PARTIES/ATTORNEYS

Plaintiff	Ruben Chavez	Strategic Legal Practices, APC Tionna Grace Carvalho, Esq. Jacob Lister, Esq.
Defendant	General Motors LLC	Mortenson Taggart Adams LLP Michael D. Mortenson Craig A. Taggart Reeti H. Patel

RECOMMENDATION

For all the reasons discussed below, the demurrer to the first and second causes of action is sustained without leave to amend. The demurrer to the sixth cause of action is sustained with leave to amend. The remainder of the demurrer is overruled.

The parties are instructed to appear at the hearing for oral argument. Appearance by Zoom Videoconference is optional and does not require the filing of Judicial Council form RA-010, Notice of Remote Appearance. (See Remote Appearance (Zoom) Information | Superior Court of California | County of Santa Barbara.)

On July 23, 2018, plaintiff entered into a warranty contract with defendant Ford for a 2018 Ford F-150. Plaintiff alleges the 10-speed automatic transmission was defective. On March 21, 2025, plaintiff filed his initial complaint. On September 11, 2025, plaintiff filed an amended complaint against Ford for: (1) failure to replace the vehicle or make restitution (Civ. Code, § 1793.2, subd. (d)); (2) failure to conform vehicle within 30 days (Civ. Code, § 1793.2, subd. (b)); (3) failure to make available to its authorized service facility sufficient literature and parts to effect repairs during the express warranty period (Civ. Code, §1793.2, subd. (a)(3)); (4) breach of the implied warranty of merchantability; and (6) fraudulent inducement-concealment. The amended complaint alleges one cause of action against Santa Maria Ford for negligent repair.

On October 16, 2025, Ford filed a demurrer to the 1st-4th causes of action on the basis that they are barred by the statute of repose in Code of Civil Procedure section 871.21, subdivision (b);[1] and to the fifth cause of action for fraudulent inducement-concealment on the basis that it is barred by the applicable statute of limitations, it fails to state sufficient facts to support the claim, and it fails to allege a transactional relationship giving rise to a duty to disclose. Opposition was filed on December 3, 2025. Reply was filed on December 10, 2025. All documents have been reviewed.

Statute of Repose

Defendant argues that the court should sustain the demurrer because plaintiff's 1st – 3rd causes of action are barred by the recently enacted six-year statute of repose. Effective January 1, 2025, any "action covered by [Code of Civil Procedure] Section 871.20 shall not be brought later than six years after the date of original delivery of the motor vehicle." (Code Civ. Proc., § 871.21, subd. (b).) Some background on statutes of repose is useful:

> "While a statute of limitations normally sets the time within which proceedings must be commenced once a cause of action accrues, a statute of repose limits the time within which an action may be brought and is not related to accrual. Indeed, the injury need not have occurred, much less have been discovered. Unlike an ordinary statute of limitations which begins running upon accrual of the claim, the period contained in a statute of repose begins when a special event occurs, regardless of whether a cause of action has accrued or whether any injury has resulted.
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> Whereas statutes of limitations affect a remedy, statutes of repose extinguish a right of action after the period has elapsed. The effect of a statute of repose is thus harsher than a statute of limitations in that it cuts off a right of action after a specified period of time, irrespective of accrual or even notice that a legal right has been invaded. Put another way, a statute of repose does not cut off an existing right of action, but rather provides that nothing which happens thereafter can *be* a cause of action."
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> (*PGA West Residential Assn., Inc. v. Hulven Internat., Inc.* (2017) 14 Cal.App.5th 156, 177 [cleaned up].)

The "special event" triggering this statute is the date of delivery of the vehicle. Here, plaintiff's complaint alleges that plaintiff purchased the Subject Vehicle on July 23, 2018. Assuming that the date of plaintiff's purchase was the original delivery date of the Subject Vehicle plaintiff should have filed this action

[1] All further references are to this code unless otherwise specified.

under section 871.20 by July 23, 2024.[2] Since it was in fact filed on March 31, 2025, which was over six years after the date of delivery defendant argues plaintiff's causes of action are time barred, and the demurrer should be sustained.

Plaintiff argues that defendant's ability to invoke the statute of repose in § 871.21 is tied to the date the manufacturer opted-in; that the opt-in process was amended and did not become effective until July 1, 2025; and that as a result, actions commenced prior to July 1, 2025, are unaffected by section 871.21's statute of repose. The key flaw in this argument is that the opt-in procedures are governed by sections 871.29 and 871.30, both of which were made effective as of April 2, 2025, by urgency legislation. (Stats. 2025, chapter 1, sections 4 and 5, respectively.)[3] As plaintiff's premise is factually incorrect, the argument is, as a result, unpersuasive.

The court nevertheless notes that Ford opted-in to the statutory procedures on April 25, 2025. (See Manufacturers - Arbitration Certification Program, last accessed on 12/9/25.) The complaint in this action was already on file, having been filed on March 21, 2025. While it seems unfair to hand the power to cut-off the rights of a plaintiff to the defendant manufacturer under this set of facts, that appears to be precisely what was contemplated. Section 871.30 governs the procedures by which a manufacturer may opt-in to the statutory scheme for all motor vehicles sold in the year 2025 and all prior years. (§871.30, subd. (a).) It provides that the manufacturer may elect to be governed by the chapter "[w]ithin 30 days of the effective date of the act adding this section." Section 871.30 was added on April 2, 2025. (Stats. 2025, ch. 1, § 5.) It expressly provides: "Unless a manufacturer has made the election described in subdivision (a), Sections 871.20 to 871.28, inclusive, shall not apply to an action described in subdivision (a) of Section 871.20, including actions already filed between January 1, 2025 and the effective date of the act adding this section, with respect to all of its vehicles sold new in the year 2025 and in all prior years." (§ 871.30, subd. (c).) In the inverse, this means that if the election is timely made, sections 871.20 – 871.28 *do* apply to actions already filed between January 1, 2025, and the effective date of the act [April 2, 2025] adding this section. As plaintiff's complaint was filed on March 21, 2025, it must be the case that the Legislature intended the statute of repose to apply to this action.

Plaintiff argues that the statute of repose does not exclude other equitable tolling doctrines, such as delayed discovery. But unlike a procedural statute of limitations, substantive statutes of repose are generally not subject to statutory or equitable tolling. (*PGA West Residential Assn., Inc., supra,* at 178.) In any event,

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[2] Even assuming that Emergency Rule 9 applies, the filing must have occurred by January 23, 2025.

[3] Plaintiff emphasized a quotation in his memorandum from the Legislative Counsel's Digest, suggesting that "certain procedures" would become operative on July 1, 2025, and concluded that applied to sections 871.29 and 871.30. Section 3 of that statute, governing section 871.24 (relating to consumer notification to the manufacturer), was expressly made operative on July 1, 2025. Thus, the quotation is directed at that procedure, not the opt-in procedures.

section 871.20 provides its own parameters for tolling (§ 871.20, subd. (c)[4]), none of which apply here (and plaintiff does not contend these provisions apply).

The court acknowledges there is no appellate case law discussing the application of this statute of response. Nevertheless, the court finds that the statute of repose contained in section 871.21 barring actions brought later than six years after the date of original delivery of the motor vehicle applies here.

Having concluded the statute applies, the court must determine to which causes of action it applies. Section 871.21 subdivision (b) specifies that it applies to "an action covered by section 871.20." That section provides:

> "This chapter applies to an action, brought against a manufacturer who has elected under Section 871.29 to proceed under this chapter, seeking restitution or replacement of a motor vehicle pursuant to subdivision (b) or (d) of Section 1793.2, Section 1793.22, or Section 1794 of the Civil Code, or for civil penalties pursuant to subdivision (c) of Section 1794 of the Civil Code, where the request for restitution or replacement is based on noncompliance with the applicable express warranty."
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> (§ 871.20, subd. (a).)

Plaintiff concedes the statute applies to the 1st cause of action [which alleges a violation of Civil Code § 1793.2, subdivision (d) for failure to promptly replace the vehicle or make restitution] and the 2nd cause of action [which alleges a violation of Civil Code § 1793.2, subdivision (b) for failure to commence the service or repairs within a reasonable period or to conform it to applicable warranties].

However, plaintiff argues that it does not apply to the 3rd cause of action [which alleges a violation of Civil Code section 1793.2, subdivision (a)(3) for failure to make available to its authorized service and repair facilities sufficient service literature and replacement parts to effect repairs during the express warranty period] because that code section is not enumerated in the statute. Defendant argues that it does apply because section 871.21 expressly brings within its ambit claims under "Section 1794 of the Civil Code" and that plaintiff has standing to assert the third cause of action only through section 1794.

Defendant's argument is contrary to the settled rules of statutory interpretation, which provide that courts give statutory language its usual meaning and accord significance to every word and phrase, if possible. (*People v. Davis* (2005)

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[4]That section provides: "(c) The time periods prescribed in subdivisions (a) and (b) shall be tolled as follows: (1) As provided by tolling requirements prescribed in subdivision (c) of Section 1793.22 of the Civil Code, as applicable.; (2) For the time the motor vehicle is out of service by reason of repair for any nonconformity. (3) For the time period after a pre-suit notice is provided to the manufacturer in accordance with Section 871.24, which time period shall not exceed 60 days."

126 Cal.App.4th 1416.) This principle ensures that no part of the statute is rendered superfluous or meaningless. Civil Code section 1794 states:

> "Any buyer of consumer goods who is damaged by a failure to comply with any obligation under this chapter or under an implied or express warranty or service contract may bring an action for the recovery of damages and other legal and equitable relief."
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> (Civil Code, § 1794, subd. (a).)

If the court were to adopt defendant's argument, that would render the any need to identify Sections 1793.2 and 1793.22 moot, as they are also obligations "under this chapter" under Civil Code section 1794, subdivision (a).

It appears that section 871.21 applies more narrowly as follows: [T]his chapter applies to an action . . . seeking restitution or replacement of a motor vehicle pursuant to . . . Section 1794 of the Civil Code . . ." The modifier here is that the action must be seeking restitution or replacement as the remedy. This is bolstered by section 871.20, subdivision (b), which states: "This chapter does not apply to service contract claims under Section 1794 of the Civil Code or any action seeking remedies that are not restitution or replacement of a motor vehicle."

Civil Code section 1794 identifies restitution or replacement as the measure of damages "as set forth in subdivision (d) of Section 1793.2." (Civil Code, § 1714, subd. (b).) Civil Code section 1793.2 subdivision (d) authorizes restitution or replacement "if the manufacturer or its representative in this state is unable to service or repair a new motor vehicle [ ] to conform to the applicable express warranties after a reasonable number of attempts . . ." It does not authorize restitution or replacement as a remedy for the failure to make available to its authorized service and repair facilities sufficient service literature and replacement parts to effect repairs during the express warranty period, which is what the third cause of action alleges. Thus, the court finds that section 871.21 does not bar the 3rd cause of action.

Defendant argues that section 871.21 bars the 4th cause of action for breach of implied warranty. The court disagrees. Section 871.20 expressly states the chapter applies "where the request for restitution or replacement is based on noncompliance with the applicable express warranty." (§ 871.20, subd. (a).) Actions based on implied warranty appear to be excluded. The court finds that section 871.21 does not bar the fourth cause of action.

In summary, the court finds the statute of repose contained in section 871.21 barring actions brought later than six years after the date of original delivery of the

motor vehicle applies here to the first and second causes of action. The demurrer is thus sustained without leave to amend as to those causes of action.

Sixth Cause of Action for Fraud

1. Statute of Limitations

The fifth cause of action is for "fraudulent inducement-concealment." The applicable statute of limitations for fraud under Code of Civil Procedure section 338 subdivision (d), states that "[a]n action for relief on the ground of fraud or mistake [must be brought within three years]. The cause of action in that case is not deemed to have accrued until the discovery, by the aggrieved party, of the facts constituting the fraud or mistake." Defendant demurs to this cause of action asserting that while plaintiff has alleged the "discovery rule," "repair doctrine," and/or class action tolling render his claims timely, he hasn't alleged facts sufficient to support any of these doctrines.

"[S]tatutes of limitation do not begin to run until a cause of action accrues. [¶] Generally speaking, a cause of action accrues at the time when the cause of action is complete with all of its elements. An important exception to the general rule of accrual is the discovery rule, which postpones accrual of a cause of action until the plaintiff discovers, or has reason to discover, the cause of action. [¶] A plaintiff has reason to discover a cause of action when he or she has reason at least to suspect a factual basis for its elements. Under the discovery rule, suspicion of one or more of the elements of a cause of action, coupled with knowledge of any remaining elements, will generally trigger the statute of limitations period." (*Fox v. Ethicon Endo–Surgery, Inc. (*2005) 35 Cal.4th 797, 806–807 (*Fox*) [cleaned up].)

"A plaintiff need not be aware of the specific 'facts' necessary to establish the claim; that is a process contemplated by pretrial discovery. Once the plaintiff has a suspicion of wrongdoing, and therefore an incentive to sue, [he or] she must decide whether to file suit or sit on [his or] her rights. So long as a suspicion exists, it is clear that the plaintiff must go find the facts; [the plaintiff] cannot wait for the facts to find [him or] her." (*Jolly v. Eli Lilly & Co*. (1988) 44 Cal.3d 1103, 1111 (*Jolly*),.) Thus, "[t]he discovery rule only delays accrual until the plaintiff has, or should have, inquiry notice of the cause of action." (*Fox, supra*, 35 Cal.4th at p. 807.) "[I]n order to employ the discovery rule to delay accrual of a cause of action, a potential plaintiff who suspects that an injury has been wrongfully caused must conduct a reasonable investigation of all potential causes of that injury. If such an investigation would have disclosed a factual basis for a cause of action, the statute of limitations begins to run on that cause of action when the investigation would have brought such information to light. In order to adequately allege facts supporting a theory of delayed discovery, the plaintiff must plead that, despite diligent investigation of the circumstances of the injury, he or she could not have

reasonably discovered facts supporting the cause of action within the applicable statute of limitations period." (*Fox, supra*, 35 Cal.4th at pp. 808–809.)

To rely on the discovery rule for delayed accrual of a cause of action, "[a] plaintiff whose complaint shows on face that the claim would be barred without the benefit of the discovery rule must specifically plead facts to show (1) the time and manner of discovery and (2) the inability to have made earlier discovery despite reasonable diligence. … In assessing the sufficiency of the allegations of delayed discovery, the court places the burden on the plaintiff to show diligence; conclusory allegations will not withstand demurrer." (*Doe v. Roman Catholic Bishop of Sacramento* (2010) 189 Cal.App.4th 1423, 1430.)

In support of the delayed discovery theory, plaintiff alleges: "Defendant FORD committed fraud by allowing the Subject Vehicle to be sold to Plaintiff without disclosing that the Subject Vehicle and its transmission was defective and susceptible to sudden and premature failure." (FAC, ¶ 95.) "Plaintiff only became suspicious that the Vehicle suffered from the transmission defect after presenting the Vehicle to Defendant for a reasonable number of repair attempt to no avail." (FAC, ¶ 105.) "Plaintiff had no way of uncovering Defendant's deception with respect to the defects given that Defendant performed various diagnostics and/or undertook repairs and claimed that nothing was wrong with the Subject Vehicle or that the Vehicle had been repaired." (FAC, ¶ 20.) Finally, plaintiff alleges: "Plaintiff discovered Defendant's wrongful conduct alleged herein shortly before the filing of the complaint, as the Vehicle continued to exhibit symptoms of defects following FORD's unsuccessful attempts to repair them." (FAC, ¶ 50.)

However, the factual allegations do not support the time and manner of discovery, because *the FAC does not allege a repair history related to the transmission.* Although plaintiff alleges he has been to the dealer for service on five separate occasions, the alleged complaints were not related to the transmission. Instead, plaintiff presented the vehicle with headlight complaints (FAC, ¶ 13); the infotainment screen freezing (FAC, ¶ 14); unspecified "engine complaints" (FAC, ¶ 15); a coolant leak (FAC, ¶ 16); and tailgate failures. (FAC, ¶¶ 16-17.) While plaintiff has alleged that he "experienced defects in the Vehicle including, but not limited to, jerking and/or jerky shifts, abnormal noises when shifting, malfunction of various gauges and instruments, and an abnormal knocking noise when starting the Vehicle (FAC, ¶ 12) and he "had no way of uncovering Defendant's deception with respect to the defects given that Defendant performed various diagnostics and/or undertook repairs and claimed that nothing was wrong with the Subject Vehicle or that the Vehicle had been repaired (FAC, ¶ 20), the allegations of the vehicle's repair history do not support an inference that plaintiff had a transmission defect.

All remaining allegations regarding discovery of the defect are expressed in perfunctory and conclusive language. Plaintiff does not defend the theories of repair doctrine or class action tolling in opposition. The court thus considers them abandoned.

The demurrer to the sixth cause of action based on the statute of limitations is sustained with leave to amend.

2. Failure to Allege Facts with Requisite Specificity

The required elements for fraudulent 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 v. Uber Technologies* (2024) 17 Cal.5th 1, 40.) "California courts apply the same specificity standard to evaluate the factual underpinnings of a fraudulent concealment claim at the pleading stage, even though the focus of inquiry shifts to the unique elements of the claim." (*Rattagan*, 17 Cal.5th at 43.)

Defendant argues that the allegations of the FAC are, at best, conclusory allegations based on information and belief. Here, plaintiff alleges she entered into a warranty contract with defendant on July 23, 2018 (FAC ¶¶ 7-8); Plaintiff identifies the material facts defendant knew about the transmission defect prior to his acquisition of Subject Vehicle and withheld from Plaintiff (*Id.* ¶¶ 37-48); Plaintiff alleges that Defendant had superior knowledge of the facts (*Id.* ¶¶ 37-48; 101b); the safety risks posed by the Transmission Defect (*Id.* ¶¶ 27, 97); the materiality of that information (*Id.* ¶ 103); Plaintiff's reliance on the nondisclosure (*Id.*); and damages. While these facts might be sufficient, the problem remains that plaintiff has not alleged any ***facts*** that suggest he has suffered from the Transmission Defect. This is a sufficient basis on which to sustain the demurrer with leave to amend.

3. Failure to Allege the Requisite Transactional Relationship to Justify a Duty to Disclose

The allegations at issue here can be gauged against the allegations made in *Dhital v. Nissan North America, Inc.* (2022) 84 Cal.App.5th 828, a case defendant should have cited (or even acknowledge) but did not. *Dhital* explored the merits of a demurrer to a fraudulent inducement/concealment cause of action that was similar in nature and scope to the one advanced here. The *Dhital* defendant, manufacturer Nissan, argued that plaintiff had failed adequately to allege a basis for a duty to disclose because she failed to plead an adequate transactional relationship between

the parties. The *Dhital* opinion reads as follows: ". . . [N]issan argues plaintiff did not adequately plead the existence of a buyer-seller relationship between the parties, because plaintiffs bought the car from a Nissan dealership (not from Nissan itself). At the pleading stage (and in the absence of a more developed argument by Nissan on the point), we conclude plaintiffs' allegations are sufficient. Plaintiffs alleged that they bought the car 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 sale of Nissan vehicles to consumers. In light of these allegations, we declined to hold plaintiff's claim is barred on the ground there was no relationship requiring Nissan to disclose known defects." (*Dhital, supra*, at p. 844.) The allegations here fall short of this criteria: plaintiff alleges that he purchased the vehicle from defendant's "authorized retail dealership Santa Maria Ford Lincoln" (FAC, ¶ 9) and that the vehicle was backed by an express warranty (FAC, ¶ 8). But he does not allege that Ford's dealerships are its agents for purposes of sales of the Ford vehicles to consumers. Thus, there is no basis for a transactional relationship that would support a duty to disclose under *Dhital*. Any amended pleading must ameliorate this defect.

4. Economic Loss Rule

The *Dhital* court rejected Nissan's claim that the economic loss rule barred the fraudulent inducement/concealment cause of action. The court acknowledged that there must be an independent basis to establish a tort duty to disclose (and that it must not be based on the warranty contract itself). "In our view, that independence is present in the case of fraudulent inducement (whether it is achieved by intentional concealment or by intentional affirmative misrepresentations), because a defendant's conduct in fraudulently inducing someone to enter a contract [that] is separate from the defendant's later breach of the contract or warranty provisions that were agreed to." (*Dhital, supra*, at p. 841.) Plaintiff's fraudulent inducement claim "alleges presale conduct by Nissan (concealment) that is distinct from Nissan's alleged subsequent conduct in breaching its warranty obligations. . . ." (*Ibid.*) At the pleading stage, observed the court, "we decline to hold plaintiff's fraud claim (based in part on presale concealment) [as well as some allegations about defendant's failure to make disclosures on the date of each [post-sale] repair attempts] is barred by the economic loss rule." This was true even though the *Dhital* court indicated in footnote 5 of its opinion that it did "not preclude the possibility that, depending on the evidentiary record developed at summary judgment or trial, a fraudulent inducement claim could not be independent of a plaintiff's contract or warranty claims." *Dhital* ultimately concluded as follows: "Fraudulent inducement claims fall within an exception to the economic loss rule recognized by our Supreme Court

[citation], and plaintiffs allege fraudulent concealment independent of Nissan's alleged warranty breaches. [Fn. omitted.]" (*Dhital, supra*, at pp. 841-842.)

The same is true here. Plaintiff alleges defendant's fraudulent inducement/concealment is based on presale conduct, focusing on conduct before the purchase, and therefore independent of any alleged warranty, even if there are some references to concealment upon post-sale repairs. The *Dhital* court did not find this problematic at the pleading stage, and found the pre-sale allegations sufficient to overcome demurrer. For these reasons, the court finds this is not a basis on which to sustain a demurrer.