

1 Richard D. McCune (State Bar No. 132124)

2 rdm@mccunewright.com

3 **MCCUNE WRIGHT AREVALO, LLP**

3 3281 East Guasti Road, Suite 100

4 Ontario, California 91761

5 Telephone: (909) 557-1250

5 Facsimile: (909) 557-1275

6 Derek Y. Brandt (*Pro Hac Vice* to be filed)

7 dyb@mccunewright.com

8 Leigh M. Perica (*Pro Hac Vice* to be filed)

9 imp@mccunewright.com

10 **MCCUNE WRIGHT AREVALO, LLP**

10 101 W. Vandalia Street, Suite 200

11 Edwardsville, IL 62025

12 Telephone: (618) 307-6116

12 Facsimile: 618-307-6161

13
14 Attorneys for Plaintiffs

15 **UNITED STATES DISTRICT COURT**
16 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**
17

18 INEZ ELLISTON,
19 MATTHEW RAASCH,
20 LATOYA TAYLOR,
21 TASHA GILL,
22 GREG COHEN,
23 MARGARET GREENWALT,
24 DIMITRA BERTSOS,
25 JERRY STANWICK,
26 STEPHANIE COOPER,
27 CHRIS HAZELWOOD,
28 DAVID FEURSTEIN,
FABIAN CONANT,
WAYNE ROBERTSON,
JOHNATHAN WILSON,
GARY BOLDUC,

Case No.: 2:19-cv-04684

**CLASS ACTION COMPLAINT AND
DEMAND FOR JURY TRIAL**

1. Violation of Cal. Civil Code § 1750
et seq.;
2. Violation of California Bus. & Prof.
Code §§ 17500, *et seq.*;
3. Violation of Cal. Bus. & Prof. Code
§ 17200, *et seq.*;
4. Violation of Cal. Civ. Code § 1791,
et seq.;

1 TANESHA CHERRY,
2 LATONYA FRANKLIN,
3 WENDY MOORE and
4 SAMANTHA BITELY, on behalf
5 of themselves and all others
6 similarly situated,

7 Plaintiffs,

8 v.

9 HYUNDAI MOTOR COMPANY,
10 HYUNDAI MOTOR AMERICA,
11 KIA MOTORS CORPORATION,
12 and KIA MOTORS AMERICA,
13 INC., and DOES 1 through 50,
14 inclusive,

15 Defendants.

5. Violation of Fl. Deceptive and Unfair Trade Practices Act;
6. Violation of Georgia Uniform Deceptive Trade Practices Act;
7. Violation of Indiana Deceptive Consumer Sales Act;
8. Violation of Iowa Private Rights of Action for Consumer Frauds Act;
9. Violation of Louisiana Unfair Trade Practices and Consumer Protection Law;
10. Violation of Mass. Deceptive Practices Act;
11. Violation of New Jersey Consumer Fraud Act;
12. Violation of New Mexico Unfair Practices Act.
13. Violation of New York General Business Law;
14. Violation of North Carolina Deceptive & Unfair Trade Practices Act;
15. Violation of Tennessee Consumer Protection Act;
16. Violation of Texas Deceptive Trade Practices Act.

1 NOW COME Plaintiffs Tasha Gill, Inez Elliston, Matthew Raasch, Greg Cohen,
2 Stephanie Cooper, Dimitra Bertzos, Johnathan Wilson, Samantha Bitely, Tanesha Cherry,
3 Wayne Robertson, Gary Bolduc, David Feuerstein, Fabian Conant, Margaret Greenwalt,
4 LaTonya Franklin, Chris Hazelwood, LaToya Taylor, Wendy Moore, Jerry Stanwick
5 (herein after “Plaintiffs”), on behalf of themselves and all others similarly situated, with
6 knowledge as to their own actions and events, and upon information and belief as to other
7 matters, allege as follows:

8 **I**

9 **NATURE OF THE ACTION**

10 1. Several of the most popular vehicle models from Defendants collectively
11 referred to as “Hyundai”— Hyundai Motor Company and Hyundai Motor America, Inc.,
12 and “Kia”— Kia Motors Corporation and Kia Motors America, Inc.— suffer from
13 potentially catastrophic engine defects leading to spontaneous engine fires or sudden
14 engine stalls while in motion. These engine defects pose a risk of accidents, bodily injury
15 or death for both drivers and passengers, and extensive vehicle damage. According to the
16 National Highway Traffic Safety Administration (NHTSA), engine failure and fire
17 problems have affected more than 6 million Hyundai and Kia vehicles since 2015 and
18 continue to affect Hyundai and Kia Vehicles to this day.

19 2. To benefit the bottom line, Hyundai and Kia have been concealing the serious
20 engine defects in its popular vehicle models equipped with gasoline direct-injection
21 (“GDI”) engines. GDI engines were first introduced to the U.S. market in 2009. In recent
22 years, there have been widespread reports of Kia and Hyundai vehicles, equipped with a
23 GDI engine, bursting into flames. Hyundai and Kia have also documented more than 3125
24 fire-related incidents that were not sparked by a collision, and consumer complaints of
25 melted wires in the engine bay, engine smoke, rattling metal noises and burning odors
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1 emanating.¹ Potentially at risk are any: 2011-2019 Hyundai Sonata, 2013-2019 Hyundai
 2 Santa Fe and Santa Fe Sport, 2011-2019 Kia Optima and Kia Sportage, and 2012-2019 Kia
 3 Sorento or Kia Soul (hereinafter referred to as “Class Vehicles”) with 2.0-liter or 2.4-liter
 4 engines, many of which were subject to inadequate recalls in 2015 and 2017.²

5 3. Federal prosecutors have since launched a criminal investigation into Hyundai
 6 and Kia to determine if the vehicle recalls had been conducted properly.³ However,
 7 numerous at-risk Hyundai and Kia vehicles are still on the road. Following thousands of
 8 reported fires, more than 103 injuries, and one recorded fatality involving Kia and Hyundai
 9 vehicles, federal officials called for an NHTSA investigation into the non-collision fires.⁴
 10 In April 2019, NHTSA launched its formal investigation into fires in five Hyundai and Kia
 11 vehicle models: 2011-2014 Hyundai Sonata and Santa Fe, the 2011-2014 Kia Optima and
 12 Sorento, and the 2010-2015 Kia Soul.⁵ A group of U.S. states are also investigating
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 16 ¹ Francesca Paris, *Federal Auto Regulator To Investigate Hyundai, Kia Vehicle Fires* (April 2, 2019),
 17 NPR, available at <https://www.npr.org/2019/04/02/708986625/federal-auto-regulator-to-investigate-hyundai-kia-vehicle-fires> (last accessed April 16, 2019)

18 ² Clifford Athiyeh, *Hyundai and Kia Recall 1.2 Million Cars for Engine Failures* (April 7, 2017), Car and
 19 Driver, available at <https://www.caranddriver.com/news/a15342058/hyundai-and-kia-recall-1-2-million-cars-for-engine-failures/> (last accessed April 16, 2019); Alexander Stoklosa, *Hyundai Recalling 569,500 Sonatas, Accents Over Separate Defects*, (September 25, 2015), Car and Driver, available at
 20 <https://www.caranddriver.com/news/a15352202/hyundai-recalling-569500-sonatas-accents-over-separate-defects/> (last accessed April 16, 2019)

21 ³David Shepardson, *U.S. to probe thousands of fires connected to Hyundai, Kia vehicles*, Reuters,
 22 available at <https://www.reuters.com/article/us-hyundai-motor-probe/u-s-to-probe-thousands-of-fires-connected-to-hyundai-kia-vehicles-idUSKCN1RD2P4> (last accessed April 12, 2019)

23 ⁴ Jeff Plungis, *Hyundai and Kia Models Suffer Alarming Number of Fires, Watchdog Group Says* (June
 24 13, 2018), Consumer Reports, available at <https://www.consumerreports.org/car-recalls-defects/hyundai-and-kia-fires-center-for-auto-safety/> (last accessed April 16, 2019)

25 ⁵ *NHTSA Safety Defect/Noncompliance Notices Received During February 2019* (April 4, 2019), available
 26 at <https://www-odi.nhtsa.dot.gov/downloads/monthlyReports/rc1/RCLMTY-022019-1234.pdf> (last
 27 accessed April 12, 2019); *ODI Resume-2011-2014 Kia Optima and Sorento; and 2010-2015 Kia Soul*
 28 (Mar. 29, 2019), available at <https://static.nhtsa.gov/odi/inv/2019/INOA-PE19004-4727.PDF> (last
 accessed April 12, 2019); *ODI Resume- 2011-2014 Hyundai Sonata and Santa Fe* (Mar. 29, 2019),
 available at <https://static.nhtsa.gov/odi/inv/2019/INOA-PE19003-2613.PDF> (last accessed April 12,
 2019).

1 Hyundai and Kia for unfair and deceptive acts related to the non-collision fires.⁶ The
2 investigations do not stop at the United States border. South Korean prosecutors are also
3 conducting investigations into the automakers over its engine recalls.

4 4. Simply put, Hyundai and Kia should have acted to recall these vehicles far
5 earlier. Not only do the numerous investigations, publications, consumer complaints and
6 internet postings put Hyundai and Kia on notice of the engine defect and fire risk, Hyundai
7 and Kia concealed from consumers the defects and related safety hazards, thus misleading
8 and inducing consumers to purchase vehicles.

9 5. The catastrophic engine failure and fire risk is the direct result of defects
10 known to, concealed by, and unremedied by both Hyundai and Kia. As a result of these
11 defects, the putative class is exposed to an unreasonable risk of injury or death if their
12 vehicle's engine fails while in operation, let alone if the vehicle's engine spontaneously
13 ignites or smokes. The engine defects also expose passengers and drivers, including
14 rideshares, on the road to an unreasonable and increased risk of accident, injury, or death.

15 6. Therefore, Plaintiffs, for themselves and all others similarly situated, bring
16 this action for reimbursement requiring Hyundai and Kia to repair and/or buy back all Class
17 Vehicles, make whole all class members for all costs, inconveniences and economic losses
18 associated therewith, and damages in an amount to be determined at trial, pursuant to the
19 Consumer Legal Remedies Act, California Civil Code § 1750, *et seq.*; Unfair Business
20 Practices Act, California Business & Professions Code § 17200, *et seq.*; and Song-Beverly
21 Act, §§ 1792, 1791.1, *et seq.*; and other applicable state laws described herein.

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26 ⁶ David Shepardson, *U.S. to probe thousands of fires connected to Hyundai, Kia vehicles*, Reuters,
27 available at <https://www.reuters.com/article/us-hyundai-motor-probe/u-s-to-probe-thousands-of-fires-connected-to-hyundai-kia-vehicles-idUSKCN1RD2P4> (last accessed April 12, 2019)
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II
PARTIES

A. Plaintiffs

7. Plaintiff and proposed Nationwide and California State Class Representative, Inez Elliston, is a citizen of the State of California currently residing in Fresno, CA. Ms. Elliston purchased a new 2014 Kia Sorrento from a Kia dealership in Sacramento, CA. Plaintiff still owns this vehicle, which is used for personal, family and/or household uses. The vehicle has since required an engine replacement in 2017 relating to the Engine Defect.

8. Plaintiff and proposed Nationwide and California State Class Representative, Matthew Raasch, is a citizen of the State of California currently residing in San Francisco, CA. Mr. Raasch purchased a new 2011 Kia Optima from a Kia dealership in Las Vegas, Nevada. Plaintiff Raasch still owns this vehicle, which is used for personal, family and/or household uses.

9. Plaintiff and proposed Nationwide and Florida State Class Representative, LaToya Taylor, is a citizen of the State of Florida currently residing in Sarasota, FL. Ms. Taylor purchased a used 2013 Kia Optima SXL, which she still owns, and uses for personal, family and/or household uses. Since purchasing the Vehicle, it has required two engine replacements and multiple recalls relating to the Engine Defect.

10. Plaintiff and proposed Nationwide and Florida State Class Representative, Greg Cohen, is a citizen of the State of Florida currently residing in Aventura, FL. Mr. Cohen purchased a used 2012 Hyundai Sonata, which he still owns, and uses for personal, family and/or household uses.

11. Plaintiff and proposed Nationwide and Georgia State Class Representative, Margaret Greenwalt, is a citizen of the State of Georgia currently residing in Douglasville, GA. Ms. Greenwalt purchased a used 2011 Kia Sorento, which she still owns, and uses for personal, family and/or household uses. The vehicle has since required multiple engine repairs relating to the Engine Defect.

1 12. Plaintiff and proposed Nationwide and Indiana State Class Representative,
2 Dimitra Bertzos, is a citizen of the State of Indiana currently residing in Schererville, IN.
3 Ms. Bertzos purchased a used 2013 Kia Optima, which she still owns, and uses for personal,
4 family and/or household uses. The vehicle has since required two engine replacements and
5 been subject to recalls relating to the Engine Defect.

6 13. Plaintiff and proposed Nationwide and Iowa State Class Representative, Jerry
7 Stanwick, is a citizen of the State of Iowa currently residing in Sloan, IA. Mr. Stanwick
8 purchased a new 2013 Kia Optima from Billion Kia of Sioux City, Iowa, which he still
9 owns, and uses for personal, family and/or household uses. The vehicle has since required
10 an engine replacement following catastrophic engine failure.

11 14. Plaintiff and proposed Nationwide and Louisiana State Class Representative,
12 Stephanie Cooper, is a citizen of the State of Louisiana currently residing in Saint James,
13 LA. Ms. Cooper purchased a used 2013 Kia Sorento, which she still owns, and uses for
14 personal, family and/or household uses. Ms. Cooper was in the Vehicle when the engine
15 burst into flames.

16 15. Plaintiff and proposed Nationwide and Massachusetts State Class
17 Representative, Chris Hazelwood, is a citizen of the State of Massachusetts currently
18 residing in Chelmsford, MA. Mr. Hazelwood purchased a new 2014 Kia Sorento from
19 York Kia of Medford, MA , which he still owns, and uses for personal, family and/or
20 household uses.

21 16. Plaintiff and proposed Nationwide and New Jersey State Class
22 Representative, David Feuerstein, is a citizen of the State of New Jersey currently residing
23 in Kearny, NJ. Mr. Feuerstein purchased a new 2013 Kia Optima SX from Gateway Kia
24 of East Brunswick, NJ , which he still owns, and uses for personal, family and/or household
25 uses. The vehicle has since required an engine replacement.

26 17. Plaintiff and proposed Nationwide and New Mexico State Class
27 Representative, Fabian Conant , is a citizen of the State of New Mexico currently residing
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1 in Albuquerque, NM. Mr. Conant purchased a used 2013 Kia Optima SXL, which he still
2 owns, and uses for personal, family and/or household uses.

3 18. Plaintiff and proposed Nationwide and New York State Class Representative,
4 Wayne Robertson, is a citizen of the State of New York currently residing in Piscataway,
5 NY. Mr. Robertson purchased a used 2012 Kia Sorento, which she still owns, and uses for
6 personal, family and/or household uses. The Vehicle has since been subject to multiple
7 recalls, including those relating to the Engine Defect.

8 19. Plaintiff and proposed Nationwide and New York State Class Representative,
9 Jonathan Wilson, is a citizen of the State of New York currently residing in Otisville, NY.
10 Mr. Wilson purchased a used 2011 Kia Optima, which he still owns, and uses for personal,
11 family and/or household uses.

12 20. Plaintiff and proposed Nationwide and North Carolina State Class
13 Representative, Gary Bolduc, is a citizen of the State of North Carolina currently residing
14 in Garner, NC. Mr. Bolduc purchased a new 2011 Kia Optima and a new 2012 Kia Sorento
15 from Free Anderson Kia of Cary located in Raleigh, NC, both of which he still owns, and
16 uses for personal, family and/or household uses.

17 21. Plaintiff and proposed Nationwide and North Carolina State Class
18 Representative, Tanesha Cherry, is a citizen of the State of North Carolina currently
19 residing in Greenville, NC. Ms. Cherry purchased a used 2011 Kia Sorento SXL, which
20 she still owns, and uses for personal, family and/or household uses.

21 22. Plaintiff and proposed Nationwide and Tennessee State Class Representative,
22 Latonya Franklin, is a citizen of the State of Tennessee currently residing in Memphis, TN.
23 Ms. Franklin purchased a used 2011 Kia Optima, which she still owns, and uses for
24 personal, family and/or household uses. The Vehicle has since been subject to multiple
25 recalls, including those related to the Engine Defect.

26 23. Plaintiff and proposed Nationwide and Tennessee State Class Representative,
27 Wendy Moore, is a citizen of the State of Tennessee currently residing in Mulberry, TN.
28 Ms. Moore purchased a used 2011 Kia Optima EX GDI, which she still owns, and uses for

1 personal, family and/or household uses. The vehicle has since required an engine
2 replacement after seizing up on Plaintiff Moore.

3 24. Plaintiff and proposed Nationwide and Texas State Class Representative,
4 Samantha Bitely, is a citizen of the State of Texas currently residing in Houston, TX. Ms.
5 Bitely purchased a used 2014 Kia Optima, which she still owns, and uses for personal,
6 family and/or household uses.

7 25. Plaintiff and proposed Nationwide and Texas State Class Representative,
8 Tasha Gill, is a citizen of the State of Texas currently residing in Houston, TX. Ms. Gill
9 purchased a new 2014 Kia Optima from Archer Kia of Houston, TX, which she still owns,
10 and uses for personal, family and/or household uses. The Vehicle has since been subject to
11 recalls relating to the Engine Defect.

12 **B. Defendant HYUNDAI MOTOR COMPANY**

13 26. Established in 1967, Defendant Hyundai Motor Company (“Hyundai Co.”) is
14 a South Korean multinational automaker headquartered in Seoul, South Korea. Hyundai
15 Co. has grown to become one of the world’s largest automakers and includes over two
16 dozen auto-related subsidiaries and affiliates. Hyundai Co. is the parent corporation of
17 Defendant Hyundai Motor America. Hyundai Co., together with Defendants Hyundai
18 Motor America, Kia Motors Corporation, and Kia Motors America, Inc., comprise the
19 Hyundai Motor Group, which manufactures the GDI engines at issue in this Complaint.

20 27. Hyundai Co. is principally engaged in the manufacture and distribution of
21 automobiles and automobile parts. Along with its subsidiaries, Hyundai Co. operates its
22 business through three segments. The Vehicle Segment, Financial Segment, and Railway
23 Segment. The Vehicle Segment manufactures automobiles mainly under the brand names
24 of Genesis, Tucson, Equus, Veloster, Azera, Sonata, Elantra, Accent. The segment also
25 provides automobile maintenance services and produces commercial vehicles including
26 trucks, buses, special vehicles and others, in addition to automobile component parts.

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2 **C. Defendant HYUNDAI MOTOR AMERICA**

3 28. Defendant Hyundai Motor America (“Hyundai America”) is an automobile
4 design, manufacturing, distribution, and/or service corporation incorporated and
5 headquartered in the state of California with its principal place of business in Fountain
6 Valley, California. Hyundai America primarily develops, manufactures, distributes,
7 markets, sells, leases, warrants, services, and repairs passenger vehicles, including the
8 Hyundai Class Vehicles.

9 29. Hyundai America is the American sales, marketing, and distribution arm of
10 its parent company, Hyundai Co., overseeing sales and other operations across the United
11 States. Hyundai America distributes and sells a complete line of Hyundai vehicles through
12 more than 800 dealers throughout the United States. Money received from the purchase or
13 lease of a Hyundai vehicle from a dealership flows from the dealer to Hyundai America
14 and Hyundai Co. (together, “Hyundai”).

15 30. On information and belief, Defendant Hyundai America is responsible for the
16 distribution, installation, service, repair and decisions regarding the GDI engines as they
17 relate to the Engine Defect in the Hyundai Class Vehicles.

18 31. On information and belief, Defendant Hyundai America developed the post-
19 purchase owner’s manuals, warranty booklets, and other information related to
20 maintenance recommendations and/or schedules for the Hyundai Class Vehicles.

21 32. Hyundai America engages in continuous and substantial business in
22 California.

23 **D. Defendant KIA MOTORS CORPORATION**

24 33. Defendant Kia Motors Corporation (“Kia Corp.”) is a South Korean
25 multinational automaker headquartered in Seoul, South Korea. Kia Corp. is principally
26 engaged in the manufacture and distribution of automobiles. Kia Corp.’s products include
27 passenger vehicles, recreational vehicles, taxi/bus/commercial vehicles as well as hybrid
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1 vehicles under the brand names of Cadenza, Forte, Forte Koup, Forte 5, K900, Optima,
2 Optima Hybrid, Rio, Rio 5-door, Soul, Sedona, Sorento, Sportage and others.

3 34. The Company also engaged in the manufacture of automobile components, as
4 well as prevision of rental and maintenance services. The Company distributes its products
5 within domestic market and to overseas markets, such as North America, Europe and other
6 Asian countries.

7 35. Kia Corp. is the parent corporation of Kia Motors America, Inc. As of April
8 2019, Defendant Kia Corp.'s largest shareholder is Hyundai Co., which holds 33.88
9 percent of Kia Corp.'s stock.

10 **E. Defendant KIA MOTORS America, Inc.**

11 36. Defendant Kia Motors America, Inc. ("Kia America") is an automobile
12 design, manufacturing, distribution, and/or service corporation doing business within the
13 United States. Kia America designs, develops, manufactures, distributes, markets, sells,
14 leases, warrants, services, and repairs passenger vehicles, including the Kia Class Vehicles.

15 37. Kia America is incorporated and headquartered in the state of California with
16 its principal place of business at 111 Peters Canyon Road, Irvine, California 92606. Kia
17 America serves as the American sales, marketing, and distribution arm of its parent
18 company, Kia Corp., overseeing sales and other operations across the United States. Kia
19 America distributes and sells a complete line of Kia vehicles through more than 755 dealers
20 throughout the United States. Money received from the purchase or lease of a Kia vehicle
21 from a dealership flows from the dealer to Kia America and Kia Corp (together, "Kia").

22 38. On information and belief, Defendant Kia America is responsible for the
23 distribution, service, repair, installation, and decisions regarding the GDI engines as they
24 relate to the Engine Defect in the Kia Class Vehicles.

25 39. On information and belief, Defendant Kia America developed the post-
26 purchase owner's manuals, warranty booklets, and other information related to
27 maintenance recommendations and/or schedules for the Kia Class Vehicles.

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1 40. Kia America engages in substantial and continuous business in the state of
2 California.

3 41. Doe Defendants 1 through 50 represent presently unknown designers,
4 researchers, developers, manufacturers, marketers, distributors, promoters, suppliers and
5 sellers of the Class Vehicles, which are defective and unreasonably dangerous.

6 **II**

7 **JURISDICTION AND VENUE**

8 42. This Court has subject matter jurisdiction under the Class Action
9 Fairness Act of 2005 (“CAFA”), 28 U.S.C. §§1332(d)(2) and (6) because the
10 putative class numbers 100, the aggregate amount in controversy exceeding
11 \$5,000,000.00 exclusive of interest and costs, and there is minimal diversity because
12 at least one plaintiff and one defendant are citizens of different states. This Court
13 also has supplemental jurisdiction over the state law claims pursuant to 28 U.S.C. §
14 1367. This Court also has supplemental jurisdiction over Plaintiffs’ state law claims
15 pursuant to 28 U.S.C. § 1367.

16 43. This Court has personal jurisdiction over Defendants by virtue of them
17 doing business in this Judicial District and because Defendants are headquartered in
18 California. Defendants have also engaged in statutory violations within the State of
19 California and this District.

20 44. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391.
21 Defendants have conducted, and continue to conduct, business in this District, and a
22 substantial part of the acts and omissions giving rise to the claims occurred, at least in part,
23 within this District. Defendants are headquartered here, maintain a manufacturing plant
24 here, market, advertise, and sell the affected vehicles here at Defendants’ dealerships , and
25 otherwise conducted extensive business, within this District, including benefitting from
26 substantial revenue and profits from the sales and/or leases of Class Vehicles in this
27 District.

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1 **III**

2 **FACTUAL ALLEGATIONS**

3 45. Hyundai and Kia manufactured and sold millions of vehicles equipped with
4 defective engines that create major safety concerns for owners, drivers and passengers of
5 Class Vehicles. Upon learning of these defects, Hyundai and Kia failed to remedy the
6 potentially fatal defects, and in fact, concealed the true nature of the engines and vehicles
7 from consumers for years—consumers who were driving and riding, and continue to drive
8 and ride in vehicles with a legitimate fear that their engine could fail on a busy road without
9 provocation or burst into flames in an instant.

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11 **A. The Gasoline Direct Injection Engine (“GDI”)**

12 46. In 2009, Hyundai debuted the 2.4 Theta II GDI, its first Gasoline Direct
13 Injection engine in the United States.⁷ The Theta II 2.4 GDI is a naturally aspirated 2.4-
14 liter gasoline direct-injection four-cylinder engine that made its first appearance in the 2011
15 Hyundai Sonata. The Theta II engines also included an option for a turbocharged 2.0-liter
16 model. On information and belief, Hyundai used Theta II GDI engines in certain Sonata,
17 Santa Fe, and Santa Fe Sport vehicles, and Kia used these engines in certain Optima,
18 Sorento, and Sportage vehicles.⁸

19 47. According to Hyundai, by precisely controlling the injection of fuel, GDI
20 allows for better fuel economy, increased power and reduced emissions from its vehicles.

21 48. In 2010, Hyundai debuted another GDI engine, the “Gamma” 1.6-liter engine,
22 in its 2012 Accent. The Gamma 1.6L was, at the time of its introduction, the smallest
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26 ⁷ Miles Johnson, *Hyundai Develops Its First Gasoline Direct Injection Engine*, (November 17, 2009)
27 Hyundai, available at <https://www.hyundai.com/en-us/releases/317> (last accessed April 14, 2019).

28 ⁸ Clifford Athiyeh, *Hyundai and Kia Recall 1.2 Million Cars for Engine Failures*, (April 4, 2017) Car and
Driver, available at <https://www.caranddriver.com/news/a15342058/hyundai-and-kia-recall-1-2-million-cars-for-engine-failures/> (last accessed April 14, 2019).

1 Hyundai engine to use GDI technology. On information and belief, Hyundai used Gamma
2 GDI engines in certain Accents Veloster vehicles.⁹

3 49. In 2012, Hyundai and Kia introduced their “Lambda II” engine lineup that
4 included 3.0-liter, 3.3-liter, and turbocharged 3.3-liter GDI models. The previous Lambda
5 engine allowed for up to 50° of cam phasing, but the Lambda II twin-turbo 3.3L is capable
6 of up of 85° of phasing, allowing rapid valvetrain adjustments in response to throttle inputs.
7 On information and belief, Hyundai used the Lambda II GDI engines in certain Genesis
8 models, Hyundai Palisade, Azera, Sonata, and Santa Fe vehicles, namely large SUVs and
9 crossovers. Kia used the Lambda II GDI engines in certain Sorento, Sedona, Cadenza, and
10 Stinger models.

11 50. Shortly thereafter, in 2013, Defendants introduced another GDI engine to its
12 lineup, the “Nu” 2.0-liter model. Although first introduced in a 1.8-liter size in 2010, the
13 Nu GDI engine line expanded in 2012 to include the 2.0-liter version. On information and
14 belief, Hyundai used the Nu 2.0-liter GDI engines in certain Elantra, Tucson, and Sonata
15 Hybrid vehicles, and Kia used them in certain Soul vehicles.

16 **B. The GDI Engine Defect**

17 51. Subsequent to the introduction of the GDI engine models described above, in
18 2015, Hyundai recalled 470,000 Sonata sedans equipped with the "Theta II" engine. The
19 recall was initiated as a result of anticipated engine failures leading to stalled vehicles and
20 an increased risk of a crash. At that time, Kia did not recall any of its vehicles even though
21 they included the same "Theta II" engines.

22 52. In March 2017, less than two years later, Hyundai expanded its U.S. recall to
23 572,000 2013-2014 Hyundai Sonatas and the 2013-2014 Hyundai Santa Fe Sports, citing
24 the same engine issues following additional engine complaints.¹⁰ Kia also recalled 2011-

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27 ⁹ *Gamma 1.6-Liter GDI Engine*, Hyundai, available at [.https://www.hyundainews.com/en-us/releases/1308](https://www.hyundainews.com/en-us/releases/1308) (last accessed April 17, 2019)

28 ¹⁰ Hyundai Recall 17V-226: <https://static.nhtsa.gov/odi/rcl/2017/RCLRPT-17V226-4558.pdf> (last visited April. 20, 2019).

1 2014 Kia Optima, 2012-2014 Kia Sorento, and 2011-2013 Kia Sportage.¹¹ As of March
2 2017, Hyundai and Kia had recalled over 1.6 million vehicles in two recalls intended to
3 address the catastrophic engine failure issue.¹² However, Hyundai and Kia failed to recall
4 nearly three million vehicles with potentially defective engines that may catch fire since
5 the discovery of the engine defects in 2015. In fact, the Highway Loss Data Institute,
6 reported Kia and Hyundai vehicles with two-liter, turbocharged engines were more than
7 three times more likely to catch fire than engines in any other similar-sized vehicle on U.S.
8 roads. Yet, not all models with that engine have been recalled.¹³

9 53. The defect in the “Theta II” engines causes debris to be spewed from the
10 engine resulting in prematurely worn bearings, engine seizures, and/or dislodged
11 connecting rods that may puncture the engine block. This defect restricts oil flow to
12 essential component parts of the engine, resulting in inadequate engine oil lubrication.
13 Stalling may be triggered by the premature engine wear resulting from inadequate
14 lubrication and restricted oil flow to the engine. Simply put, the defect damages the engine
15 block, thus rendering the vehicles inoperable, and in many instances leading to engine fires.

16 54. Premature wear may result in a connecting rod breaking and puncturing a hole
17 in the engine block, thus allowing oil to escape and encounter hot engine surfaces. This
18 can ultimately cause a sudden engine fire rendering Class Vehicles inoperable.¹⁴ In addition
19 to extensive and costly damage to vehicle engines, their component parts, and in some
20 cases, total loss of a Class Vehicle, the Engine Defect creates a serious driving hazard and
21 increased likelihood of injury or death for drivers and passengers.

22 _____
23 ¹¹ Kia Recall 17V-224: <https://static.nhtsa.gov/odi/rc1/2017/RCLRPT-17V224-7544.PDF> (last visited
24 April, 20, 2019)

25 ¹²Center for Auto Safety: *Investigation needed into Kia and Hyundai for hundreds of car fires*, (February
26 27, 2019) Center for Auto Safety, available at [https://www.autosafety.org/wp-
content/uploads/2019/02/CAS-letter-to-Congress-on-Kia-Hyundai-fires-Final.pdf](https://www.autosafety.org/wp-content/uploads/2019/02/CAS-letter-to-Congress-on-Kia-Hyundai-fires-Final.pdf) (last visited April 20,
2019).

27 ¹³ Jackie Callaway, *Study: Certain Kia and Hyundai engines more likely to catch fire*, (March 25,
28 2019), ABC Action News, [https://www.abcactionnews.com/news/local-news/i-team-investigates/study-
certain-kia-and-hyundai-engines-more-likely-to-catch-fire](https://www.abcactionnews.com/news/local-news/i-team-investigates/study-certain-kia-and-hyundai-engines-more-likely-to-catch-fire) (last visited April 24, 2019).

¹⁴ *Id.*

1 55. Subsequent to the two previous engine recalls mentioned above, in January
2 2019, following additional consumer complaints, Hyundai issued a subsequent recall to
3 inspect the fuel tube installation of approximately 100,000 of those more than 1 million
4 2011-2014 Hyundai Sonata and 2013-2014 Hyundai Santa Fe Sport vehicles whose
5 engines were replaced under the previous two recalls.¹⁵ Hyundai made clear that *only*
6 vehicles that had engines replaced in the previous recalls are covered by the new recall.¹⁶

7 56. Kia announced that it, too, would recall vehicles to inspect the high-pressure
8 fuel pipe that may have been damaged, misaligned or improperly tightened while vehicle
9 engines were being replaced under previous recalls. The damage can allow fuel to leak and
10 hit hot engine parts, causing fires.

11 57. Kia would recall the Soul small SUV due to fire and engine failure problems.
12 However, the recent recalls are still insufficient to remedy the problem, given that Hyundai
13 and Kia have yet to recall all vehicles at risk.

14 58. On information and belief, the Class Vehicles are equipped with GDI engines
15 of various models containing the Engine Defect, thus drastically increasing the likelihood
16 of catastrophic engine failures and engine fires.

17 **C. Hyundai and Kia Failed to Efficiently Remedy the Known Engine Defects**

18 59. Instead of presenting the public with a solution for the Engine Defect causing
19 fires, or at the very least, a suitable explanation, or statement claiming responsibility for
20 the continued sale of these defective engines, Hyundai and Kia had recalled fewer than
21 10% of the potential fire prone vehicles as of February 27, 2019.¹⁷

22
23
24 ¹⁵ *Hyundai Issues Recall and Engine Software Update for Certain Sonata and Santa Fe Sport Vehicles*
(January 16, 2019) Hyundai, available at <https://www.hyundainews.com/en-us/releases/2696> (last
25 accessed April 14, 2019).

26 ¹⁶ Tom Krisher, *Hyundai, Kia recall vehicles due to increased fire risk* (January 16, 2019), Associated
27 Press, available at <https://apnews.com/8ac437d30fea4c97bd3058922d85f937> (last accessed April 24,
2019).

28 ¹⁷ *Center for Auto Safety: It is Time for Congress to Take Action on Kia and Hyundai Fires*, (February 27,
2019) Center for Auto Safety, available at [https://www.autosafety.org/wp-content/uploads/2019/02/CAS-
letter-to-Congress-on-Kia-Hyundai-fires-Final.pdf](https://www.autosafety.org/wp-content/uploads/2019/02/CAS-letter-to-Congress-on-Kia-Hyundai-fires-Final.pdf) (last accessed April 18, 2019).

1 60. In the Center for Auto Safety (“the Center”) February 27, 2019 letter to
2 Congress, the Center stated that “Kia and Hyundai are refusing to fix a potentially deadly
3 problem with their vehicles, despite independent analysis confirming that this is not a
4 common occurrence for other manufacturers.”¹⁸

5 61. By the end of February 2019, the Center reported “over 300 ‘non-collision’
6 fires in just 5 makes and models of [Hyundai and Kia’s] vehicles over a small period of
7 time.”¹⁹ The Center went on to warn that “these figures are far out of proportion with
8 similar size and class vehicles made during the same period”, ultimately leading the Center
9 to call for Congressional action. The Center ultimately called for a full recall of all 2011-
10 2014 Kia Optima, Kia Sorento, Kia Soul, Hyundai Sonata, and Hyundai Santa Fe, and all
11 2010-2015 Kia Souls—a total of almost 3 million vehicles— and petitioned NHTSA to
12 open an investigation into the issue.

13 62. The Highway Loss Data Institute also revealed that insurance claim records
14 show that many more Kia and Hyundai vehicles are catching fire than have been reported
15 to government regulators. Insurance records show more than 2,700 fires in just five models
16 alone – 2011-2015 Kia Optima, 2011-2014 Hyundai Sonata, 2011-2015 Kia Sorento, 2011-
17 2012 Hyundai Santa Fe and 2013-2014 Hyundai Santa Fe Sport.²⁰ Those numbers continue
18 to rise.

19 63. On April 1, 2019—based on the 300+ consumer complaints of Hyundai and
20 Kia vehicles bursting into flames— NHTSA called for an investigation into the non-
21 collision fires and the hundreds of further complaints noting melted wires in the engine
22

23
24 ¹⁸ *Id.*

25 ¹⁹ *Center for Auto Safety: It is Time for Congress to Take Action on Kia and Hyundai Fires*, (February 27,
2019) Center for Auto Safety, available at [https://www.autosafety.org/wp-content/uploads/2019/02/CAS-](https://www.autosafety.org/wp-content/uploads/2019/02/CAS-letter-to-Congress-on-Kia-Hyundai-fires-Final.pdf)
26 [letter-to-Congress-on-Kia-Hyundai-fires-Final.pdf](https://www.autosafety.org/wp-content/uploads/2019/02/CAS-letter-to-Congress-on-Kia-Hyundai-fires-Final.pdf) (last accessed April 18, 2019).

27 ²⁰ Jackie Callaway, *Study: Certain Kia and Hyundai engines more likely to catch fire*, (March 25,
2019), ABC Action News, [https://www.abcactionnews.com/news/local-news/i-team-investigates/study-](https://www.abcactionnews.com/news/local-news/i-team-investigates/study-certain-kia-and-hyundai-engines-more-likely-to-catch-fire)
28 [certain-kia-and-hyundai-engines-more-likely-to-catch-fire](https://www.abcactionnews.com/news/local-news/i-team-investigates/study-certain-kia-and-hyundai-engines-more-likely-to-catch-fire) (last visited April 24, 2019).

1 bay, engine smoke, and burning odors emanating from Hyundai and Kia vehicles. Hyundai
2 and Kia remain under investigation by NHTSA for their alleged concealment of, and
3 unhurriedness to fix, defective Hyundai and Kia vehicles, all the while consumers are left
4 without recourse for their purchase or lease of those defective Class Vehicles.

5 **IV**

6 **CLASS ACTION ALLEGATIONS**

7 **A. Class Definitions**

8 64. “Class Vehicles” include, but are not limited to:

9 a. Hyundai

10 i. 2011-2019 Hyundai Sonata

11 ii. 2013-2019 Hyundai Santa Fe and Santa Fe Sport

12 iii. 2011-2019 Kia Optima

13 iv. 2012-2019 Kia Sorento

14 v. 2012-2019 Kia Soul

15 vi. 2011-2019 Kia Sportage.

16 65. Pursuant to Federal Rule of Civil Procedure 23, Plaintiffs bring this class
17 action individually and on behalf of the following proposed nationwide class of persons,
18 initially defined as:

19 **Nationwide Class:**

20 All persons or entities who bought, leased,
21 or own a Class Vehicle in the United States.

22 66. In the alternative to the Nationwide Class, and pursuant to Federal Rule of
23 Civil Procedure 23(c)(5), Plaintiffs seek to represent the following state classes, if the Court
24 declines to certify the Nationwide Class above. Specifically, the State Classes consist of
25 the following:

26 **California State Class:**

27 All persons or entities who bought, leased, or
28 own a Class Vehicle in the State of California.

1 **Florida State Class:**

2 All persons or entities who bought, leased, or
3 own a Class Vehicle in the State of Florida.

4 **Georgia State Class:**

5 All persons or entities who bought, leased, or
6 own a Class Vehicle in the State of Georgia.

7 **Indiana State Class:**

8 All persons or entities who bought, leased, or
9 own a Class Vehicle in the State of Indiana.

10 **Iowa State Class:**

11 All persons or entities who bought, leased,
12 or own a Class Vehicle in the State of Iowa.

13 **Louisiana State Class:**

14 All persons or entities who bought, leased, or
15 own a Class Vehicle in the State of Louisiana.

16 **Massachusetts State Class:**

17 All persons or entities who bought, leased, or
18 own a Class Vehicle in the State of
19 Massachusetts.

20 **New Jersey State Class:**

21 All persons or entities who bought, leased, or
22 own a Class Vehicle in the State of New
23 Jersey.

24 **New Mexico State Class:**

25 All persons or entities who bought, leased, or
26 own a Class Vehicle in the State of New
27 Mexico.

28 **New York State Class:**

1 All persons or entities who bought, leased, or
2 own a Class Vehicle in the State of New York.

3 **North Carolina State Class:**

4 All persons or entities who bought, leased, or
5 own a Class Vehicle in the State of North
6 Carolina.

7 **Tennessee State Class:**

8 All persons or entities who bought, leased, or
9 own a Class Vehicle in the State of Tennessee.

10 **Texas State Class:**

11 All persons or entities who bought, leased, or
12 own a Class Vehicle in the State of Texas.

13
14 67. Together, the Nationwide Class and the State Classes shall be collectively
15 referred to herein as (the “Class”).

16 68. The Class and State Classes do not include Defendants; any affiliate, parent
17 or subsidiary of Hyundai or Kia; any entity in which Hyundai or Kia have a controlling
18 interest; any officer, director or employee of Hyundai or Kia; any successor or assign of
19 Hyundai or Kia; Plaintiffs’ counsel or anyone employed by Plaintiffs’ counsel in this action
20 and their immediate families; any judge to whom this case is assigned and any member of
21 his/her immediate family and staff; governmental entities; or individuals who have
22 personal injury claims as a result of conduct and/or defects alleged herein.

23 69. Plaintiffs reserve the right to amend or supplement the Class descriptions with
24 greater specificity or further division into subclasses or limitation to certain issues, after
25 conducting discovery in this matter.

26 70. Plaintiffs also reserve the right to amend or supplement the Class Vehicles
27 after conducting discovery in this matter.
28

1 **B. Fed. R. Civ. P. 23 Class Certification Requirements**

2 71. **Numerosity of the Class** – The members of the Class are so numerous that
3 their individual joinder is impracticable. Plaintiffs are informed and believe that there are
4 over one million Class Vehicles nationwide, and many thousands of Affected Vehicles in
5 each of the States mentioned above, based on the volume of sales and recalls of Class
6 Vehicles. Disposition of the claims in a class action context will provide substantial
7 benefits to the parties and the Court.

8 72. **Commonality and Predominance** – Common questions of law and fact exist
9 as to all members of the Class and predominate over questions affecting only individual
10 Class members, as is required by Fed. R. Civ. P. 23(a)(2) and (b)(3). These common
11 questions include, but are not limited to:

- 12
- 13 a. Whether Defendants engaged in the conduct alleged herein;
 - 14 b. Whether Defendants designed, advertised, marketed,
15 distributed, leased, sold, or otherwise placed the Class Vehicles
16 into the stream of commerce in the United States;
 - 17 c. Whether the Class Vehicles have and were sold with the defects
18 alleged herein, and whether those defects constitute a safety
19 defect;
 - 20 d. Whether a reasonable consumer would consider the defects
21 alleged herein and/or their consequences material to the decision
22 to purchase or lease a Class Vehicle;
 - 23 e. When Defendants discovered, knew, or should have known of
24 the existence of the defects alleged herein;
 - 25 f. Whether Plaintiffs and the other Class members overpaid for
26 their Class Vehicles as a result of the Engine Defects and
27 Defendants’ concealment thereof;
- 28

- 1 g. Whether Defendants had a duty to disclose the true nature of
2 the Class Vehicles to Plaintiffs and Class members;
- 3 h. Whether Plaintiffs suffered out-of-pocket losses as a result of
4 the defects alleged herein, and if so, how much;
- 5 i. Whether Plaintiffs will suffer out-of-pocket losses as a result of
6 the proposed recalls, and if so, how much;
- 7 j. Whether Plaintiffs and the other Putative Class members are
8 entitled to damages and monetary relief and, if so, in what
9 amount;
- 10 k. Whether Defendants omitted, concealed, and/or failed to
11 disclose material facts about the Class Vehicles;
- 12 l. Whether Defendants' concealment of the true nature of the Class
13 Vehicles would have induced a reasonable consumer to act to
14 his or her detriment by purchasing and/or leasing the Class
15 Vehicles;
- 16 m. Whether Plaintiffs and the other Class members are entitled to
17 equitable relief, including, but not limited to, restitution or
18 injunctive relief
- 19 n. Whether Plaintiffs and the other Putative Class members are
20 entitled to damages and monetary relief and, if so, in what
21 amount; and
- 22 o. Whether Defendants continue to unlawfully conceal and
23 misrepresent whether additional vehicles, besides those reported
24 in the media to date, are in fact Class Vehicles.
- 25 p. Whether Defendants' conduct violates the laws as set forth in
26 the causes of action, including but not limited to, the California
27 Legal Remedies Act, California Unfair Competition Law,
28

1 California False Advertising Law, the Song-Beverly Act, and
2 any other statutes asserted herein.

3 73. **Typicality** – The claims of the representative Plaintiffs are typical of the
4 claims of each member of the Class, thus satisfying Fed. R. Civ. P. 23(a)(3). Plaintiffs,
5 like all other members of the Class, have sustained damages arising from Defendant’s
6 violations of the laws, as alleged herein. The representative Plaintiffs and the members of
7 the Class were and are similarly or identically harmed by the same unlawful, deceptive,
8 unfair, systematic, and pervasive pattern of misconduct engaged in by Defendant.
9 Plaintiffs’ claims arise from the same practices and course of conduct that give rise to the
10 claims of all other members of the Class.

11 74. **Adequacy** – The representative Plaintiffs will fairly and adequately represent
12 and protect the interests of the Class members and have retained counsel who are
13 experienced and competent trial lawyers in complex litigation and class action litigation,
14 thus satisfying Fed. R. Civ. P. 23(a)(4). There are no material conflicts between the claims
15 of the representative Plaintiffs and the members of the Class that would make class
16 certification inappropriate. Counsel for the Class will vigorously assert the claims of all
17 Class members.

18 75. **Declaratory or Injunctive Relief** – Hyundai and Kia have acted and refused
19 to act on grounds generally applicable to Plaintiffs and members of the Class, thereby
20 making final injunctive relief or corresponding declaratory relief appropriate regarding the
21 Class as a whole. Fed. R. Civ. P. 23(b)(2).

22 76. **Superiority** – This suit may be maintained as a class action under Fed. R. Civ.
23 P. 23(b)(3), because a class action is superior to any other available means for the fair and
24 efficient adjudication of this dispute and no unusual difficulties are likely to be encountered
25 in its management of this class action. The damages suffered by individual class members
26 are small in comparison to the burden and expense of individually litigating each claim and
27 based on the complex and extensive litigation needed to address Defendant’s conduct.
28 Further, it would be virtually impossible for the members of the Class to individually

1 redress effectively the wrongs done to them. Even if Class members themselves could
2 afford such individual litigation, the court system could not. In addition, individualized
3 litigation increases the delay and expense to all parties and to the court system resulting
4 from complex legal and factual issues of the case. Individualized litigation also presents a
5 potential for inconsistent or contradictory judgments. By contrast, the class action device
6 presents far fewer management difficulties; allows the hearing of claims which might
7 otherwise go unaddressed because of the relative expense of bringing individual lawsuits;
8 and provides the benefits of single adjudication, economies of scale, and comprehensive
9 supervision by a single court.

10 77. **Ascertainability**: Upon information and belief, the precise number of Class
11 members may be ascertained from Defendants' records and vehicle registration records.
12 Plaintiffs contemplate the eventual issuance of notice to the proposed Class members
13 setting forth the nature of the instant action. Upon information and belief, Class members
14 may be notified of this action by recognized, Court-approved notice dissemination
15 methods, which may include U.S. mail, electronic mail, Internet postings, social media,
16 and published notices, in addition to Defendant's own business records.

17 **V**

18 **CALIFORNIA LAW APPLIES TO THE CLAIMS**
19 **OF THE NATIONWIDE CLASS**

20 78. California law applies to the nationwide claims because California's interest
21 in this litigation exceeds that of any other state.

22 79. Defendant Hyundai America is headquartered in Fountain Valley, California
23 and is the sole entity in the United States responsible for distributing, selling, leasing, and
24 warranting Hyundai vehicles, including the Hyundai Class Vehicles.

25 80. Defendant Kia America is headquartered in Irvine, California and is the sole
26 entity in the United States responsible for distributing, selling, leasing, and warranting Kia
27 vehicles, including the Kia Class Vehicles.
28

1 and even if they did experience such a failure, would have no reason to discover the
2 existence of a widespread defect among other Hyundai and Kia vehicles, or any effort to
3 conceal the defect.

4 87. Plaintiffs and Class members therefore did not discover, and did not know of,
5 facts that would lead a reasonable person to suspect that Hyundai and Kia concealed
6 information about defects in the Class Vehicles until shortly before this action was filed.

7 88. Thus, all applicable statutes of limitation have been tolled by operation of the
8 discovery rule with respect to claims relating to the Engine Defect in Class Vehicles.

9 **B. All Applicable Statutes of Limitations Have Been Tolled by Defendants’**
10 **Fraudulent Concealment.**

11 89. All applicable statutes of limitation have also been tolled by way of
12 Defendants’ knowing and ongoing fraudulent concealment of the facts alleged herein.

13 90. Defendants concealed the defects, minimized the cause, effects, and dangers
14 of the defects, and failed to disclose or sufficiently remedy the defects. Even now, with
15 NHTSA recalls pending, Defendants offer a repair that is almost certainly inadequate for
16 one defect. As to another, Defendants do not even to know the cause of the defect—a defect
17 that has existed for at least nine years and is, purportedly, to be fixed by a recall that fails
18 to identify any available repair.

19 91. Plaintiffs also suffered, and continue to suffer, damages as a result of the
20 inadequate and dangerous recall repairs that were performed on certain Class Vehicles.

21 92. Ultimately, Hyundai and Kia actively concealed the true character, quality,
22 and nature of the Class Vehicles.

23 **C. Estoppel**

24 93. Hyundai and Kia were, and currently are, under a continuous duty to disclose
25 the true character, quality, and nature of the Class Vehicles, including any vehicle defects
26 as alleged herein, and the inevitable repairs, replacements, expenses, time, and monetary
27 damages resulting therefrom.
28

1 94. Based on the foregoing, Defendants are estopped from relying on any statutes
2 of limitations in defense of this action.

3 **VII**
4 **CLAIMS FOR RELIEF**

5 95. Plaintiffs bring each of the following claims on behalf of themselves and the
6 Nationwide Class against Defendants. Alternatively, Plaintiffs bring these claims on behalf
7 of themselves and the Individual State Classes against Defendants.

8 **COUNT I**
9 **Violation of California Consumer Legal Remedies Act**
10 **(Cal. Civ. Code § 1750 *et seq.*)**

11 96. Plaintiffs incorporate by reference and re-allege all paragraphs previously
12 stated herein.

13 97. The following definitions come within the meaning of the Consumer Legal
14 Remedies Act (Cal. Civ. Code § 1750, *et seq.*):

- 15 a. The members of the Class, all of whom purchased the
16 subject vehicles manufactured and sold by Hyundai and Kia
17 are “consumers” (Cal. Civ. Code § 1761(d));
- 18 b. Defendants Hyundai and Kia are a “persons” (Cal. Civ. Code
19 § 1761(c));
- 20 c. Plaintiffs’ and every Class members’ purchase of the subject
21 vehicle constitute a “transaction” (Cal. Civ. Code § 1761(e));
22 and
- 23 d. The subject vehicles are “goods” (Cal. Civ. Code § 1761
24 (a)).

25 98. The acts and practices of Hyundai and Kia, as discussed throughout this
26 Complaint, constitute “unfair or deceptive acts or practices” that are unlawful, as
27 enumerated in section 1770(a) of the California Civil Code.
28

1 99. The Unfair Business Practices Act defines unfair business competition to
2 include any “unfair,” “unlawful,” or “fraudulent” business act or practice. The Act also
3 provides for injunctive relief, restitution, and disgorgement of profits for violations.

4 100. Such misconduct materially affected the purchasing decisions of Plaintiffs and
5 the Class members.

6 101. Plaintiffs seek restitution and injunctive relief pursuant to California Civil
7 Code § 1780

8 102. Plaintiffs and Class members have been damaged by said practices. Pursuant
9 to California Business and Professions Code § 1750, Plaintiffs, on behalf of themselves
10 and all others similarly situated, seek relief as prayed for below.

11 **COUNT II**
12 **Violation of California False Advertising Law**
13 **(Cal. Bus. & Prof. Code § 17500, *et seq.*)**

14 103. Plaintiffs incorporate by reference and re-allege all paragraphs previously
15 stated herein.

16 104. California Business & Professions Code § 17500 states: “It is unlawful for
17 any . . . corporation . . . with intent directly or indirectly to dispose of real or personal
18 property . . . to induce the public to enter into any obligation relating thereto, to make or
19 disseminate or cause to be made or disseminated . . . from this state before the public in
20 any state, in any newspaper or other publication, or any advertising device, . . . or in any
21 other manner or means whatever, including over the Internet, any statement . . . which is
22 untrue or misleading, and which is known, or which by the exercise of reasonable care
23 should be known, to be untrue or misleading.”

24 105. Defendants caused to be made or disseminated through California and the
25 United States—through advertising, marketing and other publications—statements that
26 were untrue or misleading, and which were known, or which by the exercise of reasonable
27 care should have been known to Defendants, to be untrue and misleading to consumers,
28 including Plaintiffs and the Class members.

1 106. Defendants violated section 17500 because the misrepresentations and
2 omissions regarding the safety, reliability, and functionality of their Class Vehicles as set
3 forth in this Complaint were material and likely to deceive a reasonable consumer.

4 107. Plaintiffs and Class members have suffered an injury in fact, including the
5 loss of money or property, as a result of Defendants' unfair, unlawful, and/or deceptive
6 practices. In purchasing or leasing their Class Vehicles, Plaintiffs and the Class members
7 relied on the misrepresentations and/or omissions of Defendants with respect to the safety
8 and reliability of the Class Vehicles. Defendants' representations and/or omissions were
9 untrue because the Class Vehicles are distributed with a defective engine. Had Plaintiffs
10 and the Class members known this, they would not have purchased or leased their Class
11 Vehicles, or they would not have paid as much for the Class Vehicles. Accordingly,
12 Plaintiffs and the Class members overpaid for their Class Vehicles, were greatly
13 inconvenienced by the undisclosed defects, and did not receive the benefit of their bargain.

14 108. All the wrongful conduct alleged herein occurred, and continues to occur, in
15 the conduct of Defendants' businesses. Defendants' wrongful conduct is part of a pattern
16 or generalized course of conduct that is still perpetuated and repeated, in the states of
17 California, Florida, Georgia, Indiana, Iowa, Louisiana, Massachusetts, New Jersey, New
18 Mexico, New York, North Carolina, Tennessee, Texas and nationwide.

19 109. Plaintiffs, individually and on behalf of the Class members, request that this
20 Court enter such orders or judgments as necessary to enjoin Defendants from continuing
21 their unfair, unlawful, and/or deceptive practices and to restore to Plaintiffs and the Class
22 members any money Defendants acquired by unfair competition, including restitution
23 and/or restitutionary disgorgement, and for such other relief permitted.

24 **COUNT III**

25 **Violation of California Unfair Competition Law Section 17200**
26 **(Cal. Bus. & Prof. Code § 17200, et seq.)**

27 110. Plaintiffs incorporate by reference and re-allege all paragraphs previously
28 stated herein.

1 111. Plaintiffs assert this claim on behalf of themselves and of themselves and on
2 behalf of all persons and entities who purchased or leased a Class Vehicle. Alternatively,
3 Plaintiffs bring this claim on behalf of themselves and the State Classes against Hyundai
4 and Kia.

5 112. The California Unfair Competition Law (“UCL”) prohibits acts of “unfair
6 competition,” including any “unlawful, unfair or fraudulent business act or practice” and
7 “unfair, deceptive, untrue or misleading advertising.” Cal. Bus. & Prof. Code § 17200.

8 113. Hyundai and Kia engaged in unfair competition and unfair, unlawful or
9 fraudulent business practices through the conduct, statements, and omissions described
10 herein, and by knowingly and intentionally concealing the Engine Defect in Class Vehicles
11 from Plaintiffs and Class members. This is in addition to Hyundai and Kia concealing the
12 risks, costs, monetary damage, and costly inconveniences resulting from the Engine Defect.
13 Hyundai and Kia had a duty to disclose this information based on their superior position to
14 know the true facts related to the Engine Defect, compared to that of Plaintiffs and the
15 Class, who could not reasonably be expected to discover or learn the true facts related to
16 the Engine Defect.

17 114. The Engine Defect triggering inadequate engine oil lubrication that results in
18 catastrophic engine failure, damage, and engine fires in the Class Vehicles constitutes a
19 valid safety concern that triggered Defendants’ duty to disclose the issue to consumers.

20 115. Hyundai and Kia’s acts and practices have deceived Plaintiffs and are likely
21 to deceive the public. In failing to disclose the Engine Defect and concealing material facts
22 relevant to Class Vehicles from Plaintiffs and Class members, Hyundai and Kia breached
23 their duty to disclose these facts, violated the UCL, and caused injuries to Plaintiffs and
24 Class members. Defendants’ omissions and concealment pertain to information that was
25 material to Plaintiffs and Class members, as it would have been to all reasonable
26 consumers.

27
28

1 116. Plaintiffs and Class members injuries are in no way greatly outweighed by
2 any potential countervailing benefit to consumers or to competition, nor are these injuries
3 such that Plaintiffs or Class members should have reasonably avoided them.

4 117. Defendants' acts and practices are unlawful because they violate California
5 Civil Code §§ 1668, 1709, 1710, and 1750, et seq., and California Commercial Code §
6 2313.

7 118. Plaintiffs seek to enjoin further unlawful, unfair, and/or fraudulent acts or
8 practices by Defendants, to obtain restitutionary disgorgement of all monies and revenues
9 generated as a result of such practices, and all other relief allowed under California
10 Business & Professions Code § 17200.

11 **COUNT IV**
12 **Violation of the Song-Beverly Act–**
13 **Breach of Implied Warranty**
14 **(Cal. Civ. Code § 1791, et seq.)**

15 119. Plaintiffs incorporate by reference and re-allege all paragraphs previously
16 stated herein.

17 120. Plaintiffs bring this claim on behalf of themselves and the Nationwide Class
18 against Hyundai and Kia. Alternatively, Plaintiffs bring this claim on behalf of themselves
19 and the State Classes against Hyundai and Kia.

20 121. The Class Vehicles are “consumer goods” within the meaning of Cal. Civ.
21 Code § 1791(a).

22 122. Cal. Civ. Code § 1791.1(a) states: “Implied warranty of merchantability” or
23 “implied warranty that goods are merchantable” means that the consumer goods meet each
24 of the following:

- 25 (1) Pass without objection in the trade under the contract
26 description.
- 27 (2) Are fit for the ordinary purposes for which such goods are
28 used.
- (3) Are adequately contained, packaged, and labeled.

1 (4) Conform to the promises or affirmations of fact made on the
2 container or label.

3 123. At all relevant times hereto, Hyundai and Kia were the manufacturers,
4 distributors, warrantors, and/or sellers of the Class Vehicles. Hyundai and Kia knew or
5 should have known the specific use for which the Class Vehicles were purchased.

6 124. Hyundai and Kia provided Plaintiffs and Class members with an implied
7 warranty that the Class Vehicles, and any parts thereof, are merchantable and fit for the
8 ordinary purposes for which they were sold. The Class Vehicles, however, are not fit for
9 their ordinary purpose because, inter alia, the Class Vehicles and their engines contained
10 an inherent defect at the time of sale that causes the Class Vehicles to experience premature
11 and catastrophic engine failure and fire.

12 125. The Class Vehicles are not fit for the purpose of providing safe and reliable
13 transportation because of the Engine Defect.

14 126. Hyundai and Kia impliedly warranted that the Class Vehicles were of
15 merchantable quality and fit for such use. This implied warranty included, inter alia, the
16 following: (i) a warranty that the Class Vehicles and engines manufactured, supplied,
17 distributed, and/or sold by Hyundai and Kia were safe and reliable for providing
18 transportation and would not prematurely and catastrophically fail or catch fire; and (ii) a
19 warranty that the Class Vehicles and their engines would be fit for their intended use –
20 providing safe and reliable transportation – while the Class Vehicles were being operated.

21 127. Contrary to the applicable implied warranties, the Class Vehicles and their
22 engines at the time of sale, and thereafter, were not fit for their ordinary and intended
23 purpose. Instead, the Class Vehicles are defective, including, but not limited to, the Engine
24 Defect and/or manufacturing and widespread installation of the GDI engines.

25 128. Hyundai and Kia's actions, as described herein, breached the implied
26 warranty that the Class Vehicles were of merchantable quality and fit for such use in
27 violation of California Civil Code §§ 1792 and 1791.1.
28

1 137. By failing to disclose and by actively concealing the Engine Defect in the
2 Class Vehicles, Hyundai and Kia engaged in unfair or deceptive business practices in
3 violation of the FDUTPA.

4 138. To ensure that consumers would purchase and lease the Class Vehicles,
5 Hyundai and Kia deliberately withheld information about the propensity of the Engine
6 Defect to cause spontaneous engine fires, sudden engine stalls while in motion, premature
7 engine wear, and a variety of other complications, instead of addressing the Defect to
8 ensure the safety of the Class Vehicles and consumers and vehicle occupants.

9 139. Defendants' misrepresentations and fraudulent omissions were material to
10 Plaintiffs Greg Cohen and LaToya Taylor, and the Florida State Class. When Plaintiffs
11 Cohen and Taylor, and members of the Florida State Class purchased or leased their Class
12 Vehicles, they reasonably relied on the expectation that the Class Vehicles would not pose
13 an unavoidable safety risk. Had Defendants disclosed the Engine Defect, Plaintiffs Cohen
14 and Taylor, and members of the Florida State Class, would not have purchased or leased
15 the Class Vehicles, or would have paid less for them.

16 140. As alleged above, Defendants knowingly concealed, suppressed and/or
17 omitted the existence of the Engine Defect in the Class Vehicles at the time of sale or lease
18 and at all relevant times thereafter.

19 141. Defendants knew or should have known that their conduct violated the
20 FUDTPA.

21 142. Defendants each owed Plaintiffs and the Florida Class a duty to disclose the
22 dangerous and risky nature of the Engine Defect and ineffective recall repairs. The
23 information surrounding the risks posed by the Engine Defect could not have reasonably
24 been known by consumers.

25 143. Defendants engaged in unconscionable, unfair, and deceptive trade practices
26 as defined and construed under the FDUTPA when they knew or recklessly disregarded
27 the fact that their representations were false, as they were aware of the Engine Defect as
28 early as 2015.

1 144. Defendants engaged in unconscionable, unfair, and deceptive trade practices
2 as defined and construed under the FDUTPA when they failed to disclose to Plaintiffs the
3 existence of an Engine Defect, that Engine Defect recalls— and repairs resulting
4 therefrom—were wholly inadequate, and Class Vehicles still face a risk of engine fire and
5 catastrophic engine failure.

6 145. As a direct and proximate result of the Defendants’ violations of the
7 FUDTPA, Plaintiffs and the Florida Class have suffered injury-in-fact and/or actual
8 damage.

9 146. Plaintiffs and the Florida Class are entitled to recover their actual damages
10 under Fla. Stat. § 501.211(2), attorneys’ fees under Fla. Stat. § 501.2105(1), and all other
11 relief the court deems just and proper under the FUDTPA.

12 **COUNT VI**
13 **Violation of Georgia Uniform Deceptive Trade Practices Act**
14 **(Georgia Statute § 10-1-370, *et seq.*)**

15 147. Plaintiffs hereby incorporate by reference the allegations contained in the
16 preceding paragraphs of this Complaint.

17 148. This claim is brought only on behalf of Plaintiff Margaret Greenwalt and the
18 entire Georgia State Class against Hyundai and Kia.

19 149. Plaintiff Margaret Greenwalt and the Georgia State Class are “persons” within
20 the meaning of the Georgia Unfair and Deceptive Trade Practices Act (“GUDTPA”), Ga.
21 Code Ann. §10-1-371(5).

22 150. The Georgia UDTPA prohibits “deceptive trade practices,” which include the
23 “misrepresentation of standard or quality of goods or services,” and “engaging in any other
24 conduct which similarly creates a likelihood of confusion or of misunderstanding.” Ga.
25 Code Ann. § 10-1-372(a).

26 151. In the course of their business, Hyundai and Kia failed to disclose and actively
27 concealed the dangers and associated risks posed by the Engine Defect in Class Vehicles
28

1 as described herein and otherwise engaged in activities with a tendency or capacity to
2 deceive in violation of the Georgia UDTPA.

3 152. Hyundai and Kia also engaged in unlawful trade practices by employing
4 deception, deceptive acts or practices, fraud, misrepresentations or concealment,
5 suppression or omission of any material fact with intent that consumers rely upon such
6 concealment, suppression or omission, in connection with the sale of the Class Vehicles,
7 despite their knowledge of the Defect and/or failure to adequately investigate it.

8 153. To ensure that consumers would purchase and lease the Class Vehicles,
9 Hyundai and Kia deliberately withheld information about the propensity of the Engine
10 Defect to cause spontaneous engine fires, engine stalls while in motion, premature engine
11 wear, and a variety of other complications, instead of addressing the Engine Defect to
12 ensure the safety of the Class Vehicles and consumers and vehicle occupants.

13 154. Defendants' misrepresentations and fraudulent omissions were material to
14 Plaintiff Greenwalt, and the Georgia State Class. When Plaintiff Greenwalt, and members
15 of the Georgia State Class purchased or leased their Class Vehicles, they reasonably relied
16 on the expectation that the Class Vehicles would not pose an unavoidable safety risk. Had
17 Defendants disclosed the Engine Defect, Plaintiff Greenwalt, and members of the Georgia
18 State Class, would not have purchased or leased the Class Vehicles, or would have paid
19 less for them.

20 155. As alleged above, Defendants knowingly concealed, suppressed and/or
21 omitted the existence of the Engine Defect in the Class Vehicles at the time of sale or lease
22 and at all relevant times thereafter.

23 156. Defendants knew or should have known that their conduct violated the
24 GUDTPA.

25 157. Defendants each owed Plaintiff Margaret Greenwalt and the Georgia State
26 Class a duty to disclose the dangerous and risky nature of the Engine Defect and ineffective
27 recall repairs. The information surrounding the risks posed by the Engine Defect could not
28 have reasonably been known by consumers.

1 158. Defendants engaged in unconscionable, unfair, and deceptive trade practices
2 as defined and construed under the GDUTPA when they knew or recklessly disregarded
3 the fact that their representations were false, as they were aware of the Engine Defect as
4 early as 2015.

5 159. Defendants engaged in unconscionable, unfair, and deceptive trade practices
6 as defined and construed under the GDUTPA when they failed to disclose to Plaintiffs the
7 existence of an Engine Defect, that Engine Defect recalls— and repairs resulting
8 therefrom—were wholly inadequate, and Class Vehicles still face a risk of engine fire and
9 catastrophic engine failure.

10 160. As a direct and proximate result of the Defendants’ violations of the
11 GUDTPA, Plaintiff Margaret Greenwalt and the Georgia State Class have suffered injury-
12 in-fact and/or actual damage.

13 161. Plaintiff Greenwalt and members of the Georgia State Class are entitled to an
14 order enjoining Hyundai and Kia’s unfair, unlawful, and/or deceptive practices, costs,
15 attorneys’ fees, and all other relief the Court deems proper under the Georgia UDTPA per
16 Ga. Code Ann. § 10-1-373.

17 **COUNT VII**
18 **Violation of Indiana Deceptive Consumer Sales Act**
19 **(Indiana Statute § 24-5-0.5-1 et seq.)**

20 162. Plaintiffs hereby incorporate by reference the allegations contained in the
21 preceding paragraphs of this Complaint.

22 163. This claim is brought only on behalf of Plaintiff Dimitra Bertso and the entire
23 Indiana State Class against Hyundai and Kia.

24 164. Hyundai and Kia are engaged in “trade or commerce” and “consumer
25 transactions” within the meaning of Ind. Code Ann. § 24-5-0.5-2.

26 165. The Indiana Deceptive Consumer Sales Act (“IDCSA”) prohibits “[u]nfair,
27 abusive, or deceptive act, omission, or practice in connection with a consumer transaction.”
28 Ind. Code Ann. § 24-5-0.5-3.

1 166. In the course of their business, Hyundai and Kia failed to disclose and actively
2 concealed the dangers and associated risks posed by the Engine Defect in Class Vehicles
3 as described herein and otherwise engaged in activities with a tendency or capacity to
4 deceive.

5 167. Hyundai and Kia also engaged in unlawful trade practices by employing
6 deception, deceptive acts or practices, fraud, misrepresentations or concealment,
7 suppression or omission of any material fact with intent that consumers rely upon such
8 concealment, suppression or omission, in connection with the sale of the Class Vehicles.

9 168. By failing to disclose and by actively concealing the Engine Defect in the
10 Class Vehicles, Hyundai and Kia engaged in unfair or deceptive business practices in
11 violation of the IDCSA.

12 169. To ensure that consumers would purchase and lease the Class Vehicles,
13 Hyundai and Kia deliberately withheld information about the propensity of the Engine
14 Defect to cause spontaneous engine fires, sudden engine stalls while in motion, premature
15 engine wear, and a variety of other complications, instead of addressing the Engine Defect
16 to ensure the safety of the Class Vehicles and consumers and vehicle occupants.

17 170. Defendants' misrepresentations and fraudulent omissions were material to
18 Plaintiff Dimitra Bertzos, and the Indiana State Class. When Plaintiff Bertzos, and members
19 of the Indiana State Class purchased or leased their Class Vehicles, they reasonably relied
20 on the expectation that the Class Vehicles would not pose an unavoidable safety risk. Had
21 Defendants disclosed the Engine Defect, Plaintiff, and members of the Indiana State Class,
22 would not have purchased or leased the Class Vehicles, or would have paid less for them.

23 171. As alleged above, Defendants knowingly concealed, suppressed and/or
24 omitted the existence of the Engine Defect in the Class Vehicles at the time of sale or lease
25 and at all relevant times thereafter.

26 172. Defendants knew or should have known that their conduct violated the
27 IDCSA.

28

1 173. Defendants each owed Plaintiff and the Indiana Class a duty to disclose the
2 dangerous and risky nature of the Engine Defect and ineffective recall repairs. The
3 information surrounding the risks posed by the Engine Defect could not have reasonably
4 been known by consumers.

5 174. Defendants engaged in unconscionable, unfair, and deceptive trade practices
6 as defined and construed under the IDCSA when they knew or recklessly disregarded the
7 fact that their representations were false, as they were aware of the Engine Defect as early
8 as 2015.

9 175. Defendants engaged in unconscionable, unfair, and deceptive trade practices
10 as defined and construed under the IDCSA when they failed to disclose to Plaintiff the
11 existence of an Engine Defect, that Engine Defect recalls— and repairs resulting
12 therefrom—were wholly inadequate, and Class Vehicles still face a risk of engine fire and
13 catastrophic engine failure.

14 176. As a direct and proximate result of the Defendants' violations of the IDCSA,
15 Plaintiffs and the Indiana State Class have suffered injury-in-fact and/or actual damage.

16 177. Plaintiffs and the Indiana Class are entitled to recover their actual damages
17 and attorneys' fees under of Ind. Code Ann. § 24-5-0.5-4 and all other relief the court
18 deems just and proper under the IDCSA.

19 **COUNT VIII**
20 **Violation of Iowa Private Right of Action for Consumer Frauds Act**
21 **(Iowa Code Ann. § 714H.1, et seq.)**

22 178. Plaintiffs hereby incorporate by reference the allegations contained in the
23 preceding paragraphs of this Complaint.

24 179. This claim is brought only on behalf of Plaintiff Jerry Stanwick and the entire
25 Iowa State Class against Hyundai and Kia.

26 180. Plaintiff Jerry Stanwick and the Iowa Consumer State Class are “consumers,”
27 as defined by Iowa Code § 714H.2(3).
28

1 181. The Iowa Private Right of Action for Consumer Frauds Act (“Iowa CFA”)
2 prohibits any “practice or act the person knows or reasonably should know is an unfair
3 practice, deception, fraud, false pretense, or false promise, or the misrepresentation,
4 concealment, suppression, or omission of a material fact, with the intent that others rely
5 upon the unfair practice, deception, fraud, false pretense, false promise, misrepresentation,
6 concealment, suppression, or omission in connection with the advertisement, sale, or lease
7 of consumer merchandise.” Iowa Code § 714H.3.

8 182. In the course of their business, Hyundai and Kia failed to disclose and actively
9 concealed the dangers and associated risks posed by the Engine Defect in Class Vehicles,
10 as described herein, and otherwise engaged in activities with a tendency or capacity to
11 deceive in violation of the Iowa CFA

12 183. Hyundai and Kia also engaged in unlawful trade practices by employing
13 deception, deceptive acts or practices, fraud, misrepresentations or concealment,
14 suppression or omission of any material fact with intent that consumers rely upon such
15 concealment, suppression or omission, in connection with the sale of the Class Vehicles.

16 184. By failing to disclose and by actively concealing the Engine Defect in the
17 Class Vehicles, Hyundai and Kia engaged in unfair or deceptive business practices in
18 violation of the Iowa CFA.

19 185. To ensure that consumers would purchase and lease the Class Vehicles,
20 Hyundai and Kia deliberately withheld information about the propensity of the Engine
21 Defect to cause spontaneous engine fires, sudden engine stalls while in motion, premature
22 engine wear, and a variety of other complications, instead of addressing the Defect to
23 ensure the safety of the Class Vehicles and consumers and vehicle occupants.

24 186. Defendants’ misrepresentations and fraudulent omissions were material to
25 Plaintiff Stanwick, and the Iowa State Class. When Plaintiff Stanwick, and members of the
26 Iowa State Class purchased or leased their Class Vehicles, they reasonably relied on the
27 expectation that the Class Vehicles would not pose an unavoidable safety risk. Had
28

1 Defendants disclosed the Engine Defect, Plaintiff, and members of the Iowa State Class,
2 would not have purchased or leased the Class Vehicles, or would have paid less for them.

3 187. As alleged above, Defendants knowingly concealed, suppressed and/or
4 omitted the existence of the Engine Defect in the Class Vehicles at the time of sale or lease
5 and at all relevant times thereafter.

6 188. Defendants knew or should have known that their conduct violated the Iowa
7 CFA.

8 189. Defendants owed Plaintiff and the Iowa Class a duty to disclose the dangerous
9 and risky nature of the Engine Defect and ineffective recall repairs. The information
10 surrounding the risks posed by the Engine Defect could not have reasonably been known
11 by consumers.

12 190. Defendants engaged in unconscionable, unfair, and deceptive trade practices
13 as defined and construed under the Iowa CFA when they knew or recklessly disregarded
14 the fact that their representations were false, as they were aware of the Engine Defect as
15 early as 2015.

16 191. Defendants engaged in unconscionable, unfair, and deceptive trade practices
17 as defined and construed under the Iowa CFA when they failed to disclose to Plaintiff the
18 existence of an Engine Defect, that Engine Defect recalls— and repairs resulting
19 therefrom—were wholly inadequate, and Class Vehicles still face a risk of engine fire and
20 catastrophic engine failure.

21 192. As a direct and proximate result of the Defendants' violations of the Iowa
22 CFA, Plaintiff and the Iowa State Class have suffered injury-in-fact and/or actual damage.

23 193. Plaintiffs and the Iowa State Class are entitled to recover their actual damages,
24 treble damages for Defendants' knowing violations of the Iowa CFA; and attorney's fees
25 under Iowa Code Ann. § 714H.5, and all other relief the court deems just and proper under
26 the Iowa CFA.

27
28

1 **COUNT IX**
2 **Violation of Louisiana Unfair Trade Practices and Consumer Protection Law**
3 **(Louisiana Statute § 51:1401, et seq.)**

4 194. Plaintiffs hereby incorporate by reference the allegations contained in the
5 preceding paragraphs of this Complaint.

6 195. This claim is brought only on behalf of Plaintiff Stephanie Cooper and the
7 entire Louisiana State Class against Hyundai and Kia.

8 196. Plaintiff Stephanie Cooper and the Louisiana State Class are “persons” within
9 the meaning of La. Rev. Stat. § 51:1402(8).

10 197. Plaintiff Cooper and the Louisiana Consumer State Class are “consumers”
11 within the meaning of La. Rev. Stat. § 51:1402(1).

12 198. Hyundai and Kia engaged in “trade” or “commerce” within the meaning of
13 La. Rev. Stat. § 51:1402(9).

14 199. The Louisiana Unfair Trade Practices and Consumer Protection Law
15 (“Louisiana CPL”) makes unlawful “deceptive acts or practices in the conduct of any trade
16 or commerce.” La. Rev. Stat. § 51:1405(A).

17 200. In the course of their business, Hyundai and Kia failed to disclose and actively
18 concealed the dangers and associated risks posed by the Engine Defect in Class Vehicles
19 as described herein and otherwise engaged in activities with a tendency or capacity to
20 deceive.

21 201. Hyundai and Kia also engaged in unlawful trade practices by employing
22 deception, deceptive acts or practices, fraud, misrepresentations or concealment,
23 suppression or omission of any material fact with intent that consumers rely upon such
24 concealment, suppression or omission, in connection with the sale of the Class Vehicles,
25 despite their knowledge of the Defect and/or failure to adequately investigate it.

26 202. To ensure that consumers would purchase and lease the Class Vehicles,
27 Hyundai and Kia deliberately withheld information about the propensity of the Engine
28 Defect to cause spontaneous engine fires, engine stalls while in motion, premature engine

1 wear, and a variety of other complications, instead of addressing the Engine Defect to
2 ensure the safety of the Class Vehicles and consumers and vehicle occupants.

3 203. Defendants' misrepresentations and fraudulent omissions were material to
4 Plaintiff Cooper, and the Louisiana State Class. When Plaintiff Cooper, and members of
5 the Louisiana State Class purchased or leased their Class Vehicles, they reasonably relied
6 on the expectation that the Class Vehicles would not pose an unavoidable safety risk. Had
7 Defendants disclosed the Engine Defect, Plaintiff Cooper, and members of the Louisiana
8 State Class, would not have purchased or leased the Class Vehicles, or would have paid
9 less for them.

10 204. As alleged above, Defendants knowingly concealed, suppressed and/or
11 omitted the existence of the Engine Defect in the Class Vehicles at the time of sale or lease
12 and at all relevant times thereafter.

13 205. Defendants knew or should have known that their conduct violated the
14 Louisiana CPL.

15 206. Defendants each owed Plaintiff Stephanie Cooper and the Louisiana State
16 Class a duty to disclose the dangerous and risky nature of the Engine Defect and ineffective
17 recall repairs. The information surrounding the risks posed by the Engine Defect could not
18 have reasonably been known by consumers.

19 207. Defendants engaged in unconscionable, unfair, and deceptive trade practices
20 as defined and construed under the Louisiana CPL when they knew or recklessly
21 disregarded the fact that their representations were false, as they were aware of the Engine
22 Defect as early as 2015.

23 208. Defendants engaged in unconscionable, unfair, and deceptive trade practices
24 as defined and construed under the Louisiana CPL when they failed to disclose to Plaintiffs
25 the existence of an Engine Defect, that Engine Defect recalls—and repairs resulting
26 therefrom—were wholly inadequate, and Class Vehicles still face a risk of engine fire and
27 catastrophic engine failure.

28

1 209. As a direct and proximate result of the Defendants' violations of the Louisiana
2 CPL, Plaintiff Cooper and the Louisiana State Class have suffered injury-in-fact and/or
3 actual damage.

4 210. Plaintiff Stephanie Cooper and members of the Louisiana State Class are
5 entitled to recover their actual damages in an amount to be determined at trial, treble
6 damages for Hyundai and Kia's knowing violations of the Louisiana CPL, an order
7 enjoining Hyundai and Kia's unfair, unlawful, and/or deceptive practices, declaratory
8 relief, costs, attorneys' fees, and any other relief the Court deems proper under La. Rev.
9 Stat. § 51:1409.

10 **COUNT X**
11 **Violation of Massachusetts Deceptive Practices Act**
12 **(Mass. Gen. Laws Ann. ch. 93A, § 1, et seq. et seq.)**

13 211. Plaintiffs hereby incorporate by reference the allegations contained in the
14 preceding paragraphs of this Complaint.

15 212. This claim is brought only on behalf of Plaintiff Chris Hazelwood and the
16 entire Massachusetts State Class against Hyundai and Kia.

17 213. Plaintiff Chris Hazelwood and the Massachusetts State Class are "persons"
18 within the meaning of the Massachusetts Deceptive Practices Act (MDPA, Mass. Gen.
19 Laws ch. 93A, § 1(a).

20 214. Hyundai and Kia engaged in "trade" or "commerce" within the meaning of
21 Mass. Gen. Laws 93A, § 1(b).

22 215. The MDPA prohibits "unfair or deceptive acts or practices in the conduct of
23 any trade or commerce." Mass. Gen. Laws ch. 93A, § 2. Defendants both engaged in
24 deceptive acts that violated the MDPA.

25 216. By failing to disclose and actively concealing the dangers and risks posed by
26 the Engine Defect, Defendants engaged in deceptive business practices prohibited by
27 Massachusetts law. In the course of their business, Hyundai and Kia failed to disclose and
28 actively concealed the dangers and associated risks posed by the Engine Defect in Class

1 Vehicles, as described herein, and otherwise engaged in activities with a tendency or
2 capacity to deceive.

3 217. Hyundai and Kia also engaged in unlawful trade practices by employing
4 deception, deceptive acts or practices, fraud, misrepresentations or concealment,
5 suppression or omission of any material fact with intent that consumers rely upon such
6 concealment, suppression or omission, in connection with the sale of the Class Vehicles,
7 despite their knowledge of the Defect and/or failure to adequately investigate it.

8 218. To ensure that consumers would purchase and lease the Class Vehicles,
9 Hyundai and Kia deliberately withheld information about the propensity of the Engine
10 Defect to cause spontaneous engine fires, engine stalls while in motion, premature engine
11 wear, and a variety of other complications, instead of addressing the Engine Defect to
12 ensure the safety of the Class Vehicles and consumers and vehicle occupants.

13 219. Defendants' misrepresentations and fraudulent omissions were material to
14 Plaintiff Hazelwood, and the Massachusetts State Class. When Plaintiff Hazelwood, and
15 members of the Massachusetts State Class purchased or leased their Class Vehicles, they
16 reasonably relied on the expectation that the Class Vehicles would not pose an unavoidable
17 safety risk. Had Defendants disclosed the Engine Defect, Plaintiff Hazelwood, and
18 members of the Massachusetts State Class, would not have purchased or leased the Class
19 Vehicles, or would have paid less for them.

20 220. As alleged above, Defendants knowingly concealed, suppressed and/or
21 omitted the existence of the Engine Defect in the Class Vehicles at the time of sale or lease
22 and at all relevant times thereafter.

23 221. Defendants knew or should have known that their conduct violated the
24 MDPA.

25 222. Defendants each owed Plaintiff Hazelwood and the Massachusetts State Class
26 a duty to disclose the dangerous and risky nature of the Engine Defect and ineffective recall
27 repairs. The information surrounding the risks posed by the Engine Defect could not have
28 reasonably been known by consumers.

1 229. This claim is brought only on behalf of Plaintiff David Feuerstein and the
2 entire New Jersey State Class against Hyundai and Kia.

3 230. Plaintiff Feuerstein and the New Jersey State Class are “persons” within the
4 meaning of N.J. Stat. Ann. § 56:8-1(d).

5 231. Plaintiff Feuerstein and the New Jersey State Class are “consumers” within
6 the meaning of the N.J. Stat. Ann. § 56:8-1(c), (d).

7 232. Hyundai and Kia engaged in “sales” of “merchandise” within the meaning of
8 N.J. Stat. Ann. § 56:8-1(c), (d).

9 233. The New Jersey Consumer Fraud Act (“New Jersey CFA”) makes unlawful
10 “[t]he act, use or employment by any person of any unconscionable commercial practice,
11 deception, fraud, false pretense, false promise, misrepresentation, or the knowing
12 concealment, suppression or omission of any material fact with the intent that others rely
13 upon such concealment, suppression or omission, in connection with the sale or
14 advertisement of any merchandise or real estate, or with the subsequent performance of
15 such person as aforesaid, whether or not any person has in fact been misled, deceived or
16 damaged thereby...” N.J. Stat. Ann. § 56:8-2.

17 234. In the course of their business, Hyundai and Kia failed to disclose and actively
18 concealed the dangers and associated risks posed by the Engine Defect in Class Vehicles
19 as described herein and otherwise engaged in activities with a tendency or capacity to
20 deceive, in violation of the New Jersey CFA.

21 235. Hyundai and Kia also engaged in unlawful trade practices by employing
22 deception, deceptive acts or practices, fraud, misrepresentations or concealment,
23 suppression or omission of any material fact with intent that consumers rely upon such
24 concealment, suppression or omission, in connection with the sale of the Class Vehicles,
25 despite their knowledge of the Defect and/or failure to adequately investigate it.

26 236. To ensure that consumers would purchase and lease the Class Vehicles,
27 Hyundai and Kia deliberately withheld information about the propensity of the Engine
28 Defect to cause spontaneous engine fires, engine stalls while in motion, premature engine

1 wear, and a variety of other complications, instead of addressing the Engine Defect to
2 ensure the safety of the Class Vehicles and consumers and vehicle occupants.

3 237. Defendants' misrepresentations and fraudulent omissions were material to
4 Plaintiff David Feuerstein, and the New Jersey State Class. When Plaintiff Feuerstein, and
5 members of the New Jersey State Class purchased or leased their Class Vehicles, they
6 reasonably relied on the expectation that the Class Vehicles would not pose an unavoidable
7 safety risk. Had Defendants disclosed the Engine Defect, Plaintiff Feuerstein, and members
8 of the New Jersey State Class, would not have purchased or leased the Class Vehicles, or
9 would have paid less for them.

10 238. As alleged above, Defendants knowingly concealed, suppressed and/or
11 omitted the existence of the Engine Defect in the Class Vehicles at the time of sale or lease
12 and at all relevant times thereafter.

13 239. Defendants knew or should have known that their conduct violated the New
14 Jersey CFA.

15 240. Defendants each owed Plaintiff David Feuerstein and the New Jersey State
16 Class a duty to disclose the dangerous and risky nature of the Engine Defect and ineffective
17 recall repairs. The information surrounding the risks posed by the Engine Defect could not
18 have reasonably been known by consumers.

19 241. Defendants engaged in unconscionable, unfair, and deceptive trade practices
20 as defined and construed under the New Jersey CFA when they knew or recklessly
21 disregarded the fact that their representations were false, as they were aware of the Engine
22 Defect as early as 2015.

23 242. Defendants engaged in unconscionable, unfair, and deceptive trade practices
24 as defined and construed under the New Jersey CFA when they failed to disclose to
25 Plaintiffs the existence of an Engine Defect, that Engine Defect recalls—and repairs
26 resulting therefrom—were wholly inadequate, and Class Vehicles still face a risk of engine
27 fire and catastrophic engine failure.

28

1 251. By failing to disclose and by actively concealing the Engine Defect in the
2 Class Vehicles, Hyundai and Kia engaged in unfair or deceptive business practices in
3 violation of the NMUPA.

4 252. To ensure that consumers would purchase and lease the Class Vehicles,
5 Hyundai and Kia deliberately withheld information about the propensity of the Engine
6 Defect to cause spontaneous engine fires, sudden engine stalls while in motion, premature
7 engine wear, and a variety of other complications, instead of addressing the Engine Defect
8 to ensure the safety of the Class Vehicles and consumers and vehicle occupants.

9 253. Defendants' misrepresentations and fraudulent omissions were material to
10 Plaintiff Fabian Conant, and the New Mexico State Class. When Plaintiff Conant, and
11 members of the New Mexico State Class purchased or leased their Class Vehicles, they
12 reasonably relied on the expectation that the Class Vehicles would not pose an unavoidable
13 safety risk. Had Defendants disclosed the Engine Defect, Plaintiff, and members of the
14 New Mexico State Class, would not have purchased or leased the Class Vehicles, or would
15 have paid less for them.

16 254. As alleged above, Defendants knowingly concealed, suppressed and/or
17 omitted the existence of the Engine Defect in the Class Vehicles at the time of sale or lease
18 and at all relevant times thereafter.

19 255. Defendants knew or should have known that their conduct violated the
20 NMUPA.

21 256. Defendants each owed Plaintiff and the New Mexico Class a duty to disclose
22 the dangerous and risky nature of the Engine Defect and ineffective recall repairs. The
23 information surrounding the risks posed by the Engine Defect could not have reasonably
24 been known by consumers.

25 257. Defendants engaged in unconscionable, unfair, and deceptive trade practices
26 as defined and construed under the NMUPA when they knew or recklessly disregarded the
27 fact that their representations were false, as they were aware of the Engine Defect as early
28 as 2015.

1 258. Defendants engaged in unconscionable, unfair, and deceptive trade practices
2 as defined and construed under the NMUPA when they failed to disclose to Plaintiff the
3 existence of an Engine Defect, that Engine Defect recalls— and repairs resulting
4 therefrom—were wholly inadequate, and Class Vehicles still face a risk of engine fire and
5 catastrophic engine failure.

6 259. As a direct and proximate result of the Defendants’ violations of the NMUPA,
7 Plaintiff Conant and the New Mexico State Class have suffered injury-in-fact and/or actual
8 damage.

9 260. Plaintiff Conant and the New Mexico Class are entitled to recover their actual
10 damages and attorneys’ fees under of N.M. Stat. Ann. § 57-12-10 and all other relief the
11 court deems just and proper under the NMUPA.

12

13 **COUNT XIII**
14 **Violation of New York General Business Law**
15 **(N.Y. Gen. Bus. Law § 349)**

16 261. Plaintiffs hereby incorporate by reference the allegations contained in the
17 preceding paragraphs of this Complaint.

18 262. This claim is brought only on behalf of Plaintiffs Wayne Robertson and
19 Jonathan Wilson and the entire New York State Class against Hyundai and Kia.

20 263. Plaintiffs Robertson and Wilson and the New York State Class are “persons”
21 within the meaning of New York General Business Law (“New York GBL”), N.Y. Gen.
22 Bus. Law § 349(h).

23 264. Hyundai and Kia are each a “person,” “firm,” “corporation,” or “association”
24 within the meaning of N.Y. Gen. Bus. Law § 349.

25 265. The New York GBL makes unlawful “[d]eceptive acts or practices in the
26 conduct of any business, trade or commerce.” N.Y. Gen. Bus. Law § 349. Hyundai and
27 Kia’s conduct directed toward consumers, as described above and below, constitutes
28 “deceptive acts or practices” within the meaning of the New York GBL.

1 266. Hyundai and Kia's actions, as set forth above, occurred in the conduct of trade
2 or commerce.

3 267. In the course of their business, Hyundai and Kia failed to disclose and actively
4 concealed the dangers and associated risks posed by the Engine Defect in Class Vehicles
5 as described herein and otherwise engaged in activities with a tendency or capacity to
6 deceive.

7 268. Hyundai and Kia also engaged in unlawful trade practices by employing
8 deception, deceptive acts or practices, fraud, misrepresentations or concealment,
9 suppression or omission of any material fact with intent that consumers rely upon such
10 concealment, suppression or omission, in connection with the sale of the Class Vehicles,
11 despite their knowledge of the Defect and/or failure to adequately investigate it.

12 269. To ensure that consumers would purchase and lease the Class Vehicles,
13 Hyundai and Kia deliberately withheld information about the propensity of the Engine
14 Defect to cause spontaneous engine fires, engine stalls while in motion, premature engine
15 wear, and a variety of other complications, instead of addressing the Engine Defect to
16 ensure the safety of the Class Vehicles and consumers and vehicle occupants.

17 270. Defendants' misrepresentations and fraudulent omissions were material to
18 Plaintiffs Robertson and Wilson, and the New York State Class. When Plaintiffs Robertson
19 and Wilson, and members of the New York State Class purchased or leased their Class
20 Vehicles, they reasonably relied on the expectation that the Class Vehicles would not pose
21 an unavoidable safety risk. Had Defendants disclosed the Engine Defect, Plaintiffs
22 Robertson and Wilson, and members of the New York State Class, would not have
23 purchased or leased the Class Vehicles, or would have paid less for them.

24 271. As alleged above, Defendants knowingly concealed, suppressed and/or
25 omitted the existence of the Engine Defect in the Class Vehicles at the time of sale or lease
26 and at all relevant times thereafter.

27 272. Defendants knew or should have known that their conduct violated the New
28 York GBL.

1 273. Defendants each owed Plaintiffs Robertson and Wilson and the New York
2 State Class a duty to disclose the dangerous and risky nature of the Engine Defect and
3 ineffective recall repairs. The information surrounding the risks posed by the Engine Defect
4 could not have reasonably been known by consumers.

5 274. Defendants engaged in unconscionable, unfair, and deceptive trade practices
6 as defined and construed under the New York GBL when they knew or recklessly
7 disregarded the fact that their representations were false, as they were aware of the Engine
8 Defect as early as 2015.

9 275. Defendants engaged in unconscionable, unfair, and deceptive trade practices
10 as defined and construed under the New York GBL when they failed to disclose to
11 Plaintiffs the existence of an Engine Defect, that Engine Defect recalls— and repairs
12 resulting therefrom—were wholly inadequate, and Class Vehicles still face a risk of engine
13 fire and catastrophic engine failure.

14 276. As a direct and proximate result of the Defendants' violations of the New
15 York GBL, Plaintiffs Robertson and Wilson and the New York State Class have suffered
16 injury-in-fact and/or actual damage.

17 277. Plaintiffs Robertson and Wilson and the New York State Class members seek
18 punitive damages against Defendants because their conduct was egregious. Hyundai and
19 Kia concealed the Engine Defect in Class Vehicles, deceived the Plaintiffs and the New
20 York State Class on material matters, and concealed material facts that only Hyundai and
21 Kia knew, all to avoid the expense and public relations nightmare of correcting the serious
22 flaw in thousands of the Class Vehicles. Hyundai and Kia's egregious conduct warrants
23 punitive damages.

24 278. As a result of the foregoing wrongful conduct of Hyundai and Kia, Plaintiff
25 Plaintiffs Robertson and Wilson and members of the New York State Class are entitled to
26 seek recovery of actual damages, discretionary treble damages up to \$1,000, punitive
27 damages, reasonable attorneys' fees and costs, an order enjoining Hyundai and Kia's
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1 deceptive conduct, and any other relief the Court deems proper under N.Y. Gen. Bus. Laws
2 § 349.09.

3
4 **COUNT XIV**
5 **Violation of North Carolina Deceptive and Unfair Trade Practices Act**
6 **(N.C. Gen. Stat. § 75-1.1, *et seq.*)**

7 279. Plaintiffs hereby incorporate by reference the allegations contained in the
8 preceding paragraphs of this Complaint.

9 280. This claim is brought only on behalf of Plaintiffs Gary Bolduc and Tanesha
10 Cherry and the entire North Carolina State Class against Hyundai and Kia.

11 281. Hyundai and Kia engaged in “commerce” within the meaning of N.C. Gen.
12 Stat. § 75- 1.1(b).

13 282. The North Carolina Act broadly prohibits “unfair or deceptive acts or
14 practices in or affecting commerce.” N.C. Gen. Stat. § 75-1.1(a).

15 283. In the course of their business, Hyundai and Kia failed to disclose and actively
16 concealed the dangers and associated risks posed by the Engine Defect in Class Vehicles
17 as described herein and otherwise engaged in activities with a tendency or capacity to
18 deceive.

19 284. Hyundai and Kia also engaged in unlawful trade practices by employing
20 deception, deceptive acts or practices, fraud, misrepresentations or concealment,
21 suppression or omission of any material fact with intent that consumers rely upon such
22 concealment, suppression or omission, in connection with the sale of the Class Vehicles.

23 285. By failing to disclose and by actively concealing the Engine Defect in the
24 Class Vehicles, Hyundai and Kia engaged in unfair or deceptive business practices in
25 violation of N.C. Gen. Stat. § 75-1.1(a).

26 286. To ensure that consumers would purchase and lease the Class Vehicles,
27 Hyundai and Kia deliberately withheld information about the propensity of the Engine
28 Defect to cause spontaneous engine fires, sudden engine stalls while in motion, premature

1 engine wear, and a variety of other complications, instead of addressing the Defect to
2 ensure the safety of the Class Vehicles and consumers and vehicle occupants.

3 287. Defendants' misrepresentations and fraudulent omissions were material to
4 Plaintiffs Gary Bolduc and Tanesha Cherry, and the North Carolina State Class. When
5 Plaintiffs Bolduc and Cherry, and members of the North Carolina State Class purchased or
6 leased their Class Vehicles, they reasonably relied on the expectation that the Class
7 Vehicles would not pose an unavoidable safety risk. Had Defendants disclosed the Engine
8 Defect, Plaintiffs Bolduc and Cherry, and members of the North Carolina State Class,
9 would not have purchased or leased the Class Vehicles, or would have paid less for them.

10 288. As alleged above, Defendants knowingly concealed, suppressed and/or
11 omitted the existence of the Engine Defect in the Class Vehicles at the time of sale or lease
12 and at all relevant times thereafter.

13 289. Defendants knew or should have known that their conduct violated N.C. Gen.
14 Stat. § 75- 1.1

15 290. Defendants each owed Plaintiffs and the North Carolina Class a duty to
16 disclose the dangerous and risky nature of the Engine Defect and ineffective recall repairs.
17 The information surrounding the risks posed by the Engine Defect could not have
18 reasonably been known by consumers.

19 291. Defendants engaged in unfair, and deceptive trade practices as defined and
20 construed under N.C. Gen. Stat. § 75- 1.1 when they knew or recklessly disregarded the
21 fact that their representations were false, as they were aware of the Engine Defect as early
22 as 2015.

23 292. Defendants engaged in unfair, and deceptive trade practices, as defined and
24 construed under N.C. Gen. Stat. § 75-1.1(a), when they failed to disclose to Plaintiffs the
25 existence of an Engine Defect, that Engine Defect recalls— and repairs resulting
26 therefrom—were wholly inadequate, and Class Vehicles still face a risk of engine fire and
27 catastrophic engine failure.

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1 293. As a direct and proximate result of the Defendants' violations of N.C. Gen.
2 Stat. § 75-1.1, *et seq.*, Plaintiffs Gary Bolduc and Tanesha Cherry and the North Carolina
3 Class have suffered injury-in-fact and/or actual damage.

4 294. Plaintiffs Gary Bolduc and Tanesha Cherry and North Carolina State Class
5 members seek punitive damages against Hyundai and Kia because Hyundai and Kia's
6 conduct was malicious, willful, reckless, wanton, fraudulent and in bad faith.

7 295. Hyundai and Kia fraudulently and willfully misrepresented the safety and
8 reliability of the Class Vehicles, deceived North Carolina State Class members on
9 dangerous and material matters, and concealed material facts that only they knew, all to
10 avoid the expense and public relations nightmare of correcting the myriad flaws in the
11 Class Vehicles. Because Hyundai and Kia's conduct was malicious, willful, reckless,
12 wanton, fraudulent and in bad faith, it warrants punitive damages.

13 296. Plaintiffs Gary Bolduc and Tanesha Cherry and North Carolina State Class
14 members are entitled to recover actual damages in an amount to be determined at trial,
15 treble damages, costs, attorneys' fees, and any other just and proper relief available under
16 the North Carolina Act, N.C. Gen. Stat. § 75-16.

17 **COUNT XV**
18 **Violation of Tennessee Consumer Protection Act,**
19 **(Tenn. Code Ann. § 47-18-101, *et seq.*)**

20 297. Plaintiffs hereby incorporate by reference the allegations contained in the
21 preceding paragraphs of this Complaint.

22 298. This claim is brought only on behalf of Plaintiff Latonya Franklin, Plain tiff
23 Wendy Moore and the entire Tennessee State Class against Hyundai and Kia.

24 299. Plaintiffs Latonya Franklin and Wendy Moore and the Tennessee State Class
25 are "consumers" within the meaning of the Tennessee Consumer Protection Act
26 ("TCPA"), Tenn. Code Ann. § 47-18-103(2).

27 300. Hyundai and Kia are engaged in "trade," "commerce" or "consumer
28 transactions" within the meaning of Tenn. Code Ann. § 47-18-103(19).

1 301. The Tennessee CPA prohibits “[u]nfair or deceptive acts or practices affecting
2 the conduct of any trade or commerce,” including but not limited to: “[r]epresenting that
3 goods or services have . . . characteristics, [or] . . . benefits . . . that they do not have. . .;”
4 “[r]epresenting that goods or services are of a particular standard, quality or grade . . . if
5 they are of another;” and “[a]dvertising goods or services with intent not to sell them as
6 advertised.” Tenn. Code Ann. § 47-18-104.

7 302. In the course of their business, Hyundai and Kia failed to disclose and actively
8 concealed the dangers and associated risks posed by the Engine Defect in Class Vehicles
9 as described herein and otherwise engaged in activities with a tendency or capacity to
10 deceive.

11 303. Hyundai and Kia also engaged in unlawful trade practices by employing
12 deception, deceptive acts or practices, fraud, misrepresentations or concealment,
13 suppression or omission of any material fact with intent that consumers rely upon such
14 concealment, suppression or omission, in connection with failing to disclose and actively
15 concealing the Engine Defect in the Class Vehicles.

16 304. To ensure that consumers would purchase and lease the Class Vehicles,
17 Hyundai and Kia deliberately withheld information about the propensity of the Engine
18 Defect to cause spontaneous engine fires, sudden engine stalls while in motion, premature
19 engine wear, and a variety of other complications, instead of addressing the Defect to
20 ensure the safety of the Class Vehicles and consumers and vehicle occupants.

21 305. Defendants’ misrepresentations and fraudulent omissions were material to
22 Plaintiff Franklin, Plaintiff Moore and the Tennessee State Class. When Plaintiffs Franklin
23 and Moore, and members of Tennessee State Class purchased or leased their Class
24 Vehicles, they reasonably relied on the expectation that the Class Vehicles would not pose
25 an unavoidable safety risk. Had Defendants disclosed the Engine Defect, Plaintiffs Franklin
26 and Moore and members of the Tennessee Subclass, would not have purchased or leased
27 the Class Vehicles, or would have paid less for them.

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1 306. As alleged above, Defendants knowingly concealed, suppressed and/or
2 omitted the existence of the Engine Defect in the Class Vehicles at the time of sale or lease
3 and at all relevant times thereafter.

4 307. Defendants knew or should have known that their conduct violated the TCPA.

5 308. Defendants each owed Plaintiffs Franklin and Moore and the Tennessee Class
6 a duty to disclose the dangerous and risky nature of the Engine Defect and ineffective recall
7 repairs. The information surrounding the risks posed by the Engine Defect could not have
8 reasonably been known by consumers.

9 309. Defendants engaged in unfair, and deceptive trade practices as defined and
10 construed under the TCPA when they knew or recklessly disregarded the fact that their
11 representations were false, as they were aware of the Engine Defect as early as 2015.

12 310. Defendants engaged in unfair, and deceptive trade practices as defined and
13 construed under the TCPA when they failed to disclose to Plaintiffs Franklin and Moore
14 the existence of an Engine Defect, that Engine Defect recalls— and repairs resulting
15 therefrom—were wholly inadequate, and Class Vehicles still face a risk of engine fire and
16 catastrophic engine failure.

17 311. As a direct and proximate result of the Defendants' violations of the TCPA,
18 Plaintiff Franklin and the Tennessee Class have suffered injury-in-fact and/or actual
19 damage.

20 312. Plaintiffs Latonya Franklin and Wendy Moore, and the Tennessee State Class,
21 are entitled to recover their actual damages in an amount to be determined at trial, treble
22 damages as a result of Defendants' willful or knowing violations under Tenn. Code §47-
23 18-109(a)(3), attorneys' fees under Tenn. Code §47-18-109(e), and all other relief the court
24 deems just and proper under the TCPA.

COUNT XVI

**Violation of Texas Deceptive Trade Practices Act
(Tex. Bus. & Com. Code § 17.41, *et seq.*)**

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4 313. Plaintiffs hereby incorporate by reference the allegations contained in the
5 preceding paragraphs of this Complaint.

6 314. This claim is brought only on behalf of Plaintiffs Samantha Bitely and Tasha
7 Gill and the entire Texas State Class against Hyundai and Kia.

8 315. Plaintiffs Samantha Bitely and Tasha Gill “are individuals, partnerships and
9 corporations with assets of less than \$25 million (or are controlled by corporations or
10 entities with less than \$25 million in assets)” within the meaning of Tex. Bus. & Com.
11 Code § 17.41.

12 316. The Texas Deceptive Trade Practices-Consumer Protection Act (“TDTPA”)
13 prohibits “[f]alse, misleading, or deceptive acts or practices in the conduct of any trade or
14 commerce,” Tex. Bus. & Com. Code § 17.46(a), and an “unconscionable action or course
15 of action,” which means “an act or practice which, to a consumer’s detriment, takes
16 advantage of the lack of knowledge, ability, experience, or capacity of the consumer to a
17 grossly unfair degree.” Tex. Bus. & Com. Code § 17.45(5); Tex. Bus. & Com. Code §
18 17.50(a)(3).

19 317. By failing to disclose and actively concealing the dangers and risks posed by
20 the Engine Defect, Hyundai and Kia engaged in deceptive business practices prohibited by
21 the TDTPA, including: representing that the Class Vehicles have characteristics, uses,
22 benefits, and qualities which they do not have; representing that they are of a particular
23 standard, quality, and grade when they are not; advertising them with the intent not to sell
24 or lease them as advertised; and engaging in any other fraudulent or deceptive conduct
25 which creates a likelihood of confusion or of misunderstanding

26 318. In the course of their business, Hyundai and Kia failed to disclose and actively
27 concealed the dangers and associated risks posed by the Engine Defect in Class Vehicles
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1 as described herein and otherwise engaged in activities with a tendency or capacity to
2 deceive.

3 319. Hyundai and Kia also engaged in unlawful trade practices by employing
4 deception, deceptive acts or practices, fraud, misrepresentations or concealment,
5 suppression or omission of any material fact with intent that consumers rely upon such
6 concealment, suppression or omission, in connection with the sale of the Class Vehicles.

7 320. By failing to disclose and by actively concealing the Defect in the Class
8 Vehicles, by marketing the Class Vehicles as safe, reliable, and of high quality, and by
9 presenting itself as reputable manufacturers that value safety, Hyundai and Kia engaged in
10 unfair or deceptive business practices in violation of the TDTPA. To ensure that consumers
11 would purchase and lease the Class Vehicles, Hyundai and Kia deliberately withheld
12 information about the propensity of the Engine Defect to cause spontaneous engine fires,
13 sudden engine stalls while in motion, premature engine wear, and a variety of other
14 complications, instead of addressing the Defect to ensure the safety of the Class Vehicles
15 and consumers and vehicle occupants.

16 321. Defendants' misrepresentations and omissions were material to Plaintiffs
17 Samantha Bitely and Tasha Gill, and the Texas State Class. When Plaintiffs Samantha and
18 Gill and members of the Texas State Class purchased or leased their Class Vehicles, they
19 reasonably relied on the expectation that the Class Vehicles would not pose an unavoidable
20 safety risk. Had Defendants disclosed the Engine Defect, Plaintiffs, and members of the
21 Texas State Class, would not have purchased or leased the Class Vehicles, or would have
22 paid less for them. Plaintiffs did not receive the benefit of their bargain as a result of
23 Hyundai and Kia's misconduct

24 322. As alleged above, Defendants knowingly concealed, suppressed and/or
25 omitted the existence of the Engine Defect in the Class Vehicles at the time of sale or lease
26 and at all relevant times thereafter.

27 323. Defendants knew or should have known that their conduct violated the
28 TDTPA.

1 324. Defendants each owed Plaintiffs and the Texas State Class a duty to disclose
2 the dangerous and risky nature of the Engine Defect and ineffective recall repairs. The
3 information surrounding the risks posed by the Engine Defect could not have reasonably
4 been known by consumers.

5 325. Defendants engaged in unconscionable, unfair, and deceptive trade practices
6 as defined and construed under the TDTPA when they knew or recklessly disregarded the
7 fact that their representations were false, as they were aware of the Engine Defect as early
8 as 2015.

9 326. Defendants engaged in unconscionable, unfair, and deceptive trade practices
10 as defined and construed under the TDTPA when they failed to disclose to Plaintiffs the
11 existence of an Engine Defect, that Engine Defect recalls— and repairs resulting
12 therefrom—were wholly inadequate, and Class Vehicles still face a risk of engine fire and
13 catastrophic engine failure.

14 327. As a direct and proximate result of the Defendants' violations of the TDTPA,
15 Plaintiffs Bitely and Gill and the Texas Class have suffered injury-in-fact and/or actual
16 damage.

17 328. Hyundai and Kia's violations present a continuing risk to the Plaintiffs, the
18 Texas State Class, as well as to the general public. Hyundai and Kia's unlawful acts and
19 practices complained of herein affect the public interest.

20 329. Under Tex. Bus. & Com. Code § 17.50(a)(1) and (b), Plaintiffs and the Texas
21 State Class are entitled to recover their actual damages and treble damages for Hyundai
22 and Kia's knowing violations of the TDTPA, costs and attorneys' fees under Tex. Bus. &
23 Com. Code § 17.50(d) and all other relief the court deems just and proper under the
24 TDTPA.

25 330. In accordance with Tex. Bus. & Com. Code § 17.505(a), Plaintiffs' counsel,
26 on behalf of the Plaintiffs Samantha Bitely and Tasha Gill, and the Texas State Class served
27 Hyundai and Kia with notice of their alleged violations of the TDTPA relating to the Class
28 Vehicles purchased by the Plaintiffs and the Texas State Class, and demanded that Hyundai

1 and Kia correct or agree to correct the actions described therein. If Hyundai and Kia fail to
2 do so, the Plaintiffs will amend this Complaint as of right (or otherwise seek leave to amend
3 this Amended Complaint) to include compensatory and monetary damages to which the
4 Plaintiffs and the Texas State Class Members are entitled.

5 **VIII**

6 **PRAYER FOR RELIEF**

7 WHEREFORE, Plaintiffs, on behalf of themselves and the members of the
8 Nationwide and Individual State Classes, demand judgment against Hyundai and Kia as
9 follows:

- 10 1. An order certifying the proposed Nationwide and State Classes, as
- 11 defined herein, and appointing Plaintiffs and their counsel of record
- 12 to represent the defined Classes;
- 13 2. Damages under the aforesaid causes of action for actual,
- 14 compensatory, general, special, incidental, statutory, punitive, and
- 15 consequential damages, costs, and disgorgement in an amount to be
- 16 determined at trial;
- 17 3. An order requiring Defendants to pay both pre and post judgment
- 18 interest on any amounts awarded to the extent allowed by law;
- 19 4. An award of reasonable attorney’s fees and costs of suit incurred
- 20 herein;
- 21 5. Any further relief as the Court deems appropriate.

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IX
JURY DEMAND

Pursuant to Fed. R. Civ. P. 38(b), Plaintiffs demand a trial by jury for all issues so triable.

DATED: May 29, 2019.

Respectfully submitted,

MCCUNE WRIGHT AREVALO, LLP

/s/ Richard D. McCune
Richard D. McCune (State Bar No. 132124)

MCCUNE WRIGHT AREVALO, LLP
3281 East Guasti Road, Suite 100
Ontario, CA 91761
T: (909) 557-1250
rdm@mccunewright.com

Derek Y. Brandt (*Pro Hac Vice* to be filed)
Leigh M. Perica (*Pro Hac Vice* to be filed)
MCCUNE WRIGHT AREVALO, LLP
101 W. Vandalia Street, Suite 200
Edwardsville, IL 62025
T: (618) 307-6116
dyb@mccunewright.com
lmp@mccunewright.com

Attorneys for Plaintiffs

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [More Plaintiffs Allege Hyundai, Kia Failed to Act Fast Enough in Recalling Vehicles at Risk of Engine Failure, Fire](#)
