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 U.S. DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA

10 Attorneys for Plaintiff PEOPLE OF THE
 STATE OF CALIFORNIA, ex rel.
 11 BILL LOCKYER, ATTORNEY GENERAL

12 IN THE UNITED STATES DISTRICT COURT
 13 FOR THE NORTHERN DISTRICT OF CALIFORNIA

15 **PEOPLE OF THE STATE OF CALIFORNIA, ex**
 16 **rel. BILL LOCKYER, ATTORNEY GENERAL**

Plaintiff,

v.

18 **GENERAL MOTORS CORPORATION, a**
 19 **Delaware Corporation, TOYOTA MOTOR NORTH**
 20 **AMERICA, INC., a California Corporation, FORD**
 21 **MOTOR COMPANY, a Delaware Corporation,**
 22 **HONDA NORTH AMERICA, INC., a California**
 23 **Corporation, CHRYSLER MOTORS**
 24 **CORPORATION, a Delaware Corporation,**
 25 **NISSAN NORTH AMERICA, INC., a California**
 26 **Corporation**

Defendants.

Case No.

006-05755

EMC

COMPLAINT FOR
DAMAGES AND
DECLARATORY
JUDGMENT

(Federal Common Law Public
Nuisance; 28 U.S.C. § 2201)

DEMAND FOR JURY TRIAL

NATURE OF THE ACTION

27 1. Right now, global warming is harming California, its environment, its economy, and
 28 the health and well-being of its citizens. Scientific debate is over: the massive atmospheric

1 increase in carbon dioxide and other greenhouse gases resulting from human activity has changed
2 the climate and will further change the climate over the next decades. Human-induced global
3 warming has, among other things, reduced California's snow pack (a vital source of fresh water),
4 caused an earlier melting of the snow pack, raised sea levels along California's coastline,
5 increased ozone pollution in urban areas, increased the threat of wildfires, and cost the State
6 millions of dollars in assessing those impacts and preparing for the inevitable increase in those
7 impacts and for additional impacts.

8 2. The People of the State of California ("People") bring this action in their quasi-
9 sovereign, proprietary, and parens patriae capacities against defendant motor vehicle
10 manufacturers under federal common law or, in the alternative, state law, seeking monetary
11 damages for defendants' past and ongoing contributions to global warming, a public nuisance.
12 The People also seek a declaratory judgment under 28 U.S.C. § 2201 that defendants are liable
13 for future monetary damages to California caused by defendants' past and ongoing contributions
14 to global warming. Defendants have for many years produced millions of automobiles that
15 collectively emit massive quantities of carbon dioxide in the United States and have thus
16 contributed to an elevated level of carbon dioxide in the atmosphere. Carbon dioxide is the
17 primary "greenhouse gas." Greenhouse gases trap atmospheric heat and thus cause global
18 warming.

19 3. Defendants, by their annual emissions in the United States of approximately 289
20 million metric tons of carbon dioxide and other greenhouse gases, are substantial contributors –
21 among the world's largest contributors – to global warming, and to the adverse impacts on
22 California. Defendants' motor vehicle emissions in the United States account for approximately
23 nine percent of the world's carbon dioxide emissions and over thirty percent of emissions from
24 sources within the State of California.

25 4. Global warming has already injured California, its environment, its economy, and the
26 health and well-being of its citizens. California is responding to the ongoing impacts and the
27 inevitable additional future impacts of global warming. The State is spending millions of dollars
28 on planning, monitoring, and infrastructure changes to address a large spectrum of current and

1 anticipated impacts, including reduced snow pack, coastal and beach erosion, increased ozone
2 pollution, sea water intrusion into Sacramento Bay-Delta drinking water supplies, and to respond
3 to impacts on wildlife, including endangered species and fish, wildfire risks, and the long-term
4 need to monitor on-going and inevitable impacts. California already has begun to expend money
5 and other resources to address the declining snow pack and earlier melting of the snow pack in
6 order to avert future water shortages and flooding.

7 5. Damages caused by global warming are cognizable, ongoing, and increasing.
8 Defendants are aware of the impacts and have chosen to continue to produce products that
9 generate enormous quantities of carbon dioxide, to the detriment of California.

10 6. The People seek compensation for the large-scale damage caused by these defendants.
11 California seeks a judgment holding each defendant jointly and severally liable for contributing
12 to a public nuisance – global warming and the impacts resulting from global warming in
13 California – and awarding monetary damages to the State. The People also seek a declaratory
14 judgment that each defendant is jointly and severally liable to pay for such additional damages
15 incurred by California in the future for contributing to the ongoing nuisance of global warming.

16 **JURISDICTION AND VENUE**

17 7. This Court has jurisdiction pursuant to 28 U.S.C. § 1331 (action arising under the laws
18 of the United States).

19 8. The Court has jurisdiction over state law claims pursuant to 28 U.S.C. § 1367.

20 9. The People have standing to pursue this action in their quasi-sovereign, proprietary,
21 and parens patriae capacities. Global warming is adversely affecting the environment and the
22 natural resources of the State that are held in trust for the benefit of the People; adversely
23 affecting and causing a diminution in value of State-owned property, including, but not limited
24 to, State parks, State beaches, State forests, and State-owned and/or operated facilities such as
25 water storage and delivery systems; and adversely affecting California's public health and
26 welfare.

27 10. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(b)(1) because all
28 defendants reside in this judicial district as that term is defined in 28 U.S.C. § 1391(c) and other

1 law. Venue is also proper under 28 U.S.C. § 1391(b)(2) because a substantial part of the events
2 or omissions giving rise to the claims occurred in this judicial district. In the alternative, venue is
3 proper pursuant to 28 U.S.C. § 1391(b)(3) because there is no district in which the action may
4 otherwise be brought and at least one defendant may be found in this judicial district.

5 INTRADISTRICT ASSIGNMENT

6 11. Assignment to the San Francisco Division or the Oakland Division is proper under
7 Civil Local Rule 3-2 because a substantial part of the events or omissions giving rise to the
8 claims occurred in the counties of Alameda, Contra Costa, Del Norte, Humboldt, Lake, Marin,
9 Mendocino, Napa, San Francisco, San Mateo, and Sonoma.

10 PARTIES

11 12. The People bring this action by and through Attorney General Bill Lockyer. Attorney
12 General Bill Lockyer is the chief law officer of the State of California and has the authority to file
13 civil actions in order to protect public rights and interests and the environment. Cal. Gov. Code
14 §§ 12600–12612; Cal. Const. art. V, § 13. This challenge is brought pursuant to the Attorney
15 General's independent constitutional, common law, and statutory authority to represent the public
16 interest.

17 13. Defendant GENERAL MOTORS is a Delaware corporation doing business in
18 California. General Motors has sold and sells tens of thousands of vehicles in California, which
19 collectively emit greenhouse gases contributing to global warming in California when operated
20 as designed.

21 14. Defendant TOYOTA MOTOR NORTH AMERICA, INC. is a California corporation.
22 Toyota has sold and sells tens of thousands of vehicles in California, which collectively emit
23 greenhouse gases contributing to global warming in California when operated as designed.

24 15. Defendant FORD MOTOR COMPANY is a Delaware corporation doing business in
25 California. Ford has sold and sells tens of thousands of vehicles in California, which collectively
26 emit greenhouse gases contributing to global warming in California when operated as designed.

27 16. Defendant HONDA NORTH AMERICA, Inc. is a California corporation. Honda has
28 sold and sells tens of thousands of vehicles in California, which collectively emit greenhouse

1 gases contributing to global warming in California when operated as designed.

2 17. Defendant CHRYSLER MOTORS CORPORATION is a Delaware corporation doing
3 business in California. Chrysler has sold and sells tens of thousands of vehicles in California,
4 which collectively emit greenhouse gases contributing to global warming in California when
5 operated as designed.

6 18. Defendant NISSAN NORTH AMERICA, Inc. is a California corporation. Nissan has
7 sold and sells tens of thousands of vehicles in California, which collectively emit greenhouse
8 gases contributing to global warming in California when operated as designed.

9 **FACTUAL ALLEGATIONS**

10 19. Human-induced emissions of carbon dioxide and other greenhouse gases, primarily
11 from fossil fuel combustion, have caused and are causing global warming.

12 20. Defendants contribute to carbon dioxide and other greenhouse gas emissions on a
13 very large scale, and thereby cause and contribute to global warming.

14 21. Defendants' carbon dioxide and other greenhouse gas emissions have caused and are
15 causing significant damage to the State of California, both to natural resources of the State and to
16 the State fisc.

17 **Global Warming – Science and Consensus**

18 22. Global warming is also referred to as climate change. According to the United
19 Nations Framework Convention on Climate Change (“Framework Convention”), to which the
20 United States is a party, global warming is “a change of climate which is attributed directly or
21 indirectly to human activity that alters the composition of the global atmosphere and which is in
22 addition to natural climate variability observed over comparable time periods.”

23 23. There is a clear scientific consensus that global warming has begun and that most of
24 the current global warming is caused by emissions of greenhouse gases, primarily carbon dioxide
25 from fossil fuel combustion. This consensus has been expressed in official reports from United
26 States and international scientific bodies.

27 24. For example, the Intergovernmental Panel on Global warming (“IPCC”) concluded in
28 its most recent assessment report, issued in 2001 (“IPCC 2001 Report”), that “most of the

1 observed warming over the last 50 years is likely to have been due to the increase in greenhouse
2 gas concentrations.” “Likely” is an IPCC term of art meaning that scientists have a confidence
3 level of 66 to 90 percent. The IPCC is a collaborative scientific effort among the nations of the
4 world to assess the scientific and technical information relevant to global warming and provide
5 advice on global warming to all 170 nations, including the United States, that are parties to the
6 Framework Convention. The IPCC 2001 Report is a standard scientific reference on global
7 warming.

8 25. Similarly, in 2005, the National Academies of Science for Brazil, Canada, China,
9 France, Germany, India, Italy, Japan, Russia, the United Kingdom, and the United States all
10 concluded that

11 there is now strong evidence that significant global warming is occurring.

12 The evidence comes from direct measurements of rising surface air
13 temperatures and subsurface ocean temperatures and from phenomena such
14 as increases in average global sea levels, retreating glaciers, and changes to
15 many physical and biological systems. . . . This warming has already led to
16 changes in the Earth’s climate.

17 The National Academies are expert scientific bodies that provide independent advice to
18 governments throughout the world.

19 26. Other major scientific bodies in the United States whose members’ expertise bears
20 directly on global warming have issued statements similar to the conclusions of the IPCC,
21 including not only the National Academy of Sciences, but also the American Meteorological
22 Society, the American Geophysical Union, and the American Association for the Advancement
23 of Science.

24 27. Carbon dioxide is the most significant greenhouse gas emitted by human activity.

25 28. Energy from the sun heats the Earth, which re-radiates the energy into the Earth’s
26 atmosphere. Carbon dioxide and other greenhouse gases trap heat in the Earth’s atmosphere that
27 would otherwise escape into space.

28

1 29. Carbon dioxide emissions persist in the atmosphere for several centuries and thus
2 have a lasting effect on climate. The combustion of fossil fuels adds large quantities of carbon
3 (in the form of carbon dioxide) to the atmosphere that otherwise would remain sequestered deep
4 in the Earth. Processes on the land and in the oceans that remove carbon dioxide from the
5 atmosphere are unable to keep pace with these emissions. As a result, the natural carbon cycle is
6 out of balance and carbon dioxide levels in the atmosphere are increasing as each year's
7 emissions are added to those that came before.

8 30. Carbon dioxide levels have increased 35 percent since the beginning of the industrial
9 revolution in the late 1800s. More than one-third of this increase has occurred since 1980 alone.
10 The current carbon dioxide level in the atmosphere is higher than any time in the last 650,000
11 years, and likely higher than any time in the last 20 million years.

12 31. Carbon dioxide levels are continuing to rise. The IPCC and all relevant professional
13 scientific societies conclude there will be an acceleration of global warming, and of its impacts,
14 as carbon dioxide levels rise. Impacts include heat deaths, ground level smog, disruption of
15 water supply, flooding, more dramatic weather events because of the increased energy in the
16 atmospheric system, disruption of and damage to forests and ecosystems, additional sea level
17 rise, beach erosion, inundation of low-lying coastal property, salt infiltration of fresh water
18 drinking supplies, damage to and breaches of levees, and reduction of water availability from
19 snow pack melt for sensitive habitat and species.

20 32. The global average surface temperature of the Earth increased about 1.26 degrees
21 Fahrenheit between the late 1800s and 2000. Most of this warming occurred in the past three
22 decades, during which time the Earth has been warming at a rate of about 0.36 degrees
23 Fahrenheit per decade, i.e., a rate of about 3.6 degrees per century. By comparison, the global
24 average temperature of the Earth at the depths of the last ice age 20,000 years ago was only 9-11
25 degrees Fahrenheit cooler than today.

26 33. Globally, the 1990s were the hottest decade in the last millennium. The year 2005 was
27 the hottest year on record since thermometer records began in 1861. The second hottest was
28 1998, and the years 2002 and 2003 were tied for third.

1 34. The late 20th century was the warmest period for the northern hemisphere since at
2 least 800 A.D.

3 35. Scientists have detected a human-induced global warming signal of increased
4 temperature globally and at smaller scales, including in North America and California, and in the
5 oceans. The warming signal is much larger than what could be produced by natural variability.
6 In other words, scientists have determined that there is a causal connection between emissions of
7 greenhouse gases and rising temperatures.

8 35. Regional warming can greatly exceed average global warming. Also, because of
9 climate system and energy system inertias, more warming is inevitable. And emissions of the
10 most important greenhouse gas, carbon dioxide, are still accelerating year after year.
11 Continuation of this trend will yield average global warming of at least 5 degrees Fahrenheit by
12 the end of this century. Thus, the defendants' ongoing emissions are contributing to inevitable
13 future harms.

14 36. Global warming causes sea level rise via thermal expansion of ocean water and
15 melting of land-based snow and ice. Satellite measurements of the oceans have detected an
16 acceleration of sea level rise in recent decades that coincides with the era of human-induced
17 global warming and is consistent with the fundamental physics of a warming world.

18 37. Events in the polar and high latitude regions of the Earth are an early indicator of
19 global warming. In 2004, the Arctic Council and the International Arctic Science Committee
20 issued an Arctic Climate Impact Assessment, which concludes that "[t]he Arctic is now
21 experiencing some of the most rapid and severe climate change on earth." Impacts include
22 thawing of permafrost, a later freezing and earlier break-up of ice on rivers and lakes, and the
23 retreat of mountain glaciers. Global warming models predict that the most rapid and severe
24 changes from global warming will occur first in the Arctic. Those changes will, in turn, alter the
25 climate of the entire planet.

26 38. The Earth's only large ice sheets, located on Greenland and Antarctica, are now
27 showing signs of melting and breakup at increasing and alarming speeds. In 2006, scientists
28 published new satellite observations of the Greenland ice sheet demonstrating a loss of

1 approximately 50 cubic miles from the sheet in 2005. Additionally, between 1996 and 2005,
2 scientists detected a widespread glacier acceleration and consequently an increased rate of ice
3 discharge from the Greenland ice sheet that has doubled in recent years. The loss of ice from
4 Antarctica in 2005 was also found to be approximately 50 cubic miles. These observations are
5 further evidence that global warming and sea level rise resulting from global warming are
6 accelerating at a pace greater than previously thought. California must respond to the
7 accelerating rate of sea level rise by implementing infrastructure changes along its coast.

8 39. Other clear global warming indicators include the retreat of mountain glaciers
9 worldwide, the melting of permafrost throughout the Arctic, increased ocean temperatures
10 worldwide, bleaching of coral reefs from increased ocean temperatures, and changes in plant and
11 animal ranges toward higher latitudes and altitudes all over the world. As the Earth has warmed,
12 a greater number of catastrophic climate events have occurred, including the most powerful El
13 Niño ever recorded (1997-98), the most devastating hurricane in 200 years (Mitch, 1998), the
14 hottest European summer on record (2003), the first ever South Atlantic hurricane (2002), and
15 one of the worst storm seasons ever experienced in Florida (2004).

16 **Defendants' Carbon Dioxide and Greenhouse Gas Emissions**

17 40. Defendants, six automakers, produce vehicles that emit over 289 million metric tons
18 of carbon dioxide in the United States each year from the combustion of fossil fuels. Carbon
19 dioxide emissions from defendants' products in the United States emit over 20 percent of carbon
20 dioxide emissions in the United States, and over 30 percent of emissions in California.

21 41. Transportation sector carbon dioxide emissions constitute approximately 32 percent
22 of all carbon dioxide emissions in the United States, and 41 percent of all emissions in
23 California. The six defendants account for 92 percent of the light vehicle sector emissions in the
24 United States.

25 42. Vehicle emissions are the single most rapidly growing source of carbon dioxide
26 emissions in the United States.

27 **Examples of California's Damages**

28 43. California owns the waters of the State and has a public trust interest in the State's

1 natural resources. California retains the right to seek money damages based on these proprietary
2 and sovereign interests.

3 44. California has spent millions of dollars to study, plan for, monitor, and respond to
4 impacts caused by global warming and impacts likely or certain to occur.

5 45. California's natural resources, including water, snow pack, rivers, streams, wildlife,
6 coastline, and air quality have been injured by global warming and face a near certainty of
7 additional future harm. These resources belong to the State and the People of the State and are
8 worth billions of dollars.

9 46. California is the owner and/or operator of certain facilities, such as water storage and
10 delivery systems, that are being disrupted and will be disrupted as a result of global warming. In
11 response to the damage already caused by global warming and the almost certain additional
12 future harms, California has taken and is taking action costing millions of dollars. In addition to
13 studies, planning, and monitoring, California is, among other things, funding infrastructure
14 changes, including re-building levees protecting the Sacramento Bay-Delta area from salt water
15 infiltration and other impacts of sea level rise. California has embarked on a massive effort to
16 evaluate global warming impacts and threats, and to act to limit and mitigate damage. These
17 actions have already cost California millions of dollars and will certainly cost millions more.

18 47. In California, the winter average temperature in the Sierra Nevada region has risen by
19 almost 4 degrees Fahrenheit during the second half of the 20th century. As a result, snow pack in
20 the Sierras has been reduced.

21 48. The Sierra snow pack serves as a vital water storage and supply system for California,
22 providing approximately thirty-five percent of the State's water supply. Reduced snow pack and
23 earlier runoff affect the availability of water for agriculture, for urban use including drinking, and
24 for rivers and streams that support salmon and trout and other fish, including threatened and
25 endangered species. The State is spending substantial money in studying and planning its
26 response to these impacts and in taking the initial steps towards responding to existing and future
27 impacts.

28

1 49. Earlier snow melt results in greater risk of flooding. More than 20 million
2 Californians rely on two massive water projects, the State Water Project and the Central Valley
3 Project. These complex systems, operated by the state and federal governments, serve purposes
4 related to water supply, flood management, environmental protection, and recreational uses in the
5 State. Global warming is impacting significantly operation and effectiveness of those systems.

6 50. Since 1950, snow accumulation has decreased by approximately ten percent in April 1
7 snow water equivalent (a measure taken annually). In addition, the spring snow melt pulse
8 (when the bulk of the snow pack melts) has shifted forward in time by ten to thirty days.

9 51. Because of earlier snow melt, floods have increased. On the American River, for
10 example, Folsom Dam was designed in 1950 based on historic flow records for storing excess
11 flow from a 500-year flood. Now, because of the increased snow melt, there have been five
12 floods on the American River larger than the pre-1950 recorded maximum flood, and the dam is
13 now adequate to store only a fifty-year flood under current conditions.

14 52. California has approximately 1,075 miles of coastline (excluding inland bays,
15 estuaries, and off-shore islands). Rising sea levels resulting from thermal expansion of sea water
16 due to increased ocean temperature and the addition of freshwater from the melting of glaciers
17 and ice sheets have increased beach erosion and impacted low-lying coastal property. The State
18 has incurred millions of dollars in response to erosion and in preparation for further impacts.
19 State beaches include all of the Sonoma State Beaches, Asilomar State Beach, and Huntington
20 State Beach, along with dozens of others. Beach closures, which have already occurred because
21 of erosion and high storm surges, impact tourism and result in natural resource damages.

22 53. The supply of sand to beaches in southern California is insufficient to maintain beach
23 width in the face of sea level rise. Without beach preservation actions, sandy beaches will
24 narrow and disappear, exposed shore platforms will become submerged, coastal armoring needs
25 will increase, and catastrophic events and widespread flooding will increase.

26 54. Rising sea levels will increase salt infiltration into the fresh water areas of the Bay-
27 Delta. The State is currently working on plans to address this threat, by, for example, re-
28 enforcing and increasing the height of Bay-Delta levees. These projects have already resulted in

1 the expenditure of millions of dollars by the State, and will require expenditure of billions of
2 dollars to ensure that sea level rise does not destroy the levee system.

3 55. Global warming is also having severe impacts on the health and well-being of
4 California's residents, and, in turn, on the State's health system. Global warming increases the
5 frequency, duration, and intensity of extreme heat events, conditions that are favorable to the
6 formation of smog. And as temperatures rise, and the number of days of extreme heat events
7 increases, the risk of injury or death caused by dehydration, heatstroke, heart attack, and
8 respiratory problems also increases. Most vulnerable are the elderly, those whose health is
9 already compromised such as children with asthma, and those who do not have the means to
10 purchase and operate air conditioners or to evacuate to air conditioned locations.

11 56. Dozens of other impacts have begun or are anticipated with a high level of certainty,
12 including increased risk and intensity of wildfires, risk of prolonged heat waves, loss of moisture
13 due to earlier snow pack melt and related impacts on forests and other ecosystems, and a change
14 in ocean ecology as water warms. All of these impacts are the subject of State study and
15 planning, which costs the State millions of dollars.

16 **FIRST CAUSE OF ACTION**

17 **(Public Nuisance – Federal Common Law)**

18 57. Plaintiff hereby realleges and incorporates each and every paragraph above.

19 58. Defendants have engaged in and are engaging in activities that have caused and
20 continue to cause injury to the State of California. Defendants, by their emissions of carbon
21 dioxide and other greenhouse gases from the combustion of fossil fuels in passenger vehicles and
22 trucks, have knowingly created or contributed to and are knowingly creating or contributing to a
23 public nuisance – global warming – injurious to the State of California, its citizens and residents.

24 59. Defendants' emission of carbon dioxide and other greenhouse gases, by contributing
25 to global warming, constitutes a substantial and unreasonable interference with public rights in
26 California's jurisdiction, including, among other things, public comfort and safety, natural
27 resources and public property, and aesthetic and ecological values.
28

1 67. In the alternative, defendants are liable under California Civil Code sections 3479 et
2 seq. and California Code Civil Procedure section 731.

3 68. Under California Civil Code section 3479, a “nuisance” is “anything which is
4 injurious to health, . . . or an obstruction to the free use of property, so as to interfere with the
5 comfortable enjoyment of life or property”

6 69. Under California Civil Code section 3480, “a public nuisance is one which affects at
7 the same time an entire community or neighborhood, or any considerable number of persons,
8 although the extent of the annoyance or damage inflicted upon individuals may be unequal.”

9 70. Defendants have engaged and continue to engage in conduct that is injurious to health
10 and an interference with the comfortable enjoyment of life and property in a manner that impacts
11 the State of California, its citizens and residents, environment, and economy, and are therefore
12 liable under California Civil Code sections 3479 et seq. for damages, costs, and attorneys fees.

13
14 **RELIEF REQUESTED**

15 The People request that this Court:

- 16 1. Hold each defendant jointly and severally liable for creating, contributing to, and
17 maintaining a public nuisance;
- 18 2. Award monetary damages according to proof;
- 19 3. Enter a declaratory judgment for such future monetary expenses and damages as may
20 be incurred by California in connection with the nuisance of global warming;
- 21 4. Award attorneys fees;
- 22 5. Award costs and expenses; and
- 23 6. Award such other relief as this Court deems just and proper.

24
25 **DEMAND FOR JURY TRIAL**

26 Pursuant to Federal Rule of Civil Procedure 38 and Civil Local Rule 3-6, the People of the
27 State of California, ex rel. Bill Lockyer, Attorney General, demand trial by jury in this action of
28 all issues triable by jury.

