

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO**

SANDRA WRIGHT and
RICK WRIGHT,

Plaintiffs,

v.

FORD MOTOR COMPANY,

Defendant.

)
) Case No. _____
)
) CLASS ACTION COMPLAINT FOR
) RELIEF BASED ON:
)
) (1) VIOLATION OF THE NEW MEXICO
) UNFAIR PRACTICES ACT;
)
) (2) UNJUST ENRICHMENT; and
)
) (3) FRAUD.
)
) DEMAND FOR JURY TRIAL
)

NATURE OF THE CASE

1. Over the past decade, fuel economy has become an increasingly important factor that consumers consider when purchasing a new car. Aware of the need to offer consumers better fuel economy or risk falling further behind the competition in this growing market, Ford Motor Company (“Ford”) has declared its intention to become America’s most fuel-efficient auto manufacturer. To help reach this goal, Ford released the 2013 Ford Fusion Hybrid and 2013 Ford C-Max Hybrid, both of which Ford claims achieve a fuel economy rating of 47 miles per gallon. Numerous independent tests have confirmed, however, that these vehicles do not come close to delivering on Ford’s promised fuel economy.

2. Plaintiffs are two of tens of thousands of consumers who purchased a Fusion Hybrid or C-Max Hybrid, only to be stuck with under-performing, less valuable vehicles that inflict higher fuel costs on their owners. On behalf of themselves and similarly situated New

Mexico residents, they bring this class action against Ford for violations the Mexico Unfair Practices Act, breach of express and implied warranties, unjust enrichment and fraud.

PARTIES

3. Plaintiffs Sandra Wright and Rick Wright are residents of Bernalillo County, New Mexico and are citizens of New Mexico.

4. Defendant Ford Motor Company is a Delaware corporation with its principal place of business in Michigan. Ford distributes its vehicles throughout the United States via Ford dealerships, including in New Mexico.

JURISDICTION AND VENUE

5. This Court has diversity jurisdiction over this action under 28 U.S.C. §§ 1332(a) and (d) because the amount in controversy exceeds \$5,000,000, and Plaintiffs and other putative Class members are citizens of a different state than Ford.

6. Venue is proper in this District under 28 U.S.C. § 1391 because Ford resides in this District and a substantial part of the events establishing the claims arose in this District.

FACTUAL ALLEGATIONS

Fuel Economy Ratings Are a Critical Factor in Car Purchases

7. A vehicle's fuel economy has become a primary consideration for consumers when they purchase new automobiles. The Department of Energy and the Environmental Protection Agency ("EPA"), on their website www.fueleconomy.gov, list four main reasons why fuel economy is important to consumers: it saves money, reduces climate change, reduces oil dependence costs, and increases energy sustainability. A November 2011 survey conducted by Consumer Reports concluded that 83% of consumers would be willing to pay more for a fuel-

efficient car. Of consumers wanting better fuel economy, 90% listed cost savings as a key factor in their purchase decision, and 72% cited environmental friendliness.

8. Because of the important role that fuel economy plays in consumer purchasing decisions, the EPA requires every new car and light truck sold in the United States to have a window label that displays the vehicle's fuel economy ratings. Among other information, the window sticker must prominently display (1) the vehicle's combined, city, and highway miles-per-gallon (mpg) ratings, (2) how much consumers will save by purchasing that car versus the average vehicle over a 5-year period, (3) the average annual fuel cost for the vehicle, and (4) a "Fuel Economy & Greenhouse Gas Rating."

9. The purpose of the fuel economy ratings on the label is to enable straightforward comparisons across vehicle models and brands. Vehicle purchasers rely on the window sticker to help them make informed choices about the cars they buy and the relative fuel costs of competing brands and models.

10. The fuel economy rating on the label is determined according to EPA-regulated testing procedures specified by federal law. Manufacturers such as Ford are required to conduct the test in accordance with EPA specified procedures and report the results to the EPA, who confirms about 10-15% of these results through its own tests. Changes made to the testing procedures in 2008 were designed to more accurately reflect real-world driving conditions by accounting for faster speeds, acceleration, air conditioner use, and colder outside temperatures. The label was changed in 2012 (for 2013 model vehicles) to provide consumers with additional information to compare vehicles, including estimates for fuel costs and savings and pollution emissions.

11. Ford has recognized the critical role that fuel economy plays in selling its vehicles. A research study commissioned by Ford found that “[n]ew vehicle buyers across the industry rate good fuel economy as the No. 1 purchase reason.” Ford’s manager of Global Trends and Futuring has explained that for consumers, “[c]hoosing a car that lessens their impact on the environment as well as their wallets can really create peace of mind.” Ford’s President of The Americas has stated that “[c]ustomers are telling us clean and green vehicles matter most because they are good for people’s wallets and good for our planet. We hear what they are saying, and that is why Ford is absolutely committed to giving our customers vehicles with top fuel efficiency.” Finally, in a June 2011 press release, Ford noted that “buyers of small vehicles are most likely to put fuel economy toward the top of their list of purchase considerations,” and that “fuel economy has jumped in importance in nearly all vehicle segments since 2001.”

Ford’s Commitment to Be America’s Fuel Economy Leader

12. In a 2008 Ford Motor Company business plan submitted to the senate Banking Committee, the company outlined its plan to respond to the crises confronting the domestic automotive industry in 2008. Part of Ford’s plan included becoming “America’s fuel economy leader” recognizing “the importance of fuel economy to both our customers and the Nation.” Ford set a goal to achieve annual fuel savings of 2.5 billion gallons by 2012 model year and 3.1 billion gallons by the 2015 model year by producing new fuel efficient vehicles, including the 2010 Ford Fusion Hybrid that Ford promised would have better the Toyota Camry Hybrid in fuel economy by at least 6 mpg.

13. In its 2011 annual report, Ford reiterates its commitment to be America’s fuel economy leader, highlighting the Ford Fusion Hybrid and C-Max Hybrid as leading the charge:

We also are strongly committed to growing our family of electrified vehicles. By next year, we will triple our production

capacity for electrified vehicles in North America. Our approach is to offer our customers a variety of choices to meet their different needs.

We now offer in the U.S. the battery-powered Focus Electric sedan and the Ford Fusion Hybrid. By the end of the year we will introduce the C-MAX Hybrid, C-MAX Energi plug-in hybrid, and Fusion Energi plug-in hybrid.

14. The next year, Ford introduced the newly redesigned 2013 Fusion Hybrid and the all-new 2013 C-Max Hybrid (“Class Vehicles”). Both are hybrid vehicles, meaning they use a combination of a gas powered internal combustion engine and electric motors that allow them to use less gas than a conventional, non-hybrid vehicle. Both utilize the same hybrid engine technology, the same powertrain, and share the same 2.0L four-cylinder engine, electric motor, and lithium-ion battery packs.

15. The C-Max Hybrid starts at a list price of \$25,995 and the Fusion Hybrid lists for \$27,000, which is several thousand dollars more than the non-hybrid version of the Fusion that starts at \$21,900. Ford claims that both the C-Max Hybrid and the Fusion Hybrid deliver 47 miles per gallon for city driving, 47 miles per gallon for highway driving, and 47 miles per gallon for combined driving.

Ford Widely Advertised the Fusion Hybrid and C-Max Hybrid’s Fuel Economy Ratings

16. Ford spends hundreds of millions of dollars annually on marketing and advertising through a variety of media and forums, including magazines, newspapers, brochures, on-line advertisements, websites, television, and promotional videos. Ford also provides advertising themes, brochures, and other materials to their dealerships. Recognizing the important role played by fuel economy in consumer purchasing decisions, Ford has consistently promoted the fuel economy of its vehicles in its advertising to consumers and as part of its marketing campaign.

17. The Fusion Hybrid and C-Max Hybrid are essential components of Ford's strategy to market itself as one of the country's most fuel-efficient auto manufacturers. For example, in a press release introducing the Ford Fusion "As America's Most Fuel-Efficient Midsize Sedan," Ford's president and CEO stated that Ford is "absolutely committed to class-leading fuel efficiency as a reason to buy Ford vehicles." Likewise, in a press release announcing that Ford "once again raises the hybrid fuel-economy bar with the all-new Ford C-Max," Ford's Vice President of Powertrain Engineering boasted that the "all-new C-MAX Hybrid is a great symbol of how Ford has transformed into a fuel-economy and technology leader."

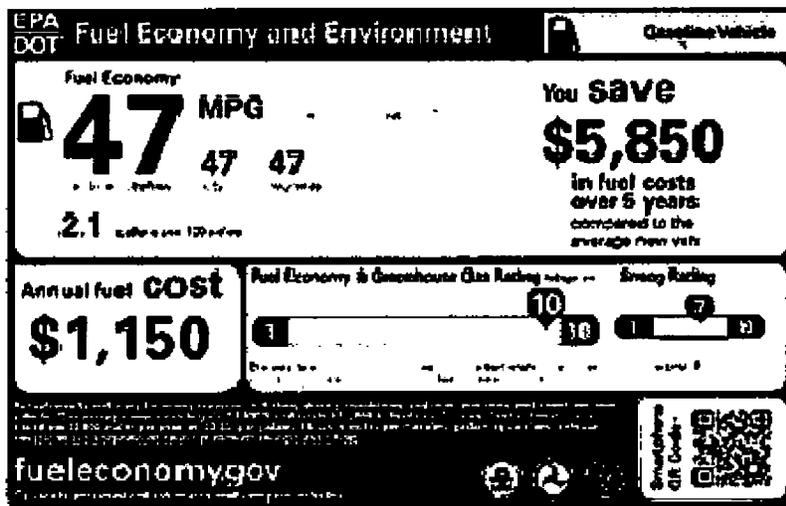
18. A central focus of Ford's marketing of the Fusion Hybrid and C-Max Hybrid is that they deliver class-leading fuel economy. Both vehicles are advertised as 47/47/47 – meaning that the cars will achieve 47 mpg in combined, highway, or city driving. Ford refers to this as its "EPA Rating Hat Trick" and called it a "win-win-win."



19. The top of the Ford Fusion website prominently states: “Fusion Hybrid: Best In Class Fuel Economy. 47 city/47 highway/47 combined mpg.” In a September 2012 press release entitled “Ford Fusion Certified As America’s Most Fuel-Efficient Midsize Sedan,” Ford again touted the Fusion Hybrid’s class leading 47/47/47 fuel economy.

20. Ford’s promotional brochure states: “Strengthens its hybrid mpg leadership. 47 mpg in the city and on the highway? Yes, it’s true. The all new Fusion Hybrid achieves 47 combined mpg – doubling the fuel economy of the average vehicle.”

21. As with the Fusion Hybrid, Ford advertised in a variety of media that the C-Max Hybrid reached the 47/47/47 “hat trick.” In addition to showing this miles-per-gallon rating, the window stickers on both of these vehicles advertise that the average consumer would save \$5,850 in fuel costs over 5 years, and that the annual fuel cost to consumers would be only \$1,150.



22. Ford has also advertised the Fusion Hybrid and C-Max Hybrid as environmentally friendly cars. For example, the websites for both vehicles have a “Green” section. The Fusion Hybrid website states that “Driving green has never been smarter, or more convenient, thanks to the Fusion Hybrid and Fusion Energi plug-in hybrid.” The C-Max Hybrid website states that the

vehicle offers performance “with the added benefit of leaving a smaller carbon footprint” and a page of a promotional brochure is titled “Reduced carbon footprint. Real-car performance.”

23. Ford’s advertising also emphasized that because of the Fusion Hybrid and C-Max Hybrid’s fuel economy, they were better and more cost-effective vehicles than the competition (namely Toyota). For example, Ford’s September 2012 press release boasts that the Fusion Hybrid “tops the Toyota Camry Hybrid by 8 mpg and 4 mpg city, and delivers the highest-ever fuel economy numbers in city and highway driving for a midsize sedan.” In the press release, Ford also stated that “[m]ore than 2 million customers this year will purchase midsize cars. Our new Fusion delivers the fuel savings people truly want and value.”

24. Similarly, a central theme of the C-Max Hybrid advertising campaign was that it provided better fuel economy than the Prius V. In an August 2012 press release, the company boasted that the C-Max Hybrid’s highway fuel economy rating was 7 mpg better than the competing Toyota Prius V’s rating. One press release was entitled “Ford C-Max Hybrid Aims for 47 MPG to Beat Prius V as Most Fuel-Efficient, Affordable Hybrid Utility Vehicle in America.” Similar comparisons also appear in promotional brochures for the C-Max Hybrid. The top of the C-Max webpage has a link titled “Watch the C-MAX Hybrids take on Prius in the Hybrid Games.”



25. As a result of these marketing efforts, Ford stated that it expected about half of C-Max buyers to be “conquest customers.” These are C-Max purchasers who previously owned a vehicle from a competing manufacturer but have now switched to Ford.

The Fusion Hybrid and C-Max Hybrid Do Not Provide the Stated Fuel Economy Ratings

26. In December 2012, Consumer Reports announced that its real-world testing showed that the Fusion Hybrid and C-Max Hybrid provided significantly worse fuel economy than what Ford has stated in its advertisements and window stickers. Consumer Reports testing showed that the Fusion Hybrid delivered only 39 mpg overall (35 city and 41 highway) and the C-Max Hybrid achieved only 37 mpg overall (35 city and 38 highway) — 6-12 mpg below the vehicles' advertised "47/47/47" ratings. According to Consumer Reports, the Fusion Hybrid and C-Max Hybrid "have the largest discrepancy between our overall-mpg results and the estimates published by the EPA that we've seen among current models." The watchdog group went on to explain:

The overall mpg for these C-Max and Fusion models is off by a whopping 20 percent. Our overall-mpg results are usually pretty close to the EPA's combined-mpg estimate. Among current models, more than 80 percent of the vehicles we've tested are within 2 mpg. . . . And while our highway test results almost always meet or exceed the EPA highway numbers, our figures for these cars fell far below.

Consumer Reports concluded that its tests "show that buyers shouldn't expect the stellar 47 mpg that Ford is promoting" and that "[m]ost buyers won't get anything near 47 mpg in the real world."

27. Consumer Reports has forwarded its findings to the EPA, which has said that it "will look at the report and data." In December 2011, Consumer Reports requested that the EPA investigate the fuel economy numbers reported by Hyundai regarding its Elantra. The subsequent EPA investigation found that Hyundai and Kia had overstated the MPG ratings for approximately 900,000 vehicles. As a result, Hyundai and Kia agreed to reimburse vehicle

owners for the discrepancy. Those overstatements ranged from 1-6mpg, well below Ford's 6-12 mpg overstatement of the Fusion Hybrid's and C-Max Hybrid's fuel economy ratings.

28. Consumer Reports is not alone in its finding that the Fusion Hybrid and C-Max Hybrid fail to live up to the 47/47/47 promises made by Ford. Other independent testing routinely shows the vehicles failing to break the 40 mpg threshold. For example, Gary Gastelu, a test driver a Fox News, reported that "Even though I intentionally left my lead shoes at home and light-footed the Fusion Hybrid as much as possible (proving once and for all that I can, in fact, drive 55 mph) it took a lot of work to get it anywhere near 40 mpg, let alone that magic 47 mpg mark." Fuel economy estimates submitted by Fusion Hybrid owners to www.fueleconomy.gov have averaged 39 mpg.

29. The C-Max Hybrid has not fared any better in real-world tests. In an October 2012 article the Automotive News noted that its C-Max Hybrid test driver John Vellequette, despite logging over 1,000 miles and following the vehicle's on-board electronic coach, averaged only 37 mpg. Vellequette even asked Ford engineer John Davis to show him the most fuel-efficient driving techniques, and was still unable to come close to the 47 mpg promised by Ford. Testing conducted by Green Car Reports yielded similar results, with real-world fuel economy ratings coming in between 37 and 40 miles per gallon. After several rounds of testing, including a test conducted at a Ford facility, the consumer group questioned whether the car could ever "deliver mixed real-world mileage much above 42 mpg." Fuel economy estimates submitted by C-Max Hybrid owners to www.fueleconomy.gov have averaged 38.5 mpg.

30. Ford's inaccurate fuel economy representations mean that consumers did not receive what they were promised, and as a result, purchased a car that is less valuable and more costly to drive than what Ford had represented. Purchasers also did not receive the

environmental benefits touted by Ford. According to the DOE and EPA, a 10-mile-per-gallon difference (the difference between a 45 mpg vehicle and a 35 mpg vehicle) can equate to approximately \$1,800 in additional fuel costs over a 5-year period. This equates to an additional \$360 per year—a 31% increase over the \$1,150 annual fuel cost that Ford printed on its window stickers. According to EPA estimates, a car that provides 35 miles per gallon will produce 1.1 million more tons of carbon dioxide per year than a car that provides 45 miles per gallon.

31. Ford's inaccurate fuel economy representations also allowed it to falsely claim that the Fusion Hybrid and C-Max Hybrid outperform competing vehicles and provide best-in-class fuel economy. For example, Ford proclaimed that the Fusion Hybrid outperforms the Toyota Camry Hybrid by 8 mpg highway and 4 mpg city. However, according to the real-world tests conducted by Consumer Reports, the Fusion Hybrid actually provided 8 mpg *less* than the Camry Hybrid in city driving and very similar highway mpg numbers. The 47/47/47 fuel economy figures for the 2013 Fusion Hybrid are also much higher than the 39/41/36 figures advertised and reported to the EPA for the 2012 model-year version.

32. Ford similarly claimed that the C-Max Hybrid provides better fuel efficiency numbers than the Prius V. However, the actual mpg ratings of the C-Max Hybrid, 38 mpg city and 35 mpg highway, were well *below* the stated fuel economy of the Prius V (44 mpg city and 40 mpg highway). According to Consumer Reports, the performance of the Camry Hybrid and the Prius V closely matched the mileage figures advertised by Toyota and reported to the EPA estimates.

33. Ford's fuel economy overstatements had the desired effect: record-setting sales of Fusion Hybrid and C-Max Hybrid vehicles. In a January 2013 press release Ford boasted that the "launch of the new C-MAX hybrids and Fusion Hybrid this past fall led the company to

deliver record-setting hybrid sales in December” and more than doubled the company’s market share. The company’s fourth quarter 2012 hybrid sales (when the 2013 Fusion Hybrid and 2013 C-Max Hybrid went on sale) were more than 193% higher than its previous all-time high. As a result, Ford’s share of the hybrid market grew 9% in 2012.

34. In December 2012, Ford sold an all-time record of 3,244 Fusion Hybrids, which was roughly a 265% increase from December 2011. Over 60% of Fusion Hybrid sales were “conquest sales.” The company has tied this increase in sales with the advertised fuel economy numbers. For example, according to Ford:

Los Angeles is seeing skyrocketing demand for Fusion Hybrid, with sales up more than 600 percent year-over-year. Part of the reason is fuel economy; while Toyota Camry Hybrid achieves just 41 mpg in combined city and highway fuel economy estimates on EPA tests, Fusion returns a 47 mpg in city/highway and combined EPA estimated ratings.

35. In December 2012, Ford also proclaimed the C-Max Hybrid to be the “Fastest-Selling Hybrid Ever at Launch,” with 8,030 vehicles sold in October and November alone. Ford attributed these sales figures to the C-MAX’s industry-leading fuel economy ratings. According to Ford, the C-Max has the highest “conquest rate in the Ford lineup at 64 percent.”

36. Ford knew or should have known that C-Max Hybrid and Fusion Hybrid owners would not receive the advertised fuel economy ratings. Ford extensively scrutinizes and evaluates its vehicles in both real-world and laboratory settings before selling them to the public. For example, Ford utilizes a “state-of-the-art Driveability Test Facility” designed to simulate real-world driving conditions. Additionally, both cars come with a “SmartGauge” on-board computer that displays a variety of information on the dashboard, including current fuel economy and fuel economy history. Despite reports from organizations like Consumer Reports and numerous consumer complaints, including to the EPA, about Ford’s inaccurate fuel economy

ratings of the Fusion Hybrid and C-Max Hybrid, Ford continues to promote the fuel economy of these vehicles.

Plaintiffs' Facts

37. Plaintiffs Sandra and Rick Wright live in New Mexico. Last fall they decided to trade in their 2009 Harley Davidson motorcycle for a new hybrid sedan in order to take advantage of advancements in fuel efficiency technology. Plaintiffs first learned about the fuel economy advertised for the Ford C-Max while watching a T.V. show about cars. Plaintiffs were also considering purchasing a Prius V, which they test drove several times. When Plaintiffs went to Rich Ford Sales in Albuquerque, New Mexico to test drive the C-Max Hybrid, they viewed the fuel economy rating window sticker. The window sticker stated that the C-Max Hybrid gets 47 miles per gallon in the city, 47 miles per gallon on the highway, and 47 miles per gallon combined city and highway. These ratings were repeated by the sales representative. Because Plaintiffs liked the acceleration of the C-Max and because they believed the C-Max had better fuel economy than the Toyota Prius V, in November 2012 Plaintiffs purchased a 2013 C-Max from Rich Ford Sales in Albuquerque, New Mexico.

38. Shortly after purchasing the 2013 Ford C-Max, Plaintiffs noticed that it was not achieving the miles per gallon advertised. For example, on a road trip to Las Vegas Plaintiffs achieved 36 mpg. Their vehicle regularly performs more than 10 miles per gallon less than advertised. Plaintiffs contacted the Ford dealership and were instructed to bring the vehicle into the dealership for testing. An employee at Rich Ford examined their car and found that there was nothing wrong with the vehicle. The sales representative and Plaintiffs drove the vehicle on a 25-30 mile route during which time the Ford representative instructed Plaintiffs to maintain a speed of 62 mph on the highway, a pace slower than the flow of traffic. The representative

acknowledged that the vehicle would not achieve 47 mpg when driven under normal driving conditions. Had Ford or the window sticker conveyed accurate fuel economy ratings, Plaintiffs Sandra and Rick Wright would not have purchased a C-Max Hybrid. Plaintiffs would have purchased a Prius V.

CLASS ACTION ALLEGATIONS

39. Plaintiffs bring this action on behalf of themselves and a class of persons initially defined as follows (the "Class"):

All persons who purchased or leased a 2013 Ford Fusion Hybrid or 2013 Ford C-MAX Hybrid in New Mexico.

40. Excluded from the Class are Ford; any affiliate, parent, or subsidiary of Ford; any entity in which Ford has a controlling interest; any officer, director, or employee of Ford; any successor or assign of Ford; anyone employed by counsel for Plaintiffs in this action; and any Judge to whom this case is assigned as well as his or her immediate family.

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

42. Numerosity. Ford has sold tens of thousands of class vehicles, including a substantial number in New Mexico. Members of the class likely number in the hundreds if not thousands and are thus too numerous to practically join in a single action.

43. Common questions of law and fact exist as to all members of the Class and predominate over questions affecting only individual Class members. These common questions include:

- (a) Whether the Class Vehicles' advertised fuel economy ratings are inaccurate,

- (b) Whether and when Ford knew or should have known the fuel ratings were inaccurate;
- (c) Whether Ford violated federal law concerning the labeling and disclosure of the fuel economy rating;
- (d) Whether Ford's conduct is unfair or deceptive and in violation of the New Mexico Consumer Protection Act, N.M. Stat. Ann. § 57-12:1, *et seq.*;
- (e) Whether Ford was unjustly enriched by its deceptive practices; and
- (f) Whether Plaintiffs and the members of the Class are entitled to equitable or injunctive relief.

44. Typicality. Plaintiffs' claims are typical of the claims of the class because, among other things, Plaintiffs purchased a Class Vehicle with inaccurately stated fuel economy ratings.

45. Adequacy. Plaintiffs are an adequate representative of the Class because their interests align with the interests of the class members they seek to represent, they have retained counsel competent and experienced in complex class actions litigation, and they intend to prosecute this action vigorously on behalf of the class. The interests of class members will be fairly and adequately protected by Plaintiffs and their counsel.

46. Superiority. The class action is superior to other available means for the fair and efficient adjudication of this dispute. The injury suffered by each class member, while meaningful on an individual basis, is not of such magnitude as to make the prosecution of individual actions against Ford economically feasible. In addition, individualized litigation presents a potential for inconsistent or contradictory judgments and increases the delay and expense to all parties and the court system. By contrast, the class action device presents far fewer management difficulties and provides the benefits of single adjudication, economy of

scale, and comprehensive supervision by a single court. Furthermore, Ford has acted or refused to act on grounds generally applicable to the class, thereby making appropriate final and injunctive relief with respect to the members of the Class as a whole.

CAUSES OF ACTION

**FIRST CAUSE OF ACTION
(For Violation of the New Mexico Unfair Practices Act)**

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

48. Ford has violated the New Mexico Unfair Trade Practices Act, N.M. Stat. Ann. § 57-12-1, *et seq.*, which prohibits unfair or deceptive acts or practices.

49. Ford's acts and practices, as alleged in this complaint, constitute unfair and deceptive trade practices in that Ford:

- (a) represented that its vehicles have characteristics, uses, or benefits which they do not have;
- (b) represented that its vehicles are of a particular standard, quality, or grade that they are not; and
- (c) disparaged the goods, services or business of another by false or misleading representations of fact.

50. Ford's acts and practices, as alleged in this complaint, constitute unfair deceptive trade practices in that they are likely to deceive a reasonable consumer. A reasonable consumer expects or assumes that automobiles manufactured, marketed, and sold by Ford deliver the stated fuel economy. Ford's misrepresentations and omissions concerning fuel economy are material and likely to deceive a reasonable consumer.

51. As a result of Ford's unfair and deceptive business practices, Plaintiffs have been damaged in that they 1) purchased a class vehicle that they otherwise would not have purchased for the price they paid, 2) paid more for their vehicle than they otherwise would have had paid Ford provided accurate fuel economy figures, and 3) paid fuel costs that they would not have had to pay if Ford's fuel economy representations were accurate.

52. All of the wrongful conduct alleged herein occurred in the conduct of Ford's business. Ford's wrongful conduct is part of a pattern or generalized conduct that is still perpetuated and repeated, both in New Mexico and nationwide. Ford's use of unfair and deceptive acts and practices was willful and knowing.

53. Plaintiffs are entitled to damages in the amount of three times their actual damages or \$300 (whichever is greater) and class members are entitled to in an amount equal to their actual damages. Plaintiffs and class members are also entitled to equitable relief, including restitution of all revenue accruing to Ford because of their unfair and deceptive practices; attorneys' fees and costs; declaratory relief; and a permanent injunction enjoining Ford from their unfair and deceptive activity.

**SECOND CAUSE OF ACTION
(For Unjust Enrichment)**

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

55. Because of its wrongful acts and omissions, Ford charged a higher price for Class Vehicles than the vehicles' true value and Ford obtained money that rightfully belongs to Plaintiffs and class members.

56. Ford enjoyed the benefit of increased financial gains, to the detriment of Plaintiffs and other class members. It would be inequitable and unjust for Ford to retain these wrongfully obtained profits.

57. Plaintiffs, therefore, seek an order requiring Ford to make restitution to them and other members of the class.

**THIRD CAUSE OF ACTION
(For Fraud)**

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

59. Ford has made or disseminated, or caused to be made or disseminated, false representations and untrue statements concerning the fuel economy ratings for Class Vehicles. Ford knew that the statements made were false or made such statements recklessly and without regard for the truth. Ford intended for Plaintiffs and class members to rely on their false representations regarding the fuel economy of Class Vehicles as set forth herein.

60. Ford's representations were made either directly to Plaintiffs and class members or to third-parties with the intent and reasonable expectation that the representations would be repeated to Plaintiffs and class members.

61. Plaintiffs relied on Ford's representations to their detriment, and as a result have suffered damages in that they 1) purchased a class vehicle that they otherwise would not have purchased for the price they paid, 2) paid more for their vehicle than they otherwise would have had paid Ford provided accurate fuel economy figures, and 3) paid fuel costs and will continue to pay fuel costs that they would not have to pay if Ford's fuel economy representations were accurate.

62. Plaintiffs seek an order awarding Plaintiffs and class members actual and punitive damages in an amount to be determined at trial.

FUTURE CAUSES OF ACTION

63. Plaintiffs have sent a notice letter to Ford to provide it with the opportunity to remedy its breaches of warranty and violations of additional consumer protection laws. If Ford is unwilling to provide an adequate remedy, Plaintiffs will amend (or seek leave to amend) the complaint to add additional causes of action.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs, on behalf of themselves and class members, respectfully request this Court to enter a judgment against Ford and in favor of Plaintiffs, and grant the following relief:

- A. An order certifying the Class and appointing Plaintiffs and their counsel to represent the Class;
- B. An order finding Ford's conduct as alleged herein to be unlawful, unfair and/or deceptive;
- C. An order awarding Plaintiffs and class members actual, compensatory, and punitive damages, including treble damages under the New Mexico Unfair Trade Practices Act, and under common law as proven at trial;
- D. An order awarding Plaintiffs and class members restitution of all monies paid to Ford as a result of unlawful, deceptive, and unfair business practices and unjust enrichment;
- E. An order awarding Plaintiffs and class members reasonable attorneys' fees and costs of suit, including expert witness fees; and

F. An order awarding such other and further relief as this Court may deem just and proper.

JURY TRIAL DEMANDED

Plaintiffs, by counsel, request a trial by jury on their legal claims, as set forth herein.

DATED: March 26, 2013

Respectfully submitted,

HINKLE, HENSLEY, SHANOR & MARTIN, LLP

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Attorneys for Individual and Representative
Plaintiffs Sandra and Rick Wright.

JS 44 (Rev. 12/07)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS
SANDRA WRIGHT and RICK WRIGHT

DEFENDANTS
FORD MOTOR COMPANY

(b) County of Residence of First Listed Plaintiff Bernalillo County, NM
(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant _____
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

(c) Attorney's (Firm Name, Address, and Telephone Number)
Thomas M. Hnasko, Hinkle, Hensley, Shanor & Martin, LLP, P.O. Box 2068, Santa Fe, NM 87504-2068

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff
- 2 U.S. Government Defendant
- 3 Federal Question (U.S. Government Not a Party)
- 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | | | | | |
|---|---------------------------------------|----------------------------|---|----------------------------|---------------------------------------|
| | PTF | DEF | | PTF | DEF |
| Citizen of This State | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input checked="" type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS		FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 362 Personal Injury - Med. Malpractice	<input type="checkbox"/> 610 Agriculture	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 365 Personal Injury - Product Liability	<input type="checkbox"/> 620 Other Food & Drug	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881	PROPERTY RIGHTS	<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 313 Federal Employers' Liability	<input checked="" type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 630 Liquor Laws	<input type="checkbox"/> 820 Copyrights	<input type="checkbox"/> 450 Commerce
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 640 R.R. & Truck	<input type="checkbox"/> 830 Patent	<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 380 Other Personal Property Damage	<input type="checkbox"/> 650 Airline Regs.	<input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans)	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 660 Occupational Safety/Health	SOCIAL SECURITY	<input type="checkbox"/> 480 Consumer Credit
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 355 Motor Vehicle Product Liability		<input type="checkbox"/> 690 Other	<input type="checkbox"/> 861 HIA (1395ff)	<input type="checkbox"/> 490 Cable/Sat TV
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 360 Other Personal Injury		LABOR	<input type="checkbox"/> 862 Black Lung (923)	<input type="checkbox"/> 810 Selective Service
<input type="checkbox"/> 190 Other Contract			<input type="checkbox"/> 710 Fair Labor Standards Act	<input type="checkbox"/> 863 DIWC/DIWW (415(g))	<input type="checkbox"/> 850 Securities/Commodities/Exchange
<input type="checkbox"/> 195 Contract Product Liability			<input type="checkbox"/> 720 Labor/Mgmt. Relations	<input type="checkbox"/> 864 SSID Title XVI	<input type="checkbox"/> 875 Customer Challenge 12 USC 3410
<input type="checkbox"/> 196 Franchise			<input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act	<input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 890 Other Statutory Acts
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	<input type="checkbox"/> 740 Railway Labor Act	FEDERAL TAX SUITS	<input type="checkbox"/> 891 Agricultural Acts
<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 510 Motions to Vacate Sentence	<input type="checkbox"/> 790 Other Labor Litigation	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)	<input type="checkbox"/> 892 Economic Stabilization Act
<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 442 Employment	Habeas Corpus:	<input type="checkbox"/> 791 Empl. Ret. Inc Security Act	<input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 893 Environmental Matters
<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 443 Housing/Accommodations	<input type="checkbox"/> 530 General	IMMIGRATION		<input type="checkbox"/> 894 Freedom of Information Act
<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 444 Welfare	<input type="checkbox"/> 535 Death Penalty	<input type="checkbox"/> 462 Naturalization Application		<input type="checkbox"/> 895 Freedom of Information Act
<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 445 Amer. w/Disabilities - Employment	<input type="checkbox"/> 540 Mandamus & Other	<input type="checkbox"/> 463 Habeas Corpus - Alien Detainee		<input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice
<input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 446 Amer. w/Disabilities - Other	<input type="checkbox"/> 555 Prison Condition	<input type="checkbox"/> 465 Other Immigration Actions		<input type="checkbox"/> 950 Constitutionality of State Statutes
	<input type="checkbox"/> 440 Other Civil Rights				

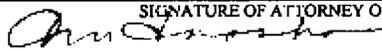
- V. ORIGIN** (Place an "X" in One Box Only)
- 1 Original Proceeding
 - 2 Removed from State Court
 - 3 Remanded from Appellate Court
 - 4 Reinstated or Reopened
 - 5 Transferred from another district (specify)
 - 6 Multidistrict Litigation
 - 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity);
28 U.S.C. Sections 1332(a) and (d)

Brief description of cause:
Misrepresentation of fuel economy for 2013 Ford Hybrids

VII. REQUESTED IN COMPLAINT: CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 DEMAND \$ 5,000,000.00 CHECK YES only if demanded in complaint JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY (See instructions) JUDGE _____ DOCKET NUMBER _____

DATE 03/26/2013 SIGNATURE OF ATTORNEY OF RECORD 

FOR OFFICE USE ONLY
RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____