

UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF FLORIDA
Miami Division

Case Number: 18-22798-CIV-MORENO

JAVIER CARDENAS, KURT KIRTON,
PAMELA BAKER, and MICHELLE MONGE,
individually and on behalf of all others simiarly
situated,

Plaintiffs,

vs.

TOYOTA MOTOR CORPORATION;
TOYOTA MOTOR SALES, U.S.A., INC.;;
TOYOTA MOTOR ENGINEERING &
MANUFACTURING, INC.; and
SOUTHEAST TOYOTA DISTRIBUTORS,
LLC,

Defendants.

ORDER DENYING SUMMARY JUDGMENT

This putative class action is brought by current and former owners of 2012 through 2014 non-hybrid Toyota Camrys. Plaintiffs allege that the Toyota entities responsible for designing and manufacturing the vehicles, along with Southeast Toyota Distributors, a distributor of Toyota vehicles to authorized dealers, conspired to conceal a defect in the vehicles' Heating Ventilation and Air Conditioning ("HVAC") systems. Plaintiffs' claims are brought under the Racketeer Influenced and Corrupt Organizations Act ("RICO") and the Florida Deceptive and Unfair Trade Practices Act.

Specifically, Plaintiffs allege that the HVAC systems in the class vehicles are designed such that they permit condensation to accumulate, which may trap naturally present organic contaminants, leading to microbial growth within the system and, ultimately, resulting in foul odor in the passenger compartment of the vehicle. Plaintiffs allege that Toyota conspired with its authorized dealer in the Southeast region to conceal the defect in an effort to sell more Camrys and avoid buying back the defective vehicles. Plaintiffs claim that Defendants' failure to disclose the defect and false representations upon discovering the defect caused the market price for the Camrys they purchased to be artificially inflated. Had the defect not been concealed, the Plaintiffs claim that they—and all putative class members—either would not have purchased the Camrys at the price point they did or would not have purchased the vehicles at all.

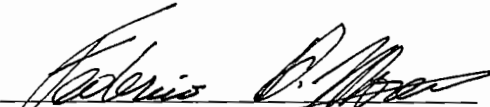
Toyota and Southeast Toyota Distributors moved for summary judgment.¹ Toyota argued, among other things, that the substantive and conspiracy RICO claims fail for myriad reasons, that there is no evidence of a defect in the class vehicles, and that the Florida Deceptive and Unfair Trade Practices Act claims fail for want of causation and damages. Southeast Toyota Distributors similarly argued that there was no evidence of an underlying RICO violation or conspiracy, and that there was no deceptive act, causation, or damages under the Florida Deceptive and Unfair Trade Practices Act.

¹ The Plaintiffs have also moved for class certification. The Court will discuss the Magistrate's Report and Recommendation and the Defendants' objections on a separate and detailed order to be issued within sixty days.

THE MATTER was referred to the Honorable Lauren F. Louis, United States Magistrate Judge, for a Report and Recommendation on Defendants' Motions for Summary. The Magistrate Judge filed a Report and Recommendation on September 2, 2021. Magistrate Judge Louis recommended denying summary judgment in all respects except as to Michelle Monge's RICO claim, because she did not purchase her vehicle at an authorized Toyota dealer. The Plaintiffs elected not to object to Monge's claim being dismissed but filed objections as to other recommendations. With the benefit of oral argument and after conducting a de novo review the Court adopts the Report and Recommendation. The Court finds sufficient evidence presented to preclude summary judgment in favor of the Defendants at this stage. The Court will consider the Defendants arguments again in their expected motion for Judgment as a Matter of Law at trial. Therefore, it is

ORDERED and **ADJUDGED** that Defendants' motions for summary judgment (**D.E. 175, 179**) are DENIED with the exception of plaintiff Monge who is dismissed without objection.

DONE AND ORDERED in Chambers at Miami, Florida, this 30th of September 2021.



FEDERICO A. MORENO
UNITED STATES DISTRICT JUDGE

Copies furnished to:

United States Magistrate Judge Lauren F. Louis

Counsel of Record