

NAGEL RICE, LLP

Bruce H. Nagel
Ranee Mattloff
103 Eisenhower Parkway
Roseland, New Jersey 07068
973-618-0400
bnagel@nagelrice.com
rmatloff@nagelrice.com

POULOS LOPICCOLO PC

Joseph LoPiccolo
John N. Poulos
1305 South Roller Road
Ocean, NJ 07712
732-757-0165
lopiccolo@pllawfirm.com
poulos@pllawfirm.com

Counsel for Plaintiff and those similarly situated

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

CHARLES SHANNON On Behalf of Himself and All
Other Persons Similarly Situated,

Plaintiffs,

-against-

GENERAL MOTORS, LLC,

Defendants.

Case No.:

CLASS ACTION COMPLAINT

JURY TRIAL DEMANDED

Plaintiff, Charles Shannon, by his attorneys Nagel Rice, LLP and Poulos LoPiccolo PC on behalf of themselves and all others similarly situated, make the following allegations on personal knowledge and information and belief:

I. IDENTIFICATION OF PARTIES
(Local Rule 10.1)

1. The names and addresses of the named parties to this action are (i) Charles Shannon, 187 Pebble Beach Drive, Mays Landing, New Jersey 08330 and General Motors, LLC, 300 Renaissance Center, Detroit, Michigan 48265.

II. INTRODUCTION

2. Plaintiff brings this action against General Motors, LLC (“Defendant” or “GM”) for and on behalf of himself and a class composed of all current and former owners or lessees of 2009 to 2016 Chevrolet Traverses, Buick Enclaves, GMC Acadias and Saturn Outlooks that were manufactured, marketed and sold or leased with incorrect EPA-fuel economy estimates on or after July 10, 2009 (the “Class Vehicles”).¹

3. For years (as far back as 2009), Defendant advertised that the Class Vehicles were EPA-rated up to 17 miles per gallon (“mpg”) in city driving and 24 mpg on the highway, resulting in a combined rating of up to 19 mpg.

4. These ratings, however, were false. As detailed in a memorandum circulated by GM to its authorized dealerships, GM admitted that certain 2016 Class Vehicles are actually EPA-rated at 15 mpg in city driving and 22 mpg on the highway, resulting in a combined rating of 17 mpg.

5. Defendants admitted that the EPA fuel economy ratings and advertising statements overstated the actual numbers by as much as 2 miles per gallon in 135,000 2016 GM vehicles it sold. See <http://www.usatoday.com/story/money/cars/2016/05/20/general-motors-fuel-economy-compensation-crossover-2016/84659202/>

¹ Plaintiff reserves the right to amend or add to the vehicle models included in the definition of Class Vehicles after conducting discovery.

6. Plaintiff Charles Shannon leased a 2016 Chevy Traverse whose EPA fuel economy ratings and advertised fuel efficiency numbers were inaccurate and higher than they would have been had proper testing procedures been followed by GM.

7. This action seeks relief for the injuries sustained as a result of GM's material misstatements regarding the Class Vehicles fuel economy ratings used in the marketing and sales of certain GM vehicles sold in the United States by the Defendant.

8. Plaintiff and the Class and Subclass Members have been damaged by GM's misrepresentations of the incorrect fuel economy because they were misled into purchasing or leasing a vehicle of a quality different than promised and paying higher fuel costs than would have otherwise been paid.

III. PARTIES

9. Plaintiff Charles Shannon resides in Mays Landing, New Jersey. In September 2015, Plaintiff leased a new 2016 Chevrolet Traverse from Gentilini Chevrolet, LLC located at 800 John S. Penn Boulevard, Woodbine New Jersey.

10. Plaintiff saw advertisements, including the Brochure for the car which touted the fuel economy, as well as the EPA fuel economy window sticker that represented a certain number of miles per gallon before he purchased the Traverse in September 2015. Attached hereto as **Exhibit A** is a copy of the relevant pages of the Brochure for the 2016 Traverse that Mr. Shannon reviewed in the showroom prior to deciding to select that vehicle as his new car. Based on his review of the advertisements and the window sticker when they purchased the Traverse, Mr. Shannon believed that the vehicle would achieve and he would receive the stated MPG.

11. After entering into the lease of the vehicle, however, Mr. Shannon observed that the Chevrolet Traverse could not achieve the fuel economy touted in the advertisements and

window sticker he saw.

12. The Shannons noticed the horrible gas mileage associated with the Traverse months before GM notified Mr. Shannon that GM misrepresented the mpg to them when they leased the vehicle. On May 25, 2016, Mr. Shannon received a notice from GM stating “when you leased your vehicle, the label indicated a combined mpg of 19 (17 city, 24 highway). In fact the correct EPA-estimated combined mpg is 18 (15 city, 22 highway).” Attached hereto as **Exhibit B** is a copy of the notice GM sent to Mr. Shannon that is incorporated into this Complaint.

13. The notice then stated that GM was willing to reimburse the Shannons \$450 by way of a debit card for the estimated extra gas the Shannons would have to purchase based on the correct combined mpg of their vehicle. This estimate was calculated using a gas price of \$3.00/gallon and 15,000 miles per year. However, based on Mr. Shannon’s actual experience with their 2016 Traverse, \$450 will not fully compensate them for the additional gas he will need to purchase as a result of GM’s misrepresentation. Further, the notice did not offer to compensate Mr. Shannon for the reduced value of the vehicle which effects its lease price.

14. Had those advertisements and window sticker or any other materials disclosed that Plaintiff would not receive such favorable mileage, the Plaintiff would not have leased the Traverse or paid as much in monthly lease payments for the Vehicle.

15. Defendant GM is a limited liability company organized under Delaware law with its principal office located at 300 Renaissance Center, Detroit, Michigan 48265. Defendant designs, tests, manufactures, distributes, warrants, sells, and leases various vehicles under several prominent brand names, including, but not limited to, Chevrolet, Buick, GMC, GM, and Pontiac in this district and throughout the United States.

IV. JURISDICTION AND VENUE

16. This court has subject matter jurisdiction over this action pursuant to the Class Action Fairness Act of 2005, 28 U.S.C. § 1332(d)(2), because at least one class member is of diverse citizenship from the Defendant; there are more than 100 Class Members; and the aggregate amount in controversy exceeds \$5,000,000, exclusive of interest and costs. This Court also has personal jurisdiction over the parties because Defendant conducts substantial business in New Jersey, has had systematic and continuous contacts with New Jersey, and has agents and representatives that can be found in this State.

17. Venue is proper in this District under 28 U.S.C. § 1391 because, a substantial part of the events giving rise to the claims occurred and emanated out of this District, and Defendant's conduct has injured Class and Subclass Members residing in this District. Accordingly, this Court has jurisdiction over this action and venue is proper in this Judicial District.

18. Defendant is amenable to personal jurisdiction in New Jersey. A substantial portion of the wrongdoing alleged in the Complaint took place in New Jersey and Defendant conducts business within the state sufficient to be considered present in New Jersey.

V. FACTUAL ALLEGATIONS

19. Under regulations issued by the EPA, every new vehicle sold in the United States must have a window sticker (also known as a Monroney sticker) affixed to the window. The window sticker must contain certain essential information such as the vehicle's mpg estimates.

20. The EPA requires all automakers to use certain standard testing procedures to determine a particular vehicle's mileage estimates that are then displayed on the vehicle's Monroney sticker.

21. In fact, in 2006, the EPA revised the testing methods used to determine fuel

economy ratings (for both city and highway mileage) appearing on the window stickers of all new vehicles. This revision became effective with 2008 model-year vehicles.

22. The EPA's revision incorporated several significant changes to the prior testing methods. First, the tests now include factors such as high speeds, quicker accelerations, air conditioning use, and driving in cold temperatures, which bring the mpg estimates closer to consumers' actual fuel economy. Second, beginning with the 2011 model year, certain heavier vehicles (such as SUVs and vans up to 10,000 pounds gross vehicle weight) must have fuel economy labels. Third, the EPA required a change in the design and content of window stickers for vehicles manufactured after September 1, 2007, to allow consumers to more easily compare the fuel economy of different vehicles.

23. In 2013, the EPA instituted a plan to tighten its rules and standards regarding MPG information provided by vehicle manufacturers such as the Defendants.

24. The Defendants failed to abide by said rules and standards when providing the Class Vehicle MGP information on their window stickers.

25. The vehicle manufacturers conduct the mpg tests and transmit the data to the EPA, who certifies the numbers. The EPA tests approximately 150 to 200 vehicles a year (fifteen percent of all possible vehicle configurations) to ensure that their performance matches the mileage and emissions data submitted to the EPA by automakers.

26. Defendant knew or should have known their stated fuel economy ratings were uniformly inaccurate across a large segment of vehicles and model years.

27. Fuel mileage is one of the most important factors in a consumer's decision to purchase or lease a new car.

28. Car companies, such as Defendant, widely tout their vehicles as having superior

gas mileage estimates and fuel economy ratings in advertisements, especially where their vehicles allegedly achieve better fuel economy ratings than their competitors.

29. At all times, GM possessed vastly superior information to that of consumers about the inaccurate results of their fuel economy testing and the corresponding increase in mpg ratings provided to consumers through advertisements and the Class Vehicles' window stickers.

30. One of the factors consumers consider in purchasing or leasing a vehicle is gas mileage estimates and fuel economy ratings contained on vehicle windows stickers and featured in manufacturers' websites, brochures and advertisements, to help them make informed decisions about the vehicles they purchase or lease.

31. Plaintiffs considered their respective vehicle's gas mileage estimates and/or fuel economy ratings in deciding to purchase or lease their vehicles.

32. Upon information and belief, Defendant has sold or leased at least 135,000 Class Vehicles knowingly containing inaccurate Monroney stickers, which overstated the estimated gas mileage and fuel economy rating information on the vehicle.

33. However, although GM has only admitted to overstating the fuel economy on certain 2016 GM vehicles, a recent Consumer Reports article asserts that GM may have been misstating the fuel economy on these vehicles for years. According to consumer reports:

It's possible that the stated figures for the Enclave, Traverse, Acadia, and also the discontinued Saturn Outlook may have been incorrect for years.

...

The Enclave, Traverse, and Acadia are essentially triplets—all are built on the same platform and share the same powertrain—and the 2016 models are not significant refreshes. After the company updates the stickers for these 2016 crossover vehicles, the prior models from 2007 to 2015 will now all have better stated fuel economy numbers than the new vehicles in GM's dealerships. It seems unlikely that the company would change the powertrain on

these carryover models so late in their model cycles in a way that would cause a dramatic, negative impact on fuel economy. When asked about this directly, GM declined to give a specific answer regarding any substantial changes to these vehicles.

Attached hereto as **Exhibit C** is a copy of the May 16, 2016 Consumer Reports Article that is incorporated into this Complaint.

34. In fact, Consumer Reports tested the fuel economy of prior years' GM vehicles and found that GM overstated the fuel economy on many of its vehicles by as much as 3 MPG.

Consumer reports explained:

Consumer Reports has previously tested the real-world fuel economy of three prior models of these GM crossovers and found that they performed below their official EPA numbers (data below). While it's not unusual for our test findings to vary from the EPA figures, the difference is usually just one or two mpg. In Consumer Reports testing, we saw up to a three mpg difference from the EPA figures.

Fuel Economy Comparison

	Consumer Reports overall mpg	EPA overall mpg
<u>2008 Buick Enclave CXL AWD</u>	15	18
<u>2009 Chevrolet Traverse LT AWD</u>	16	19

See **Exhibit C**.

35. Plaintiffs leased a Class Vehicle based on their reasonable expectations that the vehicle would perform consistent with the estimated gas mileage and fuel economy rating information contained on the window sticker and has been harmed by the inability of their vehicles

to achieve the advertised estimates.

VI. CLASS ACTION ALLEGATIONS

36. Plaintiffs bring this action on behalf of themselves and all other persons similarly situated, pursuant to Rule 23(a), 23(b)(2) and 23(b)(3) of the Federal Rules of Civil Procedure.

37. Plaintiffs seek certification of a Class and Subclass, initially defined as follows:

Class (the “Nationwide Class”):

All persons or entities in the United States who are current or former purchasers or lessees of the Class Vehicles.

Subclass (the “New Jersey Class”):

All persons or entities in New Jersey who are current or former purchasers or lessees of the Class Vehicles.

38. Specifically excluded from the Class and Subclass are: (a) Defendant and any entity in which Defendant has a controlling interest, (b) any of Defendant’s officers, directors, employees, agents, representatives, and their family members, and officers, directors, employees, agents, representatives, and their family members of any entity in which Defendants have a controlling interest, and (c) any judicial officers involved in this matter.

39. **Numerosity/Impracticability of Joinder**: The members of the Class and Subclass are so numerous that joinder of all members would be impracticable. The proposed Class and Subclass includes tens of thousands of members. At least tens of thousands of Class Vehicles have been sold. The Class and Subclass are composed of an easily ascertainable, self-identifying set of individuals and entities that own or leased the Class Vehicles. The precise number of Class and Subclass Members can be ascertained by reviewing documents in Defendant’s possession, custody, and control.

40. Plaintiff is a member of the Class and Subclass.

41. **Commonality and Predominance**: There are common questions of law and fact

that predominate over any questions affecting only individual members of the Class and Subclass. These common legal and factual questions, include, but are not limited to, the following:

- a. Whether Defendant violated federal law with their testing methods or presentation of EPA fuel ratings;
- b. Whether the Class Vehicles' stated EPA fuel economy rating was inaccurate;
- c. Whether Defendant advertised, marketed and sold the Class Vehicles using false and overstated gas mileage and fuel economy rating information;
- d. Whether the Class Vehicles' actual, inferior gas mileage estimates and fuel economy ratings reduced the value of the Class Vehicles;
- e. Whether Defendant knew or should have known that the Class Vehicles' fuel economy ratings were overstated or exaggerated prior to EPA testing;
- f. Whether Defendant breached their contracts with Plaintiff and the Class Members;
- g. Whether Defendant violated the New Jersey Consumer Fraud Act N.J.S.A. 56:8-1 et seq.
- h. Whether Defendant breached its express warranties made to Plaintiffs and the Class Members;
- i. Whether Defendant was unjustly enriched by their deceptive practices; and
- j. Whether, by the misconduct set forth herein, Defendant breached its duty of good faith and fair dealing;
- k. Whether Defendant violations the New Jersey Truth in Consumer Contract Warranty and Notice Act ("TCCWNA", N.J.S.A. 56:12-14 et seq.)

42. **Typicality:** Plaintiffs' claims are typical of the claims of the members of the Class and Subclass. Plaintiffs and all Class and Subclass Members have been injured by the same wrongful practices by Defendant. Plaintiffs' claims arise from the same practices and course of conduct that give rise to the claims of the Class and Subclass Members and are based on the same

legal and remedial theories. Indeed, Plaintiffs and all members of the Class and Subclass purchased or leased a subject GM that was marketed and sold to them with false estimated gas mileage and fuel economy rating information.

43. **Adequacy**: Plaintiffs will fully and adequately assert and protect the interests of the Class and Subclass Members, and have retained class counsel who are experienced and qualified in prosecuting class actions. Neither Plaintiffs nor their attorneys have any interests that are contrary to or conflicting with the Class and Subclass Members.

44. **Superiority**: A class action is superior to all other available methods for the fair and efficient adjudication of this lawsuit, because individual litigation of the claims of all Class and Subclass Members is not economically feasible and is procedurally impracticable. While the aggregate damages sustained by the Class and Subclass Members are in the millions of dollars, and are no less than five million dollars upon information and belief, the individual damages incurred by each Class and Subclass Member resulting from GM's wrongful conduct are too small to warrant the expense of individual suits. The likelihood of individual Class and Subclass Members prosecuting their own separate claims is remote, and, even if every Class and Subclass Member could afford individual litigation, the court system would be unduly burdened by individual litigation of such cases. Class and Subclass Members do not have a significant interest in individually controlling the prosecution of separate actions, and individualized litigation would also present the potential for varying, inconsistent, or contradictory judgments and would magnify the delay and expense to all of the parties and to the court system because of multiple trials of the same factual and legal issues. Plaintiffs know of no unusual difficulty to be encountered in the management of this action that would preclude its maintenance as a class action.

45. In addition, Defendant has acted or refused to act on grounds generally applicable to the Class and Subclass Members and, as such, final injunctive relief or corresponding declaratory relief with regard to the members of the Class and Subclass as a whole is appropriate.

VII. TOLLING

Discovery Rule

46. The causes of action alleged herein accrued upon discovery of the misrepresentation of the estimated fuel economy by Defendant in May 2016. Because the incorrect fuel economy is latent, and GM concealed it, Plaintiffs and members of the Class and Subclass did not discover and could not have discovered the true EPA fuel economy ratings of the Class Vehicles through reasonable and diligent investigation. Reasonable and diligent investigation into the true EPA fuel economy ratings of the Class Vehicles did not and could not reveal a factual basis for a cause of action based on GM's concealment of the accurate EPA fuel economy ratings of the Class Vehicles.

Fraudulent Concealment

47. Any applicable statutes of limitation have been tolled by GM's knowing and active and ongoing concealment and denial of the facts as alleged herein. Plaintiffs and the Class and Subclass have been kept ignorant by GM of vital information essential to the pursuit of these claims, without any fault or lack of diligence on their part. Plaintiffs and members of the Class and Subclass could not reasonably have discovered the true, accurate EPA fuel economy ratings of the Class Vehicles.

Estoppel

48. GM was and is under a continuing duty to disclose to the Plaintiff and the Class and Subclass the true EPA fuel economy ratings of the Class Vehicles. GM knowingly,

affirmatively, and actively concealed the true EPA fuel economy ratings of the Class Vehicles, and the concealment is ongoing. Plaintiff reasonably relied upon GM's knowing, affirmative, and/or active and ongoing concealment. Based on the foregoing, GM is estopped from relying on any statutes of limitation in defense of this action.

VIII. CLAIMS FOR RELIEF

FIRST COUNT (On Behalf of Plaintiffs, Class and Subclass Members) **(Breach of Contract)**

49. Plaintiff incorporates by reference the allegations contained in the preceding paragraphs of this Complaint.

50. Defendant, through the Class Vehicles' window stickers, and Defendant's advertisements, brochures, website and other marketing materials, made uniform offers regarding the quality and capabilities of the vehicles subject herein, including that they meet represented gas mileage estimate levels and achieved the represented fuel economy ratings.

51. By purchasing or leasing the Class Vehicles, Plaintiff and members of the Class accepted Defendant's offer and paid the consideration of the purchase or lease price.

52. Defendant, Plaintiff and the Class and Subclass Members each had the legal capacity to enter into the purchase or lease contracts.

53. Defendant breached the contracts by not upholding their end of the bargain by providing a product that does not meet the represented gas mileage estimate levels or to achieve the represented fuel economy ratings.

54. As a direct and proximate cause of Defendant's breach, Plaintiff and the Class and Subclass Members were damaged through higher fuels costs and loss of resale value in the amount to be proven at trial.

SECOND COUNT (On Behalf of Plaintiff and Subclass Members)

(Violations of the New Jersey Consumer Fraud Act N.J.S.A. 56:8-1 et seq.)

55. Plaintiff incorporates by reference the allegations contained in the preceding paragraphs of this Complaint.

56. Plaintiff and other members of the Class are “consumers” within the meaning of the New Jersey Consumer Fraud Act (“CFA”).

57. The Class Vehicles are “goods” within the meaning of the CFA.

58. At all relevant times material hereto, GM conducted trade and commerce in New Jersey and elsewhere within the meaning of the CFA.

59. The CFA is, by its terms, a cumulative remedy, such that remedies under its provisions can be awarded in addition to those provided under other remedies.

60. GM has engaged in deceptive, unconscionable, unfair, fraudulent and misleading commercial practices in the marketing and sale of Class Vehicles it knew had overstated gas mileage.

61. GM had exclusive knowledge of the misrepresentations at the time of sale or lease. Plaintiff or Class members could not, in the exercise of reasonable diligence, have discovered that the gas mileage was overstated independently prior to purchase.

62. GM represented that its goods, merchandise or services had characteristics, uses, benefits, or quantities that they did not have, and that its goods, merchandise and services were of a particular standard, quality or grade that they were not.

63. In its marketing and sale of the Class Vehicles, GM undertook active and ongoing steps to conceal the Defects and has consciously withheld material facts from Plaintiff and other members of the Class with respect to the Class Vehicles.

64. Plaintiff is aware of nothing in GM’s advertising, publicity, or marketing materials

that discloses the truth about the gas mileage, despite GM's awareness, or reckless unawareness, of the problem.

65. Defendant misrepresented and omitted material information regarding the Class Vehicles by failing to disclose to Plaintiff and Subclass Members the fact that the Class Vehicles' fuel-economy ratings are false and inflated.

66. For instance, Defendant knew and intended for consumers to rely on its material misrepresentations and omissions with regard to the fuel-economy ratings when purchasing their vehicles, especially in light of their express claims.

67. Plaintiffs and other Subclass Members relied on their fraudulent misrepresentations in making the decision to purchase their vehicles. As a result of Defendant's misrepresentations, Plaintiff agreed to lease the 2016 Chevrolet Traverse at a monthly lease rate of \$270.95 after \$9770.95 due at signing (including rebate, trade in and cash payment) on a vehicle which advertised false and inflated fuel-economy ratings as well as false and deflated estimated annual fuel costs.

68. Defendant has exclusive knowledge of the exaggerated estimated gas mileage and fuel economy rating information. Plaintiff and/or Subclass Members could not, in the exercise of reasonable diligence, have discovered this information independently prior to purchase or lease.

69. Defendant's act, use of employment of unconscionable commercial practices, deception, fraud, false pretense, false promise, misrepresentation, and the knowing concealment, suppression or omission of material fact with intent that others rely upon such concealment, suppression or omission, in connection with the sale or advertisement of the Class Vehicles constitutes a violation of the CFA, N.J.S.A. 56:8-2.

70. GM's conduct was objectively deceptive and had the capacity to deceive

reasonable consumers under the circumstances. This fact would influence a reasonable consumer's choice of action during the purchase or lease of their vehicles.

71. Had GM disclosed all material information regarding the exaggerated estimated gas mileage and fuel economy rating information, Plaintiff and other members of the Subclass would not have purchased or leased the Class Vehicles, or they would have paid less for them.

72. As a direct and proximate result of GM's misrepresentations, Plaintiff and Subclass Members have suffered an ascertainable loss consisting of the additional out of pocket cost spent on gas over the life of the lease or ownership of the Class Vehicle, as well as the ascertainable diminution in value of the vehicle based upon the actual gas mileage, rather than the refuted gas mileage touted in GM's brochures, advertisement and window stickers.

73. Pursuant to N.J.S.A. 56:8-19, Plaintiff and members of the Class and Subclass are entitled to recover three times the actual amount of damages, together with court costs and reasonable attorney's fees.

THIRD COUNT (On Behalf of Plaintiffs, Class and Subclass Members)
(Fraud)

74. Plaintiff incorporates by reference the allegations contained in the preceding paragraphs of this Complaint.

75. Plaintiff brings this cause of action on behalf of themselves and members of the Class and Subclass against Defendant.

76. The misrepresentations, nondisclosure, and/or concealment of material facts made by Defendant to Plaintiff and the members of the Class and Subclass, as set forth above, were known, or through reasonable care should have been known, by Defendant to be false and material and were intended to mislead Plaintiff and the members of the Class and Subclass.

77. Plaintiff and the Class and Subclass were actually misled and deceived and were

induced by Defendant to purchase or lease the Class Vehicles which they would not otherwise have purchased or leased, or would have paid substantially less for the vehicle or agreed to pay a lower monthly lease payment.

78. Defendant's misrepresentations, concealments and omissions concerning the fuel-economy of the Class Vehicles were material in Plaintiff's and other Class and Subclass Members' decisions to purchase their vehicles. In fact, the representations and omissions to the Class and Subclass Members were so fundamental to Plaintiffs' and Class and Subclass Members' decision making process that they would not have otherwise purchased or leased, or would have paid substantially less for the vehicle or agreed to pay a lower monthly lease payment.

79. Plaintiff and the Class and Subclass suffered the damage described in this complaint as a proximate result thereof.

80. As a direct and proximate result of Defendant's fraudulent conduct, Plaintiff and Class and Subclass Members have suffered damages, for which they are entitled to compensatory damages, equitable and declaratory relief, punitive damages, costs and reasonable attorneys' fees.

FOURTH COUNT (On Behalf of Plaintiff, Class and Subclass Members)
(Breach of Implied Warranties)

81. Plaintiff incorporates by reference the allegations contained in the preceding paragraphs of this Complaint.

82. GM each sold and promoted its vehicles as having certain EPA fuel economy ratings, and placed those vehicles into the stream of commerce. Defendant knew or had reason to know of consumers' particular purpose for purchasing the vehicles, which were being purchased or leased because of claims of certain, low gas mileage, and Defendant impliedly warranted that the vehicles were of merchantable quality.

83. Plaintiff and the Class and Subclass Members relied on Defendant's

misrepresentations by purchasing the Class Vehicles.

84. Defendant knew or had reason to know that Plaintiff and the Class and Subclass Members were influenced to purchase or lease their vehicles through Defendant's expertise, skill, judgment and knowledge in furnishing the products for their intended use.

85. The Class Vehicles were not fit for their particular intended use because their EPA fuel economy ratings were not as promoted and advertised.

86. Defendant's actions, as complained of herein, breached their implied warranty that the vehicles were of merchantable quality, in violation of the Uniform Commercial Code (UCC § 2-314 and § 2-315) and the common law of this State, as well as the common law and statutory laws of the other states.

87. Plaintiff and the Class and Subclass Members have incurred damage as described herein as a direct and proximate result of the failure of Defendant to honor their implied warranty. In particular, Plaintiffs and Class and Subclass Members would not have purchased or leased the vehicle had they known the truth about the overstatement of its fuel ratings, nor would they have suffered the collateral effects and damages associated with these misstatements.

FIFTH COUNT (On Behalf of Plaintiffs, Class and Subclass Members)
(Breach of Express Warranties)

88. Plaintiff incorporates by reference the allegations contained in the preceding paragraphs of this Complaint.

89. Defendant, through the Class Vehicles' window sticker, advertisements, brochures, website and other marketing materials, made representations to Plaintiffs and members of the class about the Class Vehicles' gas mileage and fuel economy ratings. Thus, Defendant expressly warranted in its advertisements, brochures and notices that the Class Vehicles experience specific mpgs.

90. These representations were aimed at consumers, including Plaintiff and members of the class to entice them to purchase or lease the Class Vehicles.

91. Defendant's representations were part of the basis of the bargain because fuel economy is one of the most important considerations facing vehicle purchasers or lessees and Plaintiffs and Class and Subclass Members purchased or leased the Class Vehicles based on the reasonable expectation that the Class Vehicles would achieve the represented gas mileage and fuel economy ratings.

92. Because the Class Vehicles cannot achieve the fuel efficiency levels Defendant represented to them to have, Plaintiff and members of the Class and Subclass have been injured through higher fuel costs and loss of resale value of their vehicles, and these injuries were directly and proximately caused by Defendant's misrepresentations.

93. As a result of GM's breach of warranty, Plaintiff and the Class and Subclass Members have suffered damage in an amount to be determined at trial.

SIXTH COUNT (On Behalf of Plaintiffs, Class and Subclass Members)
(Violation of Magnuson-Moss Act (15 U.S.C. §2301 et seq.))

94. Plaintiff incorporates by reference the allegations contained in the preceding paragraphs of this Complaint.

95. The Plaintiff and the Class and Subclass Members are "consumers" within the meaning of the Magnuson-Moss Warranty Act, 15 U.S.C. § 2301 *et seq* ("Magnuson Moss Act").

96. GM is a "supplier" and "warrantor" within the meaning of the Magnuson-Moss Act.

97. The Class Vehicles are "consumer products" within the meaning of the Magnuson-Moss Act.

98. Under the Magnuson-Moss Act, GM was obligated to disclose to consumers the correct EPA-estimated miles per gallon for the Class Vehicles.

99. 15 U.S.C. § 2310(d)(1) provides a cause of action for any consumer who is damaged by the failure of a warrantor to comply with a written or implied warranty.

100. Defendant provided Plaintiff and the other Class and Subclass members with an implied warranty of merchantability in connection with the purchase or lease of their Vehicles that is an “implied warranty” within the meaning of the Magnuson-Moss Warranty Act, 15 U.S.C. § 2301(7). As a part of the implied warranty of merchantability, Defendant warranted that the Class Vehicles would pass without objection in the trade as designed, manufactured, and marketed, and were adequately labeled.

101. Defendant breached these implied warranties, as described in more detail above, and are therefore liable to Plaintiff and the Class pursuant to 15 U.S.C. § 2310(d)(1).

102. Defendant breach its obligations under written warranties by misrepresenting the correct EPA-estimated miles per gallon on the Class Vehicles and therefore are liable to Plaintiff and the Class and Subclass pursuant to 15 U.S.C. § 2310(d)(1).

103. Any efforts to limit the warranties in a manner that would exclude coverage of the Class Vehicles is unconscionable, and any such effort to disclaim, or otherwise limit, liability for the Class Vehicles is null and void.

104. Plaintiff and the other Class and Subclass members have had sufficient direct dealings with either Defendant or its agents (dealerships) to establish privity of contract.

105. Nonetheless, privity is not required here because Plaintiff and other Class and Subclass members are intended third-party beneficiaries of contracts between Defendant and its dealers. The dealers were not intended to be the ultimate consumers of the Class Vehicles and have

no rights under the warranty agreements provided with the Class Vehicles; the warranty agreements were designed for and intended to benefit consumers

106. Pursuant to 15 U.S.C. § 2310(e), Plaintiff is entitled to bring this class action and are not required to give the Vehicle Manufacturer Defendants notice and an opportunity to cure until such time as the Court determines the representative capacity of Plaintiff pursuant to Rule 23 of the Federal Rules of Civil Procedure.

107. The amount in controversy of Plaintiff's individual claims meet or exceed the sum of \$25. The amount in controversy of this action exceeds the sum of \$50,000, exclusive of interest and costs, computed on the basis of all claims to be determined in this lawsuit. Plaintiff, individually and on behalf of the other Class and Subclass members, seek all damages permitted by law, including diminution in value of their Vehicles, in an amount to be proven at trial. In addition, pursuant to 15 U.S.C. § 2310(d)(2), Plaintiff and the other Class and Subclass members are entitled to recover a sum equal to the aggregate amount of costs and expenses (including attorneys' fees based on actual time expended) determined by the Court to have reasonably been incurred by Plaintiff and the other Class and Subclass members in connection with the commencement and prosecution of this action.

108. Further, Plaintiff and the Class and Subclass are also entitled to equitable relief under 15 U.S.C. § 2310(d)(1).

SEVENTH COUNT (On Behalf of Plaintiff, Class and Subclass Members)
(Negligent Misrepresentation)

109. Plaintiff incorporates by reference the allegations contained in the preceding paragraphs of this Complaint.

110. Defendant made fuel economy representations to Plaintiff and members of the Class and Subclass that were not true. Defendant's statements were material, false, deceptive, and

misleading and omitted material facts necessary to make the statements not misleading; such material misrepresentations and omissions were the result of Defendant's negligence.

111. Defendant owed a duty to Plaintiff and members of the Class and Subclass to exercise reasonable care in making representations about the Class Vehicles.

112. Plaintiff and the Class and Subclass Members relied (or should be presumed to have relied) on Defendant's material representations and omissions in purchasing or leasing the Class Vehicles. As a result of their justifiable reliance, Plaintiff and members of the Class and Subclass were induced to and did purchase or lease their vehicles. Plaintiff's reliance and the Class and Subclass Members' reliance were reasonably foreseeable by Defendant (and in fact, that is why the Defendant made the misrepresentations that they did).

113. As a direct and proximate result of the negligent misrepresentations made by Defendant, Plaintiff and the Class and Subclass Members have been damaged.

EIGHTH COUNT (On Behalf of Plaintiff, Class and Subclass Members)
(Unjust Enrichment)

114. Plaintiff incorporates by reference the allegations contained in the preceding paragraphs of this Complaint.

115. Defendant has been unjustly enriched and received an economic benefit by the sale or lease of the Class Vehicles herein to Plaintiff and the Class and Subclass Members.

116. Plaintiff seeks to recover for Defendant's unjust enrichment.

117. Plaintiff and the Class and Subclass Members conferred a benefit on Defendant, but Defendant failed to disclose their knowledge that Plaintiffs did not receive what they paid for and misled Plaintiffs and the Class and Subclass Members regarding the misstatements of their touted EPA fuel economy ratings while profiting from this deception.

118. The circumstances are such that it would be inequitable, unconscionable, and unjust

to permit Defendant to retain the benefit of these profits that they have unfairly obtained from Plaintiff and the Class and Subclass Members.

119. Plaintiffs and the Class and Subclass Members, having been injured by Defendant's conduct, are entitled to restitution or disgorgement of profits as a result of the unjust enrichment of Defendant to their detriment.

NINTH COUNT (On Behalf of Plaintiff, Class and Subclass Members)
(Breach of the Duty of Good Faith and Fair Dealing)

120. Plaintiff incorporates by reference the allegations contained in the preceding paragraphs of this Complaint.

121. Every contract in New Jersey contains an implied covenant of good faith and fair dealing. The implied covenant of good faith and fair dealing is an independent duty and may be breached even if there is no breach of a contract's express terms.

122. Defendant breached the covenant of good faith and fair dealing by, *inter alia*, misrepresenting to Plaintiff and Class and Subclass Members the true gas mileage in the Class Vehicles, and failing to fully and properly correct this misrepresentation prior to the time of purchase or lease.

123. Defendant acted in bad faith and/or with a malicious motive to deny Plaintiff and Class and Subclass Members some benefit of the bargain originally intended by the parties, thereby causing them injuries in an amount to be determined at trial.

TENTH COUNT (On Behalf of Plaintiff and Subclass members)
(Violation of New Jersey Truth in Consumer Contract Warranty and Notice Act
("TCCWNA", N.J.S.A. 56:12-14 et seq)

124. Plaintiff incorporates by reference the allegations contained in the preceding paragraph of this Complaint.

125. The brochures advertising the Class Vehicles and the EPA fuel economy window

stickers constitute consumer notices subject to the TCCWNA.

126. The TCCWNA, at N.J.S.A. 56:12-15 provides:

No seller ... shall in the course of his business offer to any consumer or prospective consumer or enter into any written consumer contract or give or display any written consumer warranty, notice or sign ... which includes any provision that violates any clearly established legal right of a consumer or responsibility of a seller, lessor, creditor, lender or bailee as established by State or Federal law at the time the offer is made or the consumer contract is signed or the warranty, notice or sign is given or displayed.

127. The Plaintiffs and similarly situated class members are consumers of Class Vehicles and the Brochures and EPA fuel economy window stickers are notices subject to the TCCWNA.

128. The misrepresentations as to fuel economy violate the NJ Consumer Fraud Act which provides clearly established rights under New Jersey law.

129. N.J.S.A. 56:12-17 mandates that a business that violates the provisions of TCCWNA shall be liable for statutory damages of “not less than \$100.00 or for actual damages, or both at the election of the consumer, together with reasonable attorneys’ fees and court costs.”

IX. PRAYER FOR RELIEF

WHEREFORE, Plaintiff on behalf of himself and the Class and Subclass Members, pray for judgment against GM granting the following relief:

1. An order certifying this case as a class action and appointing Plaintiffs to represent the Class and Subclass Members and Plaintiffs’ counsel as Class counsel;
2. All recoverable compensatory and other damages sustained by Plaintiff and the Class and Subclass Members;
3. Restitution and disgorgement of all amounts obtained by GM as a result of their misconduct, together with interest thereon from the date of payment, to the victims of such violations;
4. Permitting Plaintiffs and the Class and Subclass Members to rescind their vehicle

purchase or lease transactions;

5. Actual, treble, and/or statutory damages for injuries suffered by Plaintiffs and the Class and Subclass Members in the maximum amount permitted by applicable law;

6. Statutory pre-judgment and post-judgment interest on the Class and Subclass damages;

7. Payment of reasonable attorneys' fees and costs as may be allowable under applicable law; and

8. Such other relief as the Court may deem just and proper.

X. DEMAND FOR JURY TRIAL

Plaintiff demands a trial by jury on all causes of action so triable.

NAGEL RICE, LLP

By: /s/ Bruce H. Nagel

Bruce H. Nagel
Ranee M. Matloff
103 Eisenhower Parkway
Roseland, New Jersey 07068
973-618-0400
rmatloff@nagelrice.com
bnagel@nagelrice.com

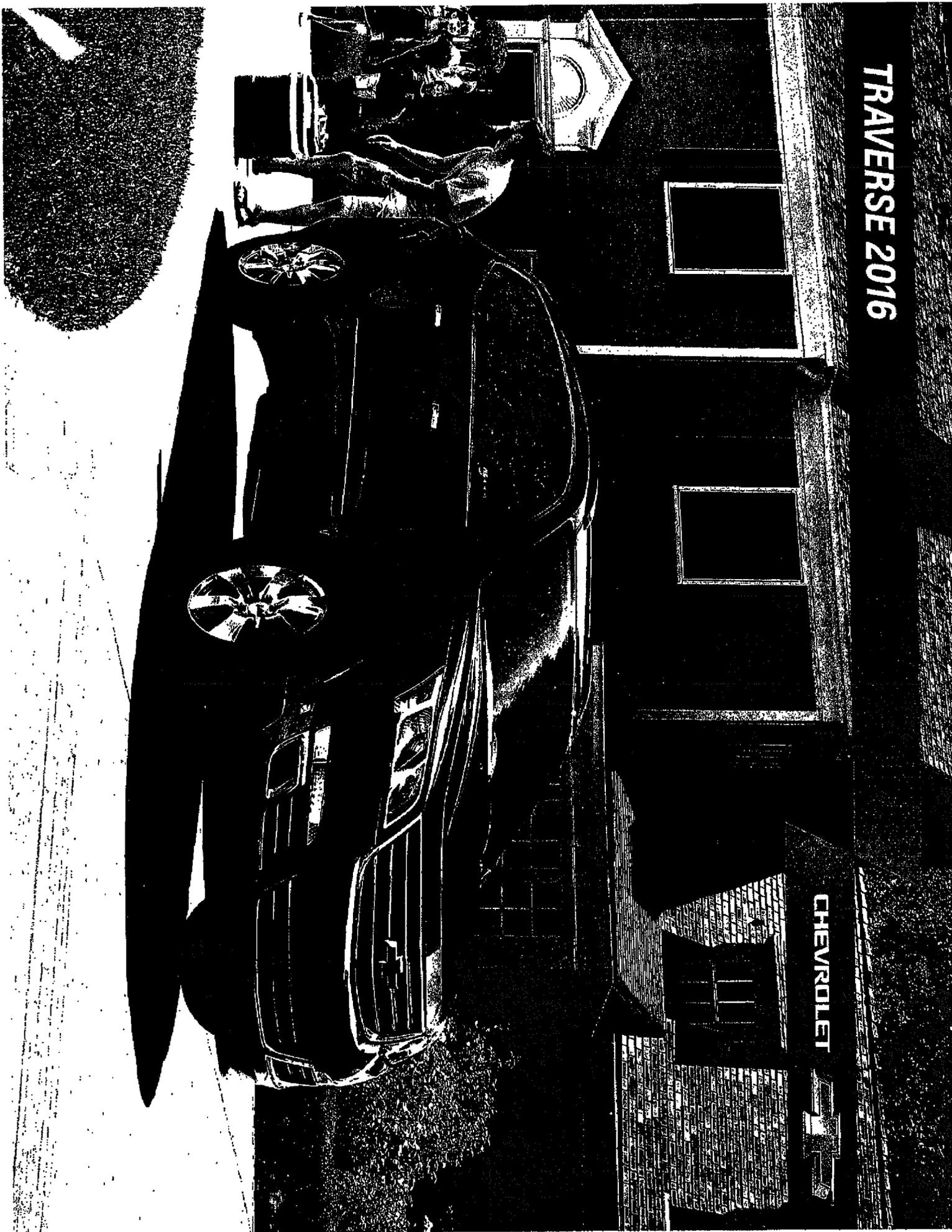
Dated: August 11, 2016

POULOS LOPICCOLO PC

By: /s/ Joseph LoPiccolo

Joseph LoPiccolo
John N. Poulos
1305 South Roller Road
Ocean, NJ 07712
732-757-0165
lopiccolo@plawfirm.com
poulos@plawfirm.com

EXHIBIT A



TRAVERSE 2016

CHEVROLET





CHEVROLET COMPLETE

Experience Chevrolet Complete Care, a comprehensive coverage, warranty and protection program that comes standard with every new 2016 Chevrolet Traverse lease and purchase. Simply, it is designed around you, to make it easy to keep your Chevrolet like new — and give you the confidence you deserve when you need it most.

YOUR COMPREHENSIVE OWNER BENEFIT PROGRAM.

- Includes two visits for Scheduled Maintenance (oil and filter changes, tire rotations and multipoint vehicle inspections).
- 5 years/60,000 miles of Roadside Assistance and Courtesy Transportation.*
- 5-year/60,000-mile Powertrain Limited Warranty†
- 3-year/36,000-mile Bumper-to-Bumper Warranty†
- 6 years/100,000 miles of Rust-Through Protection‡
- 5 years of OnStar Basic Plan‡ including select features of the RemoteLink mobile app†
- 6 months of OnStar Guidance Plan‡

DIMENSIONS

Width	78.5"
Front Track	67.3"
Rear Track	67.1"

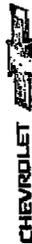
Length	203.7"
Wheelbase	118.9"
Height	70.6"

MAXIMUM CAPACITIES

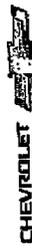
EPA-ESTIMATED FUEL ECONOMY	
FWD	17 MPG city/24 highway/19 combined
AWD	16 MPG city/23 highway/19 combined

FUEL TANK (APPROXIMATE)	22 gallons
TRAILER WEIGHT RATING‡	5,200 lbs.
SEATING	Seats 7/8
CARGO VOLUME‡ (CUBIC FEET)	Behind third-row seat: 24.4
	Behind second-row seat: 70.3
	Behind first-row seats: 116.3

OWNERSHIP EXTRAS



CHEVROLET.COM/WARRANTY



CHEVROLET.COM/ACCESSORIES



ONSTAR.COM



SIRIUSXM.COM

WARRANTY

5-YEAR/60,000-MILE TRANSFERABLE POWERTRAIN LIMITED WARRANTY Every 2016 Chevrolet passenger car, light-duty truck, SUV and crossover comes with a 5-year/60,000-mile (whichever comes first) transferable Powertrain Limited Warranty. Plus, you get 5 years/60,000 miles (whichever comes first) of the 24/7 Roadside Assistance Program, the Courtesy Transportation Program, and much more. See dealer for details.

NEW VEHICLE LIMITED WARRANTY GM vehicles registered in the USA are covered for 3 years/36,000 miles (whichever comes first). The complete vehicle is covered, including tires, towing to your nearest Chevrolet dealership and cosmetic corrosion resulting from defects. Repairs will be made to correct any vehicle defect, and most warranty repairs will be made at no charge. In addition, rust-through corrosion will be covered for 6 years/100,000 miles (whichever comes first). See dealer for details.

EXHIBIT B



Charles Shannon
187 Pebble Beach Dr.
Mays Landing, NJ 08330
Your: 2016 Chevrolet Traverse
VIN: 1GNKRGKD6GJ159057
PIN: A9NAT6
chevrolet.com/fueleconomyoffer

May 25, 2016

Dear Charles,

At Chevrolet, our goal is to put your needs first in everything we do – earning your trust and loyalty.

That's why we want to let you know that we have discovered an unintentional error in the EPA fuel economy estimates on the window label of your 2016 Chevrolet Traverse. When you leased your vehicle, the label indicated a combined MPG of 19 (17 city, 24 highway). In fact, the correct EPA-estimated combined MPG is 18 (15 city, 22 highway).

We apologize for this mistake and would like to reimburse you for the expected increased incremental fuel cost for the term of the lease on your vehicle. Based on the term of your lease compared to the five years of ownership period used by the EPA calculation on your window label, the amount of your reimbursement is \$450 at 15,000 miles per year and gas prices at \$3.00/gallon. We would like to offer you that amount via a debit card. For details about this offer, please see the next page. Please take action no later than August 1, 2016.

You may redeem your special offer online at chevrolet.com/fueleconomyoffer. You'll need your VIN and a PIN (they're printed on both pages of this letter, for your convenience). Once you log in, you will be asked to agree to certain terms and conditions, including a waiver of claims related to this error.

Additionally, in a few weeks, we will separately mail you a new window label with the corrected EPA-estimated fuel economy for your vehicle.

We value your business and hope that you and your Traverse continue to "Find New Roads" together.

Sincerely,

A handwritten signature in black ink that reads "Brian Sweeney".

Brian Sweeney
Vice President, Chevrolet



Charles Shannon
187 Pebble Beach Dr.
Mays Landing, NJ 08330
Your: 2016 Chevrolet Traverse
VIN: 1GNKRGKD6GJ159057
PIN: A9NAT6
chevrolet.com/fueleconomyoffer

You will receive your card by mail within 4 weeks.

To redeem your offer, please visit
chevrolet.com/fueleconomyoffer
Please take action no later than August 1, 2016.

Your Vehicle: 2016 Chevrolet Traverse
VIN: 1GNKRGKD6GJ159057
PIN: A9NAT6
(These numbers will be required to log into the customer website.)

Please contact Chevrolet's Customer Relations Center at 1-800-222-1020 if you have any questions.

EXHIBIT C

General Motors' Fuel Economy Discrepancies Could Extend to 2 Million Vehicles

GM may have overstated mpg on Buick, Chevrolet, GMC, and Saturn SUVs

By Jeff S. Bartlett

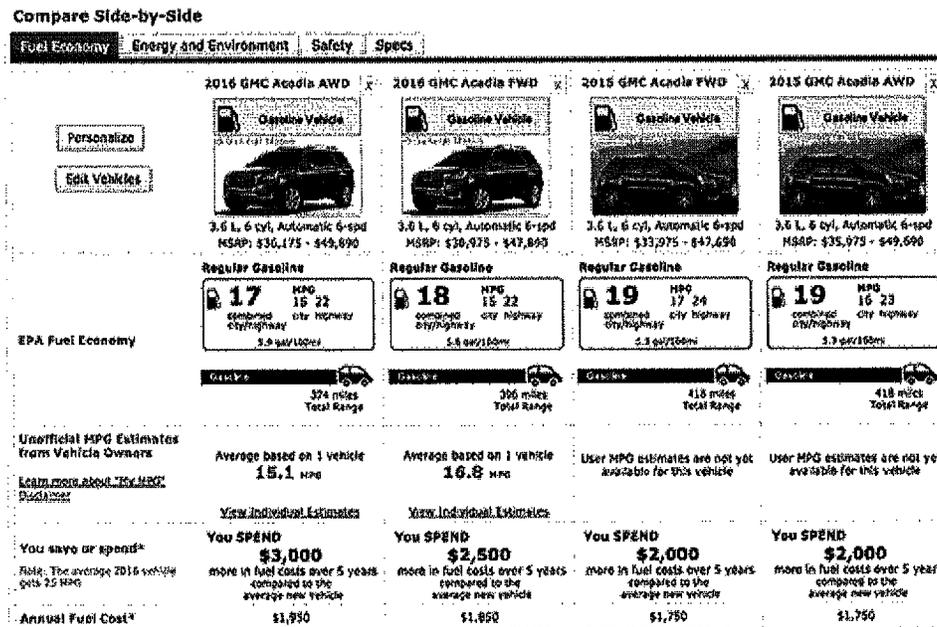
May 16, 2016

General Motors issued a stop-sale order last week to its dealers of 2016 Buick Enclave, Chevrolet Traverse, and GMC Acadia SUVs, calling for those models not to be sold until a correction could be made to the vehicle's window stickers. The concern is that the stickers overstate fuel economy by 1 to 2 mpg. A GM spokesman told Consumer Reports that the automaker is in the process of updating those figures in advertising materials, marketing, and websites, in addition to the window stickers on about 60,000 crossovers currently on dealer lots.

However, when Consumer Reports looked at our own historical test data next to fuel economy numbers from the Environmental Protection Agency and GM's own claims, it seemed like there might be more to this story. It's possible that the stated figures for the Enclave, Traverse, Acadia, and also the discontinued Saturn Outlook may have been incorrect for years.

For example, the EPA's site fuel-economy.gov shows the combined city/highway fuel economy for the 2015 Acadia AWD at 19 mpg—that's two mpg *better* than the revised numbers on the 2016 model. When asked whether the discrepancy extends to earlier models, a GM spokesman

responded via email, saying that the company, "...has checked and found no other models or model years were affected."



GMC Acadia comparison on fueleconomy.gov

The Enclave, Traverse, and Acadia are essentially triplets—all are built on the same platform and share the same powertrain—and the 2016 models are not significant refreshes. After the company updates the stickers for these 2016 crossover vehicles, the prior models from 2007 to 2015 will now all have better stated fuel economy numbers than the new vehicles in GM's dealerships. It seems unlikely that the company would change the powertrain on these carryover models so late in their model cycles in a way that would cause a dramatic, negative impact on fuel economy. When asked about this directly, GM declined to give a specific answer regarding any substantial changes to these vehicles.

Consumer Reports has previously tested the real-world fuel economy of three prior models of these GM crossovers and found that they performed below their official EPA numbers (data below). While it's not unusual for our test findings to vary from the EPA figures, the difference is usually just one or two mpg. In Consumer Reports testing, we saw up to a three mpg difference from the EPA figures.

Fuel Economy Comparison

	Consumer Reports overall	EPA overall
	mpg	mpg
<u>2007 Saturn Outlook XR</u>		
<u>AWD</u>	16	18
<u>2008 Buick Enclave CXL</u>		
<u>AWD</u>	15	18
<u>2009 Chevrolet Traverse LT</u>		
<u>AWD</u>	16	19

We reached out to the EPA to see if the agency is investigating this possibility. We had not yet received a response.

If this problem extends to the full breadth of this model generation, it could potentially impact more than 2 million crossovers sold in the U.S. over the past decade.

Using the EPA's calculator on fueleconomy.gov, we found that a decline from 19 mpg overall to 17 mpg would cost an average consumer about \$200 per year. Compensating owners for not delivering the expected fuel economy could be quite expensive.

Hyundai found itself in a similar situation in 2012 when an EPA spot check discovered that some 2012 and 2013 Hyundai and Kia models made exaggerated mpg claims. The automaker issued debit cards to customers to pay for the estimated additional fuel costs based on the actual miles driven, plus 15 percent.

In GM's case, given the time in service of many of these vehicles, a misstatement of fuel economy could have cost many customers \$1,000 or more by now. Consumer Reports will continue to follow this story as it develops.

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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 NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Charles Shannon On Behalf of Himself and All Other Persons Similarly Situated

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

(c) Attorneys (Firm Name, Address, Email and Telephone Number)

Nagel Rice, LLP, 103 Eisenhower Parkway, Roseland, NJ 07068

DEFENDANTS

General Motors, LLC

County of Residence of First Listed Defendant Detroit, Michigan (IN U.S. PLAINTIFF CASES ONLY)

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

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)

- Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, PTF DEF, 1 1, 2 2, 3 3, 4 4, 5 5, 6 6

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

Table with 5 columns: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, LABOR, IMMIGRATION, FORFEITURE/PENALTY, SOCIAL SECURITY, FEDERAL TAX SUITS, BANKRUPTCY, OTHER STATUTES. Includes various legal categories like Insurance, Real Estate, Personal Injury, etc.

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 - Transfer, 8 Multidistrict Litigation - Direct File

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. 1332d2

Brief description of cause: Consumer Fraud Class Action

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$ 15,000,000

CHECK YES only if demanded in complaint: JURY DEMAND: X Yes [] No

VIII. RELATED CASE(S) IF ANY

(See Instructions):

JUDGE

DOCKET NUMBER

DATE 08/11/2016 SIGNATURE OF ATTORNEY OF RECORD /s/ Bruce H. Nagel, Esq.

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE