

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

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DAVID HAGENBAUGH, HEATHER  
HAGENBAUGH, MICHAEL P.  
HOMANKO, JR., SHERRI A.  
HOMANKO, FREDERICK L.  
LUBRECHT, and MARIANNE P.  
LUBRECHT, individually and on  
behalf of all others similarly situated,

Plaintiffs,

v.

NISSAN NORTH AMERICA d/b/a  
NISSAN USA, HYUNDAI MOTOR  
COMPANY, KIA MOTORS  
AMERICA, AIRPORT ROAD  
MOTORS N., LLC d/b/a HAZLETON  
NISSAN, AIRPORT ROAD MOTORS  
HY., LLC d/b/a HAZLETON  
HYUNDAI, AIRPORT ROAD  
MOTORS K, LLC d/b/a HAZLETON  
KIA, MICHAEL S. SAPORITO,  
ANTONIO D. PIERCE, and JESSIE  
W. ARMSTEAD,

Defendants.

Civil Action No. \_\_\_\_\_

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**NOTICE OF REMOVAL**

Defendant Nissan North America, Inc. (“NNA”), which is incorrectly named in the Complaint as “Nissan North America d/b/a Nissan USA,” removes this action from the Court of Common Pleas of Luzerne County to the United States

District Court for the Middle District of Pennsylvania pursuant to 28 U.S.C. §§ 1332, 1441, 1446, and 1453. In support of this removal, NNA states as follows:

**JURISDICTIONAL STATEMENT—28 U.S.C. 1332(a)**

1. Federal courts have diversity jurisdiction over actions in which there is complete diversity and an amount in controversy of more than \$75,000. *See* 28 U.S.C. § 1332(a) (“The district courts shall have original jurisdiction of all civil actions where the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs, and is between . . . citizens of different States” or “citizens of a State and citizens or subjects of a foreign state.”).

2. This action satisfies both of those jurisdictional prerequisites.

**Complete Diversity**

3. David Hagenbaugh, Heather Hagenbaugh, Michael P. Homanko, Jr., Sherri A. Homanko, Frederick L. Lubrecht, and Marianne P. Lubrecht (collectively, the “Plaintiffs”) allege that they are all longtime residents of Pennsylvania. *See* Compl. ¶¶ 1–3, 28–40 (attached as part of Exhibit A).

4. Based on a review of court records and publicly available documents, each named Plaintiff has resided in Pennsylvania for at least seven years and each is registered to vote in Pennsylvania. *See Krasnov v. Dinan*, 465 F.2d 1298, 1302 (3d Cir. 1972) (“the place where one votes has an important consideration” in determining citizenship).

5. Upon information and belief, each named Plaintiff's permanent home and place of habitation is, as of the date of this Notice, in Pennsylvania.

6. Accordingly, all of the named Plaintiffs are domiciled in and therefore citizens of Pennsylvania. *See McCann v. George W. Newman Irrevocable Trust*, 458 F.3d 281, 286–87 (3d Cir. 2006) (explaining that, with respect to an individual, “citizenship is synonymous with domicile,” which is one’s “true, fixed and permanent home and place of habitation.”).

7. By contrast, none of the Defendants are citizens of Pennsylvania for purposes of § 1332(a).

8. NNA is a citizen of California because it is organized under the laws of California. *See* Compl. ¶ 4. NNA is also a citizen of Tennessee because its principal place of business—i.e., its corporate headquarters—is located in Franklin, Tennessee. *See* 28 U.S.C. § 1332(c)(1) (“[A] corporation shall be deemed to be a citizen of every State and foreign state by which it has been incorporated and of the State or foreign state where it has its principal place of business.”); *see also Hertz Corp. v. Friend*, 559 U.S. 77, 80–81 (2010) (“[W]e conclude that the phrase ‘principal place of business’ refers to the place where the corporation’s high level officers direct, control, and coordinate the corporation’s activities,” which will “typically be found at a corporation’s headquarters.”).

9. Hyundai Motor Company (“HMC”) is a citizen of South Korea

because it is organized under the laws of South Korea and its principal place of business is located in Seoul, South Korea.<sup>1</sup>

10. Kia Motors America (“KMA”) is a citizen of California because it is organized under the laws of California and its principal place of business is located in Irvine, California. *See* Compl. ¶ 6.

11. Based on a review of (a) court records in other lawsuits and (b) upon information and belief, the permanent homes and places of habitation of Michael Saporito, Antonio Pierce, and Jessie Armstead are, as of the date of this Notice, in U.S. States other than Pennsylvania. *See also id.* ¶¶ 10–12 (alleging the residence of these three individuals in states other than Pennsylvania). Accordingly, they are all domiciled in and therefore citizens of U.S. States other than Pennsylvania.

12. Airport Road Motors N. LLC d/b/a “Hazleton Nissan” is a citizen of U.S. States other than Pennsylvania because it is a limited liability company and its only three members are non-Pennsylvania, U.S. citizens Michael Saporito, Antonio

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<sup>1</sup> As set forth in HMC’s Consent to this Notice of Removal, HMC alleges that Plaintiffs attempted to effect service on HMC through its U.S. subsidiary, Hyundai Motor America (“HMA”), which has a principal place of business in California. Compl. ¶ 5 (incorrectly alleging that HMC is headquartered in California). HMC’s position is that this attempt at service on HMC was improper. *See Lasky v. Cont’l Prod. Corp.*, 97 F.R.D. 716, 716-17 (E.D. Pa. 1983) (finding ineffective attempted service of a foreign parent company through its U.S. subsidiary). In addition, HMC’s position is that it is not a proper defendant in this action. Rather, HMA—as the U.S. distributor and warrantor of the Hyundai-branded vehicles and the contracting entity with authorized Hyundai dealers—would be the proper defendant. As a result, HMC contends that Plaintiffs should dismiss HMC, amend their complaint, name HMA as a defendant in the amended complaint, and properly effect service on HMA. For the avoidance of doubt, HMC does not concede that HMA has any liability.



Pierce, and Jessie Armstead. *See Lincoln Ben. Life Co. v. AEI Life, LLC*, 800 F.3d 99, 105 (3d Cir. 2015) (for the purposes of diversity jurisdiction under 28 U.S.C. § 1332(a), “the citizenship of an LLC is determined by the citizenship of its members.”) (quoting *Zambelli Fireworks Mfg. Co. v. Wood*, 592 F.3d 412, 419 (3d Cir. 2010)).<sup>2</sup>

13. Airport Road Motors Hy. LLC d/b/a “Hazleton Hyundai” is a citizen of U.S. States other than Pennsylvania because it is a limited liability company and its only three members are non-Pennsylvania, U.S. citizens Michael Saporito, Antonio Pierce, and Jessie Armstead.

14. Airport Road Motors K LLC d/b/a “Hazleton Kia” is a citizen of U.S. States other than Pennsylvania because it is a limited liability company and its only three members are non-Pennsylvania, U.S. citizens Michael Saporito, Antonio Pierce, and Jessie Armstead.

15. Accordingly, there is complete diversity between all of the Defendants and all of the Plaintiffs. *See* 28 U.S.C. § 1332(a)(1), (a)(3).

### **Amount in Controversy**

16. Plaintiffs have asserted four claims: (i) violation of Pennsylvania’s Unfair Trade Practices and Consumer Protection Law (UTPCPL), 73 P.S. §§ 201-

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<sup>2</sup> The test for unincorporated associations such as limited liability companies is different under § 1332(d). *See infra*.

1, *et seq.*; (ii) breach of contract; (iii) unjust enrichment; and (iv) fraud. *See* Compl. ¶¶ 50–80.

17. Plaintiffs request relief in the form of, among other things, actual damages, compensatory damages, restitution, treble damages, punitive damages, and attorneys’ fees and costs. *Id.*, Prayer for Relief.

18. The gist of Plaintiffs’ claims is that the “Dealership” Defendants “fraudulently induc[ed] consumers into buying and/or leasing new vehicles by offering free services under a certain ‘Set for Life Program.’” *Id.* at 1–2; *see also*, *e.g.*, *id.* ¶ 45(b) (“Plaintiffs were induced to purchase vehicles . . . by the benefits specified in the Set for Life Program”); *id.* ¶ 58 (“Plaintiffs . . . suffered injuries caused by Defendants’ false and misleading representations because they would not have purchased the vehicles if they knew the truth”); *id.* ¶ 60 (“Plaintiffs . . . relied upon said representations as an inducement for their agreement to purchase vehicles”); *id.* ¶ 73 (“Said representations were material and were relied upon by Plaintiffs . . . as an inducement for their decision to purchase vehicles”); *id.* ¶ 74 (same).

19. It follows that Plaintiffs’ requests for actual damages, compensatory damages, and/or restitution are attempts to recover their vehicles’ purchase prices. *See, e.g.*, *Werwinski v. Ford Motor Co.*, No. 00–0943, 2000 WL 375260, at \*3 (E.D. Pa. Apr. 11, 2000) (“Courts in Pennsylvania have found that the amount in

controversy in a suit under the UTPCPL is the purchase price of the car.” (collecting cases)); *see also O’Keefe v. Mercedes-Benz USA, LLC*, 214 F.R.D. 266, 275 (E.D. Pa. 2003); *Samuel-Barrett v. Kia Motors America, Inc.*, 143 F. Supp. 2d 503, 507 (E.D. Pa. 2001).

20. Plaintiffs David and Heather Hagenbaugh allege that they “purchased a new 2017 model year Nissan Rogue . . . on or about May 4, 2017.” Compl. ¶ 28.

21. The total purchase price of their vehicle was \$24,313.50. *See* Ex. A to Compl.<sup>3</sup>

22. Accordingly, they seek actual damages, compensatory damages, and/or restitution of at least \$24,313.50.

23. Similarly, Frederick and Marianne Lubrecht seek actual damages, compensatory damages, and/or restitution of at least \$25,573—which is the purchase price (including the down payment) of the Lubrechts’ 2018 model year Hyundai Tucson before factoring in any finance charge. *See* Exhibit B to Compl.; *see also* Compl. ¶ 32.<sup>4</sup> The purchase price would be greater after including the

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<sup>3</sup> Although the Complaint states that Retail Installment Sale Contracts and other documents are attached as parts of Exhibits A, B, and C, no such exhibits were attached to the Complaint that was served on NNA. In addition, the Complaint filed in state court on September 1, 2020 did not contain the exhibits. Counsel for NNA first received copies of these exhibits by electronic mail on October 5, 2020.

<sup>4</sup> As set forth in Exhibit B to the Complaint, \$25,573 is the sum of the “TOTAL” owed of \$19,504.03 plus the credit that the Lubrechts received for trading in their prior vehicle, which is listed as \$6,068.97 and described as a “Net Trade-In Allowance.”

finance charge.<sup>5</sup>

24. Michael and Sherri Homanko likewise seek actual damages, compensatory damages, and/or restitution of at least \$54,946.48—which is the total purchase price (including the down payment and financing) for the 2017 model year Kia Sorento that the Homankos purchased. *See* Exhibit C to Compl.; *see* Compl. ¶ 37.

25. In short, the purchase prices of the other Plaintiffs' vehicles were comparable to (or greater than) that of the Hagenbaugh Plaintiffs' vehicle.<sup>6</sup>

26. All of the Plaintiffs also request an award of treble damages. *See* Compl., Prayer for Relief; *see also* 73 Pa. Stat. Ann. § 201-9.2 (authorizing damages under the UTPCPL up to three times the actual damages sustained). Such an award, though ultimately unwarranted on the merits, must be factored into the amount purportedly at issue and would increase the amount in controversy by a factor of three. *See Laucks v. Fortis Ins. Co.*, No. 07-2193, 2008 WL 11367531, at

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<sup>5</sup> Exhibit B to the Complaint appears to be incomplete as it does not include the finance charge for the Lubrechts' vehicle. Thus, the amount in controversy as reflected in Exhibit B is undervalued to the extent that it does not include the finance charge. *See Samuel-Barrett*, 143 F. Supp. 2d at 507 (including in the amount in controversy both the down payment and the financed amount “which Plaintiff is obligated to pay for her automobile over five years”).

<sup>6</sup> Even if they were not, however, this Court has jurisdiction over this action based solely on the claims asserted by the Hagenbaugh Plaintiffs. *See Exxon Corp. v. Allapatah Servs.*, 545 U.S. 546, 546 (2005) (“[W]here the other elements of jurisdiction are present and at least one named plaintiff in the action satisfies the amount-in-controversy requirement, § 1367 does authorize supplemental jurisdiction over the claims of other plaintiffs in the same Article III case or

\*6 (M.D. Pa. July 8, 2008) (treble damages are “part of the amount in controversy where they are potentially recoverable” under the UTPCPL); *accord Samuel-Barrett*, 143 F. Supp. 2d at 507. For the Hagenbaugh Plaintiffs, that increases the amount in controversy from at least \$24,313.50 to at least \$72,940.50. For the Lubrecht Plaintiffs, that increases the amount in controversy from at least \$25,573 to at least \$76,719. And, for the Homanko Plaintiffs, that increases the amount in controversy from at least \$54,946.48 to at least \$164,839.44.

27. All of the Plaintiffs also request an award of punitive damages. *See* Compl., Prayer for Relief. Though ultimately unwarranted on the merits, a request for punitive damages also increases the amount in controversy for the purposes of determining diversity jurisdiction. *See Packard v. Provident Nat. Bank*, 994 F.2d 1039, 1046 (3d Cir. 1993) (“[P]unitive damages are properly considered in determining whether the jurisdictional amount has been satisfied” unless “such damages are unavailable as a matter of law”).

28. All of the Plaintiffs also request an award of attorneys’ fees. *See* Compl., Prayer for Relief. Though ultimately unwarranted on the merits, a request for attorneys’ fees also increases the amount in controversy for the purposes of determining diversity jurisdiction. *See, e.g., Suber v. Chrysler Corp.*, 104 F.3d

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controversy, even if those claims are for less than the jurisdictional amount specified in the statute setting forth the requirements for diversity jurisdiction.”).

578, 585 (3d Cir. 1997) (“[A]ttorney’s fees are necessarily part of the amount in controversy if such fees are available to successful plaintiffs under the statutory cause of action.”); *see also Frederico v. Home Depot*, 507 F.3d 188, 199 (3d Cir. 2007) (“We must also consider attorney’s fees” when calculating the amount in controversy, which “could be as much as thirty percent of the judgment” (citations omitted)); 73 Pa. Stat. Ann. § 201-9.2 (authorizing an award of attorneys’ fees under the UTPCPL).

29. Accordingly, the amount placed in controversy by Plaintiffs’ claims exceed \$75,000.00.

\* \* \*

30. Because there is complete diversity of citizenship and more than \$75,000 in controversy, this Court has original subject matter jurisdiction. *See* 28 U.S.C. §§ 1332(a)(1), (a)(3).

31. Because there is a basis for original subject matter jurisdiction under 28 U.S.C. § 1332, this action is removable pursuant to 28 U.S.C. § 1441(a).

**JURISDICTIONAL STATEMENT—28 U.S.C. 1332(d)**

32. Alternatively, this Court has jurisdiction over this action under the Class Action Fairness Act of 2005 (CAFA), Pub. L. No. 109-2, 119 Stat. 4 (2005) (codified in § 1332(d) and scattered sections of Title 28).

33. CAFA extends diversity jurisdiction to putative class actions that

have: (i) been commenced after February 18, 2005; (ii) minimal diversity; (iii) 100 or more putative class members; and (iv) an aggregate amount in controversy over \$5,000,000. 28 U.S.C. §§ 1332 note, 1332(d)(2)(A), 1332(d)(5)(B), 1332(d)(6).

34. This action satisfies every applicable jurisdictional prerequisite.<sup>7</sup>

### **Commencement**

35. Plaintiffs commenced this action on or about September 1, 2020 by filing a complaint in the Court of Common Pleas of Luzerne County, Pennsylvania, under the caption *David Hagenbaugh v. Nissan North America d/b/a Nissan USA*, No. 2020-07988. *See* Compl. (attached as part of Exhibit A).

36. Accordingly, this action was commenced after CAFA's effective date.

### **Minimal Diversity**

37. CAFA requires only minimal diversity—i.e., that “any member of a class of plaintiffs is a citizen of a State different from any defendant.” 28 U.S.C. § 1332(d)(2)(A); *see also West Virginia ex rel. McGraw v. Comcast Corp.*, 705 F. Supp. 2d 441, 445 (E.D. Pa. 2010) (“For CAFA’s minimal diversity requirements to be met, ‘only one member of the plaintiffs class—named or unnamed—must be diverse from any one defendant.’”) (citation omitted)).

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<sup>7</sup> Strictly speaking, CAFA’s amount in controversy requirement is located within § 1332(d), which applies to actions that are filed by plaintiffs, not § 1453, which applies to actions that are removed by defendants. Nothing in CAFA suggests—let alone requires—that actions that are removed under § 1453 must also satisfy the amount in controversy requirement of § 1332(d). As many assume otherwise, however, we will address this requirement as well. *See infra*.

38. The Defendants include NNA (a citizen of California and Tennessee), HMC (a citizen of South Korea), KMA (a citizen of California), and three individuals who are citizens of U.S. States other than Pennsylvania. *See supra*.<sup>8</sup>

39. The named Plaintiffs are citizens of Pennsylvania, and therefore are not citizens of California, Tennessee, or South Korea. *See supra*.

40. Plaintiffs also bring this putative class action on behalf of consumers “located within and/or residents of” Pennsylvania. Compl. ¶ 42.

41. Because the putative class is defined by reference to physical location or temporary residence rather than permanent domicile, it includes consumers who are domiciled in and therefore citizens of States other than Pennsylvania. *See Newman-Green, Inc. v. Alfonzo-Larrain*, 490 U.S. 826, 828 (1989) (discussing difference between residence and domicile). Because the Defendants are citizens of multiple states, however, there is necessarily at least one member of the putative class whose citizenship is different from that of at least one Defendant.

42. Accordingly, there is at least minimal diversity between at least one

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<sup>8</sup> The Defendants also include Airport Road Motors N. LLC, Airport Road Motors Hy. LLC, and Airport Road Motors K LLC. Although those Defendants are not citizens of Pennsylvania for purposes of § 1332(a), *see supra*, they may be citizens of Pennsylvania for purposes of § 1332(d), as unincorporated associations such as limited liability companies are treated like corporations under § 1332(d). *See* 28 U.S.C. § 1332(d)(10) (“For purposes of this subsection and section 1453, an unincorporated association shall be deemed to be a citizen of the State where it has its principal place of business and the State under whose laws it is organized.”). That would not affect the Court’s jurisdiction under CAFA, however, as CAFA requires only minimal diversity, not complete diversity. *See supra*.



Defendant and at least one named or unnamed member of the putative class. *See* 28 U.S.C. § 1332(d)(2)(A).

### **Numerosity**

43. CAFA does not apply to class actions “in which . . . the numbers of members of all proposed plaintiff classes in the aggregate is less than 100.” 28 U.S.C. § 1332(d)(5)(B).

44. Plaintiffs define the putative class as “[a]ll individuals located within and/or residents of the Commonwealth of Pennsylvania, who purchased or leased automobiles at the Hazleton Auto Mall in Hazle Township, Pennsylvania from the Hazleton Nissan, Hazleton Hyundai and/or Hazleton Kia dealerships during the period of November 1, 2016 through November 30, 2018.” Compl. ¶ 42.

45. Plaintiffs further allege that the putative class “likely consists of at least two thousand individuals.” *Id.* ¶ 44.

46. From November 1, 2016 through November 30, 2018, at least 637 Nissan vehicles were purchased or leased at the Hazleton Nissan Dealership. That figure would increase substantially if other Defendants’ vehicles were included.

47. Accordingly, there are more than 100 putative class members. *See* 28 U.S.C. § 1332(d)(5)(B).

### **Amount in Controversy**

48. CAFA requires that “the matter in controversy exceeds the sum or

value of \$5,000,000, exclusive of interest and costs . . . .” 28 U.S.C. § 1332(d)(2).

49. “[T]o determine whether the matter in controversy exceeds the sum or value of \$5,000,000,” the “claims of the individual class members shall be aggregated.” *Id.* § 1332(d)(6).

50. Plaintiffs have asserted four claims: (i) violation of the UTPCPL; (ii) breach of contract; (iii) unjust enrichment; and (iv) fraud. *See* Compl. ¶¶ 50–80.

51. Plaintiffs request relief in the form of, among other things, actual damages, compensatory damages, restitution, treble damages, punitive damages, and attorneys’ fees and costs. *Id.*, Prayer for Relief.

52. The gist of Plaintiffs’ claims is that the “Dealership” Defendants “fraudulently induc[ed] consumers into buying and/or leasing new vehicles by offering free services under a certain ‘Set for Life Program.’” *Id.* at 1–2; *see also*, *e.g.*, *id.* ¶¶ 45(b), 58, 60, 73, 74.

53. It follows that Plaintiffs’ requests for actual damages, compensatory damages, and/or restitution are attempts to recover their vehicles’ purchase prices. *See supra*.

54. Plaintiffs David and Heather Hagenbaugh allege that they “purchased a new 2017 model year Nissan Rogue . . . on or about May 4, 2017.” *Id.* ¶ 28.

55. The total purchase price of their vehicle was \$24,313.50.

56. Accordingly, they seek actual damages, compensatory damages,

and/or restitution of at least \$24,313.50. *See supra*.

57. Plaintiffs allege that their individual alleged damages are typical of the putative class. *Id.* ¶ 45.

58. As noted above, at least 637 Nissan vehicles were purchased or leased at the Hazleton Nissan Dealership from November 1, 2016 through November 30, 2018, which is the class period proposed in the Complaint. *Id.* ¶ 42.

59. Based on the Hagenbaugh Plaintiffs' purchase price (\$24,313.50) and the number of Nissan vehicles purchased or leased (at least 637), the aggregate amount placed in controversy solely by Plaintiffs' request for actual damages, compensatory damages, and/or restitution is at least \$15,487,699.50. *See supra*; *see also Judon v. Travelers Prop. Cas. Co. of Am.*, 733 F.3d 495, 507 (3d Cir. 2014) (explaining that, because class representatives' claims must be typical of class members' claims, it is reasonable to assume, for purposes of calculating the amount in controversy, that their alleged damages are typical of class members' alleged damages); *Excel Pharmacy Services, LLC v. Liberty Mut. Ins. Co.*, No. 19-3399, 2020 WL 4876261,\*2 (3d Cir. Aug. 20, 2020) (same).<sup>9</sup> That figure would increase substantially if other Defendants' vehicles were included.

60. Plaintiffs also request an award of treble damages. Compl., Prayer for

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<sup>9</sup> Some of those 637 vehicles were leased rather than purchased. But even if we were to (very conservatively) assume that every other vehicle was leased rather than purchased, the aggregate lease payments would still exceed \$5,000,000.

Relief. That increases the amount in controversy by a factor of three. *See supra*.

61. Plaintiffs also request an award of punitive damages. *See Compl., Prayer for Relief*. That increases the amount in controversy as well. *See supra*.

62. Plaintiffs also request an award of attorneys' fees and costs. *See Compl., Prayer for Relief*. That increases the amount in controversy as well. *See supra*.

63. Plaintiffs also request unspecified equitable relief. *See Compl., Prayer for Relief*. The cost of complying with such relief could be substantial and should also be included in the calculation of the amount in controversy.

64. Accordingly, simply by considering the amount placed in controversy by the claims against NNA—i.e., without considering any claims against any other Defendants—the aggregate amount in controversy exceeds \$5,000,000.

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65. Because this is a putative class action that was commenced after February 18, 2005 in which there is minimal diversity, more than 100 putative class members, and more than \$5,000,000 in the aggregate in controversy, this Court has original subject matter jurisdiction. *See* 28 U.S.C. § 1332(d)(2)(A).

66. Because there is a basis for original subject matter jurisdiction under 28 U.S.C. § 1332, this action is removable pursuant to 28 U.S.C. § 1441(a).

**PROCEDURAL STATEMENT**

67. Pursuant to 28 U.S.C. § 1446(a), copies of the Complaint and any other process, pleadings, and orders that Plaintiffs served on NNA as of the date of this Notice are attached collectively as Exhibit A.

68. Pursuant to 28 U.S.C. § 1446(a), it is sufficient to provide a “short and plain” allegation of federal jurisdiction and it is not necessary to attach evidence establishing those allegations. *See Dart Cherokee Basin Operating Co. v. Owens*, 135 S.Ct. 547, 554 (2014) (“A statement ‘short and plain’ need not contain evidentiary submissions.”); *Morgan v. Gay*, 471 F.3d 469, 474 (3d Cir. 2006) (“A defendant’s notice of removal serves the same function as the complaint. . . .”).

69. Pursuant to 28 U.S.C. § 1446(b) and Federal Rule of Civil Procedure 6, this Notice of Removal has been timely filed within thirty (30) days of service because Plaintiffs purported to serve the Complaint on NNA by certified mail delivered on or after September 9, 2020. *See, e.g., Murphy Bros., Inc. v. Michetti Pipe Stringing, Inc.*, 526 U.S. 344 (1999); *see also* Pa. R. Civ. P. 403 (“Service is complete upon delivery of the mail.”).

70. Pursuant to 28 U.S.C. § 1453(b), it is not necessary to obtain the consent of all Defendants in order to remove this action insofar as an action is removed pursuant to CAFA. Every Defendant that was purportedly served as of the date of this Notice has nevertheless consented to this removal. *See* Consents to

Removal (attached as Exhibit B).<sup>10</sup>

71. Pursuant to 28 U.S.C. § 1441(a), removal to the United States District Court for the Middle District of Pennsylvania is proper because that District embraces the Court of Common Pleas of Luzerne County, Pennsylvania, where this action is currently pending. *See* 28 U.S.C. § 118(b).

72. Pursuant to 28 U.S.C. § 1446(d), NNA will promptly file a copy of this Notice of Removal in the Court of Common Pleas of Luzerne County, Pennsylvania, and give Plaintiffs written notice of the removal of this action.

73. By removing or consenting to the removal of the action to this Court, Defendants do not admit that they have any liability to Plaintiffs or anyone else, and do not waive any defenses that are available under state or federal law.<sup>11</sup> Defendants expressly reserve the right to receive proper service of process, to

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<sup>10</sup> To be clear, NNA does not concede that *any* Defendant was properly served. By way of example only, service was improper because the copy of the Complaint that was purportedly served on Defendants did not include the associated exhibits. Moreover, as discussed in HMC's consent to removal, NNA understands that HMC objects to Plaintiffs' attempt to effectuate service on HMC by certified mail to a distinct corporate entity, HMA.

<sup>11</sup> By removing an action under CAFA, defendants do not have to concede liability, let alone liability of greater than \$5,000,000. *See Brill v. Countrywide Home Loans, Inc.*, 427 F.3d 446, 449 (7th Cir. 2005). That is because "[t]he amount in controversy is simply an estimate of the total amount in dispute, not a prospective assessment of defendant's liability." *Lewis v. Verizon Commc'ns, Inc.*, 627 F.3d 395, 400 (9th Cir. 2010) (citing cases); *see also Pretka v. Kolter City Plaza II, Inc.*, 608 F.3d 744, 751 (11th Cir. 2010) ("[T]he pertinent question is what is *in controversy* in the case, not how much the plaintiffs are ultimately likely to recover.") (emphasis in original); *Margulis v. Resort Rental, LLC*, No. 08-1719, 2008 WL 2775494, at \*5-6 (D.N.J. July 14, 2008) ("Under plaintiff's argument, defendant would be required to concede that it actually violated the TCPA in order to remove the case, which would prove plaintiff's case and leave this Court the task of simply assessing damages. This is not proper.").

require that the claims of the Plaintiffs and/or certain members of the putative class be decided through individual arbitrations, to move to dismiss or for summary judgment pursuant to Federal Rules of Civil Procedure 12 and 56, and to strike or oppose the certification of any putative class pursuant to Federal Rule of Civil Procedure 23.

**WHEREFORE**, NNA respectfully removes this action to the United States District Court for the Middle District of Pennsylvania.

Dated: October 7, 2020

By: /s/ Michael P. Daly  
Michael P. Daly (PA 86103)  
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Nissan North America, Inc.*

**CERTIFICATE OF SERVICE**

I certify that, on the date set forth below, I caused true and correct copies of the foregoing document to be filed via the Court's electronic filing system and served via first-class mail, postage prepaid, upon the following:

Christopher B. Slusser, Esq.  
1620 North Church Street  
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*Counsel for Plaintiffs*

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Jessie W. Armstead  
2300 Top Rail Lane  
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*Defendants*

Dated: October 7, 2020

/s/ Michael P. Daly  
Michael P. Daly

# **EXHIBIT A**

# Supreme Court of Pennsylvania

Court of Common Pleas  
Civil Cover Sheet

Luzerne

County

For Prothonotary Use Only:

Docket No:

2020-07988

TIME STAMP

The information collected on this form is used solely for court administration purposes. This form does not supplement or replace the filing and service of pleadings or other papers as required by law or rules of court.

SECTION A

**Commencement of Action:**

- Complaint     
  Writ of Summons     
  Petition  
 Transfer from Another Jurisdiction     
  Declaration of Taking

Lead Plaintiff's Name:

David Hagenbaugh

Lead Defendant's Name:

Nissan North America d/b/a Nissan USA

Are money damages requested?  Yes  No

Dollar Amount Requested:  within arbitration limits  
(check one)  outside arbitration limits

Is this a *Class Action Suit*?  Yes  No

Is this an *MDJ Appeal*?  Yes  No

Name of Plaintiff/Appellant's Attorney: Christopher B. Slusser, Esquire

Check here if you have no attorney (are a Self-Represented [Pro Se] Litigant)

SECTION B

**Nature of the Case:** Place an "X" to the left of the **ONE** case category that most accurately describes your **PRIMARY CASE**. If you are making more than one type of claim, check the one that you consider most important.

**TORT (do not include Mass Tort)**

- Intentional  
 Malicious Prosecution  
 Motor Vehicle  
 Nuisance  
 Premises Liability  
 Product Liability (does not include mass tort)  
 Slander/Libel/ Defamation  
 Other: \_\_\_\_\_

**CONTRACT (do not include Judgments)**

- Buyer Plaintiff  
 Debt Collection: Credit Card  
 Debt Collection: Other \_\_\_\_\_  
 Employment Dispute: Discrimination  
 Employment Dispute: Other \_\_\_\_\_  
 Other: Fraud; Unjust Enrichment; & Violation of UTPCPL Act

**CIVIL APPEALS**

- Administrative Agencies  
 Board of Assessment  
 Board of Elections  
 Dept. of Transportation  
 Statutory Appeal: Other \_\_\_\_\_  
 Zoning Board  
 Other: \_\_\_\_\_

**MASS TORT**

- Asbestos  
 Tobacco  
 Toxic Tort - DES  
 Toxic Tort - Implant  
 Toxic Waste  
 Other: \_\_\_\_\_

**REAL PROPERTY**

- Ejectment  
 Eminent Domain/Condemnation  
 Ground Rent  
 Landlord/Tenant Dispute  
 Mortgage Foreclosure: Residential  
 Mortgage Foreclosure: Commercial  
 Partition  
 Quiet Title  
 Other: \_\_\_\_\_

**MISCELLANEOUS**

- Common Law/Statutory Arbitration  
 Declaratory Judgment  
 Mandamus  
 Non-Domestic Relations Restraining Order  
 Quo Warranto  
 Replevin  
 Other: \_\_\_\_\_

**PROFESSIONAL LIABILITY**

- Dental  
 Legal  
 Medical  
 Other Professional: \_\_\_\_\_

Updated 1/1/2011

THE SLUSSER LAW FIRM

BY: CHRISTOPHER B. SLUSSER, ESQUIRE  
IDENTIFICATION NO. 78609  
  
JOHN M. SOLT, ESQUIRE  
IDENTIFICATION NO. 89146  
  
JOSEPH R. BARANKO, JR., ESQUIRE  
IDENTIFICATION NO. 39124  
  
JEFFREY A. ROCKMAN, ESQUIRE  
IDENTIFICATION NO. 47463  
  
JOHN LUCAS, ESQUIRE  
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DAVID HAGENBAUGH and  
HEATHER HAGENBAUGH, his wife  
309 Plymouth Avenue  
Wilkes-Barre, PA 18702; on behalf of themselves  
and all others similarly situated

MICHAEL P. HOMANKO, JR.  
349 West 30<sup>th</sup> Street  
Hazle Township, PA 18202; on behalf of himself  
and all others similarly situated

SHERRI A. HOMANKO  
349 West 30<sup>th</sup> Street  
Hazle Township, PA 18202; on behalf of herself  
and all others similarly situated

and

FREDERICK L. LUBRECHT and  
MARIANNE P. LUBRECHT, his wife  
269 Turnberry Lane  
Hazle Township, PA 18202; on behalf of  
themselves and all others similarly situated

Plaintiffs

vs.

NISSAN NORTH AMERICA d/b/a  
NISSAN USA  
One Nissan Way  
Franklin, TN 37067;

IN THE COURT OF COMMON PLEAS

OF LUZERNE COUNTY

CLASS ACTION COMPLAINT

JURY TRIAL DEMANDED

CIVIL ACTION NO. 2020-07988

**HYUNDAI MOTOR COMPANY**

10550 Talber Avenue  
Fountain Valley, CA 92708;

**KIA MOTORS AMERICA**

111 Peters Canyon Road  
Irvine, CA 92606;

**AIRPORT ROAD MOTORS N., LLC.**

d/b/a HAZLETON NISSAN  
661 Airport Road,  
Hazle Township, PA 18202;

**AIRPORT ROAD MOTORS HY., LLC.**

d/b/a HAZLETON HYUNDAI  
703 Airport Road  
Hazle Township, PA 18202;

**AIRPORT ROAD MOTORS K, LLC**

d/b/a HAZLETON KIA  
701 Airport Road,  
Hazle Township, PA 18202;

**MICHAEL S. SAPORITO**

382 Old York Road  
Hamilton, NJ 08620;

**ANTONIC D. PIERCE**

1376 Via Romana  
Palos Verdes Estates, CA 90274;

and

**JESSIE W. ARMSTEAD**

2300 Top Rail Lane  
Southlake, TX 76092

**Defendants**

**NOTICE:**

YOU HAVE BEEN SUED IN COURT. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this Complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objection to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the Complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you. YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH

**AVISO**

A USTED SE LE HA DEMANDADO EN LA CORTE. Si usted quiere defenderse contra la demanda expuesta en las siguientes páginas, tiene que tomar acción en un plazo de los veinte (20) días después que recibe esta demanda y aviso, por presentar una contestación de comparecencia escrita personalmente o por un abogado y radicar por escrito en la Corte sus defensas u objeciones a las demandas presentadas en su contra. Se le advierte que si falla en hacerlo, el caso podría seguir adelante sin usted y un fallo podría ser dictado en su contra por la Corte sin previo aviso por cualquier dinero reclamado en la demanda o por cualquier otro reclamo o agravio pedido por esta demandante. Puede que usted pierda bienes o propiedad u otros derechos importantes para usted. ESTE

INFORMATION ABOUT HIRING A LAWYER. IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PEOPLE AT A REDUCED RATE OR NO FEE.

North Penn Legal Services, Inc.  
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(855) 236-6405 Toll Free  
(570) 824-0001 Fax

101 West Broad Street  
Suite 713  
Hazleton, PA 18201  
(570) 455-9512  
(877) 953-4250 Toll Free  
(570) 455-3625 Fax

DEBE LLEVAR ESTE DOCUMENTO A SU ABOGADO INMEDIATAMENTE. SI NO TIENE ABOGADO, DIRÍJASE O LLAME POR TELÉFONO A LA OFICINA CUYA DIRECCIÓN SE ENCUENTRA ABAJO. ESTA OFICINA PUEDE PROVEERLE CON INFORMACIÓN SOBRE COMO CONTRATAR UN ABOGADO. SI NO TIENE LOS FONDOS SUFICIENTES PARA CONTRATAR UN ABOGADO, ESTA OFICINA PODRÍA PROPORCIONARLE INFORMACIÓN ACERCA DE AGENCIAS QUE PUEDAN OFRECERLES SERVICIOS LEGALES A PERSONAS QUE REÚNAN LOS REQUISITOS A UN HONORARIO REDUCIDO O GRATIS.

Servicios Legales de North Penn, Inc.  
33 Es Calle Main del Norte  
Oficina 200  
Pittsboro, PA 18640  
(570) 219-4100  
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(570) 455-9512  
(877) 953-4250 Llamada gratuita  
(570) 455-3625 Fax

THE SLUSSER LAW FIRM

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IDENTIFICATION NO. 78609

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DAVID HAGENBAUGH and  
HEATHER HAGENBAUGH, his wife  
309 Plymouth Avenue  
Wilkes-Barre, PA 18702; on behalf of themselves  
and all others similarly situated

IN THE COURT OF COMMON PLEAS  
OF LUZERNE COUNTY

CLASS ACTION COMPLAINT

MICHAEL P. HOMANKO, JR.  
349 West 30<sup>th</sup> Street  
Hazle Township, PA 18202; on behalf of himself  
and all others similarly situated

JURY TRIAL DEMANDED

SHERRI A. HOMANKO  
349 West 30<sup>th</sup> Street  
Hazle Township, PA 18202; on behalf of herself  
and all others similarly situated

CIVIL ACTION NO. 2020-07988

and

FREDERICK L. LUBRECHT and  
MARIANNE P. LUBRECHT, his wife  
269 Turnberry Lane  
Hazle Township, PA 18202; on behalf of  
themselves and all others similarly situated

Plaintiffs

vs.

NISSAN NORTH AMERICA d/b/a  
NISSAN USA  
One Nissan Way  
Franklin, TN 37067

HYUNDAI MOTOR COMPANY  
10550 Talber Avenue

Fountain Valley, CA 92708;

KIA MOTORS AMERICA  
111 Peters Canyon Road  
Irvine, CA 92606;

AIRPORT ROAD MOTORS N., LLC.  
d/b/a HAZLETON NISSAN  
661 Airport Road,  
Hazle Township, PA 18202;

AIRPORT ROAD MOTORS HY., LLC.  
d/b/a HAZLETON HYUNDAI  
703 Airport Road  
Hazle Township, PA 18202;

AIRPORT ROAD MOTORS K, LLC  
d/b/a HAZLETON KIA  
701 Airport Road,  
Hazle Township, PA 18202;

MICHAEL S. SAPORITO  
382 Old York Road  
Hamilton, NJ 08620;

ANTONIO D. PIERCE  
1376 Via Romero  
Palos Verdes Estates, CA 90274;

and

JESSIE W. ARMSTEAD  
2300 Top Rail Lane  
Southlake, TX 76092

Defendants

**CLASS ACTION COMPLAINT**

Plaintiffs, David Hagenbaugh and Heather Hagenbaugh, his wife, Michael P. Homanko, Jr. and Sherri A. Homanko, and Frederick L. Lubrecht and Marianne P. Lubrecht, his wife, hereby bring this action individually and behalf of all others similarly situated (hereafter, the "Class") pursuant to Pennsylvania Rules of Civil Procedure 1701 et. seq. against Defendants herein named



for fraudulently inducing consumers into purchasing and/or leasing new vehicles by offering free services under a certain "Set for Life Program", which is more fully described herein. Plaintiffs allege as follows upon personal knowledge as to themselves and their own acts and experiences, and as to all other matters, upon information and belief, including investigation conducted by their attorneys.

#### THE PARTIES

1. Plaintiffs, David Hagenbaugh and Heather Hagenbaugh, his wife (collectively referred to herein as the "Hagenbaughs"), are adult individuals residing at 308 Plymouth Avenue, Wilkes-Barre, Luzerne County, Pennsylvania 18702.

2. Plaintiffs, Michael P. Homanko, Jr. and Sherri A. Homanko (collectively referred to herein as the "Homankos"), are adult individuals residing at 349 West 30<sup>th</sup> Street, Hazle Township, Luzerne County, Pennsylvania 18202. Michael P. Homanko, Jr. is the father of Sherri A. Homanko.

3. Plaintiff, Frederick L. Lubrecht and Marianne P. Lubrecht his wife (collectively referred to herein as the "Lubrechts"), are adult individuals residing at 269 Turnberry Lane, Hazle Township, Luzerne County, Pennsylvania 18202.

4. Defendant, Nissan North America d/b/a Nissan USA ("Nissan") is, upon information and belief, a corporation organized and existing under the laws of the State of California, with its corporate headquarters located at One Nissan Way, Franklin, Tennessee 37067.

5. Defendant, Hyundai Motor Company ("Hyundai") is, upon information and belief, a corporation organized under the laws of the State of California, with its corporate headquarters located at 10550 Talbert Ave., Fountain Valley, California 92708.

6. Defendant, Kia Motors America ("Kia") is, upon information and belief, a corporation organized and existing under the laws of the State of California, with its corporate headquarters located at 111 Peters Canyon Road, Irvine, California 92606. At all times material hereto, Defendant, Kia was/is a subsidiary of Defendant, Hyundai, which owns approximately one-third of Kia's stock and is Kia's largest stakeholder. (Defendants, Hyundai, Nissan and Kia are hereinafter sometimes collectively referred to as the "Manufacturers.")

7. Defendant, Airport Road Motors N., LLC. d/b/a Hazleton Nissan ("Hazleton Nissan"), is a limited liability corporation organized and existing under the laws of the Commonwealth of Pennsylvania with a current or former place of business located at 661 Airport Road, Hazle Township, Luzerne County, Pennsylvania 18202. At all times material hereto, Hazleton Nissan was an authorized Nissan dealer.

8. Defendant, Airport Road Motors Hy., LLC. d/b/a Hazleton Hyundai ("Hazleton Hyundai"), is a limited liability corporation organized and existing under the laws of the Commonwealth of Pennsylvania with a current or former place of business located at 703 Airport Road, Hazle Township, Luzerne County, Pennsylvania 18202. At all times material hereto, Hazleton Hyundai was an authorized Hyundai dealer.

9. Defendant, Airport Road Motors K, LLC. d/b/a Hazleton Kia ("Hazleton Kia"), is a limited liability corporation organized and existing under the laws of the Commonwealth of Pennsylvania with a current or former place of business located at 701 Airport Road, Hazle Township, Luzerne County, Pennsylvania 18202. At all times material hereto, Defendant, Hazleton Kia was an authorized Kia dealer. (Defendants, Hazleton Nissan, Hazleton Hyundai and Hazleton Kia are hereinafter sometimes collectively referred to as the "Dealerships.")

10. Defendant, Michael S. Saporito ("Saporito"), is an adult individual residing at 382 Old York Road, Hamilton, New Jersey 08620.

11. Defendant, Antonio D. Pierce ("Pierce"), is an adult individual residing at 1376 Via Romero, Palos Verdes Estates, California 90274.

12. Defendant, Jessie W. Armistead ("Armistead"), is an adult individual residing at 2300 Top Rail Lane, Southlake, Texas 76092. (Defendants, Saporito, Pierce and Armistead are hereinafter sometimes collectively referred to as the "Owners.")

13. At all times material hereto, Dealerships were owned and/or controlled by the Owners. At all times material hereto, Owners personally directed, participated or cooperated in the misfeasance that forms the basis of this Complaint and as such, can be held personally liable therefore under Pennsylvania case precedent.

14. Whenever any reference is made in this Complaint to any representation, act or transaction of the Dealerships, or any principals, officers, directors, employees, agents, or representatives thereof, including but not limited to the Owners, such allegations shall be deemed to mean that such principals, officers, directors, employees, agents or representatives of the Dealerships, whether they were acting on their own behalf or for their own benefit, did or authorized such representations, acts or transactions on behalf of the Manufacturers and, based upon the Manufacturers' actions and/or conduct, possessed the actual or apparent authority to do so.

#### FACTUAL HISTORY

15. Sometime in or about 2014, Owners agreed to open a retail auto mall in Hazle Township, Luzerne County, Pennsylvania known as the Hazleton Auto Mall, which was to consist of separate Nissan, Hyundai, Kia and Honda dealerships. In or about February 2015, Defendants, Hazleton Nissan, Owners and certain entities which were owned and/or controlled by Owners, including All Pro Airport Rd., N 4, LLC., All Pro Airport Rd. Detail-3, LLC., and Airport Road

Motors Detail (collectively, the "Nissan Financing Entities"), sought and subsequently received financing from Nissan Motor Acceptance Corporation ("NMAC"), an entity which is closely affiliated with Defendant, Nissan and which provides wholesale credit to authorized Nissan dealers to purchase vehicle inventory for retail sale to the public and for working capital and real estate loans. Wholesale credit lines are commonly referred to as "floorplan financing."

16. As a condition to its agreement to extend such floorplan financing, NMAC required, among other things, that Hazleton Nissan enter into an Automotive Wholesale Finance and Security Agreement ("WSA") pursuant to which Hazleton Nissan agreed to promptly repay to NMAC, upon the retail sale of each Nissan vehicle, the monies advanced by NMAC when Hazleton Nissan purchased that vehicle at wholesale. Under the terms of the WSA, Hazleton Nissan's failure to pay NMAC upon the retail sale of a Nissan vehicle constituted a default thereunder and is commonly referred to as a "sale out of trust" or "SOT". NMAC further required that all floorplan financing be cross-guaranteed and cross-collateralized jointly and severally by Hazleton Nissan, Owners and the Nissan Financing Entities. Finally, and pursuant to the terms of the WSA, Hazleton Nissan, Owners and the Nissan Financing Entities granted permission to NMAC to conduct periodic audits of Hazleton Nissan's books and records in order to verify, among other things, that it was promptly paying NMAC upon the retail sale of each Nissan vehicle.

17. Defendants, Hazleton Hyundai, Hazleton Kia, Owners and certain entities/affiliates which were owned and/or controlled by Owners, including All Pro Airport Rd. K/HY 2, LLC (the "Hyundai/Kia Financing Entity), also sought and subsequently received financing from Hyundai Capital America ("HCA"), an entity which is closely affiliated with Defendants, Hyundai and Kia and which provides floorplan financing to authorized Hyundai and Kia dealers. As a condition to HCA's agreement to extend such floorplan financing, Hazleton Hyundai and Hazleton Kia executed separate Inventory Loan and Security Agreements (the "Hyundai ILSA's"), dated June

10. 2015, pursuant to which Hazleton Hyundai and Hazleton Kia agreed to promptly repay to HCA, upon the retail sale of each Hyundai and Kia vehicle, the monies advanced by HCA when Hazleton Hyundai and Hazleton Kia purchased that vehicle at wholesale. Under the terms of the ILSA's, Hazleton Hyundai's and Hazleton Kia's failure to pay HCA upon the retail sale of a Hyundai or Kia vehicle constituted a default thereunder. HCA further required that all floorplan financing be cross-guaranteed and cross-collateralized jointly and severally by Hazleton Hyundai, Hazleton Kia, Owners and the Hyundai/Kia Financing Entity. Finally, and pursuant to the terms of the ILSA's, Hazleton Hyundai, Hazleton Kia and the Hyundai/Kia Financing Entity granted permission to HCA to conduct periodic audits of Hazleton Hyundai's and Hazleton Kia's books and records in order to verify, among other things, that they were promptly paying HCA upon the retail sale of each Hyundai and Kia vehicle.

18. Upon information and belief, Dealerships also entered into certain dealership agreements (hereafter, the "Dealership Agreements") with the Manufacturers pursuant to which, *inter alia*, the Dealerships agreed to (a) actively and vigorously market the Manufacturers' new vehicles; (b) use their best efforts to attain certain sales targets set forth by the Manufacturers; (c) conspicuously display at Dealership' facilities the Manufacturers' approved sales, service and parts signs and (d) send Dealerships' sales persons to any/all of Manufacturers' regularly scheduled sales and service meetings for the purpose of obtaining current Manufacturers' information and policies.

19. Pursuant to the terms of the Dealership Agreements, the Manufacturers agreed, upon information and belief, to market their vehicles nationwide and locally within Northeastern Pennsylvania. The Manufacturers further granted authority to Dealerships to (a) sell and/or lease the Manufacturers' vehicles to consumers; (b) identify themselves as the Manufacturers' authorized dealerships; and (c) use the Manufacturers' logos/marks in the advertising, promotion,



sale and servicing of the Manufacturers' vehicles and other products. Moreover, and upon information and belief, Manufacturers also granted authority to the Dealerships to engage in their own independent advertising and promotion of the Manufacturers' vehicles, goods and services, subject to the Manufacturers' prior approval. Upon information and belief, the Dealership Agreements provided the Manufacturers with the right to revoke the Dealerships' status as authorized dealers of Manufacturers' vehicles if the Dealerships breached the provisions contained therein. Plaintiffs are currently not in possession of these Dealership Agreements and intend to obtain same through discovery.

20. The Hazleton Auto Mall opened in or about November 2016. The Dealerships' sales personnel, with the Manufacturers' and Owners' prior knowledge, approval and/or ratification, used and advertised a uniform set of marketing tactics and aggressive sales pitches to induce consumers into purchasing and leasing new vehicles. Specifically, the Dealerships, with the Manufacturers' and Owners' prior knowledge, approval and/or ratification, advertised a "Set for Life Program" pursuant to which the Dealerships represented that all purchasers would receive powertrain/engine/transmission warranties, free oil and filter changes, free car washes, free loaner vehicles and free state inspections for as long as they owned their vehicles (hereinafter, the "Set for Life Program").

21. The Dealerships' sales personnel, with the Manufacturers' and Owners' prior knowledge, approval and/or ratification, created brochures and signage advertising the Set for Life Program, which were emblazoned with the Manufacturers' internationally recognizable, trademarked logos. Dealerships and Owners, with the Manufacturers' prior knowledge, approval and/or ratification, also advertised the Set for Life Program on local radio and television and through social media. In so doing, Dealerships, Owners and Manufacturers intended to create the

expectation among potential car purchasers that Manufacturers had guaranteed that the benefits specified therein would be provided.

22. The Dealerships' sales personnel, with the Manufacturers' and Owners' prior knowledge, approval and/or ratification, also prominently displayed and strategically placed the brochures and signage detailing the Set for Life Program throughout the Dealerships' facilities in close physical proximity to the Manufacturers' internationally recognizable, trademarked logos. In so doing, Dealerships, Owners and Manufacturers intended to create the expectation among potential car purchasers that Manufacturers had guaranteed that the benefits specified therein would be provided.

23. Defendants, Pierce and Armstead are well-known, retired professional football players. Pierce and Armstead, with the Manufacturers', Dealerships' and Defendant, Sapovito's prior knowledge, approval and/or ratification, utilized their public notoriety by participating in several "meet and greet" appearances at the Dealerships' facilities. These "meet and greet" appearances were advertised in advance in local newspapers and on social media. During these appearances, Defendants, Pierce and Armstead extolled the virtues of the Manufacturers' vehicles in general and the benefits of the Set for Life Program in particular, for the intended purpose of inducing consumers to purchase and/or lease new vehicles from the Manufacturers through their authorized Dealerships.

24. Soon after opening for business in or about November 2016, Dealerships, upon information and belief, began to experience financial difficulties. Specifically, Dealerships, with Owners' knowledge and consent, sold numerous Nissan, Hyundai and Kia vehicles SOT, and without paying NMAC or HCA for same. At all times material hereto, Manufacturers were aware of or, through the exercise of rudimentary due diligence should have been aware of Dealerships' deteriorating financial condition. Nevertheless, Manufacturers continued to expressly and/or

impliedly authorize and/or ratify Dealerships' decision to advertise the Set for Life Program in the hope that it would generate additional sales of Manufacturers' vehicles and thereby enable Dealerships to escape the financial hole which they had dug. At all times material hereto, Manufacturers knew or should have known that Dealerships, as a result of their deteriorating financial condition, could not possibly continue to represent that the Set for Life Program's benefits would be available to consumers for as long as they owned their vehicles.

25. Hazleton Hyundai and Hazleton Kia went out of business in or about late September 2018, less than two years after opening. Hazleton Nissan went out of business in or about November 2018. Despite repeated demands from defrauded consumers, Manufacturers have refused and continue to refuse to provide the benefits specified in the Set for Life Program.

26. Defendant, Manufacturers had intimate knowledge of the dire financial condition of the Defendant, Dealerships and Defendant, Owners due to the financial relationship between the parties, information that was not otherwise available to Plaintiffs and/or to the general public.

27. Notwithstanding Defendant, Manufacturers' knowledge of the dire financial condition of the Defendant, Dealerships and Defendant, Owners, Defendant, Manufacturers permitted the Set for Life Program to continue.

#### PLAINTIFFS' EXPERIENCES

##### THE HAGENBAUGHS

28. The Hagenbaughs purchased a new 2017 model year Nissan Rogue, VIN # KNMAT2MT4HP500743 from Defendant, Hazleton Nissan on or about May 4, 2017. Defendant, Hazleton Nissan and the Hagenbaughs signed an agreement which specified several of the benefits which were part of the Set for Life Program (hereinafter, the "Set for Life Agreement"). Defendant, Hazleton Nissan further provided brochures to the Hagenbaughs and represented that said



brochures contained the full list of benefits under the Set for Life Program. Both the Set for Life Agreement and the related brochures stated that the benefits specified therein would be available for as long as the Hagenbaughs owned their Nissan vehicle. Moreover, both the Set for Life Agreement and related brochures were emblazoned with Defendant, Nissan's internationally known, trademarked logo. Copies of the Hagenbaughs' Retail Sale Installment Contract, the signed Set for Life Agreement between the Hagenbaughs and Hazleton Nissan and the related Set for Life Program brochures are collectively attached hereto as Exhibit "A" and are incorporated herein.

29. The Hagenbaughs reasonably relied upon Defendant, Nissan's conduct, actions and manifestations to the general public that Defendant, Nissan had granted Defendant, Hazleton Nissan the actual and/or apparent authority to obligate Defendant, Nissan to continue to provide the benefits specified in the Set for Life Program in the event that Hazleton Nissan was unable to do so.

30. Defendant, Nissan's conduct, actions and manifestations in this regard include but are not limited to, the following: publicly advertising the Nissan brand on local radio stations, local television and on social media; representing Hazleton Nissan as its authorized dealer; authorizing and/or otherwise ratifying the advertising campaign undertaken by Hazleton Nissan for the Set for Life Program; and authorizing and/or otherwise ratifying the use of its trademarked and internationally known logo on Set for Life Agreements and on signage and brochures advertising the Set for Life Program.

31. When Hazleton Nissan ceased operations at the Hazleton Auto Mall in November 2018, the Hagenbaughs subsequently demanded that Defendant, Nissan provide the benefits specified in the Set for Life Program. However, Defendant, Nissan refused, and continues to refuse to do so.

**THE LUBRECHTS**

32. The Lubrechts purchased a new 2018 model year Hyundai Tucson wagon, VIN # KM8J3CA48JU741730 from Defendant, Hazleton Hyundai on or about June 28, 2018. Defendant, Hazleton Hyundai and the Lubrechts signed a Set for Life Agreement which specified several of the benefits contained in the Set for Life Program. Defendant, Hazleton Hyundai further provided brochures to the Lubrechts and represented that said brochures contained the full list of benefits under the Set for Life Program. The Set for Life Agreement and related brochures both stated that the benefits specified therein would be available for as long as the Lubrechts owned their Hyundai vehicle. Moreover, both the Set for Life Agreement and related brochures were emblazoned with Defendant, Hyundai's internationally known, trademarked logo.

33. Hazleton Hyundai and the Lubrechts also executed a document, dated June 28, 2018, entitled "WE OWE", which included the following representation:

**"LIFETIME WARRANTY, LIFETIME INSPECTION, LIFETIME LOANER VEHICLES, LIFETIME OIL CHANGES AT FACTORY RECOMMENDED INTERVALS AND LIFETIME CAR WASHES."**

The Set for Life Agreement, the related Set for Life Program Brochures, the document entitled "WE OWE" and other sales materials reflecting the Lubrechts' purchase are collectively attached hereto as Exhibit "B" and are incorporated herein.

34. The Lubrechts reasonably relied upon Defendant, Hyundai's conduct, actions and manifestations to the general public that Defendant, Hyundai had granted Defendant, Hazleton Nissan the actual and/or apparent authority to obligate Defendant, Hyundai to continue to provide the benefits specified in the Set for Life Program in the event that Hazleton Hyundai was unable to do so.

35. Defendant, Hyundai's manifestations in this regard include but are not limited to, the following: publicly advertising the Hyundai brand on local radio stations, local television and

on social media; representing Hazleton Hyundai as its authorized dealer; authorizing and/or otherwise ratifying the advertising campaign undertaken by Hazleton Hyundai for the Set for Life Program; and authorizing and/or otherwise ratifying the use of its trademarked and internationally known logo on Set for Life Agreements and on signage and brochures advertising the Set for Life Program.

36. When Hazleton Hyundai ceased operations at the Hazleton Auto Mall in late September 2018, the Lubrechts subsequently demanded that Defendaat, Hyundai provide the benefits specified in the Set for Life Program. However, Defendant, Hyundai wrongfully refused, and continues to refuse to do so.

#### THE HOMANKOS

37. The Homankos purchased a new 2017 model year Kia Sorento, VIN # 5XYPKDA50HG337817 from Defendant, Hazleton Kia on or about August 21, 2017. Defendant, Hazleton Kia provided brochures to the Hagenbaughs and represented that said brochures contained the full list of benefits under the Set for Life Program. The Set for Life Program brochures specifically stated that the benefits specified therein would be available for as long as the Homankos owned their Kia vehicle. Moreover, the Set for Life Program brochures were emblazoned with Defendant, Kia's internationally known, trademarked logo. A true and correct copy of the Homankos Retail Installment Sale Contract and the Set for Life Program brochures are collectively attached hereto as Exhibit "C" and are incorporated herein.

38. The Homankos reasonably relied upon Defendant, Kia's conduct, actions and manifestations to the general public that Defendant, Kia had granted Defendant, Hazleton Kia the actual and/or apparent authority to obligate Defendant, Kia to continue to provide the benefits specified in the Set for Life Program in the event that Hazleton Kia was unable to do so.

39. Defendant, Kia's conduct, actions and manifestations in this regard include but are not limited to the following: publicly advertising the Kia brand on local radio stations, local television and on social media; representing Hazleton Kia as its authorized dealer; authorizing and/or otherwise ratifying the advertising campaign undertaken by Hazleton Kia for the Set for Life Program; and authorizing and/or otherwise ratifying the use of its trademarked and internationally known logo on signage and brochures advertising the Set for Life Program.

40. When Hazleton Kia ceased operations at the Hazleton Auto Mall in late September 2018, the Homankos subsequently demanded that Defendant, Kia provide the benefits specified in the "Set for Life" program. However, Defendant, Kia wrongfully refused, and continues to refuse to do so.

#### CLASS ALLEGATIONS

41. This action is being brought by Plaintiffs as a Class Action pursuant to Pennsylvania Rules of Civil Procedure 1701 *et seq.*, on Plaintiffs' own behalf and on behalf of a class of persons to which Plaintiffs belong as defined below:

42. Members of Plaintiffs' Class are defined as follows:

a. All individuals located within and/or residents of the Commonwealth of Pennsylvania, who purchased or leased automobiles at the Hazleton Auto Mall in Hazleton Township, Pennsylvania from the Hazleton Nissan, Hazleton Hyundai and/or Hazleton Kia dealerships during the period of November 1, 2016 through November 30, 2018.

43. The following people are excluded from the Class: (1) any Judge or Magistrate presiding over this action and members of their families; (2) the Manufacturers and Dealerships and their subsidiaries, parents, successors, predecessors, and any entity in which the Manufacturers and Dealerships have a controlling interest and Manufacturers' and/or Dealerships' current or

former employees, officers and directors; (3) the Owners and their families; (4) persons who properly execute and file a timely request for exclusion from the Class; (5) persons whose claims have been finally adjudicated on the merits or otherwise released; (6) Plaintiffs' counsel and Defendants' counsel; and (7) the legal representatives, successors and assigns of any such excluded persons.

44. The exact number of Class members is currently unknown and unavailable to Plaintiffs, but individual joinder in this case is impracticable. The Class likely consists of at least two thousand individuals. Members of the Class can easily be identified through Dealerships' and/or Manufacturers' records.

45. The claims of Plaintiffs as representative parties are typical of the claims of the Class, including, but not limited to the following:

a. As with all members of the Class, Plaintiffs were subject to and relied upon the misrepresentations, deceptive sales practices, advertising practices and policies of the Manufacturers, Dealerships and/or Owners in connection with the Set for Life Program;

b. As with all members of the Class, Plaintiffs were induced to purchase vehicles at the Hazleton Auto Mall by the benefits specified in the Set for Life Program;

c. As with all members of the Class, Plaintiffs have been harmed by similar or identical misconduct by the Manufacturers, Dealerships and/or Owners in that they were denied the benefits specified in the Set for Life Program;

d. Plaintiffs' injuries and/or damages are typical of other members of the Class.

46. There are questions of law and fact common to the Class, including, but not limited to the following:



a. Whether Plaintiffs and all members of the Class were offered the benefits specified in the Set for Life Program as an inducement upon which they relied, to their detriment, when they purchased and/or leased their vehicles from Dealerships;

b. Whether Plaintiffs and all members of the Class reasonably relied upon the actions, conduct and/or manifestations of the Manufacturers that the Dealerships possessed the actual or apparent authority to represent and guarantee that the Manufacturers would provide the benefits specified in the Set for Life Program in the event the Dealerships were unable to do so;

c. Whether Plaintiffs and all members of the Class have been refused the benefits specified in the Set for Life Program by the Manufacturers;

d. Whether Manufacturers', Dealerships' and Owners' advertising and sales practices in connection with the Set for Life Program were deceptive, thereby violating Pennsylvania's Unfair Trade Practices and Consumer Protection Law, 73 P.S. Sec. 201-1, et seq; and

e. Whether Manufacturers', Dealerships' and Owners' outrageous and/or unconscionable acts in connection with the Set for Life Program, as aforedescribed, warrants the award of punitive damages.

47. The interests of the Class will be fairly and adequately asserted and protected by the representative parties and their counsel. First, Plaintiffs have no conflict of interest in the maintenance of the Class Action. Second, Plaintiffs' attorneys are experienced in handling and litigating fraud and consumer protection claims. Third, sufficient financial resources are available to assure that the interest of the Class will be protected.

48. Adjudicating this controversy as a Class Action would be the fairest and most efficient means of resolution:

a. Common questions of law and fact predominate over any issues involving only individual Class members.

b. the size of the Class is not so great as to cause difficulties in the management of this action as a Class Action;

c. prosecution of separate claims by individual members of the Class would most likely would create a risk of (i) inconsistent or varying adjudications with respect to individual members of the Class which would confront the party opposing the Class with incompatible standards of conduct; (ii) adjudications with respect to individual members of the Class would, as a practical matter, be dispositive of the other members not parties to the adjudications or substantially impair or impede their ability to protect their interests.

d. to the undersigned's knowledge, there is currently no litigation which has been commenced by any members of the Class involving any of the same issues raised herein;

e. this forum is appropriate for the litigation of the claims of the entire Class since Plaintiffs and the vast majority of the Class members reside in Luzerne County and since the causes of action and/or the transactions or occurrences giving rise to the causes of action raised herein occurred in Luzerne County;

f. given the complexities of the issues raised and/or the expenses of litigation, the separate claims of individual Class members may be insufficient in amount to support separate actions; and

g. it is likely that the amount which may be recovered by individual Class members may be so small in relation to the expense and effort of administering the action as not to justify a Class Action.

49. Plaintiffs and Plaintiffs' counsel are unaware of any difficulties that are likely to be encountered in the management of this action that would preclude its maintenance as a Class Action.

**COUNT I**

**(Unfair Trade Practices and Consumer Protection Law)  
73 P.S. §§ 201-1, *et seq.*)  
(vs. All Defendants)**

50. Plaintiffs incorporate herein by reference Paragraphs 1 through 49 inclusive, of this Complaint as if the same were more fully set forth herein at length.

51. At all relevant times hereto, there was in effect the Pennsylvania Unfair Trade Practices and Consumer Protection Law, 73 P.S. Sec. 201-1, *et seq.* ("UTPCPL")

52. The vehicles purchased by Plaintiffs and the other Class members purchased vehicles from Defendants "primarily for personal, family or household purposes" within the meaning of Section 201-9.2 of the UTPCPL.

53. Section 201-2(4) of the UTPCPL defines "UNFAIR METHODS OF COMPETITION" and "UNFAIR OR DECEPTIVE ACTS OR PRACTICES" in pertinent part, as follows:

- (i) Passing off goods or services as those of another;
- (ii) Causing likelihood of confusion or of misunderstanding as to the source, sponsorship, approval or certification of goods or services;
- (iii) Causing likelihood of confusion or of misunderstanding as to affiliation, connection or association with, or certification by, another;
- (v) Representing that goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits or quantities that they do not have or that a person has a sponsorship, approval, status, affiliation or connection that he does not have.



(vii) Representing that goods or services are of a particular standard, quality or grade, or that goods are of a particular style or model, if they are of another.

(ix) Advertising goods or services with intent not to sell them as advertised;

(x) Advertising goods or services with intent not to supply reasonably expectable public demand, unless the advertisement discloses a limitation of quantity;

(xiv) Failing to comply with the terms or any written guarantee or warranty given to the buyer at, prior to or after a contract for the purchase of goods or services is made.

(xxi) Engaging in any other fraudulent or deceptive conduct which creates a likelihood of confusion or of misunderstanding.

See, 73 P.S. Section 201-2(4)(i), (ii), (iii), (v), (vii), (ix), (x), (xiv) and (xxi).

54. Defendants have violated each of the UTPCPL's provisions referenced in Paragraph 51 by making the false and misleading representations described herein in connection with the Set for Life Program. As a result of Defendants' false and misleading representations, Plaintiffs and members of the Class have suffered "ascertainable losses" as defined by the UTPCPL in that they have been denied the benefits specified and promised in the Set for Life Program.

55. At all relevant times hereto, there was in effect Chapter 301 of the Pennsylvania Code, entitled "AUTOMOTIVE INDUSTRY TRADE PRACTICES" ("AITP"). The provisions of Chapter 301 of the AITP are issued under Section 3.1, 75 P.S. Section 201.3.1, of the UTPCPL.

56. Sections 301.1 and 301.2 of the AITP provide in relevant part, as follows:

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

*Advertisement*—An oral, written or graphic statement which offers for sale a particular motor vehicle or motor vehicle goods and services or which indicates the availability of a motor vehicle or motor vehicle goods and services, including a statement or representations made in a newspaper, periodical, pamphlet, circular, other publication or on radio or television; contained in a notice, handbill, sign, billboard, poster, bill, catalog or letter; or printed on or contained in a tag or label which is attached to merchandise.

\*\*\*\*\*

With respect to an advertisement or sales presentation offering or making available for sale a new or used motor vehicle or maintenance service or repair on a new or used motor vehicle, the following will be considered unfair methods of competition and unfair or deceptive acts or practices:

(3) The use of an advertisement or sales presentation as part of a plan or scheme not to sell the vehicles or services advertised, or both, or not to sell the vehicles or services advertised or presented at the advertised price. The following will be *prima facie* evidence of a plan or scheme not to sell the motor vehicles or services or not to sell the vehicles or services at the advertised or represented prices:

(i) Refusing to show, display, sell or otherwise provide the goods and services advertised in under the terms of the advertisement.

(vi) Failing to make delivery of the advertised goods and services within the promised delivery period unless the failure is caused by reasons beyond the control of the advertiser.

(4) The failure or refusal to sell a motor vehicle or other goods or services under terms or conditions, including price or warranty, which a motor vehicle manufacturer or dealer or repair shop has advertised or otherwise represented.

(5) The representation in an advertisement or sales presentation that a motor vehicle or motor vehicle goods or services are of a particular style, model, standard, quality or grade if they are of another

(6) The making of a representation or statement of a fact in an advertisement or sales presentation if the advertiser or salesperson knows or should know that the representation or statement is false and misleading or if the advertiser or salesperson does not have sufficient information upon which a reasonable belief in the truth of the representation could be based.

(18) The advertising by a motor vehicle manufacturer, dealer or repair shop of a sale or promotion in connection with the sale of a motor vehicle or motor vehicle maintenance or repair services unless the advertisement clearly and conspicuously discloses the expiration date, if any, and other conditions of the sale or promotion,

including but not limited to whether the supply of vehicles or other sale goods is limited and, if so, in what manner.

57. Defendants have violated each of the AITP's provisions referenced in Paragraphs 54-55 inclusive, by making the false and misleading representations described herein in connection with the Set for Life Program.

58. Plaintiff and Class members have suffered injuries caused by Defendants' false and misleading representations because they would not have purchased the vehicles if they knew the truth and/or would have purchased them on different terms.

## COUNT II

### **(Breach of Contract) vs. All Defendants**

59. Plaintiffs incorporate herein by reference Paragraphs 1 through 58 inclusive, of this Complaint as if the same were more fully set forth herein at length.

60. Defendants represented that they would provide Plaintiffs and Class members with the benefits specified in the Set for Life Program if they agreed to purchase vehicles from Defendant, Dealerships. Defendants further represented that the specified benefits in the Set for Life Program would be provided for as long as Plaintiffs and Class members owned their vehicles. Plaintiffs and Class members relied upon said representations as an inducement for their agreement to purchase vehicles from Defendant, Dealerships.

61. Defendant, Manufacturers further represented to Plaintiffs and Class members, through Manufacturers' conduct, actions and manifestations to the general public, that Dealerships' possessed the actual and/or apparent authority to obligate Manufacturers to continue to provide the benefits specified in the Set for Life Program in the event that Dealerships were unable to do so.

62. Defendants, Manufacturers, Dealerships and Owners were and remain contractually bound to provide the benefits specified in the Set for Life Program to Plaintiffs and Class members. Defendants, Manufacturers and Owners were and remain contractually bound to continue to provide these benefits now that Dealerships have ceased business operations.

63. Despite Plaintiffs' and Class members' repeated demands, Defendants, Manufacturers and Owners have wrongfully refused to provide the benefits specified in the Set for Life Program. As a result, Plaintiffs and Class members have been denied the benefit of their bargain.

64. Defendants' refusal, as described above, constitutes a breach of their contracts with Plaintiffs and Class members.

65. As a direct and proximate result of said breach, Plaintiffs and Class members have suffered and continue to suffer damages, for which they are legally entitled to recover.

**COUNT III**

**(Unjust Enrichment)  
vs. All Defendants**

66. Plaintiffs incorporate herein by reference Paragraphs 1 through 65 inclusive, of this Complaint as if the same were more fully set forth herein at length.

67. This Count is being plead in the alternative to the preceding Count II for breach of contract.

68. Defendants, through their wrongful and unlawful conduct as described above, have reaped enormous, ill-gotten profits from the sale of the Manufacturers' vehicles to Plaintiffs and Class members. Defendants' profits would have been reduced, but for their wrongful and unlawful refusal to provide Plaintiffs and Class members with the benefits specified in the Set for Life Program.

69. Accordingly, Defendants have been unjustly enriched by their wrongful and unlawful conduct. Defendants should not be allowed to retain the proceeds from the benefits conferred upon them by Plaintiffs and Class members.

70. In equity and good conscience, it would be unjust and inequitable to permit Defendants to enrich themselves at Plaintiffs' and Class members' expense.

71. Defendants must therefore disgorge their unjustly acquired profits and other monetary benefits resulting from their unlawful conduct and provide restitution to Plaintiffs and Class members.

**COUNT IV**

**(Fraud)  
vs. All Defendants**

72. Plaintiffs incorporate herein by reference Paragraphs 1 through 71 inclusive, of this Complaint as if the same were more fully set forth herein at length.

73. Defendants represented that they would provide Plaintiffs and Class members with the benefits specified in the Set for Life Program if they agreed to purchase vehicles from Defendant, Dealerships. Defendants further represented that the benefits in the Set for Life Program would be provided for as long as Plaintiffs and Class members owned their vehicles. Said representations were material and were relied upon by Plaintiffs and Class members as an inducement for their decision to purchase vehicles from Defendant, Dealerships.

74. Defendant, Manufacturers further represented to Plaintiffs and Class members, through Manufacturers' conduct, actions and manifestations to the general public, that Dealerships' possessed the actual and/or apparent authority to obligate Manufacturers to continue to provide the benefits specified in the Set for Life Program in the event that Dealerships were

unable to do so. Said representations were material and were relied upon by Plaintiffs and Class members as an inducement for their decision to purchase vehicles from Defendant, Dealerships.

75. Defendants knew, or should have known, that their representations were false when made. Plaintiffs and Class members relied upon Defendants' material, false representations to their great detriment when they decided to purchase vehicles from Defendant, Dealerships.

76. In addition to their affirmative misrepresentations as afore-described, Defendant, Manufacturers had access to information concerning the dire financial condition of Defendants, Dealerships and Owners which Defendant, Manufacturers concealed from Plaintiffs and the general public.

77. Due to their knowledge of the failing financial condition of the Dealerships and Owners, Defendant, Manufacturers knew that the promises made to Plaintiffs and to the general public in the Set for Life Program would not be honored.

78. Despite the foregoing, Defendant, Manufacturers allowed Defendants, Dealerships and Owners to continue to make the promises in the Set for Life Program after it was apparent to Defendant, Manufacturers that said promises would not be honored.

79. As a direct and proximate result of Defendants' material, fraudulent representations, Plaintiffs and Class members have suffered and will continue to suffer damages, for which they are legally entitled to recover.

80. Defendants' conduct, as described above, was wanton, willful, malicious and/or grossly reckless, thereby justifying the imposition of punitive damages against Defendants.



**RELIEF DEMANDED**

WHEREFORE, Plaintiffs, individually and all on behalf of all others similarly situated, seek judgment against the Defendants as follows:

- a. An order certifying the Class under Rule 1707 of the Pennsylvania Rules of Civil Procedure and naming Plaintiffs as representatives of the Class and Plaintiffs' attorneys as Class Counsel to represent the Class members;
- b. An award of three times the actual and monetary damages sustained by Plaintiffs and the Class members, pursuant to the provisions of the UTPCPL and as set forth in Count I of this Complaint;
- c. An award of actual and compensatory damages, pursuant to Count II of this Complaint;
- d. An award of restitution in the amount of actual and compensatory damages, pursuant to Count III of this Complaint;
- e. An award of punitive damages, pursuant to Count IV of this Complaint;
- f. An award of prejudgment and post-judgment interest on all amounts awarded;
- g. An award of attorneys' fees, pursuant to Counts I and III of this Complaint
- h. An award of expenses and costs of suit; and
- i. An award of such other relief as the Court may deem just and proper.

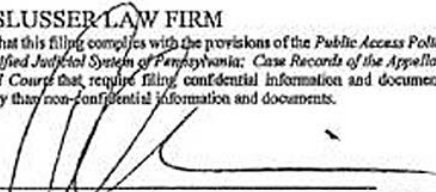
The damages sought by Plaintiffs, individually and on behalf of all others similarly situated, exceed the jurisdictional arbitration limits to be proven at trial.

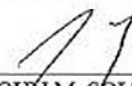
*Signatures submitted on following page.*

Respectfully submitted,

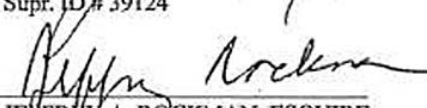
**THE SLUSSER LAW FIRM**

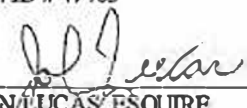
I certify that this filing complies with the provisions of the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts* that require filing confidential information and documents differently than non-confidential information and documents.

By:   
CHRISTOPHER B. SLUSSER, ESQUIRE  
Supr. ID #78609

By:   
JOHN M. SOLT, ESQUIRE  
Supr. ID #89146

By:   
JOSEPH B. BARANKO, JR., ESQUIRE  
Supr. ID # 39124

By:   
JEFFREY A. ROCKMAN, ESQUIRE  
Supr. ID # 47463

By:   
JOHN LUCAS, ESQUIRE  
Supr. ID # 53503  
1620 N. Church St., Ste. 1  
Hazleton, PA 18202  
Telephone: 570-453-0463

Attorneys for Plaintiffs



THE SLUSSER LAW FIRM

BY: CHRISTOPHER B. SLUSSER, ESQUIRE  
IDENTIFICATION NO. 78609

ATTORNEYS FOR PLAINTIFFS

JOHN M. SOLT, ESQUIRE  
IDENTIFICATION NO. 89146

JOSEPH R. BARANKO, JR., ESQUIRE  
IDENTIFICATION NO. 39124

JEFFREY A. ROCKMAN, ESQUIRE  
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JOHN LUCAS, ESQUIRE  
IDENTIFICATION NO. 53503

1620 NORTH CHURCH STREET, SUITE 1  
HAZLETON, PA 18202  
(570) 453-0463

DAVID HAGENBAUGH and  
HEATHER HAGENBAUGH, his wife  
309 Plymouth Avenue  
Wilkes-Barre, PA 18702; on behalf of themselves  
and all others similarly situated

MICHAEL P. HOMANKO, JR.  
349 West 30<sup>th</sup> Street  
Hazle Township, PA 18202; on behalf of himself  
and all others similarly situated

SHERRI A. HOMANKO  
349 West 30<sup>th</sup> Street  
Hazle Township, PA 18202; on behalf of herself  
and all others similarly situated

and

FREDERICK L. LUBRECHT and  
MARIANNE P. LUBRECHT, his wife  
269 Turnberry Lane  
Hazle Township, PA 18202; on behalf of  
themselves and all others similarly situated

Plaintiffs

vs.

NISSAN NORTH AMERICA d/b/a  
NISSAN USA  
One Nissan Way  
Franklin, TN 37067;

IN THE COURT OF COMMON PLEAS

OF LUZERNE COUNTY

CLASS ACTION COMPLAINT

JURY TRIAL DEMANDED

CIVIL ACTION NO.

2020-07988

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HYUNDAI MOTOR COMPANY :  
 10550 Talbert Avenue :  
 Fountain Valley, CA 92708; :  
 :  
 KIA MOTORS AMERICA :  
 111 Peters Canyon Road :  
 Irvine, CA 92606; :  
 :  
 AIRPORT ROAD MOTORS N., LLC. :  
 d/b/a HAZLETON NISSAN :  
 661 Airport Road, :  
 Hazle Township, PA 18202; :  
 :  
 AIRPORT ROAD MOTORS HY., LLC. :  
 d/b/a HAZLETON HYUNDAI :  
 703 Airport Road :  
 Hazle Township, PA 18202; :  
 :  
 AIRPORT ROAD MOTORS K, LLC :  
 d/b/a HAZLETON KIA :  
 701 Airport Road, :  
 Hazle Township, PA 18202; :  
 :  
 MICHAEL S. SAPORITO :  
 382 Old York Road :  
 Hamilton, NJ 08620; :  
 :  
 ANTONIO D. PIERCE :  
 1376 Via Romero :  
 Palos Verdes Estates, CA 90274; :  
 :  
 and :  
 :  
 JESSIE W. ARMSTEAD :  
 2300 Top Rail Lane :  
 Southlake, TX 76092 :  
 :  
 :  
 Defendants :

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**NOTICE**

YOU HAVE BEEN SUED IN COURT. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this Complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objection to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the Complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you. YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH

**AVISO**

A USTED SE LE HA DEMANDADO EN LA CORTE. Si usted quiere defenderse contra la demanda expuesta en las siguientes páginas, tiene que tomar acción en un plazo de los veinte (20) días después que reciba esta demanda y aviso, por presentar una notificación de comparecencia escrita personalmente o por un abogado y radicar por escrito en law Corte sus defensas u objeciones a las demandas presentadas en su contra. Se le advierte que si falla en hacerlo, el caso podría seguir adelante sin usted y un fallo podría ser dictado en su contra por law Corte sin previo aviso por cualquier dinero reclamado en la demanda o por cualquier otro reclamo o desagravio pedido por el/la demandante. Puede que usted pierda dinero o propiedad u otros derechos importantes para usted. USTED

INFORMATION ABOUT HIRING A LAWYER. IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PEOPLE AT A REDUCED RATE OR NO FEE.

North Penn Legal Services, Inc.  
33 North Main Street  
Suite 200  
Pittston, PA 18640  
(570) 299-4100  
(855) 236-6405 Toll Free  
(570) 824-0001 Fax

101 West Broad Street  
Suite 713  
Hazleton, PA 18201  
(570) 455-9512  
(877) 953-4250 Toll Free  
(570) 455-3625 Fax

**DEBE LLEVAR ESTE DOCUMENTO A SU ABOGADO INMEDIATAMENTE. SI NO TIENE ABOGADO, DIRÍJASE O LLAME POR TELÉFONO A LA OFICINA CUYA DIRECCIÓN SE ENCUENTRA ABAJO. ESTA OFICINA PUEDE PROVEERLE CON INFORMACIÓN SOBRE COMO CONTRATAR UN ABOGADO. SI NO TIENE LOS FONDOS SUFICIENTES PARA CONTRATAR UN ABOGADO, ESTA OFICINA PODRÍA PROPORCIONARLE INFORMACIÓN ACERCA DE AGENCIAS QUE PUEDAN OFRECERLES SERVICIOS LEGALES A PERSONAS QUE REÚNAN LOS REQUISITOS A UN HONORARIO REDUCIDO O GRATIS.**

Servicios Legales de North Penn, Inc.  
33 la Calle Main del Norte  
Oficina 200  
Pittston, PA 18640  
(570) 299-4100  
(855) 236-6405 Llamada gratuita  
(570) 824-0001 Fax

101 la Calle Brod del Oeste  
Oficina 513  
Hazleton, PA 18201  
(570) 455-9512  
(877) 953-4250 Llamada gratuita  
(570) 455-3625 Fax

# SHERIFF'S OFFICE OF LUZERNE COUNTY

Brian M. Szumski  
Sheriff



C. David Pedri  
County Manager

Joan Hoggarth  
Director of Judicial Services & Records

DAVID HAGENBAUGH (et al.)  
vs.  
NISSAN NORTH AMERICA DBA NISSAN USA (et al.)

Case Number  
7988-2020

## SHERIFF'S RETURN OF SERVICE

09/10/2020 10:16 AM - DEPUTY WANDA J. BABULA, BEING DULY SWORN ACCORDING TO LAW, DEPOSES AND SAYS, AN ATTEMPT TO SERVE THE COMPLAINT & NOTICE UPON AIRPORT ROAD MOTORS N LLC DBA HAZLETON NISSAN, AT 661 AIRPORT RD, HAZLE TWP, PA 18202, WAS UNSUCCESSFUL. COMPLAINT & NOTICE RETURNED AS NOT FOUND.

UNDER NEW OWNERSHIP. LITHIA HAZLETON H LLC HAZLETON HONDA. JERI NACE - RECEPTIONIST, DAVID LEWIS - MANAGER.

WANDA J. BABULA, DEPUTY

09/10/2020 10:16 AM - DEPUTY WANDA J. BABULA, BEING DULY SWORN ACCORDING TO LAW, DEPOSES AND SAYS, AN ATTEMPT TO SERVE THE COMPLAINT & NOTICE UPON AIRPORT ROAD MOTORS HY LLC DBA HAZLETON HYUNDAI, AT 703 AIRPORT RD, HAZLE TWP, PA 18202, WAS UNSUCCESSFUL. COMPLAINT & NOTICE RETURNED AS NOT FOUND.

UNDER NEW OWNERSHIP. LITHIA HAZLETON H LLC HAZLETON HONDA. JERI NACE - RECEPTIONIST, DAVID LEWIS - MANAGER.

WANDA J. BABULA, DEPUTY

09/10/2020 10:16 AM - DEPUTY WANDA J. BABULA, BEING DULY SWORN ACCORDING TO LAW, DEPOSES AND SAYS, AN ATTEMPT TO SERVE THE COMPLAINT & NOTICE UPON AIRPORT ROAD MOTORS K LLC DBA HAZLETON KIA, AT 701 AIRPORT RD, HAZLE TWP, PA 18202, WAS UNSUCCESSFUL. COMPLAINT & NOTICE RETURNED AS NOT FOUND.

UNDER NEW OWNERSHIP. LITHIA HAZLETON H LLC HAZLETON HONDA. JERI NACE - RECEPTIONIST, DAVID LEWIS - MANAGER.

WANDA J. BABULA, DEPUTY

SO ANSWERS,

BRIAN M. SZUMSKI, SHERIFF

September 14, 2020

PROTHONOTARY LUZERNE COUNTY  
FILED SEP 15 '20 PM 1:33

THE SLUSSER LAW FIRM

BY: CHRISTOPHER B. SLUSSER, ESQUIRE  
IDENTIFICATION NO. 78609

ATTORNEYS FOR PLAINTIFFS

JOHN M. SOLT, ESQUIRE  
IDENTIFICATION NO. 89146

JOSEPH R. BARANKO, JR., ESQUIRE  
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JOHN LUCAS, ESQUIRE  
IDENTIFICATION NO. 53503

1620 NORTH CHURCH STREET, SUITE 1  
HAZLETON, PA 18202  
(570) 453-0463

DAVID HAGENBAUGH and HEATHER  
HAGENBAUGH, his wife  
on behalf of themselves and all others  
similarly situated;  
MICHAEL P. HOMANKO, JR.  
on behalf of himself and all others similarly  
situated;  
SHERRI A. HOMANKO  
on behalf of herself and all others similarly  
situated;  
and  
FREDERICK L. LUBRECHT and  
MARIANNE P. LUBRECHT, his wife  
on behalf of themselves and all others  
similarly situated,

Plaintiffs

vs.

NISSAN NORTH AMERICA d/b/a NISSAN  
USA;  
HYUNDAI MOTOR COMPANY;  
KIA MOTORS AMERICA;  
AIRPORT ROAD MOTORS N., LLC. d/b/a  
HAZLETON NISSAN;  
AIRPORT ROAD MOTORS HY., LLC.  
d/b/a HAZLETON HYUNDAI;  
AIRPORT ROAD MOTORS K, LLC d/b/a  
HAZLETON KIA;  
MICHAEL S. SAPORITO;  
ANTONIO D. PIERCE; AND  
JESSIE W. ARMSTEAD,

Defendants

IN THE COURT OF COMMON PLEAS

OF LUZERNE COUNTY

CLASS ACTION COMPLAINT

JURY TRIAL DEMANDED

CIVIL ACTION NO. 2020-07988

**AFFIDAVIT OF SERVICE**

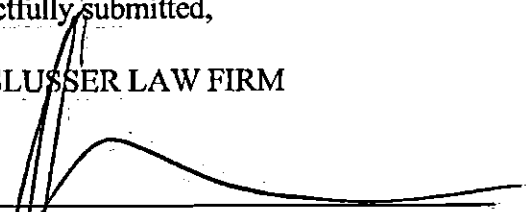
I, Christopher B. Slusser, Esquire, counsel for the Plaintiffs hereby certify that a true and correct copy of the *Complaint* in the above captioned matter has been served upon the Defendant, Nissan North America d/b/a Nissan USA, by certified mail, return receipt requested, as evidenced by the return receipt attached hereto as Exhibit "A", addressed as follows:

Nissan North America  
d/b/a Nissan USA  
One Nissan Way  
Franklin, TN 37067

Respectfully submitted,

THE SLUSSER LAW FIRM

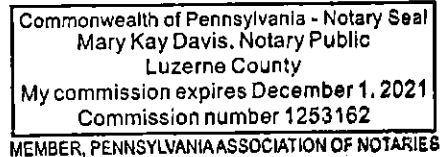
By


  
CHRISTOPHER B. SLUSSER, ESQUIRE  
Attorney ID 78609

SWORN TO and SUBSCRIBED before

me this 18 day of September, 2020.

  
Notary Public



SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY																
<ul style="list-style-type: none"> <li>■ Complete items 1, 2, and 3.</li> <li>■ Print your name and address on the reverse so that we can return the card to you.</li> <li>■ Attach this card to the back of the mailpiece, or on the front if space permits.</li> </ul>	<p>A. Signature  <input checked="" type="checkbox"/> <i>Alison S. Rice</i>      <input type="checkbox"/> Agent  <input type="checkbox"/> Addressee</p> <p><input checked="" type="checkbox"/> Received by (Printed Name)  <b>Alison S. Rice</b></p> <p>C. Date of Delivery</p>																
<p>1. Article Addressed to:</p> <p style="text-align: center;">Nissan North America  d/b/a Nissan USA  One Nissan Way  Franklin, TN 37067</p>  <p style="text-align: center;">9590 9402 6000 0069 2359 86</p>	<p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes  If YES, enter delivery address below: <input type="checkbox"/> No</p>																
<p>7020 1290 0001 1979 3818</p>	<p>3. Service Type</p> <table border="0"> <tr> <td><input type="checkbox"/> Adult Signature</td> <td><input type="checkbox"/> Priority Mail Express®</td> </tr> <tr> <td><input type="checkbox"/> Adult Signature Restricted Delivery</td> <td><input type="checkbox"/> Registered Mail™</td> </tr> <tr> <td><input checked="" type="checkbox"/> Certified Mail®</td> <td><input type="checkbox"/> Registered Mail Restricted Delivery</td> </tr> <tr> <td><input type="checkbox"/> Certified Mail Restricted Delivery</td> <td><input type="checkbox"/> Return Receipt for Merchandise</td> </tr> <tr> <td><input type="checkbox"/> Collect on Delivery</td> <td><input type="checkbox"/> Signature Confirmation™</td> </tr> <tr> <td><input type="checkbox"/> Collect on Delivery Restricted Delivery</td> <td><input type="checkbox"/> Signature Confirmation Restricted Delivery</td> </tr> <tr> <td><input type="checkbox"/> Insured Mail</td> <td></td> </tr> <tr> <td><input type="checkbox"/> Insured Mail Restricted Delivery (over \$500)</td> <td></td> </tr> </table>	<input type="checkbox"/> Adult Signature	<input type="checkbox"/> Priority Mail Express®	<input type="checkbox"/> Adult Signature Restricted Delivery	<input type="checkbox"/> Registered Mail™	<input checked="" type="checkbox"/> Certified Mail®	<input type="checkbox"/> Registered Mail Restricted Delivery	<input type="checkbox"/> Certified Mail Restricted Delivery	<input type="checkbox"/> Return Receipt for Merchandise	<input type="checkbox"/> Collect on Delivery	<input type="checkbox"/> Signature Confirmation™	<input type="checkbox"/> Collect on Delivery Restricted Delivery	<input type="checkbox"/> Signature Confirmation Restricted Delivery	<input type="checkbox"/> Insured Mail		<input type="checkbox"/> Insured Mail Restricted Delivery (over \$500)	
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<input type="checkbox"/> Insured Mail																	
<input type="checkbox"/> Insured Mail Restricted Delivery (over \$500)																	

PS Form 3811, July 2015 PSN 7530-02-000-9053

Domestic Return Receipt

# Exhibit "A"

THE SLUSSER LAW FIRM

BY: CHRISTOPHER B. SLUSSER, ESQUIRE  
IDENTIFICATION NO. 78609

ATTORNEYS FOR PLAINTIFFS

JOHN M. SOLT, ESQUIRE  
IDENTIFICATION NO. 89146

JOSEPH R. BARANKO, JR., ESQUIRE  
IDENTIFICATION NO. 39124

JEFFREY A. ROCKMAN, ESQUIRE  
IDENTIFICATION NO. 47463

JOHN LUCAS, ESQUIRE  
IDENTIFICATION NO. 53503

1620 NORTH CHURCH STREET, SUITE 1  
HAZLETON, PA 18202  
(570) 453-0463

DAVID HAGENBAUGH and HEATHER  
HAGENBAUGH, his wife  
on behalf of themselves and all others  
similarly situated;  
MICHAEL P. HOMANKO, JR.  
on behalf of himself and all others similarly  
situated;  
SHERRI A. HOMANKO  
on behalf of herself and all others similarly  
situated;  
and  
FREDERICK L. LUBRECHT and  
MARIANNE P. LUBRECHT, his wife  
on behalf of themselves and all others  
similarly situated,

Plaintiffs

vs.

NISSAN NORTH AMERICA d/b/a NISSAN  
USA;  
HYUNDAI MOTOR COMPANY;  
KIA MOTORS AMERICA;  
AIRPORT ROAD MOTORS N., LLC. d/b/a  
HAZLETON NISSAN;  
AIRPORT ROAD MOTORS HY., LLC.  
d/b/a HAZLETON HYUNDAI;  
AIRPORT ROAD MOTORS K, LLC d/b/a  
HAZLETON KIA;  
MICHAEL S. SAPORITO;  
ANTONIO D. PIERCE; AND  
JESSIE W. ARMSTEAD,

Defendants

IN THE COURT OF COMMON PLEAS

OF LUZERNE COUNTY

CLASS ACTION COMPLAINT

JURY TRIAL DEMANDED

CIVIL ACTION NO. 2020-07988



**AFFIDAVIT OF SERVICE**

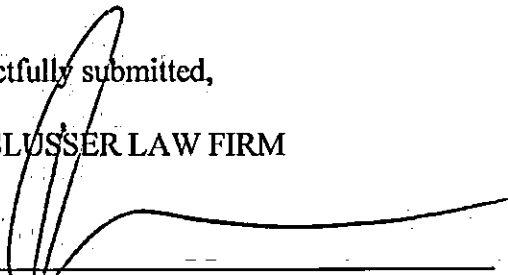
I, Christopher B. Slusser, Esquire, counsel for the Plaintiffs hereby certify that a true and correct copy of the *Complaint* in the above captioned matter has been served upon the Defendant, Kia Motors America, by certified mail, return receipt requested, as evidenced by the return receipt attached hereto as Exhibit "A", addressed as follows:

Kia Motors America  
111 Peters Canyon Road  
Irvine, CA 92606

Respectfully submitted,

THE SLUSSER LAW FIRM

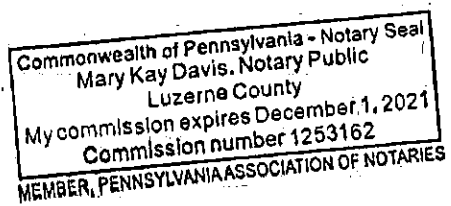
By


  
CHRISTOPHER B. SLUSSER, ESQUIRE  
Attorney ID 78609

SWORN TO and SUBSCRIBED before

me this 18 day of September 2020.

  
Notary Public



SENDER, COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY																
<ul style="list-style-type: none"> <li>■ Complete Items 1, 2, and 3.</li> <li>■ Print your name and address on the reverse so that we can return the card to you.</li> <li>■ Attach this card to the back of the mailpiece, or on the front if space permits.</li> </ul>	<p>A. Signature <span style="float: right;"><input type="checkbox"/> Agent <input type="checkbox"/> Addressee</span></p> <p><b>X</b></p>																
<p>1. Article Addressed to:</p> <p style="text-align: center;">Kia Motors America 111 Peters Canyon Road Irvine, CA 92606</p>	<p>B. Received by (<i>Printed Name</i>) <span style="float: right;">C. Date of Delivery</span></p>																
<p style="text-align: center;">                   9590 9402 6000 0069 2359 93             </p>	<p>D. Is delivery address different from Item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p> <p style="text-align: center;"><b>Mailroom:</b> <b>Kia Motors America</b> <b>111 Peters Canyon Rd</b> <b>Irvine, CA 92606</b></p>																
<p>2. Article Number (<i>Transfer from service label</i>)</p> <p style="text-align: center;">7020 1290 0001 1979 3832</p>	<p>3. Service Type</p> <table border="0"> <tr> <td><input type="checkbox"/> Adult Signature</td> <td><input type="checkbox"/> Priority Mail Express®</td> </tr> <tr> <td><input type="checkbox"/> Adult Signature Restricted Delivery</td> <td><input type="checkbox"/> Registered Mail™</td> </tr> <tr> <td><input checked="" type="checkbox"/> Certified Mail®</td> <td><input type="checkbox"/> Registered Mail Restricted Delivery</td> </tr> <tr> <td><input type="checkbox"/> Certified Mail Restricted Delivery</td> <td><input type="checkbox"/> Return Receipt for Merchandise</td> </tr> <tr> <td><input type="checkbox"/> Collect on Delivery</td> <td><input type="checkbox"/> Signature Confirmation™</td> </tr> <tr> <td><input type="checkbox"/> Collect on Delivery Restricted Delivery</td> <td><input type="checkbox"/> Signature Confirmation Restricted Delivery</td> </tr> <tr> <td><input type="checkbox"/> Insured Mail</td> <td></td> </tr> <tr> <td><input type="checkbox"/> Insured Mail Restricted Delivery (over \$500)</td> <td></td> </tr> </table>	<input type="checkbox"/> Adult Signature	<input type="checkbox"/> Priority Mail Express®	<input type="checkbox"/> Adult Signature Restricted Delivery	<input type="checkbox"/> Registered Mail™	<input checked="" type="checkbox"/> Certified Mail®	<input type="checkbox"/> Registered Mail Restricted Delivery	<input type="checkbox"/> Certified Mail Restricted Delivery	<input type="checkbox"/> Return Receipt for Merchandise	<input type="checkbox"/> Collect on Delivery	<input type="checkbox"/> Signature Confirmation™	<input type="checkbox"/> Collect on Delivery Restricted Delivery	<input type="checkbox"/> Signature Confirmation Restricted Delivery	<input type="checkbox"/> Insured Mail		<input type="checkbox"/> Insured Mail Restricted Delivery (over \$500)	
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<p>PS Form 3811, July 2015 PSN 7530-02-000-9053</p>	<p style="text-align: right;">Domestic Return Receipt</p>																

**Exhibit "A"**

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IDENTIFICATION NO. 78609

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IDENTIFICATION NO. 89146

JOSEPH R. BARANKO, JR., ESQUIRE  
IDENTIFICATION NO. 39124

JEFFREY A. ROCKMAN, ESQUIRE  
IDENTIFICATION NO. 47463

JOHN LUCAS, ESQUIRE  
IDENTIFICATION NO. 53503

1620 NORTH CHURCH STREET, SUITE 1  
HAZLETON, PA 18202  
(570) 453-0463

DAVID HAGENBAUGH and HEATHER  
HAGENBAUGH, his wife  
on behalf of themselves and all others  
similarly situated;  
MICHAEL P. HOMANKO, JR.  
on behalf of himself and all others similarly  
situated;  
SHERRI A. HOMANKO  
on behalf of herself and all others similarly  
situated;  
and  
FREDERICK L. LUBRECHT and  
MARIANNE P. LUBRECHT, his wife  
on behalf of themselves and all others  
similarly situated,

Plaintiffs

vs.

NISSAN NORTH AMERICA d/b/a NISSAN  
USA;  
HYUNDAI MOTOR COMPANY;  
KIA MOTORS AMERICA;  
AIRPORT ROAD MOTORS N., LLC. d/b/a  
HAZLETON NISSAN;  
AIRPORT ROAD MOTORS HY., LLC.  
d/b/a HAZLETON HYUNDAI;  
AIRPORT ROAD MOTORS K, LLC d/b/a  
HAZLETON KIA;  
MICHAEL S. SAPORITO;  
ANTONIO D. PIERCE; AND  
JESSIE W. ARMSTEAD,

Defendants

IN THE COURT OF COMMON PLEAS

OF LUZERNE COUNTY

CLASS ACTION COMPLAINT

JURY TRIAL DEMANDED

CIVIL ACTION NO. 2020-07988

**AFFIDAVIT OF SERVICE**

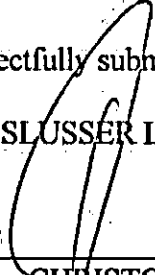
I, Christopher B. Slusser, Esquire, counsel for the Plaintiffs hereby certify that a true and correct copy of the *Complaint* in the above captioned matter has been served upon the Defendant, Hyundai Motor Company, by certified mail, return receipt requested, as evidenced by the return receipt attached hereto as Exhibit "A", addressed as follows:

Hyundai Motor Company  
10550 Talbert Avenue  
Fountain Valley, CA 92708

Respectfully submitted,

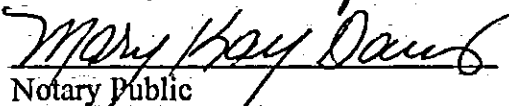
THE SLUSSER LAW FIRM

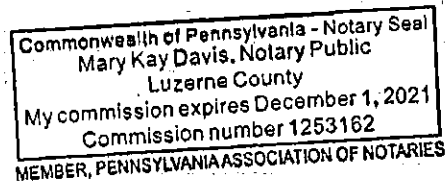
By


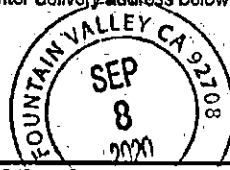
  
CHRISTOPHER B. SLUSSER, ESQUIRE  
Attorney ID 78609

SWORN TO and SUBSCRIBED before

me this 18 day of September, 2020.

  
Notary Public



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<p>1. Article Addressed to:</p> <p style="text-align: center;">Hyundai Motor Company                  10550 Talbert Avenue                  Fountain Valley, CA 92708</p>  <p style="text-align: center;">9590 9402 6000 0069 2359 79</p>	<p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes                  If YES, enter delivery address below: <input type="checkbox"/> No</p> <div style="text-align: center;">  </div>																
<p>Article Number (Transfer from similar label)</p> <p>7020 1290 0001 1979 3825</p>	<p>3. Service Type</p> <table border="0"> <tr> <td><input type="checkbox"/> Adult Signature</td> <td><input type="checkbox"/> Priority Mail Express®</td> </tr> <tr> <td><input type="checkbox"/> Adult Signature Restricted Delivery</td> <td><input type="checkbox"/> Registered Mail™</td> </tr> <tr> <td><input checked="" type="checkbox"/> Certified Mail®</td> <td><input type="checkbox"/> Registered Mail Restricted Delivery</td> </tr> <tr> <td><input type="checkbox"/> Certified Mail Restricted Delivery</td> <td><input type="checkbox"/> Return Receipt for Merchandise</td> </tr> <tr> <td><input type="checkbox"/> Collect on Delivery</td> <td><input type="checkbox"/> Signature Confirmation™</td> </tr> <tr> <td><input type="checkbox"/> Collect on Delivery Restricted Delivery</td> <td><input type="checkbox"/> Signature Confirmation Restricted Delivery</td> </tr> <tr> <td><input type="checkbox"/> Insured Mail</td> <td></td> </tr> <tr> <td><input type="checkbox"/> Insured Mail Restricted Delivery (over \$500)</td> <td></td> </tr> </table>	<input type="checkbox"/> Adult Signature	<input type="checkbox"/> Priority Mail Express®	<input type="checkbox"/> Adult Signature Restricted Delivery	<input type="checkbox"/> Registered Mail™	<input checked="" type="checkbox"/> Certified Mail®	<input type="checkbox"/> Registered Mail Restricted Delivery	<input type="checkbox"/> Certified Mail Restricted Delivery	<input type="checkbox"/> Return Receipt for Merchandise	<input type="checkbox"/> Collect on Delivery	<input type="checkbox"/> Signature Confirmation™	<input type="checkbox"/> Collect on Delivery Restricted Delivery	<input type="checkbox"/> Signature Confirmation Restricted Delivery	<input type="checkbox"/> Insured Mail		<input type="checkbox"/> Insured Mail Restricted Delivery (over \$500)	
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PS Form 3811, July 2015 PSN 7530-02-000-9053

Domestic Return Receipt

# Exhibit "A"

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BY: CHRISTOPHER B. SLUSSER, ESQUIRE  
IDENTIFICATION NO. 78609

ATTORNEYS FOR PLAINTIFFS

JOHN M. SOLT, ESQUIRE  
IDENTIFICATION NO. 89146

JOSEPH R. BARANKO, JR., ESQUIRE  
IDENTIFICATION NO. 39124

JEFFREY A. ROCKMAN, ESQUIRE  
IDENTIFICATION NO. 47463

JOHN LUCAS, ESQUIRE  
IDENTIFICATION NO. 53503

1620 NORTH CHURCH STREET, SUITE 1  
HAZLETON, PA 18202  
(570) 453-0463

DAVID HAGENBAUGH and  
HEATHER HAGENBAUGH, his wife  
on behalf of themselves and all others  
similarly situated;  
MICHAEL P. HOMANKO, JR.  
on behalf of himself and all others similarly  
situated;  
SHERRI A. HOMANKO  
on behalf of herself and all others similarly  
situated;  
and  
FREDERICK L. LUBRECHT and  
MARIANNE P. LUBRECHT, his wife  
on behalf of themselves and all others  
similarly situated,

Plaintiffs

vs.

NISSAN NORTH AMERICA d/b/a  
NISSAN USA;  
HYUNDAI MOTOR COMPANY;  
KIA MOTORS AMERICA;  
AIRPORT ROAD MOTORS N., LLC. d/b/a  
HAZLETON NISSAN;  
AIRPORT ROAD MOTORS HY., LLC.  
d/b/a HAZLETON HYUNDAI;  
AIRPORT ROAD MOTORS K, LLC d/b/a  
HAZLETON KIA;  
MICHAEL S. SAPORITO;  
ANTONIO D. PIERCE; AND  
JESSIE W. ARMSTEAD,

Defendants

IN THE COURT OF COMMON PLEAS  
OF LUZERNE COUNTY

CLASS ACTION COMPLAINT

JURY TRIAL DEMANDED

CIVIL ACTION NO. 2020-07988

**PRAECIPE TO REINSTATE COMPLAINT**

TO THE PROTHONOTARY OF LUZERNE COUNTY:

Please REINSTATE the COMPLAINT in the above-referenced matter. Service attempts have been made, but service of the aforesaid Complaint was not effectuated upon the above-named Defendants.

Respectfully submitted,

**THE SLUSSER LAW FIRM**

I certify that this filing complies with the provisions of the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts* that require filing confidential information and documents differently than non-confidential information and documents.

By: 

**CHRISTOPHER B. SLUSSER, ESQUIRE**

Supr. ID #78609

1620 N. Church St., Ste. 1

Hazleton, PA 18202

Telephone: 570-453-0463

Attorneys for Plaintiffs

THE SLUSSER LAW FIRM

BY: CHRISTOPHER B. SLUSSER, ESQUIRE  
IDENTIFICATION NO. 78609

ATTORNEYS FOR PLAINTIFFS

JOHN M. SOLT, ESQUIRE  
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IDENTIFICATION NO. 53503

1620 NORTH CHURCH STREET, SUITE 1  
HAZLETON, PA 18202  
(570) 453-0463

DAVID HAGENBAUGH and  
HEATHER HAGENBAUGH, his wife  
309 Plymouth Avenue  
Wilkes-Barre, PA 18702; on behalf of themselves  
and all others similarly situated

MICHAEL P. HOMANKO, JR.  
349 West 30<sup>th</sup> Street  
Hazle Township, PA 18202; on behalf of himself  
and all others similarly situated

SHERRI A. HOMANKO  
349 West 30<sup>th</sup> Street  
Hazle Township, PA 18202; on behalf of herself  
and all others similarly situated

and

FREDERICK L. LUBRECHT and  
MARIANNE P. LUBRECHT, his wife  
269 Turnberry Lane  
Hazle Township, PA 18202; on behalf of  
themselves and all others similarly situated

Plaintiffs

vs.

NISSAN NORTH AMERICA d/b/a  
NISSAN USA  
One Nissan Way  
Franklin, TN 37067;

IN THE COURT OF COMMON PLEAS

OF LUZERNE COUNTY

CLASS ACTION COMPLAINT

JURY TRIAL DEMANDED

CIVIL ACTION NO. 2020-07988



---

**HYUNDAI MOTOR COMPANY**

10550 Talbert Avenue  
Fountain Valley, CA 92708;

**KIA MOTORS AMERICA**

111 Peters Canyon Road  
Irvine, CA 92606;

**AIRPORT ROAD MOTORS N., LLC.**

d/b/a HAZLETON NISSAN  
661 Airport Road,  
Hazle Township, PA 18202;

**AIRPORT ROAD MOTORS HY., LLC.**

d/b/a HAZLETON HYUNDAI  
703 Airport Road  
Hazle Township, PA 18202;

**AIRPORT ROAD MOTORS K, LLC**

d/b/a HAZLETON KIA  
701 Airport Road,  
Hazle Township, PA 18202;

**MICHAEL S. SAPORITO**

382 Old York Road  
Hamilton, NJ 08620;

**ANTONIO D. PIERCE**

1376 Via Romero  
Palos Verdes Estates, CA 90274;

and

**JESSIE W. ARMSTEAD**

2300 Top Rail Lane  
Southlake, TX 76092

**Defendants**

---

**NOTICE**

**YOU HAVE BEEN SUED IN COURT.** If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this Complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objection to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the Complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you. **YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH**

**AVISO**

**A USTED SE LE HA DEMANDADO EN LA CORTE.** Si usted quiere defenderse contra la demanda expuesta en las siguientes páginas, tiene que tomar acción en un plazo de los veinte (20) días después que reciba esta demanda y aviso, por presentar una notificación de comparecencia escrita personalmente o por un abogado y radicar por escrito en law Corte sus defensas u objeciones a las demandas presentadas en su contra. Se le advierte que si falla en hacerlo, el caso podría seguir adelante sin usted y un fallo podría ser dictado en su contra por law Corte sin previo aviso por cualquier dinero reclamado en la demanda o por cualquier otro reclamo o desagravio pedido por el/la demandante. Puede que usted pierda dinero o propiedad u otros derechos importantes para usted. **USTED**

INFORMATION ABOUT HIRING A LAWYER. IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PEOPLE AT A REDUCED RATE OR NO FEE.

North Penn Legal Services, Inc.  
33 North Main Street  
Suite 200  
Pittston, PA 18640  
(570) 299-4100  
(855) 236-6405 Toll Free  
(570) 824-0001 Fax

101 West Broad Street  
Suite 713  
Hazleton, PA 18201  
(570) 455-9512  
(877) 953-4250 Toll Free  
(570) 455-3625 Fax

DEBE LLEVAR ESTE DOCUMENTO A SU ABOGADO INMEDIATAMENTE. SI NO TIENE ABOGADO, DIRÍJASE O LLAME POR TELÉFONO A LA OFICINA CUYA DIRECCIÓN SE ENCUENTRA ABAJO. ESTA OFICINA PUEDE PROVEERLE CON INFORMACIÓN SOBRE COMO CONTRATAR UN ABOGADO. SI NO TIENE LOS FONDOS SUFICIENTES PARA CONTRATAR UN ABOGADO, ESTA OFICINA PODRÍA PROPORCIONARLE INFORMACIÓN ACERCA DE AGENCIAS QUE PUEDAN OFRECERLES SERVICIOS LEGALES A PERSONAS QUE REÚNAN LOS REQUISITOS A UN HONORARIO REDUCIDO O GRATIS.

Servicios Legales de North Penn, Inc.  
33 la Calle Main del Norte  
Oficina 200  
Pittston, PA 18640  
(570) 299-4100  
(855) 236-6405 Llamada gratuita  
(570) 824-0001 Fax

101 la Calle Brod del Oeste  
Oficina 513  
Hazleton, PA 18201  
(570) 455-9512  
(877) 953-4250 Llamada gratuita  
(570) 455-3625 Fax

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DAVID HAGENBAUGH and  
HEATHER HAGENBAUGH, his wife  
309 Plymouth Avenue  
Wilkes-Barre, PA 18702; on behalf of themselves  
and all others similarly situated

MICHAEL P. HOMANKO, JR.  
349 West 30<sup>th</sup> Street  
Hazle Township, PA 18202; on behalf of himself  
and all others similarly situated

SHERRI A. HOMANKO  
349 West 30<sup>th</sup> Street  
Hazle Township, PA 18202; on behalf of herself  
and all others similarly situated

and

FREDERICK L. LUBRECHT and  
MARIANNE P. LUBRECHT, his wife  
269 Turnberry Lane  
Hazle Township, PA 18202; on behalf of  
themselves and all others similarly situated

Plaintiffs

vs.

NISSAN NORTH AMERICA d/b/a  
NISSAN USA  
One Nissan Way  
Franklin, TN 37067;

HYUNDAI MOTOR COMPANY  
10550 Talbert Avenue

IN THE COURT OF COMMON PLEAS

OF LUZERNE COUNTY

CLASS ACTION COMPLAINT

JURY TRIAL DEMANDED

CIVIL ACTION NO. 2020-07988

Reinstate Complaint  
The Within Complaint is Hereby Reinstated  
Civil Records Office Per:  
9/24/2020  
aw



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Fountain Valley, CA 92708;

KIA MOTORS AMERICA  
111 Peters Canyon Road  
Irvine, CA 92606;

AIRPORT ROAD MOTORS N., LLC.  
d/b/a HAZLETON NISSAN  
661 Airport Road,  
Hazle Township, PA 18202;

AIRPORT ROAD MOTORS HY., LLC.  
d/b/a HAZLETON HYUNDAI  
703 Airport Road  
Hazle Township, PA 18202;

AIRPORT ROAD MOTORS K, LLC  
d/b/a HAZLETON KIA  
701 Airport Road,  
Hazle Township, PA 18202;

MICHAEL S. SAPORITO  
382 Old York Road  
Hamilton, NJ 08620;

ANTONIO D. PIERCE  
1376 Via Romero  
Palos Verdes Estates, CA 90274;

and

JESSIE W. ARMSTEAD  
2300 Top Rail Lane  
Southlake, TX 76092

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Defendants

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**CLASS ACTION COMPLAINT**

Plaintiffs, David Hagenbaugh and Heather Hagenbaugh, his wife, Michael P. Homanko, Jr. and Sherri A. Homanko, and Frederick L. Lubrecht and Marianne P. Lubrecht, his wife, hereby bring this action individually and behalf of all others similarly situated (hereafter, the "Class") pursuant to Pennsylvania Rules of Civil Procedure 1701 et. seq. against Defendants herein named

for fraudulently inducing consumers into purchasing and/or leasing new vehicles by offering free services under a certain “Set for Life Program”, which is more fully described herein. Plaintiffs allege as follows upon personal knowledge as to themselves and their own acts and experiences, and as to all other matters, upon information and belief, including investigation conducted by their attorneys.

### THE PARTIES

1. Plaintiffs, David Hagenbaugh and Heather Hagenbaugh, his wife (collectively referred to herein as the “Hagenbaughs”), are adult individuals residing at 308 Plymouth Avenue, Wilkes-Barre, Luzerne County, Pennsylvania 18702.

2. Plaintiffs, Michael P. Homanko, Jr. and Sherri A. Homanko (collectively referred to herein as the “Homankos”), are adult individuals residing at 349 West 30<sup>th</sup> Street, Hazle Township, Luzerne County, Pennsylvania 18202. Michael P. Homanko, Jr. is the father of Sherri A. Homanko.

3. Plaintiff, Frederick L. Lubrecht and Marianne P. Lubrecht his wife (collectively referred to herein as the “Lubrechts”), are adult individuals residing at 269 Turnberry Lane, Hazle Township, Luzerne County, Pennsylvania 18202.

4. Defendant, Nissan North America d/b/a Nissan USA (“Nissan”) is, upon information and belief, a corporation organized and existing under the laws of the State of California, with its corporate headquarters located at One Nissan Way, Franklin, Tennessee 37067.

5. Defendant, Hyundai Motor Company (“Hyundai”) is, upon information and belief, a corporation organized under the laws of the State of California, with its corporate headquarters located at 10550 Talbert Ave., Fountain Valley, California 92708.

6. Defendant, Kia Motors America (“Kia”) is, upon information and belief, a corporation organized and existing under the laws of the State of California, with its corporate headquarters located at 111 Peters Canyon Road, Irvine, California 92606. At all times material hereto, Defendant, Kia was/is a subsidiary of Defendant, Hyundai, which owns approximately one-third of Kia’s stock and is Kia’s largest stakeholder. (Defendants, Hyundai, Nissan and Kia are hereinafter sometimes collectively referred to as the “Manufacturers.”)

7. Defendant, Airport Road Motors N., LLC. d/b/a Hazleton Nissan (“Hazleton Nissan”), is a limited liability corporation organized and existing under the laws of the Commonwealth of Pennsylvania with a current or former place of business located at 661 Airport Road, Hazle Township, Luzerne County, Pennsylvania 18202. At all times material hereto, Hazleton Nissan was an authorized Nissan dealer.

8. Defendant, Airport Road Motors Hy., LLC. d/b/a Hazleton Hyundai (“Hazleton Hyundai”), is a limited liability corporation organized and existing under the laws of the Commonwealth of Pennsylvania with a current or former place of business located at 703 Airport Road, Hazle Township, Luzerne County, Pennsylvania 18202. At all times material hereto, Hazleton Hyundai was an authorized Hyundai dealer.

9. Defendant, Airport Road Motors K, LLC. d/b/a Hazleton Kia (“Hazleton Kia”), is a limited liability corporation organized and existing under the laws of the Commonwealth of Pennsylvania with a current or former place of business located at 701 Airport Road, Hazle Township, Luzerne County, Pennsylvania 18202. At all times material hereto, Defendant, Hazleton Kia was an authorized Kia dealer. (Defendants, Hazleton Nissan, Hazleton Hyundai and Hazleton Kia are hereinafter sometimes collectively referred to as the “Dealerships.”)

10. Defendant, Michael S. Saporito (“Saporito”), is an adult individual residing at 382 Old York Road, Hamilton, New Jersey 08620.

11. Defendant, Antonio D. Pierce (“Pierce”), is an adult individual residing at 1376 Via Romero, Palos Verdes Estates, California 90274.

12. Defendant, Jessie W. Armstead (“Armstead”), is an adult individual residing at 2300 Top Rail Lane, Southlake, Texas 76092. (Defendants, Saporito, Pierce and Armstead are hereinafter sometimes collectively referred to as the “Owners.”)

13. At all times material hereto, Dealerships were owned and/or controlled by the Owners. At all times material hereto, Owners personally directed, participated or cooperated in the misfeasance that forms the basis of this Complaint and as such, can be held personally liable therefore under Pennsylvania case precedent.

14. Whenever any reference is made in this Complaint to any representation, act or transaction of the Dealerships, or any principals, officers, directors, employees, agents, or representatives thereof, including but not limited to the Owners, such allegations shall be deemed to mean that such principals, officers, directors, employees, agents or representatives of the Dealerships, whether they were acting on their own behalf or for their own benefit, did or authorized such representations, acts or transactions on behalf of the Manufacturers and, based upon the Manufacturers’ actions and/or conduct, possessed the actual or apparent authority to do so.

### **FACTUAL HISTORY**

15. Sometime in or about 2014, Owners agreed to open a retail auto mall in Hazle Township, Luzerne County, Pennsylvania known as the Hazleton Auto Mall, which was to consist of separate Nissan, Hyundai, Kia and Honda dealerships. In or about February 2015, Defendants, Hazleton Nissan, Owners and certain entities which were owned and/or controlled by Owners, including All Pro Airport Rd., N 4, LLC., All Pro Airport Rd. Detail-3, LLC., and Airport Road



Motors Detail (collectively, the "Nissan Financing Entities"), sought and subsequently received financing from Nissan Motor Acceptance Corporation ("NMAC"), an entity which is closely affiliated with Defendant, Nissan and which provides wholesale credit to authorized Nissan dealers to purchase vehicle inventory for retail sale to the public and for working capital and real estate loans. Wholesale credit lines are commonly referred to as "floorplan financing."

16. As a condition to its agreement to extend such floorplan financing, NMAC required, among other things, that Hazleton Nissan enter into an Automotive Wholesale Finance and Security Agreement ("WSA") pursuant to which Hazleton Nissan agreed to promptly repay to NMAC, upon the retail sale of each Nissan vehicle, the monies advanced by NMAC when Hazleton Nissan purchased that vehicle at wholesale. Under the terms of the WSA, Hazleton Nissan's failure to pay NMAC upon the retail sale of a Nissan vehicle constituted a default thereunder and is commonly referred to as a "sale out of trust" or "SOT". NMAC further required that all floorplan financing be cross-guaranteed and cross-collateralized jointly and severally by Hazleton Nissan, Owners and the Nissan Financing Entities. Finally, and pursuant to the terms of the WSA, Hazleton Nissan, Owners and the Nissan Financing Entities granted permission to NMAC to conduct periodic audits of Hazleton Nissan's books and records in order to verify, among other things, that it was promptly paying NMAC upon the retail sale of each Nissan vehicle.

17. Defendants, Hazleton Hyundai, Hazleton Kia, Owners and certain entities/affiliates which were owned and/or controlled by Owners, including All Pro Airport Rd. K/HY 2, LLC. (the "Hyundai/Kia Financing Entity), also sought and subsequently received financing from Hyundai Capital America ("HCA"), an entity which is closely affiliated with Defendants, Hyundai and Kia and which provides floorplan financing to authorized Hyundai and Kia dealers. As a condition to HCA's agreement to extend such floorplan financing, Hazleton Hyundai and Hazleton Kia executed separate Inventory Loan and Security Agreements (the "Hyundai ILSA's"), dated June

10, 2015, pursuant to which Hazleton Hyundai and Hazleton Kia agreed to promptly repay to HCA, upon the retail sale of each Hyundai and Kia vehicle, the monies advanced by HCA when Hazleton Hyundai and Hazleton Kia purchased that vehicle at wholesale. Under the terms of the ILSA's, Hazleton Hyundai's and Hazleton Kia's failure to pay HCA upon the retail sale of a Hyundai or Kia vehicle constituted a default thereunder. HCA further required that all floorplan financing be cross-guaranteed and cross-collateralized jointly and severally by Hazleton Hyundai, Hazleton Kia, Owners and the Hyundai/Kia Financing Entity. Finally, and pursuant to the terms of the ILSA's, Hazleton Hyundai, Hazleton Kia and the Hyundai/Kia Financing Entity granted permission to HCA to conduct periodic audits of Hazleton Hyundai's and Hazleton Kia's books and records in order to verify, among other things, that they were promptly paying HCA upon the retail sale of each Hyundai and Kia vehicle.

18. Upon information and belief, Dealerships also entered into certain dealership agreements (hereafter, the "Dealership Agreements") with the Manufacturers pursuant to which, *inter alia*, the Dealerships agreed to (a) actively and vigorously market the Manufacturers' new vehicles; (b) use their best efforts to attain certain sales targets set forth by the Manufacturers; (c) conspicuously display at Dealership' facilities the Manufacturers' approved sales, service and parts signs and (d) send Dealerships' sales persons to any/all of Manufacturers' regularly scheduled sales and service meetings for the purpose of obtaining current Manufacturers' information and policies.

19. Pursuant to the terms of the Dealership Agreements, the Manufacturers agreed, upon information and belief, to market their vehicles nationwide and locally within Northeastern Pennsylvania. The Manufacturers further granted authority to Dealerships to (a) sell and/or lease the Manufacturers' vehicles to consumers; (b) identify themselves as the Manufacturers' authorized dealerships; and (c) use the Manufacturers' logos/marks in the advertising, promotion,

sale and servicing of the Manufacturers' vehicles and other products. Moreover, and upon information and belief, Manufacturers also granted authority to the Dealerships to engage in their own independent advertising and promotion of the Manufacturers' vehicles, goods and services, subject to the Manufacturers' prior approval. Upon information and belief, the Dealership Agreements provided the Manufacturers with the right to revoke the Dealerships' status as authorized dealers of Manufacturers' vehicles if the Dealerships breached the provisions contained therein. Plaintiffs are currently not in possession of these Dealership Agreements and intend to obtain same through discovery.

20. The Hazleton Auto Mall opened in or about November 2016. The Dealerships' sales personnel, with the Manufacturers' and Owners' prior knowledge, approval and/or ratification, used and advertised a uniform set of marketing tactics and aggressive sales pitches to induce consumers into purchasing and leasing new vehicles. Specifically, the Dealerships, with the Manufacturers' and Owners' prior knowledge, approval and/or ratification, advertised a "Set for Life Program" pursuant to which the Dealerships represented that all purchasers would receive powertrain/engine/transmission warranties, free oil and filter changes, free car washes, free loaner vehicles and free state inspections for as long as they owned their vehicles (hereinafter, the "Set for Life Program").

21. The Dealerships' sales personnel, with the Manufacturers' and Owners' prior knowledge, approval and/or ratification, created brochures and signage advertising the Set for Life Program, which were emblazoned with the Manufacturers' internationally recognizable, trademarked logos. Dealerships and Owners, with the Manufacturers' prior knowledge, approval and/or ratification, also advertised the Set for Life Program on local radio and television and through social media. In so doing, Dealerships, Owners and Manufacturers intended to create the

expectation among potential car purchasers that Manufacturers had guaranteed that the benefits specified therein would be provided.

22. The Dealerships' sales personnel, with the Manufacturers' and Owners' prior knowledge, approval and/or ratification, also prominently displayed and strategically placed the brochures and signage detailing the Set for Life Program throughout the Dealerships' facilities in close physical proximity to the Manufacturers' internationally recognizable, trademarked logos. In so doing, Dealerships, Owners and Manufacturers intended to create the expectation among potential car purchasers that Manufacturers had guaranteed that the benefits specified therein would be provided.

23. Defendants, Pierce and Armstead are well-known, retired professional football players. Pierce and Armstead, with the Manufacturers', Dealerships' and Defendant, Saporito's prior knowledge, approval and/or ratification, utilized their public notoriety by participating in several "meet and greet" appearances at the Dealerships' facilities. These "meet and greet" appearances were advertised in advance in local newspapers and on social media. During these appearances, Defendants, Pierce and Armstead extolled the virtues of the Manufacturers' vehicles in general and the benefits of the Set for Life Program in particular, for the intended purpose of inducing consumers to purchase and/or lease new vehicles from the Manufacturers through their authorized Dealerships.

24. Soon after opening for business in or about November 2016, Dealerships, upon information and belief, began to experience financial difficulties. Specifically, Dealerships, with Owners' knowledge and consent, sold numerous Nissan, Hyundai and Kia vehicles SOT, and without paying NMAC or HCA for same. At all times material hereto, Manufacturers were aware of or, through the exercise of rudimentary due diligence should have been aware of Dealerships' deteriorating financial condition. Nevertheless, Manufacturers continued to expressly and/or

impliedly authorize and/or ratify Dealerships' decision to advertise the Set for Life Program in the hope that it would generate additional sales of Manufacturers' vehicles and thereby enable Dealerships to escape the financial hole which they had dug. At all times material hereto, Manufacturers knew or should have known that Dealerships, as a result of their deteriorating financial condition, could not possibly continue to represent that the Set for Life Program's benefits would be available to consumers for as long as they owned their vehicles.

25. Hazleton Hyundai and Hazleton Kia went out of business in or about late September 2018, less than two years after opening. Hazleton Nissan went out of business in or about November 2018. Despite repeated demands from defrauded consumers, Manufacturers have refused and continue to refuse to provide the benefits specified in the Set for Life Program.

26. Defendant, Manufacturers had intimate knowledge of the dire financial condition of the Defendant, Dealerships and Defendant, Owners due to the financial relationship between the parties, information that was not otherwise available to Plaintiffs and/or to the general public.

27. Notwithstanding Defendant, Manufacturers' knowledge of the dire financial condition of the Defendant, Dealerships and Defendant, Owners, Defendant, Manufacturers permitted the Set for Life Program to continue.

## **PLAINTIFFS' EXPERIENCES**

### **THE HAGENBAUGHS**

28. The Hagenbaughs purchased a new 2017 model year Nissan Rogue, VIN # KNMAT2MT4HP500743 from Defendant, Hazleton Nissan on or about May 4, 2017. Defendant, Hazleton Nissan and the Hagenbaughs signed an agreement which specified several of the benefits which were part of the Set for Life Program (hereinafter, the "Set for Life Agreement"). Defendant, Hazleton Nissan further provided brochures to the Hagenbaughs and represented that said

brochures contained the full list of benefits under the Set for Life Program. Both the Set for Life Agreement and the related brochures stated that the benefits specified therein would be available for as long as the Hagenbaughs owned their Nissan vehicle. Moreover, both the Set for Life Agreement and related brochures were emblazoned with Defendant, Nissan's internationally known, trademarked logo. Copies of the Hagenbaughs' Retail Sale Installment Contract, the signed Set for Life Agreement between the Hagenbaughs and Hazleton Nissan and the related Set for Life Program brochures are collectively attached hereto as Exhibit "A" and are incorporated herein.

29. The Hagenbaughs reasonably relied upon Defendant, Nissan's conduct, actions and manifestations to the general public that Defendant, Nissan had granted Defendant, Hazleton Nissan the actual and/or apparent authority to obligate Defendant, Nissan to continue to provide the benefits specified in the Set for Life Program in the event that Hazleton Nissan was unable to do so.

30. Defendant, Nissan's conduct, actions and manifestations in this regard include but are not limited to, the following: publicly advertising the Nissan brand on local radio stations, local television and on social media; representing Hazleton Nissan as its authorized dealer; authorizing and/or otherwise ratifying the advertising campaign undertaken by Hazleton Nissan for the Set for Life Program; and authorizing and/or otherwise ratifying the use of its trademarked and internationally known logo on Set for Life Agreements and on signage and brochures advertising the Set for Life Program.

31. When Hazleton Nissan ceased operations at the Hazleton Auto Mall in November 2018, the Hagenbaughs subsequently demanded that Defendant, Nissan provide the benefits specified in the Set for Life Program. However, Defendant, Nissan refused, and continues to refuse to do so.

**THE LUBRECHTS**

32. The Lubrechts purchased a new 2018 model year Hyundai Tucson wagon, VIN # KM8J3CA48JU741730 from Defendant, Hazleton Hyundai on or about June 28, 2018. Defendant, Hazleton Hyundai and the Lubrechts signed a Set for Life Agreement which specified several of the benefits contained in the Set for Life Program. Defendant, Hazleton Hyundai further provided brochures to the Lubrechts and represented that said brochures contained the full list of benefits under the Set for Life Program. The Set for Life Agreement and related brochures both stated that the benefits specified therein would be available for as long as the Lubrechts owned their Hyundai vehicle. Moreover, both the Set for Life Agreement and related brochures were emblazoned with Defendant, Hyundai's internationally known, trademarked logo.

33. Hazleton Hyundai and the Lubrechts also executed a document, dated June 28, 2018, entitled "WE OWE", which included the following representation:

**"LIFETIME WARRANTY, LIFETIME INSPECTION, LIFETIME LOANER VEHICLES, LIFETIME OIL CHANGES AT FACTORY RECOMMENDED INTERVALS AND LIFETIME CAR WASHES."**

The Set for Life Agreement, the related Set for Life Program Brochures, the document entitled "WE OWE" and other sales materials reflecting the Lubrechts' purchase are collectively attached hereto as Exhibit "B" and are incorporated herein.

34. The Lubrechts reasonably relied upon Defendant, Hyundai's conduct, actions and manifestations to the general public that Defendant, Hyundai had granted Defendant, Hazleton Nissan the actual and/or apparent authority to obligate Defendant, Hyundai to continue to provide the benefits specified in the Set for Life Program in the event that Hazleton Hyundai was unable to do so.

35. Defendant, Hyundai's manifestations in this regard include but are not limited to, the following: publicly advertising the Hyundai brand on local radio stations, local television and



on social media; representing Hazleton Hyundai as its authorized dealer; authorizing and/or otherwise ratifying the advertising campaign undertaken by Hazleton Hyundai for the Set for Life Program; and authorizing and/or otherwise ratifying the use of its trademarked and internationally known logo on Set for Life Agreements and on signage and brochures advertising the Set for Life Program.

36. When Hazleton Hyundai ceased operations at the Hazleton Auto Mall in late September 2018, the Lubrechts subsequently demanded that Defendant, Hyundai provide the benefits specified in the Set for Life Program. However, Defendant, Hyundai wrongfully refused, and continues to refuse to do so.

#### THE HOMANKOS

37. The Homankos purchased a new 2017 model year Kia Sorento, VIN # 5XYPKDA50HG337817 from Defendant, Hazleton Kia on or about August 21, 2017. Defendant, Hazleton Kia provided brochures to the Hagenbaughs and represented that said brochures contained the full list of benefits under the Set for Life Program. The Set for Life Program brochures specifically stated that the benefits specified therein would be available for as long as the Homankos owned their Kia vehicle. Moreover, the Set for Life Program brochures were emblazoned with Defendant, Kia's internationally known, trademarked logo. A true and correct copy of the Homankos Retail Installment Sale Contract and the Set for Life Program brochures are collectively attached hereto as Exhibit "C" and are incorporated herein.

38. The Homankos reasonably relied upon Defendant, Kia's conduct, actions and manifestations to the general public that Defendant, Kia had granted Defendant, Hazleton Kia the actual and/or apparent authority to obligate Defendant, Kia to continue to provide the benefits specified in the Set for Life Program in the event that Hazleton Kia was unable to do so.



39. Defendant, Kia's conduct, actions and manifestations in this regard include but are not limited to the following: publicly advertising the Kia brand on local radio stations, local television and on social media; representing Hazleton Kia as its authorized dealer; authorizing and/or otherwise ratifying the advertising campaign undertaken by Hazleton Kia for the Set for Life Program; and authorizing and/or otherwise ratifying the use of its trademarked and internationally known logo on signage and brochures advertising the Set for Life Program.

40. When Hazleton Kia ceased operations at the Hazleton Auto Mall in late September 2018, the Homankos subsequently demanded that Defendant, Kia provide the benefits specified in the "Set for Life" program. However, Defendant, Kia wrongfully refused, and continues to refuse to do so.

#### CLASS ALLEGATIONS

41. This action is being brought by Plaintiffs as a Class Action pursuant to Pennsylvania Rules of Civil Procedure 1701 et seq., on Plaintiffs' own behalf and on behalf of a class of persons to which Plaintiffs belong as defined below:

42. Members of Plaintiffs' Class are defined as follows:

a. All individuals located within and/or residents of the Commonwealth of Pennsylvania, who purchased or leased automobiles at the Hazleton Auto Mall in Hazle Township, Pennsylvania from the Hazleton Nissan, Hazleton Hyundai and/or Hazleton Kia dealerships during the period of November 1, 2016 through November 30, 2018.

43. The following people are excluded from the Class: (1) any Judge or Magistrate presiding over this action and members of their families; (2) the Manufacturers and Dealerships and their subsidiaries, parents, successors, predecessors, and any entity in which the Manufacturers and Dealerships have a controlling interest and Manufacturers' and/or Dealerships' current or

former employees, officers and directors; (3) the Owners and their families; (4) persons who properly execute and file a timely request for exclusion from the Class; (5) persons whose claims have been finally adjudicated on the merits or otherwise released; (6) Plaintiffs' counsel and Defendants' counsel; and (7) the legal representatives, successors and assigns of any such excluded persons.

44. The exact number of Class members is currently unknown and unavailable to Plaintiffs, but individual joinder in this case is impracticable. The Class likely consists of at least two thousand individuals. Members of the Class can easily be identified through Dealerships' and/or Manufacturers' records.

45. The claims of Plaintiffs as representative parties are typical of the claims of the Class, including, but not limited to the following:

a. As with all members of the Class, Plaintiffs were subject to and relied upon the misrepresentations, deceptive sales practices, advertising practices and policies of the Manufacturers, Dealerships and/or Owners in connection with the Set for Life Program;

b. As with all members of the Class, Plaintiffs were induced to purchase vehicles at the Hazleton Auto Mall by the benefits specified in the Set for Life Program;

c. As with all members of the Class, Plaintiffs have been harmed by similar or identical misconduct by the Manufacturers, Dealerships and/or Owners in that they were denied the benefits specified in the Set for Life Program;

d. Plaintiffs' injuries and/or damages are typical of other members of the Class.

46. There are questions of law and fact common to the Class, including, but not limited to the following:

a. Whether Plaintiffs and all members of the Class were offered the benefits specified in the Set for Life Program as an inducement upon which they relied, to their detriment, when they purchased and/or leased their vehicles from Dealerships;

b. Whether Plaintiffs and all members of the Class reasonably relied upon the actions, conduct and/or manifestations of the Manufacturers that the Dealerships possessed the actual or apparent authority to represent and guarantee that the Manufacturers would provide the benefits specified in the Set for Life Program in the event the Dealerships were unable to do so;

c. Whether Plaintiffs and all members of the Class have been refused the benefits specified in the Set for Life Program by the Manufacturers;

d. Whether Manufacturers', Dealerships' and Owners' advertising and sales practices in connection with the Set for Life Program were deceptive, thereby violating Pennsylvania's Unfair Trade Practices and Consumer Protection Law, 73 P.S. Sec. 201-1, et seq; and

e. Whether Manufacturers', Dealerships' and Owners' outrageous and/or unconscionable acts in connection with the Set for Life Program, as aforedescribed, warrants the award of punitive damages.

47. The interests of the Class will be fairly and adequately asserted and protected by the representative parties and their counsel. First, Plaintiffs have no conflict of interest in the maintenance of the Class Action. Second, Plaintiffs' attorneys are experienced in handling and litigating fraud and consumer protection claims. Third, sufficient financial resources are available to assure that the interest of the Class will be protected.

48. Adjudicating this controversy as a Class Action would be the fairest and most efficient means of resolution:

- a. Common questions of law and fact predominate over any issues involving only individual Class members.
- b. the size of the Class is not so great as to cause difficulties in the management of this action as a Class Action;
- c. prosecution of separate claims by individual members of the Class would most likely would create a risk of (i) inconsistent or varying adjudications with respect to individual members of the Class which would confront the party opposing the Class with incompatible standards of conduct; (ii) adjudications with respect to individual members of the Class would, as a practical matter, be dispositive of the other members not parties to the adjudications or substantially impair or impede their ability to protect their interests.
- d. to the undersigned's knowledge, there is currently no litigation which has been commenced by any members of the Class involving any of the same issues raised herein;
- e. this forum is appropriate for the litigation of the claims of the entire Class since Plaintiffs and the vast majority of the Class members reside in Luzerne County and since the causes of action and/or the transactions or occurrences giving rise to the causes of action raised herein occurred in Luzerne County;
- f. given the complexities of the issues raised and/or the expenses of litigation, the separate claims of individual Class members may be insufficient in amount to support separate actions; and
- g. it is likely that the amount which may be recovered by individual Class members may be so small in relation to the expense and effort of administering the action as not to justify a Class Action.

49. Plaintiffs and Plaintiffs' counsel are unaware of any difficulties that are likely to be encountered in the management of this action that would preclude its maintenance as a Class Action.

**COUNT I**

**(Unfair Trade Practices and Consumer Protection Law)  
73 P.S. §§ 201-1, *et seq.*  
(vs. All Defendants)**

50. Plaintiffs incorporate herein by reference Paragraphs 1 through 49 inclusive, of this Complaint as if the same were more fully set forth herein at length.

51. At all relevant times hereto, there was in effect the Pennsylvania Unfair Trade Practices and Consumer Protection Law, 73 P.S. Sec. 201-1, *et seq.* ("UTPCPL")

52. The vehicles purchased by Plaintiffs and the other Class members purchased vehicles from Defendants "primarily for personal, family or household purposes" within the meaning of Section 201-9.2 of the UTPCPL.

53. Section 201-2(4) of the UTPCPL defines "UNFAIR METHODS OF COMPETITION" and "UNFAIR OR DECEPTIVE ACTS OR PRACTICES" in pertinent part, as follows:

- (i) Passing off goods or services as those of another;
- (ii) Causing likelihood of confusion or of misunderstanding as to the source, sponsorship, approval or certification of goods or services;
- (iii) Causing likelihood of confusion or of misunderstanding as to affiliation, connection or association with, or certification by, another;
- (v) Representing that goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits or quantities that they do not have or that a person has a sponsorship, approval, status, affiliation or connection that he does not have.

- (vii) Representing that goods or services are of a particular standard, quality or grade, or that goods are of a particular style or model, if they are of another.
- (ix) Advertising goods or services with intent not to sell them as advertised;
- (x) Advertising goods or services with intent not to supply reasonably expectable public demand, unless the advertisement discloses a limitation of quantity;
- (xiv) Failing to comply with the terms or any written guarantee or warranty given to the buyer at, prior to or after a contract for the purchase of goods or services is made.
- (xxi) Engaging in any other fraudulent or deceptive conduct which creates a likelihood of confusion or of misunderstanding.

See, 73 P.S. Section 201-2(4)(i), (ii), (iii), (v), (vii), (ix), (x), (xiv) and (xxi).

54. Defendants have violated each of the UTPCPL's provisions referenced in Paragraph 51 by making the false and misleading representations described herein in connection with the Set for Life Program. As a result of Defendants' false and misleading representations, Plaintiffs and members of the Class have suffered "ascertainable losses" as defined by the UTPCPL in that they have been denied the benefits specified and promised in the Set for Life Program.

55. At all relevant times hereto, there was in effect Chapter 301 of the Pennsylvania Code, entitled "AUTOMOTIVE INDUSTRY TRADE PRACTICES" ("AITP"). The provisions of Chapter 301 of the AITP are issued under Section 3.1, 73 P.S. Section 201.3.1, of the UTPCPL.

56. Sections 301.1 and 301.2 of the AITP provide in relevant part, as follows:

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

**Advertisement**—An oral, written or graphic statement which offers for sale a particular motor vehicle or motor vehicle goods and services or which indicates the availability of a motor vehicle or motor vehicle goods and services, including a statement or representations made in a newspaper, periodical, pamphlet, circular, other publication or on radio or television; contained in a notice, handbill, sign, billboard, poster, bill, catalog or letter; or printed on or contained in a tag or label which is attached to merchandise.

\*\*\*\*\*

With respect to an advertisement or sales presentation offering or making available for sale a new or used motor vehicle or maintenance service or repair on a new or used motor vehicle, the following will be considered unfair methods of competition and unfair or deceptive acts or practices:

(3) The use of an advertisement or sales presentation as part of a plan or scheme not to sell the vehicles or services advertised, or both, or not to sell the vehicles or services advertised or presented at the advertised price. The following will be *prima facie* evidence of a plan or scheme not to sell the motor vehicles or services or not to sell the vehicles or services at the advertised or represented prices:

(i) Refusing to show, display, sell or otherwise provide the goods and services advertised in under the terms of the advertisement.

(vi) Failing to make delivery of the advertised goods and services within the promised delivery period unless the failure is caused by reasons beyond the control of the advertiser.

(4) The failure or refusal to sell a motor vehicle or other goods or services under terms or conditions, including price or warranty, which a motor vehicle manufacturer or dealer or repair shop has advertised or otherwise represented.

(5) The representation in an advertisement or sales presentation that a motor vehicle or motor vehicle goods or services are of a particular style, model, standard, quality or grade if they are of another

(6) The making of a representation or statement of a fact in an advertisement or sales presentation if the advertiser or salesperson knows or should know that the representation or statement is false and misleading or if the advertiser or salesperson does not have sufficient information upon which a reasonable belief in the truth of the representation could be based.

(18) The advertising by a motor vehicle manufacturer, dealer or repair shop of a sale or promotion in connection with the sale of a motor vehicle or motor vehicle maintenance or repair services unless the advertisement clearly and conspicuously discloses the expiration date, if any, and other conditions of the sale or promotion,

including but not limited to whether the supply of vehicles or other sale goods is limited and, if so, in what manner.

57. Defendants have violated each of the AITP's provisions referenced in Paragraphs 54-55 inclusive, by making the false and misleading representations described herein in connection with the Set for Life Program.

58. Plaintiff and Class members have suffered injuries caused by Defendants' false and misleading representations because they would not have purchased the vehicles if they knew the truth and/or would have purchased them on different terms.

## **COUNT II**

### **(Breach of Contract) vs. All Defendants**

59. Plaintiffs incorporate herein by reference Paragraphs 1 through 58 inclusive, of this Complaint as if the same were more fully set forth herein at length.

60. Defendants represented that they would provide Plaintiffs and Class members with the benefits specified in the Set for Life Program if they agreed to purchase vehicles from Defendant, Dealerships. Defendants further represented that the specified benefits in the Set for Life Program would be provided for as long as Plaintiffs and Class members owned their vehicles. Plaintiffs and Class members relied upon said representations as an inducement for their agreement to purchase vehicles from Defendant, Dealerships.

61. Defendant, Manufacturers further represented to Plaintiffs and Class members, through Manufacturers' conduct, actions and manifestations to the general public, that Dealerships' possessed the actual and/or apparent authority to obligate Manufacturers to continue to provide the benefits specified in the Set for Life Program in the event that Dealerships were unable to do so.



62. Defendants, Manufacturers, Dealerships and Owners were and remain contractually bound to provide the benefits specified in the Set for Life Program to Plaintiffs and Class members. Defendants, Manufacturers and Owners were and remain contractually bound to continue to provide these benefits now that Dealerships have ceased business operations.

63. Despite Plaintiffs' and Class members' repeated demands, Defendants, Manufacturers and Owners have wrongfully refused to provide the benefits specified in the Set for Life Program. As a result, Plaintiffs and Class members have been denied the benefit of their bargain.

64. Defendants' refusal, as described above, constitutes a breach of their contracts with Plaintiffs and Class members.

65. As a direct and proximate result of said breach, Plaintiffs and Class members have suffered and continue to suffer damages, for which they are legally entitled to recover.

**COUNT III**

**(Unjust Enrichment)  
vs. All Defendants**

66. Plaintiffs incorporate herein by reference Paragraphs 1 through 65 inclusive, of this Complaint as if the same were more fully set forth herein at length.

67. This Count is being plead in the alternative to the preceding Count II for breach of contract.

68. Defendants, through their wrongful and unlawful conduct as described above, have reaped enormous, ill-gotten profits from the sale of the Manufacturers' vehicles to Plaintiffs and Class members. Defendants' profits would have been reduced, but for their wrongful and unlawful refusal to provide Plaintiffs and Class members with the benefits specified in the Set for Life Program.

69. Accordingly, Defendants have been unjustly enriched by their wrongful and unlawful conduct. Defendants should not be allowed to retain the proceeds from the benefits conferred upon them by Plaintiffs and Class members.

70. In equity and good conscience, it would be unjust and inequitable to permit Defendants to enrich themselves at Plaintiffs' and Class members' expense.

71. Defendants must therefore disgorge their unjustly acquired profits and other monetary benefits resulting from their unlawful conduct and provide restitution to Plaintiffs and Class members.

#### **COUNT IV**

##### **(Fraud) vs. All Defendants**

72. Plaintiffs incorporate herein by reference Paragraphs 1 through 71 inclusive, of this Complaint as if the same were more fully set forth herein at length.

73. Defendants represented that they would provide Plaintiffs and Class members with the benefits specified in the Set for Life Program if they agreed to purchase vehicles from Defendant, Dealerships. Defendants further represented that the benefits in the Set for Life Program would be provided for as long as Plaintiffs and Class members owned their vehicles. Said representations were material and were relied upon by Plaintiffs and Class members as an inducement for their decision to purchase vehicles from Defendant, Dealerships.

74. Defendant, Manufacturers further represented to Plaintiffs and Class members, through Manufacturers' conduct, actions and manifestations to the general public, that Dealerships' possessed the actual and/or apparent authority to obligate Manufacturers to continue to provide the benefits specified in the Set for Life Program in the event that Dealerships were

unable to do so. Said representations were material and were relied upon by Plaintiffs and Class members as an inducement for their decision to purchase vehicles from Defendant, Dealerships.

75. Defendants knew, or should have known, that their representations were false when made. Plaintiffs and Class members relied upon Defendants' material, false representations to their great detriment when they decided to purchase vehicles from Defendant, Dealerships.

76. In addition to their affirmative misrepresentations as afore-described, Defendant, Manufacturers had access to information concerning the dire financial condition of Defendants, Dealerships and Owners which Defendant, Manufacturers concealed from Plaintiffs and the general public.

77. Due to their knowledge of the failing financial condition of the Dealerships and Owners, Defendant, Manufacturers knew that the promises made to Plaintiffs and to the general public in the Set for Life Program would not be honored.

78. Despite the foregoing, Defendant, Manufacturers allowed Defendants, Dealerships and Owners to continue to make the promises in the Set for Life Program after it was apparent to Defendant, Manufacturers that said promises would not be honored.

79. As a direct and proximate result of Defendants' material, fraudulent representations, Plaintiffs and Class members have suffered and will continue to suffer damages, for which they are legally entitled to recover.

80. Defendants' conduct, as described above, was wanton, willful, malicious and/or grossly reckless, thereby justifying the imposition of punitive damages against Defendants.

**RELIEF DEMANDED**

WHEREFORE, Plaintiffs, individually and all on behalf of all others similarly situated, seek judgment against the Defendants as follows:

- a. An order certifying the Class under Rule 1707 of the Pennsylvania Rules of Civil Procedure and naming Plaintiffs as representatives of the Class and Plaintiffs' attorneys as Class Counsel to represent the Class members;
- b. An award of three times the actual and monetary damages sustained by Plaintiffs and the Class members, pursuant to the provisions of the UTPCPL and as set forth in Count I of this Complaint;
- c. An award of actual and compensatory damages, pursuant to Count II of this Complaint;
- d. An award of restitution in the amount of actual and compensatory damages, pursuant to Count III of this Complaint;
- e. An award of punitive damages, pursuant to Count IV of this Complaint;
- f. An award of prejudgment and post-judgment interest on all amounts awarded;
- g. An award of attorneys' fees, pursuant to Counts I and III of this Complaint
- h. An award of expenses and costs of suit; and
- i. An award of such other relief as the Court may deem just and proper.

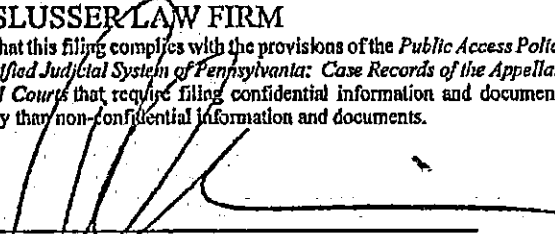
**The damages sought by Plaintiffs, individually and on behalf of all others similarly situated, exceed the jurisdictional arbitration limits to be proven at trial.**

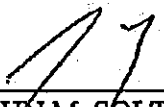
*Signatures submitted on following page.*

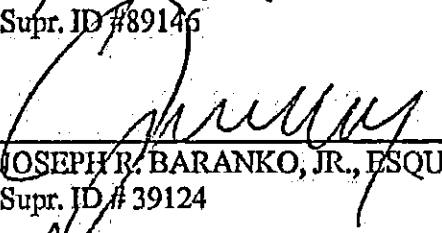
Respectfully submitted,

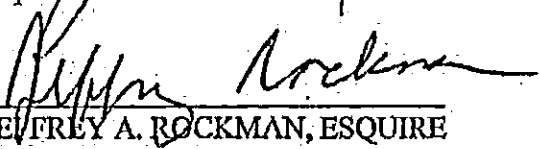
**THE SLUSSER LAW FIRM**


I certify that this filing complies with the provisions of the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts* that require filing confidential information and documents differently than non-confidential information and documents.

By:   
CHRISTOPHER B. SLUSSER, ESQUIRE  
Supr. ID #78609

By:   
JOHN M. SOLT, ESQUIRE  
Supr. ID #89146

By:   
JOSEPH R. BARANKO, JR., ESQUIRE  
Supr. ID # 39124

By:   
JEFFREY A. ROCKMAN, ESQUIRE  
Supr. ID # 47463

By:   
JOHN LUCAS, ESQUIRE  
Supr. ID # 53503  
1620 N. Church St., Ste. 1  
Hazleton, PA 18202  
Telephone: 570-453-0463

Attorneys for Plaintiffs

VERIFICATION

I, Jeffrey A. Rockman, Esquire, verify that I am the attorney for the Plaintiffs, David Hagenbaugh and Heather Hagenbaugh in this action and that the statements in the foregoing Complaint, are true and correct to the best of my knowledge, information and belief. I make this verification in lieu of the Plaintiffs because of the urgency of the filing of this Complaint, the unavailability of the Plaintiffs, the exigencies of the circumstances and/or because the Complaint does not include an averment of fact not appearing of record in the action or does not contain a denial of fact. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S.A. § 4904, relating to unsworn falsifications to authorities.

  
\_\_\_\_\_  
JEFFREY A. ROCKMAN, ESQUIRE

VERIFICATION

I, Sherri A. Homanko, Plaintiff, hereby verify that the statements made in the foregoing *COMPLAINT* are true and correct to the best of my knowledge and belief. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S.A. §4904, relating to unsworn falsification to authorities.

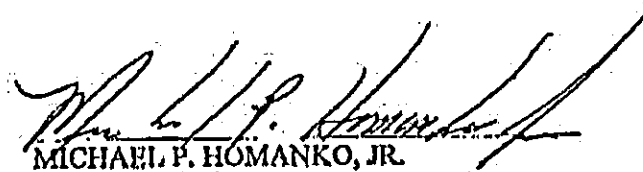
DATE: 8/31/20

Sherri A. Homanko  
SHERRI A. HOMANKO

**VERIFICATION**

I, Michael P. Homanko, Jr., Plaintiff, hereby verify that the statements made in the foregoing *COMPLAINT* are true and correct to the best of my knowledge and belief. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S.A. §4904, relating to unsworn falsification to authorities.

DATE: 08/28/2020

  
MICHAEL P. HOMANKO, JR.



VERIFICATION

We, Frederick L. Lubrecht and Marianne P. Lubrecht, his wife, Plaintiffs, hereby verify that the statements made in the foregoing *COMPLAINT* are true and correct to the best of our knowledge and belief. We understand that false statements herein are made subject to the penalties of 18 Pa. C.S.A. §4904, relating to unsworn falsification to authorities.

DATE: 9/01/2020

  
\_\_\_\_\_  
FREDERICK L. LUBRECHT

DATE: 9/01/2020

  
\_\_\_\_\_  
MARIANNE P. LUBRECHT

THE SLUSSER LAW FIRM

BY: CHRISTOPHER B. SLUSSER, ESQUIRE  
IDENTIFICATION NO. 78609  
  
JOHN M. SOLT, ESQUIRE  
IDENTIFICATION NO. 89146  
  
JOSEPH R. BARANKO, JR., ESQUIRE  
IDENTIFICATION NO. 39124  
  
JEFFREY A. ROCKMAN, ESQUIRE  
IDENTIFICATION NO. 47463  
  
JOHN LUCAS, ESQUIRE  
IDENTIFICATION NO. 53503

ATTORNEYS FOR PLAINTIFFS

1620 NORTH CHURCH STREET, SUITE 1  
HAZLETON, PA 18202  
(570) 453-0463

DAVID HAGENBAUGH and	:	IN THE COURT OF COMMON PLEAS
HEATHER HAGENBAUGH, his wife	:	
on behalf of themselves and all others	:	OF LUZERNE COUNTY
similarly situated;	:	
MICHAEL P. HOMANKO, JR.	:	
on behalf of himself and all others similarly	:	CLASS ACTION COMPLAINT
situated;	:	
SHERRI A. HOMANKO	:	
on behalf of herself and all others similarly	:	JURY TRIAL DEMANDED
situated;	:	
and	:	
FREDERICK L. LUBRECHT and	:	
MARIANNE P. LUBRECHT, his wife	:	CIVIL ACTION NO. 2020-07988
on behalf of themselves and all others	:	
similarly situated,	:	
	:	
Plaintiffs	:	
	:	
vs.	:	
	:	
NISSAN NORTH AMERICA d/b/a	:	
NISSAN USA;	:	
HYUNDAI MOTOR COMPANY;	:	
KIA MOTORS AMERICA;	:	
AIRPORT ROAD MOTORS N., LLC. d/b/a	:	
HAZLETON NISSAN;	:	
AIRPORT ROAD MOTORS HY., LLC.	:	
d/b/a HAZLETON HYUNDAI;	:	
AIRPORT ROAD MOTORS K, LLC d/b/a	:	
HAZLETON KIA;	:	
MICHAEL S. SAPORITO;	:	
ANTONIO D. PIERCE; AND	:	
JESSIE W. ARMSTEAD,	:	
	:	
Defendants	:	

**PRAECIPE TO ATTACH EXHIBITS TO  
PLAINTIFFS' COMPLAINT**

TO THE PROTHONOTARY OF LUZERNE COUNTY:


Please attach Exhibit A, Exhibit B and Exhibit C to the Complaint that was electronically filed on September 1, 2020, in the above-referenced matter.

Respectfully submitted,

**THE SLUSSER LAW FIRM**

I certify that this filing complies with the provisions of the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts* that require filing confidential information and documents differently than non-confidential information and documents.

Date: 10/05/2020

By:   
JEFFREY A. ROCKMAN, ESQUIRE  
Supr. ID # 47463  
1620 N. Church St., Ste. 1  
Hazleton, PA 18202  
Telephone: 570-453-0463

Attorneys for Plaintiffs

# **EXHIBIT “A”**



# LIFETIME

## WARRANTY\*

### LIFETIME POWERTRAIN WARRANTY

ENGINE • TRANSMISSION

#### WARRANTY\*

Lifetime Powertrain Warranty\* covers the engine and transmission on 98 eligible vehicles purchased at Hazleton Automall. Coverage begins immediately and runs as long as you own the vehicle and service the vehicle at the Hazleton Automall dealership you purchased the vehicle from.

#### ENGINE:

Cylinder block and cylinder head and all internally lubricated parts (pump, chain, sump, bearings, timing cover, crank and exhaust manifolds, valve covers, AS per the engine model).

#### TRANSMISSION:

Transmission case and all internally lubricated parts, torque converter, flywheel, axle, vacuum modulator and transmission mounts.

\*See Dealer for details. See for Lifetime\* correct all non-eligible.



# LIFETIME

## OIL & FILTER CHANGES\*

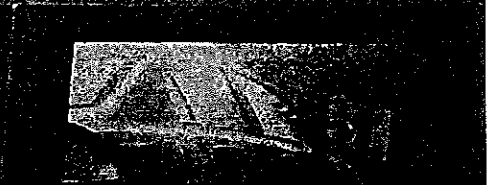
### IN YOUR NEW OR CERTIFIED VEHICLE

FOR AS LONG AS YOU OWN IT!

We realize that your new vehicle represents a major financial investment. The best way to protect your investment is to further invest a little of your time taking care of it. Our goal is to make this as easy as possible for you! Lifetime Oil Changes for Life, when you purchase a new or certified vehicle, is only one of the benefits that enable you *Get For Life*™ at Hazleton Automall.

\*This program covers replacing the oil and filter in your new or certified pre-owned vehicle as per the factory recommended intervals in your owner's manual for as long as you own the vehicle. Services are only covered when performed at the Hazleton Automall dealership that sold the vehicle. We do not reimburse for services performed at any other facility. Funds that may not be the most expensive service your vehicle will ever need, it is one of the most important.

\*See Dealer for details. See for Lifetime\* correct all non-eligible.



# LIFETIME

## 1/2 CAR WASHES\*

### AT OUR ON-SITE CAR WASH FOR

AS LONG AS YOU OWN YOUR VEHICLE!

Hazleton Automall dealerships offer unlimited car washes at our on-site car wash for as long as you own your car. The estimated 5 year value of unlimited car washes is \$2,700. Please be aware that the car wash will be closed during inclement weather at our location.

\*See Dealer for details. See for Lifetime\* correct all non-eligible.



# LIFETIME

## LOANER VEHICLES\*

### IF YOUR VEHICLE NEEDS TO

STAY WITH US OVERNIGHT

Complimentary loaner vehicles are available\* by appointment if your vehicle needs to stay with us overnight!

\*See Dealer for details. See for Lifetime\* correct all non-eligible.

# LIFETIME

PA STATE INSPECTION\*  
THAT'S RIGHT! WE'LL DO YOUR  
PA STATE INSPECTION

Take care of your mandatory PA State Inspection  
before the year expires. Our staff will take care of you  
and will take care of your inspection at no charge.

# LIFETIME

PA SUNDAY EXPRESS SERVICE\*  
HAZLETON AUTOMALL OFFERS  
EXPRESS SERVICE 7 DAYS A WEEK

It's the same expert service you trust, only faster  
and more convenient. No Appointment Necessary

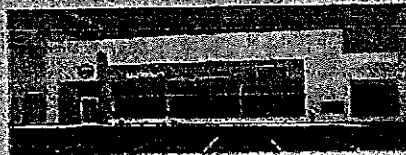
\*See dealer for details. PA State Inspection only.



**HAZLETON KIA**  
710 Airport Blvd  
Hazleton, PA 17802  
www.hazletonkia.com  
Sales: 570-825-3300



**HAZLETON HYUNDAI**  
710 Airport Blvd  
Hazleton, PA 17802  
www.hazletonhyundai.com  
Sales: 570-825-3300



**HAZLETON NISSAN**  
143 Airport Blvd  
Hazleton, PA 17802  
www.hazletonnissan.com  
Sales: 570-825-3300



**HAZLETON HONDA**  
651 Airport Blvd  
Hazleton, PA 17802  
www.hazletonhonda.com  
Sales: 570-825-3300

## HAZLETON Automall

*Excellence in Customer Service*

SET  
FOR LIFE

EXCLUSIVELY  
AT HAZLETON  
AUTOMALL

# LIFETIME

- ✓ WARRANTY
- ✓ OIL & FILTER CHANGES
- ✓ CAR WASHES
- ✓ LOANER VEHICLES
- ✓ STATE INSPECTION\*
- ✓ SUNDAY EXPRESS SERVICE\*





**LAW 553-PA-ARB-e 12/14**

**RETAIL INSTALLMENT SALE CONTRACT - SIMPLE FINANCE CHARGE (WITH ARBITRATION PROVISION)**

Buyer Name and Address: [Redacted]  
 Dealer Name and Address: [Redacted]  
 Seller Name and Address: [Redacted]

You, the Buyer, and Seller, if any, may buy the vehicle listed for cash or on credit by signing this contract. You agree to pay the Seller's Credit Agreement, subject to the terms of the Credit Agreement and Finance Charge in this contract according to the payment schedule below. The vehicle you desire is a 2017 [Redacted]. The Seller's Listing Description below is part of this contract.

Year	Make and Model	MSRP (MSRP)	Vehicle Identification Number	Vehicle Use For Which Purchased
2017	[Redacted]	[Redacted]	[Redacted]	Personal Use

**FEDERAL TRUTH IN LENDING DISCLOSURES**

ANNUAL PERCENTAGE RATE	FINANCE CHARGE	Amount Financed	Total of Payments	Total Sales Price
0.00%	0.00	\$ 28,688.50	\$ 28,688.50	\$ 24,413.50

**NOTICE: ANY HOLDER OF THIS CONSUMER CREDIT CONTRACT IS SUBJECT TO ALL CLAIMS AND DEFENSES WHICH THE DEBTOR COULD ASSERT AGAINST THE SELLER OF GOODS OR SERVICES OBTAINED PURSUANT HERETO OR WITH THE PROCEEDS HEREOF. RECOVERY HEREUNDER BY THE DEBTOR SHALL NOT EXCEED AMOUNTS PAID BY THE DEBTOR HEREUNDER.**

**Your Payment Schedule Will Be:**

Number of Payments	Amount of Payments	When Payments Due
71	\$ 227.61	Monthly beginning 6/18/2021
One Final Payment Of	\$ 328.19	On 6/18/2022

**COPY**

**Agreement to Arbitrate:** By signing below, you agree that, pursuant to the Arbitration Provision on page 6 of this contract, you or we may elect to resolve any dispute by neutral, binding arbitration and not by a court action. See the Arbitration Provision for additional information concerning the agreement to arbitrate.  
 Buyer's Signature: [Redacted]  
 Dealer's Signature: [Redacted]

**Late Charge:** If payment is not paid in full within 30 days after it is due, you will pay a late charge. If the vehicle is a heavy commercial motor vehicle, the charge will be 2% of the part of the payment that is late. Otherwise, the charge will be 2% of the part of the payment that is late.  
**Prepayment:** If you pay off all your debt early, you will not have to pay a penalty.  
**Security Interest:** You are giving a security interest in your motor vehicle.  
**Additional Information:** See this contract for more information including information about nonpayment, default, any required equipment not being the scheduled date and exactly listed.

**Electronic Contracting and Signature Acknowledgment:** You agree that (i) this contract is an electronic contract executed by you using your electronic signature, (ii) your electronic signature signifies your intent to enter into this contract and that this contract be legally valid and enforceable in accordance with its terms to the same extent as if you had executed this contract using your written signature and (iii) the authoritative copy of this contract ("Authoritative Copy") shall be that electronic copy that resides in a document management system designated by us for the storage of authoritative copies of electronic records, which shall be deemed held by us in the ordinary course of business. Notwithstanding the foregoing, the Authoritative Copy is converted by printing a paper copy which is marked by us as the original (the "Paper Contract"), then you acknowledge and agree that (1) your signing of this contract with your electronic signature also constitutes issuance and delivery of such Paper Contract, (2) your electronic signature associated with this contract, when affixed to the Paper Contract, constitutes your legally valid and binding signature on the Paper Contract and (3) subsequent to such conversion, your obligations will be evidenced by the Paper Contract alone.



**ITEMIZATION OF AMOUNT FINANCED (Seller may keep part of the amounts paid to others.)**

OPTION:  You pay no finance charge if the Amount Financed Item 5 is paid in full on or before N/A Year N/A  
 SELLER'S INITIALS N/A

OPTIONAL GAP CONTRACT A gap contract (debit cancellation contract) is not required to obtain title and will not be provided unless you sign below and agree to pay the extra charge if you choose to buy a gap contract. This charge is shown in Item 40 of the Itemization of Amount Financed. See your gap contract for details on the terms and conditions it provides. It is a part of this contract.  
 Term N/A N/A N/A Name of Gap Contract \_\_\_\_\_  
 I want to buy a gap contract \_\_\_\_\_  
 Buyer Signs X \_\_\_\_\_

Cash Price		
Vehicle		\$ 22,700.00
Accessories and Installation		\$ N/A
Government Taxes		\$ 1,318.50
Vehicle Delivery		\$ N/A
to DEALER	for DOG FEE	\$ 138.00
to DEALER	for INSPECT FEE	\$ 49.00
to N/A	for N/A	\$ N/A
to N/A	for N/A	\$ N/A
to N/A	for N/A	\$ N/A
to N/A	for N/A	\$ N/A
to N/A	for N/A	\$ N/A
to N/A	for N/A	\$ N/A
to N/A	for N/A	\$ N/A
		\$ 24,205.50 (1)

2. Total Downpayment =

Trade-In 2003 <u>FONTIAC</u> <u>GRAND AM</u>		
(Year) (Make)	(Year) (Model)	
Trade-In 162NE52E22C218307		
Gross Trade-In Allowance		\$ 725.00
Less Pay Off Made By Seller		\$ N/A
Equals Net Trade-In		\$ 725.00
Cash		\$ N/A
Other <u>N/A</u>		\$ N/A
(If total downpayment is negative, enter "0" and sign in below)		\$ 725.00 (2)

3. Unpaid Balance of Cash Price (1 minus 2) \$ 23,480.50 (3)

4. Other Charges including Amounts Paid to Others on Your Behalf

A. Cost of Optional Credit Insurance Paid to Insurance Company or Companies

Life	Term <u>N/A</u>	\$ <u>N/A</u>
Disability	Term <u>N/A</u>	\$ <u>N/A</u>

B. Other Optional Insurance Paid to Insurance Company or Companies

(Describe) <u>N/A</u>	Term <u>N/A</u>	\$ <u>N/A</u>
(Describe) <u>N/A</u>	Term <u>N/A</u>	\$ <u>N/A</u>

C. Official Fees Paid to Government Agencies

to ST. OF PA	for PA TIRE TAX	\$ 5.00
to ST. OF PA	for ONLINE REG	\$ 14.00
to N/A	for N/A	\$ N/A
		\$ N/A
		\$ N/A

D. Optional Gap Contract \$ N/A

E. Government Taxes Not Included in Cash Price \$ N/A

F. Government License and/or Registration Fees

STATE OF PA \$ 9.00

G. Government Certificate of Title Fees (includes \$ 24.00 security interest recording fee) \$ 75.00

H. Other Charges (Seller must identify who is paid and describe purpose)

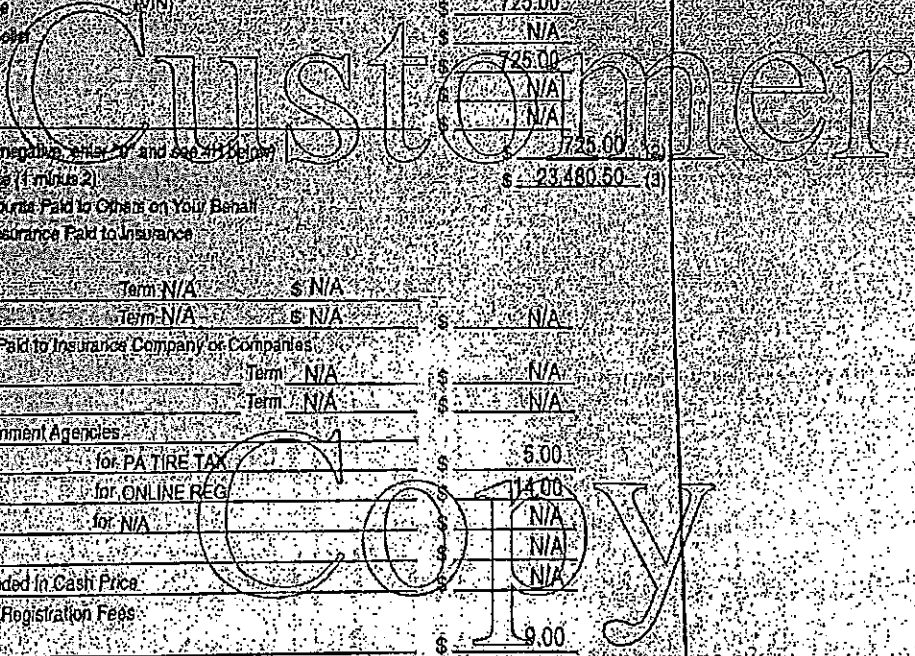
to N/A	for Prior Credit or Lease Balance	\$ N/A
to N/A	for EXT. WARRANTY/SERVICE	\$ N/A
to N/A	for MAINTENANCE	\$ N/A
to DEALER	for NOTARY	\$ 5.00
to N/A	for N/A	\$ N/A
to N/A	for N/A	\$ N/A
to N/A	for N/A	\$ N/A
to N/A	for N/A	\$ N/A
to N/A	for N/A	\$ N/A
to N/A	for N/A	\$ N/A
to N/A	for N/A	\$ N/A

Total Other Charges and Amounts Paid to Others on Your Behalf: \$ 108.00 (4)

Amount Financed (3 + 4) \$ 23,588.50 (5)

Finance Charge \$ 0.00 (6)

Total of Payments-Time Balance (5 + 6) \$ 23,588.50 (7)



**If you do not meet your contract obligations, you may lose the vehicle.**



**OTHER IMPORTANT AGREEMENTS**

**FINANCE CHARGE AND PAYMENTS**

- a. **How we will figure Finance Charge.** We will figure the Finance Charge on a daily basis at the Annual Percentage Rate on the unpaid part of the Amount Financed.
- b. **How we will apply payments.** We may apply each payment to the earned and unpaid part of the Finance Charge, to the unpaid part of the Amount Financed and to other amounts you owe under this contract in any order we choose.
- c. **How late payments or early payments change what you must pay.** We based the Finance Charge, Total of Payments, and Total Sale Price shown on page 1 on the assumption that you will make every payment on the day it is due. Your Finance Charge, Total of Payments, and Total Sale Price will be more if you pay late and less if you pay early. Changes may take the form of a larger or smaller final payment or, at our option, more or fewer payments of the same amount as your scheduled payment with a smaller final payment. We will send you a notice telling you about these changes before the final scheduled payment is due.
- d. **You may prepay.** You may prepay all or part of the unpaid part of the Amount Financed at any time without penalty. If you do so, you must pay the earned and unpaid part of the Finance Charge and all other amounts due up to the date of your payment.

- d. **Insurance you must have on the vehicle.** You agree to have physical damage insurance covering loss of or damage to the vehicle for the term of this contract. The insurance must cover our entire interest in the vehicle as well as yours. If you do not have this insurance, we may, if we choose, buy physical damage insurance. If we decide to buy physical damage insurance, we will buy insurance that covers your interest and our interest in the vehicle. We will tell you the charge you must pay. The charge will be the premium of the insurance and a finance charge computed at the Annual Percentage Rate shown on page 1 of this contract or, at our option, the highest rate the law permits. If the vehicle is lost or damaged, you agree that we may use any insurance settlement to reduce what you owe or repair the vehicle.
- e. **What happens to returned insurance, maintenance, service, or other contract charges.** If we get a refund of insurance, maintenance, service, or other contract charges, you agree that we may subtract the refund from what you owe.

**2. YOUR OTHER PROMISES TO US**

- a. **If the vehicle is damaged, destroyed, or missing.** You agree to pay us all you owe under this contract even if the vehicle is damaged, destroyed, or missing.
- Using the vehicle.** You agree not to remove the vehicle from the U.S. or Canada, or to sell, rent, lease, or transfer any interest in the vehicle or this contract without our written permission. You agree not to expose the vehicle to misuse, seizure, confiscation, or involuntary transfer. If we pay any repair bills, storage bills, taxes, fines, or charges on the vehicle, to the extent permitted by law you agree to repay the amount when we ask for it.

**c. Security Interest.**

- You give us a security interest in:
  - The vehicle and all parts or goods put on it.
  - All money or goods received (proceeds) for the vehicle.
  - All insurance, maintenance, service, or other contracts we finance for you; and
  - All proceeds from insurance, maintenance, service, or other contracts we finance for you. This includes any refunds of premiums or charges from the contracts.

This secures payment of all you owe on this contract. It also secures your other agreements in this contract. You will make sure the title shows our security interest (lien) in the vehicle. You will not allow any other security interest to be placed on the title without our written permission.

**3. IF YOU PAY LATE OR BREAK YOUR OTHER PROMISES**

- a. **You may owe late charges.** You will pay a late charge on each late payment as shown on page 1. The term "heavy commercial motor vehicle" means any new or used motor vehicle, excluding a recreational vehicle, which is (i) a truck or truck tractor having a manufacturer's gross vehicular weight of thirteen thousand (13,000) pounds or more, or (ii) a semi-trailer or trailer designed for use in combination with a truck or truck tractor. Acceptance of a late payment or late charge does not excuse your late payment or mean that you may keep making late payments.

If you pay late, we may also take the steps described below.

- b. **You may have to pay all you owe at once.** If you break your promises (default), we may demand that you pay all you owe on this contract at once. Default means:
  - You do not pay any payment on time;
  - You give false or misleading information on a credit application;
  - You start a proceeding in bankruptcy or one is started against you or your property; or
  - You break any agreements in this contract.

The amount you will owe will be the unpaid part of the Amount Financed plus the earned and unpaid part of the Finance Charge, any late charges, and any amounts due because you defaulted.

- c. **You may have to pay collection costs.** If you default and we have to go to court to recover the vehicle, you will pay the reasonable attorney's fees and court costs as the law permits. You will also pay any attorney's fees and court costs a court awards us.

- d. **We may take the vehicle from you.** If you default, we may take (repossess) the vehicle from you if we do so peacefully and the law allows it. If your vehicle has an electronic tracking device, you agree that we may use the device to find the vehicle. If we take the vehicle, any accessories, equipment, and replacement parts will stay with the vehicle. If any personal items are in the vehicle, we may store them for you at your expense. If you do not ask for these items back, we may dispose of them as the law allows.



- e. How you can get the vehicle back if we take it.** If we repossess the vehicle, you may get it back by paying the unpaid part of the Amount Financed plus the earned and unpaid part of the Finance Charge, any late charges, and any other amounts lawfully due under the contract (redeem). Your right to redeem ends when we sell the vehicle. We will tell you how much to pay to redeem. If we repossess the vehicle, we may, at our option, allow you to get the vehicle back before we sell it by paying all past due payments, late charges, and any other amounts due because you defaulted (reinstate). We will tell you if you may reinstate and how much to pay if you may. If you are in default for more than 15 days when we take the vehicle, the amount you must pay to redeem or reinstate will also include the expenses of taking the vehicle, holding it, and preparing it for sale.
- f. We will sell the vehicle if you do not get it back.** If you do not redeem, or, at our option, reinstate, we will sell the vehicle. We will send you a written notice of sale before selling the vehicle. We will apply the money from the sale, less allowed expenses, to the amount you owe. Allowed expenses are expenses we pay as a direct result of taking the vehicle, holding it, preparing it for sale, and selling it, as the law allows. Reasonable attorney fees and court costs the law permits are also allowed expenses. If any money is left (surplus), we will pay it to you unless the law requires us to pay it to someone else. If money from the sale is not enough to pay the amount you owe, you may have to pay the rest to us. If you do not pay this amount when we ask, we may charge you interest at a rate not exceeding the highest lawful rate until you pay.
- g. What we may do about optional insurance, maintenance, service, or other contracts.** This contract may contain charges for optional insurance, maintenance, service, or other contracts. If we demand that you pay all you owe at once or we repossess the vehicle, you agree that we may claim benefits under these contracts and cancel them to obtain refunds of unearned charges to reduce what you owe or repair the vehicle. If the vehicle is a total loss because it is confiscated, damaged, or stolen, we may claim benefits under these contracts and cancel them to obtain refunds of unearned charges to reduce what you owe.
- h. Summary Notice Regarding Prepayment, Rebate of Finance Charge and Reinstatement.** You may prepay all or part of the amount you owe under this contract without penalty. If you do so, you only have to pay the earned and unpaid part of the finance charge and all other amounts due up to the date of your payment. Unearned finance charges will not be rebated under this contract because there will never be any unearned finance charges to rebate. If you default and we repossess the vehicle, we may, at our option, allow you to get the vehicle back before we sell it by paying all past due payments, late charges, and expenses (reinstate).

#### 4. WARRANTIES SELLER DISCLAIMS

The following paragraph does not affect any warranties covering the vehicle that the vehicle manufacturer may provide. The following paragraph also does not apply at all if you bought the vehicle primarily for personal, family, or household use.

Unless the Seller makes a written warranty, or enters into a service contract within 90 days from the date of this contract, the Seller makes no warranties, express or implied, on the vehicle, and there will be no implied warranties of merchantability or of fitness for a particular purpose.

- 5. Used Car Buyers Guide.** The information you see on the window form for this vehicle is part of this contract. Information on the window form overrides any contrary provisions in the contract of sale. Spanish Translation: Guía para compradores de vehículos usados. La información que ve en el formulario de la ventanilla para este vehículo forma parte del presente contrato. La información del formulario de la ventanilla de la sin efecto toda disposición en contrario contenida en el contrato de venta.

#### 6. SERVICING AND COLLECTION CONTACTS

You agree that we may try to contact you in writing, by e-mail, or using prerecorded/artificial voice messages, text messages, and automatic telephone dialing systems, as the law allows. You also agree that we may try to contact you in these and other ways at any address or telephone number you provide us, even if the telephone number is a cell phone number or the contact results in a charge to you.

#### 7. RIGHT TO RECEIVE STATEMENT OF ACCOUNT

Upon your request, we will provide you a statement of account that shows information about your payment history including any charges and credits to your account. It will also show amounts that are due at the time of your request and information regarding future payments. We will provide you one statement of account at no cost. We may charge you our reasonable costs for any additional statements requested, as the law allows. Your right to receive a statement of account ends one year after termination of the contract.

#### 8. ADDITIONAL RIGHTS

If you encounter a problem, you may have additional rights under the Unfair Trade Practices and Consumer Protection Law, which is enforced by the Pennsylvania Office of Attorney General, Bureau of Consumer Protection.

#### 9. APPLICABLE LAW

Federal law and the law of the state of the Seller's address shown on page 1 of this contract apply to this contract.



Insurance: You may buy the physical damage insurance this contract requires from anyone you choose who is acceptable to us. You are not required to buy any other insurance to obtain credit.

If any insurance is checked in this box, policies or certificates from the named insurance companies will describe the terms and conditions.

Check the insurance you want and plan to list below. **Optional Credit Insurance**

Credit Life  Buyer  Co-Buyer  Both  
 Credit Disability  Buyer  Co-Buyer  Both

Premium:  
Credit Life \$ N/A  
Credit Disability \$ N/A

Insurance Company Name:  
N/A

Home Office Address:  
N/A

Credit life insurance and credit disability insurance are not required to obtain credit. Your decision to buy or not buy credit life insurance and credit disability insurance will not be a factor in the credit approval process. It will not be provided unless you sign and agree to pay the extra cost. If you choose this insurance, the cost is shown in Item 4A of the Finalization of Amount Financed.

Credit life insurance pays the unpaid part of the Amount Financed if you die. This insurance pays only the amount you would owe if you paid all your payments on time. Credit disability insurance pays the scheduled payments due under this contract while you are disabled. This insurance does not cover any increase in your payment or in the number of payments. The policies or certificates issued by the named insurance companies may further limit the coverage that credit life insurance or credit disability insurance provides. See the policies or certificates for coverage limits or other terms and conditions.

Other Optional Insurance  
 N/A Type of Insurance: N/A Term: N/A

Premium \$: N/A Description of Coverage: N/A

Insurance Company Name: N/A

Home Office Address: N/A

N/A Type of Insurance: N/A Term: N/A

Premium \$: N/A Description of Coverage: N/A

Insurance Company Name: N/A

Home Office Address: N/A

Other optional insurance is not required to obtain credit. Your decision to buy or not buy other optional insurance will not be a factor in the credit approval process. It will not be provided unless you sign and agree to pay the extra cost.

I want the insurance checked in this box.

Buyer Signature: \_\_\_\_\_ Date: \_\_\_\_\_  
Co-Buyer Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**THIS INSURANCE DOES NOT INCLUDE INSURANCE ON YOUR LIABILITY FOR BODILY INJURY OR PROPERTY DAMAGE CAUSED TO OTHERS.**

**NO COOLING OFF PERIOD**  
State law does not provide for a "cooling off" or cancellation period for this sale. After you sign this contract, you may only cancel it if the seller agrees or for legal cause. You cannot cancel this contract simply because you change your mind. This notice does not apply to home solicitation sales.

**HOW THIS CONTRACT CAN BE CHANGED.** This contract contains the entire agreement between you and us relating to this contract. Any change to this contract must be in writing, and we must sign it. No oral changes are binding. Buyer Signs  Co-Buyer Signs   
If any part of this contract is not valid, all other parts stay valid. We may delay or refrain from enforcing any of our rights under this contract without losing them. For example, we may extend the time for making some payments without extending the time for making others.  
You authorize us to obtain information about you, or the vehicle you are buying, from the state motor vehicle department or other motor vehicle registration authorities. See the rest of this contract for other important agreements.

**The Annual Percentage Rate may be negotiable with the Seller. The Seller may assign this contract and retain its right to receive a part of the Finance Charge.**

**NOTICE TO BUYER: DO NOT SIGN THIS CONTRACT IN BLANK. YOU ARE ENTITLED TO AN EXACT COPY OF THE CONTRACT YOU SIGN. KEEP IT TO PROTECT YOUR LEGAL RIGHTS. ANY HOLDER OF THIS CONSUMER CREDIT CONTRACT IS SUBJECT TO ALL CLAIMS AND DEFENSES WHICH THE BUYER COULD ASSERT AGAINST THE SELLER OF GOODS OR SERVICES OBTAINED PURSUANT HERETO OR WITH THE PROCEEDS HEREOF. RECOVERY HEREUNDER BY THE BUYER SHALL NOT EXCEED AMOUNTS PAID BY THE BUYER HEREUNDER.**  
Buyer Signs  Date 05/04/2017 Co-Buyer Signs  Date 05/04/2017

You agree to the terms of this contract. You confirm that before you signed this contract, we gave it to you, and you were free to take it and review it. You acknowledge that you have read all pages of this contract, including the arbitration provision on page 6, before signing below. You confirm that you received a completely filled in copy when you signed it.  
Buyer Signs  Date 05/04/2017 Co-Buyer Signs  Date 05/04/2017

**Co-Buyers and Other Owners** - A co-buyer is a person who is responsible for paying the entire debt. An other owner is a person whose name is on the title to the vehicle but does not have to pay the debt. The other owner agrees to the security interest in the vehicle given to us in this contract.

Other owner signs here  Address: N/A  
Seller Signs HAZLETON/NISSAN Date 05/04/2017 By  Title F&I manager



**ARBITRATION PROVISION**

**PLEASE REVIEW - IMPORTANT - AFFECTS YOUR LEGAL RIGHTS**

- 1. EITHER YOU OR WE MAY CHOOSE TO HAVE ANY DISPUTE BETWEEN US DECIDED BY ARBITRATION AND NOT IN COURT OR BY JURY TRIAL.**
- 2. IF A DISPUTE IS ARBITRATED YOU WILL GIVE UP YOUR RIGHT TO PARTICIPATE AS A CLASS REPRESENTATIVE OR CLASS MEMBER ON ANY CLASS CLAIM YOU MAY HAVE AGAINST US INCLUDING ANY RIGHT TO CLASS ARBITRATION OR ANY CONSOLIDATION OF INDIVIDUAL ARBITRATIONS.**
- 3. DISCOVERY AND RIGHTS TO APPEAL IN ARBITRATION ARE GENERALLY MORE LIMITED THAN IN A LAWSUIT, AND OTHER RIGHTS THAT YOU AND WE WOULD HAVE IN COURT MAY NOT BE AVAILABLE IN ARBITRATION.**

Any claim or dispute, whether in contract, tort, statute or otherwise (including the interpretation and scope of this Arbitration Provision and the arbitrability of the claim or dispute), between you and us or our employees, agents, successors or assigns, which arises out of or relates to your credit application, purchase or condition of this vehicle, this contract or any resulting transaction or relationship (including any such relationship with third parties who do not sign this contract) shall, at your or our election, be resolved by neutral, binding arbitration and not by a court action. If federal law provides that a claim or dispute is not subject to binding arbitration, this Arbitration Provision shall not apply to such claim or dispute. Any claim or dispute is to be arbitrated by a single arbitrator on an individual basis and not as a class action. You expressly waive any right you may have to arbitrate a class action. You may choose the American Arbitration Association, 1633 Broadway, 10th Floor, New York, New York 10019 ([www.adr.org](http://www.adr.org)), or any other organization to conduct the arbitration subject to our approval. You may get a copy of the rules of an arbitration organization by contacting the organization or visiting its website. Arbitrators shall be attorneys or retired judges and shall be selected pursuant to the applicable rules. The arbitrator shall apply governing substantive law and the applicable statute of limitations. The arbitration hearing shall be conducted in the federal district in which you reside unless the Seller-Creditor is a party to the claim or dispute, in which case the hearing will be held in the federal district where this contract was executed. We will pay your filing, administration, service or case management fee and your arbitrator or hearing fee all up to a maximum of \$5000 unless the law or the rules of the chosen arbitration organization require us to pay more. The amount we pay may be reimbursed in whole or in part by decision of the arbitrator. If the arbitrator finds that any of your claims is frivolous under applicable law, each party shall be responsible for its own attorney, expert and other fees, unless awarded by the arbitrator under applicable law. If the chosen arbitration organization's rules conflict with this Arbitration Provision, then the provisions of this Arbitration Provision shall control. Any arbitration under this Arbitration Provision shall be governed by the Federal Arbitration Act (9 U.S.C. § 1 et seq.) and not by any state law concerning arbitration. Any award by the arbitrator shall be in writing and will be final and binding on all parties, subject to any limited right to appeal under the Federal Arbitration Act.

You and we retain the right to seek remedies in small claims court for disputes or claims within that court's jurisdiction, unless such action is transferred, removed or appealed to a different court. Neither you nor we waive the right to arbitrate by using self-help remedies, such as repossession, or by filing an action to recover the vehicle, to recover a deficiency balance, or for individual injunctive relief. Any court having jurisdiction may enter judgment on the arbitrator's award. This Arbitration Provision shall survive any termination, payoff or transfer of this contract. If any part of this Arbitration Provision, other than waivers of class action rights, is deemed or found to be unenforceable for any reason, the remainder shall remain enforceable. If a waiver of class action rights is deemed or found to be unenforceable for any reason in a case in which class action allegations have been made, the remainder of this Arbitration Provision shall be unenforceable.

Copy

This is an Unenforceable Copy





HAZLETON NISSAN  
1111 W. HAZLETON BLVD  
HAZLETON, PA 17033

651 ALPERT RD  
LITTLETON, PA 15081  
Phone: 570-455-4900  
Fax: 570-455-4946

Expanding Your Capabilities  
800

DAVID J. HAZLETON  
HAZLETON NISSAN

DEALER: 2015  
STAFF: 2015  
CUSTOMER: 7824

SEC NO: 1505002017 Date: 05/04/2017

PURCHASER'S NAME: DAVID J. HAZLETON  
PURCHASER'S ADDRESS: 201 PLYMOUTH AVE  
CITY, STATE & ZIP: WILKES-BARRE, PA 18702

REGISTRATION NO: 121011915  
LICENSING: 20 150 260  
PHONE: 570/700-3011  
PHONE: 570/826-7222

PURCHASER'S NAME: DAVID J. HAZLETON		VEHICLE PRICE	22700.00
PURCHASER'S ADDRESS: 201 PLYMOUTH AVE			
CITY, STATE & ZIP: WILKES-BARRE, PA 18702			
VEHICLE DESCRIPTION: NISSAN SENTRA			
YEAR: 2015			
MAKE: NISSAN			
MODEL: SENTRA			
VIN: 4N3B11D7151012417			
MILEAGE: 192			
TRADE-IN DESCRIPTION AND ALLOWANCE			
2003 PONTIAC GRAND PRIX			
MILEAGE: 102183			
TRADE-IN VALUE: \$ 725.00			
LESS TRADE-IN ALLOWANCE: \$ 725.00			
NET TRADE-IN ALLOWANCE: \$			
ADDRESS: 201 PLYMOUTH AVE			
CITY: WILKES-BARRE, PA			
STATE: PA			
ZIP: 18702			
I CERTIFY THE ODOMETER READING ON MY ABOVE TRADE-IN VEHICLE IS 102183 MILES. THE ODOMETER HAS NOT EXCEEDED 100,000 MILES.			
IF A LEASE, THE FOLLOWING APPLY:			
MONTHLY PAYMENT AMOUNT \$: N/A			
TERM: N/A			
MILEAGE PER YEAR: N/A			
TOTAL DUE AT DELIVERY \$: N/A			
TOTAL TAXABLE AMOUNT: 21975.00			
SALES TAX: 1318.50			
DOCUMENTARY FEE: 138.00			
REGISTRATION FEE: 9.00			
TITLE FEE: 51.00			
NOTARY FEE: 5.00			
ENCUMBRANCE FEE: 24.00			
LICENSE FEE: 49.00			
ON-LINE REGISTRATION FEE: 14.00			
IPTA EXCISE/TIRE TAX: 5.00			
PAYOFF ON TRADE: 0.00			
TOTAL: 23588.50			
DEPOSIT: 0.00			
CASH DUE ON DELIVERY: 0.00			
BALANCE TO FINANCE: 23588.50			
I understand these payments and terms are conditional on approval from primary lender only.			
SIGNATURE: [Signature]			

THERE ARE NO WARRANTIES EXPRESSED OR IMPLIED INCLUDING THE IMPLIED WARRANTY OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE MADE BY THE SELLER HEREIN, ON THE MANUFACTURER, ON THE VEHICLE OR CHASSIS DESCRIBED ON THE FACE HEREOF EXCEPT IN THE CASE OF A NEW VEHICLE OR CHASSIS THE IMPLIED WARRANTY OF MERCHANTABILITY DELIVERED TO PURCHASER WITH SUCH VEHICLE OR CHASSIS AND HEREBY MADE A PART HEREOF. EXCEPT AS FULLY SET FORTH HEREIN IS THE ONLY WARRANTY APPLICABLE TO SUCH NEW VEHICLE OR CHASSIS AND IS EXPRESSLY IN LIEU OF ALL OTHER WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE IN THE CASE OF A USED VEHICLE OR CHASSIS. THE APPLICABILITY OF AN EXISTING MANUFACTURER'S WARRANTY THEREON, IF ANY, SHALL BE DETERMINED SOLELY BY THE TERMS OF SUCH WARRANTY. ASK SALES PERSON FOR COPY OF COMPLETE WARRANTY.

THIS CONTRACT IS NOT BINDING UPON EITHER THE DEALER OR THE PURCHASER UNTIL SIGNED BY AN AUTHORIZED DEALER REPRESENTATIVE. YOU, THE BUYER, MAY REScind THIS CONTRACT AND RECEIVE A FULL REFUND ANY TIME BEFORE RECEIPT OF A COPY OF THIS CONTRACT SIGNED BY AN AUTHORIZED DEALER REPRESENTATIVE BY GIVING WRITTEN NOTICE OF CANCELLATION TO DEALER.

BUYER ACKNOWLEDGES THAT IF THIS BOX IS CHECKED, THIS AGREEMENT CONTAINS AN ARBITRATION CLAUSE. BUYER HAS READ ALL PAGES OF THIS AGREEMENT AND AGREES TO ALL TERMS AND CONDITIONS IN THIS AGREEMENT.

Accepted By: [Signature] Date: 05/04/2017  
 Date: 05/04/2017

THANK YOU - WE APPRECIATE YOUR BUSINESS.  
 THE FRONT AND BACK OF THIS ORDER COMPRISE THE ENTIRE AGREEMENT AFFECTING THIS PURCHASE.  
 IF A CREDIT SALE, REQUIRED INFORMATION CONTAINED ON A SEPARATE DISCLOSURE STATEMENT IS MADE A PART OF THIS FORM.

5069314 HZNIS-F1



DEAL#: 2913  
STK#: 211264  
CUST#: 7880



### Welcome to the Hazleton Nissan Family!


We want to make sure you enjoy all of the benefits associated with being a part of our family. Here are some reminders for servicing and caring for your vehicle in the future.

#### Express Service

**This is your maintenance minder.** When this light appears, it is time to visit our Express Service Department for your free oil changes as recommended by the manufacturer. No appointment is necessary. To keep things moving efficiently, all other maintenance, repairs, and warranty work will be done in our main shop.


Customer's Initials OH HA

#### Car Wash

 Free car washes are unlimited and our extended hours make it easy to keep your Nissan looking great. Please keep in mind that the car wash will be closed during inclement weather or below freezing temperatures. You can always call (570) 455-8300 to see if it is open.


Customer's Initials OH HA

#### Main Service Department

 Our main service department is for maintenance other than oil changes (brakes, tires, etc.) and repairs. Please call our appointment coordinators at (570) 455-4801 or visit [www.HazletonNissan.com](http://www.HazletonNissan.com) to schedule your visit in advance.

Customer's Initials OH HA

#### Loaner Cars & Shuttle Service

 Our loaner cars are available by appointment if your car needs to stay with us overnight. We also have a team of shuttles to take you where you need to go within a 10 mile radius Monday - Saturday.

Customer's Initials OH HA

Customer Signature: [Signature] Date: 05/04/2017

Dealer Signature: [Signature] Date: 05/04/2017

# **EXHIBIT “B”**

# WE OWE

DEAL#: 4970  
 STK#: ZY2042S  
 CUST#: 9420

NAME **MARIANNE P LUBRECHT** STOCK # **ZY2042S**  NEW  USED  
**FREDERICK L LUBRECHT SR**  
 ADDRESS **269 TURNBERRY LN** YEAR **2018** MAKE **HYUNDAI**  
 CITY **HAZLE TOWNSHP** STATE **PA** ZIP **18202-9595** MODEL **TUCSON**  
 PHONE **570/987-0082** VIN **KM8J3CA45JU736176**  
 SALESPERSON **RAMON CASTRO** DEL. DATE **06/28/2018**

QTY.	NAME OF ITEM OR SERVICE OWED	PART	LABOR
	<b>LIFETIME WARRANTY, LIFETIME INSPECTION, LIFETIME LOANER VEHICLES</b>		
	<b>LIFETIME OIL CHANGES AT FACTORY RECOMMENDED INTERVALS AND LIFETIME CAR WASHES</b>		
	<b>NOTHING ELSE PROMISED OR OWED</b>		

I hereby accept this WE-OWE with the understanding that it is valid for only (30) THIRTY DAYS FROM DATE OF ISSUANCE, and that I must make an ADVANCE APPOINTMENT WITH THE SERVICE DEPARTMENT before the above work can be performed.

(FOR APPOINTMENT CALL SERVICE DEPT.)

CUSTOMER *M. Lubrecht* *Ramon Castro*

DATE 06/28/2018  
 APPROVED *[Signature]*  
 MGR.





**HAZLETON HYUNDAI**  
www.hazletonhyundai.com

703 Airport Rd.  
Hazle Township, PA 18202  
Phone: 570-455-4300  
Fax: 570-455-4343

DEAL#: 4970  
STK#: ZY2042S  
CUST#: 9420

2716

PURCHASER'S NAME <b>MARIANNE P LUBRECHT FREDERICK L LUBRECHT SR</b>	SOC. SEC. NO.	DATE <b>06/28/2018</b>
PURCHASER'S ADDRESS <b>269 TURNBERRY LN</b>	D/OB <b>10/21/1959</b>	RESIDENCE PHONE <b>570/987-0082</b>
CITY, STATE & ZIP <b>HAZLE TOWNSHP PA 18202-9595</b>	LIC. NO. <b>18747094</b>	BUSINESS PHONE

<b>VEHICLE BEING PURCHASED</b>	VEHICLE PRICE	<b>26750 00</b>
PLEASE ENTER MY ORDER FOR THE FOLLOWING: <input checked="" type="checkbox"/> NEW <input type="checkbox"/> USED <input type="checkbox"/> DEMO <input type="checkbox"/> CAR <input checked="" type="checkbox"/> TRUCK <input type="checkbox"/>	STOCK NO. <b>ZY2042S</b>	

YEAR <b>2018</b>	MAKE <b>HYUNDAI</b>	MILEAGE <b>85</b>
MODEL OR SERIES <b>TUCSON</b>	BODY TYPE <b>Wagon</b>	
COLOR <b>R5U/Blue</b>	TRIM <b>SEL</b>	
M.V.I. OR SER. NO. <b>KM8J3CA45JU736176</b>	ENG. TYPE <b>2.0 Liter</b>	

TO BE DELIVERED ON OR ABOUT <b>06/28/2018</b>	SALESMAN <b>RAMON CASTRO</b>	
		<b>\$ 26750 00</b>

IF A NEW VEHICLE SALE... The only warranties applying to this vehicle are those offered by the manufacturer.

IF USED VEHICLE SALE-CHECK APPROPRIATE BOX

AS IS: This Vehicle is sold "as is" by us. This motor vehicle is sold as is without any warranty. The purchaser will bear the entire expense of repairing or correcting any defects that presently exist or that may occur in the Vehicle.

OR

The only Dealer Warranty on this vehicle is the Limited Warranty which is issued with and made part of this order form.

**CONTRACTUAL DISCLOSURE STATEMENT FOR USED VEHICLE ONLY**

"The information you see on this window form for this vehicle is part of this contract. Information on the window form overrides any contrary provisions in the contract of sale."

**TRADE-IN DESCRIPTION AND ALLOWANCE**

Yr. <b>2017</b>	Make <b>KIA</b>	Model <b>SPORTAG</b>	Color <b>By2/Bro</b>
Yr. <b>2010</b>	Make <b>TOYOTA</b>	Model <b>PRIUS</b>	
Serial No. <b>KNDPNCAC7H7158400</b>	<b>JTDKN3DU5A1206631</b>		
Trade-In Value \$	<b>28268.00</b>		
Less Balance Owed \$	<b>22199.03</b>		
Net Trade-In Allowance \$	<b>6068.97</b>		
Balance Owed To:	<b>KMF-LEASE NO LIEN</b>		
Address:			
Account No.:			
Info. From	<b>GoodThru</b>		

I CERTIFY THE ODOMETER READING ON MY ABOVE TRADE REAS <b>15084</b> MILES. THE ODOMETER HAS <input type="checkbox"/> HAS NOT <input checked="" type="checkbox"/> EXCEEDED <b>73208</b> 100,000 MILES. SIGNATURE: <i>[Signature]</i>	REGISTRATION FEE	
IF A LEASE, THE FOLLOWING APPLY: MONTHLY PAYMENT AMOUNT \$ _____ TERM: _____ MILEAGE PER YEAR _____ TOTAL DUE AT DELIVERY \$ _____	TITLE FEE	<b>53 00</b>
	NOTARY FEE	<b>5 00</b>
	ENCUMBRANCE FEE	
	LICENSE FEE	<b>9 00</b>
	INSPECTION FEE	<b>49 00</b>
	ON LINE REGISTRATION FEE	<b>14 00</b>
	PTA EXCISE TIRE TAX	<b>5 00</b>
	PAYOFF ON TRADE	<b>22199 03</b>
	TOTAL	<b>19504 03</b>
	DEPOSIT	<b>500 00</b>
CASH DUE ON DELIVERY		
BALANCE TO FINANCE	<b>19004 03</b>	

I understand these payments and terms are conditional on approval from primary lender only.

SIGNATURE: *[Signature]*

THERE ARE NO WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING THE IMPLIED WARRANTY OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, MADE BY THE SELLER HEREIN, OR THE MANUFACTURER, ON THE VEHICLE OR CHASSIS DESCRIBED ON THIS FACE HEREOF EXCEPT IN THE CASE OF A NEW VEHICLE OR CHASSIS. THE PRINTED NEW VEHICLE WARRANTY DELIVERED TO PURCHASER WITH SUCH VEHICLE OR CHASSIS AND HEREBY MADE A PART HEREOF AS THOUGH FULLY SET FORTH HEREIN IS THE ONLY WARRANTY APPLICABLE TO SUCH NEW VEHICLE OR CHASSIS AND IS EXPRESSLY IN LIEU OF ALL OTHER WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE IN THE CASE OF A USED VEHICLE OR CHASSIS. THE APPLICABILITY OF AN EXISTING MANUFACTURER'S WARRANTY THEREON, IF ANY, SHALL BE DETERMINED SOLELY BY THE TERMS OF SUCH WARRANTY. ASK SALES PERSON FOR COPY OF COMPLETE WARRANTY.

THIS CONTRACT IS NOT BINDING UPON EITHER THE DEALER OR THE PURCHASER UNTIL SIGNED BY AN AUTHORIZED DEALER REPRESENTATIVE. YOU, THE BUYER MAY CANCEL THIS CONTRACT AND RECEIVE A FULL REFUND ANY TIME BEFORE RECEIPT OF A COPY OF THIS CONTRACT SIGNED BY AN AUTHORIZED DEALER REPRESENTATIVE BY GIVING WRITTEN NOTICE OF CANCELLATION TO DEALER.

BUYER ACKNOWLEDGES THAT IF THIS BOX IS CHECKED, THIS AGREEMENT CONTAINS AN ARBITRATION CLAUSE. BUYER HAS READ ALL PAGES OF THIS AGREEMENT AND AGREES TO ALL TERMS AND CONDITIONS IN THIS AGREEMENT.

Accepted By: <b>06/28/2018</b> Date	<i>[Signature]</i> Dealer or His Authorized Representative	<b>06/28/2018</b> Date	<i>[Signature]</i> Purchaser's Signature
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THANK YOU - WE APPRECIATE YOUR BUSINESS\*  
THE FRONT AND BACK OF THIS ORDER COMPRISE THE ENTIRE AGREEMENT AFFECTING THIS PURCHASE.  
IF A CREDIT SALE, REQUIRED INFORMATION CONTAINED ON A SEPARATE DISCLOSURE STATEMENT IS MADE A PART OF THIS FORM.

1. As used in this Order, the terms (a) "Seller" shall mean the authorized Dealer to whom this Order is addressed and who shall become a party hereto by its acceptance hereof, (b) "Purchaser" shall mean the party executing this Order as such on the face hereof, and (c) "Manufacturer" shall mean the Company that manufactured the vehicle or chassis, it being understood by Purchaser and Seller that Seller is in no respect the agent of Manufacturer, that Seller and Purchaser are the sole parties to this Order and that reference to Manufacturer herein is for the purpose of explaining generally certain contractual relationships existing between Seller and Manufacturer with respect to new motor vehicles.

2. The Manufacturer has reserved the right to change the price to Dealer of new motor vehicles without notice. In the event the price to Dealer of the new motor vehicle ordered by Purchaser is changed by Manufacturer prior to its delivery to Purchaser, Dealer reserves the right to change the cash delivery price to Purchaser. If the cash delivery price is increased by Dealer, Purchaser may, if dissatisfied with the higher figure, cancel this Order. In the event a used motor vehicle ("trade-in") has been traded as part of the consideration for the new motor vehicle, the trade-in shall be returned to Purchaser upon payment of a reasonable charge for storage and repairs (if any). If the trade-in has been previously sold by Dealer, the amount received for it shall be returned to Purchaser less a selling commission of 15% and any expense incurred in storing, insuring, conditioning or advertising said trade-in for sale.

3. Where Purchaser wishes to trade in a used motor vehicle ("trade-in") as part of the consideration for the motor vehicle ordered, Dealer may appraise the trade-in at the time of the execution of this Order by Purchaser. Dealer also reserves the right to reappraise the trade-in at the time of delivery.

The Dealer shall not alter a trade-in appraisal from the time of the initial appraisal until the time of delivery unless:  
(a) intervening factors indicate an apparent decrease in the value of the trade-in over and above ordinary wear and tear; and/or  
(b) a change occurs in the mechanical performance of the vehicle.  
If such reappraised value is lower than the original allowance as shown on the front of this Order, Purchaser may, if dissatisfied, cancel this Order. Such right of cancellation must be exercised prior to actual delivery to the Purchaser of the motor vehicle ordered and the surrender of the used motor vehicle to Dealer.

4. Purchaser agrees to deliver to Dealer satisfactory evidence of title to any used motor vehicle traded in as a part of the consideration for the motor vehicle ordered hereunder at the time of delivery of such used motor vehicle to Dealer. Purchaser warrants any such used motor vehicle to be his property free and clear of all liens and encumbrances except as otherwise noted herein.

5. Unless this Order shall have been cancelled by Purchaser under and in accordance with the provisions of paragraph 2 or 3 above, Dealer shall have the right, upon failure or refusal of Purchaser to accept delivery of the motor vehicle ordered hereunder and to comply with the terms of this Order, to retain as liquidated damages any cash deposit made by Purchaser.

6. Manufacturer has reserved the right to change the design of any new motor vehicle, chassis, accessories or parts thereof at any time without notice and without obligation to make the same or any similar change upon any motor vehicle, chassis, accessories or parts thereof previously purchased by or shipped to Dealer or being manufactured or sold in accordance with Dealer's orders. Correspondingly, in the event of any such change by Manufacturer, Dealer shall have no obligation to make the same or any similar change in any motor vehicle, chassis, accessories or parts thereof covered by this Order either before or subsequent to delivery thereof to Purchaser.

7. Dealer shall not be liable for failure to deliver or delay in delivering the motor vehicle covered by this Order where such failure or delay is due, in whole or in part, to any cause beyond the control or without the fault or negligence of Dealer.

8. The price for the motor vehicle specified on the face of this Order includes reimbursement for Federal Excise taxes, but does not include sales taxes, use taxes or occupational taxes based on sales volume, (Federal, State or Local) unless expressly so stated. Purchaser assumes and agrees to pay, unless prohibited by law, any such sales, use or occupational taxes imposed on or applicable to the transaction covered by this Order, regardless of which party may have primary tax liability therefor.

9. The Purchaser, before or at the time of delivery of the motor vehicle covered by this Order will execute such other forms of agreement or documents as may be required by the terms and conditions of payment indicated on the front of this Order.

10. The Purchaser agrees to pay balance due on the terms specified and accept delivery of the vehicle within 48 hours after notification the vehicle is ready for delivery. In the event Purchaser fails to take delivery of the vehicle, Purchaser's deposit may be retained by Dealer as liquidated damages for Dealer's expense and efforts in the matter, and Dealer may dispose of or sell the vehicle as Dealer sees fit.

11. Buyer agrees that this Agreement includes all of the terms and conditions on the front and back side hereof, that this Agreement cancels and supersedes any prior agreement including oral agreements, and as of the date below comprises, with any retail installment sale contract, the complete and exclusive statement of the terms of the agreement relating to the subject matters covered by this Agreement. Buyer, by signing this Agreement, acknowledges that he has read its terms and has received a true copy of this Agreement.

This Agreement is not binding upon either Dealer or Buyer until signed by an authorized Dealer representative. YOU, THE BUYER, MAY CANCEL THIS AGREEMENT AND RECEIVE A FULL REFUND ANY TIME BEFORE RECEIPT OF A COPY OF THE AGREEMENT SIGNED BY AN AUTHORIZED DEALER REPRESENTATIVE BY GIVING WRITTEN NOTICE OF CANCELLATION TO DEALER.

**12. ARBITRATION CLAUSE.** This arbitration clause applies if the box on the front of this Agreement is checked.  
This Arbitration Clause significantly affects your rights in any dispute with us. Please read the Arbitration Clause carefully before you sign this Agreement.

- EITHER YOU OR WE MAY CHOOSE TO HAVE ANY DISPUTE BETWEEN US DECIDED BY ARBITRATION AND NOT IN COURT OR BY A JURY TRIAL.
- IF A DISPUTE IS ARBITRATED, YOU WILL GIVE UP YOUR RIGHT TO PARTICIPATE AS A CLASS REPRESENTATIVE OR CLASS MEMBER ON ANY CLASS CLAIM YOU MAY HAVE AGAINST US INCLUDING ANY RIGHT TO CLASS ARBITRATION OR ANY CONSOLIDATION OF INDIVIDUAL ARBITRATIONS.
- DISCOVERY AND RIGHTS TO APPEAL IN ARBITRATION ARE GENERALLY MORE LIMITED THAN IN A LAWSUIT, AND OTHER RIGHTS THAT YOU AND WE WOULD HAVE IN COURT MAY NOT BE AVAILABLE IN ARBITRATION. THE INFORMATION YOU AND WE MAY OBTAIN IN DISCOVERY FROM EACH OTHER IN ARBITRATION IS GENERALLY MORE LIMITED THAN IN A LAWSUIT.

Any claim or dispute, whether in contract, tort or otherwise (including the interpretation and scope of this clause, and the arbitrability of the claim or dispute), between you and us or our employees, agents, successors or assigns, which arises out of or relates to this Agreement or any resulting transaction or relationship (including any such relationship with third parties who do not sign this Agreement) shall, at your or our election, be resolved by neutral, binding arbitration and not by a court action.

Any claim or dispute is to be arbitrated by a single arbitrator on an individual basis and not as a class action. You expressly waive any right you may have to arbitrate a class action. You may choose any one of the following arbitration organizations and its applicable rules: the American Arbitration Association, 355 Madison Ave., Floor 10, New York, New York 10017-4605 ([www.adr.com](http://www.adr.com)), the National Arbitration Forum, Box 50191, Minneapolis, Minnesota 55405-0191 ([www.naf-forum.com](http://www.naf-forum.com)) or JAMS, 1920 Main Street, Suite 300 Irvine, California 92614 ([www.jamsadr.com](http://www.jamsadr.com)). You may get a copy of the rules of these organizations by contacting the arbitration organization or visiting its website.

Arbitrators shall be attorneys or retired judges and shall be selected pursuant to the applicable rules. The arbitrator shall apply governing substantive law in making an award. The arbitration hearing shall be conducted in the federal district in which you reside. We will pay that portion of your filing, administration, service or case management fee and your arbitrator or hearing fee that the arbitrator determines that we must pay in order to make this agreement to arbitrate enforceable. Each party shall be responsible for its own attorney, expert or other fees, unless awarded by the arbitrator under applicable law. The arbitrator's award shall be final and binding on all parties, except that the losing party may request a new arbitration under the rules of the arbitration organization by a three-arbitrator panel. Any arbitration under this Arbitration Clause shall be governed by the Federal Arbitration Act (9 U.S.C. § 1 et seq.) and not by any state law concerning arbitration.


You and we retain the right to self-help remedies, such as repossession. You and we retain the right to seek remedies in small claims court for disputes or claims within that court's jurisdiction, unless such action is transferred, removed or appealed to a different court. Neither you nor we waive the right to arbitrate by using self-help remedies or filing suit. Any court having jurisdiction may enter judgment on the arbitrator's award. This clause shall survive any termination, payoff or transfer of this Agreement. If any part of this Arbitration Clause, other than waivers of class action rights, is deemed or found to be unenforceable for any reason, the remainder shall remain enforceable.



## Welcome to the Hazleton Hyundai Family!


We want to make sure you enjoy all of the benefits associated with being a part of our Set For Life Family. Here are some reminders for servicing and caring for your vehicle in the future.

### Express Service

 This is your maintenance minder indicator. When this light appears, it is time to visit our Express Service Department for your complimentary oil and filter service and multi-point inspection as recommended by the manufacturer. Our volume of satisfied customers enrolled in the Set For Life complimentary oil and filter service, combined with Hazleton Hyundai's unparalleled quality of work can result in longer wait times. To keep things moving efficiently, all other maintenance, repairs, and warranty work will be done in our main shop.


Customer's Initials AK

### Car Wash

 Complimentary car washes are unlimited! We have extended hours that make it easy to keep your Hyundai looking like new! Hazleton Detail Center reserves the right to close due to inclement weather, holidays, and equipment maintenance. You can always call (570) 455-8300 to see if it is open.


Customer's Initials AK

### Executive Wash Club Upgrade

 I understand that I have the option to upgrade to the Executive Wash Club for \$504.00 for the lifetime of my ownership of this vehicle. I understand this upgrade is nontransferable and agree that cancellation does not entitle me to any refund, prorated or otherwise.


Customer's Initials AK

### Main Service Department

 Our main service department is for all repairs and other maintenance items such as brakes, tires, etc. Please call our appointment coordinators at (570) 455-4300 to schedule your visit in advance.

Customer's Initials AK

### Loaner Cars & Shuttle Service

 Our loaner cars are available by appointment if your car needs to stay with us overnight. We also have a team of shuttles to take you where you need to go within a 10-mile radius Monday – Saturday.

Customer's Initials AK

Customer Signature: Thomas E. Schmitt

Date: 06/28/2018

Dealer Signature: [Signature]

Date: 06/28/2018

# **EXHIBIT “C”**

**LAW 553-PA-eps-14 12/14**

**RETAIL INSTALLMENT SALE CONTRACT  
SIMPLE FINANCE CHARGE**

DEAL#: 3757  
STK#: ZK18108  
CUG#: 4205

Dealer Number \_\_\_\_\_ Contract Number 74905

Buyer Name and Address (Including County and Zip Code) MICHAEL P HOMANKO JR 349 W 30TH ST HAZLE TOWNSHIP, PA 18202-8827 COUNTY: LUZERNE	Co-Buyer Name and Address (Including County and Zip Code) SHERRI A HOMANKO 349 W 30TH ST HAZLE TOWNSHIP, PA 18202-8027 COUNTY: LUZERNE	Seller-Creditor (Name and Address) HAZLETON KIA AIRPORT ROAD HAZLETON, PA 18202
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**PAID**

You, the Buyer (and Co-Buyer, if any), may buy the vehicle below for cash or on credit. By signing this contract, you choose to buy the vehicle on credit under the agreements in this contract. You agree to pay the Seller - Creditor (sometimes "we" or "us" in this contract) the Amount Financed and Finance Charge in U.S. funds according to the payment schedule below. We will figure your finance charge on a daily basis. The Truth-In-Lending Disclosures below are part of this contract.

New/Used	Year	Make and Model	Mfg Gross Vehicle Weight	Vehicle Identification Number	Primary Use For Which Purchased
NEW	2017	SORENTO	4,001 - 6,000	5XPYKDA50HG337817	Personal, family, or household unless otherwise indicated below <input type="checkbox"/> business <input type="checkbox"/> agricultural <input type="checkbox"/> N/A

FEDERAL TRUTH-IN-LENDING DISCLOSURES				
<b>ANNUAL PERCENTAGE RATE</b> The cost of your credit as a yearly rate.  4.55 %	<b>FINANCE CHARGE</b> The dollar amount the credit will cost you.  \$ 4676.87	<b>Amount Financed</b> The amount of credit provided to you or on your behalf.  \$ 31869.01	<b>Total of Payments</b> The amount you will have paid after you have made all payments as scheduled.  \$ 36546.48	<b>Total Sale Price</b> The total cost of your purchase on credit, including your down payment of \$ 18400.00 is \$ 54946.48
<b>Your Payment Schedule Will Be:</b>				
Number of Payments	Amount of Payments	When Payments Are Due		
72	507.59	Monthly beginning 10/05/2017		
N/A	N/A	N/A		
Or As Follows:  N/A				
Late Charge. If payment is not paid in full within 10 days after it is due, you will pay a late charge. If the vehicle is a heavy commercial motor vehicle, the charge will be 4% of the part of the payment that is late. Otherwise, the charge will be 2% of the part of the payment that is late. Prepayment. If you pay off all your debt early, you will not have to pay a penalty. Security Interest. You are giving a security interest in the vehicle being purchased. Additional Information: See this contract for more information including information about nonpayment, default, any required repayment in full before the scheduled date and security interest.				

Returned Check Charge: You agree to pay the costs we actually pay to others if any check you give us is dishonored.

**NOTICE: ANY HOLDER OF THIS CONSUMER CREDIT CONTRACT IS SUBJECT TO ALL CLAIMS AND DEFENSES WHICH THE DEBTOR COULD ASSERT AGAINST THE SELLER OF GOODS OR SERVICES OBTAINED PURSUANT HERETO OR WITH THE PROCEEDS HEREOF. RECOVERY HEREUNDER BY THE DEBTOR SHALL NOT EXCEED AMOUNTS PAID BY THE DEBTOR HEREUNDER.**

Buyer Initials X *[Signature]* Co-Buyer Initials X *[Signature]*

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Trade-In Allowance	N/A	
Less Pay Off Made By Seller	N/A	
Equals Net Trade In	N/A	
+ Cash		
+ Other <b>REBATES</b>		
(If total downpayment is negative, enter "0" and see 4H below)		
3 Unpaid Balance of Cash Price (1 minus 2)		\$ 18400.00 (2)
4 Other Charges Including Amounts Paid to Others on Your Behalf		\$ 27493.61 (3)
<b>A Cost of Optional Credit Insurance Paid to Insurance Company or Companies</b>		
Life	Term	N/A \$ N/A
Disability	Term	N/A \$ N/A
<b>B Other Optional Insurance Paid to Insurance Company or Companies</b>		
(Describe)	Term	N/A \$ N/A
(Describe)	Term	N/A \$ N/A
<b>C Official Fees Paid to Government Agencies</b>		
to N/A	for N/A	\$ N/A
to N/A	for N/A	\$ N/A
to STATE OF PA	for INSPECTION FEE	\$ 49.00
<b>D Optional Gap Contract</b>		
<b>E Government Taxes Not Included in Cash Price</b>		
<b>F Government License and/or Registration Fees</b>		
REG FEE	ON-LINE DLR FEE	\$ 51.00
<b>G Government Certificate of Title Fees</b>		
(includes \$ N/A security interest recording fee)		\$ 53.00
<b>H Other Charges (Seller must identify who is paid and describe purpose)</b>		
to N/A	for Prior Credit or Lease Balance	\$ 0.00
to HAZLETON KIA	for DOCUMENTATION FEE	\$ 138.00
to KIA SERVICE CONTRACT	for SERVICE CONTRACT	\$ 2500.00
to HAZLETON KIA	for LIEN/ENCUMBRANCE FEE	\$ 25.00
to N/A	for N/A	\$ N/A
to HAZLETON KIA	for NOTARY FEE	\$ 5.00
to HAZLETON KIA	for TEMP TAG FEE	\$ 30.00
to HAZLETON KIA	for PLATINUM PROTECT	\$ 1525.00
to N/A	for N/A	\$ N/A
to N/A	for N/A	\$ N/A
<b>Total Other Charges and Amounts Paid to Others on Your Behalf</b>		
		\$ 4376.00 (4)
5 Amount Financed (3 + 4)		\$ 31869.61 (5)
6 Finance Charge		\$ 4676.87 (6)
7 Total of Payments-Time Balance (5 + 6)		\$ 36546.48 (7)

**Other Optional Insurance**

**TIRE & WHEEL** Term **72**

Type of Insurance \_\_\_\_\_

Premium \$ **1525.00**

Description of Coverage **PLATINUM PROTECTION PLAN**

Insurance Company Name **SAFE-GUARD**

Home Office Address **TWO CONCOURSE PKWY ATLANTA, GA 30328**

\_\_\_\_\_ Type of Insurance \_\_\_\_\_ Term \_\_\_\_\_

Premium \$ \_\_\_\_\_

Description of Coverage \_\_\_\_\_

Insurance Company Name \_\_\_\_\_

Home Office Address \_\_\_\_\_

Other optional insurance is not required to obtain credit. Your decision to buy or not buy other optional insurance will not be a factor in the credit approval process. It will not be provided unless you sign and agree to pay the extra cost.

I want the insurance checked above.

Buyer Signature \_\_\_\_\_ Date **08/21/2017**

Co-Buyer Signature **X Shweta A. Hemant** Date **08/21/2017**

**THIS INSURANCE DOES NOT INCLUDE INSURANCE ON YOUR LIABILITY FOR BODILY INJURY OR PROPERTY DAMAGE CAUSED TO OTHERS.**

**If you do not meet your contract obligations, you may lose the vehicle.**

OPTION:  You pay no finance charge if the Amount Financed, item 5, is paid in full on or before \_\_\_\_\_, Year \_\_\_\_\_, SELLER'S INITIALS **N/A**

**OPTIONAL GAP CONTRACT.** A gap contract (debt cancellation contract) is not required to obtain credit and will not be provided unless you sign below and agree to pay the extra charge. If you choose to buy a gap contract, the charge is shown in item 4D of the Itemization of Amount Financed. See your gap contract for details on the terms and conditions it provides. It is a part of this contract.

Term \_\_\_\_\_ Mos. \_\_\_\_\_ Name of Gap Contract \_\_\_\_\_

I want to buy a gap contract.

Buyer Signs X \_\_\_\_\_

If you are not the person who is financing the vehicle, please contact the lender for more information.

**IMPORTANT AGREEMENTS**

**FINANCE CHARGE AND PAYMENTS**

How we will figure Finance Charge. We will figure the Finance Charge on a daily basis at the Annual Percentage Rate on the unpaid part of the Amount Financed.

- b. How we will apply payments. We may apply each payment to the earned and unpaid part of the Finance Charge, to the unpaid part of the Amount Financed and to other amounts you owe under this contract in any order we choose.
- c. How late payments or early payments change what you must pay. We based the Finance Charge, Total of Payments, and Total Sale Price shown on page 1 on the assumption that you will make every payment on the day it is due. Your Finance Charge, Total of Payments, and Total Sale Price will be more if you pay late and less if you pay early. Changes may take the form of a larger or smaller final payment or, at our option, more or fewer payments of the same amount as your scheduled payment with a smaller final payment. We will send you a notice telling you about these changes before the final scheduled payment is due.
- d. You may prepay. You may prepay all or part of the unpaid part of the Amount Financed at any time without penalty. If you do so, you must pay the earned and unpaid part of the Finance Charge and all other amounts due up to the date of your payment.

**2. YOUR OTHER PROMISES TO US**

- a. If the vehicle is damaged, destroyed, or missing. You agree to pay us all you owe under this contract even if the vehicle is damaged, destroyed, or missing.
- b. Using the vehicle. You agree not to remove the vehicle from the U.S. or Canada, or to sell, rent, lease, or transfer any interest in the vehicle or this contract without our written permission. You agree not to expose the vehicle to misuse, seizure, confiscation, or involuntary transfer. If we pay any repair bills, storage bills, taxes, fines, or charges on the vehicle, to the extent permitted by law you agree to repay the amount when we ask for it.
- c. Security Interest. You give us a security interest in:
  - The vehicle and all parts or goods put on it;
  - All money or goods received (proceeds) for the vehicle;
  - All insurance, maintenance, service, or other contracts we finance for you; and
  - All proceeds from insurance, maintenance, service, or other contracts we finance for you. This includes any refunds of premiums or charges from the contracts.

This secures payment of all you owe on this contract. It also secures your other agreements in this contract. You will make sure the title shows our security interest (lien) in the vehicle. You will not allow any other security interest to be placed on the title without our written permission.

- d. Insurance you must have on the vehicle. You agree to have physical damage insurance covering loss of or damage to the vehicle for the term of this contract. The insurance must cover our entire interest in the vehicle as well as yours. If you do not have this insurance, we may, if we choose, buy physical damage insurance. If we decide to buy physical damage insurance, we will buy insurance that covers your interest and our interest in the vehicle. We will tell you the charge you must pay. The charge will be the premium of the insurance and a finance charge computed at the Annual Percentage Rate shown on page 1 of this contract or, at our option, the highest rate the law permits. If the vehicle is lost or damaged, you agree that we may use any insurance settlement to reduce what you owe or repair the vehicle.
- e. What happens to returned insurance, maintenance, service, or other contract charges. If we get a refund of insurance, maintenance, service, or other contract charges, you agree that we may subtract the refund from what you owe.

**3. IF YOU PAY LATE OR BREAK YOUR OTHER PROMISES**

a. You may owe late charges. You will pay a late charge on each late payment as shown on page 1. The term "heavy commercial motor vehicle" means any new or used motor vehicle, excluding a recreational vehicle, which is (i) a truck or truck tractor having a manufacturer's gross vehicular weight of thirteen thousand (13,000) pounds or more, or (ii) a semi-trailer or trailer designed for use in combination with a truck or truck tractor. Acceptance of a late payment or late charge does not excuse your late payment or mean that you may keep making late payments. If you pay late, we may also take the steps described below.

- b. You may have to pay all you owe at once. If you break your promises (default), we may demand that you pay all you owe on this contract at once. Default means:
  - You do not pay any payment on time;
  - You give false or misleading information on a credit application;
  - You start a proceeding in bankruptcy or one is started against you or your property; or
  - You break any agreements in this contract.

The amount you will owe will be the unpaid part of the Amount Financed plus the earned and unpaid part of the Finance Charge, any late charges, and any amounts due because you defaulted.

- c. You may have to pay collection costs. If you default and we have to go to court to recover the vehicle, you will pay the reasonable attorney's fees and court costs as the law permits. You will also pay any attorney's fees and court costs a court awards us.
- d. We may take the vehicle from you. If you default, we may take (repossess) the vehicle from you if we do so peacefully and the law allows it. If your vehicle has an electronic tracking device, you agree that we may use the device to find the vehicle. If we take the vehicle, any accessories, equipment, and replacement parts will stay with the vehicle. If any personal items are in the vehicle, we may store them for you at your expense. If you do not ask for these items back, we may dispose of them as the law allows.
- e. How you can get the vehicle back if we take it. If we repossess the vehicle, you may get it back by paying the unpaid part of the Amount Financed plus the earned and unpaid part of the Finance Charge, any late charges, and any other amounts lawfully due under the contract (redeem). Your right to redeem ends when we sell the vehicle. We will tell you how much to pay to redeem.

If we repossess the vehicle, we may, at our option, allow you to get the vehicle back before we sell it by paying all past due payments, late charges, and any other amounts due because you defaulted (reinstate). We will tell you if you may reinstate and how much to pay if you may.

If you are in default for more than 15 days when we take the vehicle, the amount you must pay to redeem or reinstate will also include the expenses of taking the vehicle, holding it, and preparing it for sale.

- f. We will sell the vehicle if you do not get it back. If you do not redeem, or, at our option, reinstate, we will sell the vehicle. We will send you a written notice of sale before selling the vehicle.

We will apply the money from the sale, less allowed expenses, to the amount you owe. Allowed expenses are expenses we pay as a direct result of taking the vehicle, holding it, preparing it for sale, and selling it, as the law allows. Reasonable attorney fees and court costs the law permits are also allowed expenses. If any money is left (surplus), we will pay it to you unless the law requires us to pay it to someone else. If money from the sale is not enough to pay the amount you owe, you may have to pay the rest to us. If you do not pay this amount when we ask, we may charge you interest at a rate not exceeding the highest lawful rate until you pay.

Buyer Initials X  Co-Buyer Initials X 

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- g. What we may do about optional insurance, maintenance, service, or other contracts. This contract may contain charges for optional insurance, maintenance, service, or other contracts. If we demand that you pay all you owe at once or we repossess the vehicle, you agree that we may claim benefits under these contracts and cancel them to obtain refunds of unearned charges to reduce what you owe or repair the vehicle. If the vehicle is a total loss because it is confiscated, damaged, or stolen, we may claim benefits under these contracts and cancel them to obtain refunds of unearned charges to reduce what you owe.
- h. **Summary Notice Regarding Prepayment, Rebate of Finance Charge and Reinstatement:** You may prepay all or part of the amount you owe under this contract without penalty. If you do so, you only have to pay the earned and unpaid part of the finance charge and all other amounts due up to the date of your payment. Unearned finance charges will not be rebated under this contract because there will never be any unearned finance charges to rebate. If you default and we repossess the vehicle, we may, at our option, allow you to get the vehicle back before we sell it by paying all past due payments, late charges, and expenses (reinstatement).

**l. WARRANTIES SELLER DISCLAIMS**

The following paragraph does not affect any warranties covering the vehicle that the vehicle manufacturer may provide. The following paragraph also does not apply at all if you bought the vehicle primarily for personal, family, or household use. Unless the Seller makes a written warranty, or enters into a service contract within 90 days from the date of this contract, the Seller makes no warranties, express or implied, on the vehicle, and there will be no implied warranties of merchantability or of fitness for a particular purpose.

5. **Used Car Buyers Guide:** The information you see on the window form for this vehicle is part of this contract. Information on the window form overrides any contrary provisions in the contract of sale.  
 Spanish Translation: Guía para compradores de vehículos usados. La información que ve en el formulario de la ventanilla para este vehículo forma parte del presente contrato. La información del formulario de la ventanilla deja sin efecto toda disposición en contrario contenida en el contrato de venta.

6. **SERVICING AND COLLECTION CONTACTS**  
 You agree that we may try to contact you in writing, by e-mail, or using prerecorded/artificial voice messages, text messages, and automatic telephone dialing systems, as the law allows. You also agree that we may try to contact you in these and other ways at any address or telephone number you provide us, even if the telephone number is a cell phone number or the contact results in a charge to you.

7. **RIGHT TO RECEIVE STATEMENT OF ACCOUNT**  
 Upon your request, we will provide you a statement of account that shows information about your payment history including any charges and credits to your account. It will also show amounts that are due at the time of your request and information regarding future payments. We will provide you one statement of account at no cost. We may charge you our reasonable costs for any additional statements requested, as the law allows. Your right to receive a statement of account ends one year after termination of the contract.

8. **ADDITIONAL RIGHTS**  
 If you encounter a problem, you may have additional rights under the Unfair Trade Practices and Consumer Protection Law, which is enforced by the Pennsylvania Office of Attorney General, Bureau of Consumer Protection.

9. **APPLICABLE LAW**  
 Federal law and the law of the state of the Seller's address shown on page 1 of this contract apply to this contract.

**NO COOLING OFF PERIOD**

State law does not provide for a "cooling off" or cancellation period for this sale. After you sign this contract, you may only cancel it if the seller agrees or for legal cause. You cannot cancel this contract simply because you change your mind. This notice does not apply to home solicitation sales.

**HOW THIS CONTRACT CAN BE CHANGED.** This contract contains the entire agreement between you and us relating to this contract. Any change to this contract must be in writing and we must sign it. No oral changes are binding. Buyer Signs [Signature] Co-Buyer Signs [Signature]  
 If any part of this contract is not valid, all other parts stay valid. We may delay or refrain from enforcing any of our rights under this contract without losing them. For example, we may extend the time for making some payments without extending the time for making others. You authorize us to obtain information about you, or the vehicle you are buying, from the state motor vehicle department or other motor vehicle registration authorities. See the rest of this contract for other important agreements.

**The Annual Percentage Rate may be negotiable with the Seller. The Seller may assign this contract and retain its right to receive a part of the Finance Charge.**

**NOTICE TO BUYER. DO NOT SIGN THIS CONTRACT IN BLANK. YOU ARE ENTITLED TO AN EXACT COPY OF THE CONTRACT YOU SIGN. KEEP IT TO PROTECT YOUR LEGAL RIGHTS. ANY HOLDER OF THIS CONSUMER CREDIT CONTRACT IS SUBJECT TO ALL CLAIMS AND DEFENSES WHICH THE BUYER COULD ASSERT AGAINST THE SELLER OF GOODS OR SERVICES OBTAINED PURSUANT HERETO OR WITH THE PROCEEDS HEREOF. RECOVERY HEREUNDER BY THE BUYER SHALL NOT EXCEED AMOUNTS PAID BY THE BUYER HEREUNDER.**

Buyer Signs [Signature] Date 08/21/2017 Co-Buyer Signs [Signature] Date 08/21/2017

You agree to the terms of this contract. You confirm that before you signed this contract, we gave it to you, and you were free to take it and review it. You confirm that you received a completely filled-in copy when you signed it.

Buyer Signs [Signature] Date 08/21/2017 Co-Buyer Signs [Signature] Date 08/21/2017

**Co-Buyers and Other Owners** — A co-buyer is a person who is responsible for paying the entire debt. An other owner is a person whose name is on the title to the vehicle but does not have to pay the debt. The other owner agrees to the security interest in the vehicle given to us in this contract.

Other owner signs here X Address \_\_\_\_\_  
 Seller Signs HAZLETON KIA Date 08/21/2017 By [Signature] Title FINANCE MGR

Seller assigns its interest in this contract to CAPITAL ONE AUTO FINANCE (Assignee) under the terms of Seller's agreement(s) with Assignee.

Assigned with recourse  Assigned without recourse  Assigned with limited recourse

Seller HAZLETON KIA By [Signature] Title FINANCE MGR





# LIFETIME

## WARRANTY\*

**LIFETIME POWERTRAIN WARRANTY  
ENGINE • TRANSMISSION**

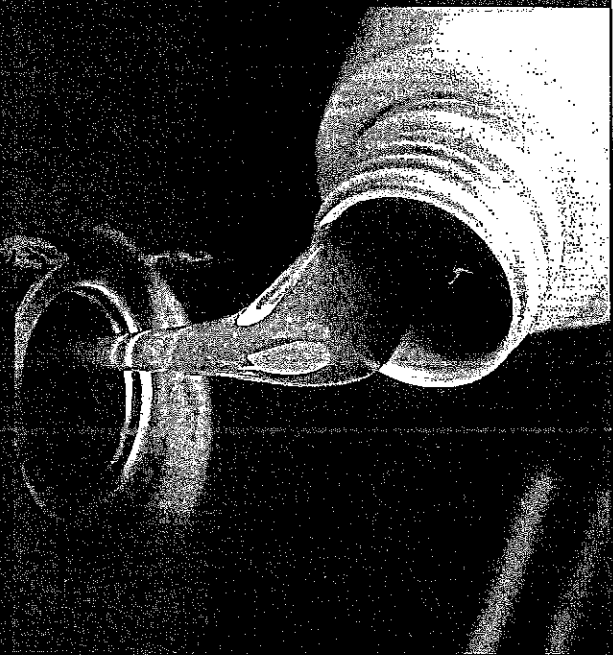
**WARRANTY:** Lifetime Powertrain Warranty covers the engine and transmission for the life of the vehicle. This warranty is non-transferable and is void if the vehicle is used for commercial purposes, is involved in a collision, or is modified. The vehicle must be maintained according to the manufacturer's recommendations.

### ENGINE

Coverage includes the engine and transmission for the life of the vehicle. This warranty is non-transferable and is void if the vehicle is used for commercial purposes, is involved in a collision, or is modified. The vehicle must be maintained according to the manufacturer's recommendations.

### TRANSMISSION

Coverage includes the engine and transmission for the life of the vehicle. This warranty is non-transferable and is void if the vehicle is used for commercial purposes, is involved in a collision, or is modified. The vehicle must be maintained according to the manufacturer's recommendations.



# LIFETIME

## OIL & FILTER CHANGES\*

**IN YOUR NEW OR CERTIFIED VEHICLE  
FOR AS LONG AS YOU OWN IT!**

We realize that you have a new vehicle represents a major financial investment. The best way to protect your investment is to further invest a little of your time taking care of it. Our goal is to make this as easy as possible for you. Lifetime Oil Changes is like when you purchase a new or certified vehicle, is only one of the benefits that make you "own it" all the time. Lifetime Oil.

This program covers the labor and oil for the first 10,000 miles or 2 years, whichever comes first. After that, it covers the labor and oil for the next 10,000 miles or 2 years, whichever comes first. This program is available for new or certified vehicles only. It is not available for used vehicles. Some states are not covered. When you purchase a new or certified vehicle, you will receive a Lifetime Oil Change card. This card will allow you to receive oil changes and filter changes at participating locations. Lifetime Oil Changes is a convenient way to keep your vehicle running smoothly. It's a service that makes you "own it" all the time.



# LIFETIME

## CAR WASHES

**AT OUR ON-SITE CAR WASH FOR  
AS LONG AS YOU OWN YOUR VEHICLE**

Lifetime offers an on-site car wash for new or certified vehicles. This service is available for the life of the vehicle. The car wash is located at the dealership. The cost of the car wash is \$2.75. Please keep in mind that the car wash will be closed during inclement weather. A 2-hour reservation is required. Lifetime Car Wash is a convenient way to keep your vehicle clean. It's a service that makes you "own it" all the time.



# LIFETIME

## LOANER VEHICLE

**IF YOUR VEHICLE NEEDS  
STAY WITH US OVERNIGHT**

Complimentary loaner vehicles are available by appointment. If your vehicle needs to stay with us overnight, we will provide you with a loaner vehicle. This service is available for new or certified vehicles only. It is not available for used vehicles. Some states are not covered. When you purchase a new or certified vehicle, you will receive a Lifetime Loaner Vehicle card. This card will allow you to receive a loaner vehicle at participating locations. Lifetime Loaner Vehicle is a convenient way to keep your vehicle running smoothly. It's a service that makes you "own it" all the time.





# LIFETIME

**STATE INSPECTION\***  
**THAT'S RIGHT, WE'LL DO YOUR PA STATE INSPECTION**

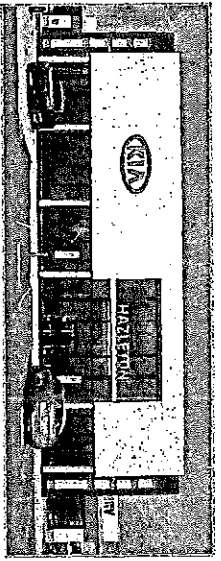
The right complimentary PA State Inspection. Every time you inspect us, we'll include in your vehicle and we'll take care of your inspection and charge you nothing. (Some restrictions apply. See dealer for details.)



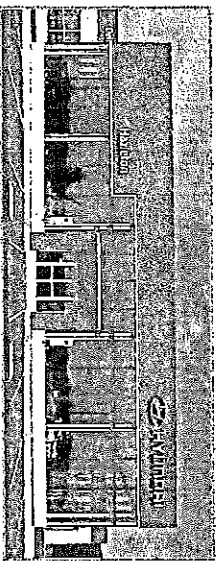
# LIFETIME

**SUNDAY EXPRESS SERVICE\***  
**HAZLETON AUTOMALL OFFERS EXPRESS SERVICE 7 DAYS A WEEK**

It's the same experience you just witnessed and more convenient. No Appointment Necessary!  
\*See dealer for details. Service available on weekdays only.

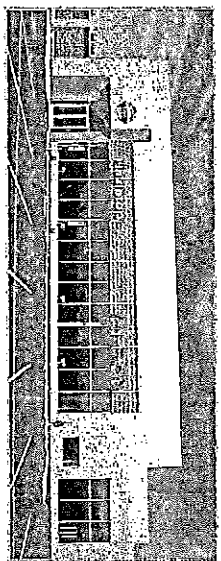


**HAZLETON KIA**  
 701 Airport Road  
 Hazle Township, PA 18202  
[www.hazletonkia.com](http://www.hazletonkia.com)  
 Sales: 570-455-5800



**HYUNDAI**

**HAZLETON HYUNDAI**  
 709 Airport Road  
 Hazle Township, PA 18202  
[www.hazletonhyundai.com](http://www.hazletonhyundai.com)  
 Sales: 570-455-4300



**HAZLETON NISSAN**  
 681 Airport Road  
 Hazle Township, PA 18202  
[www.hazletonnissan.com](http://www.hazletonnissan.com)  
 Sales: 570-455-4800



**HONDA**

**HAZLETON HONDA**  
 651 Airport Road  
 Hazle Township, PA 18202  
[www.hazletonhonda.com](http://www.hazletonhonda.com)  
 Sales: 570-455-6500

## HAZLETON Automall

*Exceeding Your Expectations*



- WARRANTY\*
- OIL & FILTER CHANGES\*
- CAR WASHES\*
- LOANER VEHICLES\*
- STATE INSPECTION\*
- SUNDAY EXPRESS SERVICE\*

\*See Dealer for details.



# ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Automakers, Ex-NFL Players Touted 'Set for Life Program' Despite Knowing Penn. Dealerships Would Fail, Class Action Alleges](#)

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