

OCT 14 2020

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Attorney for Plaintiffs,  
**YESZI M. MEDINA AND CALFREDO MEDINA ALVAREZ**

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF VENTURA

**YESZI M. MEDINA, an individual, and  
CALFREDO MEDINA ALVAREZ, an  
individual,**

**Plaintiff,**

vs.

**GENERAL MOTORS LLC, a Delaware  
Limited Liability Company, and DOES 1  
through 10, inclusive,**

**Defendants.**

Case No.:  
Unlimited Jurisdiction

**COMPLAINT**

- 1. VIOLATION OF SONG-BEVERLY  
ACT - BREACH OF EXPRESS  
WARRANTY**
- 2. VIOLATION OF SONG-BEVERLY  
ACT - BREACH OF IMPLIED  
WARRANTY**
- 3. VIOLATION OF THE SONG-  
BEVERLY ACT SECTION 1793.2**

*By FAX*



*5/2*

1 Plaintiffs, YESZI M. MEDINA, an individual, and CALFREDO MEDINA ALVAREZ, an  
2 individual, allege as follows against Defendants GENERAL MOTORS LLC, a Delaware Limited  
3 Liability Company ("GENERAL MOTORS LLC"), and DOES 1 through 10 inclusive, on  
4 information and belief, formed after a reasonable inquiry under the circumstances:

5 **DEMAND FOR JURY TRIAL**

6 1. Plaintiffs, YESZI M. MEDINA and CALFREDO MEDINA ALVAREZ, hereby  
7 demand trial by jury in this action.

8 **GENERAL ALLEGATIONS**

9 2. Plaintiffs, YESZI M. MEDINA and CALFREDO MEDINA ALVAREZ, are  
10 individuals residing in the City of Santa Paula, State of California.

11 3. Defendant GENERAL MOTORS LLC is and was a Delaware Limited Liability  
12 Company operating and doing business in the State of California.

13 4. These causes of action arise out of the warranty obligations of GENERAL  
14 MOTORS LLC in connection with a vehicle purchased by Plaintiff and for which GENERAL  
15 MOTORS LLC issued a written warranty.

16 5. Plaintiffs do not know the true names and capacities, whether corporate,  
17 partnership, associate, individual or otherwise of Defendant issued herein as Does 1 through 10,  
18 inclusive, under the provisions of section 474 of the California Code of Civil Procedure. Defendant  
19 Does 1 through 10, inclusive, are in some manner responsible for the acts, occurrences and  
20 transactions set forth herein, and are legally liable to Plaintiffs. Plaintiffs will seek leave to amend  
21 this Complaint to set forth the true names and capacities of the fictitiously named Defendant,  
22 together with appropriate charging allegations, when ascertained.

23 6. All acts of corporate employees as alleged were authorized or ratified by an officer,  
24 director, or managing agent of the corporate employer.

25 7. Each Defendant, whether actually or fictitiously named herein, was the principal,  
26 agent (actual or ostensible), or employee of each other Defendant, and in acting as such principal  
27 or within the course and scope of such employment or agency, took some part in the acts and  
28 omissions hereinafter set forth by reason of which each Defendant is liable to Plaintiffs for the relief  
prayed for herein.





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8. On May 27, 2019, Plaintiffs leased a new 2019 GMC Sierra , having VIN No. 1GTU9FEL2KZ307407 ("the Subject Vehicle"). Express warranties accompanied the sale of the Subject Vehicle to Plaintiffs by which GENERAL MOTORS LLC undertook to preserve or maintain the utility or performance of Plaintiffs' vehicle or to provide compensation if there was a failure in such utility or performance.

9. The Subject Vehicle was delivered to Plaintiffs with serious defects and nonconformities to warranty and developed other serious defects and nonconformities to warranty including, but not limited to, the engine, electrical, suspension, and structural system defects.

10. Plaintiffs hereby revokes acceptance of the sales contract.

11. Pursuant to the Song-Beverly Consumer Warranty Act (herein after the "Act") Civil Code sections 1790 *et seq.* the Subject Vehicle constitutes "consumer goods" used primarily for family or household purposes, and Plaintiffs have used the vehicle primarily for those purposes.

12. Plaintiffs are a "buyer" of consumer goods under the Act

13. Defendant GENERAL MOTORS LLC is a "manufacturer" and/or "distributor" under the Act.

14. Plaintiffs hereby demands trial by jury in this action.

**FIRST CAUSE OF ACTION**

**Violation of the Song-Beverly Act – Breach of Express Warranty**

15. Plaintiffs incorporate herein by reference each and every allegation contained in the preceding and succeeding paragraphs as though herein fully restated and re-alleged.

16. Express warranties accompanied the sale of the vehicle to Plaintiffs by which GENERAL MOTORS LLC undertook to preserve or maintain the utility or performance of Plaintiffs' vehicle or to provide compensation if there was a failure in such utility or performance.

17. The Subject Vehicle was delivered to Plaintiffs with serious defects and nonconformities to warranty and developed other serious defects and nonconformities to warranty including, but not limited to, engine, electrical, suspension, and structural system defects.

18. Pursuant to the Song-Beverly Consumer Warranty Act (herein after the "Act") Civil Code sections 1790 *et seq.* the vehicle constitutes "consumer goods" used primarily for family or household purposes, and Plaintiffs have used the Subject Vehicle primarily for those purposes.



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19. Plaintiffs are the "buyer" of consumer goods under the Act.

20. Defendant GENERAL MOTORS LLC is a "manufacturer" and/or "distributor" under the Act.

21. The foregoing defects and nonconformities to warranty manifested themselves in the Subject Vehicle within the applicable express warranty period. The nonconformities substantially impair the use, value and/or safety of the vehicle.

22. Plaintiffs delivered the vehicle to an authorized GENERAL MOTORS LLC repair facility for repair of the nonconformities.

23. Defendant was unable to conform Plaintiffs' vehicle to the applicable express after a reasonable number of repair attempts.

24. Notwithstanding Plaintiffs' entitlement, Defendant GENERAL MOTORS LLC has failed to either promptly replace the new motor vehicle or to promptly make restitution in accordance with the Song-Beverly Act.

25. By failure of Defendant to remedy the defects as alleged above, or to issue a refund or replacement vehicle, Defendant is in breach of its obligations under the Song-Beverly Act.

26. Under the Act, Plaintiffs are entitled to reimbursement of the price paid for the vehicle less that amount directly attributable to use by the Plaintiff prior to the first presentation of the nonconformities.

27. Plaintiffs are entitled to all incidental, consequential, and general damages resulting from Defendant's failure to comply with its obligations under the Song-Beverly Act.

28. Plaintiffs are entitled under the Song-Beverly Act to recover as part of the judgment a sum equal to the aggregate amount of costs and expenses, including attorney's fees, reasonably incurred in connection with the commencement and prosecution of this action.

29. Because Defendant willfully violated the Song-Beverly Act, Plaintiffs are entitled in addition to the amounts recovered, a civil penalty of up to two times the amount of actual damages for GENERAL MOTORS LLC's willful failure to comply with its responsibilities under the Act.

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1 **SECOND CAUSE OF ACTION**

2 **Violation of the Song-Beverly Act – Breach of Implied Warranty**

3 30. Plaintiffs incorporate herein by reference each and every allegation contained in the  
4 preceding and succeeding paragraphs as though herein fully restated and re-alleged.

5 31. GENERAL MOTORS LLC and its authorized dealership at which Plaintiffs  
6 purchased the subject vehicle had reason to know the purpose of the Subject Vehicle at the time of  
7 sale of the subject vehicle. The sale of the Subject Vehicle was accompanied by implied warranties  
8 provided for under the law.

9 32. Among other warranties, the sale of the Subject Vehicle was accompanied by an  
10 implied warranty that the Subject vehicle was merchantable pursuant to Civil Code section 1792.

11 33. The Subject Vehicle was not fit for the ordinary purpose for which such goods are  
12 used because it was equipped with one or more defective vehicle systems/components.

13 34. The Subject Vehicle did not measure up to the promises or facts stated on the  
14 container or label because it was equipped with one or more defective vehicle systems/components.

15 35. The Subject Vehicle was not of the same quality as those generally acceptable in the  
16 trade because it was sold with one or more defective vehicle systems/components which manifested  
17 as engine, electrical, suspension, and structural system defects.

18 36. Upon information and belief, the defective vehicle systems and components were  
19 present at the time of sale of the Subject Vehicle; thus, extending the duration of any implied  
20 warranty under *Mexia v. Rinker Boat Co., Inc.* (2009) 174 Cal.App.4th 1297, 1304–1305 and other  
21 applicable laws.

22 37. Plaintiffs are entitled to justifiably revoke acceptance of the subject vehicle under  
23 Civil Code, section 1794, *et seq*;

24 38. Plaintiffs hereby revokes acceptance of the Subject Vehicle.

25 39. Plaintiffs are entitled to replacement or reimbursement pursuant to Civil Code,  
26 section 1794, *et seq*.

27 40. Plaintiffs are entitled to rescission of the contract pursuant to Civil Code, section  
28 1794, *et seq*. and Commercial Code, section 2711.

41. Plaintiffs are entitled to recover any incidental, consequential, and/or “cover”



1 damages under Commercial Code, sections 2711, 2712, and Civil Code, section 1794, *et seq.*

2 **THIRD CAUSE OF ACTION**

3 **Violation of the Song-Beverly Act Section 1793.2(b)**

4 42. Plaintiffs incorporates herein by reference each and every allegation contained in  
5 the preceding and succeeding paragraphs as though herein fully restated and re-alleged.

6 43. Pursuant to Civil Code, section 1793.2, subdivision (a) a manufacturer that sells  
7 consumer goods in California, for which it has made an express warranty, shall maintain service  
8 and repair facilities or designate and authorize independent service and repair facilities to carry out  
9 the terms of those warranties.

10 44. Pursuant to Civil Code, section 1793.2, subdivision (b), when service and repair of  
11 goods is necessary because they do not conform with the applicable express warranties, service and  
12 repair shall be commenced within a reasonable time by the manufacturer or its representative.

13 45. Civil Code, section 1793.2, subdivision (b) further states that goods shall be serviced  
14 or repaired so as to conform to the applicable warranties within 30 days and/or within a reasonable  
15 time.

16 46. The sale of the Subject Vehicle was accompanied by express warranties, including  
17 a warranty guaranteeing that the subject vehicle was safe to drive and not equipped with defective  
18 parts, including the electrical system.

19 47. Plaintiffs delivered the subject vehicle to GENERAL MOTORS LLC's **authorized**  
20 service representatives on multiple occasions. The subject vehicle was delivered for repairs of  
21 defects, which amount to a **nonconformities** to the express warranties that accompanied the sale of  
22 the subject vehicle.

23 48. Defendant's authorized facilities did not conform the Subject Vehicle to warranty  
24 within 30-days and/or commence repairs **within** a reasonable time and GENERAL MOTORS LLC  
25 has failed to tender the subject vehicle back to Plaintiff in conformance with its warranties within  
26 the timeframes set forth in Civil Code section 1793.2(b).

27 49. Plaintiffs are entitled to justifiably revoke acceptance of the subject vehicle under  
28 Civil Code, section 1794, *et seq*;

50. Plaintiffs hereby revokes acceptance of the subject vehicle.





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51. Plaintiffs are entitled to replacement or reimbursement pursuant to Civil Code, section 1794, *et seq.*

52. Plaintiffs are entitled to rescission of the contract pursuant to Civil Code section 1794, *et seq.* and Commercial Code, section 2711.

53. Plaintiffs are entitled to recover any “cover” damages under Commercial Code sections 2711, 2712, and Civil Code, section 1794, *et seq.*

54. Plaintiffs are entitled to recover all incidental and consequential damages pursuant to 1794 *et seq* and Commercial Code sections, 2711, 2712, and 2713 *et seq.*

55. Plaintiffs are entitled in addition to the amounts recovered, a civil penalty of up to two times the amount of actual damages in that GENERAL MOTORS LLC has willfully failed to comply with its responsibilities under the Act.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiffs pray for judgment against Defendants, as follows:

1. For general, special and actual damages according to proof at trial;
2. For rescission of the purchase contract and restitution of all monies expended;
3. For diminution in value;
4. For incidental and consequential damages according to proof at trial;
5. For civil penalty in the amount of two times Plaintiffs’ actual damages;
6. For prejudgment interest at the legal rate;
7. For reasonable attorney's fees and costs of suit; and

For such other and further relief as the Court deems just and proper under the circumstances.

Dated: October 13, 2020

QUILL & ARROW, LLP  
*Kevin Y. Jacobson*  
Kevin Y. Jacobson, Esq.  
Attorney for Plaintiffs,  
**YESZI M. MEDINA**  
**CALFREDO MEDINA ALVAREZ**

Plaintiffs, YESZI M. MEDINA and CALFREDO MEDINA ALVAREZ, hereby demand trial by jury in this action.