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5 **Attorneys for Plaintiffs**

6 **IN THE UNITED STATES DISTRICT COURT**  
7 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**

8 JEAN CARPER and MICHAEL  
MUHLFELDER, On Behalf  
9 of Themselves and All Others  
Similarly Situated,

10 Plaintiffs,

11 vs.

12  
13 AMERICAN HONDA MOTOR  
COMPANY, INC. and MICHELIN  
14 NORTH AMERICA, INC.

15 Defendants.

CIVIL ACTION NO.

CLASS ACTION

JURY TRIAL DEMANDED

16 **COMPLAINT**

17 Plaintiffs, Jean Carper and Michael Muhlfelder (“Plaintiffs”), bring this  
18 action against Defendants, American Honda Motor Company, Inc. (“Honda”) and  
19 Michelin North America, Inc. (“Michelin”) (collectively “Defendants”), on behalf  
20 of themselves and all others similarly situated, and allege upon information and  
21 belief, except as to their own actions, the investigation of their counsel, and the  
22 facts that are a matter of public record, as follows:

23 **INTRODUCTION**

24 1. Plaintiffs bring this action to obtain restitution, disgorgement,  
25 injunctive and other relief individually and on behalf of a proposed class defined  
26 below (“Class”).

27 2. As alleged herein, Defendants misrepresented and concealed material  
28 information in connection with the marketing, advertising, and sale of certain

1 automobiles, as well as the tire and wheel system with which these automobiles  
2 are equipped. The tire and wheel system at issue is the PAX® Tire and Wheel  
3 Assembly System (the “System” or the “PAX System”), which is manufactured by  
4 Defendant, Michelin, consists of four specialized “run-flat” tires and  
5 accompanying wheel systems, and, by agreement between the Defendants, is  
6 placed on the vehicles at issue in this litigation (“Vehicles”)(*i.e.*, certain Honda  
7 and Acura brand automobiles, including the 2005 and 2006 Honda Odyssey  
8 Touring models and the 2006 Acura RL with the Technology package) at a  
9 significant, additional cost to consumers.

10       3.     Contrary to Defendants’ claims of ease of use and convenience, as  
11 well as Defendants’ related false claims, misrepresentations and material  
12 omissions (explained below), Defendants never disclosed that neither they nor any  
13 third parties maintained sufficient repair or replacement facilities (or the necessary  
14 equipment to perform such repair or replacement), in order to appropriately  
15 address the needs of consumers who require repair or replacement of the PAX  
16 System on the Vehicles, or that the PAX System rendered the Vehicles inherently  
17 defective. Furthermore, despite Defendants’ representations and advertisements to  
18 the contrary, the PAX System does not (a) offer convenience and security that  
19 consumers will never be stranded with a flat tire, or (b) eliminate the need for  
20 drivers to carry a spare tire -- because, although the PAX System purportedly  
21 permits drivers to continue driving on a deflated tire for a limited number of miles  
22 until they reach a PAX authorized service location, adequate service locations do  
23 not exist within the United States to permit many drivers to reach such a service  
24 location when they need to repair or replace a PAX System tire. Finally, upon  
25 information and belief, the PAX System run-flat tires are susceptible to premature  
26 wear and are more likely to suffer from side punctures, which results in consumers  
27 being required to repair or replace their tires more frequently than anticipated or is  
28 otherwise reasonable.

1 4. Despite Defendants' awareness of defects inherent in the Vehicles  
2 and/or the PAX System, including Defendants' awareness of consumers' inability  
3 to timely, conveniently or cost effectively repair or replace the PAX System tires,  
4 Defendants never warned their customers and other consumers of these defects  
5 and continued to advertise and sell the Vehicles at issue, which are equipped with  
6 the PAX System, to the unsuspecting public.

7 5. As a result of Defendants' conduct, Plaintiffs and the Class have  
8 purchased thousands of the Honda and Acura Vehicles equipped with the PAX  
9 System -- at prices of up to \$50,000 -- and have suffered (and continue to suffer)  
10 damages, as well as the inability to timely, conveniently or cost effectively repair  
11 or replace these expensive tire and wheel systems when they require repair or  
12 replacement (which repairs and replacements consumers are required to have  
13 performed far more often than is reasonable under any circumstances).

14 6. Plaintiffs assert claims individually and/or collectively under the  
15 Unfair Competition Law ("UCL" or "Section 17200"), Business and Professional  
16 Code § 17200 *et seq.*, the False Advertising Law ("FAL" or "Section 17500"),  
17 Business and Professional Code § 17500 *et seq.*, and the Consumer Legal  
18 Remedies Act ("CLRA"), Civil Code § 1750 *et seq.*, on behalf of themselves and  
19 the Class.

20 7. Plaintiffs seek equitable relief, including the replacement of the  
21 defective PAX System, restitution, disgorgement, costs and expenses of litigation,  
22 including attorneys' fees, and all additional and further relief that may be available  
23 and that the Court may deem appropriate and just under all of the circumstances.

#### 24 **THE PARTIES**

25 8. Plaintiff, Jean Carper ("Carper"), is and at all times relevant to this  
26 action has been, a resident of Key West, Florida and Washington, D.C. Carper  
27 purchased a new 2006 Acura RL with the Technology Package option for her  
28 personal use in or about June 2006 from Ric Case Acura, an authorized Acura

1 dealership in Ft. Lauderdale, Florida. Carper's Vehicle came equipped with the  
2 PAX System.

3 9. Plaintiff, Michael Muhlfelder ("Muhlfelder"), is and at all times  
4 relevant to this action has been, a resident of Andover, Massachusetts. Muhlfeder  
5 purchased a new 2005 Honda Odyssey Touring Model for his personal use in or  
6 about March 2005 from the Peters Auto Center, an authorized Honda dealership  
7 located in Nashua, New Hampshire. Muhlfelder's Vehicle came equipped with  
8 the PAX System.

9 10. Defendant, Honda, is a California corporation with its principal place  
10 of business in Torrance, California. Plaintiffs' Declarations, as required under  
11 Cal. Civ. Code § 1780(c), reflecting that Honda's principal place of business is in  
12 Los Angeles County, California, are attached collectively as Exhibit "A." Acura is  
13 Honda's luxury brand and the product of an operating division launched by Honda  
14 in or about March 1986. The Acura division maintains its principal place of  
15 business at Honda's Torrance, California headquarters.

16 11. Defendant, Michelin, is a New York corporation with its principal  
17 place of business in the State of California located in Ontario, California.  
18 Plaintiffs' Declarations, as required under Cal. Civ. Code § 1780(c), reflecting that  
19 Michelin's principal place of business in California is in San Bernardino County,  
20 California, are attached collectively as Exhibit "A."

### 21 **JURISDICTION AND VENUE**

22 12. This action is brought to remedy Defendants' violations of state  
23 consumer protection and related statutes based upon the design, manufacture,  
24 distribution, marketing, sale, advertisement and provision of the Vehicles and the  
25 accompanying PAX System.

26 13. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §  
27 1332(d)(2) because the matter in controversy, upon information and belief,  
28 exceeds \$5,000,000, exclusive of interests and costs, and this matter is a class

1 action in which certain class members are citizens of states other than those of  
2 Defendants.

3 14. Venue is proper in this Court pursuant to 28 U.S.C. § 1391, because  
4 Defendants reside in this District, and a substantial part of the events or omissions  
5 giving rise to Plaintiffs' claims, including, *inter alia*, the acts of unfair competition  
6 and false and misleading advertising and marketing alleged herein, occurred in  
7 and/or were directed from this District.

8 **CLASS ACTION ALLEGATIONS**

9 15. Plaintiffs bring this action as a class action pursuant to Federal Rule  
10 of Civil Procedure 23(a) and (b)(3), on behalf of themselves and the following  
11 Class:

12 **Class:** All persons or entities who purchased or  
13 leased, not for resale, an Acura or Honda  
14 vehicle equipped with the Michelin PAX®  
Tire and Wheel Assembly System.

15 Excluded from the Class are Defendants, as well as Defendants' affiliates,  
16 employees, officers and directors, including franchised dealers, any person who  
17 has experienced physical injury as a result of the defects at issue in this litigation  
18 and the Judge to whom this case is assigned. Plaintiffs reserve the right to amend  
19 this Class definition if discovery and further investigation reveals that the Class  
20 should be expanded or otherwise modified.

21 16. The members of the Class are so numerous that joinder of all  
22 members would be impracticable. Plaintiffs reasonably estimate that there are  
23 thousands of purchasers of the Vehicles equipped with the PAX System  
24 throughout the United States, as well as thousands of Class members who  
25 purchased Vehicles equipped with the PAX System in the State of California. The  
26 members of the Class are readily identifiable from information and records in  
27 Defendants' possession, custody or control. The disposition of these claims will  
28 provide substantial benefits to the Class.

1           17. There are questions of law and fact common to the members of the  
2 Class that predominate over any questions affecting only individual Class  
3 members, including, but not limited to, the following:

4           a. Whether Defendants omitted material facts from their  
5 communications and disclosures to the Class and the public regarding the defects  
6 inherent in the Vehicles;

7           b. Whether Defendants knew, or were reckless in not knowing,  
8 that their statements about the Vehicles and the PAX System were false and/or  
9 misleading;

10          c. Whether Defendants concealed from the Class that, in the event  
11 of a tire failure, neither Defendants nor any third parties maintained sufficient  
12 repair or replacement facilities (or the equipment necessary to complete such  
13 repair or replacement) to appropriately address the needs of consumers;

14          d. Whether Defendants' false and/or misleading statements of  
15 facts and concealment of material facts regarding the Vehicles with the PAX  
16 System were likely to deceive the public;

17          e. Whether, by the misconduct set forth in this Complaint,  
18 Defendants have engaged in unfair or unlawful business practices with respect to  
19 the advertising, marketing and sale of the Vehicles and the PAX System;

20          f. Whether, by the misconduct set forth herein, Defendants have  
21 engaged in unfair, deceptive, untrue, or misleading advertising of the Vehicles and  
22 the PAX System;

23          g. Whether, by their conduct, Defendants violated the UCL, FAL,  
24 and/or CLRA; and

25          h. Whether, as a result of Defendants' misconduct, Plaintiffs and  
26 the Class are entitled to equitable relief and/or other relief, and, if so, the nature of  
27 such relief.

28

1           18. Plaintiffs' claims are typical of the claims of the members of the  
2 Class. Plaintiffs have no interests antagonistic to those of the Class and are not  
3 subject to any unique defenses.

4           19. Plaintiffs will fairly and adequately protect the interests of all  
5 members of the Class and have retained attorneys experienced in class action and  
6 complex litigation.

7           20. A class action is superior to other available methods for the fair and  
8 efficient adjudication of this controversy for, *inter alia*, the following reasons:

9               a. It is economically impractical for members of the Class to  
10 prosecute individual actions;

11               b. The Class is readily definable;

12               c. Prosecution as a class action will eliminate the possibility of  
13 repetitious litigation; and

14               d. A class action will enable claims to be handled in an orderly and  
15 expeditious manner. A class action will save time and expense and will ensure  
16 uniformity of decisions.

17           21. Plaintiffs do not anticipate any difficulty in the management of this  
18 litigation.

19           22. Defendants have or have access to address information for the Class  
20 members, which may be used for the purpose of providing notice of the pendency  
21 of this action.

22           23. California, as the site of Honda's North American headquarters and  
23 the place where all significant decision-making occurred with respect to the  
24 advertising, marketing, distribution, and sale of the Honda and Acura Vehicles  
25 equipped with the PAX System, as well as the PAX System itself, is the center of  
26 gravity for this action such that it is appropriate and consistent with existing law to  
27 certify the Class of consumers proposed in this Complaint.

28

1           24. Certification of such a Class under the laws of California is  
2 appropriate because:

3                 a. Defendants are corporations conducting substantial business in  
4 and from California;

5                 b. Honda's principal and executive offices are located in  
6 California, which offices include its sales and marketing headquarters and its  
7 research and development center;

8                 c. Defendants' marketing, promotional and sales literature and  
9 other communications are coordinated at, emanate from, and/or are developed at  
10 their California offices;

11                d. The UCL and other claims asserted in this Complaint expressly  
12 apply to claims asserted by out-of-state Class members regarding acts of unfair  
13 competition and false representations emanating from the State of California; and

14                e. A significant number of Class members reside in the State of  
15 California.

16                                                    **SUBSTANTIVE ALLEGATIONS**

17           25. This class action is brought on behalf of all current and former  
18 owners and lessees of Acura and Honda Vehicles equipped with the PAX System  
19 manufactured by Michelin.

20           26. The Vehicles at issue, which have a suggested retail price of between  
21 \$35,000 and \$50,000, are manufactured, marketed and sold by Honda (and its  
22 Acura division) through its established network of licensed dealers and  
23 distributors.

24           27. The PAX System is manufactured by Michelin and, upon information  
25 and belief, is furnished by Michelin to Honda (and its Acura division), pursuant to  
26 an agreement between the Defendants, for the express purpose of placing the  
27 System on the Vehicles prior to their distribution and sale to the public.



1  
2 **Defendants Misrepresent The Nature Of The PAX System And The**  
**Inadequacy Of Repair Opportunities**

3 28. The PAX System consists of a tire and wheel assembly with four  
4 component parts: a tire, support ring, wheel, and tire pressure monitoring system.  
5 The tires are run-flat tires, which purport to allow consumers to drive for up to 125  
6 miles after a puncture resulting in complete air pressure loss.

7 29. The PAX System is an expensive option on both the Honda and  
8 Acura models, costing in excess of \$2,000.

9 30. The Honda website describes the PAX System as one of the “top-of-  
10 the-line luxury amenities and technology with the sophisticated Odyssey Touring.”  
11 Although Defendants’ marketing promotes the safety and security of the Vehicles  
12 in long-distance driving (such as during family vacations), it is, in fact, highly  
13 deceptive, given the myriad of problems encountered by consumers when they are  
14 required to repair or replace the run-flat tires that are part of the PAX System.

15 31. Defendants’ marketing and sales materials stress that one of the  
16 principal benefits of the System’s run-flat tires is that consumers will not become  
17 stranded if they experience a tire malfunction. Specifically, Defendants represent  
18 that the PAX System will enable consumers, in the event of a tire malfunction, to  
19 conveniently continue driving to a location where the tire can be expeditiously and  
20 properly replaced. In a September 27, 2004 press release, Michelin emphasized  
21 this purported benefit by stating that “[c]onsumers experiencing a flat tire with a  
22 2005 Honda Odyssey Touring edition equipped with Michelin® PAX System will  
23 be less likely to interrupt or delay their trip.” The press release further represents,  
24 falsely, that Michelin “has created a multi-tiered service program designed to  
25 maintain the highest levels of consumer satisfaction by replacing or repairing PAX  
26 System tires quickly.” See September 27, 2004 press release ([www.michelinman.com/difference/releases/pressrelease09272004b.html](http://www.michelinman.com/difference/releases/pressrelease09272004b.html))(“9/27/04 Release”).

27  
28 Similarly, Defendants’ marketing materials represent that the PAX System results

1 in consumers securing more trunk space because “PAX tires eliminate the need for  
2 drivers to carry a spare tire in their trunk” and that the “PAX System completely  
3 eliminates the need for a spare tire,” when, in light of the serious difficulties  
4 encountered by consumers who attempt to obtain repair or replacement of the PAX  
5 System wheels and tires, virtually the opposite is true.

6 32. The marketing materials of Honda and Michelin similarly  
7 misrepresent that the PAX System: (a) is a “worry-free tire safety system;” (b)  
8 offers consumers “the convenience and security of knowing that they never will be  
9 stranded with a flat tire again, and can turn a potentially hazardous situation into a  
10 minor inconvenience;” (c) “allows the driver to continue driving on the deflated  
11 tire for up to 125 miles at speeds up to 50 mph, giving the driver added security of  
12 not having to stop where it may be hazardous;” (d) allows a consumer to drive 125  
13 miles at 55 mph, “which means you’ll never be stranded on the side of the road;”  
14 and (e) provides consumers with “time to get off the road and get to a place where  
15 the tire can be inspected, replaced, or possibly repaired and returned to service.”

16 33. The marketing materials of Honda and Michelin also falsely represent  
17 that drivers with a faulty tire or the PAX System have the following “options:” (a)  
18 a tire can be repaired, or the PAX System can be replaced with a new assembly, by  
19 one of 200 specially equipped Michelin dealers; (b) a tire assembly (wheel and  
20 tire) can be replaced at a Honda dealership, which means that dealers will take the  
21 flat tire and wheel assembly off and put a new PAX System assembly on the  
22 automobile; (c) a Michelin “rapid-service” provider can deliver a PAX System  
23 assembly to a Michelin dealer; or (d) in remote areas or areas not within the  
24 recommended driving range, Defendants “guarantee installation of a new PAX  
25 System assembly within 12 hours of a service call.” See 9/27/04 Release; January  
26 10, 2005 Press Release ([www.michelinman.com/difference/releases/pressrelease\\_01102005b.html](http://www.michelinman.com/difference/releases/pressrelease_01102005b.html)); Michelin® PAX® System FAQ ([www.michelinman.com/difference/innovation/paxsystem\\_faq.html](http://www.michelinman.com/difference/innovation/paxsystem_faq.html))(“Michelin FAQ”).  
28

1           34. Only Defendants' authorized dealers are permitted to repair or replace  
2 the PAX System run-flat tires. Defendants represent that they maintain 200 PAX  
3 System authorized service locations across the United States when, in fact, many  
4 (if not most) of these so-called authorized dealers do not have the expensive PAX  
5 System repair equipment (which costs a dealer approximately \$25,000) or System  
6 tires, are unwilling or unable to service the PAX System tires and/or have no  
7 intention of obtaining the capability to service the PAX System. Further, the  
8 representation that Michelin is able to deliver PAX System tires within 12 hours of  
9 notification is false or, at a minimum, is highly deceptive, misleading and/or  
10 illusory in many instances. Michelin's website contains a list of locations where  
11 service on the PAX System can be performed, which includes both Michelin  
12 authorized dealers and Acura/Honda dealers, but many (if not most) of these  
13 dealers are unwilling or do not have the capability to perform repairs on the PAX  
14 System.

15           35. Defendants also represent that the "PAX System tires ... provide  
16 excellent tread wear for long life," when the opposite is true.

17           36. According to Michelin, over 200,000 PAX Systems have been sold in  
18 Europe and North America since 1998, when the System was first introduced. In  
19 the United States, only the 2006-2007 Acura RL with Technology Package, the  
20 2005-2007 Honda Odyssey Touring model and certain 2006-2007 Nissan Quests  
21 are equipped with the PAX System.

22           37. The expense to Michelin dealers, as well as to Honda and Acura  
23 dealers, of obtaining the necessary equipment to make relatively few tire changes  
24 leads to the above-described situation -- that is, a situation where very few dealers  
25 can or will make repairs or replacements, and many dealers do not possess the  
26 PAX System repair equipment and do not even stock the PAX System assemblies,  
27 despite Defendants' contrary representations. Moreover, repairing or replacing a  
28 PAX System tire is a difficult and time-consuming process and, as a result, many

1 dealers are unwilling to perform these repairs/replacements.

2 38. Honda and Acura dealerships without the expensive PAX System  
3 equipment that are willing to replace damaged tires only will replace the entire  
4 tire/wheel assembly, since they do not have the equipment required to remove the  
5 run-flat tires from the rims. Thus, although the rims generally do not need to be  
6 replaced, consumers that are able to find a dealer willing to even work on one of  
7 the Vehicles with the PAX System are forced to incur the significant, additional  
8 and totally unnecessary expense of replacing both the tires and rims on the  
9 System.

10 39. Defendants' omissions and misrepresentations are particularly  
11 egregious with respect to the cost of the repair/replacements. At the time of the  
12 purchase, Defendants never disclose that the PAX System components are  
13 appreciably more expensive than standard tires and, thus, owners and lessees of  
14 Hondas and Acuras are regularly forced to incur excessive expenses when  
15 replacing a tire on the PAX System. In fact, Michelin affirmatively represents that  
16 the PAX System tires cost only 10% to 15% more than standard tires. *See* 9/27/04  
17 Release; Michelin FAQ. In fact, consumers regularly are required to spend 50%  
18 or more to repair or replace failing PAX System tires as compared to the amount  
19 that they would normally spend if replacing standard tires.

20 40. Upon information and belief, the PAX System run-flat tires are highly  
21 susceptible to premature wear and the risk of damage/puncture to the side walls of  
22 the tires, and, as a result, consumers are forced to incur unreasonable and  
23 excessive costs associated with repairing or replacing a PAX System tire more  
24 often than consumers driving similar vehicles not equipped with the System.

25 41. Defendants knew or should have known of these inherent defects at  
26 the time of the marketing, sale and distribution of the Vehicles with the PAX  
27 System. In light of Defendants' knowledge regarding the defects and problems  
28 detailed above, the provision of a limited warranty with respect to the Vehicles,

1 the System and their tires, under all of these circumstances, constitutes an  
2 unlawful, unfair and fraudulent business practice, and, under all of the  
3 circumstances, the limited warranties accompanying the Vehicles and the PAX  
4 System are unconscionable.

5 **Plaintiff Muhlfelder's Experiences With The PAX System**

6 42. In or about March of 2004, Muhlfelder purchased a new 2005 Honda  
7 Odyssey Touring model with Michelin's PAX System from Peters Auto Center in  
8 Nashua, New Hampshire. The purchase was made pursuant to a written contract  
9 of sale for Muhlfelder's personal use.

10 43. At the time of the purchase, Defendants failed to disclose that the  
11 PAX System was inherently defective and that, in the event of a tire failure,  
12 neither Defendants nor any third parties maintained sufficient repair or  
13 replacement facilities (or the equipment necessary to perform such repairs or  
14 replacements) to appropriately address the needs of consumers who required the  
15 repair or replacement of the run-flat tires and/or the PAX Systems.

16 44. Following his purchase, Muhlfelder operated his Vehicle in a manner  
17 consistent with its intended use. In or about October, 2006, Muhlfelder began to  
18 experience excessive wear on his Vehicle's tires. He took his Honda to the  
19 dealership and was told that all four tires and wheels would have to be replaced.  
20 He was also told that he would have to pay to replace the rims because the Honda  
21 dealer did not have the equipment necessary to remove the run-flat tires from their  
22 rims. Neither Muhlfelder nor the Honda dealer were able to locate a Michelin or  
23 Honda dealer within any reasonable proximity that possessed the equipment  
24 necessary to remove the run-flat tires from the rims. Thus, in the absence of any  
25 other option, Muhlfelder was required to replace the run-flat tires and rims/wheels  
26 for the exorbitant cost of approximately \$2,300. Although Honda subsequently  
27 reimbursed Muhlfelder \$1,200 (representing the cost of the replacement  
28 rims/wheels that it was necessary for Muhlfelder to purchase), he nevertheless was

1 required to pay the full cost for four new tires and was left for six days without the  
2 use of his Vehicle as a direct result of the absence of qualified repair facilities  
3 within reasonable proximity to his home.

4 **Plaintiff Carper's Experiences With The PAX System**

5 45. In or about June of 2006, Carper purchased a new 2006 Acura RL  
6 with the Technology Package that included Michelin's PAX System, from Ric  
7 Case Acura in Ft. Lauderdale, Florida. The purchase was made pursuant to a  
8 written contract of sale for Carper's personal use.

9 46. At the time of the purchase, Defendants failed to disclose that the  
10 PAX System was inherently defective and that, in the event of a tire failure,  
11 neither Defendants nor any third parties maintained sufficient repair or  
12 replacement facilities (or the equipment necessary to perform such repairs or  
13 replacements) to appropriately address the needs of consumers who required the  
14 repair or replacement of the run-flat tires and/or the PAX Systems.

15 47. In fact, when Carper purchased her Vehicle, she was specifically told  
16 by a representative of Acura that she did not need a spare tire and that she never  
17 would be stranded with the PAX System. Nevertheless, because she desired the  
18 comfort of knowing that she had a spare tire in the event of an emergency, she  
19 obtained an Acura RL spare tire from the Acura dealer for her peace of mind.  
20 Carper subsequently discovered, however, that driving with the Acura RL spare  
21 tire was not practical since it occupied the entire trunk space in her Vehicle and, in  
22 any event, the spare tire was incompatible with the PAX System and, therefore,  
23 was of absolutely no use or value to Carper.

24 48. Following the purchase of the Acura, Carper operated her Vehicle in  
25 a manner consistent with its intended use. After driving the Vehicle for  
26 approximately three months, and less than 4,000 miles, the sidewalls of two of  
27 Carper's tires (the front left and rear left) were punctured during a visit to New  
28 York. Carper took her Acura to a local Michelin dealer in New York, which was

1 listed as an authorized PAX System dealer. During her visit, which was on a  
2 Saturday, Carper was told that both tires would have to be replaced. The Michelin  
3 dealer, however, did not have the equipment or parts necessary to replace the tires  
4 and told Carper that it could order the tires on the rims, but that the order would  
5 take up to five days for delivery. In fact, the Michelin dealer in East Syracuse,  
6 New York was so unfamiliar with the PAX System that, at first, the dealer denied  
7 that Michelin even manufactured or sold run-flat tires of any kind and only  
8 admitted this fact after physical inspection of Carper's actual wheels and tires.

9       49. Since Carper neither wished to nor could afford to spend an extra  
10 week away from home to wait for her two tires to be replaced, she had her Vehicle  
11 towed to the Acura dealership in Syracuse on the following Monday. The Acura  
12 dealership indicated that it, likewise, could not repair the tires because it did not  
13 have a PAX System assembly (tire and rim) in stock or the equipment necessary to  
14 perform the repair/replacement. Accordingly, the dealer ordered two new rims and  
15 tires for overnight delivery. The assemblies arrived on Tuesday and were finally  
16 replaced on that date. Carper was required to pay \$186.30 for overnight delivery  
17 and installation of the new wheels and tires. Carper also was effectively stranded  
18 in New York for a period of four days waiting for her car to be repaired, during  
19 which time she incurred \$331.42 in additional expenses to rent a car, as well as  
20 additional gasoline expenses, in order to have alternative means of transportation  
21 during her unexpected, extended stay in New York.

22       50. In light of her experience, and now understanding that her Vehicle  
23 was inherently defective because there was no way to replace and/or repair the  
24 tires promptly and within the recommended driving range of a compromised PAX  
25 System tire from her home, Carper inquired if she could equip the Vehicle with  
26 conventional (non-PAX System) tires and wheels. Carper was told that this could  
27 not be done due to the nature of the design and suspension of her Vehicle, which  
28 was equipped with the Technology Package.

1           51. As a result of her experience, Carper contacted Acura/Honda and  
2 spoke to numerous representatives to inform them of the problems and seek a  
3 reasonable resolution. She was told that Defendants would not be able to help her  
4 but was given additional false information regarding the availability of service  
5 facilities near her home. Specifically, Carper was told by an Acura representative  
6 that she would be able to have the PAX System tires repaired or replaced at Largo  
7 Honda (approximately eighty (80) miles from her Florida residence). When  
8 Carper contacted Largo Honda, however, she was told that the dealership did not  
9 have the equipment necessary to perform the repairs on the PAX System and, in  
10 fact, that the equipment was on back order and not presently available to the  
11 dealership. When Carper discovered that these additional representations  
12 regarding available repair facilities also were false, she traded in her car for a 2006  
13 RL without the Technology Package, at a significant monetary loss.

14           52. To date, Defendants remain unwilling and/or unable to take any  
15 effective action to remedy the problems with the PAX System, including the  
16 availability and sufficiency of repair centers. Defendants have continued to fail  
17 and refuse to take responsibility for the defects with the PAX System, and  
18 continue their misrepresentations and omissions regarding the PAX System and  
19 the availability of repair facilities for the PAX System. The harm caused by  
20 Defendants' acts of unfair competition, as well as their false and misleading  
21 statements and omissions, grossly outweighs any benefit that could be attributed to  
22 them.

23           53. Defendants are and have been aware of the scope of the PAX System  
24 problems, but have failed to take substantial corrective action. Defendants have  
25 failed to even notify their customers of the problems with the PAX System.

26           54. Unless notice is provided to the Class, most, if not all, other users of  
27 the PAX System will eventually suffer the same fate, at considerable costs,  
28 expense and loss such as Plaintiffs have suffered to date and continue to suffer.



1  
2 **FIRST CAUSE OF ACTION**  
3 **(Violations of Bus. & Prof. Code § 17200, et seq.)**

4 55. Plaintiffs reallege and incorporate the above allegations by reference  
5 as if set forth fully herein.

6 56. Plaintiffs bring this cause of action on behalf of themselves and on  
7 behalf of the Class.

8 57. Defendants have engaged in unfair, unlawful, and fraudulent business  
9 practices as set forth above.

10 58. By engaging in the above-described acts and practices, Defendants  
11 have committed one or more acts of unfair competition within the meaning of  
12 Section 17200.

13 59. Defendants' acts and practices have deceived and/or are likely to  
14 deceive members of the consuming public and impact the public interest.

15 60. Defendants' acts and practices are unlawful because they violate Civil  
16 Code §§ 1572, 1709, 1710, 1770(a)(2), 1770(a)(5), 1770(a)(7), 1770(a)(9) and  
17 1770(a)(19). Defendants' acts and practices are also unlawful because they violate  
18 Section 17500. Defendants' deceptive marketing and sales practices, including  
19 affirmative misrepresentations and omissions, were material and substantial and  
20 were made in the form of common misrepresentations of material facts upon  
21 which persons, including members of the Class, could be expected to rely.

22 61. Defendants' acts and practices are also unlawful because they rise to  
23 the level of a breach of the implied warranty of merchantability.

24 62. Plaintiffs have suffered injury in fact, including, but not limited to,  
25 paying more to replace the run-flat tires than they reasonably anticipated and that  
26 was represented to them by Defendants, as well as diminution of value of the  
27 Vehicles that they purchased and loss of use of the Vehicles, as a result of the  
28 above-described acts and practices.

1 63. Plaintiffs, on behalf of themselves and the Class, seek an order of this  
2 Court awarding restitution, disgorgement, injunctive relief and all other relief  
3 allowed under Section 17200, plus interest, attorneys' fees and costs pursuant to,  
4 *inter alia*, Cal. Code of Civ. Proc. § 1021.5.

5 **SECOND CAUSE OF ACTION**  
6 **(Violations of Bus. & Prof. Code § 17500, et seq.)**

7 64. Plaintiffs reallege and incorporate the above allegations by reference  
8 as if set forth fully herein.

9 65. Plaintiffs bring this cause of action on behalf of themselves and the  
10 Class.

11 66. Beginning in or about January 2005, Defendants began advertising  
12 and marketing to the public and offering for sale the Vehicles with the PAX  
13 System throughout the United States, including in California.

14 67. Defendants have engaged in the advertising and marketing alleged  
15 herein, with an intent to directly and/or indirectly induce the purchase of Honda  
16 and Acura Vehicles with the PAX System.

17 68. Certain of Defendants' advertisements and marketing representations  
18 regarding the characteristics and components of the Vehicles with the PAX  
19 System were false, misleading and deceptive. Specifically, Defendants never  
20 disclosed that the Vehicles were equipped with PAX Systems that made the  
21 Vehicles inherently defective and that, in the event of a tire failure, neither  
22 Defendants nor any third parties maintained sufficient repair or replacement  
23 facilities (or the attendant equipment) to appropriately address the needs of  
24 consumers who require the repair or replacement of the PAX System tires.  
25 Defendants' representations and statements about the characteristics and  
26 components of the Vehicles with the PAX System, as well as the ability for  
27 consumers to conveniently obtain repairs to the PAX System, were false,  
28 misleading and deceptive and violated the FAL. In addition, Defendants'

1 representations that the PAX System eliminated the need to carry a spare tire, that  
2 the PAX System eliminated the risk that a consumer would be stranded with a flat  
3 tire, that the PAX System tires provide excellent tread wear for long life, and that  
4 the PAX System tires cost only 10 to 15% more than standard tires were false,  
5 misleading and deceptive, and also violated the FAL. Finally, Defendants'  
6 representations about the dealers and other facilities capable of repairing a PAX  
7 System flat tire, as well as Michelin's ability to deliver PAX System wheels and  
8 tires for replacement purposes, were false, misleading and deceptive and also  
9 violated of the FAL.

10 69. At the time they made and disseminated the specific statements  
11 identified above, Defendants knew or should have known that the statements were  
12 untrue or misleading, and, thus, acted in violation of Section 17500.

13 70. Plaintiffs, on behalf of themselves and the Class, seek restitution,  
14 disgorgement, injunctive relief, and all other relief allowable under Section 17500,  
15 plus interest, attorneys' fees and costs pursuant to, *inter alia*, Cal. Code of Civ.  
16 Proc. § 1021.5.

17 **THIRD CAUSE OF ACTION**  
18 **(Civil Code § 1750 et seq.)**

19 71. Plaintiffs reallege and incorporate the above allegations by reference  
20 as if set forth fully herein.

21 72. Plaintiffs bring this cause of action on behalf of themselves and the  
22 Class.

23 73. At all relevant times, Plaintiffs were each a "consumer," as that term  
24 is defined in Civ. Code § 1761(d).

25 74. At all relevant times, the Vehicles constituted "goods," as that term is  
26 defined in Civ. Code § 1761(a).

27 75. At all relevant times, Defendants each constituted a "person," as that  
28 term is defined in Civ. Code § 1761(c).

1           76. At all relevant times, Plaintiffs' purchases of the Vehicles with the  
2 PAX System constituted a "transaction," as that term is defined in Civ. Code §  
3 1761(e).

4           77. At all relevant times, Defendants provided "services" to Plaintiffs and  
5 the Class, within the meaning of Civil Code § 1761(b).

6           78. The CLRA provides in relevant part that "[t]he following unfair  
7 methods of competition and unfair or deceptive acts or practices undertaken by  
8 any person in a transaction intended to result or which results in the sale or lease  
9 of goods or services to any consumer are unlawful: (2) Misrepresenting the source,  
10 sponsorship, approval or certification of goods or services, (5) Representing that  
11 goods . . . have . . . approval, characteristics, uses, benefits . . . which they do not  
12 have, ... (7) Representing that goods . . . are of a particular standard, quality or  
13 grade . . . if they are of another, ... (9) Advertising goods . . . with the intent not to  
14 sell them as advertised, ... and (19) inserting an unconsonable provision in [a]  
15 contract." Civil Code §§ 1770(a)(2), (5), (7), (9) and (19).

16           79. At all relevant times, Defendants made uniform written  
17 representations regarding the Vehicles and the PAX System attributes prior to sale.  
18 These representations, as set forth above, were false, deceptive and/or misleading  
19 and violated the CLRA. In addition, by placing a limitation upon the warranty  
20 provided with the Vehicles and the PAX System at a time when Defendants knew  
21 or should have known that they were defective, Defendants violated the CLRA by  
22 inserting an unconsonable provision in a contract.

23           80. Defendants' violations of the CLRA occurred as a result of common  
24 misrepresentations and statements of material facts that were important to  
25 Plaintiffs and to all Class members, and upon which Plaintiffs and all Class  
26 members relied upon and/or reasonably could be expected to rely upon under all of  
27 the circumstances.

1 81. Civil Code § 1780(a)(2) permits any court of competent jurisdiction  
2 to enjoin practices that violate Civil Code § 1770.

3 82. Plaintiffs and the Class are also entitled to recover attorneys' fees and  
4 costs pursuant to Civil Code §§ 1780 and 1781.

5 83. Under Civil Code § 1782(a), the required thirty (30) day notice was  
6 provided to Defendants before the filing of this Complaint pursuant to Civil Code  
7 § 1782(d) but, nevertheless, Defendants failed and refused to take appropriate  
8 corrective action. Moreover, since no claim for damages is asserted in this  
9 Complaint at this time and only injunctive relief is sought at this time under Civil  
10 Code § 1782(d), and Plaintiffs have again provided Defendants with notice under  
11 Civil Code § 1782(a) contemporaneous with the filing of this Complaint,  
12 Defendants will be afforded an additional thirty (30) days in which to cure their  
13 breaches of the CLRA, and to correct, repair, replace and otherwise rectify the  
14 violations of Civil Code § 1770, before they face any potential claim for damages  
15 under the CLRA.

16 **PRAYER FOR RELIEF**

17 WHEREFORE, Plaintiffs, on behalf of themselves and all others similarly  
18 situated, pray for judgment against Defendants as follows:

19 A. An order certifying this case as a class action and appointing  
20 Plaintiffs and their counsel to represent the Class;

21 B. Restitution and disgorgement to the extent permitted by applicable  
22 law, together with interest thereon from the date of payment, to the victims of such  
23 violations;

24 C. To the extent that Defendants have continued to market and sell the  
25 Vehicles in the manner challenged in this action, an order requiring Defendants to  
26 immediately cease their wrongful conduct as set forth above, as well as enjoining  
27 Defendants from continuing to falsely market and advertise, conceal material  
28 information and conduct business via the unlawful and unfair business acts and

1 practices complained of herein; and an order requiring Defendants to engage in a  
2 corrective notice campaign;

3 D. For reasonable attorneys' fees and the costs of prosecuting this  
4 action;

5 E. For statutory pre-judgment interest; and

6 F. For such other relief as this Court may deem just and proper.

7 **JURY DEMAND**

8 Plaintiffs demand a trial by jury on all causes of action so triable.  
9

10  
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13  
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2 **IN THE UNITED STATES DISTRICT COURT  
FOR THE CENTRAL DISTRICT OF CALIFORNIA**

3 JEAN CARPER and MICHAEL  
4 MUHLFELDER, On Behalf  
of Themselves and All Others Similarly  
5 Situated,

6 Plaintiffs,

7 vs.

8 AMERICAN HONDA MOTOR  
9 COMPANY, INC. and MICHELIN  
NORTH AMERICA, INC.

10 Defendants.

CIVIL ACTION NO.

CLASS ACTION

JURY TRIAL DEMANDED

11 **DECLARATION OF JEAN CARPER**

12  
13 I, Jean Carper, declare under penalty of perjury as follows:

14 1. I make this declaration based upon my personal knowledge except as to those  
15 matters stated herein that are based upon information or belief, which I believe to be true.

16 2. I am an adult citizen of the State of Florida, I reside in Key West, Monroe  
17 County, Florida and I am a named Plaintiff in this litigation.

18 3. I purchased a new 2006 Acura DL equipped with the PAX® Tire and Wheel  
19 Assembly System in or about June 2006 from Ric Case Acura in Ft. Lauderdale, Florida.

20 4. To the best of my knowledge, information and belief, Defendant, American  
21 Honda Motor Company, Inc., is a California corporation with its principal place of business and  
22 execute offices located in Torrance, Los Angeles County, California.

23 5. To the best of my knowledge, information and belief, Defendant, Michelin North  
24 American, Inc., is a New York corporation with its principal place of business in California  
25 located in Ontario, San Bernardino County, California.


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I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 20 day of February, 2007 at Key West, Florida.

  
Jean Carper

1  
2 **IN THE UNITED STATES DISTRICT COURT  
FOR THE CENTRAL DISTRICT OF CALIFORNIA**

3 **JEAN CARPER and MICHAEL  
4 MUHLFELDER, On Behalf  
of Themselves and All Others Similarly  
5 Situated,**

6 **Plaintiffs,**

7 **vs.**

8 **AMERICAN HONDA MOTOR  
9 COMPANY, INC. and MICHELIN  
NORTH AMERICA, INC.**

10 **Defendants.**

**CIVIL ACTION NO.**

**CLASS ACTION**

**JURY TRIAL DEMANDED**

11 **DECLARATION OF MICHAEL MUHLFELDER**

12  
13 I, Michael Muhlfelder, declare under penalty of perjury as follows:

14 1. I make this declaration based upon my personal knowledge except as to those  
15 matters stated herein that are based upon information or belief, which I believe to be true.

16 2. I am an adult citizen of the Commonwealth of Massachusetts. I reside in  
17 Andover, Essex County, Massachusetts and I am a named Plaintiff in this litigation.

18 3. I purchased a new 2005 Honda Odyssey Touring Model equipped with the PAX®  
19 Tire and Wheel Assembly System in or about March 2005 from Peters Auto Center in Nashua,  
20 New Hampshire.

21 4. To the best of my knowledge, information and belief, Defendant, American  
22 Honda Motor Company, Inc., is a California corporation with its principal place of business and  
23 execute offices located in Torrance, Los Angeles County, California.

24 5. To the best of my knowledge, information and belief, Defendant, Michelin North  
25 American, Inc., is a New York corporation with its principal place of business in California  
26 located in Ontario, San Bernardino County, California.

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I declare under penalty of perjury under the laws of the State of California that the  
foregoing is true and correct. Executed this 21 day of February, 2007 at Andover,  
Massachusetts.

  
Michael Mühlfelder