

Statement of Facts

1. TOYOTA MOTOR CORPORATION (“TOYOTA”) is an automotive company headquartered in Toyota City, Japan. Assisted by its subsidiaries and affiliates worldwide, TOYOTA designs, manufactures, assembles, and sells Toyota and Lexus brand vehicles. For the fiscal year ending March 31, 2010, TOYOTA’s revenues from its automotive business were 17.2 trillion Japanese yen (approximately \$184 billion), and its second largest market, with approximately 29% of its worldwide sales, was North America.

2. As set forth in more detail below, TOYOTA is responsible for unlawful activities committed by certain employees that resulted in circumstances in which information was hidden from the public. As evidenced in part by internal company documents, individual employees not only made misleading public statements to TOYOTA’s consumers, but also concealed from TOYOTA’s regulator one safety-related issue (a problem with accelerators getting stuck at partially depressed levels, referred to as “sticky pedal”) and minimized the scope of another (accelerators becoming entrapped at fully or near-fully depressed levels by improperly secured or incompatible floor mats, referred to as “floor mat entrapment”).

3. Contrary to public statements that TOYOTA made in late 2009 saying it had “addressed” the “root cause” of unintended acceleration through a limited safety recall addressing floor mat entrapment, TOYOTA had actually conducted internal tests revealing that certain of its unrecalled vehicles bore design features rendering them just as susceptible to floor mat entrapment as some of the recalled vehicles. And only weeks before these statements were made, individuals within TOYOTA had taken steps to hide from its regulator another type of unintended acceleration in its vehicles, separate and apart from floor mat entrapment: the sticky pedal problem.

4. According to a January 2010 report of a discussion following a meeting between TOYOTA and its regulator, one Toyota employee was said to exclaim, “Idiots! Someone will go to jail if lies are repeatedly told. I can’t support this.”

TOYOTA and Related Entities

5. At least through February 2010, decisions about whether and when to conduct recalls of Toyota and Lexus vehicles were made by the leadership of a group within TOYOTA called “Customer Quality Engineering,” which was centered in Japan and sometimes referred to as “CQE-J.” Customer Quality Engineering had regional arms responsible for monitoring vehicle quality issues in the “field” (that is, for vehicles already on the road) in their respective regions. These regional arms regularly reported field issues and results of vehicle inspections and testing to CQE-J. The U.S. regional arm, located in Torrance, California, was called “CQE-LA.” Technically, CQE-LA was part of Toyota Motor Engineering & Manufacturing North America, Inc. (“TEMA”), an entity that is a wholly-owned subsidiary of TOYOTA headquartered in Kentucky and principally responsible for North American manufacturing of Toyota and Lexus vehicles. In practice, CQE-LA staff reported to CQE-J’s leadership.

6. Toyota Motor Sales, U.S.A., Inc. (“TMS”) is an entity that is a wholly-owned subsidiary of TOYOTA and headquartered in Torrance, California. It is responsible for sales and marketing of Toyota and Lexus brand vehicles in the United States.

7. Toyota Motor North America, Inc. (“TMA”) is an entity that is a wholly-owned subsidiary of TOYOTA with offices in New York, New York, and Washington, D.C. The Washington office was responsible for reporting to and interacting with TOYOTA’s U.S. regulator, the National Highway Traffic Safety Administration (“NHTSA”).

Overview of the Unlawful Conduct

8. From the fall of 2009 through March 2010, TOYOTA misled U.S. consumers by concealing and making deceptive statements about two safety-related issues affecting its vehicles, each of which caused a type of unintended acceleration.

9. In the fall of 2009, TOYOTA faced intense public concern and scrutiny over the safety of its vehicles after a widely-publicized August 28, 2009 accident in San Diego, California that killed a family of four. A Lexus dealer had improperly installed an unsecured, incompatible rubber floor mat (an “all weather floor mat” or “AWFM”) into the Lexus ES350 in which the family was traveling, and that AWFM entrapped the accelerator at full throttle. A 911 emergency call made from the out-of-control vehicle, which was speeding at over 100 miles per hour, reported, “We’re in a Lexus . . . and we’re going north on 125 and our accelerator is stuck . . . there’s no brakes . . . we’re approaching the intersection . . . Hold on . . . hold on and pray . . . pray.” The call ended with the sound of the crash that killed everyone in the vehicle.

10. Against the backdrop of the San Diego accident, press reports of other unintended acceleration incidents in Toyota and Lexus vehicles, and intensified scrutiny from NHTSA, TOYOTA agreed to NHTSA’s request in or about September 2009 to recall eight of its U.S. models for floor mat entrapment susceptibility. Meanwhile and thereafter, from the fall of 2009 through January 2010, TOYOTA misleadingly assured customers that it had “addressed the root cause” of unintended acceleration in its U.S.-sold vehicles by conducting this recall. In truth, the recall TOYOTA had conducted (a) left unaddressed the Corolla, the Highlander, and the Venza, which shared design features similar to the models that were recalled for floor mat entrapment, and (b) left unaddressed a second type of unintended acceleration: the sticky pedal problem.

11. TOYOTA made these misleading statements and undertook these acts of concealment as part of efforts to defend its brand image in the wake of the fatal San Diego accident and the ensuing onslaught of critical press.

12. When, in early 2010, TOYOTA finally conducted safety recalls to address the unintended acceleration issues it had concealed, TOYOTA provided to the American public, NHTSA, and Congress an inaccurate timeline of events that made it appear as if TOYOTA had acted to remedy the sticky pedal problem within approximately 90 days of discovering it.

Background to the Unlawful Conduct

13. TOYOTA is required to disclose to NHTSA if it “learns [a] vehicle or equipment contains a defect and decides in good faith that the defect is related to motor vehicle safety.” “Motor vehicle safety” is defined as “performance of a motor vehicle . . . in a way that protects the public against unreasonable risk of accidents . . . and against unreasonable risk of death or injury in an accident.” 49 U.S.C. §§ 30118(c)(1); 30102(a)(8). Such disclosure must be “submitted not more than 5 working days after a defect in a vehicle or item of equipment has

been determined to be safety related” (the “Defect Disclosure Regulation”). See 49 U.S.C. § 30118(c) and 49 C.F.R. § 573.6.

14. The required disclosure is to be made by filing a “Defect Information Report,” or “DIR.”

15. Although TOYOTA is not required to notify NHTSA of any engineering and design changes it made to Toyota and Lexus models sold in the United States, it is required to file a DIR for any safety-related defect addressed by such an engineering and/or design change.

Events Prior to 2009: Floor Mat Entrapment

16. In or about the fall of 2007, TOYOTA successfully avoided a potential vehicle recall to address floor mat entrapment in certain Toyota and Lexus brand vehicles.

17. In 2007, following a series of reports alleging unintended acceleration in Toyota and Lexus vehicles, NHTSA opened a defect investigation into the Lexus ES350 model (the vehicle that was subsequently involved in the tragic 2009 San Diego accident), and identified several other Toyota and Lexus models it believed might likewise be defective. Floor mat entrapment can pose a high risk to human life and safety because, when unsecured or incompatible, the AWFMs can entrap the accelerator pedal and it can result in high speed, uncontrolled acceleration.

18. Throughout the summer and fall of 2007, TOYOTA denied the need for any vehicle-based recall related to floor mat entrapment. TOYOTA resisted a recall even though an internal investigation being conducted at the time revealed that certain Toyota and Lexus models, including most of the ones that NHTSA had identified as potentially problematic, had some design features, including an absence of clearance between a fully depressed accelerator pedal and the vehicle floor, that rendered entrapment of the pedal by an unsecured or incompatible AWFMs more likely. TOYOTA did not share these results with NHTSA.

19. In or about September 2007, having kept to itself the results of some of its initial internal investigation related to floor mat entrapment, TOYOTA negotiated with NHTSA a limited recall of 55,000 AWFMs that had been designed for the ES350 and Camry. There was no recall of or fix to the vehicles themselves, just the limited recall of AWFMs. Inside TOYOTA, the limited recall was touted as a major victory in a contemporaneous email: “had the agency . . . pushed for recall of the throttle pedal assembly (for instance), we would be looking at upwards of \$100 million + in unnecessary costs.”

20. Shortly after TOYOTA announced its AWFMs recall, TOYOTA engineers studying floor mat entrapment revised TOYOTA’s internal design guidelines to provide for, among other things, a minimum clearance of 10 millimeters between a fully depressed accelerator pedal and the floor. Engineers also determined that newly designed models would have to undergo vehicle-based tests using unsecured genuine AWFMs to determine whether they had appropriate resistance to floor mat entrapment.

21. The determination was made, however, that these revised guidelines and procedures would apply only in circumstances where a model was receiving a “full model redesign” – a redesign to which each Toyota and Lexus model was subjected approximately once

every three to five years. As a result, even after the revised guidelines had been adopted internally, many new vehicles produced and sold by TOYOTA were not subject to TOYOTA's 2007 guidelines.

Events Immediately Preceding the
2009 Floor Mat Entrapment Recall

22. As described above, on August 28, 2009, the driver and three passengers of an ES350 sedan fitted with an AWFМ intended for another, larger Lexus sport utility vehicle model were killed in an accident resulting from floor mat entrapment in San Diego, California. The accelerator pedal in this vehicle, the tip of which was designed to reach the floor when fully depressed, got trapped under the ill-fitting, incompatible AWFМ and could not be freed. The ES350 vehicle did not have a brake override system, which, under certain circumstances, may provide an additional safety benefit by closing the throttle upon firm and steady application of the brake pedal.

23. On or about the same day the San Diego accident occurred, staff at CQE-LA in Torrance, California, sent a memorandum to CQE-J identifying as "critical" an "unintended acceleration" issue separate and apart from floor mat entrapment that had manifested itself in an accelerator pedal of a Toyota Matrix vehicle in Arizona. The condition, called "sticky pedal," had already arisen in the European market, and entailed the accelerator pedal "sticking" in a partially depressed position.

24. Sticky pedal, a phenomenon affecting pedals manufactured by a U.S. company ("A-Pedal Company") and installed in some Toyota brand vehicles in North America as well as Europe, resulted from the use of a plastic material inside the pedals that could under certain circumstances result in the accelerator pedal becoming mechanically stuck in a partially depressed position. The pedals incorporating this plastic were installed in, among other models, the Camry, the Matrix, the Corolla, and the Avalon sold in the United States.

25. The August 2009 report about the "critical" sticky pedal issue in the Arizona Matrix was not the only report of the condition that TOYOTA received from U.S. technicians in the field in the summer of 2009. On or about August 4, 2009, a dealer technician made a similar report about a pedal in a Camry vehicle.

26. Reports of the same sticky pedal problem in Europe in or about 2008 and early 2009, where the problem had become apparent earlier, reflected, among other things, instances of "uncontrolled acceleration" and unintended acceleration to "maximum RPM," and customer concern that the condition was "extremely dangerous."

27. In or about early 2009, TOYOTA circulated to European Toyota distributors information about the sticky pedal problem and instructions for addressing the problem if it presented itself in a customer's vehicle. These instructions identified the issue as "Sudden RPM increase/vehicle acceleration due to accelerator pedal sticking," and stated that should a customer complain of pedal sticking, the pedal should be replaced with pedals manufactured by a company other than A-Pedal Company.

28. Contemporaneous documents internal to TOYOTA reflect at least a preliminary assessment by CQE engineers that the sticky pedal problem, as manifested in the above-described European reports, was a “defect” that was “[i]mportant in terms of safety because of the possibility of accidents.” TOYOTA did not then inform its U.S. regulators or conduct a recall. Beginning in or about the spring of 2009, TOYOTA quietly directed A-Pedal Company to change the pedals in new productions of affected models in Europe, and to plan for the same design changes to be rolled out in the United States beginning in the fall of 2009. The design change was to substitute the plastic used in the affected pedal models with another material and to change the length of the friction lever in the pedal.

29. By no later than September 2009, TOYOTA recognized internally that the sticky pedal problem posed a risk of a type of unintended acceleration – or “overrun,” as Toyota sometimes called it – in many of its U.S. vehicles. A September 2009 presentation made by a CQE-LA manager to TOYOTA executives gave a “current summary of O/R [overrun] types in NA market” that listed the three confirmed types as: “mat interference” (*i.e.*, floor mat entrapment), “material issue” (described as “pedal stuck and . . . pedal slow return/deformed”), and “simultaneous pedal press” by the consumer. The presentation further listed the models affected by the “material issue” as including “Camry, Corolla, Matrix, Avalon.”

30. On or about September 9, 2009, a TMS employee who was concerned about the sticky pedal problem in the United States and believed that TOYOTA should address the problem, prepared a “Market Impact Summary” listing (in addition to the August 2009 Matrix and Camry) 39 warranty cases that he believed involved potential manifestations of the sticky pedal problem. This document was circulated to TOYOTA engineers and was later sent to members of CQE-J, and designated the sticky pedal problem as priority level “A,” the highest level.

31. On or about September 17, 2009, TOYOTA reproduced sticky pedal in a pedal recovered from a U.S. vehicle.

32. After the August 2009 fatal floor mat entrapment accident in San Diego, several articles critical of TOYOTA appeared in U.S. newspapers. The articles reported instances of TOYOTA customers allegedly experiencing unintended acceleration and the authors accused TOYOTA of, among other things, hiding defects related to unintended acceleration.

33. Meanwhile, following the San Diego floor mat entrapment accident, NHTSA identified customer complaints that it believed were potentially related to floor mat entrapment. Based principally on complaint data that the agency had itself collected, NHTSA identified eight vehicle models it believed posed an unreasonable risk of floor mat entrapment and should be recalled.

TOYOTA’s Negotiations with NHTSA About Floor Mat Entrapment

34. As it had in 2007, TOYOTA initially resisted NHTSA’s recall suggestions. CQE-J prescribed and followed a negotiating position with NHTSA with respect to floor mat entrapment consisting of: (a) a refusal to declare a vehicle defect of any kind, and (b) an effort to narrow the class of vehicles that would be subject to the recall.

35. During a meeting on September 25, 2009 NHTSA requested that TOYOTA immediately file a DIR with respect to AWFEM entrapment risk in eight specific models, with the understanding that remedial action for each affected model would be negotiated in the ensuing months. NHTSA stated that it would open an investigation if TOYOTA declined the request. On or about September 28, 2009, TOYOTA notified NHTSA that it agreed to file the DIR. That document, filed on or about October 5, 2009, identified as the “affected” models just the eight that NHTSA had specified.

36. Shortly before TOYOTA filed its DIR, NHTSA asked TOYOTA to disclose to the agency “any production changes” that had “been made to pedal geometry.” NHTSA had expressed to TOYOTA its view that design features related to pedal geometry – including clearance between the fully depressed pedal and the floor – were important factors in evaluating floor mat entrapment. NHTSA also asked TOYOTA whether it had “a metric for determining which vehicles” to include in the floor mat entrapment recall. TOYOTA did not, at this time, respond to these requests.

Cancellation and Suspension of Sticky Pedal Design Change

37. As noted, TOYOTA had developed internal plans to implement design changes for all A-Pedal-Company-manufactured pedals in U.S. Toyota models to address, on a going-forward basis, the still-undisclosed sticky pedal problem that had already been resolved for new vehicles in Europe. As of the date of NHTSA’s request for information about “pedal geometry” in connection with the floor mat entrapment recall, implementation of these pedal design changes had not yet begun in the United States. On or about October 5, 2009, TOYOTA engineers issued to A-Pedal Company the first of the design change instructions intended to prevent sticky pedal in the U.S. market. This was described internally as an “urgent” measure to be implemented on an “express” basis, as a “major” change – meaning that the part number of the subject pedal was to change, and that all inventory units with the old pedal number should be scrapped.

38. On or about October 21, 2009, however, engineers at TOYOTA and the leadership of CQE-J decided to cancel the design change instruction that had already been issued and to suspend all remaining design changes planned for A-Pedal Company pedals in U.S. models. TEMA employees who had been preparing for implementation of the changes were instructed, orally, to alert the manufacturing plants of the cancellation. They were also instructed not to put anything about the cancellation in writing. A-Pedal Company itself would receive no written cancellation at this time; instead, contrary to TOYOTA’s own standard procedures, the cancellation was to be effected without a paper trail.

39. TOYOTA decided to suspend the pedal design changes in the United States, and to avoid memorializing that suspension, in order to prevent NHTSA from learning about the sticky pedal problem.

TOYOTA’s Internal Entrapment Investigation

40. Meanwhile, in the fall of 2009, as had occurred in 2007, TOYOTA undertook an internal investigation of floor mat entrapment. That investigation revealed, among other things, the following, some of which echoed the findings from two years prior:

a. All but one of the eight models that NHTSA had identified were designed with 10 millimeters or less of clearance between a fully depressed accelerator pedal and a vehicle floor. Two unrecalled models, the Corolla, one of the best-selling Toyota vehicles in the United States, and the Venza, had 0 millimeters' clearance. One contemporaneous document summarizing measurement and testing data and evaluating the relationship of certain design features to floor mat entrapment contained the following notation related to these clearance measurements: "10 [millimeters] or less is high risk."

b. When CQE-LA engineers subjected Toyota and Lexus models to testing in which an AWFM was unhooked from its secured position and moved forward by hand in small increments, all but one of the eight models that NHTSA had identified experienced entrapment with the AWFM intended for that model. In the eighth model, the Prius, a compatible AWFM did not trap the pedal. The AWFM used in that particular testing was a recent model that had benefited from a 2006 design change to address floor mat entrapment susceptibility.

c. A notation contained on a CQE-LA document summarizing the testing results (the "Score Chart") for three Toyota models (the Corolla, the Camry, and the Avalon) and two Lexus models (one of which was the ES350) read as follows for each of these models: "The shape of floor underneath A pedal is concave shape and a mat may become bent and easily retained." CQE-LA presented its Score Chart to a senior Toyota executive in mid-October 2009.

d. A CQE-LA engineer involved in the floor mat entrapment testing reported to CQE-J that among the three "worse" vehicles was the Corolla, a model not among those that NHTSA had identified as the potential subjects of a recall.

e. On or about October 27, 2009, TOYOTA engineers in Japan circulated to CQE-J a chart showing that the Corolla had the lowest rating for floor mat entrapment under that analysis.

f. An internal memorandum prepared by a CQE-J leader on or about November 12, 2009 stated: "In the competitor benchmarkings conducted at TMS and CQE-LA, Toyota vehicles tended to have more models that use pedal tips as stoppers [and therefore tend to have zero clearance from the floor], and from the viewpoint of robustness for improper mat use, we would have to say that it is inferior compared to other companies."

41. TOYOTA did not inform NHTSA of its internal analyses concerning models not among those identified by NHTSA, which showed that the top-selling Corolla, the Highlander, and the Venza shared design features similar to several of the eight models for which NHTSA had requested a recall.

Misleading Disclosures to NHTSA About Sticky Pedal

42. Throughout the fall of 2009, following reports in August of sticky pedals in a Matrix and a Camry, and following reproduction of the problem by TOYOTA in a pedal from a U.S. vehicle on or about September 17, 2009, as referenced above, TOYOTA became aware of other manifestations of the problem in the United States.

43. In or about late September 2009, TMS employees received a report of sticky pedal in a Corolla. TMS urged CQE-LA to do something about the issue. Then, in or about October 2009, TMS received three more such reports in U.S. Corolla vehicles, and dispatched technicians to prepare “field technical reports” (or “FTRs”) documenting the incidents. In or about November 2009, senior executives at TMS learned of these three reports.

44. On or about November 12, 2009, the leadership of CQE-J discussed a plan to disclose the sticky pedal problem to NHTSA. CQE-J’s leadership was aware at this time not only of the three Corolla FTRs but also of a problem with the Matrix in August 2009. It was also familiar with the sticky pedal problem in Europe, the design changes that had been implemented there, and the cancellation and suspension of similar planned design changes in the United States. Knowing all of this, CQE-J’s leadership decided that (a) it would not disclose the September 2009 Market Impact Summary to NHTSA; (b) if any disclosure were to be made to NHTSA, it would be limited to a disclosure that there were some reports of unintended acceleration apparently unrelated to floor mat entrapment; and (c) NHTSA should be told that TOYOTA had made no findings with respect to the sticky pedal problem reflected in the Corolla FTRs, and that the investigation of the problem had just begun.

45. On or about November 17, 2009, before TOYOTA had negotiated with NHTSA a final set of remedies for the eight models encompassed by the floor mat entrapment recall, TOYOTA informed NHTSA of the three Corolla FTRs and several other FTRs reporting unintended acceleration in Toyota model vehicles equipped with pedals manufactured by A-Pedal Company. In TOYOTA’s disclosure to NHTSA, TOYOTA did not reveal its understanding of the sticky pedal problem as a type of unintended acceleration, nor did it reveal the problem’s manifestation and the subsequent design changes in Europe, the planned, cancelled, and suspended design changes in the United States, the August 2009 Camry and Matrix vehicles that had suffered sticky pedal, the September 2009 Corolla with a similar problem, or the September 2009 Market Impact Summary.

46. In truth, the cause of the issue reflected in the three Corolla FTRs from October 2009 was the same sticky pedal problem that had arisen and been addressed on a going-forward basis in Europe, about which NHTSA remained unaware.

47. In contrast to its public comments in early November 2009 that there was “no evidence to support” theories concerning “other causes of unintended acceleration” in its vehicles beyond floor mat entrapment, on or about November 17, 2009, a CQE-J employee wrote an email to a leader of CQE-J stating: “We have been trying to approach the floor mat issue by treating it as a problem caused by the all weather floor mat interfering with the pedal; however, our understanding is that we can no longer separate this problem from the [A-Pedal Company] problem that just began to surface.” He went on: “[I]t has become increasingly difficult to take the position that ‘the only problems in the return of the gas pedal we have confirmed are related to interference with the floor mat.’ Therefore, we are in a subtle situation as to how much we can emphasize the ‘floor mat problems’ as the top leaders meet with NHTSA and whether we can get NHTSA to agree with our position.”

48. Despite this November 17, 2009 email, TOYOTA took no further steps to disclose to NHTSA what it knew about sticky pedal. In fact, at a meeting on November 24, 2009

between NHTSA and TOYOTA executives about the floor mat entrapment recall, the sticky pedal problem went unmentioned.

TOYOTA's Misleading Statements and Acts of Concealment Following
Announcement of the Floor Mat Entrapment Remedies

49. On or about November 25, 2009, TOYOTA, through TMS, announced its floor mat entrapment resolution with NHTSA. In a press release that had been approved by TOYOTA, TMS assured customers: "The safety of our owners and the public is our utmost concern and Toyota has and will continue to thoroughly investigate and take appropriate measures to address any defect trends that are identified." A TMS spokesperson stated during a press conference the same day, "We're very, very confident that we have addressed this issue."

50. In truth, the issue of unintended acceleration had not been "addressed" by the remedies announced. A-Pedal Company pedals which could experience stickiness were still on the road and still, in fact, being installed in newly-produced vehicles. And the best-selling Corolla, the Highlander, and the Venza—which had some design features similar to models that had been included in the earlier floor mat entrapment recall—were not being "addressed" at all. One of the vehicle-based remedies that TOYOTA agreed to implement in the eight models subject to the floor mat entrapment recall was a "cut" of the accelerator pedal to improve clearance from the floor. TOYOTA had been concerned throughout much of the fall of 2009 that NHTSA would require TOYOTA to offer replacement pedals to owners of the subject vehicles as part of the recall, and further require that such replacement pedals be made available as early as January 2010.

51. On or about November 26, 2009, CQE-J issued a directive to engineers at TOYOTA not to implement any design improvements for the North American market related to floor mat entrapment in models other than the eight subject to the recall unless the subject model was already undergoing a full model redesign. The justification offered for the directive was that design changes would "most likely mislead the concerned authorities and consumers and such to believe **that we have admitted having defective vehicles.**" (Emphasis in original).

52. On or about December 10, 2009, only after the floor mat entrapment recall remedy had been fully negotiated with NHTSA and announced to the public, TOYOTA finally issued to A-Pedal Company renewed pedal design change instructions to address sticky pedal in newly produced vehicles in the United States. Whereas the single design change instruction that had issued for the U.S. market on or about October 5, 2009 (and then been cancelled on or about October 21, 2009) had called for a "major" change that would have entailed scrapping of old parts, the new design change instructions were issued as "minor" changes – a designation that entailed no part number change and allowed for use of old, defective parts until inventory was exhausted. TOYOTA engineers decided to characterize the changes as minor to prevent their detection by NHTSA. The newly issued design change instructions were to go into effect in or about mid-January 2010, around the same time that TOYOTA would be implementing pedal design changes for models encompassed by the floor mat entrapment recall.

53. At or about the same time that TOYOTA was issuing renewed design change instructions to remedy sticky pedal in newly produced U.S. vehicles, CQE-J instructed TMS that issuance of a "technical service bulletin" to Toyota dealers alerting them to the sticky pedal

problem and explaining how it should be remedied for vehicles in the field was “not permitted.” Under NHTSA regulations, any such communication would have to have been disclosed to NHTSA.

54. On or about December 10, 2009, the date upon which TOYOTA issued renewed design change instructions for sticky pedal in the United States, a statement appeared on TMS’s website, in response to a *Los Angeles Times* editorial dated December 5, 2009. Toyota asserted misleadingly, that “[b]ased on the comprehensive investigation and testing, we are highly confident that we have addressed the root cause of unwanted acceleration – the entrapment of the accelerator pedal.”

55. In truth, TOYOTA had not “addressed the root cause of unwanted acceleration.” TOYOTA had not recalled the Corolla, the Highlander and the Venza, which shared design features similar to the models that had been the subject of the recall.

56. Again, on or about December 23, 2009, TOYOTA responded to media accusations that it was continuing to hide defects in its vehicles by authorizing TMS to publish the following misleading statements on TMS’s website: “Toyota has absolutely not minimized public awareness of any defect or issue with respect to its vehicles. Any suggestion to the contrary is wrong and borders on irresponsibility. We are confident that the measures we are taking address the root cause and will reduce the risk of pedal entrapment.”

57. These statements were misleading because TOYOTA had “minimized public awareness of” both sticky pedal and floor mat entrapment. Further, the measures TOYOTA had taken did not “address the root cause” of unintended acceleration, because TOYOTA had not yet issued a sticky pedal recall and had not yet recalled the Corolla, the Venza, or the Highlander for floor mat entrapment.

TOYOTA Is Forced to Disclose Sticky Pedal

58. By in or about early January 2010, TOYOTA had received additional reports of sticky pedal in the United States. The news media, meanwhile, was reporting two incidents of unintended acceleration in Toyota vehicles apparently unrelated to floor mat entrapment. One news outlet in particular was preparing to run a feature about an Avalon vehicle in New Jersey that had experienced what appeared to be sticky pedal three times but had not been involved in an accident.

59. On or about January 16, 2010, TOYOTA finally disclosed to NHTSA that TOYOTA had recently begun implementing design changes to prevent sticky pedal in the United States, and that, in fact, TOYOTA had implemented the same changes to European pedals many months before in response to reports of “uncontrolled acceleration” and unintended acceleration to “maximum RPM.”

TOYOTA’s Misleading Statements to NHTSA in January 2010

60. On or about January 19, 2010, representatives of TOYOTA, including executives from TMS and TMA, delivered to NHTSA representatives in Washington, D.C. a presentation that had been developed in large part by the leadership and staff of CQE-J. One of the chronologies used for this presentation purported to present a history of sticky pedal reports in

the United States. It omitted any reference to the August 2009 sticky pedals in the Camry and the Matrix, the September 2009 Corolla, and the September 2009 Market Impact Summary. It also stated that TOYOTA began arrangements to implement design changes for sticky pedal in the U.S market in January 2010 after sticky pedal was reproduced in December 2009. In fact, TOYOTA began considering design changes to address sticky pedal in or about spring 2009, which ultimately were to be implemented in the United States; TOYOTA had also reproduced sticky pedal in a pedal recovered from a U.S. vehicle no later than September 17, 2009.

61. The presentation that TOYOTA gave to NHTSA on January 19, 2010 downplayed the seriousness of reports of sticky pedal in Europe. When, after the presentation, a TOYOTA employee who attended the presentation reviewed the actual reports from Europe, and saw that they included such phrases as “out of control” and “safety issue,” he was said to exclaim “Idiots! Someone will go to jail if lies are repeatedly told. I can’t support this.”

62. On or about January 21, 2010, TOYOTA filed a DIR in which it recalled all vehicles in the United States fitted with the accelerator pedals from A-Pedal Company that could experience a sticky pedal. In that filing, TOYOTA stated that it had begun receiving “field technical information” from the U.S. market about sticky pedal in “October 2009.” In truth, TOYOTA had received information no later than in or about August 2009 and, in October 2009, had *cancelled* the U.S. fix for the sticky pedal problem so as to avoid its disclosure to NHTSA.

TOYOTA Recalls the Corolla, the Highlander, and the Venza For Floor Mat Entrapment

63. Also on or about January 21, 2010, NHTSA informed TOYOTA that it had received additional complaints suggesting possible floor mat entrapment in vehicles that had not been recalled in 2009, including the Corolla. Rather than have NHTSA open an investigation, TOYOTA immediately agreed to “amend” its 2009 DIR to add the Corolla, the Highlander, and the Venza to the recall. As one leader of CQE-J explained internally in justifying his decision to so readily agree to this amendment: “Is it really in our best interest to report, ‘We found a problem’ after conducting an inspection? Or maybe we won’t say, ‘We found a problem’ but if we say, ‘Everything is the same as Camry, etc.’, they may come after us by saying ‘Why didn’t you report when we agreed last time? Considering the background that we have been cornered with regard to the [A-Pedal Company] issue [*i.e.*, sticky pedal], I think they might assert we have been hiding something. Don’t you think so?”

TOYOTA’s Statements to the Public and Congress About Its Knowledge Timeline

64. In or about late January and early February 2010, TOYOTA, based on talking points approved by TOYOTA executives and distributed to TOYOTA’s U.S. personnel, made several public statements that asserted, misleadingly, that the “fall of 2009” or “October 2009” was the first time TOYOTA learned of sticky pedal in the United States when in fact TOYOTA had received reports of sticky pedal in August 2009. For example, TOYOTA told a reporter on or about January 25, 2010 that “[i]solated reports of sticky accelerator pedals have only recently come to light, in the fall of 2009 to be a little more precise.” Later, TOYOTA told the public it first discovered sticky pedal in the United States after the floor mat recall and that it had started investigating the problem in October 2009. TOYOTA further claimed that it had moved quickly

to investigate and fix the sticky pedal problem within 90 days of TOYOTA's discovery of the problem. During this time period, TOYOTA also acknowledged that sticky pedal, though "rare," was "a grave safety concern."

65. TOYOTA made inaccurate statements during the course of an investigation initiated by the United States Congress in or about late January 2010. Consistent with the talking points described above, but contrary to certain internal documents that TOYOTA had itself produced to Congress among thousands of other documents, TOYOTA repeated to Congress that it became aware of sticky pedal in the United States in October 2009, when in fact it had been investigating sticky pedal in the United States since no later than August 2009.

TOYOTA Admits Earlier Knowledge

66. On or about February 16, 2010, NHTSA opened inquiries into the timeliness of the recalls that TOYOTA had conducted to address floor mat entrapment and sticky pedal in 2007, 2009, and 2010.

67. On or about March 25, 2010, in response to NHTSA's inquiries, TOYOTA submitted a timeline of events that listed, among other sticky pedal incidents in the United States, the August 2009 Camry and Matrix incidents.