the fuel pump module as a complete unit greatly reduces technician error frequency;

49. The Vehicle Manufacturer Defendants have knowingly marketed, sold, and/or leased the Subject Vehicles defined above with defective low-pressure fuel pumps that

cause unpredictable acceleration and engine stalls and render the Subject Vehicles unsafe to operate;

50. The Design Defect in the Subject Vehicles is dangerous to drivers, vehicle occupants, and innocent bystanders. A vehicle that fails to accelerate when demanded, or stalls while in motion, is simply unsafe to operate;

B. <u>The Design Defect</u>

51. The fuel pumps suffer from a fundamental design and manufacturing defect that causes them to prematurely fail, which results in engine stalling, hesitancy, and failure or else leaving the Subject Vehicle completely inoperable and compromising human safety. The Defendants have even admitted as much in their various recalls;

52. Engines operate within a narrow and precisely calibrated air fuel mixture range, which means they are very sensitive to fuel pressure and delivery requirements. Partial, intermittent, or complete fuel pump failure disturbs the calculated precision and results in engine stalling or hesitancy;

53. Compounding the issue, the Fuel Pump Defect manifests itself spontaneously with no advance warning, thereby creating an extremely dangerous condition for drivers, including those on the road who may be left helpless and unable to take action to get out of the way of oncoming traffic or reach safety;

54. Based on the Defendants' own admissions, the failure results from a defectively designed plastic impeller in the fuel pump, which has a propensity to deform, change shape, and swell due to excessive fuel absorption;

55. The impeller is made from unsuitable and inferior plastic material that has inadequate heat resistance, which results in premature and unexpected failure due to component distortion, loss of structural integrity, and the swelling-induced friction when exposed to high temperatures or repeated temperature cycling (i.e. the intended and repeated temperature changes of operation);

56. The fuel pump impeller plastic is also highly porous, which can lead to fuel absorption and fuel contaminants becoming lodged in the impeller's pores;

57. Plastic materials absorb liquids – the degree of absorption depends on the type of plastic and on environmental conditions. When plastics absorb liquids, the plastic changes dimensions. Knowing this, manufacturers such as DENSO and the Vehicle Manufacturer Defendants must adequately design and validate plastic materials exposed to liquids to ensure dimensional stability – here the Defendants failed in this endeavour with respect to the fuel pumps, the whole as appears more fully from a copy of an extract from the Ensinger website at www.ensingerplastics.com, produced herein as **Exhibit P-17**;

58. Thus, the fuel pump and the fuel impeller were not designed and manufactured with the necessary robustness to operate safely under normal and expected operating conditions;

59. In 2019, DENSO began using a higher density impeller in its fuel pumps and the Design Defect appears to have been resolved since then (Exhibit P-26);

C. The Regulation of Road Safety in Canada – in Brief

60. Transport Canada oversees road safety through three acts of Parliament: the *Canada Transportation Act*, SC 1996, c 10, the *Motor Vehicle Safety Act*, SC 1993, c 16, and the *Motor Vehicle Transport Act*, RSC 1985, c 29 (3rd Supp), the whole as appears more fully from a copy of the 2016 Fall Reports of the Office of the Auditor General of Canada – Report 4-Oversight of Passenger Vehicle Safety-Transport Canada, produced herein as **Exhibit P-18**;

61. The *Motor Vehicle Safety Act* governs passenger vehicles. It regulates the manufacture and import of motor vehicles and related equipment. The legislation applies to all companies that manufacture, distribute, or import regulated vehicles or vehicle equipment (Exhibit P-18);

62. The Minister of Transport has responsibility for the administration and enforcement of the *Motor Vehicle Safety Act*, the whole as appears more fully from a copy of the Motor Vehicle Safety Oversight Program publication dated October 2015, produced herein as **Exhibit P-19**;

63. The *Motor Vehicle Safety Act* requires that all vehicles imported into Canada comply with the *Motor Vehicle Safety Regulations* and associated Canada Motor Vehicle Safety Standards (CMVSS) and to this end, the Registrar of Imported Vehicles (RIV) was created to establish and maintain a system of registration, inspection and certification to Canadian standards of vehicles originally manufactured for distribution in the U.S. market that are being permanently imported into Canada (Exhibit P-19), the whole as appears more fully from a copy of an extract from the Registrar of Imported Vehicles website at www.riv.ca, from a copy of an extract from the Transport Canada website at tc.canada.ca, and from copies of extracts from the Transport Canada website at www.tc.gc.ca, produced herein *en liasse* as **Exhibit P-20**;

64. A safety-related defect is not defined in the *Motor Vehicle Safety Act* or regulations. However, criteria have been developed to describe the concept based on field experience and several court rulings in Canada and in the United States (Exhibit P-19);

65. Because the Fuel Pump Defect is considered as a safety-related defect by Transport Canada, the procedure for remedying the defect is the vehicle recall process;

D. The Succession of Recalls and the Investigation Timeline

66. In the United States, on January 13, 2020, Toyota Motor Engineering & Manufacturing (the U.S. counterpart to Toyota and "Toyota America") submitted a Part 573 Safety Recall Report to the NHTSA recalling 695,541 vehicles that included the following:

- Toyota 4Runner 2018 – 2019
- Toyota Highlander 2018 – 2019
- Toyota Avalon 2019
- Toyota Camry 2018 – 2019
- Toyota Corolla 2019
- Toyota Land Cruiser 2018 – 2019
- Toyota Sequoia 2018 – 2019
- Toyota Sienna 2018 – 2019
- Toyota Tacoma 2018 – 2019
- Toyota Tundra 2018 - 2019
- Lexus NS 2019
- Lexus RC 2018 – 2019
- Lexus ES 2019
- Lexus GS 2018 – 2019
- Lexus GX 2018 – 2019
- Lexus IS 2018 – 2019
- Lexus LC 2018 – 2019
- Lexus LS 2018 – 2019
- Lexus LX 2018 – 2019
- Lexus RX 2018 – 2019

The whole as appears more fully from a copy of the Part 573 Safety Recall Report for NHTSA Recall No. 20V-012 dated January 13, 2020, produced herein as **Exhibit P-21**;

67. The Toyota Safety Recall Report (Exhibit P-21) described the recall as follows:

(1) Although the involved vehicles are within the above production period, not all vehicles in this range were sold in the U.S.

(2) This recall applies to vehicles with specific fuel pumps produced by Denso in which an increased rate of fuel pump failure is observed.

Description of the Defect:	The subject vehicles are equipped with a low-pressure fuel pump, located in the fuel tank, that supplies fuel pressure to the fuel injection system. These fuel pumps contain an impeller that could deform due to excessive fuel absorption. Although the cause is unknown, if impeller deformation occurs, the impeller may interfere with the fuel

	pump body, and this could result in illumination of check engine and master warning indicators, rough engine running, engine no start and/or vehicle stall while driving at low speed. However, in rare instances, vehicle stall could occur while driving at higher speeds, increasing the risk of a crash.
Description of the Safety Risk:	Although the cause is unknown, if impeller deformation occurs, the impeller may interfere with the fuel pump body, and this could result in illumination of check engine and master warning indicators, rough engine running, engine no start and/or vehicle stall while driving at low speed. However, in rare instances, vehicle stall could occur while driving at higher speeds, increasing the risk of a crash.

68. Toyota America submitted the following chronology along with the recall:

> June 2019 – August 2019
> In early June 2019, Toyota observed an increase in field reports related to the low pressure fuel pumps produced by the supplier. These reports indicated that customers alleged rough engine running, engine no start, and/or loss of motive power while driving at low speed (less than 20 mph) and occurred more commonly in areas of the southern U.S. with hotter climates.
>
> In mid-June, Toyota began an investigation, including the recovery of failed parts from the field. The supplier began inspection and analysis of the recovered parts and identified impeller deformation inside the fuel pump assembly due to more fuel absorption into the impeller material, with signs of binding/interference between the pump impeller and the pump casing/cover. A further analysis of failed impellers was conducted and it was confirmed that the failed impellers had a lower density. Generally, impellers with lower density are more susceptible to fuel absorption.
>
> As part of ongoing parts analysis, an additional observation was made of cracking to the impeller surface. To understand the relationship between surface cracks and pump failure, Toyota began an investigation to identify factors potentially contributing to cracking.
>
> September 2019 – December 2019
> As part of the investigation, Toyota hypothesized that solvent used during the manufacturing process was a factor in fuel pump impeller cracking and began duplication testing. During the testing, cracks occurred on the surface of the impellers as the solvent dried over time. However, the duplication test could not match impeller crack that was observed in the parts recovered from the field.

> Toyota also conducted vehicle testing to understand potential failure modes of incidents identified in the field. Starting with a review of operation parameters to support duplication, recovered failed parts were installed in a Toyota fleet vehicle. After confirming that no DTC was initially present, the vehicle was parked for a period of time and then started; low fuel pressure was detected. Shortly thereafter, the check engine light and master warning were displayed. The vehicle was then driven until a rough running condition/loss of power became noticeable, and vehicle speed was gradually reduced until low speed engine stall occurred. The vehicle returned to normal operation immediately after restarting it.
>
> This evaluation suggested that this issue occurs at lower speeds, but Toyota continued to investigate whether this condition could lead to a loss of motive power at higher speeds. As part of this investigation, a manual review of available freeze frame data from all field incidents was done. Based on a detailed analysis of these data, three alleged cases were identified where loss of motive power occurred at higher speed (>20mph).
>
> <u>January 9, 2020</u>
> While continuing its investigation into the cause of impeller swelling, Toyota could not rule out the possibility of loss of motive power at higher speeds in the subject vehicles. Therefore, the decision was made to conduct a voluntary safety recall campaign.
>
> As of January 7, 2020, based on a diligent review of records, Toyota's best engineering judgment is that there are 66 Toyota Field Technical Reports and 2,571 warranty claims that have been received from U.S. sources that relate to the fuel pump failure investigated in this chronology and which were considered in the decision to submit this report.

The whole as appears more fully from a copy of the Defect Information Report for NHTSA Recall No. 20V-012 dated January 13, 2020, produced herein as **Exhibit P-22**;

69. In Canada, also on January 13, 2020, Transport Canada issued Recall # 2020-005 with respect to 46,733 Toyota vehicles and stated:

> "Issue:
> On certain vehicles, the low-pressure fuel pump could fail. If this happens, then engine may run rough or may not start and the check engine light may turn on. This could also result in a sudden loss of engine power while driving.
>
> Safety Risk:
> A sudden loss of engine power could increase the risk of a crash.
>
> Corrective Actions:

> The company will notify owners by mail and instruct you to take your vehicle to a dealer to replace the fuel pump."

The whole as appears more fully from a copy of Transport Canada issued Recall # 2020-005 dated March 4, 2020, produced herein as **Exhibit P-23**;

70. In Canada, on March 4, 2020, Transport Canada issued Recall # 2020-088 with respect to 111,835 Toyota vehicles stating the same details, the whole as appears more fully from a copy of Transport Canada issued Recall # 2020-088 dated March 4, 2020, produced herein as **Exhibit P-24**;

71. In the United States, on March 4, 2020, Toyota America amended its Part 573 Safety Recall Report (Exhibit P-21), which had originally recalled 695,541 Toyota vehicles, for a total of 1,817,969 Toyota vehicles. On March 19, 2020 Toyota America again amended its Part 573 Safety Recall Report, to a total of 1,830,752 Toyota vehicles. On April 9, 2020, yet again Toyota America amended due to a clerical error. The recalled Toyota vehicles included the following:

- Toyota Corolla 2018 - 2019
- Toyota Sienna 2017 - 2019
- Toyota Avalon 2018 - 2019
- Toyota 4Runner 2014 - 2015
- Toyota Sequoia 2018 - 2019
- Toyota FJ Cruiser 2014
- Toyota Land Cruiser 2014 - 2015
- Toyota Highlander 2018 - 2019
- Toyota Tacoma 2018 - 2019
- Toyota Tundra 2018 - 2019
- Toyota Camry 2018 - 2019
- Lexus IS300 2018 - 2019
- Lexus GS300 2018 - 2019
- Lexus GS350 2013 – 2015 & 2018 - 2019
- Lexus IS-F 2014
- Lexus IS200t 2017
- Lexus IS350 2014 – 2015 & 2018 - 2019
- Lexus LC500h 2018 - 2019
- Lexus LS460 2013 - 2015
- Lexus LS500h 2018 - 2019
- Lexus RC200t 2017
- Lexus RC350 2015, 2018 - 2019
- Lexus RX350 2017 - 2019
- Lexus RX350L 2018 - 2019
- Lexus ES350 2018 - 2019
- Lexus GX460 2014 - 2015
- Lexus LC500 2018 - 2019
- Lexus LS500 2018 - 2019

- Lexus LX570 2014 - 2015
- Lexus MX200t 2015
- Lexus RC300 2018 - 2019

The whole as appears more fully from a copy of the Part 573 Safety Recall Report for NHTSA Recall No. 20V-012, dated March 4, 2020, March 19, 2020, and April 9, 2020, produced herein *en liasse* as **Exhibit P-25**;

72. In the United States, on April 16, 2020, Subaru of America, Inc. (the U.S. counterpart to Subaru) submitted a Part 573 Safety Recall Report to NHTSA recalling 188,207 Subaru vehicles that included the following:

- Subaru Impreza Stationwagon 2019
- Subaru Impreza 4Door 2019
- Subaru Outback 2019
- Subaru Legacy 2019
- Subaru Ascent 2019

The whole as appears more fully from a copy of the Part 573 Safety Recall Report for NHTSA Recall No. 20V-218 dated April 16, 2020, produced herein as **Exhibit P-26**;

73. The Subaru Safety Recall Report (Exhibit P-26) described the recall as follows:

Description of the Defect:	The affected vehicles may be equipped with a low pressure fuel pump produced during a specific timeframe that may include an impeller which has been manufactured with a lower density. If the surface of the lower density impeller is exposed to solvent drying for longer periods of time, it may develop fine cracks. These cracks may lead to excessive fuel absorption, resulting in impeller deformation. Over time, the impeller may become deformed enough to interfere with the body of the fuel pump, potentially causing the low pressure fuel pump to become inoperative.
Description of the Safety Risk:	If the low pressure fuel pump becomes inoperative, the check engine warning light or malfunction indicator light may illuminate, and/or the engine may run rough. In the worst case, an inoperative fuel pump may result in the engine stalling without the ability to restart the vehicle, increasing the risk of a crash.
Description of the Cause:	Certain impeller production lots may have a lower impeller density. If the surface of the lower density impeller is exposed to solvent drying for longer periods of time, it may develop fine cracks. Low

	pressure fuel pumps manufactured between April 2018 and July 2018 may have an impeller produced under both conditions, lower density and exposure to solvent drying for longer periods of time.

74. Subaru America submitted the following chronology (Exhibit P-26):

    July 2019 – January 2020 – Subaru received 32 field reports of which 24 indicated an engine no-start condition only. The remaining 8 reports indicated an engine loss of power either immediately after start or while driving at low speeds.

    January 2020 – March 2020 – In January 2020, Subaru received a Technical Report from a foreign market alleging an engine loss of power while operating at highway speeds. Subaru collected the parts for additional inspection. From the part investigation, Subaru found that the impeller was deformed and was likely the cause of the loss of power.

    April 9, 2020 – Subaru has identified, using best engineering judgement, 33 unique dealer and non-dealer field reports, 245 warranty claims indicating fuel pump replacement (excluding abnormal noise claims), and 1 VOQ. Subaru is not aware of any crashes or injuries that have occurred as a result of this condition. Although most cases appear to result in an inability to start the engine, out of an abundance of caution, Subaru decided to conduct a voluntary safety recall.

75. In Canada, also on April 16, 2020, Transport Canada issued Recall # 2020-162 with respect to 13,744 Subaru vehicles and stated:

    > "Issue: On certain vehicles, the low-pressure fuel pump could fail. If this happens, then engine may run rough or may not start and the check engine light may turn on. This could also result in a sudden loss of engine power while driving. Safety Risk: A sudden loss of engine power could increase the risk of a crash. Corrective Actions: Subaru will notify owners by mail and instruct you to take your vehicle to a dealer to replace the fuel pump."

    The whole as appears more fully from a copy of the Transport Canada Recall # 2020-162 dated April 16, 2020, produced herein as **Exhibit P-27**;

76. In the United States, on April 27, 2020, Defendant DENSO International submitted a Part 573 Safety Recall Report to the NHTSA recalling 2,020,000 vehicles that were equipped with its low pressure fuel pumps that had been manufactured between September 1, 2017 and October 6, 2018. The description of the defect, safety risk and cause were as follows:

Description of the Defect:	An impeller in some low pressure fuel pumps may become deformed under certain conditions which could render the fuel pump inoperable.

Description of the Safety Risk:	If an impeller deforms to a point that creates sufficient interference with the fuel pump body, the fuel pump becomes inoperative. According to vehicle manufacturer's system evaluation, an inoperative fuel pump may result in the illumination of the check engine light and/or master warning indicators, rough engine running, engine no start and/or vehicle stall while driving at low speed and, in rare instances, a vehicle stall could occur while driving at higher speeds, increasing the risk of a crash.
Description of the Cause:	Under current knowledge, <u>if an impeller is manufactured with a lower density, and contains a lower surface strength or is exposed to production solvent drying for a longer period of time</u>, higher levels of surface cracking may occur which, when excessive fuel absorption occurs, may result in impeller deformation. Geographic location and vehicle applications influence the potential for deformation resulting in fuel pump inoperability.
Description of the Remedy Program:	The remedy program, if any, will be determined by vehicle manufacturers.
How Remedy Component Differs from Recalled Component:	<u>The impeller of fuel pumps utilized for a remedy component have higher density</u>.

The whole as appears more fully from a copy of the Part 573 Safety Recall Report for NHTSA Recall No. 20E-026 dated April 27, 2020, from a copy of the "Original Chronology" dated April 24, 2022, and from a copy of the List of Parts Numbers submitted, produced herein *en liasse* as **Exhibit P-28**;

77. In the United States, on May 28, 2020, a month after the DENSO recall, Honda America submitted a Part 573 Safety Recall Report to the NHTSA recalling 136,057 vehicles that included the following:

- Acura NSX 2018 - 2019
- Acura RDX 2019
- Acura RLX 2019
- Acura RLX Sport Hybrid 2019
- Honda Accord 2018 - 2019
- Honda Civic Hatchback 2018 – 2019
- Honda Civic Type R 2018 – 2019
- Honda Fit 2019
- Honda HR-V 2018 – 2019
- Honda Insight 2019 – 2020

The whole as appears more fully from a copy of the Part 573 Safety Recall Report for NHTSA Recall No. 20V-314 dated May 28, 2020, produced herein as **Exhibit P-29**;

78. The Honda Safety Recall Report (Exhibit P-29) described the recall as follows:

Description of the Defect:	Affected vehicles may be equipped with a fuel pump module manufactured with low density impellers. If the surface of the lower density impeller is exposed to production solvent drying for longer periods of time, higher levels of surface cracking may occur. These cracks may lead to excessive fuel absorption, resulting in impeller deformation. Over time, if an impeller deforms to a point that creates sufficient interference with the fuel pump body, the fuel pump becomes inoperative, which may cause illumination of the Malfunction Indicator Lamp in the instrument panel.
Description of the Safety Risk:	Fuel pump inoperability could prevent an engine from starting or stall an engine while driving, increasing the risk of a crash.

79. Honda America submitted the following chronology (Exhibit P-29):

> February – May 2019
> Honda received the first report of fuel pump module failure from the Indian market and an investigation was launched. After supplier analysis of failed parts returned from the field, it was confirmed that impeller swelling resulted in fuel pump module failure.
>
> June – October 2019
> The investigation was elevated to the global Honda quality group for further handling. Honda hypothesized the impeller swelling was related to part toughness and investigated impeller density and clearance between the impeller and fuel pump wall. Re-creation testing confirmed the primary contributor to impeller swelling was the development of surface cracks on low density impellers exposed to production solvent drying for longer periods of time.
>
> March 2020
> Review of warranty data confirmed that vehicles equipped with fuel pump modules in transit for a longer period prior to vehicle assembly exhibited increased failure rates.
>
> April 2020

> Honda investigated the scope of vehicles installed with suspect fuel pump modules containing lower density impellers exposed to production solvent drying for longer periods of time.
>
> May 21, 2020
> Honda determined that a defect related to motor vehicle safety existed and decided to conduct a safety recall.
>
> As of May 21, 2020, Honda has received 183 warranty claims, 68 field reports, and no reports of injuries or crashes related to this issue.

80. At the time, Honda claimed to have accurately identified the total population of defective vehicles equipped with the defective fuel pumps (Exhibit P-29):

> The recall population was determined based on manufacturing records and supplier part production records. The manufacturing range reflects all possible vehicles that could potentially experience the problem. Vehicles being recalled are equipped with fuel pump modules containing impellers produced during specific periods under specific circumstances (lower density impellers exposed to production solvent drying for longer periods of time). Similar vehicles not included in the recall are equipped with fuel pump modules that were not subject to the above conditions.

81. In Canada, also on May 28, 2020, Transport Canada issued Recall # 2020-236 with respect to 10,456 Honda vehicles and stated:

> "Issue: On certain vehicles, the low-pressure fuel pump could fail. If this happens, then engine may run rough or may not start and the check engine light may turn on. This could also result in a sudden loss of engine power while driving. Safety Risk: A sudden loss of engine power could increase the risk of a crash. Corrective Actions: The company will notify owners by mail and instruct you to take your vehicle to a dealer to replace the fuel pump motor."

The whole as appears more fully from a copy of the Transport Canada Recall # 2020-236 dated May 28, 2020, produced herein as **Exhibit P-30**;

82. In the United States, on June 11, 2020, DENSO International expanded its Part 573 Safety Recall Report (Exhibit P-28), which had originally recalled 2,020,000 fuel pumps, to add an additional 136,057 parts, for a total of 2,156,057 fuel pumps. In addition, DENSO International amended its List of Part Numbers to include Honda vehicles, the whole as appears more fully from a copy of the Part 573 Safety Recall Report for NHTSA Recall No. 20E-026, dated June 11, 2020, from a copy of the Amended List of Part Numbers, and from a copy of the Amended Defect Information Report (20E-026) dated June 9, 2020, produced herein *en liasse* as **Exhibit P-31**;

83. Despite admitting responsibility for the Design Defect, and that it poses a risk to consumer safety, DENSO failed to take any corrective action itself saying that "The

remedy program, if any, will be determined by vehicle manufacturers" (Exhibits P-28 and P-31). As we will see in the following section at paras. 107 and following, the Vehicle Manufacturer Defendants' recall remedies were not uniform with Honda replacing only the fuel pump motor, and Toyota and Subaru replacing only the fuel pump itself, which all require a sensitive procedure with potential for damage within the module;

84. On June 23, 2020, Honda America amended its Part 573 Safety Recall Report (Exhibit P-29) narrowing the number of recalled vehicles from 136,057 to 135,995. On June 24, 2020, Honda identified July 22, 2020 as the date on which it intends to notify consumers about the Fuel Pump Defect, the whole as appears more fully from copies of the Part 573 Safety Recall Reports for NHTSA Recall No. 20V-314 dated June 23, 2020, June 24, 2020, July 13, 2020, August 14, 2020, and September 30, 2020, produced herein *en liasse* as **Exhibit P-32**;

85. On October 28, 2020, Transport Canada issued Recall # 2020-514, expanding recalls 2020-005 (Exhibit P-23) and 2020-088 (Exhibit P-24) with respect to 126,597 Toyota vehicles, the whole as appears more fully from a copy of the Transport Canada Recall # 2020-514 dated October 28, 2020, produced herein as **Exhibit P-33**;

86. On November 4, 2020, Toyota America amended its Part 573 Safety Recall Report (Exhibits P-21 and P-25), relating to a total of 1,517,721 Toyota vehicles, the whole as appears more fully from a copy of the Part 573 Safety Recall Report for NHTSA Recall No. 20V-682 dated November 4, 2020, produced herein as **Exhibit P-34**;

87. In the United States, on November 17, 2020, almost 17 months after DENSO International's initial recall, it again expanded its recall of the defective fuel pumps, nearly doubling the months of production and the number of admittedly defective low pressure fuel pumps. In this expansion, fuel pumps manufactured as early as June 26, 2017 and as late as June 28, 2019 were now included in the recall, and 1,517,721 additional pumps were admitted to be defective for a total of 3.53 million potentially affected vehicles, the whole as appears more fully from a copy of the Part 573 Safety Recall Report for NHTSA Recall No. 20E-085 dated November 17, 2020, produced herein as **Exhibit P-35**;

88. In the November 17, 2020 recall (Exhibit P-35), DENSO International concluded the following:

> Additional analysis was conducted regarding the density of impellers manufactured during various periods. Because the impeller material contains three elements (resin, glass fiber, and calcium carbonate), but only one element (resin) is susceptible to swelling, only resin density was examined for this analysis. Resin density was found to more closely correlate with the occurrence of field cases than overall impeller density. The resin density findings indicated additional material lots which could contribute to the occurrence of the condition in combination with other factors. In addition, the surface strength of impellers manufactured during various periods was examined with additional variables considered. This

> analysis demonstrated that a lower minimum surface strength than previously estimated could be possible. The new resin density and surface strength information can be correlated by vehicle manufacturers with warranty data, production timing data, vehicle specific variables, and other information to determine which vehicles, if any, may be susceptible to the condition;

89. On March 25, 2021, Honda America amended its Part 573 Safety Recall Report (Exhibit P-29) increasing the number of recalled vehicles from 135,995 to 628,124. Honda America now claims to have accurately identified the total population of vehicles equipped with the defective fuel pumps:

> The recall population was determined based on manufacturing records and supplier part production records. The manufacturing range reflects all possible vehicles that could potentially experience the problem. Vehicles being recalled are equipped with fuel pump modules containing impellers produced during specific periods under specific circumstances (lower density impellers exposed to production solvent drying for longer periods of time). Similar vehicles not included in the recall are equipped with fuel pump modules that were not subject to the above conditions.

However, Honda's various recalls fail to include all Honda-manufactured vehicles equipped with the same defective fuel pump with part number prefix 17045, the whole as appears more fully from a copy of the Defect Information Report and the Part 573 Safety Recall Report for NHTSA Recall No. 21V-215 dated March 25, 2021, produced herein *en liasse* as **Exhibit P-36**;

90. On March 26, 2021, Transport Canada issued Recall # 2021-182, expanding recall 2020-236 (Exhibit P-30) with respect to an additional 80,176 Honda vehicles, the whole as appears more fully from a copy of the Transport Canada Recall # 2021-182 dated March 26, 2021, produced herein as **Exhibit P-37**;

91. On April 8, 2021, Honda America amended its Part 573 Safety Recall Reports (Exhibit P-29 and Exhibit P-36) decreasing the number of recalled vehicles from 628,124 to 624,552, the whole as appears more fully from a copy of the Part 573 Safety Recall Report for NHTSA Recall No. 21V-215 dated April 8, 2021, produced herein as **Exhibit P-38**;

92. On April 20, 2021, DENSO International amended its recall (20E-085) (Exhibit P-35) to include more Subject Vehicles, with the number of potentially involved amounting to 2,153,866, the whole as appears more fully from a copy of the Amended Defect Information Report dated April 20, 2021 and from a copy of an accompanying document dated April 20, 2021, produced herein *en liasse* as **Exhibit P-39**;

93. In the United States, on July 15, 2021, Toyota America issued two "Special Service Campaigns" (Remedy Notice) to (i) all Lexus dealer principals, general managers, service managers, parts managers and warranty administrators, regarding 41,956 additional Lexus Subject Vehicles and to (ii) all Toyota dealer principals, general

managers, service managers, and parts managers, regarding 130,100 Toyota Subject Vehicles, the whole as appears more fully from a copy of Toyota's Special Service Campaign 21LC01 dated July 15, 2021, produced herein as **Exhibit P-40**;

94. In the United States, on July 29, 2021, Subaru America submitted a Part 573 Safety Recall Report to the NHTSA recalling 165,026 vehicles that included the following:

- Subaru Ascent 2019-2020
- Subaru BRZ 2018-2019
- Subaru Forester 2018
- Subaru Impreza 2018-2020
- Subaru Legacy 2018-2020
- Subaru Outback 2018-2020
- Subaru WRX 2018-2019
- Toyota 86 2018-2019

The recall was amended twice, on August 10, 2021 and again on August 25, 2021 to add more Subaru Vehicles to the recall, which then totalled 175,968, the whole as appears more fully from a copy of the Part 573 Safety Recall Report for NHTSA Recall No. 21V-587 dated July 29, 2021, from a copy of the associated Chronology of Defect/ Noncompliance Determination, and from copies of the amendments to the Part 573 Safety Recall Report for NHTSA Recall No. 21V-617 dated August 10 and 25, 2021, produced herein *en liasse* as **Exhibit P-41**;

95. On July 29, 2021, Transport Canada issued Recall # 2021-465, with respect to 232 Toyota 86 vehicles, the whole as appears more fully from a copy of the Transport Canada Recall # 2021-465 dated July 29, 2021 and from a copy of the correspondence from Toyota to Transport Canada dated July 29, 2021, produced herein *en liasse* as **Exhibit P-42**;

96. In its letter to Transport Canada (Exhibit P-42), Toyota explains the Design Defect as follows:

> "According to Subaru, the affected vehicles may be equipped with a low pressure fuel pump produced during a specific timeframe that may include an impeller which has been manufactured with a lower density. In these vehicles, the functionality of the fuel pump controller (FPC) combined with a lower density impeller may lower the resistance to interference between the impeller and the body of the fuel pump, potentially causing the low pressure fuel pump to become inoperative. If the low pressure fuel pump becomes inoperative, the check engine warning light or malfunction indicator light may illuminate, and/or the engine may run rough. In the worst case, an inoperative fuel pump may result in the engine stalling without the ability to restart the vehicle, increasing the risk of a crash.

97. On July 29, 2021, Transport Canada issued Recall # 2021-466, with respect to 13,717 Subaru vehicles, the whole as appears more fully from a copy of the Transport Canada Recall # 2021-466 dated July 29, 2021 and from a copy of the

correspondence from Subaru to Transport Canada dated July 29, 2021, produced herein as **Exhibit P-43**;

98. In its letter to Transport Canada (Exhibit P-43), Subaru explains the Design Defect as follows:

- For some vehicles, if the surface of the lower density impeller is exposed to solvent drying for longer periods of time, it may develop fine cracks. These cracks may lead to excessive fuel absorption, resulting in impeller deformation. Over time, the impeller may become deformed enough to interfere with the body of the fuel pump, potentially causing the low-pressure fuel pump to become inoperative.

- For some other vehicles, even if the surface of the lower density impeller is not exposed to solvent drying for longer periods of time, functionality of the Fuel Pump Controller (FPC) combined with a lower density impeller may lower the resistance to interference between the impeller and the body of the fuel pump, potentially causing the low-pressure fuel pump to become inoperative.

99. In the United States, on August 6, 2021, Toyota America submitted a Part 573 Safety Recall Report to the NHTSA recalling 31,307 vehicles that included the following:

- Toyota Yaris (Hatchback, Sedan, R) 2019-2020

On September 27, 2021, Toyota America amended its Part 573 Safety Recall Report to comply with the NHTSA manufacturer portal requirement of having a numerical value entered for the field of “Estimated percentage with defect”, the whole as appears more fully from a copy of the Part 573 Safety Recall Report for NHTSA Recall No. 21V-617 dated August 6, 2021, from a copy of the Defect Information Report dated August 6, 2021, and from a copy of the amendment to the Part 573 Safety Recall Report for NHTSA Recall No. 21V-617 dated September 27, 2021, produced herein *en liasse* as **Exhibit P-44**;

100. On August 6, 2021, Transport Canada issued Recall # 2021-491, with respect to 881 Toyota Yaris vehicles, the whole as appears more fully from a copy of the Transport Canada Recall # 2021-491 dated August 6, 2021, produced herein as **Exhibit P-45**;

101. Even the large number of vehicles that were the subject of a recall in Canada does not capture all Subject Vehicles. It does not include all of the Toyota, Lexus, Honda, Acura, and Subaru vehicles that were equipped with defective Denso low-pressure fuel pumps and fuel pump assemblies, the single common part in every model that the Vehicle Manufacturer Defendants have recalled for the admitted fuel delivery system defect;

102. The Toyota Subject Vehicles that were recalled in Canada still do not even match the Subject Vehicles as can be seen from the below chart (the discrepancies are the coloured boxes):

Make	Model	Subject Vehicle Year(s)	Recalled Subject Vehicles
Toyota	4Runner	2014 - 2019	2014 - 2019
Toyota	86	2018 - 2019	2018 - 2019
Toyota	Avalon	2017 - 2020	2019 - 2020
Toyota	Avalon Hybrid	2019 - 2020	None
Toyota	Camry	2018 - 2020	2018 - 2020
Toyota	Camry Hybrid	2018 - 2020	None
Toyota	Corolla	2018 - 2020	2018 - 2020
Toyota	Corolla Hatchback	2018 - 2020	2019
Toyota	FJ Cruiser	2014	2014
Toyota	Highlander	2017 - 2019	2017 - 2019
Toyota	Highlander Hybrid	2017 - 2019	None
Toyota	Land Cruiser	2014 - 2019	None
Toyota	RAV4	2018 - 2020	2019 - 2020
Toyota	RAV4 Hybrid	2019 - 2020	None
Toyota	Sequoia	2017 - 2020	2018 - 2019
Toyota	Sienna	2017 - 2020	2017 - 2020
Toyota	Tacoma	2017 - 2020	2017 - 2020
Toyota	Tundra	2017 - 2020	2018 - 2019
Toyota	Yaris	2019 – 2020	2019 - 2020
Lexus	ES300h	2019 - 2020	None
Lexus	ES350	2017 - 2020	2018 - 2019
Lexus	GS200t	2017	None
Lexus	GS300	2018 - 2019	None
Lexus	GS350	2013 - 2019	2013 - 2015 & 2017 - 2019
Lexus	GS450h	2014 – 2015 & 2018	None
Lexus	GX460	2014 – 2019	2014 – 2019
Lexus	IS-F	2014	2014
Lexus	IS200t	2017	2017
Lexus	IS300	2017 – 2019	2017 – 2019
Lexus	IS350	2014-2016 & 2018 - 2019	2014-2015 & 2018 - 2019
Lexus	LC500	2018 - 2020	2018 - 2020
Lexus	LC500h (Hybrid)	2018 - 2020	2018 - 2019
Lexus	LS460	2013 - 2015	2014 - 2015
Lexus	LS500	2018 - 2019	2018 - 2019
Lexus	LS500h (Hybrid)	2018 - 2020	2018
Lexus	LS600h	2013 - 2015	None

Lexus	LX570	2014 - 2019	2014 - 2019
Lexus	NX200t	2015 - 2019	2015
Lexus	NX300	2015 - 2019	2018-2019
Lexus	RC200t	2017	None
Lexus	RC300	2018 - 2019	2018 - 2019
Lexus	RC350	2015 - 2019	2015, 2018 - 2019
Lexus	RX350	2017 - 2020	2017 - 2020
Lexus	RX350L	2018 - 2020	None
Lexus	RX450h	2017 - 2020	None
Lexus	RX450hL	2018 - 2020	None
Lexus	UX200	2019	2019

103. The Honda Subject Vehicles that were recalled in Canada still do not match the Subject Vehicles as can be seen from the below chart (the discrepancies are the coloured boxes):

Make	Model	Subject Vehicle Year(s)	Recalled Subject Vehicles
Acura	ILX	2019	2019
Acura	MDX	2016 - 2020	2019 - 2020
Acura	NSX	2018 - 2019	2018 - 2019
Acura	RDX	2019 - 2020	2019 - 2020
Acura	RLS	2019	None
Acura	RLX	2019	2019
Acura	RLX Sport Hybrid	2019	None
Acura	TLX	2015 - 2020	2019 - 2020
Honda	Accord	2015 - 2019	2018 - 2019
Honda	Civic Hatchback	2018 - 2020	2018 - 2020
Honda	Civic Type R	2018 - 2020	2018 - 2020
Honda	CR-V	2019	2019
Honda	Fit	2019	2019
Honda	HR-V	2018 - 2019	2018 - 2019
Honda	Insight	2019 - 2020	2019 - 2020
Honda	Odyssey	2019	2019
Honda	Passport	2019	2019
Honda	Pilot	2019	2019
Honda	Ridgeline	2019	2019

104. The Subaru Subject Vehicles that were recalled in Canada still do not match the Subject Vehicles as can be seen from the below chart (the discrepancies are the coloured boxes):

Make	Model	Subject Vehicle Year(s)	Recalled Subject Vehicles
Subaru	Ascent	2019 - 2020	2019

Subaru	BRZ	2018 - 2019	2018 - 2019
Subaru	Forester	2018	2018
Subaru	Impreza	2018 - 2020	2019
Subaru	WRX	2018 - 2019	2018 - 2019
Subaru	Legacy	2018 - 2020	2018 - 2020
Subaru	Outback	2018 - 2020	2018 - 2020

105. Given that the defective DENSO fuel pumps can be easily identified by the Vehicle Manufacturer Defendants by their respective part number prefixes, there is no logical reason why the various recalls should not have been complete from the beginning; if a vehicle contains a defective DENSO fuel pump, it is potentially dangerous and must be recalled and properly repaired;

106. Further and, despite the recalls, many Class Members have not received notices yet and are left to wonder whether and when there will be a repair or replacement of the defective fuel pump. In the meantime, Class Members have not been advised to stop driving the Subject Vehicles pending repair or replacement of the Design Defect even though the Vehicle Manufacturer Defendants know that it could cause high-speed stalls and other dangerous conditions;

E. <u>The Inadequacy of the Recalls and the Recall Remedies</u>

107. Instead of following the industry standard, which would be to replace the entire fuel pump module, Honda directed technicians to replace only the fuel pump *motor*, which is part of the module and which is a very difficult and delicate procedure requiring the technician to disassemble the fuel pump module, remove the motor, replace the old motor with a new one, and then reassemble the fuel pump module. This process involves bending tabs and clips, which in turn invite hairline cracks, breakage and incomplete catching of the tabs and clips that hold the fuel pump module together. These common and likely labour errors create seal failure and resultant fuel leaks and/or fuel pressure loss due to cavitation[4] or recycling of fuel;

108. This process has a high risk of damaging the entire fuel pump module, which can result in gas leaking out of the fuel tank, creating hazardous conditions, and cause additional damage;

109. Honda acknowledged the potential for the component damage as a result of the recall. For example, Honda warned technicians against overextending the clamps as it "may damage them," and to "[t]ake care not to damage the O-ring seat section," and to "not pinch the O-ring during installation". The repair procedure that Honda proposes is highly complicated, the whole as appears more fully from a copy of the Honda Service Bulletin 20-052 dated October 13, 2020 and from a copy of the Honda

[4] Cavitation is a phenomenon in which rapid changes of pressure in a liquid lead to the formation of small vapor-filled cavities in places where the pressure is relatively low. When subjected to higher pressure, these cavities, called "bubbles" or "voids", collapse and can generate a shock wave that strong enough to damage component parts.

Service Bulletin A-8-20 dated July 9, 2020, produced herein *en liasse* as **Exhibit P-46**;

110. Toyota directed technicians to replace only the fuel pump and not the module, similarly requiring a sensitive procedure and the removal of plastic ring retainers to which Toyota also acknowledges the potential for damage, for example, it warns technicians to "cut the 4 internal claws to prevent the Fuel Tube assembly from rotating during removal. This could cause damage to the fuel level sender, fuel tank, or fuel tube assembly", the whole as appears more fully from a copy of the Toyota Technical Instructions for Safety Recall 20TA02, produced herein as **Exhibit P-47**;

111. In particular, Toyota acknowledges that Corolla models experience breakage of the fuel tube assembly during disassembly from "adhesion, or "sticking", of the Retainer Ring and the Fuel Tube Assembly…" (Exhibit P-47);

112. Subaru's repair also consists of replacing the fuel pump and not the module and acknowledges the potential for damage from the repair. For example, it warns technicians that "[w]hile tightening the ring nut, make sure the fuel pump does not rotate with the ring nut otherwise, the fuel level sensor and the jet pump fuel tube may become damaged", the whole as appears more fully from a copy of the Subaru Product Campaign Bulletin revised April 29, 2020, produced herein as **Exhibit P-48**;

113. Despite the Vehicle Manufacturer Defendants' knowledge of the risk of component damage, they failed to replace the fuel pump module and, at the very least, to adequately train technicians on methods to prevent damage, instead providing only basic replacement instructions;

114. Outside of the recall, customers who bring their vehicles in for fuel pump repair typically receive a new fuel pump module – recycling of original fuel pump module parts does not occur outside of the recall;

115. DENSO sells its fuel pumps to automobile manufacturers, including the Vehicle Manufacturer Defendants, as part of a fuel pump module and not on its own. In a seeming effort to save costs, DENSO and the Vehicle Manufacturer Defendants elected to replace either only the defective fuel pump or the fuel pump motor inside the module (Toyota and Subaru replacing the fuel pump and Honda replacing the fuel pump motor);

116. The Vehicle Manufacturer Defendants and DENSO (their arrangement as to apportionment of repair/replacement costs is unknown) both decided to implement an insufficient remedy to avoid the costs of replacing entire fuel pump modules, which would clearly be more expensive. Thus, DENSO and the Vehicle Manufacturer Defendants are both liable for the potential hazards it presents;

117. The inadequacy of the recall repair is demonstrated by the multiple complaints filed with NHTSA after the recall regarding, *inter alia*, not having been informed/aware of the recall, lack of a recall remedy, no brake/steering power, inability to obtain the recall remedy, necessity of being towed, not falling under the

recall notice, but experiencing the defect, consistent stalling, loss of acceleration, lack of safety, engine stall, delayed notification of recall, lack of replacement parts, gas leaks, vehicle jerking, loss of power, limp mode, check engine warning light, failure to accelerate, contaminated fuel, parking and check engine warning lights illuminating, the whole as appears more fully from copies of the associated NHTSA complaints, produced herein *en liasse* as **Exhibit P-49**;

118. Further and, as mentioned elsewhere herein, the various recalls are inadequate as evidenced by: (i) the untimeliness of the recalls, taking many months despite the safety issues associated with the Fuel Pump Defect, (ii) the insufficient breadth, in still today not having identifying ALL Subject Vehicles equipped with the defective fuel pumps (to which can easily be identified from their manufacturing part number), the multiplicity of the recalls, which should have necessitated only one, and the fact that DENSO has identified more years than the Vehicle Manufacturer Defendants have included in their respective recalls, (iii) the recall remedies themselves, to which are all inadequate and inconsistent and can cause further safety issues, (iv) the Defendants' failure to warn customers to not drive their Subject Vehicles or offer them free loaners until their Subject Vehicles are properly repaired, (v) the Defendants not offering a free follow up inspection of fuel pump performance, and (vi) no extended warranty being offered for the part;

119. Particularly troublesome, was Honda's attribution of the manifestations of the Fuel Pump Defect in its first U.S. recall on low-quality fuels and high temperatures. It was not until May 2020 that it admitted that there was a defective fuel pump, issuing its first Canadian recall only on May 28, 2020 (Exhibit P-30);

120. While Honda was dragging its feet, both Toyota and Subaru identified the root cause and issued recalls, in January 2020 (Toyota, Exhibits P-21 and P-23) and in April 2020 (Subaru, Exhibits P-26 and P-27);

121. Further and, as relates to Honda, it has limited its recall to only those vehicles with impellers potentially affected by excessive exposure to solvent, when DENSO itself identified two possible causes of the Design Defect were identified by DENSO: a low-density impeller with either (1) lower surface strength or (2) overexposure to production solvent for a longer period of time (Exhibit P-28) and therefore, there are potentially hundreds of thousands of Honda Subject Vehicles still on the road with defective fuel pumps. Honda has inexplicably limited its recall to only those vehicles whose fuel pump impellers were exposed to solvent for an excessive amount of time;

122. Interestingly, a new and yet unheard-of variable was introduced by Toyota and Subaru on July 29, 2021 to explain the Design Defect when Toyota and Subaru initiated the newest recall, i.e. the same substandard plastic and (3) the "Fuel Pump Controller (FPC)" (Exhibits P-42 and P-43);

123. As relates to all Defendants, the root cause of the Design Defect is the defectively designed plastic impeller in the fuel pumps and therefore, there are tens of thousands of Subject Vehicles, yet to be identified, that are still being driven on the road, unknowingly;

F. The Defendants' Prior Knowledge of the Design Defect

124. The Defendants knew, or should have known, or were reckless in not knowing about the Fuel Pump Defect and either concealed or failed to disclose the defect;

125. As early as 2015, DENSO had recognized that the low-pressure fuel pumps that it supplied to the Vehicle Manufacturer Defendants were prone to failure. In a patent application filed in 2016, Denso admitted that the composite (plastic) impellers in their low-pressure fuel pumps "may be swelled due to the fuel and water contained in the fuel, therefore a rotation of the impeller may be stopped when the impeller is swelled and comes in contact with the [fuel pump] housing." The defect described by the patent application is virtually the same as the Fuel Pump Defect at the heart of this case. DENSO was seeking to improve the durability and absorption qualities of the defective fuel pump impeller, but yet, failed to disclose the defect, the whole as appears more fully from a copy of DENSO's U.S. Patent documents for "IMPELLER FOR FUEL PUMP", produced herein as **Exhibit P-50**;

126. DENSO's knowledge of the Fuel Pump Defect reasonably predates the filing of the patent (Exhibit P-50) because it must have discovered the need for improved impeller material well beforehand. Specifically, DENSO must have learned of the Fuel Pump Defect since the original design, engineering, testing, and validation of the fuel pump and impeller, but at the very least, from continued product improvement, testing, and validation;

127. Toyota admitted knowing about the Fuel Pump Defect as early as June 2019, when it "observed an increase in field reports related to the low pressure fuel pumps produced by the supplier" (Exhibit P-22). It launched an investigation and "identified impeller deformation inside the fuel pump assembly due to more fuel absorption into the impeller material, with signs of binding/interference between the pump impeller and the pump casing/cover. A further analysis of failed impellers was conducted and it was confirmed that the failed impellers had a lower density. Generally, impellers with lower density are more susceptible to fuel absorption";

128. Subaru admitted knowing about the Fuel Pump Defect as early as July 2019 when it began receiving field reports of "an engine no-start condition". It launched an investigation "that the impeller was deformed and was likely the cause of the loss of power" (Exhibit P-26);

129. Honda admitted knowing about the Fuel Pump Defect as early as February 2019, when it first "received the first report of fuel pump module failure from the Indian market" (Exhibit P-29). Thereafter, Honda launched an investigation, which was elevated to the global Honda quality group between June and October 2019. Honda "hypothesized the impeller swelling was related to part toughness and investigated impeller density and clearance between the impeller and fuel pump wall. Re-creation testing confirmed the primary contributor to impeller swelling was the development of surface cracks on low density impellers exposed to production solvent drying for longer periods of time" (Exhibit P-29);

130. Despite involvement in investigations and knowledge of the Fuel Pump Design Defect, the Defendants have refused to recall all vehicles containing the Fuel Pump Design Defect and have improperly narrowed the scope of the affected vehicles in order to save costs and to avoid negative publicity;

131. Despite knowledge of the Fuel Pump Design Defect, DENSO has continued to manufacture and sell the defective fuel pumps, which has placed numerous persons at risk of injury and death. In addition, the Vehicle Manufacturer Defendants have continued to equip the Subject Vehicles with fuel pump systems containing the Design Defect and to sell, lease, and warrant the Subject Vehicles, without disclosing the Design Defect and its corresponding safety risks to Class Members;

132. The DENSO Defendants knew or should have known about the Fuel Pump Defect long before the recalls and certainly before filing its patent application in 2016 to improve its impeller material (Exhibit P-50);

133. The Vehicle Manufacturer Defendants knew or should have known about the Fuel Pump Defect since the pre-release process of designing, manufacturing, engineering, and testing of the Subject Vehicles and nonetheless failed to act and installed the defective fuel pumps into the Subject Vehicles that were subsequently sold and leased to Class Members;

G. Consumer Complaints

134. Subject Vehicle owners in the U.S. have been submitting complaints to NHTSA describing distressing traffic events and dangerous situations going back many years. Below is a small sampling of such complaints:

(a) On August 1, 2013, a 2013 Honda Accord owner reported to NHTSA as follows:

> THERE IS A HESITATION/JERK/SHUDDER WHEN ACCELERATING AT VARIOUS SPEEDS. *TR

(b) On February 4, 2014, a 2013 Honda Accord owner reported to NHTSA as follows:

> SINCE I FIRST PURCHASED MY 2013 HONDA ACCORD, THE HONDA HAS INTERMITTENT HESITATIONS AFTER STOPPING AT TRAFFIC LIGHTS, STOP SIGNS, PARKING AND SO FORTH. FOR INSTANCE, FOR THE SECOND TIME IN THE LAST FIVE DAYS, I STOPPED, WENT INTO A STORE, RETURNED, CRANKED HONDA ACCORD, BACKED OUT, AND THE CAR WOULD NOT “GO.”

(c) On June 22, 2014, a 2014 Acura MDX owner reported to NHTSA as follows:

> WHILE TRYING TO ACCELERATE DURING A LEFT TURN, THE ENGINE COMPLETELY LOST POWER AND THE ACCELERATOR WOULD NOT WORK. ALL ENGINE WARNING LIGHTS CAME ON. WE NEARLY AVOIDED AN ACCIDENT BY COASTING INTO THE

> CENTER LANE. I HAD TO TURN OFF THE CAR AND RESTART IN ORDER TO GAIN THE ABILITY TO ACCELERATE AGAIN, BUT ALL THE WARNING LIGHTS REMAINED ON. DROVE IT TO THE DEALER, BUT THEY HAVE YET TO BE ABLE TO DETERMINE WHAT THE PROBLEM IS. THIS IS THE 3RD TIME THIS HAS HAPPENED - ALL DURING THE FIRST 5 MINUTES OF DRIVING DURING THE MORNING. THE LAST INCIDENT COULD HAVE RESULTED IN A SERIOUS CRASH. *TR

(d) On November 28, 2014, a 2014 Honda CR-V owner reported to NHTSA as follows:

> CAR HESITATES RANDOMLY FROM DEAD STOP. STARTS OFF AT ABOUT 2 MPH AND DOES NOT ACCELERATE UNTIL 5 TO 10 SECONDS EVEN THOUGH YOU ARE PRESSING ON GAS PEDAL. HONDA HAS NO EXPLANATION FOR THE RANDOM OCCURRENCE. THIS HAS HAPPENED TO ME AT LEAST 20 TIMES. DOES NOT SHOW UP ON COMPUTER DIAGNOSTICS. REPLACED 2014 CR-V AFTER 10 WEEKS WITH 2015 CR-V. 2015 MODEL HAS DIFFERENT ISSUES. NO MORE HONDAS!!! TOOK A BIG FINANCIAL HIT ON REPLACING A 2014 CR-V AFTER 10 WEEKS WITH A 2015 CR-V. CAR TOO DANGEROUS TO DRIVE. *TR

(e) On December 1, 2014, a 2014 Honda Accord owner reported to NHTSA as follows:

> SIMILAR TO NHTSA COMPLAINTS #10619205, #10607907, #10655300, #10630708, AND #10628501. DRIVING MY VEHICLE ON INTERSTATE, GOING APPROXIMATELY 70 MPH. THE VEHICLE CAME TO A LARGE INCLINE AND BEGAN ACCELERATING, AND ALL OF A SUDDEN, THE ENTIRE VEHICLE SHUDDERED VIOLENTLY AND LOST ALL ACCELERATION, AND THE MALFUNCTION INDICATOR LAMP CAME ON AND WAS BLINKING. IT FELT LIKE THE VEHICLE HAD SHIFTED OUT OF GEAR, AND IT COULD NOT GET BACK IN GEAR. AFTER OVER 10 MINUTES, I RESTARTED THE VEHICLE, AND THE LIGHT DID NOT COME BACK ON. ALTHOUGH I COULD FEEL THAT PUSHING ON THE GAS PEDAL DID NOT FEEL THE SAME, AND IT FELT AS IF THE VEHICLE WAS HESITATING AND STRUGGLING TO SWITCH GEARS UP AND ACCELERATE.

(f) On April 10, 2015, a 2015 Acura TLX owner reported to NHTSA as follows:

> TL* THE CONTACT OWNS A 2015 ACURA TLX. THE CONTACT STATED THAT WHILE SLOWING TO SPEEDS BETWEEN 3-5 MPH, THE VEHICLE HESITATED TO ACCELERATE WHEN ENGAGING THE ACCELERATOR PEDAL. THE CONTACT INDICATED THAT THE FAILURE WAS INTERMITTENT AND OCCURRED ON SEVERAL

> OCCASIONS. THE CAUSE OF THE FAILURE WAS NOT DIAGNOSED. THE MANUFACTURER WAS NOT NOTIFIED OF THE FAILURE. THE FAILURE MILEAGE WAS 200.

(g) On November 7, 2015, a 2014 Honda Accord owner reported to NHTSA as follows:

> MY 2014 HONDA ACCORD COUPE HAS 33,900+ MILES AND FOR THE PAST YEAR, I HAVE HAD IT IN TO FOX HONDA IN GRAND RAPIDS FOUR TIMES FOR THE SAME PROBLEM. THE PROBLEM IS, THAT IT STUTTERS OFTEN WHEN ACCELERATING AND TWICE, THE ENGINE HAS STALLED OUT AND HAD TO BE RESTARTED.

(h) On March 9, 2016, a 2015 Honda Accord owner reported to NHTSA as follows:

> WHEN YOU PRESSURE ON THE ACCELERATOR PEDAL TO POWER THE VEHICLE (LIKE PULLING OUT INTO TRAFFIC OR CHANGING LANES IN TRAFFIC, THE CAR STALLS AND PUT YOU AT RISK OF GETTING INTO AN ACCIDENT. IT HAPPENS SITTING AT A TRAFFIC LIGHT OR DRIVING 55 MPH AND TRYING TO CHANGE LANES. DOES NOT MATTER IF THE CAR IS WARM OR COLD, BUT OCCURS LESS WHEN COLD.

(i) On July 30, 2016, a 2013 Honda Civic owner reported to NHSTA as follows:

> VEHICLE HESITATES UNDER ACCELERATION. SOMETIMES ALMOST STALLING. I FEEL THIS IS NOT SAFE FOR MY SON AT TIMES. MERGING ETC.

(j) On October 5, 2016, a 2015 Honda CR-V owner reported to NHTSA as follows:

> VEHICLE WILL NOT RESPOND WHEN FOOT IS PLACED ON THE ACCELERATOR. WHEN ATTEMPTING TO MOVE THE CAR FORWARD FROM A STOP SIGN OR SIGNAL LIGHT THE VEHICLE WILL NOT RESPOND TO THE GAS PEDAL FOR UP TO 5 SECONDS. BASICALLY THERE IS A DELAY FROM WHEN THE GAS PEDAL IS PRESSED UNTIL THE VEHICLE RESPONDS. THIS HAS HAPPENED 5 TIMES IN PAST 6 TO 7 WEEKS. THIS ACTION HAS HAPPENED WHEN ATTEMPTING TO MOVE FROM A COMPLETE STOP OR WHEN THE VEHICLE IS MOVING AT A VERY SLOW SPEED. I ESCAPED A NEAR REAR END COLLISION WHEN I REMOVED MY FOOT FROM THE BRAKE, PRESSED ON THE GAS PEDAL AND THE CAR DID NOT RESPOND.

(k) On January 17, 2017, a 2016 Honda CR-V owner reported to NHTSA as follows:

> TL* THE CONTACT OWNS A 2016 HONDA CR-V. WHILE DRIVING VARIOUS SPEEDS, THE ACCELERATOR PEDAL WAS DEPRESSED. THE VEHICLE FAILED TO RESPOND WITHOUT WARNING. THE VEHICLE WAS NOT DIAGNOSED OR REPAIRED. THE CONTACT STATED THAT THE FAILURE RECURRED SEVERAL TIMES. THE MANUFACTURER WAS MADE AWARE OF THE FAILURE. THE APPROXIMATE FAILURE MILEAGE WAS 4,000. ...UPDATED 02/22/17 *BF

(l) On February 14, 2017, a 2014 Honda Accord owner reported to NHTSA as follows:

> TL* THE CONTACT OWNS A 2014 HONDA ACCORD. WHILE DRIVING VARIOUS SPEEDS, THE VEHICLE HESITATED AND THEN LUNGED FORWARD WHEN THE ACCELERATOR PEDAL WAS DEPRESSED THE DEALER COULD NOT DETERMINE THE CAUSE OF THE FAILURE. THE FAILURE RECURRED INTERMITTENTLY. THE MANUFACTURER WAS MADE AWARE OF THE FAILURE. THE FAILURE MILEAGE WAS 14,000. THE VIN WAS NOT AVAILABLE. UPDATED 05/17/17*LJ

(m) On March 27, 2017, a 2014 Acura MDX owner reported to NHTSA as follows:

> VEHICLE HESITATES WITH ACCELERATION AND DOES NOT MAINTAIN CONSTANT SPEED. WITH ACCELERATION, THE VEHICLE HESITATES AND THEN LURCHES SUDDENLY. THE VEHICLE FAILS TO MAINTAIN A CONSTANT VELOCITY, ESPECIALLY GOING UP A SLIGHT GRADE, MOST NOTICEABLY AT 35MPH AND 45MPH

(n) On October 19, 2017, a 2014 Honda Civic owner reported to NHTSA as follows:

> HESITATION WHEN PRESS ON ACCELERATOR. THEY IS VERY DANGEROUS WHEN GETTING OUT INTO TRAFFIC AND WHEN YOU PRESS ON ACCELERATOR THERE IS A LONG HESITATION. I HAVE REPORTED THIS TO HONDA SERVICE NUMEROUS TIMES AND THEY SAY THIS IS NORMAL AND CAN'T DUPLICATE THE ISSUE.

(o) On September 5, 2018, a 2016 Honda CR-V owner reported to NHTSA as follows:

> HESITATION WHEN TRYING TO ACCELERATE. HAPPENS ANYTIME- STEP ON THE GAS AND IT TAKES A FEW SECONDS BEFORE THE ACCELERATION STARTS.

(p) On October 15, 2018, a 2017 Honda CR-V owner reported to NHTSA as follows:

> I BOUGHT MY CR-V IN FEB 2017. SINCE 6TH OCT 2018 I HAVE BEGUN TO NOTICE HESITANCY PROBLEMS WITH ACCELERATION AFTER COMING TO A COMPLETE STOP AND IN SOME CASES THE ENGINE HAS ALSO STALLED. CAR WAS NOT IN ECON MODE, BEING DRIVEN ON 'D' MODE ON A CITY STREET. FACED SIMILAR ISSUE ON A HIGHWAY WHILE IN TRAFFIC. TODAY (15TH OCT) IT HAPPENED THRICE BACK TO BACK IN A 20 MINUTE DRIVE ON A CITY STREET.

(q) On December 10, 2018, a 2018 Honda CR-V owner reported to NHTSA as follows:

> I WAS FIRST IN LINE IN THE LEFT LANE ON A CROSS OVER TO A ONE WAY STREET THAT GOES FROM RIGHT TO LEFT. I WAS AT A STOP WAITING FOR A TIME I COULD TURN AND TRY TO GET OVER 4 LANES OF TRAFFIC. THERE ARE 4 LANES ON THE ONE WAY STREET WHICH IS M-59 ALSO KNOW AS HALL ROAD AND I WAS GOING TO HAVE TO GO FAST AS I WAS GOING TO HAVE TO FIRST GET IN THE FAR LEFT LANE AND THEN CROSS OVER THE OTHER 3 LANES TO THE RIGHT AND EXIT AT A DRIVE TO WHERE I WAS TRYING TO GET TO. I KNEW IT WAS GOING TO TAKE MAXIMUM ACCELERATION AND A DEFT TOUCH TO GET OVER THERE SAFELY. AS I TRIED TO DO THIS AND AS I MADE MY FIRST MOVE INTO THE LEFT LANE, MY CAR HESITATED AND DID NOT GIVE ME THE FULL ACCELERATION I WAS EXPECTING. THIS CAUSED ALL THE TIMING I NEEDED TO MAKE THIS MANEUVER SAFELY GO OUT THE WINDOW AND PUT ME IN A PRECARIOUS SITUATION. I HAD TOMAKE IN MY OPINION A VERY DANGEROUS MOVEMENT TO THE RIGHT TO AVOID A CAR THAT WAS CLOSING IN FAST FROM BEHIND BECAUSE I COULD NOT GET THE SPEED UP. THIS IS THE FIRST TIME THIS HAS HAPPENED ON THIS CAR. I WAS ABLE TO GET WHERE I WANTED TO GO BUT NOW HAVE NO CONFIDENCE IN THE RELIABILITY OF TRYING TO MAKE THIS MANEUVER AGAIN.

(r) On April 12, 2019, a 2017 Acura MDX owner reported to NHTSA as follows:

> DANGEROUS LOSS OF POWER WHILE ACCELERATING ON THE HIGHWAY! THERE HAVE BEEN THREE SEPARATE INCIDENCES OVER THE LAST 2 YEARS. WHILE I WAS TRYING TO ACCELERATE ON THE HIGHWAY, THE CAR SEVERELY LOST POWER AND THE "CHECK ENGINE" LIGHT STARTED FLASHING. THE CAR SEEMED TO OPERATE NORMALLY AFTER TURNING OFF AND ON THE ENGINE. THE DEALERSHIP CLAIMED THAT THERE WAS NO COMPUTER RECORDS OF PROBLEMS AFTER EACH INCIDENCE. ACURA JUST ISSUED A RECALL OF THE FUEL PUMP ON THIS MODEL YEAR MDX. HOWEVER, ACURA AND THE LOCAL ACURA

DEALERSHIP REFUSED THE REPAIR DUE TO THE LACK OF COMPUTER RECORD OF FAILURE.

(s) On August 6, 2019, a 2016 Acura TLX owner reported to NHTSA as follows:

TL* THE CONTACT OWNS A 2016 ACURA TLX. THE CONTACT STATED THAT THE VEHICLE SUDDENLY STALLED AND VARIOUS UNKNOWN INDICATORS ILLUMINATED. THE VEHICLE WAS TAKEN TO FRESNO ACURA (7250 N PALM AVE, FRESNO, CA 93711, (559) 431-3400) WHERE IT WAS DIAGNOSED THAT THE FUEL PUMP FAILED. THE VEHICLE WAS NOT REPAIRED AND THE MANUFACTURER WAS NOT CONTACTED. THE FAILURE MILEAGE WAS 86,000.

(t) On November 7, 2019, a 2016 Acura TLX owner reported to NHTSA as follows:

FROM A STOPPED POSITION, MOVING FORWARD MY VEHICLE HESITATED AND DECREASED IN POWER AND THE GAS PEDAL DID NOT HELP MOVING THE VEHICLE FORWARD. THIS HAPPENED IN THE MIDDLE OF THE INTERSECTION FOR SEVERAL SECONDS 10-15 BEFORE THE VEHICLE STARTED MOVING FORWARD AGAIN.

(u) On February 9, 2019, the owner of a 2018 Toyota Camry filed the following complaint with NHTSA:

I HAVE HAD CONSTANT PROBLEMS WITH MY 2018 CAMRY SINCE PURCHASING MAY 2018. MY CAR IS ALWAYS JERKING AS I ACCELERATE AND WHEN I'M DRIVING IN TOWN, FEELS LIKE I'M GETTING REAR-ENDED AND HESITATING ON HIGHWAY WHEN I HAVE TO ACCELERATE INTO TRAIFFIC WHICH IS VERY DANGEROUS WHEN THE CAR WON'T GET UP AND GO. I HAVE HAD IT TO THE DEALER SEVERAL TIMES. THEY RESET THE COMPUTER BECAUSE IT CAN SAVE SETTINGS FROM PREVIOUS DRIVERS. THAT DIDN'T HELP. THEY TOLD ME THAT IT'S A DIFFERENT TRANSMISSION AND IT TAKES FEW SECONDS FOR THE COMPUTER TO COMMUNICATE BACK TO TRANSMISSION. THIS IS A VERY UNSAFE FEATURE…

(v) On March 11, 2019, the owner of a 2018 Toyota Camry filed the following complaint with NHTSA:

LAG AND HESITATION WHEN GOING TO FULL THROTTLE ON THE GAS PEDAL. IT HESITATES FOR A SECOND AND THEN FINALLY GRABS ON TO ACCELERATE. IT HAS DONE THIS SINCE I PURCHASED IT BUT WAS HOPING IT WOULD WORK ITSELF OUT EVENTUALLY, BUT THIS HASN'T HAPPENED. TOYOTA DID A TSB SOFTWARE UPDATE FOR THE 4 CYLINDER BUT NOT THE V6.

(w) On July 3, 2019, the owner of a 2018 Toyota Camry filed the following complaint with NHTSA:

> 2018 CAMRY SE, SLOW TO TAKE OFF WHEN STEPPING ON GAS AFTER A STOP OR SLOW DOWN MOSTLY NOTICEABLE ON CITY STREETS. VERY HESITANT & GAS MUST BE PUMPED IN ORDER FOR TRANSMISSION TO CATCH UP. ALMOST INVOLVED IN ACCIDENT WHEN COMING OFF EXIT RAMP & ONTO HIGHWAY. CAR WOULDN'T ACCELERATE & OTHER DRIVERS WERE AT SPEED LIMIT BEHIND ME. GEARS SHIFT ALMOST LIKE A MANUAL TRANSMISSION. GAS PEDAL CAN BE DIFFICULT TO PUSH AT TIMES AS WELL.

(x) On July 19, 2019 the owner of a 2019 Toyota Highlander filed the following complaint with NHTSA:

> ACCELERATOR HAS BEEN TOUCHY AND JUMPY AT TIMES, INTERMITTENTLY AT SLOW SPEEDS. FIRST TIME IT STALLED IT STARTED TO LOSE POWER PUT -PUT AND CHUG LIKE JERKING AND ALL DASH AND ELECTRICAL ON DASH WENT OUT, UNABLE TO ACCELERATE, THEN STALLED OUT IN ROAD, UNABLE TO STEER OR CONTROL VEHICLE. THIS OCCURRENCE WAS AFTER A LONGER PERIOD OF DRIVING. SECOND TIME IT STALLED OUT BEGAN TO LOSE POWER, PUTTER AND CHUG, UNABLE TO ACCELERATE APPLYING GAS PEDAL, GETTING NO GAS, VEHICLE DIES OUT, UNABLE TO STEER OR CONTROL VEHICLE. THIS OCCURRENCE WAS AFTER A LONGER PERIOD OF DRIVING. THIRD TIME WAS YESTERDAY 8-8-19. LEFT WORK AND ABOUT 5-7 MINUTES INTO MY DRIVE, STARTED HESITATING, LOSING ALL DASH AND ELECTRICAL POWER AND WILL NOT ACCELERATE WHEN GAS PEDAL APPLIED, THEN STALLS OUT, UNABLE TO CONTROL THE STEERING WHEEL AGAIN! ALMOST GOT HIT THIS TIME, MAN BEHIND ME COMING FAST AND HAD TO SWERVE INTO LANE OVER TO MISS ME. THIS CAR IS GOING TO KILL ME OR SOMEONE BY CAUSING AN ACCIDENT IF THEY DO NOT GET IT FIXED RIGHT. AFTER THE SECOND STALL IT WAS TOWED INTO DEALERSHIP AND THEY WERE NOT SURE BUT SAID FUEL PRESSURE WAS READING 22 AND WAS SUPPOSED TO BE IN THE MID TO HIGH 50'S. THEY REPLACED THE FUEL PUMP AND IT DROVE OK FOR A LITTLE WHILE BUT I NOTICED THE AVERAGE FUEL MILEAGE GOING DOWN FROM AN APPROX IN CITY 19.1--20 TO 17.1-17.3. HAS NEVER BEEN SO LOW SO OBVIOUSLY THE STALLING AND THE REPLACING OR THE FUEL PUMP ARE NOT THE REAL ISSUE. FUEL ECONOMY GOING DOWN SINCE REPLACEMENT OF THE FUEL PUMP AND NOW ANOTHER DANGEROUS STALLING ISSUE. CAR IS AT TOYOTA DEALER NOW. THEY NEED TO DIVE MUCH DEEPER & RESOLVE THIS VERY DANGEROUS SAFETY ISSUE! I BOUGHT THIS CAR TO FEEL SAFE

AND HAVE RELIABLE TRANSPORTATION AND HAVE NEITHER. IT REALLY SCARES ME. *DT*JB

(y) On June 1, 2019, the owner of a 2019 Toyota RAV4 filed the following complaint with NHTSA:

THE ENGINE IS NON-RESPONSIVE WHEN MAKING RIGHT HAND & UP HILL TURNS. I CAN DEPRESS THE GAS PEDAL THREE TIMES BEFORE THE CAR STARTS TO ACCELERATE. THIS IS DANGEROUS! WHAT IS GOING ON?

(z) On September 22, 2019, the owner of a 2017 Toyota Sienna filed the following complaint with NHTSA:

HISTORY: PERIODICALLY OVER THE LIFE OF THE VEHICLE, WHEN I PUSH DOWN ON THE GAS PEDDLE THE CAR IS UNRESPONSIVE OR RESPONDS IN FITS AND STARTS. THIS IS USUALLY UPON STARTUP AFTER STOPPING AT A STOP SIGN OR LIGHT. BUT IT DID HAPPEN IN MAY OF 2019 AT 65MPH ON THE FREEWAY (GOING STRAIGHT), RESULTING IN SUDDEN DECELERATION. AS I MOVED OVER LANES TO GET TO THE SIDE OF THE ROAD, THERE WAS A SUDDEN JOLT AND THE CAR BEGAN FUNCTIONING NORMALLY.

ON SUNDAY 9/22/19 AT 10AM I LEFT MY HOME WITH MY DAUGHTER TO GO TO THE MOVIES. LESS THAN 5 MINUTES FROM OUR HOME, IN OUR FLAT NEIGHBORHOOD GOING 25MPH, I STOPPED AT THE STOP SIGN THEN ATTEMPTED TO ACCELERATE THROUGH THE INTERSECTION. THE CAR WENT A FEW FEET INTO THE INTERSECTION AND THEN WOULDN'T MOVE, THE ENGINE MAKING A WHIRRING SOUND. IT WAS IN DRIVE. I TURNED ON THE HAZARD LIGHTS AND GENTLY ATTEMPTED TO PUSH THE GAS PEDDLE, FINALLY ABLE TO MOVE THROUGH THE INTERSECTION IN FITS AND STARTS (JOLTING) TO GET TO THE SIDE OF THE ROAD. I PUT THE CAR IN PARK, THEN NEUTRAL. PUSHED DOWN THE GAS IN NEUTRAL AND HEARD THE WHIRRING NOISE. IN DRIVE AND REVERSE, THE JOLTING CONTINUED. I WAS ABLE TO JOLT MY WAY HOME UNDER 10MPH. THE CAR WAS FINE WHEN IT WAS COASTING WITHOUT NEEDING POWER, JOLTING WHEN IT NEEDED POWER.

BECAUSE THE CAR IS DANGEROUS, I HAD IT TOWED TO MAGNUSSEN'S TOYOTA, WHERE IT IS AS OF THIS WRITING. THIS IS A VERY DANGEROUSDEFECT AND NEEDS TO BE ADDRESSED AS IT SUDDEN DECELERATION IN AN INTERSECTION OR ON THE FREEWAY MAY RESULT IN DEATH.

> UPON INITIAL DRIVING, I WAS TOLD THE VEHICLE WAS OPERATING NORMAL. I AM WORRIED THEY WON'T FIX IT AND I WILL END UP WITH A VERY DANGEROUS ALMOST NEW CAR. PLEASE HELP, AND HELP FOR THE SAFETY OF OTHERS WITH THIS SAME DEFECT.

(aa) On January 14, 2020, the owner of a 2019 Toyota Sienna filed the following complaint with NHTSA:

> PULLED OUT INTO ONCOMING TRAFFIC AND VEHICLE HESITATED AND WOULD NOT ACCELERATE. DASH LIGHTS CAME ON AND CAR STALLED. ATTEMPTED TO CRANK VAN AND IT RESTARTED BUT WOULD BARELY MOVE WITH THE ACCELERATOR PRESSED FULLY. HAD TO CALL A TOW TRUCK TO HAVE IT DELIVERED TO THE DEALER. I CALLED TOYOTA ROAD SIDE ASSISTANCE NUMBER AND 2.5 LATER NO ONE SHOWED UP. CALLED AGAIN AND DEMANDED A DIFFERENT TOW COMPANY RESPOND AND 30 MINUTES LATER SOMEONE WAS AT THE SCENE. THIS EPISODE STATED 230 PM AND VAN WAS PICKED UP 637PM.

(bb) On January 19, 2019, the owner of a 2019 Subaru Outback filed the following complaint with NHTSA:

> I WOULD LIKE TO REPORT AN ISSUE WITH WHAT I BELIEVE TO BE THE BRAKING SYSTEM IN THE 2019 SUBARU OUTBACK. WHILE DRIVING NORTHBOUND ON THE DALLAS NORTH TOLL WAY, AT A SPEED OFAPPROXIMATELY 65 TO 70 MPH, I TAPPED ON THE BRAKES TO SLOW DOWN FOR THE UPCOMING DECLINE. WHEN I ATTEMPTED TO PUT MY FOOT ON THE ACCELERATOR, THE CAR SUDDENLY AND ABRUPTLY STOPPED. IT WAS AS IF THE BRAKES "LOCKED", I WAS UNABLE TO ACCELERATE. WE CAME TO A COMPLETE STOP ON THE TOLLWAY AND WERE UNABLE TO ACCELERATE THE CAR. WE WERE HIT FROM BEHIND. THE STOPPAGE WAS SO SUDDEN THAT IT RESULTED IN A THREE-CAR COLLISION.
>
> THE ENGINE WAS STILL RUNNING AFTER THE COLLISION. THE POLICE OFFICER INSTRUCTED ME TO TRY TO DRIVE THE VEHICLE OFF OF THE ROAD, BUT DESPITE MY PRESSING THE ACCELERATOR, THE CAR WASSTILL UNABLE TO MOVE EVEN A SMALL DISTANCE. *DT *AS

(cc) On January 2, 2020, the owner of a 2019 Subaru Ascent filed the following complaint with NHTSA:

> IN LOW SPEED WHEN WANTING INCREASE SPEED, THE ENGINE LOSES POWER AND BRIEFLY SPUTTERS AND THEN RECOVERS

> AND ACCELERATES. USUALLY HAPPENS WHEN TRYING TO ACCELERATE WHEN GOING UP HILL AND FROM SLOW, RIGHT TURNS. USUALLY AT HIGHWAY SPEED, IT CAN QUICKLY ACCELERATE.

(dd) On January 2, 2020, the owner of a 2019 Subaru Ascent filed the following complaint with NHTSA:

> WHEN TRYING TO ACCELERATE AROUND A TRUCK ON A HIGHWAY, THE CAR REFUSED, FELT LIKE IT WAS GOING TO STALL AND EVERY LIGHT ON THE DASHBOARD LIT UP. MY SPEED WAS PROBABLY AROUND 60MPH, WHEN I TRIED TO QUICKLY GET AROUND THIS TRUCK. IT WAS FULL OF FURNITURE THAT I FELT WAS LOADED IN AN UNSAFE MANNER. THIS IS THE SECOND TIME THE CAR HAS DONE THIS AND THE CVT CHAIN SLIP WAS SUPPOSEDLY FIXED IN A RECALL N DECEMBER. THIS TIME SUBARU SAID IT WAS A LEAKY GASKET IN THE INTER COOLER??

The whole as appears more fully from a copy of the NHTSA complaints relating to Honda, produced herein as **Exhibit P-51**, the NHTSA complaints relating to Toyota, produced herein as **Exhibit P-52**, and the NHTSA complaints relating to Subaru, produced herein as **Exhibit P-53**;

135. The above complaints are merely a small subset of the complaints submitted to NHTSA reporting sudden stalls and pump failures in the Subject Vehicles;

136. It cannot reasonably be questioned whether the Defendants were aware of the Design Defect in the Subject Vehicles, even prior to their marketing and sale or lease;

137. The DENSO and the Vehicle Manufacturer Defendants acquired knowledge of the Design Defect through at least: (i) NHTSA complaints; (ii) warranty claims; (iii) non-warranty repair records; (iv) testing undertaken in the development of new models; and (v) customer complaints to dealers;

H. <u>The Subject Vehicles Containing Defective Denso-Manufactured Fuel Pumps Were Sold as “Safe” and “Reliable”</u>

138. The DENSO Defendants represented that their “high-quality” fuel pumps “are chosen as standard equipment by the world’s most demanding OEMs, especially for their premium vehicles” and that they are the “most reliable fuel pump[s] available” (Exhibit P-16);

139. The Vehicle Manufacturer Defendants sell vehicles, in part, via communications that they authorized their dealerships to make about their vehicles, including the Subject Vehicles described herein. This includes authorizing their dealers to distribute brochures and other marketing and promotional materials. The Vehicle

Manufacturer Defendants, through *inter alia* their authorized dealers, have and had the opportunity to disclose all material facts relating to the Subject Vehicles;

140. In advertisements and promotional materials, the Vehicle Manufacturer Defendants maintained that their vehicles were safe and reliable;

141. Toyota touts its safety and reliability in its advertising and marketing, knowing that customers will buy or lease their vehicles because they believe them to be safe and reliable;

142. By way of example, on the website www.toyota.ca, there is a section entitled "Safety Technology", where the lead title on the landing page states "Our Commitment to Safety" and "Our Goal: A World Without Accidents". Further on the webpage, Toyota writes, *inter alia*:

> "Promoting a safer mobile world is – and always will be – one of Toyota's top priorities. Through the development of innovative technologies, Toyota remains committed to ongoing safety improvements – a commitment that is recognized with accolades like multiple IIHS Awards.
> …
> We're continually investing in research and development to find new ways to raise our quality, working to help keep you safe. That means leading the way when it comes to packaging safety features on our vehicles – so when you get behind the wheel, you can focus on the journey ahead and the simple joy of driving.
> …
> Toyota believes that no matter the destination, everyone deserves to arrive safely.
> …
> Toyota vehicles are built with legendary quality, durability, and reliability. Not only does this mean years of driving enjoyment, it also extends to your safety behind the wheel.
> …
> Toyota crashes more than 600 vehicles a year – for safety purposes. We've developed a set of comprehensive crash tests with a number of sensors at the prototype phase, and with each collision, we examine the effects and make improvements to the design. Repeating the process over and over, we are constantly creating and then analyzing possible collision scenarios.

The whole as appears more fully from a copy of an extract from the Toyota website at www.toyota.ca, produced herein as **Exhibit P-54**;

143. Toyota also touts the safety and reliability of its Lexus vehicles in its advertising and marketing, knowing that customers will buy or lease their vehicles because they believe them to be safe and reliable;

144. For example, on the website www.lexus.ca, there is a section entitled "Lexus Safety Systems+", where the lead title on the landing page states "Lexus Safety

System+ and Lexus Safety System+ 2.0" and "Crafted For Your Peace of Mind". Further on the webpage, Lexus writes, *inter alia*:

> "Our commitment to your safety extends to helping prevent accidents before they even happen. That is why we introduced Lexus Safety System+ and the next generation Lexus Safety System+ 2.0 -- now available on select 2019 Lexus vehicles.
>
> The Passionate Pursuit of Safety
>
> LSS+ and LSS+ 2.0 comprise some of our most advanced active safety systems, designed to support your awareness and decision-making across a range of speeds and driving situations. And ultimately, to protect you, your passengers, other drivers and the cyclists and pedestrians who share the roads.
>
> Peace of Mind in Action
>
> LSS+ and the next generation LSS+ 2.0 both address the three most common accident types: frontal collisions, unintended lane departures and nighttime accidents; as well as providing additional protections for cyclists and pedestrians."

The whole as appears more fully from a copy of an extract from the Toyota website at www.lexus.ca, produced herein as **Exhibit P-55**;

145. Honda touts its safety and reliability in its advertising and marketing, knowing that customers will buy or lease its Honda and Acura vehicles because they believe them to be safe, dependable, and reliable;

146. For example, on the websites www.hondacanada.ca and www.acura.ca, there is a shared section entitled "Safety", where the lead title on the landing page states "Playing it Safe" and "We believe a collision-free society is closer than it appears". Further on the webpage, Honda (and Acura) write, *inter alia*:

> "We want Safety for Everyone, no matter the size or price of your vehicle. See how we're helping Canadians stay safe, while enjoying the freedom of mobility.
> …
> Honda vehicles are frequently recognized as Top Safety Picks by the U.S. Insurance Institute for Highway Safety.
> …
> At Honda, we believe in Safety for Everyone – not just for drivers and motorcyclists, but also passengers, pedestrians and anyone else who shares the road. See what we're doing to create a safer world."

The whole as appears more fully from a copy of an extract from the Honda website at www.hondacanada.ca, produced herein as **Exhibit P-56**;

147. Subaru touts its safety and reliability in its advertising and marketing, knowing that customers will buy or lease their vehicles because they believe them to be safe and reliable;

148. For example, on the website www.subaru.ca, there is a section entitled "Why Buy Subaru → Safety", where the lead title on the landing page states "All-Around Safety and Peace of Mind" and "360 Degrees of Protection". Further on the webpage, Subaru writes, *inter alia*:

> "A longstanding and steadfast commitment to safety has given Subaru vehicles an impenetrable reputation for superior protection. This powerful commitment is reflected in vehicles with four key attributes. From the start, holistic design gives drivers confidence in the form and function of the vehicles themselves. The vehicles are then engineered to deliver the highest levels of control and stability in all possible conditions. They are also infused with the latest technology to help drivers avoid accidents before they happen. And the vehicles feature ultra-strong construction and advanced safety systems that help minimize the chance of injury in the event of an accident. This all-encompassing approach to safety gives Subaru drivers the freedom to pursue adventure in their lives—going where they want, when they want, even in the face of unexpected obstacles or surprises from Mother Nature.
> …
> A vehicle that performs at a higher level dynamically is, by definition, also a higher-performing vehicle when it comes to safety…. All vehicles in the current fleet feature a world-class AWD system and boast class-leading active safety systems…
> …
> Long at the forefront of safety, Subaru has never rested on its laurels and continues to advance technology to best protect occupants… In the belief that accident avoidance is the best way to preserve safety, Subaru continues to drive towards a future wherein complete peace of mind is engineered into every vehicle."

The whole as appears more fully from a copy of an extract from the Subaru website at www.subaru.ca, produced herein as **Exhibit P-57**;

149. Purchasers and/or lessees of the Subject Vehicles were led to believe that their vehicles were safe and reliable through the Vehicle Manufacturer Defendants' employment of long-term, uniform and pervasive marketing messages;

150. However, as detailed above, hundreds of thousands of vehicles that contained defective Denso-manufactured fuel pumps were sold by the Vehicle Manufacturer Defendants and other automakers;

151. Vehicles with defective fuel pump systems are not “safe” and “reliable” as the Subject Vehicles were advertised and promoted to be;

152. The Vehicle Manufacturer Defendants sold and leased the Subject Vehicles with written express warranties:

- For Toyota Subject Vehicles, Toyota offer a written express basic warranty of three years or 60,000 kms. Toyota also offers a five-year or 100,000 kms power train warranty, which covers the fuel pump;

- For Lexus Subject Vehicles, Toyota offer a written express basic warranty of four years or 80,000 kms. Toyota also offers a six-year or 110,000 kms powertrain warranty, which covers the fuel pump;

- For Honda Subject Vehicles, Honda offers a written express basic warranty of three years or 60,000 kms. Honda also offers a five-year or 100,000 kms power train warranty, which covers the fuel pump,

- For Acura Subject Vehicles, Honda offers a written basic express warranty of four years or 80,000 kms. Honda also offers a five-year or 100,000 kms Emissions system warranty, which covers the fuel pump,

- For Subaru Subject Vehicles, Subaru offers a written basic express warranty of a written express basic warranty of three years or 60,000 kms. Toyota also offers a five-year or 100,000 kms power train warranty, which covers the fuel pump,

Produced herein as **Exhibit P-58** is a copy of the Toyota Owner’s Manual Supplement for 2018 models, **Exhibit P-59** is a copy of the Lexus Warranty and Services Guide for 2014 models, **Exhibit P-60** is a copy of the 2015 Honda Warranty Guide, **Exhibit P-61** is a copy of the Acura Warranty Booklet for 2016 models, and **Exhibit P-62** is a copy of the Subaru Warranty Booklet for 2018;

I. The Faulty Fuel Pumps and Related Quality Concerns Have Caused and Will Continue to Cause Values of the Subject Vehicles to Plummet

153. A vehicle purchased or leased under the reasonable assumption that it is “safe” and “reliable” as advertised is worth more than a vehicle known to be subject to the risk of a possibly life-threatening failure of a fuel injection system. A vehicle purchased or leased under the assumption that it was produced in conformity with high safety standards is worth more than a vehicle produced in a system that promotes expedience over quality and safety and hides known defects. Moreover, vehicle owners and/or lessees have a reasonable expectation that automakers will abide by federal, statutory, and civil law obligations to affirmatively disclose known defects in a timely manner;

154. Unfortunately, this did not happen and, as a result, all purchasers and/or lessees of the Subject Vehicles overpaid for their vehicles at the time of purchase. As news

of the dangerous and defective fuel pumps surfaced, the value of the Subject Vehicles has diminished and will continue to do so;

155. As detailed above, there has been reporting about the defective fuel pumps in recent months, raising public awareness of their defect and the safety implications;

156. These news reports detailing the utter lack of regard for customers' safety exhibited by DENSO and the Vehicle Manufacturer Defendants have materially negatively impacted the value of the Subject Vehicles, including the Applicant's and Class Members' Subject Vehicles;

157. DENSO and the Vehicle Manufacturer Defendants knew or should have known that the DENSO fuel pumps installed in the Subject Vehicles were defective. Both DENSO and the Vehicle Manufacturer Defendants, who concealed their knowledge of the nature and extent of the defects from the public, have shown a blatant disregard for public welfare and safety;

J. <u>The Defendants' Liability</u>

158. The Defendants knew that plastic absorbs liquids and that this causes it to change dimensions – the degree of both being dependant on the type of plastic and on environmental conditions. The Defendants equally knew that the environmental conditions for a fuel pump involve it being submerged in fuel and subjected to high temperatures and repeated temperature cycling. Despite this knowledge, the Defendants used fuel pump impellers that were made from unsuitable and inferior plastic materials with inadequate heat resistance and an overly high porous level;

159. The Defendants were negligent in the design, engineering, manufacture, testing, validation, marketing, distribution, supply, sale, and/or warranty of the fuel pumps and/or the Subject Vehicles, which caused an unreasonable risk of injury or death to the Applicant, Class Members, and the public;

160. The Design Defect could have been eliminated by ensuring that, under foreseeable and intended conditions:

(a) The impeller was not fuel permeable under intended and foreseeable purposes;

(b) The impeller would not deform when exposed to operating temperatures under intended and foreseeable purposes;

(c) The impeller would not prematurely age under intended and foreseeable purposes;

(d) The impeller would not lose its dimensional stability under intended and foreseeable purposes;

(e) The impeller would not contact the fuel pump body under intended and foreseeable purposes;

(f) The Fuel Pump would not overheat under intended and foreseeable purposes;

161. The Vehicle Manufacturer Defendants failed to disclose the existence, impact, and danger of the Fuel Pump Defect as follows:

(a) They failed to disclose, at and after the time of purchase, lease, service, or thereafter, any and all known material defects of the Subject Vehicles, including the Fuel Pump Defect, despite knowledge;

(b) They failed to disclose at, and after the time of purchase, lease, service, or thereafter, that the Subject Vehicles' fuel pumps were defective and not fit for their ordinary purpose, despite knowledge; and

(c) They failed to disclose and actively concealed the existence and pervasiveness of the Fuel Pump Defect, despite knowledge;

162. The Vehicle Manufacturer Defendants are also liable for their inadequate recalls in *inter alia* the following ways:

(a) The recalls themselves fail to identify and include the full scope of Subject Vehicles equipped with defective fuel pumps;

(b) They fail to offer a timely or effective repair;

(c) They fail to warn consumers about the serious safety hazards posed by the Fuel Pump Defect and recommend customers stop driving their vehicles until they are repaired;

(d) They fail to offer free loaner vehicles until Plaintiffs' and Class Members' vehicles are repaired;

163. DENSO is equally culpable because it designed, engineered, tested, validated, manufactured, and placed into the stream of commerce defective fuel pumps, which it knew would be installed the Subject Vehicles. As described herein, Denso indisputably had exclusive knowledge of the Fuel Pump Defect well before October 2016, when Denso filed a patent application seeking to improve the durability and absorption qualities of the defective fuel pump impeller (Exhibit P-50). However, at no time did Denso disclose to others what it knew about the Fuel Pump Defect;

164. In all cases, the Defendants (both DENSO and the Vehicle Manufacturers) failed to: (i) conduct proper testing and monitoring of the fuel pumps, (ii) failed to disclose the defect to the public and to owners and lessees, and (iii) continue to fail to take proper corrective action to repair the issue;

165. And, to this end, to put profits over human safety;

K. The U.S. Litigation

(a) The Toyota Class Action

166. On February 4, 2020, a class action complaint was filed in the U.S. District Court for the Eastern District of New York, *Cheng, et al*. v. *Toyota Motor Corporation, et al*., Case No. 1:20-cv-00629-JRC, asserting claims relating to the Design Defect in Toyota vehicles equipped with the Denso Fuel Pump. Thereafter, seven more cases were filed alleging the Design Defect in the Toyota vehicles;

167. Various amendments were made to the consolidated class action culminating in a December 14, 2020 Second Amended Consolidated Complaint, the whole as appears more fully from a copy of the Second Amended Consolidated Class Action Complaint dated December 14, 2020, produced herein as **Exhibit P-63**;

168. As a part of formal discovery, the U.S. defendants produced, and the U.S. plaintiffs processed and reviewed, about 655,000 documents containing approximately 1.5 million pages of documents related to the various recalls, the design and operation of the fuel pumps, warranty data, failure modes attributed to the subject fuel pumps, the Defendants' investigation into the defect, and the defect countermeasure development and implementation. Additionally, the U.S. plaintiffs' independent automotive engineering expert sourced and inspected over 100 fuel pumps replaced pursuant to the recalls, and analyzed, *inter alia*, the pumps' operation, specifications, and density of the impeller;

169. On September 7, 2022, a Third Amended Consolidated Class Action Complaint was filed, the whole as appears more fully from a copy of the Third Amended Consolidated Class Action Complaint dated September 7, 2022, produced herein as **Exhibit P-64**;

170. Also on September 7, 2022, Denso International America, Inc., Toyota Motor Corporation, and Toyota Motor North America, inc. entered into a settlement agreement in the United States in order to settle the Toyota class action, the whole as appears more fully from a copy of the Settlement Agreement dated September 7, 2022, produced herein as **Exhibit P-65**;

171. The U.S. settlement provided for a 15-year extended warranty for recalled Fuel Pumps as well as ones that had not yet been recalled as follows:

a) The "Additional Vehicles: Customer Support Program" consisting of:

   a. Prospective coverage of 15 years for repairs (including parts and labour) needed to correct defects in materials or workmanship in the Fuel Pumps for Subject Vehicles that had not yet been recalled, but which were identified through the DENSO Fuel Pump part number prefixes 23220 and 23221;

   b. Loaner/rental vehicles while the "Additional Vehicle" is being repaired;

b) The “Subject Vehicles and SSC Vehicles: Extended New Parts Warranty” consisting of:

i) An extended new parts warranty coverage of 15 years/150,000 miles for the replaced Fuel Pump on the recalled vehicles in the U.S. and on the vehicles that were the subject of the Special Service Campaigns 21LC01 and 21TC03 (all of which had part number prefixes 23220 and 23221);

ii) Loaner/rental vehicles while these vehicles are being repaired pursuant to the extended warranty;

c) The “Out-of-Pocket Claims Process” consisting of:

i) Repayment of previously paid out-of-pocket expenses incurred to repair or replace a Fuel Pump, including rental vehicles, towing, unreimbursed repairs/replacements;

d) A release for both DENSO and Toyota for *inter alia* damages in connected with the defective Fuel Pumps (excepting personal injury);

e) A “Qualified Settlement Fund” of $29,086,500 to cover attorneys’ costs and class representative awards;

172. On September 16, 2022, the United States District Court for the Eastern District of New York approved the settlement on a preliminary basis and on December 20, 2022, the settlement was approved, the whole as appears more fully from a copy of the Order Preliminarily Approving Class Settlement Directing Notice to the Class and Scheduling Fairness Hearing dated September 16, 2022 and from a copy of the Final Order Approving Class Settlement and Certifying Settlement Class dated December 20, 2022, produced herein *en liasse* as **Exhibit P-66**;

(b) <u>The Honda Class Action</u>

173. On May 11, 2020, a class action complaint was filed in the United States District Court for the Northern District of Alabama against certain Honda and Denso entities with substantially similar allegations relating to the same defective DENSO fuel pumps. On October 29, 2020, the Honda U.S. class action complaint was amended, on May 3, 2021, it was amended again, and on June 16, 2023, it was amended again, the whole as appears more fully from a copy of the Third Consolidated Amended Class Action Complaint in *Oliver* v. *Honda Motor Company Limited*, *et al*., in Case No. 5:20-cv-00666 dated June 16, 2023, produced herein *en liasse* as **Exhibit P-67**;

(c) <u>The Subaru Class Action</u>

174. On July 7, 2020, a class action complaint was filed in the United States District Court for the District of New Jersey against various Subaru entities with substantially similar allegations relating to the same defective DENSO fuel pumps, which was amended several times, the whole as appears more fully from a copy of the Second

Amended Class Action Complaint in *Cohen* v. Subaru Corporation, *et al*., in Case No. 1:20-cv-08442 dated May 5, 2022, produced herein as **Exhibit P-68**;

L. Class Members

175. Nearly 1,100 Quebec-resident Class Members have been identified, as appears from a redacted copy of the Quebec-resident Class Members who have registered with Class Counsel to date, produced herein as **Exhibit P-69**;

M. Summative Remarks

176. As a result of the defective fuel pumps, owners and lessees of the Subject Vehicles have suffered *inter alia* loss of value of their vehicles due to the stigma associated with such dangerous vehicles;

177. As a result of DENSO's and the Vehicle Manufacturer Defendants' misconduct, the Applicant and the Class Members were harmed and suffered actual damages in that the Subject Vehicles have potentially deadly fuel pumps that pose an ongoing threat to drivers and passengers and have diminished the value of the vehicles in which they are installed;

178. The Applicant and the Class Members did not receive the benefit of their bargain as purchasers and/or lessees received vehicles that were of a lesser standard, grade, and quality than represented, and did not receive vehicles that met ordinary and reasonable consumer expectations. Class Members did not receive vehicles that would reliably operate with reasonable safety, and that would not place drivers and occupants in danger of encountering an ongoing and undisclosed risk of harm, which could have been avoided through the exercise of reasonable precaution and forthrightness;

179. A vehicle purchased or leased under the reasonable assumption that it is "safe" as advertised is worth more than a vehicle – such as the Subject Vehicles – that is known to contain a defective DENSO fuel pump. Therefore, all purchasers and/or lessees of the Subject Vehicles overpaid for their vehicles. Furthermore, the public disclosure of the defective DENSO fuel pumps has caused the value of the Subject Vehicles to materially diminish. Purchasers or lessees of the Subject Vehicles paid more, either through a higher purchase price or higher lease payments, than they would have had the defects been disclosed;

180. The Applicant and the Class Members that he seeks to represent suffered economic damages by purchasing and/or leasing the Subject Vehicles; they did not receive the benefit of the bargain, and are therefore entitled to damages;

IV. THE EXAMPLE OF THE REPRESENTATIVE PLAINTIFF

181. On November 30, 2018, the Applicant leased a 2019 Acura TLX 4-door sedan 2.4L (VIN no. 19UUB1F32KA800607) containing a DENSO fuel pump from Precision Acura at 4621 boul. Bourque, in Sherbrooke, Quebec for 48-month lease of $517.89

per month taxes included. The total value of the lease is $24,858.72 (i.e. $21,621.12 plus GST/QST), the whole as appears more fully from a copy of the Lease Contract dated November 30, 2018, produced herein as **Exhibit P-70**;

182. At the time of lease, the Applicant was under the impression that he was leasing a vehicle that was free of any design or manufacturing defects; unbeknownst to him, he overpaid for the lease payments as the vehicle was in fact suffering from a Design Defect;

183. The Applicant has suffered ascertainable loss as a result of the Defendants' omissions and/or misrepresentations associated with the Design Defect, including, but not limited to, overpayment for the Vehicle itself, substantially lower resale values associated with the vehicle because the problems with the fuel pump have become notoriously defective in the industry, pain and suffering, and trouble and inconvenience;

184. Had Applicant known about the Design Defect, he either would not have leased the Subject Vehicle or would not have paid such a high price;

185. The Applicant's damages are a direct and proximate result of the Defendants' conduct;

186. In consequence of the foregoing, the Applicant is justified in claiming damages;

V. THE DAMAGES

187. Every member of the Class has purchased and/or leased a Subject Vehicle containing a defective Denso fuel pump;

188. The class Members' damages would not have occurred, but-for the acts and omissions of the Defendants;

189. In consequence of the foregoing, each member of the Class is justified in claiming at least one or more of the following damages:

a. Overpayment of the purchase price and/or lease payments of the Subject Vehicles assessed *ex-ante* at the time that the purchase and/or lease payment was made (i.e. at the point-of-sale),

b. Lower resale value/ diminished value of the Subject Vehicles,

c. Loss of use of the Subject Vehicles and expenditures for rental vehicles,

d. Out-of-pocket loss including, costs of towing and cost of attempted repairs,

e. Cost of future attempted repairs,

f. Higher interest charges, increased sales tax, and higher insurance premiums,

g. Pain and suffering, trouble and inconvenience, and

h. Punitive and/or exemplary damages;

190. The damages to the Class Members are a direct and proximate result of the purchase or lease of Subject Vehicles;

FOR THESE REASONS, MAY IT PLEASE THIS HONOURABLE COURT TO:

GRANT the class action of the Plaintiff and each of the members of the Class;

ORDER the Defendants to recall the vehicles equipped with Denso manufactured fuel pumps containing a low-density impeller and to repair and/or replace said defect free of charge;

DECLARE the Denso Defendants solidarily liable for the damages suffered by the Plaintiff and each of the members of the Class;

CONDEMN the Defendants to pay to each member of the Class a sum to be determined in compensation of the damages suffered, and ORDER collective recovery of these sums;

CONDEMN the Defendants to pay to each of the members of the Class who are consumers, punitive damages, and ORDER collective recovery of these sums;

CONDEMN the Defendants to pay interest and additional indemnity on the above sums according to law from the date of service of the motion to authorize a class action;

CONDEMN the Defendants to bear the costs of the present action including expert and notice fees;

RENDER any other order that this Honourable Court shall determine and that is in the interest of the members of the Class;

THE WHOLE with legal costs, including the costs of opinions and experts.

Montreal, November 27, 2023

(S) Andrea Grass

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CONSUMER LAW GROUP INC.
Per: Me Andrea Grass
Attorneys for the Plaintiff