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**United States District Court  
Central District of California**

HOVSEP HAGOPIAN, et al.,

Plaintiffs,

v.

TOYOTA MOTOR SALES, U.S.A., INC.,  
et al.,

Defendants.

Case No 2:21-cv-02248-ODW (JDEx)

**ORDER GRANTING  
DEFENDANTS’ MOTION TO  
DISMISS [27]**

**I. INTRODUCTION**

Plaintiff Hovsep Hagopian initiated this putative class action based on his allegations the 2019 Lexus LC is equipped with a defective brake system that “generates an extremely loud squealing noise” when the brakes are engaged. (First Am. Compl. (“FAC”) ¶ 1, ECF No. 21.) Defendants Toyota Motor Sales, U.S.A, Inc., (“TMS”), and Toyota Motor Engineering & Manufacturing North America, Inc. (“TEMA”), collectively, (“Toyota”) move to dismiss for failure to state a claim. (Mot. to Dismiss (“Mot.”), ECF No. 27.) For the reasons discussed below, the Court **GRANTS** Toyota’s Motion.<sup>1</sup>

<sup>1</sup> After carefully considering the papers filed in connection with the Motion, the Court deemed the matter appropriate for decision without oral argument. Fed. R. Civ. P. 78; C.D. Cal. L.R. 7-15.

## II. BACKGROUND

1  
2 Hagopian leased a 2019 Lexus LC (the “Vehicle”), which is equipped with a  
3 “high-friction” “high-performance” brake system. (*Id.* ¶¶ 3, 6.) Hagopian claims the  
4 Vehicle “contain[s] one or more design and/or manufacturing defects, including but  
5 not limited to defects contained in the . . . brakes that cause a loud squealing noise  
6 when the brakes are applied.” (*Id.* ¶ 25.)

7 Based on these allegations Hagopian asserts seven claims: (1) breach of express  
8 warranty; (2) breach of implied warranty; (3) breach of warranty under the  
9 Song-Beverly Consumer Warranty Act; (4) breach of warranty under the  
10 Magnuson-Moss Warranty Act; (5) violations of California Business and Professions  
11 Code section 17200; (6) violations of California Business and Professions Code  
12 section 17500; and (7) nuisance. (FAC ¶¶ 66–166.)

## III. LEGAL STANDARD

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14 A court may dismiss a complaint under Federal Rule of Civil Procedure  
15 (“Rule”) 12(b)(6) for lack of a cognizable legal theory or insufficient facts pleaded to  
16 support an otherwise cognizable legal theory. *Balistreri v. Pacifica Police Dep’t*,  
17 901 F.2d 696, 699 (9th Cir. 1988). To survive a dismissal motion, a complaint need  
18 only satisfy the minimal notice pleading requirements of Rule 8(a)(2)—“a short and  
19 plain statement of the claim.” *Porter v. Jones*, 319 F.3d 483, 494 (9th Cir. 2003). But  
20 factual “allegations must be enough to raise a right to relief above the speculative  
21 level.” *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007). That is, the complaint  
22 must “contain sufficient factual matter, accepted as true, to state a claim to relief that  
23 is plausible on its face.” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (internal  
24 quotation marks omitted). Testing the plausibility standard is a “context-specific task  
25 that requires the reviewing court to draw on its judicial experience and common  
26 sense.” *Id.* at 679. On a Rule 12(b)(6) motion, a court is generally limited to the  
27 pleadings and must construe all “factual allegations set forth in the complaint . . . as  
28 true and . . . in the light most favorable” to the plaintiff. *Lee*, 250 F.3d at 679.

1 However, a court need not blindly accept conclusory allegations, unwarranted  
2 deductions of fact, and unreasonable inferences. *Sprewell v. Golden State Warriors*,  
3 266 F.3d 979, 988 (9th Cir. 2001).

4 Where a district court grants a motion to dismiss, it should generally provide  
5 leave to amend unless “it is clear . . . the complaint could not be saved by any  
6 amendment.” *Manzarek v. St. Paul Fire & Marine Ins. Co.*, 519 F.3d 1025, 1034  
7 (9th Cir. 2008); *see* Fed. R. Civ. P. 15(a) (“The court should freely give leave when  
8 justice so requires”).

#### 9 IV. DISCUSSION

10 Hagopian claims that the high-performance brake system in the Vehicle is  
11 defective. (FAC ¶ 25.) In its Motion to Dismiss, Toyota argues that Hagopian’s entire  
12 action revolves around one vague allegation—the Vehicle “contains one or more  
13 design and/or manufacturing defects . . . that cause a loud squealing noise when the  
14 brakes are applied.” (Mot. 4–5 (quoting FAC ¶ 25).) Toyota contends that Hagopian’s  
15 FAC is deficient under Rule 8(a)(2) because Hagopian fails to include facts regarding  
16 “any specific design feature, component, mechanism, or function” that renders the  
17 Vehicle defective. (*Id.*)

18 Rule 8(a)(2) requires a complaint to contain a “short and plain statement of the  
19 claim showing that the pleader is entitled to relief.” “The level of factual specificity  
20 necessary to plead claims based on product defects presents a difficult question that  
21 the Ninth Circuit has not squarely addressed, and on which district courts have not  
22 reached consensus.” *Clark v. Am. Honda Motor Co.*, No. CV 20-03147 AB (MRWx),  
23 2021 WL 1186338, at \*3 (C.D. Cal. Mar. 25, 2021). However, “a complaint must  
24 contain sufficient allegations of underlying facts to give fair notice and to enable the  
25 opposing party to defend itself effectively, and those allegations must plausibly  
26 suggest an entitlement to relief.” *Id.* (internal quotation marks and brackets omitted).  
27 “In the context of product defect claims, district courts in the Ninth Circuit have often  
28 held that a complaint provides fair notice of the defect if it (1) identifies the particular

1 part or system affected by the defect, and (2) describes the problems allegedly caused  
2 by the defect.” *Id.* (collecting cases). Describing only the effects of an alleged defect  
3 is insufficient. *See DeCoteau v. FCA US LLC*, No. 2:15-cv-00020-MCE-EFB,  
4 2015 WL 6951296, at \*3 (E.D. Cal. Nov. 10, 2015).

5 For example in *Clark*, 2021 WL 1186338, the court found allegations that  
6 “various systems and components” in a vehicle were defective satisfied Rule 8(a)(2)  
7 because the plaintiffs alleged those systems and components caused “sudden,  
8 unintended and uncontrollable deceleration, engine stalls, hesitation upon depressing  
9 the gas pedal, abrupt shutdowns and shifts into neutral while driving.” The plaintiffs  
10 in *Clark* also alleged “[the] issues [were] the result of a miscommunication among the  
11 computers and software which controll[ed] the engine, throttle[,] and transmission.”  
12 *Id.* Thus, the Court held the plaintiffs “sufficiently identified the components and  
13 systems involved in the alleged defect, and the resulting symptoms of the defect,”  
14 which satisfied Rule 8. *Id.*

15 Here, in contrast, Hagopian’s vague allegations fail to sufficiently identify the  
16 components and systems involved and the resulting symptoms of the purported defect.  
17 Hagopian repeatedly alleges that the Vehicle “contains one or more design and/or  
18 manufacturing defects, including but not limited to . . . brakes that cause a loud  
19 squealing noise when the brakes are applied.” (FAC ¶ 25.) This fails to sufficiently  
20 identify the component of the brake system that is purportedly defective and merely  
21 alleges the effect of the supposed defect (i.e., loud noise). Moreover, Hagopian’s  
22 allegations that the brake noise is a result of a defect is not plausible. In the FAC,  
23 Hagopian acknowledges that Toyota’s website contains a disclosure stating “brake  
24 noise/squeal may result due to the inherent characteristic of the materials and the  
25 design of the brake pads.” (*Id.* ¶ 4.) Thus, it is implausible that a known and  
26 disclosed characteristic of the type of high-friction, high-performance brakes used in  
27 Hagopian’s Vehicle rendered the brake system defective. Therefore, the Court finds  
28 that Hagopian’s allegations fail to satisfy Rule 8(a)(2).

