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

HUGO DE ANDA,  
  
Plaintiff,  
  
v.  
  
FORD MOTOR COMPANY, INC. et al.,  
  
Defendants.

Case № 2:22-cv-04064-ODW (MAAx)

**ORDER DENYING  
MOTION TO DISMISS [21]**

**I. INTRODUCTION**

Plaintiff Hugo De Anda brings this putative class action against Defendant Ford Motor Company, Inc. for allegedly failing to provide a required emissions warranty for the vehicles that Ford distributes in California. (First Am. Compl. (“FAC”), ECF No. 19.) Ford now moves to dismiss De Anda’s First Amended Complaint for lack of subject matter jurisdiction and failure to state a claim under Federal Rules of Civil Procedure (“Rule” or “Rules”) 12(b)(1) and 12(b)(6). (Mot. Dismiss FAC (“Motion” or “Mot.”), ECF No. 21-1.) For the following reasons, the Court **DENIES** Ford’s Motion.<sup>1</sup>

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<sup>1</sup> Having carefully considered 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.

1 **II. BACKGROUND**

2 **A. Regulatory Framework**

3 This case arises out of Ford’s alleged violations of California’s regulations for  
4 the emissions of vehicles sold within California. These regulations require, among  
5 other things, manufacturers to provide special warranty coverage for a vehicle’s  
6 emission control system (“California Emissions Warranty”).

7 Specifically, manufacturers must provide a three-year/50,000-mile warranty for  
8 “any part . . . which affects any regulated emission” (“warranted parts”). *See* Cal.  
9 Code Regs. tit. 13, §§ 2035(c)(3)(B), 2037(b)(2). For any warranted part that is  
10 “high-priced” (“high-priced warranted parts”), manufacturers must provide a seven-  
11 year/70,000-mile warranty. *See* §§ 2037(b)(3), (c). A warranted part is “high priced”  
12 if its “replacement cost” exceeds a “cost limit” defined by a formula that considers the  
13 model year and the Consumer Price Index (“CPI”). *See id.* § 2037(c). A part’s  
14 replacement cost is defined as “the retail cost to a vehicle owner”—including the part,  
15 labor, and diagnosis—in “the highest-cost metropolitan area of California.” *See id.*  
16 § 2037(c)(2). For model year 2018 passenger cars, the cost limit was \$610.00. (FAC  
17 ¶ 99.)

18 Manufacturers must identify all high-priced warranted parts in their applications  
19 to certify new vehicle models with the California Air Resources Board (“CARB”).  
20 *See* Cal. Code Regs. tit. 13, § 2037(c)(1)(B).

21 California’s regulations also require vehicles to be equipped with an onboard  
22 diagnostic system (“OBD II system”), which “shall be capable of detecting  
23 malfunctions of the [vehicle’s] monitored emission systems, illuminating a  
24 malfunction indicator light (MIL) to notify the vehicle operator of detected  
25 malfunctions.” *Id.* § 1968.2(a). The regulations also require the OBD II system to  
26 store fault codes identifying detected malfunctions. *Id.*

1 **B. CARB Declaration and Consumer Complaint**

2 De Anda alleges that CARB issued a declaration to educate courts about  
3 “CARB’s interpretation and implementation of California’s warranty requirements.”  
4 (FAC ¶ 66.) According to De Anda, the declaration provides that “warranted parts”  
5 include any components that can or are required to illuminate the malfunction  
6 indicator light in the event of a malfunction, even if the primary function of the  
7 component is not emission control. (*Id.* ¶ 67.)

8 De Anda also alleges that, in response to a consumer complaint concerning a  
9 2007 Nissan vehicle, CARB stated that a transmission replacement due to a  
10 malfunctioning pressure control solenoid should be covered under the California  
11 Emissions Warranty because a fault code was triggered which caused the malfunction  
12 indicator light to illuminate. (*Id.* ¶ 73.)

13 **C. De Anda’s Allegations**

14 Plaintiff De Anda owns a 2018 Ford Mustang (“Vehicle”), which he purchased  
15 and registered in California. (*Id.* ¶ 43.) Defendant Ford sells vehicles, including 2018  
16 Ford Mustangs, in California. (*Id.* ¶ 39.)

17 On March 15, 2022, De Anda brought the Vehicle to a Ford-authorized repair  
18 facility because the Vehicle’s check engine light was on and the Vehicle was jerking  
19 under certain conditions. (*Id.* ¶ 44.) The Vehicle had 62,128 miles on it at the time.  
20 (*Id.*)

21 First, the repair facility identified an issue with the Vehicle’s catalytic converter  
22 and replaced the converter. (*See* Decl. Michael L. Turrill ISO Mot. (“Turrill Decl.”)  
23 Ex. B (“Repair Order”) 1, ECF No. 21-4.<sup>2</sup>) This repair is not the subject of this  
24 litigation.

25 Second, the repair facility verified the jerking condition and found that the  
26 “trans[mission] slips and has harsh engagements.” (*Id.* (capitalization omitted).)

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28 <sup>2</sup> The Court may consider the Repair Order under the doctrine of incorporation by reference. (*See*  
*infra* Part III.)

1 De Anda alleges that the repair team also identified the presence of the following  
2 diagnostic test codes: P2708 (indicating a defective transmission solenoid) and P2705  
3 (detecting a problem with the way the transmission shifts). (*See* FAC ¶ 46.)

4 Ultimately, the repair team concluded that it was “neces[s]ary to remove and  
5 tear down trans[mission] due to internal component failure.” (Repair Order 1  
6 (capitalization omitted).) De Anda was charged a \$170.00 diagnostic fee. (FAC  
7 ¶ 49.) In addition, De Anda alleges that the labor cost to remove and replace the  
8 transmission, excluding any repairs, far exceeds \$1,000. (*Id.* ¶ 48.) Ford refused to  
9 cover the diagnostic fee and the recommended repair. (*Id.* ¶ 49.)

10 De Anda alleges that Ford unlawfully denied warranty coverage for the  
11 transmission repair, which involved high-priced emission parts that should have been  
12 covered under Ford’s seven-year/70,000-mile California Emissions Warranty.  
13 (*Id.* ¶ 55.) De Anda further alleges that Ford intentionally does not identify all high-  
14 priced warranted parts in its application to certify its vehicle model in order to reduce  
15 its warranty exposure. (*Id.* ¶¶ 56–58.)

16 On June 14, 2022, De Anda filed this putative class action against Ford.  
17 (Compl., ECF No. 1.) After Ford moved to dismiss the Complaint, De Anda filed the  
18 First Amended Complaint, alleging a single cause of action for violation of  
19 California’s Unfair Competition Law, Cal. Bus. & Prof. Code § 17200 *et seq.*  
20 (“UCL”). (FAC ¶¶ 123–53.) De Anda seeks restitution for Ford’s failure to provide a  
21 warranty in compliance with California’s regulations and an injunction compelling  
22 Ford to properly identify and cover the transmission and high-cost transmission parts  
23 under the California Emissions Warranty. (*Id.* ¶¶ 144–45.) Ford now moves to  
24 dismiss De Anda’s First Amended Complaint. (Mot.) The Motion is fully briefed.  
25 (Opp’n, ECF No. 23; Reply, ECF No. 25; *see also* Notice Suppl. Authority, ECF  
26 No. 32; Resp. Notice Suppl. Authority, ECF No. 33.)

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1 Ford also requests that the Court take judicial notice of three documents from  
2 CARB on the basis that they “are government documents publicly available on  
3 CARB’s website.” (Def.’s RJN 3.) “Under [Federal Rule of Evidence] 201, the court  
4 can take judicial notice of ‘[p]ublic records and government documents available from  
5 reliable sources on the Internet,’ such as websites run by governmental agencies.”  
6 *Gerritsen v. Warner Bros. Ent. Inc.*, 112 F. Supp. 3d 1011, 1033 (C.D. Cal. 2015); *see*  
7 *also In re Reformulated Gasoline (RFG) Antitrust & Patent Litig.*, No. 05-cv-1671-  
8 CAS (VBKx), 2006 WL 7123690, at \*1 n.3 (C.D. Cal. June 21, 2006) (taking judicial  
9 notice of “CARB’s Final Statement of Reasons dated October 1992”). Accordingly,  
10 the Court grants Ford’s request and takes judicial notice of the three documents from  
11 CARB.

12 Additionally, in connection with the Opposition, De Anda requests that the  
13 Court take judicial notice of two court orders available on PACER and issued in the  
14 Northern District of California and Central District of California. (Pl.’s Req. Judicial  
15 Notice 1, ECF No. 24.) The Court denies this request as moot because the Court need  
16 not take judicial notice of case law to consider it.

#### 17 IV. LEGAL STANDARDS

18 Ford moves to dismiss the First Amended Complaint pursuant to both  
19 Rule 12(b)(1) for lack of subject matter jurisdiction and Rule 12(b)(6) for failure to  
20 state a claim. (*See generally* Mot.)

##### 21 A. Rule 12(b)(1)—Lack of Subject Matter Jurisdiction

22 Pursuant to Rule 12(b)(1), a party may move to dismiss based on a court’s lack  
23 of subject matter jurisdiction. *See* Fed. R. Civ. P. 12(b)(1). “A Rule 12(b)(1)  
24 jurisdictional attack may be facial or factual.” *Safe Air for Everyone v. Meyer*,  
25 373 F.3d 1035, 1039 (9th Cir. 2004). A facial attack “accepts the truth of the  
26 plaintiff’s allegations but asserts that they are insufficient on their face to invoke  
27 federal jurisdiction.” *Leite v. Crane Co.*, 749 F.3d 1117, 1121 (9th Cir. 2014)  
28 (internal quotation marks omitted). Conversely, a factual attack “contests the truth of

1 the plaintiff’s factual allegations, usually by introducing evidence outside the  
2 pleadings.” *Id.* The party attempting to invoke a court’s jurisdiction bears the burden  
3 of proof for establishing jurisdiction. *See Sopcak v. N. Mountain Helicopter Serv.*,  
4 52 F.3d 817, 818 (9th Cir. 1995).

5 **B. Rule 12(b)(6)—Failure to State a Claim**

6 A court may dismiss a complaint under Rule 12(b)(6) for lack of a cognizable  
7 legal theory or insufficient facts pleaded to support an otherwise cognizable legal  
8 theory. *Balistreri v. Pacifica Police Dep’t*, 901 F.2d 696, 699 (9th Cir. 1990). To  
9 survive a dismissal motion, a complaint need only satisfy “the minimal notice  
10 pleading requirements of Rule 8(a)(2)” — “a short and plain statement of the claim.”  
11 *Porter v. Jones*, 319 F.3d 483, 494 (9th Cir. 2003). The factual “allegations must be  
12 enough to raise a right to relief above the speculative level.” *Bell Atl. Corp. v.*  
13 *Twombly*, 550 U.S. 544, 555 (2007). Pursuant to this standard, the complaint must  
14 “contain sufficient factual matter, accepted as true, to state a claim to relief that is  
15 plausible on its face.” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (internal quotation  
16 marks omitted).

17 The determination of whether a complaint satisfies the plausibility standard is a  
18 “context-specific task that requires the reviewing court to draw on its judicial  
19 experience and common sense.” *Id.* at 679. A court is generally limited to the  
20 pleadings and “must construe all factual allegations set forth in the complaint . . . as  
21 true and . . . in the light most favorable” to the plaintiff. *Lee v. City of Los Angeles*,  
22 250 F.3d 668, 688 (9th Cir. 2001) (internal quotation marks omitted). However, a  
23 court need not blindly accept “allegations that are merely conclusory, unwarranted  
24 deductions of fact, or unreasonable inferences.” *Sprewell v. Golden State Warriors*,  
25 266 F.3d 979, 988 (9th Cir. 2001). Ultimately, there must be sufficient factual  
26 allegations “to give fair notice and to enable the opposing party to defend itself  
27 effectively,” and the “allegations that are taken as true must plausibly suggest an  
28 entitlement to relief, such that it is not unfair to require the opposing party to be

1 subjected to the expense of discovery and continued litigation.” *Starr v. Baca*,  
2 652 F.3d 1202, 1216 (9th Cir. 2011).

3 In addition, Rule 9(b) mandates a heightened pleading standard for cases  
4 sounding in fraud.<sup>3</sup> *See Kearns v. Ford Motor Co.*, 567 F.3d 1120, 1125 (9th Cir.  
5 2009). Under Rule 9(b)’s heightened pleading standard, “a party must state with  
6 particularity the circumstances constituting fraud,” including “‘the who, what, when,  
7 where, and how’ of the misconduct charged.” *Id.* at 1124.

## 8 V. DISCUSSION

9 The Court addresses Ford’s arguments for dismissal under Rules 12(b)(1) for  
10 lack of subject matter jurisdiction and 12(b)(6) for failure to state a claim.

### 11 A. Subject Matter Jurisdiction

12 Ford argues that this Court lacks subject matter jurisdiction because De Anda’s  
13 action is not ripe and, thus, De Anda lacks standing. (Mot. 3–6.)

14 The basic rationale of the ripeness doctrine “is to prevent the courts, through  
15 premature adjudication, from entangling themselves in abstract disagreements.”  
16 *Thomas v. Union Carbide Agric. Prods. Co.*, 473 U.S. 568, 580 (1985). The Ninth  
17 Circuit cautions courts that their role is “neither to issue advisory opinions nor to  
18 declare rights in hypothetical cases, but to adjudicate live cases or controversies  
19 consistent with the powers granted the judiciary in Article III of the Constitution.”  
20 *Thomas v. Anchorage Equal Rts. Comm’n*, 220 F.3d 1134, 1138 (9th Cir. 2000).  
21 Ripeness becomes an issue when a case is anchored in future events that may not  
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23 <sup>3</sup> The parties dispute whether Rule 9(b)’s heightened pleading standard applies. (*See* Mot. 7;  
24 Opp’n 10–11.) Here, De Anda alleges that Ford “intentionally” failed to identify covered parts in its  
25 warranties in a systematic effort to reduce its warranty exposure. (*See* FAC ¶¶ 56, 136–37.) As  
26 such, De Anda’s claims are grounded in fraud. *See Vess v. Ciba-Geigy Corp. USA*, 317 F.3d 1097,  
27 1103–04 (9th Cir. 2003) (holding that, even if fraud is not generally a required element of a claim, a  
28 claim that relies on a “unified course of fraudulent conduct” is “grounded in fraud” and must satisfy  
the particularity requirement of Rule 9(b)); *see also Martin v. Ford Motor Co.*, No. 20-cv-10365-  
DMG (JPRx), 2022 WL 2062470, at \*2 (C.D. Cal. Feb. 17, 2022) (applying Rule 9(b) to UCL claim  
alleging defendant omitted covered parts from vehicle’s warranty).



1 occur as anticipated, or at all. *See Pac. Gas & Elec. Co. v. State Energy Res.*  
2 *Conservation & Dev. Comm'n*, 461 U.S. 190, 200–01 (1983). If a case is not ripe for  
3 adjudication, then courts lack subject matter jurisdiction and should dismiss on that  
4 basis. *St. Clair v. City of Chico*, 880 F.2d 199, 201–02 (9th Cir. 1989). “The burden  
5 of establishing ripeness . . . rests on the party asserting the claim.” *Colwell v. Dep’t of*  
6 *Health & Hum. Servs.*, 558 F.3d 1112, 1121 (9th Cir. 2009).

7 Here, Ford argues that De Anda alleges only a general transmission issue in the  
8 Vehicle and fails to identify the transmission components that require servicing.  
9 (Mot. 3–6.) Ford asserts the CARB regulations require Ford to warrant some, but not  
10 all, transmission components as high-priced warranted parts. (*Id.* at 4.) Moreover,  
11 Ford argues that the Repair Order indicates that “further investigation was needed to  
12 identify which transmission component(s) required servicing.” (*Id.*) Thus, Ford  
13 argues that De Anda’s claim is not ripe until he identifies a specific warranted part  
14 that is defective. (*Id.* at 4–5.)

15 In response, De Anda argues that the Repair Order shows the Vehicle’s check  
16 engine light was illuminated and identifies two fault codes indicating defects in the  
17 transmission solenoid (fault code P2708) and the transmission pump or transmission  
18 speed sensor (fault code P2705). (Opp’n 4–7.) De Anda argues that these codes  
19 identify emissions-related defects and the components that need replacement. (*Id.*)  
20 Moreover, putting aside the facts of De Anda’s particular repair, De Anda alleges that  
21 Ford engages in a systemic business practice of intentionally failing to identify the  
22 transmission and high-priced transmission components in its vehicle warranties in  
23 violation of California’s emissions regulations. (FAC ¶ 136.)

24 The Court finds that De Anda’s allegations are sufficient to establish ripeness.  
25 Accordingly, the Court denies Ford’s Motion to Dismiss under Rule 12(b)(1) for lack  
26 of ripeness.

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1 **B. Sufficiency of the Pleadings**

2 To begin with, Ford argues that De Anda fails to state an affirmative  
3 misrepresentation claim. (Mot. 7–9.) However, in the Opposition, De Anda clarifies  
4 that his “claim is predicated on Ford’s omissions, not misrepresentations.”  
5 (Opp’n 13.) Accordingly, the Court denies as moot Ford’s argument for dismissal  
6 based on De Anda’s failure to state an affirmative misrepresentation.

7 Next, Ford makes several arguments for why De Anda fails to state a plausible  
8 omission claim.<sup>4</sup> (Mot. 9–25.)

9 *1. Coverage under the California Emissions Warranty*

10 The primary dispute in this case concerns whether the transmission and  
11 transmission components, including the transmission solenoid, “affect[] any regulated  
12 emission” and, thus, should be covered under the California Emissions Warranty. *See*  
13 Cal. Code Regs. tit. 13, § 2035(c)(3). De Anda alleges that a malfunctioning  
14 transmission will increase regulated emissions, as measured in grams of emissions per  
15 mile driven, by causing “a delay in shift time, a delay in acceleration, excessive  
16 transmission slipping, an increase in the engine’s revolutions per minute beyond what  
17 is normal, a deviation from the vehicle’s shift pattern as designed, or a decrease in fuel  
18 economy.” (FAC ¶ 78.)

19 Ford argues, among other things, that De Anda conflates (1) whether a given  
20 vehicle component affects regulated emissions when it is operating normally with  
21 (2) whether a given component contains a defect that causes it to affect regulated  
22 emissions. (Mot. 15.) However, this may be a distinction without a difference. If a

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24 <sup>4</sup> Among these arguments, Ford contends that De Anda must allege that Ford deceived CARB by  
25 excluding certain transmission components from its list of high-priced warranted parts submitted to  
26 CARB. (Mot. 19–20.) Although CARB may reject or require modification to a manufacturer’s list  
27 of high-priced warranted parts, *see* Cal. Code Regs. tit. 13, § 2037(c)(6), it does not follow that a  
28 manufacturer’s list of high-priced warranted parts is complete merely because CARB did not reject it  
or request any modifications. Indeed, Ford identifies no authority stating that CARB’s inaction is  
proof of a manufacturer’s compliance with the CARB regulations or that a manufacturer must  
deceive CARB in order to violate the CARB regulations.

1 given vehicle component affects regulated emissions when it is defective, then it is  
2 plausible that it is a component whose operation affects regulated emissions.  
3 Regardless, as discussed further below, the question of whether a vehicle component  
4 affects regulated emissions is a factual one best reserved for summary judgment.

5 Ford argues that De Anda’s sweeping interpretation of what constitutes a  
6 warranted part would produce absurd results such that “an underinflated tire or a  
7 sticky brake pad—both of which can result in decreased fuel economy and increased  
8 greenhouse gas emissions—should be covered by the emissions control system  
9 warranty.” (Mot. 16.)

10 The parties cite district court decisions involving similar circumstances as those  
11 at issue here, but which reach different outcomes. For example, in *Velasco v.*  
12 *Chrysler Group LLC*, the plaintiff argued that the vehicle’s Total Integrated Power  
13 Module—a computer that distributes power to the vehicle’s electrical systems—is  
14 emissions-related because it affects or controls other parts of the car that are  
15 emissions-related. No. 13-cv-08080-DDP (VBKx), 2014 WL 4187796, at \*1  
16 (C.D. Cal. Aug. 22, 2014). The court found that plaintiff’s theory lacked “any logical  
17 limiting principle” because, “under the logic of Plaintiffs’ argument, a multitude of  
18 motor vehicle components would be emissions-related parts because they indirectly  
19 affect emissions by affecting or controlling emissions[-]related parts.” *Id.* at 13.  
20 Therefore, the court concluded that California’s emissions regulations cannot be  
21 “reasonably . . . construed to have such a sweeping scope” and dismissed the  
22 plaintiff’s Magnuson-Moss Warranty Act claim. *Id.* at 13.

23 On the other hand, in *Martin v. Ford Motor Company*, the plaintiff alleged that  
24 Ford failed to cover her repairs to a defective Motor Electronics Cooling System  
25 Pump (“MECS”), which Ford did not consider to be a vehicle part that affects  
26 emissions. 2022 WL 2062470, at \*2. There, the court concluded that it was  
27 premature to interpret the scope of the California Emissions Warranty and whether the  
28 MECS falls within it “because just how directly the MECS affects emissions involves

1 too many factual questions.” *Id.* at 3. Moreover, the court distinguished the plaintiff’s  
2 claims from those in *Velasco* because the plaintiff “articulate[d] a more discrete—  
3 albeit circuitous—path towards affecting emissions than simply saying that the part  
4 affects another emissions-related part.” *Id.*

5 Here, the Court finds the approach articulated in *Martin* to be more persuasive  
6 under the present circumstances. De Anda alleges that a malfunctioning transmission  
7 affects regulated emissions in particular ways—by causing “a delay in shift time, a  
8 delay in acceleration, excessive transmission slipping, an increase in the engine’s  
9 revolutions per minute beyond what is normal, a deviation from the vehicle’s shift  
10 pattern as designed, or a decrease in fuel economy.” (FAC ¶ 78.) Thus, as in *Martin*,  
11 De Anda alleges the transmission impacts emissions in discrete ways, rather than  
12 alleging that it merely affects other emissions-related parts. (*Id.*) Determining how  
13 directly the transmission affects emissions is a question of fact that is best reserved for  
14 summary judgment.

15 Accordingly, at this stage, De Anda may allege that the transmission and its  
16 components, including the transmission solenoid, are emissions-related parts.<sup>5</sup>

## 17 2. *De Anda’s Repair*

18 Ford makes several arguments for why De Anda’s repair in particular should  
19 not be covered by the California Emissions Warranty. (Mot. 10–14.) However, as  
20 alleged, De Anda’s UCL claims hinge on Ford’s omission of the transmission and its  
21 high-priced components from its warranty. (FAC ¶ 129.) De Anda alleges that this  
22 omission is an unlawful and unfair business practice that damages the putative class  
23 members, including by requiring them to pay out-of-pocket for repairs that should be

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24 <sup>5</sup> The parties dispute whether, under the CARB regulations, a vehicle component is a warranted part  
25 that affects emissions solely because it triggers a malfunction indicator light to illuminate. (*See*  
26 Mot. 12–14; Opp’n 8–9.) “Although the regulations require coverage when a defect in an emissions-  
27 related part causes the check-engine light to illuminate, that does not mean that any defect that  
28 triggers the light is emissions-related.” *Martin*, 2022 WL 2062470, at \*3 n.5. However, the Court  
need not decide this issue now because it finds that De Anda plausibly alleges that the transmission  
and its components affect emissions beyond solely triggering a malfunction indicator light to  
illuminate. (*See* FAC ¶ 78.)

1 covered and to overpay for their vehicles when they are sold without a compliant  
2 California Emissions Warranty. (*Id.* ¶¶ 14–15, 138.) Thus, De Anda’s claim does not  
3 hinge on his repair alone. (*See* Opp’n 12 (“A major focus of Plaintiff’s action is to  
4 compel Ford to comply with the Regulations and properly identify all parts that ‘affect  
5 regulated emissions’ (i.e., ‘emissions-related’ parts) that Ford has, to date, failed to  
6 identify and include in Ford’s warranty books.”).)

7       Regardless, the Court finds that De Anda states a plausible claim for coverage  
8 under the California Emissions Warranty. De Anda alleges that he experienced  
9 jerking in his vehicle under certain conditions, which the repair team verified. (*Id.*  
10 ¶¶ 45–46.) He further alleges that his check engine light was on and that the repair  
11 team identified two diagnostic trouble codes (indicating a defective transmission  
12 solenoid and a problem with the way the transmission shifts). (*Id.* ¶¶ 46–47.) De  
13 Anda alleges the repair team indicated “it was necessary to remove and tear down the  
14 transmission due to internal component failure,” which would necessarily exceed the  
15 cost limit for a 2018 vehicle. (*Id.* ¶¶ 48, 98.) Finally, De Anda alleges that CARB  
16 has, in past circumstances, considered a transmission replacement due to a  
17 malfunctioning pressure control solenoid to be a covered repair under the California  
18 Emissions Warranty. (*Id.* ¶¶ 72–76.) Although not dispositive, this helps to push De  
19 Anda’s claim over the plausibility threshold. *See Iqbal*, 556 U.S. at 678.

### 20       3. UCL Claim

21       The UCL prohibits “any unlawful, unfair, or fraudulent business act or  
22 practice.” Cal. Bus. & Prof. Code § 17200. The “unlawful” prong prohibits  
23 “anything that can properly be called a business practice and that at the same time is  
24 forbidden by law.” *Herskowitz v. Apple Inc.*, 940 F. Supp. 2d 1131, 1145 (N.D. Cal.  
25 2013) (*quoting Cel-Tech Commc’ns, Inc. v. L.A. Cellular Tel. Co.*, 20 Cal. 4th 163,  
26 180 (1999)). The “unfair” prong “creates a cause of action for a business practice that  
27 is unfair even if not proscribed by some other law.” *In re Adobe Sys. Priv. Litig.*,  
28 66 F. Supp. 3d 1197, 1226 (N.D. Cal. 2014).

1 Ford argues that De Anda fails to plead a claim under the “unlawful” and  
2 “unfair” prongs of the UCL because he fails to adequately allege that the components  
3 at issue are warranted under the California Emissions Warranty and that Ford violated  
4 the CARB regulations. (Mot. 22–23.) However, as discussed above, the Court finds  
5 that De Anda sufficiently alleges that the transmission and its components are  
6 warranted parts. (*See supra* Part V.B.1.) De Anda alleges that Ford engages in a  
7 systemic business practice of omitting the transmission and high-priced transmission  
8 components from its warranties in violation of the CARB regulations. (FAC ¶ 136.)  
9 These allegations are sufficient to state a claim under the unlawful and unfair prongs  
10 of the UCL.

#### 11 4. *Allegations of Knowledge*

12 Ford argues that knowledge is a required element under Rule 9(b) because De  
13 Anda’s claim is grounded in fraud. (Mot. 20–22.) Ford further argues that De Anda  
14 insufficiently pleads Ford’s knowledge that its warranty omitted a covered  
15 component. (*Id.*)

16 Although knowledge is not generally a required element of a UCL claim, De  
17 Anda’s claim relies on a “unified course of fraudulent conduct” and is “grounded in  
18 fraud.” *Vess*, 317 F.3d at 1103–04. Thus, De Anda’s UCL claim must satisfy the  
19 particularity requirement of Rule 9(b). *See id.* “[A]lthough Rule 9(b) permits  
20 knowledge and intent to be pled in general terms, a plaintiff still must allege sufficient  
21 underlying facts from which a court may reasonably infer that a party acted with the  
22 requisite state of mind.” *S.F. Tech., Inc. v. Glad Prod. Co.*, No. 5:10-cv-00966-JF  
23 (PSGx), 2011 WL 940852, at \*3 (N.D. Cal. Mar. 18, 2011) (internal quotation marks  
24 omitted).

25 De Anda asserts that Ford engages in “a uniform, systematic, and intentional  
26 business practice . . . to minimize the amount of money that Ford has to pay out in  
27 warranty claims” by failing to properly identify transmission and transmission  
28 components as high-priced warranted parts. (FAC ¶ 137.) De Anda alleges that, in

1 response to a consumer complaint concerning another vehicle, CARB determined that  
2 a transmission replacement due to a malfunctioning pressure control solenoid should  
3 be covered under the California Emissions Warranty. (*Id.* ¶ 73.) De Anda further  
4 alleges that CARB issued “a memo notifying all manufacturers of the requirements of  
5 the California Emissions Warranty and informing them of their obligations to meet  
6 these requirements.” (*Id.* ¶ 75.) Viewing these allegations in the light most favorable  
7 to De Anda, the Court finds that De Anda sufficiently alleges Ford’s knowledge of its  
8 obligations under the CARB regulations and that its warranty omitted covered parts.

9       5.     *Equitable Relief*

10       Finally, Ford argues that De Anda’s UCL claim should be dismissed because he  
11 has not established that he lacks an inadequate remedy at law and he fails to  
12 adequately allege a threat of future injury. (Mot. 24–25.)

13       “[E]quitable relief is not appropriate where an adequate remedy exists at law.”  
14 *Schroeder v. United States*, 569 F.3d 956, 963 (9th Cir. 2009). In *Sonner v. Premium*  
15 *Nutrition Corporation*, the Ninth Circuit held that “[t]he traditional principles  
16 governing equitable remedies in federal courts, including the requisite inadequacy of  
17 legal remedies, apply when a party requests restitution under the UCL and [Consumer  
18 Legal Remedies Act (CLRA)] in a diversity action.” 971 F.3d 834, 844 (9th Cir.  
19 2020). Thus, a plaintiff “must establish that she lacks an adequate remedy at law  
20 before securing equitable restitution for past harm under the UCL and CLRA.” *Id.*;  
21 *see also Klaehn v. Cali Bamboo LLC*, No. 21-cv-55738, 2022 WL 1830685, at \*3  
22 (9th Cir. June 3, 2022) (applying *Sonner* and affirming dismissal of UCL claims  
23 where “Plaintiffs failed to make any plausible allegation that they lacked an adequate  
24 remedy at law”).

25       Here, De Anda seeks equitable relief in the form of restitution and injunctive  
26 relief. He alleges that Ford’s failure to comply with the CARB regulations contributes  
27 to increased emissions, thereby polluting the air and harming the environment in  
28 contravention of the California Emissions Warranty. (FAC ¶¶ 145–52.) De Anda

1 further alleges that damages would not be sufficient in this case because Ford is  
2 uniquely capable of identifying which components in its vehicles are high-priced  
3 warranted parts, and Ford should be directed to identify those components. (*Id.*  
4 ¶ 153.) In light of these allegations, the Court finds De Anda plausibly alleges an  
5 inadequate remedy at law. *See Amoco Prod. Co. v. Vill. of Gambell, AK*, 480 U.S.  
6 531, 545 (1987) (“Environmental injury, by its nature, can seldom be adequately  
7 remedied by money damages and is often permanent or at least of long duration, *i.e.*,  
8 irreparable.”).

9 Moreover, to be entitled to injunctive relief, De Anda must demonstrate that his  
10 potential injury is “certainly impending.” *See Clapper v. Amnesty Int’l USA*, 568 U.S.  
11 398, 409 (2013). Among other things, De Anda alleges that he cannot pay for the  
12 repair to his Vehicle, so his Vehicle does not shift properly, causing delays in  
13 acceleration and surging. (FAC ¶ 143.) De Anda further alleges that, as a result of  
14 Ford’s failure to provide a compliant California Emissions Warranty, his Vehicle is  
15 unsafe and emits increased regulated emissions. (*Id.*) Additionally, De Anda alleges  
16 that Ford, by continuing to violate the CARB regulations, causes its vehicles to release  
17 increased harmful vehicle emissions, polluting the environment. (*See id.* ¶¶ 150–52.)  
18 The Court finds that De Anda plausibly alleges an impending harm, sufficient to state  
19 a claim for injunctive relief.

## 20 VI. CONCLUSION

21 For the reasons discussed above, the Court **DENIES** Ford’s Motion to Dismiss.  
22 (ECF No. 21.) **IT IS SO ORDERED.**

23  
24 April 5, 2023



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27 **OTIS D. WRIGHT, II**  
28 **UNITED STATES DISTRICT JUDGE**