

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

CHRISTINE POWELL, HUNTER MILLS, PAUL
GEISLER, DANIEL BINKLEY, RYAN HICKS,
ARNOLD MILSTEIN, KATHERINE KINSEY,
JASON MOORE, JEFFREY BARR, JULIE
WOTRING, CARL ECKHARDT, individually and
on behalf of all others similarly situated,

Plaintiffs,

v.

SUBARU OF AMERICA, INC.

Defendant.

Case No: 1:19-CV-19114-NLH-JS

**AMENDED CLASS ACTION
COMPLAINT**

JURY TRIAL DEMANDED

The allegations contained in this Complaint are based on Plaintiffs' personal knowledge as to Plaintiffs' own conduct and on information and belief as to all other matters based on an investigation by Plaintiffs' Counsel:

I. STATEMENT OF THE CASE

1. Plaintiffs Christine Powell, Hunter Mills, Paul Geisler, Daniel Binkley, Ryan Hicks, Arnold Milstein, Katherine Kinsey, Jason Moore, Jeffrey Barr, Julie Wotring and Carl Eckhardt ("collectively "Plaintiffs"), bring this class action against Defendant Subaru of America, Inc. ("Subaru" or "Defendant") because Defendant is manufacturing, marketing and selling new vehicles with defective and dangerous windshields that are spontaneously and/or unreasonably cracking, chipping and otherwise breaking, often within weeks or a few months of purchase (the "defect"). Further, replacement windshields provided by Defendant and paid for by Plaintiffs and the Classes suffer from the same defect and therefore are equally defective and dangerous.

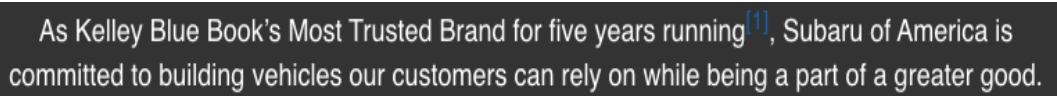
2. Plaintiffs demand that Defendant accept responsibility for replacing

damaged windshields under Subaru's new vehicle warranty at no charge to Plaintiffs and the Classes (as defined below) and reimburse Plaintiffs and the Classes for losses suffered as a result of the defect. In addition, or alternatively, Subaru should be required to buy back the Class Vehicles.

3. Subaru has built a loyal customer base by marketing itself as "More than a car company.TM" As part of that image, Subaru emphasizes that it cares about its customers and is committed to their safety. Indeed, Subaru touts its "industry-leading safety innovations" and represents on its website and elsewhere:



4. Subaru emphasizes in its advertising that consumers should trust the company, should trust that its vehicles are reliable, and should know that Subaru is working for "a greater good." This is reflected on its website, wherein Subaru states:



5. A windshield that is chipped or cracked poses a significant safety hazard. "Even a small crack on glass means your windshield's structural integrity has been compromised, which means it is now a safety hazard to you and your passengers." <https://info.glass.com/can-a-cracked-windshield-shatter> (last visited November 10, 2019). "Driving with a damaged or cracked windshield can hinder a motorist's visibility and also compromise the structural integrity of the automobile during a roll-over incident." <http://news.aaa-calif.com/news/07-01-19-windshield->

[damage](#) (last visited November 10, 2019). In addition, "[a]uto glass is supposed to meet federal safety standards and is imperative for airbags to function properly." *Id.*

6. Selling vehicles with dangerously defective windshields and refusing to take responsibility for the defects is directly contrary to the safety conscious, trustworthy, and reliable image Subaru projects.

7. Subaru is well aware from customer complaints, reports from its dealers, and NHTSA filings that windshields are prematurely and unreasonably breaking in Class Vehicles (defined below) all across the country, often spontaneously or under circumstances that should not cause a break. Nevertheless, Subaru refuses to honor its commitment to its loyal customers, is jeopardizing the safety of the public, and is forcing its customers to bear the expense of Subaru's mistakes and malfeasance.

8. Plaintiffs bring their claims individually and on behalf of all persons or entities in the United States and/or California, Colorado, Florida, Michigan, Missouri, New Jersey, Pennsylvania, Texas and Wisconsin who own or lease a model year 2017-2020 Subaru Forester, 2017-2020 Subaru Outback, or 2017-2019 Subaru Crosstrek (the "Class Vehicles"), as well as those who owned or leased a Class Vehicle and suffered losses as a result of the defect during the period they possessed the vehicle.

9. Upon information and belief, the Class Vehicles all contain the same or substantially similar type of windshields. The Class Vehicles pose an imminent and significant safety hazard to vehicle operators and the public because the windshields are suddenly and unreasonably breaking without cause, they are dangerously distracting drivers, impairing vision through the windshields, impeding the safe operation of the vehicles, and preventing the safe and proper operation of driver assist

systems such as Eyesight[®] Driver Assist Technology. In addition, the defective windshields are causing Class members to incur substantial monetary losses and other damages.

10. Upon information and belief, Defendant has been on notice of this defect in the windshields used in the Class Vehicles for years but has concealed its knowledge from the public and continues to deny the existence of the defect while forcing consumers to bear the costs and expenses associated with the defect.

11. In addition to impairing vision, decreasing the structural integrity of the vehicle and jeopardizing the proper operation of the airbags, another danger and damage associated with the defective windshields is that cracks in the windshield prevent the safe and proper operation of Subaru's "Eyesight[®] Driver Assist Technology." This is a safety feature that customers pay for and rely upon. According to Subaru, the Eyesight system:

[I]s the culmination of everything Subaru engineers know about safety, and Subaru has sold over 1 million EyeSight-equipped vehicles. Adding confidence to every trip, EyeSight monitors traffic movement, optimizes cruise control, and warns you if you sway outside your lane. EyeSight has been found to reduce the rate of rear-end crashes with injuries by up to 85%.

12. Without the EyeSight system, consumers are deprived of an important safety feature, for which they certainly pay when purchasing their vehicles. Indeed, Subaru advertises the importance of this system on its website as follows:



13. When the broken windshields in the Class Vehicles are replaced, vehicle owners incur substantial additional expense beyond the cost of replacing the windshield to have the Eyesight system recalibrated.

14. In addition to having their personal safety and that of the public put at risk, owners of Class Vehicles are incurring substantial monetary losses because Defendant refuses to replace the broken windshields under warranty or to reimburse consumers for the broken windshields and other losses resulting from the defect.

15. Plaintiffs and numerous putative class members have brought this defect to the attention of Defendant but Defendant has refused to accept liability, thereby necessitating the filing of this class action.

16. Plaintiffs and Class members assert claims under the Magnuson-Moss Warranty Act and for breach of express warranty, breach of implied warranty, negligent misrepresentation/omission, breach of consumer protection statutes and unjust enrichment.

17. As a direct result of Defendant's business practices and wrongful conduct, Plaintiffs and the Classes have been harmed and have suffered actual damages, including repair and replacement costs, loss of use of their Class Vehicles,

loss of the benefit of their bargain, and costs and lost time associated with the defect and bringing in their Class Vehicles for diagnosis and repair.

II. JURISDICTION AND VENUE

18. This Court has original diversity jurisdiction pursuant to the Class Action Fairness Act, 28 U.S.C. § 1332(d)(2) (“CAFA”), in that Plaintiffs and many members of the Class are citizens of states different from Defendant’s home state, the aggregate amount in controversy exceeds \$5,000,000, exclusive of interest and costs, and there are more than 100 members in the proposed Class and Classes.

19. This Court has personal jurisdiction over Plaintiffs because Plaintiffs submit to the Court’s jurisdiction. This Court has personal jurisdiction over Defendant because Subaru has its principal place of business and headquarters in this District; Subaru conducts substantial business in this District; and upon information and belief, significant conduct involving Defendant giving rise to the Complaint took place in this District.

20. Venue is proper in this District under 28 U.S.C. § 1391(b) because a substantial part of the events or omissions giving rise to Plaintiffs’ claims occurred in this District, Defendant has its principal place of business and regularly conducts business in this District, and Defendant is a resident of this District under 28 U.S.C. § 1391(c)(2) and subject to personal jurisdiction in this District.

III. PARTIES

21. Plaintiff Christine Powell is a citizen and resident of the state of Wisconsin. On or around August 19, 2017, Plaintiff purchased a new 2018 Subaru Forester from Don Miller Subaru, an authorized Subaru dealer in Madison, Wisconsin.

22. Plaintiff Hunter Mills is a citizen and resident of the state of California.

In or around December 2018, Plaintiff Mills purchased a new 2019 Subaru Outback from an authorized Subaru dealer in California.

23. Plaintiff Paul Geisler is a citizen and resident of the state of California. On or about March 5, 2018, Plaintiff Geisler purchased a new 2018 Subaru Outback from Autonation Subaru, an authorized Subaru dealer in Roseville, California.

24. Plaintiff Daniel Binkley is a citizen and resident of the state of Colorado. In September 2017, Plaintiff Binkley utilized the services of a broker to purchase a new 2018 Subaru Outback from Heuberger Subaru, an authorized Subaru dealer in Colorado Springs, Colorado.

25. Plaintiff Ryan Hicks is a citizen and resident of the state of Colorado. On or about February 21, 2018, Plaintiff Hicks purchased a new 2018 Subaru Crosstrek from a broker in Littleton, Colorado who obtained the vehicle from an authorized Subaru dealer.

26. Plaintiff Arnold Milstein is a citizen and resident of the state of Florida. On September 19, 2019, Plaintiff Milstein purchased a new 2020 Subaru Outback from Schumaker Automotive in Delray Beach, Florida.

27. Plaintiff Jason Moore is a citizen and resident of the state of Michigan. On or about March 30, 2019, Plaintiff Moore purchased a new 2019 Subaru Outback from Fox Subaru, an authorized Subaru dealer in Grand Rapids, Michigan.

28. Plaintiff Katherine Kinsey is a citizen and resident of the state of Missouri. On or about August 21, 2018, Plaintiff Kinsey purchased a new 2018 Subaru Forester from Webster Groves Subaru, an authorized Subaru dealer in Missouri.

29. Plaintiff Jeffrey Barr is a citizen and resident of the state of New Jersey. In or around November 2018, Plaintiff Barr leased a new 2019 Subaru Forester from

Liberty Subaru, an authorized Subaru dealer in Emerson, New Jersey.

30. Plaintiff Julie Wotring is a citizen and resident of the state of Pennsylvania. On or around July 20, 2019, Plaintiff Wotring purchased a new 2019 Subaru Outback from John Kennedy Subaru, an authorized dealer in Plymouth Meeting, Pennsylvania.

31. Plaintiff Carl Eckhardt is a citizen and resident of the state of Texas. In or around December 2017, Plaintiff Eckhardt purchased a new 2018 Subaru Outback from Livermore Subaru, an authorized dealer in Livermore, California.

32. Defendant Subaru is incorporated in New Jersey and has its principal place of business and headquarters in Camden, New Jersey. It is there that Subaru has a 250,000 square foot headquarters campus wherein approximately 600 employees, including its officers, and the sales, marketing, and distribution departments, among others, are based and carry out the business of Subaru. There also is an approximately 100,000 square foot national service training center for Subaru adjacent to its headquarters campus which houses service training, service engineering and product engineering functions. Subaru markets and distributes automobiles throughout the United States and is a division of the Japanese conglomerate Subaru Corporation.

33. Subaru has a nationwide dealership network and operates offices and facilities throughout the United States.

34. Subaru manufactured, marketed and sold the Class Vehicles, including Plaintiffs' vehicles.

IV. FACTS

35. Plaintiffs all purchased their Class Vehicles for personal, family or household purposes. Plaintiffs purchased their Class Vehicles relying upon Subaru's representations in its advertising, its website and/or in its dealerships that it is

committed to selling safe and reliable vehicles.

36. Plaintiffs all suffered broken windshields that occurred spontaneously and/or under circumstances in which non-defective windshields would not have broken.

Christine Powell

37. Within a few months of purchasing her new 2018 Subaru Forester, Plaintiff Powell's windshield suddenly cracked for no apparent reason. As a result of the broken windshield, on or about December 22, 2017, Plaintiff took her Class Vehicle to Don Miller Subaru. Defendant's authorized dealer examined the windshield, denied that it was Subaru's responsibility and replaced the windshield at the expense of Plaintiff and her insurer.

38. At the time the windshield was replaced, the mileage on Plaintiff's Class Vehicle was 3,502. Don Miller advised Plaintiff that Subaru was not replacing broken windshields under the new vehicle warranty that comes with the Class Vehicles.

39. Unfortunately, the replacement windshields supplied by Subaru suffer from the same defect as the original windshields installed in the Class Vehicles. In or around May 2019, Plaintiff's vehicle suffered another break in the windshield for no apparent cause. At the time, her vehicle had approximately 15,000 miles. Because Plaintiff resides several hours from the nearest Subaru dealer, Plaintiff hesitates to incur additional monetary losses and other damages, including substantial loss of use of her vehicle, to replace the windshield with yet another that will suffer from the same defect. Plaintiff's vehicle is still within the warranty mileage and time limits.

Hunter Mills

40. In January 2019, just a few weeks after purchasing his new 2019

Subaru Outback, Plaintiff Mills' windshield cracked without any apparent reason. The vehicle had been driven approximately 1,000 miles at the time.

41. Plaintiff Mills contacted his local Subaru dealer to advise of the cracked windshield and the need for a replacement. Rather than replace his windshield under warranty, the Subaru dealer replaced the windshield and required Mr. Mills to pay. As a result, Plaintiff Mills submitted a claim to his insurer and was forced to pay a \$1,000 deductible.

Paul Geisler

42. In July 2018, just a few months after purchasing his new 2018 Subaru Outback, Plaintiff Geisler observed a long crack running through his windshield. He was aware of no incident that would have caused such damage.

43. Plaintiff Geisler was forced to pay \$200 out of pocket for a replacement windshield. Plaintiff Geisler's Outback has fewer than 36,000 miles and is within the warranty period.

Ryan Hicks

44. On or about July 7, 2019, Plaintiff Hicks noticed a chip in the windshield of his 2018 Subaru Crosstrek where a small stone had hit it. Mr. Hicks has owned other vehicles for many years and never had a windshield damaged from such a minor event. Later that month, he subsequently noticed a separate crack in his windshield. He was aware of no incidents that would have caused such damage. In October 2019, cracking spread throughout the windshield, preventing the continued use of the vehicle.

45. Plaintiff Hicks contacted a Subaru dealership to request replacement under warranty, but he was advised there was no coverage for the windshield. As a result, Plaintiff had his windshield replaced by Premium Auto Glass in Centennial,

CO. Mr. Hicks paid a \$500 deductible to Geico Insurance for the windshield replacement. Plaintiff's Crosstrek has fewer than 36,000 miles and is within the warranty period.

Daniel Binkley

46. On or about November 26, 2018, Plaintiff Binkley noticed a crack in the windshield of his 2018 Subaru Outback. He was aware of no incident that would have caused such damage. He paid \$593.91 to have the windshield replaced and recalibration done by an independent repair shop. Plaintiff's Subaru Outback has fewer than 36,000 miles and is within the warranty period.

Arnold Milstein

47. On or about October 15, 2019, just weeks after purchasing his new 2020 Subaru Outback, Plaintiff Milstein noticed a crack running through his windshield and brought his Subaru to All American Subaru in Old Bridge, NJ. He was aware of no incident that would have caused such damage. The dealership denied a defect in the windshield was the cause and ordered a replacement windshield.

48. On or about October 17, 2019, All American Subaru provided Mr. Milstein an estimate of \$1166.14 to replace the windshield. The replacement has not been completed yet. Plaintiff Milstein's Outback has fewer than 36,000 miles and is within the warranty period.

Katherine Kinsey

49. Shortly after purchasing her 2018 Subaru Forester, Plaintiff Kinsey noticed numerous chips and dings appearing in her windshield and even observed a small starburst shaped crack form as she was sitting in the vehicle while parked. She had those chips and crack repaired.

50. In or around May 2019, after owning the vehicle for approximately nine months, a two inch crack formed spontaneously in the windshield near the bottom driver's side corner and rapidly spread across one half of the windshield while Plaintiff Kinsey was driving.

51. Plaintiff Kinsey contacted a local Subaru dealer to advise of the cracked windshield and her need for a replacement. Rather than replace her windshield under warranty, the Subaru dealer referred her to a third party repair shop. Ms. Kinsey paid \$330.94 for a replacement windshield and is unsure whether the Eyesight system needs to be recalibrated.

Jason Moore

52. In May 2019, less than two months after purchasing his new 2019 Subaru Outback, a loud pop occurred as his vehicle was being backed out of his garage at home and sunlight fell upon it. Instantly, a fracture occurred at the base of the windshield and spread across the entire width of the windshield.

53. The Subaru dealership advised Mr. Moore that it would not cover the cost of the replacement windshield under warranty. Mr. Moore then contacted another representative of Subaru who denied there was any defect in the windshield. As a result, Mr. Moore was forced to submit a claim to his insurance company and paid a \$500 deductible for a replacement windshield, which was installed by Gerber Collision & Glass in Newaygo, MI. Plaintiff Moore's Outback has fewer than 36,000 miles and is within the warranty period.

Jeffrey Barr

54. In September 2019, as Plaintiff Barr was in his 2019 Subaru Forester driving on a highway with his wife, the windshield suddenly and inexplicably cracked. There were no vehicles near them or any other roadway obstructions or

anomalies when the crack occurred. Plaintiff heard the loud sound of the windshield cracking and saw the approximate 12-inch long crack appear.

55. As a result, Mr. Barr was forced to submit a claim to his insurance company and paid a \$500 deductible for a replacement windshield.

Julie Wotring

56. On the evening of September 4, 2019, Plaintiff Wotring parked her new 2019 Subaru Outback in her driveway. On the morning of September 5, 2019, the windshield was cracked on the passenger side, halfway up and halfway across the windshield. No one had disturbed the vehicle while it was in the driveway and there had been no chips or dings or other physical damage to the windshield prior to this crack occurring.

57. At the time of the incident, the Class vehicle had been driven approximately 3,874 miles and was still within the new vehicle warranty. As a result of the broken windshield, on or about September 11, 2019, Plaintiff took her Class Vehicle to John Kennedy Subaru, an authorized Subaru dealer. Defendant's dealer did not replace the windshield under warranty, but rather, replaced the windshield at the expense of Plaintiff Wotring and her insurer. Plaintiff paid \$500 towards the repair cost.

Carl Eckhardt

58. Plaintiff Eckhardt is now on his third windshield in his 2018 Subaru Outback. Within months of purchasing his new Outback, Plaintiff Eckhardt was driving when a small pebble hit the windshield and, to Plaintiff's surprise, caused the windshield to crack.

59. Plaintiff brought his vehicle to Subaru of Austin, and after complaining when he was told the windshield was not covered under warranty, the

Subaru dealer eventually agreed to replace it for him without charge. Unfortunately, less than two weeks later—despite the fact that the vehicle was parked and not being driven, and was facing towards the morning sun—when Plaintiff entered the vehicle in the afternoon he discovered that the windshield had a large crack in it. Nothing had hit the windshield; there was no mark or other evidence of the windshield having been struck by an object.

60. Defendant's dealership in Austin refused to replace the windshield under warranty. Plaintiff and his insurer paid for the second replacement, with Plaintiff paying his \$500 deductible plus additional charges.

FACTS COMMON TO ALL CLASSES

61. At all relevant times, Defendant acted through its authorized agents and representatives in its dealer network while performing activities associated with advertising, marketing and selling Class Vehicles, and supplying and/or replacing broken windshields in Class Vehicles.

62. At all times relevant to this action, Defendant manufactured, distributed, sold, leased, and warranted the Class Vehicles under the Subaru brand name.

63. Defendant publicizes the safety benefits and innovativeness of its engineering group to consumers, specifically representing the following on its website:



64. Subaru provides a three-year/36,000 mile warranty for its new vehicles (“new vehicle warranty” or “NVW”). The new vehicle warranty expressly covers defects in materials or workmanship.

65. The new vehicle warranty for all of the Class Vehicles are the same, or substantially similar. By way of example, the warranty in 2018 provided in pertinent part:

Warranties

2018 Warranty

Below is a brief description of the Subaru Limited Warranty for 2018 model year Subaru vehicles that is provided to each buyer by Subaru at no additional charge. Your Subaru Dealer has complete details concerning the warranty and any exclusions and/or restrictions that may apply. Please visit your nearest Subaru Dealer for this further information. [Click here](#) for optional extended protection beyond the warranty.

Who Makes These Warranties

These warranties are made by SUBARU of America, Inc. (“SOA”^[1]), One Subaru Drive, P.O. Box 9103, Camden, NJ 08101.

When These Warranties Apply

These warranties only apply if the vehicle was imported or distributed by SOA and sold to the first retail purchaser by an Authorized SUBARU Retailer in the United States. Any and all repairs must be performed by an Authorized SUBARU Retailer located in the United States. Every owner of the vehicle during the warranty period shall be entitled to the benefits of these warranties. If the vehicle is sold or otherwise transferred, it is recommended and requested that the new owner promptly send written notice of the transfer of ownership to SOA at the address indicated above.

Warranty Periods

Warranty coverage begins on the date the vehicle is delivered to the first retail purchaser. If the vehicle was used as a demonstrator or company vehicle before being sold at retail, warranty coverage begins on the date the vehicle was first placed in such service.

What is Covered

These warranties cover any repairs needed to correct defects in material or workmanship reported during the applicable warranty period and which occur under normal use:

- In any part of the 2018 model year SUBARU which is identified on the inside front cover of this Warranty & Maintenance Booklet (the “vehicle”).
- Any Genuine SUBARU Optional Accessories^[2]
- In addition, adjustment services are covered one time only during the first 36 months/36,000 miles of operation, whichever comes first.

New Vehicle Limited Warranty

BASIC COVERAGE is 3 years or 36,000 miles, whichever comes first. Subject to the exclusions listed in this warranty, it covers the entire vehicle.

66. The windshields in the Class Vehicles are defective in materials and/or workmanship. Unfortunately, the replacement windshields supplied by Subaru for the Class Vehicles suffer from the same defect and likewise are spontaneously and otherwise unreasonably breaking.

67. Subaru, directly and through its authorized dealers, has advised consumers that it is not replacing broken windshields under the new vehicle warranty that comes with the Class Vehicles.

68. Subaru represents as part of its new vehicle warranty terms that “Every owner of the vehicle during the warranty period shall be entitled to the benefits of these warranties.” In other words, the warranty remains with the vehicle to the benefit of subsequent purchasers throughout the duration of the warranty period.

69. All of the Plaintiffs’ Class Vehicles at issue in this complaint were within the mileage and time limits of the new vehicle warranty when the windshields needed to be replaced.

70. In its advertising, Subaru emphasizes the safety, quality and reliability of the Class Vehicles knowing that consumers, including Plaintiffs and Class members, rely upon such representations when purchasing or leasing vehicles.

71. When Plaintiffs and Class members purchased or leased their Class Vehicles, they relied on the reasonable expectation that the Class Vehicles would be safe to operate and equipped with windshields that were free from defects and did not pose a threat to their health or safety.

72. When Plaintiffs and Class members replaced windshields in their Class Vehicles after breaks and other physical damage occurred, they reasonably expected that the Subaru-specific replacement windshields would be free of defects and otherwise safe and merchantable.

73. Plaintiffs and the Class members operated their Class Vehicles in a reasonably foreseeable manner and as the Class Vehicles were intended to be used but nevertheless suffered significant damages to their windshields as a result of the defect.

74. Plaintiffs and the Class members have suffered ascertainable losses as a result of Defendant’s wrongful acts and omissions.

75. Particularly given the involvement of its engineers in the design and

production of Subaru vehicles, Defendant certainly has known for years of defects in the windshields of earlier model Subaru vehicles, including by way of previous lawsuits involving earlier model year vehicles, and Defendant is aware of a tremendous volume of complaints of this defect in the windshields of the Class Vehicles.

76. Upon information and belief, Defendant had pre-production testing, engineering studies and other analyses performed on the Class Vehicles, including the windshields, before they were sold to consumers.

77. Upon information and belief, Defendant received pre-production reports, engineering studies, testing results and/or other analyses showing that the windshields in the Class Vehicles were defective, but nevertheless allowed the Class Vehicles to be sold to the public.

78. Upon information and belief, Defendant knows from prior litigation and consumer complaints concerning other Subaru vehicles that the windshields in the Class Vehicles are defective.

79. Upon information and belief, Defendant began receiving unusually high volumes of complaints concerning the windshields in the Class Vehicles soon after the vehicles were released for sale to the public; this includes claims lodged with Subaru's dealer network around the country for repairs and coverage for the broken windshields under their new vehicle warranties.

80. Owners of Class Vehicles have lodged numerous complaints regarding the spontaneous cracking of windshields and the extremely unusual rate and instances of failure of windshields in the Class Vehicles as compared to other vehicles that they have owned. The use of a new type of "acoustic glass" in the windshields of Class Vehicles coincides with the widespread problems.

81. There have been at least hundreds of complaints reported to NHTSA from consumers all across the country of the defective windshields in the Class Vehicles. Consumers advise that windshields in the Class Vehicles are breaking and cracking for no known reason or under circumstances in which it is unreasonable and unexpected for a windshield to break. Because the majority of owners do not take the time to complete a NHTSA report, it is reasonable to presume that the number of consumers who have already experienced one or more windshield failures in their Class Vehicles is many multiples higher than reported to NHTSA.

82. The complaints to NHTSA include consumers’ concerns for safety. The following are just a sample of the numerous complaints involving the Class Vehicles:

Date Complaint Filed: 10/28/2019 **Date of Incident:** 11/20/2018
Component(s): VISIBILITY/WIPER **NHTSA ID Number:** 11271667
Consumer Location: MISSOULA, MT

All Products Associated with this Complaint ▲

Vehicle Make	Model	Model Year(s)
SUBARU	CROSSTREK	2018

Details ▲

0 Available Documents ?

Crash: No **Fire:** No **Number of Injuries:** 0 **Number of Deaths:** 0

Manufacturer: Subaru of America, Inc.
Vehicle Identification No. (VIN): JF2GTABC6JH...

SUMMARY:
 I WAS DRIVING ON THE FREEWAY 3 MONTHS AFTER PURCHASING THE CAR BRAND NEW, AND THE WINDSHIELD CRACKED ON THE DRIVERS SIDE ABOUT HALFWAY UP. I REPLACED THE WINDSHIELD ONLY TO HAVE IT CRACK IN THE SAME SPOT 3 MONTHS LATER.

Date Complaint Filed: 10/29/2019
Component(s): VISIBILITY/WIPER
Consumer Location: TEMPE, AZ

Date of Incident: 06/28/2019
NHTSA ID Number: 11271793

All Products Associated with this Complaint ▲

Vehicle Make	Model	Model Year(s)
SUBARU	CROSSTREK	2018

Details ▲

0 Available Documents ?

Crash: No **Fire:** No **Number of Injuries:** 0 **Number of Deaths:** 0

Manufacturer: Subaru of America, Inc.
Vehicle Identification No. (VIN): JF2GTALC5JH...

SUMMARY:
 THE WINDSHIELD DEVELOPED 2 LARGE CRACKS THAT HINDER THE VISIBILITY ON BOTH THE DRIVER AND PASSENGER SIDE. THE CRACKS DEVELOPED OVER APPROXIMATELY 4 MONTHS WHILE PARKED.

Date Complaint Filed: 10/29/2019
Component(s): VISIBILITY/WIPER
Consumer Location: REDWOOD CITY, CA

Date of Incident: 01/18/2019
NHTSA ID Number: 11271755

All Products Associated with this Complaint ▲

Vehicle Make	Model	Model Year(s)
SUBARU	CROSSTREK	2017

Details ▲

0 Available Documents ?

Crash: No **Fire:** No **Number of Injuries:** 0 **Number of Deaths:** 0

Manufacturer: Subaru of America, Inc.
Vehicle Identification No. (VIN): JF2GPABC4HG...

SUMMARY:
 I AM THE OWNER OF A 2017 SUBARU CROSSTREK THAT WAS SUBJECT TO A FAULTY WINDSHIELD RESULTING IN REPLACEMENT. THE VEHICLE HAD DEVELOPED A SPONTANEOUS CRACK FROM NO APPARENT OR OBVIOUS SOURCE OTHER THAN NORMAL CONDITIONS. SPECIFICALLY, THIS CRACK DEVELOPED OVERNIGHT WHILE SITTING IN THE DRIVEWAY NOT IN MOTION AND NOT EXPOSED TO DAMAGE CAUSING DEBRIS. THE NEXT MORNING, AN INCONSPICUOUS CRACK AT ONLY A FEW MILLIMETERS APPEARED. OVER THE COURSE OF THE NEXT FEW DAYS, THE CRACK HAD GROWN TO TENS OF CENTIMETERS. THE END RESULT WAS AN UNSAFE AND HAZARDOUS WINDSHIELD CREATING VISIBILITY ISSUES AND A RISK OF INTEGRITY FAILURE. THE WINDSHIELD WAS REPLACED BY THE DEALER AT FULL COST NOT COVERED UNDER WARRANTY. THIS WAS NOT COVERED UNDER RECALL AND WAS PAID FOR OUT OF POCKET. ATTACHED IS A COPY OF THE INVOICE WITH COSTS FOR THE WINDSHIELD PARTS AND LABOR.

Date Complaint Filed: 10/28/2019
Component(s): VISIBILITY/WIPER
Consumer Location: OKLAHOMA CITY, OK

Date of Incident: 02/27/2018
NHTSA ID Number: 11271435

All Products Associated with this Complaint ▲

Vehicle Make	Model	Model Year(s)
SUBARU	CROSSTREK	2018

Details ▲

0 Available Documents 

Crash: No **Fire:** No **Number of Injuries:** 0 **Number of Deaths:** 0

Manufacturer: Subaru of America, Inc.
Vehicle Identification No. (VIN): JF2GTAMC3JH...

SUMMARY:

WINDSHIELD CRACKED WITHIN 30 TO 45 DAYS OF PURCHASE FOR NO APPARENT REASON. HAD A SECOND CRACK LESS THAN A YEAR LATER

Date Complaint Filed: 04/29/2019
Component(s): VISIBILITY/WIPER
Consumer Location: AUSTIN, TX

Date of Incident: 04/28/2019
NHTSA ID Number: 11204408

All Products Associated with this Complaint ▲

Vehicle Make	Model	Model Year(s)
SUBARU	CROSSTREK	2019

Details ▲

0 Available Documents 

Crash: No **Fire:** No **Number of Injuries:** 0 **Number of Deaths:** 0

Manufacturer: Subaru of America, Inc.
Vehicle Identification No. (VIN): 4S4BSANC5K3...

SUMMARY:

I BOUGHT NEW 2019 SUBARU OUTBACK 3 WEEKS AGO AND I SEE A CRACK DEVELOPED FROM PASSENGER SIDE OF THE **WINDSHIELD** IN THE CENTER FOR NO REASON WHILE THE CAR WAS PARKED IN THE GARAGE FOR MORE THAN 36 HOURS.I DIDN'T EXPERIENCE ANYTHING HITTING THE **WINDSHIELD**, AND ITS SPREADING OVER 2 FT ACROSS THE **WINDSHIELD**. THE CAR HAS 1,300 MILES ON IT. THIS IS CLEARLY A DEFECTIVE **WINDSHIELD**.

Date Complaint Filed: 10/27/2019
Component(s): UNKNOWN OR OTHER
Consumer Location: ALLEGAN, MI

Date of Incident: 08/01/2019
NHTSA ID Number: 11271341

All Products Associated with this Complaint ▲

Vehicle Make	Model	Model Year(s)
SUBARU	CROSSTREK	2019

Details ▲

0 Available Documents 

Crash: No **Fire:** No **Number of Injuries:** 0 **Number of Deaths:** 0

Manufacturer: Subaru of America, Inc.
Vehicle Identification No. (VIN): JF2GTAEC9KH...

SUMMARY:
 I WAS DRIVING DOWN A ROAD THAT IS A 45MPH ROAD, AND I DONT HEAR A ROCK HIT MY WINDSHIELD BUT I LOOK DOWN AND NOTICE I HAVE A SMALL CRACK STARTING AT THE VERY EDGE OF MY WINDSHIELD, WHICH THEN SPREAD ACROSS MY WINDSHIELD RATHER QUICKLY.

Date Complaint Filed: 10/31/2019
Component(s): VISIBILITY/WIPER
Consumer Location: FAIRFIELD, CT

Date of Incident: 10/31/2019
NHTSA ID Number: 11277296

All Products Associated with this Complaint ▲

Vehicle Make	Model	Model Year(s)
SUBARU	CROSSTREK	2019

Details ▲

0 Available Documents 

Crash: No **Fire:** No **Number of Injuries:** 0 **Number of Deaths:** 0

Manufacturer: Subaru of America, Inc.
Vehicle Identification No. (VIN): JF2GTACC3K9...

SUMMARY:
 WAS SITTING IN MY CAR WAITING IN A PARKING LOT AND I LOOK OUT MY WINDSHIELD AND A CRACK WAS HAPPENING RIGHT IN FRONT OF MY EYES, I'VE ONLY HAD THE CAR FOR A WEEK AND HAD AROUND 300 MILES ON IT

Date Complaint Filed: 07/26/2018
Component(s): VISIBILITY/WIPER
Consumer Location: LOS ALTOS HILLS, CA

Date of Incident: 07/17/2018
NHTSA ID Number: 11113915

All Products Associated with this Complaint ▲

Vehicle Make	Model	Model Year(s)
SUBARU	CROSSTREK	2018

Details ▲

0 Available Documents



Crash: No **Fire:** No **Number of Injuries:** 0 **Number of Deaths:** 0

Manufacturer: Subaru of America, Inc.
Vehicle Identification No. (VIN): JF2GTALC3JH...

SUMMARY:

CRACK APPEARED IN LOWER DRIVER'S SIDE PORTION OF WINDSHIELD. CAR WAS PARKED WHEN CRACK APPEARED. NO KNOWN SIGNIFICANT DAMAGE TO WINDSHIELD. CRACK APPEARS TO HAVE STARTED UNDERNEATH WINDSHIELD WIPER AT THE DE-ICER AREA AND THEN SPREAD UPWARDS.

Date Complaint Filed: 04/02/2019
Component(s): VISIBILITY/WIPER
Consumer Location: FORT COLLINS, CO

Date of Incident: 03/15/2019
NHTSA ID Number: 11193473

All Products Associated with this Complaint ▲

Vehicle Make	Model	Model Year(s)
SUBARU	CROSSTREK	2019

Details ▲

0 Available Documents



Crash: No **Fire:** No **Number of Injuries:** 0 **Number of Deaths:** 0

Manufacturer: Subaru of America, Inc.
Vehicle Identification No. (VIN): JF2GTAMC5K8...

SUMMARY:

BOUGHT A BRAND NEW 2019 SUBARU CROSSTREK, A CRACK AT THE BOTTOM OF THE WINDSHIELD JUST APPEARED ONE MORNING AFTER WARMING IT UP IN 20 DEGREE WEATHER, IN MICHIGAN. CRACK STARTED IN THE WIPER HEATING ELEMENT AREA AND THE CRACK SPREAD ALL THE WAY TO THE TOP. NO ROCK CHIPS ARE PRESENT. THE CAR IS JUST OVER 3 MONTHS OLD, 1700 MILES. I READ ELSEWHERE THAT THE NEWER OUTBACKS HAD THE SAME ISSUES. DOES CROSSTREK HAVE THE SAME ISSUES? SUBARU WON'T COVER IT. TOTAL BS.

Date Complaint Filed: 10/29/2019
Component(s): STRUCTURE , VISIBILITY/WIPER
Consumer Location: OAK PARK, MI

Date of Incident: 05/23/2019
NHTSA ID Number: 11276956

All Products Associated with this Complaint ▲

Vehicle Make	Model	Model Year(s)
SUBARU	OUTBACK	2019

Details ▲

0 Available Documents 

Crash: No **Fire:** No **Number of Injuries:** 0 **Number of Deaths:** 0

Manufacturer: Subaru of America, Inc.
Vehicle Identification No. (VIN): 4S4BSAJC6K3...

SUMMARY:
 I PURCHASED A NEW 2019 OUTBACK AT THE END OF MARCH IN 2019. IN MAY 2019, MY WINDSHIELD SPONTANEOUSLY CRACKED, DIAGONALLY ACROSS THE ENTIRE WINDSHIELD. I TOOK IT TO THE DEALERSHIP IN JULY TO NOTE THE CRACK AND REQUEST THEY REPLACE IT SINCE IT SEEMED TO HAPPEN WITHOUT ANY IMPACT. THE CRACK BEGAN FROM THE TOP EDGE ON THE PASSENGER SIDE. I NEVER RECEIVED A RESPONSE FROM SUBARU OR THE DEALERSHIP.

Date Complaint Filed: 10/28/2019
Component(s): VISIBILITY/WIPER
Consumer Location: SUNNYVALE, CA

Date of Incident: 10/25/2019
NHTSA ID Number: 11271431

All Products Associated with this Complaint ▲

Vehicle Make	Model	Model Year(s)
SUBARU	OUTBACK	2019

Details ▲

0 Available Documents 

Crash: No **Fire:** No **Number of Injuries:** 0 **Number of Deaths:** 0

Manufacturer: Subaru of America, Inc.
Vehicle Identification No. (VIN): 4S4BSAFC7K3...

SUMMARY:
 THE WINDSHIELD OF MY CAR CRACKED BY ITSELF WHILE IT WAS PARKED AT THE PARKING RAMP AT WORK.

Date Complaint Filed: 10/28/2019
Component(s): STRUCTURE , UNKNOWN OR OTHER
Consumer Location: CASTLE HAYNE, NC

Date of Incident: 10/09/2019
NHTSA ID Number: 11271451

All Products Associated with this Complaint ▲

Vehicle Make	Model	Model Year(s)
SUBARU	OUTBACK	2019

Details ▲

0 Available Documents 

Crash: No **Fire:** No **Number of Injuries:** 0 **Number of Deaths:** 0

Manufacturer: Subaru of America, Inc.
Vehicle Identification No. (VIN): 4S4BSANC4K3...

SUMMARY:
 CRACK APPEARED IN WINDSHIELD WITH NO APPARENT CAUSE AND QUICKLY EXPANDED, REQUIRING REPLACEMENT. FIRST NOTICED CRACK WHILE DRIVING ON CITY STREET. NO VISIBLE NICK, NOTHING APPEARED TO HAVE HIT WINDSHIELD PRIOR TO APPEARANCE OF CRACK.

Date Complaint Filed: 10/29/2019
Component(s): UNKNOWN OR OTHER
Consumer Location: ARDEN, NC

Date of Incident: 10/22/2019
NHTSA ID Number: 11276964

All Products Associated with this Complaint ▲

Vehicle Make	Model	Model Year(s)
SUBARU	OUTBACK	2019

Details ▲

0 Available Documents 

Crash: No **Fire:** No **Number of Injuries:** 0 **Number of Deaths:** 0

Manufacturer: Subaru of America, Inc.
Vehicle Identification No. (VIN): 4S4BSAJCXX3...

SUMMARY:
 WINDSHIELD CRACKED FOR NO APPARENT REASON, LARGE CRACK ON PASSENGER SIDE. I WAS DRIVING MY CAR ON CITY STREETS WHEN THIS HAPPENED.

Date Complaint Filed: 10/28/2019
 Component(s): VISIBILITY/WIPER
 Consumer Location: RANDOLPH, NJ

Date of Incident: 05/29/2019
 NHTSA ID Number: 11271432

All Products Associated with this Complaint ▲

Vehicle Make	Model	Model Year(s)
SUBARU	OUTBACK	2018

Details ▲

0 Available Documents ?

Crash: No Fire: No Number of Injuries: 0 Number of Deaths: 0

Manufacturer: Subaru of America, Inc.
 Vehicle Identification No. (VIN): 4S4BSANC9J3...

SUMMARY:

MY WINDSHIELD CRACKED FOR SEEMINGLY NO REASON, WHILE DRIVING ON CLEAN AND CLEAR HIGHWAY. I DIDN'T NOTICE ANYTHING HIT THE WINDSHIELD, BUT A HUGE CRACK APPEARED. I'M REPORTING THIS BECAUSE I'VE READ THAT THIS IS A COMMON OCCURRENCE ON 2017 - 2019 SUBARU OUTBACKS, AND I WANTED YOU TO BE AWARE OF MINE.

Date Complaint Filed: 10/28/2019
 Component(s): UNKNOWN OR OTHER
 Consumer Location: DENVER, CO

Date of Incident: 06/02/2019
 NHTSA ID Number: 11271492

All Products Associated with this Complaint ▲

Vehicle Make	Model	Model Year(s)
SUBARU	OUTBACK	2017

Details ▲

0 Available Documents ?

Crash: No Fire: No Number of Injuries: 0 Number of Deaths: 0

Manufacturer: Subaru of America, Inc.
 Vehicle Identification No. (VIN): 4S4BSAFC4H3...

SUMMARY:

THE WINDSHIELD DEVELOPED A CRACK FROM THE BOTTOM CORNER OF THE DRIVER'S SIDE FOR NO APPARENT REASON WHEN THE CAR WAS GARAGED. THERE WAS NO ROCK OR OTHER DAMAGE TO CAUSE IT. IT HAS SPREAD ACROSS THE WINDSHIELD. THE WINDSHIELD REPLACEMENT IS PROHIBITIVELY EXPENSIVE AND THIS IS A KNOWN PROBLEM TO SUBARU.

Date Complaint Filed: 10/27/2019
 Component(s): VISIBILITY/WIPER
 Consumer Location: FORT COLLINS, CO

Date of Incident: 05/01/2019
 NHTSA ID Number: 11271422

All Products Associated with this Complaint ▲

Vehicle Make	Model	Model Year(s)
SUBARU	OUTBACK	2018

Details ▲

0 Available Documents ?

Crash: No Fire: No Number of Injuries: 0 Number of Deaths: 0

Manufacturer: Subaru of America, Inc.
 Vehicle Identification No. (VIN): 4S4BSAFC1J3...

SUMMARY:

WINDSHIELD CRACKED AND NEEDED TO BE REPLACED 2 TIMES IN FIRST 20 MONTHS WE OWNED IT. WINDSHIELD NEEDED TO BE REPLACED, AND DRIVER-ASSIST (EYESIGHT) SYSTEM RECALIBRATED TO OPERATE SAFELY. HAPPENED IN JANUARY 2018, AND MAY 2019

Date Complaint Filed: 10/29/2019
 Component(s): VISIBILITY/WIPER
 Consumer Location: SPRINGDALE, AR

Date of Incident: 10/18/2019
 NHTSA ID Number: 11271786

All Products Associated with this Complaint ▲

Vehicle Make	Model	Model Year(s)
SUBARU	FORESTER	2019

Details ▲

0 Available Documents ?

Crash: No Fire: No Number of Injuries: 0 Number of Deaths: 0

Manufacturer: Subaru of America, Inc.
 Vehicle Identification No. (VIN): JF2SKAWC9KH...

SUMMARY:

WHILE TRAVELING AT APPROXIMATELY 70 MPH ON AN INTERSTATE WITH LITTLE TO NO TRAFFIC FOR APPROXIMATELY 1/4 MILE AHEAD OR BEHIND MY VEHICLE THE WINDSHIELD SPONTANEOUSLY CRACKED FROM THE BOTTOM OF THE WINDSHIELD, NEAR THE CENTER OF THE WINDSHIELD, VERTICALLY TOWARDS THE TOP AND THEN TURNED HORIZONTAL. THERE WAS NO SOUND OF AN IMPACT OR EVIDENCE OF AN EXTERNAL FACTOR CAUSING THE WINDSHIELD TO FRACTURE.

Date Complaint Filed: 10/29/2019
 Component(s): VISIBILITY/WIPER
 Consumer Location: SAN JOSE, CA

Date of Incident: 10/12/2019
 NHTSA ID Number: 11276859

All Products Associated with this Complaint ▲

Vehicle Make	Model	Model Year(s)
SUBARU	FORESTER	2019

Details ▲

0 Available Documents ?

Crash: No Fire: No Number of Injuries: 0 Number of Deaths: 0

Manufacturer: Subaru of America, Inc.
 Vehicle Identification No. (VIN): JF2SKAKC0KH...

SUMMARY:
 WE BOUGHT THE VEHICLE IN DECEMBER 2018. SINCE THEN WE HAVE HAD THE **WINDSHIELD** CRACK ON US TWICE. THE FIRST CRACK DEVELOPED 3 MONTHS AFTER THE DATE OF THE PURCHASE. WE NOTICED THE CRACK AFTER GETTING BACK INTO THE VEHICLE WHILE IT WAS PARKED OUTSIDE. THE SECOND CRACK APPEARED IN OCTOBER 2019. THE SECOND CRACK DEVELOPED WHILE DRIVING ON THE HIGHWAY. IT WAS EARLY IN THE MORNING AND THERE WERE NO OTHER VEHICLES IN FRONT OF ME. I WAS DRIVING AND HIT A SMALL BUMP IN THE ROAD. IMMEDIATELY RIGHT AFTER I NOTICE THE CRACK DEVELOP. BOTH TIMES THE CRACK WAS ON THE DRIVER SIDE DIRECTLY ACROSS THE LINE OF SIGHT.

Date Complaint Filed: 10/28/2019
 Component(s): VISIBILITY/WIPER
 Consumer Location: MOUNT PROSPECT, IL

Date of Incident: 05/15/2019
 NHTSA ID Number: 11271678

All Products Associated with this Complaint ▲

Vehicle Make	Model	Model Year(s)
SUBARU	FORESTER	2019

Details ▲

0 Available Documents ?

Crash: No Fire: No Number of Injuries: 0 Number of Deaths: 0

Manufacturer: Subaru of America, Inc.
 Vehicle Identification No. (VIN): JF2SKAEC7KH...

SUMMARY:
 A SEVERELY CRACKED **WINDSHIELD** DEVELOPED OVERNIGHT WHILE CAR WAS STATIONARY IN OWNERS DRIVEWAY. THE CRACK WAS IN THE FORM OF A SPIDER WEB WITH NO EVIDENCE OF IMPACT OF ANY KIND. THE AREA OF THE CRACKED **WINDSHIELD** WAS PERFECTLY SMOOTH, WITH NO DEFORMATION FROM ANY KIND OF IMPACT.

Date Complaint Filed: 10/28/2019
 Component(s): VISIBILITY/WIPER
 Consumer Location: LOCKPORT, IL

Date of Incident: 09/19/2019
 NHTSA ID Number: 11271655

All Products Associated with this Complaint ▲

Vehicle Make	Model	Model Year(s)
SUBARU	FORESTER	2019

Details ▲

0 Available Documents ?

Crash: No Fire: No Number of Injuries: 0 Number of Deaths: 0

Manufacturer: Subaru of America, Inc.
 Vehicle Identification No. (VIN): JF2SKAGC4KH...

SUMMARY:

WINDSHIELD CRACKED JUST LIKE MANY OTHERS THAT REPORTED THE SAME. THE WINDSHIELD CRACKED STANDING IN THE GARAGE. STARTED FROM ALL THE WAY ON THE BOTTOM AND ARCHED OVER TO THE MIDDLE OF THE WINDSHIELD AND SO FAR IT HAS STOPPED SPREADING. THERE IS NO SIGN OR IMPACT FROM ANY ROCKS OR DEBRIS. JUST A SOLID LINE. I HOPE SUBARU WILL LIVE UP TO THIS AND REPLACE THE WINDSHIELD AND CALIBRATE THE EYE SIGHT UNDER FULL WARRANTY. CAR HAS 12K AND HAD IT SINCE FEB. 2019. THERE IS A LAWSUIT CURRENTLY PENDING ON THIS ISSUE AND IT STATED TO FILE A COMPLAINT HERE. I BOUGHT THIS CAR BECAUSE OF HOW SAFE THEY CLAIM IT IS. NOW I HAVE A NEW BORN AND I DONT KNOW IF THIS CAR IS AS SAFE AS IT CLAIMS TO BE DUE TO THIS FAULTY WINDSHIELD.

Date Complaint Filed: 10/28/2019
 Component(s): UNKNOWN OR OTHER
 Consumer Location: SCHENECTADY, NY

Date of Incident: 10/09/2019
 NHTSA ID Number: 11271641

All Products Associated with this Complaint ▲

Vehicle Make	Model	Model Year(s)
SUBARU	FORESTER	2019

Details ▲

0 Available Documents ?

Crash: No Fire: No Number of Injuries: 0 Number of Deaths: 0

Manufacturer: Subaru of America, Inc.
 Vehicle Identification No. (VIN): JF2SKAEC6KH...

SUMMARY:

THERE WINDSHIELD WENT FROM FINE, NOT CHIPPED OR CRACKED IN THE EVENING TO HAVING AN 18INCH CRACK IN THE MORNING. NOTHING OCCURRED DURING THIS TIME TO CAUSE THE CRACK. THE CAR WAS PARKED IN THE BACK OF MY DRIVEWAY OVERNIGHT. THE CRACK CONTINUE TO GROW ANOTHER 6 INCHES BEFORE IT WAS REPLACED 24HRS AFTER THE CRACK APPEARED.

Date Complaint Filed: 10/28/2019
 Component(s): VISIBILITY/WIPER
 Consumer Location: ANKENY, IA

Date of Incident: 08/09/2019
 NHTSA ID Number: 11271628

All Products Associated with this Complaint ▲

Vehicle Make	Model	Model Year(s)
SUBARU	FORESTER	2019

Details ▲

0 Available Documents



Crash: No Fire: No Number of Injuries: 0 Number of Deaths: 0

Manufacturer: Subaru of America, Inc.
 Vehicle Identification No. (VIN): JF2SKASC3KH...

SUMMARY:

I HAVE ONLY HAD MY FORESTER FOR 3-4 MONTHS WHEN I NOTICED A CHIP ON THE WINDSHIELD. I CALLED SAFE LIGHT AND THEY CAME TO REPAIR IT. THEN IT CRACKED ACROSS MY WINDSHIELD NEEDING TO BE REPLACED. THE VERY NEXT WEEK ANOTHER CHIP HAPPENED WHILE I WAS DRIVING UNDER 35 MPH. I HAVE TO GET THE WINDSHIELD REPLACED AND RE CALIBRATED WHICH IS 1,000-2,000 +

Date Complaint Filed: 10/28/2019
 Component(s): UNKNOWN OR OTHER , VISIBILITY/WIPER
 Consumer Location: WAUWATOSA, WI

Date of Incident: 10/03/2019
 NHTSA ID Number: 11271585

All Products Associated with this Complaint ▲

Vehicle Make	Model	Model Year(s)
SUBARU	FORESTER	2018

Details ▲

0 Available Documents



Crash: No Fire: No Number of Injuries: 0 Number of Deaths: 0

Manufacturer: Subaru of America, Inc.
 Vehicle Identification No. (VIN): JF2SJAEC4JH...

SUMMARY:

I WOKE UP ONE MORNING TO FIND A CRACK IN MY WINDSHIELD IN THE BOTTOM RIGHT (PASSENGER SIDE). I PARK MY CAR IN OUR DRIVEWAY, NOT IN THE STREET. I RARELY EVEN DRIVE ON THE HIGHWAY AS I WORK A HALF MILE FROM MY HOUSE.

Date Complaint Filed: 10/28/2019
Component(s): UNKNOWN OR OTHER
Consumer Location: HIGHLAND PARK, IL

Date of Incident: 10/15/2019
NHTSA ID Number: 11271479

All Products Associated with this Complaint ▲

Vehicle Make	Model	Model Year(s)
SUBARU	FORESTER	2020

Details ▲

0 Available Documents 

Crash: No **Fire:** No **Number of Injuries:** 0 **Number of Deaths:** 0

Manufacturer: Subaru of America, Inc.
Vehicle Identification No. (VIN): JF2SKAXC0LH...

SUMMARY:

I OWNED MY 2020 FORESTER FOR LESS THAN 2 WEEKS AND I GOT A CRACK IN MY WINDSHIELD WHILE DRIVING ON A CITY STREET GOING LESS THAN 30 MILES PER HOUR. I DID NOT SEE ANYTHING HIT MY WINDSHIELD, BUT HEARD A CRACK AND SAW THE CRACK IN THE WINDSHIELD.

Date Complaint Filed: 10/28/2019
Component(s): VISIBILITY/WIPER
Consumer Location: GRAND RAPIDS, MI

Date of Incident: 01/17/2019
NHTSA ID Number: 11271560

All Products Associated with this Complaint ▲

Vehicle Make	Model	Model Year(s)
SUBARU	FORESTER	2019

Details ▲

0 Available Documents 

Crash: No **Fire:** No **Number of Injuries:** 0 **Number of Deaths:** 0

Manufacturer: Subaru of America, Inc.
Vehicle Identification No. (VIN): JF2SKAWC6KH...

SUMMARY:

WINDSHIELD HAS CRACKED TWO TIMES IN LESS THAN A YEAR. IN ONE INSTANCE IT WAS A MINOR ROCK CHIP (INCURRED WHILE DRIVING ON HIGHWAY NEXT TO CONSTRUCTION VEHICLE) THAT TURNED INTO A FULL-BLOWN CRACK WITHIN 5 MINUTES, IN THE OTHER THERE APPEARS TO BE NO CAUSE (VEHICLE WAS PARKED OVERNIGHT, CRACK APPEARED IN AM)

Date Complaint Filed: 10/13/2019
 Component(s): VISIBILITY/WIPER
 Consumer Location: Unknown

Date of Incident: 10/12/2019
 NHTSA ID Number: 11268172

All Products Associated with this Complaint ▲

Vehicle Make	Model	Model Year(s)
SUBARU	FORESTER	2019

Details ▲

0 Available Documents ?

Crash: No Fire: No Number of Injuries: 0 Number of Deaths: 0

Manufacturer: Subaru of America, Inc.
 Vehicle Identification No. (VIN): JF2SKAUC5KH...

SUMMARY:

JUST YESTERDAY MY SUBARU EXPERIENCED AN INEXPLICABLE SUDDEN WINDSHIELD FRACTURE. THE CAR WAS PARKED IN MY DRIVEWAY WARMING UP AND I TURNED ON THE FRONT DEFROSTER AND SUDDENLY, FROM THE BOTTOM CENTER OF THE WINDSHIELD, A GIANT CRACK APPEARED OUT OF NOWHERE. MY FORESTER CURRENTLY HAS 7600 MILES ON IT AND A ROCK/STONE HAS NEVER STRUCK MY WINDSHIELD. I AM THE ONLY DRIVER OF THIS VEHICLE. THIS CRACK STARTED AT THE VERY BOTTOM CENTER OF THE WINDSHIELD UNDER THE PLASTIC MOLDING PART AND MADE ITS WAY UP FROM THERE. THE CRACK STARTED IMMEDIATELY ADJACENT TO THE HEATING ELEMENTS / DEFROSTER ON THE BOTTOM MIDDLE FRONT WINDSHIELD AS SOON AS I ACTIVATED THE FRONT DEFROST FEATURE.

Date Complaint Filed: 04/05/2019
 Component(s): VISIBILITY/WIPER
 Consumer Location: AUBURN, CA

Date of Incident: 03/25/2019
 NHTSA ID Number: 11194149

All Products Associated with this Complaint ▲

Vehicle Make	Model	Model Year(s)
SUBARU	FORESTER	2018

Details ▲

0 Available Documents ?

Crash: No Fire: No Number of Injuries: 0 Number of Deaths: 0

Manufacturer: Subaru of America, Inc.
 Vehicle Identification No. (VIN): JF2SJAGC6JH...

SUMMARY:

2018 SUBARU FORESTER WITH EYESIGHT. 16 INCH LONG CURVED CRACK ORIGINATING FROM DEFROSTER AREA AT BOTTOM OF WINDSHIELD ON DRIVER'S SIDE, CURVING UP INTO DRIVER'S FIELD OF VISION. CRACK OCCURRED WHILE VEHICLE WAS STATIONARY, PARKED IN OWNER'S DRIVEWAY. NOTHING WAS SEEN OR HEARD STRIKING THE WINDSHIELD BEFORE THE CRACK SUDDENLY APPEARED.

V. CLASS ALLEGATIONS

83. Plaintiffs bring this action pursuant to Federal Rules of Civil Procedure 23(a) and 23(b)(2) and/or (b)(3) on behalf of the following Classes for the maximum time period allowable by law:

Nationwide Class: All persons or entities who purchased or leased a Class Vehicle in the United States and (i) suffered a damaged windshield or (ii) who own or lease a Class Vehicle with the original or replacement windshield.

California Subclass: All persons or entities in the Nationwide Class who reside in California or who purchased or leased a Class Vehicle in California and (i) suffered a damaged windshield or (ii) who own or lease a Class Vehicle with the original or replacement windshield.

Colorado Subclass: All persons or entities in the Nationwide Class who reside in Colorado or who purchased or leased a Class Vehicle in Colorado and (i) suffered a damaged windshield or (ii) who own or lease a Class Vehicle with the original or replacement windshield.

Florida Subclass: All persons or entities in the Nationwide Class who reside in Florida or who purchased or leased a Class Vehicle in Florida and (i) suffered a damaged windshield or (ii) who own or lease a Class Vehicle with the original or replacement windshield.

Michigan Subclass: All persons or entities in the Nationwide Class who reside in Michigan or who purchased or leased a Class Vehicle in Michigan and (i) suffered a damaged windshield or (ii) who own or lease a Class Vehicle with the original or replacement windshield.

Missouri Subclass: All persons or entities in the Nationwide Class who reside in Missouri or who purchased or leased a Class Vehicle in Missouri and (i) suffered a damaged windshield or (ii) who own or lease a Class Vehicle with the original or replacement windshield.

New Jersey Subclass: All persons or entities in the Nationwide Class who reside in New Jersey or who purchased or leased a Class Vehicle in New Jersey and (i) suffered a damaged windshield or (ii) who own or lease a Class Vehicle with the original or replacement windshield.

Pennsylvania Subclass: All persons or entities in the Nationwide Class who reside in Pennsylvania or who purchased or leased a Class Vehicle in Pennsylvania and (i) suffered a damaged windshield or (ii) who own or lease a Class Vehicle with the original or replacement windshield.

Texas Subclass: All persons or entities in the Nationwide Class who reside in Texas or who purchased or leased a Class Vehicle in Texas and (i) suffered a damaged windshield or (ii) who own or lease a Class Vehicle with the original or replacement windshield.

Wisconsin Subclass: All persons or entities in the Nationwide Class who reside in Wisconsin or who purchased or leased a Class Vehicle in Wisconsin and (i) suffered a damaged windshield or (ii) who own or lease a Class Vehicle with the original or replacement windshield.

The Nationwide Class and the State Subclasses are referred to collectively as the “Classes.”

84. Plaintiffs reserve the right to revise the definition of the Classes based upon subsequently discovered information and reserve the right to establish additional subclasses where appropriate.

85. The Classes exclude Defendant and any entity in which Defendant has a controlling interest, as well as Defendant’s officers, directors, legal representatives, successors, and assigns. The Classes also exclude judicial officers that have any role in adjudicating this matter.

86. The Classes are each so numerous that joinder of all members is impracticable.

87. Plaintiffs believe that there are far in excess of 100 class members in each Subclass and thousands of members of the Nationwide Class throughout the United States.

88. A class action is superior to all other available methods for the fair and

efficient adjudication of this controversy. Plaintiffs know of no difficulty to be encountered in the management of this litigation that would preclude its maintenance as a class action.

89. Plaintiffs' claims are typical of the claims of the Classes Plaintiffs seek to represent.

90. As alleged herein, Plaintiffs and Class members sustained damages arising out of the same actions and conduct of Defendant.

91. Common questions of law and fact exist as to all members of the Classes and predominate over any issues solely affecting individual members of the Classes. The common and predominating questions of law and fact include, but are not limited to:

- Whether Defendant made and breached express warranties concerning the windshields in the Class Vehicles;
- Whether Defendant made and breached implied warranties concerning the windshields in the Class Vehicles;
- Whether the windshields in the Class Vehicles are defective;
- Whether Defendant fraudulently omitted and/or concealed knowledge of the defect in the windshields in the Class Vehicles;
- Whether Defendant should accept responsibility for replacing the windshields in the Class Vehicles and/or buying back the Class Vehicles;
- Whether monetary damages, exemplary damages, restitution, equitable, injunctive, compulsory, or other relief is warranted.

92. Plaintiffs are willing and prepared to serve the Classes in a representative capacity with all the obligations and material duties necessary. Plaintiffs will fairly and adequately represent and protect the interests of the Classes and have no interests adverse to or in conflict with the interests of any of the other

members of the Classes.

93. Plaintiffs' interests are co-extensive with and not antagonistic to those of absent members within the Classes. Plaintiffs will undertake to represent and protect the interests of absent members within the Classes and will vigorously prosecute this action.

94. Plaintiffs have engaged the services of the undersigned counsel who are experienced in complex litigation, will adequately prosecute this action, and will assert and protect the rights of, and otherwise represent, Plaintiffs and absent members of the Classes.

95. Class action status is warranted under Rule 23(b)(3) because questions of law or fact common to the members of the Classes predominate over any questions affecting only individual members, and a class action is superior to other available methods for the fair and efficient adjudication of this controversy.

96. The Classes may also be certified under Rule 23(b)(2) because Defendant has acted on grounds generally applicable to the Classes, thereby making it appropriate to award final injunctive relief or corresponding declaratory relief with respect to the Classes.

97. The interest of members within the Classes in individually controlling the prosecution of separate actions is theoretical and not practical. The Classes have a high degree of similarity and are cohesive, and Plaintiffs anticipate no difficulty in the management of this matter as a class action.

98. The nature of notice to the proposed Classes is contemplated to be by direct mail upon certification of the Classes, or, if such notice is not practicable, by the best notice practicable under the circumstances including, amongst other things, email, publication in major newspapers, and the internet.

VI. CLAIMS FOR RELIEF

COUNT ONE

**VIOLATION OF THE MAGNUSON-MOSS WARRANTY ACT
(15 U.S.C. § 2301, et seq.)
(On behalf of the Nationwide Class, or alternatively, all Subclasses)**

99. Plaintiffs repeat and re-allege each and every allegation contained above as if fully set forth herein.

100. This claim is brought on behalf of Plaintiffs and the Nationwide Class, or alternatively, on behalf of all Subclasses.

101. Plaintiffs are “consumers” within the meaning of the Magnuson-Moss Warranty Act, 15 U.S.C. § 2301(3).

102. Subaru is a “supplier” and “warrantor” within the meaning of the Magnuson-Moss Warranty Act, 15 U.S.C. § 2301(4)-(5).

103. The Class Vehicles are “consumer products” within the meaning of the Magnuson-Moss Warranty Act, 15 U.S.C. § 2301(1).

104. 15 U.S.C. § 2310(d)(1) provides a cause of action for any consumer who is damaged by the failure of a warrantor to comply with a written or implied warranty.

105. Subaru’s new vehicle warranties and representations as to the quality of the Class Vehicles are written warranties within the meaning of the Magnuson-Moss Warranty Act, 15 U.S.C. § 2301(6)(A), (B).

106. The Class Vehicles’ implied warranties are covered under 15 U.S.C. § 2301(7).

107. Subaru breached these warranties, as described in more detail above. Without limitation, the Class Vehicles are equipped with defective windshields that

are failing and put vehicle occupants' safety in jeopardy. The Class Vehicles share a common defect in that the windshields are manufactured with defective materials and/or with poor workmanship. Contrary to Subaru's representations about its vehicles, the defective windshields are defective in manufacture, materials and/or workmanship and are unsafe. The Class Vehicles share a common defect that causes or allows the windshields to spontaneously and/or otherwise unreasonably break under circumstances in which non-defective windshields would not. The windshield failures are occurring within the warranty terms and period.

108. Subaru further breached its written warranties by not repairing and replacing the broken windshields, or performing additional repairs such as recalibrating driver assist systems in the Class Vehicles, pursuant to the three year/36,000 mile new vehicle written warranty.

109. Plaintiffs and the members of the Nationwide Class and Subclasses have had sufficient dealings with either Subaru or its agents (e.g., dealerships and technical support) to establish privity between Subaru on one hand, and Plaintiffs and each of the Class members on the other hand. Nonetheless, privity is not required here because Plaintiffs and each of the other Class members are intended third-party beneficiaries of contracts between Subaru and its dealers, and specifically, of Subaru's express and implied warranties. The dealers were not intended to be the ultimate consumers of the Class Vehicles and have no rights under the warranty agreements provided with the Class Vehicles; the warranty agreements were designed for and intended to benefit the consumers only.

110. Affording Subaru a reasonable opportunity to cure its breach of written warranties would be unnecessary and futile here. Indeed, Subaru has long been on notice of the claims of Plaintiffs and Class members and has refused to

provide a remedy.

111. At the time of sale or lease of each Class Vehicle, Subaru knew, should have known, or was reckless in not knowing of its misrepresentations and omissions concerning the Class Vehicles' defective windshields and inability to perform as warranted, but nonetheless failed to rectify the situation and/or disclose the defect. Under the circumstances, the remedies available under any informal settlement procedure would be inadequate and any requirement that Plaintiffs resort to an informal dispute resolution procedure and/or afford Subaru a reasonable opportunity to cure its breach of warranties is excused and thereby deemed satisfied.

112. Plaintiffs and the other Class members would suffer economic hardship if they returned their Class Vehicles but did not receive the return of all payments made by them. Because Subaru is refusing to acknowledge any revocation of acceptance and return immediately any payments made, Plaintiffs and the other Class members have not re-accepted their Class Vehicles by retaining them.

113. The amount in controversy of Plaintiffs' individual claims meets or exceeds the sum of \$25. The amount in controversy of this action exceeds the sum of \$50,000, exclusive of interest and costs, computed on the basis of all claims to be determined in this lawsuit.

114. Plaintiffs, individually and on behalf of all members of the Classes, seek all damages permitted by law, in an amount to be proven at trial.

COUNT TWO
BREACH OF EXPRESS WARRANTY
(On behalf of the Nationwide Class, or alternatively, all Subclasses)

115. Plaintiffs repeat and re-allege each and every allegation contained above as if fully set forth herein.

116. Plaintiffs bring this count on behalf of themselves and the Nationwide

Class or, alternatively, on behalf of all Subclasses.

117. Subaru is and was at all relevant times a merchant and seller of motor vehicles within the meaning of the Uniform Commercial Code and relevant state law.

118. With respect to leases, Subaru is and was at all relevant times a lessor of motor vehicles within the meaning of the Uniform Commercial Code and relevant state law.

119. The Class Vehicles are and were at all relevant times goods within the meaning of the Uniform Commercial Code and relevant state law.

120. In connection with the purchase or lease of each one of its new vehicles, Subaru provides an express new vehicle warranty for a period of three years or 36,000 miles, whichever occurs first. This NVW exists to cover “defect in materials or workmanship.”

121. Subaru’s NVW is uniform and made to all consumers across the country who purchase or lease the Class Vehicles.

122. Subaru’s NVW formed the basis of the bargain that was reached when Plaintiffs and other members of the Classes purchased or leased their Class Vehicles equipped with the defective windshields.

123. Plaintiffs and the Class members experienced defects within the warranty period. Despite the existence of the NVW, Subaru failed to inform and/or denied to Plaintiffs and Class members that the Class Vehicles have defective materials and/or workmanship, and have failed to fix, repair or replace the defective windshields pursuant to the terms of the NVW and at no charge to the Classes.

124. Subaru breached the NVW promising to repair and correct a manufacturing defect or defective materials or workmanship of any part of the Class Vehicles.

125. Subaru was provided notice of the defect in the Class Vehicles' windshields by Plaintiffs and/or by numerous consumer complaints made to their authorized dealers nationwide, complaints to NHTSA, and through Subaru's own testing. In addition, Subaru was specifically put on notice of a breach of express warranty claim by way of the initial complaint filed in *Powell v. Subaru of America, Inc.*, 19-cv-19114-NLH (D.N.J. 2019) but still refuses to provide remedial relief. Accordingly, affording Defendant a further reasonable opportunity to cure its breach of written warranties would be unnecessary and futile here because Defendant has known of and concealed and denied the existence of the defect in the windshields and has failed to provide a suitable repair or replacement of the defective windshields free of charge within a reasonable time

126. Affording Subaru any additional opportunity to cure its breach of written warranties would be unnecessary and futile.

127. Furthermore, the warranty promising to repair and/or correct a manufacturing or workmanship defect fails in its essential purpose because the remedy is insufficient to make Plaintiff and Class members whole, and because the replacement windshields that have and are being installed are likewise defective, and because Subaru has failed and/or has refused to adequately provide the promised remedies within a reasonable time.

128. Accordingly, recovery by Plaintiff and the other Class members is not limited to the limited warranty promising to repair and/or correct a manufacturing defect, and Plaintiff, individually and on behalf of the other Class members, seeks all remedies as allowed by law.

129. Also, as alleged in more detail herein, at the time Subaru warranted and sold the Class Vehicles, it knew that the Class Vehicles did not conform to

Subaru's warranties and were inherently defective, and Subaru wrongfully concealed material facts regarding its Class Vehicles. Plaintiff and the other Class members were therefore induced to purchase or lease the Class Vehicles under false and/or fraudulent pretenses.

130. Moreover, many of the injuries flowing from the Class Vehicles cannot be resolved through the limited remedy of "replacements or adjustments," as many incidental and consequential damages have already been suffered due to Subaru's conduct as alleged herein. Due to Subaru's failure and/or continued failure to provide such limited remedy within a reasonable time, any limitation on Plaintiff's and the other Class members' remedies would be insufficient to make Plaintiff and the other Class members whole.

131. Subaru was provided notice of these issues by numerous complaints voiced by consumers, including those formal complaints submitted to NHTSA and the initial Complaint in this case, within a reasonable amount of time after the defect was discovered.

132. Because of Defendant's breach of express warranty as set forth herein, Plaintiffs and members of the Classes assert, as additional and/or alternative remedies, the revocation of acceptance of the goods and the return to Plaintiffs and members of the Classes of the purchase or lease price of all Class Vehicles currently owned or leased, and for such other incidental and consequential damages as allowed.

133. As a direct and proximate result of Subaru's breach of express warranties, Plaintiffs and all members of the Classes have been damaged in an amount to be determined at trial.

COUNT THREE
BREACH OF IMPLIED WARRANTY OF MERCHANTABILITY
(On behalf of the Nationwide Class, or alternatively, all Subclasses)

134. Plaintiffs repeat and re-allege each and every allegation contained above as if fully set forth herein.

135. Plaintiffs bring this count on behalf of themselves and the National Class, or alternatively on behalf of all Subclasses.

136. Plaintiffs and members of the Classes purchased or leased the Class Vehicles from Defendant by and through Defendant's authorized agents for retail sales, or were otherwise expected to be the eventual purchasers of the Class Vehicles when bought from a third party.

137. At all relevant times, Defendant was the manufacturer, distributor, warrantor, and/or seller of Class Vehicles. Defendant knew or had reason to know of the specific use for which the Class Vehicles were purchased or leased.

138. Defendant is and was at all relevant times a merchant and seller of motor vehicles within the meaning of the Uniform Commercial Code and relevant state law. With respect to leases, Defendant is and was at all relevant times a lessor of motor vehicles within the meaning of the Uniform Commercial Code and relevant state law.

139. The Class Vehicles are and were at all relevant times goods within the meaning of the Uniform Commercial Code and relevant state law. Defendant impliedly warranted that the Class Vehicles were in merchantable condition and fit for the ordinary purpose for which vehicles are used. The Class Vehicles, when sold or leased and at all times thereafter, were not in merchantable condition and were and are not fit for the ordinary purpose of providing safe and reliable transportation. The Class Vehicles contain an inherent defect in the windshields and present an

undisclosed safety hazard to drivers, occupants and the public. Thus, Defendant breached its implied warranty of merchantability.

140. Defendant received notice of defective windshields by numerous consumer complaints made to dealers and distributors and/or other public complaints and through its own testing and investigations. Affording Defendant a further opportunity to cure its breach of implied warranties would be unnecessary and futile here because Defendant knew of and concealed the defect and has refused to repair or replace the defective windshields, and additional losses, at no cost to Plaintiffs and the Classes.

141. Any attempt by Defendant to disclaim or limit the implied warranty of merchantability vis-à-vis consumers is unconscionable and unenforceable. A gross disparity in bargaining power and knowledge existed between Defendant and members of the Classes. Defendant knew or should have known that the Class Vehicles and windshields were defective and posed a serious safety risk.

142. As a direct and proximate result of Defendant's breach of the implied warranty of merchantability, Plaintiff and all members of the Classes have been damaged in an amount to be proven at trial.

COUNT FOUR
UNJUST ENRICHMENT
(On behalf of all Subclasses)

143. Plaintiffs repeat and re-allege each and every allegation contained above as if fully set forth herein.

144. Plaintiffs bring this count on behalf of themselves and all of the state Subclasses.

145. Subaru has received and retained a benefit from Plaintiffs and the Subclasses and inequity has resulted.

146. Subaru has benefitted from selling and leasing defective cars whose value was artificially inflated by Subaru's concealment of the defective windshields, and Plaintiffs and the Subclasses have overpaid for the cars and have been forced to pay other costs.

147. All Subclass members conferred a benefit on Subaru.

148. It is inequitable for Subaru to retain these benefits.

149. Plaintiffs and the Subclasses were not aware of the true facts about the Class Vehicles, and did not benefit from Subaru's conduct.

150. Subaru knowingly accepted the benefits of its unjust conduct.

151. As a result of Subaru's conduct, the amount of its unjust enrichment should be disgorged, in an amount according to proof.

152. Plaintiffs, individually and on behalf of all the members of the Subclasses, seek all relief permitted in accord with the proofs at trial.

COUNT FIVE
NEGLIGENT MISREPRESENTATION/OMISSION
(On behalf of all Subclasses)

153. Plaintiffs repeat and re-allege each and every allegation contained above as if fully set forth herein.

154. This claim is brought on behalf of all Plaintiffs and Subclasses.

155. Subaru intentionally or negligently concealed or omitted the above-described safety and functionality information concerning the defects in the windshields, which was material to consumers, or acted with reckless disregard for the truth, and denied Plaintiffs and the Subclass members information that is highly relevant to their purchasing decision.

156. Subaru affirmatively misrepresented to Plaintiff and the Subclasses in advertising and other forms of communication, including standard and uniform

material provided with each car, that the Class Vehicles it was selling were new and reliable, were safe to operate, were engineered and manufactured with safety being a priority, had no significant defects, and would perform and operate properly when driven in normal usage. Subaru knew at the time it actively concealed or omitted the information about the defective windshields that this information was material to consumers.

157. The Class Vehicles purchased or leased by Plaintiffs and the other Subclass members were, in fact, defective, unsafe, and unreliable because the Class Vehicles contained faulty and defective windshields, as alleged herein.

158. Subaru owed Plaintiffs and the Subclasses a duty to disclose the true safety, performance, and reliability of the Class Vehicles, and the devaluing of safety and performance at Subaru, because Plaintiffs and the other Subclass members relied on Subaru's material representations that the Class Vehicles were safe and reliable. The aforementioned concealment and omissions were material because, if they had been disclosed, Plaintiffs and the other Subclass members would not have bought or leased the Class Vehicles, or would not have bought or leased those Class Vehicles at the prices they paid.

159. Plaintiffs and the other Subclass members relied on Subaru's reputation – along with Subaru's failure to disclose the faulty and defective nature of the windshields – in purchasing or leasing the Class Vehicles. As a result of their reliance, Plaintiff and the other Subclass members have been injured in an amount to be proven at trial, including, but not limited to, their lost benefit of the bargain and overpayment at the time of purchase or lease and/or the diminished value of their Class Vehicles.

160. As a direct and proximate result of Defendant's misrepresentations

and omissions, Plaintiffs and all members of the Subclasses have been damaged in an amount to be proven at trial.

COUNT SIX
VIOLATION OF CALIFORNIA'S UNFAIR COMPETITION LAW
(Cal. Bus. & Prof. Code § 17200, et seq.)
(On behalf of the California Subclass)

161. Plaintiffs Mills and Geisler repeat and re-allege each and every allegation contained above as if fully set forth herein.

162. Plaintiffs Mills and Geisler bring this Count on behalf of themselves and the California Subclass.

163. California's Unfair Competition Law ("UCL"), Cal. Bus. & Prof. Code § 17200, et seq., proscribes acts of unfair competition, including "any unlawful, unfair or fraudulent business act or practice and unfair, deceptive, untrue or misleading advertising."

164. Subaru's conduct violates the UCL in the following ways:

- a. By knowingly and intentionally concealing from Plaintiffs and the other Class members that the Class Vehicles suffer from a windshield defect while obtaining money from Plaintiffs and the Class;
- b. By marketing the Class Vehicles as safe and reliable and possessing fully functional and defect-free windshields;
- c. By refusing or otherwise failing to repair and/or replace defective windshields in Class Vehicles at no cost to Class members;
- d. By violating federal laws and/or regulations by failing to recall and repair vehicles that contain a safety defect;

- e. By violating other California laws, including California laws governing false advertising and consumer protection.

165. Subaru's misrepresentations and omissions alleged herein caused Plaintiffs and the other Subclass members to make their purchases or leases of their Class Vehicles. Absent those misrepresentations and omissions, Plaintiffs and the other Subclass members would not have purchased or leased these vehicles, would not have purchased or leased these Class Vehicles at the prices they paid, and/or would have purchased or leased less expensive alternative vehicles that did not contain defective windshields.

166. Accordingly, Plaintiffs and the other Subclass members have suffered injury in fact, including lost money or property, as a result of Subaru's misrepresentations and omissions.

167. Because Subaru fraudulently concealed the defective windshields and the true performance of vehicles equipped with the defective windshields, the Subclass members overpaid for their vehicles and did not receive vehicles of the value and quality represented.

168. Plaintiffs seek to enjoin further unlawful, unfair, and/or fraudulent acts or practices by FCA under Cal. Bus. & Prof. Code § 17200.

169. Plaintiffs request that this Court enter such orders or judgments as may be necessary to enjoin Subaru from continuing its unfair, unlawful, and/or deceptive practices; to restore to Plaintiff and members of the Subclass any money it acquired by unfair competition, including restitution and/or restitutionary disgorgement, as provided in Cal. Bus. & Prof. Code §§ 17203 & 3345; and for such other relief as is just and appropriate.

COUNT SEVEN
VIOLATIONS OF CALIFORNIA’S CONSUMERS LEGAL REMEDIES ACT
(Cal. Civ. Code § 1750, et seq.)
(On behalf of the California Subclass)

170. Plaintiffs Mills and Geisler repeat and re-allege each and every allegation contained above as if fully set forth herein.

171. Plaintiffs bring this count on behalf of themselves and the California Subclass.

172. California’s Consumers Legal Remedies Act (“CLRA”), Cal. Civ. Code § 1750, *et seq.*, proscribes “unfair methods of competition and unfair or deceptive acts or practices undertaken by any person in a transaction intended to result or which results in the sale or lease of goods or services to any consumer.”

173. The Class Vehicles are “goods” as defined in Cal. Civ. Code §§ 1751(a).

174. Plaintiffs and the other Subclass members are “consumers” as defined in Cal. Civ. Code § 1761(d), and Plaintiffs, the other Subclass members, and Subaru are “persons” as defined in Cal. Civ. Code § 1761(c).

175. As alleged above, Subaru made numerous representations concerning the benefits, reliability, trustworthiness, performance, and safety features of the Class Vehicles that were misleading.

176. In purchasing or leasing the Class Vehicles, Plaintiffs and the other Subclass members were deceived by Subaru’s failure to disclose that the Class Vehicles were equipped with defective windshields.

177. Subaru’s conduct, as described herein, was and is in violation of the CLRA, including at least the following enumerated CLRA provisions:

- a. Cal. Civ. Code § 1770(a)(2): Misrepresenting the approval or certification of goods;

- b. Cal. Civ. Code § 1770(a)(5): Representing that goods have sponsorship, approval, characteristics, uses, benefits, or quantities which they do not have;
- c. Cal. Civ. Code § 1770(a)(7): Representing that goods are of a particular standard, quality, or grade, if they are of another;
- d. Cal. Civ. Code § 1770(a)(9): Advertising goods with intent not to sell them as advertised; and
- e. Cal. Civ. Code § 1770(a)(16): Representing that goods have been supplied in accordance with a previous representation when they have not.

178. Plaintiffs and the other Subclass members have suffered injury in fact and actual damages resulting from Subaru's material omissions and misrepresentations because they paid an inflated purchase or lease price for the Class Vehicles.

179. Because Subaru fraudulently concealed the defective windshields and the true performance of cars equipped with the defective windshield, the Class vehicles are worth less than expected and bargained for.

180. Subaru knew, should have known, or was reckless in not knowing of the defect in the windshields and that the Class Vehicles were not suitable for their intended use.

181. The facts concealed and omitted by Subaru to Plaintiffs and the other Subclass members are material in that a reasonable consumer would have considered them to be important in deciding whether to purchase or lease the Class Vehicles or pay a lower price. Had Plaintiffs and the other Subclass members known about the defective nature of the Class Vehicles, they would not have purchased or leased the Class Vehicles or would not have paid the prices they paid.

182. In accordance with Civil Code § 1780(a), Plaintiffs and the other

Subclass members seek injunctive and equitable relief for Subaru's violations of the CLRA, including restitution, and an injunction to enjoin Subaru from continuing its deceptive advertising and sales practices and denying coverage for the defective windshields under its new vehicle warranty.

183. Plaintiffs and the other Subclass members' injuries were proximately caused by Subaru's fraudulent and deceptive business practices. Accordingly, Plaintiff and the other Subclass members are entitled to equitable relief under the CLRA.

COUNT EIGHT
VIOLATIONS OF THE COLORADO CONSUMER PROTECTION ACT
(Colo. Rev. Stat. § 6-1-101 et seq.)
(On Behalf of the Colorado Subclass)

184. Plaintiffs Hicks and Binkley incorporate by reference all preceding allegations as though fully set forth herein.

185. Plaintiffs Hicks and Binkley assert this count on behalf of themselves and members of the Colorado Subclass. Defendant is a person within the context of the Colorado Consumer Protection Act, Colo. Rev. Stat. § 6-1-101 *et seq.* (the "CCPA"). *See* Colo. Rev. Stat. § 6-1-102(6).

186. As alleged herein, Defendant committed unfair and deceptive acts or practices in the conduct of trade or commerce in violation of the CCPA. *See* Colo. Rev. Stat. § 6-1-101.

187. Defendant violated the CCPA by *inter alia*: "(e) [k]nowingly mak[ing] a false representation as to the characteristics, ingredients, uses, benefits, alterations, or quantities of goods . . . ; (g) [r]epresent[ing] that goods, food, services, or property are of a particular standard, quality, or grade, or that goods are of a particular style or model, if he knows or should know that they are of another . . . ; (i) [a]dvertis[ing]

goods, services, or property with intent not to sell them as advertised . . .; and (u) [f]ail[ing] to disclose material information concerning goods, services, or property which information was known at the time of an advertisement or sale if such failure to disclose such information was intended to induce the consumer to enter into a transaction.” Colo. Rev. Stat. § 6-1-105.

188. In violation of the CCPA, Defendant employed unfair and deceptive acts or practices, fraud, false pretense, misrepresentations, or concealment, suppression or omission of a material fact with intent that others rely upon such concealment, suppression or omission, in connection with the sale and/or lease of Class Vehicles.

189. Defendant knowingly failed to disclose, concealed, suppressed and/or omitted material facts regarding the defective windshields and associated safety hazard and misrepresented the standard, quality or grade of the Class Vehicles, which directly caused harm to Plaintiffs Hicks and Binkley and the Colorado Subclass. Defendant actively suppressed the fact that the windshields in Class Vehicles are defective and present a safety hazard because of materials, workmanship and/or manufacturing defects.

190. Further, Defendant employed unfair and deceptive trade practices to deny repair or replacement of the defective windshields under warranty and within a reasonable time in violation of the CCPA. Defendant also breached its warranties as alleged herein in violation of the CCPA.

191. Defendant’s unfair and deceptive trade practices were likely to deceive a reasonable consumer. Plaintiffs Hicks and Binkley and members of the Colorado Subclass had no reasonable way to know that Class Vehicles contained windshields that were defective in materials, workmanship, and/or manufacture and

posed a safety risk. Defendant possessed superior knowledge as to the quality and characteristics of the Class Vehicles, including the defective windshields and associated safety risks, and any reasonable consumer would have relied on Defendant's misrepresentations and omissions as Plaintiffs Hicks and Binkley and members of the Subclass did.

192. Defendant intentionally and knowingly misrepresented and omitted facts regarding the defective windshields and associated safety hazard with the intent to mislead Plaintiffs and Subclass members. Defendant knew, or should have known, that the windshields are defective and expose drivers and the public to an associated safety hazard.

193. Defendant owed a duty to disclose the defective windshields and its corresponding safety hazard to the Plaintiffs Hicks and Binkley and Subclass members because Defendant possessed superior and exclusive knowledge regarding the defect and the hazard associated with the defective windshields. Rather than disclose the defect, Defendant engaged in unfair and deceptive trade practices in order to sell additional Class Vehicles and avoid the cost of repair or replacement of the defective windshields.

194. Defendant's unfair and deceptive acts or practices, affirmative misrepresentations and/or material omissions regarding the defective windshields were intended to mislead consumers and misled Plaintiffs Hicks and Binkley and Colorado Subclass members.

195. At all relevant times, Defendant's unfair and deceptive acts or practices, affirmative misrepresentations and/or omissions regarding the defective windshields and the corresponding safety hazard were material to the Plaintiffs Hicks and Binkley and Subclass members. When Plaintiffs Hicks and Binkley and Subclass

members purchased or leased their Class Vehicles, they reasonably relied on the reasonable expectation that the Class Vehicles would be free from defects and would have a safe, non-defective windshield. Had Defendant disclosed that the windshields were defective, would pose a safety hazard, and would cause significant monetary losses, Plaintiffs Hicks and Binkley and Subclass members would not have purchased or leased the Class Vehicles, or would have paid less for their vehicles.

196. Defendant had a continuous duty to Plaintiffs Hicks and Binkley and members of the Colorado Subclass to refrain from unfair and deceptive practices under the CCPA and to disclose the defect and associated safety hazard. Defendant's unfair and deceptive acts or practices, affirmative misrepresentations and/or material omissions regarding the defective windshields, and corresponding safety hazard are substantially injurious to consumers.

197. Defendant has knowingly and willfully engaged in the unfair and deceptive trade practices alleged herein. Further, Defendant unconscionably marketed the Class Vehicles to uninformed consumers in order to maximize profits by selling additional Class Vehicles containing the undisclosed defect and corresponding safety hazard. Defendant's unlawful acts and practices affect the public interest and trade and commerce in the State of Colorado, were in bad faith, and present a continuing safety hazard to the Plaintiffs Hicks and Binkley and members of the Subclass.

198. As a direct and proximate result of Defendant's violations of the CCPA, Plaintiffs Hicks and Binkley and members of the Colorado Subclass have suffered actual damages and/or injury in fact, including, *inter alia*: (1) out-of-pocket monies for diagnosis, repair and/or replacement of the defective windshields; (2) recalibration of driver assist systems; and/or (3) the difference in value between the

Class Vehicles promised and warranted, and the Class Vehicles containing the defective windshields.

199. Plaintiffs Hicks and Binkley and members of the Subclass seek actual damages against Defendant in an amount to be determined at trial and statutory, treble, and/or punitive damages under the CCPA. Plaintiffs Hicks and Binkley and members of the Subclass also seek an order enjoining Defendant's unfair, unlawful, and/or deceptive practices and awarding costs, attorneys' fees and restitution, disgorgement of funds, and any other just and proper relief available under the CCPA.

COUNT NINE
VIOLATIONS OF FLORIDA UNFAIR & DECEPTIVE TRADE
PRACTICES ACT
(Fla. Stat. § 501.201, et seq.)
(On Behalf of the Florida Subclass)

200. Plaintiff Milstein incorporates by reference all preceding allegations as though fully set forth herein

201. Plaintiff brings this Count on behalf of the Florida Subclass.

202. Plaintiff and Subclass members are "consumers" within the meaning of the Florida Unfair and Deceptive Trade Practices Act ("FUDTPA"), Fla. Stat. § 501.203(7).

203. Subaru engaged in "trade or commerce" within the meaning of Fla. Stat. § 501.203(8).

204. The FUDTPA prohibits "[u]nfair methods of competition, unconscionable acts or practices, and unfair or deceptive acts or practices in the conduct of any trade or commerce." Fla. Stat. § 501.204(1).

205. Defendant knowingly failed to disclose, concealed, suppressed and/or omitted material facts regarding the defective windshields and associated safety

hazard and misrepresented the standard, quality or grade of the Class Vehicles, which directly caused harm to the Plaintiff. Defendant knowingly failed to disclose, concealed, suppressed and/or omitted material facts regarding the defective windshields and associated safety hazard and misrepresented the standard, quality or grade of the Class Vehicles, which directly caused harm to the Plaintiff and the Florida Subclass. Defendant actively suppressed the fact that the windshields in Class Vehicles are defective and present a safety hazard because of materials, workmanship and/or manufacturing defects.

206. Further, Defendant employed unfair and deceptive trade practices to deny repair or replacement of the defective windshields under warranty and within a reasonable time in violation of the FUDTPA. Defendant also breached its warranties as alleged herein in violation of the FUDTPA.

207. Defendant's unfair and deceptive trade practices were likely to deceive a reasonable consumer. Plaintiff and members of the Florida Subclass had no reasonable way to know that Class Vehicles contained windshields that were defective in materials, workmanship, and/or manufacture and posed a safety risk. Defendant possessed superior knowledge as to the quality and characteristics of the Class Vehicles, including the defective windshields and associated safety risks, and any reasonable consumer would have relied on Defendant's misrepresentations and omissions as Plaintiff and members of the Florida Subclass did.

208. Defendant intentionally and knowingly misrepresented and omitted facts regarding the defective windshields and associated safety hazard with the intent to mislead Plaintiff and Florida Subclass members. Defendant knew, or should have known, that the windshields are defective and expose drivers and the public to an associated safety hazard.

209. Defendant owed a duty to disclose the defective windshields and its corresponding safety hazard to the Plaintiff and Florida Subclass members because Defendant possessed superior and exclusive knowledge regarding the defect and the hazard associated with the defective windshields. Rather than disclose the defect, Defendant engaged in unfair and deceptive trade practices in order to sell additional Class Vehicles and avoid the cost of repair or replacement of the defective windshields.

210. Defendant's unfair and deceptive acts or practices, affirmative misrepresentations and/or material omissions regarding the defective windshields were intended to mislead consumers and misled Plaintiff and Florida Subclass members.

211. At all relevant times, Defendant's unfair and deceptive acts or practices, affirmative misrepresentations and/or omissions regarding the defective windshields and the corresponding safety hazard were material to the Plaintiff and Florida Subclass members. When Plaintiff and Florida Subclass members purchased or leased their Class Vehicles, they reasonably relied on the reasonable expectation that the Class Vehicles would be free from defects and would have a safe, non-defective windshield. Had Defendant disclosed that the windshields were defective, would pose a safety hazard, and would cause significant monetary losses, Plaintiff and Florida Subclass members would not have purchased or leased the Class Vehicles, or would have paid less for their vehicles.

212. Defendant had a continuous duty to Plaintiff and members of the Florida Subclass to refrain from unfair and deceptive practices under the FUDTPA and to disclose the defect and associated safety hazard. Defendant's unfair and deceptive acts or practices, affirmative misrepresentations and/or material omissions

regarding the defective windshields, and corresponding safety hazard are substantially injurious to consumers.

213. Defendant has knowingly and willfully engaged in the unfair and deceptive trade practices alleged herein. Further, Defendant unconscionably marketed the Class Vehicles to uninformed consumers in order to maximize profits by selling additional Class Vehicles containing the undisclosed defect and corresponding safety hazard. Defendant's unlawful acts and practices affect the public interest and trade and commerce in the State of Florida, were in bad faith, and present a continuing safety hazard to the Plaintiff and members of the Florida Subclass.

214. As a direct and proximate result of Defendant's violations of the FUDTPA, Plaintiffs Hicks and Binkley and members of the Florida Subclass have suffered actual damages and/or injury in fact, including, *inter alia*: (1) out-of-pocket monies for diagnosis, repair and/or replacement of the defective windshields; (2) recalibration of driver assist systems; and/or (3) the difference in value between the Class Vehicles promised and warranted, and the Class Vehicles containing the defective windshields; and/or (4) increased insurance premiums due to submitting claims to their insurance carriers.

215. Plaintiff and members of the Florida Subclass seek actual damages against Defendant in an amount to be determined at trial and statutory, treble, and/or punitive damages under the FUDTPA. Plaintiff and members of the Florida Subclass also seek an order enjoining Defendant's unfair, unlawful, and/or deceptive practices and awarding costs, attorneys' fees and restitution, disgorgement of funds, and any other just and proper relief available under the FUDTPA.

COUNT TEN
VIOLATIONS OF THE MICHIGAN CONSUMER PROTECTION ACT
(Mich. Comp. Laws § 445.903, et seq seq.)
(On behalf of the Michigan Subclass)

216. Plaintiff Jason Moore incorporates by reference all preceding allegations as though fully set forth herein.

217. Plaintiff brings this Count on behalf of the Michigan Subclass.

218. Plaintiff and Class members are “persons” within the meaning of Mich. Comp. Laws § 445.902(1)(d). The Michigan Consumer Protection Act (“Michigan CPA”) prohibits “[u]nfair, unconscionable, or deceptive methods, acts, or practices in the conduct of trade or commerce” Mich. Comp. Laws § 445.903(1). Subaru engaged in unfair, unconscionable, or deceptive methods, acts or practices prohibited by the Michigan CPA, including: “(c) Representing that goods or services have . . . characteristics . . . that they do not have;” “(e) Representing that goods or services are of a particular standard . . . if they are of another;” “(i) Making false or misleading statements of fact concerning the reasons for, existence of, or amounts of price reductions;” “(s) Failing to reveal a material fact, the omission of which tends to mislead or deceive the consumer, and which fact could not reasonably be known by the consumer;” “(bb) Making a representation of fact or statement of fact material to the transaction such that a person reasonably believes the represented or suggested state of affairs to be other than it actually is;” and “(cc) Failing to reveal facts that are material to the transaction in light of representations of fact made in a positive manner.” Mich. Comp. Laws § 445.903(1).

219. Defendant knowingly failed to disclose, concealed, suppressed and/or omitted material facts regarding the defective windshields and associated safety hazard and misrepresented the standard, quality or grade of the Class Vehicles, which

directly caused harm to the Plaintiff. Defendant knowingly failed to disclose, concealed, suppressed and/or omitted material facts regarding the defective windshields and associated safety hazard and misrepresented the standard, quality or grade of the Class Vehicles, which directly caused harm to the Plaintiff and the Michigan Subclass. Defendant actively suppressed the fact that the windshields in Class Vehicles are defective and present a safety hazard because of materials, workmanship and/or manufacturing defects.

220. Further, Defendant employed unfair and deceptive trade practices to deny repair or replacement of the defective windshields under warranty and within a reasonable time in violation of the Michigan CPA. Defendant also breached its warranties as alleged herein in violation of the Michigan CPA.

221. Defendant's unfair and deceptive trade practices were likely to deceive a reasonable consumer. Plaintiff and members of the Michigan Subclass had no reasonable way to know that Class Vehicles contained windshields that were defective in materials, workmanship, and/or manufacture and posed a safety risk. Defendant possessed superior knowledge as to the quality and characteristics of the Class Vehicles, including the defective windshields and associated safety risks, and any reasonable consumer would have relied on Defendant's misrepresentations and omissions as Plaintiff and members of the Subclass did.

222. Defendant intentionally and knowingly misrepresented and omitted facts regarding the defective windshields and associated safety hazard with the intent to mislead Plaintiff and Michigan Subclass members. Defendant knew, or should have known, that the windshields are defective and expose drivers and the public to an associated safety hazard.

223. Defendant owed a duty to disclose the defective windshields and its

corresponding safety hazard to Plaintiff and Subclass members because Defendant possessed superior and exclusive knowledge regarding the defect and the hazard associated with the defective windshields. Rather than disclose the defect, Defendant engaged in unfair and deceptive trade practices in order to sell additional Class Vehicles and avoid the cost of repair or replacement of the defective windshields.

224. Defendant's unfair and deceptive acts or practices, affirmative misrepresentations and/or material omissions regarding the defective windshields were intended to mislead consumers and misled Plaintiff and Subclass members.

225. At all relevant times, Defendant's unfair and deceptive acts or practices, affirmative misrepresentations and/or omissions regarding the defective windshields and the corresponding safety hazard were material to Plaintiff and Subclass members. When Plaintiff and Michigan Subclass members purchased or leased their Class Vehicles, they reasonably relied on the reasonable expectation that the Class Vehicles would be free from defects and would have a safe, non-defective windshield. Had Defendant disclosed that the windshields were defective, would pose a safety hazard, and would cause significant monetary losses, Plaintiff and Subclass members would not have purchased or leased the Class Vehicles, or would have paid less for their vehicles.

226. Defendant had a continuous duty to Plaintiff and members of the Subclass to refrain from unfair and deceptive practices under the Michigan CPA and to disclose the defect and associated safety hazard. Defendant's unfair and deceptive acts or practices, affirmative misrepresentations and/or material omissions regarding the defective windshields, and corresponding safety hazard are substantially injurious to consumers.

227. Defendant has knowingly and willfully engaged in the unfair and

deceptive trade practices alleged herein. Further, Defendant unconscionably marketed the Class Vehicles to uninformed consumers in order to maximize profits by selling additional Class Vehicles containing the undisclosed defect and corresponding safety hazard. Defendant's unlawful acts and practices affect the public interest and trade and commerce in the State of Florida, were in bad faith, and present a continuing safety hazard to the Plaintiff and members of the Subclass.

228. As a direct and proximate result of Defendant's violations of the Michigan CPA, Plaintiff Moore and members of the Subclass have suffered actual damages and/or injury in fact, including, *inter alia*: (1) out-of-pocket monies for diagnosis, repair and/or replacement of the defective windshields; (2) recalibration of driver assist systems; and/or (3) the difference in value between the Class Vehicles promised and warranted, and the Class Vehicles containing the defective windshields.

229. Plaintiff and the Michigan Subclass seek injunctive relief to enjoin Subaru from continuing its unfair and deceptive acts; monetary relief against Subaru measured as the greater of (a) actual damages in an amount to be determined at trial and (b) statutory damages in the amount of \$250 for Plaintiff and each Michigan Subclass member; reasonable attorneys' fees; and any other just and proper relief available under Mich. Comp. Laws § 445.911.

COUNT ELEVEN
VIOLATIONS OF THE MISSOURI MERCHANDISING PRACTICES ACT
(Mo. Rev. Stat. § 407.010, *et seq.*)
(On behalf of the Missouri Subclass)

230. Plaintiff Kinsey incorporates by reference all preceding allegations as though fully set forth herein. Plaintiff brings this Count on behalf of the Missouri Subclass.

231. Subaru, Plaintiff, and the Missouri Subclass are "persons" within the

meaning of Mo. Rev. Stat. § 407.010(5).

232. Subaru engaged in “trade” or “commerce” in the State of Missouri within the meaning of Mo. Rev. Stat. § 407.010(7).

233. The Missouri Merchandising Practices Act (“Missouri MPA”) makes unlawful the “act, use or employment by any person of any deception, fraud, false pretense, misrepresentation, unfair practice, or the concealment, suppression, or omission of any material fact in connection with the sale or advertisement of any merchandise.” Mo. Rev. Stat. § 407.020.

234. In the course of its business, Subaru willfully failed to disclose and actively concealed the defective windshield discussed herein and otherwise engaged in activities with a tendency or capacity to deceive.

235. Subaru also engaged in unlawful trade practices by employing deception, deceptive acts or practices, fraud, misrepresentations, or concealment, suppression, or omission of any material fact with intent that others rely upon such concealment, suppression, or omission, in connection with the sale of the Class Vehicles. Subaru knew it was selling Class vehicles with defective windshields and that the windshields were not safe, as advertised. Subaru knew this long before Plaintiff and the Subclass purchased their Class Vehicles but concealed all of that information.

236. By failing to disclose that the defective windshield was not safe, by marketing its vehicles as safe, reliable, and of high quality, and by presenting itself as a reputable manufacturer that valued safety and stood behind its vehicles after they were sold, Subaru engaged in deceptive business practices in violation of the Missouri MPA.

237. Subaru’s unfair or deceptive acts or practices were likely to and did in

fact deceive reasonable consumers, including Plaintiff and the other Subclass members, about the true performance of the Class Vehicles and the quality of the Subaru brand.

238. Subaru intentionally and knowingly misrepresented material facts regarding the Class Vehicles with the intent to mislead Plaintiff and the Missouri Subclass.

239. Subaru owed Plaintiff a duty to disclose the true safety, performance, and reliability of the Class Vehicles, and the devaluing of safety and performance at Subaru, because Subaru had superior and exclusive knowledge and such matters concerned the public's safety. Subaru intentionally and knowingly misrepresented material facts regarding the Class Vehicles with the intent to mislead Plaintiff and the Missouri Subclass.

240. The true facts regarding the windshields in the Class Vehicles are material to Plaintiff and the Missouri Subclass.

241. Plaintiff and the Missouri Subclass suffered ascertainable loss caused by Subaru's misrepresentations and its concealment of and failure to disclose material information. Class members who purchased the Class Vehicles either would have paid less for their vehicles or would not have purchased or leased them at all but for Subaru's violations of the Missouri MPA.

242. Subaru had an ongoing duty to all Subaru customers to refrain from unfair and deceptive practices under the Missouri MPA. Subaru's violations present a continuing risk to Plaintiffs as well as to the general public.

243. As a direct and proximate result of Subaru's violations of the Missouri MPA, Plaintiffs and the Missouri Subclass have suffered injury-in-fact and/or actual damage. Subaru is liable to Plaintiffs and the Missouri Class for damages in amounts

to be proven at trial, including attorneys' fees, costs, and punitive damages, as well as injunctive relief enjoining Subaru's unfair and deceptive practices, and any other just and proper relief under Mo. Rev. Stat. § 407.025.

COUNT TWELVE
VIOLATIONS OF THE NEW JERSEY CONSUMER FRAUD ACT
(N.J. Stat. Ann. §§ 56:8-1, *et seq.*)
(On behalf of the New Jersey Subclass)

244. Plaintiff Barr incorporates by reference all preceding allegations as though fully set forth herein. Plaintiff brings this Count on behalf of the New Jersey Subclass.

245. Subaru, Plaintiff, and the New Jersey Subclass Members are "person[s]" under the New Jersey Consumer Fraud Act, N.J. Stat. § 56:8-1(d).

246. Subaru engaged in "sales" of "merchandise" within the meaning of N.J. Stat § 56:8-1(c), (e). Subaru's actions as set forth herein occurred in the conduct of trade or commerce.

247. The New Jersey Consumer Fraud Act, N.J. Stat. Ann. §§ 56:8-1, *et seq.* ("New Jersey CFA"), prohibits unfair or deceptive acts or practices in the conduct of any trade or commerce. The conduct of Subaru as set forth herein constitutes unfair or deceptive acts or practices

248. Subaru engaged in unlawful trade practices including representing that Class Vehicles have characteristics, uses, benefits, and qualities which they do not have; representing that Class Vehicles are of a particular standard and quality when they are not; advertising Class Vehicles with the intent not to sell them as advertised; and engaging in other fraudulent or deceptive conduct which creates a likelihood of confusion or of misunderstanding.

249. In the course of its business, Subaru willfully failed to disclose and

actively concealed the defective windshield discussed herein and otherwise engaged in activities with a tendency or capacity to deceive. Subaru also engaged in unlawful trade practices by employing deception, deceptive acts or practices, fraud, misrepresentations, or concealment, suppression, or omission of any material fact with intent that others rely upon such concealment, suppression, or omission, in connection with the sale of the Class Vehicles. Subaru knew it had installed a defective windshield and knew that the defective windshield was not safe. Subaru knew this for years, but concealed all of that information. Subaru was also aware that it was manufacturing, selling, and distributing vehicles throughout the United States that did not perform as advertised and jeopardized the safety of the vehicle's occupants and the public. Subaru concealed this information as well. By failing to disclose that the defective windshield was not safe, by marketing its vehicles as safe, reliable, and of high quality, and by presenting itself as a reputable manufacturer that valued safety and stood behind its vehicles after they were sold, Subaru engaged in deceptive business practices in violation of the New Jersey CFA.

250. In the course of Subaru's business, it willfully failed to disclose and actively concealed the dangerous risk posed by the safety issues and serious defect discussed above. Subaru compounded the deception by repeatedly asserting that Subaru branded vehicles were safe, reliable, of high quality, and sold by a reputable manufacturer that valued safety and stood behind its vehicles once they are on the road.

251. Subaru's unfair or deceptive acts or practices were likely to and did in fact deceive reasonable consumers, including Plaintiff and the other Subclass members, about the true performance of the Class Vehicles, the quality of the Subaru brand, the devaluing of safety and performance at Subaru, and the true value of the

Class Vehicles. Subaru intentionally and knowingly misrepresented material facts regarding the Class Vehicles with the intent to mislead Plaintiff and the New Jersey Subclass. Subaru knew or should have known that its conduct violated the New Jersey CFA.

252. As alleged above, Subaru made material statements about the safety and utility of the Class Vehicles and the Subaru brand that were either false or misleading. Subaru owed Plaintiff a duty to disclose the true safety, performance, and reliability of the Class Vehicles, and the devaluing of safety and performance at Subaru.

253. Defendant owed a duty to disclose the defective windshields and its corresponding safety hazard to the Plaintiffs and Subclass members because Defendant possessed superior and exclusive knowledge regarding the defect and the hazard associated with the defective windshields. Rather than disclose the defect, Defendant engaged in unfair and deceptive trade practices in order to sell additional Class Vehicles and avoid the cost of repair or replacement of the defective windshields.

254. Defendant's unfair and deceptive acts or practices, affirmative misrepresentations and/or material omissions regarding the defective windshields were intended to mislead consumers and misled Plaintiff Barr and the Subclass members.

255. At all relevant times, Defendant's unfair and deceptive acts or practices, affirmative misrepresentations and/or omissions regarding the defective windshields and the corresponding safety hazard were material to Plaintiff Barr and the Subclass members. When Plaintiff Barr and the Subclass members purchased or leased their Class Vehicles, they reasonably relied on the reasonable expectation that

the Class Vehicles would be free from defects and would have a safe, non-defective windshield. Had Defendant disclosed that the windshields were defective, would pose a safety hazard, and would cause significant monetary losses, Plaintiff Barr and the Subclass members would not have purchased or leased the Class Vehicles, or would have paid less for their vehicles.

256. Defendant had a continuous duty to Plaintiff Barr and the Subclass to refrain from unfair and deceptive practices under the New Jersey CFA and to disclose the defect and associated safety hazard. Defendant's unfair and deceptive acts or practices, affirmative misrepresentations and/or material omissions regarding the defective windshields, and corresponding safety hazard are substantially injurious to consumers.

257. Defendant's unlawful acts and practices affect the public interest and trade and commerce in the State of New Jersey, were in bad faith, and present a continuing safety hazard to Plaintiff Barr, the Subclass and the public.

258. As a direct and proximate result of Defendant's violations of the New Jersey CFA, Plaintiff Barr and the Subclass have suffered actual damages and/or injury in fact, including, *inter alia*: (1) out-of-pocket monies for diagnosis, repair and/or replacement of the defective windshields; (2) recalibration of driver assist systems; and/or (3) the difference in value between the Class Vehicles promised and warranted, and the Class Vehicles containing the defective windshields.

259. As a result of the foregoing wrongful conduct of Subaru, Plaintiff and the New Jersey Class have been damaged in an amount to be proven at trial, and seek all just and proper remedies, including but not limited to, actual and statutory damages, treble damages, and an order enjoining Subaru's deceptive and unfair conduct, costs and reasonable attorneys' fees under N.J. Stat. § 56:8-19, and all other

just and appropriate relief.

COUNT THIRTEEN
VIOLATIONS OF THE PENNSYLVANIA
UNFAIR TRADE PRACTICES AND CONSUMER PROTECTION LAW
(73 Pa. Cons. Stat. § 201-1, *et seq.*)
(On behalf of the Pennsylvania Subclass)

260. Plaintiff Wotring incorporates by reference all preceding allegations as though fully set forth herein. Plaintiff Wotring brings this Count on behalf of the Pennsylvania Subclass.

261. Plaintiff purchased or leased her Class Vehicle primarily for personal, family or household purposes within the meaning of 73 Pa. Cons. Stat. § 201-9.2.

262. Subaru perpetrated all of the acts complained of herein in the course of trade or commerce within the meaning of 73 Pa. Cons. Stat. § 201-2(3).

263. The Pennsylvania Unfair Trade Practices and Consumer Protection Law (“Pennsylvania CPL”) prohibits unfair or deceptive acts or practices, including: (i) “Representing that goods or services have ... characteristics Benefits or qualities that they do not have;” (ii) “Representing that goods or services are of a particular standard, quality or grade ... if they are of another;” (iii) “Advertising goods or services with intent not to sell them as advertised;” and (iv) “Engaging in any other fraudulent or deceptive conduct which creates a likelihood of confusion or misunderstanding.” 73 Pa. Cons. Stat. § 201-2(4).

264. Subaru engaged in unlawful trade practices including representing that Class Vehicles have characteristics, uses, benefits, and qualities which they do not have; representing that Class Vehicles are of a particular standard and quality when they are not; advertising Class Vehicles with the intent not to sell them as advertised; and engaging in other fraudulent or deceptive conduct which creates a likelihood of confusion or of misunderstanding.

265. In the course of its business, Subaru willfully failed to disclose and actively concealed the defective windshield discussed herein and otherwise engaged in activities with a tendency or capacity to deceive. Subaru also engaged in unlawful trade practices by employing deception, deceptive acts or practices, fraud, misrepresentations, or concealment, suppression, or omission of any material fact with intent that others rely upon such concealment, suppression, or omission, in connection with the sale of the Class Vehicles. Subaru knew it had installed a defective windshield and knew that the defective windshield was not safe. Subaru knew this for years, but concealed all of that information. Subaru was also aware that it was manufacturing, selling, and distributing vehicles throughout the United States that did not perform as advertised and jeopardized the safety of the vehicle's occupants and the public. Subaru concealed this information as well. By failing to disclose that the defective windshield was not safe, by marketing its vehicles as safe, reliable, and of high quality, and by presenting itself as a reputable manufacturer that valued safety and stood behind its vehicles after they were sold, Subaru engaged in deceptive business practices in violation of the Pennsylvania CPL.

266. In the course of Subaru's business, it willfully failed to disclose and actively concealed the dangerous risk posed by the safety issues and serious defect discussed above. Subaru compounded the deception by repeatedly asserting that Subaru branded vehicles were safe, reliable, of high quality, and sold by a reputable manufacturer that valued safety and stood behind its vehicles once they are on the road.

267. Subaru's unfair or deceptive acts or practices were likely to and did in fact deceive reasonable consumers, including Plaintiff and the other Subclass members, about the true performance of the Class Vehicles, the quality of the Subaru

brand, the devaluing of safety and performance at Subaru, and the true value of the Class Vehicles. Subaru intentionally and knowingly misrepresented material facts regarding the Class Vehicles with the intent to mislead Plaintiff and the Pennsylvania Subclass. Subaru knew or should have known that its conduct violated the Pennsylvania CPL.

268. As alleged above, Subaru made material statements about the safety and utility of the Class Vehicles and the Subaru brand that were either false or misleading. Subaru owed Plaintiff a duty to disclose the true safety, performance, and reliability of the Class Vehicles, and the devaluing of safety and performance at Subaru.

269. Defendant owed a duty to disclose the defective windshields and its corresponding safety hazard to the Plaintiffs and Subclass members because Defendant possessed superior and exclusive knowledge regarding the defect and the hazard associated with the defective windshields. Rather than disclose the defect, Defendant engaged in unfair and deceptive trade practices in order to sell additional Class Vehicles and avoid the cost of repair or replacement of the defective windshields.

270. Defendant's unfair and deceptive acts or practices, affirmative misrepresentations and/or material omissions regarding the defective windshields were intended to mislead consumers and misled Plaintiff Wotring and the Subclass members.

271. At all relevant times, Defendant's unfair and deceptive acts or practices, affirmative misrepresentations and/or omissions regarding the defective windshields and the corresponding safety hazard were material to Plaintiff Wotring and the Subclass members. When Plaintiff Wotring and the Subclass members

purchased or leased their Class Vehicles, they reasonably relied on the reasonable expectation that the Class Vehicles would be free from defects and would have a safe, non-defective windshield. Had Defendant disclosed that the windshields were defective, would pose a safety hazard, and would cause significant monetary losses, Plaintiff Wotring and the Subclass members would not have purchased or leased the Class Vehicles, or would have paid less for their vehicles.

272. Defendant had a continuous duty to Plaintiff Wotring and the Subclass to refrain from unfair and deceptive practices under the Pennsylvania CPL and to disclose the defect and associated safety hazard. Defendant's unfair and deceptive acts or practices, affirmative misrepresentations and/or material omissions regarding the defective windshields, and corresponding safety hazard are substantially injurious to consumers.

273. Defendant's unlawful acts and practices affect the public interest and trade and commerce in the State of Pennsylvania, were in bad faith, and present a continuing safety hazard to Plaintiff Wotring, the Subclass and the public.

274. As a direct and proximate result of Defendant's violations of the Pennsylvania CPL, Plaintiff Wotring and the Subclass have suffered actual damages and/or injury in fact, including, *inter alia*: (1) out-of-pocket monies for diagnosis, repair and/or replacement of the defective windshields; (2) recalibration of driver assist systems; and/or (3) the difference in value between the Class Vehicles promised and warranted, and the Class Vehicles containing the defective windshields.

275. Subaru is liable to Plaintiff and the Pennsylvania Subclass for treble their actual damages or \$100, whichever is greater, and attorneys' fees and costs. 73 Pa. Cons. Stat. § 201-9.2(a). Plaintiff and the Pennsylvania Subclass are also entitled to an award of punitive damages given that Subaru's conduct was malicious, wanton,

willful, oppressive, or exhibited a reckless indifference to the rights of others.

COUNT FOURTEEN
VIOLATIONS OF THE WISCONSIN
DECEPTIVE TRADE PRACTICES ACT
(Wis. Stat. § 110.18)
(On behalf of the Wisconsin Subclass)

276. Plaintiff Powell repeats and re-alleges each and every allegation contained above as if fully set forth herein.

277. This claim is brought on behalf of Plaintiff and the Wisconsin Subclass.

278. Subaru is a “person, firm, corporation or association” within the meaning of Wis. Stat. § 100.18(1).

279. Plaintiff and Wisconsin Class Members are members of “the public” within the meaning of Wis. Stat. § 100.18(1). Plaintiff and Wisconsin Class Members purchased or leased one or more Class Vehicles.

280. The Wisconsin Deceptive Trade Practices Act (“Wisconsin DTPA”) prohibits a “representation or statement of fact which is untrue, deceptive or misleading.” Wis. Stat. § 100.18(1).

281. In the course of its business, Subaru willfully failed to disclose and actively concealed the defect in the windshields in the Class Vehicles and otherwise engaged in activities with a tendency or capacity to deceive. Subaru also engaged in unlawful trade practices by employing deception, deceptive acts or practices, fraud, misrepresentations, or concealment, suppression, or omission of any material fact with intent that others rely upon such concealment, suppression, or omission, in connection with the sale of the Class Vehicles.

282. Subaru knew it installed defective windshields in the Class Vehicles and sold the Class Vehicles with the defect and also knew that defective windshields

were being used as replacements when consumers brought their Class Vehicles to dealers for replacement windshields. Upon information and belief, Subaru knew this for one or more years before Class Vehicles were sold, but concealed all of that information from the public.

283. Subaru valued profits over safety, and knew that it was manufacturing, selling, and distributing vehicles throughout the United States that did not perform as advertised and jeopardized the safety of the vehicle's occupants. Subaru concealed this information as well.

284. By failing to disclose the defect in the windshields, and by marketing the vehicles as safe, reliable and dependable despite having such knowledge, Subaru engaged in deceptive business practices in violation of the Wisconsin DTPA.

285. Subaru's unfair or deceptive acts or practices were likely to and did in fact deceive reasonable consumers, including Plaintiff and the other Wisconsin Subclass members, about the true performance of the Class Vehicles, the quality of the Subaru brand, the devaluing of safety and performance at Subaru, and the true value of the Class Vehicles.

286. Subaru intentionally and knowingly misrepresented material facts regarding the Class Vehicles with the intent to mislead Plaintiff and the Wisconsin Subclass.

287. Subaru knew or should have known that its conduct violated the Wisconsin DTPA.

288. As alleged above, Subaru made material statements about the safety and utility of the Class Vehicles and the Subaru brand that were either false or misleading.

289. Subaru owed Plaintiff and the Wisconsin Subclass a duty to disclose

the true safety, performance, and reliability of the Class Vehicles, and the devaluing of safety and performance at Subaru, because Subaru:

a. Possessed exclusive knowledge that it valued profits over safety and performance, and that it was manufacturing, selling, and distributing vehicles throughout the United States that included defective windshields that did not perform as advertised;

b. Intentionally concealed the foregoing from Plaintiff and the Wisconsin Subclass; and/or

c. Made incomplete representations about the safety and performance of the Class Vehicles generally, while purposefully withholding material facts from Plaintiff and the Wisconsin Subclass that contradicted these representations.

290. Because Subaru fraudulently concealed the defective windshields and the true performance of cars equipped with the defective windshields, Plaintiff and the Wisconsin Subclass overpaid for their Class Vehicles and did not receive the benefit of their bargain.

291. Subaru's fraudulent use of the defective windshields and the true performance of the Class Vehicles was material to Plaintiff and the Wisconsin Subclass. A vehicle made by a reputable manufacturer of safe, high-performing vehicles is safer and worth more than an otherwise comparable vehicle made by a disreputable manufacturer of unsafe vehicles with concealed and unrectified defects.

292. Plaintiff and the Wisconsin Subclass suffered ascertainable losses caused by Subaru's misrepresentations and its concealment of and failure to disclose material information. Plaintiff and the Subclass members who purchased or leased the Class Vehicles would either have paid less for their vehicles or would not have

purchased or leased the Class Vehicles but for Subaru's violations of the Wisconsin DTPA.

293. Subaru had an ongoing duty to all Subaru customers to refrain from unfair and deceptive practices under the Wisconsin DTPA. All owners and lessees of the Class Vehicles suffered ascertainable loss as a result of Subaru's deceptive and unfair acts and practices made in the course of Subaru's business.

294. Subaru's violations present a continuing risk to Plaintiff and the Wisconsin Subclass as well as to the general public. Subaru's unlawful acts and practices complained of herein affect the public interest.

295. As a direct and proximate result of Subaru's violations of the Wisconsin DTPA, Plaintiff and the Wisconsin Subclass have suffered injury-in-fact and/or actual damage.

296. Because Subaru fraudulently concealed the defective windshields and the true performance of vehicles equipped with the defective windshields, the value of the Class Vehicles is less than reasonably expected and represented.

297. Plaintiff and the Wisconsin Subclass are entitled to damages and other relief provided for under Wis. Stat. § 100.18(11)(b)(2). Because Subaru's conduct was committed knowingly and/or intentionally, Plaintiff and the Wisconsin Subclass are entitled to treble damages.

298. Plaintiff and the Wisconsin Subclass also seek court costs and attorneys' fees under Wis. Stat. § 110.18(11)(b)(2).

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs, on behalf of themselves and all others similarly situated, respectfully request that this Court enter judgment against Defendant and in

favor of Plaintiffs and the Classes, and award the following relief:

A. An order certifying this action as a class action pursuant to Rule 23 of the Federal Rules of Civil Procedure, declaring Plaintiffs as representatives of the Classes and Plaintiffs' counsel as counsel for the Classes;

B. An order awarding declaratory relief and enjoining Defendant from continuing the conduct and practices alleged above and requiring Defendant to accept full liability and responsibility for the defective windshields in the Class Vehicles and all related damages;

C. An order awarding costs, restitution, disgorgement, compensatory damages and out-of-pocket expenses in an amount to be determined at trial;

D. Equitable relief in the form of buyback of the Class Vehicles;

E. An order requiring Defendant to pay both pre- and post-judgment interest on any amounts awarded;

F. An award of costs, expenses, and attorneys' fees as permitted by law; and

G. Such other or further relief as the Court may deem appropriate, just, and equitable.

DEMAND FOR JURY TRIAL

Plaintiffs hereby demand a trial by jury as to all claims in this action.

Date: November 12, 2019

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