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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION**

LESLEY CONTI AND TOM
CONTI on behalf of themselves and
all others similarly situated,

Plaintiffs,

vs.

AMERICAN HONDA MOTOR
CO., INC, a California corporation,

Defendant.

Case No.: 2:19-cv-2160

CLASS ACTION

COMPLAINT

1 All allegations made in this Complaint are based upon information and belief
2 except those allegations that pertain to Plaintiffs, which are based on personal
3 knowledge. Each allegation in this Complaint either has evidentiary support or,
4 alternatively, pursuant to Rule 11(b)(3) of the *Federal Rules of Civil Procedure*, is
5 likely to have evidentiary support after a reasonable opportunity for further
6 investigation or discovery.
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9 **NATURE OF THIS ACTION**

10 1. Plaintiffs bring this proposed class action for damages and injunctive
11 relief on behalf of themselves and all other persons and entities nationwide who
12 purchased or leased a fifth generation, 2018-2019 Honda Odyssey vehicle or 2019
13 Honda Pilot (“Vehicles” or “Covered Vehicles”) manufactured by defendant
14 American Honda Motor Co., Inc. (“Honda” or “Defendant”).
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17 2. Defendant designed, manufactured, tested, warranted, advertised,
18 distributed, sold, and leased the Covered Vehicles, which contain a defective
19 integrated in-vehicle communication, navigation, and entertainment system –
20 commonly referred to as an “infotainment system” – that causes many of the
21 Vehicles’ features (e.g., navigation system, rear-entertainment system, audio
22 system, backup camera, cabin watch system) to malfunction.
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25 3. As a result of the defect, the Vehicles’ infotainment systems frequently
26 freeze or crash (in which case no features connected to system are operational,
27 including the navigation technology, the radio, and the rearview camera). These
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1 malfunctions pose a safety risk because when the system malfunctions, unexpected
2 audio or video – or a blank or blue infotainment screen – can cause the driver to
3 become distracted. The defect can also render safety-related systems (including
4 backup camera functions) to fail.

6 4. Honda either knew of the defect before marketing the Vehicles or
7 failed to conduct adequate testing of the Vehicles system prior to its release.
8 Regardless, soon after the release of the Vehicles, Honda must have known of the
9 defect based on the numerous customer complaints it received, and yet Honda
10 continued to market the Vehicles.
11

13 5. Under the Vehicles’ New Vehicle Limited Warranty, Honda is
14 required to “repair or replace any part that is defective in material or workmanship
15 under normal use.”¹
16

17 6. But Honda has not found a solution to the infotainment system defect.
18 Instead, Honda simply replaces defective parts with equally defective parts, thereby
19 leaving consumers caught in a cycle of use, malfunction, and replacement.
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21 7. Despite providing the dealership and Honda engineers *eight attempts*
22 to repair Plaintiffs’ Vehicle, the Vehicle’s infotainment system continues to
23 malfunction.
24

25 _____
26 ¹A true and correct copy of the New Vehicle Limited Warranty is available at
27 https://owners.honda.com/Documentum/Warranty/Handbooks/2018_Honda_Warranty_Basebook_AWL05251_FINAL.pdf ;
28 https://owners.honda.com/Documentum/Warranty/Handbooks/2019_Honda_Warranty_Basebook_AWL07531_Petrol_Hybrid_PHEV__SIS.pdf

1 representatives who was actively engaged in the management, direction, control, or
2 transaction of the ordinary business and affairs of Defendant.

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4 **FACTUAL ALLEGATIONS**

5 **Defendant’s Failure to Fix or Disclose The Defect**

6 15. Defendant designed, engineered, manufactured, tested, warranted,
7 advertised, distributed, sold, and leased the 2018-2019 Odyssey and 2019 Pilot
8 vehicles equipped with defective infotainment systems.
9

10 16. Because the Vehicles’ infotainment systems are responsible for a wide
11 variety of vehicle functions (including navigation, audio, video, hands-free phone,
12 back up cameras, etc.), the defect causes a wide range of problems for the Vehicles.
13 For instance, the defect can cause the entire center console to go black or blue while
14 the vehicle is in motion, thereby posing a substantial distraction to the driver.
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16 17. Examples from the many complaints about the defective infotainment
17 systems in the Covered Vehicles posted on the National Highway Transportation
18 Safety Administration include:
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- 21 • “THE CENTER CONSOLE, WHICH IS THE MONITOR THAT
22 UTILIZES GPS NAVIGATION, REAR VIEW CAMERA DISPLAY,
23 CONTROLS HEAT/AC, VOLUME CONTROL, ETC. HAS
24 CONTINUED TO FAIL SINCE DATE OF PURCHASE (7/15/17).
25 THE MONITOR SHUTS DOWN AT RANDOM TIMES, FOR
26 UNIDENTIFIED REASONS, LEAVING THE DRIVER,
27 DISTRACTED AND ATTEMPTING TO RESOLVE. THE SHUT
28 DOWN CAN OCCUR WHILE IN THE VAN IS MOVING OR
STATIONARY. NAVIGATION SHUTS DOWN WHILE THE
DRIVER IS IN ROUTE TO A LOCATION CAUSING
SIGNIFICANT DISTRACTION... HONDA WAS MADE AWARE

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OF THIS PROBLEM IN AUGUST 2017. WE BROUGHT OUR VAN IN TO THE SHOP TWICE AND NO RESOLUTION WAS FOUND. WE FILED A COMPLAINT WITH HONDA AMERICA (VOICE MAILS ARE RETAINED AS RECORD). AFTER SEVERAL MONTHS OF NO RESOLUTION, HONDA AMERICAN TOLD US OUR CASE WAS BEING CLOSED BECAUSE THE COMPANY CONTINUED TO HAVE NO RESOLUTION. 7 MONTHS AFTER PURCHASE THE CENTER CONSOLE/MONITOR CONTINUES TO RANDOMLY FAIL. SOMETIMES THE MONITOR GOES BLACK, SOME FEATURES WORK WHILE OTHERS STOP (FOR EXAMPLE THE RADIO MAY WORK WHILE THE SCREEN IS BLACK). SOMETIMES THE MONITOR GOES BLUE AND EVERYTHING SHUTS DOWN. PHOTOS AND VIDEOS OF THESE OCCURRENCES WERE SUBMITTED TO HONDA VIA EMAIL. THE PROMOTED FEATURES BY HONDA AMERICA LEAD THE BUYER TO BELIEVE THERE IS ADDED SAFETY IN THIS VAN. THE OPPOSITE HAS TURNED OUT TO BE TRUE. THESE FAILURES CAUSE SERIOUS SAFETY CONCERNS FOR THE DRIVER AND THE YOUNG FAMILIES UTILIZING THE VAN.” (August 23, 2017)

- “ENTIRE DASH TURNED OFF WHILE DRIVING INCLUDING SPEEDOMETER AND INFORMATION SCREEN-REPLACED RADIOHEAD.... IT’S A BAD REAR ENTERTAINMENT SYSTEM. I BOUGHT MY CAR 1 YEAR AGO AND IT’S OBVIOUSLY FLAWED” (October 29, 2018).
- “TOURING-REAR ENTERTAINMENT SYSTEM SHUTS OFF TO BLACK SCREEN AND CABIN WATCH LOSES SIGNAL AND GIVES AN ERROR CODE. WHILE DRIVING LONG DISTANCES, THE KIDS CAN ONLY WATCH THE FIRST 30 MINUTES OF THEIR DVD BEFORE THE SYSTEM SEEMS TO OVERHEAT AND COMPLETELY SHUTDOWN. WE HAVE RESORTED TO TURNING IT OFF TO LET IT COOL DOWN (DVD THAT IS REMOVED FROM THE PLAYER COMES OUT SCALDING HOT) BEFORE RETRYING TO LET THEM WATCH AND HAVE IT FAIL A FEW MINUTES LATER. CABINWATCH SEEMS TO ACT UP AT THE SAME TIME THE REAR ENTERTAINMENT SYSTEM FAILS.” (September 5, 2018).

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- “AS SOON AS I DROVE OFF THE LOT. THE CAR GAVE ME AN ERROR... THE PROBLEM WITH THE REAR ENTERTAINMENT SYSTEM KEEPS IN DEFAULT. I TOOK IT IN 6 TIMES ALREADY NO SOLUTION JUST RUN AROUND. WHEN YOU START EVERYTHING IS FINE AFTER 10 MINUTES OF PLAYING ANYTHING THE SCREEN GOES CRAZY. I ATTACHED PICTURES. NOTHING WORKS. SOME TIMES IF YOU RESTART THE CAR YOU ARE LUCKY AND YOU GET PICTURE. BUT MUST OF THE TIME YOU HAVE TO WAIT FOR A FEW HOURS.!” (May 28, 2018).
- FAILURE OF THE REAR ENTERTAINMENT SYSTEM: THE REAR CAMERA AND ENTERTAINMENT SYSTEM WILL LOST "NETWORK CONNECTIVITY" AND STOP FUNCTIONING.... FAILURE OF THE INFOTAINMENT SYSTEM: THE INFOTAINMENT SYSTEM WILL TURN OFF AND GO INTO A SERIES OF FAILURES, ULTIMATELY TURNING OFF COMPLETELY AND NOT FUNCTIONING. THE INFOTAINMENT SYSTEM WILL ALSO EXPERIENCE POWER ERRORS RESULTING IN ERRORS WITH THE ANTI THEFT SYSTEM. IN ADDITION, THE RADIO/SPEAKERS PERIODICALLY STOP WORKING. (October 14, 2017)
- RECURRENT PROBLEM. STARTED WHEN VEHICLE WAS 2 MONTHS OLD. TAKEN CAR TO DEALER SERVICE DEPARTMENT. NO SOLUTION.
- WHEN IN MOTION (HIGHWAYS, CITY ROADS) SPEAKERS MAKE A SPARKLING SOUND FOLLOWED BY THE ENTERTAINMENT SCREEN (NAVIGATION, HANDHELD PHONE, REAR VISION...) AND THE ODOMETER SCREEN (SPEED DISPLAY, ALL THE SIGNALS) BECAME DEAD. IT COULD LAST FEW SECONDS AND REBOOT BACK OR UP TO 30 MINUTES. IN A 15 MILE JOURNEY , COULD HAPPEN AROUND 15 TIMES. SO THE DANGEROUS SITUATION IS THAT I AM DRIVING WITH NO IDEA HOW MUCH SPEED I AM GOING, I AM NOT ABLE TO USE MY HANDHELD PHONE (ALSO VERY IMPORTANT TO ME AS A BUSY DOCTOR TRYING TO ANSWER EMERGENCY CALLS), NO

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NAVIGATION SYSTEM AVAILABLE, THE REAR VISION CAMERA BECOMES USELESS WITH A BLANK SCREEN...

I LEARNT FROM THE INTERNET THAT THIS IS AN ONGOING PROBLEM AND NO SOLUTION HAVE BEEN FOUND.

PROBLEM HAPPENS IN MOTION AND ALSO OR WHEN CAR IS PARKED.

18. Complaints posted on Carcomplaints.com and Edmunds.com paint a strikingly similar picture:

- “The infotainment on this car really sucks. It has a mind of its own. And, to add insult to injury the whole thing froze rendering the infotainment useless. Went to the dealer to do a hard reset since there was no way in the world that everything else I could have tried worked. The Dealer informed that the infotainment is a known issue yet nothing has been done to fix it. Recently, it simply refused to shut off. This is a brand new car and having problems like these says a lot about the quality of the accessories.” (complaint posted on carcomplaints.com dated December 20, 2017).
- I bought 2018 elite model in August 2018. Within two month all entertainment system stopped working. I bought this car because I have kids and I want them to have something like rear entertainment for long trip. But, no luck. Took car to dealer they install some part. Got car back. Use car only on weekend. Now display screen not turning all at all and staying blank. Took car again to dealer they install part.(had to leave with them for week because part is not in stock). Got car back again and now back to entertainment problem. Music stop playing automatically in between FM, USB,etc. Even on corner it shows phone is connected through Bluetooth. But when try to play music through phone message keep coming saying no phone connected. Had to send car again to dealer. (complaint posted on Edmunds.com dated January 3, 2019).
- “Biggest regret of our lifetime of new vehicle buying. There are so many bugs and issues, I can't even begin to list them all. Cabin Watch was the main feature for choosing Odyssey over Toyota or Chrysler. It

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continues to glitch and stop working. It affects the DVD entertainment system which makes it hell with children. Honda say they are aware but not concerned about fixing these issues since the vehicle still drives. I can find alot of vehicles that just drive from point A to B, I paid THOUSANDS more to have extra luxury features!!” (complaint posted on Edmunds.com dated December 4, 2018).

- Got the car in November and problem started about 3 weeks after I got it. The screen does not load properly, it crashes, reboots, freezes, has error messages, sometimes the radio stays dead, sometimes its on. No hands free operation, no GPS. Honda Replaced the unit 1st week of Jan 2019 and 1st of Feb, the problem reappeared. First they thought it was caused by Car play - with the cable being faulty. The new unit - I have not connected carplay and it still occurred. To get it working - i have to exit the car lock and unlock and hopefully the start sequence will work. I think this makes the car unusable, (complaint posted on carcomplaints.com on February 1, 2019).
- “13 months with the same problem. We have taken it to several dealerships and no one can fix it. Honda is "aware" of the problem and says for us to keep waiting until they resolve the issue. We are paying extra money to have features that don't work. We didn't get a rebate since they are high demand, if people only knew...Please make sure you test the entertainment system thoroughly before you leave the dealership. Take the headphones out of the bubble wrap and the take a DVD with you.” (complaint posted on Edmunds.com dated December 4, 2018).
- “We acquired the 2018 Odyssey Elite with all the options. We're very unhappy with the upgrade because the entertainment system occasionally stops working. That means the Blue Ray, Cabin Watch, everything all of the sudden shuts off. We need to stop the car, turn it off, turn it back on, and hope the system comes back to life. We brought it to the dealership immediately, and we were told this is a known problem, Honda knows about it, and there's no solution. "Check back in 90 days" is the answer we got in writing! Can you believe this?! Please save yourself headaches and buy something else. Of course the sales people at the Honda dealerships will never tell you that. This model is full of other smaller bugs, too many to list here. Looks like a car that was not fully tested before getting to market. (complaint posted on Edmunds.com dated June 4, 2018).

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- This car has numerous electronic and software issues that Honda America is unable to fix. Dealers continue to sell these vehicles without disclosing the problems.... If you buy the Elite, plan on the following; Sirius XM Radio will work occasionally, Cabin Watch and park sense cameras will lock up and won't work until the car goes through a hard reset, the cabin doors will not respond to the auto open and close until a hard reset is performed, the DVD system will lock up and won't play until a hard reset is performed, the infotainment system is immature and is still being debugged by Honda Engineers, the voice command system seldom works or responds. The dealer service department will acknowledge that they can't fix the problems. We brought it back 9 times since Jan 2018-April 18 without any fixes made other than resetting which involves disconnecting the battery and waiting 15 minutes for the system to reset... It is a Lemon Law candidate as well as a class action law suit for fraud.” (complaint posted on Edmunds.com dated April 10, 2018).
- “I just bought 2018 odyssey less then 1000miles and my rear entertainment system stop working and went to dealer and find out software problem and honda cannot fix it until they have new update software so I was upset because it's not my fault honda has to replace with new RES but they are not so please before you buy make sure it works and it's not only mine there so many people having same issues....Go to Odyssey forum and you will find details.” (complaint posted on Edmunds.com dated September 16, 2017).
- 2018 is redesigned model and maybe it explains why it has so many bugs... A few more issues also happen randomly while driving are: screen goes completely blank or frozen, GPS stops giving a guidance, music doesn't play from USB or creating a horrible noise, Bluetooth connection goes off (consequently phone cannot connect), anti theft system losing a power, speakers producing distorted sound.” (complaint posted on Edmunds.com dated August 13, 2018).
- “We purchased the 2018 Honda Odyssey with DVD. The first time we tried it out, the DVD shut off after 10 minutes saying ‘network connection lost’ and wouldn't turn back on. The sound still worked, the drop-down TV just turned black. After the car had been off for a while,

1 it worked again, for about 10 minutes and then again said, 'network
2 connection lost.' Every single time it overheats after 10 to 30 minutes
3 of play and says "network connection lost." Finally, I brought it to the
4 dealership. After keeping my car almost all day, they informed me that
5 this was a KNOWN ISSUE that they don't have a fix for. They told me
6 that even when they replace the DVD system it still overheats and does
7 the same thing. They told me they would call me 'whenever they come
8 up with a solution.' Totally unacceptable to keep selling these cars
9 with DVD systems that don't work and no known repair.
10 DEFECTIVE!!" (complaint posted on Edmunds.com dated April 18,
11 2018).

- 12 • "We purchased our 2018 Honda Odyssey Elite in July of 2017 and
13 many of the key features still do not work. Almost every time we are
14 on a road trip and use the Rear Entertainment System, the screen turns
15 black and there is weeping and gnashing of teeth in the back. The
16 CabinWatch camera often freezes or is unable to connect altogether.
17 The hands-free voice commands/calling while connected to ApplyPlay
18 stops working often. I have spent HOURS documenting the errors and
19 trying to speak with HondaCare, but they closed my case until an
20 update was available. There was an update on Wednesday and I have
21 had issues with all three of the aforementioned problems in the past 16
22 hours. Keeping notes, pictures and videos of all the things wrong with
23 my nice, EXPENSIVE, new van has been a part-time job since I
24 purchased this vehicle. " (complaint posted on Edmunds.com dated
25 March 23, 2018).

- 26 • "Buy at your own risk, Honda blames everything on Apple, Bluetooth
27 skips, siri does not connect, messages I haven't seen or sent one,
28 screen goes black and does not respond or goes blue with a loud beep
while you are driving." (complaint posted on Edmunds.com dated
November 29, 2017).

- "This car touts the software and technology but it is a complete rip off
for the price. 5k miles in and It hardly ever works and the dealer just
sends it back saying non-reproducible. I finally recorded a video to
show them the problem and now they blame my Disney original DVD.
Are all of my brand new DVDs bad?? Absolute nonsense!" (complaint
posted on Edmunds.com dated February 25, 2018).

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- “I am normally impressed with Honda's quality. However, I would not recommend buying this car if you have a family. We bought it specifically for family road trips. The Rear Entertainment System failed within a month. This made the 4 hour road trip for the solar eclipse painful!! Took it back to the dealer, they said Honda knows about the problem, but there is no fix right now. Until this is fixed, do not buy this vehicle if you have young kids.” (complaint posted on Edmunds.com dated November 3, 2017).

19. In fact, Consumer Reports has downgraded its rating on the 2018 Honda Odyssey as “No Longer Recommended” due to “much-worse-than-average reliability, with problems including the infotainment display freezing and losing all functionality.”

20. A Car and Driver review of the 2018 Honda Odyssey observed, “Our Odyssey continues to be plagued by infotainment glitches, freezes, and outright refusals to turn on (the last most often after using the standard factory remote-start feature), even after a field technician visited the van at our office and replaced the infotainment head unit under warranty at 12,800 miles.”

21. Honda’s New Vehicle Limited Warranty requires it to “repair or replace any part that is defective in material or workmanship under normal use.” But as countless consumers have reported, Honda has been unable to repair these defects despite being given as numerous opportunities. In violation of this express warranty, and as evidenced by the many complaints or repeat infotainment system failures, Defendant merely replaces a defective part with another defective part.

1 using AM/FM. Please advise remarks found bulletin for audio unit replacement.

2 Ordered audio tuner per bulletin.”

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4 28. Less than a month later, on February 1, 2018, Plaintiffs returned to the
5 dealership to have the audio tuner replaced per the Honda service bulletin (Service
6 Bulletin 17-088).

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8 29. Two days after the replacement, the infotainment system failed again.
9 Later, on February 3, 2018, Lesley’s February 3, 2018 text message to a technician
10 at the dealership states that “the radio just went out completely, nothing is
11 working.” Shortly thereafter, Plaintiffs returned the Vehicle to the dealer to have
12 the dealer again attempt to fix the infotainment system.

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14 30. On February 8, 2018, the dealership notified Plaintiffs as follows:
15 “[W]e are currently waiting on a call back from Honda Tech line. We have
16 followed all diagnosis charts so leaning towards audio unit or even an issue with the
17 tuner. Just waiting for there (sic) techs to advise next steps.”

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20 31. The next day, Plaintiffs received a text message from the technician
21 stating: “Honda contacted us last night and requested a snap shot of the audio unit
22 software which means they wanna see what we see in the programming. They
23 should contact us today but they are based on the west coast so won’t be till later.”
24 When Plaintiffs picked up the Vehicle from the dealership, they were told that the
25 whole dashboard had been removed in an effort to repair the unit.
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1 32. Despite these repair efforts, the infotainment system problems
2 persisted.

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4 33. Plaintiffs took the van back in to the dealership on approximately
5 February 12, 2018, and then again on February 22, 2018. The dealership's service
6 invoice states: "Cust states is still having issues with the audio unit. States still
7 getting message radio unavailable, states are fading in and out very quickly and
8 then just shuts off. States has not worked for a full day since install." The invoice
9 further states: "Vehicle has a new tuner, new audio unit from brand new donor and
10 OTA software update. According to customer, vehicle is still malfunctioning. Per
11 DPMS and field service engineer, customer needs to keep for a few weeks and log
12 malfunctions and report back to us to further diagnose. Closing paperwork for
13 now."

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17 34. Plaintiffs asked to speak with the dealership's service manager, who
18 instructed Plaintiffs to start keeping a journal of the problems with the vehicle.
19 According to Plaintiffs' journal, the vehicle experienced infotainment system
20 problems (usually related to audio) every single day between February 28, 2018 and
21 March 12, 2018.

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24 35. On March 12, 2018, Plaintiffs received a text message from the
25 technician stating: "We have spoken to Honda on the situation not just with your
26 vehicle but with others as well and are getting the same response which is don't
27 replace any more parts and wait for an update. Very frustrating I understand."
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1 36. The next day, Plaintiffs received a follow up text message asking them
2 to bring the Vehicle into the dealership, which they did. The dealer kept the
3 Vehicle for 10 days. The service invoice states, “Per Service Manager and DPSM
4 Veh to be dropped off for further diag.” It further states: “Replaced instrument
5 panel wire harness, floor wire harness, and rear entertainment system control unit
6 per previous diagnosis performed by Honda field engineer. Radio is working
7 consistently after testing multiple times over the court of two day[s]. No other
8 problems found at this time.” Plaintiffs were told that an engineer from Honda flew
9 in specifically to observe the Vehicle and personally drove the Vehicle back and
10 forth to his hotel.
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14 37. Plaintiffs picked up the van on March 22, 2018. But the infotainment
15 system problems continued.
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17 38. On May 1, 2018, Plaintiffs contacted dealership about problems
18 experienced with the infotainment system, which included crackling sounds and a
19 non-functioning backup camera.
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21 39. On May 18, 2018, the Vehicle’s audio functions failed and the
22 infotainment system would not produce any sound.
23

24 40. Around this time, Plaintiffs were informed by the dealership’s service
25 manager that these issues are happening to a lot of people.
26

27 41. On at least two occasions since the dealership attempted to repair the
28 defect, Lesley has been driving when the entire “infotainment” console display

1 turned black and became wholly inoperable. Plaintiffs have recorded video of these
2 failures to document them.

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4 42. On December 18, 2018 Plaintiffs returned the Vehicle back to the
5 dealership and showed them the videos of the infotainment system failures. Later
6 that day, Plaintiffs were told that the Honda engineer had looked at the videos and
7 determined that the blu ray player and the speedometer needed to be replaced.
8

9 43. However, the infotainment problems continue to plague the Vehicle
10 after the dealership many repair attempts. As recently as March 1, 2019, the
11 Vehicle's audio cut out and the infotainment system showed the following
12 message: "Audio cannot be used right now."
13

14 44. Despite providing the dealership and Honda engineers *eight attempts*
15 to repair the infotainment system, the Vehicle's infotainment system continues to
16 malfunction.
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18 **Defendant's Warranties and Response to the Defect**

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20 45. Defendant issued to all original purchasers and lessees, including
21 Plaintiffs and the other Class members, a written manufacturer's warranty. This
22 New Vehicle Limited Warranty states that "Honda will repair or replace any part
23 that is defective in material or workmanship under normal use" and that "All
24 repairs/replacements made under this warranty are free of charge."
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27 46. However, Defendant knew, or at least should have known, of the
28 defects at the time of sale or lease of the Covered Vehicles. Plaintiffs and Class

1 members, however, had no such knowledge. The defects were and are latent in
2 nature because they are not obvious or ascertainable upon reasonable examination.

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4 47. Despite having more than adequate opportunity to successfully remedy
5 the defect(s) in the Vehicles, Defendant has failed to do so, and has instead merely
6 replaced defective components with defective components.

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8 48. Defendant concealed, and continues to conceal, the fact that the
9 Covered Vehicles contain the defective infotainment systems. Defendant also
10 continues to conceal the fact that the replacement components it provides in an
11 attempt to repair the defect are equally defective. Therefore, Plaintiffs did not
12 discover and could not have discovered this defect through reasonable diligence.

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14 49. Plaintiffs and the other class members reasonably relied on
15 Defendant's warranties regarding the quality, durability and other material
16 characteristics of their Vehicles, including but not limited to the representation that
17 the Vehicles contained no known defects (defects known to Defendant) at the time
18 of sale or lease.

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21 **CLASS ACTION ALLEGATIONS**

22 50. Plaintiffs bring this action on behalf of themselves and all others
23 similarly situated under Fed. R. Civ. P. 23.

24 51. Subject to confirmation, clarification and/or modification based on
25 discovery to be conducted in this action, the Class that Plaintiffs seek to represent
26 shall be defined as follows:
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1 During the fullest period allowed by law, all persons and entities
2 nationwide that purchased or leased a Covered Vehicle
3 manufactured by Honda. Covered Vehicle is defined to include
4 model years 2018 through 2019 Honda Odyssey and 2019
Honda Pilot vehicles.

5 Excluded from the Nationwide Class are: (1) Defendant, any
6 entity in which Defendant has a controlling interest, and its legal
7 representatives, officers, directors, employees, assigns and
8 successors; (2) the Judge to whom this case is assigned and any
9 member of the Judge's staff or immediate family; (3) Class
Counsel.

10 52. Plaintiffs seek only damages and injunctive relief on behalf of
11 themselves and the Class Members. Plaintiffs disclaim any intent or right to seek
12 any recovery in this action for personal injuries, wrongful death, or emotional
13 distress suffered by Plaintiffs and/or the Class Members.
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15 53. While the exact number of Class Members is unknown to Plaintiffs at
16 this time and can only be determined by appropriate discovery, membership in the
17 Nationwide Class is ascertainable based upon the records maintained by Defendant
18 and governmental officials. Upon information and belief, Defendant sold and
19 leased over one hundred thousand Covered Vehicles nationwide during the relevant
20 time period, all of which have the defective infotainment systems at issue.
21 Therefore, the Class Members are so numerous that individual joinder of all Class
22 Members is impracticable under Fed. R. Civ. P. 23(a)(1).
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26 54. Common questions of law and fact exist as to all Class Members, as
27 required by Fed. R. Civ. P. 23(a)(2), and final injunctive relief is appropriate
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1 respecting the Class as a whole because Defendant has acted or refused to act on
2 grounds that generally apply to the Class, within the meaning of Fed. R. Civ. P.

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4 23(b)(2). These common legal and factual questions include:

- 5 a) whether each Covered Vehicle was sold or leased with defective
6 infotainment systems;
7
8 b) whether Defendant's express warranty covers the defect;
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10 c) whether Defendant breached express warranties made to the Class
11 Members;
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13 d) whether Defendant breached implied warranties made to the Class
14 Members;
15
16 e) whether Defendant replaced defective parts with defective parts;
17
18 f) whether Defendant concealed the defect; and
19
20 g) whether the Class Members have suffered damages as a result of the
21 conduct alleged herein, and if so, the measure of such damages,
22 including diminution of value; and
23
24 h) whether the Class Members are entitled to injunctive relief.

25 55. Plaintiffs' claims are typical of the claims of the Class Members whom
26 they seek to represent under Fed. R. Civ. P. 23(a)(3) because Plaintiffs and each
27 Class Member have a Covered Vehicle with the same defective infotainments
28 system.

1 56. Plaintiffs will fairly and adequately represent and protect the interests
2 of the Class Members as required by Fed. R. Civ. P. 23(a)(4). Plaintiffs are
3 adequate representatives because their interests do not conflict with the interests of
4 the Class Members. Further, Plaintiffs have retained counsel competent and
5 experienced in complex class action litigation, including automotive defect class
6 action litigation, and Plaintiffs intend to prosecute this action vigorously.
7
8 Therefore, the interests of the Class Members will be fairly and adequately
9 protected.
10

11
12 57. A class action is appropriate under Fed. R. Civ. P. 23(b)(3) because
13 questions of law or fact common to class members predominate over any questions
14 affecting only individual members, and a class action is superior to any other
15 available means for fairly and efficiently adjudicating the controversy. In this
16 regard, the Class Members' interests in individually controlling the prosecution of
17 separate actions is low given the magnitude, burden, and expense of individual
18 prosecutions against large corporations such as Defendant. Further, neither
19 Plaintiffs nor their counsel is aware of any on-going litigation concerning this
20 controversy already begun by any of the Class Members. It is desirable to
21 concentrate this litigation in this forum to avoid burdening the courts with
22 individual lawsuits. Individualized litigation presents a potential for inconsistent or
23 contradictory judgments and also increases the delay and expense to all parties and
24 the court system presented by the legal and factual issues of this case. By contrast,
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26
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1 the class action procedure here will have no management difficulties. Defendant's
2 records and the records available publicly will easily identify the Class Members.
3 This defect is common to all Covered Vehicles; therefore, the same common
4 documents and testimony will be used to prove Plaintiffs' claims as well as the
5 claims of the Class Members. Finally, proceeding as a class action provides the
6 benefits of single adjudication, economies of scale, and comprehensive supervision
7 by a single court
8

9
10 58. A class action is appropriate under Fed. R. Civ. P. 23(b)(2) because, as
11 stated above, Defendant has acted or refused to act on grounds that apply generally
12 to the Class Members, so that final injunctive relief or corresponding declaratory
13 relief is appropriate as to all Class Members.
14

15
16 **FIRST CLAIM FOR RELIEF**

17 **Breach of Express Warranty – Magnuson Moss Warranty Act**

18 **(Asserted on behalf of the Nationwide Class)**

19
20 59. Plaintiffs repeat and incorporate the allegations set forth above as if
21 fully alleged herein.
22

23 60. The Covered Vehicles are consumer products as defined in 15 U.S.C.
24 § 2301(1)

25 61. Plaintiffs and Class Members are consumers as defined in 15 U.S.C. §
26 2301(3).
27
28

1 62. Honda is a supplier and warrantor as defined in 15 U.S.C. §§ 2301(4)
2 and (5).

3
4 63. Honda provided Plaintiffs and Class Members “written warranties”
5 within the meaning of 15 U.S.C. § 2301(6).

6 64. 15 U.S.C. § 2310(d)(1)(A) and/or § 2310(d)(3)(C) is satisfied because
7 Plaintiffs properly invoke jurisdiction under the Class Action Fairness Act
8 (“CAFA”).
9

10 65. In the course of selling their Covered Vehicles, Defendant expressly
11 warranted in its New Vehicle Limited Warranty that “Honda will repair or replace
12 any part that is defective in material or workmanship under normal use” and that
13 “All repairs/replacements made under this warranty are free of charge.”
14

15
16 66. Upon information and belief, Defendant’s standard warranty language
17 is identical for all Covered Vehicles sold nationwide.

18 67. Defendant did not provide at the time of sale, and has not provided
19 since then, vehicles conforming to the express warranties.
20

21 68. Defendant breached and continues to breach express warranties
22 because the defective infotainment systems were present in the Covered Vehicles at
23 the time of sale.
24

25 69. Defendant breached and continues to breach express warranties
26 because Defendant did not (and does not) cover the full expenses associated with
27
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1 repairing and/or replacing the defective infotainment systems in Plaintiffs’ and the
2 Class Members’ Covered Vehicles.

3
4 70. Defendant breached and continues to breach express warranties
5 because it merely replaces the defective components with additional defective
6 components and is unable to successfully repair the defects in Plaintiffs’ and the
7 Class Members’ Covered Vehicles, despite having had reasonable opportunities to
8 do so. As such, the express warranties fail their essential purpose.

9
10 71. Defendant’s refusal to provide an adequate repair or replacement
11 violates 15 U.S.C. § 2304.

12
13 72. Despite the fact that the Vehicles’ infotainment systems continue to
14 fail despite being “repaired,” Defendant continues to replace the defective parts
15 with identical or substantially similar defective parts. Thus, the defect is inherent
16 and permanent in nature.

17
18 73. Defendant fraudulently concealed material information from Plaintiffs
19 and the Class regarding the existence and extent of the defects. Defendant also
20 fraudulently concealed the material fact that the replacement components were
21 defective. Therefore, any limitations imposed by Defendant as to the scope of its
22 obligations under the express warranties to repair and adjust defective parts and/or
23 any disclaimers in the written warranties prepared by Defendant that purport to
24 preclude recovery by Plaintiffs or the Class Members are unconscionable, both
25 substantively and procedurally, and are unenforceable as a matter of law.
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1 74. Any such limitations or exclusions have been imposed unilaterally by
2 Defendant via adhesive, “take it or leave it” contracts with no ability by Plaintiffs or
3 the Class Members to negotiate the substance or coverage of the warranties, and
4 Plaintiffs and the Class Members did not have any meaningful choices of
5 reasonably available alternative sources of supply of suitable Vehicles free of the
6 above unconscionable conditions.
7
8

9 75. Furthermore, Defendant’s express warranty fails in its essential
10 purpose because the contractual remedy is insufficient to make Plaintiffs and the
11 Class Members whole and because Defendant has failed and/or refused to
12 adequately provide the promised remedies within a reasonable time.
13

14 76. Also, as alleged herein, at the time that Defendant warranted and sold
15 the Vehicles, it knew that the Vehicles were inherently defective, and Defendant
16 wrongfully and fraudulently misrepresented and/or concealed material facts
17 regarding the Vehicles. Plaintiffs and the Class Members were therefore induced to
18 purchase the Vehicles under false and/or fraudulent pretenses.
19
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21 77. Further, the enforcement under these circumstances of any limitations
22 whatsoever on the recovery of incidental and/or consequential damages is barred
23 because any such limitations work to reallocate the risks between the parties in an
24 unconscionable and objectively unreasonable manner, and result in overly harsh or
25 one-sided results that shock the conscience, especially in light of the fact that
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1 Defendant simply placed defective components in the Vehicles when those
2 Vehicles are brought in for repairs.

3
4 78. Moreover, many of the damages flowing from the Vehicles cannot be
5 resolved by the limited remedies contained in the express warranty as those
6 incidental and consequential damages have already been suffered due to
7 Defendant's fraudulent conduct as alleged herein and due to their failure to provide
8 such limited remedy within a reasonable time. Therefore, any limitation on
9 Plaintiffs' and the Class Members' remedies would cause the available remedy to
10 be insufficient to make them whole.
11

12
13 79. Defendant was previously provided notice of the defects in the
14 Vehicles by numerous customer complaints, letters, emails and other
15 communications from Class Members and from dealers and other repair facilities.
16

17 80. Plaintiffs and the Class Members have suffered damages directly and
18 proximately caused by Defendant's breach of the express warranty and are entitled
19 to recover damages including, but not limited to, out of pocket expenses and
20 diminution of value.
21

22
23 **SECOND CLAIM FOR RELIEF**

24 **Breach of Implied Warranty – Magnuson-Moss Warranty Act**

25 **(Asserted on behalf of Nationwide Class)**

26
27 81. Plaintiffs re-allege and incorporate each and every allegation set forth
28 above as if fully written herein

1 82. Plaintiffs bring this claim on behalf of the Nationwide Class.

2 83. The Vehicles are “consumer products” within the meaning of 15
3 U.S.C. § 2301.
4

5 84. Plaintiffs and members of the Class are “consumers” within the
6 meaning of 15 U.S.C. § 2301 because they are persons entitled under applicable
7 state law to enforce against the warrantor the obligations of its express and implied
8 warranties.
9

10 85. Defendant is a “supplier” of consumer products to consumers and a
11 “warrantor” within the meaning of 15 U.S.C. § 2301.
12

13 86. 15 U.S.C. § 2310(d)(1)(A) and/or § 2310(d)(3)(C) is satisfied because
14 Plaintiffs properly invoke jurisdiction under the Class Action Fairness Act
15 (“CAFA”).
16

17 87. Section 2310(d)(1) of Chapter 15 of the United States Code provides a
18 cause of action for any consumer who is damaged by the failure of a warrantor to
19 comply with a written or implied warranty.
20

21 88. Defendant made written and implied warranties regarding the Vehicles
22 to Plaintiffs and Class Members within the meaning of 15 U.S.C. § 2301.
23 Defendant provided Plaintiffs and other Class Members an implied warranty of
24 merchantability within the meaning of the Magnuson-Moss Warranty Act, 15
25 U.S.C. § 2301(7).
26
27
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1 89. Defendant breached the implied warranty of merchantability because
2 the Vehicles were not fit for the ordinary purpose for which such goods are used.
3 As described throughout the Complaint, the Vehicles contain defects which render
4 them unsafe, inconvenient, and imperfect such that Plaintiffs and Class Members
5 would not have purchased the Vehicles had they known of the defects.
6

7
8 90. Pursuant to 15 U.S.C. § 2310(e), Plaintiffs are entitled to bring this
9 class action and are not required to give Defendant notice and an opportunity to
10 cure until such time as the Court determines the representative capacity of Plaintiffs
11 pursuant to Rule 23 of the Federal Rules of Civil Procedure.
12

13 91. Plaintiffs, individually and on behalf of the other Class Members, seek
14 all damages permitted by law, including diminution in value of their Vehicles, in an
15 amount to be proven at trial.
16

17 92. In addition, pursuant to 15 U.S.C. § 2310(d)(2), Plaintiffs and the other
18 Class Members are entitled to recover a sum equal to the aggregate amount of costs
19 and expenses (including attorneys' fees based on actual time expended) determined
20 by the Court to have reasonably been incurred by Plaintiffs and the other Class
21 Members in connection with the commencement and prosecution of this action.
22

23 93. Further, Plaintiffs and the Class are also entitled to equitable relief
24 under 15 U.S.C. § 2310(d)(1) and damages as a result of Defendant's violation of
25 its written and/or implied warranties.
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THIRD CLAIM FOR RELIEF

Breach of Express Warranty

(Asserted on behalf of the Nationwide Class)

94. Plaintiffs repeat and incorporate the allegations set forth above as if fully alleged herein.

95. In the course of selling their Covered Vehicles, Defendant expressly warranted in its New Vehicle Limited Warranty that “Honda will repair or replace any part that is defective in material or workmanship under normal use” and that “All repairs/replacements made under this warranty are free of charge.”

96. Upon information and belief, Defendant’s standard warranty language is identical for all Covered Vehicles sold nationwide.

97. Defendant did not provide at the time of sale, and has not provided since then, vehicles conforming to the express warranties.

98. Defendant breached and continues to breach express warranties because the defective infotainment systems were present in the Covered Vehicles at the time of sale.

99. Defendant breached and continues to breach express warranties because Defendant did not (and does not) cover the full expenses associated with repairing and/or replacing the defective infotainment systems in Plaintiffs’ and the Class Members’ Covered Vehicles.

1 100. Defendant breached and continues to breach express warranties
2 because it merely replaces the defective components with additional defective
3 components and is unable to successfully repair the defects in Plaintiffs' and the
4 Class Members' Covered Vehicles, despite having had reasonable opportunities to
5 do so. As such, the express warranties fail their essential purpose.
6
7

8 101. Despite the fact that the Vehicles' infotainment systems continue to
9 fail despite being "repaired," Defendant continues to replace the defective parts
10 with identical or substantially similar defective parts. Thus, the defect is inherent
11 and permanent in nature.
12

13 102. Defendant fraudulently concealed material information from Plaintiffs
14 and the Class regarding the existence and extent of the defects. Defendant also
15 fraudulently concealed the material fact that the replacement components were
16 defective. Therefore, any limitations imposed by Defendant as to the scope of its
17 obligations under the express warranties to repair and adjust defective parts and/or
18 any disclaimers in the written warranties prepared by Defendant that purport to
19 preclude recovery by Plaintiffs or the Class Members are unconscionable, both
20 substantively and procedurally, and are unenforceable as a matter of law.
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22

23 103. Any such limitations or exclusions have been imposed unilaterally by
24 Defendant via adhesive, "take it or leave it" contracts with no ability by Plaintiffs or
25 the Class Members to negotiate the substance or coverage of the warranties, and
26 Plaintiffs and the Class Members did not have any meaningful choices of
27
28

1 reasonably available alternative sources of supply of suitable Vehicles free of the
2 above unconscionable conditions.

3
4 104. Furthermore, Defendant's express warranty fails in its essential
5 purpose because the contractual remedy is insufficient to make Plaintiffs and the
6 Class Members whole and because Defendant has failed and/or refused to
7 adequately provide the promised remedies within a reasonable time.
8

9 105. Also, as alleged herein, at the time that Defendant warranted and sold
10 the Vehicles, it knew that the Vehicles were inherently defective, and Defendant
11 wrongfully and fraudulently misrepresented and/or concealed material facts
12 regarding the Vehicles. Plaintiffs and the Class Members were therefore induced to
13 purchase the Vehicles under false and/or fraudulent pretenses.
14
15

16 106. Further, the enforcement under these circumstances of any limitations
17 whatsoever on the recovery of incidental and/or consequential damages is barred
18 because any such limitations work to reallocate the risks between the parties in an
19 unconscionable and objectively unreasonable manner, and result in overly harsh or
20 one-sided results that shock the conscience, especially in light of the fact that
21 Defendant simply placed defective components in the Vehicles when those
22 Vehicles are brought in for repairs.
23
24

25 107. Moreover, many of the damages flowing from the Vehicles cannot be
26 resolved by the limited remedies contained in the express warranty as those
27 incidental and consequential damages have already been suffered due to
28

1 Defendant's fraudulent conduct as alleged herein and due to their failure to provide
2 such limited remedy within a reasonable time. Therefore, any limitation on
3 Plaintiffs' and the Class Members' remedies would cause the available remedy to
4 be insufficient to make them whole.
5

6 108. Defendant was previously provided notice of the defects in the
7 Vehicles by numerous customer complaints, letters, emails and other
8 communications from Class Members and from dealers and other repair facilities.
9

10 109. Plaintiffs and the Class Members have suffered damages directly and
11 proximately caused by Defendant's breach of the express warranty and are entitled
12 to recover damages including, but not limited to, out of pocket expenses and
13 diminution of value.
14

15
16 **FOURTH CLAIM FOR RELIEF**

17 **Breach of Implied Warranty of Fitness for Ordinary Use and Merchantability**

18 **(Asserted on behalf of Nationwide Class)**
19

20 110. Plaintiffs repeat and incorporate the allegations set forth above, as if
21 fully re-alleged herein.
22

23 111. At all relevant times, Defendant marketed, sold, and distributed the
24 Vehicles for use by Plaintiffs and Class Members and Defendant knew of the use
25 for which the Vehicles were intended, and impliedly warranted the Vehicles to be
26 for ordinary use.
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- (c) ordering injunctive relief, restitution, disgorgement, and/or other appropriate relief;
- (d) awarding compensatory, punitive, exemplary, and other recoverable damages;
- (e) awarding reasonable attorney's fees and expenses;
- (f) awarding pre-judgment and post-judgment interest;
- (g) awarding such other and further relief as this Court may deem just and proper.

JURY DEMAND

Plaintiffs demand a trial by jury of all issues so triable.

Dated: March 22, 2019

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