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

DAVID HARMON; IVAN KOSIN;
MATTHEW KOSIN; SHIRLEY DUNN,
individually and on behalf of all similarly
situated,

Plaintiff(s),

v.

AMERICAN HONDA MOTOR CO., INC.,

Defendants.

Case No.:

CLASS ACTION

**PLAINTIFFS' CLASS ACTION
COMPLAINT AND
DEMAND FOR JURY TRIAL**

Plaintiff David Harmon, Ivan Kosin, Matthew Kosin and Shirley Dunn, bring this complaint, by and through their attorneys and on behalf of all others similarly situated, against defendants, American Honda Motor Co., Inc. ("Defendant"), and allege upon information and belief as follows:

INTRODUCTION

1. This case involves the Defendants' failure to comply with The Automobile Information Disclosure Act, 15 USC §§ 1231 *et seq.*, ("Monroney Act"), which requires automobile manufacturers to disclose the true cost of transporting vehicles from the final point of

manufacture to the point of sale. Such disclosure is reflected on the “Monroney Sticker” as the “destination fee” or “destination charge” or “destination and handling fee.”

2. As established almost sixty-five years ago, the Monroney Act demands forthright disclosure, honesty and good faith in the automobile marketplace.

3. However, as alleged herein, Defendants employ a uniform policy that fails to reveal the true charges for the transportation of their vehicles to their franchised dealers in violation of the Monroney Act.

4. Defendants’ failure to accord New Jersey consumers, who are leasing or purchasing new vehicles from the Defendants’ authorized dealerships, with the basic minimum protection afforded by the Monroney Act violates the standard of commercial conduct established by and embodied in the New Jersey Consumer Fraud Act (“CFA”).

5. Put simply, Defendants’ failure to comply with the Monroney Act, regardless of its motives, is an unlawful act or practice under the CFA.

6. Even worse, the imposition of these “destination fees” untethered to any type of metric is used as a contrivance for Defendants to arbitrarily inflate the purchase price of its vehicles. Such conduct clearly constitutes an unconscionable commercial practice that has a capacity to mislead New Jersey consumers and evinces a lack of fair dealing.

7. In sum, Defendants’ failure to comply with the Monroney Act’s requirements constitutes a *per se* deceptive or unconscionable commercial act or practice in violation of the CFA.

8. In addition to violating the Monroney Act, the Defendants’ practices patently violate the regulations promulgated by the Director of the Division of Consumer Affairs, which was in response to observed abuses in automotive sales practices.

9. Specifically, the CFA was broadened, through implementing regulations, to further protect the automotive consumer. 27 N.J.R. 3568 (Sept. 18, 1995) (recodifying 13:45A-6.2).

N.J.A.C. 13:45A-26B.2 declares it unlawful under the CFA for an automotive dealer to:

Accept[], charg[e], or obtain[] from a consumer monies, or any other thing of value, in exchange for the performance of any pre-delivery service without first itemizing the actual pre-delivery service which is being performed and setting forth in writing on the sales document the price for each specific pre-delivery service.

N.J.A.C. 13:45A-26B.2(a)1(ii).

10. In addition, “Pre-delivery service fee” means:

... any monies or other thing of value which an automotive dealer accepts from a consumer in exchange for the performance of pre-delivery services upon a motor vehicle, and includes, but is not limited to, items which are often described or labeled as dealer preparation, vehicle preparation, predelivery service, **handling and delivery**, or any other term of similar import.

N.J.A.C. 13:45A-26B.1 (emphasis added).

11. Because Defendants’ franchised automobile dealerships are unable to modify or alter the Monroney Stickers that are provided with automobiles ready for sale or lease, the Defendants seek to skirt these requirements and make a mockery of the regulations promulgated by the Director of the Division of Consumer Affairs.

12. Like its failure to comply with the Monroney Act, however, Defendants’ failure to comply with these regulations constitutes a *per se* deceptive or unconscionable commercial act or practice in violation of the CFA.

13. This action seeks redress for the class in the form of compensatory and treble damages under the CFA, as well as injunctive relief, which would include, *inter alia*, an order directing Defendants to cease the unlawful practice challenged herein.

JURISDICTION AND VENUE

14. This Court has subject matter jurisdiction of this action pursuant to the Class Action Fairness Act of 2005 (“CAFA”), 28 U.S.C. §§ 1332(d)(2) and (6) because: (i) there are 100 or more class members; (ii) there is an aggregate amount in controversy exceeding \$5,000,000.00 exclusive of interest and costs; and (iii) there is minimal diversity because at least one plaintiff and one defendant are citizens of different states. This Court also has supplemental jurisdiction over the state law claims pursuant to 28 U.S.C. § 1367.

15. Venue is proper in the United States District Court for the District of New Jersey pursuant to 28 U.S.C. § 1391(b)(2) because a substantial part of the events giving rise to the claims herein occurred in this judicial district.

16. This Court has personal jurisdiction over Defendants because they have conducted substantial business in this judicial district, and intentionally and purposefully placed vehicles into the stream of commerce within New Jersey and throughout the United States

PARTIES

17. Plaintiff Shirley Dunn is, and at all times mentioned herein, a natural person, individual citizen and resident of New Jersey, County of Middlesex, in this judicial district.

18. Plaintiff David Harmon is, and at all times mentioned herein, a natural person, individual citizen and resident of New Jersey, County of Middlesex, in this judicial district.

19. Plaintiff Ivan Kosin is, and at all times mentioned herein, a natural person, individual citizen and resident of New Jersey, County of Middlesex, in this judicial district.

20. Plaintiff Matthew Kosin is, and at all times mentioned herein, a natural person, individual citizen and resident of New Jersey, County of Middlesex, in this judicial district

21. Upon information and belief, defendant American Honda Motor Company, Inc. is a California corporation, and is a North American subsidiary of Honda Motor Company, Ltd. Defendant is headquartered in Torrance, California.

22. Upon information and belief, defendant American Honda Motor Company, Inc. conducts business throughout New Jersey and has its North American Parts location at 115 Gaither Drive, in Mount Laurel, New Jersey.

THE MONRONEY ACT

23. Although ubiquitous in today's automobile marketplace, the "Monroney sticker" was not always placed on the windows of new motor vehicles shipped to dealerships.

24. Before 1958, manufacturers were not required to place a "Monroney sticker" in the windows of new motor vehicles they shipped to dealers. The Monroney sticker's namesake, Senator Almer Stilwell "Mike" Monroney of Oklahoma, had chaired a subcommittee of the Senate Interstate and Foreign Commerce Committee formed in 1955 to investigate complaints by dealers of abusive treatment by manufacturers.

25. Senator Monroney was concerned with, *inter alia*, "the falsification of the manufacturer's suggested retail price" and urged the adoption of legislation that would "simply require the manufacturer to place a price tag on the windshield or window of the car in the form of a label."

26. In addition to Senator Monroney, a committee report from the House of Representatives also declared legislation necessary to stop certain unfair and unscrupulous marketing practices that, *inter alia*, "bewilder[ed] [] the purchasers of new cars."

27. Due to these efforts, the Congress enacted the Automobile Information Disclosure Act of 1958, codified at 15 U.S.C. §§ 1231-1233 ("Monroney Act" or "AIDA").

28. The AIDA requires manufacturers, prior to shipping new vehicles to dealers, to affix a label to each new vehicle disclosing the make, model, and serial number of the vehicle; the equipment installed in the vehicle and the manufacturer's suggested resale price ("MSRP") for the vehicle and equipment, *as well as any charges for the transportation of the vehicle to the dealer.*

29. The AIDA requires manufacturers to disclose on the Monroney sticker "the amount charged, *if any*, to [the] dealer for the transportation of [the] automobile to the location at which it is delivered[.]" (emphasis added).

30. The AIDA does not, however, require manufacturers to charge destination fees at all, but only to reveal those fees when they are assessed.

31. As described in the Senate subcommittee report, the disclosure of this information "assure[d] that the purchaser [will] start the negotiations with the minimum necessary information."

Ballooning Delivery Charges Shine A Light on Defendants' Violations of the Monroney Act

32. According to Defendants' websites, Honda manufactures its products for sale in Marysville, Ohio, East Liberty Ohio, Lincoln, Alabama, Greensburg, Indiana, Timmonsville, South Carolina, Swepsonville, North Carolina, Greensboro, North Carolina, Anna, Ohio, Russells Point, Ohio, Tallapoosa, Georgia and Burlington, North Carolina¹.

33. Yet, the Destination charges bear no relation to whether the dealership is nearby or far away from the vehicle assembly plant.

34. For instance, a 2022 Honda CR-V buyer pays the \$1,225 destination charge — whether they're in Seattle or in Indianapolis, which is thousands of miles closer to the Greensburg, Indiana plant where the CR-V gets built.

¹ <https://hondainamerica.com/manufacturing/> (last visited October 7, 2022)

35. Moreover, experts in the car industry agree that: (1) it's not at all clear exactly what destination fees cover; (2) how destination fees are determined; or (3) why destination fees should be treated any differently from component parts, such as the cost of equipping a car with a steering wheel.²

36. Other industry experts argue, “the actual [destination] charges are completely opaque to consumers.” These experts acknowledge that there are costs associated with transporting completed cars from factories to dealerships. However, automakers, like Defendants, do not “offer[] anything resembling an actual breakdown of those costs³.”

37. To make matters worse, industry data has revealed that destination fees have increased more than 2.5 times the rate of inflation over the past ten years.⁴

38. And even more egregious and confusing to the Plaintiffs and Class Members, other automakers' “destination fees” have not increased at the same pace as the Defendants over this ten year period.

39. Specifically, Audi, BMW, Infiniti, Lexus, Lincoln, Mercedes-Benz and Volvo each grew their fees by less than 20 percent over the past decade.

40. This is precisely the unfair and unscrupulous marketing practices that the Monroney Act was designed to thwart. When looking at Defendants sharp increase in its destination fees that goes unexplained and untethered to any metric, Defendants' practices are “bewilder[ing] [] to the purchasers of new cars.”

² *Sticker Shock: The Truth About Destination Fees*, <https://www.consumerreports.org/buying-a-car/the-truth-about-destination-fees-a1615480982/> (last visited September 28, 2022).

³ *No, it's not your imagination. Destination costs are skyrocketing*, <https://www.aol.com/news/no-not-imagination-destination-costs-174600734.html> (last visited September 28, 2022).

⁴ *Sticker Shock: The Truth About Destination Fees*, <https://www.consumerreports.org/buying-a-car/the-truth-about-destination-fees-a1615480982/> (last visited September 28, 2022).

41. Such a stark lack of transparency about how destination charges are derived and the alarming rate that they've been increasing *without any explanation whatsoever* constitutes a patent violation of the letter and spirit of the Monroney Act.

Violations of the Administrative Rules of the Division of Consumer Affairs of New Jersey

42. In response to observed abuses in automotive sales practices where consumers were frequently induced to expend additional monies for services that were either unnecessary or not being performed, the Director of the Division of Consumer Affairs promulgated certain regulations almost thirty years ago.

43. Specifically, the CFA was broadened, through implementing regulations, to further protect the automotive consumer. 27 N.J.R. 3568 (Sept. 18, 1995) (recodifying 13:45A-6.2). N.J.A.C. 13:45A-26B.2 declares it unlawful under the CFA for an automotive dealer to:

Accept[], charg[e], or obtain[] from a consumer monies, or any other thing of value, in exchange for the performance of any pre-delivery service without first itemizing the actual pre-delivery service which is being performed and setting forth in writing on the sales document the price for each specific pre-delivery service.

N.J.A.C. 13:45A-26B.2(a)1(ii)

44. In addition, "Pre-delivery service fee" means:

... any monies or other thing of value which an automotive dealer accepts from a consumer in exchange for the performance of pre-delivery services upon a motor vehicle, and includes, but is not limited to, items which are often described or labeled as dealer preparation, vehicle preparation, **predelivery service, handling and delivery**, or any other term of similar import.

N.J.A.C. 13:45A-26B.1 (emphasis added).

45. Apparently, Defendants seek to avoid these regulations because the Defendants do not accept, charge or obtain monies *directly* from a consumer for the pre-delivery services.

46. Rather, Defendants' franchised automobile dealerships accept the monies for the purchased or leased vehicles.

47. Nevertheless, the Monroney Stickers leave New Jersey consumers completely in the dark without any itemization of the actual pre-delivery service which is being performed, which includes the handling and delivery of the vehicles.

48. Moreover, Defendants' franchised automobile dealerships who offer motor vehicles for sale and lease to these New Jersey consumers are unable to modify or alter the Monroney Stickers.

49. Indeed, these Defendants' dealerships would face criminal liability under 15 U.S.C. 1233 (c) for altering Defendants' Monroney Stickers in any way.

50. Based on the foregoing, neither Defendants nor its franchised dealers itemize the predelivery service or handling and delivery for the purchase or lease of a new Honda vehicle.

51. As such, New Jersey consumers are rendered helpless in the face of the lack of transparency related to what destination fees cover and how destination fees are determined.

52. In sum, Defendants have flouted these regulations in its attempt to circumvent the laudable goals of the Director of the Division of Consumer Affairs when implementing these regulations.

53. And Defendants patent failure to comply with these regulations constitutes a *per se* deceptive or unconscionable commercial act or practice in violation of the CFA.

Plaintiff Harmon's Factual Allegations

54. On June 24, 2020, Harmon entered into a lease agreement ("Lease") with Defendants' franchised dealer, Hamilton Honda, located at 655 US Highway 130 in Hamilton, New Jersey ("Hamilton Honda").

55. Plaintiff Harmon leased a new Honda Civic Sedan ("Civic") with a Manufacturer's Suggested Retail Price of \$23,800.00.

56. Prior to entering into the Lease, Plaintiff viewed the Monroney sticker that included a charge for “Destination and Handling” of \$930.00.

57. Plaintiff reasonably believed that the “Destination and Handling” charge represented Defendants’ cost to deliver the Civic to Hamilton Honda.

58. Plaintiff further understood that he was required to pay the “Destination and Handling” charge and that he was unable to negotiate this charge as part of the Civic’s overall price.

Plaintiff Dunn’s Factual Allegations

59. On June 16, 2021, Dunn entered into a purchase agreement with Defendants’ franchised dealer, VIP Honda, located at 700 Route 22 East, North Plainfield, New Jersey (“VIP”).

60. Plaintiff Dunn purchased a new Honda HR-V with a Manufacturer’s Suggested Retail Price of \$25,101.00.

61. Prior to entering into the Agreement, Plaintiff Dunn viewed the Monroney sticker that included a charge for “Destination and Handling” of \$1,175.00.

62. Plaintiff reasonably believed that the “Destination and Handling” charge represented Defendants’ cost to deliver the HR-V to VIP.

63. Plaintiff further understood that she was required to pay the “Destination and Handling” charge and that she was unable to negotiate the charge as part of the HR-V’s overall price.

Plaintiff Ivan Kosin’s Factual Allegations

64. On July 16, 2018 On June 16, 2021, Ivan entered into a lease agreement with Defendants’ franchised dealer, DCH Kay Honda, located at 200 Route 36, Eatontown, New Jersey (“DCH”).

65. Plaintiff Ivan leased a new Honda Civic Sedan with a Manufacturer's Suggested Retail Price of \$21,340.00.

66. Prior to entering into the Agreement, Plaintiff Ivan viewed the Monroney sticker that included a charge for "Destination and Handling" of \$1,100.00.

67. Plaintiff reasonably believed that the "Destination and Handling" charge represented Defendants' cost to deliver the Civic to DCH.

68. Plaintiff further understood that he was required to pay the "Destination and Handling" charge and that he was unable to negotiate the charge as part of the Civic's overall price.

Plaintiff Matthew Kosin's Factual Allegations

69. On June 30, 2021, Matthew entered into a lease agreement with Defendants' franchised dealer, DCH.

70. Plaintiff Matthew leased a new Honda CR-V with a Manufacturer's Suggested Retail Price of \$30,535.00.

71. Prior to entering into the Agreement, Plaintiff Matthew viewed the Monroney sticker that included a charge for "Destination and Handling" of \$1,100.00.

72. Plaintiff reasonably believed that the "Destination and Handling" charge represented Defendants' cost to deliver the CR-V to DCH.

73. Plaintiff further understood that he was required to pay the "Destination and Handling" charge and that he was unable to negotiate the charge as part of the CR-V's overall price.

CLASS ALLEGATIONS

74. Plaintiffs bring this class action on behalf of themselves and all other similarly situated members of the proposed class (the “Class”), defined as follows:

All New Jersey citizens who purchased or leased a Honda vehicle from a Honda franchised dealership from October 2016 to the present.

75. Excluded from the Class are: (1) Defendants, any entity or division in which Defendants have a controlling interest, and its legal representatives, officers, directors, assigns, and successors; (2) the Judge to whom this case is assigned and the Judge’s staff; and (3) governmental entities. Plaintiffs reserve the right to amend the Class definitions if discovery and further investigation reveal that the Class should be expanded, divided into subclasses, or modified in any other way.

76. As used herein, the term “Class Members” shall mean and refer to the members of the Class described above.

77. **Numerosity:** Although the exact number of Class Members is uncertain and can only be ascertained through appropriate discovery, the number is great enough such that joinder is impracticable. The disposition of the claims of these Class Members in a single action will provide substantial benefits to all parties and to the Court. The Class Members are readily identifiable from information and records in Defendants’ possession, custody, or control, as well as from records kept by the New Jersey Department of Motor Vehicles. Plaintiffs believe, and on that basis allege, that thousands of Honda Vehicles have been sold and leased in New Jersey that are the subject of the Class.

78. **Typicality:** The claims of the representative Plaintiffs are typical of the claims of the Class in that the representative Plaintiffs, like all Class Members, leased or purchased vehicles

manufactured and distributed by Defendants. The representative Plaintiffs, like all Class Members, have been damaged by Defendants' misconduct. Furthermore, the factual bases of Defendants' misconduct are common to all Class Members.

79. Plaintiffs reserve the right to amend the Class, and to add additional subclasses, if discovery and further investigation reveals such action is warranted.

80. No violations alleged in this complaint are contingent on any individualized interaction of any kind between Class Members and Defendants.

81. **Existence and Predominance of Common Questions of Fact and Law:** There are common questions of law and fact as to the Class Members that predominate over questions affecting only individual members, including but not limited to:

- a. Whether Defendant engaged in unlawful, unfair, or deceptive business practices in the sale of its vehicles to Plaintiffs and other Class Members;
- b. Whether Defendant engaged in unlawful, unfair, or deceptive business practices in the leasing of its vehicles to Plaintiffs and other Class Members;
- c. Whether the "Destination Charge" had any correlation to the actual transportation of the vehicles to the franchised dealers wherein Plaintiffs and other class members purchased or leased Defendants' vehicles;
- d. Whether Plaintiffs and Class Members are entitled to equitable and/or injunctive relief;
- e. Whether Defendants' unlawful, unfair, and/or deceptive practices harmed Plaintiffs and Class Members; and
- f. The method of calculation and extent of damages for Plaintiffs and Class Members.

82. The claims of Plaintiffs are not only typical of all class members, they are identical as the Monroney Stickers are identical for each car sold or leased during the relevant time period.

83. All claims of Plaintiffs and the class are based on the exact same legal theories. Plaintiffs have no interest antagonistic to, or in conflict with, the class. Plaintiffs are qualified to, and will, fairly and adequately protect the interests of each Class Member, because Plaintiffs bought vehicles from Defendants during the Class Period.

84. **Adequate Representation**: Plaintiffs will fairly and adequately protect the interests of the class members. Plaintiffs have retained attorneys experienced in the prosecution of class actions, including consumer class actions, and Plaintiffs intend to prosecute this action vigorously.

85. **Predominance and Superiority**: Plaintiffs and the Class Members have all suffered and will continue to suffer harm and damages as a result of Defendants' unlawful and wrongful conduct. A class action is superior to other available methods for the fair and efficient adjudication of the controversy. Absent a class action, most Class Members would likely find the cost of litigating their claims prohibitively high and would therefore have no effective remedy at law. Because of the relatively small size of the individual Class Members' claims, it is likely that only a few Class Members could afford to seek legal redress for Defendants' misconduct. Absent a class action, Defendants misconduct will go without a remedy. Class treatment of common questions of law and fact would also be a superior method to multiple individual actions or piecemeal litigation in that class treatment will conserve the resources of the courts and the litigants and will promote consistency and efficiency of adjudication.

86. Defendants' unlawful, unfair and/or fraudulent actions concerns the same business practices described herein irrespective of where they occurred or were experienced. Plaintiffs' claims are typical of all Class Members as demonstrated herein.

87. Plaintiffs will thoroughly and adequately protect the interests of the class, having retained qualified and competent legal counsel to represent herself and the class. Common questions will predominate, and there will be no unusual manageability issues.

COUNT I
New Jersey Consumer Fraud Act, N.J.S.A. § 56:8-1, *et seq.*

88. Plaintiffs incorporate all preceding paragraphs of this complaint as if set forth fully herein.

89. This action does not raise any claims of common law fraud.

90. Rather, the claims in this count arise exclusively against Defendants under the CFA, N.J.S.A. § 56:8-1, *et seq.*

91. As alleged herein, Plaintiffs and the Class Members reasonably and justifiably expected Defendants to comply with applicable law and otherwise to act lawfully.

92. Nevertheless, the Defendants' employed a uniform policy that failed to reveal the true charges for the transportation to their franchised dealers of the Class Members' vehicles in violation of the Monroney Act.

93. As alleged with specificity herein, Defendants impose an opaque "destination fee" on all New Jersey consumers purchasing or leasing an automobile that lacks any transparency.

94. As alleged with specificity herein, the imposition of these fees untethered to any type of metric is used as a contrivance for Defendants to arbitrarily inflate the purchase price of its vehicles and constitutes an unconscionable commercial practice that has a capacity to mislead New Jersey consumers and evinces a lack of fair dealing.

95. Likewise, Defendants' practices run afoul of N.J.A.C. 13:45A-26B.2, which was promulgated to further protect the automotive consumer.

96. Such sharp and unconscionable commercial practices do not require a showing of Defendants' intent to deceive.

97. Such unlawful activity does not require Defendants' knowledge of the falsity of the representation.

98. Rather, the Defendants' lack of good faith, honesty in fact and observance of fair dealing constitute a deceptive and unconscionable business practice and *per se* violation of the CFA.

99. As a proximate result of Defendants' conduct, Plaintiffs and the Class Members have suffered an ascertainable loss of money and property as they were charged the arbitrarily inflated destination fees and charges.

COUNT II
Unjust Enrichment/Disgorgement

100. Plaintiffs incorporate by reference each allegation set forth above.

101. Although the Plaintiffs and Class Members entered into lease and purchase agreements with Defendants' franchised dealers, Defendants are liable under a theory of unjust enrichment.

102. By the acts alleges herein, Defendants received a benefit from Plaintiffs and the Class Members, in the form of fees paid to Defendants that did not relate to the actual costs to ship vehicles to dealerships in New Jersey.

103. The retention of that benefit by Defendants would be unjust.

104. By the facts alleged herein, equity demands that Defendants disgorge itself of this benefit and that the benefit be returned to Plaintiffs and the Class Members.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs ask this Court to:

- a. Certify the case as a class action pursuant to Fed.R.Civ.P. 23;
- b. Appointment of Plaintiffs as Class Representatives;
- c. Appointment of Plaintiffs' attorneys as Class Counsel;
- d. Enter an order for injunctive and declaratory relief, enjoining Defendants' policy as alleged herein, directing Defendants to send a court-approved form of notice to all Class Members advising them of the overcharges alleged herein, and establishing a court-administered program to provide refunds to all class members, with the Defendants being ordered to pay the costs associated with such a program;
- e. Enter judgment in favor of each class member for damages suffered as a result of the conduct alleged herein, to include interest and pre-judgment interest;
- f. Award Plaintiffs and the class members treble damages under the CFA;
- g. Award Plaintiffs reasonable attorneys' fees and costs; and
- h. Grant such other and further legal and equitable relief as the Court deems just and equitable.

JURY TRIAL DEMAND

PLEASE TAKE NOTICE that the Plaintiffs hereby demand a trial by jury as to all parties.

Dated: October 18, 2022

KAZEROUNI LAW GROUP, A.P.C.

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CERTIFICATION PURSUANT TO L. CIV. R. 11.2

I certify that, to the best of my knowledge, this matter is not the subject of any other action pending in any court or of any pending arbitration or administrative proceeding.

Dated: October 18, 2022

By: s/ Ross H. Schmierer
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ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Honda Hit with Class Action Over Allegedly Inflated 'Destination Fees' for New Vehicles](#)
