



Expert Report
Submitted By
Stefan Boedeker

In the Matter of

ROMEO

v.

**FORD MOTOR COMPANY and FORD MOTOR COMPANY OF CANADA,
LIMITED**

April 16, 2017

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1 Qualifications

1. I am a statistician and an economist. I received a Bachelor of Science degree in Statistics in 1985 and a Bachelors of Arts degree in Business Administration from the University of Dortmund/Germany in 1986. I received a Master's of Science degree in Statistics from the University of Dortmund/Germany in 1988, and I received a Masters of Arts degree in Economics from the University of California, San Diego in 1992. I also completed Ph.D. requirements (except dissertation) in Economics at the University of California, San Diego. Attached hereto as Exhibit A is a true and correct copy of my curriculum vitae.
2. I am currently employed as a Managing Director at the Berkeley Research Group ("BRG"). Prior to joining BRG, I was a Partner at Resolution Economics. I also held Managing Director positions at Alvarez & Marsal, Navigant Consulting, and LECCG. I also held partner-level positions at Deloitte & Touche LLP, PricewaterhouseCoopers LLP, and Arthur Andersen LLP. At the three latter firms, I was responsible for the Economic and Statistical Consulting group on the West Coast. Before moving to the United States to attend graduate school, I worked as a statistician for the German Government for three years, from 1986 to 1989.
3. For over 25 years, my work has focused on the application of economic, statistical, and financial models to a variety of areas, such as providing solutions to business problems, supporting complex litigation in a consulting and expert witness role, and conducting economic impact studies in a large variety of industries including, but not limited to, healthcare, retail, technology, entertainment, manufacturing, automotive, energy and utilities, hospitality, and federal, state, and local government agencies.
4. I have extensive experience designing and conducting surveys as well as statistically analyzing survey results in both, the litigation context as a consultant and/or designated expert and the non-litigation context as a statistical or economic consultant. I have substantial experience conducting and using surveys, conjoint analysis, observational studies, time and motion studies, and focus groups to measure consumer opinions and behaviors regarding products and services including price setting, discrete choice modelling, purchase processes, product attributes, branding and positioning, market segmentation, and new product research.

5. I have submitted expert reports, been deposed, and have testified at trial within the last five years. A list of my testimony is included on the copy of my current resume, which is attached as Exhibit A. I have issued numerous expert reports and rebuttal reports dealing with surveys and statistical sampling related issues. On numerous occasions, I have been deposed and I have testified in court regarding survey and statistical sampling- related issues.
6. All the facts and circumstances set forth in this report are known to me personally and I am prepared to testify to them if called to do so. BRG is compensated for its work on this matter based on an agreed upon hourly billing rate schedule. My hourly billing rate for professional services related to this case is \$650 and the billing rates of BRG staff supporting me on this engagement range from \$150 to \$490. BRG's payment in this matter is not contingent upon the outcome of this litigation.

2 Background and Assignment

1. I have been retained by Charney Law Group ("Counsel") to:
 - a. Assess the degree of reported similarity about the defects in the functioning of the vehicle and perceived level of safety across the group of 1,980 participants who completed an online survey administered by Counsel, and to
 - b. Opine on the value this voluminous data brings to evaluating the case from a statistical perspective.
2. To validate the data collected by Counsel through its online survey, I designed, supervised and quality controlled the implementation, and statistically analyzed the results of an independent survey of Ford Focus and Ford Fiesta owners in Canada ("BRG Survey") to examine the extent to which their experience was consistent with the results derived from the online survey conducted by Counsel.

3 Summary of Opinions

3. This Report presents my opinions and conclusions about the data collected from two independent surveys which were conducted to assess consumer experiences, perceptions, and opinions related to transmission performance and safety issues.
4. My conclusions are based on:
 - a. Two surveys and the statistical analysis of the results from those two surveys performed by myself or by BRG personnel under my direction and

supervision,

- b. my expertise and experience in the areas of survey design, survey implementation, and the statistical analysis of survey data, and
- c. publicly available research literature from the fields of survey methodology and statistics.¹
- d. The Affidavit of Paul M. Taylor².

I have formed the following opinions with a high degree of scientific certainty:

- a. The survey conducted by Counsel using an online registration website (“Survey One”) contains information useful for the class action proceedings.
- b. Survey One provides strong evidence that the allegations in the Complaint were experienced by a sufficiently large number of Ford Fiesta and Ford Focus vehicle owners.
- c. Survey One provides strong evidence that repeated efforts to fix the problems alleged in the Complaint did not resolve them.
- d. The survey designed by BRG and implemented by Amplitude Research was based on a large, online consumer panel, which was not self-selected like Survey One, and therefore, can be utilized as an independent verification of the results from the survey conducted by Counsel via an online registration website.
- e. The respondents of the two surveys were similar in terms of geographic coverage of Canada and in terms of vehicle ownership.
- f. The BRG Survey confirmed the large percentage of drivers who reported experiences of problems with the transmission in Survey One.
- g. The BRG Survey confirmed the types of problems that were experienced by the drivers who reported experiences of problems with the transmission in Survey One.
- h. The BRG survey confirmed the fact that drivers who reported experiences of problems with the transmission in Survey One unsuccessfully frequented Ford

¹ The footnotes in this Expert Report contain references to standard textbooks and research literature in the fields of survey methodology, statistical analysis, and consumer research upon which I relied in the development and implementation of this study.

² Filed on behalf of Ford in the matter of Outerbridge and Wilke v. Ford Motor Company and Ford Motor Company of Canada, Limited, Case number: QBG 2940 of 2015

dealerships and mechanics to fix the problems.

5. The confirmation and validation of the results from Survey One through the BRG Survey leads to the conclusion that the methodology underlying Survey One is a valid data collection method that has yielded valuable information and data about the class.

4 Principles of Survey Methodology

6. Before I will present and discuss the results of the survey that I designed and conducted, I will give an overview of general survey methodology. Obtaining data through surveys is a frequently used data collection tool. In general, survey research has to go through the following three steps to yield meaningful and reliable results³:

- a. Survey Design;
- b. Survey Implementation; and
- c. Statistical Analysis and Presentation of survey results.

7. Each survey must be designed properly, implemented correctly, and the data obtained through the survey must be analyzed using the appropriate and correct statistical methodology. The proper design⁴ of a survey requires the following steps⁴:

- a. State goal/purpose of survey;
- b. Define universe;
- c. Identify sampling frame;
- d. Determine survey methodology (mail, telephone, internet, etc.) and selection of survey respondents;
- e. Determine adequate sample size;
- f. Develop questionnaire/survey questions; and
- g. Conduct a pre-test to potentially improve the survey.

7. Once the design process has been completed, the chosen design must be correctly implemented. In this phase the following steps have to be considered:

- a. Approach selected survey respondents;

³ There is voluminous literature about survey research defining the relevant steps in proper survey research. The following two are excellent resources:

- a. Handbook of Survey Research, J. Wright, P. Marsden, 2nd Edition, 2010.
- b. Survey Methodology (Wiley Series in Survey Methodology), Robert M. Groves, Floyd J. Fowler Jr., Mick P. Couper, James M. Lepkowski, Eleanor Singer, Roger Tourangeau, 2nd Edition, 2009.

- b. Conduct actual interviews;
 - c. Record and tabulate collected data.
8. Finally, the purpose of each survey is to collect data to test certain hypotheses. Once the survey has been conducted, it is of utmost importance to prepare the data for further statistical analysis, and then apply the correct statistical methodology to ensure that the survey results are reliable. In particular, the following steps have to be performed:
- a. Check raw data for errors and inconsistencies;
 - b. Identify erroneous responses;
 - c. Conduct a statistical summary of cleansed raw data;
 - d. Test hypotheses;
 - e. Compile a summary of results and report.

5 Survey One Was Administered Using on an Online Registration Website

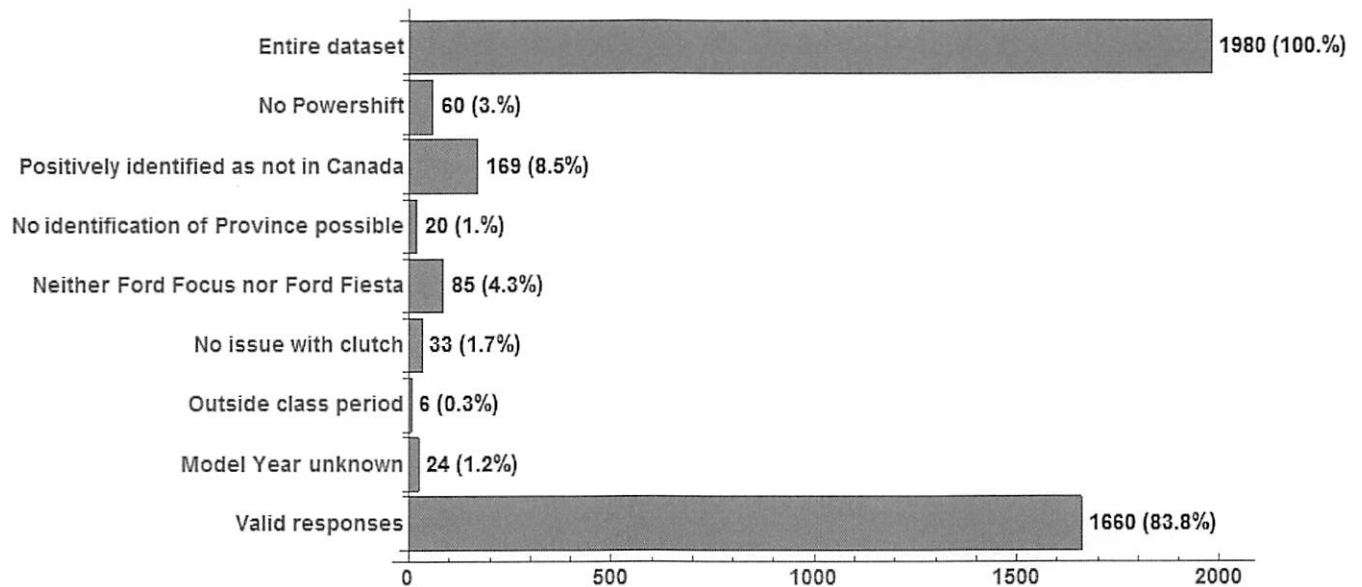
9. It is my understanding that Counsel created and has maintained an online registration website, which individuals who purchased or leased a Ford Fiesta and/or a Ford Focus could access to report their experience driving the vehicle. It is further my understanding that Counsel did not take any proactive measures⁵ to invite or encourage participation in this online registration website. The homepage of the registration website, <https://www.charneylawyers.com/Charney/forddualclutchtransmissionclassaction.php>, provides an overview of the litigation and the allegations against Ford (see Exhibit B).
10. The online registration website asks participants questions regarding the following general topics related to their vehicle:
- a. make,
 - b. model,
 - c. transmission type,
 - d. purchase price,
 - e. details of the sale of their vehicle (if applicable),
 - f. performance and safety issues, and
 - g. repairs, if necessary.

⁵ There has been some independent media coverage of this case, but none was originated by counsel.

11. In addition, participants are asked if they reported any transmission related performance safety issues they experienced with their vehicle to Ford and/or Canadian authorities.
12. The questions in the online survey tool are in the following formats:
 - a. Binary choices (two answer choices) like yes/no,
 - b. multivariate choice (more than two answer choices), and
 - c. open-ended, which allow participants to enter unstructured information.
13. The questionnaire allowed participants to skip questions and to complete the survey without answering every question. Vehicle owners have had the opportunity to use the registration website starting in November 2015 until the present day. See Exhibit B for a copy of the current registration page.
14. Prior to the start of my statistical analysis, I performed multiple quality control steps to identify and exclude irregular or invalid responses. From the original dataset with 1,980 respondents, I excluded respondents for the following reasons:
 - a. Address of residence specified in the survey was outside of Canada,
 - b. No address or no readable address was provided,
 - c. It was not clear whether the respondent owned or leased a Ford Fiesta or Ford Focus,
 - d. Reported purchasing or leasing a Fiesta vehicle with a model year of 2010 or earlier, or a Focus with model year of 2011 or earlier,
 - e. Reported purchasing or leasing a vehicle without the PowerShift transmission, or
 - f. Failed to report the vehicle model year.

Some responses could have been excluded by several criteria. Therefore, the sum of the counts per criteria will not be equal to the difference between the total number of respondents and the number of class members in the survey. The following Figure 1 shows the results of this analysis:

Figure 1 - Survey One – Response Analysis



Source: Own calculations based on Survey One.

15. The exclusion of these responses resulted in 1,660 valid individual responses, which were analyzed by a technical software called “Wolfram Mathematica⁶”, which includes specialized computing capabilities, mathematical and statistical analyses techniques, advanced database and data management capabilities, and pattern recognition and text string analysis. The last- mentioned feature enabled me to interpret long open-ended text responses like the ones to some of the questions in Survey One without a laborious manual review.
16. My analysis of the data generated by Survey One showed results that proved to be extremely useful for purposes of evaluating the commonality of a large sample of potential class members, and has the reliability to serve as reference source for counsel moving forward with the case.

⁶ For additional information about the software, visit <http://www.wolfram.com/mathematica/>

6 BRG Survey

17. The design, execution, and statistical analysis of the BRG Survey followed accepted scientific standards of my profession and were consistent with the principles for survey research discussed in the Federal Judicial Center's Manual for Complex Litigation (4th, Section 11.493), as well as guidelines set forth in the *Reference Guide on Survey Research*.³ More specifically, I ensured that:

- a. The survey population was properly chosen and defined;
- b. The sample chosen was representative of that population;
- c. The questions asked were clear and not leading;
- d. The data gathered were accurately reported;
- e. The data were analyzed in accordance with accepted statistical principles;
- f. The process was conducted to ensure objectivity;
- g. The survey was programmed, implemented, and executed by a qualified survey vendor following proper procedures for internet panel surveys.

18. The remainder of this Section 6 is structured as follows: In Subsection 6.1, I discuss the relevant and necessary steps taken in the survey design to ensure accurate and reliable results. In Subsection 6.2, I discuss how BRG worked with a reputable and experienced survey vendor to ensure the proper implementation of the survey. Finally, in Subsection 6.3, I describe quality control measures I implemented to ensure that the analysis of the survey results would be yield reliable results.

6.1 Survey Design

19. When properly designed and executed, surveys can yield important data points that are otherwise not available. Without a proper design that follows the accepted standards of survey methodology, the data obtained from a survey may be meaningless and will not answer the questions of interest. In the following, I discuss in detail the steps I undertook in the design phase of the survey to ensure that the survey complies with the recommendations in the survey methodology as discussed in Section 5 and the citations in Footnote 1⁷.

⁷ See, e.g., many of the recommendations in "Reference Guide on Survey Research," SS Diamond, *Reference Manual on Scientific Evidence*, Third Edition, Federal Judicial Center, 2011, p. 359-423.

6.1.1 Survey Goal and Purpose

20. The goal and purpose of this survey was to collect data that yields answers to the following questions:

- a. Have Canadian respondents who reported purchasing or leasing a Fiesta vehicle with a model year of 2011 or later, or a Focus with model year of 2012 or later, experienced the following issues and problems:
 - a. Consistent problems with transmission
 - b. Nature of the transition problem
 - c. Repairs to vehicle
 - d. Success of repairs made to vehicle
 - e. Notification from Ford regarding noted transmission problem
 - f. Perception of safety driving the vehicle
 - g. Vehicle involvement in accident
- b. To what extent is the BRG Survey data consistent with the data from Survey One? In other words, is there evidence of convergent validity (i.e., two measures that are supposed to be measuring the same characteristic show the same results).

6.1.2 Universe Definition

21. To obtain meaningful and reliable results to answer certain questions or test hypotheses, the first step in every survey design is the definition of the appropriate target population or universe⁸. The target population is that segment of the overall population whose opinions, choices, and preferences are relevant to the issues in the case at hand.

22. In this case, the target population is defined as adults residing in Canada (18 years of age or older) who have purchased or leased a Ford Fiesta (model years 2011 to 2017) and/or a Ford Focus (model years 2012 to 2017) with a PowerShift transmission in Canada.

6.1.3 Identify Sampling Frame

23. The sampling frame is the source of all sampling units in the population from which the

⁸“Reference Guide on Survey Research,” SS Diamond, *Reference Manual on Scientific Evidence*, Third Edition, Federal Judicial Center, 2011, p. 376.

sample is drawn. This list can be a hardcopy or a database of every sampling unit in the population. In this step, it is important to ensure that the sampling frame adequately represents the range of relevant characteristics of the target population. To identify the relevant individuals to participate in the BRG Survey, I designed an Internet survey that screened potential respondents by location of residence, location of purchase/lease, vehicle type, and vehicle model year to determine if they were members of the target population.

6.1.4 Determine Survey Methodology

24. The BRG Survey was conducted as an Internet panel survey. In my experience an Internet-based survey offers many advantages over different respondent-recruiting methodologies, such as broad geographic reach to areas where surveying via mall intercept or other face-to-face methods would not be feasible or would be too burdensome.⁹¹⁰ ¹¹ ¹² ¹³ Moreover, properly designed and executed Internet surveys are a widely accepted form of market research which in my experience can be used to draw valid statistical inferences of the target population.
25. Current research suggests that the shift from the use of telephone surveys to Internet surveys may have advantages: "...studies have found that computer data collection yielded higher concurrent validity, less survey satisficing, less random measurement error, and more reports of socially undesirable attitudes and behaviors than did data collected by interviewers. Thus, computer administration appears to offer significant measurement advantages."
26. In addition, survey market research firms that operate large internet panels employ trained professionals who program, administer, and quality control the surveys thus increasing the quality of the answers.

⁹ "Why Online Surveys Can Be a Smart Choice in Intellectual Property Litigation," B. Isaacson et al., *IPL Newsletter* (ABA Section of Intellectual Property Law) Vol. 26, No. 3, 2008.

¹⁰ "A Comparative Empirical Analysis of Online versus Mall and Phone Methodologies for Trademark Surveys," H. Poret, *The Trademark Reporter*. Vol. 100, 2010. "Reference Guide on Survey Research," S.S. Diamond, *Reference Manual on Scientific Evidence*, Third Edition, Federal Judicial Center, 2011, Page 401.

¹¹ "Online Interviewing for Use in Lanham Act Litigation," A. Simonson, *Intellectual Property Strategist* Vol. 14, 2007.

¹² David S. Yeager et al, "Comparing the Accuracy of RDD Telephone Surveys and Internet Surveys Conducted with Probability and Non-Probability Samples", *Public Opinion Quarterly* (Winter 2011), Page 2.

¹³ *Ibid.*, Page 3.

6.1.5 Develop BRG Survey Questions

27. To generate the questions for the BRG Survey, I reviewed the questions asked and responses provided in Survey One. I selected key questions from Survey One and modified them to fit into a multiple-choice response format. This response format facilitates quick and easy responding for participants and allows for statistical analysis.
28. In addition, to prepare the multiple-choice selection options for the item, "Please identify the nature of the performance and/or safety issue(s) you experienced with the PowerShift dual clutch transmission on your Ford [Model] using the options below," I used the frequency count of terms generated from my detailed analysis of Survey One data. This analysis resulted in the identification of the range of descriptive terms and phrases frequently identified by participants of the online registration website. The options for BRG Survey participants included:
- a. Unusual Noises
 - b. Grinding
 - c. Jerking/bucking/Jolting
 - d. Shuddering/Shaking
 - e. Slipping when shifting
 - f. Vibration
 - g. Failing to shift
 - h. Loss of Power/Stalling
 - i. Abrupt stopping
 - j. Hard downshift
 - k. Lurching/lunging
 - l. Uncontrolled acceleration
 - m. Erratic shifting
 - n. Chugging
 - o. Hesitation before acceleration
29. Participants were prompted to select all the descriptions that applied. In addition, consistent with survey design "best practice", I included an "other" option with a text box to enable participants to provide any additional descriptions of their experiences. The inclusion of the "other" category ensures that participants are not guided to one of the offered choices when their actual choice is not represented as an answer.

30. It is a known phenomenon that choices presented earlier in a list of choices in a survey are disproportionately likely to be selected¹⁴. This phenomenon is known as order bias. To avoid order bias in this survey, the options for nature of the performance question identified above were shown in a different order, chosen at random, to each respondent.
31. As an additional measure to ensure valid responses, I incorporated a “dummy” choice option for the “nature of the performance issues” question. This response option was, “improved internet connection” and was not a legitimate vehicle performance problem. This statement was intended to catch individuals who were not answering questions honestly or carefully or who were not paying attention.

6.1.6 Description of BRG Survey Questions

32. The first survey questions in the BRG Survey asked the respondent to report demographic information regarding their industry and gender. Respondents were then screened by questions about their age, location of residence, location of purchase/lease, vehicle type, and vehicle model year to determine if they were members of the target population.
33. Next, participants were asked to identify whether they had purchased or leased a brand new or pre-owned vehicle. The response options provided were, “New”, “Pre-owned (Used)” and “Other”.
34. After providing this information about their vehicle participants were asked specific questions about the vehicle transmission. First, they were asked whether the vehicle contained a PowerShift dual clutch transmission, then they were asked if they had any performance and/or safety issues with the PowerShift dual clutch transmission. Both questions included the option of a “yes” or a “no” response.
35. As described previously, to collect additional information about the issues the participant who reported having a vehicle with the PowerShift dual clutch transmission had experienced we asked them to identify which issues they had experienced from the pre-determined list shown above.
36. Next, the BRG Survey asked participants to indicate with a “yes”, “no”, or “other” response whether they had taken their vehicle to a mechanic to repair the transmission problems, what year they took the vehicle to the mechanic, and whether the repairs had

¹⁴ Krosnick, Jon and Duane Alwin, “An evaluation of a cognitive theory of response order effects in survey measurement”, Oxford Journals Social Sciences Public Opinion Quarterly Volume 51, Issue 2, Pages 201-219.

been successful in fixing the issues (again with yes/no/other options). After asking about repairs, the BRG Survey asked whether participants had received any notification from Ford regarding the need for service to correct the transmission problems. Participants were asked to respond with “yes”, “no”, or “other”. All “other” response options included a text box for respondents to add more information.

37. Next, the BRG Survey asked participants if they felt that their vehicle was safe to drive and if they had been in any car accidents because of the transmission problems. Both questions asked participants to respond with “yes”, “no”, or “other”. All “other” response options included a text box for respondents to add more information.
38. Lastly, the BRG Survey asked participants to indicate with a “yes”, “no”, or “other” whether they had sold their vehicle and to identify the year they sold it. A copy of the full survey is attached to this Report as Exhibit C.

6.1.7 Pilot Study

39. A pilot study is a small-scale version of the survey administered to individuals from the same population of interest as the large-scale or main study. In pilot studies respondents’ difficulties with certain questions can be identified and changes to the survey can be applied to increase clarity and to avoid misunderstandings.¹⁵
40. Unlike in other surveys I have conducted in which the questions had to be developed from scratch, one of the main reasons for the BRG Survey was to assess whether the results from the self-selective Survey One could be confirmed by a survey that was based on a consumer panel that was not told about the litigation context. In that sense, Survey One was utilized as a pilot study and the questions for the BRG Survey were derived directly from Survey One on the online registration website, which had already been completed by 1,980 participants.

6.2 Survey Implementation

41. For this study, participants were recruited from a large consumer panel maintained by a strategic partner of Amplitude Research (“Amplitude”) with whom I have conducted numerous surveys and found the firm to be of the highest quality. It is a highly experienced and well-established sample provider that maintains a variety of panels in the United

¹⁵ Reference Manual on Scientific Evidence, Pages 248 and 249.

States and worldwide and can target difficult to reach populations.¹⁶

42. Amplitude administered the survey between March 27th and March 29th, 2017 via an online panel. Amplitude followed accepted standards regarding:

- a. Survey panelist recruiting;
- b. Strategic partnerships with other market research firms;
- c. Use of advanced software and technology;
- d. Use of proprietary survey completion time tracker;
- e. High quality filtering system to track respondent information and respondent behavior to deliver the highest quality sample;
- f. Data tabulation and recording; and Survey participation validation

43. As is standard survey practice for surveys used in litigation proceedings, the survey was conducted in a “double-blind” fashion¹⁷; that is, neither the staff at Amplitude nor the respondents were aware of the survey sponsor or the ultimate intention of the survey.

44. To ensure that the data generated by the survey are of the highest quality, Amplitude implemented additional quality control measures:

- a. During the survey invitation process, Amplitude included a link to the online survey into an email invitation. This link contained an embedded identification number to ensure that only invited respondents could answer the survey and that each respondent could only complete the survey once.
- b. The survey also included a control measure used to evaluate the extent to which respondents were involved in completing the survey. As a control, Amplitude included survey administration tools which include review of each respondent's survey completion time, review of text field responses, straight-line testing, and other filtering techniques that result in superior data and higher quality feedback.
- c. There is no open static link on a website or web page to participate in an Amplitude survey. Rather, each panelist is assigned a unique login combination that is randomly generated and then clicks on a unique link

¹⁶ <http://www.amplitudereseach.com/>,

¹⁷ Diamond, Shari, S. (2012) “Reference Guide on Survey Research,” *Reference Manual on Scientific Evidence*, Committee on the Development of the Third Edition of the Reference Manual on Scientific Evidence; Federal Judicial Center; National Research Council, pages 410-411.

to access the survey. Once accessing Amplitude's survey platform, special survey timers are used to time how long it takes each respondent to complete the survey and participants who do not meet the timing requirements are excluded.

45. Respondents who qualified and completed the survey received an incentive. In my experience, such incentives are common in survey research and do not influence the accuracy of the responses.

6.3 Quality Control

46. Prior to conducting any statistical analysis, I performed additional quality checks on the survey data to ensure that responses were valid. These checks identified response patterns which were contradicting each other. These response patterns included the following:

- a. Indicated sold vehicle before purchase date.
- b. Indicated purchased or sold vehicle more than 1 year before vehicle model year.
- c. Indicated that vehicle was repaired before purchase date or 1 year before vehicle model year.
- d. Indicated sold vehicle before repair date.
- e. Indicated there were no problems with the vehicle and then selected problems.
- f. Indicated did not sell vehicle but selected sale date.
- g. Indicated no repairs made and then selected repair date.

47. In addition, as described earlier, responses were reviewed to determine whether any participants selected the "dummy" response option included in the question related to the nature of the problem. Any respondent who selected this item would be excluded from the analysis.

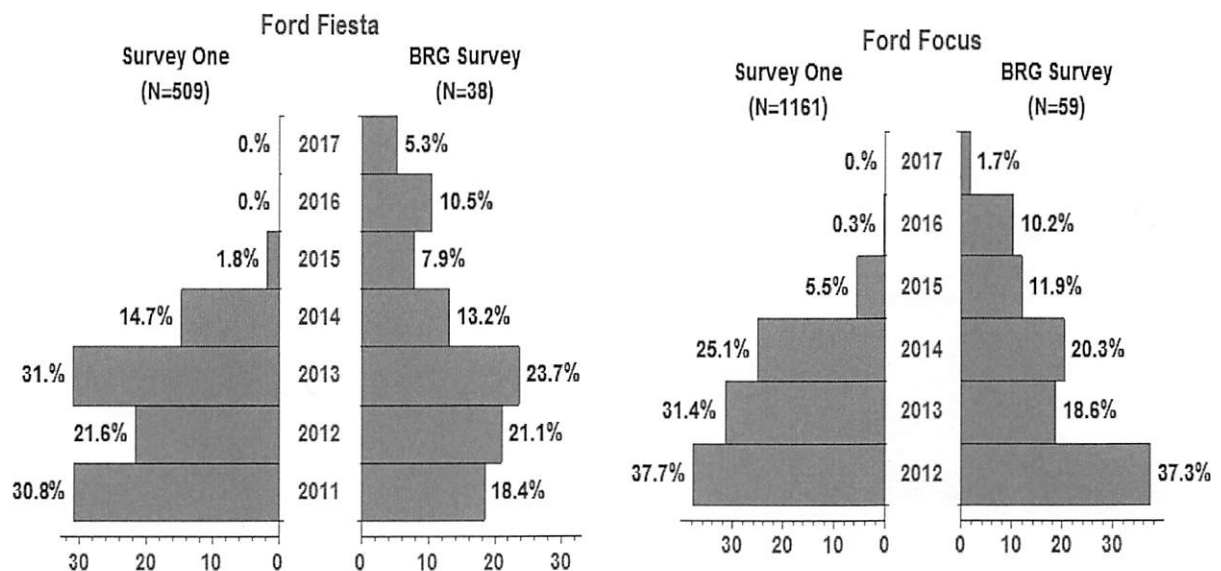
48. To ensure that responses regarding participants' experience with a PowerShift dual clutch transmission were accurate, respondents were excluded from completing questions about the PowerShift transmission if they had previously reported that their vehicle did not have one.

7 Statistical Analysis

49. In this Section, I will present the results from the survey itself, and discuss my statistical analyses of the results and their interpretations in the context of this case. More specifically, I will demonstrate how the BRG Survey confirms the findings of Survey One by comparing the results from Survey One to the results of the BRG Survey.

50. Figure 2 below shows the comparison of responses by model year between the two surveys for Ford Fiesta and Ford Focus:

Figure 2 - Respondents by Model Year, Survey One and BRG Survey



Source: Own calculations based on Survey One and BRG Survey.

51. In the Figure, the percentages next to the blue bars indicate the share of survey participants in one of the two surveys who indicated that they owned a particular model year for either a Ford Fiesta or a Ford Focus, which implies that the percentages going down the bars for a particular model year/Survey combination add up to 100%. (e.g., in the very left column, the percentages for Survey One add up to 100%).¹⁸

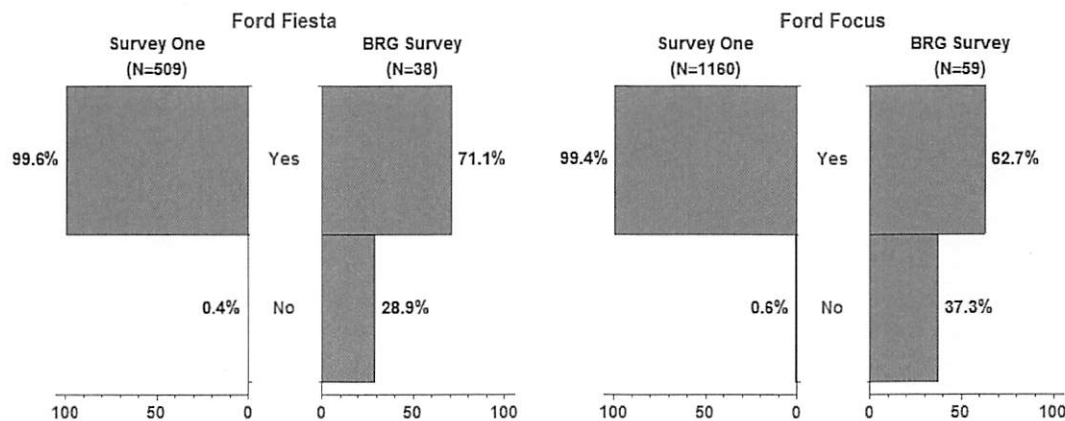
52. In general, Fiesta and Focus owning respondents in Survey One owned older model years

¹⁸ This formatting convention (i.e., the percentages going down a column add up to 100% was also applied in the subsequent Figures).

than their counterparts in the BRG survey which may be an indication that the problems caused by the defect manifest themselves over time. This conjecture is corroborated by other expert reports and witness testimony¹⁹. For example, see the Affidavit of expert Paul M. Taylor, which includes a detailed description of the range of performance problems experienced by Ford Fiesta and Focus owners related to defects, demonstrating that the issues are pervasive and require single and sometimes multiple trips to mechanics to address²⁰.

53. Figure 3 shows the percentage of respondents in Survey One and in the BRG survey who reported problems. Because of the self-selection of Ford Fiesta and Ford Focus owners reporting transmission problems in Survey One, it is not surprising that the percentage of respondents reporting problems in Survey One is nearly 100%.

Figure 3 - Respondents Who Reported Issues with the PowerShift Transmission System, Survey One and BRG Survey



Source: Own calculations based on Survey One and BRG Survey.

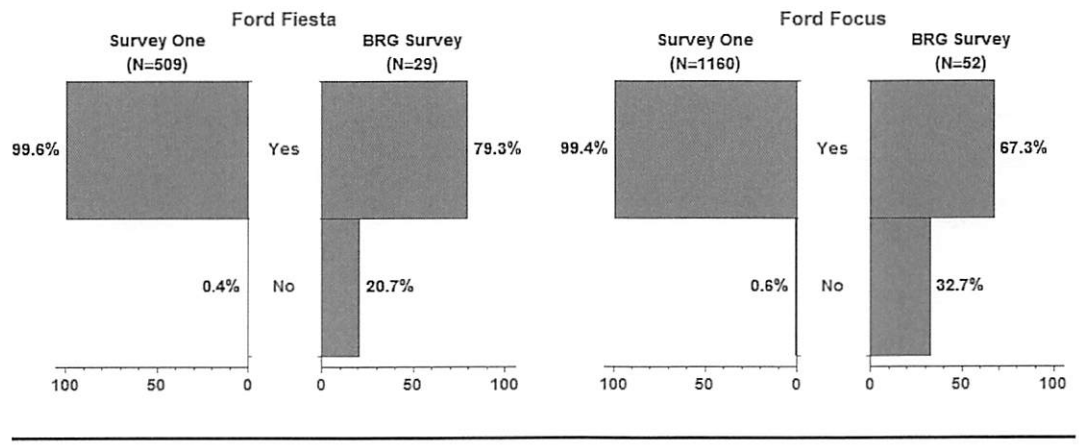
54. To make the results from the two surveys more comparable, I also performed an analysis of reported issues excluding the model years 2016 and 2017 because Survey One only had 4 respondents who owned Fiesta and Focus models from the model years 2016 and 2017. Figure 4 shows the distribution of issues reported for the model years that were

¹⁹ See similar cases filed internationally, such as Omar Vargas, et al., v. Ford Motor Co., case number 2:12cv08388, in the U.S. District Court for the Central District of California.

²⁰ See Affidavit of Paul M Taylor in the matter of Outerbridge and Wilke v. Ford Motor Company and Ford Motor Company of Canada, Limited, Case number: QBG 2940 of 2015, paragraphs 44 and 45

represented in Survey One.

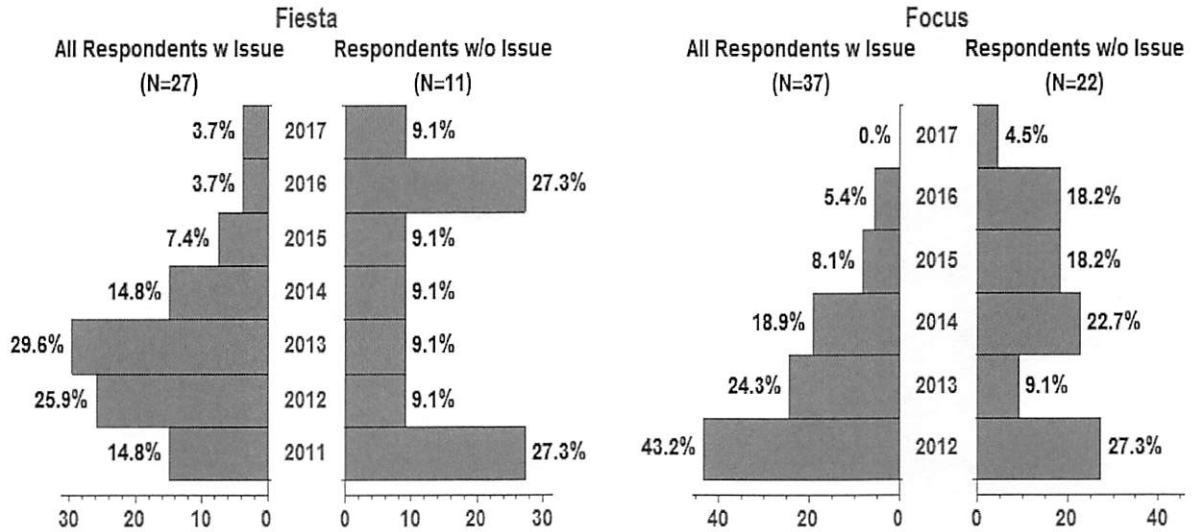
Figure 4 - Respondents Who Reported Issues with the PowerShift Transmission System, Only Including Model Years Represented in Survey One



Source: Own calculations based on Survey One and BRG Survey.

55. Figure 5 shows a correlation of model year and the propensity of respondents reporting issues and problems: it becomes apparent that issues appear to be a function of the model year – in general, older model years tend to have a higher propensity of having issues with the PowerShift transmission system.

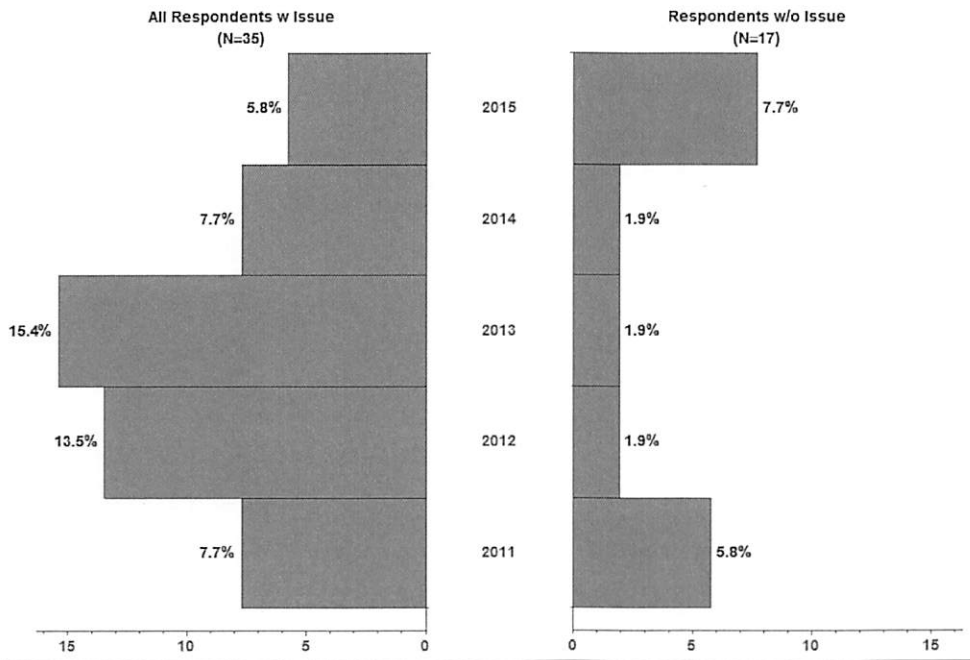
Figure 5 - Respondents Who Reported Issues with the PowerShift Transmission System by Model Year, BRG Survey



Source: Own calculations based on BRG Survey.

56. The blue bars indicate the percentage of owners reporting issues by year for Fiesta and Focus models. In general, older models show a larger propensity of having issues.
57. Figure 6 below shows the distribution of respondents in the BRG survey with and without issue with their vehicle. For consistency with Survey One, I removed from the BRG survey analysis all model years that are not present in Survey One. For Ford Fiesta, I excluded Model Year 2015 through 2017, while for Ford Focus I excluded Model Year 2016 through 2017.

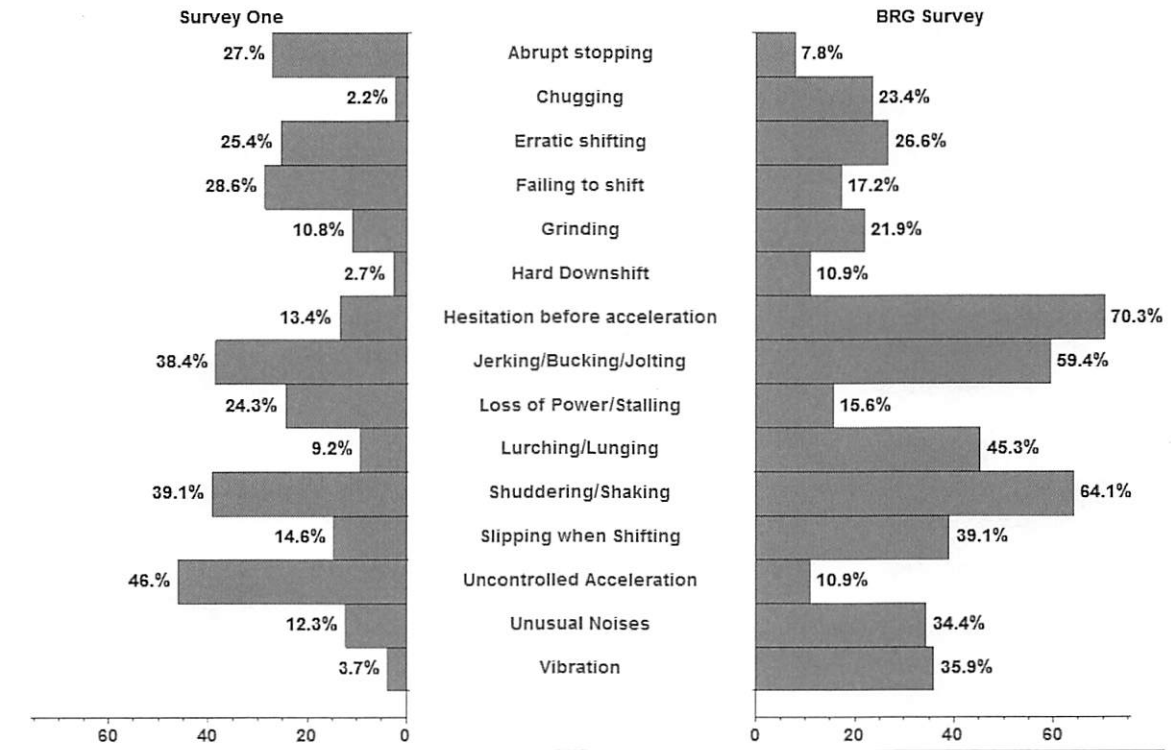
Figure 6 - Respondents Who Reported Issues with the PowerShift Transmission System, BRG Survey



Source: Own calculations based on BRG Survey.

58. I also performed an analysis to test if the respondents of the BRG Survey experienced similar transmission related issues and problems as the respondents to Survey One. It turns out that Ford Fiesta and Ford Focus models of owners participating in Survey One had a large amount of transmission related issues and problems in common with those from the BRG Survey. Figure 7 list of issues and problems common to participants in both surveys. For this question, respondents could select multiple issues, so each category was calculated independently out of a possible 100%. In other words, the percentage listed represents the number of participants who selected that issue out of the total count of participants who respondent to the question.

Figure 7 - Issues with the PowerShift Transmission System as Reported by Respondents Who Experienced Issues with PowerShift Transmission, Survey One and BRG Survey

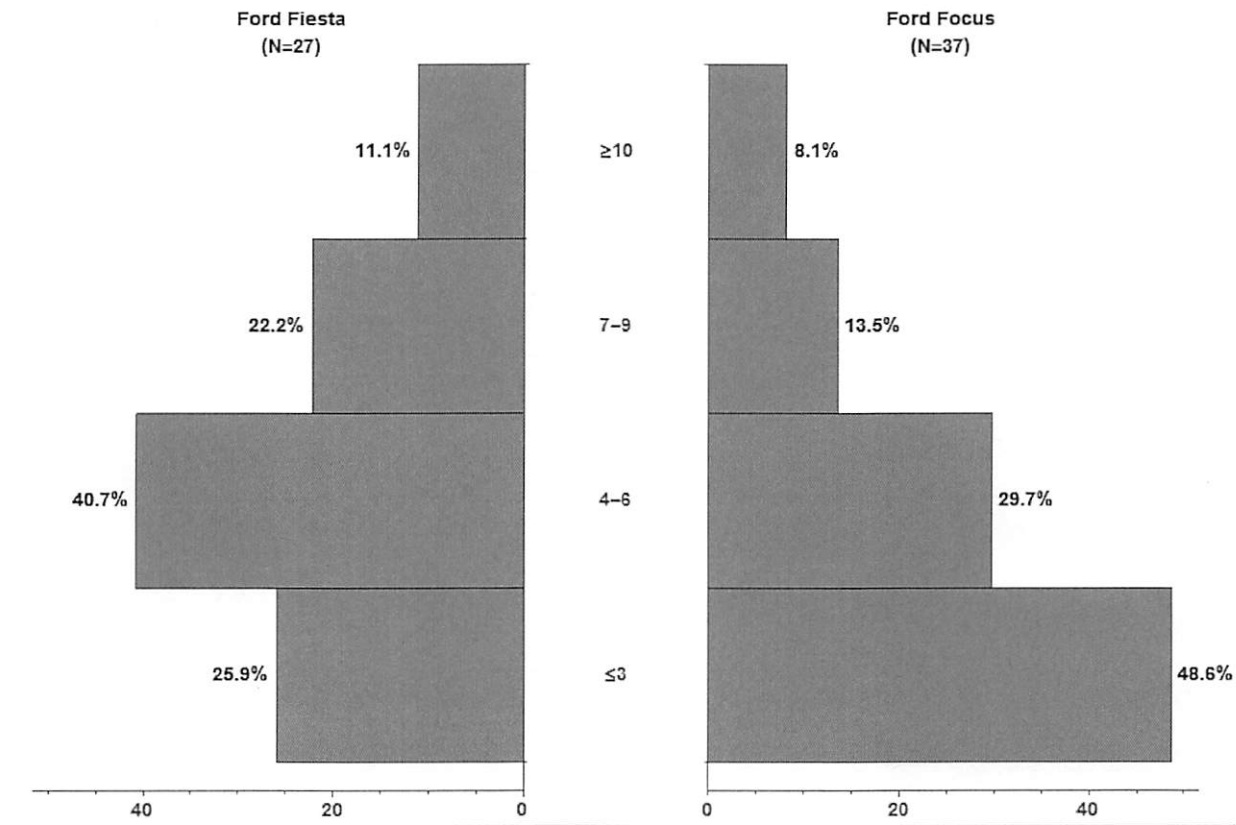


Source: Own calculations based on BRG Survey.

Note: Multiple responses per respondent were possible.

59. I performed an analysis to assess the frequency with which issues and problems were encountered. Figure 8 shows the consistency and frequency of issues and problems for Ford Fiesta and Ford Focus owners in the BRG survey. 26% of Ford Fiesta owners/lessees and 49% of Ford Focus owners/lessees in the BRG survey selected three or fewer of the problems and issues given to them in the survey. 11% of Ford Fiesta owners/lessees and 8% of Ford Focus owners/lessees stated that they had experienced 10 or more of the issues presented in the survey question.

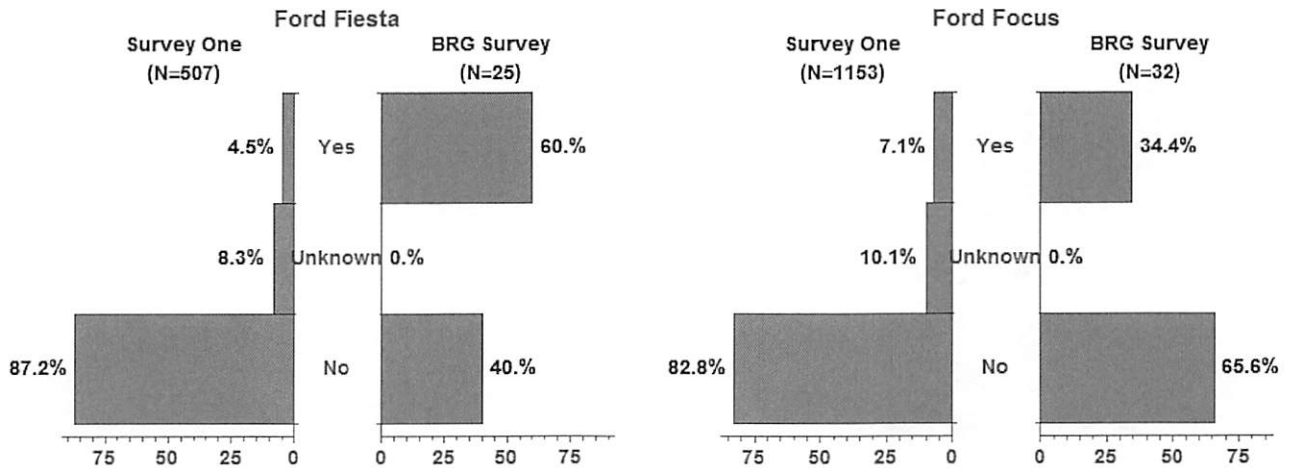
Figure 8 - Respondents Reported One or More Issues with Ford PowerShift Transmission System, BRG Survey



Source: Own calculations based on BRG Survey.

60. Figure 9 shows the share of respondents for which the issue with the PowerShift transmission system was resolved after they had reported an issue. In Survey One, 87% of Ford Fiesta owners/lessees and 83% of Ford Focus owners/lessees reported that the issue with the PowerShift transmission had not been resolved. In the BRG Survey, 40% and 66% of respondents respectively report that the issue has not been resolved.

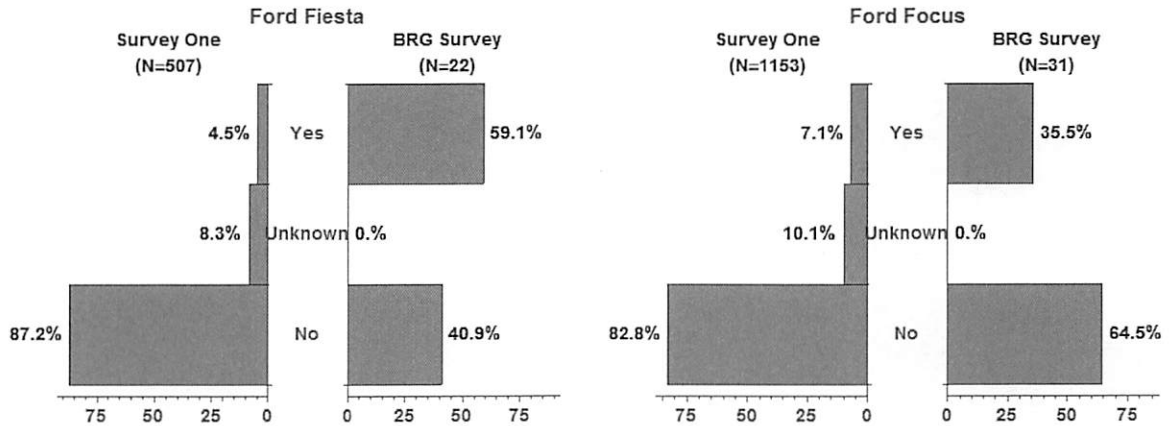
Figure 9 - Respondents Reported Issue but Issue Was Resolved, Survey One and BRG Survey



Source: Own calculations based on Survey One and BRG Survey.

61. In Figure 10 I present the same analysis. However, to make the results of the two surveys more comparable I remove from the BRG survey analysis all model years that are not present in Survey One. For Ford Fiesta, I exclude Model Year 2015 through 2017, while for Ford Focus I exclude Model Year 2016 through 2017.

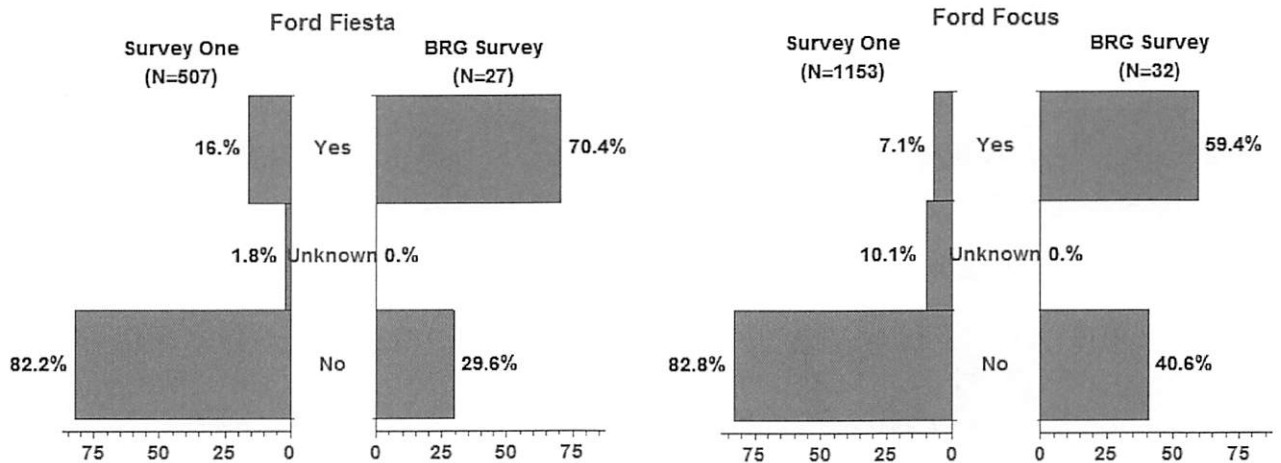
Figure 10 - Respondents Reported Issue but Issue Was Resolved, Excluding Ford Fiesta Model Year 2015-2017 and Ford Focus Model Year 2016-2017, Survey One and BRG Survey



Source: Own calculations based on Survey One and BRG Survey.

62. Figure 11 shows the share of respondents who perceived that the issue with the PowerShift transmission system caused a safety issue and limited the safety of operating their vehicle. 82% and 83% of respondents in Survey One considered their vehicle not safe to drive due to the issue with the PowerShift transmission. In the BRG Survey with a generally younger population of vehicles, approximately 30% and 41% respectively, do not consider their Ford Fiesta and Ford Focus safe to drive.

Figure 11 - Respondents Consider Whether Their Vehicle is Safe to Drive After Reporting Issues, Survey One and BRG Survey



Source: Own calculations based on Survey One and BRG Survey.

8 Summary & Conclusions

63. The findings indicate that the results of the BRG Survey are generally consistent with the data collected through Survey One. There is a high level of consensus of the respondents' experiences across the two surveys indicating that transmission related issues and problems that may impact the safety of operating the vehicle are a wide-spread problem and have happened with high frequency.

64. Based on the results of two surveys, Survey One and the BRG Survey, my education, background, and professional experience, I have formed the following opinions with a high degree of scientific certainty:

- a. The survey conducted by Counsel using an Online Registration Website ("Survey One") contains information useful for the class action proceedings.
- b. Survey One provides strong evidence that the allegations in the Complaint were experienced by a sufficiently large number of Ford Fiesta and Ford Focus vehicle owners.
- c. Survey One provides strong evidence that repeated efforts to fix the problems

alleged in the Complaint did not resolve them.

- d. The survey designed by BRG and implemented by Amplitude Research (“BRG Survey”) was based on a large, online consumer panel, which was not self-selected like Survey One, and therefore, can be utilized as an independent verification of the results from the survey conducted by Counsel via an Online Registration Website.
- e. The respondents of the two surveys were similar in terms of geographic coverage of Canada and in terms of vehicle ownership.
- f. The BRG survey confirmed the large percentage of drivers who reported experiences of problems with the transmission in Survey One.
- g. The BRG survey confirmed the type of problems that were experienced by the drivers who reported experiences of problems with the transmission in Survey One.
- h. The BRG survey confirmed the fact that drivers who reported experiences of problems with the transmission in Survey One unsuccessfully frequented Ford dealerships and mechanics to fix the problems.

65. In summary, I conclude:

- a. Based on my review of data obtained from two independent valid surveys as described above, there is evidence of significant wide-spread common experiences between respondents of those two distinct surveys of members of the purported class.
- b. The results from the BRG Survey, which used similar questions phrased in similar language, confirm the experience of the same consistent and persistent issues with Ford’s PowerShift transmission as recorded by the respondents of Survey One, and therefore, have validated Survey One as a reliable way of collecting data that adequately reflect the issues faced by the members of the purported class.

Respectfully submitted on April 16, 2017.



Stefan Boedeker

Exhibit A

Curriculum Vitae



STEFAN BOEDEKER

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Education

- BS in Statistics,
University of Dortmund, Germany
- BA in Business Administration,
University of Dortmund, Germany
- MS in Statistics
University of Dortmund, Germany
- MA in Economics
University of California, San Diego
- ABD in Economics
University of California, San Diego

Professional Associations

- Member of the American Economic Association (AEA)
- Member of the American Statistical Association (ASA)
- Member of the Econometric Society
- Member of the Mathematical Association of America (MAA)
- Member of the American Association for Public Opinion Research (AAPOR)
- Member of the Market Research Association (MRA)
- In 2001 Stefan was a member of an AICPA task force dealing with Corporate Integrity Agreements (CIA). Stefan was responsible for issues related to statistical methodology utilized in CIA's.

Background

Stefan is a Managing Director at Berkeley Research Group where he focuses on the application of economic, statistical, and financial models to a variety of areas such as solutions to business issues, complex litigation cases, and economic impact studies. He has extensive experience applying economic and statistical theories and methodologies to a wide variety of cases where But-for-scenarios have to be developed based on probabilistic methods and where statistical predictive modeling has to be applied to assess liability and damages.

Stefan has applied these techniques in business disputes, single-plaintiff cases, multi-plaintiff cases, and class action proceedings in the areas of class certification, liability assessment, developing damages scenarios, and post settlement or judgment distributions.

Professional and Business Experience

Representative Engagements

Survey Sampling

Stefan has extensive experience in designing, conducting, and statistically analyzing surveys. He has applied his expertise in both, the business consulting sector as in litigation proceedings in a wide variety of industries. Stefan's work also often incorporates the review and evaluation of surveys designed, conducted, and analyzed by other consultants and experts. In this capacity Stefan has frequently been asked to assess what can and what cannot be concluded from survey data.

- » In a class action alleging misleading advertisement about coupon redemption policies, Stefan analyzed transactional coupon redemption data and conducted a consumer survey about the perceived meaning of the advertising regarding the coupon redemption policies
- » In a case involving the meaning of certain endorsement labels on sporting equipment, Stefan analyzed a consumer survey about the recognition and perceived meaning of such labels.
- » In a case where a celebrity chef look-alike was used in a commercial, Stefan conducted a survey to assess the extent of consumers' confusion and the potential impact on product sales.
- » In a case of advertising slogans for an alcoholic beverage, Stefan conducted a survey to assess whether consumers assumed that the products advertised were from a particular brewery.
- » In a post-acquisition study for a large instant breakfast producer, Stefan conducted surveys to assess the value of the acquired brand name and the advantages of keeping that name for certain product lines.
- » In a dispute between two golf club manufacturers over advertising claims for their drivers, Stefan performed statistical analyses of test data and a consumer survey to assess the impact of the advertising on the propensity to buy a particular driver.
- » For a large consumer products company, Stefan combined statistical modeling of transactional purchase data with consumer surveys to assess the price premiums that consumers were willing to pay for certain national brands over local brands and non-branded products.
- » Stefan designed, conducted and implemented consumer surveys about coupon redemption rates, frequency and volume of coupon usage, and the perceived value of coupons in class action settlements.
- » Stefan designed and analyzed a survey in a dispute about the perception of customer mis-information concerning the rating process of video and computer games.
- » For a large casino operator Stefan designed, conducted, and analyzed surveys about consumer visit frequency and gambling habits to develop a "comp" system.
- » Stefan analyzed guest data to analyze the effectiveness of a frequent traveler program as well as group discount pricing. Based on a survey of frequent travelers and utilizing data mining tools Stefan developed predictive models for customer acquisition, retention, and attrition. Stefan also specified share of wallet models. The study resulted in price setting recommendations and a restructuring of the yield management system.
- » Stefan designed a survey of used car dealers to assess the impact of optional equipment and general condition on the value of used automobiles for insurance valuation purposes.
- » In a consumer class action alleging economic losses to the class caused by defective window regulators Stefan designed, conducted, and analyzed a survey used to segment the customer base and identify different levels of economic loss.
- » For one of the largest school districts in the country Stefan designed, conducted and statistically analyzed a survey of school administrators, teaching personnel, students, and parents about the attitude towards a new recycling program prior to its implementation.

- » For a large school district Stefan designed, conducted and statistically analyzed a survey about the acceptance of a recycling program across school administrators, teaching personnel, students, and parents after its implementation. The answers of the survey were cross validated by actually observing and analyzing the recycling behavior on a sample of school yards.
- » In several environmental disputes Stefan designed, conducted and statistically analyzed surveys assessing the willingness to pay among users and non-users of natural resources for cleanup costs related to pollution.
- » In a dispute over alleged underfunding of special education in public schools funding Stefan designed, conducted, and statistically analyzed a survey among school district administrators about allocation of public funds.
- » In a variety of instances for clients across multiple industries Stefan designed, conducted, and statistically analyzed data from customer surveys to assess a qualitative ranking of the importance of goods and services offered and to measure the performance relative to the customers' perception of importance.
- » For the San Diego County Bar Association, Task Force on Diversity in the Profession, Stefan performed a statistical analysis of questionnaires on diversity regarding aspects of race, gender, age, and disability.
- » On numerous occasions Stefan has been retained to critically analyze other experts' surveys and opine on design, implementation, statistical analysis of data obtained from the surveys, and interpretations and conclusions drawn based on the results.
- » For a large insurance company, Stefan utilized statistical sampling methodology to estimate the potential exposure in a lawsuit alleging the unlawfulness of certain liability waivers in automobile insurance.
- » In numerous wage and hour litigation cases Stefan designed, conducted, and statistically analyzed surveys in junction with observational studies to gain information about how store managers, assistant managers, and/or other salaried employees in supervisory functions allocate their time worked across managerial and non-managerial activities.
 - Including, but not limited to large department stores, electronics retailer, large big box retailer, women's special clothing retailer, women's shoe retailer, sporting goods stores, amusement park industry, restaurant industry, high tech, etc.
- » In numerous wage and hour litigation cases Stefan designed, conducted, and statistically analyzed surveys in junction with observational studies to gain information about the implementation of and compliance of meal and rest break policies.
 - Including, but not limited to large department stores, electronics retailer, large big box retailer, women's special clothing retailer, women's shoe retailer, sporting goods stores, amusement park industry, restaurant industry, high tech, etc.

Non-Litigation

- » For large grocery store chains, Stefan analyzed the effectiveness of a frequent shopper card program utilizing data mining techniques. He also analyzed customer data to facilitate the introduction of one-to-one marketing tools.
- » For a grocery store chain, Stefan utilized econometric elasticity models to recommend pricing strategies for in-store promotions.
- » For a grocery store chain, Stefan developed customer segmentation models to design segment specific marketing campaigns.
- » For the American Film Marketing Association, Stefan performed an economic impact study of the influence of the independent film producers and distributors on the U.S. economy in general, and the California economy in particular.
- » For a large entertainment client, Stefan developed statistical models to predict the return of video cassettes and DVDs.
- » For several clients in the retail industry, Stefan developed statistical models to estimate the liability of unredeemed gift certificates.
- » For a client in the restaurant business, Stefan developed statistical models to quantify the dollar amount of outstanding unredeemed gift certificates.
- » For a major hotel chain, Stefan developed statistical models to forecast the redemption of frequent traveler program points for tax purposes.
- » For a high profile e-commerce company, Stefan's team produced an interactive Business decision tool to forecast company growth and profitability. The interactive model allows the client, through the choice of a few fundamental inputs, to measure the simultaneous impact on all cost and revenue dimensions of the company, including real estate and equity participation.
- » For the Nevada Resort Association, Stefan quantified the economic impact of the gaming industry with special emphasis on the accelerated population growth in greater Las Vegas.
- » For the Los Angeles Unified School District, Stefan performed an economic study about the impact of different recycling programs.
- » For the Los Angeles County Department of Health Services, Stefan conducted a time and motion study to determine the time required to complete specific Medi-Cal eligibility and provider forms.
- » For the Arizona Tax Research Association, Stefan developed economic models to quantify the revenue impact of a proposed change of taxation in the construction sector in Arizona.
- » For a hotel property management company, Stefan analyzed customer data, and used data mining methods to develop predictive models for customer acquisition, retention, and attrition.
- » For a project analyzing the extent of competition in the market segments of a pipeline company, Stefan estimated regression and Tobit-models to determine optimal bidding behavior for gas storage demand. He prepared testimony given in filings before the Federal Energy Regulatory Commission (FERC).

- » For a hotel property management company, Stefan developed a demand driven yield management system.
- » For a company providing self-storage space, Stefan developed a demand driven price-setting strategy utilizing own- and cross-price elasticity regression models.
- » For a high-tech start-up with a unique service offering of new products, Stefan recommended product-pricing scenarios.
- » For a large international conglomerate, Stefan developed customized data mining techniques for the implementation within a customer knowledge management system.
- » For a large law firm, Stefan performed a comprehensive statistical analysis of Los Angeles superior court jury verdicts over the last decade. The project tested the hypothesis of systematic bias in particular courthouses with respect to plaintiff-win probability, length of trial, length of deliberation, and dollar amounts awarded.

Depositions & Testimony

Depositions

1. MRO Communications, Inc vs. American Telephone and Telegraph Company, United States District Court District of Nevada, Case. No. -5-95-903-PMP, Deposition Testimony, September 26, 1996
2. Yolanda Aiello Harris, individually and on behalf of all others similarly situated; Jennifer Hopkins, individually and on behalf of others similarly situated; Shannon L. Bradley, individually and on behalf of others similarly situated, Plaintiffs, vs. CB Richard Ellis, Inc., a California corporation; CB Commercial INC., a California corporation; Defendants, Superior Court of California, County of San Diego, Case No. GIC 745044, Deposition Testimony, January 05, 2001.
3. State of Tennessee, ex rel., Douglas Sizemore, Petitioner vs. Xantus Healthplan of Tennessee, Inc., Chancery Court of Davidson County, Tennessee at Nashville, Case No 99-917-II, Deposition Testimony, October 11, 2001.
4. Howard Wright, Inc., a California corporation doing business as AppleOne Employment Services, Plaintiffs, vs. Olsen Staffing Services, Inc., a Delaware Corporation, Dagney Smith, an individual, Vicky Riechers, an individual, and Linda Shiftman, an individual, Defendants, Superior Court of the State of California for the County of Los Angeles, Case No. BC 200657, Deposition Testimony, December 7, 2001.
5. Sacred Heart Medical Center, et al., Plaintiffs, -vs- Department of Social and Health Services, and Dennis Braddock, the Secretary of the Department of Social and Health Services, Defendants, Superior Court of the State of Washington in and for the County of Thurston, No. 00-2-01898-1, Deposition Testimony, January 23, 2003.
6. Patrick Bjorkquist individually and on behalf of all others similarly situated, Plaintiff, vs. Farmers Insurance Company of Washington, Defendant, in the Superior Court of the State of Washington for King County, Case No.: 02-2-11684-1 SEA, Deposition Testimony, November 3, 2003.



7. Diversified Property, a general partnership, Dora Saikhon Family Trust, and Nancy Saikhon Borrelli, an individual, Plaintiffs vs. Manufacturers Life Insurance (U.S.A.), a Michigan corporation, erroneously sued as Manufacturers Life Insurance Company, Inc., Defendants in the Superior Court of California, County of San Diego, Case No.: GIC 815128, Deposition Testimony on July 21, 2004.
8. Alan Powers, Plaintiff, vs. Laramar Group et al., Defendants in the United States District Court, Northern District of California, No. C-02-3755 SBA, Deposition Testimony on August 27, 2004.
9. Group Anesthesia Services, A Medical Group, Inc., Claimant, vs. American Medical Partners of North Carolina, Inc., etc., et al., Respondents, JAMS Arbitration, Reference No. 1100040919, Deposition Testimony on February 9, 2005.
10. Group Anesthesia Services, A Medical Group, Inc., Claimant, vs. American Medical Partners of North Carolina, Inc., etc., et al., Respondents, JAMS Arbitration, Reference No. 1100040919, Deposition Testimony on March 11, 2005.
11. Fujitsu v. Cirrus Logic et al., United States District Court, Northern District of California, San Jose Division, Case No. 02CV01627. Deposition Testimony on April 21 and 22, 2005.
12. Goldman et al. v. RadioShack Corporation, United States District Court, Eastern District of Pennsylvania, Case No. 03 CV 0032, Deposition Testimony on May 18, 2005.
13. Perez et al. v. RadioShack Corporation, United States District Court, Northern District of Illinois, Eastern Division, Case No. 02-CV-7884, Deposition Testimony on December 13, 2005.
14. United States of America ex rel. A. Scott Pogue v. American Healthcorp Inc., Diabetes Treatment Centers of America Inc., et al., United States District Court, Middle District of Tennessee at Nashville, Civil No. 3-94-0515, Deposition Testimony on May 12, 2006.
15. School Districts' Alliance v. State of Washington, United States District Court, Eastern District of Thurston, Case No. 04-2-02000-7, Deposition Testimony on July 20, 2006.
16. Boca Raton Community Hospital, Inc., a Florida not-for-profit corporation d/b/a Boca Raton Community Hospital, on behalf of itself and on behalf of Class of all others similarly situated v. Tenet Healthcare Corp., a Nevada Corporation, United States District Court, Southern District of Florida, Miami Division, Case No. 05-80183-CIV-SEITZ/MCALILEY, Deposition Testimony on July 25, 2006.
17. Boca Raton Community Hospital, Inc., a Florida not-for-profit corporation d/b/a Boca Raton Community Hospital, on behalf of itself and on behalf of Class of all others similarly situated v. Tenet Healthcare Corp., a Nevada Corporation, United States District Court, Southern District of Florida, Miami Division, Case No. 05-80183-CIV-SEITZ/MCALILEY, Deposition Testimony on October 13, 2006.
18. Louise Ogborn v. McDonald's Corporation et al., Commonwealth of Kentucky 55th Judicial District, Bullitt County Circuit Court, Case No. 04-CI-00769, Deposition Testimony on October 19, 2006.
19. Elise Davis v. Kohl's Department Stores, Inc. consolidated with Rosie Grindstaff v. Kohl's Department Stores, Inc., Superior Court of the State of California for County of Los Angeles Central District, Case No. BC 327426 (lead case) consolidated with Case No. BC 341954, Deposition Testimony on April 25, 2007.



20. Norman Utley, et al., v. MCI, Inc., MCI Worldcom Communications, Inc., and MCI Network Services, Inc., formerly known as MCI Worldcom Network Services, Inc., United States District Court, Northern District of Texas, Dallas Division, Civil Action No. 3:05 - CV- 0046 - K, Deposition Testimony on May 30, 2007.
21. Ramon Moreno and Ernesto Morailo, on behalf of themselves and all others similarly situated v. Guerrero Mexican Food Products Inc., a division of Gruma Corporation; and Gruma Corporation, a Nevada Corporation, United States District Court, Central District of California, Case No. CV05-773RSWL(PLAx), Deposition Testimony on August 10, 2007.
22. Darensburg et al. v. Metropolitan Transportation Commission, U.S. District Court, Northern District of California, Case No. C-05-1597-EDL, Deposition Testimony on March 18, 2008.
23. In Re: King Pharmaceuticals, INC, Derivative Litigation, Lead Case No: BOO19077(M), The Chancery Court, Sullivan County at Bristol, Tennessee, Deposition Testimony on April 4, 2008.
24. P. Ansley et al. v. Lewis Homes of California, a California General Partnership, et al., Superior Court of the State of California, For the County of Solano, Case No. FCS02445, Deposition Testimony on April 10, 2008.
25. Personnel Plus v. Ashish Wahi et al., Superior Court of the State of California, County of Orange, Case No. 07CC08363, Deposition Testimony on August 13, 2008.
26. First Capitol Consulting Inc. v. LVX, Inc. et al., Superior Court of the State of California for the County of Los Angeles, Case No. BC378202, Deposition Testimony on October 27, 2008.
27. R. Molina et al. v. Lexmark International, Inc., Superior Court of the State of California for the County of Los Angeles, Case No. BC339177, Deposition Testimony on November 19, 2008.
28. In re National Century Financial Enterprises, Inc. Investment Litigation, No. 2:03-MD-1565-JLG-MRA (S.D.Ohio), Deposition Testimony on January 22, 2009.
29. New York City Employees' Retirement System, et al. v. Bank One, N.A., et al., Case No. 03-cv-09973 (LAK) (S.D.N.Y.), Deposition Testimony on January 22, 2009.
30. Dole Fresh Fruit International, Ltd, Hyundai Precision America, Inc., JAMS Arbitration, ADRS Case #05-1138-RTA, Deposition Testimony on December 21, 2009.
31. D. Berry, L. Hedges et al. v. Volkswagen of America, Inc., in The Circuit Court of Jackson County, Missouri, at Independence, No. 0516-CV01171 Division 2, Deposition Testimony on February 18, 2010.
32. D. Aberle et al. v. Davidson Builders, Inc., et al., Superior Court of the State of California, County of Orange, Case No.: 37-2008-00083718-CU-CD-CTL, Deposition Testimony on March 24, 2010.
33. Urga, et al. v. Redlands Community Hospital, Superior Court of the State of California, County of San Bernardino, Case No. SCVSS 123769, Deposition Testimony on May 17, 2010.
34. Oberschlake, et al v. St. Joseph Hospital of Orange, et al, Superior Court of the State of California, County of Orange, Case No. 05CC00301, Deposition Testimony on August 12, 2010.
35. J. Morrison v. The Vons Companies, Inc., Superior Court of State of California, County of San Diego, Case No. 37-2009-00081026-CU-BT-CTL, Deposition Testimony on December 7, 2010



- 36. R. Pate, et al. v. Children’s Hospital of Orange County, Superior Court of California, County of Orange, Case No. 05CC00303, Deposition Testimony on April 13, 2011.
- 37. M. St. Croix, et al. v. Cedar Fair, L.P., et al., Superior Court of California, County of Orange, Case No. 30-2008-0214500, Deposition Testimony on August 22, 2011.
- 38. Steven Domalewski, a minor v. Hillerich and Bradsby Co., et al., Superior Court of New Jersey, Passaic County, Docket No.: PAS-L-2119-08, Deposition Testimony on January 5, 2012.
- 39. Cathleen McDonough, et al., v. Horizon Blue Cross/Blue Shield of New Jersey, United States District Court, District of New Jersey, Civil Action No. 09-cv-00571-(SRC) (PC), Deposition Testimony on January 10, 2012.
- 40. Daniel Ordonez, et al., v. Radio Shack, United States District Court, Central District of California, Case No. CV 10-07060 CAS (JCGx), Deposition Testimony on October 24, 2012.
- 41. Ameritox, Ltd., v. Millennium Laboratories, Inc., United States District Court, Middle District of Florida, Case No. 8:11-cv-00775-SCB-TBM, Deposition Testimony on December 20, 2013.
- 42. United States of America, ex rel. Glenda Martin v. Life Care Centers of America, Inc., United States District Court Eastern District of Tennessee at Chattanooga, Civ. Action No. 1:08-CV-251, Deposition Testimony on January 15, 2014.
- 43. United States of America, ex rel. Tammie Taylor v. Life Care Centers of America, Inc., United States District Court Eastern District of Tennessee at Chattanooga, Civ. Action No. 1:12-CV-64, Deposition Testimony on January 15, 2014.
- 44. Darren Smith, et al., v. Panera Bread Company, Superior Court of California, County of San Diego, Case No. 37-201-00084077 CU-BT-CTL, Deposition Testimony on April 30, 2014.
- 45. Joseph Hummel et al., v. Castle Principles, LLC et al., Superior Court of California, County of Santa Clara, Case No. 112CV223170, Deposition Testimony on June 19, 2014.
- 46. Sherman Way Oil, Inc. (Bijan Pouldar), American Pacific Enterprises Group (Sherwin Louie), Bahman Kohanteb, Hamid Kalhor , Claimants, Vs. Circle K Stores, Inc., Respondent, Alternative Dispute Resolution Case No’s 13-7103-DSC through 13-7106-DSC, Deposition Testimony on September 25, 2014.
- 47. In re: ExxonMobil Oil Corporation, et al., Southern California Bulk Sale Litigation, Case No. CV12-04689-PA (VBKx), Deposition Testimony on September 25, 2014.
- 48. Oracle Wage and Hour Cases, Raghunandam Matam et al., v. Oracle Corporation, Superior Court of California, County of Alameda, No. RG-09480164, Deposition Testimony, October 21, 2014.
- 49. G. Taylor et al. v. Shippers Transport Express, Inc., et al., United States District Court, Central District of California, Case No.: CV13-02092-BRO (PLAx), Deposition Testimony on October 24, 2014.
- 50. Denise Mays et al. v. Children’s Hospital of Los Angeles, Superior Court of California, County of Los Angeles, Case No. BC477830, Deposition Testimony on March 17, 2015.
- 51. Direct General Insurance Company v. Indian Harbor Insurance Company et al., United States District Court, Southern District of Florida, Miami Division, Case No. 14-20050-CIV-Cooke/Torres, Deposition Testimony on March 27, 2015.

52. Dennis Dickman v. Gerdau Reinforcing Steel, et al., Superior Court of California, County of San Bernardino, Case No. CIV-DS-1406231, Deposition Testimony on July 7, 2015.
53. Fred Devries, et al. v. Morgan Stanley & Co. LLC, et al., United States District Court, Southern District of Florida, Case No. 9:12-cv-81223-KAM, Deposition Testimony on July 31, 2015.
54. Dennis Dickman v. Gerdau Reinforcing Steel, et al., Superior Court of California, County of San Bernardino, Case No. CIV-DS-1406231, Deposition Testimony on September 11, 2015
55. Leah Davis, and Amy Krajec, et al. v. St. Jude Hospital, Superior Court of California, County of Orange, Case No. 30-2012-00602596-CU-OE-CXC, Deposition Testimony on January 19, 2016.
56. In re MyFord Touch Consumer Litigation, Whalen, et al. vs. Ford Motor Company, United States District Court Northern District of California San Francisco Division, Case No. 13-cv-3072-EMC, Deposition Testimony on February 23, 2016.
57. United States of America, ex rel. Glenda Martin v. Life Care Centers of America, Inc., United States District court Eastern District of Tennessee at Chattanooga, Civ. Action No. 1:08-CV-251 & United States of America, ex rel. Tammie Taylor v. Life Care Centers of America, Inc., United States District court Eastern District of Tennessee at Chattanooga, Civ. Action No. 1:12-CV-64, Deposition Testimony on March 4, 2016.
58. The United States of America and the State of Florida ex rel. Angela Ruckh v. CMC II LLC, United States District court for the Middle District of Florida Tampa Division, Civil Action No. 8:11 CV 1303 SDM-TBM, Deposition Testimony on March 16, 2016.
59. Michael Bozsik v. Livingston International Inc., Ontario Superior Court of Justice, Court File No. 5270/14, sworn testimony at Cross Examination on May 12, 2016.
60. Bertha Sanchez, et al. v. St. Mary Medical Center, et al., Superior Court of the State of California for the County of San Bernardino, Case No. CIVDS 1304898, Deposition Testimony on July 13, 2016.
61. Christian Juarez, et al v. Dignity Health, a California corporation, et al., Superior Court of the State of California, County of Los Angeles, Central Civil West District, Case No. BC550950, Deposition Testimony on August 15, 2016.
62. In Re Dial Complete Marketing and Sales Practices Litigation, United States District Court, District of New Hampshire, Case No. 11-md-2263-SM (MDL Docket No. 2263), Deposition Testimony on August 30, 2016.
63. In Re: Myford Touch Consumer Litigation, United States District Court, Northern District of California, San Francisco Division, Case No. 13-cv-3072-EMC, Deposition Testimony on September 16, 2016.
64. United Healthcare Insurance Company v. Lincare Inc., Case Improvement Plus of Texas Insurance Company: Care Improvement Plus South Central Insurance Company: Care Improvement Plus of Maryland, Inc. v. Lincare Inc., In An Arbitration Before the American Arbitration Association, Case No. 01-15-0003-4095, Deposition Testimony on December 21, 2016.
65. The Moses H. Cone Memorial Hospital Operating Corporation d/b/a Cone Health v. Springfield Service Corporation d/b/a SPI Healthcare, The United States District Court for the Middle District of North Carolina, Civil Action No. 1:13-cv-651, Deposition Testimony on January 17, 2017.

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1. State of Tennessee, ex rel., Douglas Sizemore, Petitioner vs. Xantus Healthplan of Tennessee, Inc., Chancery Court of Davidson County, Tennessee at Nashville, Case No 99-917-II, Trial Testimony, October 16, 2001.
2. State of Tennessee, ex rel., Douglas Sizemore, Petitioner vs. Xantus Healthplan of Tennessee, Inc., Chancery Court of Davidson County, Tennessee at Nashville, Case No 99-917-II, Rebuttal Testimony, October 26, 2001.
3. Howard Wright, Inc., a California corporation doing business as AppleOne Employment Services, Plaintiffs, vs. Olsen Staffing Services, Inc., a Delaware Corporation, Dagney Smith, an individual, Vicky Riechers, an individual, and Linda Shiftman, an individual, Defendants, Superior Court of the State of California for the County of Los Angeles, Case No. BC 200657, Trial Testimony, March 4, 2002.
4. Columbia/HCA Healthcare Corporation - Billing Practices Litigation, United States District Court, Middle District of Tennessee, Nashville Division, Case No. 3-98-MDL-1227 on June 28, 2002.
5. Sacred Heart Medical Center, et al., Plaintiffs v. Department of Social and Health Services, and Dennis Braddock, the Secretary of the Department of Social and Health Services, Defendants, Superior Court of the State of Washington in and for the County of Thurston, No. 00-2-01898-1, Testimony in Liability Trial, April 14, 2003.
6. Diversified Property, a general partnership, Dora Saikhon Family Trust, and Nancy Saikhon Borrelli, an individual, Plaintiffs v. Manufacturers Life Insurance (U.S.A.), a Michigan corporation, erroneously sued as Manufacturers Life Insurance Company, Inc., Defendants in the Superior Court of California, County of San Diego, Case No.: GIC 815128, Trial Testimony on October 25, 2004.
7. Bridgestone/Firestone North American Tire v. Sompo Japan Ins. Co. of America, United States District Court for the Middle District of Tennessee Nashville Division Civil Action NO. 3-02-1117, March 7, 2005
8. Group Anesthesia Services, A Medical Group, Inc., Claimant, vs. American Medical Partners of North Carolina, Inc., etc., et al., Respondents, JAMS Arbitration, Reference No. 1100040919, Arbitration Testimony on March 23, 2005.
9. Goldman et al. v. RadioShack Corporation, United States District Court, Eastern District of Pennsylvania, Case No. 03 CV 0032, Testimony in Liability Trial, on June 28, 29, 2005.
10. Goldman et al. v. RadioShack Corporation, United States District Court, Eastern District of Pennsylvania, Case No. 03 CV 0032, Rebuttal Testimony in Liability Trial, on July 5, 2005.
11. Mauna Loa Vacation Ownership LLP v. Accelerated Assets, LLP. United States District Court, District of Arizona, Case No. CIV 03-0846 PCT DGC. Trial Testimony, on February 22, 2006.
12. School Districts' Alliance v. State of Washington, United States District Court, Eastern District of Thurston, Case No. 04-2-02000-7, Trial Testimony on November 13, 2006.
13. In the Matter of Premier Medical Group, PC, Appellant – Department of Health and Human Services, Office of Medicare Hearings and Appeals, Southern Field Office, ALJ Appeal No. 1-221579701, Medicare Appeal No. 1-18761858, Provider No. 3706654, AR No. 9406352171039, Judge Zaring Robertson, US Administrative Law Judge, Testimony on April 1, 2008.



14. Darensburg et al. v. Metropolitan Transportation Commission, U.S. District Court, Northern District of California, Case No. C-05-1597-EDL, Trial Testimony on October 9, 2008.
15. R. Molina et al. v. Lexmark International, Inc., Superior Court of the State of California for the County of Los Angeles, Case No. BC339177, Trial Testimony on October 22 and 26, 2009.
16. Dole Fresh Fruit International, Ltd, Hyundai Precision America, Inc., ADRS Case #05-1138-RTA, Trial Testimony on February 19, 2010.
17. In the matter of University of Tennessee Cancer Institute, ALJ Appeal No. 1-446 575 318, Office of Medicare Hearings & Appeals, Judge Z. Robertson, US Administrative Law Judge, Testimony on April 20, 2010.
18. Urga, et al. v. Redlands Community Hospital, Superior Court of the State of California, County of San Bernardino, Case No. SCVSS 123769, Trial Testimony on July 20, 2010.
19. Marine Engineers' Beneficial Association v. Department of Transportation, Ferries Division Federal Mediation & Conciliation Service Cause No. 110105-52404-6 AGO Matter No. 10499471, July 19, 2011.
20. Richard Robinson v. County of Los Angeles, et al., United States District Court of California, Central District, Case No. CV06-2409 GAF (VBKx), Trial Testimony on December 1, 2011.
21. In the matter of American Home Patient, ALJ Hearing, Appeal No. 1-982137828, Office of Medicare Hearings & Appeals, Miami Office Southern Field Division, Testimony on October 29, 2012.
22. In the matter of American Home Patient, ALJ Hearing, Appeal No. 1-924297238, Office of Medicare Hearings & Appeals, Irvine Office Western Field Division, Hearing Testimony on February 28, 2013.
23. TaylorMade Golf Company Challenge to Callaway Golf Company's Final Response, National Advertising Division, New York, Testimony on March 13, 2013.
24. United States of America, ex rel. Tammie Taylor v. Life Care Centers of America, Inc., United States District Court Eastern District of Tennessee at Chattanooga, Civ. Action No. 1:12-CV-64, Testimony on May 13 and 14, 2014.
25. United States of America v. Houshang Pavehzadeh, United States District Court for the Central District of California, Case No. 0973 2:13CR00320, Trial Testimony on May 19, 2014.
26. Sherman Way Oil, Inc. (Bijan Pouldar), American Pacific Enterprises Group (Sherwin Louie), Bahman Kohanteb, Hamid Kalhor , Claimants, Vs. Circle K Stores, Inc., Respondent, Alternative Dispute Resolution Case No's 13-7103-DSC through 13-7106-DSC, Arbitration Testimony on October 10, 2014.
27. AdvanceMed Audit of Altercare of Wadsworth, Medicare Appeal, Medicare Appeal No. 1-912446681, Testimony in Administrative Law Judge Hearing on February 19, 2015.
28. Bertha Sanchez, et al. v. St. Mary Medical Center, et al., Superior Court of the State of California for the County of San Bernardino, Case No. CIVDS 1304898, Certification Hearing Testimony on October 21, 2016.
29. In Re Dial complete Marketing and Sales Practice Litigation, United States District Court, District of New Hampshire, Case No. 11-md-2263-SM (MDL Docket No. 2263), Hearing Testimony on November 16, 2016.



- 30. United Healthcare Insurance Company v. Lincare Inc., Case Improvement Plus of Texas Insurance Company: Care Improvement Plus South Central Insurance Company: Care Improvement Plus of Maryland, Inc. v. Lincare Inc., In An Arbitration Before the American Arbitration Association, Case No. 01-15-0003-4095, Arbitration Testimony on February 6, 2017.
- 31. The United States of America and The State of Florida ex rel. Angela Ruckh v. CMC II, LLC, United States District Court for the Middle District of Florida Tampa Division, Civil Action No. 8:11 CV 1303 SDM-TBM, Trial Testimony on February 8, 2017.
- 32. Federal Government of Germany v. A Consortium of Publicly Traded Companies in an arbitration under the laws of Germany, Arbitration Testimony on March 21 and 22, 2017.

Publications

Boedeker, Stefan and Goetz Trenkler (2001) - "A Comparison of the Ridge and Iteration Estimator" - in: Econometric Studies: A Festschrift in Honour of Joachim Frohn (ed. by Ralph Friedmann, Lothar Knueppel, and Helmut Luetkepohl), New Brunswick

Professional and Business History

- » Berkeley Research Group, 2010 - Present, Managing Director
- » Resolution Economics, 2008-2010, Partner
- » Alvarez & Marsal, 2007-2008, Managing Director
- » LECG LLC, 2005-2007, Director
- » Navigant Consulting Inc., 2004-2005, Managing Director in Litigation and Investigation Practice
- » Deloitte & Touche LLP, 2003 - 2004, Leader of the Economic and Statistical Consulting Practice in the West Region
- » PricewaterhouseCoopers LLP, 2002 – 2003, Leader of the Litigation Consulting Group in Los Angeles, Leader of the Economic and Statistical Consulting Practice in the West Region
- » Andersen LLP, 1992- 2002 – Partner (since 2000), last position held: Director of Economic and Statistical Consulting practice in the Pacific Region
- » University of California, San Diego, 1989-1991 – Teaching Assistant, Department of Economics
- » German Government, 1986-1989 – Economic Research Assistant

Exhibit B

[Home](#) [Our Lawyers](#) [Practice Areas](#) [Cases](#) [FSCO Arbitrations](#) [Media](#) [Careers](#) [Contact Us](#)

Class Action

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Ford Dual Clutch Transmission Class Action Lawsuit

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Ford PowerShift Transmission Defect

[Charney Lawyers](#) has commenced a national class action in Toronto against Ford Motor Company and Ford Motor Company of Canada Limited (hereinafter "Ford") on behalf of all residents of Canada who purchased or leased a Ford Fiesta motor vehicle for the model years 2011 to date and all residents of Canada who purchased or leased a Ford Focus motor vehicle for the model years 2012 to date manufactured by Ford equipped with a PowerShift dual clutch transmission.

If you own a Ford Focus or Fiesta, [register as a class member by clicking here and filling out the webform.](#)

This lawsuit is only on behalf of Canadian residents. Please do not register if you live outside of Canada.

The lawsuit seeks compensation of \$825 million for a defect contained in the PowerShift dual clutch transmission, which causes drivers of these vehicles to experience transmission slips, kicking, jerking, harsh engagement, sudden acceleration, delay in downshifts, delayed accelerations, the inability to accelerate, difficulty stopping the vehicle, and difficulty climbing elevated grades.

In the lawsuit, it is alleged that the PowerShift dual clutch transmission is offered as the sole automatic option in Ford Fiesta motor vehicles for the model years 2011 to date, and Ford Focus motor vehicles for the model years 2012 to date, and is marketed by Ford as a more advanced and fuel efficient hybrid between a manual transmission and an automatic transmission.

The PowerShift dual clutch transmission is essentially two manual transmissions working in parallel, each with its own independent clutch unit.

To date, a total of over 145,000 Ford Fiesta motor vehicles for the model years 2011 to date, and Ford Focus motor vehicles for the model years 2012 to date have been sold in Canada.

Current Class Actions

[Yahoo! Class Action](#)

[Bank Fees Class Action](#)

[Ford Transmission Class Action](#)

[Défectuosité de la boîte PowerShift de Ford](#)

[Ashley Madison Class Action](#)

[Bell Mobility Privacy Breach Class Action](#)

[CHL Class Action](#)

[Recours Collectif Contre la LCH](#)

[X Condos Class Action](#)

[Emerald City Class Action](#)

[Medical Marihuana Privacy Class Action](#)

[Peoples Trust Privacy Breach Class Action](#)

[Ford Privacy Breach Class Action](#)

[Lost USB Key Class Action](#)

[Student Loans Class Action](#)

[Matrix Towers Class Action](#)

[Festival Tower Class Action](#)

[IQT Solutions Class Action](#)

[Murano Falling Glass Class Action](#)

[One Bedford Falling Glass Class Action](#)

It is alleged in the lawsuit that drivers of these vehicles have consistently experienced transmission slips, kicking, jerking, harsh engagement, sudden acceleration, delay in downshifts, delayed accelerations, the inability to accelerate, difficulty stopping the vehicle, and difficulty climbing elevated grades. The alleged cause of these hazardous movements or lack thereof is a defect in the PowerShift dual clutch transmission. The defect affects the driver's ability to control the vehicle's speed, to prevent it from lurching forward, acceleration and deceleration.

It is alleged in the lawsuit that to date, Ford has not acknowledged that the defect exists nor have they recalled the vehicles. It has come to the attention of Charney Lawyers that a service manager at a leading Ford dealership is of the opinion that the transmissions in the Ford Fiesta and Ford Focus motor vehicles will not function properly at low speeds. The same manager is also of the opinion that the software update recently offered by Ford will not solve the problem.

Owners of the motor vehicles have inundated Ford dealerships with complaints about the performance of the PowerShift dual clutch transmission. Despite bringing the defect to the attention of the dealerships and despite efforts by the dealerships to correct the problem, it is alleged in the lawsuit that that the problem continues and is likely incapable of repair.

It is alleged in the lawsuit that Ford has known since at least 2011, if not earlier, of the problems associated with the PowerShift dual clutch transmission but Ford does not bring the defective transmission to the attention of purchasers before selling the vehicles.

Participation

If you are experiencing a problem with your PowerShift dual clutch transmission, you may be entitled to compensation, including the diminished resale value of your vehicle and/or a refund less reasonable depreciation. In order for us to build a database of complaints and determine the size of the class, please fill out the webform so we can include you in our class action database. If you own a Ford Focus or Fiesta, [register as a class member by clicking here and filling out the webform.](#)

There is no financial obligation to register. Once you register we will notify you of all important developments via email. There is no fee unless we recover. See [Class Action Fees.](#)

IMPORTANT: All personal information provided to Charney Lawyers through the webform will be held strictly confidential.

If you are experiencing a defect in the transmission causing you to believe that your vehicle is unsafe, you may wish to file a complaint with [Transport Canada.](#)

This lawsuit is only on behalf of Canadian residents. Please do not register if you live outside of Canada.

Contact Our Class Actions Lawyers

We encourage you to contact one of our lawyers with any questions about this class action.

Contact Glenn Brandys at Charney Lawyers

416-964-7950 ext 245

[Via Rail Train Derailment](#)

[Woodstock Apartment Class Action](#)

Judicial Endorsements

"I find that the plaintiff's counsel presented a well prepared, organized and efficient case... The medical issues were complex. It involved evidence of psychiatrists, physiatrists, orthopaedic surgeons, occupational therapists, future care specialists, vocational alternatives, forensic accounting and quantification of damages. The jury had to be presented with present valuations of past and future loss of income and projections of future care costs."

-*Giordano v. Li* [Ontario Superior Court of Justice, 2015]

Ted Charney represented the plaintiff in this three week personal injury jury trial securing a \$900,000 verdict for chronic pain syndrome.

"Charney... is unquestionably qualified to act as counsel."

-*Ison T Auto Sales v. Zurich Insurance* [Ontario Court of Appeal, 2011]

Ted Charney acted for Ison T Auto Sales i.e. Toronto Honda on the appeal.

"The Whiting Group Counsel Team consists of 11 law firms from 7 provinces across Canada and includes some of the most experienced class action firms in Canada with a broad range of experience in class actions with particular expertise in product liability class actions and personal injury. Four of these law firms are in Ontario where the action will be based and includes counsel who are very experienced in class action litigation and have the resources and experience to advance this claim in Ontario or on a national scale. This fact favours the Whiting Group."

Charney Lawyers: Canada's Top Class Action Lawyers

Charney Lawyers is one of Canada's leaders in class action litigation. We are prosecuting numerous class actions across Canada. These include the [Ashley Madison Class Action](#), the [CHL Class Action](#), the [Falling Glass Class Action](#) and the [Emerald City Class Action](#).

The Ford PowerShift dual clutch transmission defect may be ideally suited to class proceedings because many Canadians were affected in the same way. A class proceeding would allow all Canadian users to access justice without each hiring their own lawyers. All Canadian users would be represented by a small team of lawyers who would be paid out of the settlement or court awards. Any users who do not wish to be represented will be able to opt-out.

Further Background on Ford PowerShift Transmission Defect

The PowerShift Dual Clutch Transmission manufactured, designed, and assembled by Ford Motor Company and Ford Motor Company of Canada, Limited is marketed as an automatic transmission with the fuel efficiency of a manual gearbox. According to [Ford Social](#), the PowerShift dual clutch transmission consists of two manual transmissions, each working one independent, dry clutch unit. Gear changes are coordinated between the clutches, which provide uninterrupted torque. The dry clutches do not require oil pumps and/or a torque converter, enabling the vehicles that contain these transmissions to be more fuel efficient. The transmission contains Torque Hole Filling (THF) technology to fill the torque hole, which Ford defines as the slight hesitation drivers may feel during an upshift when there is a momentary drop in transmission torque output followed by a rise in torque.

People who purchased the vehicles have encountered a variety of problems with the PowerShift dual clutch transmissions which the drivers all have experienced in common. Purchasers have registered thousands of complaints about the PowerShift dual clutch transmission on the [United States' National Highway Traffic Safety Administration complaints registry](#). A review of these complaints demonstrates that the vast majority have experienced identical problems with the transmission since the inception of the PowerShift dual clutch transmission in 2011.

Consumers filed 38 complaints about the PowerShift dual clutch transmission contained in Ford Fiesta motor vehicles for the 2011 model year on [carcomplaints.com](#). Consumers filed 16 complaints about the PowerShift dual clutch transmission contained in Ford Fiesta motor vehicles for the 2012 model year on [carcomplaints.com](#). Consumers filed 73 complaints about the PowerShift dual clutch transmission contained in Ford Fiesta motor vehicles for the 2013 model year on [carcomplaints.com](#). Consumers filed 26 complaints about the PowerShift dual clutch transmission contained in Ford Fiesta motor vehicles for the 2014 model year on [carcomplaints.com](#).

Consumers filed 132 complaints about the PowerShift dual clutch transmission contained in Ford Focus motor vehicles for the 2012 model year on [carcomplaints.com](#). Consumers filed 116 complaints about the PowerShift dual clutch transmission contained in Ford Focus motor vehicles for the 2013 model year on [carcomplaints.com](#). Consumers filed 95 complaints about the PowerShift dual clutch transmission contained in Ford Focus motor vehicles for the 2014 model year on [carcomplaints.com](#).

Media on Ford PowerShift Transmission Defect

Jalopnik, a blog about motor vehicles and the automobile industry, [reported](#) on March 3, 2011 that Ford was quietly replacing the PowerShift

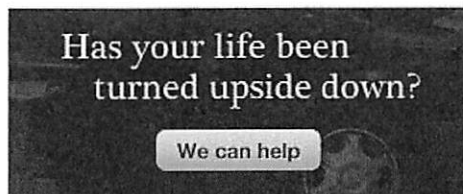
-Whiting et al v. Menu Foods Income Fund
[Ontario Superior Court of Justice, 2007]

Charney Lawyers was a member of the Whiting Group and appeared as counsel on the motion to decide carriage.

"Mr. Charney conducted the Applicant's case in an exemplary and efficient manner, which was to the benefit of all concerned, his clients, the insurer and myself alike."

-Amoa-Williams v. Allstate Insurance Co. of Canada [Financial Services Commission of Ontario, 2001]

Ted Charney acted for the insured.



transmission contained in 2011 Ford Fiesta models in response to a variety of complaints, such as hard shifts at speed, the failure to engage any gear and transmission failures. At that time, Ford issued a Technical Service Bulletin to dealerships in response to complaints of hard starts, no starts, intermittent starts, noise from belthousing during starts and/or various automatic transmission engagement concerns that called for a software update for the transmission and scraping paint away from under the battery's ground screw to strengthen connection.

Ward's Auto reported on July 12, 2011, that Ford distributed memos to dealerships containing instructions to inform salespeople and service personnel about the behavioral nuances of the transmission. According to Ford, the transmission performs as intended but the problems stemmed from customers comparing the PowerShift dual clutch transmissions to the conventional automatic transmission.

Ford has consistently issued Technical Service Bulletins to the dealerships but has failed to date to sufficiently notify drivers of the entirety of the defect.

The New York Times reviewed the Ford vehicles containing the PowerShift dual clutch transmission in an article dated July 15, 2011 entitled "Such a Slick Package, but Gearbox is a Drag", and noted that "the transmission is often in the wrong gear at the wrong time, resulting in jerks, pauses and lethargic acceleration."

As a result of performance issues with the PowerShift dual clutch transmission in the 2011 Fiesta and the 2012 Focus, Ford's rating in the Consumer Reports 2011 reliability survey declined. At that time, the subject of the complaints centered around the transmission's lack of or delay in response during stop-and-go driving, and behavior suggesting that the engine would stall according to an article in the New York Times dated October 26, 2011.

The position of Ford vehicles in the Consumer Reports 2012 reliability survey took a larger hit, falling 7 places from the year before. The Wall Street Journal reported on October 26, 2012 that the decline in Ford's rating in the 2012 survey was caused in part by the faulty Powershift Transmission.

WTAE, Pittsburgh's Action News 4, reported on February 6, 2014 that Channel 4 Action News conducted an investigation which found that hundreds of people throughout the United States said that the transmission on recent-model Ford sedans was a safety concern.

In 2014, Local 12 WKRC-TV in Cincinnati, Ohio reported that the PowerShift transmission contained in the 2012, 2013 and 2014 Ford Focus and Ford Fiesta motor vehicles caused problems for owners, such as jerking, sputtering and making grinding noises. Local 12 News attempted to contact a spokesperson for Ford Motor Company but did not hear back. A service manager for a local Ford dealership informed Local 12 that drivers needed to be attune to the fact that they were using a manual transmission, and that noise and hesitation associated with the transmission should be expected. At that time, Ford was updating the software on the transmission control module as well as redesigning the clutch disk in hopes that those repairs would solve the problem. Ford had not recalled the vehicles at the time of the article.

UPDATES:

In a story published October 31, 2016, the CBC reported that Transport Canada opened a "defect investigation" in February 2016 after receiving complaints from Ford Focus and Fiesta owners regarding issues concerning the transmissions. As of October 20, 2016, Transport Canada had received complaints from 128 Canadians regarding these two models of vehicle. [Click here to read the story.](#)

In a follow-up story published November 4, 2016, the CBC reported that the number of complaints Transport Canada had received increased to 322, more than doubling in the span of two weeks. [Click here to read the story.](#)

On November 21, 2016, the CBC publish the story of a 2013 Ford Focus owner, Jennifer Walsh, who claims that her car hasn't worked properly since she drove it off the sales lot in St. John's two years ago. [Read the article here.](#) [Click here to watch video of the story.](#)

American Consumer Class Action Lawsuit: Powershift Transmission Defect

In or around early 2015, Capstone Law APC commenced a class action lawsuit on behalf of consumers who purchased or leased any 2011 through 2015 Ford Fiesta or 2012 through 2015 Ford Focus equipped with Ford's Dual Clutch or PowerShift transmission in the United States District Court for the Central District of California. [Read more about Capstone Law APC's class action lawsuit here.](#)

Carcomplaints.com [reported](#) on January 25, 2015 that the American class action lawsuit was filed on behalf of four plaintiffs, Omar Vargas, Robert Bertone, Michelle Harris and Sharon Heberling, which alleges that the PowerShift transmission was manufactured defective, causing dangerous driving conditions for the drivers of affected Ford vehicles.

On March 24, 2015, Law360 [reported](#) that Ford Motor Company knowingly sold hundreds of thousands of Fiestas and Focuses in California that pose a safety risk because they contain defective PowerShift transmissions, according to the proposed class action filed by Capstone Law APC in the United States. Law360 also reported that Ford brought a motion to remove the case to California Federal Court on the basis that the alleged damages exceeded the \$5 million statutory minimum in that state.

The Washington Examiner [reported](#) on April 8, 2015 that class action status was being sought for a lawsuit commenced against Ford Motor Company over the PowerShift transmission which renders the vehicles containing it "virtually inoperable."

IMPORTANT NOTE:

The site is not designed to answer questions about your individual situation or entitlement. Do not rely upon the information provided on this website as legal advice in respect of your individual situation nor use it as substitute for individual legal advice.

The information collected about potential class members will assist counsel in prosecuting the class action and assessing what damages were suffered by the class as a whole. Providing the information requested does not make you the client of Charney Lawyers. The court will ultimately decide who will be included as a class member.

This website will be updated from time to time to provide potential class members with information as it becomes available.

Exhibit C

Ford Survey

Please answer the following questions based on your own personal experience.

1. Please indicate which of the following industries you or a close family member have worked for pay in the past two years. (Please select all that apply.)

- 1) Automotive (manufacturing, retail, repair)
- 2) Financial services and insurance
- 3) Government (city, county, state, or Federal)
- 4) Home construction
- 5) Information technology or computing
- 6) Health care or social assistance
- 7) Media
- 8) Professional services
- 9) Retail
- 10) Market research
- 11) None of the above

2. What is your gender?

- 1) Male
- 2) Female

3. What is your age?

- 1) Under 18
- 2) 18-29
- 3) 30-44
- 4) 45-59
- 5) 60 or Older

4. In which country do you live?

- 1) Belgium
- 2) Canada
- 3) France
- 4) Italy
- 5) Japan
- 6) United States
- 7) None of the above

5. In which Province do you live?

- 1) Alberta
- 2) British Columbia
- 3) Manitoba
- 4) New Brunswick
- 5) Newfoundland and Labrador
- 6) Northwest Territories
- 7) Nova Scotia
- 8) Nunavut
- 9) Ontario

- 10) Prince Edward Island
- 11) Quebec
- 12) Saskatchewan
- 13) Yukon
- 14) Other

6. Have you purchased or leased a FORD FIESTA in Canada?

- 1) Yes
- 2) No

7. What was the model year of the FORD FIESTA you purchased or leased in Canada? (Please select one. If you are not sure, your best guess is fine.)

- 1) 2017
- 2) 2016
- 3) 2015
- 4) 2014
- 5) 2013
- 6) 2012
- 7) 2011
- 8) 2010 or earlier

8. Have you purchased or leased a FORD FOCUS in Canada?

- 1) Yes
- 2) No

9. What was the model year of the FORD FOCUS you purchased or leased in Canada? (Please select one. If you are not sure, your best guess is fine.)

- 1) 2017
- 2) 2016
- 3) 2015
- 4) 2014
- 5) 2013
- 6) 2012
- 7) 2011
- 8) 2010 or earlier

10. When did you purchase or lease your FORD FIESTA?

- 1) 2017
- 2) 2016
- 3) 2015
- 4) 2014
- 5) 2013
- 6) 2012
- 7) 2011
- 8) 2010 or earlier

11. Was the FORD FIESTA you purchased or leased brand new or pre-owned when you received it?

- 1) New
- 2) Pre-owned (Used)
- 3) Other _____

12. Did the FORD FIESTA you purchased or leased contain a PowerShift dual clutch transmission?

- 1) Yes
- 2) No

13. Have you experienced any performance and/or safety issues with the PowerShift dual clutch transmission in your FORD FIESTA?

- 1) Yes
- 2) No

14. Please identify the nature of the performance and/or safety issue(s) you experienced with the PowerShift dual clutch transmission on your FORD FIESTA using the options below? (You may select more than one if more than one. If you select 'Other', please describe the nature of the issues in the box provided)

- 1) Unusual Noises
- 2) Grinding
- 3) Jerking/bucking/Jolting
- 4) Shuddering/Shaking
- 5) Slipping when shifting
- 6) Vibration
- 7) Failing to shift
- 8) Loss of Power/Stalling
- 9) Improved internet connection
- 10) Abrupt stopping
- 11) Hard downshift
- 12) Lurching/lunging
- 13) Uncontrolled acceleration
- 14) Erratic shifting
- 15) Chugging
- 16) Hesitation before acceleration
- 17) Other _____

15. Have you taken your FORD FIESTA to a mechanic to repair the problems with the PowerShift dual clutch transmission?

- 1) Yes
- 2) No
- 3) Other _____

16. When did you take your FORD FIESTA to a mechanic to repair the problems with the PowerShift dual clutch transmission?

- 1) 2017
- 2) 2016
- 3) 2015

- 4) 2014
- 5) 2013
- 6) 2012
- 7) 2011
- 8) 2010 or earlier

17. Did the repairs to the PowerShift dual clutch transmission on your FORD FIESTA solve the performance and/or safety problems you were experiencing?

- 1) Yes
- 2) No
- 3) Other _____

18. Have you received any notification(s) from Ford about bringing your FORD FIESTA in for service to correct the PowerShift dual clutch transmission problems?

- 1) Yes
- 2) No
- 3) Other _____

19. Do you consider your FORD FIESTA safe to drive?

- 1) Yes
- 2) No
- 3) Other _____

20. Have you been involved in a motor vehicle accident as a result of a problem with the PowerShift dual clutch transmission in your FORD FIESTA?

- 1) Yes
- 2) No
- 3) Other _____

21. Have sold your FORD FIESTA?

- 1) Yes
- 2) No
- 3) Other _____

22. When did you sell your FORD FIESTA?

- 1) 2017
- 2) 2016
- 3) 2015
- 4) 2014
- 5) 2013
- 6) 2012
- 7) 2011
- 8) 2010 or earlier

23. When did you purchase or lease your FORD FOCUS?

- 1) 2017
- 2) 2016
- 3) 2015
- 4) 2014
- 5) 2013
- 6) 2012
- 7) 2011
- 8) 2010 or earlier

24. Was the FORD FOCUS you purchased or leased brand new or pre-owned when you received it?

- 1) New
- 2) Pre-owned (Used)
- 3) Other _____

25. Did the FORD FOCUS you purchased or leased contain a PowerShift dual clutch transmission?

- 1) Yes
- 2) No

26. Have you experienced any performance and/or safety issues with the PowerShift dual clutch transmission in your FORD FOCUS?

- 1) Yes
- 2) No

27. Please identify the nature of the performance and/or safety issue(s) you experienced with the PowerShift dual clutch transmission on your FORD FOCUS using the options below? (You may select more than one if more than one. If you select 'Other', please describe the nature of the issues in the box provided)

- 1) Unusual Noises
- 2) Grinding
- 3) Jerking/bucking/Jolting
- 4) Shuddering/Shaking
- 5) Slipping when shifting
- 6) Vibration
- 7) Failing to shift
- 8) Loss of Power/Stalling
- 9) Improved internet connection
- 10) Abrupt stopping
- 11) Hard downshift
- 12) Lurching/lunging
- 13) Uncontrolled acceleration
- 14) Erratic shifting
- 15) Chugging
- 16) Hesitation before acceleration
- 17) Other _____

28. Have you taken your FORD FOCUS to a mechanic to repair the problems with the PowerShift dual clutch transmission?

- 1) Yes
- 2) No
- 3) Other _____

29. When did you take your FORD FOCUS to a mechanic to repair the problems with the PowerShift dual clutch transmission?

- 1) 2017
- 2) 2016
- 3) 2015
- 4) 2014
- 5) 2013
- 6) 2012
- 7) 2011
- 8) 2010 or earlier

30. Did the repairs to the PowerShift dual clutch transmission on your FORD FOCUS solve the performance and/or safety problems you were experiencing?

- 1) Yes
- 2) No
- 3) Other _____

31. Have you received any notification(s) from Ford about bringing your FORD FOCUS in for service to correct the PowerShift dual clutch transmission problems?

- 1) Yes
- 2) No
- 3) Other _____

32. Do you consider your FORD FOCUS safe to drive?

- 1) Yes
- 2) No
- 3) Other _____

33. Have you been involved in a motor vehicle accident as a result of a problem with the PowerShift dual clutch transmission in your FORD FOCUS?

- 1) Yes
- 2) No
- 3) Other _____

34. Have sold your FORD FOCUS?

- 1) Yes
- 2) No
- 3) Other _____

35. When did you sell your FORD FOCUS?

- 1) 2017
- 2) 2016
- 3) 2015
- 4) 2014
- 5) 2013
- 6) 2012
- 7) 2011
- 8) 2010 or earlier

Thank you for your help and contribution today. We very much appreciate your participation in our research study.