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

VANESSA BROWNE and PAUL  
MOORE, on behalf of themselves and all  
others similarly situated,

Plaintiffs,

v.

AMERICAN HONDA MOTOR CO.,  
INC.,


Defendant.

Case No. CV09-06750 MMM (DTBx)

FIRST  
AMENDED CLASS ACTION  
COMPLAINT

DEMAND FOR JURY TRIAL

VIA FAX

2010 JAN 14 PM 3:38  
CLERK U.S. DISTRICT COURT  
CENTRAL DISTRICT OF CALIF.  
LOS ANGELES  
BY 

AMENDED CLASS ACTION COMPLAINT  
CASE NO. CV09-06750 MMM (DTBx)



1 Plaintiffs Vanessa Browne and Paul Moore, on behalf of themselves and all others  
2 similarly situated, allege as follows:

### 3 NATURE OF THE CASE

4 1. The braking system on 2008, 2009, and certain 2010 Honda Accord vehicles  
5 as well as 2009 and certain 2010 Acura TSX vehicles ("Class Vehicles") suffers from a  
6 defect that causes excessive force to be applied to the vehicles' rear wheels. One  
7 consequence of this defect is that the vehicles' rear brake pads wear out and require  
8 replacement about every 15,000 to 20,000 miles, far more frequently than in a properly  
9 functioning braking system. Although the defect is covered by Honda's warranty, Honda  
10 fails to repair the braking system defect under warranty.

11 2. Honda knows of the braking system defect and knows that consumers do not  
12 expect to have to inspect or replace rear brake pads every 15,000 to 20,000 miles.  
13 Nevertheless, Honda has not told current owners and lessees of Class Vehicles about the  
14 defect, has not disclosed the defect to purchasers of Class Vehicles, and continues to  
15 promote the braking system on the Class Vehicles.

16 3. As a result of Honda's practices, Plaintiffs and the other members of the  
17 proposed class have suffered injury in fact, including economic damages, and have lost  
18 money or property. Plaintiff Moore brings a claim for violation of the Consumers Legal  
19 Remedies Act (CLRA), Cal. Civ. Code § 1750 *et seq.*, and together with Plaintiff  
20 Browne, brings claims for violations of the Unfair Competition Law (UCL), Cal. Bus. &  
21 Prof. Code § 17200 *et seq.* and the Magnuson-Moss Warranty Act, 15 U.S.C. § 2301 *et*  
22 *seq.*, and for breach of express warranty under Cal. Comm. Code § 2313.

### 23 PARTIES

24 4. Plaintiff Vanessa Browne is a citizen and resident of Riverside, California,  
25 located in the County of Riverside.

26 5. Plaintiff Paul Moore is a citizen and resident of Lancaster, California,  
27 located in the County of Los Angeles.

28 6. Defendant American Honda Motor Co., Inc., (Honda) is a corporation



1 organized under the laws of the State of California, headquartered in Torrance,  
2 California, and has its principal place of business in California. Honda is the U.S. sales,  
3 marketing, and distribution subsidiary of its Japanese parent company, Honda Motor Co.,  
4 Ltd.

### 5 **JURISDICTION AND VENUE**

6 7. This Court has jurisdiction over this action under the Class Action Fairness  
7 Act, 28 U.S.C. § 1332(d). The aggregated claims of the individual Class members  
8 exceed the sum or value of \$5,000,000, exclusive of interests and costs, and this is a class  
9 action in which more than two-thirds of the proposed plaintiff class, on the one hand, and  
10 Honda, on the other, are citizens of different states.

11 8. This Court has jurisdiction over Honda because Honda maintains its  
12 principal headquarters in California; is registered to conduct business in California; has  
13 sufficient minimum contacts in California; or otherwise intentionally avails itself of the  
14 markets within California through the promotion, sale, marketing, and distribution of its  
15 vehicles to render the exercise of jurisdiction by this Court proper and necessary.  
16 Moreover, Honda's wrongful conduct (as described herein) emanates from California and  
17 foreseeably affects consumers in California. Most of the events complained of herein  
18 occurred in or emanated from Honda's corporate headquarters located in Torrance,  
19 California.

20 9. Venue is proper in this District under 28 U.S.C. § 1391(a) because Honda  
21 resides in this District and a substantial part of the events or omissions giving rise to  
22 Plaintiffs' claims occurred in this District.

### 23 **SUBSTANTIVE ALLEGATIONS**

24 10. Honda markets, distributes, and warrants Honda Accord and Acura TSX  
25 vehicles in the United States.

26 11. Honda Accords—starting in the 2008 model year and continuing in the 2009  
27 and some 2010 models—and Acura TSXs—starting in the 2009 model year and  
28 continuing in some 2010 models—came equipped with a newly designed braking system,



1 which consisted of braking components (rotors, calipers, parking brake, and brake pads),  
2 an Electronic Brake Distribution system, a Vehicle Stability Assist system, a Brake Assist  
3 system, and an anti-lock braking system (collectively, the Class Vehicles' "Braking  
4 System").

5 12. Honda widely advertises the Accord's newly designed Braking System. For  
6 example, the Honda press release for the 2008 Accord states that "[f]or the first time in  
7 Honda Accord history, every Accord Sedan and Coupe model includes 4-wheel disc  
8 brakes with E[lectronic Brake Distribution] and brake assist." Another Honda press  
9 release for the Accord announced that "a new and enhanced anti-lock braking system has  
10 been developed for the 2008 Accord... [which] replaces the system found on the 7<sup>th</sup>  
11 generation Accord." Honda's website touts the benefits of the new braking system under  
12 its "Active Safety" section: the "Electronic Brake Distribution . . . automatically  
13 distributes brake forces to the wheels with the most stopping traction . . . [and] Brake  
14 Assist Systems help recognize emergency braking situations and momentarily help apply  
15 brake force." The 2008 Honda Accord brochure describes how the Electronic Brake  
16 Distribution "helps braking performance by distributing brake force" while emphasizing  
17 Honda's "desire to help keep drivers and passengers safe."

18 13. Honda widely advertises the Accord as a safe and reliable vehicle. In the  
19 2008 Honda Accord brochure, Honda advertises the Accord's "fade-resistant stopping  
20 capacity." Dick Colliver, Honda's executive vice president, described the 2008 Accord's  
21 "new, innovative design with improved packaging and even more refined performance  
22 adds to the Accord's strong foundation of historically high residual values, renowned  
23 manufacturing quality and legendary reliability." Similarly, in other publications Honda  
24 advertises that the Electronic Brake Distribution system helps make the company a  
25 "Leader[ ] in Active Safety" and that "Honda has a well-established history of safety  
26 leadership."

27 14. Honda provides owners and lessees of Class Vehicles with express  
28 warranties. The express warranties state that Honda will repair or replace, free of charge,



1 any part that is defective in material or workmanship under normal use for 3 years or  
2 36,000 miles, whichever comes first, for the Accord, and for 4 years or 50,000 miles,  
3 whichever comes first, for the Acura TSX.

4 15. The defect in the Class Vehicles' Braking System causes excessive force to  
5 be applied to the rear wheels. One result of the defect is the routine failure of rear brake  
6 pads at 15,000 to 20,000 miles. In properly functioning braking systems, rear brake pads  
7 typically last for 70,000 miles or more. The Braking System defect does not cause the  
8 same rapid deterioration of the front brake pads, which—in properly functioning braking  
9 systems—wear faster than the rear brake pads. In other words, the rear brake pads on  
10 Class Vehicles require replacement three to four times as often as the front brake pads,  
11 three to four times as often as designed, and three to four times as often as brake pads in a  
12 properly functioning braking system.

13 16. Because the defective Braking System requires repairs within the applicable  
14 express warranty periods, i.e., within 3 years and 36,000 miles and within 4 years and  
15 50,000 miles, the warranties obligate Honda to repair the Braking System defect. Honda,  
16 however, refuses to repair consumers' vehicles under warranty, refuses to replace the  
17 parts free of charge, and refuses to publicly acknowledge that the Braking System suffers  
18 from a defect. Honda's refusal to honor the warranties harms the Plaintiffs and Class  
19 members by forcing them to incur out-of-pocket costs on repairs covered by the  
20 warranties and by forcing them to spend excessive time replacing parts repeatedly  
21 damaged by the Braking System defect.

22 17. Over 200 consumer complaints concerning the Braking System in Class  
23 Vehicles have been lodged with the National Highway Traffic Safety Administration  
24 (NHTSA). These complaints reflect the abnormally premature failure of the brake pads,  
25 the repeated, unexpected repair costs (including to the vehicles' rotors), and Honda's  
26 refusal to honor its warranty or to take responsibility for the defect:

- 27 • MY 2008 HONDA ACCORD SEDAN EX HAD REAR BRAKES REPLACED  
28 AT 14,921, THE REAR BRAKES STARTED TO PRODUCE A METAL-TO-  
METAL SOUND WITHOUT ANY OTHER TYPE OF WARNING FROM THE



1 SENSOR. I DIDN'T THINK THE REAR BRAKE PADS ARE WORN  
 2 COMPLETELY SO I TOOK IT TO THE NEAREST HONDA DEALERSHIP.  
 3 THE SERVICE ADVISOR TOLD ME THE REAR BRAKE PADS ARE  
 4 COMPLETELY OUT AT 14,921 MILES. FROM MY OWN PERSONAL  
 5 EXPERIENCE AND OTHERS FRIENDS/RELATIVES, NO FRONT WHEEL  
 6 DRIVE CAR HAS REAR BRAKES REPLACED WITHIN 15,000 MILES. THE  
 7 SERVICE ADVISOR WAS SURPRISE TO SEE THE REAR BRAKES WORN  
 8 OUT AT 14,921 MILES AS WELL. IN JUNE 2009, MY CAR REACHED  
 9 APPROXIMATELY 29,000 MILES AND THE SAME METAL-TO-METAL  
 10 NOISE CAME BACK AND AGAIN, MY REAR BRAKES ARE  
 11 COMPLETELY WORN OUT AND NEEDS REPLACEMENT. I'VE GONE  
 12 THROUGH 2 SETS OR REAR BRAKE PADS BEFORE REACHING 30,000  
 13 MILES.

- 14 • BRAKES IN NEED OF REPLACEMENT AFTER 19,000 MILES. SERVICE  
 15 MANAGER SAYS HE GETS 2 OR 3 CALLS/DAY ON THIS ISSUE AND WE  
 16 ARE LUCKY THE BRAKES LASTED TO 19K. MOST ONLY LAST 15-17K.  
 17 SERVICE MANAGER (AND COUNTLESS OTHERS FOUND ONLINE)  
 18 HAVE MADE HONDA AWARE, BUT NO RECALL, NO NOTIFICATION TO  
 19 CONSUMERS, NO COVERAGE UNDER BASIC OR EXTENDED  
 20 WARRANTIES. IF THIS WAS PEELING PAINT, NO PROBLEM. THESE  
 21 ARE BRAKES THAT LAST (ACCORDING TO SERVICE MANAGER) A  
 22 LITTLE OVER A YEAR BEFORE REPLACEMENT WITH NORMAL  
 23 DRIVING! 50% WEAR IN 6 MONTHS! HAVE NEVER OWNED ANY  
 24 OTHER VEHICLE WITH THIS ISSUE.
- 25 • HONDA PREMATURE REAR BRAKE WEAR. 2008 HONDA ACCORD 2-  
 26 DOOR 4 CYLINDER AUTO TRANS. HAS 16,696 MILES AND REAR  
 27 BRAKES WORE OUT. INNER PADS WERE METAL ON METAL  
 28 ACCORDING TO REPAIR SHOP (PEP BOYS) THEY DID NOT WANT TO  
 WORK ON THE VEHICLE AS THEY FELT THE REAR BRAKE CALIPERS  
 WERE DEFECTIVE. THE SAID THE DEALER SHOULD REPLACE THE  
 CALIPERS UNDER WARRANTY. TOOK TO DEALER NEXT MORNING ON  
 AUG 19 2009. GOT A STORY ABOUT HOW IT IS NORMAL FOR REAR  
 BRAKES TO WEAR OUT AT 16,000 MILES. THEY WOULD NOT COVER A  
 SAFETY ISSUE UNDER WARRANTY. TOLD REAR BRAKES DO NOT  
 LAST AS LONG AS FRONT BRAKES. TOLD INNER PADS ON THE REAR  
 AXLE WEAR OUT FASTER THAN THE OUTER PADS DUE TO THIS  
 REASON OR THAT REASON. DEALER EXPLAINED THAT THIS IS NOT  
 COVERED UNDER WARRANTY AND THEN CHARGED ME FOR  
 REPLACING REAR BRAKES. I EXPECT THE CURRENT SET OF BRAKES  
 TO ONLY LAST ANOTHER 16,000 MILES. RESEARCHING OTHER  
 OWNERS ONLINE AND PERSONAL FRIENDS THIS IS A PERVERSIVE  
 PROBLEM. ALSO CAR MAGAZINE MOTOR TREND HAD THE SAME  
 PROBLEM.



1 [HTTP://WWW.MOTORTREND.COM/ROADTESTS/ONEYEAR/112\\_0910\\_20](http://www.motortrend.com/roadtests/oneyear/112_0910_2008_honda_accord_test_verdict/index.html)  
2 [08\\_HONDA\\_ACCORD\\_TEST\\_VERDICT/INDEX.HTML.](http://www.motortrend.com/roadtests/oneyear/112_0910_2008_honda_accord_test_verdict/index.html)

- 3 • HONDA ACCORD EX-L 2009. PURCHASED MAY 2009. BRAKES HAVE  
4 BEEN SQUEALING SINCE PURCHASE OF CAR. I TOOK IT IN AND THE  
5 SERVICE PERSON SAID, "90% OF ALL 2008 AND 2009 ACCORDS ARE  
6 HAVING THE SAME PROBLEM. AMERICAN HONDA IS AWARE OF THE  
7 PROBLEM BUT THAT THERE IS NO CURRENT RECALL FOR IT. AS TO  
8 WHEN THERE WILL BE A RECALL, IT MAY BE NEXT YEAR, IF THERE  
9 IS ONE. UNTIL THEN, THERE IS NOTHING WE CAN DO ABOUT IT. AND  
10 THERE IS NO POINT IN REPLACING THE BRAKE PADS AND ROTORS  
11 BECAUSE IT WILL END UP WITH THE SAME PROBLEM. IT WON'T GO  
12 AWAY BY REPLACING THEM." IF 90% OF THE NEW HONDA ACCORDS  
13 ARE HAVING THIS PROBLEM, THEN CERTAINLY AMERICAN HONDA  
14 SHOULD DO SOMETHING ABOUT THE SQUEALING BRAKES.
- 15 • 2008 HONDA ACCORD, 4 DOOR, V6 - PREMATURE BRAKE WEAR. THE  
16 REAR BRAKE PADS ON MY CAR ARE NOW NEEDING REPLACEMENT  
17 AT ONLY 12,500 MILES. I HAVE CALLED AMERICAN HONDA AND  
18 THEY SAY THIS IS ONLY A MAINTENANCE ITEM AND NOT  
19 CURRENTLY A RECALL OR WARRANTY REPAIR ITEM. WITH BRAKE  
20 PADS WEARING THIS QUICKLY PEOPLE WILL NOT BE ABLE OR  
21 WILLING TO PAY FOR REPLACEMENT/REPAIR ON A TIMELY BASIS.  
22 THIS WILL LEAD TO THESE CARS BEING ON THE HIGHWAY WITHOUT  
23 ADEQUATE BRAKES. MY WIFE AND I ARE EXPERIENCED DRIVERS  
24 AND HAVE OWNED HONDA VEHICLES FOR 25+ YEARS. WE HAVE  
25 NEVER HAD THIS TYPE OF PREMATURE BRAKE WEAR WITH HONDA  
26 OR ANY OTHER TYPE OF VEHICLE. THE MAJOR ISSUE IS THE  
27 POTENTIAL FOR THESE CARS TO BE ON THE HIGHWAY WITH  
28 INADEQUATE BRAKES. THE INCONVENIENCE AND TREMENDOUS  
COST OF REPLACING BRAKE PADS THIS FREQUENTLY WILL LEAD TO  
THIS SITUATION. THIS IS A FINANCIAL HARDSHIP THAT MAY LEAD  
TO A DANGEROUS SITUATION FOR CONSUMERS.
- PREMATURE BRAKE WEAR ON A 2008 HONDA ACCORD LX. 25773  
MILES ON CAR. I TOOK IT INTO THE DEALER FOR SQUEALING  
SOUND.. THEY SAID IT WAS BRAKE PADS WORN ON REAR BRAKES,  
AND A REAR ROTOR NEEDING REPLACEMENT. THEY SAID IT WAS  
NOT COVERED UNDER WARRANTY, EVEN THOUGH ADMITTING  
OTHER PEOPLE HAVE COMPLAINED ABOUT PREMATURE BRAKE PAD  
WEAR. I FEEL THIS IS A SAFETY ISSUE THAT NEEDS TO BE  
ADDRESSED. I PAID \$347 ON REPAIRS FOR SOMETHING THAT SHOULD  
HAVE BEEN COVERED BECAUSE OF HONDA'S PRIOR KNOWLEDGE OF  
THE PROBLEM BEFORE THEY EVEN SOLD THE CAR TO ME 8/28/08.



- 1 • 2008 HONDA ACCORD- REAR BRAKES HAVE BEEN REPLACED FOUR  
2 TIMES, ALONG WITH THE ROTORS ONCE. I HAVE 70,000 MILES  
3 (MAINLY HIGHWAY MILE) AND THEY ARE HAVING TO BE REPLACED  
4 ALMOST EVERY 20,000 MILES.
- 5 • I HAVE AN HONDA ACCORD EX PURCHASED ON OCT 2008. EVER  
6 SINCE 3000 MILES I HAVE BEEN HEARING A SQUEALING NOISE WHEN  
7 I DEPLOY THE BRAKES. IN AUGUST 17, 2009 THE SQUEAL TURNED  
8 INTO A GRINDING NOISE AND I HAD TO REPLACE BOTH REAR BRAKE  
9 PADS. MY CAR HAS ONLY 20,000 MILES. I SUSPECT THE QUALITY OF  
10 THE PART IS BELOW PAR IF NOT DEFECTIVE.
- 11 • BRAKES HAVE PULSATING WHEN BRAKING AND REQUIRE HEAVY  
12 PRESSURE TO BE APPLIED TO STOP. EVEN THOUGH CAR IS ONLY 1.5  
13 YEARS OLD WITH 18,000 MILES, SERVICE DEALERSHIP STATES NEW  
14 BRAKES AND MACHINING ROTORS IS NEEDED.
- 15 • THE CONTACT OWNS A 2008 HONDA ACCORD. WHILE TEST DRIVING  
16 THE VEHICLE, THE FRONT END SHOOK WHILE THE BRAKE PEDAL  
17 WAS DEPRESSED. THE CONTACT TOOK THE VEHICLE TO THE DEALER  
18 AND THEY INSTALLED NEW ROTORS AND BRAKE PADS. THE  
19 FAILURE REMAINED AND THE VEHICLE WAS RETURNED TO THE  
20 DEALER FOR THE SECOND TIME. THE DEALER STATED THAT THE  
21 ROTORS NEEDED TO BE TURNED. THE FAILURE STILL PERSISTS. THE  
22 CURRENT MILEAGE WAS 1,300 AND FAILURE MILEAGE WAS 317.

17 18. Honda tells Accord owners and lessees that they should inspect their  
18 vehicles' brake pads when the vehicles' on-board computer system, which Honda calls  
19 the "Maintenance Minder System," informs them that service is due. Honda states that  
20 "[t]he Honda Maintenance Minder System takes the guess work out of maintaining your  
21 vehicle. And keeping your vehicle maintained preserves your investment and helps keep  
22 your driving trouble free. There's no need to follow any other maintenance schedule.  
23 Just follow the Maintenance Minder."

24 19. The Braking System defect causes the pads to wear at such an accelerated  
25 rate that the Accords' on-board computer system does not warn drivers that the brake  
26 pads require inspection or are suffering from dangerous levels of brake pad wear.  
27 Moreover, consumers do not expect to have to inspect or replace the brake pads after only  
28 15,000 to 20,000 miles. The undisclosed defect in the Braking System poses an



1 unreasonable safety risk to consumers.

2 20. Consumer complaints lodged with the NHTSA reflect consumers' concerns  
3 relating to the dangers posed by the defective Braking System:

- 4 • MY 2008 HONDA ACCORD HAS EXPERIENCED PREMATURE BRAKE  
5 WEAR IN THE REAR BRAKES. AFTER ONLY A YEAR AND 16,500 MILES,  
6 THE REAR BRAKES ARE SHOT. THE DEALERSHIP TOLD ME THIS WAS  
7 "NORMAL" AND THEY NEEDED TO BE REPLACED, WHICH I DID.  
8 AFTER DOING SOME RESEARCH, I FIND THAT I'M NOT ALONE. I'VE  
9 FOUND HUNDREDS OF COMPLAINTS OF REAR BRAKE PROBLEMS  
10 AND I'D LIKE TO ADD MY VOICE TO THE CHORUS. I DRIVE MOSTLY  
11 ON THE HIGHWAY AND THESE BRAKES JUST SHOULD NOT HAVE  
12 WORN OUT THIS FAST! IT'S NOT JUST A MONEY ISSUE. PREMATURE  
13 BRAKE WARE IS A SAFETY ISSUE.
- 14 • AT 15,580 MILES THE REAR BRAKE PADS ON MY 2008 HONDA ACCORD  
15 EXL V-6 SEDAN WERE WORN DOWN AND NEEDED TO BE REPLACED.  
16 THE FRONT PADS ARE FINE. I HAVE DRIVEN VARIOUS OTHER  
17 VEHICLES AND HAVE NEVER HAD TO REPLACE THE BRAKE PADS  
18 AFTER SO SHORT OF A MILEAGE. THE SERVICE CONSULTANT AT MY  
19 HONDA DEALER SHOWED ME THE PAD AND THEY ARE VERY SMALL.  
20 I WAS INFORMED BY MY HONDA DEALER THAT THE PADS ARE TOO  
21 SMALL AND THEY ARE WEARING OUT FASTER. I BELIEVE THIS TO BE  
22 A DEFECT IN THE DESIGN AND I HAVE ALSO FILED A COMPLAINT  
23 WITH AMERICAN HONDA. I WOULD NEVER HAVE CHECKED MY PADS  
24 SO EARLY HAD I NOT BEEN AT THE DEALERSHIP. THIS IS POTENTIAL  
25 SAFETY ISSUE AS WELL. I WAS LUCKY AND CAUGHT THE PROBLEM  
26 BEFORE AN ACCIDENT, BUT BRAKE PADS SHOULD NOT NEED TO  
27 BE REPLACED ON A 1- YEAR OLD CAR WITH THIS LOW OF MILEAGE.
- 28 • I HAVE 19000 MILES ON MY CAR AND THE BACK BRAKE NEEDED  
REPLACING. THE DEALERSHIP REPLACED THE BACK BRAKES AND  
RESURFACED THE ROTORS DUE TO PREMATURE BRAKE WEARING.  
ACCORDING TO CARCOMPLAINTS.COM THERE ARE MANY OTHER  
2008 HONDA ACCORDS THAT ARE HAVING THIS SAME FAILURE. I  
HAVE A 2 YEAR OLD AND CANNOT AND WILL NOT HAVE HER IN  
DANGER TO DEFECTIVE EQUIPMENT ON A BRAND NEW CAR.
- REAR BRAKE PADS ON 2000-2009 HONDA ACCORD WEAR OUT WITHIN  
1 YEAR OR SO -- 18 MONTHS IN OUR CASE. USUALLY REAR BRAKE  
PADS LAST FOR MANY YEARS. THIS IS A SERIOUS POTENTIAL  
SAFETY HAZARD. HONDA HAS RECEIVED MANY COMPLAINTS  
ABOUT THIS, BUT IS STILL REFUSING TO ADMIT ANY PROBLEM  
THROUGH A TSB OR RECALL. I DON'T THINK ANYONE IS EXPECTING  
TO HAVE THEIR BRAKES BE COMPLETELY GONE THAT FAST. MY



1 WIFE HAD A NEAR MISS ACCIDENT WHEN TRAVELING WITH OUR  
 2 CHILDREN BECAUSE THE PADS WERE SO WORN OUT. PLEASE USE  
 3 LINK TO SEE MORE COMPLAINTS. I AM NOT ALONE IN THIS.  
 4 [HTTP://WWW.CARCOMPLAINTS.COM/HONDA/ACCORD/2008/BRAKES/P](http://www.carcomplaints.com/Honda/Accord/2008/Brakes/Premature_Brake_Wear.shtml)  
 5 [REMATURE\\_BRAKE\\_WEAR.SHTML](http://www.carcomplaints.com/Honda/Accord/2008/Brakes/Premature_Brake_Wear.shtml).

6 • I BOUGHT A 2008 HONDA ACCORD EX-L V6 COUPE, AND AFTER ONLY  
 7 13,000 OR SO MILES I BEGAN HEARING A TERRIBLE METAL ON  
 8 METAL SCRAPING NOISE COMING FROM THE REAR WHEEL WELL. I  
 9 CONTACTED MY LOCAL HONDA DEALER WHO INDICATED THIS IS A  
 10 KNOWN PROBLEM IN THIS MAKE AND MODEL CAR, BUT THAT IT  
 11 WAS NOT ON RECALL "YET". AFTER ONE DAY OF DRIVING WITH THE  
 12 NOISE I FELT A NOTICEABLE DIFFERENCE IN MY VEHICLE'S  
 13 BREAKING AND HIGHWAY DRIVING. I INFORMED THE DEALER OF  
 14 THIS AND WAS TOLD THAT ANY ABNORMAL BRAKE WEAR WILL  
 15 EFFECT MY VEHICLES STABILITY ASSIST SYSTEM (SAS) WHICH  
 16 CONTROLS THE VEHICLE'S TRACTION, SPEED, ACCELERATION, ETC..  
 17 WHEN I TOOK MY CAR INTO A REPAIR SHOP (NOT THE DEALER DUE  
 18 TO THEIR ABSORBENT PRICES) THEY NOTIFIED ME THAT MY REAR  
 19 INTERIOR BRAKEPAD WAS WORN DOWN TO THE INDICATORS.  
 20 UNFORTUNATELY I HAD TO PAY OUT OF POCKET TO GET THIS FIXED  
 21 BECAUSE HONDA INFORMED ME THIS WAS NOT COVERED BY  
 22 WARRANTY AND DESPITE THE FACT THAT IT IS A KNOWN DEFECT  
 23 THEY ARE NOT COVERING THE COST BECAUSE A RECALL IS NOT IN  
 24 PLACE YET. I HAVE CHECKED SEVERAL CONSUMER WEBSITES  
 25 WHEREIN THIS HAS BEEN NOTED AS A CONTINUOUS PROBLEM WITH  
 26 THIS MAKE AND MODEL VEHICLE. EVERY 12,000-15,000 MILES OR SO  
 27 THE REAR BRAKE PADS WEAR OUT PREMATURELY. I AM  
 28 CONCERNED DUE TO THE RAPID PACE THAT THE BRAKE PADS WEAR  
 OUT AT AND AM FEARFUL THAT MY VEHICLE (AND OTHERS LIKE IT)  
 WILL LOOSE STABILITY AND RESULT IN AN ACCIDENT IF THIS  
 PROBLEM IS NOT RESOLVED. THE DEALERSHIPS MAKE EXCUSES FOR  
 THIS PROBLEM AND WHEN CONTACTING HONDA AMERICA THEY  
 ACT AS IF THEY HAVE NEVER HEARD OF THE PROBLEM BEFORE.  
 CARCOMPLAINTS.COM HAS 350 COMPLAINTS AND COUNTING AS OF  
 7/9/09 SO I FIND IT DIFFICULT TO BELIEVE THAT HONDA AMERICA  
 HAS NEVER BEEN NOTIFIED OF THIS PROBLEM. I SAVED MY OLD  
 PARTS AND THE RECEIPT/INVOICE FROM THE REPAIR PLACE I WENT  
 TO AND AM EXPECTING A RECALL TO BE ISSUED (EVENTUALLY) SO  
 THAT I AS WELL AS HUNDREDS IF NOT THOUSANDS OF OTHERS CAN  
 BE REIMBURSED FOR THIS UNNECESSARY EXPENSE. DOES SOMEONE  
 HAVE TO DIE TO GET A RECALL ?!

• THE CONTACT OWNS A 2008 HONDA ACCORD. THE CONTACT STATED  
 THAT WHILE APPLYING PRESSURE ON THE BREAK, SHE  
 EXPERIENCED SQUEALING AND REDUCED BREAKING CAPABILITY.



1 BREAK FAILURE CAN CAUSE AN INCREASE IN THE VEHICLES  
2 STOPPING DISTANCE WHICH INCREASES THE RISK OF VEHICLE  
3 CRASH. THE VEHICLE WAS TAKEN TO A DEALER AND A TECHNICIAN  
4 CONCLUDED THAT THE CALIPERS AND REAR BREAK SYSTEM  
5 NEEDED TO BE REPAIRED. AS OF CURRENT DATE NO REPAIRS WERE  
6 MADE. THE FAILURE AND CURRENT MILEAGES WERE 12,000.

7 • MY 2008 HONDA ACCORD WAS PURCHASED IN MARCH 2008. I  
8 WANTED A HONDA DUE TO THE REPORTS OF THEIR RELIABILITY  
9 AND SAFETY. I TOOK MY CAR FOR AN OIL CHANGE IN DECEMBER OF  
10 2008 AND WAS TOLD THAT MY REAR BRAKES WERE SO FAR GONE  
11 THAT I WAS DIGGING INTO MY ROTORS. THERE WAS NO WARNING  
12 AT ALL. NO SQUEALING NOISES, NO FORM OF WARNING AT ALL. I  
13 COMPLAINED ALOT. HONDA ENDED UP SPLITTING IT WITH ME 50/50.  
14 AT THAT TIME I HAD 25,476 MILES ON THE CAR. I'M SURE THE  
15 BRAKES WERE SHOT WELL BEFORE THAT POINT. I TOOK MY CAR  
16 INTO THE DEALERSHIP THIS MORNING FOR ANOTHER OIL CHANGE.  
17 AGAIN, I WAS TOLD THAT I NEED NEW REAR BRAKES NOW. NO  
18 WARNING ONCE MORE. AND NOW I ONLY HAVE 21,000 MORE MILES  
19 ON THE CAR. HOW CAN IT BE ACCEPTABLE TO MANUFACTURE  
20 BRAKES THAT ONLY LAST FOR 20,000 MILES? MY WHOLE VIEW OF  
21 HONDA IS CHANGING RAPIDLY. I CALLED THE DEALERSHIP WHO  
22 REFERRED ME TO HONDA DIRECTLY. I CALLED HONDA AND GOT NO  
23 WHERE. I WAS TOLD THAT BECAUSE BRAKES ARE A "WEAR AND  
24 TEAR" ITEM THAT THERE IS NOTHING HONDA "CAN" DO. I ASKED TO  
25 SPEAK TO A MANAGER. THE BEST I GOT WAS A REP THAT TOOK MY  
26 INFO AND SAID SOMEONE WOULD BE CALLING ME IN 1-2 BUSINESS  
27 DAYS. AGAIN... NOT ACCEPTABLE. NOT ONLY ARE THEIR PRODUCTS  
28 GOING DOWNHILL, SO IS THEIR CUSTOMER SERVICE. I AM  
THANKFUL THAT MY BRAKES DIDN'T SIMPLY FAIL AND CAUSE A  
VERY BAD SITUATION. BUT WHO'S TO SAY THAT MY BRAKES WON'T  
FAIL THIS TIME AROUND UNLESS HONDA DOES SOMETHING TO  
RESOLVE THIS ISSUE.

1 • I BROUGHT MY 2008 HONDA ACCORD EX-L 4 CYL IN FOR THE  
2 SECOND ROUTINE MAINTENANCE ON JULY 7, 2009. I WAS  
3 SUBSEQUENTLY INFORMED THAT MY REAL BRAKES WERE SHOT,  
4 THAT I NEEDED REPLACEMENT PADS AND MY ROTORS TURNED. I  
5 WAS ASTOUNDED, I ONLY HAD 14,897 MILES ON IT. MY FRONT  
6 BRAKES WERE WORN DOWN TO 7 MM OUT OF 8MM! MY REAR PADS  
7 WERE WORN DOWN TO 1 MM OF SURFACE PAD! THEY WERE  
8 BASICALLY GONE! THE RED LINE FOR REAR BRAKE REPLACEMENT  
9 IS 3 MM OR 4/32 FOR DISC BRAKES. MY BRAKES NEVER SQUEALED  
10 AT ALL! NO WARNING! NO NOTHING?... THE SERVICE REP STATED  
11 THAT THEY HAVE BEEN SEEING THESE THINGS AS QF LATE  
12 WITHOUT ANY EXPLANATION OR WHAT MIGHT BE CAUSING IT AND



1 THAT HONDA WAS AWARE OF THE PROBLEM. I TOLD HER THAT MY  
 2 UNDERSTANDING IS THAT YOUR FRONT BRAKES PRIMARILY DO THE  
 3 STOPPING OF THE CAR AND THAT YOU SHOULD GET AT LEAST 30-  
 4 35,000 OR MORE MILES OUT OF YOUR REAR BRAKES. ( MY 2007  
 5 TOYOTA CAMRY HAS 40,000 ON THE REARS AND WILL NEED TO BE  
 6 REPLACED SHORTLY.) SHE SAID THE BRAKE REPLACEMENT WOULD  
 7 RUN ABOUT \$ 230+, BUT SHE WOULD TALK WITH THE SERVICE  
 8 MANAGER TO SEE IF THEY COULD OFFER SOMETHING OFF ON THE  
 9 REPAIR JOB, MAYBE SPLIT THE COST. SHE STATED THAT THE CAR  
 10 WAS OVER THE 12 MONTH/12,000 BASIC WARRANTY WHICH WOULD  
 11 HAVE COVERED THIS PROBLEM. THEY GAVE ME A FREE RENTAL; I  
 12 WENT TO MY OFFICE AND FOUND THIS SITE AND ALL THE HORROR  
 13 STORIES. I CALLED THE SERVICE REP, SHE SAID THAT THEY WOULD  
 14 SPLIT THE COST OF THE REPAIR. I TOLD HER WHAT I FOUND OUT  
 15 AND THAT THIS WAS NOT ACCEPTABLE. I TOLD THE REP THAT I  
 16 WANTED TO SPEAK WITH THE SERVICE MANAGER AND THE OWNER  
 17 OF THE DEALERSHIP. THAT I DON'T THINK THAT I SHOULD PAY FOR  
 18 ANYTHING, THAT THEY KNEW THERE WAS A DANGEROUS FLAW  
 19 WITH THIS CAR WHEN THEY SOLD IT TO ME. SHE ALSO MENTIONED  
 20 THAT A HONDA SERVICE REPRESENTATIVE WAS THERE THAT DAY; I  
 21 ALSO WANTED TO SPEAK WITH HER.

22 • CAR PURCHASED 11/21/08. ON OR ABOUT 12/10/08, BRAKES BEGAN TO  
 23 MAKE A LOUD, SQUEAKING, SQUEALING NOISE, AND BEGAN TO  
 24 FADE, ESP. GOING AROUND CORNERS, UPHILL, AND ON PARKING  
 25 GARAGE SURFACES. I AM VERY CONCERNED ABOUT THEM FADING  
 26 AND HAVING TO RELEASE AND RE-BRAKE FROM ANY SPEED. THEY  
 27 ARE LOUD, GETTING LOUDER, PERSISTENTLY LOUD AND FADING  
 28 AND VERY OFTEN, BRAKING INADEQUATELY FROM ALL SPEEDS !  
 CAR HAS BEEN IN 4 TIMES TO DEALER AND DEALERS RECORDS WILL  
 INDICATE THAT THEY SUPPOSEDLY REPAIRED AND FINALLY  
 REPLACED PARTS. I SPOKE TO AMERICAN HONDA (  
 MANUFACTURER'S MAIN OFFICE) ON MARCH 12, 2009 AND WAS TOLD  
 INCREDIBLY, THAT THEY DID NOT KNOW HOW TO FIX THE  
 PROBLEM, WOULD NOT DO ANYTHING FURTHER TO TRY TO FIX THE  
 PROBLEM, WERE NOT INTERESTED IN HAVING THE AREA  
 REPRESENTATIVE SEE THE CAR IN PERSON, AND HAD NO  
 REPLACEMENT, RECALL OR BUYBACK PROGRAM FOR THIS  
 PROBLEM!!! I FEEL VERY UNSAFE AND UPSET IN THIS CAR!

21. Honda has long known that the Class Vehicles have a defective Braking  
 System. Honda has exclusive access to information about the Braking System defect  
 through its dealerships, pre-release testing data, warranty data, customer complaint data,  
 and replacement part sales data, among other sources of aggregate information about the



1 problem. In contrast, the Braking System defect was not known or reasonably  
2 discoverable by the Plaintiffs and Class members prior to purchase and without  
3 experiencing the defect first hand and exposing themselves to an unreasonable safety  
4 risk.

5 22. Honda has actively concealed the Braking System defect from consumers.  
6 Even when vehicle owners specifically ask whether their vehicle suffers from a known  
7 problem, Honda's policy is to deny that there is a known problem, continue concealing  
8 the Braking System defect, and to assert that replacing brake pads every 15,000 to 20,000  
9 miles is normal. Honda knew that potential car buyers and lessees would deem the defect  
10 in the Braking System to be material such that reasonable consumers who knew of the  
11 defect either would have paid less for the Class Vehicles or would not have purchased or  
12 leased a Class Vehicle at all.

13 23. As a result of Honda's practices, Plaintiffs and Class members purchased  
14 vehicles they otherwise would not have purchased, paid more for those vehicles than they  
15 would have paid, were subjected to an unreasonable risk to their safety, and unnecessarily  
16 paid, and will continue to pay, repair costs as a result of the Braking System defect.

### 17 **PLAINTIFFS' EXPERIENCES**

#### 18 **Plaintiff Vanessa Browne**

19 24. In January 2009, Plaintiff Browne purchased a new 2008 Honda Accord  
20 sedan from Riverside Honda in Riverside, California, which came with the factory-  
21 installed Braking System. Ms. Browne decided to purchase an Accord because of the  
22 price and because she thought it was a safe and reliable vehicle. Honda did not inform  
23 Ms. Browne before her purchase that the Accord's Braking System was defective or that  
24 it would need to have its rear brake pads replaced every 15,000 to 20,000 miles. Ms.  
25 Browne would not have purchased her vehicle had she known those facts.

26 25. In July 2009, six months after purchasing her vehicle and after having  
27 driven less than 18,000 miles, Ms. Browne noticed a high pitched noise when driving in  
28 reverse.



26. Ms. Browne contacted the service department at the Riverside Honda dealership. The Honda technician told Ms. Browne that she needed her rear brake pads immediately replaced for \$325. Ms. Browne's vehicle's computer system, the Maintenance Minder, did not warn her that her brake pads needed inspection or replacement. The technician further told Ms. Browne that the repair was not covered under warranty because Honda's official position is that there is not a problem with the Braking System.

27. Frustrated and distrustful of Honda, Ms. Browne took her vehicle to an independent mechanic and paid \$160 to replace her rear brake pads. The mechanic told Ms. Browne that he had performed a lot of low-mileage rear-brake repairs on late model Accords.

28. The next day, Ms. Browne called Honda's corporate office in Torrance, California, to express her frustration and dissatisfaction with her vehicle's Braking System. Honda refused to provide assistance and refused to admit that there was a problem with the Braking System installed on her vehicle.

29. Ms. Browne is concerned with the safety and reliability of her vehicle's Braking System. She is also upset because she will have to spend time and money replacing her brake pads every 15,000 to 20,000 miles, which she did not anticipate at the time of purchase.

**Plaintiff Paul Moore**

30. In October 2008, Plaintiff Moore purchased a new 2008 Honda Accord. The vehicle came with the factory-installed Braking System. Mr. Moore purchased his Accord because of the brand's reputation for reliability and because of the safety features touted by Honda, including the Vehicle Stability Assist and the anti-lock braking system. Mr. Moore was not told before his purchase that the Accord's Braking System was defective or that it would need to have its rear brake pads replaced every 15,000 to 20,000 miles. Mr. Moore would not have purchased his vehicle had he known of the defect.



1           31. In July 2009, about nine months after purchasing his vehicle and after  
2 having driven slightly more than 15,000 miles, Mr. Moore noticed a high pitched noise  
3 while driving. Concerned, Mr. Moore inspected his Accord for problems; however, it  
4 never occurred to him that the noise was related to the brakes given his vehicle's low  
5 mileage and that it was less than a year old. At no point did Mr. Moore's on-board  
6 vehicle computer system, the Maintenance Minder, warn him that his brake pads needed  
7 inspection or replacement.

8           32. The noise occurred sporadically at first, but quickly became more constant.  
9 Confused, Mr. Moore presented his vehicle to the service department at his local  
10 dealership for a diagnosis of the problem. Before even inspecting Mr. Moore's vehicle,  
11 the Honda technician asked the mileage of the vehicle and determined that the rear brakes  
12 were probably the source of the noise.

13           33. After inspecting the vehicle, the technician verified that Mr. Moore's  
14 vehicle needed new rear brake pads. The technician stated that the pads were a "wear and  
15 tear" item, and that Mr. Moore needed to make an appointment with the dealership to  
16 obtain an estimate for the repair costs.

17           34. Mr. Moore was surprised and frustrated by having to spend money to  
18 replace parts that he believed should last much longer than 15,000 miles. He searched on  
19 the internet and discovered that hundreds of other Accord owners had experienced the  
20 same premature rear brake pad wear. Mr. Moore learned that the other consumers who  
21 had encountered the same issues also were denied warranty coverage. Based on what Mr.  
22 Moore read on the internet and his experience at the dealership, Mr. Moore concluded  
23 that Honda would not provide the repairs under warranty. To save money, Mr. Moore  
24 replaced the rear brake pads in the vehicle himself. Mr. Moore purchased replacement  
25 parts for approximately \$80.

#### 26                                   **CLASS ACTION ALLEGATIONS**

27           35. Plaintiffs bring this action on behalf of themselves and a class of persons  
28 initially defined as follows:



1 All residents of the United States, including the Commonwealth of Puerto  
2 Rico, U.S. Virgin Islands, and Guam, who currently own or lease, or  
3 previously owned or leased a Class Vehicle (the "Class").

4 36. Excluded from the Class are Honda and Honda Motor Co., Ltd.; any  
5 affiliate, parent, or subsidiary of Honda or Honda Motor Co., Ltd.; any entity in which  
6 Honda or Honda Motor Co., Ltd., has a controlling interest; any officer, director, or  
7 employee of Honda or Honda Motor Co., Ltd.; any successor or assign of Honda or  
8 Honda Motor Co., Ltd.; anyone employed by counsel for Plaintiffs in this action; any  
9 Judge to whom this case is assigned as well as his or her immediate family and staff; and  
10 anyone who purchased a Class Vehicle for the purpose of resale.

11 37. This action has been brought and may properly be maintained on behalf of  
12 the Class proposed above under the criteria of Federal Rule of Civil Procedure Rule 23.

13 38. Numerosity. Members of the Class are so numerous that their individual  
14 joinder herein is impracticable. Hundreds of thousands of Class Vehicles have been sold  
15 or leased in the United States, with a substantial portion of those sales occurring in  
16 California. Class members may be notified of the pendency of this action by mail,  
17 supplemented (if deemed necessary or appropriate by the Court) by published notice.

18 39. Existence and predominance of common questions. Common questions of  
19 law and fact exist as to all members of the Class and predominate over questions  
20 affecting only individual Class members. These common questions include the  
21 following:

- 22 a. Whether Honda provided Plaintiffs and Class members with a vehicle  
23 installed with a defective Braking System or defective component  
24 parts;
- 25 b. Whether the fact that the Braking System is defective and requires  
26 brake pad replacement every 15,000 to 20,000 miles would be  
27 considered material by a reasonable consumer;
- 28 c. Whether Honda has a duty to disclose the Braking System defect to



1 Plaintiffs and other Class members;

2 d. Whether Honda has violated the Consumers Legal Remedies Act, Cal.  
3 Civ. Code § 1750 *et seq.*, as alleged in this complaint;

4 e. Whether Honda has engaged in unlawful, unfair, or fraudulent  
5 business practices in violation of California Business and Professions  
6 Code section 17200 *et seq.*, as alleged in this complaint;

7 f. Whether Honda breached the express warranties by refusing to  
8 provide warranty coverage for the Braking System or any of its  
9 component parts;

10 g. Whether Plaintiffs and the other Class members are entitled to  
11 equitable relief, including but not limited to restitution or a  
12 preliminary and/or permanent injunction; and

13 h. Whether Plaintiffs and the other Class members are entitled to  
14 damages and other monetary relief.

15 40. Typicality. Plaintiffs' claims are typical of the claims of the Class, because,  
16 among other things, Plaintiffs purchased Class Vehicles, which contain the same  
17 defective Braking System found in all other Class Vehicles.

18 41. Adequacy. Plaintiffs are adequate representatives of the Class because their  
19 interests do not conflict with the interests of the members of the Class they seek to  
20 represent. Plaintiffs have retained counsel competent and experienced in complex class  
21 action litigation, and Plaintiffs intend to prosecute this action vigorously. The interests of  
22 members of the Class will be fairly and adequately protected by Plaintiffs and their  
23 counsel.

24 42. Superiority. The class action is superior to other available means for the fair  
25 and efficient adjudication of this dispute. The injury suffered by each Class member,  
26 while meaningful on an individual basis, is not of such magnitude as to make the  
27 prosecution of individual actions against Honda economically feasible. Even if Class  
28 members themselves could afford such individualized litigation, the court system could



1 not. In addition to the burden and expense of managing myriad actions arising from the  
2 Braking System defect, individualized litigation presents a potential for inconsistent or  
3 contradictory judgments. Individualized litigation increases the delay and expense to all  
4 parties and the court system presented by the legal and factual issues of the case. By  
5 contrast, the class action device presents far fewer management difficulties and provides  
6 the benefits of single adjudication, economy of scale, and comprehensive supervision by  
7 a single court.

8 43. In the alternative, the Class may be certified because:

- 9 a. the prosecution of separate actions by the individual members of the  
10 Class would create a risk of inconsistent or varying adjudication with  
11 respect to individual Class members which would establish  
12 incompatible standards of conduct for Honda;
- 13 b. the prosecution of separate actions by individual Class members  
14 would create a risk of adjudications with respect to them which  
15 would, as a practical matter, be dispositive of the interests of other  
16 Class members not parties to the adjudications, or substantially impair  
17 or impede their ability to protect their interests; and
- 18 c. Honda has acted or refused to act on grounds generally applicable to  
19 the Class, thereby making appropriate final and injunctive relief with  
20 respect to the members of the Class as a whole.

21 **FIRST CAUSE OF ACTION**

22 **(Violation of the Consumers Legal Remedies Act, Cal. Civ. Code § 1750, *et. seq.*)**

23 44. On behalf of himself and all others similarly situated, Plaintiff Moore  
24 realleges as if fully set forth, each and every allegation set forth herein.

25 45. Honda is a "person" under Cal. Civ. Code section 1761(c).

26 46. Plaintiff Moore and the other Class members are "consumers" under Cal.  
27 Civ. Code section 1761(d).

28 47. Plaintiff Moore and the other Class members engaged in "transactions"



1 under Cal. Civ. Code section 1761(e), including the purchase or lease of Class Vehicles  
2 from Honda and the presentation of Class Vehicles for repair or replacement of the  
3 Braking System to Honda.

4 48. As set forth herein, Honda's acts, policies, and practices undertaken in  
5 transactions intended to result and which did result in the sale or lease of Class Vehicles,  
6 violate sections 1770(a)(5), (a)(7), (a)(9), (a)(14), and (a)(16) of the CLRA in that: (a)  
7 Honda represents that its goods have sponsorship, approval, characteristics, uses, or  
8 benefits which they do not have; (b) Honda represents that its goods are of a particular  
9 standard, quality, or grade, but are of another; (c) Honda advertises its goods with intent  
10 not to sell them as advertised; (d) Honda represents that a transaction confers or involves  
11 rights, remedies, or obligations which it does not have or involve; and (e) Honda  
12 represents that its goods have been supplied in accordance with a previous representation  
13 when they have not.

14 49. The existence of the defect in the Braking System is a material fact. The  
15 Plaintiffs and other Class members were unaware of the defective Braking System when  
16 they purchased the Class Vehicles. Consumers value reliability and dependability of  
17 automobiles and automobile parts, especially concerning vital safety mechanisms such as  
18 the Braking System in the Class Vehicles. Had they known that the Braking System was  
19 defective, Plaintiffs and other Class members would not have purchased or leased the  
20 Class Vehicles, or would have done so at lower prices.

21 50. Reasonable consumers expect, among other things:

- 22 a. New vehicles, including Class Vehicles, to be equipped with safe and  
23 reliable brakes and to not be sold with undisclosed safety defects;
- 24 b. New vehicles, including Class Vehicles, to function properly for the  
25 duration of the warranty and that defects will be covered under  
26 warranty; and
- 27 c. New vehicles, including Class Vehicles, to not require replacement of  
28 the brake pads within 15,000 to 20,000 miles of purchase or lease, or



every 15,000 to 20,000 miles for the life of the vehicle.

51. Honda had a duty to disclose the Braking System's defect in the Class Vehicles for various reasons, including that:

- a. The existence of the defect poses an unreasonable risk to the safety of the Plaintiffs and other Class members;
- b. The defect's existence is contrary to Honda's representations and consumers' expectations;
- c. Honda's concealment of the defect and/or Honda's failure to disclose the defect was likely to deceive reasonable consumers;
- d. Honda intentionally concealed the defect with the intent to defraud consumers;
- e. Honda's concealment of the defect harmed the Plaintiffs and other Class members; and
- f. Honda never intended to fulfill its warranty obligations to repair or replace the defect in the Braking System or any of the damage caused thereby.

52. As a result of Honda's practices, Plaintiff Moore and the other Class members have suffered harm.

53. Plaintiff Moore provided Honda with a preliminary notice and demand as required by section 1782 of the CLRA. Honda failed to remedy the violations within thirty days of receipt of the notice and demand.

54. Pursuant to the provisions of Cal. Civ. Code § 1780, Plaintiff Moore seeks damages, consequential damages, specific performance, diminution in value, costs, rescission, an order enjoining Honda from the unlawful practices described herein, a declaration that Honda's conduct violates the CLRA, and attorneys' fees and costs of litigation.



**SECOND CAUSE OF ACTION**

**(For unlawful, unfair, and fraudulent business practices under  
California Business and Professions Code § 17200 *et seq.*)**

55. Plaintiffs, on behalf of themselves and all others similarly situated, reallege as if fully set forth, each and every allegation set forth herein.

56. Honda's acts and practices, as alleged in this complaint, constitute unlawful, unfair and/or fraudulent business practices, in violation of the Unfair Competition Law, Cal. Bus. & Prof. Code § 17200, *et seq.*

57. The business practices engaged in by Honda that violate the Unfair Competition Law include failing to disclose at the point of sale, the point of repair, or otherwise, that the Braking System is defective.

58. Honda engaged in unlawful business practices by violating the Consumers Legal Remedies Act, Cal. Civ. Code § 1750 *et seq.*; the Magnuson-Moss Warranty Act, 15 U.S.C. § 2301 *et seq.*; and by engaging in conduct, as alleged herein, that breaches the express warranties.

59. Honda engaged in unfair business practices by, among other things:

- a. Engaging in conduct that is immoral, unethical, oppressive, unscrupulous, or substantially injurious to Plaintiffs and other members of the Class;
- b. Engaging in conduct that undermines or violates the stated policies underlying the CLRA and the Magnuson-Moss Warranty Act, each of which seeks to protect consumers against unfair and sharp business practices and to promote a basic level of honesty and reliability in the marketplace; and
- c. Engaging in conduct that causes a substantial injury to consumers, not outweighed by any countervailing benefits to consumers or to competition, which the consumers could not have reasonably avoided.

60. Honda engaged in fraudulent business practices by engaging in conduct that



1 was and is likely to deceive consumers acting reasonably under the circumstances.

2 61. As a direct and proximate result of Honda's unfair and fraudulent business  
3 practices as alleged herein, Plaintiffs suffered injury in fact and lost money or property, in  
4 that they purchased a vehicle they otherwise would not have purchased, paid for Braking  
5 System diagnoses, repairs, and replacements, and are left with Class Vehicles of  
6 diminished value and utility because of the defective Braking System. Meanwhile,  
7 Honda has sold and leased more Class Vehicles and Braking System parts than it  
8 otherwise could have and charged inflated prices for Class Vehicles, unjustly enriching  
9 itself thereby.

10 62. Plaintiffs and Class members are entitled to equitable relief including  
11 restitution of all fees, restitutionary disgorgement of all profits accruing to Honda  
12 because of its unfair, fraudulent, and deceptive practices, attorneys' fees and costs,  
13 declaratory relief, and a permanent injunction enjoining Honda from its unfair,  
14 fraudulent, and deceitful activity.

### 15 **THIRD CAUSE OF ACTION**

#### 16 **(For Breach of Written Warranty Under the Magnuson-** 17 **Moss Warranty Act, 15 U.S.C. § 2301 *et seq.*)**

18 63. Plaintiffs, on behalf of themselves and all others similarly situated, reallege  
19 as if fully set forth, each and every allegation set forth herein.

20 64. Plaintiffs and the other Class members are "consumers" within the meaning  
21 of the Magnuson-Moss Warranty Act, 15 U.S.C. § 2301(3).

22 65. Honda is a "supplier" and "warrantor" within the meaning of sections  
23 2301(4)-(5).

24 66. The Class Vehicles are "consumer products" within the meaning of section  
25 2301(1).

26 67. Honda's express warranties are "written warranties" within the meaning of  
27 section 2301(6).

28 68. Honda breached the express warranties by:



- a. Extending 3 year/36,000 mile and 4 year/50,000 mile express warranties with the purchase or lease of the Class Vehicles, thereby warranting to repair or replace any part defective in material or workmanship at no cost to the owner or lessee;
- b. Selling and leasing Class Vehicles with Braking Systems that were defective in material and workmanship, requiring repair or replacement within the warranty period; and
- c. Refusing to honor the express warranties by repairing or replacing, free of charge, the Braking System or any of its component parts and instead charging for repair and replacement parts.

69. Honda's breach of the express warranties has deprived the Plaintiffs and the other Class members of the benefit of their bargain.

70. The amount in controversy of the Plaintiffs' individual claims meets or exceeds the sum or value of \$25. In addition, the amount in controversy meets or exceeds the sum or value of \$50,000 (exclusive of interests and costs) computed on the basis of all claims to be determined in this suit.

71. Honda has been afforded a reasonable opportunity to cure its breach of written warranties, including when Plaintiffs and other Class members brought their vehicles in for diagnoses and repair of their Braking Systems.

72. As a direct and proximate cause of Honda's breach of written warranties, Plaintiffs and Class members sustained damages and other losses in an amount to be determined at trial. Honda's conduct damaged Plaintiffs and Class members damages, who are entitled to recover damages, consequential damages, specific performance, diminution in value, costs, attorneys' fees, rescission, and/or other relief as appropriate.

#### **FOURTH CAUSE OF ACTION**

##### **(For Breach of Express Warranty Under Cal. Comm. Code § 2313)**

73. Plaintiffs, on behalf of themselves and all others similarly situated, reallege as if fully set forth, each and every allegation set forth herein.



1       74. Honda provided all purchasers and lessees of the Class Vehicles with the  
2 express warranties described herein, which became part of the basis of the bargain.  
3 Accordingly, Honda's express warranties are express warranties under California law.

4       75. The Braking System and its component parts were manufactured and/or  
5 installed by Honda in the Class Vehicles and are covered by the express warranties.

6       76. Honda breached the express warranties by:

- 7           a. Extending 3 year/36,000 mile and 4 year/50,000 mile express  
8 warranties with the purchase or lease of the Class Vehicles, thereby  
9 warranting to repair or replace any part defective in material or  
10 workmanship at no cost to the owner or lessee;  
11           b. Selling and leasing Class Vehicles with Braking Systems that were  
12 defective in material and workmanship, requiring repair or  
13 replacement within the warranty period; and  
14           c. Refusing to honor the express warranties by repairing or replacing,  
15 free of charge, the Braking System or any of its component parts and  
16 instead charging for repair and replacement parts.

17       77. Plaintiffs notified Honda of the breach within a reasonable time and/or were  
18 not required to do so because affording Honda a reasonable opportunity to cure its breach  
19 of written warranties would have been futile. Honda was also on notice of the defect  
20 from the complaints and service requests it received from Class members, from repairs  
21 and/or replacements of the Braking System or a component thereof, and through its own  
22 maintenance records.

23       78. As a direct and proximate cause of Honda's breach, Plaintiffs and the other  
24 Class members have suffered damages and continue to suffer damages, including  
25 economic damages at the point of sale or lease, that is, the difference between the value  
26 of the vehicle as promised and the value of the vehicle as delivered. Additionally,  
27 Plaintiffs and the other Class members either have incurred or will incur economic  
28 damages at the point of repair in the form of the cost of repair.



1           79. Plaintiffs and the other Class members are entitled to legal and equitable  
2 relief against Honda, including damages, consequential damages, specific performance,  
3 rescission, attorneys' fees, costs of suit, and other relief as appropriate.

4                                   **PRAYER FOR RELIEF**

5           WHEREFORE, Plaintiffs, on Plaintiffs' own behalf and on behalf of the Class,  
6 pray for judgment as follows:

- 7           a. For an order certifying the Plaintiff Class and appointing Plaintiffs and their  
8 counsel to represent the Class;
- 9           b. For an order awarding Plaintiffs and the members of the Class damages,  
10 consequential damages, specific performance, and/or rescission;
- 11           c. For an order awarding Plaintiffs and the members of the Class restitution, or  
12 other equitable relief as the Court deems proper;
- 13           d. For an order enjoining Honda from continuing to engage in unlawful  
14 business practices as alleged herein;
- 15           e. For an order awarding Plaintiffs and the members of the Class pre-judgment  
16 and post-judgment interest;
- 17           f. For an order awarding Plaintiffs and the members of the Class reasonable  
18 attorneys' fees and costs of suit, including expert witness fees; and
- 19           g. For an order awarding such other and further relief as this Court may deem  
20 just and proper.

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**DEMAND FOR JURY TRIAL**

Plaintiffs hereby demand a trial by jury on all claims so triable.

DATED: January 14, 2010

Respectfully submitted,

**GIRARD GIBBS LLP**

By:   
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Attorneys for Plaintiffs



**CERTIFICATE OF SERVICE**

I, Sue M. Querubin, hereby declare as follows:

I am employed by Girard Gibbs, A Limited Liability Partnership, 601 California Street, 14th Floor, San Francisco, California 94108. I am over the age of eighteen years and am not a party to this action. On January 14, 2010, I served the following document(s):

**1. AMENDED CLASS ACTION COMPLAINT**

on:

Roy M. Brisbois  
Eric Y. Kizirian  
**LEWIS BRISBOIS BISGAARD  
& SMITH LLP**  
221 North Figueroa Street, Suite 1200  
Los Angeles, CA 90012  
Telephone: (213) 250-1800  
Facsimile: (213) 250-7900

☒ by placing the document(s) listed above for collection and mailing following the firm's ordinary business practice in a sealed envelope with postage thereon fully prepaid for deposit in the United States mail at San Francisco, California addressed as set forth below.

☐ by personally delivering the document(s) listed above to the person(s) set forth below on this date.

☐ by causing personal delivery by Spincycle of the document(s) listed above to the person(s) at the address(es) set forth below.

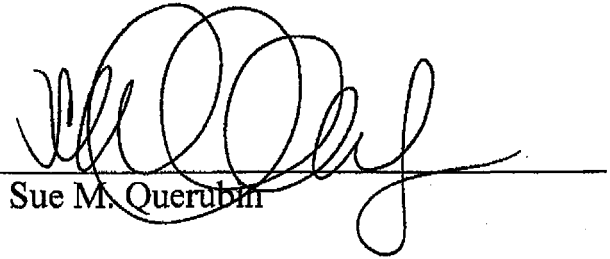
☐ by depositing the document(s) listed above in a sealed envelope with delivery fees provided for a FedEx pick up box or office designated for overnight delivery, and addressed as set forth below.

☐ by transmitting via electronic mail the above listed document(s) to the email address(es) set forth below on this date.



1 I declare under penalty of perjury under the laws of the State of California that the  
2 above is true and correct, executed January 14, 2010, at San Francisco, California.

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Sue M. Querubin