

## UNINTENDED ACCELERATION

# Judge tosses foreign plaintiffs' economic-loss claims against Toyota

The California federal judge overseeing multidistrict litigation on alleged unintended acceleration in Toyota vehicles has dismissed all economic-damage claims lodged by plaintiffs living outside the United States.



In re Toyota Motor Corp. Unintended Acceleration Marketing, Sales Practices & Products Liability Litigation, No. 8:10-ML- 2151, order entered (C.D. Cal. Nov. 30, 2011).

“Plaintiffs do not explain how publicity in the United States and its resulting effect on the value of Toyota vehicles in the

United States extends to each of their home countries,” U.S. District Judge James V. Selna of the Central District of California said in a Nov. 30 order.

The non-U.S. plaintiffs — from 14 countries including Canada, Mexico, China, Germany, Russia, and Australia — said they had six causes of action for economic damages, based on two legal theories: design defect and unfair and deceptive marketing.

Their claims cover 27 models of Toyota, Lexus and Scion vehicles.

The judge said he rejected the plaintiffs’ contention that their case was “legally and factually on all fours” with suits filed by plaintiffs in the United States.

Whether the domestic plaintiffs have established standing is irrelevant, Judge Selna said, because all plaintiffs must allege injury-in-fact and causation in order to proceed.

The judge said the foreign plaintiffs have admitted their deceptive-marketing claims turned on practices by unidentified foreign entities.

### CLAIMS BASED ON CALIFORNIA LAW

In dismissing an earlier version of the complaint, Judge Selna said, he agreed in theory that the foreign plaintiffs might be able to state claims under California’s Consumer Legal Remedies Act, Cal. Civ. Code § 1750, or unfair-competition law, Cal. Bus. & Prof. Code § 17200, “based on California conduct having effects” outside the state.

In the earlier complaint, the judge said, the plaintiffs failed to allege with sufficient detail that the ads and promos they saw, or could have seen, came from California.

The plaintiffs did not cure this deficiency in their second amended complaint, the judge said, and therefore, neither the CLRA nor the UCL can be applied “extraterritorially.”

**Eric H. Gibbs**, a senior partner at **Girard Gibbs LLP** in San Francisco who is not involved in the case, said current legal trends are increasingly limiting the rights of consumers and workers.

“Some of the effects of those limitations are playing out in the unintended acceleration cases,” he said.

Gibbs said parties should be allowed to develop their cases factually and get them to trial, for a determination of compensable wrongdoing. Such determinations are good for consumers and the vehicle marketplace in general, he added.

“From what I have seen, Judge Selna is cutting through a lot of thorny and difficult legal issues to make sure cases get to trial in a timely manner,” Gibbs said.