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ALAMEDA COUNTY
December 02, 2019
CLERK OF
THE SUPERIOR COURT
By Milagros Cortez, Deputy
CASE NUMBER:
RG19045320

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
10 COUNTY OF ALAMEDA

11 STEWART FIELDING, an individual; and
12 BRITTANY FIELDING, an individual,
13 Plaintiffs,
14 v.
15 MAZDA MOTOR OF AMERICA, INC., a
16 California corporation; and
17 DOES 1 through 75,
18 Defendants.

Case No.:
COMPLAINT
1. **FAILURE TO PROMPTLY
REPURCHASE NEW MOTOR
VEHICLE; AND**
2. **BREACH OF IMPLIED WARRANTY
OF MERCHANTABILITY**

1 8. Plaintiffs allege the following causes of action, on information and belief, formed
2 after an inquiry reasonable under the circumstances.

3 FIRST CAUSE OF ACTION

4 Failure to Promptly Repurchase New Motor Vehicle

5 9. On or about January 21, 2018, Plaintiffs purchased that certain new 2018 Mazda
6 CX-5 with vehicle identification number JM3KFACMoJo316566 (the “Mazda CX-5”), at retail,
7 from the car dealership “Fremont Mazda” at 39800 Balentine Drive, Newark, California.

8 10. Plaintiffs purchased the Mazda CX-5 primarily for personal, family, and
9 household purposes, and not for any business or commercial purposes.

10 11. Plaintiffs’ purchase of the Mazda CX-5 was accompanied by Mazda Motor of
11 America, Inc.’s express warranty.

12 12. Pursuant to the Mazda CX-5's express warranty, Mazda Motor of America, Inc.
13 undertook to preserve or maintain the utility or performance of the Mazda CX-5 or provide
14 compensation if there was a failure in such utility or performance.

15 13. The Mazda CX-5 has at all material times suffered from nonconformities to
16 warranty, including a defect that causes the vehicle’s check-engine light to illuminate, which
17 results in leaking oil, and which causes a jolting motion when the vehicle is driven.

18 14. The foregoing nonconformities to warranty manifested themselves within the
19 applicable express and implied warranty periods. The defects and nonconformities
20 substantially impair the use, value and/or safety of the Mazda CX-5.

21 15. Plaintiffs returned the Mazda CX-5 to Mazda Motor of America, Inc.’s authorized
22 repair facilities at least six times for repair of the above-listed nonconformities to warranty; but
23 each time Mazda Motor of America, Inc.’s authorized repair facilities were either unwilling or
24 unable to properly repair the Mazda CX-5.

25 16. The Mazda CX-5 is “consumer good” under Civil Code section 1791(a).

26 17. The Mazda CX-5 is “new motor vehicle” under Civil Code section 1793.22(e)(2).

27 18. Plaintiffs are the “buyer” and “retail buyer” of the Mazda CX-5 under Civil Code
28 section 1791(b).

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

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5 Date: December 2, 2019

VACHON LAW FIRM



Michael R. Vachon, Esq.
Attorney for Plaintiffs Stewart & Brittany
Fielding

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