

1 RANDALL W. EDWARDS (S.B. #179053)
redwards@omm.com
2 O'MELVENY & MYERS LLP
Two Embarcadero Center, 28th Floor
3 San Francisco, CA 94111-3823
Telephone: (415) 984-8700
4 Facsimile: (415) 984-8701

5 BRIAN C. ANDERSON (S.B. #126539)
banderson@omm.com
6 SCOTT M. HAMMACK (*pro hac vice*)
shammack@omm.com

7 DAVID R. DOREY (S.B. #286843)
ddorey@omm.com
8 O'MELVENY & MYERS LLP
1625 Eye Street, NW
9 Washington, D.C. 20006-4001
Telephone: (202) 383-5300
10 Facsimile: (202) 383-5414

11 Attorneys for Defendant
FORD MOTOR COMPANY
12

13
14 **UNITED STATES DISTRICT COURT**
15 **NORTHERN DISTRICT OF CALIFORNIA**
16 **SAN FRANCISCO DIVISION**

17
18 In re:
19 MYFORD TOUCH CONSUMER
LITIGATION
20

Case No. 3:13-CV-3072-EMC

**DEFENDANT FORD MOTOR COMPANY'S
ANSWER TO THIRD AMENDED CLASS
ACTION COMPLAINT**

DEMAND FOR JURY TRIAL

Judge: Hon. Edward M. Chen
21
22
23
24
25
26
27
28

1 Defendant Ford Motor Company, in answer to Jennifer Whalen; The Center for Defensive
2 Driving; Richard Decker Watson; Darcy Thomas-Maskrey; Joe D’Aguanno; James Laurence
3 Sheerin; Thomas Mitchell; William Creed; Joshua Matlin; Russ Rizzo; Jeffrey Miller; Nuala
4 Purcell; Daniel Fink; Jerome Miskell; Jose Randy Rodriguez; Michael Ervin; Jason Connell;
5 Henry Miller-Jones; and Leif Kirchoff’s (collectively, “Plaintiffs”) Third Amended Class Action
6 Complaint (“TAC”), hereby admits, denies, and alleges as follows:

7 **I. INTRODUCTION**¹

8 1. Ford admits that it manufactures Ford and Lincoln vehicles. Ford further
9 admits that the Lincoln Motor Company is a division of Ford Motor Company. Ford admits that
10 each vehicle it manufactures comes with a New Vehicle Limited Warranty, which provides that
11 under certain conditions Ford will take certain actions, as set forth in the terms of the applicable
12 warranty. Ford denies each and every other allegation contained in Paragraph 1, including its
13 footnote.

14 2. Ford admits that the MyFord Touch system has been called an
15 “infotainment system.” Ford denies each and every other allegation contained in Paragraph 2.

16 3. Ford admits that Paragraph 3 identifies certain features of the MyFord
17 Touch system in certain automobiles manufactured by Ford, although the availability of some of
18 the features may depend on whether, for example, a given vehicle is equipped with a particular
19 feature or the vehicle operator is using an appropriate peripheral device. Ford denies each and
20 every other allegation contained in Paragraph 3, including its footnote.

21 4. Ford admits that it introduced the MyFord Touch system in certain vehicle
22 models in model year 2011. Ford further admits that Paragraph 4 accurately quotes from The
23 Wall Street Journal. Ford denies each and every other allegation contained in Paragraph 4.

24 5. Ford admits that Paragraph 5 accurately quotes portions of a statement
25 attributed to former Ford CEO Alan Mulally. Ford denies each and every other allegation

26 _____
27 ¹ The TAC contains numerous headings and subheadings. Ford avers that these headings and
28 subheadings do not constitute allegations, and accordingly do not require a response. To the
extent a response is required, Ford denies each and every heading and subheading contained in
the TAC.

1 contained in Paragraph 5.

2 6. Ford admits that Paragraph 6 accurately quotes statements made by Derrick
3 Kuzak. Ford denies each and every other allegation contained in Paragraph 6.

4 7. Ford denies each and every allegation contained in Paragraph 7.

5 8. Ford admits that complaints concerning specific MyFord Touch systems
6 have been filed with NHTSA and posted on certain websites. Ford admits that it utilizes various
7 systems and processes to collect and analyze customer feedback obtained with respect to its
8 products. Ford denies each and every other allegation contained in Paragraph 8.

9 9. Ford is without information sufficient to form a belief as to the truth of the
10 allegation that Consumer Reports advised that it could not recommend that consumers buy any
11 vehicle equipped with a MyFord Touch system, and on that basis denies those allegations. Ford
12 denies each and every other allegation contained in Paragraph 9.

13 10. Ford denies each and every allegation contained in Paragraph 10.

14 11. Ford denies each and every allegation contained in Paragraph 11.

15 12. Ford admits that it has issued Technical Service Bulletins and updates to
16 the MyFord Touch systems to improve their performance. Ford further admits that Paragraph 12
17 accurately quotes language from a document that has been marked with the designation WLN2-
18 26702. Ford denies each and every other allegation contained in Paragraph 12.

19 13. Ford admits that it utilizes a 14D Form, which is a Field Service Action
20 evaluation paper containing 14 major disciplines, which identify the concern, its root cause,
21 corrective actions, preliminary prevent recurrence actions, its scope and impact, and the resources
22 necessary to remedy the concerns in the field. Ford admits that Paragraph 13 accurately quotes
23 from a Form 14D that has been marked with the designation WLN2-437999. Ford also admits
24 that Paragraph 13 accurately quotes from a document that has been marked with the designation
25 WLN2-00003865. Ford denies each and every other allegation contained in Paragraph 13.

26 14. Ford denies each and every allegation contained in Paragraph 14.

27 15. Ford denies each and every allegation contained in Paragraph 15.

28 16. Ford admits that it has continued to make improvements to the MyFord

1 Touch System. Ford further admits that Paragraph 16 accurately quotes from a document that has
2 been marked with the designation WLN1-3069325. Ford denies each and every other allegation
3 contained in Paragraph 16.

4 17. Ford admits that certain of its vehicles, beginning in model year 2016, are
5 equipped with a new communications and entertainment system called SYNC 3. Ford admits that
6 Blackberry QNX is the operating system for SYNC 3. Ford further admits that Paragraph 17
7 accurately quotes a statement that Don Butler was quoted as making by an article posted on
8 Yahoo.com. Ford denies each and every other allegation contained in Paragraph 17.

9 18. Ford denies each and every allegation contained in Paragraph 18.

10 19. Ford denies each and every allegation contained in Paragraph 19.

11 20. Ford denies each and every allegation contained in Paragraph 20, except
12 admits, based on information and belief, that Paragraph 20 describes Plaintiffs' intention to bring
13 this action on behalf of a variety of putative classes and generally characterizes the categories of
14 relief sought by Plaintiffs.

15 **II. JURISDICTION**

16 21. Ford admits that this Court has subject matter jurisdiction over this action.

17 **III. VENUE**

18 22. Ford admits that it marketed and advertised Ford automobiles on a
19 nationwide basis, including in this District, but denies that it marketed or advertised to all
20 Plaintiffs or all putative class members in this District. Ford denies that it sold or leased vehicles
21 to putative class members or to Plaintiffs in this district. Ford denies each and every other
22 allegation contained in Paragraph 22.

23 **IV. PARTIES**

24 **A. Plaintiffs**

25 **1. California**

26 **a. Jennifer Whalen**

27 23. Ford is without information sufficient to form a belief as to the truth of the
28 allegations contained in Paragraph 23 concerning Plaintiff Whalen's residence or her purchase

1 and ownership of a Ford vehicle, and on that basis denies those allegations. Ford denies each and
2 every other allegation contained in Paragraph 23.

3 24. Ford is without information sufficient to form a belief as to the truth of the
4 remaining allegations contained in Paragraph 24, and on that basis denies those allegations.

5 25. Ford is without information sufficient to form a belief as to the truth of the
6 allegations contained in Paragraph 25, and on that basis denies those allegations.

7 26. Ford is without information sufficient to form a belief as to the truth of the
8 allegations contained in Paragraph 26, and on that basis denies those allegations.

9 27. Ford is without information sufficient to form a belief as to the truth of the
10 allegations contained in Paragraph 27, and on that basis denies those allegations.

11 28. Ford is without information sufficient to form a belief as to the truth of the
12 allegations contained in Paragraph 28, and on that basis denies those allegations.

13 29. Ford is without information sufficient to form a belief as to the truth of the
14 allegations contained in Paragraph 29, and on that basis denies those allegations.

15 30. Ford is without information sufficient to form a belief as to the truth of the
16 allegations contained in Paragraph 30, and on that basis denies those allegations.

17 31. Ford is without information sufficient to form a belief as to the truth of the
18 allegations contained in Paragraph 31, and on that basis denies those allegations.

19 32. Ford is without information sufficient to form a belief as to the truth of the
20 allegations contained in Paragraph 32, and on that basis denies those allegations.

21 33. Ford is without information sufficient to form a belief as to the truth of the
22 allegations contained in Paragraph 33 concerning Plaintiff Whalen's use of the hands-free
23 function of her MyFord Touch system, and on that basis denies those allegations. Ford denies
24 each and every other allegation contained in Paragraph 33.

25 34. Ford denies each and every allegation contained in Paragraph 34.

26 35. Ford denies each and every allegation contained in Paragraph 35.

27 **b. The Center for Defensive Driving**

28 36. Ford is without information sufficient to form a belief as to the truth of the

1 allegations contained in Paragraph 36 concerning Plaintiff The Center for Defensive Driving's
2 corporate classification, the location of its headquarters, or its lease of a Ford vehicle, and on that
3 basis denies those allegations. Ford denies each and every other allegation contained in
4 Paragraph 36.

5 37. Ford denies each and every allegation contained in Paragraph 37.

6 38. Ford is without information sufficient to form a belief as to the truth of the
7 allegations contained in Paragraph 38, and on that basis denies those allegations.

8 39. Ford is without information sufficient to form a belief as to the truth of the
9 allegations contained in Paragraph 39, and on that basis denies those allegations.

10 40. Ford is without information sufficient to form a belief as to the truth of the
11 allegations contained in Paragraph 40, and on that basis denies those allegations.

12 41. Ford is without information sufficient to form a belief as to the truth of the
13 allegations contained in Paragraph 41, and on that basis denies those allegations.

14 42. Ford is without information sufficient to form a belief as to the truth of the
15 allegations contained in Paragraph 42, and on that basis denies those allegations.

16 43. Ford admits that Plaintiff The Center for Defensive Driving requested that
17 Ford reacquire its F-150 Lariat on April 10, 2013, and that Ford informed Plaintiff The Center for
18 Defensive Driving on May 2, 2013 that it would not be offering to repurchase the vehicle at that
19 time. Ford denies each and every other allegation contained in Paragraph 43.

20 44. Ford is without information sufficient to form a belief as to the truth of the
21 allegations contained in Paragraph 44, and on that basis denies those allegations.

22 45. Ford is without information sufficient to form a belief as to the truth of the
23 allegations contained in Paragraph 45, and on that basis denies those allegations.

24 46. Ford is without information sufficient to form a belief as to the truth of the
25 allegations contained in Paragraph 46, and on that basis denies those allegations.

26 47. Ford denies each and every allegation contained in Paragraph 47.

27 48. Ford denies each and every allegation contained in Paragraph 48.

28

1 **c. Richard Decker Watson**

2 49. Ford is without information sufficient to form a belief as to the truth of the
3 allegations contained in Paragraph 49, and on that basis denies those allegations.

4 50. Ford denies each and every allegation contained in Paragraph 50.

5 51. Ford is without information sufficient to form a belief as to the truth of the
6 allegations contained in Paragraph 51, and on that basis denies those allegations.

7 52. Ford is without information sufficient to form a belief as to the truth of the
8 allegations contained in Paragraph 52, and on that basis denies those allegations.

9 53. Ford denies each and every allegation contained in Paragraph 53.

10 54. Ford is without information sufficient to form a belief as to the truth of the
11 allegations contained in Paragraph 54, and on that basis denies those allegations.

12 55. Ford is without information sufficient to form a belief as to the truth of the
13 allegations contained in Paragraph 55, and on that basis denies those allegations.

14 56. Ford is without information sufficient to form a belief as to the truth of the
15 allegations contained in Paragraph 56, and on that basis denies those allegations.

16 57. Ford is without information sufficient to form a belief as to the truth of the
17 allegations contained in Paragraph 57, and on that basis denies those allegations.

18 58. Ford denies each and every allegation contained in Paragraph 58.

19 **d. Darcy Thomas-Maskrey**

20 59. Ford is without information sufficient to form a belief as to the truth of the
21 allegations contained in Paragraph 59 concerning Plaintiff Thomas-Maskrey's residence or her
22 purchase and ownership of a Ford vehicle, and on that basis denies those allegations. Ford denies
23 each and every other allegation contained in Paragraph 59.

24 60. Ford denies each and every allegation contained in Paragraph 60.

25 61. Ford is without information sufficient to form a belief as to the truth of the
26 allegations contained in Paragraph 61, and on that basis denies those allegations.

27 62. Ford is without information sufficient to form a belief as to the truth of the
28 allegations contained in Paragraph 62, and on that basis denies those allegations.

1 63. Ford is without information sufficient to form a belief as to the truth of the
2 allegations contained in Paragraph 63, and on that basis denies those allegations.

3 64. Ford denies each and every allegation contained in Paragraph 64.

4 65. Ford denies each and every allegation contained in Paragraph 65.

5 **2. Arizona**

6 **a. Joe D'Aguanno**

7 66. Ford is without information sufficient to form a belief as to the truth of the
8 allegations contained in Paragraph 66 concerning Plaintiff D'Aguanno's residence or his purchase
9 and ownership of a Ford vehicle, and on that basis denies those allegations. Ford denies each and
10 every other allegation contained in Paragraph 66.

11 67. Ford denies each and every allegation contained in Paragraph 67.

12 68. Ford is without information sufficient to form a belief as to the truth of the
13 allegations contained in Paragraph 68, and on that basis denies those allegations.

14 69. Ford is without information sufficient to form a belief as to the truth of the
15 allegations contained in Paragraph 69, and on that basis denies those allegations.

16 70. Ford is without information sufficient to form a belief as to the truth of the
17 allegations contained in Paragraph 70, and on that basis denies those allegations.

18 71. Ford denies each and every allegation contained in Paragraph 71.

19 72. Ford denies each and every allegation contained in Paragraph 72.

20 **3. Colorado**

21 **a. James Laurence Sheerin**

22 73. Ford is without information sufficient to form a belief as to the truth of the
23 allegations contained in Paragraph 73 concerning Plaintiff Sheerin's residence or his purchase
24 and ownership of a Ford vehicle, and on that basis denies those allegations. Ford denies each and
25 every other allegation contained in Paragraph 73.

26 74. Ford denies each and every allegation contained in Paragraph 74.

27 75. Ford is without information sufficient to form a belief as to the truth of the
28 allegations contained in Paragraph 75, and on that basis denies those allegations.

1 76. Ford is without information sufficient to form a belief as to the truth of the
2 allegations contained in Paragraph 76, and on that basis denies those allegations.

3 77. Ford denies each and every allegation contained in Paragraph 77.

4 78. Ford denies each and every allegation contained in Paragraph 78.

5 **4. Iowa**

6 **a. Thomas Mitchell**

7 79. Ford is without information sufficient to form a belief as to the truth of the
8 allegations contained in Paragraph 79, and on that basis denies those allegations.

9 80. Ford denies each and every allegation contained in Paragraph 80.

10 81. Ford is without information sufficient to form a belief as to the truth of the
11 allegations contained in Paragraph 81, and on that basis denies those allegations.

12 82. Ford denies each and every allegation contained in Paragraph 82.

13 83. Ford is without information sufficient to form a belief as to the truth of the
14 allegations contained in Paragraph 83, and on that basis denies those allegations.

15 84. Ford is without information sufficient to form a belief as to the truth of the
16 allegations contained in Paragraph 84, and on that basis denies those allegations.

17 85. Ford denies each and every allegation contained in Paragraph 85.

18 86. Ford denies each and every allegation contained in Paragraph 86.

19 **5. Massachusetts**

20 **a. William Creed**

21 87. Ford is without information sufficient to form a belief as to the truth of the
22 allegations contained in Paragraph 87, and on that basis denies those allegations.

23 88. Ford denies each and every allegation contained in Paragraph 88.

24 89. Ford is without information sufficient to form a belief as to the truth of the
25 allegations contained in Paragraph 89, and on that basis denies those allegations.

26 90. Ford denies each and every allegation contained in Paragraph 90.

27 91. Ford is without information sufficient to form a belief as to the truth of the
28 allegations contained in Paragraph 91, and on that basis denies those allegations.

1 92. Ford is without information sufficient to form a belief as to the truth of the
2 allegations contained in Paragraph 92, and on that basis denies those allegations.

3 93. Ford is without information sufficient to form a belief as to the truth of the
4 allegations contained in Paragraph 93, and on that basis denies those allegations.

5 94. Ford is without information sufficient to form a belief as to the truth of the
6 allegations contained in Paragraph 94, and on that basis denies those allegations.

7 95. Ford is without information sufficient to form a belief as to the truth of the
8 allegations contained in Paragraph 95, and on that basis denies those allegations.

9 96. Ford is without information sufficient to form a belief as to the truth of the
10 allegations contained in Paragraph 96, and on that basis denies those allegations.

11 97. Ford is without information sufficient to form a belief as to the truth of the
12 allegations contained in Paragraph 97, and on that basis denies those allegations.

13 98. Ford is without information sufficient to form a belief as to the truth of the
14 allegations contained in Paragraph 98, and on that basis denies those allegations.

15 99. Ford is without information sufficient to form a belief as to the truth of the
16 allegations contained in Paragraph 99, and on that basis denies those allegations.

17 100. Ford denies each and every allegation contained in Paragraph 100.

18 101. Ford is without information sufficient to form a belief as to the truth of the
19 allegations contained in Paragraph 101, and on that basis denies those allegations.

20 102. Ford is without information sufficient to form a belief as to the truth of the
21 allegations contained in Paragraph 102, and on that basis denies those allegations.

22 103. Ford is without information sufficient to form a belief as to the truth of the
23 allegations contained in Paragraph 103, and on that basis denies those allegations.

24 104. Ford is without information sufficient to form a belief as to the truth of the
25 allegations contained in Paragraph 104, and on that basis denies those allegations.

26 105. Ford denies each and every allegation contained in Paragraph 105.

27 106. Ford denies each and every allegation contained in Paragraph 106.

28 107. Ford is without information sufficient to form a belief as to the truth of the

1 allegations contained in Paragraph 107, and on that basis denies those allegations.

2 108. Ford denies each and every allegation contained in Paragraph 108.

3 **6. New Jersey**

4 **a. Joshua Matlin**

5 109. Ford is without information sufficient to form a belief as to the truth of the
6 allegations contained in Paragraph 109 concerning Plaintiff Matlin's residence or his lease of a
7 Ford vehicle, and on that basis denies those allegations. Ford denies each and every other
8 allegation contained in Paragraph 109.

9 110. Ford denies each and every allegation contained in Paragraph 110.

10 111. Ford is without information sufficient to form a belief as to the truth of the
11 allegations contained in Paragraph 111, and on that basis denies those allegations.

12 112. Ford is without information sufficient to form a belief as to the truth of the
13 allegations contained in Paragraph 112, and on that basis denies those allegations.

14 113. Ford is without information sufficient to form a belief as to the truth of the
15 allegations contained in Paragraph 113, and on that basis denies those allegations.

16 114. Ford denies each and every allegation contained in Paragraph 114.

17 115. Ford denies each and every allegation contained in Paragraph 115.

18 **b. Russ Rizzo**

19 116. Ford is without information sufficient to form a belief as to the truth of the
20 allegations contained in Paragraph 116 concerning Plaintiff Rizzo's residence or his lease of a
21 Ford vehicle, and on that basis denies those allegations. Ford denies each and every other
22 allegation contained in Paragraph 116.

23 117. Ford denies each and every allegation contained in Paragraph 117.

24 118. Ford is without information sufficient to form a belief as to the truth of the
25 allegations contained in Paragraph 118, and on that basis denies those allegations.

26 119. Ford is without information sufficient to form a belief as to the truth of the
27 allegations contained in Paragraph 119, and on that basis denies those allegations.

28 120. Ford denies each and every allegation contained in Paragraph 120.

1 121. Ford is without information sufficient to form a belief as to the truth of the
2 allegations contained in Paragraph 121, and on that basis denies those allegations.

3 122. Ford is without information sufficient to form a belief as to the truth of the
4 allegations contained in Paragraph 122, and on that basis denies those allegations.

5 123. Ford denies each and every allegation contained in Paragraph 123.

6 124. Ford denies each and every allegation contained in Paragraph 124.

7 **7. New York**

8 **a. Jeffrey Miller**

9 125. Ford is without information sufficient to form a belief as to the truth of the
10 allegations contained in Paragraph 125 concerning Plaintiff Miller's residence or his lease of a
11 Ford vehicle, and on that basis denies those allegations. Ford denies each and every other
12 allegation contained in Paragraph 125.

13 126. Ford denies each and every allegation contained in Paragraph 126.

14 127. Ford is without information sufficient to form a belief as to the truth of the
15 allegations contained in Paragraph 127, and on that basis denies those allegations.

16 128. Ford is without information sufficient to form a belief as to the truth of the
17 allegations contained in Paragraph 128, and on that basis denies those allegations.

18 129. Ford is without information sufficient to form a belief as to the truth of the
19 allegations contained in Paragraph 129, and on that basis denies those allegations.

20 130. Ford denies each and every allegation contained in Paragraph 130.

21 131. Ford denies each and every allegation contained in Paragraph 131.

22 **b. Nuala Purcell**

23 132. Ford is without information sufficient to form a belief as to the truth of the
24 allegations contained in Paragraph 132 concerning Plaintiff Purcell's residence or her lease of a
25 Ford vehicle, and on that basis denies those allegations. Ford denies each and every other
26 allegation contained in Paragraph 132.

27 133. Ford denies each and every allegation contained in Paragraph 133.

28 134. Ford is without information sufficient to form a belief as to the truth of the

1 allegations contained in Paragraph 134, and on that basis denies those allegations.

2 135. Ford is without information sufficient to form a belief as to the truth of the
3 allegations contained in Paragraph 135, and on that basis denies those allegations.

4 136. Ford is without information sufficient to form a belief as to the truth of the
5 allegations contained in Paragraph 136, and on that basis denies those allegations.

6 137. Ford is without information sufficient to form a belief as to the truth of the
7 allegations contained in Paragraph 137, and on that basis denies those allegations.

8 138. Ford denies each and every allegation contained in Paragraph 138.

9 139. Ford denies each and every allegation contained in Paragraph 139.

10 **8. North Carolina**

11 **a. Daniel Fink**

12 140. Ford is without information sufficient to form a belief as to the truth of the
13 allegations contained in Paragraph 140 concerning Plaintiff Fink's residence or his purchase and
14 ownership of a Ford vehicle, and on that basis denies those allegations. Ford denies each and
15 every other allegation contained in Paragraph 140.

16 141. Ford denies each and every allegation contained in Paragraph 141.

17 142. Ford is without information sufficient to form a belief as to the truth of the
18 allegations contained in Paragraph 142, and on that basis denies those allegations.

19 143. Ford is without information sufficient to form a belief as to the truth of the
20 allegations contained in Paragraph 143, and on that basis denies those allegations.

21 144. Ford is without information sufficient to form a belief as to the truth of the
22 allegations contained in Paragraph 144, and on that basis denies those allegations.

23 145. Ford is without information sufficient to form a belief as to the truth of the
24 allegations contained in Paragraph 145, and on that basis denies those allegations.

25 146. Ford denies each and every allegation contained in Paragraph 146.

26 147. Ford denies each and every allegation contained in Paragraph 147.

27
28

1 **9. Ohio**

2 **a. Jerome Miskell**

3 148. Ford is without information sufficient to form a belief as to the truth of the
4 allegations contained in Paragraph 148 concerning Plaintiff Miskell's residence or his purchase
5 and ownership of a Ford vehicle, and on that basis denies those allegations. Ford denies each and
6 every other allegation contained in Paragraph 148.

7 149. Ford denies each and every allegation contained in Paragraph 149.

8 150. Ford is without information sufficient to form a belief as to the truth of the
9 allegations contained in Paragraph 150, and on that basis denies those allegations.

10 151. Ford is without information sufficient to form a belief as to the truth of the
11 allegations contained in Paragraph 151, and on that basis denies those allegations.

12 152. Ford is without information sufficient to form a belief as to the truth of the
13 allegations contained in Paragraph 152, and on that basis denies those allegations.

14 153. Ford denies each and every allegation contained in Paragraph 153.

15 154. Ford denies each and every allegation contained in Paragraph 154.

16 **10. Texas**

17 **a. Jose Randy Rodriguez**

18 155. Ford is without information sufficient to form a belief as to the truth of the
19 allegations contained in Paragraph 155 concerning Plaintiff Rodriguez's residence, his purchase
20 and ownership of a Ford vehicle, the date on which he learned about the MyFord Touch system,
21 or the basis of his decision to purchase a Ford vehicle, and on that basis denies those allegations.
22 Ford denies each and every other allegation contained in Paragraph 155.

23 156. Ford denies each and every allegation contained in Paragraph 156.

24 157. Ford is without information sufficient to form a belief as to the truth of the
25 allegations concerning Plaintiff Rodriguez's purchase of a Ford vehicle, the types of issues he
26 allegedly experienced with his MyFord Touch system, or when and where he brought his vehicle
27 for service. Ford denies each and every other allegation contained in Paragraph 157.

28 158. Ford is without information sufficient to form a belief as to the truth of the

1 allegations contained in Paragraph 158, and on that basis denies those allegations.

2 159. Ford is without information sufficient to form a belief as to the truth of the
3 allegations contained in Paragraph 159, and on that basis denies those allegations.

4 160. Ford denies each and every allegation contained in Paragraph 160.

5 161. Ford denies each and every allegation contained in Paragraph 161.

6 162. Ford is without information sufficient to form a belief as to the truth of the
7 allegations contained in paragraph 162, and on that basis denies those allegations.

8 163. Ford denies each and every allegation contained in Paragraph 163.

9 **b. Michael Ervin**

10 164. Ford is without information sufficient to form a belief as to the truth of the
11 allegations contained in Paragraph 164 concerning Plaintiff Ervin's residence or his purchase and
12 ownership of a Ford vehicle, and on that basis denies those allegations. Ford denies each and
13 every other allegation contained in Paragraph 164.

14 165. Ford denies each and every allegation contained in Paragraph 165.

15 166. Ford is without information sufficient to form a belief as to the truth of the
16 allegations contained in Paragraph 166, and on that basis denies those allegations.

17 167. Ford is without information sufficient to form a belief as to the truth of the
18 allegations contained in Paragraph 167, and on that basis denies those allegations.

19 168. Ford is without information sufficient to form a belief as to the truth of the
20 allegations contained in Paragraph 168, and on that basis denies those allegations.

21 169. Ford is without information sufficient to form a belief as to the truth of the
22 allegations contained in Paragraph 169, and on that basis denies those allegations.

23 170. Ford denies each and every allegation contained in Paragraph 170.

24 171. Ford denies each and every allegation contained in Paragraph 171.

25 **11. Virginia**

26 **a. Jason Connell**

27 172. Ford is without information sufficient to form a belief as to the truth of the
28 allegations contained in Paragraph 172 concerning Plaintiff Connell's residence or his purchase

1 and ownership of a Lincoln vehicle, and on that basis denies those allegations. Ford denies each
2 and every other allegation contained in Paragraph 172.

3 173. Ford denies each and every allegation contained in Paragraph 173.

4 174. Ford is without information sufficient to form a belief as to the truth of the
5 allegations contained in Paragraph 174, and on that basis denies those allegations.

6 175. Ford is without information sufficient to form a belief as to the truth of the
7 allegations contained in Paragraph 175, and on that basis denies those allegations.

8 176. Ford is without information sufficient to form a belief as to the truth of the
9 allegations contained in Paragraph 176, and on that basis denies those allegations.

10 177. Ford denies each and every allegation contained in Paragraph 177.

11 178. Ford denies each and every allegation contained in Paragraph 178.

12 **b. Henry Miller-Jones**

13 179. Ford is without information sufficient to form a belief as to the truth of the
14 allegations contained in Paragraph 179 concerning Plaintiff Miller-Jones's residence or his
15 purchase and ownership of a Ford vehicle, and on that basis denies those allegations. Ford denies
16 each and every other allegation contained in Paragraph 179.

17 180. Ford denies each and every allegation contained in Paragraph 180.

18 181. Ford is without information sufficient to form a belief as to the truth of the
19 allegations contained in Paragraph 181, and on that basis denies those allegations.

20 182. Ford is without information sufficient to form a belief as to the truth of the
21 allegations contained in Paragraph 182, and on that basis denies those allegations.

22 183. Ford is without information sufficient to form a belief as to the truth of the
23 allegations contained in Paragraph 183, and on that basis denies those allegations.

24 184. Ford is without information sufficient to form a belief as to the truth of the
25 allegations contained in Paragraph 184, and on that basis denies those allegations.

26 185. Ford denies each and every allegation contained in Paragraph 185.

27 186. Ford denies each and every allegation contained in Paragraph 186.

28

1 **12. Washington**

2 **a. Leif Kirchoff**

3 187. Ford is without information sufficient to form a belief as to the truth of the
4 allegations contained in Paragraph 187 concerning Plaintiff Kirchoff's residence or his purchase
5 and ownership of a Ford vehicle, and on that basis denies those allegations. Ford denies each and
6 every other allegation contained in Paragraph 187.

7 188. Ford denies each and every allegation contained in Paragraph 188.

8 189. Ford is without information sufficient to form a belief as to the truth of the
9 allegations contained in Paragraph 189, and on that basis denies those allegations.

10 190. Ford is without information sufficient to form a belief as to the truth of the
11 allegations contained in Paragraph 190 concerning Plaintiff Kirchoff's service visits to Bickford
12 Ford and Parr Ford Mazda, and on that basis denies those allegations. Ford denies each and every
13 other allegation contained in Paragraph 190.

14 191. Ford is without information sufficient to form a belief as to the truth of the
15 allegations contained in Paragraph 191, and on that basis denies those allegations.

16 192. Ford admits that its records indicate that Plaintiff Kirchoff has
17 communicated with its In-Vehicle Technology Team on multiple occasions via telephone. Ford
18 denies each and every other allegation contained in Paragraph 192.

19 193. Ford denies each and every allegation contained in Paragraph 193.

20 **B. Defendant**

21 194. Ford admits that Ford Motor Company is a corporation organized under the
22 laws of the State of Delaware with its principal place of business in Dearborn, Michigan. Ford
23 admits that it manufactured Ford and Lincoln vehicles equipped with MyFord Touch systems and
24 provided a Limited Warranty with those vehicles. Ford admits that it developed and disseminated
25 owner's manuals, warranty books, advertisements, and promotional materials related to the Class
26 Vehicles. Ford denies each and every other allegation contained in Paragraph 194.

27 **V. TOLLING OF THE STATUTE OF LIMITATIONS**

28 195. Ford denies each and every allegation contained in Paragraph 195.

1 196. Ford denies each and every allegation contained in Paragraph 196.

2 **VI. FACTUAL ALLEGATIONS**

3 **A. Ford Introduces and Begins Selling MyFord Touch**

4 197. Ford admits that Paragraph 197 identifies certain features of the MyFord
5 Touch system in certain automobiles manufactured by Ford, although the availability of some of
6 the features may depend on whether, for example, a given vehicle is equipped with a particular
7 feature or the vehicle owner is using an appropriate peripheral device. Ford denies each and
8 every other allegation contained in Paragraph 197.

9 198. Ford admits that Ford SYNC did not include a touchscreen when initially
10 introduced. Ford denies each and every other allegation contained in Paragraph 198.

11 199. Ford admits that Paragraph 199 accurately quotes statements that Paul
12 Mascarenas was quoted as making. Ford further admits that Paragraph 199 accurately quotes
13 language from Popular Mechanics (Oct. 1, 2007). Ford denies each and every other allegation
14 contained in Paragraph 199.

15 200. Ford denies each and every allegation contained in Paragraph 200.

16 201. Ford admits that Paragraph 201 accurately quotes portions of a statement
17 attributed to former Ford CEO Alan Mulally. Ford denies each and every other allegation
18 contained in Paragraph 201.

19 202. Ford admits that Paragraph 202 accurately quotes portions of statements
20 made by Derrick Kuzak, Ford Vice President for Global Product Development. Ford denies each
21 and every other allegation contained in Paragraph 202.

22 203. Ford admits that Paragraph 203 accurately quotes from a document that has
23 been marked with the designation WLN2-40011. Ford denies each and every other allegation
24 contained in Paragraph 203.

25 204. Ford denies each and every allegation contained in Paragraph 204.

26 205. Ford admits that it issued a press release titled “SYNC and MyFord Touch
27 Sold on 79 Percent of New Ford Vehicles, New Technology Drives Quality Satisfaction” on June
28 17, 2013. Ford further admits that the press release stated, in part: “Combined, SYNC and

1 MyFord Touch are sold on 79 percent of new 2013 Ford vehicles.” Ford denies each and every
2 other allegation contained in Paragraph 205.

3 206. Ford denies each and every allegation contained in Paragraph 206.

4 207. Ford denies each and every allegation contained in Paragraph 207.

5 **B. The MyFord Touch System**

6 **1. MyFord Touch Hardware**

7 208. Ford admits that Paragraph 208 purports to contain a photograph of the
8 steering wheel and center stack of a vehicle equipped with a MyFord Touch system. Ford denies
9 each and every other allegation contained in Paragraph 208.

10 209. Ford admits that Paragraph 209 purports to contain a photograph of the
11 center stack of a vehicle equipped with a MyFord Touch system. Ford denies each and every
12 other allegation contained in Paragraph 209.

13 210. Ford admits that Paragraph 210 lists certain features of certain MyFord
14 Touch systems. Ford denies each and every other allegation contained in Paragraph 210.

15 211. Ford admits that Paragraph 211 purports to contain a photograph of the
16 instrument cluster and opposing 4.2-inch LCD screens of a vehicle equipped with a MyFord
17 Touch system. Ford admits that certain Ford and Lincoln vehicles have one information display
18 contained in the instrument cluster. Ford denies each and every other allegation contained in
19 Paragraph 211.

20 212. Ford admits that Paragraph 212 lists certain features of the MyFord Touch
21 system. Ford denies each and every other allegation contained in Paragraph 212.

22 **2. The Operating System Utilized by MyFord Touch**

23 213. Ford denies each and every allegation contained in Paragraph 213.

24 214. Ford admits that the APIM interfaces with vehicle audio sources as well as
25 high-speed and medium-speed vehicle Controller Area Network buses. Ford denies each and
26 every other allegation contained in Paragraph 214.

27 215. Ford denies each and every allegation contained in Paragraph 215.

28

1 **C. Ford Promotes MyFord Touch Safety Features**

2 216. Ford admits that Paragraph 216 accurately quotes language that appears on
3 a Ford website. Ford further admits that Paragraph 216 accurately quotes portions of a video that
4 appears on a Ford website. Ford denies each and every other allegation contained in Paragraph
5 216.

6 217. Ford admits that Paragraph 217 accurately quotes a portion of Ford's
7 website. Ford denies each and every other allegation contained in Paragraph 217.

8 218. Ford admits that the Paragraph 218 accurately quotes language that once
9 appeared on the website [http://m.ford.com/technology/sync/sync-hands-free-](http://m.ford.com/technology/sync/sync-hands-free-calling#appsHome)
10 [calling#appsHome](http://m.ford.com/technology/sync/sync-hands-free-calling#appsHome). Ford is without information sufficient to form a belief as to the truth of the
11 allegation concerning the number of states that have enacted a law prohibiting the use of hand-
12 held cellular telephones while driving, and on that basis denies the allegation. Ford denies each
13 and every other allegation contained in Paragraph 218.

14 219. Ford denies each and every allegation contained in Paragraph 219.

15 220. Ford denies each and every allegation contained in Paragraph 220.

16 221. Ford admits that on vehicles equipped with a backup camera, the MyFord
17 Touch system can operate that camera. Ford denies each and every other allegation contained in
18 Paragraph 221.

19 222. Ford denies each and every allegation contained in Paragraph 222.

20 **D. Ford Promotes MyFord Touch Communications and Entertainment Features**

21 223. Ford denies each and every allegation contained in Paragraph 223.

22 224. Ford admits that Paragraph 224 contains an accurate picture of document
23 promoting the 2012 Ford Edge and 2012 Ford Explorer, and that Paragraph 224 accurately quotes
24 a portion of that document. Ford denies each and every other allegation contained in Paragraph
25 224.

26 225. Ford denies each and every allegation contained in Paragraph 225.

27 226. Ford denies each and every allegation contained in Paragraph 226.

28

1 **E. Serious Defects Have Plagued MyFord Touch Since its Introduction**

2 227. Ford denies each and every allegation contained in Paragraph 227.

3 228. Ford denies each and every allegation contained in Paragraph 228.

4 229. Ford denies each and every allegation contained in Paragraph 229.

5 230. Ford denies each and every allegation contained in Paragraph 230.

6 231. Ford denies each and every allegation contained in Paragraph 231.

7 232. Ford denies each and every allegation contained in Paragraph 232.

8 233. Ford denies each and every allegation contained in Paragraph 233,
9 including its subparts.

10 234. Ford denies each and every allegation contained in Paragraph 234,
11 including its subparts.

12 235. Ford denies each and every allegation contained in Paragraph 235.

13 236. Ford denies each and every allegation contained in Paragraph 236,
14 including its subparts.

15 237. Ford denies each and every allegation contained in Paragraph 237.

16 238. Ford denies each and every allegation contained in Paragraph 238.

17 239. Ford admits that Paragraph 239 accurately quotes from a document that has
18 been marked with the designation WLN2-00003890. Ford admits that it utilizes a 14D Form,
19 which is a Field Service Action evaluation paper containing 14 major disciplines, which identify
20 the concern, its root cause, corrective actions, preliminary prevent recurrence actions, its scope
21 and impact, and the resources necessary to remedy the concerns in the field. Ford admits that
22 Paragraph 239 accurately quotes from a particular Form 14D that has been marked with the
23 designation WLN2-437399. Ford denies each and every other allegation contained in Paragraph
24 239.

25 240. Ford denies each and every allegation contained in Paragraph 240.

26 241. Ford denies each and every allegation contained in Paragraph 241.

27 **F. Ford Issues Multiple Secret TSBs, "Updates," and Warranty Extensions**

28 242. Ford admits that it has issued Technical Service Bulletins regarding and

1 updates to the MyFord Touch systems to improve their performance. Ford denies each and every
2 allegation contained in Paragraph 242.

3 243. Ford admits that Paragraph 243 accurately quotes from a document that has
4 been marked with the designation WLN2-00002019. Ford denies each and every other allegation
5 contained in Paragraph 243.

6 244. Ford denies each and every allegation contained in Paragraph 244.

7 245. Ford admits that it issued TSB 11-7-24 on July 22, 2011, and that this TSB
8 superseded TSB 11-4-18. Ford denies each and every other allegation contained in Paragraph
9 245.

10 246. Ford admits that it issued TSB 12-3-11 on March 13, 2012. Ford denies
11 each and every other allegation contained in Paragraph 246.

12 247. Ford admits that Paragraph 278 accurately quotes a portion of a statement
13 made by Ford. Ford denies each and every other allegation contained in Paragraph 247.

14 248. Ford denies each and every allegation contained in Paragraph 248.

15 249. Ford admits that it issued TSB 12-9-1 on September 1, 2012. Ford denies
16 each and every other allegation contained in Paragraph 249.

17 250. Ford admits that it issued TSB 12-11-1 on November 5, 2012, and that this
18 TSB superseded TSB 12-9-1. Ford denies each and every other allegation contained in Paragraph
19 250.

20 251. Ford admits that Michael A. Berardi, Director of Service Engineering
21 Operations, sent a letter to Ford and Lincoln dealers on November 8, 2012. Ford admits
22 Paragraph 251 accurately quotes portions of that letter. Ford denies each and every other
23 allegation contained in Paragraph 251.

24 252. Ford denies each and every allegation contained in Paragraph 252.

25 253. Ford denies each and every allegation contained in Paragraph 253.

26 254. Ford denies each and every allegation contained in Paragraph 254.

27 255. Ford admits that it issued TSB 13-8-2 on August 5, 2013. Ford admits that
28 Paragraph 255 accurately quotes a portion of TSB 13-8-2. Ford denies each and every other

1 allegation contained in Paragraph 255.

2 256. Ford admits that it issued TSB 13-10-6 on October 3, 2013, and that this
3 TSB superseded TSB 13-8-2. Ford admits that Paragraph 253 accurately quotes a portion of TSB
4 13-10-6. Ford denies each and every other allegation contained in Paragraph 256.

5 257. Ford denies each and every allegation contained in Paragraph 257.

6 **G. Consumer Complaints Document MyFord Touch Defects in Class Vehicles**

7 **1. Consumers Complain On-Line**

8 258. Ford denies each and every allegation contained in Paragraph 258.

9 259. Ford denies each and every allegation contained in Paragraph 259.

10 260. Ford admits that Paragraph 260 accurately quotes portions of statements
11 that used to appear on a website that was titled “www.fordsyncproblems.com”. Ford is without
12 information sufficient to form a belief as to the truth of the remaining allegations contained in
13 Paragraph 260, and on that basis denies those allegations.

14 **2. Consumer Complaints to NHTSA Evidence of a Widespread Problem**

15 261. Ford admits that Paragraph 261 accurately quotes certain selective
16 language from selected complaints posted on the NHTSA website, except that: 1. In number
17 10406568, the text should state “BUTTOMS” [sic] not “BUTTONS.” 2. In number 10487021,
18 the word “ATTACHMENT” should not be contained. 3. In number 10505787, the text should
19 state “INTENDING,” not “INTENDED”. 4. In number 10404872, the text should state “WHEN
20 OF [sic] IF,” not “WHEN OR IF.” 5. In number 10370847, the text should say “UNLOCK
21 SCREEN,” not “UNLOCK SCREENS.” Ford is without information sufficient to form a belief
22 as to the truth of the remaining allegations in Paragraph 261, and on that basis denies those
23 allegations.

24 **H. Ford Technicians Have Chronicled With Precision How the Defects in the MyFord**
25 **Touch Impact the Safety of Their Customer**

26 262. Ford admits that Paragraph 262 accurately quotes from CQIS Detail Report
27 ECLHL005, except that that Report does not contain the various asterisks printed in the TAC, and
28 contains different spacing conventions. Ford denies each and every other allegation contained in

1 Paragraph 262.

2 **I. Ford Employees, Both Present and Former, Routinely Chastise the Company for the**
3 **Defects in the MyFord Touch System**

4 263. Ford denies each and every allegation contained in Paragraph 263.

5 **J. The MyFord Touch Problems Have Diminished the Value of Class Members’**
6 **Vehicles**

7 264. Ford admits that Ford ranked 5th and Lincoln ranked 8th in J.D. Power &
8 Associates’ 2010 “Initial Quality Study.” Ford further admits that Ford ranked 23rd and Lincoln
9 ranked 17th in J.D. Power & Associates’ 2011 “Initial Quality Study.” Ford denies each and
10 every other allegation contained in Paragraph 264.

11 265. Ford denies each and every allegation contained in Paragraph 265.

12 266. Ford admits that Paragraph 266 contains an accurate quotation from a
13 review of the 2011 Ford Edge posted on www.cars.com.

14 267. Ford denies each and every allegation contained in Paragraph 267.

15 268. Ford denies each and every allegation contained in Paragraph 268.

16 **K. Despite Express Warranties, Ford Has Not Fixed the Problems with MyFord Touch**

17 269. Ford admits that it provides a “New Vehicle Limited Warranty” for each
18 of its vehicles with terms that vary between models and model years. Ford denies each and every
19 other allegation contained in Paragraph 269.

20 270. Ford is without adequate information to form a belief as to the truth of the
21 allegations contained in Paragraph 270, and on that basis denies those allegations.

22 271. Ford denies each and every allegation contained in Paragraph 271.

23 272. Ford denies each and every allegation contained in Paragraph 272.

24 273. Ford denies each and every allegation contained in Paragraph 273.

25 **VII. CLASS ALLEGATIONS**

26 274. Ford denies each and every allegation contained in Paragraph 274, except
27 admits, based on information and belief, that Paragraph 274 sets forth putative classes that
28

1 Plaintiffs' Magnuson-Moss Warranty Act claims were dismissed by this Court's Order dated May
2 30, 2014.

3 302. Ford denies each and every allegation contained in Paragraph 302.

4 303. Ford denies each and every allegation contained in Paragraph 303.

5 304. Ford denies each and every allegation contained in Paragraph 304, except
6 Ford admits, based on information and belief, that Paragraph 304 describes the relief requested by
7 Plaintiffs. Ford denies that they are entitled to such relief.

8 305. Ford denies each and every allegation contained in Paragraph 305, except
9 Ford admits, based on information and belief, that Paragraph 305 describes the relief requested by
10 Plaintiffs. Ford denies that they are entitled to such relief.

11 **COUNT II**
12 **VIOLATION OF CALIFORNIA CONSUMERS LEGAL REMEDIES ACT**
13 **(CAL. CIV. CODE §§ 1750, ET SEQ.)**

14 306. Ford reasserts its answers to Paragraphs 1 through 305.

15 307. Ford admits, based on information and belief, that Plaintiffs seek to bring
16 this Count on behalf of a putative California Class.

17 308. Ford admits the allegations contained in Paragraph 308.

18 309. Ford denies each and every allegation contained in Paragraph 309.

19 310. Ford admits that Ford, Plaintiffs, and other members of the putative
20 California Class each are a "person" as defined in Cal. Civ. Code § 1761(c). Ford denies each
21 and every other allegation contained in Paragraph 310.

22 311. Ford denies each and every allegation contained in Paragraph 311.

23 312. Ford denies each and every allegation contained in Paragraph 312.

24 313. Ford denies each and every allegation contained in Paragraph 313.

25 314. Ford denies each and every allegation contained in Paragraph 314.

26 315. Ford denies each and every allegation contained in Paragraph 315.

27 316. Ford denies each and every allegation contained in Paragraph 316.

28 317. Ford denies each and every allegation contained in Paragraph 317.

318. Ford denies each and every allegation contained in Paragraph 318.

1 **COUNT III**
2 **VIOLATION OF CALIFORNIA FALSE ADVERTISING LAW**
3 **(CAL. CIV. CODE §§ 17500, ET SEQ.)**

4 319. Ford reasserts its answers to Paragraphs 1 through 318.

5 320. Ford admits, based on information and belief, that Plaintiffs seek to bring
6 this Count on behalf of a putative California Class.

7 321. Ford admits the allegations contained in Paragraph 321.

8 322. Ford denies each and every allegation contained in Paragraph 322.

9 323. Ford denies each and every allegation contained in Paragraph 323.

10 324. Ford denies each and every allegation contained in Paragraph 324.

11 325. Ford denies each and every allegation contained in Paragraph 325, except
12 Ford admits, based on information and belief, that Paragraph 325 describes the relief requested by
13 Plaintiffs. Ford denies that they are entitled to such relief.

14 **COUNT IV**
15 **BREACH OF IMPLIED WARRANTY OF MERCHANTABILITY**
16 **(CAL. CIV. CODE §§ 17500, ET SEQ.)**

17 326. Ford reasserts its answers to Paragraphs 1 through 326.

18 327. Ford admits, based on information and belief, that Plaintiffs seek to bring
19 this Count on behalf of a putative California Class.

20 328. Ford admits that it is a merchant with respect to motor vehicles within the
21 meaning of Cal. Com. Code § 2104(1).

22 329. Ford denies each and every allegation contained in Paragraph 329.

23 330. Ford denies each and every allegation contained in Paragraph 330.

24 331. Ford denies each and every allegation contained in Paragraph 331.

25 332. Ford denies each and every allegation contained in Paragraph 332.

26 333. Ford denies each and every allegation contained in Paragraph 333.

27 **COUNT V**
28 **FRAUD BY CONCEALMENT**
(BASED ON CALIFORNIA LAW)

334. Ford reasserts its answers to Paragraphs 1 through 333.

335. Ford admits, based on information and belief, that Plaintiffs seek to bring

1 this Count on behalf of a putative California Class.

2 336. Ford denies each and every allegation contained in Paragraph 336.

3 337. Ford denies each and every allegation contained in Paragraph 337.

4 338. Ford denies each and every allegation contained in Paragraph 338.

5 339. Ford denies each and every allegation contained in Paragraph 339.

6 340. Ford denies each and every allegation contained in Paragraph 340.

7 341. Ford denies each and every allegation contained in Paragraph 341.

8 342. Ford denies each and every allegation contained in Paragraph 342.

9 343. Ford denies each and every allegation contained in Paragraph 343.

10 344. Ford denies each and every allegation contained in Paragraph 344.

11 **COUNT VI**
12 **VIOLATION OF SONG-BEVERLY CONSUMER WARRANTY ACT FOR**
13 **BREACH OF EXPRESS WARRANTIES**
(CAL. CIV. CODE §§ 1791.2 & 1793.2(D))

14 345. Ford reasserts its answers to Paragraphs 1 through 344.

15 346. Ford admits, based on information and belief, that Plaintiffs seek to bring
16 this Count on behalf of a putative California Class.

17 347. Ford denies each and every allegation contained in Paragraph 347.

18 348. Ford denies each and every allegation contained in Paragraph 348.

19 349. Ford denies each and every allegation contained in Paragraph 349.

20 350. Ford denies each and every allegation contained in Paragraph 350.

21 351. Ford admits that each of its new vehicles come with a New Vehicle
22 Limited Warranty. Ford denies each and every other allegation contained in Paragraph 351.

23 352. Ford admits that Paragraph 352 accurately quotes from Ford's New
24 Vehicle Limited Warranty. Ford denies each and every other allegation contained in Paragraph
25 352.

26 353. Ford denies each and every allegation contained in Paragraph 353.

27 354. Ford is without information sufficient to form a belief as to the truth of the
28 allegations contained in Paragraph 354, and on that basis denies those allegations.

- 1 355. Ford denies each and every allegation contained in Paragraph 355.
- 2 356. Ford denies each and every allegation contained in Paragraph 356.
- 3 357. Ford denies each and every allegation contained in Paragraph 357.
- 4 358. Ford denies each and every allegation contained in Paragraph 358.
- 5 359. Ford denies each and every allegation contained in Paragraph 359.
- 6 360. Ford denies each and every allegation contained in Paragraph 360.

COUNT VII
VIOLATION OF SONG-BEVERLY CONSUMER WARRANTY ACT FOR
BREACH OF IMPLIED WARRANTY OF MERCHANTABILITY
(CAL. CIV. CODE §§ 1791.1 & 1792)

- 10 361. Ford reasserts its answers to Paragraphs 1 through 360.
- 11 362. Ford admits, based on information and belief, that Plaintiffs seek to bring
12 this Count on behalf of a putative California Class.
- 13 363. Ford denies each and every allegation contained in Paragraph 363.
- 14 364. Ford denies each and every allegation contained in Paragraph 364.
- 15 365. Ford denies each and every allegation contained in Paragraph 365.
- 16 366. Ford denies each and every allegation contained in Paragraph 366.
- 17 367. Ford admits the allegations contained in Paragraph 367.
- 18 368. Ford denies each and every allegation contained in Paragraph 368.
- 19 369. Ford denies each and every allegation contained in Paragraph 369.
- 20 370. Ford denies each and every allegation contained in Paragraph 370.
- 21 371. Ford denies each and every allegation contained in Paragraph 371.
- 22 372. Ford denies each and every allegation contained in Paragraph 372.
- 23 373. Ford denies each and every allegation contained in Paragraph 373.
- 24 374. Ford denies each and every allegation contained in Paragraph 374.

COUNT VIII
VIOLATION OF CALIFORNIA CIVIL CODE SECTION 1795.92
(ON BEHALF OF THE CALIFORNIA SUB-CLASS)

- 27 375. Ford admits that this claim was dismissed in part by Judge Chen’s May 30,
28 2014 order, and admits, based on information and belief, that Plaintiffs included it in the TAC

1 only to preserve it for appeal.

2 376. Ford reasserts its answers to Paragraphs 1 through 375.

3 377. Ford denies each and every allegation contained in Paragraph 377.

4 378. Ford denies each and every allegation contained in Paragraph 378.

5 379. Ford avers that the allegations contained in Paragraph 379 were dismissed
6 by Judge Chen's May 30, 2014 Order, and as such require no response.

7 380. Ford avers that the allegations contained in Paragraph 380 were dismissed
8 by Judge Chen's May 30, 2014 Order, and as such require no response.

9 381. Ford denies each and every allegation contained in Paragraph 381.

10 382. Ford denies each and every allegation contained in Paragraph 382.

11 383. Ford denies each and every allegation contained in Paragraph 383.

12 384. Ford denies each and every allegation contained in Paragraph 384.

13 **C. Claims Brought on Behalf of the Arizona Class**

14 **COUNT I**
15 **VIOLATIONS OF THE CONSUMER FRAUD ACT**
16 **(ARIZ. REV. STAT § 44-1521, ET SEQ.)**

17 385. Ford reasserts its answers to Paragraphs 1 through 384.

18 386. Ford admits, based on information and belief, that Plaintiffs seek to bring
19 this Count on behalf of a putative Arizona Class.

20 387. Ford admits the allegations contained in Paragraph 387.

21 388. Ford admits the allegations contained in Paragraph 388.

22 389. Ford denies each and every allegation contained in Paragraph 389.

23 390. Ford denies each and every allegation contained in Paragraph 390.

24 391. Ford denies each and every allegation contained in Paragraph 391.

25 392. Ford denies each and every allegation contained in Paragraph 392,
including its subparts.

26 393. Ford denies each and every allegation contained in Paragraph 393.

27 394. Ford denies each and every allegation contained in Paragraph 394.

28 395. Ford denies each and every allegation contained in Paragraph 395.

1 **E. Claims Brought on Behalf of the Iowa Class**

2 **COUNT I**
3 **BREACH OF EXPRESS WARRANTY**
4 **(IOWA CODE § 554.2313)**

4 436. Ford reasserts its answers to Paragraphs 1 through 435.

5 437. Ford admits, based on information and belief, that Plaintiff seeks to bring
6 this Count on behalf of himself as to his 2011 Lincoln MKX and on behalf of a putative Iowa
7 Class.

8 438. Ford admits that it is a merchant with respect to motor vehicles within the
9 meaning of Iowa Code § 554.2104(1).

10 439. Ford denies each and every allegation contained in Paragraph 439, except
11 Ford admits that Paragraph 439 accurately quotes a portion of its New Vehicle Limited Warranty.

12 440. Ford is without information sufficient to form a belief as to the truth of the
13 allegations contained in Paragraph 440, and on that basis denies those allegations.

14 441. Ford denies each and every allegation contained in Paragraph 441.

15 442. Ford denies each and every allegation contained in Paragraph 442.

16 443. Ford denies each and every allegation contained in Paragraph 443.

17 444. Ford denies each and every allegation contained in Paragraph 444.

18 445. Ford denies each and every allegation contained in Paragraph 445.

19 446. Ford admits, based on information and belief, that Paragraph 446 identifies
20 additional and/or alternative remedies asserted by Plaintiffs. Ford denies that they are entitled to
21 such remedies.

22 447. Ford denies each and every allegation contained in Paragraph 447.

23 448. Ford denies each and every allegation contained in Paragraph 448.

24 **F. Claims Brought on Behalf of the Massachusetts Class**

25 **COUNT I**
26 **VIOLATIONS OF MASSACHUSETTS CONSUMER PROTECTION ACT**
27 **(MASS. GEN. LAWS CH. 93A)**

27 449. Ford reasserts its answers to Paragraphs 1 through 448.

28 450. Ford admits, based on information and belief, that Plaintiffs seek to bring

1 this Count on behalf of a putative Massachusetts Class.

2 451. Ford denies each and every allegation contained in Paragraph 451.

3 452. Ford denies each and every allegation contained in Paragraph 452.

4 453. Ford denies each and every allegation contained in Paragraph 453.

5 454. Ford denies each and every allegation contained in Paragraph 454, except
6 Ford admits, based on information and belief, that Paragraph 454 describes the relief requested by
7 Plaintiffs. Ford denies that they are entitled to such relief.

8 **COUNT II**
9 **BREACH OF EXPRESS WARRANTY**
10 **(MASS. GEN. LAWS CH. 106, § 2-313)**

11 455. Ford reasserts its answers to Paragraphs 1 through 454.

12 456. Ford admits, based on information and belief, that Plaintiffs seek to bring
13 this Count on behalf of a putative Massachusetts Class.

14 457. Ford admits that it is a merchant with respect to motor vehicles within the
15 meaning of Mass. Gen. Laws ch. 106 § 2-104(1).

16 458. Ford denies each and every allegation contained in Paragraph 458, except
17 Ford admits that Paragraph 458 accurately quotes a portion of its New Vehicle Limited Warranty.

18 459. Ford is without information sufficient to form a belief as to the truth of the
19 allegations contained in Paragraph 459, and on that basis denies those allegations.

20 460. Ford denies each and every allegation contained in Paragraph 460.

21 461. Ford denies each and every allegation contained in Paragraph 461.

22 462. Ford denies each and every allegation contained in Paragraph 462.

23 463. Ford denies each and every allegation contained in Paragraph 463.

24 464. Ford denies each and every allegation contained in Paragraph 464.

25 465. Ford admits, based on information and belief, that Paragraph 465 identifies
26 additional and/or alternative remedies asserted by Plaintiffs. Ford denies that they are entitled to
27 such remedies.

28 466. Ford denies each and every allegation contained in Paragraph 466.

467. Ford denies each and every allegation contained in Paragraph 467.

1 **G. Claims Brought on Behalf of the New Jersey Class**

2 **COUNT I**
3 **VIOLATIONS OF THE NEW JERSEY CONSUMER FRAUD ACT**
4 **(N.J. STAT. ANN. §§ 56:8-1, ET. SEQ.)**

487. Ford reasserts its answers to Paragraphs 1 through 486.

5 488. Ford admits, based on information and belief, that Plaintiffs seek to bring
6 this Count on behalf of a putative New Jersey Class.

7 489. Ford denies each and every allegation contained in Paragraph 489.

8 490. Ford denies each and every allegation contained in Paragraph 490.

9 491. Ford denies each and every allegation contained in Paragraph 491.

10 492. Ford denies each and every allegation contained in Paragraph 492.

11 493. Ford denies each and every allegation contained in Paragraph 493.

12 494. Ford is without information sufficient to form a belief as to the truth of the
13 allegations contained in Paragraph 494, and on that basis denies those allegations.

14 **COUNT II**
15 **BREACH OF EXPRESS WARRANTY**
16 **(N.J. STAT. ANN. § 12A:2-313)**

16 495. Ford reasserts its answers to Paragraphs 1 through 494.

17 496. Ford admits, based on information and belief, that Plaintiffs seek to bring
18 this Count on behalf of a putative New Jersey Class.

19 497. Ford admits that it is a merchant with respect to motor vehicles within the
20 meaning of N.J. Stat. Ann. § 12A:2-104(1).

21 498. Ford denies each and every allegation contained in Paragraph 498, except
22 Ford admits that Paragraph 498 accurately quotes a portion of its New Vehicle Limited Warranty.

23 499. Ford is without information sufficient to form a belief as to the truth of
24 allegations contained in Paragraph 499, and on that basis denies those allegations.

25 500. Ford denies each and every allegation contained in Paragraph 500.

26 501. Ford denies each and every allegation contained in Paragraph 501.

27 502. Ford denies each and every allegation contained in Paragraph 502.

28 503. Ford denies each and every allegation contained in Paragraph 503.

1 523. Ford denies each and every allegation contained in Paragraph 523.

2 524. Ford denies each and every allegation contained in Paragraph 524.

3 525. Ford denies each and every allegation contained in Paragraph 525.

4 526. Ford denies each and every allegation contained in Paragraph 526.

5 **H. Claims Brought on Behalf of the New York Class**

6 **COUNT I**
7 **VIOLATIONS OF NEW YORK GENERAL BUSINESS LAW § 349**
8 **(N.Y. GEN. BUS. LAW § 349)**

8 527. Ford reasserts its answers to Paragraphs 1 through 526.

9 528. Ford admits, based on information and belief, that Plaintiffs seek to bring
10 this Count on behalf of a putative New York Class. Ford further admits, based on information
11 and belief, that Plaintiff Miller seeks to bring this Count based on claims for both affirmative
12 misrepresentation and omission(s). Ford also admits, based on information and belief, that
13 Plaintiff Purcell seeks to bring this Count only based on an alleged claim for omission(s).

14 529. Ford admits the allegations contained in Paragraph 529.

15 530. Ford denies each and every allegation contained in Paragraph 530.

16 531. Ford denies each and every allegation contained in Paragraph 531.

17 532. Ford denies each and every allegation contained in Paragraph 532.

18 533. Ford denies each and every allegation contained in Paragraph 533.

19 534. Ford denies each and every allegation contained in Paragraph 534.

20 **COUNT II**
21 **VIOLATIONS OF THE NEW YORK GENERAL BUSINESS LAW § 350**
22 **(N.Y. GEN. BUS. LAW § 350)**

22 535. Ford reasserts its answers to Paragraphs 1 through 534.

23 536. Ford admits, based on information and belief, that Plaintiffs seek to bring
24 this Count on behalf of a putative New York Class.

25 537. Ford denies each and every allegation contained in Paragraph 537.

26 538. Ford denies each and every allegation contained in Paragraph 538.

27 539. Ford denies each and every allegation contained in Paragraph 539.

28 540. Ford denies each and every allegation contained in Paragraph 540.

**COUNT IV
FRAUDULENT CONCEALMENT
(BASED ON NEW YORK LAW)**

557. Ford reasserts its answers to Paragraphs 1 through 556.

558. Ford admits, based on information and belief, that Plaintiffs seek to bring this Count on behalf of a putative New York Class.

559. Ford denies each and every allegation contained in Paragraph 559.

560. Ford denies each and every allegation contained in Paragraph 560.

561. Ford denies each and every allegation contained in Paragraph 561.

562. Ford denies each and every allegation contained in Paragraph 562.

563. Ford denies each and every allegation contained in Paragraph 563.

564. Ford denies each and every allegation contained in Paragraph 564.

565. Ford denies each and every allegation contained in Paragraph 565.

566. Ford denies each and every allegation contained in Paragraph 566.

567. Ford denies each and every allegation contained in Paragraph 567.

568. Ford denies each and every allegation contained in Paragraph 568.

I. Claims Brought on Behalf of the North Carolina Class

**COUNT I
VIOLATIONS OF THE NORTH CAROLINA UNFAIR
AND DECEPTIVE TRADE PRACTICES ACT
(N.C. GEN. STAT. §§ 75-1.1, *ET SEQ.*)**

569. Ford reasserts its answers to Paragraphs 1 through 568.

570. Ford admits, based on information and belief, that Plaintiffs seek to bring this Count on behalf of a putative North Carolina Class.

571. Ford admits the allegations contained in Paragraph 571.

572. Ford denies each and every allegation contained in Paragraph 572.

573. Ford denies each and every allegation contained in Paragraph 573.

574. Ford denies each and every allegation contained in Paragraph 574.

575. Ford denies each and every allegation contained in Paragraph 575.

576. Ford denies each and every allegation contained in Paragraph 576.

1 this Count on behalf of a putative North Carolina Class.

2 593. Ford admits that it is a merchant with respect to motor vehicles within the
3 meaning of N.C. Gen. Stat. § 25-2-104(1).

4 594. Ford denies each and every allegation contained in Paragraph 594.

5 595. Ford denies each and every allegation contained in Paragraph 595.

6 596. Ford denies each and every allegation contained in Paragraph 596.

7 597. Ford denies each and every allegation contained in Paragraph 597.

8 **COUNT IV**
9 **FRAUDULENT CONCEALMENT**
10 **(BASED ON NORTH CAROLINA LAW)**

11 598. Ford reasserts its answers to Paragraphs 1 through 597.

12 599. Ford admits, based on information and belief, that Plaintiffs seek to bring
13 this Count on behalf of a putative North Carolina Class.

14 600. Ford denies each and every allegation contained in Paragraph 600.

15 601. Ford denies each and every allegation contained in Paragraph 601.

16 602. Ford denies each and every allegation contained in Paragraph 602.

17 603. Ford denies each and every allegation contained in Paragraph 603.

18 604. Ford denies each and every allegation contained in Paragraph 604.

19 605. Ford denies each and every allegation contained in Paragraph 605.

20 606. Ford denies each and every allegation contained in Paragraph 606.

21 607. Ford denies each and every allegation contained in Paragraph 607.

22 608. Ford denies each and every allegation contained in Paragraph 608.

23 609. Ford denies each and every allegation contained in Paragraph 609.

24 **J. Claims Brought on Behalf of the Ohio Class**

25 **COUNT I**
26 **VIOLATIONS OF THE CONSUMER SALES PRACTICES ACT**
27 **(OHIO REV. CODE § 1345.01, ET SEQ.)**

28 610. Ford reasserts its answers to Paragraphs 1 through 609.

611. Ford admits, based on information and belief, that Plaintiffs seek to bring
this Count on behalf of a putative Ohio Class.

**COUNT V
FRAUDULENT CONCEALMENT
(BASED ON OHIO LAW)**

643. Ford reasserts its answers to Paragraphs 1 through 643.

644. Ford admits, based on information and belief, that Plaintiffs seek to bring this Count on behalf of a putative Ohio Class.

645. Ford denies each and every allegation contained in Paragraph 645.

646. Ford denies each and every allegation contained in Paragraph 646.

647. Ford denies each and every allegation contained in Paragraph 647.

648. Ford denies each and every allegation contained in Paragraph 648.

649. Ford denies each and every allegation contained in Paragraph 649.

650. Ford denies each and every allegation contained in Paragraph 650.

651. Ford denies each and every allegation contained in Paragraph 651.

652. Ford denies each and every allegation contained in Paragraph 652.

653. Ford denies each and every allegation contained in Paragraph 653.

654. Ford denies each and every allegation contained in Paragraph 654.

K. Claims Brought on Behalf of the Texas Class

**COUNT I
VIOLATIONS OF THE DECEPTIVE TRADE PRACTICES ACT
(TEX. BUS. & COM. CODE § 17.41, ET SEQ.)**

655. Ford reasserts its answers to Paragraphs 1 through 654.

656. Ford admits, based on information and belief, that Plaintiffs seek to bring this Count on behalf of a putative Texas Class.

657. Ford admits that Ford and Plaintiffs are each a “person” as defined in Tex. Bus. & Com. Code § 17.45(3). Ford admits that the Class Vehicles are “goods” as defined in Tex. Bus. & Com. Code § 17.45(1). Ford further admits that it has engaged in “trade” and “commerce” as defined in Tex. Bus. & Com. Code § 17.45(6). Ford is without information sufficient to form a belief as to the truth of the allegation that Plaintiffs and the other putative Texas Class members are “consumers” as defined in Tex. Bus. & Com. Code § 17.45(4), and on that basis denies those allegations. Ford denies each and every other allegation contained in

1 Paragraph 657.

2 658. Ford denies each and every allegation contained in Paragraph 658.

3 659. Ford denies each and every allegation contained in Paragraph 659.

4 660. Ford denies each and every allegation contained in Paragraph 660.

5 661. Ford denies each and every allegation contained in Paragraph 661,
6 including its subparts.

7 662. Ford denies each and every allegation contained in Paragraph 662.

8 663. Ford denies each and every allegation contained in Paragraph 663.

9 664. Ford denies each and every allegation contained in Paragraph 664.

10 665. Ford denies each and every allegation contained in Paragraph 665.

11 666. Ford is without information sufficient to form a belief as to the truth of the
12 allegation that Plaintiffs will send a copy of the TAC to the Texas Consumer Protection Division,
13 and on that basis denies that allegation. Ford denies each and every other allegation contained in
14 Paragraph 666.

15 667. Ford denies each and every allegation contained in Paragraph 667.

16 668. Ford denies each and every allegation contained in Paragraph 668.

17 **COUNT II**
18 **FRAUD BY CONCEALMENT**
19 **(BASED ON TEXAS LAW)**

20 669. Ford reasserts its answers to Paragraphs 1 through 668.

21 670. Ford admits, based on information and belief, that Plaintiffs seek to bring
22 this Count on behalf of a putative Texas Class.

23 671. Ford denies each and every allegation contained in Paragraph 671.

24 672. Ford denies each and every allegation contained in Paragraph 672.

25 673. Ford denies each and every allegation contained in Paragraph 673.

26 674. Ford denies each and every allegation contained in Paragraph 674.

27 675. Ford denies each and every allegation contained in Paragraph 675.

28 676. Ford denies each and every allegation contained in Paragraph 676.

677. Ford denies each and every allegation contained in Paragraph 677.

1 allegation that its Limited Warranty formed the basis of the bargain for Plaintiffs and the putative
2 Washington Class members, and on that basis denies that allegation. Ford admits that Paragraph
3 733 accurately quotes from its Limited Warranty. Ford denies each and every other allegation
4 contained in Paragraph 733.

5 734. Ford denies each and every allegation contained in Paragraph 734.

6 735. Ford denies each and every allegation contained in Paragraph 735.

7 736. Ford denies each and every allegation contained in Paragraph 736.

8 737. Ford denies each and every allegation contained in Paragraph 737.

9 738. Ford admits that Paragraph 738 identifies additional and/or alternative
10 remedies asserted by Plaintiffs. Ford denies that they are entitled to such remedies. Ford denies
11 each and every other allegation contained in Paragraph 738.

12 739. Ford denies each and every allegation contained in Paragraph 739.

13 740. Ford denies each and every allegation contained in Paragraph 740.

14 741. Ford denies each and every allegation contained in Paragraph 741.

15 742. Ford denies each and every allegation contained in Paragraph 742.

16 743. Ford denies each and every allegation contained in Paragraph 743.

17 744. Ford denies each and every allegation contained in Paragraph 744.

18 745. Ford denies each and every allegation contained in Paragraph 745.

19 **REQUEST FOR RELIEF**

20 Ford admits, based on information and belief, that pages 149-50 of the TAC identify the
21 relief sought by Plaintiffs. Ford denies that Plaintiffs or members of the putative classes are
22 entitled to any such relief.

23 **AFFIRMATIVE DEFENSES**

24 Ford incorporates by reference into each of the affirmative defenses below, as if fully set
25 forth therein, its responses to the allegations contained in Paragraphs 1 through 745, as set forth
26 above. Ford, not being fully advised of all the circumstances surrounding the allegations set forth
27 in Plaintiffs' TAC, states and reserves the affirmative defenses that the claims of Plaintiffs are or
28 may be barred, in whole or in part, for the bases set out below. In asserting these affirmative

1 defenses, Ford does not assume the burden of proof on any issue as to which the burden properly
2 falls on Plaintiffs.

3 1. Plaintiffs' TAC fails to state a claim against Ford upon which relief can be
4 granted.

5 2. The claims of Plaintiffs and members of the putative classes, in whole or in
6 part, may not be adjudicated in this Court because venue is improper as to all Plaintiffs and
7 putative class members who did not purchase or lease their Class Vehicle in this District or did
8 not do so based on (allegedly wrongful) actions by Ford in this District.

9 3. The claims of Plaintiffs and members of the putative classes are barred by
10 the terms of the applicable limited warranties sold with their vehicles.

11 4. The warranty claims of Plaintiffs and members of the putative classes are
12 barred because the terms of the applicable limited warranties sold with their vehicles expressly
13 disclaimed all other warranties, including any implied warranties.

14 5. The claims of Plaintiffs and members of the putative classes are, in whole
15 or in part, preempted by the National Traffic and Motor Vehicle Safety Act, 49 U.S.C. §§ 30118,
16 et seq.

17 6. The claims of Plaintiffs and members of the putative classes are barred by a
18 lack of standing because they have no cognizable injury with respect to such claims.

19 7. The claims of Plaintiffs and members of the putative classes are barred, in
20 whole or in part, by the equitable doctrine of unclean hands and similar rules requiring Plaintiffs
21 to do equity to obtain relief.

22 8. The claims of Plaintiffs and members of the putative classes are barred, in
23 whole or in part, by the equitable doctrines of waiver, acquiescence, laches, and/or estoppel, in
24 that, including without limitation, Plaintiffs unreasonably delayed in bringing their claims.

25 9. Certain claims of certain Plaintiffs and members of the putative classes,
26 including, but not limited to, the fraudulent concealment claim brought by Plaintiff Connell; the
27 claims under New York General Business Law § 349 and New York General Business Law § 350
28 brought by Plaintiff Purcell; the Texas Deceptive Trade Practices Act claim brought by Plaintiff

1 Rodriguez; and the claim under the Virginia Consumer Protection Act brought by Plaintiff
2 Connell, are barred, in whole or in part, by the applicable statutes of limitations.

3 10. The claims of Plaintiffs and members of the putative classes who have
4 previously resolved claims against Ford regarding the MyFord Touch system, are barred by the
5 doctrines of res judicata, collateral estoppel, and/or other similar doctrines.

6 11. The claims of Plaintiffs and members of the putative classes are barred, in
7 whole or in part, by release as to those claims.

8 12. The claims of Plaintiffs and members of the putative classes are barred, in
9 whole or in part, because they failed to mitigate their damages and/or took unreasonable,
10 unnecessary, and/or unduly expensive actions in purported mitigation, and Ford is not responsible
11 therefor.

12 13. The claims of Plaintiffs and members of the putative classes are barred to
13 the extent that the business practices alleged were carried out for legitimate business reasons.

14 14. The claims of Plaintiffs and members of the putative classes are barred, in
15 whole or in part, by the Due Process Clauses of the Constitution of the United States and the
16 constitutions of the various states under whose laws Plaintiffs bring their claims.

17 15. The claims of Plaintiffs and members of the putative classes are barred, in
18 whole or in part, if they have failed to give timely and sufficient notice of breach or of other
19 noncompliance, as is required by relevant statutes, customs, or legal principles.

20 16. The claims of Plaintiffs and members of the putative classes may be barred,
21 in whole or in part, from recovery due to the intervening negligence or intentional actions or non-
22 actions of another party.

23 17. The claims of Plaintiff and members of the putative classes may be barred
24 to the extent that the vehicles' component parts are designed, assembled, and distributed by
25 persons for whom Ford has no legal responsibility.

26 18. The claims of Plaintiffs and members of the putative classes are barred, in
27 whole or in part, if the alleged problems in their vehicles involved an intervening cause or were
28 attributable, in whole or in part, to a cause other than the purported vehicle defects alleged by the

1 TAC.

2 19. The claims of Plaintiffs and members of the putative classes are barred, in
3 whole or in part, if they have made statements or taken actions which estop them from asserting
4 their claims.

5 20. The claims of Plaintiffs and members of the putative classes are barred, in
6 whole or in part, on the ground that they are subject to the defense of accord and satisfaction.

7 21. Certain claims of certain Plaintiffs and members of the putative classes,
8 including, but not limited to, the Massachusetts Consumer Protection Act claim brought by
9 Plaintiff Creed, are barred, in whole or in part, because they failed to comply with the pre-
10 litigation notice and demand requirements of certain statutes under which they have asserted
11 claims.

12 22. Any recovery for the claim for violations of the Massachusetts Consumer
13 Protection Act, Mass. Gen. Laws ch. 93A, brought by Plaintiff Creed and members of the
14 putative classes is limited to the relief tendered by Ford in its written tender of settlement
15 pursuant to Mass. Gen. Laws ch. 93A § 9(3).

16 23. To the extent that Plaintiffs seek punitive damages, without qualification or
17 limitation, this claim violates Ford's right to due process under the United States Constitution and
18 constitutions of the various states under whose laws Plaintiffs bring their claims.

19 24. Imposition of punitive damages against Ford in this case would violate the
20 Commerce Clause, Article I, Section 8 of the United States Constitution, because an award of
21 punitive damages would constitute an undue and unreasonable burden on interstate commerce.

22 25. Imposition of punitive damages against Ford in this case would violate the
23 Contracts Clause, Article I, Section 10 of the United States Constitution, because an award of
24 punitive damages would impair the contractual obligations of any contracts involving the
25 Plaintiffs or others claimed to be members of the purported class and Ford.

26 26. Plaintiffs have failed to state a claim for injunction insofar as they seek to
27 enjoin alleged events that have already transpired without the requisite showing of threatened
28 future harm or continuing violation.

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

JURY DEMAND

Ford demands trial by jury on all issues so triable.

Dated: October 30, 2015

O'MELVENY & MYERS LLP

By: /s/ Randall W. Edwards
Randall W. Edwards

Attorneys for Defendant Ford Motor Company