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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

BRANDON KOMMER, on behalf of himself
and all others similarly situated,

Plaintiff,

-against-

FORD MOTOR COMPANY,

Defendant.

:
: 1:17-cv-00296 (LEK/DJS)
:
: **SECOND AMENDED CLASS**
: **ACTION COMPLAINT**
:
: **JURY TRIAL DEMANDED**
:
:
:
:

Plaintiff Brandon Kommer, by and through his counsel, Denlea & Carton LLP, respectfully files this Second Amended Class Action Complaint on behalf of himself and a class of similarly-situated consumers in the United States (including its Territories and the District of Columbia) who are current or former owners or lessees of any of the following Class Vehicles: Model year 2015-2018 Ford F-150 trucks and 2017-2018 Ford F-250, F-350, F-450, F-550 trucks sold or leased in the United States, as well as model year 2019 Ford F-150, F-250, F-350, F-450, F-550 trucks sold or leased in the United States that were built at Ford's Dearborn Assembly Plant before February 26, 2019, Ford's Kansas City Assembly Plant before March 4, 2019, Ford's Kentucky Assembly Plant before March 5, 2019, or Ford's Ohio Assembly Plant before March 11, 2019

(collectively the “Class Vehicles”), and alleges as follows:

NATURE OF THE CASE

1. For 40 years, the Ford F-Series has been the best-selling pickup truck in the United States by a significant margin. Indeed, in January 2017, 57,995 of the F-Series vehicles were sold, compared to 35,553 Chevrolet Silverado pickup trucks, the number two selling truck in the market.

2. Ford achieves its superior sales, in part, by failing to disclose critical information about its vehicles, leaving the misimpression that they are able to stand up to the harshest conditions. Sadly, this purportedly rugged and tough vehicle possesses an elemental defect: its doors won't lock and latch properly when the temperature drops below freezing – this is a condition Ford created and has known about for years, but about which it has failed to inform consumers.

3. On its website, Ford is pleased to make extravagant claims about vehicle construction to the consumer. “We design by the principle that the best truck for today is the one engineered to meet the challenge of performance, efficiency and dependability, long into the future. So we subjected F-150 to over 10 million miles of cumulative torture-testing to earn its Built Ford Tough® badge. And it more than delivered.” Yet, while Ford was at the trademark office, registering its self-aggrandizing “Built Ford Tough” mark, they neglected one significant fact. The doors on the truck won't stay closed in the cold. Ford knew that this problem existed and yet they continued to mislead the consumer with marketing claims about quality, durability and dependability.

4. Ford quietly issued not one, but two, technical service bulletins to address

the problem. Technical service bulletins (TSB's) are notices sent to dealership service departments, alerting them as to a problem with a vehicle, yet without notifying the public or going through the expense of a recall. Despite two technical service bulletins on this precise defect, Ford was unable to correct the problem. Plaintiff went to the dealer five (5) times to fix the defective latch, all to no avail.

5. Ford is no stranger to door latch defects. In September, 2016, it spent \$640 million to repair latches on 2.4 million Ford Mustangs; Escapes; Focus; Lincoln MKC and the Ford Transit Connect Van. In those cases, a spring tab would break in high temperatures, causing doors to "pop open" (*New York Times*, September 8, 2016). In this setting, cold temperatures prevent the latch from staying engaged.

6. As a result, consumers have been injured by over paying for a product that has diminished value due to its defective nature. If the Plaintiff had known what prospective subsequent purchasers now know, he would never have purchased the vehicle. And those prospective subsequent purchasers, now knowing of the defect, will either not purchase the vehicle or will offer a steeply discounted price, all of which constitutes a diminution of value and damage to the Plaintiff.

THE PARTIES

7. Plaintiff Brandon Kommer is a natural person of full age of majority who is domiciled and resides in Saratoga Springs, New York. In October 2015, Mr. Kommer purchased a brand new 2015 Ford F-150 XLT SuperCrew vehicle from New County Ford in Saratoga Springs.

8. Defendant Ford Motor Company is a Delaware corporation with its principal place of business at One American Road, Dearborn, Michigan 48126. Ford is

in the business of designing, manufacturing, and distributing motor vehicles, including its F-150, F-250, F-350, F-450, and F-550 vehicles.

JURISDICTION AND VENUE

9. This Court has jurisdiction over this action pursuant to the Class Action Fairness Act of 2005, 28 U.S.C. § 1332(d). Jurisdiction is proper because (1) the matter in controversy exceeds the sum or value of \$5,000,000.00, exclusive of interest and costs and (2) the named Plaintiff and Defendant are citizens of different states. 28 U.S.C. §1332(d)(2)(A).

10. The Court also has jurisdiction over this action pursuant to 28 U.S.C. § 1332(a), as the parties are diverse and the amount in controversy exceeds the requisite threshold.

11. This Court may exercise jurisdiction over Ford because Ford is registered to conduct business in New York, has sufficient minimum contacts in New York, and intentionally avails itself of the markets within New York through the promotion, sale, marketing, and distribution of its vehicles, thus rendering jurisdiction by this Court proper and necessary.

12. Venue is proper in this Court pursuant to 28 U.S.C. §1391(b)(2) because a substantial part of the events giving rise to the claim occurred within this judicial district and because Defendant has marketed and sold the product at issue in this action within this judicial district and has done business within this judicial district.

GENERAL ALLEGATIONS

Ford's Class Vehicles Have A Material Defect

13. Ford F-Series vehicles have been the “best-selling trucks in America for

40 straight years.” (<http://www.ford.com/ford-sales-events/40-years-leadership/>, last visited Aug. 22, 2017.)

14. Ford achieves this extraordinary sales goal, in part, by concealing and failing to disclose material information about its Class Vehicles from consumers – i.e., Defendant’s Class Vehicles fail a basic requirement for any vehicle sold in the United States: the doors won’t properly latch closed or lock when the temperature drops below freezing.

Locking Problems With Ford’s F-Series Vehicles

15. Multiple online car forums detail the continuous and unresolved problems that truck owners have had with the door latches in the Class Vehicles.

16. One 2015 F-150 SuperCab owner complained: “Whenever it’s cold out, we’re talking 20° F and below, the door will not latch when closed.” (<http://www.f150forum.com/f2/2015-door-wont-latch-when-cold-328507/>, last visited Mar. 1, 2017.)

17. Another F-150 owner wrote: “I woke up this morning to below freezing temps. This is the second time I had this type of problem, my doors and locks weren’t opening or unlocking. (<http://www.f150forum.com/f118/doors-locks-freezing-326413/>, last visited Mar. 1, 2017.)

18. The same problems continued with 2016 F-150 owners. One owner despaired “I have a 2016 F150 Sport. So the first hard freeze here in the NW, and I open my truck door, and it wont (sic) latch shut. I cycled the locks, I even used the keypad on the driver side, still no latch. I went and got a hair dryer, finally it latched. Did it the next morning too, so I went back to the dealer.”

(<http://www.torquenews.com/3768/2016-ford-f-150-owners-come-unhinged-over-cold-weather-latch-problems>, last visited Mar. 1, 2017.)

19. A fourth owner lamented “I got a 2016 XLT SuperCab and the last 2 mornings it was 12° and 1° and the door wouldn't stay closed. I had to get the WD40 out and slam the door pretty hard to go to work.” (<http://www.torquenews.com/3768/2016-ford-f-150-owners-come-unhinged-over-cold-weather-latch-problems>, last visited Mar. 1, 2017.)

20. Ford is a major TV and print advertiser and its advertisements are ubiquitous throughout TV, newspapers, and magazines. Yet none of these advertisements disclose to consumers this material defect, despite the fact that it has been known for years.

21. Mr. Kommer, like most consumers, has seen and is aware of Ford's advertisements. He considered and was influenced by those advertisements, when he decided to purchase his 2015 Ford 150 XLT SuperCrew pickup truck.

22. Indeed, Mr. Kommer had seen Ford's ads about the redesign of its Ford F-150 truck on television, the internet, and Facebook prior to purchasing his Ford vehicle.

23. Those advertisements demonstrated and exhibited the supposed Ford reliability and durability and were a material factor in Mr. Kommer's decision to purchase his vehicle. Significantly, Ford touts the quality of its materials and relates that claimed quality to further claims of durability and reliability. As America's oldest car company at 114 years, it was reasonable for Mr. Kommer to assume that the technology to open and close doors had been mastered.

24. Because Mr. Kommer lives in the Capital Region, an area that

experiences below freezing temperatures up to seven months a year, material to Mr. Kommer's purchasing decision was knowing that his vehicle would perform properly in cold temperature situations. Ford knew, but intentionally failed to disclose the material elemental defect that the F-Series doors and locks don't latch properly in below-freezing conditions.

25. Significantly, Mr. Kommer took delivery of his Ford F-150 on October 14, 2015. The first of two technical services bulletins relative to a defective latch on this vehicle was issued more than six (6) months earlier, on April 8, 2015. This means that as the New Country Ford dealer sat smiling at Mr. Kommer, as he finalized the paperwork on his delivery; that dealer knew he was delivering a vehicle with a major product defect. That dealer also knew that the subject vehicle had not been serviced relative to the TSB, yet he delivered it anyway. Predictably, within the first week of ownership, Mr. Kommer experienced a latch failure. Ford knew there was a defect in this vehicle, alerted every Ford dealership countrywide, yet continued to sell it, while withholding this vital safety information, deceiving Mr. Kommer and every other purchaser.

26. From the outset, right after Mr. Kommer purchased his vehicle, Mr. Kommer personally experienced multiple failures of his new vehicle's doors and locks to latch when temperatures fall below freezing. This is a problem Ford created and perpetuated, but failed to inform Mr. Kommer or other consumers.

27. The problems Mr. Kommer encountered included: front and rear driver and passenger side doors that would not latch close; electric locks that would not open; door handles that would not move; locks that would not release; and having to use the

door's exterior electronic keypad to lock the doors.

28. Reasonable consumers, like Plaintiff and Class members, expect and assume that a vehicle's doors and locks are safe and will perform properly in all temperature conditions. These same reasonable consumers would expect that Defendant would not distribute, supply, market, advertise, sell or lease vehicles with known safety defects and that Defendant would disclose, recall and remedy any such defects to consumers when Defendant learns of such safety defects. Ford had already taken a \$640 million charge against earnings in 2016, to repair defective door latches on five (5) other Ford models. Rather than include the instant defect in that recall, Ford resorted to its "Pinto Default Mode;" that it was more cost effective to litigate rather than to recall. The other five Ford models failed in heat; this latch failed in cold. Apparently, the temperature where Ford's latches were designed to operate could only be found in one's garage.

Ford Issues First Technical Services Bulletin

29. Ford has long known that its Class Vehicles do not perform as they should and as any reasonable consumer would expect – to wit, with doors and locks that latch and unlatch properly when temperatures drop below freezing. But Ford has failed to inform consumers about this ongoing serious and material defect to its best-selling Class Vehicles.

30. As early as April 8, 2015, months before Mr. Kommer purchased his Ford F-150, Ford knew that some "2015 F-150 SuperCab and SuperCrew Cab vehicles built on or before 3/25/2015 may exhibit inoperative door latches during or after freezing temperatures." (SUPERCAB/SUPERCREW CAB - FROZEN OR INOPERATIVE

DOOR LATCH - BUILT ON OR BEFORE 3/25/2015, TSB 15-0052, attached as Exhibit

A.)

31. This technical services bulletin (or TSB) outlined the serious issue of inoperable door latches during and after freezing temperatures, the action needed to be taken by Ford's dealers and service providers, and the specific service procedure to fix the defect (though, as alleged above, the "fix" doesn't work). In stark contrast, Ford provided no disclosure of the defect to current, former, or potential owners, purchasers, or lessees of these F-150 vehicles.

32. The TSB's recommended actions included: removing all interior door panels; removing all the center door latch assemblies; using compressed air to blow dry all of the center door latch assemblies after removal; using compressed air to blow dry all of the handle assemblies; installing new door latch assemblies on SuperCab vehicles; using grease or lubricant on the steel cable and all moving components of the center latch assemblies; using grease or lubricant and spraying the inside of all front and rear door exterior handles; reinstalling all center door latch assemblies; and reinstalling all of the interior door panels.

33. But, as detailed above, Ford's F-150 customers continued to experience the same problems throughout 2015, 2016, and 2017 with its Class Vehicles.

34. Ford never made any affirmative disclosure about the problems outlined in TSB 15-0052. Instead, Ford concealed the defect, did nothing to retrofit the doors with new equipment; made no design modifications; issued no recall; and continued to mislead the public with claims of quality and durability – both noticeably absent from the product.

Ford Fails To Disclose Existence of Technical Services Bulletin

35. Despite the fact that the first TSB was issued in April 2015, months before Mr. Kommer purchased his vehicle on October 14, 2015, Mr. Kommer was never informed about the fact that “2015 F-150 SuperCab and SuperCrew Cab vehicles built on or before 3/25/2015 may exhibit inoperative door latches during or after freezing temperatures.” Ford’s omission, specifically the failure to inform Mr. Kommer of the defect, is material and if it had been disclosed to Mr. Kommer, would have resulted in him purchasing a different vehicle. Now disclosed in the press, in social media and in court files, the knowledge will similarly deter any prospective purchaser from buying this truck, resulting in a diminished value to the truck, for which plaintiff paid full price.

36. Only after purchasing his Ford F-150, did Mr. Kommer, through his own experience, discover this elemental defect. Just one week after purchasing the vehicle, Mr. Kommer experienced difficulty opening his driver’s side rear door. Although he returned to the Ford dealer to allow the dealer to try and fix the defect, the dealer was unable to do so. And more egregiously, the dealer failed to notify him of the nearly six-month old TSB.

37. Mr. Kommer brought his vehicle back to the dealer two more times that winter (January 14, 2016 and February 2, 2016), both times as a result of the doors’ failure to latch shut (the driver’s side door in January, the passenger side rear door in February), and again Mr. Kommer was never told about the existing TSB. Both times the dealer tried to fix the defect, and after each purported “fix,” the problem recurred.

Ford Issues Second Technical Services Bulletin

38. The continued malfunction of the latches in Ford’s 2015-2017 F-150

vehicle models resulted in Ford issuing yet another technical services bulletin.

39. On November 18, 2016, Ford issued a broader and more detailed TSB to its dealers and service providers in an attempt to “fix” its ongoing problem. (FROZEN OR INOPERATIVE DOOR LATCH DURING FREEZING TEMPERATURES, TSB 16-0155, attached as Exhibit B.)

40. As with Ford’s earlier TSB, Ford made no general, widespread disclosure of this continuing material defect to current, former, or potential owners, purchasers, or lessees of its F-Series vehicles.

41. This new TSB specifically superseded the earlier issued TSB 15-0052.

42. Unlike the first TSB, this second TSB was not limited to the 2015 F-150 SuperCab and SuperCrew models built before March 25, 2015, but was expanded to include all F-150 models for all of 2015, 2016, and 2017.

43. TSB 16-0155 explained that “Some 2015-2017 F-150 vehicles may exhibit inoperative latches on front doors and/or SuperCrew rear doors during freezing temperatures.” (Ex. B.)

44. The TSB then set out the action needed to be taken and the service procedure to follow supposedly to remedy the defective condition. Those actions included: removing both front door interior door panels on all vehicles and both rear door interior door panels only on SuperCrew vehicles; removing door water shields; verifying the latch release cable is properly seated and the cable end is properly installed on to the outer handle; if improper installation is found and the cable has become kinked, replacing the cable; removing both front door latch assemblies on all vehicles and both rear door latch assemblies on the SuperCrew vehicles; using

compressed air to blow dry all the door latch assemblies after removal and all interior handle assemblies; replacing the door latch retaining brackets; installing the rain shield on the door latch brackets opposite the latch using Ford supplied hardware; potentially installing new door lock rods on all door latch assemblies; greasing or lubricating the steel cable and all moving exterior handle components while cycling the handle, all moving components of the latch assemblies, latch lock rod and all attachment points, and the inside of all front and rear door exterior handles; reinstalling all door latch assemblies; and reinstalling all of the interior door panels.

45. Even after issuing this second, and broader, TSB, Ford still failed to disclose this serious defect or to inform current, former or potential Ford F-Series owners, purchasers, or lessees of this defect.

Ford Issues Safety Recall and Further Repair Programs

46. On October 17, 2017, Ford issued Safety Recall 17S33, in which it acknowledged that in certain Model Year 2015 to 2017 F-150s and in certain Model Year 2017 Super Duty trucks “a frozen door latch, or a bent or kinked door latch actuation cable, may result in a door that will not open, will not close, or opens while driving condition, increasing the risk of injury.”

47. Less than a year later, on September 26, 2018, Ford announced Customer Satisfaction Program 18N03, in which it admitted that “water entering the doors in cold temperatures can cause door latching components to freeze” in certain Model Year 2015 to 2018 F-150s and in certain Model Year 2017 and 2018 Super Duty trucks.

48. On March 14, 2019, Ford announced another Customer Satisfaction

Program (19N02), in which it acknowledged that these same vehicles “continue to experience door latch freezing concerns” even after receiving the repairs prescribed under 18N03.

49. On October 1, 2019, Ford acknowledged these problems extended into the 2019 Model Year vehicles when it issued yet another Customer Satisfaction Program (19N06), admitting that “water entering the doors in cold temperatures may cause the outside door handle cable to freeze at the handle end. Frozen water in the cable can cause the exterior door handle cable not to return to the home position.”

Mr. Kommer’s Vehicle Continues To Malfunction

50. Even though Ford had issued two TSBs, covering the very problem affecting Mr. Kommer’s vehicle, Ford never informed him of this on-going problem and its purported fix for the problem.

51. Instead, Mr. Kommer, and consumers like him, continued to experience the same problems, and only after bringing it to a dealer could they potentially learn that this was a long-standing problem.

52. On December 29, 2016, for the fourth time, Mr. Kommer brought his vehicle back to the dealer complaining about the same problem. Again, Mr. Kommer’s driver’s side door would not open properly and failed to latch shut when the outside temperature fell below freezing. Mr. Kommer even provided a video of the door’s failure to his dealer.

53. Only at this point did his dealer inform Mr. Kommer of the second TSB (it never informed him of the first TSB) and the dealer’s need to order parts to effectuate the supposed repair.

54. On February 14, 2017, Mr. Kommer brought his vehicle back to the dealer for the dealer to perform the repair outlined in TSB 16-0155. The “repair” was supposedly completed on February 16, 2017.

55. Less than two weeks later, on February 27, 2017, Mr. Kommer’s vehicle’s driver’s side door was frozen and would not open properly. Once it was opened, it would not stay shut. Mr. Kommer documented this defective door in a video.

56. In sum, Mr. Kommer brought his vehicle to the dealer for latch repairs five times. On October 21, 2015, he brought the vehicle in for a repair. The service notation read “check door handle operation. Ok.” It was not.

57. On January 14, 2016, Mr. Kommer returned with the same latch defect. The New Country Ford technician wrote “reinstall door panel and check operation. Ok.” It was not.

58. On February 3, 2016, Mr. Kommer returned to New Country Ford. The same “opcode” was typed saying the latch was “OK.” It was not.

59. On December 29, 2016, Mr. Kommer returned to New Country Ford, this time with a video of the latch defect. This time the invoice read “vehicle operating as designed.” This much was true, but the irony was lost on Ford. The latch was not fixed.

60. On February 14, 2017, Mr. Kommer brought the vehicle in for a fifth time. This time, realizing that all credibility had been lost, at least Ford did not attempt to claim the latch was repaired. By this point the dealer realized the latch was designed to fail and it was “operating as designed.”

Ford’s Problems Continue, But Ford Fails to Inform Consumers

61. Mr. Kommer’s experience is far from unique. Based on counsel’s

investigation and publicly available resources, it is apparent that owners of Class Vehicles continue to experience the same problems.

62. Indeed, on January 5, 2017 one customer complained:

I took my 150 in, in early Dec '16 for the frozen latch issue, truck warmed up in the bay and they could not reproduce the latch failure, replaced the latch so they say. When I picked it up I specifically asked about a TSB service tech said there was none and that's the first thing they look for. Fast forward a month and some bitter cold in the Seattle area and same problem non latching door latch.

(<https://www.fordf150.net/forums/viewtopic.php?t=123522>, last visited Mar. 1, 2017.)

63. Another customer complained on January 7, 2017: "Just picked mine up last night after the TSB fix and I put it through a touch free car wash and parked it. Three out of four door locks frozen." (<https://www.f150forum.com/f118/frozen-doors-tsb-done-doors-still-frozen-368732/>, last visited Aug. 11, 2017.)

64. Yet another customer complained on March 18, 2017, that "Had the TSB done yesterday. Mildly cool this am. This morning two out of four doors do not open - frozen latches." (<https://www.f150forum.com/f118/frozen-doors-tsb-done-doors-still-frozen-368732/index12/>, last visited Aug. 11, 2017.)

65. And with full knowledge that its vehicles have a defective lock and latch problem in cold temperatures, Ford never disclosed this information to former, current, or potential owners, purchasers, or lessees of the serious and ongoing problem. Instead, Ford has continued to market its vehicles in the same false and deceptive manner it has done throughout the class period.

CLASS DEFINITION AND ALLEGATIONS

66. Plaintiff brings this action on behalf of himself and all other similarly situated consumers. Plaintiff expressly disclaims any intent to seek any recovery in this action for personal injuries that he or any class member may have suffered.

67. Plaintiff brings this action on behalf of himself and all other similarly situated consumers in the United States, including its Territories and the District of Columbia, pursuant to Rule 23 of the Federal Rules of Civil Procedure, and seeks certification of the following class:

All entities and natural persons in the United States (including its Territories and the District of Columbia) who currently own or lease (or who in the past owned or leased) any of the following Class Vehicles: Model year 2015-2018 Ford F-150 trucks and 2017-2018 Ford F-250, F-350, F-450, F-550 trucks sold or leased in the United States, as well as model year 2019 Ford F-150, F-250, F-350, F-450, F-550 trucks sold or leased in the United States that were built at Ford's Dearborn Assembly Plant before February 26, 2019, Ford's Kansas City Assembly Plant before March 4, 2019, Ford's Kentucky Assembly Plant before March 5, 2019, or Ford's Ohio Assembly Plant before March 11, 2019. Excluded from the class are (1) all federal court judges who have presided over this case and any members of their immediate families; (2) all entities and natural persons who delivered to Ford releases of all their claims; and (3) Ford, its parents, subsidiaries, affiliates, officers, and directors.

68. **Numerosity**. This action is appropriately suited for a class action. The members of the class are so numerous that joinder of all members of the class is impracticable. Plaintiff is informed, believes, and thereon alleges, that the proposed class contains thousands of purchasers or lessees of the Class Vehicles who have been damaged by Defendant's conduct as alleged herein. The precise number of class members is unknown to Plaintiff.

69. **Existence and Predominance of Common Questions of Law and**

Fact. This action involves questions of law and fact common to the class. The common legal and factual questions include, but are not limited to, the following:

- Whether Defendant failed to disclose material information regarding the Class Vehicles;
- Whether the alleged conduct constitutes violations of the law asserted;
- Whether the Class Vehicles contain the defect described above;
- Whether Ford knew or should have known about the defective door locks and latches, but failed to disclose that information to Plaintiff and Class members;
- Whether Ford omitted and concealed material information regarding the Class Vehicles;
- Whether Ford had and/or has a duty to disclose information about the defective locks and latches prior to selling or leasing the Class Vehicles to Plaintiff and Class members;
- Whether the Class members obtained the benefits that Defendant represented the Class Vehicles have;
- Whether Plaintiff and Class members have sustained monetary loss and the proper measure of that loss; and
- Whether, as a result of Defendant's misconduct, the class is entitled to monetary and statutory damages, as well as equitable and injunctive relief.

70. **Typicality.** Plaintiff's claims are typical of the claims of the members of the class, because, *inter alia*, all class members have been injured through the uniform misconduct described above, and were subject to Defendant's failure to disclose material information, including information that accompanies the sale or lease of each and every Class Vehicle. Moreover, the named Plaintiff's claims are typical of the class members' claims. Plaintiff is advancing the same claims and legal theories on behalf of himself and all members of the class.

71. **Adequacy of Representation.** Plaintiff will fairly and adequately protect the interests of the members of the class. Plaintiff purchased a Class Vehicle; and he was harmed by Defendant's deceptive omissions. Plaintiff returned his vehicle five (5) times for repair. It has never been repaired. As a result, Plaintiff has suffered an injury in fact as a result of Defendant's conduct, as did all class members who purchased Class Vehicles. Ford claims that the Class should not be recognized as the vehicles are under warranty. Yet a warranty is a guarantee, promising to repair or replace a defective product. In the instant case, Defendant cannot assume the mantle of "warrantor," as it has demonstrated an inability to fix the vehicle, rendering the warranty useless. Ford should be equitably estopped from asserting any claim of warranty, as the term subsumes the notion that an item will be repaired, eliminating the element of damage. Ford cannot whipsaw the consumer, using the claim of a warranty claim as both sword and as a shield, when it never lives up to its part of the bargain. The public policy behind a warranty defense is not the talismanic utterance of the word, it is the repair of the vehicle. Absent that, the word is devoid of meaning, as Plaintiff has suffered an injury in fact. Plaintiff has retained counsel experienced in complex consumer class action litigation, and Plaintiff intends to prosecute this action vigorously. Plaintiff has no adverse or antagonistic interests to those of the class.

72. **Superiority.** A class action is superior to other methods for the fair and efficient adjudication of this controversy. The damages or other financial detriment suffered by individual class members is relatively small compared to the burden and expense that would be entailed by individual litigation of their claims against Defendant. It would be virtually impossible for a member of the class, on an individual basis, to

obtain effective redress for the wrongs done to him or her. Furthermore, even if the class members could afford such individualized litigation, the court system could not. Individualized litigation would create the danger of inconsistent or contradictory judgments arising from the same set of facts. Individualized litigation would also increase the delay and expense to all parties and the court system from the issues raised by this action. By contrast, the class action device provides the benefits of adjudication of these issues in a single proceeding, economies of scale, and comprehensive supervision by a single court, and presents no management difficulties under the circumstances here.

73. Plaintiff seeks monetary damages, including statutory damages on behalf of the entire class, and other equitable relief on grounds generally applicable to the entire class, to enjoin and prevent Defendant from engaging in the acts described. Unless a Class is certified, Defendant will be allowed to profit from its deceptive practices, while Plaintiff and the members of the Class will have suffered damages. Unless a Class-wide injunction is issued, Defendant will continue to commit the violations alleged, and the members of the Class and the general public will continue to be deceived.

74. Defendant has acted and refused to act on grounds generally applicable to the Class, making final injunctive relief appropriate with respect to the Class as a whole.

**FIRST CAUSE OF ACTION
(Violation of New York General Business Law Section 349)**

75. Plaintiff realleges and incorporates by reference all paragraphs as though fully set forth herein.

76. Defendant alone possessed material information that the door locks and latches on Class Vehicles do not function correctly at temperatures at or below freezing. However, Defendant has failed to disclose that material information about the Class Vehicles, and so, has deceived reasonable consumers who purchase or lease the products. Reasonable consumers would believe that the door locks and latches on Defendant's Class Vehicles would operate correctly at temperatures at or below freezing. In reality, Defendant's Class Vehicles are unsafe and do not operate as Defendant claims. Defendant failed to disclose material information about its products, those omissions were misleading in a material respect to consumers, and resulted in the purchase of Defendant's products.

77. Defendant has deceptively marketed, promoted, distributed, and sold its Class Vehicles.

78. Plaintiff and the Class have been aggrieved by and have suffered losses as a result of Defendant's violations of Section 349 of the New York General Business Law. By virtue of the foregoing unfair, unconscionable, and deceptive acts in the conduct of trade or commerce, Plaintiff and the members of the Class have been substantially injured by overpaying for a product that has diminished value due to its defective nature. In addition, Plaintiff and the members of the Class have incurred "out-of-pocket" expenses in driving to and from their dealers and/or repair facilities, as well as expending considerable time in doing so.

79. By reason of the foregoing, Defendant's conduct, as alleged herein, constitutes deceptive acts and practices in violation of Section 349 of the New York General Business Law, and Defendant is liable to Plaintiff and the Class for the actual

damages that they have suffered as a result of Defendant's actions, the amount of such damages to be determined at trial, plus statutory damages, treble damages, and attorneys' fees and costs.

80. Plaintiff further demands injunctive relief enjoining Defendant from continuing to engage in, use, or employ any act, including advertisements, packaging, or other representations, prohibited by Section 349 of the New York General Business Law.

**SECOND CAUSE OF ACTION
(Violation of New York General Business Law Section 350)**

81. Plaintiff realleges and incorporates by reference all paragraphs as though fully set forth herein.

82. New York's General Business Law Section 350 prohibits "[f]alse advertising in the conduct of any business, trade or commerce or in the furnishing of any service."

83. Section 350 defines "false advertising" as "advertising, including labeling, of a commodity, or of the kind, character, terms or conditions of any employment opportunity if such advertising is misleading in a material respect." The section also provides that advertising can be false by omission, as it further defines "false advertising" to include "advertising [that] fails to reveal facts material in the light of such representations with respect to the commodity . . . to which the advertising relates."

84. Defendant's labeling, marketing, and advertising of its Class Vehicles is "misleading in a material respect," as it fails to disclose material information in its possession alone that it fails to disclose to consumers and thus is "false advertising." No rational individual would purchase defendant's vehicle in full knowledge that the

doors won't stay closed. Likewise, duped consumers will be unable to resell these defective vehicles. Accordingly, they have sustained a loss in value related directly to Ford's misleading advertising and knowing concealment of a serious safety defect. By virtue of the foregoing unfair, unconscionable, and deceptive acts in the conduct of trade or commerce, Plaintiff and the members of the Class have been substantially injured by overpaying for a product that has diminished value due to its defective nature and in expending out-of-pocket expenses and time in driving their vehicles to their dealers and/or repair facilities.

85. Defendant's conduct, as alleged herein, constitutes false advertising in violation of Section 350 of the New York General Business Law, and Defendant is liable to Plaintiff and the New York Class for the actual damages that they have suffered as a result of Defendant's actions, the amount of such damages to be determined at trial, statutory damages, plus treble damages, and attorneys' fees and costs.

86. Plaintiff further demands injunctive relief enjoining Defendant from continuing to engage in, use, or employ any act, including advertisements, packaging, or other representations, prohibited by Section 350 of the New York General Business Law.

**THIRD CAUSE OF ACTION
(Violation of the Consumer Protection Statutes of the Other 49 States, the District
of Columbia, and the Territories.)**

87. Plaintiff realleges and incorporates by reference all paragraphs as though fully set forth herein.

88. Each of the forty-nine States other than New York State, the District of Columbia, and the Territories has enacted consumer protection statutes and/or

regulations substantially similar to Sections 349 and 350 of New York's General Business Law. Said statutes and/or regulations prohibit companies operating within their borders from engaging in deceptive business practices and from falsely advertising their products. Defendant has deceptively marketed, advertised, promoted, distributed, and sold its Class Vehicles as described in detail above.

89. Plaintiff and the Class have been aggrieved by and have suffered losses as a result of Defendant's violations of the consumer protection statutes and/or regulations of the other forty-nine States, the District of Columbia, and the Territories. By virtue of the foregoing unfair, unconscionable, and deceptive acts in the conduct of trade or commerce, Plaintiff and the members of the Class have been substantially injured by overpaying for a product that has diminished value due to its defective nature. In addition, Plaintiff and the members of the Class have incurred "out-of-pocket" expenses in driving to and from their dealers and/or repair facilities, as well as expending considerable time in doing so.

90. By reason of the foregoing, Defendant's conduct, as alleged herein, constitutes deceptive acts and practices and false advertising in violation of the consumer protection statutes and/or regulations of the other forty-nine States, the District of Columbia, and the Territories. Defendant is liable to Plaintiff and the Class for the actual damages that they have suffered as a result of Defendant's actions, the amount of such damages to be determined at trial, plus statutory damages, treble damages, and attorneys' fees and costs.

91. Plaintiff further demands injunctive relief enjoining Defendant from continuing to engage in, use, or employ any deceptive acts or practices, including false

advertisements, prohibited by the consumer protection statutes of the other forty-nine States and the District of Columbia.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that the Court enter judgment against Defendant as follows:

- A. Certifying this action as a class action as soon as practicable, with the class as defined above, designating Plaintiff as the named class representative, and designating the undersigned as Class Counsel.
- B. On Plaintiff's First Cause of Action, awarding against Defendant the damages that Plaintiff and the other members of the Class have suffered as a result of Defendant's actions, the amount of such damages to be determined at trial, plus treble damages.
- C. On Plaintiff's Second Cause of Action, awarding against Defendant the damages that Plaintiff and the other members of the Class have suffered as a result of Defendant's actions, the amount of such damages to be determined at trial, plus treble damages.
- D. On Plaintiff's Third Cause of Action, awarding against Defendant the damages that Plaintiff and the other members of the Class have suffered as a result of Defendant's actions, the amount of such damages to be determined at trial, plus treble damages.
- E. Awarding Plaintiff and the Class interest, costs, and attorneys' fees.
- F. Enjoining Defendant from continuing to engage in, use, or employ any act, including advertisements, packaging, or other representations, prohibited by Sections

349 and 350 of the New York General Business Law and the substantially similar consumer protection statutes and/or regulations of the other forty-nine States, the District of Columbia, and the Territories.

G. Awarding Plaintiff and the Class such other and further relief as this Court deems just and proper.

DEMAND FOR TRIAL BY JURY

Plaintiff hereby demands a trial by jury on all issues so triable.

Dated: White Plains, New York
March 5, 2020

Respectfully Submitted,

/s/ Jeffrey I. Carton
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EXHIBIT A

SUPERCAB/SUPERCREW CAB - FROZEN OR INOPERATIVE DOOR LATCH - BUILT ON OR BEFORE 3/25/2015	TSB 15-0052
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FORD:

2015 F-150

ISSUE

Some 2015 F-150 SuperCab and SuperCrew Cab vehicles built on or before 3/25/2015 may exhibit inoperative door latches during or after freezing temperatures.

ACTION

Follow the Service Procedure steps to correct this condition.

SERVICE PROCEDURE

1. Remove all the interior door panels. Refer to Workshop Manual (WSM), Section 501-05.
 - a. On all doors, verify the latch release cable is properly seated and the cable end is properly installed on to the outer handle. (Figure 1)

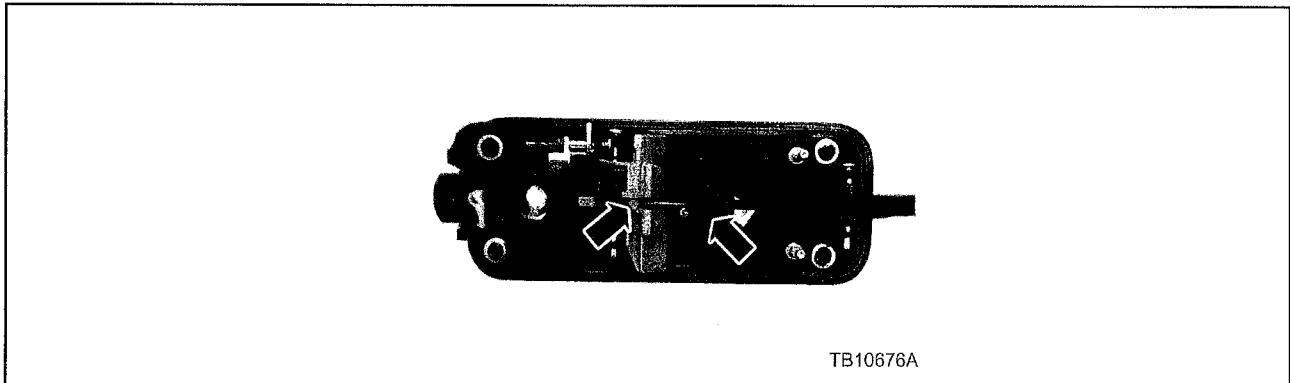


Figure 1 - Article 15-0052

- b. If improper installation is found, the cable can become kinked and the cable should be replaced. Refer to WSM, Section 501-14.
2. Remove all the center door latch assemblies. Refer to WSM, Section 501-14. Refer to WSM, Section 501-14.
 - a. If equipped with SuperCab rear doors, also remove the lower door latch assemblies.
3. Use compressed air to blow dry all the center door latch assemblies after removal.
4. Use compressed air to blow dry all handle assemblies.
5. If the vehicle is a SuperCab, install new rear door lower latch assemblies. Refer to WSM, Section 501-14.
6. Use Motorcraft® Multi-Purpose Grease or equivalent to lubricate the steel cable and all moving components of the center latch assemblies.
 - a. Use Motorcraft® Multi-Purpose Grease or equivalent and lubricate the driver's latch lock rod and all attachment points.
7. Use Motorcraft® Multi-Purpose Grease or equivalent and spray the inside of all front and rear door exterior handles.
 - a. Lubricate the steel cable and all moving exterior handle components while cycling the handle.

NOTE: The information contained in Technical Service Bulletins is intended for use by trained, professional technicians with the knowledge, tools, and equipment to do the job properly and safely. It informs these technicians of conditions that may occur on some vehicles, or provides information that could assist in proper vehicle service. The procedures should not be performed by "do-it-yourselfers". Do not assume that a condition described affects your car or truck. Contact a Ford, Lincoln, or Mercury dealership to determine whether the bulletin applies to your vehicle. Warranty Policy and Extended Service Plan documentation determine Warranty and/or Extended Service Plan coverage unless stated otherwise in the TSB article. The information in this Technical Service Bulletin (TSB) was current at the time of printing. Ford Motor Company reserves the right to supersede this information with updates. The most recent information is available through Ford Motor Company's on-line technical resources.

TSB 15-0052 (Continued)

8. Reinstall all center door latch assemblies. Refer to WSM, Section 501-14.
9. Reinstall all the interior door panels. Refer to WSM, Section 501-05.

PART NUMBER	PART NAME
FL3Z-15221A01-A	Cable - Left Front Outer Door Handle To Latch Cable
FL3Z-15221A00-A	Cable - Right Front Outer Door Handle To Latch Cable
FL3Z-16266A46-B	Cable - Left Rear Outer Door Handle To Latch Cable
FL3Z-16266A46-A	Cable - Right Rear Outer Door Handle To Latch Cable
FL3Z-18264A01-B	Latch - Left Rear - SuperCab
FL3Z-18264A00-B	Latch - Right Rear - SuperCab
XL-5-A	Motorcraft® Multi-Purpose Grease

OPERATION	DESCRIPTION	TIME
150052A	2015 F-150 SuperCab: Remove Door Latches On All Four (4) Doors, Inspect Cable Routing, Replace Cable(s) As Necessary One (1) Or More Doors, Clean, Lubricate Or Replace Latches On One (1) Or More Doors Following The Service Procedure (Do Not Use With Any Other Labor Operations)	3.9 Hrs.
150052A	2015 F-150 SuperCrew Cab: Remove Door Latches On All Four (4) Doors, Inspect Cable Routing, Replace Cable(s) As Necessary One (1) Or More Doors, Clean, Lubricate Or Replace Latches On One (1) Or More Doors Following The Service Procedure (Do Not Use With Any Other Labor Operations)	4.0 Hrs.

WARRANTY STATUS:

Eligible Under Provisions Of New Vehicle Limited Warranty Coverage

Warranty/ESP coverage limits/policies/prior approvals are not altered by a TSB. Warranty/ESP coverage limits are determined by the identified causal part and verified using the OASIS part coverage tool.

DEALER CODING

BASIC PART NO.	CONDITION CODE
18264A00	41

EXHIBIT B

FROZEN OR INOPERATIVE DOOR LATCH DURING FREEZING TEMPERATURES	TSB 16-0155
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FORD:

2015-2017 F-150

This article supersedes TSB **15-0052** to update the vehicle model years, Service Procedure and Part List.

ISSUE

Some 2015-2017 F-150 vehicles may exhibit inoperative latches on front doors and/or SuperCrew rear doors during freezing temperatures.

ACTION

Follow the Service Procedure steps to correct the condition.

SERVICE PROCEDURE

1. Remove both front door interior door panels on all vehicles and both rear door interior door panels only on SuperCrew vehicles. Refer to Workshop Manual (WSM), Section 501-05.
 - a. Remove door water shield for access.
 - b. Verify the latch release cable is properly seated and the cable end is properly installed on to the outer handle. (Figure 1)

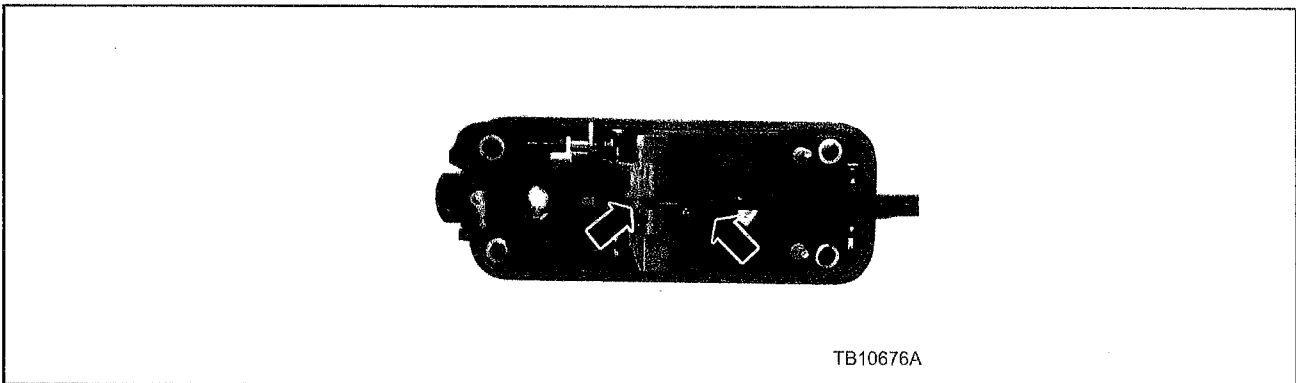


Figure 1 - Article 16-0155

- c. If improper installation is found and the cable has become kinked, the cable should be replaced. Refer to WSM, Section 501-14.
2. Remove both front door latch assemblies on all vehicles and both rear door latch assemblies only on SuperCrew vehicles. Refer to WSM, Section 501-14.
3. Use compressed air to blow dry all the door latch assemblies after removal and all interior handle assemblies.
4. Replace the door latch retaining brackets. Refer to WSM, Section 501-14.

NOTE: The information contained in Technical Service Bulletins is intended for use by trained, professional technicians with the knowledge, tools, and equipment to do the job properly and safely. It informs these technicians of conditions that may occur on some vehicles, or provides information that could assist in proper vehicle service. The procedures should not be performed by "do-it-yourselfers". Do not assume that a condition described affects your car or truck. Contact a Ford, Lincoln, or Mercury dealership to determine whether the bulletin applies to your vehicle. Warranty Policy and Extended Service Plan documentation determine Warranty and/or Extended Service Plan coverage unless stated otherwise in the TSB article. The information in this Technical Service Bulletin (TSB) was current at the time of printing. Ford Motor Company reserves the right to supersede this information with updates. The most recent information is available through Ford Motor Company's on-line technical resources.

- a. Install the rain shield on the door latch brackets opposite the latch using the supplied hardware. (Figure 2)

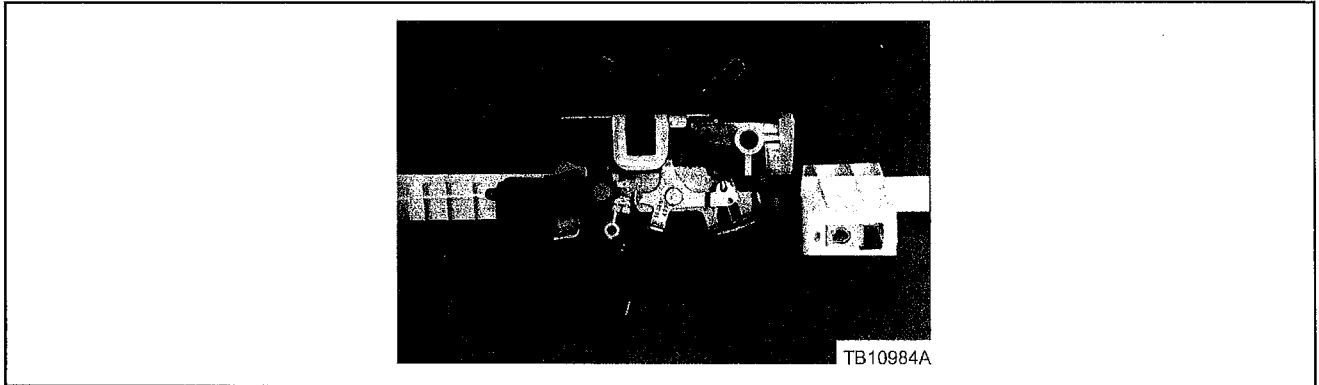


Figure 2 - Article 16-0155

5. For vehicles built on or before 01-JUN-2016 install new door lock rods on all door latch assemblies. Refer to WSM, Section 501-14.
6. Use Motorcraft® Multi-Purpose Grease or equivalent to lubricate the following items:
 - a. Steel cable and all moving exterior handle components while cycling the handle.
 - b. All moving components of the latch assemblies.
 - c. Latch lock rod and all attachment points.
 - d. Inside of all front and rear door exterior handles.
7. Reinstall all door latch assemblies. Refer to WSM, Section 501-14.
8. Reinstall all the interior door panels. Refer to WSM, Section 501-05.

PART NUMBER	PART NAME
FL3Z-1521978-C	Rain Shield Kit - Right Front Door
FL3Z-1521979-C	Rain Shield Kit -Left Front Door
FL3Z-1626494-D	Rain Shield Kit - SuperCrew Right Rear Door
FL3Z-1626495-D	Rain Shield Kit - SuperCrew Left Rear Door
FL3Z-15221A01-A	Cable - Left Front Outer Door handle To Cable
FL3Z-15221A00-A	Cable - Right Front Outer Door Handle To Latch Cable
FL3Z-16266A46-B	Cable - SuperCrew Left Rear Outer Door Handle To Latch Cable
FL3Z-16266A46-A	Cable - SuperCrew Right Rear Outer Door Handle To Latch Cable
W714972-S300	Front Door Grab Handle Cover Clips (6 Req Per Side)
FL3Z-1521853-AB	Door Lock Rod - Left Front - F-150 Built On Or Before 01-JUN-2016
FL3Z-1521852-AB	Door Lock Rod - Right Front - F-150 Built On Or Before 01-JUN-2016
FL3Z-1626461-AB	Door Lock Rod - SuperCrew Left Rear - F-150 Built On Or Before 01-JUN-2016
FL3Z-1626460-AB	Door Lock Rod - SuperCrew Right Rear - F-150 Built On Or Before 01-JUN-2016
XL-5-A	Motorcraft® Multi-Purpose Grease

TSB 16-0155 (Continued)

OPERATION	DESCRIPTION	TIME
160155A	2015-2017 F-150 Regular Cab, SuperCab: Inspect Cable Routing, Replace Cable(s) As Necessary One (1) Or More Doors, Remove Door Latches On The Front Two (2) Doors, Clean, Lubricate And Replace Latch Brackets And Install Rain Shields On Both (2) Doors Following The Service Procedure (Do Not Use With Any Other Labor Operations)	2.9 Hrs.
160155B	2015-2017 F-150 SuperCrew: Inspect Cable Routing, Replace Cable(s) As Necessary One (1) Or More Doors, Remove Door Latches On Four (4) Doors, Clean, Lubricate And Replace Latch Brackets And Install Rain Shields On Four (4) Doors Following The Service Procedure (Do Not Use With Any Other Labor Operations)	4.9 Hrs.

WARRANTY STATUS:

Eligible Under Provisions Of New Vehicle Limited Warranty Coverage

Warranty/ESP coverage limits/policies/prior approvals are not altered by a TSB. Warranty/ESP coverage limits are determined by the identified causal part and verified using the OASIS part coverage tool.

DEALER CODING

BASIC PART NO.	CONDITION CODE
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