

PROPOSED TENTATIVE

On August 13, 2025, plaintiff Eladio Lopez Martinez (plaintiff) filed a first amended complaint (FAC) against General Motors, LLC (defendant), alleging the following causes of action: 1) a violation of Civil Code section 1793.2, subdivision (d); 2) a violation of Civil Code section 1793.2, subdivision (b); 3) a violation of Civil Code section 1793.2, subdivision (a)(3); 4) breach of the implied warranty of merchantability (Civ. Code, §§ 1791.1794, 1795.5); and 5) fraudulent inducement/concealment. According to the FAC, “on or about February 24, 2024, Plaintiff entered into a warranty contract with Defendant GM regarding a 2024 GMC Sierra 1500, vehicle identification number 3GTUUDE80RG159069 . . . , which was manufactured and or distributed by Defendant GM. The Subject Vehicle was purchased at Stowasser Buick GMC in Santa Maria, Cal (GM’s authorized dealer).”

Defendant demurs to the fifth cause of action for fraudulent inducement/concealment only. Plaintiff has filed opposition. A reply was filed on October 28, 2025. All briefing has been reviewed.

The court will detail the relevant allegations in the complaint; explain the arguments each side advances; delineate the legal principles that frame the issues; assess the merits of the arguments; and finish with a summary of its conclusions.

1) Allegations in the Complaint

To support fraudulent inducement/concealment, plaintiff makes the following allegations. “Plaintiff has experienced symptoms of the Vehicle’s Defects: (1) hesitation on acceleration; (2) engine loss of power, check engine light staying on repeatedly, computer requiring an update; and (3) failure to connect to smart devices, disabling of navigation features, CarPlay not working, and Bluetooth not connecting.” Plaintiff has taken the vehicle for repair five times, and these defects remain a “safety hazard.” Additionally, plaintiff is “informed and believes, and based thereon alleges, that the 3.0L engine and/or its related components, installed in the Subject Vehicle, suffer from one or more defects that can result in loss of power, stalling, engine running rough, engine misfires, failure or replacement of the engine (the ‘Engine Defect’).” Plaintiff alleges that defects “present a safety hazard because they severely affect the driver’s ability to control the vehicle, and substantially increase the likelihood that the engine will fail, lose power, and/or cut off during operation. . . .” Plaintiff also alleges that “prior to the sale of the vehicle, defendant knew, or should have known, about” these defects, based on “internal data about” the defects, including “pre-releasing testing data; early consumer complaints about the Engine Defect[s] to Defendant GM’s dealers who are GM agents for vehicle repairs; dealership repair orders; testing conducted in response to those complaints; and other internal sources of information possessed exclusively by Defendant GM and its agents. Nevertheless, Defendant

GM and its agents have actively concealed the Engine Defect[s] and failed to disclose this defect to Plaintiffs at the time of purchase of the Subject Vehicle” (§§ 52, 58.) Further, according to plaintiff, defendant “knew about, and concealed, the Engine Defect present in the Subject Vehicle, along with the Engine Defect’s attendant dangerous safety and drivability problems, from Plaintiff at the time of sale, repair, and thereafter. . . .” (§ 54.) “If Plaintiff knew about these defects at the time of sale, Plaintiffs would not have purchased the Subject Vehicle.” (§ 55.)

2) Arguments Advanced by Parties

Defendant claims plaintiff has failed to allege facts with the requisite specificity in order to state a fraudulent inducement/concealment cause of action. Specifically, defendant claims plaintiff has failed to allege with particularity the nature of the defect at issue, claiming only loss of power, stalling, engine running rough, engine misfire(s), failure or replace the engine (‘Engine Defect’).” Defendant insists that more particularity is required. Additionally, defendant contends that plaintiff, because defendant is a corporation, must “allege the names of the persons who made the allegedly fraudulent representations, their authority to speak, to whom they spoke, what they said or wrote, and when it was said or written,” which has not been done, relying on *Tarmann v. State Farm Mut. Auto Ins. Co.* (1991) 2 Cal.App.4th 153, 157.) Defendant also argues that plaintiff has failed to allege a duty to disclose (i.e., established by active concealment and/or the requisite transactional relationship establish exclusive knowledge), and has failed to allege justifiable and actual reliance. Finally, defendant claims that fraudulent inducement/concealment cause of action is barred by the economic loss rule.

Plaintiff in opposition contends it has pleaded all essential elements of fraudulent inducement/concealment, and notably that a “transactional relationship” does not require privity in the sale to act as a basis for duty to disclose. Plaintiff acknowledges that the basis for the fraudulent inducement/concealment cause of action is based on nondisclosure, but then insists they have adequately alleged knowledge of falsity, intent to induce reliance, justifiable reliance, and damages. They contend that the allegations here are similar to the allegations made in *Dhital v. Nissan North America* (2022) 84 Cal.App.5th 828, and for the reasons the *Dhital* court rejected defendant’s demurrer, the court here should do the same. Plaintiff attempts to bolster its argument by insisting that defendant had “exclusive knowledge” of the defect, creating a duty to disclose, which was breached. Finally, plaintiff contends that the fraudulent inducement/concealment cause of action is not barred by the economic loss rule.

Defendant filed a reply on October 28, 2025. All briefing has been reviewed.

3) Legal Background

The California Supreme Court has recently explored the contours of a fraudulent inducement/concealment cause of action related to the performance of a contract, and has concluded a plaintiff may assert such a claim “if the elements of the claim can be established independently of the parties’ contractual rights and obligations, and the tortious conduct exposes the plaintiff to risks of harm beyond the reasonable contemplation of the parties when they entered into the contract.” (*Rattagan v. Uber Technologies* (2024) 17 Cal.5th 1, 13.) Our high court made it clear that California applies the same standards for both affirmative misrepresentations and fraudulent concealment at the pleading state (*id.* at p. 39), meaning there is no “logical reason to distinguish among various species of actional fraud committed while otherwise performing a contract, assuming the tort elements can be established independently of the contractual rights and obligations that each party voluntarily assumed at the outset of the relationship.” (*Id.* at p. 40.)

With this background, the required elements for fraudulent inducement/concealment are (1) concealment or suppression of a material fact; (2) by a defendant with a duty to disclose the fact; (3) the defendant intended to defraud the plaintiff by intentionally concealing or suppressing the fact; (4) the plaintiff was unaware of the fact and would have acted differently if concealed or suppressed fact was known; and (5) plaintiff sustained damage as a result of the concealment or suppression of the material fact. (*Rattagan, supra*, at p. 40.) “A duty to disclose a material fact can arise if (1) it is imposed by statute; (2) the defendant is acting as plaintiff’s fiduciary or is in some other confidential relationship with plaintiff that imposes a disclosure duty under the circumstances; (3) the material facts are known or accessible only to defendant, and defendant knows those facts are not known or reasonably discoverable by plaintiff (i.e., exclusive knowledge); (4) the defendant makes representations but fails to disclose other facts that materially qualify the facts disclosed or render the disclosure misleading (i.e., partial concealment); or (5) defendant actively conceals discovery of material fact from plaintiff (i.e., active concealment). (*Ibid.*) “Circumstances (3) [fiduciary or some other confidential relationship], (4) [partial concealment], and (5) [active concealment], **presuppose a preexisting relationship between the parties**, such as ‘between a seller and buyer, employer and prospective employee, doctor patient, or parties entering into any kind of contractual agreement [Citation.] All of those relationships created by transactions between parties from which a duty to disclose facts material to the transaction arises under certain circumstances.” (*Ibid.*)

Rattagan made it clear California requires that fraud must be pleaded with factual specificity. “When affirmative misrepresentation fraud is alleged,” this particularity requirement necessitates pleading facts which show how, when, where, to whom, and by what means the representations were tendered. “California courts apply the same specificity standards to evaluate the factual underpinnings of a fraudulent concealment claim at the pleading stage, even though the focus of the inquiry shifts to the unique elements of the claims. [Citation.] For instance, in a case such as this, the court must determine whether the plaintiff has alleged sufficient factual basis for establishing a duty of disclosure on the part of the defendant independent of the parties’

contract. If the duty allegedly arose by virtue of the parties' relationship and defendant's exclusive knowledge or access to certain facts, as *Rattagan* has alleged here, the complaint must also include specific allegations establishing all the required elements, including (1) the content of the omitted facts, (2) defendant's awareness of the materiality of those facts, (3) the inaccessibility of the facts to plaintiff, (4) the general point at which the omitted facts should of could have been revealed, and (5) justified and actual reliance, either through action of forbearance, based on the defendant's omissions. "Mere conclusory allegations that the omission were intentional and for the purpose of defrauding plaintiff [] . . . are insufficient for the foregoing purposes.' [Citation]." (*Id.* at p. 43.)

At least one published California Court of Appeal decision has explored the contours of a fraudulent inducement/concealment cause of action involving the sale of the vehicle, as is alleged here. (*Dhital v. Nissan North America, Inc.* (2022) 84 Cal.App.5th 828; see also *Gilead Tenofvir Cases* (2024) 98 Cal.App.5th 911, 949 [citing *Dhital* favorably].) The *Rattagan* court distinguished the facts therein from the situation in *Dhital*, making the following observations: "Rattagan's tort claims are, of course, based on alleged conduct committed *during* the contractual relationship but purportedly outside the parties' chosen rights and obligations. This court has granted review in two other cases [one of which was *Dhital*] – both of which involve claims of fraudulent inducement by concealment claims as well as the potential interplay with remedies available under the Song-Beverly Consumer Warranty Act *We do not address these issue here.*" (*Rattagan, supra*, 17 Cal.5th at p. 41, fn. 12, italics added.) Although *Dhital* has a somewhat tortuous procedural history -- the California Supreme Court granted review, held for *Rattigan*, and then remanded, leaving the case fully published -- the case remains binding on this court. (See generally *Moore v. American Honda Motor Co., Inc.* (N.D. Cal., Mar. 28, 2025, No. 5:23-CV-05011-BLF) 2025 WL 948114, at p. 7 [by expressly calling out the distinction between *Rattagan*'s facts and the fraudulent inducement cases and then dismissing the appeal of *Dhital* without vacating, reversing, or otherwise altering the court of appeal's opinion, the California Supreme Court indicated that the reasoning of *Dhital* should guide claims of fraudulent inducement by omissions].) Put another way, with the benefit of dismissal, which leaves *Dhital*'s reasoning and conclusion intact, *Dhital* controls fraudulent concealment inducing the formation of the contractual relationship. (*Ramos v. Ford Motor Company* (C.D. Cal., Apr. 16, 2025, No. 2:24-CV-04066-AH-(JPRX)) 2025 WL 1606917, at *5.)

In *Dhital*, plaintiffs advanced, inter alia, a fraudulent inducement/concealment cause of action against Nissan North America Inc. alleging a transmission defect in the 2013 Nissan Sentra they had purchased. The appellate court rejected defendant's claim, as relevant for our purposes, that plaintiff had failed to adequately plead a claim for fraudulent inducement/concealment, and reversed the trial court's decision to sustain the demurrer. (*Id.* at p. 832.) In the second amended complaint, plaintiffs alleged that they had purchased the vehicle from a Nissan dealership; that they took the car back to an authorized Nissan repair facility on three occasion to repair the defective transmission, without success; that Nissan knew or should

have known about the safety hazard posed by the defective transmissions before the sale from premarket testing, consumer complaints to the National Highway Traffic Safety Administration, consumer complaints made directly to Nissan and its dealers, and other sources which prompted Nissan to issue “Technical Service Bulletins” acknowledging the transmission’s defects. Plaintiff also alleged that Nissan should not have sold the vehicle without a full and complete disclosure of the transmission defect, and should have voluntarily recalled the vehicles long ago. (*Id.* at pp. 833-834.)

The *Dhital* court concluded that plaintiffs had adequately alleged all elements of a fraudulent inducement/concealment cause of action. “As we have discussed, plaintiffs alleged the CVT transmissions installed in numerous Nissan vehicles (including the one plaintiff purchased) were defective; Nissan knew of the defects and the hazards posed; Nissan had exclusive knowledge of the defects but intentionally concealed and failed to disclose that information; Nissan intended to deceive plaintiffs by concealing known transmission problems; plaintiff would not have purchased the car if they had known of the defects; and plaintiffs suffered damages in the form of money paid to purchase the car.” (*Id.* at p. 844.)

As for defendant’s argument that plaintiff had failed to plead a duty to disclose, and specifically a buyer-seller relationship between the parties because plaintiff bought the car from a Nissan dealership (not from Nissan itself), the court observed as follows: “At the pleading stage (and in the absence of a more developed argument by Nissan on this point), we conclude plaintiff’s allegations are sufficient. Plaintiffs alleged that they bought the vehicle from a Nissan dealership, that Nissan backed the car with an express warranty, and that Nissan’s authorized dealerships are its agents for purposes of the same of Nissan vehicles to consumers. In light of these allegations, we decline to hold plaintiffs’ claim is barred on the ground there was no relationship requiring Nissan to disclose known defects.” (*Ibid.*)

The *Dhital* court also rejected defendant’s claim that plaintiff had failed to provide specifics about what Nissan should have disclosed, while at the same time acknowledging that fraudulent inducement/concealment must be pleaded with factual specificity. (*Id.* at pp. 843-844.) “[P]laintiffs alleged the CVT transmissions were defective in that they caused such problems as hesitation, shaking, jerking, and failure to function. The SAC also alleged Nissan was aware of the defects as a result of premarket testing and consumer complaints that were made both to the National Highway Traffic Safety Administration and to Nissan and its dealers. It is not clear what additional information Nissan believes should have been included.” The *Dhital* court did conclude, in an accompanying footnote, that plaintiff was not required to plead that defendant was aware of defect and “that it was unwilling or unable to fix.” (*Id.* at p.844, fn. 7. *Italics omitted.*) “We decline to hold . . . that plaintiffs were required to include in SAC more detailed allegations about the alleged defects in the CVT transmissions. We conclude plaintiff’s fraud claim was adequately pleaded.” (*Ibid.*)

4) *Merits*

This case is governed by the standards enunciated in *Dhital*, to the extent plaintiff advances his fraudulent inducement/concealment cause of action not based on conduct *during* the contractual relationship, but based on claims of defendant’s fraudulent concealment at the time of purchase of the vehicle (i.e., pre-warranty conduct). (*Rattagan, supra*, 17 Cal.5th at p. 43, fn. 12; see also *Ladanowsky v. FCA US LLC*, No. 24-cv-07197, 2024 WL 5250357, at *4–5 (N.D. Cal. Dec. 30, 2024) [discussing the distinction between *Rattagan* and *Dhital* and applying *Dhital* where the plaintiff alleged fraudulent inducement to enter a contract].)¹ And following *Dhital*, plaintiffs have failed to allege with factual specificity a sufficient *transactional relationship* between them and defendants from which a duty to disclose would arise (*Rattagan* makes is clear that a transactional relationship is required). Plaintiff in his complaint alleges that on February 24, 2024, “Plaintiff entered into a warranty contract with Defendant GM regarding a 2024 GMC Sierra 1500 . . . , which was manufactured and or distributed by Defendant GM.” True, plaintiff contends that he purchased the vehicle from “Stowasser Buick GMC in Santa Maria, CA (GM’s authorized dealer).” However, nothing else is added. This stands in contrast to the allegations in *Dhital*, in which plaintiffs alleged “they bought the car from a Nissan dealership, that Nissan backed the car with an express warranty, and that Nissan’s authorized dealerships are agents for purposes of the sale of Nissan vehicles to consumers. In light of these allegations, we decline to hold plaintiffs claim is barred on the ground there was no relationship requiring Nissan to disclose known defects.” (*Dhital, supra*, 84 Cal.App.5th at p. 844, emphasis added.) Here, while plaintiff alleges it bought the car from a GM dealership, and that GM backed the car with an express warranty, there is no allegation that the authorized dealership were defendant’s “agents for purposes of the sale of [GM] vehicles to consumers.” (See, e.g., *Preciado v. Nissan North America, Inc.* (C.D. Cal., Aug. 17, 2023, No. 5:22-CV-02156-SSS-KKX) 2023 WL 12022648, at *4; see *Rodriguez v. Nissan North America, Inc.* (C.D. Cal., Jan. 30, 2023, No. EDCV221672MWFKK) 2023 WL 2683162, at *6 [“ . . . where a plaintiff fails to allege a transactional relationship with a defendant, a fraudulent concealment claim must fail”].)² Plaintiff has therefore failed to allege an adequate basis for a duty to disclose. Leave to amend is granted.

¹ The court acknowledges some ambiguities in plaintiff’s complaint on this point. At times plaintiff suggests defendant concealed the engine defects *during* the course of the contractual relationship between the parties, thereby implicating the rules in *Rattagan* rather than *Dhital*. Nevertheless, the gravamen (or at least the primary thrust) of the fraudulent inducement/concealment cause of action rests on defendant’s fraudulent failure to disclose material facts in defendant’s exclusive knowledge at the time of the purchase of the vehicle, which was done on February 24, 2024, thus bringing the case within *Dhital*’s ambit.

² A bare legal conclusion (as offered by plaintiff in the operative pleading), unaccompanied by any facts substantiating an agency relationship beyond the mere fact of a dealer-manufacturer relationship, is also insufficient to withstand demurrer when viewed against the general rule that there is no presumption of an agency relationship between a car manufacturer and a dealer. (*Ford Motor Warranty Cases* (2023) 89 Cal.App.5th 1324, 1341-1342; see *Keegan v. American Honda Motor Co.* (C.D. Cal. 2012) 838 F.Supp.2d 929, 953 [allegation that dealerships are manufacturer’s “agents” “is essentially a legal conclusion framed as a factual allegation”]; accord, *Doe v. Roman Catholic Archbishop of Los Angeles* (2016) 247 Cal.App.4th 953, 960 [allegations of “legal conclusions” are insufficient to withstand demurrer].)

The court otherwise rejects defendant's remaining challenges advanced in the demurrer. A comparison of the complaint in *Dhital* with the complaint here reveals why defendant's arguments fail. As noted, plaintiff in *Dhital* alleged Nissan knew of the defective transmissions before the sale of the vehicle "from premarket testing, consumer complaints to the National Highway Traffic Safety Administration . . . , consumer complaints made directly to Nissan and its dealers . . ." (*Dhital, supra*, at p. 834.) This information permitted the *Dhital* court to reject defendant's argument that plaintiff's "did not provide specifics about what Nissan should have disclosed. But plaintiff alleged the CVT transmissions were defective in that they caused such problems as hesitation, shaking, jerking, and failure to function. The SAC also alleged Nissan was aware of the defects as a result of premarket testing and consumer complaint that were made both to the National Highway Traffic Safety Administration and to Nissan and its dealers. It is not clear what additional information Nissan believes should have been included"

Here, the complaint describes the engine defects and its related parts, causing loss of power, stalling, rough engine running, misfiring, and loss of control of the vehicle, all resulting in accidents; and that defendant General Motors knew about these defects or defects and safety hazards through non-public internal data, including pre-releasing testing data, early consumer complaints about the engine defects to defendant General Motor's dealers, dealership repair orders, testing conducted in response to the consumer complaints, failure rates and replacement part sales data, and aggregate data from General Motor's dealers. The allegations here are similar to the allegations advanced in *Dhital*; they survived challenge in *Dhital*, and thus they survive challenge here.

The court also rejects defendant's claim that plaintiffs have failed to allege specific facts concerning justifiable and actual reliance. Again, the court turns to *Dhital*. There, the appellate court observed that plaintiff adequately alleged all elements of fraud (including actual and justifiable reliance) when plaintiff alleged the "transmission installed in numerous Nissan vehicles (including the one plaintiffs purchased) were defective; Nissan knew of the defect and the hazards they posed; Nissan had exclusive knowledge of the defect but intentionally concealed and failed to disclose that information; Nissan intended to deceive plaintiffs by concerning known transmission problems; plaintiff would not have purchased the car if they had known of the defects; and plaintiffs suffered damages in the form of money paid to purchase the car." (*Dhital, supra*, 84 Cal.App.5th at p. 844.) The allegations here are similar (and thus survive demurrer).

Additionally, the court rejects defendant's claim that the fraudulent inducement/concealment cause of action is barred by the economic loss rule. The predicate of defendant's claim seems to be that *Rattagan* applies (because plaintiff is attempting to establish a fraudulent inducement/ concealment cause of action based on the performance during the contract (i.e., the warranty), and he thus cannot show a duty outside the warranty contract itself, meaning the economic loss rule bars recovery (because tort recovery cannot rest on violations of the terms of contract). (*Rattagan, supra*, 17 Cal.5th at p. 37.) Plaintiff, however, is not relying on

the terms of the warranty as the basis for the cause of action, but on defendant's pre-purchase (pre-warranty) conduct. (See fn. 1, *ante*.) The conclusion reached in *Dhital* is therefore dispositive, which went as follows: “. . . [W]e conclude that, under California law, the economic loss rule does not bar plaintiffs' claim here for fraudulent inducement by concealment. Fraudulent inducement claims fall within the exception to the economic loss rule recognized by our Supreme Court [], and plaintiffs allege fraudulent concealment that is independent of Nissan's alleged warranty breaches.” (*Id.* at p. 843, fn. 6 omitted.)

Finally, defendant claims that plaintiff fails to identify by name anyone who made the alleged omissions when plaintiff purchased the vehicle (as opposed to naming a salesperson generically). Again, this claim is not persuasive. First, the specific name of any agents are best known to defendant under the authority of *Committee On Children's Television, Inc. v. General Foods Corp.* (1983) 35 Cal.3d 197, 317 [less specificity is required when it appears from the nature of the allegations that the defendant must necessarily possess full information concerning the facts of the controversy].) Additionally, the comments made in *Alfaro v. Community Housing Improvement & Planning Assn., Inc.* (2009) 171 Cal.App.4th 1356, 1384 seem particularly prescient in the present context. “How does one show ‘how’ and ‘by what means’ something didn’t happen, or ‘when’ it never happened or ‘where’ it never happened?” Under California law, even if the court acknowledges that plaintiffs (for purposes of fraudulent inducement/concealment) must plead how, when, where, to whom, and by what means the lack of representations were channeled (*Lazar v. Superior Court* (1996) 12 Cal.4th 631, 645), that has been done here: the “who” is defendant, the “what” is its detailed knowledge of the defect; the “how” describes how it came into that knowledge, the “when” is time prior to and including the sale of the vehicle (assuming plaintiff can cure this deficiency as noted above); and “where” involves the various channels of communication defendant sold the vehicle. Nothing more is required, per *Dhital*. For these reasons defendant's reliance on *Tarmann* is misplaced. *Dhital* and progeny frame the inquiry and govern the outcome. It is worth observing that nothing in *Dhital* (a factually apposite case) requires plaintiff to identify by name any specific person in order to survive demurrer. *Tarmann* is factually distinguishable and thus inapposite.³

Recommendation:

The court sustains the demurrer to the fifth cause of action to the extent plaintiff has not pleaded a factual basis to establish defendant's duty to disclose, for a transactional relationship must be sufficiently pleaded (along the lines as alleged in *Dhital*). That has not been done. Leave to amend is granted. The court otherwise rejects all remaining arguments advanced by defendant

³ Defendant addresses *Dhital* for the first time in reply, and argues ultimately that even if the court applies *Dhital*, plaintiff has failed to allege an appropriate transactional relationship between defendant and the dealer. The court agrees with this argument, as explained in greater detail in the body of this order.

in the demurrer. *Dhital* provides the roadmap to follow; the complaint is similar to the complaint in *Dhital*, and *Dhital* governs the outcome here.

Plaintiff has 30 days from today's hearing to file an amended pleading. Plaintiff is directed to provide a "redlined" version of the amended complaint identifying all additions and deletions of material as an appendix to the amended complaint.