

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

**JOSEPH VANGEL and BRYAN KLONTZ,
individually and on behalf of all others similarly
situated,**

Plaintiffs,

v.

FORD MOTOR COMPANY,

Defendant.

Case No.

COMPLAINT

Demand for Jury Trial

CLASS ACTION COMPLAINT

INTRODUCTION..... 3

I. NATURE OF THE CASE..... 3

II. PARTIES..... 6

III. JURISDICTION AND VENUE..... 7

FACTUAL ALLEGATIONS..... 8

I. THE NATURE OF THE TRANSMISSION DEFECT..... 8

II. PLAINTIFFS’ EXPERIENCES..... 14

A. Plaintiff Joseph Vangel..... 14

B. Plaintiff Bryan Klontz 15

C. Putative Class Members 16

III. DEFENDANT KNEW OR SHOULD HAVE KNOWN OF THE TRANSMISSION DEFECT PRIOR TO PLAINTIFFS’ PURCHASE..... 34

A. Ford Knew of, Acknowledged, and Yet Failed to Remedy the Transmission Defect..... 34

B. Customers Repeatedly Complained About Harsh and Erratic Shifting and Vehicle Lunging, Hesitation, and Jerking..... 42

C. Ford Misrepresented and Actively Concealed the Defect..... 43

IV. TOLLING OF THE STATUTE OF LIMITATIONS..... 48

A. Discovery Rule Tolling 48

B. Fraudulent Concealment Tolling..... 49

C. Estoppel 50

CLASS ACTION ALLEGATIONS..... 50

CAUSES OF ACTION..... 53

I. BREACH OF EXPRESS WARRANTY..... 53

II. BREACH OF IMPLIED WARRANTY OF MERCHANTABILITY..... 56

III. BREACH OF IMPLIED WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE 59

IV. VIOLATION OF MAGNUSON-MOSS WARRANTY ACT..... 61

V. NEGLIGENCE..... 63

VI. FRAUD/FRAUDULENT CONCEALMENT..... 66

VII. UNJUST ENRICHMENT..... 68

VIII. FLORIDA UNFAIR AND DECEPTIVE TRADE PRACTICES ACT..... 69

REQUESTS FOR RELIEF..... 73
DEMAND FOR JURY TRIAL..... 74

INTRODUCTION

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

I. NATURE OF THE CASE

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

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

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

5. An automatic transmission is essentially an automatic gear shifter. Instead of manually shifting the gears with a clutch, the automatic transmission shifts gears on its own. The

transmission acts as a powertrain to convert the engine's force into a controlled source of power. Accordingly, drivers need a properly functioning automatic transmission in order to safely and reliably accelerate and decelerate their Vehicles.

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

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

8. Upon information and belief, based on interactions between Plaintiffs and Ford authorized dealers, Ford refuses to replace or repair the Transmissions and merely states that the abrupt and harsh shifting is "normal." At most, Ford recommends reprogramming the Powertrain or Transmission Control Modules ("PCM" or "TCM") in Class Vehicles to the default settings to address these concerns, but acknowledges that even this so-called solution "may result in firmer than normal upshifts and downshifts."

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

10. Upon information and belief, Plaintiffs allege that Defendant knew or should have known that the Class Vehicles were and are defective, suffer from the Transmission Defect, and

¹ Ford 2021 Model Year Ford Warranty Guide, at 9.
https://www.ford.com/cmslibs/content/dam/brand_ford/en_us/brand/resources/general/pdf/guides/2021-Ford-Car-LT-Truck-Hybrid-Warranty-version-2_frdwa_EN-US_07_2020.pdf (last viewed June 22, 2023).

are not fit for their intended purpose of providing consumers with safe and reliable transportation. Nevertheless, Defendant failed to disclose this defect to Plaintiffs and Class Members at the time of purchase or lease, or thereafter.

11. Had Plaintiffs and Class Members known about the Transmission Defect at the time of sale or lease, as well as the associated costs related to the Transmission Defect, Plaintiffs and the Class Members would not have purchased the Class Vehicles or would have paid less for them.

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

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

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

15. To date, Ford has acknowledged, and Class Members have experienced these malfunctions in Ford's 2017 to present model year F-150 pickup trucks equipped with 10R80

Transmissions, 2018 to present model year Expeditions, Mustangs, and Lincoln Navigators equipped with 10R80 Transmissions, as well as 2019 to present model year Rangers equipped with 10R80 Transmissions (“Class Vehicles”). To the extent warranted by the developing facts, Plaintiffs will further supplement the list of Class Vehicles to include additional Ford vehicles that have the Transmission Defect.

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

II. PARTIES

17. Plaintiff Joseph Vangel is a Florida citizen who lives in Boca Raton, located in Palm Beach County, Florida. Mr. Vangel purchased a 2023 Ford F-150 Lariat with the 10R80 10-speed Transmission. This vehicle was designed, manufactured, sold, distributed, advertised, marketed, and/or warranted by Ford Motor Company.

18. Plaintiff Bryan Klontz is a Florida citizen who lives in New Port Richey, located in Pasco County, Florida. Mr. Klontz purchased a 2020 Ford Ranger with the 10R80 10-speed Transmission. This vehicle was designed, manufactured, sold, distributed, advertised, marketed, and/or warranted by Ford Motor Company.

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

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

III. JURISDICTION AND VENUE

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

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

23. Venue is proper in this District under 28 U.S.C. § 1391(a) because a substantial part of the events or omissions giving rise to Plaintiffs' claims occurred in this District. Specifically, several Plaintiffs purchased their Vehicles, used their Vehicles, experienced the symptoms and malfunctions in their Vehicles which underlie their claims, and/or had their Vehicles serviced by authorized Ford dealerships in this District.

FACTUAL ALLEGATIONS

I. THE NATURE OF THE TRANSMISSION DEFECT

24. Ford has designed, manufactured, distributed, advertised, marketed, sold, and/or leased its vehicles for decades, including its Mustang model for nearly 60 years,² its F-150 trucks for nearly 50 years,³ its Ranger trucks for 40 years,⁴ and its Expeditions and Lincoln Navigators for 25 years.^{5,6}

25. Ford has touted the superiority of its vehicles, particularly the smoothness of the shifting provided by the 10-speed Transmission since it was first released on the market. For instance, when Ford's 10-speed Transmission was first introduced—in the 2017 F-150—Ford bragged about the “improved acceleration and performance” and “enhanced shifting performance” offered by the Transmission:⁷

New 10-Speed Transmission

For 2017, F-150 pairs an all-new 10-speed transmission with its 3.5-liter EcoBoost® engine. The transmission delivers improved acceleration and performance compared with previous six-speed automatic transmissions, thanks to optimized wide-span gear spacing, coupled with drag-reduction actions. Three overdrive gears and a wider ratio span help improve fuel efficiency at highway speeds, while maintaining F-150's best-in-class towing. The 10-speed transmission uses advanced materials and alloys to save weight, which translates into enhanced shifting performance.

² <https://www.motortrend.com/features/ford-mustang-history-generations-models-specifications/> (last viewed June 22, 2023).

³ <https://media.ford.com/content/dam/fordmedia/North%20America/US/2019/01/03/sales-dec-18.pdf> (last viewed June 22, 2023).

⁴ <https://www.jdpower.com/cars/history/ford/ranger> (last viewed June 22, 2023).

⁵ <https://www.theautochannel.com/news/press/date/19971104/press007737.html> (last viewed June 22, 2023).

⁶ <https://www.jdpower.com/cars/history/lincoln/navigator> (last viewed June 22, 2023).

⁷ <https://web.archive.org/web/20170225224101/http://www.ford.com/trucks/f150/2017/features/power> (last viewed June 22, 2023).

26. Ford also proclaims the F-150's superiority among its competitors:⁸

CLASS-LEADING CAPABILITY

The Ford F-150 makes tough tasks look easy, whether it's working on the job or heading out on a weekend of recreation. F-150 outperforms every other truck in its class when hauling cargo in the bed or towing a trailer.* No wonder the competition is always in a scramble to follow the leader.

27. In terms of power, Ford states that the F-150's 3.5L EcoBoost® engine with the 10R80 10-speed Transmission provides “on-demand power with virtually no lag”⁹:

3.5L ECOBOOST®

The 3.5L EcoBoost® with 10-speed transmission boasts impressive power ratings of 375 horsepower and best-in-class* 470 lb.-ft. of torque, beating out all gas and diesel competitors. This engine delivers the F-150 best-in-class* tow rating too. Features include the Ford port-fuel and direct-injection (PFDI) system with two injectors per cylinder — one in the air intake port, another inside the cylinder — to increase performance. Plus twin intercooled turbos for on-demand power with virtually no lag.

28. Ford further highlights its 10-speed Transmission as “deliver[ing] improved overall performance, with enhanced acceleration at the low and mid ranges of the power band”¹⁰:

⁸

<https://web.archive.org/web/20190606230035/https://www.ford.com/trucks/f150/?gnav=header-all-vehicles> (last viewed July 7, 2023).

⁹<https://web.archive.org/web/20190410180004/https://www.ford.com/trucks/f150/features/power/> (last viewed June 22, 2023).

¹⁰ *Id.*

10-SPEED AUTOMATIC TRANSMISSION

F-150 EcoBoost[®], V8 and diesel engines deliver their power through an advanced 10-speed automatic transmission. Compared with the 6-speed, the 10-speed delivers improved overall performance, with enhanced acceleration at the low and mid ranges of the power band. Features include optimized wide-span gear spacing coupled with drag-reduction actions plus three overdrive gears. What's more, you can choose from selectable modes: Normal, Tow-Haul, Snow-Wet, EcoSelect, and Sport.

29. Likewise, in 2017, Ford claimed that the Transmission “changes the game” for the Mustang, allowing “smoother shifting and better performance across the board”¹¹:

The Best Automatic in Any Mustang Ever.

The new optional 10-speed SelectShift[®] automatic transmission changes the game. An all-new electronic control system in the transmission features real-time adaptive shift-scheduling algorithms engineered to help ensure the right gear at the right time, including skip-shift and direct downshift capability. That translates into optimum ratio progression and efficiency, smoother shifting and better performance across the board.

30. Ford also emphasizes the Ranger’s “tough[ness]”—“the way we’ve made Ranger[®] pickups for decades”¹²—allowing for smooth driving even over rough terrain:

BUILT FORD TOUGH. [®]

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

31. Ford claimed that its Expedition would have “more responsive performance [to] pass others on the highway”¹³:

¹¹<https://web.archive.org/web/20171013021027/http://www.ford.com/cars/mustang/2018/?intcmp=hp-showbb> (last viewed June 22, 2023).

¹²<https://www.ford.com/trucks/ranger/features/tough/> (last viewed June 22, 2023).

¹³<https://web.archive.org/web/20170301052929/http://www.ford.com/suvs/expedition/2018/?gnav=header-all-vehicles> (last viewed June 22, 2023).

POWER UPGRADE.

The 3.5L EcoBoost[®] engine in the Expedition Platinum is tuned to give you more refined power – which means more responsive performance as you pass others on the highway.

32. Ford further claims that “[t]he 10-speed transmission in the Lincoln Navigator[®] SUV helps to balance efficiency with performance”¹⁴:

10-Speed SelectShift[®] Automatic Transmission

2 of 3

The 10-speed transmission in the Lincoln Navigator[®] SUV helps to balance efficiency with performance. With 10 independent shift points, the engine can operate in its sweet spot and avoid the highs and lows associated with fewer gears.

33. Ford further highlights its “innovative, class-exclusive 10-speed automatic transmission” as shown below¹⁵:

TOUGH. POWER. PERFECTED.

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

34. Ford introduced the 10R80 10-speed automatic transmission in its Ford Expedition in 2018, touting its “wide 7.4:1 gear ratio span helps smooth out the steps between gears – delivering the engine’s power consistently for an enjoyable driving experience.”¹⁶

¹⁴ <https://www.fleet.ford.com/showroom/lincoln/luxury-suvs/navigator/2023/models/standard/?intcmp=ln-vhp-slider-moddetails-navigator#10-speed-selectshift-automatic-transmission> (last viewed June 22, 2023).

¹⁵ <https://web.archive.org/web/20180302164740/https://www.ford.com/trucks/ranger/2019/> (last viewed June 22, 2023)

¹⁶ <https://cdn.dealereprocess.org/cdn/brochures/ford/2018-expedition.pdf> (last viewed June 22, 2023).

ACCELERATE YOUR ADVENTURES

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

35. Ford’s luxury vehicle line, the Lincoln Navigator, introduced the 10R80 10-speed automatic transmission in 2018. Its advertising highlighted that the new 10-speed Transmissions are “designed to adapt in real-time. Using input from a dozen sensors, it determines what you want, then engages the right gear at the right time to deliver the performance you seek.”¹⁷

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

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



36. Ford introduced the 10R80 10-speed automatic Transmission as an alternative to the 6-speed manual transmission starting in the 2018 Ford Mustang, advertising that the 10R80 “improves responsiveness and all-around performance.”¹⁸

¹⁷ <https://cdn.dealereprocess.org/cdn/brochures/lincoln/2018-navigator.pdf> (last viewed June 22, 2023).

¹⁸ <https://cdn.dealereprocess.org/cdn/brochures/ford/2018-mustang.pdf> (last viewed June 22, 2023).

MORE HORSEPOWER, MORE TORQUE, MORE MUSTANG

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

37. Ford offers a “New Vehicle Limited Warranty” for three years or 36,000 miles, whichever occurs first.^{19, 20, 21, 22, 23}

38. Ford also offers extended warranty coverage for Powertrain components for five years or 60,000 miles, whichever occurs first. This extended warranty coverage includes the transmission and all internal parts, clutch cover, seals and gaskets, torque converter, transfer case (including all internal parts), transmission case, and transmission mounts.²⁴

39. Plaintiffs and Class Members allege a common Transmission Defect in their Class Vehicles with 10-speed Transmissions. As discussed herein, numerous Ford drivers have

¹⁹ 2018 Model Year Ford Warranty Guide at 8;
https://www.ford.com/cmslibs/content/dam/brand_ford/en_us/brand/resources/general/pdf/warranty/2018-Ford-Car-Lt-Truck-Warranty-version-3_frdwa_EN-US_08_2017.pdf (last viewed June 22, 2023).

²⁰ 2019 Model Year Ford Warranty Guide at 8;
https://www.ford.com/cmslibs/content/dam/brand_ford/en_us/brand/resources/general/pdf/warranty/2019-Ford-Car-Truck-Warranty-version-1_frdwa_EN-US_04_2018.pdf (last viewed June 22, 2023).

²¹ 2020 Model Year Ford Warranty Guide, at 8;
https://www.ford.com/cmslibs/content/dam/brand_ford/en_us/brand/resources/general/pdf/guides/2020-Ford-Car-LT-Truck-Warranty-version-1_frdwa_EN-US_04_2019.pdf (last viewed June 22, 2023).

²² 2021 Model Year Ford Warranty Guide, at 8;
https://www.ford.com/cmslibs/content/dam/brand_ford/en_us/brand/resources/general/pdf/guides/2021-Ford-Car-LT-Truck-Hybrid-Warranty-version-2_frdwa_EN-US_07_2020.pdf (last viewed June 22, 2023).

²³ 2022 Model Year Ford Warranty Guide, at 8;
https://www.ford.com/cmslibs/content/dam/brand_ford/en_us/brand/resources/general/pdf/warranty/2022-Ford-Car-Lt-Truck-Hybrid-Warranty-version-2_frdwa_EN-US_12_2020.pdf (last viewed June 22, 2023).

²⁴ *Id.* at 10-11.

complained that their Transmissions slip gears, hesitate, jerk, lunge, clunk, and/or shift roughly. Some consumers have reported that their Vehicles lose power while accelerating, including onto a freeway or through an intersection, when the Transmission failed to shift up or down.

40. Due to the Transmission Defect, drivers have also reported whiplash and discomfort due to harsh shifting, distraction from driving due to loud and unusual sounds, as well as concerns about reliability.

41. As a result of the Transmission Defect, and the malfunctions it causes in the Vehicles, Class Members have stated that they do not feel safe driving the Class Vehicles in normal traffic conditions.

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

43. Similarly, Ford has released Special Service Messages (“SSM”) acknowledging Ford’s awareness of harsh and delayed shifts, and generally harsh engagements, related to the Transmission, amongst consumers in the field. These SSMs, however, do not provide instructions for correcting or repairing the underlying Transmission Defect resulting in these malfunctions,

44. Due to Ford’s unwillingness to admit the Transmission Defect and refusal to repair Class Vehicles, Plaintiffs and Class Members continue to drive defective and unsafe vehicles.

II. PLAINTIFFS’ EXPERIENCES

A. Plaintiff Joseph Vangel

45. Mr. Vangel was shopping for a safe and reliable vehicle for general use as his personal vehicle. Therefore, in or around January 2023, he purchased a new 2023 Ford F-150

with a 10-speed Transmission from an authorized Ford dealership, believing it to be suitably safe and reliable.

46. At the time of Mr. Vangel's purchase, Ford knew that its 10-speed automatic Transmissions were defective, but neither Ford, nor the Ford sales representative, disclosed the Defect to Mr. Vangel when advertising or discussing the features, components, and performance of the Vehicle prior to its sale. In reliance on these material omissions and misrepresentations, Mr. Vangel purchased and operated the Vehicle on the belief that the Vehicle's transmission would operate properly as warranted.

47. Neither Ford nor any of its agents, dealers, or representatives informed Mr. Vangel of the Transmission Defect prior to his purchase of the Vehicle.

48. Soon after purchasing the Vehicle, Mr. Vangel started to notice the Transmission seemingly "skipping" gears while upshifting and downshifting, and making loud and distracting "clunking" noises. Mr. Vangel can feel the Vehicle "skipping" gear shifts while driving.

49. Had Mr. Vangel been advised of the Transmission Defect at or before the point of sale, he would not have purchased his Vehicle or would have paid significantly less for the Vehicle.

50. Mr. Vangel did not receive the benefit of his bargain.

B. Plaintiff Bryan Klontz

51. Mr. Klontz was shopping for a safe and reliable vehicle for transporting himself and his family, including on road trips and long drives. Due to his prior experiences with other Ford vehicles, and because he believed it was suitably safe and reliable, he purchased a new 2020 Ford Ranger with a 10-speed Transmission from an authorized Ford dealership.

52. At the time of Mr. Klontz's purchase, Ford knew that its 10-speed automatic Transmissions were defective, but neither Ford, nor the Ford sales representative, disclosed the

Defect to Mr. Klontz when advertising or discussing the features, components, and performance of the Vehicle prior to its sale. In reliance on these material omissions and misrepresentations, Mr. Klontz purchased and operated the Vehicle on the belief that the Vehicle's transmission would operate properly as warranted.

53. Neither Ford nor any of its agents, dealers, or representatives informed Mr. Klontz of the Transmission Defect prior to his purchase of the Vehicle.

54. Around 27,000 miles on the Vehicle, Mr. Klontz started to notice the Transmission shifting "hard" between gears, to the point he hears a "bang" during the shifts. He also experiences a feeling of a "jolt" when these shifts occur.

55. Had Mr. Klontz been advised of the Transmission Defect at or before the point of sale, he would not have purchased his Vehicle or else would have paid significantly less for the Vehicle.

56. Mr. Klontz did not receive the benefit of his bargain.

C. Putative Class Members

57. Putative Class Members have experienced similar problems with their Class Vehicles as a result of the Transmission Defect.

58. Hundreds, if not thousands, of purchasers and lessees of the Class Vehicles have experienced the Transmission Defect. Complaints filed by consumers with the NHTSA and posted on the Internet demonstrate that the Transmission Defect is widespread. As a result of the Transmission Defect, consumers complain of harsh, bumpy, jerky, and erratic shifting, as well as hesitation between gears, clunking, and even loss of power – issues that have often resulted in potentially life-threatening situations.

59. An examination of NHTSA complaints illustrates Putative Class Members' experiences with the Transmission Defect and its potential danger (note that spelling and grammar mistakes remain as found in the original).

FORD F-150

Model Year 2017

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

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

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

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

NHTSA Complaint dated January 3, 2018: wind noise is heard coming from both front doors. Dealer claims this is a known issue with the new aluminum body but they don't have a fix. The 10 speed transmission shutters at random. (ID No. 11058299)

NHTSA Complaint dated November 18, 2017: 4500 miles on vehicle, never towed anything, only normal city/highway driving, no long trips ever taken. was turning left at intersection and transmission seemed to slip, truck still made it through, I then noticed that a yellow "wrench" light came on, I assumed this was for my upcoming 5k mile oil change. I didn't think much of the "slip" and assumed it was

an anomaly. I then got onto the highway and noticed the truck was behaving strangely, power was inconsistent, I attempted to put it into cruise control and it refused to activate. I got off of highway and turned left at an intersection, starting from a complete stop the truck lurched forward and then slipped out of gear and stalled out in the intersection. if a car was coming I would have easily been struck. I let it sit for a few seconds and then the transmission finally got into, and stayed in, first gear. at first it went into gear and then slipped out of gear. this "wrench" light was apparently a limp home mode, another complaint, besides the stalling, would be the fact that this little yellow wrench light does nothing to warn me that the truck is actually in an impaired state, a "limp" mode. I work in the aerospace industry and this would never be tolerated, a function that hampers the normal performance of your vehicle should be easy to recognize as a warning, a little yellow wrench looks like a service light. (ID No. 11047221)

Model Year 2018

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

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

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

NHTSA Complaint dated March 26, 2019: tl* the contact owns a 2018 ford f-150. while driving various speeds, the vehicle hesitated to accelerate while depressing the accelerator pedal. also, a clunking noise was present when the transmission

switched gears and the vehicle felt different. the vehicle was not diagnosed or repaired. nye ford (1555 upper lennix ave, onye, ny) and the manufacturer were notified of the failure. the vin was not available. the failure mileage was 14,000. (ID No. 11191541)

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

NHTSA Complaint dated February 20, 2019: this vehicle generally exhibits harsh upshifts (3rd-to-4th) and downshifts (4th-to-3rd) as indicated on the driver's ip. (ID No. 11181413)

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

NHTSA Complaint dated February 20, 2019: tl* the contact owns a 2018 ford f-150. while driving various speeds, the transmission downshifted on its own. the vehicle was taken to joel confer ford (2935 penns valley pike, centre hall, bellfornte, pa) on several occasions for the same failure and the transmission control module was reprogrammed; however, the failures continued. the manufacturer was notified of the failures, but no assistance was offered. the vin was not available. the failure mileage was 10,000. *tt*jb (ID No. 11181310) (emphasis added).

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

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

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

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

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

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

NHTSA Complaint dated December 7, 2018: tl* the contact owns a 2018 ford f-150. the contact stated that the transmission shifted unevenly in the first three gears. when the vehicle was started initially, the rpms increased and decreased. the contact

called koons sterling ford (46869 harry byrd hwy, sterling, va 20164, (703) 430-7700) and was informed that there was no recall for the failure. a diagnostic appointment was scheduled for a recall that was unrelated to the failure. the manufacturer was not contacted. the failure mileage was 13,000. (ID No. 11156801)

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

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

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

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

NHTSA Complaint dated August 23, 2018: 10-speed transmission: the transmission shifts very badly. jerky shifting and often times the truck is sluggish when starting from a stop, often times to the point of acting like the engine is about to die. the only way to partially correct this issues is to drive aggressively and take

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

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

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

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

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

Before today the dealer has reprogrammed the firmware with thee 2 tsb

Tsb 17-2262.

Tsb 17-2272.

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

Model Year 2019

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

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

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

NHTSA Complaint dated February 20, 2020: 10R80 10-speed automatic transmission / driveshaft makes loud bang or clunk noise when first starting the engine.the clunking noise continues when you accelerate (light or heavy) and take your foot off throttle the clucks/ bangs are so strong you feel like someone reared you. The automatic transmission jerks and slipped when shifting gears up or down. When city driving transmission / driveshaft clucks/ bangs more because of stop and go. On the highway transmission downshifts and up shifts for no reason and 4 to 6 second delay in throttle response. Have had it to dealership 5

times. First time dealer reset tcm program to "relearn" shifts. Didn't fix problem. Second time checked grease in yolk. Grease full. Still not fixed. 3rd, 4th, and 5th time dealership called ford "hotline" for repair or fix. No call back or fix from ford to date. (ID No. 11310260)(emphasis added).

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

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

Model Year 2020

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

Model Year 2021

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

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

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

FORD MUSTANG

Model Year 2018

NHTSA Complaint dated June 13, 2020: Vehicle experiences random non repeatable periods of hard shifting, refusal to go into gear, grinding gears, jerkiness and what feels occasionally like transmission slips. When it occurs it mostly happens under heavy acceleration such as trying to get up to speed on an on ramp or trying to get to highway speeds but not always. Recently while traveling in a 45mph zone i attempted to shift into 3rd gear. Clutch was fully depressed and noticeable gear grinding happened and an immediate second attempt resulted in same result. Had to shift to 4th causing vehicle to be in unacceptable gear range for current speed. Service appointment at dealership made 25une 10th 2020. Issue has happened several times previously but seems to be getting worse. Last known incident happened 25une 11 2020 at approximately 3:30 pm est one day after making appointment with dealership. *TR (ID No. 11328620)

NHTSA Complaint dated May 19, 2021: 10 speed transmission did not engage then failed less than a second later while pulling into an intersection. This caused the car to enter the intersection but fail to go forward more than a few feet. The problem resolved after three attempts to go forward by pumping the gas peddle. The transmission also was jerking or jumping from 1st through 3rd gear as if the car could not find the correct gear to be in while going forward. The problem resolved after the first mile of driving. This is a recurrent but sporadic issue. The issue has caused near miss collision by another driver thinking my car was going to accelerate when the forward motion stopped but there were no brake lights in indicate the car was not going forward. The jerking and jumping has made it hard to control the car during turns and on slippery road. I have an appointment scheduled for service at a Ford Dealer for them to see if the issue is able to be address. (ID No. 11417731)

NHTSA Complaint dated October 27, 2021: 10 speed Ecoboost transmission, doesn't stay in gear and delayed shifts causing acceleration problems. Hard shifts, jerking, and hard lunge forward when shifted into Drive. The forward lunge is unstoppable even with the brake fully engaged. Transmission slip when changing gears while driving. Yes, it's available for inspection. Yes, mine and others safety

risk are at risk. Yes, the problem has been reproduced and confirmed by a dealer. Inspected by an authorized dealer/manufacture. NO other warning lamps or messages. (ID No. 11419724)

Model Year 2019

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

Model Year 2020

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

Model Year 2021

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

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

Model Year 2022

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

FORD EXPEDITION

Model Year 2018

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

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

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

NHTSA Complaint dated September 12, 2022: my transmission shifted from first gear to second gear very hard causing the vehicle to lunge. My daughter is a new driver and it scared her so much that she stopped in traffic at a stop sign and I thought the vehicle was hit. My dash cam even recorded it as a possible collision (no one hit us just jerked that bad). I have only owned it for a month and when I took it to the dealer that I bought it from they said Ford knows they have a problem and it sucks. (dealerships words) I had no lamps or warnings come on at the time of the event. When I changed driving modes the vehicle went completely out of

gear and would not go back into gear until I shut it down and started it back up. (ID No. 11484078).

Model Year 2019

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

NHTSA Complaint dated November 15, 2022: Transmission failure 4 occurrences after dealer repair under warranty. The transmission issues are very well documented and dealer has returned vehicle to parent with kids in vehicle..within 20 miles vehicle stooped on I-40 traffic endangering lives 3rd failure. Returned vehicle to dealer and when told vehicle was ready it made 15 miles prior to overheating and ceasing to accelerate out of traffic endangering lives. These are the last 2 times vehicle was returned. 2 prior when we were told the vehicle was ok and loss of acceleration, grinding, jerking were normal. Vehicle currently at dealer. Communication with Ford with little assistance. Prior to these failures were cam phasers with 4 similar failures and almost burned my garage down. This vehicle and many others are not safe and should be addressed. (ID No. 11493712).

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

NHTSA Complaint dated August 14, 2022: The 2019 Expedition 10 Speed Transmission went into neutral during acceleration from third gear, skipped 4th and finally reengaged in 5th with a huge jolt. This happened a second time after leaving the next stop sign. During the neutral period (28une28er. 3 or 4 seconds) engine RPM's increased dramatically with loss of forward motion and speed. My reaction was to remove my foot from the gas pedal before the engine red-lined. This issue could have caused vehicles behind to rear end our 2019 Ford Expedition. The

transmission was at full temperature as the expedition had been driven for 29une29er. 30 minutes prior to the issues. We then parked the expedition for about an hour and then started the drive home and the neutral issue occurred once again. The transmission hard shifting issues were first noticed in March/April 2022 had been reprogrammed in June, 2022 which didn't resolve the problem. It was then serviced late July 2022 by rebuilding a control module(?). We were told to drive the vehicle for a couple of weeks while the transmission learned how we drive and everything would return to normal. Currently have returned the Expedition to the dealer as this is a serious safety issue. Hard shifting or even jumping a gear with a jolt isn't going be a danger, but losing power and control of the Expedition could have caused an accident and possible injury to us and others. (ID No. 11479373).

NHTSA Complaint dated July 25, 2022: The first incident I was travelling on the highway at 29une29er 60-70 mph and attempting to overtake a slower car by switching lanes. As I changed lanes and hit the gas, my Expedition became stuck between gears and lost power until I let off the accelerator and the rpm's came down. This happened on several occasions with similar circumstances. The other times it's been stuck between gears are typically when I am turning left. The loss of power and basically b'ing in neutral while on the highway or turning left is a specific safety hazard that needs prompt attention. I am dropping it off at the dealership tomorrow and I'm sure they will be "unable to recreate the problem" and I'll have to wait until the recall for it to be fixed. (ID No. 11475816).

Model Year 2020

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

NHTSA Complaint dated July 11, 2022: When 29une29erating in 5th, or 6th gear trans slips out hard and car wont accelerate for 1 to 2 seconds. It displays being in 1st while this happens before it goes back into precious gear and starts driving. (ID No. 11473465).

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

Model Year 2021

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

FORD RANGER

Model Year 2019

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

NHTSA Complaint dated June 1, 2022: The 10r80 10 speed Transmission will slip, shutter, stall, jump in and out of gear, slam into gear, and often times will wait till you are at a complete stop to downshift into 1st gear which makes the entire truck lunge forward almost like you've been rear ended. I've been to 2 different ford dealerships, had my truck in the shop multiple times and all I hear is them telling me that it's normal and they get these complaints a lot. Long Lewis ford of 30une30erati Alabama will play dumb and hold my truck in their parking lot for a few days then say they found nothing wrong. Collier ford of 30une30era Alabama

told me over the phone that the symptoms I'm experiencing are normal and they they will not touch my truck unless it has a wrench light on. A \$36,000 truck should not have these issues and it be deemed "normal" or even "acceptable". (ID No. 11466891)

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

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

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

Model Year 2020

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

NHTSA Complaint dated November 9, 2022: Since purchase I have been experiencing problems due due a poorly built transmission. The 10R80 transmission has been the opposite of what I expected when purchasing a new vehicle. I have experienced extremely harsh up-shifting and downshifting, as well

as slipping gears while in motion which causes a loss of power while the vehicle is in motion. The most concerning of these is when the gear seems to slip while driving and when the accelerator is depressed the engine will only rev for a few seconds and then harshly clunk into a gear which will cause a jolt in the forward motion which has cause me to lock up my brakes in order to avoid hitting another vehicle. In addition to these I have also experienced harsh clunking and jolting forward or backwards when selecting gears. All of these are of great concern to me of course. I have tried contacting numerous Ford dealerships and shops to try and fix this problem and I continue to get the run around. I have since looked up recalls and I have found recalls for 2020 Rangers made in the Michigan plant from February 28 to March 18 of 2020 have been issued a recall but somehow my Ranger doesn't even though the VIN states it was made in March of 2020. All of the servicing has been done according to Ford's specifications. (ID No. 11492939)

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

Model Year 2021

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

Model Year 2022

NHTSA Complaint dated February 3, 2023: The transmission and or converter on the vehicle continue to have harsh vibrations in all gears. The unit has a difficult time finding the right gear for the traveling speed. Some times accelerates slightly from a stopped position which requires excessive force on the brake. At highway speeds downshifts are very slow and sometimes not at all when trying to pass slower vehicles. Employee's refuse to drive this vehicle due to excessive vibration felt through the steering wheel and foot pedal's when coming to a stop. They don't feel that the vehicle is going to come to a stop. I would agree. It's as if the

transmission does not start downshifting as the vehicle slows, and then drops into first very hard as the vehicle is coming to a stop. The vehicle started doing this at 220 mil's and continues to get worse. It has been to the Dealer four times, with the first being a driveshaft shim placement to the driveshaft per a TSB. Second visit, the dealer states there is nothing wrong with the vehicle. Third visit, complete drive shaft and components replaced, with no remedy. Fourth visit, an engineer from Ford came to the dealership and determined there is nothing wrong with the vehicle. These problems have been occurring since the vehicle had 220 miles on it. The vehicle has 1700 miles and note being driven very much. (ID No. 11505415)

FORD LINCOLN NAVIGATOR

Model Year 2018

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

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

Model Year 2019

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

Model Year 2021

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

III. DEFENDANT KNEW OR SHOULD HAVE KNOWN OF THE TRANSMISSION DEFECT PRIOR TO PLAINTIFFS' PURCHASES

A. Ford Knew of, Acknowledged, and Yet Failed to Remedy the Transmission Defect.

60. Shortly after Ford introduced the 10R80 transmission and equipped it in Class Vehicles, drivers repeatedly complained to Ford about problematic shifting, including Vehicles shifting harshly and/or erratically, jerking, lunging, clunking, hesitating, surging, and slipping gears. During the Class Period, there was an unusually large number of complaints of harsh, erratic, unusual, and belabored transmission shifting such that Ford was put on notice of the Transmission Defect.

61. Ford first introduced the 10R80 10-speed automatic transmission in its 2017 F-150 pickup trucks, which were first made available to consumers in late-2016.

62. Consumer complaints regarding the Transmission Defect were publicly available, including to Ford, at least as early as November 18, 2017.

63. In response to complaints about the Transmission Defect received at least as early as 2017—as well as, on information and belief, Ford's own internal knowledge regarding the Transmission Defect—Ford issued multiple Technical Service Bulletins (“TSB”) and Special Service Messages (“SSM”) with respect to the “harsh,” “delayed,” and “bumpy shift[ing],” “harsh/delayed engagement,” and general “engagement concerns.”

64. Soon after the 10R80 10-speed automatic Transmission's introduction in the F150, Ford released TSB 17-2262 on December 14, 2017, stating that “[s]ome 2018 F-150 vehicles”—specifically only those equipped with 10R80 transmissions—“may exhibit intermittent runs rough, hesitation, and/or transmission shudder with no illuminated malfunction indicator lamp

(MIL) or diagnostic trouble code (DTC).”²⁵ The TSB advised technicians to reprogram the Powertrain Control Module (“PCM”) and to “advise the customer that this vehicle is equipped with an adaptive transmission shift strategy which allows the vehicle’s computer to learn the transmission’s unique parameters and improve shift quality. When the adaptive strategy is reset, the computer will begin a re-learning process. This re-learning process may result in firmer than normal upshifts and downshifts for several days.”²⁶

65. Only a few months later, Ford released TSB 18-2079 on March 2, 2018, stating that “[s]ome 2017 F-150/Raptor vehicles equipped with a 10R80 automatic transmission ... may exhibit harsh or delayed shifts.”²⁷ As with TSB 17-2262, TSB 18-2079 advised technicians to reprogram the PCM and to “advise the customer that this vehicle is equipped with an adaptive transmission shift strategy which allows the vehicle’s computer to learn the transmission’s unique parameters and improve shift quality. When the adaptive strategy is reset, the computer will begin a re-learning process. This re-learning process may result in firmer than normal upshifts and downshifts for several days.”²⁸

66. Upon information and belief, the Transmission malfunctions disclosed in TSB 17-2262 and TSB 18-2079 reflect Ford’s early knowledge and awareness of the Transmission Defect, acquired during the design and testing of the 10-speed Transmission, prior to its first sale to consumers.

67. Upon information and belief, Ford was aware of the Transmission Defect well before the December 2017 and March 2018 publication dates of TSB 17-2262 and TSB 18-2079,

²⁵ <https://www.f150online.com/forums/attachments/2015-2020-f-150/38056d1517424232-2018-f150-5-0-10-speed-drive-train-issues-tsb-17-2262.pdf> (last viewed July 7, 2023).

²⁶ *Id.*

²⁷ <https://static.nhtsa.gov/odi/tsbs/2018/MC-10137068-9999.pdf> (last viewed June 22, 2023).

²⁸ *Id.*

the dates Ford issued its first TSBs related to the types of malfunctions caused by the Transmission Defect in vehicles equipped with the 10R80 (i.e. TSB 17-2262) and explicitly related to the 10R80 automatic 10-speed transmission (i.e. TSB 18-2079). Upon information and belief, Ford opened and/or was pursuing one or more internal investigations prior to December 2017, resulting in TSB 17-2262 and TSB 18-2079. Indeed, upon information and belief, Ford was aware of the Transmission Defect during the pre-production design and testing of the Transmission, aware that issues with the Transmission remained unresolved, and nevertheless manufactured and sold Transmissions containing the Defect to Plaintiffs and Class Members.

68. On September 7, 2018, Ford released another TSB 18-2274 stating that “[s]ome” 2018 F-150’s with the 10-speed Transmission “may exhibit harsh/bumpy upshift, downshift and/or engagement concerns.”²⁹ The TSB advised the same technician procedure as TSB 17-2262 and TSB 18-2079: reprogramming the PCM. Also, like TSB 17-2262 and TSB 18-2079, TSB 18-2274 instructed service technicians to “advise the customer that ... this [reprogramming] may result in firmer than normal upshifts and downshifts for several days.”

69. Despite the ongoing concerns with the 10R80 Transmission in F-150 vehicles, Ford continued to expand the rollout of its 10-speed Transmission, and equip the 10R80 Transmission in the other Class Vehicles. Just as with the F-150, Ford almost immediately began releasing TSBs addressing the shifting problems customers experienced in other Class Vehicles.

70. On March 16, 2020, Ford released TSB 20-2083³⁰ (superseded by TSB 20-2198 released on August 25, 2020, adding additional vehicles and model years³¹) which stated that “[s]ome” 2019-2020 Ranger and 2020 F-150/Mustang vehicles equipped with a 10R80

²⁹ <https://static.nhtsa.gov/odi/tsbs/2018/MC-10149749-9999.pdf> (last viewed June 22, 2023).

³⁰ <https://www.tsbsearch.com/Ford/20-2083> (last viewed July 7, 2023).

³¹ <https://www.tsbsearch.com/Ford/20-2198> (last viewed July 7, 2023).

transmission “may exhibit a high-pitched whine coming from the transmission at low speeds during light acceleration or coasting.”³² The TSB advised technicians to service the vehicle but noted that “[l]imits/policies/prior approvals are not altered by a TSB.”³³

71. On April 30, 2020,³⁴ Ford released TSB 20-2277 stating that “[s]ome” 2019-2020 Ranger vehicles with the 10-speed transmission “may exhibit a shudder/vibration when accelerating from a stop.”³⁵ The TSB advised technicians to service the vehicle but noted that “[l]imits/policies/prior approvals are not altered by a TSB.”³⁶

72. On September 24, 2020, Ford released TSB 20-2339 which stated that “[s]ome 2019 Ranger vehicles may exhibit a vehicle buck/surge during low speed operation and/or an engine that runs rough after cold start.”³⁷ The TSB advised technicians to reprogram the PCM and to “advise the customer that this vehicle is equipped with an adaptive transmission shift strategy which allows the vehicle’s computer to learn the transmission’s unique parameters and improve shift quality. When the adaptive strategy is reset, the computer will begin a relearning process. This relearning process may result in firmer than normal upshifts and downshifts for several days.”³⁸

73. On or around January 29, 2021, Ford published SSM 49507 which acknowledged that “[s]ome 2021 F-150 ... vehicles,” equipped with “10R80 Automatic Transmission[s],”³⁹ “with 5,000 miles (8,000 km) or less may exhibit harsh or delayed engagement/shift concerns

³² *Id.*

³³ *Id.*

³⁴ <https://www.tsbsearch.com/Ford/20-2277> (last viewed June 22, 2023).

³⁵ <https://static.nhtsa.gov/odi/tsbs/2020/MC-10179150-0001.pdf> (last viewed July 7, 2023).

³⁶ *Id.*

³⁷ <https://www.tsbsearch.com/Ford/20-2339> (last viewed June 22, 2023).

³⁸ *Id.*

³⁹ The other vehicles identified in this SSM are excluded here as they were equipped with a 10R60 transmission.

with or without transmission diagnostic trouble codes (DTC) in the powertrain control module (PCM).^{40, 41} The SSM claimed that “[m]ost concerns at low mileage may be addressed with the accelerated main control break-in routine” intended to “remove contamination that may be sticking the valves.” The claimed limitation to “concerns at low mileage” was subsequently disclaimed by Ford in SSM 50184.⁴²

74. On September 27, 2021, Ford released TSB 21-2315 which stated that 2018-2021 Expeditions, 2017-2020 F-150s, 2018-2021 Mustangs, 2019-2021 Rangers, and 2018-2021 Navigators equipped with the 10-speed Transmission “may exhibit a harsh engagement/harsh shift/delayed shift...[t]his may be due to incompatibility of the adaptive calibration to adapt to hardware wear-in over time.”⁴³ The TSB directed technicians to “[r]eprogram the transmission strategy download into the PCM/TCM. Perform the adaptive learning drive cycle.”⁴⁴ If the vehicle continued to have the shifting problems, the TSB further instructed technicians to “[o]verhaul the main control valve body and road test vehicle following the adaptive learning cycle.”⁴⁵ TSB 21-2315 once again instructed the service technician to “advise the customer that ... [resetting the adaptive transmission shift strategy] may result in firmer than normal upshifts and downshifts for several days.”

75. On or around October 8, 2021, Ford released SSM 50184, acknowledging that “[s]ome 2021 ... F-150 ... vehicles” equipped with “10R80 Automatic Transmission[s]”⁴⁶ “may

⁴⁰ https://www.f150-forums.com/tsb_recall/tsbs/ford/f-150/2021 (last viewed June 22, 2023).

⁴¹ <https://static.nhtsa.gov/odi/tsbs/2021/MC-10186648-0001.pdf> (last viewed June 22, 2023).

⁴² <https://static.nhtsa.gov/odi/tsbs/2021/MC-10202622-0001.pdf> (last viewed June 22, 2023).

⁴³ <https://static.nhtsa.gov/odi/tsbs/2021/MC-10201905-0001.pdf> (last viewed June 22, 2023).

⁴⁴ *Id.*

⁴⁵ *Id.*

⁴⁶ The other vehicles identified in this SSM are excluded here as they were equipped with a 10R60 transmission.

exhibit harsh or delayed engagement/shift concerns.”^{47, 48} As before, the SSM claimed that “[m]ost concerns may be addressed with the PCM/TCM Transmission Accelerated Main Control Break In Routine ... to remove contamination that maybe [sic] sticking the valves.” The SSM continues, “[a]lthough this routine was developed for low mileage vehicles, it’s usage is being expanded for various symptoms across the life of the vehicle.”

76. On October 18, 2021, Ford released TSB 21-2357, which was identical to TSB 21-2315, and superseded the TSB released just a few weeks earlier “to increase the labor operation time allowances.”⁴⁹

77. On November 17, 2021, Ford released TSB 21-2407 which stated that “[s]ome 2021 F-150 vehicle equipped with a 10R80 MHT transmission ... may exhibit a harsh 1-3 upshift and/or a harsh electric to gas engine drive transition.”⁵⁰ The TSB directed technicians to “reprogram the PCM and any additional modules required by the software update,” and again instructed them to “advise the customer that ... [resetting the adaptive transmission shift strategy] may result in firmer than normal upshifts and downshifts for several days.”⁵¹

78. On or about February 21, 2022, Ford released SSM 50529 acknowledging that “[s]ome 2021-2022 ... F-150 ... vehicles” equipped with “10R80/10R80-MHT Automatic

⁴⁷ <https://static.nhtsa.gov/odi/tsbs/2021/MC-10202622-0001.pdf> (last viewed June 22, 2023).

⁴⁸ <https://www.carcomplaints.com/Ford/Explorer/2021/tsbs/tsb-ssm-50184.shtml> (last viewed June 22, 2023).

⁴⁹ <https://www.tsbsearch.com/Ford/21-2357> (last viewed June 22, 2023).

⁵⁰ <https://www.tsbsearch.com/Ford/21-2407> (last viewed June 22, 2023).

⁵¹ *Id.*

Transmission[s]”⁵² “may exhibit harsh/delayed engagement and/or harsh/delayed shift concerns.”^{53, 54} This SSM did not claim a limitation to “concerns at low mileage.”⁵⁵

79. On April 21, 2022, Ford released TSB 22-2139, which “supersede[d] TSB 21-2357 to update vehicle model years affected.”⁵⁶ This latest TSB updated the list of affected vehicles to include 2022 Expeditions, Mustangs, Rangers, and Navigators.

80. On or about April 3, 2023, Ford released SSM 51531, which acknowledges that “[s]ome ... 2021-2023 F-150..., [and] 2022-2023 Expedition/Navigator/Mustang ... vehicles” equipped with “10R80 ... 10R80-MHT Automatic Transmission”⁵⁷ “may exhibit harsh/delayed engagement and/or harsh/delayed shift concerns.”^{58, 59} No longer asserting that the procedure might even address “most” of them, the SSM again claimed that “[t]hese [concerns] may be addressed with the powertrain control module (PCM)/transmission control module (TCM) Transmission Accelerated Main Control Break In Routine and/or a main control overhaul.” The SSM also instructed that “[c]ycling the shift solenoids and clutch control valves to remove contamination must be performed along with an adaptive drive cycle before attempting repair.”⁶⁰

81. On April 13, 2023, Ford released TSB 23-2123—“supersed[ing] TSB 22-2139 to update vehicle model years affected”—because “[s]ome 2017-2020 F-150, 2018-2021

⁵² The other vehicles identified in this SSM are excluded here as they were equipped with a 10R60 transmission.

⁵³ <https://static.nhtsa.gov/odi/tsbs/2022/MC-10208154-0001.pdf> (last viewed June 22, 2023).

⁵⁴ <https://www.aboutautomobile.com/Technical-Service-Bulletin/2022/Ford/F-150/Powertrain>
<https://www.aboutautomobile.com/Technical-Service-Bulletin/2022/Ford/F-150/Powertrain>
(last viewed June 22, 2023).

⁵⁵ https://www.f150-forums.com/tsb_recall/tsbs/ford/f-150/2022 (last viewed June 22, 2023).

⁵⁶ Source: <https://www.tsbsearch.com/Ford/22-2139> (last viewed June 22, 2023).

⁵⁷ The other vehicles identified in this SSM are excluded here as they were equipped with a 10R60 or 10R100 transmissions.

⁵⁸ https://www.f150forum.com/tsb_recall/tsbs/ford/mustang/2023 (last viewed June 22, 2023).

⁵⁹ <https://static.nhtsa.gov/odi/tsbs/2023/MC-10234125-0001.pdf> (last viewed June 22, 2023).

⁶⁰ *Id.*

Expedition/Navigator/Mustang and 2019-2023 Ranger vehicles equipped with a 10R80 automatic transmission [continued to] exhibit a harsh engagement/harsh shift/delayed shift.”⁶¹ The TSB admitted that these malfunctions might appear with or without “an illuminated malfunction indicator lamp (MIL) or diagnostic trouble codes (DTC) ... stored in the powertrain control module (PCM) or transmission control module (TCM).” This TSB continued to claim that these malfunctions “may be due to incompatibility of the adaptive calibration to adapt to hardware break-in over time,” and suggested that the technician “overhaul the main control valve body and/or perform an adaptive learning drive cycle.”⁶²

82. Approximately one month later, on May 22, 2023, Ford released TSB 23-2152, “supersed[ing] TSB 23-2123 to update the Issue statement.”⁶³ Specifically, and for the first time, Ford claimed in this TSB that the shifting and engagement concerns “may be due to the keep alive memory in the PCM/TCM or the transmission main control valve body.” Nevertheless, the TSB continued to suggest that the technician “overhaul the main control valve body and/or perform an adaptive learning drive cycle,” and ““advise the customer that ... [resetting the adaptive transmission shift strategy] may result in firmer than normal upshifts and downshifts for several days.”⁶⁴

83. Just days later, on May 29, 2023, Ford released TSB 22-2428, superseding 22-2139, 22-2102, 21-2377, and 21-2434 “to update the Issue, Action and Service Procedure.”⁶⁵ This TSB acknowledged that “[s]ome 2017-2023 F-150, 2018-2023 Expedition/Navigator/Mustang, [and] 2019-2023 Ranger ... with a 18R80/10R80MHTtransmission and built on or before 15-

⁶¹ <https://static.nhtsa.gov/odi/tsbs/2023/MC-10234596-0002.pdf> (last viewed June 22, 2023).

⁶² *Id.*

⁶³ <https://www.tsbsearch.com/Ford/23-2152> (last viewed June 22, 2023).

⁶⁴ *Id.*

⁶⁵ <https://static.nhtsa.gov/odi/tsbs/2023/MC-10236680-0001.pdf> (last viewed June 22, 2023).

Aug-2022 may exhibit a harsh/delayed engagement and/or harsh/delayed shift.” The TSB acknowledges that these malfunctions can present with or without “an illuminated malfunction indicator lamp (MIL) or diagnostic trouble codes (DTC) ... stored in the powertrain control module (PCM) or transmission control module (TCM).”⁶⁶

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

85. Despite this knowledge, Ford took no steps to remedy this issue, beyond releasing repeated and ineffective TSBs, leaving Plaintiffs and the other Class Members with knowingly defective Class Vehicles.

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

86. As soon as Ford released the 10R80 10-speed automatic transmission in the 2017 F-150, purchasers and lessees began filing complaints with the NHTSA almost immediately, beginning with the original 2017 model year vehicle. *See* NHTSA Complaints reproduced at ¶ 59, *supra*. These complaints demonstrate Ford’s awareness of the Transmission Defect from the beginning of its sales of vehicles equipped with the 10R80 Transmission, and the potential danger it presented.

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

⁶⁶ *Id.*

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

C. Ford Misrepresented and Actively Concealed the Defect.

89. Beginning in 2017 and continuing to the present, Ford has misrepresented the safety, performance and reliability of the 10R80 10-speed transmission, through its website, multimedia advertisements, brochures, and in-person statements by its employees, authorized dealers, agents, sales representatives and/or repair technicians—touting the defective Transmission’s safety, reliability, enhanced responsiveness and performance with statements such as:⁶⁷



(2019 F-150 Ad)

⁶⁸ 2019 Ford F-150 brochure, available at: <https://cdn.dealereprocess.org/cdn/brochures/ford/2019-f150.pdf> (last viewed June 22, 2023).

GEARED TOWARD GETTING YOU TO THE FUN

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

69

(2019 Ranger Ad)

TURBO

CHARGED STANDOUT

2.3L ECOBOOST

CLASS-EXCLUSIVE

10-SPEED AUTOMATIC TRANSMISSION

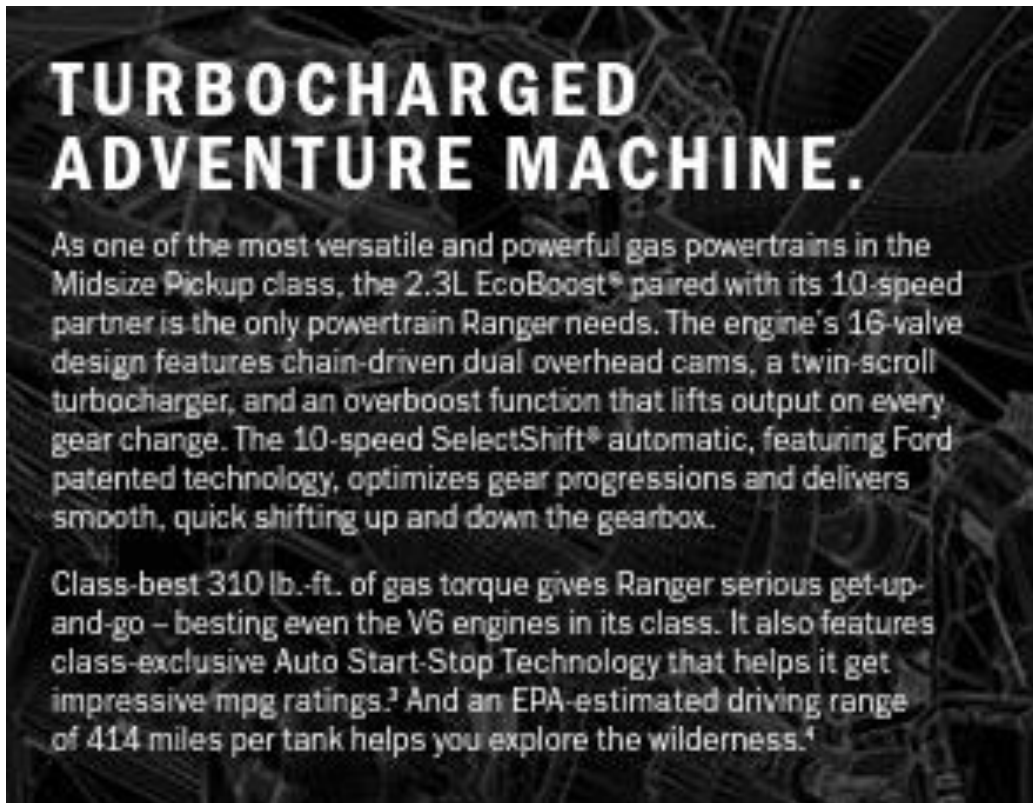
Ranger is the only truck in the Midsize Pickup class to offer an advanced turbocharged gas engine. As one of the most versatile, powerful and efficient gas powertrains in its class, the 2.3L EcoBoost[®] paired with its 10-speed partner is the only powertrain Ranger needs. The engine's 16-valve design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

70

(2019 Ranger Ad)

⁶⁹ 2019 Ford Ranger brochure, available at: <https://cdn.dealereprocess.org/cdn/brochures/ford/2019-ranger.pdf> (last viewed June 22, 2023).

⁷⁰ *Id.*



(2020 Ranger Ad)

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

72

(2018 Mustang Brochure)

⁷¹ <https://cdn.dealereprocess.org/cdn/brochures/ford/2020-ranger.pdf> (last viewed June 22, 2023).

⁷² <https://cdn.dealereprocess.org/cdn/brochures/ford/2018-mustang.pdf> (last viewed June 22, 2023).

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



73

(2019 Mustang Brochure)

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

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

21-2315
27 September
2021

Model:

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

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

74

⁷³ <https://cdn.dealereprocess.org/cdn/brochures/ford/2019-mustang.pdf> (last viewed June 22, 2023).

⁷⁴ Ford TSB 21-2315. <https://www.tsbsearch.com/Ford/21-2315> (last viewed June 22, 2023).

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

75

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

92. Despite its knowledge since well before March 2018, Ford has not recalled the Class Vehicles to repair the Transmission Defect and has not offered to reimburse Class Vehicle owners and lessees who incurred costs relating to the transmission problems, nor to reimburse them for the diminished value of their Vehicles resulting from the Defect.

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

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

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

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

97. Plaintiffs' claims presented herein rise to the level of plausibility set forth in *Bell Atlantic Corp. v. Twombly* by asserting the who, what, when, where and how of the misconduct

⁷⁵ *Id.*

which caused Plaintiffs' damages: the "who" (Defendant, through its employees, authorized dealers, agents, sales representatives and/or repair technicians); the "what" (misrepresentations regarding the safety, performance, and reliability of Ford's 10R80 10-speed Transmission and concealment of material information regarding the Transmission Defect and the performance and quality of Class Vehicles); the "when" (beginning with sales of the 2017 model year F-150 equipped with the 10R80 Transmission, to the present); the "where" (Ford's website, Ford print and multimedia advertisements, its brochures, TSBs, and in-person by Ford employees, authorized dealers, agents, sales representatives and/or repair technicians); and the "how" (by misrepresenting that Ford's 10R80 10-speed Transmission was safe, reliable and "delivers improved overall performance, with enhanced acceleration" and by actively concealing the Transmission Defect by failing to disclose it and propagating the falsehood that the harsh, jerky, clunky, hesitating, erratic and bumpy shifting in Class Vehicles was "normal."). *See generally Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 545 (2007).

IV. TOLLING OF THE STATUTE OF LIMITATIONS

A. Discovery Rule Tolling

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

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

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

B. Fraudulent Concealment Tolling

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

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

103. Throughout the Class Period, Ford has been aware that the transmissions it designed, manufactured, and installed in the Class Vehicles contained the Transmission Defect, resulting in harsh and/or erratic shifting, gear slippage, and vehicle jerking, lunging, clunking, surging and hesitation, placing Plaintiffs and other drivers in unsafe situations.

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

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

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

C. Estoppel

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

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

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

CLASS ACTION ALLEGATIONS

110. Plaintiffs bring this lawsuit individually and as a class action on behalf of all others similarly situated pursuant to Federal Rules of Civil Procedure 23(a), (b)(2), and/or (b)(3). This action satisfies the numerosity, commonality, typicality, adequacy, predominance, and superiority requirements of Rule 23.

111. The Class is defined as:

All persons in the United States and its territories who formerly or currently own or leased one or more vehicles with a 10R80 10-speed automatic transmission.⁷⁶

112. The Subclass is defined as:

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

⁷⁶ Plaintiffs reserve the right to amend or modify their Class and Subclass definitions to include or exclude model years of Vehicles with a 10R80 10-speed automatic transmissions after they have had an opportunity to conduct discovery related to changes made to the 10R80 transmission in each model year, if any.

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

114. Plaintiffs reserve the right to amend or modify the Class and Subclass definitions after they have had an opportunity to conduct discovery.

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

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

- a. whether the Class Vehicles and their transmissions are defectively designed or manufactured such that they are not suitable for their intended use;
- b. whether the fact that the Class Vehicles suffer from the Transmission Defect would be considered material to a reasonable consumer;
- c. whether, as a result of Ford's concealment or failure to disclose material facts, Plaintiffs and Class Members acted to their detriment by purchasing Class Vehicles manufactured by Ford;
- d. whether Ford was aware of the Transmission Defect;
- e. whether the Transmission Defect constitutes an unreasonable safety risk;
- f. whether Ford breached express and/or implied warranties with respect to the Class Vehicles;
- g. whether Ford violated consumer protection laws for failing to notify the Transmission Defect to Plaintiffs and Class Members;

- h. whether Ford has a duty to disclose the defective nature of the Class Vehicles and the Transmission Defect to Plaintiffs and Class Members;
- i. whether Plaintiffs and Class Members are entitled to equitable relief, including but not limited to a preliminary and/or permanent injunction; and
- j. whether Ford violated the Magnuson-Moss Warranty Act when it sold to consumer Class Vehicles that suffered from the Transmission Defect.

117. Adequate Representation: Plaintiffs will fairly and adequately protect the interests of Class Members. Plaintiffs have retained attorneys experienced in the prosecution of class actions, including consumer and product defect class actions, and Plaintiffs intend to prosecute this action vigorously.

118. Predominance and Superiority: Plaintiffs and Class Members have all suffered and will continue to suffer harm and damages as a result of Ford's unlawful and wrongful conduct. A class action is superior to other available methods for the fair and efficient adjudication of the controversy. Absent a class action, Class Members would likely find the cost of litigating their claims prohibitively high and would therefore have no effective remedy at law. Because of the relatively small size of Class Members' individual claims, it is likely that few Class Members could afford to seek legal redress for Ford's misconduct. Absent a class action, Class Members will continue to incur damages, and Ford's misconduct will continue without remedy. Class treatment of common questions of law and fact would also be a superior method to multiple individual actions or piecemeal litigation in that class treatment will conserve the resources of the courts and the litigants and will promote consistency and efficiency of adjudication.

CAUSES OF ACTION

I. BREACH OF EXPRESS WARRANTY

U.C.C. § 2-313
(F.S.A. § 672.313)

(Plaintiffs, individually, and on behalf of the Subclass)

119. Plaintiffs incorporate by reference and re-allege the preceding paragraphs as if fully set forth herein.

120. Plaintiffs bring this cause of action individually and on behalf of the Subclass.

121. Florida has adopted the Uniform Commercial Code, including U.C.C. § 2-313, which covers express warranties. Fla. Stat. Ann. § 672.313. That section provides that “any affirmation of fact or promise made by the seller to the buyer which relates to the goods and becomes part of the basis of the bargain creates an express warranty that the goods shall conform to the affirmation or promise.” U.C.C. § 2-313(1)(a). Further, “[a]ny description of the goods which is made part of the basis of the bargain creates an express warranty that the good shall conform to the description.” *Id.* § 2-313(1)(b).

122. Plaintiffs and Class members are “buyers” within the meaning of each applicable warranty statute.

123. The Class Vehicles are “goods” within the meaning of each applicable warranty statute.

124. Ford is a “manufacturer” and/or “seller” within the meaning of the warranty statutes.

125. Plaintiffs and Class Members bought or leased Ford vehicles equipped with Ford’s defective 10R80 10-speed transmission.

126. Ford marketed, sold, leased, and/or distributed the Class Vehicles, and Plaintiffs and Class Members purchased or leased the Class Vehicles.

127. Ford made express warranties to Plaintiffs and Class members within the meaning of the warranty statutes.

128. In the course of selling and leasing the Class Vehicles, Ford expressly warranted in writing that the vehicles were covered by certain warranties in Ford's "New Vehicle Limited Warranty" as described herein. This express warranty states that "authorized Ford Motor Company dealers will, without charge, repair, replace, or adjust all parts on your vehicle that malfunction or fail during normal use during the applicable coverage period due to a manufacturing defect in the factory-supplied materials or factory workmanship."⁷⁷

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

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

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

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

⁷⁷ 2019 Ford Warranty Guide at 9.

https://www.ford.com/cmslibs/content/dam/brand_ford/en_us/brand/resources/general/pdf/warranty/2019-Ford-Car-Truck-Warranty-version-1_frdwa_EN-US_04_2018.pdf (last viewed June 16, 2023).

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

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

135. In addition, the Plaintiffs named in this complaint have provided Ford with notice of claims they make on behalf of themselves and similarly situated consumers. Although Ford responded to the notice letter, it suggested only a possibility of individual resolution rather than Class-wide relief. Ford's response makes clear that Plaintiffs' efforts for early resolution were futile.

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

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

138. Plaintiffs and Class members are also entitled to costs and reasonable attorneys' fees.

II. BREACH OF IMPLIED WARRANTY OF MERCHANTABILITY

U.C.C. § 2-314
(F.S.A. § 672.314)
(Plaintiffs, individually, and on behalf of the Subclass)

139. Plaintiffs incorporate by reference and realleges the preceding paragraphs as if fully set forth herein.

140. Plaintiffs bring this cause of action individually and on behalf of the Subclass.

141. Florida has adopted the Uniform Commercial Code, including U.C.C. § 2-314, which covers the implied warranty of merchantability. Fla. Stat. Ann. § 672.314. That section provides that “a warranty that the goods shall be merchantable is implied in a contract for their sale if the seller is a merchant with respect to goods of that kind.” U.C.C. § 2-314(1).

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

143. Ford was and is in actual or constructive privity with Plaintiffs and all Subclass Members.

- a. Plaintiffs had and continue to have sufficient direct dealings with Ford and/or its authorized dealers, franchisees, representatives, and agents to establish any required privity of contract. Ford’s authorized dealers, franchisees, representatives, and agents were not intended to be the ultimate consumers of the Class Vehicles and have no rights under the warranty agreements provided with the Class Vehicles. The warranty agreements were designed for and intended to benefit only the ultimate purchasers and lessees of the Class Vehicles, *i.e.* Plaintiffs and Class Members.
- b. Privity is not required to assert this claim because Plaintiffs and the Class Members are the intended consumers of the Class Vehicles and intended third-party

beneficiaries of contracts between Ford and its dealers, franchisees, representatives, and agents.

- c. By extending express written warranties to end-user purchasers and lessees, brought itself into privity with Plaintiffs and all Class Members.

144. Pursuant to Fla. Stat. Ann. § 672.314, the Class Vehicles owned or leased by Plaintiffs and Subclass Members were defectively designed and manufactured and posed a serious and immediate safety risk to consumers and the public. The Class Vehicles were subject to an implied warranty of merchantability, did not comply with the warranty in that they were defective at the time of sale, and as a proximate result of the Defect the Plaintiffs and Subclass Members sustained damages.

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

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

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

148. Ford knew, or should have known, that the Class Vehicles posed a safety risk and contained the Defect, and knew, or should have known, of these breaches of implied warranties prior to sale or lease of the Class Vehicles to Plaintiffs and Subclass Members.

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

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

151. In addition, Ford received, on information and belief, numerous consumer complaints and other notices from customers advising of the Defect associated with the 10R80 10-speed automatic Transmissions installed in the Class Vehicles.

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

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

154. As a direct and proximate result of Ford's breach of its implied warranties, Plaintiffs and Subclass Members have suffered economic damages, including loss attributable to the diminished value of their Class Vehicles, loss of use of their Class Vehicles and other tangible property, as well as the monies spent and to be spent to repair and/or replace their 10R80 10-speed automatic transmission. Ford was unjustly enriched by keeping the profits for its unsafe products while never having to incur the cost of repair, replacement or a recall.

III. BREACH OF IMPLIED WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE

U.C.C. § 2-315
(F.S.A. § 672.315)
(Plaintiffs, individually, and on behalf of the Subclass)

155. Plaintiffs incorporates by reference and realleges the preceding paragraphs as if fully set forth herein.

156. Plaintiffs bring this cause of action individually and on behalf of the Subclass.

157. Florida has adopted the Uniform Commercial Code, including U.C.C. § 2-315, which covers the implied warranty of fitness for a particular purpose. Fla. Stat. Ann. § 672.315. That section provides that “[w]here the seller at the time of contracting has reason to know any particular purpose for which the goods are required and that the buyer is relying on the seller's skill or judgment to select or furnish suitable goods, there is unless excluded or modified under the next section an implied warranty that the goods shall be fit for such purpose..” U.C.C. § 2-315.

158. Ford was and is in actual or constructive privity with Plaintiffs and all Subclass Members.

- a. Plaintiffs had and continue to have sufficient direct dealings with Ford and/or its authorized dealers, franchisees, representatives, and agents to establish any

required privity of contract. Ford's authorized dealers, franchisees, representatives, and agents were not intended to be the ultimate consumers of the Class Vehicles and have no rights under the warranty agreements provided with the Class Vehicles. The warranty agreements were designed for and intended to benefit only the ultimate purchasers and lessees of the Class Vehicles, *i.e.* Plaintiffs and Class Members.

- b. Privity is not required to assert this claim because Plaintiffs and the Class Members are the intended consumers of the Class Vehicles and intended third-party beneficiaries of contracts between Ford and its dealers, franchisees, representatives, and agents.
- c. By extending express written warranties to end-user purchasers and lessees, brought itself into privity with Plaintiffs and all Class Members.

159. Pursuant to Fla. Stat. Ann. § 672.315, at the time Plaintiffs and Subclass members purchased or leased the Class Vehicles, they intended to use the goods for the particular purpose of safely driving the Class Vehicles on and off roadways for personal, family, or work purposes. At the time of purchase of the Class Vehicles, Ford had reason to know of these particular purposes and this implied warranty of fitness for a particular purpose was part of the basis of the bargain between Ford, on the one hand, and Plaintiffs and Subclass Members, on the other hand. Indeed, Ford sold or leased the Class Vehicles for such purposes.

160. Plaintiffs and Subclass members relied on Ford's skill and judgment to design and manufacture Class Vehicles suitable for this particular purpose. At the time of purchase, Ford had reason to know that Plaintiffs and Subclass members relied on its skill and judgment. The Class Vehicles, however, when sold or leased to Plaintiffs and Subclass members, and at all times

thereafter, were not fit for their particular purpose of safely being driven. Specifically, the Class Vehicles owned by Plaintiffs and Subclass members were defectively designed and manufactured and left Ford's facilities and control with a Defect incorporated into the design and/or manufacture of the Class Vehicles and posed a serious risk to safety immediately upon purchase.

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

162. Plaintiffs and the other Subclass Members have been damaged in an amount to be proven at trial.

IV. VIOLATION OF MAGNUSON-MOSS WARRANTY ACT ("MMWA")

(15 U.S.C. § 2301, *et seq.*)

(Plaintiffs, individually, and on behalf of the Class and Subclass)

163. Plaintiffs incorporate by reference and realleges the preceding paragraphs as if fully set forth herein.

164. Plaintiffs bring this cause of action individually and on behalf of the Class and Subclass.

165. Plaintiffs and Class Members are "consumers" within the meaning of 15 U.S.C. § 2301(6).

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

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

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

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

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

171. Ford breached each of these express warranties by:

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

172. Ford’s breach of express warranty has deprived Plaintiffs and Class Members of the benefit of their bargain.

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

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

the Transmission Defect. Pursuant to the provisions of 15 U.S.C. § 2310(e), Plaintiffs, on behalf of themselves and Class Members, sent notice to Ford's principal place of business to provide it with reasonable opportunity to correct its business practice(s) and cure its breaches of warranties under the MMWA.

175. In addition, resorting to any sort of informal dispute settlement procedure or affording Ford another opportunity to cure its breach of warranty is unnecessary and futile. Any remedies available through any informal dispute settlement procedure would be inadequate under the circumstances, as Ford has repeatedly misrepresented and failed to disclose the true quality and nature of the Class Vehicles. Any requirement under the MMWA or otherwise that Plaintiffs submit to any informal dispute settlement procedure or otherwise afford Ford a reasonable opportunity to cure its breach of warranty is excused and/or has been satisfied.

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

V. NEGLIGENCE

(Plaintiffs, individually, and on behalf of the Subclass)

177. Plaintiffs incorporate by reference and realleges the preceding paragraphs as if fully set forth herein.

178. Plaintiffs bring this cause of action individually and on behalf of the Subclass.

179. Ford had a duty to design and manufacture a product that would be safe for its intended and foreseeable uses and users, including the use to which its products were put by

Plaintiffs and the Class Members. Ford breached its duties to Plaintiffs and the Class Members because they were negligent in the design, development, manufacture, and testing of the Transmissions installed in the Class Vehicles, and Ford is responsible for this negligence.

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

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

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

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

184. Under the TREAD Act, Ford owed an independent duty to send notice to Plaintiffs and Class Vehicle owners, purchasers, and dealers whenever it "learns the vehicle or equipment contains a defect and decides in good faith that the Defect is related to motor vehicle safety." 49 U.S.C. § 30118(c). Despite Ford's awareness of the Transmission's safety defect, it failed to

timely notify owners, purchasers, and dealers. This duty is independent of any contractual duties Ford may owe or have owed to them.

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

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

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

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

189. Plaintiffs and the Class Members could not have prevented the damages caused by Ford's negligence through the exercise of reasonable diligence. Neither Plaintiffs nor the Class Members contributed in any way to Ford's failure to provide appropriate notice and repair procedures.

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

VI. FRAUD/FRAUDULENT CONCEALMENT

(Plaintiffs, individually, and on behalf of the Subclass)

191. Plaintiffs incorporate by reference and realleges the preceding paragraphs as if fully set forth herein.

192. This claim is brought by Plaintiffs individually and on behalf of Subclass Members.

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

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

195. Ford had a duty to disclose the true performance of Class Vehicles and the Transmission Defect because knowledge thereof and the details related thereto were known and/or accessible only to Ford; Ford had superior knowledge and access to the facts; and knew the facts were not known to, or reasonably discoverable, by Plaintiffs and the Class. Ford also had a duty to disclose because they made many general affirmative representations about the qualities of the Class Vehicles.

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

197. Plaintiffs and the Class were unaware of these omitted material facts and would not have acted as they did if they had known of the concealed and/or suppressed facts, in that they would not have purchased or leased the Class Vehicles. The actions of Plaintiffs and Class Members were justified. Ford was in exclusive control of the material facts and such facts were not known to the public, Plaintiff, or Class Members.

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

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

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

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

202. Furthermore, as the intended and expected result of its fraud and conscious wrongdoing, Ford has profited and benefited from Plaintiffs' and Class Members' purchase of

Class Vehicles containing the Transmission Defect. Ford has voluntarily accepted and retained these profits and benefits with full knowledge and awareness that, as a result of Ford's misconduct alleged herein, Plaintiffs and Class Members were not receiving trucks of the quality, nature, fitness, or value that had been represented by Ford, and that a reasonable consumer would expect.

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

VII. UNJUST ENRICHMENT

(Plaintiffs, individually, and on behalf of the Subclass)

204. Plaintiffs incorporate by reference and realleges the preceding paragraphs as if fully set forth herein.

205. Plaintiffs bring this cause of action individually and on behalf of the Subclass.

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

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

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

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

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

211. Plaintiffs and the Class Members are entitled to restitution of the profits unjustly obtained plus interest.

VIII. FLORIDA DECEPTIVE AND UNFAIR TRADE PRACTICES ACT ("FDUTPA")

(F.S.A. §§ 501.201, *et seq.*)

(Plaintiffs, individually, and on behalf of the Subclass)

212. Plaintiffs incorporate by reference and realleges the preceding paragraphs as if fully set forth herein.

213. Plaintiffs bring this cause of action individually and on behalf of the Subclass.

214. Plaintiffs assert a claim under Florida Deceptive and Unfair Trade Practices Act ("FDUTPA"), which makes it unlawful to engage in "unfair or deceptive acts or practices in the conduct of any trade or commerce...." Fla. Stat. Ann. § 501.204.

215. Section 501.203(7), Florida Statutes defines "Consumer" as "an individual; child, by and through its parent or legal guardian; firm; association; joint venture; partnership; estate; trust; business trust; syndicate; fiduciary; corporation; or any other group or combination."

Plaintiffs and Subclass Members are “Consumers” within the meaning of §501.203(7), Florida Statutes.

216. Section 501.203(8), Florida Statutes defines “Trade or Commerce” as “the advertising, soliciting, providing, offering, or distributing, whether by sale, rental, or otherwise, of any good or service, or any property, whether tangible or intangible, or any other article, commodity, or thing of value, wherever situated. ‘Trade or Commerce’ shall include the conduct of any trade or commerce, however denominated, including any nonprofit or not-for-profit person or activity.”

217. The advertising, soliciting, providing, offering, or distributing, whether by sale, rental, or otherwise of Vehicles by Defendants to Plaintiffs and Subclass Members is “Trade or Commerce” within the meaning of section 501.203(8), Florida Statutes.

218. At all times relevant hereto, Ford was engaged in trade or commerce, as defined under the FDUTPA. Fla. Stat. Ann. § 501.203(8).

219. Section 501.204(1) provides that: “[u]nfair methods of competition, unconscionable acts or practices, and unfair or deceptive acts or practices in the conduct of any trade or commerce are hereby declared unlawful.” The Defendants' acts and omissions as well as their failure to use reasonable care in this matter as alleged in this Complaint equals unconscionable acts or practices, as well as deceptive and unfair acts or practices in the conduct of Defendants' trade or commerce pursuant to section 501.204, Florida Statutes.

220. Specifically, Ford developed, manufactured, advertised, solicited, provided, offered, and/or distributed, by sale, rental (lease), or otherwise the defective Class Vehicles containing Defective Transmissions. Ford developed, manufactured, advertised, solicited, provided, offered, and/or distributed, by sale, rental (lease), or otherwise the Class Vehicles to

Florida consumers, despite knowledge that: 1) Class Vehicles contained the Transmission Defect, and 2) that the Class Vehicles posed a serious safety risk to consumers like Plaintiffs and Subclass members.

221. Ford violated the FDUTPA when it sold Class Vehicles, representing that they were safe for use by consumers. Ford further violated FDTUPA by failing to disclose to Plaintiffs and Subclass members that Class Vehicles contained a Defect that posed serious safety risks to consumers and the public, despite Ford's prior knowledge of the same.

222. Ford's deceptive trade practices were designed to induce Plaintiffs and Subclass members to purchase Class Vehicles containing the Defect and to avoid the cost of associated with repairing, replacing or recalling the Class Vehicles in use across the United States.

223. Ford both concealed and failed to disclose material facts about the Defect and unreasonable safety risks in the Class Vehicles to induce purchase of Class Vehicles. Any reasonable consumer would consider information about product defects and safety to be important factors when deciding whether to purchase or lease a Class Vehicle. Indeed, no reasonable consumer would knowingly purchase or lease a Class Vehicle for use on the road, or otherwise, if that consumer knew that the product had a serious Defect that posed a safety risk.

224. Plaintiffs and Subclass Members reasonably relied on Ford's misrepresentations and omissions and expected that the Class Vehicles would not be equipped with a defective 10R80 10-speed automatic transmission, such that it would render the Class Vehicles unsafe and not fit for their ordinary use. Further, Plaintiff and Subclass Members reasonably expected Ford would honor its warranty obligations, as represented to them at the time they purchased or leased their Class Vehicles.

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

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

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

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

229. Prior to filing this Complaint, on May 17, 2023, Plaintiffs served demand letters on Ford, notifying Ford of Plaintiffs' damages and the Transmission Defect in their Class Vehicles and demanding relief.

230. The unconscionable, illegal, unfair and deceptive acts and practices of Defendants violate the provisions of Florida's Deceptive and Unfair Trade Practices Act. Plaintiffs and Class Members have suffered actual damage for which they are entitled to relief pursuant to section 501.211(2), Florida Statutes.

231. Plaintiffs and Subclass Members are therefore entitled to relief, including restitution, actual damages, costs and attorneys' fees under section 501.2105 of the FDUTPA.

Pursuant to relevant case law, Plaintiffs and Subclass Members may also be entitled to treble damages and punitive damages resulting from violations of the FDUTPA. Plaintiff and Subclass Members are also entitled to injunctive relief, seeking an order enjoining Ford's unfair and/or deceptive acts or practices.

REQUESTS FOR RELIEF

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

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

Ordering such other and further relief as may be just and proper.

DEMAND FOR JURY TRIAL

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

Dated: July 11th, 2023

Respectfully submitted,

**MILBERG COLEMAN BRYSON
PHILLIPS GROSSMAN**

/s/ Natalie M. Rico

Natalie Rico

Fl Bar No.: 65046

**MILBERG COLEMAN BRYSON
PHILLIPS GROSSMAN**

2701 S LeJeune Rd, 10th Floor

Coral Gables, Fl, 33314

Tel.: (866) 252-0878

Fax: (919) 600-5035

Primary Emails: Nrico@milberg.com

Secondary Email: Ralves@milberg.com

Mitchell Breit*

**MILBERG COLEMAN BRYSON
PHILLIPS GROSSMAN**

405 E. 50th Street

New York, NY 10022

Telephone: (630) 796-0903

Email: mbreit@milberg.com

John R. Fabry*

THE CARLSON LAW FIRM, P.C.

1717 N. Interstate Highway 35, Suite 305

Round Rock, Texas 78664

Telephone: 512-671-7277

Facsimile: 512-238-0275

Email: JFabry@carlsonattorneys.com

Mark R. Miller*

WALLACE MILLER LLP

150 N. Wacker Dr., Suite 1100

Chicago, IL 60606

Telephone: 312-589-6280

Facsimile: 312-275-8174
Email: mrm@wallacemiller.com

Sidney F. Robert*
BRENT COON AND ASSOCIATES
300 Fannin, Suite 200
Houston, Texas 77002
Telephone: 713-225-1682
Facsimile: 713-225-1785
Email: sidney.robert@bcoonlaw.com

*Attorneys for Plaintiffs and the Proposed
Class*

**Pro hac vice forthcoming*