

Statement of Facts

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

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

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

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

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