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10 UNITED STATES DISTRICT COURT
 11 NORTHERN DISTRICT OF CALIFORNIA

13 **AMIR BERENJIAN, HAMID BERENJIAN, and**
MARK UNDESTAD, on behalf of themselves
 14 **and all others similarly situated,**

15 Plaintiffs,

16 v.

17 **AUDI AG, AUDI OF AMERICA, INC.; AUDI**
OF AMERICA, LLC; BAYERISCHE
 18 **MOTOREN WERKE AG; BMW OF NORTH**
AMERICA, LLC; DAIMLER AG; DR. ING.
 19 **H.C.F. PORSCHE AG; MERCEDES-BENZ**
USA, LLC; MERCEDES-BENZ VANS, LLC;
 20 **MERCEDES-BENZ U.S. INTERNATIONAL;**
PORSCHE CARS OF NORTH AMERICA,
 21 **INC.; VOLKSWAGEN AG; VOLKSWAGEN**
GROUP OF AMERICA, INC.,

22 Defendants.
23

Case No.

CLASS ACTION COMPLAINT

JURY TRIAL DEMANDED

TABLE OF CONTENTS

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Page(s)

I. INTRODUCTION1

II. JURISDICTION AND VENUE 2

III. PARTIES.....3

 A. Plaintiffs3

 B. Defendants3

 1. Audi.....3

 2. BMW 4

 3. Daimler 4

 4. Porsche.....5

 5. VW5

 C. Agents and Co-Conspirators 6

IV. INTERSTATE TRADE AND COMMERCE 6

V. FACTUAL ALLEGATIONS 6

 A. Essentials of the Conspiracy 6

 B. Knowledge and Concealment of Cartel Behavior 8

 C. Acknowledgement of Cartel Behavior 8

 D. Government Investigations into the Cartel 8

VI. INJURY..... 8

VII. THE STATUTE OF LIMITATIONS IS TOLLED 9

VIII. CLASS ACTION ALLEGATIONS10

FIRST COUNT: VIOLATION OF SECTIONS 1 AND 3 OF THE SHERMAN ACT12

SECOND COUNT: VIOLATION OF STATE ANTITRUST STATUTES14

THIRD COUNT: VIOLATION OF STATE CONSUMER PROTECTION STATUTES27

FOURTH COUNT: UNJUST ENRICHMENT 40

PRAYER FOR RELIEF 40

JURY DEMAND42

I. INTRODUCTION

1 1. The claims in this case arise from a widespread and systematic conspiracy among the
2 leading manufacturers of Circle of Five Vehicles that began as early as 1990 and has lasted until the
3 present (the “Class Period”).¹

4 2. Executives from BMW, VW, Audi, Porsche and Daimler (the “Circle of Five”) met
5 secretly and reached agreements on multiple issues, including exhaust treatment system development,
6 petrol and diesel engine development, component prices, supplier choice, technical specifications, and
7 vehicle development.² Defendants’ collusive meetings were facilitated by their participation in Verband
8 der Automobilindustrie (“VDA”), the German Association of the Automotive Industry. The Defendants
9 are all VDA members. The net effect of these activities was the suppression of competition, the
10 manipulation of the market for Circle of Five Vehicles in the United States, and the artificial inflation of
11 prices for Circle of Five Vehicles sold or leased in the United States.

12 3. News reports indicate that both Daimler and VW have come forward with information to
13 German authorities, and have acknowledged their involvement in anticompetitive activities.³ The
14 German Federal Cartel Office and the European Commission are actively investigating the conspiracy,
15 and news reports indicate that the U.S. Department of Justice is also reviewing the matter.⁴

16 4. Plaintiffs Amir Berenjian, Hamid Berenjian, and Mark Undestad (“Plaintiffs”) bring this
17 action both individually and on behalf of the following three classes: (a) a nationwide injunctive relief
18 class consisting of persons or entities in the United States who purchased or leased a new Circle of Five
19 Vehicle during the Class Period (“Nationwide Class”); (b) a damages class consisting of persons or
20

21
22
23 ¹ The term “Circle of Five Vehicle” includes all luxury automobiles made in, sold in, or shipped to, the
24 United States by VW, Audi, Porsche, Daimler, or BMW from January 1990 to the present.

25 ² See <http://www.spiegel.de/international/germany/the-cartel-collusion-between-germany-s-biggest-carmakers-a-1159471-druck.html> (last visited October 6, 2017) (“*Der Spiegel*”).

26 ³ See <http://www.dw.com/en/german-carmakers-play-down-collusion-claims/a-39814517> (last visited
27 October 9, 2017) and <http://www.spiegel.de/international/germany/the-cartel-collusion-between-germany-s-biggest-carmakers-a-1159471.html> (last visited October 9, 2017).

28 ⁴ See <http://money.cnn.com/2017/07/22/investing/german-car-cartel-investigation/index.html> (last
visited October 9, 2017); <https://www.bloomberg.com/news/articles/2017-07-25/u-s-is-said-to-review-allegations-german-carmakers-colluded> (last visited October 9, 2017).

1 entities who purchased or leased a new Circle of Five Vehicle during the Class Period in the states that
2 permit indirect purchaser actions (the “IPP States”) brought under the laws of California (“California
3 Law Class”); and, alternatively, (c) a damage class consisting of persons or entities who purchased or
4 leased a Circle of Five Vehicle in the IPP States during the Class Period brought under the laws of each
5 of those jurisdictions (“IPP State Law Class”) (collectively, the “Classes”).⁵

6 5. All allegations herein are based on information and belief and the investigation of
7 counsel, except for those relating specifically to the Plaintiffs, which are based on personal knowledge.

8 **II. JURISDICTION AND VENUE**

9 6. Plaintiffs bring this action under Section 16 of the Clayton Act (15 U.S.C. § 26) for
10 injunctive relief and costs of suit, including reasonable attorneys’ fees, against Defendants for the
11 injuries sustained by Plaintiffs and the members of the Classes by reason of the violations of Sections 1
12 and 3 of the Sherman Act (15 U.S.C. § 1, 3). This action is also instituted under the antitrust, consumer
13 protection, and common laws of various states for damages and equitable relief, as described in Counts
14 Two and Three below.

15 7. Jurisdiction is conferred upon this Court by 28 U.S.C. §§ 1331 and 1337 and by Section 16
16 of the Clayton Act (15 U.S.C. §26). In addition, jurisdiction is also conferred upon this Court by 28
17 U.S.C. §§ 1367.

18 8. Venue is proper in this judicial district pursuant to 15 U.S.C. §§ 15(a) and 22 and 28
19 U.S.C § 1391(b), (c) and (d) because during the Class Period, Defendants resided, transacted business,
20 were found, or had agents in this District, and a substantial portion of the affected interstate trade and
21 commerce described below has been carried out in this District.

22 9. This Court has personal jurisdiction over each Defendant because, *inter alia*, each
23 Defendant: (a) transacted business throughout the United States, including in this District; (b) sold or
24 leased vehicles throughout the United States, including in this District; (c) had substantial contacts with
25

26 ⁵ The “IPP States” consist of Alabama, Arizona, Arkansas, California, District of Columbia, Florida,
27 Hawaii, Illinois, Iowa, Kansas, Maine, Massachusetts, Michigan, Minnesota, Mississippi, Missouri,
28 Montana, Nebraska, Nevada, New Hampshire, New Mexico, New York, North Carolina, North Dakota,
Oregon, Rhode Island, South Carolina, South Dakota, Tennessee, Utah, Vermont, West Virginia and Wisconsin.

1 the United States, including in this District; and/or (d) was engaged in an illegal scheme and price-fixing
2 conspiracy that was directed at and had the intended effect of causing injury to persons residing in,
3 located in, or doing business throughout the United States, including in this District.

4 **III. PARTIES**

5 **A. Plaintiffs**

6 10. Plaintiff Amir Berenjian is an individual and a resident of St. Louis Park, Minnesota. Mr.
7 Berenjian purchased a 2015 BMW M3 in 2016 in the state of Minnesota. As a result of the alleged
8 conspiracy, Mr. Berenjian was injured in his property by reason of the violations of law alleged herein.

9 11. Plaintiff Hamid Berenjian is an individual and a resident of Eden Prairie, Minnesota. Mr.
10 Berenjian purchased a 2013 3X BMW in Spring 2013 in Golden Valley, Minnesota. As a result of the
11 alleged conspiracy, Mr. Berenjian was injured in his property by reason of the violations of law alleged
12 herein.

13 12. Plaintiff Mark Undestad is an individual and a resident of Chanhassen, Minnesota. Mr.
14 Undestad purchased a 2015 Mercedes ML350 in August 2015 in Bloomington, Minnesota. Mr.
15 Undestad also leased a 2017 Mercedes S550 4Matic in April 2016 in Bloomington, Minnesota. As a
16 result of the alleged conspiracy, Mr. Undestad was injured in his property by reason of the violations of
17 law alleged herein.

18 **B. Defendants**

19 **1. Audi**

20 13. Defendant Audi AG is a German corporation with a principal place of business in
21 Ingolstadt, Germany. Audi AG designs, develops, manufactures, sells and/or leases automobiles in the
22 United States. Audi AG is the parent corporation of Audi of America, Inc. and Audi of America, LLC
23 and a subsidiary of the Audi Group, which is a wholly-owned subsidiary of VW AG. Audi AG is also a
24 member of VDA.

25 14. Defendant Audi of America, Inc. ("Audi Inc.") is a New Jersey corporation with a
26 principal place of business in Herndon, Virginia. Audi Inc. engages in business, including the
27 advertising, marketing, sale and/or leasing of Audi automobiles in all states and the District of
28 Columbia, including in this District.

1 15. Defendant Audi of America, LLC (“Audi LLC”) is a Delaware corporation with a
2 principal place of business in Herndon, Virginia. Audi LLC engages in business, including the
3 advertising, marketing, sale and/or leasing of Audi automobiles in all states and the District of
4 Columbia, including in this District.

5 16. Defendants Audi AG, Audi Inc., and Audi LLC (referred to collectively as “Audi”)
6 manufactured and sold Circle of Five Vehicles during the Class Period.

7 **2. BMW**

8 17. Defendant Bayerische Motoren Werke AG (“BMW AG”) is a German corporation with
9 a principal place of business in Munich, Germany. BMW AG designs, develops, manufactures, sells
10 and/or leases automobiles in the United States. BMW AG is the parent corporation of BMW North
11 America, LLC. BMW AG is also a member of VDA.

12 18. Defendant BMW of North America, LLC (“BMW NA”) is a Delaware corporation with
13 a principal place of business in Woodcliff Lake, NJ. BMW NA engages in business, including the
14 advertising, marketing, sale and/or leasing of BMW automobiles in all states and the District of
15 Columbia, including in this District.

16 19. Defendants BMW AG and BMW NA (referred to collectively as “BMW”) manufactured
17 and sold Circle of Five Vehicles during the Class Period.

18 **3. Daimler**

19 20. Defendant Daimler AG is a German corporation with a principal place of business in
20 Stuttgart, Germany. Daimler AG designs, develops, manufactures, sells and/or leases automobiles in
21 the United States. Daimler AG is the parent company of Mercedes-Benz USA, Mercedes-Benz Vans,
22 LLC, and Mercedes Benz U.S. International. Daimler AG is also a member of VDA.

23 21. Defendant Mercedes-Benz USA, LLC (“MB USA”) is a Delaware corporation with a
24 principal place of business in Atlanta, Georgia. MB USA is the sole distributor of Mercedes-Benz
25 automobiles (including vans) in the United States, including in this District.

26 22. Defendant Mercedes-Benz Vans, LLC (“MB Vans”) is a Delaware corporation with a
27 principal place of business in Ladson, South Carolina. MB Vans engages in business, including the
28

1 advertising, marketing, sale and/or leasing of Mercedes-Benz vans in all states and the District of
2 Columbia, including in this District.

3 23. Defendant Mercedes-Benz U.S. International (“MB International”) is an Alabama
4 corporation with a principal place of business in Vance, Alabama. MB International is Daimler AG’s
5 first manufacturing facility for automobiles in the United States.

6 24. Defendants Daimler AG, MB USA, MB Vans, and MB International (referred to
7 collectively as “Daimler”) manufactured and sold Circle of Five Vehicles during the Class Period.

8 **4. Porsche**

9 25. Defendant Dr. Ing. H.c.F. Porsche AG (“Porsche AG”) is a German Corporation with a
10 principal place of business in Stuttgart, Germany. Porsche AG designs, develops, manufactures, sells
11 and/or leases automobiles in the United States. Porsche AG is the parent corporation of Porsche Cars
12 North America, Inc. and a wholly-owned subsidiary of VW AG. Porsche AG is also a member of VDA.

13 26. Defendant Porsche Cars of North America, Inc. (“Porsche NA”) is a Delaware
14 corporation with a principal place of business in Atlanta, Georgia. Porsche NA engages in business,
15 including the advertising, marketing, sale and/or leasing of Porsche automobiles in all states and the
16 District of Columbia, including in this District.

17 27. Defendants Porsche AG and Porsche NA (referred to collectively as “Porsche”)
18 manufactured and sold Circle of Five Vehicles during the Class Period.

19 **5. VW**

20 28. Defendant Volkswagen AG (“VW AG”) is a German corporation with a principal place of
21 business in Wolfsburg, Germany. VW AG is one of the largest automobile manufacturers in the world,
22 and designs, develops, manufactures, sells and/or leases automobiles in the United States. VW AG is
23 the parent corporation of Audi AG, Porsche AG, and each American subsidiary thereof. VW AG is also
24 a member of VDA.

25 29. Volkswagen Group of America, Inc. (“VW America”) is a New Jersey corporation with a
26 principal place of business in Herndon, Virginia. VW America engages in business, including the
27 advertising, marketing, sale and/or leasing of Volkswagen automobiles in all states and the District of
28 Columbia, including in this District.

1 30. Defendants VW AG and VW America (referred to collectively as “VW”) manufactured
2 and sold Circle of Five Vehicles during the Class Period.

3 **C. Agents and Co-Conspirators**

4 31. Various other persons, firms, corporations and entities have participated as unnamed co-
5 conspirators with Defendants in the violations and conspiracy alleged herein. In order to engage in the
6 offenses charged and violations alleged herein, these co-conspirators have performed acts and made
7 statements in furtherance of the antitrust violations and conspiracies alleged herein.

8 32. At all relevant times, each Defendant was an agent of each of the remaining Defendants,
9 and in doing the acts alleged herein, was acting within the course and scope of such agency. Each
10 Defendant ratified and/or authorized the wrongful acts of each of the Defendants. Defendants, and each
11 of them, are individually sued as participants and as aiders and abettors in the improper acts and
12 transactions that are the subject of this action.

13 **IV. INTERSTATE TRADE AND COMMERCE**

14 33. The business activities of Defendants that are the subject of this action were within the
15 flow of, and substantially affected, interstate trade and commerce.

16 34. During the Class Period, Defendants sold and/or leased automobiles (including vans) in
17 a continuous and uninterrupted flow of interstate commerce to customers throughout the United States.

18 **V. FACTUAL ALLEGATIONS**

19 **A. Essentials of the Conspiracy**

20 35. According to news reports, and a statement released by Volkswagen, the Circle of Five
21 has colluded on issues relating to vehicle development, costs and markets “for many years -- at least
22 since the 1990s and to this day.”⁶ Defendants began to exchange commercially sensitive information
23 regarding their vehicles, costs, suppliers, and markets with each other. Defendants’ cartel continued
24 through at least 2016, when disclosure of the cartel was made to the European Commission and German
25 Federal Cartel Office. According to a July 4, 2016 disclosure made by VW to the European Commission
26

27 ⁶ See [http://www.spiegel.de/international/germany/the-cartel-collusion-between-germany-s-biggest-](http://www.spiegel.de/international/germany/the-cartel-collusion-between-germany-s-biggest-carmakers-a-1159471.html)
28 [carmakers-a-1159471.html](http://www.spiegel.de/international/germany/the-cartel-collusion-between-germany-s-biggest-carmakers-a-1159471.html) (last visited October 9, 2017).

1 and German Federal Cartel Office (as reported by *Der Spiegel*), The Circle of Five participated in “more
2 than 1,000 relevant meetings.”⁷

3 36. Defendants facilitated their conspiracy through approximately 60 working groups and
4 200 individuals.⁸ The working groups ranged from mechanical attachments to braking control systems,
5 seating systems, air suspension, clutches, engines, and other components.⁹ Through these groups,
6 Defendants reached agreements and suppressed competition.¹⁰

7 37. By way of example, Defendants agreed to the maximum speed at which their convertible
8 tops could be opened and closed.¹¹ Similarly, the “Third-Party Motor Analysis” workgroup exchanged
9 data on their vehicles in order to minimize the need to purchase, test, and analyze each other’s
10 automobiles.¹² Through these, and other, efforts Defendants engaged in extensive and wide-ranging
11 information exchanges involving commercially sensitive information, agreed to certain technical
12 standards, and agreed to use only certain technology solutions in new automobiles.¹³ Defendants also
13 used these groups as forums to discuss common suppliers.¹⁴

14 38. During the course of these discussions, Defendants reached an agreement on the size of
15 tanks for AdBlue®, which is a liquid used in connection with selective catalytic reduction technology to
16 reduce emissions in diesel engines.¹⁵ AdBlue® is owned by VDA.¹⁶ Defendants’ shenanigans in this
17 regard gave rise to the huge diesel scandal in the United States to which VW pleaded guilty to
18

19 ⁷ See [http://www.spiegel.de/international/germany/the-cartel-collusion-between-germany-s-biggest-](http://www.spiegel.de/international/germany/the-cartel-collusion-between-germany-s-biggest-carmakers-a-1159471.html)
20 [carmakers-a-1159471.html](http://www.spiegel.de/international/germany/the-cartel-collusion-between-germany-s-biggest-carmakers-a-1159471.html) (last visited October 9, 2017) (emphasis added).

21 ⁸ *Id.*

22 ⁹ *Id.*

23 ¹⁰ *Id.*

24 ¹¹ *Id.*

25 ¹² See [http://www.spiegel.de/international/germany/the-cartel-collusion-between-germany-s-biggest-](http://www.spiegel.de/international/germany/the-cartel-collusion-between-germany-s-biggest-carmakers-a-1159471-2.html)
26 [carmakers-a-1159471-2.html](http://www.spiegel.de/international/germany/the-cartel-collusion-between-germany-s-biggest-carmakers-a-1159471-2.html) (last visited October 9, 2017).

27 ¹³ *Id.*

28 ¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ See <https://www.vda.de/en/topics/innovation-and-technology/ad-blue/adBlue.html> (last visited
October 9, 2017).

1 defrauding the United States and VW's customers regarding emissions technology, and paid nearly \$20
2 billion in fines and restitution.¹⁷

3 **B. Knowledge and Concealment of Cartel Behavior**

4 39. Defendants were aware that their activities raised antitrust concern and took steps to
5 avoid detection.¹⁸ In 2010, for example, a document presented at a meeting among Defendants in Paris
6 warned others not to document the details of their discussions.¹⁹

7 **C. Acknowledgement of Cartel Behavior**

8 40. In a submission to the European Commission and German Federal Cartel Office dated
9 July 4, 2016, VW admitted to its involvement in a likely cartel with the other Defendants.

10 41. Publicly available information also suggests that Daimler has made a similar submission
11 to the European Commission and German Federal Cartel Office, perhaps as early as 2014.²⁰

12 **D. Government Investigations into the Cartel**

13 42. Both the European Commission and German Federal Cartel Office are investigating the
14 cartel as a result of the disclosures made by VW and Daimler.²¹

15 43. Public news reports also indicate that the U.S. Department of Justice is evaluating the
16 cartel, although no formal proceedings have been made public.²²

17 **VI. INJURY**

18 44. German automobile manufacturers have long held themselves out as manufacturers of
19 premium technologically advanced motor vehicles. Among other things, these manufacturers seek and
20

21 ¹⁷ See [https://www.justice.gov/opa/pr/volkswagen-ag-agrees-plead-guilty-and-pay-43-billion-criminal-](https://www.justice.gov/opa/pr/volkswagen-ag-agrees-plead-guilty-and-pay-43-billion-criminal-and-civil-penalties-six)
22 [http://fortune.com/2016/10/26/settlement-](http://fortune.com/2016/10/26/settlement-vw-diesel-scandal/)
vw-diesel-scandal/ (last visited October 9, 2017).

23 ¹⁸ *Id.*

24 ¹⁹ <http://www.sueddeutsche.de/wirtschaft/autoindustrie-lieber-kungeln-als-konkurrieren-1.3600989>
(last visited August 8, 2017).

25 ²⁰ [https://www.forbes.com/sites/bertelschmitt/2017/07/25/german-car-cartel-triggers-rat-out-race-](https://www.forbes.com/sites/bertelschmitt/2017/07/25/german-car-cartel-triggers-rat-out-race-between-daimler-volkswagen-and-bmw/#552ce9c45c1a)
26 [between-daimler-volkswagen-and-bmw/#552ce9c45c1a](https://www.forbes.com/sites/bertelschmitt/2017/07/25/german-car-cartel-triggers-rat-out-race-between-daimler-volkswagen-and-bmw/#552ce9c45c1a) (last visited August 8, 2017).

27 ²¹ See <http://money.cnn.com/2017/07/22/investing/german-car-cartel-investigation/index.html> (last
27 visited October 9, 2017).

28 ²² See [https://www.bloomberg.com/news/articles/2017-07-25/u-s-is-said-to-review-allegations-german-](https://www.bloomberg.com/news/articles/2017-07-25/u-s-is-said-to-review-allegations-german-carmakers-colluded)
carmakers-colluded (last visited October 9, 2017).

1 receive higher prices in exchange for the purported high quality of “German Engineering.” But for their
2 collusion, the Circle of Five would have competed with one another to build highly technologically
3 advanced, well-engineered automobiles. Instead, the Circle of Five avoided and prevented competition,
4 resulting in the sales of vehicles at higher prices and at lower quality that they would have been sold, but
5 for their illegal activity.

6 45. Through their agreement to exchange confidential, valuable, commercially sensitive
7 information with rivals, the Circle of Five denied plaintiffs the benefits of competition, including with
8 respect not only to price but also engineering, design and other qualitative aspects.

9 46. In particular, through their anticompetitive agreements, the Circle of Five prevented
10 competition with respect to emissions and diesel fuel technology development. Instead of competing,
11 the Circle of Five exchanged technical information, and came to agreements on product specifications
12 including limitations on the the size of Adblue tanks.

13 47. This cartel entered into explicit and tacit horizontal agreements to restrict competition
14 on quality, innovation, and price. This conduct constitutes a *per se* violation of the antitrust law.

15 48. As a direct and proximate result of these activities—i.e. by maintaining premium prices
16 despite the reduced research and development and component part costs that resulted from their
17 unlawful conspiracy—Defendants artificially inflated the prices they charged consumers for their
18 vehicles. Consumers were harmed because they paid supra-competitive prices for Circle of Five
19 Vehicles, and they received lower quality vehicles than they would have absent Defendants’ collusion.

20 **VII. THE STATUTE OF LIMITATIONS IS TOLLED**

21 49. Defendants’ conspiracy was inherently self-concealing. To avoid detection, Defendants
22 conducted their meetings in secret.²³ Accordingly, the public, including Plaintiffs and other class
23 members, had no knowledge of Defendants’ conspiracy, and could not have discovered Defendants’
24 conspiracy, until July 21, 2017. It was on this date that multiple news authorities reported that
25 Volkswagen had admitted to German authorities, via a July 4, 2017 letter, that it may have engaged in
26 anticompetitive behavior with its rivals.

27
28 ²³ See <http://www.sueddeutsche.de/wirtschaft/autoindustrie-lieber-kungeln-als-konkurrieren-1.3600989> (last visited October 9, 2017).

1 50. Defendants' concealment made it impossible for Plaintiffs or other class members to
2 have discovered the conspiracy before July 2017. Accordingly, the statute of limitations has been tolled
3 as to the claims of Plaintiffs and other class members as alleged herein.

4 **VIII. CLASS ACTION ALLEGATIONS**

5 51. Plaintiffs bring this action on behalf of themselves and as a class action under Rule 23(a),
6 (b)(2) and (b)(3) of the Federal Rules of Civil Procedure on behalf of the following class (the
7 "Nationwide Class"):

8 All persons and entities in the United States and its territories who
9 purchased or leased a new Circle of Five Vehicle for their own use and not
 for resale during the Class Period.

10 52. Plaintiffs bring this action on behalf of themselves and as a class action under Rule 23(a)
11 and (b)(3) of the Federal Rules of Civil Procedure seeking damages pursuant to the laws of California on
12 behalf of the following class (the "California Law Class"):

13 All persons and entities who purchased or leased a new Circle of Five Vehicle in the
14 states that permit indirect purchaser plaintiff actions (the "IPP States") brought under
 the laws of California ("California Law Class").

15 53. Plaintiffs bring this action on behalf of themselves and as a class action under Rule 23(a)
16 and (b)(3) of the Federal Rules of Civil Procedure seeking damages pursuant to the common law of
17 unjust enrichment and state antitrust, unfair competition, and consumer protection laws of the IPP
18 States on behalf of the following class (the "IPP State Class"):

19 All persons and entities in the Indirect Purchaser States who indirectly
20 purchased or leased a new Circle of Five Vehicle for their own use and not
 for resale during the Class Period.

21 54. The Nationwide Class, California Law Class, and the IPP State Class are referred to
22 herein collectively as the "Classes." While Plaintiffs do not know the exact number of the members of
23 the Classes, Plaintiffs believe there are millions of members in each Class.

24 55. Common questions of law and fact exist as to all members of the Classes. This is
25 particularly true given the nature of Defendants' conspiracy, which was generally applicable to all the
26 members of the Classes, thereby making appropriate relief with respect to the Classes as a whole. Such
27 questions of law and fact common to the Classes include, but are not limited to:
28

- a. Whether Defendants and their co-conspirators engaged in a combination and conspiracy among themselves to fix, raise, maintain and/or stabilize prices of Circle of Five Vehicles sold and/or leased in the United States;
- b. The identity of the participants of the alleged conspiracy;
- c. The duration of the alleged conspiracy and the acts carried out by Defendants and their co-conspirators in furtherance of the conspiracy;
- d. Whether the alleged conspiracy violated the Sherman Act, as alleged in the First Count;
- e. Whether the alleged conspiracy violated state antitrust and unfair competition laws, and/or state consumer protection laws, as alleged in the Second and Third Counts;
- f. Whether the Defendants unjustly enriched themselves to the detriment of the Plaintiffs and the members of the Classes, thereby entitling Plaintiffs and the members of the Classes to disgorgement of all benefits derived by Defendants, as alleged in the Fourth Count;
- g. Whether the conduct of the Defendants and their co-conspirators, as alleged in this Complaint, caused injury to the business or property of Plaintiffs and the members of the Classes;
- h. The effect of the alleged conspiracy on the prices of Circle of Five Vehicles sold and/or leased in the United States during the Class Period;
- i. The appropriate injunctive and related equitable relief for the Nationwide Class; and
- j. The appropriate class-wide measure of damages for the California Law Class and IPP State Class.

56. Plaintiffs' claims are typical of the claims of the members of the Classes, and Plaintiffs will fairly and adequately protect the interests of the Classes. Plaintiffs and all members of the Classes are similarly affected by Defendants' wrongful conduct in that they paid artificially inflated prices for Circle of Five Vehicle purchased and/or leased from the Defendants and/or their co-conspirators.

1 64. During the Class Period, Defendants and their co-conspirators entered into a continuing
2 agreement, understanding and conspiracy in restraint of trade to artificially fix, raise, stabilize, and
3 control prices for Circle of Five Vehicles sold and/or leased in the United States, thereby creating
4 anticompetitive effects.

5 65. The conspiratorial acts and combinations have caused unreasonable restraints in the
6 market for Circle of Five Vehicles.

7 66. As a result of Defendants' unlawful conduct, Plaintiffs and other similarly situated
8 indirect purchasers in the Nationwide Class who purchased or leased Circle of Five Vehicles have been
9 harmed by being forced to pay inflated, supracompetitive prices for Circle of Five Vehicles.

10 67. In formulating and carrying out the alleged agreement, understanding and conspiracy,
11 Defendants and their co-conspirators did those things that they combined and conspired to do,
12 including but not limited to the acts, practices and course of conduct set forth herein.

13 68. Defendants' conspiracy had the following effects, among others:

- 14 a. Price competition in the market for Circle of Five Vehicles has been restrained,
15 suppressed, and/or eliminated in the United States;
- 16 b. Prices for Circle of Five Vehicles manufactured, distributed, sold and/or leased
17 by Defendants and their co-conspirators have been fixed, raised, maintained, and
18 stabilized at artificially high, non-competitive levels throughout the United
19 States; and
- 20 c. Plaintiffs and members of the Nationwide Class who purchased Circle of Five
21 Vehicles from Defendants and their co-conspirators have been deprived of the
22 benefits of free and open competition.

23 69. Plaintiffs and members of the Nationwide Class have been injured and will continue to be
24 injured in their business and property by having paid and continuing to pay more for Circle of Five
25 Vehicles purchased and/or leased from Defendants and the co-conspirators than they would have paid
26 and will pay in the absence of the conspiracy.

27 70. The alleged contract, combination, or conspiracy is a *per se* violation of the federal
28 antitrust laws.

1 throughout Alabama; (2) Circle of Five Vehicle prices were raised, fixed, maintained and/or stabilized at
2 artificially high levels throughout Alabama; (3) Plaintiffs and members of the Classes were deprived of
3 free and open competition; and (4) Plaintiffs and members of the Classes paid supracompetitive,
4 artificially inflated prices for Circle of Five Vehicles. During the Class Period, Defendants' illegal
5 conduct substantially affected Alabama commerce. As a direct and proximate result of defendants'
6 unlawful conduct, Plaintiffs and members of the Classes have been injured in their business and
7 property and are threatened with further injury. By reason of the foregoing, Defendants entered into
8 agreements in restraint of trade in violation of Alabama Code § 6-5-60, *et seq.* Accordingly, Plaintiffs and
9 members of the Classes seek all forms of relief available under Alabama Code § 6-5-60, *et seq.*

10 79. **Arizona.** Defendants have entered into an unlawful agreement in restraint of trade in
11 violation of Arizona Revised Statutes, §§ 44-1401, *et seq.* Defendants' combinations or conspiracies had
12 the following effects: (1) price competition for Circle of Five Vehicles was restrained, suppressed, and
13 eliminated throughout Arizona; (2) Circle of Five Vehicle prices were raised, fixed, maintained and/or
14 stabilized at artificially high levels throughout Arizona; (3) Plaintiffs and members of the Classes were
15 deprived of free and open competition; and (4) Plaintiffs and members of the Classes paid
16 supracompetitive, artificially inflated prices for Circle of Five Vehicles. During the Class Period,
17 Defendants' illegal conduct substantially affected Arizona commerce. As a direct and proximate result
18 of defendants' unlawful conduct, Plaintiffs and members of the Classes have been injured in their
19 business and property and are threatened with further injury. By reason of the foregoing, Defendants
20 entered into agreements in restraint of trade in violation of Ariz. Rev. Stat. §§ 44-1401, *et seq.*
21 Accordingly, Plaintiffs and members of the Classes seek all forms of relief available under Ariz. Rev.
22 Stat. §§ 44-1401, *et seq.*

23 80. **California.** Defendants have entered into an unlawful agreement in restraint of trade in
24 violation of California Business and Professions Code §§ 16700 *et seq.* During the Class Period,
25 Defendants and their co-conspirators entered into and engaged in a continuing unlawful trust in
26 restraint of the trade and commerce described above in violation of California Business and Professions
27 Code Section §16720. Defendants, and each of them, have acted in violation of Section 16720 to fix,
28 raise, stabilize, and maintain prices of Circle of Five Vehicles at supracompetitive levels. The aforesaid

1 violations of Section 16720 consisted, without limitation, of a continuing unlawful trust and concert of
2 action among the Defendants and their co-conspirators, the substantial terms of which were to fix, raise,
3 maintain, and stabilize the prices of Circle of Five Vehicles. For the purpose of forming and effectuating
4 the unlawful trust, the Defendants and their co-conspirators have done those things which they
5 combined and conspired to do, including but not limited to the acts, practices and course of conduct set
6 forth above and fixing, raising, and stabilizing the price of Circle of Five Vehicles. The combination and
7 conspiracy alleged herein has had, *inter alia*, the following effects: (1) price competition for Circle of
8 Five Vehicles has been restrained, suppressed, and/or eliminated in the State of California; (2) prices
9 for Circle of Five Vehicles sold or leased by Defendants and their co-conspirators have been fixed,
10 raised, stabilized, and pegged at artificially high, non-competitive levels in the State of California and
11 throughout the United States; and (3) those who purchased Circle of Five Vehicles directly or indirectly
12 from Defendants and their co-conspirators have been deprived of the benefit of free and open
13 competition. As a direct and proximate result of Defendants' unlawful conduct, Plaintiffs and members
14 of the Classes have been injured in their business and property in that they paid more for Circle of Five
15 Vehicles than they otherwise would have paid in the absence of Defendants' unlawful conduct. As a
16 result of Defendants' violation of Section 16720, Plaintiffs and members of the Classes seek treble
17 damages and their cost of suit, including a reasonable attorney's fee, pursuant to California Business
18 and Professions Code § 16750(a).

19 81. **District of Columbia.** Defendants have entered into an unlawful agreement in restraint
20 of trade in violation of District of Columbia Code Annotated §§ 28-4501, *et seq.* Defendants'
21 combinations or conspiracies had the following effects: (1) Circle of Five Vehicle competition was
22 restrained, suppressed, and eliminated throughout the District of Columbia; (2) Circle of Five Vehicles
23 prices were raised, fixed, maintained and/or stabilized at artificially high levels throughout the District
24 of Columbia; (3) Plaintiffs and members of the Classes, including those who resided in the District of
25 Columbia and/or purchased or leased Circle of Five Vehicles were deprived of free and open
26 competition, including in the District of Columbia; and (4) Plaintiffs and members of the Classes,
27 including those who resided in the District of Columbia and/or purchased or leased Circle of Five
28 Vehicles in the District of Columbia paid supracompetitive, artificially inflated prices for Circle of Five

1 Vehicles, including in the District of Columbia. During the Class Period, Defendants' illegal conduct
2 substantially affected District of Columbia commerce. As a direct and proximate result of defendants'
3 unlawful conduct, Plaintiffs and members of the Classes have been injured in their business and
4 property and are threatened with further injury. By reason of the foregoing, Defendants have entered
5 into agreements in restraint of trade in violation of District of Columbia Code Ann. §§ 28-4501, *et seq.*
6 Accordingly, Plaintiffs and members of the Classes seek all forms of relief available under District of
7 Columbia Code Ann. §§ 28-4501, *et seq.*

8 **82. Hawaii.** Defendants have entered into an unlawful agreement in restraint of trade in
9 violation of Hawaii Revised Statutes Annotated §§ 480-1, *et seq.* Defendants' unlawful conduct had the
10 following effects: (1) Circle of Five Vehicle competition was restrained, suppressed, and eliminated
11 throughout Hawaii; (2) Circle of Five Vehicle prices were raised, fixed, maintained, and stabilized at
12 artificially high levels throughout Hawaii; (3) Plaintiffs and members of the Classes were deprived of
13 free and open competition; and (4) Plaintiffs and members of the Classes paid supracompetitive,
14 artificially inflated prices for Circle of Five Vehicles. During the Class Period, Defendants' illegal
15 conduct substantially affected Hawaii commerce. As a direct and proximate result of Defendants'
16 unlawful conduct, Plaintiffs and members of the Classes have been injured in their business and
17 property and are threatened with further injury. By reason of the foregoing, Defendants have entered
18 into agreements in restraint of trade in violation of Hawaii Revised Statutes Annotated §§ 480-4, *et seq.*
19 Accordingly, Plaintiffs and members of the Classes seek all forms of relief available under Hawaii
20 Revised Statutes Annotated §§ 480-4, *et seq.*

21 **83. Illinois.** Defendants have entered into an unlawful agreement in restraint of trade in
22 violation of the Illinois Antitrust Act (740 Illinois Compiled Statutes 10/1, *et seq.*) Defendants'
23 combinations or conspiracies had the following effects: (1) Circle of Five Vehicle competition was
24 restrained, suppressed, and eliminated throughout Illinois; (2) Circle of Five Vehicle prices were raised,
25 fixed, maintained, and stabilized at artificially high levels throughout Illinois; (3) Plaintiffs and members
26 of the Classes were deprived of free and open competition; and (4) Plaintiffs and members of the
27 Classes paid supracompetitive, artificially inflated prices for Circle of Five Vehicles. During the Class
28 Period, Defendants' illegal conduct substantially affected Illinois commerce. As a direct and proximate

1 result of Defendants' unlawful conduct, Plaintiffs and members of the Classes have been injured in their
2 business and property and are threatened with further injury.

3 84. **Iowa.** Defendants have entered into an unlawful agreement in restraint of trade in
4 violation of Iowa Code §§ 553.1, *et seq.* Defendants' combinations or conspiracies had the following
5 effects: (1) Circle of Five Vehicle competition was restrained, suppressed, and eliminated throughout
6 Iowa; (2) Circle of Five Vehicle prices were raised, fixed, maintained and/or stabilized at artificially high
7 levels throughout Iowa; (3) Plaintiffs and members of the Classes were deprived of free and open
8 competition; and (4) Plaintiffs and members of the Classes paid supracompetitive, artificially inflated
9 prices for Circle of Five Vehicles. During the Class Period, Defendants' illegal conduct substantially
10 affected Iowa commerce. As a direct and proximate result of Defendants' unlawful conduct, Plaintiffs
11 and members of the Classes have been injured in their business and property and are threatened with
12 further injury. By reason of the foregoing, Defendants have entered into agreements in restraint of trade
13 in violation of Iowa Code §§ 553.1, *et seq.* Accordingly, Plaintiffs and members of the Classes seek all
14 forms of relief available under Iowa Code §§ 553, *et seq.*

15 85. **Kansas.** Defendants have entered into an unlawful agreement in restraint of trade in
16 violation of Kansas Statutes Annotated, §§ 50-101, *et seq.* Defendants' combinations or conspiracies had
17 the following effects: (1) Circle of Five Vehicle competition was restrained, suppressed, and eliminated
18 throughout Kansas; (2) Circle of Five Vehicle prices were raised, fixed, maintained and/or stabilized at
19 artificially high levels throughout Kansas; (3) Plaintiffs and members of the Classes were deprived of
20 free and open competition; and (4) Plaintiffs and members of the Classes paid supracompetitive,
21 artificially inflated prices for Circle of Five Vehicles. During the Class Period, Defendants' illegal
22 conduct substantially affected Kansas commerce. As a direct and proximate result of Defendants'
23 unlawful conduct, Plaintiffs and members of the Classes have been injured in their business and
24 property and are threatened with further injury. By reason of the foregoing, Defendants have entered
25 into agreements in restraint of trade in violation of Kansas Stat. Ann. §§ 50-101, *et seq.* Accordingly,
26 Plaintiffs and members of the Classes seek all forms of relief available under Kansas Stat. Ann. §§ 50-
27 101, *et seq.*

1 86. **Maine.** Defendants have entered into an unlawful agreement in restraint of trade in
2 violation of Maine Revised Statutes (Maine Rev. Stat. Ann. 10, §§ 1101, *et seq.*). Defendants'
3 combinations or conspiracies had the following effects: (1) Circle of Five Vehicle competition was
4 restrained, suppressed, and eliminated throughout Maine; (2) Circle of Five Vehicle prices were raised,
5 fixed, maintained and/or stabilized at artificially high levels throughout Maine; (3) Plaintiffs and
6 members of the Classes were deprived of free and open competition; and (4) Plaintiffs and members of
7 the Classes paid supracompetitive, artificially inflated prices for Circle of Five Vehicles. During the
8 Class Period, Defendants' illegal conduct substantially affected Maine commerce. As a direct and
9 proximate result of Defendants' unlawful conduct, Plaintiffs and members of the Classes have been
10 injured in their business and property and are threatened with further injury. By reason of the foregoing,
11 Defendants have entered into agreements in restraint of trade in violation of Maine Rev. Stat. Ann. 10,
12 §§ 1101, *et seq.* Accordingly, Plaintiffs and members of the Classes seek all relief available under Maine
13 Rev. Stat. Ann. 10, §§ 1101, *et seq.*

14 87. **Michigan.** Defendants have entered into an unlawful agreement in restraint of trade in
15 violation of Michigan Compiled Laws Annotated §§ 445.771, *et seq.* Defendants' combinations or
16 conspiracies had the following effects: (1) Circle of Five Vehicle competition was restrained,
17 suppressed, and eliminated throughout Michigan; (2) Circle of Five Vehicle prices were raised, fixed,
18 maintained and/or stabilized at artificially high levels throughout Michigan; (3) Plaintiffs and members
19 of the Classes were deprived of free and open competition; and (4) Plaintiffs and members of the
20 Classes paid supracompetitive, artificially inflated prices for Circle of Five Vehicles. During the Class
21 Period, Defendants' illegal conduct substantially affected Michigan commerce. As a direct and
22 proximate result of Defendants' unlawful conduct, Plaintiffs and members of the Classes have been
23 injured in their business and property and are threatened with further injury. By reason of the foregoing,
24 Defendants have entered into agreements in restraint of trade in violation of Michigan Comp. Laws
25 Ann. §§ 445.771, *et seq.* Accordingly, Plaintiffs and members of the Classes seek all relief available under
26 Michigan Comp. Laws Ann. §§ 445.771, *et seq.*

27 88. **Minnesota.** Defendants have entered into an unlawful agreement in restraint of trade in
28 violation of Minnesota Annotated Statutes §§ 325D.49, *et seq.* Defendants' combinations or conspiracies

1 had the following effects: (1) Circle of Five Vehicle competition was restrained, suppressed, and
2 eliminated throughout Minnesota; (2) Circle of Five Vehicle prices were raised, fixed, maintained
3 and/or stabilized at artificially high levels throughout Minnesota; (3) Plaintiffs and members of the
4 Classes were deprived of free and open competition; and (4) Plaintiffs and members of the Classes paid
5 supracompetitive, artificially inflated prices for Circle of Five Vehicles. During the Class Period,
6 Defendants' illegal conduct substantially affected Minnesota commerce. As a direct and proximate
7 result of Defendants' unlawful conduct, Plaintiffs and members of the Classes have been injured in their
8 business and property and are threatened with further injury. By reason of the foregoing, Defendants
9 have entered into agreements in restraint of trade in violation of Minnesota Stat. §§ 325D.49, *et seq.*
10 Accordingly, Plaintiffs and members of the Classes seek all relief available under Minnesota Stat. §§
11 325D.49, *et seq.*

12 89. **Mississippi.** Defendants have entered into an unlawful agreement in restraint of trade in
13 violation of Mississippi Code Annotated §§ 75-21-1, *et seq.* Defendants' combinations or conspiracies
14 had the following effects: (1) Circle of Five Vehicle competition was restrained, suppressed, and
15 eliminated throughout Mississippi; (2) Circle of Five Vehicle prices were raised, fixed, maintained
16 and/or stabilized at artificially high levels throughout Mississippi; (3) Plaintiffs and members of the
17 Classes were deprived of free and open competition; and (4) Plaintiffs and members of the Classes paid
18 supracompetitive, artificially inflated prices for Circle of Five Vehicles. During the Class Period,
19 Defendants' illegal conduct substantially affected Mississippi commerce. As a direct and proximate
20 result of Defendants' unlawful conduct, Plaintiffs and members of the Classes have been injured in their
21 business and property and are threatened with further injury. By reason of the foregoing, Defendants
22 have entered into agreements in restraint of trade in violation of Mississippi Code Ann. § 75-21-1, *et seq.*
23 Accordingly, Plaintiffs and members of the Classes seek all relief available under Mississippi Code Ann.
24 § 75-21-1, *et seq.*

25 90. **Nebraska.** Defendants have entered into an unlawful agreement in restraint of trade in
26 violation of Nebraska Revised Statutes §§ 59-801, *et seq.* Defendants' combinations or conspiracies had
27 the following effects: (1) Circle of Five Vehicle competition was restrained, suppressed, and eliminated
28 throughout Nebraska; (2) Circle of Five Vehicle prices were raised, fixed, maintained and/or stabilized

1 at artificially high levels throughout Nebraska; (3) Plaintiffs and members of the Classes were deprived
2 of free and open competition; and (4) Plaintiffs and members of the Classes paid supracompetitive,
3 artificially inflated prices for Circle of Five Vehicles. During the Class Period, Defendants' illegal
4 conduct substantially affected Nebraska commerce. As a direct and proximate result of Defendants'
5 unlawful conduct, Plaintiffs and members of the Classes have been injured in their business and
6 property and are threatened with further injury. By reason of the foregoing, Defendants have entered
7 into agreements in restraint of trade in violation of Nebraska Revised Statutes §§ 59-801, *et seq.*
8 Accordingly, Plaintiffs and members of the Classes seek all relief available under Nebraska Revised
9 Statutes §§ 59-801, *et seq.*

10 **91. Nevada.** Defendants have entered into an unlawful agreement in restraint of trade in
11 violation of Nevada Revised Statutes Annotated §§ 598A.010, *et seq.* Defendants' combinations or
12 conspiracies had the following effects: (1) Circle of Five Vehicle competition was restrained,
13 suppressed, and eliminated throughout Nevada; (2) Circle of Five Vehicle prices were raised, fixed,
14 maintained and/or stabilized at artificially high levels throughout Nevada; (3) Plaintiffs and members of
15 the Classes were deprived of free and open competition; and (4) Plaintiffs and members of the Classes
16 paid supracompetitive, artificially inflated prices for Circle of Five Vehicles. During the Class Period,
17 Defendants' illegal conduct substantially affected Nevada commerce. As a direct and proximate result of
18 Defendants' unlawful conduct, Plaintiffs and members of the Classes have been injured in their business
19 and property and are threatened with further injury. By reason of the foregoing, Defendants have
20 entered into agreements in restraint of trade in violation of Nevada Rev. Stat. Ann. §§ 598A, *et seq.*
21 Accordingly, Plaintiffs and members of the Classes seek all relief available under Nevada Rev. Stat. Ann.
22 §§ 598A, *et seq.*

23 **92. New Hampshire.** Defendants have entered into an unlawful agreement in restraint of
24 trade in violation of New Hampshire Revised Statutes §§ 356:1, *et seq.* Defendants' combinations or
25 conspiracies had the following effects: (1) Circle of Five Vehicle competition was restrained,
26 suppressed, and eliminated throughout New Hampshire; (2) Circle of Five Vehicle prices were raised,
27 fixed, maintained and/or stabilized at artificially high levels throughout New Hampshire; (3) Plaintiffs
28 and members of the Classes were deprived of free and open competition; and (4) Plaintiffs and members

1 of the Classes paid supracompetitive, artificially inflated prices for Circle of Five Vehicles. During the
2 Class Period, Defendants' illegal conduct substantially affected New Hampshire commerce. As a direct
3 and proximate result of Defendants' unlawful conduct, Plaintiffs and members of the Classes have been
4 injured in their business and property and are threatened with further injury. By reason of the foregoing,
5 Defendants have entered into agreements in restraint of trade in violation of New Hampshire Revised
6 Statutes §§ 356:1, *et seq.* Accordingly, Plaintiffs and members of the Classes seek all relief available
7 under New Hampshire Revised Statutes §§ 356:1, *et seq.*

8 93. **New Mexico.** Defendants have entered into an unlawful agreement in restraint of trade
9 in violation of New Mexico Statutes Annotated §§ 57-1-1, *et seq.* Defendants' combinations or
10 conspiracies had the following effects: (1) Circle of Five Vehicle competition was restrained,
11 suppressed, and eliminated throughout New Mexico; (2) Circle of Five Vehicle prices were raised,
12 fixed, maintained and/or stabilized at artificially high levels throughout New Mexico; (3) Plaintiffs and
13 members of the Classes were deprived of free and open competition; and (4) Plaintiffs and members of
14 the Classes paid supracompetitive, artificially inflated prices for Circle of Five Vehicles. During the
15 Class Period, Defendants' illegal conduct substantially affected New Mexico commerce. As a direct and
16 proximate result of Defendants' unlawful conduct, Plaintiffs and members of the Classes have been
17 injured in their business and property and are threatened with further injury. By reason of the foregoing,
18 Defendants have entered into agreements in restraint of trade in violation of New Mexico Stat. Ann. §§
19 57-1-1, *et seq.* Accordingly, Plaintiffs and members of the Classes seek all relief available under New
20 Mexico Stat. Ann. §§ 57-1-1, *et seq.*

21 94. **New York.** Defendants have entered into an unlawful agreement in restraint of trade in
22 violation of New York General Business Laws §§ 340, *et seq.* Defendants' combinations or conspiracies
23 had the following effects: (1) Circle of Five Vehicle competition was restrained, suppressed, and
24 eliminated throughout New York; (2) Circle of Five Vehicle prices were raised, fixed, maintained and/or
25 stabilized at artificially high levels throughout New York; (3) Plaintiffs and members of the Classes were
26 deprived of free and open competition; and (4) Plaintiffs and members of the Classes paid
27 supracompetitive, artificially inflated prices for Circle of Five Vehicles that were higher than they would
28 have been absent the Defendants' illegal acts. During the Class Period, Defendants' illegal conduct

1 substantially affected New York commerce. As a direct and proximate result of Defendants' unlawful
2 conduct, Plaintiffs and members of the Classes have been injured in their business and property and are
3 threatened with further injury. By reason of the foregoing, Defendants have entered into agreements in
4 restraint of trade in violation of the New York Donnelly Act, §§ 340, *et seq.* The conduct set forth above
5 is a *per se* violation of the Act. Accordingly, Plaintiffs and members of the Classes seek all relief available
6 under New York Gen. Bus. Law §§ 340, *et seq.*

7 **95. North Carolina.** Defendants have entered into an unlawful agreement in restraint of
8 trade in violation of the North Carolina General Statutes §§ 75-1, *et seq.* Defendants' combinations or
9 conspiracies had the following effects: (1) Circle of Five Vehicle competition was restrained,
10 suppressed, and eliminated throughout North Carolina; (2) Circle of Five Vehicle prices were raised,
11 fixed, maintained and/or stabilized at artificially high levels throughout North Carolina; (3) Plaintiffs
12 and members of the Classes were deprived of free and open competition; and (4) Plaintiffs and members
13 of the Classes paid supracompetitive, artificially inflated prices for Circle of Five Vehicles. During the
14 Class Period, Defendants' illegal conduct substantially affected North Carolina commerce. As a direct
15 and proximate result of Defendants' unlawful conduct, Plaintiffs and members of the Classes have been
16 injured in their business and property and are threatened with further injury. By reason of the foregoing,
17 Defendants have entered into agreements in restraint of trade in violation of North Carolina Gen. Stat.
18 §§ 75-1, *et seq.* Accordingly, Plaintiffs and members of the Classes seek all relief available under North
19 Carolina Gen. Stat. §§ 75-1, *et seq.*

20 **96. North Dakota.** Defendants have entered into an unlawful agreement in restraint of trade
21 in violation of North Dakota Century Code §§ 51-08.1-01, *et seq.* Defendants' combinations or
22 conspiracies had the following effects: (1) Circle of Five Vehicle competition was restrained,
23 suppressed, and eliminated throughout North Dakota; (2) Circle of Five Vehicle prices were raised,
24 fixed, maintained and/or stabilized at artificially high levels throughout North Dakota; (3) Plaintiffs and
25 members of the Classes were deprived of free and open competition; and (4) Plaintiffs and members of
26 the Classes paid supracompetitive, artificially inflated prices for Circle of Five Vehicles. During the
27 Class Period, Defendants' illegal conduct had a substantial effect on North Dakota commerce. As a
28 direct and proximate result of Defendants' unlawful conduct, Plaintiffs and members of the Classes

1 have been injured in their business and property and are threatened with further injury. By reason of the
2 foregoing, Defendants have entered into agreements in restraint of trade in violation of North Dakota
3 Cent. Code §§ 51-08.1-01, *et seq.* Accordingly, Plaintiffs and members of the Classes seek all relief
4 available under North Dakota Cent. Code §§ 51-08.1-01, *et seq.*

5 **97. Oregon.** Defendants have entered into an unlawful agreement in restraint of trade in
6 violation of Oregon Revised Statutes §§ 646.705, *et seq.* Defendants' combinations or conspiracies had
7 the following effects: (1) Circle of Five Vehicle competition was restrained, suppressed, and eliminated
8 throughout Oregon; (2) Circle of Five Vehicle prices were raised, fixed, maintained and/or stabilized at
9 artificially high levels throughout Oregon; (3) Plaintiffs and members of the Classes were deprived of
10 free and open competition; and (4) Plaintiffs and members of the Classes paid supracompetitive,
11 artificially inflated prices for Circle of Five Vehicles. During the Class Period, Defendants' illegal
12 conduct had a substantial effect on Oregon commerce. As a direct and proximate result of Defendants'
13 unlawful conduct, Plaintiffs and members of the Classes have been injured in their business and
14 property and are threatened with further injury. By reason of the foregoing, Defendants have entered
15 into agreements in restraint of trade in violation of Oregon Revised Statutes §§ 646.705, *et seq.*
16 Accordingly, Plaintiffs and members of the Classes seek all relief available under Oregon Revised
17 Statutes §§ 646.705, *et seq.*

18 **98. South Dakota.** Defendants have entered into an unlawful agreement in restraint of trade
19 in violation of South Dakota Codified Laws §§ 37-1-3.1, *et seq.* Defendants' combinations or conspiracies
20 had the following effects: (1) Circle of Five Vehicle competition was restrained, suppressed, and
21 eliminated throughout South Dakota; (2) Circle of Five Vehicle prices were raised, fixed, maintained
22 and/or stabilized at artificially high levels throughout South Dakota; (3) Plaintiffs and members of the
23 Classes were deprived of free and open competition; and (4) Plaintiffs and members of the Classes paid
24 supracompetitive, artificially inflated prices for Circle of Five Vehicles. During the Class Period,
25 Defendants' illegal conduct had a substantial effect on South Dakota commerce. As a direct and
26 proximate result of Defendants' unlawful conduct, Plaintiffs and members of the Classes have been
27 injured in their business and property and are threatened with further injury. By reason of the foregoing,
28 Defendants have entered into agreements in restraint of trade in violation of South Dakota Codified

1 Laws Ann. §§ 37-1, *et seq.* Accordingly, Plaintiffs and members of the Classes seek all relief available
2 under South Dakota Codified Laws Ann. §§ 37-1, *et seq.*

3 99. **Tennessee.** Defendants have entered into an unlawful agreement in restraint of trade in
4 violation of Tennessee Code Annotated §§ 47-25-101, *et seq.* Defendants' combinations or conspiracies
5 had the following effects: (1) Circle of Five Vehicle competition was restrained, suppressed, and
6 eliminated throughout Tennessee; (2) Circle of Five Vehicle prices were raised, fixed, maintained
7 and/or stabilized at artificially high levels throughout Tennessee; (3) Plaintiffs and members of the
8 Classes were deprived of free and open competition; and (4) Plaintiffs and members of the Classes paid
9 supracompetitive, artificially inflated prices for Circle of Five Vehicles. During the Class Period,
10 Defendants' illegal conduct had a substantial effect on Tennessee commerce. As a direct and proximate
11 result of Defendants' unlawful conduct, Plaintiffs and members of the Classes have been injured in their
12 business and property and are threatened with further injury. By reason of the foregoing, Defendants
13 have entered into agreements in restraint of trade in violation of Tennessee Code Ann. §§ 47-25-101, *et*
14 *seq.* Accordingly, Plaintiffs and members of the Classes seek all relief available under Tennessee Code
15 Ann. §§ 47-25-101, *et seq.*

16 100. **Utah.** Defendants have entered into an unlawful agreement in restraint of trade in
17 violation of Utah Code Annotated §§ 76-10-911, *et seq.* Defendants' combinations or conspiracies had
18 the following effects: (1) Circle of Five Vehicle competition was restrained, suppressed, and eliminated
19 throughout Utah; (2) Circle of Five Vehicle prices were raised, fixed, maintained and/or stabilized at
20 artificially high levels throughout Utah; (3) Plaintiffs and members of the Classes were deprived of free
21 and open competition; and (4) Plaintiffs and members of the Classes paid supracompetitive, artificially
22 inflated prices for Circle of Five Vehicles. During the Class Period, Defendants' illegal conduct had a
23 substantial effect on Utah commerce. As a direct and proximate result of Defendants' unlawful conduct,
24 Plaintiffs and members of the Classes have been injured in their business and property and are
25 threatened with further injury. By reason of the foregoing, Defendants have entered into agreements in
26 restraint of trade in violation of Utah Code Annotated §§ 76-10-911, *et seq.* Accordingly, Plaintiffs and
27 members of the Classes seek all relief available under Utah Code Annotated §§ 76-10-911, *et seq.*
28

1 101. **Vermont.** Defendants have entered into an unlawful agreement in restraint of trade in
2 violation of the Vermont Stat. Ann. 9 §§ 2453, *et seq.* Defendants' combinations or conspiracies had the
3 following effects: (1) Circle of Five Vehicle competition was restrained, suppressed, and eliminated
4 throughout Vermont; (2) Circle of Five Vehicle prices were raised, fixed, maintained and/or stabilized
5 at artificially high levels throughout Vermont; (3) Plaintiffs and members of the Classes were deprived
6 of free and open competition; and (4) Plaintiffs and members of the Classes paid supracompetitive,
7 artificially inflated prices for Circle of Five Vehicles. During the Class Period, Defendants' illegal
8 conduct had a substantial effect on Vermont commerce. As a direct and proximate result of Defendants'
9 unlawful conduct, Plaintiffs and members of the Classes have been injured in their business and
10 property and are threatened with further injury. By reason of the foregoing, Defendants have entered
11 into agreements in restraint of trade in violation of Vermont Stat. Ann. 9 §§ 2453, *et seq.* Accordingly,
12 Plaintiffs and members of the Classes seek all relief available under Vermont Stat. Ann. 9 §§ 2453, *et seq.*

13 102. **West Virginia.** Defendants have entered into an unlawful agreement in restraint of trade
14 in violation of West Virginia Code §§ 47-18-1, *et seq.* Defendants' combinations or conspiracies had the
15 following effects: (1) Circle of Five Vehicle competition was restrained, suppressed, and eliminated
16 throughout West Virginia; (2) Circle of Five Vehicle prices were raised, fixed, maintained and/or
17 stabilized at artificially high levels throughout West Virginia; (3) Plaintiffs and members of the Classes
18 were deprived of free and open competition; and (4) Plaintiffs and members of the Classes paid
19 supracompetitive, artificially inflated prices for Circle of Five Vehicles. During the Class Period,
20 Defendants' illegal conduct had a substantial effect on West Virginia commerce. As a direct and
21 proximate result of Defendants' unlawful conduct, Plaintiffs and members of the Classes have been
22 injured in their business and property and are threatened with further injury. By reason of the foregoing,
23 Defendants have entered into agreements in restraint of trade in violation of West Virginia Code §§ 47-
24 18-1, *et seq.* Accordingly, Plaintiffs and members of the Classes seek all relief available under West
25 Virginia Code §§ 47-18-1, *et seq.*

26 103. **Wisconsin.** Defendants have entered into an unlawful agreement in restraint of trade in
27 violation of the Wisconsin Statutes §§ 133.01, *et seq.* Defendants' combinations or conspiracies had the
28 following effects: (1) Circle of Five Vehicle competition was restrained, suppressed, and eliminated

1 throughout Wisconsin; (2) Circle of Five Vehicle prices were fixed, raised, maintained and/or stabilized
2 at artificially high levels throughout Wisconsin; (3) Plaintiffs and members of the Classes were deprived
3 of free and open competition; and (4) Plaintiffs and members of the Classes paid supracompetitive,
4 artificially inflated prices for Circle of Five Vehicles. During the Class Period, Defendants' illegal
5 conduct had a substantial effect on Wisconsin commerce. As a direct and proximate result of
6 Defendants' unlawful conduct, Plaintiffs and members of the Classes have been injured in their business
7 and property and are threatened with further injury. By reason of the foregoing, Defendants have
8 entered into agreements in restraint of trade in violation of Wisconsin Stat. §§ 133.01, *et seq.*
9 Accordingly, Plaintiffs and members of the Classes seek all relief available under Wisconsin Stat. §§
10 133.01, *et seq.*

11 104. Plaintiffs and members of the Classes in each of the above states have been injured in
12 their business and property by reason of Defendants' unlawful combination, contract, conspiracy and
13 agreement. Plaintiffs and members of the Classes have paid more for Circle of Five Vehicles than they
14 otherwise would have paid in the absence of Defendants' unlawful conduct. This injury is of the type
15 the antitrust laws of the above states were designed to prevent and flows from that which makes
16 Defendants' conduct unlawful.

17 105. In addition, Defendants have profited significantly from the aforesaid conspiracy.
18 Defendants' profits derived from their anticompetitive conduct come at the expense and detriment of
19 Plaintiffs and the members of the Classes.

20 106. Accordingly, Plaintiffs and the members of the Classes in each of the above jurisdictions
21 seek damages (including statutory damages where applicable), to be trebled or otherwise increased as
22 permitted by a particular jurisdiction's antitrust law, and costs of suit, including reasonable attorneys'
23 fees, to the extent permitted by the above state laws.

24 **THIRD COUNT**

25 **Violation of State Consumer Protection Statutes** 26 **(on behalf of Plaintiffs and the California Law Class and the IPP State Class)**

27 107. Plaintiffs repeat the allegations set forth above as if fully set forth herein.
28

1 108. Defendants engaged in unfair competition or unfair, unconscionable, deceptive or
2 fraudulent acts or practices in violation of the state consumer protection and unfair competition statutes
3 listed below.

4 109. **Arkansas.** Defendants have knowingly entered into an unlawful agreement in restraint of
5 trade in violation of the Arkansas Code Annotated, § 4-88-101, *et. seq.* Defendants knowingly agreed to,
6 and did in fact, act in restraint of trade or commerce by affecting, fixing, controlling, and/or maintaining
7 at non-competitive and artificially inflated levels, the prices at which Circle of Five Vehicles were sold,
8 distributed, or obtained in Arkansas and took efforts to conceal their agreements from Plaintiffs and
9 members of the Classes. The aforementioned conduct on the part of the Defendants constituted
10 “unconscionable” and “deceptive” acts or practices in violation of Arkansas Code Annotated, § 4-88-
11 107(a)(10). Defendants’ unlawful conduct had the following effects: (1) Circle of Five Vehicle
12 competition was restrained, suppressed, and eliminated throughout Arkansas; (2) Circle of Five Vehicle
13 prices were raised, fixed, maintained, and stabilized at artificially high levels throughout Arkansas; (3)
14 Plaintiffs and the members of the Classes were deprived of free and open competition; and (4) Plaintiffs
15 and the members of the Classes paid supracompetitive, artificially inflated prices for Circle of Five
16 Vehicles. During the Class Period, Defendants’ illegal conduct substantially affected Arkansas
17 commerce and consumers. As a direct and proximate result of the unlawful conduct of the Defendants,
18 Plaintiffs and the members of the Classes have been injured in their business and property and are
19 threatened with further injury. Defendants have engaged in unfair competition or unfair or deceptive
20 acts or practices in violation of Arkansas Code Annotated, § 4-88-107(a)(10) and, accordingly, Plaintiffs
21 and the members of the Classes seek all relief available under that statute.

22 110. **California.** Defendants have engaged in unfair competition or unfair, unconscionable,
23 deceptive or fraudulent acts or practices in violation of California Business and Professions Code §
24 17200, *et seq.* During the Class Period, Defendants manufactured, marketed, sold, or distributed Circle
25 of Five Vehicles in California, and committed and continue to commit acts of unfair competition, as
26 defined by Sections 17200, *et seq.* of the California Business and Professions Code, by engaging in the
27 acts and practices specified above. This claim is instituted pursuant to Sections 17203 and 17204 of the
28 California Business and Professions Code, to obtain restitution from these Defendants for acts, as

1 alleged herein, that violated Section 17200 of the California Business and Professions Code, commonly
2 known as the Unfair Competition Law. Defendants' conduct as alleged herein violated Section 17200.
3 The acts, omissions, misrepresentations, practices and non-disclosures of Defendants, as alleged herein,
4 constituted a common, continuous, and continuing course of conduct of unfair competition by means of
5 unfair, unlawful, and/or fraudulent business acts or practices within the meaning of California Business
6 and Professions Code §17200, *et seq.*, including, but not limited to, the following: (1) the violations of
7 Section 1 of the Sherman Act, as set forth above; (2) the violations of Section 16720, *et seq.* of the
8 California Business and Professions Code, set forth above. Defendants' acts, omissions,
9 misrepresentations, practices, and non-disclosures, as described above, whether or not in violation of
10 Section 16720, *et seq.* of the California Business and Professions Code, and whether or not concerted or
11 independent acts, are otherwise unfair, unconscionable, unlawful or fraudulent; (3) Defendants' acts or
12 practices are unfair to purchasers of Circle of Five Vehicles in the State of California within the meaning
13 of Section 17200, California Business and Professions Code; and (4) Defendants' acts and practices are
14 fraudulent or deceptive within the meaning of Section 17200 of the California Business and Professions
15 Code. Plaintiffs and members of the Classes are entitled to full restitution and/or disgorgement of all
16 revenues, earnings, profits, compensation, and benefits that may have been obtained by Defendants as a
17 result of such business acts or practices. The illegal conduct alleged herein is continuing and there is no
18 indication that Defendants will not continue such activity into the future. The unlawful and unfair
19 business practices of Defendants, and each of them, as described above, have caused and continue to
20 cause Plaintiffs and the members of the Classes to pay supracompetitive and artificially-inflated prices
21 for Circle of Five Vehicles. Plaintiffs and the members of the Classes suffered injury in fact and lost
22 money or property as a result of such unfair competition. The conduct of Defendants as alleged in this
23 Complaint violates Section 17200 of the California Business and Professions Code. As alleged in this
24 Complaint, Defendants and their co-conspirators have been unjustly enriched as a result of their
25 wrongful conduct and by Defendants' unfair competition. Plaintiffs and the members of the Classes are
26 accordingly entitled to equitable relief including restitution and/or disgorgement of all revenues,
27 earnings, profits, compensation, and benefits that may have been obtained by Defendants as a result of
28 such business practices, pursuant to the California Business and Professions Code, §§17203 and 17204.

1 111. **District of Columbia.** Defendants have engaged in unfair competition or unfair,
2 unconscionable, or deceptive acts or practices in violation of District of Columbia Code § 28-3901, *et*
3 *seq.* Defendants agreed to, and did in fact, act in restraint of trade or commerce by affecting, fixing,
4 controlling and/or maintaining, at artificial and/or non-competitive levels, the prices at which Circle of
5 Five Vehicles were sold, distributed or obtained in the District of Columbia. The foregoing conduct
6 constitutes “unlawful trade practices,” within the meaning of D.C. Code § 28-3904. Plaintiffs was not
7 aware of Defendants’ price-fixing conspiracy and has therefore unaware that he was being unfairly and
8 illegally overcharged. There was a gross disparity of bargaining power between the parties with respect
9 to the price charged by Defendants for Circle of Five Vehicles. Defendants had the sole power to set that
10 price and Plaintiffs had no power to negotiate a lower price. Moreover, Plaintiffs lacked any meaningful
11 choice in purchasing Circle of Five Vehicles because they were unaware of the unlawful overcharge and
12 there was no alternative source of supply through which Plaintiffs could avoid the overcharges.
13 Defendants’ conduct with regard to sales/leases of Circle of Five Vehicles, including their illegal
14 conspiracy to secretly fix the price of Circle of Five Vehicles at supracompetitive levels and overcharge
15 consumers, was substantively unconscionable because it was one-sided and unfairly benefited
16 Defendants at the expense of Plaintiffs and the public. Defendants took grossly unfair advantage of
17 Plaintiffs. The suppression of competition that has resulted from Defendants’ conspiracy has ultimately
18 resulted in unconscionably higher prices for purchasers so that there was a gross disparity between the
19 price paid and the value received for Circle of Five Vehicles. Defendants’ unlawful conduct had the
20 following effects: (1) Circle of Five Vehicle competition was restrained, suppressed, and eliminated
21 throughout the District of Columbia; (2) Circle of Five Vehicle prices were raised, fixed, maintained,
22 and stabilized at artificially high levels throughout the District of Columbia; (3) Plaintiffs and the
23 Classes were deprived of free and open competition; and (4) Plaintiffs and the Classes paid
24 supracompetitive, artificially inflated prices for Circle of Five Vehicles. As a direct and proximate result
25 of the Defendants’ conduct, Plaintiffs and members of the Classes have been injured and are threatened
26 with further injury. Defendants have engaged in unfair competition or unfair or deceptive acts or
27 practices in violation of District of Columbia Code § 28-3901, *et seq.*, and, accordingly, Plaintiffs and
28 members of the Classes seek all relief available under that statute.

1 112. **Florida.** Defendants have engaged in unfair competition or unfair, unconscionable, or
2 deceptive acts or practices in violation of the Florida Deceptive and Unfair Trade Practices Act, Fla.
3 Stat. §§ 501.201, et seq. Defendants' unlawful conduct had the following effects: (1) Circle of Five
4 Vehicle competition was restrained, suppressed, and eliminated throughout Florida; (2) Circle of Five
5 Vehicle prices were raised, fixed, maintained, and stabilized at artificially high levels throughout Florida;
6 (3) Plaintiffs and members of the Classes were deprived of free and open competition; and (4) Plaintiffs
7 and members of the Classes paid supracompetitive, artificially inflated prices for Circle of Five Vehicles.
8 During the Class Period, Defendants' illegal conduct substantially affected Florida commerce and
9 consumers. As a direct and proximate result of Defendants' unlawful conduct, Plaintiffs and members
10 of the Classes have been injured and are threatened with further injury. Defendants have engaged in
11 unfair competition or unfair or deceptive acts or practices in violation of Florida Stat. § 501.201, et seq.,
12 and, accordingly, Plaintiffs and members of the Classes seek all relief available under that statute.

13 113. **Hawaii.** Defendants have engaged in unfair competition or unfair, unconscionable, or
14 deceptive acts or practices in violation of the Hawaii Revised Statutes Annotated §§ 480-1, *et seq.*
15 Defendants' unlawful conduct had the following effects: (1) Circle of Five Vehicle competition was
16 restrained, suppressed, and eliminated throughout Hawaii; (2) Circle of Five Vehicle prices were raised,
17 fixed, maintained, and stabilized at artificially high levels throughout Hawaii; (3) Plaintiffs and members
18 of the Classes were deprived of free and open competition; and (4) Plaintiffs and members of the
19 Classes paid supracompetitive, artificially inflated prices for Circle of Five Vehicles. During the Class
20 Period, Defendants' illegal conduct substantially affected Hawaii commerce and consumers. As a direct
21 and proximate result of Defendants' unlawful conduct, Plaintiffs and members of the Classes have been
22 injured and are threatened with further injury. Defendants have engaged in unfair competition or unfair
23 or deceptive acts or practices in violation of Hawaii Rev. Stat. § 480, *et seq.*, and, accordingly, Plaintiffs
24 and members of the Classes seek all relief available under that statute.

25 114. **Massachusetts.** Defendants have engaged in unfair competition or unlawful, unfair,
26 unconscionable, or deceptive acts or practices in violation of the Massachusetts Gen. Laws, Ch 93A, § 1,
27 *et seq.* Defendants were engaged in trade or commerce as defined by G.L. 93A. Defendants, in a market
28 that includes Massachusetts, agreed to, and did in fact, act in restraint of trade or commerce by

1 affecting, fixing, controlling, and/or maintaining at non-competitive and artificially inflated levels, the
2 prices at which Circle of Five Vehicles were sold, distributed, or obtained in Massachusetts and took
3 efforts to conceal their agreements from Plaintiffs and members of the Classes. The aforementioned
4 conduct on the part of the Defendants constituted “unfair methods of competition and unfair or
5 deceptive acts or practices in the conduct of any trade or commerce,” in violation of Massachusetts
6 Gen. Laws, Ch 93A, § 2, 11. Defendants’ unlawful conduct had the following effects: (1) Circle of Five
7 Vehicle competition was restrained, suppressed, and eliminated throughout Massachusetts; (2) Circle
8 of Five Vehicle prices were raised, fixed, maintained, and stabilized at artificially high levels throughout
9 Massachusetts; (3) Plaintiffs and the members of the Classes were deprived of free and open
10 competition; and (4) Plaintiffs and the members of the Classes paid supracompetitive, artificially
11 inflated prices for Circle of Five Vehicles. During the Class Period, Defendants’ illegal conduct
12 substantially affected Massachusetts commerce and consumers. As a direct and proximate result of the
13 unlawful conduct of the Defendants, Plaintiffs and the members of the Classes have been injured in
14 their business and property and are threatened with further injury. Defendants have engaged in unfair
15 competition or unfair or deceptive acts or practices in violation of Massachusetts Gen. Laws, Ch 93A,
16 §§ 2, 11, that were knowing or willful, and, accordingly, Plaintiffs and the members of the Classes seek
17 all relief available under that statute, including multiple damages.

18 115. **Missouri.** Defendants have engaged in unfair competition or unfair, unconscionable, or
19 deceptive acts or practices in violation of the Missouri Merchandising Practices Act, Mo. Rev. Stat. §
20 407.010, *et. seq.* Plaintiffs and members of the Classes purchased Circle of Five Vehicles for personal or
21 family purposes. Defendants engaged in the conduct described herein in connection with the sale
22 and/or lease of Circle of Five Vehicles in trade or commerce in a market that includes Missouri.
23 Defendants agreed to, and did in fact affect, fix, control, and/or maintain, at artificial and non-
24 competitive levels, the prices at which Circle of Five Vehicles were sold, distributed, or obtained in
25 Missouri, which conduct constituted unfair practices in that it was unlawful under federal and state law,
26 violated public policy, was unethical, oppressive and unscrupulous, and caused substantial injury to
27 Plaintiffs and members of the Classes. Defendants concealed, suppressed, and omitted to disclose
28 material facts to Plaintiffs and members of the Classes concerning Defendants’ unlawful activities and

1 artificially inflated prices for Circle of Five Vehicles. The concealed, suppressed, and omitted facts
2 would have been important to Plaintiffs and members of the Classes as they related to the cost of Circle
3 of Five Vehicles they purchased. Defendants misrepresented the real cause of price increases and/or the
4 absence of price reductions in Circle of Five Vehicles by making public statements that were not in
5 accord with the facts. Defendants' statements and conduct concerning the price of Circle of Five
6 Vehicles were deceptive as they had the tendency or capacity to mislead Plaintiffs and members of the
7 Classes to believe that they were purchasing Circle of Five Vehicles at prices established by a free and
8 fair market. Defendants' unlawful conduct had the following effects: (1) Circle of Five Vehicle
9 competition was restrained, suppressed, and eliminated throughout Missouri; (2) Circle of Five Vehicle
10 prices were raised, fixed, maintained, and stabilized at artificially high levels throughout Missouri; (3)
11 Plaintiffs and members of the Classes were deprived of free and open competition; and (4) Plaintiffs and
12 members of the Classes paid supracompetitive, artificially inflated prices for Circle of Five Vehicles.
13 The foregoing acts and practices constituted unlawful practices in violation of the Missouri
14 Merchandising Practices Act. As a direct and proximate result of the above-described unlawful
15 practices, Plaintiffs and members of the Classes suffered ascertainable loss of money or property.
16 Accordingly, Plaintiffs and members of the Classes seek all relief available under Missouri's
17 Merchandising Practices Act, specifically Mo. Rev. Stat. § 407.020, which prohibits "the act, use or
18 employment by any person of any deception, fraud, false pretense, false promise, misrepresentation,
19 unfair practice or the concealment, suppression, or omission of any material fact in connection with the
20 sale/lease or advertisement of any merchandise in trade or commerce..." as further interpreted by the
21 Missouri Code of State Regulations, 15 CSR 607.010, *et seq.*, 15 CSR 60-8.010, *et seq.*, and 15 CSR 60-
22 9.010, *et seq.*, and Mo. Rev. Stat. § 407.025, which provides for the relief sought in this count.

23 116. **Montana.** Defendants have engaged in unfair competition or unfair, unconscionable, or
24 deceptive acts or practices in violation of the Montana Unfair Trade Practices and Consumer Protection
25 Act of 1970, Mont. Code, §§ 30-14-103, *et seq.*, and §§ 30-14-201, *et. seq.* Defendants' unlawful conduct
26 had the following effects: (1) Circle of Five Vehicle competition was restrained, suppressed, and
27 eliminated throughout Montana; (2) Circle of Five Vehicle prices were raised, fixed, maintained, and
28 stabilized at artificially high levels throughout Montana; (3) Plaintiffs and members of the Classes were

1 deprived of free and open competition; and (4) Plaintiffs and members of the Classes paid
2 supracompetitive, artificially inflated prices for Circle of Five Vehicles. During the Class Period,
3 Defendants marketed, sold/leased, or distributed Circle of Five Vehicles in Montana, and Defendants'
4 illegal conduct substantially affected Montana commerce and consumers. As a direct and proximate
5 result of Defendants' unlawful conduct, Plaintiffs and members of the Classes have been injured and are
6 threatened with further injury. Defendants have engaged in unfair competition or unfair or deceptive
7 acts or practices in violation of Mont. Code, §§ 30-14-103, *et seq.*, and §§ 30-14-201, *et. seq.*, and,
8 accordingly, Plaintiffs and members of the Classes seek all relief available under that statute.

9 117. **New Mexico.** Defendants have engaged in unfair competition or unfair, unconscionable,
10 or deceptive acts or practices in violation of the New Mexico Stat. § 57-12-1, *et seq.* Defendants agreed
11 to, and did in fact, act in restraint of trade or commerce by affecting, fixing, controlling and/or
12 maintaining at non-competitive and artificially inflated levels, the prices at which Circle of Five Vehicles
13 were sold, leased, distributed or obtained in New Mexico and took efforts to conceal their agreements
14 from Plaintiffs and members of the Classes. The aforementioned conduct on the part of the Defendants
15 constituted "unconscionable trade practices," in violation of N.M.S.A. Stat. § 57-12-3, in that such
16 conduct, inter alia, resulted in a gross disparity between the value received by Plaintiffs and the
17 members of the Classes and the prices paid by them for Circle of Five Vehicles as set forth in N.M.S.A.,
18 § 57-12-2E. Plaintiffs were not aware of Defendants' price-fixing conspiracy and were therefore unaware
19 that they were being unfairly and illegally overcharged. There was a gross disparity of bargaining power
20 between the parties with respect to the price charged by Defendants for Circle of Five Vehicles.
21 Defendants had the sole power to set that price and Plaintiffs had no power to negotiate a lower price.
22 Moreover, Plaintiffs lacked any meaningful choice in purchasing Circle of Five Vehicles because they
23 were unaware of the unlawful overcharge and there was no alternative source of supply through which
24 Plaintiffs could avoid the overcharges. Defendants' conduct with regard to sales/leases of Circle of Five
25 Vehicles, including their illegal conspiracy to secretly fix the price of Circle of Five Vehicles at
26 supracompetitive levels and overcharge consumers, was substantively unconscionable because it was
27 one-sided and unfairly benefited Defendants at the expense of Plaintiffs and the public. Defendants took
28 grossly unfair advantage of Plaintiffs. The suppression of competition that has resulted from

1 Defendants' conspiracy has ultimately resulted in unconscionably higher prices for consumers so that
2 there was a gross disparity between the price paid and the value received for Circle of Five Vehicles.
3 Defendants' unlawful conduct had the following effects: (1) Circle of Five Vehicle competition was
4 restrained, suppressed, and eliminated throughout New Mexico; (2) Circle of Five Vehicle prices were
5 raised, fixed, maintained, and stabilized at artificially high levels throughout New Mexico; (3) Plaintiffs
6 and the members of the Classes were deprived of free and open competition; and (4) Plaintiffs and the
7 members of the Classes paid supracompetitive, artificially inflated prices for German Automobiles.
8 During the Class Period, Defendants' illegal conduct substantially affected New Mexico commerce and
9 consumers. As a direct and proximate result of the unlawful conduct of the Defendants, Plaintiffs and
10 the members of the Classes have been injured and are threatened with further injury. Defendants have
11 engaged in unfair competition or unfair or deceptive acts or practices in violation of New Mexico Stat. §
12 57-12-1, *et seq.*, and, accordingly, Plaintiffs and the members of the Classes seek all relief available under
13 that statute.

14 118. **New York.** Defendants have engaged in unfair competition or unfair, unconscionable, or
15 deceptive acts or practices in violation of N.Y. Gen. Bus. Law § 349, *et seq.* Defendants agree to, and did
16 in fact, act in restraint of trade or commerce by affecting, fixing, controlling and/or maintaining, at
17 artificial and non-competitive levels, the prices at which Circle of Five Vehicles were sold, leased,
18 distributed or obtained in New York and took efforts to conceal their agreements from Plaintiffs and
19 members of the Classes. Defendants and their co- onspirators made public statements about the prices
20 of Circle of Five Vehicles that either omitted material information that rendered the statements that
21 they made materially misleading or affirmatively misrepresented the real cause of price increases for
22 Circle of Five Vehicles; and Defendants alone possessed material information that was relevant to
23 consumers, but failed to provide the information. Because of Defendants' unlawful trade practices in the
24 State of New York, New York class members who indirectly purchased Circle of Five Vehicles were
25 misled to believe that they were paying a fair price for Circle of Five Vehicles or the price increases for
26 Circle of Five Vehicles were for valid business reasons; and similarly situated consumers were
27 potentially affected by Defendants' conspiracy. Defendants knew that their unlawful trade practices with
28 respect to pricing Circle of Five Vehicles would have an impact on New York consumers and not just

1 the Defendants' direct customers. Defendants knew that their unlawful trade practices with respect to
2 pricing Circle of Five Vehicles would have a broad impact, causing consumer class members who
3 indirectly purchased Circle of Five Vehicles to be injured by paying more for Circle of Five Vehicles
4 than they would have paid in the absence of Defendants' unlawful trade acts and practices. The conduct
5 of the Defendants described herein constitutes consumer-oriented deceptive acts or practices within the
6 meaning of N.Y. Gen. Bus. Law § 349, which resulted in consumer injury and broad adverse impact on
7 the public at large, and harmed the public interest of New York State in an honest marketplace in which
8 economic activity is conducted in a competitive manner. Defendants' unlawful conduct had the
9 following effects: (1) Circle of Five Vehicle competition was restrained, suppressed, and eliminated
10 throughout New York; (2) Circle of Five Vehicle prices were raised, fixed, maintained, and stabilized at
11 artificially high levels throughout New York; (3) Plaintiffs and members of the Classes were deprived of
12 free and open competition; and (4) Plaintiffs and members of the Classes paid supracompetitive,
13 artificially inflated prices for Circle of Five Vehicles. During the Class Period, Defendants marketed,
14 sold, leased or distributed Circle of Five Vehicles in New York, and Defendants' illegal conduct
15 substantially affected New York commerce and consumers. During the Class Period, each of the
16 Defendants named herein, directly, or indirectly and through affiliates they dominated and controlled,
17 manufactured, sold, leased and/or distributed Circle of Five Vehicles in New York. Plaintiffs and
18 members of the Classes seek all relief available pursuant to N.Y. Gen. Bus. Law § 349 (h).

19 **119. North Carolina.** Defendants have engaged in unfair competition or unfair,
20 unconscionable, or deceptive acts or practices in violation of North Carolina Gen. Stat. § 75-1.1, *et seq.*
21 Defendants agree to, and did in fact, act in restraint of trade or commerce by affecting, fixing,
22 controlling and/or maintaining, at artificial and non-competitive levels, the prices at which Circle of
23 Five Vehicles were sold, leased, distributed or obtained in North Carolina and took efforts to conceal
24 their agreements from Plaintiffs and members of the Classes. Defendants' price-fixing conspiracy could
25 not have succeeded absent deceptive conduct by Defendants to cover up their illegal acts. Secrecy was
26 integral to the formation, implementation and maintenance of Defendants' price-fixing conspiracy.
27 Defendants committed inherently deceptive and self-concealing actions, of which Plaintiffs could not
28 possibly have been aware. Defendants and their co-conspirators publicly provided pretextual and false

1 justifications regarding their price increases. Defendants' public statements concerning the price of
2 Circle of Five Vehicles created the illusion of competitive pricing controlled by market forces rather
3 than supracompetitive pricing driven by Defendants' illegal conspiracy. Moreover, Defendants
4 deceptively concealed their unlawful activities by mutually agreeing not to divulge the existence of the
5 conspiracy to outsiders. The conduct of the Defendants described herein constitutes consumer-oriented
6 deceptive acts or practices within the meaning of North Carolina law, which resulted in consumer injury
7 and broad adverse impact on the public at large, and harmed the public interest of North Carolina
8 consumers in an honest marketplace in which economic activity is conducted in a competitive manner.
9 Defendants' unlawful conduct had the following effects: (1) Circle of Five Vehicle competition was
10 restrained, suppressed, and eliminated throughout North Carolina; (2) Circle of Five Vehicle prices
11 were raised, fixed, maintained, and stabilized at artificially high levels throughout North Carolina; (3)
12 Plaintiffs and members of the Classes were deprived of free and open competition; and (4) Plaintiffs and
13 members of the Classes paid supracompetitive, artificially inflated prices for Circle of Five Vehicles.
14 During the Class Period, Defendants marketed, sold, leased or distributed Circle of Five Vehicles in
15 North Carolina, and Defendants' illegal conduct substantially affected North Carolina commerce and
16 consumers. During the Class Period, each of the Defendants named herein, directly, or indirectly and
17 through affiliates they dominated and controlled, manufactured, sold, leased and/or distributed Circle of
18 Five Vehicles in North Carolina. Plaintiffs and members of the Classes seek actual damages for their
19 injuries caused by these violations in an amount to be determined at trial and are threatened with further
20 injury. Defendants have engaged in unfair competition or unfair or deceptive acts or practices in
21 violation of North Carolina Gen. Stat. § 75-1.1, et seq., and, accordingly, Plaintiffs and members of the
22 Classes seek all relief available under that statute.

23 120. **Rhode Island.** Defendants have engaged in unfair competition or unfair,
24 unconscionable, or deceptive acts or practices in violation of the Rhode Island Unfair Trade Practice
25 and Consumer Protection Act (R.I. Gen. Laws §§ 6-13.1-1, *et seq.*) Members of this Classes purchased
26 Circle of Five Vehicles for personal, family, or household purposes. Defendants agreed to, and did in
27 fact, act in restraint of trade or commerce in a market that includes Rhode Island, by affecting, fixing,
28 controlling, and/or maintaining, at artificial and non- competitive levels, the prices at which Circle of

1 Five Vehicles were sold, leased, distributed, or obtained in Rhode Island. Defendants deliberately failed
2 to disclose material facts to Plaintiffs and members of the Classes concerning Defendants' unlawful
3 activities and artificially inflated prices for Circle of Five Vehicles. Defendants owed a duty to disclose
4 such facts, and considering the relative lack of sophistication of the average, non-business purchaser,
5 Defendants breached that duty by their silence. Defendants misrepresented to all purchasers during the
6 Class Period that Defendants' Circle of Five Vehicles prices were competitive and fair. Defendants'
7 unlawful conduct had the following effects: (1) Circle of Five Vehicle competition was restrained,
8 suppressed, and eliminated throughout Rhode Island; (2) Circle of Five Vehicle prices were raised,
9 fixed, maintained, and stabilized at artificially high levels throughout Rhode Island; (3) Plaintiffs and
10 members of the Classes were deprived of free and open competition; and (4) Plaintiffs and members of
11 the Classes paid supracompetitive, artificially inflated prices for Circle of Five Vehicles. As a direct and
12 proximate result of the Defendants' violations of law, Plaintiffs and members of the Classes suffered an
13 ascertainable loss of money or property as a result of Defendants' use or employment of unconscionable
14 and deceptive commercial practices as set forth above. That loss was caused by Defendants' willful and
15 deceptive conduct, as described herein. Defendants' deception, including their affirmative
16 misrepresentations and omissions concerning the price of Circle of Five Vehicles, likely misled all
17 purchasers acting reasonably under the circumstances to believe that they were purchasing Circle of
18 Five Vehicles at prices set by a free and fair market. Defendants' affirmative misrepresentations and
19 omissions constitute information important to Plaintiffs and members of the Classes as they related to
20 the cost of Circle of Five Vehicles they purchased. Defendants have engaged in unfair competition or
21 unfair or deceptive acts or practices in violation of Rhode Island Gen. Laws. § 613.1-1, *et seq.*, and,
22 accordingly, Plaintiffs and members of the Classes seek all relief available under that statute.

23 121. **South Carolina.** Defendants have engaged in unfair competition or unfair,
24 unconscionable, or deceptive acts or practices in violation of South Carolina Unfair Trade Practices Act
25 (S.C. Code Ann. §§ 39-5-10, *et seq.*) Defendants' combinations or conspiracies had the following effects:
26 (1) Circle of Five Vehicle competition was restrained, suppressed, and eliminated throughout South
27 Carolina; (2) Circle of Five Vehicle prices were raised, fixed, maintained, and stabilized at artificially
28 high levels throughout South Carolina; (3) Plaintiffs and members of the Classes were deprived of free

1 and open competition; and (4) Plaintiffs and members of the Classes paid supracompetitive, artificially
2 inflated prices for Circle of Five Vehicles. During the Class Period, Defendants' illegal conduct had a
3 substantial effect on South Carolina commerce. As a direct and proximate result of Defendants'
4 unlawful conduct, Plaintiffs and members of the Classes have been injured in their business and
5 property and are threatened with further injury. Defendants have engaged in unfair competition or
6 unfair or deceptive acts or practices in violation of S.C. Code Ann. §§ 395-10, *et seq.*, and, accordingly,
7 Plaintiffs and the members of the Classes seek all relief available under that statute.

8 122. **Vermont.** Defendants have engaged in unfair competition or unfair, unconscionable, or
9 deceptive acts or practices in violation of 9 Vermont § 2451, *et seq.* Defendants agreed to, and did in fact,
10 act in restraint of trade or commerce in a market that includes Vermont, by affecting, fixing, controlling,
11 and/or maintaining, at artificial and non-competitive levels, the prices at which Circle of Five Vehicles
12 were sold, leased, distributed, or obtained in Vermont. Defendants deliberately failed to disclose
13 material facts to Plaintiffs and members of the Classes concerning Defendants' unlawful activities and
14 artificially inflated prices for Circle of Five Vehicles. Defendants owed a duty to disclose such facts, and
15 considering the relative lack of sophistication of the average, non-business purchaser, Defendants
16 breached that duty by their silence. Defendants misrepresented to all purchasers during the Class Period
17 that Defendants' Circle of Five Vehicles prices were competitive and fair. Defendants' unlawful conduct
18 had the following effects: (1) Circle of Five Vehicle competition was restrained, suppressed, and
19 eliminated throughout Vermont; (2) Circle of Five Vehicle prices were raised, fixed, maintained, and
20 stabilized at artificially high levels throughout Vermont; (3) Plaintiffs and members of the Classes were
21 deprived of free and open competition; and (4) Plaintiffs and members of the Classes paid
22 supracompetitive, artificially inflated prices for Circle of Five Vehicles. As a direct and proximate result
23 of the Defendants' violations of law, Plaintiffs and members of the Classes suffered an ascertainable loss
24 of money or property as a result of Defendants' use or employment of unconscionable and deceptive
25 commercial practices as set forth above. That loss was caused by Defendants' willful and deceptive
26 conduct, as described herein. Defendants' deception, including their affirmative misrepresentations and
27 omissions concerning the price of Circle of Five Vehicles, likely misled all purchasers acting reasonably
28 under the circumstances to believe that they were purchasing Circle of Five Vehicles at prices set by a

1 free and fair market. Defendants' misleading conduct and unconscionable activities constitutes unfair
2 competition or unfair or deceptive acts or practices in violation of 9 Vermont § 2451, *et seq.*, and,
3 accordingly, Plaintiffs and members of the Classes seek all relief under that statute.

4 **FOURTH COUNT**

5 **Unjust Enrichment**
6 **(on behalf of Plaintiffs and the California Law Class and the IPP State Class)**

7 123. Plaintiffs repeat the allegations set forth above as if fully set forth herein.

8 124. As a result of their unlawful conduct described above, Defendants have and will continue
9 to be unjustly enriched. Defendants have been unjustly enriched by the receipt of, at a minimum,
10 unlawfully inflated prices and unlawful profits on Circle of Five Vehicles.

11 125. Defendants have benefited from their unlawful acts and it would be inequitable for
12 Defendants to be permitted to retain any of the ill-gotten gains resulting from the overpayments made
13 by Plaintiffs and the members of the Classes for Circle of Five Vehicles manufactured by Defendants
14 during the Class Period.

15 126. Plaintiffs and the members of the Classes are entitled to the amount of Defendants' ill-
16 gotten gains resulting from their unlawful, unjust, and inequitable conduct. Plaintiffs and the members
17 of the Classes are entitled to the establishment of a constructive trust consisting of all ill-gotten gains
18 from which Plaintiffs and the members of the Classes may make claims on a *pro rata* basis.

19 **PRAYER FOR RELIEF**

20 WHEREFORE, Plaintiffs demands judgment that:

21 a. The Court determine that this action may be maintained as a class action under
22 Rule 23(a), (b)(2) and (b)(3) of the Federal Rules of Civil Procedure, and direct that reasonable notice of
23 this action, as provided by Rule 23(c)(2) of the Federal Rules of Civil Procedure, be given to each and
24 every member of the Class;

25 b. That the unlawful conduct, contract, conspiracy, or combination alleged herein
26 be adjudged and decreed: (a) an unreasonable restraint of trade or commerce in violation of Section 1 of
27 the Sherman Act; (b) a *per se* violation of Section 1 of the Sherman Act; (c) an unlawful combination,
28 trust, agreement, understanding and/or concert of action in violation of the state antitrust and unfair

1 competition and consumer protection laws as set forth herein; and (d) acts of unjust enrichment by
2 Defendants as set forth herein.

3 c. Plaintiffs and the members of the Classes recover damages, to the maximum
4 extent allowed under such laws, and that a joint and several judgment in favor of Plaintiffs and the
5 members of the Classes be entered against Defendants in an amount to be trebled to the extent such
6 laws permit;

7 d. Plaintiffs and the members of the Classes recover damages, to the maximum
8 extent allowed by such laws, in the form of restitution and/or disgorgement of profits unlawfully gained
9 from them;

10 e. Defendants, their affiliates, successors, transferees, assignees and other officers,
11 directors, partners, agents and employees thereof, and all other persons acting or claiming to act on
12 their behalf or in concert with them, be permanently enjoined and restrained from in any manner
13 continuing, maintaining or renewing the conduct, contract, conspiracy, or combination alleged herein,
14 or from entering into any other contract, conspiracy, or combination having a similar purpose or effect,
15 and from adopting or following any practice, plan, program, or device having a similar purpose or effect;

16 f. Plaintiffs and the members of the Classes be awarded restitution, including
17 disgorgement of profits Defendants obtained as a result of their acts of unfair competition and acts of
18 unjust enrichment;

19 g. Plaintiffs and the members of the Classes be awarded pre- and post- judgment
20 interest as provided by law, and that such interest be awarded at the highest legal rate from and after the
21 date of service of this Complaint;

22 h. Plaintiffs and the members of the Classes recover their costs of suit, including
23 reasonable attorneys' fees, as provided by law; and

24 i. Plaintiffs and members of the Classes have such other and further relief as the
25 case may require and the Court may deem just and proper.
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28

JURY DEMAND

Plaintiffs demand a trial by jury, pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, of all issues so triable.

Dated: October 10, 2017

JOSEPH SAVERI LAW FIRM, INC.

By: /s/ Joseph R. Saveri
Joseph R. Saveri

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