

1 Amir M. Nassihi (Bar No. 235936)  
2 Joan R. Camagong (Bar No. 288217)  
3 SHOOK HARDY & BACON L.L.P.  
4 555 Mission St., Suite 2300  
5 San Francisco, CA 94105  
6 T: 415.544.1900 | F: 415.391.0281  
7 Email: [anassihi@shb.com](mailto:anassihi@shb.com)  
8 Email: [jcamagong@shb.com](mailto:jcamagong@shb.com)

9 Attorneys for Defendant  
10 Toyota Motor North America, Inc.

11 UNITED STATES DISTRICT COURT  
12 CENTRAL DISTRICT OF CALIFORNIA

13 MARK GREIF, individually and on  
14 behalf of all others similarly situated,

15 Plaintiff,

16 v.

17 TOYOTA MOTOR NORTH AMERICA,  
18 INC.,

19 Defendant.

Case No. 2:24-cv-04098

**TOYOTA MOTOR NORTH  
AMERICA, INC.'S NOTICE OF  
REMOVAL**

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**NOTICE OF REMOVAL**

Defendant Toyota Motor North America, Inc. (“TMNA”) hereby removes the above-captioned action from the Superior Court of the State of California for the County of Los Angeles to the United States District Court for the Central District of California, pursuant to 28 U.S.C. §§ 1332(d), 1441, 1446, and 1453.<sup>1</sup>

**BACKGROUND**

1. On January 9, 2024, Plaintiff Mark Greif filed his complaint in the Superior Court of California, County of Los Angeles alleging that unspecified model years of the Tacoma were made with defective paint and/or clear coat “in that they were of poor quality and/or not properly or adequately applied, which caused (1) the clear coat to weaken and/or deteriorate and (2) the paint to oxidize and turn dull.” A true and correct copy of which is attached as **Exhibit A**.

2. On February 1, 2024, TMNA was served with the complaint.

3. On April 17, 2024, Plaintiff Mark Grief, filed an Amended Class Action Complaint in the Superior Court of California, County of Los Angeles (“Amended Complaint”) and adding a nationwide class claim. Compl. ¶ 51.<sup>2</sup> The Amended Complaint was served on TMNA on April 17, 2024. A copy of the Amended Complaint is attached as **Exhibit B**.

4. On May 15, 2024, TMNA filed its answer to the Amended Complaint.

**Exhibit C.**

5. Plaintiff is a resident of California. Compl. ¶ 20.

6. At the time this lawsuit was filed and at all times since, TMNA was and is a California corporation with a principal place of business in Plano, Texas. Compl. ¶ 21.

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<sup>1</sup> By removing this action to this Court, Defendant does not waive any defenses, objections, or motions available under state or federal law. Defendant specifically reserves the right to move for dismissal of some or all of Plaintiffs’ claims and/or seek dismissal on grounds of lack of personal jurisdiction, insufficient or improper service of process, or improper venue, or under the doctrine of forum non conveniens.

<sup>2</sup> References are made to the Amended Complaint.

1 7. Therefore, at the time this action was filed and at all times since, TMNA  
2 was a citizen of both California and Texas.

3 8. This case may be removed pursuant to 28 U.S.C. § 1332(d) as it is a  
4 proposed class action in which the putative class consists of at least 100 members,  
5 there is minimal diversity, and the amount in controversy exceeds \$5,000,000,  
6 exclusive of interest and costs.

7 **I. VENUE**

8 9. Venue is proper in this Court under 28 U.S.C. § 1441(a) because the  
9 removed action was filed in the Superior Court for the State of California, County of  
10 Los Angeles, a court encompassed by the Central District of California.

11 **II. REMOVAL PURSUANT TO CLASS ACTION FAIRNESS ACT OF**  
12 **2005.**

13 10. This Court has original jurisdiction over this action pursuant to 28 U.S.C.  
14 § 1332(d). Under the Class Action Fairness Act (“CAFA”), federal district courts have  
15 original jurisdiction when: (1) the putative class consists of at least 100 members; (2)  
16 the citizenship of at least one proposed class member is different from that of any  
17 defendant; and (3) the aggregated amount in controversy exceeds \$5,000,000,  
18 exclusive of interest and costs. 28 U.S.C. § 1332(d).

19 **A. There Are More Than 100 Putative Class Members**

20 11. Plaintiff purports to represent a class of “[a]ll persons in the United States  
21 who purchased the Class Vehicles in the United States during the statutes of  
22 limitations for each cause of action alleged.” Compl. ¶ 51.

23 12. On information and belief, more than 100 persons purchased Tacomas  
24 for personal use during the applicable limitations periods. *See, e.g., Ehrman v. Cox*  
25 *Comm’n, Inc.* 932 F.3d 1223, 1228 (9th Cir. 2019) (holding that “on information and  
26 belief” pleadings are sufficient for purposes of CAFA).

27 ///

1                   **B. Minimal Diversity Exists Between the Parties**

2                   13.     On information and belief, members of the proposed class are citizens of  
3     states different from Defendants. *See, e.g., id.*, 932 F.3d 1223 at 1227 (“[A]  
4     defendant’s allegations of citizenship may be based solely on information and  
5     belief.”).

6                   14.     Pursuant to 28 U.S.C. § 1332(d)(2)(A), diversity exists when “any  
7     member of a class of plaintiffs is a citizen of a State different from any defendant.”

8                   15.     On information and belief, the putative class includes individuals who are  
9     citizens of another state. Compl. ¶ 51.

10                  16.     Therefore, diversity of citizenship exists under 28 U.S.C. §  
11     1332(d)(2)(A).

12                   **C. The Amount in Controversy Exceeds \$5 Million in the Aggregate.**

13                  17.     Under 28 U.S.C. § 1332(d)(2), an action is removable under CAFA when  
14     “the matter in controversy exceeds the sum or value of \$5,000,000[.]”

15                  18.     To determine whether the matter in controversy exceeds the sum or value  
16     of \$5,000,000, “the claims of the individual class members shall be aggregated[.]” *Id.*  
17     § 1332(d)(6).

18                  19.     “[A] defendant’s notice of removal need include only a plausible  
19     allegation that the amount in controversy exceeds the jurisdictional threshold.” *Dart*  
20     *Cherokee Basin Operating Co., LLC v. Owens*, 574 U.S. 81, 89 (2014).

21                  20.     For purposes of the CAFA, the amount in controversy requirement can be  
22     met by aggregating the claims of all individual class members, and may include:  
23     compensatory damages, statutory damages, punitive damages, attorneys’ fees, and  
24     equitable relief sought. *See, e.g., Fritsch v. Swift Transp. Co. of Ariz., LLC*, 899 F.3d  
25     785, 793–94 (9th Cir. 2018).

26                  21.     Assuming the truth of the allegations in the Complaint, there is more than  
27     \$5 million in controversy, as required for removal by 28 U.S.C. § 1332(d)(2).  
28

1 22. Plaintiff seeks monetary damages, restitution, disgorgement of profits,  
2 punitive damages, pre- and post-judgment interest, attorneys’ fees, and costs. *Id.*,  
3 Prayer for Relief ¶¶ (D)–(I).

4 23. Plaintiff also seeks an injunction preventing Defendant from continuing  
5 to conduct business and to engage in a corrective advertising campaign. *Id.* ¶ (c). The  
6 cost of complying with such an injunction would be significant. *See Fritsch*, 899 F.3d  
7 at 793 (explaining that “the costs of complying with an injunction” are properly  
8 considered as part of the CAFA amount in controversy requirement).

9 24. Given the likely size of the putative class, the request for attorneys’ fees,  
10 the equitable relief sought, and the seriousness of the damages allegations, it is  
11 “facially apparent” from the Amended Complaint that the \$5 million requirement is  
12 satisfied. *See, e.g., Ibarra v. Manheim Invs., Inc.*, 775 F.3d 1193, 1195 (9th Cir.  
13 2015).

14 25. Therefore, the amount in controversy in this lawsuit likely exceeds \$5  
15 million, exclusive of interest and costs.

### 16 III. REMOVAL IS TIMELY

17 26. Under 28 U.S.C. §1446(b)(1), “a notice of removal may be filed within  
18 30 days after receipt by the defendant, through service or otherwise, of a copy of an  
19 amended pleading, motion, order or other paper from which it may first be ascertained  
20 that the case is one which is or has become removable.” *Kuxhausen v. BMW Fin.*

21 *Servs. NA LLC*, 707 F.3d 1136, 1139 (9th Cir. 2013) (citing *Harris v. Bankers Life &*  
22 *Cas. Co.*, 425 F.3d 689, 693 (9th Cir. 2005)).

23 27. In fact, “even if a defendant could have discovered grounds for  
24 removability through investigation, it does not lose the right to remove because it did  
25 not conduct such an investigation[.]” *Roth v. CHA Hollywood Med. Ctr., L.P.*, 720  
26 F.3d 1121, 1125 (9th Cir. 2013).

27 28. Plaintiff served the initial pleading on February 1, 2024. *See Exhibit A.*

28

1 29. Plaintiff's Complaint did not reveal whether the prerequisites for removal  
2 under the CAFA were met. 28 U.S.C. § 1332(d).

3 30. On April 17, 2024, Plaintiff filed and served the Amended Complaint.  
4 The Amended Complaint added a nationwide class claim, alleging a class including  
5 “[a]ll persons in the United States who purchased the Class Vehicles in the United  
6 States[.]” The service of the Amended Complaint, within the last 30 days, to include a  
7 nationwide class led to the conclusion that this case was removable under CAFA.

8 31. TMNA files this Notice of Removal on May 17, 2024, or within 30 days  
9 of receipt of a copy of the Amended Complaint from which it determined this matter  
10 is removable under the CAFA.

11 32. This Notice of removal is therefore timely.

12 **IV. COMPLIANCE WITH OTHER PREREQUISITES FOR REMOVAL**

13 33. Pursuant to 28 U.S.C. § 1446(a), true and legible copies of all other  
14 process, pleadings, and orders served on Defendant in the Superior Court are attached  
15 as **Exhibit D**.

16 34. Pursuant to the provisions of 28 U.S.C. § 1446(d), Defendant will  
17 promptly file a copy of this Notice of Removal with the clerk of the Superior Court for  
18 the State of California, County of Los Angeles, and will serve a copy of the same  
19 upon Plaintiff's counsel.

20 35. Defendant reserves the right to amend or supplement this Notice of  
21 Removal, and reserve all rights and defenses, including those available under Federal  
22 Rule of Civil Procedure 12.

23 **V. JURY DEMAND**

24 36. Plaintiff has demanded a trial by jury in this action. Defendant also  
25 demands a trial by jury in this action on all issues

26 37. WHEREFORE, Defendant Toyota Motor North America, Inc., gives  
27 notice of the removal of this action from the Superior Court of the State of California,  
28

1 County of Los Angeles to the United Stated District Court for the Central District of  
2 California.

3  
4  
5 Dated: May 16, 2024

6 Respectfully submitted,  
7 SHOOK, HARDY & BACON L.L.P.

8 By: /s/ Joan R. Camagong  
9 AMIR NASSIHI  
10 JOAN R. CAMAGONG

11 Attorneys for Defendant  
12 TOYOTA MOTOR NORTH AMERICA,  
13 INC.  
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# Exhibit B



1 Manfred P. Muecke (SBN 222893)  
2 **MANFRED, APC**  
3 600 W Broadway Ste 700  
4 San Diego CA 92101  
5 T: (619) 550-4005  
6 F: (619) 550-4006  
7 mmuecke@manfredapc.com  
8 *Attorney for Plaintiff*

**FILED**  
Superior Court of California  
County of Los Angeles  
04/17/2024  
David W. Slayton, Executive Officer / Clerk of Court  
By:           R. Lozano           Deputy

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**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF LOS ANGELES**

Mark Greif, individually and on behalf of  
all others similarly situated,

Plaintiff,

Case No. 24STCV00688

- against -

First Amended  
Class Action Complaint

Toyota Motor North America, Inc.,  
Defendant.

Jury Trial Demanded

Plaintiff Mark Greif (“Plaintiff”) alleges upon information and belief, except  
for allegations about Plaintiff, which are based on personal knowledge:

1. Toyota Motor North America, Inc. (“Defendant”) manufactures,  
markets, leases, and sells automobiles, such as the Tacoma, under the Toyota brand  
 (“Class Vehicles”).



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2. Defendant markets its vehicles with the representations that they are rugged, built to last, and will hold up to the elements for years to come.

### **Dreams are made of this: dirt, sand, rocks and campfires.**

You can spend your day dreaming, or you can get your friends together, pack your gear and hop in a 2015 Toyota Tacoma. Its rugged body and available off-road technology provide everything you need to find the next secret spot and come back with great stories. Everyone rides comfortably in the spacious interior, and you'll find all the tech stuff you need to keep everyone hyped and happy. This adventurous lifestyle can be tough on a truck. That's why Tacoma comes with a fiber-reinforced Sheet-Molded Composite (SMC) bed that provides better impact strength than steel. The only tougher part on this truck is its attitude. The thrills are just about to begin on this dream machine. Let's go places.

### **Dreams are made of this: dirt, sand, rocks and campfires.**

You can spend your day dreaming, or you can get your friends together, pack your gear and hop in a 2015 Toyota Tacoma. Its rugged body and available off-road technology provide everything you need to find the next secret spot and come back with great stories. Everyone rides comfortably in the spacious interior, and you'll find all the tech stuff you need to keep everyone hyped and happy. This adventurous lifestyle can be tough on a truck: That's why Tacoma comes with a fiber-reinforced Sheet-Molded Composite (SMC) bed that provides better impact strength than steel. The only tougher part on this truck is its attitude. **The thrills are just about to begin on this dream machine. Let's go places.**

3. The description of the Class Vehicles tells consumers they will be free of clear coat and paint damage for many years, in all types of terrain, weather, and climate.

#### **I. CLASS VEHICLES MADE WITH DEFECTIVE PAINT AND/OR CLEAR COAT**

4. Despite the marketing of the Class Vehicles as rugged, built to last, and capable of holding up to the elements for years to come, they did not remain free of premature clear coat and paint damage.

5. The paint and/or clear coat on the Class Vehicles were defective, in that they were of poor quality and/or not properly or adequately applied, which caused (1) the clear coat to weaken and/or deteriorate and (2) the paint to oxidize and turn dull.<sup>1</sup>

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<sup>1</sup> Pictures of Plaintiff's Class Vehicle are included below.

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1 According to J.D. Power:  
2 Oxidation is a chemical process that causes vehicle paint to  
3 break down over time from exposure to heat and oxygen. It  
4 is essentially a form of corrosion in which paint loses its oil  
5 content, and as a result, dries out. This process is gradual,  
6 but the effects can be severe.<sup>2</sup>

7 7. Oxidation causes paint to turn dull, become faded, and take on a  
8 chalky/dusty appearance.

9 8. Ultimately, it results in “the deterioration of the clearcoat, which can  
10 permanently dissolve the paint and make the body of the vehicle susceptible to rust.”<sup>3</sup>

11 9. Many individuals have complained online about the Class Vehicles, the  
12 clear coat/paint defect, and Defendant’s handling of the situation.

13 10. Those who have complained on sites like [tacomaworld.com](http://tacomaworld.com),  
14 [carcomplaints.com](http://carcomplaints.com), and [reddit.com](http://reddit.com) have stated that they reported the clear coat/paint  
15 damage and related issues to Defendant, only to be ignored and have to take care of  
16 the damage themselves, with Defendant taking little to no responsibility.

17 11. The cost of repairs, depending on the extent of the damage, could range  
18 from \$500 to \$6,000, if not more.

**#2 Tacoma Trd Off Road V6**  
Automatic transmission 50,000 miles

I first noticed the issue as a little rough paint on the roof of the truck so didn’t think much of it. Within 3 months I noticed it had spread and was in the ceiling. This was not the normal old paint the dealership was fading. It then started on my hood the same way with the lines. I took it to the local dealership body shop and two other body shops and all said it was paint failure. The local Toyota body shop said they expected Toyota Corporate to send out letters any day as it was becoming a common issue. This was over 3 years ago. Still no letter.

I contacted corporate and they said there was no recall and to talk to the dealership. The dealership said they couldn’t do anything but to keep calling corporate. I have called corporate many times and continue to check in with the dealership but the paint is getting worse. The dealership says it will need a complete paint job as it’s even starting to degrade on the doors. They gave me a rough estimate of \$6000. I took it to a local small body shop and received an estimate of \$4200. The Cadillac dealer body shop was in the \$6000 range as well.

- David W., Englewood, US

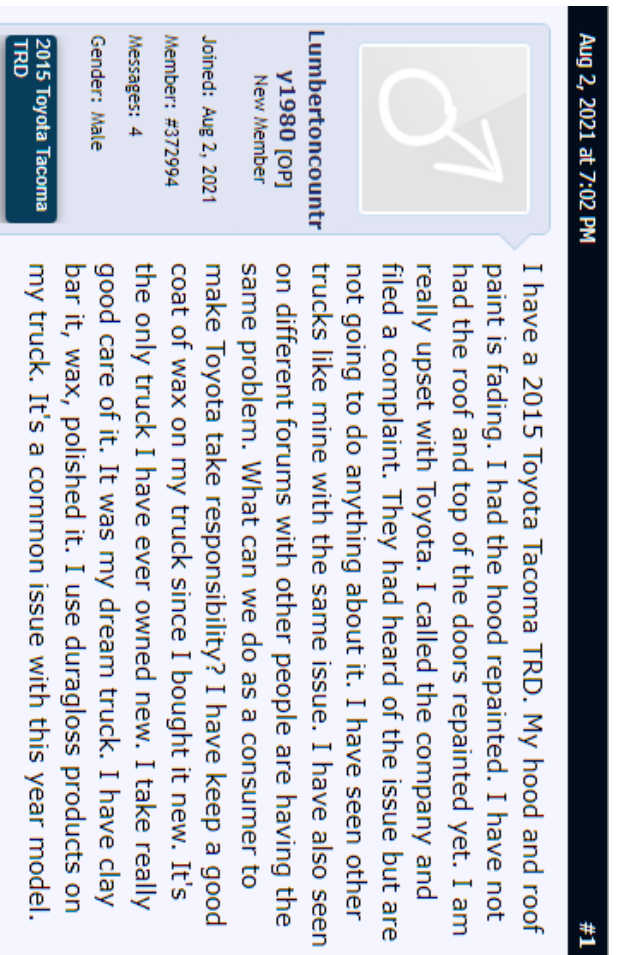


CLICK TO SEE LARGER IMAGES

27 <sup>2</sup> Jessica Shea Choksey, J.D. Power, [How to Remove Oxidation From Car Paint](#) (last visited  
28 November 20, 2023).  
<sup>3</sup> *Id.*

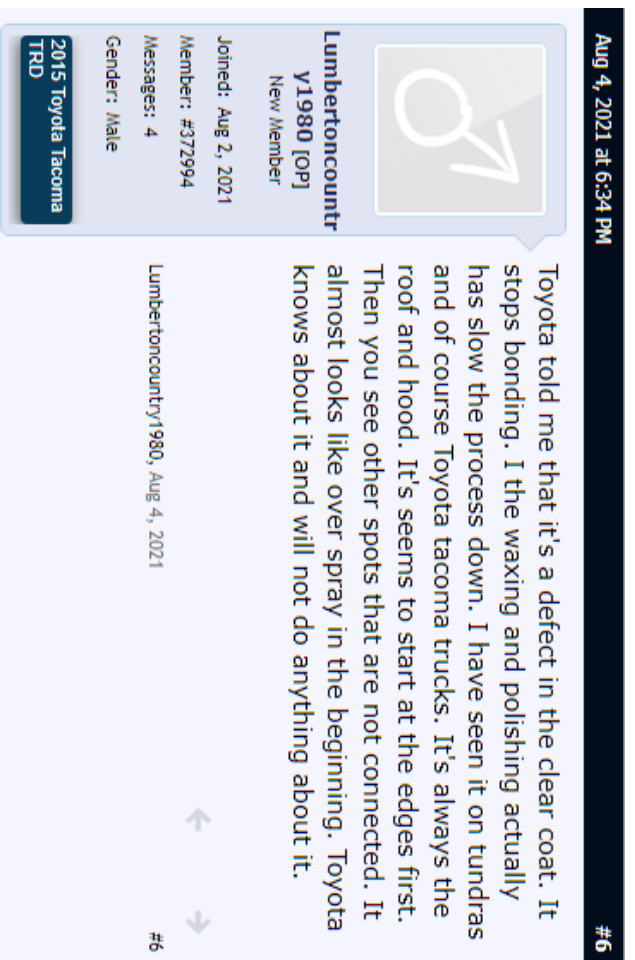
1 I first noticed the issue as a little rough paint on the roof of the truck so didn't  
2 think much of it. Within 3 months I noticed it had spread and was in [ ]lines[ ]. This  
3 was not the normal old paint [ ]splotchy[ ] fading. It then started on my hood the  
4 same way with the lines. I took it to the local dealership body shop and two other  
5 body shops and all said it was paint failure. The local Toyota body shop said they  
6 expected Toyota Corporate to send out letters any day as it was becoming a common  
7 issue. This was over 3 years ago. Still no letter.

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9 I contacted corporate and they said there was no recall and to talk to the dealership.  
10 The dealership said they couldn't do anything but to keep calling corporate. I have  
11 called corporate many times and continue to check in with the dealership but the  
12 paint is getting worse. The dealership says it will need a complete paint job as it's  
13 even starting to degrade on the doors. They gave me a rough estimate of \$6000. I  
14 took it to a local small body shop and received an estimate of \$4200. The Cadillac  
15 dealer body shop was in the \$6000 range as well.



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26 I have a 2015 Toyota Tacoma TRD. My hood and roof paint is fading. I had the  
27 hood repainted. I have not had the roof and top of the doors repainted yet. I am  
28

1 really upset with Toyota. I called the company and filed a complaint. They had  
2 heard of the issue but are not going to do anything about it. I have seen other trucks  
3 like mine with the same issue. I have also seen on different forums with other people  
4 are having the same problem. What can we do as a consumer to make Toyota take  
5 responsibility? I have keep a good coat of wax on my truck since I bought it new.  
6 It's the only truck I have ever owned new. I take really good care of it. It was my  
7 dream truck. I have clay bar it, wax, polished it. I use duragloss products on my  
8 truck. It's a common issue with this year model.



19 Toyota told me that it's a defect in the clear coat. It stops bonding. I the waxing and  
20 polishing actually has slow the process down. I have seen it on tundras and of course  
21 Toyota tacoma trucks. It's always the roof and hood. It's seems to start at the edges  
22 first. Then you see other spots that are not connected. It almost looks like over spray  
23 in the beginning. Toyota knows about it and will not do anything about it.  
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Aug 5, 2021 at 6:58 AM

#10



**Lumbertoncount**  
**Y1980 [OP]**  
New Member

Joined: Aug 2, 2021  
Member: #372994  
Messages: 4  
Gender: Male

At the end of the day Toyota has had other trucks report the same issue. I feel as a major company that should at least do an investigation. I took it to Toyota body shop to get the hood repainted. They even said it was a defective paint job. They have seen other Toyota trucks with the same issue. It could be just a small amount from the same plant or same paint line.

Lumbertoncountry1980, Aug 5, 2021

#10

mikalcarbine likes this.

**2015 Toyota Tacoma TRD**

At the end of the day Toyota has had other trucks report the same issue. I feel as a major company that should at least do an investigation. I took it to Toyota body shop to get the hood repainted. They even said it was a defective paint job. They have seen other Toyota trucks with the same issue. It could be just a small amount from the same plant or same paint line.

Apr 14, 2022 at 12:10 PM

#21



**RLMoody**  
Well-Known Member

Joined: Mar 23, 2017  
Member: #214122  
Messages: 1,659  
Gender: Male

My 2017 is in the very early stages of this. It is kept in a garage. I complained to the dealership but there has been no follow up from Toyota. You mentioned using a clay bar. I cringed when I saw that. I used a clay bar on my show car for 2 or 3 years until I saw it was wearing through my paint along the raised edges. I loved the slippery finish but not the wear. I only use a clay bar now for spots that won't lift.

RLMoody, Apr 14, 2022

#21

Ametalthread likes this.


**2017 Toyota Tacoma SR**

My 2017 is in the very early stages of this. It is kept in a garage. I complained to the dealership but there has been no follow up from Toyota.

1 You mentioned using a clay bar. I cringed when I saw that. I used a clay bar on my  
2 show car for 2 or 3 years until I saw it was wearing through my paint along the  
3 raised edges. I loved the slippery finish but not the wear. I only use a clay bar now  
4 for spots that won't lift.

5  
6 12. While most individuals have chosen to live with the defect, given the  
7 high repair costs, others have turned to independent technicians and auto shops to  
8 treat the affected areas with protective coatings, such as Line-X, to cover up the  
9 damage and prevent further issues.


10 Apr 14, 2022 at 11:27 PM #27

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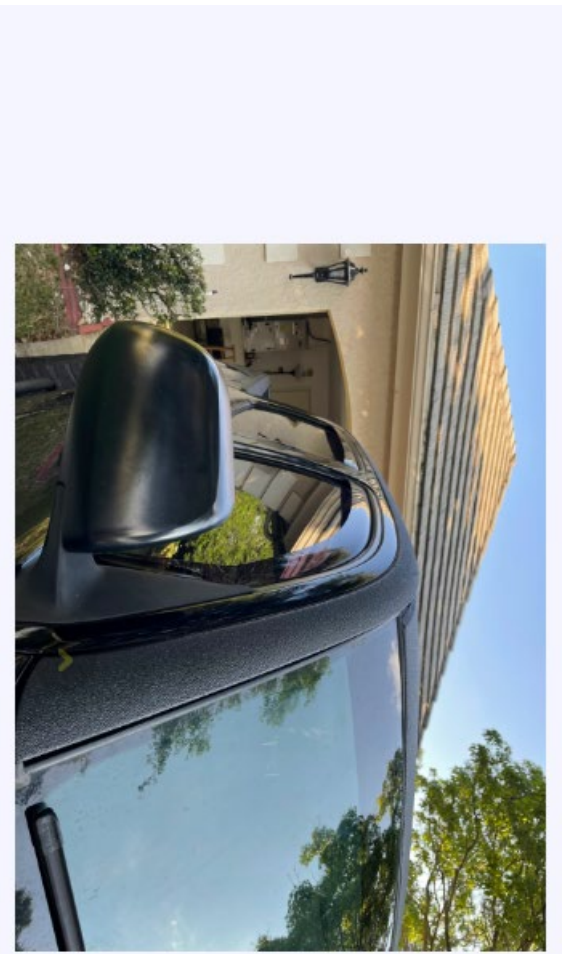
12 **Funrunner**  
13 Well-Known Member  
14 Joined: Feb 16, 2013  
15 Member: #97717  
16 Messages: 171  
17 Orlando FL

18 **2012 Toyota Tacoma**  
19 OME lift, Dakar rear,  
20 bumpers, sliders,  
21 winch, SCS F5

22 I had two small spots on my roof that turned into rust.  
23 Since I am installing a Prinsu rack soon I wanted a  
24 permanent solution. I paid Line-X \$700 to paint the roof  
25 and a-pillars around the windshield. I paid a little extra for  
26 the premium version so it doesn't fade so quickly in the  
27 sunlight. I'm very pleased with it and hope to never have  
28 to worry about rust again.







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10 I had two small spots on my roof that turned into rust. Since I am installing a Prinsu  
11 rack soon I wanted a permanent solution. I paid Line-X \$700 to paint the roof and  
12 a-pillars around the windshield. I paid a little extra for the premium version so it  
13 doesn't fade so quickly in the sunlight. I'm very pleased with it and hope to never  
14 have to worry about rust again.

15 Jun 10, 2022 at 6:25 PM

#28

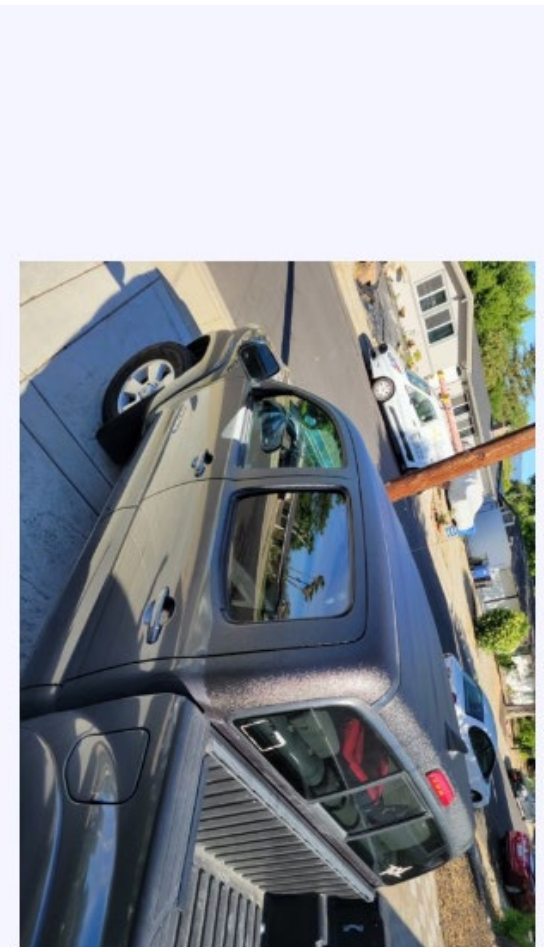


16 Had LineX cover up my toyota issues too! UV coating  
17 makes it shine! I had paint failure along the window  
18 line below the rubber which is why we went an inch  
19 below the window. Wasnt my first choice but repair  
20 was just too expensive and who knows where the  
21 paint is going to fail next

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**Ametallhead**  
Member  
Joined: Apr 14, 2022  
Member: #395032  
Messages: 6

2015 Tacoma



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Had LineX cover up my toyota issues too! UV coating makes it shine! I had paint failure along the window line belpw the rubber which is why we went an inch below the window. Wasnt my first choice but repair was just too expensive and who knows where the paint is going to fail next

13. Automobiles made with paint and clear coats that will function reliably and hold up to the elements for years to come, in all types of terrain, weather, and climate, are available to consumers and are not technologically or commercially unfeasible.

## II. CONCLUSION

14. Defendant makes other representations and omissions with respect to the Class Vehicles which are false and misleading.

15. Reasonable consumers must and do rely on a company to honestly and lawfully market and describe the components, attributes, features, and/or quality of a product, relative to itself and other comparable products or alternatives.

16. The value of the Class Vehicle that Plaintiff purchased was materially less than its value as represented by Defendant.

17. Defendant sold more of the Class Vehicles and at higher prices than it would have in the absence of this misconduct, resulting in additional profits at the expense of consumers.

18. Had Plaintiff and proposed class members known the truth, they would

1 not have bought the Class Vehicles or would have paid less for them.

2 19. As a result of the false and misleading representations, the Class  
3 Vehicles are sold at a premium price, approximately no less than \$30,000.00,  
4 excluding tax and sales, higher than similar vehicles, represented in a non-misleading  
5 way, and higher than they would be sold for absent the misleading representations  
6 and omissions.

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8  
9 **PARTIES**

10 20. Plaintiff Mark Greif is a citizen of Redondo Beach, Los Angeles County,  
11 California.

12 21. Defendant Toyota Motor North America, Inc. is a California corporation  
13 with a principal place of business in Plano, Collin County, Texas.

14 22. Established by Kiichiro Toyoda in 1937 as Toyota Motor Co., Ltd.,  
15 Toyota is a Japanese multinational automobile company, with offices and production  
16 plants across the globe.

17 23. Toyota Motor Sales, U.S.A., Inc. was founded in 1957, followed by  
18 Toyota Motor North America, Inc. in 1996.

19 24. Vehicles under the Toyota brand have an industry-wide reputation for  
20 safety, quality, and value.

21 25. Plaintiff purchased his 2015 Tacoma TRD Sport from DCH Toyota of  
22 Torrance, located at 2955 Pacific Coast Highway, Torrance, CA 90505, in Early 2022.

23 26. Plaintiff believed the Class Vehicle was rugged, built to last, and capable  
24 of holding up to the elements for years to come, understood to mean it would remain  
25 free of clear coat and paint damage for many years, in all types of terrain, weather,  
26 and climate.

27 27. Plaintiff read, reviewed, and relied on Defendant's representations that  
28 the Class Vehicles were rugged, built to last, and capable of holding up to the elements  
for years to come.

29 28. Plaintiff bought the Class Vehicle because he expected it was rugged,

1 built to last, and capable of holding up to the elements for years to come, understood  
2 to mean it would remain free of clear coat and paint damage for many years, in all  
3 types of terrain, weather, and climate, because that is what the representations said  
4 and implied.

5 29. As a result of the false and misleading representations, the Class  
6 Vehicles are sold at premium prices, approximately no less than \$30,000.00,  
7 excluding tax and sales.

8 30. Plaintiff relied on the words, descriptions, statements, omissions, claims,  
9 and instructions, made by Defendant or at its directions, in digital, print and/or social  
10 media, which accompanied the Class Vehicles and separately, through in-store,  
11 digital, audio, and print marketing.

12 31. Plaintiff was disappointed because he believed the Class Vehicles were  
13 rugged, built to last, and capable of holding up to the elements for years to come,  
14 understood to mean they would remain free of clear coat and paint damage for many  
15 years, in all types of terrain, weather, and climate.

16 32. Plaintiff bought the Class Vehicle at or exceeding the above-referenced  
17 price.

18 33. Plaintiff chose between Defendant's Class Vehicle and vehicles  
19 represented similarly, but which did not misrepresent their attributes, features, and/or  
20 components.

21 34. Plaintiff would not have purchased the Class Vehicle if he knew the  
22 representations and omissions were false and misleading, or would have paid less for  
23 it.

24 35. Plaintiff paid more for the Class Vehicle than he would have had he  
25 known the representations and omissions were false and misleading, or would not  
26 have purchased it.

27 36. The value of the Class Vehicle that Plaintiff purchased was materially  
28 less than its value as represented by Defendant.

1 37. Plaintiff intends to, seeks to, and would purchase a Toyota vehicle again  
2 when he can do so with assurances it would remain free of clear coat and paint damage  
3 for many years, in all types of terrain, weather, and climate.

4 38. Plaintiff is unable to rely on the representations of not only Toyota  
5 vehicles, but other similar automobiles, because he will be unsure of whether those  
6 representations are truthful.

7 39. If Defendant was compelled to truthfully describe the components,  
8 attributes, features, and/or quality of its vehicles, Plaintiff would have more  
9 confidence in the promises of other companies selling automobiles.

10 **JURISDICTION**

11 40. Plaintiff is a citizen of California.

12 41. Defendant is a citizen of California and Texas.

13 42. The Court has jurisdiction over Defendant because it transacts business  
14 within California and sells the Class Vehicles to consumers within California from  
15 dozens of authorized dealerships and pre-owned car dealers in this State.

16 43. Defendant has committed tortious acts within this State by representing  
17 and selling the Class Vehicles in a manner which causes injury to consumers within  
18 this State by misleading them as to their attributes, features, components and/or  
19 quality, by regularly doing or soliciting business, or engaging in other persistent  
20 courses of conduct to sell the Class Vehicles to consumers in this State, and/or derives  
21 substantial revenue from the sale of the Class Vehicles in this State.

22 44. Defendant has committed tortious acts outside this State by representing  
23 the Class Vehicles in a manner which causes injury to consumers within this State by  
24 misleading them as to their attributes, features, components and/or quality, through  
25 causing the Class Vehicles to be distributed throughout this State, such that it expects  
26 or should reasonably expect such acts to have consequences in this State and derives  
27 substantial revenue from interstate or international commerce.

28 45. This Court has jurisdiction under Article VI, § 10 of the California

1 Constitution and § 410.10 of the Code of Civil Procedure (“CCP”).

2 46. This Court has subject matter jurisdiction. Bus. & Prof. Code § 17200 *et*  
3 *seq.*; CCP § 382.

4 **VENUE**

5 47. Venue is in this District because Plaintiff is a resident of Los Angeles  
6 County.

7 48. Venue is in this Court because a substantial part of the events or  
8 omissions giving rise to these claims occurred in Los Angeles County, which is where  
9 Plaintiff’s causes of action accrued. CCP § 395.

10 49. Plaintiff purchased and/or used the Class Vehicle in reliance on the  
11 representations identified here in Los Angeles County.

12 50. Plaintiff became aware the representations were false and misleading in  
13 Los Angeles County.

14 **CLASS ALLEGATIONS**

15 51. This action is brought pursuant to CCP § 382 on behalf of the following  
16 Class:

17 All persons in the United States who purchased the  
18 Class Vehicles in the United States during the statutes  
19 of limitations for each cause of action alleged.

20 52. Excluded from the Class are (a) Defendant, Defendant’s board members,  
21 executive-level officers, and attorneys, and immediate family members of any of the  
22 foregoing persons; (b) governmental entities; (c) the Court, the Court’s immediate  
23 family, and Court staff and (d) any person that timely and properly excludes himself  
24 or herself from the Class.

25 53. Common questions of issues, law, and fact predominate and include  
26 whether Defendant’s representations were and are misleading and if Plaintiff and class  
27 members are entitled to damages.

28 54. Plaintiff’s claims and basis for relief are typical to other members

1 because all were subjected to the same unfair, misleading, and deceptive  
2 representations, omissions, and actions.

3 55. Plaintiff is an adequate representative because his interests do not  
4 conflict with other members.

5 56. No individual inquiry is necessary since the focus is only on Defendant's  
6 practices and the class is definable and ascertainable.

7 57. The class of persons is sufficiently numerous because Defendant has sold  
8 the Class Vehicles with the identified representations for several years throughout the  
9 United States, and they were bought by thousands of consumers.

10 58. Individual actions would risk inconsistent results, be repetitive and are  
11 impractical to justify, as the claims are modest relative to the scope of the harm.

12 59. Plaintiff's counsel is competent and experienced in complex class action  
13 litigation and intends to protect class members' interests adequately and fairly.

14 60. Plaintiff seeks class-wide injunctive relief because the practices  
15 continue.

16 **CLAIMS FOR RELIEF**

17 **FIRST CLAIM**

18 **Violation of California's Unfair Competition Law,**  
19 **Cal. Bus. & Prof. Code § 17200, et seq.**

20 61. Plaintiff incorporates all preceding paragraphs.

21 62. California's Unfair Competition Law, Cal. Bus. & Prof. Code § 17200,  
22 *et seq.* ("UCL"), prohibits any unlawful, unfair or fraudulent business act or practice  
23 and unfair, deceptive, untrue or misleading advertising.

24 63. Defendant's conduct, representations, and omissions are "unlawful"  
25 because they violate California's False Advertising Law, Bus. & Prof. Code § 17500,  
26 *et seq.* ("FAL"), and Consumer Legal Remedies Act, Cal. Civ. Code § 1750, *et seq.*  
27 ("CLRA").

28 64. Each of the challenged statements and omissions made and actions taken  
by Defendant as described violates the FAL, and therefore violates the "unlawful"

1 prong of the UCL.

2 65. Defendant’s conduct was and continues to be unfair and fraudulent  
3 because it made materially false representations and omissions that caused consumers  
4 to believe the Class Vehicles were rugged, built to last, and capable of holding up to  
5 the elements for years to come, understood to mean they would remain free of clear  
6 coat and paint damage for many years, in all types of terrain, weather, and climate.

7 66. Defendant is aware of the representations and omissions it has made  
8 about the Class Vehicles with respect to them being rugged, built to last, and capable  
9 of holding up to the elements for years to come, understood to mean they would  
10 remain free of clear coat and paint damage for many years, in all types of terrain,  
11 weather, and climate.

12 67. Had Plaintiff been aware of Defendant’s practices, he would not have  
13 purchased the Class Vehicle or paid as much, suffering damages.

14 68. In accordance with Cal. Bus. & Prof. Code § 17203, Plaintiff seeks an  
15 order enjoining Defendant from continuing to conduct business through unlawful,  
16 unfair, and/or fraudulent acts and practices and to commence corrective advertising.

17 **SECOND CLAIM**

18 **Violation of California’s False Advertising Law,  
19 Cal. Bus. & Prof. Code § 17500, *et seq.***

20 69. The FAL prohibits “mak[ing] any false or misleading advertising claim.”

21 70. Defendant makes “false [and] misleading advertising claim[s]” by  
22 deceiving consumers about how the Class Vehicles rugged, built to last, and capable  
23 of holding up to the elements for years to come, understood to mean they would  
24 remain free of clear coat and paint damage for many years, in all types of terrain,  
25 weather, and climate.

26 71. In reliance on this false and misleading advertising, Plaintiff purchased  
27 and/or used the Class Vehicle without knowledge it is not actually rugged, built to  
28 last, and capable of holding up to the elements for years to come, understood to mean  
it would remain free of clear coat and paint damage for many years, in all types of



1 terrain, weather, and climate.

2 72. Defendant knew or should have known that its representations and  
3 omissions were likely to deceive consumers.

4 73. Plaintiff and Class Members seek injunctive and equitable relief,  
5 restitution, and an order for the disgorgement of the funds by which Defendant was  
6 unjustly enriched.

7 **THIRD CLAIM**  
8 **Violation of California's Consumers Legal Remedies Act,**  
9 **Cal. Civ. Code § 1750, et seq.**

10 74. The CLRA adopts a statutory scheme prohibiting deceptive practices in  
11 connection with the conduct of a business providing goods, property, or services  
12 primarily for personal, family, or household purposes.

13 75. Defendant's policies, acts, and practices were designed to, and did, result  
14 in the purchase and/or use of the Class Vehicles primarily for personal, family, or  
15 household purposes, and violated and continue to violate sections of the CLRA,  
including:

16 (a) Civil Code § 1770(a)(5), because Defendant represented that the  
17 Class Vehicles had characteristics, attributes, features,  
18 capabilities, uses, benefits, and/or qualities they did not have;

19 (b) Civil Code § 1770(a)(9), because Defendant advertised the Class  
20 Vehicles with an intent not to sell them as advertised; and

21 (c) Civil Code § 1770(a)(16), because Defendant represented that the  
22 Class Vehicles had been supplied in accordance with its previous  
23 representations, when they were not.

24 76. Pursuant to the provisions of Cal. Civ. Code § 1782(a), Plaintiff sent a  
25 CLRA Notice to Defendant after this action was commenced, which detailed and  
26 included these violations of the CLRA, demanded correction of these violations, and  
27 provided the opportunity to correct these business practices, prior to seeking monetary  
28 damages under the CLRA.

1 77. Records from the carrier show the Notice was received.

2 78. Defendant has not corrected the identified conduct within thirty days of  
3 receipt.

4 **FOURTH CLAIM**

5 **Breach of Implied Warranty of Merchantability**

6 79. The Class Vehicles were manufactured, identified, marketed and sold by  
7 Defendant and impliedly warranted to Plaintiff that they were rugged, built to last,  
8 and capable of holding up to the elements for years to come, understood to mean they  
9 would remain free of clear coat and paint damage for many years, in all types of  
10 terrain, weather, and climate.

11 80. Defendant directly marketed the Class Vehicles to Plaintiff through its  
12 advertisements and marketing, through various forms of media, direct mail, product  
13 descriptions, and targeted digital advertising.

14 81. Defendant knew the product attributes that potential customers like  
15 Plaintiff were seeking and developed its marketing to directly meet their needs and  
16 desires.

17 82. Defendant's representations about the Class Vehicles were conveyed in  
18 writing and promised they would be defect-free, and Plaintiff understood this meant  
19 they were rugged, built to last, and capable of holding up to the elements for years to  
20 come, understood to mean they would remain free of clear coat and paint damage for  
21 many years, in all types of terrain, weather, and climate.

22 83. Defendant affirmed and promised that the Class Vehicles were rugged,  
23 built to last, and capable of holding up to the elements for years to come, understood  
24 to mean they would remain free of clear coat and paint damage for many years, in all  
25 types of terrain, weather, and climate.

26 84. Defendant described the Class Vehicles so Plaintiff and consumers  
27 believed they were rugged, built to last, and capable of holding up to the elements for  
28 years to come, understood to mean they would remain free of clear coat and paint

1 damage for many years, in all types of terrain, weather, and climate, which became  
2 part of the basis of the bargain that they would conform to its affirmations and  
3 promises.

4 85. Defendant had a duty to disclose and/or provide non-deceptive  
5 descriptions and marketing of the Class Vehicles.

6 86. This duty is based on Defendant's outsized role in the market for these  
7 types of Vehicles, a trusted company, known for its high-quality automobiles,  
8 honestly marketed to consumers.

9 87. Plaintiff recently became aware of Defendant's breach of the Class  
10 Vehicles' warranties.

11 88. Plaintiff provided or provides notice to Defendant, its agents,  
12 representatives, retailers, and their employees that it breached the Class Vehicles'  
13 warranties.

14 89. Defendant received notice and should have been aware of these issues  
15 due to complaints by third parties, including regulators, competitors, and consumers,  
16 to its main offices, and by consumers through online forums.

17 90. Defendant sold the Class Vehicles with the warranty they would be  
18 merchantable.

19 91. The Class Vehicles did not conform to its affirmations of fact and  
20 promises due to Defendant's actions.

21 92. The Class Vehicles were not merchantable because they were not fit to  
22 pass in the trade as advertised and did not conform to the promises or affirmations of  
23 fact made in marketing or advertising, because they were marketed as if they were  
24 rugged, built to last, and capable of holding up to the elements for years to come,  
25 understood to mean they would remain free of clear coat and paint damage for many  
26 years, in all types of terrain, weather, and climate.

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**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff, on behalf of himself and members of the proposed Class, prays for judgment and relief as follows:

- A. Certification of the Class, designating Plaintiff as representative of the Class and Plaintiff's Counsel as counsel for the Class;
- B. A declaration that Defendant has committed the violations alleged;
- C. For injunctive relief the Court deems appropriate;
- D. For restitution and disgorgement pursuant to, without limitation, the California Business & Professions Code §§ 17200, *et seq.* and Cal Civ. Code § 1780;
- E. Compensatory damages, the amount of which is to be determined at trial;
- F. For punitive damages;
- G. For attorneys' fees;
- H. For costs of suit incurred;
- I. For pre- and post-judgment interest; and
- J. For such further relief as this Court may deem just and proper.

**DEMAND FOR JURY TRIAL**

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

Dated: April 17, 2024

Respectfully submitted,

/s/ Manfred P. Muecke

Manfred P. Muecke (SBN 222893)  
**MANFRED, APC**  
600 W Broadway Ste 700  
San Diego CA 92101  
Tel: (619) 550-4005  
Fax: (619) 550-4006  
mmuecke@manfredapc.com